

Approved: Carl Dean Holmes
Date 3/13/96

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

The meeting was called to order by Chairperson Carl Holmes at 3:35 p.m. on February 5, 1996, in Room 526-S of the Capitol.

All members were present except:

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

Conferees appearing before the committee: Terry Duvall, Kansas Water Office

Others attending: See attached list

Chairperson Holmes began the meeting by distributing three handouts. The first was a newspaper article from the Omaha World-Herald dated December 27, 1995, and titled, "Irrigators Say Water Bill May Harm Ag Economy." He informed the committee that he has a copy of the Nebraska legislative bill #108 which puts a tighter standard on what they are doing with water appropriations. It may help the committee members to review it in preparation for debate in the House on **HB 2613**. He also advised the members to talk to members of the Appropriations Committee to get their reaction to **HB 2613**.

The second handout was a letter from a citizen dealing with the diversion issue of Wildlife and Parks. The final handout was the annual report to the Kansas Legislature by the Kansas Corporation Commission. (copies available in State Library or Legislative Research Department)

The Chair announced the creation of two sub-committees. A sub-committee on **HB 2711** (recreational trails) will be chaired by Representative Joann Freeborn and will have Representatives Clay Aurand, Rich Becker, Laura McClure, and Bill Feuerborn as members. A sub-committee on **SB 337** (bonding for municipal purchase of energy) will be composed of Representatives Holmes, Freeborn, Krehbiel, Hutchins, and Alldritt. That sub-committee will possibly not meet until turnaround since it is a Senate bill. He has asked the industry and others for some information before working on that bill.

Briefing on Pending Water Contracts and Federal Reservoir Storage Purchases

Terry Duvall. Ms. Duvall briefed the Committee on the three contracts submitted to this session of the Legislature, the Water Marketing Program, and the status of the purchase of additional storage. (Attachment #1)

Questions followed.

Chairperson Holmes recessed the Committee at 4:20 p.m. for members to introduce individual bills in the House before the deadline at 5:00. The meeting reconvened at 4:33 p.m. The Chair announced no bills would be worked tomorrow because of the large number of conferees scheduled.

Action on HB 2663: Increase in royalties on sand taken from state rivers and removal of exemption of sand taken for governmental use

A balloon for **HB 2663** was distributed to the members. (Attachment #2)

Representative Tom Sloan explained the three amendments individually. The title change was done by the Revisor.

Section (d) that is found on page 1 only applies to sand purchased directly by a governmental unit. Discussion followed.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES, Room 526-S Statehouse, at 3:30 p.m.. on February 5, 1996.

Representative Tom Sloan moved to amend **HB 2663** by adopting Section (d) on page 1 of the balloon. Representative Rich Becker seconded the motion. Discussion followed. The motion failed.

Representative Tom Sloan explained the next proposed amendment on page 1.

Representative Tom Sloan moved to amend **HB 2663** on page 1, in line 42, by striking "5 1/3" and inserting "10." Representative Laura McClure seconded the motion. Discussion followed. The motion carried.

Representative Tom Sloan moved to amend **HB 2663** on page 2, in line 4, after the comma, by inserting "to be used for bank stabilization or soil conservation,"; in line 18, by striking "any lawful"; in line 19, by striking "purpose" and inserting "bank stabilization or soil conservation"; in line 22, by striking "construction,"; by striking all of line 23; in line 24, by striking all before the period and inserting "bank stabilization or soil conservation . . ." Representative Laura McClure seconded the motion. Discussion followed. The motion carried.

Representative Tom Sloan moved to amend **HB 2663** by inserting the new Sec. 3 on page 2 of the balloon. Representative Becky Hutchins seconded the motion. Discussion followed. The motion failed.

Representative Laura McClure moved to amend **HB 2663** in the new Sec. 3 on page 2 of the balloon by deleting the words "or soils of" and inserting the words "owned by . . ." Representative Tom Sloan seconded the motion. The motion failed.

