

MINUTES OF THE SENATE NATURAL RESOURCES COMMITTEE

The meeting was called to order by Chairwoman Carolyn McGinn at 8:30 a.m. on March 17, 2010, in Room 144-S of the Capitol.

All members were present.

Committee staff present:

Kristen Kellems, Office of the Revisor of Statutes
Corey Carnahan, Kansas Legislative Research Department
Raney Gilliland, Kansas Legislative Research Department
Grace Greene, Committee Assistant
Stanley Rasmussen, U.S. Army, Senate Fellow

Conferees appearing before the Committee:

Earl Lewis, Assistant Director, Kansas Water Office

Others attending:

See attached list.

Earl Lewis, Assistant Director, Kansas Water Office (Attachment 1) addressed the Committee as a proponent of **HCR 5012 - A review of the Pick-Sloan Act**. Mr. Lewis stated that the resolution expresses support for the authorization and funding of a review of the Federal Flood Control Act of 1944. Mr. Lewis stated that the intent is to determine what changes are needed to make the Act better reflect and serve the contemporary needs of the Missouri River Basin and its tributaries. Mr. Lewis discussed historical components and concerns related to the management of the Missouri River.

Mr. Lewis took questions from the Committee.

Earl Lewis, Assistant Director, Kansas Water Office (Attachment 2) addressed the Committee as a proponent of **HCR 5013 - Protection, preservation and extension of the productive lives of reservoirs in Kansas**. Mr. Lewis stated that the resolution would memorialize the desire for Kansas to have a strong working relationship and partnership with the appointed United States Assistant Secretary of the Army (ASA) for Civil Works in order to protect, preserve and extend the productive lives of reservoirs in Kansas. Mr. Lewis discussed the significance of the position of the ASA for Civil Works and stated that the resolution would encourage continuity in the transition of new leadership for the Corps of Engineers.

Senator Teichman made a motion to pass HCR 5012. Senator Lee seconded the motion. The motion carried.

Senator Lee made a motion for the passage of HCR 5013. Senator Teichman seconded the motion. The motion carried.

Chairwoman McGinn brought **SCR 1623 - Urging the Congress to exempt the Flint Hills tallgrass prairie from any United States EPA smoke management plan** to the Committee for possible action.

Chairwoman McGinn discussed the **SCR 1623** with the Committee (Attachment 3) and the proposed amendments from KDHE.

Senator Teichman moved to adopt the first amendment on SCR 1623. Senator Abrams seconded the motion. The motion carried.

Senator Teichman moved to adopt the second amendment on SCR 1623. Senator Abrams seconded the motion. The motion carried.

The Committee discussed the terminology of "best management burn practices" in the resolution.

Tom Gross, Kansas Department of Health and Environment, took questions from the Committee.

Senator Abrams made a motion to use the first amendment as the second amendment for SCR 1623. Senator

CONTINUATION SHEET

Minutes of the Senate Natural Resources Committee at 8:30 a.m. on March 17, 2010, in Room 144-S of the Capitol.

Teichman seconded the motion. The motion carried.

Senator Taddiken made a motion to include the Environmental Protection Agency's Region VII Administrator as an individual to receive a copy of the resolution. Senator Abrams seconded the motion. The motion carried.

Senator Teichman moved to move the bill out favorably as amended. Senator Lee seconded the motion. The motion carried.

The next meeting is scheduled for March 18, 2010.

The meeting was adjourned at 9:08 a.m.

SENATE NATURAL RESOURCES COMMITTEE

Guest Roster

3-17-2010

Name	Representing
Earl Lewis	KWO
Kate Howard	KDA
Liedie Kaufman	Ks Co-op Council
Paul Askren	KFB
Tom Gress	KONE
John Decker	KLA
Brend Harrelson	KFB
Sean Miller	CAPITOL STRATEGIES
Kim Christiansen	KWO
Mike Beam	Ks LUSTK ASSN.

