

## MINUTES OF THE HOUSE ENVIRONMENT COMMITTEE

The meeting was called to order by Chairman Joann Freeborn at 3:30 P.M. on February 15, 2005 in Room 231-N of the Capitol.

All members were present except:

Representative Vaughn Flora- excused

Committee staff present:

Raney Gilliland, Legislative Research Department  
Emalene Correll, Legislative Research Department  
Lisa Montgomery, Revisor of Statutes Office  
Pam Shaffer, Committee Secretary

Conferees appearing before the committee:

David Pope, Chief Engineer Division of Water Resources, Kansas Department of Agriculture  
Dan Ward, Kansas Wildlife Federation  
Secy Michael Hayden, Kansas Wildlife & Parks  
Tracy Streeter, Director, Kansas Water Office  
LaVene Brenden, Ks Society of Professional Engineers  
Senator Ralph Ostmeyer, District 40  
Representative Larry Powell, 117<sup>th</sup> District  
John Fierro, Southshore Cabin Owners  
Stan Healzer, Ness City Commissioner  
Hardy Howard, Wakeeney City Administrator  
Sandra Stenzel, Trego County Economic Development Directory  
Gomer Stukesbary, Directory Cedar Bluff Lake Association  
Richard Stenzel, Ness City, Ks resident  
David Harding, Trego County Attorney  
Geoff Withington, Wakeeney resident

Others attending:

See attached list.

Chairperson Freeborn called the meeting to order.

Chairperson Freeborn asked all guests to please sign the guest log. The agenda for Thursday, February 17 will be possible action on bills previously heard, a hearing on **HB 2400 - Establishes the irrigation transition assistance program and HB 2390 - Allows the Kansas Corporation Commission to increase financial assurance responsibilities for operators drilling wells after 1996.** Chairperson Freeborn announced she will be having surgery Thursday and that Representative Burgess will be chairing the Committee on Thursday.

Chairperson Freeborn asked that Committee members look at the minutes for January 25, and 27 during the meeting, she will be asking for approval of the minutes before adjournment today.

Chairperson Freeborn took up action on **HB 2014 - Powers of members ex officio of the Kansas Water Authority.** Since no one had come forward with suggested amendments, Representative Schwartz made a motion recommending **HB 2014** favorable for passage, Representative Light seconded the motion. Committee discussion followed. Motion carries. It will be announced later who will carry the bill.

Representative Sloan made a motion to approve the committee minutes for January 25, and 27, Representative Menghini seconded. The motion carried.

Chairperson Freeborn opened the hearing on **HB 2393 - Controlling the release of water from Cedar Bluff Reservoir.** Chairperson Freeborn announced that since she may have to leave before the hearing was over that she was going to have David Pope, Chief Engineer, Division of Water Resources an opponent to the bill go first, and then proceed to the proponents. Chairperson Freeborn welcomed Mr. Pope.

Mr. Pope testified as an opponent to **HB 2393.** He stated that this bill sets a dangerous precedent; it

CONTINUATION SHEET

MINUTES OF THE House Environment Committee at 3:30 P.M. on February 15, 2005 in Room 231-N of the Capitol.

compromises the integrity of the Kansas Water Appropriation Act; the chief engineer is required to administer and protect water rights; the proposed releases from the artificial recharge pool will have little impact on recreation; losses in lake level are due primarily to evaporation; this bill could cause an unlawful taking of water rights; Mr. Pope ask the Committee to report **HB 2393** unfavorably for the reasons state above. (See attachment 1)

Chairperson Freeborn announced there was a paper from Representative Eber Phelps, which is an information sheet which was written for the Hays Daily News, it is not testimony, but Representative Phelps wanted it passed out to all Committee members. (See attachment 2) There is also testimony from Dan Ward, Kansas Wildlife Federation in front of each Committee member, Mr. Ward is ill and will not be here to give his testimony in opposition of **HB 2393**. (See attachment 3)

Chairperson Freeborn opened the hearing for the proponents.

Senator Ralph Ostmeyer, District 40 testified in support of **HB 2393**, which would preserve Cedar Bluff Reservoir by controlling the release of water contained within. Cedar Bluff Lake is a major economic development for Trego County and surrounding communities. (See attachment 4)

Representative Larry Powell, 117<sup>th</sup> District, testified in support of **HB 2393**. He stated that this bill is in response to an agreement entered into by the Kansas Water Office, the Kansas Department of Agriculture through the Division of Water Resources, the City of Hays and the City of Russell. It only speaks to the lake, spelling out what can be released from the lake at certain elevations. (See attachment 5)

John Fierro, Southshore Cabin Owners testified in support of **HB 2393**, once the primary use of the Lake is designated as a water-based recreation and flood control only, this will reduce the temptation to release water. He stated water release for recharge or municipal use should be eliminated and perhaps only then will the Kansas Water Office and Hays do something more permanent and reliable to solve its perceived water problem. (See attachment 6)

Bill Scott, President Western Kansas Water Watcher testified in support of **HB 2393**, discussing that Cedar Bluff Lake as a significant economic impact for the area. (See attachment 7) Mr. Scott did have a 11x14 map included in his testimony, which is not attached due to its size.

Stan Healzer, Ness City Commissioner, testified in support of **HB 2393**, the proposed and contested releases of water from Cedar Bluff Reservoir would be just another nail in the coffin for the economy of many small towns and their struggling businesses, while the benefits to Hays are minimal at best. (See attachment 8)

Sandra Stenzel, Trego County Economic Development Director testified in support of **HB 2393**, the revenue generated by Cedar Bluff is directly related to the elevation levels of its water. (See attachment 9)

Hardy Howard, Wakeeney City Administrator testified in support of **HB 2393**, this bill will help to preserve Cedar Bluff Reservoir as a recreational only asset for Western Kansas. (See attachment 10)

Gomer Stukesbary, Cedar Bluff Lake Assoc testified in support of **HB 2393**, recreational use and the economic benefit all western Kansas as well as the state of Kansas in sales tax and user fees at the park. In fact, Hays business will suffer most of all with a loss of lake users revenue. (See attachment 11)

Chairperson Freeborn asked if the Committee members had looked over the minutes from January 25 and 27, as it was getting late and some Committee members would be leaving for other commitments, and the Committee could possibly lose its quorum. Representative Sloan made a motion to approve the Committee minutes for January 25, and 27, Representative Menghini seconded. The motion carried.

Richard Stenzel, Ness City resident, testified in support of **HB 2393**, Cedar Bluff Lake has enough of a problem just dealing with evaporation and no inflow. He encouraged the Committee to do all it can to save this beautiful body of water. (See attachment 12)



CONTINUATION SHEET

MINUTES OF THE House Environment Committee at 3:30 P.M. on February 15, 2005 in Room 231-N of the Capitol.

David Harding, Trego County Attorney, testified in support of **HB 2393**, unless there is a free exchange of opinions and ideas, the people do not have the information they need for effective self government. One of the concepts most fundamental to freedom of speech is the public forum. The forum was denied to us by the closed meetings of the Kansas Water Office and the Division of Water Resources. (See attachment 13)

Dean Papes, Trego County Commissioner passes out written testimony, in support of **HB 2393**, but did not testify. (See attachment 14)

Geoff Withington, Trego county resident and member of the Smokey/Hill Saline Basin Advisor Committee, testified in support of **HB 2393**, the agreement between the Kansas Water Office (KWO), Hays and Russell for the operation of the reservoir is only good as long as the KWO holds that water right. He advocated the transfer of the water right to the Kansas Department of Wildlife and Parks KDWP and redesignate it as recreation. This will end the relentless pursuit of the City of Hays to take water from Cedar Bluff Reservoir and allow them to focus on a real and more permanent solution to their supposed water problems. (See attachment 15)

Comments were then taken from the opponents.

Michael Hayden, Secretary, Kansas Department of Wildlife and Parks testified against **HB 2393**. He stated that Cedar Bluff Reservoir is one of the best examples of the economic importance of public water bodies in Kansas. Due to its location, Cedar Bluff is an important resource to a large portion of Western Kansas. (See attachment 16)

Tracy Streeter, Director, Kansas Water Office testified against **HB 2393** He stated that this bill proposes to transfer the ownership and management of the Artificial Recharge Pool and Joint Use Pool from the Kansas Water Office to the Kansas Department of Wildlife and Parks. This bill also would prohibit releases from the reservoir for all uses except for flood storage, City of Russell and KDWP facilities below the dam. (See attachment 17)

Lavene R Brenden, Professional Engineer testified against **HB 2393**. He stated that the Kansas Society of Professional Engineers, opposes passage of this bill because of the potentially far reaching effects on Kansas Water Policy and Kansas Water Law. (See attachment 18)

Committee questions and discussion followed.

Chairperson Freeborn adjourned the meeting at 5:47PM. The next meeting is scheduled for February 17.

HOUSE ENVIRONMENT COMMITTEE GUEST LIST

DATE: 02/15

NAME	REPRESENTING
Hardy Howard	City of Wakeeney
Al Powell	117 dist
Bill Satt	Western Kansas Water Watchers
Ron Allen	Pawnee Watershed District
Mymna Powell	Garden City
SID SHRIWSE	PAWNEE WATERSHED DIST.
Kent Weatherby	Kansas River Water Assurance Dist.
Kim Rupp	Golden Plains Credit Union - Hays
Lavene Brenden	KS Society of Professional Engineers
Mike Beam	KS Livestock Assn.
Wendy Williams	KAPA KEMCA
RUSSELL MILLS	GACHES
SEAN MILLER	KS Dairy Assn
Leslie Kaufman	Ks Coop Council
Helmer Kain	commissioner Steve Carney
Ryan Starf	Golden Plains Credit Union Hays
Paul Flax	Miss Co. Commissioner
Paul Beck	Neosho Co. Commissioner

HOUSE ENVIRONMENT COMMITTEE GUEST LIST

DATE: 2-15-05

NAME	REPRESENTING
Eric Deppenschmidt	Ness County Economic Dev.
Aron Stukubay	Man City Ks -
Richard Stenzel	ness city Ks
John Peterson	Ks Government Consulting
Virginia B. Beaman	118th Dist. Representative
DAVE HAROLD	Trego County
Lanny Fabrizius	Trego County Commissioner
Sandra Stenzel	Trego County Economic Development
W. Geoff Withington	Smoke Hill Stone BAC / Trego County Resident
Mary Jane Stankiewicz	KGFA / KARA
Steve Swaffar	Ks Farm Bureau
Jan Nixon	Trego Co Commissioner
JOHN FIERRO	Robe City
ERIK WISNER	KDA
Earl Lewis	Kansas Water Office
Costand	KWO
David Marker	Rep. Powell
Chris Wilson	KBIA



DEPARTMENT OF AGRICULTURE  
ADRIAN J. POLANSKY, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

**Testimony on HB 2393**  
**To**  
**The House Committee on Environment**  
**By**  
**David L. Pope, P.E.**  
**Chief Engineer**  
**Division of Water Resources**  
**Kansas Department of Agriculture**

**February 15, 2005**

Madam Chairperson and members of the committee, I am David L. Pope, chief engineer of the Kansas Department of Agriculture's division of water resources. I appear today as an opponent to HB 2393.

**This bill sets a dangerous precedent.**

I recognize the recreational value of Cedar Bluff Reservoir. In fact, most of the water stored there is authorized for recreation and it is used for that purpose. However, the Cedar Bluff project also was authorized by Congress for other purposes, such as artificial recharge. The water rights established under state law also authorize other purposes, and there is a legitimate need for other purposes, such as the artificial recharge that appears to be the primary concern of this bill.

If this bill passes, it will encourage other special interests who may not own a water right to ask for legislation that benefits them personally even when it could prevent the exercise or protection of existing water rights according to the basic principles of the Water Appropriation Act.

**This bill compromises the integrity of the Kansas Water Appropriation Act.**

Under Kansas law, water rights are granted based on the concept "first in time is the first in right." Priority in time determines water right seniority, so an earlier right is senior to rights issued after it.

Whenever there is a water shortage and an existing water right is impaired because of use by junior rights, the chief engineer is required to administer water rights to prevent the impairment. HB 2393 may prevent this if inflow from above the lake cannot be bypassed



through the lake. While it technically is not a release of water from storage, the water still would need to be physically released from the lake.

If the senior right being impaired is located below the lake, administration of junior rights below the lake may not be enough to provide the water to which the senior right is entitled. If water rights being shut off below the lake are senior to junior rights above the lake, the senior rights can lawfully request administration above the lake. While we would not require water lawfully stored in the lake to be released for such an operation, water that could otherwise be stored may also be required to be bypassed through the lake to be used by downstream senior water rights.

**The chief engineer is required to administer and protect water rights.**

In 1987 the state purchased storage space in Cedar Bluff Reservoir from the Cedar Bluff Irrigation District. The state changed the use of its water right from irrigation to recreation, as well as to artificial recharge. When the state bought the storage space, it did not buy the right to close the gate at the dam.

The Congressional reformulation of the Cedar Bluff Reservoir Project to recreation also included an artificial recharge pool so there would not be an adverse impact to the area below the lake.

Whenever a water right is changed from irrigation to any other type of use, state law requires that the chief engineer protect downstream water rights from impairment, material injury, or adverse effects, and the artificial recharge pool was designed to do that.

To protect downstream water rights, there are times when some water must be released from Cedar Bluff Reservoir. The artificial recharge pool essentially allows water releases to replace some of the return flows that existed when the irrigation district was in operation.

In some cases, intensive groundwater use control areas (IGUCA) are established to provide long-term regulation of groundwater. This was done along the Smoky Hill River valley above and below Cedar Bluff Reservoir because of water shortages and the hydrological relationship between surface water and groundwater use.

Attached is a map that shows the location of the reservoir, IGUCA and surface water and groundwater rights that primarily relate to this situation.

**On their own, the proposed releases from the artificial recharge pool will have little impact on recreation.**

The amount of water proposed to be released from the artificial recharge pool is insignificant compared to the size of the reservoir at the top of the conservation pool. Total conservation storage is, at its maximum, 172,452 acre-feet. The artificial recharge pool can contain a maximum of 5,110 acre-feet, after adjustment for sedimentation. Average annual net evaporation was just over 26,000 acre-feet a year from 1995 through 2004.

Releases are limited by how much water is stored in priority in the artificial recharge pool account, evaporation from the account and the amount needed to meet target flow criteria below the lake. As a result of evaporation, the artificial recharge pool held only 3,284 acre-feet on January 31, 2005, and the projected releases from this pool will have almost no noticeable effect on the lake level.

**Losses in lake level are due primarily to evaporation.**

Losses in the lake level during the last few years are due primarily to evaporation, not water releases. From January 1, 2001, through December 31, 2003, 1,170 acre-feet were released for the City of Russell's water right and 539 acre-feet were released for the goose rearing facility below the dam. No water was released from the artificial recharge pool. Releases accounted for less than 2 percent of the decrease in water quantity stored in the reservoir. During the same three year period, evaporation totaled 88,702 acre-feet.

**This bill could cause an unlawful taking of water rights.**

This bill would prohibit the exercise of existing water rights held by the Kansas Water Office by not allowing water to be released from Cedar Bluff Reservoir. Restricting water releases from the artificial recharge pool also will prevent water from going to other water right holders below the lake who are legally entitled to use it under state law. Those who are hurt or impaired would not have a remedy under state law.

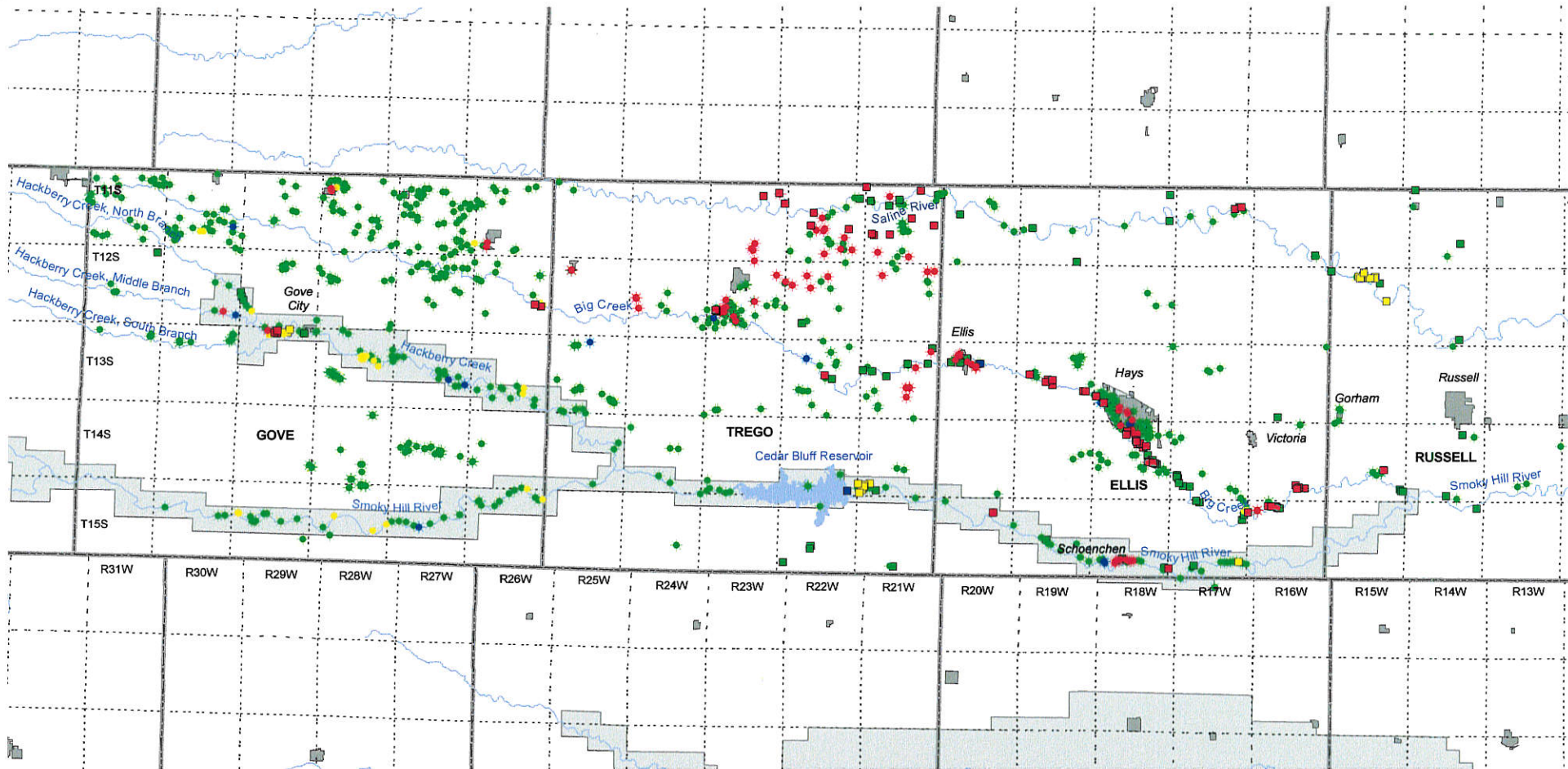
This bill could cause an unlawful taking of water rights – which are real property rights – without just compensation. Water rights below the lake cannot be impaired by the change to the water rights as a result of the project reformulation. The water rights that might be taken include those of municipalities and irrigators. A taking could expose the state to significant financial liability for compensating water right owners for taking their water rights.

**I ask that you report House Bill 2393 unfavorably for the reasons I have stated.**

Thank you for this opportunity to appear. I would be happy to answer any questions you might have.

# CEDAR BLUFF RESERVOIR

1-4



Points of diversion with multiple priority dates are plotted by the earliest priority date.

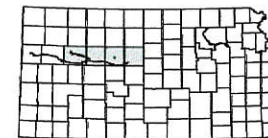


Kansas Department of Agriculture  
Division of Water Resources  
Technical Services Section  
February 15, 2005

## Legend

- Streams
- Lakes
- County Boundaries
- Township Boundaries
- Cities
- IGUCA

## Index Map



## Points of Diversion

Numbers represent water right file number. Lowest numbers are the most senior.

- Senior to 1248 (G)
- Senior to 1248 (S)
- Junior to 1248, Senior to 5757 (G)
- Junior to 1248, Senior to 5757 (S)
- Junior to 5757, Senior to 7627 (G)
- Junior to 5757, Senior to 7627 (S)
- Junior to 7627 (G)
- Junior to 7627 (S)

Eber Phelps  
Dist III  
327-5

Guest Column by Kent Steward  
Progress Edition  
The Hays Daily News  
Feb. 15, 2005

Although there is a lengthy list of significant projects and issues awaiting action by the Hays City Commission in the coming year, a single issue continues to stand far above any other in terms of importance for our community's future. That issue has been water, is water and will continue to be water.

In accepting the invitation of The Hays Daily News to offer my thoughts for this special Progress edition, I consider it vitally important to let the citizens of Hays know that their commissioners have not forgotten the importance of securing both mid- and long-term supplies of water and that we will not waver in our determination to see this effort through to a successful conclusion.

The story of the struggle for water is a story as old as the arid West. We should not be surprised when efforts to secure our water rights meet with resistance. It's as familiar as the endlessly repeated plot of a western movie: The cattle baron dams the creek, threatening survival of the settlers downstream, until John Wayne or Randolph Scott or Gary Cooper rallies his neighbors to stand up for their rights.

Leaving aside the over dramatization, that's the situation we're facing today.

After decades of being pushed around, the city of Hays sent a demand letter to Gov. Kathleen Sebelius. In the letter, City Attorney John Bird said that the state must either enforce the water laws or the city would file a lawsuit claiming many millions of dollars in damages. Recognizing the correctness of our claims, the governor directed her agents to work with us in developing an agreement granting automatic releases from Cedar Bluff Reservoir to the city's well field along the Smoky Hill River. This was not charity. It was recognition of the most fundamental tenet of Kansas water law: first in time, first in right. We have the superior right under the law, and the water must be released.

While our right would prevail regardless of potential damage to the reservoir, we knew that a gain for Hays at the detriment of our neighbors would be no gain at all. Therefore, we worked carefully with the state to design the releases so that they would cause minimal damage to the reservoir. In fact, the scientific data show that the releases required under the agreement would cause an almost imperceptible decrease in the volume of the reservoir, and perhaps even more importantly, an almost imperceptible shrinkage of the shoreline. Further, additional releases would be allowed only after natural recharge of the reservoir had occurred. In other words, the agreement does not permit continued releases during times of drought.

Whether out of fear or some more questionable motive, critics have chosen to ignore the



legal and scientific facts, attacking the agreement with misinformation, innuendo and threats of lawsuits or rewritten water laws. The idea of drafting a revised state law to short-circuit the city's water rights would be a dangerous game indeed. Eliminating the fundamental tenet of state water law would produce unimaginable mischief in terms of unintended consequences.

Lawsuits, while at best a stalling tactic, are the right of any citizens. And it may well be that this will end up in the courts if calmer heads do not prevail.

We also face the threat of lawsuits in our Smoky Hill well field. Citizens in that area want to stop the ongoing renovation and better spacing of outdated wells, which would include installation of sophisticated monitoring systems to ensure the health of the stream. We can understand their desire to have a more pristine river valley, although they have not indicated any desire to stop their own withdrawals of water for domestic and agricultural uses -- water that they are entitled to, of course, under the force of the same state laws that they would deny to us. In point of fact, while not as beautiful as it might be with the Cedar Bluff dam holding back the stream flow and without the withdrawals of water for both agricultural and domestic uses, the Smoky Hill River Valley remains a beautiful spot near Schoenchen, just as the German name of the town would suggest.

We will no longer be bullied by threats. We know our rights. We have acted with great care to forge mid-term water solutions at Cedar Bluff Reservoir and in the Smoky Hill well field that consider the needs of our neighbors as well as ourselves. Being right does not guarantee victory, but if we lose, it will not be for the lack of resolve to see this through to the end. The prosperity of Hays and the region depends on judicious application of the state laws that control the use of water, that most precious resource in western Kansas.

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**KANSAS WILDLIFE  
FEDERATION**  
*The voice of outdoor Kansas*

**Testimony Prepared for the House Environment Committee  
In Opposition to HB 2393**

**February 15, 2005**

Thank you for having this hearing and giving the Kansas Wildlife Federation an opportunity to express its opposition to HB 2393.

As an organization concerned with hunting and fishing in the state, it might seem somewhat surprising that our organization is urging you to take no action on this bill. Yet we believe the net effect of this bill would be to do more harm than good for the overall stewardship of the natural resources of Kansas.

In the fall, KWF found out about an agreement between the Kansas Water Office, the Kansas Department of Wildlife and Parks, and the cities of Hays and Russell regarding the management of Cedar Bluff.

There has been a great deal of irritation over the way this agreement was assembled. I've heard dissatisfaction from anglers, farmers, legislators, and area residents. To be frank, it was disconcerting to us that after 54 years of work to safeguard the fisheries of our state that we didn't even get a phone call on this issue. The only that KWF found out about the bill was from a member of ours in Hays.

While we should acknowledge that the process may have left something to be desired, the product itself is quite good. The agreement safeguards a great deal of water – about 120,000 acre-feet – for the angler and the boater. Additionally, the four-way agreement takes evaporation and recharge into account, modifying the water rights as the overall level goes up or down. I have heard a great deal of talk that Hays should not be allowed to pump Cedar Bluff dry, and I don't see how that's possible under this agreement.

Many basins in Kansas have more water rights allocated than there is water to use. There are stakeholder discussion groups going on in Kansas to decide the future of the resource. The reason stakeholders are participating in these discussions is that they believe they are doing useful work and actually charting the future of the basin.

If all of these negotiations are subject to cancellation by those who can command a block of votes in the Legislature, then I would fear for both the usefulness of those discussions and the future of water law in Kansas. While the “slippery slope” argument is over-used, this is one instance where it's well merited.

RALPH OSTMEYER  
 SENATOR, 40TH DISTRICT  
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TOPEKA

SENATE CHAMBER

COMMITTEE ASSIGNMENTS  
 VICE-CHAIR: NATURAL RESOURCES  
 MEMBER: AGRICULTURE  
 EDUCATION  
 FEDERAL AND STATE AFFAIRS  
 JOINT COMMITTEE ADMINISTRATIVE  
 RULES AND REGULATIONS

Madam Chairman and Members of your committee.

Thank you for the opportunity to appear today in support of HB 2393, which would preserve Cedar Bluff Reservoir by controlling the release of water contained within.

There will be testimony today showing the economic effect of keeping the water level as close to conservation pool level (2,144 feet above sea level) and the positive effect to communities around the reservoir. Kansas Wildlife and Parks reported in 1992 a \$2.372 million impact to surrounding areas and \$14,762 million impact in 2002 when lake was at conservation level.

The public trust in state agencies is being questioned by concerned citizens about actions taken by Kansas Water Office. It is a known fact that leakage from Dam is keeping the Smokey Hill River east of Dam running.

I would hope that the 2005 Legislature support the concept of HB-2393 to not allow for any additional discharge under conservation pool level (2,144 ft) other than flood control, honoring long-standing city of Russell contract and maintenance of the Kansas Department of Wildlife and Parks facilities below the dam. Every effort should be made to maintain the lake at the top of conservation pool (2,144 ft).

This lake is a major Economic Development source for Trego County and surrounding communities. Thanks for your time and consideration.

STATE OF KANSAS

LARRY POWELL  
REPRESENTATIVE, 117TH DISTRICT  
9555 N DEWEY RD  
KALVESTA, KS 67835  
ROOM 182-W STATEHOUSE  
TOPEKA, KANSAS 66612-1504  
(785) 296-7694



TOPEKA

HOUSE OF  
REPRESENTATIVES

COMMITTEE ASSIGNMENTS  
VICE-CHAIRPERSON: AGRICULTURE  
MEMBER: AGRICULTURE AND NATURAL  
RESOURCES BUDGET  
EDUCATION  
ENVIRONMENT

To: Representative Joann Freeborn  
Chairperson, House Environment Committee

From: Larry Powell  
State Representative, District #117

Date: February 15, 2005

Re: **HB 2393 - Controlling the Release of Water from Cedar Bluff Reservoir**

Madam Chairman, I appreciate you and your committee taking the time to hear this bill. It is in response to an agreement entered into by the Kansas Water Office, the Kansas Department of Agriculture through the Division of Water Resources, the City of Hays, and the City of Russell.

The agreement was to release water from Cedar Bluff Reservoir when certain conditions downstream were met. The agreement was signed on September 22, and a special committee on environment met September 23, to look at the issue.

Secretary of Wildlife and Parks, Mike Hayden gave the committee a tour of the Cedar Bluff Reservoir and Park, to point out what a great asset the park and lake are to the State of Kansas.

Then we hear the agreement has already been signed the day before we met. This created much concern to the committee, and they voted unanimously to ask the Attorney General for an opinion to see if they violated a proviso in the 2005 budget that the legislature thought would prevent this release. The Attorney General said they didn't violate the proviso, but came dangerously close to violating legislative intent.

This bill doesn't speak to the agreement. It only speaks to the lake, spelling out what can be released from the lake at certain elevations.

Thanks for your attention, I will be happy to stand for questions.

House Environment Committee  
February 15, 2005  
Attachment 5



Testimony of John Fierro  
Before the Committee on the Environment  
February 15, 2005

My testimony and the attached exhibits, I hope will provide you with the reasons and evidence you need to vote in favor of H.B. 2393. My own reasons for being here are many.

1. I have lived in Western Kansas since 1964.
2. I have been an annual user of the Lake since 1964.
3. I learned to water ski, fish, boat and camp at the Lake.
4. My family has owned a cabin on the South Shore since 1977.
5. I've helped to rear 2 children and 3 grandchildren on the Lake.
6. I'm a member of South Shore Cabin Owners, Cedar Bluff Lake Association and Western Kansas Water Watchers.
7. I've personally seen the Lake depleted to 12 foot depth from 70 feet by irrigation, evaporation and drought and I've seen it fill back up again after what seemed a life time of waiting and hoping.
8. I've watched helplessly as the economy ebbed and flowed with the level of the Lake and the wholesale desertion of the Lake by visitors and business interests.
9. As far back as 1981, Kansas Fish and Game Commission recognized the plight of Western Kansas reservoirs. (See attached Resolution)

The consequences of Mother Nature through evaporation and lack of inflows are heart breaking, but impossible to deal with. The further impact of deliberate and annual water releases is something we can deal with and must deal with. The whole reason for the State's purchase of water rights in the Lake in 1992 was to stop releases. Not to change the reason for the release from irrigation to municipal.

What the Kansas Water Office and Division of Water Resources has done with the September 22, 2004 secret Agreement was deceitful and insolent. Deceitful in that it was made behind closed doors, and insolent in that it ignored representative government and very clear legislative intent. The attached Exhibits substantiate this.

The only way to stop the treachery, to prevent KWO from wheeling and dealing with the public's water and bring security to the Region is to take the water away from KWO and give it to Kansas Dept. of Wildlife and Parks, to be managed, for recreational purposes, and to change the primary designation of the Reservoir to flood control and water-based recreation only. This is the only way to protect the Lake from the politics of changing administrations and the greed of industrial and municipal demands at the expense of beauty and the quality of life.

Please modify the Kansas Water Plan when the opportunity arises and approve this bill. The legislature, as representative of the people, owns the water and decides what use is to be made of it, not the KWO or a governor's task force.

Since 1999 the Legislature has annually informed and passed Provisos admonishing KWO not to release water from Cedar Bluff Lake. Those requests were honored by KWO until the Governor's Task Force on Cedar Bluff Lake and Joe Harkins took over KWO. Clearly expressed legislative intent was ignored beginning early in 2003.

Right now the Lake is relying on "pure luck" in the form of rainfall to maintain itself and is losing (10 feet in 2 ½ years). Intentional releases decrease its chance at survival. It doesn't make sense to enter into an agreement to release more water from a Lake that is already being depleted. Depletion exists when outflows exceed inflows. It's like robbing Peter to pay Paul.

Passage of this bill #2393 is the next logical step to implement and protect this Committee's finding on November 30, 2004 when the Committee unanimously agreed "that not maintaining the recreational/conservation water pool level in Cedar Bluff Reservoir has a significant negative impact on the communities around the reservoir." (See attached) Any kind of new release authorized by the September 22, 2004 Agreement would nullify the intent and meaning of this Committee's finding by further lowering the water level below 2144 ft. The Lake is already down to 2134 ft. Without passage of this bill KWO is free to continue using Cedar Bluff Lake as a municipal water supply. According to the Attorney General's recent opinion the only way to stop releases is by passing a law preventing it.

Once the primary use of the Lake is designated as water-based recreation and flood control only, all temptation to release water for recharge or municipal use is eliminated and perhaps only then will KWO and Hays do something more permanent and reliable to solve its perceived water problem.

Thank you and please know that we truly appreciate your concern.

Respectfully Submitted,

---

John Fierro  
Dodge City, KS  
309 Crawford St.  
620-338-4930  
620-227-8510

Exhibits attached

RESOLUTION

WHEREAS, Western Kansas Reservoirs to include Kirwin, Webster, Norton and Cedar Bluff were primarily constructed for irrigation and flood control by the Bureau of Reclamation; and

WHEREAS, contracts exist between the Bureau of Reclamation and the irrigation districts below each of the reservoirs, contracting for the majority of the water supply; and

WHEREAS, hydrological studies performed by the Kansas Fish and Game Commission and the Bureau of Reclamation indicate that the future of these reservoirs are bleak. This is due to upland soil and moisture conservation practices and irrigation well development on the watersheds which reduces runoff and base stream flow. Currently the irrigation districts are not obtaining irrigation waters but are still obligated to operation and maintenance costs as well as distribution system repayments; and

WHEREAS, if the loss of fish, wildlife and recreational activities to the people of Kansas due to low water levels and if the operation of these reservoirs are not altered, fish, wildlife and recreational activities related to water will, for all practical purposes, be eliminated in Western Kansas; and

WHEREAS, the inflow reduction has rendered these reservoirs no longer suitable for irrigation as a primary purpose;

NOW, THEREFORE, BE IT RESOLVED, that the Kansas Fish and Game Commission assembled in Pratt, Kansas, on October 21, 1981, propose that fish, wildlife and recreation become a primary use including flood control and as an agency is interested in obtaining these reservoirs to insure that the most valuable use of the remaining water supply for fish, wildlife and recreation is held in trust and managed for the good of all Kansans and that two conditions accompany the transfer of operations from irrigation to fish, wildlife and recreation:



- 1) the water rights of the irrigation district and the appropriated numbers accompanying these rights be transferred to the Kansas Fish and Game Commission, and
- 2) the operation and maintenance costs and responsibilities be delegated to the Bureau of Reclamation.

ATTEST:

*William Hanzlick*  
William P. Hanzlick, Director  
Kansas Fish and Game Commission

*Joe P. Rishel*  
Joe P. Rishel, Chairman  
Kansas Fish and Game Commission

*Richard B. Hanger*  
Richard B. Hanger, Commissioner

*John H. Ostmeier*  
John H. Ostmeier, Commissioner

*Ronald Hopkins*  
Ronald Hopkins, Commissioner

*Roland D. Spriggs*  
Roland D. Spriggs, Commissioner

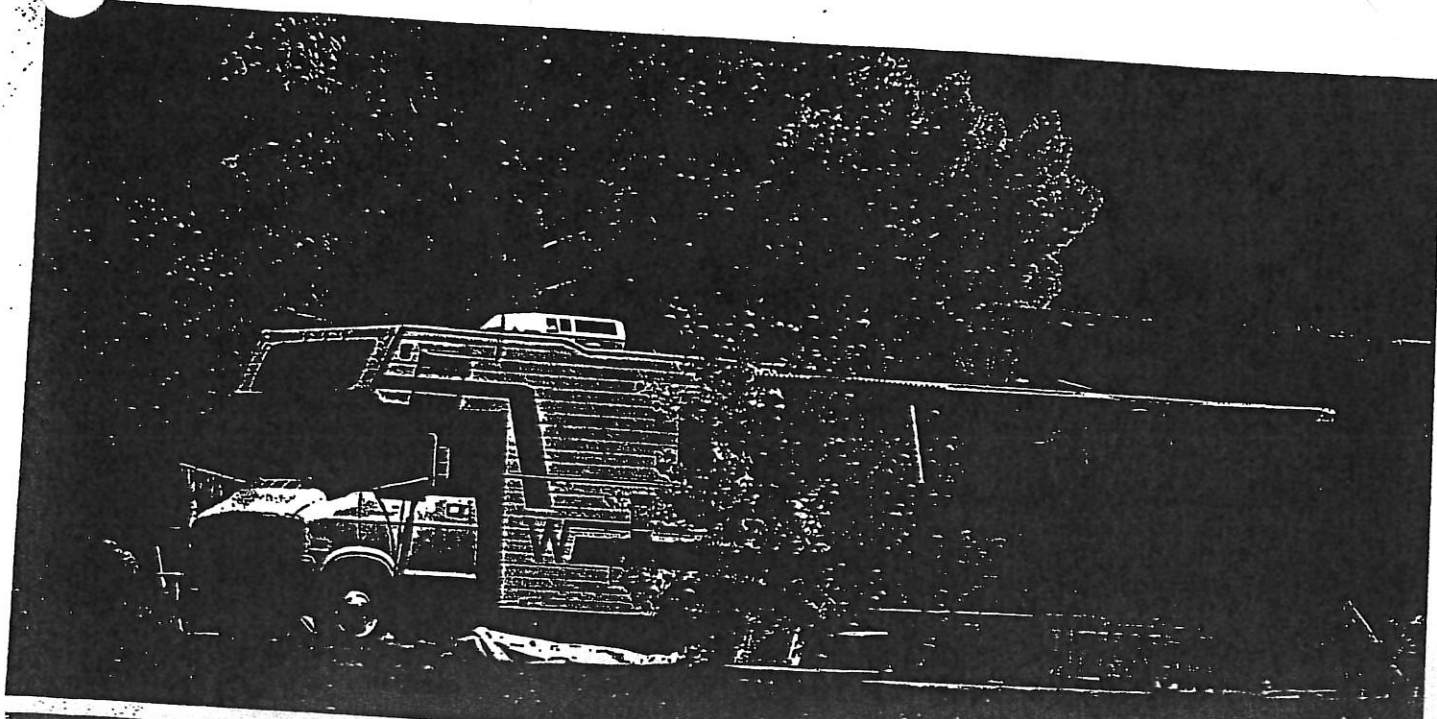
PLEASE WRITE TO

REPRESENTATIVE

at Roberts  
128 Longworth House Office Building  
Washington, D.C. 20515  
Phone: 202/225-2715

EXHIBIT  
/





# The Resurrection Of Cedar Bluff State Park

by J. Mark Shoup  
associate editor, *Prairie*

photos by Mike Blair  
photographer-associate editor, *Prairie*

*When the bird of wonder dies, the maiden Phoenix  
Her ashes new create another heir  
As great in admiration as herself.*

—William Shakespeare

If you are traveling north on U.S. 183 toward Hays, take a left on K-4 at La Crosse. Drive west until you reach K-147. Then head north. The scene begins to change, subtly at first, from relatively flat farmland to the rolling landscape of the Smoky Hills — so named, one must assume, because of the blue-gray shimmer above the most distant hills in this region. This is big-sky and stone-post

country, rugged shortgrass prairie where early settlers figured hot summers and cold winters and building miles of fence with 500-pound limestone monoliths worth the trouble for the beauty of living here.

Ten miles north of K-4, you round a steep hill on a sharp curve, and the scene is breathtaking. In front and to the east, the Smoky Hill Valley stretches in all its pastoral

glory, relatively untouched by time. To the northwest lays a stunning scene of man-made beauty — Cedar Bluff Reservoir. This reservoir and the state park that serves it are works of art carved by the hand of man with the unqualified, and quite unexpected, help from Mother Nature.

The reservoir was completed in 1951 as a source of irrigation and municipal water supply, with the

PLAINTIFF'S EXHIBIT

Wildlife (BSP)

6-4



added benefit of recreation. By 1962, Cedar Bluff State Park had been completed. With few outdoor recreation areas in this arid region, the park attracted visitors in droves — campers, hikers, and boaters, as well as fishermen. Cabins were built on public ground overlooking the lake; a local marina opened its doors, and the future seemed bright.

As fortune often turns, however, the light dimmed as water flowing into the reservoir slowed during the 1970s. According to a Bureau of Reclamation (BOR) study completed in 1984, groundwater mining and agricultural practices such as terracing, stubble mulching, and pond development stemmed water flow. And of course, irrigation was taking water out.

By 1981, the lake had dropped 43 feet, and the flaming western Kansas sun had parched land once bathed in deep, clear water. In 1992, the 6,800-acre reservoir had been reduced to a mere 900 acres with a maximum depth of 12 feet.

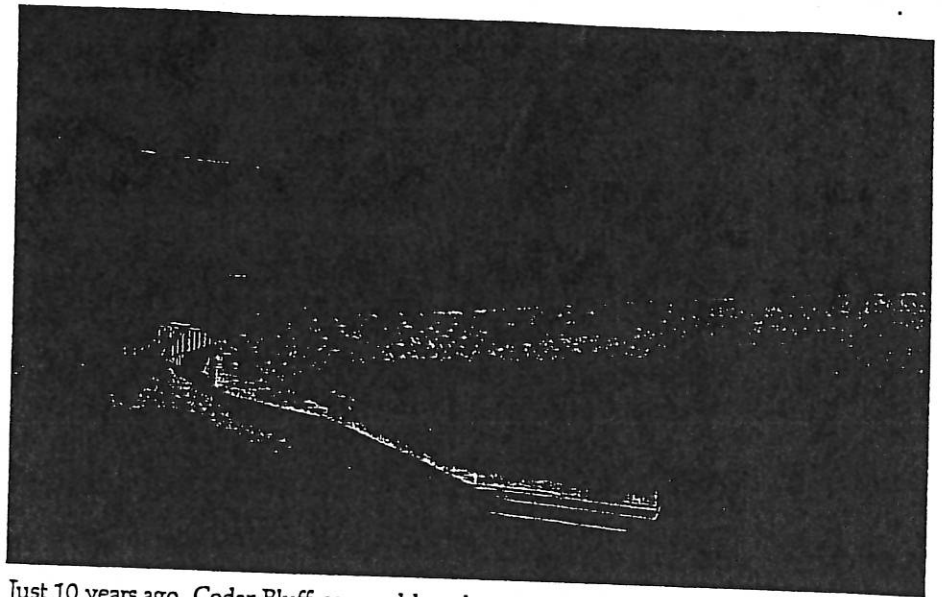
As the lake dried up, so did visitation to the state park. Access to this now-small lake was a problem, with boat ramps and camping facilities far from the water's edge.

