

MINUTES OF THE SENATE NATURAL RESOURCES COMMITTEE

The meeting was called to order by Chairman Carolyn McGinn at 8:30 a.m. on March 20, 2008 in Room 423-S of the Capitol.

All members were present.

Committee staff present:

Raney Gilliland, Kansas Legislative Research Department
Emalene Correll, Kansas Legislative Research Department
Jason Thompson, Revisor of Statutes
Matt Todd, Revisor of Statutes
Adrienne Halpin, Committee Assistant

Conferees appearing before the committee:

Tom Sloan, State Representative
Tracy Streeter, Kansas Water Office
John Donley, Kansas Livestock Association
Steve Swaffar, Kansas Farm Bureau
Constantine Cotsoradis, Department of Agriculture
Mark Rude, Groundwater Management Districts

Others attending:

See attached list.

Chair McGinn commenced the hearing for **HCR 5028**, a request to form a partnership with the federal government in order to preserve the productivity of Kansas reservoirs.

Tom Sloan, Kansas Representative of the forty-fifth district testified in support of the bill (Attachment 1) stating that the Corps of Engineers' original designs were for structures with a one hundred year life expectancy. Although these structures are now forty to sixty years old, the Corps does not currently have a program to extend the life of these reservoirs. **HCR 5028** addresses these difficulties and provides for the continuation of drinking water, flood control, and recreation. Representative Sloan stood for questions.

Tracy Streeter, Director, Kansas Water Office, also testified in support of **HCR 5028** (Attachment 2) stating that the bill would strengthen the State's message to the federal government and solidify Kansas' position. Mr. Streeter stood for questions.

Chair McGinn closed the hearing on **HCR 5028**. Senator Taddiken made a motion for the bill to be passed out favorably, seconded by Senator Francisco. The motion carried.

Chair McGinn opened the hearing on **HB 2625**, intensive groundwater use control areas (IGUCAs); review hearings; advisory panels.

Raney Gilliland, Legislative Research, presented an overview of the bill stating that IGUCAs are commonly designated by the Chief Engineer of the division of Water Resources as a management tool for water allocation in a specific area. **HB 2625** would address the review hearing process for an IGUCA. Line 26 of page 1 provides permission for an individual to petition the Chief Engineer to conduct a review hearing. Several questions regarding the language in the bill include: (1.) lines 26-28 which should be changed to read "signed by," (2.) line 32 which refers to a public hearing not specified as the review hearing or a secondary hearing, (3.) further references on page 2 to an unspecified public hearing, and (4.) the need to designate the standing committees to which yearly information would need to be reported on page 3.

John Donley, Assistant Council, Kansas Livestock Association (KLA), testified in favor of the bill (Attachment 3) stating that KLA has several concerns, but supports the amendments made by the House especially regarding the need for an independent hearing. The bill, he stated, also places the burden of proof on the State to decide if the continuation of an IGUCA is necessary instead of on individuals for whom the process could be expensive. The KLA is supportive of proposed amendments regarding primacy issues and adversarial hearings and cooperated with Department of Agriculture to address all sides of this issue in an

CONTINUATION SHEET

MINUTES OF THE Senate Natural Resources Committee at 8:30 a.m. on March 20, 2008 in Room 423-S of the Capitol.

acceptable manner. Mr. Donley stood for questions.

Steve Swaffar, Kansas Farm Bureau (KFB), testified in support of the bill (Attachment 4) stating that KFB's members' concerns would be addressed through this legislation. Concerning the review hearings, Mr. Swaffar stated that the bill addresses only the review, not the initiation process. Mr. Swaffar expressed that, during these hearings, state agencies' ability to be a party in the cross-examination process gave the public a negative impression and appeared inappropriate. He encouraged the Committee to remove agencies which manage state water rights from the cross-examination process. Mr. Swaffar stood for questions.

