

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES

The meeting was called to order by Representative Ron Fox at
Chairperson

3:30 ~~am~~/p.m. on January 30, 1985 in room 313-S of the Capitol.

All members were present except:

All members were present.

Committee staff present:

Ramon Powers, Legislative Research
Theresa Kiernan, Revisor of Statutes' Office
Betty Ellison, Committee Secretary

Conferees appearing before the committee:

R. L. Chandler, President, Kansas River Alliance
Marsha Marshall, Kansas Natural Resource Council
Les Lampe, Kansas Section, American Water Works Association
Malcolm Moore, Sierra Club--Kansas Chapter
Helen Stephens, League of Women Voters
Mr. Ken Fenwick, Larned, Kansas
Chris McKenzie, Attorney/Director of Research, League of
Kansas Municipalities
Donald P. Schnacke, Executive Vice President, Kansas
Independent Oil & Gas Association

The meeting was called to order by Chairman Ron Fox. The minutes of January 16 and January 17 were adopted before hearings on the proposed State Water Plan were continued.

Mr. R. L. Chandler of the Kansas River Alliance testified in support of the plan, commenting on a number of the recommendations made in it. (Attachment 1)

In her testimony, Marsha Marshall, representing the Kansas Natural Resource Council, complimented the Water Office and the Water Authority for their work. However, she expressed her organization's concern regarding the conservation section of the plan. (Attachment 2)

Mr. Les Lampe, representing the Kansas Section of the American Water Works Association, expressed the strong support of his organization. However, comments were addressed to certain sections of the plan. (Attachment 3)

Mr. Malcolm Moore spoke on behalf of the Sierra Club--Kansas Chapter. He said that his organization endorsed the adoption of the Kansas Water Plan, with some changes as indicated in his written testimony. (Attachment 4)

As a representative of the League of Women Voters, Helen Stephens testified in support of the plan. However, she referred to several areas of the plan which the League felt needed further work. (Attachment 5)

Mr. Ken Fenwick of Larned, Kansas testified on behalf of farmers and business people of the Stafford County area. He expressed concern with the minimum desirable stream flows section of the water plan. (Attachment 6)

Mr. Chris McKenzie, representing the League of Kansas Municipalities, expressed appreciation to those who were involved in developing the plan. However, comments reflecting the views of the Committee on Water and Environmental Policy of the League were directed to some subsections and recommendations in the plan. (Attachment 7)

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES,
room 313-S, Statehouse, at 3:30 ~~xxx~~ a.m./p.m. on January 30, 1985.

Mr. Donald Schnacke, representing the Kansas Independent Oil & Gas Association, was the final conferee of the day. His comments were directed to a section entitled "Oil and Gas Regulatory Program", under the Quality Section of the proposed plan. (Attachment 8)

The meeting was adjourned at 5:35 p.m.

The next meeting of the House Energy and Natural Resources Committee will be held on January 31, 1985 at 3:30 p.m. in Room 313-S.

Date: Jan. 30,

GUEST REGISTER

HOUSE

COMMITTEE ON ENERGY AND NATURAL RESOURCES

NAME	ORGANIZATION	ADDRESS	PHONE
Jim Youally	NFIB/Kansas	Oversland Park	888-2235
Wileen Stephens	League of Women Voters/Ks.	P.V	381-9826
R.J. Chandler	Water Distr. No. 1 Co.	Miner	722-2000
Lee Lampe	Kansas Section Amer. Water Works Assoc.	De Soto	967-3363
Don Smith	KIOGA	Topeka	273-1501
Sammy Cressman	Farmer	St John Ks	549-6235 ³¹⁶
Frank Chadd	Farmer	Marshall, Ks	376-348-5013
KEN FENWICK	BUSINESS & FARM GROUP	LARNED KS	316-285-2113
Jake Raenby		Linn Ks	
Hanns Zickow	City of Lawrence	City Hall, Lawrence	841-7772
Rep Raenby	Rep.		
Kent Weatherby	KPL	Topeka	296-6429
Tom Sales	KWO	Topeka	296-3185
Doc Wentz	KWD	Topeka	296-3185
Sgt Faust	Egg-Bean	Topeka	296-3006
Kentery	St. Louis Commission	Topeka	296-3600
Gyula Kovacs	KDHE	Topeka	882-9360



January 30, 1985

Members

Energy and Natural Resources Committee
Kansas House of Representatives

The Kansas River Alliance appreciates the opportunity to comment on the proposed State Water Plan. The Kansas Water Office and the Kansas Water Authority are to be complimented upon the development of the proposed plan, as this document should guide water planning in the State for many years.

The Kansas River Alliance is an organization of water users in the Kansas River Basin consisting of municipal water departments, rural water districts and industrial users. Members of the Alliance are:

City of Topeka	Board of Public Utilities
City of Manhattan	City of Salina
North Hills Rural Water	Bowersock Mills & Power Co.
Water District No. 1 of	City of Olathe
Johnson County	City of Wamego
City of Bonner Springs	Kansas Power and Light Co.
City of Rossville	City of Ogden
City of Lawrence	

The Alliance supports the plan in general, however there are certain recommendations upon which we wish to comment.

MANAGEMENT

Recommendation #1 - Missouri River Management

We strongly support the formation of a Missouri Basin States Association. It is imperative that agreements be reached among the basin states on the management of the Missouri River waters.

Recommendations #3, #4 & #5 - Large Reservoir Management

While drought contingency plans with the Federal Government are desirable we favor an assurance program consisting of controlled stream flows which would provide water at the users point of withdrawal. We understand and believe that the user would have to pay a rate or fee for all water withdrawn.

We strongly urge the acquisition of any additional water supply storage in Federal Reservoirs in the State and believe that this storage should be controlled by the State.

Attachment 1 -- 1/30/85
Energy and Natural Resources

Members

Energy and Natural Resources Committee

Kansas House of Representatives

January 30, 1985

Page 2

Recommendation #6 - Large Reservoir Management

We understand that financial backing is necessary to fund bond issues for the construction of new reservoirs. However if the recommended policy had been followed in the past the State very likely would not have the water supply storage that it has today.

We believe that additional storage in existing reservoirs should be acquired at original costs not current replacement costs. We recommend and will participate in action to purchase this storage at original costs including any necessary legislation on both State and Federal levels.

Recommendation #7 - Large Reservoir Management

Trading storage among reservoirs in a given river basin may be advantageous, however we are not convinced that there is water storage available for trading outside river basins.

Recommendations #11 & #12 - Water Marketing

We would urge and support a marketing program which guarantees a long-term water supply property right to water using entities for future water demands with the provision that those entities guarantee payment for those future water supplies.

We agree that the present marketing program needs to be revised.

Recommendations #13, #14, #15 & #16 - Large Reservoir Finance

When considering large reservoir financing, consideration should be given to esthetic and recreational values. It seems reasonable that State General Funds should be included in the financing "pool" as water supply is not the only benefit derived from large reservoir construction.

