

M I N U T E S

SPECIAL COMMITTEE ON ENERGY AND NATURAL RESOURCES

June 22, 1976

10:00 a.m.

Room 529-S, State House

Members Present

Senator Leslie Droge, Chairman
Representative Bill Southern, Vice-Chairman
Senator Paul Burke
Representative Gus Bogina
Representative Ralph Bussman
Representative Arden Dierdorff
Representative Paul Feleciano
Representative Edgar Moore
Representative Anita Niles

Staff Present

Emalene Correll, Legislative Research Department
Ramon Powers, Legislative Research Department
Don Hayward, Revisor of Statute's Office

Conferees

Jan Johnson, Kansas Energy Office
Dr. George Pytlinski, Chairman of Solar Energy Advisory
Group and Professor, Kansas State University
Dwight F. Metzler, Secretary, Kansas Department of Health
and Environment
Gerald Stoltenberg, Kansas Department of Health and Environ-
ment
Mel Gray, Director, Division of Environment, Kansas Department
of Health and Environment
Ed Flentji, Division of State Planning and Research
James Power, Kansas Water Resources Board
Guy Gibson, Division of Water Resources

Chairman Droge called the Committee to order and advised the members that there would be a review of the proposals before the Committee, and members should keep in mind ideas for a summer schedule which would be discussed later in the meeting.

Proposal No. 14 - Solar
Energy

Chairman Droge called upon Ramon Powers to give a brief review of this proposal. Mr. Powers presented a short summary of bills introduced in the 1976 Legislative Session and legislative action in other states in 1976. Mr. Powers then introduced Jan Johnson from the Kansas Energy Office. She explained what solar energy involves and the possibilities of studies in this area; a copy of her talk is attached to these minutes. In response to questions Miss Johnson called upon Dr. George Pytlinski of Kansas State University Center for Energy Studies and Chairman of the recently formed Solar Energy Advisory Group, to speak on the uses of solar energy today and practical uses of solar energy in the future. Representative Dierdorff stated that he had read an article about a town in Texas that was being forced off natural gas and consequently it proposed to use solar energy. He inquired if anyone present had any up-to-date information on that project. Ramon Powers had looked into that situation and found that the project had run into some difficulties and it was still in the planning stage.

Chairman Droge asked if an increased use of solar energy would have an effect upon utility rates. Dr. Pytlinski replied that in the near future there would be no impact on utilities. Perhaps in fifteen to twenty years as it becomes more economical to produce and store solar energy, there might be an impact on utilities which might be a problem.

Senator Burke asked if solar energy was just being used for immediate heating or if it was being stored for use at a later time. Dr. Pytlinski explained that at the present time it is most economical to produce space and water heating by direct use of the sun's heat but only on a very small basis and it is not easily stored. At present solar energy cannot be readily and economically used to produce electricity and stored. In thirty years it might be possible to produce electricity on more of a mass scale. This is still being researched at this time. He also stated that in the city of Miami, Florida there are 60,000 solar water heating systems and solar energy is cheaper than electricity for water heating, but not cheaper in comparison to natural gas or coal.

In response to a question concerning research in countries outside of the United States, Dr. Pytlinski answered that the United States started its research later than other countries but at this time we have equaled, if not surpassed other countries. The USSR uses solar energy for crop drying and water distillation. Italy is working on storage plates and there is also research being done in France, Germany and Switzerland.

Senator Burke asked what methods are being used to turn solar energy into electricity and to store it. One method is photovoltaic cells which convert light to energy at a cost of several thousand dollars per kilowatt and until further research is done it is far too expensive, replied Dr. Pytlinski. A second method is being used to heat water and generate steam which is similar to coal power plants now operating in Kansas.

Representative Feleciano asked if wind energy will be included in conjunction with the study of solar energy. Chairman Droge indicated that it would and that the Committee might look into the question of wind energy versus other solar energy sources.

Representative Southern asked if the staff would investigate whether a power plant company on the West Coast is using solar energy.

Jan Johnson said that she could arrange for members of the Governor's Advisory Group on Solar Energy and people from the state universities to appear before the Committee. Also she offered to arrange for the Committee to see some present solar systems at work. Dr. Pytlinski said that he had a report that will be available in six weeks on the use of solar energy in Kansas. Ramon Powers suggested that the Corporation Commission and representatives from utility companies could speak on how an increased use of solar energy will affect the structure of utilities.

Proposal No. 16 - Conservation Easements

Don Hayward gave a short background presentation on the proposal. He stated that during the regular session of this year, Representative Whiteside introduced a bill concerning conservation easements through the Federal and State Affairs Committee. Because of the lateness of the bill's introduction and because of the importance of its subject matter, it was recommended for a subject of study for this Committee this summer. Mr. Hayward then defined a conservation easement as an interest in real property which protects or preserves property in its natural state by restricting the owner of such property as to the uses he may make of it. The owner of the easement obtains a personal right to enforce the terms of the easement. Mr. Hayward noted that several states, through various state agencies, have used this land management technique to preserve property having natural scenic beauty or historical value and to prevent its development or destruction which would destroy such beauty or historical value.

Mr. Hayward then stated that it seems that the State Park and Resources Authority may already possess statutory authority under K.S.A. 1975 Supp. 74-660 to acquire conservation easements for the protection and preservation of natural scenic beauty. But he added that the act may need to be amended to

provide specifically for conservation easements as an alternate to the obtaining of articles of dedication as provided by the act. Mr. Hayward also suggested that the State Historical Society under K.S.A. 1975 Supp. 75-2701 has the authority to accept conservation easements, but again the statute may need amending to specifically provide for conservation easements.

It was stated that the original intent of Representative Whiteside's bill was for the purpose of creating a Tall Grass Prairie Park. Senator Droge asked if this kind of easement could be used to protect air space or whether eminent domain could be used in this matter. Mr. Hayward stated that air space probably could be covered in a conservation easement. Representative Bogina asked if the gift or sale of easements is made to agencies or to individuals? Mr. Hayward replied that under the proposed bill easements could be acquired only by governmental entities, however, the Maryland law provided that private corporations could acquire easements. He referred the Committee members to a pamphlet on conservation easements from Maryland which is in the notebooks. (A copy is also attached to these minutes.)

Proposal No. 15 - Monitor Water
Pollution Control -- Non-point
Source

Ramon Powers gave some background on the monitoring of water pollution control planning and Senator Droge commented that the Committee should be aware of the moneys provided for this project. It was noted that the Division of Environment of the Department of Health and Environment would make a presentation on the subject at the afternoon session.

Proposal No. 17 - Water
Appropriation Laws

Emalene Correll reviewed the Kansas statutes concerning the appropriation of water. A copy of the statutes are attached to these minutes. She stated that the present laws were written in 1945 and extensively reviewed and amended in 1957. No major changes have been made since the 1957 legislation. The present proposal arises from the 1975 Post Audit Report and the request of the House Committee on Energy and Natural Resources. Copies of the Post Audit report were distributed to the Committee for review prior to a discussion of Proposal No. 17. Staff noted that the report interpreted some of the statutes in a different manner than they have been interpreted over the years by the administrative agency or those who participated in the studies which resulted in the existing laws. Mrs. Correll pointed out certain questions relating to definitions and other sections of the statutes which the Committee may want to consider in future study of this proposal.

Under K.S.A. 82a-707, Senator Droge asked if prior rights prevail regardless of use. It was pointed out that prior rights prevail but the statute provides that a higher use may condemn a prior right with a lower preferred use. Mrs. Correll stated that water rights are transferred with a property sale unless specifically severed. A water right may be transferred to another portion of land with the approval of the Chief Engineer. Water rights may be applied for and issued to a non-owner.

Representative Anita Niles thought the Committee should remember the saline quality of water while discussing the proposal on water rights.

The Committee recessed for lunch.

Afternoon Session

The Chairman introduced Dwight Metzler, Secretary of the Department of Health and Environment. Mr. Metzler gave a brief background report on the events leading to the present 208 program of water quality planning that is now being implemented in Kansas.

Mel Gray, Gerald Stoltenberg and Dan Snethen, all of the Division of Environment of the Department of Health and Environment, gave a presentation with the aid of transparencies on the proposed 208 planning process. A copy of their presentation is attached to these minutes. Mr. Gray open by saying that he thought that this planning was a great opportunity for the State of Kansas - "It can make or break the water quality in the state depending upon how we all do our jobs." According to Mr. Gray, the federal government has provided \$1.09 million to be available over a two-year period for this project; this is in addition to regular funds to be used in the development of the 208 plan. Everything is included in 208 planning - industrial, agricultural runoff, urban storm water drainage, etc. All these could be determining factors in economic development in Kansas. It would cost the state seven billion dollars to completely comply with federal standards mandated by present federal law. We would like to develop a plan with logic that would benefit the environment and set up a list of priorities. Public support is needed in order to implement these plans. We will also need the aid of the Governor and the legislature. Funding is through federal grants appropriated by the Division of Environment.

Mr. Gray said that the state had already presented the proposed planning method to the E.P.A. Kansas was one of the first 25% of the states to do so. Many other states are following the planning method proposed by Kansas.

Chairman Droge asked how Kansas stood at the present time in relation to federal standards for rivers and streams. Mr. Gray replied that we are meeting current standards.

In response to a question about the planning program Mr. Gray said that the first nine months to a year is a data gathering period along with development of cost-benefit figures. There also will be development as alternative plans. At this time no specific policy decisions are being made.

Ed Flentji of the Division of Planning emphasized that there were seventy different federal planning requirements and there was a difference in writing a plan that only followed federal requirements and developing a plan that reflects the state's needs.

James Power of the Water Resources Board pointed out that this plan will have a great impact on state agencies and will create difficulties in scheduling budgets and manpower. The planning procedure has just crystalized; it has a very high priority with us. In fiscal 1977, the Water Resources Board will put in one or two man-years on the 208 planning. This is a major project and the Board is willing to do what is needed and required. This will require using experienced people.

Chairman Droge asked what the Committee can do to help at this time? Mr. Gray answered that the best thing to do was to keep informed and attend meetings. The Department will give the Committee a summary of meetings to be held later this summer.

Chairman Droge said that it might be possible for one or two of the Committee members to become involved with the Planning Policy Advisory Committee.

There was a discussion about the dates of the meetings in July and August. The next meeting will be July 20 and 21, and will be about solar energy. Tentative dates of August 18 and 19, were set for the next month. Ramon Powers was directed to set up the July meeting for two days on solar energy. The meeting was adjourned.

Prepared by Ramon Powers

Approved by Committee on:

July 21, 1976
(Date)

REMARKS BEFORE THE
SPECIAL COMMITTEE ON ENERGY AND NATURAL RESOURCES
OF THE KANSAS LEGISLATURE

BY JANICE L. JOHNSON
KANSAS ENERGY OFFICE

AS I UNDERSTAND MY TASK HERE THIS MORNING, I AM TO PROVIDE YOU WITH A QUICK AND GENERAL INTRODUCTION TO THE MANY AND DIVERSE ACTIVITIES NOW UNDERWAY IN THE FIELD OF SOLAR ENERGY. I WILL NOT ATTEMPT TO DESCRIBE TO YOU THE TECHNICAL ASPECTS OF HOW SOLAR ENERGY "WORKS", NOR WILL I DISCUSS THE NATURE AND EXTENT OF THE SOLAR POTENTIAL IN KANSAS. PROPER COVERAGE OF THESE TOPICS REQUIRES MORE TIME THAN CAN BE DEVOTED TO THEM THIS MORNING AND, MORE IMPORTANTLY, THERE ARE PEOPLE AVAILABLE TO THE COMMITTEE WHO ARE BETTER ABLE THAN I TO DISCUSS THEM.

