

Timothy R. Austin, PE
Testimony Before the
House Agriculture and Natural Resources Committee
Regarding HB 2698
February 15, 2012

Good morning Chairman Powell and members of the committee, my name is Tim Austin. I am a consulting professional engineer in Wichita, Kansas. I have been asked to provide testimony regarding proposed revisions to the Kansas water appropriations act at K.S.A. 82a-734, and its modified permit process for the Chief Engineer to evaluate proposed sand and gravel pit operations in the State of Kansas.

HB 2698 improves and simplifies the permitting process for sand and gravel operators to operate within the State of Kansas. For example, I began the due diligence to obtain a permit for a small sand pit located in Sedgwick County in October 2008. Formal application was made in March 2010. The Chief Engineer signed off on the final permit in May 2011. The permit application was for a small use appropriation exemption, meaning less than 15 ac-ft.

The reasons for the lengthy permit process are many, some which were no fault of DWR or GMD 2. However, there were contributing factors that increased the permitting time, mainly ambiguities and conflicts in the Rules and Regulations between GMD2 and DWR with respect to the safe yield analysis, the hierarchy of authority, and the 15 ac-ft exemption.

GMD's safe yield analysis did not at the time take into account evaporation offsets that are allowed by DWR. Additionally, the safe yield analysis is technically deficient in that it takes into account appropriations for stream nodes (that are used to insure base stream flow) that in many cases may not be applicable to a given application for various reasons, nor does the analysis take into account stream inflows in the safe yield area calculation. Additionally, allowing credits or offsets for the introduction of surface water into groundwater is codified in DWR's regulations and recognized in GMD's regulations for the City of Wichita's ASR project where the city's water rights were increased through the injection of treated surface water.

Another area of concern is the hierarchy of authority. A good portion of Sedgwick County resides within the purview of GMD 2, and, as you know, GMD 2 is intended to serve an advisory role to DWR. During the permitting process, apparent discrepancies between the GMD 2 regulations and DWR regulations became apparent and it wasn't clear who actually was going to exercise the authority to clarify the apparent discrepancies.

Lastly, as I understand it, the application was the first of its kind to utilize diffused surface water to offset evaporation losses in a sand pit and as such new ground was being broke. While the GMD and DWR rules are somewhat ambiguous with respect to each other on diffused water offsets, the rules were not applied in a manner consistent with the underlying intent.

HB2698 will streamline the permitting process, provide clarity to appropriation applications and review, and will place the authority for these decisions solely with the Chief Engineer. Had HB2698 been in place at the time of the application, the permit process in all likelihood would have been expedited.

Sand and gravel pits contribute greatly to the south-central Kansas economy and allow property owners to realize the highest and best use for their property. Thank you once again for allowing me the opportunity to provide testimony on this important matter.