

MINUTES OF THE HOUSE AGRICULTURE AND NATURAL RESOURCES COMMITTEE

The meeting was called to order by Chairman Larry Powell at 3:30 p.m. on February 11, 2010, in Room 783 of the Docking State Office Building.

All members were present except:

Representative Johnson - Excused
Representative Light - Excused
Representative Lukert - Excused

Committee staff present:

Jason Thompson, Office of the Revisor of Statutes
Daniel Yoza, Office of the Revisor of Statutes
Corey Carnahan, Kansas Legislative Research Department
Raney Gilliland, Kansas Legislative Research Department
Pat Matzek, Committee Assistant

Conferees appearing before the Committee:

Wayne Bossert, Manager, Northwest Kansas Groundwater District No. 4,
and on behalf of Equus Beds Groundwater Management District No. 2,
and on behalf of Big Bend Groundwater Management District No. 5
Constantine Cotsoradis, Deputy Secretary of Agriculture, Kansas Department of Agriculture
John Donley, Assistant General Counsel, Kansas Livestock Association
Edward Moses, Managing Director, Kansas Aggregate Producers Association
Mark Rude, Executive Director, Southwest KS Groundwater Management District No. 3,
and on behalf of Western KS Groundwater Management District No. 1

Others attending:

See attached list.

Chairman Powell began the meeting with the hearing on **HB 2565** - Conservation exception for nonuse of water rights.

PROPOSERS:

Wayne Bossert, Manager, Northwest Kansas Groundwater District No. 4 (Attachment 1), presented testimony in favor of **HB 2565**, stating that with the elimination of the Water Rights Conservation Program, and because conservation is so important, there has been a flurry of activity to find an acceptable replacement and that **HB 2565** is one of these conservation-oriented approaches. Mr. Bossert further advised the bill is simple in that it provides due and sufficient cause for any year of nonuse for any well whose local supply is from within a closed area as long as the well is environmentally maintained. Mr. Bossert also represents Equus Beds Groundwater Management District No. 2, and Big Bend Groundwater Management District No. 5.

Constantine Cotsoradis, Deputy Secretary of Agriculture, Kansas Department of Agriculture (Attachment 2), spoke in favor of **HB 2565**, advising the bill provides that a lawfully maintained well in areas closed to new appropriations by the chief engineer is due and sufficient cause for nonuse of water which is likely to dispel the notion of "use it or lose it", and encourages conservation of water in these over-appropriated areas in the state. Mr. Cotsoradis stated that **SB 510** is currently in the Senate Natural Resources Committee which is very complementary to **HB 2565** and provides another option for conservation. With Chairman Powell's approval, a copy of the language contained in **SB 510** was distributed to members of the Committee (Attachment 3).

John Donley, Assistant General Counsel, Kansas Livestock Association (KLA) (Attachment 4), appeared as a proponent of **HB 2565**, commenting that KLA is generally supportive of measures that encourage water conservation practices. Mr. Donley further stated that under current law, if a water right owner has not made a lawful, beneficial use of the water for five consecutive years, the water right is considered abandoned, and the owner of that right will lose the water right. Therefore, there is an incentive to pump groundwater even when it may not be necessary in order to avoid a determination by the Division of Water Resources that the water right has been abandoned. This bill will correct that problem in areas closed to new appropriations.

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CONTINUATION SHEET

Minutes of the House Agriculture and Natural Resources Committee at 3:30 p.m. on February 11, 2010, in Room 783 of the Docking State Office Building.

Edward Moses, Managing Director, Kansas Aggregate Producers Association, spoke in favor of **HB 2565** (Attachment 5), commenting that passage of **HB 2565** by allowing "conservation" as a "due and sufficient cause" for nonuse of water would enhance the long term sustain ability and viability of the sand and gravel industry by allowing sand and gravel producers to place water rights into a conservation mode until they are actually needed. Mr. Moses further stated that Kansans consume over 20 millions of sand and gravel a year, yet the resources to sustain this activity have been declining for the last 80 years and if we are to have these resources available to future generations, the planning and provision for them must occur now.

Mark Rude, Executive Director, Southwest KS Groundwater Management District No. 3 (GMD3), and on behalf of Western KS Groundwater Management District No. 1, appeared as a proponent on **HB 2565** (Attachment 6), stating the benefit of **HB 2565** is to avoid the waste of expensive pumps and equipment that can happen when well owners are required to keep their idol equipment installed and unused for years. GMD3 believes the requirement to keep equipment installed in the aquifer is unnecessary and non-beneficial to the proper management and protection of the groundwater resources, provided the water well is safely maintained in a manner consistent with the Groundwater Exploration and Protection Act. Mr. Rude further commented that the purpose of this bill is to recognize that there is no pressure on the water user in a closed or over appropriated area where they have to operate that well to maintain their water rights and goes a little further than the agency drafted rules and that is to say that they have authority not have to keep equipment there in the well.

After questions posed by members of the Committee, the hearing was closed on **HB 2565**.

Chairman Powell asked Vice Chairman Fund to meet with interested parties to draft a balloon on **HB 2565** to address concerns and possibly work the bill on Monday or Tuesday of next week.

The next meeting is scheduled for February 15, 2010.

The meeting was adjourned at 4:10 p.m.