

**Equus Beds Groundwater Management District No. 2  
 Testimony Concerning Senate Bill 549  
 Senate Committee on Agriculture and Natural Resources**

by  
**Tim Boese, Manager**  
 March 14, 2022

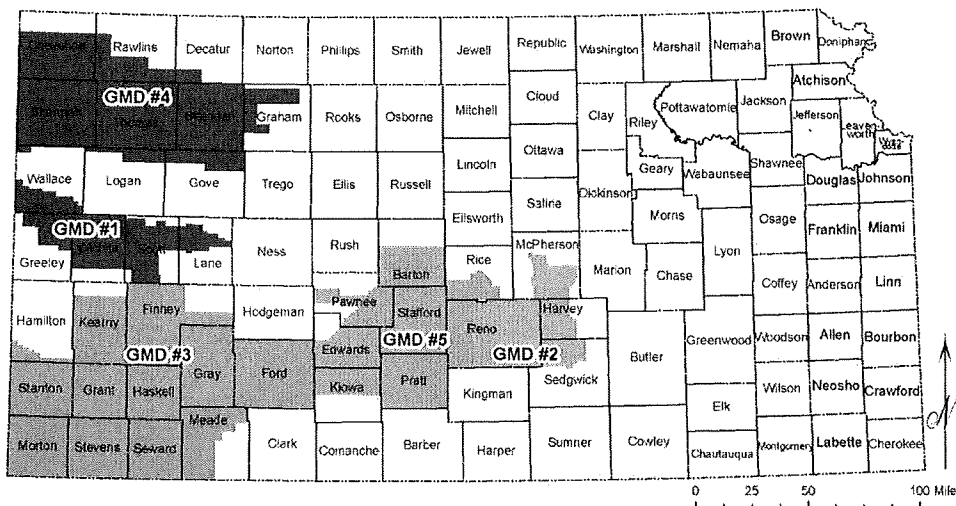
On behalf of the Board of Directors of the Equus Beds Groundwater Management District No. 2, I wish to thank Chairman Kerschen and members of the Committee for the opportunity to provide testimony opposing Senate Bill 549.

**BACKGROUND INFORMATION:**

The Equus Beds Aquifer is the sole-source of fresh and usable groundwater for industrial, municipal, and irrigation uses throughout South Central Kansas. Over 2,000 permitted water wells and points of diversion withdraw an average of approximately 57 billion gallons of groundwater from the aquifer annually.

Over 550,000 people, or approximately 20 percent of the entire state's population, in Harvey, Sedgwick, McPherson and Reno counties rely on the aquifer for drinking water and other daily needs. Additionally, over 100,000 acres are irrigated using groundwater from the Equus Beds aquifer. The aquifer also supplies water for the area's livestock production, businesses, industries, and recreational activities. To manage and protect this valuable water resource from depletion and contamination, the Equus Beds Groundwater Management District No. 2 (District) was created in 1975 by local people representing municipal, agricultural, industrial and domestic water users. An aquifer management program was developed and adopted by the District Board of Directors. The District boundaries were expanded in 1988, and again in 2017. The District limits new groundwater withdrawals or diversions to annual recharge and seeks to maintain the natural water quality of the aquifer through protection and remediation. The Equus Beds GMD2 is the easternmost groundwater management district (GMD) in the state and covers the eastern extent of the High Plains Aquifer in Kansas, as shown below.

**Kansas Groundwater Management Districts**



The District does **not** receive any state funds and is funded locally by a special assessment on water users and landowners in the District. The water assessment is capped by law at \$2.00 per acre-foot and the land assessment is capped at \$0.05 per acre. The District Board of Directors collectively represents the water users and landowners in the District. The District Board sets the District's annual assessment rates, and also sets policies and directs the District staff in establishing aquifer management programs and rules and regulations.

H:\MSOFFICE\LETTERS\Legislative\SI

Senate Agriculture and Natural  
 Resource Committee  
 Date March 14  
 Attachment 21-1

Senate Bill 549 proposes to add a provision for a non-irrigation water right holder to be able to withdraw from a GMD and not be subject to: GMD special assessments; GMD review of any matter related to their water right(s); and rules and regulations adopted by the chief engineer specific to a GMD. The proposed language would severely reduce the ability of GMDs, especially GMD2, to properly manage the groundwater resources within their district. Currently, the District reviews new water permit applications and most change applications for compliance with the District rules and regulations and management program and makes a recommendation of approval, denial, or modification to the chief engineer. Additionally, the District recommends water permit specific conditions where needed, and can also recommend exceptions to regulations if warranted. This language would remove the District's necessary review functions for any water right holder who has withdrawn from the District.

Additionally, Senate Bill 549 also seeks to exempt the withdrawn water rights from being subject to rules and regulations adopted by the chief engineer that are specific to the District. This would create two classes of water users in the District – one that is subject to the District's rules and regulations, and one class that is not. The regulated community desires and deserves to be treated all the same and no one water user should receive preferential treatment. Groundwater rights and groundwater use in the District are very diverse and separating water users into those in the District, and those can or did withdraw from the District, creates an unequal playing field where some groundwater users are regulated in a different manner than the other users. For illustration, irrigation water rights in the District account for approximately 50% of the authorized quantity (~65% of the use), municipal water rights account for approximately 30% of the authorized quantity (~22% use) and industrial water rights account for approximately 15% of the authorized quantity (10% use), with other water uses such as recreational, contamination remediation, and stockwatering making up the rest. Clearly, having approximately 50% of the authorized groundwater quantity required to be under one set of regulations and the other 50% that could be under a different set is not good policy or practice. It also creates an impossible situation for the District to properly manage the aquifer.

Although the genesis of Senate Bill 549 is not explicitly stated, one can gather that this bill is the result of the District's opposition to the City of Wichita's Aquifer Storage and Recovery (ASR) project proposed permit modifications, which has been the subject of a protracted hearing process, with the hearing officer recently recommending that the proposal be dismissed/denied for failing to comply with the Water Appropriation Act and related rules and regulations. Being allowed to withdraw from the District because the outcome was not what the applicant wanted is not an appropriate response to a proposal that the District and the hearing officer both determined should not be approved.

The District also understands that some municipalities in the District are concerned with the current lack of representation on the District Board of Directors. However, there has been much misinformation regarding this subject. The District Board values diversity and has never taken action to remove a municipal representative from the Board. In fact, there has been at least one municipal water user on the District Board for almost every year the District has been existence, with some years having multiple municipal representatives on the Board. Additionally, Board elections, which occur at the District's annual meetings, are often not well attended, including by municipal water right owners who are eligible voters and Board candidates. However, to resolve this issue and ensure diverse representation, the District Board of Directors recently approved a first reading of a draft policy that would expand the District Board from 9 to 11 members and create District Board positions, including two municipal water users, one industrial water user, four agriculture irrigation water users by county, and four at-large positions. This policy will be effective at the District's 2022 Annual meeting election if approved.

In summary, the District Board of Directors at the March 9, 2022, Board meeting, unanimously approved a motion to oppose Senate Bill 549, as it creates poor public policy and severely restricts the District's ability to properly manage the Aquifer. Thank you Chairman Kerschen and Committee members for the opportunity to testify in opposition of Senate Bill 549 and the District urges the Committee members to not pass Senate Bill 549.