

Approved: March 9, 2010

Date

MINUTES OF THE HOUSE AGRICULTURE AND NATURAL RESOURCES COMMITTEE

The meeting was called to order by Vice Chairman Rocky Fund at 3:30 p.m. on March 3, 2010, in Room 783 of the Docking State Office Building.

All members present except:

Chairman Powell - Excused
Representative Hineman - Excused
Representative Johnson - Excused
Representative Moxley - Excused
Representative Wetta - Excused

Committee staff present:

Jason Thompson, Office of the Revisor of Statutes - Excused.
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:

Joshua Svaty, Secretary, Kansas Department of Agriculture

Others attending:

See attached list.

Vice Chairman Fund opened the meeting with introduction of Joshua Svaty, Secretary, Kansas Department of Agriculture, who gave an informational presentation on Kansas Water Rights (Attachments 1 and 2).

Secretary Svaty explained one of the reasons for his appearing before the Committee was so everyone would have a better understanding of water rights. Some of the high points from his presentation were:

- The water itself is not the property right, but the right to use that water is a property right.
- There are two ways to obtain a water right; apply to the Division of Water Resources (DWR) and after five years of monitoring by the DWR, a perfected or certified water right can be received, or, by buying or leasing it from someone else.
- Tools for Producers:
 - 1945 - Origination of Water Appropriations Act.
 - 1957 - Changes in use of water rights by invention of the center pivot irrigation system.
 - 1973 - Groundwater management districts were formed.
 - 1978 - Users were required to have a water right except for domestic use and stay within the confines of their water appropriation. The Chief Engineer was allowed to develop intensive groundwater use control areas (IGUCAs).
 - 1984 - Established minimum desired stream flows, which was a restriction of what users could do with that water right. Also in this era was the development of "due and sufficient" causes which are reasons why the water right would not be used to protect the user from abandonment, e.g., too much rain, broken pump, pipe problems in the well, etc.
 - 1993 - Establishment of Water Rights Conservation Program was another example of due and sufficient cause which the DWR voluntarily put in place in rules and regulations, and stated that if the user set aside their water right in the Water Rights Conservation Program, the user would not have to pump it. This addressed the issue of "use it or lose it."
- Modern Day - Determine how to fix the Water Rights Conservation Program, e.g., flexibility issue, cost issue, contractual arrangement to be able to leverage Environmental Quality Incentive Program (EQUIP) dollars, etc. The challenge of the lawmakers along with the KDA is to determine how to give producers valuable tools they can use to be able to maximize their real property right and thereby not being forced to engage in foolish pumping in order to not abandon their water right.

Lane Letourneau, Matt Scherer, and Burke Griggs with the Kansas Department of Agriculture, Division of Water Resources, and Constantine Cotsoradis, Deputy Secretary of the Kansas Department of Agriculture, also answered questions from members of the Committee.

3/03

CONTINUATION SHEET

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

Vice Chairman Fund opened the Subcommittee meeting on **HB 2493** - Eliminating classifications of dams and water obstructions, to the whole Committee for discussion, as this would be an informational session, and no action would be taken on the bill at this time.

A copy of the statutes that the bill is proposing to repeal was distributed to members of the Committee (Attachment 3).

H. Leroy Pritchard, Resource Consultant, Pritchard Consulting, spoke on water appropriation rights (Attachments 4 and 5).

Herb Graves, Kansas Watersheds and Ben Rogers, Wet Walnut Creek Watershed also were in attendance.

At the conclusion of the discussion, Vice Chairman Fund suggested that members of the Division of Water Resources, as well as others from the Kansas Department of Agriculture, and the above-mentioned attendees, have a meeting to discuss their issues in connection with this bill.

The next meeting is scheduled for March 8, 2010.

The meeting was adjourned at 5:10 p.m.