

MINUTES OF THE HOUSE COMMITTEE ON ENVIRONMENT.

The meeting was called to order by Chairperson Representative Joann Freeborn at 3:30 p.m. on January 30, 2003 in Room 231-N of the Capitol.

All members were present except: Representative Tom Sloan - excused

Committee staff present: Raney Gilliland, Legislative Research
Emalene Correll, Legislative Research
Mary Torrence, Revisor of Statutes
Mary Ann Graham, Secretary

Conferees appearing before the committee: Professor James Wadley, Washburn University School of Law,
1700 SW College Avenue, Topeka, KS 66621

Others attending: See attached sheet

Chairperson Joann Freeborn called the meeting to order at 3:30 p.m. She asked if there was a vote to approve committee minutes for January 16.

Rep. Gary Hayzlett made a motion the minutes for January 16 be approved. Rep. Mary Compton seconded the motion. Motion carried

The Chairperson announced that there would be a tour of Ash Grove Cement Company in Chanute, Kansas, on Monday, February 3. Anyone wishing to attend can contact Rep. Gary Hayzlett's secretary to make the necessary arrangements.

Chairperson Freeborn asked if anyone wished to request a bill at this time.

Tom Whitaker, Executive Director, Kansas Motor Carriers Association, requested a bill that would amend KSA 65-34, 109, the unlawful acts section of the Kansas Storage Tank Act.

Rep. Gary Hayzlett made a motion the bill to amend KSA 65-34, 109, be introduced. Rep. Vaughn Flora seconded the motion. Motion carried.

The Chairperson welcomed Professor James Wadley, Washburn University School of Law, to the committee. He addressed the committee on Kansas Water Law and distributed an outline on the "Consumptive Use of Water in Kansas: What You Should Know". (1) How law of water rights is structured: Rules vary depending on: 1) location of water (surface and ground); 2) status of water (surface and confined); 3) nature of use (consumptive and non consumptive). (2) Major tension in system is derived from: 1) fact that structure was developed largely without regard to accurate scientific knowledge; 2) system wants to keep structure but wants/needs to conform to what is known to be rational. (3) Fundamental nature of the water right itself: 1)

CONTINUATION SHEET

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limited; 2) usufructary right which is protected as a; 3) real property right; 4) by which access is secured; 5) to a particular quantity of water; 6) to be used; 7) for particular; 8) acceptable purposes. The outline includes the mechanics of the Kansas system. (See attachment 1)

Professor Wadley stated that Kansas is relatively abundantly blessed with water compared to a lot of the states further west of us but compared to a lot of states further east of us are not. So we have to struggle with the same concept that water is scarce and has to be carefully managed. Kansas problems are further compounded because the water is not evenly allocated across the state. In some ways western Kansas has better ground water resources than eastern Kansas. Typically, eastern Kansas has better surface water resources. Looking at water distribution maps for Kansas there are lots of places where it is going to be very difficult to find water on the surface or underground. That puts a lot of responsibility on the legislature to make wise decisions about how the water is going to be allocated. The issues that the legislature will probably increasingly have to deal with are the resource of the water right. Back in the 1970's the Legislature adopted a policy that is now used by groundwater management districts. The Legislature wanted to give the locals some measure of input into how the water is being used. The Legislature choose to give the Chief Engineer the power to make rules and regulations and to the groundwater management districts the power to make policies and recommendations as to what the rules and regulations should be. Discussion and committee questions followed.

David Pope, Chief Engineer, Water Resources, Kansas Department of Agriculture, was in attendance and addressed committee questions.

Chairperson Freeborn thanked Professor Wadley for addressing the committee today.

The meeting adjourned at 4:45 p.m. The next meeting is scheduled for Tuesday, February 4, 2003.