

Approved

Ken Grotewiel  
Date

4/30/91

MINUTES OF THE HOUSE COMMITTEE ON ENERGY & NATURAL RESOURCES

The meeting was called to order by Representative Ken Grotewiel at  
Chairperson

3:30 ~~am~~/p.m. on January 29, 1991 in room 526-S of the Capitol.

All members were present except:

Representative Freeman, excused  
Representative McKechnie, excused  
Representative Webb, excused

Committee staff present:

Raney Gilliland, Principal Analyst, Legislative Research  
Mary Torrence, Revisor of Statutes' Office  
Pat Mah, Legislative Research  
Lenore Olson, Committee Secretary

Conferees appearing before the committee:

Representative Sebelius  
Jack Lacey, Secretary of the Department of Wildlife and Parks  
Clark Duffy, Assistant Director, Kansas Water Office  
Shaun McGrath, Kansas Natural Resources Council  
David Pope, Division of Water Resources  
Bev Wilhelm, Department of Commerce  
Vic Studer, Kansas Rural Center  
Joyce Wolf, Kansas Audubon Council  
Elmer Ronnebaum, Kansas Rural Water Association  
John Strickler - Served on the Governor's Drought Response Team  
in 1988 and 1989  
Bill Fuller, Kansas Farm Bureau  
Jerry Hazlett, Kansas Wildlife Federation  
Ernie Mosher, League of Kansas Municipalities

Chairperson Grotewiel called the meeting to order and called upon Representative Kathleen Sebelius.

Representative Sebelius appeared before the Committee to request the introduction of a bill on light pollution regarding outdoor lighting fixtures that emit a certain number of rays. She stated that this proposed legislation is supported by the Topeka and Kansas Audubon Societies, and by the Amateur Astronomers League.

A motion was made by Representative McClure, seconded by Representative Thompson, to introduce the bill requested by Representative Sebelius. The motion carried.

The Chair called upon Jack Lacey, Secretary of Wildlife and Parks.

Secretary Lacey introduced himself to the new members of the Committee. He also introduced his Legislative Assistant, Darrel Montei.

The Chair opened the hearing on HB 2037.

Clark Duffy, Kansas Water Office, testified in support of HB 2037, stating that this bill was introduced at the request of the Kansas Water Authority to implement the Water Use Conservation Sub-section of the Kansas Water Plan. Mr. Duffy highlighted the key provisions of this bill, as shown on (Attachment 1) Mr. Duffy also responded to questions from the Committee.

Shaun McGrath, Kansas Natural Resource Council, testified in support of HB 2037, and presented three amendments to the bill which they feel would allow the bill to more effectively realize its intent. (Attachment 2)

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY & NATURAL RESOURCES,  
room 526-S, Statehouse, at 3:30 ~~xxx~~/p.m. on January 29, 1991.

David Pope, Division of Water Resources, testified that he supports the general concept of HB 2037, and that its passage would be a major step in implementing the original recommendations of the Kansas Water Authority in the State Water Plan and as provided for in the amended water conservation section adopted last year. He stated his concern that the Division's staff and budget resources are fully allocated and the implementation of this bill cannot be fully accomplished without additional resources.  
(Attachment 3)

Bev Wilhelm, Department of Commerce, Kansas PRIDE Program, testified in support of HB 2037, stating that one effective way to minimize the impact of drought on the community is to begin now to implement long-term water conservation practices. (Attachment 4)

Vic Studer, Kansas Rural Center, testified in support of HB 2037, stating that the intent of this bill is good. She also asked for consideration of the inclusion of mandatory water conservation and drought contingency plans for all water rights holders. (Attachment 5)

Joyce Wolf, Kansas Audubon Council, testified in support of HB 2037, but believes this bill falls somewhat short of policy recommendations that would have authorized the Chief Engineer of the Division of Water Resources to require water use conservation plans for all water users. (Attachment 6)

Elmer Ronnebaum, Kansas Rural Water Association, testified in support of HB 2037, stating that implementation of this bill will ensure that when conditions of drought are determined, all water systems will be required to implement appropriate conservation practices. (Attachment 7)

John Strickler, former Chairman of the Governor's Drought Response Team, testified in support of HB 2037, stating that this bill addresses both water use conservation, which is using the water as efficiently as possible during times of plenty as well as during times of drought, and drought contingency planning. He also stated that this bill would allow for a proactive approach to drought management, in that drought contingency efforts would be implemented prior to the drought becoming an emergency or disaster situation. (Attachment 8)

Bill Fuller, Kansas Farm Bureau, testified in support of HB 2037, stating that they support the development and funding of the State Water Plan. Mr. Fuller requested some change and clarification to this bill, as shown on page 2 of his testimony. (Attachment 9)

Jerry Hazlett, Kansas Wildlife Federation, testified that they support HB 2037 as submitted, but are concerned with two terms in Section 4, Page 4, Line 19 and 20, as shown in (Attachment 10)

Ernie Mosher, Kansas League of Municipalities, testified that while they support some of the provisions of HB 2037, they are in opposition to certain provisions of the bill, which are explained in detail in his written testimony. (Attachment 11)

The Chair concluded the hearing on HB 2037.

A motion was made by Representative Correll, seconded by Representative Thompson, to approve the minutes of January 24, 1991. The motion carried.

The meeting adjourned.

COMMITTEE: \_\_\_\_\_

DATE: 1/28/91

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Clark Duffly	290 Jan 91	Kansas Water Office
Vic Studer	Whiting	KS Rural Center
Joyce Wolf	Lawrence	Ks. Audubon Council
David C Pope	Topeka	DWR, KSBA
Bill Juller	Manhattan	Kansas Farm Bureau
DARRELL MONTEI	PRATT	K DWP
Jack Lacey	Topeka	K DWP
Don Rusing	Eno, Ks	K.R.W.A.
EIMER RONNEBAUM	SENECA, KS	Kansas RURAL WATER
Scott Andrews	1921 Bowman, Topeka	Sierra Club
Dalyst Smith Jara	KS. Water Office, Topeka	KWO
Stephen C. Hunt	KS. Water Office <sup>TOPEKA</sup>	ICWO
John Strickler	Manhattan	Individual
Gary R. Hyatt	Topeka	Ks Wildlife Fed.
Eileen Kautela	Mission	W.D. #1 J Co
Wayland Anderson	Topeka	DWR / KSBA
Steve Frost	GARDEN CITY	KSBA / DWR
TRACY STREETER	TOPEKA	CONS. Comm.
Kenneth Kern	Topeka	" "
Paul Blares	Wichita	KN Energy & Heat
Larry D Shannon	Topeka Water	Topeka Kansas

H.B. 2037

# Water Use Conservation



Kansas Water Office

January 1991

## INTRODUCTION

This bill was introduced at the request of the Kansas Water Authority to implement the Water Use Conservation Sub-section of the *Kansas Water Plan*.

Water use conservation has traditionally been encouraged only during drought emergencies or other emergencies. The key concept of water use conservation is that the most effective method for conserving water during times of shortage is to be using it efficiently when it is plentiful.

