

Approved: 2-14-95  
Date

MINUTES OF THE SENATE COMMITTEE ON ENERGY & NATURAL RESOURCES.

The meeting was called to order by Chairperson Don Sallee at 8:00 a.m. on February 7, 1995 in Room 254-E- of the Capitol.

All members were present except:

Senator Robert Vancrum, Excused  
Senator Phil Martin

Committee staff present: Raney Gilliland, Legislative Research Department  
Dennis Hodgins, Legislative Research Department  
Mike Corrigan, Revisor of Statutes  
Clarene Wilms, Committee Secretary

Conferees appearing before the committee:

Dick Koerth, Assistant Secretary for Administration, Department of Wildlife and Parks  
Darrel Montei, Special Assistant, Department of Wildlife and Parks  
John Strickler, Acting Secretary, Department of Wildlife and Parks

Others attending: See attached list

The Chairman opened the meeting calling attention to minutes as well as comments from the Kansas Corporation Commission concerning **SB 113** (Attachment 1).

Dick Koerth, Assistant Secretary for Administration, Department of Wildlife and Parks, presented testimony to the committee concerning a number of budget issues concerning the department (Attachment 2). Mr. Koerth provided the committee with details concerning the Memorandum of Understanding signed by Kansas Department of Wildlife and Parks and the U.S. Fish and Wildlife Service dealing with eligibility for federal aid. One of the corrective actions needed is an audit of FY 1993 and FY 1994 which will take place in March and additionally a reconciliation of the Department cost accounting system with the State accounting system. However the audit will not be completed during the 1995 legislative session.

Mr. Koerth stated major differences in the budget for FY 1996 are capitol improvements for the infrastructure of parks, most of which were built in the 1960s and are, in many cases, beyond repair.

The issue of payback for El Dorado State Park built under a federal program with the US Corps of Engineers was explained. The original agreement, signed in 1972 by the Park Authority Chairman, had no input from the legislature. The park was completed by the Corps of Engineers in 1988 at a total of \$8.5 million. Up to the present time the department has had no authority to start the fifty year repayment program and the Corps of Engineers has suggested repayment was in order. The Department of Wildlife and Parks has offered an immediate settlement of \$2.5 million rather than a 50 year payback. No response has been received at this time.

A member called attention to understaffing at Cheyenne Bottoms and the fact that cattails have taken over. The suggestion was made that it be drained and kept dry for 1-2 years letting them die.

A member questioned the bottom line concerning the amount of discrepancy to US Fish and Wildlife with Mr. Koerth stating Legislative Post Audit feels \$1,600,000 is the proper figure but no reconciliation with the federal government has taken place.

A member questioned the projected cost of the second stage of the Rails and Trails program with Mr. Koerth stating the total was around \$1,000,000 FY 1996. Eight hundred thousand dollars would come from federal aid already approved from the Department of Transportation and \$200,000 state matching funds.

## CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, ROOM 254-E-Statehouse, at 8:00 a.m. on February 7, 1995.

Darrel Montei, Special Assistant, Department of Wildlife and Parks, presented a legislative proposal to the committee (Attachment 3). Mr. Montei stated the first four items could be categorized as "house keeping". The first deals with private water fishing impoundments, an issue which has changed due to ponds being used to raise fish. The second proposal would deal with fishing licenses, including expansion for fishing clinics, also institutional groups. Thirdly, native American license requirements would be changed to comply with present membership roll maintenance. The fourth issue would deal with enactment of a new statute applying to vessels similar to that giving an officer authority to stop motor vehicles for certain reasons. The fifth proposal would be a Rail Trail Use License which would create a means by which users of the rail trail would financially support its annual operation and maintenance.

John Strickler, Acting Secretary, Department of Wildlife and Parks, outlined his primary goals to the committee, 1) to conduct a comprehensive and thorough search to locate a professional manager for the position of Secretary of the Department of Wildlife and Parks; 2) to establish a solid and proper relationship with the federal aid cooperators to get federal aid programs on a sound basis; 3) improve morale and strengthen efficiency and management within the agency. Mr. Strickler's comments are a part of Attachment 2.

Mr. Strickler told the committee he had met with the Director of Wildlife and staff, also with the Inspector General in early February. Mr. Strickler said as yet there is no written agreement but a verbal agreement speaks to a settlement of \$1.9 million to settle problems dealing with federal funds.

Mr. Strickler stated he had emphasized to staff that the department would take whatever steps are needed internally to meet federal law as his goal is to use the past only as a base to move forward. An open line of communications and a strengthening by efficient management will be used to reach this goal.

Mr. Strickler commented agencies in other states, in terms of fee funding, do not have to go through the appropriation process in the legislature and people need to understand this is not the situation in Kansas. People need to realize 165 people plus the governor must agree on issues in Kansas.

Senator Hardenburger moved approval of the minutes for January 31, February 1, 2 and 3. Senator Tillotson seconded the motion and the motion carried.

The meeting adjourned at 8:55 a.m.

The next meeting is scheduled for February 8, 1995.



KANSAS CORPORATION COMMISSION  
COMMENTS ON SENATE BILL 113

Background And Analysis

Senate Bill 113 amends KSA 55-1305 to include a specific schedule of interest and penalty provisions to be incorporated as a part of a plan for unit operations. The plan for unit operations becomes part of an Order by the Commission providing for the unitization and unit operation of an oil or gas pool. Any interest and penalty provisions to be applied to the financing of nonoperating working interests who are unable to meet their financial obligations become part of the plan. Senate Bill 113 changes existing statutory language where the determination of "reasonable interest charges" for financing nonoperating working interest owners has been changed to three rather prescriptive sets of penalties which are targeted toward different parts of the unit operation. These are found in amended (9) of KSA 55-1305. In order to unitize pools in Kansas, there has to be a 7% signed agreement of 75% of the operators in the field. Unitization is a process whereby all operators in a producing oil or gas field share both production and costs of operation in proportion to their equitable percentage of the field area.

Affect Of SB 113 On Program Operations

The Conservation Division receives one to two unitization plans per year for which the Commission would have to issue an Order. Most recent applications for Basic Proration Orders have a provision for pooling hence unitization plans are rarely received. The Commission has never taken issue with the "reasonable interest charge" proposed in a unit plan and would not do so unless a complaint was filed. The prescriptive schedule set forth in amended (g) may or may not be reasonable, however if Senate Bill 113 passes in its present form, the Commission Order would contain the statutory language. Senate Bill 113, if passed, would not affect the operation of the Conservation Division.

Dollar Impact Of SB 113 On Program

Passage of Senate Bill 113 would have no fiscal impact on the Conservation Division. The basis of that assessment is that processing unitization applications are a very minimal part of program operations and these applications would not be handled differently under new penalty and interest provisions.

Impact On Staffing And Personnel Resources

There would be no impact, either loss or gain of staff positions if Senate Bill 113 was passed.

Long Term Fiscal Impacts

The number of unitization applications will probably decrease because of the use of pooling agreements. The fact that this is a minimum effort program would not change due to passage of SB 113.

The Conservation Division merely enforces what the Legislature includes in KSA 55-1305 and should not make judgement on what is reasonable between operators in an agreement as long as the plan prescribed in the law is followed. The amendment in SB 113 is directed to subsection (g) which sets forth a procedure for financing any nonoperating working interest owner who cannot meet his or her financial obligations, except out of that owner's share of production.

Senate Energy & Natl Res.  
February 7, 1995  
Attachment 1

STATE OF KANSAS



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DEPARTMENT OF WILDLIFE & PARKS

OFFICE OF THE SECRETARY

900 SW Jackson St., Suite 502 / Topeka, Kansas 66612 - 1233  
(913) 296-2281 / FAX (913) 296-6953

TO: Senator Don Sallee, Chairperson, Senate Committee on Energy  
and Natural Resources

FROM: John K. Strickler, Acting Secretary

SUBJECT: Overview of the Kansas Department of Wildlife and Parks

DATE: February 7, 1995

Pursuant to your request, I am providing to you and the members of the Energy and Natural Resources Committee, information pertaining to the operations of the Department of Wildlife and Parks (KDWP). The attached material is intended to address concerns that the Committee may have regarding such issues as the FY 1996 budget recommendations, flood repair, and federal aid. In addition, I and members of my staff are available for questions or comments.

