

MINUTES OF THE HOUSE AGRICULTURE & NATURAL RESOURCES COMMITTEE

The meeting was called to order by Chairman Larry Powell at 9:00 a.m. on March 15, 2011, in Room 783 in the Docking State Office Building.

All members were present except:

Representative Bob Brookens – Excused  
Representative Rocky Fund – Excused  
Representative Bob Grant – Excused  
Representative Michael Peterson - Excused

Committee staff present:

Sean Ostrow, Office of the Revisor of Statutes  
Raney Gilliland, Kansas Legislative Research Department  
Michael Wales, Kansas Legislative Research Department  
Kay Scarlett, Committee Assistant

Conferees appearing before the Committee:

Senator Ruth Teichman  
Mark Rude, President, Kansas Groundwater Management District Association (written only)

Others attending:

See attached list.

**Hearing on SB 214 – Redefining “person” in the groundwater management district act.**

Chairman Powell opened the hearing on **SB 214**. Sean Ostrow, Office of the Revisor of Statutes, explained that this bill, as amended by the Senate, would change the existing definition of “person” for the purposes of the Groundwater Management District Act to mean any natural person, public or private corporation, municipality, or any other legal commercial entity. The existing definition of “person” does not include the term “or any other legal commercial entity.”

Senator Ruth Teichman stated that she had requested introduction of **SB 214** at the suggestion of Groundwater Management District No. 5. The purpose of the bill is to clarify the definition of “person” to ensure that all land and water right owner entities within the boundaries of a Groundwater Management District may be recognized as a voting member and participate in the activities of the District.

Mark Rude, Executive Director of GMD3 and currently serving as President of the Kansas Groundwater Management District Association, provided written testimony on behalf of all five GMD's in support of **SB 214** that would update the definition of a “person” in the Kansas Groundwater Management Act. The interest of the GMD's is to ensure that landowners and groundwater users within a GMD can participate in the local groundwater management and program financing decisions of their district. They believe **SB 214**, as amended, represents a simple updating of the existing definition to recognize the different forms of a “person” landowner/water user that can be found within a district to continue, as intended, the purposes of the Kansas Groundwater Management District Act. ([Attachment 1](#))

Sean Miller, representing Groundwater Management District Nos. 3 and 5, answered committee questions concerning **SB 214**.

As there were no other conferees, Chairman Powell closed the hearing on **SB 214**.

**Subcommittee Report on HB 2295 – Amending state hunting laws and regulations relating to hunting seasons, permits and the use of bows.**

Representative Willie Prescott, Chairman of the Subcommittee on **HB 2295**, reported that the subcommittee had met and discussed the major issues contained in this bill dealing with various aspects of big game hunting. After discussion and deliberation with representatives of the Kansas Department of Wildlife and Parks, including the Secretary, the subcommittee recommends giving the new Secretary of KDWP a year to implement some of his ideas in an attempt to address the issues contained in the bill. The subcommittee recommends that this bill be retained as a vehicle for future legislative action during the 2012 Legislative Session. ([Attachment 2](#))

## CONTINUATION SHEET

The minutes of the House Agriculture & Natural Resources Committee at 9:00 a.m. on March 15, 2011, in Room 783 of the Docking State Office Building.

### **Subcommittee Report on HB 2272 – Exempting certain minor construction projects from state and federal water regulations.**

Representative Dan Kerschen, Chairman of the Subcommittee on **HB 2272**, distributed copies of a proposed alternative to **HB 2272** submitted by David Barfield, Chief Engineer, Kansas Department of Agriculture, Division of Water Resources, dated February 23, 2011. Mr Barfield believes this alternative approach would make it unnecessary to define stream obstruction in statute and is straightforward enough to make the permit determination process previously drafted unnecessary. The Department still plans to move forward in rules and regulations with a simpler permitting process for minor projects which would require permitting. (Attachment 3)

Following discussion with Senator Dennis Pyle, sponsor of **HB 2272**, and Mr. Barfield, the subcommittee recommends:

- Eliminating (2) *The water obstruction does not permanently impound water*, and
- Lowering the distance requirement from 500 to 300 feet in (4) *The water obstruction is completely located in excess of 300 feet from any property boundary*. Mr. Barfield has agreed that a culvert could possibly be located under 300 feet from a property boundary with permission of the Department.