Representative Joann Freeborn presented a conceptual motion to amend **HB 2663** that if the county doesn't have a plan for the use of moneys for bank stabilization or soil conservation, and if the moneys are not used after a period of time (such as 4 years), they would be returned to the State Water Fund. Representative Steve Lloyd seconded the motion. Discussion followed. The motion failed.

Representative Tom Sloan moved that **HB 2663** be passed out favorably as amended. Representative Laura McClure seconded the motion. The motion carried.

The meeting adjourned at 5:45 p.m.

The next meeting is scheduled for February 6, 1996.

ENERGY AND NATURAL RESOURCES COMMITTEE
 COMMITTEE GUEST LIST

DATE: February 5, 1996

NAME	REPRESENTING
Al LeDoux	KWO
Jerry Duwall	KWO
Matthew Holt	Division of the Budget
BILL HENRY	Ks Engineering Society
JOHN COLLAZIEL	JERGENSBURG, Ks

BRIEFING ON WATER MARKETING
BEFORE THE HOUSE ENERGY & NATURAL RESOURCES COMMITTEE

BY

TERRY DUVALL, KANSAS WATER OFFICE

FEBRUARY 5, 1996

The three contracts submitted to this session of the Legislature are:

Number 95-1, a surplus water contract with Miami County Rural Water District No. 2 for a short term additional water supply from Hillsdale Lake. We are negotiating with the district for an additional long-term (40-year) contract. Those negotiations could not be completed before the district's 1995 water use would have exceeded the maximum allowed under an existing contract signed in 1981. The surplus contract bought both sides some additional time to negotiate the long-term contract and ensured that the district would have enough water authorized to meet their needs.

Contracts 95-2 and 95-3 are with Douglas County Rural Water Districts No. 4 and 5. Each district already had an existing contract for water supply from Clinton Lake. These new contracts replace the old contracts and provide for additional water supplies to meet the expected growth in this area of Douglas County. With these contracts, over 97 percent of the available water supply yield in Clinton Lake is committed to purchasers.

I will try to answer any questions you may have about these contracts.

Representative Holmes, Chairman of this committee, has asked me to discuss briefly the Water Marketing Program and the status of the purchase of additional storage. Much of the information I'll be sharing with you can be found in the *Status Report for 1994* which was sent to each of you.

Let me start out by noting that the water supplies currently controlled by the State in large federal lakes and multipurpose small lakes serve approximately 816,000 people in parts of 29 Kansas counties. Maps of the areas served are included in the *Status Report*.

The first State program to provide municipal and industrial water supply was created in 1974--the State Water Marketing Program. The second program, the Water Assurance Program, was created in 1986.

House E+NR
2-5-96
Attachment 1

Features of the Water Assurance Program and the Water Marketing Program

Source of Supply

The supply source to a marketing program user is the yield from an individual reservoir's storage. The supplies to an assurance program user are the storages dedicated for making water supply releases in various reservoirs as well as the natural flow of the river. The key difference is the marketing program treats a reservoir as a solitary supply unit whereas the assurance program treats the reservoir as one component of the overall river system.

Delivery Mechanism

The marketing program delivers water as some portion of the two percent yield from storage in a given reservoir. The two percent yield is the rate water may be taken from that reservoir storage throughout severe drought with a one-in-fifty chance of failure of delivery. The delivery may be made as a release to the river or withdrawn via pipeline.

The assurance program delivers water by making releases from reservoir storage operated jointly with downstream natural flows and other reservoirs. The supply to a user becomes a combination of natural flows and various releases from the reservoirs in the program. No direct withdrawals are made from storage under this program.

Customers and Contracts

A marketing program customer is an individual city, water district or industry which contracts for water to be supplied at a two percent chance of failure. This customer operates independently from all other sources and has an exclusive use to the water supplies from the reservoir to meet its contract. An assurance program customer is a city or industry which is a member of a water assurance district which contracts for storage to be dedicated for releasing its water downstream. This customer operates jointly with other users along the river below the reservoirs. It has joint use to the water supplied from the reservoirs for the members of the assurance district.