As you are aware, I am serving as the acting Secretary of the KDWP until such time a permanent Secretary is appointed by the Governor. However, there are several goals which I intend to accomplish during my tenure. Attachment A is a letter sent to all employees of the KDWP which discusses these goals.

Attachment B is a table presenting information on the FY 1996 budget for the KDWP as recommended by the Governor. The Governor's Budget Report for FY 1996 recommends expenditures of \$38,358,399 in FY 1995 and \$29,803,972 in FY 1996. The amounts recommended for State Operations are \$23,449,675 in FY 1995 and \$24,205,172 in FY 1996. In addition, the Governor's Budget Report (GBR) provides for Capitol Improvement expenditures of \$13,792,721 in FY 1995 and \$4,983,800 in FY 1996. The number of positions recommended for both fiscal years is 417 which includes 11 special project positions.

It should be noted that the GBR provides adequate expenditure authority to comply with the requirements of the Memorandum of Understanding signed by the KDWP and the U.S. Fish and Wildlife Service (USFWS) regarding eligibility for federal aid. The amounts necessary to maintain the required base fisheries expenditures and to provide for the second year of the penalty reversion for Dingell - Johnson (D/J) federal aid expenditures during FY 1986 - FY 1992

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February 7, 1995  
Attachment 2

are included in the GBR. Issues concerning federal aid will be discussed later in this report.

For FY 1996, the GBR recommends an amount of \$4,983,800 for Capital Improvements. A listing of the recommended projects is included as Attachment C. Major items included are Flood Damage Repair, \$750,000; Cheyenne Bottoms Renovation, \$2,000,000; Road Maintenance and Development, \$1,350,000; and Wetlands Acquisition, \$300,000.

As the members of the Committee are aware, during the summer and fall of 1993, extensive damage to numerous KDWP facilities occurred due to flooding in northern Kansas. At one time during the summer of 1993, all or a portion of eight state parks were closed and three state parks, Glen Elder, Wilson, and Tuttle Creek, were closed for all of 1993. In addition to damage which occurred at state parks, the wildlife areas operated by the KDWP also received extensive damage. The damage to wildlife areas consisted of destroyed habitat for both wildlife and fisheries production, the flushing of sportfish from reservoirs and lakes by the extremely high water levels and the washing away of roads and other improvements such as dikes.

The KDWP had estimated in November, 1993, that repairs would total \$5,332,542. The 1994 Legislature provided a total of \$1,500,000 (\$500,000 FY 1995, State General Fund, \$1,000,000 FY 1996, State Budget Stabilization Fund) to initiate repair of facilities. In addition, the KDWP was able to obtain funding from the U.S. Department of Interior, Bureau of Reclamation and the National Park Service totalling \$325,000. This reduced the amount needed to complete repairs to \$3,507,542, which was included in the FY 1996 Capital Improvement request submitted on July 1, 1994.

Since the July 1, 1994 submission, the KDWP has continued to review the actual amount of resources needed to complete repairs at flood damaged facilities. This review has included utilization of volunteer help from local citizens who use KDWP facilities; assistance provided through the FEMA, JTPA, and AMERICORP federal programs; inmate work crews; and operating resources available to the Department, i.e. utilization of KDWP employees. In addition, the KDWP was able to evaluate projects completed during 1994 with funding provided by the 1994 Legislature.

The KDWP now estimates that the amount needed to complete repairs to all of the flood damaged facilities is \$1,569,874. The KDWP estimates that approximately \$1,756,754 in services were provided by volunteers, federal programs mentioned above, or in-kind services. In addition, the KDWP has received an additional grant of \$170,000 from the Bureau of Reclamation. The utilization of resources other than state funds has allowed the KDWP to reduce the amount needed to complete flood repairs in FY 1996. The Governor's Budget Recommendations for FY 1996 provide a total of

\$750,000 (\$650,000, State General Fund and \$100,000, State Budget Stabilization Fund) to continue repairs to flood damaged facilities. Attachment D provides information as to the facilities repaired with funds approved by the 1994 Legislature and the repairs still needed.

The next item to be discussed pertains to the issue of federal aid received by the KDWP from the U.S. Fish and Wildlife Service (USFWS) for sport hunting and fishing programs. After an audit performed in 1993 by the Office of Inspector General, U.S. Department of the Interior, the USFWS on March 7, 1994 issued a letter stating that during the period of FY 1989 - FY 1992 the KDWP had violated administrative requirements prohibiting the diversion of license fees paid by hunters and fishermen to purposes other than administration of the State Fish and Wildlife Agency and that for the period FY 1986 - FY 1992 the KDWP had failed to maintain a base sports fishing program as required by federal regulations in order to be eligible for Dingell - Johnson Sports Fishing Program federal aid. In addition, the March 7, 1994 letter also referred to an amount of \$845,099 identified by the Office of Inspector General as federal aid received improperly by the KDWP for fisheries improvements at Hillsdale State Park. This letter also declared the KDWP as ineligible to participate in the federal programs for hunting and fishing and as of that date the Department was not able to receive any further federal aid until corrective actions were taken.

The corrective actions which the KDWP was to take prior to federal aid being restored are as follows:

- 1) The State of Kansas must repay \$2,408,358 to the Wildlife Fee Fund to correct for the diversion of funds. This amount could be repaid over a three year period but must be from a State source other than the Wildlife Fee Fund.
- 2) The KDWP must develop a three year plan to increase fisheries program expenditures by \$3,541,526 to compensate for inadequate expenditures during FY 1986 - FY 1992. In addition, the KDWP must maintain a fisheries program base expenditure level of \$1,886,771 per year. These expenditures could be financed from the Wildlife Fee Fund.
- 3) The KDWP must increase expenditures from the Wildlife Fee Fund for fisheries related activities by \$845,099 to settle reimbursement of federal aid funds for fisheries work at a state park.
- 4) The KDWP must conduct an independent audit of FY 1993 and FY 1994 to determine if diversion or inadequate fisheries expenditures occurred during those two years. In addition, the KDWP must reconcile the Department cost accounting system with the State accounting system.

5) The KDWP must develop adequate internal controls and organization to assure proper tracking and expenditure of federal aid funds.

6) The KDWP must report income and expenditures to the Wildlife Fee Fund on a quarterly basis to the USFWS.

The 1994 Session of the Legislature was made aware of the above conditions and certain actions were taken.

To address the issue of diversion, the 1994 Legislature appropriated in 1994 SUB HB 2538 an amount of \$802,736 to the State Finance Council to be transferred in FY 1995 to the KDWP, Wildlife Fee Fund, upon the enactment of a Memorandum of Understanding (MOU) between the Governor and USFWS regarding federal aid eligibility. In addition, the Legislative Post Auditor was directed to perform an audit assessing the KDWP compliance with certain requirements related to fish and wildlife programs. The MOU was agreed to and was signed on October 7, 1994 (Attachment E). The amount of \$802,736 was transferred by the State Finance Council on October 19, 1994.

The audit conducted by the Legislative Post Auditor was presented to the Legislative Post Audit Committee on October 11, 1994. The Legislative Post Auditor had determined that the amount of funds diverted by the KDWP was \$1,668,205 not \$2,408,358 as determined by the USFWS. The MOU between the State of Kansas and the USFWS provides that the USFWS must accept the audit performed by the Legislative Post Auditor or perform their own independent audit. The USFWS has taken no final action to accept the findings of the Legislative Post Auditor. For FY 1996, the Governor's Budget Report provides for the transfer of \$432,710 from the State General Fund to the Wildlife Fee Fund for the second transfer to repay for diversion of funds and assumes that the amount of diversion will be \$1,668,205.

The fisheries expenditures penalty of \$3,541,526 as identified by the USFWS was addressed by the 1994 Legislature. The FY 1995 operations budget for the KDWP included an amount of \$411,408 for fisheries expenditures from the Wildlife Fee Fund that were above the required minimum base for fisheries expenditures of \$1,886,771. This amount plus an amount of \$769,100 which the State Finance Council was authorized to approve would equal the first year compensation of \$1,180,508 to correct the lack of fisheries expenditures in FY 1986 - FY 1992. The State Finance Council approval was contingent upon a fisheries plan being developed by the KDWP. This plan was developed and presented to the State Finance Council at their meeting on October 19, 1994 at which time it was approved and the expenditure authority of \$769,100 was authorized. The FY 1996 Governor's Budget Report contains expenditure authority of \$1,187,650 from the Wildlife Fee Fund to



provide for the second year of compensation for inadequate fisheries expenditures.

