

Approved: 3-9-99
Date

MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

The meeting was called to order by Chairperson Senator David Corbin at 8:00 a.m. on March 4, 1999 in Room 254-E of the Capitol.

All members were present except: Senator Pugh and Senator Stephens who were excused.

Committee staff present:

Raney Gilliland, Legislative Research Department
Mary Ann Torrence, Revisor of Statutes Office
Lila McClafin, Committee Secretary

Conferees appearing before the committee:

Al Le Doux, Director, Kansas Water Office
Tracy Streeter, Executive Director, State Conservation Commission
Allie Devine, Secretary, Kansas Department of Agriculture
Bill Roenbaugh, Water Production Association of Central Kansas (PACK)
Sam Crissman, Groundwater Management District #5
David Pope, Chief Engineer, Division of Water Resources
Sharon Falk, Groundwater Management District #5

Others attending:

See attached list.

Chairperson Corbin said the agenda was to continue to discuss water issues and to hear from the Water Production Association of Central Kansas (Pack) and Groundwater Management District #5. He called on Al Le Doux.

Al Le Doux, Director, Kansas Water Office, said a schedule of the participants they had arranged for had been distributed (Attachment 1). He said each participant would address the water issues from their own area.

Tracy Streeter, Executive Director, State Conservation Commission, gave a brief synopsis on the Water Rights Purchase Program. In conclusion, Mr. Streeter said if the Big Bend GMD #5 application is funded and the program is proven to be successful, additional funding requests for the Rattlesnake Creek Sub-basin are anticipated. It is also anticipated that the process to be established to identify and purchase water rights in the Rattlesnake will serve as the prototype for any future conservation efforts proposing the purchase of water rights. He suggested this would be a good project for an interim committee (Attachment 2).

Kent Lamb, Chairman, Kansas Water Authority, said in their letter to the Governor in December 1998 they recommends support of the Rattlesnake Creek Project (Attachment 3).

Secretary Allie Devine said as the Governor's secretary they thought this was an ideal pilot project and they would like to go on record as saying "me too".

Bill Roenbaugh, for Water PACK, presented a brief history of the Quivira Partnership and the resulting Rattlesnake Creek Sub-basin Management Plan. He reviewed the Rattlesnake Creek Management Plan. He said the philosophy of this plan is to provide incentive based alternatives within each targeted area and within the basin in general. A map of the Rattlesnake Creek Subbasin Draft Management Areas was distributed and a copy of the Rattlesnake Creek Basin/Quivira Partnership Agreement (Attachment 4).

Sam Crissman, representing the board of directors of the Big Bend Groundwater Management District No. 5, told the committee he is a farmer in Stafford County. He told the committee they are the first group in the state to seriously consider the Water Purchase Program. They believe the Rattlesnake Creek Project

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, Room 254-E Statehouse, at 8:00 a.m. on March 4, 1999.

could serve as a pilot for the rest of the state. He further stated, the funding of this program may be instrumental in eliminating further costs normally associated with resolving water right issues. In closing, he requested the committee seriously consider an interim study to obtain important facts and information (Attachment 5).

David Pope, Chief Engineer, Division of Water Resources, testified in support of the Rattlesnake Creek Basin/Quivira Partnership Agreement Project. He said a lot of hard work and service effort has gone into this project, and this group has really got involved and looked at the issues and facts.

Bill Roenbaugh distributed a letter from United States Department of the Interior, Fish and Wildlife Service. This letter transmits the U.S. Fish and Wildlife Service's support of the Water Rights Buyback and Water Banking components that will be included in the Rattlesnake Creek Management Proposal (Attachment 6). Mr. Roenbaugh responded to questions.

Responding to a question, on why funding of the project was not included in the budget, Secretary Devine, said the request came very late in the budget process, and the money had already been allocated for other projects.

Sharon Falk responded to a question. Tracy Streeter explained why the rules and regs had not been set.

