

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 March 17, 2008, in Room 783 of the DSOB.

All members were present except:

Representative Doug Gatewood - excused
Representative Rocky Fund - excused
Representative Vaughn Flora - excused

Committee staff present:

Raney Gilliland, Kansas Legislative Research Department
Hank Avila, Kansas Legislative Research Department
Gordon Self, Revisor of Statutes
Kristen Kellems, Revisor of Statutes
Florence Deeter, Committee Assistant

Conferees appearing before the committee:

Representative Lee Tavanelli, District #47
Steve Adams, Natural Resources Coordinator, Kansas Wildlife and Parks
Tracy Streeter, Director, Kansas Water Office

Others attending:

See attached list.

Hearing on HCR 5032 - Request memorializing Congress to amend the Flood Control Act of 1944 and public law 83.780

The Chairman opened the meeting and recognized the birthday of Representative Knox.

Representative Tavanelli, District #47, spoke to the committee in support of **HCR 5032**. He said the issue of support for enough water from various reservoirs to accommodate navigation on the Missouri River causes economic harm to all of Kansas (Attachment 1). Representative Tavanelli indicated that frequent releases by the Corps of Engineers has not produced a positive result in raising the water levels of the Missouri River; records reveal no more than one barge tug on the Missouri River at any time. He said navigation on the Missouri River is currently not a profitable business as it was in 1944, when Congress passed the Pick-Sloan Act to address water issues related to the Missouri River Basin. Representative Tavanelli recommended passage of **HCR 5032** to encourage the United States Congress to change the Corps of Engineers' current system and their authority in relation to federal reservoirs.

Steve Adams, Natural Resources Coordinator, Kansas Wildlife and Parks, spoke in support of HCR 5032. He said that increasing the water level of the Missouri River a few inches cannot be maintained over a long period of time (Attachment 2). Mr. Adams explained the impact on wildlife, reduction of access for recreational activities, and additional diminishing of fresh water supply are some problems associated with frequent releases of water from Kansas reservoirs, and the result is no substantial benefit to navigation on the Missouri River. He advocates favorable passage of this resolution to facilitate updating the contractual agreements with the Corps of Engineers.

Tracy Streeter, Director, Kansas Water Office (KWO), indicated the agency's support for **HCR 5032**. He said that the Corps of Engineers has the authority to release uncommitted storage of water to augment the flow of the Missouri River (Attachment 3). Mr. Streeter indicated a six-foot draw at each of the reservoirs evacuates over 212,000 acre feet of water storage, which impacts the supply and quality of water. He said the KWO is working with the Corps of Engineers to conduct a study of the Kansas River Basin for the purpose of evaluating the impact of water releases from federal reservoirs. Mr. Streeter commented that in 2002, the lake was drawn down to a level that, because of drought conditions, required eighteen months for recovery to acceptable levels for recreation.

The Chairman closed the hearing on **HCR 5032**.

CONTINUATION SHEET

MINUTES OF THE House Agriculture and Natural Resources Committee at 3:30 P.M. on March 17, 2008, in Room 783 of the DSOB.

The Chairman called for consideration of **SB 558 - Irrigation districts; conducting elections by mail**. Staff Raney Gilliland briefed the committee on the language of the bill, stating that mail ballots would be sent to all persons entitled to vote; members of the irrigations districts would be responsible for tabulating and certifying results and reporting the results to the county election officer. He said the purpose of the resolution is to make participation in district elections more accessible to voters who are elderly and to others who do not reside within the boundaries of the district.

Representative Aurand moved to adopt the Secretary of State's proposed balloon, noting the replacement of the words, *absentee* with *advance*, and to recommend the bill favorable for passage as amended. Representative Williams seconded the motion. The motion passed as amended (Attachment 4) .

The Chairman adjourned the meeting at 4:00 p.m. The next meeting is scheduled for March 18, 2008, at 3:30 p.m.

