

## MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

The meeting was called to order by Chairperson Senator David Corbin at 8:00 a.m. on February 1, 2000 in 245-N of the Capitol.

All members were present except:

## Committee staff present:

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

## Conferees appearing before the committee:

Al LeDoux, Director, Kansas Water Office  
Terry Duvall, Kansas Water Office

## Others attending:

See attached list.

Senator Pugh asked that a committee bill be introduced enacting the rails to trails safety and protection act, he briefly explained the bill. Senator Pugh moved the bill be introduced, the motion was seconded by Senator Stephens. Motion carried..

Senator Stephens asked to have a committee bill introduced that would extend the season for taking certain geese. Senator Stephens moved the bill be introduced, the motion was seconded by Senator Vratil. Motion carried.

With a motion from Senator Stephens and a second from Senator Goodwin, the minutes of January 28, 2000 were adopted.

Dwight Metzler, former secretary, of Kansas Department of Health and Environment, submitted for the record remarks regarding the meeting of January 26, 2000 (Attachment 1).

Staff was called on for clarification of what the statutes say regarding the roll of the Secretary of Health and Environment in protecting the waters of the state, and the secretaries roll in enforcement of the water act. The statutes were distributed and discussion followed. The chairperson asked staff to provide the members with a map of the areas of the state were sensitive groundwater areas and the Equus beds are located.

**SCR 1630—urging the Kansas Water Office to pursue the purchase of water supply storage capacity in Kanoloplis Reservoir from the United States Army Corps of Engineers.**

Al LeDoux provided background on the Kanoloplis Lake water supply purchase issue. He said they have worked with the Kansas Delegation for the past two years and during the 1999 session language was approved by Congress which states the State of Kansas should be offered the right to purchase water storage in Kanopolis Lake, Kansas. The SCR encourages the United States Army Corps of Engineers to cooperate with the Kansas Water Office in negotiating the sale of water supply in a timely manner and under reasonable terms (Attachment 2)

Mr. LeDoux and Ms. Duvall responded to questions.

The hearing was closed.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

Chair opened the discussion on SCR 1630.

Senator Morris moved that SCR 1630 be passed. Senator Vratil seconded the motion. Motion carried.

The meeting adjourned at 8:40 a.m. The next scheduled meeting is February 2, 2000.

SENATE ENERGY & NATURAL RESOURCES  
COMMITTEE GUEST LIST

Please Sign in  
Black Ink

DATE: Feb 1, 2000

NAME	REPRESENTING
Al LeDoux	KWO
Darryl Duwall	"
Charles Benjamin	KNRC/Sierra Club
Jim Kauf	City of Hays

**From:** "Dwight F. Metzler" <dfox@cjnetworks.com>  
**To:** "Alicia Salisbury" <salisbury@senate.state.ks.us>  
**Date:** Thu, Jan 27, 2000 6:02 PM  
**Subject:** Report on Senate environment committee

January 27, 2000

Dear Senator Salisbury,

I attended the meeting of the Senate environment committee on a frigid morning, January 26, 2000. I thought you might like to have my reaction to that session. Secretary Clyde Graeber gave a report on house bill 2950 from the 1998 session. He mentioned several items for improving the law which I hope you can support.

1. Include much smaller farms for permits than required under the present law. In 1998 everyone was interested in keeping the impact of this bill as small as possible, so when they set the limit for size it authorized quite large farms before permits were required. The limit was about the equivalent of 27, 000 people. Secretary Graeber suggested that the size of farm requirements for a permit be reduced.

2. He talked about separation distances and indicated that some greater flexibility was needed for KDHE. In my view this is extremely important as we gain a better understanding of the aerosols created by the irrigation spray guns and the diseases which the aerosols carry. Iowa has half a mile as an absolute limit for the application of wastes near residences. Iowa then goes on to point out the influence of wind direction and other factors.

3. Secretary Graeber mentioned that the importance of protecting the ground water. He is beginning to require observation wells for new projects. They provide for frequent checking of ground water quality under and near the lagoons. I applaud the progress which KDHE is making in this area.

