

MINUTES OF THE HOUSE ENVIRONMENT COMMITTEE

The meeting was called to order by Chairman Joann Freeborn at 3:30 P.M. on February 15, 2005 in Room 231-N of the Capitol.

All members were present except:

Representative Vaughn Flora- excused

Committee staff present:

Raney Gilliland, Legislative Research Department  
Emalene Correll, Legislative Research Department  
Lisa Montgomery, Revisor of Statutes Office  
Pam Shaffer, Committee Secretary

Conferees appearing before the committee:

David Pope, Chief Engineer Division of Water Resources, Kansas Department of Agriculture  
Dan Ward, Kansas Wildlife Federation  
Secy Michael Hayden, Kansas Wildlife & Parks  
Tracy Streeter, Director, Kansas Water Office  
LaVene Brenden, Ks Society of Professional Engineers  
Senator Ralph Ostmeyer, District 40  
Representative Larry Powell, 117<sup>th</sup> District  
John Fierro, Southshore Cabin Owners  
Stan Healzer, Ness City Commissioner  
Hardy Howard, Wakeeney City Administrator  
Sandra Stenzel, Trego County Economic Development Directory  
Gomer Stukesbary, Directory Cedar Bluff Lake Association  
Richard Stenzel, Ness City, Ks resident  
David Harding, Trego County Attorney  
Geoff Withington, Wakeeney resident

Others attending:

See attached list.

Chairperson Freeborn called the meeting to order.

Chairperson Freeborn asked all guests to please sign the guest log. The agenda for Thursday, February 17 will be possible action on bills previously heard, a hearing on **HB 2400 - Establishes the irrigation transition assistance program and HB 2390 - Allows the Kansas Corporation Commission to increase financial assurance responsibilities for operators drilling wells after 1996.** Chairperson Freeborn announced she will be having surgery Thursday and that Representative Burgess will be chairing the Committee on Thursday.

Chairperson Freeborn asked that Committee members look at the minutes for January 25, and 27 during the meeting, she will be asking for approval of the minutes before adjournment today.

Chairperson Freeborn took up action on **HB 2014 - Powers of members ex officio of the Kansas Water Authority.** Since no one had come forward with suggested amendments, Representative Schwartz made a motion recommending **HB 2014** favorable for passage, Representative Light seconded the motion. Committee discussion followed. Motion carries. It will be announced later who will carry the bill.

Representative Sloan made a motion to approve the committee minutes for January 25, and 27, Representative Menghini seconded. The motion carried.

Chairperson Freeborn opened the hearing on **HB 2393 - Controlling the release of water from Cedar Bluff Reservoir.** Chairperson Freeborn announced that since she may have to leave before the hearing was over that she was going to have David Pope, Chief Engineer, Division of Water Resources an opponent to the bill go first, and then proceed to the proponents. Chairperson Freeborn welcomed Mr. Pope.

Mr. Pope testified as an opponent to **HB 2393.** He stated that this bill sets a dangerous precedent; it

CONTINUATION SHEET

MINUTES OF THE House Environment Committee at 3:30 P.M. on February 15, 2005 in Room 231-N of the Capitol.

compromises the integrity of the Kansas Water Appropriation Act; the chief engineer is required to administer and protect water rights; the proposed releases from the artificial recharge pool will have little impact on recreation; losses in lake level are due primarily to evaporation; this bill could cause an unlawful taking of water rights; Mr. Pope ask the Committee to report **HB 2393** unfavorably for the reasons state above. (See attachment 1)

Chairperson Freeborn announced there was a paper from Representative Eber Phelps, which is an information sheet which was written for the Hays Daily News, it is not testimony, but Representative Phelps wanted it passed out to all Committee members. (See attachment 2) There is also testimony from Dan Ward, Kansas Wildlife Federation in front of each Committee member, Mr. Ward is ill and will not be here to give his testimony in opposition of **HB 2393**. (See attachment 3)

Chairperson Freeborn opened the hearing for the proponents.

