

Approved: 3-16-99
Date

MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

The meeting was called to order by Chairperson Senator David Corbin at 8:15 a.m. on March 11, 1999 in Room 254-E of the Capitol.

All members were present.

Committee staff present:

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

Conferees appearing before the committee:

Others attending:

Mary Jane Stattelman, Attorney, Kansas Department of Agriculture
David Pope, Director, Water Resources Program, Kansas Department of Agriculture
Mike Beam, Kansas Livestock Association
Leslie Kaufman, Kansas Farm Bureau
Clark Duffy, Kansas Water Office

See attached list.

The hearing on **HB 2404** was opened by Vice-Chairperson Morris. Staff was called on to brief the Committee on **HB 2404: Termination of water right; notice to user of due and sufficient cause exception.**

Mary Jane Stattelman said she had discussed the bill with David Pope when it was introduced on the House side. She said in the last few years they have reviewed some abandoned water rights and this has created more interest than has been shown in the past. This legislation would add some safe guards to protect peoples water rights. She said the only cost to them would be the data search and the notification procedure. And she thought currently there are sufficient options in place that allows people to protect their water rights. In response to a question regarding circumstances that are considered "due and sufficient cause" for non use, a list of 10 specific circumstances that are used to make this determination was provided (Attachment 1).

David Pope said the Division of Water Resources is not proactively seeking abandoned water rights. The water right owner is statutorily entitled to a notice and hearing to allow full consideration of all evidence, before a final decision is made on abandonment. He responded to questions about when the procedure is used and the criteria used to make the determination, and he gave several examples of when this might happen, and how it might protect a junior water right owner's investment.

Mike Beam supported the bill, as they liked the extended time from three to five year period for using appropriated water in order to preserve a water appropriation right. They liked the notification procedure established in subsection (b), and the "due and sufficient" cause provision in the bill. He urged the committee to give the bill favorable consideration (Attachment 2).

Leslie Kaufman, Assistant Director, Public Affairs Division, Kansas Farm Bureau, said the passage of **HB 2404** which would create a notification process that protects water rights during periods of non-use, would allow their members to better adapt to their varying needs (Attachment 3).

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, Room 254-E Statehouse, at 8:00 a.m. on March 11, 1999.

Clark Duffy said he would like to add an amendment to **HB 2404** that would allow the Kansas Water Office to acquire the Sunflower Water Rights. Attached to his testimony is a copy of the proposed legislation, a map of the Kansas River Basin Water Assurance District, a letter from the City of DeSoto supporting the proposed amendment, memorandum from Mike Armstrong with Water District #1 and Al LeDoux, Director, Kansas Water Office (Attachment 4). He explained why they thought it was appropriate for the Kansas Water Office to analyze how to dispose of the water rights at the former Sunflower Army Ammunition Plant in the most prudent manner, and yet not interfere with the land transaction.

The meeting ran up against time restraint. Chairperson Corbin asked Mr. Duffy to return another day, and the hearing was continued until that time. When the continuation time is set the secretary will notify the interested parties.

The meeting adjourned at 9:02 a.m. The next meeting will be on March 16.

SPECIAL WATER ISSUES AND CONCERNS

ABANDONMENT (K.S.A. 82a-718)

Water is a life sustaining natural resource. Every Kansan is entitled to the opportunity to beneficially use the water resource to the limits of its availability. If water is not to be used as prescribed under the terms, conditions, and limitations of a water right the owner must show due and sufficient cause for non use so as not to deprive others that opportunity. Prior appropriation doctrine and related statutes define water held by the state as a public resource to be beneficially used by the people. This fact obligates the Chief Engineer to protect the water right owners opportunity to use the water beneficially. It is further provided in the statutes that if the water resource is not used beneficially for 3 consecutive years without due and sufficient cause the owner shall forfeit his right to its use in order to ensure others are not deprived of the opportunity to use it for their beneficial use.

The concept of beneficial use is considered so important that it is defined in the statutes by type of use, some of which are non consumptive. However, it is also recognized that users may endure circumstances that would prevent them from reasonably maintaining beneficial use even after three years. Therefore, regulations set forth a number of acceptable reasons (due and sufficient cause) for not using water that will protect the water right against forfeiture.

