

Testimony on HB 2051
to
The House Agriculture and Natural Resources Committee
By Kim Christiansen
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Good afternoon, Chairwoman Schwartz and members of the committee. I am Kim Christiansen, chief legal counsel with the Kansas Department of Agriculture, and I am here to express KDA's support of House Bill 2051. This proposed legislation will have three components to enhance water resources management: 1) an enhancement to the multi-year flex account program to create an incentive for conservation; 2) create a limited transfer permit to allow a short-term new uses with a corresponding reduction in the base water right, and 3) repeal some out dated or unused laws.

Conserving our state's water resources and continuously improving water stewardship are priorities at the Kansas Department of Agriculture. With your help and with support from Governor Brownback, we made significant progress in 2012 to shift the way we strategically approach water conservation and management in Kansas. There is more work to be done, however, and KDA is committed to building on the momentum in 2012 and taking more steps to increase flexibility and promote locally-driven water conservation.

The Multi-Year Flex Account (MYFA) program, as revised by the 2012 Kansas Legislature, provides water right holders a voluntary option to develop a five-year planning tool to strategically manage their water. Governor Brownback has made it a priority to extend the useful life of the Ogallala Aquifer and this is an aquifer neutral tool to help achieve his goal. In the first year of the revised MYFA program, KDA received approximately 750 applications.

KDA supports further enhancing this tool by giving water rights holders the ability to carry unused quantities of a MYFA over and roll into the next MYFA. The carryover quantity would be all of the unused allocation up to one-fifth of the calculated total quantity. This revision to the MYFA program will further improve this tool for water users in Kansas and will move us further down the road from the old "use it or lose it" mindset. The last acre inches available on a MYFA can become the first inches available on a new MYFA. This is incentive to manage the resource to save it for future use.

Conserving water for future use is imperative, but we must find a way to achieve water conservation goals to protect our resource, while at the same time maintain our economic activity. As such, KDA supports allowing a limited transfer of an existing water right to allow a short-term new use with a corresponding reduction in the base water right. The limited transfer will not permanently modify the base water right and allows water to be borrowed for a limited

period of time. This tool would allow water to be appropriated for the new temporary use by using an offset from an existing water right. This is no new water. This protects the status quo in an area of high decline or over appropriation thus protecting private property rights. These areas will change over time and will be defined in rules. This tool could be used for horizontally fracked oil exploration, construction or for municipal use. In areas of Kansas that are closed to new water rights, this limited transfer will enable individuals or business that do not have an existing water right and may have been totally prevented from operating in Kansas to choose to do business in our state.

Under the current administration, KDA has put its focus on customer service and helping our customers succeed rather than simply being a regulatory agency. The department has worked for more than two years reviewing regulations and statutes and eliminating those that are not necessary. KDA proposes an exemption in our statutes that reduces the number of dams required to obtain permits for construction. The agency will seek to focus regulation of dams based on risk in an effort to protect public safety. KDA estimates a reduction of 20-25 percent in dam jurisdiction. The bar will be moved to 25 feet in height impounding 75 acre-feet from 25 feet in height impounding 50 acre-feet.

Finally, the following statutes were included in 2012 HB 2649, introduced by the Office of the Repealer. The bill passed the House 124-0 but was gutted in the Senate. KDA would again like to repeal these obsolete statutes.

- KSA 24-105: Obstructing flow of surface water; application to build levee; contents; examination by engineer; permit; KSA 82a-312, KSA 82a-313: and KSA 82a-314 Dams built as part of the Federal Agricultural Conservation Program; KSA 82a-735: Sunflower Ammunition Plant.

In addition, the agency would like to add four additional water related-statutes to the repeal list

- KSA 24-106, KSA 24-107: Obstructing flow of surface water; application to build levee; contents; examination by engineer; permit;
- KSA 82a-740: Water appropriations by Douglas County Water Supply Districts: and
- KSA 74-509: Relates to the duties of the Irrigation Commissioner.

Thank you for the opportunity to speak with you today. I will stand for questions at the appropriate time.