Chairman Powell asked that the revisor prepare the compromise reached on **HB 2272** as an amendment that could be added to **SB 214**.

The meeting adjourned at 9:25 a.m. The next meeting of the House Agriculture & Natural Resources Committee is scheduled for March 16, 2011.

HOUSE AG & NATURAL RESOURCES COMMITTEE  
GUEST LIST

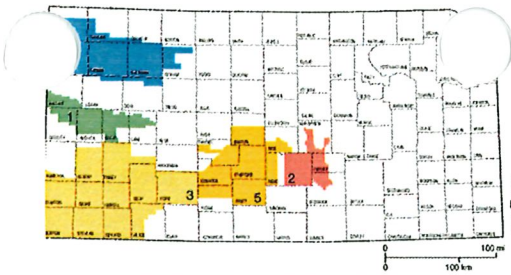
DATE: MARCH 15, 2011

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## The Kansas Groundwater Management Districts

Western Kansas GMD1, PO BOX 604, Scott City, KS  
Equus Beds GMD2, 313 Spruce St, Halstead, KS  
SW KS GMD3, 2009 E. Spruce St, Garden City, KS  
NW KS GMD4, PO BOX 905, Colby, KS  
Big Bend GMD5, PO BOX 7, Stafford, KS

Phone # 620 872 5563  
Phone # 316 835 2224  
Phone # 620 275 7147  
Phone # 785 462 3915  
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### Testimony In Support of SB 214 to the House Ag & Natural Resources Committee

by Mark Rude  
The Kansas Groundwater Management Districts (GMD's)  
March 15, 2011

Good morning, Chairman Powell and members of the committee. I am Mark Rude, Executive Director of GMD3 and currently serving as President of the Kansas Groundwater Management District Association. I am providing this written testimony on behalf of all five GMD's in support of SB 214, which updates the definition of a "person" in K.S.A. 82a-1021(i) of the Kansas Groundwater Management Act (K.S.A. 82a-1020 et. seq.).

The goal of this legislation is to update the definition of a "person" to ensure that all land and water right owner entities within the boundaries of a groundwater management district can be recognized as a voting member and participate in the activities of the District. For example, the current language in the statute does not recognize a limited liability company (LLC) business structure as a "person" that is eligible to vote in district elections, and yet there are many land and water right owner LLC's.

The interest of the GMD's with SB214 is to ensure that land owners and groundwater users within a GMD can participate in the local groundwater management and program financing decisions of their district. We believe SB 214 as amended represents a simple updating of the existing definition to recognize the different forms of a "person" landowner/water user that can be found within a district to continue, as intended, the important purposes of the Kansas GMD Act.

I appreciate the opportunity to submit written testimony and respectfully request the committee recommend SB 214, as amended, favorable for passage.



House Agriculture and Natural Resources Subcommittee on HB 2295

As Agreed to on March 14, 2011

Mr. Chairman,

Your Subcommittee on HB 2295 met on March 14 to discuss the major issues contained in HB 2295, dealing with various aspects of big game hunting. This bill dealt with a number of issues including definitions of who would be considered domiciled with a landowner, who would be qualified for a landowner or tenant hunt-on-your-own-land permit, who and when a person would be permitted to hunt with a crossbow, the extension of a female white-tailed deer hunting season until January 23, 2012, a change from the voluntary contribution to Kansas Hunters Feeding the Hungry, Inc. to a mandatory contribution, and an increase in the maximum permit fee for nonresidents in certain categories.

