

MINUTES OF THE HOUSE AGRICULTURE AND NATURAL RESOURCES COMMITTEE

The meeting was called to order by Chairman Larry Powell at 3:30 p.m. on February 11, 2009, in Room 783 of the Docking State Office Building.

All members were present.

Committee staff present:

Mike Corrigan, Office of the Revisor of Statutes
Corey Carnahan, Kansas Legislative Research Department
Raney Gilliland, Kansas Legislative Research Department
Pat Matzek, Committee Assistant

Conferees appearing before the Committee:

Tom Day, Legislative Liaison, Kansas Corporation Commission
Mark Rude, Executive Director, Southwest Kansas Groundwater Management District No. 3
John Donley, Assistant General Counsel, Kansas Livestock Association
Constantine Cotsoradis, Deputy Secretary, Department of Agriculture
Jay Garrison, Private Individual, Copeland, Kansas
Lane Letourneau, Program Manager, Division of Water Resources, Department of Agriculture

Others attending:

See attached list.

Representative Powell opened the meeting with the introduction of Tom Day, Legislative Liaison, Kansas Corporation Commission.

Hearing on:

HB 2241 - Requiring well identification signs be placed on or near certain oil or gas wells.

Proponent:

Tom Day, Legislative Liaison, Kansas Corporation Commission, (Attachment 1) provided documentation in favor of **HB 2241**, stating the Conservation Division would like to see KSA 55-165 changed to require operators to post signs at their wells and to provide for the Commission to adopt regulations concerning the well identification signs. Also included in this documentation were picture examples of existing signs.

Questions were asked and comments were made.

The hearing was closed on **HB 2241**.

Hearing on:

HB 2272 - Procedures for designation of an intensive groundwater use control area.

Proponent:

Mark Rude, Executive Director, Southwest Kansas Groundwater Management District No. 3, (Attachment 2) spoke as a proponent on **HB 2272**, recommending the proposed amendments be passed by the Kansas Legislature as clarifying language restoring the original 1978 Legislative intent in regard to initiating an intensive groundwater use control area (IGUCA) within the Groundwater Water Districts. Also included in Mr. Rude's testimony, was a copy of Testimony to Chief Engineer David Barfield (Attachment 3) which is testimony from the five water districts for an administrative hearing on this same topic as it relates to **HB 2272**.

Questions were asked and comments were made.

CONTINUATION SHEET

Minutes of the House Agriculture And Natural Resources Committee at 3:30 p.m. on February 11, 2009, in Room 783 of the Docking State Office Building.

John Donley, Assistant General Counsel, Kansas Livestock Association (KLA), (Attachment 4) presented testimony in favor of **HB 2272**, stating the KLA and other stakeholders worked together to move forward on some procedural regulations that create a better process for creating and reviewing IGUCAs. Mr. Donley further documented the Department of Agriculture has maintained their interpretation that the Chief Engineer does have the ability to initiate an IGUCA within the boundaries of a Groundwater Water District (GMD). **HB 2272** will clarify the law to direct the Chief Engineer that an IGUCA may not be initiated within the boundaries unless the GMD recommends the initiation or a petition is signed by at least 5% of the eligible voters within the GMD.

No questions were asked or comments made.

Written testimony in favor of **HB 2272** provided by:

Tim Boese, Manager, Equus Beds Groundwater Water District No. 2 (Attachment 5)

Opponents:

Constantine Cotsoradis, Deputy Secretary, Department of Agriculture (Department), (Attachment 6) spoke in opposition of **HB 2272**, stating the Department's reason for opposing the bill is not because it opposes local input regarding water management issues as provided by the Groundwater District Act, but instead, because it removes an important water management tool currently available to the Chief Engineer. Mr. Cotsoradis further documented the Department believes the approach in **HB 2065** (Attachment 7), the other IGUCA bill, better balances the duties and responsibilities of the Chief Engineer with the need for local input on water management.

Questions were asked and comments were made.

Jay Garrison, Private Individual, Copeland, Kansas, (Attachment 8) presented testimony in opposition of **HB 2272**, documenting the Chief Engineer has a statutory responsibility to enforce Kansas water law and help manage the state's water resources according to that water law. Reducing the availability of an IGUCA as a tool available to the Chief Engineer sends a message to the local community and to the state as a whole that another 20 years of delayed action and deferred decisions is acceptable.

Questions were asked and comments were made.

Lane Letourneau, Program Manager, Division of Water Resources, Department of Agriculture, also answered questions from members of the Committee.

Senator Ostmeyer commented on the Rules and Regulations Committee. Constantine Cotsoradis, Deputy Secretary, Department of Agriculture, responded to Senator Ostmeyer's comments.

The hearing was closed on **HB 2272**.

The next meeting is scheduled for February 12, 2009.

The meeting was adjourned at 4:45 p.m.

