



Kansas Water Resources Consulting

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Neutral Testimony on HB 2678 related to Water Banking House Committee on Water, February 8, 2024

My name is David Barfield, and I am providing neutral testimony regarding HB 2678.

Qualifications - I am a professional civil engineer with over 40 years of water resources experience. I worked for the Kansas Dept. of Agriculture's Division of Water Resources (DWR) from 1984 until my retirement from the state during early 2020, which included 12 years as DWR's Chief Engineer. Since mid-2020, I have been a water resources consultant, assisting two GMDs in their LEMA development and implementation and a diverse set of cities, industry, and irrigators in water right matters. That said, **my comments provided herein are my own alone.**

My testimony will be limited due to the short notice provided of the bill and this hearing which makes meaningful review of the issues it raises difficult.

Statute requires Water Bank operations to be reviewed periodically. My testimony provides the committee with excerpts from the most recent five-year review of Kansas only water bank, the Central Kansas Water Bank (CKWB), as well as an excerpt from its latest annual report. The most recent review covered the years 2013-17.

From my knowledge dealing with the CKWB as Chief Engineer **I have not identified any concerns with the Bank's basic operations a regular account deposit and leases.**

However, I have concerns with the operation of safe deposit accounts as amended in 2016. Here is a quote from the latest review explain their basic operation and changes made in 2016 to make them much more attractive: *"Safe deposit accounts are for a water right owner's own use, in which a portion of unused water in one year is saved to supplement a need in a future year. A water right owner is allowed to deposit up to 25% of the unused portion of the water right in a calendar year when the use was less than the authorized quantity. The Safe Deposit formula was changed after the previous Evaluation, and an additional conservation factor was removed by the May 5, 2016 Findings and Order of the Chief Engineer, which adopted the current Bank Charter."*

I was the Chief Engineer that approved these provisions. I had a concern at that time but assumed the 5-review process would address any concerns as they were evidenced. Perhaps this will be the case in due course with the next review with the significant additional growth and use of safe deposit accounts.

Below are additional quotes about safe deposit accounts from the most recent five year review.

- *The Kansas Water Banking Act requires the operation of safe deposit accounts by the bank shall not result in an increase in the amount of net consumptive use of water in any hydrologic unit, computed on a long-term rolling average compared to a representative past period. K.S.A. 82a763(c)(9).*
- *SD Account usage has been rapidly increasing since the past evaluation and after changes to the Bank Charter were completed, modifying the amount of water that can be deposited into SD Accounts and the Fee Structure.*
- *The total in accounts grew from 1002 AF in 2014 to 42,290 AF in 2018.*
- *Some water has been withdrawn from SD Accounts, with a maximum of 664 acre-feet being reported as withdrawn on the 2018 Annual Report.*
- *This comparison shows that four of the nine hydrologic units have a higher net consumptive use on average for the 2013-2017 Evaluation Period.*
- *This analysis was conducted and included within the Safe Deposit Accounts section of this report as well as mentioned earlier in these findings, highlighting that net consumptive use increased in 4 of 9 hydrologic units within the Bank boundary while showing only a very small increase when looked at for the Bank area as a whole. As safe deposit account balances continue to increase there remains an opportunity for net consumptive use to increase, particularly during periods of drought when safe deposit account balances are drawn upon by Bank participants. Potential remedies to this situation are included within the Recommendations section of this report.*

Also attached is an excerpt from the latest Water Bank Report with the last page of Report's listing of savings account operations. It shows the total in savings accounts at the beginning of 2022 was 98,024 acre-feet and 26,090 acre-feet of savings account water used in 2022. This included significant withdrawals in the Rattlesnake Creek basin above Quivira.

I believe the next water bank review will demonstrate that the revisions to savings accounts of 2016 are in conflict with Statute's requirement to not increase the net consumptive use of water in any hydrologic unit. This is especially problematic in the Rattlesnake Creek Basin.