Lynn Davignon, a long-time fisheries biologist with the agency, said that at the time, "I thought it would never come back."

Although the future looked bleak, in the interim dry years, the Kansas Department of Wildlife and Parks would obtain a majority of the water rights to the lake as the BOR forgave past debt of the local irrigation district. KDWP paid the BOR some \$360,000 to help cover that debt. Wildlife and Parks also agreed to pay part of BOR's annual operating costs on the dam.

For park users of western Kansas, the foresight of this agreement would soon become apparent.

The first rains came in the spring of 1993, bringing almost as much water into Cedar Bluff Reservoir as had come in the entire decade of



Just 10 years ago, Cedar Bluff covered less than 900 acres. The receding water level left most park facilities far from the water's edge and unappealing to campers.

the 1980s. Amazingly, above average rainfall continued the following two years and through much of the 1990s, bringing the lake to full conservation pool in 1998.

Brush, weeds, and timber were flooded, creating the richest aquatic habitat the lake had ever experienced and ideal conditions for a revival of the fishery. The resulting restoration of water level and fish populations brought visitors streaming back to Cedar Bluff State Park, with real hope that this jewel of the high plains has returned for more than an extended visit.

The water-right agreement had been a hand well played. In 1991,



Today, the lake covers more than 6,000 acres, much of it flooded timber, and provides excellent fishing. Renovation of park facilities is ongoing, and visitation is skyrocketing.

Cedar Bluff State Park had a mere 50,000 visitors the entire year, generating \$34,000 in revenue. By 1995, 155,000 visitors generated \$103,000, and in 1999, the park entertained 245,000 guests and collected \$214,000 in revenue.

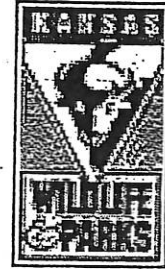
Park manager Troy Brown, who took over this area in 1994, acknowledges the role of Mother Nature in reviving interest in the park. He also understands that it takes the hard work and dedication of folks working at and associated with the park for a successful park revival, which is still in progress.

"The park's success is absolutely tied to the water level, as well as to the fisheries. Lynn has been doing a great job of helping publicize this," Brown explains. "We've been doing a lot of radio and TV interviews. And we've had great help from our Friends Group, the Cedar Bluff Die Hards."

The Die Hards, which boasts about 50 members, organized in 1995 and began raising money almost immediately. They offer aluminum recycling bins in the park, maintain sailboat mooring areas near both North Shore and South Shore areas, and operate a firewood sales program. In a unique arrangement, the Die Hards also

# CEDAR BLUFF 2004 SPRING NEWSLETTER

After suffering through a long, cold winter without much precipitation, it's time to envision green grass, spring rains, campfires and summer time temperatures. If you are anxiously awaiting warmer temperatures and recreating at Cedar Bluff, please take a moment to read the 2004 edition of the Spring Newsletter. This newsletter is a joint effort of the Parks, Law Enforcement, Fisheries, and Public Lands Divisions.



## PARKS DIVISION

### DECLINING WATER LEVELS

Troy Brown, Park Manager

The western Kansas drought continues to plague the area and its effects are increasingly apparent. From withering wheat fields, and rain starved pastures, to declining water tables and blowing dust, the drought is impacting everyone. Cedar Bluff reservoir declined another 2.7' in 2003 and is now nearly 7' low. Park staff continue to struggle with the reservoirs declining water level. As more shoreline is exposed, vegetation management increases. In 2004 we will be disking large areas of the shoreline to prevent salt cedars and other undesirable vegetation from infesting the area. Please keep in mind that the areas of vegetation control will not be reservoir

wide. The areas will be in relation to area controlled by the Park, therefore wildlife and fish habitat won't be affected.

Other changes due to the water level:

- 1) Comanche boat ramp on the South Shore-closed,
- 2) One lane of the Cove one ramp on the North Shore-closed,
- 3) Courtesy docks will be extended,
- 4) Muley fish dock will be moved or extended,
- 5) "No vehicle" signs placed around shoreline to deter people from driving off road along the shoreline.

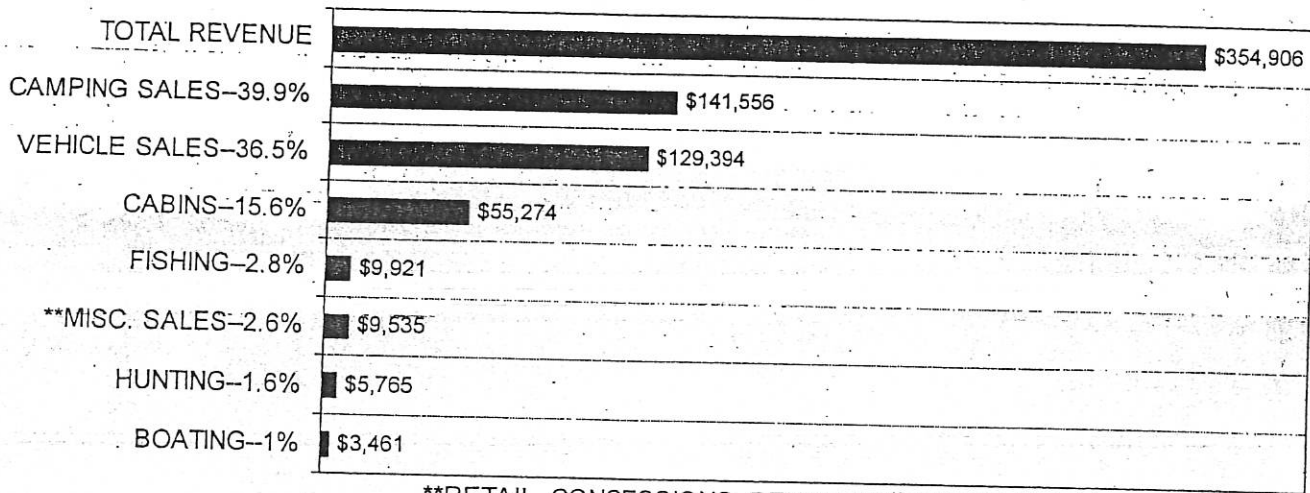
### INSIDE THIS ISSUE:

Projects	2
2004 Permit Prices	2
Seasonals—Helping Out	3
AmeriCorps	3
Crappie Tournament	5
Funding	6
Concessionaires	6
Another Record Year	7
Special Events	7
Local Business	8
Welcome Back	8
Safety Issues	9
Crappie's Gentleman	10
Fishing Forecast	11
Crappie Exploitation Research	13
Water Willow Update	13
Wipers to be stocked	14
Stilling Basin Steps	14
Spring Turkey Hunt	15
Turkey Population	16
Area Staff	16

# ANOTHER RECORD YEAR FOR REVENUE

For the ninth year in a row, Cedar Bluff State Park revenue exceeded the previous years revenue. Park revenue was \$354,906 in 2003 which was up 4% over 2002. The chart below provides a breakdown of revenue.

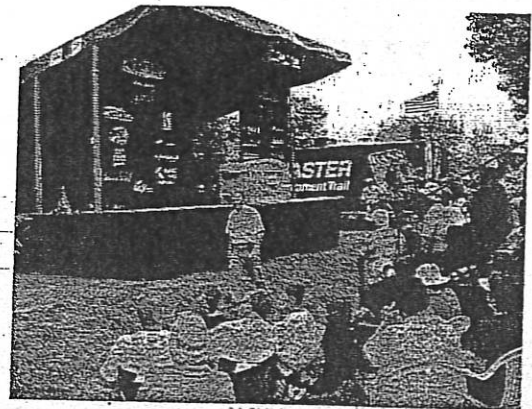
Figure 1  
REVENUE CHART



\*\*RETAIL, CONCESSIONS, PENALTIES, RESERVATIONS, ETC...

## SPECIAL EVENTS

Cedar Bluff State Park continues its tradition of developing, sponsoring, and hosting special events. The staff's goal is to develop and host special events that promote a family type atmosphere. Consequently, not all special events requested are granted. The following paragraphs show some of the Park's events held last year as well as events planned for 2004.



### Cedar Bluff State Park/Sport Haven

Crappie Tournament—May 15

Bert's Corner Walleye Tournament—May 22

Hays Bass Challenge—July 17

Tumbleweeds Square Dance—August 13 & 14

KBCF Make a Wish Tournament—September 11

Pumpkins In the Park—October

The 2003 B.A.S.S. National Federation Central Divisional tournament was held here last June. This was the first time that this event had been held on a Kansas reservoir and from the positive comments we received from the anglers and B.A.S.S. officials it won't be the last.



# Cedar Bluff Reservoir

Water sports and hunting are popular activities at this big Trego county lake.

By Bob Jennings

It's hard to believe but for 30 years a lake with water often little more than 12 feet deep served as the primary state recreational area for the western one-third of Kansas. From 1962 to 1992 western Kansans endured this situation. Their visits to the lake were about as shallow as the water level.

But times have changed. Thanks to the Kansas Department of Wildlife and Parks and some pretty favorable weather conditions over the past few years, Cedar Bluff State Park and Reservoir is now filled with water and visitation to the lake is rising at an incredible rate.

Located 13 miles off Interstate-70 on Highway 147 in Trego County, Cedar Bluff Reservoir was completed in 1951 by the U. S. Bureau of Reclamation (BOR). Constructed with public funds, it was primarily designed for flood control and irrigation with secondary uses for municipal water, recreation and wildlife.

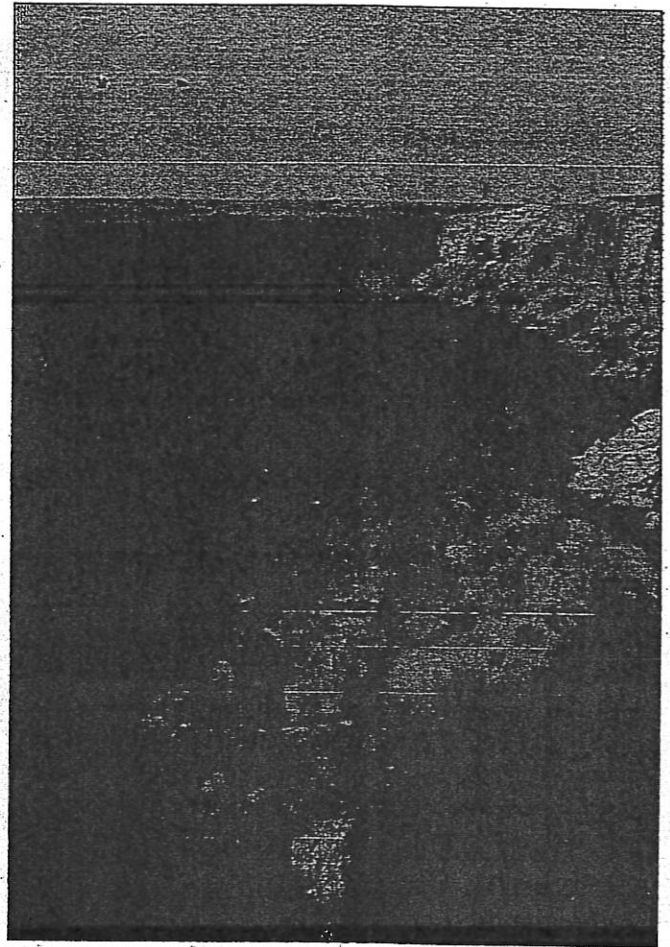
The BOR is responsible for the reservoir and the surrounding public lands. The Kansas Department of Wildlife and Parks leases nearly all of this property and manages its

natural resources and recreational areas.

Perhaps the most devastating blow to the lake during the years was the leasing of water rights for irrigation.

However, in 1992 the Kansas Department of Wildlife and Parks acquired those rights and irrigation ceased. In August of 1998 water in the lake reached the level necessary to open the floodgates for the first time since 1962.

Chris Smith, one of Cedar Bluff's two park rangers, said the lake now reaches a depth of 70 feet and he noted that in 1998 visitation to Cedar Bluff exceeded 240,000 people. And revenue from visitors was up 22% over the previous year. A



Cedar Bluff State Park and Reservoir was named for its 150-foot tall limestone bluffs. Above, Dennis Deines, member services director for Western Electric Co-operative Assn., WaKeeney, enjoys the view from atop the bluffs.



total of \$207,245.34 in revenue for 1998 marked the fifth consecutive year that the revenue total exceeded the \$100,000 mark, according to Smith.

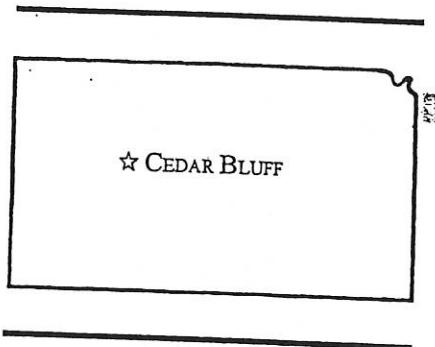
Smith noted that the reservoir now covers 6,900 acres with an adjoining 7,300 acres of public wildlife area. This makes the area an ideal setting for hunting, fishing, water sports and camping. Modern and primitive camping sites and rental cabins are available year round.

Cedar Bluff is also becoming an increasingly popular location for cabin and home sites. Smith said the Cedar Bluff area is a prime location for people from southwestern Kansas since it is the closest state park and lake to them.

Western Cooperative Electric Assn., WaKeeney, provides electric service to the area. Dennis Deines, member service director for the cooperative, said the cooperative is seeing a surge in new customers as more electric hookups are being added to camping facilities and locations for homes and cabins are being constructed on private property near the lake.

Cedar Bluff Reservoir offers some of the best fishing in the state. Several thousand acres of timber and brush were covered by water as the lake refilled. This provides excellent fish habitat for black bass, crappie, bluegill and catfish. Wipers and existing white bass populations have shown fantastic growth. Walleye have been slow to develop, but should increase as forage and habitat conditions stabilize. The lake has already been the site for a number of fishing tournaments and visits from such television celebrities as Jimmy Houston.

Water sports are popular on



**Cedar Bluff is an ideal setting for hunting, fishing, water sports and camping. It's also a prime location for people from southwest Kansas since it is the closest state park and lake to them.**

the lake. Six boat ramps and associated parking areas have been constructed on the reservoir to handle the increased demand for recreational use of Cedar Bluff waters.

Hunting in the public hunting areas for deer, turkey, pheasant, quail, ducks and geese also proves to be popular during the various hunting seasons of the year. A 300-acre site is set aside for disabled hunters and is open to vehicle access through a special permit issued by the Cedar Bluff Area Office. In addition, a special goose hunt and various youth hunts are available by application through the Area Office.

CEDAR BLUFF got its name from the 150-foot tall, cedar covered limestone bluffs along the south side of the lake. A drive to the top of the bluffs provides a stunning view of the area and is an ideal spot to view

wildlife, particularly eagles during the winter months.

Permits are required for many of the activities at Cedar Bluff. A visit to the Park Office will help you become familiar with the area, the regulations and help you obtain the permits that you will need. There are also information centers located throughout the area that provide information on all area regulations. ♦

*For more information regarding Cedar Bluff State Park and Reservoir, contact the Cedar Bluff Office at 785-726-3212. The address is Rt. 2, Box 76A, Ellis, KS 67637.*

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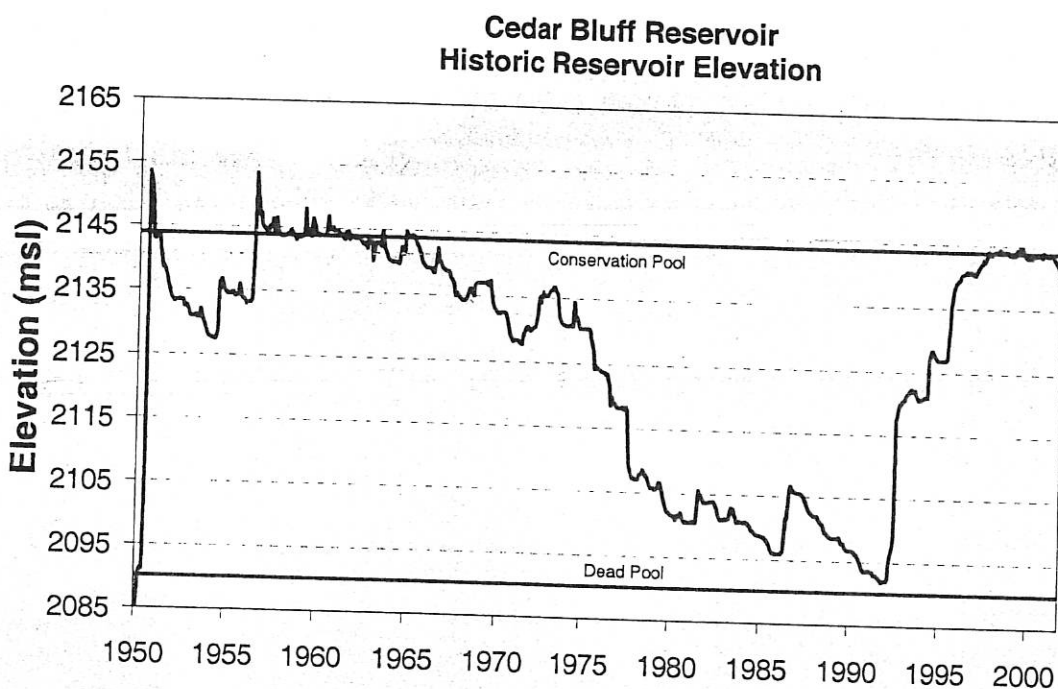
1989 - Contract between State of Kansas, Department of Interior (Bureau of Reclamation and U.S. Fish and Wildlife) and Cedar Bluff Irrigation District implementing MOU and transferring water rights and storage signed.

1992 - Congressional action reformulating Cedar Bluff Reservoir in accordance with the 1987 Memorandum of Understanding and 1992 contract passed.

✓ 1993 - Wet year, some refilling of Cedar Bluff Reservoir.

1994 - Operations agreement regarding Joint Use Pool signed by Kansas Water Office and Kansas Department of Wildlife and Parks.

✓ 1995 - Wet year, additional refilling of Cedar Bluff Reservoir.



1996 - Chief Engineer, Division of Water Resources, approves changing the Irrigation District water right (now held by state) to recreation, municipal and artificial recharge uses and the US Fish and Wildlife Service water right to Kansas Department of Wildlife and Parks.

✓ 1998 - Wet year. Cedar Bluff Reservoir fills to conservation pool for first time since mid 1960's.

1999 - Public Wholesale Water Supply District No. 15, representing Hays and Russell, approached the Kansas Water Office in 1999 regarding potential use of Cedar Bluff as a public water supply source. An initial evaluation indicated that the lake would not support significant usage during 2% drought as required by State Water Plan Storage Act. Findings of evaluation presented at Smoky Hill Saline Basin Advisory Committee Meeting in Hays. \*

2001 - FY2002 House Budget Committee Report recommended that Cedar Bluff Reservoir not be recognized as a public water supply. \*

FY 2003 House Budget Committee recommends that the planning process should not continue for the Cedar Bluff Reservoir and that it should not continue to be recognized as a public water supply. \*

The Committee affirms the Governor's recommendation that no funds be used for payment of the state's obligation to reimburse operation and maintenance costs associated with Cedar Bluff Reservoir.

2002, July - Russell made two calls for a release of water. Two releases were made, 391 acre-feet July 23-27 and 780 acre-feet July 31-August 8.

2002, July - PWWSO #15 contacts Kansas Water Office regarding possible trade of Circle K Ranch for water rights in Cedar Bluff Reservoir. State of Kansas turned down proposal as the lake is not a reliable source of water.

2003, January - Consideration given to forming a Governor's Task Force on Cedar Bluff Reservoir to look into the use of water in the reservoir for "municipal water supply". The KWO recommended that the topic was not appropriate since that the reservoir will not produce a sustainable amount of water for municipal use over time, and thus there is really no water available for such a discussion.

2003, Budget Committee report recommends a proviso stating that water in Cedar Bluff Reservoir under the control of the State of Kansas not be released for environmental, domestic, municipal, industrial, or irrigation purposes except for operation of Kansas Department of Wildlife and Parks facilities below the Dam. The proviso also states that the Kansas Water Office and the Kansas Department of Wildlife and Parks explore the possibility of transferring ownership and operations of all of the storage in Cedar Bluff Reservoir currently held by the Kansas Water Office to the Department of Wildlife and Parks. The funds budgeted to the Kansas Water Office to pay for operation and maintenance of this storage shall be used for such purposes for FY 2004. \*

2003 Session laws; Chapter 138; Sec. 82.

(i) During the fiscal year ending June 30, 2004, no expenditures shall be made by the Kansas water office from any moneys appropriated from the state general fund or any special revenue fund for fiscal year 2004 for the release of any water in Cedar Bluff reservoir under the control of the state of Kansas for any environmental, domestic, municipal, industrial, or irrigation purposes, except that expenditures may be made by the Kansas water office for the release of such waters for the purpose of the operations of facilities of the department of wildlife and parks below the dam of the Cedar Bluff reservoir: *Provided*, That the Kansas water office and the department of wildlife and parks shall explore the possibility of transferring the ownership and operating control of all storage capacity in Cedar Bluff reservoir currently under the authority of the Kansas water office to the department of wildlife and parks: *Provided, however*, That moneys budgeted for the Kansas water office and the department of wildlife and parks shall be expended by both such agencies to pay for the operation and maintenance of the storage capacity for such waters in Cedar Bluff reservoir during fiscal year 2004. \*

2003, February - Kansas Water Office sends letter to City of Russell setting forth amount available for release based on reservoir accounting completed by Kansas Water Office. The reservoir accounting for the Russell pool by the Kansas Water Office and the Bureau of Reclamation resulted in differing quantities in the Russell pool. This was due to the manner credits for inflow, and charges (deficits) for losses were handled and the fundamental differences in state water right administration and procedures at the federal level.



# Ness County Industrial Development Corporation, Inc.

Ness City, Kansas 67560

MARCH 16, 2000

Director Al LeDoux  
Kansas Water Office  
901 South Kansas Ave  
Topeka, Kansas 66612-1249

Dear Sir,

It seems like Satan himself has again approached Western Kansas for water releases from the Cedar Bluff Reservoir to trickle down thirty miles, and allow some fractional recovery in the HAYS water well area.

I thought this devil was removed from our sight back in 1989 at a meeting also in Hays. but I guess the City of Hays, like back then, is still looking for a cheap, painless, way to solve their lack of water. The solution can be found, but they are not willing to spend the money it would require for a pipeline, or a reverse-osmosis plant to generate a few hundred acre feet of Dakota well water to supplement the shallow well water they pump.

I left the prior meeting feeling the Kansas Water Office agreed that the value to Western Kansas as a Recreational facility, and a multimillion dollar industry for all of Western Kansas, including HAYS, was a better investment of taxpayer money. When I read the understanding, and found that half of the sale price goes back to Uncle Sam, to sell a release would be like a total waste of this resource.

The economic value of this industry to Ness County is a blessing in this depressed economy, and the retail sales are like a tourist boom all this Winter with the Crappie fishing. I think its time someone in the department told HAYS that CEDAR BLUFF is not the answer to their water problem.

Sincerely,



GOMER STUKESBARY  
Pres. NESS CO INDUSTRIAL DEVELOPMENT, INC.  
723 CRESCENT DRIVE  
NESS CITY, KANSAS 67560

2000 MAR 20 PM 1:11  
KANSAS WATER OFFICE

(12)  
12

6-12



**Subject: Cedar Bluff**

**Date: Mon, 20 Mar 2000 09:40:17 -0600**

**From: "Mike Miller" <sanborndaughter@mindspring.com>**

**To: <dlong@kwo.state.ks.us>**

My name is Mike Miller and I am a member of the Kansas BASS Chapter Federation. I read an article in the Hutchinson, KS paper today about Hays and Russell wanting water rights to Cedar Bluff. I strongly oppose this and will do whatever I can to stop it. Cedar Bluff is the premier bass lake in the state of Kansas and needs to be guarded. I can't tell you how much money leaves our state and goes to Missouri and Oklahoma by bass fisherman because for so long Kansas lakes did not produce quality fish. That is no longer the case in western Kansas. When we hold a tournament on one of these lakes, it does impact the communities. We just had a tournament on Cedar Bluff this weekend and it was phenomenal. Please do not give Hays and Russell the opportunity to kill Cedar Bluff.

Mike Miller  
KBCF Webmaster

13

Kansas Water Office  
Attn: Director Al Ledoux  
901 S Kansas Avenue  
Topeka KS 66612-1249

200 MAR 20 PM 1:17

KANSAS WATER OFFICE

Re: Cedar Bluff Reservoir

The summer of 1999 my family and I spent most of the summer at Cedar Bluff Reservoir. This brought back a few childhood memories. Growing up I spent the summers at Cedar Bluff. But the last time I had been at Cedar Bluff was when it started drying up; I was approximately 8 or 9 years old. I am now 30 and all these years have gone by and I can still remember how wonderful it was the summers that we spent at Cedar Bluff. I wanted to give that to my children. But I also remember visiting Cedar Bluff at age 20 with my husband; it was a devastating summer. We could barely fish let alone have any kind of watersports. The water was so low. It was a crying shame. I could never go back.

After Cedar Bluff filled back up, my friends and family told me I should revisit Cedar Bluff to take my children and give them the memories that I so treasured. I refused the first year (1998) but was finally convinced the summer of 1999 to give it a try. I was so happy to see the lake I grew up knowing, but it was a little more cluttered with debris.

I gave this wonderful gift to my children. We purchased watertoys and spent the entire summer at Cedar Bluff. We had a wonderful summer. I do not want my children to go through what I went through watching a beautiful lake dry up to nothing.

I know that is not your intention but it will happen again if the lake is used as an alternative water source.

I can not stress enough how important memories and family recreation is in today's life. If families took more time to be together and enjoy nature at its finest, the world in general would be much better off.

I know I am just a small drop in a huge bucket but I believe that it is people like me that you hurt the most.

Sincerely,

Sheila Garrett and Family  
A concerned Kansan

17

6-14

February 18, 2000

Dear Smoky Hill/Saline Basin Committee Members,

Enclosed is some information I would like you to study before our Board Meeting and Public Hearing on March 6<sup>th</sup>.

\* In reference to the remarks that I made during our last meeting, and with the past history of the condition that the Smoky Hill River can be in, during drought times, I am asking board members to please review the enclosed information and consider asking that Cedar Bluff be put in the Recreational Section of the Water Plan rather than in the Public Water Supply Section. Past history will substantiate the fact that if Cedar Bluff is used as a Water Supply Lake, that in a few years it will no longer be useful for either entity. The State of Kansas will talk abandonment as they did from 1987 to 1993, when they were involved in the contract with the Federal Government. It will be a burden to the State if the water is taken out and there is no viable river to replenish it.

If the designation is not changed and the State does the 2% study, the river is nothing like it was 10 years ago, during the drought time, when the Alluvium was so depleted that farmers could not dig deep enough in the river bed to find water and the river bed on parts of the Federal Land adjoining the lake was not even distinguishable. The State should have these records and they should be carefully studied. The State and Federal Governments should be responsible for maintaining the river area so the lake would be able to replenish on the low flows, since during drought times even low flows are very intermittent.

If you would like more information that I could provide or any questions please call or write. Plan on seeing you on March 6<sup>th</sup>.

Sincerely,

Arlene Eveleigh  
RR #2 Box 76  
Ellis, Kansas 67637  
eveleigh@ruraltel.net

(16)

6-15

March 14, 2000

**COPY**

Kansas Water Office  
Attn; Assistant Director Duffy  
901 S. Kansas Avenue  
Topeka, KS 66612-1249

Re: Smokey Hill-Saline Basin – Proposed Kansas Water Plan

Dear Mr. Duffy:

Thank you for this opportunity to be able to comment on the Proposed Kansas Water Plan of March 2000. The meeting at Hays on March 6<sup>th</sup>, 2000 was very informative and brought together a wide variety of interests for public comment.

At the outset let me say that while I share the State's water plan purpose of coordinating management, conservation and development of water resources in Kansas my focus is more regional and perhaps a little selfish. I have lived, worked and played in the Great American Desert since 1964 and owned a cabin at Cedar Bluff Reservoir since 1978. In my legal career I became involved early on in water rights problems when domestic well owners in a certain area of Ford County became the first victims of the corn irrigators along the Arkansas River. It was difficult for me to believe that farmers were cultivating a crop like corn in a geographic area with only 21 inches of rain per year. Then I saw the Gigots of Finney County win a lawsuit concerning land value on the theory that underground water was a resource that was rapidly being mined and depleted thus affecting land value.

The information in the Water Plan and at the meeting confirmed once again in no uncertain terms that irrigators and municipalities in our basin are rapidly depleting both the Ogallala Aquifer and the alluvium along the Smokey Hill river area, as these two users account for 96% of the ground water.

The Proposed Water Plan also confirms that even within the Smokey Hill-Saline Basin itself there is a vast difference between the east and west portions. For example, the average annual precipitation in the basin decreases from about 33 inches in the east to less than 16 inches in the west. The mean annual runoff also shows an east to west decline from about 5.0 inches in the east to less than 0.1 inch in the west.

The point I'm trying to make is that when you come as far west as Cedar Bluff different considerations should apply. Why endanger the only recreational resource of any significance to an entire one-quarter of the State? As experience shows, once the mining of water starts, it's difficult to control. The memory of what happened to Cedar Bluff at the hands of the water district (coupled with drought conditions) is still fresh on our



minds. I speak for the Cedar Bluff Lake Association and the Southshore Cabin Owners Association when I say that we rest uneasily when we hear that state and local units of government are getting into the business of buying and selling water from a lake with the history of Cedar Bluff. Yes, its entire history needs to be understood and cherished. It has demonstrated an ability to survive the caprice of nature for 50 years, but the greed of man has brought it to the brink of destruction. We won't let that happen again if at all possible.

We are extremely grateful to our legislators and bureaucrats for purchasing the storage space and water rights at Cedar Bluff from the Bureau of Reclamation for \$365,000.00 in 1987. Back then no one thought the dehydrated patient would ever recover. It was no one's intention at that time to ever sell water from that lake. Recreation was the prime concern in everyone's mind, especially Wildlife and Parks.

If the State wants to get into the water marketing business in the Smokey Hill-Saline Basin to help with its agency's maintenance expenses then please do so at the Kanopolis Reservoir or the Wilson Reservoir. When you make the Water Marketing pool program one of the cornerstones of your purchase of the Kanopolis storage space, then no one can reasonably turn around later and object to it. Wilson, of course, never seems to lack substantial water flow.

The city of Hays has been eyeing the little blue sapphire lying 30 miles to its west for at least 3 decades and perhaps longer as a cheap source of water. I know you are familiar with the Black and Veatch engineering assessment commissioned by Hays in 1989. (parts of which are enclosed). When that failed and the climate changed, the city gave up on the jewel to the west until recently. Why renewed interest? Probably a combination of your agency's water marketing strategy and the apparent stability of the lake. Hays has too many alternative water source solutions that were long-term and/or expensive 10 years ago and which are still long-term and more expensive now since Hays chose only to pay lip-service to the "other options" part of the Black and Veatch study. (see attached exhibits)

Once again we are looking at annual releases from the lake as a short-term solution for Hays' age-old problem. Releases that may seriously affect Wildlife and Parks facilities and lake usage – and what is the benefit? Who really knows? Would it benefit anyone if one foot of lake water calculated out to one inch of alluvial recharge? Depending on depth of water in the lake at the time of release, one foot of water reduction would drop the lake dozens of feet from established and improved shoreline. It doesn't make sense to jeopardize this western Kansas ecological and recreational wonder by exposing it as a short-time solution to a decades old problem that Hays seems reluctant to deal with in an effective manner. (see attached exhibits)

To conclude, we do not consider the release of water from Cedar Bluff reservoir under water marketing agreements with downstream public water suppliers as a "beneficial use" of water. It seems to us that under the particular and unique conditions that exist at

Cedar Bluff, a release of this nature would be a "waste of water". This term is defined by regulations of the Southwest Kansas Groundwater Management District No. 3 as:

"1) groundwater which has been diverted or withdrawn from a source of supply which is not used, managed or re-applied to a beneficial use..."  
(Reg. 5-23-1(J))

Please consider amending the proposed Water Plan to protect Cedar Bluff Reservoir from water marketing plans and designating it primarily for recreational use due to its unique location and fragile existence. If the city of Hays can cry "drought" whenever it feels threatened, then the existence of the lake will also be threatened. Cedar Bluff experiences the same drought that Hays experiences, only Cedar Bluff can't cry out for help. Perhaps if Wildlife and Parks purchased the lake from your agency or took over full maintenance we could all breathe a sigh of relief. After all, the proposed water plan does provide for "water-based recreation" and the need to increase and enhance water-based recreational opportunities for its citizens. Cedar Bluff needs this designation if it is to survive. Thanks for listening.

Sincerely,

John E. Fierro  
Trying to make a difference

JEF:lp  
Encl.

ARLENE EVELEIGH

Trego County Commissioner District #1

HOME  
RR 2  
Ellis, KS 67637  
913-726-4457

OFFICE  
216 Main  
WaKeeney, KS 67672  
913-743-5775  
FAX #913-743-2461

January 15, 2000

Representative Gayle Mollenkamp  
RR 3 Box 14 Quinter, Kansas 67752

Dear Representative Gayle Mollenkamp:

Subject: Cedar Bluff Lake

As a member of the Smoky-Hill/Saline basin water board, I attended a meeting in Salina on January 12. One of our speakers was Terry Duvall of the Kansas Water Office. Purpose of her being there was to up date us on Kanopolis Lake and Cedar Bluff Lake as the plan relates to their Public Water Supply Program.

As you know the Legislature and the "Water related Recreational interests" were the entities that pushed to have the Cedar Bluff Lake "conservation level," changed from 2109 to 2144 or a difference of 35 foot depth of water storage to be retained in Cedar Bluff



I suggested at the meeting that Cedar Bluff should be removed from "Public Water Supply" to "Water Based Recreation" in the Kansas Water Plan. I am asking your support and will also be asking the support of the Kansas State Water Office and Board to support this revision to the plan.

Terry Duvall stated that the Kansas Water Office pay \$54,000 for their part of the water retained in Cedar Bluff. She said-at the beginning the money was taken out of the State General Fund and later shifted to the State Water Fund.

I am enclosing some excerpts from the "Proposed Preliminary Draft - The Kansas Water Plan, Fiscal Year 2002."

Our basin will have another meeting on March 6 in Hays and there will also be a public hearing process at 1:00 the same day in Hays. The meeting place is to be announced.

There is mounting interest for a local - Hays & Russell - public water supply district.

Because of all the past data that substantiated the fact that Cedar Bluff can not sustain itself with water, without water withdrawals, and the fact that the Kansas Water Office is going to do a 2% chance yield study before determining its availability as a water supply, CEDAR BLUFF by all means should flunk the test.



Cedar Bluff is full because of an exceptional weather phenomenon, and that fact should not be glazed over as we all know what effect draught period of weather condition can have on Cedar Bluff.



Cedar Bluff is too important to this area of Kansas as a "Water Base Recreation Area" to let a few dollars that can be recouped from the sale of water influence a decision. The Kansas Water plan actually has a budget to promote and initiate new areas for water recreation.

This water plan will be finished in late May or June with State wide public hearings and the Kansas Water Authority Board will approve it in July.

CEDAR BLUFF RESERVOIR ACCOUNTING

2001 - 2003  
APPENDIX A  
TABLE 2

6-20

Date	EOM Elevation	EOM Storage (AF)	INFLOW EVAP		City of Russell				KDWP				KWO				Joint Use			
			Monthly Inflow	Reservoir Evap.	Inflow	Use	Evap.	EOM	Inflow	Use	Evap.	EOM	Inflow	Use	Evap.	EOM	Inflow	Use	Evap.	EOM
			(AF)	(AF)	Share		Share	Storage	Share		Share	Storage	Share		Share	Storage	Share		Share	Storage
			(AF)	(AF)	(AF)	(AF)	(AF)	(AF)	(AF)	(AF)	(AF)	(AF)	(AF)	(AF)	(AF)	(AF)	(AF)	(AF)	(AF)	(AF)
Jan-01	2143.25	179990	1616	538	9	0	9	2700	138	0	67	21305	52	0	16	5234	1417	0	446	142490
Feb-01	2143.45	181340	1946	596	9	0	9	2700	163	0	74	21394	63	0	18	5279	1711	0	495	143707
Mar-01	2143.57	182156	1881	1065	17	0	17	2700	185	0	132	21447	59	0	32	5306	1619	0	884	144442
Apr-01	2143.49	181612	2356	2900	45	0	45	2700	322	0	358	21412	70	0	88	5288	1918	0	2409	143952
May-01	2143.77	183523	5060	3149	49	0	49	2700	515	0	389	21537	159	0	96	5351	4337	0	2615	145674
Jun-01	2143.71	183109	3677	4085	63	0	63	2700	481	6	502	21510	111	0	125	5337	3022	0	3395	145301
Jul-01	2143.51	181748	4119	5479	85	0	85	2700	586	1	674	21421	122	0	167	5292	3326	0	4552	144074
Aug-01	2143.37	180799	3884	4831	75	0	75	2700	536	2	597	21358	116	0	147	5261	3157	0	4012	143219
Sep-01	2144.15	186125	8685	3294	52	0	52	2700	823	65	408	21709	277	0	100	5437	7533	0	2734	148018
Oct-01	2143.81	183798	294	2431	0	0	37	2663	294	190	297	21516	0	0	74	5363	0	0	2023	145995
Nov-01	2143.70	183040	495	1175	55	0	18	2700	212	78	144	21506	8	0	36	5335	220	0	977	145238
Dec-01	2143.62	182496	138	664	10	0	10	2700	64	18	81	21470	2	0	20	5317	62	0	552	144748
TOTAL	0.00	0	34151	30207	469	0	469	2700	4318	360	3722		1040	0	922		28323	0	25094	
Jan-02	2143.63	169921	680	612	9	0	9	2700	80	0	75	20896	21	0	19	5029	570	0	509	136894
Feb-02	2143.64	169989	719	651	11	0	11	2700	87	0	82	20901	22	0	20	5031	599	0	538	136955
Mar-02	2143.52	169173	247	1059	17	0	17	2700	84	4	134	20847	5	0	32	5004	141	0	876	136220
Apr-02	2143.36	168088	2091	3155	52	0	52	2700	349	21	399	20776	60	0	96	4968	1630	0	2608	135242
May-02	2143.05	165999	1352	3441	57	0	57	2700	299	0	437	20638	35	0	104	4899	961	0	2843	133360
Jun-02	2142.43	161866	800	4930	82	0	82	2700	361	3	630	20366	13	0	149	4762	344	0	4068	129636
Jul-02	2141.96	158774	2514	5215	524	435	89	2700	468	0	675	20163	54	0	158	4660	1468	0	4294	126850
Aug-02	2141.17	153657	0	4337	0	735	76	1889	0	0	566	19594	0	0	131	4527	0	0	3564	123245
Sep-02	2140.60	150028	0	3569	0	0	45	1844	0	60	468	19065	0	0	108	4419	0	0	2947	120298
Oct-02	2140.50	149396	884	1311	0	0	17	1827	884	205	172	19572	0	0	40	4379	0	0	1082	119216
Nov-02	2140.29	148076	0	1144	0	0	14	1813	0	176	155	19242	0	0	35	4345	0	0	941	118275
Dec-02	2139.94	145890	1	2134	0	0	27	1786	1	53	286	18903	0	0	65	4280	0	0	1756	116519
TOTAL	0.00	0	9288	31558	752	1170	496	1786	2613	522	4080		210	0	956		5713	0	26026	
Jan-03	2139.82	145146	0	744	0	0	9	1777	0	0	100	18804	0	0	23	4258	0	0	613	115906
Feb-03	2139.76	144775	221	592	0	0	7	1770	221	0	79	18946	0	0	18	4240	0	0	488	115417
Mar-03	2139.86	145394	1601	982	942	0	12	2700	469	0	133	19282	7	0	30	4217	183	0	807	114793
Apr-03	2139.86	145394	2079	2079	40	0	40	2700	285	0	285	19282	62	0	62	4217	1692	0	1692	114793
May-03	2139.79	144961	2366	2799	54	0	54	2700	354	0	382	19254	69	0	84	4202	1889	0	2279	114403
Jun-03	2139.88	145518	3304	2738	53	0	53	2700	420	9	375	19291	100	0	82	4221	2730	0	2228	114905
Jul-03	2139.04	140377	3	5144	0	0	98	2602	3	0	703	18591	0	0	154	4067	0	0	4189	110715
Aug-03	2138.70	138336	1710	3751	170	0	72	2700	740	0	513	18818	28	0	112	3983	771	0	3054	108433
Sep-03	2138.21	135434	0	2899	0	0	58	2642	0	3	407	18408	0	0	86	3897	0	0	2347	106086
Oct-03	2137.80	133041	0	2393	0	0	48	2594	0	0	336	18071	0	0	71	3826	0	0	1937	104148
Nov-03	0.00	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Dec-03	0.00	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL			11284	0	1259	0	451	0	2493	12	3313		267	0	721		7266	0	19636	

4



STATE OF KANSAS

KANSAS WATER OFFICE

Clark Duffy  
Director



Kathleen Sebelius, Governor

901 S. Kansas Avenue  
Topeka, Kansas 66612-1249

785-296-3185  
FAX 785-296-0878

January 30, 2003

Glen Riggs  
PO Box 2237  
Wakeeney, KS 67672

*LETTER BROUGHT IN FROM SUBSCRIBER*

Dear Mr. Riggs:

Thank you for your letter concerning utilization of Cedar Bluff Lake for public water supply to Russell and Hays.

