

Approved: 3-26-08
Date

MINUTES OF THE SENATE AGRICULTURE COMMITTEE

The meeting was called to order by Chairman Mark Taddiken at 8:30 a.m. on February 25, 2008 in Room 423-S of the Capitol.

All members were present except:

Terry Bruce - excused
Derek Schmidt- excused

Committee staff present:

Raney Gilliland, Kansas Legislative Research Department
Emalene Correll, Kansas Legislative Research Department
Jason Thompson, Office of Revisor of Statutes
Matt Todd, Office of Revisor of Statutes
Judy Seitz, Committee Assistant

Conferees appearing before the Committee:

Kenneth Nelson, Superintendent, Kansas Bostwick Irrigation District #2
Greg Shipe, Davenport Orchards, Vineyards and Winery
John Pendelton, Farmer
Marc Neis, Farmer
Burke Griggs, Stevens and Brand, L.L.P.
Elmer Ronnebaum, Executive Director, Kansas Rural Water Association
Darci Meese, Water One

Others attending:

See attached list.

Vice Chairman Pine opened the hearing on **SB 558--Irrigation districts; conducting elections by mail**. Chairman Taddiken introduced this bill at a request from a constituent. He said this would allow an irrigation district to conduct the election for the board of directors by mail as an option with the exception of the first election.

Kenneth Nelson, Superintendent, Kansas Bostwick Irrigation District #2, testified in favor of **SB 558 (Attachment 1)**. He believes the option of a mail in ballot would give all qualified voters easy access to the democratic process and increase voting.

Mr. Nelson took questions from the Committee.

There were no opponents.

Senator Lee moved SB 558 be passed favorably, seconded by Senator Francisco. Motion carried. SB 558 will be reported as passed favorably.

Chairman Taddiken opened the hearing on **SB 559--Water supply and distribution districts, acquisition of grounds**.

Jason Thompson, Office of Revisor of Statutes, reviewed **SB 559**. One of the changes would remove the power to use eminent domain outside the boundaries of the district. K.S.A. 19-3502 applies to territory located in Miami, Franklin, Johnson and Wyandotte counties.

Mr. Thompson answered questions from the Committee.

Vice Chairman Pine said he was responsible for this bill being put on the docket because he is a farmer in this area and this issue is of interest to him. There were other constituents who brought this matter to him and it was not his idea, but he thinks it is a good idea.

CONTINUATION SHEET

MINUTES OF THE Senate Agriculture Committee at 8:30 a.m. on February 25, 2008 in Room 423-S of the Capitol.

Greg Shipe, Davenport Orchards, Vineyards and Winery, gave testimony in support of **SB 559** (Attachment 2). Mr. Shipe said his speciality crops need the water for future growth. He also said that the Public Wholesale Water Supply District #25 (PWWSD #25) has water available from Clinton Lake.

Questions for the conferees will be held until all have testified.

John Pendleton, Farmer/Land Owner, testified in support of **SB 559** (Attachment 3). He said that water is a basic tool for the horticultural crops that he grows. He was told when applying for additional water rights that it was within the two mile radius of PWWSD#25's application and those water rights were not available to him. Mr. Pendleton thinks it is an important public policy that would not allow outside entities to use eminent domain to take away potential water rights from future agricultural uses.

Mark Neis, Farmer, spoke in favor of **SB 559** (Attachment 4). He farms land where one of the proposed wells is to be placed by the PWWSD#25. He also said it is his understanding that no new wells will be allowed within a two (2) mile buffer zone if the proposal is allowed. Mr. Neis said he is not trying to block development or growth, but to protect the future of farming.

Burke Griggs, Stevens & Brand, offered testimony in support of **SB 559** (Attachment 5). He said there are two flaws in K.S.A. 19-3552(5). He said the language unintentionally overstates the proper eminent domain powers of PWWSD#25. The second flaw concerns the PWWSD's power to obtain by eminent domain, property which lies beyond its own boundaries. He proposed an amendment which would retain the protection of allowing a PWWSD#25 to obtain easements and other interests in land as necessary, but not to obtain water.