The amount of \$845,099 identified by the Office of Inspector General as improper reimbursements for fisheries activities at a state park was corrected by the 1994 Legislature. Expenditure authority for dam repair and renovation at state fishing lakes financed from the Wildlife Fee Fund was appropriated in 1994 HB 2753.

The MOU provides that the USFWS will provide for the audit of FY 1993 and FY 1994 expenditures by the KDWP regarding possible diversion or inadequate expenditures for the fisheries program. That audit is scheduled to begin in March, 1995. The KDWP has instituted certain internal reorganizations and adopted stricter procedures to monitor the expenditure of funds. In addition, quarterly reports of expenditures from the Wildlife Fee Fund are made to the USFWS.

The 1994 Legislature authorized expenditures to begin the first stage of construction for the Prairie Spirit Rails to Trails. The first stage will be approximately 17 miles long and will be approximately eight miles either side of Garnett. The FY 1996 Governor's Budget Report does not provide any funds for additional development. However, the KDWP intends to request funding for the second stage (Ottawa to north of Garnett) in future years. It should also be noted that it is the intent of the KDWP to request legislation during the 1995 Legislative Session which would authorize the Department to collect fees for the use of the Prairie Spirit Rails to Trails.

The above information addresses specified items that were identified as possible concerns for the Committee. If there are other items or concerns that the Committee would care to address, please advise. Thank you.

Attachments

WP\Senr2795



## DEPARTMENT OF WILDLIFE &amp; PARKS

## OFFICE OF THE SECRETARY

900 SW Jackson St., Suite 502 / Topeka, Kansas 66612 - 1233  
(913) 296-2281 / FAX (913) 296-6953

TO: All Departmental Personnel  
FROM: John K. Strickler, Acting Secretary  
DATE: January 11, 1995  
SUBJECT: Departmental Concerns

A handwritten signature in cursive script that reads "John K. Strickler".

I welcome the opportunity to work with all of you to move the Department ahead in a positive direction. As many of you know, I have had some experience with this agency during its formative stage, having served as Acting Secretary for three months during the time we did a national search that resulted in the hiring of Bob Meinen as permanent Secretary.

There are several things I want to point out to clear the air immediately. I am not a contender for the permanent position of Secretary. I took this position at the request of Governor Graves to assist him in hiring a permanent Secretary. I was glad to take this position for two reasons: (1) I have a great deal of confidence in Governor Graves and his commitment to build a strong wildlife and parks agency, and (2) I have a strong personal interest in the Department and its personnel as well as a lifetime commitment to sound management and protection of our natural resources.

My primary goals during my tenure as Acting Secretary are as follows:

1. Conduct a comprehensive, thorough search to locate the most highly qualified, professional manager we can find as permanent Secretary. I have the commitment from the Governor that we will follow the letter and intent of the law as to qualifications. I am confident we can find a candidate with broad experience in the wildlife/parks area both in terms of education and administrative management. I am willing to take the time to do this job right.
2. Take the necessary steps to establish a solid and proper relationship with our federal aid cooperators so that we can get our federal aid programs on a sound basis. I and the Governor are committed to maintaining strict fiscal integrity in terms of all funds used by the Department. I will be meeting with key federal personnel to see what needs to be done to accomplish this. It is my understanding that Secretary Ensley and appropriate staff have made a number of positive steps to improve this situation, and I want to build

on those steps. I also hope to work on strengthening relationships with other agencies and constituent groups.

3. Do what is necessary to improve morale and strengthen efficiency and management within the agency. As many already know, Chief of Staff Tom Kirker and Legal Counsel Rogers Braizer have been relieved. I do not plan to make major structural changes or massive, wholesale personnel changes. It is my intent to leave any major changes that might be called for to the permanent Secretary. However, I do want to assure you that the Governor did give me authority to make any changes necessary to move the Department forward in a positive direction. The reason I do not see need for large personnel changes is because I'm confident the Department has a dedicated, professional staff already in place to deliver strong programs to the people of Kansas. I assure you that before any action is taken that directly affects people, the individual involved will be the first to be informed. I will be evaluating key administrative positions over the next month or so, and hope to visit with our top administrative staff and others one on one during that time. Through this process, I will be developing some recommendations for the new Secretary to consider.

I want to add a few comments about my administrative style. I intend to operate on a very open communications basis. I have had over 25 years of administrative experience, and I have seen very few situations in which serious problems have developed because people knew too much. On the other hand, I have time after time seen serious problems created because people operated on the basis of keeping information to themselves. The more everyone within the agency can be informed on the issues and concerns facing us, the better off everyone will be.

I know that this agency has been through a series of difficult and disruptive administrative changes since it was created, and this has had a serious impact on agency morale. We face some serious problems in terms of funding at a time of very tight budgets at both the federal and the state levels. Our agency, as well as all other agencies, will be asked to maximize efficiency and manage their resources to deliver programs and services without significant increases in dollars. We will work to establish a good planning and internal management system that is built on a spirit of cooperation and support for all programs of the Department.

I don't have any easy solutions, but I am confident that each and every one of you is committed to doing what is best for our natural resources and the people of Kansas. I intend to seek the counsel of the Wildlife and Parks Commission and our many constituent groups as we work through the process of putting this agency on a sound basis. I look forward to working with all of you to build a stronger, more effective Department of Wildlife and Parks.

pc: Governor Bill Graves  
Lt. Governor Sheila Frahm  
Wildlife and Parks Commission

	FY 1994 Actual	FY 1995 Gov Rec	FY 1996 Gov Rec
Administrative Services	2,695,372	2,719,410	2,676,176
Grants-in-Aid	0	300,000	300,000
Executive Services	3,050,417	2,900,588	2,906,915
Law Enforcement	3,863,182	3,600,131	3,994,984
Parks and Public Lands	8,338,806	8,844,721	9,203,684
Fish and Wildlife	4,886,224	6,200,828	5,738,413
Capital Improvements	6,733,469	13,792,721	4,983,800
<b>Total</b>	<b>29,567,470</b>	<b>38,358,399</b>	<b>29,803,972</b>

Salaries and Wages	15,513,797	15,895,261	16,504,864
Contractual Services	3,662,139	3,995,750	4,306,354
Commodities	2,066,914	2,138,104	2,218,189
Capital Outlay	1,399,266	1,420,560	1,175,765
<b>Subtotal - Operations</b>	<b>22,642,116</b>	<b>23,449,675</b>	<b>24,205,172</b>

Aid/Other Assistance	191,885	1,116,003	615,000
Capital Improvements	6,733,469	13,792,721	4,983,800
<b>Total</b>	<b>29,567,470</b>	<b>38,358,399</b>	<b>29,803,972</b>

State General Fund	3,709,694	3,670,816	4,174,216
Wildlife Fee Fund	14,317,155	15,636,250	15,677,713
Park Fee Fund	2,749,269	2,507,067	2,590,818
Boat Fee Fund	759,230	605,104	891,260
Water Plan Fund	1,400	236,200	50,000
Nongame Fund	149,649	101,000	101,000
Others	955,719	693,238	720,165
<b>Subtotal - Operations</b>	<b>22,642,116</b>	<b>23,449,675</b>	<b>24,205,172</b>

LWCF - Aid	0	300,000	300,000
EDIF - Other Assistance	0	50,000	0
Wildlife Fee Fund - Aid	89,540	514,903	265,000
Federal Grants Fund	29,000	0	0
Private Gifts & Donations	14,000	0	0
State General Fund	0	201,100	0
Nongame Fund - Aid	59,345	50,000	50,000
Other			
<b>Subtotal - Aid/Other Assist</b>	<b>191,885</b>	<b>1,116,003</b>	<b>615,000</b>