AG. & NATURAL RESOURCES COMMITTEE GUEST LIST

DATE: 2-11-09

NAME	REPRESENTING
WAYNE BOSSERT	NW KS GMD 4
Kent Astren	KFB
John Bonley	KS Lusk Ass'n
Sharon Falk	GMD 5
Jay R. Garetson	Self
LANE LETOURNEAU	KDA
CV Cotsoradi	"
TAVIS LOWE	Pinegar, Smith & Assoc.
MARIL RUDE	GMD 3
TOM DAY	KCC
Joe Mesimann	Hein Law Firm
Steve Swatter	KFB
KETH PANGBORN	ICEARNEY & ASSOC.
Chris Wilson	GMD 3
Wanda Moses	KAP
BRAD HARRELSON	KFB



Kathleen Sebelius, Governor
Thomas E. Wright, Chairman
Michael C. Moffet, Commissioner
Joseph F. Harkins, Commissioner

House Agriculture and Natural Resources Committee

HB 2241

Comments by Tom Day
Kansas Corporation Commission
Conservation Division
February 11, 2009

Chairman Powell and members of the Agriculture and Natural Resources Committee, I am Tom Day with the Kansas Corporation Commission. I am here today to provide comment on House Bill 2241. In addition I will offer a few recommendations with respect to this legislation.

Background and Current Status

The Commission has been involved in regulating oil and gas exploration and production operations since the mid 1930's. Some of these activities include: licensing oil and gas operators, permitting drilling activities such as "intents-to-drill" and associated pit permits, enforcing proration orders, overseeing well plugging operations, permitting injection well activities, regulating gas gathering, enforcing pit and spill regulations, regulating underground porosity gas storage operators and administering the abandon well plugging program. Staff has developed an expertise with many aspects of the industry's field activities by the nature of enforcing regulations that are designed to prevent waste of natural resources, protect correlative rights and protect public safety.

Comments / Recommendations – HB 2241

The Conservation Division would like to see KSA 55-165 changed to require operators to post signs at their wells and to provide for the Commission to adopt regulations concerning the well identification signs.

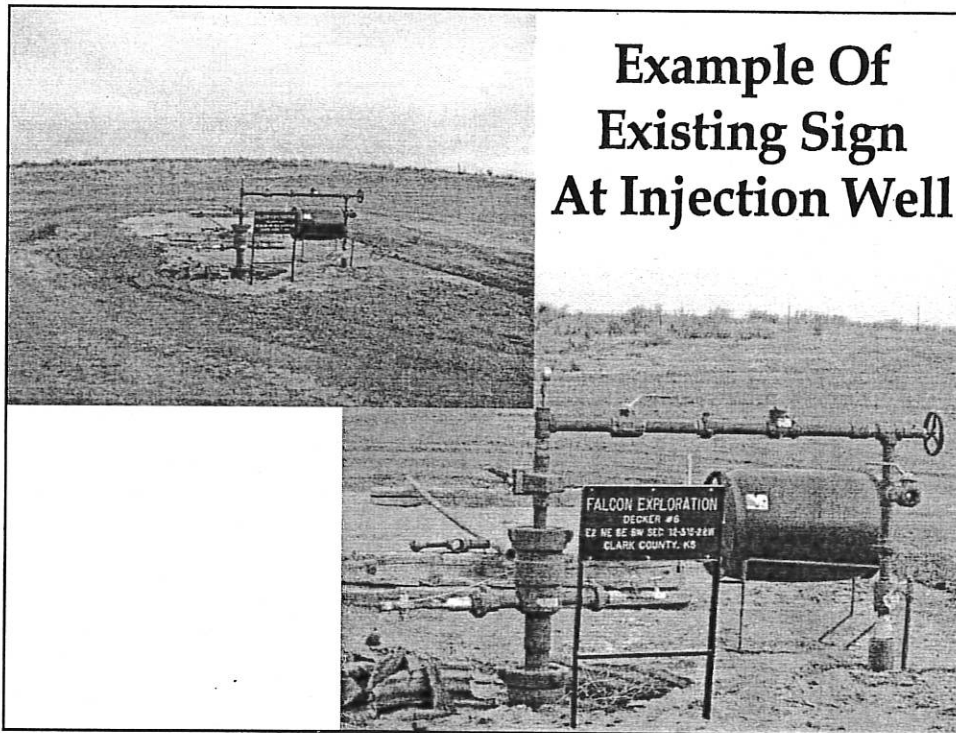
The idea is to require operators to identify every well in the field by posting a sign. The information on the tag would be the name of the well and its location. It is an important part of building a statewide well-inventory program. There are areas in the state in which wells are densely located making well reference difficult without a sign. There are other areas in the state in which lease boundaries for adjacent operators are not apparent. In these situations it is very time consuming to associate the correct operator to a specific well.