Mr. Griggs took questions from the Committee.

Elmer Ronnebaum, General Manager, Kansas Rural Water Association, testified in opposition to **SB 559** (Attachment 6). He stated that public wholesale water supply districts organized in Kansas have no established boundaries. He said it is unclear where the power of eminent domain could be exercised if it is limited to "within the boundaries of the district." He further stated that an inability to use eminent domain, when necessary in the public interest, will terminate future construction of public wholesale water supply systems.

Darci Meese, Governmental Affairs Coordinator, Water District No. 1 of Johnson County, Kansas spoke in opposition of **SB 559** (Attachment 7). She suggested striking sections 1 and 2 of **SB 559**. She said these two sections of the bill amend K.S.A. 19-3502 and 19-3511 which only apply to WaterOne and no other water utility.

Conferees took questions.

Chairman Taddiken said the hearing will remain open on **SB 559** because there are still unanswered questions to be addressed.

Meeting was adjourned.

SENATE AGRICULTURE COMMITTEE GUEST LIST

DATE: 2-25-08

NAME	REPRESENTING
Burke Groggs	Gug Shipe
John Pennington	KRVG
Mack Heis	KRBG
Greg Shipe	KRVG
Kevin Malone	KLVG
Austin Hayden	Hein Law Firm
ELMER RONNEBAUM	Ks Rural Water
Pat Lehman	K R W A
LANE LETOURNEAU	KDA
CV Cotsocondis	KDA
Mike Armstrong	Water One
Darci Meese	Water One
SEAN MILLER	CAPITOL STRATEGIES
John Donley	KS Lusk Ass'n.

Testimony before the Senate Agriculture Committee
Senate bill 558 dealing with elections for irrigation districts
February 25, 2008
By Kenneth Nelson

I am Kenneth Nelson, Superintendent of the Kansas Bostwick Irrigation District #2 located in Republic and Jewell Counties. We are a political subdivision of the State of Kansas, which is contracted with the United States through Bureau of Reclamation to deliver irrigation water to irrigators in the respective counties. We deliver water to approximately 43,000 acres and serve approximately 350 landholdings. A three person Board of Directors who are qualified owners of irrigated land governs us. The qualified voters under Kansas Statutes 42-706 elect them.

My comments today are centered on the need to amend these election procedures to allow an election to be conducted by mail in ballot. In the district's infancy in the 1950's and 60's few landowners lived outside the 2 county area and polling places were very accessible to all qualified voters. As times changed, these election laws were amended to allow owners who lived outside the area the right to vote and allowing persons who own their land in trust, life estates and so on, the right to vote. Therefore, many qualified voters now live outside the two county areas. In fact in the upcoming election, approximately 30% of the qualified voters live outside the 2 county areas often requiring substantial time and travel to reach polls. Also, with our aging population, many of our voters within the two county areas find it very difficult to travel to a polling place and cast a ballot.

We are ever striving to allow a voice to all persons to elect the best possible candidates to govern the district. We have looked at the way the United States Department of Agriculture; Farm Service Agency currently elects directors to serve on their board by mail in ballot. The Rolling Hills Electric Cooperative also conducts this type of election. The State of Kansas has mail in ballot procedures that appears to provide us the type of option we would want.

Senator Mark Taddiken has introduced Senate Bill 558, which gives us the option to use the mail in procedure. We believe this will simplify our elections and increase voter response. We believe it will give all qualified voters easy access to the democratic process and increase voting during elections.

The Board of Directors of the Kansas Bostwick Irrigation District #2 asked me to strongly urge you to pass Senate Bill 558. I am available to answer any questions.

Senate Agriculture Committee
2-25-08
Attachment 1

Testimony in Support of SB559

Good morning Chairman and members of the Committee. My name is Gregory Shipe. I own Davenport Orchards, Vineyards and Winery located in Eudora, Kansas. I am here today to testify in support of SB559.

