

Approved: 7-26-96  
Date

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Senator Lana Oleen at 11:10 a.m. on February 28, 1996 in Room 254-E of the Capitol.

Members present were: Senator Oleen, Chair  
Senator Tillotson, Vice Chair  
Senator Jones, Ranking Minority Member  
Senator Gooch  
Senator Hensley  
Senator Jordan  
Senator Papay  
Senator Praeger  
Senator Ramirez  
Senator Vidricksen  
Senator Walker

Members not present:

Committee staff present: Mary Galligan, Legislative Research  
Mary Torrence, Research  
Nancy Wolff, Committee Secretary

Conferees appearing before the committee:  
Natalie Haag, Executive Director, State Gaming Agency  
Ed Schaub, Western Resources

Others in attendance: See attached list

Discussion was held on **SB410** which would bring about statutory changes to facilitate implementation of tribal-state gaming compacts.

Natalie Haag, Executive Director of the State Gaming Agency, explained that the structure of the new commission as it would be created under the bill would show an organization chart with gaming on one side and racing on the other. Each would have their own executive director. The State Gaming Agency would actually be attached to the racing commission and it would become the State Racing and Gaming Commission.

Senator Hensley made a motion that the Indian gaming component be attached to the racing commission so that it would become the racing and gaming commission, each having their own executive director. Senator Praeger seconded the motion. Following discussion, the motion was withdrawn.

Senator Walker made a motion to adopt the balloon as a substitute for **SB410** and Senator Hensley seconded the motion. The motion carried.

Senator Hensley then made a motion that the Indian gaming component be attached to the racing commission, each with their own executive director. Senator Praeger seconded the motion. The motion carried.

Senator Jones made a motion that Substitute for **SB410** be reported favorable as amended and Senator Tillotson seconded the motion. The motion carried.

Senator Oleen stated that the groups involved in **SB627** have been meeting and have come to an agreement on how to settle their differences. **SB627** deals with contracts for payment of royalties for certain musical works; imposing certain requirements and prohibiting certain acts. Senator Oleen stated that a motion was required to take the motion picture industry out of the bill.

Senator Walker made a motion to amend the motion picture industry out of **SB627** and Senator Hensley seconded the motion. The motion carried.

Senator Walker made a motion to report **SB627** favorable for passage and Senator Tillotson seconded the motion. The motion carried.

The committee then reviewed **SB617** which would place a moratorium on sand dredging in the Kansas River. Ed Schaub, representing Western Resources, testified that an amendment would be required to allow Western Resources to periodically sand dredge to keep the intakes clear of sand sediment deposits at the Jeffrey Energy

Center, the Tecumseh Energy Center and the Lawrence Energy Center. He presented a balloon proposal illustrating the amendment that would be required to allow such dredging to be completed (Attachment 1).

Senator Walker made a motion to amend SB617 by the balloon and report the bill favorable for passage as amended. Senator Gooch seconded the motion. The motion carried.

Senator Tillotson read a letter from W. K. Rhodes who is a county commissioner in Leavenworth County regarding SB617 (Attachment 2).

The meeting was adjourned at 11:55 a.m.

FEDERAL & STATE AFFAIRS COMMITTEE  
GUEST LIST

DATE: 2-28-96

NAME	REPRESENTING
Mike Howell	Friends of the KAW
Eileen Kern	
Eugene Masquat	
Coelia Jackson	
Rose Masquat	Potawatomi Nation
Edna McClure	" "
Julia DeVries	" "
Cassie McClure	
Curtis P. Masquat	Potawatomi
Ernest Masquat	" "
Robert Doolin	St. Francis Hosp., CDTS
Robert Markham	St. Francis Hosp., CDTS
Alan Steppat	PETE McBILL & Associates
Sunny Pitts	Potawatomi Tribal Council member
Natalie Haag	State Gaming Agency
David R. Williams	Division of the Budget
George Stephanopoulos	Senior Presidential Advisor
Lance Burr	Friends of the Kaw
Mark Maher	Citizens For the Future of Jefferson County
Bill Gaven	KMCC / Seena Club
Brenda Webb	Sen. Hensley
Lita Brown	Peterson Public Affairs Group
Ed Schaub	Western Resources Inc.
Whitney Damon	BMI
Chuck Engel	ASCAP
JOHN BOTTENBERG	BOTTENBERG & ASSOC
Andy Moss	KAPPA

