

Approved 3-20-1991  
Date

MINUTES OF THE Senate COMMITTEE ON Energy and Natural Resources

The meeting was called to order by Senator Ross Doyen at  
Chairperson

8:05 a.m./p.m. on March 5, 1991 in room 423-S of the Capitol.

All members were present except: All members were present.

Committee staff present:

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

Conferees appearing before the committee:

Bill Fuller, Kansas Farm Bureau  
John George, Mill Creek and Marmaton Watersheds  
Elwin Ermel, landowner, S. E. Kansas  
Ron Fox, Kansas Department of Health and Environment  
Richard Jones, Kansas Association of Conservation Districts  
Ed King, Resource Conservation and Development Board, S. E. Kansas  
Myron Van Gundy, Lyon County Commission, Reading, Kansas  
Jack Lacey, Secretary of Wildlife and Parks  
Shawn McGrath, Kansas Natural Resource Council  
Joyce Wolf, National Audubon Society  
Scott Andrew, Sierra Club-Kansas Chapter

The meeting was called to order by the Chairman. The hearing was opened on SB 341 - amending and supplementing the nongame and endangered species conservation act; establishing the endangered and threatened species and habitat advisory committee.

Bill Fuller supported the bill and suggested several amendments (Attachment 1).

John George urged the development of rational and justified legislation for threatened and endangered species that can be supported by all Kansans, and suggested with adequate amendments SB 341 could be that vehicle (Attachment 2).

Elwin Ermel supported SB 341, and suggested it be amended to include provisions for the injustices that he believes have already occurred (Attachment 3).

Ron Fox supported the proposal as it would allow KDHE to have input on the listing of endangered and threatened species (Attachment 4).

Richard Jones urged passage of SB 341. Their association passed a resolution at their November 1990 meeting supporting the measure a copy of that resolution is attached to his testimony (Attachment 5).

Ed King told of delays that the public wholesale water supply district #11 has encountered, because of critters on the state endangered species list (Attachment 6). Other documents to substantiate their position are attached to his testimony.

Myron Van Gundy spoke in favor of SB 341, and supported forming a committee to consult with and be advisory to the Secretary of Wildlife and Parks (Attachment 7).

Jack Lacey spoke in opposition to SB 341. The Department welcomes input and advise on any aspect of the threatened and endangered effort, but does not believe a mandated approach is desirable (Attachment 8).

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Energy and Natural Resources,  
room 423-S, Statehouse, at 8:05 a.m.~~pm~~ on March 5, 1991

Shawn McGrath presented testimony against SB 341 (Attachment 9).

Joyce Wolf opposed SB 341 and urged the Committee to vote against it (Attachment 10).

Scott Andrews strongly urged the bill be killed (Attachment 11).

Lowell Abeldt, State Association of Kansas Watersheds written testimony requesting favorable recommendation of the bill was distributed (Attachment 12).

The Chairman closed the hearing on SB 341.

Senator Frahm moved the minutes of February 27 be adopted. Senator Lee seconded the motion. The motion carried.

The meeting adjourned at 9:02 a.m. The next meeting will be held on March 6, 1991.

1991 SENATE ENERGY AND NATURAL RESOURCES COMMITTEE

Date March 5, 1991

PLEASE PRINT

GUEST LIST

NAME

REPRESENTING

Ron Fox	KDHE
George Austin	DWR
Richard Jones	KACD
Thomas R Benton	Pottawomire Watershed
Arlene Benton	" "
Eric Cray	Bo Co Cons. District
Lillian E Reynolds	Ch Co. Cons Dist / Sec
Louise Schneickert	Labette Co. Cons, Dist / Sec
Ann Morrison	Allen Co.
Connie Jameson	Cowley County
Dale Lambley	Ks. St. Bd. of Agriculture
Gary Bantz	Ks St. Bd of Ag.
Ed MARTINKO	Ks. Biological Survey
Paul Liechti	Ks. Biological Survey
Kati Weil	Bourbon Co.
Cennie Heit	Brunton Co.
Megan Pail	Burbon Co.
Dwayne Meil	marmaton watershed Dist 102
Richard Zifon	" " " "
ROBERT HULSTIE	
Rebecca Fenchler	Morrison Cons. Dist.
Drinda Peters	Clay County Cons. Dist.
Anne Thompson	Harvey Co. Consv. Dist.
Carol Hiebert	

over

Crysta Torson  
Jan Kinderknecht  
Ray Wasinger  
Carol Davis

Lane County Cons. Dist  
Finney " " "  
Ness " " "  
Berber " " "

Shaun McGrath  
Eric Schenck  
Durrell Monte  
Jack Lacey  
Scott Andrews  
Joyce Wolf

Topoka  
Pratt  
Pratt  
Topoka  
"  
Lawrence

KNRC  
KDWP  
KDWP  
KDWP  
Sierra Club  
Ms. Audubon Council

JOHN GEORGE  
ELWIN ERINEL  
Jim Gaskell  
Ed King  
Bill Juller  
Mar Van Dudy

UNIONTOWNSHIP  
BRONSON  
Chanute  
Piqua  
Manhattan  
Reading

Marmaton/Mill Creek  
BOURBON CO.  
See-Kan RC&D  
See Kan RC&D  
Kansas Farm Bureau  
dyon Co

STATE OF KANSAS

422-5



DIVISION OF THE BUDGET

Room 152-E  
State Capitol Building  
Topeka, Kansas 66612-1578

(913) 296-2436  
FAX (913) 296-0231

JOAN FINNEY, GOVERNOR

March 19, 1991

The Honorable Ross Doyen, Chairperson  
Committee on Energy and Natural Resources  
Senate Chamber  
Third Floor, Statehouse

Dear Senator Doyen:

SUBJECT: Fiscal Note for SB 341 by Committee on Energy and  
Natural Resources

In accordance with KSA 75-3715a, the following fiscal note  
concerning SB 341 is respectfully submitted to your committee.

SB 341 would amend the Nongame and Endangered Species  
Conservation Act to create an Endangered and Threatened  
Wildlife Species and Habitat Advisory Committee. The Committee  
would consist of the State Biologist, State Forester, the  
administrative officer of the State Conservation Commission,  
representatives from the Kansas Association of Conservation  
Districts, the Kansas Natural Resources Council, the Kansas  
Association of Watershed Districts, and the Secretaries of  
Transportation, Agriculture, and Health and Environment.

The committee would advise the Secretary of Wildlife and  
Parks on the compilation of a list of species in need of  
conservation, on rules and regulations to protect endangered  
species, and the establishment of programs to protect  
endangered species. Although the committee's role is advisory,  
the Secretary of Wildlife and Parks would be required to  
consult with the committee on the above issues.

SB 341 would require expenditure of an estimated \$6,000 in  
FY 1992 for the purpose of holding meetings of the new  
committee. This estimate is based on the assumption that the  
committee would meet once a month and that the cost associated  
with each meeting would be \$500. Funding would be from the  
State General Fund or the Department of Wildlife and Parks  
Nongame Fund.

The Honorable Ross Doyen  
March 19, 1991  
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Any fiscal impact resulting from the passage of this bill  
is not included in the *FY 1992 Governor's Budget Report*.

Sincerely,



Louis S. Chabira  
Deputy Director

cc: Dick Koerth, Wildlife and Parks

3819



# PUBLIC POLICY STATEMENT

SENATE ENERGY and NATURAL RESOURCES COMMITTEE

**Re: S.B. 341 - Supplementing the Nongame and  
Endangered Species Conservation Act**

March 5, 1991  
Topeka, Kansas

Presented by:

Bill Fuller, Assistant Director  
Public Affairs Division  
Kansas Farm Bureau

Chairman Doyen and members of the Committee:

My name is Bill Fuller. I am the Assistant Director of the Public Affairs Division for Kansas Farm Bureau. We certainly appreciate the opportunity to work with the State Association of Watershed Districts and the Kansas Association of Conservation Districts in drafting this bill. We are testifying in support of S.B. 341. Our remarks are based upon policy developed by the farm and ranch members of the 105 county Farm Bureaus in Kansas.

Representatives from the Marmaton and Mill Creek Watershed Districts outlined their concerns about the Threatened and Endangered Species Act and its enforcement to the KFB Board of Directors at their September 1990 meeting. In fact, the concerned members took the KFB Board on a tour of several construction sites to illustrate the problems. They pointed out increased costs, unreasonable habitat mitigation requirements and

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construction delays.

Since that time KFB leadership and staff has assisted the Bourbon County Farm Bureau in researching the issue. In the process, we met with Ken Kern, Executive Director of the State Conservation Commission and Bob Meinen, then Secretary and Steve Adams, Aquatic Ecologist with the Kansas Department of Wildlife and Parks. More recently, we discussed the issue with Jack Lacy, the current Secretary of KW&P and his staff. We are not suggesting these agencies support or oppose this proposed legislation ... they may speak for themselves. I have also toured the sites both by air and on the ground. We point out these activities to illustrate the effort and deliberation that has gone into developing the recommendations in S.B. 341.

We have attached additional information for your review: Policy adopted by the 439 Voting Delegates at the KFB Annual Meeting, and "Threatened and Endangered Species ... a time for review!" issue paper requested by membership.

We believe S.B. 341 will result in more public input, improve citizen understanding and reduce conflict. The bill provides a broader and more structured method for input to the Secretary of KW&P on an advisory basis. The "Endangered and Threatened Wildlife Species and Habitat Advisory Committee" would not have "veto" power over the Secretary ... only advisory. The bill would put into statute a practice sometimes followed in reviewing lists of protected species at least every 5 years.

We have several suggested amendments that we believe will clarify S.B. 341 and make this good bill even better:

1. We believe the information provided by the Secretary to

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the Advisory Committee should include the economic impact that any change in plans or mitigation requirements would have on the proposed project;

2. We support more citizen participation and believe this could be accomplished with an appointment by each the Speaker of the House and President of the Senate of the Kansas Legislature. To keep the size of the Advisory Committee workable, we recommend these citizen appointments by the legislature replace KDHE and KNRC representation as listed in the bill.

To give you a real-life feel for the frustrations and problems, we have invited John George and Elwin Ermel from Bourbon County to share their thoughts and experiences with the Committee. We believe they will establish the need for the proposed legislation.

Mr. Chairman, we would respond to questions now or after other proponents have testified. Thank you!

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## 1991 KFB POLICY

**Threatened and Endangered Species**

Listing a species as threatened or endangered shall be on that basis alone and not on the basis of "rarity." Documentation shall be required to demonstrate conclusively that any species proposed to be protected under K.S.A. 32-957, et. seq., shall actually be present in a clearly defined geographic area, and be dependent for survival on habitat in that location.

The law should not permit encroachment upon economic agricultural practices.

Scientific data supporting the inclusion of a species shall receive wide dissemination to landowners and private organizations representing the rights of these landowners.

Any agency, organization or person requesting a rare, threatened or endangered classification to be placed on any species, or requesting critical habitat designation, should be required to provide and fund an environmental impact report with emphasis on the economic impact of the action.

We believe KDWP should initiate review of the Kansas Threatened and Endangered Species list in 1991, and a complete review should be conducted at least every five years thereafter. A Species Review Committee should be created. It should consist of one representative from each of the following entities:

1. Kansas Department of Wildlife and Parks,
2. Kansas Conservation Commission,
3. Association of Kansas Watershed Districts,
4. Kansas Department of Health and Environment,
5. Kansas Biological Survey,
6. Kansas Association of Counties,
7. Kansas Department of Transportation,
8. League of Kansas Municipalities, and
9. State Board of Agriculture.

In addition to representatives from the above named agencies and associations, we believe there should be not less than three private agricultural landowners named to the Species Review Committee.

