

MINUTES OF THE HOUSE COMMITTEE ON ENVIRONMENT.

The meeting was called to order by Chairperson Joann Freeborn at 3:30 p.m. on February 5, 2002 in Room 231-N of the Capitol.

All members were present except: Representative Clay Aurand - excused
Representative Dennis McKinney - excused

Committee staff present: Raney Gilliland, Kansas Legislative Research Department
Mary Torrence, Revisor of Statute's Office
Mary Ann Graham, Committee Secretary

Conferees appearing before the committee: Clint Riley, Department Attorney, KS Department Wildlife & Parks, 900 SW Jackson, Ste 502, Topeka, 66612-1233
Mary Ellen Conlee, Regional Economic Area Partnership, 1845 Fairmount, Wichita, KS 672-0155
Jerry Blain, GMD#2, 455 N. Main, Wichita, KS 67202
Charles Benjamin, KS Chapter Sierra Club, PO Box 1642, Lawrence, KS 66044-8642
Margaret Fast, Kansas Water Office, 901 SW Kansas Ave., Topeka, KS 66612-1249
Dennis Bush, Mayor, PO Box 295, Andover, KS 67002
Keith DeHaven, PO Box 131, Sedgwick, KS 67135
Bob Myers, City Attorney, 600 N. Main, Newton, KS 67114
Brad Franz, President, Equus Beds GMD#2, 313 Spruce, Halstead, KS 67056-1925
Leslie Kaufman, KS Farm Bureau, PO Box 3500, 2627 KFB Plaza, Manhattan, KS 66505
Jay Russell, KS Bldg. Industry Association, 2206 SW 29th Terrace, Topeka, KS 66611
Kerri Ebert, Kansas Dairy Association, 4210 Wamtehu Drive, Wamego, KS 66547
Bob Seiler, KS Dairy Association, 13501 85th N., Valley Center, KS 67147

Others attending: See Attached Sheet

Chairperson Joann Freeborn called the meeting to order at 3:30 p.m. She opened the floor for bill introductions and asked if anyone wished to request a bill at this time. No one came forward. She opened **HB2607** for discussion and possible action.

HB2607: Rural water districts mail ballot elections.

The Chairperson recognized Representative Tom Sloan.

Rep. Tom Sloan made a motion the bill be passed favorably and placed on the consent calendar. Rep. Sharon Schwartz seconded the motion. Motion carried.

Chairperson Freeborn announced that Rep. Tom Sloan will carry the bill if it is taken off the consent calendar.

The Chairperson opened public hearing on **HB2679**.

HB2679: Defining "resident" for the purpose of obtaining lifetime hunting, fishing or furharvester licenses.

Clint Riley, Department Attorney, Kansas Department Wildlife and Parks, was welcomed to the committee and testified in support of the bill. For purposes of eligibility for lifetime hunting, fishing, furharvester, or combination licenses, this bill would require that a person maintain residency in Kansas for one year, rather

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than 60 days as is required by current law. The statutory definition of "resident" applicable to Wildlife and Parks laws and regulations currently requires that a person "maintain the person's place of permanent abode in this state for a period of 60 days immediately preceding the person's application..." KSA 32-701(p). The statute also describes factors to determine what it means to maintain a place of permanent abode, including "domiciliary intent." Eligibility for a lifetime license is extended only to Kansas residents, and therefore these licenses are available only to persons meeting this statutory definition. Because the benefits of a lifetime license are considerable greater than other resident permits and licenses, and because the legislature has previously decided to make lifetime licenses available to Kansas residents, the department believes the time period to qualify for these licenses should be increased to one year, and thereby guarantee that only persons truly intending to be Kansas residents receive these benefits. (See attachment 1) Discussion followed.

The Chairperson closed the hearing on **HB2679** and opened the hearing on **HB2680**.

HB2680: Increase in cash bond fees for wildlife and parks violations.

Clint Riley, Department Attorney, Kansas Department Wildlife and Parks, was welcomed back to the committee. He testified in support of the bill and believes the amount of the proposed increases are intended to ensure that the bond amount would serve as an appropriate deterrent, while recognizing the various levels of seriousness for different offenses. The categories have also been reexamined in certain cases to help apply the larger increases only to the offenses deemed most important. The department requests approval of this bill to help deter Wildlife and Parks violations by better ensuring that violators will be subject to appropriate penalties. (See attachment 2) Discussion followed.

Chairperson Freeborn closed the hearing on **HB2680** and opened the hearing on **SB264**.

SB264: Equus beds groundwater management district #2; powers, duties and organization.

Mary Ellen Conlee, Regional Economic Area Partnership, was welcomed to the committee. She testified in support of the bill on behalf REAP which is an organization of local governments in South Central Kansas that have joined together to work on issues of common interest. They believe this bill is a key element in the process of protecting and preserving the Equus Beds aquifer and the region's public water supplies. Specifically, the proposed legislation provides the district's elected board of directors the authority to set water user fees at a rate sufficient for the implementation of the district's management plan. The legislation does not affect other groundwater management districts because they are not experiencing the same budgetary difficulties. The Equus Beds aquifer is faced with challenges that make it unique among groundwater management districts in Kansas. (See attachment 3)

Jerry Blain, Water Supply Projects Administrator, City of Wichita, was welcomed and testified in support of the bill. He believes this legislation will determine whether or not the Equus Beds will continue to have a GMD. If this committee feels that the GMD should not exist after considering his previous statements, then this legislation should not go forward. However, if the committee feels that one of the most vital aquifers in the state should be allowed to have a Ground Water Management District, then this committee should not have any concerns about advancing this legislation. (See attachment 4)

Charles Benjamin, Sierra Club, Kansas Chapter, was welcomed. He testified in support of the bill on behalf the Sierra Club, and believes that GMD #2 needs the funds to carry out programs to protect the quantity and quality of the water in the Equus Beds. The GMD is not asking for additional state funds. They are merely asking that the users of water from the resource bear the cost of protecting this resource. They trust the board of directors and the people of south central Kansas to work together to protect the Equus Beds. Let them generate the funds they need to do the job. They respectfully urge the approval of the bill by this committee. (See attachment 5)

Margaret Fast, Kansas Water Office, was welcomed to the committee. She provided testimony as staff to the Kansas Water Authority in support of the bill. In mid February, the voting members of the Kansas Water Authority were sent a staff analysis of the bill. The Kansas Water Authority understood this bill raised the cap on the amount the GMD could assess for water use, included the makeup of the board of Directors to

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include a minimum of three each municipal and agricultural representatives, and gave no additional authority to the GMD. At the time, GMDs 1, 3, and 4 had submitted letters of support for the bill as drafted. (See attachment 6)

Dennis Bush, Mayor of Andover, Kansas, and Chair of the Legislative Committee for the regional Economic Area Partnership, was welcomed. He testified in support of the bill and believes one of the most significant regional priorities for REAP is the protection of the public water supply in South Central Kansas. The Equus Beds aquifer is a primary source of water for many REAP communities. In fact, the aquifer provides fresh and potable water daily to over 500,000 people and over 15,000 businesses in 23 cities in Butler, Harvey, McPherson, Reno and Sedgwick counties. Communities that are not located in the boundaries of the Equus Beds GMD such as Andover, Rose Hill and Benton depend on the aquifer for water through service agreements with the city of Wichita. In addition, the aquifer provides groundwater for hundreds of agricultural producers and industries in the region. On behalf of the thirty-three local governments in REAP, asks the committee's support of the bill. (See attachment 7)

Keith DeHaven, Mayor of Sedgwick, Kansas and member of the Regional Economic Area Partnership, was welcomed. He testified in support of the bill and believes the bottom line is that everyone must work together in the arena of water protection. This bill is an example of cooperation with agricultural, industrial and urban interests. The Equus Beds GMD has been trying to address their budget difficulties through legislation for the past few years. Considering the large impact the aquifer has on the economy and well being of South Central Kansas, it just makes sense for REAP to support the district's efforts to increase their budget capabilities. It is imperative for anyone who draws water from the Equus Beds to work with the board in protecting this vital natural resource. (See attachment 8)

Bob Myers, City Attorney for the City of Newton, Kansas, was welcomed. He provided testimony in support of the bill and believes the Equus Beds GMD board is directly elected by and includes the very people who are the ones who pay the assessments, with the vast majority of the board members representing rural and agricultural interests. And this board agrees that the changes provided by this bill are needed. This is local control. This is local problem-solving. This is local decision-making. They uniquely know the problems with which they are faced in this region, and together and cooperatively have devised the needed solution. They urge the committee's support of this bill and of their local, cooperative efforts. (See attachment 9)

Brad Franz, President, Equus Beds GMD #2, was welcomed to the committee. He testified in support of the bill and as a farmer understands that economic conditions are not good at the present time. Any additional expenditures to his operations are reviewed and considered very closely. He has considered and discussed this bill at great length with his neighbors. It is his belief that this bill is needed, reasonable and prudent to insure that his farming operations and those of his neighbors have a fresh and usable source of groundwater. He urges the committee to concur with the Special Committee on Energy, Natural Resources and Environment and the Kansas Senate and pass this bill favorably from the committee. (See attachment 10) Discussion followed.

Written only testimony in support of the bill was provided by: Senator Jean Schodorf (See attachment 11); Dennis M. Clennan, Director of Public Works and Engineering, City of Hutchinson (See attachment 12); Mike Taylor, Government Relations Director, City of Wichita (See attachment 13); Joe Pisciotte, Vice Mayor, Wichita (See attachment 14); and The Board of Harvey County Commissioners (See attachment 15).

The Chairperson welcomed Leslie Kaufman, Kansas Farm Bureau, to the committee. She testified in opposition to the bill. Kansas Farm Bureau policy supports the GMD Act, which currently applies to all GMDs. Their members further clarified this support by refining policy language at their 83rd Annual Meeting this fall. Simply increasing the cap, without the other provisions of the bill, is much preferable to the original bill. Should the committee, see fit to follow the recommendations of the Special Committee, they would strongly urge GMD#2 to: (1) Be judicious in managing funds; (2) Evaluate budgetary expenditures and programs carefully to avoid any duplication with other agencies; (3) Assure that those benefitting from a particular program or service are helping to pay for that program/service; (4) Insure funding mechanisms do not disadvantage agricultural producers; and (5) Slowly and incrementally approach any new cap, implementing increases only as absolutely necessary. (See attachment 16)

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Jay Russell, Kansas Building Industry Association, was welcomed to the committee. He testified in opposition to the bill. The two points on which the KBIA disagrees with the GMD#2 contention that the Equus Beds groundwater will be harmed by suburban development are: (1) The advent of Alternative On-Site Sewer Systems that are at least as efficient as "public sewage treatment plants" overcomes the GMD#2 prohibition that no new residential developments be permitted in the Equus Beds area unless they are served by a "public sewer treatment system" and (2) Recognition that domestic wells would impact the water supply in the Wichita Well Field no more than increased production at those wells to serve the same, or a larger population by selling raw water to the City of Bentley. These two factors lead them to question the motives of the GMD#2 and its willing accomplice, the City of Wichita. Mr. Russell had maps showing the Bentley Housing Development. Included with the testimony was a letter from Michael T. Dealy, Manager, Equus Beds GMD#2; a letter from Harlan D. Foraker, Certified Engineering Design, Wichita; and a letter from Christopher M. Bohm, Professional Engineer working in the South Central Kansas Area. (See attachment 17)

Kerri Ebert, Kansas Dairy Association, was welcomed to the committee. She testified in opposition to the bill, however, supports the compromise work done by the Interim Committee on Energy, Natural Resources and the Environment and request that the Interim Committee's findings be substituted for the current language in the bill. In defense of the dairy industry and agriculture in general, because of their opposition to the bill, their Association has been criticized as not caring about water quality for a water supply that serves a half million Kansans. The bill is not a water quality bill. It is a tax increase bill. Some of that tax increase will be used to monitor water quality, but as far as they can tell, none of the money will be used for proactive programs that actually prevent water contamination. Those programs are already taking place on the hundreds of farms in the Equus Beds region and all across Kansas in the form of implementation of best management practices for cropping and livestock operations. (See attachment 18)

Bob Seiler, Dairy Producer and Farmer from Valley Center, was welcomed. He testified in opposition to the bill because he doesn't believe there is anything in it for Agriculture. There would be less representation on the board of directors plus the extra assessment would be paid 57 percent by Agriculture. He also contends that the Equus beds and GMD's were formed to manage the quantity of water used not the quality. We have KDHE and KCC to take care of the quality and the control of the quality would be more consistent over the state. He believes water quality is important, but just differs on who should be responsible. The water quality problems in the Equus Beds have mostly been caused by salt from the salt beds and oil field brine. The management of the Equus Beds has been very vocal against animal agriculture even though historically it has not been a problem. He has trouble paying a higher assessment to the Equus beds when they are trying to over regulate the industry. (See attachment 19) Discussion followed.

Written only in opposition to the bill was submitted by Don Phillips, President of Kansas Seed Industry Association. (See attachment 20)

The Chairperson closed the hearing on **SB264**. She reviewed the committee agenda for Thursday, February 7, 2002. She called the committee's attention to testimony from the Kansas Building Industry in support of **HB2624**, which was heard on January 31, in this committee. (See attachment 21)

The meeting adjourned at 6:00 p.m. The next meeting is scheduled for Tuesday, February 5, 2002.

HOUSE ENVIRONMENT COMMITTEE GUEST LIST

DATE: February 5, 2002

NAME	REPRESENTING
Mike Taylor	City of Wichita
Ken Meier	Harvey Co
Cari Simon	Harvey Co
Bob Myers	City of Newton
Keith DeHaven	City of Sedgwick
Dennis Bysle	City of Andover
Bud Adams	Egans Beds
Jerry Bickin	City of Wichita
Mike Hughes	City of Wichita
Leslie Kaufman	KFB
Janet McPherson	
Margaret Fast	Ks Water office
Gordon Schmidt	Self
Mary Ellen Conlee	REAP
Keith Lawing	REAP
Jatane Bisset	REAP
Jamie Corkhill	SRS/CSE
Mike Ohrt	Pinegar Smith
Jamie Clover Adams	KDA



STATE OF KANSAS
DEPARTMENT OF WILDLIFE & PARKS

Office of the Secretary
900 SW Jackson, Suite 502
Topeka, KS 66612-1233
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HOUSE BILL NO. 2679

**Testimony Provided to
House Committee on Environment
February 5, 2002**

For purposes of eligibility for lifetime hunting, fishing, furharvester, or combination licenses, HB 2679 would require that a person maintain residency in Kansas for one year, rather than 60 days as is required by current law. The statutory definition of "resident" applicable to Wildlife and Parks laws and regulations currently requires that a person "maintain[] the person's place of permanent abode in this state for a period of 60 days immediately preceding the person's application. . . ." K.S.A. 32-701(p). The statute also describes factors to determine what it means to maintain a place of permanent abode, including "domiciliary intent." Eligibility for a lifetime license is extended only to Kansas residents, and therefore these licenses are available only to persons meeting this statutory definition.

