

Western
Water
Conservation
Projects
Fund Grant

2009

Kansas Water Office Contract Number 08-0129

The Fund began year 2009 with \$9,927,298 and ended the year with \$9,417,006. There were expenditures totaling \$748,027 and interest income totaling \$237,735. The Fund incurred a net reduction in 2009 of \$510,292. The 2009 Audit Report for GMD3 found secured Fund investments and an accepted expenditure procedure.

By the

Southwest Kansas Groundwater Management
District Number 3

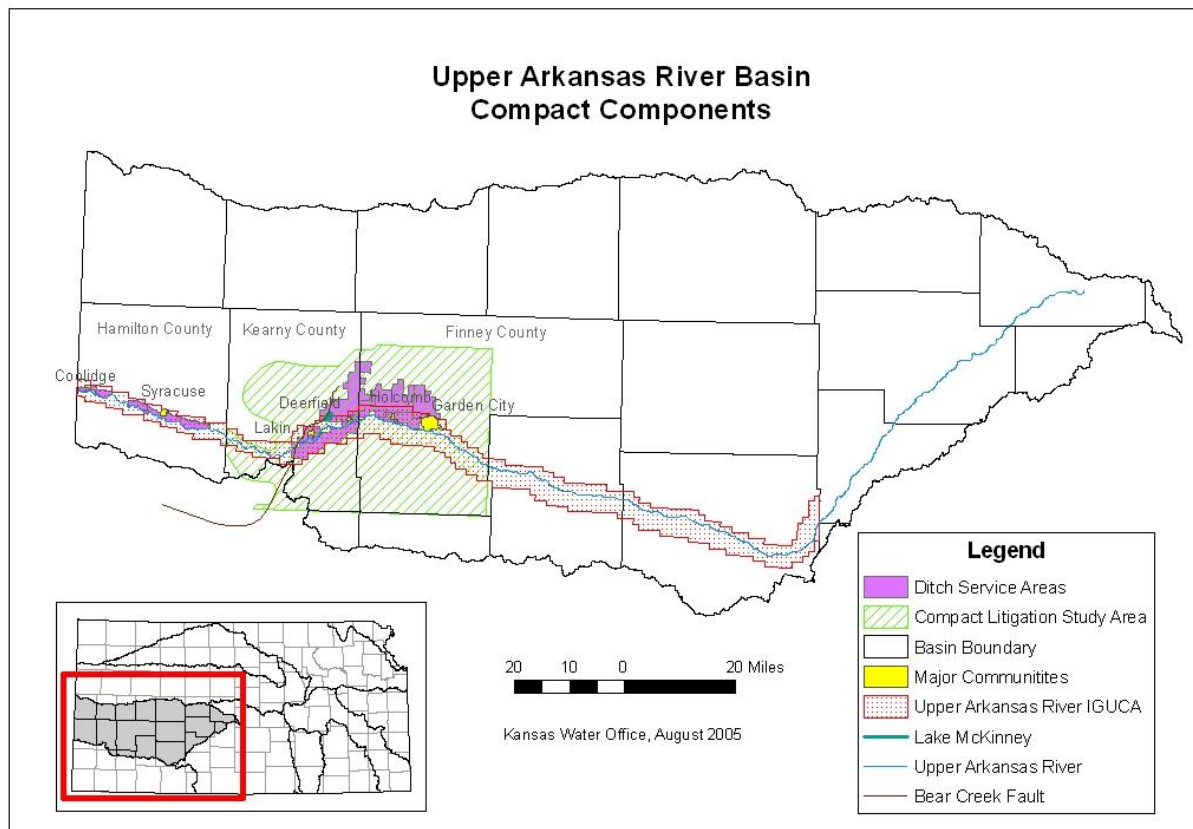
Annual
Legislative
Report

Western Water Conservation Projects Fund Grant
Kansas Water Office Contract Number 08-0129