Constantine Cotsoradis, Deputy Secretary, Kansas Department of Agriculture (KDA), testified in support of **HB 2625** (Attachment 5) stating that the bill's intended focus is the review process for IGUCAs. KDA believes the unamended bill—representing the compromised language of the Groundwater Management Districts (GMDs) and KDA—would be beneficial to all parties and provide positive change in the review process. Mr. Cotsoradis emphasized the importance of the KDA's role in the review process in collecting, assessing, and presenting data; he further questioned the Department's ability to provide a burden of proof in a review process to which it could not be party. Mr. Cotsoradis stood for questions.

Mark Rude, Director, GMD 3, testified in opposition to the bill as a representative of all Kansas GMDs. Mr. Rude stated that the GMDs have recommended language for clarification of section 3, K.S.A. 82a-1036 (See Amendment 6). The amendment, he stated, would bring clarity and consistency to management without diminishing the Chief Engineer's authority. Mr. Rude stood for questions.

Chair McGinn requested that the hearing be continued at a subsequent meeting.

The following provided written testimony only:

DeEtte Huffman, McPherson Kansas (Attachment 7)

The meeting adjourned at 9:30 a.m.

SENATE NATURAL RESOURCES COMMITTEE

Guest Roster

3/20 ~~Thursday, March 20th, 2008~~
 (Date)

Steve Swaffar	Kansas Farm Bureau
Kent Astren	Ks Farm Bureau
MARK RUDE	GMD 3
Dave Brown	GMD 1
Dave Starkey	KDA
Paul Graves	KDA
LANE LETOURNEAU	KDA
John Donley	KS Livestock Ass'n.
E.P. Woody Moses	KDA
Joe Furd	KWO
REP TOM SLOAN	KS LEGISLATURE
WAYNE BOSSERT	NW KS GMD 4
Tim Boese	GMD 2
Sharon Faek	COMO 5
Leslie Kaufman	Ks Coop Council
Mike Beam	Ks Livestock Assn.
Tracy Stink	KWO
Kathryn Letzger	KRIA
Michael Hooper	Kearney & Assoc.
Pat Lehman	GMD 4
Tom BRUNO	REAP
Tom Thompson	Sierra Club
JEAN MILLER	CAPITOL STRATEGIES

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 AND TECHNOLOGY
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 TRANSPORTATION

Testimony - HCR 5028 - Reservoir Sustainability

Senate Natural Resources Committee March 20, 2008

Rep. Tom Sloan

Madam Chairman, Members of the Committee: HCR 5028 recognizes that the Corps of Engineers and Bureau of Reclamation constructed reservoirs in Kansas with productive life expectancies of 100 years. Many of these reservoirs are approximately 50 years old and siltation is an increasing problem from the loss of water storage capacity perspective as well as degradation of water quality. Candidly, no crisis exists today - we have adequate flood control, drinking water, and recreation; but, if not addressed soon, the costs of action will drastically increase and future legislatures will confront a crisis. The experience in Atlanta this past summer should be a lesson we all take to heart - water must be managed for the long term.

The reservoirs meet essential flood control, drinking water supply, and recreation needs in Kansas today and will be needed even more in the future. The Corps and Bureau have "construct and operate" philosophies - HCR 5028 encourages them to change their philosophies and management practices to "operate to sustain."

In February 2007, Assistant Secretary of the Army (Civil Works), John Paul Woodley, visited Topeka and spoke to the Appropriations Committee. In a separate meeting, I asked what the Corps' policies are regarding sedimentation, water quality, and water quantity problems that our reservoirs are and will increasingly face. His answer was that, "we do not have one." He then went on to say, "but we probably should." Secretary Woodley returned to Kansas in October for the Kansas Reservoir Summit and committed to working with our stakeholders to develop such plans at the federal and state levels.