I HAVE LEARNED, PARTICULARLY IN THE PAST FEW MONTHS, THAT THE TERM "SOLAR ENERGY" IS A DECEPTIVELY SIMPLE WAY OF REFERRING TO A WHOLE LOT OF THINGS. THE DEFINITION OF SOLAR ENERGY IS A CONSTANT -- THE ENERGY WHICH IS RECEIVED BY THE EARTH FROM THE SUN -- BUT WHEN PEOPLE TALK ABOUT

SOLAR ENERGY, WHAT THEY'RE REALLY TALKING ABOUT ARE WAYS IN WHICH WE CAN USE IT. AND THOSE WAYS TURN OUT TO BE NUMEROUS, RANGING FROM BACKYARD TINKERING WITH BEER CANS AND BLACK PAINT TO EARTH-ORBITING POWER STATIONS COMPOSED OF HUGE BANKS OF PHOTOVOLTAIC SOLAR CELLS. AN EASY SOLAR ENERGY IMAGE IS AN ARRAY OF FLAT-PLATE COLLECTORS ON SOMEBODY'S SOUTH-FACING ROOF, BUT WE GO BEYOND THAT -- NOT ONLY CAN SOLAR ENERGY BE USED TO HEAT DOMESTIC WATER AND PROVIDE SPACE CONDITIONING IN BUILDINGS; IT CAN BE USED TO SUPPLY A NUMBER OF AGRICULTURAL AND INDUSTRIAL PROCESS HEAT REQUIREMENTS, AND IT CAN, THROUGH A VARIETY OF METHODS, BE USED TO GENERATE ELECTRICITY. ONCE YOU BEGIN TO HAVE AN UNDERSTANDING OF THE DIVERSE TECHNICAL POSSIBILITIES, YOU MUST INEVITABLY START CONSIDERING A NUMBER OF ATTENDANT FACTORS WHICH WILL EVENTUALLY DETERMINE HOW WELL SOLAR ENERGY FARES IN COMMERCIAL DEVELOPMENT. ECONOMICS IS OF COURSE THE SINGLE MOST IMPORTANT FACTOR, BUT THERE ARE ALSO SOCIAL, LEGAL AND INSTITUTIONAL ACCOMMODATIONS WHICH MUST BE MADE IF SOLAR APPLICATIONS ARE TO FLOURISH. IT'S NOT MY PURPOSE TODAY TO ELABORATE ON SOLAR ENERGY'S CRITICAL PATH TO COMMERCIALIZATION, BUT I DO WANT

TO ADVISE YOU IN A GENERAL SORT OF WAY THAT PURSUIT OF PROPOSAL 14 COULD LEAD YOU AS SEEMINGLY FAR ASTRAY AS BUILDING CODES, ZONING ORDINANCES, ELECTRIC RATE STRUCTURES AND LENDING PRACTICES OF FINANCIAL INSTITUTIONS.

Now, AS IF THE SUBSTANTIVE ISSUES AREN'T ENOUGH TO OCCUPY US, THERE IS THE EVER-PRESENT PROBLEM OF TRYING TO FIGURE OUT JUST WHAT IT IS THE FEDERAL GOVERNMENT IS DOING. ITS LEAD AGENCY IN SOLAR ENERGY RESEARCH, DEVELOPMENT AND DEMONSTRATION IS THE ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION (ERDA). ERDA IS A NEW AGENCY AND IS ESSENTIALLY AN AMALGAMATION OF PARTS AND PARCELS OF SEVERAL OLDER AGENCIES, CONTRIBUTORS INCLUDING THE NOW-DEFUNCT ATOMIC ENERGY COMMISSION, THE DEPARTMENT OF INTERIOR, AND THE NATIONAL SCIENCE FOUNDATION. UNDERSTANDING HOW ERDA WORKS IS NOT BEYOND HOPE, BUT NEITHER IS IT EASY. THE AGENCY HAS INHERITED A NUMBER OF OPERATIONS FACILITIES AND NATIONAL LABORATORIES LOCATED ALL ACROSS THE COUNTRY, SEVERAL OF WHICH HAVE SOLAR RESPONSIBILITIES. ADDITIONALLY, ERDA HAS A NUMBER OF WORKING ARRANGEMENTS IN ITS SOLAR PROGRAM WITH OTHER FEDERAL AGENCIES--NASA, HOUSING AND URBAN DEVELOPMENT,

DEPARTMENT OF DEFENSE, AND DEPARTMENT OF COMMERCE, TO NAME A FEW.

ERDA'S GUIDANCE AND AUTHORITY IN SOLAR ENERGY DEVELOPMENT DERIVES PRIMARILY FROM THREE FEDERAL ACTS: THE SOLAR RESEARCH, DEVELOPMENT AND DEMONSTRATION ACT OF 1974; THE SOLAR HEATING AND COOLING DEMONSTRATION ACT OF 1974; AND, THE FEDERAL NONNUCLEAR ENERGY RESEARCH AND DEVELOPMENT ACT OF 1974. ON THE BASIS OF DIRECTIVES CONTAINED IN THESE ACTS, ERDA HAS DEVISED A NATIONAL SOLAR ENERGY PROGRAM WHICH IS SUBDIVIDED INTO FOUR PROGRAM UNITS:

- I. DIRECT THERMAL APPLICATIONS
 - . SOLAR HEATING & COOLING OF BUILDINGS
 - . AGRICULTURAL & PROCESS HEAT APPLICATIONS

- II. SOLAR ELECTRIC CONVERSION
 - . WIND ENERGY CONVERSION
 - . PHOTOVOLTAIC ENERGY CONVERSION
 - . SOLAR THERMAL ELECTRIC CONVERSION
 - . OCEAN THERMAL ENERGY CONVERSION

III. FUELS FROM BIOMASS

- . TERRESTRIAL & MARINE BIOMASS PRODUCTION AND CONVERSION
- . AGRICULTURAL AND FORESTRY RESIDUE CONVERSION

IV. TECHNOLOGY SUPPORT & UTILIZATION

- . SOLAR ENERGY RESOURCE ASSESSMENT
- . SOLAR ENERGY RESEARCH INSTITUTE
- . TECHNOLOGY UTILIZATION AND INFORMATION DISSEMINATION

SEVERAL ELEMENTS OF ERDA'S SOLAR PROGRAM HAVE POSSIBLE APPLICABILITY IN KANSAS AND IT MIGHT BE WORTHWHILE FOR YOU TO SCHEDULE FULLER BRIEFINGS ON THESE. I'M THINKING PARTICULARLY OF THE SOLAR HEATING AND COOLING DEMONSTRATIONS, AGRICULTURAL AND PROCESS HEAT APPLICATIONS, WIND ENERGY CONVERSION AND POSSIBLY BIOMASS FUEL UTILIZATION.

ALTHOUGH THE AMOUNT OF MONEY BEING COMMITTED BY THE FEDERAL GOVERNMENT TO SOLAR ENERGY IS STILL SOMEWHAT SMALL WHEN COMPARED TO NUCLEAR AND FOSSIL FUEL PROGRAMS, SOLAR'S STAR IS CLEARLY RISING. ERDA'S SOLAR BUDGET AUTHORITY HAS INCREASED BY FIVE-FOLD DURING THE PAST THREE YEARS, FROM \$42 MILLION IN FY 1975 TO OVER \$200 MILLION IN FY 1977.

I WOULD NOW LIKE, AT LAST, TO ADDRESS THE SUBSTANCE OF PROPOSAL 14--SOLAR ENERGY ACTIVITIES IN KANSAS. I WON'T TRY HERE TO INVENTORY FOR YOU WHO'S DOING WHAT, BUT I THINK THAT YOU WILL, DURING THE COURSE OF THE SUMMER, ENCOUNTER SOME PLEASANT SURPRISES. YOU WILL, FOR EXAMPLE, FIND KANSANS IN BOTH PUBLIC AND PRIVATE SECTORS, WHO ARE DESIGNING OR INSTALLING --EITHER COMMERCIALY OR FOR DEMONSTRATION PURPOSES -- SOLAR SYSTEMS FOR HOT WATER HEATING, SPACE HEATING AND AIR CONDITIONING, CROP DRYING, INDUSTRIAL PROCESS HEAT, SWIMMING POOL HEATING, AND EVEN GENERATION OF ELECTRIC CURRENT FOR CATHODIC PROTECTION OF PIPELINES. YOU WILL BECOME ACQUAINTED WITH RESEARCHERS AT THE THREE MAJOR UNIVERSITIES WHO ARE WORKING TO IMPROVE ON BOTH DIRECT SOLAR AND WIND APPLICATIONS, AND--IF YOU'RE INCLINED TO INCLUDE BIOMASS IN YOUR DEFINITION OF SOLAR--PEOPLE WHO THINK THAT WHEAT STRAW AND TREES MIGHT BE GOOD FUEL CANDIDATES FOR ELECTRIC POWER PRODUCTION.

THE KANSAS ENERGY OFFICE OFFERS TO YOU WHATEVER ASSISTANCE WE CAN PROVIDE, INCLUDING THE SERVICES OF OUR MOST VALUED SOLAR RESOURCE -- THE SOLAR ENERGY ADVISORY GROUP. SEAG IS A RECENTLY-FORMED, QUASI-OFFICIAL ADVISORY AND WORKING

GROUP WHICH IS NOW OPERATING UNDER THE AUSPICES OF THE KANSAS ENERGY OFFICE. IT WAS CREATED AS A RESULT OF A SOLAR ENERGY WORKSHOP HELD AT KANSAS STATE UNIVERSITY IN APRIL, AND IT IS MEANT TO SERVE A NUMBER OF OBJECTIVES: TO PROVIDE TECHNICAL ADVICE TO THE KEO ON SOLAR ENERGY PROGRAM DEVELOPMENT; TO DEVELOP AND EDIT LITERATURE AND GUIDELINES ON SOLAR ENERGY FOR DISSEMINATION TO THE GENERAL PUBLIC; TO CONDUCT WORKSHOPS SPECIFICALLY ADDRESSED TO OCCUPATIONAL GROUPS WHICH ARE VITAL TO SOLAR ENERGY COMMERCIALIZATION; AND SHOULD YOU DESIRE IT, TO PROVIDE ASSISTANCE IN DEVELOPMENT OF SOLAR RELATED LEGISLATION AND REGULATIONS. SEAG IS COMPOSED OF SIX MEMBERS, EACH CREDENTIALLED IN SOME ASPECT OF SOLAR ENERGY: DR. GEORGE PYTLINSKI, KANSAS STATE UNIVERSITY, WHO SERVES AS CHAIRMAN; BOB RIORDAN, WILSON & CO. ENGINEERS, SALINA; ED MARTIN, SOLAR SERVICES, INC., WICHITA; DR. MELVIN SNYDER, WICHITA STATE UNIVERSITY; CHARLES CAREY, KANSAS MECHANICAL CONTRACTORS ASSN., TOPEKA; AND DR. THOMAS DEAN, UNIVERSITY OF KANSAS.