A lifetime license carries several benefits, including the ability to continue to claim status as a Kansas resident after moving out of the state. Therefore, in addition to the financial benefit from no longer buying annual hunting, fishing, or furharvester licenses, a lifetime license also guarantees eligibility for other permits available to Kansas residents. Consequently, an increasing number of people seem tempted push the limits of legal eligibility for a lifetime license. For example, a person who has temporary summer job in Kansas may decide to apply as a Kansas resident, perhaps after signing a three-month apartment lease, temporarily changing voter registration, or registering a car.

An application of this kind can have two different impacts. First, the department has had to devote an increasing amount of investigative time to lifetime license applications, to determine whether these applicants truly have domiciliary intent to change their permanent abode to Kansas. Second, when a person has taken all objective steps to meet the definition of a Kansas resident, the license will be issued, and consequently a person might obtain a special benefit of citizenship after only 60 days, and then immediately leave the state.

Because the benefits of a lifetime license are considerable greater than other resident permits and licenses, and because the legislature has previously decided to make lifetime licenses available to Kansas residents, the department believes the time period to qualify for these licenses should be increased to one year, and thereby guarantee that only persons truly intending to be Kansas residents receive these benefits.

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2-5-02
Attachment 1*



STATE OF KANSAS
DEPARTMENT OF WILDLIFE & PARKS

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HOUSE BILL NO. 2680

**Testimony Provided to
House Committee on Environment
February 5, 2002**

When a person is cited for a violation of a Wildlife and Parks law or regulation, the officer may require the person to post a cash bond to guarantee the person's appearance in court. The amount of many of these bonds are set in statute, and HB 2680 would increase these amounts.

In practice, an appearance bond is required only of nonresidents who are cited for Wildlife and Parks violations, because of the practical difficulties of obtaining a judgment against a nonresident who fails to appear in court. The bond amounts set in statute, however, have not been reexamined for eight years. In some cases, a potential lawbreaker could decide it is cost-effective to risk being caught without a required license or permit. If caught, the required bond is cheaper than the license fee, and the person would not bother to appear in court. Consequently, the threat of being caught would no longer serve as effective deterrent for this nonresident violator.

The amount of the proposed increases are intended to ensure that the bond amount would serve as an appropriate deterrent, while recognizing the various levels of seriousness for different offenses. The categories have also been reexamined in certain cases to help apply the larger increases only to the offenses deemed most important. The department requests approval of HB 2680 to help deter Wildlife and Parks violations by better ensuring that violators will be subject to appropriate penalties.

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Attachment 2*



Regional Economic Area Partnership

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

Testimony to House Environment Committee Mary Ellen Conlee February 5, 2002

ANDOVER
Mayor Dennis Bush

ARKANSAS CITY
Commissioner Charles Jennings

AUGUSTA
Mayor Ross Rountree

BEL AIRE
Mayor Gary O'Neal

BENTLEY
Mayor 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 Connie Phillips

HALSTEAD
Mayor Bill Ewert

HARVEY COUNTY
Commissioner Kenneth Meier

HAYSVILLE
Mayor Bruce Armstrong

HESSTON
Council Member Howard Wohlgemuth

HUTCHINSON
Mayor Clay Bontrager

MAIZE
Mayor Michael Hanshaw

MULVANE
Mayor James Ford

NEWTON
Commissioner Carl Harris

PARK CITY
Mayor Emil Bergquist

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 Leonard Albert

UDALL
Mayor William Hilderbrand

VALLEY CENTER
Mayor James 'Jet' Truman

WALTON
Mayor Alan Heine

WELLINGTON
Mayor James Chisham

WICHITA
Mayor Bob Knight

WINFIELD
Commissioner Mike Ledy

Representative Freeborn, members of the committee, I am Mary Ellen Conlee, representing The Regional Economic Area Partnership (REAP). REAP is an organization of local governments in South Central Kansas that have joined together to work on issues of common interest. Thank you for the opportunity to address the committee regarding SB264.

The Regional Economic Area Partnership supports Senate Bill 264, a key element in the process of protecting and preserving the Equus Beds aquifer and the region's public water supplies. Specifically, the proposed legislation provides the district's elected board of directors the authority to set water user fees at a rate sufficient for the implementation of the district's management plan. The legislation does not affect other groundwater management districts because they are not experiencing the same budgetary difficulties. The Equus Beds aquifer is faced with challenges that make it unique among groundwater management districts in Kansas. Other conferees will discuss the unique nature of Groundwater Management District #2.

Water issues often generate significant discussion, but the focus today should be the ability of a locally elected board of directors to fulfill its duties of overseeing the management and preservation of the Equus Beds aquifer. The district is restricted by the 60 cent cap on water user fees that was set over 20 years ago and does not generate enough revenue to fully fund the aquifer management plan submitted to and approved by the Chief Water Engineer. In 2001 REAP entered into a one-year agreement with GMD2 to provide additional revenues to carry out key elements of the management plan. Last year the legislature granted a one year 5 cent increase in the water user fees. GDM2 needs a permanent solution to this financial problem. To fully fund the budget, currently under consideration, the board would need to charge 69 cents.

The district's board of directors consists of water users in the district who have first hand knowledge of how important the quality and quantity of water in the aquifer is to the economy of South Central Kansas. A workable solution has been developed by water users in the district in the form of Senate Bill 264. By granting authority to increase the water user fees to the locally elected board of water users, GMD2 will be able to carry out all parts of its aquifer management plan. The solution, supported by the Senate in SB264 and reconfirmed by a summer interim committee would raise the cap to \$1.19. The locally elected board of water users after preparing an aquifer management plan and budget would determine how much of that budget authority would be required.

On behalf of the members of REAP, I ask for your support of SB264. The governance issues in the Senate version of SB 264 have been handled locally and therefore, are no longer needed. By raising the cap to \$1.19 as well as investigating other funding formulas as suggested by the interim committee, the GMD2 would not need to return to the legislature for a yearly debate on this issue. Several other members are present to address specific issues related to SB 264 and we will all be available to answer questions. Thank you.

Testimony on Equus Beds Funding Legislation
February 5, 2002
Senate Bill No. 264

Jerry Blain, Water Supply Projects Administrator, City of Wichita

Madam Chairman and Honorable Committee Members. I am Jerry Blain. I am the water supply projects administrator for the City of Wichita, Water and Sewer Department. In that role I am responsible for the construction of water supply facilities needed to meet the City water requirements for the next fifty years. I am also a member of the GMD # 2 Board of Directors. I respectfully offer the committee the following comments on the proposed legislation.

I start by offering the committee observations on what this bill is not. First, this legislation is not an effort to expand the duties of the District. The Board has long recognized that groundwater management must consider both quantity and quality issues. The State has already given statutory responsibility for groundwater quality regulation to the Kansas Dept. of Health and Environment, and this legislation gives no additional power or responsibility to the GMD. However, the GMD will continue to collect appropriate groundwater quality data, and to advocate for appropriate groundwater protection measures. There is not another entity that has accumulated the databases that the GMD has, and that information is often critical to making appropriate decisions regarding groundwater protection. I don't think anyone would argue that when reliable data is available it should be used to help make good decisions. Currently those regulatory decisions are made by KDHE, and the GMD does not seek to change those responsibilities. You may have already heard from those who "fear" that the GMD will try to acquire additional regulatory powers, and who say that if the GMD is given enough funding to stay open that it will then come back for more of those regulatory powers. For those who have those fears, I think it should be noted that the Equus Beds GMD has been working with the Legislature for over three years just seeking an opportunity to continue its existing services. I personally cannot imagine what would be involved, and the kind of opposition that would develop, if it indeed did try to acquire more regulator power. The level of effort needed to do that staggers my imagination. But what is even more relevant is that there is no need for that exercise. The Legislature has already given all of the needed powers to the Kansas Department of Health and Environment. All the GMD does now, and will want to do in the future, is to provide appropriate information to the KDHE so that it can make the appropriate decisions when required.

Second, it is not an example of an urban/rural conflict. The irrigators and producers in the Equus Beds Groundwater Management District have worked closely with the urban interests since the inception of the GMD to develop groundwater management approaches that are appropriate for the aquifer, not just for one type of water use. During the interim hearings this fall, the Board heard numerous comments from that Committee that perhaps the representation issues included in SB 264 could be resolved through changes in the By-Laws of the Board. In order to demonstrate to the Legislature that the Board does pay attention, and to further show that there is a strong urban/rural partnership within the District, at its January meeting the Board unanimously approved for first reading an amendment to its By-Laws that would assure three municipal representatives on the board. That proposed amendment was

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then discussed at the District's annual meeting. Based on the input received at the annual meeting I anticipate changes to the initial amendment, but nothing that changes the municipal representation proposed in the amendment. I anticipate that the Board will approve that amendment at either this month's or next month's meeting. I might also point out that the membership allocation shown in SB 264, and included in the amendment to the Board's By-Laws, reflects actual board membership for over 11 years.

I want to now focus on what this legislation will do. It is essential to the continuation of the Equus Beds GMD. The GMD currently had a budget of only \$220,000 per year, and a staff of four. If the GMD cannot raise any additional revenue, the staff of the GMD will have to be reduced. I believe that will result in a reduction of the services that the GMD currently provides, and eventually the GMD will not be able to provide enough services to warrant its existence.

When the Legislature allowed the creation of GMDs, it recognized that local water users wanted the opportunity to generate groundwater management plans that reflected the needs of the local water users, and it allowed those water users to tax themselves to pay for that opportunity and for additional services that are not available from the State. At that time the Legislature also set revenue lids, but it left all of the other financial responsibilities for the operation of the GMDs to the GMDs. Unfortunately, one of the GMDs, the Equus Beds GMD, because of its size, has reached the revenue limits set by the Legislature. I recommend that this Legislature continue to follow the path originally established by the Legislature, and let the local water users remain responsible for the financing of a GMD. If the cost of the services offered by a GMD are too high, the water users in the District can very easily and effectively get that message to their elected Board, and they will determine what services should be financed. However, that can only happen if the Legislature raises the lids currently in place.

Breaking this down to the simplest terms, this legislation will determine whether or not the Equus Beds will continue to have a GMD. If this committee feels that the GMD should not exist after considering my previous statements, then this legislation should not go forward. However, if the committee feels that one of the most vital aquifers in the state should be allowed to have a Ground Water Management District, then this committee should not have any concerns about advancing this legislation.

Thank you for the opportunity to testify before you today.

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Testimony Before the House Committee on the Environment
In Support of Senate Bill No. 264
On Behalf of the Kansas Chapter of the Sierra Club
February 5, 2002

Madam Chair, members of the Committee, thank you for the opportunity to testify before you this morning on behalf of the Kansas Chapter of the Sierra Club in support of SB 264. The Sierra Club is the largest grass roots environmental organization in the world with over 700,000 members including 4,000 in Kansas and growing. The mission of the Sierra Club is:

To explore, enjoy, and protect the wild places of the earth;
To practice and promote the responsible use of the earth's ecosystems and resources;
To educate and enlist humanity to protect and restore the quality of the natural and human environment; and to use all lawful means to carry out these objectives.

More information about the Sierra Club can be found at the web site of the Kansas Chapter of the Sierra Club at www.kssierra.org and at the national Sierra Club web site at www.sierraclub.org.

The Kansas Chapter of the Sierra Club, and especially the members of the Wichita area's Southwind Group, join with the leadership of the cities in the Regional Economic Area Partnership, the Kansas Water Authority, and the entire state senate in support of SB 264. The Kansas Chapter of the Sierra Club did not take a position on SB 264 when it was on the Senate side during the 2001 session. However, Sierra Club members in the Wichita area became concerned when this bill stalled in this committee. Volunteers from the Southwind Group sat in on the hearings of the Special Committee on Energy, Natural Resources and Environment on October 22-23, 2001 in order to learn more about the public policy concerns of proponents and opponents of the bill. I have reviewed the testimony by proponents and opponents of SB 264 presented at that hearing and my comments will be directed toward some of that testimony.

First, a bit of personal history with Equus Beds, GMD No. 2, issues. For 16 years, from 1981 until 1997, I was a Harvey County Commissioner. GMD No. 2 was formed on May 30, 1975. In the early 1980's, the board of GMD No. 2 made a request of the Harvey County Commission for matching funds to support research by the GMD and the U.S. Geological Survey on the recharging characteristics of the Equus Beds. As you know, problems with pollution from salt brine left on the surface of the ground, above the aquifer, from oil drilling practices are a source of major concern to everyone in south central Kansas. In order to deal with this problem we simply needed to know more about the geological characteristics of the aquifer. My fellow commissioners (both of

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whom were farmers) and I did not hesitate to grant the matching money. The county commission helped fund several other studies of the aquifer during the 1980s. We also received regular reports from the staff and board of GMD No. 2. I am still on their mailing list.

From my experiences as a county commissioner and as a resident of Harvey County, I came to understand the importance of the Equus Beds. I think it is safe to say that one cannot underestimate the importance of the Equus Beds aquifer to the south central Kansas region and to the state as a whole. I think you can say that it is of critical importance nationally when you consider the agricultural and aircraft production that comes from south central Kansas. I came to appreciate the cooperative efforts of the GMD board and staff to work with all stakeholders to insure that a "safe yield" policy was developed for the aquifer that allowed the many users of the aquifer to benefit from this resource without depleting it. That is why there is such unanimity among all stakeholders in the south central Kansas region in maintaining local controls over this aquifer.

I also became aware of the vulnerability of the aquifer to pollution. The fact is that the aquifer largely lies below sandy soil. One only has to go out to western Harvey County and eastern Reno County and see the sand hills that form the filtering system that makes this water so pure. However, this same sand provides very little barrier to man made pollutants that can travel quickly into the aquifer. That was the lesson we learned from the salt brine left from old oil drillings. I think you have to understand this history of previous pollution and the vulnerability of the aquifer in order to understand the concerns not only about groundwater quantity but also about groundwater quality in the Equus Beds. That is why there the stakeholders in the region are willing to tax themselves at a higher rate in order to insure that, at a minimum, there is sufficient water quality monitoring to detect pollution sources. We now know, from those studies that were done in the early 1980s, that pollution in the Equus Beds aquifer can travel rapidly. You can think of it like detecting cancer early. Because of a blood pressure test done just down the hall from this hearing room five years ago, my kidney cancer was detected early and I am thankful to be here testifying before you today. Similarly, if pollution to the Equus Beds aquifer is detected early then steps can be taken to remedy those problems on a site-specific basis. That is why the Equus Beds board of directors is concerned that there be sufficient funds to do that kind of water quality monitoring.

So how does SB 264 propose to deal with this problem? Well first there is the governance structure. I do not propose go into that here because the Kansas Chapter of the Sierra Club takes no position on the governance structure in the bill. Frankly, from my experience with the Equus Beds issue, everyone in south central Kansas understands that the agricultural areas and towns and cities need each other. Everyone benefits by cooperating on safe yield policies and preventing pollution to the aquifer. So we believe the current makeup of the board is not necessarily an issue for us.