In closing remarks Al Le Douex said the responsibility of the different water authority agencies did not over lap. He told the committee that the Legislature could take a lead in these water issue roles. If this issue were recommended for an interim committee study it would allow time for an indepth discussion and study. Responding to a question, he said if the request to fund the pilot project came to them early enough there is a possibility it would be funded from the Water Plan Fund. He certainly thought it was a worthwhile project and that it should be funded.

STATE OF KANSAS



Bill Graves, Governor

KANSAS WATER OFFICE
Al LeDoux
Director

Suite 300
109 SW Ninth
Topeka, Kansas 66612-1249

785-296-3185
FAX 785-296-0878
TTY 785-296-6604

SENATE ENERGY & NATURAL RESOURCES COMMITTEE
BRIEFING ON WATER RIGHTS PURCHASING

March 4, 1999

I. Introductions of Participants Al LeDoux 1

A. State Conservation Commission Executive Director, Tracy Streeter 2

 History of Water Rights Purchasing/Review of Current Statute

B. Kansas Water Authority Chairman Kent Lamb 3

 Authority's Recommendation on Water Rights Purchasing Issue

C. Kansas Department of Agriculture Secretary Allie Devine

 Department of Agriculture Perspective

D. Quivira Partnership

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 Outline of Partnership & review of Rattlesnake Creek Management Plan

 2. Groundwater Management District #5 *Sam Crissman* Ms. Sharon Falk 5

 3. Division of Water Resources Chief Engineer, David Pope

 4. United States Fish & Wildlife Service

 (Letter from Ms. Cheryl Williss - Chief of Water Resource Division) 6

II. Re-cap of issue and suggested committee participation Al LeDoux



State Conservation Commission

109 SW 9th Street
Suite 500, Mills Building
Topeka, KS 66612-1299

Telephone: (785) 296-3600 • Fax (785) 296-6172



MEMORANDUM

March 4, 1999

TO: Senate Energy and Natural Resources Environment Committee

FROM: Tracy Streeter, Executive Director *Tracy Streeter*

SUBJECT: Water Rights Purchase Program

Mr. Chairman and members of the committee, thank you for the opportunity to appear today to provide a briefing on the Water Rights Purchase Program. Following is a brief synopsis of the program:

Authority

The program was created by the 1988 Legislature by amending K.S.A. 2-1915, 2-1919 and 82a-707. These amendments contain provisions for the State Conservation Commission to administer the program with the Chief Engineer, Division of Water Resources carrying out certain technical responsibilities.

Concept

As the name implies, the program provides a mechanism for the state to purchase from a willing seller, all or a portion of a water right. The state may provide up to 80 percent of the negotiated purchase price with a local entity providing an assurance to pay at least 20 percent of the purchase price. After the purchase is complete, the water right is placed in the custodial care of the state and will not be considered for further appropriation.

Limitations

To be eligible, the seller must possess either an active vested or certified water appropriation right which has not been abandoned. In addition, the location of the water right must be in an area which the Chief Engineer has closed to further appropriation and designated as being in need of either stream flow recovery or aquifer restoration and, the rate of groundwater withdrawal in the area equals or exceeds rate of recharge.

Current Status

Rules and regulations to operate the program are in the initial draft stage and will likely undergo a review and edit by the participating agencies and potential applicants prior to submittal for formal review and approval.

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Water Rights Purchase Program
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Big Bend Groundwater Management District No. 5 requested financial assistance from the State Conservation Commission in 1997 and again in 1998. The request totaled \$320,000, equaling 80 percent of the cost of five water rights estimated at \$80,000 each. GMD No. 5 is serving as the entity to provide the local portion of the purchase cost. Water rights proposed for purchase are located in the Rattlesnake Creek Sub-basin. The Commission included the application in the FY 1999 budget and again in the 2000 budget, requesting funding from the State Water Plan Fund. Funding for these requests were not included for either year in the Kansas Water Authority's funding recommendations to the Governor and Legislature. No funds have been appropriated to this program since its inception.