The 1985 State Water Plan recognized this concept and included three sub-sections on the subject of water use conservation. These sub-sections dealt with municipal, industrial and agricultural water conservation and made several policy recommendations which would promote water use conservation.

## BACKGROUND

In 1986, legislation was passed that partially implemented the water use conservation policy recommendations contained in the State Water Plan. The legislature authorized the Chief Engineer of the Division of Water Resources to require water use conservation plans for (a) anyone purchasing water from the State Water Marketing Program, (b) anyone participating in the new Water Assurance District Program, (c) anyone transferring water under the Water Transfer Act and (d) anyone obtaining a new water right or appropriation permit. This legislation did not, however, authorize the Chief Engineer to require water use conservation plans for owners of existing water rights or appropriation permits. The granting of such authority was recommended in the State Water Plan.

Thus, the policy recommendations contained in the 1985 State Water Plan that would have authorized the Chief Engineer to require water use conservation plans for all water users in Kansas were not fully implemented.

To date, the Chief Engineer has required water use conservation plans on approximately 500 new water rights and appropriation permits. Conservation plans have also been required for participants in the new Water Assurance District Program and for those with new contracts in the State Water Marketing Program.

## CONCEPT

H.B. 2037 on Water Use Conservation Water Management would improve the current law by authorizing the Chief Engineer to require conservation plans for existing water right and appropriation permit holders. This would allow the Chief Engineer to consider water users sharing a common source of supply that could be insufficient in times of drought or users in water-short areas as priority users that should have conservation plans. It would also require the Chief Engineer to consider water users whose use is significantly higher than their peers and water users who apply for state administered grant, loan or cost-share monies for water-related projects.

H.B. 2037 also addresses the issue of implementation of drought contingency plans, which are a part of conservation plans. To date, there has been no trigger mechanism to require implementation of drought contingency plans. H.B. 2037 will set out such a mechanism.

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Attachment 1

## SUMMARY OF H.B. 2037 AS INTRODUCED

A brief summary of the drought and water use conservation provisions in the bill follows:

Sec. 1: - The Governor shall be authorized to declare that a "state of drought" exists.

- The declaration can be for specific areas, can be statewide or for specific water sources.
- The declaration of a "state of drought" shall affect the immediate implementation of drought contingency plans contained in state approved conservation plans, including those for state facilities.

Sec. 2: - The Kansas Water Office, with approval of the Kansas Water Authority, shall establish guidelines as to when conditions indicative of drought exist.

- The Kansas Water Office will advise the Governor when such conditions exist.

New

Sec. 4: - Authorizes the Chief Engineer to require owners of existing water rights or appropriation permits to adopt and implement conservation plans and practices consistent with Kansas Water Office guidelines for such plans and practices.

- The Chief Engineer, when selecting water rights and permits required to have conservation plans, shall give priority to water users that share a common source of supply that could be insufficient during times of drought; to water users in water-short areas; to water users whose use is significantly higher than their peers.
- Prior to requiring adoption and implementation of conservation plans, the Chief Engineer shall assess availability of technical assistance and inform the owner of a water right or appropriation permit of available sources of technical assistance to prepare the plan.

- Those required to adopt or implement conservation plans shall have a minimum of 60 days to prepare it. For good cause shown by the water right or permit owner, the time for preparation can be extended by the Chief Engineer.

- The Chief Engineer, in consultation with the Director of the Kansas Water Office, shall determine consistency of plans and practices to Kansas Water Office guidelines when requested by the owner of the right or permit.

- The Kansas Water Office shall provide or arrange to provide technical assistance for water users required to adopt and implement conservation plans.

- The Chief Engineer shall provide a reasonable time for implementation of conservation plans and, for good cause shown, may extend the time for up to five years.

- The Chief Engineer may require domestic users of water to adopt and implement conservation plans and practices and delegate this authority to municipalities that have conservation plans meeting state guidelines so that they can require compliance from private well owners within the city limits.

- No state agency shall lend, grant or cost-share funds for any water-related projects to any person or entity without first determining that the person or entity has submitted a water conservation plan meeting state guidelines to the Chief Engineer. "Water-Related Projects" shall include but not be limited to: interconnections of supply systems; development of new supply and delivery systems; improvements or repairs to existing systems; land treatment on irrigated land, small lakes development, improvement or repair; and development of other small impoundments for supply or irrigation.

# Kansas Natural Resource Council

January 29, 1991

Testimony to the House Energy and Natural Resources Committee

Re: HB2037 - Concerning water conservation and the development of water conservation plans

From: Shaun McGrath, Program Director

My name is Shaun McGrath. I am the Program Director for the Kansas Natural Resource Council, a private, non-profit, organization which advocates sustainable resource policies for the state. Our membership is over 900 statewide.

I stand before you today to testify in favor of HB2037.

When the fundamental water laws in Kansas were enacted, there was a predominant attitude that water, and natural resources in general, were of an inexhaustible supply. Today, we understand that natural resources are not limitless. We know that the mentality that infinite resources exist breeds wastefulness. Yet, we are still forced to work within a framework which is based on this obsolete assumption.

HB2037 takes the state a progressive step toward responsible use of our water resources. By requiring all water right holders and all appropriation permit holders to develop and implement conservation plans, the state can more adequately insure that sufficient supplies will exist for all users of water; in the short- and long-term. Additionally, by requiring development of drought contingency plans, and authorizing the governor to declare a "State of Drought" activating those contingency plans, HB2037 will protect common sources of supply when severe shortages exist.

Although KNRC fully recommends passage of this bill, we would like to offer three amendments which we feel would allow the bill to more effectively realize its intent.

- 1.) [p. 4, line 13] New Sec. 4, subsection (a) currently reads: "The chief engineer may require the owner of a water right or permit to appropriate water for beneficial use to adopt and implement conservation plans and practices." It then sets up a prioritization of the existing rights for which the chief engineer, using his discretion, shall require conservation plans.

We understand that it would be an unmanageable task for the Chief Engineer and the Director of the Water Office to oversee the development and implementation of the 43,000 existing

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*Attachment 2*

water rights in the first year after passing this bill - especially given the already overworked staffs of these agencies and the state's fiscal situation. Nevertheless, by only granting discretion to the Chief Engineer in requiring conservation plans, the greater objective of this bill is not met.

We suggest that New Sec. 4. (a) be amended to read: "The chief engineer ~~may~~ shall require the owner of a water right or permit to appropriate water for beneficial use to adopt and implement conservation plans and practices." We then suggest that phase-in goals be established, whereby, for example, 25% of existing rights [using the prioritization in subsection (a)] develop and implement conservation plans in the first three years after enactment of this bill; that 50% have plans after six years; and 100% after ten years.

2.) [P. 4, line 42] In New Sec. 4 (c), line 42 reads, "If requested by the owner of the water right or permit, the chief engineer, in consultation with the director of the Kansas water office, shall determine whether such plans and practices are consistent with the guidelines adopted by the Kansas water office." Essentially, this means approval of the required conservation plans is up to the discretion of the right holder or permit holder.

