

To: House Committee on Agriculture and Natural Resources, Rep. Schwartz, Chairman
From: Kent Askren, Kansas Farm Bureau
Date: February 17, 2016
Re: Testimony HB 2245- An act concerning water; relating to the water appropriation act;

Chairman Schwartz and members of the Committee, thank you for the opportunity to provide neutral testimony on HB 2245. KFB is the state's largest general farm organization representing more than 40,000 farm and ranch families through our 105 county Farm Bureau Associations.

Kansas Farm Bureau policy supports the protection, development and administration of water rights consistent with their priority. The Courts have consistently upheld the fundamental aspect of our water law that "first in time is first in right".

We are testifying neutral because there are aspects of the bill which warrant greater discussion and we are currently far from being ready to fundamentally change the critical aspects of water right impairment law. We offer the following points for the Committee to consider:

- Kansas water right holders expect timely and affordable protection of their use of water consistent with priority.
- Consistent rules of what impairment is and how it is dealt with must be applied.
- The chief engineer should be the first authority in determining when impairment occurs and enforcing water right priority.
- Final administrative decisions made by the chief engineer in a timely manner must remain subject to review by the courts using arbitrary and capricious standards.
- A definition of impairment that protects water rights consistent with their priority, accounts for the diverse hydrologic conditions across the state and acknowledges stakeholder driven management plans should be created.

As currently written, HB 2245 addresses only groundwater. While impairment of surface water is generally easier to determine, we should have consistency across the board in dealing with impairments regardless of source of supply.

In closing, without laws to protect against junior water right holders impairing senior water rights, then our water law would become worthless and chaos would result. To get this right, and we must, more time is needed to consider all of the details and ramifications involved.

Thank you for the opportunity to testify on HB 2245 and I would be happy to address questions at the appropriate time.