HCR 5028 has been developed in cooperation with Secretary Woodley's staff and the Kansas Water Office staff. The key components are:

a) The Corps of Engineers and Bureau of Reclamation should develop new partnerships with Kansas to extend the productive lives of the reservoirs;

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b) That the Corps and State of Kansas should cooperatively identify and address “sustainability points” for each reservoir to ensure we can meet our state’s anticipated drinking water supply, flood control, and reasonable recreational needs are met as cost-effectively as possible;

c) Congress shall amend the necessary statutes so that contributions to sustain the reservoirs can be made directly to the Corps and Bureau to: 1) meet our financial commitment to maintenance and operations, 2) off-set our contractual storage purchase obligations, and 3) be available for reinvestment in Kansas’ reservoirs; and

d) That the reservoirs be operated on a “system basis” rather than individually.

Unlike many Resolutions that we pass, this one has been developed in concert with the parties that will receive it, with the expectation that our actions will spur federal actions. Secretary Woodley, the Kansas City and Tulsa Corps offices, and the Bureau of Reclamation’s Washington and regional offices are aware of this Concurrent Resolution and await its passage.

Mr. Chairman, I will be pleased to respond to questions.

House Concurrent Resolution 5028
Testimony
Tracy Streeter, Director
Kansas Water Office
Senate Natural Resources Committee
March 21, 2008

Chairwoman McGinn and members of the committee; it is my pleasure to appear in support of House Concurrent Resolution 5028.

The Kansas Water Office is responsible for the management of state owned storage in federal reservoirs. State owned storage is used under our Water Marketing and Water Assurance programs to support municipal and industrial water use. A large portion of our population and a significant portion of our energy production are served by these reservoirs.

In order to manage this storage, we have worked for more than three decades with our partners to operate and maintain those federal reservoirs. Federal reservoirs in Kansas were built with specific authority and for specific purposes. The U.S. Army Corps of Engineers and the Department of Interior's Bureau of Reclamation have limited ability to deviate from these authorities and purposes. Our interests in serving Kansas citizens in a changing economy often are severely limited by our federal partner's ability to react.

Likewise, the federal government currently views these reservoirs as projects that have an expected life span rather than long term infrastructure that supports the Kansas and national economies and protects our citizens. A significant change is needed in both the state and federal view regarding these reservoirs to make sure that our current and future needs are met.

This past year, the Kansas Water Office and Kansas Water Authority began to look at our strategic vision to meet Kansas' future water needs with our limited resources. The Authority put reservoir operations and sedimentation as issues in need of further action. We are currently in the middle of a policy evaluation and stakeholder input process. HCR 5028 is complimentary to this process.