WITH THAT I'VE NEARLY CONCLUDED WHAT I'VE PREPARED TO SAY, ALTHOUGH I ADMIT THAT I'VE COMMITTED MORE SINS OF OMISSION THAN I CARE TO THINK ABOUT. AS A PARTING AND PERSONAL OBSERVATION, I'D LIKE TO SAY THAT, IF IT'S PERMITTED FOR LEGISLATIVE COMMITTEES TO HAVE FUN ON THE JOB, THIS COMMITTEE HAS AS GOOD AN OPPORTUNITY AS ANY TO DO SO IN PROPOSAL 14. THE SUBJECT HAS A FRONTIER KIND OF QUALITY WHICH MAKES IT EXCITING, AND THE PEOPLE INVOLVED IN ITS WORK HAVE AN ENTHUSIASM WHICH IS GENUINE AND GENERALLY CONTAGIOUS.

I THANK YOU FOR YOUR TIME AND ATTENTION.

corporation shall thereafter become a participating member. [K. S. A. 82a-625; L. 1970, ch. 64, § 93; March 21.]

82a-628. Grants from state board of agriculture; application; approval. The board of directors of any rural water district operating under K. S. A. 82a-612 *et seq.* may apply to the division of water resources of the state board of agriculture for a state grant in an amount equal to but not exceeding the amount of any grant such rural water district would be authorized to receive from any federal agency as provided in K. S. A. 1975 Supp. 82a-619. After a review of the rural water district's application and a determination that the applicant is qualified for the state grant, the chief engineer of said division of water resources may approve the state grant application. The amount of any such state grant approved by said chief engineer shall be within available appropriations therefor, in an amount not to exceed the amount such water district would be authorized to receive from a federal agency as provided in K. S. A. 1975 Supp. 82a-619. Thereupon, said chief engineer may approve vouchers for payment thereof, from amounts appropriated therefor. State grants under this section may be applied for, approved and paid without regard to whether federal grants or other moneys are available to any such rural water district. [L. 1973, ch. 413, § 1; L. 1975, ch. 511, § 1; April 25.]

Article 7.—APPROPRIATION OF WATER FOR BENEFICIAL USE

82a-702.

Law Review and Bar Journal References: Mentioned in article concerning ownership of water rights, Dennis L. Gillen, 10 W. L. J. 465, 467 (1971).

82a-706a.

Law Review and Bar Journal References: Powers and duties of chief engineer of the Kansas state board of agriculture discussed in article concerning ground water appropriation permits, Mike Foust, 11 W. L. J. 251, 255 (1972).

82a-706b.

Law Review and Bar Journal References: Powers and duties of chief engineer of the Kansas state board of agriculture discussed in article concerning ground water appropriation permits, Mike Foust, 11 W. L. J. 251, 254 (1972).

82a-706c.

Law Review and Bar Journal References: Powers and duties of chief engineer of the Kansas state board of agriculture discussed in article concern-

ing ground water appropriation permits, Mike Foust, 11 W. L. J. 251, 255 (1972).

82a-707.

CASE ANNOTATIONS

2. Discussed; state division of water resources has no authority over underground water rights. *State ex rel., v. Board of Agriculture*, 153 K. 603, 605, 610, 611, 612, 613, 149 P. 2d 604.

82a-703a. Applications for permits to appropriate water regardless of use by another; fee. Any person may apply for a permit to appropriate water to a beneficial use, notwithstanding that the application pertains to the use of water by another, or upon or in connection with the lands of another. *Provided*, Any rights to the beneficial use of water perfected under such application shall attach to the lands on or in connection with which the water is used and shall remain subject to the control of the owners of the lands as in other cases provided by law. Each application for a permit to appropriate water, except applications for permits for domestic use, shall be accompanied by an application fee of fifty dollars (\$50). All fees collected by the chief engineer pursuant to the provisions of this section shall be paid into the state treasury, at least monthly, and the state treasurer shall credit the same to the general fund of the state. [K. S. A. 82a-708a; L. 1973, ch. 414, § 1; July 1.]

82a-709.

Law Review and Bar Journal References: Powers and duties of chief engineer of the Kansas state board of agriculture discussed in article concerning ground water appropriation permits, Mike Foust, 11 W. L. J. 261, 255 (1972). Mentioned in article on land leveling for irrigation in Kansas, Jerry L. Bean, 19 K. L. R. 597, 609 (1971).

82a-711.

Law Review and Bar Journal References: Powers and duties of chief engineer of the Kansas state board of agriculture discussed in article concerning ground water appropriation permits, Mike Foust, 11 W. L. J. 251, 258, 264 (1972).

82a-716.

Law Review and Bar Journal References: Cited in article on ground water appropriation permits, Mike Foust, 11 W. L. J. 251, 258 (1972).

Article 8.—REGULATION OF WATER-CRAFT AND OTHER ACTIVITIES

Law Review and Bar Journal References: Act discussed in "Boating and Water Sports in Kansas: Liability Under State and Federal Law," John H. Gilson, 11 W. L. J. 418, 431, 437 (1972).

82a-802.

act, unless the different mean-

(1) "Vessel" means watercraft, of water, used by means of tra-

(2) "Motor" means machinery is propulsion.

(3) "Owner" means a person entitled to the subject to the reserved or curing pay-

(4) "Waters" means the body of water within the boundaries of the state.

(5) "Person" means an individual, partnership, firm, or corporation.

(6) "Operation" means the use of a vessel.

(7) "Compass" means a magnetic compass used for navigation.

(8) "Tonnage" means the net tonnage of a vessel.

(9) "Operator" means a person who is in charge of the operation of a vessel.

(10) "Unsafe" means a condition which is likely to result in an accident.

(11) "Accident" means an occurrence which results in injury to a person or property.

(12) "Motor" means a device which converts energy into motion.

(13) "Vessel" means a craft used on water.

shall be made until such approval has been received.

At any time after the participating members of the district have approved such transfer of assets and properties as herein provided for by petition or election, and after an agreement is executed as authorized herein, and upon payment of the twenty percent (20%) of the outstanding indebtedness and debts as of the outstanding indebtedness and debts required, the board of directors of the water district shall transfer the physical assets and properties to the municipality or board of public utilities, together with all records, maps, plans and files in connection therewith and thereafter the governing body of the city or the board of public utilities, as the case may be, shall operate such properties as a part of the municipal functions of the city, subject to the terms of the agreement entered into. [L. 1969, ch. 107, § 1; April 15.]

82a-638
Article 7.—APPROPRIATION OF WATER FOR BENEFICIAL USE

Cross References to Related Sections: State division of water resources, see 74-506a to 74-506d, 74-509, 74-510. Right to collect and store water, see 42-313.

Law Review and Bar Journal References: Water law in Kansas, Arno Windscheffel, 23 J. B. A. K. 171, 174 (1954); 26 J. B. A. K. 165 (1957).

Discussed in article on constitutionality of water rights regulation, John Scurlock, 1 K. L. R. 125, 132, 133, 134 (1953).

Act prior to L. 1957, ch. 539 discussed in note on waters and watercourses and appropriation of water, 5 K. L. R. 470 to 472 (1957).

Act mentioned in 1950-57 survey of law concerning municipal corporations, Lawrence E. Curfman, 6 K. L. R. 206, 210 (1957).

Case of *Baumann v. Smrha*, 145 F. Supp. 617, affirmed in 352 U. S. 863, 77 S. Ct. 98, 1 L. Ed. 2d 73, which considers act of 1943, discussed in 1956-57 survey of water law, Earl B. Shurtz, 6 K. L. R. 264, 265 (1957).

Act mentioned in 1957-59 survey of civil practice law, Earl B. Shurtz and William A. Kelly, 8 K. L. R. 201, 202 (1959).

Act discussed in note on water and watercourses and actions to determine, establish, and protect rights, 9 K. L. R. 83, 91 (1960).

Case of *Williams v. City of Wichita*, 190 K. 317, 374 P. 2d 578, which determined the constitutionality of 1945 act, analyzed in note on waters and watercourses and constitutionality of said act, 11 K. L. R. 558, 559 to 561 (1963).

Discussed in case note on cost depletion deduction for groundwater, Robert I. Guenther, 14 K. L. R. 534, 535 to 538 (1966).

82a-701. Definitions. When used in this act, unless the context indicates otherwise, the following words shall have the following meanings:

(a) "Person" shall mean and include a natural person, a partnership, an organization, a corporation, a municipality and any agency of the state or federal government.

(b) "Chief engineer" means the chief engineer of the division of water resources of the Kansas state board of agriculture.

(c) "Domestic uses" means the use of water by any person or by a family unit or household for household purposes, or for the watering of livestock, poultry, farm and domestic animals used in operating a farm, and for the irrigation of lands not exceeding a total of one acre in area for the growing of gardens, orchards and lawns.

(d) "Vested right" means the right of a person under a common law or statutory claim to continue the use of water having actually been applied to any beneficial use, including domestic use, on or before June 28, 1945, to the extent of the maximum quantity and rate of diversion for the beneficial use made thereof, and shall include the right to take and use water for beneficial purposes where a person is engaged in the construction of works for the actual application of water to a beneficial use on June 28, 1945, provided such works shall be completed and water is actually applied for such use within a reasonable time thereafter by such person, his heirs, successors or assigns. Such a right does not include, however, those common law claims under which a person has not applied water to any beneficial use within the periods of time set out in this subsection.

(e) "Appropriator" means and includes a person who has an appropriation right that has been perfected in conformity with article 7 of chapter 82a of the General Statutes of 1949 and acts amendatory thereof and supplemental thereto.

(f) "Appropriation right" is a right, acquired under the provisions of article 7 or chapter 82a of the General Statutes of 1949 and acts amendatory thereof and supplemental thereto, to divert from a definite water supply a specific quantity of water at a specific rate or in excess of the requirements of all vested rights that relate to such supply and all appropriation rights of earlier date that relate to such supply, and to apply such water to a specific beneficial use or uses in preference to all appropriations right of later date.

(g) "Water right" means any vested right or appropriation right under which a person may lawfully divert and use water. It is a

real property right appurtenant to and severable from the land on or in connection with which the water is used and such water right passes as an appurtenance with a conveyance of the land by deed, lease, mortgage, will, or other voluntary disposal, or by inheritance. [L. 1945, ch. 390, § 1; L. 1957, ch. 539, § 1; June 29.]

Research and Practice Aids:

Waters and Water Courses \S 128.
Hatcher's Digest, Waters \S 1, 30 to 34, 63.
C. J. S. Waters \S 137 et seq.

Law Review and Bar Journal References:

Case in annotations Nos. 7 and 8 below analyzed in note on waters and watercourses and constitutionality of Kansas water appropriation act of 1945, 11 K. L. R. 558, 559 to 561 (1963).
Constitutionality of act discussed, "Constitutional and Administrative Law," Glenn E. Opie, 12 K. L. R. 143, 144 (1963).

Mentioned in survey of law of "Municipal Corporations," Albert B. Martin, 12 K. L. R. 285, 294 (1963).
Act mentioned as constitutional in survey of law of "Real Property and Future Interests," James K. Logan, 12 K. L. R. 305, 328 (1963).

Cited in discussing modification or abolition of certain property rights under police power of state, Robert I. Guenther, 15 K. L. R. 346, 362 (1967).

CASE ANNOTATIONS

1. Cited but not applied in refusing mandatory injunction to remove dams. Heise v. Schulz, 167 K. 34, 45, 204 P. 2d 706.

2. Various constitutional objections considered and act held valid; discussed; construed. State, ex rel., v. Knapp, 167 K. 546, 549, 551, 552, 556, 207 P. 2d 440.

3. Purpose of statute mentioned in mandamus action. Artesian Valley Water Conservation Assn. v. Division of Water Resources, 174 K. 212, 213, 255 P. 2d 1015.