I farm in the Kaw Valley just west of Eudora in some of the best soil that we have in the United States if not the World. There is a finite number of acres of this soil left. I grow specialty crops which are different from the normal crops grown in Kansas lately. We grow mostly grapes but also have apples, peaches and a truck farm farmed by John Brett. farms.

We are asking for passage of SB559 because:

1. We need the water for future growth.
2. Water is already available for PWS 25 from Clinton Lake.
3. This will help all growers in Kansas.
4. This makes good public policy.

Specialty crops are high input crops like grapevines. The cost to plant an acre of grapes based on a 40 acre field is \$8000 per acre. The information can be found in a publication from the University of Arkansas. It is very difficult to grow grapes without water and impossible to grow melons of commercial quality without water.

Kansas Department of Commerce has been a great help in keeping us going and also helping new growers get established. They manage grants for upgrade in equipment, marketing needs and many other items. They are renovating a building at the Kansas State Fair spending about \$100,000 over a few years just for a Kansas Farm Winery wine tasting area. They offer no interest loans on buildings. In the past they spent \$10,000 on brochures for the Farm Wineries. They have been very great asset for us.

Kansas Department of Agriculture has also stepped up to aid us in our growing problems. Secretary Polanski has brought back the Grape and Wine Advisory Council and we meet four times a year with the Secretary. KDA has added us to their web page with a picture of a vineyard and a sensitive crop registration section. They printed about 40,000 brochures called Project Good Neighbor which helps educate people on the proper use of potential harmful herbicides to grapes and other sensitive crops. Farm Bureau added the brochure to one of their news letter last year.

Kansas State University has also helped us. They are in the second year of a study called Kansas River Valley Project which is investigating what can be done to bring back the specialty crops to the valley as once existed in the past. This information is on the KSU web page.

*Senate Agriculture Committee
2-25-08
Attachment 2*

Kaw Valley Farm Tour is going on to its fourth year this fall. The public is invited to visit several farms of every kind in this area. Bison ranches, Christmas tree farms, goat cheese farms, nurseries, farm wineries and others. This is a successful project and I think this will be here for a long time.

It is my understanding that water is available for RWD 5 and they are in the process of putting the final touches on the new contract with the city of Lawrence. We found out that there is 106,000 acre feet of water that can be used but is just going down the river. Clinton Lake is only 6% silted in and will provide water for a long time. Now that it looks like a deal is made there is no need to take the water from us.

PWS 25 application as I now understand will take all the remaining water that can be appropriated over a 12 square mile area of which 4000 acres are in the valley. At first I thought they only needed the water under our property. We were offered \$16,000 each to allow them to take water not knowing that we would be selling out our neighbors. I also understand that if PWS 25 were to get their application, there would be a two mile radius in which no other well could be drilled.

Passage of SB559 will help all farmers in Kansas, especially those working the Kansas Kaw Valley currently. It seems that we are stuck in the middle of a water issue between the cities and rural water district and they are using us to settle the issue.

Farmers are small in numbers so we need your help to protect us and protect some of the best soils in the world. Thank you for your time and consideration in this matter. I ask you that support and pass SB559.

Thank You
Gregory Shipe

John Pendleton Farmer/Land Owner
1446 E. 1850 Rd. Lawrence, KS 66046 785-843-1409

Testimony in Support of SB559

Good morning Chairman and members of the committee. My name is John Pendleton and I am here today in support SB559.

I live and farm in the Kaw River Valley between Lawrence and Eudora. Our farm produces a wide variety of horticultural crops. We grow 20 acres of asparagus and commercially grow spinach, eggplant, peppers, tomatoes, other vegetables and field grown cut flowers. We produce in our greenhouses, bedding plants and hydroponic tomatoes. The history of our farm includes traditional corn, wheat, and soybean production. We have acreage in Leavenworth County, just north of Eudora, that is now farmed by a neighbor. We presently have an irrigation well used for flood irrigation.