HOUSE AGRICULTURE COMMITTEE GUEST LIST

DATE: March 17, 2008

NAME	REPRESENTING
Steve Adams	KDWP
Tracy Stults	KWO
Earl Lewis	KWO
John Donley	KS Lusk Ass'n
BRAD HARRISON	KFB

STATE OF KANSAS

House of Representatives



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Lee Tafanelli

Representative, Forty Seventh District

House Concurrent Resolution 5032
Testimony of
Representative Lee Tafanelli
to the
House Agriculture and Natural Resources Committee

March 17, 2008

Chairman Faber and Members of the Committee,

It is my pleasure to appear before you in support of House Concurrent Resolution 5032.

HCR 5032 addresses an issue that is important to my district but also has impact across the entire state of Kansas. Missouri River navigation releases from Kansas reservoirs cause significant economic harm to our state with little benefit to the Missouri River itself or to navigation on the Missouri River. This problem has continued for some time and generally manifests itself during time of drought when our own citizens' need for water is highest.

Current Corps of Engineers operational rules allow the Corps to release the top six feet of water in Milford, Tuttle Creek and Perry reservoirs in support of navigation on the Missouri River. Unfortunately, such releases have become common in the past few years. Notably, in 2002 the Corps of Engineers released six feet of water for navigation from the three reservoirs. Perry Reservoir did not recover from this release throughout 2002 or 2003. What was the positive result of this release? Kansas Water Office analysis shows that the flow on the Missouri River was 4 or 5 inches deeper for about 3 weeks. Further adding insult to this fact is that generally speaking there is, on average, only one barge tug boat on the Missouri River at any time.

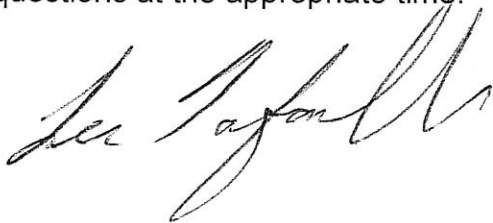
When the water is released for navigation purposes, access to the lake is limited. A number of boat ramps become unusable. Additional underwater hazards begin to appear in the lake. After the 2002 Perry release many of the boats that had been on Perry Reservoir were pulled out and taken to lakes in Missouri. When this happens, Kansas loses property and sales tax revenue, as well as general

economic benefits that accrue from the reservoir to the region. Releases for water supply and water quality also become more limited as the water available for those purposes is decreased. To date this has not caused significant harm. But what will happen during an extended drought, especially given the large and growing population that is dependent upon these lakes.

In 1944 Congress passed the Pick-Sloan Act to address a number of water issues related to the Missouri River basin. Milford, Tuttle Creek and Perry reservoirs were authorized and constructed under that act. Kansas, and indeed the world, has changed greatly since 1944. The water issues and demands we see today are much different than those that faced our 1940's predecessors. Navigation on the Missouri River no longer is a profitable endeavor. It is time that we change the authorizations of these lakes to remove navigation and take a step to better meeting our citizens' needs.

Today, as I serve the 47th District, my constituents have routinely brought the Corps of Engineers' navigation releases to my attention as a significant issue. I, along with other members of the Legislature and the Administration, have tried diligently to work within the existing Corps of Engineers structure to find a solution to this issue with little or no success. It is my belief that the Corps of Engineers' current systems and authority will not allow the Corps to address this issue without action by the United States Congress to change the Corps of Engineers' mission as it relates to the Missouri River, navigation and our federal reservoirs.

Mr. Chairman, thank you for holding this hearing today on this important issue and for allowing me to appear in support of HCR 5032. I encourage the committee to take positive action on this resolution. I will be happy to stand for questions at the appropriate time.

A handwritten signature in cursive script, appearing to read "Lee T. Sanford". The signature is written in dark ink and is positioned below the text of the speech.

**Testimony on House Concurrent Resolution 5032
Relating to the De-Authorization of Navigation Releases from Perry, Tuttle Creek
and Milford Reservoirs**

**To
House Committee on Agriculture and Natural Resources**

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

March 17, 2008

Thank you for the opportunity to appear today in support of House Concurrent Resolution 5032. As you know, the State of Kansas has expressed concern for many years with the Corps of Engineers practice of releasing water from Perry, Tuttle Creek and Milford reservoirs to meet navigation target flows on the Missouri River.