4. Mentioned; granting injunction enjoining appropriation of spring feeding stream not error. Weaver v. Beech Aircraft Corporation, 180 K. 224, 229, 303 P. 2d 159.

5. Constitutionality of act erroneously determined at unauthorized pretrial conference. City of Hesston v. Smrha, 184 K. 221, 224, 229, 231, 336 P. 2d 428.

6. Act mentioned; declaratory judgment action to determine water rights of riparian owners. Huber v. Schmidt, 183 K. 56, 33, 360 P. 2d 554.
7. Various federal and state constitutional objections considered and act held valid; construed; discussed. Williams v. City of Wichita, 190 K. 317, 319, 325, 326, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 343, 344, 345, 347, 348, 350, 352, 353, 354, 355, 356, 358, 359, 362, 364, 374 P. 2d 576.

8. "Vested right" definition in subsection (d) premised upon beneficial use of water and not upon nonuse. Williams v. City of Wichita, 190 K. 317, 334, 335, 336, 345, 346, 354, 356, 358, 374 P. 2d 578.

9. Act is constitutional; notice; vested rights must be recognized. Baumann v. Smrha, 145 F. Supp. 617, 618, 619, 621, 624, 625. Affirmed: 352 U.S. 863, 77 S. Ct. 96, 1 L. Ed. 2d 73.

Supp. 617, 618, 619, 621, 625. Affirmed: 352 U.S. 863, 77 S. Ct. 96, 1 L. Ed. 2d 73.

10. Federal court will refuse to determine property rights in water until state court makes determination under state law. Williams v. City of Wichita, Kansas, 279 F. 2d 375, 377.

11. Mentioned; constitutionality of statute cannot be questioned by trial court without petition or other pleadings before it. Williams v. Smrha, 192 K. 473, 359 P. 2d 756.

12. Act is constitutional under state and federal constitutions. City of Hesston v. Smrha, 192 K. 647, 391 P. 2d 93.

13. Mentioned; issues in case held controlled by previous decisions. City of McPherson v. Smrha, 193 K. 556, 396 P. 2d 269.

14. Mentioned; issues in case held controlled by previous decisions. Williams v. Smrha, 193 K. 557, 396 P. 2d 270.

32a-702. Dedication of use of water. All water within the state of Kansas is hereby dedicated to the use of the people of the state, subject to the control and regulation of the state in the manner herein prescribed. [L. 1945, ch. 390, § 2; June 23.]

Research and Practice Aids:

Hatcher's Digest, Waters \S 1, 6, 30 to 34, 63.

Law Review and Bar Journal References:

Discussed in article on constitutionality of water rights regulation, John Scurlock, 1 K. L. R. 125, 128, 134, 293, 307 (1953).

Case in annotation No. 1 below mentioned in note on waters and watercourses and appropriation of water, 5 K. L. R. 470, 472 (1957).

Cases in annotations Nos. 1 and 3 below analyzed in note on waters and watercourses and constitutionality of Kansas water appropriation act of 1945, 11 K. L. R. 558, 559 to 561 (1963).

Mentioned in survey of "Constitutional and Administrative Law," Glenn E. Opie, 12 K. L. R. 143, 145 (1963).

CASE ANNOTATIONS

1. Heart of act changes old Kansas law as to water rights. State, ex rel., v. Knapp, 167 K. 546, 549, 551, 552, 555, 556, 207 P. 2d 440.

2. Purpose of statute mentioned in mandamus action. Artesian Valley Water Conservation Assn. v. Division of Water Resources, 174 K. 212, 213, 255 P. 2d 1015.

3. Discussed, construed in exhaustive opinion holding act constitutional; due process; underlying ground waters. Williams v. City of Wichita, 190 K. 317, 332, 334, 336, 344, 374 P. 2d 578.

4. Act is constitutional; notice; vested rights must be recognized. Baumann v. Smrha, 145 F. Supp. 617, 618, 619, 621, 624, 625. Affirmed: 352 U.S. 863, 77 S. Ct. 96, 1 L. Ed. 2d 73.

32a-703. Water may be appropriated subject to vested rights. Subject to vested rights, all waters within the state may be appropriated for beneficial use as herein provided. Nothing in this act contained shall

impaired;

for the purpose of determining the rights of the parties to the water.

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impair the vested right of any person except for nonuse. [L. 1945, ch. 390, § 3; June 23.]

Research and Practice Aids:

Hatcher's Digest, Waters \S 1, 6, 30 to 34, 63.

Law Review and Bar Journal References:

Discussed in article on constitutionality of water rights regulation, John Scurlock, 1 K. L. R. 125, 132, 293, 307 (1953).

Cited in discussing modification or abolition of certain property rights under police power of state, Robert I. Guenther, 15 K. L. R. 346, 362 (1967).

CASE ANNOTATIONS

1. Purpose of statute mentioned in mandamus action. Artesian Valley Water Conservation Assn. v. Division of Water Resources, 174 K. 212, 213, 255 P. 2d 1015.

2. Discussed, construed in exhaustive opinion holding act constitutional; due process; underlying ground waters. Williams v. City of Wichita, 190 K. 317, 334, 374 P. 2d 578.

32a-704. Order determining vested rights other than domestic as of or before June 28, 1945; effect; notice; appeal. The chief engineer or his authorized representatives shall proceed with the necessary steps to gather data and other information as may be essential to the proper understanding and determination of the vested rights of all parties using water for beneficial purposes other than domestic. Such observations and measurements shall be reduced to writing and made a matter of record in his office.

The chief engineer shall then make an order determining the rights of all persons making beneficial use of water for all purposes other than domestic on or before June 28, 1945, and the then extent of their uses and shall notify all such water users as to the contents of such order. Service of such notice shall be deemed complete upon depositing such notice in the post office as registered or certified mail addressed to such water user at his last known post-office address. Any such water user who deems himself aggrieved by the order of determination with respect to his water use may appeal to the district court in the manner prescribed by section 24 [82a-724] hereof. The order of determination of the chief engineer shall be in full force and effect from the date of its entry in the records of his office unless and until its operation shall be stayed by an appeal therefrom by such user in accordance with the provisions of section 24 [82a-724] hereof: *Provided*, That no such determination shall be deemed an adjudication of the relation between any vested right holders with respect to the operation or exercise of their

vested rights. [L. 1945, ch. 390, § 4; L. 1957, ch. 539, § 6; June 29.]

Research and Practice Aids:

Hatcher's Digest, Appeal and Error \S 22; Waters \S 1, 6, 30 to 34.

Law Review and Bar Journal References:

Cited in discussing modification or abolition of certain property rights under police power of state, Robert I. Guenther, 15 K. L. R. 346, 362 (1967).

CASE ANNOTATIONS

1. Various constitutional objections considered and act held valid; discussed; construed. State, ex rel., v. Knapp, 167 K. 546, 549, 551, 553, 556, 207 P. 2d 440.

2. Statutory method of notice essential; notice to attorney insufficient; appeal. Artesian Valley Water Conservation Assn. v. Division of Water Resources, 174 K. 212, 214, 215, 255 P. 2d 1015.

3. Appeal from engineer's order; overruling motion to dismiss same not appealable. City of McPherson v. Smrha, 179 K. 59, 63, 293 P. 2d 239; Williams v. Smrha, 179 K. 61, 293 P. 2d 241; Cities of Hesston and Sedgwick v. Smrha, 179 K. 72, 293 P. 2d 241; Williams v. Smrha, 179 K. 73, 293 P. 2d 241.

4. Error to dismiss chief engineer as party before issues joined. Cities of Hesston and Sedgwick v. Smrha, 156 K. 755, 758, 352 P. 2d 1053.

5. When water-use rights determined hereunder, act recognizes superior vested right of user to continue pre-1945 uses. Williams v. City of Wichita, 190 K. 317, 334, 374 P. 2d 578.

6. Act is constitutional; notice; vested rights must be recognized. Baumann v. Smrha, 145 F. Supp. 617, 618, 619, 621, 624, 625. Affirmed: 352 U.S. 863, 77 S. Ct. 96, 1 L. Ed. 2d 73.

32a-705. Acquisition of appropriation right to use water other than domestic; approval. No person shall have the power or authority to acquire an appropriation right to the use of water for other than domestic use without first obtaining the approval of the chief engineer, and no water rights of any kind may be acquired hereafter solely by adverse use, adverse possession, or by estoppel. [L. 1945, ch. 390, § 5; L. 1957, ch. 539, § 7; June 29.]

Research and Practice Aids:

Application for permit to appropriate water for beneficial use, Vernon's Kansas Forms \S 9901.

Law Review and Bar Journal References:

Discussed in 1956-57 survey of water law. Earl B. Shultz, 6 K. L. R. 264, 266, 267, 270 (1957).

32a-705a. Domestic use after June 28, 1945; information to chief engineer. The use of water for domestic purposes instituted subsequently to June 28, 1945, to the extent that it is beneficial, shall constitute an appropriation right. The chief engineer, however, may require any person using water for any pur-

pose to furnish information with regard to such use thereof. [L. 1937, ch. 539, §2; June 29.]

32a-706. Duties of chief engineer as to beneficial use and rights of priority of appropriation. The chief engineer shall enforce and administer the laws of this state pertaining to the beneficial use of water and shall control, conserve, regulate, allot and aid in the distribution of the water resources of the state for the benefits and beneficial uses of all of its inhabitants in accordance with the rights of priority of appropriation. [L. 1945, ch. 390, § 6; L. 1957, ch. 539, § 8; June 29.]

Research and Practice Aids:

Hatcher's Digest, Waters §§ 1, 6, 30 to 34.

CASE ANNOTATIONS

1. Appeal from engineer's order; overruling motion to dismiss same not appealable. *City of McPherson v. Smrha*, 179 K. 59, 60, 293 P. 2d 239; *Williams v. Smrha*, 179 K. 61, 293 P. 2d 241; *Cities of Heston and Sedgwick v. Smrha*, 179 K. 72, 293 P. 2d 241; *Williams v. Smrha*, 179 K. 73, 293 P. 2d 241.

32a-706a. Rules, regulations and standards. The chief engineer, subject to the approval of the state board of agriculture, shall adopt, amend, promulgate, and enforce such reasonable rules, regulations, and standards as he shall deem necessary for the discharge of his duties and for the achievement of the purposes of this act pertaining to the control, conservation, regulation, allotment, and distribution of the water resources of the state. [L. 1957, ch. 539, § 9; June 29.]

32a-706b. Diversion of water prohibited, when; unlawful acts; enforcement by chief engineer. It shall be unlawful for any person to prevent, by diversion or otherwise, any waters of this state from moving to a person having a prior right to use the same, or for any person without an agreement with the state of Kansas to divert or take any water that has been released from storage under authority of the state of Kansas or that has been released from storage pursuant to an agreement between the state and federal government. Upon making a determination of an unlawful diversion the chief engineer or his authorized agents, shall direct that the headgates, valves, or other controlling works of any ditch, canal, conduit, pipe, well, or structure be opened, closed, adjusted, or regulated as may be necessary to secure water to the person having the prior right to its use, or to secure water for the purpose for which it

was released from storage under authority of the state of Kansas or pursuant to an agreement between the state and federal government. The chief engineer, or his authorized agents, shall deliver a copy of such a directive to the persons involved either personally or by mail or by attaching a copy thereof to such headgates, valves, or other controlling works to which it applies and such directive shall be legal notice to all persons involved in the diversion and distribution of the water of the ditch, canal, conduit, pipe, well, or structure. For the purpose of making investigations of diversions and delivering directives as provided herein and determining compliance therewith, the chief engineer or his authorized agents shall have the right of access and entry upon private property. [L. 1957, ch. 539, § 10; L. 1965, ch. 557, § 1; June 30.]

