

M E M O R A N D U M

DATE: September 24, 2009
TO: Neosho Basin Advisory Committee Members and Agency Advisors
FROM: Bobbi Wendt, Kansas Water Office
SUBJECT: October 8, 2009 Meeting

The next meeting of the Neosho Basin Advisory Committee (BAC) will be held on **Thursday, October 8, 2009, at 1:00 p.m. at the Schermerhorn Nature Center, 3501 S Main St., Galena, Kansas** ([Map](#)).

The important items that the BAC will focus on will be the discussion of Neosho water supply and water quality concerns. The water supply discussion will focus on the Reservoir Sustainability Initiative/Reservoir Roadmap. The water quality discussion will focus on the import and application of poultry litter in the basin, the Grand Lake of the Cherokees work, the S. 787 - [Clean Water Restoration Act of 2009](#), and the [Stream and Riparian Restoration in the Upper Neosho River Basin](#).

Enclosed are materials for the October 8th meeting:

- Agenda
- Press Release
- Meeting notes for the July meeting
- BAC Membership Application*
- Letter from KWA concerning S. 787 - Clean Water Restoration Act of 2009
- Budget memorandum
- Reservoir Roadmap memorandum

Members of the BAC will review and consider the application and may recommend an applicant for membership on the BAC for the Municipal category. The Kansas Water Authority will consider the recommendations at their November 17th meeting in Liberal.

If you cannot attend, or have any questions or concerns regarding the meeting, please contact me by telephone at (785) 296-0868 or by e-mail at bobbi.wendt@kwo.ks.gov.

* Included in BAC members mailing materials only

Neosho Basin Advisory Committee

Thursday, October 8, 2009, 1:00pm
Schmerhorn Nature Center
3501 S Main St.
Galena, KS

DRAFT

1. **Welcome and Introductions**
2. **BAC Approval of Agenda**
3. **Agency Reports ***
4. **Public Comments****
5. **BAC Business**
 - a. Approval of July Meeting Notes
 - b. Kansas Water Authority Chairs Report – Jim Triplett (Chair)
 - c. BAC member reports on activities related to their category
 - d. BAC membership:
 - i. Consideration of BAC application for the Municipal category
 - e. Basin Priority Issue Implementation
 - i. Joint BAC meeting in May
6. **Basin Activities/Updates**
 - a. Poultry Litter Concern– Doug Blex (KAWS) and Jim Triplett (Chair)
 - b. EPA Regions - Grand Lake of The Cherokees Work – Jim Triplett (Chair)
 - c. S. 787 - Clean Water Restoration Act of 2009 – Tom Stiles or Mike Tate
 - d. Ozark Aquifer USGS Reports - Bobbi Wendt (KWO)
 - e. Recovery Act project for the Neosho Streambank Stabilization – Presentation by Bobbi Wendt (KWO)
 - f. Reservoir Sustainability Initiative: Reservoir Roadmap - Presentation by KWO
7. **Other Business**
 - a. Message(s) to the Kansas Water Authority
 - b. Kansas Water Authority meeting: November 17th & 18th in Liberal
 - c. Sign up for the December Forum
 - d. Future BAC Meeting Dates: Last week of February or first week in March
8. **Adjourn**

Note underlined items are action items for BAC.

*Oral Agency Reports are limited to 5 minutes, written reports are welcome.

**Public Comments are limited to 2 minutes per speaker on water resource issues and concerns. Other comments should be addressed to the Director of KWO.



KANSAS WATER OFFICE

Tracy Streeter, Director

901 S. Kansas Ave., Topeka, KS 66612-1210

Phone: 785-296-3185, Fax: 785-296-0878

Toll Free: 1-888-KAN-WATER

Web Site: www.kwo.org

NEWS RELEASE

FOR IMMEDIATE RELEASE

September 29, 2009

Neosho Basin Advisory Committee
1 p.m., Thursday, October 8, 2009
Schermerhorn Nature Center
3501 South Main St.
Galena, KS

A multi-landowner project to slow the loss of water storage capacity in John Redmond reservoir by controlling Neosho River stream bank erosion will be described at the Neosho Basin Advisory Committee (BAC) meeting at 1 p.m. Thursday, Oct. 8, 2009 at Schermerhorn Nature Center, 3501 South Main St. in Galena, Kansas. The 8-mile demonstration project is funded in part through the American Recovery and Restoration Act.

Controlling stream bank erosion is one component of the Kansas Water Authority's far reaching Reservoir Sustainability Initiative. The Kansas House of Representatives Vision 2020 Committee, after hearing a presentation on the Initiative, requested the Kansas Water Authority to prepare what now is known as the Reservoir Road Map. It details in three volumes the current status of reservoirs, statutory and budgetary needs, and focuses on the Neosho River basin as a pilot basin. BAC members will hear more about both the Initiative and the Roadmap at the meeting.

Other topics of interest include poultry litter management, interstate cooperation on water quality in the Grand Lake of the Cherokees, Ozark Aquifer conditions and the Clean Water Restoration Act of 2009.

The Neosho Basin Advisory Committee, along with other BACs in the state, will co-host the Climate and Water forums to be held December 9, 2009 in Wichita and December 10, 2009 in Hays. The meetings are designed to increase awareness of the possible effects of a changing climate on water resources and the state's economy. Co-host are the Kansas Water Office and the Kansas Center for Agricultural Resources and the Environment (KCARE). The public is encouraged to participate.

For additional information about the October 8, 2009 meeting or an electronic registration form for the Climate and Water Forum, please go to the Kansas Water Office website www.kwo.org.

Note to media: The Kansas Water Office coordinates the Kansas water planning process in concert with the Kansas Water Authority. The Authority's 24 members include representatives from diverse water use interest groups and leaders of the state's natural resource agencies.

Advice on policy development comes from Basin Advisory Committees in each of the state's 12 river basins and other local stakeholders. The Authority, in turn, advises the Governor and Legislature on water issues to be considered for policy enactment. Water planning in Kansas is an open process.

Note to Editor: The Americans with Disabilities Act, (42 U.S.C. 12101), requires the Kansas Water Office to print the reasonable accommodations message.