Recommendations #18 & #19 - Multipurpose Small Lake Program

While we agree with the development of water supply storage in multipurpose small lakes it appears that the State would finance these costs without prior commitments from future users. Should not the same criteria apply to both multipurpose small lakes and large reservoirs when developing water supply storage?

Members

Energy and Natural Resources Committee

Kansas House of Representatives

January 30, 1985

Page 3

Recommendations #20, #21 & #22 - Minimum Desirable Stream Flows

We support the establishment of minimum desirable stream flows and believe that this concept could be developed along with an assurance program.

Recommendation #30 - Local Planning Policy

We definitely support the concept of Basin Advisory Committees, and will be deeply interested in the areas' representatives on those committees.

CONSERVATION

Recommendations #32 through #53

We view conservation as the efficient management of water resources not mandatory curtailment.

In our opinion the only real effective reduction of water use would be the reduction of irrigation both urban and rural. We do not believe that such a program is necessary in all areas of the State except under drought conditions.

We would agree with recommendations #33 and #43, that strict management plans be required where need is identified through the basin planning process. It would seem impractical to require every user of water purchased from the State to have a detailed conservation plan. Policing to assure conformance with such plans would appear to be a formidable task even if such plans were filed.

It is interesting to note that water meter cost share programs are recommended for irrigation and industrial users with none for municipals.

We support drought contingency planning requiring curtailment of use during severe drought. We suspect that in most areas of the State the only periods of water resource shortage are those times when drought conditions are being experienced.

QUALITY

Recommendations #55 & #57 - Public Water Supply Protection

We certainly agree with protection plans for water supply sources. After such a plan is developed who is responsible for requiring conformance on adjoining properties and who is responsible for the cost of protection facilities?

Members
Energy and Natural Resources Committee
Kansas House of Representatives
January 30, 1985
Page 4

Recommendation #60 - Oil and Gas Regulatory Program

We concur with increased regulatory activities in the area where oil and gas operations could endanger water supplies.

Recommendation #61 - Countywide Water/Wastewater Plan

Who is the ultimate authority in establishing such a plan?

Recommendation #63 - Ground Water Information System

Recommendation #64 - Mineral Intrusion

We support both recommendations.

Recommendation #65 - Basin Planning and Guidelines

We are strong believers in basin planning and management and are anxious to participate in the Kansas River Basin Planning activities.

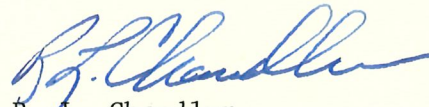
We believe that the proposed plan is a "giant step" forward in State Water Planning.

We strongly urge early acquisition of any available water supply storage in Tuttle Creek reservoir.

We also urge the early development of the basin advisory committees.

Thank you for the opportunity to comment.

Sincerely,



R. L. Chandler
President

RLC/jc

Kansas Natural Resource Council

Testimony before
the House Energy and Natural Resources Committee
Subject: 1985 State Water Plan
January 30, 1985
presented by Marsha Marshall

I represent the Kansas Natural Resource Council, a non-profit public interest organization that promotes sustainable resource policies. Our dedication to water issues has earned us two research grants this year, one from the Noyes Foundation to study Kansas water law and the other from the Joyce Foundation for water quality research.

We appreciate the planning work of the Water Office and the Water Authority over this past year. They have provided the state with some remarkably well-crafted management and development strategies. While my testimony will highlight our concern with the conservation section, we nevertheless recognize that the plan is a good beginning; our comments are offered in the spirit of continuous planning.

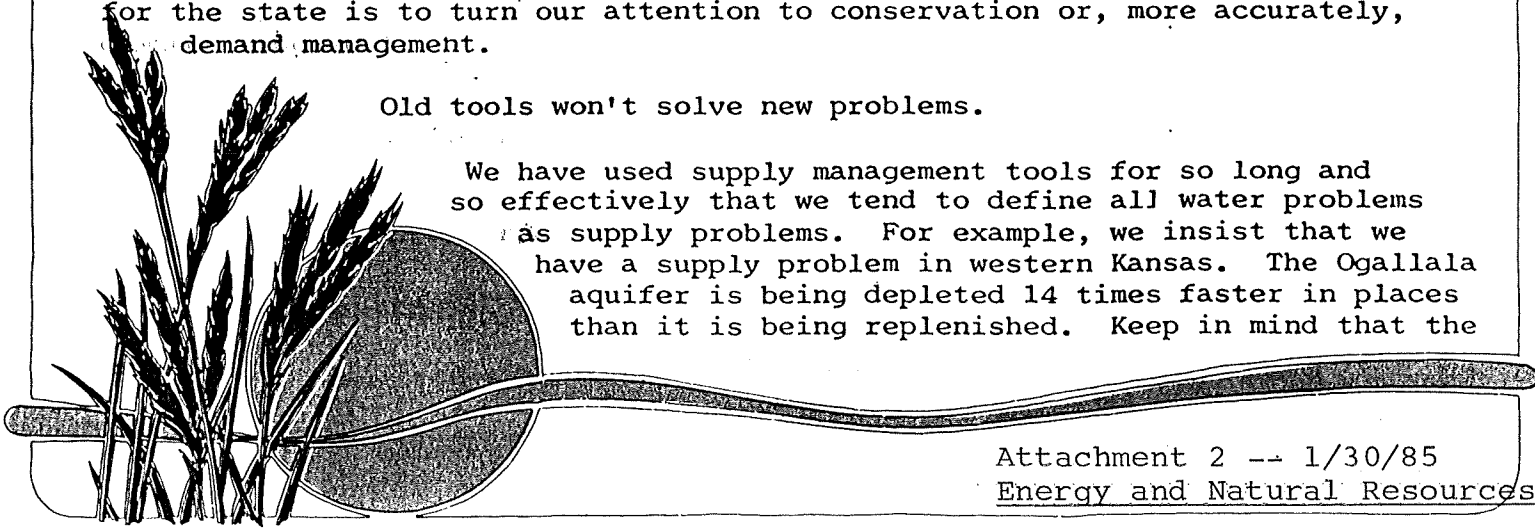
We believe major planning work is crucial in the next year to develop the conservation section. Our research indicates that conservation tools have the best potential to manage and solve the problems that have led us to this intensive round of planning in the 1980's. Planners have rarely used these tools in their work, so we in Kansas have much to learn about their potential.

Why are we planning?

Historically, Kansas has initiated water planning to deal with uncertainties of water supply due to the vagaries of weather. Drought and flooding in the 50's led to major planning in the 60's. Also, planning through the Appropriations Act manages the allocation of the resource. In this round of planning, however, nature has laid its cards on the table. The Water Authority announced in 1983 that with few exceptions every region of the state would experience shortages of water supplies within the next 30 to 50 years. Since Kansas has reached some limits of its water supplies managing supply can only take us so far. The area of greatest opportunity for the state is to turn our attention to conservation or, more accurately, demand management.

Old tools won't solve new problems.

