

Approved: 2-21-96  
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 13, 1996 in Room 254-E- of the Capitol.

All members were present except:  
Senator Vancrum, Excused

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

Conferees appearing before the committee:  
Dennis Schwartz, Director, Kansas Rural Water Association  
John Hennessy, Public Wholesale Water Supply District No. 13, Fulton, Kansas  
Darrel Montei, Wildlife and Parks  
Representative Carl Holmes

Others attending: See attached list

**HB 2403 - concerning water supply and distribution districts; relating to the powers thereof**

Dennis Schwartz, Director, Kansas Rural Water Association appeared and presented testimony in support of **HB 2403** stating the Public Wholesale Water Supply District law is unique in that it allows for individual cities and rural water districts to join in developing a common "master" system to provide water to its member entities (Attachment 1). This bill provides voting rights to those who choose to be members of a Public Wholesale Water District living outside the boundaries of the State of Kansas.

Mr. Schwartz stated some concern had evolved about the State of Kansas giving up control of its water. He told members there is still full state control over the waters of Kansas through the Division of Water Resources and their Water Appropriations Law as well as the Water Transfers Act and the regular permitting process for water resources. Mr. Schwartz stated his people felt this was a courtesy bill to those communities outside the state who have worked with members in Kansas to help form and operate viable public wholesale water supply systems.

A member seeking clarification asked whether this bill would allow people outside of Kansas to vote on water rates that would affect Kansans. Mr. Schwartz stated they would be voting on rates that would affect all members of a public water supply. The member questioned whether this type of authority is given to any other division with regard to voting members outside of the state. Staff replied they were not aware of any.

A member questioned whether the water sources are in state with Mr. Schwarz stating the entity is formed without regard as to the location of the source of water. He said there are state water districts selling water across state lines to Nebraska as well as Nebraska to Kansas, all of which is treated, potable water for retail use.

John Hennessy, Board Member, Public Wholesale Water Supply District No. 13, appeared and presented testimony in support of **HB 2403** stating District #13 is a legal entity made up of rural water districts and small cities banded together to solve a common water problem in a cost effective manner (Attachment 2). Mr. Hennessy told the Committee that his district was in the final stages of approval before learning that out of state members could not be voting members. He stated the opinion that this bill was a gesture of goodwill. Mr. Hennessy explained that each entity had one board member and an alternate with one vote for the entity.

Mr. Hennessy stated only wholesale sales to districts are allowed under the laws of public wholesale concept. Districts cannot sell to individuals. The entities across state lines have offered to take care of private individuals right up to the state line if they are able to purchase water wholesale from the water district. Therefore this allows service to Kansas residents.

A committee member stated that **HB 2403** had been referred to the Senate Energy & Natural Resources Committee and the questions raised were ones previously discussed in the Senate Local Government Committee. The bill does establish a precedent allowing people from out of state to vote. Mr. Schwartz reminded the committee that the wholesale water districts are formed in the state of Kansas with the majority of members being Kansas entities and out of state votes would be minority votes.

## CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, ROOM 254-E-Statehouse, at 8:00 a.m. on February 13, 1996.

Another member noted state boundaries are artificial and water districts do not abide by state boundaries, also that water issues need to be dealt with in an appropriate manner by everyone. The main issue is keeping a water supply available.

### **HB 2158 - concerning certain contracts with the federal government; requiring legislative approval**

Darrel Montei, Department of Wildlife and Parks, stated the department's main concern with **HB 2158** was to request clarification about license renewal. He noted the bill prevents the department from acquiring or leasing more property but does not address taking land from the federal government such as a conservation easement.

Discussion pointed out that the department of Wildlife and Parks may accept a lease or license for lands being made available by the federal government and the state would be responsible for appropriating funds to maintain and care for the property. It was noted Section sub(d) appears to allow Wildlife and Parks to acquire property without the approval of the Legislature.

A member asked whether the department would have to request funds from the legislature if land was given to them without money for future upkeep. Staff acknowledged this was the way they understood the bill. The member expressed the possibility that the federal government could give away land surrounding the lakes and reservoirs in an effort to reduce debt, that the Legislature needed a voice in determining whether to accept the cost of continuing upkeep and noted this bill did not address continuing care. Staff agreed.

Chairman Holmes stated the bill was introduced because in 1992 the department was negotiating with the Corps of Engineers to take over all Corps of Engineers property in the state of Kansas. The Secretary of Wildlife and Parks was encouraged not to accept that land because of future liability. The 1993 flood would have used all funds accompanying the Corps property and additional funds would have been needed to put facilities back in operation. Therefore, the Legislature should be involved in determining the cost of responsibility when acquiring federal property around reservoirs or lakes either through purchase or lease.

