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**Proponent Testimony on House Bill 2051**

to

The Senate Committee on Natural Resources

By

Mark E. Rude, Executive Director

Southwest Kansas Groundwater Management District No. 3

March 14, 2013

Chairman Powell and members of the committee, my name is Mark Rude. I am executive director of the Southwest Kansas Groundwater Management District No.3 (GMD3). I am writing in support of the water management elements of HB 2051.

Specifically, we support the purposes of the temporary transfer provision. What is proposed can be accomplished today with temporary permits without a change to current law. However, the provision will greatly facilitate the free market use of privately held water rights in closed or over appropriated areas to offset the temporary use of existing rights to meet oil exploration and other water needs. Such offsets may be necessary for consistency with local water budgets and groundwater management programs.

We also support the water conservation carry-over provision to the Flex Account statute to add incentive to carry forward and not necessarily use irrigation water conservation credits. We do, however, recommended two needed revisions to further implement the purposes of the Flex Accounts. First:

Page 6, line 36 states:

“(B) the water right has not been the subject of a change approval to implement the provisions of K.A.R. 5-5-9(a)(2), K.A.R. 5-5-11(b)(2) or K.A.R. 5-5-11(b)(3), in effect upon the effective date of this act.”

We recommend striking this. The prohibition of statute is not necessary for these specific types of changed or conditional water rights that have been approved under these administrative rule provisions. Any special considerations necessary for review of a flex account application in such cases can be handled administratively without this prohibition. We request that you allow the purposes of the act to be available to this group of water users operating under the listed rule provisions as they are already closely monitored annually by local groundwater management districts or agency field offices to insure limited consumptive use of water and insure compliance.

SEN. NATURAL RESOURCES

Date 3-14-13  
Attachment # 2-1

Second:

Page 7, between line 11 and line 12, we recommend a reference something like: “water conservation” for a groundwater right, which has as its local supply an aquifer area that has been closed to new appropriations by rule, regulation or order of the chief engineer, shall include non-use.”

We recognize the view of a chief engineer may not count actual non-use of a water right as “significant water conservation.” The existing **K.A.R. 5-16-1 Defines “significant water conservation” as:**

(f) “Significant water conservation measures” means actual physical changes in a water distribution system or management practices that improve water use efficiency, including the following:

- (1) Conversion from flood irrigation to center pivot irrigation with a nozzle package designed to improve water use efficiency;
- (2) irrigation scheduling;
- (3) conversion to subsurface drip irrigation; and
- (4) removal of an end gun, resulting in a significant reduction in the number of irrigated acres.

The exclusion of actual non-use of water from consideration of “significant water conservation” is not a well-supported notion that should be clarified. The suggested revision is intended to insure a consistency with K.S.A. 82a-718 as revised by the legislature last year.

Thank you for this opportunity to provide these comments. I will stand for questions at the appropriate time.