2010 Legislative report of Fund activities in 2009
By the Southwest Kansas Groundwater Management District No. 3

Purposes of the Fund

As the result of litigation filed with the United States Supreme Court (*Kansas v. Colorado*, No. 105 Original), the State of Kansas received a \$34.7 million damage award from the State of Colorado for actual losses and expenses to crops and fields in Southwest Kansas, with interest, attributed to Colorado violating the Arkansas River Compact (Compact, K.S.A. 82a-520). Kansas statute KSA 82a-1801-1803 stipulates the portion of these funds placed in the Water Conservation Project Funds (WCPF) Reserve Account be used for projects that contribute to water conservation efficiency in the area directly affected.



82a-1803. Establishes the WCPF to be administered by the director of the Kansas Water Office. The water conservation projects fund may be used in those areas of the State lying in the upper Arkansas River basin and directly impacted by the shortage of water caused by overuse of the Arkansas River in Colorado. The Director of KWO and the Chief Engineer are directed to give priority to: (1) projects that achieve the greatest water conservation efficiency for the general good; and (2) projects that have been required by the Division of Water Resources.

General WWCPF project goals are to maximize general public good (public interest), maximize efficiency of call water for ditch irrigation (transient losses), maximize benefits of high flow water to improve recharge and mitigate water quality problems in surface and ground water, reduce consumptive use of water to help stabilize the system, as well as improve the stability of the hydrologic system for remaining irrigators, and meet compact compliance.

A General Fund Background prior to the KWO Grant Agreement provided by the Kansas Water Office

- 1996 - Legislation passed (K.S.A. 82a-1801 et seq.) creating Water Conservation Projects Fund as part of an overall allocation system for financial damages accrued to Kansas from the Arkansas River litigation
 - KWO charged with administering fund with input from Chief Engineer
- 2005 - \$34.7 million received from Colorado and distributed as prescribed by '96 Legislation
 - \$9.7 million to Water Conservation Projects Fund (2/3)
 - \$4.8 million to State Water Plan Fund (1/3)
 - \$20.2 million to Litigation Fund
- 2006 - \$1.1 million received from Colorado
 - Not distributed per '96 Legislation
 - Placed in a suspense account
 - Eventually transferred to SWPF to fund DWR's Interstate Water Issues
- 2006 & 2007 – Funding appropriated from WCPF to reimburse GMD#3 and Ditch Companies for expenses incurred during litigation, project reconnaissance, feasibility studies and project oversight
 - Projects included:
 - Southside Ditch Alternative Delivery System
 - Southside Ditch Lining
 - Lake McKinney Renovation
 - Enhanced Aquifer Recharge Projects
- 2008 – Appropriations language directs KWO to transfer remaining balance of \$9.964 million to Groundwater Management District No. 3
 - Includes \$9.225 million from WCPF & \$739K from State Water Plan Fund
 - Other provisions included:
 - Must be used for same purposes as WCPF
 - Creation of an advisory committee consisting of ditch companies
 - GMD No. 3 submits expenditure and status report to KWO every 3 months
 - Annual report to Ways and Means and Appropriations
- August 6, 2008 – KWO and GMD No. 3 enter into agreement to transfer funds and establish appropriate oversight procedures per 2008 Appropriations Act proviso.

GMD3 Received the Western Water Conservation Projects Fund (Fund) under KWO MOA.

When the 2008 Kansas Legislature provided the opportunity to Southwest Kansas Groundwater Management District No. 3 to administer the Fund through a grant agreement with the KWO, it provided an efficient way to accomplish the purposes of the Fund and allowed the interest from the Fund to also accrue to the purposes of the Fund.

Projects funded in whole or in part by the Western Water Conservation Project Fund must be in the area impacted by the Arkansas River Compact violations by Colorado and meet eligibility requirements and goals in K.S.A. 82a-1803 and Senate Bill 534. Under the provisions of SB 534 and the KWO Grant Agreement, the Arkansas River Litigation Fund Committee established in 2005 became the advisory committee to the GMD3 board, who in turn manages the funds,

approves expenditures and projects and makes recommendations to the Director of the Kansas Water Office who must approve all projects, in consultation with the chief engineer, for compliance with K.S.A. 82a-1803.