We advocate that conservation plans be mandatorily submitted for approval. This can be accomplished by amending subsection (c), line 42, as follows:

~~"If requested by the owner of the water right or permit, t~~The chief engineer, in consultation with the director of the Kansas water office, shall determine whether such plans and practices are consistent with the guidelines adopted by the Kansas water office."

This would also make the bill consistent with Sec.1 (e), in which, during declared 'state of drought' "immediate implementation of drought contingency plans contained in *state approved conservation plans*" would be effected. (emphasis added)

3.) With reference to this same section concerning drought contingency plans [p.2, line 30], the drought contingency plans are to be developed according to guidelines set out by the Kansas Water Office. [P. 4, line 39] New Sec. 4 (c) reads, "Plans and practices required pursuant to this section shall be consistent with the guidelines for conservation plans and practices developed and maintained by the Kansas water office pursuant to subsection (c) of K.S.A. 74-2608 and amendments thereto."

Existing guidelines developed in 1986 by the Water Office contain drought contingency planning for industrial users of water, and municipalities. Expanded guidelines for Municipalities were published in November, 1990, and include more comprehensive guidelines for drought contingencies.

Currently, no guidelines exist for irrigators.

The Water Use Conservation Sub-section of the State Water Plan approved by the Water Authority July, 1990, criticizes the 1986 legislation as being inadequate: "The main problem with the 1986 legislation leaving out conservation plans and drought contingency requirements for existing users is that in a drought situation it would be impossible to protect a common source of water supply. This is due to the fact that in order to protect a common source of supply, all users of that source must share the shortage, and thus, each must have a conservation plan with drought contingency provisions in place. The 1986 legislation is thus ineffective in protecting common sources of supply."

We agree with the conclusion made by the Water Authority, and are fearful that, unless the Water Office is specifically required to develop guidelines for drought contingency plans for all right and permit holders, that HB2037 will again fall short of its goal.

KNRC strongly supports the goals of HB2037. We encourage you to make the proposed amendments, and to pass this bill.

Thank you for allowing me to speak before you today.



STATEMENT OF DAVID L. POPE  
CHIEF ENGINEER-DIRECTOR  
DIVISION OF WATER RESOURCES  
KANSAS STATE BOARD OF AGRICULTURE

BEFORE THE  
HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES  
ON  
HOUSE BILL 2037

On January 29, 1991

Chairman Grotewiel and members of the Committee, thank you for this opportunity to appear and provide comments concerning House Bill 2037, which authorizes a declaration of drought by the Governor and provides for the review and approval of conservation plans by the Chief Engineer under certain circumstances.

New Section 4 of House Bill 2037 would authorize the Chief Engineer, Kansas State Board of Agriculture, Division of Water Resources, to require water conservation plans of owners of water rights or permits to appropriate water; and require water conservation plans of any entity receiving loans, grants or cost-share from a state agency for water-related projects. All of these conservation plans would require review and approval by the Division of Water Resources. The proposed legislation lists several criteria for the Chief Engineer to use to determine which

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*Attachment 3*

owners of water rights or permits to appropriate water should be required to submit water conservation plans. Before I comment on the effect of this Bill, I would like to briefly review the existing State law concerning water conservation plans.

In the 1985 State Water Plan, the Kansas Water Authority recommended that "Legislative action will be needed to vest power in the Chief Engineer, Division of Water Resources, to require persons, municipalities or industries to prepare conservation plans. The Chief Engineer would be further empowered to review, approve and enforce such plans." The State Water Plan also recommended that the Attorney General be given broadened powers to enforce compliance, upon request of the Chief Engineer.

In 1986, the House Committee on Energy and Natural Resources ultimately authored a Substitute for House Bill 2703 that incorporated a "guideline" concept. Substitute for House Bill 2703 eventually became law with the following provisions:

- a. K.S.A. 82a-1311a(d), as amended, now provides that the Kansas Water Authority may require an applicant for a contract for the sale of water from State controlled conservation water supply capacity in federal reservoirs to adopt and implement conservation plans and practices consistent with the Kansas Water Office guidelines;
- b. K.S.A. 82a-1503(b), as amended, provides that no water transfer shall be approved unless the applicant has

adopted and implemented conservation plans and practices consistent with guidelines;

- c. K.S.A. 82a-1345(c), as amended, requires each member of a water assurance district to adopt conservation plans and practices consistent with the guidelines developed and maintained by the Kansas Water Office; and
- d. K.S.A. 82a-711 was amended to add subsection (d) which authorizes the Chief Engineer to require a new applicant for permit to appropriate water to adopt and implement conservation plans and practices. This authority only allows the Chief Engineer to prospectively require conservation plans and practices on applicants for new permits to appropriate water or changes to existing water rights.
- e. K.S.A. 74-2608(c), as amended, requires that the Kansas Water Office develop and maintain guidelines for water conservation plans and practices with specific limits on what those guidelines could contain.
- f. K.S.A. 74-2622(c)(11), as amended, requires the Kansas Water Authority to approve such guidelines prior to adoption by the Kansas Water Office.

After the Bill was passed in 1986, the Kansas Water Office developed and adopted conservation planning guidelines which were subjected to extensive public review and approved by the Kansas Water Authority. The Division of Water Resources sought technical

assistance from various entities such as groundwater management districts, county conservation districts and the U.S. Soil Conservation Service, to aid applicants in preparation of conservation plans, and developed the communications network and administrative procedures to carry out that portion of the Act affecting new applicants for permit to appropriate water.

Slightly over two years ago, on January 1, 1989, we began the formal implementation of K.S.A. 829-711(d) by requiring all new applicants to appropriate water for municipal, industrial and irrigation use, applicants for change in the type of use of an existing water right and applicants requesting to increase the size of place of use for irrigation by more than 25%, to adopt and implement conservation plans and practices consistent with guidelines developed by the Kansas Water Office. Since January 1, 1989, 1,040 new applications for permit to appropriate water for municipal, industrial or irrigation use have been received. Water conservation plans accompanied these applications, or applicants have been or will be requested by the Division to provide them if they did not accompany the application when it was filed. In addition, Division staff estimate approximately 50 applications to change existing permits were received for which acceptable conservation plans were required as conditions of approval. Most of these plans were, or will be, reviewed by hydrologists responsible for the review of the applications. Until September of 1990, the Division of Water Resources has had to implement

K.S.A. 82a-711(d) with existing staff. The additional requirement of a conservation plan has already caused some delays in processing new applications as a result of the additional workload. Beginning September 4, 1990, a Civil Engineer was hired with new fee revenues available as a result of legislation passed in 1990. We have assigned this person duties to provide overall water conservation technical support to the Division hydrologists, who provide conservation plan review as a part of the new application review, and to oversee the conservation contract program with the groundwater management districts to address water conservation plan monitoring and compliance. However, this staff person will only be able to handle the review of up to 50 additional water conservation plans per year and still carry out his regular duties.

