

MINUTES OF THE SENATE NATURAL RESOURCES COMMITTEE.

The meeting was called to order by Chairperson Robert Tyson at 8:35 a.m. on February 12, 2001 in Room 527-S of the Capitol.

All members were present except: all present

Committee staff present: Raney Gilliland, Legislative Research Department
Jill Wolters, Office of Revisor of Statutes
Judy Krase, Committee Secretary

Conferees appearing before the committee:

Jamie Clover Adams, Secretary of Agriculture
Art Brown, Mid America Lumbermen's Assn.
Doug Wareham, Ks Grain and Feed, Ks Fertilizer and Chemical Assn.
Gregg Krissek, Ks Corn Growers
Mary Jane Stattelmann, Administrator, Ks Agricultural Remediation Board
Brad Franz, Groundwater Management District No. 2
Jolene Grabill, REAP
Mike Taylor, City of Wichita

Others attending: See attached list

Staff of Legislative Research explained **SB 254**. Staff said it amends a section of law that was enacted last year, 2000 **SB 501** that enacted the Agricultural Remediation Program, and this bill deals with the section that raises the money that goes into the Agricultural Remediation Fund. The bill would vary the fee depending upon the dollar volume of annual sales of pesticides.

The first conferee and proponent of **SB 254** was Jamie Clover Adams. She noted that the estimated fees generated by **SB 501** are approximately \$100,000 lower than indicated in her testimony (Attachment 1). Questions and discussion followed.

The second conferee and proponent was Art Brown (Attachment 2). Questions and discussion followed.

The third conferee and proponent was Doug Wareham who represented Kansas Grain and Feed and Kansas Fertilizer and Chemical Assn. (Attachment 3).

The fourth conferee and proponent was Gregg Krissek, Kansas Corn Growers (Attachment 4).

The fifth conferee and opponent of the bill was Mary Jane Stattelmann, Administrator, Kansas Agriculture Remediation Board. She said their concerns included enforcement authority, refund or reimbursement authority, K.S.A. 2000 Supp. 2-3708, site cap, definition of a site, and reimbursement rate for businesses covered by this bill (Attachment 5). She noted that on page 4 of her testimony that in Minnesota, not Wisconsin, pesticide dealers pay \$150 into the remediation fund. Questions and discussion followed.

Senator Tyson declared the hearing on **SB 254** closed.

The hearing on **SB 264** opened and staff of Legislative Research made comments on the bill. Staff said the bill establishes separate statutory authority for the Equus Beds Groundwater Management District. The bill makes some changes as to the amount of fees that can be charged for withdrawal of water from the Equus Beds. In addition, there are changes to the composition of the board of directors.

The first conferee was Brad Franz, Groundwater Management District No. 2 who was a proponent of **SB 264** (Attachment 6).

The second conferee was Jolene Grabill, REAP, a proponent of the bill (Attachment 7).

The third conferee, Mike Taylor, City of Wichita, said that the City of Wichita was one of the largest single users of the district and supports removing the cap totally but if the cap is raised they would support that.

Senator Tyson asked Jolene Grabill and the others if they could come back on Friday, February 16 to continue discussion on this issue since time had run out this day.

Senator Downey explained why there needs to be an amendment to the bill and said the amendment basically speaks to raising the rate cap on water users from 98 cents to \$1.19.

The meeting adjourned at 9:30 a.m.

The next meeting is scheduled for February 15 at 8:30 a.m. in Room 423-S.

SENATE NATURAL RESOURCES COMMITTEE

GUEST LIST

DATE: 2-12-01

NAME	REPRESENTING
Tom Tunnell	KANSAS GRAIN/FEED & KANSAS FERT/CHEM ASSNS.
Mike Taylor	City of Wichita
David L. Pope	KDA
Margaret Fast	KWCO
LOUISE M. GRABILL	REAP
David Miller	DOIB
Brad Franz	Pres Equus Bed Groundwater
Tom PALACE	ANCA OF KANSAS
Michael White	Kearney Law Office
Rick Bean	KDHE / BER
Joe Lieber	KS Co-op Council
Jamie Clover Adams	KS Dept. of Ag
Mary Jane Stattelman	KGFA - KARB
Scott Peterson	Chair of KARB
Greg Krissch	KS Corn Growers Assoc
Day Wardham	KOFA / KFOA
Sustin Adstin	Ks Loop Council
Mike Beam	KS. LVSTK. ASSN.
Terry Leatherman	KCCI
Pat Shan	MCLA
Woody Moss	KS. Ag Prod Assn
Pat Lehman	KFSA

STATE OF KANSAS

BILL GRAVES, GOVERNOR
Jamie Clover Adams, Secretary of Agriculture
109 SW 9th Street
Topeka, Kansas 66612-1280
(785) 296-3558
FAX: (785) 296-8389



KANSAS DEPARTMENT OF AGRICULTURE

Senate Committee on Agriculture

February 12, 2001

Testimony Regarding Senate Bill 254

Jamie Clover Adams, Secretary of Agriculture

Good morning Chairman Tyson and members of the committee. I am Jamie Clover Adams, Secretary of the Kansas Department of Agriculture. I appear before you today in support of Senate Bill 254, which amends current environmental remediation law.

Background

As many of you remember, SB 501, which established the Agricultural and Specialty Chemical Remediation Board, was passed and signed into law last year. The board is responsible for administering the remediation fund and for approving projects for application of the remediation link deposit loans.

The five-member board includes representatives from agricultural retailers, producers and processors, and specialty chemical distributors and registrants. It also includes ex officio representatives from the Kansas Department of Agriculture and the Kansas Department of Health and Environment.

Funding for the remediation program is achieved through several mechanisms:

Registered Pesticide Assessment	\$ 441,840
Commercial Grain Assessment	430,000
Registered Pesticide Dealer Assessment	140,000
Registered Fertilizer Product Assessment	71,900
Licensed Custom Fertilizer Blenders Assessment ...	41,500
 Total Estimated Annual Revenue	 \$1,125,240

Senate Natural Resources Committee
Date 2-12-01

Proposed Changes

The proposed amendment allows small businesses with annual sales of less than \$2,500 to pay a lower annual assessment of \$5 instead of the \$80 the current statute requires. It seems reasonable since the potential risk may be lower because these business have a smaller amount of pesticides in stock. KDA attempted to address this issue administratively, but determined that legislation is necessary to accomplish this task. There also has been discussion revolving around issues the current law does not address, such as refunds and enforcement mechanisms. KDA would support these efforts, should they be brought forth, as long as costs incurred during enforcement are reimbursed.

Fiscal Impact

As currently written, this bill will not have a fiscal impact on the Kansas Department of Agriculture because the proposed changes impact fees that are forwarded to the Kansas Remediation Board for administration.

Thank for you for the opportunity to appear before you today. I will answer your questions at the appropriate time.