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Attachment 1

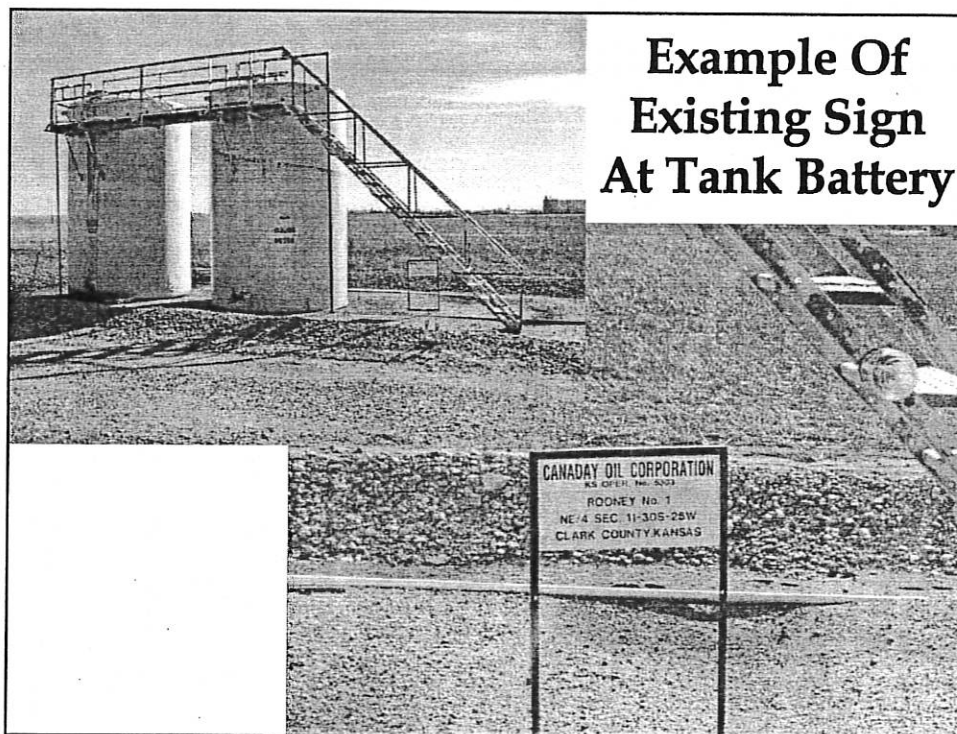
The oil industry expressed, in the Oil and Gas Advisory Committee, well identification at the well-site would aid their employees and contractors, who work on their wells. The revisions to regulation KAR 82-3-126 passed unanimously in the Oil and Gas Advisory Committee. The regulation was approved by the Department of Administration, but the Attorney General's office felt the agency did not have statutory authority to require well identification.

Thank you for this opportunity to provide comment and if the Committee has questions I will be happy to answer them.

Example Of Existing Sign At Injection Well



Example Of Existing Sign At Tank Battery



Densely Located Oil Wells



4-1

KANSAS GROUNDWATER MANAGEMENT DISTRICTS
TESTIMONY TO HOUSE AG & NATURAL RESOURCES COMMITTEE
Proponents for HB 2272, February 11, 2009

Mark Rude, Executive Director, GMD3
409 Campus Drive, Suite 108
Garden City, Ks 67846
Phone # 620-275-7147
Fax # 620-275-1431

Issue supported by the Kansas GMD's: HB 2272- Initiating IGUCAs

Clarify the IGUCA initiation authority within an established GMD to be the GMD board or an identified number of eligible voters therein.

BACKGROUND:

The original law (KSA 82a-1036) was passed in 1978 as an amendment to the Kansas Groundwater Management District Act and provided additional tools to the GMD boards for management solutions. The bill also provided these same tools to the chief engineer for areas outside a GMD. This law was interpreted in this manner until 2002 when the Kansas Attorney General (AG) was asked if the chief engineer could initiate an IGUCA within the boundaries of a GMD without the request of the GMD board or the eligible voters. The AG opined in the affirmative (opinion 2002-24) – based on the chief engineer's broad powers contained in the Kansas Water Appropriation Act. As a result, the chief engineer is obligated to conduct business per the opinion until it is either clarified by the legislature, or the courts.

HB 2272 proposes to clarify the original intent of the KSA 82a-1036 language to restore the responsibility of requesting an IGUCA inside a GMD to the GMD board or the eligible voters, while retaining the full authority for the chief engineer to initiate an IGUCA outside a GMD upon his or her own actions. This bill also requires the chief engineer to "cooperate and coordinate" with the appropriate board or boards of county commissioners or their designee before initiating an IGUCA proceeding for an area outside a GMD.

COMMENTS:

1) This bill clarifies the AG's opinion 2002-24 which changed state policy

The opinion gave new authority to the state to impose an IGUCA upon local landowners and water users within a GMD independent of their rights under the statutes in the GMD Act. This was done without Legislative approval.

2) This bill restores some Local Control. In efforts to find compromise language, the agency was unable to depart from the AG opinion.

GMD's originally requested the IGUCA tool and need a voice in how the agencies use the Groundwater Management District laws in their district. Without this bill, the AG opinion takes away the local control policy that has been a part of the good Kansas water policies since 1978.

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Attachment 2

3) **This bill is NOT new authority for the GMD's.**

That between 1978 (enactment of the IGUCA statutes) and 2002 (rendering of Attorney General's opinion 2002-24) the GMD's had the sole responsibility for initiating IGUCAs within their boundaries.

4) **The pre-2002 IGUCA process has worked well with no significant legal challenge against the chief engineer's use of it when locally requested.**

This is evidenced by the fact that of the eight, pre-2002 IGUCAs, five of them were cooperatively established between DWR and a local GMD. The remaining 3 are outside any GMD area. The post-2002 IGUCA activity has raised concerns.

5) **The chief engineer's fundamental authority in GMD areas is not diminished at all by this bill.**

He continues to have the big stick authority over groundwater inside the GMD's through all the authorities within the Water Appropriation Act. The State of Kansas always had, and still will have, water regulation authority sufficient to insure averting the "Nebraska syndrome".