If accommodations are needed for persons with disabilities, please notify the Kansas Water Office at 901 S. Kansas Avenue, Topeka, KS 66612-1249 or call (785) 296-3185 at least two days prior to the meeting.



NEOSHO Basin Advisory Committee - Meeting Notes

Members

James Triplett
Chairperson
Fish and Wildlife
Pittsburg, Kansas

Peggy Blackman
Vice Chairperson
Watershed Restoration
and Protection
Marion, Kansas

Daryl Meierhoff
Conservation/
Environment
Emporia, Kansas

Matt Zimmerman
Water Assurance
District
Emporia, Kansas

Morgan Marler
Other PWS
Hillsboro, Kansas

Robert Hammond
Industry/Commerce
New Strawn, Kansas

Ronald Nurnberg
Watershed District
Emporia, Kansas

Steve Kubler
At - Large Public
Chanute, Kansas

**Neosho Basin Advisory Committee
Community National Bank
120 E. Madison, Iola, KS
1:00 p.m., Wednesday, July 15, 2009**

DRAFT

Members in Attendance: Peggy Blackman, Bob Hammond, Daryl Meierhoff, Morgan Marler, Ron Nurnberg, James Triplett, and Matt Zimmerman.

Members Absent: Steve Kubler

Others in Attendance: Pat Sauble (nominee for Agriculture Category), Mark Piper (nominee for Agriculture Category), Rich Basore (KDHE), Travis Robb (See-Kan RC&D), Harold Campbell (Chanute Tribune), and Andy Ensz, Tom Lowe, and Bobbi Wendt (KWO).

Welcome and Introductions: The meeting was called to order at 1:00 p.m. by Chairperson, Jim Triplett. All present provided self-introductions.

Approval of Agenda: The agenda was approved and seconded. There was no discussion and a unanimous vote of approval was given.

Agency Reports: Travis Robb (See-Kan RC&D) reported on the efforts the Spring River WRAPS. He announced the Bluegrass Festival that will be held in September and that the WRAPS is moving into the planning stage. Rich Basore (KDHE) reported on the 9 element plans for the WRAPS groups. He also suggested that all WRAPS coordinators should be on the email list for BAC meeting notices. Rich also mentioned the WRAPS conference that will be held this fall.

Public Comments: There were no public comments.

Reports: There were no reports.

BAC Business:

- a. A motion was made and seconded to approve the May meeting notes. There was no discussion and a unanimous vote of approval was given.
- b. **BAC Member Reports:**

Bob Hammond (Industry/Commerce) reported that Wolf Creek's Lake (Coffey County Fishing Lake) was full. The lake was topped off in February, but contract water would need to be used to keep the lake elevation up. Bob also mentioned that gate work would need to be completed at John Redmond and therefore releases would need to be made.

For questions
please contact:
Bobbi Wendt; Basin
Planner
785-296-3185
Bobbi.wendt@kwo.ks.gov

Daryl Meierhoff (Conservation/Environment) reported that LEPP quarterly reports showed that the portion of the Marais des Cygnes basin located in Lyon County had funds to assist with the repair of failing septic systems. Three individuals had already taken part in this program. Daryl mentioned that some in the area utilized programs through the NRCS to help with septic systems and well plugging.

Peggy Blackman (Vice-chair & WRAPS) reported that Marion Lake's drawdown was successful and has now refilled and is actually releasing water. The lake does currently have a blue-green algae problem. The Marion Lake rough fish study is ongoing and that a plankton study would still be beneficial, however, it may not be necessary due to the zebra mussel infestation. Peggy also reported that the Marion WRAPS SLT meeting went well and that the Cottonwood WRAPS SLT breakfast meeting is to be sometime during the first week in August. Peggy reported that the Marion Lake water quality reports were good and that atrazine levels are very low. Peggy then reported that the flyover to be conducted on the Cottonwood River was not funded by the American Recovery and Reinvestment Act (ARRA), but that funding may be applied for through the Clean Water Neighbor (CWN) Fund. Peggy also mentioned that she had been appointed by the governor to be the representative for the Arkansas River.

Morgan Marler (Other PWS) reported that the City of Hillsboro had experienced a serious Asiatic clam infestation at their plant. She stated that they have had the Asiatic clams for a while, but had not experienced any real difficulty with them. The clams had recently clogged the plant's screens and required daily cleaning. They have also experienced iron and manganese in the past and recently the problem has worsened creating black colored water when oxidized. They have to increase treatment which is costly. Morgan also brought up that a class action suit concerning atrazine in the area has been filed.

Matt Zimmerman (Water Assurance District) reported that the City of Emporia had met with both DWR and KWO to review the City's water rights, water marketing contracts, and water assurance district membership. Matt mentioned that when the Tyson plant closed the City lost 25% of its water sales. He also mentioned that the City still had a water right on Lake Kahola but the possibility of using it for a water supply source was not feasible. He did mention that Lake Kahola would be giving out fines if there were any violations in relation to zebra mussels, as is Marion Lake.

Jim Triplett (Chair and Fish and Wildlife) reported that he attended the WRAPS 9 element plan meeting and the Tri-State Water Coalition press release in Joplin. In the press release it was mentioned that it is more feasible to use existing reservoirs than to create a new one for water supply in the SE Kansas and SW Missouri. Jim also reported that the City of Pittsburg may consider drilling a well in Missouri to supply customers in their area. Jim then reported on the KWA chairs meeting held in El Dorado. Both he and Peggy attended and found the meeting very beneficial. They discussed the possibility with KGS to use ARRA funds to pay for basin signage. Jim reported that the Water Congress would be held August 6th and 7th.

c. **BAC membership:** Consideration of Basin Advisory Committee applications:

Pat Sauble nominee for the Agriculture category was recommended by the BAC for approval from the KWA.

Mark Piper nominee for the Agriculture category was not recommended by the BAC for

approval from the KWA. However, discussion was made concerning the possibility of asking Mr. Piper if he would like to apply for a different category that was still open on the BAC. A follow up with Mr. Piper by Bobbi Wendt was suggested. It was also suggested that since Danny Matthews was no longer filling the Municipal category that Steve Kubler could resign from his category of At-Large Public and apply for the Municipal category. Bobbi will follow up on this as well.

