WATER POLICY FUTURE

by Paul Johnson

Water is critical to Kansas’ future and water planning is essential. There have been numerous committees, panels, forums, and conferences over the years discussing water but the tough decisions still lie ahead. In simple truth, Kansas issued too many groundwater permits in the 1950’s - 1960’s, especially over the Ogallala aquifer – so the draining of this aquifer was inevitable due to use exceeding the minimal slow recharge. It was just a question of how rapid the mining of this non-rechargeable water source would be.

If ‘water rights’ are unquestionably ‘property rights’ then Kansas has limited options to slow down the excessive pumping from the existing water rights outside of spending millions to buy back these water rights. One question going forward is the impact this groundwater pumping may have on surface water and the rivers and streams feeding into the Kansas River that supplies the water for 1.6 million Kansas residents? This comes at a time when climate change is becoming a real factor in water availability.

State Water Plan (SWP) funding is like the weather – everyone talks about it but who can do anything about it? Started in 1989, the plan was designed to be funded by agricultural fees (pesticides & fertilizer), water user fees, and state taxes of $8 million. At most - the SWP would get close to $25 million annually but since 2010 the State has reneged on an $8 million statutory funding promise. SWP funding has fallen to $15 - $19 million in recent years.

When one considers a State Budget that has increased from $15 Billion to almost $20 Billion today, $25 million is a rounding error as Kansas spends billions on highways, education and health services. The latest Governor’s Select Blue Ribbon committee recommended SWP funding close to $60 million annually to address all that needs addressing, but no one seems to have a clue where to find the revenues (without raiding general sales tax).

While an immediate answer to SWP funding remains elusive especially during a pandemic recession, comprehensive water planning and developing new water law for today’s reality to ensure future water supplies may be a different matter. Fundamental Kansas water law was first developed by lawmakers and stakeholders in 1944 with a development or use it focus. This was followed by another round of basic water law development in 1956, but it has now been 65 years and much has changed with water supply and water quality issues.

Kansas is unique among Western states in having a Division of Water Resources (that regulates water permits) residing in the Kansas Department of Agriculture (KDA). Water planning and certain other services reside in the Kansas Water Office (KWO) with oversight by the Kansas Water Authority (KWA) while environmental concerns over water quality issues reside in the Bureau of Water at the Kansas Department of Health & Environment. State agricultural conservation programs lie with the Division of Conservation within the KDA.

The Kansas House now has a new Water committee that is contemplating some of these fundamental challenges to water policy in Kansas. Professor Burke Griggs, who teaches water law at Washburn Law School, gave a 101 course on water law on January 26 to the House Water Committee and raised some key issues to consider.
Click [HERE](#) for an outline of Grigg’s water law presentation to the committee.

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**ELECTRICAL GRID TRANSMISSION FUTURE**

Kansas is one of 14 states that belong to the Southwest Power Pool (SPP). The SPP operates the electrical transmission grid for these states. There are 792 power plants in this grid. The SPP operates a central dispatch system out of Little Rock, Arkansas, and directs power production over the system utilizing the most efficient plants and the numerous wind farms.

Initially - the SPP thought they could handle at most a 30% wind resource in the grid but as wind has expanded and expertise gained – the comfort level is much higher today. In fact - there have been a couple days over the last few years when wind electricity comprised 100% of the electrons on the grid. For utilities to add new generating units to the SPP system, they provide future power production proposals to the SPP – so the SPP has a 25-year horizon on future power plans.

Today (looking out 25 years), 60% of the new power will come from wind, 30% from solar installations and 10% from battery storage. Commercial scale battery storage is just ramping up in the SPP but the speculation is that this technology will progress even faster than the expansion of the wind industry. As the cost of solar panels has dropped significantly (30-50%) over the last 10 years, solar is far more viable especially as commercial battery storage turns intermittent solar energy into a reliable baseload power source.

The SPP makes annual progress reports to the Kansas Legislature. Mike Ross is the public policy Vice-President for the SPP and will make his annual presentation to the Senate Utilities committee on Wednesday – February 3 – at 1:30 pm (which can be viewed over the internet and will be archived for later viewing).

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**CHILD SUPPORT SYSTEM IN KANSAS**

Child support is critical income to thousands and thousands of Kansas families and children. Today the child support system touches 246,000 children (close to 1 in 3 Kansas children) and a total of 582,000 unique persons. In 2018, $423 million in child support payments were disbursed.