Conclusion

If the Big Bend GMD No. 5 application is funded and the program is proven to be successful, additional funding requests for the Rattlesnake Creek Sub-basin are anticipated. It is also anticipated that the process to be established to identify and purchase water rights in the Rattlesnake will serve as the prototype for any future conservation efforts proposing the purchase of water rights.

The purchase of water rights through this program will require careful thought and consideration from a policy perspective. Issues of where to purchase and how much is paid must be evaluated from the outset to ensure the conservation objective is met while at the same time establishing a fair price for the water right.

This concludes my briefing of the Water Rights Purchase Program. I will be glad to respond to questions at the appropriate time.

KANSAS WATER AUTHORITY

300, 109 S.W. 9th Street, Topeka, KS 66612-1249 (913) 296-3185



Kent Lamb, Chairman

RR 1, Box 69, Macksville, KS 67557 (316) 348-2315

December 1, 1998

The Honorable Bill Graves
Capitol Building, Room 212-S
Topeka, KS 66612-1590

Dear Governor Graves:

On behalf of the Kansas Water Authority, I am pleased to submit to you and the 1999 Legislature our Annual Report on Recommendations to Implement the *Kansas Water Plan*.

This report contains Objectives developed for the *Kansas Water Plan*. The transmittal of these Objectives culminates almost two years worth of effort on the part of the Authority to establish a set of objectives for the *Kansas Water Plan*. The purpose of these objectives is to guide state programs to effectively address priority issues; to evaluate the effectiveness of the Plan in setting policies; and to improve the condition of the water resources in the state.

This report also highlights Kansas water planning activities for the FY 2000. We have no new or amendatory legislation related to those items at this time.

New receipts to the State Water Plan fund for FY 2000 are anticipated to be \$16,545,726. With a beginning balance of \$679,452 in the fund, a total of \$18,021,551 is available and expenditure recommendations have been made to equal that amount.

The Authority recommends that the Aid To Conservation Districts Program; the Western Kansas Irrigation Research Project and the Geographic Information Systems Manager be funded from sources other than the State Water Plan Fund.

The Authority also recommends support of the Rattlesnake Creek Project, which is an effort to comprehensively address the water quantity and quality concerns in that watershed. One recommendation of the project is the use of the Water Rights Purchase Program. The Authority wants the opportunity to review the regulations for this program prior to approval of funding.

The Authority sincerely appreciates your confidence and support. We will continue to do our job for you, the Legislature and the citizens of Kansas.

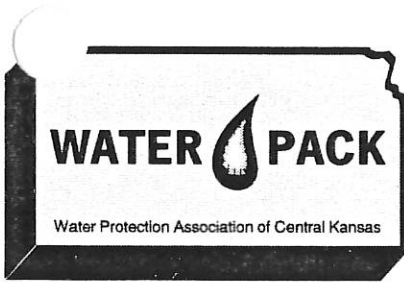
Sincerely,

Kent Lamb, Chairman
Kansas Water Authority

Senate Energy & Natural Resources

Attachment: 3

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March 4, 1999

TO: House Environment Committee

FROM: Jacob W. Roenbaugh, Writing for Water PACK

SUBJECT: Quivira Partnership as related to Water Banking and the Water Rights Purchase Program

Madame Chairman and members of the committee, thank you for the opportunity to present to you a brief history of the Quivira Partnership and the resulting Rattlesnake Creek Subbasin Management Plan. Our objective in presenting this information to you today is to encourage the legislature to engage in an interim study of water issues specifically pertaining to water banking and the water rights purchase program.

History

After the conclusion of the IGUCA hearings addressing water supplies for the Cheyenne bottoms Wildlife Area, and a report by the Kansas Geological Survey suggesting that groundwater pumping was contributing to reduced flows into Quivira National Wildlife Refuge, QNWR, WaterPACK approached the current Quivira Partners and asked them to participate in a joint study of the basin and its water resource issues.