It is the second area, namely raising the maximum rate for the withdrawal charge from \$.68 per acre foot to \$ 1.19 per acre foot, that the Kansas Chapter of the Sierra Club supports and urges your approval. We don't know what the ideal rate should be. However, the rate currently set in statute has been there for thirty years. It is not unreasonable to raise this rate when all the key stakeholders have indicated a willingness to pay it.

I read very carefully the testimony of opponents to this bill as presented in the October hearings. I read the remarks of Kerri Ebert, of the Kansas Dairy Association. Apparently the only concern of the Kansas Dairy Association is "What will the money generated by this tax increase be used for?" More specifically, "The perception (emphasis added) among livestock producers in the Equus Beds area is that their Groundwater Management District want to regulate livestock waste lagoons." This perception apparently stems from an "incident" where the "Groundwater Management District delayed a Kansas Deparemtne(sic) of Health and Environment permit for a livestock waste lagoon on a dairy, by submitting its own construction criteria that went above and beyond the criteria determined by KDHE." This action by the GMD apparently "crossed a line" and that "Whether justified or not, perception is reality for dairymen in the Equus Beds region and that reality is fear of GMD-imposed livestock waste regulations". However, Ms. Ebert's testimony points to nothing in SB 264 authorizing GMD No. 2 to impose livestock waste regulations. The fact is that SB 264 has to do with the governance of GMD No. 2 and raising a cap on the withdrawal charge.

I read the testimony of Janet Stubbs of the Kansas Building Industry Association and the Wichita Area Builders Association. Ms. Stubbs cites two concerns: 1) the effect of GMD No. 2 policies "on the development business in the area and the practice of placing subdivisions around abandoned sandpits or drilling of wells for watering of plantings in these subdivisions" and 2) "the role played by the GMD 2 Manager in lobbying for the requirement that evaporation from the surface of sandpit lakes be considered a beneficial use requiring an appropriation of water." However, the testimony of Ms. Stubbs fails to point out how SB 264 impacts either of these issues. Again, SB 264 is about the governance structure of GMD No. 2 and raising the cap on withdrawal rates.

I read the testimony of Mr. Edward Moses, on behalf of the Kansas Aggregate Producers Association. Interesting, it was hard to tell if Mr. Moses was for or against SB 264. Mr. Moses raised two issues. The first issue was what Mr. Moses calls "maintenance of uniformity" in statutes and rules and regulations. In that regard he recommends that any proposed change to the GMD statute be applied to all districts. On this issue I would note that Keith Lebbin, representing GMD No. 1, presented testimony that "the District does not oppose this effort as long as the Groundwater Management District Act does not appreciably change...It appears that the Equus Beds GMD need the ability to increase their assessment level to maintain their work. We do not object to these endeavors." The second issue that Mr. Moses raises is "clear lines of authority" between water quality regulatory issues housed within KDHE and water quantity issues housed within the Kansas Division of Water Resources in the Department of Agriculture. On this issue, Mr. Moses' testimony does not specify how SB 264, that changes the governance of GMD No. 2 and raises the withdrawal cap, changes the lines of authority between KDHE and the DWR.

Finally, I read the testimony of Leslie Kaufmann, representing the Kansas Farm Bureau. Ms. Kaufmann indicated that "We do understand that except for the board Composition and the assessment increase, the statutory provisions for GMD #2 mirror the existing GMD Act." (emphasis added) Ms. Kaufmann's concerns are that "singling out one GMD sets a precedent that could be used by other entities (another GMD, a basin advisory committee, an intensive groundwater management area, etc) to seek separate statutory authority on there (sic) own." Ms. Kaufmann goes on to state "Additionally, we are concerned that the separate statutory sections particular only to one GMD make it more vulnerable to subsequent legislative attempts to broaden or redirect the role of the

GMD." However, Ms. Kaufmann fails to point to any specific provisions of SB 264 authorizing any other entities to "seek separate statutory authority" or that "broaden or redirect the role of the GMD."

The bottom line is that this legislation does only two things. It changes the governing structure of the GMD No. 2 and it raises the cap on withdrawal charges not to exceed \$1.19 for each acre-foot of groundwater withdrawn from the district. It is on those issues that this legislation should be decided and not on speculative concerns that have nothing to do with the substance of the legislation.

The bottom line for the Kansas Chapter of the Sierra Club is that GMD No. 2 needs the funds to carry out programs to protect the quantity and quality of the water in the Equus Beds. The GMD is not asking for additional state funds. They are merely asking that the users of water from the resource bear the cost of protecting this resource. We trust the board of directors and the people of south central Kansas to work together to protect the Equus Beds. Let them generate the funds they need to do the job. We respectfully urge the approval of SB 264 by this committee.

Thank you for your time and attention. I would be happy to stand for any questions at the appropriate time.

House Committee on Environment
February 5, 2002, 3:30 p.m., Room 231-N
Testimony on Senate Bill 264
By Margaret Fast, Manager of the State Water Planning Unit
Kansas Water Office

My testimony today is provided as staff to the Kansas Water Authority.

In their meeting held in November, 2001, the Kansas Water Authority took action to support Senate Bill 264 as approved by the Senate during the 2001 session. The vote was 6-5.

I would like to provide a little background on the involvement of the Kansas Water Authority with this bill. Last January, the Kansas Water Authority passed a motion directing the Kansas Water Office and the Division of Water Resources to work together and review the proposed legislation related to the Equus Beds Groundwater Management District #2. At the time, no bill had been introduced.

Senate Bill 264 was introduced on February 7, 2001. In mid - February, the voting members of the Kansas Water Authority were sent a staff analysis of the bill. The voting members of the Kansas Water Authority unanimously supported the bill. The Kansas Water Authority understood this bill raised the cap on the amount the Groundwater Management District could assess for water use, included the makeup of the board of directors to include a minimum of three each municipal and agricultural representatives, and gave no additional authority to the Groundwater Management District. At the time, Groundwater Management Districts 1, 3, and 4 had submitted letters of support for the bill as drafted.

The Kansas Water Authority revisited this issue in November, as I have mentioned, and supported the bill as written.

The chair of the Kansas Water Authority, Kent Lamb, did ask that I comment that the Kansas Water Authority has appreciated the work of the Groundwater Management District in managing the aquifer.

Thank you for the opportunity to address you today.

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TESTIMONY TO HOUSE COMMITTEE ON THE ENVIRONMENT
MAYOR DENNIS BUSH, ANDOVER
February 5, 2002

Representative Freeborn, members of the Committee, my name is Dennis Bush; I am the Mayor of Andover and chair of the Legislative Committee for the Regional Economic Area Partnership. It is a pleasure to appear before you today and I appreciate the opportunity to offer comments on the Equus Beds aquifer.

One of the most significant regional priorities for REAP is the protection of the public water supply in South Central Kansas. The Equus Beds aquifer is a primary source of water for many REAP communities. In fact, the aquifer provides fresh and potable water daily to over 500,000 people and over 15,000 businesses in 23 cities in Butler, Harvey, McPherson, Reno, and Sedgwick counties. Communities that are not located in the boundaries of the Equus Beds Groundwater Management District such as Andover, Rose Hill and Benton depend on the aquifer for water through service agreements with the city of Wichita. In addition, the aquifer provides groundwater for hundreds of agricultural producers and industries in the region.

Clearly, the Equus Beds aquifer is critical to the economy of South Central Kansas.

The Equus Beds Groundwater Management District was established in 1975 to preserve and protect the Equus Beds aquifer. It is one of five groundwater management districts in the state but it is smaller and serves a greater and more diverse population than any other district. All the districts operate under caps on water user fees of 60 cents per acre-foot and land assessments of 5 cents per acre. The district has reached these caps that were set almost 20 years ago and are facing a budget crisis due to their inability to increase revenues. The principal reason for their budget difficulties is that the Equus Beds Groundwater Management District is much different from the other groundwater management districts in the state.

The uniqueness of the Equus Beds aquifer and district may be summarized as follows:

First, the Equus Beds aquifer provides public water supplies to over 500,000 Kansans, a population base dramatically larger than that served by any other aquifer in Kansas. The population base served by the Equus Beds aquifer is eight times the average population base of the other four aquifers and twice that of the other four combined. Protection and preservation of the aquifer is therefore critical to the health and economic welfare of one of every five Kansans.

Second, the Equus Beds Groundwater Management District has the smallest land area of any groundwater management district in Kansas—which under existing state law constrains the district's ability to finance and perform its statutory functions. The Equus Beds Groundwater Management District comprises a land area of 682,853 acres for purposes of land assessments, compared to an average size of 2,655,112 acres in the other four districts. District financing based in part on land assessments under existing state law substantially restricts a small district such as the Equus Beds from performing its statutory functions. For example, in calendar year 2000, the Equus Beds Groundwater Management District generated \$34,000 from land assessments, compared to \$238,000 generated by Groundwater Management District #3. In sum, the Equus Beds district has one-fourth the financing capacity from land assessments, compared to the other districts, yet serves a population base eight times greater than those districts. This limitation suggests that district financing should be

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based more on water use—as proposed in the legislation for the Equus Beds district—rather than on land area.

Third, 40 percent of the groundwater drawn from the Equus Beds aquifer serves municipal and industrial purposes, compared to 2 or 3 percent for these purposes in other Kansas aquifers. Approximately 200 municipal wells, 150 industrial wells, and 1,400 irrigation wells draw groundwater from the Equus Beds aquifer. Twenty-three communities and over 15,000 businesses in Butler, Harvey, McPherson, Reno, and Sedgwick counties rely on the Equus Beds for water. In contrast, 96 percent of the groundwater drawn from management districts #1, #3, #4, and #5 is used for irrigation in agricultural production—compared to 57 percent in the Equus Beds district. The uniqueness of water use in the Equus Beds district has persuaded the Equus Beds Groundwater Management District and the Regional Economic Area Partnership to jointly recommend separate statutory authorization for the district to assure adequate funding to allow for full implementation of the district’s aquifer management plan.

Fourth, two-thirds of the Equus Beds Groundwater Management District has been designated a “sensitive groundwater area” by the Kansas Corporation Commission. State designation of sensitive groundwater areas in the Equus Beds district requires the district to take extraordinary care to manage and preserve the aquifer. Salt water intrusion, contamination from oil and gas wells, improper use of agricultural chemicals, and the impact of urban and industrial developments represent constant threats to an aquifer that daily serves 20 percent of the Kansas population. Provisions for more effective financing of Equus Beds Groundwater Management District should help protect the agricultural, industrial, and municipal water supplies of South Central Kansas.

The Regional Economic Area Partnership and the Equus Beds Groundwater Management District are recommending legislation designed to protect and preserve the Equus Beds aquifer and the region’s public water supplies by providing the district’s board of directors the ability to set water user fees in order to assure sufficient financing of the district. Specifically, the proposed legislation, Senate Bill 264, authorizes the district to finance the performance of its current statutory functions by increasing the cap on water user fees.

On behalf of the thirty-three local governments in REAP, I ask for your support of Senate Bill 264. Thank you for your time.

TESTIMONY TO THE HOUSE ENVIRONMENT COMMITTEE
MAYOR KEITH DEHAVEN, SEDGWICK
February 5, 2002

Representative Freeborn, members of the Committee, my name is Keith DeHaven; I am the Mayor of Sedgwick, Kansas and a member of the Regional Economic Area Partnership.

Sedgwick is a city of over 1,500 people located on the Sedgwick County-Harvey County line. Providing water for the citizens and businesses in Sedgwick is a process that involves the Equus Beds aquifer, Wholesale Water Supply District Number 17 and the city of Newton.

- Water for Sedgwick is purchased from Wholesale Water Supply District Number 17 jointly formed by the cities of Halstead, Newton, North Newton and Sedgwick.
- The water is treated by the city of Newton.
- All the drinking water comes from the Equus Beds aquifer, which is managed by Groundwater Management District #2.

We in Sedgwick depend on these cooperative relationships with multiple agencies to supply drinking water and without this cooperation the health and well being of the citizens of Sedgwick are at risk. The stakes are too high to take any chances with the protection of the region's primary water source. As the Equus Beds Information Resource website illustrates, there are numerous potential pollution threats in the aquifer. Combined with the relatively thin soil mantel that covers much of the aquifer, the possibility for surface activity to pollute the water is rather high. It is imperative that the Equus Beds Groundwater Management District have the resources needed to effectively manage the aquifer.

The fact that the district may have to cut services due to budget constraints is troubling to many. Sedgwick and many other cities depend on the district to look out for our interest when it comes to drinking water. Having the district's board of directors consist of individuals locally elected is a comfort. These folks have first hand knowledge about the aquifer and are committed to maintaining high management standards. I have confidence in them and am happy to know they are keeping a vigilant watch on this vital resource right here in our own back yard.

The bottom line is that we must work together in the arena of water protection. Senate Bill 264 is an example of cooperation with agricultural, industrial and urban interests. The Equus Beds Groundwater Management District has been trying to address their budget difficulties through legislation for the past few years. Considering the large impact the aquifer has on the economy and well being of South Central Kansas, it just makes sense for REAP to support the district's efforts to increase their budget capabilities. It is imperative for anyone who draws water from the Equus Beds to work with the board in protecting this vital natural resource.

Let me add that the governing board is made up of water users, many of whom are farmers in the district. I can assure you they will not advocate raising the water user fees lightly. However, the board knows, as do many, that a slight adjustment in the cost of water to the users is needed to make sure we have this aquifer as a source of water for many years to come. This is not an easy decision but one that is in the best long-term interest of South Central Kansas.

On behalf of the city of Sedgwick and the 33 local governments in REAP, I ask for your support of Senate Bill 264. Thank you for your time.

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Testimony Before The
HOUSE ENVIRONMENT COMMITTEE
For The
LEGISLATURE OF THE STATE OF KANSAS

by

Bob Myers, City Attorney
City of Newton, Kansas

February 5, 2002

Representative Freeborn and members of the Committee --

My name is Bob Myers, and I am the City Attorney for the City of Newton. Thank you for the opportunity to address you today on this most important issue.

I am proud to be able to report to you that the City of Newton, both through the Newton City Commission and through City staff, has been one of the leaders and driving forces in the South Central Kansas region on issues of water quality and water quantity.

This is an issue which is very important to us. Newton derives its drinking water from the Equus Beds, and has done so for over 100 years. We withdraw drinking water not only for the needs of our own citizens, but also for a number of others. For years we have supplied the City of North Newton and a rural water district with treated drinking water. More recently, and through cooperative efforts with our neighbors of North Newton, Halstead and Sedgwick, we together formed a joint wholesale water supply district which established additional water wells in the Equus Beds, with the water being transported to our Newton water treatment facility and then distributed among our member cities.

We also have a long history of cooperation with the Equus Beds Groundwater Management District, which is headquartered in Halstead -- just 15 miles west of Newton. Members of the District board are our friends and neighbors.

As you have heard from others, the Equus Beds aquifer is a very unique resource. The Equus Beds Groundwater Management District boundaries take in a fraction of the land area as compared to the other groundwater management districts in the State, yet it serves a vastly larger population base and is one of the State's principal drinking water resources. It is also uniquely susceptible to pollution due to its shallow depth to groundwater layered by very porous soils.

