

MINUTES OF THE SENATE NATURAL RESOURCES COMMITTEE

The meeting was called to order by Chairman Carolyn McGinn at 8:30 A.M. on February 4, 2005 in Room 423-S of the Capitol.

All members were present except:
Mark Taddiken- excused

Committee staff present:
Raney Gilliland, Kansas Legislative Research Department
Emalene Correll, Kansas Legislative Research Department
Lisa Montgomery, Revisor of Statutes Office
Gina Poertner, Committee Secretary

Conferees appearing before the committee:
Ronald F. Hammerschmidt, Ph.D., Director, Division of Environment
Whitney Damron, Kansas Sport Hunting Association and Flint Oak, LLC

Others attending:
See attached list.

Senator McGinn introduced Ron Hammerschmidt, Ph.D., Director of the Division of Environment, who gave a presentation on uses and classification of streams in Kansas (Attachment 1).

Senator McGinn asked for clarification of the maps, which was given by Dr. Hammerschmidt.

Senator Huelskamp asked about federal review of UAAs, whether it is a desk-top review or if they go into the fields. Mr. Hammerschmidt replied that they do go into the fields.

Senator Lee commented about the good progress of obtaining data. Dr. Hammerschmidt relayed that Kansas is a leader in the United States when it comes to getting the work done.

The Chair distributed the minutes of the January 21st and 22nd Committee meetings. On a motion by Senator Teichman that was seconded by Senator Ostmeyer, the minutes were approved by voice vote.

Senator McGinn then recognized Whitney Damron of the Kansas Sport Hunting Association and Flint Oak, LLC (Attachment 2). Mr. Damron presented testimony in support of **SB 98** which would repeal the sunset provision for exemption from hunter safety education requirement to hunt in controlled shooting areas.

Senator Lee asked if an online test was available. Mr. Damron stated that the Kansas Department of Wildlife and Parks is working on providing that. Senator Lee further asked how that would mesh with the controlled shooting areas. Mr. Damron stated that there would be opportunities for implementing online tests for controlled shooting areas due to the tourism trade. Hunters would also receive hands-on training once they arrived at the site.

Chris Tymeson of the Kansas Department of Wildlife and Parks stated that the Department is not opposed to the bill.

The Chair asked if there were further questions on **SB 98**. Seeing none, Senator McGinn asked for a motion to favorably pass SB 98 out of committee. The motion was made by Senator Ostmeyer and seconded by Senator Bruce. The motion was approved by voice vote.

Meeting adjourned at 9:30 a.m.

SENATE NATURAL RESOURCES COMMITTEE

Guest Roster

2/4/05

Name	Representing
Mary Jane Staniewicz	KCFA/KARA
ERIK WISNIEK	KDA
Steve Swatter	Ks Farm Bureau
Ken Corbet	Kansas Sport Hunting Assn
Robin Jeanison	Kansas Sport Hunting Assn
Chris Tymeson	KDWP
Karl Mueckener	KDHE
Craig Thompson	KDHE
Ron Hammerschmull	KDHE
Whitney Damm	KS Sport Hunting Assn / Flint Oak
Mike Beam	Ks. Livestock Assn.



K A N S A S

RODERICK L. BREMBY, SECRETARY

DEPARTMENT OF HEALTH AND ENVIRONMENT

KATHLEEN SEBELIUS, GOVERNOR

**Testimony before
Senate Natural Resources Committee**

Uses and Classification of Kansas Streams

**Presented by
Ronald F. Hammerschmidt, Ph.D.
Director, Division of Environment**

February 4, 2005

Good morning Chairperson McGinn and members of the Senate Natural Resources Committee. I am pleased to be here this morning to provide an overview of uses and classifications of streams in Kansas.

The federal Clean Water Act requires each state to establish water quality standards for streams within the state. The Kansas Water Quality Standards have been the subject of a significant debate and public policy process involving many of those in the room today. I am here to give you a brief update on the status of KDHE's efforts to perform the tasks related to stream classification and designated uses by K.S.A. 82a-2001.

