

Kansas Water Authority Meeting
In-Person/Zoom
Emporia, KS
9:00 a.m. – April 20, 2022
Agenda

<i>Time</i>	<i>Agenda Item</i>	<i>Presenter</i>	<i>KWA Advice</i>	<i>KWA Decision</i>	<i>Page No.</i>
9:00 am	Call to Order/Roll Call	Dawn Buehler	--	--	--
9:05 am	Approval of Meeting Minutes				
	January 27, 2022 Meeting	Dawn Buehler		X	2
9:10 am	KWA Public Water Supply Committee Update	John Bailey			--
	<i>*Possible Action Item*</i>				--
9:30 am	KWA RAC Operations Committee	Jeremiah Hobbs			
	RAC Membership			X	4
	RAC Messages to the KWA			X	5
9:40 am	Kansas Water Plan Update	Connie Owen	X		--
9:45 am	Legislative Update				
	House Water Committee	Connie Owen	X		--
	FY 2022 & 2023 Appropriations Process	Matt Unruh	X		--
10:30 am	BREAK				
10:45 am	KWA SWPF FY 2024 Budget Recommendation Process	Matt Unruh	X		6
11:00 am	Kansas Drought Discussion				--
	Updated Governor's Drought Declaration	Connie Owen	X		--
	Drought Response	Richard Rockel	X		--
	Reservoir Water Supply Operations During Drought	Nathan Westrup	X		--
12:00 pm	LUNCH				
12:45 pm	Kansas Water Success Stories	Andy Lyon	X		--
1:05 pm	Federal Update				
	Federal Infrastructure Funding	Tom Stiles Connie Owen	X		--
	Tuttle Creek Water Injection Dredging	Josh Olson	X		--
	EPA Wetland Grant	Kirk Tjelmeland		X	7
1:35 pm	KWA Ex Officio Agency Updates				--
2:05 pm	Director's Report	Connie Owen	X		--
2:15 pm	New Business				
2:30 pm	Adjourn				

Upcoming Kansas Water Authority Meetings

- June 22, 2022 – Pittsburg
- August 17, 2022 – TBD
- October 19, 2022 – TBD
- November 2022 – Governor's Conference on the Future of Water in Kansas
- December 14, 2022 TBD

Zoom Participation Information (4/20/2022 Meeting):

Join Zoom Meeting

<https://us06web.zoom.us/j/84258305864?pwd=T0JoOWJOaDhDR09WSE5FeWgvYUZ4dz09>

Meeting ID: 842 5830 5864

Passcode: 823561

One tap mobile

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Minutes

KANSAS WATER AUTHORITY

January 27, 2022

Zoom Meeting

Virtual

CALL TO ORDER: Chair Dawn Buehler called the **January 27, 2022**, Kansas Water Authority (KWA) meeting held in-person and Via Zoom webinar/call to order at **8:35 a.m.**

MEMBERS PRESENT: Dawn Buehler, Michael Armstrong, John Bailey, Randy Hayzlett, Jeremiah Hobbs, Alan King, Chris Ladwig, Allen Roth, Jean Steiner, Allan Soetaert, David Stroberg

MEMBERS ABSENT: Lynn Goossen and Carolyn McGinn

EX-OFFICIO MEMBERS PRESENT: Susan Duffy, Earl Lewis, Lane Letourneau, Susan Metzger, Brad Loveless, Sara Baer, Leo Henning, Andrew Lyon, Connie Owen, Rolfe Mandel

EX-OFFICIO MEMBERS ABSENT: Ernie Minton, Mike Beam, David Toland, Kayla Savage

APPROVAL OF MINUTES:

Motion No. 01-27-01 It was moved by Allen Roth and seconded by Randy Hayzlett to approve the December 1, 2021, Minutes for the Regular Meeting of the Kansas Water Authority. **Motion carried with no dissenting votes.** Information found in meeting materials.

KWA PWS COMMITTEE:

John Bailey & Richard Rockel gave a presentation for the Public Water Supply (PWS) Committee and update on the 2022 Surplus Water Report.

Surplus Water Report

Motion No. 01-27-02 It was moved by Mike Armstrong and seconded by David Stroberg to approve the 2022 Surplus Water Report. The motion was amended to give authorization to the Director of the Kansas Water Office to enter in to surplus water supply contract for water defined to the surplus by the report. **Motion carried with no dissenting votes.** Information found in meeting materials.

KANSAS WATER PLAN UPDATE:

Connie Owen gave an update on the ongoing Kansas Water Plan update.

LEGISLATIVE BUDGET:

Matt Unruh gave an update on the Governor's fiscal year 2023 budget recommendations.

Connie Owen gave an update on the House Water Committee.

Governor Laura Kelly gave an update on her fiscal year 2023 budget Recommendations.

BUDGET RECOMMENDATIONS:

The Kansas Water Authority discussed and drafted a letter of support to send to members of legislation in regards to the House Water Committee's desire to increase funding for Water Projects and Debt Paydown beyond the Governor's Recommendation.

