

MINUTES OF THE HOUSE ENVIRONMENT COMMITTEE

The meeting was called to order by Chairperson Joann Freeborn at 3:30 p.m. on February 12, 2004 in Room 231-N of the Capitol.

All members were present except:

Representative Bill Light- excused
Representative Dan Thimesch- excused
Representative Ted Powers- excused

Committee staff present:

Raney Gilliland Legislative Research Department
Mary Torrence, Revisor of Statutes
Mary Ann Graham, Committee Secretary

Conferees appearing before the committee: Jeffrey Gross, Assistant State Conservationist for Water Resources, Natural Resources Conservation Service, US Dept. Of Agriculture, 760 S Broadway, Salina, KS 67401
Herbert Graves, Jr., Exec. Director, State Association of KS Watersheds, 2830 Rain Road, Chapman, KS 67431
Tracy Streeter, Exec. Director, KS State Conservation Commission, 109 SW 9th Street, Suite 500, Topeka, KS 66612-1215

Others attending:

See Attached List.

Chairperson Joann Freeborn called the meeting to order. She announced that she had appointed a subcommittee to discuss **HB2583** - Recreational Trails; noncompliance by responsible party; remedies. Chairperson, Rep. Joann Freeborn; Rep. Vaughn Flora; and Rep. Tom Sloan are the subcommittee members. They will meet upon adjournment of the House on Friday, February 13. She will announce on the House Floor the meeting room. She announced that the committee will not be taking action on **HB2607** - An act concerning solid waste management. She reviewed the committee agenda for next week, Tuesday, February 17, a hearing on **HB2620** - Irrigation transition assistance loan program for water right owners converting to non-irrigation land use. The agenda will be revised, action on **HB2480** - Membership of the Kansas Water Authority, will be added. Thursday, February 19, Possible action on bills previously heard.

The Chairperson welcomed Jeffrey Gross, Assistant State Conservationist for Water Resources, Natural Resources Conservation Service, US Dept of Agriculture, to the committee. He gave a presentation, with the use of overhead slides, on the Federal Watershed Program. Many small watershed dams in Kansas are reaching their design life, or have had a hazard class change due to downstream development. These dams will need rehabilitation by local watershed sponsors to extend their life and/or comply with hazard class requirements. The State of Kansas provide funding(through loans or grants) to help pay the local watershed sponsors portion (35%) of rehabilitation expenses. The remaining portion (65%) will be provided by the federal government. Small watershed dams are essential to the continued economic and social development of rural Kansas. In the last 50 years, over 800 dams have been built in Kansas with assistance from the US Department of Agriculture (USDA). The dams provide an estimated \$30 million in annual benefits. Benefits include flood protection, municipal and irrigation water supply, water quality, reduced soil erosion, wildlife habitat, and recreation. The dams are federally assisted, not federally owned. Local sponsors own the dams and are responsible for their operation and maintenance. Today, 46 dams across Kansas may be in need of rehabilitation because of either a hazard class change, or the dam has reached its design life. 65% of the cost of rehabilitation will be provided by USDA. (See attachment 1) Committee questions and discussion followed.

Chairperson Freeborn thanked Mr. Gross for his presentation and opened hearing on **HB2674**.

HB2674: Loan program to pay certain costs of rehabilitation of watershed dams.

CONTINUATION SHEET

MINUTES OF THE HOUSE ENVIRONMENT COMMITTEE at 3:30 p.m. on February 12, 2004 in Room 231-N of the Capitol.

Raney Gilliland, Legislative Research Department, gave an explanation of the bill.

Herbert Graves, Jr., Executive Director, State Association of Kansas Watersheds, was welcomed to the committee. He testified in support of the bill that relates to establishing a State Rehabilitation Cost Share Program for Kansas. Kansas has an opportunity to also participate in a program that will insure the continuation of a \$30 million dollar annual benefit to the state. This benefit amount grows every year with new projects being completed in the US Department of Agriculture/Natural Resources Conservation Service (NRCS) administered PL566 Flood Prevention program. In this time of fiscal uncertainty, NRCS estimates \$1.5 million federal dollars will come to Kansas annually to get the program started. The economic development for Kansas from this program will only grow as more and more dams become eligible for rehabilitation. A major concern in Kansas is the increasing number of dams that are being reclassified due to downstream development. The re-classification requires dams to be re-built to a higher standard of safety. The rehabilitation program will provide funds for this re-build, but until the local dollars are made available people's lives remain in danger. (See attachment 2) Committee questions and discussion followed.

