

**M E M O R A N D U M**

**DATE:** MAY 1, 2010  
**TO:** Kansas Water Authority  
**FROM:** Diane Coe, Deb Baker, Hank Ernst, Bobbi Wendt, Susan Metzger, and Margaret Fast  
**SUBJECT:** BAC Messages to the KWA and Meeting Notes

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Attached are the notes for the Basin Advisory Committee (BAC) meetings held February 23 – March 11, 2010.

In addition to the meeting notes three BACs provided a message to the Kansas Water Authority. Their messages, relevant background information and staff input follow.

**KANSAS-LOWER REPUBLICAN**

The Kansas-Lower Republican BAC met on March 11, 2010, and approved the following message.

The Kansas-Lower Republican BAC recommends that further study and evaluation of the implications of Senate Bill 510 are needed before implementation and approval.

**Background:**

On the agenda was an update on Legislative Issues including introduction of Senate Bill 510. Senate Bill 510 amends the Kansas Water Appropriation Act to create “conservation use” as a beneficial use of water. Members of the KLR BAC discussed the potential scenarios in which a conservation use water right would be applied and expressed concern about possible opportunities to abuse the intent of the legislation.

**Staff Input:**

The Kansas Water Authority appreciates the interest and concern expressed by the committee on the introduction of Senate Bill 510. In March 2010, the Kansas Legislature directed the bill to interim study, supporting your recommendation that additional evaluation is needed. Your basin planner will keep you informed on updates to this bill, as well as other natural resource legislation at your summer meeting.

**MARAIS DES CYGNES**

The Marais des Cygnes BAC met on February 23, 2010, and approved the following message.

It is recommended that the Marais des Cygnes BAC support the Kansas Forest Service, with assistance from the RC&D’s, in continuing to find pilot projects to make use of waste woods as well as study the economic value of bringing out-of-state companies, or finding local companies, with interest in making use of cellulosic feedstock to create a wood and grass cellulosic economy based on using waste feed stock, plus cellulose grown as a farm crop.

**Background:**

Larry Biles from the Kansas Forest Service completed the Kansas State-Wide Woody Biomass Supply and Utilization Assessment in October 2009. This study was funded by the Kansas Forest Service in cooperation with the USDA – Forest Service to produce a statewide woody biomass supply assessment as a necessary step to ultimately increase the utilization of low-value wood waste and the production of bio-energy. Mr. Biles presented a summary of the report to the Marais des Cygnes BAC describing the opportunities to produce renewable energy, develop bio-based businesses, generate energy cost savings, and create new markets for

low value waste wood resources that woody biomass utilization offers. Members of the Marais des Cygnes BAC discussed the need for a wood and grass cellulosic economy that would support the work completed by Mr. Biles in order to continue his efforts. The BAC thought that assistance from the local RC&D's would open up an avenue to continue the pilot project work that makes use of the waste woods as conducted by Mr. Biles and also begin the steps towards a wood and grass cellulosic economy.

**Staff Input:**

The KWA commends the Kansas Forest Service for its efforts in conducting such assessments and encourages pilot projects with the assistance of the local RC&D's and other partners. The KWA encourages BAC members to stay engaged in this effort between the local RC&D's and the Kansas Forest Service. This project is an excellent example where increased participation by BAC's can lead to greater involvement at the local level and increased project recognition within the basin.

**NEOSHO**

The Neosho BAC met on February 10<sup>th</sup> and approved the following action:

During the February 10, 2010 BAC meeting the Neosho BAC made a motion to draft and send a letter to David Barfield, Chief Engineer, DWR concerning the Ozark aquifer moratorium regulation K.A.R. 5-3-29 and use of the aquifer. The Neosho BAC had previously sent a message to the KWA to recommend that the Chief Engineer, DWR, lift the moratorium on new water rights and not impose a new moratorium or safe yield for the area. The BAC, in order to meet the March 31, 2010 deadline set by the Chief Engineer for accepting input, did not approve a message for the May KWA meeting, but drafted the letter and sent it prior to the deadline. The BAC stated that the Chief Engineer, DWR, should lift the moratorium and not impose a new moratorium or safe yield for the area because of the lack of regulation in Missouri and, more importantly, based on the results of the USGS report which shows the City of Pittsburg's water-level declines not falling below pumping levels, even with a 4% pumping increase in the modeled area. The BAC also recognized the need for a regional effort to be made to ensure the water needs of the SE Kansas area can be met for both large and small entities. The suggested an allocation system for the aquifer for the involved entities. The letter sent by the BAC is attached for your review.