MID-AMERICA LUMBERMENS ASSOCIATION

TESTIMONY

SENATE NATURAL RESOURCES COMMITTEE

February 12, 2001 Senate Bill No. 254 Room No. 527-S

Mister Chairman and members of the committee; It is my pleasure to visit with you today as a proponent of Senate Bill No. 123. My name is Art Brown and I represent the retail lumber and building material dealers in the State of Kansas as well as the Hardware stores of the Western Association.

The bill would allow a reduction of the fee paid to the Kansas Remediation fund that was created by the Legislature during the 2000 session to a segment of our smaller businesses. The bill would lower these fees from the current \$80.00 paid to the fund to a fee payment of \$5.00. This payment would be based on the first \$2500.00 of sales of such pesticides defined by current Kansas law. Sales beyond the \$2500.00 threshold would continue to pay the current \$100.00 fee. (Lines 37-41 if the bill.) The \$20.00 pesticide license fee paid to the Kansas Dept. of Ag. is not impacted by this change. Dealers, applicators and distributors as defined under current Kansas law all pay a scheduled fee to the Dept. of

638 West 39th Street • P. O. Box 419264 • Kansas City, Missouri
800-747-6529; 816-561-5323 • Fax: 816-561-1991 • E-Mail: m

Senate Natural Resources Committee
Date 2-12-01

A PROUD MEMBER OF THE NATIONAL LUMBER AND BUILDING MATERIALS ASSOCIATION

Attachment # 2

Ag. to provide financial resources to the Kansas remediation fund. Farmers are exempted from paying a fee to this fund.

Let me state for the record and in all seriousness that we certainly like to drink clean water. We do not come before this committee looking for any exclusion from paying a fee to this fund. We are in concert with the objective of the remediation Board and what they are trying to accomplish. Rather, we look for equity for some of our smaller members who sell these products in their community. For this reason, I would like for the committee to indulge me for a minute as to the type of operation we are talking about that seeks this reduction in their portion of pesticide license fees paid into this fund.

We are talking about operations in towns such as: Pleasanton, Erie, Yates Center, Riley, Waterville, Toronto, Smith Center, Sublette, and Moundridge. All of these aforementioned towns are in your districts, so you know the size of dealer we are talking about. These folks carry the basic needs for the communities they serve in the area of building materials to help residents keep their property, businesses and dwellings in good, safe condition. Unlike urban centers that have a Home Depot or a Lowe's or some of our larger operations in Kansas, you won't find Mr. Magoo night-lights, or Tonka toys at these locations. You will find lumber, paint, fasteners, wallpaper, hardware, some tools and yes, some lawn and garden products along with other miscellaneous items. These operations were set up before the explosion of retail sales dominated our industry. As you know by visiting these operations, the floor space for retail sales is limited. So why do these businesses even sell lawn and garden products? Quite simply, the citizens in these communities expect these businesses to handle such products. No one else will or can

carry these products in a manner that is as conveniently packaged for residential usage or economically feasible for purchase for the consumers use in that community. Given this background, let's look at why we are asking for a reduction in fees to these businesses.

We all know that the word tax is an evil word in political circles. At some point in the not to distant past, wiser heads developed programs and proposals that including buzz words such as fees, licenses, permits, and investments that still generated the revenue, but eliminated the use of the "T" word. No one can be naïve enough to think that the business community is going to eat all of these costs, and there have been a slew of them implemented to all businesses since the inception of this concept. The customer still pays, just like they do with higher taxes, but in this case, these payments are being implemented by the private sector in the everyday transaction of business, not mandated by the legislative action of a tax increase. This makes this revenue collection process less painful, less obvious and effective in meeting the end-funding objective.

Our larger members can sustain such an increase in the costs of doing business by passing on these costs through a larger inventory with more stock-keeping units (SKU) then our smaller members can. Last year in a one step process, pesticide license fees were raised from \$20.00 to \$100.00; with the \$80.00 increase dedicated for funding of the new remediation fund. That is a 400% increase. It is very difficult to envision the businesses in the communities mentioned at the first of my testimony being able to absorb or pass on that kind of an increase. Simply stated, they will be working for the government, as the profits for seasonal sales of these products with such limited retail floor space may not even pay the \$100.00 fee itself. This kind of situation is what you hear about in your

district all the time from your smaller retailers; the smaller merchant trying to maintain products and services to keep people from shopping in larger markets. They do not want to take the backward step of reducing inventory and services and lose that business to larger urban markets. Keeping the fees at their current levels will give many of these businesses no choice but to stop carrying these products. In and to itself, that is not going to close down any of these businesses or communities, but it is just another negative occurrence when added with what seems to be other “minor costs” (ie: fees, licenses, permits, etc.) starts to produce a “straw that breaks the camels back” effect that send the local people out of town to buy products they cannot buy in their own community.

I have found that over the last 12 years, that when a law was passed that resulted in unintended and unduly harmful consequences to the citizens or businesses in our State, that the Legislature was quick to remedy the situation. No one intended for this action taken last year to impact our small businesses the way it did. It is unfortunate that it happened. I have attached a letter, dated Dec. 1, 2000, from Doug Wareham, Vice President of Government Affairs for the Kansas Grain & Feed Association (KGFA) and the Kansas Fertilizer and Chemical Association (KFCA) stating that these Boards agree with our position and are supportive of this action. As many of you know, KGFA is contracted to administer various administrative support services for the newly formed remediation Board. I’m sure the staff legal council from KFGA will have some comments for you later in this hearing as well as some possible suggested changes from the remediation Board to the current law. Again, in visiting with Doug Wareham about these proposed changes, we as a membership have no opposition to them and see them as

benign changes to what we are trying to accomplish. Our objective as the bill states is to lower these fees to our smallest dealers. I will let their people speak to these other issues when it is their time to do so.

I also have visited with the Secretary of Agriculture and she has assured me that the approximately \$10,000 fiscal note is within the bounds of her acceptance for maintaining the fiscal solvency and administration of the fund. If the Secretary covered this issue in her testimony, then please excuse the redundancy.

This is pretty close to a no foul; no harm situation provided that expedient corrective action is taken. This bill gives the Legislature just such an opportunity to correct this unintended hardship to the impacted small businesses in our State. Quick corrective action creates a short memory span for those impacted. I can assure you that these small business people in your community will be grateful for your positive action in correcting this matter. We as a membership ask that you seize the moment to correct this matter and pass out Senate Bill 254 favorably for passage.

I will stand for questions from the committee or any comments you may have regarding my testimony.



December 1, 2000

KANSAS FERTILIZER AND CHEMICAL ASSOCIATION, INC.

Phone 785-234-0463

816 S.W. Tyler St., Topeka, KS 66612

Fax 785-234-2930

(Mailing Address) P.O. Box 1517, Topeka, KS 66601-1517

Art Brown
Kansas Regional Manager
Mid-America Lumbermens Association
92 Pepper Tree Lane
Topeka, Kansas 66611

Dear Mr. Brown:

I am writing in response to your "Overview of Pesticide Licensing Fee Schedules in the State of Kansas" and the proposed solution you suggest as an equitable way to remedy your industry's concerns regarding the current environmental remediation fees paid by pesticide dealers in Kansas. I do appreciate the information you have provided and have shared that information with our respective Legislative Committees, as well as representatives of the Kansas Corn Growers Association and Kansas Grain Sorghum Producers Association. These associations were also instrumental in supporting the establishment of an environmental remediation fund to address contamination caused by agricultural and specialty (urban) chemicals in Kansas.