Specific circumstances that are considered due and sufficient cause for non use: (KAR 5-7-1)

- 1) Adequate moisture is provided by natural precipitation for production of crops normally requiring full or partial irrigation within the region of the state in which the place of use is located
- 2) A water right has been established or is in the process of being perfected for use of water from one or more preferred sources in which a supply is available currently but is likely to be depleted during periods of drought
- 3) water is not available from the source of water supply for the authorized use at times needed
- 4) water use is temporarily discontinued by the owner for a definite period of time to permit soil, moisture and water conservation, as documented by:
 - a) enrollment in a multi year federal or state conservation program
 - b) enrollment in the Division of Water Resources water right conservation program (KAR 5-7-4)
 - c) any other conservation method acceptable to the Chief Engineer in advance
- 5) management and conservation practices are being applied which require the use of less water than authorized
- 6) a well has been previously approved as a standby well
- 7) physical problems exist with the point of diversion, distribution system, place of use or operator; reasonable efforts must be taken to correct the problems
- 8) conditions exist beyond the control of the owner which prevent access to the place of use or point of diversion; reasonable efforts must be taken to gain access
- 9) an alternate source of water supply was not needed and was not used because the primary source was adequate
- 10) any other reason constituting due and sufficient cause as determined by the Chief Engineer

Every effort is made to provide a way to protect a water right if the circumstances for non use are legitimate. However, the Division of Water Resources is obligated to ensure that negligence or selfish interests are not depriving others of an opportunity for beneficial use of water.

The water right owner is statutorily entitled to a notice and hearing to allow full consideration of all evidence, before a final decision is made on abandonment. The Division is not proactively seeking abandoned water rights. However, water rights that are part of a property transaction, seeking a certificate of appropriation, or change application are examples of circumstances when the water right must be in good standing and not abandoned for the transition proceed.

Senate Energy & Natural Resources

Attachment: 1

Date: 3-11-99



Since 1894

To: The Senate Energy and Natural Resources Committee
Senator David Corbin, Chairman

From: Mike Beam, Executive Secretary, Cow-Calf/Stocker Division

Subj: Support of House Bill 2404 - Water Appropriation Rights

Date: March 11, 1999

Mr. Chairman and committee members, I'm Mike Beam with the Kansas Livestock Association (KLA). We support HB 2404 because it provides increased protection of a valued property right and enhances water conservation.

It's our understanding the bill extends the consecutive three year period to five years for using appropriated water in order to preserve a water appropriation right. Although the Division of Water Resources has given water right holders considerable flexibility for exceptions to this "use it or lose it" doctrine, extending the statutory period to five years will send a comforting message to water users who may fear the loss of their appropriation right.

We also like the provision in new subsection (b) that establishes a notification to water right holders if they are in jeopardy of having their right terminated because of non-use or failure to report water usage. This provision, if adopted with the five successive year amendment, gives water right holders two years to provide evidence that non-use was for "due and sufficient" cause or take actions to put water to beneficial use.

Again, we believe the provisions of HB 2404 are positive changes to the water appropriation law and urge this committee to give the bill favorable consideration. Thank you.

Senate Energy & Natural Resources

Attachment: 2

Date: 3-11-99



PUBLIC POLICY STATEMENT

SENATE COMMITTEE ON ENERGY & NATURAL RESOURCES

RE: HB 2404 – Developing a notification procedure that protects water rights during periods of non-use.

**March 11, 1999
Topeka, Kansas**

**Prepared by:
Leslie Kaufman, Assistant Director
Public Affairs Division
Kansas Farm Bureau**

Conserving water must be a goal for all Kansans. It is a high priority for farmers and ranchers. Farm Bureau certainly appreciates this opportunity to express support for HB 2404 as amended by the House Environment Committee and approved by the full House. The bill creates a notification process that protects water rights during periods of non-use.

I am Leslie Kaufman. I serve as the Assistant Director of the Public Affairs Division for Kansas Farm Bureau.

Policy developed and approved by the farm and ranch members of the 105 county Farm Bureaus in Kansas recommends:

“Water permits should not be jeopardized even if the water allocation authorized is not fully utilized by the permittee.”

We believe HB 2404 will increase water conservation, and at the same time protect water rights. The measure will assist landowners in moving away from the concept of “use it, or lose it” when it comes to utilizing our vital water resource. Changes in weather conditions and in cropping systems often vary the need for water from year to year. The changes proposed in HB 2404 would allow water users to better adapt to these varying needs.

As such, we encourage passage of HB 2404. We will respond to any questions that the committee may choose to ask. Thank you!

Senate Energy & Natural Resources

Attachment: 3

Date: 3-11-99

3-1

SENATE ENERGY & NATURAL RESOURCES COMMITTEE

BY KANSAS WATER OFFICE

March 11, 1999

PROPOSAL FOR STATE OF KANSAS TO PURCHASE SUNFLOWER ARMY
AMMUNITION PLANT WATER RIGHTS

At the request of Kansas Development Finance Authority, the Kansas Water Office (KWO) has analyzed how to dispose of the water rights at the former Sunflower Army Ammunition Plant in the most prudent manner, and yet not interfere with the land transaction.

