



STATE ASSOCIATION
OF KANSAS WATERSHEDS



Testimony on SB 118

Senate Committee on Nature Resources

February 5, 2015

Chairman Powell and members of the Senate Natural Resources Committee

My name is Herb Graves, Executive Director of the State Association of Kansas Watersheds. SAKW stands in support of SB 118.

As an regulatory requirement of the Kansas City, Missouri District of the US Army Corps of Engineers (hereby referred to as the Corps) in order to obtain a Clean Water Act Section 404 permit, Kansas watershed districts (hereafter referred to as districts) must develop and implement a mitigation plan that offsets any environmental impacts to woodlands, wetlands, or streams. Mitigation credits to accomplish this offset can be obtained through either permit tee responsible projects in partnership with a third party agent, paying for the services of an in lieu of fee agent, or buying the credits from a mitigation bank.

Conservation easements for a term of perpetuity must be obtained from willing landowners for permit tee and in lieu of fee mitigation plans. SAKW and Watershed Districts feel a term not to exceed the life of the project requiring mitigation such as a flood control dam is much more appropriate and much more receptive by local land owners. SAKW has initiated action to carry this issue to our federal legislative partners and feel the makeup of the current federal congress is in much better position to deal with over regulating by federal agencies. In the mean time SB 118 would provide immediate relief to the 404 permitting process.

Currently no mitigation banks are available to watershed districts. There is an in lieu of fee agent with state wide authority available to all districts.

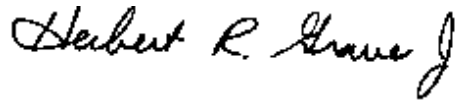
Compensatory mitigation is a major financial burden to districts. All three mitigation credit options come with a high price tag. Even though third party, in lieu of fee, and mitigation banking agents are not for profit, their fee for service offers have ranged upwards of 25-100+ % of estimated project costs. As a result of the reluctance of districts to pay for these expensive services with a perpetuity management responsibility, the dam construction program administered by the Kansas Department of Agriculture's Division of Conservation is entering its third year of dormancy.

SB 118 will allow the KDA/ DOC to become a third party agent with authority to secure conservation easements. All indications are that fees for KDA/DOC services could be much lower by not requiring up front financial security payments along with annual operation and maintenance fees. All expenses involved with DOC being the third party agent will be the responsibility of watershed districts thus making this a revenue neutral proposal for the state.

Continuing the great partnership between watershed districts, conservation districts, and KDA/DOC for implementation of technically sound locally led best management practices as mitigation credits is a win win situation. Landowners will see familiar faces working with them on securing mitigation conservation

easements. Costs to watershed districts will be based on county averages without the administrative and long term management uncertainties now being offered by mitigation agents.

Thanks for the opportunity to comment on SB 118 and I would be glad to take any questions from the committee at the appropriate time.

A handwritten signature in black ink, reading "Herbert R. Graves Jr." in a cursive script.

Herbert R. Graves Jr.
SAKW Executive Director