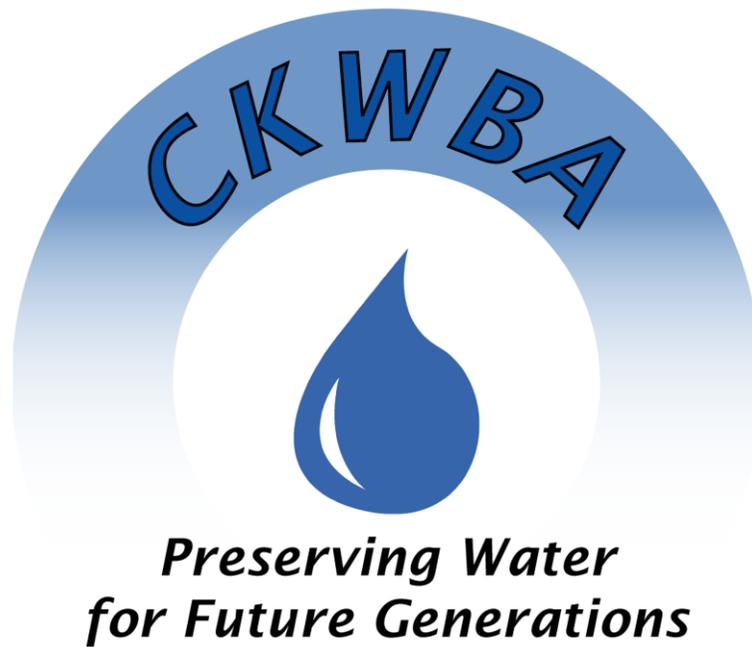
The bill adds an admittedly small increase in flexibility in the use of safety deposit accounts. However, I believe the Legislature should consider such changes very carefully.

I would be happy to stand for questions.

Attachments:

- 1) Title page and table of contents from latest Water Bank Review
- 2) Transmittal letter and end of savings account table from Water Bank Annual Report

**Central Kansas Water Bank Association
Five Year Review
Evaluation Report**



June 2021

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John Janssen - Public (Chair)
Brandon Bortz - Private
Andrew Vosburgh - Private
Greg Ebert - Private
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April 12, 2023

Earl Lewis
Division of Water Resources
Kansas Department of Agriculture
1320 Research Park Drive
Manhattan, KS 66502

RE: Central Kansas Water Bank Association
2023 Annual Report

Dear Mr. Lewis,

As per K.A.R. 5-17-11, enclosed is a spreadsheet outlining the activity for the Central Kansas Water Bank Association through the calendar year 2022. This letter and attachment will serve as the 2023 annual report of activity within the Central Kansas Water Bank Association.

If there are any questions with the annual report spreadsheet or information in this letter, please contact the Association office.

Sincerely,

A handwritten signature in black ink, appearing to read 'Orrin Feril', is written over a faint, circular watermark or stamp.