However, the existing statutes dictating how GMDs can finance their efforts, uniquely impact the Equus Beds GMD, with its comparatively small geographic size and with the fact that a vastly

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larger portion of the water usage from the aquifer is for drinking water purposes rather than the more intensive irrigation uses which predominate the other GMDs.

Because of this, the Equus Beds Groundwater Management District board tries to fulfill its duties on a fraction of the budget of the other GMDs.

The current statutory caps translate into a maximum annual budget for the District of approximately \$230,000. Of the other four GMDs in the State, the next smallest budget is 2 1/4 times the size of the Equus Beds budget, at \$527,000. The largest GMD budget is over \$2,500,000 -- over 10 times the size of the Equus Beds budget.

I'm not suggesting for a minute that those other GMDs don't need those budgets to perform the tasks which are needed in their area of the State. But each of the other GMDs are comfortably able to finance their tasks without any of them being anywhere close to the budget lids that the statutory caps impose.

The problem is that we have a one-size-fits-all statutory financing restriction, but one size doesn't fit all. It works fine for the other four GMDs, but it does not recognize the unique characteristics and circumstances of the Equus Beds GMD and the Equus Beds aquifer.

Among the groundwater management districts in the State, and due to the extent to which the Equus Beds is relied upon as a drinking water resource, the Equus Beds GMD is perhaps also unique in the level of partnership it represents between rural and urban interests -- between agriculture, industry and municipal interests. All of us in this region recognize our commonality of interest in preserving and protecting this vital resource, and all of these various interests have a long history of working together exceptionally well. In fact, in the 25+ year history of the Equus Beds GMD, no one can recall a single vote on any issue on which there was a split along urban-rural lines.

SB 264 came out of a process of joint problem-solving and joint decision-making between the public water suppliers and the GMD board as to how to solve this problem. This was not an idea being imposed upon either side by the other. Instead, it resulted from our coming together and finding a solution to the problem.

We sincerely thought SB 264 would be applauded as an outstanding example of local cooperation. We have been totally surprised by some of the mis-information which has been circulated about how this bill arose and what it would accomplish, including the suggestion that this is somehow the urban interests trying to do an end-run on the rural interests, and the suggestion that somehow this was going to cause a dramatic change in the power and authority of the GMD. Neither of these could be further from the truth.

You as State legislators know the frustration of dealing with one-size-fits-all federal mandates which may or may not relate well to conditions in Kansas. We all call for more local control and local decision-making. The need for SB 264 arises out of similar concerns.

The Equus Beds GMD board is directly elected by and includes the very people who are the ones who pay the assessments, with the vast majority of the board members representing rural and agricultural interests. And this board agrees that the changes provided by SB 264 are needed. This is local control. This is local problem-solving. This is local decision-making. We uniquely know the problems with which we are faced in this region, and together and cooperatively we have devised the needed solution.

We urge your support of SB 264, and your support of our local, cooperative efforts.

**TESTIMONY PRESENTED TO THE
HOUSE COMMITTEE ON ENVIRONMENT
CONCERNING SENATE BILL 264**

by

Brad Franz, President

EQUUS BEDS GROUNDWATER MANAGEMENT DISTRICT NO. 2

February 5, 2002

Madam Chair and Honorable Committee Members, I am Brad Franz a life-long Kansas farmer and President of the Equus Beds Groundwater Management District.

My family and I own and operate an irrigation and dryland farming operation in McPherson, Harvey and Reno counties. My family has farmed in the Equus Beds region since 1956. I know the importance and economic worth a dependable supply of freshwater is for agriculture. In south-central Kansas, the Equus Beds aquifer is the primary source of water for agriculture.

It was that realization that motivated me to run for a director's position on the Equus Beds board. Since my election in 1994, I have also discovered the aquifer has the same importance and economic worth to municipal and industrial users as well. It was this same realization that motivated local water users and land owners in 1975 to form the Equus Beds Groundwater Management District by way of a special election. It is with this same resolve that I am before you today to ask that you concur with the conclusions and recommendations of the Special Committee on Energy, Natural Resources and Environment and pass SB 264 favorably from the committee.

SB 264 seeks to provide separate statutory authority, as supported by all groundwater management districts boards of directors, and to revise an 19-year old law that caps the groundwater user fee assessed to water permit owners in the Equus Beds District. The legislation is needed because water management and supply issues in Equus Beds District are unique and different than the other groundwater management districts in the western portion of the State. Compared to the other groundwater management districts, the Equus Beds District has more diverse water users (municipal, industrial and agriculture), serves a greater population, is smaller in size and funding.

The heart of the legislation will provide the Equus Beds District with the resources to properly manage and preserve the unique and natural condition of this vital aquifer. The legislation is not designed to expand groundwater management district operations, but simply to maintain the current level of management for the aquifer. The District plays a critical role in providing agricultural customers a source of information about the aquifer, groundwater availability, proper water well plugging techniques, water laws and regulations and water quality conditions. Last year District staff processed over 3,300 customer service requests. Nearly 75 percent of the requests were from agricultural water users and landowners.

If the legislation is not successful in this session the district will be forced to eliminate a number of groundwater management and monitoring programs, public education activities and customer services. The elimination of such programs, activities and services will place the aquifer at-risk and cutoff the flow of information to District water users and the public.

As a farmer I understand that economic conditions are not good at the present time. Any additional expenditures to my operations are reviewed and considered very closely. I have considered and discussed SB 264 at great length with my neighbors. It is my belief that SB 264 is needed, reasonable and prudent to insure that my farming operations and those of my neighbors have a fresh and usable source of groundwater. I urge the Committee to concur with the Special Committee on Energy, Natural Resources and Environment and the Kansas Senate and pass SB 264 favorably from the Committee.

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ATTACHMENT 10*

JEAN SCHODORF

SENATOR, 25TH DISTRICT
3039 BENJAMIN CT.
WICHITA, KS 67204

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**Senator Jean Schodorf's Testimony
House Committee on Environment
February 5, 2002**

Thank you for the opportunity to submit written testimony in support of **SB 264**. I served on the interim Energy Committee this summer where we also heard many hours of testimony concerning this bill. I would like to thank Representative Freeborn for her hard work on this bill.

Each water district is unique to meet the unique characteristics of the aquifer in each district. Water District #2 is unique because it is the smallest water district with the smallest aquifer but serves the most people. Water usage includes agricultural irrigation, industry and municipalities including Wichita, Hutchinson, Newton, and other surrounding towns.

Tax rates for Water District #2 have not increased for over twenty years. District 2 needs to be able to increase rates gradually in order to maintain present programs and to be able to continue monitoring wells in the district. While each district has unique problems, District 2 has several areas of contamination near Hutchinson and Burrton.

This bill has been a topic of much debate. The officials of the city of Wichita and REAP (Regional Economic Area Partnership) have made this bill a top priority. It should not be based on personalities but the needs of this water district to maintain monitoring of water wells to assure quality ground water for all citizens. Water quality will affect both the economic development and the region, the lives of the citizens and the agricultural viability of farms and ranches.

Rural water districts work with KDHE, (Kansas Department of Health and Environment), Department of Agriculture and other agencies to guarantee quality water. It is local control at its best. The local people watch over the area ground water. They have requested a modest increase to be able to do their jobs. I urge you to pass **SB 264** favorably for passage.

*Senator Jean Schodorf
District 25
Wichita*

*House Environment
2-5-02
Attachment II*

**Testimony before House Committee on Energy and Natural Resources
Senate Bill 264
Dennis M. Clennan, P.E.
Director of Public Works and Engineering
City of Hutchinson
February 5, 2002**

Madam Chairperson and distinguished members of the Committee.

My name is Dennis Clennan and I work for the City of Hutchinson. I am the Director of Public Works and Engineering. I am also an elected member of the Groundwater Management District #2 Board and serve as Vice President.

Thank you for the opportunity to give testimony today on Senate Bill 264. Hutchinson is one of the Cities in the Groundwater District that relies solely on the Equus Beds aquifer for drinking water. Annually the City uses about 2½ billion gallons of water.

I support legislation that will provide a means to allow the District to continue to exist. The Equus Beds GMD is the smallest in size of all the districts in the State and consequently we have the smallest revenue base. We are now up against the state imposed cap on assessments and we need relief. The revenue increase needed is just to meet current operating conditions and programs. There are no planned new programs to drill 200 new monitoring wells as has been rumored.

The District has no desire to assume the role of the Kansas Department of Health & Environment regarding water quality. The vast majority of the district is extremely vulnerable to groundwater contamination because there is virtually no impervious layer of clay between the aquifer and the surface of the ground. Leaking pipes or tanks or spills migrate into the groundwater and create a horrendous problem. In Hutchinson alone there are at least 12 such sites being worked by the KDHE and the City of Hutchinson has given the utmost cooperation in this endeavor. Please ask Dr. Hammerschmidt to confirm this. Please believe me that it is much easier to prevent this sort of pollution than it is to clean it up after the fact. The District has taken positions of advocacy on water quality issues that we think may threaten the aquifer. That, we believe, is our right and our obligation.

The Groundwater Management District is unique in many areas - size, water permitted etc. but the one area that is perhaps the most glaring is population served. The City of Hutchinson, Newton, Wichita, McPherson and many other communities rely on the Equus Beds for the supply of fresh and usable drinking water. The district represents the interests of over 500,000 water users. No other district in the State serves this large a population. There are just over 1,000 eligible voters in the GMD #2. Almost 900 of these voters are agricultural in nature. The balance is made up of cities and industry. We are asking for fair representation on the board by having 3 municipal directors, 3 agricultural directors, 1 industrial director, and 2 at large directors.

It is extremely important, in my opinion, to have a local voice and local control on something as important as the water we rely on for drinking and supporting our economy. The Groundwater Management District fills this role. GMD #2 is small in land area but large in population. We are currently up against a state imposed cap on our ability to provide the funds necessary to keep providing our existing programs. By the very nature of the region's lithology, we are vulnerable to groundwater contamination. I am asking for your support of this proposed legislation. Thank you.

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TESTIMONY

City of Wichita
Mike Taylor, Government Relations Director
455 N Main, Wichita, KS. 67202
Phone: 316.268.4351 Fax: 316.268.4519
Taylor_m@ci.wichita.ks.us

Senate Bill 264

Equus Beds Groundwater Management District Funding

Delivered February 5, 2002
House Environment Committee

The City of Wichita supports increased funding for Equus Beds Groundwater Management District Number 2. Present assessment rate limits are not generating sufficient revenues to pay for the water management programs and public services required to protect the crucial Equus Beds Aquifer.

The City of Wichita recognizes its responsibility to be a good steward of the natural resources its citizens use. As the largest user of the Equus Beds Aquifer, the City of Wichita accepts its duty and obligation to preserve and protect that irreplaceable, vital natural resource.

The Wichita City Council, by unanimous vote, has adopted passage of increased funding authority for the Equus Beds Groundwater Management District as a top priority for the past several legislative sessions. The City Council and our Wichita Water Department officials have clearly and publicly stated that increases in the assessment for the groundwater district will not cause rates for Wichita water customers to increase. The cost of properly protecting and managing the aquifer is far cheaper than the cost of having to find a new water supply in 10 or 20 years.

The Equus Beds Groundwater Aquifer is the primary source of quality water for 500,000 citizens. Protection and responsible management of the Equus Beds Aquifer is crucial for the future of Wichita and South Central Kansas. And that is what Senate Bill 264 is all about.

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Attachment 13

**Comments to House Committee on the Environment
Senate Bill 264
Vice Mayor Joe Pisciotte, Wichita
February 5, 2002**

The city of Wichita joins with the Regional Economic Area Partnership in urging support for protection of the Equus Beds aquifer through Senate Bill 264. As Vice Mayor of the City of Wichita, a member of REAP's Legislative Committee and a citizen in South Central Kansas, I concur with the comments that will be offered by representatives from REAP and Mr. Jerry Blain, Superintendent of Water Production for the City of Wichita.

The Equus Beds aquifer is a vital economic resource to all of South Central Kansas. Senate Bill 264 is an example of cooperation among the many diverse interests that draw water from the aquifer. Farmers, irrigators and other officials on the governing board of the Equus beds Groundwater Management District have partnered with the cities and counties in the Regional Economic Area Partnership to develop a solution to the district's budget crisis. All of us in South Central Kansas understand the importance of the Equus Beds aquifer and the need to ensure the Groundwater Management District has the resources they need to effectively manage the aquifer.

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Attachment 14*

RESOLUTION NO. 2002-7

A RESOLUTION OF THE BOARD OF HARVEY COUNTY COMMISSIONERS SUPPORTING THE APPROVAL OF PROPOSED SENATE BILL 264 WHICH INCREASES THE MAXIMUM ALLOWABLE FEES FOR THE EQUUS BEDS GROUNDWATER MANAGEMENT DISTRICT 2.

WHEREAS, the equus beds aquifer is an important source of water for 600,000 people in Southcentral Kansas, and

WHEREAS, the Equus Beds Groundwater Management District 2 may have to eliminate essential programs for monitoring the district's water resources because of the lack of funding,

NOW, THEREFORE BE IT RESOLVED, that the Board of Harvey County Commissioners endorses the approval of Senate Bill 264 by the Kansas Legislature. Senate Bill 264 increases the maximum allowable fees which can be levied by the Equus Beds Groundwater Management District 2. The increased allowable fees are important for the district to fund necessary programs.

PASSED AND ADOPTED by the Board of County Commissioners of Harvey County, Kansas, this 4th day of February, 2002.

BOARD OF HARVEY COUNTY COMMISSIONERS
OF HARVEY COUNTY, KANSAS

(Seal)

Ron Krehbiel
Ron Krehbiel, Chairman

ATTEST:

Max Graber
Max Graber, Member

Margaret Wright
Margaret Wright, County Clerk

Ken Meier
Ken Meier, Member

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2-5-02
Attachment 15*



Kansas Farm Bureau

2627 KFB Plaza, Manhattan, Kansas 66503-8508 • 785.587.6000 • Fax 785.587.6914 • www.kfb.org
800 S.W. Jackson, Suite 817, Topeka, Kansas 66612 • 785.234.4535 • Fax 785.234.0278

PUBLIC POLICY STATEMENT

HOUSE COMMITTEE ON THE ENVIRONMENT

RE: SB 264 – Establishing separate statutory authority for Groundwater Management District #2, legislatively prescribing board representation and increasing the cap on the per acre foot of water assessment.

**February 5, 2002
Topeka, Kansas**

**Prepared by:
Leslie Kaufman, Associate Director
Public Policy Division
Kansas Farm Bureau**

Chair Freeborn and members of the House Environment Committee, thank you for the opportunity to appear today and comment on issues important to agriculture. I am Leslie Kaufman, the Associate Director of Public Policy for Kansas Farm Bureau. For reasons we will explain further in our testimony, KFB stands in opposition to SB 264, in its current form.

KFB policy supports the Groundwater Management District Act, which currently applies to all GMDs. Our members further clarified this support by refining policy language at our 83rd Annual Meeting this fall. Provisions of the act relating to governance, powers and authorities, and statutory parameters for the Board of Directors composition should continue to apply to all GMDs uniformly. Any changes regarding assessment mechanisms should not be a disadvantage to agricultural producers.