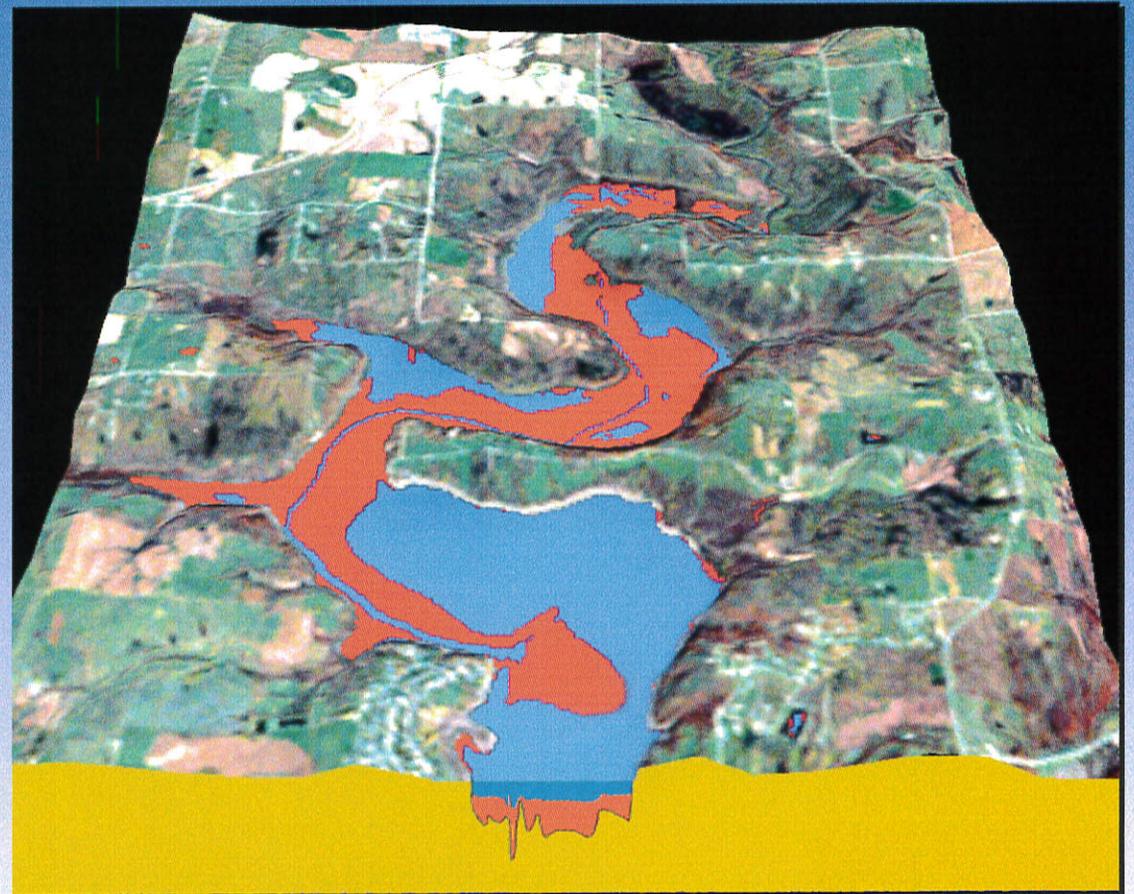
The fact that this resolution recognizes the significance the federal reservoirs play in our water infrastructure and the need for greater cooperation is appropriate and timely. Thank you Mr. Chairman for the opportunity to appear before your committee today; I will stand for questions at the appropriate time.

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Kansas reservoirs are filling with sediment

Case Study: Perry Lake Upper Basin

L.L.



Accumulation since construction in 1969

**Estimated 1000+ acres surface area lost;
91.5 million cubic yards of sediment;
18% of water storage capacity lost (2005)**



Since 1894

TESTIMONY

To: The Senate Committee on Natural Resources
Sen. Carolyn McGinn, Chairperson

From: John Donley

Date: March 20, 2008

Subject: **Substitute for House Bill 2625** –An act concerning existing intensive groundwater use control areas; relating to review hearings of such areas; establishing advisory panels

The Kansas Livestock Association (KLA), formed in 1894, is a trade association representing approximately 6,000 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, grazing land management and diversified farming operations.

Good Morning. My name is John Donley. I am Assistant General Counsel for the Kansas Livestock Association. I appreciate the opportunity to discuss KLA's position on Intensive Groundwater Use Control Areas (IGUCA).

KLA is supportive of Substitute for HB 2625 (HB 2625) as it was amended by the House of Representatives. While there are other concerns that we have regarding the IGUCA statute, this bill will help rectify some of the concerns that we currently have about the process of implementing and reviewing an IGUCA.

Two of the main concerns that KLA has with the existing IGUCA statute is the lack of an independent hearing officer or committee and the lack of a statutory review of IGUCA orders. HB 2625 addresses both of these concerns.

The provision in HB 2625 that requires the chief engineer to create an advisory panel when implementing an IGUCA order is a step toward allowing the chief engineer to have more input from affected parties. The chief engineer will now have a committee of interested stakeholders who will be a resource while making such a decision. While this legislation does not go so far as to create an independent body to conduct IGUCA proceedings, it is a step in the right direction by allowing more input from someone other than the chief engineer.

