

M I N U T E S

SPECIAL COMMITTEE ON NATURAL RESOURCES

October 31, 1977

Room 529 - Statehouse

Members Present

Senator Charlie Angell, Chairperson  
Representative Anita Niles, Vice-Chairperson  
Senator Fred A. Kerr  
Senator Richard G. Gannon  
Representative James Cubit  
Representative Larry E. Erne  
Representative Keith Farrar  
Representative R. D. McCrum

Staff Present

Emalene Correll, Kansas Legislative Research Department  
Don Hayward, Revisor of Statutes Office

Others Present

Harris L. Mackey, Division of Water Resources, State Board of Agriculture, Topeka, Kansas  
Marcene Grimes, Governor's Task Force on Water Resources, Topeka, Kansas  
Walter Dunn, EKOGA, Topeka, Kansas  
Joan Callan-Woywod, Division of State Planning and Research, Topeka, Kansas

Morning Session

The meeting was called to order at 10:00 a.m. by the Chairman, Senator Angell.

Minutes

The Committee requested that the statistics quoted by the staff be inserted in the third paragraph on page 1. A motion was made and seconded to approve the minutes as corrected. Motion carried.

Proposal No. 57

Staff distributed the following material:

Attachment A - Letter to the Governor from the Water Resources Board outlining the Board's recommendations for legislation.

Attachment B - Recommendations of the Groundwater Subcommittee of the Governor's Task Force.

Staff noted that bills covering the recommendations in Attachment A will be introduced during the 1978 Session of the Legislature. The recommendations in Attachment B will be the subject of the public hearings in western Kansas. The total Task Force will not take action on the recommendations until the hearings are completed.

Staff presented a bill draft amending K.S.A. 82a-1030 to base the water-user charge on the amount of water right rather than on water use (Attachment C). Staff reported they had notified the staff for the Special Committee on Assessment and Taxation of this proposed bill.

Amending the bill to provide the option of basing the water use charge on the amount of water used, with the user responsible for metering, was suggested. Consensus was to use only the water right since the intent of the Committee was to provide a stable base for the groundwater management district's budget.

After further discussion, a motion was made and seconded to recommend the proposed bill as presented for introduction. In answer to a question, staff stated the annual water user charge cannot be figured in with other levies. The only thing in the present law which is like K.S.A. 79-1808, is how the charge goes on the individual tax bill. In answer to a question, staff clarified that the proposed bill does not affect the right to petition out dryland. Motion carried.

Reference was made to Attachment A, Recommendation No. 2, which would increase the maximum allowable water user charge per acre foot by 400 percent. Concern was expressed that this would cause dryland farmers to petition out of the district. Providing flexibility for the groundwater management district to create different classes of water use rates based on the type of use was suggested. It was noted that Attachment B, page 2, Recommendation No. 2, would provide for this flexibility. In answer to a question, staff stated if classes are established on a reasonable basis and if the same tax is charged within a class, there should be no constitutional problem. It was also noted that the Groundwater Subcommittee is recommending a progressive water use assessment on agriculture (Attachment B, page 2, Recommendation No. 3). The recommendation of the Water Resources Board provides for a flat rate and the recommendations of the Groundwater Subcommittee provides for differential rates based on land use and amount used. Staff noted that the Water Resources Board will introduce a bill to raise the upper assessment limit and this bill would amend the same section amended by the Committee bill just adopted.

Consensus was not to incorporate these recommendations in the bill recommended by the Committee for introduction. Staff was instructed to include in the Committee report that the Committee took these recommendations into consideration but in light of the hearings to be held is not taking any specific action on them. However, the Committee does recommend that the findings of the hearings and the recommendations be given consideration for later legislation. Specific note is to be made that if the upper assessment limit is changed, consideration should be given to including Recommendation Nos. 2 and 3, page 2, Attachment B. The report is to indicate the Committee's strong feeling that if a differential assessment rate is not developed, land will be petitioned out and the purpose of groundwater management districts will be defeated. Staff is to notify the Water Resources Board of this action.

Referring to Attachment A, Recommendation No. 1 and Attachment B, page 3, Recommendation No. 6, staff stated that present law does not provide specific authority for groundwater management districts to accept grants nor does it prohibit it. However, the districts have indicated they would be more comfortable if this specific authority were included in the statute. In answer to a question, staff stated this recommendation could be added to the bill just considered by the Committee.

A motion was made and seconded to amend the Committee bill just adopted to include Recommendation No. 1, Attachment A. Motion carried. This will avoid the introduction of duplicate bills.

After a brief discussion of Attachment A, Recommendation No. 3, the consensus of the Committee was to let the Water Resources Board present this recommendation to the standing committees during the session when they could be present to clarify the reasons for requesting the change.

It was noted that Attachment A, Recommendation No. 4 would repeal more artesian well statutes than the bill previously approved by the Committee. In answer to a question, staff stated all the statutes were not included in the Committee bill to see if anyone raised objections. K.S.A. 42-401 to 420 inclusive and K.S.A. 42-222 to 429 inclusive are included in the Committee bill. K.S.A. 42-421 and K.S.A. 42-601 to 609 inclusive have already been repealed. However, K.S.A. 42-610 to 619 inclusive should be left on the books for historic purposes since they deal with irrigation.

A motion was made and seconded to amend the repealer bill adopted by the Committee at the last meeting (October 3 minutes, Attachment B) to include K.S.A. 42-307 and K.S.A. 42-501 to 506 inclusive. Motion carried.

Attention was called to Attachment B, page 3, Recommendation No. 4, which relates to establishing critical groundwater areas. Reference was made to the Committee minutes for September and October. The need to define what a critical water area is was noted even though the courts may make the final determination.

It was pointed out that the philosophy of the Groundwater Management District Act is to allow the different districts to deal with water problems in their respective districts. This recommendation would seem to be in contradiction to that.

Note was made that some research is being done on a definition of a critical area for the Governor's Task Force on Water Resources. Criteria used by other states include when the discharge rate is greater than the recharge rate; when a specified percentage is left in the aquifer; the amount of draw down.

In answer to a question, staff stated the law allows a person with a prior right to enjoin a junior right from impairing his right. It is left up to the holder of a right to protect his right.

In discussion it was noted the following things are needed: a definition of a critical area, a procedure for determining a critical area, a procedure for controlling depletion by both denial of applications and limiting established rights. The latter is the problem area.

Further discussion indicated the feeling that critical areas should be designated by the Chief Engineer on the recommendation of a groundwater management district or on his own motion. This would allow areas to be designated on the basis of criteria appropriate to a given area and would give the Chief Engineer the authority to act if a district did not. The latter is needed since what happens in any area has statewide implications.

Staff noted that putting guidelines in the statutes would provide a firm legal basis for determining a critical area. It would also provide a basis of defense if a suit were filed. A property right will or could be affected by the declaration of a critical water area and this is a legislative matter.

In answer to questions, staff stated if the guidelines were in the statute it would mean the Chief Engineer may designate an area as a critical area if it meets the guidelines but would not mandate his doing so. Whether action originated on a recommendation of a groundwater management district or an action of the Chief Engineer, the Chief Engineer would be able to designate a critical area only if the guidelines set out by statute were met. Statutory guidelines would be for the protection of the people and for the protection of the Chief Engineer. Staff further noted the fact that this could lead to a metering situation which needs to be considered.