Matt A. Scherer III, Water Structures Program Manager, Division of Water Resources, Kansas Department of Agriculture, was in attendance to address committee questions.

Stracy Streeter, Executive Director, State Conservation Commission, was welcomed to the committee. He presented testimony to the bill as a neutral party. Kansas has in excess of 800 federal dams in place today, each providing some level of flood control for local communities. Today in Kansas, it is estimated that 46 of these structures may need to be rehabilitated with another 115 reaching the end of their designed life expectancy within the next decade. Congress created the federal program in 2000 which may provide financial assistance for dam rehabilitation at a cost share level of 65 percent with the remaining costs to be born by the project sponsor or some other non-federal entity. To his knowledge, the project sponsors for most federal dams in Kansas have been watershed districts. This bill creates the mechanism for the state to partner with local watershed districts by providing grants or loans to meet all or part of the 35 percent non-federal cost share requirement. The fate of our aging flood control infrastructure and the safety of dams are certainly issues that must be addressed in the short term as well as on a long term basis. (See attachment 3) Committee questions and discussion followed.

Chairperson Freeborn closed the hearing on **HB2674** and thanked conferees for their participation and the committee for their attention.

The meeting adjourned at 5:10 p.m. The next meeting is scheduled for Tuesday, February 17, 2004.

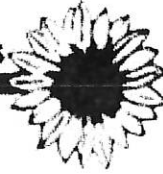
HOUSE ENVIRONMENT COMMITTEE

DATE February 12, 2004

NAME	REPRESENTING
Matt. Scherer	KS Dept. of Ag
Herb Graves	SARW
Jeff Gross	USDA - NRCS
Linda Niem	Farm Bureau
Wendy Williams	KAPA
Scott Heidner	KS Consulting Engineer
Steve Swaffar	KFB
Kent Askren	KFB
Tracy Steeth	State Cons. Comm.
KARR Helm	" " "
Sared Holst	Rep. Johnson
Garrett Schmidt	Rep. Powell
Dale Linsley	KDA
Barbara Snook	— Dodge City
Rhonda McCurry	KFB
Ashley Schrafu	KFB
John Tind	KFB



STATE ASSOCIATION
OF KANSAS WATERSHEDS



Contact:

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BACKGROUND

Issue:

Many small watershed dams in Kansas are reaching their design life, or have had a hazard class change due to downstream development. These dams will need rehabilitation by local watershed sponsors to extend their life and/or comply with hazard class requirements.

Recommended Action:

The State of Kansas provide funding (through loans or grants) to help pay the local watershed sponsors portion (35%) of rehabilitation expenses. The remaining portion (65%) will be provided by the federal government.

Key Points:

- Small watershed dams are essential to the continued economic and social development of rural Kansas.
- In the last 50 years, over 800 dams have been built in Kansas with assistance from the U.S. Department of Agriculture (USDA). The dams provide an estimated \$30 million in annual benefits.
- Benefits include flood protection, municipal and irrigation water supply, water quality, reduced soil erosion, wildlife habitat, and recreation.
- The dams are federally assisted, not federally owned. Local sponsors own the dams and are responsible for their operation and maintenance.
- Today, 46 dams across Kansas may be in need of rehabilitation because of either a hazard class change, or the dam has reached its design life.
- 65% of the cost of rehabilitation will be provided by USDA.

Background:

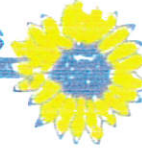
The United States Congress has recognized the urgency in addressing the issue of aging small watershed dams. Since 1948, local communities have constructed over 11,000 dams with the assistance of the USDA. Today, many of these dams are reaching their design life and pose a public safety issue.

In 2000, Congress passed the Watershed Rehabilitation Amendments, which amends PL-566, Watershed Protection and Flood Prevention Act, and authorizes the USDA Natural Resources Conservation Service (NRCS) to provide communities technical and financial assistance to rehabilitate their aging watershed dams.

In Kansas, 831 dams have been built under the Pilot Watershed Program (39 dams), Resource Conservation and Development Program (16 dams) or the Public Law 566 (776 dams). Most of these dams were built with a 50-year design life. Today, 46 dams in Kansas may be in need of rehabilitation (45 due to hazard class change; 1 due to design life). In the next decade, another 115 dams will reach their design life.



STATE ASSOCIATION
OF KANSAS WATERSHEDS



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State Association of Kansas Watersheds (SAKW) Testimony

House Environmental Committee

RE: HB 2674 / Kansas Rehabilitation Program

February 12, 2004

Presented by:

Herbert R. Graves Jr., SAKW Executive Director

*House Environment
2-12-04
Attachment 2*

Chairman Freeborn and members of the committee, thank you for the opportunity to provide comments on HB 2674 that relates to establishing a State Rehabilitation Cost Share Program for Kansas. My name is Herbert R. Graves Jr., Executive Director of the State Association of Kansas Watersheds, referred to as SAKW for the remainder of this testimony.