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K.S.A 82a-1038(c) provides that IGUCA orders shall remain in full force and effect until or unless an appeal order is issued. KLA supports the mandatory review provisions in the bill. KLA is also supportive of the provision that allows for affected water users to petition for a review of an IGUCA every four years. These are important provisions due to the fact that conditions may change within an IGUCA that would necessitate a modification or removal of an IGUCA order. This legislation will allow for that process to occur.

The IGUCA statutes provide that affected water right holders may seek review of the order as it pertains to their water right. (K.S.A. 82a-1038(d)). Under current law, the burden of proof is clearly upon the individual to challenge the order. Our members fear, that once an order is issued there is little or no chance for it to be modified without an expenditure of substantial resources by water right holders. Therefore, the fact that the state shall have the burden of proving the need for the continuance of an IGUCA designation in HB 2625 is an important aspect of this legislation. Frankly, it is too expensive for affected stakeholders to afford to pay the experts that are necessary in order to show that an IGUCA is no longer necessary; therefore, placing the burden of proof on the state during the review process is a positive development in the IGUCA statute.

KLA is also supportive of the provision in this bill that states that the chief engineer shall not conduct an adversarial hearing. While there is still discussion as to whether that is the appropriate language, we are supportive of the concept behind that language.

Finally, it is our understanding that there are potential amendments that will be presented to this committee in regards to the adversarial hearing issue and the primacy issue regarding GMDs. KLA policy is also supportive of these amendments. With regards to the GMD amendment, it seems logical to us that the entity that is most directly involved with groundwater issues in an area should be the entity that initiates the proceedings to create a potential IGUCA. We believe that was the intent of the legislature when the IGUCA statute was created, and the amendment will clarify Attorney General Opinions that have ruled to the contrary on that issue.

Admittedly, KLA has other concerns regarding the IGUCA statute as it exists today. However, the policy that is set forth in HB 2625 is good public policy that alleviates many of the concerns that we have with the current law. Finally, I do want to thank the Department of Agriculture for continuing to work with us to alleviate some of our concerns with the IGUCA statute as it has been implemented in the past. It is my hope that all parties involved will continue to work together to shape good public policy with regards to water law in Kansas. Thank you for your time, and I will stand for questions at the appropriate time.

Kansas Farm Bureau
POLICY STATEMENT

Senate Natural Resources Committee

Re: Sub HB 2625 an act concerning intensive
groundwater use control areas

March 20, 2008
Submitted by:
Steve M. Swaffar
Director of Natural Resources

Chairperson McGinn and members of the committee, on behalf of the members of Kansas Farm Bureau (KFB) we provide the following comments in support of Sub HB 2625. I am Steve Swaffar, Director of Natural Resources for Kansas Farm Bureau. KFB is the state's largest general farm organization representing more than 40,000 farm and ranch families through our 105 county Farm Bureau Associations.

Water conservation and appropriate regulatory actions has become a top priority for agriculture the last few years. For those of you that served on the Interim Legislative committee this fall that addressed the IGUCA issue, you got quite an education on the Kansas water law and regulations. At the time of the Interim Committee discussions, KFB was in the midst of a policy development process on the topic and we were unable to share specific policy developed by our members, but we shared our concerns about the process and how it might impact our members. As a review, we were concerned about the appropriate place(s) to use an IGUCA, the administrative procedures and decisions of an IGUCA, and situations where strict administration of the Water Appropriations Act is not practical, and an IGUCA may be the best administrative tool available. I am pleased to share with you today the specific policy adopted by our members in anticipation of this bill and the hearing today. The policy reads as follows:

We support the implementation of Intensive Groundwater Use Control Areas (IGUCA) as an alternative, if strict administration of water rights would result in a significant negative impact to the local economy or be ineffective in protecting senior water rights. State agencies may be called upon to provide factual information but should not be party in any IGUCA proceedings. An unbiased individual, with equivalent expertise to that of the Chief Engineer, should serve as hearing officer during the IGUCA proceedings; if no equivalent individual exists, then the Chief Engineer may serve as hearing officer. All existing and future IGUCAs should be reviewed periodically. The review should examine all aspects of the IGUCA including its effectiveness and the need for continuation or discontinuation of any corrective controls.