Peggy Blackman nominee for the Vice-chair was recommended by the BAC for approval from the KWA.

- d. **Basin Priority Issue Implementation:** Tom Lowe (KWO) reviewed the Basin Priority Issues (BPI) that were formulated in the past year for the Kansas Water Plan Update. He discussed the May meeting held at Wolf Creek that focused on the Comprehensive Flooding BPI. He also stated that KWO has begun to work with other agencies to begin formulating a strategy to increase awareness of the necessity for flood planning and mitigation.

Basin Activities/Updates:

- a. OASIS/Neosho Water Supply Update – Andy Ensz (KWO) reported on the work that had been done in the Neosho concerning the OASIS model. He reported that KBS has finished surveying the federal reservoirs and Marion and Council Grove Lakes. The report found that there was more capacity in the lake than previously thought. Andy stated that this is most likely due to the improved method of conducting the bathymetry surveys and is more accurate than past surveys. Wolf Creek Lake will be surveyed this year. Andy also mentioned the PAS study that was being considered to look at supply alternatives for the basin.
- b. Poultry Litter Concern – Jim Triplett (Chair) reported that he had contacted both the Department of Agriculture and the Department of Health and Environment concerning the poultry litter that is being brought into Kansas from Arkansas and Missouri and applied to Kansas fields. He reported that the import of the litter could not be regulated by either department nor stopped since it is interstate commerce. He stated that Oklahoma has a management plan that requires fertilizer and soil tests so the correct amount of fertilizer is applied reducing phosphorus loading. The lack of a nutrient plan in Kansas is a problem. Proper policy needs to be put in place to manage the litter application.
- c. EPA Regions - Grand Lake of the Cherokees Plan – Jim Triplett (Chair) reported that the Grand Lake of the Cherokees Plan draft had been completed but that since the area was in two EPA Regions (6&7) approval of the plan is difficult for the EPA. Jim mentioned that Oklahoma had little funds to apply to this project but did offer in-kind services. It was also noted that Kansas is ahead of other states in data collection that is beneficial to this Plan.
- d. Recovery Act project for the Neosho Streambank Stabilization (public meeting) – Peggy Blackman (Vice-chair & WRAPS) gave information about the Stream and Riparian Restoration in the Upper Neosho River Basin. She first gave a history of the project and how the project was chosen and would be implemented. She mentioned that all the landowners that had been asked to participate in the project had agreed to participate

and that the project was at no cost to them. The bulk of the project would be funding by the ARRA and the KWO would be the sponsor. The landowners would need to enroll their property in the CP23 practice and maintain the minimum buffer. This project would reduce the sediment load in the basin that could possibly enter John Redmond reservoir which currently has the highest sedimentation rate of any of the federal reservoirs in the basin. Peggy mentioned that TWI would be completing the engineering drawings, and bids to do the project would be taken in the fall. She then asked for questions about the project and referred to the information posted on the website at: http://www.kwo.org/ARRA_Neosho.htm. The only questions asked were concerning how the area was chosen and if TWI had conducted the initial study. Peggy stated that TWI had and the area was chosen because it was the area that had a continuous stretch of “hotspots” that could be corrected to have the maximum beneficial affect. Peggy stated the project area of hotspots consisted of 3.5 miles.

- e. Lake Level Management Plans Memorandum: Bobbi Wendt (KWO) gave a brief synopsis on the Lake Level Management Plans Memorandum that was included in the BAC mailings. The only comments given were that the Lake Level Management Program was a beneficial program and the current Lake Level Management Plan for John Redmond was discussed.
- f. Reservoir Roadmap Memorandum: The Reservoir Roadmap (RRM) and the Reservoir Sustainability Initiative (RSI) were discussed and an update on the progress of the RRM was given by Bobbi Wendt (KWO). Bobbi stated that the deadline for Volume II of the RRM was due in August so that a report could be given to the KWA at there next meeting. The final draft will be finished in January 2010. Bobbi stated that information on the RRM can be accessed at: <http://www.kwo.org/ReservoirRoadmap.htm>
- g. Nonpoint Source (NPS) Pollution Management Plan: Bobbi Wendt (KWO) stated that on July 1, 2009 Kerry Wedel (KDHE) conducted a Glance session to discuss KDHE’s NPS Management Program. Comments were made by the BAC stating that the plan needs to be effective and have some “teeth”. Also mentioned was that the plan needs to include access to the revolving loan funds so smaller projects can be funded. It was also mentioned that KDHE is considering upper basin WRAPS groups more of a priority at this time because it is more efficient to start at the top and work their way down to improve water quality.

Other Business:

- a. Message(s) to the KWA: A motion was approved and seconded to send the following message: The Neosho Basin Advisory Committee would like assistance in implementing an effective policy to regulate the import and application of poultry litter that is generated in and shipped from (mainly) Arkansas and Missouri poultry farms that is then applied to agriculture lands in Kansas. There was some discussion and a unanimous approval was given to send the message.
- b. The Kansas Water Authority meeting on August 13 & 14 in Salina was announced.
- c. The next BAC meeting was tentatively scheduled on October 8, 2009 at 1:00pm in Galena at

Schermerhorn Nature Center.

Adjourn: A motion was made and seconded to adjourn the meeting at approximately 3:55 p.m. There was no discussion and unanimous approval was given. |

DRAFT

KANSAS WATER AUTHORITY

901 South Kansas Avenue, Topeka, KS 66612-1210 (785) 296-3185



Steve Irsik, Chairman

5405 Six Road, Ingalls, KS 67853

(620) 335-5363 - steve@ucom.net

July 24, 2009

The following was sent to each member of the Kansas Congressional Delegation

Re: S. 787 - Clean Water Restoration Act of 2009

The Kansas Water Authority writes to urge you to oppose Senate Bill 787, commonly known as the Clean Water Restoration Act of 2009, in its current form. This legislation, currently pending before the U.S. Senate, has a seemingly noble intent-to restore the Clean Water Act to levels that were in place before several judicial opinions, most notably *SWANCC* and *Rapanos*, limited enforcement agencies in determining what water bodies in the U.S. are subject to the Clean Water Act.

