

Western  
Water  
Conservation  
Projects  
Fund Grant

2010

2011 Legislative Report on Fund Activity

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**Kansas Water Office Contract Number 08-0129 per 2008 SB 538**

The Fund began year 2010 with \$9,417,006 and ended the year with \$7,837,658. There were expenditures totaling \$1,674,305 and interest income totaling \$94,957. The Fund incurred a net reduction in 2010 of \$1,579,348. The 2010 Audit Report for GMD3 found secured Fund investments and an acceptable expenditure procedure.

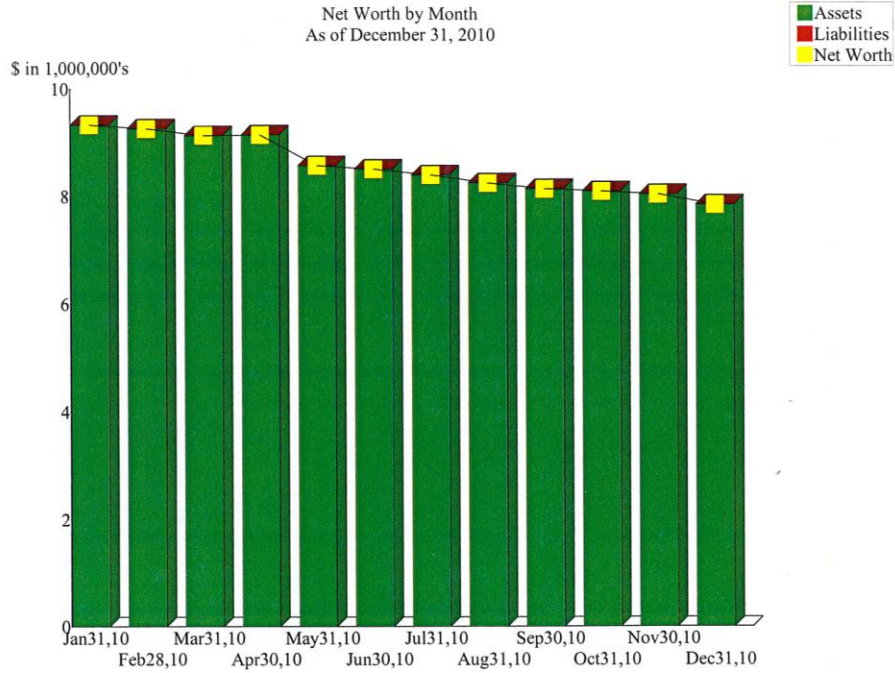
Submitted By:

Southwest Kansas Groundwater Management  
District Number 3

Annual  
Legislative  
Report

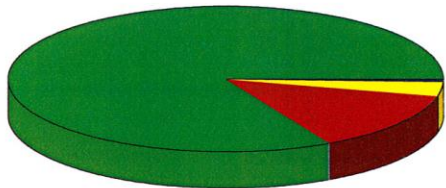
**Western Water Conservation Projects Fund Grant**  
**Kansas Water Office Contract Number 08-0129**

**2011 Legislative report of Fund activities in 2010**  
**By the Southwest Kansas Groundwater Management District No. 3**