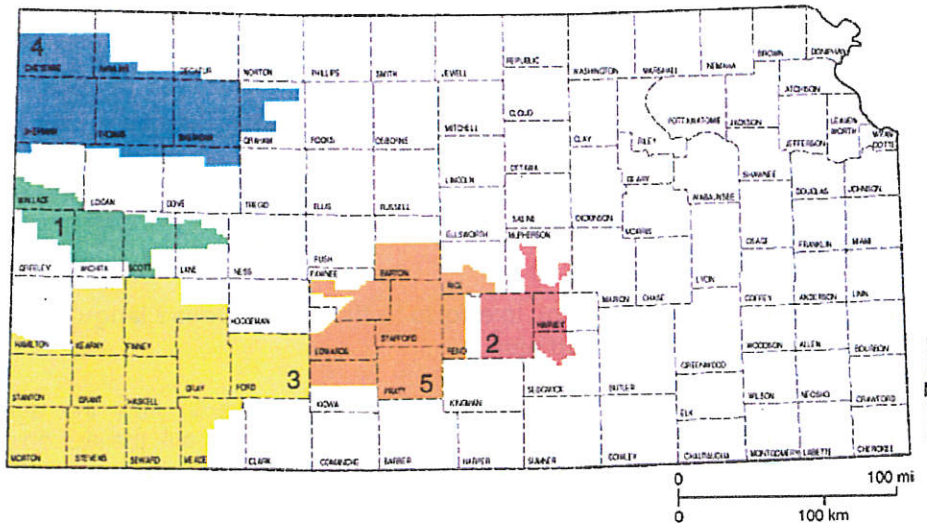
6) **The GMDs need to retain the leadership authority for IGUCA's within their areas.**

The GMDs have a specific and legislatively prescribed process for Groundwater Management that requires the setting of the acceptable and implementable management program for their area. By State Policy, our purpose is local water management activity, including policy recommendations. This responsibility should be deferred to by the chief engineer whenever an IGUCA is under consideration inside a GMD.

RECOMMENDATIONS:

- 1) The proposed amendments in lines 14–22 (inclusive) should be passed by the Kansas Legislature as clarifying language restoring the original 1978 Legislative intent in regard to initiating an IGUCA within the GMDs.

For the Kansas GMDs; Mark E. Rude, GMD3 Executive Director and President, KGMDA



KANSAS GROUNDWATER MANAGEMENT DISTRICTS
TESTIMONY TO CHIEF ENGINEER David Barfield
Proposed IGUCA Regulations, February 12, 2009

Mark Rude, Executive Director, GMD3
409 Campus Drive, Suite 108
Garden City, Ks 67846
Phone # 620-275-7147
Fax # 620-275-1431

Issue of the Kansas GMD's: Proposed K.A.R. 4-20-3 - Initiating IGUCAs

With the awkward and confusing situation created by both pending legislation and administrative hearings occurring simultaneously on this issue, GMD2 wishes to remain silent on testimony to this proceeding at this time. For the other Kansas GMD's, under the GMD Act, IGUCA initiation authority within an established GMD should only come from the GMD board or an identified number of eligible voters therein.

BACKGROUND and COMMENT:

The original law (KSA 82a-1036) was passed in 1978 as an amendment to the Kansas Groundwater Management District Act and provided additional tools to the GMD boards for groundwater management solutions. The bill also provided these same tools to the chief engineer for areas outside a GMD. This law was interpreted in this manner until 2002 when the Kansas Attorney General (AG) was asked if the chief engineer could initiate an IGUCA within the boundaries of a GMD without the request of the GMD board or the eligible voters. The AG opined in the affirmative (opinion 2002-24) – based on the chief engineer's broad responsibilities described in the Kansas Water Appropriation Act. **The potential for a legal challenge** to any incremental departure from the fundamental doctrines in the Water Appropriations Act that may be provided for in the Groundwater Management Act **and** the recognized need to **protect the local water management provisions in the GMD Act** is the public interest that compels the Chief Engineer to take notice of the GMD's objection to the basic premise of K.A.R. 5-20-3 and to assert that the original intent of K.S.A. 82a-1036 is correct.

For the Kansas GMDs; Mark E. Rude, GMD3 Executive Director and
President, KGMDA

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Attachment 3



Since 1894

TESTIMONY

To: House Agriculture and Natural Resources Committee
Representative Larry Powell, Chairman

From: John Donley, Assistant General Counsel

Date: February 11, 2009

Re: HB 2272 – Procedures for designation of an intensive groundwater use control area

The Kansas Livestock Association (KLA), formed in 1894, is a trade association representing over 5,000 members on legislative and regulatory issues. KLA members are involved in many aspects of the livestock industry, including seed stock, cow-calf and stocker production, cattle feeding, dairy production, grazing land management and diversified farming operations.

My name is John Donley, and I am Assistant General Counsel for the Kansas Livestock Association. I appreciate the opportunity to provide testimony to discuss KLA's support of HB 2272.

The issue that is addressed in this legislation is an issue that has come before the legislature in numerous forms in the past. As some of you may recall, last year KLA, the Department of Agriculture, and other stakeholders worked together to move forward on some procedural regulations that create a better process for creating and reviewing intensive groundwater use control areas (IGUCAs). Unfortunately, the good work that was done last year was not able to fully resolve the issue of initiating an IGUCA within the boundaries of a groundwater management district (GMD).