The child support system is a blend of public cases (known as IV-D) administered by the Kansas Department of Children and Families (DCF) and private cases (known as non-IV-D) primarily handled by Court Trustee offices and private attorneys. Unfortunately - the child support system in Kansas (since the 1990’s) has been below the national average of current child support collections and payments on arrearages. In 2018, the national average for current monthly support was 64% while in Kansas it was 57% and for arrearages the national average was 64% compared to Kansas at 58%. In 2018 child support arrearages totaled $876 million in Kansas.

Kansas started privatizing a portion of the child support enforcement system in the 1990’s but in 2013 Governor Brownback completely privatized the child support system at DCF – being the first state in the country to do so. This echoes what happened to the foster care system when Kansas – under Governor Graves – became the first state to privatize foster care and 25 years later the foster care system is in serious disarray. In 2013, DCF signed 10-year contracts with four private law firms. Since that time collections have plateaued while most other states have seen some improvement and Kansas continues to lag behind the national collection averages.

Under Governor Kelly’s administration at DCF, Secretary of DCF Laura Howard took the visionary action to fund a complete assessment of DCF’s child support system top to bottom. Midwest Evaluation and Research (out of Emporia) spent 2020 assessing the strengths and weaknesses of child support enforcement by DCF and the private contractors. This report documents serious challenges and raises key issues that policymakers must confront to improve the system. The child support computer system is antiquated and a real barrier to child support workers as well as clients. The communication between DCF’s child support administrative staff and the private contractors is woeful. The child support call center - operated on a private contract – is virtually useless given the status of the old computer and keeping collection records current. The 10-year private contracts end in 2023 so a thorough review by lawmakers and stakeholders is essential now. (Note: The Midwest Evaluation report only covered the public
LEGISLATIVE NOTES

SB 112 Providing a sales tax exemption for sales of farm products sold at farmers' markets was introduced on January 28. It was assigned to the Senate Committee on Assessment and Taxation. See copy of bill at


February 3, 9 a.m. “A Look into the Future of Rural Kansas” presentation will be in the House Financial Institutions and Rural Development Committee. See http://kslegislature.org/li/ for audio/visual connection to committee hearing.

February 3, 1:30 p.m. Southwest Power Pool Annual Progress Report presentation to Senate Utilities committee. See http://kslegislature.org/li/ for audio/visual connection.

Legislative Policy Briefs
Kansas Legislative Research Department (KLRD) publishes a Briefing Book each year covering critical, current issues facing lawmakers. The 2021 Briefing Book is now complete. It covers issues from water funding to redistricting to voter laws to mental health program to taxation to home rule, etc. The policy brief on ‘administrative rules and regulations’ is most helpful as Kansas transitions the control of noxious weeds from some legislative involvement to the Kansas Department of Agriculture completely.


FIELD NOTES

KDA TO HOLD NOXIOUS WEED REGULATIONS VIRTUAL HEARING Feb. 16

By M. Fund

Kansas Department of Agriculture will hold a virtual public hearing (via Zoom) on proposed rules and regulations for the State’s Noxious Weed Law revised by the Legislature in 2018 on February 16 at 10 a.m. Written public comment is being accepted up until the hearing at - <ronda.hutton@ks.gov>, or by writing to - Secretary of Agriculture, 1320 Research Park Dr., Manhattan KS 66502. To speak at the hearing, register at - https://kansasag.zoom.us/meeting/register/tJ0sfuoqjsuGNQdMDAmKyyym_oUwhjZryJZ9.

For more info, go to Proposed noxious weed control measures.

A noxious weed is an invasive, unwanted plant which is designated as harmful to agricultural crops, ecosystems, humans, or livestock. Kansas has listed 12 statewide noxious weeds, and two optional extras, for counties to control and eradicate. The State Legislature passed a revision of the state’s noxious law in 2018 and the Kansas Department of Agriculture has issued proposed rules and regulations.

The noxious weed law establishes authority for declaring a noxious weed with the state secretary of agriculture (as opposed to the Legislature as in the past), and gives counties the authority to “control” the weeds. The primary control is through herbicides which the counties can sell to farmers at a discount. As in the past, although integrated pest management and biological and mechanical methods are mentioned, the new regulations still rely heavily on chemical controls as the primary and first method. Problems associated with this are inefficacy due to pesticide resistance among many weeds due to over use, drift to unintended sites, and damage to neighbors, vulnerable specialty crops and certified organic crops, and possible human health impacts.