In listing guidelines using words "such as but not limited to" was suggested. Making guidelines broad was also suggested, i.e., "points to be considered are rate of discharge" rather than including a specific rate of discharge. Using the term "critical control area" for clarification was suggested.

Staff was instructed to draft a bill for Committee consideration at the next meeting which would establish very broad guidelines for determining what a critical area is; authorize a groundwater management district to recommend to the Chief Engineer that an area be designated as a critical area; authorize the Chief Engineer to start action to designate a critical area on his own; and to clarify the Chief Engineer may, but is not mandated, to designate an area as a critical area if it meets the guidelines. In answer to a question, staff stated the bill would not need to provide for a hearing before the Chief Engineer designates an area as critical.

The meeting was recessed at 12:05 p.m. for lunch and was reconvened at 1:30 p.m.

#### Afternoon Session

Attention was called to Attachment B, page 3, Recommendation 5, recommending the term "domestic use" be defined relative to livestock feedlot operations. The report is to note that the Committee discussed this issue and that there is a question whether or not the present interpretation would hold up in court.

In discussion, it was noted that currently feedlots are considered commercial and are put under industrial use depending on who owns the cattle. Kansas statutes do not list an "agricultural use" or "stockwater use." Many states list stockwater use and irrigation as beneficial uses. Kansas statutes use the phrase "in the normal operation of a farm" which would seem to imply the intent to limit the size of the operation. The common law use was life sustaining . . . water used to keep people and work animals alive.

The problem with commercial feedlots will occur if they are located in a critical area. If their water right is cut, it is not economically feasible for them to continue operating. Noting that feedlots are an economic asset to grain raising areas, it was suggested that any action relative to a definition be given serious and lengthy consideration.

The report is to note the Committee discussed alternative ways to define domestic use relative to livestock operations. Consideration was given to using head count, which was ruled out, and to amount of water used. The Committee also noted that the definition of "domestic" under irrigation is based on "not more than two acres."

The need to protect existing rights if a change in present policy is made was pointed out. People have been assuming their personal cattle operation is a domestic use and they do not need a permit. It was further noted that after January 1, 1978, there may be a problem.

In discussion of Recommendation 7, page 3, Attachment B, it was noted that presently all members of the district board could come from the same county and the board might not be representative of affected groups such as municipal or industrial users.

#### Proposal No. 57

Staff distributed copies of a memorandum prepared by staff of the Subcommittee on the Management and Coordination of State Water Resource Programs of the Governor's Task Force on Water Resources which includes options in the area of coordination of state water resource agencies and programs (Attachment D). Staff noted that the subcommittee has adopted Options 3, 4, and 7. Staff also noted that the subcommittee had not completed work on the memo and the full Task Force had not acted. Therefore, the memo was distributed for information only. The Committee has discussed what appears in Options 2 and 4.

Based on previous Committee discussions, staff was instructed to include the intent of Option 2 in the Committee report.

A motion was made and seconded to include Option 3 in the Committee report, stating the Committee is in favor of this approach. Staff pointed out that the Governor is not mandated by law to meet with department heads. The feeling was expressed that endorsing this action would not hurt and it might help. Motion carried.

Referring to Option 4 staff stated the Water Resources Board is in a difficult position conducting a review of portions of budgets of large agencies unless given statutory authority to do so. In discussion, emphasis was placed on the fact the Water Resources Board's purpose in reviewing budgets would be to look for duplication and lack of coordination and to report any findings to the Governor. The Board would not have any veto power relative to these budgets. It was noted that people reviewing the budgets will need some technical expertise to know if there is duplication or coordination. Some programs are highly technical and, justifiably, parts of a program may be in three or more agencies.

A motion was made and seconded to put the concept of Option 4 in bill form naming the following agencies to be included: Division of Environment; Geological Survey; Division of Water Resources; Forestry, Fish and Game Commission; Park and Recreation Authority; and Soil Conservation Commission. In discussion it was clarified that the motion refers only to that portion of the agency's budget relating to water and a review of plans. This is to include requests for specific current programs and long-range plans. It is important to coordinate what is being planned by each agency for the next few years. An amount may be requested this year as a base for what the agency is planning for the next three or five years. Motion carried.

Consensus was to adopt the concept of Option 5 although the feeling was also expressed that this should be an in-house and not a legislative decision or it should be done by Executive Order. The Committee's concern is that the coordination between agencies which has started continue.

Suggestions discussed were: including the agencies included in the bill under Option 4 and such other agencies from time to time as may be appropriate; stating the top person of each named agency is to attend to lend authority to the meeting; stating the Secretary of the agency or his designee since in some cases the head of a Division now attends which seems more appropriate; proceedings of the meetings could be reported to the Governor at his meetings with department heads. Combining Option 5 in the bill requested under Option 2 was suggested to make it the responsibility of the Water Resources Board to call the meetings, prepare the agendas, etc.

A motion was made and seconded to include the provisions of Option 5 in the bill requested under Option 2, specifying the agencies included in the action on Option 4 but not limited to these agencies, and providing they must meet quarterly. Motion carried.

The intent of Option 7 is to keep the Water Resources Board relatively small but to include representatives of other agencies.

Referring to Option 9, staff stated the subcommittee is recommending the State Water Plan Act be left as it is and is reaffirming that the Plan is where the state's water policy, as adopted by the Legislature, is stated. The plan should be updated. The subcommittee also noted the plan may not need to be updated every year. Staff noted a problem is that the State Water Resources Board is to determine if an agency's plans are in compliance with the State Water Plan but they have no enforcement powers. An exception might be in cases involving federal funding. The Board could recommend such funding not be approved if the project were not in compliance. Since the Committee has not addressed this issue specifically, it is not to be spoken to in the report.

Reference was made to the discussion at the last meeting (October 3 minutes, page 4, paragraph 4) relative to a statutory change to require that groundwater management districts' rules and regulations be filed with the Revisor of Statutes so they will automatically be subject to legislative review. It was noted that even though these rules and regulations do not apply to the whole state, the Legislature is responsible for what is going on in the state. A motion was made and seconded to ask staff to draft a bill amending present statutes to require that the rules and regulations of the groundwater management district be filed with the Revisor of Statutes. Motion carried.

Reference was made to the Chief Engineer's request for specific authority to enter private property to inspect maintenance of dams (October 3 minutes, page 4, paragraph 4). In answer to a question, Harris Mackey, Division of Water Resources, stated they have authority if there is a permit for the dam to inspect it. However, there is a problem with dams which do not have a permit but may be unsafe. It was noted this is not quite what is reflected in the minutes. Mr. Mackey stated it would be helpful to have specific authority to enter private property to inspect dams with a permit but it is definitely needed for those without a permit. In answer to a question it was noted the statutes give the Chief Engineer authority to mandate that a dam be fixed and include a penalty provision.

A motion was made and seconded requesting staff to draft a bill to give the Chief Engineer authority to enter private property for the purpose of inspecting a dam. Motion carried. Representative Larry Erne recorded a "no" vote.

By consensus staff is to include a summary of the responsibilities relative to water of the major agencies dealing with water. A recommendation relative to education about the appropriation doctrine is also to be included.

Staff was asked to combine any bill requests as appropriate and feasible.