The premise that Water Pack used in approaching each of the partners was: Given the same good scientific data, we would all independently come to the same conclusions. This approach was very much in contrast to the independent and adversarial approach taken by all parties in the Wet Walnut IGUCA hearings.

In 1994 WaterPACK, USFWS, GMD#5, and the State of Kansas, represented by the Division of Water Resources, signed a formal partnership agreement to study the water resources of the Rattlesnake Creek Basin and jointly address the issues of stream flow into the QNWR. The agreement and a statement of issues and objectives is attached as part of this testimony.

Beginning in 1994 the partnership started meeting on a monthly basis. Within a year the DWR subbasin management program was integrated into the partnership effort. The partnership's first task was to establish the issues to be addressed and then begin the task of identifying water management alternatives in the basin. In conjunction with identifying water management alternatives in the basin as part of the partnership, each of the Quivira partners engaged in their own independent part of the process. The USFWS began a \$1.3 million study to determine on-refuge management alternatives that would reduce their dependence on timely flows from the

Senate Energy & Natural Resources

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Rattlesnake Creek. The GMD continued mineral intrusion studies and stream-aquifer tests. WaterPACK began an Irrigation and Water Management Demonstration Project with Kansas State University. DWR invested in development of a model called SwatMod to test management alternatives.

The results of hundreds and hundreds of days of effort by scientists, water users, water administrators, hydrologists, and biologists has resulted in a draft water management plan for the Rattlesnake Creek Basin.

Rattlesnake Creek Management Plan Overview

The philosophy of this management plan is to provide primarily incentive-based alternatives within each targeted area and within the basin in general to provide economic alternatives to strict regulation as a method of management.

The RSCMP breaks the basin into three management areas. (See map.)

1. A stream corridor effecting both timing and total flows into the QNWR.
2. An area of the basin North of the RSC that effects overall long term flows into the RSC and includes an area of sensitive high decline areas.
3. An area of mineral intrusion on the eastern boundary of the basin that is effecting water quality in that area.

The partnership has established new target water use levels for each of these management areas. The new target use levels should be obtained in a 12 year period of the plan. In each of the management areas there are a similar set of water management alternatives. Each alternative has an associated credit for water use reduction.






In the corridor there are five water management alternatives.