It seems to me that the Legislature is unanimous in its approval of Secretary Graeber's management. He is very fact oriented and listens extremely well. It is a joy to see his administration turning KDHE around. There was none of the negative expressions yesterday about KDHE which recent sessions of the Legislature have voiced. If you think it is appropriate, will you forward a copy of my remarks to the Senate committee on the environment.

Sincerely,

Dwight F. Metzler

Senate Energy & Natural Resources

Attachment: /

Date: 2-1-2000

1-1

STATE OF KANSAS



Bill Graves, Governor

KANSAS WATER OFFICE  
Al LeDoux  
Director

901 S. Kansas Ave.  
Topeka, Kansas 66612-1249

785-296-3185  
FAX 785-296-0878  
TTY 785-296-6604

**TESTIMONY TO  
THE SENATE ENERGY AND NATURAL RESOURCE COMMITTEE  
ON SENATE CONCURRENT RESOLUTION 1630 KANOPOLIS**

**Tuesday, February 1, 2000**

**by Al LeDoux, Director  
Kansas Water Office**

Thank you, Chairman Corbin, for the opportunity to address the Senate Energy and Natural Resource Committee regarding this resolution. The Kansas Water Office supports this resolution. If I may, I would like to give you a brief background on the Kanopolis Lake water supply purchase issue.

In December of 1985, a Memorandum of Understanding (MOU) was signed with the Corps of Engineers, giving the State of Kansas the right of first refusal to buy storage space reallocated from water quality to water supply in federal lakes at original construction costs and interest rates, Kanopolis Lake was not included in the list of lakes covered by the MOU because of complications relating to how a proposed pool raise would be funded, and questions relating to use of water made available by a pool raise by local irrigation interests. That MOU expired on June 30, 1996.

After a lengthy study, the Corps determined in June of 1996 that they could not sell reallocated storage to the State of Kansas under the provisions of the 1985 MOU. The Corps was willing to sell the storage space to the State at updated costs at an interest rate which would essentially quadruple the price per acre-foot of storage. If the State were to purchase this storage space, the costs would be passed on to all current participants in the State Water Marketing Program and to the Post Rock Rural Water District under a water marketing contract. The current rate to Water Marketing Program purchasers is 14.5 cents per 1,000 gallons. It is conceivable this rate would rise if the Kanopolis storage is added to the Water Marketing pool. The State has chosen not to purchase reallocated storage under these conditions.

During the 1998 and 1999 U.S. Congressional Sessions, the Kansas Delegation attempted to pass legislation which would make Kanopolis storage available to the State of Kansas at a more reasonable cost. During the 1999 Session, language was approved by Congress which states:

Senate Energy & Natural Resources

Attachment: 2

Date: 2-1-2000

**Sec. 531. KANOPOLIS LAKE, KANSAS.**

(a) WATER STORAGE. - The Secretary shall offer to the State of Kansas the right to purchase water storage in Kanopolis Lake, Kansas, at the average of -

(1) the cost calculated in accordance with the terms of the memorandum of understanding entitled "Memorandum of Understanding Between the State of Kansas and the U.S. Department of the Army Concerning the Purchase of Municipal and Industrial Water Supply Storage," dated December 11, 1985; and

(2) the cost calculated in accordance with procedures established as of the date of enactment of this Act by the Secretary to determine the cost of water storage at other projects under the Secretary's jurisdiction.

(b) EFFECTIVE DATE. - For the purposes of this section, the effective date of the memorandum of understanding referred to in subsection (a)(1) shall be deemed to be the date of enactment of this Act.

The KWO has been in contact with the K.C. District of the Corps of Engineers regarding their interpretation of this language. The Corps informed us in our latest discussions about Kanopolis, that the Office of Management and Budget is moving ahead with interpretation of the Water Resources Development Act, section by section. Since the section in question is near the end of the Act, it may be some time before they review this section. Once the Act is clarified, the Corps will calculate the costs to the State for purchase of storage in Kanopolis. Our interpretation of the Act leads us to believe the costs would be approximately \$6 million for 20,000 acre-feet of storage. We do not know what impact this purchase might have on the State Water Marketing Program, because we do not know what portion of the water supply might be included in that program and how the balance of storage might be financed.

We have informed the Corps of the Kansas Legislature's desire to move ahead on this issue. The Kansas Water Office and the Kansas Water Authority very much appreciate your support of this concurrent resolution.