The Southwest Kansas Groundwater Management District Board of Directors.

The board of directors for GMD3 is comprised of 15 members, one from each of the twelve counties having all or a part of the county in the district, one surface water representative, one industrial water use director and one municipal use director. The directors serve three year terms and are elected by the members of the district at an annual meeting generally held each March. Candidates are nominated during a nomination period that ends prior to the annual meeting. The director service is not a paid position and involves a considerable time commitment to monthly board meetings, special meetings and working committee meetings. There are four executive committee members supported by an executive director, staff and consultants as needed. We believe the mission of the groundwater management district as described in the GMD Act and the established working relationships with water users, water interests and other water agencies is well suited for the management role of the Fund and it's purposes.



Chief Engineer David Barfield discusses water rights policy with the GMD3 Board.

Arkansas River Litigation Fund Advisory Committee (ARLFAC)

A stakeholder group was formed in 2005 comprised of representatives from the six irrigation ditch companies, Compact representatives, Southwest Kansas Groundwater Management District No. 3 (GMD3) to provide recommendations and guidance on projects. KWO and DWR staff provides advice and guidance to this committee. The ARLFAC is chaired by Randy Hayzlett, who is a Compact Commissioner for Kansas, a representative of the South Side Irrigation Association and a member of the Upper Arkansas Basin Advisory Committee. ARLFAC members have given significant attention to the river management issues and Compact issues for many years. A preliminary list of projects believed to fit the requirements of K.S.A. 82a-1803 was developed by this stakeholder work group based on the "Upper Arkansas River Conservation Project Reconnaissance Study" conducted by GMD3 in 2005. These were prioritized and three feasibility studies were initiated in 2006.

The Arkansas River flows in both States have long been fully appropriated by existing water rights and are diverted from the Arkansas River. Additionally, groundwater withdrawals further cut into the base flows to the river in both Colorado and Kansas. Therefore, The Arkansas River flow in southwestern Kansas is highly dependent on the irrigation demands of Kansas ditches, which have been diverting surface water since the 1880's. Thus, water called for by the six Kansas irrigation canal companies is put to beneficial use in Hamilton, Kearny, and western Finney county as permitted under their vested water rights. Therefore, the ARLFAC is comprised of the primary stakeholder representatives for the purposes of the Fund.

DATES OF ARLFAC MEETINGS

September 11, 2008

September 29, 2008

November 18, 2008

December 17, 2008

February 27, 2009

May 06, 2009

August 19, 2009

September 01, 2009

September 30, 2009

ARLFAC & Monthly Southwest Kansas Groundwater Management District NO. 3
Minutes can be presented upon request.

Arkansas River Litigation Fund Advisory Committee Members:

Name	Representing	Street	City	Telephone/ Email/ Fax
David Brenn	Kansas ARCA Commissioner, GMD3 Board, Surface Water	1710 Pheasant Ct.	Garden City, KS 67846	620 287 4541 Cell 620-260-9605 Fax dbrenn@gcnet.com
Patty Stapleton	Recording Secretary	2009 E. Spruce St.	Garden City, KS 67846	620-275-7147 pstapleton@gmd3.org
Ronald Conway Vice-Chairman	President, Great Eastern Ditch Assoc.	P.O. Box 597	Garden City, KS 67846	620 276 3246 O 620-640-2336 Cell 620-276-2795 Fax conway.ron@sbcglobal.net
Diane Coe	Kansas Water Office	901 S Kansas Ave	Topeka, KS 66612	785-296-3185 O 785-296-0878 Fax diane.coe@kwo.ks.gov
Randy Hayzlett Chairman	Kansas ARCA Commissioner, Southside Ditch Assoc	1112 Road T	Lakin, KS 67860	620 355 7499 H 620-271-4008 Cell 620-355-7064 Fax hayzlett@pld.com
Steven A. Hines	Board of Directors, Frontier Ditch	P.O. Box 147	Coolidge, KS 67836	620 372 8241- 8251 Shop 620-384-4842 Cell 620-372-2636 Fax
Al Knoll	President, Garden City Ditch Company	2385 Chmelka Road	Garden City, KS 67846	620 277 2437
Bob Knoll	President, Southside Ditch Association	12700 W. River Rd.	Holcomb, KS 67851	620 277 2579/640-4857 pknoll@wbsnet.org
Harold Knoll	President, Associated Ditches; President, FI CO Water Users Assoc (Farmers Ditch)	4125 N Anderson RD	Garden City, KS 67846	620 277 2253 620-277-2110 Fax hknoll@gcnet.com
Kirk Maddux	GMD3 Board of Directors	RR1 Box 136	Deerfield, KS 67838	620 426 6787 kandk@pld.com
Mark Rude Treasurer	Executive Director, GMD3	2009 E. Spruce St.	Garden City, KS 67846	620 275 7147 mrude@gmd3.org
Hal Scheuerman	President, Kearny CO Farmers Irrigation Assoc (Amazon Ditch)	P.O. Box 222	Deerfield, KS 67838	620 426 6073 schrman@pld.com 620-426-2973 Fax
Michael Meyer	Water Commissioner, KSDA, DWR	2508 John Street	Garden City Ks. 67846	620 276 2901 620-276-9315 Fax mike.meyer@kda.ks.gov

the ARLFAC for funding. These criteria may be advisable and necessary to keep consistent policy governing weather individual projects meet the purposes of the Fund and are not simply funding normal Operation and/or Maintenance activities. Any additional projects that may be proposed for funding by both the ARLFAC and the GMD3 board will be submitted to the Director of the Kansas Water Office and the Chief Engineer, Kansas Department of Agriculture for their review and approval.

Construction Projects – Who is doing the work

The construction work for approved projects is conducted by individual irrigation associations, organizations or individuals who have the authority to undertake the needed work. The GMD3 board or the ARLFAC do not conduct the work. Payment for work completed occurs from a voucher submittal process under a pre approved sub-project budget amount. The voucher contains specific declaration language agreed to by the submitting project operator. This allows payment to come from the GMD3 to the individual vendor who completed work and reduces the necessity to audit participating organizations and individuals to insure the purposes of the Fund.

The structure and expertise in the advisory committee is uniquely suited to carry out the purposes of the Fund. Membership is comprised of knowledgeable representatives who understand the work that is needed and who have a vested interest in the priority projects under way. We believe their regular review of proposed project details and expenditures provides a powerful assurance that the projects undertaken will be at the least cost for the best results.

Approved Project Phased Construction Budgets

The ARLFAC members proposed working budgets for the current phase of the South Side Alternate Delivery System (ADS) and the Lake McKinney capacity and control improvements with a recommendation for each provided the GMD3 Board. After significant review of plans and engineering estimates, GMD3 board approved limited working budgets for each of these priority projects to allow engineering specifications and construction bidding and construction work to occur without allowing unanticipated and excessive expenditures. Construction work, engineering and right of way expenditures began for the two priority projects early in 2009.

Payment Voucher Submittal and Processing

Payment from the Fund occurs through the submittal of a signed voucher with attached invoices by an approved project operator. The request for payment is reviewed by GMD3 staff for consistency with a project budget amount that has had both ARLFAC and GMD3 board action. The voucher requires signature from an authorized ARLFAC representative and an approved GMD3 board representative. A check is generated by the GMD3 staff to the vendor identified on the voucher and signed by two different GMD3 staff or representatives of the district that are authorized to remit GMD3 funds. All executed vouchers are regularly reviewed by the ARLFAC and the GMD3 board and approved.