Capital Improvements:			
State General Fund	696,512	70,808	650,000
Wildlife Fee Fund	857,897	2,553,214	367,700
Park Fee Fund	56,538	454,872	0
Boat Fee Fund	31,792	390,146	216,100
Water Plan Fund	1,868,902	1,314,425	1,000,000
Nongame Fund	0	105,000	55,000
EDIF	483,497	1,569,337	0
Cheyenne Bottoms - Federal	1,937,676	1,605,670	1,000,000
Road Fund	518,628	3,049,336	1,350,000
Other Funds	282,027	2,679,913	345,000
<b>Subtotal - Capital Imp.</b>	<b>6,733,469</b>	<b>13,792,721</b>	<b>4,983,800</b>
<b>Total</b>	<b>29,567,470</b>	<b>38,358,399</b>	<b>29,803,972</b>

Positions 406 417 417

# Capital Improvement Projects - Governor's Recommendation FY 1996

	SGF	Water Fund	EDIF	WFF	BFF	Road Fun	Other*	Fed Funds	Total
1 C Flood Damage	650,000						100,000		750,000
2 ABC Cheyenne Bottoms Renovation		1,000,000						1,000,000	2,000,000
3 ABC Hillsdale SP Development			0						140,000
4 ABC Fisheries Related Expenditures			0	140,000					177,700
5 C Major Maintenance	0			177,700					216,100
6 BC Boating Access/Safety					216,100			0	0
7 C Rails-to-Trails				0					0
8 C Shooting Range Development						1,350,000			1,350,000
9 ABC Road Maintenance/Development			0						0
10 C Campground Renovation			0	0					0
11 C SW Ks Aquatic Rec Development							300,000		300,000
12 BC Wetlands Acquisition				50,000					50,000
13 BC Playa Lakes					0				0
14 C Lemon Lake Renovation									
15 C Corps Payment - El Dorado SP		0							
<b>Total</b>	<b>650,000</b>	<b>1,000,000</b>	<b>0</b>	<b>367,700</b>	<b>216,100</b>	<b>1,350,000</b>	<b>400,000</b>	<b>1,000,000</b>	<b>4,983,800</b>

\* Includes \$55,000 from Nongame Fund and \$245,000 from Migratory Waterfowl Fund; and \$100,000 from the Budget Stabilization Fund

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ATTACHMENT C

## FLOOD REPAIR FUNDING 1994-1996

<u>LOCATION/ITEM</u>	<u>ORIG. EST.</u>	<u>CURRENT EST.</u>	<u>1994</u>	<u>1995</u>	<u>1996</u>	<u>&gt;1996</u>
<u>Clinton State Park</u>	\$ 24,484	\$ 26,230				Completed
Boat Ramp Info Cntr	\$ 1,200		\$ 1,200			
Rip Rap	\$ 5,584			\$ 6,000		
Electric Repair	\$ 0			\$ 1,500		
Beaches	\$ 6,000		\$ 16,000	\$ 1,530		
						Completed
<u>Glen Elder State Park</u>	\$ 1,411,993	\$ 882,946				
Toilets	\$ 160,000		\$ 11,946		\$ 25,000	
Showerhouse	\$ 340,000			\$ 175,000	\$ 300,000	
Campground Repair	\$ 311,875				\$ 58,000	
Shelter Houses	\$ 15,000				\$ 10,000	
Replace Firerings	\$ 16,800				\$ 5,000	
Roads & Parking Lots	\$ 57,900				\$ 23,000	
Trees	\$ 52,500				\$ 25,000	
Security Lighting	\$ 2,700				\$ 5,000	
Trails	\$ 3,000				\$ 15,000	
Beach Repair	\$ 20,618				\$ 8,000	
Amphitheatre	\$ 2,500				\$ 2,000	
Repair Water Lines	\$ 0				\$ 5,000	
Seeding	\$ 25,000				\$ 50,000	
Rip Rap	\$ 243,750				\$ 80,000	
Lift Station Repair	\$ 6,000			\$ 35,000		
Electrical Repair	\$ 50,000			\$ 50,000		
						Completed
<u>Kanapolis State Park</u>	\$ 597,105	\$ 353,995				
Dock Repair	\$ 25,000		\$ 2,000			
Beach Repair	\$ 3,000		\$ 3,000			
Tree Removal	\$ 8,000			\$ 17,995		
Gravel Roads & Parking Lots	\$ 100,000		\$ 6,000		\$ 100,000	
Camp Pads & Amenities	\$ 72,000				\$ 75,000	

## FLOOD REPAIR FUNDING 1994-1996

<u>LOCATION/ITEM</u>	<u>ORIG. EST.</u>	<u>CURRENT EST.</u>	<u>1994</u>	<u>1995</u>	<u>1996</u>	<u>&gt;1996</u>
Toilets	\$ 154,000				\$ 85,000	
Erosion Protection	\$ 60,000				\$ 65,000	
						Completed
<u>Lovewell State Park</u>	\$ 41,274	\$ 71,747				
			\$ 11,900			
Gravel Roads & Parking	\$ 23,750			\$ 7,649		
Beach Repair	\$ 8,325			\$ 39,824		
Rip Rap	\$ 6,249			\$ 10,000		
Other Erosion Protection	\$ 0					
						Completed
<u>Milford State Park</u>	\$ 112,930	\$ 61,900				
			\$ 2,500			
Trees & Shrubs	\$ 14,350		\$ 5,000			
Pit Toilets	\$ 40,000		\$ 4,000			
Electrical Repair	\$ 0		\$ 4,500			
Dock Repair	\$ 20,000			\$ 13,900	\$ 15,000	
Shelter Repair	\$ 1,500			\$ 7,000		
Boathouse Repair	\$ 0			\$ 10,000		
Rip Rap	\$ 10,750					
						Completed
<u>Perry State Park</u>	\$ 388,195	\$ 607,141				
			\$ 5,800			
Beach Repair	\$ 5,850		\$ 3,000			
Trees & Shrubs	\$ 3,500		\$ 10,000			
Pit Toilet	\$ 5,700		\$ 144,404	\$ 35,437		
Shower House	\$ 62,000			\$ 50,000		
Rip Rap	\$ 13,000			\$ 2,500		
Lift Station Repair	\$ 2,400			\$ 20,000		
Dump Station	\$ 3,000				\$ 243,500	
Camp Pads & Amenities	\$ 54,175				\$ 66,000	
Gravel Roads & Culverts	\$ 66,000				\$ 24,000	
Seeding & Prep	\$ 24,000				\$ 2,500	
Docks & Piers	\$ 2,100					

## FLOOD REPAIR FUNDING 1994-1996

<u>LOCATION/ITEM</u>	<u>ORIG. EST.</u>	<u>CURRENT EST.</u>	<u>1994</u>	<u>1995</u>	<u>1996</u>	<u>≥1996</u>
<u>Tuttle Creek State Park</u>	\$ 345,892	\$ 393,780				Completed
Dock Repair	\$ 1,800		\$ 10,000			
Electrical Repair	\$ 432		\$ 2,500			
Trees & Shrubs	\$ 1,200		\$ 5,000			
Debris Removal	\$ 10,000		\$ 10,000			
Shower Houses	\$ 200,000		\$ 155,280	\$ 200,000		
Lift Station	\$ 4,800		\$ 5,000	\$ 6,000		
<u>Webster State Park</u>	\$ 250,200	\$ 55,500				Completed
Water Line & Fountains	\$ 1,400			\$ 1,500	\$ 3,000	
Trails	\$ 3,000				\$ 6,000	
Erosion Protection	\$ 6,000				\$ 6,000	
Dock Repair	\$ 2,000				\$ 2,000	
Tree & Dirt Work	\$ 10,500				\$ 20,000	
Revegetation	\$ 3,000				\$ 15,000	
Archery Range Repair	\$ 0				\$ 2,000	
<u>Wilson State Park</u>	\$ 499,560	\$ 84,970				Completed
Showerhouse/Lift Station	\$ 37,000		\$ 4,800			
Campground Repairs	\$ 200,000		\$ 25,470			
Pay Station	\$ 6,500		\$ 500			
Pit Toilets	\$ 52,500		\$ 500			
Beaches	\$ 12,000		\$ 6,000			
Docks	\$ 25,000		\$ 1,700			
Electric Repair	\$ 41,800		\$ 2,000	\$ 2,000		
Culvert Repair	\$ 6,000			\$ 6,000		
Seeding	\$ 33,750		\$ 10,000	\$ 26,000		
<u>Eisenhower State Park</u>	\$ 0	\$ 2,687				Completed
Culvert Repair	\$ 0			\$ 2,687		