The Kansas standards adopt a register which lists Kansas streams, designates the use of the streams, and sets technical criteria by which to protect the streams' use. Streams must meet five requirements under K.S.A 82a-2001 *et. seq* in order to be a classified stream and placed in the register:

- 1) Stream segments included in the United States Environmental Protection Agency's Reach File 1 (RF1) (1982) with the most recent 10-year median flow greater than or equal to 1 cubic foot per second;
- 2) Stream segments not included on RF1 with the most recent 10-year median flow greater than or equal to 1 cubic foot per second;

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Attachment 1*

- 3) Stream segments actually inhabited by threatened or endangered aquatic species;
- 4) Stream segments at the point of discharge and down stream from such point where the department has issued a National Pollutant Discharge Elimination System (NPDES) permit;
- 5) A stream shall be classified if scientific studies conducted by our section show that during periods of flow less than one cubic foot per second stream segments provide important refuges for aquatic life.

In addition, the law required a cost/benefit analysis be conducted to determine the economic and social impact of classifying the stream segment and requires the benefits of classifying the stream segment out weigh the costs of classifying the stream segment. This cost-benefit provision has been disapproved by US EPA and cannot be applied in our reviews.

The Kansas Water Quality Standards also define the uses for classified streams in the state. There are seven designated uses defined in the Kansas Surface Water Quality Standards (KSWQS) under the provisions of K.S.A. 82a-2001 *et seq.* These uses are:

- 1) Recreational use
- 2) Aquatic life
- 3) Agriculture water supply
- 4) Domestic water supply
- 5) Industrial water supply
- 6) Food procurement
- 7) Groundwater recharge

The uses of streams are listed in the Kansas Surface Water Register which is adopted by reference in K.A.R. 28-16-28g. There are 2,189 stream segments and 358 lakes, wetlands, wildlife areas and ponds listed in the register.

Under the provisions of K.S.A. 82a-2004(a)(D) "All such classified stream segments shall have designated use attainability analyses for recreational use completed prior to October 31, 2005." Since 2001, KDHE staff performed stream UAAs looking at recreational uses on classified stream segments listed in the 1999 Stream Register. The stream recreational UAA surveys are conducted using stream areas adjacent to county road bridges. From the bridges, staff set up Global Positioning System (GPS) equipment to gather the latitude/longitude coordinates of the site. Also, staff take digital photos of the upstream and downstream views at the survey site. When conducting the UAA, staff measure the riffle, pool and run habitats of a stream. This is an estimate of the length, width and depth of these habitats. Additionally, staff estimate the flow, note the type of substrate, the type of stream (perennial, intermittent, ephemeral), and any aquatic life that is present. Any observations of recreational use at the survey site, as well as, any water quality impacts to the stream are also noted.

We are on schedule to meet the statutory deadline of December 31, 2005 to evaluate the classification status of stream segments and the recreational uses of classified stream segments. The department conducted 427 stream recreational UAAs and 45 lake recreational and food procurement UAAs in 2003. For the 2004 season, a total of 655 stream recreational UAAs were performed. The stream segments for which the department has conducted recreational UAAs are shown on Map 1 with the color blue. There are approximately 560 stream recreational UAAs remaining for evaluation prior to the October 31, 2005, statutory deadline. The remaining streams are shown on Map 1 as the red streams. We will begin to conduct these UAAs in April to coincide with the start of the recreational season of April 1 through October 31.

After completion of a UAA, the department uses the information to revise the Kansas Stream Register. The current revision of the Register will propose recreational uses for 427 stream segments and 45 lakes. Thirteen stream segments are proposed for deletion from the Kansas Surface Water Register (removed from classification), 282 stream segments are proposed as secondary contact recreation, and 132 stream segments are proposed as primary contact recreation. Five lakes are proposed for deletion from the Kansas Surface Water Register; 1 lake is proposed as secondary contact recreation; and 39 lakes are proposed as primary contact recreation and food procurement. Recreational use designations for stream segments were assigned either 3 sub-classes of primary contact recreation or 2 sub-classes of secondary contact recreation consistent with the requirements of K.S.A. 2002 Supp 82a-2001. The public hearing for this revision will be held on April 18, 2005, using teleconferencing from a number of sites around the state.

When the department completes updating the Stream Register and the Secretary has adopted the regulation change, the revised Water Quality Standards must be submitted to the US EPA for approval. This process sometimes takes a period of time to complete. If you refer to Map 2, you will see in blue those stream segments for which UAAs have been conducted and the revised use designations subsequently approved. Stream segments for which the UAAs have been conducted but awaiting submission and ultimate US EPA approval are shown in red, along with streams for which UAAs are yet to be completed. The EPA approval process lags by as much as a year or two behind the completion and submission of the UAAs by field staff.