We believe mitigation or acreage replacement measures should take into account cost/benefit ratios, and the economic impact of any proposal for mitigation or acreage replacement. We believe KDWP should not require mitigation or replacement of habitat in areas where conversion of the habitat is insignificant in relationship to the total amount of habitat available in the area. Mitigation proposals should be subject to review by the Species Review Committee, and that committee must have authority to modify or eliminate mitigation requirements.

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# ISSUE ANALYSIS....

## INFORMATION on PUBLIC POLICY

Prepared as a Service to Members by the  
Public Affairs Division, Kansas Farm Bureau



### THREATENED AND ENDANGERED SPECIES...a time for review!

JANUARY, 1991

#### THE ISSUE

Major concern about the Threatened and Endangered Species Act and its enforcement is being expressed. Landowners and public officials in Southeast Kansas planning Watershed Dams and Multi-purpose Small Lakes charge actions by the Kansas Department of Wildlife and Parks (KDWP) are responsible for increased costs, unreasonable habitat mitigation requirements and construction delays.

As an example, landowners in Bourbon County building a watershed project that created a 14 acre lake, were forced to give easements on 100 acres. Most all economic activity on this woodland will be banned for the next 50 years. Landowners receive no compensation for the easements, however property taxes and any land payments will continue. This mitigation requirement is to preserve woodland habitat for the "Northern Red Belly Snake" and "Broadhead Skink" that might reside in the area.

#### BACKGROUND

Threatened and Endangered Species are protected by both federal and state laws. The Kansas Nongame and Endangered Species Conservation Act of 1975 places the responsibility upon the KDWP. Input was provided by 153 people...government agencies, universities, consultants and individuals...in selecting species for the Threatened and Endangered list. The list for Kansas includes federally designated and state selected species. In 1978, 137 species were submitted for consideration...26 were

approved. By 1980, the list declined to 24 species. In 1990, the list included 46 species. The Secretary of the KDWP shall determine whether any species of wildlife indigenous to the state is a threatened species or an endangered species in this state because of any of the following factors:

- (1) The present or threatened destruction, modification or curtailment of its habitat or range;
- (2) The over utilization of such species for commercial, sporting, scientific, education or other purposes;
- (3) Disease or predation;
- (4) The inadequacy of existing regulatory mechanisms; or
- (5) The presence of other natural or manmade factors affecting its continued existence within this state.

Persons undertaking projects that alter or disturb habitat of protected species shall obtain a permit from the Secretary of KDWP. Projects should be reviewed which impact streams, wetlands, native woodland or native prairie.

Species of wildlife which occur in this state and which have been determined to be threatened or endangered by federal law shall receive full consideration by the Secretary of KDWP.

The Secretary may not add a species or remove a species from the list unless the secretary has first:

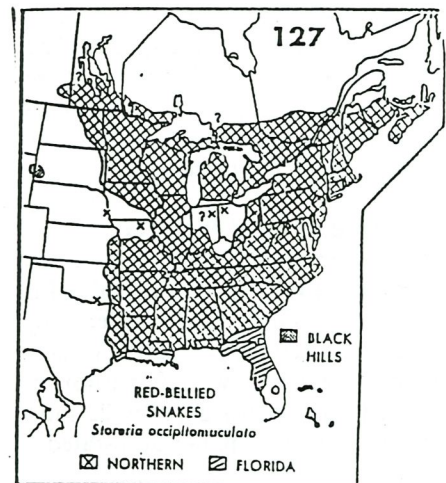
- (A) Published a public notice of such proposed action;
- (B) Notified the governor of any state which shares a common border with this state and in which the species is known to occur; and
- (C) Allowed at least 30 days for comment from the public and

other interested parties, except where an emergency situation exists, the secretary may add species to such lists provided the secretary has published a public notice.

The Northern Red Belly Snake and Broadhead Skink are not on the federal list, rather they have been designated to be protected by the State of Kansas.

The Northern Red Belly Snake is 8-10 inches long. On its dorsal side, its color may be slate gray or reddish brown. Two thin darker stripes are on each side. The snake's belly may be bright orange-red or jet black. Any combination of dorsal and belly colors can occur. There are three light spots on the neck.

This snake requires woodlands with dense leaf litter or areas where rocks, logs, or other debris are abundant. Its probable range is limited to the eastern tier of counties in Kansas where native upland woodlands occur.

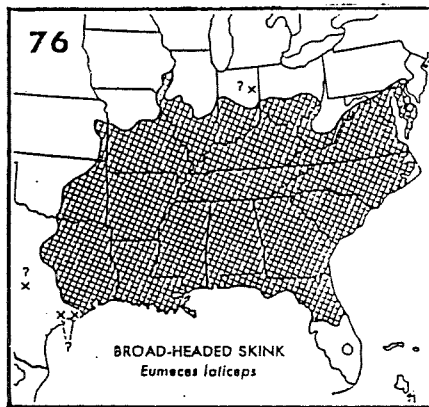


The Broadhead Skink is a lizard that has flat, smooth scales. It has

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yellow stripes on its back and sides and two yellow stripes on the head. This species exhibits different colors at various stages of adult life. Young adults are black with yellow strips and have a bright blue tail. Older females are brownish, the yellow strips may fade to brown or gray, and the blue tail becomes gray. Older males are uniform olive or tan, and lack stripes. Male Broadhead Skinks are larger than females and develop an orange-red head during breeding. Broadhead and Five-lined Skinks are extremely difficult to tell apart.

Broadhead Skinks require mature woodlands having dead and decaying timber. It spends much of its time in tree cavities, especially in standing dead trees. It is intolerant of intensive lumbering and woodland grazing. In Kansas, this skink is limited to south-east counties.



A major concern is whether the species are actually present in the area where the habitat is being protected. A second concern is the amount of habitat to be converted in relationship to the total amount of habitat available for the species. The amount of habitat affected by these flood control and water supply dams is extremely small compared to the total habitat that exists.

### FARM BUREAU POLICY

A letter to Governor Hayden in January, 1990 was critical of KFB Policy and asked him to reject any attempts to change the law. The correspondence by a wildlife author included a petition signed by 22 individuals. The first paragraph stated:

"The enclosed petition is in response to unfortunate resolutions by various state organizations (i.e. Kansas Farm

Bureau, Kansas Association of Conservation Districts, Southeast Kansas Association of Conservation Districts) promoting a change in the current mitigation requirements required by the Kansas Endangered Species Act, a change which would bring about the destruction of the natural habitat of a number of southeastern Kansas animals currently on the state threatened species list. The resolutions by those three organizations (KFB, KACD, SKACD) again demonstrates their long-established disregard for Kansas wildlife and our natural environment, and illustrates anew their ignorance of our environment and how it is polluted."

Representatives from the Marmaton and Mill Creek Watershed Districts outlined their concerns to the KFB Board of Directors at their September meeting. KFB leadership and staff assisted the Bourbon County Farm Bureau in researching the issue and proposing amendments to strengthen KFB Policy. Delegates representing the 105 County Farm Bureaus adopted this KFB Resolution for 1991:

*"Listing a species as threatened or endangered shall be on that basis alone and not on the basis of "rarity." Documentation shall be required to demonstrate conclusively that any species proposed to be protected under K.S.A. 32-957, et. seq., shall actually be present in a clearly defined geographic area, and be dependent for survival on habitat in that location.*

*The law should not permit encroachment upon economic agricultural practices.*

*Scientific data supporting the inclusion of a species shall receive wide dissemination to landowners and private organizations representing the rights of these landowners.*

*Any agency, organization or person requesting critical habitat designation, should be required to provide and fund an environmental impact report with emphasis on the economic impact of the action.*

*We believe KDWP should initiate review of the Kansas Threatened and Endangered Species list in 1991, and a complete review should be conducted at least every five years thereafter. A Species Review Committee should be created. It should consist of one representative from each of the following entities:*

1. Kansas Department of Wildlife and Parks,
2. Kansas Conservation Commission,
3. Association of Kansas Watershed Districts,
4. Kansas Department of Health and Environment,
5. Kansas Biological Survey,
6. Kansas Association of Counties,
7. Kansas Department of Transportation,
8. League of Kansas Municipalities, and
9. State Board of Agriculture.

*In addition to representatives from the above named agencies and associations, we believe there should be not less than three private agricultural landowners named to the Species Review Committee.*

*We believe mitigation or acreage replacement measures should take into account cost/benefit ratios, and the economic impact of any proposal for mitigation or acreage replacement. We believe KDWP should not require mitigation or replacement of habitat in areas where conversion of the habitat is insignificant in relationship to the total amount of habitat available in the area. Mitigation proposals should be subject to review by the Species Review Committee, and that committee must have authority to modify or eliminate mitigation requirements.*

### THE CHALLENGE

This is a statewide issue and will require a statewide effort. Threatened and Endangered Species occur in every county in Kansas. A few years ago, the concern was with the threat by EPA to ban certain pesticides in southcentral Kansas. This plan proposed to protect two birds...Least Tern and Piping Plover. The plan was modified. Implementation was delayed.

If Farm Bureau policy is to be approved by the Legislature, every member must explain the problem and seek the support of his or her State Representative and Senator.

Prepared by: Bill Fuller

TESTIMONY OF THE MILL CREEK AND MARMATON WATERSHEDS BEFORE THE  
SENATE ENERGY AND NATURAL RESOURCES COMMITTEE  
MARCH 5, 1991

Ladies and Gentlemen:

We thank you for this opportunity to appear before this committee in support of a cause that has been a dramatic concern to any and all Kansans who care about their environment, wildlife, and people. We are not here because we are insensitive to concerns for threatened or endangered species of wildlife. We are here because we do care about the environment and are involved in conservation, resource development, and management efforts that serve all appropriate uses in our region of influence.

We have experienced, however, over the last few years some dramatic improprieties in the ways in which the Kansas Threatened and Endangered Species Act is interpreted and administered by the Kansas Department of Wildlife and Parks. There appears dramatically evident within the Kansas Department of Wildlife and Parks an anti-landowner and anti-water resources conservation and development bias that raises many questions as to the propriety with which the agency develops and imposes requirements upon many projects throughout various sectors of government and the private sector. In the case of watershed projects, we have experienced demands for habitat mitigation that appear to be totally beyond any semblance of reason and justification. Several examples of these will be heard by you today. In view of the wide latitude and impunity with which KDWP believes they are mandated to operate

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under the T&E Act, it would appear that watershed programs and, in fact, many areas of economic and resource development at least in Southeast Kansas, if not throughout the State of Kansas, are dead issues. We certainly cannot project the successful procurement of easements for water supply development and flood protection if we have to give KDWP a seven acre snake and lizard preserve for every acre of flood pool created as was recently required on one of our watershed lakes. Neither can we expect to justify a 50% increase in the cost of every project just to meet their supposed habitat mitigation requirements as happened on the Bone Creek Reservoir project.

As a result of extensive experience with KDWP and a study of their actions, laws, and regulations, we believe the T&E Act and/or its administration is severely flawed in at least the following ways:

1. NO TEST OF REASONABILITY REQUIRED. Several species are on the T & E list on the basis of one unsubstantiated recommendation. The Broadheaded Skink and The Northern Redbellied Snake are both indigenous to the entire southeastern United States but appear to have been put on the T & E list in Kansas solely because they don't reside in the Western two-thirds of the State.
2. NO SYSTEM OF CHECKS AND BALANCES. In developing their supposed mitigation requirements, KDWP appears to have a blank check. They do not have to report to anyone or justify to anyone the costs of their program requirements.
3. NO REVIEW AUTHORITY. Unlike many of the actions of other State Agencies, there is no provision for review of KDWP requirements by other State Agencies or a higher State authority.
4. NO APPEAL AUTHORITY. Similarly, there does not appear to be any appeal authority.