The Kansas Water Authority (KWA) is a 24 member group, composed of appointed citizens and heads of Kansas agencies that provide advice to the Governor and the Legislature on matters concerning Kansas' water resources. The KWA addresses water resource concerns across the state involving both water quality and quantity issues. In addition, the KWA helps formulate water priorities and policy through its promulgation of the *Kansas Water Plan*. The *Kansas Water Plan* identifies needs and establishes water priorities in the State of Kansas.

In its current form, we believe Senate Bill 787 would unnecessarily expand the jurisdiction of the Clean Water Act (CWA). The inclusion of ephemeral waters in S. 787 goes far beyond the purported intent of returning the CWA to its former jurisdiction levels.

The problem lies in the proposed definitional change. Whereas, the current Clean Water Act uses the term "navigable waters" to determine jurisdiction, S. 787 would apply jurisdiction to what it defines as "waters of the United States." That term includes a number of water types, including intermittent streams, prairie potholes and playa lakes. Those waters had previously been identified as being subject to CWA jurisdiction, before the Supreme Court rulings. However, based on the "Findings" section of S. 787, ephemeral waters would be subject to the CWA, as well. In addition, impoundments of ephemeral streams (the majority of Kansas farm ponds) would also become jurisdictional. Thus lays our concerns with the proposed language.

The problems to Kansans by extending the definition to the extent proposed is simple; it would subject many average Kansans to regulation under the Clean Water Act. The obvious examples that come to mind are farm ponds and ephemeral streams. Many Kansas farmers have farm ponds that would be required to meet water quality standards of the CWA under S. 787. Quite frankly, we cannot imagine how or why such jurisdiction would be necessary on a privately-held pond.

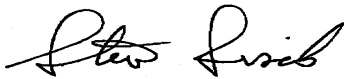
Kansas also has a number of ephemeral streams. Under S. 787, the regulation of these streams, would add to Kansas' CWA burden of expanded program administration and greatly increased costs. Ephemeral streams carry water only under extreme or heavy runoff conditions. While they may make a significant contribution downstream at times, they can be mitigated using existing voluntary

programs. State and federal conservation programs (such as EQIP) offer technical assistance and cost share to address pollution sources from an ephemeral stream. Jurisdiction under the CWA and the need for permits would actually hinder implementation of conservation practices such as grassed waterways. We feel there are sufficient authorities and safeguards under Kansas law to protect our water resources and a broad-brush expansion of Federal jurisdiction on Kansas waterways is unnecessary, onerous and costly.

The Kansas Water Authority agrees that current jurisdiction issues in the Clean Water Act caused by judicial decisions this decade must be resolved. We simply ask that the "fix" be a well reasoned solution that does not unnecessarily expand the jurisdiction of the CWA, to the detriment of Kansans.

Please oppose S. 787 in its current form and help Kansas by supporting a legislative solution that clarifies the jurisdiction of the Clean Water Act without unreasonably extending its reach.

Thank you for your attention to this matter.

A handwritten signature in black ink, appearing to read "Steve Irsik". The signature is fluid and cursive, with the first name "Steve" and last name "Irsik" clearly distinguishable.

Steve Irsik
Chair

M E M O R A N D U M

DATE: September 15, 2009
TO: Basin Advisory Committees
FROM: Tracy Streeeter, Director
SUBJECT: FY 2011 State Water Plan Fund Budget Recommendations

Attached are the FY2011 State Water Plan Fund (SWPF) recommendations adopted by the Kansas Water Authority at their August Meeting in Salina. These recommendations were initially reviewed and adopted by the KWA Budget Committee during meetings held prior to the KWA Meeting. Don Paxson serves as Chair of the Committee along with Lisa French, David Corliss, Gary Baker and Steve Irsik.

The KWA recommendations propose the expenditure of \$19,605,820 for FY2011. This total includes the full demand transfer from the State General Fund (SGF) and is based upon fee projections which are 3.7 percent less than last year's projections, mostly due to declining water use fees paid by public water suppliers. Overall, the amount of projected available funds for FY2011 (assuming the full \$6 million SGF transfer) is \$1.16 million less than was projected for FY2010. As a result, the recommendation for most SWPF programs is less than last year's recommendation.

In addition to normal SWPF expenditures, the KWA also recommended, as it did a year ago, ten percent of the Expanded Lottery Act Revenues Fund (ELARF) be dedicated to debt reduction and infrastructure projects. Revenue projections for FY2011 ELARF are not available at this time. However, the KWA is requesting \$5.4 million in ELARF funding for FY2011 to begin the purchase of storage at Perry and Milford Reservoirs, partial funding to implement a potential minimum pool agreement at Webster Reservoir, streambank restoration projects above federal reservoirs and funding for dam safety and rehabilitation projects.

Please note on the attached table a column entitled *FY 2010 Revised*. This column illustrates changes that have occurred since the adjournment of the 2009 Legislature. As a result of continuing decreases in State General Fund revenue, the Governor found it necessary in early July to reduce the FY 2010 budget approved by the Legislature. As a result, the \$3.295 million SGF transfer to the SWPF will not be made this year. The majority of the impact of this action can be seen in the budget line items of the State Conservation Commission and Kansas Water Office.

On a final note, the KWA Budget Committee has begun a process to identify potential new funding strategies for State Water Plan projects. In early August, the Committee convened a group of stakeholder groups to discuss future funding options. Staff are reviewing funding sources used by other states for water and natural resources and will be sharing this information with the Budget Committee and stakeholders at a meeting scheduled for October 14. This group will continue to meet through 2010. It is not anticipated that any proposals will be available for consideration by the 2010 Legislature.