## FLOOD REPAIR FUNDING 1994-1996

<u>LOCATION/ITEM</u>	<u>ORIG. EST.</u>	<u>CURRENT EST.</u>	<u>1994</u>	<u>1995</u>	<u>1996</u>	<u>&gt;1996</u>
<u>Clinton Wildlife Area</u>	\$ 5,000	\$ 0		Completed		
<u>Glen Elder Wildlife Area</u>	\$ 524,133	\$ 68,000			Completed	
Toilets	\$ 60,000			\$ 25,000		
Boat Ramps	\$ 6,000			\$ 6,000		
Repair Shooting Range	\$ 5,500			\$ 2,000		
Trees	\$ 75,000			\$ 5,000		
Seeding	\$ 300,000			\$ 30,000		Completed
<u>Kanapolis Wildlife Area</u>	\$ 54,150	\$ 35,000				
Fencing	\$ 8,000				\$ 8,000	
Roads	\$ 7,000				\$ 7,000	
Seeding	\$ 0				\$ 20,000	
<u>Lovewell Wildlife Area</u>	\$ 12,940	\$ 0		Completed		
<u>Milford Wildlife Area</u>	\$ 209,000	\$ 0		Completed		
<u>Perry Wildlife Area</u>	\$ 52,100	\$ 54,500			Completed	
Roads	\$ 40,800			\$ 38,000		
Boat Ramps	\$ 2,500			\$ 2,500		
Marsh Dikes	\$ 3,300			\$ 14,000		
<u>Pillsbury Wildlife Area</u>	\$ 300	\$ 0		Completed		
<u>Nemaha Wildlife Area</u>	\$ 2,240	\$ 0		Completed		

## FLOOD REPAIR FUNDING 1994-1996

<u>LOCATION/ITEM</u>	<u>ORIG. EST.</u>	<u>CURRENT EST.</u>	<u>1994</u>	<u>1995</u>	<u>1996</u>	<u>&gt;1996</u>
<u>Jamestown Wildlife Area</u>	\$ 13,200	\$ 15,000			Completed	
Dam Repair	\$ 2,300			\$ 15,000		
<u>Marais Des Cygnes WA</u>	\$ 0	\$ 9,978			Completed	
Spillway Repair	\$ 0			\$ 9,978		
<u>Rocky Ford Fishing Area</u>	\$ 17,600	\$ 0		Completed		
<u>Tuttle Creek Wildlife Area</u>	\$ 214,920	\$ 181,500				Completed
Roads	\$ 80,000				\$ 80,000	
Signs	\$ 1,500				\$ 1,500	
Seeding	\$ 97,000				\$ 80,000	
Marsh Dikes	\$ 20,000				\$ 20,000	
<u>Webster Wildlife Area</u>	\$ 200,666	\$ 0		Completed		
<u>Wilson Wildlife Area</u>	\$ 331,600	\$ 25,000			Completed	
Tree Removal	\$ 0			\$ 3,000		
Reseeding	\$ 150,000			\$ 6,000		
Noxious Weed Treatment	\$ 0			\$ 4,000		
Information Shelters	\$ 0			\$ 1,000		
Parking Area Repair	\$ 0			\$ 1,500		
Road Repair	\$ 108,500			\$ 9,500		
<u>Brown State Fishing Lake</u>	\$ 3,550	\$ 0		Completed		
<u>Atchison State Fishing Lake</u>	\$ 1,100	\$ 0		Completed		
<u>Leavenworth State Fishing Lake</u>	\$ 2,350	\$ 0		Completed		

## FLOOD REPAIR FUNDING 1994-1996

<u>LOCATION/ITEM</u>	<u>ORIG. EST.</u>	<u>CURRENT EST.</u>	<u>1994</u>	<u>1995</u>	<u>1996</u>	<u>&gt;1996</u>
<u>Douglas State Fishing Lake</u>	\$ 5,050	\$ 0		Completed		
<u>Pott #1 State Fishing Lake</u>	\$ 5,160	\$ 5,000				Completed
Roads	\$ 5,160				\$ 5,000	
<u>Pott #2 State Fishing Lake</u>	\$ 4,000	\$ 5,000				Completed
Roads	\$ 4,000				\$ 5,000	
<u>Jewell State Fishing Lake</u>	\$ 1,850	\$ 0		Completed		
<u>Other Expenditures/Encumbrances</u>						
O/M Monies Replaced (PPL)		\$ 30,000	\$ 30,000			
On-Call Engineering		\$ 100,000		\$ 100,000		
<b>TOTALS</b>	<b>\$ 5,332,542</b>	<b>\$ 3,069,874</b>	<b>\$ 500,000</b>	<b>\$ 1,000,000</b>	<b>\$ 1,569,874</b>	<b>\$ 0</b>

MEMORANDUM OF AGREEMENT

BETWEEN THE  
KANSAS DEPARTMENT OF WILDLIFE AND PARKS  
AND THE  
UNITED STATES FISH AND WILDLIFE SERVICE

This Memorandum of Agreement ("MOA"), by and between the Kansas Department of Wildlife and Parks ("KDWP") and the United States Fish and Wildlife Service ("USFWS"), collectively referred to as ("the Parties"), is to address those issues outlined in the March 7, 1994 letter from Ralph O. Morgenweck, Regional Director, USFWS, Region 6, ("Regional Director") in a sufficient manner so as to allow KDWP to again be eligible to participate in the Federal Aid in Sport Fish and Federal Aid in Wildlife Restoration Act programs; and in so addressing those issues, to cause the "high risk grantee" designation imposed on the KDWP by the USFWS, as stated in the July 14, 1994 letter from the Regional Director ("high risk letter"), to be withdrawn.

WHEREAS, the USFWS has determined that during State fiscal years 1989 through 1992 KDWP diverted hunter and angler license revenues in the total amount of \$3,253,457 in violation of 50 CFR §80.4 -- and of this amount, \$845,099 was determined by USFWS to be Sport Fish Restoration Funds spent on ineligible activities and \$2,408,358 in license revenues was determined by USFWS not to have been spent on eligible activities, based on the findings of a draft Audit Report by the Office of the Inspector General, U.S. Department of the Interior, published in final as (Report No. 94-I-447, March 1994); and

WHEREAS, the KDWP has agreed that \$845,099 was in fact spent on ineligible activities and the State of Kansas has appropriated funds to repay this amount; but the KDWP disputes the USFWS determination with regard to the \$2,408,358; and

WHEREAS, the Regional Director's March 7, 1994 letter set forth a number of eligibility requirements, in addition to correction of the diversion, which would be necessary for KDWP to comply with as a condition to regaining eligibility to again participate in the Federal Aid Program; and,

WHEREAS, the KDWP has taken actions to address those necessary requirements; and,

WHEREAS, the actions taken by KDWP and the terms of this agreement also address the issues raised in the high risk letter; and,

WHEREAS, the Parties recognize and agree that it is essential to protect fish and wildlife resources within the State of Kansas, that Kansas again become fully eligible to participate in the Federal Aid in Sport Fish and Wildlife Restoration programs;

NOW, THEREFORE, in consideration of the foregoing and the promises hereafter made, the Parties agree as follows:

1. With regard to funds determined by USFWS to have been diverted --

a. The KDWP will reimburse the Kansas Federal Aid Program \$845,099, the amount in Sport Fish Restoration Funds acknowledged to have been spent on ineligible activities.

b. Subject to the provisions of subparagraph 1c, below, and further, subject to future appropriations by the Kansas legislature therefore, the KDWP will repay to its Wildlife Fee Fund the total sum of \$2,408,358, divided in three equal payments. The first payment to the Wildlife Fee Fund, in the amount of \$802,786, will be due upon execution of this agreement by the Parties. The second payment, in the amount of \$802,786, will be due no later than July 1, 1995. The third payment, in the amount of \$802,786, will be made no later than July 1, 1996.

c. If, at a future date, based on an audit currently being conducted by Kansas Legislative Post Audit, utilizing generally accepted governmental auditing standards, as defined in 43 CFR Part 12.15(e), and subject to the USFWS review outlined in the June 16, 1994 letter from the Regional Director to the Kansas Legislative Post Auditor, it is determined that KDWP has diverted either less or more than \$2,408,358, the remaining payment schedule will be adjusted accordingly. Upon acceptance of such audit findings by the USFWS if such amount is less than \$802,786 the Kansas legislature may reappropriate the difference between the diversion amount so determined and \$802,786 without such action constituting a diversion of license revenue. In the event it is determined that the audit conducted by Kansas Legislative Post Audit has not been done in accordance with the provisions of this subsection, the USFWS will promptly order and pay for an independent audit.