5. NO OVERSIGHT AUTHORITY. There does not appear to have been provided any oversight authority wherein the regulations promulgated by KDWP and the supposed mitigation requirements conjured up by KDWP have to be substantiated to anyone in State government.
6. NO FISCAL ACCOUNTABILITY. Every major publicly funded project from which KDWP so willingly conscripts funds or property rights have had to justify their existence upon some reasonable economic basis. KDWP now has free rein under the T & E Act to loot the coffers of those programs. Add lack of fiscal accountability to the long list of items wherein they have likewise escaped accountability.
7. IRRATIONAL VALUE SYSTEM. KDWP uses no system of relative values in making decisions on mitigation. As far as KDWP is concerned, there is no level of direct or indirect project benefit to human or other species that justifies any balancing or reduction of KDWP T & E requirements by rational criteria or by input from project sponsors or other State agencies. In the case of watershed projects, they consider the benefits to flood damage reduction, improved water quantity and quality, reduced sediment, increased aquatic environment, and increased wildlife habitat all irrelevant to any of their mitigation requirements.

As a result of having observed and having been subjected to the dramatic improprieties resulting from the above, we have sought to work with Kansas Farm Bureau, State Association of Kansas Watersheds, Kansas Association of Conservation Districts, and any other entity who is concerned about the environment in the State of Kansas, wildlife in the State of Kansas, and the economy in the State of Kansas to seek to have the legislature rectify these obvious improprieties. We applaud the existence of draft Senate Bill #341 and have suggested through the resolution process and the various agencies that the following parameters be embodied in such a legislative modification of the T&E Act. For your review, the points of concern to us are delineated below as items a through j.

a. We believe that the Kansas Department of Wildlife and Parks should have to document that locally existing populations of threatened or endangered species will suffer significant adverse impact from a proposed project before habitat mitigation permits or measures can be required.

b. We believe that the KDWP should have to document the economic and social impact of retaining or adding any specie to the T & E List and justify same in light of past, current, and projected future populations of said specie in Kansas.

c. We believe that KDWP should have to document the social and economic impact of any proposed habitat mitigation requirements in view of past, current and projected future populations of the specific specie in the presumed range of the specie in Kansas as well as in the vicinity of a particular project. KDWP should have to document beyond any reasonable doubt the criticality of converted habitat to a listed specie before considering the imposition of habitat mitigation requirements on any project.

d. KDWP should have to take cognizance of the positive social, economic and environmental impacts of a project in defining any mitigation requirements and allow a 1:1 compensation for said positive aspects against mitigation requirements.

e. We believe that KDWP should have to initiate the review of the Kansas Threatened and Endangered Species list within two years of the adoption of this resolution and at least every five years thereafter. The retention or addition of any specie on the threatened or endangered list should require a consensus of a **Threatened and endangered specie review committee**.

f. We believe that public notice of the intent to retain or add any specie to the list of threatened or endangered species as well as environmental impact studies, economic impact studies, and any scientific data supporting said inclusion should receive wide dissemination to landowners and private organizations representing the rights of these landowners with adequate time for analysis, review and appropriate comment.

g. We believe that the benefits of required mitigation measures must more than offset any and all costs of said mitigation requirements. The law should not permit encroachment upon normal agricultural practices, serve as the vehicle for adverse condemnation of private property or property rights, nor provide for T & E habitat mitigation to make unfeasible an otherwise justified and feasible project. We believe that all economic costs of the T & E Act must be



born by the State of Kansas as opposed to transferring those costs to unaware private project cooperators and that KDWP should be the primary financial sponsor of their required habitat mitigation requirements. Making KDWP fiscally responsible for their requirements is the surest way to interject common sense and some semblance of judgement into their requirements.

h. We believe that the T & E Act should not require mitigation of habitat in areas where conversion of habitat by a specific project is insignificant in relationship to the total amount of habitat available in the area.

i. We believe that questionable or unjustified mitigation requirements should be subject to appeal and review by the T & E Species Review Committee. The T & E Species Review Committee should have authority to modify or negate mitigation requirements.

j. We believe that KDWP should be forced to return property rights that have been wrongfully confiscated via adverse condemnation under currently existing statutes and implementing regulations and that private landowners should be compensated for income lost and tax burdens unfairly carried since the inception of KDWP impositions on their property.

We recognize that it is difficult, if not impossible, to write statutes that cannot be abused by the unscrupulous. However, KDWP has documented beyond any shadow of a doubt that they cannot be trusted with the wide latitude that they have previously enjoyed under the Threatened and Endangered Species Act. For that reason we are concerned that all of the above points be clearly and specifically covered in proposed legislation. As Senate Bill #341 now exists, we are not sure that the above points have all been adequately covered. Special attention should be paid in amending Senate Bill #341 to cover the concerns delineated in a, c, d, g, h, i, and j above.

In summary, we strongly urge the development of rational and justified legislation for threatened and endangered species that deserves and can be supported by all Kansans. We believe that Senate Bill #341 could be that vehicle with adequate amendments. We applaud and stand ready to assist your efforts in that direction in any way we can.

ATTACHMENT I

MARMATON AND MILL CREEK WATERSHED DISTRICTS TESTIMONY  
BEFORE SENATE ENERGY AND NATURAL RESOURCES COMMITTEE

Senator Ross Doyen  
State Capitol  
Topeka, KS 66612

Dear Sir:

The Kansas Threatened and Endangered Species Act of 1975 is affecting economic and social development in Kansas in ways never envisioned or intended when the act was past. Southeast Kansas is feeling the brunt of these impacts because the majority of the T&E species are located in SEK.

The T&E Act as administered by the Department of Wildlife and Parks is now and will even more so in the future place onerous barriers to economic and social development in SEK. Southeast Kansas has to overcome problems such as not having enough quality water for domestic and industrial use, poor transportation systems and the threat of devastating floods like Fort Scott experienced in 1986 and more... The Mill Creek and Marmaton River flood control projects created by the citizens of these areas by popular vote can see already that they will not achieve their flood control goals because of the manner in which KDWP is interpreting and enforcing the Kansas Administrative Regulations created with the T&E Act. The Bone Creek Reservoir Project which is essential to the people of Crawford and Cherokee counties was nearly destroyed by KDWP's obstructionist attitude. The Bone Creek Project is

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viable today not because KDWP compromised on the amount of T&E habitat mitigation required but rather the project sponsors were bullied into many hundreds of thousands of dollars worth of habitat mitigation prescribed and demanded by KDWP.

KDOT is aware and will become more acutely aware of the costs associated with the T&E Act and KDWP obstinance as they design and construct a much needed highway in SEK.

KDWP will not compromise on the mitigation of T&E habitat no matter how worthy or needed a project might be to local citizens. KDWP regulations can destroy badly needed improvements before they can even begin by adding hundreds of thousands of dollars to the cost of the project for T&E mitigation. KDWP will not compromise no matter what the cost of mitigation. There is no monetary cost too high or public project worthy enough to convince KDWP to sacrifice one acre of T&E habitat. The only currency that the KDWP values is habitat units. The welfare of the citizens of Kansas be damned they will not compromise on habitat units. If a project destroys X number of habitat units, X number of habitat units have to be replaced. Unfortunately, this is not a one for one replacement. We in SEK have seen as many as 8 acres of land required as mitigation for each acre of habitat disturbed. KDWP uses the T&E permit system as a form of blackmail. If you want to do a project that affects T&E habitat you have to meet their demands before you can get a permit to construct. In the process they are indirectly requiring that restrictive easements be placed on private property that usurp the landowner's use of his own land without due process of law or fair compensation. This they do in

*E4NR  
3-5-91  
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attachment 2*

the name of the Kansas Threatened and Endangered Species Act. We do not believe that these types of activities were the intention of the legislature when they passed the act!

At some point and time the people of Kansas must say that a particular project is too important to the well-being of her citizens to allow KDWP to run roughshod over it. KDWP will claim that they are only doing their job according to the act. This is rubbish, don't listen to it. The act in and of itself is good legislation. It is the Kansas Administrative Regulations promulgated by KDWP and their contemptuous and arrogant application of these regulations that are the problem. Any bureaucracy that has the audacity to label its new secretary as incompetent to hold office has the ability to misuse the very rules and regulations that itself creates.

We, common citizens of the state of Kansas, are here today seeking relief from the KDWP regulations relating to the T&E Act because we have no other recourse. The T&E Act, and most certainly the administrative regulations drawn-up by KDWP, do not allow for any legislative or public oversight that we are aware of. The act has no realistic appeal process for individuals or entities who feel they have been mistreated to seek justice. KDWP wrote the law (administrative regulations), they are the judge, the prosecutor, the jury, the hangman, and the undertaker!

KDWP is using the T&E Act as a means to obstruct any kind of development that impacts any type of habitat that they wish to protect. Through shrewd selection of species using methods that are questionable, they are using the T&E Act to further their own

*E&NR  
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attachment 2*

selfish interests rather than the interests of the people of Kansas. Left unchecked they can carefully select and place species on the T&E list to obstruct almost any type of development they wish. This cannot be allowed. KDWP must be accountable to the wishes of the people of Kansas and the legislature. If the inner workings and procedures used by KDWP in administering the T&E Act were fully exposed, we are sure there would be changes made quickly by the legislature. We are but a small group working with few funds and limited expertise. They are a large government agency with a very vocal and pernicious lobby supporting them. Senator Doyen, we assure you there is a rotten apple in the barrel but you will have to dig to find it and KDWP will do everything they can to hide it from you.

We do fully support Senate Bill #341 that would create an advisory committee to the Secretary of KDWP in matters related to the T&E Act. In truth we believe the whole act needs to be overhauled with careful attention given by the legislature to any administrative regulations drawn up by KDWP. The Advisory Committee may be adequate to interject the needs and values of the people of Kansas and perhaps balance the overzealous and self-serving manner in which KDWP has administered the T&E Act in the past.

MARMATON WATERSHED DISTRICT  
MILL CREEK WATERSHED DISTRICT

*E4NR*  
*3-5-91*  
*Pg 10 of 10*  
*attachment 270*

Testimony of Elwin Ermel  
to the  
Kansas Senate Committee on Energy and Natural Resources

March 5, 1991

My name is Elwin Ermel. I live and farm northeast of Bronson, Kansas. Part of my land falls within the boundaries of the Marmaton Watershed District. Three years ago, the district approached me for an easement to build one of many badly needed floodwater detention reservoirs which have the side benefits of enhancing water supply, water quality, wildlife habitat, etc. I gladly gave the easement recognizing that there are dramatic and significant flood damages down stream as well as the need for better water quality and more water supply in the areas below me.

The next thing I know the Department of Wildlife and Parks is back requiring an easement for the Broadhead Skink and the Redbellied Snake to the tune of 100 acres total from myself and my neighbor upon whose land the floodwater detention structure was to be built. The floodwater detention structure was to take out 14 acres of timber land which Wildlife and Parks said is critical habitat to these two critters. In return for a public project to benefit the entire area, they required this easement for 100 acres of mine and my neighbors land with a stipulation that it can never be cleared for the life of the project and only grazed in a limited sense. In so requesting, they indicated they take absolutely no cognisance of the fact that there are hundreds of thousand of acres of like timber and brush land up the eastern corridor of Kansas. There is an estimated 10,000 acres of like land within a

*ELWR  
3-5-91  
Attachment 3  
Pg 1 of 2*

ten mile radius of this site. Likewise, they take no cognisance of the fact that this is a publicly funded project that has been justified on the basis of cost benefit ratios. Neither do they provide any compensation for the easement and the land rights that it represents.