KLA and many practicing water law attorneys have interpreted the current law in a manner that is consistent with the changes being made in this legislation. The Department of Agriculture has maintained their interpretation that the chief engineer does have the ability to initiate an IGUCA within the boundaries of a GMD. HB 2272 will clarify the law to direct the chief engineer that an IGUCA may not be initiated within the boundaries unless the GMD recommends the initiation or a petition is signed by at least 300 or 5% of the eligible voters within the GMD.

KLA believes the entity most directly involved with groundwater issues in an area should be the entity that initiates the proceedings to create a potential IGUCA. This ensures that the concerns of the affected citizens are at the forefront of the discussions from the beginning of the IGUCA process.

The bill also appears to require the chief engineer to cooperate and coordinate with the county commissioners or their appropriate designee when initiating an IGUCA. The wording of

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Attachment 4

this provision seems confusing, but I believe the concept has some merit. I would be happy to work with the appropriate people in order to clarify the intent of this change.

Once again, KLA is supportive of HB 2272. I thank you for your time and will answer questions at the appropriate time.

Equus Beds Groundwater Management District No. 2
Written Testimony to the
House Agriculture & Natural Resources Committee
Concerning
House Bill 2272 – Intensive Groundwater Use Control Areas (IGUCA)
by
Tim Boese, Manager
February 11, 2009

On behalf of the Board of Directors of the Equus Beds Groundwater Management District No. 2, I wish to thank Chairman Powell and members of the Committee for the opportunity to submit written testimony concerning HB 2272.

The District Board of Directors supports the testimony provided to the committee by the Kansas Groundwater Management Districts, particularly the groundwater management districts' recommendation that the bill's proposed amendment in lines 14 through 22 should be passed by the Kansas Legislature.

However, the GMD2 District Board of Directors does not support the bill's language requiring that the chief engineer "cooperate and coordinate" with the appropriate county commissioners, prior to initiation of IGUCA proceedings in areas outside the boundaries of a groundwater management district. The District believes that the water management decisions of the chief engineer should consider the concerns and comments of political entities, but should not be subject to such commissions that have not previously engaged in water management activities for the purposes and policies specified in the GMD Act. Therefore, the District recommends that this language be modified to only require that the chief engineer keep the county commissioners informed of the investigation and activities that may precede the initiation of an IGUCA proceeding.

Thank you Chairman Powell and Committee members for the opportunity to testify on this important issue.

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Attachment 5

Testimony on HB 2272
to
The House Agriculture and Natural Resource Committee

by Constantine V. Cotsoradis
Deputy Secretary
Kansas Department of Agriculture

February 11, 2009

Good afternoon, Chairman Powell and members of the committee. I am Constantine Cotsoradis, deputy secretary of agriculture, and I am here in opposition to House Bill 2272.

We oppose HB 2272, but not because we oppose local input regarding water management issues as provided by the Groundwater District Act. Instead, we oppose HB 2272 because it removes an important water management tool currently available to the chief engineer. We believe the approach in HB 2065, the other IGUCA bill introduced by the Joint Committee on Administrative Rules and Regulations, better balances the duties and responsibilities of the chief engineer with the need for local input on water management. We would support that bill.

HB 2065 provides for local water issue management, but it does not force the chief engineer to use, or threaten to use, the priority system when there are other management tools better suited to address those local water issues.

As you consider this bill, keep in mind that the chief engineer is solely responsible for addressing water shortage issues. Groundwater management districts *may* act, but the chief engineer *must* act. That is why the hearing process should not be controlled by GMDs.

I have attached two maps to my testimony. The first shows the current number of active water rights in the Walnut Creek basin. The chief engineer was obligated to act in this area to satisfy a very senior water right. The two tools available to him were the priority system and the IGUCA. He chose to administer water rights through an IGUCA because the priority system would have caused economic harm to the region.

The second map shows what that area would look like today had the chief engineer chosen to satisfy the senior right using the priority system. Imagine what the regional economy would be like if most of the senior and all the junior water rights had been shut down. Today the water table is stable and the economy thrives due because the chief engineer had options.

This bill takes away options. It doesn't take away the chief engineer's responsibility to act, but it demands that he use only the priority system to manage water in a GMD. We support the GMDs actions to resolve water shortage and water quality issues. However, if they are

unable or unwilling to act, the chief engineer must have more than one tool available to him so he can choose an action that is fair and minimizes harm to water users in a region.

The chief engineer is a classified employee shielded from political influence and the threat of termination for acting in a manner inconsistent with the political will of his boss. He can make tough decisions when faced with difficult water issues. Can the same be said of the GMD managers who answer to boards consisting of irrigators? Will the GMD manager be able to restrict his or her boss' water use without fear of losing his job? We know the answer to that question. It is obvious based on board composition and on past incidents where a GMD was alerted to a potential administration of first in time first in right and did not act.

In two impairment studies in southwest Kansas the GMD did not act because each reached a personal level. The GMD chose not to act, but the chief engineer was required to act on at least one of the impairment complaints. The second complaint was withdrawn by the owner in response to local pressure. This example shows how difficult it is for a neighbor to regulate a neighbor.