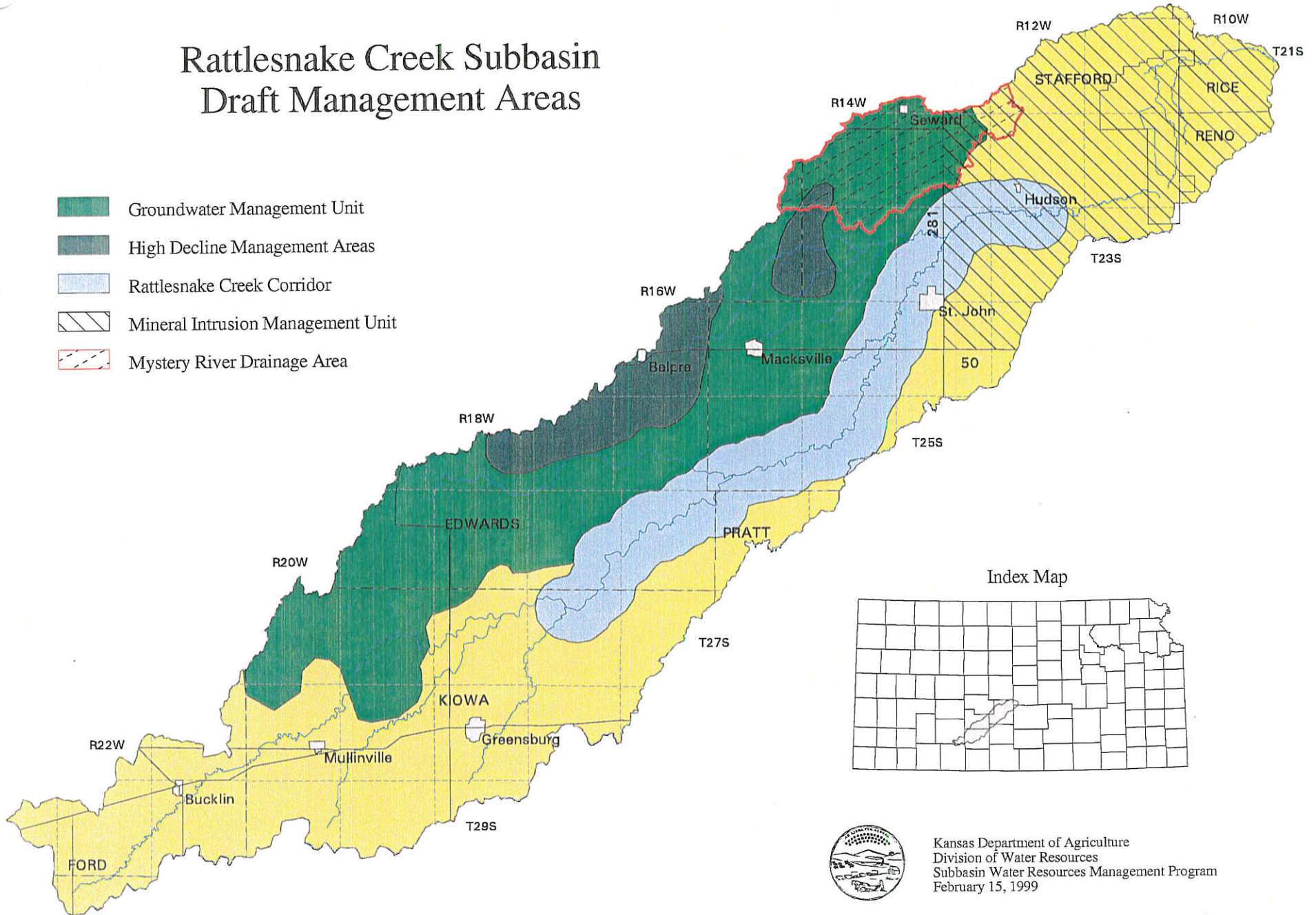
1. Water Rights Purchase program
 - A. Targets purchases towards sensitive areas of the basin
 - B. Provides relief for timing issue with QNWR
2. Water conservation
 - A. Reduced water use from technology adaptation, SCC & KSU
 - B. Reduced water use from management changes
3. Enhanced compliance and enforcement
 - A. Reduce over pumping through DWR and GMD programs
 - B. Increase incentives to adopt water management technology
4. Water Banking
 - A. Creates incentives to move water from sensitive to less sensitive areas
 - B. Provides incentives to move water to best use
 - C. Provides incentives for water conservation

5. GMD's 5yr rolling average program
 - A. Provides alternatives for growers while reducing use with a conservation component.

This is a good management plan. But, it will not succeed without your help. We need continued support from the SCC, the Kansas Water Office, the Department of Agriculture and your committee. The Water Rights Purchase program and the Water Banking proposal will both require direct legislative action in the 2000 session. I would encourage you to study these specific issues in an interim committee before the 2000 session. As we have just stated, Water Banking and the Water Purchase Program are a critical part of this management plan. Thank you for the opportunity to bring these issues to this committee for your consideration.

