

Approved: 3-16-95
Date

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT.

The meeting was called to order by Chairperson Kent Glasscock at 1:37 p.m. on March 14, 1995 in Room 521-S of the Capitol.

All members were present except: Representative Belva Ott - Excused
Representative Tom Sloan - Excused

Committee staff present: Mike Heim, Legislative Research Department
Theresa Kiernan, Revisor of Statutes
Fulva Seufert, Committee Secretary

Conferees appearing before the committee: Senator Bill Wisdom
M. Warren McCamish, Attorney, Kaw Valley Drainage District
Lawrence J. Brennan, Engineer, Kaw Valley Drainage District
Dan Harden, Engineer, Kansas County Highway Association

Others attending: See attached list

Chairman Glasscock opened the meeting at 1:30 p.m. The minutes of the March 9, 1995 meeting were distributed and Representative Feuerborn moved that the minutes be approved. Representative Luthi seconded. Motion passed.

The Chairman announced that the Committee would be hearing two bills today:

SB 168: **Kaw Valley drainage district; regulation of excavations within district.**

SB 79: **Townships; watermarks at river fords**

The Chair also reminded the Committee that all bills need to be out this week.

Chairman Glasscock recognized Senator Bill Wisdom who spoke in favor of **SB 168** which deals with the Kaw Valley Drainage Board. He told the Committee that there were two conferees from Kansas City, Warren McCamish and Larry Brennan.

The Chair then welcomed M. Warren McCamish who was a proponent for **SB 168**. He said that **SB 168** represents a simple and direct solution to the problem facing the Kaw Valley Drainage District and other districts containing federal flood control projects. The Chair asked Lawrence J. Brennan if he had anything additional he would like to add since he collaborated on the written testimony. He said he would stand for questions, but there were none. (Attachment 1).

Since there were no other conferees, the Chairman closed the public hearing on **SB 168**.

The Chairman opened the public hearing for **SB 79**. He introduced Dan Harden, Engineer from the Kansas County Highway Association, who was a proponent for **SB 79**. He reported that the Association believes the depth gauge is obsolete because the handbook does a better job of controlling traffic during a flooding situation on the low water crossing. The handbook makes it a traffic violation to enter the flooded ford, and he gave several reasons to support non use of the depth gauge. (Attachment 2).

There were no other conferees, so the Chairman closed the public hearing on **SB 79**.

Representative Powers moved to pass **SB 79** out favorably and Representative Toelkes seconded. The motion passed. Chairman Glasscock asked Representative Powers to carry the bill.

Representative Tomlinson announced that the Subcommittee will meet Wednesday, March 15, 1995, to hear a presentation on home rule. He also said that the Subcommittee will meet on Monday, March 27, 1995, at 1:30 p.m. in 521-S.

The meeting adjourned at 2:00 p.m .

The next meeting is scheduled for March 16, 1995.

Before the House Local Government Committee
March 14, 1995

To: Chairman and Members of the House Local Government
Committee

From: Lawrence J. Brennan, Engineer, Kaw Valley Drainage District
M. Warren McCamish, Attorney, Kaw Valley Drainage District

Subject: Testimony in support of Senate Bill 168

1. Statement of the Issue:

The Kaw Valley Drainage District is required, by agreements with the Army Corps of Engineers, to review construction projects within its boundaries and insure that the construction does not adversely affect the integrity of the flood control system.

At present, the Kaw Valley Drainage District lacks statutory authority to require or act upon permits for such construction.

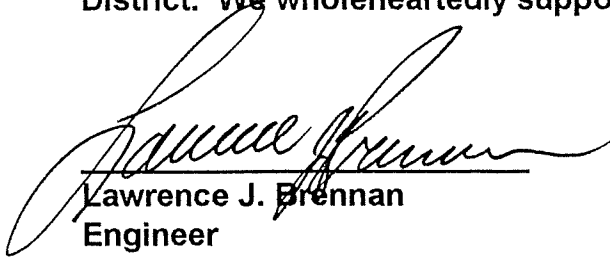
Pursuant to K.S.A. 19-3301 et. seq., cities and counties with federal flood protection projects within their boundaries are empowered to require permits for excavation within 1000 feet landward or riverward from the center line of any flood control project. (K.S.A. 19-3307 and 19-3309).