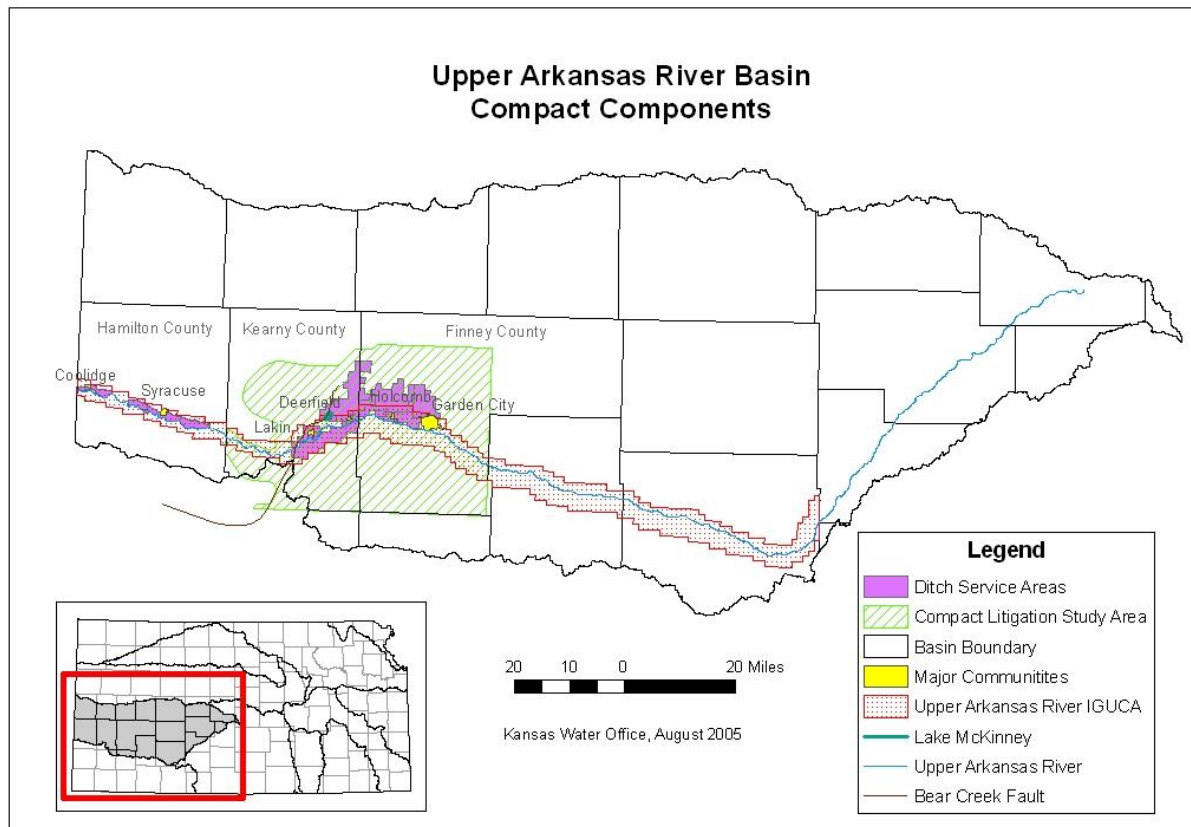
Assets Summary  
As of December 31, 2010

Investments CDs	%82.93
Commerce MM Inv Savings	13.42
Western State MM-Inv Savings	3.29
Commerce Checking	0.35
<b>Total</b>	<b>\$7,837,658.06</b>



## Purposes of the Fund

As a 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.



## Arkansas River Litigation Fund Advisory Committee (ARLFAC)

A stakeholder group was formed in 2005 comprised of representatives from the six irrigation ditch companies, Arkansas River Compact commissioners and the GMD3 to develop the recommendations and guidance to the legislature on the use of funds received from damages quantified in the *Kansas vs. Colorado* compact dispute. KWO and KSDA/DWR staff provided 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 Ditch Irrigation Association and a member of the Upper Arkansas River Basin Advisory Committee to the Kansas Water Authority. ARLFAC members became the projects advisory committee when some of the damage funds were granted to GMD3 to carry out the purposes of what became the Western Water Conservation Projects Fund. This advisory committee membership has given significant attention to the river management issues and interstate 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.

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 have 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 irrigation ditch companies, which have been diverting surface water since the 1880's. Thus, water called for by the six Kansas irrigation ditch companies under their vested water rights. The ARLFAC is comprised of the primary stakeholder representatives for the purposes of the Fund.

### **Dates of ARLFAC meetings In 2010**

February 18, 2010

March 24, 2011

April 13, 2010

May 21, 2010

June 18, 2010

August 31, 2010

September 15, 2010

October, 28, 2010

November 17, 2010

December 29, 2010

ARLFAC meetings & monthly Southwest Kansas Groundwater Management District NO. 3 board minutes can be accessed online at <http://www.gmd3.org/Minutes.htm> .