We ask that you not require the chief engineer to take harsher measures than necessary to manage water by taking the IGUCA tool from him. We support formalizing the process the chief engineer will follow, as described in HB 2065. It established parameters within which the chief engineer can initiate IGUCA proceedings within a GMD, and it requires the chief engineer to work extensively with the GMD prior to initiating the hearing process.

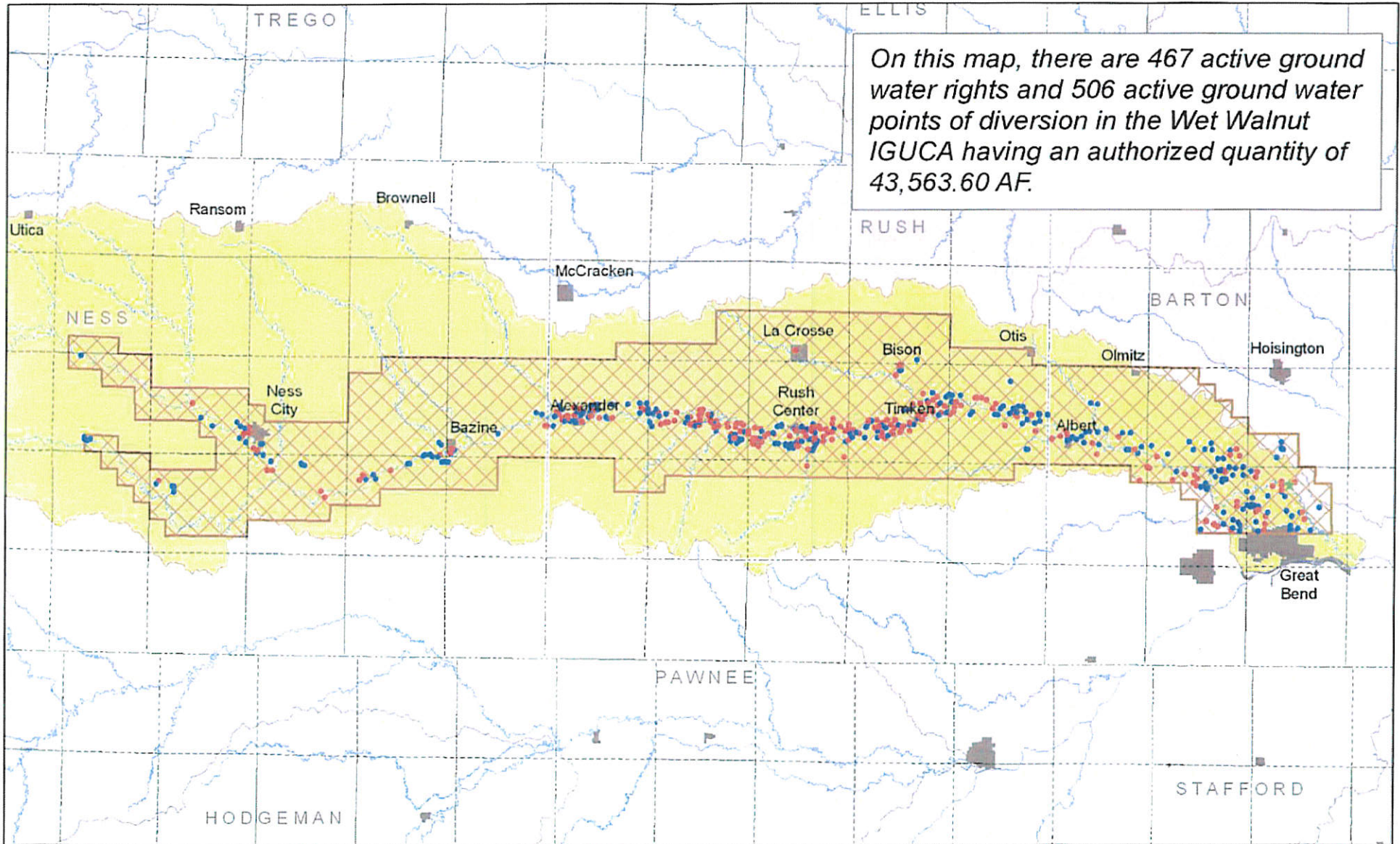
Finally, we draw your attention to lines 23 to 30. I did not comment on this section because I'm not sure I understand its intent or what it requires of the chief engineer. County commissioners may not have adequate knowledge to deal with water management.

I will answer questions at the appropriate time.

Walnut Creek Basin

IGUCA IN PLACE

6-3



Legend

- Ground Water Pds before 1966
- Ground Water Pds after 1966
- Streams
- Cities
- Walnut Creek
- Wet Walnut IGUCA