Status of the Water Rights

The Sunflower surface water right, File No. 37, is for a maximum quantity of 42,523 acre-feet and the ground water right, File No. 38 is for a maximum quantity of 11,201 acre-feet. These water rights are a part of a complex hydrologic river-reservoir system that is uniquely managed by a combination of three state programs: Water Appropriation Act, Water Marketing Program and the Water Assurance Program.

The Kansas Water Office does not believe that these water rights are an asset to the federal government. The water rights in question carry with them a significant financial obligation of over \$1 million to the Kansas River Water Assurance District. However, the actual purchase price has not yet been set by the General Service Administration.

The City of DeSoto, Water District No. 1 of Johnson County and the State of Kansas have all made application to the General Service Administration (GSA) for the purchase of the water rights. The following tables highlight the water supply status of the applicants and the entities in the vicinity of the Sunflower Plant.

The disposition of the water rights should:

1. Facilitate transfer of land and water rights from the former Sunflower Plant.
2. Ensure City of DeSoto's current contractual obligations are met.
3. Ensure Kansas River Water Assurance District is not "harmed" financially.
4. Ensure water needs of Oz Entertainment Company are met.
5. Help ensure the long-term water demands (year 2040) of Water District No. 1 of Johnson County, DeSoto, the surrounding communities and the Assurance District are met.

Recommendation

It is recommended Legislation be enacted to allow the Kansas Water Office to acquire the Sunflower water rights.

If managed correctly the Sunflower water rights can help all public water suppliers in the region meet their needs. This will take time.

Passage of this legislation will allow the KWO to negotiate with the GSA for disposal of the water rights. This could include everything from purchase to simply returning the rights to the State. After the water rights are acquired all interested parties will have time to negotiate an agreement to recommend to the Legislature the best way to put the water rights to beneficial use.

Background information attached:

1. Proposed Legislation
2. Map of Area
3. Background - Water Appropriation Act
4. Background - Water Marketing Program
5. Background - Water Assurance Program

Senate Energy & Natural Resources

Attachment: 4

Date: 3-11-99 4-1

APPLICANTS NEEDS FOR SUNFLOWER PLANT WATER RIGHTS (MGD)

	Year 2020	Current Water Rights	Additional Needs	Sunflower Water Rights
City of DeSoto	0.59	0.37	0.22	
Water Dist. 1 Jo. Co.	66.68	70.16	0.00	
Oz (@ 10 MGD) ¹	10.00		10.00	
Surface WR #37				16.66
Ground water right #38				8.06
TOTALS in Gals./Year	77 MGD	71 MGD	10 MGD	25 MGD

¹ Oz Company does not want water rights. It wants to purchase water from an existing public water supplier.

WATER SUPPLIERS THAT COULD BE SERVED BY SUNFLOWER WATER RIGHTS

Purveyor	2040 Demands (MGD)
Baldwin	0.69
DeSoto	0.82
DG Co RWD 2	0.24
DG Co RWD 3	0.37
DG Co RWD 4	0.56
DG Co RWD 4	0.001
DG Co RWD 5	0.44
DG Co RWD 6	0.09
Edgerton	0.13
Eudora	0.77

Purveyor	2040 Demands (MGD)
Jefferson Co RWD 13	0.04
Jefferson Co RWD 13	0.30
Jefferson Co RWD 13	0.07
Johnson Co RWD 6C	0.001
Johnson Co RWD 6C	0.33
Johnson Co RWD 1	0.29
Johnson Co RWD 7	0.74
Olathe	17.55
Water District No. 1 of Johnson Co	82.35

PROPOSED LEGISLATION

Section 1

- Authorizes the KWO to acquire the water rights
- Only allows the KWO to hold the water rights
- Requires a Legislative determination on how to dispose of the water right
- All existing contracts will remain in effect
- The Assurance District will continue to receive its annual payments

Section 2

- (a) Authorizes Pooled Money Investment Board to serve as "banker" for acquisition and expenses
- (b) Describes terms and conditions of the "loan" from the PMIB
- (c) Describes how "loan" from PMIB will be repaid from ultimate purchasers of the water rights
- (d) Creates the federal water rights acquisition financing fund
- (e) Authorizes expenditures from the fund to:
 - 1) Pay for the acquisition of the water rights
 - 2) Pay the Principal and Interest on the loan from the PMIB
 - 3) Pay for the costs of "holding" the water right, including the annual payments to the Assurance District