#### Next Meeting

The next meeting of the Committee will be November 14, 1977, and will be convened at 9:00 a.m. The Chairman asked members to also reserve November 15 in case the agenda cannot be completed in one day.


The meeting was adjourned.

Prepared by Emalene Correll

Approved by Committee on:

11-14-77  
(date)

EC/dmb

THE STATE  OF KANSAS

WATER RESOURCES BOARD

Suite 303  
503 Kansas Avenue  
Telephone (913) 296-3185  
TOPEKA, KANSAS 66603

October 18, 1977

The Honorable Robert F. Bennett  
Governor of Kansas  
Governor's Office  
Second Floor - Statehouse  
Topeka, Kansas 66612

Dear Governor Bennett:

The Kansas Water Resources Board recommends consideration of four changes in the Kansas Statutes. The Board, at its meeting in Scott City in September, reviewed these proposed legislative recommendations and concurred the changes would be in the best interest of the State of Kansas.

Legislative Recommendations:

Groundwater Management District Act Amendments. The first amendment would permit a district to seek and accept grants and other financial assistance. The amendment would be added to K.S.A. 82a-1028 as new paragraph "r".

1. "r. Seek and accept grants and other financial assistance that the federal government and other public or private sources shall make available and utilize same for any purpose required under this act."

The second amendment would increase the upper limit of the annual assessment charge by a district. Section 82a-1030 would be amended to read as follows:

2. "Water user charges; annual assessment per acre against landowners; budget; collection by county officers; annual audit; no fund warrants; limitation; protest petition; redemption of warrants. (a) In order to finance the operations of the district, the board may assess an annual water user charge against every person who withdraws groundwater from within the boundaries of the district of not to exceed ~~thirty cents~~ ~~(\$0.30)~~ one dollar and twenty cents (\$1.20) for each acre foot (325,851 gallons) for groundwater withdrawn within

Atch. A

The Honorable Robert F. Bennett

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the district. The board may also make an annual assessment against each landowner of not to exceed ~~five cents (5c)~~ twenty cents (20c) for each acre of land owned within the boundaries of the district. Special assessments may also be levied, as provided hereafter, against land specially benefited by a capital improvement without regard to the limits prescribed above."

✓ The third amendment would remove the requirement that the annual budget be adopted at the annual meeting, and provide that the adoption of the annual budget would occur in conjunction with the budget hearing held in June - July of the year preceding the calendar year for which the budget is proposed. Amendment to K.S.A. 82a-1026, 82a-1030 would be required.

✓ Repeal Statutes Dealing With Artesian Wells. Repeal the following sections of the Kansas Statutes: K.S.A. 42-307, Appropriation of waters from artesian wells; K.S.A. 42-401 to 429, Artesian wells and storage reservoirs and works; K.S.A. 42-501 to 506, Experimental test and artesian wells; and K.S.A. 42-601 to 619, Miscellaneous provisions.

The proposals have been discussed with Mr. Don Hayward, Revisor of Statutes; and he suggested early consideration for bill drafting. If I can answer any questions, please feel free to contact this office.

Sincerely,

James A. Power, Jr.  
Executive Director

JAP:mf

cc: Speaker of the House, John Carlin  
President of the Senate, Ross O. Doyen  
Minority Leader of the Senate, Jack Steineger  
Minority Leader of the House, Wendell Lady  
Lieutenant Governor Shelby Smith

PROPOSED RECOMMENDATIONS  
Groundwater Subcommittee  
Governor's Task Force on Water Resources

The following proposed recommendations address major problems, issues, and concerns identified relative to groundwater supplies in western Kansas. Testimony before the Governor's Task Force, the public response at the four September informational meetings, and studies by the subcommittee staff provide the basis for these proposals. They are grouped into the following categories:

1. Information - Education
2. State Assistance
3. Legal and Implementation Procedures

These tentative recommendations will be the subject of public hearings in November. Following the hearings, the Governor's Task Force will analyze the public response and prepare an interim report including specific recommendations to the Governor and 1978 Legislature. The Task Force will continue to study Kansas water problems during 1978.

I. INFORMATION/EDUCATION

Findings

There is a general lack of understanding by the public regarding Kansas water law (Appropriation Doctrine) and agency rules and regulations which govern groundwater and surface water use. As a result, there is much confusion regarding individual rights, duties, and responsibilities under Kansas water law. The general public must be better informed about existing water law before a viable and effective groundwater plan can be prepared and implemented both at the local and state level.

Proposed Recommendations

1. The Legislature direct the Kansas State University Extension Service, in cooperation with the Department of Agriculture, Division of Water Resources, the Kansas Water Resources Board, and the Groundwater Management Districts, to implement an intensive program directed toward educating and informing the public about Kansas water law and providing information on policies, programs, rules, and regulations.
2. The Groundwater Management Districts are urged to seek input via public meetings prior to submitting proposed rules and regulations to the Chief Engineer.



## II. STATE ASSISTANCE

### Findings

The Groundwater Management Districts require increased state assistance if they are to effectively respond to the state policy that local people are to determine their own destiny with respect to the use of groundwater, insofar as it does not conflict with the basic laws and policies of the state.

The present financial base for the Groundwater Management Districts is inadequate to respond to the needs. Increased financial capacity for the Groundwater Management Districts and increased technical assistance from state water agencies is needed.

### Proposed Recommendations

1. Amend K.S.A. 82a-1030 to permit districts to increase the level of assessments on land and water use to provide a stronger financial base for the district operations.
2. Amend K.S.A. 82a-1030 to permit the Groundwater Management Districts to vary water use assessment rates for different types of water use such as municipal, industrial, and agriculture and to allow varying acreage assessments for irrigated and dryland farms.
3. Amend K.S.A. 82a-1030 to permit districts to levy a progressive water use assessment on agriculture.
4. Provide increased funding and personnel to the state agencies to provide increased technical and educational assistance to the Groundwater Management Districts.
5. Provide state assistance for the development of pilot recharge projects.

## III. LEGAL AND IMPLEMENTATION PROCEDURES

### Findings

The Groundwater Management Districts were established as political subdivisions of the state to provide for the sound and wise management of groundwater at the local level, but subject to state law. Uncertainties which have diluted the effectiveness of local control are the relationship of local control of groundwater use and the State Water Plan, and the ambiguity of key terms contained in Kansas water law such as "beneficial use," "reasonable use," "unreasonable lowering," "waste," and "excessive use." The uncertainty over the division of responsibility between the state and the Groundwater Management Districts and the extent of state

responsibility in promoting efficient water use practices have hindered the preparation and implementation of an effective and efficient state-wide groundwater program. Also, the extent to which the state will assist the Groundwater Management Districts in the enforcement of the rules and regulations needs clarification.

#### Proposed Recommendations

1. Legislation be enacted to require that rules and regulations drafted by the Groundwater Management Districts to implement their groundwater management plan be provided to the Chief Engineer who shall seek the views and comments of the State Conservation Commission; Department of Health and Environment; Forestry, Fish and Game Commission; Kansas Water Resources Board, and Park and Resources Authority.
2. The definition of reasonable use and impairment be clarified through the rules and regulations of the Groundwater Management Districts.
3. Clarify policies on supplemental and substitute wells by rules and regulations of the districts.
4. Legislation be enacted which would establish guidelines for the designation of critical groundwater areas within the Groundwater Management Districts.
5. Legislation be enacted to define the term domestic use, relative to livestock feedlot operations.
6. Amend the Groundwater Management District Act to clearly allow districts to receive grants and gifts.
7. Amend the Groundwater Management District Act to encourage wider representation on district boards.