2. Subject to future appropriations, the KDWP will expend \$3,541,526 of additional State funds for the State fishery program to compensate for inadequate expenditures during State fiscal years 1986 to 1992. These funds may come from the State's Wildlife Fee Fund. The State will ensure that for each State fiscal year the KDWP budgets at least \$1,886,771 of State funds, in addition to Sport Fish Restoration Funds, for expenditure in the State fishery program.

3. The USFWS will order and pay for an independent audit of the KDWP's reconciled accounts for State fiscal years 1993 and 1994 in conformance with 43 CFR Part 12 (Administrative Requirements and Cost Principles for Assistance Programs). If audits for these two years reveal diversions of license revenue, discrepancies in Federal Aid reimbursements, or insufficient base funding expenditures for sport fish restoration activities, arrangements must be made for correcting these discrepancies within thirty days notice to KDWP that such discrepancies exist.

4. The KDWP will share its internal reorganization plan with USFWS and provide such information as USFWS requires, including the results of the organizational audit of KDWP currently being conducted by Kansas Legislative Post Audit, to ensure that KDWP has adequate internal controls to the extent required by 43 CFR part 12 and 50 CFR part 80.

5. With regard to the September 29, 1994 Report issued by the Independent Fisheries Review Panel, charged by the USFWS, with the concurrence of the KDWP, to review the KDWP's administrative organization, the KDWP will implement the recommendations outlined in said report as agreed to in principle in the October 3, 1994 letter from the Secretary of the KDWP to the USFWS Regional Director.

6. For the term of this agreement, the KDWP agrees to report to the USFWS quarterly on income and expenditures from the Wildlife Fee Fund on a modified accrual basis. The reports will disclose all income to the Wildlife Fee Fund and all expenses incurred by the Fund. The report will identify Federal Aid reimbursable expenses separately.

7. Upon execution of this agreement by the Parties, and upon evidence presented to USFWS that KDWP has reimbursed the Kansas Federal Aid Program in the amount of \$845,099, in accordance with paragraph 1a of this agreement, and that an initial payment of \$802,786 has been made to the Department's Wildlife Fee Fund, in accordance with paragraph 1b of this agreement, the USFWS shall designate KDWP as

again eligible to participate in the Federal Aid in Sport Fish and Wildlife Restoration Programs, the high risk designation of July 14, 1994 shall be withdrawn, and such withdrawal shall be promptly reported in writing to each person and entity notified by U.S. Department of the Interior of said designation.

8. Once KDWP is again eligible to participate in the Programs, project-by-project grant applications may include reimbursements for pre-grant application expenditures incurred between March 7, 1994, and the date of grant approval. Such applications will be reviewed and evaluated under the same programmatic, technical, administrative, and financial criteria as would be applied to any other Federal Aid grant application. Such prior expended project costs must be demonstrated to be clearly and directly related to and necessary for achievement of the specific project objectives in the grant applications.

9. If at any time, the Regional Director of the USFWS determines that the KDWP is in violation of this agreement, the Regional Director shall notify KDWP of such violation. If such violation is not rectified within thirty days of such notice, to the satisfaction of the Regional Director, a determination will be made by the Regional Director that the KDWP is ineligible to participate in the Federal Aid program until such violation is rectified to the satisfaction of the Regional Director.

10. Execution of this agreement by the Parties, and concurrence in such by the Ad Hoc Board of Appeals, Office of Hearings and Appeals, U.S. Department of the Interior, ("the Board") shall constitute final Department of the Interior action in this matter before the Board, Docket No. D 94-24. However, KDWP shall have the option of appealing to the Board a determination by the USFWS that the audit being conducted by Kansas Legislative Post Audit for Kansas Fiscal Years 1989-92 has not been done in accordance with the provisions of subsection 1(c) of this agreement.

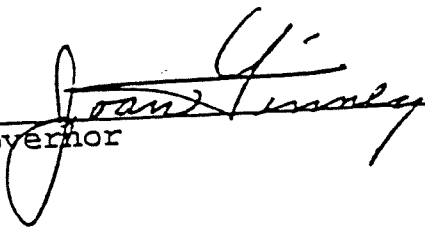
11. Except as provided in paragraph 10, nothing in this agreement shall be deemed to deny the KDWP any administrative or judicial remedy which would otherwise be available under law.

12. This agreement shall become effective upon the signatures of both Parties and shall terminate upon compliance by the Parties with the provisions of this agreement, but not later than August 1, 1996.

For the purpose of expediting execution of this agreement, it may be signed in separate counterparts, which, when both parties have signed, shall be deemed a single agreement.

IN WITNESS WHEREOF, the Parties have executed this agreement.

STATE OF KANSAS:

  
\_\_\_\_\_  
Governor

10/7/94  
Date

UNITED STATES FISH AND WILDLIFE SERVICE:

\_\_\_\_\_  
Regional Director, Region VI

\_\_\_\_\_  
Date



For the purpose of expediting execution of this agreement, it may be signed in separate counterparts, which, when both parties have signed, shall be deemed a single agreement.

IN WITNESS WHEREOF, the Parties have executed this agreement.

STATE OF KANSAS:

\_\_\_\_\_  
Governor

\_\_\_\_\_  
Date

UNITED STATES FISH AND WILDLIFE SERVICE:

Ralph O. Mergensch  
Regional Director, Region VI

10-7-94  
Date

LIST OF CHANGES TO KDWP COST ACCOUNTING SYSTEM

- 1) EFFECTIVE JULY 1, 1994, ALL VOUCHERS WILL BE ENTERED INTO THE KDWP COST ACCOUNTING SYSTEM WITH FUND SOURCE NUMBERS TO MAKE THE EXPENDITURES DIRECTLY COMPARABLE WITH THE STATE ACCOUNTING SYSTEM(STARS).
- 2) STARTING JULY 1, 1994, KDWP WILL FUND THE OPERATING EXPENDITURES FOR PROGRAMS BASED ON THE PROPORTION THE VARIOUS FUNDS AVAILABLE ARE ALLOCATED IN THE APPROVED BUDGET.
- 3) EACH POSITION WITHIN THE KDWP WAS REVIEWED FOR TYPES OF DUTIES AND RESPONSIBILITIES AND A SALARY FUNDING GROUP WAS ESTABLISHED APPROPRIATE FOR THE DUTIES OF THE POSITION.
- 4) EFFECTIVE JUNE 18, 1994, EMPLOYEE TIME AND ACTIVITY REPORTS WERE MODIFIED TO REFLECT TIME PERIODS THAT COINCIDE WITH THE STATE PAYROLL SYSTEM WHICH WILL ALLOW THE SALARIES PAID BY THE KDWP TO BE COMPARABLE WITH STARS.
- 5) A MATRIX HAS BEEN DEVELOPED WHICH REPORTS MONTHLY ON EACH EMPLOYEES LABOR DISTRIBUTION PRINT OUT AND INDICATES WHICH FUNDING SOURCE THE EMPLOYEE SHOULD BE PAID FROM BASED ON THE PROGRAM FOR THE WHICH THE EMPLOYEES TIME WAS CHARGED TO.
- 6) KDWP WILL RECONCILE THE AGENCY COST ACCOUNTING SYSTEM ON A MONTHLY BASIS WITH STARS
- 7) EFFECTIVE JULY 1, 1994, ALL VOUCHERS WILL BE MANUALLY CHECKED TO ASSURE PROPER FUNDING. ANY DISCREPANCIES WILL BE NOTED AND RESOLVED AT THAT TIME.

