

MINUTES OF THE HOUSE AGRICULTURE AND NATURAL RESOURCES COMMITTEE

The meeting was called to order by Chairman John Faber at 3:30 P.M. on January 24, 2007, in Room 423-S of the Capitol.

All members were present.

Committee staff present:

Raney Gilliland, Kansas Legislative Research
Emalene Correll, Kansas Legislative Research
Jason Thompson, Office of Revisor of Statutes
Florence Deeter, Committee Assistant

Conferees appearing before the committee:

Representative Bill Otto, 9th District
Steve Adams, Natural Resource Coordinator, Kansas Department of Wildlife and Parks
Tom Thompson, Kansas Chapter of Sierra Club

Others attending:

See attached list.

Bill Introduction

Representative Elaine Bowers requested introduction of a bill for reorganization of the Cloud County Fair Board of Elections. By committee consensus, the committee accepted the request.

Hearing on HB 2052 - Concerning water projects environmental coordination act.

The Chairman opened the hearing on **HB 2052**, introducing Representative Bill Otto as a proponent. He said that the bill is an effort to address the Deer Creek Watershed Joint District #55's plan to build a lake at site #128; the District must first allow the Kansas Department of Wildlife and Parks to review the plan, a requirement which the District interprets as onerous (Attachment 1).

Steve Adams, Natural Resource Coordinator, Kansas Department of Wildlife and Parks, speaking on behalf of the Department, opposes **HB 2052** because of possible modifications of the Environmental Coordination Act. If enacted, this bill would set a precedent of possible exclusion of future public dialog (Attachment 2).

Tom Thompson, representing the Kansas Chapter of the Sierra Club, spoke in opposition to **HB 2052** (Attachment 3). He said small water projects are equally as important as larger projects and the Kansas Department of Wildlife and Parks' authority to protect ecological systems will be severely limited if this bill is enacted.

The Committee requested information be provided on mitigation plans and costs related to the Deer Creek Watershed Joint District #55. The Chair requested a complete list of the Kansas Endangered Species and the list of Threatened and Species in Need of Conservation.

The Chairman closed the hearing on **HB 2052**.

A preliminary sub-committee to gather information on inundation maps is being established by Vice-Chairman, Knox and Minority Leader, Svaty.

The meeting was adjourned at 4:25 p.m. The next meeting is scheduled for January 25, 2007.

HOUSE AGRICULTURE COMMITTEE GUEST LIST

DATE: January 24, 2007

NAME	REPRESENTING
Bill Otto	9th District Deer Creek Winter Sweet District
W. [unclear]	KAPPA
W. [unclear]	KAPPA

STATE OF KANSAS
HOUSE OF REPRESENTATIVES

SERVING: ALLEN, ANDERSON, FRANKLIN
COFFEY, AND WOODSON COUNTIES

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BILL OTTO

HB 2052

HB 2052 to limit the power of Wildlife and Parks over water shed district projects. The department is holding up a project in Deer Creek Water Shed District because it could be a nice place for Missouri Spotted Skunks to live. The last time we had an invasion of Missouri Skunks, they were two legged and sparked the Civil War. I think we do not need to waste Kansas money to invite Missouri Skunks to Kansas.

This bill limits Wildlife and Parks authority to review water shed districts lakes. After discussions with the districts last week I would request my 5 acres be raised to 10 and ask for your support.

Bill Otto
Representative, 9th District

**HS AGRICULTURE AND NATURAL
RESOURCES COMMITTEE**
1-24-2007
ATTACHMENT 1

KANSAS

DEPARTMENT OF WILDLIFE & PARKS

KATHLEEN SEBELIUS, GOVERNOR

January 26, 2006

Representative Bill Otto
State Capitol
300 SW Tenth St.
Topeka, KS 66612

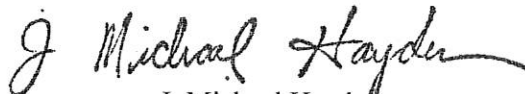
Dear Representative Otto:

I am writing to you to clarify some questions and misconceptions from your letter dated 12-14-2005 regarding the Kansas Department of Wildlife and Park's involvement with Deer Creek Watershed Joint District (WJD) #55, site #128. In your letter, you indicated the watershed board said that the KDWP required them to hire a survey for a ragweed and spotted skunks at a cost to the Kansas taxpayers of \$10,000. KDWP has never required the WJD to conduct such surveys. KDWP provided a habitat assessment, free of charge, to the WJD for the Spotted Skunk (*Spilogale putorius*), a species listed as Threatened under the Kansas Nongame and Endangered Species Act (KSA 32-957-963, 1009-1012, & 1033; KAR 115-15-1-3). The plant species in question, Mead's Milkweed (*Asclepias meadii*), is not regulated by the KDWP; however, it is a federally listed species and surveys may have been required through the Federal Endangered Species Act.

