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Jackie McClaskey, Secretary

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**Testimony on HB2059  
to  
The Senate Natural Resources Committee  
By Chris Beightel  
Kansas Department of Agriculture  
March 12, 2015**

Chairman Powell and members of committee, I am Chris Beightel, the Water Management Services Program Manager with the Kansas Department of Agriculture's Division of Water Resources. Thank you for the opportunity to provide testimony in support of HB2059, which would amend our current statutes to for allow augmentation as a tool to help satisfy a senior water right if water rights administration is occurring.

The Kansas Water Appropriation Act establishes Kansas' system of water rights, providing for the allocation and regulation our state's water on a first-in-time, first-in-right basis. During periods of water shortages, junior water rights are curtailed to satisfy senior water rights. This ensures the use of the limited supply by the person with the most senior property right.

Currently, the Kansas Water Appropriation Act's means of protecting senior water rights is to reduce or curtail junior diversions. The statute considers a junior water right pumping, when a senior is due the water, an unlawful diversion. We would like to amend the act to allow augmentation as an additional method to satisfy a senior water right during water short periods.

Augmentation is a broad term. We would like for the Legislature to consider narrowing the term in this case by explaining in the law that augmentation would be the replacement of the unlawful diversions in time, location and quantity, if available. The request made to you comes from the KDA as we are currently working with a group of stakeholders above the Quivira National Wildlife Refuge owned by U.S. Fish and Wildlife Service. Quivira holds a very senior surface water right. The surface water right is affected by groundwater pumping. The aquifer in that area holds about 80 feet of saturated thickness when it's fully recharged. The basin fluctuates based on rainfall. The top 30 feet affects the base flow of the stream. During dry times, augmentation could occur from the bottom 50 feet of the aquifer by using existing irrigation water rights to divert water into the refuge, allowing junior water right holders to take advantage of the remaining aquifer.

At the present time we have an active impairment investigation occurring at Quivira. The local water users are looking for proactive solutions in case impairment is determined. I do not believe these stakeholders believe augmentation is the total answer to replace stream flow. They do believe that it could be part of the solution. Augmentation would provide another tool for appropriate water management.

HB2059 was amended to require certain notification when an illegal diversion is determined. We believe the amendments are well intentioned but unneeded. Per KDA regulations, groundwater rights are informed in the process of a groundwater impairment investigation, and there is no need to inform all adjoining landowners in the case of illegal diversion of surface water, since the affected parties are downstream.

The Kansas Department of Agriculture remains committed to providing better management tools so Kansans can use our critical water resources wisely. Thank you for your time and consideration and I will stand for questions at the appropriate time