We have used supply management tools for so long and so effectively that we tend to define all water problems as supply problems. For example, we insist that we have a supply problem in western Kansas. The Ogallala aquifer is being depleted 14 times faster in places than it is being replenished. Keep in mind that the



Attachment 2 -- 1/30/85
Energy and Natural Resources

Ogallala is one of the largest fresh water aquifers on this planet. I suggest to you that this incredible resource is not a problem. It is a gift. We have, rather, a demand problem, and we need to manage our demand.

Recommendations for changes in the Plan.

The definition of conservation in the Water Plan--"supply and demand management so as to diminish uncertainty regarding water availability and quality for all users" -- is, rather, an excellent definition of water planning. We suggest that water planning be so defined. But for conservation, this definition is deceptive and inconsistent with the general intent of the section, which should be demand management.

What is demand management and why is it so important?

Demand management recognizes that we can create supply by using what we have more efficiently. For example, assume a city needs 20 mgd to meet anticipated increases in demand. Supply management looks to purchasing new reservoirs, pipelines or wells as a solution. The city is purchasing, not building these supplies. A demand management alternative could be to purchase flow restrictors, or purchase industrial recycling of water through a special rate structure. A comprehensive plan for any entity requires a side by side cost comparison of both the supply and demand management options. In most cases, demand management will buy as much water as supply management for a fraction of the cost.

And, demand management is important not only because it is potentially cheaper than new supplies, but also because it can minimize uncertainty-- the original objective of planning. For example, the Department of Interior estimates that industries will be recycling each withdrawal of water 17 times by the year 2000. Increased water prices will trigger this action.

Being aware of how water customers respond to higher prices and planning for their response is essential to reducing uncertainty. If planners disregard this vast potential to conserve, then when the bill comes due for a new supply project, demand may completely disappear.

We realize that there are legal and constitutional questions surrounding the issue of mandating conservation for water right holders. These questions have never been resolved in the Kansas courts. We believe that these legal problems must be addressed directly in the water planning process. But this situation must not prevent planners from using our current, legally permissible conservation avenues to the fullest.

Where is the public in basin planning?

Finally, we see a major problem in the local basin planning groups. Despite the Water Office's recommendation that the public interest be directly represented as a category, the Water Authority chose to designate only 5 water user categories for membership on the advisory group steering committees.

We do not believe that it is the intent of the Authority to exclude

the public interest, but we hope you will urge them to reconsider and add this category as a crucially important perspective on every basin advisory board. Demand management requires consensus, and a public interest representative has a special vision for finding that consensus.

Yesterday, you heard Phil Martin's testimony on behalf of the Water Authority. He said that he felt that this state water plan was a comprehensive plan. I agree with him that it is the most comprehensive plan this state has ever developed--but I predict that as our demand management tools evolve, Mr. Martin will look back at this 1985 plan and agree with us that the conservation section was far from complete.

Presentation by Kansas Section
American Water Works Association
to
House Committee on Energy and Natural Resources

January 30, 1985

Chairman Fox and members of the committee. Thank you for the opportunity to comment on the proposed State Water Plan.

The Kansas Section, American Water Works Association, has always attempted to play a strong role in state water planning. The American Water Works Association is an organization whose sole objective is provision of safe, reliable drinking water to its members' customers. The established standards and technical expertise on public water supplies come from the AWWA. The Kansas Section is made up of public water suppliers throughout the state. Approximately four out of every five Kansans obtain their drinking water from members of our organization.

While we have comments on a few elements of the proposed plan, we strongly support adoption of a State Water Plan, and commend the Kansas Water Authority, the Kansas Water Office, and Mr. Harkins for their diligent efforts to put this document before you. We particularly appreciate their willingness to consider other opinions, and their conscientious efforts to insure that the plan was formulated with allowance for honest and open input from interested parties. We have previously gone on record with suggested improvements to the plan, and will continue to be involved through adoption of the plan and formulation and consideration of related legislation.

For emphasis, we repeat that we are in support of adoption of the plan. However, to properly represent the interest of the public water suppliers across the state, we must offer some comments. First, the assurance program offers a sound method for marketing state-owned water storage while insuring availability of water supplies to users in a particular region. We encourage early adoption of legislation that will allow this program to move forward. We fully realize that the assurance program entails financial commitments from the affected water users and believe that our members will accept an equitable distribution of the costs associated with this program. Drought contingency planning for use of federally-owned storage may be useful if this storage cannot be acquired by the State, but we would much prefer State acquisition and control of this storage for use in an assurance program. Also, the drought contingency plans have the shortcoming that they cannot be used to provide water to industries.

One of the major deficiencies of the present marketing program is that those entities contracting for water do not acquire property, property rights, or reservation rights that can be considered real property for use in enhancing long-term bonding capabilities. This is a constraint that severely restricts the capabilities of municipalities desiring to obtain this water. We believe that public water suppliers must be allowed to obtain these rights in much the same manner that the State is allowed to.

The State of Kansas demonstrated great foresight in contracting for water supply storage in large federal reservoirs. We do not wish to see the State now relinquish this role, which it will do if commitments for repayment are needed from local users before such storage can be obtained. Many municipalities operate with shorter planning horizons than the State and are not prepared to make the necessary commitments even though long-range water supplies will be needed. We do not feel that the State should abandon its duty to provide the water supplies that will be necessary for our economic well-being and vitality.

Regarding conservation, the Kansas AWWA has always been in favor of prudent and proper management of our water resources. Without a doubt, the AWWA is the leading source of information and guidance on municipal water conservation. We believe that the Kansas AWWA possesses an unmatched pool of dedicated and astute public water supply professionals, and we recommend that we be given primary responsibility for formulating municipal conservation plans that best meet the objectives identified in the State Water Plan. The legislature is encouraged to give us this responsibility.

We do not believe the municipal water conservation measures have to be imposed that reduce the quality of life of the Kansans to whom we supply water, other than during major droughts.

As a final comment, we strongly support formation of basin advisory groups so that local interests are honored in the planning process. These basin advisory groups should take a lead role in basin planning efforts. We pledge our support to the basin planning process, and fully anticipate that the expertise of many of our members will be required on these groups.

Thank you for the opportunity to offer these comments. Subject to these concerns, we support adoption of the State Water Plan and look forward to working with the legislature and the state water agencies in implementing it.

SIERRA CLUB--KANSAS CHAPTER
1985 POSITION PAPER

KANSAS WATER PLAN

I. ISSUE

How can Kansas encourage the wise use of its' most precious resource, water?

II. BACKGROUND

The Kansas State Water Resources Planning Act (K.S.A. 82a-901a) declares that "the state can best achieve the proper utilization and control of the water resources of the state through comprehensive planning which coordinates and provides guidance for the management, conservation and development of the state's water resources."

Water problems in Kansas are difficult to deal with, in part, because of the numerous agencies which have some jurisdiction over the state's water resources. There are fourteen state water agencies and eight different types of regional and local water agencies.