**Testimony Before The  
Committee on Federal and State Affairs**

**Senate Bill 617**

**by**

**Ed Schaub  
Western Resources**

**02/14/96**

Madam Chairman and Members of the Committee:

Western Resources appreciates the opportunity to testify before the Committee on Federal and State Affairs in an effort to clarify exemptions to the proposed legislation.

Western Resources has several operational situations which require us to remove sand from certain areas of the Kansas River. The water intake structures in the Kansas River that supply our Jeffrey Energy Center, our Tecumseh Energy Center and our Lawrence Energy Center require periodic sand dredging to keep the intakes clear of sand sediment deposits. This dredging process involves the removal of up to 2800 cubic yards of sand sediment annually at each water intake structure. Our power plants must have water from these intakes to operate. Another operational situation which may require the moving or removal of sand from the Kansas River involves the operation and maintenance of our natural gas pipelines that cross the river. When maintenance is necessary, sand must be dredged to allow access to pipelines. We do not remove any sand for resale. It is Western Resources' position that these critical operational situations should be exempt from the prohibitions to remove or alter sand in the Kansas River as proposed in SB 617.

*Federal and State Affairs  
2/28/96  
Attachment 1*

We are proposing a simple clarification in New Sec. 3 par. (c) which would allow water intake clean out and other utility maintenance operations to be exempt from the proposed requirements of SB 617.

**AMEND NEW SEC. 3. (c)**

**(c) Nothing in this act shall prevent sand dredging necessary to maintain operations of existing or proposed water intake structures, utility maintenance, preserve transportation rights of way, levees, dikes and other structures necessary to preserve in or along the Kansas river.**

I urge the committee to support our proposed amendment of SB 617.

**SENATE BILL No. 617**

By Committee on Federal and State Affairs

2-5

9 AN ACT concerning sand dredging; relating to dredging in and along  
 10 certain portions of the Kansas river; amending K.S.A. 70a-102 and 82a-  
 11 301 and repealing the existing sections.

12  
 13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 70a-102 is hereby amended to read as follows: 70a-  
 15 102. Whenever any person desires to take from any such river any sand,  
 16 gravel, oil, gas or mineral, or from any land in such river any hay, timber  
 17 or other products, such person shall obtain the consent of the director of  
 18 taxation and upon such terms of payment to the state of Kansas and under  
 19 such terms and conditions as the director of taxation determines to be  
 20 just and proper. *The director of taxation shall not consent to the removal*  
 21 *of sand in the Kansas river from river mile 162, near the city of Ogden,*  
 22 *through river mile 52, at Bowersock dam in the city of Lawrence, until*  
 23 *after authorized to do so following the legislature's review of an ongoing*  
 24 *study by the Kansas department of wildlife and parks pertaining to de-*  
 25 *velopment of a recreational corridor in and along the Kansas river.*

26 Such compensation to the state of Kansas shall be paid at such times  
 27 and under such terms of supervision as the director of taxation directs  
 28 and, with respect to river sand, such compensation shall be computed at  
 29 the rate of \$.08 per ton taken. No contract shall be entered into giving  
 30 any person, company or corporation any exclusive privilege of making  
 31 purchases under this act. Nothing herein shall prevent the taking without  
 32 payment therefor of any sand or gravel to be used exclusively for the  
 33 improvement of public highways or to be used exclusively in the construc-  
 34 tion of public buildings or for other public use or to be used exclusively  
 35 by the person taking same for such person's own domestic use. The sec-  
 36 retary of revenue shall determine, by rule and regulation, the amount of  
 37 compensation to be paid on materials removed from a river or from any  
 38 land in such river.