Myself and my neighbor are now faced with a 50 year easement which substantially precludes significant economic activity on this 100 acres for the life of the project but we receive nothing in return. The land will continue to be taxed at its normal tax rate. There was no payment for the easement nor any other benefits accrued by us resulting therefrom. I believe that this is a case of taking private property rights without compensation sometimes known as adverse condemnation. I also believe it is absolutely unjustified in the sense that these two species are indigenous to the entire Eastern and Southeastern United States and simply have not been wide spread throughout Kansas because most of Kansas does not provide habitat for them. I believe it is probable that they are listed as threatened species in Kansas totally without justification since KDWP has to justify to no one the listing of these species or any other as threatened or endangered. I believe that our property rights have been usurped totally without justification.

I stand here in support of the proposed Senate Bill 341. However, I believe the Bill needs to be strengthened to the extent that injustices that have already been propagated by Kansas Department of Wildlife and Parks need to be reversed. Mine is one such case.

Thank you for your time and consideration.

*E+NR  
3-5-91  
Attachment 3  
Pg 2 of 2*



Testimony presented to  
Committee on Energy and Natural Resources

by

The Kansas Department of Health and Environment

Senate Bill 341

The Kansas Department of Health and Environment supports SB 341. It would allow KDHE to have some input on the endangered and threatened species listing in the state. The issue of those species often comes up in permitting actions. KDHE could have some insight and input on the formulation of this list.

Testimony presented by: Ron Fox  
Director  
Bureau of Environmental Quality  
Division of Environment  
March 5, 1991

*ENR  
Pg 1  
3-5-91  
Attachment 4*

SENATE ENERGY AND NATURAL RESOURCE COMMITTEE

MARCH 5, 1991

Testimony on Senate Bill No. 341 - AN ACT amending and supplementing the nongame and endangered species conservation act; establishing the endangered and threatened species and habitat advisory committee.

I am Richard G. Jones, Executive Director of the Kansas Association of Conservation Districts.

The Association represents the 105 county conservation districts in Kansas. Conservation Districts provide assistance to landowners and operators for the protection and improvement of their soil, water, plant, and animal resources. Conservation Districts are governed by a five member board of supervisors made up of local landowners who serve without compensation.

On November 20, 1990, at our Associations 46th Annual Meeting, the members passed a resolution requesting that the Kansas Legislature create an independent group or committee to hear appeals on projects when the sponsor and Kansas Department of Wildlife & Parks have a disagreement on the issuing of a permit to install works or improvement. A copy of the resolution is attached.

Senate Bill 341 establishes such a committee, with the responsibility of reviewing and being advisory to the Secretary of the Department of Wildlife & Parks in granting of permits along with other duties dealing with the State's endangered and threatened species.

The Conservation Districts of Kansas have continually implemented local conservation programs to the benefit of our State's natural resources including our wildlife. They have accomplished this by being

*ENR  
3-5-91  
Attachment 5  
Pg 1 of 3*

aware that all natural resources are important and have a place in our environment. This includes consideration for the safety and health of humans along with the needs for other resources. We cannot forget that we all have a place in our limited environment and that the safety and health of our fellow man must have some priority as we are the only ones that can initiate changes.

For this reason, the Conservation Districts of Kansas believe that an Independent Committee should be established to review the requirements made of local people by the Department of Wildlife & Parks in permitting construction of works of improvement to assure that they are logical and reasonable from both an environmental and economical standpoint. The Committee should also review the listing of endangered and threatened species, including the current list and any proposed additions to the list.

Thank you for the opportunity to testify on this issue and we urge the passage of Senate Bill No. 341.

*EDWR*  
*3-5-91*  
*Attachment 5*  
*Pg 2 of 3*

ESTABLISH APPEAL PROCESS FOR KANSAS DEPARTMENT OF WILDLIFE AND PARKS  
CONSTRUCTION PERMITS

WHEREAS, watershed districts, rural water districts, towns and other entities building dams or other works of improvement in Kansas must obtain approval of the plans for the Kansas Department of Wildlife and Parks before construction can take place; and

WHEREAS, these entities have invested considerable sums of money in developing feasibility studies or long-range plans which depend on these construction projects to meet their goals; and

WHEREAS, Kansas Department of Wildlife and Parks has made determinations which have either stopped construction projects or added considerable costs or mitigation based on a decision within their department that certain environmental conditions exist that must either be protected or mitigated by the sponsor; and

WHEREAS, the safety and health of humans should carry a higher priority than plants and animals considered by the Kansas Department of Wildlife and Parks to be threatened or endangered, when in fact they may not exist in this area, or they are in abundance in adjoining states where they are not threatened or endangered,

THEREFORE, BE IT RESOLVED, that an independent group or committee be created by the legislature to hear appeals on projects when the sponsor and Kansas Department of Wildlife and Parks have a disagreement on the issuing of a permit to construct a dam or other works of improvement.

*E4NR*  
*3-5-91*  
*Attachment 5*  
*Pg 3 of 3*

March 4, 1991

Honorable Senators and Guests:

My name is Ed King. I am past president of the See-Kan Resource Conservation and Development Board, having just completed four years as president. Our 27 person board is appointed by elected officials in our nine county area. The counties I represent are Allen, Bourbon, Cherokee, Crawford, Labette, Montgomery, Neosho, Wilson and Woodson. I live in Woodson County.

As president of the See-Kan RC&D Board, I have been involved closely with watershed districts, community water supply reservoirs, and the Bone Creek Reservoir project in Crawford and Cherokee Counties.

Attached to my presentation are two documents. First is a report on the Bone Creek Reservoir, showing those communities involved, and describing the reservoir, treatment plant and distribution system. Secondly, is a letter from the Kansas Department of Wildlife and Parks, dated May 31, 1990 explaining how the PWWS #11 will need to plant 296.4 acres of cropland to trees to mitigate the Bone Creek Reservoir project.

Our board is very much aware of the problems and delays that the Public Wholesale Water Supply District #11 has had because of critters on the state endangered species list. We would like to address this specific problem since it has been on going for three years and is still not completely resolved. Please be aware that the four species the Kansas Department of Wildlife and Parks has listed as endangered are all on the Kansas endangered species list, not the national list. The four are the Broadheaded Skink, the Northern Redbelly Snake, the Central Newt, and the Eastern Spotted Skunk. All of these species live in timber areas in states to our east. Our counties in southeastern Kansas are at the western edge of their habitat. These species are abundant in Missouri and states to the east, according to Robert Hiland, a retired Kansas Fish and Game Biologist living in Crawford County. The timbered area where the Bone Creek Reservoir is to be located has been labeled as suitable habitat for the above species. This does not mean that those species are endangered.

Requiring mitigation for a species that is not endangered is an injustice to our people. It is causing delays in getting a much needed project on the ground. It increases costs. With the Bone Creek site, the board estimates increased costs of about \$300,000 for land and planting. This does not include the cost of maintaining this hardwood forest forever. It also takes some of our best farm land out of production to plant more trees in an area where we already have a great abundance of trees.

*Ed King  
3-5-91  
attachment 6  
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The Bone Creek Reservoir will supply a much needed high quality water supply for the people in this two county area that has poor quality water now. Communities will either replace their source of ground water, or will use the Bone Creek water to blend with their poor quality ground water.

Bone Creek Reservoir has been delayed a year or more because of demands by the Kansas Department of Wildlife and Parks to carry out extensive mitigation. The initial site for the reservoir was in a heavily wooded area. The Kansas Department of Wildlife and Parks demanded the PWWSO #11 purchase over 600 acres of cropland and plant it to hardwood trees. Three years later and after four revisions in the Bone Creek Reservoir plans, the Kansas Department of Wildlife and Parks has still not agreed to a mitigation plan. The board moved the location of the dam downstream nearly a mile and lowered the water level 15 feet to protect the timber and wildlife habitat. The current demands of the Kansas Wildlife and Parks Department is for the PWWSO board to purchase 296.4 acres of cropland and plant this to hardwood trees. This will require the purchase of several farms to acquire the needed cropland that is suitable for growing trees that produce nuts. We believe all this expense is unnecessary.

After the land has been purchased and planted to trees, the PWWSO board will be required to maintain this land in timber forever. Not just as long as the lake is full of water, but FOREVER. The local people will be required to pick up the full cost of this mitigation. There are no federal or state grants that cover any of the cost of mitigation, so the extra \$300,000 will be added to the overall cost of the project and paid for in increased water rates over the life of the project.

If this is something your Senate Committee believes is in the best interests of the state, perhaps you should be considering covering the mitigation costs for the Bone Creek Reservoir and similar projects from the general fund. I feel sure that the taxpayers of Kansas will be thrilled with this idea.

Kansas needs an appeal procedure with an independent board when communications break down between a project sponsor and the Kansas Department of Wildlife and Parks. This appeal board needs to have the authority to review the facts and make a decision so the process does not take years to resolve.

Kansas needs to review the list of endangered species and determine if all of them really need to be on that list. This decision needs to be based on a multi-state

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attachment 4  
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PK

determination and not only on what may be happening in a few counties of the state.

I thank you for taking the time to hear me concerning Senate Bill 341. I do hope this will be the beginning of a better working relationship between local project sponsors and the state when trying to provide much needed services for our people and trying to satisfy the need to protect our natural resources.

Ed King  
Past Pres, See-Kan RC&D Board

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3-5-91  
attachment 6  
pg 3 of 17

# BONE CREEK RESERVOIR

Treatment and Distribution System

Preliminary Data  
on  
Selected Option for a  
Multipurpose Reservoir

by  
Public Wholesale Water Supply District #11  
Crawford and Cherokee Counties

January 9, 1991

Jim Gaskell, RC&D Coordinator, See-Kan RC&D Office,  
Route 2, Box 293-A, Chanute, KS 66720  
Phone 431-6180

*EJNR  
3-5-91  
attachment 6  
Pg 4 of 17*



## BONE CREEK RESERVOIR

A feasibility Study has been completed on the Bone Creek Reservoir. The study covered two different locations and several different size dams at each location. The Public Wholesale Water Supply District # 11 has selected a site for the multipurpose reservoir in Section 12, Township 28S, Range 24E, Crawford County. The dam will be located approximately 7 miles north and 5 1/2 miles east of Girard. Bone Creek flows into the Marmaton River after it enters Missouri.

The Bone Creek Reservoir will create a 540 surface acre lake when built and it fills. It will have over 9,000 acre feet of water (more than 3 BILLION gallons) for water supply. It can yield 2.95 million gallons of water daily. These are average figures and daily production can vary. This is considerably more water than is currently being used (1.7 mgd) by the eleven entities who have indicated interest in the PWMSD.

The projected yield of 2.95 mgd take into account rainfall, runoff, evaporation and seepage. The water stored in the reservoir would yield the stated amount 98 percent of the time for a period equal to the worst drought of record. There is a two percent chance the reservoir would not be able to yield the full 2.95 mgd. This reflects the odds that the area could experience a drought worse than the record one of the 1950's two years out of each one hundred.

Much higher yields can be obtained from this reservoir if a combination of ground water from existing wells and the Bone Creek Reservoir are both used. This is what is proposed: cities with a good source of water from wells and adequate treatment could blend their own well water to be supplied from Bone Creek. This will reduce the cost of water somewhat and provide backup water in case of a water shortage. This will let each entity meet the requirements of the Kansas Department of Health and Environment that an alternate source of water be available.

The Site of Bone Creek Reservoir is in a rugged part of Crawford County. The stream is of good quality, draining 12.5 square miles. The site is wooded and has rock outcrops around the shore line. The PWMSD has included some recreational facilities in their proposal to make recreational access to this lake possible. The State of Kansas has been requested to study the lake area as a potential location for a state park. The See-Kan RC&D Board conducted a study in 1977 with assistance from the Soil Conservation Service. The report identified a potential development that could serve 50,000 visitors annually if installed. A copy of this study has been made a part of this report. By increasing the recreational facilities, many more visitors can be served.