The demand is high for locally grown produce and flowers. People are more and more aware of where their food comes from, and they want to buy locally. We can easily sell all that we produce. The biggest challenge our farm faces is the weather. We have experienced:

199~~8~~ - too much summer rain

4/18/2003 - severe hail with 60 mph winds

3/12/2006 - microburst

3/6,7,8/2007 - record breaking freeze.

The reason California is the largest horticultural producing region in the US is because they have a mild desert climate with moderate temperatures and winds. They lack rain in their growing season so they irrigate to the plant's needs, and get maximum production. Again, our weather in Kansas can be difficult. Being able to irrigate and have some control is a must for growing fruits, vegetables, and commercial flowers. Water is a basic tool for all of agriculture, and especially for horticultural crops.

A few weeks ago, our tenant and I looked into upgrading to a pivot system. We needed more water rights for this improvement to be feasible. When applying for additional water rights, we were told it was within the two mile radius of Public Wholesale Water District #25's application, and thus those water rights are not available to us. I believe water rights should be available to the people who live in the location the water is generated and need to be available for future agricultural needs.

Thank you for your time and consideration on SB559. I think it is an important public policy not to allow outside entities to use eminent domain to take away potential water rights from future agricultural uses.

John Pendleton
Farmer / Land Owner

Senate Agriculture Committee
2-25-08
Attachment 3

Mark H. Neis
12775 County Line Road; Eudora, Ks 66025
Mobile # 785-423-1902; Home # 785-542-2084

Testimony in Support of SB559

Goodmorning Chairman and members of the committee. My name is Mark Harold Neis and I reside in Eudora, Kansas on a family farm. I am before you today to express my support for SB559. I took over the family farming operation after my father Harold Neis passed away in April of 1998. Farming is all that I and my family has known for generations. I farm to provide for my family of a wife, Dana and 2 boys Trevor Mark Neis 9 and Carter Matthew Neis 7, which hopefully someday the farm will be passed on to.

My farming operation includes the production of Wheat, Corn and Soybeans as well as a Cow Calf operation. I farm land primarily in the Douglas county area and surrounding counties. I currently farm land owned by Thomas Miesse in Douglas County where one of the proposed wells is to be placed by the Public Wholesale Water Supply District #25. I farm other land for other land owners as well as my family owns property that is within the 2 mile buffer zone of the proposed well. It is my understanding that no new wells will be allowed within this 2 mile buffer zone if the proposal is allowed. The soil composition in the area of the proposed well is a sandy loamy soil that although can be highly productive needs more water than other types of soil during the hot summer months. By the placement of this well, the water table in the area will potentially be lowered, therefore causing my crops that are planted in the area to not have a sufficient water source to make it through the hot dry months when rain can be scarce, which in turn affects the yields of the crops and my livelihood.

I have been troubled by the fact that this proposal was made only to the landowners where wells would be placed. There has been no communication made to adjacent landowners or the farmers that farm in the area that would be directly affected by this proposal.

I would like to comment on some wells in the area that my family has allowed the City of Eudora to place on family owned land several years ago. My family discussed this at length when the City of Eudora came to us asking for help do to their need for more water. My family settled in Eudora back when the pioneers came from Germany, therefore we allowed these wells to be placed knowing that it could affect the water table in the area, but felt that it was for our local community that our family has been a part of for so long.

I urge you today to support SB559 and not let this proposal that is just bad public policy to be allowed. I'm not here to block development or growth, but to protect what I view not only my future, but the future of family farming, which is shrinking everyday. The farming industry is facing so many obstacles today that I feel this is one that we do not need to face, and it is your job to protect us as our representatives in the state.

In conclusion I'm requesting the committee pass SB559 and to do what is right to protect us farmers.