While visiting the many stream sites, staff have gathered other information to assist in future use designations for uses other than recreation. In 2006 and 2007, we will focus our UAA efforts on uses other than recreation -- as the recreational review will be completed. We estimate as many as 700 or more UAAs for the other six uses, primarily aquatic life must be performed prior to the December 31, 2007, deadline.

I will briefly up date the committee on the status of the Total Maximum Daily Load (TMDL) efforts. We have recently submitted our annual report to the original plaintiffs in the federal court case. Under the terms of the Court Decree and Settlement, we are to complete TMDLs in at least 10 river basins by June 30, 2005. With our recent submission of a TMDL for metals in the Spring River to US EPA, we have completed work in the first ten basins. We anticipate these will be approved by the Regional Office. Our next compliance date under the court decree is June 30, 2006. We are required to complete TMDLs for all 12 basins by that date. During the next year, we anticipate completing the TMDLs for the Smoky Hill and Lower Arkansas River

Basins. Map 3 shows the streams for which TMDLs have been established and approved; those for which TMDLs have been established but not yet approved; and those streams for which TMDLs must be established.

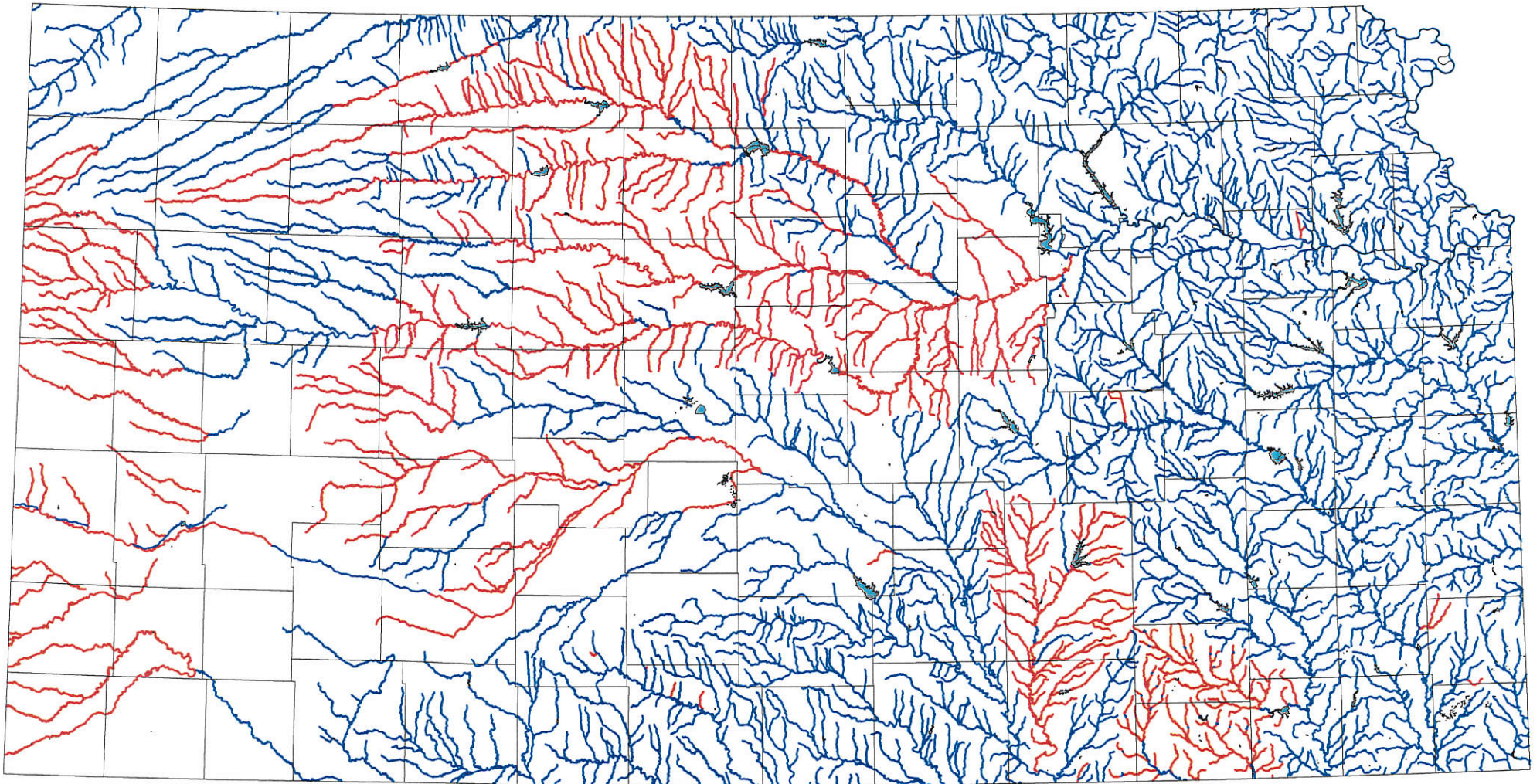
The completion of TMDLs for the Smoky Hill and Lower Arkansas River Basins will bring us to the end of the initial round of TMDLs. As set forth in the Clean Water Act, we will then move forward to the second round of TMDLs. During this round we will examine the progress of the various approaches implemented to improve water quality in the respective streams and lakes.

