

MINUTES OF THE SENATE NATURAL RESOURCES COMMITTEE

The meeting was called to order by Chairman Carolyn McGinn at 8:30 a.m. on March 10, 2006, in Room 423-S of the Capitol.

All members were present.

Committee staff present:

Raney Gilliland, Kansas Legislative Research Department  
Emalene Correll, Kansas Legislative Research Department  
Lisa Montgomery, Revisor of Statutes Office  
Judy Holliday, Committee Secretary

Conferees appearing before the committee:

Edward "Woody" Moses, Managing Director, Kansas Aggregate Producer's Association  
Richard Wenstrom, Water Protection Association of Central Kansas  
Steve Swaffar, Director of Natural Resources, Kansas Farm Bureau  
Mike Beam, Senior Vice President, Kansas Livestock Association  
Ken Frahm, Kansas Water Congress

Others attending:

See attached list.

Chairperson McGinn brought the Committee's attention to **HB 2875, Concerning inspection fees for works constructed for appropriations of water for beneficial use**, and stated the need for some cleanup language to solve some problems with the bill for the sand industry. She asked Edward "Woody" Moses about language changes in the bill. Mr. Moses stated that by taking out the metering language and substituting "operation" for "project," he could support the bill and urged the Committee to adopt the bill. Senator Ostmeyer made a motion, seconded by Senator Teichman, to adopt Senate Substitute for HB 2875. The motion carried.

Chairperson McGinn asked if there would be more discussion on **HB 2757, Requiring notification of oil and gas spills to landowners**. Senator Ostmeyer made a motion to move the bill out of Committee, seconded by Senator Teichman. The motion carried.

Chairperson McGinn opened the hearing on **HB 2710, Creates the water right transition assistance program**. Richard Wenstrom, owner-operator of an irrigated farming operation near Kinsley, Kansas, testified in support of **HB 2710** as a member and on behalf of the Water Protection Association of Central Kansas (Attachment 1). He expressed support of the current version of **HB 2710** with two exceptions: 1) page 2, line 9, strike the words "not more than two" to allow this statute to be used in more basins in the near future; and 2) page 3, lines 27-31, delete the language in [brackets]. He stated that passage of **HB 2710** would provide the tool needed to significantly reduce water usage by permanently retiring water rights in the area.

Senator Taddiken asked about partial water rights, and Mr. Wenstrom responded that he was not in favor of partial retirement of water rights.

Kenneth Frahm, Kansas Water Congress, gave brief summary testimony in favor of **HB 2710** as introduced (Attachment 2). He told the Committee that the bill represents all water users and urged Committee support of the bill.

Copies of written testimony by Steve Swaffar, Director of Natural Resources for Kansas Farm Bureau (Attachment 3); Mike Beam, Senior Vice President of the Kansas Livestock Association (Attachment 4); Mark Rude, Executive Director, SW Kansas Groundwater Management District #3, Garden City (Attachment 5); and Wayne Bossert, Manager, NW Kansas Groundwater Management District #4 (Attachment 6) were distributed to the Committee.

With no further testimony on **HB 2710**, Chairperson McGinn declared the hearing closed. She asked the Committee to offer suggestions on the bill. Senator Taddiken expressed concern about the language in the bill regarding the ability of the Conservation Commission to retire water rights, and he asked the Department

CONTINUATION SHEET

MINUTES OF THE Senate Natural Resources Committee at 8:30 a.m. on March 10, 2006, in Room 423-S of the Capitol.

insert the phrase "enter into contracts" so that only the Department of Water Resources had the ability to retire the water rights. Senator Taddiken made a motion that the Committee amend HB 2710, seconded by Senator Lee. The motion carried.

Senator Lee moved to delete lines 27-31 in [brackets] dealing with the tax study, seconded by Senator Taddiken. The motion carried.

Senator Bruce stated that if this is a pilot project limited in the bill, shouldn't we know the economic impact? Senator Taddiken asked Senator Bruce if the economic impact study was of the progress of the study rather than the results of the study. Senator Lee made a motion to amend her motion by changing the word "results" to "progress" in line 34 and to leave the wording to the Revisors, seconded by Senator Taddiken. The motion carried.