*E & N R*  
*3-5-91*  
*attachment 6*  
*pg 5 of 17*

An obstacle that was difficult to overcome was the presence of threatened species and the loss of habitat that several declared threatened species use. After nearly three years of work with the Kansas Department of Wildlife and Parks, a plan has been developed that should be acceptable to meet their requirements. The PWWSO #11 board has agreed to purchase 296.4 acres of farmland and plant it to hardwood trees. This area will be established and maintained forever by the district. The added cost of several hundred thousand dollars will be paid for by increased water rates by users, and grant funds from federal and state taxes.

A second obstacle that has not been overcome is the reluctance of small towns and rural water districts to enter into contracts to purchase treated water from the PWWSO. Contracts have been offered to all eleven entities who became a part of the steering committee to finance the feasibility study. Water will cost these entities \$2.90 per 1,000 gallons. Not a high cost but two to three times what most small entities in Cherokee and Crawford Counties now charge for water. Several are reluctant to raise their water rates to cover the increased cost, even though water quality is poor to plain bad.

Two things are needed to make this project feasible: 1. A revision of state law permitting the State of Kansas to participate in the purchase of storage capacity in Type 3 reservoirs under the Small Lakes Program, and 2. A state appropriation to cover a portion of the cost of this to allow the five entities who have signed contracts to proceed with construction. This "loan" from the state will be repaid as other entities are brought on line in years ahead. The Kansas Water Office is ready to certify that a need exists in the Cherokee and Crawford County area within the next twenty years for the full storage planned for Bone Creek Reservoir. The PWWSO board estimates a state appropriation of about \$2.5 million is needed to move the project forward.

The PWWSO board has considered development of the ground water with a water softening type treatment plant to clean up the water. Radium 226 and hydrogen sulfide can be removed from the water but sodium cannot be removed. The board has rejected this option due to the uncertainties of the ground water resources, the high cost of building and operating a water softening treatment plant, and if they used wells for their water source, there would be no alternate source of supply for the area.

The Bone Creek Reservoir will also provide flood protection downstream including U.S. Highway 69 north of Arma.

Jim Gaskell  
RC&D Coordinator, Chanute  
January 9, 1991

*ENR*  
*3-5-91*  
*Attachment 6*  
*Pg 6 of 17*

Revised 1-9-91  
gh.

December 13, 1990

**PUBLIC WHOLESALE WATER SUPPLY DISTRICT NO. 11**  
**REVISED PRELIMINARY FINANCING ANALYSIS**

In accordance with the revised engineering feasibility study including Arma, Chicopee RWD, Girard, Mulberry and Crawford Co. RWD No. 2 as compiled by Larkin Associates, I have outlined the financing alternative that is currently available to the District and am including the plan of financing for your review. I have also taken into consideration some conservative assumptions as follows:

Not in-

City of Arcadia added 1-8-91. gh.

- (a) The project cost is \$9,800,000.
- (b) Kansas Small Lakes Program Grant and other Kansas Grants could be obtained in the total amount of \$4,511,010.
- (c) Dingle-Johnson Grant funds could be obtained in the total amount of \$120,000.
- (d) Farmers Home Administration Grant could be obtained in the total amount of \$1,895,240.
- (e) Farmers Home Administration would commit to an intermediate interest rate of 6.125% on \$1,523,750. (loan)
- (f) The District would issue \$1,750,000 in general obligation bonds.
- (g) The amount to be financed is \$3,273,750.
- (h) The Farmers Home Administration revenue bond issue is a 40 year term with a debt service coverage requirement of 110%.
- (i) The General Obligation Bonds would be for a 20 year term with no debt service coverage requirement.
- (j) The estimated annual minimum allocation for which the water rate has been established is 118,800,000 gallons per year.
- (k) 25% increase in water sales by the third year.

(#2,011,010) (existing grant) (Need added #2.5 million) (State purchase water storage)

The following summarizes the cost per 1000 gallons:

	<u>General Obligation Bonds</u>	<u>FmHA Revenue Bonds</u>	<u>Total</u>
Annual Principal and Interest Payment (3rd Year)	\$168,400.00	\$103,410.00	
Coverage Requirement	0.00	10,340.00	
Annual Debt Service Requirement	168,400.00	113,750.00	\$282,150.00
New Water Plant O & M @ 1.00/1000 gal.			<u>148,500.00</u>
Total			\$430,650.00
Cost per 1000 gallons			\$2.90

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Attachment 6  
pg 70017

**ESTIMATED PROJECT COSTS  
WATER SUPPLY FROM BONE CREEK RESERVOIR**

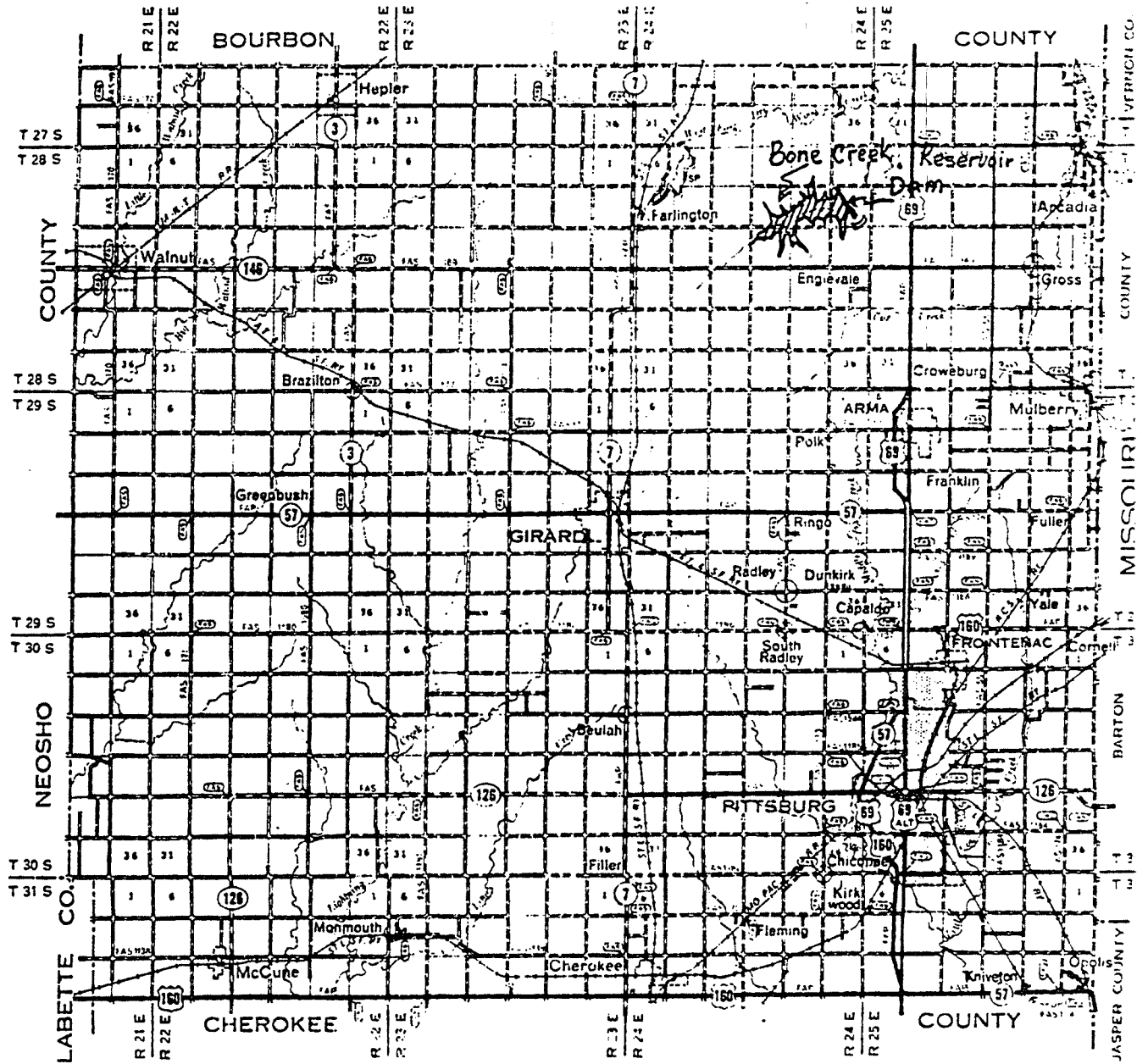
<u>Item</u>	<u>Cost Estimate</u>
<b>1. Distribution System</b>	
a. Piping	\$ 2,628,600.00
b. Valves & Fittings	30,000.00
c. Pump Station & Phase Converters	80,000.00
d. Radio Telemetry	<u>120,000.00</u>
Subtotal Distribution System	\$ 2,858,600.00
<b>2. Water Treatment Plant</b>	\$ 1,900,000.00
<b>3. Elevated Storage Tank</b>	<u>\$ 315,000.00</u>
Total Construction	\$ 5,073,600.00
Engineering, Legal, Administration, Land, Financing, Contingencies (25%)	\$ 1,268,400.00
Subtotal	<u>\$ 6,342,000.00</u>
<b>4. Reservoir Construction with project costs &amp; Contingencies</b>	<u>\$ 5,841,465.00</u>
Total Estimated Project Costs	\$12,183,465.00 *

Source: Oct 89

**LARKIN ASSOCIATES  
CONSULTING ENGINEERS, INC.  
9233 Ward Parkway, Suite 300  
Kansas City, Missouri 64114  
Telephone - 816/361-0440  
FAX - 816/361-0045  
LA No. 89031-00**

*\* Note: With less than the  
eleven entities under contract,  
costs will be revised down. g.m.  
1-9-91*

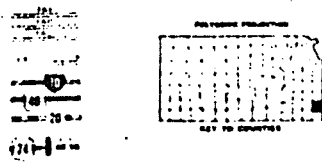
*ENR  
3-5-91  
Attach. 6  
Pg 80317*



**LEGEND**

- ROADS AND ROADWAY FEATURES**
- PRIMITIVE ROAD
  - UNIMPROVED ROAD
  - GRADED AND DRAINED ROAD
  - SOIL SURFACED ROAD
  - GRAVEL OR STONE ROAD - NOT GRADED OR DRAINED
  - GRAVEL OR STONE ROAD - GRADED AND DRAINED
  - GRAVEL OR STONE ROAD WITH STABILIZED SURFACE
  - CONTINUOUS ROAD-LOW TYPE
  - PAVED ROAD
  - DIVIDED HIGHWAY
  - HIGHWAY WITH FULL CONTROL OF ACCESS AND INTERCHANGE

- ROAD SYSTEM DESIGNATION**
- FEDERAL AID INTERSTATE HIGHWAY SYSTEM
  - FEDERAL AID PRIMARY HIGHWAY SYSTEM
  - FEDERAL AID LOCALITY HIGHWAY SYSTEM
  - POINTS BETWEEN WHICH DISTANCES AND MILEAGES INDICATED
  - INTERSTATE NUMBERED HIGHWAY
  - U.S. NUMBERED HIGHWAY
  - STATE NUMBERED HIGHWAY
  - END OF DESIGNATED SYSTEM OR MARKED ROUTE