Some areas of Kansas use up water resources faster than they can be replaced. An example of this is the mining of the Ogallala Aquifer in western Kansas. This problem of using water resources faster than they can be replenished occurs in other parts of the state as well as the west. This problem is compounded by water pollution occurring statewide. It is clear that water in Kansas is a finite resource that must be conserved and treated with care if Kansas is to avoid a future water crisis that could threaten us all.

III. OPTIONS

Several options exist which would provide for the wise use of water in the state of Kansas. First, The Kansas Legislature could adopt a set of goals and policies for the use of the state's water and direct the state agencies to meet these goals. Second, the Kansas Legislature could adopt a strengthened version of the Kansas Water Plan as presented by the Kansas Water Authority.

IV. RECOMMENDATIONS

The Kansas Chapter of the Sierra Club endorses the adoption of the Kansas Water Plan with the following changes:

1. The plan shall include clear and concise policies and goals governing the management, conservation and development of the state's water resources.
2. The conservation section of the plan be strengthened and include the following policies: (a) Water resources already developed shall be used to the maximum extent before new sources are developed. (b) Water development plans shall achieve maximum practicable conservation and efficient use of the water of the state. (c) Water shall be reclaimed and reused to the maximum extent feasible.
3. The plan shall include a requirement for research directed towards

Attachment 4 -- 1/30/85
Energy and Natural Resources

the policies and goals of the state water plan.

4. Each basin planning advisory group should be elected by the citizens of the basin.

LWVK LEAGUE OF WOMEN VOTERS OF KANSAS

909 Topeka Boulevard-Annex

913/354-7478

Topeka, Kansas 66612

TESTIMONY BEFORE
HOUSE ENERGY AND NATURAL RESOURCES COMMITTEE
January 30, 1985

Mr. Chairman and Members of the Committee:

My name is Helen Stephens, representing the League of Women Voters of Kansas.

We would like to congratulate the Kansas Water Authority, the Kansas Water Office and the other agencies involved for the outstanding job they have done.

During the past 18 months, the Kansas League members have studied the water situation in Kansas and arrived at a League position regarding several areas of planning and management. We endorse the plan as a very good beginning towards a continuous coordinated management effort in the State. Although we give our support to the plan, there are several areas which we believe need further work.

1. Conservation - Although the plan states conservation plans are to be prepared and enforced, there is no mention of when they should be implemented or who does the implementing. Conservation should be an on-going process, not crisis-oriented. There are no incentives for conserving, nor penalties for failure to conserve. Metering is not used in this plan as a conservation measure, but for monitoring only. The planned depletion policy is not addressed at all.

2. Quality - Economic incentives may be necessary to insure better compliance.

3. Local Input - Although local planning and input have been mentioned in the plan, we believe its importance is not stressed enough. A representative which serves only the public interest should be included in most phases, most especially the basin development plan.

Probably the most controversial part of our study and consensus dealt with the Appropriation Act, and we believe this is an area that will have to be addressed sooner than any of us would like. League members found it hard to accept that all beneficial uses receive equal treatment at all times. Some uses of water should take priority over the first in time concept, especially in drought conditions.

In the continuing process of developing the State Water Plan, we believe the issues of conservation, quality and local input (public interest) should receive further indepth attention.

Thank you for the opportunity to state our position

Attachment 5, -- 1/30/85
Energy and Natural Resources

JOINT COMMITTEE HEARING
ENERGY AND NATURAL RESOURCES

CHAIRMAN
SEN. MERRILL WERTS
REP. RON FOX

1/30/85

KEN FENWICK

Box 356

Larned, Kansas 67550

WE ARE CONCERNED WITH THE MINIMUM DESIRABLE STREAM FLOWS SECTION OF THE PROPOSED KANSAS WATER PLAN. THE CONCEPT OF THE PROPOSED PLANS STREAM-FLOWS ARE MEANT TO "PRESERVE, MAINTAIN, OR ENHANCE INSTREAM WATER USES RELATIVE TO WATER QUALITY, FISH, WILDLIFE, AQUATIC LIFE, RECREATION, AND GENERAL AESTHETICS".

IN THE 1970'S THE SOIL CONSERVATION SERVICES OF THE UNITED STATES GOVERNMENT PROPOSED TO KANSAS FARMERS THAT THE FARMING PRACTICES OF THE TIMES HAD TO BE CENTERED AROUND A CONCEPT CALLED "ZERO RUNOFF FARMING". LAND WAS NOT TO BE DEVELOPED OR FARMED UNLESS "ZERO RUNOFF FARMING" WAS TO BE PRACTICED. THEY EVEN WENT SO FAR AS TO SUGGEST HOW MUCH RAINFALL SHOULD BE CONTAINED ON EACH FIELD, NO THOUGHT SEEMED TO BE GIVEN TO THE EFFECT SUCH FARMING PRACTICES WOULD HAVE ON STREAMFLOWS, CONTOUR FARMING AND CONSERVATION TILLAGE BECAME UTMOST IN IMPORTANCE. TODAY CENTRAL KANSAS IS ONE OF THE LEADING AREAS OF THE STATE IN CONSERVATION FARMING BUT OUR STREAMFLOWS ARE WITHERING, NOT FROM WANTON IRRIGATION PRACTICES, BUT FROM A COMBINATION OF EVENTS OR HAPPENINGS, SOME OF WHICH ARE BEYOND OUR CONTROL AND SOME OF WHICH WE THE PEOPLE OF KANSAS HAVE ALLOWED TO HAPPEN.

WE DO NOT RECEIVE RAINFALL AT THE MOST APPROPRIATE TIMES OR IN THE QUANTITIES MOST SUITABLE TO MAINTAIN MINIMUM STREAM FLOWS AT THE PROPOSED LEVELS, MODERN FARMING PRACTICES HOLD RAINFALL IN THE SOIL AND WILL NOT ALLOW RUNOFF INTO THE STREAMS. THIS WATER WILL NOT PERCOLATE DOWN TO THE GROUNDWATER STRATA BECAUSE OF THE DEPTH AND TIME IT WOULD TAKE. THE NEXT GROWING CROP, EVEN WITH SUMMER FALLOW FARMING, RECLAIMS MOST OF THE MOISTURE HELD IN FIELD RESERVES. A VERY LARGE USER OF OUR SURFACE WATER ALONG OUR STREAMS AND RIVERS IS THE FOILAGE WHICH HAS GROWN AT TREMENDOUS RATES FOR THE LAST EIGHTY TO NINETY YEARS. AT THE LAST TURN OF THE CENTURY OUR STREAMS AND RIVERS WERE NOT BURDENED WITH KEEPING THIS STREAMBED GROWTH ALIVE AND STILL HAVING ENOUGH WATER LEFT TO FLOW DOWNSTREAM. I KNOW THERE ARE PEOPLE AMONG YOU WHO FEEL THIS STREAMBED GROWTH IS ALMOST SACRED, BUT

IT IS FAST BECOMING A REALITY THAT MAYBE WE DON'T HAVE ENOUGH WATER TO CONTINUE TO ALLOW THIS PARASITIC GROWTH TO PROLIFERATE AND STILL HAVE ENOUGH WATER FOR MINIMUM STREAM FLOWS AS PROPOSED.