A member questioned why there should be an exception. Representative Holmes stated that presently the state ends up with the responsibility without any input. He noted the Department of Wildlife and Parks did not testify at the House hearings but did provide recommendations to the committee. The original language applied to all state agencies and the Departments of Transportation and SRS provided testimony expressing concerns about the bill during hearings in the House. The present bill represents language the Department of Wildlife and Parks felt would accomplish their goals and indicates language requested by them.

A member questioned whether the manner proscribed in the bill may not be the proper method by which to address the needs of this issue.

Discussion touched on broadening the bill to include all real estate, not just that considered by Wildlife and Parks. Comments were made concerning the federal government's easements on good land, making it useless for feeding cattle or crops, virtually of no use. In explanation it was noted that whenever the federal government takes over FMHA loans as a result of default, an easement is taken before land is resold on the market. A member commented that it is not appropriate for any part of government not responsible for funding to be able to enact, without legislative approval, any acquisition that will, in the future, require funding.

The meeting adjourned at 9 a.m.

The next meeting is scheduled for February 14, 1996.





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COMMENTS ON  
HOUSE BILL No. 2403  
BEFORE THE SENATE ENERGY AND NATURAL RESOURCES COMMITTEE  
February 13, 1996

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to present comments on House Bill No. 2403. I am Dennis Schwartz, a member of the Board of Directors of the Kansas Rural Water Association. The Association provides technical assistance to public water and wastewater systems and a variety of training opportunities for operators, board and council members.

The Kansas Rural Water Association supports House Bill No. 2403. The Public Wholesale Water Supply District law is unique in that it allows for individual cities and rural water districts to join in developing a common "master" system to provide water to its member entities. We support the regionalization of public water systems in Kansas whenever such projects provide benefits that otherwise cannot be achieved when systems function independently. HB 2403 will provide that water utilities outside of the State of Kansas to have voting rights when they choose to be members of Public Wholesale Water Supply Districts.

The Kansas Rural Water Association is aware of two Public Wholesale Water Districts which will potentially provide water to entities outside of Kansas; these are Public Wholesale Water Supply District No. 13 based in Linn County and another district in the very southeastern corner of Kansas which could possibly provide water to as many as five entities in Oklahoma. In either case, the Districts will be incorporated in Kansas as majority of the entities will be from Kansas.

Because of the development costs, it will be beneficial to the overall success of the Districts to have as many members as can be economically served. Typically, each entity that chooses to join the Public Wholesale District appoints one representative to the governing board of the Public Wholesale District and entitles each entity then to have one vote on the Public Wholesale District's board of directors. Issues which the board typically would be voting on include budgets, rates, policies & procedures, hiring of employees, etc. HB 2403 ensures that public water systems located outside of Kansas will be afforded representation on the governing bodies of Public Wholesale Water Supply Districts organized in Kansas.

This is basically a courtesy bill. The Kansas Rural Water Association encourages your favorable support for HB 2403.

Respectfully submitted,

Dennis Schwartz  
Director

Senate Energy + Nat'l Resources  
February 13, 1996  
Attachment 1

PUBLIC WHOLESALE WATER SUPPLY DISTRICT NO. 13  
% JOHN HENNESSY  
RR #1, BOX 41A  
FULTON, KANSAS 66738

COMMENTS ON  
HOUSE BILL 2403  
BEFORE THE SENATE ENERGY AND NATURAL RESOURCES COMMITTEE  
FEBRUARY 13, 1996

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to present comments on House Bill 2403. I am John Hennessy, Board Member of Public Wholesale Water Supply District #13, proposing to serve water to eleven entities, of which two are in Missouri.

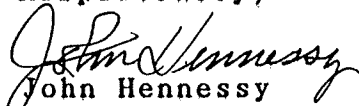
Public Wholesale Water Supply District #13 is a legal entity, made up of RWD's and small cities, banded together to solve a common water problem, in a cost effective manner. Each entity has equal representation and an equal vote on all matters, especially establishing water rates charged. The PWWSD does not control or interfere with the individual RWD or City governmental structure. Each entity is represented by a designated individual from their City or RWD. This representative is their only connection to the PWWSD board.