Rattlesnake Creek Subbasin Draft Management Areas

-  Groundwater Management Unit
-  High Decline Management Areas
-  Rattlesnake Creek Corridor
-  Mineral Intrusion Management Unit
-  Mystery River Drainage Area



Kansas Department of Agriculture
 Division of Water Resources
 Subbasin Water Resources Management Program
 February 15, 1999

RATTLESNAKE CREEK BASIN/QUIVIRA PARTNERSHIP AGREEMENT

GOALS OF PARTNERSHIP:

To work in a cooperative manner to develop and implement solutions to water resources problems within the Rattlesnake Creek basin; to use a community involvement approach to address issues in the Rattlesnake Creek basin; to provide a line of communication between the Division of Water Resources, Subbasin Water Resources Management Program, Basin Management Team, the residents and water users located in the targeted Rattlesnake Creek basin.

STATEMENT OF ISSUES:

Fluctuations in the aquifer levels in the Rattlesnake Creek Basin result in flows that are inadequate in some years or portions of some years to allow objective level management of Quivira National Wildlife Refuge. Groundwater withdrawals, especially during drought conditions, reduce surface water flows. Irrigation demands for water often coincide with the demands for water at the refuge. The Partnership members desire, through management of available supplies, to assure adequate water for all users, to sustain profitable agriculture and abundant wildlife and habitat and to insure an acceptable standard of living for basin residents.

PARTNERS OBJECTIVES:

U.S. Fish and Wildlife Service - Assure adequate quality and quantity of water for the management of Quivira National Wildlife Refuge.

Division of Water Resources - Manage groundwater and surface water of Rattlesnake Creek Basin within the framework of the Kansas Water Appropriation Act, K.S.A. 82a-701 et seq., enacted June 28, 1945 as subsequently amended.

Big Bend Groundwater Management District No. 5 - Preserve and manage sustained yield of water for all users within the Rattlesnake Creek Basin.

Water Protection Association of Central Kansas - Manage and encourage the conservation of water within the Rattlesnake Creek Basin to meet the needs of irrigated agriculture and other water users in the basin.

JOINT PRINCIPLES:

1. The partners are committed to a cooperative approach and to acknowledge the interests of all residents within the basin.
2. Water conservation shall be a guiding principle for all partners.
3. The partners are committed to joint planning efforts, to minimize duplication of work and maximize use of available resources.

4. The Partnership shall recognize the different obligations, duties, responsibilities and roles that each partner has outside the Partnership.

PARTNERS' ROLES WITHIN THE PARTNERSHIP:

1. Partnership meetings shall provide a forum for all partners to share any data, studies or information concerning the issues stated above. Each partner shall be committed to sharing with all other partners knowledge of planned or on-going studies, research, or investigations regarding any of the issues stated above.

2. The partners will develop action plans which are agreed upon by all partners in order to achieve the Partnership goals.

Acting

Deputy

Robert D. Peterson
Regional Director
U.S. Fish and Wildlife Service

6/23/94
date

Kevin R. Schultz
Pres., Board of Directors,
Big Bend #5 Groundwater
Management District

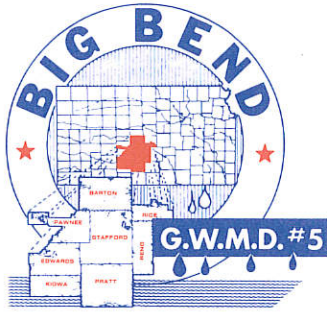
6-9-94
date

Kent L. Moore
Pres., Board of Directors,
Water Protection Association
of Central Kansas

6-6-94
date

David W. Bone
Chief Engineer, Kansas
Division of Water
Resources

June 6, 1994
date



Big Bend Groundwater Management District No. 5

125 South Main • P.O. Box 7 • Stafford, Kansas 67578 • Phone 316-234-5352

BRIEFING
TO THE SENATE ENERGY AND NATURAL RESOURCES COMMITTEE
CONCERNING
WATER RIGHTS PURCHASE AND WATER BANKING PROGRAMS
BY
SHARON FALK, MANAGER
BIG BEND GROUNDWATER MANAGEMENT DISTRICT NO. FIVE

On behalf of the Board of Directors, Big Bend Groundwater Management District No. Five, I would like to thank Chairperson Corbin and committee members for the opportunity to visit with you today about a very important program ongoing in Kansas.