Senator Teichman made a motion to take out "not more than two" and restore lines 12-14, adjust wording in lines 15-18 to indicate that high priority areas would be first. Raney Gilliland cautioned the Committee about the change because not all of the Prairie Dog is in the GMD. Senator Taddiken seconded the motion. The motion carried.

Senator Francisco made a motion to change the reference to paragraphs (g) and (h) on line 23, page 2, and make other necessary technical amendments to the bill, subject to the Revisor's language. Senator Teichman seconded the motion, and the motion carried.

Senator Bruce expressed his concern about a statewide program to retire water rights, and stated that he was content with the pilot project and that money should not be derived from the Colorado water lawsuit. Chairperson McGinn told the Committee that there had been discussions in Ways and Means about a hearing on the Colorado funds and the best use for this money.

Senator Huelskamp made a motion to offer an amendment requiring approval through the policy committee before any water rights were purchased (Attachment 7). Senator Ostmeyer seconded the motion. The motion carried.

Senator Huelskamp expressed concern about taking 100,000 acres of land out of production for dryland farming, and the economic impact this would have. He felt the Policy Committee should review and approve or disapprove.

Senator Lee told the Committee she is not comfortable with this amendment and that she needed to know a lot more about CREP and whether it only applied to Western Kansas or to the rest of the state. Senator Huelskamp stated that was his purpose of offering the amendment, as it could impact his area as well.

Chairperson McGinn told the Committee the bill could not be finished today but would probably be continued at the Committee meeting on Friday. She told the Committee there was a motion and a second on the amendment to the bill and asked for consensus of the Committee to leave the discussion open. The motion carried by voice vote.

The meeting adjourned at 9:35 a.m.

# SENATE NATURAL RESOURCES COMMITTEE

Guest Roster

3/10/06

Name	Representing
CV Cotsoradis	KDA
Woody Moses	ICAPA
Wendy Hammes	✓✓
David L. Pope	KDA
Carole Jordan	KDA
SEAN MILLER	KS WATER CONGRESS
Gary Blackburn	KDHE
Randall Carlson	KDHE
SCOTT CALSON	SCC
GREG A. FOLEY	SCC
Kent Lamb	
Dave Brennan	KWC
Earl Lewis	KWO
KEN FRANK	KS WATER CONGRESS
Ed Haselwood	Ant Management
RICHARD WENSTROM	WATER PACK
Mike Beam	Ks. Livestock Assn.
Steve Swaffar	Ks Farm Bureau

Testimony Before the Senate Natural Resources Committee

Friday, March 10, 2006

Madam Chair and Committee Members:

Thank you for the opportunity to testify to you this morning. My name is Richard Wenstrom; I am the owner-operator of an irrigated farming operation south of Kinsley, Kansas. Today I appear as a member of the Water Protection Association of Central Kansas (Water PACK), on behalf of the Board of Directors, in support of House Bill 2710.

In one of the two key basins that we live and work in, the Rattlesnake Creek Basin, we are currently in the 6<sup>th</sup> year of a 12 year Management Plan, signed into effect by the Chief Engineer in the year 2000 that calls for a reduction of 24,000 acre-feet of water use over this 12-year period. One of the strategies in this plan is the permanent retirement of water rights. Our plan target calls for 7,500 AF of water use over 12 years with this program. To accomplish this approximately 10,400 AF in gross water rights would need to be retired permanently. Other voluntary participation strategies involving conservation of water through new tillage techniques, irrigation scheduling, water banking, are already in effect. We need the help of state government for statutory authority and funding to make permanent retirement of water rights a reality.