\* The Kansas Water Office has completed an analysis that indicates that Cedar Bluff Lake is not a viable option for a sustainable, significant, long-term public water supply. This analysis and public discussion in 1999 led the Kansas legislature to pass a proviso that prohibits the use of Cedar Bluff Lake for public water supply. The Kansas Water Office has no intention of violating this legislative direction by selling public water supply from Cedar Bluff Lake. \*

The City of Russell does have an existing right for storage and release of water from Cedar Bluff Lake. Russell's water right allows the storage of up to 2,700 acre-feet of water and the release of up to 2,000 acre-feet in any one year. These quantities are contingent upon the water being available in the City's portion of Cedar Bluff Lake storage.

The Kansas Water Office is the State's water planning agency. As such, we have a responsibility to assist local communities with planning and identification of source water for public water supply. The Kansas Water Office has worked with the cities of Hays and Russell for 20 years to find an acceptable long term, supply of water. Currently, the Kansas Water Office is working with the Corps of Engineers on a study to identify the feasibility and most cost effective solution of providing water to the area from Kanopolis Lake. We believe that this is the best long term solution for all involved.

In 1996 and 1997, the Kansas Water Office held meetings with public water suppliers in the Smoky Hill-Saline Basin. Several of the public water suppliers, including Hays and Russell, expressed interest in using Kanopolis Lake as a water source. As a result of these discussions, the Kansas Water Office asked the Corps of Engineers to study reallocation of storage to water supply purposes. In 2002, the Kansas Water Office and the Corps of Engineers finalized a \$4.2 million contract for the purchase of water storage in Kanopolis Lake in order to have water available for public water supply in the region.

Glen Riggs  
January 30, 2003  
Page 2

As a result of the Kanopolis Lake storage purchase, public water supply is available from this source. Post Rock Rural Water District is currently using Kanopolis Lake as its sole source. Public Wholesale Water Supply District No. 15 reaffirmed their interest in Kanopolis Lake by application for a water marketing contract on June 17, 2002. The Kansas Water Office completed preliminary findings authorizing negotiations with Public Wholesale Water Supply District No. 15 in July of last year. My staff stands ready to begin negotiations for a contract from Kanopolis Lake.

Thank you again for your interest in and comments concerning Cedar Bluff Lake.

Sincerely,



Clark Duffy  
Director

CD:cb

CC: President Public Wholesale Water Supply District No.15  
City Manager  
City of Hays



Coe

# KANSAS

CLARK DUFFY, DIRECTOR

KANSAS WATER OFFICE

KATHLEEN SEBELIUS, GOVERNOR

## MEMORANDUM

DATE: February 13, 2003

TO: Kathy Greenlee *Kathy*  
Chief Of Staff, Governor's Office

FROM: Clark Duffy *Clark*  
Director, Kansas Water Office

SUBJECT: Municipal Water Supply Issues for Hays and Russell;  
Proposed Governor's Task Force on Cedar Bluff Reservoir

\* The Kansas Water Office supports the proposal to create a Governor's Task Force on Cedar Bluff Reservoir. However, we feel strongly that the use of water in the reservoir for "municipal water supply" is not an appropriate topic for the task force to consider. The primary reason is that the reservoir will not produce a sustainable amount of water for municipal use by Hays and Russell, and thus there is really no water available for such a discussion.

\* We are also concerned that inclusion of this topic would be a distraction in the current negotiations between the State of Kansas and the cities of Hays and Russell to become part of a regional water supply system using water from Kanopolis Lake. This is the preferred alternative of the State of Kansas and the cities of Hays and Russell for solving area supply needs for the future.

\* If water supply does become part of the task force's charge, we are afraid that these issues will dominate the task force discussions and take precedence over other important issues such as recreational uses of the Reservoir. We also feel that further discussion of Cedar Bluff as a water supply source will only raise false hopes for Cedar Bluff to become part of the area's solution to its water needs.

Finally, even before any final decisions have been made by on the Cedar Bluff Task Force, the House Appropriations Committee discussed today the water supply needs of Hays and Russell, and how storage capacity in Cedar Bluff might fit into the possible solutions for these two cities. That this issue has moved into the legislative arena is another reason for a decision to be made on whether to proceed on the Cedar Bluff Task Force and on which topics it would be directed to make recommendations.

I have attached a background paper of the public water supply issues surrounding the Cedar Bluff Reservoir and its relation to the public water supply needs of Hays and Russell. If you have any questions, please feel free to contact me.



623

## Background Paper Hays and Russell Public Water Supply February 2003

### Introduction

Public water supply for the cities of Hays and Russell has been a topic of discussion for many years. The Kansas Water Office has worked with these communities since 1981 to find a reasonable long term supply. The most reasonable supply to serve Hays and Russell and allow for growth in their communities is to use storage in Kanopolis Lake recently purchased by the State of Kansas. All other options are either too unreliable, too expensive or there is political opposition.

In 2002 the State of Kansas through the Kansas Water Office and Kansas Water Authority signed a contract to purchase Kanopolis Lake. The Kansas Congressional Delegation was engaged in this purchase by inserting language into the Water Resources Development Act of 1999 that authorized the purchase by inserting language into the Water Resources Development Act of 1999 that authorized the purchase by inserting language into the Water Resources Development Act of 1999 that authorized the sale and provided for a discounted sale price. The purchase was authorized to be made and paid for under the state's Water Marketing Act which requires that there be projected users for that storage. Both Hays and Russell were projected as users of Kanopolis because of the feasibility to supply water to them and their repeated interest in water supply from this source. The Kansas Water Office is currently in negotiations for a long term water marketing contract with Public Wholesale Water Supply District No. 15, which is composed of the cities of Hays and Russell.

### Historic Proposed Public Water Supply Projects

The following is a list of known public water supply projects discussed or studied by the cities of Hays and Russell and involving some type of state or federal interaction.

Table 1 – Public Water Supply Sources Evaluated for Hays and Russell

Year	Project	Concern/Comment
1991	Glen Elder/Waconda Lake - Joint application by Hays and Russell for water rights to Waconda Lake for up to 15,000 acre-feet per year.	Too expensive
1991	Wilson Lake - Joint application by Hays and Russell for water rights to Wilson Lake for up to 8,000 acre-feet per year	Too expensive Water Quality
1995	Edwards County Ranch - The City of Hays purchased the R-9 Ranch in Edwards County in January 1995. Water Rights total about 7,000 acre-feet per year.	High Cost and local opposition
1996	Kanopolis Lake - June 10, 1996 Public Wholesale Water Supply District No. 15, filed application with the Kansas Water Office to negotiate for water supply from Kanopolis, requesting 2,000 million gallons per year. June 3, 2002, Wholesale District No. 15 reaffirms interest and increases request to 2,555 million gallons per year (see Attachment A)	<u>This is the alternative preferred by the State of Kansas.</u>
1997	Wilson Lake - The Corp of Engineers studied reallocation of storage in Wilson Lake and published a report in September 1997.	Too expensive Water Quality
1998	South Russell Well Field - Public Wholesale Water Supply District No. 15 filed eleven applications for ground water appropriations along the Smoky Hill River in southeastern Russell County.	Unreliable source during low streamflow and Water Quality
1999	Pikitanoi Water Supply - Public Wholesale Water Supply District No. 15 interest caused the expansion of the Pikitanoi Project to the west of the original areas of Atchison, Brown, Doniphan, Jackson, Nemaha, Shawnee and Pottawatomie counties.	Too expensive
1999	Cedar Bluff Reservoir. 2000 and subsequent legislatures gave guidance in budget committee reports that water not be released from Kansas Water Office storage in Cedar Bluff Reservoir. (see Attachment B)	Not reliable for water supply.

\*

\*



Year	Project	Concern/Comment
2002	Evaluation of Lake Wilson and Kanopolis Reservoir - Public Wholesale Water Supply District No. 15 received a preliminary report in October 2002 from a consultant that identified three potential water sources, Kanopolis Reservoir, Wilson Lake, and a well field.	Kanopolis lowest cost reliable source that could serve other communities as well.
2002	Cedar Bluff Reservoir - Public Wholesale No. 15 hires MacLaughlin Water Engineers of Denver, Colorado to evaluate the possibility of using Cedar Bluff for a public water supply.	Not reliable for water supply.
2002	Post Rock Distribution System - Public Wholesale Water Supply District No. 15 has at various times evaluated the feasibility of connecting to Post Rock's distribution system. This remains a viable option and one that should be explored. The City of Russell is currently discussing a water supply contract with Post Rock Rural Water District	This option is being evaluated as part of the Corps of Engineers study for water supply from Kanopolis Lake.
2002	Fossil Lake - City of Russell has filed an application under the Multipurpose Small Lakes Program to dredge the city's municipal lake.	Not reliable or significant source of water with high cost.



Current Supply

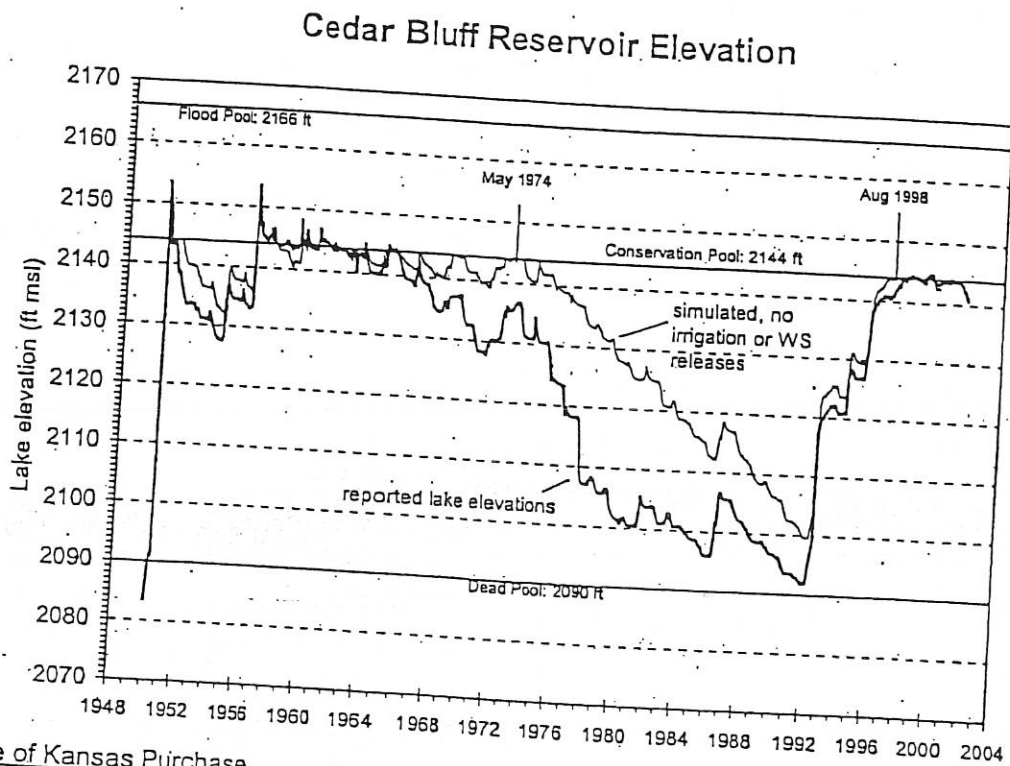
The City of Hays draws water from three existing well fields: a well field in the Big Creek alluvium, from deep Dakota formation wells near Hays, and from the Smoky Hill alluvium near Schoenchen. The total amount of water appropriated for these wells is 4,034 acre-feet per year. The total amount appropriated for the Schoenchen wells is 2,800 acre-feet, but the wells will only yield about 1,000 acre-feet per year. Therefore, the amount available for diversion during dry times is about 2,640 acre-feet. In 1999, the City of Hays used 2,183 acre-feet from these three sources.

The City of Russell has water rights from the Smoky Hill alluvium near Pfeifer, in the Big Creek alluvium and a surface water right for water stored in Cedar Bluff Reservoir. The total appropriation for these rights is 4,487 acre-feet per year. Of these total 2,000 acre-feet is appropriated from Cedar Bluff Reservoir. The City has used this right only one time since 1980. The total used in 1999 was 1,102 acre-feet.

Table 2 - Amount of Total Water Currently Available to Hays and Russell

	Total Appropriations (af)	Total Reasonably Available (af)	1999 Water Use (af)
City of Russell	4,487	2,487	1,102
City of Hays	4,034	2,250	2,183

Figure 2



#### State of Kansas Purchase.

The State of Kansas entered into an agreement with the Bureau of Reclamation and the Cedar Bluff Irrigation District in 1989. That agreement closed the irrigation district and gave control of all but 2,700 acre-feet of storage in the conservation pool to the State of Kansas. The main uses for the state storage are fish, wildlife and recreation as well as artificial recharge of the stream and alluvium downstream. It was not until the flood years of 1993 and 1995 that Cedar Bluff Lake refilled.

The purchase of Cedar Bluff Reservoir took action by the United States Congress in 1992, initiated by the Kansas Congressional Delegation, to approve the reauthorization of storage. The final contract was signed by the State of Kansas and the Bureau of Reclamation in 1994 and the transfer of the water rights was approved in 1996.

#### Recent Studies

In 1999, Public Wholesale Water Supply District No. 15 approached the Kansas Water Office about the possibility of obtaining water from Cedar Bluff Reservoir. An analysis of the lake revealed that there was 620,000 gallons per day, or about 695 acre-feet per year, which could legally be released for artificial recharge of the alluvium below the lake. This small amount of water during a repeat of the 1950's drought would have lowered the lake by approximately eight inches.

In contrast to the small amount of artificial recharge that could be made available, evaporation from the lake would drawdown the lake approximately 31 feet during the 1952 through 1957 period. The bottom line message is that under standard reservoir accounting methods, there is no significant releases that can be sustained through a drought from Cedar Bluff Reservoir.

\*

Attachment B

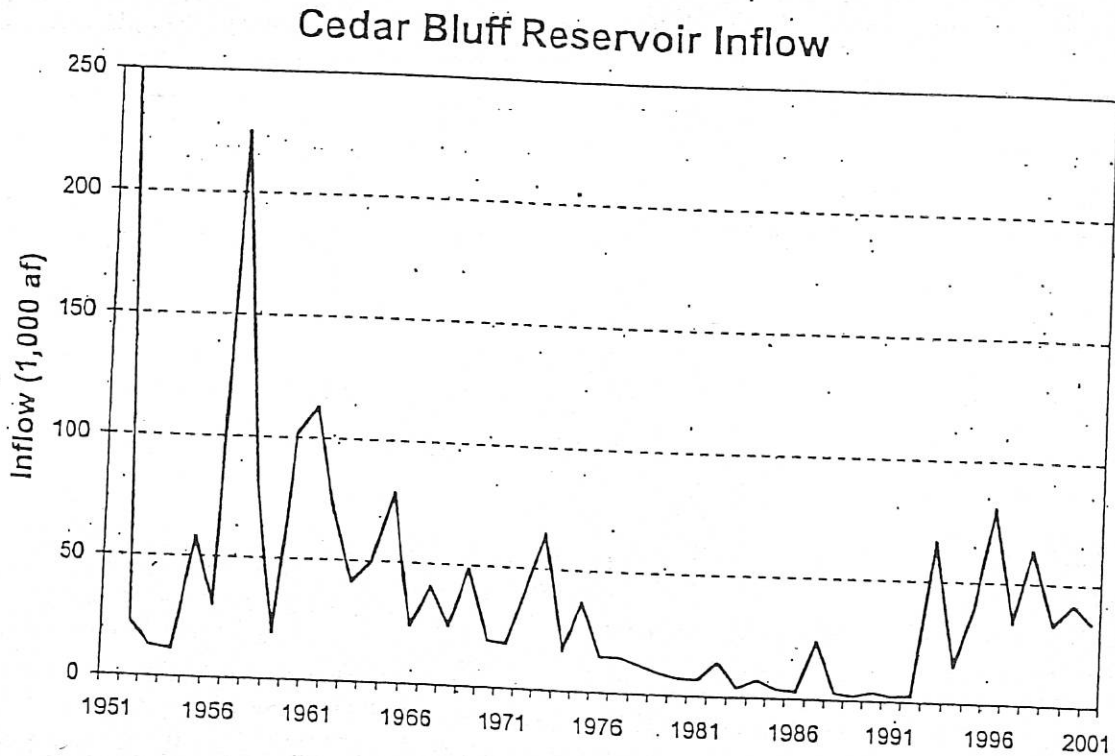
Cedar Bluff Reservoir

History

Cedar Bluff Reservoir was completed in 1951 by the Bureau of Reclamation for flood control, water supply, irrigation, and other purposes. The main use of the lake was to support the operations of the Cedar Bluff Irrigation District. In 1963, the City of Russell entered into a contract with the Bureau of Reclamation for release of up to 2,000 acre-feet per year to recharge the city's well field.

Development of both soil conservation practices and irrigation wells upstream of Cedar Bluff severely depleted the inflow into Cedar Bluff Lake in the 1960's and 1970's. The irrigation district ceased to be viable with the last delivery of water in 1978. The following graph shows the decline in inflows to Cedar Bluff Reservoir over its' existence.

Figure 1 – Historic Cedar Bluff Inflow



Analysis of the hydrology of the lake shows that Cedar Bluff Reservoir cannot keep up with evaporation from the surface of the lake during extended periods of time. Figure 2 shows what the elevation of the surface of Cedar Bluff Reservoir would have been had there been no releases, other than flood control, over the entire life of the lake. The data shows that the lake would have been below conservation pool for 24 straight years from 1974 through 1998. The inflow to the lake has been depleted to such a point that it took two flood years, 1993 and 1995, to bring the lake back to planned levels.

\*

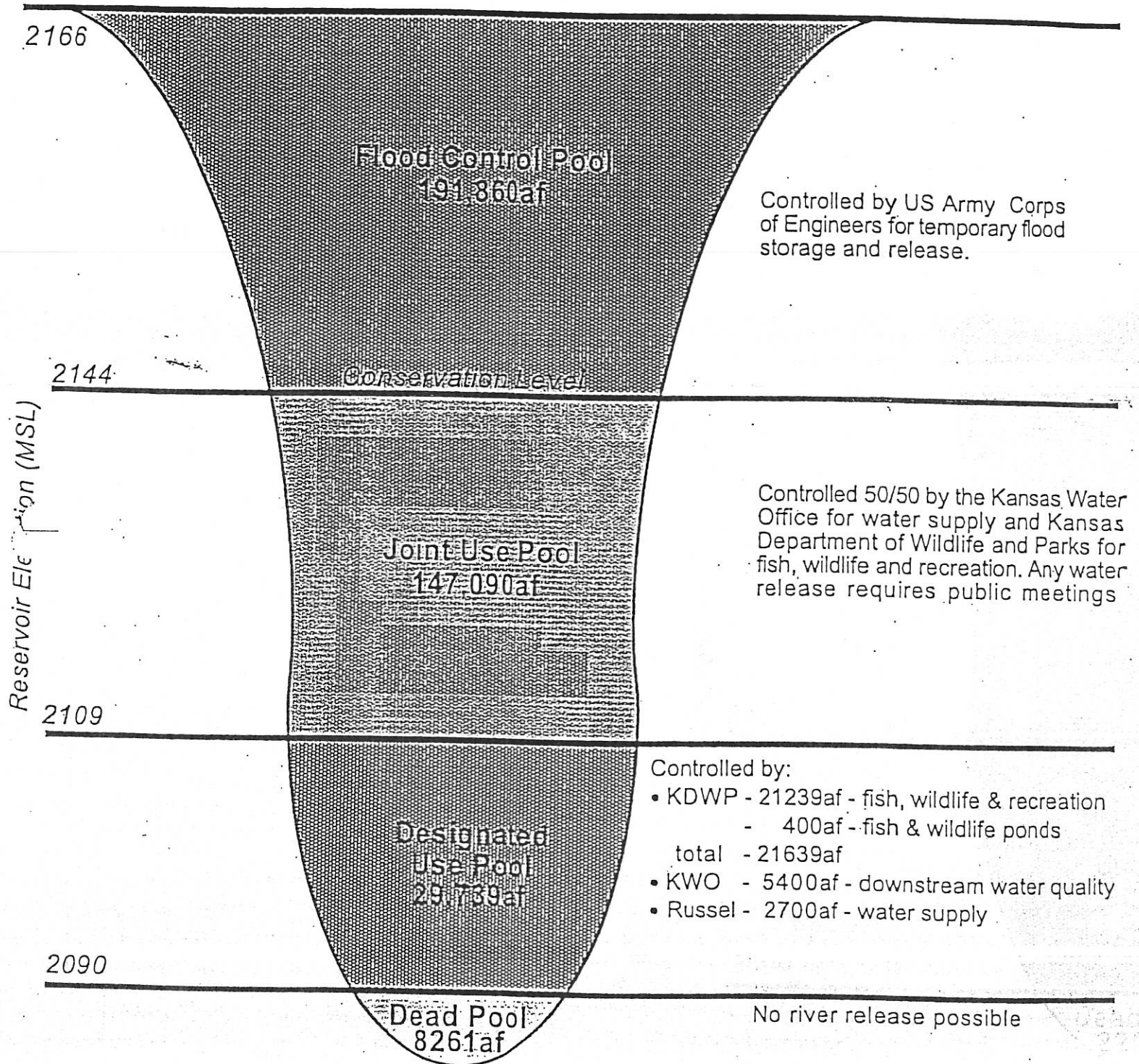
Cedar Bluff Reservoir End of Month Accounting  
All Pools

Month	Year	Net Inflow (af)	Releases (af)	Released for	End of Month Elevation (msl)	End of Month Storage (af)
Sep	2001	5,424	65	KDWP	2,144.15	186,121
Oct	2001	-2,177	190	KDWP	2,143.81	183,754
Nov	2001	-673	78	KDWP	2,143.70	183,003
Dec	2001	-526	18	KDWP	2,143.62	182,459
Jan	2002	66	0		2,143.63	182,525
Feb	2002	68	0		2,143.64	182,593
Mar	2002	-811	4	KDWP	2,143.52	181,778
Apr	2002	-1,063	21	KDWP	2,143.36	180,694
May	2002	-14,695	0		2,143.05	165,999
Jun	2002	-4,131	3	KDWP	2,142.43	161,865
Jul	2002	-2,656	435	Russell	2,141.96	158,774
Aug	2002	-4,383	735	Russell	2,141.17	153,656
Sep	2002	-3,568	60	KDWP	2,140.60	150,028
Oct	2002	-427	205	KDWP	2,140.50	149,396
Nov	2002	-1,144	176	KDWP	2,140.29	148,076
Dec	2002	-2,134	53	KDWP	2,139.94	145,890
Jan	2003	-744	0		2,139.82	145,147

- (1) The Net Inflow is the combination of inflow into the lake from streams, precipitation on the lake surface and evaporation from the lake surface.
- (2) In May 2002, the Bureau revised the area/elevation/capacity tables for Cedar Bluff Lake resulting in a decreased storage value and a negative net inflow.



# Cedar Bluff Reservoir Water Storage



af = Acre feet



K A N S A S

KANSAS WATER OFFICE

KATHLEEN SEBELIUS, GOVERNOR

May 23, 2003

John T. Bird, Attorney  
City of Hays  
113 W. 13<sup>th</sup> St.  
Hays, Kansas 67601-6313

RE: Water supply for the City of Hays, Kansas

Dear Mr. Bird:

I am writing in response to your letter of April 28, 2003, which discusses the City of Hays' need to expeditiously obtain an adequate water supply, not only for its current uses, but also for future growth in the City of Hays. Governor Sebelius fully supports the City of Hays' goal.

To begin that process of cooperation between the City of Hays and the State, I met with you and Randy Gustafson on Friday, May 16, 2003. The state of Kansas will do everything that it can to assist the City of Hays in obtaining an adequate water supply insofar as it is able to do so within the powers and jurisdiction of the State.

All this having been said, I would like to respond to some of the points that you have raised in your letter in an attempt to clear up some apparent misunderstandings.

*Kansas Water Law*

Kansas has one of the most comprehensive and efficient water administration systems in the 17 western states, and one of the most important principles of the Kansas water appropriation act is the principle of "first in time is first in right." K.S.A. 82a-707(b) provides in part, "...the date of priority of an appropriation right, and not the purpose of use, determines the right to divert and use water at any time when the supply is not sufficient to satisfy all water rights that attach to it."



John T. Bird, Attorney  
RE: City of Hays water supply  
May 23, 2003  
Page 6

Since 1978, the chief engineer has had a regulation, K.A.R. 5-4-1, setting forth the procedures for a water right owner to file a complaint that its water right is being impaired. To our knowledge, the City of Hays has never filed a formal request to have its water right administered in priority on the Smoky Hill River. If such a request were filed, the chief engineer would act on that request and determine whether the City of Hays' water rights were being impaired. If they were, he would determine whether administration of junior water rights would provide any significant benefit to the City of Hays at the time that the City of Hays needed the water. It should be noted at this point that determination of whether water rights above a reservoir could be administered to provide benefits to a well field below the reservoir is not a simple matter, and considerable time and expense would be necessary to make such a determination. At this time that the City of Hays has no water right of any kind in Cedar Bluff Reservoir, nor does it have any contract with the Bureau of Reclamation for storage of water in Cedar Bluff. At this time the City of Hays has no legal right to call for releases of stored water. The city's only apparent option is to call for water entering Cedar Bluff Reservoir to be by-passed through the reservoir. This assumes water is flowing into the reservoir at a time when the City of Hays' use of water is being impaired by junior water right holders, and administration of those water rights will actually provide the City of Hays with a significant increase of water. \*

#### *KWO roadblocks*

Neither the chief engineer nor the Kansas Water Office has denied any request from the City of Hays or the City of Russell to utilize any source of water. They have however, explained to the City of Hays on numerous occasions the legal processes and requirements necessary to obtain and use water from various sources. These were not new requirements that were imposed on the City of Hays. The chief engineer and the Kansas Water Office were merely explaining the statutory and regulatory restrictions that apply to all water users in the State.

Kansas Water Office does have a desire to sell water to users with a need. The Kansas Water Office has had long-term discussions with Public Wholesale Water Supply District No. 15 regarding the use of Kanopolis Reservoir. The discussions predate June 10, 1996, when the District filed an application to negotiate a water supply contract.

The Kansas Water Authority must provide final approval of water marketing contracts. Their longstanding policy has been focused on preventing the sale of water until the need for water is documented. The Authority has never had a policy of actively promoting the sale of water from State storage.

#### *Wildlife and Parks Roadblocks*

Interest by the State in acquiring the Edwards County Ranch has not waned. The State is still willing to negotiate a possible purchase of the ranch.

John T. Bird, Attorney  
RE: City of Hays water supply  
May 23, 2003  
Page 7

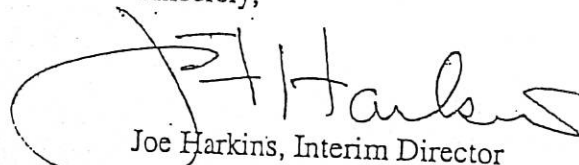
*Legal issues and remedies*

Finally, you raised the issue of whether the reduction of a water right constitutes a compensable taking. The State would agree that the takings clause of the Fifth Amendment to the United States Constitution prohibits the State from taking private property for public use without compensation and is made applicable to the states through the Fourteenth Amendment. Granting of a water right does not guarantee that waters will be available and water is subject to appropriation only upon legal and physical availability. The State does not agree that the partial reduction in "water usage" imposed upon the City of Hays by the lawful IGUCA proceedings is a compensable taking. The IGUCA order was issued in May, 1984, and was not timely appealed. For this and many other reasons, the State believes that the City of Hays is not entitled to compensation for water that it may not have diverted since 1984.

*Conclusion*

I assure you that the state of Kansas, including the Kansas Water Office, Kansas Department of Agriculture Division of Water Resources, and the Kansas Department of Wildlife and Parks, and any other appropriate state agencies, will work together with the City of Hays to resolve its water supply problem. I will be your contact person for this joint effort.

Sincerely,

  
Joe Harkins, Interim Director  
Kansas Water Office

cc: Governor Kathleen Sebelius  
Adrian Polansky, Secretary of Agriculture  
Mike Hayden, Secretary of Wildlife and Parks  
David L. Pope, Chief Engineer, Division of Water Resource, Kansas Department of  
Agriculture  
Randy Gustafson, City Manager, Hays, Kansas  
Rod Bremby, Secretary of Health & Environment  
Lt. Governor John Moore, Secretary of Commerce and Housing



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they become due to meet the financial obligations imposed by law on the water marketing fund of the Kansas water office as a result of increases in water rates, fees or charges imposed by the federal government, the pooled money investment board is authorized and directed to loan to the director of the Kansas water office a sufficient amount or amounts of moneys to reimburse the water marketing fund for increases in water rates, fees or charges imposed by the federal government and to allow the Kansas water office to spread such increases to consumers over a longer period, except that no such loan shall be made unless the terms thereof have been approved by the state finance council acting on this matter which is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed in subsection (c) of K.S.A. 75-3711c and amendments thereto. The pooled money investment board is authorized and directed to use any moneys in the operating accounts, investment accounts or other investments of the state of Kansas to provide the funds for each such loan. Each such loan shall bear interest at a rate equal to the net earnings rate for the pooled money investment portfolio at the time of the making of such loan. Such loan shall not be deemed to be an indebtedness or debt of the state of Kansas within the meaning of section 6 of article 11 of the constitution of the state of Kansas. Upon certification by the pooled money investment board by the director of the Kansas water office of the amount of each loan authorized pursuant to this subsection, the pooled money investment board shall transfer each such amount certified by the director of the Kansas water office from the state bank account or accounts to the water marketing fund of the Kansas water office. The principal and interest of each loan authorized pursuant to this subsection shall be repaid in payments payable at least annually for a period of not more than five years.

(h) During the fiscal year ending June 30, 2004, the director of accounts and reports shall transfer an amount or amounts specified by the director of the Kansas water office prior to April 1, 2004, from the water marketing fund to the state general fund, in accordance with the provisions of the state water plan storage act and amendments thereto and rules and regulations adopted thereunder, for the purposes of making repayments to the state general fund for moneys advanced for annual capital cost payments for water supply storage space in reservoirs and for administration and enforcement costs of the state associated with the state water plan storage act, and amendments thereto.

(i) During the fiscal year ending June 30, 2004, no expenditures shall be made by the Kansas water office from any moneys appropriated from the state general fund or any special revenue fund for fiscal year 2004 for the release of any water in Cedar Bluff reservoir under the control of the state of Kansas for any environmental, domestic, municipal, industrial, or irrigation purposes, except that expenditures may be made by the Kansas water office for the release of such waters for the purpose of the opera-

PROVISO



6-33

\* tions of facilities of the department of wildlife and parks below the dam of the Cedar Bluff reservoir: *Provided*, That the Kansas water office and the department of wildlife and parks shall explore the possibility of transferring the ownership and operating control of all storage capacity in Cedar Bluff reservoir currently under the authority of the Kansas water office to the department of wildlife and parks: *Provided, however*, That moneys budgeted for the Kansas water office and the department of wildlife and parks shall be expended by both such agencies to pay for the operation and maintenance of the storage capacity for such waters in Cedar Bluff reservoir during fiscal year 2004.

Sec. 83.

DEPARTMENT OF WILDLIFE AND PARKS

(a) There is appropriated for the above agency from the state general fund for the fiscal year ending June 30, 2004, the following:

Operating expenditures ..... \$3,189,583

*Provided*, That any unencumbered balance in the operating expenditures account in excess of \$100 as of June 30, 2003, is hereby reappropriated for fiscal year 2004: *Provided, however*, That expenditures from such reappropriated balance shall be made only upon approval of the state finance council: *Provided further*, That no expenditures shall be made from the operating expenditures account for the purchase of state aircraft insurance: *And provided further*, That expenditures from this account for official hospitality shall not exceed \$1,000.

(b) There is appropriated for the above agency from the following special revenue fund or funds for the fiscal year ending June 30, 2004, all moneys now or hereafter lawfully credited to and available in such fund or funds, except that expenditures other than refunds authorized by law shall not exceed the following:

Wildlife fee fund ..... \$22,861,876

*Provided*, That additional expenditures may be made from the wildlife fee fund for fiscal year 2004 for the purposes of compensating federal aid program expenditures if necessary in order to comply with requirements established by the United States fish and wildlife service for the utilization of federal aid funds: *Provided further*, That all such expenditures shall be in addition to any expenditure limitation imposed upon the wildlife fee fund for fiscal year 2004: *And provided further*, That the secretary of wildlife and parks shall report all such expenditures to the governor and the legislature as appropriate: *And provided further*, That expenditures from this fund for official hospitality shall not exceed \$1,000.

Parks fee fund ..... \$5,873,762

*Provided*, That additional expenditures may be made from the parks fee fund for fiscal year 2004 for the purposes of compensating federal aid program expenditures if necessary in order to comply with requirements

established by the Un of federal aid funds: I in addition to any exp for fiscal year 2004: A and parks shall repor islatre as appropriat

Boating fee fund .....

*Provided*, That addit fee fund for fiscal yea program expenditure established by the Un

of federal aid funds: I in addition to any ex fund for fiscal year

wildlife and parks sha the legislature as app from this fund for off

Central aircraft fund

*Provided*, That expen central aircraft fund f

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*And provided further* of the operating exp

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Wildlife and parks no

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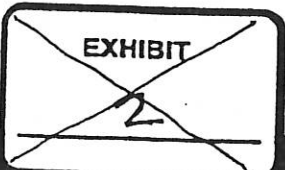
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unicipality of St. George and such expenditures for such river access pro-  
 jects shall not be subject to the conditions precedent prescribed by sub-  
 section (t) of section 157 of chapter 204 of the 2002 Session Laws of  
 Kansas.

(f) (1) During the fiscal year ending June 30, 2004, no expenditures  
 shall be made from any moneys appropriated for the department of wild-  
 life and parks from the state general fund or any special revenue fund for  
 fiscal year 2004 for construction of any new river access project on the  
 Kansas river unless (A) the secretary of wildlife and parks has obtained  
 the prior written permission for the proposed river access project from  
 each owner of each parcel of real property on the river which is imme-  
 diately adjacent to the real property upon which the proposed river access  
 project is to be constructed, and (B) if a parcel of any of such immediately  
 adjacent real property is being leased, the secretary of wildlife and parks  
 also has obtained the prior written permission for the proposed river  
 access project from the lessor of such parcel of any of such immediately  
 adjacent real property.

(2) The provisions of subsection (f)(1) shall not apply to the municipi-  
 palities of St. George, Wamego, Topeka and Edwardsville.

(g) During the fiscal year ending June 30, 2004, no expenditures shall  
 be made by the department of wildlife and parks from any moneys ap-  
 propriated from the state general fund or any special revenue fund for  
 fiscal year 2004 for the release of any water in Cedar Bluff reservoir under  
 the control of the state of Kansas for any environmental, domestic, mu-  
 nicipal, industrial, or irrigation purposes, except that expenditures may  
 be made by the department of wildlife and parks for the release of such  
 waters for the purpose of the operations of facilities of the department  
 of wildlife and parks below the dam of the Cedar Bluff reservoir: *Pro-  
 vided*, That the Kansas water office and the department of wildlife and  
 parks shall explore the possibility of transferring the ownership and oper-  
 ating control of all storage capacity in Cedar Bluff reservoir currently  
 under the authority of the Kansas water office to the department of wild-  
 life and parks: *Provided, however*, That moneys budgeted for the Kansas  
 water office and the department of wildlife and parks shall be expended  
 by both such agencies to pay for the operation and maintenance of the  
 storage capacity for such waters in Cedar Bluff reservoir during fiscal year  
 2004: *And provided further*, That the department of wildlife and parks  
 and the Kansas water office shall make no expenditures of any moneys  
 appropriated from the state general fund or any special revenue fund for  
 fiscal year 2004 for any purpose associated with the transfer of land or  
 water storage capacity at Cedar Bluff reservoir during fiscal year 2004 in  
 order to allow a proposed governor's task force to study the future of  
 Cedar Bluff reservoir and to present its findings and recommendations  
 to the legislature on or after January 12, 2004.



635

# Committee wants a legal opinion

Attorney general asked for input on water agreement

By MIKE CORN  
HAYS DAILY NEWS

WAKEENEY — Faced with a room full of angry people and suspicion about the timing of a water agreement, the Kansas Legislature's special committee on the environment voted Thursday to ask for an attorney general's opinion.

The question, which should be forwarded to the attorney general's office next week, will seek an answer on the legality of Hays' involvement in a water release agreement between the cities of Hays and Russell and the Kansas Water Office and the Division of Water Resources. The question involves Hays because it has no right to any water in Cedar Bluff Reservoir.

The Russell City Council signed off on the agreement Tuesday afternoon during a special meeting called at the request of the Kansas Water Office.

But legislative committee members didn't learn about the agreement until Wednesday, the first day of a public hearing on several issues, including the economic impact of not maintaining the recreational water level at Cedar Bluff Reservoir.

The committee didn't learn about the agreement from state officials. Instead, according to Rep. Larry Powell, R-Garden City, the information was forwarded to them by Bill Scott, a Ransom farmer and president of the Western Kansas Water Watchers, which was formed to keep water from being released from the lake.

"The committee was a little upset we hadn't heard this," he said.

Powell decided to make the motion seeking the opinion after listening to testimony Wednesday evening. Mistrust and a lack of public involvement was evident based on the testimony. The committee unan-

imously agreed to the motion.

During Wednesday's public hearing, people testifying twice reminded the committee that The Hays Daily News and Western Kansas World jointly filed an open records request to obtain information concerning how water in the reservoir would be allocated.

That agreement significantly changed how the lake was apportioned to the water rights holders and more than doubled the amount of water available to the city of Russell. It also set the stage for the agreement that sets out triggers that would signal when water should be released.

"I knew it was coming," said Rep. Josh Svaty, D-Ellsworth.

Committee members were "concerned they had been cut out of the process," he said. "Since the agreement had already been signed the only way for us was to get an attorney general's opinion."

Svaty said former Kansas Water Office director Joe Harkins immediately attempted to provide background on the situation. Harkins currently is the governor's liaison on environmental issues and the state's point man in negotiations between the state and the cities of Hays and Russell. Those negotiations started in earnest after Hays threatened to sue if it wasn't made whole again in terms of its water supply.

Svaty said Harkins "said he believed public input had always been sought by the Kansas Water Office."

But, Svaty said, "the timing" of the water release agreement by Hays, Russell and the two state agencies immediately prior to the meeting "does look awful suspicious."

Svaty said he understands the sentiment of people who testified that they were shut out of a process that affects them.

"I look forward to the attorney general's opinion," he said.

● SEE WATER ON PAGE A8

Friday

October 15, 2004

Hays, Kansas 50¢



# WATER: Public input still an uncertainty

● CONTINUED FROM PAGE A1

"I don't think he liked what I done," Powell said of Harkins.

Harkins gave a different impression.

"I told the committee that I had no concerns whatsoever for the attorney general to review it," he said Thursday afternoon.

Harkins said he was the one who suggested the legislative budgetary language concerning releases from the lake. That change, he contends, allows for the releases.

\* Harkins also sidestepped concern that the river basin advisory committee — created by the state to offer advice on water planning

issues — was being left out of the loop in the process.

He said it would be difficult for 12 committee members to take a day off and drive 100 miles at their own expense to attend those types of meetings.

Only three of the 18 meetings held to discuss the release were open to the public and then they were informational only. Harkins personally refused to open the meetings, because of the highly technical nature of the discussions.

He was the one who rejected oral requests for the allocation agreement prior to its release under the state's Open Records Act.

Harkins, who told committee

members that the testimony Wednesday was a low point in his public service career because of the mistrust that was laid at the doorstep of the agency he directed, said the water office is working on showing that public input is being solicited.

"We'll try to do the best we can," he said of gaining public trust. "I think the question now is let's see what the attorney general thinks."

But meetings between Harkins, on behalf of the state, and the cities of Hays and Russell will continue pending completion of a memorandum of understanding, a broad-based agreement that sets

out what each party expects to do in the future.

When asked if those meeting would be open to the public, Harkins didn't have an answer.

"I don't know," he said. "That's a unilateral decision I can't make. Everyone involved will have to have input."

"I haven't formulated any thoughts yet from last night," he said of the testimony that blamed Harkins and the water office for excluding people who would be affected by the agreement.

Managing editor Mike Corn can be reached at (785) 628-1081, ext. 129, or by e-mail at [mcorn@dailynews.net](mailto:mcorn@dailynews.net)

# Reception chilly involving water

By MIKE CORN  
HAYS DAILY NEWS

WAKEENEY — The state officials whose agencies played a key role in crafting a water release agreement with the cities of Hays and Russell received a bit of a chilly reception Wednesday.

And that was before area residents had a chance to offer testimony to a special legislative committee on the environment. The chilly reception came from members of the committee, who quickly questioned the propriety of the agreement and the closed-door process leading up to the agreement.

That chilly reception continued Wednesday evening when 13 people testified that Cedar Bluff Reservoir needed to be protected from releases, such as that contained in the agreement.

Members of the committee even questioned why the city of Hays — with no rights in the lake — was a party to the agreement.

Questions were also raised about the lack of public participation in the entire project and if other arrangements might be pending, such as using Cedar Bluff water as a bartering tool for the state's purchase of Circle K Ranch, jointly owned by the cities of Hays and Russell.

Even members of the Smoky Hill-Saline River Basin Advisory Committee, a group formed by the Kansas Water Office to offer advice, chastised the process that left its members out of the loop on the agreement.

That committee's chairman, Ned Jednoralski, Ellsworth, suggested the state "publicly discuss the proposed development of any future water uses and to release public documents" related to those uses to allow a complete analysis "before any legislation is introduced or voted on by the Kansas Legislature."