Research and Practice Aids:

Waters and Water Courses—78.

C. J. S. Waters § 59.

32a-706c. Meters, gages and other measuring devices; waste and quality checks. The chief engineer shall have full authority to require any water user to install meters, gages, or other measuring devices, which devices he or his agents may read at any time, and to require any water user to report the reading of such meters, gages, or other measuring devices at reasonable intervals. He shall have full authority to make, and to require any water user to make, periodic water waste and water quality checks and to require the user making such checks to report the findings thereof. [L. 1957, ch. 539, § 11; June 29.]

32a-706d. Duties of attorney general. Upon request of the chief engineer the attorney general shall bring suit in the name of the state of Kansas, in courts of competent jurisdiction to enjoin the unlawful appropriation, diversion, use of the waters of the state, and waste or loss thereof. [L. 1957, ch. 539, § 12; June 29.]

32a-706e. State field offices and commissioners. The chief engineer, subject to the approval of the state board of agriculture, may establish field offices within this state to secure the best protection to all claimants of water therein and the most economical supervision thereof. Subject to the approval of the state board of agriculture, the chief engineer may appoint a water commissioner for each field office so established, in accordance with the Kansas civil service laws, who shall be his agent in supervising the distribution of waters

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CASE ANNOTATIONS

within the area served by such field office, according to the rights and priorities of all parties concerned, and who shall perform such other duties as the chief engineer may direct. 1957, ch. 539, § 13; June 29.]

32a-707. Principles governing appropriations; priorities. (a) Surface or ground waters of the state may be appropriated as herein provided. Such appropriation shall not constitute ownership of such water, and appropriation rights shall remain subject to the principle of beneficial use.

(b) Where uses of water for different purposes conflict such uses shall conform to the following order of preference: Domestic, municipal, irrigation, industrial, recreational and water power uses. However, the date of priority of an appropriation right, and not the purpose of use, determines the right to divert and use water at any time when the supply is not sufficient to satisfy all water rights that attach to it. The holder of a water right for an inferior beneficial use of water shall not be deprived of his use of the water either temporarily or permanently as long as he is making proper use of it under the terms and conditions of his water right and the laws of this state, other than through condemnation.

(c) As between persons with appropriation rights, the first in time is the first in right. The priority of the appropriation right to use water for any beneficial purpose except domestic purposes shall date from the time of the filing of the application therefor in the office of the chief engineer. The priority of the appropriation right to use water for domestic purposes shall date from the time of the filing of the application therefor in the office of the chief engineer or from the time the user makes actual use of water for domestic purposes, whichever is earlier.

(d) Appropriation rights in excess of the reasonable needs of the appropriators shall not be allowed. [L. 1917, ch. 172, § 6; R. S. 1923, 24-903; L. 1945, ch. 390, § 7; L. 1957, ch. 539, § 14; June 29.]

Revisor's Note:

Transferred from 24-903.

Research and Practice Aids:

Waters and Water Courses—140.

C. J. S. Waters § 182 et seq.

Law Review and Bar Journal References:

Amendment of 1957 analyzed in 1956-57 survey of water law, Earl B. Shurtz, 6 K. L. R. 264, 268, 269 (1957).

32a-703. [L. 1945, ch. 390, § 8; Repealed, L. 1957, ch. 539, § 26; June 29.]

CASE ANNOTATIONS

1. Act is constitutional; notice; vested rights must be recognized. *Baumman v. Smrha*, 145 F. Supp. 617, 618, 619, 622, 624, 625. Affirmed: 352 U.S. 863, 77 S. Ct. 96, 1 L. Ed. 2d 73.

32a-703a. Applications for permits to appropriate water regardless of use by another; fee. Any person may apply for a permit to appropriate water to a beneficial use, notwithstanding that the application pertains to the use of water by another, or upon or in connection with the lands of another: *Provided*, Any rights to the beneficial use of water perfected under such applications shall attach to the lands on or in connection with which the water is used and shall remain subject to the control of the owners of the lands as in other cases provided by law. Each application for a permit to appropriate water, except applications for permits for domestic use, shall be accompanied by an application fee of ten dollars (\$10.00). All fees collected by the chief engineer pursuant to the provisions of this section shall be paid into the state treasury, at least monthly, and the state treasurer shall credit the same to the general fund of the state. [L. 1957, ch. 539, § 3; June 29.]

32a-703b. Same; applications to change place of use; appeal from decisions of chief engineer. Any owner of a water right may change the place of use, the point of diversion, or the use made of the water, without losing his priority of right, provided he shall (1) apply in writing to the chief engineer for approval of any proposed change; (2) demonstrate to the chief engineer that any proposed change is reasonable and will not impair existing rights; (3) demonstrate to the chief engineer that any proposed change relates to the same local source of supply as that to which the water right relates; and (4) receive the approval of the chief engineer with respect to any proposed change. The chief engineer shall approve or reject the application for change in accordance with the provisions and procedures prescribed for processing original applications for permission to appropriate

617, 618, 619, 624, 625. Affirmed: 352 U.S. 863, 77 S. Ct. 95, 1 L. Ed. 2d 73.
 3. Federal court will refuse to determine property rights in water until state court makes determination under statute. *Williams v. City of Wichita, Kansas*, 279 F.2d 375, 377.

82a-713. Same; limiting time for perfection of appropriation; extension. The chief engineer shall limit the time for the perfecting of an appropriation to a reasonable period within which the proposed works can be completed by expeditious procedure, and he shall for good cause shown by the applicant allow an extension of time. [L. 1945, ch. 390, § 13; June 28.]

82a-714. Same; notice of completion of works; certificate of appropriation; recordation. Upon the completion of the construction of the works and the actual application of water to the proposed beneficial use within the time allowed, the applicant shall notify the chief engineer to that effect. The chief engineer or his duly authorized representative shall then examine and inspect the appropriation diversion works and, if it is determined that the appropriation diversion works have been completed and the appropriation right perfected, in conformity with the approved application and plans, the chief engineer shall issue a certificate of appropriation in duplicate. The original of such certificate shall be sent to the applicant and shall be recorded with the register of deeds in the county or counties wherein the point of diversion is located as other instruments affecting real estate, and the duplicate shall be made a matter of record in the office of the chief engineer. [L. 1945, ch. 390, § 14; L. 1957, ch. 539, § 20; June 29.]

Research and Practice Aids:

Notice and proof of completion of works, *Vernon's Kansas Forms* § 9692.

82a-715. Same; validation of certain applications. All applications for the appropriation of water to beneficial use as filed with the chief engineer, subsequent to May 5, 1941, and all processing, proceedings and certificates pertaining thereto are validated to same extent as if filed after the effective date of this act, but with priorities as of the dates of filing of applications. All subsequent processing of such applications as are still pending and undetermined shall be further considered and processed as provided in this act. [L. 1945, ch. 390, § 15; June 28.]

82a-716. Common-law claimants; action for compensation; injunctions. If any appro-

priation, or the construction and operation of authorized diversion works results in an injury to any common-law claimant, such person shall be entitled to due compensation in a suitable action at law against the appropriator for damages proved for any property taken. Any person with a valid water right or permit to divert and use water may restrain or enjoin in any court of competent jurisdiction a subsequent diversion by a common-law claimant without vested rights without first condemning those common-law rights. An appropriator shall have the right to injunctive relief to protect his prior right of beneficial use as against use by an appropriator with a later priority of right. [L. 1945, ch. 390, § 16; L. 1957, ch. 539, § 21; June 29.]

Research and Practice Aids:

Hatcher's Digest, Waters §§ 1, 6, 30 to 34.

Law Review and Bar Journal References:

Case in annotation No. 2 below mentioned and case in annotation No. 1 below analyzed in note on waters and watercourses and constitutionality of Kansas water appropriation act of 1915, 11 K.L.R. 538, 559 to 581 (1963).

Cited in discussing modification or abolition of certain property rights under police power of state, Robert I. Guenther, 15 K.L.R. 346, 362 (1967).

CASE ANNOTATIONS

1. Discussed in determining remedies available under act to common law claimants and appropriation users. *Williams v. City of Wichita*, 190 K. 317, 335, 337, 338, 340, 341, 346, 355, 360, 374 P.2d 578.

2. Act is constitutional; notice; vested rights must be recognized. *Baumann v. Smith*, 145 F. Supp. 617, 618, 619, 623, 624, 625. Affirmed: 352 U.S. 863, 77 S. Ct. 95, 1 L. Ed. 2d 73.

3. Federal court will refuse to determine property rights in water until state court makes determination under statute. *Williams v. City of Wichita, Kansas*, 279 F.2d 375, 377.

82a-717. [L. 1945, ch. 390, § 17; Repealed, L. 1957, ch. 539, § 26; June 29.]

CASE ANNOTATIONS

1. Discussed in determining remedies available under act to common law claimants and appropriation users. *Williams v. City of Wichita*, 190 K. 317, 335, 337, 374 P.2d 578.

82a-717a. Diversions by common-law claimants and others; injunctions. No common-law claimant without a vested right, or other person without a vested right, a prior appropriation right, or an earlier permit shall divert or threaten to divert water if such diversion or threatened diversion impairs or would impair any vested right, appropriation right, or right under a permit to appropriate water.

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any common-law claimant with a vested right, or other person with a vested right, a prior appropriation right, or an earlier permit may divert water in accordance with any such right or permit although such diversion or use thereunder conflicts with the diversion, use, proposed diversion, or proposed use made or proposed by a common-law claimant who does not have a vested right, or other person who does not have a vested right, a prior appropriation right or an earlier permit. Moreover, any common-law claimant with a vested right, or other person with a vested right, a prior appropriation right, or an earlier permit may restrain or enjoin in any court of competent jurisdiction any diversion or proposed diversion that impairs or would impair such right in the event that any such diversion or proposed diversion is made or is threatened to be made by any common-law claimant, or other person who does not have a vested right, a prior appropriation right, or an earlier permit. [L. 1957, ch. 539, § 19; June 29.]

Research and Practice Aids:

Waters and Water Courses §§ 85.
 Hatcher's Digest, Waters §§ 1, 6, 30 to 34.
 C. J. S. Waters § 68.

82a-718. Abandonment of water rights; procedure; appeals. All appropriations of water must be for some beneficial purpose. Every water right of every kind shall be deemed abandoned and shall terminate when without due and sufficient cause no lawful, beneficial use is henceforth made of water under such right for three (3) successive years. Before any water right shall be declared abandoned and terminated the user shall be notified in writing by the chief engineer and given an opportunity to appear at a designated time and place and show cause why his water right should not be declared abandoned and terminated.

Such notice shall contain the following information in addition to the time and place of hearing: (1) A description of the water right in question; (2) the substantial location of the point of diversion; (3) the general description of the lands or places where such waters were used; (4) a statement that unless due and sufficient cause be shown the water right will be held abandoned and terminated. Such notice may be served by registered or certified mail and shall be posted at least (30) days before the date of the hearing and shall be sent to the last known address of the holder of the water right. The chief engineer shall, within sixty (60) days after such hearing make

an order determining whether such water right shall be held abandoned and terminated and shall notify the holder of the water right as to the contents of such order by registered or certified mail sent to the last known address of the holder of the water right.