**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 (reduce transit 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, as well as improve the stability of the hydrologic system for water users, 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, it protected a portion of the damage compensation from future legislative budget processes and allowed the interest from the Fund to 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 the local management strategies for Kansas water. Under the provisions of SB 534 and the KWO Grant Agreement, the Arkansas River Litigation Fund Committee established in 2005 was able to become the advisory committee to the GMD3 board, who manages the funds, approves expenditures and provides submittals to the Director of the Kansas Water Office for approval of all projects, in consultation with the chief engineer (KSDA), for compliance with K.S.A. 82a-1803.

### **GMD3 Management.**

The Kansas legislature recognized in the late 1960's and early 1970's that groundwater is best managed starting at the local level. The mission of the groundwater management districts as described in the 1972 Groundwater Management District Act (K.S.A. 82a-1020 et. seq.) and the existing working relationships with water users, water interests and water agencies provides a management structure that is well suited for the efficient management of this Fund and its purposes.

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.

Time and service provided by a board member to the area water interests is volunteer position that involves considerable commitment to monthly board meetings, special meetings with other organizations, working committee meetings and community leadership that is necessary to address the operation and water management concerns of the area. There are four executive committee members supported by an executive director, staff and consultants who work closely with the volunteer Fund advisory committee of surface water user representatives.



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

## Arkansas River Litigation Fund Advisory Committee Members:

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

## Calendar year 2008 began local management of the Fund

A check was received from the Department of Administration in August 2008 which put dollars in the local Fund for GMD3 management. A special Arkansas River Litigation Fund account outside the GMD3 general fund was created by the governance of the GMD3 in 2005 and has been carried forward in the budget as a place holder amount of \$15.5 million. The budget bucket to receive the funds had to be larger than the actual fund amount. Therefore, the GMD3 financial statement indicates a much larger budgeted amount than what actually exists in that Fund account.



There were no expenditures from the Fund in 2008 and \$48,508 in interest accrued for that partial year. Work in 2008 centered primarily on investing and securing the funds, setting up internal processes to manage the funds and expenditures and developing the initial funding needs and expenditure submittal processes with the ARLFA Committee for proceeding with the approved project priorities.

The ARLFAC met regularly in the GMD3 office and began working closely with the GMD3 board of directors to implement the purposes of the Fund. With a delay in receiving our audit report for 2008 and with the limited Fund activity, the 2009 legislative report was limited to several e-mails and financial statements to the committee chairs.

## Calendar year 2009

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.

## Project Approval

Projects for funding assistance are proposed to GMD3, reviewed by the ARLFAC for benefits and the beneficial improvements of the area directly affected by the damages quantified in the Ks vs. Co case. Recommendations are provided to the board of GMD3 for project funding approval. A request for project approval is then submitted to the Director of the Kansas Water Office and the Chief Engineer, Kansas Department of Agriculture for their review and approval as consistent with the statutory purposes of the Fund. Project approval has been received from

the Director of the Kansas Water Office for the Southside Alternate Delivery System, the Lake McKinney projects, the Preferred Interstate Supply Assessment, Amazon Canal Headgate Improvements and the Frontier Flume Project. Three projects under development include “An Appraisal Investigation for Improving Drinking Water Quality in the Arkansas River Basin in Hamilton and Kearny Counties, Kansas,” an improvement project for the Amazon Ditch Flume over Sand Creek, near Lakin, and a System Optimization Review of the Associated Ditches and River System in Kearny and Finney Counties, Kansas.

### **Construction Projects – Who is doing the work**

The construction work for approved projects is conducted by individual irrigation associations, water supply districts or individuals who have the authority to undertake the needed work. The GMD3 board or the ARLFAC generally do not conduct construction work, but provide in-kind assistance, review and approval of approved project expenditures. Payment for work completed occurs from a voucher submittal process under a preapproved 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 performed, 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.

