

**Neutral Testimony for HB 2459
to the House Committee on Water
by Lane Letourneau, Water Appropriation Program Manager
Kansas Department of Agriculture
January 31, 2024**

Good afternoon, Chairman Minnix and members of the committee. My name is Lane Letourneau and I serve as the program manager for the Kansas Department of Agriculture's Division of Water Resources.

I am standing before you today to provide neutral testimony for HB 2459.

As currently written, HB 2459 would require the new location of a change in point of diversion to not exceed safe yield, which is a requirement that currently only applies to applications for new appropriations of water.

Last year, when this bill was first introduced, the bill was coined the "stop chasing water bill." The concern that the Division of Water Resources hears the most from well owners in the Ogallala aquifer is about this issue. Specifically, that water right owners will pump a well in one location until there is no remaining storage, file a change in point of diversion, and then drill a new well up to one-half mile away in a deeper part of the aquifer, closer to other existing water right owners. You hear the term "closed to new appropriation" used to describe much of the state. It would be more accurate to say that most of the western one-third of Kansas is "closed to new applications." We continue to appropriate new water every time a change application is approved in a situation like I described. That is one reason why the rate of decline of the Ogallala is remaining consistent. When one well is replaced by another well using this method, assuming the request follows existing rules, the change application would be approved. If new water appropriation rights were requested for a *different* user a half mile in another direction, it is likely that safe yield would not be met, and the application would not be approved.

As currently written, HB 2459 effectively stops this chasing of water.

There are no locations in the Ogallala aquifer that meet safe yield as the aquifer has been developed based on a planned depletion calculation of 40% depleted over a 25-year period. This bill will also cease the practice of getting a new application approved at a location that meets safe yield but is not actually a desirable well location, completing a halfhearted well, then filing a

change in point of diversion application to a more desirable location where safe yield would not have been met if a new application had been required.

Another thing this bill would no longer allow is a short move point of diversion change. As you consider this important policy discussion, it is important to allow water right holders to move points of diversion by 300 feet or less. These moves are for replacement wells for when a well goes bad, a pump gets stuck, casing collapses, or a well pumps sand. These point of diversion changes do not create a significant impact difference to the aquifer and surrounding wells at 300 feet. This is an important practice to operate a water right as wells go bad and moving a well 300 feet or less is not considered “chasing water” as the impact of pumping is likely to be the same at the old and new location.

For your reference, I would like to provide the number of point of diversion changes that occurred from 2020 to present. These are stand-alone changes in point of diversion:

- DWR approved 1,967 applications for change in point of diversion.
- 1,462 were in the High Plains Aquifer.
- 550 were moves that were greater than 300 feet.
- 1,417 were moves of 300 feet or less.

Thank you again for the opportunity to testify about HB 2459. I’m happy to stand for questions at the appropriate time.