The current statutory authority authorizes conservation plans on water users with existing water rights who are in assurance districts, or who apply for: (a) a new permit, (b) a change to an existing water right, (c) a water transfer, or (d) a purchase of water through the water marketing program from the Kansas Water Office. I would like to point out that K.S.A. 82a-707(e) states that "appropriation rights in excess of the reasonable needs of the appropriator shall not be allowed", which allows conservation of water to be considered when decisions on the amounts of water allowed to be appropriated are made. The Water Appropriation Act and both the Division's and groundwater management district's rules and regulations also prohibit waste. However, House Bill 2037

would fill a void in that the quantity of water authorized by the water right or permit does not necessarily directly require water conservation practices to be used.

Because there are more than 30,000 active water rights in Kansas, it is not possible, nor even necessary, to require conservation plans on all of them. Further, the logistics of establishing the program to identify which areas of the state need to have water conservation plans filed will take some time to set up. In view of the fiscal constraints, against which all new legislation must be considered, the Division has requested in its Fiscal Note two professionals and a clerical person to implement the provisions of House Bill 2037 that would begin in FY 1993. The timing of this funding proposal will allow the Chief Engineer to direct existing staff to begin to target selected areas or categories of water right or permit holders for conservation plan requirements during the first year, if the legislation is passed and reassess the fiscal needs prior to the next budget cycle.

The Division of Water Resources' plan to implement House Bill 2037 would be to target areas or groups of water users for the conservation plan requirement where a particular problem or need exists. This can be accomplished in part by reviewing annual water use reports to ascertain individual water users whose reported water use is higher than others with similar circumstances in their peer group. The conservation requirements which the Chief Engineer

can impose on a water user are limited by the water conservation guidelines adopted by the Kansas Water Office, which serve as the "standard."

By rearranging current staff responsibilities, existing staff could review approximately 50 additional water conservation plans each year. Current staff cannot properly review the number of conservation plans that are estimated to result from the proposed legislation, without significantly delaying the processing of new applications and certificates. Monitoring the implementation and evaluating the effectiveness of conservation plans would not be possible outside of groundwater management districts at current staffing levels. As the proposed legislation is now worded, delays in the review and approval of water conservation plans could have a serious impact on the administration of several agencies' programs. While we do not have exact estimates, it would appear that approximately 400 water conservation plans would be required as a result of the mandatory language in New Section 4(e) pertaining to grants, loans or cost-sharing of water related projects.

Based upon an average review time and associated follow-up of two hours and the estimate of 400 additional plan reviews, additional staff time of 800 work hours is estimated to be required to review plans required of entities receiving grants, loans or cost-sharing for water-related projects from state agencies. This

many plans would require adding a staff person to handle these reviews and to make it feasible for the Chief Engineer to begin to require water conservation plans of owners of water rights in water-short areas and under other circumstances envisioned in the proposed legislation. Evaluation of the effectiveness of water conservation plans is expected to be primarily done through the contract program now being developed with the groundwater management districts. Another staff person should ultimately be hired to evaluate and monitor water conservation plans required in the remainder of the state.

If New Section 4(e) were amended to limit the scope or allow these requirements to kick in only upon determination as to which types of projects would most benefit from water conservation plans, as could be done under New Section 4(a)(4), current staff could more likely handle the requirements for conservation plans for entities receiving grants, loans or cost-sharing for water-related projects from state agencies for fiscal year 1992. This will also provide one year of information to develop better estimates of proper staffing requirements and to analyze the overall needs related to water conservation. Otherwise, risks involved with the proposed legislation are possible delays in project development for such undertakings and delays in other Division work-load.

The Division's suggestion is to implement House Bill 2037 on a multi-year approach, unless the legislature is willing to



immediately invest additional staff and budget resources in the overall effort. If this is not what the Committee has in mind, we will need to rethink our Fiscal Note requirements.

In Section 6, we do not see the need for this to take effect after it is published in the Kansas register. We would suggest it take effect and be in force from and after its publication in the Statute Book.

In conclusion, I support the general concept of water conservation. The passage of House Bill 2037 would be a major step in implementing the original recommendations of the Kansas Water Authority in the State Water Plan and as provided for in the amended water conservation section adopted last year. However, I believe I must inform you that the Division's staff and budget resources are fully allocated and the implementation of House Bill 2037 cannot be fully accomplished without additional resources. I am particularly interested in your thoughts concerning the time frame and level of implementation you desire for House Bill 2037.

Thank you very much. I would be happy to answer any questions you might have.

3-9

TESTIMONY  
HB 2037

to

Energy and Natural Resources Committee

on

Hearings on Water Conservation  
Plans, Practices, etc.

by

Beverly Wilhelm  
Kansas PRIDE Program  
Kansas Department of Commerce

January 29, 1991

*E+NR*  
*1/29/91*  
*Attachment 4*

## KANSAS PRIDE PROGRAM TESTIMONY

The Kansas PRIDE Program is successfully completing its second decade of responding to the needs of Kansas communities by providing technical assistance for and recognition of community improvement efforts. Co-administered by the Community Development Division of the Kansas Department of Commerce (KDOC) and the Kansas State University Cooperative Extension Service (CES), PRIDE assists communities in their effort to develop an effective organization and promote citizen involvement to make their communities a better place to live. The program is in two parts. A competitive Community Achievement Cash Awards Recognition for outstanding community improvements is awarded annually. The Blue Ribbon component of the program is a certification process whereby community evaluation takes place in 19 areas of local services and facilities vital for total community development.

Over 400 Kansas communities have been involved in the program since its inception. In 1990, 97 communities enrolled in PRIDE with over 369,807 hours of volunteer labor being donated by over 73,929 persons to accomplish 2,451 various community betterment projects. This effort is conservatively valued at \$1,849,036. Budget goals were met with contributions by corporation and association sponsors totalling over \$20,000. The private sector injection from 33 corporate and association sponsors provided recognition and cash awards for outstanding community improvement activities.

What makes PRIDE so successful is the unique public-private partnership: Government (KDOC) and education (CES) supporting Kansas business and industry. Technical assistance is provided by the public sector, while recognition, in the form of cash awards is provided by the program's private sector sponsors. An important role in setting policy and providing direction is performed by the Board of Directors of Kansas PRIDE, Inc.

Every 3 years, the Board of Directors select topical areas for special emphasis to stimulate local activity. Previously designated areas have been energy conservation, crime prevention, economic development and downtown revitalization.

Two awards, Excellence and Merit, are given on a competitive basis. Award decisions are based on review of documentation and site visits. The level of awareness, involvement, quality of the project and the impact of the activity in the community assists judging decisions. These awards are given only in instances where local efforts are sufficient to justify the designation. The purpose is to recognize exemplary PRIDE projects, encourage activities which are innovative or especially effective in specific areas and promote the PRIDE Program.

The Special Emphasis Awards for 1991 are Water Conservation and Recycling.

In the area of Water Conservation, many PRIDE communities have already undertaken a number of steps to insure an ongoing supply of water for local citizens. However, many communities do not have long term strategies on how to use their water effectively or short term drought crisis plans. Water conservation needs to be a high priority for Kansas communities if they are to survive and continue to be viable; with dependable water supply.