The Groundwater Management District encompasses 2.5 million acres in all or part of eight counties located in south central Kansas and represents the water users in this area. The District conducts research and develops policy promoting the wise use of the resource.

The District, along with the Division of Water Resources, Water Pack, and the United States Fish and Wildlife Service, have formed a partnership to address water resource issues in the Rattlesnake Creek Basin. The Rattlesnake Creek Basin is located in the Groundwater Management District.

The Partnership has been working diligently for four years to develop a management program that is now being reviewed by the public. This program will require participation from all water users in the basin in respect to the conservation and efficient use of the water resources.

Two programs being considered in the Rattlesnake Creek Basin are the Water Rights Purchase Program and the Water Banking Proposal. They are part of a five program package designed to reduce water use.

Both of these programs are somewhat new to Kansas. The water banking concept was further developed by a special task force and should be considered by the legislature as a viable tool in the redistribution of water in sensitive areas. The Water Purchase program is currently in the statute books, but has never been explored as a method to remove water rights in water short areas. Both programs have the potential to ward off future conflicts concerning water issues.

Presented by Sam Crisman

Senate Energy & Natural Resources

Attachment: 5

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The District has made application with the State Conservation Commission to use the Purchase Program and have committed to the local funding portion of the program. Current guidelines of the Conservation Commission focus on hydrologic and environmental conditions to prioritize funding. The Rattlesnake Creek Basin meets the majority of those requirements.

We are the first group in the State of Kansas to seriously consider the Water Purchase Program. We believe the Rattlesnake Creek Project could serve as a pilot for the of rest of the State in the application of this program. In this situation, The State of Kansas, as a whole, will benefit from this program being implemented, due to the environmental rewards. Funding of this program may also be instrumental in eliminating further costs normally associated with resolving water right issues.

The District is committed to resolving the issues in the Rattlesnake Creek Basin and request this committee seriously consider an interim study to obtain important facts and information in the application and importance of the Water Rights Purchase and Water Banking Programs prior to full legislative review.

Thank you for the opportunity to visit with you today regarding this very important issue.



United States Department of the Interior



FISH AND WILDLIFE SERVICE Mountain-Prairie Region

BA WTR
KS30.00.10
Mail Stop 60189

MAILING ADDRESS:
Post Office Box 25486
Denver Federal Center
Denver, Colorado 80225

STREET LOCATION:
134 Union Blvd.
Lakewood, Colorado 80228

Ms. Sharon Falk
Groundwater Management District #5
125 South Main
P.O. Box 7
Stafford, Kansas 67578

Dear Ms. Falk:

This letter transmits the U.S. Fish and Wildlife Service's support of the Water Rights Buyback and Water Banking components that will be included in the Rattlesnake Creek Management Proposal. The Service supports the efforts by the Quivira Partnership to develop a workable incentive-based program, and believes that with adequate funding and cooperation, this approach will help resolve the water supply problems of the basin.

The Water Rights Buyback and Water Banking programs are both necessary if the water reduction goals developed by the Partnership are to be met. The Water Banking program will enable water users to have flexibility in water use and management of their farming operations, while still providing a means for water conservation. The Water Buyback program will provide a means for permanently retiring water rights, and will be targeted toward areas where the greatest benefits will be received. The successful implementation of these programs will help ensure that administrative procedures will be unnecessary or minimal, so that disruption of the agricultural economy is avoided and the hydrologic health of the basin is maintained in a positive way.

Please give me a call if you have any questions at (303)236-5322, X232.

Sincerely,

Cheryl Williss, Chief
Water Resources Division

Enclosure

cc: Refuge Manager, Quivira NWR

WATER RESOURCES
RECEIVED

MAR 01 1999

Senate Energy & Natural Resources KS DEPT OF AGRICULTURE

Attachment: 6

Date: 3-4-99

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