

**Southwest Kansas**  
**Groundwater Management District No. 3**  
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**Testimony on HB 2245 and other comments**  
**To**  
**2015 Special Committee on Agriculture and Natural Resources**  
**By Mark Rude, Executive Director**  
**Southwest Kansas Groundwater Management District No. 3**  
**October 22, 2015**

Chairwoman Schwartz, vice chairman Love and members of the committee, thank you for this opportunity to testify in support of HB 2245 and to provide additional comments on Kansas water resources.

HB2245 intends to provide important assurance that groundwater rights mean the same today as when they were granted under administrative due process. Consistent treatment of property rights administratively and judicially is of utmost importance for property values and investment confidence in the access and management of the water resources of Kansas.

We are concerned for state actions that affect neighboring property owners without formal posting or notice. We are also very concerned that the water policies of the legislature might allow for one standard of water right impairment administratively between application review and response to complaints, while a different standard for impairment may be applied by the courts. This appears to be a difference between the legislative policy for the impair question regarding water right applications review (K.S.A. 82a-708a and b), and the lack of a definition in 82a-717a or 82a-725. This is becoming highly problematic in GMD3. Especially knowing the definition of impairment is one where smart minds can and do differ in interpretation.

I have attached a map area in Finney County for reference of two impairment complaints in close proximity, along with a map of non-blue townships that are depleting at a faster rate than 40% in 25 years; a standard used for many years in GMD3 to determine water available for new appropriations.

There is concern for a "cobra effect" being realized from water right impairment claims in long standing groundwater decline areas. We don't believe the policy of the legislature was intended to have two different definitions in the quasi-judicial process of the chief engineer issuing water rights and change approvals and then a different strict

definition for investigating administrative complaints and court directed fact finding and opinions of water right impairment. The result is a house of cards stacked under calm conditions, but ready to fall apart completely under a different condition.

Accordingly, we request that the provisions of HB 2245 be considered and supported to avoid a significant amount of policy confusion within state agencies, the courts, and to avoid the application process of pay the fee, no guarantee, and good luck in court, where the real review occurs under different water policy standards that may not adequately consider the public interests.

We also suggest, under rights for due process, the state pursue a public notice website to post agency received applications and actions to assist the public in gaining knowledge of water rights and the administrative actions of the state that may affect them or their community.

[http://apps.wrd.state.or.us/apps/misc/wrd\\_notice\\_view/default.aspx?notice\\_id=21](http://apps.wrd.state.or.us/apps/misc/wrd_notice_view/default.aspx?notice_id=21)

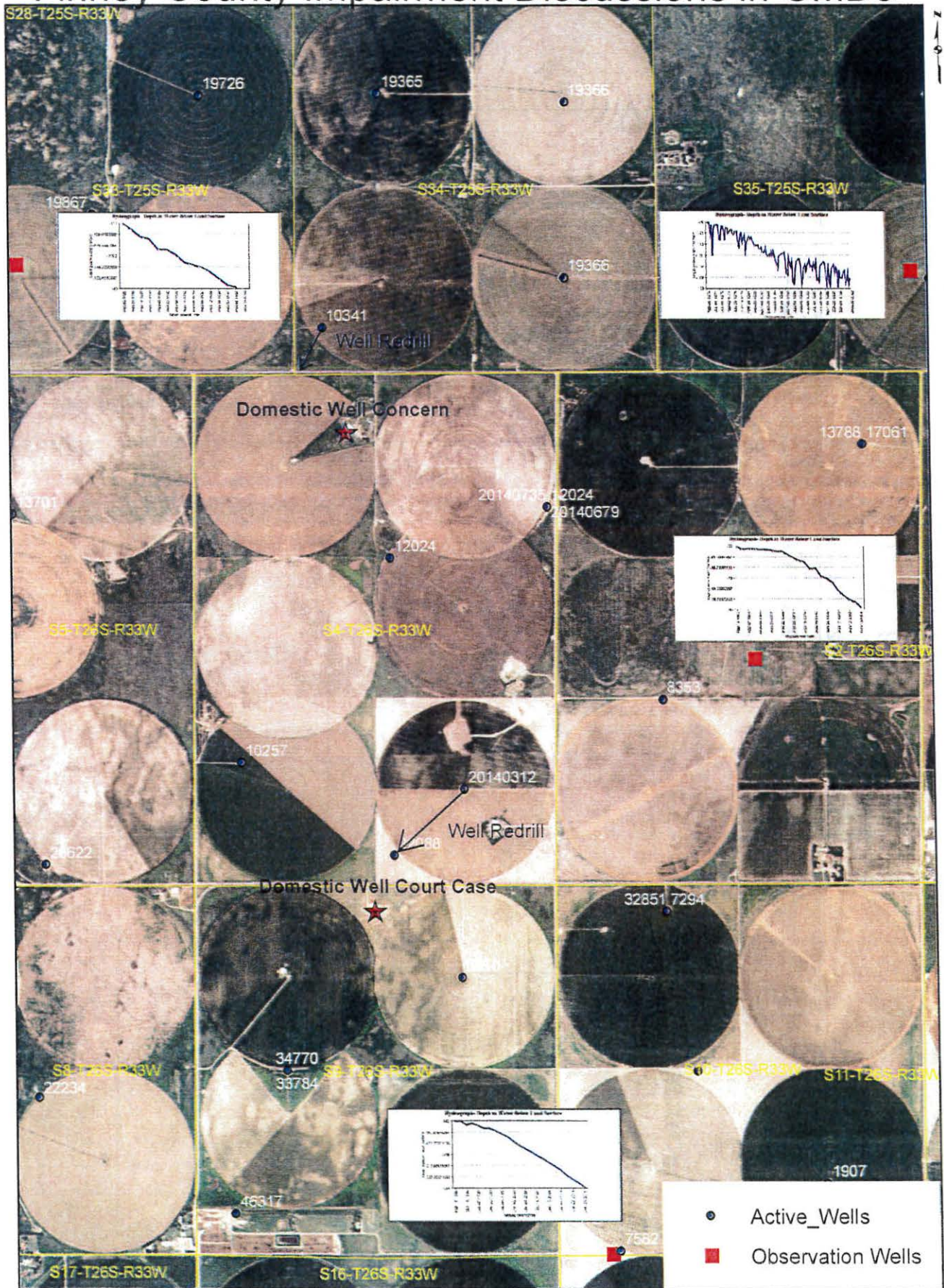
From Department of Administration Property Valuation Division information, Finney County, in GMD3, has lost over 33,000 acres of irrigated land transitioned to dry land agriculture. Most of this was by necessity as the aquifer diminished to well yield less than 100 GPM. A recently completed study of areas in Kansas looked at the economic values tied to water use in 2012 and for a calendar year in 50 years. This was done to estimate Kansas losses in economic value and jobs if water needs are not met. I have copies of the draft study document available today. Southwest Kansas alone, may see a one year loss in Kansas economic value of \$10.4 Billion. It also found a statewide loss of \$18.3 Billion, all expressed in 2015 dollars. The value of Kansas water preserved for access by Kansans, either through direct diversion, or through water transportation infrastructure development, is why the Kansas Aqueduct Project and the fix to the house of cards issue of HB 2245 is so important to the future of our state.

Thank you again for this opportunity to Testify and I will stand for questions at the appropriate time.





# Finney County Impairment Discussions in GMD3



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Created By:  
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Southwest Kansas GMD 3

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SOUTH WELL  
10-26-33w

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### Hydrograph- Depth to Water Below Land Surface