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Senate Natural Resources Committee
On
House Concurrent Resolution 5012

Earl Lewis, Assistant Director
Kansas Water Office
March 17, 2010

Madam Chair and members of the Committee, I am Earl Lewis, Assistant Director of the Kansas Water Office. I am pleased to appear before you today in support of House Concurrent Resolution 5012. HCR 5012 expresses support for the authorization and funding of a review of the federal Flood Control Act of 1944. The intent of this review is to determine what changes are needed to make the Act better reflect and serve the contemporary needs of the Missouri River Basin and its tributaries. The review was authorized last year and received an initial appropriation. Continued funding is being sought in the FY 2011 federal budget currently before Congress.

The Flood Control Act of 1944 authorized most of the Corps of Engineers and Bureau of Reclamation reservoirs in the Missouri River Basin including the majority of the federal reservoirs in Kansas. The Act is also the guiding legislation for how these reservoirs are managed today.

To put this in perspective, the Flood Control Act of 1944, also known as the Pick-Sloan Plan, was developed on the heels of the Great Depression with a major impetus to provide jobs and to better manage water resources after the 1930's drought. The needs of society, our economy and the demands for water resources were largely different 66 years ago than they are today. Yet these reservoirs that are vital components of our water supply and economy are managed under a set of guidelines developed during World War II.

We have concerns with the management of the Missouri River, particularly the impacts of Missouri River management on the three Kansas River reservoirs, Milford, Tuttle Creek and Perry. We also must ensure that main stem river management adequately address public water supply, power generation and fish and wildlife needs in and along the river that borders the northeast corner of our state. To effectively evaluate these water resources and the contemporary needs of the basin and Kansas, continued funding to review the Flood Control Act of 1944 is necessary. I encourage your support of HCR 5012 and will stand for questions at the appropriate time.

Senate Natural Resources Committee
on
House Concurrent Resolution 5013

Earl Lewis, Assistant Director
Kansas Water Office
March 17, 2010

Madam Chair and members of the Committee, I am Earl Lewis, Assistant Director of the Kansas Water Office. I am pleased to appear before you today in support of House Concurrent Resolution 5013. HCR 5013 memorializes the desire for Kansas to have a strong working relationship and partnership with the appointed United States Assistant Secretary of the Army (ASA) for Civil Works in order to protect, preserve and extend the productive lives of reservoirs in Kansas.

The ASA for Civil Works is the highest appointed position with responsibility over the Corps of Engineers. President Obama has appointed Jo Ellen Darcy to this position, replacing John Paul Woodley, who served President Bush in this capacity. Kansas had enjoyed a productive relationship with Mr. Woodley, including three visits to Kansas and several meetings in the Pentagon relative to reservoir management and sustainability issues. I have had the pleasure of meeting with Ms Darcy in October 2009 and believe we will have a positive relationship with her as well.

The Kansas Water Authority has endorsed a planning process to ensure that actions are taken to sustain the useful lives of these federal water supply reservoirs and other reservoirs in the state. It is imperative that the ASA for Civil Works and the Corps of Engineers are actively engaged in this process. HCR 5013 will encourage continuity as we transition into new leadership for the Corps of Engineers.

There are a couple of key points that are contained in the Kansas Water Authority Reservoir Roadmap report that I would like to point out. Kansas has 17 reservoir projects managed by the Corps with 15 of those reservoirs providing water supply to roughly two-thirds of the Kansas population. These reservoirs also provide significant economic development and enhancement for the areas they serve and a source of recreation that can be enjoyed by Kansans and visitors to the state.

The vitality of our reservoirs as a source of public water supply should not be undersold. The Kansas Water Office provides water to municipal and industrial customers under the Marketing and Water Assurance programs. We have worked closely with the Corps of Engineers to manage and operate the reservoirs to supply water to Kansans. Part of that work includes efforts to measure storage lost to sedimentation, programs that protect the reservoirs from reduce additional sedimentation and plans to restore storage capacity within reservoirs. In some instances, we have advocated for raising the water levels or "pools" to add storage capacity for water. Currently, studies on additional storage are underway at both John Redmond and Wilson Reservoirs.

