

**Kansas Water Authority Meeting
Conference Call / GoToMeeting
1:00 p.m. – May 20, 2020
Agenda**

<i>Time</i>	<i>Agenda Item</i>	<i>Presenter</i>	<i>KWA Advice</i>	<i>KWA Decision</i>	<i>Page No.</i>
1:00 pm	Call to Order/Roll Call	Connie Owen	--	--	--
1:05 pm	Approval of Meeting Minutes	Connie Owen			
	April 14, 2020 Meeting (Conference Call/GoToMeeting)			X	2
	April 30, 2020 Meeting (Conference Call/GoToMeeting)			X	4
1:15 pm	Agency Updates on COVID-19	Earl Lewis	X		
1:35 pm	KWA PWS Committee				
	Comprehensive Capital Development Plan Preview	Nate Westrup	X		5
1:50 pm	KWA RAC Operations Committee	Jeremiah Hobbs			
	RAC Messages	Jeremiah Hobbs		X	6
	RAC Membership	Jeremiah Hobbs		X	8
2:10 pm	KDHE Water Quality Update	Amanda Reed	X		
2:25 pm	Legislative & Budget Update	Earl Lewis	X		
2:40 pm	Federal Updates	Matt Unruh	X		9
2:50 pm	Director's Report	Earl Lewis	X		
2:55 pm	New Business				
3:00 pm	Adjourn				

Upcoming Kansas Water Authority Meetings: June TBD

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Minutes

KANSAS WATER AUTHORITY

April 14, 2020

Topeka, Kansas

Conference Call

CALL TO ORDER: Chair Connie Owen called the **April 14, 2020**, Kansas Water Authority conference call to order at **10:11** a.m.

MEMBERS PRESENT: Connie Owen - Chair; Mike Armstrong, David Stroberg, John Bailey, Randy Hayzlett, Alan King, Dennis Schwartz, Jean Steiner, Ted Nighswonger, Carolyn McGinn, Jeremiah Hobbs

MEMBERS ABSENT: Chris Ladwig, Lynn Goossen

EX-OFFICIO MEMBERS

PRESENT: Susan Duffy, Dan Devlin, Earl Lewis, Mike Beam, Chris Beightel, Sara Baer, Rolfe Mandel, Brad Loveless, Leo Henning

EX-OFFICIO MEMBERS

ABSENT: Patty Clark, Scott Carlson

APPROVAL OF MINUTES:

Motion No. 04-20-01 It was moved by **Dennis Schwartz** and seconded by **Randy Hayzlett** to approve the January 29, 2020 Minutes for the Regular Meeting of the Kansas Water Authority as presented and approve the March 9, 2020 KWA conference call minutes as amended. **Motion carried with no dissenting votes.** Information found in meeting materials.

Update on State Response to COVID-19:

Earl Lewis gave an update.

KWA RAC Operations Committee:

New RAC Membership

Motion No. 04-20-02 It was moved by **Jeremiah Hobbs** and seconded by **Ted Nighswonger** to approve changing categories for the Cimarron RAC and to approve the recommended applications for membership on the Cimarron RAC.

Vision and Water Plan Update Status:

Bobbi Luttjohann gave an update.

Legislative & Budget Update:

2019 Special Committee on Ag & Natural Resources Report

Cara Hendricks gave an update.

Legislative & Budget Update:

FY2021 SWPF Budget Status

Cara Hendricks gave an update.

Legislative & Budget Update:

RAC Informational Budget Webinar Preview/Discussion

Cara Hendricks gave an update.

Federal Update:

NEPA Proposed Rule Status

Matt Unruh gave an update.

Federal Update:

Withdraw of Water Supply Rule

Matt Unruh gave an update.

Federal Cooperative Agreements USGS Briefing:

Josh Olson gave an update.

Director's Report:

Earl Lewis gave an update. **Chris Beightel** shared updates about the GMD1 LEMA submitted to DWR in March 2020

New Business:

Earl Lewis gave an update. **Chris Beightel** gave an update.

Motion No. 04-20-03

It was moved by **Mike Armstrong** and seconded by **Dennis Schwartz** for the KWA to submit comments to USACE in regards to the Missouri River dredging and oppose permits due to results of the 2017 Study of River Degradation.