We are in support of the current version of House Bill 2710, with two exceptions: 1) Page 2, Line 9, we would strike the words "not more than two" to allow this statute to be used in more basins in the near future. For example, the Middle Arkansas Basin is vitally in need of using water rights retirement in carrying out the management plan there. 2) Page 3, Lines 27-31, the language in [brackets] should be deleted. As business owners and managers, we understand the importance of economics and impact on local businesses and communities. Taking out a few wells in our basins will have a negligible impact on our local farm economies. Let's look briefly at some data, from our farm:

	<u>1 well, 128 acres</u>	<u>Rattlesnake Basin, 1,500 wells</u>
Revenue	\$ 64,000	\$ 96,000,000
Inputs	\$ 32,500	\$ 48,768,000

From the above, if one well is taken out, the loss to the basin in revenue and the loss in inputs to local suppliers is a very, very small percentage of the total for the basin. On the other hand, if we don't hit our goals for water use reduction, and an IGUCA is administered in the basin, less irrigation water per water right will mean a significant decrease in crop revenue and inputs both since lower value crops will be raised. The Rattlesnake Creek Basin is very close to being a stable aquifer, meaning recharge equaling outflows to pumping. Passing House Bill 2710 will provide the tool that we need to significantly reduce water use by permanently retiring water rights in our area.

Thanks for your consideration of this testimony. We will stand for questions as needed.

Richard J. Wenstrom  
Water Protection Association of Central Kansas

*Senate Natural Resources  
March 10, 2006  
Attachment 1*

Testimony in support of HB 2710 (Water TAP)  
Senate Natural Resources Committee  
March 10, 2006

Chairman McGinn and members of the Committee:

My name is Kenneth Frahm. I'm an irrigator from Thomas County. I have been a member of The Kansas Water Congress since its inception and I currently serve as Vice Chairman of the Water Transition Assistance program subcommittee. I am here today to testify in support of House Bill 2710 as originally introduced. A big part of the Water Congress concept has been to bring together all parties in Kansas with an interest in water policy. I firmly believe that concept is working well.

Kent Lamb, Chairman of the State Affairs committee of the Kansas Water Congress appointed a subcommittee one year ago to work on the concept of a water rights transition program. He deliberately appointed committee members representing all sides of this issue.

Over the past year this subcommittee has put in many hours of thought, work and debate on the issue. We have regularly met with relevant agency leaders to develop a program that will work to reduce consumptive use, extend the life of the aquifers and preserve the economic viability and the future of the State of Kansas. We believe that House Bill 2710 accomplishes these objectives and we ask for your support.

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March 10, 2006  
Attachment 2*

***Kansas Farm Bureau***  
***POLICY STATEMENT***

**Senate Natural Resources**

**HB 2710: Water Rights Transition Assistance Program**

**March 6, 2006**

**Submitted by:**

**Steve M. Swaffar**

**Director of Natural Resources**

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Chairperson McGinn and Committee members, thank you for this opportunity to provide testimony today in support of HB 2710, a bill which would help ease the burden of transitioning from high capacity irrigation to using less water in areas that are experiencing significant water level decline rates in Kansas.

I am Steve Swaffar, Director of Natural Resources for the Kansas Farm Bureau. Kansas Farm Bureau policy supports the notion of voluntary, incentive based programs which allow landowners to determine if a proposal such as HB 2710 is right for them and their operation. Many of our members have experienced the challenges of dealing with high fuel costs, deepening water levels and stagnant commodity prices; consequently providing an incentive to transition out of irrigation but retaining the right to continue farming the land is an appealing option for some.

KFB worked to reach consensus with other members of the Kansas Water Congress State Affairs Committee to formulate the original proposal found in HB 2710. We believe that process resulted in a product most are comfortable with and one the legislature can endorse. Obviously with the amendments the bill received in the House some were not as comfortable as we had hoped. KFB believes the bill as originally written is superior to the version you have to consider now. However, I want to make it clear we still support many of the provisions in HB 2710 as amended.

Narrowing the focus of HB 2710 from targeted, high priority aquifer decline areas of the state to two specifically identified areas may have some merit for ensuring the money is invested wisely, but we believe that decision would have been made adequately by the State Conservation Commission (SCC); the program

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*ATTACHMENT B*

would be much better served by returning to its original intent and allowing the SCC some flexibility in awarding these grants.