Currently, K.S.A. 24-132 grants to drainage districts traversed or touched by the Kansas River all the rights, powers, authority, and jurisdiction conferred upon counties and boards of county commissioners in K.S.A. 19-3301 through K.S.A. 19-3308, but does confer to affected drainage districts the right to require permits under K.S.A. 19-3309. Looking at the legislative history of K.S.A. 19-3309 it is clear that this statute came into existence after K.S.A. 24-132, and it appears that only by oversight was K.S.A. 24-132 not amended at the same time.

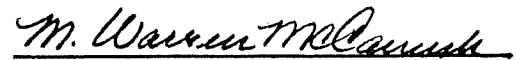
In the past the Kaw Valley Drainage District has become aware of and to some extent been able to provide its expert assistance to owners of proposed projects within its boundaries. However, the District in some instances is not notified of the expected construction until after it has commenced and cannot fulfill its duties under the agreements with the Corps of Engineers, nor provide expert advice to project owners with respect to the effect of the proposed project upon the flood control system.

2. Proposed Solution:

Senate Bill 168 represents a simple and direct solution to the problem facing the Kaw Valley Drainage District and other districts containing federal flood control projects. We thank Senator Wisdom for his concern for the protection of citizens and property owners within the boundaries of the Kaw Valley Drainage District. We wholeheartedly support the passage of Senate Bill 168.



Lawrence J. Brennan
Engineer
Kaw Valley Drainage District



M. Warren McCamish
Attorney
Kaw Valley Drainage District

SUPPLEMENTAL NOTE ON SENATE BILL NO. 168

As Recommended by Senate Committee on
Local Government

Brief*

S.B. 168 authorizes the governing body of drainage districts to regulate excavations within their boundaries in accordance with K.S.A. 19-3309. The district engineer would be required to review applications for permits. If the engineer determines that a proposed excavation will be detrimental to or will endanger or impair the function of flood protection works, permission for such excavation will be denied. The engineer also has the authority to issue restricted or conditional permits for excavation. Any permits issued under this act shall not violate any existing zoning laws or building codes.

Any person who disagrees with the decision of the district engineer can appeal that decision to the governing body of the drainage district. This appeal must be initiated within ten days of the decision and will be decided in a public hearing.

Background

S.B. 168 was supported by the Kaw Valley Drainage District of Kansas City, Kansas. Testimony of the Kaw Valley Drainage District stated that the District is required, by agreement with the Army Corps of Engineers, to review plans and regulate excavations. Under current law, the Kaw Valley Drainage District lacks statutory authority to fulfill its obligation.

* Supplemental Notes are prepared by the Legislative Research Department and do not express legislative intent.

**TESTIMONY OF
DAN HARDEN, P.E.
BEFORE
THE HOUSE LOCAL GOVERNMENT
COMMITTEE
KENT GLASSCOCK
CHAIRMAN**

The Kansas County Highway Association is interested in pursuing the enactment of Senate Bill 79. The Association members believe the signage for low water crossings is adequately defined in the *Handbook of Traffic Control Practices for Low Volume Rural Roads* beginning with page 61. A copy of this information is attached to this testimony.

Prior to the creation of the aforementioned handbook in 1981, K.S.A. 68-119 dictated low water crossing signage. This statute, passed early in this century, called for the placement of the depth gage indicated on the copied page 61. It is the belief of the Association that the depth gage is obsolete, thus making 68-119 also obsolete.

The Association believes the depth gage is obsolete because the handbook does a better job of controlling traffic during a flooding situation on the low water crossing. The handbook signage, thru the use of regulatory signage, makes it a traffic violation to enter the flooded ford. This is a better public safety situation than the depth gage. The reasoning is as follows.

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Attachment 2

The first strike against the depth gage is that it may will actually serve as an invitation to some inexperienced drivers to enter the flooded crossing. It is a “truth is advertising” issue. The driver may perceive 2 feet of running water to be safe to enter. Maybe it is, but maybe it is not depending on the velocity of the water.

The other “truth in advertising” issue deals with whether there is even a road on which to drive. The second strike is the depth gage may only show 1 foot of water flowing over the low water crossing when the stream has eroded the roadbed out of the stream. The 1 foot depth on the gage is really a 6 foot depth on the crossing due to the roadbed erosion.

The third strike against the depth gage is they are often destroyed by the flooding water. Many gages meet an untimely end when debris builds up on them and the gage itself becomes a flood causality.