The two Missouri entities, under present law, are not allowed to be voting members. Under the Public Wholesale concept, all members should have equal vote and responsibility. Out-of-state members cannot hold office, cannot control rates, etc.,. They can only purchase water. PWWSD #13 was not aware of this restriction when they organized, and have always intended to treat all members equal. This restriction weakens the viability of this PWWSD, and its service to Kansas residents.

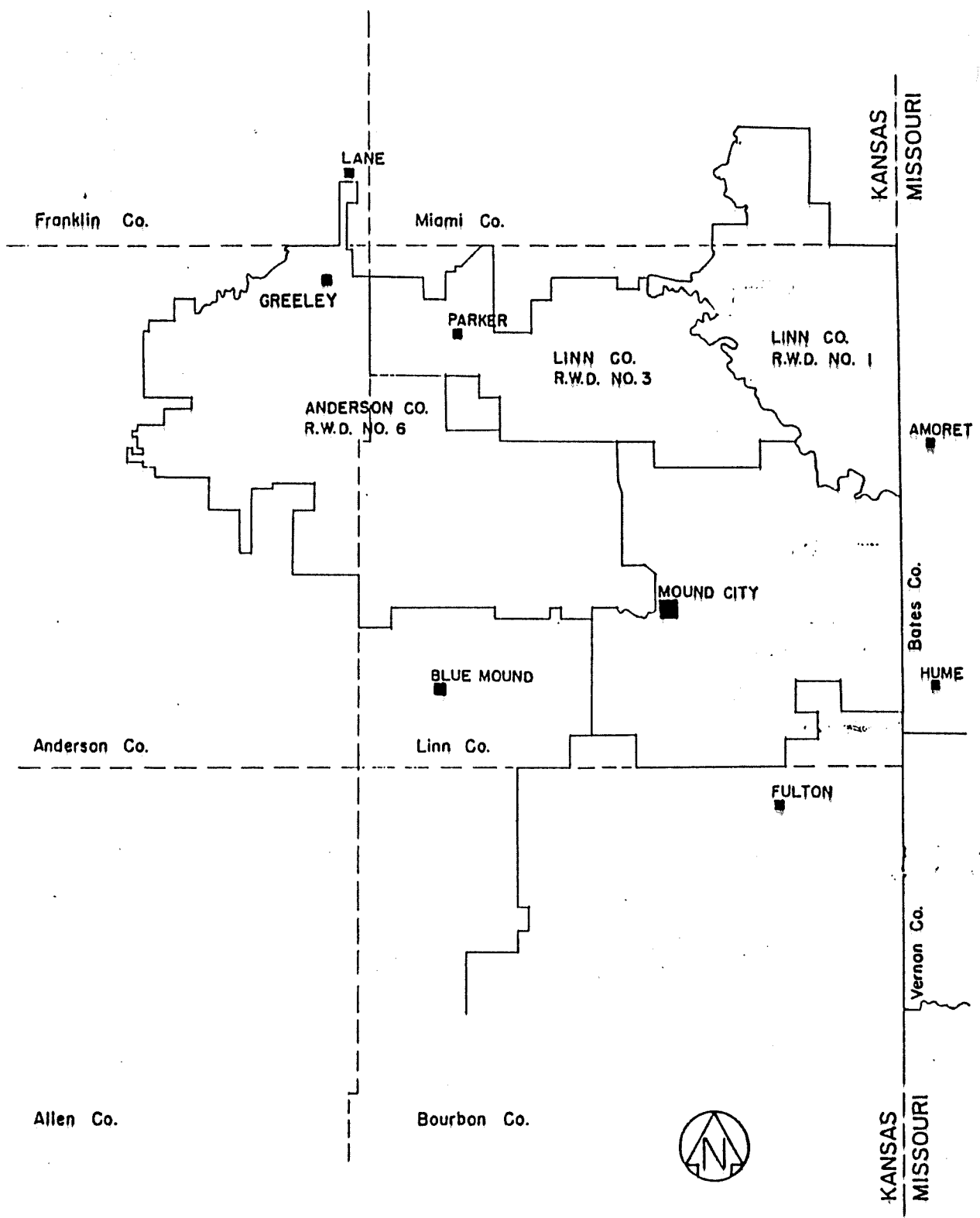
House Bill 2403 corrects the oversight which restricts non-Kansas entities from being voting members of PWWSD #13.

PWWSD #13 encourages favorable support for House Bill 2403.

Respectfully,

  
John Hennessy  
PWWSD #13 Board Member

Senate Energy + Nat'l Resc.  
February 13, 1996  
Attachment 2



Marais des Cygnes Basin PWWSD No. 13  
Service Area

Figure 1