Attachment

SWPF: FY 2009-2011

| Agency/Program | FY2009 SWPF | | FY2010 | | FY2011 SWPF Base | FY2011 ELARF |
|--|----------------------|-------------------------|-------------------------|-------------------|---------------------|------------------|
| | Legislative Recs. | FY2010 KWA Recommend | Legislative Approved | FY2010 Revised | | |
| Department of Health and Environment | | | | | | |
| Contamination Remediation 1802 | 840,575 | 804,385 | 570,737 | 567,216 | 753,870 | - |
| TMDL Initiatives 1805 | 238,316 | 301,988 | 214,055 | 210,780 | 238,316 | - |
| Local Environmental Protection Program 1806 | 1,502,848 | 1,502,735 | 1,066,942 | 1,066,942 | 1,400,000 | - |
| Nonpoint Source Program 1804 | 307,642 | 299,856 | 299,029 | 291,241 | 299,856 | - |
| WRAPs 1808 | 600,613 | 800,000 | 481,042 | 481,042 | 783,852 | - |
| Use Attainability Analysis 1807 | | -- | | | | - |
| Soil Treatment Study 1809 | | -- | | | | - |
| Total--KDHE | 3,489,994 | 3,708,964 | 2,631,805 | 2,617,221 | 3,475,894 | - |
| University of Kansas--Geological Survey | 32,000 | 40,000 | 28800 | 28800 | 37,486 | - |
| Department of Agriculture | | | | | | |
| Interstate Water Issues 0070 | 527,908 | 475,181 | 343,370 | 337,379 | 459,816 | - |
| Water Use 0075 | 48,000 | 70,000 | 49,700 | 49,700 | 66,000 | - |
| Basin Management 0080 | 713,506 | 761,319 | 755,321 | 737,536 | 252,977 | - |
| Enhanced Water Management | | | | | 445,607 | - |
| Dam Safety and Rehabilitation | | | | | | 1,000,000 |
| Total--Department of Agriculture | 1,289,414 | 1,306,500 | 1,148,391 | 1,124,615 | 1,224,400 | 1,000,000 |
| State Conservation Commission | | | | | | |
| Water Resources Cost Share 1200 + 1205 | 3,570,250 | 3,265,972 | 2,943,551 | 2,351,510 | 3,060,216 | - |
| Nonpoint Source Pollution Asst. 1210 | 3,134,168 | 3,473,754 | 3,126,379 | 2,501,102 | 3,254,907 | - |
| Aid to Conservation Districts 1220 | 2,264,831 | 2,255,919 | 2,255,919 | 2,255,919 | 2,113,796 | - |
| Watershed Dam Construction 1240 + 1245 | 938,493 | 1,055,000 | 949,500 | 759,600 | 988,535 | - |
| Water Quality Buffer Initiative 1250+1255 | 363,210 | 300,000 | 270,000 | 216,000 | 281,100 | - |
| Riparian and Wetland Program 1260 | 242,598 | 251,782 | 226,604 | 181,283 | 235,920 | - |
| Multipurpose Small Lakes 1265 | 1,123,176 | -- | -- | -- | - | - |
| Salt Cedar Demonstration Projects 1280 | -- | -- | -- | -- | - | - |
| Lake Restoration/Management 1275 | 998,466 | 998,466 | 898,619 | 718,896 | 937,569 | - |
| Water Transition Assistance 1215 | 2,221,274 | 916,273 | 826,333 | 81,010 | 858,548 | - |
| Conservation Reserve Enhance. Pgm. 1225 | 1,229,707 | -- | -- | -- | | - |
| Streambank Stabilization | | | | | | 1,000,000 |
| Total--Conservation Commission | 16,086,173 | 12,517,166 | 11,496,905 | 9,065,320 | 11,730,591 | 1,000,000 |
| Kansas Water Office | | | | | | |
| Assessment and Evaluation 1110 | 720,143 | 750,000 | 675,000 | 532,500 | 700,000 | - |
| GIS Data Base Development 1140 | 250,000 | 250,000 | 225,000 | 177,500 | 250,000 | - |
| MOU - Operations and Maintenance 1150 | 301,418 | 305,000 | 274,500 | 216,550 | 355,000 | - |
| Technical Assistance to Water Users 1200 | 632,918 | 624,919 | 562,427 | 443,692 | 624,919 | - |
| Weather Stations 1235 | 80,000 | 80,000 | 72,000 | 57,198 | 70,000 | - |
| Water Resource Education 1220 | 97,200 | 77,907 | 70,116 | 54,916 | 55,000 | - |
| Weather Modification 1230 | 240,000 | 220,000 | 198,000 | 156,200 | 240,000 | - |
| Wichita Aquifer Recharge Project 1245 | 1,000,000 | 700,000 | 630,000 | 300,000 | 805,044 | - |
| Neosho River Basin Issues 1240 | 960,000 | 300,000 | 270,000 | 213,000 | - | - |
| Reservoir Storage Purchase | | | | | | 3,220,357 |
| Total--Kansas Water Office | 4,281,679 | 3,307,826 | 2,977,043 | 2,151,556 | 3,099,963 | 3,220,357 |
| Department of Wildlife and Parks | | | | | | |
| Almena Irrigation District 1802 | | -- | | | | - |
| Minimum Pool Agreement for Webster | | -- | | | | 250,000 |
| Stream (Biological) Monitoring 1801 | 32,000 | 40,000 | 28,800 | 28,800 | 37,486 | - |
| Total--Department of Wildlife and Parks | 32,000 | 40,000 | 28,800 | 28,800 | 37,486 | 250,000 |
| Total Water Plan Expenditures | 25,211,260 | 20,920,456 | 18,311,744 | 15,016,312 | 19,605,820 | 5,470,357 |