The verified report of the chief engineer or his authorized representative shall be prima facie evidence of the abandonment and termination of any water right. Any decision or order of the chief engineer declaring the abandonment and termination of any water right shall be in full force and effect from the date of its entry in the records of his office unless and until its operation shall be stayed by an appeal therefrom. Appeals from orders or decisions declaring abandonment and termination may be taken by the holder of the water right in the manner prescribed by section 24 [82a-724] hereof. [L. 1945, ch. 390, § 19; L. 1957, ch. 539, § 23; June 29.]

Research and Practice Aids:

Waters and Water Courses §§ 151.
 C. J. S. Waters §§ 166, 193.

82a-719. Distribution of water according to decree of court. Whenever the rights for the use of waters of the state shall have been adjudicated by any court, the division of water resources with the aid of its chief engineer and other officers and employees, shall aid in the distribution of such water according to such decree and shall distribute the water among the several ditches or water users pursuant to the decree; and shall have the power to open, close or adjust the head-gates and regulate the controlling works of any ditch or structure, or cause the same to be opened, closed, adjusted and regulated so as to make a distribution of the water in conformity with the decree. [L. 1933, ch. 206, § 2; L. 1945, ch. 390, § 20; June 28.]

Revisor's Note:

Transferred from 74-509c.

CASE ANNOTATIONS

1. Discussed; state division of water resources has no authority over underground water rights. *State, ex rel., v. Board of Agriculture*, 155 K. 603, 610, 613, 614, 149 P.2d 604.

82a-720. Same; certified copies of decrees. The clerk of any court of this state in which a decree shall be made fixing the rights pertaining to ditches or water users to water, shall within ten days after such decree shall have been entered, forward to the chief engineer of the division of water resources, by registered mail, a certified copy of such decree.

32a-721

WATERS AND WATERCOURSES

[L. 1933, ch. 206, § 4; L. 1945, ch. 390, § 21; June 25.]

Revisor's Note:

Transferred from 74-509e.

32a-721. Construction of act. This act shall be construed liberally to effectuate the purposes hereof, and the enumeration of specific powers in this act shall not operate to restrict the meaning of any general grant of power contained in this act or to exclude other powers comprehended in such general grant. [L. 1945, ch. 390, § 23; June 25.]

32a-721a. Construction of act; damages to land. Nothing in this act shall be construed as limiting any right of an owner of an estate or interest in or concerning land to recover damage for any injury done to his land or to any water rights appurtenant thereto. [L. 1957, ch. 539, § 22; June 29.]

Revisor's Note:

Section applies to 42-313, 82a-701, 82a-704, 82a-705, 82a-705a, 82a-705b, 82a-705c to 82a-705e; 82a-707, 82a-708a, 82a-708b, 82a-709, 82a-711, 82a-711a, 82a-712, 82a-714, 82a-716, 82a-717a, 82a-718, 82a-721a, 82a-724, 82a-725.

Law Review and Bar Journal References:

Mentioned in note on waters and watercourses and constitutionality of Kansas water appropriation act of 1945, 11 K. L. R. 558, 559, 560 (1953).

CASE ANNOTATIONS

1. Discussed in determining remedies available under act to common law claimants and appropriation users. *Williams v. City of Wichita*, 190 K. 317, 335, 340, 341, 355, 358, 360, 374 P. 2d 578.

32a-722. Invalidity of part. If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered, and it shall be presumed that the legislature would have enacted this law with the section, subsection or clause held to be invalid, omitted. [L. 1945, ch. 390, § 24; June 25.]

Research and Practice Aids:

Statutes—64(2).

C. J. S. Statutes § 96 et seq.

32a-723. [L. 1955, ch. 449, § 1; Repealed, L. 1957, ch. 539, § 26; June 29.]

32a-724. Appeals to district courts and supreme court; procedure. Any person au-

thorized by this act to appeal to the district court from any order or decision of the chief engineer and desiring to exercise such right shall take such an appeal in the manner prescribed by this section. Unless otherwise specifically provided in the section authorizing such appeal, the appeal shall be to the district court of Shawnee county or to the district court of any county in which the point or points of diversion are located. Any such appeal must be filed within sixty (60) days after the date of mailing of the notice of the order or decision or, when publication notice is required, within sixty (60) days after mailing of the notice or within thirty (30) days after the date of the last publication of such notice, whichever is the later. Such an appeal shall be taken by serving upon the chief engineer a written notice of appeal specifying the order or decision appealed from, with a demand for certified copies of all pertinent papers on file in his office relating to the order or decision appealed from. Such an appeal shall be perfected by filing with the clerk of the district court a copy of the notice of appeal together with proof of service. Upon receipt by the chief engineer of the notice of appeal, he shall, within thirty (30) days, file with the clerk of the district court a certified transcript of all pertinent papers, files, and proceedings relating to the order or decision appealed from; and he shall notify, by registered or certified mail, all persons who appeared and took part in the proceedings, or their attorneys, of record.

Upon the filing of the transcript the district court, without unnecessary delay, shall proceed to hear and determine the appeal. In doing so, the district court shall have and exercise the same general jurisdiction and power as though a proceeding had been commenced in such court and as though such court would have had original jurisdiction of the matter. The district court shall allow and may require pleadings to be filed or amended. The right to file new pleadings shall not be abridged or restricted by the pleadings filed, or by failure to file pleadings, with the chief engineer; nor shall the trial in, or the issues to be considered by, the district court be abridged or restricted by any failure to appear or by the evidence introduced, or the absence or insufficiency thereof, in the proceedings before the chief engineer.

Whenever any appeal is pending, the order or decision appealed from shall be suspended unless the court shall order otherwise.

All appeals shall be tried by the court with a jury, but the court may call a jury in an advisory capacity or in a proper case may refer the matter or part thereof to a referee.

Appeals may be taken to the supreme court from any final order or judgment of any district court entered in any action or proceeding brought under any of the provisions of this article, or acts amendatory thereof or supplemental thereto, in the same manner as in other civil cases. [L. 1957, ch. 539, § 24; June 29.]

Research and Practice Aids:

Hatcher's Digest, Appeal and Error § 22.

Law Review and Bar Journal References:

Cited in article on judicial review of administrative decisions, Kenton C. Granger, 33 J. B. A. K. 291, 336 (1964).

CASE ANNOTATIONS

1. Error to dismiss chief engineer as party before issues joined. *Cities of Hinton and Seligwick v. Smrha*, 156 K. 755, 789, 352 P. 2d 1053.

1. Err issues joint Smrha, 156

32a-725

Same; reference to state division or its chief engineer; procedures; cases in federal courts. In any suit to which the state is not a proper party brought in any court of competent jurisdiction in this state for determination of rights to water, the court may order a reference to the division of water resources or its chief engineer, as referee, for investigation of and report upon any or all of the physical facts involved and the division or its chief engineer shall thereupon make such an investigation and report as ordered by the court. The report shall set forth such findings of fact as may be required by the court's order of reference and may contain such opinions upon the facts as it deems proper in view of the issues submitted. Before filing its report, the division or its chief engineer shall mail notice of its report together with a copy of it, to the parties or their attorneys of record.

Within thirty (30) days from the date of the mailing of the copy of the report, any party may file objections to it with the division of water resources or its chief engineer. After the division, or its chief engineer, has considered the objections, it shall file its report, as referee, with the clerk of the court and give notice by registered or certified mail of the filing of its report to the parties or their attorneys. The court shall review the report upon exceptions thereto filed with the clerk of the court within thirty (30) days after date of mailing registered notice of the filing of the report. Except in its discretion or for good cause shown, the court shall not consider any exception to the report unless it appears that

the excepting party presented the matter of the exception to the division or its chief engineer in the form of an objection. The report shall be evidence of the physical facts found therein, but the court shall hear such evidence as may be offered by any party to rebut the report or the evidence. If suit is brought in a federal court for determination of rights to water within, or partially within, the state, the division or its chief engineer may accept a reference of such suit as master or referee for the court. [L. 1957, ch. 539, § 25; June 29.]

Article 8.—REGULATION OF MOTORBOATS AND OTHER ACTIVITIES

32a-301. Declaration of policy. It is the policy of this state to promote safety for persons and property in and connected with the use, operation and equipment of vessels and to promote uniformity of laws relating thereto. [L. 1959, ch. 321, § 1; July 1.]

32a-302. Definitions. As used in this act, unless the context clearly requires a different meaning:

(1) "Vessel" means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

(2) "Motorboat" means any vessel propelled by machinery, whether or not such machinery is the principal source of propulsion, but shall not include a vessel which has a valid marine document issued by the bureau of customs of the United States government or any federal agency successor thereto nor shall the word include boats propelled by machinery of less than ten (10) horsepower.

(3) "Owner" means a person, other than a lien holder, having the property in or title to a motorboat. The term includes a person entitled to the use or possession of a motorboat subject to an interest in another person, reserved or created by agreement and securing payment or performance of an obligation, but the term excludes a lessee under a lease not intended as security.

(4) "Waters of this state" means any waters within the territorial limits of this state, except private lakes, owned or leased.

(5) "Person" means an individual, partnership, firm, corporation, association, or other entity.

(6) "Operate" means to navigate or otherwise use a motorboat or a vessel.

(7) "Commission" means the state forestry, fish and game commission.

Water Quality Management Planning in Kansas

by Donald Snethen, P.E. and Gerald A. Stoltenberg, P.E.

With the 1972 amendments to the Federal Water Pollution Control Act, this nation embarked on a massive program to eliminate the discharge of pollutants into the nation's waters by 1985. This act is probably the most complicated and comprehensive piece of environmental legislation ever written and, as such, is subject to numerous interpretations. The sections which mandate water quality management planning are of particular interest in this paper.

The act has three sections which specifically refer to water quality management planning, these being Sections 201, 208 and 303(e). Section 201 refers to facility or "hardware" planning for publicly owned waste treatment systems. This section also provides for the allocation of grants for the construction of publicly owned treatment works. Simply stated, Section 208 is "for the purpose of encouraging and facilitating the development and implementation of areawide treatment management plans." Section 303(e) requires that each state have a continuing planning process which results in water quality management plans which (a) establish effluent limitations and schedules of compliance, (b) incorporate elements of areawide management plans, (c) establish total maximum daily pollutant loads as required, (d) establish procedures for revision, (e) provide authority for intergovernmental cooperation, (f) result in the implementation of revised or new water quality standards, (g) controls the disposition of all residual waste from any water treatment processing, and (h) provides an inventory and ranking, in order of priority, of needs for construction of waste treatment works.

As previously mentioned, the complex nature of this act leads to numerous interpretations. Section 208 is an excellent example of this problem. The U. S. Environmental Protection Agency first interpreted Section 208 as being applicable only to regional areas having complex water quality management problems occurring as a result of concentrated urban and industrial activities. The Natural Resources Defense Council took exception to this interpretation and brought suit against the EPA. On June 5, 1975, the U. S. District Court upheld the position of the plaintiffs and ordered that Section 208 is applicable to all areas of a state.

The regulations resulting from this action were published November 28, 1975 and started a one hundred-fifty day time clock requiring the following actions; (a) identify areas having complex water quality management problems, (b) designate any additional regional Section 208 Water Quality Management Planning Areas, and (c) revise the State Continuing Planning Process to incorporate the Section 208 planning elements in the State Water Quality Management Plan.

The Kansas Department of Health and Environment analyzed the pollution problems of the State and determined that the only areas having complex water quality management problems were the metropolitan areas of Kansas City, Topeka and Wichita. The Kansas City area had been previously designated as a Section 208 Water Quality Management Planning Area. Officials of Topeka and Wichita did not actively pursue the designation issue, and these areas were not designated. At this time, the Kansas City Metropolitan area is the only designated Section 208 planning area in the State. Section 208 Water

Quality Management Planning for the remainder of the State is the responsibility of the Kansas Department of Health and Environment. The State Continuing Planning Process required under Section 303(e) was revised within the specified time frame, and U. S. Environmental Protection Agency approval has been received.