He went on to say that the sentiment of committee members is such that "if

## WATER: Agreement a concern for many

● CONTINUED FROM PAGE A1

Out of 18 meetings, there were several that were public, he said. Those three, however, did not seek input.

Lewis also said representatives from Trege County and Schoenchen had attended the meetings.

Withington said he last attended a meeting in December and Schoenchen resident Loran Zimmerman said his last meeting was in April. Neither had seen the document prior to its release.

"We want as much public input as possible, but you want to get this thing done in a timely fashion," Lewis said.

During his testimony, Lewis said that while it is difficult to say how much water might be released, it likely would amount to about 232 acre-feet annually.

"We felt this is the best we could do to meet our obligation and minimize the impact," Lewis said of the releases from the 5,110 acre-foot pool of water.

That release would have minimal effect on lake levels, he said. But if Russell follows suit and asks for the release of its 2,000 acre-feet of water, the lake level could fall about 2 feet.

John Fierro of Dodge City questioned the political connection.

"There is some agreement between the city of Hays, the water office, the governor's office and Mr. (Joe) Harkins," he said.

"Is this agreement related to the Circle K Ranch," he asked of Tracy Streeter, acting director of the water office, taking over for Harkins.

"No," Streeter said. "Very well," Fierro said. "I'll remind you of that several months from now."

The room burst into laughter but Streeter was visibly not amused.

Withington gained the greatest support when he told the committee that he would again make a request of the water office, suggesting that it apply to reallocate the water in the recharge pool for recreation.

Wakeeney City Administrator Hardy Howard said the recharge pool agreement is already signed.

"It will now take legislative action to precipitate any change," he said.

Western Kansas already has enough issues to endure, he said. "Please don't add the decline of a natural resource to this list."

Managing editor Mike Corn can be reached at (785) 628-1081, ext. 129, or by e-mail at [mcorn@dailynews.net](mailto:mcorn@dailynews.net).

---

# r release agreement

all we're going to do is be a rubber stamp, they're not interested in serving again."

Geoff Withington, another member of the committee agreed.

Withington, however, also serves as chairman of the Trego County Commission and was invited to observe the closed-door proceedings at which the agreement was formulated.

"I was not sat in the corner and told not to speak," he said. "I was basically there as an observer."

Withington was among those who questioned what right Hays had in being a party to the agreement.

State officials told the committee that

Hays and Russell both had agreed to provide funding to operate river gauges and monitoring wells.

"Are they going to pay for all of this?" Ransom resident Bill Scott asked of the water that could be released. "Or, is there a trade going on. I'm suspicious."

"Again, this was an agreement that was drawn up without any public input."

Earlier in the day, Kansas Water Office hydrologist Earl Lewis had attempted to scuttle complaints that the process had taken place without public involvement.

● SEE WATER ON PAGE A6

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**Thursday**

*October 14, 2004*

*Hays, Kansas 50¢*

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(letter to editor/editorial????)

To: Kansas Environmental Board Members  
Madam Chairperson and distinguished Board Members & Staff:

On behalf of this newspaper and community, our sincere thanks for your visit to WaKeeney. Your willingness to listen to regional concerns and your objective comments, and your unanimous vote to have the latest politically motivated contract looked into by the Attorney General, brings hope to Western Kansas, that at least some in Topeka are willing to listen.

Through your two day visit you learned of the widespread concern for the largest lake in the Western one-third of Kansas, Cedar Bluff.

You became aware of how fragile this lake is. The minimal inflow and any outflow have dramatic effects on lake levels.

Hopefully you became aware of the politically motivated actions by the Kansas Water Board, which affects thousands in Western Kansas. No other lake in the state has seen the attempts, the contracts, the controversy, to change the original agreement signed by the State and Federal government.

Thursday, Joe Harkins defined the Water Office actions by saying they stepped forward to help Hays because his office is there to help those who ask.

Harkins failed to mention, hundreds, if not thousands of Western Kansas lake users have asked for his help, with no results.

Harkins failed to mention Hays had the option for water rights, but declined when the State bought the water rights to Cedar Bluff.

Harkins failed to mention that Clark Duffy's (former Director of the Kansas Water Office) water allocation

limited releases to lake levels, keeping with the original contract. Weeks after his announcement, he was replaced by Mr. Harkins.

Harkins failed to mention, the contract signed by him on November 25, 2003 (Reservoir Accounting Procedures for Cedar Bluff) affects Cedar Bluff and NO other lake/reservoir in the State of Kansas.

Harkins failed to mention this contract was only brought to the public attention after this newspaper and the Hays Daily news filed suit under the Freedom of Information Act. (This secret contract was only available to the public, because Trego County Commissioner, Jeff Withington, accidentally mentioned the contract at a public meeting. Although he represented Trego County, and was appointed to represent Trego County on Cedar Bluff by Mr. Harkin's office, he was sworn to secrecy by the Water Office.)

Harkins failed to mention the Smokey Hill River Basin Authority has had little or no input on the decisions made concerning Cedar Bluff.

This list could go on, but your time is too valuable to read dozens of pages of how the Kansas Water Office has filed Western Kansas.

The residents of the region know there may be releases from the Lake. We know that inflows will probably not keep up with releases, seepage and evaporation. We know that this fragile Western Kansas asset may once again fill with trees as we wait for Mother Nature to refill the Lake basin.

What we ask is that Cedar Bluff be taken out of the political arena. Mr. Duffy's calculations on releases were based on original contracts signed by the State and Bureau of Reclamation. They were fair to all parties, designed to

protect the lake and water right holders.

Since Mr. Harkins was appointed, everything has changed. Two secret contracts have been signed, water rights, recharge rights, sedimentation assignments, etc., have been changed. These are a breach of the original contract.

The political motivations are evident, Cedar Bluff is being used and we pawns of Western Kansas are being sacrificed to protect the governor. If you can do nothing else to help protect us, any support of legislation to put Cedar Bluff back to its original contracts will prove Topeka is fair and equitable to all.

Sincerely,

Jerry Millard, Editor  
Western Kansas World  
cc:all Kansas Senators,  
Representatives and Staff  
Members of Environmental  
Task Force



**WKWW**  
**WESTERN KANSAS WATER WATCHERS**  
**ASSOCIATION**  
**www.wkww.org**

**MAILING ADDRESS:**

**POST OFFICE BOX 1654**  
**DODGE CITY, KANSAS 67801**

**BOARD MEMBERS:**

**Bill D. Scott, President**  
**Gomer Stukesbary, Vice Pres.**  
**Leroy Riedel, Secretary/Treas.**

**OFFICE LOCATION:**

**200 W. WYATT EARP BLVD.**  
**DODGE CITY, KANSAS 67801**

May 21, 2004

FOR IMMEDIATE RELEASE

Headline: WESTERN KANSAS WATER WATCHERS ASSOCIATION FORMED

Bill D. Scott of Ransom, Kansas reports the formation of a non-profit corporation known as Western Kansas Water Watchers Association (WKWW). The by-laws and articles of incorporation provide that its purpose is to protect and conserve the water of Western Kansas for public use and to advise and assist governmental agencies in establishing priorities for the wisest and best use of this limited natural resource through its membership.

Although the group has been meeting informally for months, a recent crisis has raised the need to take more formal action. The City of Hays has once again asked the Kansas Water Office to release water from Cedar Bluff Reservoir to recharge its municipal water wells located in the Smoky Hill riverbed 10 miles south of the city. While all agree, including Hays' own recent engineering report, that no emergency exists and that Hays has adequate water for decades, the Water Office is considering the release "What is so frustrating," says Scott, "is that the Smoky Hill riverbed is already being recharged, from the dam all the way to Hays, and has been every day for over 10 years by the natural seepage in and around the dam caused by the hydrostatic pressure of the water in the lake. There is no need for a release especially when you consider the potential permanent damage to Cedar Bluff Lake. Reducing the level of the lake will stop the present flow into the riverbed."

WKWW is well aware that history repeats itself as everyone recalls that in the 1980s and early 90s this magnificent lake was reduced to a mud puddle by irrigation over-use and drought. The lake is already down 7 feet in the last year with little or no in-flow from the west. Evaporation alone is slowly depleting the water and hundreds of feet of new muddy shoreline have been exposed. Boat ramps and docks are out of the water.

Whether you are a camper, boater, hunter, fisherman or water enthusiast, the health of Cedar Bluff has an economic impact on everyone in Western Kansas. The level of the water in the lake is directly related to the number of visitors. In 1991 there were 50,000 visitors, while in 1999 there were 245,000. A great deal of money is spent on water-based activities with sales tax generated for the State.

"We are opposed to any more water releases from Western Kansas reservoirs except for flood control and dire downstream documented emergencies," says Scott. Our group has retained an attorney and will use every legal means at our disposal to ensure that water-based recreation be established as the primary use of our area lakes. Please

Legislative Briefing Paper on Cedar Bluff Reservoir Water Release Issue  
Prepared by:  
Western Kansas Water Watchers Association

Western Kansas Water Watchers Association is a Kansas non-profit corporation consisting of members of the public who believe that the water contained in our area reservoirs and natural lakes is a precious commodity not to be squandered on municipal and industrial demands. We are stakeholders in determining what is the most beneficial use of water in our area. This organization opposes any and all releases of water for any reason other than an immediate and dire emergency proven by factual evidence. Our position is best described in a Resolution adopted by the Kansas Fish and Game Commission parts of which follow:

Resolution

"WHEREAS, Western Kansas Reservoirs to include, Kirwin, Webster, Norton and Cedar Bluff were primarily constructed for irrigation and flood control by the Bureau of Reclamation; and WHEREAS, hydrological studies performed by the Kansas Fish and Game Commission and Bureau of Reclamation indicate that the future of these reservoirs is bleak. This is due to upland soil and moisture conservation practices and irrigation well development on the watersheds which reduces runoff and base stream flow. WHEREAS, if the loss of fish, wildlife and recreational activities to the people of Kansas due to low water levels and if the operation of these reservoirs is not altered, fish, wildlife and recreation activities related to water will, for all practical purposes, be eliminated in Western Kansas; and WHEREAS, the inflow reduction has rendered these reservoirs no longer suitable for irrigation as a primary purpose. NOW, THEREFORE, BE IT RESOLVED, that the Kansas Fish and Game Commission assembled in Pratt, Kansas, on October 21, 1981 propose that fish, wildlife and recreation become a primary use including flood control and as an agency is interested in obtaining these reservoirs to insure that the most valuable use of the remaining water supply for fish, wildlife and recreation is held in trust and managed for the good of all Kansans. . ." (See attached Exhibit 1)

Please note the key concern above: INFLOW! That and that alone is the basis for our objection to releases. The lack of a sustained flow! We insist that the impounded water of Western Kansas not be subjected to rules and regulations that may govern water usage in Central and Eastern Kansas. The difference between these areas is obvious and already acknowledged by state agencies and other experts:

1. In a 1989 engineering study ordered by the city of Hays, Black and Veatch found that, "ground water depletion of base flow and numerous farm conservation practices have greatly reduced inflow to the reservoir (Cedar Bluff). Lake evaporation exceeded the computed inflows every year since 1974 except in 1987. This decrease in

public facilities are more difficult to reach, some boat ramps become useless and Wildlife and Parks has a maintenance nightmare. (See attached photos)

You might ask, Why the need for an organization like Western Kansas Water Watchers Association? We will never forget the lessons of history. The article that appeared in the Wildlife and Parks magazine entitled "The Resurrection of Cedar Bluff State Park" in 2001 says it all: (See attached Exhibit 7 and 8)

"By 1981 the lake had dropped 43 feet. In 1992 the 6,800 acre lake had been reduced to a mere 900 acres with a maximum depth of 12 feet. As the lake dried up so did visitation to the state park. Access to this now small lake was a problem, with boat ramps and camping facilities far from the water's edge. In 1991 Cedar Bluff State Park had a mere 50,000 visitors the entire year, generating \$34,000 in revenue. By 1995, 155,000 visitors generated \$103,000, and in 1999, the park entertained 245,000 guests and collected \$214,000 in revenue." Park manager Troy Brown explained "The park's success is absolutely tied to the water level, as well as to the fisheries."

What led to these changes? The lake had once again reached full conservation pool in 1998! Some of the testimonials to the inherent value of a robust lake are attached hereto as Exhibits. It is doubtful that any water release requested by Russell ever reaches its well fields. It is equally uncertain that the requested releases are effective in recharging the Hays well fields in any significant way. What is certain, however, is the personal, social and economic damage to Western Kansas caused by the depletion of the oasis known as Cedar Bluff. Without the dam the Smoky Hill River bed would be dry all the way to Hays.

As an organization, we will use whatever legal means at our disposal to make our point and convey our message. We insist on being included as an organization in all decision making affecting our lakes. It is time that natural beauties and precious resources in our area cease being sacrificed to municipal and industrial greed. Once the limited water from Cedar Bluff is quickly depleted, where will these extravagant users turn next and what shall we do with a mud puddle?

Jan-2004

Dated: 1/10/05

RECENT ADDENDUM TO BRIEFING PAPER

On 10/13/04 Western Kansas Water Watchers (WKWW) learned that the Kansas Water Office (KWO) and the cities of Hays and Russell entered into a secret Operations Agreement dated 9/22/04 (See attached). This Agreement was the product of at least 15 "closed to the public" meetings occurring over the preceding 18 months. Both the meetings and the Agreement violated budgetary Provisos put in place by the 2003 and 2004 Legislature, which expressly proscribed the release of water in Cedar Bluff Lake for municipal or environmental purposes. (See attached Brief and Provisos).

When the Special Legislative Committee on the Environment learned of the secret Agreement it unanimously voted on 10/14/04 for an attorney general's opinion on the validity of the Agreement. The Committee members found that the actions of KWO in effect undermined the main purpose of the Committee which was to study the issue of the economic impact on the region should the Lake not be maintained at conservation level (2144 feet above sea level). The Attorney General is working on the opinion now.

It seems to our organization that our efforts to preserve the lake are futile. No matter how many KWO and KWA and BAC meetings we attend each year, secret negotiations destroy our hard work, destroy the legislative process and destroy the purpose of "open public meetings."

If the Kansas Water Plan and KWO water policies can change overnight by simply firing the Director of KWO then Cedar Bluff Lake is doomed and our efforts in vain. Former Director, Clark Duffy, set forth the KWO policy and documented it with hard facts on 2/13/03. That cost him his job because the Governor had a different agenda and the facts stood in the way. (See attached) Everyone seems to know that Cedar Bluff by nature loses more water than it receives regardless of any intentional releases, yet that very clear proven fact doesn't deter the new director of KWO and Hays and Russell from trying to use Cedar Bluff as a solution to Hays "perceived water problem". It just doesn't make sense when you consider the price that must be paid by the general public through the eventual destruction of the lake. Cedar Bluff may not and most likely will not recover from an annual blood-letting to satisfy Hays because history has proven that there is more evaporation and leakage than inflow. It took two extraordinary floods in 1993 and 1995 to bring the lake back from "dead pool." It has now lost 10 feet in 2 ½ years through evaporation and release to Russell.

It is obvious that KWO leadership (Joe Harkins) was playing games with the 2003 and 2004 Provisos when he negotiated and signed the secret Agreement. As you can see, the Agreement attempts to foreclose any further legal or legislative action forever. No adverse opinion will be tolerated. KWO has in effect given away 5400 acre feet of Kansas public water to the whim of Hays for free with no thought of the economic or environmental impact on the Lake or its surrounding region.

Regardless of how the Attorney General rules or the commencement of litigation, our Association urges the Legislature to consider the following proposals:

1. Grant an immediate moratorium on the enforcement of the secret Agreement of 9/22/04 pending further study.



2. To end this decades old controversy, require KWO to transfer its interest in the 5400 acre feet pool to KDW&P for wildlife and parks purposes.
3. Attach additional Provisos to KWO budgets each year with much stronger and specific language forbidding releases from the Lake
4. Pass a resolution finding that the secret Agreement violated the language and intent of legislative policy, set forth in the 2003 & 2004 Provisos to protect the Lake from KWO releases.
5. At the very least, protect the Lake from KWO releases unless the Lake is at elevation 2144 and there are immediate and adequate inflows to replace the released water.

The above are just suggestions respectfully submitted by an organization that has all its cards on the table. We are frustrated and hurt by the deceitful actions of a state agency that we trusted. Our 750 plus members and the tens of thousands of users of the Lake that we represent look to you for help. Every thing else we've tried so far has failed.

On 11/30/04 the Special Committee on the Environment, in a meeting in Topeka, unanimously found that in fact there was a negative economic impact on the region by not maintaining the level of the lake at 2144 feet above sea level. This is the level around which the ramps, docks and camping facilities serve the thousands of annual users best.

Hays has had 3 decades to find a permanent reliable water source, yet for some absurd reason, it keeps looking for an unreliable source. Please help us conserve this beautiful man-made wonder and not allow its contents be used to water a golf course, wash cars and flush toilets 30 miles away.

Thank you.

Bill Scott

President

Western Kansas Water Watchers  
Ransom, Kansas

**CEDAR BLUFF RESERVOIR  
ARTIFICIAL RECHARGE POOL  
OPERATIONS AGREEMENT**

**September 22, 2004**

This Operation Agreement constitutes the policies and responsibilities of operating the artificial recharge storage identified in Section 1 for the Cedar Bluff Reservoir. Since the responsibility of water management along the Smoky Hill River is shared between the Kansas Water Office and the Division of Water Resources, Kansas Department of Agriculture (hereinafter referred to as "the Division of Water Resources"), those responsibilities are outlined and acknowledged in Section 2 of this Operations Agreement.

This agreement recognizes the hydraulic connection between streamflow in the Smoky Hill River and the adjoining alluvium. The purpose of this Operation Agreement is to effectively manage the water stored in Cedar Bluff Reservoir for artificial recharge under File No. 7,684 for the benefit of all water users in the valley. It is believed that maintaining the hydrologic system as a source of supply within the parameters allowed by the above noted file number is in the best interest of the State and the region. It is recognized that at the time of this agreement File No. 7,684 includes 5,110 acre-feet of storage space for artificial recharge and that this space will be reduced over time as sedimentation replaces some storage space.

**Section 1. Reservoir Allocations**

The Kansas Water Office, Division of Water Resources, and the Cities of Hays and Russell agree that as of April 20, 2004, the storage allocation for Cedar Bluff Reservoir are as presented in Table 1.

Table 1. Storage Space Allocation - 1994 Agreement, Original Pool Ownership

Pool Owner	Purpose	Pool Size (af)
City of Russell	Municipal Water Supply	2,700
Kansas Water Office	Artificial Recharge	5,110
Kansas Department of Wildlife and Parks	Fish, Wildlife and Recreation	21,081
KWO & KDWP	Joint Use	139,179

**Section 2. Operational Policies and Responsibilities**

The Kansas Water Office, the Division of Water Resources, and the Cities of Hays and Russell agree to the following terms and responsibilities regarding the operation of Cedar Bluff Reservoir to maintain the water supplies of the Smoky Hill Valley as well as flows of the Smoky Hill River.

- I. Release Triggers
  - A. Table 2 shows the primary trigger values associated with the releases used in this Operations Agreement. Trends in measured values and the season of the year are also important factors to consider in rate of releases.

Table 2. Primary Indicator Variable and Values for Releases.

Date	Variable	Target Value for Release
Mar - May	Streamflow at upper Schoenchen gage	2 cfs
	Streamflow at Pfeifer gage	1 cfs*
	Ground Water Levels	1.5' below baseline
Apr, May & Nov	Streamflow at upper Schoenchen gage	2.5 cfs
	Streamflow at Pfeifer gage	1 cfs*
	Ground Water Levels	1.5' below baseline
June, Sept & Oct	Streamflow at upper Schoenchen gage	2 cfs
	Streamflow at Pfeifer gage	1 cfs*
	Ground Water Levels	1.5' below baseline
July & Aug	Streamflow at upper Schoenchen gage	3 cfs
	Streamflow at Pfeifer gage	1 cfs*
	Ground Water Levels	1.5' below baseline

- B. Demand within the cities, pumping between the reservoir and the well fields and long term forecast of weather conditions should all be taken into consideration when determining the duration and quantity to be released.
- C. \*The intent of the trigger at the Pfeifer stream gage is to determine a live stream condition. Accurate measurement is expected above one (1) cubic foot per second. Initial live stream conditions for the purpose of this agreement are defined as one (1) cubic foot per second.
- D. The water table elevation in the Smoky Hill River alluvium within the Hays and Russell well fields shall be the average water table in representative monitoring wells over a one week period within the Hays and Russell well fields. When this average water table elevation has dropped 1.5 feet below baseline elevation, it will provide adequate storage space in the alluvium to store a release of recharge water. The baseline elevation will be agreed upon by all parties once operational data has been obtained and shall be adjusted, if necessary, when actual system response has been determined based on actual experience.
- E. The rate of release from reservoir storage will depend upon whether releases are being made through the outlet gate (minimum release rate of 11 - 13 cfs) or the pipeline connecting the goose rearing facilities to the reservoir (maximum release rate approximately 3 -4 cfs). The rate and duration of releases will be based on rates that consider the physical limitations of the outlets of Cedar Bluff Dam, basin conditions, and availability of storage space in the well field and will be a cooperative operational decision of all parties.
- F. The rate and duration of releases will be adjusted as system response is evaluated.

II. Release Procedures

- A. Each party will designate one individual to serve as the point of contact.
- B. The Kansas Water Office and the Cities will routinely monitor streamflow at the active USGS gages.
- C. The Cities will monitor ground water levels within their respective well fields. Measurements will be at a minimum of three times within one week to determine that a ground water trigger has been met. Less frequent monitoring is acceptable when water levels are not approaching the ground water trigger.

- D. If there is water in the Artificial Recharge pool and if any one of the release triggers are met, the Kansas Water Office will contact the other parties to determine if a release from Artificial Recharge storage is needed. If a release is needed the Kansas Water Office will contact the Bureau of Reclamation to request a release from the Artificial Recharge pool and notify all parties.
- E. The Kansas Water Office will coordinate with the U.S. Bureau of Reclamation for the release of water from storage from the Artificial Recharge pool.
- F. If no water is available in the Artificial Recharge pool and any one of the release triggers are met, the Kansas Water Office will notify both the City of Russell and the City of Hays.
- G. The Cities of Russell and Hays will monitor the progress of any release from Cedar Bluff Reservoir made pursuant to the agreement.
- H. The Division of Water Resources will protect releases from the Municipal Water Supply storage from diversion by users not covered as an authorized place of use under Water Right No. 7,628.

### III. Release Accounting

- A. Accounting of releases will follow all provisions of the "Contract Administration Memorandum (Memo) between the United States represented by the Department of Interior Bureau of Reclamation and the City of Russell, Kansas, and the State of Kansas regarding Reservoir Accounting Procedures for Cedar Bluff Reservoir, Trego County, Kansas" dated November 2003.
- B. All water released from Cedar Bluff Reservoir in response to release triggers identified in this agreement will be charged to the Artificial Recharge pool as long as water is available in such pool.

### Section 3 Binding Nature of Agreement

The provisions of this agreement shall be binding on the parties insofar as the operations of Cedar Bluff Reservoir and associated river reaches are concerned. However, any party may call for temporary changes to meet unforeseen circumstances and upon agreement by all parties such changes will be implemented.

It is recognized that this agreement can not address the regulation of water appropriated to those not party to this agreement. The State of Kansas is required by law to regulate all water users withdrawing water from the same source of supply in accordance with the provisions of the Kansas Water Appropriation Act.

### Section 4. Data Exchanges

Upon reasonable notice, each party to this agreement shall timely furnish any hydrologic, operational, and other data necessary to administer and evaluate this agreement to any other party requesting data.

### Section 5. Agreement Renewal

- A. This Operations Agreement shall remain in effect for the effective life of Cedar Bluff Reservoir.
- B. After sufficient experience has been gained by releasing water for the benefit of the Cities, the terms of this Operation Agreement may be reviewed upon request by any party.



- C. Five years after the approval of this Operations Agreement, and every five years thereafter, the Operations Agreement will be reviewed and updated to encompass changes in operations, policies, and procedures; and to reflect altered conditions in the basin.
- D. This agreement may be amended at any time by the unanimous written agreement of the parties.

**Section 8. Dispute Resolution**

In the event that agreement cannot be reached by all parties for interpretation, application or changes to this agreement, the Kansas Supreme Court alternative dispute resolution process shall be utilized.

**Kansas Water Office**

---

Tracy Streeter  
Acting Director

Date

**Kansas Department of Agriculture  
Division of Water Resources**

---

David L. Pope  
Chief Engineer and Director

Date

**City of Hays**

SUNELL KOERNER  
Mayor of Hays

\_\_\_\_\_  
Date

ATTEST:

\_\_\_\_\_  
MARK LOUGHRY  
City Clerk

\_\_\_\_\_  
Date

(SEAL)

City of Russell

\_\_\_\_\_  
HENRIETTA WENTHE  
Mayor of Russell

\_\_\_\_\_  
Date

ATTEST:

\_\_\_\_\_  
KAREN GATES  
City Clerk

\_\_\_\_\_  
Date

(SEAL)

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**WKWW**  
**WESTERN KANSAS WATER WATCHERS ASSOCIATION**  
**www.wkww.org**

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Leroy Riedel, Secretary/Treas.**

**OFFICE LOCATION:**

**200 W. WYATT EARP BLVD.  
DODGE CITY, KANSAS 67801**

October 21, 2004

Kansas Water Office  
Attn: Tracy Streeter  
901 S. Kansas Avenue  
Topeka, KS 66612-1249

Re: Cedar Bluff issue

Dear Mr. Harkin and Mr. Streeter:

These comments are a follow up to the public meeting held in Wakeeney by the Special Committee On Environment on October 13-14, 2004. Our organization speaks for many thousands of users of the Cedar Bluff Lake facility and other conservation minded people throughout the area.

First, I can't begin to tell you how betrayed and sadly disappointed our governing board felt upon learning of the 9/22/04 Operations Agreement between the Kansas Water Office and Hays and Russell. After attending the Basin Advisory Committee meeting in Hays on 7/27/04 and visiting with Tracy Streeter afterward, I felt confident that our group would be a part of any discussion concerning water releases from Cedar Bluff. No mention was made of ongoing secret meetings between the KWO and Hays and Russell.

In January 2003 Governor Sebelius charged KWO with "earning the public's trust." KWO has identified and frequently refers to a "water resource constituency" which includes natural resource groups like WKWW (Western Kansas Water Watchers, Inc.). KWO has stated publicly that it should seek the advice of these groups on water planning issues. Far from seeking our advice or earning public trust, KWO has required WKWW to file formal FOI requests to obtain information about the plans concerning Cedar Bluff. You have also removed the public hearing provisions from the basic lake management document. What happened to the openness and transparency built into the Kansas Water Plan and demanded by the Governor?

The public outrage at KWO's conspiracy with the cities of Hays and Russell was further fueled when we learned at the 10/13/04 Wakeeney meeting that KWO never consulted nor sought the advice of its own Smoky Hill/Saline Basin Advisory Committee over an issue that goes to the very core of the purpose and existence of the basin advisory committee. Surely, both of you experienced and reasonable gentlemen must have realized that you "crossed the line" when basin committee chairman Jednoralski and member Withington stood up before the legislative

committee expressing betrayal at the hands of KWO for not being told about the secret 9/22/04 Operations Agreement. KWO ignored its own procedure and violated the law when it bypassed the basin committee. The Kansas Water Plan clearly states: "Basin Advisory Committees comprise volunteer citizens located within the basin to provide advice on formulation and implementation of the Basin Sections, Kansas Water Plan."

The KWO subterfuge and doubletalk was further demonstrated when committee member Withington questioned your use of the term "artificial recharge of the alluvial aquifer" when what KWO was really doing was releasing water from Cedar Bluff for "municipal use." That's what we're really talking about, isn't it? You thought that by calling the proposed release to Hays by some other name you could avoid the legislative proviso.

Gentlemen, is it too late to ask you to tear up that agreement and start over? Is it too late to ask you to comply with those portions of the Kansas Water Plan that state:

1. "K.S.A. 82a-905 sets out public hearing and public notice requirements that are mandatory for reviewing all new Kansas Water Plan sections or subsections. All records of such hearings fall under the requirements of the open records law.
2. "The KWO shall seek advice from the general public and from committees consisting of individuals with the knowledge and interest in water issues in the water planning areas."
3. "No single organization, acting alone within the scope of its powers, can carry out programs to manage, conserve, or develop the waters of the state."
4. "It is imperative in a system analysis that input be gained from interested water users to insure that all concerns are addressed and goals accomplished." (Smoky Hill/Saline Basin section.)
5. "Current operating rules, whether by agreement or contract will not be changed unless all parties agree. Top priority of the analysis will be to maintain the lake level of Cedar Bluff Reservoir at the top of the conservation pool." (Smoky Hill/Saline Basin section.)
6. "The state recognizes the need to increase and enhance existing water-based recreational opportunities for its citizens on public land at the states large federal lakes . . ."

Is it too late to try to convince you and the city of Hays and Russell that there is no need for releases from Cedar Bluff to artificially recharge the alluvial aquifer? That the aquifer is already being recharged naturally 24 hours a day, year after year from seepage under and around the dam caused by the weight of the water stored behind the dam? (hydrostatic pressure) That by reducing the amount of water behind the dam by artificial releases, that when the releases stop (and stop they must) the natural flow (hydrostatic pressure) under and around the dam will also be stopped? That the Smoky Hill river west of the lake is dry 6 to 8 months a year and that if there was no dam there would be no water naturally flowing and recharging the alluvial aquifer all the way to Hays municipal well field? That releasing water combined with evaporation and no inflow can send the lake into a tailspin from which it may take decades to recover, if ever? And finally, is it too late to convince KWO and Hays that even under the best of release management agreements there is only so much water to be released and that any benefit is only short term? That next year or the year after Hays will be right back where it was and our lake will be seriously damaged? Nothing is to be gained by your secret agreement, and the Kansas Water Plan will be breached!



If it is too late for you to mend fences and do things right, then matters must be left to the legislative process, the attorney general's investigation, and our proposed lawsuit to be filed in Trego County requesting injunctive relief. Please reconsider your need for "certainty" with the uncertainty and adverse publicity of what is to follow.

Mr. Harkin, I never thought I would hear you say:

“. . . Cedar Bluff is a lake that will go down to the bottom again just like when it was built . . . It will fill again when there are floods and then start the process all over.”

(Hays Daily News 8/27/03)

What a cavalier and insensitive attitude! The only reason the lake ever went down to the "dead pool" 15 years ago was because of "releases." Yet in that same article you said:

"Its (Cedar Bluff) not good for a water supply because when you need it the most, its going to be dry."

You seem to be speaking out of both sides of your mouth at the same time. Who is running the KWO? Who is calling the plays? We don't know anymore.

Enclosed find a letter received by several of our members 18 months ago from then KWO Director Clark Duffy. Please carefully read the second paragraph. Mr. Duffy was fired shortly thereafter by the new governor and you once again appeared on the scene. Our organization relied on the KWO's policy statement of 1/30/03 as stated in the attached KWO letter. What caused the sudden change in the Kansas Water Plan without notice or public hearings?

As members of the general public and supporters of the legislative process we would like to know how you and/or the governor managed:

1. to by-pass a legislative budgetary proviso prohibiting the use of Cedar Bluff Lake for public water supply in effect since 1999.
2. to by-pass this proviso that was, in fact, based on the KWO's own analysis of the Cedar Bluff area situation.
3. to hold 15 closed door private meetings with Hays and Russell representatives in violation of the public notice and hearing mandates of the Kansas Water Plan.
4. to violate the mandated provisions of the Kansas Water Plan requiring Open Meetings and Open Records by denying the press and public access to the secret meetings and then requiring the press and public to file formal FOI requests to obtain copies of agreements made behind closed doors.
5. to cause the city of Russell to hold a special meeting to sign the secret Operations Agreement on the day before the legislative Committee on the Environment was to meet in Wakeeney on 10/13/04 to hear testimony on the Cedar Bluff issue.
6. to even keep the secret agreement from the eleven legislative committee members who were meeting to hear the public's testimony on the issue you had already resolved in your secret operations agreement.
7. to by-pass the Kansas Water Plan mandated procedures and KWO's own procedures and protocol requiring consultation with and advice from its own Smoky Hill/Saline Basin Advisory Committee.

8. to enter into a water release agreement with the city of Hays, which has no contractual or legal rights to the water at Cedar Bluff Lake, yet not invite Trego County representatives to participate in the negotiations when Cedar Bluff is in their county and a significant part of that county's economic life-blood.

Are you the same man who as Director of the KWO, stood up before hundreds of people at a public meeting in Ness City about 15 years ago and promised to maintain the Lake at 2144 feet elevation?

In the attached news clipping from the Hays Daily News of 10/15/04, you state:

"that the testimony Wednesday was a low point in his public service career . . ."

Mr. Harkin, its not the testimony at the 10/13/04 meeting that condemned you, it was your choices beginning last year when you decided falsely that the end justifies the means and started the secret negotiations in violation of state law and the legislative process of representative government. You in effect treated Kansas water as your own and the KWO as a conduit for your own schemes. In doing so, you have done a great disservice to the KWO and the Governor's Office. We will never forget how you deceived us. We hope the legislature, and the courts if necessary, will not allow the secret Operations Agreement of 9/22/04 to stand.

In concluding I might also mention that KWO's bragging about saving Cedar Bluff from the fate of Kirwin, Sebelius and Webster is hypocritical. If the goal is and was to stop irrigators from releasing water and preventing damage to the reservoirs, then the KWO agreement with Hays is simply a substitute for the irrigators. Whether for farming or municipal purposes the release results are the same. A release by any other name is just as damaging.

The western Kansas climate simply demands that stored water be preciousy guarded and not squandered in achieving a very, very short term goal, which will affect the lives of generations to come. Thanks for reading and please let m hear from you.

Sincerely,



Bill Scott

President

Western Kansas Water Watchers, Inc.

1-785-731-2797

BS/ane

Enclosures: 11 pages

CC: Basin Advisory Com.  
Bureau of Reclamation  
Attorney General  
Legislative Committee  
Legislators

Trego County Commissioners  
City of Wakeeney  
Cedar Bluff Lake Association  
Southshore Cabin Owners Assoc.

5/2000

*Working Draft*

# **The Kansas Water Plan**



**Fiscal Year 2002  
April 2000**

EXHIBIT  
3

6-85

Plan and knows where and how to obtain current and reliable information on the status of water resources in Kansas.

- By 2010, provide educational activities to ensure that Kansans increase their knowledge and understanding of the State's water resources to enable them to make better personal and public decisions on water conservation, development and management.

### Purpose of Policy Sections

The policy sections of the Plan should be considered as aids in developing revisions to state policy and budget allocations necessary to achieve the 2010 objectives. Some issues require annual attention and others may be addressed after an evaluation of the effectiveness of programs designed to help achieve the 2010 objectives. The policy sections serve as a guide for future major policy decisions that will be implemented after passage of authorizing legislation and/or budgetary appropriations.

### Purpose of Basin Plans

The purpose of the basin sections of the Plan is to make recommendations for the operation of state programs that can assist in meeting the 2010 objectives for a basin

The major objectives of the planning effort in each basin are:

1. Identification of priority problems that prevent achievement of 2010 objectives.
2. Identification of state programs that can help resolve problems in the basin; and
3. Program guidelines to the agencies for the operation of state programs that can assist in the resolution of problems in the basin.

### GUIDING PRINCIPLES

The State Water Resource Planning Act (K.S.A. 82a-901a) declares that "the state can best achieve the proper utilization and control of the water resources of the state through comprehensive planning which coordinates and provides guidance for the management, conservation and development of the state's water resources." The Kansas Water Office is the water planning agency for the state, and is mandated under K.S.A. 82a-903 to "formulate on a continuing basis a state water plan for the management, conservation and development of the water resources of the state. Such *Kansas Water Plan* shall include sections corresponding

with water planning areas as determined by the office." The water planning areas are the 12 major river basins in the state as shown in Figure 2. The *Kansas Water Plan* is developed through an annual planning process under the following guiding principles.

### Coordination

Hundreds of public and private organizations and thousands of individuals share the responsibility to manage the state's water resources. No single organization, acting alone within the scope of its powers, can carry out programs to manage, conserve or develop the waters of the state. It is essential that organizations at all levels, local, state, federal and frequently other states, act in a coordinated fashion to achieve desirable objectives in water resource management. The *Kansas Water Plan* is formulated and used for the general purpose of accomplishing the coordinated management, conservation and development of the water resources of the state. The Division of Water Resources of the Department of Agriculture, State Geological Survey, the Division of Environment, Department of Wildlife and Parks, State Conservation Commission and all other interested state agencies cooperate with the office in formulation of the *Kansas Water Plan*. (K.S.A. 82a-903) The planning process provides for broad participation in plan formulation. The plan itself then becomes a useful tool for coordinated future efforts in planning, implementation and operation of programs and activities to address water issues in the state.

### Comprehensive

Comprehensive planning provides guidance for management, conservation and development issues (K.S.A. 82a-901a). The policy categories are organized as such:

Public Water Supply  
Water Conservation  
Water Right Management  
Water Quality  
Flood Management  
Wetland and Riparian Management  
Water Based Recreation  
Data and Research  
Public Information and Education

Each of these categories is also addressed, where appropriate, in the 12-Basin Sections.

### Continuous





## PUBLIC INFORMATION & EDUCATION

Public Information and Public Education, while related, have different objectives. Public Information is directed at providing timely facts about specific issues or problems by means of news releases, informational brochures, journals, bulletins, videos, or other media vehicles. Public education is more process oriented with the goal of enhancing critical thinking, problem solving, and decision making.

The State Water Resources Planning Act (K.S.A. 82a-901 et seq.) provides legal authority for consideration of water resource public information issues in the *Kansas Water Plan*. K.S.A. 82a-905 sets out public hearing and public notice requirements that are mandatory for reviewing all new *Kansas Water Plan* sections or subsections. All records of such hearings fall under the requirements of the open records laws.

In addition the Kansas Water Office authorizing legislation K.S.A. 74-2608 states the duties of the Office as follows, "The Kansas Water Office shall:

(a) Collect and compile information pertaining to the climate, water and soil as related to the usage of water for agricultural, industrial and municipal purposes and the availability of water supplies in the several watersheds of the state, and, in so doing, the office shall collect and compile the information obtainable from other agencies, instrumentalities of the state, political subdivisions of the state and federal government." The duty to disseminate such information is inherent in the responsibility to collect and compile it.

The State Water Resources Planning Act (K.S.A. 82a-901 et seq.) provides legal authority for consideration of water resource education issues in the *Kansas Water Plan*. "The Kansas Water Office and the Kansas Water Authority shall seek advice from the general public and from committees consisting of individuals with the knowledge and interest in water issues in the water planning areas." Water resource education is important to expand awareness and understanding of state water planning issues and increase participation in the state water planning process.

All Kansas water agencies share an obligation and responsibility to inform and educate the public, as well as their clientele, of the value of water to the welfare of Kansas. To that end, each water agency is encouraged to develop and administer a public information and education program.

## KANSAS WATER PLAN 2010 OBJECTIVES

By 2010, *Kansas Water Plan* public information activities should be directed at ensuring the public is aware of the *Kansas Water Plan* and knows where and how to obtain current, reliable information on the status of water resources in Kansas.

By 2010, provide educational activities to ensure that Kansans increase their knowledge and understanding of the State's water resources, to enable them to make better personal and public decisions on water conservation, development and management.

### APPLICABLE POLICIES AND PROGRAMS

The following state policies and programs are in place to help achieve these 2010 Objectives.

The Kansas Water Office, Public Information and Education Program provides the delivery of timely and reliable public information on both current water issues and on the state water planning process. Many of the water-related state agencies have on staff a full time public information officer to handle news releases and public relations. While these public information programs are geared to individual agency programs and responsibilities, there is a need to better coordinate the diverse water information available, and to disseminate it to the general public. A centralized effort to coordinate and provide general information on Kansas water resources issues to the public, through the *Hydrogram* the official quarterly journal of the Kansas Water Office, internet sites, fact sheets and issue forums is coordinated by the Kansas Water Office.

Educating the public on water and its functions in nature and society is essential to the development of more informed citizens that can better understand, analyze and contribute advice on key water issues. Water education for children is an investment in the present and future as children carry home information and concerns that they share with their parents. They also retain the lessons taught on conservation and sound management of water quality and carry these practices and habits into adulthood. The Kansas Water Office currently financially supports Project WET, (Water Education for Teachers) in Kansas. Such activities as Stream Team coordination, and an adult environmental education program clearing house and electronic event calendar are currently being developed and coordinated by the Kansas Water Office.

## SMOKY HILL-SALINE BASIN

### BASIN DESCRIPTION

The Smoky Hill-Saline Basin in Kansas is an elongated drainage area, which extends eastward from the Colorado border approximately 250 miles to the vicinity of Junction City, Kansas. The Smoky Hill River headwaters are located in eastern Colorado where the North and South Forks rise. These forks join in Logan County, Kansas. The Smoky Hill flows eastward to Junction City where the confluence with the Republican River is located. Below this point the river is known as the Kansas River. The Smoky Hill River has a drainage area of about 8,810 square miles. (See Figure 1.)

The Saline River, a tributary of the Smoky Hill, rises near the Sherman-Thomas County line in extreme western Kansas. The Saline flows eastward to its confluence with the Smoky Hill River several miles east of Salina, Kansas. The drainage area of the Saline River is about 3,419 square miles, giving the entire Smoky Hill-Saline Basin in Kansas a drainage area of about 12,229 square miles.

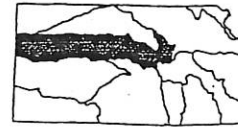
Three large federal irrigation and/or flood control projects are located in the Smoky Hill-Saline Basin. Cedar Bluff Dam and Reservoir is located on the Smoky Hill River in Trego County. This is a Bureau of Reclamation project. Wilson Dam and Reservoir on the Saline River and Kanopolis Dam and Reservoir on the Smoky Hill River are operated and maintained by the U.S. Army Corps of Engineers.