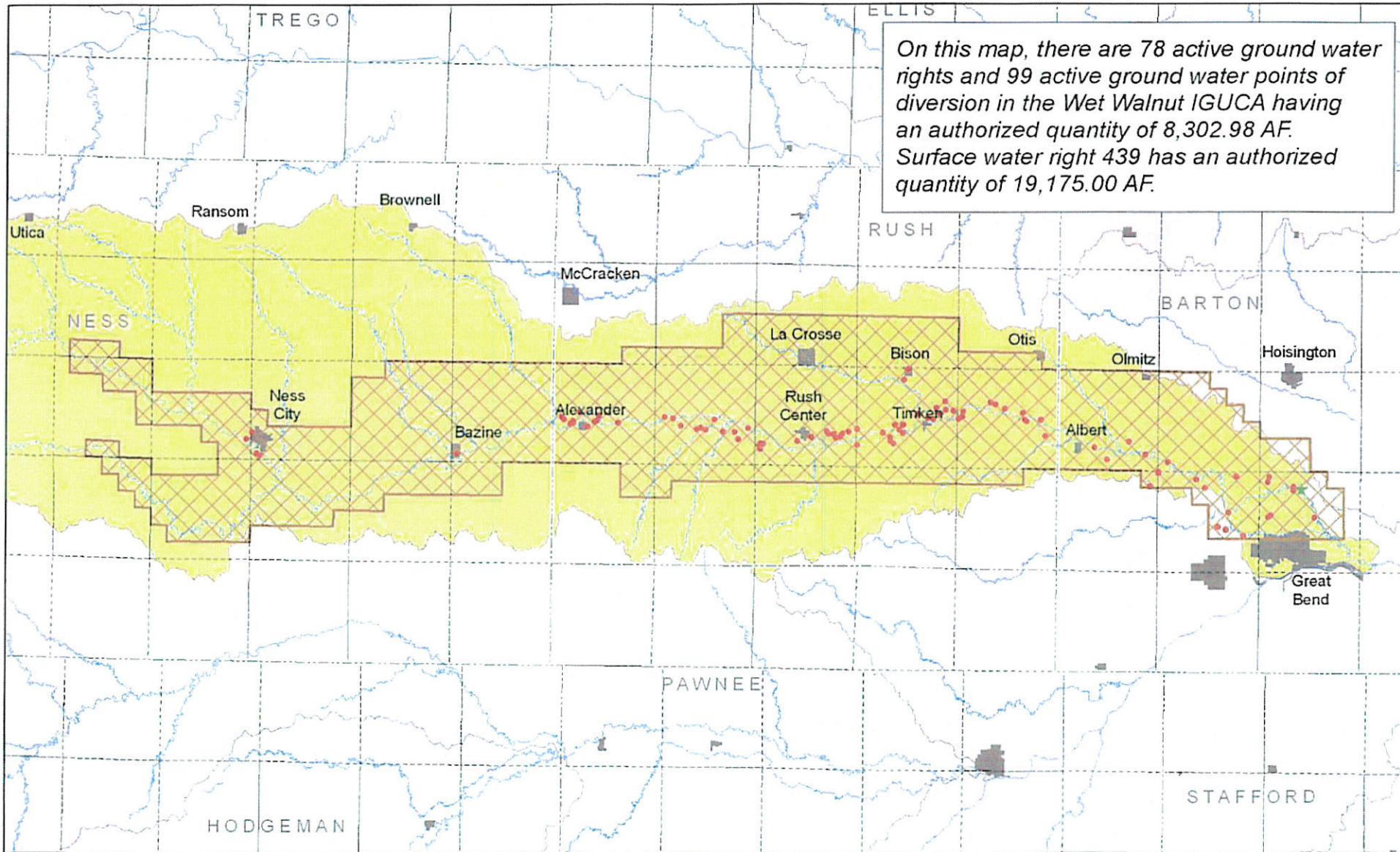
★ File Number 439



Walnut Creek Basin

Pds Senior to Water Right 439

6-4



On this map, there are 78 active ground water rights and 99 active ground water points of diversion in the Wet Walnut IGUCA having an authorized quantity of 8,302.98 AF. Surface water right 439 has an authorized quantity of 19,175.00 AF.

Legend

- Pds Senior to Water Right 439
- Streams
- Cities
- Walnut Creek
- Wet Walnut IGUCA

★ File Number 439



HOUSE BILL No. 2065

By Joint Committee on Administrative Rules and Regulations

1-22

9 AN ACT concerning intensive groundwater control areas; amending
10 K.S.A. 82a-1036 and repealing the existing section.

11

12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. K.S.A. 82a-1036 is hereby amended to read as follows:
14 82a-1036. (a) Whenever a groundwater management district recom-
15 mends the same or whenever a petition signed by not less than three
16 hundred ~~(300)~~ 300 or by not less than five percent ~~(5%)~~ 5% of the eligible
17 voters of a groundwater management district, whichever is less, is sub-
18 mitted to the chief engineer, the chief engineer shall initiate, as soon as
19 practicable thereafter, proceedings for the designation of a specifically
20 defined area within such district as an intensive groundwater use control
21 area. *Except as provided in subsection (b)*, the chief engineer upon his or
22 her own investigation may initiate such proceedings whenever said chief
23 engineer has reason to believe that any one or more of the following
24 conditions exist in a groundwater use area which is located outside the
25 boundaries of an existing groundwater management district:

26 ~~(a)~~ (1) Groundwater levels in the area in question are declining or
27 have declined excessively; ~~or (b)~~

28 (2) the rate of withdrawal of groundwater within the area in question
29 equals or exceeds the rate of recharge in such area; ~~or (c)~~

30 (3) preventable waste of water is occurring or may occur within the
31 area in question; ~~(d)~~

32 (4) unreasonable deterioration of the quality of water is occurring or
33 may occur within the area in question; ~~or (e)~~

34 (5) other conditions exist within the area in question which require
35 regulation in the public interest.