Senator Ralph Ostmeyer, District 40 testified in support of **HB 2393**, which would preserve Cedar Bluff Reservoir by controlling the release of water contained within. Cedar Bluff Lake is a major economic development for Trego County and surrounding communities. (See attachment 4)

Representative Larry Powell, 117<sup>th</sup> District, testified in support of **HB 2393**. He stated that this bill is in response to an agreement entered into by the Kansas Water Office, the Kansas Department of Agriculture through the Division of Water Resources, the City of Hays and the City of Russell. It only speaks to the lake, spelling out what can be released from the lake at certain elevations. (See attachment 5)

John Fierro, Southshore Cabin Owners testified in support of **HB 2393**, once the primary use of the Lake is designated as a water-based recreation and flood control only, this will reduce the temptation to release water. He stated water release for recharge or municipal use should be eliminated and perhaps only then will the Kansas Water Office and Hays do something more permanent and reliable to solve its perceived water problem. (See attachment 6)

Bill Scott, President Western Kansas Water Watcher testified in support of **HB 2393**, discussing that Cedar Bluff Lake as a significant economic impact for the area. (See attachment 7) Mr. Scott did have a 11x14 map included in his testimony, which is not attached due to its size.

Stan Healzer, Ness City Commissioner, testified in support of **HB 2393**, the proposed and contested releases of water from Cedar Bluff Reservoir would be just another nail in the coffin for the economy of many small towns and their struggling businesses, while the benefits to Hays are minimal at best. (See attachment 8)

Sandra Stenzel, Trego County Economic Development Director testified in support of **HB 2393**, the revenue generated by Cedar Bluff is directly related to the elevation levels of its water. (See attachment 9)

Hardy Howard, Wakeeney City Administrator testified in support of **HB 2393**, this bill will help to preserve Cedar Bluff Reservoir as a recreational only asset for Western Kansas. (See attachment 10)

Gomer Stukesbary, Cedar Bluff Lake Assoc testified in support of **HB 2393**, recreational use and the economic benefit all western Kansas as well as the state of Kansas in sales tax and user fees at the park. In fact, Hays business will suffer most of all with a loss of lake users revenue. (See attachment 11)

Chairperson Freeborn asked if the Committee members had looked over the minutes from January 25 and 27, as it was getting late and some Committee members would be leaving for other commitments, and the Committee could possibly lose its quorum. Representative Sloan made a motion to approve the Committee minutes for January 25, and 27, Representative Menghini seconded. The motion carried.

Richard Stenzel, Ness City resident, testified in support of **HB 2393**, Cedar Bluff Lake has enough of a problem just dealing with evaporation and no inflow. He encouraged the Committee to do all it can to save this beautiful body of water. (See attachment 12)

CONTINUATION SHEET

MINUTES OF THE House Environment Committee at 3:30 P.M. on February 15, 2005 in Room 231-N of the Capitol.

David Harding, Trego County Attorney, testified in support of **HB 2393**, unless there is a free exchange of opinions and ideas, the people do not have the information they need for effective self government. One of the concepts most fundamental to freedom of speech is the public forum. The forum was denied to us by the closed meetings of the Kansas Water Office and the Division of Water Resources. (See attachment 13)

Dean Papes, Trego County Commissioner passes out written testimony, in support of **HB 2393**, but did not testify. (See attachment 14)

Geoff Withington, Trego county resident and member of the Smokey/Hill Saline Basin Advisor Committee, testified in support of **HB 2393**, the agreement between the Kansas Water Office (KWO), Hays and Russell for the operation of the reservoir is only good as long as the KWO holds that water right. He advocated the transfer of the water right to the Kansas Department of Wildlife and Parks KDWP and redesignate it as recreation. This will end the relentless pursuit of the City of Hays to take water from Cedar Bluff Reservoir and allow them to focus on a real and more permanent solution to their supposed water problems. (See attachment 15)

Comments were then taken from the opponents.

Michael Hayden, Secretary, Kansas Department of Wildlife and Parks testified against **HB 2393**. He stated that Cedar Bluff Reservoir is one of the best examples of the economic importance of public water bodies in Kansas. Due to its location, Cedar Bluff is an important resource to a large portion of Western Kansas. (See attachment 16)

Tracy Streeter, Director, Kansas Water Office testified against **HB 2393** He stated that this bill proposes to transfer the ownership and management of the Artificial Recharge Pool and Joint Use Pool from the Kansas Water Office to the Kansas Department of Wildlife and Parks. This bill also would prohibit releases from the reservoir for all uses except for flood storage, City of Russell and KDWP facilities below the dam. (See attachment 17)

Lavene R Brenden, Professional Engineer testified against **HB 2393**. He stated that the Kansas Society of Professional Engineers, opposes passage of this bill because of the potentially far reaching effects on Kansas Water Policy and Kansas Water Law. (See attachment 18)

Committee questions and discussion followed.

Chairperson Freeborn adjourned the meeting at 5:47PM. The next meeting is scheduled for February 17.