

MINUTES OF THE HOUSE AGRICULTURE & NATURAL RESOURCES COMMITTEE

The meeting was called to order by Chairman Larry Powell at 9:00 a.m. on March 7, 2011, in Room 783 in the Docking State Office Building.

All members were present except:

Representative Rocky Fund - Excused  
Representative Michael Peterson - Excused  
Representative Vincent Wetta - Excused

Committee staff present:

Sean Ostrow, Office of the Revisor of Statutes  
Raney Gilliland, Kansas Legislative Research Department  
Michael Wales, Kansas Legislative Research Department  
Kay Scarlett, Committee Assistant

Conferees appearing before the Committee:

Paul Graves, Assistant Chief Engineer, Division of Water Resources, Department of Agriculture  
Mark Rude, Executive Director, Southwest Kansas Groundwater Management District No. 3  
Douglas Smith, Garden City Company (written only)  
Earl Lewis, Assistant Director, Kansas Water Office  
Greg Foley, Executive Director, State Conservation Commission  
Representative Tom Sloan  
Kevin Newkirk, Manager, CK Processing, Manhattan, Kansas (written only)

Others attending:

See attached list.

Chairman Powell reported on The Energy Council meeting he attended in Washington, D.C., last week where the price of gasoline was the major topic. The main reason for the current increase in the price of gasoline is unrest in the middle east. The President is the only one that can tap into the strategic petroleum reserve and the Chairman didn't believe that was a good option at this time. A disc of the meeting will be made available from Raney Gilliland, Kansas Legislative Research Department.

**Hearing on HB 2357 – Arkansas River Gaging Fund.**

Chairman Powell opened the hearing on **HB 2357**. Sean Ostrow, Office of the Revisor of Statutes, explained that this bill would establish the Arkansas River Gaging Fund that would be administered by the Secretary of the Kansas Department of Agriculture. All expenditures from the fund would be for the operation and maintenance of the gages along the Arkansas River necessary to manage water levels in the river under the Arkansas River Compact. In addition, royalties from the state's oil and gas leases in Hamilton, Kearny, Finney, Gray, and Ford Counties would be deposited in the Arkansas River Gaging Fund.

Paul Graves, Assistant Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, testified in support of **HB 2357** stating that the Department is responsible for administering the Arkansas River Compact in Kansas and allocating river flows among entities that have water rights entitling them to those flows. **HB 2357** would allow the Department to use royalties from the state's oil and gas leases in Hamilton, Kearny, Finney, Gray, and Ford Counties to fund operation and maintenance of stream gages to manage the Arkansas River under the compact. He said there is a need to resume operation of two discontinued stream gages on the Arkansas River and three discontinued stream gages on irrigation ditches fed by the Arkansas River in Hamilton, Kearny, and Finney Counties. The most recent costs quoted by the U.S. Geological Survey to return these five stream gages to operation would total \$51,360. The Department would resume, in priority order, operation and maintenance of stream gages as revenues allow. (Attachment 1)

Mark Rude, Executive Director, Southwest Kansas Groundwater Management District No. 3, appeared in support of **HB 2357** and the restoration of funding for the lost water measurement stations needed to manage the available Arkansas River water supplies in Southwest Kansas. The groundwater management district supports using state revenue generated from state owned oil and gas property beneath the bed and banks of the river to manage the river flows. (Attachment 2)

## CONTINUATION SHEET

The minutes of the House Agriculture & Natural Resources Committee at 9:00 a.m. on March 7, 2011, in Room 783 of the Docking State Office Building.

Douglas Smith, on behalf of the Garden City Company which owns and operates Lake McKinney northwest of Deerfield in Kearny County, submitted written testimony in support of **HB 2357** and the permanent funding source it establishes for the operation and maintenance of river stream gages and irrigation ditch gages along the Arkansas River. (Attachment 3)

There being no other conferees, the hearing on **HB 2357** was closed.