### **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 ARPFAC 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:** \_\_\_\_\_

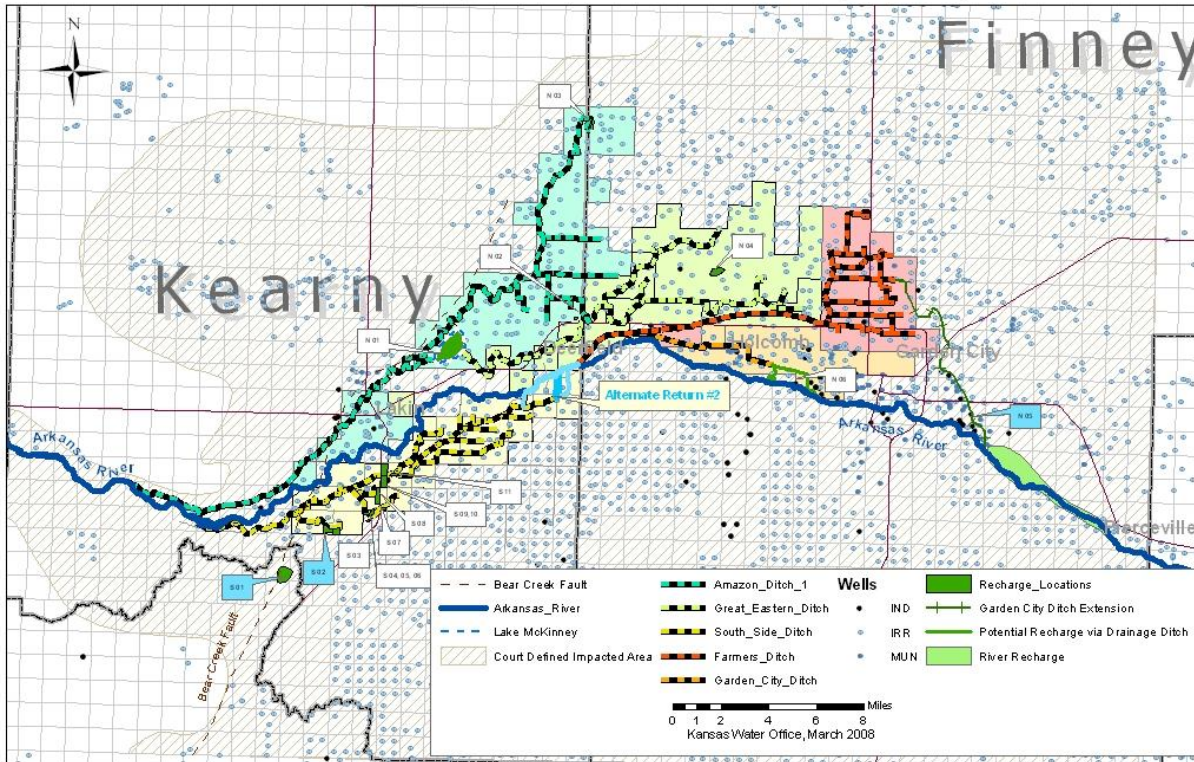
**Date of Disbursement:** \_\_\_\_\_

**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.

## Water Conservation Project Fund Feasibility Study Items



### Western Water Conservation Project Fund project activities

- 1) **South Side Ditch** (Construction to be completed, 2011)
  - a. Southern Alternative Delivery System
  - b. Lining of Southside Ditch
- 2) **Lake McKinney** (Construction to be completed, 2011)
  - a. Restoring Lake McKinney capacity, Update Control Structures
  - b. Alternate delivery system around Lake McKinney
- 3) **Arkansas River:**
  - a. Enhanced Aquifer Recharge from Arkansas River reconnaissance study completed.
  - b. Specific site and operational evaluations to follow.
- 4) **Preferred Interstate Supply Assessment**
  - a. Institutional Structure and Agreement evaluation completed.
  - b. Added evaluations to follow.
- 5) **Amazon Headgate Improvement Project**
  - a. Submittal for Bureau of Reclamation WaterSMART grant program for funding assistance unsuccessful.
  - b. A second submittal for a WaterSMART grant to leverage funds anticipated in 2011.
- 6) **Amazon Canal Sand Creek Flume Evaluation** (completion in 2011).