ADJOURNMENT

The KWA adjourned at 12:19 pm

Minutes

**KANSAS WATER AUTHORITY
Topeka, Kansas**

April 30, 2020

Conference Call

CALL TO ORDER: Chair Connie Owen called the **April 30, 2020**, Kansas Water Authority conference call to order at **10:00** a.m.

MEMBERS PRESENT: Connie Owen - Chair; Mike Armstrong, Randy Hayzlett, Lynn Goossen, Jean Steiner, John Bailey, Allan Soetart

MEMBERS ABSENT: Chris Ladwig, Carolyn McGinn, Jeremiah Hobbs, Alan King, Allen Roth, David Stroberg

EX-OFFICIO MEMBERS PRESENT: Brad Loveless, Dan Devlin, Sara Baer, Rolfe Mandel, Earl Lewis

EX-OFFICIO MEMBERS ABSENT: Mike Beam, Patty Clark, Susan Duffy, Leo Henning, Scott Carlson, Chris Beightel

Lower Missouri River Commercial Dredging Follow up:

Matt Unruh and Connie Owen presented on the proposed reissuance of commercial dredging permits on the Lower Smoky River.

Motion No. 04-20-01 It was moved by Mike Armstrong and seconded by Allan Soetart to approve the draft letter provided to the KWA, pending editorial changes, being submitted as formal KWA comments to the U.S. Army Corps of Engineers regarding the reissuance of dredging permits on the Lower Missouri River.

Motion Carried with no dissenting votes. Information found in Meeting Materials

May KWA Meeting Preview

Earl Lewis presented

Director's Report: Presented by Earl Lewis

ADJOURNMENT The KWA adjourned at 11:00pm

MEMO



DATE: May 14, 2020
TO: Kansas Water Authority
FROM: John Bailey, Chair, Public Water Supply Committee
Nathan Westrup
RE: Public Water Supply Committee Update

900 SW Jackson Suite 404
Topeka, KS 66612
Phone: (785) 296-3185
Fax: (785) 296-0878
www.kwo.org

The Public Water Supply Committee met on May 14, 2020, to discuss potential updates to the Comprehensive Capital Development Plan (CCDP) and began work to set the water marketing rate for calendar year 2021. The water marketing rate is determined based on the financial needs of the program and projected sale of water, which are both determined within the CCDP.

Public Water Supply Program Comprehensive Capital Development Plan Update

The CCDP includes several components that require updating. These include adjustments to Operation & Maintenance costs based on updates provided by the Corps of Engineers, forecasted water use projections based on actual reported use, reflections of debt payments made, and other program changes. Kansas Water Office (KWO) staff presented portions of the draft plan at the May 14th committee meeting, with a focus on debt management and rate analysis. The committee recommended the KWO explore opportunities to further analyze debt management and take advantage of current low interest rates.

It is anticipated that the calendar year 2021 water marketing rate will be presented to the full Kansas Water Authority (KWA) for action in June. The State Water Plan Storage Act requires the KWA take action by July 15th on the rate to be applied the following calendar year.

No action is needed at this time. Information is provided for discussion purposes only.

MEMO



DATE: May 14, 2020
TO: Kansas Water Authority
FROM: Jeremiah Hobbs
RE: RAC Messages

900 SW Jackson Street,
Suite 404
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The Kansas Water Authority (KWA) Regional Advisory (RAC) Operations Committee met on May 14, 2020, via GoToMeeting. Discussion from the meeting included a message from the Kansas RAC.

The KWA RAC Operations Committee reviewed and discussed the following messages, background, and staff input and offers the following recommendations to the KWA.

KANSAS REGIONAL ADVISORY COMMITTEE:

Message: Ensuring sufficient funding to address quality and quantity of water supply in Kansas is critical and must be resolved for the future of the state. Funding is required to execute many of the Goals and Action Plans developed by the Regional Advisory Committees (RACs) as per the Long-Term Vision for the Future of Water Supply in Kansas. The Kansas RAC respectfully requests that the Kansas Water Authority (KWA) make a definitive commitment to ensuring that the State Water Plan Fund (SWPF) is fully funded and provide current guidance to RACs regarding KWA recommendations for appropriate funding mechanisms for future water projects. Furthermore, the Kansas RAC requests that the KWA make a definitive decision on the status of the Blue Ribbon Task Force - if the KWA is continuing to support the Task Force recommendations or if they intend to establish alternative methods for developing and promoting alternative funding mechanisms.