To satisfactorily incorporate Section 208 into the State Water Quality Management Plan the following elements must be addressed; (a) agricultural non-point source pollution, (b) mine related pollution, (c) construction activity related pollution, (d) salt water intrusions, (e) residual waste disposal, and (f) surface and underground disposal of pollutants. It is obvious that the development and implementation of management programs for control of these pollutant sources must be done cautiously and only after an objective analysis has been completed. Unfortunately, the time for an objective analysis is limited, - State Water Quality Management Plans must be submitted to the U. S. Environmental Protection Agency by November 1, 1978.

Because of the complex and comprehensive nature of this planning effort, the State Continuing Planning Process has been specifically designed to ensure a coordinated statewide analysis through an interagency planning committee, while permitting regional flexibility in the development of implementation programs and policies. In general, the planning process is designed to, (a) identify water pollution problems, (b) identify a series of alternative solutions to each problem, including the economic and environmental impact, (c) test the political and social feasibility

of each alternative, and (d) seek a legislative mandate for implementation of the plan.

Functional planning will be conducted by a Technical Planning Committee composed of the Advisory Commission on Environment, Department of Health and Environment, Division of State Planning and Research, Division of Water Resources, Kansas Forestry, Fish and Game Commission, Kansas Geological Survey, Kansas State University, Kansas Water Resources Board, Kansas University, State Conservation Commission, U.S.D.A. Soil Conservation Service, Kansas Association of Counties, Kansas Association of Regional Planning Commissions, and League of Kansas Municipalities. This committee is responsible for the development of technical solutions.

Policy evaluation and review will be performed by a Planning and Policy Advisory Committee. This committee is composed of two separate units. One unit is made up of representatives of state and federal agencies, which administer programs which may be affected by the Water Quality Management Plan. The function of this unit is to see that all programs are properly addressed by the plan. The membership of the other unit consists of thirty local officials or their representatives. Membership on this committee is being selected through nominations submitted by Regional Planning Commissions throughout the State. The local government unit will be asked to evaluate the political and social feasibility of various alternatives developed throughout the planning period. A significant public participation effort is anticipated in order to inform citizens of the potential impacts of the plan and to promote local policy guidance. This effort will consist of public meetings, hearings, widespread distribution of interim planning outputs, and a periodic

letter. Overall planning coordination and timing will be provided by an Executive Committee consisting of the Division of Environment, the Kansas Water Resources Board, and the Division of State Planning and Research.

The overall planning effort will be oriented toward identification of implementation mechanisms, more than identification of detailed technical solutions. One major goal of the effort will be to examine all water quality management areas in light of existing regulatory structures to determine areas of need for policy, regulatory; or legislative changes. Significant areas of concern include erosion control, groundwater protection, water and wastewater aspects of suburban development, and hazardous wastes. The identification of needed long term management and funding mechanisms for environmental protection will also be given consideration. Spinoff benefits from the 208 planning program may include the establishment of a common data base for state resource management planning and an interagency framework for policy coordination.

In order to provide for final implementation of programs, the Water Quality Management Plan will be oriented toward presentation to the Governor and Legislature. The planning effort will seek to identify water quality goals and standards which are attainable under the foreseeable water and land resource constraints in Kansas. Reasonable alternatives will be presented for regulatory and management structures which the Legislature can use to select a course for final implementation schemes. Policy alternatives will be developed through the Policy Advisory Committee

and through meetings with local officials intended to test the feasibility of implementation prior to alternative prioritization.

The plan documents will be submitted to the U. S. Environmental Protection Agency on or before November 1, 1978, and subsequently presented to the Legislature during the January, 1979 session. If administratively feasible and desirable, portions to the plan may be encompassed as a water quality management segment of the existing State Water Plan, the official water resources planning document for the state. An alternative strategy would be to develop the plan as a part of a parallel document which might become a State Environmental Plan. Under either approach, pertinent information for establishment of implementation programs would be available for legislative review annually.

An important concept to remember is that while the Water Quality Management Plan is the result of a federal mandate, certain benefits to the state can be realized. If properly approached, this planning effort can result in the strengthening of State and Local government authority and responsibility for environmental management. It is believed that the planning process as designed will permit and facilitate the implementation of environmental management programs tailored to the needs of our state as opposed to the implementation of programs designed and mandated by the U. S. Environmental Protection Agency.

Comments and questions regarding the Kansas Water Quality Management Plan should be directed to the Kansas Department of Health and Environment; Water Quality Planning and Surveillance Section, Topeka, Kansas 66620.

June 22, 1976
Presentation of the State Continuing Planning Process
to the Joint Legislative Committee on Energy and Natural Resources

AGENDA

1. Water Quality Management Planning, Division of Environment
Requirement of the Law
Application to Kansas
2. Continuing Planning Process
3. Committee Structures & Functions
Technical Planning Committee
Planning and Policy Advisory Committee
Executive Committee
4. Time Schedule for Planning
5. Planning Responsibilities
6. Potential Impacts of the Plan
7. Plan Formulation
8. Implementation
9. Other Agency Involvement, Division of Planning & Research
Kansas Water Resources Board

Figure 1-A. Major River Basins of Kansas

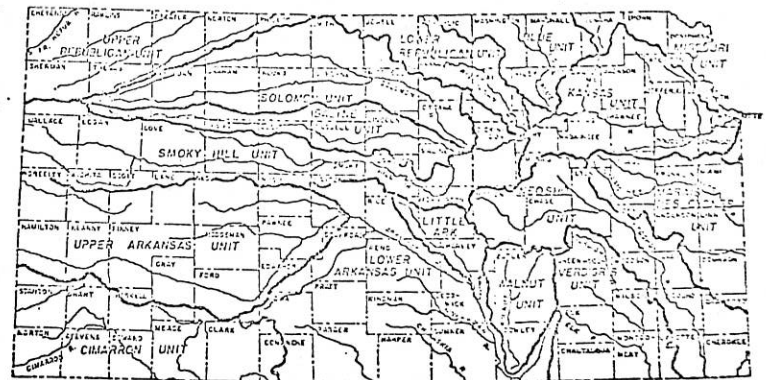
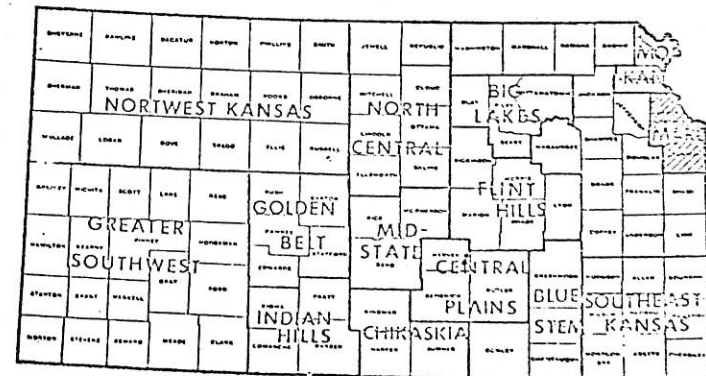


Figure 1-B. Regional Planning Commission Boundaries and Status of 208 Designation

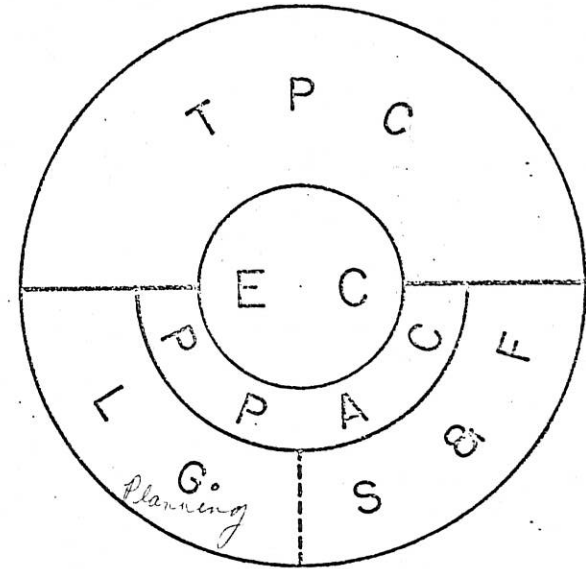


Designated Area

Nondesignated Area

Elements of Public Participation Program

1. Full-time coordinator
2. Advisory Commission on Environment
17 person rep area, agricult.
3. Policy Advisory Committee
4. Regional information meetings for local officials
coordinated with Regional Planning Commissions
3
5. Public information meetings coordinated with KSU
Cooperative Extension Service
6. Information depositories
 - Regional Planning Commissions
 - KDHE District Offices
7. 208 Newsletter
8. Public hearings
fall 1978 - when draft plan is ready



TPC: TECHNICAL PLANNING COMMITTEE *include Board of Directors*
 EC: EXECUTIVE COMMITTEE
 PPAC: PLANNING POLICY ADVISORY COMMITTEE
 LG: LOCAL GOVERNMENT UNIT
 S&F: STATE & FEDERAL AGENCY UNIT

WRS &

PLANNING AND POLICY ADVISORY COMMITTEE

STATE AND FEDERAL AGENCY UNIT

STATE AGENCIES

Kansas Park and Resources Authority
Department of Transportation
Kansas Biological Survey
State Historical Society
State Energy Office
Kansas Department of Economic Development
Corporation Commission
Department of Agriculture
Animal Health Department
Division of Budget
Legislative Research Department
Department of State & Extension Forestry

FEDERAL AGENCIES

U. S. Army Corps of Engineers
Bureau of Reclamation
U. S. Geological Survey
U. S. Environmental Protection Agency
U. S. D. A. Agricultural Stabilization and Conservation Service
U. S. D. A. Farmers Home Administration
Department of Housing and Urban Development
U. S. Fish and Wildlife Service

LOCAL GOVERNMENT UNIT

30 local officials or their representatives
selected from nominations submitted by Regional
Planning Commissions.

TECHNICAL PLANNING COMMITTEE

MEMBER

Advisory Commission on Environment

Department of Health and Environment*

Division of Planning & Research*

Division of Water Resources, Dept. of Agriculture

Kansas Forestry, Fish & Game Commission

Kansas Geological Survey

Kansas State University
Agricultural Experiment Station

Cooperative Extension Service

Kansas Water Resources Board*

Kansas University

State Conservation Commission

U.S.D.A. Soil Conservation Service

Kansas Association of Counties
Kansas Association of Regional Planning Commissions
League of Kansas Municipalities

AREA OF RESPONSIBILITY

Overall guidance of public participation effort; Chair the Planning & Policy Advisory Committee.

Overall coordination of 208 planning program; Water Quality standards, point source management; Aspects of non-point source management; Residual waste management.

Assist in coordination; Assemble and assess: current state planning, institutional capabilities; Population and economic projections.

Water use inventories; Groundwater management; Irrigation non-point source management; Water appropriation policies.

Biosupport assessment; Assessment of state fishery development; Stream fishery classifications.

Land use inventories; Assessment of: mineral intrusion non-point source, mine drainage, groundwater; Aspects of energy development.

Assessment of: agricultural non-point sources, irrigation non-point sources, best management practices for agricultural non-point sources, agricultural aspects of residual waste management.

Public participation.

Assist in coordination; Assessment of: mineral intrusion non-point sources, irrigation non-point sources, groundwater management; Hydrologic considerations.