Jeff Gross, Assistant State Conservationist for Water Resources from NRCS, gave an overview of the federal rehabilitation program. As Jeff mentioned, there is a 35% local share of the costs of the program. We are here today to support HB 2674 that would provide ways for local watershed districts to participate in the federal program.

Kansas has an opportunity to also participate in a program that will insure the continuation of a \$30 million dollar annual benefit to the state. This benefit amount grows every year with new projects being completed in the United States Department of Agriculture/Natural Resources Conservation Service (NRCS) administered PL566 Flood Prevention program.

In this time of fiscal uncertainty, NRCS estimates \$1.5 million federal dollars will come to Kansas annually to get the program started. The economic development for Kansas from this program will only grow as more and more dams become eligible for rehabilitation.

I will leave with you a list of 10 states that already have rehabilitation cost share programs. That list mentions the source of state funds and what projects they are currently being spent on.

Nearby states like Missouri, Oklahoma, Nebraska, Iowa, and Texas are included on the list. These states along with Kansas rank in the top 10 for having the most PL566 dams in the country.

Local watershed districts do levy taxes to provide funds to cover their day-to-day expenses. These expenses include, but not limited to dam maintenance, office rental, hiring an office manager, State funded dam designs, mandated dam safety inspections, Kansas Department of Agriculture fees, land rights acquisition, board member authorized expenses, purchasing and maintenance of district equipment, and the list goes on.

Some local districts maintain a reserve fund that they feel is needed to take care of some of the future's uncertainties in maintenance and program administration.

Rehabilitation cannot help pay for maintenance needs. It basically extends the life of the dams so they will continue to provide the benefits that Kansas so much depends on.

I compare rehabilitation and maintenance like owning a car. We maintain a car by changing the oil, replacing filters, keeping it clean, doing a front end alignment, and buying new tires once in awhile. Rehabilitation of a car would be to rebuild the engine,

transmission, clutch, and differential. The family car is still basically a good means of transportation and with a larger investment we can keep it on the road for a longer period of time.

A major concern in Kansas is the increasing number of dams that are being reclassified due to downstream development. This re-classification requires dams to be re-built to a higher standard of safety. The rehabilitation program will provide funds for this re-build, but until the local dollars are made available people's lives remain in danger.

SAKW is working with local county governments to convince them of the need for floodplain zoning. Floodplain zoning is the best insurance to prevent downstream or upstream development that might re-classify watershed dams. Mandated floodplain zoning in Kansas does not seem to be very popular, but ignoring what is happening with uncontrolled development is not the answer either.

Re-classification upgrades are the most expensive rehabilitation projects. As was mentioned by Jeff, nearly 1/3 of all the projects being evaluated by NRCS at this time (12 out of the first 33 dams) have a re-classification issue to deal with.

We must mention that there is not a PL 566 dam in Kansas in danger of failing. State and Federal dam safety requirements make sure dams are safe by enforcing a strict maintenance or rehabilitation program.

Kansas has dams that are in need of rehabilitation now. The list will grow every year. There are watershed districts telling SAKW and NRCS that they just cannot afford to do the rehabilitation work alone. It is pretty certain the limited federal dollars will go to those states prepared to do the work.

HB 2674 will provide the mechanism to lend a hand to those watershed districts that need outside help from the state. Adding Kansas to that before mentioned list can happen with your assistance.

SAKW and our partnering watershed districts thank you again for allowing us to support HB 2674.