### **Hearing on SB 122 – Authorizing the director of the Kansas Water Office to grant easements on state property on the Arkansas, Kansas and Missouri rivers.**

Chairman Powell opened the hearing on **SB 122**. Sean Ostrow, Office of the Revisor of Statutes, explained that **SB 122** would authorize the Director of the Kansas Water Office, after consultation with the Kansas Department of Agriculture, the Kansas Department of Health and Environment, the Kansas Department of Wildlife and Parks, and the State Conservation Commission, to negotiate and grant easements on state property for construction and maintenance of conservation projects with cooperating landowners on the Arkansas, Kansas, and Missouri Rivers.

Earl Lewis, Assistant Director, Kansas Water Office, appeared in support of **SB 122** that would give the Kansas Water Office Director the authority to work with landowners adjacent to the state's three navigable rivers on projects proposing to stabilize the rivers' beds and banks. In the past this has been accomplished by legislation, wherein the Secretary of State grants the easement to the landowner, allowing him access to the state's property along the river. **SB 122** proposes to streamline the process for conservation projects by allowing the Water Office Director to grant the easements after consulting with other state agencies and a comment period on behalf of the State of Kansas. It was noted that other state agencies have the authority to grant an easement for a limited purpose. (Attachment 4)

Greg Foley, Executive Director, State Conservation Commission, testified in support of **SB 122** stating that passage of the bill would be beneficial to private landowners that have property adjacent to a navigable river. He highlighted three individual projects that have requested technical and financial assistance to design and install stream bank stabilization measures on their property to prevent further encroachment of the river into their property. The problem this legislation is attempting to solve is the land from the high water mark inward to the river is actually state owned property. Under current law each individual landowner and every project is required to come before the Legislature to have a specific law passed authorizing each project. He said that passage of **SB 122** would streamline the process. (Attachment 5)

Representative Tom Sloan appeared in support of **SB 122** and asked that the committee consider adding the contents of **HB 2096**. He explained that **HB 2096** was introduced by the House Vision 2020 Committee as a result of two years of hearings and work on surface drinking water supply, flood control, sedimentation, algae blooms, and other issues. The bill was referred separately to the Vision 2020 Committee and the Agriculture and Natural Resources Committee. He reported that no hearings had been scheduled while the Governor and his staff reviewed the bill to determine if it fit their vision or Roadmap for Kansas. The Governor's Liaison reported that the Governor had looked over the bill and thought it was a good idea. Because of the Governor's support, Representative Sloan asked for the committee's consideration. (Attachment 6)

Kevin Newkirk, Manager, CK Processing, Manhattan, submitted written testimony in support of **SB 122** stating that conservation projects within the state's navigable waterways currently are prohibited because no state agency is authorized to grant an easement allowing construction within the waterways. He stated that stream bank erosion causes soil loss and stream bank stabilization projects are effective methods of preventing soil loss and establishing stable, environmentally beneficial stream banks. (Attachment 7)

Mark Rude, Executive Director, Southwest Kansas Groundwater Management District No. 3, appeared in opposition to the scope and implications of the language in **SB 122**, but in support of the efforts to facilitate the proper work of adjacent landowners to stabilize the stream banks. He said that if the language was modified just for the purpose of stabilizing banks, he could be a proponent. (Attachment 8)

There being no other conferees, the Chairman closed the hearing on **SB 122**.

CONTINUATION SHEET

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**Discussion and action on HR 6009 – A resolution to change the language of conservation easement assignments from “perpetuity” to “life of the project.”**

Chairman Powell opened discussion on **HR 6009**.

Representative Moxley stated that Representative Brookens had prepared alternative language for **HR 6009**. Representative Brookens believes the new language better clarifies the intent of the resolution. He reported that Senator Roberts was meeting with the U.S. Army Corps of Engineers on Thursday and it was hoped this resolution could be passed out of the House by that time. (Attachment 9)

Representative Moxley moved to recommend HR 6009, as amended, favorably for adoption in the form of Substitute for HR 6009. Seconded by Representative Brookens, the motion carried.

The meeting adjourned at 10:45 a.m. The next meeting of the House Agriculture & Natural Resources Committee is scheduled for March 8, 2011.