Motion 01-27-03

It was moved by **Jeremiah Hobbs** and seconded by **John Bailey** for the Kansas Water Authority to approve and send a letter of support to members of legislation in regards to the House Water Committee's initiative, desire, and actions to increase financial support of water initiatives to protect, secure, and sustain water resources for the people of the state. **Motion carried with no dissenting vote.** Information found in meeting materials.

STATE WATER PLAN FUND DATA SHARING:

Richard Rockel & Katie Goff from the Kansas Water Office presented the State Water Plan Fund Data Dashboard.

DROUGHT PREPAREDNESS:

Dawn Buehler gave an update on Kansas' drought preparedness.

NEW BUSINESS:

Earl Lewis gave update from the Kansas Department of Agriculture.

Andrew Lyon gave update from the Department of Conservation

Susan Duffy gave an update from the Kansas Corporation Commission.

Dawn Buehler gave an update on behalf of Susan Metzger from Kansas State University.

Brad Loveless gave an update from Kansas Department of Wildlife and Parks.

Allen Roth gave an updated from Kansas Association of Conservation Districts.

DIRECTORS REPORT:

Connie Owen gave Director's Report from the Kansas Water Office.

ADJOURNMENT:

Dawn Buehler adjourned the meeting at **12:03 p.m.**

Dawn Buehler, Chair

Connie Owen, Secretary

MEMO



DATE: April 18, 2022
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

Items Proposed for Action:

- Consider approval to negotiate an amendment of the contract term for Water Purchase Contract No. 17-2

Evergy has requested an extension of Water Purchase Contract (WPC) No. 17-2, the supplemental water supply for Wolf Creek Nuclear Generating Station. The source of supply for WPC No. 17-2 is John Redmond Reservoir and it is the sole source of make-up water for the power plant's cooling lake.

Water Marketing Contract No. 17-2

- Original Term of 5 years (maximum 40)
- Expires 12/31/22
- Quantity: 9,368 MGY

Request for amendment

- Article 2, extend contract term
 - New thermal analysis of forced evaporation from cooling lake being conducted by Purchaser
 - Incorporate new data into hydrologic model to determine how long John Redmond is sufficient to supply Wolf Creek
 - Negotiations of the extended term will be based on both the additional number of years John Redmond yield is adequate and the Purchaser's desired extension
 - The Purchaser has been evaluating an alternative water supply program, membership with the Cottonwood and Neosho River Basins Water Assurance No. 3

The Public Water Supply Committee recommends the Director be approved to negotiate an amendment of Article 2 for Water Purchase Contract, No. 17-2

Additional topics of discussion at the PWS Committee meeting included following:

- 1) Negotiations of the City of Independence water purchase contract
 - a. Negotiations are on-going and anticipated to be complete by April 28th, 2022
 - b. If approved by the City Commission, will be brought to the June KWA meeting
- 2) Preliminary assessment of projected revenue and expenses of the Water Marketing Program for CY2023
 - a. Review of components necessary to determine the Water Marketing rate for CY2023
 - b. Recommended CY2023 rate will be proposed to the KWA at the June 2022 meeting
- 3) Discussed up-coming development of plans for the update to the Water Marketing Program Capital Development and Storage Maintenance Plan (statutory name), an update to the KWA-approved and published Public Water Supply Program Comprehensive Capital Development Plan – published in 2017
 - a. Workshop(s), possibly including persons with expertise beyond the PWS Committee members, were suggested to accomplish this work
- 4) Legislative session and potential contributions from SGF funds toward reservoir debt obligations

STATE OF KANSAS
Kansas Water Office

CONTRACT
Between the State of Kansas
And
Kansas Gas and Electric Company
Kansas City Power & Light Company, and
Kansas Electric Power Cooperative, Inc.

For An Industrial Water Supply
From
John Redmond Reservoir

Water Purchase Contract Number 17-2

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**KANSAS WATER OFFICE
WATER PURCHASE CONTRACT NO. 17-2**

This contract is executed and entered into this 19th day of December, 2017, by and between the State of Kansas as represented by the Kansas Water Office (hereinafter referred to as the “State”), an authorized agency to enter such contracts for the State of Kansas, and the Kansas Gas and Electric Company, a Kansas Corporation, and the Kansas City Power & Light Company, a Missouri Corporation, and Kansas Electric Power Cooperative, Inc., a Kansas Corporation, (hereinafter collectively referred to as the “Purchaser”).