## PRIVATE WATER FISHING IMPOUNDMENTS

Department of Wildlife and Parks

Legislative Proposal #1

**BILL SUMMARY:** This proposed legislation would amend the definition of a private water fishing impoundment found under K.S.A. 32-701. Individuals fishing on a private water fishing impoundment are privileged to do so without a fishing license under K.S.A. 32-906. Individuals in possession and control of a private water impoundment, pursuant to K.S.A. 32-974, may propagate or raise fish in the impoundment for private or commercial use without any state license, permit or stamp and without limitation as to numbers, time or manner of taking fish from the impoundment. Thus, the definition of a private water fishing impoundment has bearing on those issues.

The current definition requires that a impoundment be entirely isolated from any other surface water. And that it have no connection, except during periods of flood, with streams or other bodies of water that would permit fish to move between the private water fishing impoundment and streams or other bodies of water. One exception exists which allows the private water fishing impoundment to be connected to a stream or other body of water by a pipe or conduit no larger than 8 inches in diameter if the pipe or conduit is screened to prevent the movement of fish.

The definition was likely prepared to apply to a traditional "farm pond". Although a few commercial fish grower utilize farm ponds, most use a pit or dugout for the raising of fish and generally these are in a series of interconnected pits or dugouts. For those using "farm ponds", these are also often constructed in series. The present definition appears to apply to a private water impoundment, not to a series of otherwise qualified impoundments. Each of the impoundments would have to be isolated or connected only by the screened pipe or conduit as previously mentioned.

Recreational fishing also occurs on some of the impoundments used by commercial fish growers and there are several locations around the state where similar private impoundments are operated strictly for recreational fishing as a business. Under the current definition, these areas may require a fishing license.

The Department's primary interest in private water fishing impoundments is twofold. The first is one of protection of native or "wild" fish species through prevention of release of fish from private water fishing impoundments. The second interest is

Senate Energy & Nat'l Res.  
February 7, 1995  
Attachment 3

ensuring that native or "wild" fish species existing in the wild as a public resource are not removed from the public sector and used in a private operation. Thus a definition should address proper inflow and outflow controls, but allow for interchange of water, if needed, between private water impoundments that are located within an ownership.

The proposed amendments would recognize the interchange of water between private water fishing impoundments within an ownership. The amendments would maintain that these impoundments not have any connection with streams or other bodies of water, but would remove the reference to pipe or conduit size. It would also recognize other means which would prevent movement of fish into or out of the impoundment or impoundments.

**FISCAL IMPACT:** No significant fiscal impacts are anticipated as amending the definition is intended to bring it more in line with present conditions and policies.

**POLICY IMPLICATIONS:** The proposed amendments are not intended to alter state or Department policies in regard to the benefits available to individuals in possession and control of private water fishing impoundments. The Department is not aware of any existing private water fishing impoundment that would lose that status as a result of this proposed legislation. It would however, allow several known impoundments, which for all practical purposes are private water fishing impoundments, to qualify as private water fishing impoundments.

**IMPACT ON OTHER STATE AGENCIES:** No impact on other state agencies is anticipated.

FISHING LICENSES  
Department of Wildlife and Parks  
Legislative Proposal #2

BILL SUMMARY: This proposed legislation would amend K.S.A. 32-906 to expand the concept of group fishing licenses and address fishing license requirements for certain individuals involved in fishing clinics that are sponsored or co-sponsored by the Department.

Current law provides for the issuance of institutional group fishing licenses to facilities under the jurisdiction of or licensed by the Secretary of Social and Rehabilitation Services and to any veterans administration medical center in the state. The institutional fishing license allows any individual residing in such center or facility to fish without a license. They are limited to not more than 20 individuals at one time and all laws and regulations regarding seasons, methods of take, size limitations, creel and possession limits, etc. are applicable.

A number of community, civic and charitable organizations are becoming more active in working with developmentally disabled individuals through group fishing activities. Under current law, a fishing license would be required for each individual involved, unless otherwise exempted such as by age. The proposed amendment would allow these groups to secure a "group fishing license" for use during a group fishing activity. Amendment of K.S.A. 32-988 to establish a fee range for such group fishing license is also proposed.

This group fishing license concept was approved by the 1994 Legislature in H.B. 2538 (Omnibus Appropriation Act of 1994). A copy of that legislation is attached to this legislative proposal.

Staff of the community, civic or charitable organization would be authorized to assist individuals involved in the group during the group's fishing activity. A fishing license would not be required of a staff member while assisting group members during the activity. Those provisions regarding staff are not included in current law pertaining to institutional fishing licenses. Proposed amendments to K.S.A. 32-906 would also extend the same privileges to staff assisting under an institutional fishing license.

The Department is involved in many fishing clinics throughout the state, but most are conducted in and around urban centers. The primary purposes of these clinics are to expose people to fishing and teach techniques and ethics. It is the Department's

position that such exposure will provide a wholesome recreational alternative to those involved and some will eventually become license buyers. Generally, the audience is made up of individuals who are under 16 years of age and do not need a fishing license, but there are occasions when participants are over 16 years of age. The Department proposes that individuals who are participating in a fishing clinic sponsored or co-sponsored by the Department be allowed to do so without a fishing license.

**FISCAL IMPACT:** The cost of a group fishing license was established by H.B. 2538 at \$50. One such license was issued; however, there is a known interest by other organizations that would qualify. Should the provision be enacted, there will be more interest as the various community, civic and charitable organizations become aware of the license's availability. Currently, those organizations which have conducted such group fishing events have been required to purchase a 24 hour fishing license for participants @ \$3.50 per license. In many instances, the one time purchase of a group fishing license, valid for an entire calendar year, will result in some cost saving for the organization. Fiscal impacts on the Department would be insignificant.

Allowing individuals who are participating in a fishing clinic sponsored or co-sponsored by the Department to fish without a fishing license will have insignificant fiscal impact on the Department. Most participants are juveniles and will not need a license anyway due to their age. The license requirement for those 16 years of age and over does serve to reduce the number of individuals who participate. The proposed amendment should help increase participation and eventually help increase license sales.

**IMPACT ON OTHER STATE AGENCIES:** None

authorized by this act or for which appropriations are made by this act, subject to the restrictions and limitations imposed by this act.

(c) This act shall be known and may be cited as the omnibus appropriation act of 1994 and shall constitute the omnibus reconciliation spending limit bill for the 1994 regular session of the legislature for purposes of subsection (a) of K.S.A. 1993 Supp. 75-6702 and amendments thereto.

Sec. 2.

DEPARTMENT OF WILDLIFE AND PARKS

(a) On July 1, 1994, the expenditure limitation established by section 9(b) of 1994 House Bill No. 2753 on the wildlife fee fund is hereby increased from \$16,195,045 to \$16,216,045.

(b) On July 1, 1994, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$802,786 from the state general fund to the wildlife fee fund: *Provided*, That such transfer shall not be made except upon approval of the state finance council acting on this matter which is hereby declared to be a matter of legislative delegation and subject to the guidelines prescribed by subsection (c) of K.S.A. 75-3711c, and amendments thereto, and acting on this matter after the governor and the fish and wildlife service of the United States department of the interior have signed a memorandum of understanding regarding certain federal aid eligibility requirements of the federal sport fish and wildlife restoration program.

(c) In addition to the other purposes for which expenditures may be made from the water plan special revenue fund for the fiscal year ending June 30, 1995, as authorized by section 9(b) of 1994 House Bill No. 2753, the above agency may make expenditures from the water plan special revenue fund for fiscal year 1995 for state operations: *Provided, however*, That expenditures from the water plan special revenue fund for fiscal year 1995 for state operations shall not exceed \$74,200.

(d) The above agency shall make expenditures from appropriations for the fiscal year ending June 30, 1994, and appropriations for the fiscal year ending June 30, 1995, for the purposes of preparing a report which shall be submitted by the secretary of wildlife and parks to the house committee on appropriations and the senate committee on ways and means of the legislature at the beginning of the 1995 regular session detailing all agreements which are proposed or which have been entered into between the department of wildlife and parks and any other party, other than another state agency, which relate to any acquisition of any real estate, or any interest in estate, by the department of wildlife and parks during fiscal 1994 or fiscal year 1995 or any such contracting party and which

require expenditures of moneys appropriated for fiscal year 1994 or fiscal year 1995 for payments to any such contracting party or for operating expenditures by the department of wildlife and parks.