Southwest Kansas
Groundwater Management District No. 3
2009 E. Spruce
Garden City, Kansas 67846
(620) 275-7147 phone (620) 275-1431 fax
www.gmd3.org

PAYMENT VOUCHER
GMD3 WESTERN WATER CONSERVATION PROJECTS FUND

Project: _____

Work Completed: _____

Payment Requested by: _____ **Amount:** _____

Representing: _____

Advisory Committee
Signature: _____ **Date Approved** _____

GMD3
Signature: _____ **Date Approved:** _____

Date of Disbursement: _____

Comments:

VENDOR-SUPPLIER NAME AND ADDRESS:

By submitting this voucher, the organization or individual attest that the work has been completed in accordance with applicable specifications and the debt is appropriate and consistent with the purposes of the project, subject to a review by the advisory committee for best use of the funds. The requesting party affirms and agrees: (1) it is solely responsible for all decisions for contract letting and assurance of proper permitting, completion and quality of work; (2) it is solely responsible to secure proper application of the payment to contractors, subcontractors and suppliers, either through sufficient bonding or by an evaluation of the assets of the contractor to protect the use of project funds and insure their purposes occur; and: (3) the Projects Fund has no responsibility for the performance of the work. The party requesting payment has disclosed any interest in the vendor-supplier, and either bids were let for the work or the requested payment represents fair and reasonable value consistent with local costs for similar work.

Western Water Conservation Project Fund project activities

In 2006, feasibility studies for three proposed conservation projects were initiated to collect and analyze data, and further examine the costs and potential resource benefits, as well as the

potential interaction and complimentary effects of multiple projects. The feasibility studies were intended to determine the appropriateness of moving forward with the proposed water conservation projects. The three were:

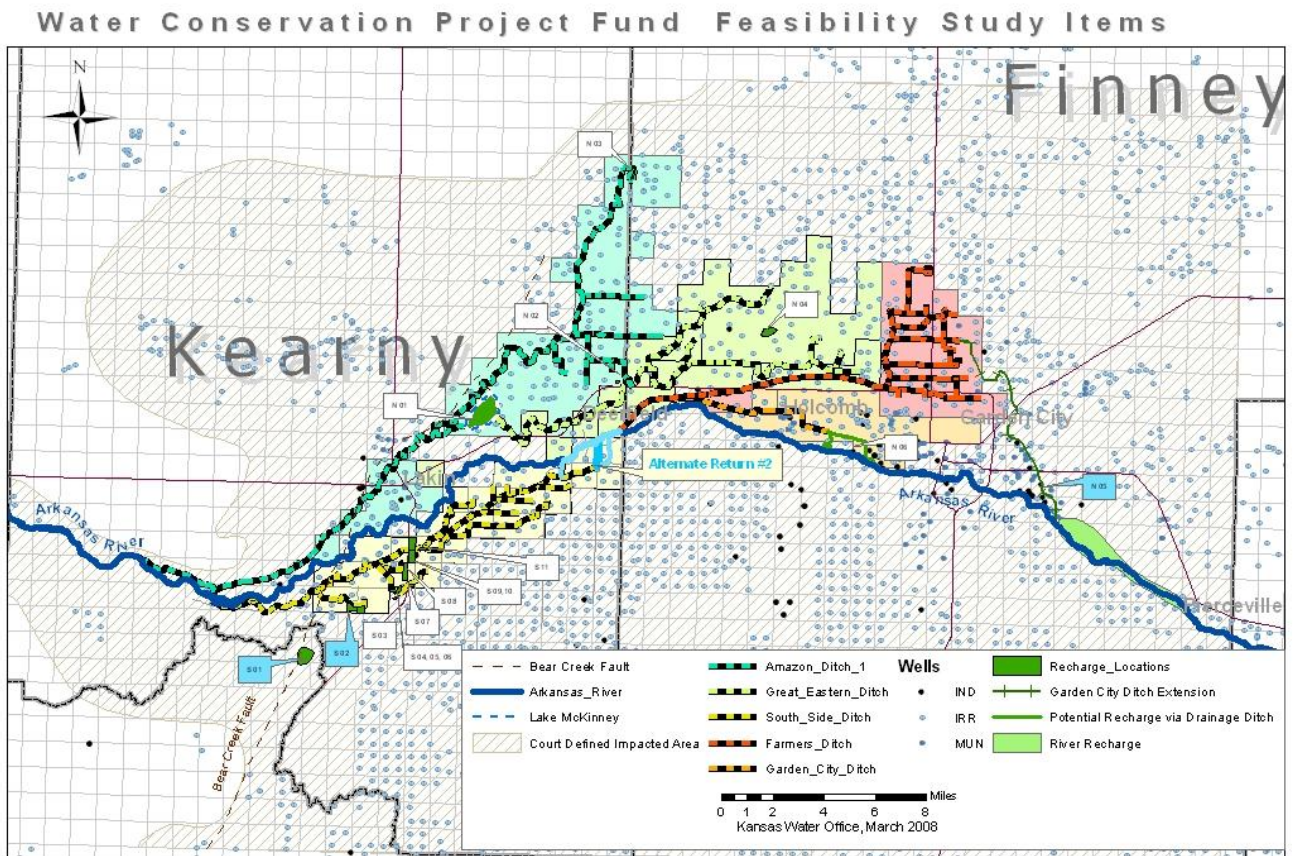
1) Southside

- a. Southern Alternative Delivery System
- b. Lining of Southside Ditch

2) Lake McKinney

- a. Restoring Lake McKinney capacity, Update Control Structures
- b. Alternate delivery system around Lake McKinney

3) Arkansas River: Enhanced Aquifer Recharge from Arkansas River Flows



Recharge Project Status

The result of the recharge feasibility study was to recognize the limitations and expense of relatively small and distributed site projects with two options having some attractive possibilities; the Bear Valley site and the river channel below Garden City. Additional action to further investigate the feasibility of individual sites was put on hold until completion of the Preferred Interstate Supply Assessment Project.

South Side Ditch Irrigation Association Alternate Delivery System through South Side Ditch

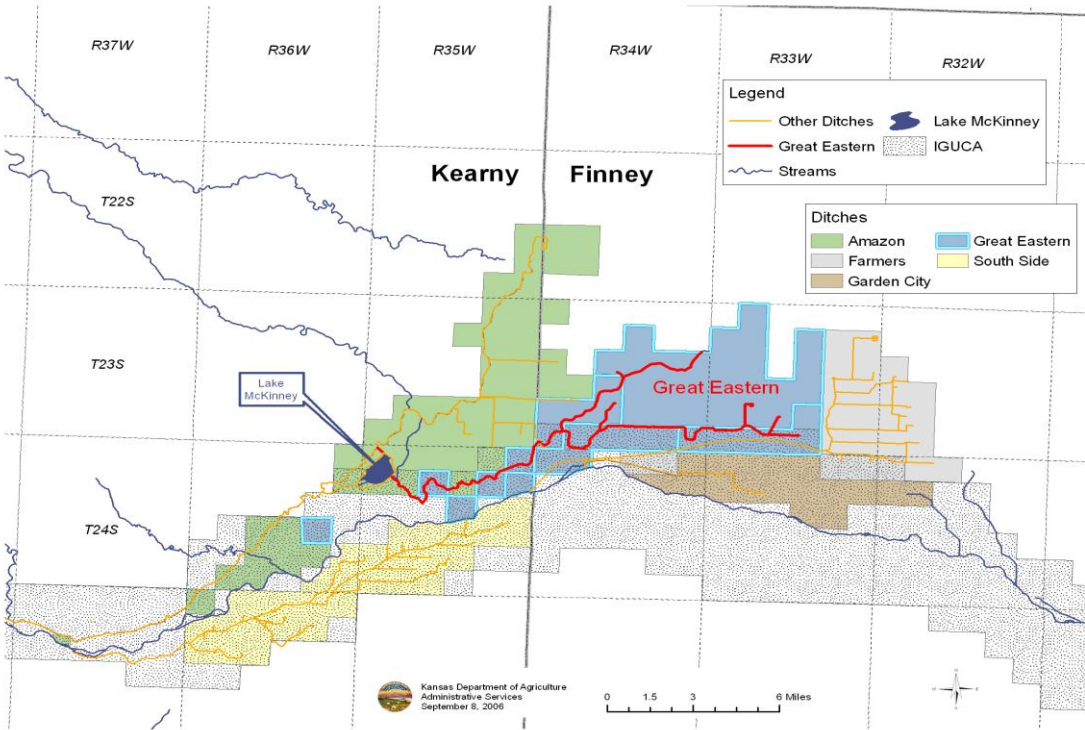
Approval of up to \$200,000 was granted by the GMD3 board for initial engineering and right of way acquisition. Preliminary engineering design and construction cost estimates were completed in early 2009. Requests for bids were let by the construction engineer for the Southside project phase one. A bid was accepted for the construction that was significantly less than engineer estimates. ARLFAC review and GMD3 board approved of a \$500,000 construction budget. Due to some legal questions regarding existing right of way and efforts to accommodate landowner concerns, an alternative proposed route for the connector ditch was designed to avoid the center of several pivot irrigation fields. The proposed work was adopted. Work is progressing on key control structures.