KFB does support the use of an IGUCA when circumstances are appropriate. There are examples in Kansas, particularly in aquifers with little or no recharge like the Ogallala aquifer, where strict administration of the Water Appropriations Act will be detrimental to the economy. The aquifer is not a smooth, level-bottomed container therefore wells are not equally capable of accessing the resource, regardless of the seniority of the water right. In unique situations like this, where strict enforcement of priority does not accomplish the desired results of satisfying senior water rights and potentially ruins the economy, the use of IGUCA may be a more attractive

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option. However, the extraordinary provisions of an IGUCA should be used infrequently and with discretion, but still should respect the seniority of water rights.

The recent IGUCA proceedings in the Pawnee-Buckner basin have brought to light the process of establishing or expanding an IGUCA. HB 2625 addresses many of our concerns, including a more thorough review process and the establishment of specific review periods. KFB stands in support of the bill, however we believe there is one issue that has still not been addressed. That is the role that State agencies may play during the IGUCA hearings. In the Pawnee-Buckner IGUCA expansion proceedings, the Basin Team a group of state employees working under the Chief Engineer, were granted party status. This meant they were able to provide testimony, call witnesses and cross-examine other witnesses. We believe this presented the hearing officer, in this case the Chief Engineer, with a distinct conflict with his own employees. The Basin Team works for the hearing officer, who is supposed to be impartial and considerate of both sides, yet as a party the Basin Team presented information towards a particular conclusion. It is only human nature to place trust in individuals you hire and supervise, how can someone be completely impartial in this type of situation. The role for agencies should be to provide empirical data and historic information to the Chief Engineer, not to argue for one conclusion or another. We view this as inappropriate and it should not be allowed to occur in the future. We don't necessarily believe the format of the hearings needs to be changed, but the role of agencies needs to be clarified. KFB suggests the committee amend Sub HB 2625 to make this correction. I have attached a suggested amendment to my testimony for your consideration.

KFB appreciates the efforts of the Special Interim Committee and this committee to improve on our existing law. Water management is vital to our economy so it is important we get this right. Thank you for this opportunity to provide testimony.

**Testimony on HB 2625
to
Senate Natural Resources Committee**

**by
Constantine V. Cotsoradis
Deputy Secretary
Kansas Department of Agriculture**

March 20, 2008

Good morning, Madame Chair and members of the committee. I am Constantine Cotsoradis, deputy secretary of agriculture, and I am here in support of House Bill 2625.

The general intent of this bill is to resolve concerns about how IGUCAs are established and whether and how often they are reviewed once they are established. The initial bill had many provisions that would have negatively impacted our ability to effectively manage the state's water resources, so we opposed the bill. The current version, however, was amended by the House, and it provides meaningful, positive change that we support.

We have been working with our stakeholders for the past year to determine how we can resolve their concerns without compromising the integrity of Kansas water law. Our work continues, and this bill is, in part, the result of those discussions.

Our support of the bill hinges on its current language. We would have to oppose it if language from the original bill, such as the strict prohibition against the chief engineer initiating an IGUCA within a groundwater management district, was reinserted into the bill.

We suspect that others, including members of the House, feel the same way. The bill that passed out of committee did not have that language, and a subsequent floor amendment to reinsert it was overwhelmingly opposed.

You may be asked to make another amendment, one that could prohibit the department from being a party to the hearing. We collect and disseminate a great deal of hydrological data and analyses that are essential for the hearing officer to make a proper, informed decision. This information can be presented in a professional, nonadversarial manner. Also, we must be a party so that we can be included in the process if the hearing officer's order is appealed. Finally, we must be able to question the legitimacy of data or analyses entered into the record by other parties. This ability to challenge and question evidence is essential.