SB 264 has three functions: provides separate statutory provisions for GMD #2; legislatively prescribes the composition of the Board of Directors for GMD #2; and

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increases the cap on the per acre-foot of water assessment. We have strong reservations about pulling one GMD out of the Groundwater Management Act and giving it its own set of statutory references. We do understand that except for the Board composition and the assessment increase, the statutory provisions for GMD #2 mirror the existing GMD Act. We feel singling out one GMD sets a precedent that could be used by other entities (another GMD, a basin advisory committee, an intensive groundwater management area, etc.) to seek separate statutory authority on their own. Additionally, we are concerned that the separate statutory sections particular only to one GMD make it more vulnerable to subsequent legislative attempts to broaden or redirect the role of the GMD.

Another concern we have with SB 264 is the manner in which the bill legislatively establishes the composition of GMD #2's Board of Directors. As you know, the current GMD Act allows each Groundwater Management District to develop a governing structure that suits the needs of their particular entity. As such, Farm Bureau has great concerns with provisions of SB 264 that would superimpose the will of the legislature on the Groundwater Management District. We find this provision to be in contrast to our policy, stated above, and cannot endorse this portion of the bill.

The reformulated board, as envisioned in SB 264, is being described as a "fair" means of achieving greater municipal representation on the GMD board. We, as the state's largest general farm organization, see little that is "fair" for agriculture in this proposed board, particularly in light of the legislature's declaration of intent for the GMD Act to stabilize agriculture.

KSA 82a-1020 states:

"It is hereby recognized that a need exists for the creation of special districts for the proper management of the groundwater resources of the state; for the conservation of groundwater resources; for the prevention of economic deterioration; for associated endeavors within the state of Kansas through the stabilization of agriculture; and to secure for Kansas the benefits of its fertile soils and favorable location with respect to national and world markets..."

Under SB 264, the proposed board would allocate six of the nine board positions equally to agriculture and municipalities. Yet, based on a supporter's handout from last session, nearly 60 percent of the water used is for agricultural uses. Municipalities use roughly one-third that amount. We certainly question whether the majority user/usage

profile is fairly represented by a 3-3-1 (ag-municipality-industry) distribution of designated board positions.

This representation issues seems even more questionable when it is coupled with an increase in the water rate assessment. The bill proposes to nearly double the amount available under the cap. This could significantly increase the cost of doing business for our agricultural producers at a time when their margins are decreasing. The new proposal would allow the GMD to determine the rate at which they increased fees up to the cap, but nothing would prohibit them, statutorily, from increasing to the \$1.19 immediately.

Who is going to bear the brunt of the increase? Based on the user/usage profile currently in place, we argue that agriculture will feel a disproportionate burden if this fee is increased.

Additionally, we have to inquire if an increase of this magnitude is truly necessary. When the GMD was formed, they had to prove to the Chief Engineer of the Division of Water Resources that the proposed area to be included within the district would support such a program (KSA 82a-1024). The district has even expanded from the initial territory. We are convinced that other avenues, aside from nearly doubling the per acre-foot assessment, could be utilized to decrease GMD #2's expenses and/or increase revenue sources.

Kansas Farm Bureau did present testimony to the Special Committee on Energy, Natural Resources and Environment that met during the 2001 Interim. We raised the same concerns before the Special Committee as we do here. However, as noted above, we have refined and clarified our policy positions since then. We commend the Special Committee for devoting a significant portion of their meeting time to studying issues related to the bill before you now. The Special Committee's recommendations support increasing the per acre foot cap to \$1.19, as proposed in SB 264, but they did not indicate support for the other two provisions of SB 264 in their conclusions and recommendations. Additionally, the Special Committee encouraged GMD #2 to:

- Establish higher water withdrawal charges for water ultimately used outside the district; and
- Seek additional funding for programs which the Board determines are necessary for the GMD's operation from those entities which benefit from the water

withdrawn and ultimately consumed in order to limit the potential increase in the water withdrawal charged.

The Committee went on to identify possible sources for funding to include differentiated water withdrawal charges based on usage or place of use, additional pay-for-services contracts with state agencies and annexation of additional territories.

The Special Committee's recommendation leaves GMD #2 within the current Groundwater Management Act and leaves the Board structure issue to the local directors. Both these approaches are compatible with our KFB policy. We echo the Special Committee's encouragement for GMD #2 to examine possibilities for generating the revenue to carryout the programs the Board of Directors deems appropriate.

Simply increasing the cap, without the other provisions of SB 264, is much preferable to the original bill. Should you, the standing Environment Committee, see fit to follow the recommendations of the Special Committee, we would strongly urge Groundwater Management District #2 to:

- Be judicious in managing funds;
- Evaluate budgetary expenditures and programs carefully to avoid any duplication with other agencies;
- Assure that those benefiting from a particular program or service are helping to pay for that program/service;
- Insure funding mechanisms do not disadvantage agricultural producers; and
- Slowly and incrementally approach any new cap, implementing increases only as absolutely necessary.

Thank you.

Kansas Farm Bureau represents grassroots agriculture. Established in 1919, this non-profit advocacy organization supports farm families who earn their living in a changing industry.

LEGISLATIVE



TESTIMONY



2206 SW 29th, Terr., Topeka, KS 66611 ♦ 785-267-2936 Fax 785-267-2959 ♦ E-mail: janetstubs@worldnet.att.net

HOUSE ENVIRONMENT COMMITTEE SB 264

Madame Chair, Members of the House Environment Committee

I have asked fellow Homebuilder Association member, Jay Russell, to present this testimony in my absence due to attendance at the National Convention in Atlanta, which started this morning.

Mr. Russell had an unpleasant experience last summer and fall when the Director of GMD # 2 ruled that the homeowners association wells which provided water to several thousand dollars worth of landscape plantings needed permits, and then denied the applications. Mr. Russell can relay to you what had to be done before the GMD Board of Directors overturned the ruling of the Director and recommended that the Chief Engineer approve the wells, which was done.

The Kansas Building Industry Association has testified on several occasions in the past objecting to proposed increase of fees charged by GMD # 2 based on our objection to the District's meddling in the process of land development for which we contend it has no statutory authority. In the past that meddling generally dealt with attempts by GMD # 2 to regulate the discharge of stormwater into groundwater pits (or pits which might become groundwater pits) and its influence on the Chief Engineer of DWR to, by Rule & Regulation, require a water right appropriation for evaporation from bodies of water created by companies producing sand and gravel for the construction industry. On this issue, the Legislature had refused at least twice to make such a requirement.

Recently however, things have taken a more sinister turn with GMD # 2 issuing what are termed "GROUNDWATER QUALITY PLANNING STATEMENTS" in which the Director uses citations from studies dating back to 1977, 1979, 1980, 1985 and 1996 to support his recommendation to prohibit the use of septic tanks and domestic water wells in areas overlying the Equus Beds; an area which in Sedgwick County alone covers 50 square miles.

Clearly, this appears to be practicing Sanitary Engineering without proper credentials, and there are those who will raise that issue with the proper authorities. In the meantime, at least three suburban developments have been delayed, or worse yet permanently killed. The anti-suburban development campaign has gone so far in Sedgwick County that, following in rote the recommendations of GMD # 2, the Wichita City Council passed a "Resolution Of Opposition to the Forest Ridge Estates Addition" a copy of which is attached to this testimony.

Overlooked in GMD # 2's rush to control suburban development in any area overlying the Equus Beds, is the process being finalized by Sedgwick County to permit the use of Alternative On-Site Sewer Systems in lieu of conventional septic tanks. Under that plan, Sedgwick County will create a separate sewer district for each development using Alternative On-Site Sewer Systems, and the County (or its agent) will approve the type of system to be used at a particular site, inspect its installation, monitor its performance and maintain the equipment, all to be paid for by an ad valorem tax assessment on the property served.

Kansas law permits property owners to install and use what is classified as a "Domestic Well" without first obtaining a water appropriation right. Internal memoranda leading to the City of Wichita "Resolution of Opposition to Forest Ridge Estates Addition" shows that the City staff interprets that right to be a "loophole in state water regulations". Since this is one of the arguments used by the Groundwater Management District Director at the Bentley City Planning Commission meeting, the source of the City's position is obvious. This matter becomes, as Alice in Wonderland would say "curiouser and curiouser" since the GMD # 2 Director recommended that the same number of families (or more if Bentley Meadows or Forest Ridge Estates became urban developments

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with a greater number of lots) be served by a "public water supply". The public water supply in this area would be the City of Bentley which buys raw water from the same City of Wichita wells which are being endangered by the "domestic well loophole" and then the City of Bentley treats that raw water before selling it to the its customers.

The two points on which the Kansas Building Industry Association disagrees with the with GMD # 2 contention that the Equus Beds groundwater will be harmed by suburban development are: 1. The advent of Alternative On-Site Sewer Systems that are at least as efficient as "public sewage treatment plants" overcomes the GMD # 2 prohibition that no new residential developments be permitted in the Equus Beds area unless they are served by a "public sewer treatment system", and 2. Recognition that domestic wells would impact the water supply in the Wichita Well Field no more than increased production at those wells to serve the same, or a larger population by selling raw water to the City of Bentley. These two factors lead us to question the motives of the GMD # 2 and its willing accomplice, the City of Wichita.

Attached to this testimony is a letter from Mr. Christopher Bohm, a Professional Engineer working in the South Central Kansas area. In that letter, Mr. Bohm raises the question of "inverse condemnation", and with good reason.

A second letter presented here is from Harlan Foraker, another Professional Engineer whose client's zone change application was defeated last week by the Bentley City Planning Commission. The Planning Commission considered the GMD # 2 Director and a Metropolitan Area Planning Department staff member who presented the City of Wichita "Resolution of Opposition to the Forrest Ridge Estates Addition" to be experts in the field of sanitary sewage treatment and water supply systems. Mr. Foraker was told to "get the approval of the two experts" before bringing an application back for reconsideration.

Madame Chair, Members of the Committee, do you think that the 1972 Legislature could have foreseen that any Groundwater Management District would so obtrusively interject itself in so many aspects of private property rights when it created the Districts? I don't think so! Nothing in the statutes would so indicate.

The Kansas Building Industry Association asks you to take a hard look at what is fast becoming a major threat to land development and property rights in South Central Kansas, and if you come to the same conclusion we have, do not increase the funding or special governance provisions proposed by Senate Bill 264.

JOHN FRANZ, PRESIDENT
DENNIS CLENNAN, VICE PRESIDENT
JOE MIES, SECRETARY
JERRY BLAIN, TREASURER
MICHAEL T. DEALY, MANAGER
THOMAS A. ADRIAN, ATTORNEY



DIRECTOR
WILLIAM M. DELEY
FRANK HARPER
JAMES SCHWARZ
ROBERT SEILER
DAVID STROBERG

EQUUS BEDS GROUNDWATER MANAGEMENT DISTRICT NO. 2

313 SPRUCE • HALSTEAD, KANSAS 67056-1925 • equusbed@ink.org • VOICE (316) 835-2224 • FAX (316) 830-2210

October 31, 2001

N. Brent Wooten, P.E., President
Baughman Company, P.A.
315 Ellis
Wichita, Kansas 67211

RE: Water Permit File - 41389 Ritchie Associates, Inc.

Dear Mr. Wooten:

This letter is to confirm our discussion during the October 31, 2001, meeting with the permit owner, members of your staff, the developer and the District manager concerning the siting of groundwater pits near a surface drainage pattern located in the Southeast quarter of Section 28, Township 26 south, Range 1 west, Sedgwick County.

At the February 14, 1995, meeting of the Board of Directors, Equus Beds Groundwater Management District, the Directors prescribed certain conditions for the approval of the referenced permit in order to site a groundwater pit or pits adjacent to the surface drainage pattern. The conditions included:

1. all untreated off-site drainage is excluded from entering the ponds;
2. non-street, on-site drainage is routed through grass filtering strips prior to discharge into the ponds;
3. all street drainage is prohibited from entering the ponds and is properly routed off-site;
4. a groundwater quality monitoring well is constructed immediately downgradient of a pond;
5. the monitoring well location and construction specifications are subject to District and Division approval prior to construction; and
6. that the grading plan prepared for the applicant by Poe and Associates for the south half of Section 28, Township 26 south, Range 1 west, dated March 1994 and revised February 23, 1995, is made a condition of the application and any approved water permit.

It is the District's understanding that the new land owner and developer would like to modify the site drainage plan. As we discussed, any modifications to the drainage plan will need to incorporate the six conditions prescribed by the Board of Directors.

Finally, enlargement of the groundwater pit will require an approved water permit, prior to expansion. The District would be happy to assist with the application.

If you have any questions or need additional information please contact me.

Sincerely,
EQUUS BEDS GROUNDWATER
MANAGEMENT DISTRICT NO. 2



Michael T. Dealy, L.G.
Manager
MTD/td

pc: Rob Ramseyer, Ritchie Associates, Inc.

\$41389.DOC

February 1, 2002

Mr. M.S. Mitchell
Wichita Area Builders Association
730 N. Main
Wichita, KS 67203

Re: Preliminary plat and zoning case, Forest Ridge Estates, Sedgwick County, Kansas, located in the NW ¼, 18-T25S-R1W, Sedgwick County, Kansas.

Dear Mr. Mitchell,

I am providing you this letter to explain my concerns regarding the attempted platting and zoning of the aforementioned property. Although the standard course of action has been followed as to submittal of a one-step final plat and the companion zoning case, we have met fierce resistance from the Equus Beds Groundwater Management District No. 2, and subsequently, from the City of Wichita, Kansas. The resistance stems from concerns that development of the subject property will contaminate the equus beds due to the use of septic systems for wastewater discharge, and allow water from individual, domestic wells to be extracted from the beds, an area for which water rights have been granted to the City of Wichita.

In the process of platting, Groundwater Management District No. 2 sent a letter to the Sedgwick County Metropolitan Planning Department (MAPD) and the Sedgwick County Environmental Health Department recommending that the plat utilize public sanitary sewer, or community wastewater treatment, and public water supply. A copy of this letter is attached. Given the proximity of the site, extension of public sewer and water makes the project financially unfeasible. However, the use of on-site sanitary sewer treatment with water wells for domestic use does make the project financially feasible, and the use of these systems is allowed in Sedgwick County. In addition, the owner had provided the County Health Department with soil testing logs from the site that meet the requirements for the use of on-site septic systems.

The letter from the Groundwater Management District (GMD2) prompted the City of Wichita Water and Sewer Department and the MAPC to recommend denial of the preliminary plat in the staff comments provided prior to the first Subdivision Committee meeting. Because of this opposition, our client decided to defer the plat and associated zoning cases in order to investigate the possibility of utilizing on-site, alternative sewer systems. These systems pre-treat the sewage from each home prior to the effluent being discharged into to the soil. The Planning Depart Staff then took action to present the information provided by the GMD2 to the Wichita City Council, who, on December 18th, 2001



17-4

a resolution of opposition to the Forest Ridge Addition plat and zoning case. A copy of this resolution is attached.