Herbert R. Graves Jr.
SAKW Executive Director

SOURCES OF LOCAL COST-SHARE FOR WATERSHED REHABILITATION PROJECTS

STATE	PROJECT	APPROX COST-SHARE \$	SOURCE	CONTACT PERSON(S)	TELEPHONE	COMMENTS
AZ	White Tank 3	\$7,000,000	Maricopa County Flood Control District	Tom Renckly, Flood Control District of Maricopa Co.	602.506.8610	Local funds depend on state program's appropriation.
GA	Yellow River 14, 15, 16, 17	\$3,250,000	Gwinnett County	Sam Fleming Gwinnett Co.	678.376.6947	State funds have been depleted, and no future funds budgeted. County funds are likely only in Metro Atlanta.
IA	Glen Ellen (3 dams)	\$403,000	2/3 in-kind administrative relocation and land rights – Woodbury Co. 1/3 cash – Iowa Watershed Protection Fund	Dave Beck, NRCS	515.323.2332	Cash is a grant to Woodbury Co. from IA Watershed Protection Fund (administered by IA Department of Ag)
MO	Williams Creek	\$170,000	MO DNR – Division of State Parks	Joe Goedde, Design Group Manager, MO DNR	573.751.5380	State parks are funded by a ¼% sales tax
MS	13 pilot projects	\$1,500,000	MS Soil & Water Conservation Commission	Wayne Ellis, NRCS	601.965.5227	State bonds and legislative appropriation for O-M and Rehab. Can cover up to 90% of local share of cost.
NE	Upper Salt Creek 10A, 19B	\$287,500	Lower Platte South Natural Resource District	Paul Zillig, Lower Platte South NRD	402.476.2729	NRD has an annual watershed operations budget
OK	Sandstone 17A Double Creek 1,4	\$600,000	State of Oklahoma	Dan Sebert, Oklahoma Cons Commission	405.521.4818	Annual state appropriation
TX	East Fork Above Lavon 3C	\$420,000	City of McKinney funds by Drainage Assessment Fees	Michael Hebert, City Engineer	972.547.7424	Sponsors contracting planning and design as their share.
VA	Marrowbone	\$700,000	Commonwealth of Virginia	Jon Phillippe, Director of Virginia Dam Safety	804.786.2886	Annual state appropriation
WI	7 Pilot Projects	\$1,000,000	Wisconsin DNR (50%) County Conservation Districts (50%)	Tom Krapf, NRCS	608.276.8732 ext 232	MOA signed: 65% NRCS 17.5% WDNR 17.5% Sponsor Led uses NRCS ranking process



Tracy Streeter, Executive Director

KANSAS
State Conservation Commission

Kathleen Sebelius, Governor

**Testimony on HB 2674
Program to finance the rehabilitation of federally-funded dams**

House Environment Committee

By Tracy Streeter, Executive Director

February 12, 2004

Madam Chairman and members of the Committee, thank you for the opportunity to provide testimony on House Bill 2674. HB 2674 would establish a program and fund to be used to assist in the rehabilitation of certain federally-funded dams. The program would be administered by the State Conservation Commission.

Kansas has in excess of 800 federal dams in place today, each providing some level of flood control for local communities. Today in Kansas, it is estimated that 46 of these structures may need to be rehabilitated with another 115 reaching the end of their designed life expectancy within the next decade. As you know, Congress created the federal program in 2000 which may provide financial assistance for dam rehabilitation at a cost-share level of 65 percent with the remaining costs to be born by the project sponsor or some other non-federal entity. To my knowledge, the project sponsors for most federal dams in Kansas have been watershed districts. HB 2674 creates the mechanism for the state to partner with local watershed districts by providing grants or loans to meet all or part of the 35 percent non-federal cost-share requirement.

HB 2674 creates the watershed structure rehabilitation fund which may be used to make loans and grants, bond payments, earn interest and finance the administrative costs associated with the program. Under the provisions contained in HB 2674, the Conservation Commission is charged with a number of responsibilities including the development of rules and regulations, the development of a priority system and ranking criteria, the development of an annual plan, the preparation of an annual report and must provide for an annual audit. Until the extent of the program and number of project applications are

known, it is difficult to determine the program's impact to the agency. The fiscal note submitted for HB 2674 indicates the implementation costs could approach \$70,000 if an additional FTE position is warranted.

As previously mentioned, 46 dams currently may be in need of rehabilitation with 45 of those dams needing rehabilitation due to a change in hazard classification. The change in hazard classification in most, if not all cases, is the result of a change in downstream land use and is not necessarily due to the age or condition of the dam.

The ability of the watershed district to finance rehabilitation and other activities varies from one district to another. All watershed districts have the authority to establish a general levy against all taxable, tangible property within the district. The watershed districts also have the authority to authorize special assessments against land within the district specifically benefited by any of the proposed projects and may propose the issuance of improvement bonds for projects, subject to the approval of voters within the district. However, the size of the district and the types of tangible property greatly influence the district's ability to generate revenue. Most cities within the boundaries of a watershed district are not considered part of the district for purposes of taxation. As a result, the majority of watershed district tax revenue is generated from rural, tangible property.

The fate of our aging flood control infrastructure and the safety of dams are certainly issues that we must address in the short term as well as on a long term basis. Again, I appreciate the opportunity to discuss with the Committee the issues pertaining to HB 2674. I will respond to questions at the appropriate time.