BILL NO. \_\_\_\_\_

By Special Committee on Natural Resources

Re Proposal No. 57

AN ACT concerning groundwater management; relating to water user charges; amending K.S.A. 82a-1030 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 82a-1030 is hereby amended to read as follows: 82a-1030. (a) In order to finance the operations of the district, the board may assess an annual water user charge against every person who withdraws groundwater from within the boundaries of the district of not to exceed thirty cents (30¢) for each acre-foot (325,851 gallons) of ground water ~~withdrawn within the district~~ allocated for such person's use pursuant to the person's water right. The board may also make an annual assessment against each landowner of not to exceed five cents (5¢) for each acre of land owned within the boundaries of the district. Special assessments may also be levied, as provided hereafter, against land specially benefited by a capital improvement without regard to the limits prescribed above.

(b) Before any assessment is made, or user charge imposed, the board shall submit the proposed budget for the ensuing year to the eligible voters of the district at a hearing called for that purpose by one (1) publication in a newspaper or newspapers of general circulation within the district at least twenty-eight (28) days prior to the meeting. Following the hearing, the board shall, by resolution, adopt either the proposed budget or a modified budget and determine the amount of land assessment or user charge, or both, needed to support such budget.

(c) Both the user charges assessed for groundwater withdrawn and the assessments against lands within the district

shall be certified to the proper county clerks and collected the same as other taxes in accordance with K.S.A. 79-1801, and acts amendatory thereof or supplemental thereto, and the amount thereof shall attach to the real property involved as a lien in accordance with K.S.A. 79-1804, and acts amendatory thereof or supplemental thereto. All moneys so collected shall be remitted by the county treasurer to the treasurer of the groundwater management district who shall deposit them to the credit of the general fund of the district. The accounts of each groundwater management district shall be audited annually by a public accountant or certified public accountant.

(d) Subsequent to the certification of approval of the organization of a district by the secretary of state and the election of a board of directors for such district, such board shall be authorized to issue no-fund warrants in amounts sufficient to meet the operating expenses of the district until money therefor becomes available pursuant to user charges or assessments under subsection (a). In no case shall the amount of any such issuance be in excess of twenty percent (20%) of the total amount of money receivable from assessments which could be levied in any one year as provided in subsection (a). No such warrants shall be issued until a resolution authorizing the same shall have been adopted by the board and published once in a newspaper having a general circulation in each county within the boundaries of the district. Whereupon such warrants may be issued unless a petition in opposition to the same, signed by not less than ten percent (10%) of the eligible voters of such district and in no case by less than twenty (20) of the eligible voters of such district, is filed with the county clerk of each of the counties in such district within ten (10) days following such publication. In the event such a petition is filed, it shall be the duty of the board of such district to submit the question to the eligible voters at an election called for such purpose. Such election shall be noticed and conducted as provided by K.S.A. 82a-1031.

Whenever no-fund warrants are issued under the authority of this subsection, the board of directors of such district shall make an assessment each year for three (3) years in approximately equal installments for the purpose of paying such warrants and the interest thereon. All such assessments shall be in addition to all other assessments authorized or limited by law. Such warrants shall be issued, registered, redeemed and bear interest in the manner and in the form prescribed by K.S.A. 79-2940, except they shall not bear the notation required by said statute and may be issued without the approval of the state board of tax appeals. Any surplus existing after the redemption of such warrants shall be handled in the manner prescribed by K.S.A. 79-2940.

Sec. 2. K.S.A. 82a-1030 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

STATE OF KANSAS

Department of  Administration

DIVISION OF STATE PLANNING AND RESEARCH

5th Floor—Mills Building  
109 W. 9th  
Topeka, Kansas 66612

MEMORANDUM

TO: Subcommittee on the Management and Coordination of State Water Resource Programs, Governor's Task Force on Water Resources

FROM: Christopher McKenzie, Policy Analyst  
Joan Callan-Woywod, Policy Analyst Intern

SUBJECT: Preliminary Subcommittee Report

At your direction we have prepared the following report which gives a short history of the inter-agency coordination issue, summarizes the study process of the Subcommittee, and detail specific options for your consideration in two areas: 1) Coordination of state water resource agencies and programs; and 2) State assistance programs to local units of government. When possible, we have made staff recommendations. We do caution you that the options represent our conclusions concerning recommendations the Subcommittee may wish to make to the full Task Force as a result of the meetings on September 29 and 30, 1977. Please review this material prior to the October 27, 1977, meeting of the Subcommittee. If you have any questions concerning this report prior to our meeting, please do not hesitate to give us a call.

I. Background

Coordination of state water resource policies and programs has long been recognized as an important function in state government. The organic legislation which created the State Water Resources Board (K.S.A. 74-2901 to 2612) directs the Board to "...make recommendations to other state agencies and political subdivisions of the state for the coordination of their activities relating to flood control, construction of levees, drainage, irrigation, soil conservation, watershed development, stream control, gauging of stream, stream pollution, and groundwater studies."

K.S.A. 74-2610 directs all state and local agencies (and specifically the Division of Water Resources, the Kansas Geological Survey, the Agricultural Experiment Stations, and the Department of Health and Environment) to cooperate with and make available to the Board all facts, records, information and data requested by the Board, and to cooperate generally with the Board in carrying out its duties. The Board is also directed in Section 3 of K.S.A. 74-2608 to "review plans for the development, management, and use of the water resources of the state by any state or local agency."

Early state water agency coordination efforts took the form of regular meetings to discuss the development and implementation of state water resource programs. In its coordination capacity, the Water Resources Board would at times advocate certain program proposals and budget requests of other state water resource agencies before the ways and means committees of the legislature.

However, with the passage of time the active coordination efforts of the Water Resources Board and the other state water resource agencies diminished. The widely scattered office locations of state water agencies is said to have affected the frequency of day-to-day contact between agency personnel and, therefore, the opportunities for face-to-face discussion of program and policy coordination issues. In recent years the only major inter-agency coordination meetings sponsored by the Water Resources Board (which included federal water agency participation) were held only once a year.

During the preparation of the FY 1978 budget, Governor Bennett was confronted with numerous budget requests for new and improved programs in the water resources area. These requests had received no overall assessment as to their priority and appeared to be similar in purpose. As a result of the apparent lack of coordination, the Governor indicated in his 1977 Legislative Message that he would create by executive order a Water Resources Policy Committee composed of state agencies responsible for water resources planning, development, management and conservation responsibilities. The Governor also indicated that the major functions and responsibilities of such an inter-agency committee would include: 1) the ongoing coordination of state water resource programs and policies; 2) recommendations to the Governor and the Legislature concerning needed changes in existing state water resource policies and programs; 3) evaluation of the data and information handling needs of state water resource agencies; 4) implementation of any necessary inter-agency water resources management and/or data-sharing agreement; 5) prioritization of state water resource programs, particularly programs of technical and financial assistance to special district governments; 6) coordination of the budget requests of state water resource agencies; 7) establishment of state water resource research priorities; and 8) identification, assessment and prioritization of any new water resource problems or needs deserving the attention of state government. In response to legislative and public water concerns, the Governor expanded the scope of the proposed Water Resources Policy Committee into a 26 member Governor's Task Force on Water Resources. Two of the charges of the Task Force include identifying options available to state and local units of government for 1) eliminating any duplication and inefficiencies in state and locally sponsored water resource programs and 2) to achieve more effective coordination among state and local water resource programs.

