

Approved: \_\_\_\_\_  
Date

MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

The meeting was called to order by Chairperson Senator David Corbin at 8:10 a.m. on March 16, 1999 in Room 254-E of the Capitol.

All members were present.

Committee staff present:

Raney Gilliland, Legislative Research Department  
Mary Ann Torrence, Revisor of Statutes Office  
Lila McClafin, Committee Secretary

Conferees appearing before the committee:

Clark Duffy, Kansas Water Office

Others attending:

See attached list.

Chairperson Corbin called for action on the minutes of March 10 and 11. Senator Vratil moved they be adopted. Senator Stephens seconded the motion. The motion carried.

Chairperson Corbin announced the agenda was the continuation of the hearing on **HB 2404: Termination of water right; notice to user of due and sufficient cause use exception.** Senator Corbin said written information had been distributed, from the Kansas River Water Assurance District #1, supporting the amendment authorizing the State to acquire and hold in trust Federal Government water rights (Attachment 1).

Clark Duffy was called on to continue his remarks regarding the proposed amendment on **HB 2404.**

Mr. Duffy's testimony and all of the supporting papers can be found marked as (Attachment 4) and included with the minutes of March 11, 1999. Mr. Duffy said it is their recommendation that legislation be enacted to allow the Kansas Water Office to acquire the Sunflower Water Rights. He said the interested parties have reached an agreement that it would be best for the Kansas Water Office to hold the water rights until such time as the parties reach an agreement on how they should be disposed of.

Mr Duffy responding to a question said that the water rights were owned by General Surface Association. Answering another question he said usually water rights are not nearly as large as this one, and it would be placed on the public market and sold to the highest bidder.

Chairperson Corbin explained why the state wanted to buy the water rights. He said it was thought that if the Kansas Water Office owned the water right it would ensure that the needs of the interested parties were met and it would give the interest parties an opportunity to work out an agreement regarding the disposition of the water rights. Several members of the committee expressed concern with the state purchasing water at \$40.00 an acre foot. And could the State be setting a precedent for the cost of water per an acre foot, that could be used against the state in settling of pending cases with Colorado and Nebraska?

Mr. Duffy said written testimony from Desoto and Johnson County Water District #1 was attached to his statement of March 11.

The hearing was closed on **HB 2404.**

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, Room 254-E Statehouse, at 8:10 a.m. on March 16, 1999.

Attention was turned to **SB 158: Relating to propane; creating the Kansas propane education and research council; providing for the powers, duties and functions thereof; providing for certain assessments.**

Steve Kearney said they had worked with the interested parties to come to an agreement and an amendment had been worked out to address this concern. He responded to several questions.

Senator Goodwin moved that the bill be amended on page 4, and a new section "c" be added (Attachment 2) The amendment would prevent a pass through to consumers of the assessment determined by the Council in Section 4 (a). The motion was seconded by Senator Biggs. Discussion followed. The motion carried.

Concern was expressed that it was a private tax on every gallon of propane sold and that it will be a tax that will be passed through to the consumers of propane gas. Also, fear was expressed that other such councils may decided to ask for the same kind of assessment.

Senator Goodwin moved that SB 158 be passed as amended. Senator Biggs seconded the motion. The motion carried on a 5 to 4 vote, with the Chair voting no.

The meeting adjourned. The next meeting will be held on March 17, 1999.





# The Kansas River



## Water Assurance District No. 1

212 SW 7th Street - Topeka, Kansas 66603-3717

March 15, 1999

Honorable David Corbin  
Chairperson  
Energy and Natural Resource Committee  
State Capitol Building  
300 SW. 10th Ave  
Room 120 S  
Topeka, KS 66612-1504

REF: HB 2404: Ammedments autherizing the State to aquire and hold in trust Federal Government water rights.

The Kansas River Water Assurance District No. 1 representing the municipalities and industries along the main stem of the Kansas River support the amenments to HB 2404.