**After discussion and deliberation with representatives of the Department of Wildlife and Parks, including the Secretary, your Subcommittee recommends that this bill be tabled until next year.**

Your Subcommittee continues to believe that the issues contained in the bill are ones which will continue and it urges the Kansas Department of Wildlife and Parks to communicate on a regular basis the steps it is taking throughout the year to curb the increases in the State's deer population. Your Subcommittee heard that the agency may be looking at a new youth season in the Fall, and encourages the agency to pursue this and other steps to curb the growth of the State's deer herd. The Secretary of the agency asked for a year to implement some of his ideas in an attempt to address the issues contained in the bill. Your Subcommittee agreed to grant this request, but recommends that the Committee retain this bill as a vehicle for future legislative action during the 2012 Legislative Session.

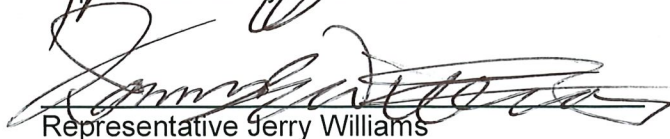
Sincerely,



Representative Willie Prescott, Chairperson



Representative Kyle Hoffman



Representative Jerry Williams

**From:** Barfield, David [David.Barfield@KDA.KS.GOV]  
**Sent:** Wednesday, February 23, 2011 6:42 PM  
**To:** Dan Kerschen; Willie Prescott; Vince Wetta; Dennis Pyle  
**Cc:** Wilson, Chris; Steve Swaffar; john@kla.org; Raney Gilliland; Graves, Paul  
**Subject:** proposed substitute for HB 2272

Representatives Kerschen, Prescott, and Wetta, Senator Pyle and others,

As requested in response to the sub-committee's discussion, below is a proposed alternative to HB 2272 and explanation. It entirely replaces our previous proposed alternative. With this approach, we do not believe it necessary to define stream obstruction in statute. We also believe it straightforward enough to make the permit determination process previously drafted unnecessary (we still plan to move forward in regulations with a simpler permitting process for minor projects which would require permitting).

New sections, likely 82a-301(c) and (d)

(c) The prior written consent or permit of the chief engineer required by subsection (a) shall not apply to water obstructions that meet all of the following requirements:

- (1) The water obstruction is not a dam as defined in subsection (b),
- (2) The water obstruction does not permanently impound water,
- (3) The water obstruction is not located within an incorporated area,
- (4) The water obstruction is completely located in excess of 500 feet from any property boundary, and
- (5) The watershed area above the obstruction is 640 acres or less.

(d) In the event the chief engineer determines that it is necessary for the protection of life or property, a water obstruction that is not permitted pursuant to subsection (c) shall be required to be permitted as provided in subsection (a).

Here is some explanation on the proposal:

\* We did NOT strictly limit the language to farm operations. The limitations to unincorporated areas and the required distances to adjacent properties will cause this "exemption" to be applied in rural areas and mostly to farm operations. However, we have a set of applications we expect to receive in the future for roads to access wind farms that we think can and should be exempted under these provisions.

\* We have NOT limited it to culverts and low water crossings but instead have limited all stream obstructions we permit EXCEPT dams or structures that permanently impound water. We feel with the setback distances and other limitations, there should be little potential for impact to neighbors, except for dams and structures that impound water.

\* We felt set back distances was the most straightforward and understandable way to minimize the potential for these projects to effect others. The proposed distance represents our judgment of the distance needed, at least for the vast majority of the cases, to prevent projects from backing water onto another property upstream and for the effect of projects to be minimized downstream.

\* For this specific exemption, we are proposing a 640 acres drainage area statewide (we will still use the 240/320/640 acres for projects not meeting these requirements).

\* Rather than a waiver or exemption of jurisdiction, section (c) allows a individuals wishing to construct projects meeting these requirements to do so without prior consent of the chief engineer. Section (d) states that if there is a problem, the chief engineer can require a permit. This was our understanding of the sub-committee's desire.

Raney, please forward this on to the appropriate committee staff.