We do not oppose reviewing and modifying IGUCA hearing procedures in regulation, but we must vigorously defend our right to be party to the proceedings if the state is to be fully represented at the hearings and would oppose any amendment that prevents us from carrying out these important duties.

We are committed to continuing to work with the GMDs and other stakeholders on unresolved issues related to IGUCAs. There is no need to try to complete complex work in the short time remaining in the Legislature when no new IGUCAs are planned within the next year. You have our assurance that we are fully committed to working with all interested parties to resolve any issues related to IGUCAs. If we find that a solution requires a statutory change, we will bring it to you next session.

I will answer questions at the appropriate time.

**Testimony to the
Senate Natural Resources Committee
Substitute for HB 2625
Presented by Mark Rude
Representing the Five Kansas Groundwater Management Districts
March 20, 2008**

Madam Chair McGinn and members of the committee:

My name is Mark Rude, Executive Director for the Southwest Kansas Groundwater Management District No. 3 in Garden City. I am here representing all five Kansas Groundwater Management Districts to testify that the GMD's are in opposition to Sub HB 2625 as the present language does not yet include a critical clarification to an IGUCA process under the GMD Act.

All five Kansas GMD's will support legislation that would return the procedure for setting up an IGUCA, within the GMD boundaries, to the historical understanding that the GMD's or the prescribed subset of GMD members would have to request the initiation of an IGUCA.

This important clarification from the Interim Committee Language was lost in the House when compromise language between the Department of Agriculture and the Kansas Livestock Association passed out of committee as a substitute bill, leaving out several proponents to the original language. Confusion on the house floor regarding testimony to the "work in progress" and complete "compromise language by all parties" inhibited the restoration of the needed statutory amendment. There is strong support for restoring the needed amendment language, with the only concern for this issue expressed by the Kansas Department of Agriculture. The focus is on the words "...only when..." in the fourth line of the first part as follows:

Sec. 3. K.S.A. 82a-1036 is hereby amended to read as follows: 82a-1036. ~~Whenever (a) In a groundwater use area which is located within the boundaries of an existing groundwater management district or districts,~~ **only when** a groundwater management district recommends the same or whenever a petition signed by not less than ~~three hundred (300)~~ 300 or by not less than ~~five percent (5%)~~ 5% of the eligible voters of a groundwater management district, whichever is less, is submitted to the chief engineer, the chief engineer shall initiate, as soon as practicable thereafter, proceedings for the designation of a specifically defined area within such district ~~or districts~~ as an intensive groundwater use control area.

(b) ~~In a groundwater use area which is located outside the boundaries of an existing groundwater management district,~~ the chief engineer, upon ~~his or her own~~ investigation, may initiate such proceedings whenever said ~~the~~ chief engineer has reason to believe that any one or more of the

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Attachment 6*

following conditions exist in a groundwater use area which is located outside the boundaries of an existing groundwater management district:

- (a) (1) Groundwater levels in the area in question are declining or have declined excessively; or
- (b) (2) the rate of withdrawal of groundwater within the area in question equals or exceeds the rate of recharge in such area; or
- (c) (3) preventable waste of water is occurring or may occur within the area in question;
- (d) (4) unreasonable deterioration of the quality of water is occurring or may occur within the area in question; or
- (e) (5) other conditions exist within the area in question which require regulation in the public interest.

The GMD Act is state policy for local control of groundwater management. This amendment assures management consistency and local agreement as to the reasons for initiating an IGUCA in a GMD.

The "...only when..." language is needed to clarify the 2002-24 Attorney General's opinion that changed the basic policy of the GMD Act by opining that the broad language in the Water Appropriations Act allows the chief engineer to use the GMD Act independent of GMD's. The AG opinion and the use of a 2010 water plan guideline or any state agency goal not actually having been elevated to "state policy" by the legislature, threatens to circumvent the established policy for groundwater management under the GMD Act. This dual approach by the agencies removes an important check and balance for the regulated community and erodes regulatory certainty. Without clarification, the state could suffer another example of a state agency taking action based on questionable policy and unilateral public interest considerations.