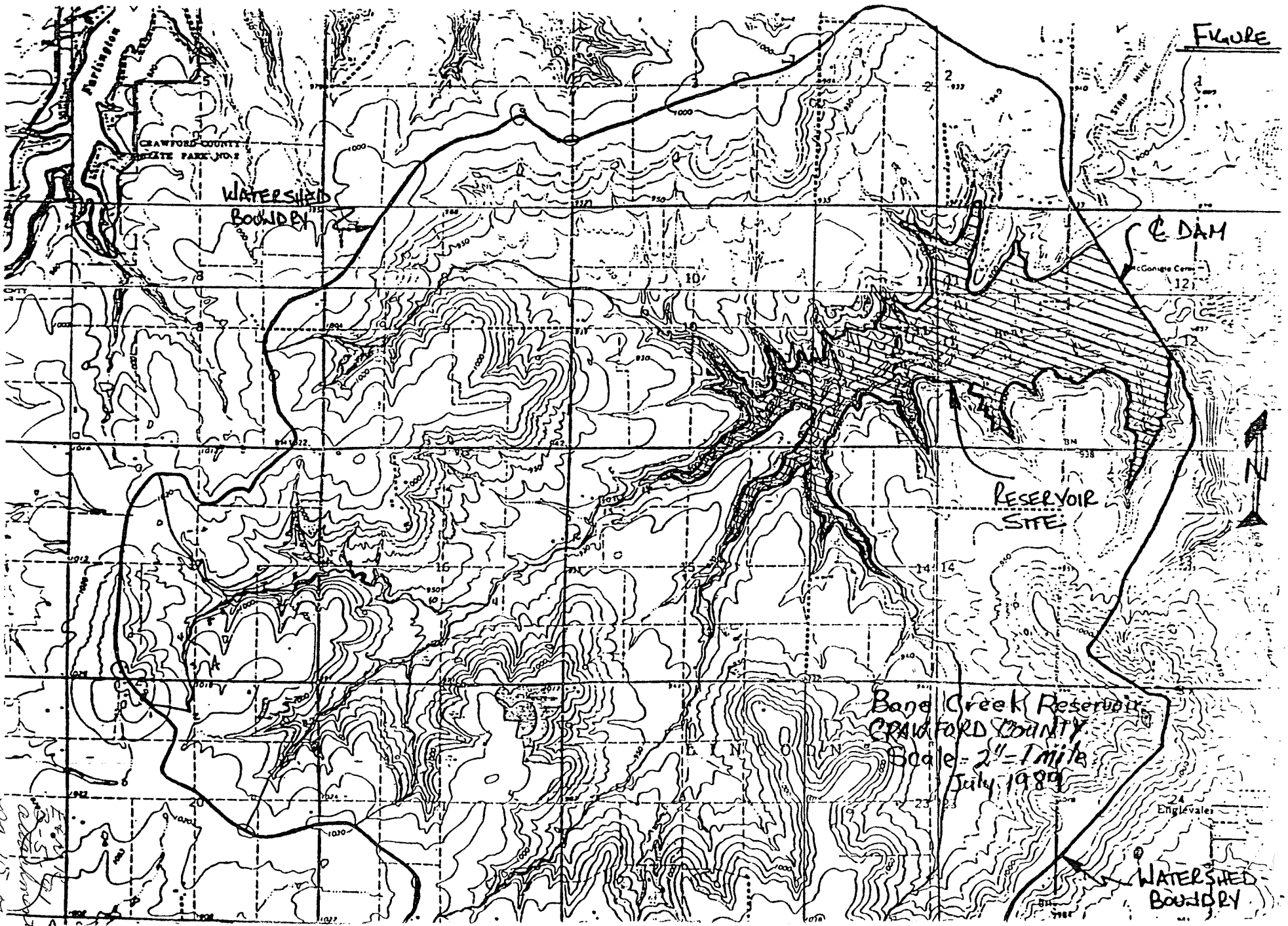


Proposed location  
 Bone Creek Reservoir  
 11-3-89  
 GENERAL HIGHWAY MA  
**CRAWFORD COUNTY**  
**KANSAS**

PREPARED BY THE  
 STATE HIGHWAY COMMISSION OF KANSAS  
 DEPARTMENT OF PLANNING AND DEVELOPMENT  
 IN COOPERATION WITH THE  
 U.S. DEPARTMENT OF TRANSPORTATION  
 FEDERAL HIGHWAY ADMINISTRATION

*E & NR*  
*3-5-91*  
*attach 6*  
*Page 1 of 17*

FIGURE



Base Creek Reservoir  
 CRAWFORD COUNTY  
 Scale: 2" = 1 mile  
 July, 1980

Fig. 15 of 17  
 13-51  
 13-51  
 13-51

WATERSHED BOUNDARY

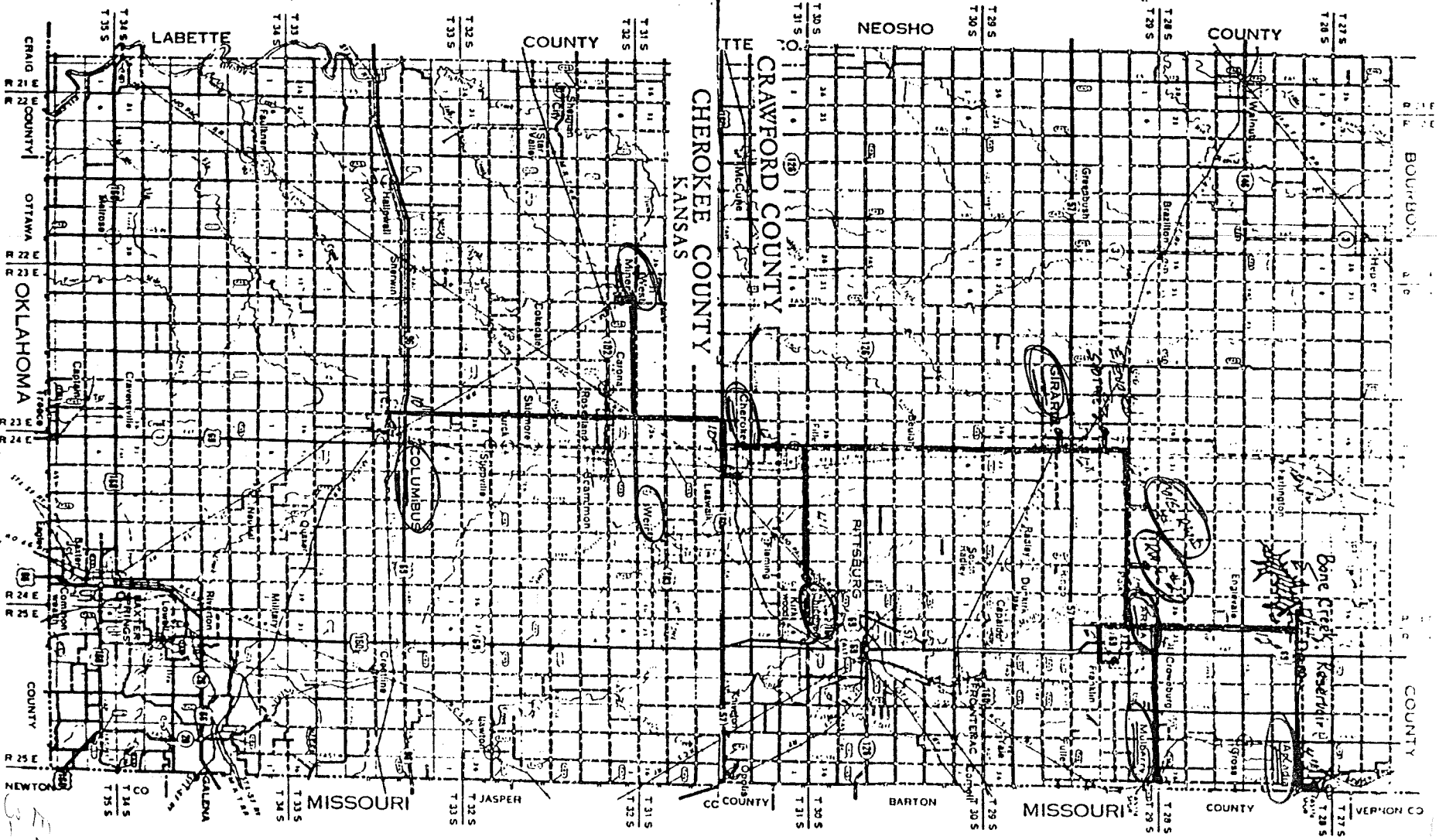
PROPOSED  
BONE CREEK RESERVOIR  
CRAWFORD COUNTY

November 3, 1989

PRELIMINARY STRUCTURAL DATA

Item	Unit	Total
Total Drainage Area	Sq. Miles	12.5
Elevations:		
Top of Dam	m.s.l.	912.0
Emergency Spillway	m.s.l.	900.0
Principal Spillway	m.s.l.	895.0
Water Intake Elevations		
Low intake	m.s.l.	879.0
Middle intake	m.s.l.	886.0
High intake	m.s.l.	893.0
Maximum Height of Dam	Ft.	59.0
Capacities:		
Sediment Submerged	Ac. Ft.	666.0
Water Supply & Recreation	Ac. Ft.	9284.0
Flood Water Retarding	Ac. Ft.	2700.0
Total Capacity	Ac. Ft.	12,650.0
Surface Areas:		
Permanent Water	Acres	540.0
Flood Water Retarding	Acres	610.0
Top of Dam	Acres	845.0
Capacity Equivalents:		
Sediment Volume	Inches	1.0
Flood Water Retarding Vol.	Inches	4.0
Water Supply and Rec.	Inches	13.9
Volume of Fill		
Without Crest Roadway (20')	C.Y.	915,000
With Crest Road (40')	C.Y.	1,008,000

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3-5-91  
Attachment 6  
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Proposed distribution lines  
 Bone Creek - P.W.S.D. #11  
 ENDR  
 3-5-91  
 attack. G  
 pag 12 of 17



**CRAWFORD - CHEROKEE  
PUBLIC WHOLESALE WATER SUPPLY DISTRICT NO. 11**

September 25, 1989

*Contracts  
Signed  
w/ PWDSD*

<u>Entity</u>	<u>Current Source</u>	<u>Meters Served</u>	<u>Storage (1000 gal.)</u>	<u>Water Used 1988 (MG/Yr.)</u>	<u>Avg. Month 1988 (MG/Mo.)</u>	<u>Peak Month 1988 (MG/Mo.)</u>	<u>Est. Max Mo. From Wholesale (MG/Mo.)</u>	<u>Est. Min. Mo. From Wholesale (MG/Mo.)</u>	<u>Wholesale Sole/Partial Source</u>
Arcadia	Wells	250	85 Stp	13.2*	1.1*	1.3	2.2	1.1	P *
Arma	Wells - 2	724	75 Elev/200 Elev.	92.8	7.7	9.4	10.0	5.0	P *
Chicopee R.W.D.	Pittsburg	182	None	13.5	1.1	1.5	2.2	1.1	P *
Cherokee	Wells	332	2 - 50 Stp 60 Elev.	27.0**	2.3**	2.6**	1.6	0.8	P
Columbus	Wells	1,660	140 stp- 225 Elev.	175.8	14.7	17.8	14.0	7.0	P
Cons. R.W.D. No. 1 Crow.	Wells	600*		90.0*	6.0*	7.0*	3.0*	1.5*	P
Girard	Wells	1,260	1000, Ground Tank 2 Stp	147.0	12.3	14.0*	12.0	6.0	P *
Mulberry	Wells	292	50 Elev.	29.8	2.5	3.0*	3.0	1.5	P *
R.W.D. #2	Cons.RWD #1	150*		9.0*	0.8*	1.0*	1.6*	0.8*	P
West Mineral	Well	<u>114</u>	123 Stp	<u>7.5</u>	<u>0.65</u>	<u>1.1**</u>	<u>1.4</u>	<u>0.7</u>	P
		5,564		605.6	49.2	58.7*	51.0 MG/Mo. (1.70 MGD)	25.5 MG/Mo. (0.85 MGD)	

Wier - - -  
\*Estimated  
\*\*1987 Information

*EADR  
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Comparison of minerals detected in domestic water supplies compared with untreated water from 2 reaches of Bone Creek.

