

MARMATON WATERSHED JOINT DISTRICT NO. 102

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Proponent Testimony on SB 201
Senate Committee on Assessment and Taxation
March 7, 2019

Chairman Tyson and Honorable Committee Members:

I apologize for not being in attendance for this important hearing before the Senate Assessment and Taxation Committee. I sincerely hope that this written testimony will relay to the committee the importance of Senate Bill 201 to the residents of our watershed district and the local taxpayers that support it. I believe Herb Graves, Executive Director of the State Association of Kansas Watersheds (SAKW) has already delivered similar testimony in person and hope this adds supplemental information important to the passage of this bill.

The Marmaton Watershed District Joint District #102 is located in Southeast Kansas in Bourbon, Allen and Crawford Counties along the Marmaton River west of Ft. Scott, Kansas. The District was formed in 1986 under Chapter 24 (the Watershed District Act), Kansas Statutes Annotated, for the purpose of controlling frequent flooding along the Marmaton River and protect cropland and residences in rural Allen, Bourbon and Crawford Counties and industries and homes in the City of Ft. Scott.

Prior to 2008, the District, along with many other districts throughout Kansas, constructed watershed structures under a General Permit issued by the USACE that allowed the dams to be built as long as impacts to endangered species and other environmental concerns were specifically dealt with. Since 2008, the Corps has revoked the General Permits for watershed dams and required all of the districts in Kansas to obtain specific 404 permits for construction of each dam. Along with these permits, an ever increasing burden of mitigation has been forced upon us by the "agencies" with districts across the state scrambling to keep up with the ever changing requirements of the Corps and EPA. One tool we have utilized is the third party mitigation monitoring capabilities of the Division of Conservation of the Kansas Department of Agriculture. The DOC assists us in establishing District sponsored mitigation sites that are protected by conservation easements from future uses inconsistent with the perceived purpose of the EPA and Corps mitigation requirements. For the establishment of these protected, fenced off, areas, we are rewarded with "mitigation points" to offset the perceived damages our structures cause to the natural environment, often saving the district thousands of dollars compared to the purchase of these "points" from off-site mitigation

providers such as mitigation banks and in lieu fee providers, costs that often would exceed the construction cost of the actual flood control structures. Although fairly small in size (5 to 20 acres), these mitigation areas are most effective when located near the subject dam and reservoir structure, although they can be located a fair distance away, usually as a narrow band or “buffer” along stream corridors.

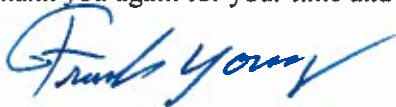
Watershed districts seldom purchase land for the sites of their structures, instead utilizing easements for the construction and maintenance of the dams and reservoirs on private property. The Marmaton District also has never purchased land for the establishment of these mitigation areas, relying, again, on donations of easements from private landowners who are usually involved in the dam site development areas. In return for these easements, the landowners receive no compensation other than the use of the watershed structure for livestock water and recreation and the knowledge that the flood protection benefits extend downstream from the structure to their neighbors and friends located in the flood prone areas of the District.

In return for the donation of land rights for the dam and reservoir areas of these structures, the State of Kansas offers property tax relief as spelled out in K.S.A. 79-201g, with that land being limited in area to all land above the dam lying below the top elevation of the constructed dam. Since the mitigation areas are often located either above or below the structure along the stream channel areas, they may not be related directly to the elevation of the top of the dam. Some of the areas are not even on the same stream channel that the structure is located on and theoretically could be several miles away as long as they are in the same watershed drainage system. It would be of great assistance to our efforts to work with local landowners if the donated mitigation areas could also receive similar property tax abatement as spelled out in this proposed legislation. Since the landowner is prohibited from ever farming or grazing these areas along with prohibitions that eliminate the building houses, drilling for oil or gas, or any other economic endeavors inconsistent with the purpose of mitigating stream channel modifications, this is the only monetary benefit we have been able to identify that they would get from their cooperation.

Flood control utilizing watershed structures is a proven method of reducing flood damages and has made a great difference in the quality of life in the Marmaton Watershed District and the City of Ft. Scott. We will continue to lobby the Corps of Engineers and EPA for relief from this burdensome permitting process. We ask that you allow us this tool for use in continuing this work in the future.

We thank the Committee for considering this legislation and again apologize for not being able to attend the hearing in person. If there are questions, I would defer to Mr. Graves as he has also spent a great deal of time and effort in his work for the watershed districts in Kansas. If you wish to ask me questions on this matter, I have included my contact information below.

Thank you again for your time and consideration.



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