Orrin Feril
Manager

Enclosure

Central Kansas Water Bank Association
2023 Annual Report

SAVINGS ACCOUNTS

Water Right Number	Savings Account Number	Date Opened	Hydrologic Unit	Auth. AF	Beginning Balance	Annual Deposit	Savings Acct. Used	Current Account Balance	Type of Use	Quantity diverted past 3 yrs			Acres Irr			Crop Codes			
										2020	2021	2022	2020	2021	2022	2020	2021	2022	
		11/22/2022	SF Ninnescah River	233.00	0.00	1.99	0.00	1.99	IRR	177.00	224.00	225.04	130	155	155	4	2	17	
		11/22/2022	SF Ninnescah River	253.00	0.00	0.73	0.00	0.73	IRR	205.00	166.00	250.09	165	165	165	2	4	2	
		11/23/2022	Cow Creek	105.00	0.00	26.25	0.00	26.25	IRR	0.00	0.00	0.00	N/A	N/A	N/A	N/A	N/A	N/A	
		11/25/2022	NF Ninnescah River	231.00	0.00	0.53	0.00	0.53	IRR	164.00	192.00	228.89	155	155	155	2	2	2	
		11/25/2022	SF Ninnescah River	197.00	0.00	0.99	0.00	0.99	IRR	126.00	160.00	193.06	130	130	130	2	2	2	
		11/25/2022	NF Ninnescah River	198.00	0.00	0.48	0.00	0.48	IRR	145.00	185.00	196.10	130	130	130	4	2	2	
		11/29/2022	SF Ninnescah River	207.00	0.00	0.34	0.00	0.34	IRR	146.58	160.08	205.63	130	130	130	2	4	2	
		11/29/2022	Rattlesnake Creek	216.00	0.00	0.00	0.00	0.00	IRR	132.17	133.50	244.03	120	122	120	26	15	22	
		11/29/2022	SF Ninnescah River	198.00	0.00	9.03	0.00	9.03	IRR	68.34	124.27	161.88	125	125	125	15	15	15	
		11/30/2022	Pawnee River	57.00	0.00	4.71	0.00	4.71	IRR	46.58	9.33	38.15	160	148	145	25	5	3	
		11/30/2022	Cow Creek	105.00	0.00	0.91	0.00	0.91	IRR	26.30	65.59	101.34	46	70	70	2	4	2	
		11/30/2022	Cow Creek	240.00	0.00	11.88	0.00	11.88	IRR	137.00	110.75	192.48	130	130	130	2	4	2	
		11/30/2022	Cow Creek	224.00	0.00	22.30	0.00	22.30	IRR	145.17	156.42	134.78	149	149	149	2	2	17	
		11/30/2022	Cow Creek	195.00	0.00	8.15	0.00	8.15	IRR	128.00	153.00	162.40	130	130	130	2	2	15	
		11/30/2022	Cow Creek	187.00	0.00	0.34	0.00	0.34	IRR	116.00	134.00	185.65	130	130	130	2	2	2	
		11/30/2022	Cow Creek	98.00	0.00	4.94	0.00	4.94	IRR	24.84	53.74	78.25	65	65	65	32	2	2	
		11/30/2022	Cow Creek	195.00	0.00	7.91	0.00	7.91	IRR	125.76	142.84	163.36	130	130	130	2	2	2	
		11/30/2022	Cow Creek	198.00	0.00	4.47	0.00	4.47	IRR	112.66	121.81	180.11	130	130	130	2	2	2	
		11/30/2022	Cow Creek	169.00	0.00	0.32	0.00	0.32	IRR	123.00	101.00	167.74	130	130	130	17	17	2	
		12/1/2022	NF Ninnescah River	198.00	0.00	0.00	0.00	0.00	IRR	103.00	99.00	171.13	130	130	130	2	3	3	
		12/1/2022	NF Ninnescah River	174.00	0.00	0.00	0.00	0.00	IRR	92.00	115.00	171.82	120	120	120	2	4	5	
		12/1/2022	NF Ninnescah River	195.00	0.00	0.00	0.00	0.00	IRR	84.25	59.92	137.51	125	125	125	2	3	2	
		12/1/2022	NF Ninnescah River	186.00	0.00	0.00	0.00	0.00	IRR	96.60	123.39	173.10	120	120	120	2	4	5	
		11/30/2022	Cow Creek	170.00	0.00	9.11	0.00	9.11	IRR	94.18	105.47	133.55	130	130	130	17	2	2	
		11/30/2022	Cow Creek	195.00	0.00	0.85	0.00	0.85	IRR	117.66	101.69	191.60	130	130	130	2	17	17	
		12/1/2022	Rattlesnake Creek	316.00	0.00	0.00	0.00	0.00	IRR	183.00	190.00	233.00	130	130	130	2	2	4	
YEARLY TOTALS										98,024.34	4,735.02	26,090.55	69,456.60	232,128.28	268,117.43	340,703.59	227,379	229,461	229,731