- 7) **Frontier Ditch West Bridge Creek Flume Evaluation** (completion in 2011).
- 8) **Frontier Flume Project**
- 9) **Arkansas River Gage Funding initiative**
- 10) **A System Optimization Review of the Associated Ditches in Kearny and Finney Counties, Kansas.**
- 11) **An Appraisal Investigation for Improving Drinking Water Quality in the Arkansas River Basin in Hamilton and Kearny Counties, Kansas.**

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

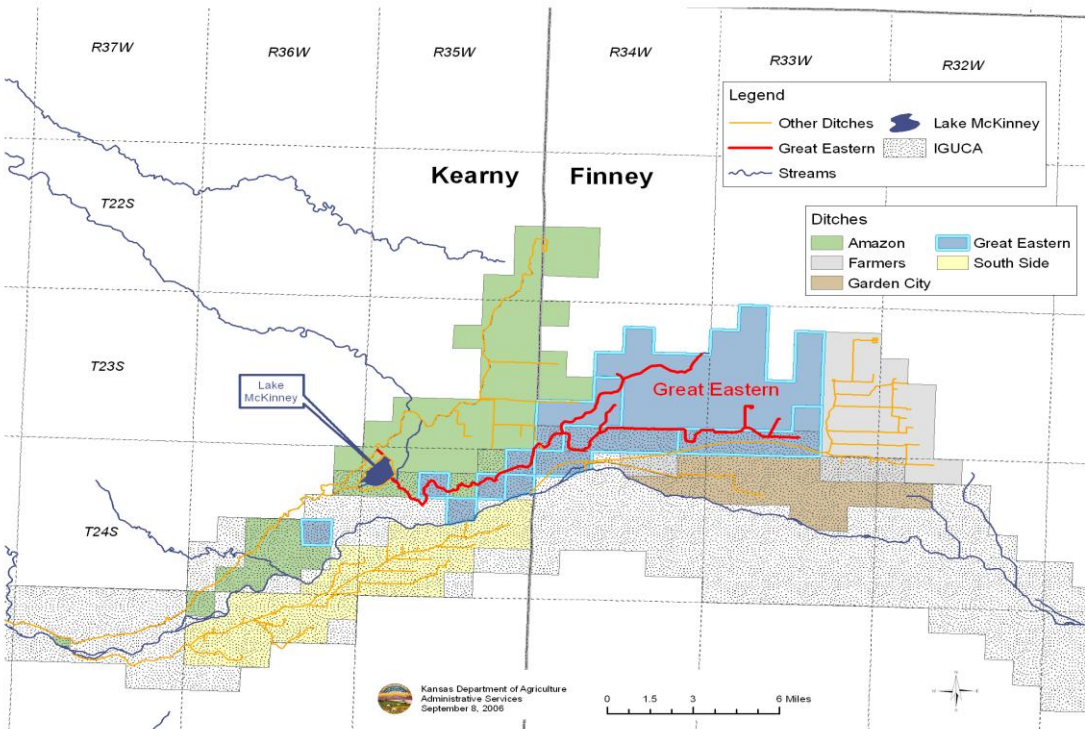
Very good coordination and cooperation is occurring between the South Side Irrigation Association, the Kearny County Commissioners and the members of the ARLFAC. Kearny County has contributed resources to replace two bridges where County Roads cross the ditch system work, which saved Fund dollars. The project is in the final stages of work at the end of 2010 and expected to be complete by first run of water in 2011.

### **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 caused significant.



Hole in center of Lake McKinney Dam for control gates work.



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

### Financial statements:

Attached with this report are the financial statements of the Southwest Kansas Groundwater Management District No. 3, as audited and opined by Lewis, Hooper & Dick, LLC, Certified Public Accountants, Garden City, Kansas. On page six (6) is Statement 3, Arkansas River Water Conservation Projects Fund, which contains the record of transactions and interest for the Fund described in this report. 99.65% of the Fund was invested in interest bearing accounts at December 31, 2010.