

## MINUTES OF THE HOUSE AGRICULTURE AND NATURAL RESOURCES COMMITTEE

The meeting was called to order by Chairperson Sharon Schwartz at 3:30pm on Thursday, January 29, 2015, 346-S of the Capitol.

All members were present except:

Representative Tom Sloan – Excused

Committee staff present:

Raney Gilliland, Legislative Research Department

Joanna Wochner, Legislative Research Department

Shirley Jepson, Kansas Legislative Committee Assistant

Natalie Scott, Office of Revisor of Statutes

David Wiese, Office of Revisor of Statutes

Conferees appearing before the Committee:

Lane Letourneau, Department of Agriculture

Orrin Feril, Big Bend GMD#5, Stafford County

Richard Wenstrom, Water PACK Board of Directors

Justin Vosburg, Kansas Farm Bureau

Leon Dunn, Independent Producer, Stafford County

Aaron Popelka, Kansas Livestock Association

Dave Romero, Balleau Ground Water

Mark Rude, Groundwater Management District #3

Others in attendance:

[See Attached List](#)

### **Bill introductions**

Lane Letourneau, Water Appropriation Program Manager, Division of Water Resources, Department of Agriculture, appeared before the Committee to request the introduction of legislation concerning new section in water appropriation act to allow water conservation areas (RS711).

*Representative Lusker moved to introduce the legislation as requested by the Department of Agriculture. Motion was seconded by Representative Dierks. Motion approved without objection.*

### **Hearing on: HB2059 — Authorizing chief engineer to allow augmentation to secure water.**

Chair Schwartz opened the hearing on **HB 2059**.

Natalie Scott, Revisor, proved an explanation of the bill stating that **HB 2059** amends statute with regard to the options available when the chief engineer makes a determination of an unlawful diversion of water ([Attachment 1](#)). This bill would add that upon a determination of an unlawful diversion of water, the chief engineer would also be authorized to allow augmentation for the replacement in time, location and quantity of that unlawful diversion if available.

The Committee asked for a definition of "augmentation".

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Lane Letourneau, Water Appropriation Program Manager, Department of Agriculture, appeared before the Committee in support of **HB 2059** ([Attachment 2](#)).

Mr. Letourneau noted that augmentation is a broad term and he will supply the Committee with a definition. Mr. Letourneau noted that the intent of this legislation is to narrow the term by explaining in the law that augmentation would be the replacement of the unlawful diversions in time, location and quantity if available. Mr. Letourneau indicated that the Department is currently working with a group of stakeholders above the Quivera National Wildlife Refuge owned by the U.S. Fish and Wildlife Service (USFWS); noting that Quivera holds a very senior surface water right which is affected by groundwater pumping. The basin fluctuates based on rainfall. An active impairment investigation is presently occurring at Quivera. Local water users are looking for proactive solutions in case impairment is determined.

Orrin Feril, Manager, Big Bend Groundwater Management District #5, appeared before the Committee in support of **HB 2059** ([Attachment 3](#)). Mr. Feril stated that a comprehensive hydrologic model has been developed for the entire District. Mr. Feril noted that an impairment complaint was filed by USFWS at Quivera against junior groundwater appropriations within the Rattlesnake Creek subbasin of GMD#5, suggesting that the approach of augmentation may be a solution to that complaint.

Richard Wenstrom, farmer and irrigator from southern Edwards County, representing the Water Protection Association of Central Kansas (Water PACK), presented testimony in support of **HB 2059** ([Attachment 4](#)).

Justin Vosburgh, Kansas Farm Bureau, appeared before the Committee in support of **HB 2059** ([Attachment 5](#)).

Leon Dunn, farmer, irrigator and livestock producer from St. John, appeared before the Committee in support of **HB 2059** ([Attachment 6](#)). Mr. Dunn stated that he believes **HB 2059** would allow the Chief Engineer authority to pump water into the Rattlesnake Creek basin. This in turn would supply Quivera NWR with water when needed, instead of limiting irrigation for a long period of time within the two mile corridor of Rattlesnake Creek.

Aaron Popelka, Vice President of Legal & Governmental Affairs, Kansas Livestock Association, appeared before the Committee in support of **HB 2059** ([Attachment 7](#)). Mr. Popelka stated that KLA members in the area are increasingly concerned with the potential ramifications in the region if the water rights are found to have been impaired.

Dave Romero, Balleau Ground Water, appeared before the Committee but had no written testimony. Mr. Romero explained that he has been involved with technical work in groundwater management for the past ten years. Mr. Romero felt that augmentation would be a benefit to the area. The Chair

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requested that Mr. Romero support the Committee with a written version of his comments.

Written testimony in support of **HB 2059** was received from Greg Krissek, Kansas Corn Growers Association ([Attachment 8](#)).

The conferees responded to questions from the Committee.

Mark Rude, Southwest Kansas Groundwater Management District No. 3, appeared before the Committee in a neutral position ([Attachment 9](#)). Mr. Rude explained that although **HB 2059** provides important assurance that the augmentation of stream flow using basin water from groundwater storage can be part of the water management remedies, GMD#3 has some concerns and is providing recommended revisions.

Mr. Rude stated that GMD#3 is requesting that the augmentation provision of the bill be limited to the Rattlesnake Creek Basin. There is also a concern as to how such authority may be implemented in other hydrological settings and circumstances where water right impairment may be at issue.

Mr. Rude responded to questions from the Committee.

There were no conferees to appear as opponents.

The hearing on **HB 2059** was closed.

### **Adjournment**

The meeting was adjourned at 4:50 pm. The next meeting of the Committee is scheduled for Monday, February 2, 2015.