One effective way to minimize the impact of drought on the community is to begin now to implement long-term water conservation practices. The water conservation competition in the Kansas PRIDE Program is designed to encourage such practices and to bring special recognition to the most deserving communities. This is being accomplished through the cooperative efforts of several entities.

The Kansas Water Office has been instrumental in program design and materials. They provided personnel for on-site technical assistance, evaluations and recommendations. Staff from the Kansas Rural Water Association, also provided on-site technical assistance to participating communities. In addition, PRIDE staff from both CES and KDOC were present at local meetings and served as a liaison to resources.

In keeping with program guidelines, PRIDE communities participating in the Water Conservation Special Emphasis Award have to describe what water conservation practices are to be implemented in a letter of commitment.

Municipal water conservation criteria focuses on management, regulation and education. Water use records submitted to the Kansas Water Office by all participants are evaluated by staff and factored into the overall scores for each community. Special assistance is provided to communities when preparing municipal water conservation plans to help local leaders understand long term benefits and ultimately achieve more efficient use of limited water resources.

Now, in the 2nd year, it is anticipated approximately 25 communities will participate in the water conservation area. Currently, several PRIDE communities are in the process of drafting Drought Contingency and Water Conservation plans. Without the vehicle of the PRIDE Program and the expertise of the Kansas Water Office, the crucial nature of water conservation may yet to be discovered by community leaders.

The Board of Director's of the Kansas PRIDE Program are committed to assisting Kansans in building better communities. They strongly agree with the Kansas Water Office's motto regarding water conservation - "The Right to Use Water Bears the Responsibility to Use It Wisely". We are all proud to be involved in these efforts.

PRIDE offers an efficient and effective means for assessing the needs of a community, which may be water conservation, setting goals and working cooperatively to accomplish these aims. The award-winning PRIDE communities reflect an excellent quality of life in Kansas

# THE KANSAS RURAL CENTER, INC.

304 Pratt Street

WHITING, KANSAS 66552

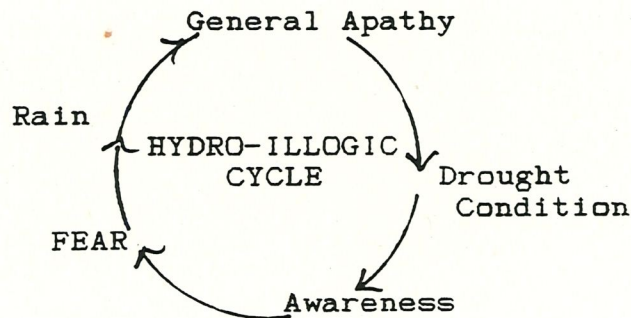
Phone: (913) 873-3431

Testimony Before the House Energy and Natural Resource Committee  
In Support of HB 2037  
January 29, 1991

Chairman Grotewiel and Members of the Committee:

I am Vic Studer, Executive Director of the Kansas Rural Center, a non-profit corporation that provides research, writing and advocacy work sustaining rural communities and family farms. Currently, our project areas involve water policy, sustainable farming, rural leadership and community development.

Kansas has a need for a more formalized state policy plan to deal with both water use conservation and drought emergencies. Water conservation plans require a long-term commitment and while coping with drought may have only a short-term obligation it is one that is often ignored until we are at a crisis situation and forced into action.



Drought is a normal feature of our climate and therefore it is reasonable to assume that from time to time weather conditions will impose the need to have a statewide crisis plan of conservation. Without it we are faced with the age old dilemma of reacting on a crisis to crisis basis. It is a matter of survival and one that deserves attention before the crisis point is reached.

*EVNR  
1/29/91*

*Attachment 5*



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We all remember the problems faced in the summer of '89. The Rural Center is located in Whiting, Kansas where we were only allowed 1000 gallons of water per adult, per month. Children were allowed 500 gallons per month. This proved a temporary hardship on the community, but it also sent the little town a message of the need to control and allocate nature's most common and precious natural resource. Consequently, we all learned to conserve and use wisely until the well was recharged. Now we're back in the apathy cycle with very little thought of drought and no new plan of action.

At this same time water was running freely down the streets of Marysville, after over saturating plush green lawns, while in nearby Frankfort water restrictions were placed on the town. Marysville and Frankfort share the same aquifer as their source of water. This is just one example of the necessity for plans from water users that share a common source of supply, and the need for authority to declare a state of drought.

I would like to call your attention to Sec. 3., page 3, line 38 reads, "The owner of a water right or permit to appropriate water for beneficial use, except for domestic use, shall file an annual water use report...etc." And, New Sec. 4, page 4, line 13 reads, "The chief engineer MAY require the owner of a water right or permit to appropriate water for beneficial use to adopt and implement conservation plans and practices." The Rural Center questions this discretion and since all water right holders are reported annually we request that all water right holders be required to submit conservation and drought contingency plans.

When our water supply is scarce all users of this priceless natural resource - regardless of the type of use - must bear the responsibility of protecting and preserving the source. This obligation is especially critical during times of drought.

All types of water users should share this responsibility. We understand this is a massive undertaking and we recommend phasing it in over a period of years in order to lessen the demand on the Division of Water Resource. If we are considering the future of our water supply the first step is preservation and the dividends will pay off in the long haul.

The intent of this bill is good and the Rural Center supports its passage and asks for consideration of the inclusion of mandatory water conservation and drought contingency plans for all water rights holders. Thank you for your time and consideration.



# Kansas Audubon Council

January 29, 1991

House Energy and Natural Resources Committee

HB 2036: DROUGHT EMERGENCY & CONTINGENCY PLANS;  
WATER USE CONSERVATION PLANS

My name is Joyce Wolf and I am the legislative liason for the Kansas Audubon Council with chapters in Kansas City, Leavenworth, Lawrence, Topeka, Manhattan, Salina, Hutchinson, Emporia, Southeast Kansas, and Wichita. The Audubon Society is a conservation organization of 5000 Kansans working at all levels toward the preservation and wise use of our natural heritage.

The Kansas Audubon Council wholeheartedly supports measures which lead to the wise use of our natural resources; we believe that water is one of the most important of those resources. While falling somewhat short of the policy recommendations contained in the 1985 State Water Plan that would have authorized the Chief Engineer of the Division of Water Resources to require water use conservation plans for all water users in Kansas, new section 4 of HB 2037 does give the Chief Engineer broad power to require conservation plans to be adopted and implemented by a wide cross-section of water users in the state.

In subsection d (of new section 4), the bill permits the Chief Engineer to require domestic users of water to adopt and implement conservation plans and also allows the Chief Engineer to delegate that authority to municipalities. This is a broadening of the authority of the Chief Engineer to delegate his/her power to municipalities. (During the 1990 session, SB 642 was passed which restricted the delegation of authority to intensive groundwater use control areas.)

While directing the Chief Engineer to consider a prioritized list of water users who must adopt and implement water use conservation plans and practices, HB 2037 also mandates that the he/she must provide information on the availability of, and a means to obtain, technical assistance for those water users. It also provides some latitude for deadlines for adoption and implementation by water users of the conservation plans and practices.