Background: The Long-Term Vision for the Future of Water Supply in Kansas (Vision), published January 2015, identified a funding task force as a critical, immediate action item. The task force was charged with developing a balanced, affordable, and sustainable method to provide financing for water resource management and protection, including alternatives that would utilize public and private partnerships. The Blue Ribbon Task Force (Task Force) was formed in the first year of implementation of the Vision, and members were appointed in November 2015. The Task Force met seven times during 2016 to evaluate overall financial needs, current revenue sources, and potential funding alternatives available to implement the Vision. The Task Force was charged with developing a recommendation to present to the Governor and 2017 Legislature.

At their October 31, 2016 meeting, the Task Force members acted to approve a recommendation to the Governor and the Legislature during the 2017 legislative session. The Task Force came to the consensus that roughly \$55 million in annual funding was needed for full implementation of the Vision through the SWPF.

To ensure an adequate revenue stream to support the funding needs, the Task Force recommended the following:

- Existing fees into the SWPF be maintained at current levels,
- One-tenth of one percent of the existing statewide sales tax be dedicated to funding Vision implementation,
- It is preferable that the dedication of the one-tenth of one percent sales tax be protected for this purpose by constitutional amendment and subject to referendum every 10 years,
- A review of all existing user fees by the Legislature five years after successful collection of the state sales tax, to continue every 5 years thereafter,
- That the State General Fund (SGF) & Economic Development Initiatives Fund (EDIF) statutory demand transfers be provided to the SWPF by the Legislature during the 2017 session for the FY2018 and 2019 budgets, or until the proposed sales tax revenue is successfully collected, and
- The Legislature and the KWA look at the statute relative to the makeup of the KWA, and seek to include demographic and user fee participation as guidelines for representation and appointments.

The full report can be found at:

https://kwo.ks.gov/docs/default-source/water-vision-water-plan/vision/blue_ribbon_ftf_final_report.pdf

At each Kansas RAC meeting held since the establishment of the RACs in 2015, there has been some level of discussion concerning funding, both sources of funding and methods for distribution. To that end, a Funding and Governance subcommittee was established and made up of RAC members who were dedicated to addressing both areas. Currently, the Kansas RAC is meeting its educational goals by making presentations to community groups about the need to fully fund the SWPF and advocating for the Task Force recommendations for funding. However, this presents challenges, as the Task Force recommendations are now outdated, and even as the plan was first released, it received little support from legislators. The Kansas RAC needs guidance from the KWA to be able to communicate clear and valuable action steps for community members that wish to advocate for increased funding to protect water quality and quantity in the state.

Staff Input: The KWA has made the recommendation to fully fund the statutorily required SGF and EDIF transfers each year since the adoption of the Task Force Report. Legislative support for additional funding for water has grown and the transfers have increased incrementally each year since 2017. However, they still remain below the statutory demand transfer levels. The sales tax measure proposed by the Task Force was proposed to the Legislature, but gained little support and has not moved forward.

Resolution: The KWA recommends fully funding the statutorily required SGF & EDIF transfers. The KWA recognizes that the need for funding for water projects is well beyond the amount generated by the fees and demand transfers. RACs are encouraged to attempt to define the level of funding needed to implement the respective goals and action plans as part of the ongoing Kansas Water Plan update. The KWA will work with all appropriate partners to determine how to move forward with the recommendations of the Task Force or suggest alternative measures to meet funding needs.

The KWA RAC Operations Committee recommends KWA approval of the proposed resolution for the messages to the KWA from the Kansas RAC.

MEMO



DATE: May 14, 2020
TO: Kansas Water Authority
FROM: Jeremiah Hobbs
RE: RAC Membership

900 SW Jackson Street, Suite 404
Topeka, KS 66612
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The Kansas Water Authority (KWA) Regional Advisory Committee (RAC) Operations Committee met on May 14, 2020, via GoToMeeting. Discussion from the meeting included RAC membership concerning the Marais des Cygnes RAC.