After conferring with our respective legislative committees and receiving feedback from the two aforesaid agricultural producer organizations, we are willing to consider a tiered approach for the special environmental remediation assessment paid by registered pesticide dealers based on gross annual sales. However, it is our collective opinion that the gross sales thresholds included in your proposal would have a significant impact on the current environmental remediation program's revenue base and the ability of the program to provide financial assistance to individuals and Kansas businesses faced with exorbitant remediation costs. Therefore, it is our hope that a more appropriate gross annual sales threshold can be agreed to and mutually support by all interested parties.

At this time, I wish to convey on behalf of Kansas Grain and Feed Association and Kansas Fertilizer and Chemical Association that we would support a two-tiered environmental remediation fund assessment for pesticide dealers in Kansas. That two-tiered approach would in general terms mean:

- Pesticide Dealers with gross annual sales from \$0 to \$2500 would pay an annual \$5 assessment to the environmental remediation fund. (This \$5 assessment would be in addition to the current \$20 pesticide dealer registration fee, which was in place prior to the passage of the Agricultural and Specialty Chemical Remediation Act last spring.)

- Pesticide Dealers with gross annual sales above the \$2,500 threshold would continue to pay the \$80 assessment to the environmental remediation fund. (Once again, these dealers would also be required to pay the current \$20 pesticide dealer registration amount as well.)

Following a lengthy discussion on this issue, I can report that both KGFA and KFCA would support a legislative effort to amend the Agricultural and Specialty Chemical Remediation Act to accomplish the objective highlighted above. However, I must point out that while our industry leaders that serve on our respective legislative committees appreciate your desire to achieve some level of equitability on pesticide dealer fees, many of those same individuals are required to pay a combination of fees into the Kansas Agricultural Remediation Fund, including the Licensed Pesticide Dealers Fee, Custom Fertilizer Blenders Fee, Registered Fertilizer Product Fee and a Licensed Grain Warehouse Fee. Several Kansas agribusinesses will annually be assessed thousands of dollars based on the existing assessments for this much-needed environmental remediation program.

Our association's leaders certainly understand the impact fees can have on the bottom line. However, we also appreciate the importance of the entire agricultural and specialty (urban) chemical industry working together to address environmental contamination when and where it exists. It is our hope your organization will see our response as a workable compromise that will provide relief to small retail operations that in many cases provide pesticide products to their customers as a local service, while at the same time protecting the integrity of this environmental remediation program.

I must also point out that our respective organization's willingness to support a legislative effort to address the special environmental remediation assessment for registered pesticide dealers is contingent upon this being the sole attempt to alter the established fees for the environmental remediation fund. Should another party or parties attempt to alter other environmental remediation program fees or exempt themselves from any of the fees associated with the Agricultural and Specialty Remediation Act, we would be forced to aggressively defend against those efforts.

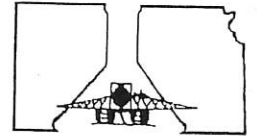
Thank you for your time and consideration and I look forward to hearing from you.

Sincerely,



Douglas E. Wareham
Vice President, Government Affairs

DEW:jj



STATEMENT OF THE
KANSAS GRAIN & FEED ASSOCIATION
AND THE
KANSAS FERTILIZER & CHEMICAL ASSOCIATION
PRESENTED TO
SENATE NATURAL RESOURCES COMMITTEE
REGARDING SB 254
SENATOR ROBERT TYSON, CHAIR
FEBRUARY 12, 2001

KGFA & KFCA MEMBERS ADVOCATE PUBLIC POLICIES THAT ADVANCE A SOUND ECONOMIC CLIMATE FOR AGRIBUSINESS TO GROW AND PROSPER SO THEY MAY CONTINUE THEIR INTEGRAL ROLE IN PROVIDING KANSANS AND THE WORLD THE SAFEST, MOST ABUNDANT FOOD SUPPLY.

816 SW Tyler, Topeka KS 66612 - 785-234-0461 - Fax: 7

Senate Natural Resources Committee

Date 2-12-01

Attachment # 3

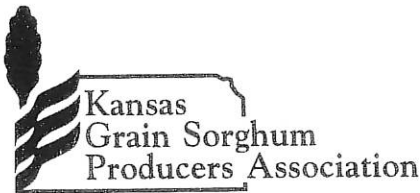
Chairman Tyson and members of the committee, I am Doug Wareham appearing today on behalf of both the Kansas Fertilizer and Chemical Association (KFCA) and the Kansas Grain and Feed Association (KGFA). KFCA's over 550 members are primarily plant nutrient and crop protection retail dealers with a proven record of supporting Kansas producers by providing the latest crop protection products and services. KGFA is comprised of more than 1100 member firms including country elevators -- both independent and cooperative -- terminal elevators, grain merchandisers, feed manufacturers and associated businesses. KGFA's membership represents 99% of the over 860 million bushels of commercially licensed grain storage space in the state of Kansas.

I want to express our support for Senate Bill 254, which adjusts the annual assessment paid by small volume pesticide dealers to the Kansas Agricultural Remediation Fund. The agribusiness member companies of our respective organizations certainly understand the impact fees can have on the bottom line and have an appreciation for small businesses that are required to maintain a pesticide dealers license in order to stock and provide small-packaged pesticide products to their customers.

I am happy to report that following meetings and correspondence between our organizations and the Mid-America Lumbermen's Association, that an agreement was reached to collectively support the language contained in Senate Bill 254 which reduces the environmental remediation fund assessment paid by licensed pesticide dealers that sell less than \$2,500 of gross pesticide sales annually from the current level of \$80 to \$5. This adjustment will provide significant financial relief to many small businesses that sell only small quantities of pesticide products each year.

While our organizations support the reduced fee for very small dealers, we are equally supportive of ensuring that "all" manufacturers, distributors and dealers of pesticides share the burden of addressing environmental contamination caused by agricultural and specialty chemicals. I must also point out that our support for this bill is contingent upon this being the sole attempt to alter the established fees for the agricultural remediation program. Any additional attempt to reduce, exempt or alter the fees associated with the fund will cause our organizations to re-evaluate our position.

In closing Mr. Chairman, I do want to express our appreciation to the Mid-America Lumbermen's Association for bringing their concerns to our attention well ahead of the current legislative session. As I state earlier, we appreciate their desire for fairness when it comes to government fees and we believe Senate Bill 254 will accomplish that goal with respect to pesticide dealers in Kansas. Thank you for the opportunity to appear in support of this bill and I would be happy to stand for questions.