Section 1. "The Kansas Water Office is authorized, as provided herein, to negotiate with, and acquire from the Federal Government all water rights appurtenant to any Federal property located, in the State of Kansas. Such acquisition shall be for the sole and limited purpose of accepting and holding title to such water rights, as Trustee, until the legislature determines the appropriate State agency and procedures for the disposition of such water rights. Until such legislative determination, the Kansas Water Office shall have no power to assign, transfer or otherwise dispose of such water rights. While the Kansas Water Office holds title to any such water rights, as provided herein, all contractual agreements associated with such water rights shall remain in effect, and the provisions of K.S.A. 82a-718 and amendments thereto shall not apply to such water rights. While the Kansas Water Office holds title to any such water rights, as provided herein, it shall make all annual payments associated with such water rights to any Water Assurance District organized under the provisions of K.S.A. 82a-1301 *et seq.*"

Sec. 2. (a) To provide financing that may be necessary to acquire and hold in trust water rights from the federal government pursuant to section 1 and amendments thereto, the pooled money investment board is authorized and directed to loan to the director of the Kansas water office, upon request therefor, sufficient funds for such purpose. The pooled money investment board is authorized and directed to use any moneys in the operating accounts, investment accounts or other investments, of the state of Kansas to provide funds for such loan. On the loan date of such loan, the pooled money investment board shall transfer the loan amount to the director of the Kansas water office by depositing the same in the state treasury to the credit of the federal water rights acquisition financing fund.

(b) A loan pursuant to this section shall bear interest from the date of the loan at an annual rate of interest which is not less than the average yield before taxes received on 91-day United States treasury bills as determined by the federal reserve banks as fiscal agents of the United States at its most recent public offering of such bills in effect on January 1 of the year the loan is made. The principal and interest thereon shall be payable in accordance with subsection (c). Such loan shall not be deemed to be an indebtedness or debt of the state of Kansas within the meaning of section 6 of article 11 of the constitution of the state of Kansas.

(c) The principal and interest on any loan made under this section shall be payable in accordance with appropriation acts from the following sources, in descending order of priority:

(1) Amounts received by the Kansas water office under contracts entered into with the purchaser or purchasers of the water rights;

(2) the state water plan fund created by K.S.A. 82a-951 and amendments thereto; and

(3) the state general fund.

(d) There is hereby created in the state treasury the federal water rights acquisition financing fund. On or before the 10th day of each month, the director of accounts and reports shall transfer from the state general fund to the federal water rights acquisition financing fund interest earnings based on:

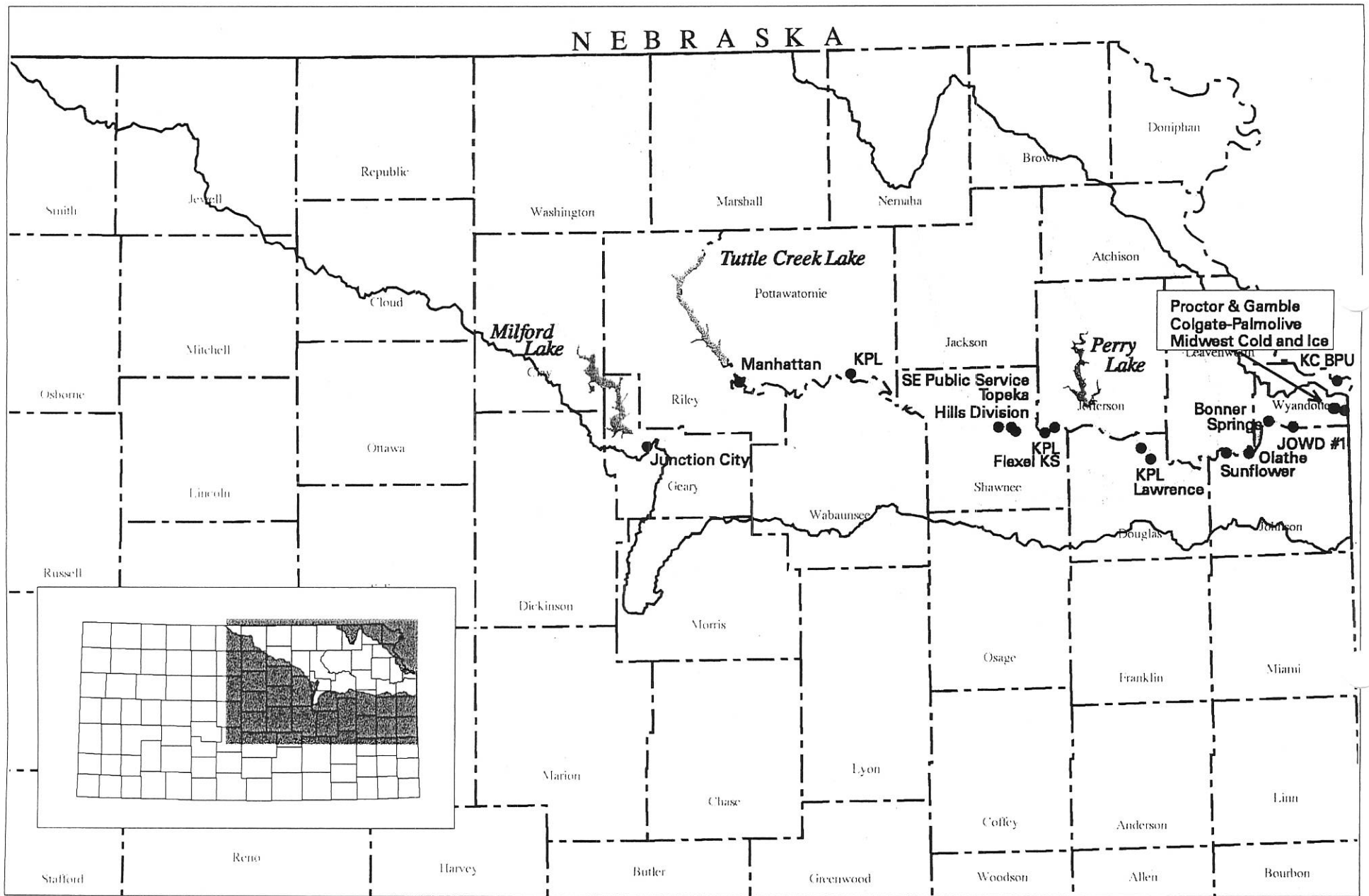
(1) The average daily balance of moneys in the federal water rights acquisition financing fund for the preceding month; and