We note that this legislation points up the need for the creation of a market place where water rights can be leased, traded or sold. A task force appointed by the Chief Engineer of the Division of Water Resources has been addressing this issue for the past two years. The Assurance District has been represented on the task force. We hope to have enabling legislation ready for the next session of the legislature.

Ammedments to HB 2404 provides an interim means of retaining the priority of large senior water rights for future use which may potentially be important for economic development of the state. This is a major goal of the water right banking discussion. Absent this legislation these water rights are subject to abandonment pursuant to KSA 82a-718. Further uses would be granted the most junior water rights on the river meaning they would be the first uses to be shut off during drought.

The Prior Appropriation doctrine has served this state well

Senate Energy & Natural Resources

Attachment: 1

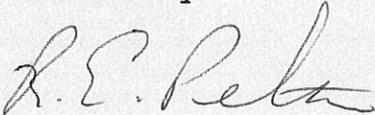
Date: 3-16-99

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for the past 50 years but we do not believe we should handcuff our future to the accident of time when our predecessors in time obtained their water rights. This Bill and the water rights banking issue provide a market place where vital interests of the state can go for the purpose of taking charge of their affairs and promote the economic well being of the state.

Sincerely



R. E. Pelton  
General Manager

PC Larry D. Shannon  
Clark Duffy  
Roger K. Weatherby

with qualified industry organizations to provide efficient delivery of services and to avoid unnecessary costs of duplication of activities.

3 Sec. 4. (a) An assessment to be set by the council at no greater than  
4 \$.005 per gallon on odorized propane sold in the state shall be imposed  
5 on the wholesaler, reseller, supplier or importer who first sells, offers for  
6 sale or uses odorized propane in this state. The council shall not change  
7 the assessment rate more than once a year. The assessment shall be cal-  
8 culated by multiplying the assessment rate by the number of net gallons  
9 of odorized propane on a bill of lading, an invoice or a shipping document.  
10 If the quantity specified in the bill of lading, invoice or shipping document  
11 is listed in units other than gallons, the wholesaler, reseller, supplier or  
12 importer shall convert those units to gallons, using conversion tables ap-  
13 proved by the council, prior to remitting the assessment to the council.  
14 The council may establish an alternative means to collect the assessment  
15 if another means is found to be more efficient and effective.

16 (b) Assessments shall be remitted to the council on a monthly basis  
17 by the 25th day of the month following the month of the sale of the  
18 propane. Nonodorized propane shall not be subject to the fee until odor-  
19 ized. The council may establish a late payment charge and rate of interest  
20 to be imposed on any person who fails to remit to the council any amount  
21 due under this act.

22 *d* Pending disbursement pursuant to a program, plan or project, the  
23 council may invest funds collected through assessments and any other  
24 funds received by the council, only in obligations of the United States or  
25 any agency thereof, in general obligations of any state or any political  
26 subdivision thereof, in any interest-bearing account or certificate of de-  
27 posit of a bank that is a member of the federal reserve system, or in  
28 obligations fully guaranteed as to principal and interest by the United  
29 States.

30 *e* Any rebate funds received from the national propane education  
31 and research council from assessments collected on odorized propane  
32 distributed from Kansas shall be the property of the Kansas propane ed-  
33 ucation and research council and the use of such funds shall be deter-  
34 mined by the Kansas propane education and research council for the  
35 intended purposes of this act.

36 *f* Moneys collected by the council shall be expended only for the  
37 purposes of this act and shall not be used in any manner for influencing  
38 legislation or for political campaign contributions, except that the council  
39 may recommend to the legislature changes in this act or other statutes  
40 that would further the purposes of this act.

41 *g* The council may, on its own initiative, and shall, upon the petition  
42 of retail marketers representing at least 35%, as determined by the coun-  
cil, of the total volume of odorized propane sold at retail in the state of

(c)

The price of propane shall be determined by market forces consistent with antitrust laws and no provision of this Act shall be interpreted as allowing a pass through to consumers of the assessment determined by the Council in Section 4 (a) above.