The watershed lake will impact habitat suitable for a state-listed species; therefore, a permit will be required. When habitat is lost by a project such as a watershed lake, the habitat must be mitigated in order to protect the species in question. The Spotted Skunk is one of two mammals listed as threatened or endangered by KDWP that still occur in the state. Recent records indicate only a few scattered populations exist in Kansas, including Anderson County where it prefers native grassland habitat adjacent to riparian woodlands, similar to what is found at site 128. KDWP staff offered several scenarios to the watershed district to mitigate for the lost habitat including planting grass and/or trees in the area. The WJD chose to utilize fee option mitigation in a plan agreed upon between the WJD and KDWP. Since fee option mitigation is a relatively new approach by the department to mitigate habitat loss for state-listed species, no funds have been submitted to KDWP by Deer Creek #55, or any other watershed district in Kansas. The mitigation plan was simply an agreement that if the WJD builds site 128, the agreed upon funds could be used as compensatory mitigation for the lost habitat. Funds, when submitted, would go to a 3rd party non-profit organization, which would then implement a suitable mitigation project through coordination with the department.

We hope this letter clarifies the questions you had regarding mitigation related to this project. We will continue to work towards our goal of protecting Kansas's natural resources by working with all permit applicants in developing and implementing mitigation plans in a fair and consistent manner.

Sincerely yours,



J. Michael Hayden

Secretary, Kansas Department Wildlife and Parks

Cc/
WJD #55, Mr. Clyde Durst
House District #5, Representative Bill Feuerborn
House District #104, Representative Michael O'Neal
House District #115, Representative Melvin Nuefeld
House District #82, Representative Don Myers
Senate District #15, Senator Derek Schmidt
Iola Register, Ms. Susan Lynn
Governor Kathleen Sebelius

Office of the Secretary

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KANSAS

DEPARTMENT OF WILDLIFE & PARKS

KATHLEEN SEBELIUS, GOVERNOR

**Testimony on HB 2052 relating to the Environmental Coordination Act
To
House Committee on Agriculture and Natural Resources**

**By Steve Adams
Natural Resource Coordinator
Kansas Department of Wildlife and Parks**

January 24, 2007

House Bill 2052 would amend K.S.A. 82a-327 to remove any project that impounds less than 5 acre-feet from comment by the Department of Wildlife and Parks. The provisions of this bill would be effective on July 1, 2007. **The Department is opposed to the provisions contained in this bill.**

The bill would modify the Environmental Coordination Act as follows:

“A proposed water development project involving a water project which has the capacity to impound less than five acre-feet of water shall not be subject to review by the Kansas department of wildlife and parks.”

The Department does not track projects by the amount of water they store, so it is difficult to place exact numbers of how many projects would be affected by this legislation. However, there currently are very few projects impounding less than five acre-feet of water that are commented on by the Department or that may even require a permit and comments under the Environmental Coordination Act process. In fact, it is unclear specifically what projects this bill is intended to prevent comment from the Department or why this concern exists.

Of greater concern is the policy precedent this legislation would establish of randomly excluding agencies or others from providing comments on projects that may affect their interests or the public's interest. Should this legislation become law, it is conceivable that in future years, adjacent landowners or businesses, local governments, and other agencies could be excluded from the comment process. Once the State begins to exclude people from having the opportunity to provide comments on public decisions, it has started down a path that is not in the public interest.

The Department appreciates the opposition of the committee to the bill.

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**HS AGRICULTURE AND NATURAL
RESOURCES COMMITTEE
1-24-2007
ATTACHMENT 2**

**Testimony before the House Agriculture and Natural
Resources Committee
January 24, 2007
Opposing H.B. 2052**

Chairperson Faber and Honorable Members of the Committee:

My name is Tom Thompson and I represent the Kansas Chapter of the Sierra Club. I have come today to speak in opposition to H.B. 2052.

The Sierra Club opposes H.B. 2052.

H.B. 2052 takes away the responsibility of the Kansas Department of Wildlife and Parks to review and permit small water projects being built in Kansas.

On the surface small ponds would not seem very significant in the scheme of things. However, Kansas is a great state. There are opportunities for many ponds the effects of which could be good or bad in relation to the overall health of the environment in Kansas.

The Sierra Club believes that oversight to determine the beneficial and adverse effects is important for trying to maintain our states flora and fauna. I would think that generally such ponds are good for the environment. However, it is important for the Kansas Department of Wildlife and Parks to have a grasp of what is going on throughout the state to maintain a healthy ecological system.

For these reasons, the Sierra Club opposes S.B. 2052.

Thank you for your time

Sincerely

Tom Thompson
Sierra Club