| State Water Plan Resource Estimate | FY 2009 SWP | | FY 2010 | | | FY2011 |
|---|--------------------|--------------------|--------------------|----------------|--------------------|---------------|
| | Legislative | FY 2010 KWA | Legislative | FY 2010 | FY2011 Base | ELARF |
| | Recs. | Recommend | Approved | Revised | | |
| Beginning Balance | 2,846,479 | (153,638) | (153,638) | (153,638) | (137,485) | -- |
| Adjustments | -- | -- | | | -- | -- |
| Released Encumbrances | 1,087,010 | 421,700 | 421,709 | 421,709 | -- | -- |
| Transfer to KCC | (320,000) | (400,000) | (288,000) | (288,000) | (374,865) | -- |
| Revenues | | | | | | |
| Expanded Lottery Act Revenue Fund | | | | | | 5,470,357 |
| State General Fund Transfer | 2,000,000 | 6,000,000 | 3,295,432 | -- | 6,000,000 | -- |
| Economic Development Fund Transfer | 2,846,126 | 2,000,000 | 2,000,000 | 2,000,000 | 2,000,000 | -- |
| Municipal Water Fees | 3,748,687 | 3,785,991 | 3,785,991 | 3,785,991 | 3,270,343 | -- |
| Industrial Water Fees | 1,272,024 | 1,079,103 | 1,079,103 | 1,079,103 | 1,129,729 | -- |
| Stock Water Fees | 368,708 | 404,176 | 404,176 | 404,176 | 372,594 | -- |
| Pesticide Registration Fees | 1,000,000 | 965,000 | 965,000 | 965,000 | 941,000 | -- |
| Fertilizer Registration Fees | 2,940,000 | 2,940,000 | 2,940,000 | 2,940,000 | 3,220,000 | -- |
| Pollution Fines and Penalties | 80,000 | 85,000 | 85,000 | 85,000 | 210,000 | -- |
| Clean Drinking Water Fee Fund | 6,480,609 | 3,469,486 | 3,469,486 | 3,469,486 | 2,804,473 | -- |
| Sand Royalty Receipts | 182,250 | 170,000 | 170,000 | 170,000 | 170,031 | -- |
| KS v. CO Damage Award -2005 | 525,729 | -- | -- | -- | -- | -- |
| KS v. CO Damage Award -2006 | -- | -- | -- | -- | -- | -- |
| FY 2009 Pay Plan Savings | -- | -- | -- | -- | -- | -- |
| Total Receipts | 21,444,133 | 20,898,756 | 18,194,188 | 14,898,756 | 20,118,170 | 5,470,357 |
| Total Available | 25,057,622 | 20,766,818 | 18,174,259 | 14,878,827 | 19,605,820 | 5,470,357 |
| Less Expenditures | 25,211,260 | 20,920,456 | 18,311,744 | 15,016,312 | 19,605,820 | 5,470,357 |
| Ending Balance | (153,638) | (153,638) | (137,485) | (137,485) | -- | -- |

M E M O R A N D U M

DATE: September 11, 2009
TO: Basin Advisory Committee members and advisors
FROM: Susan Metzger, Deb Baker, Diane Coe, Hank Ernst, Margaret Fast, Bobbi Wendt
SUBJECT: Reservoir Sustainability Initiative / Reservoir Roadmap

During the 2009 Legislative session, the Kansas House Vision 2020 Committee discussed the issue of reservoir sustainability and sedimentation. One of the items they requested was that by January 2010 the Kansas Water Authority deliver to the Kansas Legislature a report on actions necessary to insure an adequate future water supply for areas currently or potentially served by federal, state or municipal reservoirs. Several agencies have been active in developing this report, known as the Reservoir Roadmap. Aspects of the report have been reviewed by the Kansas Water Authority at their April, June and August meetings.

The Reservoir Roadmap report is organized into three volumes:

1. Quantification of the Issue – Statewide Perspective
2. Statutory and Budget Considerations
3. Basin Approach to Reservoir Sustainability

The draft contents of Volumes I and II are available on the Kansas Water Office webpage at <http://www.kwo.org/ReservoirRoadmap.htm>. Included in your mailing materials for discussion at the Basin Advisory Committee meeting is a chapter of Volume II which includes the recommended statutory changes to assure reservoir sustainability.

The changes are presented as components of a comprehensive Kansas Reservoir Sustainability Act. The goal of this act would be to provide authority to the state of Kansas to secure, protect and restore reservoir storage to meet the needs of the citizens of Kansas. These components could also be considered “a la carte”, requiring changes to several existing and new statutes and regulations. While this approach could be considered, it would be labor intensive, requiring significant staff and legislative time, and may not completely address all aspects of needed change.

A presentation will be made to the BAC during your meeting by a staff member of the Kansas Water Office. The presentation will provide an overview of the full Reservoir Roadmap and details of the components of the recommended statutory changes. Your input and feedback on these recommended changes will be important in the development of potentially significant legislation.

Volume III is currently being developed and will be presented to the KWA in November 2009. The Neosho basin has been selected as a pilot basin for Volume III. This Volume will also contain a schedule for similar analyses of the remaining basins.

The entire report will be presented to the Legislature during the 2010 session, after review of the final document by the KWA.

VOLUME II: RESERVOIR ROADMAP RECOMMENDED STATUTORY CHANGES

A review of state and national water resource policy was conducted as part of the Reservoir Sustainability Initiative. Several policies were focused on in the development of the Reservoir Roadmap. Following is a discussion of the statutory issues requiring resolution if the state of Kansas is to secure, protect, and restore the state's reservoirs to meet the needs of the citizens in the 21st century.

Addressing necessary statutory changes could be accomplished in a piecemeal fashion in which individual statutes or regulations are reviewed and modified. However, this process will be labor intensive, require significant staff and legislative time, and may not completely address all aspects of needed change. Therefore, the recommendation is to create a comprehensive Kansas Reservoir Sustainability Act (RSA) with the following goal:

The State of Kansas will have the authority to secure, protect and restore reservoir storage needed to meet the water supply needs of the citizens of Kansas.

Many of the individual recommendations in the Protect and Restore categories were previously considered and approved in the *Enhanced Stream Corridor and Wetland Management to Address Sedimentation* policy section, the *Flood Damage Mitigation and Small Dam Safety* policy section and *Institutional Framework* management section of the *Kansas Water Plan*. Implementation of these recommendations would be included within the Kansas Reservoir Sustainability Act.

Establishment of a comprehensive Kansas Reservoir Sustainability Act (RSA) involves each of the natural resource agencies. With assistance from these agencies, the Kansas Water Authority would maintain the overall responsibility of identifying reservoir sustainability needs through the public process of the *Kansas Water Plan*. Specific projects and activities resulting from the RSA would be identified in the *Kansas Water Plan*, Water Issue Strategic Plans, the Water Marketing/Assurance Programs Capital Development and Storage Maintenance Plan and the Water Resources Capital Development Plan, as appropriate.

