



Kansas Wildlife Federation
Testimony Regarding House Bill 2061
to the Kansas Senate Committee on Agriculture

March 17, 2015

Chairman Love and members of the Committee, we thank you for the opportunity to present our concerns regarding watershed operations in Kansas.

The Kansas Wildlife Federation is a 65-year old grassroots organization of hunters, anglers and concerned wildlife conservationists that promotes hunting and fishing opportunities and associated recreation for the benefit of all hunters, anglers and outdoor enthusiasts. KWF supports the sustainable use and management of fish and wildlife and their habitats through education, partnerships, outreach, and policy oversight.

KWF opposes House Bill 2061, which authorizes the Department of Agriculture Division of Conservation to hold conservation easements for watershed projects throughout the state. We feel this is an unwarranted authorization. Basically House Bill 2061 creates a larger government by granting land stewardship and maintenance powers and responsibilities to another State agency. This is contrary to the direction and policy set by the Governor and Legislature.

House Bill 2061 mixes other tax dollars/resources with “environmental credit” dollars/tax dollars. Existing Kansas resources will be used to administer programming and administration costs associated with this bill if passed. It is a violation of antitrust laws creating an unfair advantage in the marketplace over private businesses.

House Bill 2061 changes the private sector NGO and Non-profit “environmental credit” purchases to basically a State tax on rural landowners. It is an agricultural price support program for watershed dam construction in addition to a Watershed District program, which already have taxing power.

It is our contention House Bill 2061 actually increases the costs to the public by adding a bureaucratic layer of State agency into the Federal Clean Water Act 404 permitting and mitigation process. If the goal is a decrease in ‘mitigation credit’ charge, the only way a State agency could accomplish this is by commingling other public funds or resources to somehow subsidize and artificially bring the price of credits down. Such a subsidy move opens the doors for a lawsuit.

These Watershed Dams are basically boondoggles for large ranches sold to the public as “flood control”. If they were truly flood control, they would be built as dry dams...and dry dams require almost no mitigation. Thus, the argument of expense for the cost of mitigation or conservation easements would be moot.

KDA DOC has no formal training in Perpetual Conservation Easements, which is a requirement of the Federal 404 mitigation process through the Kansas City District. They are all Perpetual Easements. These easements must be held forever and funding must be set aside for stewardship and invasive species eradication. This comes at a time when questions are being raised about the future of perpetual conservation easements and now State Government is volunteering to be an expert in them? The legal ramifications and responsibilities are huge in monitoring and enforcing perpetual conservation easements forever.

If a landowner violates the conservation easement by allowing cattle to graze, allowing fence in disrepair, allowing 4 wheelers, bulldoze a road, or otherwise a multitude of other violations, the State is obligated to sue that landowner to enforce the terms of the easement. This obligation is forever to be enforced by the State of Kansas and the DOC if this HB 2061 is passed. It is our understanding the costs of these types of conservation easement encroachment lawsuits can exceed \$500,000 in legal fees. The State of Kansas is not prepared for this type of suit or publicity in an environment when it is trying to reduce big government.

The DOC and the State of Kansas would be required to monitor and eradicate all invasive species on the conservation easement property forever among other affirmative long term obligations it is not prepared for. This would include lespedeza, salt cedar, and Johnson grass among others that we do not even know of at this time. That obligation lasts forever. The KDA DOC must subcontract this work because they don't have the staff or equipment to perform this type of service and it becomes very expensive.

The Federal Mitigation Rule sets out the requirements of a mitigation plan and it applies to all providers. The DOC and Watershed Districts would be required to perform to the same standard. The pending legislation if passed would offer no cost savings in credit sales on the open market unless artificially supported by Kansas State Taxes, which would be a violation of anti-trust law.

The Kansas Wildlife Federation feels it is in the best interest of all Kansans to maintain a neutral third party organization to continue to work with watershed districts for mitigation efforts and easement holding and enforcement. There are truly independent third party land trusts in Kansas. The KDA DOC would not be. The DOC oversees the watershed districts by statute...no independence there!

Thank you for considering our concerns.



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