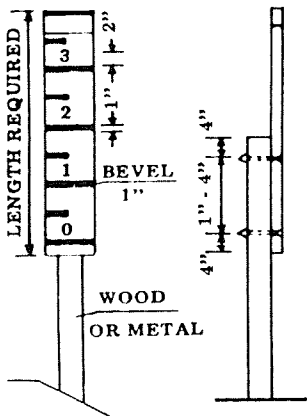
The Kansas County Highway Association therefore sees no public good coming from the continued placement of these gages adjacent to low water crossings. The Assocaition feels it is a public disservice to continue the practice and therefore asks the Committee’s favorable consideration of Senate Bill 79.

LOW WATER STREAM CROSSINGS

Low water stream crossings, (LWSCs or fords), are rarely encountered by the driver; therefore, they can be considered inconsistencies.

Kansas Statute Annotated (K.S.A.) 68-119, (See Appendix VIII) requires a depth gage to indicate the water depth over fords on township roads.

Description of Traffic Control Devices and Uses



A Depth Gage consists of a white background with black numbers. The "zero-foot" mark shall be at the same elevation as the low point in the crossing.

The Depth Gage is required for fords on township roads (K.S.A. 68-119). When used it shall be placed on the upstream side of the crossing.

The FLOOD AREA AHEAD sign shall consist of black letters and border on a yellow background. It shall conform to MUTCD standards for warning signs.



Standard Size
30"x30"



Standard Size
30"x30"

The IMPASSABLE DURING HIGH WATER sign shall consist of black letters and borders on a yellow background. It shall conform to MUTCD standards for warning signs.



Standard Size
24"x30"

The DO NOT ENTER WHEN FLOODED sign shall consist of black letters and border on a white background. It shall conform to MUTCD standards for regulatory signs. Since it is a regulatory sign it requires a resolution or ordinance to be passed before it is installed.

Standard Size
30"x30"



Standard Size
24"x18"

A supplemental DISTANCE ADVISORY plate may be used if the location of an LWSC is not apparent from a point approximately 1000 feet in advance of the crossing. The plate would normally display the legend "750 FEET" and would be placed directly beneath and on the same post as the FLOOD AREA AHEAD sign (See Figure 26). Other distances, based on an engineering study, may be used. The plate shall consist of black letters and border on a yellow background. It shall not be used alone.

An ADVISORY SPEED plate (See page 38) may be used if the maximum recommended speed at an LWSC is less than the usual

Standard Size
30"x30"



W13-1



Standard Size
24"x24"
Minimum Size
18"x18"

operating speed. If used, the plate shall be placed directly beneath and on the same post as the FLOOD AREA AHEAD sign unless a supplemental DISTANCE ADVISORY plate is used. If a supplemental DISTANCE ADVISORY plate is used, the ADVISORY SPEED plate, if used, shall be placed directly beneath and on the same post at the IMPASSABLE DURING HIGH WATER sign (See Figure 26). The plate shall consist of black letters and border on a yellow background. It shall not be used alone.

Although a DEPTH GAGE (required for fords on township roads) is often used at LWSCs, erosion sufficient to cause a hazardous condition could occur with a very shallow flow across the road. DEPTH GAGES also tend to catch floating debris and be washed downstream thus ruling out their purpose of informing the driver how much the water has risen over the LWSC.

At LWSCs, debris or mud may remain on the roadway after flood waters have receded and erosion of the roadway may have occurred. Thus, it is important that road segments with LWSCs be checked following heavy rains so that the required maintenance may be performed promptly or that the road can be closed if necessary.

On Type A and Type B roads, the three signs FLOOD AREA AHEAD, IMPASSABLE DURING HIGH WATER and DO NOT ENTER WHEN FLOODED should be used (See Figure 26).

On Type C roads, the FLOOD AREA AHEAD sign should be used. The IMPASSABLE DURING HIGH WATER and/or DO NOT ENTER WHEN FLOODED signs may be used in addition.

For Type A, Type B, and Type C roads, if only one sign is used, it shall be the FLOOD AREA AHEAD sign. If only two signs are used, the first sign shall be the FLOOD AREA AHEAD sign.

The placement of the sign(s) may vary depending on the usual operating speed and the terrain. It is important not to give the driver too much information or too many tasks to perform, such as a steep grade to negotiate with the FLOOD AREA AHEAD sign on the steep grade. In this case it is best to warn of the steep grade and also warn of the LWSC before the grade. Distances longer or shorter than those shown in Figure 26 may be used if an engineering study so indicates.