I understand and respect the concerns of the GMD2 and the City of Wichita pertaining to the protection of the eqqus beds, however, the platting and zoning cases for Forest Ridge Addition were not allowed to follow the normal course of review by the MAPC before they were opposed by the MAPC and City of Wichita. Also, no provision for the discussion of the use of alternative sewer systems was allowed to take place prior to the opposition, even though the plat had been deferred.

At this point the developer is trying to decide what action to take with the property. He can meet all of the applicable Sedgwick County regulations concerning on-site sewage disposal with the use of traditional septic systems; however, he understands and is sensitive to the concerns of GMD2. There are currently no standards in place governing the use of on-site alternative sewer systems in Sedgwick County; however, efforts are being made to update the regulations to include these systems.

My question is this: Does the GMD2 have the authority to supercede the Sedgwick County standards for on-site waste disposal and the use of individual water wells for domestic use? If the answer is yes, and the property in question can meet all applicable county standards for platting, zoning, waste disposal, and use of water wells, does this constitute condemnation of the property?

Please review this letter and advise. As always, please contact me with any questions or comments.

Regards,



Christopher M. Bohm, P.E.

Encl.

BRAD FRANZ, PRESIDENT
DENNIS CLENNAN, VICE PRESIDENT
JOE MIES, SECRETARY
JERRY BLAIN, TREASURER
MICHAEL T. DEALY, MANAGER
THOMAS A. ADRIAN, ATTORNEY



RECEIVED

NOV 20 2001

METROPOLITAN PLANNING
ROUTE

DIRECTORS:
WILLIAM FOLEY
FRANK HARPER
JAMES SCHWARZ
ROBERT SEILER
DAVID STROBERG

EQUUS BEDS GROUNDWATER MANAGEMENT DISTRICT NO. 2

313 SPRUCE • HALSTEAD, KANSAS 67056-1925 • equusbed@ink.org • VOICE (316) 835-2224 • FAX (316) 830-2210

November 19, 2001

Neil Evan Strahl, Senior Planner
Current Plans Division
Wichita-Sedgwick County Metropolitan Area Planning Department
City Hall 10th Floor
455 North Main
Wichita, Kansas 67202-1688

RE Forest Ridge Estates Addition - 832.231
Sketch Plat

Dear Mr. Strahl:

In response to the Sedgwick County Environmental and Wichita-Sedgwick County Metropolitan Area Planning Departments request concerning the referenced sketch plat, the Equus Beds Groundwater Management District is submitting the enclosed groundwater quality planning statement to the Departments.

Please contact me if you have any questions or need additional information.

Thank you for the opportunity to provide comments on the proposed plat.

Sincerely,
EQUUS BEDS GROUNDWATER
MANAGEMENT DISTRICT NO. 2

Michael T. Dealy
Manager
MTD/td

pc - Jerry Blain, City of Wichita
Rachelle Meyeres, Sedgwick County Environmental Department
Mark Savoy, Savoy, Ruggles & Bohm

**EQUUS BEDS GROUNDWATER MANAGEMENT DISTRICT NO. 2
GROUNDWATER QUALITY PLANNING STATEMENT**

**PRESENTED TO THE
METROPOLITAN AREA PLANNING DEPARTMENT
and the
SEDGWICK COUNTY ENVIRONMENTAL DEPARTMENT**

**CONCERNING
FOREST RIDGE ESTATES ADDITION**

November 19, 2001

Prepared by Michael T. Dealy L.G., Manager
Equus Beds Groundwater Management District No. 2

SITE LOCATION

The Forest Ridge Estates Addition is described as an 80 acre tract located in the South half of the Northwest quarter of Section 18, Township 25 South, Range 1 West, Sedgwick County. It is located about 1.6 miles southeast of the corporate limits for the City of Bentley. The site is within the boundaries and jurisdiction of the Equus Beds Groundwater Management District and overlies a portion of the Equus Beds aquifer.

The site has been designated a sensitive groundwater area by the Kansas Corporation Commission rule and regulation K.A.R. 82-3-600, Table III.

BACKGROUND INFORMATION

The Equus Beds Groundwater Management District No. 2 was contacted by the Wichita-Sedgwick County Metropolitan Area Planning and Sedgwick County Environmental Departments by letter dated October 24, 2001 and by telephone requesting the District to review and comment on the development of the plat. The request concerns the sketch plat for the Forest Ridge Estates Addition before the planning and environmental departments. The tract owner is Earl F Johnson and the contract purchaser is Robert E Johnson, 1718 N Custer, Wichita, Kansas, 67203.

The Equus Beds Groundwater Management District No. 2 has: 1) reviewed the sketch plat for the Forest Ridge Estates Addition, 2) the Metropolitan Area Planning Department staff letter of review dated October 24, 2001, for Forest Ridge Estates Addition, 3) contacted local, county and city officials to discuss water quality planning considerations, and 4) reviewed the Equus Beds aquifer management program, other published reports and basic hydrologic and geologic data in the preparation of this document for the Wichita-Sedgwick County Metropolitan Area Planning and Environmental Departments.

The planned subdivision consists of 76 residential lots with lot area ranging from 0.88 acre to one acre for single-family dwellings. Drinking water and waste disposal systems for each lot will consist of small capacity domestic water well and on-site septic system consisting of a septic tank and a lateral field.



The volume of wastewater discharged by a septic tank system from a typical household ranges from 40 gallons per day per person to 45 gallons per day per person (U.S. Environmental Protection Agency, 1977). Assuming the following: a) that all 76 subdivision lots are developed, b) the average household consists of 4 persons and c) septic tanks and laterals are installed for waste disposal; the annual volume of effluent discharged from the septic tanks and laterals to the unsaturated material above the water table of the Equus Beds aquifer ranged from 4,438,400 gallons to 4,993,200 gallons. An amount equal to covering a football field with waste effluent to a depth of nearly 15 feet each year.

The effluent which passes through the septic tank and laterals and the unsaturated soil represent a concern relative to groundwater quality contamination. Based on previous studies (Canter and Knox, 1985) of septic tank influent; the average domestic wastewater contains 50 mg/L Total Nitrogen, 12 mg/L Ammonia, 30,000 MPN/100ml Fecal bacterial and 32 - 7,000 PFU/1 Enteric virus.

Data also indicate that septic tank effluent contains fecal coliform bacteria, certain virus and nitrates and are a groundwater pollution concern. Additionally, there have been several reported cases of organic compounds from household cleaning products passing through septic systems and contaminating groundwater (U. S. Environmental Protection Agency, 1980).

Soils with a high infiltration rate can be rapidly overloaded with organic and inorganic chemicals and micro-organisms, thus allowing rapid movement of contaminants from the laterals through the unsaturated soil material to the underlying groundwater (Canter and Knox, 1985). This type of septic system failure is largely overlooked or ignored until nearby water wells are contaminated.

SURFACE TOPOGRAPHY AND SOIL

Surface elevation at the proposed site ranges from 1377 to 1379 feet above mean sea level. The land surface is nearly level. Surface drainage is predominantly to the southeast.

The predominant soil at the site is classified as Farnum loam characterized as ranging from clay loam to sandy loam. It is described as nearly level having well drained soils. Soil permeability or infiltration rate ranges from 0.2 to 20.0 inches per hour increasing with depth. The soil is suitable for building site development, but has severe limitations for onsite waste disposal. The severe limitation is due to a shallow groundwater level and a substratum consisting of medium sand from 40 inches to 60 inches below land surface (Soil Conservation Service, 1979).

HYDROGEOLOGY

The proposed site overlies a portion of the unconsolidated freshwater aquifer known as the Equus Beds aquifer. The aquifer is the principal source of freshwater for the site area as well as for a four county area in south-central Kansas.

Lithologic logs (Meyers and others, 1996) described the unsaturated zone above the aquifer's water-table as consisting of unconsolidated material consisting of clay, silt, sand and gravel. Data indicates that north of the site a clay unit underlies the soil profile, while south of the site the clay unit is absent and underlain by sand grading from fine to medium. The logs were prepared from data collected at groundwater monitoring sites EB 201 and EB 202 located about one-half mile north and one mile southwest of the site, respectively.

Based on the lithologic logs, permeability in the unsaturated zone ranges from 0.00001 to 0.001 gallons per day per foot squared for clay, 10 to 1,000 gal. per day/ft² for fine sand, 100 to 1,000 gal. per day/ft² for medium sand and 100 to 10,000 gal. per day/ft² for coarse sand and gravel.

Water-level data collected from groundwater monitoring well EB 201-A, located north of the site, show the water-level is shallow and averaged 26.9 feet below land surface for the period from December 1986 to October 2001. The water-level ranged from a low of 33.6 feet below land surface October 1991 to a high of 17.9 feet below land surface April 2000.

Water-level data collected from groundwater monitoring well EB 202-A, located south of the site, show the water-level is shallow and averaged 14.4 feet below land surface for the period from December 1986 to October 2001. The water-level ranged from a low of 19.4 feet below land surface July 1991 to a high of 8.9 feet below land surface January 2001.

The average saturated thickness of the aquifer is 176 feet thick. Depth to bedrock (bottom of the aquifer) ranged from 170 feet to 190 feet below land surface. The site overlies the northern flank of the Arkansas River Palo-bedrock channel having an axis trending northwest to southeast. Data indicate that the water table slope and groundwater movement is to the southeast.

Groundwater development in the area consists of small capacity domestic (household) use. Based on the U. S. Geological Survey 7.5 minute series topographic map for the site, there are several domestic wells, four irrigation wells and three City of Wichita public water supply wells located within one mile of the proposed subdivision.

The safe yield allowable within the 2-mile radius area of consideration is 4,021 acre-feet per year. Existing groundwater appropriations or pumpage within the 2-mile radius around the proposed addition exceed the safe-yield allowable. Based on the region average per capita usage of 113 gallons, it is projected that the 76 domestic wells in the 80 acre addition will annually withdraw approximately 12.5 million gallons.

Inorganic water quality data collected from groundwater monitoring site EB 202 show nitrate-nitrogen concentrations at a depth of 55 feet to 65 feet have exceeded the maximum concentration level of 10.0 mg/L for drinking water established by the U.S. Environmental Protection Agency's. Nitrate-nitrogen concentrations for the period from December 1986 to July 2001 ranged from low of 8.8 mg/L to high of 17.4 mg/L. Inorganic water quality data at a depth of 133 feet to 143 and from 180 feet to 190 feet indicate groundwater is suitable for most uses.

FINDINGS

Based on the case review the following findings were made:

1. The Equus Beds Groundwater Management District No. 2 was contacted by the Wichita-Sedgwick County Metropolitan Area Planning and Sedgwick County Environmental Departments by letter dated October 24, 2001 and by telephone requesting the District to review and comment on the development of the plat.
2. The Forest Ridge Estates Addition is described as an 80 acre tract located in the South half of the Northwest quarter of Section 18, Township 25 South, Range 1 West, Sedgwick County.
3. The planned subdivision consists of 76 residential lots with lot area ranging from 0.88 acre to one acre for single-family dwellings.
4. Drinking water and waste disposal systems for each lot will consist of small capacity domestic water well and on-site septic system consisting of a septic tank and a lateral field.
5. The proposed subdivision overlies a portion of the unconsolidated freshwater aquifer known as the Equus Beds aquifer. The aquifer is the principal source of freshwater for the site area as well as for a four county area in south-central Kansas, including the City of Wichita and adjacent domestic well owners.
6. The site is within the boundaries and jurisdiction of the Equus Beds Groundwater Management District.
7. Based on the region average per capita usage of 113 gallons, it is projected that the 76 domestic wells in the 80 acre addition will annually withdraw approximately 12.5 million gallons.
8. Existing groundwater appropriations or pumpage within the 2-mile radius area around the proposed addition exceed the safe-yield allowable for the aquifer.
9. The area overlying the Equus Beds aquifer has been designated a sensitive groundwater area by the Kansas Corporation Commission because of hydrogeologic, climatic, and soil conditions.
10. The predominant soil at the site is classified as Farnum loam characterized as ranging from clay loam to sandy loam. The soil is suitable for building site development, but has severe limitations for onsite waste disposal. The severe limitation is due to a shallow groundwater level and a substratum consisting of medium sand from 40 inches to 60 inches below land surface
11. Soil permeability or infiltration rate ranges from 0.2 to 20.0 inches per hour increasing with depth
12. The unsaturated zone immediately above the water-table consists of unconsolidated deposits of clay to fine sand north of the site and fine sand to coarse gravel south of the site.

13. Materials in the unsaturated zone have a permeability ranging from 0.00001 gal per day/ft² up to 10,000 gal per day/ft².
14. Over a 15 year period, depth to water was shallow and averaged 14.4 feet below land surface south of the site and 29.6 feet below land surface north of the site.
15. The calculated volume of effluent discharged from the 76 subdivision septic tanks and laterals to the unsaturated material above the water table of the Equus Beds aquifer ranged from 4,438,400 gallons to 4,993,200 gallons annually.
16. Inorganic water quality data collected from groundwater monitoring site EB 202 located south of the proposed addition show nitrate-nitrogen concentrations at a depth of 55 feet to 65 feet have exceeded maximum concentration level of 10.0 mg/L for drinking water established by the U.S. Environmental Protection Agency.
17. Soils with a high infiltration rate can be rapidly overloaded with organic and inorganic chemicals and micro-organisms, thus allowing rapid movement of contaminants from the laterals through the unsaturated soil material to the underlying groundwater.
18. Rapid overloading in this soil type leads to a septic system failure which remains undetected until nearby domestic wells are contaminated.

RECOMMENDATIONS

Based on the case findings of the groundwater management district, hydrologic and geologic data and the information provided by Sedgwick County Environment and Wichita-Sedgwick County Metropolitan Area Planning Departments, the Equus Beds Groundwater Management District recommends the following:

1. Prohibit the use of septic tank and lateral systems for disposal of the proposed addition's septic waste.
2. To eliminate the risk of septic waste contamination to the Equus Beds aquifer and to area water wells, either:
 - a) connect to the existing public sewer treatment system located within 1.75 miles of the addition, or
 - b) properly install, operate and maintain a community waste treatment system in the Forest Ridge Estates Addition to properly treat and dispose of the addition's septic waste stream.
3. Prohibit the use of individual domestic water wells for the proposed addition's water supply needs.
4. To prevent over-development of the Equus Beds aquifer and to insure the residents of Forest Ridge Estates Addition have a safe drinking water supply, connect to the public water supply system located within 0.5 mile of the proposed addition.