One of the subcommittees created early by the Task Force was the Subcommittee on the Management and Coordination of State Water Resource Programs.

## II. The Subcommittee Study Process

The first formal study session of the Subcommittee was held on September 9, 1977. At the meeting staff presented summaries of the state water resource and related programs for the Subcommittee members' information and a proposed seven point study plan. The proposed study plan called for the review in late September of the FY 1979 budget requests of state water resource agencies with programs of technical and financial assistance to local units of government, interviews with pertinent agency heads regarding their assistance programs, a study of formal inter-agency coordination arrangements in November and December, and a study of organizational alternatives for the management and coordination of state water resource programs during 1978.

The second formal study session of the Subcommittee was held September 29-30, 1977. After reviewing the FY 1979 budget requests of the state water resource and related agencies, the Subcommittee undertook a careful review of the individual agency programs of technical and financial assistance to local units of government carried on by the Division of Environment, Division of Water Resources, State Conservation Commission, Water Resources Board, and the Kansas Geological Survey. The nature of the assistance provided by each program (i.e., technical aid, financial aid, administrative review of plans and approval, etc.) was identified and the specific assistance mission of each agency was discussed.

remainder of September 29 and the morning of September 30 were devoted to discussions of the agency assistance programs and related coordination concerns with Mel Gray (Division of Environment), Charles Bredahl (State Conservation Commission), James Power (Water Resources Board), William Hambleton (Kansas Geological Survey), and Guy Gibson (Division of Water Resources). Selected highlights of the Subcommittee's discussions with individual agency heads are included in an appendix to this report.

Discussion of the policy and program coordination issues raised by Subcommittee members, agency heads and staff continued through the afternoon of September 30, 1977. The Subcommittee was requested by Lieutenant Governor Smith to consider some policy questions with regard to the management and coordination of state water resource programs which have been raised in testimony and discussion before the Water Resources Task Force. Those policy questions are contained in Appendix 2 of this report.

The chairman of the Subcommittee requested that the staff take the questions raised by the Lieutenant Governor and the policy questions identified by the Subcommittee, agency heads and the staff into consideration in the preparation of a preliminary Subcommittee report which outlines options and staff recommendations, where possible, for consideration and possible endorsement by the Subcommittee at its next meeting in late October. The options, discussion and recommendations which follow were developed by the Subcommittee staff in response to that request.

### III. Subcommittee Options

Options were developed by the staff for the consideration of the Subcommittee in two different areas: (a) options concerning coordination of state water resource agencies and programs; and (b) options concerning the location, funding priority and requirements of state assistance programs to local units of government in the area of water resources. Problems and alternative solutions in these two distinct areas were explored and discussed by the Subcommittee. The options discussed below are not mutually exclusive. In most cases, one or more could be part of any package of recommendations to the full Task Force.

#### A. State Water Resource Agency and Program Coordination

##### Option 1: - No Action

Take no action. Allow coordination practices currently in use to continue without interference. Assumption: State water resource agencies are aware of the Governor's, Legislature's, Task Force's, and general public's interest in the close coordination of state water resource programs and will take the necessary steps to achieve such coordination. The revival of quarterly inter-agency coordination meetings is evidence of this position.

##### Option 2: - Reaffirm and Clarify Responsibilities of Water Resources Board

Reaffirm the statutorily prescribed inter-agency coordination responsibilities of the Water Resources Board. Clarify the scope of these responsibilities (e.g., information sharing, program coordination, general water resource policy development and planning, budget and program review responsibility, etc.), and reaffirm the duty of all state and local agencies to cooperate generally with the Board in carrying out its duties. Assumption: Reaffirmation and clarification of the coordination responsibilities of the Water Resources Board will serve as sufficient notice to the Board and other state and local agencies that the Board is expected to play a pivotal role in the planning and coordination of state water resource policies and programs.



Option 3: - Invite Executive Director of KWRB to Attend Cabinet Meetings

Request the Governor to formally invite the executive director of the Water Resources Board to join the Governor's cabinet and to attend weekly cabinet meetings. Assumption: Without cabinet level status, the executive director of the Water Resources Board is unable to effectively coordinate the programs of cabinet-level water resource agencies. Attendance at cabinet meetings and more regular dealings with the Governor will provide evidence of the chief executive's endorsement of the inter-agency coordination efforts and responsibilities of the executive director of the Water Resources Board.

Option 4: - State Water Resources Agencies' Budget and Plan Review by KWRB

Through executive order or legislation, assign the Water Resources Board responsibility for reviewing the annual budget requests and plans of the state's water resources agencies and providing recommendations to the Governor and the Legislature concerning the funding of existing programs as well as new and improved programs. Assumption: The annual budget process in which the plans and budget requests of state agencies are critically examined by the Governor and his budget and planning staffs is the most significant coordination mechanism available to the executive branch in the water resources area. However, the number of state water resource programs (in excess of 80) and their technical nature necessitate the examination of agency budget requests and plans by the staff of the Water Resources Board who have the requisite technical skills to ensure no duplication occurs and compliance with the water resource policies of the Water Resources Board and the state.

Option 5: - Mandatory Quarterly Coordination Meetings

Through executive order or legislation, require the state water resources and related (e.g., Forestry, Fish and Game Commission) agencies to meet on a quarterly basis for coordination purposes. Provide for participation in such meetings by representatives of the Division of Budget and the Division of State Planning and Research, and require preparation and transmittal of a report of the proceedings of the quarterly meetings to the Governor and the Water Resources Board. Assumption: Past and existing inter-agency coordination arrangements are far too dependent upon the respective personalities involved in coordination activities. Institutionalization of the present quarterly meeting process of the state's water resource agencies, and broadening participation to include other affected line and staff agencies, would guarantee a minimum of four opportunities to meet and discuss coordination concerns despite any personality conflicts which might occur. Documentation of the proceedings of such meetings would further guarantee monitoring by the Water Resources Board and the Governor of the effectiveness of such meetings.

Option 6: - Reorganize the Kansas Water Resources Board

Reorganize the Kansas Water Resources Board into a cabinet level department. The executive director would serve at the pleasure of the Governor and would be confirmed by the Board. The present Board would continue to serve in a strong advisory capacity. KWRB would continue to carry out its planning, policy development, and coordination responsibilities and no other agencies' functions would be transferred to the reorganized agency. Assumption: The coordinated development and implementation of state water policy is the responsibility of the executive branch. Therefore, the development of state water policy and the selection of the executive director of the water planning and policy development agency of state government should be subject to direction by the Governor. The maintenance of a strong citizen water resources advisory board is necessary to ensure the development of sound state water policy. Gubernatorial appointment of the executive director of a cabinet-level water resources department would contribute strongly to the effective and coordinated development and implementation of state water resources policy.