Sincerely,

Mark Neis

Senate Agriculture Committee
2-25-08
Attachment 4

STEVENS & BRAND_{LLP}

900 Massachusetts Street – Suite 500
P.O. Box 189
Lawrence KS 66044-0189
phone: 785/843-0811 fax: 785/843-0341

WRITTEN TESTIMONY

TO: Members of the Kansas Senate Committee on Agriculture
FROM: Burke W. Griggs
SUBJECT: S. B. 559
DATE: February 24, 2008
CC: GREGORY SHIPE

Good morning, Chairman and members of the Senate Agriculture Committee. My name is Burke Griggs. I am a water lawyer with Stevens & Brand, LLP in Lawrence, Kansas, and I represent Mr. Gregory Shipe of the Kansas River Valley Growers. On their behalf, I am here to testify in support of Section 3 of Senate Bill 559, which clarifies and corrects the meaning and intention of the original statute, K.S.A. 19-3552. As currently established, this statute allows and even encourages the abuse of eminent domain power, at the expense of private property rights. To protect these rights against such abuse, this statute requires amendment, and the Legislature can properly amend it without adversely affecting Public Wholesale Water Supply Districts.

First, some background. Last Thursday, my client, Mr. Shipe, was served with papers notifying him that his land was subject to an action of eminent domain. The authority bringing this action is Public Wholesale Water Supply District #25 ("PWWSD #25"), which is composed of Rural Water Districts #2 and #5 from Douglas County, and Osage County RWD #2. In this eminent domain action, PWWSD #25 seeks to condemn and to obtain permanent access to Mr. Shipe's land for the purpose of obtaining water rights. PWWSD's have clear power of eminent domain to obtain "land and interests in land," which can be needed to obtain easements for the distribution of water. In this case, however, PWWSD #25 is not seeking such an easement. Rather, it seeks to drill a well upon Mr. Shipe's property for the purpose of obtaining a very large water right, in excess of 3,000 acre-feet. That is odd: the vast majority of PWWSD's in Kansas obtain their water from reservoirs, small lake systems, and other surface rights. Odder still is the fact that Mr. Shipe's property stands clearly outside the boundaries of PWWSD #25.

Mr. Shipe's situation reveals two unintended but significant flaws in the relevant statutory section which governs, K.S.A. 19-3552(5). That section grants to PWWSD's the power to "acquire land and interests in land. . . by eminent domain to be exercised within or without the boundaries of the district." The first flaw concerns the PWWSD's power to acquire land and interests in land by eminent domain. This statutory language unintentionally overstates the proper eminent domain powers of a PWWSD. The second flaw concerns the PWWSD's power to obtain by eminent domain property which lies beyond its own boundaries. This statutory language unintentionally and improperly sanctions extraterritorial acquisitions of property. I address each of these flaws in turn.

*Senate Agriculture Committee
2-25-08
Attachment 5*

First, K.S.A. 19-3552(5) allows a PWWSD to "acquire land and interests in land by . . . eminent domain. . . ." A straightforward reading of this language provides one clear interpretation: that the phrase "land and interests in land" denotes fee title to land, or a lesser interest in land, such as a leasehold, an easement, a restrictive covenant, or some other, lesser, interest in land. Here, PWWSD #25 is seeking an easement which, if it were intended for a distribution use, would be a proper application of this statutory power. However, what PWWSD #25 is really seeking is not land but water: a very large water right, over 3,000 acre-feet in volume, which it hopes to draw from beneath Mr. Shipe's farm and the farms of his neighbors. PWWSD #25 is using its powers of eminent domain to obtain a different property interest—a water right—than land or an interest in land. That is improper, and vastly exceeds the statutory mandate.