39 Sec. 2. K.S.A. 82a-301 is hereby amended to read as follows: 82a-  
 40 301. (a) Without the prior written consent or permit of the chief engineer  
 of the division of water resources of the state board of agriculture, it shall  
 be unlawful for any person, partnership, association, corporation or  
 43 agency or political subdivision of the state government to: ~~(a)~~ (1) Con-

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1-1

1 struct any dam or other water obstruction; ~~(b)~~; (2) make, construct or  
2 permit to be made or constructed any change in any dam or other water  
3 obstruction; ~~(e)~~; (3) make or permit to be made any change in or addition  
4 to any existing water obstruction; or ~~(d)~~ (4) change or diminish the  
5 course, current, or cross section of any stream within this state. Any ap-  
6 plication for any permit or consent shall be made in writing in such form  
7 as specified by the chief engineer. Jetties or revetments for the purpose  
8 of stabilizing a caving bank which are properly placed shall not be con-  
9 strued as obstructions for the purposes of this section.

10 (b) *The chief engineer shall not issue a new permit for sand dredging*  
11 *in the Kansas river from river mile 162, near the city of Ogden, through*  
12 *river mile 52, at Bowersock dam in the city of Lawrence, until after au-*  
13 *thorized to do so following the legislature's review of an ongoing study by*  
14 *the Kansas department of wildlife and parks pertaining to development*  
15 *of a recreational corridor in and along the Kansas river.*

16 New Sec. 3. (a) The governor shall inform the United States army  
17 corps of engineers of the provisions of this act.

18 (b) Nothing in this act shall affect sand dredging permitted and au-  
19 thorized prior to the effective date of this act in or along the Kansas river  
20 from river mile 162 through river mile 52.

21 (c) Nothing in this act shall prevent sand dredging necessary to pre-  
22 serve transportation right of ways, levees, dikes and other structures nec-  
23 essary to preserve property in or along the Kansas river.

maintain operations of existing or proposed  
water intake structures, utility maintenance,

24 Sec. 4. K.S.A. 70a-102 and 82a-301 are hereby repealed.

25 Sec. 5. This act shall take effect and be in force from and after its  
26 publication in the Kansas register.

# Rhodes Dairy Farm

W. K. Rhodes



TELE: 913-796-~~2000~~ 6342  
RURAL ROUTE 2  
MCLOUTH, KANSAS 66054

February 25, 1996

Carolyn Tillotson  
Senator, 3rd District  
Kansas Capitol, Room 136-N  
Topeka KS 66612-1504

Dear Carolyn,

Thank you for your letter. In regard to the sand dredging moratorium, I will touch on a few issues most of all you have heard before.

Personally, it seems to me that most of the arguments provided by the Friends of the Kaw group are based more on emotionalism rather than facts. This is also the opinion of the people from the Corps of Engineers. The Corps spent 10 years and \$14 million on a study that would take weeks to digest in addressing all the issues that have been brought up. Victory Sand has been in Topeka for some 70 years with no seemingly adverse effect. Look at the highway projects that are coming on line in the next few years. Also the new construction. Where is the sand for these projects going to come from? If the plants are limited to 300,000 tons per plant, how will this work, and what will it do to the cost of the projects?

If we want to make the river a recreation area, that's fine - the same with the Santa Fe Railroad. These are very precious to our heritage, but we will have to decide who will take care of them and police them, the State or Counties? Jefferson County already has 40,000 acres of Corps ground and on some weekends, 50,000 visitors. Perhaps we need to start gearing more to tourism and less to agriculture. This does not appeal to me, but I'm sure it would to many.

Back to the sand dredging, the Corps is responsible for the rivers. Whatever decision they make will be the decision the County will abide by.

Now if we have a 2 year moratorium, I'll be out of office and won't have to worry about it, but it will be interesting to see how they will supply sand for all the projects that are on the drawing board.

*Federal and State Affairs*  
*2/28/96*  
*Attachment 2*