36 (b) *Whenever any portion of the area proposed to be designated as a*
37 *groundwater intensive use control area lies within the boundaries of an*
38 *established groundwater management district, the chief engineer may des-*
39 *ignate such area as an intensive groundwater use control only after fol-*
40 *lowing the procedures specified in this subsection in addition to any other*
41 *requirements of the act.*

42 (1) *The chief engineer shall notify the groundwater management dis-*
43 *trict that the chief engineer has reason to believe:*

- 1 (A) One or more of the groundwater conditions listed in subsection
2 (a), exist within the area of the groundwater management district to be
3 affected; and
- 4 (B) the public interest requires that one or more corrective control
5 provisions be adopted. To the extent that a groundwater condition listed
6 in subsection (a) is occurring within the area of a groundwater manage-
7 ment district to be affected, in determining whether the public interest
8 requires that one or more corrective control provisions be adopted, the
9 chief engineer shall consider the definition of the public interest specified
10 in such groundwater management district's management plan, including
11 any revisions thereof, and rules and regulations.
- 12 (2) The chief engineer shall provide the groundwater management
13 district with a description of the area of a groundwater management dis-
14 trict to be affected and data and analysis that document the existence of
15 one or more groundwater conditions listed in subsection (a) within such
16 area.
- 17 (3) The chief engineer shall consult with the groundwater manage-
18 ment district and attempt to reach a reasonable agreement with the
19 groundwater management district regarding the extent to which any
20 groundwater condition listed in subsection (a) exists within the area of a
21 groundwater management district to be affected.
- 22 (4) The chief engineer shall:
- 23 (A) Make a preliminary determination that strict application of the
24 priority system under the Kansas water appropriation act to address each
25 groundwater condition would:
- 26 (i) Be significantly less effective in solving or reducing the ground-
27 water condition listed in subsection (a) which exists within the area of a
28 groundwater management district; or
- 29 (ii) result in significantly more permits and water rights being or-
30 dered to completely cease diverting water than the creation of an intensive
31 groundwater use area; and
- 32 (B) provide a written report to the groundwater management district
33 explaining the chief determination required by subparagraph (A).
- 34 (5) The chief engineer shall provide at least 120 days for the ground-
35 water management district to develop and submit to the chief engineer:
- 36 (i) A plan to address the extent of the groundwater condition listed
37 in subsection (a) that exists within the area of a groundwater management
38 district; or
- 39 (ii) data and analysis that refutes either the existence or the extent to
40 which such groundwater condition exists within the area of a groundwater
41 management district affected.
- 42 (6) The affected groundwater management district has failed to sub-
43 mit its plan to address the condition or to refute the existence of the

1 *groundwater condition in whole or in part, within the time period or any*
2 *extension specified by the chief engineer.*

3 *(7) If the groundwater management district affected has submitted a*
4 *refutation of the existence of a groundwater condition in whole or in part,*
5 *the chief engineer has responded in writing as to whether the chief en-*
6 *gineer agrees or disagrees with that refutation.*

7 *(8) The chief engineer has given the groundwater management af-*
8 *ected district at least 90 days to request initiation of an IGUCA.*

9 *(9) The groundwater management district affected has failed to re-*
10 *quest initiation of an intensive groundwater use control area within the*
11 *time period specified by the chief engineer.*

12 *Sec. 2. K.S.A. 82a-1036 is hereby repealed.*

13 *Sec. 3. This act shall take effect and be in force from and after its*
14 *publication in the statute book.*

**Testimony on HB 2272 before the
House Agriculture and Natural Resources Committee
By Jay Garrison**

February 11, 2009

Thank you, Chairman Powell and members of the committee. I know some of you and appreciate all of you for your service.

My name is Jay Garetson from Copeland, Kansas. I'm a 4th generation family farmer and agri-businessman blessed to be working with my Dad and my brother. We hope to leave water for the next generations.

Sparse rainfall and the Ogallala aquifer have been our only source of water since 1902. We have water rights ranging in seniority from vested right HS-003, the third irrigation well drilled in Haskell County, to junior wells with priority numbers over 20,000. None of these water rights will be worth the paper their written on if the Ogallala is allowed to dry up.

Since graduating from Kansas State University and returning to southwest Kansas, I have served on the Southwest Kansas Irrigation Association Board and the Ogallala Management Taskforce and currently serve on the Kansas Water Authority and Governor's Agriculture Advisory Board.

Now addressing House Bill 2272, while I generally believe strongly in local control, I recognize the difficulty facing the local Groundwater Management Districts trying to decide how to best share the water shortage that continues. This shortage is going to require all the options and tools available to us to extend the useful life of the aquifer. Specifically, an IGUCA is an important alternative to the strict application of first in time, first in right. The Chief Engineer has a statutory responsibility to enforce Kansas water law and help manage the state's water resources according to that water law. Reducing the availability of an IGUCA as a tool available to the Chief Engineer sends a message to the local community and the state as a whole that another 20 years of delayed action and deferred decisions is acceptable.

Thank you for your time today and if you have any questions I will be happy to answer them at this time.

Ag & Natural Resources Committee
Date 2-11-09
Attachment 8