These releases of water can lower the level of the lakes as much as 6 feet below conservation pool while only increasing the water level of the Missouri River a few inches for a very short time. In essence these releases are a lose/lose situation. Increased risk to water supply, impacts to wildlife management, reduced access to the lakes and impacts to local businesses from fewer visitors to the area are just a few of the problems associated with these releases and those occur with no significant benefit to navigation.

These reservoirs and their designated uses were authorized as part of the Pick-Sloan Plan or Flood Control Act of 1944 and subsequent acts. When Congress passed this plan over 60 years ago it was a different era and the authors, while doing their best, could not anticipate the changes that have occurred in the plains states or the contemporary needs of Kansas. After 60 plus years it is time to re-evaluate how these reservoirs can best meet the needs of Kansas.

Supporting this resolution is an important step in that process and we urge the Committee to look favorably upon House Concurrent Resolution 5032.

House Concurrent Resolution 5032
House Agriculture and Natural Resources Committee

Tracy Streeter, Director
March 17, 2008

Chairman Faber and members of the committee, it is my pleasure to appear in support of House Concurrent Resolution 5032. HCR 5032 urges the United States Congress to amend the Flood Control Act of 1944 and Public Law 83-780 relative to the authorized uses for Milford, Perry and Tuttle Creek Reservoirs.

These reservoirs have a number of authorized purposes including flood control, water supply, recreation, water quality and navigation. The state of Kansas currently has contractual agreements with the Corps of Engineers at each of these reservoirs for water supply storage. At Milford and Perry, the State has contractual agreements for future water supply storage which affords Kansas the opportunity to purchase such storage at construction era prices. These contracts expire in 2034 and 2041, respectively.

Under the navigation authorization, the Corps of Engineers has the ability to utilize uncommitted storage for releases to augment Missouri River flows. In previous years, these releases have resulted in a six foot drawdown at each of the reservoirs during the navigation season, evacuating over 212,000 acre-feet of water storage collectively.

The Kansas Water Office is very concerned about the impacts to water supply and water quality when these navigation releases occur. KWO is equally concerned about the economic impacts that occur at the reservoirs with the loss of surface area and lake depths resulting from navigation releases.

We have been very active over the past several years in preventing these impacts from occurring at the reservoirs, including annual requests to deviate from normal reservoir operations to store available water in the flood pool for navigation to minimize reservoir impacts. The KWO is also working with the Corps to conduct a Kansas River Basin Study to evaluate the impacts of navigation releases to the reservoirs and the relative downstream benefits. Earlier this month, the Governor's Natural Resources Sub-Cabinet provided a briefing to the Kansas Congressional Delegation and requested assistance to either provide federal funding to assist in the purchase of future water supply storage or provide de-authorization language for the three reservoirs. The Missouri River Association of States and Tribes (MoRAST), which Secretary Hayden and I are representatives, are supportive of a proposal to study of the entire Flood Control Act of 1944.

HCR 5032 is a valuable tool in articulating the state's position regarding the critical uses of these reservoirs which serve Kansas' need for current and future water supply, recreation and economic development. I appreciate the efforts of the Legislators who sponsored this resolution and I encourage its favorable passage. Thank you Mr. Chairman for the opportunity to appear before your committee today; I will stand for questions at the appropriate time.

As Amended by House Committee

Session of 2008

SENATE BILL No. 558

By Senator Taddiken

2-5

10 AN ACT concerning irrigation districts; pertaining to the conduct of elec-
11 tions; amending K.S.A. 42-706 and repealing the existing section.
12

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

14 Section 1. K.S.A. 42-706 is hereby amended to read as follows: 42-
15 706. (a) The officers of such district shall be a board of directors consisting
16 of three members who shall be persons entitled to vote as provided in
17 subsection (h) and residents of a county in which the district or a portion
18 thereof is located, or county adjoining a county in which such irrigation
19 district or a portion thereof is located. Such members shall hold office
20 for a period of three years, and each shall serve until a successor has been
21 elected and qualified. The members of the board of directors first elected
22 after the creation of an irrigation district shall hold their respective offices
23 until the next regular election for the election of directors as provided in
24 subsection (e) or (f) of this section except that the terms of the three
25 directors shall be as provided in subsection (e) of this section.