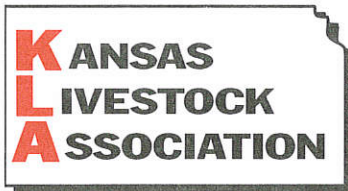
Another concern we have is the requirement for an economic study to be performed prior to appropriation of monies. Any conclusions the study might draw prior to implementation would mostly be speculation and yield few tangible conclusions. We suggest conducting the study concurrent with implementation of the program and the final report be presented following the initial five years, but prior to any new authorization or appropriation of funding. KFB does not actually believe the scope of this project is large enough that it will harm the regional economy, but it may provide enough incentive to sustain individual operations throughout the conversion to dryland farming.

KFB believes the addition of partial water rights retirement to the bill adds undue complexity for the scope of this program. Based on the \$1.5 million contemplated in the bill; anticipation of adequate demand for full retirement of water rights; and the additional administrative costs for SCC to administer partial retirements, we believe the program is not significantly improved by this amendment. Therefore we suggest eliminating the provisions related to partial water rights retirement and returning the language to the original intent of full water right retirement.

While this program certainly is not a quick fix, it is a good first step in helping reduce our dependency on high capacity irrigation in targeted areas and hopefully it will eliminate, or greatly reduce, the need to regulate water rights by the State of Kansas. Administration of water rights is a worst-case scenario for everyone because its affect is felt immediately and ultimately everyone shares its burden. Individual operations are severely impacted, land values plummet, tax revenue diminishes and eventually the affect is felt in the State coffers.

We are confident the State Conservation Commission will develop rules and regulations that will produce results you can identify and quantify. Additionally, by providing a five-year sunset, as proposed in HB 2710, the State should have adequate time to evaluate the program and measure its results before efforts to enhance or discontinue the program are made. We believe it is time for Kansas to give the concept of a voluntary, incentive based water conservation proposal such as HB 2710 a try. On behalf of the members of Kansas Farm Bureau we request you give this bill favorable consideration.

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



*Since 1894*

## TESTIMONY

To: The Senate Natural Resources Committee  
Sen. Carolyn McGinn, Chairperson

From: Mike Beam, Senior Vice President

Date: March 10, 2006

Subj: **House Bill 2710** –A bill creating the water right transition assistance program.

*The Kansas Livestock Association (KLA), formed in 1894, is a trade association representing over 6,000 members on legislative and regulatory issues. KLA members are involved in many aspects of the livestock industry, including seed stock, cow-calf and stocker cattle production, cattle feeding, grazing land management and diversified farming operations. Kansas ranked second nationally with 6.65 million cattle on ranches and in feed yards as of January 1, 2005. The state's beef industry consumes 72% of the corn, 16% of the soybeans, and 60% of the hay grown in Kansas.*

The future of the Kansas livestock industry is dependant on a productive and sustainable grain and forage base. Groundwater and irrigation is essential for producing a viable supply of grain and forage in many parts of this state.

When we look at the future of irrigation in the high plains, we cannot dismiss the obvious. Many areas are over appropriated and ground water is being pumped at rate faster than its recharged. The Division of Water Resources continues to receive complaints of water right impairments. In several instances, irrigators and water right holders are developing and advancing initiatives to reduce consumptive use on hopes of avoiding the designation of an Intensive Groundwater Use Control Area.

The Kansas Livestock Association (KLA) believes HB 2710 provides a tool, if funding is made available, to help address the over appropriation of water on a voluntary basis. KLA supports HB 2710.

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Attachment 4*



The program proposed by HB 2710 is not a new concept.

