



Department of Public Works & Utilities

Testimony Provided to the

House Agriculture

February 9, 2017

Joseph T. Pajor

Testimony in Opposition to HB 2099

Honorable Committee Members:

The purpose of this testimony is to present concerns that the City of Wichita, Kansas has with HB 2099 concerning remedies for the impairment of a valid water right or permit to divert and use water.

Today, a person who experiences impairment of a senior water right by the actions of a junior water right holder exercising their rights under their permit, may seek either administrative relief through the Division of Water Resources or injunctive relief through the courts.

HB 2099 seeks to remove the current remedy of injunctive relief through the courts and proposes to limit the initial opportunities available for a party suffering such impairment to the Division of Water Resources only. Judicial relief would only be available if the administrative procedures are concluded without the sought relief being realized.

The City of Wichita holds water rights located over an approximately 55 square mile portion of the Equus Beds Aquifer that is significantly over appropriated because of water rights that were granted prior to the establishment of safe yield calculations currently in use. As a result, impairment is anticipated to impact our ability to meet the water demands of our customers for fire protection, potable water for human consumption, sanitation, commerce, and other purposes that make modern urban scale living and quality of life possible.

The City seeks to maintain the current rights of a water rights holder to protect oneself from injury by the actions of others even when those others may be acting within the terms and conditions of their water rights.

The City must have access to prompt intervention of an impairment claim it will almost certainly need to make at some point. While the language of the bill includes new powers for the Chief Engineer relative to prompt action, such an approach is not as attractive as the current system and the efficacy of these new powers have not

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been demonstrated and they are powers which the Chief Engineer alone can determine whether and to what extent to use them.

The City of Wichita appreciates the time and attention of the members of the House Committee on Agriculture and the opportunity to present our opposition to HB 2099 for the reasons presented above.

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