**Testimony Regarding Senate Bill No. 254
Before the Senate Natural Resources Committee
February 11, 2001**

Good morning Chairman Tyson and members of the Senate Natural Resources Committee, my name is Greg Krissek. I am Director of Operations for the Kansas Corn Growers Association. I appreciate the opportunity to make comments concerning SB 254. My comments also reflect the position of the Kansas Grain Sorghum Producers Association.

The provisions of SB 254 would lower the fee that a pesticide dealer with sales less than \$2,500 per year would pay to the Kansas Agricultural Remediation Board for its chemical clean-up program. The current fee is \$80 for all pesticide dealers. The new fee for pesticide dealers in this new category would be \$5.

While we are somewhat reluctant to change the provisions of the funding mix for KARB as was approved by the Legislature last year, we will support this legislation if one additional provision is created. Kansas' farmers indirectly pay a significant portion of the fees that fund this program, and on average they likely pay more than \$5 each annually to support the program. But, currently anyone paying fees indirectly that wishes to use the KARB program can only receive a maximum of \$10,000 in benefits assistance for a remediation project. We believe, out of fairness to others who pay more indirectly to the program, that pesticide dealers who fall in the proposed category with sales under \$2,500 should also be limited to a maximum of \$10,000 in total assistance.

For these reasons, we request your support of SB 254 with the change suggested above. Thank you for the opportunity to make these comments and I will try to answer any questions concerning this testimony.



KARB



Kansas Agricultural Remediation Board

Board Members:

CHAIR
Agricultural Producer
LINDA PETERSON
Burdick

VICE CHAIR
Specialty Chemical
Distributor

LARRY SHIVERS
Van Diest Supply
Salina

Grain Processor
KAMYAR MANESH
Farmland Industries
Olathe

Agricultural Retailer
LAURA PEARL
J.B. Pearl Sales &
Service
St. Marys

Ag & Specialty
Chemical Registrant
ROGER LONG
Syngenta Crop Protection
Great Bend

Ex Officio Members:

RICK BEAN
Remediation Section Chief
KS Department of Health &
Environment, Topeka

GARY MEYER
Fertilizer & Pesticide
Program Director
KS Department of Agriculture,
Topeka

Program Administrator

MARY JANE STATTELMAN
Topeka

TESTIMONY ON BEHALF OF THE

KANSAS AGRICULTURE REMEDIATION BOARD

BY

MARY JANE STATTELMAN, ADMINISTRATOR

BEFORE THE

SENATE NATURAL RESOURCES COMMITTEE

FEBRUARY 12, 2001

SB 254

Senate Natural Resources Committee

Date 2-12-01

Attachment # 5

Good morning Chairman Tyson and members of the Senate Natural Resources Committee. I am Mary Jane Stattelmann and I am the administrator of the Kansas Agriculture Remediation Board and I appear before you today regarding SB 254.

The Remediation Board would have preferred to be able to function for at least a year before the law was opened up so that we would have had an opportunity to go through the total cycle of events before we make comments or suggestions about the law. Therefore, on behalf of the Board, I am requesting that this law not be opened up this year.

However, if you are not amenable to this request, we have the following issues and concerns that you would ask for your assistance in addressing:

1. Enforcement authority - Currently, there is no enforcement provision if a person refuses to pay the remediation assessment. The grain storage section (see subsection 6, line 11) may address this problem by giving the secretary of agriculture the authority to adopt rules and regulations regarding the procedure for payment and collection of the assessment. If the law requires the payment of the fee and KDA is the collector of the money then it appears appropriate and necessary to give the Secretary of Agriculture enforcement authority in this area.
2. Refund or reimbursement authority - Since individuals and companies are paying this fee at the same time that they are paying their licensing or registration fee, there is the opportunity for a mathematical error to occur. If the person or company overpays to KDA, the secretary has no authority to refund or reimburse the person. Once again, we would respectfully request that the Committee amend the law to provide such authority to the Secretary of Agriculture.
3. K.S.A. 2000 Supp. 2-3708 - 3 recommended amendments:
 - Release v. site - Subsection (1) refers to reimbursement on a per site basis, but subsection (2) refers to reimbursement on a per “release” basis. We are requesting subsection (2) be amended by striking the word “release” and inserting the word “site”.
 - Paid assessments - The law currently allows people that “are required to pay an assessment” to be eligible for the maximum reimbursement amount. Once again, I do not think the legislature intended to allow people who have not paid into the fund but are required to pay into the fund to be eligible for the maximum amount of reimbursement. We would suggest that K.S.A. 2000 Supp. 2-3708 (1) and (2) be amended to read that “For an eligible person who is required to pay *has paid* any assessment imposed pursuant to
 - Site cap - Currently the linked deposit loan program, under the State Treasurers office is capped on a per site basis, but the reimbursement part of the law caps the reimbursement amount on a per person per site basis. The difference between these two methods is that in the reimbursement

program multiple owners of a piece of property could file separate claims for the same site. For example, if there are 5 joint owners of a piece of property, each person could apply and be eligible to receive \$170,000 for a grand total of \$850,000. We also want to dissuade people from being able to make a claim every year or so for a release that could have been prevented if they had taken appropriate corrective action after the first release. We want to be fair, but we do not want to reimburse people when their problem is caused by a lack of effort on their part. We are requesting that the reimbursement provisions be amended to provide a cap of \$200,000 per site that occurs within a 5 year time frame. Therefore we are suggesting K.S.A. 2000 Supp. 2-3708(b)(1) be amended to read: "For an eligible person who is ~~required to pay~~ *has paid* any assessment imposed pursuant to K.S.A. 2000 Supp. 2-3713, and amendments thereto, reimbursement per site shall not exceed an amount equal to: (A) 90% of total eligible corrective action costs greater than \$1,000 and less than or equal to \$100,000; plus (B) 80% of total eligible corrective action costs greater than \$100,000 and less than or equal to \$200,000. *The total amount reimbursed for any one site shall not exceed \$200,000 within a 5 year period or as otherwise set forth by the board pursuant to rules and regulations.*

4. Definition of a site - We are requesting the following language be added to the definition of what constitutes a site pursuant to K.S.A.2000 Supp. 2-3702(m). Current law restricts reimbursement to costs that are incurred when cleaning up an area that is within one-half mile radius of the release. However, the reality is that when a release occurs, there may be other areas that are impacted due to the spreading of the contaminant so that areas beyond the one-half mile radius of the release. Therefore, the Board requests that the definition of a site be amended to read:
Site" means all land and water areas, including air space, and all plants, animals, structures, buildings, contrivances and machinery, whether fixed or mobile, including anything used for transportation, ~~within one-half mile of a release.~~ *Site includes all contiguous land that is owned, leased or controlled by the eligible person at the time the release occurs, plus any other area affected by the release.*
5. Reimbursement rate for businesses covered by this bill - While Mr. Brown states that his members cannot afford the \$80 a year, I would claim this is a fairly good rate that allows his members to receive \$170,000. I would assert that they cannot find environmental insurance coverage for \$80 a year.