The KWA RAC Operations Committee reviewed and discussed the current Marais des Cygnes RAC membership status of Shane Gibbs in the Public Water Supply (PWS) 2 category (expiring in 2023). Shane Gibbs formerly worked for the City of Ottawa. Mr. Gibbs no longer works for the City, and therefore is no longer eligible to fill the PWS 2 category. Also, Mr. Gibbs has not responded to any attempts to contact him concerning RAC membership. The KWA RAC Operations Committee discussed removing him from the PWS 2 category and from the Marais des Cygnes RAC to allow for others to actively fill this position.

Recommendation: The current Marais des Cygnes RAC member, Shane Gibbs, should be removed from the PWS 2 category (expiring in 2023) and from the Marais des Cygnes RAC, as he is no longer eligible to appropriately fill this position.

The KWA RAC Operations Committee recommends KWA approval of removing Shane Gibbs from the PWS 2 category (expiring in 2023) with the Marais des Cygnes RAC, and removing him from the Marais des Cygnes RAC.

MEMO



DATE: May 14, 2020
TO: Kansas Water Authority
FROM: Matt Unruh
RE: Federal Update

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Final Rule: The Navigable Waters Protection Rule

On April 21, 2020, the U.S. Environmental Protection Agency and the Department of the Army published the final Navigable Waters Protection Rule in the Federal Register. The rule is set to become effective on June 22, 2020, pending potential legal challenges. The Rule, which defines “waters of the United States” (WOTUS) which are to be regulated under the Clean Water Act (“CWA”), remains largely unchanged from the version circulated in January 2020. This final rule is intended to be the culmination of a process to modify the scope of CWA jurisdiction and narrows the scope of water bodies subject to federal regulation. This Federal Register notice can be found online at <https://www.federalregister.gov/documents/2020/04/21/2020-02500/the-navigable-waters-protection-rule-definition-of-waters-of-the-united-states>.

Water Resources Development Act (WRDA) 2020 Update

On April 21, 2020, the Senate Committee on Environment and Public Works (EPW) released a discussion draft of their Water Resources Development Act (WRDA) 2020 bill entitled America’s Water Infrastructure Act (AWIA) of 2020. Since 2014, Congress has enacted a Water Resources and Development Act (WRDA) every two years which provides authorization for the development of U.S. water resources. WRDA bills authorize water resources studies and projects and set policies for navigation, flood control, hydropower, recreation, water supply and emergency management for the U.S Army Corps of Engineers.

The National Water Supply Alliance (NWSA), of which the Kansas Water Office (KWO) is a member, submitted comments on Section 1052 and 1054 of the draft AWIA 2020 language. A copy of this letter can be found on the NWSA website at <https://www.nationalwatersupply.org/wrda-2020>.

Of particular interest to the KWO is the language within Section 1054, which amends section 203 of WRDA 1986 (33 U.S.C. 2231) to expand authorization for non-federal interests to undertake feasibility studies for modifications or improvements to Corps projects. The NWSA comments regarding Section 1054 included support of the strengthening of flexibility for non-Federal interests to conduct feasibility studies, while further recommending that this flexibility also be provided for reallocation studies. Since a reallocation study is not a feasibility study and is therefore not currently eligible for this flexibility, the NWSA recommended that Section 1054 be further enhanced to explicitly include reallocation studies as an eligible activity under Section 203 of the Water Resources Development Act of 1986.

A full list of all of the sections contained in the bill can be found beginning on page 2 of the discussion draft provided at the following link: https://www.epw.senate.gov/public/_cache/files/f/3/f324ef43-e2f3-40c1-ab62-6902e362263c/89AC4D3754131408F71FB879B39AE0AF.america-s-water-infrastructure-act-2020-final-draft.pdf

On May 6, the legislation, as amended by the EPW committee, passed by a vote of 21-0 and now awaits action by the full Senate.

Clean Water Act Supreme Court Ruling

On April 23, 2020, the Supreme Court of the United States in *County of Maui, Hawaii v. Hawaii Wildlife Fund* ruled that pollution traveling indirectly to rivers and streams through groundwater can be covered by Clean Water Act (CWA) permitting requirements. At issue in the case was whether Maui County committed CWA violations by injection of wastewater underground without a federal permit that then seeped into the Pacific Ocean. In a 6-3 decision, the Court ruled that the CWA “requires a permit when there is a direct discharge from a point source into navigable waters or when there is the functional equivalent of a direct discharge.” This ruling can be found at online at https://www.supremecourt.gov/opinions/19pdf/18-260_jjfl.pdf.