**UPPER ARKANSAS**

The Upper Arkansas BAC met on March 2<sup>nd</sup>, and approved the following messages.

**Message 1.** The Federal reservoir water consumers should pay a fee to be used to buy more storage in the lakes.

**Background:**

Over the past year, the Reservoir Sustainability Initiative has developed recommendations to meet future water supply needs in the Reservoir Roadmap report. Reservoir Roadmap Volume II includes the statutory and budget considerations needed to address sustainable water supply. The primary recommendation resulting from this review is to establish a comprehensive Kansas Reservoir Sustainability Act. The report also includes the option of purchasing additional storage in Federal reservoirs. Total funding needed for purchase of additional federal storage over the next 40 years is \$119 million.

There are no large reservoirs in the Upper Arkansas basin that provide water supply storage. All municipal and industrial needs in the basin are met from ground water supplies.

**Staff Input:**

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. KWA will consider the Upper Arkansas Basin recommendation as options to secure additional storage are evaluated.

**Message 2.** The Upper Arkansas has concerns about the legislation and budget, including the status of the Interstate Litigation Fund, the continued funding of the Interstate Litigation Engineer in the DWR Garden City Field Office, bills concerning water rights and related abandonment issues and the addition of conservation as a beneficial use of water to the Water Appropriation Act. The Upper Arkansas BAC requests Kansas Water Authority and Kansas Water Office continue monitoring these activities. Further, the BAC asks that KWO keep the BAC informed and update the BAC, as possible, about these items.

**Background:**

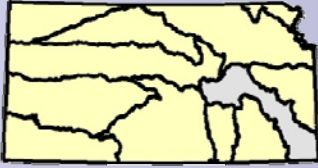
The Kansas-Colorado Arkansas River Compact was negotiated in 1948 between the states of Kansas and Colorado with the stated purposes to settle existing disputes and remove causes of future controversy between the states concerning the waters of the Arkansas River and to equitably divide and apportion between the states of Colorado and Kansas the waters of the Arkansas River. Kansas filed *Kansas v. Colorado*, No. 105, Original, in 1985 to enforce the terms of the Kansas-Colorado Arkansas River Compact. On May 15, 1995, the United States Supreme Court determined that Colorado had violated the Kansas-Colorado Arkansas River Compact by post-compact well pumping in Colorado.

The KS vs. CO lawsuit financing included local contributions when insufficient state funds were available. The success of the litigation provided reimbursement to those that contributed and funds for future litigation placed in the Interstate Litigation Fund established by the State Legislature. These funds were designated for use to enforce or represent Kansas interests in interstate compacts and issues. With the transfer of funds out of the Interstate Litigation Fund for other State budgetary needs, there is great concern that resources will not be available to continue the monitoring and legal actions to ensure Kansas continues to receive its share of the Arkansas River flows. In addition, the Interstate Litigation Engineer is important to the continuance of flows into Kansas as the position monitors compact compliance and water accounting in John Martin Reservoir. A position supporting the Interstate Litigation Engineer was eliminated by DWR. The maintenance of Arkansas River flow from Colorado has a direct economic impact to south west Kansas.

The 2010 Legislative session has seen numerous bills related to the Water Appropriation Act and the rules and regulations governing water appropriations. Water appropriations are an integral part of the agricultural economy of south west Kansas. Any changes to the Appropriation Act or related rules and regulations have the potential to affect the basin water use and economy.