The Remediation Board would request that if you lower the amount that these dealers pay into the fund then you should amend the reimbursement tier so that they can only receive \$10,000. The Board believes capping their reimbursement amount at \$10,000 is fair since the proponents are requesting to only pay approximately 6.25% of what they are currently assessed we

recommend that they only be eligible to receive approximately 6.25% of what they are currently eligible, which is approximately \$10,000. Otherwise we have a system in which someone can pay at the lowest rate possible but they are still eligible for the maximum reimbursement amount.

For your information, we are unsure what impact this reduction in the fee structure will have on the remediation fund since the Kansas Department of Agriculture has not tracked or had a reason to track the number of pesticide dealers that have annual gross sales under \$2500. However, the numbers that KDA does have may suggest that the impact to the fund may be out of proportion to the number of businessmen that are complaining. KDA has informed the Board that there were 213 pesticide dealers that did not renew their registration this past year, but out of that number 139 businesses closed. Therefore, for argument sake, you could say that 74 failed to re-register due to the remediation fee. However, the total number of registered pesticide dealers increased by 59 to a grand total of 1646. These numbers would seem to indicate that there is not a huge outcry by the affected people. Furthermore, our fees are not out of line with other states. In Wisconsin, pesticide dealers pay \$150 into the remediation fund and in Wisconsin the fee is \$40.

Once again, let me reiterate that while the Board believes the above outlined amendments are needed, we are not sure we have discovered all of the items that need to be amended or clarified. Only time and actually working through the process will highlight if there are other problems in the law. Therefore, we would be happy to wait a year or so before the law is opened. Thank you for your time and attention.

Kansas Statutes

Kansas Legislative Services



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[INK Home](#) > [Government](#) > [Legislative](#) > [Kansas Statutes](#) > Kansas Statute No. 2-3708

2-3708

Chapter 2.--AGRICULTURE Article 37.--ENVIRONMENTALREMEDATION

2-3708. Purpose; amount of reimbursement, limits. (a) There is hereby established the remediation reimbursement program. The program shall be for the purpose of providing reimbursement to eligible persons for the costs of corrective action approved by the department of health and environment or taken in accordance with requests or orders issued by the department of health and environment.

(b) The amount of reimbursement that an eligible person may receive from the fund shall be limited as follows:

(1) For an eligible person who is ~~required~~ to pay any assessment imposed pursuant to K.S.A. 2000 Supp. 2-3713, and amendments thereto, reimbursement per site shall not exceed an amount equal to: (A) 90% of total eligible corrective action costs greater than \$1,000 and less than or equal to \$100,000; plus (B) 80% of total eligible corrective action costs greater than \$100,000 and less than or equal to \$200,000. [has paid]

(2) For an eligible person who is not required to pay any assessment imposed pursuant to K.S.A. 2000 Supp. 2-3713, and amendments thereto, reimbursement per ~~release~~ shall not exceed an amount equal to 100% of total eligible corrective action costs greater than \$1,000 and less than or equal to \$10,000. [site]

History: L. 2000, ch. 82, § 8; July 1.

The total amount reimbursed for any one site shall not exceed \$200,000 within a 5 year period or as otherwise set forth by the board pursuant to rules and regulations.

Brad Franz
Franz Farms
874 Buckskin Rd. - Inman, Ks. 67546
(316) 585-6904 Phone/Fax

February 12, 2001

Senate Natural Resources Committee
Hearing on SB 264

Testimony of Brad Franz, President
Board of Directors
Groundwater Management District # 2

Chairman Tyson, Senator Lee, and Members of the Committee. My name is Brad Franz. I am pleased to appear before you today to explain the need for Senate Bill 264, dealing with the financing and governance of the Equus Beds Groundwater Management District, now known as GMD #2. I am a farmer and irrigator from Inman, Kansas. My father, brother and I farm land in Reno, Harvey and McPherson counties. Currently I serve as President of the nine-member Groundwater Management District Board of Directors. The voters of our groundwater management district elected me to that position and I am speaking to you on their behalf today.

In truth, I wear two hats as I work on district issues. One is an irrigator hat. The other is the board president hat. Through my six years of service on the District Board, I have learned a lot about the groundwater in the Equus Beds. I have also learned how fragile the aquifer is and how many people – over 500,000 – rely on it for either clean drinking water, for the operation of an industry or as we do in our farming operation, for agricultural uses. I've also learned that the issues we on the board face in managing the supply of water and in protecting the quality of water in our aquifer are very different from the issues faced by the four other groundwater management districts in Kansas. To be an effective leader on the district board, I have been forced to look beyond the needs of my own farm operation and those of other agricultural water users and to consider as well the needs of the many industrial and municipal water users who we permit to draw water from the aquifer.

In fact, that is the biggest difference between the Equus Beds district and the other four. 40% of the permitted water from the Equus Beds aquifer goes to either industrial or municipal users. As you can see in the following table, that fact about GMD #2 stands in stark contrast to the reality of the other four districts all of whom serve primarily agricultural users.

**Groundwater Management Districts
Permitted Water Use – 1998**

	Permitted Water Use Total Acre Feet	Irrigation	Municipal	Industrial
GMD #1	600,000	95%	4%	1%
GMD #2	334,000	57%	21%	19%
GMD #3	3,859,344	97%	2%	1%
GMD #4	864,939	97%	2%	1%
GMD #5	750,000	97%	2%	1%

Senate Natural Resources Committee

Date 2-12-01

Attachment # 6

As a result of this distinction, the Equus Beds District Board of Directors has asked for and received the partnership of REAP, a group of South Central Kansas city and county officials, to work with us on this legislation.

For about the last six months, REAP and the elected district board worked together to draft legislation that accomplishes two goals. First, to lift the statutory cap on the rate we as a district can charge water users. Second, to insure municipal users will be adequately represented on the board of directors. Many of you may be aware of unsuccessful efforts in previous sessions to address the GMD cap on user rates. One of the things we learned in that process, was that the other GMD's would be more comfortable if our efforts to address matters affecting the Equus Beds GMD did not in any way have to impact their operations. For that reason, SB 264 makes a third change, it creates separate statutory authority for us and leave all the statutes governing the other four districts (including the governance structure and the water user assessment rate cap) untouched.

SB 264 must be passed this year. Our district has been operating up against the water rate assessment cap for about three years now. Without statutory relief, we will be required to cut existing programs essential to effective management of the aquifer.

Before I conclude, I need to make one additional point. Our board, along with REAP, agreed to seek legislative removal of the rate cap on water users. We strongly feel you should trust those of us elected by the district voters and who are closest to the situation to set that user fee annually. However, as I have visited with legislators here in the capital, it has become painfully clear that many folks are not comfortable removing that cap.

SB 264, as written, contains a cap of 98 cents. Let me state clearly, that cap is too low. My neighbor, Senator Downey, will be offering a friendly amendment to increase the cap a bit further. On behalf of the Equus Beds Groundwater Management District Board of Directors and the water users we serve, I ask you to adopt the Downey amendment and then to pass SB 264 out favorably.