(2) the net earnings rate for the pooled money investment portfolio for the preceding month.

(e) All expenditures from the federal water rights acquisition financing fund shall be made for the purpose of 1) financing the acquisition of water rights from the federal government; 2) paying the principal and interest on the loan received under this section; and 3) paying all costs associated with the Kansas Water Office holding such water rights in trust including but not limited to annual payments to any water assurance district organized under the provisions of K.S.A. 82a-1301 *et seq.* Such payments shall be in accordance with appropriation acts upon warrents of the Director of accounts and reports issued pursuant to vouchers approved by the director of the Kansas water office or by a person designated by the director.

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

Kansas River Basin Water Assurance District





WATER APPROPRIATION ACT

Fact Sheet No. 9

May 1985

Kansas Water Office

Background

The Kansas Water Appropriation Act, enacted in 1945, provides a basic framework of water law in Kansas which allows water users the right to use water in accordance with the principal of the prior appropriation doctrine. The Division of Water Resources (DWR), which was established in 1927 by the Kansas Legislature, is the division of the State Board of Agriculture charged with the administration and enforcement of the Kansas Water Appropriation Act. The Chief Engineer, Division of Water Resources, is charged by the Act to enforce and administer the laws of the state pertaining to the beneficial use of water and shall control, conserve, regulate, allot and aid in the distribution of the water resources in the state

for the benefits and beneficial uses of all of its inhabitants in accordance with the rights of priority of appropriation.

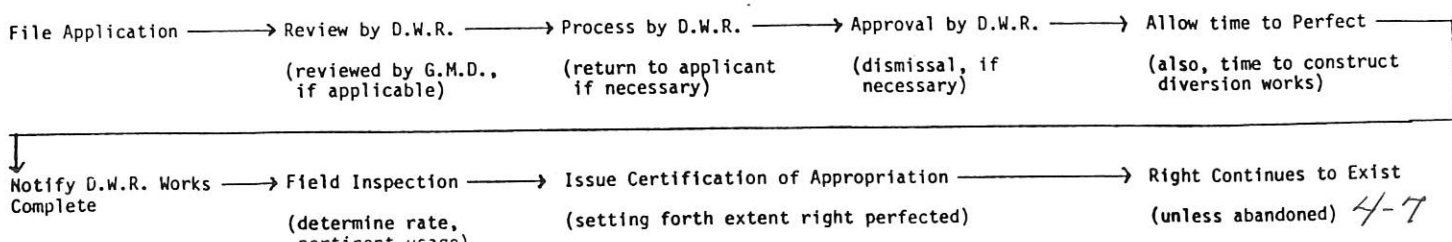
Purpose

The Kansas Water Appropriation Act provides that all the water within the State of Kansas is dedicated to the use of the people of the state and that no one may acquire a water right for any purpose other than domestic use, without complying with the provisions of the act.