- The idea of permanently retiring a limited number of water rights, and groundwater pumping, in priority areas was proposed by stakeholders in southwest Kansas several hears ago. (Mayo report)
- The Kansas Water Authority, through its ongoing water planning process, has repeatedly identified and designated this program as an important tool to extend and conserve ground water for future generations.
- The Kansas Natural Resources Legacy Alliance, in 2003, identified groundwater quantity as a key factor that could limit future economic and population growth. This group, after consultation from stakeholders at the local level, suggested the following strategy:

*Develop and implement water management strategies to reduce water use in critical or high priority areas and provide for an economic transition from irrigated to dry land farming.*

- In addition, this idea has considerable local support by several Groundwater Management Districts. These entities are governed by local citizens committed to programs and initiatives that extend and/or sustain groundwater use.
- After a year of discussions and deliberations, the Kansas Water Congress has collectively drafted and recommended the bill before this committee this afternoon.

**House amendments:**

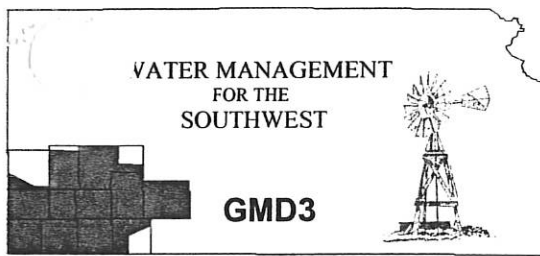
As this committee reviews the provisions of HB 2710, we would ask you to consider removing three amendments to HB 2710, enacted by the House of Representatives.

1. Limitation of \$1.5 million in annual expenditures (subsection (b), Section 1, page 1). I contend this bill is intended to be an authorizing statute to allow the State Conservation Commission (SCC) to participate in a program that retires the water rights, on a voluntary and targeted basis, if funding is provided by the legislature. The House and Senate budget committees review all agencies budget each year. Perhaps this is the most appropriate, and only annual review needed, of expenditures for this program.

2. Naming specific areas of the state for eligibility (subsection (g), Section 1, page 2). This provision is restrictive and would require the legislature to revisit the statute in subsequent years if there is a need to act in other areas of Kansas. While the two areas noted in subsection (g) should be a priority, let's consider an alternate approach to targeting. Again, the appropriation process commonly addresses this need and is reviewed automatically each year.
3. Impact study (subsection (l), Section 1, page 3). It's clear to us that retiring water rights will result in less crop and/or forage production. Since the program is to be targeted to areas of over appropriation, I'd suggest there will be less water usage in the future...with or without the passage of this legislation. Our support for this program is the basic understanding that strategically removing water rights and water usage, on a voluntary basis, gives the next generation of farmers and ranchers the option of using this natural resource. We ask you to remove this provision.

We believe now is the time for the Kansas Legislature to give its approval to a statutory program that provides a tool for addressing one of the state's most serious economic and natural resource challenges. I urge this committee to give HB 2710 its favorable consideration.

Thank you!



**Southwest Kansas**  
**Groundwater Management District No. 3**  
409 Campus Drive, Suite 108  
Garden City, Kansas 67846-6158  
(620) 275-7147 phone (620) 275-1431 fax  
www.gmd3.org

Testimony in support of HB 2710  
Senate Natural Resource Committee  
March 9, 2006

By Mark Rude, Executive Director,  
Southwest Kansas Groundwater Management District No. 3

Chairman McGinn and members of the committee thank you for the opportunity to provide written testimony in support of HB 2710. My name is Mark Rude, and I am the Executive Director of the Southwest Kansas Groundwater Management District No. 3 (GMD3). I have worked on water right issues and water supply issues in Southwest Kansas for 18 years and I would be personally before you today if not for our hosting of a concurrent meeting with producers on the Proposed Kansas CREP proposal in Cimarron.

Nearly half of the three million acres irrigated annually in Kansas are in Southwest Kansas in GMD3. Annual water use in GMD3 has been about 2 million acre feet. The calculated annual recharge from rainfall is only 12,093 acre feet and the recharge from the Arkansas River flows from Colorado was about 84,000 acre feet average annual prior to the recent drought. Some areas in GMD3 affected by the Colorado compact are so heavily used, they are 21 times over appropriated and 17 times over pumped if sustainability is the standard applied. Those areas away from the river would require an annual use reduction of 0.4% each year for 50 years to reach a sustainable balance in recharge and consumption. A Water Tap tool is needed to help address key problem areas.