#### Option 7: - Increase Membership of Water Resources Board

Expand the size of the present Water Resources Board to include representatives from the advisory or policy boards of other state water resources and related agencies. This action would entail the addition of six individuals to the Board, totalling thirteen (13) members. Assumption: Depending upon the scope of the coordination role and responsibilities assigned to the Water Resources Board (i.e., budget and plan review authority), expansion of the present Board to include representatives from the advisory or governing boards of other state water resources and related agencies would ensure some representation of the interests of the affected agencies. Broader participation would also contribute to more frequent discussion of inter-agency program and policy coordination concerns by the Board. It has been observed that placement of the heads of other state agencies on the Board would mitigate against a strong coordination role by the executive director of the KWRB. As a result, this option envisions participation of citizen members on the Board.

#### Option 8: - Inter-agency Council on Water Resources

Through legislation, create and staff an Inter-agency Council on Water Resources which would be responsible for coordinating the water resources and related programs of state government. The Council would review the program proposals, annual budget requests and plans of the state water resources and related agencies and make recommendations to the Governor and the Legislature for their consideration in reviewing and approving agency budgets. The Council would coordinate the water resource data programs of state government, and would be the formal liaison with the federal and local governments in matters of water resource policy. The Council would report directly to the Governor and the Legislature and would play an ombudsman role for the state's water resource and related agencies, local agencies, and the public at large. Assumption: Due to its increasing programmatic responsibilities for development of the state's water supplies, state water planning studies, and technical assistance to local units of government, the Water Resources Board is unable to play an effective coordination role. A separate inter-agency council with a separate staff is needed to carry out this policy and program coordination responsibility. It would have no other assigned functions than those outlined above.

#### Option 9: - Mandatory Annual Update of State Water Plan

Through executive order or legislation, require an annual updating of the state water plan by the Water Resources Board with the assistance of the state water resource and related agencies. K.S.A. 82a-903 currently directs the heads of the Division of Water Resources, the Kansas Geological Survey, the Agricultural Experiment Station, the Division of Environment, and all other interested state agencies to cooperate with the Board in formulating such a plan. However, no provisions are made for updating the plan annually and for participation by other state agencies in such an effort. This option could also include identification of state water resource research priorities and water quality and groundwater policies. Assumption: Since its adoption by the 1965 legislature, there have been few amendments to the state water plan with the exception of the major reservoirs and watershed projects listed in K.S.A. 82a-906 by the 1974 legislature which authorize the Water Resources Board to submit amendments to the state water plan to the Governor and the Legislature in odd-numbered years rather than every year. Due to the lack of substantive policy amendments to the state water plan since its passage and the above procedural amendment, the state water plan has not served as an effective policy coordination vehicle. Annual review and updating of all components of the plan covering surface and groundwater quantity and quality and the identification of water resource research priorities by an inter-agency group headed by the Water Resources Board would strengthen the role of the state water plan in water resource policy coordination and would ensure the responsiveness of the state water plan to the plans, regulations, rules and recommendations of the participating state agencies. The Board is currently required to consider these factors in the formulation or revision of the plan under K.S.A. 82a-903.

## Assistance Program and Priority Options

In the Subcommittee's review of individual agency programs of technical and financial assistance to local units of government, few programs of a questionable or duplicative nature were discovered. However, it is apparent that no one agency, group of agencies, or branch of government provides sufficient program oversight in this area. For the most part, state agencies have developed assistance programs which are intended to meet apparent needs recognized by the agency or by the legislature. Unfortunately, there are no policy guidelines for what constitutes appropriate or inappropriate assistance (technical or financial) to local units of government. In the absence of such guidelines, the following options have been developed which address the organizational location, funding priority, and eligibility requirements of certain state water-related programs of technical and financial assistance to local units of government.

### Option 1: - Limitations on State Rural Water District Grants

Limit state grants to rural water districts to those districts which provide legal guarantees that water supply systems constructed with state financial assistance will serve only rural farm users. Provide penalties for repayment of state grants by districts which provide service to new or existing residential subdivisions or non-farm users. Assumption: The program of emergency state grants to rural water districts authorized under K.S.A. 82a-638 and funded at approximately one million dollars each year since FY 1974 has supplied considerable benefits to non-farms users and contributed to urban sprawl. The purpose of the rural water district program is to provide quality water supply to Kansas farm families in unincorporated areas. Consequently, state grants for the construction of rural water systems should be used for only that purpose and not for the residential development of prime agricultural land.

### Option 2: - Abolish the Small Watershed Construction Grant Program

Through legislation, abolish the state small watershed construction grant program administered by the State Conservation Commission and reallocate the general funds used for that program to support the construction of larger P.L. 566 watershed structures or intermediate watershed structures which the Water Resources Board has endorsed and determined will provide water supply benefits to small communities. Assumption: The small watershed structure construction grant program administered by the State Conservation Commission supports the development of watershed structures which on the basis of cost-benefit analysis do not qualify for federal funding under the P.L. 566 program. The state is, in effect, funding structures which the federal government has judged uneconomic and unjustifiable on a cost-benefit basis. Available state funding for watershed structure construction would be expended in a more cost-effective fashion on planned and authorized P.L. 566 structures awaiting federal funding or on intermediate-sized watershed structures which the Water Resources Board has endorsed since they will provide water supply benefits to small Kansas communities with water supply problems (state funding for such a structure in Miami County was requested by the Water Resources Board for FY 1978).

### Option 3: - State Assistance to Special Districts for Flood Control Benefits

Repeal K.S.A. 82a-910 which directs the state to provide financial assistance to certain public corporations for part of the costs or reimbursement of part of the costs of installation of water development projects which provide general flood control benefits to the state as a whole or to a section of the state beyond the boundaries of the public corporation. Assumption: Since the passage of K.S.A. 82a-909, only one public corporation, Black Vermillion Watershed Joint District No. 37, has applied for state financial assistance. Their first request was for approximately \$30,000 in FY 1976. The second request is for \$2,923 in FY 1979. The district is eligible for the assistance according to the Water Resources Board and the eligibility criteria contained in K.S.A. 82a-909. The executive director of the KWRB has stated that the little demand for this type of state assistance, and the rather narrow eligibility requirements contained in K.S.A. 82a-909, may indicate there is little need for this assistance program.

**Option 4: - Transfer the Mined-Land Conservation and Reclamation Board to the KCC**

Transfer the Mined-Land Conservation and Reclamation Board from the Kansas Corporation Commission to the Division of Environment, Department of Health and Environment. Assumption: Regulation of the mined-land conservation and reclamation practices of surface mining operators in Kansas is more closely related to the regulation of water quality than the regulatory responsibilities of the KCC. The Division of Environment has requested the transfer of this function from the KCC.

**Option 5: - Transfer the Rural Water District Grant Program to KWRB**

Transfer administration of the rural water district grant program from the Division of Water Resources to the Water Resources Board. Assumption: The rural water district grant program authorized by K.S.A. 82a-638 is a program of state financial assistance for the construction of rural water supplies. Since the development of water supplies in the state is a function of the Water Resources Board and does not fall within the purview of the regulatory functions of the Division of Water Resources, the program should be transferred to the Water Resources Board.

**Option 6: - Transfer Assistance to Small Communities with Water Supply Problems to KWRB**

Transfer the water supply assistance to small communities program of the Division of Environment to the Kansas Water Resources Board. Assumption: Providing assistance to small Kansas communities with water supply problems is consistent with the water supply development mission of the Water Resources Board and somewhat inconsistent with the water quality regulation mission of the Division of Environment. The Water Resources Board has indicated an interest in providing this type of assistance, on a self-help or appraisal basis, to small Kansas communities without access to engineering expertise.