Overview

The Kansas Water Appropriation Act operates on the principal of prior appropriation or "first in time is first in right." This means the date upon which a permit is applied for establishes that person's

FLOW CHART - APPROPRIATION OF WATER (per K.S.A. 82a-701 et seq.)



priority to continue the use of water, and in times of shortage, use of a water right may be curtailed, starting with the most junior right first. Since 1978, it has been illegal to use water for any purpose, other than domestic use, without either holding a vested right or receiving a permit to appropriate water from the Division of Water Resources. This applies when the water being used is groundwater, surface water or whether the water is ~~being used from private or~~ public property.

The Kansas Water Appropriation Act provided for the establishment of vested rights to continue the use of water having actually been applied to any beneficial use, including domestic use, on or before June 28, 1945, to the extent of the maximum quantity and rate of diversion made thereof. Except as otherwise provided by the provisions of the act and subject to vested rights, all water within the state may be appropriated for beneficial use. As between persons with appropriation rights, the first in time is the first in right. The priority of the appropriation right to the use of water for any beneficial purpose, except domestic purposes, shall date from the time of filing of the application in the office of the Chief Engineer. A priority of the appropriation right for domestic purposes shall date from the time of filing of the application or from the time the user makes actual use of water for domestic purposes, whichever is earlier.

An application for a permit to appropriate water is approved in accordance with the provisions of the act if the proposed use will not impair a use under an existing right or prejudicially and unreasonably affect the public interest and provided that the proposed use is reasonable for the intended use. In addition, the Chief Engineer shall not approve any application for the proposed use of fresh water where other waters are available for the proposed use and the use is technologically and economically feasible. If a permit is issued for the proposed use, a water right may be perfected by completion of the diversion works and the application of water to the proposed beneficial use in accordance with the terms, conditions and limitations of the approval of the application.

To date, over 2,000 vested rights have been determined. A vested right is the right to continue the beneficial use of water begun prior to June 28, 1945. Subsequent to 1945, over 37,000 applications for appropriation permits have been filed with the Division of Water Resources.

Additional Information

Further information on this subject may be obtained from: Chief Engineer-Director, Division of Water Resources, State Board of Agriculture, Suite 202, 109 S.W. 9th Street, Topeka, Kansas 66612 (913) 296-3717.

WATER MARKETING PROGRAM



Fact Sheet No. 8

January 1993

Kansas Water Office

Background

The roots of the Kansas water marketing program are found in the Federal Water Supply Act of 1958. This law allowed storage space for municipal and industrial water supply to be included in federal reservoir projects if a nonfederal entity gave assurances that "expected future demands for the use of such storage will be made within a period of time which will permit payment of the costs allocated to such purposes within the life of the project." The law also provided for long-term, low interest federal financing. An amendment to the Kansas Constitution, ratified in 1958, allowed the state to take advantage of the provisions of this federal law.

To date, Kansas has signed agreements for repayment of the water supply storage costs in Pearson-Skubitz (Big Hill), Clinton, Council Grove, Elk City, Hillsdale, John Redmond, Marion, Milford and Perry reservoirs. These nine reservoirs make up the current Kansas Water Marketing Program administered by the Kansas Water Office.

Purpose

The purpose of the water marketing program is to develop adequate water supply storage to meet, as nearly as practicable, present and anticipated municipal and industrial water needs through the purchase of water supply storage in federal reservoirs which is then sold to water supply users, in the best interests of the state.

Overview of the Program

The 1974 Legislature enacted the State Water Plan Storage Act which authorizes the Kansas Water Office to contract with water purchasers for sale of water from any reservoir included in the Kansas Water Marketing Program. Water sold from these reservoirs must be used for municipal or industrial purposes.

To begin the process of obtaining a "water supply" contract under the marketing program, a prospective purchaser files an application with the Kansas Water Office. Contract negotiations are begun at the applicant's request. Successful negotiations between the Kansas Water Office and the

applicant produces a contract stating the conditions of the purchase. Common contract provisions include the length of time the contract will remain in force, the amount of water to be withdrawn, the place of use, billing and payment procedures, metering of water and withdrawal schedules. The price for water is set annually according to a formula established by state law and is not negotiable. This price may vary from year to year in accordance with the established formula. Purchasers must pay for one-half of the contracted amount of water, even if less than one-half is withdrawn. There is also an annual charge on the contracted but unused volume.

