

Chairman Bergquist, Ranking Member Featherston, and Members of the Committee,

Thank you for the opportunity to speak today. My name is Mark Frame, and I serve as the County Attorney for Edwards County. I want to speak plainly, because the stakes of this bill are not theoretical for rural Kansas. House Bill 2433 is not just another procedural adjustment. It is an unconstitutional<sup>1</sup> attempt to strip counties of their ability to control their own land, their own infrastructure, and their own future under a law that is likely already unconstitutional. And it is being advanced at the very moment when Edwards County is engaged in active litigation over the R9 Ranch water-transfer project. The timing, the substance, and the structure of this bill make clear that it is an attempt by Hays, Russell, and the Division of Water Resources to achieve through legislation what they have not achieved through legal process.

Rural communities like ours live or die based on the strength of local control. We rely on our authority over land use, roads, and rights-of-way to protect the very resources that sustain us. When a county right-of-way is disturbed, when heavy equipment tears up a rural road, when drainage is disrupted, when a pipeline is installed without proper oversight, it is not an abstract inconvenience. It affects the movement of school buses, farm trucks, ambulances, fire trucks, and the daily life of residents who do not have alternate routes or redundant infrastructure. Our roads are the arteries of our economy; they move harvests, livestock, equipment, and emergency personnel. A compromised right-of-way is not a small matter. It is a direct threat to the safety, mobility, and economic stability of the people who live in Edwards County *and* Ellis County.

HB 2433 would limit the ability of counties to regulate these impacts. It would allow municipalities to trench through county roads, occupy county corridors, and impose long-term burdens on rural infrastructure without local control. There is not a single form of infrastructure in Kansas—electric lines, fiber optics, gas pipelines, sewer lines, or water lines—that can occupy a county right-of-way without county oversight. Yet this bill would grant that privilege to those seeking to export water. It is unprecedented, it is unjustifiable, and it is foolhardy.

Make no mistake: this bill did not arise in a vacuum. Many stakeholders have spent years engaged in detailed, evidence-based challenges to massive water projects and their overreach. Those challenges have exposed significant flaws about aquifer depletion and land-use impacts engineered behind closed doors by Kansas officials that have now gone through the revolving door to work for the engineering firms that engineer this sort of work. It has also highlighted irregularities in how the process has been handled by the Division of Water Resources. In the middle of that

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<sup>1</sup> Article 2, § 17 — Uniform Operation of Laws (Imposing a special prohibition on counties' rights-of-way authority—but not on cities'—creates a non-uniform statutory structure violating Art. 2 § 17, which mandates uniform laws of general nature); Article 2, § 21 — Improper Withdrawal of Local Legislative Authority (Removing the County's power over its own rights-of-way destroys a core local function, rendering the bill an improper withdrawal of local authority under Art. 2 § 21.); and Article 12, § 5 — Interference with the Home-Rule Structure (Because K.S.A. 19-101a(a)(4) prohibits counties from impairing city home rule, but HB 2433 would simultaneously prohibit counties from managing rights-of-way essential to cities within the County, the statutory scheme becomes internally inconsistent with Art. 12 § 5).

ongoing dispute, Hays, Russell, and DWR now appear before this Legislature seeking a statutory shortcut—an end-around—to avoid our continued ability to handle these issues through traditional regulatory tools.

Everything about the structure of this bill reveals that purpose. It aims to remove county authority over impacts that occur entirely within county boundaries and directly affect county infrastructure. It seeks to strip counties of the power to require conditional-use permits, to demand engineering plans, or even to ensure that rights-of-way are restored after pipeline installation. It goes so far as to nullify past county resolutions, including those adopted specifically to manage the impacts of the very project that is still being litigated. In other words, HB 2433 would change the rules in the middle of the game, in favor of the very parties engaged in litigation against rural communities.

Rural Kansas cannot absorb the consequences of that kind of maneuver. When water is exported from a rural community, it leaves behind dry fields, depleted aquifers, reduced crop yields, and diminished local tax bases. When counties lose control over their rights-of-way, they lose the ability to protect their roads from the heavy-equipment damage that accompanies large-scale water-transfer infrastructure. They lose the ability to set conditions to manage safety and economic risks. They lose the ability to ensure that project proponents—not rural taxpayers—bear the costs of maintaining the infrastructure they stress or degrade. The cumulative effect of the bill is to weaken rural defenses at the very moment when rural Kansas is already fighting to protect itself.

People who live in Edwards County are not anti-development. They are not opposed to cooperation. They are not trying to stop larger water users from meeting their needs. They are simply asking for a fair process that respects the rights of the communities most affected by water development projects. HB 2433 would undermine that process. It would silence rural voices. And it would do so in a way designed to benefit two cities and an agency actively engaged in litigation that is not yet resolved.

In rural Kansas, we do not have the luxury of ignoring the long-term consequences of decisions like this. We cannot absorb the loss of irrigated farms. We cannot rebuild aquifers once they are depleted. We cannot reroute roads when they are damaged or blocked. And we cannot stand by while municipalities and a state agency use legislative power to override the judiciary and strip counties of tools that have protected their residents for generations.

House Bill 2433 is not just bad policy. It is an attempt to preempt the courts, disable local government, and shift long-term costs and risks onto rural Kansans. It is an attempt to replicate mistakes made in Rural Colorado, where tumbleweed rolls through rolling hills where irrigated agriculture once fueled local growth. For the sake of our communities, our roads, our water supply, and our future, I urge you to reject this bill.

Thank you for your time and for your attention to the voices of the rural communities that will bear the consequences of your decision.

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