The process followed by the Kansas Water Congress to develop the original language for HB 2710 produced a good tool for targeting water use reductions. GMD3 participated in that process and is supportive of the original language, but believes the program should result in a permanent retirement of water rights.

Water TAP is a voluntary incentive based program that can be applied to local targeted areas where we really need reductions in water consumption. GMD3 believed enough in the targeting of funds to needy areas, for example, that it was considered worth the temporary loss of dollars to the area to see that targeting tool

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Attachment 3*

happen for Kansas in the USDA, EQIP. In fact, GMD3 recently allowed more than one million of NRCS dollars previously directed to Southwest Kansas under the ground and surface water portion of EQIP to be redirected to other areas of the state. This occurred to facilitate consensus and get the Quick Response Area (QRA) targeting tool for EQIP off the ground. Where previously 80% of the available funds went to the heavily irrigated GMD3 area, this year only 20%, or \$400,000 went to the QRA in Southwest Kansas.

One of the funding sources considered for Water TAP is a portion of the KS v. CO damage funds. We recognize that those damage funds are one-time funds that should not be wasted. Those funds are a quantification of losses and pumping costs to irrigated farms in GMD3, with interest. We are aware that no value could be assigned to the water lost from our aquifer to replace what was withheld in Colorado. This represents water lost without any future benefit. With the damages representing an expense to GMD3 producers and the water lost to future use, GMD3 has a special interest in seeing those funds well spent. Fortunately, Water TAP provides an important accountability by defining the actual use credited for purchase to insure an effective use of those funds. GMD3 has the need for the tool and should not be excluded from the opportunity to use it.

Thank you for the opportunity to provide these comments.

Written Testimony in support of HB 2710  
To the Senate Natural Resource Committee  
March 10, 2006

By Wayne A Bossert, Manager, Northwest Kansas Groundwater Management District 4

Thank you Chairman McGinn for the opportunity to provide testimony before your committee in support of the original concepts of HB 2710 as introduced in the House.

This written testimony is on behalf of the board of directors of GMD 4.

GMD 4 participated fully in the Kansas Water Congress process that David Brenn and others have already described. This process was intent on providing a clean bill draft representing the collective ideas and input of all the parties involved in the irrigation transition debates the previous year - at the urging of Legislative leadership. We feel this was admirably accomplished with the introduction of the original HB 2710.

We would ask that your committee re-consider the construction and nuance of the original bill language, specifically regarding the following points:

1) The House process amended the bill to specify a pilot project in two distinct areas - the Prairie Dog and Rattlesnake Creeks. We would rather return to the original idea of targeting high priority areas by the GMDs in conjunction with the chief engineer, DWR. While there are advantages to Kansas for applying water right transitions within the Prairie Dog Creek in NW Kansas, this designated area does not address GMD 4's highest needs for Ogallala irrigation transitions. We recall that the focus of the WTAP process from inception was for the High Plains Ogallala Aquifer.

2) The House language requiring an economic study prior to transitioning any water rights is problematic for us. WTAP is a direct reduction of a known quantity of consumptive water use. The funding limitations applied and the 5-year sunset provision will be more than enough assurance that the resulting economic impacts will be tolerable.

3) GMD 4 supports the House amendment providing for the permanent transition of partial water rights - so long as there is a confident methodology to insure and quantify the real reduction in consumptive water use for the transition incentive approved. We feel the House language makes this clear and scopes the methodology appropriately.

The board would like to impress upon your committee that the state water plan goal of reducing decline rates in the Ogallala by 2010 can only be met by reducing consumptive water use (CU) or finding and importing new water supplies. Having no leads on new water supplies, it appears that reducing CU is the only answer. We are asking the Legislature for help in achieving the state water plan's goals through this voluntary incentive program.

The changes discussed above will restore most of the original intent of HB 2710, and in our opinion, improve it's performance with the offering of partial water right transitions which will appeal to a wider range of water right holders.

