

Approved: Carl Dean Holmes
Date 4-29-95

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

The meeting was called to order by Chairperson Carl Holmes on March 6, 1995 in Room 526-S of the Capitol.

All members were present except: Representative Flower - Excused
Representative Kline - Excused

Committee staff present: Raney Gilliland, Legislative Research Department
Dennis Hodgins, Legislative Research Department
Mary Torrence, Revisor of Statutes
Shirley Wilds, Committee Secretary

Conferees appearing before the committee: The Honorable Doug Lawrence - KS House of Representatives

Others attending: See attached list

Chairperson Holmes opened the meeting recognizing Representative Flora. Representative Flora introduced his parents, Billy and Leonard Flora, from Gove County. The Chair and members welcomed Mr. and Mrs. Flora as Committee guests.

The Chair announced that today's hearing on **HB 2546** will be continued on Thursday of this week.

Also, he informed the Committee that a series of EPA public hearings are scheduled in Washington, D. C. during the month of March on the Safe Drinking Water Act and related issues. He offered copies of the information to all interested Committee members.

Hearing on HB 2546:

The Honorable Doug Lawrence. (See Attachment #1.) Representative Lawrence said that this bill was introduced at his request by the Federal and State Affairs Committee. The bill attempts to correct an anomaly in State law that is clearly a statewide issue that affects many people.

He cited an incident at the LaCygne Power Plant Lake several years ago when an individual drowned when his boat strayed into a cordoned off area where there was a strong undertow. The owner utilities had restricted that portion of the lake considered to be dangerous. This situation creates a dilemma for private property owners. Representative Lawrence said they can either, 1) not mark the hazardous area; 2) mark the hazardous areas and not receive liability protection; or 3) not allow public access to their property at all. He added the third alternative appears to be the one property owners have taken, in response to the rule of law established by the LaCygne case.

The Recreational Use Act will provide protection to the utilities that operates the Wolf Creek Nuclear Power Plant (when the facility is open to the public), and an environmental education area open at the plant also has liability protection. However, there are two areas of the plant that Representative Lawrence said must be addressed as plans progress for opening of the facility to the public 1. The area is the outlet area of the lake, where a half million gallons of warm water per minute flows into the lake. It is a dangerous undertow area and also an attractive fishing site. 2. There is an inflow area of the lake where water is drawn into the plant for cooling purposes. In this area there is a pistol firing range for security guards; also, because of the food drawn into that water flow area, there is a high concentration of Crappie and Small Mouth Bass.

Representative Lawrence pointed to areas of the bill that are patterned after laws in other states, extending liability protection to property owners who only allow access to part of their property. New language in the bill appears in Lines 21 through 25, wherein it clarifies that if a property owner takes action to keep their premises safe, or warns people of dangerous conditions, that property owner cannot be deprived of the liability protection of the law.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES, Room 526-S Statehouse, at 3:30 p.m.. on March 6, 1995.

At the close of the meeting, Representative Empson moved to approve Committee minutes for January 24; 25; 26; and 27. Representative Hutchins seconded. Motion carried.

There being no further business the Chair adjourned the meeting at 4:00 p.m.

The next meeting is scheduled for March 7, 1995.

Doug LawrenceSTATE REPRESENTATIVE
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HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS

MEMBER: AGRICULTURE AND SMALL BUSINESS
ENERGY AND NATURAL
RESOURCES
TRANSPORTATION

HB 2456 was introduced at my request by the House Federal and State Affairs Committee. The bill before you attempts to correct an anomaly in State Law, I discovered as I worked with the owner utilities of the Wolf Creek Nuclear Power Plant in an effort to open the plant cooling lake to public fishing.

While the Wolf Creek Lake issue was the genesis of my discovery of a problem, the problem is clearly a statewide issue which affects many people.

The Kansas Recreational Use Act is patterned after a model law which has been adopted in 46 other states. It provides liability protection to private property owners who allow public access to their property for recreational uses. The intention of the act is to provide an incentive for private land owners to voluntarily provide access to their property, without the fear of significant liability exposure.

A problem has resulted from a case involving a boating accident at the LaCygne Power Plant lake several years ago. In that accident, a man drowned when his boat strayed into an area which had been cordoned off because of strong undertow. The owner utilities had restricted access to a portion of the lake they considered dangerous. As a result, the decision favoring restricting access to a dangerous area, disallowed liability protection in the case where a boater had strayed beyond the area allowed.

This situation creates a dilemma for private property owners. They can either, 1.) Not mark the hazardous areas, 2.) Mark the Hazardous areas and not receive liability protection afforded under the act, or 3.) Not allow public access to their property at all.

The third alternative is one that property owners appear to be taking, in response to the rule of law established by the LaCygne case. Later this week, representatives of the Travel and Tourism industry in Kansas will speak in favor of this bill, and highlight real life examples of the problems private property owners face, when attempting to give the public access for recreational uses.

The Recreational Use Act will afford protection to the utilities that operate the Wolf Creek Nuclear Power Plant, once that facility is open to the public. Current Law already provides for that. Right now, an Environmental Education Area is already open at the plant, and KRUA affords liability protection for those operations.

Energy: 3/6/95
Natural Resources
Attachment #1

But there are two areas of the plant which must be addressed as we plan for the opening of this facility to the public. One area is the outlet area of the lake, where half a million gallons of warm water per minute flows into the lake. This is an area of dangerous undertows which generate significant hazard if a boat were to capsize. This is also a very attractive location for fishing, since the water flowing into the area averages more than 30 degrees warmer than the ambient outside temperature.

The second area is the inflow area of the lake where water is drawn into the plant for cooling purposes. In that area, there is a pistol firing range for security guards. The range is pointed out over a small portion of the lake. This area is also attractive, because the water flow draws lots of food into the area for the fish, and it has a high concentration of Crappie, and Small Mouth Bass.

The bill before you, specifically lines 16 through 18, and section 2. come from law in other states, and extends liability protection to property owners who only allow access to part of their property. This is essentially the Connecticut Recreational Use Act language.

Lines 21 through 25, is new language which clarifies that if a property owner takes action to keep their premises safe, or warns people of dangerous conditions, that property owner can not be deprived of the liability protection of the law.

Though the genesis of this discussion was our study of the Wolf Creek Lake project, this bill relates to the statewide issues we discovered.