Very good coordination and cooperation is occurring between the South Side Irrigation Association, the Kearny County Commissioners and the members of the ARLFAC. Kearny County has agreed to contribute resources to replace two bridges where County Roads cross the ditch system work, which saves Fund dollars.

Lake McKinney Projects

Engineering began in 2008 for the construction needs to restore part of the historic storage capacity of Lake McKinney including replace the dam outlet control gates and rebuilding two dikes, as well as design of a lake bypass for use when water supply is limited. Approval of up to \$200,000 was granted by the GMD3 board for initial engineering and right of way acquisition. Bids were received by the Garden City Company who owns the Lake and a bid was accepted with review by the ARLFAC. Although construction work began in late 2009, the special nature and availability of the steel control gates has caused significant delays and threatens to effect water diversions into the lake for 2010.





Location of Lake McKinney near the borders of Kearny and Finney Counties, southwest Kansas.

Lake McKinney Capacities

Date	Surface Area	Capacity in Acre Feet
February 10, 1907	3,000*	15,000*
Fall 1907	2,560 (unknown)	11,066.42 (21' Depth)** 18,722.28 (25' depth)
1909	3,200	31,063.09
1954	1,410	22,837.00
1977	947.46	Unknown
1989	818	3,996.00

*Early unsubstantiated estimates

**Apparently water could not be raised above this level because of a leak in the dam.

History of Lake McKinney loss of storage capacity with time.



Old Outlet works with silt and grass indicating capacity loss in Lake McKinney

Preferred Interstate Supply Assessment

A third project authorized in late 2008, the “Preferred Interstate Supply Evaluation” will review the Arkansas River operational factors controlled by the Compact and associated agreements, and the U.S. Supreme Court decree in *KS vs. Co* to determine which river operations may be managed to maximize the water supply into Kansas and GMD3. The authorized budget for the full project is \$100,000. The evaluation will also review the river infrastructure and existing project studies to identify the projects and operating protocols that would maximize the beneficial water supply.

The first part of that study effort to pull together all of the pertinent documents and descriptions occurred at a cost of \$12,000, with a report and a reference appendix produced by Spronk Water Engineers in November 2009. From this work it is expected that some engineering of possible river operation alternative may occur and that flood stage recharge feasibility may also be further developed working from the earlier recharge feasibility study conducted by Burns and McDonald Engineering and the Kansas Water Office.