The state of Kansas, working through a number of agencies and officials, has developed a close working relationship with the Corps of Engineers at the project, district and division level. Having a solid commitment at the national level will assist in sustaining those relationships in our overall effort to preserve and enhance Kansas' reservoirs.

In closing, Kansas has made great strides in identifying the critical water supply needs for our future and strong involvement from the Corps of Engineers is vital to addressing those needs. Thank you for the opportunity to appear before you this afternoon and I encourage your favorable support of HCR 5013.

Senate Concurrent Resolution No. 1623

By Committee on Natural Resources

1-25

A CONCURRENT RESOLUTION urging the United States Congress to exempt, because of its unique ecosystem and historic significance, the tallgrass prairie in the Flint Hills, from a smoke management plan mandated by the United States Environmental Protection Agency.

WHEREAS, The Flint Hills region of Kansas contains the world's largest share of the remaining tallgrass prairie, and is the only place where that habitat is in landscape proportions. Only 4% of North America's pre-settlement tallgrass prairie survives to this day, and 80% is located in Kansas; and

WHEREAS, The Flint Hills region is also home to certain declining avian species such as the greater prairie chicken and Henslow's sparrow that cannot continue to exist without large expanses of native tallgrass prairie in an original state, Further, it is a significant corridor for migrating shorebirds such as the American Golden Plover, the Buff-breasted Sandpiper, and the Upland Sandpiper; and

WHEREAS, Beginning in the mid-19th century, cattlemen understood that the richness of the Flint Hills grasses depended on a good spring burn—something they learned from the Native Americans. Fire still thrives in the Flint hills because the ranchers, and others using the land, know that the natural ecosystem depends on fire; and

WHEREAS, Ranchers, land owners and conservation groups use prescribed burns to mimic the seasonal fires that have shaped the tallgrass prairie for thousands of years. Areas not burned for several years develop mature grasses and thicker, thatch-like vegetation which habitat is preferred by invasive species; and

WHEREAS, The Flint Hills is one of the few places in the United States where the prevailing agricultural system works essentially in tandem with an ancestral native ecosystem, preserving most of its complexity and the dynamic processes that helped shape it; and

WHEREAS, Because of the uniqueness of the Flint Hills tallgrass prairie and the historic manner in which the tallgrass prairie has been managed by fire, existing prescribed burn practices should be allowed to continue without a federally prescribed "smoke management plan": Now, therefore,

to require the United States Environmental Protection Agency to exclude air monitoring data from use in determinations of exceedances and National Ambient Air Quality Standards violations where the emissions are from prairie burning in the tallgrass prairie in the Flint Hills, a unique ecosystem of historic significance, and to treat the data as exceptional under 40 CFR Section 50.14.

considered best management burn practices

3-2

1 *Be it resolved by the Senate of the State of Kansas, the House of Rep-*
 2 *resentatives concurring therein:* That we urge the United States Congress
 3 ~~to exempt the tallgrass prairie of the Flint Hills from a smoke manage-~~
 4 ~~ment plan mandated by the United States Environmental Protection~~
 5 ~~Agency; and~~

to require the United States Environmental Protection Agency to
 exclude air monitoring data from use in determinations of
 exceedances and National Ambient Air Quality Standards
 violations where the emissions are from prairie burning in the
 tallgrass prairie in the Flint Hills, a unique ecosystem of historic
 significance, and to treat the data as exceptional under 40 CFR
 Section 50.14.

6 *Be it further resolved:* That the Secretary of the Senate be directed to
 7 send an enrolled copy of this resolution to the President of the United
 8 States Senate, the Speaker of the United States House of Representatives,
 9 the Administrator of the United States Environmental Protection Agency,
 10 and each member of the Kansas Congressional delegation.

the United States Environmental Protection Agency Region 7 Administrator,

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