You can see KDA’s proposed regulations here.

https://www.agriculture.ks.gov/docs/default-source/statutes-ppwc/noxious-weeds-proposed-regulations.pdf?sfvrsn=6fb493c1_4

KRC published a white paper on the state’s pesticide and noxious weed law in 2018 prior to Legislative debate on revising the law. While a bit dated, it still provides valuable background information. https://kansasruralcenter.org/pesticides-noxious-weed-control-and-chemical-drift-protection-in-kansas/
POULTRY CAFO PERMIT FILED IN NORTHEAST KANSAS
by M. Fund

In what may be the State’s first poultry permit following passage of SB 405 in 2018, a KDHE public notice on January 21 listed a Brown County site for a State/NPDES permit for 224,000 (672 Animal Units) broiler chickens. This site will have 8 houses or barns, utilizing a dry litter system under cover in a 50 x 100 ft. building. The permit notice indicated a Nutrient Management Plan was on file.

SB 405 is the legislation that followed the ill-fated proposed Tyson Poultry processing plant and supporting poultry farms in Leavenworth county. The bill established new criteria for calculating the waste from chickens (via dry waste) thus increasing the number of chickens allowed in one site.

Concerned citizens and neighbors in Brown County, including board members from a nearby Rural Water District with wells in the area, attended a recent county commission meeting to ask questions and seek information. County Commissioners were unaware of the permit but are also limited in what they can do in an unzoned county. County Commissioners and neighbors or citizens can make comments or request that KDHE hold a public hearing.

Public comments or hearing requests are due by February 20, and can be sent to the contact info below with reference to:
Kansas Permit No.: A-MOBR-P001, DeWayne Koehn Glacial Hills Poultry
Send to: Matthew Steele, Livestock Waste Management Section
1000 SW Jackson St., Suite 430 Topeka, KS 66612-1367
(785) 296-4039    FAX: (785) 559-4258 Matthew.t.steele@ks.gov

Inquiries have indicated that the proposed poultry farm will likely sell to a Tyson processing plant, formerly MBA Poultry, at Tecumseh, Nebraska, which already has multiple barns in southeast Nebraska. Tyson purchased the MBA Poultry plant in Tecumseh in 2018. MBA Poultry marketed air cooled “Smart Chicken” (both organic and non-organic) and was the 26th largest poultry plant in the country until it was bought by Tyson who pledged to continue to operate the Smart Chicken brand.

HOW TO ACCESS STATE COMMITTEE HEARINGS, SCHEDULES, BILLS

To access House and Senate Calendars:
Published daily; and on Thursdays, calendars are published for the next week. They provide Committee Schedules, list bills or informational hearings to be heard, and possible votes.
Go to http://kslegislature.org/legis/leg.calc

To access copies of bills introduced:
Go to the Kansas Legislature’s homepage at http://kslegislature.org/legis/leg calc/ and on the right side of the page click on the House and Senate pre-filed bills.

To view and listen to a committee hearing:
Go to the very top of the Legislature’s homepage http://kslegislature.org/legis/leg calc/ and click on the Audio-Visual tab and scroll down to ‘Statehouse Live & Archive’. There will be a listing of the committees for that day and the start time. In order to testify on a bill before a given committee, you will need to contact the ‘committee assistant’ (listed in the Calendar) a day or so before the hearing to be able to testify in person or virtually.

To view Senate & House Chambers in session:
Go to http://kslegislature.org/legis/leg calc/ Audio/Video Broadcast and click on House or Senate.
The Legislative Policy Watch Update is a project of the Kansas Rural Center. KRC promotes the health of the land and its people through research, education and advocacy that advance an ecologically sound, economically viable, and socially just agriculture.

If you have any questions about Policy Watch, contact Mary Fund, Editor at mfund@kansarsuralcenter.org, or contact Paul Johnson, Policy Analyst, at pdjohnson@centurylink.net.

If you are on KRC’s list and wish to opt out of receiving the Updates, contact Joanna Will at jwill@kansarsuralcenter.org

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If you are receiving KRC Policy Watch through one of these organizations and have questions, contact the organization directly.