IN OUR OPINION THE MOST SERIOUS SITUATION TO PRESENT ITSELF IS THE LACK OF CO-OPERATION OUR STATE HAS HAD WITH THE STATE OF COLORADO ON RELEASING WATER DOWN THE ARKANSAS RIVER. WHEN THE ARKANSAS RIVER IS NORMALLY DRY FROM WEST OF KINSLEY TO COOLIDGE, IT WILL AFFECT OUR STATE ALL ALONG THE COURSE OF THE RIVER BED GIVEN ENOUGH TIME.

WE IN OUR AREA FEEL THE PROPOSED MINIMUM STREAMFLOW LEVELS CAN BECOME A BURDEN TO OUR PART OF THE COUNTRY IF KANSAS IS NOT SUCCESSFUL IN OBTAINING SOME WATER FLOW IN THE ARKANSAS RIVER FROM COLORADO. MOST OF THE GROUND-WATER IN SOUTH CENTRAL KANSAS COMES FROM THE PAWNEE, BIG BEND OF THE ARKANSAS, RATTLESNAKE, AND NINNESCAH WATER SHED AREAS. THE LARGEST INFUX COMES FROM THE ARKANSAS RIVER ALLUVIUM AND WHEN THE RIVER DOESN'T FLOW FROM THE WEST WE HAVE ONLY RAINFALL FOR RECHARGE. WE ARE NOT PART OF THE OGALLALA AQUIFER SYSTEM IN WESTERN KANSAS. THIS IS WHY ARKANSAS RIVER WATER IS SO IMPORTANT TO US.

WE WILL READILY ADMIT WE ARE MINING A NATURAL RESOURCE FOR THE PURPOSE OF IRRIGATION, ONE THAT DOES HAVE RECHARGABLE PROPERTIES. THE RECHARGE WOULD BE MUCH FASTER IF THE ARKANSAS RIVER FLOWED ALL THROUGH KANSAS. WE WILL ADMIT THAT WATER CONTROLS ARE NEEDED. OUR STATE IS PROBABLY FIFTY YEARS BEHIND IN WATER LEGISLATION AND WE REALIZE THERE HAS TO BE A STARTING PLACE, BUT WE FEEL WE ARE BEING ASKED TO DO SOMETHING WHICH HAS NO STOPPING PLACE. AFTER GROUNDWORK BECOMES LAW MINIMUM LEVELS CAN BE ADJUSTED LATER AS THE HIGHER POPULATION DENSITY OF EASTERN KANSAS REQUIRES MORE WATER. WHO WOULD WE BE TO ARGUE WHEN THE NUMBER OF PEOPLE SEEKING THE USE OF OUR WATER ARE SO GREATER THAN WE ARE.

IF WE ARE GOING TO BE ASKED TO PROVIDE THIS WATER WHY CAN'T WE GET MORE HELP FROM THE STATE TO REPLENISH THE SUPPLY FROM COLORADO, SO WE DON'T EVENTUALLY RUN OUR AREA DRY. WHAT PROVISIONS DOES THE STATE OF KANSAS HAVE WITH OKLAHOMA FOR THE WATER WE WILL BE SENDING THEM? IT DOES NOT SEEM FEASIBLE TO SEND SUCH A PRECIOUS COMMODITY AS WATER OUT OF OUR STATE IN RIVERBEDS, WHILE UPSTREAM NO WATER IS ALLOWED TO FLOW INTO OUR STATE.

BACK TO THE CONCEPT OF STREAMFLOW PLANNING TO "PRESERVE, MAINTAIN, OR ENHANCE INSTREAM WATER USES RELATIVE TO WATER QUALITY, FISH, WILDLIFE, AQUATIC

LIFE, RECREATION, AND GENERAL AESTHETICS".

ALL WE WOULD LIKE TO ASK OF YOU IS THAT AS ALL INTERESTED PARTIES MOVE TOWARD A WORKABLE PLAN FOR OUR STATES WATER FUTURE, DO NOT FORGET WE LIVE WITHIN A STATE WHERE SIX OUT OF EVERY TEN JOBS ARE RELATED TO AGRICULTURE. WE ARE A FARMING STATE AND AGRICULTURE SHOULD PLAN A BIG PART IN THE MINIMUM STREAMFLOW PLAN, AT LEAST BE MENTIONED IN THE OVERALL CONCEPT ALONG WITH ALL THE OTHER SPECIAL INTERESTS.



League of Kansas Municipalities

PUBLISHERS OF KANSAS GOVERNMENT JOURNAL / 112 WEST SEVENTH ST., TOPEKA, KANSAS 66603 / AREA 913-354-9565

TO: House Committee on Energy and Natural Resources
FROM: Chris McKenzie, Attorney/Director of Research
DATE: January 30, 1985
SUBJECT: Comments on Final Draft of the Kansas Water Plan

The League of Kansas Municipalities appreciates this opportunity to comment on the final draft of the Kansas Water Plan. Through direct contacts with the staff of the Kansas Water Office and members of the Kansas Water Authority, as well as formal testimony at public hearings on earlier drafts of the Plan, the League has participated in the process of its development. While we continue to disagree with a number of aspects of the Plan, these areas of disagreement in no way affect our overall belief that this general policy plan reflects an outstanding effort to address the water supply and water quality needs of the people of the State of Kansas. The League is well aware of the amount of time and effort that went into the preparation of this final draft, and we wish to express appreciation to the staff of the Kansas Water Office, the Kansas Water Authority, and to the other water agencies of state government for this investment of their time, talent and effort.

The following comments about the individual subsections and recommendations in the Kansas Water Plan have been prepared by League staff after a meeting on January 25, 1985 of the Committee on Water and Environmental Policy of the League. These comments reflect the views of the Committee in regard to the final draft of the Plan and actions taken by the Kansas Water Authority as recently as January 25, 1985.

1. Local Planning

At the November 9, 1984 hearing by the Kansas Water Office in Topeka, the League indicated its support of the proposal to form local planning advisory committees to aid in the development of area water plans. We also stated that if these communities are truly intended "to be a major liaison between the local communities and the state," serious consideration must be given to their composition. Since seventy-eight percent of all Kansans reside in cities, we strongly urge that the committees not be similar in composition to the Kansas Water Authority on which we believe municipal water interests are numerically under-represented. Due to this concern, we were encouraged to learn that a subcommittee of the Kansas Water Authority had recommended that the basin advisory committees contain at least four members from urban areas, with the balance consisting of representatives with rural interests and three members from the public at-large.