The Kansas Audubon Council is especially pleased that the bill empowers the governor to declare a drought emergency, but most importantly to effect the immediate implementation of drought contingency plans. Currently there is no mechanism that triggers that implementation to take place -- we believe this is a need that should no longer go unmet.

In conclusion, the Kansas Audubon Council believes the right to use water also carries the responsibility to use it wisely; we believe this bill helps water users fulfill that responsibility. We hope the committee will recommend its favorable passage.

*E + N R*

*1/29/91*

*Attachment 6*



KANSAS  
RURAL  
WATER  
*association*

Quality water, quality life

*Rommelbaum*

P.O. Box 226 • Seneca, KS 66538 • 913/336-3760 • FAX 913/336-2751

January 29, 1991

TO: HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES COMMITTEE

RE: Statement of support for HB 2037

The Kansas Rural Water Association appreciates this opportunity to express its support of House Bill 2037. We encourage favorable consideration by the Committee.

The Kansas Rural Water Association represents nearly 300 rural water districts in the state, several Public Wholesale Districts and the Association has approximately 70 cities as active members. The Association provides on-site assistance to cities and other water utilities including a program to detect water loss and reduce energy use.

Cities and rural water district decision-makers and employees generally are responsive to any suggestion for improvement in the management or operation of their water systems. This includes the subject of water conservation. We believe good progress has been made in the area of education of municipal officials on the subject of water conservation over the past few years.

The Kansas Rural Water Association has commented before various committees on the development of water conservation guidelines for public water supply systems. We commend the work of the Division of Water Resources of the State Board of Agriculture and the Kansas Water Office in bringing to attention the amount of water loss by many cities and rural districts, the associated costs and revenue loss. The Kansas Rural Water Association has assisted many of these systems with water loss surveys. We have found a general appreciation and acceptance in nearly all communities of the need to reduce water loss and promote water conservation, within their system and also, by the public. In calendar year 1990, the Association conducted 92 water loss surveys. On those systems, water losses detected and corrected totaled 324,163,800 gallons per year. The cost savings to the systems totals \$566,000 annually. The Association contacted 202 other water utilities concerning water loss.

Because of our daily work with water systems, we know that many cities and water districts are promoting wise use of water through leak detection programs and in other user education programs. Water utilities are realizing they can reduce water loss on the municipal or rural system and thereby reduce operating costs and perhaps, even delay capital expenditures for unneeded system expansion.

We believe that the provisions in HB 2037 are in the best interests of the citizens of the state. The legislation will further promote the efficient use of a precious natural resource. This legislation will ensure that when conditions of drought are determined, all water systems will be required to implement appropriate conservation practices.

*E+NR  
1/29/91  
Attachment 7*



Testimony by

John K. Strickler  
Former Chairman of the  
Governor's Drought Response Team

Before the  
House Energy and Natural Resources Committee

RE: H.B. 2037

January 29, 1991

*E+NR*

*1/29/91*

*Attachment 8*

Testimony by

John K. Strickler  
Former Chairman of the  
Governor's Drought Response Team

Before the  
House Energy and Natural Resources Committee

RE: H.B. 2037

January 29, 1991

Mr. Chairman and members of the Committee, the drought of 1988 and 1989 was a particularly harsh one for Kansas, that not only impacted agricultural production, but also taxed public water supply systems in many areas severely. In June of 1988, the Governor established a Drought Response Team comprised of key governmental agencies to monitor the drought and make recommendations for an appropriate response. The Drought Response Team formed a working group to provide weekly drought status reports and to coordinate a list of appropriate governmental contacts for drought assistance. These status reports were made available by the Governor to nearly 2,500 public and governmental officials. The Governor encouraged local units of government in the state to form a partnership to work with the federal government in preparing for drought contingencies.

The state also established a hay hot line and drought hot line offering agricultural information on drought assistance programs. All of these activities were coordinated with the U.S. Department of Agriculture which approved 77 counties for emergency haying and grazing, and authorized counties to approve applications for the Emergency Feed Assistance Program and Emergency Feed Program and issued an emergency declaration for 11 counties.

During this time four informational seminars on "Dealing with the Effects of Drought" were conducted in August through a cooperative effort of state agencies and public water resources organizations. Representatives of 49 cities, 75 rural water districts and six other

public water supply systems attended the seminars in Salina, El Dorado, Chanute and Lawrence.

Emergency water supply problems during the fall and winter in Osage City, Easton and Sparks were addressed through the Division of Emergency Preparedness, in cooperation with other state, local and federal agencies.

In February of 1989 upon the recommendation of the Public Education Advisory Group, the Governor's Drought Response Team established a Drought Assistance Advisory Group made up of state agency personnel to work with local officials in preparing for continuing drought. Public water supplies judged to be the most vulnerable to drought were identified by March 20. A memorandum from the Governor was sent to the 90 public water supplies identified, notifying them that the advisory team would be contacting them to provide any needed assistance. A memorandum was also sent to approximately 900 other public water suppliers and 600 self-supplied industrial water users offering assistance from the advisory team. A State of "Kansas Drought Preparedness Handbook" was developed for use by the advisory team in briefing water suppliers and water users on how best to deal with drought situations.

During April of 1989, six meetings were held to provide information to irrigators on water rights and water conservation during drought conditions. These meetings were held through cooperative efforts of the Division of Water Resources, Kansas Cooperative Extension Service and the Kansas Water Office.

In late June 1989 six workshops on "Water Supply in Times of Shortage" were conducted for public water suppliers. Over 350 individuals representing 56 cities and 76 rural water districts participated in these workshops which were held in Wichita, Chanute, Dodge City, Hays, Salina and Lawrence, and conducted by the Kansas Rural Water Association in cooperation with the Kansas Water Office; Division of Water Resources, Kansas State Board

of Agriculture; the Kansas Department of Health and Environment; and the League of Kansas Municipalities.

The Governor also issued Executive Orders No. 89-115 and 89-116 in March 1989 directing state agencies to develop water conservation plans and drought contingency plans for state facilities and to implement those plans.

With a span of several years between severe drought events, memory fades quickly as to the strain the drought placed on both natural resources and governmental resources in administering and developing responses to the drought situation. The lessons learned from the state's experience during this latest drought strongly suggests that a "Risk Management" or proactive approach to drought events is a much more effective mitigation tool than the "Crisis Management" or reactive approach to drought. Sharply focused contingency plans, prepared in advance, could greatly assist state government and others in the early identification of drought, lessen personal hardship, improve economic efficiency of resource allocation and ultimately reduce drought related impacts and the need for government sponsored relief programs. Work has already begun to develop this type of drought response through the *Kansas Water Plan*.

The current legislation before you, House Bill 2037 addresses both water use conservation, which is using the water as efficiently as possible during times of plenty as well as during times of drought, and drought contingency planning. This legislation would authorize the Governor to declare a "State of Drought" which would automatically trigger the implementation of those drought contingency plans developed by water users throughout the state in their state approved water use conservation plans. This would allow for a proactive approach to drought management, in that drought contingency efforts would be implemented prior to the drought becoming an emergency or disaster situation. As former Chairman of the Governor's Drought Response Team, I would highly recommend that this legislation go forward.