Now, I would like Jolene Grabill, REAP's legislative representative, to present the details of our proposal. Afterwards we will both be available to answer any questions the committee might have. Thank you.

Equus Beds Fact Sheet

Source: www.equusinfo.org

Where is the Equus Beds?

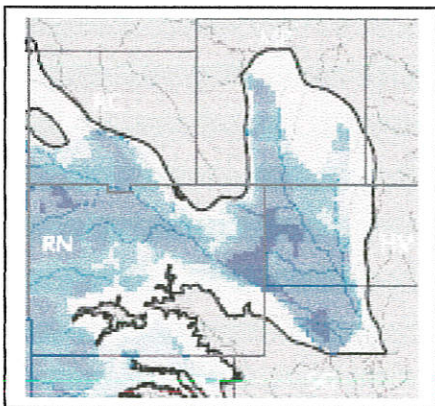
- The equus beds aquifer is the eastern most extension of the high plains aquifer system.
- It lies under most of Reno County, and parts of McPherson, Harvey, Sedgwick, Rice and Kingman counties.

How was the Equus Beds Created?

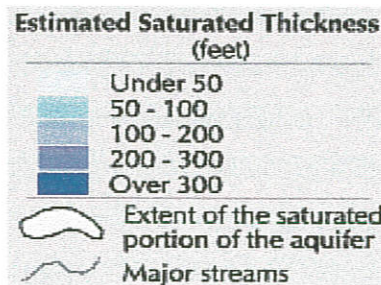
- The aquifer is composed of unconsolidated silt, clay, sand and gravel deposits.
- The formation of the equus beds was the direct result of erosion and structural geologic processes, whereby rapidly flowing rivers and streams, in combination with solutioning and subsidence of underlying bedrock units formed deep, broad channels which were filled with alluvial and windblown sediments
- The thick alluvial deposits, over time, were saturated by infiltration from precipitation, bedrock units and streams and rivers.

How close to the surface is the water in the Equus Beds

- The total saturated thickness of the aquifer ranges from less than 50 feet to 250 feet.
- Saturated thickness is the vertical thickness of an aquifer in which the pore spaces of the rock forming the aquifer are filled with water. It can be used to calculate the potential extractable water from an aquifer and is therefore



- commonly used as an indicator of available resources in setting management and use policies and regulations.
- The map of current saturated thickness at the left shows estimates of the averaged 1997-1999 saturated thickness for the equus beds aquifer at the center of every legal section (approximately every square mile) within the area for which adequate data are available.



Equus Beds Fact Sheet

Source: www.equusinfo.org

Who uses water from the Equus Beds Aquifer?

- The excellent quality of the water in the equus beds aquifer, its relatively shallow depth, widespread lateral extent and the large saturated thickness, make the equus beds aquifer an extraordinary source of groundwater in South Central Kansas.
- The equus beds aquifer is an important source of water for municipal, domestic, irrigation and industrial uses.

How is the water in the Equus Beds replenished?

- The equus beds aquifer is recharged by several sources including precipitation, bedrock seepage, and stream and river infiltration.
- The major recharge source is precipitation which is estimated to occur at approximately 15 to 20% of the annual rainfall.

Is pollution of the aquifer a concern?

- Protecting the quality of the water in the equus beds from both man-made and natural problems is (sic) an important consideration.
- Due to the large lateral extent of the aquifer and the relatively thin soil mantle cover over the aquifer, the potential for surface activities to affect the quality of the underlying water quality is relatively high.
- Past domestic and industrial operations and disposal practices of various industries have affected the quality of the groundwater in localized areas.
- Present regulatory requirements, in conjunction with industrial operational modifications and waste handling practices, have eliminated many of the contamination sources.

Who manages water taken from the Equus Beds aquifer?

- Groundwater Management District 2 in the eastern High Plains operates under safe yield policies, with groundwater appropriations limited to an administratively adopted recharge value.
- The office for Groundwater Management District 2 is located at 313 Spruce Street in Halstead, Ks.
- The district is governed by a board of directors elected from the landowners within the district and the users of water taken from the aquifer.



Regional Economic Area Partnership

strengthening the economy of south central Kansas through joint action of cities and counties

ANDOVER
Mayor Dennis Bush

ARKANSAS CITY
Mayor Charles Jennings

AUGUSTA
Mayor Ross Rountree

BELAIRE
Mayor Gary O'Neal

BENTLEY
Council Member Sandra Moon

BENTON
Mayor Will Johnson

BUTLER COUNTY
Commissioner Will Carpenter

CHENEY
Mayor Carl Koster

CONWAY SPRINGS
Council Member Wayne Taylor

DERBY
Mayor Richard Standrich

EL DORADO
Mayor Susan Seeber

HALSTEAD
Mayor Bill Ewert

HARVEY COUNTY
Commissioner Kenneth Meier

HAYSVILLE
Mayor Tim Norton

HESSTON
Council Member Randy Stauffer

HUTCHINSON
Vice Mayor Clay Bontrager

MAIZE
Mayor Karen Fitzmier

MULVANE
Mayor James Ford

NEWTON
Commissioner Kathryn Gaedder

PARK CITY
Mayor Olin Heibert

RENO COUNTY
Commissioner Frances Garcia

ROSE HILL
Council Member Marsha Francis

SEDGWICK
Mayor D. Keith DeHaven

SEDGWICK COUNTY
Commissioner Tom Winters

SUMNER COUNTY
Commissioner Robert Courtney

TOWANDA
Mayor Ben Giles

UDALL
Mayor Mitchell Kratochvil

VALLEY CENTER
Mayor James 'Jet' Truman

WALTON
Mayor Alan Heine

WELLINGTON
Mayor James Chisham

WICHITA
Mayor Bob Knight

WINFIELD
Commissioner Mike Ledy

Senate Natural Resources Committee
Senator Robert Tyson, Chairman

Public Hearing on SB 264
Equus Beds Groundwater Management District
Monday, February 12, 2001

Chairman Tyson, Members of the Committee, I am Jolene Grabill, here today representing REAP, the South Central Kansas Regional Economic Area Partnership. As you can see from the letterhead and the attached card, REAP is made up of 32 city and county governments in seven south central Kansas counties. These cities and counties voluntarily join together to speak with "one voice" on state and national actions that guide economic development in the REAP economic region. Today, I am pleased to raise the voice of REAP on their most important 2001 legislative priority - protecting the public water supply of South Central Kansas.

Mr. Franz outlined the three critical components of SB 264: financing, governance, and separate statutory authority. Before I address each item in more detail, I will take a moment to address the unique characteristics and geologic traits of the Equus Beds aquifer. In your packet is a document titled "Equus Beds Fact Sheet". The primary source for this document was the technical information section of the state's new Equus Beds web site, www.equusinfo.org. Four main points of information bear highlighting.