(e) In addition to the other purposes for which expenditures may be made by the above agency from the wildlife fee fund for the fiscal year ending June 30, 1994, expenditures shall be made by the above agency from the wildlife fee fund for fiscal year 1994 to provide for and to issue a group fishing license for calendar year 1994 for a fee of \$50, which shall be credited to the wildlife fee fund, to any community civic or charitable organization which is organized as a not-for-profit corporation, for use by such community civic or charitable organization for the sole purpose of conducting group fishing activities for handicapped or developmentally disabled persons, which group fishing license is hereby authorized to be issued by the above agency in the same manner and subject to the same conditions and limitations prescribed by subsection (g) of K.S.A. 32-906, and amendments thereto, except as otherwise provided herein, for annual institutional group fishing licenses thereunder and which group fishing license shall provide the same fishing privileges for supervised groups of not to exceed 20 handicapped or developmentally disabled persons at any one time.

(f) In addition to the other purposes for which expenditures may be made by the above agency from the wildlife fee fund for the fiscal year ending June 30, 1995, the department of wildlife and parks shall make expenditures for fiscal year 1995 of not less than \$769,100 for fisheries projects not previously approved by the legislature during the 1994 regular session of the legislature: *Provided, however*, That no expenditures shall be made from the wildlife fee fund for such fisheries projects except upon approval by the state finance council acting on this matter which is hereby declared to be a matter of legislative delegation and subject to the guidelines prescribed by subsection (c) of K.S.A. 75-3711c, and amendments thereto, and acting on this matter after receiving the specific recommendations of the secretary of wildlife and parks for such fisheries projects which recommendations have been prepared after the department of wildlife and parks has conducted public hearings in different areas of the state to receive public suggestions and proposals regarding such fisheries projects and which recommendations have been prepared with consideration of and are based on the public input received at such hearings.

**NATIVE AMERICAN LICENSES**  
Department of Wildlife and Parks  
Legislative Proposal #3

**BILL SUMMARY:** Pursuant to K.S.A. 32-929, the Secretary shall issue, free of charge, a permanent license to hunt, fish and furharvest to any resident individual who is at least 1/16 Indian by blood and who is enrolled as an American Indian on a tribal membership roll maintained by the Bureau of Indian Affairs of the United State Department of Interior or who has been issued a certificate of degree of Indian blood by such Bureau of Indian Affairs.

The Bureau of Indian Affairs no longer issues certificates of degree of Indian blood nor does the BIA continue to maintain membership rolls of the various tribes. Tribal membership rolls are now maintained by the respective tribes and the tribes have the latitude, pursuant to their respective constitutions, to determine membership and to issue membership cards.

Applications for a permanent license to hunt, fish and furharvest are being received by the Department from Native Americans who might otherwise qualify for the permanent license, but who unable to comply with the statutory requirements of K.S.A. 32-929 and therefore their applications must be rejected.

The Department is proposing amendment to K.S.A. 32-929. The amendments would establish two criteria to be eligible to apply for and receive a permanent license to hunt, fish and furharvest. The minimum requirement of 1/16 Indian by blood would be maintained as one criteria and the other requirement would be membership on a tribal membership roll maintained by a federally recognized tribe. Upon submission of satisfactory proof of the two above requirements, a permanent license would be issued.

For purposes of this statute, a definition of a "federally recognized tribe" is proposed which would mean any American Indian group that has petitioned for and obtained recognition by the United States Department of the Interior under the standards set out in 25 C.F.R. Part 83, as amended.

**FISCAL IMPACT:** Provisions for this permanent license have existed since 1971 and Department records (although perhaps incomplete) show that slightly over 5,000 such licenses have been issued. Interest in these licenses has increased in more recent times as the Department has been issuing about 240 permanent licenses per year over the last few years. The number of



rejections has increased substantially with the Department sometimes rejecting as many as 5 to 10 applications per week. This represents a hardship on Native Americans and often additional cost as they attempt to obtain necessary documentation. It also results in additional labor and costs to the Department. The proposed amendments will reduce the effort required by Native Americans and reduce labor and costs to the Department for administration of the permanent license.

POLICY IMPLICATIONS: It has been the policy of the State of Kansas since 1971 to issue permanent licenses to resident Native Americans at no cost. The proposed amendment will enable that policy to be continued.

IMPACT ON OTHER STATE AGENCIES: None

FLEEING OR ELUDING - VESSELS  
Department of Wildlife and Parks  
Legislative Proposal #4

**BILL SUMMARY:** Law enforcement officers have the authority under K.S.A. 32-1179 to enforce the provisions of the state's boating laws and to stop and board any vessel which is subject to the state's boating laws. This is similar to a law enforcement officer's authority to stop motor vehicles for certain reasons. Under K.S.A. 8-1568 which applies to motor vehicles, attempting to flee from or elude a law enforcement officer is a violation subject to penalties which become more severe after each conviction. There is no similar statute applying to vessels, thus a vessel operator who attempts to flee from or elude an officer has not committed a violation.

This legislative proposal involves enactment of a new statute which would be worded very similar to K.S.A. 8-1568, except it would apply to vessels. Each vessel operator failing to stop upon proper signal by hand, voice, emergency light or siren would be subject to the penalty provisions included in the proposed legislation. Any officer giving such signal would be required to be in uniform and prominently displaying the officer's badge of office. Penalty provisions would become progressively more severe for the first, second and third convictions. Convictions would be defined the same as in K.S.A. 8-1568 to mean a final conviction without regard whether sentence was suspended or probation granted. Forfeiture of bail, bond or collateral deposited, and which forfeiture has not been vacated, would be equivalent to a conviction.

**FISCAL IMPACT:** This legislation is not expected to have a significant fiscal impact. The number of attempts to flee or elude during the course of a year is not large, but it does happen occasionally. It will enable Department law enforcement personnel to better administer the state's boating laws and regulations. Individuals who may be cited under a fleeing or eluding statute could expect to pay additional fines. These fines would be collected by the courts and disbursed as specified by law. The Department does not receive any portion of the fine money.

**POLICY IMPLICATIONS:** It is the policy of the state to provide the citizens of Kansas with recreational boating opportunity. And further, to provide that opportunity in a safe and secure manner.

The proposed legislation will help promote that policy.

IMPACT ON OTHER STATE AGENCIES: No impact on other state agencies is anticipated. The amount of additional effort by the court system would be insignificant. Other law enforcement bodies, such as Sheriff's Offices, would also benefit from the legislation as they are occasionally involved in boating work.

**RAIL TRAIL USE LICENSE**  
Department of Wildlife and Parks  
Legislative Proposal #5

**BILL SUMMARY:** This proposed legislation would provide for a rail trail use license and establish a fee structure within which various types of licenses and fees for those licenses would be set by Department regulation. The license would not be required of individuals using the rail trail for construction, development, operation, maintenance, concession or agricultural activities. Emergency and law enforcement personnel and those engaged in official government business would not need a license while using a rail trail.

A rail trail use license would be valid throughout the state and would expire on December 31 of the year purchased. The proposed bill is written to allow for site specific and short term use licenses as established by regulation. A fee range maximum of \$30 is recommended in the bill. Creation of a "state rail trail fee fund" is proposed as is language specifying the purposes for which moneys from the fund may be used. It is recommended that the fund be interest bearing with interest deposited into the fund.

The first segment of the Ottawa to Iola rail trail is scheduled to open in the fall of 1995 and the intent of this legislative proposal is to create a means by which users of the rail trail would financially support its annual operation and maintenance.

**FISCAL IMPACT:** Immediate fiscal impact would not be large due to the time of year for the opening and length of trail initially open. As the second and third segments are opened, it is estimated that annual use would approach 135,000 trips. Revenue to the Department would depend on the fee amount as established by regulation. That fee would be paid by the public wishing to use the trail.

**POLICY IMPLICATIONS:** This proposed legislation is directed at a user pay concept. Those individuals using and benefiting from the rail trail would assume the primary responsibility for annual operation and maintenance costs.

**IMPACT ON OTHER STATE AGENCIES:** Implementation of a rail trail use license would not have impact on other state agencies.