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**SB337 Proponent Written Testimony to
The House Committee on Agriculture and Natural Resources.
By Mark Rude, Executive Director
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Chairman Schwartz and members of the committee, thank you for the opportunity to provide this testimony as a proponent of SB337.

SB 337 grants the authority to the chief engineer to collect increased fines into the agency water appropriation certification fund when water right owners, except domestic rights, fail to submit timely annual water use information as required by the chief engineer. It also grants the chief engineer the authority to suspend private property rights indefinitely until water use has been significantly documented with the division.

The first question relates to the new authority for the chief engineer to suspend private property rights for lack of timely receiving all of the information requested from water users. The agency has indicated the “no report” problem involves only about eight to ten people state wide on an ongoing basis. If the issue is that small, then indefinite suspension should not cause a significant loss of state water use benefits as long as public and animal health, safety or welfare concerns do not become an issue under this new authority.

Kansas and the Groundwater Management Districts enjoy detailed measured water use data that is unmatched in comparison to other states. This level of data is due in no small part to the working relationships that the GMD’s and DWR staff maintain with water users. Recently, the agency issued fines for minor flowmeter issues that were identified, in part, from GMD flowmeter testing services requested and paid for by water users to ensure flowmeter operating accuracy. But that action was followed up, upon receiving field report information from the GMD, by the agency levying a fine and sanctions on the water user six months later. This kind of prosecutorial discretion is an example of actions that go beyond the expected implementation of government power over private property rights and any goal for collaborative groundwater management.

We support the caution provided by the Senate in not jumping to large fines to fund the agency and leeway in the underlying statute to have no fine if it would cause a manifest injustice to collect a fine for a late report; for example, the husband irrigator passing away during the report period and the widow is has difficulty producing the water use records in time to meet the deadline. As your committee staff explained at the hearing on HB 2491 (the House companion to this bill) we feel this flexibility exists in the current statute.

Thank you again for this opportunity to provide this written testimony.