SECURE

Debt Service on Storage in Federal Reservoirs

Kansas has contracts with the U.S. Army Corps of Engineers (Corps) for purchase of almost a million acre-feet of storage in 13 reservoirs; just over half of that storage is currently under a repayment agreement. The state makes annual principal and interest payments on that in-service storage. In addition, operation and maintenance costs for the in-service storage are paid annually. Currently, the customers of the Water Marketing program pay those costs. The ability to cover the increasing costs for principal and interest and operation and maintenance is limited because the majority of revenue in the Water Marketing program comes from fixed rate contracts. The rate for customers of the Marketing Program that have contracts signed since 1983 changes annually but represents only 20% of the revenue stream.

Efforts to provide additional funds to service this debt and to secure additional storage have been proposed and discussions are underway to determine the best method for doing this. The potential for the federal government to relieve part of the debt is part of the discussion and the state may need statutory authority to partner with the federal government if debt relief agreements can be negotiated.

Unfunded Liability

The storage under contract, but not yet in-service and committed to a customer, represents an unfunded liability in the program. The 2008 Legislature recognized this issue, and the concern that until a repayment agreement is in place, the state does not control use of that storage for the benefit of its citizens. In response, the Legislature created the Reservoir Storage Beneficial Use Fund to be used to buy additional

storage before the state has a customer to repay the cost to purchase, operate and maintain the storage. While this is a significant step toward securing storage, the appropriation is insufficient. While no statutory change is needed, there is a significant funding impact.

In addition, state statute requires a commitment on the part of a user to bring the water into service and begin paying for it before the state enters into repayment agreements to the federal government. To secure additional storage in existing reservoirs for future use, this requirement may need to be removed. (See Volume II, Chapter 2 – Funding Needs.)

Purchase of Additional Storage in Federal Reservoirs

There are a few situations in which additional storage could be obtained in existing federal reservoirs. Melvern, Wilson and Kanopolis, while all very different situations, each present an opportunity for providing additional storage. As mentioned above, to secure additional storage in existing reservoirs for future use, the requirement for the water to be in-service may need to be removed.

Expansion of Access to Storage

Though state planning statutes recognize multiple and broad public benefits of reservoirs, the right to use water supply that is stored in Corps reservoirs is currently limited to contracts under the Water Marketing Program, membership in a water assurance district, and in a very few instances, contracts directly with the federal government. In all cases, use of the water is designated either by statute or by contract, for municipal and industrial users only. There are times when a more flexible operation of the river/reservoir system could meet additional needs; however, legal access to storage released is limited. Approaches that will work with current and local conditions to allow the use of storage to meet contemporary needs, yet respecting current commitments under contract, ownership, and appropriation rights are needed.

Development of New Large Reservoirs

From the 1940's through the 1970's the federal government developed large reservoirs in the state of Kansas, constructed primarily for flood control purposes. Other purposes such as water supply, water quality, irrigation, recreation and fish and wildlife habitat were included based on the projected need, and in some cases, local interest.

The state recognized the value of these reservoirs as a public water supply resource and purchased available storage from the federal government. Likewise a number of cities purchased storage in federal reservoirs, notably Wichita and El Dorado. The water was then made available to municipal and industrial users under the Water Marketing and Water Assurance Programs. Two-thirds of the population of Kansas is now directly or indirectly dependent on storage in these reservoirs. As population grows and existing reservoirs fill with sediments, new surface water storage facilities may need to be developed (see Volume I, *Supply and Demand Projections* chapter).

Future water supply storage may also be achieved by off stream storage in some basins. Offstream refers to a water body or system that is not located in a streambed or does not receive significant natural flows from the surrounding watershed. An example is a reservoir that is not located on a streambed, and is supplied by a pipeline, aqueduct or an adjacent stream. Aquifer storage and recharge using excess river flows is also considered to be offstream storage.

The federal government has no plans or authority to develop additional water supply storage in Kansas. Therefore, it is recommended under the Kansas RSA to establish authority for the state to initiate the development of water supply reservoirs and other means of storage.

Secure Reservoir Sites for Future Development

During the time that the federal government was actively developing reservoirs, the Corps and the Bureau of Reclamation (Bureau) selected the most feasible reservoir sites from a cost benefit evaluation. A number of sites were identified, analyzed and eliminated from consideration on this basis. Reservoir sites not initially developed by the Corps are in some cases in close proximity to growing urban areas, enhancing their benefit. Such sites may be threatened by development of suburban growth, potentially precluding their development to meet future water supply needs.

In order to ensure the ability to provide adequate water supply for the future, the state should have the authority to protect reservoir and other storage sites for future water supply from development or other restrictive activities. The RSA should contain authority for the state to identify sites in the best locations for future water storage. A means should be developed to ensure that planned uses of the site do not preclude its suitability for future water storage,

Development of Small Reservoirs

In some areas, additional surface water storage may be needed for water supply. In addition, the value of a lake for local recreational purposes and the associated economic value to the region are recognized. Though the state can participate in public water supply and recreation storage under existing state law, flood control storage must be included as one of the purposes. Since enactment of this statute, the need for water supply reservoirs has emerged in locations where flood control was not a primary issue. This provision has prevented state participation in development of single purpose water supply reservoirs. Under a comprehensive Kansas RSA, authority could be provided to the State of Kansas to cooperate with local units of government or private entities for the development of small lakes for any purpose, whether single or multipurpose. Requirements that flood control be included should be removed.

Minimum Pool Agreements for Recreation

A stable reservoir water pool supports recreational uses for access to boat ramps and fisheries habitat, and increases support to the local economy. The State Water Plan Storage Act recognizes the value of recreation, therefore, no state statutory changes are recommended. However, greater coordination and evaluation efforts are needed to identify reservoirs that could provide greater opportunities for recreation. For example, discussions are underway to determine if irrigation storage can be leased to provide additional recreational benefits at Webster Reservoir. Changes to federal authority for the Bureau of Reclamation may be needed so that they may more freely participate in planning and evaluation of potential minimum pool agreements.