The Kansas Water Office also sells water on a short term basis when and where available. These "surplus water" contracts

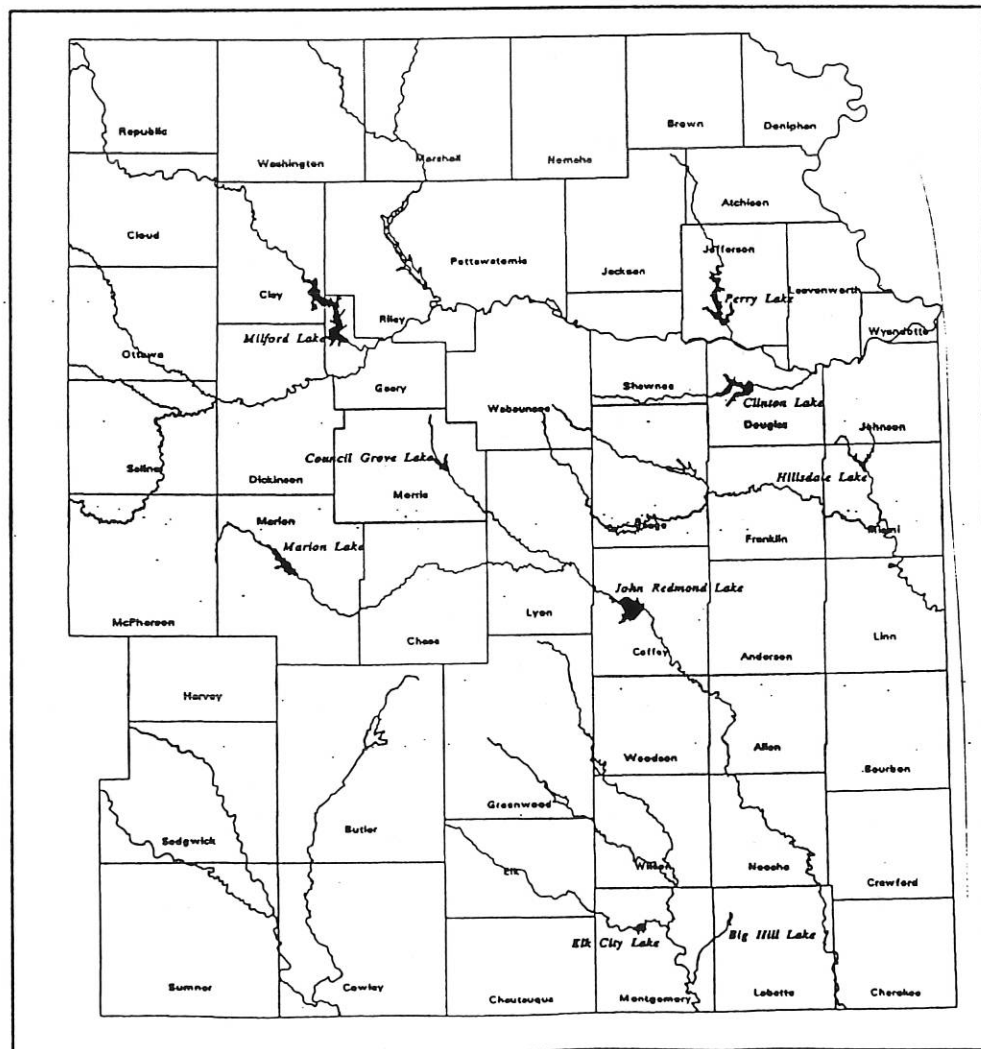
are limited to a term of less than one year. As in the case of water supply contracts, short term surplus water contracts have a "take-or-pay" provision.

All contracts negotiated must be reviewed by the Kansas Water Authority and are approved if determined to be in the best interest of the state. Water supply contracts are also reviewed by the Kansas Legislature. The Legislature may disapprove the contract by passage of a concurrent resolution.

Additional Information

Further information on this subject may be obtained from: Administrator, Water Marketing Program, Kansas Water Office, 109 S.W. 9th, Suite 300, Topeka, Kansas 66612-1249, (913) 296-3185.

Reservoirs in the Kansas Water Marketing Program



WATER ASSURANCE PROGRAM



Fact Sheet No. 18

January 1993

Kansas Water Office

Background

During periods of mild to severe drought, natural streamflow on regulated streams (those with reservoirs) may be significantly reduced. Municipal and industrial water users along the stream who hold valid appropriation rights to the natural flow may find their ability to use the stream is severely limited, at a time when their demand for water is at its highest.

In the past, water in storage from upstream reservoirs was available to these users only under terms of the State Water Marketing Program. In order to participate in the Water Marketing Program, municipal and industrial water users were required to sign a long-term (up to 40 years) contract with the state agreeing to: repay the state for the costs of providing the water; pay for at least 50 percent of the contracted water each year, regardless of actual use; and pay for water lost in transit from the dam to the purchaser's intake. The state recognized that the marketing program may not meet the needs of many municipal and industrial water users since it obligates a purchaser to

a long-term financial commitment for water supply from a specific reservoir which may only be needed during low flow periods.