Hydrologic considerations of rural and urban runoff; Environmental engineering aspects of point source management and residual waste management.

Assessment of conservation needs and practices; Land use inventories; Agricultural non-point sources.

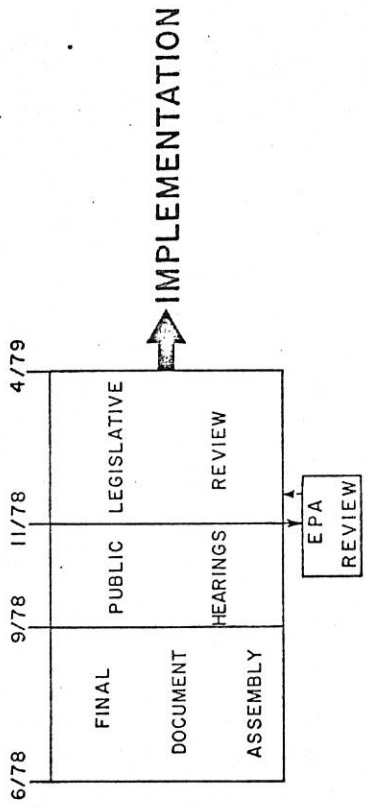
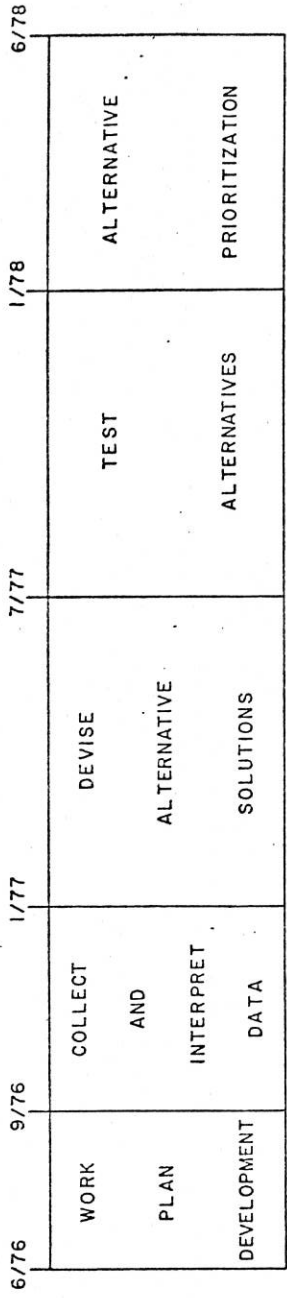
Assessment of agricultural and construction non-point sources.

Assist in development of city & county government policy considerations; Aspects of Regional Planning Commission policies.

*Indicates executive committee member

208 Plan Contents

Major Topics	Planning Elements
<ul style="list-style-type: none"> •Water Quality Standards/Water Quality Goals 	<ul style="list-style-type: none"> -Assessment of WQ standards attainment, revisions needed -Alternate WQ goals
<ul style="list-style-type: none"> •Point Source Management <ul style="list-style-type: none"> •Municipal •Industrial •Agricultural 	<ul style="list-style-type: none"> -Update inventories -Assessment of quality effects -Definition of service areas -Wasteloads, treatment needs -Cost estimates -Compliance schedules
<ul style="list-style-type: none"> •Urban and Industrial Stormwater Management 	<ul style="list-style-type: none"> -Assessment of quality effects -Analysis of magnitude and corrective measures -Performance criteria for new systems
<ul style="list-style-type: none"> •Residual Waste Management <ul style="list-style-type: none"> •Municipal sludges •Industrial sludges •Agricultural solids •Solid waste programs •Hazardous waste programs 	<ul style="list-style-type: none"> -Identification of disposal methods and sites -Assessment of quality effects -Remedial needs analysis -Design or performance criteria for new disposal areas
<ul style="list-style-type: none"> •Nonpoint Source Management <ul style="list-style-type: none"> •Agricultural sediment, runoff •Mineral intrusion •Mine drainage •Irrigation •Construction erosion •Groundwater problems 	<ul style="list-style-type: none"> -Update inventories -Assessment of quality effects -Wasteloads, corrective needs -Identification of "Best Management Practices" -Cost estimates
<ul style="list-style-type: none"> •Institutional Assessment and Management <ul style="list-style-type: none"> •Legal capabilities and needs •Financial capabilities and needs •Management capabilities and needs 	<ul style="list-style-type: none"> -Analysis of existing legal, financial, and management capabilities -Analysis of needs to implement the plan



TOPIC

PLANNING RESPONSIBILITIES

AGENCY

STATE CONSERVATION COMMISSION
KANSAS STATE UNIVERSITY
SOIL CONSERVATION SERVICE

KS. WATER RESOURCES BOARD
KANSAS GEOLOGICAL SURVEY
U.S. GEOLOGICAL SURVEY

KS. DEPT. OF HEALTH & ENVIRON.
KANSAS GEOLOGICAL SURVEY
U.S. GEOLOGICAL SURVEY

KANSAS STATE UNIVERSITY
KS. WATER RESOURCES BOARD

KS. DEPT. OF HEALTH & ENVIRON.
SOIL CONSERVATION SERVICE
DEPARTMENT OF TRANSPORTATION
CORPS OF ENGINEERS

KS. WATER RESOURCES BOARD
DIVISION OF WATER RESOURCES
KANSAS GEOLOGICAL SURVEY

PLANNING & RESEARCH

TECHNICAL PLANNING COMMITTEE

KS. DEPT. OF HEALTH & ENVIRON.
UNIVERSITY OF KANSAS
KANSAS STATE UNIVERSITY

COSTS TO MEET GOALS OF 92-500

AGRICULTURAL RUNOFF

GENERAL INTRUSION

MINE DRAINAGE

IRRIGATION

CONSTRUCTION EROSION

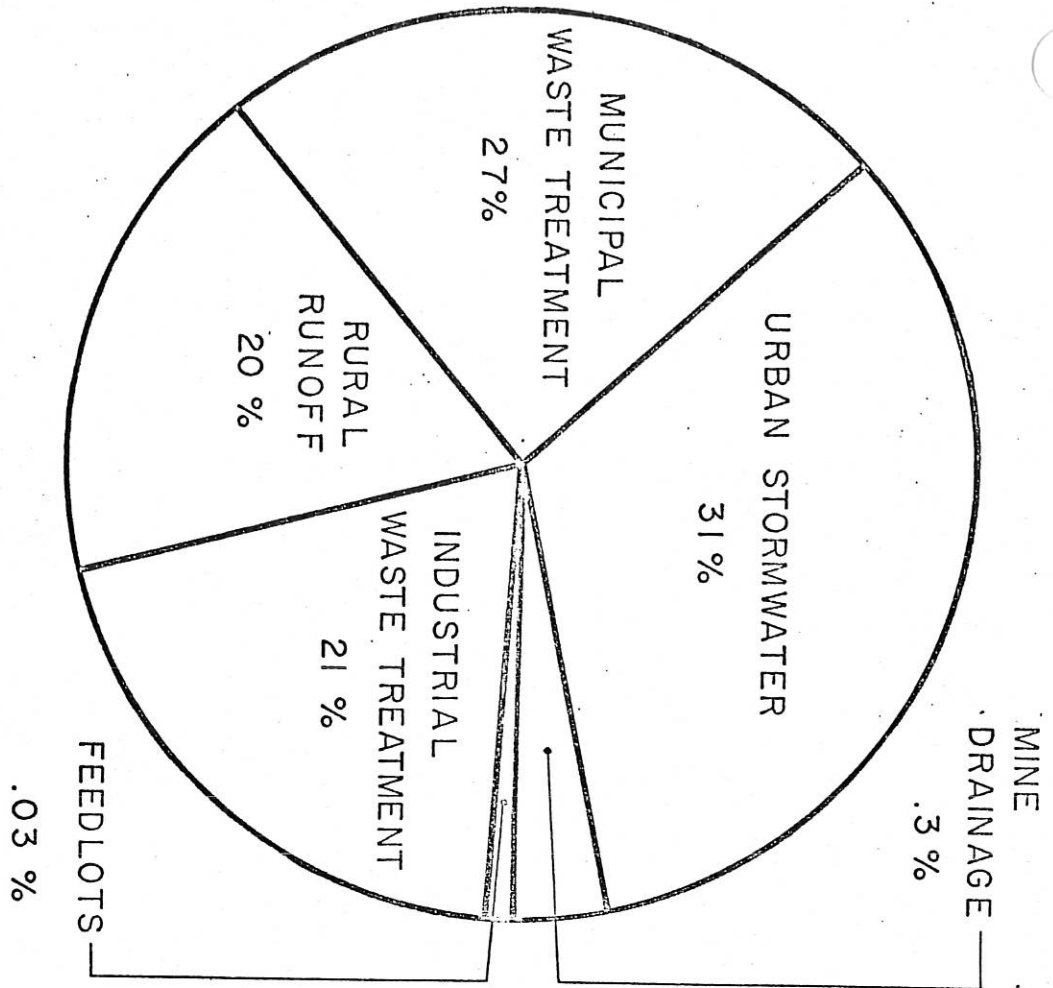
GROUNDWATER MANAGEMENT
QUALITY PROBLEMS

CONSTITUTIONAL ASSESSMENT

ECONOMIC, ENVIRONMENTAL &
SOCIAL IMPACT

INDIVIDUAL WASTE MANAGEMENT

CATEGORY	CAPITAL COST BILLION \$	%	O & M MILLION \$
MUNICIPAL WASTE TREATMENT	2.09	27	104
URBAN STORMWATER	2.40	31	120
INDUSTRIAL WASTE TREATMENT	1.60	21	9.3
FEEDLOTS	.002	.03	.13
RURAL RUNOFF	1.50	20	232
CONSTRUCTION			26
MINE DRAINAGE	.021	.3	3
TOTAL	7.60		494



3-10-70

STATE OF KANSAS

208 Planning Alternative Analysis Process

1. Alternative solutions developed by the major planning agencies will be analyzed considering factors of environmental benefit, economic impact, and political or social acceptability, as shown conceptually below:

Management Category	BMP or Technical Capability	Environmental Benefit or Quantif.	Economic Impact (+) or (-)	Political Acceptability	Recommended Control Program	Priority
Agricultural Runoff	Alt. 1	%	\$	-	Best Mandatory	#
	2	%	\$	+		#
	3	%	\$	-		#
	4	%	\$	+		#
Municipal Waste Treatment	Alt. 1	%	\$	+	Best Mandatory	#
	2	%	\$	+		#
	3	%	\$	-		#
Mineral Intrusion	Alt. 1	%	\$	+	Best Mandatory	#
	2	%	\$	-		#
	3	%	\$	+		#

XXX YYY

Yield Attainable Water Quality Standards

- The total of control programs chosen must be within projected available resources in two categories: 1) Federal construction grant money; 2) State, local, and private money.
- The total commitment of resources for control programs chosen must be within that which the state economy will bear. This will be a legislative determination based on plan recommendations and national input factors such as artificial pricing systems and subsidies.

EXAMPLE

208 ALTERNATIVE ANALYSIS PROCESS

MUNICIPAL WASTE TREATMENT

ALTERNATIVE	ENVIRON. BENEFIT	ECONOMIC IMPACT	POLITICAL ACCEPT
77-SECONDARY TREATMENT	2%	\$.6 B	?
83 REQUIREMENTS INCLUDES STORMWATER	3%	\$ 4.5B	?
85 REQUIREMENTS	5%	?	?