Operations

A marketing contract allows release of water for supply to the contract holder on his call. Transit losses to the release are borne by the user. Releases are often made to make up deficient supplies. Alternatively, withdrawals by pipeline may be the primary supply to a marketing user and can be quite efficient in delivering water. Little transit loss would be expected. An assurance contract allows release of water for supply and quality purposes to the benefit of the members of the assurance district. Through the maintenance of target flows for instream purposes along the river, the river is kept in an enhanced state and transit losses are minimized. Because of these target flows, the assurance program is operated continuously once flood control operations cease. Downstream

consumption and instream demands are anticipated and determine the amount of release made during a subsequent period.

Cost Components and Calculations

The price of water charged to a marketing customer is a pooled value of five components. Pooling means that costs of the program are borne by all participants regardless of which reservoir they use. Therefore, costs associated with Elk City Lake will be shared with marketing users of Milford Lake. The five components of the price include the capital costs of storage in the ten existing marketing reservoirs, the operation and maintenance costs associated with this storage, the cost of administering and enforcing the program, interest charged on the money borrowed from the State General Fund to supplement revenues to repay the federal government and the 2.5 cents/1000 gallons depreciation reserve charge which is earmarked for the development fund.

The price of storage charged to the assurance district is the actual capital costs of the storage for which they have contracted, the actual operation and maintenance costs of that storage and the administration and enforcement costs for that specific program. There is no pooling, no shortfall interest (because there is no shortfall) and no depreciation reserve.

Purchase of Additional Storage

Two years ago, \$13.6 million was appropriated to purchase additional storage space in large multipurpose federal lakes at original construction costs and interest rates. To date, the following storage has been purchased:

Melvern Lake	50,000 AF	\$ 7,131,834
Tuttle Creek	8,650 AF	800,210
Pomona Lake	26,500 AF	2,161,370
		<u>\$ 10,093,414</u>

Storage to be contracted for by June 30, 1996:

John Redmond	10,000 AF	\$ 830,000
Council Grove	8,000 AF	1,288,000
Marion	12,500 AF	2,187,500
Elk City	10,000 AF	1,150,000
		<u>\$5,455,500</u>

The Corps is completing a reallocation study on Kanopolis Lake, and we expect to be able to add the following storage:

Kanopolis	10,000 AF	<u>\$890,000</u>
	TOTAL to purchase	\$16,438,914
	Appropriation	<u>(\$13,533,531)</u>
	Shortage	\$2,905,383