The needed amendment preserves the productive and collaborative relationship between the GMD's and the chief engineer to manage local groundwater supplies and does not limit or change in any way the chief engineer's authorities and responsibilities under the Water Appropriation Act.

In summary, let me make these 4 points:

- 1) AG's opinion 2002-24 changed state policy by providing new authority for a state agency 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) 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. The above clarification language is NOT new authority being sought by the GMD's.

3) The pre-2002 IGUCA process has worked reasonably well, 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 caused most of the concerns.

4) The chief engineer continues to have significant authority over groundwater inside the GMDs through all the authorities within the Kansas Water Appropriation Act which are not diminished at all by the requested clarification. The State of Kansas always had, and still will have, water regulation authority sufficient to insure averting the "Nebraska syndrome".

Thank you Madam Chair. I will be happy to answer any questions you or the committee may have.

March 20, 2008

Chairman McGinn and other members of the committee:

Thank you for allowing me to provide input on H.B. 2625, which is dealing with an issue of extreme importance to all Kansans, the conservation of a highly coveted natural resource, water.

As the founder of the Arkansas River Coalition, soon to celebrate its tenth anniversary, I have been closely observing water issues in the Arkansas River Watershed during these years, especially as they relate to the Arkansas and its tributaries, some, sadly, no longer flowing. The problems with no flow in rivers and small streams in western Kansas mostly relate to the decline of the Ogallala aquifer, as you well know. The Coalition has representatives attend many meetings of both the Upper and Lower Arkansas River Basin Advisory Committees. We promote the conservation of water by all users, not just agriculture. We promote the use of the Arkansas for all people, not just landowners, to include recreational use and the improvement of river access by interested individuals and towns.

You may be noticing that the general public is finally becoming concerned about the overuse of water in western Kansas. A good example is an editorial in the March 18, 2008 Hutchinson News and I quote: "Meanwhile, someone – namely, state government – needs to start calling the shots to curtail the use of water. Someone needs to say "no more." That means the Kansas legislature because its citizens are becoming increasingly aware that it is a serious issue.

I remain deeply disturbed by the lack of ability of many, not all, stakeholders to face the water problem that is not only an economic problem but a moral problem because we have and continue to allow the gradual death of a river. To me, this is a moral issue for people of faith to consider. We all could have made decisions to cooperate more with the water authorities in the state who recognized the problem and tried to conserve water. Not only agriculture but cities could have worked harder to conserve water. Do we have to have our lawns look like a golf course in order to promote growth in our cities and towns, could we not strongly promote less intensive water landscaping and still look good?

Appropriation of funds for the good conservation programs that we do have in place now, such as Intensive Groundwater Use Control Areas (IGUCAs), are desperately needed to be maintained. IGUCAs can and have been used for successfully addressing over-appropriation of groundwater, among other problems. Findings show that the Walnut Creek IGUCA established 5-year groundwater use allocations that effectively reduced total annual water use in the basin from an average of 37,000 acre-feet before the IGUCA to an average of 23,000 acre-feet since the IGUCA was established. This fact is truly something for the state to be proud of and I urge you to continue with the appropriation of funds in order to maintain these successful conservation programs.

When I first read this bill I had concerns about the advisory panels, time lines, and public hearings, but then realized that the Chief Engineer's practice in conducting past IGUCA hearings and opening public debates indicate that the language for the advisory panels and public hearing requirements are workable requirements in that they have already occurred.

Lastly, I would advise against any attempt to tear down the authority of the Chief Engineer for short-term demands because his job is to conserve and protect a natural resource that we cannot exist without in the future. I believe that he and his staff are dedicated professionals who maintain past and present hydrological records using the best methods known for collection of facts and using statistics with integrity. We must all make a greater effort to salvage past mistakes and safeguard a priceless natural resource for future generations of Kansans.

DeEtte Huffman, 1114 Lyndon Rd., McPherson, KS 67460

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Attachment 7*