SELECTED REFERENCES

- Canter, Larry W., and Knox, Robert C., *Septic Tank System Effects on Groundwater Quality*, 1985, Lewis Publishers, pp. 333
- U.S. Department of Agriculture, Soil Conservation Service, *Soil Survey of Sedgwick County, Kansas*, 1979, pp. 126
- U.S. Environmental Protection Agency, *The Report to Congress: Waste Disposal Practices and Their Effects on Ground Water*, EPA 570/9-77-001, June 1977, Washington, D.C., pp. 294-321
- U.S. Environmental Protection Agency, *Planning Workshop to Develop Recommendations for a Ground Water Protection Strategy, Sections I, II and III*, May 1980, Washington, D.C.
- U.S. Geological Survey, *Hydrologic and Chemical Interaction of the Arkansas River and the Equus Beds Aquifer Between Hutchinson and Wichita, South-Central Kansas*, WRIR 95-4191, 1996, Lawrence, Kansas, pp. 100

810 West Douglas C
Wichita, KS 67203-6105
(316)262-8808 Office
(316)262-1669 Fax

February 2, 2002

Mr. M.S. Mitchell
Wichita Area Builders Association
730 N. Main
Wichita, KS 67203

Re: Rezoning and Platting of Bentley Meadows Addition
E.1/2, S.14, T.25S., R.2W.
Sedgwick County, KS

A client of my firm, Bentley Growth, LLC, is attempting to rezone and plat a 50 acre parcel of land located southeast of Bentley, Sedgwick County, Kansas. The property is currently zoned rural residential and a zone change application has been made to the Metropolitan Area Planning Department for SF-20, Single Family classification. The SF-20 single-family district is intended to accommodate large lot, single family residential development in unincorporated Sedgwick County. A special requirement of SF-20 zoning is that a minimum one acre(40,000 sq. ft.) lot size is required for residential uses to be served by a private water well. Further, the existing Sedgwick County Health Department Code permits the installation of standard septic systems on one acre(40,000 sq.ft.) lots if a satisfactory percolation test can be obtained.

On Monday, January 28, 2002 the zone change request from Rural Residential to SF-20 for this property was reviewed by the Bentley Planning Commission. A presentation was made by the Metropolitan Area Planning Department staff to the commission. Mr. Mike Dealy, Groundwater Management District #2 was also present and made comments summarizing a Groundwater Quality Planning Statement dated February 28, 2001 which he prepared and a copy of which is attached. Mr. Dealy stated that this zone change and proposed plat should be denied due to perceived detrimental effects which the development will have upon the groundwater quantity and quality at this location. Mr. Dealy has stated that this development should be on Bentley public water and sewer facilities. After considerable discussion the chairman of the Bentley Planning Commission stated that the quantity of water required for this development would be no different with the use of individual private wells versus the Bentley public water system which is supplied raw water from the City of Wichita wells located in the Equus Beds. However, the Bentley Planning Commission voted not to approve the zone change request until MAPD staff and Mr. Dealy, who were referred to as "experts" on wastewater disposal by the planning commission, agreed that a satisfactory on-site waste disposal system could be implemented.

The property owner, Bentley Growth LLC, would appreciate an opinion from your association on the following issues:

1. Can MAPD and GMD #2 prevent development which meets the Sedgwick County Sanitary Code?
2. If Sedgwick County Code Enforcement develops and implements a policy for alternative individual treatment systems, which the property owner supports, can MAPD and GMD#2 prevent development which Code Enforcement permits?
3. If state water regulations allow individual private water wells for domestic use is GMD #2 authorized to prevent the installation of domestic wells on this property which is located in the Equus Beds?

Bentley Growth, LLC is concerned that as a property owner the ability to develop is being restricted by government agencies when the proposed development is in accordance with local zoning regulations, County health department codes and state water regulations. Information from your association regarding these issues would be appreciated.

Sincerely,



Harlan D. Foraker, P.E.
Kansas P.E. 10891

CERTIFIED ENGINEERING DESIGN, P.A.

attachments

cc: Bentley Growth, LLC, 11826 East First Street, Wichita, KS 67206

17-13

WICHITA-SEDGWICK COUNTY
DEPARTMENT OF COMMUNITY HEALTH
ENVIRONMENTAL HEALTH DIVISION
WATER QUALITY PHONE# 268-8351

Copy and original

SUBDIVISIONS: Proposed land development utilizing on-site sewage disposal systems and/or water wells (PLATS, LOT SPLITS, AND NEWLY DIVIDED PARCELS OF LAND)

This is a summary of portions of the Sedgwick County Code, Chapter 14, Article V, Sanitary Code, and the Subdivisions Regulations of Sedgwick County which apply to dividing and developing land. Other requirements may also apply; please call (316) 268-8351 if you need additional information.

1. 20,000 square feet minimum lot size, exclusive of dedicated public right of way, provided that approved public water supply is available and percolation rates are 1 inch in 60 minutes or less for use of subsurface wastewater disposal systems (septic tank/lateral systems).
2. 40,000 square feet minimum lot size, exclusive of dedicated public right of way, if property has neither approved public water nor sanitary sewer and percolation rates are 1 inch in 60 minutes or less for use of soil absorption wastewater disposal systems (septic tank/lateral systems).
3. 10,000 square feet minimum area available and reserved for installation of on-site sewage facilities.
4. 5 acres minimum parcel size if percolation rates are slower than 1 inch in 60 minutes. A waste stabilization pond (lagoon) is required for sewage disposal on these parcels.
5. Groundwater elevation (depth) from ground surface must be a minimum of 10 feet average.
6. Sewage facilities must be kept entirely out of any floodway reserves or easements. Any requested encroachment into the 100 year flood plain will require special review and approval by the Federal Emergency Management Agency (FEMA) and/or the Sedgwick County Public Services Bureau. Property owners will be responsible for providing any required surveys and certifications.

If sanitary sewer and/or public water supply is available to serve a property it must be utilized. Lot size is then dependent on Sedgwick County Zoning and Subdivision regulations.

Percolation tests and/or soil borings are required and must be performed in accordance with Environmental Health Division procedures by an approved soils testing laboratory.

NOTE:

Contact should also be made with the appropriate planning department for other platting, splitting, or lot development requirements. In the Wichita-Sedgwick County planning area, contact the Metropolitan Area Planning Department, 268-4421, 10th floor, City Hall, 455 N. Main.

**EQUUS BEDS GROUNDWATER MANAGEMENT DISTRICT NO. 2
GROUNDWATER QUALITY PLANNING STATEMENT**

**PRESENTED TO THE
METROPOLITAN AREA PLANNING DEPARTMENT**

**CONCERNING
CASE NO. SUB 2001-17 - BENTLEY MEADOWS ADDITION**

February 28, 2001

Prepared by Michael T. Dealy L.G., Manager
Equus Beds Groundwater Management District No. 2

SITE LOCATION

The Bentley Meadows Addition is described as a 50.025 acre tract located in the East half of the Northeast quarter of Section 14, Township 25 South, Range 2 West, Sedgwick County. It is located about 0.75 mile southeast of the corporate limits for the City of Bentley. The site is within the boundaries and jurisdiction of the Equus Beds Groundwater Management District and overlies a portion of the Equus Beds aquifer.

The site has been designated a sensitive groundwater area by the Kansas Corporation Commission rule and regulation K.A.R. 82-3-600, Table III.

BACKGROUND INFORMATION

The Equus Beds Groundwater Management District No. 2 was contacted by the Wichita-Sedgwick County Metropolitan Area Planning Department by letter dated February 20, 2001, requesting the District to review and comment on the development of the plat. The request concerns the preliminary plat for the Bentley Meadows Addition before the Subdivision Committee. The owner/subdivider is Bentley Growth, LLC, 11826 East 1st Street, Wichita, Kansas, 67206.

The Equus Beds Groundwater Management District No. 2 has: 1) reviewed the preliminary plat for the Bentley Meadows Addition, 2) the Metropolitan Area Planning Department staff report dated March 1, 2001, for Bentley Meadows Addition, 3) contacted local, county and city officials to discuss water quality planning considerations, and 4) reviewed the Equus Beds aquifer management program, other published reports and basic hydrologic and geologic data in the preparation of this document for the Wichita-Sedgwick County Metropolitan Area Planning Department.

The planned subdivision consists of 36 residential lots with lot area ranging from less than one acre to one and one-half acre for single-family dwellings and a 4.5 acre reserve area for retaining the subdivision stormwater runoff. Drinking water and waste disposal systems for each lot will consist of small capacity domestic water well and on-site septic systems consisting of a septic tank and a lateral field.

The volume of wastewater discharged by a septic tank system from a typical household ranges from 40 gallons per day per person to 45 gallons per day per person (U.S.

Equus Beds Groundwater Management District No. 2
Water Quality Planning Statement to the Wichita-Sedgwick County Metropolitan Area Planning Department
February 28, 2001
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Environmental Protection Agency, 1977). Assuming the following: a) that all 36 subdivision lots are developed, b) the average household consists of 4 persons and c) septic tanks and laterals are installed for waste disposal; the annual volume of effluent discharged from the septic tanks and laterals to the unsaturated material above the water table of the Equus Beds aquifer ranged from 2,102,400 gallons to 2,365,200 gallons. An annual amount equal to covering a football field with waste effluent to a depth of nearly ten feet.

The effluent which passes through the septic tank and laterals and the unsaturated soil represent a concern relative to groundwater quality contamination. Based on previous studies (Canter and Knox, 1985) of septic tank influent; the average domestic wastewater contains 50 mg/L Total Nitrogen, 12 mg/L Ammonia, 30,000 MPN/100ml Fecal bacterial and 32 - 7,000 PFU/1 Enteric virus.

Data also indicate that septic tank effluent contains fecal coliform bacteria, certain virus and nitrates and are a groundwater pollution concern. Additionally, there have been several reported cases of organic compounds from household cleaning products passing through septic systems and contaminating groundwater (U. S. Environmental Protection Agency, 1980).

Soils with a high infiltration rate can be rapidly overloaded with organic and inorganic chemicals and micro-organisms, thus allowing rapid movement of contaminants from the laterals through the unsaturated soil material to the underlying groundwater (Canter and Knox, 1985). This type of septic system failure is largely overlooked or ignored until nearby water wells are contaminated.

SURFACE TOPOGRAPHY AND SOIL

Surface elevation at the proposed site ranges from 1380 to 1382 feet above mean sea level. The land surface is nearly level. Surface drainage is predominantly to the southeast. A drainage ditch is located immediately southwest of the site.

The predominant soil association at the site is classified as Naron-Farnum-Carwile consisting of fine sand loam to loam. It consists of deep, nearly level, well drained soils having a loamy subsoil. Soil permeability or infiltration rate ranges from 0.2 to 20.0 inches per hour increasing with depth.

HYDROGEOLOGY

The proposed site overlies a portion of the unconsolidated freshwater aquifer known as the Equus Beds aquifer. The aquifer is the principal source of freshwater for the site area as well as for a four county area in south-central Kansas.

Lithologic data collected from groundwater monitoring site EB 202 located about 0.5 mile southeast of the site in the Northwest quarter of the Northwest quarter of the Northwest quarter of Section 24, Township 25 south, Range 2 west, describe the unsaturated zone above the aquifer's water-table as silty soil to a depth of 2 feet, fine-grained sand to a depth

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of 8 feet, medium to coarse-grained sand to a depth of 10 feet and coarse-grained sand and gravel to the water-table. Materials in the unsaturated zone have a high permeability ranging from 10 to 1,000 gallons per day per foot squared for fine sand, 100 to 1,000 gal. per day/ft² for medium sand and 100 to 10,000 gal. per day/ft² for coarse sand and gravel.

Water-level data collected from groundwater monitoring well EB 202-A show the water-level is shallow and averaged 14.4 feet below land surface for the period from December 1985 to January 2001. The water-level ranged from a low of 19.4 feet below land surface July 1991 to a high of 8.9 feet below land surface January 2001.

The average saturated thickness of the aquifer is 176 feet thick. Depth to bedrock (bottom of the aquifer) is 190 feet below land surface. The site overlies the northern flank of the Arkansas River Palo-bedrock channel having an axis trending northwest to southeast. Data indicate that the water table slope and groundwater movement is to the southeast.

Groundwater development in the area consists of small capacity domestic (household) use. Based on the U. S. Geological Survey 7.5 minute series topographic map for the site, there are numerous domestic wells located within 1/2 mile of the proposed subdivision. There are four irrigation wells located within one mile southeast of the site. Located about 2.0 miles east and southeast are four public water supply wells for the City of Wichita.

The safe yield allowable within the 2-mile radius area of consideration is 4,021 acre-feet per year. Existing groundwater appropriations or pumpage within the 2-mile radius around the proposed addition exceed the safe-yield allowable. Based on the region average per capita usage of 113 gallons, it is projected that the 36 domestic wells in the 50 acre addition will annually withdraw approximately 6,000,000 gallons.

Inorganic water quality data collected from groundwater monitoring site EB 202 show nitrate-nitrogen concentrations at a depth of 55 feet to 65 feet exceeded the maximum concentration level of 10.0 mg/L for drinking water established by the U.S. Environmental Protection Agency's. Nitrate-nitrogen concentrations for the period from December 1986 to July 1990 ranged from low of 14.0 mg/L to high of 17.4 mg/L. Inorganic water quality data at a depth of 133 feet to 143 and from 180 feet to 190 feet indicate groundwater is suitable for most uses.

FINDINGS

Based on the case review the following findings were made:

1. The Equus Beds Groundwater Management District No. 2 was contacted by the Wichita-Sedgwick County Metropolitan Area Planning Department by letter dated February 20, 2001, requesting the District review and comment on the preliminary plat for the Bentley Meadows Addition.
2. The Bentley Meadows Addition is described as a 50.025 acre tract located in the East half of the Northeast quarter of Section 14, Township 25 South, Range 2 West, Sedgwick County and is located about 0.75 mile southeast of the corporate limits for the City of Bentley.

Equus Beds Groundwater Management District No. 2
Water Quality Planning Statement to the Wichita-Sedgwick County Metropolitan Area Planning Department
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3. The planned addition will consist of 36 residential lots with lot area ranging from less than one acre to one and one-half acre for single-family dwellings and a 4.5 acre reserve area for retaining the subdivision stormwater runoff.
4. The drinking water and waste disposal systems will consist of a small capacity domestic well and a septic tank and laterals installed on each lot.
5. The proposed subdivision overlies a portion of the unconsolidated freshwater aquifer known as the Equus Beds aquifer. The aquifer is the principal source of freshwater for the site area as well as for a four county area in south-central Kansas, including the City of Wichita and adjacent domestic well owners.
6. The site is within the boundaries and jurisdiction of the Equus Beds Groundwater Management District.
7. Based on the region average per capita usage of 113 gallons, it is projected that the 36 domestic wells in the 50 acre addition will annually withdraw approximately 6,000,000 gallons.
8. Existing groundwater appropriations or pumpage within the 2-mile radius area around the proposed addition exceed the safe-yield allowable for the aquifer.
9. The area overlying the Equus Beds aquifer has been designated a sensitive groundwater area by the Kansas Corporation Commission because of hydrogeologic, climatic, and soil conditions.
10. The predominant soil at the site consists of loam and fine sandy loam having a high infiltration rate ranging from 0.2 to 20.0 inches per hour.
11. The unsaturated zone immediately above the water-table consists of unconsolidated deposits of fine to coarse sand and gravel.
12. Materials in the unsaturated zone have a high permeability ranging from 10 gal per day/ft² up to 10,000 gal per day/ft².
13. Depth to water is shallow and averaged 14.4 feet below land surface over a 15 year period. The water-level ranged from a low of 19.4 feet below land surface July 1991 to a high of 8.9 feet below land surface January 2001.
14. The calculated volume of effluent discharged from the 36 subdivision septic tanks and laterals to the unsaturated material above the water table of the Equus Beds aquifer ranged from 2,102,400 gallons to 2,365,200 gallons annually.
15. Inorganic water quality data collected from groundwater monitoring site EB 202 located near the proposed addition show nitrate-nitrogen concentrations at a depth of 55 feet to 65 feet exceed maximum concentration level of 10.0 mg/L for drinking water established by the U.S. Environmental Protection Agency.
16. Soils with a high infiltration rate can be rapidly overloaded with organic and inorganic chemicals and micro-organisms, thus allowing rapid movement of

Equus Beds Groundwater Management District No. 2
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contaminants from the laterals through the unsaturated soil material to the underlying groundwater.