Please allow me to distinguish between these two property rights. Although I trust that the members of the this committee understand water rights, it is my sad experience that many farmers in Eastern Kansas do not, because Eastern Kansas is blessed with much more precipitation and suffers much less evaporation than Western Kansas does. This lack of understanding can make even the most knowledgeable and experienced farmers vulnerable to those who do understand water rights and how those rights differ from rights in land. As stated above, K.S.A. 19-3552(5) describes "land or interest in land." It does not use "real estate" or "real property." By contrast, the Kansas Water Appropriation Act, K.S.A. 82a-701 et seq., which governs Kansas water rights as property interests, defines a water right as a "real property right, appurtenant to and severable from the land. . . ." Water rights, then, are real property distinct from land. Although they are appurtenant to and severable from the land, the KWAA makes a clear distinction between water rights and land. In total, "real estate" or "real property" comprises land and what lies beneath it and above it; land is the surface component, a subset of real property. Water rights—the right, granted by the state, to withdraw water—are a distinct subset of real property. Land and water rights are distinct property interests within the whole "real estate." Consequently, so too are "interests in land" and water rights.

This is an important distinction, because it reveals the impropriety of PWWSD #25's using this statute to obtain water rights. A common use of the eminent domain power is to obtain easements that enable water lines. Such a use is necessary. What is not acceptable is the abuse of this power to extend to obtaining water rights, which, as set forth above, do not consist of "land or an interest in land. . . ." Indeed, PWWSD #25's use of this power is so unusual that it may be unprecedented.

The second flaw in K.S.A. 19-3552 concerns a PWWSD's power to obtain by eminent domain land or interests in land outside of its own boundaries. The original intent of this legislation was to enable such a district to obtain access and easement rights for the infrastructural requirements of a water district—siting and running water lines, meters, treatment plants, and so on. A PWWSD may have a legitimate need to run a water line from one part of its district to another, across land that is not within that district. In such a proper case, the value of the landowner's land would, generally, be only slightly affected. But that is not what PWWSD #25 is seeking to do here. PWWSD #25 is seeking to condemn land outside of its jurisdiction, to obtain water that is well beyond its boundaries, which are the boundaries of its constituent parts. Such a condemnation is a clear abuse of the power of eminent domain, and such an abuse of that power will have dire consequences for the value of Mr. Shipe's land and indeed, the Valley itself. If PWWSD #25 succeeds in its condemnation action, and obtains this massive water right, no more water in the Kansas River Valley will be available for appropriation, ever. K.S.A. 19-3552(5) was not intended to allow extraterritorial condemnations of water rights. In the realm of western water law, such a power is rare, and is usually reserved for large cities. PWWSD's cannot be allowed to condemn property for the purpose of obtaining water rights any more than Douglas County could condemn property in Johnson County for water, or any more than Kansas itself could condemn lands in Nebraska to obtain the water Kansas deserves under the Republican River Compact. Under the current statutory language, however, that is unclear. Eminent domain for easements and water distribution is a power that derives legitimately from a municipality's police power; but where the power of eminent domain exceeds the boundaries of a that police power, it exceeds the police power itself, and becomes illegitimate and legally indefensible.

S. B. 559, Section 3, amends a major deficiency of K.S.A. 19-3552(5), by prohibiting the extraterritorial condemnation of land and interests in land. I fully support this change, but I also recognize

as valid the concern that such a change would undercut a PWWSD's ability to run water lines. Because K.S.A. 19-3552(5) was intended for such a purpose—and not, as argued above, to condemn land to obtain water rights—I would suggest the following amendment to this bill. In place of the current language of 19-3552(5), and in place of the bill's amendment of that language, I would propose the following:

“to acquire land and interests in land, solely for the purposes of the distribution and treatment of water, but not for the purpose of obtaining water rights as set forth in K.S.A. 82a-701 et seq., . . . such power of eminent domain as here restricted to be exercised within or without the boundaries of the district. . . .”

This amendment improves the current statute to protect farmers such as my client and the other Kansas River Valley Growers from extraterritorial condemnations to obtain water rights, an overreach which the current statute neither intended nor sanctions. My suggested language in the amendment retains the protection of allowing a PWWSD to obtain easements and other interests in land as necessary, but not to obtain water.