Topography within the basin is flat to gently rolling, with narrow, shallow valleys and low relief. The highest point in Kansas, Mount Sunflower at 4,039 feet, is located in northwestern Wallace County. From this point, elevations in the basin decrease to approximately 1,087 feet at the confluence of the Smoky Hill and Republican rivers.

Due to the extreme east-west extent of this basin and the differences in altitude, the basin exhibits strong variations in climate and land-use patterns. While agriculture is the predominant economic activity throughout, irrigation takes on added significance in the semiarid west.

Average annual precipitation in the Smoky Hill-Saline Basin decreases from about 33 inches in the east to less than 16 inches in the west. Mean annual runoff also shows an east to west decline, from about 5.0 inches in the east to less than 0.1 inch in the west. More than 75 percent of the precipitation occurs during the April-September growing season.

Ground water accounts for nearly 97% of reported 1997 water use in this basin. Irrigation accounts for approximately 90% of all water used



with municipal the next largest user at about 6%. The remaining use is from stockwater, industry and recreation.

### MANAGEMENT CATEGORIES

Descriptions of issues in the basin within each management category can be found in the subsections listed in the References at the end of the Basin Section or by contacting the Kansas Water Office. Program Descriptions can be found in "State and Federal Programs, 1999".

#### FY 2002 Basin Priority Issue #1: River/Reservoir Management System

##### Cedar Bluff Lake

In the last half of calendar year 1999, Public Wholesale Water Supply District No. 15 expressed interest in the use of Cedar Bluff Lake for water supply purposes. The possibility of this type of use has raised concerns by a number of members of the public. The main concern centers around maintaining lake levels at or near the top of the conservation pool for recreational benefits.

In February of 1987 the State of Kansas entered into a contract with the Bureau of Reclamation and the Cedar Bluff Irrigation District for the water storage space and associated water rights for the majority of the conservation storage in Cedar Bluff Lake. The City of Russell has a contract with the Bureau of Reclamation for 2,700 acre-feet of storage for water supply. The State initially paid \$365,000 to cover the remaining portion of the construction cost for the storage. Under the contract, the State is responsible for operation and maintenance cost of the storage that is filled each year. In 1999, the State paid \$122,475 for operation and maintenance.

In a memorandum of understanding between the Kansas Water Office and the Kansas Department of Wildlife and Parks, the conservation storage was broken into designated use pool and a joint use pool. Kansas Water Office controls 5,400 acre-feet of storage in the designated use pool and the Kansas Department of Wildlife and Parks controls 21,639 acre-feet. The 147,090 acre-feet of storage in the joint use pool is jointly controlled by Kansas Water Office and Kansas Department of Wildlife and Parks.

Cedar Bluff Lake has historically had water levels well below the top of the conservation pool. Water levels recovered in 1993 and have been at or

near conservation pool since that time. These high water levels have provided additional recreational opportunities to the area. Considerable concern has been expressed regarding the release of water from the conservation pool that may lower the water levels and reduce the recreational benefits of the lake.

### Kanopolis Lake

The State of Kansas has also recently been provided with the opportunity to purchase storage space in Kanopolis Lake under a somewhat reduced cost. In December of 1985, a Memorandum of Understanding (MOU) with the Corps of Engineers was signed, giving the State of Kansas the right of first refusal to buy storage space reallocated from water quality to water supply in federal lakes at original construction costs and interest rates. Kanopolis Lake was not included in the list of lakes covered by the MOU. That MOU expired on June 30, 1996. The result of this is that any storage purchased would be at current construction cost and interest rate.

Over the last two Congressional Sessions, the Kansas Delegation has attempted to pass legislation that would make Kanopolis storage available to the State of Kansas at a more reasonable cost. During the 1999 Session, language was added to the Water Resources Development Act, and approved by Congress regarding Kanopolis Lake storage. That language would allow the State of Kansas to purchase storage space at the average of the cost as would be determined under the 1985 MOU and updated construction costs.

The Kansas Water Office will continue to be in contact with the K.C. District of the Corps of Engineers during fiscal years 2000 and 2001 regarding the actual cost of storage as determined under the 1999 Water Resources Development Act.

### System Management

If storage space is purchased in Kanopolis Lake, the State of Kansas has an opportunity evaluate the operation of both reservoirs and the river system. All uses of the reservoirs and river must be accounted for, reviewed and receive equal consideration in the system management. The goal of river/reservoir management is to operate the storage and flows so that all uses receive the maximum benefit possible.

Hydrologic computer modeling would be used to determine the effect on both the river and reservoirs under differing management strategies. The best solution for all uses then could be identified and implemented. The best management strategy will leave as much water in storage as possible to

maintain the high level of recreational benefit currently being experienced, while providing water in the stream system for fish and wildlife habitat as well as low flow augmentation and alluvial aquifer recharge. Any releases from storage should take into consideration existing water rights, contracts, recreation interests and necessary pass through of natural flow for down stream water rights.

It is imperative in a system analysis that input be gained from interested water users to insure that all concerns are addressed and goals accomplished.

### Applicable Guidelines for FY 2002

- **Kansas Water Office: Public Water Supply Program**
  1. Conduct analyses of river and reservoir system to determine if use of storage space in Cedar Bluff and Kanopolis can be used for water supply and other uses while protecting the recreational, fish, wildlife and habitat benefits both in the reservoirs and river system.
  2. If river/reservoir system operation is feasible with the inclusion of Cedar Bluff Lake, determine how to best manage the system for all benefits and how cost associated with system management should be paid.
  3. Determine costs of Kanopolis storage space from the U.S. Army Corps of Engineers. Determine 2% chance yield of potential purchase space in Kanopolis Lake. Negotiate with potential water users for water service from Kanopolis. If cost is acceptable, negotiate contract with Corps for purchase of storage space, and determine funding source(s) for purchase.
  4. Current operating rules, whether by agreement or contract will not be changed unless all parties agree.
  5. Top priority of the analysis will be to maintain the lake level of Cedar Bluff reservoir at the top of the conservation pool.

### PUBLIC WATER SUPPLY

#### Objectives

By 2010, ensure that sufficient surface water storage is available to meet projected year 2040 public water supply needs for areas of Kansas with current or potential access to surface water storage.

Note: See River/Reservoir System Issue.





# WATER-BASED RECREATION

## BACKGROUND

Outdoor water-based recreation is an important consideration in the management of the state's water resources. The State Water Resources Planning Act (K S A 82a-901 *et seq*) provides legal authority for consideration of water-based recreation issues in the *Kansas Water Plan*. "In formulating the state water plan the office shall consider:

- (a) The management, conservation, and development of the water resources of the state as a whole;
- (b) The benefits to be derived from development of reservoir sites for the combined purposes of flood control, water supply storage, and recreation;
- (m) plans, projects, and recommendations of public corporations, the federal government, and state agencies prepared pursuant to statutory authority;
- (n) plans, recommendations, and projects of private associations or organizations as they relate to the water resources of the state..."

The state recognizes a need to increase and enhance water-based recreational opportunities for its citizens on public land at the state's large federal lakes and state fishing lakes and the related benefits for economic development and quality of life. The Kansas Department of Wildlife and Parks, State Parks and Wildlife Areas Planning and Development Program established and provides for the management of 23 state parks. All but one of these parks are associated with water recreational activities at Federal and State Lakes. The state also recognizes that its rivers and streams represent a valuable recreational resource. Canoeing and other float-type activities have become increasingly popular in Kansas despite extremely restricted access due to the state's water laws and emphasis on private property rights.

## KANSAS WATER PLAN 2010 OBJECTIVE

The proposed revised objective below is an attempt to more accurately reflect that water-based recreational opportunities may arise with willing donors and lessors, and the state should be in a position to explore such opportunities.

By 2010, increase public recreational opportunities at Kansas lakes and streams.

## APPLICABLE PROGRAMS

This objective is carried out by means of two major program initiatives: River Recreation and Water-Based Recreation.

### River Recreation

Public recreation use is generally provided on navigable rivers. Kansas has adopted the federal designation of navigable waters which relates primarily to commercial uses and includes the Missouri, Kansas and Arkansas rivers. Title to the bed and banks belong to the state on these watercourses and allow for public use of the water for recreation.

A limited number of public access points do exist on the navigable streams in Kansas. To successfully promote these existing river recreational opportunities, the Kansas Water Office and the Kansas Department of Wildlife and Parks work through the state water planning process in identifying stream reaches that could be properly developed and managed. The Kansas Water Office and the Kansas Department of Wildlife and Parks also work through the state water planning process in identifying existing river recreational facilities such as boat ramps for access and portages that need to be improved on these public access rivers.

### Water-Based Recreation

The state recognizes the need to increase and enhance existing water-based recreational opportunities for its citizens on public land at the state's large federal lakes and state fishing lakes. The state also recognizes the need to support local efforts to develop and enhance water recreational features at other locations that exhibit good recreational site potential. Such sites could include but would not be limited to recreation at multipurpose small lakes, riparian and wetland nature trails, hiking and biking trails, horseback riding trails along riparian areas, scenic river overlooks, and development and preservation of water related historic sites. Recently, the Kansas Legislature passed a Lake





**advice of general public.** In accordance with the policies and long-range goals and objectives established by the legislature, the office shall formulate on a continuing basis a comprehensive state water plan for the management, conservation and development of the water resources of the state. Such state water plan shall include sections corresponding with water planning areas as determined by the office. The Kansas water office and the Kansas water authority shall seek advice from the general public and from committees consisting of individuals with knowledge of and interest in water issues in the water planning areas. The plan shall set forth the recommendations of the office for the management, conservation and development of the water resources of the state, including the general location, character, and extent of such existing and proposed projects, programs, and facilities as are necessary or desirable in the judgment of the office to accomplish such policies, goals and objectives. The plan shall specify standards for operation and management of such projects, programs, and facilities as are necessary or desirable. The plan shall be formulated and used for the general purpose of accomplishing the coordinated management, conservation and development of the water resources of the state. The division of water resources of the state board of agriculture, state geological survey, the division of environment of the department of health and environment, department of wildlife and parks, state conservation commission and all other interested state agencies shall cooperate with the office in formulation of such plan.

**History:** L. 1963, ch. 514, § 3; L. 1975, ch. 462, § 129; L. 1981, ch. 398, § 3; L. 1984, ch. 379, § 2; L. 1985, ch. 340, § 1; L. 1989, ch. 118, § 193; July 1.

**Research and Practice Aids:**  
Levees and Flood Control = 3; Waters and Water Courses = 180.  
C.J.S. Levees and Flood Control § 4; Waters § 230.

**Law Review and Bar Journal References:**  
"High Noon on the Ogallala Aquifer: Agriculture Does Not Live by Farmland Preservation Alone," Myrl L. Duncan, 27 W.L.J. 16, 54 (1987).

**82a-904.**

**History:** L. 1963, ch. 514, § 4; L. 1981, ch. 398, § 4; Repealed, L. 1984, ch. 379, § 22; July 1.

**82a-905.** Same; public hearings on state water plan or sections thereof, procedure; approval by Kansas water authority and sub-

**mission to legislature and governor of plan or sections thereof.** Prior to the submission of the state water plan or any section thereof or any amendment thereto to the Kansas water authority, the legislature and the governor, the office shall hold public hearings at such place or places as may be convenient to the area affected, to consider the state water plan or one or more sections thereof or amendments thereto, and to hear protests or petitions of all interested persons. Notice of such hearing shall be published at least twice prior to such hearing in the Kansas register. The office shall send, by United States mail, a reasonable notice of hearing to (1) such agencies of the state as have an interest in the management, conservation and development of the water resources of the state, (2) the county clerk of each county affected by the proposed plan, (3) the agencies of the federal government having an interest in water resources management, conservation and development, and (4) such persons, public or private, as have requested notification in writing from the office. In addition, the office may send notice of a scheduled hearing to any person or persons it deems proper. The office shall furnish a summary of the proposed plan to those persons it is required by law to notify of a public hearing and to such other persons as request a summary. The records of hearings shall be public records and open for inspection at the Kansas water office. The office shall give due consideration to the matters presented at such public hearing and shall then present the plan to the Kansas water authority. Upon approval by the authority, the office shall submit the plan to the legislature and the governor. Provisions in this section concerning notice and summary shall be directive and not jurisdictional.

**History:** L. 1963, ch. 514, § 5; L. 1967, ch. 420, § 2; L. 1981, ch. 398, § 5; L. 1981, ch. 324, § 35; L. 1984, ch. 379, § 3; July 1.

**Research and Practice Aids:**  
Administrative Law and Procedure = 453, 470.  
C.J.S. Public Administrative Bodies and Procedure § 130.

**82a-906.** State water resource planning act; submission of plan and recommendations to governor and legislature. The Kansas water office, with the approval of the Kansas water authority, annually shall submit to the legislature and to the governor an up-dated water plan containing recommendations which are necessary to achieve the long-range goals and objectives for the man-

1994  
OPERATIONS AGREEMENT

FOR

CEDAR BLUFF RESERVOIR

BETWEEN

THE KANSAS WATER OFFICE

AND

THE KANSAS DEPARTMENT OF WILDLIFE AND PARKS

CONCERNING THE MANAGEMENT OF  
THE DESIGNATED OPERATING POOL  
AND THE JOINT USE POOL



c. The Corps of Engineers shall continue to have jurisdiction and responsibility for controlling releases from the existing 191,860 acre-foot flood control pool of the reservoir between elevations 2144.00 and 2166.00 mean sea level.

d. The United States shall continue to have jurisdiction and responsibility for making releases from storage when the water stored is above elevation 2166.00 mean sea level.

### 3. PROCEDURES

The Kansas Water Office and the Kansas Department of Wildlife and Parks agree to the following operating procedures:

a. The Kansas Department of Wildlife and Parks is hereby designated as the state agency to coordinate activities with the Bureau of Reclamation relative to Contract No. 9-07-60-W0387.

b. Each January the Kansas Department of Wildlife and Parks, after consultation with the Kansas Water Office, will meet with the Bureau of Reclamation to develop an Annual Operating Plan for Cedar Bluff Reservoir in accordance with paragraph 4.f. (page 9) of said Contract No. 9-07-60-W0387. Such an Operating Plan will be in effect from the upcoming April to the following March of the next year.

c. The Kansas Department of Wildlife and Parks will continue to administer the reservoir lands and lake areas for fish, wildlife and recreation including the existing Cedar Bluff State Park in accordance with existing agreements.

d. After acquisition of the appropriate water rights for Cedar Bluff Reservoir from the Division of Water Resources, operations will be as follows:

- (1) Within the "designated operating pool:"
  - (a) The Kansas Water Office will be responsible for making recommendations for any water releases from the "artificial recharge pool" (5,400 acre-feet).
  - (b) The Kansas Department of Wildlife and Parks will be responsible for making recommendations for any water releases from the "fish, wildlife and recreation pool" (21,639 acre-feet).
  - (c) The City of Russell will be responsible for requesting any water releases from the "Russell water supply pool" (2,700 acre-feet).
  - (d) Each agency will communicate with the other prior to initiating any releases from the suballocation pool within their responsibility.

- (2) Within the "joint-use pool:"
- (a) The Kansas Water Office and the Kansas Department of Wildlife and Parks will consult and reach agreement with one another prior to initiating any releases from the "joint-use pool."
  - (b) Prior to initiating a release from the "joint-use pool," the agencies will document the downstream need for the release and the expected impact of the releases on storage and resources within Cedar Bluff Reservoir.

(3) Prior to release of water, the agencies will conduct one public meeting within Trego or Ellis counties to inform the public on the intention of the release, its duration and magnitude and its impact to the lake and to solicit input from the general public on the proposed release. \*

(4) The state agencies will monitor any release from Cedar Bluff Reservoir to ensure that intended benefits of the release are realized. Any release from which intended benefits are not being realized shall be immediately discontinued. ✓

(5) The Governor will decide any unresolved issue between the state agencies arising out of the operation or interpretation of this agreement.

(6) The Kansas Department of Wildlife and Parks and the Kansas Water Office will include in their annual budgets, commencing with Fiscal Year 1996, funds sufficient to cover their proportionate share of the state's annual operation, maintenance and replacement obligation to the federal government. This obligation amounts to the greater of \$15,000 or 7.33 percent of the total annual operation, maintenance and replacement costs of Cedar Bluff Dam and related facilities. The proportionate shares reflect each agency's proportionate control of storage within Cedar Bluff Reservoir.

(a) For the "designated operating pool," each agency's proportionate share is calculated as follows:

(i) Kansas Department of Wildlife and Parks: \$12,000 or 80 percent of the total annual operation, maintenance and replacement costs associated with the "designated operating pool," whichever is greater.

(ii) Kansas Water Office: \$3,000 or 20 percent of the total annual operation, maintenance and replacement costs associated with the "designated operating pool," whichever is greater.

(b) Should water ever accumulate into the "joint-use pool," the additional operation, maintenance and replacement costs will be determined in accordance with paragraph 4.a. through 4.e. of Contract No. 9-07-60-W0387 and Title IX, Public Law 102-575-Oct. 30, 1992, 106 Stat. 4659 and 4660. Operation, maintenance and replacement costs, thus determined,



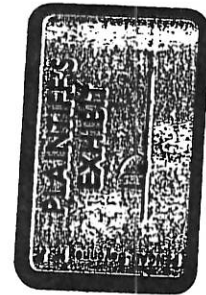
11/30/04 Meeting of Special Committee On Environment  
Topeka

59-7

**Review Economic Impact of Not Maintaining Recreational Water Pool Level at Cedar Bluff Reservoir.** The Committee determined that not maintaining the recreational water pool level in Cedar Bluff Reservoir has a significant negative impact on the communities around the reservoir, since Cedar Bluff State Park is the only water-based recreational facility in West Central and Northwest Kansas and provides camping, fishing, hunting, and boating. The Department of Wildlife and Parks reports that at the reservoir's lowest level, about 51 feet below the active conservation pool in 1992, the economic value of fishing at the lake was \$119,968, with 3,143 anglers visiting the reservoir. In 2002, the reservoir was about two feet below the active conservation pool, with the economic value of fishing estimated at \$2.1 million, and 36,897 anglers visiting the reservoir. Regional economic activity related to park use is reported at \$2.3 million for 1992 compared to \$14.7 million in 2002. The agency also reported that 45 fishing tournaments were held at Cedar Bluff Reservoir during calendar year 2003, including the Bass Anglers Sportsman Society (BASS) Federation Central Divisional Tournament.

\*

The Committee requested that the Attorney General determine whether the Cedar Bluff Reservoir Artificial Recharge Operations Agreement reached in September and October, 2004, was legally executed by the state. The Committee requests that the Attorney General's Office appear before the House Environment and Senate Natural Resources Committees to review the conclusions of the Attorney General's Opinion upon its completion.



The Committee further requests that the Kansas Water Office take no action regarding the agreement until the issuance of the Attorney General Opinion.

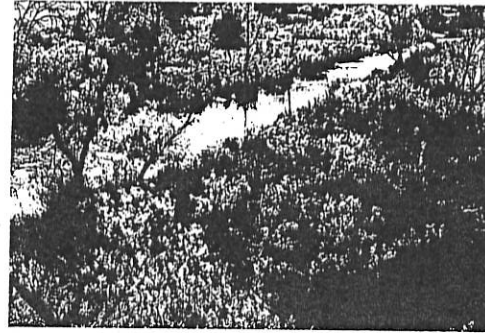
~~**Review the Voting Procedures and Privileges of the Kansas Water Authority.** The Committee recommends the introduction of a bill stating that *ex officio* members of the Kansas Water Authority shall act as a resource and support to other members of the Authority. In addition, the bill would prohibit *ex officio* members from making or seconding motions and casting votes in any meeting of the Authority. The bill would allow *ex officio* members to make or second motions, but not vote, in any subcommittee or select or other committee of the Kansas Water Authority. The~~

# Smoky Hill River and Cedar Bluff Reservoir

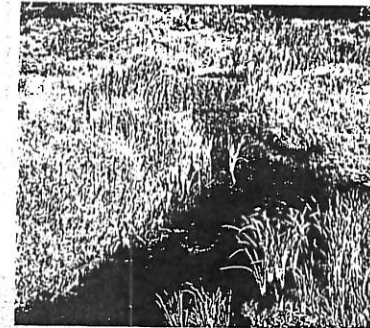
Immediately below Cedar Bluff Reservoir



Ellis / McCracken Road Bridge



Immediately above the Hays well



## Trego and Ellis County July 15, 2003

The purpose of this map and pictures is to show actual conditions on the Smoky Hill River system above Cedar Bluff Lake and some 35 miles below the Cedar Bluff Dam.

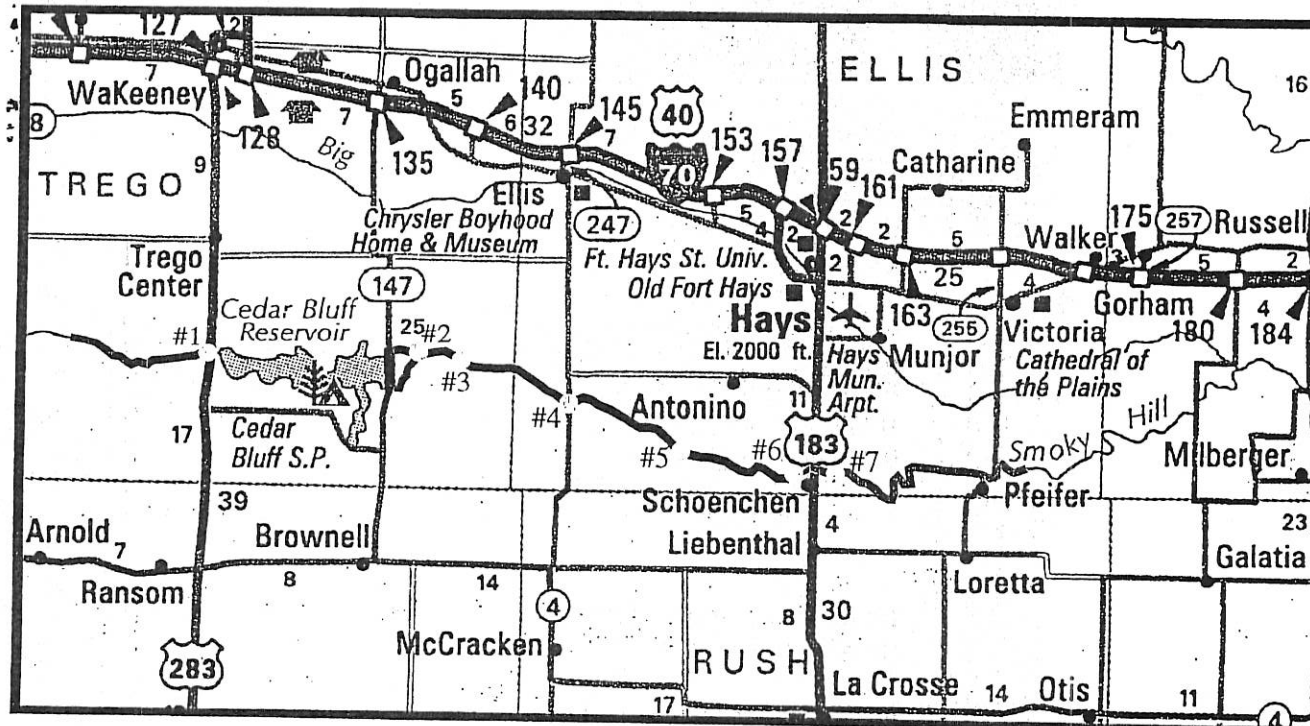
The pictures show the river channel conditions as of July 15, 2003, starting at the highway 283 bridge just above Cedar Bluff Lake. The next photos show the full river channel from Cedar Bluff Dam to the Hays well field just above Schoenchen, some 25 miles downstream. The last photos show the dry river bed at the Highway 183 bridge below Schoenchen and the Hays well fields. The dry river bed extends to Pfeifer. These are the same conditions as the summer of 2002 and many past years.

Because of some seepage through the gates of the dam, water is always in the river channel below the dam - Always has been, always will be, as long as the lake level is near conservation pool level. With no water coming in to Cedar Bluff Lake, if the dam were not in place to produce underflow, the river basin would be completely dry.

Let's protect our resources that are in place! The old saying still applies, "A bird in hand is worth two in the bush!"

A July study shows that Cedar Bluff Reservoir has an economic value to this region of \$45 million. Why would anyone even consider tampering with that resource?

Sponsored & Paid for by:  
**Western Kansas Water Watchers**  
 Over 6,226 residents of Western  
 Kansas have expressed strong  
 opposition to the release of any more  
 water from Cedar Bluff Reservoir.



**Legend**  
 Brown = Dry River Bed  
 Blue = Water in River Channel



# Watershed dams help

I read with interest the recent article submitted by DeEtte Huffman concerning flow in the Arkansas River, since it touched on a couple of issues that I deal with on a regular basis - watershed dams, in general, and Horse Thief Reservoir, in particular.

Let me first state that the lack of flow in the Arkansas River is disturbing to most western Kansans. I also would agree that the causes of this decline are many and varied.

I am concerned, however, about Huffman's lack of understanding as to the purpose and function of watershed dams.

In addition to the obvious benefits accruing from reduction in flood damages, the watershed dam systems of Kansas play a vital role in water conservation, particularly with regard to the recharge of shallow, alluvial aquifers over which they are constructed.

The Pawnee Watershed District, with which I am associated, has many years of data that shows a direct correlation between water depth in the reservoir behind a dam and groundwater levels downstream.

I am firmly convinced that, rather than reducing available water downstream, watershed dams actually enhance it. The Division of Water Resources, Kansas Department of Agriculture, reported that if Horse Thief Reservoir is constructed, "the total runoff passing the downstream section is reduced; but the effective available water to the downstream area is increased and other conditions, such as ecosystems, environmental quality and surface water uses, are improved as well."

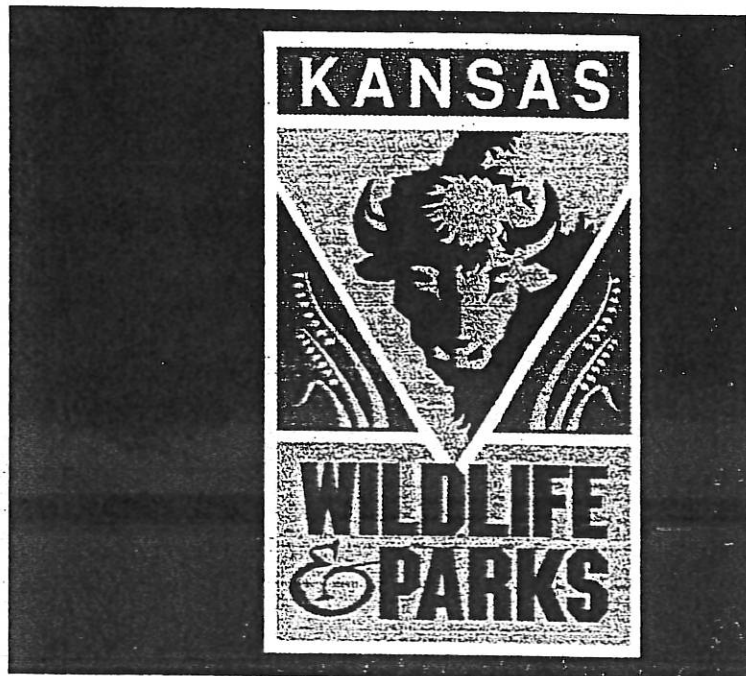
**RON ALLEN**  
manager  
Pawnee Watershed District  
Jetmore

John  
620 - 227 - 6524  
Bill



ECONOMIC  
IMPACT  
DATA

Oct. 13, 2004  
FROM  
MIKE HAYDEN'S  
OFFICE



## Cedar Bluff

### Why Is It Important?

Quality of Life

Opportunity for Water- Based Recreation

Regional Economy





## Cedar Bluff

### Why Is It Important?

Quality of Life

Opportunity for Water- Based Recreation

Regional Economy

## Cedar Bluff Activities

Camping

Fishing

Hunting

Boating

Pleasure Boating

Water Ski

Personal Watercraft

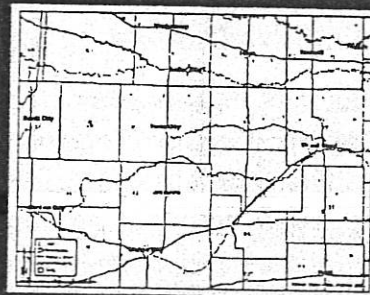
## Cedar Bluff Activities

Fishing  
45 Tournaments

B.A.S.S. Divisional Tournament  
National Exposure  
11 States Represented  
ESPN

## Cedar Bluff

Regional Influence  
Limited Opportunities  
Public  
Water-Based  
Infrastructure



# Cedar Bluff

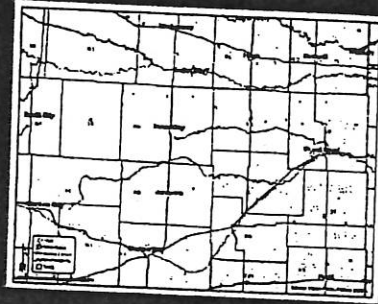
## Regional Influence

Limited Opportunities

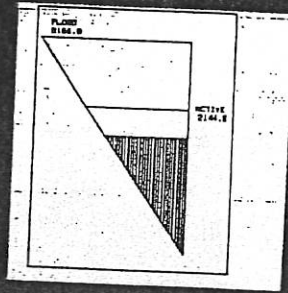
Public

Water-Based

Infrastructure



## Cedar Bluff - Current Conditions

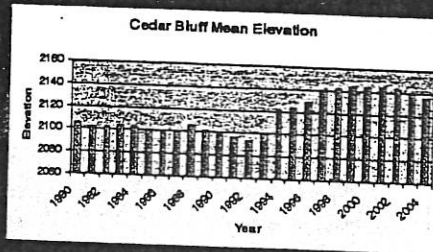


Pool Elevation is 2135.4 Feet  
Reservoir Storage is 119,693  
Acre-Feet

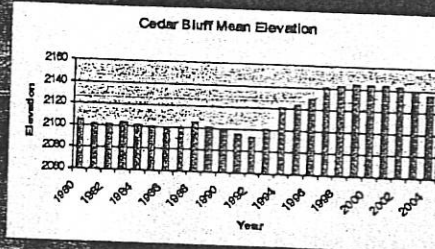
Reservoir Active Conservation Pool  
is 64.7 % Full

8.62 Feet Low

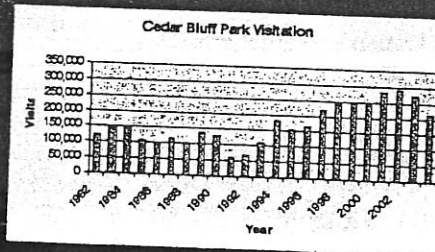
# Cedar Bluff Mean Elevation



Elevation

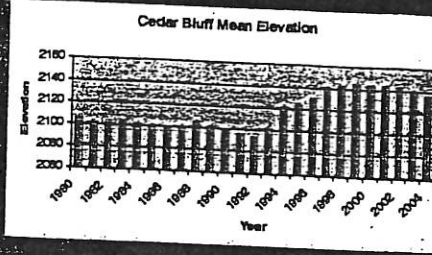


Visitation

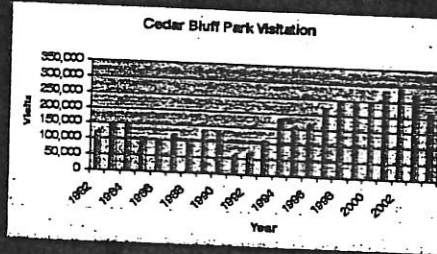




Elevation

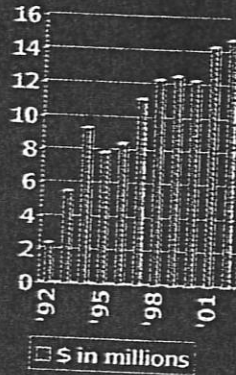


Visitation



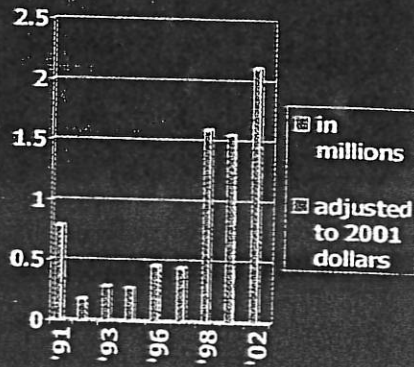
## Cedar Bluff Regional Economic Activity (Parks)

Park Visitors  
Average Direct  
Expenditure - \$51  
\$2.3 million in 1992  
at elevation 2093msl  
\$14.7 million in  
2002 at elevation  
2144msl



## Cedar Bluff Regional Economic Activity (Fishing)

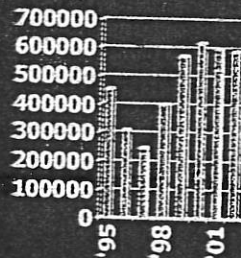
Angler Average Direct Expenditure - \$57.30  
 \$180,093 in 1992 at elevation 2093msl  
 \$2,114,198 in 2002 at elevation 2144msl



## Cedar Bluff Regional Economic Activity (Wildlife Area)

Average Direct Expenditures by Hunters per day - \$67.37

3700 - 9100 Hunters per year



Hunting Adjusted to 2001 \$

# Cedar Bluff Regional Economic Activity (Wildlife Area)

Average Direct Expenditures by Hunters per day - \$67.37

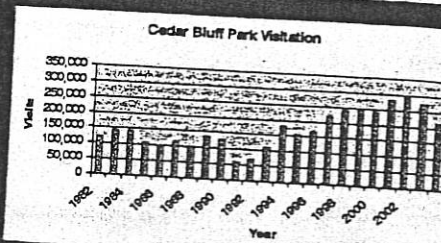
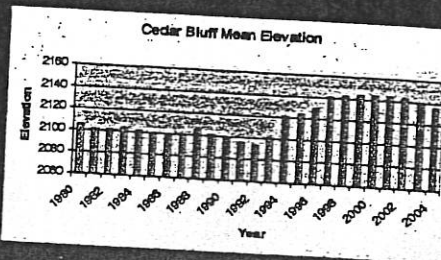
3700 - 9100 Hunters per year



□ Hunting Adjusted to 2001 \$

Economics Depend on Visitation

Visitation Depends on Pool Level





Madam Chairman and Environmental Committee

I am Bill Scott; Ransom, Kansas, a lifetime resident of Ness County having lived on a farm northeast of Ransom, near Cedar Bluff Lake. As I grew up, one of the exciting times was fishing the Smokey Hill River and then watching Cedar Bluff Dam being constructed during the late 1940s.. Therefore I have a vivid picture of the area, the dam structure and how it came together. *President Western KANSAS WATER WATCHERS* I am here to support House Bill No. 2393 which would transfer the water controlled by the Kansas Water Office to the Kansas Dept. of Wildlife and Parks. Cedar Bluff Reservoir has been a political football for many years, and it is time that it be taken off the table as a viable source of municipal water. All studies have shown that it is not a dependable source for any length of time. However it has proven itself over the last 55 years to be a very source for recreation and quality of life not only to Western Kansa but to the entire region.

E1 The economic impact of Cedar Bluff Reservoir is estimated to be 45 million to the region. The State Park system in Kansas has an impact of \$685 million. Past records indicate that park visitation, revenue and economic impact are directly dependent to the lake water level. Data shows that park visitation peaks when the lake is at conservation pool level of 2144 feet.

At the lakes lowest level in 1992, 2093 feet;, visitation was only 46,525 and a \$2,372,000 economic value but in 2002 with the lake at 2143 feet, the visitation was ~~218,946~~ *289,461* and a \$14,762 000 impact to the area. That is a 1,137 % increase.

The lake is now nearly 9 feet below conservation level. Park Revenue dropped from \$354,000 in 2003 to \$303,312 for 2004. Visitation dropped from 272,000 in 2003 to 237,225. State sales tax value went from \$502,936 in 1991 to \$2,531,359 in 2003 at the lakes peak. A direct correlation between water level and income generated.

I work part time at the Cedar Bluff State Park in season selling permits. I have seen visitors from all over the U.S. Many come from Colorado and Denver. They say because we have water.

E2 Fishermen come to Cedar Bluff because of its quality of fishing, and fantastic fisheries habitat at conservation pool level. This map appeared in The In Fisherman In May of 2004 a national publication showing Cedar Bluff as one of the better bass lakes in the region Cedar Bluff brought bass fishermen from 8 states to a national qualifying tournament. By their own figures they spent over \$196,000 in the area.

E3 This; map show what is actually happening at Cedar Bluff Lake. There has been no inflow into the lake for 18 out of the last 36 months, 2002 through 2004. However the river below the dam has had a steady flow of over 4 CFS during all that period. It never stops. This is a flow that is caused by water level in the lake. The law of gravity draws the water down and under part of the dam structure to resurface 1/2 mile down stream below the dam. From there it keeps the river channel recharged to the Hays well fields.



E 4 Watershed Dams Help Ron Allen This article states that data shows a direct correlation between water depths in the reservoir and groundwater levels downstream. The Division of Water Resources ,KDA report concerning dams “the total runoff passing downstream sections is reduced, but the effective available water to the downstream area is increased and conditions, such as ecosystems, and surface water uses are improved as well.

E 5 A paper written by John W. Reh 9/15/04 cites an example of this filtering process in a Brown County Walnut Creek Project. They found that the dams would trap 95% of the sediments entering the lake. The clean water leaving the dams actually restored the river channel to their natural state of gravel bottoms, beginning close to the dam then within a few years the sediment deposits were migrated out of district. Simply put, the higher the water level in the lake, the more water flows through the sands and structure under the dam and cleans any sedimentation from the river channel downstream from the dam. More water, cleaner water.

E6 These two charts show the river flow at two points above and below Cedar; Bluff Lake as of 1/10/05. The Arnold guage is 9 miles above the lake, notice no inflow. The Schoenchen guage is 25; miles below the dam. Notice the flow of 5CFS. There are absolutely no tributary streams in that 25 miles to feed the river.

Because of all this data, it is very important that we pass this bill 2393. Not only to protect the flow of the river downstream, with clean water, but to protect the economic value of this great lake.

What; affect would this bill have on downsteam users? We have proof that the river is already being recharged downstream for at least 25 miles. There is no need for release of water to recharge the river.

E7&E8 A report in the Hays Daily News written by Mike Corn, 2/13/05 states that “the rush to find new water is not an emergency. Engineers in 2003 determined that Hays as well as Russell had a fairly adequate supply of water for the near future.” “The Bartlett and west study found that Hays had enough water to last until 2020, based on fairly optimistic growth rates. Based on rates seen over the past 20 years, however would suggest that the water supply would be adequate even longer. The important point is that the city; has sufficient capacity to accept new term planned growth demands while maintaining its current conservation ethic.”

The same report found that Russell has enough water for several years perhaps until 2050, depending on the growth rate.

Therefore the conclusion has to be ----save this jewel in Western Kansas – for all the people.

Please support House Bill 2393. Thank you

Bill Scott 2/15/05

## Economic Impact Of Cedar Bluff State Park

Cedar Bluff Reservoir is located 13 miles south of Ogallah on Highway 147, in Trego County, or 30 miles south and west of Hays, Kansas. Originally Cedar Bluff Reservoir was constructed primarily for flood control and irrigation; recreation, wildlife and municipal uses were considered secondary. However with the finalizing of the state's purchase of the local irrigation districts water rights in 1992, irrigation had ceased and recreation and wildlife quickly became a highly valued resource for the immediate and surrounding areas. Cedar Bluff State Park is divided into two areas on the shores of Cedar Bluff Reservoir, one being the Bluffton Area (north shore) and the Page Creek Area (south shore) all of which is within rural, southeastern Trego County. Because of its rural location constituents are attracted to the area primarily as a direct result of the reservoirs' elevation or surface acreage, which when at or near conservation pool (2144), provides for a large variety of water based recreation opportunities. As a result Cedar Bluff State Park revenue and visitation, as well as the economic impact to the surrounding areas, parallels the reservoir's elevation or surface area.

Past records indicate that park visitation, revenue and the areas economic impact are directly dependant upon the reservoir's elevation. Historically, the data shows that park visitation peaks only when the reservoir is at or near conservation pool. By utilizing this data in coordination with the results of the 2001 Responsive Management Survey, which provides for a mean dollar amount spent per trip to Kansas State Parks of \$51, the economic impact to the Cedar Bluff Area has been calculated. The following economic impact figures for Cedar Bluff State Park are based upon the annual visitation recorded for both park areas. Visitation is calculated by counting the number of vehicles entering the park and multiplying that number by 3, which is the estimated number of persons per vehicle. The economic impact to the Cedar Bluff area can then be figured by multiplying the total visitation by the \$51.00 amount provided by the Responsive Management Survey. The following facts and figures will provide further evidence indicating a direct dependency upon the reservoir elevation regarding visitation, revenue and the economic impact to the immediate and surrounding areas.