17. Rapid overloading in this soil type leads to a septic system failure which remains undetected until nearby domestic wells are contaminated.

RECOMMENDATIONS

Based on the case findings of the groundwater management district, hydrologic and geologic data and the information provided by Wichita-Sedgwick County Metropolitan Area Planning Department, the Equus Beds Groundwater Management District recommends the following:

1. Prohibit the use of septic tank and lateral systems for disposal of the proposed addition's septic waste.
2. To eliminate the risk of septic waste contamination to the Equus Beds aquifer and to area water wells, either:
 - a) connect to the existing public sewer treatment system located within 0.75 mile of the addition, or
 - b) properly install a community waste treatment system in the Bentley Meadows Addition to properly treat and dispose of the addition's septic waste stream.
3. Prohibit the use of individual domestic water wells for the proposed addition's water supply needs.
4. To prevent over-development of the Equus Beds aquifer and to insure the residents of Bentley Meadows Addition have a safe drinking water supply, connect to the public water supply system located within 0.75 mile of the proposed addition.

SELECTED REFERENCES

Canter, Larry W., and Knox, Robert C., *Septic Tank System Effects on Groundwater Quality*, 1985, Lewis Publishers, pp. 333

U.S. Environmental Protection Agency, *The Report to Congress: Waste Disposal Practices and Their Effects on Ground Water*, EPA 570/9-77-001, June 1977, Washington, D.C., pp. 294-321

U.S. Environmental Protection Agency, *Planning Workshop to Develop Recommendations for a Ground Water Protection Strategy, Sections I, II and III*, May 1980, Washington, D.C.

RESOLUTION NO. _____

**A RESOLUTION OF OPPOSITION TO THE FORREST RIDGE ESTATES
ADDITION
PROTECTION OF THE ENVIRONMENTAL RESOURCES OF THE CITY OF
WICHITA, KANSAS**

WHEREAS, the stability and future growth and development of the City of Wichita is vitally linked to the protection and enhancement of the quality of life available to citizens and visitors; and

WHEREAS, the citizens of the City of Wichita and the agricultural, residential, commercial and industrial activities which constitute the Wichita economy may be directly and adversely affected by activities which harm the quality and quantity of the City of Wichita's water supply sources; and

WHEREAS, a new subdivision know as Forest Ridge Estates has submitted a plat allowing 76 lots on an 80 acre tract located in the south half of the Northwest quarter of Section 18, Township 25 South, Range 1 West, Sedgwick County, approximately 1.6 miles southeast of the City of Bentley; and

WHEREAS, the proposed development would allow each lot to have individual water supply wells and septic systems consisting of a septic tank and lateral field, and this site has been designated a sensitive groundwater area by the Kansas Corporation Commission because of hydro-geologic, climate and soil conditions; and

WHEREAS, the proposed site overlies a portion of the unconsolidated freshwater aquifer known as the Equus Beds aquifer and the aquifer is the principal source of freshwater for the site area as well as for a four county area in south-central Kansas including the City of Wichita; and

WHEREAS, three City of Wichita public water supply wells are located within one mile of the proposed subdivision; and

WHEREAS, septic systems are an effective way to remove heavy materials and bacteria from wastewater but septic systems do not effectively remove nitrates, chlorides, domestic solvents and other chemicals which are consequently discharged into the underlying Equus Beds aquifer; and

WHEREAS, this area has relatively high groundwater levels, with the ground water being 9 to 30 feet below the land surface, and due to the dense concentration of septic systems there is an almost certain risk that the materials will migrate into the groundwater; and

WHEREAS, there are five existing water supply wells within one mile of the proposed development creating a pollution risk to the City's water supply; and

WHEREAS, the water rights in this area have already been fully allocated prohibiting a permit for a single supply well to serve the development and only allowing individual wells; and

WHEREAS, it is estimated that the individual wells will collectively use 12.5 million gallons per year which will reduce the amount of water in the aquifer available to other existing water rights, including City of Wichita water supply wells;

NOW THEREFORE, BE IT RESOLVED by the governing body of the City of Wichita, Kansas that because of the potential for groundwater pollution from the dense septic tank spacing proposed for this development, and its potential impact on diminishing water quantity in the aquifer and thus impacting City of Wichita water supply wells, the City of Wichita opposes the plat for the Forest Ridge Estates and the proposed zoning change resulting in a reduction of the lot size within this development.

Adopted by the governing body of the City of Wichita, Kansas this 18th day of December 2001.

City of Wichita

Bob Knight, Mayor

Approved as to form:

Attest:

Gary Rebenstorf, Director of Law

Pat Burnett, City Clerk



Kansas Dairy Association

Providing a unified voice for Kansas dairy farmers

Warren Winter
President
Hillsboro

Richard Benoit
Vice President
Damar

Mike Bodenhausen
Muscotah

Joe Hinton
Fort Scott

Andy Keeter
Deerfield

Dennis Metz
Wellington

Steve Ohlde
Linn

Tim Pauly
Conway Springs

Frank Pretz
Osawatomie

Elwood Schmidt
Riley

Jerry Spielman
Seneca

Office

4210 Wam-Teau Drive
Wamego, KS 66547
785-456-8357
FAX 785-456-9705
email:
ksdairy@hotmail.com

Comments From The Kansas Dairy Association

Regarding SB 264

Presented by: Kerri Ebert, Executive Secretary

February 5, 2002

Chairman Freeborn, members of the Committee on Environment. I am Kerri Ebert, executive secretary for the Kansas Dairy Association. Our association represents Kansas' 600 dairy producers. Thank you for the opportunity to offer comments from our Association about SB 264.

Our membership is opposed to SB 264 as it was originally drafted. However, we support the compromise work done by the Interim Committee on Energy, Natural Resources and the Environment and request that the Interim Committee's findings be substituted for the current language in SB 264.

The Interim Committee recommended that the existing GMD statute remain with special assessment provisions granted to Groundwater Management District 2, whereas SB 264, as written, sets up a separate statute for GMD 2. The Interim Committee further recommended that the GMDs be allowed to determine their own board structure, without legislative interference. We agree. SB 264 would set in statute how many board members would sit on the GMD 2 Board of Directors and furthermore it stipulates what populations those board members must represent. Currently, the eligible voters of GMD 2 have much more flexibility in selecting who should represent them on the District Board of Directors. We believe it is important for the residents of the Groundwater Management District maintain local control over their District.

The other issue we take exception with is the provision that allows Groundwater Management District 2 to increase its withdrawal charge from 60¢ to \$1.19 per acre foot of water withdrawn from the aquifer. This amounts to doubling the tax paid by water users. Fifty-seven percent of the permitted water use in GMD 2 is for agricultural water users. We believe this tax increase will be unfairly borne by agricultural users because, unlike municipal and industrial users, agricultural users cannot pass along the fee increase. Their farming operations must absorb the entire cost. We believe the cap is set too high and would respectfully request that the cap be lowered to 90¢. These are difficult economic times in agriculture. In addition to this fee increase proposal, our members are also facing Department of Agriculture fee increases this session. Just as our producers are doing, we believe that everyone, including GMDs, should tighten their belts and cut unnecessary expenses before seeking relief in the form of tax increases.

The Interim Committee had a solution for the tax increase/GMD budget problem. That was to encourage the Board of Groundwater Management District 2 to establish higher withdrawal fees for water that is ultimately used outside the district – higher but not exceeding the statutory cap. We would support a differential fee system, where those

HOUSE ENVIRONMENT
2-5-02
ATTACHMENT 18

entities that are able to spread out the fees over a large population pay more than individuals who must absorb any and all fee increases.

Finally, and in defense of the dairy industry and agriculture in general, because of our opposition to SB 264, our Association has been criticized as not caring about water quality for a water supply that serves a half million Kansans. I would submit to you that SB 264 is not a water quality bill. It's a tax increase bill. Some of that tax increase will be used to monitor water quality, but as far as we can tell, none of the money will be used for proactive programs that actually prevent water contamination. Those programs are already taking place on the hundreds of farms in the Equus Beds region and all across Kansas in the form of implementation of best management practices for cropping and livestock operations. They are funded by the farmers themselves and through partnerships with KDHE, the Department of Agriculture and the Kansas Conservation Commission; through educational programming and hands-on demonstrations conducted statewide by grassroots agricultural organizations like Kansas Farm Bureau, Kansas Livestock Association, Kansas Pork Association and the Kansas Dairy Association. Kansas agriculture is in this water quality battle for the long haul. Our future depends on it. If you doubt us, just ask any one of our organizations about what they and their members are doing to address Kansas water quality issues.

Please don't doubt our sincerity on the water quality issue because we oppose a tax increase and loss of local control for this Groundwater Management District. Why should 899 farmers pay 57 percent of the tax bill to monitor water quality ~~for~~ for 500,000 people who get to split among themselves the remaining 43 percent; while the minority water users get more votes on the district board?

Thank you for allowing time for our Association to express its concerns with SB 264. We look forward to the opportunity to be part of the solution to water quality concerns in the Equus Beds region, without seeing our producers burdened with higher taxes and less representation on the GMD Board.

Comments on SB264 by Bob Seiler

Chairman Freeborn and members of the House Environment Committee. I am Bob Seiler a dairy producer and farmer from Valley Center. We farm in the southern area of the Equus Beds and near the Arkansas River.

I have been opposed to SB 264 because I don't believe there is anything in it for Agriculture. There would be less representation on the board of directors plus the extra assessment would be paid 57 percent by Agriculture. I also contend that the Equus beds and GMD's were formed to manage the quantity of water used not the quality. We have KDHE and KCC to take care of the quality and the control of the quality would be more consistent over the state. We all believe water quality is important, we just differ on who should be responsible. The water quality problems in the equus beds have mostly been caused by salt from the salt beds and oil field brine. The management of the Equus Beds has been very vocal against animal agriculture even though historically it has not been a problem. I have trouble paying a higher assesment to the Equus beds when they are trying to over regulate our industry.

If the Equus Beds is responsible for water quality we need to look at other ways to asses fees on the users of the water. There are 900 farmers that will pay about 60 percent of the increased assesment even though this district is responsible for the water for 500,000 poeple. All of the users of the water should help pay the costs of the district especially if the water monitoring that is done by the district is so important to the public. The interim committee that met last fall said that we should possibly look at user fees and extra fees for water that leaves the district. The muncipal water departments benifit greatly from the water monitoring that the district does and could be charged a user fee to help pay for it. To help fund the district activities we could assess each city or rural water district a amount up to 60 cents per water customer per year. This would spread the costs to everyone for quality assurance and not to just a few.

Mr. Dealy has said that the district needs increased funding to ensure the quality of water because of the new Recharge Project that Wichita is starting. This project will benefit the Equus beds in many ways but mostly it will allow Wichita to store 65 billion gallons of water in the Equus beds for later use. Wichita has stated that it's goal is to be the water supplier for the southern part of the state over the next 50 years. This project would allow them to pump out about 5 times the amount they are now allocated to use from the Equus beds currently. That is about 200,000 acre feet. This would be another possible funding area as this water could also be assessed at the 60 cent per acre foot rate and net the district 120,000 dollars which would increase the budget by almost 50 percent.

I think that we need to look at these and other ideas on how to raise money to fund the district activities not just the way it has been done in the past. Also as an livestock producer it would be nice if we only had one agency that was in charge of our waste management regulations. That is the only way to be consistent and fair. Equus beds Gmd needs to let KDHE do its job in this area.

Thank you for your time.

*House Environment
2-5-02
Attachment 19*

February 5, 2002

STATEMENT TO THE HOUSE ENVIRONMENT COMMITTEE

BY THE KANSAS SEED INDUSTRY ASSOCIATION

REP. JOANN FREEBORN, CHAIR

REGARDING S.B. 264

Madam Chair and Members of the Committee, I am Don Phillips, President of Kansas Seed Industry Association (KSIA), and a seedsman from Hope, Kansas. KSIA has members throughout Kansas involved in the production, processing, marketing and distribution of seed. KSIA has taken a position in opposition to S.B. 264, regarding Groundwater Management District 2, because of concerns of seedsmen in that district about the increased fees it presents.

1. We support the recommendations of the interim committee which rejected the governance and structure issues from the bill. The GMD act should remain one act, and GMD 2 should not be separated out. The GMD 2 board of directors should address its composition, as opposed to it being determined statutorily.
2. We recommend lowering the proposed cap on per acre foot assessments in S.B. 264 from \$1.19, to a more reasonable level, such as 90 cents, which would still be about a 50% increase from current levels. Kansans face numerous tax increases this year, when as you know, the farm economic picture is not bright. Farmers must find a way to absorb many new costs, when they can not look forward to higher prices or income.
3. Many of the needs cited for this bill will benefit urban areas. Farmers and ranchers are no doubt willing to bear their share of the burden. Increases should be reasonable and justified. Also, we encourage the committee to add language to this bill – consistent with the interim committee recommendation - which will insure that the GMD board of directors may set the per-acre-foot assessments at different rates, depending on water use types.
4. We believe it is incredibly important for seedsmen and other farmers and ranchers in GMD 2 to work together with their city neighbors for the continued maintenance of the quality and quantity of the Equus Beds Aquifer and the economic vitality of the region.

Thank you for the opportunity to submit comments for your consideration in regard to S.B. 264.

*House Environment
2-5-02
Attachment 20*

LEGISLATIVE



TESTIMONY



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HOUSE ENVIRONMENT COMMITTEE

HB 2624

January 31, 2002

MADAM CHAIR AND MEMBERS OF THE COMMITTEE:

My name is Janet Stubbs, Executive Officer for the Kansas Building Industry Association. We support and encourage the use of waste treatment systems which are an alternative to septic tanks. The concern I have regarding this bill is based upon the personal experience regarding rural water districts use of a specific contractor to do work on extension of lines etc. I have found that I could not use a contractor to trench for water lines because the District had a contract for all their work to be done by one person. This can become quite expensive if the District wants to use this as a revenue stream.

With this in mind, my concern is how the districts are permitted to operate which would in effect add to the cost of housing and could affect the developers of a rural subdivision. It seems that the \$10,000 contract price before the solicitation of bids is required is excessive. We believe in competition and the free enterprise system and ask for your careful consideration of this matter.

Thank you for the opportunity to submit this testimony.

*House Environment
2-5-02
Attachment 21*