Thank you for your attention. I will be happy to respond to any questions or follow up with you at a later date.

February 4, 2005

UAA FIELD WORK DONE

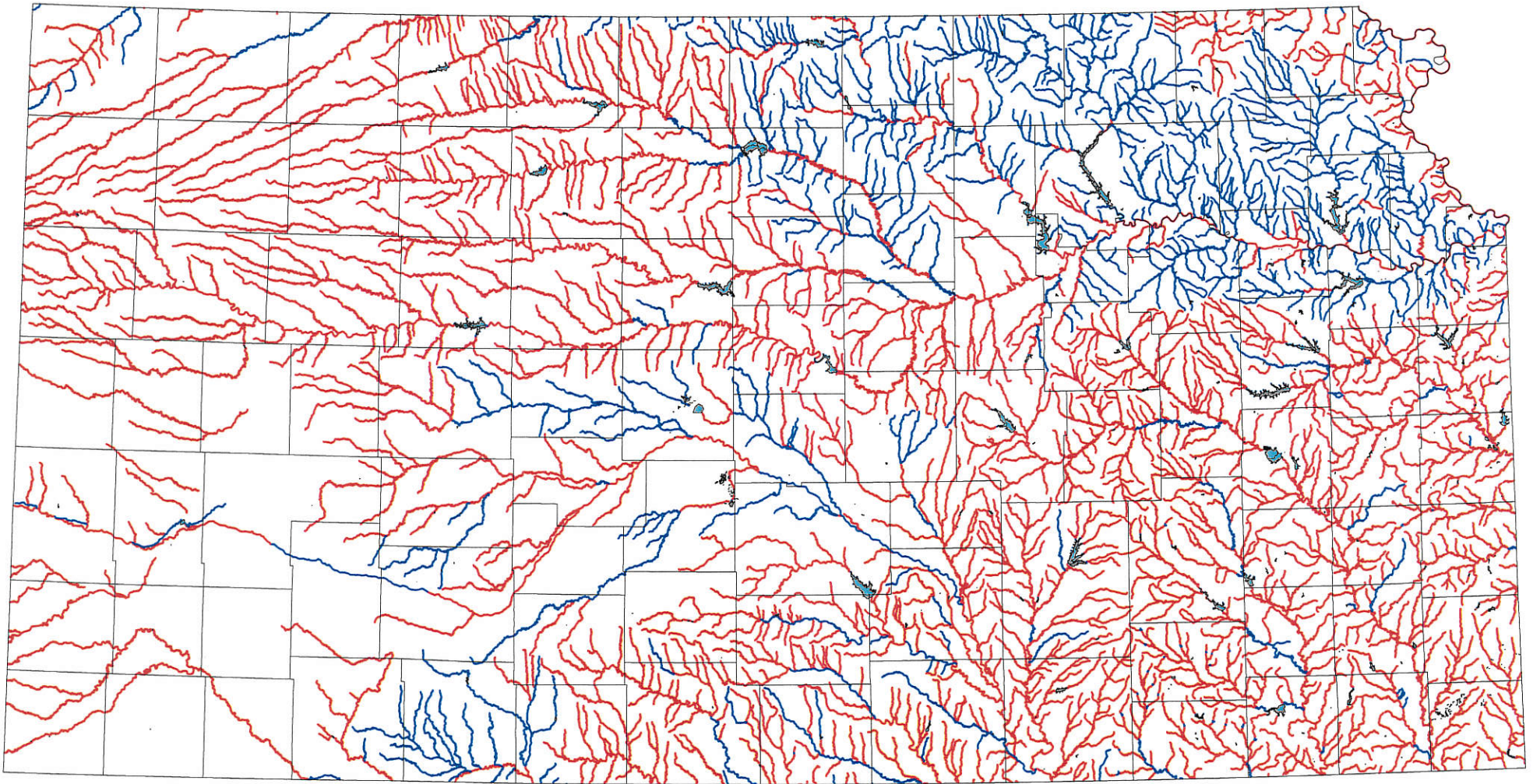
Map 1



- County
- Lakes
- STREAMS WITH FIELD WORK DONE
- REMAINING STREAMS

UAA APPROVED

Map 2



- County
- Lakes
- STREAMS APPROVED
- REMAINING STREAMS

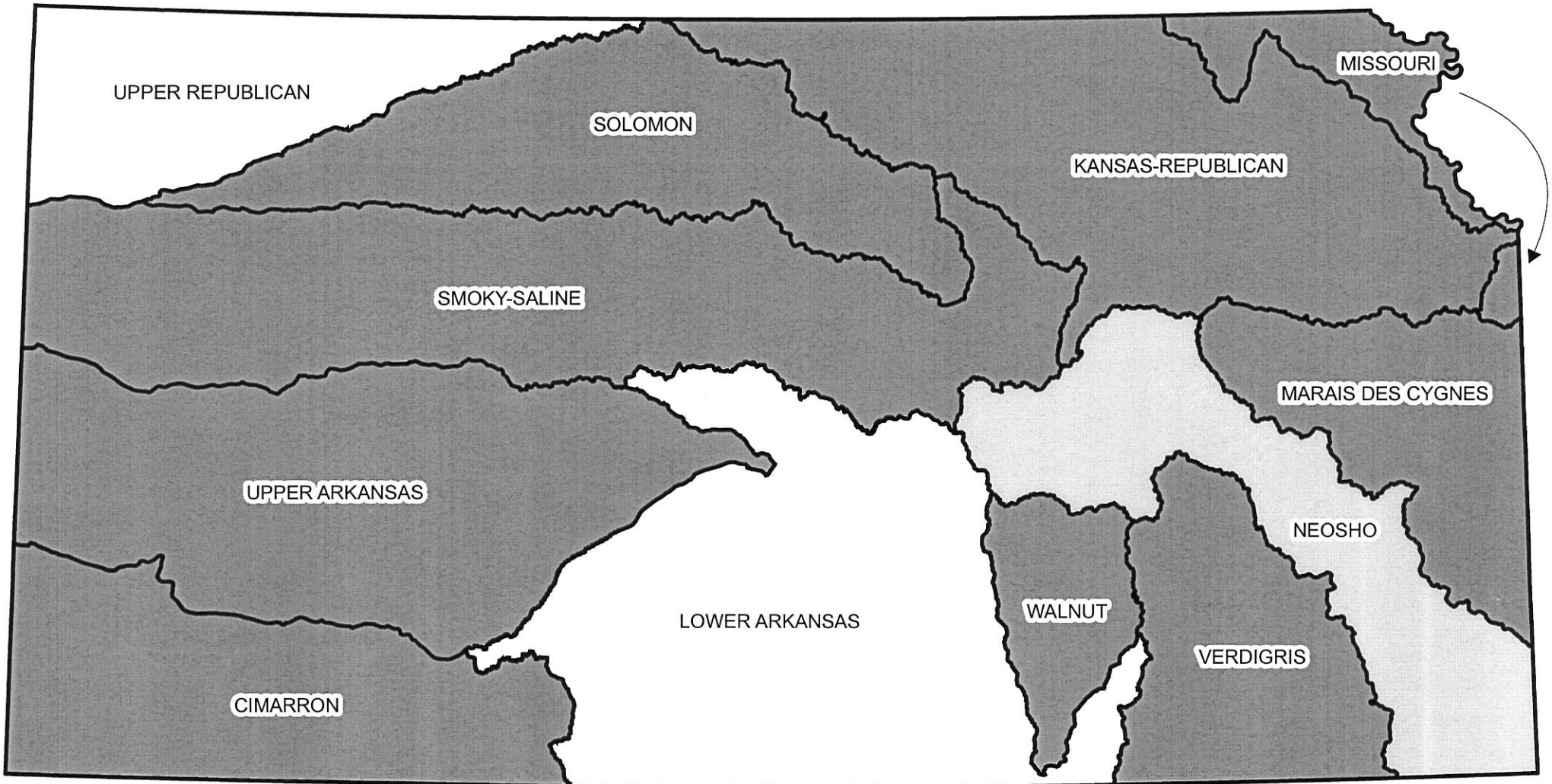
1-6

1-6




1-6

Total Daily Maximum Load Progress, 2/1/2005

Map 3



TMDL BASIN WORK COURT DECREE STATUS

-  COMPLETED
-  SUBMITTED, AWAITING APPROVAL
-  UNDER DEVELOPMENT

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TESTIMONY

TO: The Honorable Carolyn McGinn, Chair
And Members Of The
Senate Committee on Natural Resources

FROM: Whitney Damron
On Behalf Of:

- Kansas Sport Hunting Association
- Flint Oak, LLC

RE: SB 98 Repeal of sunset provision for exemption from hunter safety
education requirement to hunt in controlled shooting area.

DATE: February 4, 2005

Good Morning Madam Chair McGinn and Members of the Senate Committee on Natural Resources. My name is Whitney Damron and I appear before you today on behalf of Flint Oak, LLC and the Kansas Sport Hunting Association in support of SB 98 that would make permanent the exemption for completion of a hunter safety education course for hunting on controlled shooting areas in our state.

With me today is the President of the Kansas Sport Hunting Association and the owner of Ravenwood Hunting Preserve, Mr. Ken Corbet. Ravenwood is located southwest of Topeka. Mr. Robin Jennison and I both represent the interests of the Kansas Sport Hunting Association.