### Economic Impact From 1992-2002:

1992- Visitation of 46,525 X \$51 = A \$2,372,775 impact to the surrounding area.  
Reservoir Elevation May 1<sup>st</sup> 1992: 2093.21

1993- Visitation of 108,536 X \$51 = A \$5,535,336 impact to the surrounding area.  
Reservoir Elevation May 1<sup>st</sup> 1993: 2097.48

1994- Visitation of 182,322 X \$51 = A \$9,298,422 impact to the surrounding area.  
Reservoir Elevation May 1<sup>st</sup> 1994: 2122.05



1995- Visitation of 155,122 X \$51 = A \$7,911,222 impact to the surrounding area  
Reservoir Elevation May 1<sup>st</sup> 1995: 2120.91

1996- Visitation of 165,155 X \$51 = An \$8,422,905 impact to the surrounding area.  
Reservoir Elevation May 1<sup>st</sup> 1996: 2126.70

1997- Visitation of 218,174 X \$51 = An \$11,126,874 impact to the surrounding area.  
Reservoir Elevation May 1<sup>st</sup> 1997: 2140.43

1998- Visitation of 240,870 X \$51 = A \$12,284,370 impact to the surrounding area.  
Reservoir Elevation May 1<sup>st</sup> 1998: 2142.21

1999- Visitation of 245,042 X \$51 = A \$12,497,142 impact to the surrounding area.  
Reservoir Elevation May 1<sup>st</sup> 1999: 2144.46

2000- Visitation of 240,647 X \$51 = A \$12,272,997 impact to the surrounding area.  
Reservoir Elevation May 1<sup>st</sup> 2000: 2144.57

2001- Visitation of 280,811 X \$51 = A \$14,321,361 impact to the surrounding area.  
Reservoir Elevation May 1<sup>st</sup> 2001: 2143.77

2002- Visitation of 289,460 X \$51 = A \$14,762,460 impact to the surrounding area.  
Reservoir elevation May 1<sup>st</sup> 2002: 2143.05

As is visitation, Cedar Bluff State Park's revenue, which is derived primarily from permit and license sales, is also dependant upon the reservoir's elevation and the quality of opportunities it affords. In 1992, when the reservoir was at an elevation of 2093.21, the camping fishing and boating opportunities were very limited. Therefore visitation was very low and the revenue generated for 1993 was a mere \$33,924.28 compared to 2002's revenue of \$385,845.00 at a reservoir elevation of 2143.05. A 1,137% increase. Although there have been renovations, improvements and some new opportunities created, the data still shows that the reservoirs elevation is still the primary influence affecting Cedar Bluff State Park's economic impact. It is basic supply and demand. As the water supply is at or near conservation pool, which maximizes the reservoir's recreational potential and carrying capacity, the demand increases because the reservoir is capable of meeting the recreational needs of a larger sector of constituents who have a variety of different recreational interests.

\* These facts and figures do not take into account the economic impact derived from the use of the wildlife area and the private cabin areas on the reservoir; both of which attract visitors to the area. The cabin owners also contribute through lease agreements and property taxes.

Attached are charts and tables containing historic data concerning Cedar Bluff State Park visitation, revenue and reservoir elevations.

Table 1

Cedar Bluff State Park Reservoir vs Visitation vs Revenue Comparison			
	<u>May Reservoir Elevation</u>	<u>Visitation</u>	<u>Revenue Generated</u>
1987	2101.62	115,229	\$50,053.76
1988	2104.95	99,575	\$64,767.00
1989	2100.79	137,113	\$60,758.88
1990	2098.74	94,914	\$50,379.97
1991	2096.18	58,385	\$45,961.51
1992	2092.86	46,525	\$33,924.88
1993	2097.48	108,536	\$76,381.60
1994	2122.05	182,322	\$101,793.80
1995	2126.80	155,122	\$104,415.71
1996	2127.15	165,155	\$142,164.71
1997	2140.50	218,174	\$183,617.66
1998	2142.72	240,870	\$207,245.34
1999	2144.46	245,042	\$213,757.00
2000	2144.57	240,647	\$245,351.09
2001	2143.77	280,811	\$294,201.85
2002	2143.05	289,460	\$340,952.63

2003 2139.79

272,000

\$ 354,000

Visitation vs Revenue

2004

2137

Figure 1  
257,225

\$ 302,312

2005-

2135.7

2004 - 17.3% decrease in Revenue from 2003

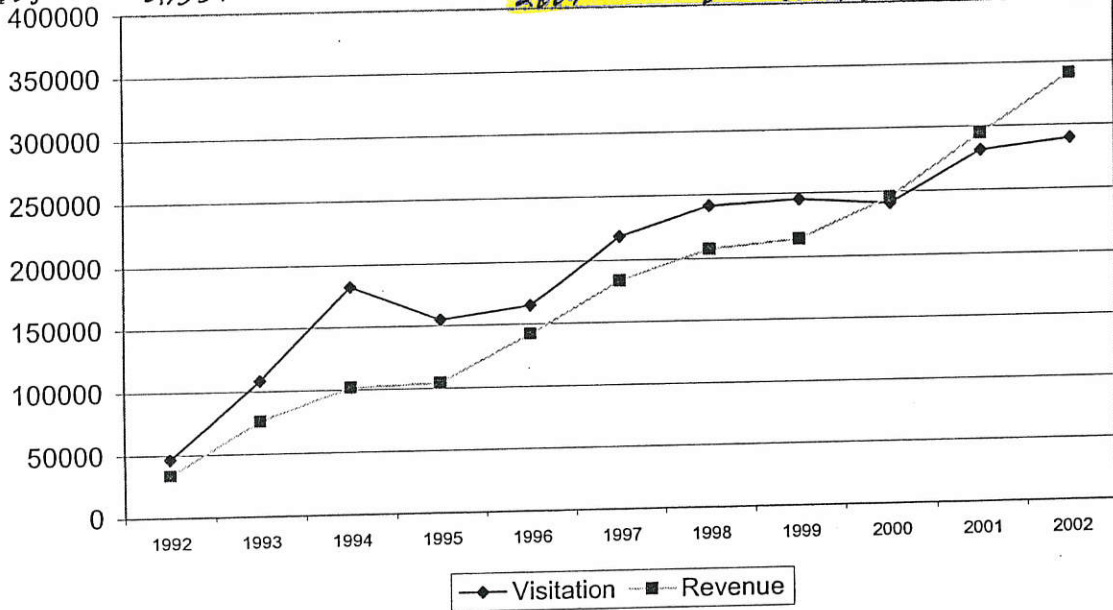


Figure 2



May 2004  
ECONOMIC IMPACT OF LAKESIDE  
ON SALES TAX

Positive annual inflow twice 1951 & 1993

Cedar Bluff Park - only one in Western Region profit  
 and one of the few out of the 23 state

1991

\$45981.00 state park revenue from Cedar Bluff

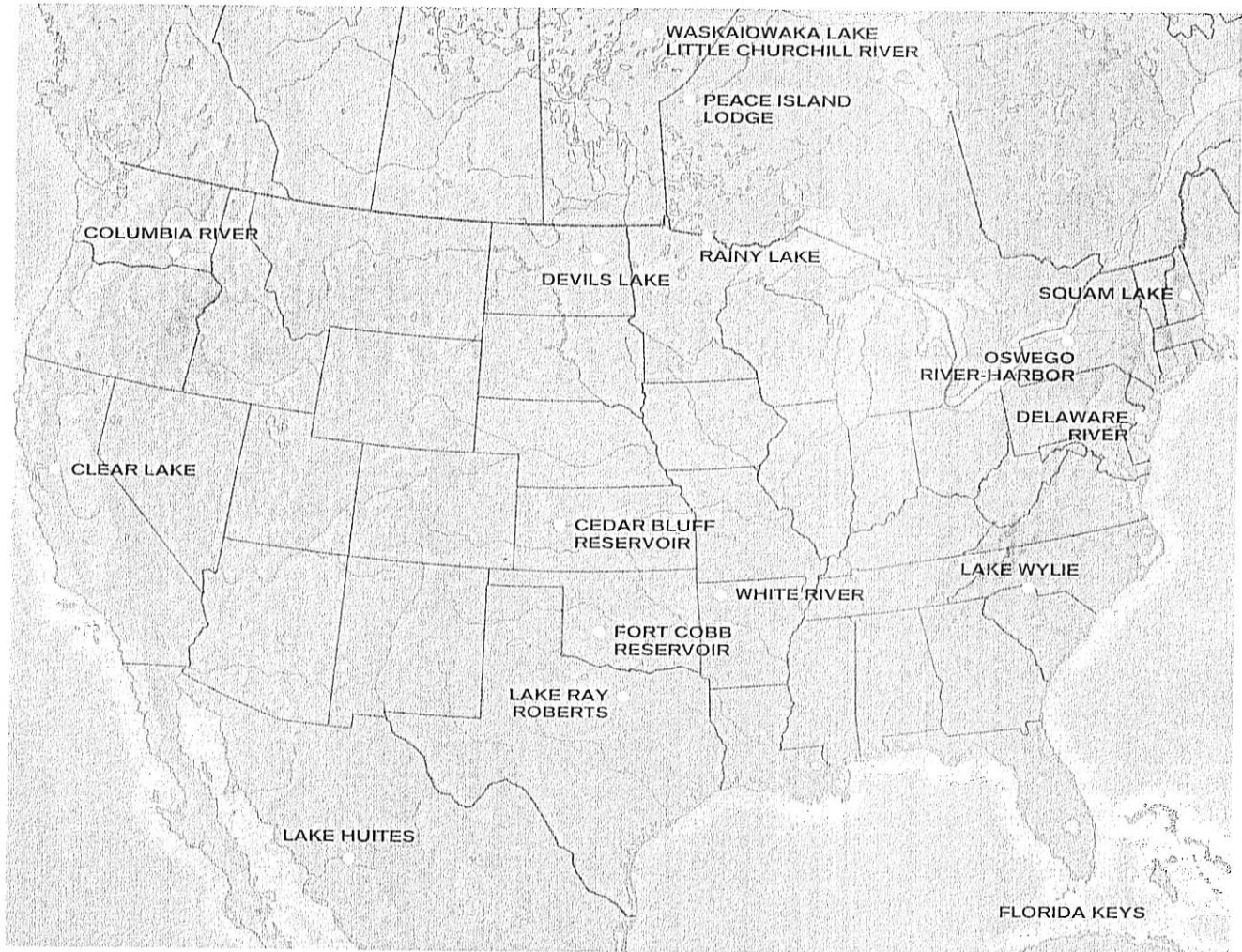
These figures 50385 visitors  
 of cost to go \$50 avg cost to go to the lake  
 to the lake \$2,919,250 direct expense x 2.5 turns on the dollar = 7,298,125  
 sales tax 5.3% state sales tax using current tax base for comparison 5.3%  
 state were standardized for the sake of comparison \$116,136 sales tax \$386,800  
 state sales tax \$502,936

2002

\$337,616 state park  
 300,000 visitors  
 \$50 per visitor personal exp  
 15,000,000 x 2.5 turn on \$ = 37,500,000  
 5.3% sales tax  
 \$795,000 state sales tax \$1,987,500  
 \$2,782,500

2003

Revenue \$354,905 state park (increase in fees)  
 272,923 visitors  
 \$50  
 \$13,646,150 2.5 turns on \$ = 34,115,375  
 5.3% sales tax \$1,808,114  
 \$723,245 state sales tax \$2,531,359



**CLEAR LAKE**

**CLEARLAKE OAKS, CALIFORNIA**

Largemouths

This is the giant-bass capital of the world, with huge fish moving shallow to spawn about now. No other lake in California provides such consistent action for big fish. Expect to use big baits like Toro tubes and 9X Senkos.

**Contact:** Andy Cuccia, 925/625-5148; [www.coochfishing.homestead.com](http://www.coochfishing.homestead.com).

Terry Battisti

**CEDAR BLUFF RESERVOIR**

**KANSAS**

Largemouths

One of the most popular lakes in Kansas for club tournaments. Lots of bass in the 4- to 6-pound range. Get there before the crowd and fish for bass holding in flooded hardwoods and cedar trees.

**Contact:** Sport Haven Bait and Tackle, 785/726-4457.

John Neporadny

**COLUMBIA RIVER**

**RICHLAND, WASHINGTON**

Smallmouths

Big bass head up tributaries like the Yakima River and Hanford Reach to spawn. Look for rocky areas protected from main current.

**Contact:** Guide Bob Adkinson, 509/783-6483.

Terry Battisti



**WHITE RIVER <**

**ARKANSAS**

Brown Trout

We shot spectacular television footage on the White River last November, catching browns up to 7 pounds. It's a world-class fishery and Gaston's remains among the top five of the finest resorts I've been at in my 30 years on the road.

**Contact:** Gaston's White River Resort, 870/431-5202, [www.gastons.com](http://www.gastons.com).

Doug Stange



# Watershed dams help

I read with interest the recent article submitted by DeEtte Huffman concerning flow in the Arkansas River, since it touched on a couple of issues that I deal with on a regular basis - watershed dams, in general, and Horse Thief Reservoir, in particular.

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**RON ALLEN**  
manager  
Pawnee Watershed District  
Jetmore

Just as Cedar Bluff Reservoir has done for the Smokey Hill River down stream for the last 54 years.

This same principle has proven to be true at Cedar Bluff as the river flows continuously at over 4CFS as the water resurfaces about 1/2 mile below the dam and flows all the way to the Hays well field some 25 miles downstream. This has been going on for 54 years.

5.

# SOME ENVIRONMENTAL EFFECTS AND OTHER OBSERVATIONS ABOUT WATERSHED PROJECTS IN KANSAS

## UNGATED LOW FLOW RELEASES

Ungated drawdown pipes, open valves on drawdown pipes, or backflow restrictive devices are usually not necessary to provide low flow augmentation of streams below single purpose detention dams or grade stabilization structures. Such structures are not built with positive cutoff of seepage as is usually necessary on multipurpose structures where water storage for municipal supply or recreational use are primary purposes. The single purpose dams are also usually built with foundation drains to pass underflow or seepage safely through or under the dam. Some portion of water stored in sediment pools also finds its way into alluvial groundwater storage under the pools or downstream from the dam. This water would have passed through ungated drawdown or other open pipes relatively quickly and thereby would have followed closely behind flood flows instead of being available during dry periods when some stream flow augmentation would be beneficial.

## IMPACTS ON STREAM CHANNELS BELOW DAMS

Most completed watershed projects show improved stream flow characteristics over pre-project conditions. A prime example is the Walnut Creek Watershed Project in Brown County, Kansas. At the time project planning began, long time watershed residents remember being able to swim in deep pools between the gravel riffles. In 1954, when planning began, that was no longer possible as stream channels throughout the watershed had deep sediment deposits covering what were once gravel bottom streams. Project installation, consisting of land treatment, grade stabilization structures, and detention dams was completed in 1969 and a transformation began to take place. Grade stabilization structures and detention dams have capability to trap 95 % of sediments entering the dams. The relatively clean water leaving the dams picked up channel sediments to re-satisfy the water's carrying capacity. Thus the channels began to be restored to their natural gravel bottom condition, first in upper parts of the watershed nearest the dams. Then over a period of 20 to 30 years the sediment deposits migrated lower and lower through the watershed and finally out of the watershed and into the major river system below.

Other watershed projects throughout the state show similar improvements in stream flow conditions. The Upper Walnut Creek Watershed Joint District No. 58 has observed the favorable impacts of detention dams and floodwater retarding structures on stream flow in the South Fork Wet Walnut Creek sub-watershed. Three floodwater retarding dams controlling 141.2 square miles and 4 detention dams controlling 13.6 square miles have been built in this 310 square mile sub-watershed, all with wet sediment pools. Stream flow on the South Fork Wet Walnut has been more prevalent through drought periods since construction of these dams than on the North Fork where no floodwater retarding dams or detention dams yet exist. Water was still in storage in these dams, albeit below drawdown elevations, following the recent drought conditions which were partially abated in July and August 2004. No water would have been in storage in this sub-watershed had the dams been built as dry dams. Some pools of water also were present on the South Fork during later stages of the recent drought when none were present on the North Fork.

---

John W. Reh, P.E., September 15, 2004 authored this paper. The author has 48 years experience in all phases of watershed project planning, installation, and operation in Kansas.



Local weather forecast by "City, ST"

City, ST  Go

National Conditions  
Rivers  
Satellite  
Climate

Local Conditions  
Warnings  
Weather Forecast  
Radar

What is AHPS?  
Facts  
Our Partners

NEW

Feedback/Questions  
Provide Feedback  
View All Feedback  
Ask Questions

Local weather forecast by "City, ST"

City, ST  Go

National Conditions  
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Provide Feedback  
View All Feedback  
Ask Questions

Weather Forecast Office  
Dodge City, KS

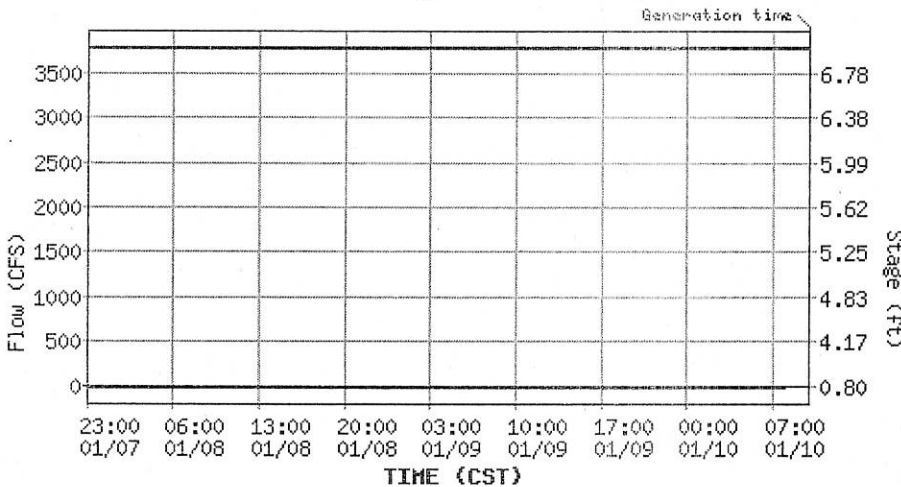
Missouri Basin River  
Forecast Center

### Smoky Hill River near Arnold

Observations courtesy of the US Geological Survey.  
Flood Stage: 7 Feet

Latest Stage: 0.55 Feet at 09:00 CST 01/10  
[Graph Description] [Feedback] [Text Products] [Precip.]  
[Impacts] [Map] [Historical Crests]

**SMOKY HILL RIVER NEAR ARNOLD 12N**  
(ARNK1, USGS 86861000) Gauge Datum = 2196.13ft (NGVD29)



Observed — Bankfull — Flood — Moderate — Major —

Latest: 0.55 ft 0 CFS (0% of flood flow) [09:00 01/10]  
Max: 0.56ft (0 CFS) Max Fcst: NONE  
Min: 0.53ft (0 CFS) Min Fcst: NONE

**Tabular Data**

- Click Smok at:
- Arkansas R
  - Cimarron R
  - Crooked Cr
  - Bluff Creek
  - Medicine L
  - South Fork
  - Rattlesnake
  - Buckner Cr
  - Pawnee Riv
  - Walnut Cre
  - Smoky Hill
  - Big Creek -
  - Saline River

Weather Forecast Office  
Dodge City, KS

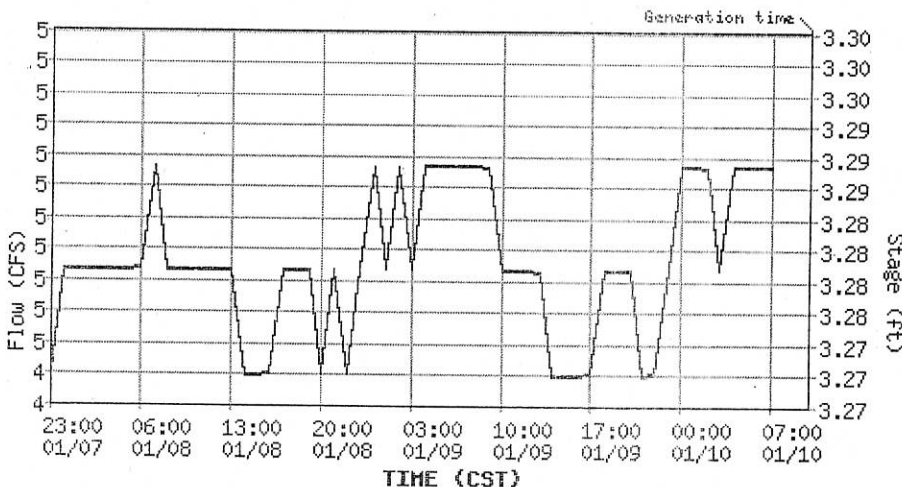
Missouri Basin River  
Forecast Center

### Smoky Hill River above Schoenchen

Observations courtesy of the US Geological Survey.  
Flood Stage: Undefined

Latest Stage: 3.30 Feet at 08:00 CST 01/10  
[Graph Description] [Feedback] [Text Products] [Precip.]  
[Impacts] [Map] [Historical Crests]

**SMOKY HILL RIVER NEAR SCHOENCHEN 1W**  
(SCNK1, USGS 06862700) Gauge Datum = 1925.78ft (NGVD29)



Observed —

Latest: 3.30 ft 5 CFS [08:00 01/10]  
Max: 3.30ft (5 CFS) Max Fcst: NONE  
Min: 3.27ft (4 CFS) Min Fcst: NONE

**Tabular Data**

- Click Smok at:
- Arkansas R
  - Cimarron R
  - Crooked Cr
  - Bluff Creek
  - Medicine L
  - South Fork
  - Rattlesnake
  - Buckner Cr
  - Pawnee Riv
  - Walnut Cre
  - Smoky Hill
  - Big Creek -
  - Saline River



# Study: Finding new water sources not an emergency

By MIKE CORN 2/13/05  
HAYS DAILY NEWS

The reconfiguration of Hays' wellfield along the Smoky Hill River near Schoenchen is just one in a series of water issues now on the table.

The wellfield issue would involve moving six of the city's 12 wells, all in hopes of nearly doubling the amount of water that could be withdrawn from the river.

The quest to supplant the city's water supply doesn't stop there. But the rush to find new sources of water isn't an emergency.

Engineers in 2003 determined that Hays — as well as Russell — had a fairly adequate supply of water for the near future.

That Bartlett and West study found that Hays had enough water to last until 2020, based on fairly optimistic growth rates. Based on rates seen over the past 20 years, however, would suggest that the water supply would be adequate even longer.

"The important point to be gleaned is that the city has sufficient capacity to accept near-term planned growth demands while maintaining its current conservation ethic," the report said.

The same report found that Russell has enough water for several years, perhaps until 2050, depending on the growth rate. Rus-

sell is limited by its ability to treat water at its water treatment plant.

Despite a lack of an emergency, there are a number of activities under way.

There's the agreement that was reached between the cities of Hays and Russell and two state agencies — the Kansas Water Office and the Division of Water Resources — concerning the release of water from Cedar Bluff Reservoir.

That water, not expected to exceed 200 acre-feet a year, would essentially keep the river wet, so that any water entering the river — through rain or even lake releases under the auspices of a water right owned by the city of Russell — would make its way downstream.

That agreement, however, has angered legislators and supporters of the lake.

Legislators in October asked for an attorney general's opinion concerning the legality of the agreement. Attorney General Phill Kline upheld the contract but said the two state agencies came close to violating the legislative intent of a provision that was attached to the Kansas Water Office's budget.

That proviso essentially refused to let the agency spend money to make releases and declared that it was the state's intent to keep water levels in the lake as close as possible to the conservation level.

Since that opinion was released, lake supporters and cities and counties in the region filed a lawsuit against the state over the agreement.

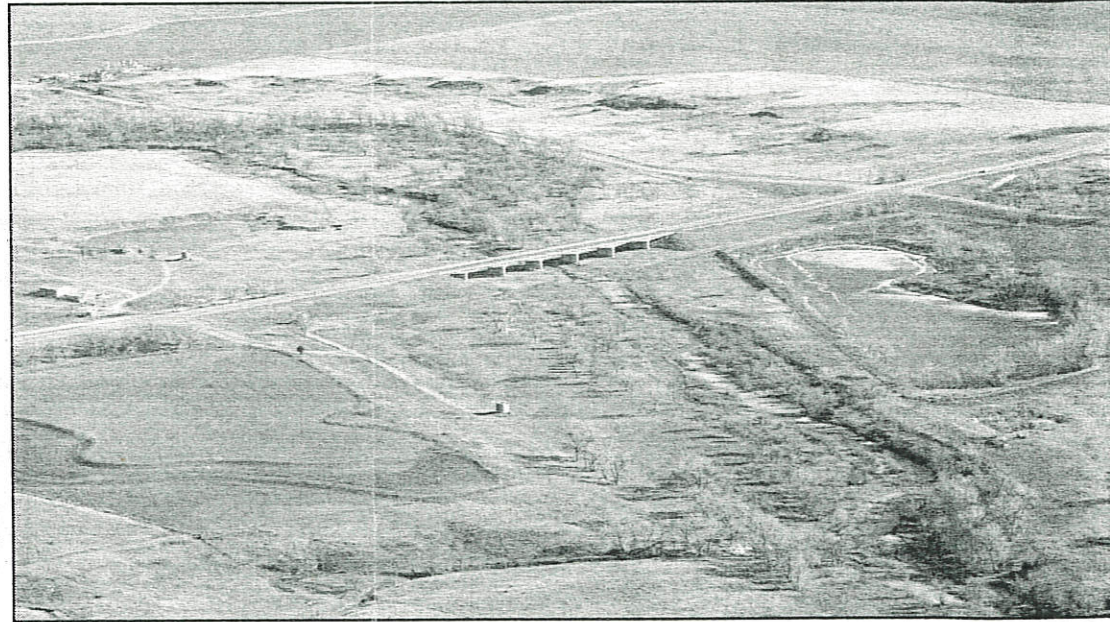
Legislation has also been introduced in the House and Senate mandating the transfer of water in the lake from the Kansas Water Office to the Kansas Department of Wildlife and Parks.

If approved, legislation would forbid "further releases of water from Cedar Bluff Reservoir for any reason other than flood control, honoring the longstanding city of Russell contract and maintenance of the Kansas Department of Wildlife and Parks facilities below the dam. Every effort shall be made to maintain the lake at the top of the conservation pool."

In addition to the Cedar Bluff contract, the Kansas Water Office just recently released a draft copy of a memorandum of understanding that would set the stage for future projects to resolve issues relating to water supplies for the city of Hays.

The first item in the agreement involves the modification of the Smoky Hill wellfield.

Much of the remaining document is something of a philosophical discussion of what role each participant would take in resolving the issues. It would also require Gov. Kathleen Sebe-



STEVEN HAUSLER / Hays Daily News

An aerial photograph shows water in the Smoky Hill River at Schoenchen and Hays city wells located on either side of U.S. Highway 183. A project is being proposed to expand the wellfields so individual well sites would not influence adjacent wells.

lius to conduct a press conference announcing that Hays "has an adequate supply of good quality water for its current needs and future growth."

Two methods will be primarily used to ensure long-term supplies of water, including a joint effort by the city and state to acquire water rights near the city's existing wells.

The ultimate long-term solution, according to the memorandum involves efforts to obtain

water from Wilson Lake, north-east of the city of Russell.

The Kansas Water Office would agree to seek money to ask the U.S. Army Corps of Engineers to conduct a study of the quality and availability of water in Wilson for Hays and Russell to use.

The KWO also would move ahead with efforts to purchase water storage in Wilson, adding that water to the state's water marketing program.

Hays and Russell could then purchase water from the marketing program and develop plans for the treatment and transfer of water from the lake to the two communities.

Hays would also be able to use water from a cleanup program undertaken by the Kansas Department of Health and Environment. That water amounts to about 20 percent of the city's water supply and will be available for about 20 years.

Bartlett West - Hays & Russell Study 5/03 Water Supply Review PN 13771



aquifer may occur only to be recovered when stream flow again increases. Refer to the Report for a more rigorous statistical assessment.

Figure 1 is a graphical representation showing water use projections for the City plotted over the top of the available water rights and safe yield limitations discussed above. Population projections along with water use projections are often as much art as they are science. The key to their use is estimating the sensitivity of the results to their impacts on the subsequent actions. For example, under-estimation could result in under-sizing long-term infrastructure requiring parallel units to be installed later. The converse of over-building requires expenditures of often short capital dollars for capacity that may never be used. The graph shows the historical data from 1990 through 2002 and clearly shows the impacts of the water conservation measures implemented by the City in 1992. The current average usage within the City is about 100 gallons per capita per day (gpcd), down from about 150 gpcd prior to judicious and commendable conservation efforts.

\* The graph also clearly shows that community economic development should not be limited due to a lack of current water supply. The recent average annual water use is about 1 MGD less than the estimated safe yield and about 1.4 MGD less than the available water rights.

\* The curve data extracted from the Burns & McDonnell report represents a combination of a projected 1.25% annual population growth rate (growing to 36,350 by 2050) but more significantly projects that the per capita water demand would also increase to 151 gpcd by the year 2040 and then held constant to 2050. This projection shows that the current estimated safe yield of the City's water supply sources would be exceeded starting in 2010 and the current water rights limits would be exceeded in about 2020.

\* The second curve reflects a 2% annual growth rate in water use for the period. This curve combines the projected population growth with a more modest growth in projected per capita water demand, showing that the projected per capita water use might increase to about 140 gpcd by 2050. This projection shows that the safe yield would not be exceeded until about 2020 and the current water rights not until about 2030.

\* Both of the curves show growth rates significantly greater than that experienced in the area over the past 20 years. More conservative estimates would shift the intersection points even farther to the right. The important point to be gleaned is that the City has sufficient capacity to accept near term planned growth demands while maintaining its current conservation ethic. \*

However, the City should continue efforts to assure the firm capacity of its water supply. Working together with the City of Russell, Hays should develop a management plan that defines what actions the City should take as the average daily water usage trends upward toward the currently estimated safe yield and available water rights.

Testimony of Stan Healzer  
Before the Committee on the Environment  
February 15, 2005

My name is Stan Healzer. I own Healzers Tire Inc. in Ness City, KS. My business has been in existence since 1947. It is located on Highways 283 and 96. I'm also a city councilman in Ness City.

It has been an observation of mine that hundreds of boats, campers, jet skis and all kinds of recreational units pass by my business every few days during the spring, summer and fall months, most with the destination of Cedar Bluff Reservoir.

The economic impact of their business is very important to our community, from the hotels, restaurants and sporting good store, to the gas stations and our town super market. The list goes on and is only one of many communities in central and western Kansas that also benefit.

This doesn't even take into consideration the secondary revenue created in the tax base that is collected each year on all those recreational vehicles that pass through and the benefit to other counties and the State.

The importance of the economic stimulus created by a unique resource such as Cedar Bluff Reservoir is indeed large.

The proposed and contested releases of water from Cedar Bluff Reservoir would be just another nail in the coffin for the economy of many small towns and their struggling businesses, while the benefits to Hays are minimal at best. [Reference hydrologic study]

As a public servant, it has been my responsibility to be a good steward of the citizens' assets, the infrastructure and their tax dollars. The City of Ness recently purchased ~~149~~ acre feet of water for \$165,000 from a local farmer. I know that water is vital to a community but there are responsible ways to acquire it and use it. To squander a precious natural resource, to harm local and State economies and damage an irreplaceable part of Western Kansas' recreational assets for questionable gain is not. In my opinion, nor that of my constituents, is that showing good stewardship regarding the proposed and contested releases from Cedar Bluff Reservoir.

I urge you to give consideration to the House Bill #2393 as it is just the kind of law we need to bring an end to this never-ending issue and bring stability to our area.

My family and I use the Lake all summer and would deeply appreciate your help.

Thank you,

Stan Healzer



Trego County Economic Development  
Talking Points Regarding Cedar Bluff

1. The lake is vital to our local economy. Wildlife and Parks estimates that over a ten-year period, from 1992 through 2002, Cedar Bluff contributed \$110,805,864 to the regional economy. That is an average of \$11,080,586 per year. If every one of those dollars “turns” four times in the regional economy, the lake has an annual regional economic impact of \$44,324,000.
2. The revenue generated by Cedar Bluff is directly related to the elevation levels of its water. Simply put, there is a direct correlation between lake levels and dollars spent in the region. For example, when the lake was at the low level of 2093 ft. in 1992, its direct regional economic impact was \$2.37 million. When the level was higher, at 2155 in 2000, its direct regional economic impact was \$14.76 million. These are estimates generated by Wildlife and Parks.
3. The figures stated above do not include the economic impact derived from the use of the wildlife area and the private cabin areas on the reservoir; both of which attract visitors to the area. The cabin owners also contribute through lease agreements and local property taxes.
4. What may be more important to western Kansas than the dollars generated are the numbers of people who visit Cedar Bluff each year. Out of state visitors are highly coveted by the State of Kansas and the Kansas Department of Travel and Tourism places a high priority on attracting out of state tourists. At least seven out of state Bass Fishing clubs have held tournaments at Cedar Bluff over the last two years, and more are scheduled for the future. In addition to the dollars they spend, visiting Cedar Bluff also gives these out of state guests a chance to see our counties and experience our quality of life first hand. Several economic development groups use this to their advantage by encouraging visitors to buy vacation property in the region or to consider relocating here on a permanent basis. It is easier to get people to live here if they visit us first, and Cedar Bluff gives us a draw for such first time visitors.
5. Cedar Bluff provides the only water based recreation in the western half of Kansas. Its cabin owners and regular users include residents of Ford, Finney, Pratt, Ellis, Russell, Gove, Lane, Rush, Ness, Logan and other counties. It is truly a regional quality of life asset that the region can not afford to lose.
6. Several new businesses and housing developments have been launched near Cedar Bluff. More development is on the drawing board, but much is also on hold pending water releases from the lake on behalf of Hays and Russell. Threatening the elevation levels and water supply in Cedar Bluff discourages development and investment in property that is so desperately needed for our tax base.
7. Water flows downhill. If Hays and Russell insist on having the Kansas Water Office (KWO) administer the water rights along the Smoky Hill River between Pfeifer and the dam, we will have no choice but to ask the KWO to administer the rights above Cedar Bluff. This will significantly impact agriculture and the economic well being of all the counties located west of the lake along the Smoky. Releasing water from Cedar Bluff will only intensify competition for scarce water

in western Kansas. It will do nothing to enhance cooperation or reduce conflict among the counties of western Kansas.

8. The Kansas Water Office has determined that the releases of water requested by Hays and Russell qualify as “artificial aquifer recharge” which is one of the allowable uses of water from Cedar Bluff. The Kansas Legislature has previously forbidden the water in Cedar Bluff from being used as municipal water supply. The water releases demanded by Hays and Russell are clearly going to be used for municipal water, which is not allowed, but the KWO and the two communities are saying it is artificial aquifer recharge, which is allowed. Will the legislature allow this lie and legal fiction to stand? Or will the legislature enforce the ban on using Cedar Bluff for municipal water? This is an important distinction and question.
9. Hays and Russell do not have an immediate municipal water supply problem. Their problems are long term and even their own engineering studies indicate they will not need additional water until the year 2018 in a worst-case scenario, and 2030 in a best-case scenario. While the two communities are to be applauded for working now to head off problems in the future, it is imperative that they focus on a long-term water supply solution rather than depleting Cedar Bluff in the short term. Using Cedar Bluff, as a municipal water supply and squandering its water in the short term will still leave them without water and seeking additional supplies for the long term. It just plain makes no sense to waste Cedar Bluff if doing so does not solve any long-term problems.
10. Hays and Russell have other options to increase their water supplies. Even the Kansas Water Office says Cedar Bluff is not a long-term solution to the water problems professed by Hays and Russell. Other long-term solution options include obtaining water from Wilson Reservoir, which has much more stable water levels. The two communities could also work to retire private irrigation water rights between the dam and Schoenchen. Retiring these over appropriated water rights could free up almost 1500 acre feet of water, more than enough to supply what is needed by Hays and Russell.
11. Hays contends that Cedar Bluff impedes water from flowing down the Smoky to their well fields east of the lake. In reality, seepage from the dam, when the lake is above conservation level, keeps the aquifer charged and recharged so that the river does flow between the dam and Schoenchen. It is the Hays well field, which drains the river, not Cedar Bluff. When the lake drops below conservation level, the seepage stops and the river indeed does not flow. Keeping water IN Cedar Bluff recharges the aquifer more efficiently than so called “artificial aquifer recharge releases” sought by Hays and Russell. In test releases, only 30% of water released reaches its destination, which means that using this as an artificial aquifer recharge technique WASTES 70% of the water released.
12. There has been a pattern of misinformation, deceit, secrecy and outright lies concerning this issue by the Kansas Water Office and the cities of Hays and Russell. When determining the criteria for water releases, only three of 18 meetings were open to the public, despite requests by the Western Kansas World newspaper in WaKeeney and the Hays Daily News. In fact, the secrecy reached a point where Freedom of Information Act requests had to be formally filed by these newspapers in order to receive ANY information about the discussions

being held by these three bodies. Any state agency that does the public's business behind closed doors and then resists requests for information should be severely reprimanded by the legislature. The citizens of western Kansas are outraged by this blatant disregard for open government.

In closing, the people of Trego County would like to request the committee conduct a formal investigation of the relationship between the water in Cedar Bluff and the state's purchase of the Circle K Ranch from Hays and Russell. We believe discussions regarding a trade were held as early as 2002 between the KWO and the Cities of Hays, Russell, and the Wholesale Water District #14. Hays city council members said in early 2003 that they would not be in favor of using Cedar Bluff water as municipal water supply unless the Hays city manager could sell the Circle K Ranch as it had no value anymore to Hays or Russell. This underhanded agreement should be exposed and ended.

Thank you for your consideration of the people of Trego County in this very important water issue. We look to you for leadership in protecting this important economic asset for all of the people of western Kansas.



My name is Sandra Stenzel and I am Director of Economic Development for Trego County, the home of Cedar Bluff Reservoir. It is my privilege every day to get up, put on my shoes, and go to work to expand and improve the economy of Trego County. When I agreed to take on this task, I already knew that the biggest problem facing my hometown was the loss of population. The question was what could we do about it. With that in mind we came up with the following strategy:

1. We have been working for over a year with a marketing consultant from Denver to develop a plan to recruit people, not industries to our community. We are taking this focus because while conventional wisdom is that people follow industry, leading economic thinkers like Dr. Richard Florida of Carnegie Mellon University now say that in truth, industry follows people. We believe that if we can bring new residents to our community, industry will follow. It is an unconventional approach, but as Yogi Berra once said, "you gotta hit 'em where they aint".
2. The first group of people we will target are telecommuters, people who can bring their jobs with them. The second group we are targeting is entrepreneurs. People who have always wanted to start or own a business, but find the cost of doing business in urban areas to be prohibitive. We believe we can offer these people a low cost of living, a low cost place to do business, and other amenities that will attract them. Bringing these people to Trego county will create critical mass that will spawn other businesses to serve these people.
3. The way we will attract these new residents, in addition to providing a low cost location, is that we offer a wonderful quality of life. And central to that quality of life in Trego County is Cedar Bluff Reservoir. Outdoor recreation opportunities are highly valued by people in urban areas, the very people we want to attract to our community. We sell our quality of life by saying you can experience world-class hunting in the morning, and world-class bass fishing in the afternoon. If hunting and fishing are not your thing, we offer bird watching, wildlife refuges, hiking, and other outdoor opportunities at Cedar Bluff. If the lake were to be diminished it would severely damage the quality of life in Trego County. That in turn will make it almost impossible to recruit new residents here, because we know, at the end of the day, the only thing we have to sell in western Kansas is quality of life.
4. Cedar Bluff is also our major attraction for young people to move here. It is part of what makes us a "cool community" and, as national consultant Rebecca Ryan says "young people will move to your town if you have hot jobs or you are a cool community." It also helps us bring our young people home after they have had their fling in the big wide world. Most of us who grew up here have fond memories of fishing with grandma, hunting with Dad, and of course, the occasional keg party held in some remote cove of the lake. It was my ties to the outdoors that helped bring me home. I was tired of waiting in line for access to public land in Texas, and I was dismayed at the cost of private hunting leases. It was much better for me to drive 12 hours to come home, to hunt on land I knew, to fish in a lake that was my childhood swimming hole, and to look up my friend and family while I was visiting here.

5. Tourism is also an integral part of the economic development strategy of Trego County. Two years of work went into getting a Scenic Byway designation for the drive from WaKeeney, around Cedar Bluff, and back to the interstate via the highway that goes over the dam. That Scenic Byway causes people to pull off the interstate and spend more time, and hopefully, more money in our community. It gives people a reason to remember us when they are thinking of vacations or get away cabins or a place to retire. We leverage the value of tourism in our county by working with those tourists to convince them this is a great place not only to vacation, but also to live. It is a major drawing card for new residents in our community.

Senator Stan Clark, before his untimely death, frequently quoted a study that said that Cedar Bluff is a \$45 million dollar industry in this region. As economic development director, I can tell you that when the lake goes down to the dead pool, it will be almost impossible for me to recruit another industry that will have that much economic impact in the region. As my Dad used to say, it doesn't do any good to bring the cows in the front barn door, when you have the back door open. Why destroy an existing industry, when bringing new industry to western Kansas is so difficult? It flies in the face of logic, and it flies in the face of the future of this economy, which is regionalism.

Regionalism doesn't just mean that the big towns in northwest Kansas get to live while all the little towns are sacrificed on the alter of Hays. Regionalism means working together to benefit the entire 18 county area, not just one community. One of our county commissioners has been quoted as saying that it will take three generations to heal the wounds in this region over the fight with Hays for Cedar Bluff. That is no way to stimulate regional cooperation. Regionalism means we need transformational leadership from our larger communities, not an 800-pound gorilla that sits wherever it pleases just because it has political clout. Regionalism means we all thrive, or we all die. In fact, one of my questions has been, "what will Hays do when the rest of us are gone?" Who will shop in their stores and send their children to Fort Hays?

People from Parks and Wildlife and the Water Office and the City of Hays will tell you that the so called tiny bit of water they are taking from Cedar Bluff will have no significant impact on the lake or the economy surrounding it. To quote one of my friends in Texas, we might have been born at night, but it wasn't last night. You have heard and seen evidence presented by the Western Kansas Water Watchers that the releases triggered by Hays and Russell will have significant impact on the viability of the lake. Don't let the shell game of average acre-feet released fool you. It will hasten the demise of the lake, and every year that is shaved off the life of Cedar Bluff means \$45 million less in the economy of Western Kansas. It is a loss we can ill afford, and we thank you for asking the hard questions today that make that point come to light. We thank you for coming to our community, for seeing first hand what the lake means to us, and for giving careful consideration to the regional damage done when Cedar Bluff is harmed. We thank you for giving us hope that democracy lives, secret meetings are unacceptable, and the water in Cedar Bluff belongs to ALL the people of Kansas, and not just a greedy few.

**Testimony to the House Committee on Environment  
HB 2393 Concerning Cedar Bluff Reservoir  
February 15, 2005**

Thank you Chairperson Freeborn, I appreciate the opportunity to speak before your committee today. My name is Hardy Howard, I am the City Administrator for the City of WaKeeney and I am here today representing Mayor Kenneth Deutscher and the WaKeeney City Council. I am also a member of the Smoky Hill – Saline Basin Advisory Committee.