**Staff Input:**

KWO staff works with the local stakeholder group and the BAC to keep them informed on activities related to the Arkansas River Compact including the status of the Interstate Litigation Fund and the Interstate Litigation Engineer. KWO will continue to monitor and inform the BACs on these areas of concern. KWA will provide input to the Kansas Legislature to reinstate funds into the Interstate Litigation Fund from a source other than the State Water Plan. KWA will inform the Chief Engineer of the Upper Arkansas BAC concerns that resources remain in place to monitor compact compliance.



# Neosho Basin Advisory Committee

Meeting Notes

March 26, 2010

David Barfield, Chief Engineer  
Division of Water Resources  
Kansas Department of Agriculture  
109 S.W. 9<sup>th</sup> Street  
Topeka, KS 66612-1280

Dear Mr. Barfield:

I am writing this letter on behalf of the Neosho Basin Advisory Committee (BAC) concerning the Moratorium Regulation K.A.R. 5-3-29. As the BAC we understand that you have until December 31, 2010 to make a decision regarding the Regulation. As stated in the previous message to the Kansas Water Authority, the Neosho BAC recommends that the Chief Engineer, DWR, lift the moratorium on new water rights and not impose a new moratorium or safe yield for the area. This area should not have a moratorium in place, nor be subject to safe yield, due to the lack of regulation in Missouri and, more importantly, based on the results of the USGS report which shows the City of Pittsburg's water-level declines not falling below pumping levels, even with a 4% pumping increase in the modeled area. The USGS study results give evidence that additional allocation of the aquifer to meet water supply needs in the area should be allowed.

Beyond lifting the Moratorium and not imposing safe yield, the Neosho BAC also recognizes the need for future planning to utilize the Ozark aquifer and the Spring River responsibly. A regional effort needs to be made to ensure the water needs of the SE Kansas area can be met for both large and small entities. By working together, an allocation of the aquifer could be made that helps municipalities to better plan the financial investment that is needed to build, operate, and maintain a sufficient water treatment facility. It would be beneficial if municipalities could reserve future water use so they can plan for municipal and industrial growth to assure that future water needs can be met. The option of allocating the aquifer to those holding current water rights for future use is a possibility we think is worth evaluating. This type of allocation could possibly be done based on growth projections, projected water use based on past water use, and using a more regional approach.

## MEMBERS:

**JAMES TRIPLET**  
**CHAIRPERSON**  
Fish and Wildlife  
Pittsburg, KS

**PEGGY BLACKMAN**  
**VICE CHAIRPERSON**  
WRAPS  
Marion, KS

**DARYL MEIERHFF**  
Conservation/  
Environment  
Emporia, KS

**MATHEW ZIMMERMAN**  
Water Assurance District  
Emporia, KS

**MORGAN MARLER**  
Other Public Water  
Supplier  
Hillsboro, KS

**PAT SAUBLE**  
Agriculture  
Cedar Point, KS

**ROBERT HAMMOND**  
Industry/Commerce  
New Strawn, KS

**RONALD NURNBERG**  
Watershed District  
Emporia, KS

**STEVE KUBLER**  
Municipal Public Water  
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Chanute, KS

For questions please  
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David Barfield, Chief Engineer  
Division of Water Resources  
Kansas Department of Agriculture  
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In looking at a regional approach the Neosho BAC discussed that perhaps the KWA or KWO may have a role in helping to begin discussions between entities to encourage a regional cooperation. The Ozark subcommittee and the Neosho BAC thought it would be beneficial if the subcommittee continued to meet, to work on a regional approach to efficiently use both the Spring River and the Ozark aquifer. By working together, the subcommittee, BAC, DWR, KWO, and KWA could effectively work on implementing the *State Water Plan*, creating a regional cooperation, efficiently allocating the aquifer, and beginning communications with the surrounding states to ensure an adequate supply of water for the area.

Thank you for your time and effort on this concern. If you have further questions or comments, please do not hesitate to contact any of the members of the Neosho BAC. Thank you and we look forward to working with you on this and other matters.

Sincerely,

Peggy Blackman

Vice-Chairperson of the Neosho Basin Advisory Committee