26 (b) The chief engineer of the division of water resources, after the
27 incorporation of such irrigation district, shall establish and designate the
28 polling place or places therein where the first election will be conducted
29 and fix the time for such election within 60 days after the date of incor-
30 poration. In any irrigation district of more than 35,000 acres, the chief
31 engineer of the division of water resources shall, prior to designating
32 polling places, establish three voting areas within such district as equal as
33 possible in acreage and shall designate the same as the first, second or
34 third voting area. Such polling place or places may thereafter be changed
35 by the board of directors, and the board may arrange for polling places
36 outside the corporate boundaries of the district if such places are more
37 convenient than locations within the district. Prior to the holding of the
38 first election in newly created districts, the chief engineer of the division
39 of water resources shall appoint from the qualified electors of the district
40 three persons for such election for each voting place who shall constitute
41 boards of election for such district for such election. If the members
42 appointed do not attend at the opening of the polls on the day of election,
43 at the opening hour, the electors present at that hour shall elect from the

1 electors present members of the election board necessary to fill the place
2 of any absent member.

3 (c) The board of directors of every district of more than 35,000 acres
4 which was incorporated prior to the effective date of this act shall establish
5 three voting areas within the district as equal as possible in acreage and
6 designate the same as the first, second or third voting area. The board
7 shall also establish and designate the polling place or places within each
8 voting area. At the first election held after the effective date of this act,
9 a director shall be elected from each voting area and the person receiving
10 the highest number of votes shall serve for a term of three years, the
11 person receiving the second highest number of votes shall serve for a
12 term of two years, and the person receiving the third highest number of
13 votes shall serve for a term of one year. At each subsequent election, only
14 one director shall be elected each year for a term of three years. Any
15 director elected under this provision must be a person entitled to vote as
16 provided in subsection (h).

17 (d) (1) *Except as provided in paragraph (2)*, all elections shall be
18 conducted in accordance with the general election laws of the state except
19 as otherwise provided in this act. ~~Absentee~~ **Advance** voting as provided
20 in article 11 of chapter 25 of the Kansas Statutes Annotated and amend-
21 ments thereto shall be provided for by the county election officers and
22 boards of directors for those persons entitled to vote under subsection
23 (h). The forms for the ballot envelope declaration as provided in K.S.A.
24 25-1120 and amendments thereto and the applications for ~~absentee ad-~~
25 **advance** ballots as provided in K.S.A. 25-1122d and amendments thereto
26 shall be modified to establish that such person is a qualified owner of
27 irrigable land within the district. After polls are closed the election boards
28 shall proceed to canvass the votes cast thereat, shall certify to the county
29 election officer of the county in which all or the greater part of the pop-
30 ulation of the irrigation district is located and the chief engineer the result
31 of such election. The clerks shall then securely wrap the ballots cast at
32 such elections and shall express or mail the same by registered mail to
33 the county election officer of the county in which all or the greater part
34 of the population of the irrigation district is located. The county election
35 officer shall canvass the ballots, verify the results and declare the person
36 receiving the highest number of votes duly elected as director except that
37 at the first election after creation of a district the county election officer
38 of the county in which all or the greater part of the population of the
39 irrigation district is located shall declare the three persons receiving the
40 highest number of votes duly elected as directors except that in districts
41 divided into three voting areas, the person receiving the highest number
42 of votes in each voting area shall be duly elected as director. Such county
43 election officer shall immediately mail, to each person elected to the

