

Approved February 27, 1990
Date

MINUTES OF THE Senate COMMITTEE ON Energy and Natural Resources

The meeting was called to order by Senator Doyen at
Chairperson

8:05 a.m./p.m. on February 21, 1990 in room 423-S of the Capitol.

All members were present except: Quorum was present.

Committee staff present:

Raney Gilliland, Legislative Research Department
Don Hayward, Revisor of Statutes
Pat Mah, Legislative Research Department
Lila McClafin, Committee Secretary

Conferees appearing before the committee:

David Pope, Division of Water Resources, Kansas State Board of
Agriculture
Joyce Wolf, National Audubon Society

The Chairman continued the hearing on SB 642 - relating to intensive groundwater use control areas; concerning the enforcement of corrective control measures.

David Pope testified in support of the bill (Attachment I). He responded to questions.

Joyce Wolf stated their society had concerns with the bill because it was so broadly worded (Attachment II). She responded to several questions.

The hearing on SB 642 was closed.

A motion was made by Senator Hayden that SB 158 be conceptually amended and be passed. The motion was seconded by Senator Martin. Motion carried.

The meeting adjourned. The next meeting will be at 8:00 a.m., on February 22, 1990.

1990 SENATE ENERGY AND NATURAL RESOURCES COMMITTEE

Date February 21, 1990

PLEASE PRINT

GUEST LIST

NAME

REPRESENTING

David Pope

DWR, USDA

Ken Bahr

4th Enrollment USDA

Charlene Stinard

Ks Natural Resource Council

Joyce Wolf

Ks Audubon Council

Beverly Steinmeyer

Ks Corporation Commission

Gentry May

S.W.B.T.

Coland Smith

WIBA

Joe Lieber

Kansas Co-op Council
Ks. Ass'n of Wheat Growers

Howard White

Kyle Fin

Amoco

STATEMENT OF DAVID L. POPE
CHIEF ENGINEER-DIRECTOR
DIVISION OF WATER RESOURCES
KANSAS STATE BOARD OF AGRICULTURE
BEFORE THE
SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES
ON
SENATE BILL NO. 642

February 20, 1990

Mr. Chairman and members of the Committee, thank you for the opportunity to provide testimony on Senate Bill No. 642. I am here today to testify in support of Senate Bill No. 642 which would authorize the Chief Engineer to delegate the enforcement of any corrective control measures established within an intensive groundwater use control area to any political subdivision within or partially within that control area.

One of the difficulties the Division of Water Resources faces is that there are areas in which there is a need for additional monitoring and enforcement activity but we simply do not have the staff or resources necessary to undertake such activity. At times there are qualified entities that do have the manpower available to undertake monitoring and enforcement activity but lack the authority to enforce provisions adopted by the Division of Water Resources. Senate Bill No. 642 would allow the Chief Engineer in certain instances to delegate his authority to such entities so that needed enforcement can occur.

A good example would be the intensive groundwater use control area established in the City of Hays and the surrounding area in which the Division established a corrective control provision limiting the outdoor use of water by private well owners. During the hot and dry summers of 1988 and 1989, when the corrective control provision was in effect, the Division did not have the staff necessary to enable the Division to enforce the control provision. The City of Hays, however, did have adequate staff and was in fact already enforcing the

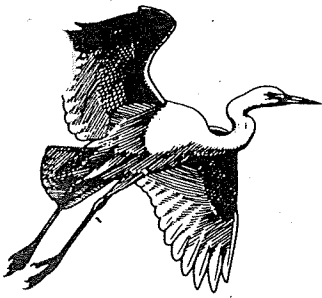
attachment I
E & NR
2/21/90

provisions of its water conservation plan. Through agreement with the Division the City took on limited enforcement activities such as issuing warnings to private well owners that they were in violation of the control area order. However, the City's activity was limited by its lack of authority to enforce an order issued by the Division of Water Resources. Senate Bill No. 642 would allow the Chief Engineer to formally give the City the necessary enforcement authority.

Another type of political subdivision which would be a potential candidate for delegation by this bill would be groundwater management districts, within or partially within the boundaries of an intensive groundwater use control area. This would seem to have some merit in certain instances.

In any event, the Division would exercise great care so as to make sure any enforcement authority delegated was compatible with provisions of the Water Appropriation Act and the intensive groundwater use control area so established.

I would be happy to answer any questions you may have.



Kansas Audubon Council

SB 642, February 20, 1990
Senate Energy and Natural Resources Committee

I am here today to offer testimony on behalf of the 5000 Kansas members of the National Audubon Society and the 800 members of the Kansas Natural Resource Council.

I have spoken with members of the Division of Water Resources staff about the intent of the amendment to K.S.A. 82a-1038. We understand the necessity to alter the language in order to establish the means by which enforcement of corrective control provisions can be delegated to the City of Hays. The city needs the authority to enforce the provisions and the Division of Water Resources does not have the personnel to carry out the orders, thus, upon first examination, the amendment seems reasonable and supportable.

Closer examination, however, raises several important questions:

- 1) Political subdivision is a very broad term and can have many meanings. We are told in this case it refers to the City of Hays, but we assume other entities would also be possible options: counties, rural water districts, county conservation districts, irrigation districts, drainage districts, townships, and groundwater management districts. Does it also include basin advisory committee districts, water assurance districts, wholesale water supply districts, or perhaps even school districts? Careful definition of the modifier "qualified" should be included in the bill so no confusion is possible.
- 2) One of the reasons that DWR needs to delegate the enforcement authority to the City of Hays is the division's manpower shortage to carry out the plans. Another way of saying this is "lack of funding." Will the political subdivision be reimbursed for their costs incurred in enforcing the control provisions? If they do not have the necessary funding to take on the added responsibilities of enforcement -- can they decline to accept the delegation of enforcement powers from the Chief Engineer? Or conversely, once delegated, can the enforcement authority be rescinded by the Chief Engineer?
- 3) There appears to be no mechanism for the political subdivision to report back to the Chief Engineer. Will personnel from DWR follow up with on-site inspections? Will the political subdivision be required to file reports assessing the effectiveness of the control provision and/or make recommendations for alternative measures?
- 4) There are certain scenarios in which a political subdivision, because of its predominant membership, might have a problem with potential conflict of interest by being forced to scrutinize and/or penalize the actions of its own members. We realize the authority to delegate enforcement responsibilities is an option the Chief Engineer can choose to exercise. Sensitivity to all parties will need to be taken into account before such authority is delegated to local entities.

As you can see, we have serious concerns because the amendment is so broadly worded. We understand its intent for the City of Hays and support that particular application; however, we believe the language should be clarified so as to be free from ambiguities.

attachment II
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