Attachment 7 -- 1/30/85

President: Peggy Blackman, Mayor, Marion • **Vice Presidents:** Ed Eilert, Mayor, Overland Park • **Past President:** Jack Alexander, Commissioner, Topeka • **Directors:** Robert C. Brown, Commissioner, Wichita • John L. Carder, Mayor, Iola • Richard B. Chesney, City Manager, El Dorado • Constance M. Conyac, Commissioner, Stockton • Robert Creighton, Mayor, Atwood • Irene B. French, Mayor, Merriam • Donald L. Hamilton, City Clerk/Administrator, Mankato • Carl D. Holmes, Mayor, Plains • John E. Reardon, Mayor, Kansas City • David Retter, City Attorney, Concordia • Melly K. Schmidt, Mayor, Hays • Deane P. Wiley, City Manager, Garden City • **Executive Director:** E.A. Mosher

During the January 25 meeting of the League's Committee on Water and Environmental Policy, we learned that the Authority had rejected this recommendation and adopted instead a plan which gives municipal (including rural water districts), industrial, irrigation, recreation, and domestic (including fish and wildlife) interests one of five seats on a steering committee for each basin advisory committee. This steering committee, as we understand it, will select six others with no interest group limitations attached. While we regret that serious erosion has taken place in the level of potential municipal representation between the time of the recommendation of the subcommittee and the final decision by the Kansas Water Authority, the League's Committee on Water and Environmental Policy generally endorses this approach with certain reservations. The first reservation is that an individual with no urban ties at all could be appointed to the municipal position on the five-member steering committee because it includes rural water districts. While we agree that rural water districts serve basically the same type of public water supply need as municipal water systems, the environment in which such water service is provided and the manner in which water supply decisions are made are different in rural and urban water systems. Again, there is potential for the interests of these 78 percent of Kansans living in cities being under-represented. Our second reservation is that it appears that there is no statutory, administrative, or political control over the appointment of the remaining members of the basin committees that would preclude virtual elimination of municipal interests. While it is with some difficulty that we put these reservations aside, we generally endorse the decision of the Kansas Water Authority with full knowledge that we will have to be very active in encouraging applications by city officials and residents to serve on the basin advisory committees.

2. Large Reservoir Management

We generally endorse the proposals contained in this subsection of the Kansas Water Plan with only one reservation. Considerable energy has gone into the development of the assurance and drought contingency planning program options recommended in the Plan. We realize that the implementation of such programs will depend upon circumstances which may vary from basin to basin. While we support the proposal that the state gain control and access of reservoir storage, we wish to state our strong opposition to any implicit or explicit suggestion in the Plan or elsewhere that the State of Kansas preempt or preclude local units of government from negotiating directly with the federal government for the purchase of water storage in existing or future reservoirs. As past experience has shown, cities can take actions to meet local water needs by dealing directly with the federal government. Any suggestion that this option should be precluded by the acquisition of water rights by the State of Kansas upstream of any proposed reservoir would be opposed by the

League. This is not to suggest that the League in any way opposes state efforts to negotiate the acquisition of water storage in existing or future reservoirs. We simply oppose any effort to preclude cities from taking the same steps.

3. Water Marketing

The League has long been of the opinion that the State of Kansas should be more aggressive in marketing water supply storage to municipal and industrial customers in order to more quickly recover the costs of the state. The proposal to sell surplus water for irrigation purposes would serve the important purpose of generating additional revenue for the marketing program as well as meeting short-term irrigation needs. The League supports this proposal with the caveat that such sales would be like other surplus water contracts at present (i.e., limited to a term of less than one year) and will be junior to any emergency contracts entered into between the state and municipal users. We believe both these conditions are important in order to ensure that this water supply is available to meet long- and short-term public water supply needs.

The proposals to implement graduated use schedules and to modify the 50 percent take-or-pay provision to reflect the graduated use schedule is a breath of fresh air and has considerable merit. The League participated actively in the legislative debate concerning 1983 SB 61 which put into effect the current water marketing program rate structure. At that time we vigorously opposed the take-or-pay provisions of that bill as well as the imposition of the current interest charge on the net amount of moneys advanced from the state general fund and the 25¢ per thousand gallons surcharge, both of which are deposited in the conservation storage water supply fund. Our opposition to the interest charge stems from the fact that it would not be used to repay the state general fund. We opposed the 25¢ surcharge because it places an unfair burden on current purchasers and ultimately will generate inadequate revenue to carry out the purposes of subsection (a) of K.S.A. 82a-1315b. Not only do we urge your support for the recommendations contained in the water marketing subsection of the Kansas Water Plan, but we urge you to review the other provisions of the rate structure of the water marketing program to determine whether or not they are in the public interest.

4. Large Reservoir Finance

The League believes the State of Kansas should play a lead role in the financing of major water supply improvements by the use of bonds and other methods. Therefore, the League generally responds favorably to the recommendations contained in the large reservoir finance sub-section of the Plan. The use of revenue bonds backed by a reserve fund which can be used to guarantee the revenue bonds is a proposal

that we believe deserves favorable consideration. We are still troubled, however, by the failure of the Plan to specify the source of funding for the reserve or "savings" fund. More information will obviously be needed on this proposal when the time arrives for its possible elimination.

5. Small Lakes Program

The League supports state assistance and participation in the construction of small lakes with water supply features. We also are pleased that the final draft of the Kansas Water Plan finally identifies the source of funding for the program. While we support pursuing this particular proposal, we are aware that there is potential that such lakes due to their small storage capacity will not be able to meet the emergency water supply needs of communities during times of drought.

6. Urban Flood Management

Urban flood management continues to be an important state problem, and the League appreciates the proposals contained in this subsection in the Plan to reduce flood damage by limiting flood plain development. We endorse these recommendations.

7. Rural Flood Management

Although we have not commented on the recommendations in this subsection in the past, we endorse recommendation No. 28 if it truly would make available funding for cost-share assistance to cities as well as watershed districts for watershed protection and flood prevention projects.

8. Agricultural Water Conservation

While we agree that additional funding should be made available to conservation districts in order to carry out their important activities, we would oppose any effort to grant conservation districts independent taxing authority. Any taxes levied on a countywide basis to support the activities of conservation districts should be levied by and subject to the approval of the board of county commissioners.

9. Municipal Water Conservation

The League believes that the cities of Kansas are ready to do their part to implement reasonable water conservation measures. The municipal water conservation subsection of the Kansas Water Plan, however, contemplates a state-mandated water conservation planning approach that could supplant local water conservation planning efforts and yield few, if any, benefits for the water users of Kansas. From a state-wide perspective, we believe it is essential that the state consider the relative insignificance of water savings through municipal water conservation practices when

compared to agricultural conservation practices. This should not be interpreted as an indication that cities are not willing to implement water conservation practices as they are needed. We simply believe that the proper role of state government in this area is for the state to promulgate water conservation planning guidelines, provide technical assistance in the development and implementation of municipal water conservation programs, and require purchasers of state-owned water supply to have an approved conservation plan. With the state assistance mentioned above the League believes that municipalities will adopt water conservation programs as they are needed on a local basis.