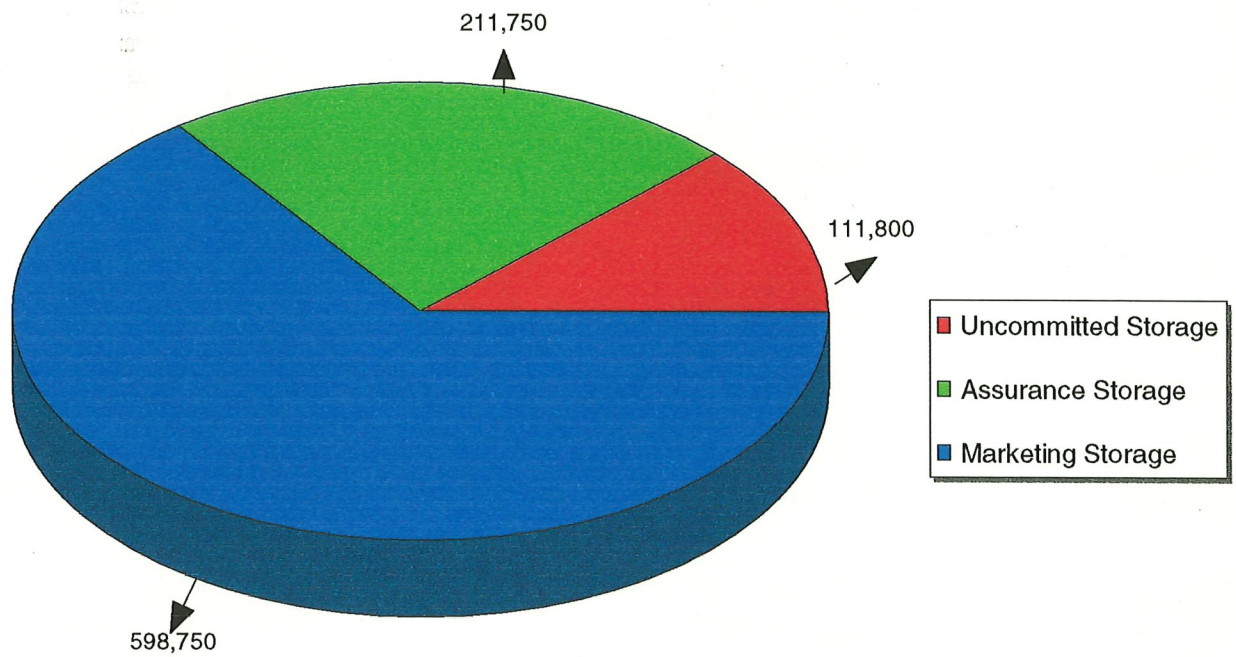
Al LeDoux, Director of the Kansas Water Office, met with the State Treasurer to negotiate a Pooled Money Investment Board loan for the balance needed to complete the purchase. The Kansas Water Authority approved this approach at their January meeting recognizing that State Water Plan Funds will be needed to repay the loan. The estimated annual repayment over 10 years is \$381,287; over 15 years \$285,295; or 20 years \$238,861.

With the completion of these purchases, the state will control a total of 922,300 acre-feet of storage space in 13 lakes.

mktgassr.tst

State-Owned or Controlled Storage

922,300 Acre-Feet



HOUSE BILL No. 2663

By Committee on Energy and Natural Resources

1-17

House E+NR
2-5-96
Attachment 2

9 AN ACT concerning ~~rivers belonging to the state, concerning royalties~~
10 ~~for removal of certain materials from the beds of such rivers~~; amending
11 K.S.A. 70a-102 and K.S.A. 1995 Supp. 82a-309 and repealing the ex-
12 isting sections.
13

sand and gravel; relating to royalties for removal of sand from beds of certain rivers; requiring reports relating to sand and gravel extracted from waters or soils of the state

14 *Be it enacted by the Legislature of the State of Kansas:*

15 Section 1. K.S.A. 70a-102 is hereby amended to read as follows: 70a-
16 102. (a) Whenever any person desires to take ~~from any such river~~ any
17 sand, gravel, oil, gas ~~or~~ mineral, ~~or from any land in such river~~ any hay,
18 timber or other ~~products, such materials from any river owned by the~~
19 ~~state or from any land in such river~~, the person shall obtain the consent
20 of the director of taxation ~~and~~ upon such terms of payment to the state
21 of Kansas and under such terms and conditions as the director of taxation
22 determines to be just and proper. ~~Such~~ Compensation for such products
23 ~~shall be paid~~ to the state of Kansas ~~shall be paid~~ at such times and under
24 such terms of ~~supervision~~ as the director of taxation directs ~~and~~. With
25 respect to river sand, ~~such~~ the compensation shall be computed at the
26 rate of ~~\$.08~~ \$.15 per ton ~~taken removed~~. The secretary of revenue shall
27 ~~determine, by rule and regulation, the amount of compensation to be paid~~
28 ~~for other materials removed from rivers owned by the state or from land~~
29 ~~in such rivers.~~

30 (b) No contract shall be entered into giving any person, company or
31 corporation any exclusive privilege of making purchases under this act.