Source: KDH+E. 11-1-88  
9.5.

Date	Source	Minerals analysis - Milligrams/liter										Radiation Picocuries/liter		
		Total Hardness CaCO <sub>3</sub>	Calcium	Magnesium	Sodium	Chloride	Sulfate	Nitrate	Fluoride	Total Iron	Manganese	Gross Alpha	Radium 226	Radium 228
5/76	Bone Creek - Raw water - upper reach	256	88	8.9	5	7.0	60	0.9	0.2	0.04	0.01	NA	NA	NA.
5/76	Bone Creek - Raw water - lower reach	252	89	7.3	11	8.0	65	0.3	0.2	0.05	0.01	N.A.	N.A.	N.A.
9/87	Fort Scott (Marmaton River)	141	51	3.6	4.0	7.6	29	0.36	0.97	N.D.	0.01	N.A.	N.A.	N.A.
4/88	Pittsburg City wells	114	19	16.2	74.9	85.2	68	0.1	0.94	0.08	0.01	2.8 ±1.3	-	-
12/87	Arma Well	282	67	28.0	176.2	220.0	59	ND	0.76	0.08	ND	10.6 ±2.8	14.8 ±0.6	1.6 ±1.7
7/88	Mulberry Well	226	52	23.5	116.7	147.9	30	0.07	0.60	0.06	0.02	9.6 ±2.4	1.6 ±0.5	-
2/88	Frontenac wells	243	56	25.4	103.0	148.3	37	0.61	0.55	0.02	ND	-	-	-
3/88	Girard Well	317	74	32.6	108.4	147.2	98	0.46	0.71	0.05	N.A.	9.5 ±2.5	2.4 ±0.6	-
6/87	West Mineral Well	361	83	37.5	212.8	268.0	118	N.D.	1.29	0.02	0.02	12.7 ±3.3	4.6 ±0.6	0.6 ±0.7
2/88	Craw - RWD #1 Well	179	41	18.9	82.7	85.4	ND	ND	0.43	0.04	N.A.	-	-	-
1/88	Craw - RWD #3 Well	250	60	24.8	140.3	194.8	40	ND	0.83	0.01	ND	-	-	-
1/88	Craw - RWD #4 Well	317	73	32.7	100.7	139.3	93	ND	0.67	N.D.	N.D.	-	-	-
1/88	Craw - RWD #5 Well	194	46	19.5	66.5	78.6	21	N.D.	0.60	ND	ND	19.5 ±3.8	3.4 ±0.5	1.4 ±0.8
87	Craw - RWD #6 Neosho River	171	52	10.1	10.4	5.7	59	0.60	0.21	0.03	0.05	-	-	-
75	Craw - RWD #7 wells	424	99	43.0	290.0	495.0	109	0.1	0.8	0.31	0.00	N.A.	3.9 ±0.6	7.3 ±0.8

ND = Not Detected  
N.A. = Not Analyzed

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attached to  
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OPERATIONS OFFICE  
RR 2, Box 54A  
Pratt, Kansas 67124  
316-672-5911

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DEPARTMENT OF WILDLIFE & KS  
MIKE HAYDEN, Governor  
ROBERT L. MEINEN, Secretary  
W. ALAN WENTZ, Assistant Secretary

May 31, 1990

Maurice Harley  
Chairman, PWWSO #11  
P.O. Box 308  
Girard, KS 66743

Ref: D1.0900  
Bone Creek

Dear Mr. Harley:

In January, 1989, a habitat evaluation of the Bone Creek site was conducted utilizing a subjective procedure currently used by Kansas Department of Wildlife and Parks (KDWP) for determining probable impacts of proposed development projects on wildlife habitats. The SCS uses a similar procedure on proposed structural measures. In addition, KDWP assessed the site as probable habitat for threatened and endangered species. The site was documented as critical habitat for the threatened Broadhead Skink, *Eumeces laticeps*; a woodland dwelling reptile. The subjective evaluation conducted found the woodland to be destroyed to be of optimum quality for wildlife dependent thereon, including the Broadhead Skink. Subsequent to the above, the initial evaluation was challenged by Public Wholesale Water Supply District #11 (PWWSO). In October, 1989, KDWP Secretary Meinen requested that a second evaluation, utilizing more objective procedures be conducted and assigned Robert Wood as the field coordinator. The initial attempt to conduct the field work in December was postponed due to severe weather. Field work for the second evaluation was conducted over the period March 20-22, 1990. A total of 15 people representing three agencies were involved in collecting the field data. Agencies represented were the U.S. Soil Conservation Service (SCS), U.S. Fish and Wildlife Service (USFWS), and KDWP. This letter will serve to transmit, in part, our report on the evaluation.

Due to time and personnel constraints, the terrestrial evaluation was limited to woodlands within the proposed project acquisition area. A total of 12 randomly selected sample plots of approximately 0.3 ac. each were used for woodland habitat measurements. Six of the sample plots were within the project impact area, below design permanent pool elevation, and six were located outside of the impact area. One additional measured sample plot was classified as an osage-orange invaded pasture and was not included in any overall woodland quality calculations. Data collected from the six impact area plots have been used to calculate quality value of the woodlands to be destroyed (222.3 ac.) by the dam/spillway construction and inundation by the permanent pool.

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Evaluation of the aquatic habitat (Bone Creek mainstem) will be based on data collected at three sample stations of 100 meters length each. Two of the stations were located upstream of the dam within the permanent pool area and the third downstream of the dam near the small cemetery. We have not completed final analysis of the aquatic data, but there were no rare or unique aquatic organisms or communities documented. We will provide a more complete aquatic report at a later date. All maps and field data forms generated by this evaluation, for both terrestrial and aquatic sampling, will be placed on permanent file at this office and are available for review if you so desire.

This objective evaluation was based on procedures developed by the USFWS whereby specific habitat variables for given wildlife species are measured quantitatively then applied to qualitative curves which result in assigning values ranging from 0 to 1.0, with 1.0 representing optimum quality habitat for the species in question.

Terrestrially, the project will have significant adverse impact on a wide variety of woodland and woodland edge dwelling wildlife. Specific habitat variables were measured for the Hairy Woodpecker, Fox Squirrel, Mink, Eastern Cottontail, and Broadhead Skink. Published habitat models are on file for the first four species while best professional biological knowledge was used to identify habitat variables for the Broadhead Skink. Rather than go into detail in this letter, I have enclosed a copy of Bob Wood's report on the specific procedures and data collected.

Based on the field data collected, we have documented the woodland habitat to be destroyed by the proposed Bone Creek Reservoir site to be optimum for Broadhead Skink having a quality value of 1.0. Based on previously documented measurements, a total of 222.3 ac. of woodland will be destroyed which currently yield 222.3 Habitat Units (HU) annually for Broadhead Skink. As we have explained in previous correspondence, mitigation measures must be implemented to replace the lost HU value which will occur over the life of the project. Although the project's impact will be in perpetuity, for purposes of calculation, the life of the project is presumed to be 100 years which results in a loss of 22,230 HU ( $222.3 \times 1.0 \times 100$ ). The mitigation measures can take the form of woodland plantings and/or improvement of existing woodland habitats. To totally mitigate the 22,230 HU that will be lost over the life of the project by tree plantings, a minimum of 296.4 acres of new woodland comprised of an adapted mix of native trees that will result in a mature woodland with 50% or more of the canopy in hard mast species (oaks, hickory, pecan) must be established. The current Crawford County Soil Survey indicates there are sufficient areas suitable for woodland plantings within the proposed acquisition area to meet the mitigation requirements for the project. The parcels outlined in orange on the enclosed map are likely candidates for woodland plantings. As project plans are further developed, our personnel can assist in developing more specific measures.

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Upon completion, the project mitigation measures must yield sufficient HUs to completely offset the projected losses.

Results of this most recent habitat evaluation have not changed our determination that an Action Permit can be issued for the Bone Creek project as long as sufficient mitigation measures are included to assure that no net loss of habitat unit value for Broadhead Skinks will occur over the life of the project's impact. We still consider the project's impact life to be in perpetuity. All mitigation measures associated with the project must also be maintained in perpetuity. Such maintenance will be the responsibility of the permittee.

If you have any questions, feel free to contact me.

Sincerely,



Joe D. Kramer, Chief  
Fisheries and Wildlife Division

JDK/rdw/bk

Enc.

xc: W/Enclosure  
KDWP, Secy. Meinen  
KDWP, Reg. 5 F/W Supv.  
USFWS, Haley  
SCS, Kuiper  
~~SEE KAN RC&D, Jim Gaskell~~  
Assist. Secy. - Alan Wentz

*E+NR  
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attach 6  
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My name is Myron VanGundy. I live in Lyon County, on Route 2, Reading, Kansas. I am a farmer and stockman and am presently serving on the Lyon County Commission. In addition I have been appointed by the Governor to the Kansas Water Authority. I want to speak in favor of Senate Bill No. 341. This bill would form a committee to consult with and be advisory to the Secretary of Wildlife and Parks, in the performance or the duties prescribed by the nongame and endangered species and habitat advisory committee.

---

One example is the Neosho madtom listed as a threatened species in Kansas. The Neosho madtom occupies "critical habitat", a category designated by the state K.A.R. 28-16-28C.

The wildlife and parks have under this K.A.R. 28-16-28C designated the Neosho river to be the 'critical habitat' for this small fish, from west of Dunlap, Kansas, and the Cottonwood river from its confluence with middle creek to the Oklahoma and Missouri borders. So Wildlife and Parks rule any factors that takes place in the confines of these rivers as to the borders described above. At the present time the main cause of concern by Wildlife and Parks is the gravel riffles in these rivers. This is where I have a problem with the present system. I feel that the knowledge and information that Wildlife and Park is using to regulate the critical habitat by the rule of no removal of any gravel from these rivers is erroneously blamed. Wildlife and Parks knowledge of how these gravel riffles are formed is completely erroneous. I also worry about the lack of concern for the constitutional right of private landowners. On May 15, 1988 President Reagan issued an executive order requiring all federal departments and agencies to avoid action that infringes on private property rights and to determine the impact of any proposed regulation on an owners private property. The President also stated that an estimate of what the potential financial liability to the government would be if such proposal is enacted. In response to this the Department of The Interior, in rules and regulations as issued on May 22, 1990 by its Fish and Wildlife Service, states on critical habitat of the Neosho madtom,

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"It is questionable as to whether critical habitat can be definitively determined and whether such determination would provide benefits above and beyond species listing. The species is widespread (though not abundant) and mobile throughout linear stream drainages. Though gravel riffle areas are clearly important, they may not be the only important habitat areas for the Neosho madtom. And, though it appears possible to delineate specific gravel riffle areas that the species is presently using, some Neosho madtom may shift usage to new gravel riffle areas arising from changes in stream dynamics. The only way to legitimately identify all important riffle habitats would be to designate all gravel riffles within the three rivers in question. This, in effect, would state that any impact at or upstream of any riffle could constitute an effect. This could be viewed as an overly protective approach for conserving the species. Instead, it may be better to use a more judicious combination of Federal and State protection mechanisms."

The above is taken from The Federal Register

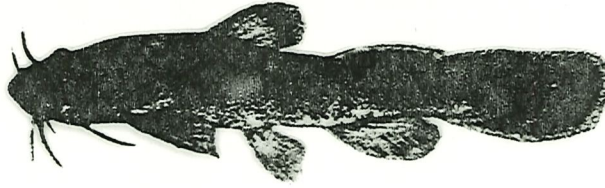
There has been a RECOVERY PLAN prepared by a firm named Natural Science Research Associates, of Hays, Kansas. The two individuals who prepared this plan are Thomas L. Wenke PhD, Fort Hays State University, Hays, Kansas and Mark E. Eberle, M.S. Hays, Kansas

The conclusion I draw from their research is that the demise of the Neosho madtom if any there be ----- is probably due to low stream flow and droughts in Kansas, and the slender madtom fish rather than isolated cases of the removal of gravel from our streams and rivers in Kansas.