Finally, we would like to draw your attention to a problem which has already developed in one city which has considered the adoption of a strict water conservation program. Earlier this year the City of Hays had considered adoption of an ordinance to limit the outdoor use of water by city residents. In light of the recognized and well-accepted need to conserve water in that area of the state for public water supply purposes, public support for the program was high. The city believes it would have gone ahead with its proposed conservation program if it had not been advised by the Division of Water Resources that it did not have the authority to extend the conservation measures to the outdoor use of water by the owners of domestic wells within the city. As a result of this experience, the League of Kansas Municipalities has adopted a policy position formally recommending that the legislature grant authority to cities to implement conservation measures applicable to users of a municipal utility system as well as other water users within the city as part of a formally adopted municipal emergency water conservation program.

After being advised by the state that it did not have the authority to limit the use of water subject to a water appropriation right, the city requested an opinion from the Attorney General on this matter. In response, the Attorney General advised the city that it would be inconsistent with his prosecutorial duties under K.S.A. 82a-706d to render an opinion on the question. Working with the chief engineer and his office, the League subsequently drafted a bill which would explicitly grant cities authority to adopt conservation measures applicable to the holders of appropriation rights which are comparable to conservation measures applicable to the customers of a municipal utility system, subject to the approval at all times by the chief engineer. This draft bill was discussed with the Kansas Water Authority on January 24, 1985. In further discussions of the proposed measure on January 25, the KWA expressed some reservations about the proposal and indicated a need to further study the problem. In addition, the chief engineer indicated a willingness to work with the City of Hays in implementing conservation measures in that area of the state and the

director of the Kansas Water Office, Joe Harkins, agreed to conduct a study of domestic wells before the next legislative session.

10. Water Supply Protection and Acquifer Protection

We appreciate that the changes made in this sub-section to lessen the impact of requiring the development of environmental plans for protecting public water supplies in impoundments and aquifers. By allowing the three-year phase-in of the environmental plan requirement for existing water supplies with identified contamination problems, municipalities should experience less of a financial burden. We are troubled by the fact, however, that no effort has been made to assess the financial impact of these requirements on local units of government. Finally, we endorse the environmental performance zoning recommendations contained in the final plan. In the absence of legislative support for this recommendation, however, we believe it is essential that cities be given additional extraterritorial zoning power in order to regulate well installation and other activities which threaten the quality of municipal water supplies. In instances where a city draws its water supply from a source a considerable distance away from the city's corporate limits, the zoning authority should also be extended to cover the zoning activities in those areas.

11. Oil and Gas Regulatory Program

We continue to strongly support the recommendations of the Plan in this area. Our only reservation is whether the State of Kansas can afford to wait until FY 1987 to upgrade the existing state program. We are pleased that management changes have been made in the program, and have every reason to expect improved results. Nonetheless, we urge you to consider taking action in this area this legislative session.

12. Countywide Wastewater Management Plans

We suggest that any renewal of the mandate for the preparation of countywide wastewater management plans be contingent upon the appropriation of funds by the Kansas legislature to support the proposed 50-50 cost-sharing program.

13. New Subdivision and Wastewater Plans

We generally endorse the recommendations of this subsection, and the League appreciates the revisions in the draft of this subsection which would allow the local unit of government with zoning jurisdiction to certify that proposed developments are consistent with county water and wastewater management plans.

14. Conclusion

Thank you for your consideration of these comments. We believe that all Kansans have a right to be proud of our water planning efforts to date. I'm sure we all appreciate that the toughest decisions are yet to come, but the Kansas Water Plan provides an important policy framework for making those decisions.



League of Kansas Municipalities

PUBLISHERS OF KANSAS GOVERNMENT JOURNAL/112 WEST SEVENTH ST., TOPEKA, KANSAS 66603/AREA 913-354-9565

February 1, 1985

To Certain Concerned Parties

H. Phillip Martin, Chairman, Kansas Water Authority
Joseph F. Harkins, Director, Kansas Water Office
David Pope, Chief Engineer, Division of Water Resources, State
Board of Agriculture
Representative Ron Fox, Chairman, House Committee on Energy
and Natural Resources
Mayor Melly K. Schmidt and City Manager Ken Carter, City of Hays
Mayor Peggy Blackman, Marion, League President and Chairman of
the League Committee on Water and Environmental Policy
Commissioner Jack Alexander, Topeka, Kansas Water Authority Member

The purpose of this letter is to outline the understandings we have involving the League's proposed legislation authorizing cities, subject to the approval of the Division of Water Resources, to impose certain water conservation restrictions on private wells, consistent with any existing city restrictions on the use of public water supply.

We do appreciate the courtsey shown by the Authority, and others, in listening to our concerns. While we were aware of the ramifications of the proposed legislation, we acknowledge that our presumably simple approach to an immediate problem has led to the discovery of a "black hole", one not likely to be filled in the short time available to the 1985 legislative session. After consultation with several groups and individuals, the League does not plan to initiate legislation this session on the matter. This decision was conditioned on some understandings, as noted below.

It is our understanding that the Kansas Water Office will undertake this year, or at least consider undertaking, a special study of domestic private wells, covering immediate problems such as exist in the City of Hays as well as related private well issues. (Incidentally, the city manager of Hays advised me that three private wells have been drilled in the block in which he lives during the past year; one might speculate that increasing talk about conservation, including higher municipal water charges to encourage conservation during the summer months, is likely to promote the drilling of private wells and/or the renewed use of an uncertain number that now exist.)

It is also our understanding that the Kansas Water Authority will then give consideration to the inclusion or reference to the technical papers prepared by the Office on private wells as part of the Kansas Water Plan.

The Division of Water Resources will aid and assist the City of Hays this coming summer, exercising Division powers Mr. Pope believes sufficient to alleviate the Hays

President: Peggy Blackman, Mayor, Marion • Vice Presidents: Ed Ellert, Mayor, Overland Park • Past Presidents: Jack Alexander, Commissioner, Topeka • Directors: Robert C. Brown, Commissioner, Wichita • John L. Carder, Mayor, Iola • Richard B. Chesney, City Manager, El Dorado • Constance M. Conyac, Commissioner, Stockton • Robert Creighton, Mayor, Atwood • Irene B. French, Mayor, Merriam • Donald L. Hamilton, City Clerk/Administrator, Mankato • Carl D. Holmes, Mayor, Plains • John E. Reardon, Mayor, Kansas City • David Retter, City Attorney, Concordia • Melly K. Schmidt, Mayor, Hays • Deane P. Wiley, City Manager, Garden City • Executive Director: E.A. Mosher

problem, and presumably those of other cities, that find it unconscionable to deny certain uses of public supplies in an area where private wells are used with wreckless abandon. I understand such action, undertaken with the lead of the City, will not require the declaration of a water crisis inimical to the City's effort to find new industry to replace the recent closing of the drug company.

Chairman Fox, in conversations with Chris McKenzie of this office and with Representative Carl D. Holmes, a member of the League Governing Body and the League Water and Environmental Policy Committee, has expressed concern about the general issue, and the immediate problem of Hays and other cities, and requests that he be kept informed as to developments.