Back on October 13, 2004 when the Joint Special Committee on Environment meet in WaKeeney, I indicated in my testimony that it would then take legislative action to prevent the release of water from Cedar Bluff Reservoir for the City of Hays. Well here we are!

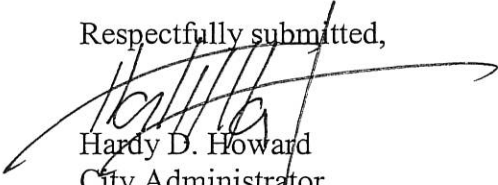
As I said in October 2004, Cedar Bluff is the only significant water based recreational opportunity in the western 1/3 of Kansas. The signing of the Artificial Recharge Pool Operations Agreement jeopardizes a significant economic engine for our area. With nearly 300,000 people visiting the lake and this activity generating over \$14 million to the local economy each year, you can begin to understand the importance of Cedar Bluff to Trego County and the region. For comparison, Trego County's assessed valuation is just over \$34 million.

From the stand point of a local government official, the property tax, sales tax, and transient guest tax generated by a \$14 million recreational industry located in one's county is very significant. The economic impact of Cedar Bluff has a direct correlation to the elevation of water in the lake. As the water rose during the 1990's, so did visitation, revenue, and the related economic impact to the surrounding region. It is clear that as the water is released or evaporates, the economic engine declines or slows.

Providing recreational services at a lake that has declining water elevations is problematic. As any Department of Wildlife & Parks manager would testify to, managing a park next to a declining lake is both burdensome and expensive. Boat ramps, docks, campgrounds, and roads are in a constant state of uncertainty. In addition, the declining water levels make the lake less desirable for fishing. These declining water levels come at a cost to the State of Kansas and to the local economy.

The bill before you (HB 2393) will help to preserve Cedar Bluff Reservoir as a recreational only asset for Western Kansas. I would encourage your support of this legislation. Thank you for your consideration.

Respectfully submitted,



Hardy D. Howard  
City Administrator  
City of WaKeeney

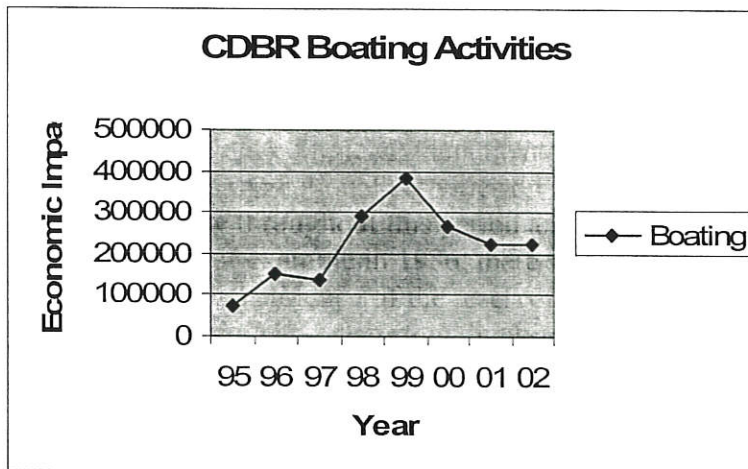
## Cedar Bluff Wildlife Area Economic Impact Estimates

The Cedar Bluff Wildlife Area (CDBR) includes a 6800 acre reservoir and 7000 acres of diverse wildlife habitat that in combination provides multiple recreation opportunities. The primary activities that occur on the area are hunting, fishing, camping and boating. All of which provide economic benefit to the local economy.

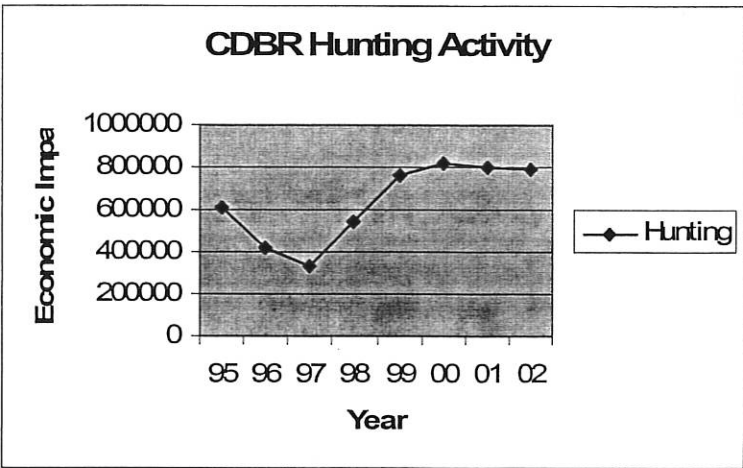
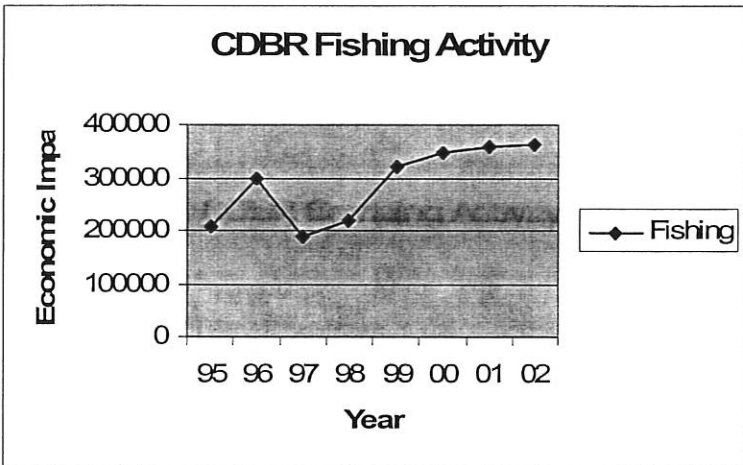
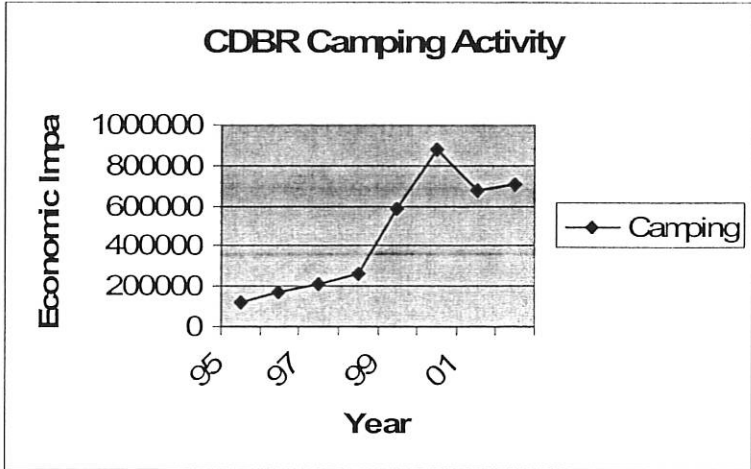
Visitation, while not completely documented early on, has change dramatically. During the 80's and 90's recreational activities on CDBR were primarily land based. The reservoir was low throughout this period and the area provided some tremendous hunting opportunities. For example in 1986, there were 206 deer harvested on CDBR. More recently with the resurgence of the reservoir activities have become more water based with fishing, boating and waterfowl hunting.

This data represented below does not include low elevation years, only mid to high elevation years (1995-2002). Visitation surveys were not completed previous to 1995.

Visitation data since 1995 has been gathered from monthly surveying periods including two week days and two weekend days. Visitation data was then combined with economic data from the 1991, 1996 and 2001 National Fish and Wildlife Survey for hunting and fishing. Boating economic information used in this report was from the Kansas Recreational Boating Strategic Plan.







CDBR Total Activity

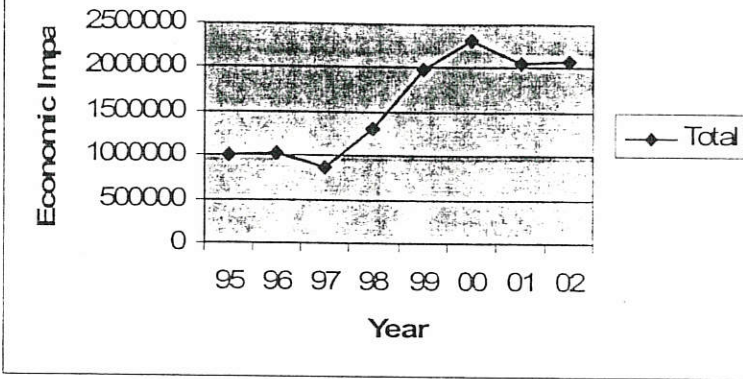
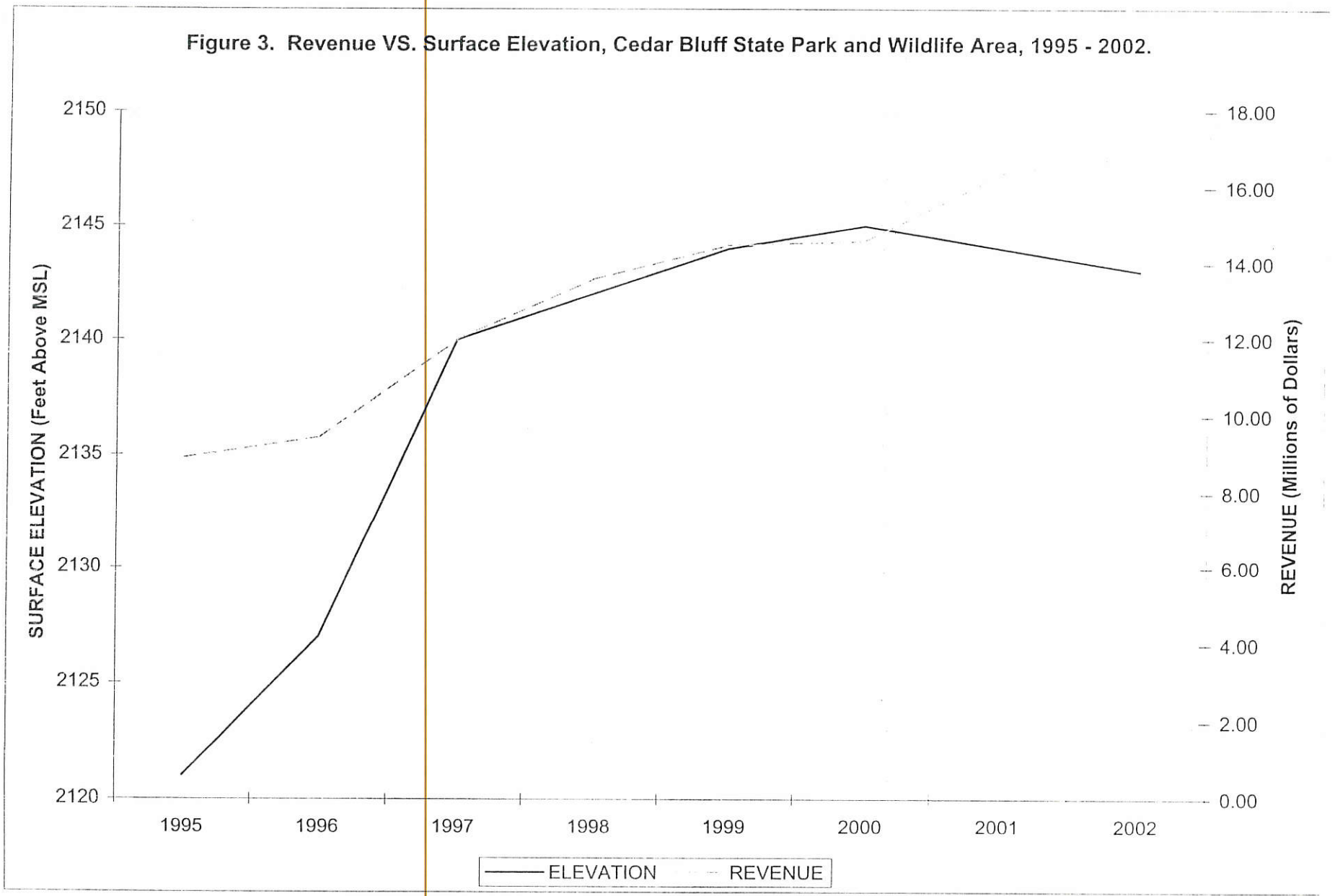


Figure 3. Revenue VS. Surface Elevation, Cedar Bluff State Park and Wildlife Area, 1995 - 2002.



## Economic Impact Of Cedar Bluff State Park

Cedar Bluff Reservoir is located 13 miles south of Ogallah on Highway 147, in Trego County, or 30 miles south and west of Hays, Kansas. Originally Cedar Bluff Reservoir was constructed primarily for flood control and irrigation; recreation, wildlife and municipal uses were considered secondary. However with the finalizing of the state's purchase of the local irrigation districts water rights in 1992, irrigation had ceased and recreation and wildlife quickly became a highly valued resource for the immediate and surrounding areas. Cedar Bluff State Park is divided into two areas on the shores of Cedar Bluff Reservoir, one being the Bluffton Area (north shore) and the Page Creek Area (south shore) all of which is within rural, southeastern Trego County. Because of its rural location constituents are attracted to the area primarily as a direct result of the reservoir's elevation or surface acreage, which when at or near conservation pool (2144), provides for a large variety of water based recreation opportunities. As a result Cedar Bluff State Park revenue and visitation, as well as the economic impact to the surrounding areas, parallels the reservoir's elevation or surface area.

Past records indicate that park visitation, revenue and the areas economic impact are directly dependant upon the reservoir's elevation. Historically, the data shows that park visitation peaks only when the reservoir is at or near conservation pool. By utilizing this data in coordination with the results of the 2001 Responsive Management Survey, which provides for a mean dollar amount spent per trip to Kansas State Parks of \$51, the economic impact to the Cedar Bluff Area has been calculated. The following economic impact figures for Cedar Bluff State Park are based upon the annual visitation recorded for both park areas. Visitation is calculated by counting the number of vehicles entering the park and multiplying that number by 3, which is the estimated number of persons per vehicle. The economic impact to the Cedar Bluff area can then be figured by multiplying the total visitation by the \$51.00 amount provided by the Responsive Management Survey. The following facts and figures will provide further evidence indicating a direct dependency upon the reservoir elevation regarding visitation, revenue and the economic impact to the immediate and surrounding areas.

### **Economic Impact From 1992-2002:**

1992- Visitation of 46,525 X \$51 = A \$2,372,775 impact to the surrounding area.  
Reservoir Elevation May 1<sup>st</sup> 1992: 2093.21

1993- Visitation of 108,536 X \$51 = A \$5,535,336 impact to the surrounding area.  
Reservoir Elevation May 1<sup>st</sup> 1993: 2097.48

1994- Visitation of 182,322 X \$51 = A \$9,298,422 impact to the surrounding area.  
Reservoir Elevation May 1<sup>st</sup> 1994: 2122.05



1995- Visitation of 155,122 X \$51 = A \$7,911,222 impact to the surrounding area  
Reservoir Elevation May 1<sup>st</sup> 1995: 2120.91

1996- Visitation of 165,155 X \$51 = An \$8,422,905 impact to the surrounding area.  
Reservoir Elevation May 1<sup>st</sup> 1996: 2126.70

1997- Visitation of 218,174 X \$51 = An \$11,126,874 impact to the surrounding area.  
Reservoir Elevation May 1<sup>st</sup> 1997: 2140.43

1998- Visitation of 240,870 X \$51 = A \$12,284,370 impact to the surrounding area.  
Reservoir Elevation May 1<sup>st</sup> 1998: 2142.21

1999- Visitation of 245,042 X \$51 = A \$12,497,142 impact to the surrounding area.  
Reservoir Elevation May 1<sup>st</sup> 1999: 2144.46

2000- Visitation of 240,647 X \$51 = A \$12,272,997 impact to the surrounding area.  
Reservoir Elevation May 1<sup>st</sup> 2000: 2144.57

2001- Visitation of 280,811 X \$51 = A \$14,321,361 impact to the surrounding area.  
Reservoir Elevation May 1<sup>st</sup> 2001: 2143.77

2002- Visitation of 289,460 X \$51 = A \$14,762,460 impact to the surrounding area.  
Reservoir elevation May 1<sup>st</sup> 2002: 2143.05

As is visitation, Cedar Bluff State Park's revenue, which is derived primarily from permit and license sales, is also dependant upon the reservoir's elevation and the quality of opportunities it affords. In 1992, when the reservoir was at an elevation of 2093.21, the camping fishing and boating opportunities were very limited. Therefore visitation was very low and the revenue generated for 1993 was a mere \$33,924.28 compared to 2002's revenue of \$385,845.00 at a reservoir elevation of 2143.05. A 1,137% increase. Although there have been renovations, improvements and some new opportunities created, the data still shows that the reservoirs elevation is still the primary influence affecting Cedar Bluff State Park's economic impact. It is basic supply and demand. As the water supply is at or near conservation pool, which maximizes the reservoir's recreational potential and carrying capacity, the demand increases because the reservoir is capable of meeting the recreational needs of a larger sector of constituents who have a variety of different recreational interests.

\* These facts and figures do not take into account the economic impact derived from the use of the wildlife area and the private cabin areas on the reservoir; both of which attract visitors to the area. The cabin owners also contribute through lease agreements and property taxes.

Attached are charts and tables containing historic data concerning Cedar Bluff State Park visitation, revenue and reservoir elevations.

Table 1

Cedar Bluff State Park Reservoir vs Visitation vs Revenue Comparison			
<u>May Reservoir Elevation</u>	<u>Visitation</u>	<u>Revenue Generated</u>	
1987	2101.62	115,229	\$50,053.76
1988	2104.95	99,575	\$64,767.00
1989	2100.79	137,113	\$60,758.88
1990	2098.74	94,914	\$50,379.97
1991	2096.18	58,385	\$45,961.51
1992	2092.86	46,525	\$33,924.88
1993	2097.48	108,536	\$76,381.60
1994	2122.05	182,322	\$101,793.80
1995	2126.80	155,122	\$104,415.71
1996	2127.15	165,155	\$142,164.71
1997	2140.50	218,174	\$183,617.66
1998	2142.72	240,870	\$207,245.34
1999	2144.46	245,042	\$213,757.00
2000	2144.57	240,647	\$245,351.09
2001	2143.77	280,811	\$294,201.85
2002	2143.05	289,460	\$340,952.63

Visitation vs Revenue

Figure 1

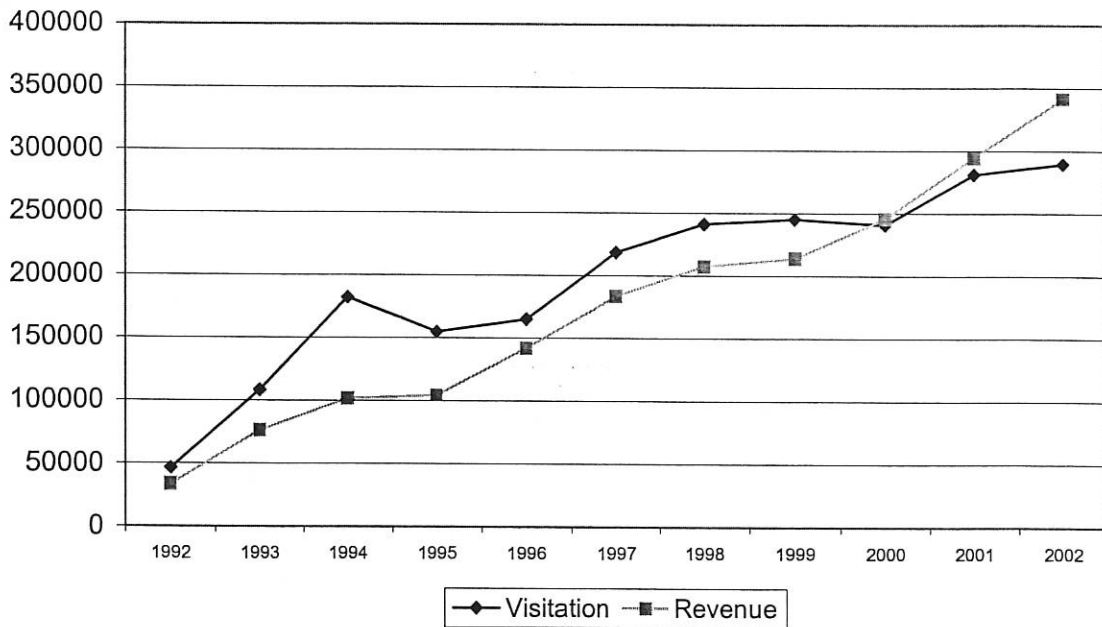


Figure 2

CEDAR BLUFF RESERVOIR  
Water Level History  
1950-Present

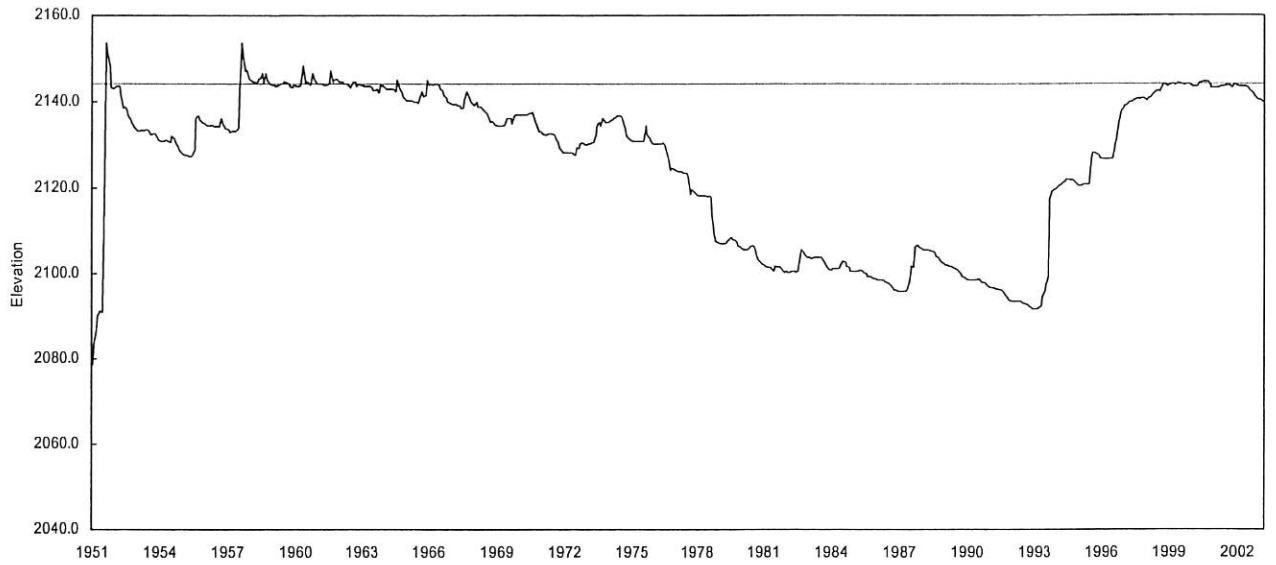
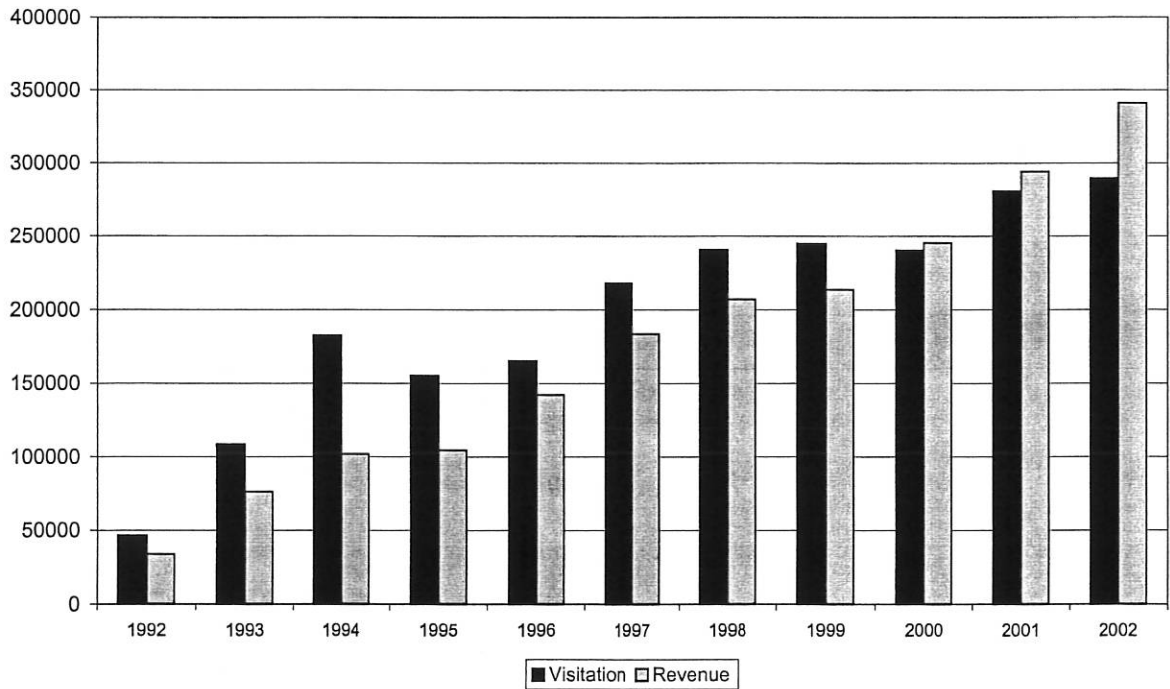


Figure 2

REVENUE vs VISITATION

Figure 3



### Revenue per Visit



Figure 4



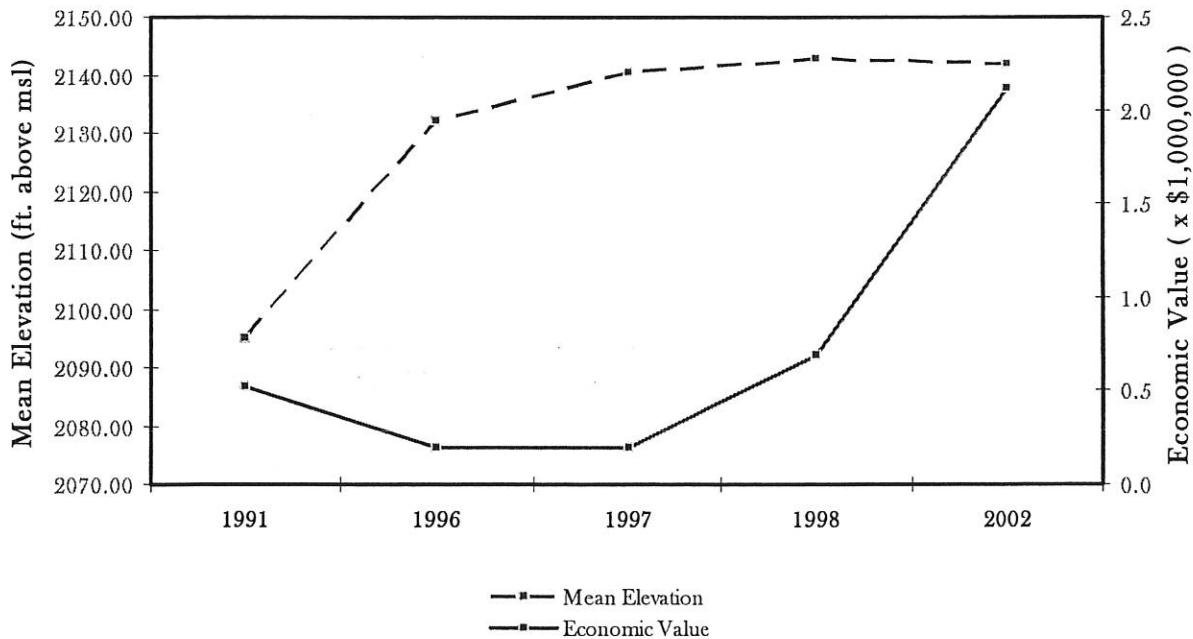
# The Economic Value of Fishing Related Activities At Cedar Bluff Reservoir

The resurgence of Cedar Bluff Reservoir which began in 1993 and continued until the lake attained conservation level in 1998, created unprecedented opportunities for anglers throughout the Midwest. Since the late 1990's, bass anglers from across the United States have traveled to Cedar Bluff to enjoy high catch rates of quality-sized largemouth bass. The recently held BASS Federation Central Divisional tournament at Cedar Bluff was dramatic proof of the excellent degree of bass fishing opportunities that exist. Likewise, crappie anglers have enjoyed tremendous success with the re-filling of Cedar Bluff. Since the fall of 1998, over one million crappie have been harvested by anglers who've enjoyed both excellent winter and springtime crappie runs.

Future opportunities are projected to remain at superb levels, and will be highlighted by a shift towards harvest of walleye, wipers, and white bass as succession of game fish populations' trend toward these open-water species.

In addition to the recreational benefits afforded the users of the region by the Cedar Bluff fisheries, important economic benefits have been realized. Numbers of anglers seeking black bass, crappie, walleye, white bass, and wipers have risen significantly since 1997. This increase in users is directly proportional to the maturity of individual game fish that were produced during the early years of revitalization of the lake. As users frequent the lake, money is spent and area businesses benefit (see Table 1). The graph below depicts the relationship between reservoir levels and the economic value derived from fishing activities at Cedar Bluff. The bottom line is that when Cedar Bluff has water levels, habitat, and water quality conducive for optimum sportfish welfare, "they will come", and the surrounding business community is the benefactor.

### Cedar Bluff Reservoir Water Level vs. Economic Value of Fishing



# Table 1.

## Cedar Bluff Reservoir Creel Survey Data, 1991-2002

<u>YEAR</u>	<u>1991</u>	<u>1992</u>	<u>1993</u>	<u>1994</u>	<u>1996</u>	<u>1997</u>	<u>1998</u>	<u>2000</u>	<u>2002</u>
Length of Survey (months)*	8	3	3	3	8	8	8	4	8
Mean Elevation	2095.13	2092.73	2107.38	2121.37	2132.16	2140.45	2142.86	2143.91	2142.01
Mean Reservoir Size (acres)	1,281	1,119	2,053	3,374	4,830	6,297	6,867	6,851	6,549
Total No. Anglers	13,729	3,143	5,092	4,835	8,059	7,793	27,775	27,197	36,897
Total Angling Hours	24,230	6,636	11,569	10,821	13,940	12,762	70,350	93,629	98,042
Total No. Trips	13,729	3,143	5,092	4,835	8,059	7,793	27,775	27,197	36,897
Mean Trip Length (hrs.)	1.81	2.20	2.20	2.30	2.56	2.73	2.03	3.85	2.84
Total Fish Caught	39,359	3,684	4,894	5,575	18,629	21,145	126,500	210,598	99,207
Total Lbs. Caught	25,605	4,578	8,395	5,555	13,647	15,691	109,895	163,223	104,835
Total Fish Harvested	25,963	2,407	2,405	3,534	3,218	3,019	88,262	129,658	54,470
Total Lbs. Harvested	19,184	2,872	5,223	4,494	4,187	2,658	66,700	86,380	53,787
Hours of Effort/Acre	18.91	5.93	5.64	3.21	2.89	2.03	10.27	13.67	14.97
<b>Economic Value</b>									
<sup>1</sup>	\$524,035	\$119,968	\$194,362	\$184,552					
<sup>2</sup>					\$199,138	\$192,565	\$686,320	\$672,038	
<sup>3</sup>									\$2,114,198

\* All 8 month surveys conducted from Mar 1-Oct 31, 3 month surveys conducted Apr 1-June 30, and the 4 month survey conducted from Mar 1-June 30.

<sup>1</sup>Economic value of \$38.17/trip expended for freshwater angling, excluding the Great Lakes, obtained from the 1991 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation. The survey was conducted by the Census Bureau for the Fish and Wildlife Service, Department of the Interior. For additional information visit <http://www.census.gov/prod/1/gen/interior/fish.pdf>

<sup>2</sup>Economic value of \$24.71/trip expended for freshwater angling, excluding the Great Lakes, obtained from the 1996 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation. The survey was conducted by the Census Bureau for the Fish and Wildlife Service, Department of the Interior. For additional information visit <http://www.census.gov/prod/3/97pubs/fhw96nat.pdf>

<sup>3</sup>Economic value of \$57.30/trip expended for freshwater angling, excluding the Great Lakes, obtained from the 2001 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation. The survey was conducted by the Census Bureau for the Fish and Wildlife Service, Department of the Interior. For additional information visit <http://www.census.gov/prod/2002pubs/QFBRO.pdf>

February 15, 2005

HOUSE BILL No.2393

DEAR COMMITTEE MEMBERS

FOR YEARS WE HAVE HEARD THE PLEA FOR SURFACE WATER RELEASES BY THE CITY OF HAYS FOR WELL FIELD RECHARGE . SINCE HAYS CITY HAS NO RIGHTS TO THE SURFACE WATER, WE HAVE HAD OVER 15 YEARS OF PLEAS FOR HABITAT RECHARGE FROM THE 5400 ACRE FEET OF WATER CONTROLLED BY THE KANSAS WATER OFFICE.

FIRST IT WAS A THREAT TO SUE BECAUSE THE IMPOUNDED WATER KEEPS THE CITY OF HAYS FROM GETTING WELL FIELD RECHARGE.

SECOND THE CITY OF HAYS WAS SHORT OF WATER IN A PLAN TO GET SOME FREE FLOW WATER.

AND NOW AFTER SEVERAL SECRET MEETINGS THE KANSAS PUBLIC WATER OFFICE HAS CONTRACTED FOR RELEASES BASED ON SENSORS HAYS PLACES ABOVE THERE WELL FIELD.

IN REPLY TO THESE REQUESTS, THEIR CONTRACTED WATER ENGINEER FIRM FINAL REPORTS SHOW THEY HAVE NO SHORTAGE, AND SUPPLY PROBLEMS ARE NOT A PROBLEM FOR 50 YEARS WITH MODERATE GROWTH.

NOT ONLY THAT , THEY BENEFIT WITH CONSTANT RECHARGE WITH WATER GOING DOWN THE RIVER EVERY SECOND UNDER THE NORTH DAM SECTION TODAY AND EVERY DAY WITH NO RELEASE.

HOW MUCH WATER IS COMING DOWN TO THEIR FIELD. WE SPENT THOUSANDS TO MAKE A PHOTO JOURNAL OF THE RIVER BED TO SHOW THE CITY OFFICIALS HOW THEY BENEFITED FROM THIS LEAKAGE.

THE BUREAU ESTIMATED 3 CUBIC FEET PER SECOND WAS LEAKING AND THAT MAY NOT SOUND LIKE MUCH BUT LETS PUT THE PEN TO THE FIGURES.

3 CUBIC FEET @ 7.48 GAL/CF = 22.44 GAL  
22.44 GAL x 60 SEC/MIN = 1,346 GAL  
1,346 GALx 60 MIN/HR = 80,784 GAL  
80,784 GAL x 24 HR/DAY = 1,938,816 GAL

1,928,816

43,560 GAL/ACRE FEE = 44.51 ACRE FEET OF WATER DAILY.

PAGE 2

THE FACT THAT HAYS HAS BENEFITED MANY TIMES MORE WITH THE WATER BEING STORED IN THE DAM, THAN THEY WOULD HAVE WITH SEASONAL RIVER FLOWS ,WHICH WOULD LEAVE THEM DRY FOR MONTHS EACH YEAR. THEY WILL LOSE HYDROSTATIC PRESSURE BY SURFACE RELEASES, AND HAVE A NEGATIVE EFFECT ON UNDERFLOW. SOMEHOW PAST CITY MANAGERS, AND CITY EDITORS, WERE AWARE OF THIS FREE BENEFIT, BUT THE PRESENT MANAGEMENT IS UNABLE TO COMPREHEND.

PAST PUBLIC WATER DIRECTORS WERE ALSO AWARE OF THE RECHARGE AT LAKE ELEVATIONS IN THE JOINT USE POOL, WE WERE ASSURED THEY HAD NOT PLANED TO RELEASE WATER FOR HABITAT RECHARGE FROM THE 5400 ACRE FEET THAT THEY CONTROLLED. ALSO THAT PUBLIC MEETINGS WOULD BE HELD IN TREGO COUNTY PRIOR TO ANY RELEASES OF PUBLIC WATER.

RECREATIONAL USE, AND THE ECONOMIC BENEFIT TO ALL OF WESTERN KANSAS AS WELL AS THE STATE OF KANSAS IN SALES TAX, AND USER FEES AT THE PARK. IN FACT HAYS BUSINESS WILL SUFFER MOST OF ALL WITH A LOSS OF LAKE USERS REVENUE.

GOMER STUKESBARY  
DIRECTOR  
CEDAR BLUFF LAKE ASSOC.



STATE OF KANSAS



Bill Graves, Governor

KANSAS WATER OFFICE  
Al LeDoux  
Director

901 S. Kansas Ave.  
Topeka, Kansas 66612-1249

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

April 6, 2000

Gomer Stukesbary  
Cedar Bluff Lake Association  
723 Crescent Drive  
Ness City, KS 67560

Dear Mr. Stukesbary:

Thank you so much for your written comments on our Preliminary Draft of the FY 2002 *Kansas Water Plan*. Your input is very important to us. Your letter will be forwarded to the Kansas Water Authority for their review and consideration at their April meeting.

The State of Kansas has purchased 174,129 acre-feet of storage space in Cedar Bluff Lake from the Bureau of Reclamation a few years ago. The City of Russell already owned 2,700 acre-feet of storage in Cedar Bluff. Responsibility for the use of state owned storage space is shared between the Kansas Water Office and the Kansas Department of Wildlife and Parks. \$365,000 in state monies were spent to purchase the storage space and approximately \$122,000 in operation and maintenance costs are paid each year to the federal government for this space. The majority of the storage space in the lake is under the control of Wildlife and Parks; however, the Kansas Water Office has control of 5,400 acre-feet of storage space which may be used for public water supply purposes. Our portion of the operation and maintenance bill for this year was \$45,000 and is expected to be \$55,000 next year. In addition, a portion of the "joint use pool" (above the designated operating pool, where the 5,400 acre-feet of Kansas Water Office controlled storage resides), may be used for public water supply **IF** Wildlife and Parks agrees to such use.

April 6, 2000  
Page Two

**THERE IS NO INTENT ON THE PART OF THE KANSAS WATER OFFICE TO DRAIN THE ENTIRE POOL AT CEDAR BLUFF FOR PUBLIC WATER SUPPLY!** I understand your concerns, especially with the history of the reservoir being drained for irrigation purposes in the past. If the 5,400 acre-feet of water controlled by the Kansas Water Office were to be used for down stream uses, the impact on the lake level would be a reduction in lake level of less than eight inches during a 1950's type drought. We appreciate your concerns and will certainly keep them in mind as we study the feasibility of using this small amount of water for public water supply use.

As you probably know, the public meetings on the "Preliminary Draft" are to solicit input at the grass roots level as to any suggestions or concerns about the contents of our draft plan. Many of these suggestions will be reflected in our "Working Draft" which will be reviewed at public hearings in late May (notice of these hearings will be published soon). If you have additional suggestions or concerns please plan to present them at those hearings.

Thank you again for your input.

Respectfully,



Al LeDoux, Director  
Kansas Water Office

AL:dl

*Gomer*  
*Thank you for all the*  
*good input.*  
*AL*

STATE OF KANSAS

KANSAS WATER OFFICE



901 S. Kansas Avenue  
Topeka, Kansas 66612-1249

Clark Duffy  
Director

785-296-3185  
FAX 785-296-0878

Kathleen Sebelius, Governor

January 30, 2003

Gomer Stukesbary  
723 Crescent  
Ness City, KS 67560

Sincerely,  
Dear Mr. Stukesbary:

Thank you for your letter concerning utilization of Cedar Bluff Lake for public water supply to Russell and Hays.

The Kansas Water Office has completed an analysis that indicates that Cedar Bluff Lake is not a viable option for a sustainable, significant, long-term public water supply. This analysis and public discussion in 1999 led the Kansas legislature to pass a proviso that prohibits the use of Cedar Bluff Lake for public water supply. The Kansas Water Office has no intention of violating this legislative direction by selling public water supply from Cedar Bluff Lake.

The City of Russell does have an existing right for storage and release of water from Cedar Bluff Lake. Russell's water right allows the storage of up to 2,700 acre-feet of water and the release of up to 2,000 acre-feet in any one year. These quantities are contingent upon the water being available in the City's portion of Cedar Bluff Lake storage.

The Kansas Water Office is the State's water planning agency. As such, we have a responsibility to assist local communities with planning and identification of source water for public water supply. The Kansas Water Office has worked with the cities of Hays and Russell for 20 years to find an acceptable long term supply of water. Currently, the Kansas Water Office is working with the Corps of Engineers on a study to identify the feasibility and most cost effective solution of providing water to the area from Kanopolis Lake. We believe that this is the best long term solution for all involved.

In 1996 and 1997, the Kansas Water Office held meetings with public water suppliers in the Smoky Hill-Saline Basin. Several of the public water suppliers, including Hays and Russell, expressed interest in using Kanopolis Lake as a water source. As a result of these discussions, the Kansas Water Office asked the Corps of Engineers to study reallocation of storage to water supply purposes. In 2002, the Kansas Water Office and the Corps of Engineers finalized a \$4.2 million contract for the purchase of water storage in Kanopolis Lake in order to have water available for public water supply in the region.

Gomer Stukesbary  
January 30, 2003  
Page 2

As a result of the Kanopolis Lake storage purchase, public water supply is available from this source. Post Rock Rural Water District is currently using Kanopolis Lake as its sole source. Public Wholesale Water Supply District No. 15 reaffirmed their interest in Kanopolis Lake by application for a water marketing contract on June 17, 2002. The Kansas Water Office completed preliminary findings authorizing negotiations with Public Wholesale Water Supply District No. 15 in July of last year. My staff stands ready to begin negotiations for a contract from Kanopolis Lake.