1. The excellent quality of the water in the equus beds aquifer, its relatively shallow depth, widespread lateral extent and the large saturated thickness, make the equus beds aquifer an extraordinary source of groundwater in South Central Kansas.
2. The equus beds aquifer is an important source of water for municipal, domestic, irrigation and industrial uses.
3. The equus beds aquifer is recharged by several sources including precipitation, bedrock seepage, and stream and river infiltration.
4. Due to the large lateral extent of the aquifer and the relatively thin soil mantle cover over the aquifer, the potential for surface activities to affect the quality of the underlying water quality is relatively high.

The 1972 Kansas Legislature enacted the original statutes creating groundwater management districts in Kansas. Those statutes can be found in KSA 82a-1020 through 82a-1038. Under that authority, Groundwater Management District #2 was organized to manage and protect the Equus Beds Aquifer. SB 264 amends only one of those statutes, KSA 82a-1021. Two tax statutes are also amended.

Senate Natural Resources Committee

Date 2-12-01

Attachment # 7

KSA 82a-1021 now contains the definitions for the remaining groundwater management district statutes. What SB 264 does is to put in front of the existing definitions, a repeat of all the GMD statutes with a bit of updating to address the specific needs of the Equus Beds district. Specifically, you will see on page 1 of the bill, in New Section 1, the definitions specific to the Equus Beds Groundwater Management District including the definition of the Equus Beds district in (e) beginning on line 26. Page three, line 30, refers to separate statutory authority for the district.

We understand from that this statutory structure is the best way to accomplish the third goal shared by REAP and Mr. Franz – that of specifically addressing the needs of the Equus Beds GMD while leaving all the statutes governing the other four districts untouched. It is our hope that SB 264 will, as a result, enjoy the support of the other districts. On that point, I would refer you to a letter from GMD # 4 to Mr. Franz in your packet.

So, if we leave the other districts untouched, what do we accomplish for the Equus Beds district? Two critical changes. First, on page 4, on lines 29 – 38 of new Section 4 (e) the composition of the board of directors is required to include a minimum of three municipal board members. Second, on page 7, on line 37 in new Section 7 (a) the existing rate cap the district can charge water users is raised from the current cap of 60 cents per acre foot to 98 cents.

To understand these proposed changes, a bit of background is required. We'll take the board composition first. As indicated on the fact sheet, "*The equus beds aquifer is an important source of water for municipal, domestic, irrigation and industrial uses.*" Unlike other districts, and as shown in Mr. Franz's testimony, GMD # 2 manages 40% of their water for municipal and industrial users. The municipal users on the board of directors represent over 500,000 Kansas who rely on public water from the Equus Beds aquifer. Even though municipal directors have such important responsibility for over half a million Kansans, the number of municipal directors elected to the Equus Beds District Board was recently reduced from three to two. Why? Largely due to the way district voting rights are defined by statute. (See definition of eligible voter on page 1 of SB 264 line 32 through line 34 on page two of the bill.) Using these definitions, here was the breakdown of eligible voters in the recent board elections.

Equus Beds Groundwater Management District Voter Profile

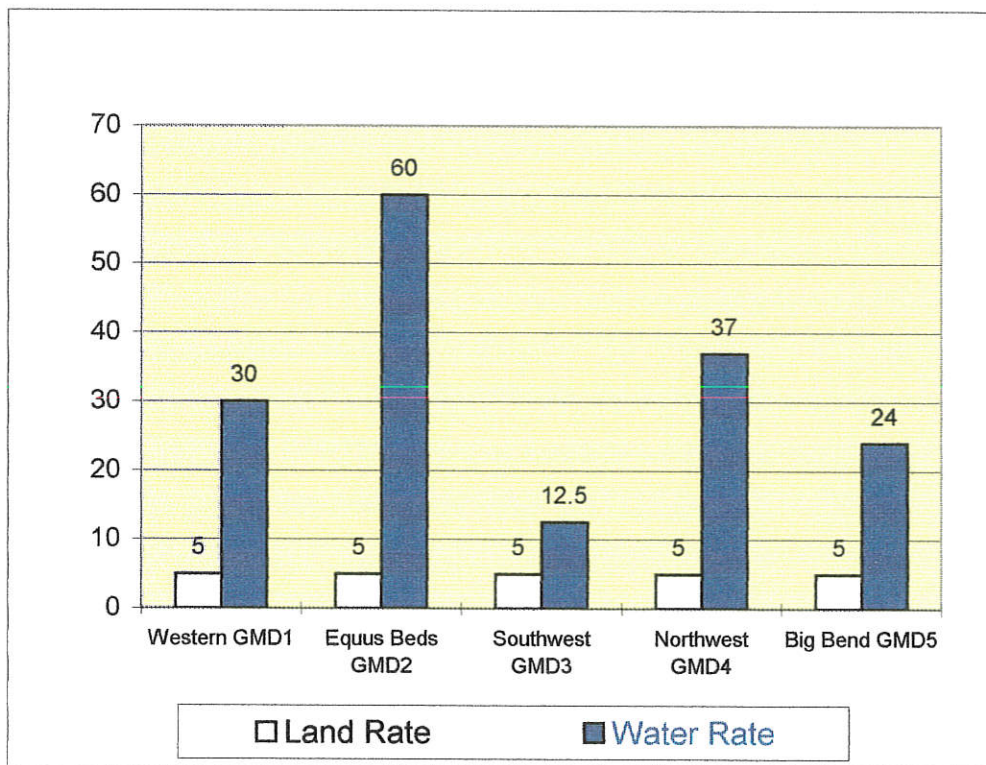
Type Water Use	Voters	Percent of Total
Agricultural	899	84
Municipal	43	4
Industrial	64	6
At-Large	58	5
Total	1,064	99 (Not equal to 100% due to fractions)

Note: Dryland voters are included in both the "at-large" and "agricultural" user types.
Source: GMD # 2, February 2001

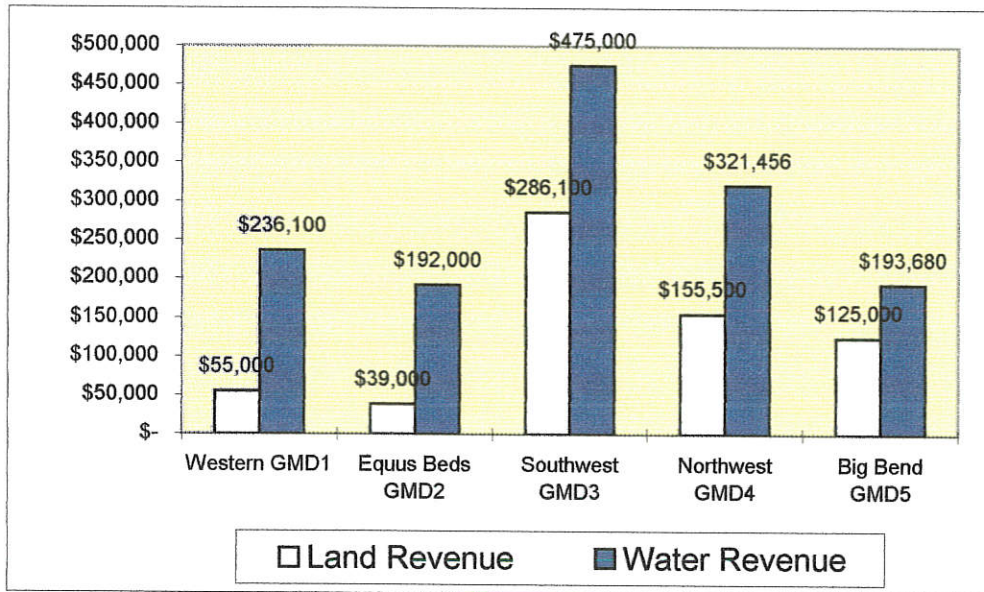
Like most elections, not all eligible voters actually turn out to vote for the board of directors. However, it is clear to see that whatever percent do turn out for each board election, the 500,000 plus citizens who depend on the Equus Beds for their public water supply are not as well represented as the agricultural users. The new requirement for all voters to elect a minimum of three municipal directors adds needed balance to the board.