Like the Congress, we also feel this bill can and should stand on its own. CREP and EQIP are related in their goals to also reduce CU in targeted areas, but the targeted areas are different and each program focuses water right owners of a different mind-set. CREP is a temporary (10-15 year) set-aside with converted acres going to grass and EQIP is only for temporary set asides (4 - 10 years).

Thank you for the opportunity to provide testimony on such an important bill. We hope it is helpful.

Sincerely,  
Wayne Bossert

*Senate Natural Resources  
March 10, 2006  
ATTACHMENT 6*

# Amending 82a-734

## Chapter 82a.--WATERS AND WATERCOURSES

### Article 7.--APPROPRIATION OF WATER FOR BENEFICIAL USE

**82a-734. Sand and gravel pits; beneficial use of water, when; permit; perfection of appropriation; reports to chief engineer.** (a) An operator will notify the chief engineer of the location and area extent of any existing or proposed sand and gravel pit to be excavated, expanded or operated by the operator.

(b) The net evaporation of water exposed as the result of the opening or operation of sand and gravel pits shall be construed to be a beneficial use or diversion of water for the purposes of the Kansas water appropriation act, K.S.A. 82a-701 *et seq.*, and amendments thereto, if the sand and gravel pit is opened or operated in a township where the average annual potential net evaporation is greater than 18 inches per year, as determined by the chief engineer.

(c) If the chief engineer determines that an existing or proposed sand and gravel pit operation is a beneficial use of water, the operator shall apply to the chief engineer for a permit to appropriate water in accordance with the Kansas water appropriation act or otherwise acquire ownership or control of sufficient water rights, or by other methods pursuant to rules and regulations adopted by the chief engineer, or both, to offset net evaporation for the operation.

(d) (1) The period of time allowed to complete construction of diversion works pursuant to an approved application to appropriate water for the purpose of net evaporation from a sand and gravel pit operation shall be reasonable and consistent with the proposed use, but not less than five years. The chief engineer may allow extension of such period by not to exceed two five-year extensions if it can be shown that the operation requires the additional time for the operator to satisfy the operator's market demand in the area. The two five-year extensions may be granted at the same time, to run consecutively, if the applicant submits to the chief engineer a written development plan.

(2) The period of time allowed to perfect an approved application to appropriate water for the purpose of net evaporation from a sand and gravel pit operation shall be not less than 20 years and, for good cause shown, the chief engineer may allow one or more 10-year extensions of such period. The chief engineer shall consider the time needed until exhaustion of proven reserves, closure in accordance with the surface land reclamation and mining act, K.S.A. 49-601 *et seq.*, and amendments thereto, and the availability of water for the proposed use, but in no case shall allow longer than 60 years for perfection.

(3) Nothing herein shall require an extension of time to construct diversion works or to perfect a water right if there is demonstrable impairment of a use under an existing water right from the same source of supply, as determined pursuant to K.S.A. 82a-711, and amendments thereto.

**(4) Upon examination of the diversion works for sand and gravel operations, the chief engineer or the chief engineer's duly authorized representative shall, within 90 days of the examination, notify the applicant if there was a failure to construct the diversion works at the authorized location or any deficiency of the terms and conditions of the permit. This notice will provide steps necessary to gain compliance with state law. If the chief engineer fails to examine the diversion works within two years of the notice of**

**KAPA Proposed Senate Sub. For HB 2875 Page 2 of 2**

**completion for any sand and gravel operation diversion works, the applicant shall not be required to forfeit priority date as a result of failure to construct a diversion works at the authorized location or any deficiency of the terms and conditions of the permit.**

(e) Evaporation from sand and gravel pits, as calculated by the chief engineer, will be reported as an industrial use to the director of taxation for the purpose of assessing the water protection fee pursuant to K.S.A. 82a-954, and amendments thereto.

(f) This section shall be part of and supplemental to the Kansas water appropriations act.

New Section 4 — Rev.

No moneys shall be appropriated for the purpose of water rights purchase or **leasing** unless the acquisition is conducted under a program approved by the legislature after full hearings in the **House Environment Committee** and the **Senate Natural Resources Committee**.

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Attachment 7