1 office of director a certificate of election signed by such officer. The
2 directors shall thereupon qualify and enter upon the duties of their office.
3 Directors shall qualify by taking and subscribing to an oath of office of
4 substantially the same tenor as oath of office prescribed for county offi-
5 cials. Each member of the board of directors shall execute an official bond
6 in the sum of \$1,000 which oath and bond shall be filed with the county
7 election officer of the county in which all or the greater part of the pop-
8 ulation of the irrigation district is located. The treasurer of each irrigation
9 district shall execute to the district a corporate surety bond in an amount
10 at least equal to 125% of the amount, as near as can be ascertained, that
11 shall be in such person's hands as treasurer at any one time. The amount
12 and sufficiency of the bond of the treasurer shall be determined by the
13 county election officer. Upon approval of the bond, the county election
14 officer shall endorse such approval thereon and file the same in the office
15 of the county election officer and shall immediately notify the county
16 treasurer of the county in which the registered office of the irrigation
17 district is located of such approval and filing. In the event of the breach
18 of any condition of the treasurer's bond, the president and secretary of
19 the board shall cause a suit to be commenced thereon in the name of the
20 irrigation district. It shall not be necessary to include the treasurer as a
21 party to the action and the money collected shall be applied to the use
22 of the district, as the same should have been applied by the treasurer.
23 Should the president and secretary neglect or refuse to prosecute such a
24 suit, then any person entitled to vote as provided in subsection (h) may
25 cause such suit to be instituted. Premiums on surety bonds for such di-
26 rectors and treasurers of irrigation districts shall be paid by the district
27 out of its general funds. In case the office of any director shall become
28 vacant the remaining members of the board shall fill the vacancy by ap-
29 pointment. A director appointed to fill a vacancy shall serve the unexpired
30 term of the director whose term such person was appointed to fill.

31 (2) *For any election except the election required in subsection (b), the*
32 *board of directors may adopt a resolution authorizing the use of the elec-*
33 *tion procedure specified in this paragraph. All voting for the election of*
34 *directors may be conducted in accordance with the procedures set forth*
35 *in the mail ballot election act, and acts amendatory thereof, and suppl-*
36 *emental thereto. The forms for the ballot envelope declaration as provided*
37 *in K.S.A. 25-433, and amendments thereto, shall be modified to establish*
38 *that such person is a qualified owner of irrigable land within the district.*
39 **procedure providing for the election of members by mail ballot.**
40 **Such procedure shall require the board to mail ballots to all per-**
41 **sons entitled to vote, to receive and tabulate the ballots, to canvass**
42 **the election and to certify the results to the county election officer.**
43 **The irrigation district shall be responsible for the direct expenses**

1 **of conducting the election. The ballot envelope used for mailing**
2 **ballots shall contain a declaration establishing that the person who**
3 **signs the declaration is a qualified owner of irrigable land within**
4 **the district.**

5 (e) All regular elections of directors of irrigation districts shall be held
6 the first Tuesday in March except as provided by subsection (g). Any
7 districts organized after the regular March election shall hold its election
8 at the next regular March election following incorporation of the district
9 and, at this election three directors shall be elected and the person re-
10 ceiving the highest number of votes shall serve for a term of three years,
11 the person receiving the second highest number of votes shall serve for
12 a term of two years, and the person receiving the third highest number
13 of votes shall serve for a term of one year. In case the first election after
14 creation of a district is held between June 1 of any year and the day
15 preceding the first Tuesday in March of the next succeeding year, the
16 next regular March election shall be held in the second succeeding year.
17 At each subsequent regular election, only one director shall be elected
18 each year for a term of three years. All persons desiring to be voted upon
19 as directors shall at least 30 days before the day of holding of the elections,
20 file such person's name with the county election officer of the county in
21 which all or the greater part of the population of the irrigation district is
22 located, affixed to a statement that such person desires such person's
23 name to be placed on the ticket as a candidate for member of board of
24 directors of the district in such election. The county election officer shall
25 make up the ticket, at expense of the irrigation district, and place the
26 names thereon in alphabetical order and shall supply election officials
27 with necessary ballots and polling books at the irrigation district's expense.
28 At least five days before any election held subsequent to first election of
29 directors, the boards of directors shall name and appoint three persons
30 for each voting place, who shall be qualified electors in the district. At
31 least five days before any election, the county clerks of the various coun-
32 ties within which a portion of the district is located, shall cause to be
33 ascertained the names of all persons entitled to vote as provided in sub-
34 section (h) and shall furnish lists thereof to each election board within
35 such county and to the secretary of the board of directors of the district.
36 Notice of the time and places of holding of the election, signed by the
37 president and attested by the secretary of the district shall be given in
38 some newspaper or newspapers of general circulation in the district for
39 one issue at least five days prior to date of the election. The return of all
40 special or bond elections shall be made to the secretary of the district,
41 and canvassed by the board of directors. All expenses of election, not
42 otherwise provided for herein, shall be paid for out of the general funds
43 of the irrigation district. Election officials shall receive the same compen-