To understand the need for a change in the rate cap on Equus Beds water users, you need a basic understanding of the statutory financing formula for all groundwater management districts. Districts finance operations by assessing user fees on those who take water from the aquifer and land assessments on folks who own property within the district boundaries. Under the current statute those caps are 60 cents per acre-foot on water use permits and 5 cents per acre for each acre of land owned within the district boundaries. All five existing districts have different quantities of water to manage and cover different size geographic boundaries. As a result, you have to couple the specific “base” of land and water for each district by the rates they charge to see each district’s distinct financial reality.

The following chart illustrates how all five districts currently use their statutory assessment authority. All five districts assess the 5 cents per acre legal maximum on their land base. However, only the Equus Beds GMD assesses the legal maximum of 60 cents an acre-foot on the water users. The range of water user rates charged in other districts goes from a low of 12.5 cents per acre foot charged by GMD # 3 to a high of 37 cents per acre-foot charged by GMD # 4. Given the larger quantity of water managed by other districts, it appears the legislature has only applied a meaningful cap on the smallest district, the Equus Beds.



The next chart illustrates revenue generated for each district using those assessments rates. This picture shows the small size of the Equus Beds district along with the smaller quantity of water they manage generates the smallest of the five district budgets - even though the Equus Beds is the only district currently assessing the maximum legal rate for water use.



One final chart showing the actual amount of land and water in each respective district further illustrates the problem facing the Equus Beds district.

GMD	Name	Water Base in Acre-Feet	Land Base in Acres
#1	Western	787,000	1,100,000
#2	Equus Beds	320,000	780,000
#3	Southwest	3,800,000	5,722,000
#4	Northwest	868,800	3,110,000
#5	Big Bend	807,000	2,500,000

To summarize, the Equus Beds Groundwater Management District is unique among Kansas groundwater management districts. It manages a fragile aquifer where water flows closer to the surface than in any other district. It is the smallest district, yet the only one with 40 % industrial and municipal users. While over a half million citizens rely on the district to provide clean drinking water, their representation on the governing body is decreasing. Most importantly, the Equus Beds is the only district currently exercising the maximum legal rate of assessment on water users, yet it generates the smallest budget of all districts.

To address these unique challenges, REAP joins the Equus Beds Board of Directors in asking you to pass SB 264, along with the Downey amendment. This legislation is critical to the regional economy and essential to protect the public water supply of South Central Kansas. Thank you.



**NORTHWEST KANSAS
GROUNDWATER
MANAGEMENT
DISTRICT NO. 4**

Fax: (785) 462-2693
E-mail: wbossert@colby.ikks.com
URL: [HTTP://colby.ikks.com/~wbossert](http://colby.ikks.com/~wbossert)

1175 South Range Avenue
P O Box 905
Colby, Kansas 67701-0905
(785) 462-3915

February 6, 2001

Brad Franz, President, Equus Beds CMD 2
313 Spruce Street
Halstead, KS 67056

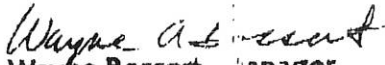
RE: Proposed Legislation

Dear Mr. Franz:

The Northwest Kansas Groundwater Management District 4 can support the introduction of proposed legislation creating a specific Groundwater Management District for the Equus Beds CMD so long as said legislation is completely independent of the current Groundwater Management District Act and does not alter the make-up, mission, authorities or any other aspect of the remaining 4 GMDs in Kansas. Should this occur, we reserve the right to reconsider this position statement.

If you need any additional information, please let me know.

Sincerely,


Wayne Bossert, Manager
Northwest Kansas Groundwater
Management District No. 4

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FEB - 8 2001

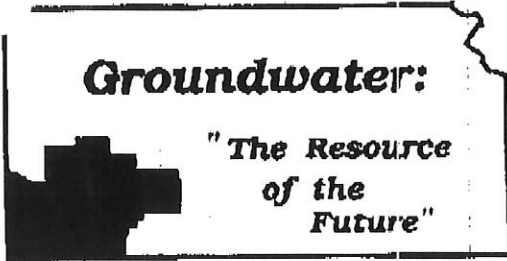
EQUUS BEDS GROUND WATER
MANAGEMENT DISTRICT NO. 2

"Planning for Our Most Precious Resource"

4

TOTAL P. 01

7-5



**Southwest Kansas
Groundwater Management District**

* * * * *

(316) 275-7147

409 Campus Drive, Suite 106
Garden City, Kansas 67846

February 9, 2001

Brad Franz, President
Equus Beds Groundwater Management District
313 Spruce
Halstead, Kansas 67871

RE: S.B. 264

Dear Mr. Franz,

Please allow this statement to serve as an expression of the District's qualified support regarding Senate Bill 264.

The Board of Directors of the Southwest Kansas Groundwater Management District are in agreement with your intentions to provide for limited amendments to the provisions of the Groundwater Management District Act through the introduction of single-issue legislation in the form of the "Equus Beds Groundwater Management District Act". As it is apparently the consensus of the other Groundwater Management Districts that no other amendments to the Groundwater Management District Act are necessary or requested at this time, the Directors philosophically endorse your desire to:

1. moderately increase the statutorily specified assessment levels to properly provide for present and prospective management operations in the Equus Beds GMD; and
2. provide for a statutorily specified regimen of water-use representation classes on the Equus Beds GMD Board of Directors.

Of course, the District absolutely supports the Equus Bed's statutory authority to manage locally and "to preserve the right of local users to determine their own destiny with respect to the use of the groundwater ...".

As always, we look forward to working with you in the future! Please write or call if you have any questions or if we can be of any assistance.

Sincerely,

Steven K. Frost
Executive Director

pc: Board of Directors

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FEB - 9 2001

EQUUS BEDS GROUNDWATER
MANAGEMENT DISTRICT NO. 2

Serving Southwest Kansas Since 1976