**Option 7: - Technical Assistance to Wholesale Water Supply Districts by KWRB**

Technical assistance by the Water Resources Board for the formation and management of wholesale water supply districts. Assumption: H.B. 2319 of the 1977 Kansas Legislature authorized the formation of wholesale water supply districts in the state to provide water supply on a larger scale than is feasible for public water supply districts, municipalities, and public and privately owned water distribution companies. The implementation of this innovation in state water supply law deserves technical assistance from the Water Resources Board.

**C. Staff Recommendations**

After considerable study, the staff recommends Subcommittee endorsement of the following inter-agency coordination and assistance program options:

**A. Coordination**

Option 6: Reorganize the Kansas Water Resources Board

Option 4: State Water Resource Agencies Budget and Plan Review by KWRB

Option 5: Mandatory Quarterly Coordination Meetings

Option 7: Increase Membership of Water Resources Board

Option 9: Mandatory Annual Update of State Water Plan

Assistance Programs

Option 1: Limitations on State Rural Water District Grants

Option 2: Abolish the Small Watershed Construction Grant Program

Option 4: Transfer the Mined-Land Conservation and Reclamation Board to the Division of Environment

Option 5: Transfer the Rural Water District Grant Program to the KWRB

Option 6: Transfer Assistance to Small Communities with Water Supply Problems to the KWRB

Option 7: Technical Assistance to Wholesale Water Supply Districts by KWRB

The coordination recommendations are based on the assessment that certain modest, yet basic, institutional changes are needed in the organizational location, composition, and specific coordination authority and responsibilities of the Kansas Water Resources Board. The present organizational location of the KWRB tends to isolate the agency from many of the important aspects of the state government management process which the presence of the executive director of KWRB at weekly cabinet meetings would not alter significantly. Department level status for the KWRB would assist in a substantial way the agency's executive director and staff in carrying out their inter-agency coordination responsibilities.

The addition of budget and plan review and coordination responsibilities should provide a reorganized KWRB with added and clearer coordination authority. Expansion of the advisory body of a reorganized KWRB (as detailed in Option 7) should ensure sensitivity by the agency to the needs and priorities of other state water resource and related agencies, as well as maintain citizen input. Mandatory quarterly inter-agency coordination meetings and reporting requirements should guarantee a minimum number of opportunities for inter-agency coordination independent of agency personalities. Finally, mandatory annual updating of the state water plan involving all state water resource and related agencies and including the identification of state water resource research priorities should allow the use of the state water plan as an effective vehicle for coordinating the development and implementation of state water resource policies and programs.

The assistance program recommendations are based on information concerning the unintended impacts and inefficiency of certain assistance programs (rural water district and small watershed construction grant programs) and existing confusion over the local assistance missions of the state water resource agencies.

Option 4 involves transfer of an environmental protection program (Mined-Land Conservation and Reclamation Board) to the state environmental protection agency, the Division of Environment. Options 5, 6, and 7 involve the transfer or addition of three water supply assistance programs to the state agency assigned responsibility for water supply development, the Water Resources Board.

Implementation of both Options 1 and 2 would not affect the level of state financial commitment to either rural water supply development or watershed construction. Option 1 involves setting needed eligibility requirements for a popular state grant program. Option 2 involves making state watershed construction grants on the basis of demonstrated cost-efficiency criteria and the need for water supplies in water-short areas of the state.

the Subcommittee Meetings

Since many of the options considered by the Subcommittee would subsume topics proposed for Subcommittee study and discussion in November and December (i.e., existing inter-agency coordination arrangements), the staff recommends that the Subcommittee consider devoting considerable time at its next two meetings to studying the existing and possible improvements in the state water plan, including the issue (point 4) raised in the Lieutenant Governor's letter concerning payments by federal agencies in lieu of taxes for land removed from the tax roles for federal reservoir projects.

CM/JCW/TA/ab .

## APPENDIX I

Highlights of comments by agency heads to the Subcommittee on the Management and Coordination of State Water Resource Programs, September 29 and 30, 1977.

### Mel Gray, Division of Environment

- The Division of Environment has service and regulatory functions which ensure compliance with state and federal law.
- The Division's major water functions include regulation of the adequacy of local water supplies, water quality regulation, and water quality management planning (208 planning).
- The Division works closely with communities in solving their water supply problems. This work includes state design of a municipal water supply system for communities with populations under 100. The Division's primary role in the water supply area is to ensure the adequacy and cost effectiveness of local water supply systems. A similar role is played by the Division in the waste-water treatment area.
- At this time the Division has one staff person working full time with communities with serious water supply shortages.
- The state's water agencies are developing effective inter-agency coordination mechanisms.
- Although state government is not approaching water management in a logical manner, the design and implementation of a logical water management organizational structure and system would not ensure logical water management at the state level and would be difficult to implement.
- Although difficult to enforce, the Division of Environment supports a regulatory solution to the groundwater depletion problem. The consequence of not developing a logical and systematic state groundwater policy is depletion.
- The Water Resources Board performs an inter-agency coordination role regarding state water quantity and quality programs.
- The Division supports the concept of a state water plan. However, the plan needs to include water quality considerations. The 208 water quality management plan could be adopted as part of the state water plan. A sound state water plan does not preclude the need for a state environmental plan in the near future.
- The state's universities have responded well to the water quality research needs of the Division of Environment. However, the lack of state funding for such research is a problem.
- The Mined-Land Conservation and Reclamation Board should be transferred to the Division of Environment from the Kansas Corporation Commission due to the water quality impacts of certain reclamation approaches.
- The Division does not support a consolidated cabinet-level water agency because the health aspects of water quality would not be accorded a sufficient priority.

Charles Bredahl, State Conservation Commission

- The small watershed grant program of the Commission is not considered a water supply program, but is for flood control and grade stabilization purposes. However, water stored in such structures, which often have surface areas up to five acres, could be used for domestic water supply purposes.
- 29 small watershed structures were built with state financial assistance during FY 1977. The U.S. Soil Conservation Service designed the majority of the structures and their owners would be eligible for the tax exemption authorized by the Division of Water Resources for the construction of small reservoirs if the landowners give easements to their cooperating watershed districts.
- The backlog of planned and federally authorized P.L. 566 watershed structures has declined from 360 in 1970 to 237 in 1977 due to increases in federal funding for P.L. 566 projects since 1970 (FY 1977 total of \$7.0 million).
- The state water plan is of limited utility to the State Conservation Commission since the agency's primary mission is not one of water supply.
- The physical proximity of the staffs of the State Conservation Commission and the Kansas Water Resources Board was an important factor in the successful coordination of the two agencies' programs. Since both agencies have been moved to different buildings it has not been possible to maintain the same level of coordination.

James Power, Kansas Water Resources Board

- At the Board's initiation the primary state water resource agencies are again meeting on a quarterly basis to coordinate their respective programs. The agencies have formed a basic data collection subcommittee made up of staff members of the cooperating agencies. State agencies are now asked to provide a quarterly report to the Board.
- The Water Resources Board may expand its coordination role to include closer coordination dealings with the state universities.
- The Board has played a strong state-federal coordination role for years. An example of this is the coordinated operation of the state's reservoirs which involves numerous state and federal agencies.
- The Executive Director of the KWRB serves on the policy committee of the Kansas Water Resources Research Institute.
- The state should consider adopting legislation authorizing a one stop permitting process in which all of the agencies with regulatory and permitting authority coordinate their reviews of the impact of certain development proposals.
- The coordination of state and local water policies and programs is the most problematic coordination responsibility of the KWRB. The Subcommittee should review the problems of coordinating state and local water policies and programs and make recommendations for improvement in this area.