# PUBLIC POLICY STATEMENT

## HOUSE ENERGY and NATURAL RESOURCES COMMITTEE

Re: H.B. 2037 -- Authorizing Declaration of Drought and  
and Requiring Water Conservation Plans.

January 29, 1991

Topeka, Kansas

Presented by:  
Bill R. Fuller, Assistant Director  
Public Affairs Division  
Kansas Farm Bureau

Chairman Grotewiel and members of the Committee:

My name is Bill Fuller. I am the Assistant Director of the Public Affairs Division of Kansas Farm Bureau. We appreciate this opportunity to make this statement in regard to H.B. 2037.

Our members support the development and funding of the State Water Plan. Policy adopted by our farm and ranch members at the most recent Kansas Farm Bureau Annual meeting in part states: "...We believe the State Water Plan should promote conservation of water by all users. We urge the Kansas Water Authority to incorporate into the State Water Plan a strong conservation ethic and methodology for recycling water to extend the life of this limited resource." The complete 1991 Resolution is attached for your review.

In H.B. 2037, "New Sec. 4" authorizes the Chief Engineer to require water conservation plans by a holder of a water right or permit. We support this provision. We believe that all water users should conserve this limited and essential natural resource.

Farm Bureaus' call for water conservation goes beyond this Committee hearing. At the Intensive Groundwater Use Control Area (IGUCA) hearing in Great Bend where water use by Cheyenne Bottoms, cities, agriculture and industry is the issue, Doyle Rahjes, President of Kansas Farm Bureau testified: "...We believe the establishment of an IGUCA is desirable. This gives

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*Attachment 9*

all water use the opportunity to receive some water... We recommend an IGUCA Advisory Committee be formed that represents all parties...domestic users, farmers, industry, conservation groups and Kansas Wildlife and Parks. We ask that any decision to restrict any water users not be acted upon hastily and initiated only after additional study and sufficient deliberation. The point is considerable water conservation has been achieved in recent years by irrigators. Irrigation systems and management have both improved. We need to expand research in both areas and give irrigators an opportunity to achieve even more water conservation..."

We ask for some change and clarification to H.B. 2037. On page 5, line 24, we ask "land treatment on irrigated land" be deleted. Construction and use of terraces and waterways are common land treatment practices. These activities conserve water, not consume water. We believe water conservation plans should focus on projects that primarily conserve water. We ask for clarification on line 26, also on page 4..."small impoundments for water supply or irrigation." We ask you to consider inserting "domestic" before the word "water" on line 26.

Kansas Farm Bureau policy does not address the other policy decision in H.B. 2937 ...the mechanism for declaring a drought. While we have no significant concerns about involving both the Kansas Water Office and the Governor, we can take no position on this question.

Thank you for allowing us to express the views of Kansas Farm Bureau members on this important issue. Mr. Chairman, we would attempt to respond to any questions you or your Committee might have.

KANSAS FARM BUREAU  
1991 Policy

State Water Plan

The State Water Plan, developing and evolving under the direction of the Kansas Water Authority and the Kansas Water Office, is a blueprint for planning, managing, conserving and utilizing the waters of the state. The Water Plan has sections relating to Management, Conservation, Quality, Fish, Wildlife and Recreation, and Basins.

The State Water Plan is for the benefit of all Kansans and should be funded by all Kansans through the State General Fund. New, additional taxes or fees are not needed to fund the State Water Plan.

We encourage additional efforts to prevent contamination of groundwater and surface water in Kansas. We believe more resources should be allocated from the existing State Water Plan Fund for cost sharing of land treatment for highly erodible lands, construction of livestock waste management facilities and plugging abandoned water wells.

The State Water Plan should contain far-sighted, well-conceived and carefully controlled use of international, interstate, and intrastate transfers of water to benefit agricultural producers and all other Kansans.

We believe the State Water Plan should promote conservation of water by all users. We urge the Kansas Water Authority to incorporate into the State Water Plan a strong conservation ethic and methodology for recycling water to extend the life of this limited resource.

1991 Resolutions were adopted by the Voting Delegates representing the 105 County Farm Bureaus at the 72nd Annual Meeting of Kansas Farm Bureau in Wichita, December 8, 1990.

# Kansas Wildlife Federation, Inc.

P.O. Box 5715  
Topeka, Ks. 66605

Affiliate of National Wildlife Federation  
913/266-6185

200 S.W. 30th  
Suite 106  
Topeka, Ks. 66611

January 29, 1991

## HOUSE ENERGY AND NATURAL RESOURCES COMMITTEE

### HB 2037: DROUGHT EMERGENCY/CONTINGENCY PLANS; WATER USE CONSERVATION PLANS

I am Jerry Hazlett, Executive Manager of the Kansas Wildlife Federation. The Federation is a non-profit wildlife and natural resource conservation and education organization. Our volunteer membership joins with the members of our national affiliate, the National Wildlife Federation, to support the wise use and sustained management of our vital air, water, soil, forest and wildlife resources.

The Kansas Wildlife Federation supports this legislation as submitted. We feel it is very important that the State be empowered to declare drought emergencies on a local, regional or statewide basis. We support the authority for such declaration be held by the Governor. The Kansas Water Office, with the approval of the Kansas Water Authority, is the proper method for establishing the guidelines along with the advisory and recommendation roles.

The Federation supports the requirements brought forth in Section 4 of the bill authorizing the Chief Engineer to require conservation plans and practices of water users in the State. We feel this is a positive step toward sustained water management, wise use today for Kansas tomorrow.

We are concerned over the use of two descriptive terms found in Section 4, Page 4, Line 19 & 20. "(2) water users in water short areas, including fully appropriated areas," we do not know of existing definitions for "fully appropriated" either in State Law or regulation. We feel that this is an ambiguous term, that for the most part, is used when the water resources have been over-appropriated. The Federation would ask that, if the words "fully appropriated" are used that they also be defined.

*E+NR*  
*1/29/91*  
*Attachment 10*





**League  
of Kansas  
Municipalities**

PUBLISHERS OF KANSAS GOVERNMENT JOURNAL 112 W. 7TH TOPEKA, KS 66603 (913) 354-9565 FAX (913) 354-4186

TO: House Committee on Energy and Natural Resources  
FROM: E.A. Mosher, Executive Director, League of Kansas Municipalities  
RE: HB 2037-Mandated Water Conservation Plans; Drought Emergencies  
DATE: January 29, 1991

I appear in opposition to certain provisions of HB 2037, for the purpose of making comments and proposing certain amendments. We were able to FAX a copy of the bill last Friday to members of the League's Committee on Water and Environmental Policy for their comments. Further, my comments are consistent with a League convention-adopted Statement of Municipal Policy provision on this issue, with provides as follows:

**"J-1d. Conservation and Drought Planning.** Continuing efforts are necessary to conserve our water supply. All local units should develop and implement water conservation and water shortage emergency plans, recognizing that failure to do so may result in further state mandates. The legislature should provide the Kansas water agencies with adequate staffing to assist local units of government in developing and implementing water shortage emergency and conservation plans. Public water systems should only bear the burden of state mandated water use conservation requirements (1) to the extent all water users--including agricultural/irrigation users--share in similar requirements, and (2) only when such mandates will achieve a significant state or regional benefit. State mandated water use conservation guidelines for municipal water systems should not usurp the responsibilities or authority of locally elected officials regarding such local decisions as pricing, distribution and other management practices. We oppose mandated water use conservation plans for recipients of state grant money involving non-water related projects."