Thank you again for your interest in and comments concerning Cedar Bluff Lake.

Sincerely,



Clark Duffy  
Director

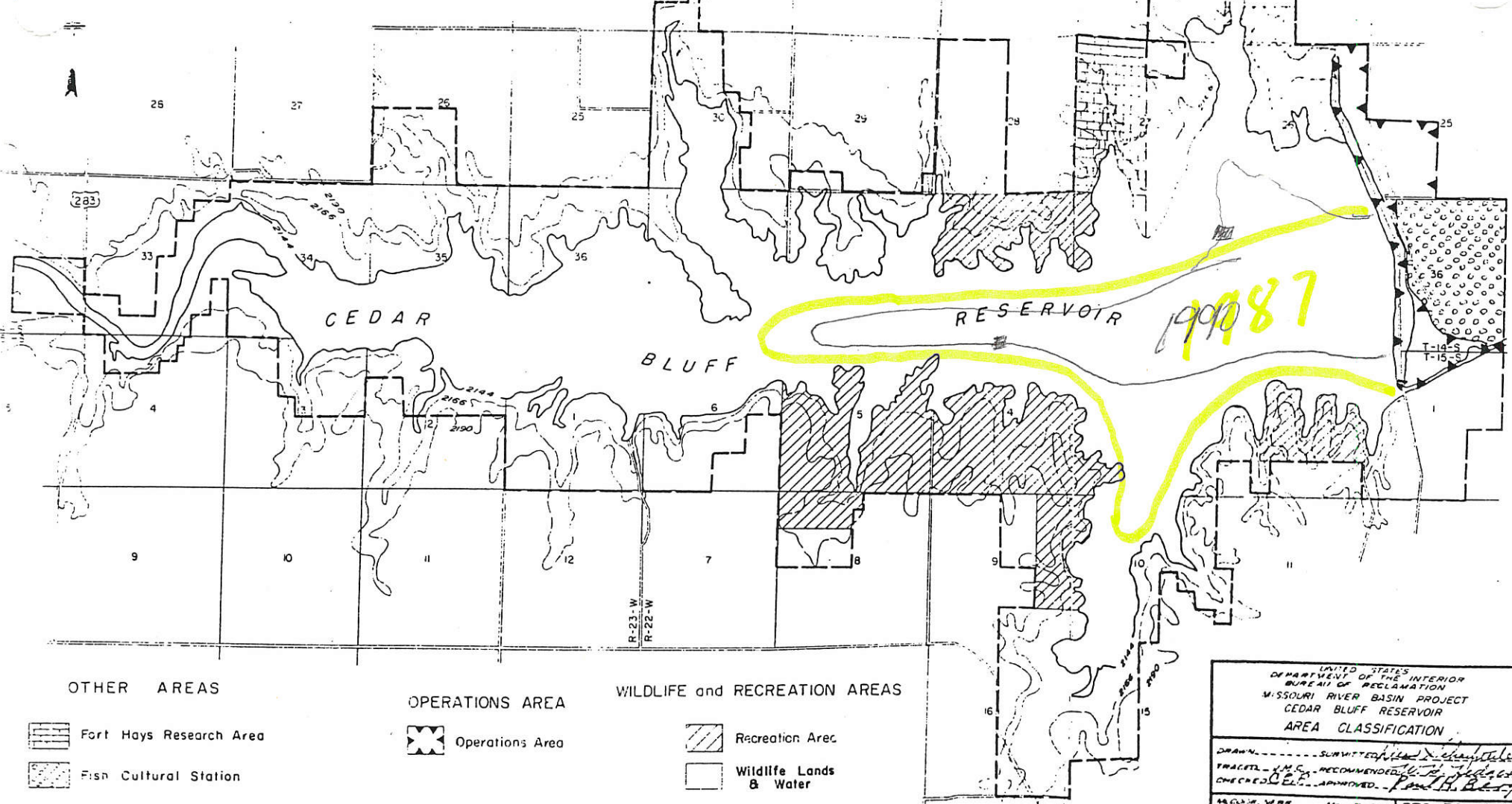
CD:cb

CC: President Public Wholesale Water Supply District No.15  
City Manager  
City of Hays



TIP OF BRISTON P.L. 2144  
 TOP OF FLOOD CONTROL HOOD 2162  
 MAXIMUM WATER SURFACE 2190

11-7



UNITED STATES  
 DEPARTMENT OF THE INTERIOR  
 BUREAU OF RECLAMATION  
 MISSOURI RIVER BASIN PROJECT  
 CEDAR BLUFF RESERVOIR  
 AREA CLASSIFICATION

DRAWN: [Signature] SUBMITTED: [Signature]  
 TRACED: J.M.C. RECOMMENDED: [Signature]  
 CHECKED: C.E. APPROVED: [Signature]

M.C. 11-11-62 May 3, 1962 372-701-712

11-11

TESTIMONY OF RICHARD STENZEL  
SUPPORTING H.B. 2393  
FEBRUARY 15, 2005

I have lived in Ness County since 1936 and watched the Cedar Bluff Dam being constructed in 1949 and have used the Lake since it first filled. My family and I spent most summer weekends at the Lake.

I am a Director of the Cedar Bluff Lake Association and represent hundreds of members who love the Lake and support this bill. I am also a former member of Wet Walnut Irrigation District. I have seen first-hand the damage done to Cedar Bluff Lake during the 1970's by water releases.

The existence of the Lake is extremely important to the economy of the Region especially at higher levels. When there are fishing tournaments, our motels are full. This is the only Lake in our area and I know how bad things got when the Lake was down to 12 feet in 1991. It would be a crime to let history repeat itself when it doesn't have to be that way.

This bill will prevent that happening again and bring an end once and for all to this controversy which arises every few years.

Cedar Bluff Lake has enough of a problem just dealing with evaporation and no inflow. Lets do all we can to save this beautiful body of water.

Thank you,

RICHARD STENZEL  
NESS CITY, KANSAS

**Testimony to the House Committee on Environment  
House Bill 2393 Concerning Cedar Bluff Reservoir  
February 15, 2005**

1. I represent twelve parties in a lawsuit against the Kansas Water Office and Division of Water Resources. We may have varying interests, economic and/or recreational, however our common interest is preserving Cedar Bluff Reservoir. Nature is enough of a fight for us, but to also include the defendants' contract will certainly destroy Cedar Bluff.

2. The significance of the lawsuit parallels House Bill 2393:

(a) Having the KWO transferring ownership and management of the 5,400 acre feet in the artificial recharge pool to the Kansas Department of Wildlife and Parks.

(b) No further releases from Cedar Bluff excepting for reasons of flood control, honoring the City of Russell contract and maintenance of Kansas Department of Wildlife and Parks facilities below the dam. The effort would be to maintain the lake at conservation pool 2,144 ft.

3. The "Whereases" of the bill are substantially like Claim One of the lawsuit, with the addition of Claim One asserting that the Plaintiffs were shut out of the process and denied access and input to certain governmental agencies. If only one side is presented to a disagreement, which side would you guess would prevail. It would be similar to you arguing with yourself.

4. Quoting in part, THE WORDS WE LIVE BY, by Linda R. Monk: "The First Amendment, includes the rights many Americans hold most dear, and it forms the foundation of American democratic government. The five freedoms listed in the First Amendment - religion, speech, press, assembly, and petition - enable citizens to participate in the process of self-government. Together these five rights are sometimes referred to as freedom of expression. Without the freedoms in the First Amendment, it would be impossible for Americans to assert any other rights they have, thus making it the most important amendment in the Bill of Rights". With the exception of this committee generously going to Trego County in October, 2004, we have been denied the right to express ourselves other than by this lawsuit.

"Further, democracy is very difficult without freedom of speech. Unless there is a free exchange of opinions and ideas, the people do not have the information they need for effective self government. One of the concepts most fundamental to freedom of speech is the public forum". The forum was denied to us by the closed meetings of the Kansas Water Office and the Division of Water Resources.

Thank you for your patience and courtesies.

David J. Harding  
Trego County Attorney

House Environment Committee  
February 15, 2005  
Attachment 13





CLAIM ONE  
DECLARATORY LEGAL RELIEF

1. Plaintiffs are all organizations representing thousands of people whose lives are affected in one way or another by the level of the water in Cedar Bluff Lake. The actions of the Defendants in threatening to release the water and lower the level, immediately affect the rights of the Plaintiffs.

2. Exhibit 1 is the product of approximately 18 meetings between the signatories, 15 of which were conducted in secret by the Defendants and not open to the public or the Plaintiffs (see Exhibit 2). This Agreement provides for the annual release of approximately 5110 acre feet of water from Cedar Bluff Lake for the alleged purpose of recharging the Hays and Russell Municipal Wells located along the Smoky Hill River near Schoenchen and Pfeifer respectively. The Defendants have abused their discretion, acted in bad faith, and have entered into an illegal contract.

3. Exhibit 1 is void, invalid and should be given no force and effect for the following reasons:

(A) The Defendants violated provisions of the Kansas Open Meetings Act (KOMA) by conducting closed-door secret meetings with the other signatories for the purpose of preparing and executing Exhibit 1. (see K.S.A 75-4317 et seq).

(B) The Defendants violated the Basin Advisory Committee (BAC) portions of the Kansas Water Plan (KWP) by not informing the BAC about the meetings nor the Agreement, nor seeking BAC advice as required by K.S.A. 82a-903 and KWO's own policy.

(C) The Defendants also violated those sections of the KWP requiring open meetings and public notice before making any changes to the KWP. Under the planning and purpose Section of KWP and K.S.A. 82a-905, the advice of and notice to the general public is required.

(D) The Defendants also violated and apparently ignored that particular and specific provision of the KWP stating ,

“Top priority of the analysis will be to maintain the Lake level of Cedar Bluff Reservoir at the top of conservation pool.”  
(2144 feet above sea level)”.

(E) The Defendants also violated clear legislative intent and two legislative provisos prohibiting the release of water from Cedar Bluff Lake for municipal use and further directing Defendant KWO to explore the possibility of transferring its 5400 acre feet of water stored in the reservoir to Kansas Department of Wildlife and Parks (KDWP). Exhibit 1 clearly violates the fiscal 2004 and 2005 Provisos as well as the above legislative direction. The Defendant KWO directly or indirectly expended budgeted funds in 2003 and 2004 in the preparation and execution of Exhibit 1 (Provisos attached hereto as Exhibit 3 and Exhibit 4).

(F) That by entering into Exhibit 1 with no provision for public hearings and public input, the Defendant KWO violated it's own Operation Agreement of 1994 (see Exhibit 5) which required a public meeting and public input before any proposed release, nor does Exhibit 1 provide for monitoring of releases by KWO and KDWP to ensure that intended benefits of the

release are realized. Further and most important, Defendant KWO may only make "recommendations" for any water release; it does not have the authority on its own to order a release. It seems KDWP should have been a party to Exhibit 1.

(G) Exhibit 1 further violates state law as it pretends to create a legal right in the cities of Hays and Russell to 5110 acre feet of water stored in Cedar Bluff Reservoir when, in fact, no legal right exists nor can exist, as the water belongs to the people of the State of Kansas and only the legislature can create a legal right to the stored water. Defendant KWO has given this storage away for the life of the Lake according to Exhibit 1 (see Exhibit 6).

(H) The Defendant KWO, under pressure from the Governors Task Force on Cedar Bluff Reservoir violated its own policies and documented analysis concerning the Lake when it entered into Exhibit 1. The former Director of KWO tried to make that clear to the Task Force on 2/13/03 and was terminated shortly thereafter (see Exhibit 7). Mr. Duffy was replaced by the man who was also Chairman of the Task Force.

4. Had the open meetings, public notice and BAC requirements of the KWP and KOMA been complied with, the Plaintiffs could have attended meetings and provided input on Exhibit 1. As such they were deprived of that opportunity on an issue which significantly impacts the economy, aquatic life, recreation and quality of life in their area. Plaintiffs relied to their detriment by believing Defendants had to comply with the law.

5. The Lake is already 10 feet below conservation pool (2144 foot) and any further releases would violate legislative intent, the fiscal 2005 Proviso, the KWP, and would seriously affect the Lake's ability to recover and fuel the local economy.

6. Under the provisions of Exhibit 1, the Defendant KWO may with one phone call and at any moment order a release of water from the Lake and cause irreparable damages to Plaintiffs. Once the water is released there is no calling it back nor is there any inflow to replace it. Damages to the aquatic life, economy and recreation will be immediate and lasting.

7. An actual controversy exists as to the rights of the Plaintiffs because of Exhibit 1, and an actual antagonistic assertion and denial by the Defendants of Plaintiffs rights to the use of the stored water and their right to have participated in the process leading up to Exhibit 1.

8. K.S.A. 60-1704 provides that any person, association or corporate body whose rights and other legal relationships are affected by a contract may seek determination of any question of validity arising under that agreement and obtain a declaration of rights.

9. A contract made in contravention of state laws and legislative intent by state agencies charged with complying with those laws is a travesty of justice and must be set aside on both equitable and legal grounds.

WHEREFORE, Plaintiffs pray that the Court determine and declare that Plaintiffs' rights are adversely affected by the Secret Agreement (see Exhibit 1), that damages would result if water is released and that the preparation and execution of Exhibit 1 violated state laws and is void and of no effect. Further, that an immediate injunction should issue preventing the enforcement of Exhibit 1 by the Defendants.

CLAIM TWO  
INJUNCTIVE RELIEF

Come now the Plaintiffs and for their second claim against the Defendants allege and state:

1. That pending the outcome of Claim One and in the event Claim One is denied in whole or part, Plaintiffs plead, alternatively and in conjunction with Claim One, for injunctive relief under the provisions of K.S.A. 60-901 et seq.

2. Plaintiffs incorporate herein by this reference the allegations contained in Claim One, as appropriate, in support of this request for a temporary and permanent injunction and provisional restraining order.

3. The "Release Triggers" set forth in the Secret Agreement of 9/22/04 (see Exhibit 1) could be met at any time and releases of water from Cedar Bluff Lake could be requested and granted at any time by the Defendants.

4. Should those releases of water occur there is a reasonable probability of irreparable and immediate injury to the Plaintiffs and the Lake as the levels of the Lake and shorelines are lowered by the releases.

5. Once the water is released there is no calling it back and no repair to be made. With no current inflow to compensate for the release, the damage is immediate and lasting.

6. Both the economy of the Region, land values, aquatic life, and recreational use of the park facilities would be immediately negatively impacted by a release. The economy of the Region around the Lake is strongly tied to the number of visitors to Cedar Bluff State Park and the number of visitors is directly related to the level of the water in the Lake.

7. Statistics provided by KDWP prove that the success of the park and the regional economy are directly dependant on the Lake level. The lower the level the lower the number of visitors. (see Exhibit 8 and Exhibit 9)

8. The Special Legislative Committee on the Environment, after holding local hearings, unanimously reported to the 2005 Legislature on 11/30/04:

“... that not maintaining the recreational water pool level in Cedar Bluff Reservoir has a significant negative impact on the communities around the reservoir, since Cedar Bluff State Park is the only water based recreational facility in West Central and Northwest Kansas and provides camping, fishing, hunting, and boating.” (see Exhibit 10)

9. The threatened injury and damages to Plaintiffs, due to water releases, outweighs whatever damage the proposed injunction may cause Defendants and other signatories of Exhibit 1. Other sources of water are available, no emergency exists and no permanent damage would occur to them.

10. While the final determination of Claim One may or may not invalidate Exhibit 1, it currently provides no adequate remedy to prevent the immediate irreparable injury Plaintiffs are facing in the event a release occurs pending litigation.

11. The granting of a restraining order and a temporary and permanent injunction enjoining the enforcement of the Agreement by the Defendants would not be adverse to the public interest but on the contrary, preservation of the level of the water in the Lake is in the public interest through economic and recreational benefits. It would also protect the status quo, whereas release would permanently disturb the status quo.

12. "Recreational level" and "conservation pool" are synonymous terms and the top of that pool is 2144 feet above sea level. The pool is now 10 feet low due mostly to evaporation, minor authorized releases and little or no inflow over the last 2 ½ years. Further release will only increase the damage to the Lake from which it may never recover (see Exhibit 7).

WHEREFORE, Plaintiffs pray that they be granted judgment against the Defendants jointly and severally for injunctive relief in the form of a temporary and permanent injunction and a temporary restraining order enjoining the Defendants from attempting to enforce the Agreement of 9/22/04 with the cities of Hays and Russell, and such other and further relief that may be deemed appropriate.

### CLAIM THREE DAMAGES

Come now the Plaintiffs and, pleading alternatively, for their third claim against the Defendants allege and state:

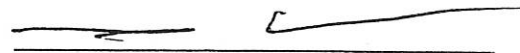
1. That the allegations of Claim One and Claim Two are incorporated herein by this reference.





**DEMAND FOR JURY**

Come now the Plaintiffs under the provisions of K.S.A. 60-238 and K.S.A. 60-257 and demand a trial by jury on all issues of fact.



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David J. Harding  
Attorney for Plaintiffs  
216 North Main  
WaKeeney KS 67672

IN THE DISTRICT COURT OF TREGO COUNTY, KANSAS  
Trego County Courthouse, 216 North Main, WaKeeney, KS 67672  
Chapter 60 Proceeding

WESTERN KANSAS WATER WATCHERS  
ASSOCIATION; BOARD OF TREGO COUNTY  
COMMISSIONERS; CITY OF WAKEENEY, TREGO  
COUNTY, KANSAS; SOUTH SHORE CABIN OWNERS,  
INC; CITY OF UTICA, NESS COUNTY, KANSAS; BOARD  
OF NESS COUNTY COMMISSIONERS; CITY OF NESS CITY,  
NESS COUNTY, KANSAS; CITY OF RANSOM, NESS COUNTY,  
KANSAS; CITY OF QUINTER, GOVE COUNTY, KANSAS;  
CEDAR BLUFF LAKE ASSOCIATION; NORTH SHORE CABIN  
OWNERS, INC; and CEDAR BLUFF DIEHARDS, Plaintiffs

vs.

Case No. 05-CV-

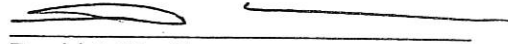
KANSAS WATER OFFICE AND KANSAS  
DEPARTMENT OF AGRICULTURE DIVISION  
OF WATER RESOURCES, Defendants

**APPLICATION FOR RESTRAINING ORDER**

Come now the Plaintiffs and move the Court for a Temporary Restraining Order under the provisions of K.S.A. 60-902 and K.S.A. 60-903 enjoining the Defendants from enforcing or attempting to enforce the Agreement dated 9/22/04 marked Exhibit 1 to the verified Petition, which is incorporated herein by this reference, for the following reasons:

1. That all as set forth in the verified Petition, Plaintiffs will suffer immediate and irreparable damage if during the pendency of this case the Defendants are allowed to enforce the terms of Exhibit 1 by releasing water from Cedar Bluff Lake.
2. K.S.A. 60-902 and K.S.A. 60-903 provide for the issuance of a provisional restraining order without notice or bond effective until such time as a hearing may be had on Plaintiffs' request for a temporary injunction.
3. Plaintiffs believe that neither the Defendants nor other signatories to the Agreement (Exhibit 1) will suffer any damages as a result of the issuance of a restraining order.
4. The granting of the Order will in fact preserve the status quo.

WHEREFORE, Plaintiffs pray that a temporary restraining order be issued immediately enjoining the Defendants from calling for a release of water from Cedar Bluff Lake until a hearing is had on Plaintiffs' request for a Temporary Injunction.

  
\_\_\_\_\_  
David J. Harding  
Attorney for Plaintiffs  
216 North Main  
WaKeeney KS 67672

IN THE DISTRICT COURT OF TREGO COUNTY, KANSAS  
Trego County Courthouse, 216 North Main, WaKeeney, KS 67672  
Chapter 60 Proceeding

WESTERN KANSAS WATER WATCHERS  
ASSOCIATION; BOARD OF TREGO COUNTY  
COMMISSIONERS; CITY OF WAKEENEY, TREGO  
COUNTY, KANSAS; SOUTH SHORE CABIN OWNERS,  
INC; CITY OF UTICA, NESS COUNTY, KANSAS; BOARD  
OF NESS COUNTY COMMISSIONERS; CITY OF NESS CITY,  
NESS COUNTY, KANSAS; CITY OF RANSOM, NESS COUNTY,  
KANSAS; CITY OF QUINTER, GOVE COUNTY, KANSAS;  
CEDAR BLUFF LAKE ASSOCIATION; NORTH SHORE CABIN  
OWNERS, INC; and CEDAR BLUFF DIEHARDS,

CLERK OF DISTRICT COURT  
TREGO COUNTY

FEB 10 2005  
AM 7 8 9 10 11 12 1 2 3 4 5 6 PM

Plaintiffs

vs.

Case No. 05-CV-4

KANSAS WATER OFFICE AND KANSAS  
DEPARTMENT OF AGRICULTURE DIVISION  
OF WATER RESOURCES,

Defendants

**TEMPORARY RESTRAINING ORDER**

STATE OF KANSAS, TREGO COUNTY, ss:

TO: Director Tracy Streeter and/or Joe Harkins  
Kansas Water Office  
Topeka Kansas

and

Chief Engineer and Director David L. Pope  
Kansas Department of Agriculture  
Division of Water Resources  
Topeka Kansas

You and each of you is hereby notified that on the 8<sup>th</sup> day of February, 2005, the Plaintiffs filed their Petition herein against you duly verified in the District Court of Trego County, Kansas, as well as an application for a Temporary Restraining Order. Based thereon and finding that in order to preserve the status quo and prevent irreparable damage pending litigation on the same date the Court issued this Order restraining you from calling for or attempting to call for directly or indirectly the release of water from Cedar Bluff Reservoir under the terms of that Operations Agreement between you and the cities of Hays and Russell dated September 22, 2004. You are to take no action under said Agreement until a hearing is had thereon. No bond is required.



You are further notified that Plaintiffs' request for a Temporary Injunction is set for hearing in the Trego County Courthouse in WaKeeney, Kansas on the 23 day of February, 2005 at 9:00 o'clock A. .m.

Witness my hand and seal this 10<sup>th</sup> day of February, 2005.



Glenn D. Schifano  
Judge

David J. Harding

David J. Harding  
Attorney for Plaintiffs  
216 North Main  
WaKeeney KS 67672

RESOLUTION 05-04

**WHEREAS**, the Board of Trego County Commissioners at regular meeting this 14<sup>th</sup> day of February, 2005, has reviewed House Bill 2393, and;


**WHEREAS**, said House Bill designates the use of Cedar Bluff Reservoir as primarily recreational and flood control to be maintained at 2144 feet above sea level, and;


**WHEREAS**, the economy of Trego County is directly affected by the number of visitors to the lake, and that the number of visitors directly depends on the level of the water in the lake, and;

**WHEREAS**, the lake is endangered by water releases and lack of inflow.

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Trego County Commissioners hereby approve of and support the passing of House Bill 2393 by our 2005 Legislature.

**PASSED AND APPROVED BY THE BOARD OF COUNTY COMMISSIONERS OF TREGO COUNTY, KANSAS, this 14<sup>th</sup> day of February, 2005**

  
Toby Lynd, Chairman

  
Lanny Fabrizius, Member

  
Dean Papes, Member

ATTEST:

  
Lori Augustine  
County Clerk



House Committee Members

I am Dean Papes, a Trego County century family farmer, a newly re-elected County Commissioner, representing 1,500 county residents, a past original member of the Smokey Hill-Saline Basin Advisory Committee, and past Chairman of the Northwest Kansas Planning and Development Commission.

My family and I come before you today to support House Bill 2393, which would take municipal use out of the Cedar Bluff Lake scheme and designate its use for flood control and recreation once and for all. My wife and I are life-long users of the lake and know full well its economic impact to this region in both high and low tide.

In the last few weeks as I talked about this issue with my electorate, every single one, whether they were big lake users or not, agreed that this bill should be passed and that our county support be unwavering. Knowing this, our County Commission elected to support this effort on Trego County's behalf.

During our dinner conversations at home my wife and I heard a couple of profound remarks from our 9 and 12 year old sons that I would like to share with you. As we were talking about the proposed new release of water and the affect it would have on the local economy and our recreation use, my 12 year old son, Will, said "Dad what is that going to do to our family weekends at the lake with you and Mom? You two have so little free time in the summer, this is all we do as a family".

Sherry, my wife, and I told them that we hoped our legislature would do the right thing and stop this Cedar Bluff Lake issue once and for all. As we were clearing the table and doing dishes our 9 year old son, Cade, said "Mom and Dad, why do people want to make that beautiful lake disappear"? We couldn't answer that question, only to say that we hoped people would do what is right.

My family and I hope you will consider this bill very carefully and pass it, so that we can continue to enjoy this great recreation source as a family and our region. Let's let mother nature, alone, be in control of Cedar Bluff Lake.

Thank you for your time and consideration.

Dean L. Papes

Sherry Papes

Will Papes

Cade Papes

Good afternoon and thank you Madam Chairman and Members for the opportunity to address the Special committee on Environment. My name is Geoff Withington, A resident farmer/ rancher of Trego County, and member of the Smokey Hill/ Saline Basin Advisory Committee. I live in the southwest corner of Trego County along the Smokey Hill River. I am also an avid user of Cedar Bluff State Park, and have witnessed the effects evaporation and releases have had on the lake in the last few years.

I am here to express my support for HB 2393.

I made a motion at a joint Basin Advisory Committee meeting last fall on Nov. 3, 2004 that mirrors this bill. It read as follows, "...that the Kansas Water Office consider and respond to the idea of taking the KWO water appropriation of 5400 acre-feet in Cedar Bluff Reservoir for artificial recharge and apply to the Division of Water Resources to reallocate the water to recreation and other uses for Kansas Department of Wildlife and Parks, so as to take the water appropriation off the table as artificial recharge...." The motion was passed by the Smokey Hill Saline Basin Advisory Committee. This motion was made because anyone who lives out there realizes the fragile nature of the reservoir. Any release will have an immediate negative impact not only on the lake itself but on the region as a whole. I felt it necessary to make this motion when it became apparent that the City of Hays was trying to lay hold on waters in the reservoir, a reservoir in which they hold no water rights. I was involved early on in the Hays Wellfield Modification meetings at the invitation of the KWO, but only as an observer. After only two meetings I was no longer invited to participate, it is my guess that this is when the schematics of how and when to use waters from the reservoir to supplement Hays' water supplies were developed. As we are all aware an operational agreement between the KWO and the city's of Hays and Russell was generated from those meetings. You will have heard or will be hearing from the Kansas Water Office that this agreement with Hays and Russell would be contrary to this bill and thus it would be very difficult if even possible to terminate this agreement. The Kansas Water Office is the holder of the water right for the artificial recharge pool. They cannot assign that right to someone else without approval of the Division of Water Resources. Last time I checked this was not done. The agreement between the KWO, Hays and Russell for the operation of the reservoir is only good as long as the KWO holds that water right. Transfer the water right to the KDWP and reallocate it as recreation. This will end the relentless pursuit by the the City of Hays to take water from the Cedar Bluff Reservoir and allow them to focus on a real and more permanent solution to their supposed water problems.

In the last Hays Wellfield Modification meeting I was invited to, Hays' own engineers stated that even in the most pressing times in the recent past if cropland irrigation of less than 1000 ac/ft could have been eliminated the depth to water would have been such that Hays would not have had any concerns in their west wellfields, closest to the reservoir. If this is the case, why is it that the KWO and City of Hays is not looking at the more permanent solution of water right acquisition along the Smokey Hill River and tributaries? They could retire these water rights or possibly use them as a supplemental supply. By doing this it could possibly take strain off Hays' east wellfields thus not



putting a strain on Russell's wellfields. In the end that could reduce the chance for even Russell having to ask for releases from Cedar Bluff, thus helping to reduce loss of surface area to the reservoir. As an environmental committee I would think this would make sense.

By this point everyone should be well aware of the unreliability of Cedar Bluff Reservoir as a source for water. But what many do not know is that the reservoir itself gives life to the river below. Continual seepage provides a constant recharge to the river. Look at the time and money and effort spent by the associated State agencies and the City of Hays to secure agreements for a water source that holds no promise of stability. The reservoir is being used as a political bargaining chip. There is too much at stake for the life of the State park itself, surrounding development and other economic impacts for the region. We must not let this threat continue we must do all we can to bring whatever stability possible to the region surrounding Cedar Bluff Reservoir. Please support this passage of this bill.

Again I thank you for your time and would welcome the opportunity to visit with any of you if you have any questions.

W. Geoff Withington  
RR 1 Box 79  
Uitca, KS 67584  
785-731-2393

**Testimony on HB2393 Relating to Cedar Bluff Reservoir  
To  
House Committee on Environment**

**By J. Michael Hayden  
Secretary  
Kansas Department of Wildlife and Parks**

**February 15, 2005**

HB 2393, AN ACT concerning the preservation of Cedar Bluff Reservoir and controlling the release of water contained therein.

The Department would like to thank the Committee for recognizing the importance of recreational use of water in Kansas to local and regional economies. Throughout the state, public water bodies are both popular destinations and important components of economic diversity. Too often that fact is overlooked and we applaud the Committee for recognizing the importance of recreation as not only a quality of life issue for the public, but as an important component of the State's economy.

Cedar Bluff Reservoir is one of the best examples of the economic importance of public water bodies in Kansas. Due to its location, Cedar Bluff is an important resource to a large portion of western Kansas. The Department testified before the interim Special Committee on the Environment at the hearings this past fall on this issue focusing on the economic importance of the lake as a recreational resource. The economic benefit of the lake to the region is dependent upon on visitation and visitation is dependent upon lake level. That message is clearly captured in the legislation and again we thank the Committee for recognizing that important fact.

The Department would like to make sure it is understood that we have an interest in the eventual transfer of the majority of the water rights held by the Water Office to the Department. Specifically, the water in the Joint Use Pool that we share responsibility for with the Water Office. However, there are several unintended consequences of this legislation which place the Department in a position that it must oppose the bill.

First, with specific reference to the 5,400 acre feet of water (now 5,110 due to sedimentation) in what is termed the Artificial Recharge Pool, the Department has no interest in assuming responsibility for that water. There may be instances, under existing statutory authority, where water could be required to be released or passed through the lake because of downstream water rights. Therefore, the State would be placed in a situation where conflicting laws exist. In this scenario, existing water law might require a release to be made but this legislation would make it unlawful to do so. In addition, at the time the State acquired these water rights a commitment was made to the federal government to maintain a pool of water to

address downstream needs. We do not believe we are the appropriate agency to administer that water right.

Secondly, there are costs associated with the transfer of these water rights. At all federal reservoirs where the State has contracted for water storage, the federal government passes on a portion of the operation and maintenance (O&M) charges for that lake to the State. In this case, the Bureau of Reclamation charges the State for a portion of the O&M costs based upon the percentage of the water rights held by the State at Cedar Bluff. Currently, both the Water Office and the Department of Wildlife and Parks pay a portion of these O&M charges. The most recent bill totaled \$116,074.56, \$64,411.01 by Wildlife and Parks and \$51,663.55 by the Water Office. To instantly absorb those increased costs into the Department's current budget for the areas we manage at the lake would cause serious problems for Cedar Bluff State Park and Cedar Bluff Wildlife Area. Again, the economic benefit is based on the number of visits to the lake and we do not want to discourage visitation by impairing our ability to provide the services the public desires. We have discussed the issue of O&M payments with the Water Office and are in agreement to assume those responsibilities after three fiscal years.

Finally, the most significant aspect is this legislation is in essence an act of the legislature appropriating a water right because of public pressure to use it differently. The Department is concerned as this sets a dangerous precedent and potentially undermines water law in the State. The Department is opposed to using legislation to transfer water rights.

For these reasons, the Department respectfully requests the Committee to not pass this bill. Instead, the Department is prepared to work with the Kansas Water Office and the Department of Agriculture, Division of Water Resources to ultimately transfer the water rights in the Joint Use Pool from the Water Office to the Department of Wildlife and Parks.

## Testimony on Cedar Bluff Reservoir preservation and control of water releases

Presented to  
The House Environment Committee  
House Bill 2393

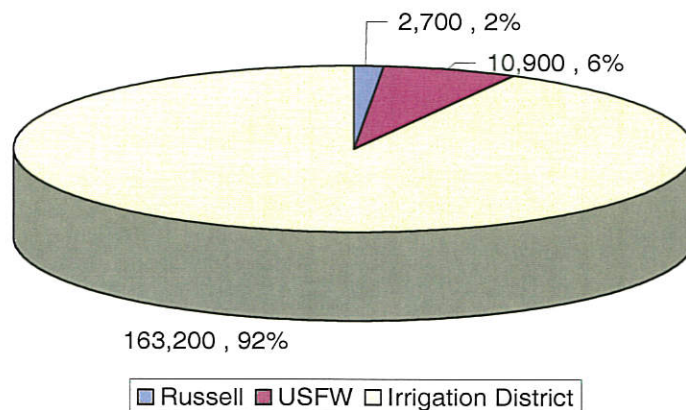
Tracy Streeter, Director  
Kansas Water Office  
February 15, 2005

Representative Freeborn and members of the Committee, I am Tracy Streeter, Director of the Kansas Water Office. I appear this afternoon in opposition to House Bill 2393 as it pertains to the transfer and the restriction of the release of water from the Cedar Bluff Reservoir Artificial Recharge Pool.

HB 2393 proposes to transfer the ownership and management of the Artificial Recharge Pool and Joint Use Pool from the Kansas Water Office (KWO) to the Kansas Department of Wildlife and Parks (KDWP). The bill would also prohibit releases from the reservoir for all uses except for flood storage, city of Russell and KDWP facilities below the dam.

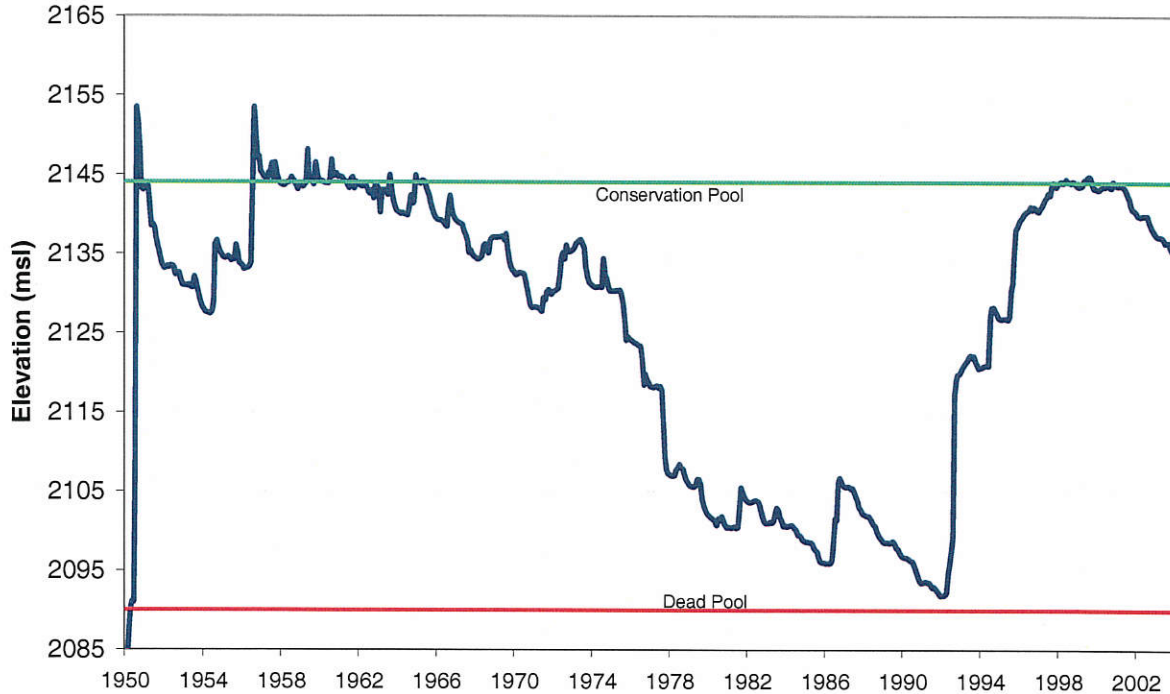
Construction of Cedar Bluff Reservoir was completed in 1951 with the original purposes of flood control, irrigation, fish, wildlife, municipal supply and recreation. Ninety-two percent of the original storage was allocated for the operation of the Cedar Bluff Irrigation District located downstream of the dam. For the period 1963 – 1978, the Irrigation District utilized this storage to irrigate approximately 6,800 acres. Due to lack of inflow the reservoir did not contain sufficient storage to sustain the district beyond 1978.

### Original Sub-Pool Allocations





## Cedar Bluff Reservoir Historic Reservoir Elevation



In 1984, the state was contacted by the Irrigation District regarding the possible purchase of its water rights and storage. In 1987, a Memorandum of Understanding (MOU) was signed between the U.S. Fish and Wildlife Service, the Cedar Bluff Irrigation District and the State of Kansas to transfer the District's water rights to the State. The general purpose of the agreement was to relieve the Irrigation District of debt and provide increased recreation opportunities for western Kansas in Cedar Bluff Reservoir.

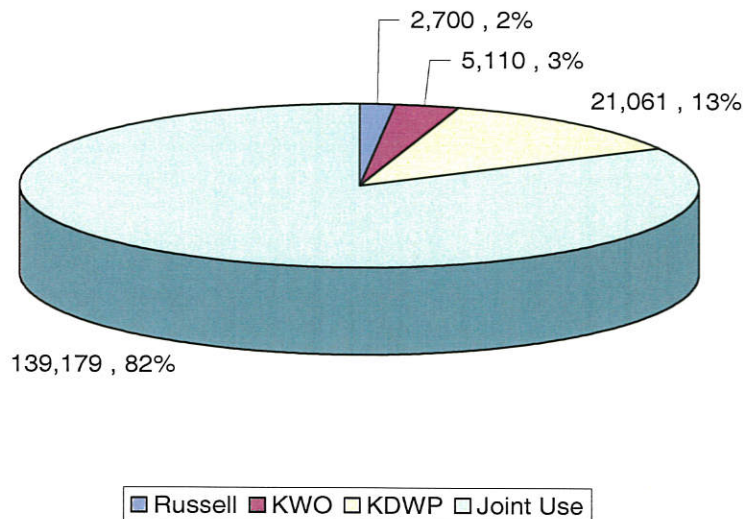
The MOU established new conservation pool allocations as well as pool purposes.

**Joint Use Pool** – Primary purpose is lake recreation. This pool is also authorized for artificial recharge, municipal and fish, wildlife and recreation.

**Fish and Wildlife Pool** – Support operation of the fish hatchery / goose rearing facility below Cedar Bluff Lake. This pool is limited to 375 acre-feet of release based on Smoky Hill IGUCA. The unused portion of this pool remains for in lake recreation.

**Artificial Recharge Pool** - Intended to replace irrigation return flows, maintain other downstream water rights dependent on the overall system hydrology.

## Current Cedar Bluff Sub-Pools



In 1989, a contract was signed between the parties to implement the MOU. In 1992, Congress approved the reformulation of storage in Cedar Bluff Reservoir. NOTE: The storage allocation of 5,110 for the KWO in the above illustration refers to the Artificial Recharge Pool. HB 2393 refers to 5,400 acre-feet for this pool. The reduction is a result of adjustments made to the allocation due to sediment deposition in the reservoir as reflected in the Accounting Procedures adopted for the Reservoir.

The KWO and KDWP have discussed and look favorable upon transferring the Joint Use Pool entirely to KDWP. This would result in 95 percent of the total reservoir storage being devoted to fish, wildlife and recreation uses. The chief concern of devoting the entire Joint Use Pool to these purposes is the effect on the state's financial obligation for operations and maintenance (O & M) costs. Currently, the KWO pays approximately 45 percent of the O & M costs. KDWP has indicated that the agency could assume full financial responsibility for Cedar Bluff O & M costs in FY 2009.

The KWO opposes the transfer of the Artificial Recharge Pool to KDWP and the proposed restrictions on the release of water from this Pool for the following reasons:

1. The state of Kansas is obligated under the Memorandum of Understanding, contractual agreement with the federal government and action of the United States Congress to operate Cedar Bluff Reservoir storage for the purposes stated.
2. As a result of the reformulation of the storage in the Reservoir, the Irrigation District was disbanded and ceased to operate. The Irrigation District had released water from the Reservoir for the years 1963 through 1978, applied that water to irrigated cropland below the dam and returned

unused water to the Smoky Hill River. A number of water rights were developed based on the return flows from the irrigation district operations.

3. K.S.A. 82a-708b requires that a change to a water right cannot negatively impact other water right holders. In order to insure there was no negative impact to other water right holders downstream of the Reservoir, the Artificial Recharge Pool was created to make targeted releases and support downstream flow and groundwater levels.
4. If passed, HB 2393 would cause the state of Kansas to be in direct conflict with:
  - a. A Memorandum of Understanding and contractual agreement with the federal government and Congressional authorization of the reallocation of Cedar Bluff Reservoir storage.
  - b. The Kansas Water Appropriation Act relative to the impacts on other water right holders.

I would like to thank you, Representative Freeborn and members of the Committee for the opportunity to share the position of the Kansas Water Office. I will stand for questions at the appropriate time.

Testimony Before the House Committee on Environment  
On HB 2393

**KANSAS SOCIETY OF PROFESSIONAL ENGINEERS**

by

**LaVene R. Brenden, P.E.**  
**Chairman, Environmental Resources Committee**  
**February 15, 2005**

The Kansas Society of Professional Engineers opposes passage of HB 2393 because of the potentially far reaching effects on Kansas Water Policy and Kansas Water Law.

Kansas Water Law is based upon the doctrine of first in time, first in right. The law defines several categories of beneficial uses for water but does not give one beneficial use precedence over another. This bill as currently written not only takes away a water right but also supplants it and all other beneficial uses by designating one use as higher priority. The state-wide implications of this proposed action are immense. We ask that you seriously reconsider this bill and not pass it.