Thank you for accepting this testimony. Please do not hesitate to contact me if you have any further questions concerning it.

Very truly yours,

Burke W. Griggs



**Comments on SB 559
Before the Senate Agriculture Committee
February 25, 2008**

Mr. Chairman and Members of the Committee:

Thank you Mr. Chairman and members of the Committee for the opportunity to comment on Senate Bill 559. My name is Elmer Ronnebaum; I am general manager of the Kansas Rural Water Association. The Association has 425 municipal members, 261 public wholesale and rural water district members and 235 active Associate Members. The Association opposes SB 559 because of several concerns.

To comply with decreasing federal drinking water standards, many communities, particularly those whose water supply is treated surface water, are being forced into making major improvements to their existing plants or to locate new supplies. Cities and rural water districts often see a centralized treatment plant as a more cost effective alternative than upgrading or constructing plants for each community. The systems in turn join in the creation of a public wholesale water supply system that develops the source and provides treatment and delivery of water to the respective members.

Regarding the meaning of the proposed amendment to K.S.A. 19-3552, unlike virtually every other municipality or political subdivision, public wholesale water supply districts organized in Kansas have no established boundaries. As a result, it is unclear where the power of eminent domain could be exercised if it is limited to that "within the boundaries of the district".

Perhaps more importantly would be the limitation placed on such a district in acquiring interests in land through eminent domain. Public wholesale district members are connected via pipelines. Financing agencies require that these pipelines will generally be located in private easements. While 90 to 95% of easements are generally provided voluntarily and without compensation, the use of eminent domain may be necessary.

Our review of public wholesale districts is that all eight active districts have had to utilize eminent domain in order to construct the projects. In one case presently on file, Public Wholesale District 12 (which serves users in Anderson, Coffey and Osage counties) has been requested to relocate pipeline due to a KDOT road project. One landowner refuses to provide new easement to the public wholesale district, or to the other utilities including another rural water district, an electric utility and to KDOT itself. Without the authority of eminent domain, the PWWSD 12 may not be able to relocate pipeline to accommodate that new highway project.

An inability to use eminent domain, when necessary in the public interest, will terminate future construction of public wholesale water supply systems.

Respectfully,

Elmer Ronnebaum

Elmer Ronnebaum
General Manager

*Senate Agriculture Committee
2-25-08
Attachment 6*

Water District No. 1 of Johnson County

**TESTIMONY
REGARDING SENATE BILL 559**

To: Members of the Senate Agriculture Committee

From: Darci Meese, Governmental Affairs Coordinator
Water District # 1 of Johnson County (WaterOne)

Date: February 25, 2008

RE: Senate Bill 559—acquisition of grounds by water supply and distribution systems.

WaterOne would like to respectfully request that the Committee consider striking sections 1 and 2 of Senate Bill 559. These two sections of the bill amend K.S.A. 19-3502 and 19-3511 which only apply to WaterOne, and no other water utility. We do not think the original aim of this bill was directed at WaterOne and we would like to avoid any unintended consequences.

WaterOne is organized and operated under K.S.A. 19-3501 through K.S.A. 19-3521. We are the only water utility created under this section of statutes at this time. Our statutes would allow organization of other utilities like WaterOne, but only in the counties of Johnson, Wyandotte, Miami and Franklin. WaterOne cannot serve territory outside its existing boundaries. Public wholesale water districts are a separate type of entity created under a separate section of statutes, starting with K.S.A. 19-3545 through 19-3556. Changes to this section of statutes have no effect on WaterOne, just as changes to our statutes have no effect on public wholesale districts.

It is our understanding that the dispute underlying Senate Bill 559 involves a public wholesale district, not WaterOne, therefore it seems reasonable to remove our statute from the bill.

Darci Meese, Governmental Affairs Coordinator
Water District No. 1 of Johnson County, Kansas
913-895-5516 direct
913-579-9817 cell
dmeese@waterone.org

*Senate Agriculture Committee
2-25-08
Attachment 7*