**Declaration of Drought**

We are supportive of sections 1 and 2 of the bill relating to declarations of drought. However, we note that while new subsection (d) on page 3 requires the Kansas Water Office to develop guidelines as to "when conditions indicative of drought exist", there is no cross reference to this fact in subsection (e) on page 2. We wonder whether line 30 on page 2 should read "(e) **the governor, when conditions indicative of drought exists under guidelines approved by the Kansas water authority, . . .**"

**Section 4**

Our principal concerns deal with Section 4, primarily subsection (a). However, let me first comment about some other subsections of Section 4.

We believe the provisions of subsection (b), beginning on line 30 on page 4, relating to time for conformance, are reasonable and appropriate.

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*1/29/91*  
*Attachment 11*

We have no objections to subsection (c), beginning on line 39 on page 4, and are especially pleased to see the provisions of lines 3-6 on page 5, relating to the provision of technical assistance for water users to develop conservation plans and practices.

We are very supportive of the provisions of subsection (d), beginning on line 7, page 5, relating to the delegation of authority over private wells within cities.

We have no objections to the provisions of subsection (e), beginning on line 12, page 5, except for the reference to the "water-related projects", as defined in subsection (f).

#### **"Water-Related Projects"**

In the definition of "water-related projects", in subsection (f), we think one clause is excessively broad. This is the clause, beginning on line 23, which includes as a water-related project "improvements or repairs to an existing water supply, sewer and water treatment system". As written, any city wanting to obtain a state loan or grant for any kind of improvement or repair to a water, sewer or water treatment system would have to have an approved conservation plan. This would appear to mandate a water conservation plan if any loan or grant is to be received for even the smallest improvement to an existing water main or sanitary sewage line, whether or not any significant use of water is involved. By the use of the word "sewer", rather than "sewerage", it may further cover storm sewer systems, as well as sanitary sewer systems. We interpret this definition to mean that, in effect, any moneys received through the state from the federally-funded community development block grant program, or the waste water pollution control revolving fund, or the economic development infrastructure fund, or the water plan fund, would mandatorily trigger the development of a conservation plan if a water or "sewer" system is involved.

We have no particular problem with the intent if the proposed project would have a significant impact on the consumption of water. We would suggest the following alternative language: **improvements or repairs to an existing water supply, sanitary sewer system or water treatment system which would significantly increase the amount of water used**.

If you are troubled by the vagueness of the word "significantly", we have no objection to specifying an amount, even a fraction of 1%; or delegating to the chief engineer the authority to determine what is significant. It seems to us that the chief engineer has enough to do without adding a review process on municipal projects irrelevant to the conservation of water.

#### **Comments on Section 4(a)**

As we understand subsection (a), beginning on line 13, page 4, the actual requirement of a conservation plan would occur on a case-by-case basis, subject to the listed priorities. Further, the requirement that the Kansas Water Office provide or arrange for technical assistance (line 3-6, page 5) may place practical limits on the process. However, we have in place in this state a local government system that works pretty well. We acknowledge some sensitivity as to criticism made by state officers and employees about the management of local affairs, and sometimes wonder how much the cost of local government services would increase if they were controlled by state experts. In any event, we think it inappropriate for the state to intervene in the management of local programs and practices except for extraordinary state policy reasons. Our basic reaction to state mandates is that "if you get to call the tune, you ought to pay the piper". Thus, we submit three suggestions.

First, we are not comfortable with factor 3, on line 22, which refers to "water users whose

use is significantly higher than their peers". Presumably this means, for example, that if the water consumers of a city of 2,000 is 25% more than occurs in a comparable sized city, perhaps or perhaps not in the same area, then that city becomes subject to the chief engineer's mandate. One can assume that the peer relation will be determined rationally and in good faith, and compare the existence of high volume users. Hopefully also, the source of supply will be considered in the peer comparison. One can question whether the state should mandate a conservation plan where a surface water supply is used, and the quantity or quality of water below stream is more than the above stream intake, even though that city "processes" twice as much as a similar city.

We also wonder who constitutes a "peer". Must the "peer" be in the same area? Share a common source? If a city of 640 acres uses twice as much water as another city of similar size and population, but uses less water than is used by a nearby 640 acres under irrigation, which is the "peer"? I am not sure how to resolve this issue. We do suggest this factor deserves more consideration and refinement. **If it cannot be made more definitive, we propose this factor be deleted.**

Secondly, in the case-by-case selection basis for mandated conservation plans, some legislative guidance as to the public interest should be included as a factor. For example, the legislature has stipulated by law that the Kansas State Office guidelines for water conservation plans and practices shall "not require curtailment in water use which will not benefit other water users or the public interest". This may or may not be implicit in Section 4. We are simply suggesting that the chief engineer should not be authorized to mandate a conservation plan, notwithstanding the priority factors list in subsection (a), unless there is some reasonable evidence of the public benefits and the promotion of the public interest to be derived. We propose a new sentence similar to the following to be added in line 24, page 4:

**"The chief engineer shall not mandate the adoption and implementation of conservation plans and practices except pursuant to a finding that such plans and practices will assure public benefits and promotion of the public interest."**

Thirdly, we have considered possible ways to assure that state implementation of Section 4 of HB 2037 will be fairly and uniformly applied to urban and rural areas and to the different kinds of water users, including the use of water for land irrigation as well as for human consumption. In terms of the total waters of the state, you could cut municipal water systems in half and still only reduce the total water use by less than 5%. We are worried that municipal systems will be targeted. We would be pleased if the Committee would add an amendment to explicitly establish fairness and consistency as a legislative policy for state mandated water conservation plans and practices.

In conclusion, I want to emphasize that we are not opposed to water conservation, as noted in our convention policy. However, we are fundamentally opposed to state mandates, and thus seek a reasonable compromise to these conflicting objectives.

# GALLONS OF WATER USED IN KANSAS-1989

From Reports of the Kansas Water Office

<u>User</u>	<u>Surface Water</u>	<u>Ground Water</u>	<u>Percent of Total</u>
Domestic	2,685,011	20,616,589	0.0013%
Industrial	30,367,475,386	37,579,297,672	3.8912%
Irrigation	53,337,295,621	1,464,739,203,705	86.9366%
Municipal	60,392,751,838	63,381,216,045	7.0882%
Recreation	23,957,666,886	3,699,037,731	1.5839%
Stock Water	65,831,676	8,643,689,780	0.4988%
Totals	168,123,706,418	1,578,063,394,522	1,746,187,100,940
Percent	9.628%	90.372%	100%