PROTECT

Protect Kansas Reservoirs through the Implementation of Best Management Practices (BMPs)

Water resources within Kansas are vital to the state for not only supplying a growing population but for the economic welfare of the state. The state has a vested interest in protecting the storage in the federal reservoirs in which two-thirds of the population depends on for its water supply. Land surface BMPs in target areas above reservoirs can help to reduce sediment loads. These practices can take the form of terraces, waterways, residue management, grade control structures, dams and other practices that reduce or eliminate sediment and nutrient loading to the reservoirs. There are well established cost share mechanisms for these traditional conservation practices. While no statutory change is needed, the recognition of the vital role these practices play is a component of a comprehensive reservoir sustainability initiative.

Riparian and Wetland Protection and Development

The protection of riparian and wetland areas, when systematically implemented and targeted above water supply reservoirs, may significantly reduce future sediment loads, extending storage capacity. The state currently provides cost-share assistance on wetland and riparian establishment and restoration. When matched with other state and federal programs, the total cost-share allowable to a participant is not to exceed 80% of the total cost of the practice, and in some cases cost share may be 90% of the total cost. In areas above federal reservoirs, the state's interest in the conservation practice may exceed the interest of the individual landowner, who may choose not to participate in the voluntary practice if financial input on his/her part is required. In those instances, the cost for project planning and implementation should be entirely the responsibility of the state. The RSA should give authority for the state to provide 100% funding for conservation project planning and implementation, when substantial state interest is demonstrated.

Protection of high value conservation resources often involves the purchase of a conservation easement. While the state does have the authority to accept donated easements, there is not a dedicated source of funding that could be drawn from to purchase targeted high value easements. The ability should be developed in the RSA to establish a dedicated conservation easement fund.

Protect Streambanks through Stabilization Projects on a Stream Segment Approach

Increasing evidence exists that streambank erosion contributes to significant sedimentation in reservoirs. An approach that targets entire reaches for stabilization, instead of individual scattered sites, is more effective. State statute currently requires that federal funding be available before the state participates in a streambank stabilization project when a systematic approach is utilized. State statute emphasizes local responsibility for a streambank stabilization project. While coordination with local landowners and community members is essential to a successful project, requirement for local sponsorship and cost-sharing can be a significant limiting factor due to the high cost of stream stabilization projects. The recommended statutory approach is to allow for 100% state responsibility in the coordination, planning and implementation of systematic stream stabilization projects in targeted areas. In addition, the statutory requirement for federal funding should be removed.

In May 2009, the Kansas Water Office received funding through the American Reinvestment and Recovery Act to conduct a streambank stabilization and riparian restoration project on an eight-mile reach of the Neosho River above John Redmond Reservoir. Implementation of this project will serve as a pilot, illustrating the type of local coordination and funding needs required for this systematic approach.

RESTORE

Restoration of Water Supply Storage Capacity through Dredging of Municipal, State and Federal Reservoirs

In many reservoirs, especially those in which significant BMPs and streambank stabilization efforts have already been implemented in the contributing watershed, dredging may be a viable alternative for restoring water supply storage capacity. Through successful pilot projects such as at Mission Lake, the state is gaining the knowledge and expertise to facilitate similar projects at other reservoirs. Based on the experience of planning and implementing a pilot dredging project at Mission Lake, a successful dredging project requires coordination with many entities. These agencies include, but are not limited to, the State Conservation Commission, Kansas Water Office, Kansas Department of Health and Environment, Kansas Department of Wildlife and Parks, Kansas Department of Agriculture, Kansas Department of Transportation, the Corps and Bureau, local municipalities, legislators, and local citizens. Coordination among these entities is necessary to provide for complete collaboration and to expedite permitting and review processes. The RSA should provide for clear and comprehensive state authority for coordination of all aspects of a systematic dredging program for the purposes of water supply storage capacity restoration.

Dam Safety and Rehabilitation

Nearly 6,000 small dams in Kansas are regulated by the Kansas Department of Agriculture, Division of Water Resources. Of these, 180 are classified as high hazard with an additional 247 classified as significant hazard. Most dams were constructed with a 50-year design life and the average age of these dams is 40 years. These dams have been constructed to provide flood control, public water supply, recreation and other benefits. Many were built by local watershed districts using federal or state cost-share assistance and local funds. Others have been constructed by municipalities, private organizations or individuals, and the state.

In November 2005, the Kansas Water Authority adopted a *Kansas Water Plan* policy section for small dam safety and rehabilitation. Recommendations were made for development of breach inundation maps and notification of downstream landowners. Inundation maps for new dams should be filed with the county registrar of deeds. Local downstream landowners should be notified by the registrar and information about the potential flooding if a breach occurs should be attached to the deed.

Where development downstream of an existing dam owned by a public entity such as a municipality or a watershed district results in a hazard class increase, notice should be given to property owners within the breach inundation area of the dam and the levying of a special assessment against these property owners for the purpose of making necessary modifications to the dam consistent with the design standards of the new hazard class should be authorized. The owner of a dam should not be held liable for damages caused by breach of the dam to real property developed after the landowner had been made aware of the location of possible flooding. This limitation should not affect liability for personal injury or death caused by breach of a dam.

Additional watershed and other dams require rehabilitation due to deferred maintenance, age or extreme floods or other natural phenomena. The cost for rehabilitation of existing dams is substantial. A cost benefit analysis for rehabilitation of these dams should be performed to determine if decommissioning of the dam is more cost effective than repair. When dam repair is the better option, and the dam owner can effectively demonstrate that the needed repairs are not due to negligence, state cost share could be provided to ensure the safety of the dam.

The state should establish a cost-share program to assist eligible dam owners in paying for needed dam rehabilitation and upgrade measures.

CONCLUSION

The Kansas Reservoir Sustainability Act would provide a comprehensive approach to secure, protect, and restore the state's water resources to meet the needs of the citizens. Equally important to the recommended statutory changes is funding. A discussion of the recommended financial resources to meet anticipated needs is provided in the following chapter.