1 sation as provided under general election laws.

2 (f) In lieu of the election procedures provided in this section pertain-
3 ing to regular elections of directors in accordance with the general elec-
4 tion laws of the state, the board of directors of any irrigation district of
5 less than 35,000 acres in size may call an annual meeting of all persons
6 entitled to vote as provided in subsection (h) for the purpose of electing
7 directors. Such annual meeting shall be held on the first Tuesday in
8 March, except as provided by subsection (g). Notice of the time and place
9 of holding said annual meeting shall be given in some newspaper or news-
10 papers of general circulation in the district for one issue at least 30 days
11 prior to date of such meeting. Elections at the annual meeting shall be
12 by ballot, with absentee voting as provided under subsection (d) of this
13 section. All persons desiring to be voted upon as director shall at least 30
14 days before the day of holding the annual meeting file such person's name
15 with the secretary of the board of directors of the district, affixed to a
16 statement that such person desires such person's name to be placed on
17 the ballot as a candidate for member of board of directors of the district.
18 The board of directors shall appoint three owners of irrigable land in the
19 district to serve as an election board at the annual meeting. After the
20 votes are cast at the annual meeting the election board shall proceed to
21 canvass the votes and shall certify to the county election officer of the
22 county in which all or the greater part of the population of the irrigation
23 district is located and the chief engineer the result of such election. All
24 provisions of this section not inconsistent with the provisions of subsection
25 (f) shall apply to the election of directors at the annual meeting.

26 (g) In any case where the time for any regular election of directors
27 as described in subsection (e), or the election as described in subsection
28 (f), is the same for any two districts having the same district manager,
29 such election shall be held on the first Wednesday following the first
30 Tuesday in March by the district organized latest in time.

31 (h) Until such time as assessments are made in the district pursuant
32 to K.S.A. 42-715 and amendments thereto, those persons entitled to vote
33 shall be "qualified owners of land" within the irrigation district, as such
34 term is defined in K.S.A. 42-701, and amendments thereto, and who are
35 otherwise qualified electors.

36 After lands have been assessed in the district pursuant to K.S.A. 42-
37 715 and amendments thereto, those persons entitled to vote shall be
38 "qualified owners of land" within the irrigation district as such term is
39 defined in K.S.A. 42-701, and amendments thereto, which has been as-
40 sessed pursuant to K.S.A. 42-715, and amendments thereto, and who are
41 otherwise qualified electors. For voting purposes, any person entitled to
42 vote under this subsection who owns land in more than one voting area
43 shall vote in the voting area which includes the greatest portion of such

1 person's land. As used in this section, the term "qualified electors" shall
2 include a person who is the legal qualified owner of irrigable land or a
3 person, who is authorized, in writing, to vote for a trust, corporation,
4 association or partnership which is the legal qualified owner of irrigable
5 land. Such person is not required to be a resident of the district. Such
6 trust, corporation, association or partnership shall be allowed only one
7 vote. The person authorized by such entity to vote shall be someone who
8 is not otherwise entitled to a vote under this section.
9 Sec. 2. K.S.A. 42-706 is hereby repealed.
10 Sec. 3. This act shall take effect and be in force from and after its
11 publication in the statute book.