Purpose

The purpose of the water assurance program is to allow for coordinated operation of state-owned or controlled water storage space in federal reservoirs in a designated basin to satisfy downstream municipal and industrial water rights during drought conditions. Water right holders are, therefore, assured to receive enhanced flow during times of drought while the state operates the reservoirs in a basin as a system for increased efficiency in water delivery.

Overview

The Water Assurance Program Act (K.S.A. 82a-1330 *et seq.*) was enacted in 1986. Under this law, assurance districts can be organized by eligible water right holders who are located downstream from reservoirs. The process for organization of a district includes: identification of eligible

water right holders by the Chief Engineer, filing a petition with the Secretary of State for organization of the proposed district, review and approval of the petition by the Chief Engineer and an election by persons holding the eligible water rights to form a district. Upon organization and formation of a district, participation is mandatory for all eligible water right holders.

Among the powers granted to an assurance district is authority to levy an annual charge against district members to cover costs to the state in acquiring, operating and maintaining water supply storage needed to satisfy the district's needs. A contract, specifying arrangements for payment of these costs to the state must be negotiated between the Kansas Water Office and the assurance district. A key element of the contract and the negotiation process is an operations agreement between the Kansas Water Office; Chief Engineer, Division of Water Resources of the State Board of Agriculture; Corps of Engineers; and the assurance district which describes the manner in which the reservoirs will be operated to increase their efficiency and enhance the benefits to members of the assurance district.

Additional Information

Further information on this subject may be obtained from: Director, Kansas Water Office, Suite 300, 109 SW 9th Street, Topeka, KS 66612-1249 (913) 296-3185.



City of DeSoto
"Building On Small Town Values"

Steve Prudden, Mayor

March 10, 1999

Kansas Water Office
Al LeDoux, Director
109 SW Ninth, Ste. #300
Topeka KS 66612-1249

RE: House Bill 2544

Dear Sir:

The City of DeSoto concurs with, and supports, the revised version of H.B.2544, which allows the Kansas Water Office to purchase and hold the Sunflower Army Ammunition Plant water rights.

Sincerely,

Steve Prudden, Mayor
City of DeSoto

CC Representative John Ballou

Attn:
Clark
Duffy



Memorandum

Date: March 10, 1999
To: Clark Duffy, Kansas Water Office
CC: Water District Board
Byron Johnson
Mike Howe, City Attorney for Desoto
Representative Gerry Ray
Professor John Peck
From: Mike Armstrong *MA*
RE: Proposed Legislation Concerning Sunflower Water Rights

I suggest that the following language be adopted as Section 1 of the proposed legislation concerning the Sunflower water rights:

Section 1. "The Kansas Water Office is authorized, as provided herein, to negotiate with, and acquire from, the Federal Government all water rights appurtenant to any Federal property located in the State of Kansas. Such acquisition shall be for the sole and limited purpose of accepting and holding title to such water rights, as Trustee, until the legislature determines the appropriate State agency and procedures for the disposition of such water rights. Until such legislative determination, the Kansas Water Office shall have no power to assign, transfer or otherwise dispose of such water rights. While the Kansas Water Office holds title to any such water rights, as provided herein, all agreements concerning operation of water treatment and supply facilities associated with such water rights shall remain in effect, and the provisions of K.S.A. 82a-718 and amendments thereto shall not apply to such water rights. While the Kansas Water Office holds title to any such water rights, as provided herein, it shall make all annual payments associated with such water rights to any Water Assurance District organized under the provisions of K.S.A. 82a-1301 et seq."

The modifications you suggested for Section 2 appear acceptable. I have attached a photocopy of those provisions for the reference of those being carbon copied with this memorandum.

If you should have any further questions concerning this proposed language, or would like to discuss this matter further, please let me know.

STATE OF KANSAS



Bill Graves, Governor

KANSAS WATER OFFICE
Al LeDoux
Director

Suite 300
109 SW Ninth
Topeka, Kansas 66612-1249

March 10, 1999

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

Rep. Gerry Ray
State Capitol Building
Room 155-S
Topeka, KS

Dear Rep. Ray:

The Kansas Water Office Supports the proposed legislation concerning Sunflower Water Rights which will be presented to the Senate Energy and Natural Resources Committee on Thursday March 12, 1999.

Thank you for your leadership on this issue.

Sincerely,

Al LeDoux
Al LeDoux *By [Signature]*

AL;ol