The League's Water and Environmental Policy Committee, in its consideration of this matter after the Authority meeting last Friday, reluctantly agreed to deferring sponsorship of the proposed legislation this session, given the above circumstances and apparant understandings.

I think it important to emphasize, however, that these representative municipal officials with special concerns about future water supply, perceive this issue as both real and symbolic. Implementation of public water supply conservation, as proposed by the State Water Plan, is unlikely to be seriously dealt with at the local level where double standards for water uses exists. We are inclined to worry that the absence of any positive action on this problem would indicate that we (the Authority and others) may well be brave and courageous in the planning process, but hesitant and afraid to make the tough decisions as to implementation, similar to elected city officials who champion the cause of comprehensive municipal planning but don't want to vote yes or no on zoning regulations or, subdivision controls.

We welcome comments needed to clarify the understandings reported in this letter.

Sincerely,

E.A. Mosher
Executive Director

EAM:ama



KANSAS INDEPENDENT OIL & GAS ASSOCIATION

500 BROADWAY PLAZA • WICHITA, KANSAS 67202 • (316) 263-7797

TESTIMONY OF DONALD P. SCHNACKE, EXECUTIVE VICE PRESIDENT,
KANSAS INDEPENDENT OIL & GAS ASSOCIATION
HEARING CONCERNING A PROPOSED KANSAS WATER PLAN,
WEDNESDAY, JANUARY 30, 1985, TOPEKA, KANSAS

We wish to compliment your effort to put together a proposed water plan for Kansas. We appreciate this opportunity to make constructive comments limited to only that which seems to be directed at the Kansas oil and gas industry.

We (KIOGA) and the Kansas oil and gas industry were surprised to learn the proposed Kansas Water Plan includes a section entitled "Oil and Gas Regulatory Program", under the Quality Section of the proposed plan.

We appeared at one of the informal meetings August 21, 1984 at Ottawa, Kansas. We also appeared at the November 9, 1984 Public Hearing here in Topeka. Essentially, what we proposed at those meetings will be presented today.

This proposal comes on the tail of what the state legislature approved in overhauling and expanding the oil and gas regulatory procedures as it relates to the EPA underground injection control program, now managed jointly by the KCC and KDH&E as provided under SB498 (1982). The Kansas Water Office, and its present director, Dr. Harkins, who at the time SB 498 was being developed was Secretary of KDH&E, participated in the development of SB 498. There was no discussion, that I recall to consider a long-term groundwater mitigation program as proposed in the original draft. The original draft has been changed considerably.

We were delighted to have you see the initial slide show - shown to you on 1/22/85 during your first introductory hearing on the Water Plan. That slide show:

- 1) Pointed out that there is and has been huge pollution by many, many sources. It acknowledged that pumping of irrigation waters sucks pollutants and salt water from other geological formations - and suggested that it was one of the most serious conditions of pollution of this country;
- 2) Using EPA statistics, it pointed up that there were pollution problems from industrial chemical spills, waste dumps, agricultural fertilizers, landfills and feedlots, resulting in huge pollution problems. (No where was oil and gas production mentioned.);
- 3) The slide show concluded it was unclear who is responsible for the past practices and the best methods for clean-up are uncertain.

TESTIMONY OF DONALD P. SCHNACKE

KIOGA

KANSAS WATER PLAN

JANUARY 30, 1985

Page TWO

As we study the many sections of the proposed Kansas Water Plan, affecting many aspects of waters in Kansas, we note very few include specific recommendations concerning staff and a budget at the expense of the alleged polluter.

For instance, in the Subsection for Agricultural Run-off, it is proposed that agricultural run-off contributes to 99% of the annual load of suspended solids, 50% of the phosphorus load, 75% of the nitrogen load and 60% of the organic load.

Yet, there is no specific recommendation for additional personnel to examine this serious problem - no specific budget suggested to be assessed against the agricultural industry - the largest industry in our state.

Yet turn the page, and apparently it is believed there is an opportunity to expand the oil and gas groundwater pollution program. For starters, it is proposed a new staff of 20 professionals and an \$800,000 budget, suggested to be assessed against federal funds, state general funds, or the oil and gas industry.

We do appreciate that following the Ottawa hearing and in preparation for the November 9th public hearing that notification did add a statement which recognizes the limitations of continuing to depend on our industry for direct financial support. For the record, this newly added statement is as follows:

Both the Kansas Corporation Commission and the Department of Health and Environment depend upon fee money derived from a per barrel or 1,000 cubic feet (mcf) assessment on oil and gas production to finance the program. If the overall production of oil and gas increases, the agencies will receive more to fund a joint field staff. However, the trend of oil and gas production during the next few years is predicted to be one of decline, meaning less funding for support of salary, wages and operating. Fee increases to maintain a level of funding are always possible, however, there are limitations to taxing or assessing fees on any industry that is dependent upon fluctuating market prices. The oil and gas industry fees were increased in 1983 and 1984; the per barrel assessment was quadrupled in that two-year period. A severance tax was also imposed on the industry in 1983.

We listened carefully as Director Harkins presented his plan to the joint committee. He has modified the plan to merely expand the staff of KDH&E to assist in implementing SB 498 (1982) and has dropped the reference to the soil and aquifer mitigation proposal. This a 180 degree come around to an old position previously advocated - but not supported by the KCC or KDH&E.

Mr. Harkins has modified their position on the responsibility for pollution caused by past operators 40-50 years ago. We are pleased with that position.

Mr. Harkins went so far as to indicate this entire section of the oil and gas regulatory plan is in a flux of change and this entire section and its recommendations need to be restudied. We agree! We do not see the need for more personnel or more money. We see a need to strengthen the management and direction of the joint effort and that is underway now.

We opposed vigorously suggesting that \$800,000 should be assessed to the oil and gas industry, when the report itself and the slide show indicated that potential sources of groundwater contamination arise from many sources:

POTENTIAL SOURCES OF GROUNDWATER CONTAMINATION

- | | |
|-----------------------|---------------------------|
| —Landfills | —Fuel Storage |
| Municipal | —Agricultural Operations |
| Industrial | Animal Feedlots |
| Illegal Dump Sites | Fertilizer, Herbicide |
| —Hazardous Waste | Pesticide Application |
| Disposal Sites | Irrigation Return Flows |
| —Surface Waste | —Mining |
| Impoundments | —Oil and Gas Wells |
| —Wastewater Disposal | —Deep-Well Waste |
| Subsurface | Injection |
| Disposal Systems | —Transportation Accidents |
| Sewers | —Urban Runoff |
| Land Application | —De-Icing Activities |
| —Establishments Using | |
| Toxic Materials | |

We could add irrigation wells - which the first slide show pointed up, municipal water wells and the migration of natural mineral deposits into fresh waters. All of this indicates that the oil and gas industry is only a part of the broad picture and should not be singled out to fund this program.

We recommend - if you approve the plan - that you remove Recommendation No. 60 - to allow the re-study to take place - as Mr. Harkins recommends. This study will begin in May 1985 and continue through the summer.

Donald P. Schnacke