The Kansas Sport Hunting Association is an organization of controlled shooting area licensees, game bird breeders and others involved in the sport hunting business in our state.

Flint Oak is a world-renowned hunting, fishing and recreational shooting property located in Elk County, approximately 90 miles east of Wichita.

Specifically our proposal would repeal the sunset language contained in K.S.A. 32-920 (b) that creates the exemption referenced through July 1, 2005.

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Attachment 2*

By way of information, both Flint Oak and the Kansas Sport Hunting Association requested this exemption in 2000, which was approved with a 2 year sunset provision. In 2002, the Legislature extended the sunset for this exemption for an additional 3 years.

With the current sunset due to expire this year, we believe it is timely for the legislature to make this exemption permanent.

By way of background, Flint Oak and the KSHA strongly support hunter education and the current law as it is applicable for hunting on public lands. However, controlled shooting areas or C.S.A.'s are a unique hunting experience and typically involve small groups of hunters with guides. Safety is a major part of hunting on C.S.A.'s and most all have their own safety programs tailored to their clientele and the hunting experience they will encounter.

The Kansas Sport Hunting Association has created a hunter safety program that it makes available to all of its members. I have reproduced a copy for your review. The KSHA encourages all of its members to give this review and test to their customers or create a similar program to insure the safety of the hunters, the guides and the hunting dogs as well as to protect property. These kinds of focused safety courses can be successfully and effectively given in a matter of minutes or a few hours, depending upon the experience of the customer.

In contrast, state-mandated hunter education programs require not less than ten hours of training, which typically covers all aspects of recreational safety, from hunting and shooting to boating, and general outdoor citizenship (K.S.A. 32-921). While these programs are tremendously beneficial to the public at large, they can create an obstacle to the promotion of sport hunting opportunities in our state to tourists who may not immediately qualify under our general hunter education requirements. Furthermore, typically these programs are held in a particular area only a few times per year over a period of days or weeks and usually consist of more than ten hours of education. In summary, it would be difficult, if not impossible for a tourist to locate and pass an approved hunter safety course and participate in a hunt at a controlled shooting area within a 24 or even 48 hour period of time.

We believe the sport hunting industry has demonstrated they have implemented this exemption in a safe and responsible manner and we respectfully request your support of SB 98.

I would be pleased to stand for questions today as will Mr. Corbet.

Thank you for your time.

Whitney Damron

Attachment