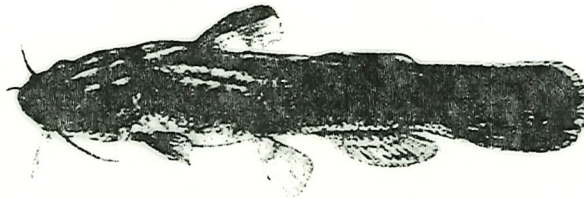
The forgoing statement being a good example why Senate Bill 341 needs to be approved by this committee.

Thank you for allowing me the time to present these issues.

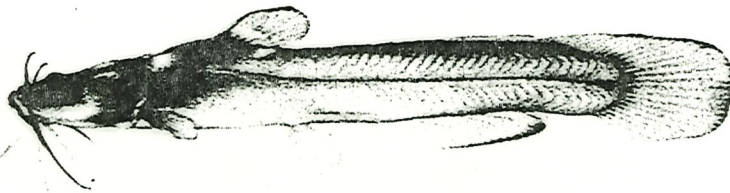
Figure 2.--The Neosho madtom and three related species from the Neosho Basin. The brindle madtom is similar in appearance to the Neosho madtom, but typically is not found in gravel riffles. The slender madtom might compete with the Neosho madtom for habitat in the Spring River, and it apparently has been introduced into the upper Neosho River drainage. The stonecat is the largest madtom and it occupies areas of a riffle with larger stones, while the Neosho madtom inhabits areas of smaller gravel in the same riffle. Illustrations approximate life size.



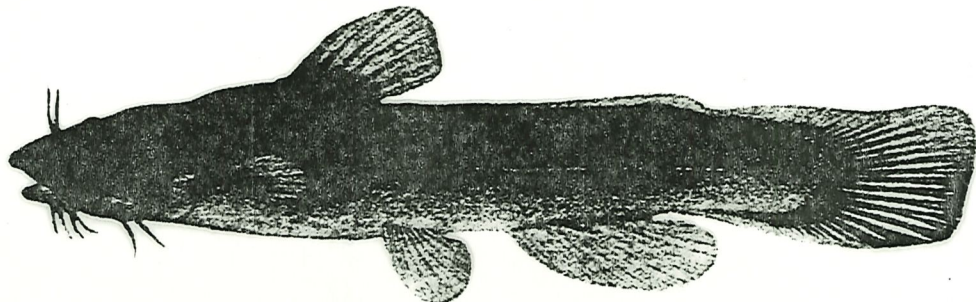
Neosho Madtom, *Noturus placidus* Taylor



Brindled Madtom, *Noturus miurus* Jordan



Slender Madtom, *Noturus exilis* Nelson



Stonecat, *Noturus flavus* Rafinesque



*Secretary Lacey*

S.B. 341

Testimony Provided to: Senate Energy and  
Natural Resources Committee

Provided by: Department of Wildlife and Parks

March 5, 1991

S.B. 341 would establish an Endangered and Threatened Species and Habitat Advisory Committee to consult with and be advisory to the Secretary of Wildlife and Parks in matters pertaining to threatened and endangered species. Such consultations would be required prior to any of the following actions:

- Listing or delisting of any threatened or endangered species or any species considered in need of conservation.
- A review at least every five years of all threatened, endangered and species in need of conservation lists.
- Adoption of any regulations designed to protect or conserve threatened or endangered species.
- Issuance of special permits.
- Establishment of programs for the conservation of threatened, endangered and nongame species. This may include studies of these species.

During 1989 and 1990, the Department reviewed 1,575 projects through the states' environmental review process. Of these, only 50 (3.1%) required a special permit and 34 of the 50 projects were

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able to avoid any mitigation requirements by adjustments to their plans. Sixteen projects (2.1%) did require special mitigation to compensate for losses to threatened or endangered species. The average response time to review a project and provide a report was 22 days.

Mandatory review of special permits by the "review committee" will add 4 to 6 weeks to the review time provided that timely meetings can be arranged. Substantial increases in communication and staff time will occur.

The Department cannot support S.B. 341 as drafted because of increased costs and the increased special permit processing time which will delay project clearance for the various sponsors. Increased review and input into the threatened and endangered species program and activities under that program is always beneficial, but a mandated review step is not necessary. Input is actively solicited during the various program activities including regulatory and species listing efforts. Creation of another review committee duplicates Department efforts.

A problem rests with several projects that have or will have a major impact on threatened or endangered species and our mitigation requirements for those several projects. Had the Department been invited to participate in-project planning at an earlier date by the sponsors, many adverse impacts on threatened and endangered species could have been avoided thus reducing mitigation needs.

The addition of a mandatory permit review step which will add

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to the costs and delay project approval is not in the best interest of the state, the resource or those project sponsors who desire expedient permit processing. The Department has initiated several actions in response to the concerns expressed by others and proposes to continue and to increase those efforts. Those actions include:

- Meetings with the various entities to explain listing procedures and to receive input for Department consideration.
- Circulation of proposed regulations to a wider range of interested parties.
- Methods for becoming involved in project planning at an earlier date.
- Working with other agencies to determine project impacts and possible mitigation needs.
- Reviews of project reports by the Department with sponsors and explanations of rationale involved.
- Development and implementation of threatened and endangered and nongame programs with public involvement.

The Department is quite willing to work with the various entities to better explain and to improve the threatened and endangered program in our state. Such involvement would not necessarily be limited to only those areas specified in S.B. 341. The Department welcomes input and advice on any aspect of the threatened and endangered effort, but does not believe a mandated approach is desirable.

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attachments  
Pg 3 of 3*

# Kansas Natural Resource Council

March 5, 1991

Testimony before the Senate Energy and Natural Resources Committee

Re: SB341 Concerning the Endangered & Threatened Species Act

From: Shaun McGrath, Program Director

My name is Shaun McGrath, and I represent the Kansas Natural Resource Council, a private, non-profit, organization which advocates sustainable resource policies for the state. Our membership is over 850 statewide.

SB341 is a blatant attempt to undermine the goal of the Nongame and Endangered Species Conservation Act, which is "to insure the continued ability of [threatened and endangered] species to perpetuate themselves successfully."

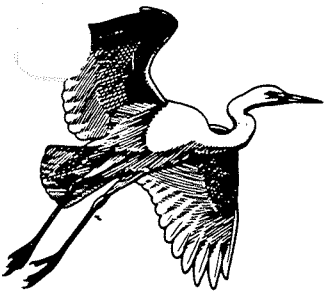
The bill would subject the decisions of the Secretary of Wildlife and Parks in protecting threatened and endangered wildlife species to a grossly unscientific 'Endangered and Threatened Wildlife Species and Habitat Advisory Committee'. With due respect, KNRC objects to the whole intent of this bill requested by the Farm Bureau, as well as to the naming of a KNRC representative to the Committee. We do not wish to serve attempts to legitimize this ill-begotten committee.

With the exceptions of the State Forester, and the State Biologist, what qualifications do the remaining seven members on this proposed "God Committee" have in determining what is necessary for any given species to perpetuate itself? What technical expertise could the staffs of KDOT, the SCC, the BoA, or any one of these seven non-scientific agencies or organizations offer on species' populations, distribution, habitat needs, and conservation measures needed to sustain a species?

More importantly, with just few exceptions, what incentives do the members of this committee have to sustain T&E species? And what could certain members lose if conservation measures are taken?

The true motive for this bill is clearly stated in the Farm Bureau's resolution CNR-16: "[The T&E] law should not permit encroachment upon economic agricultural practices." In other words, the Farm Bureau believes that a farmer's right to make money is more sacrosanct than the right of a living organism to continue life.

KNRC opposes SB341. Decisions about the needs of threatened and endangered species should continue to be made based on scientific reasoning, and not be subjected to the human greed which most likely caused the species to be threatened or endangered in the first place.



# Kansas Audubon Council

March 5, 1991  
Senate Committee on Energy and Natural Resources

My name is Joyce Wolf; I am the legislative liason for the 5000 Kansas members of the National Audubon Society who support the wise use and protection of our natural resources.

The Council opposes SB 341 because we believe that the advisory committee consists of members from agencies and organizations which, except for the state biologist and the state forester, in general do not possess the technical expertise to make scientific decisions on habitat or threatened and endangered species. While we realize that the committee is solely advisory, the number of times that the secretary of KDWP is required to consult with committee members seems overly burdensome, especially since the department already evaluates the state listed threatened and endangered species periodically.

If the purpose of SB 341 is to open the review process to the public, there already seems to be a mechanism for such a review to occur under the current statute [p. 3, (b) (1)]. This section, which is part of K.S.A. 1990 Supp. 32-960, gives the secretary the authority to establish a list of species that are threatened or endangered within the state and, furthermore, sets up the opportunity for the secretary to consult with federal agencies, other state agencies, interested persons and organizations. Again, on page 3, section (c), lines 20-43, and page 4, lines 1-7, there already exists in current law the process to take to the people of Kansas the review of state listed species. The language in this section seems quite clear -- the secretary of KDWP may not alter the list without giving public notice etc.

Finally, the mandate in SB 341 that members of the committee provide technical staffing expertise [new section 1 (b)] back to the advisory committee raises the question of where will the additional funding come from for these technical experts?

Who is responsible to pay for the technical experts for all the various agencies and organizations listed as advisory committee members? The Kansas Audubon Council opposes SB 341 and urges this committee to vote against it.

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# SIERRA CLUB

## Kansas Chapter

Testimony to Senate Energy & Natural Resources

S.B. 341 - Creation of State God Committee

I am Scott Andrews representing the 3300 members of the Kansas Chapter of the Sierra Club. We adamantly oppose this blatant attempt by special interest to weaken protection of Endangered Species in this state. The purpose of S.B. 341 is to form a state-level "God Committee" whose only function is to eliminate species from the protected list when they inconvenience someone's pet project.

For some time we have been hearing open threats to weaken or eviscerate the state endangered species act by the same organizations that are now putting this bill forward. I believe it is safe to assume their goals have not changed. The proposed committee is stacked with special interests opposed to endangered species protection and with very little biological expertise. It would certainly not be an appropriate technical advisory committee to Wildlife and Parks.

World-wide we are in the midst of an enormous human caused mass-extinction of species. Most of the focus is on the rapidly disappearing tropical rainforests. But how can we tell others to preserve their rainforest when we are unwilling to make minor modifications to small lakes projects in order to preserve the habitat of endangered species here?

Individual species are the vital components of the properly functioning ecosystems upon which we all depend. They are the irreplaceable pieces from which God has woven the magnificent tapestry of our biosphere. Let us not create a "God committee" to begin picking apart the bit of this cloth that covers our state.

The Sierra Club strongly urges you to kill this bill before it can begin to extirpate species from Kansas.

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Pg 1 of 1*

March 1, 1991

Senate Energy and Natural  
Resource Committee  
Sen. Ross Doyen, Chn.

Dear Ross:

Just a note relative to S.B. 341.

Due to a conflict, I cannot be there for the Committee  
hearing Tuesday.

I am Lowell Abeldt Legislative Liaison for the State  
Association of Kansas Watersheds.

I am speaking for President of S.K.A.W. Bill Hamm and (86)  
Eighty Six Watersheds of Kansas.

WE favor S.B. 341 and request a favorable recommendation from  
the Senate Energy and Natural Resources Committee.

Thank You,

*Lowell K. Abeldt*

S.A.K.W. Legislative Liaison

Lowell K Abeldt

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Attachment 12  
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