Reference

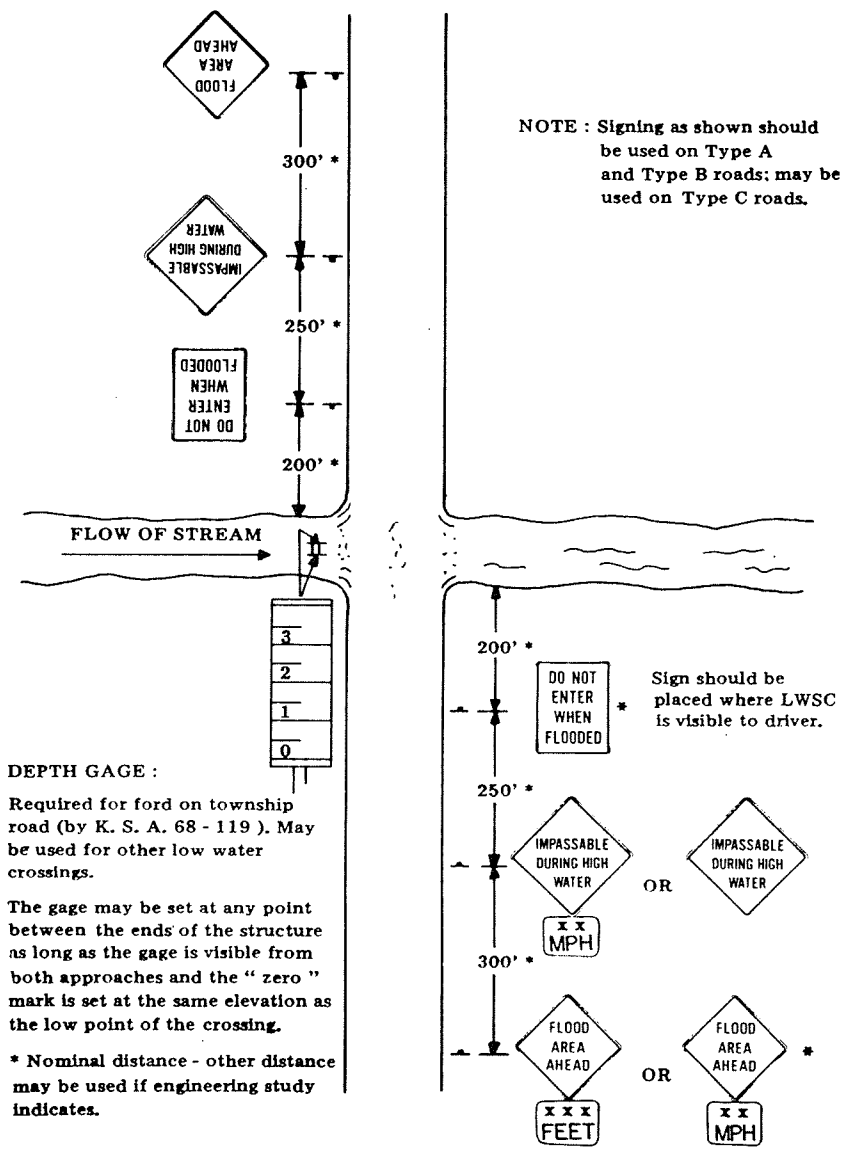
- (1) R. L. Carstens and R. Yun-Hao Woo, Liability and Traffic Control Considerations for Low Water Stream Crossings (Ames, Iowa: Engineering Research Institute, Iowa State University, April 1981).

Discussion

Experience reported(1) by persons having responsibility for road systems including LWSCs indicates some concern with liability problems growing out of their use. However, a majority of officials having this experience report that they are satisfied with LWSCs and the road users seem to accept them.

This experience suggests that a risk analysis generally will show that the potential for accidents and liability will be reduced, rather than increased, when a LWSC is substituted for a bridge that is structurally deficient or functionally obsolete. It is recommended that adequate warning of the presence of a LWSC be given if the risk of accidents and liability resulting from the use of a LWSC is to be kept within acceptable limits.

One of the conclusions from the research(1) is that the risk of accidents and liability would be further reduced if motorists were discouraged from crossing a LWSC while it is flooded. The findings from an evaluation of alternative signing patterns support this conclusion by suggesting the use of a regulatory sign with the message DO NOT ENTER WHEN FLOODED. The intent of this sign is to prohibit passage across the LWSC if the roadway is covered with water.



DEPTH GAGE :

Required for ford on township road (by K. S. A. 68 - 119). May be used for other low water crossings.

The gage may be set at any point between the ends of the structure as long as the gage is visible from both approaches and the " zero " mark is set at the same elevation as the low point of the crossing.

* Nominal distance - other distance may be used if engineering study indicates.

FIGURE 26. Typical Signing of Low Water Stream Crossing