32 (c) Nothing herein shall prevent the taking without payment ~~therefor~~
33 of any sand or gravel to be used exclusively for ~~the improvement of public~~
34 ~~highways or to be used exclusively in the construction of public buildings~~
35 ~~or for other public use or to be used exclusively by the person taking same~~
36 ~~for such a person's own domestic use. The secretary of revenue shall~~
37 ~~determine, by rule and regulation, the amount of compensation to be~~
38 ~~paid on materials removed from a river or from any land in such river.~~

(d) The state or a political or taxing subdivision of the state may apply to the secretary of revenue for a refund of any compensation paid by the state or subdivision pursuant to this section for sand or gravel purchased by the state or subdivision. The application for a refund shall be filed with the secretary not later than 30 days after the end of the calendar quarter and shall be for the preceding calendar quarter. The application shall be accompanied by copies of the official weight tickets provided by the seller of the sand or by other proof, satisfactory to the secretary, of the amount of royalty paid. The secretary may adopt such rules and regulations as necessary to administer the provisions of this subsection.

39 Sec. 2. K.S.A. 1995 Supp. 82a-309 is hereby amended to read as
40 follows: 82a-309. (a) ~~One-half~~ Of the net proceeds from the sale of sand
41 products; ~~and no other~~, taken from the bed of any river which is the
42 property of the state of Kansas, ~~5%~~ shall be returned as follows:

10%

43 (1) If the sand products are taken from the bed of the river at a

2-2

1 location which is within the boundaries of a drainage district, the board
2 of directors of the district from which the sand products were taken shall
3 be entitled to receive 2/3 of the amount returned and the remaining 1/3
4 shall be divided among the remaining drainage districts in the county, in
5 proportion to the frontage on such river.

6 (2) If the sand products are taken from the bed of the river at a
7 location which is not within the boundaries of a drainage district, the
8 proceeds attributable to such sand products shall be returned to the coun-
9 ties which have adopted this act and have notified, prior to July 1 following
10 the adoption of this act, the director of taxation of such adoption, and
11 through which such river flows, in proportion to the mileage of the river
12 bank in such county. Moneys paid to a county pursuant to this paragraph
13 shall be disbursed or used as follows:

14 (A) If there are one or more drainage districts organized under the
15 laws of this state which are located in such county along a river that is
16 the property of the state of Kansas and which operate and maintain river
17 flood control improvements in or along such river, the county shall dis-
18 burse such moneys to each such drainage district, to be used for any lawful
19 purpose, in proportion to each district's frontage on such a river.

20 (B) If there is no drainage district organized under the laws of this
21 state which is located in such county along a river that is the property of
22 the state of Kansas, the county may use the moneys for construction,
23 operation and maintenance of public improvements located along, in or
24 over such a river.

25 (b) The unencumbered balance of any moneys which were distrib-
26 uted to a county pursuant to this section as it existed before its amend-
27 ment on July 1, 1995, and which remain in the county treasury on July 1,
28 1995, shall be distributed in the manner provided by this section as
29 amended on July 1, 1995.

30 Sec. 3 K.S.A. 70a-102 and K.S.A. 1995 Supp. 82a-309 are hereby
31 repealed.

32 Sec. 4 This act shall take effect and be in force from and after its
33 publication in the statute book.

Amounts provided for by subsection (a) shall be paid to drainage districts and
counties not later than the 15th day of the month following the end of the
calendar quarter from proceeds received during the preceding calendar
quarter.

(c)

Sec. 3. Any person or entity engaged in the business of extracting sand
or gravel from the waters or soils of this state shall report to the secretary
of revenue, at the same time as the person's or entity's state income tax
return is filed, the amount and grade of sand or gravel extracted and sold by
the person or entity. The secretary of revenue may adopt such rules and
regulations as necessary to administer the provisions of this section.

4

5