- The Task Force should consider whether K.S.A. 82a-909, which authorizes state financial participation in the construction of watershed structures when flood control benefits from such structures are transferred downstream, should be repealed.
- Any coordination efforts are only as effective as the individuals involved.
- State water policy is well articulated but not well communicated.
- The state water plan is not a blueprint plan, but a water resources policy plan.
- The KWRB does not have the statutory authority to countermand actions of other state water agencies which are contrary to adopted Board policies. More than one state water agency is making state water policy.
- The non-cabinet status of the KWRB poses problems for the staff in carrying out its coordination responsibilities.
- There is a need for a number of intermediate-sized reservoirs in the state to serve the water supply needs of smaller communities.
- While the state water plan is primarily viewed as a surface water supply plan, the Board has directed the staff to develop a groundwater component for the plan.
- The Board does not have a policy on state financial assistance to watershed districts.
- The KWRB is amenable to reviewing the budget requests for other state water resource agencies if the Governor defines the guidelines for such review (e.g., Should the review consider personnel requests, program proposals, funding proposals, etc.).
- While cabinet-level status would be desirable for the executive director, it would cause problems since the director would be serving both his board and the Governor. A strong citizen board needs to be maintained.
- Other policy questions concern whether the Board should be larger and whether the relationship of the KWRB to other state water resource agencies should be clarified.
- The Kansas Geological Survey, the Division of Environment and the Water Resources Board all have appropriate roles to play in providing specialized assistance to the state's groundwater management districts.
- There needs to be a review and recodification of the enabling legislation of state water resource agencies as well as other state water laws.
- A small arm in the KWRB might be established to assist communities under 2500 in doing self-assessment of water supply problems, developing plans and in finding other sources of assistance.

William Hambleton, Kansas Geological Survey

- While the KGS has no formal programs of assistance to local units of government, it has provided data and mapping assistance to certain groundwater management districts on request.
- Much to the dismay of the KGS the USGS is currently executing contracts with the groundwater management districts for data and management assistance without touching base with the KGS.
- The basic mission of the KGS is to perform policy related natural resource research.
- The KGS functions with an advisory body which is appointed by the Chancellor of the university and made up of a diverse group of individuals. A liason council was also set recently to ensure communication with the state's natural resources agencies.
- The KWRB and the state water plan should be strong coordination mechanisms for state water resources policy and programs.
- The Water Resources Board's coordination statutes are vague and perhaps should be strengthened and their coordination function should be more institutionalized.
- The present organizational location of the KGS is important to assuring the continued professional growth of the KGS staff and their continued contributions to Kansas.
- The KGS currently coordinates with the Kansas Water Resources Research Institute on water research projects.

Guy Gibson, Division of Water Resources

- The Division of Water Resources is charged by the legislature with administering 26 laws and four interstate compacts. The Chief Engineer serves as a member of each of the interstate compacts.
- The Division works closely with the U.S. Soil Conservation Service in the review and approval of plans for watershed structures in the state since SCS is responsible for the majority of the watershed planning in the state.
- The Division's regulatory responsibilities bring it into contact with cities, townships, counties and special districts; it serves as a clearinghouse and plays an ombudsman role in the resolution of local water conflicts.
- The Division's general responsibilities concerning groundwater management districts entail the approval of district boundaries, the approval of the districts' management programs, and communicating with the districts regarding water rights applications.

- Groundwater management districts have more power than many individuals think. The major problem facing the districts and the Chief Engineer at this time is one of setting reasonable diversion rates.
- The state water plan has a very significant effect on some DWR functions. The plan sets flood control and levee standards which the Division follows in granting permits.
- Policies adopted by the Water Resources Board serve as guidelines for the state's water resources agencies. However, the policies must be fair and in the public interest or agency compliance will be unlikely.
- For the most part DWR has adequate input into the collection of basic data. However, it has had difficulty obtaining certain water quality information which may be solved by the quarterly inter-agency coordination meetings.
- DWR is pleased with the revival of the quarterly inter-agency coordination meetings of the state's water resource agencies and the coordination role which the Water Resources Board is playing.
- Present state law requires that the Chief Engineer adopt, rather than approve, the rules and regulations of the groundwater management districts. The Division feels that the individual districts should be authorized to adopt and enforce their rules and regulations.
- Rural water district grants administered by DWR are granted on a first come first serve basis to districts which have received federal approval and who are prepared to build a rural water district system. There are no other requirements.
- Administration of the state floodplain zoning law is an appropriate function of DWR. However, coordination of the national flood insurance program is a questionable function of the Division's.
- DWR administers the rural water district program at legislative request and agrees it could easily be administered by another agency.



STATE OF KANSAS

## OFFICE OF THE LIEUTENANT GOVERNOR

TOPEKA, KANSAS 66612

SHELBY SMITH  
LIEUTENANT GOVERNORSTATE CAPITOL BUILDING  
(913) 296-2213

September 28, 1977

Mr. William E. Wall, President  
Kansas Power & Light Company  
P. O. Box 889  
Topeka, Kansas 66601

Dear Bill:

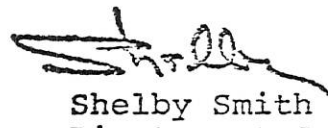
This letter identifies some policy questions with regard to the management and coordination of state water resource programs which have been raised in testimony and discussion before the Water Resources Task Force. I suspect that these issues will be of concern to your Subcommittee, and would appreciate their review of those issues which are judged to be significant.

- (1) Does the authority of KWRB to obtain detailed information from all state agencies need to be reaffirmed and in some cases clearly defined to insure input is received? If so, should this be done by executive order, legislation or both? (Wayne Haas)
- (2) At present, KWRB can only make recommendations to other state agencies and political subdivisions in its attempt to achieve coordination. KWRB authority is purely advisory. The State Water Plan should serve as a guideline to all state agencies. The present arrangements for formulating and implementing the Plan are set by the Board as the need arises. A mechanism must be perfected so that all affected parties are kept informed of the current status of the plan, have opportunity to periodically review the plan, etc. Should the Task Force recommend that the Legislature establish criteria to strengthen the State Water Plan, or should it come from the KWRB or through an Executive Order? (Wayne Haas)
- (3) KWRB could serve as a screening body and provide both the administration and legislature with recommendations as to the magnitude of water programs needed and funding levels which should be established. If recommended, should this be done by executive order or legislation? (Wayne Haas)

- (4) Resolution of an on-going problem involving the addition of a provision in the State Water Plan requiring that federal agencies make payments in lieu of taxes for land removed from the tax roles for federal reservoir projects. Federal law (P.L. 94-565) provides for this, but Congress has refused to fund the program. Should a provision be included in the State Water Plan relative to new projects? (Jerry Conley)

Thank you for your attention to this matter.

Sincerely,



Shelby Smith  
Lieutenant Governor

SS:bab

cc: Ed Flentje  
Chris McKenzie  
Robert L. Smith