WHEREAS, the Purchaser desires to purchase a supply of water for an industrial water supply at Wolf Creek Nuclear Generating Station; and

WHEREAS, the Purchaser filed an appropriate application on August 2, 2017, with the State to negotiate a long-term water marketing contract for the purchase of raw water from John Redmond Reservoir (hereinafter the “Reservoir”), in compliance with the State Water Plan Storage Act, K.S.A. 82a-1301 et seq., as amended; and

WHEREAS, the Director of the Kansas Water Office is authorized by K.S.A. 74-2615, as amended, and by K.S.A. 82a-1305, as amended, to negotiate contracts for the sale of water from the Reservoir; and

WHEREAS, the State has filed water reservation rights to divert and store water in the Reservoir (Water Reservation Right, File Nos. 22,197-AR-5 and 41,564-AR-34); and

WHEREAS, the State has entered into agreements (Contract No. DACW56-75-C-0029 and DACW56-96-WS-0003) with the United States of America under the provisions of the Water Supply Act of 1958 (Title III, P.L. 85-500), as amended, for water supply storage space in the Reservoir; and

WHEREAS it is understood that the Kansas Gas and Electric Company, the Kansas City Power & Light Company, and the Kansas Electric Power Cooperative, Inc. have agreed that the rights and obligations under this contract, including those under K.S.A. 82a, Articles 7 and 13, as amended, shall be several not joint, forty-seven (47%) percent, forty-seven (47%) percent, and six (6%) percent, respectively, to each; and

WHEREAS, the Purchaser's immediate and projected water supply needs at Wolf Creek Nuclear Generating Station for the term of this contract can be provided from the Reservoir; and

WHEREAS, the withdrawal and use of up to 9,368 million gallons of water annually from the Reservoir by the Purchaser is in the interest of the people of the State of Kansas and will advance the purposes set forth in Article 9 of Chapter 82a of Kansas Statutes Annotated; and

WHEREAS, the Purchaser's application number 251 to purchase raw water from the Reservoir is approved for a maximum total amount of 9,368 million gallons per year in accordance with Articles 9 and 13 of Chapter 82a of Kansas Statutes Annotated.

NOW, THEREFORE, in consideration of the foregoing, the parties mutually agree as follows:

ARTICLE 1. DEFINITIONS

As used in this contract, unless the context otherwise requires:

- (a) "Authority" means the Kansas Water Authority, or its successor.
- (b) "Director" means the Director of the Kansas Water Office, his or her successor, or designated representative.
- (c) "Point of redirection" means the point where released water is taken for beneficial use from the watercourse by which it is transported.

(d) “Point of withdrawal from the reservoir” means the point at which water is taken from the reservoir by pump, siphon, canal, or any other device; or released through the dam by gates, conduits, or any other means.

(e) “Raw water” refers to untreated water at the point of withdrawal from the reservoir.

(f) “Reservoir” means John Redmond Reservoir.

ARTICLE 2. TERM OF THE CONTRACT

At the request of Purchaser and pursuant to K.S.A. 82a-1305(a), as amended, the term of this contract shall be for a period of five (5) years beginning on the 1st day of January 2018, and terminating on the 31st day of December 2022. The Purchaser may commence using water at any time after the execution of this contract by providing notice as provided in Article 12 of this contract.

ARTICLE 3. LEGISLATIVE DISAPPROVAL AND REVOCATION

This contract, any amendment hereto, or renewal thereof is subject to disapproval and revocation by the Kansas Legislature as provided in K.S.A. 82a-1307, and amendments thereto.

ARTICLE 4. UNITED STATES APPROVAL

a. The Purchaser shall secure the right from the federal government to construct, modify, alter, or maintain installations and facilities at the point of withdrawal from the reservoir and at the point of redirection as the Purchaser shall deem necessary to effectuate the terms of this contract when such installations and facilities are on federal lands. The Purchaser shall bear any and all costs of construction, modification, operation, and maintenance of Purchaser-owned, leased, or constructed installations and facilities.

b. The Purchaser shall provide the Director, upon written request, with proof of any easement granted by the federal government for rights-of-way across, in, and upon federal

government land required for intake, transmission of water, and necessary appurtenances by and for the benefit of the Purchaser for the purposes of this contract.

ARTICLE 5. COMPLIANCE WITH KANSAS STATUTES

This contract is subject to such federal and state statutes as may be applicable, including specifically, but not by way of limitation, the State Water Resource Planning Act, K.S.A. 82a-901 et seq., and amendments thereto; the State Water Plan, K.S.A. 82a-927 et seq., and amendments thereto; and the State Water Plan Storage Act, K.S.A. 82a-1301 et seq., and amendments thereto; and the Purchaser agrees to comply with such applicable statutes and any amendments to said statutes which may be enacted subsequent to the execution of this contract.

ARTICLE 6. QUANTITY OF WATER

a. During the term of this contract and, subject to the conditions herein stated, the State will furnish for the Purchaser to withdraw not more than 9,368 million gallons of raw water in any one (1) calendar year. If the Purchaser in any calendar year does not withdraw the entire annual raw water amount obligated under terms of this contract, the unused amount of water shall not add to the Purchaser's entitlement in any subsequent year.

b. The allowance provided under K.S.A. 82a-1306(a)(4) for the Director to adjust the amount of water contracted for on the sixth anniversary of the execution of a contract for sale of water shall not apply to this contract given the five (5) year term described in Article 2 of this contract.

c. Any rights under the Kansas Water Appropriation Act, K.S.A. 82a-701 et seq., and amendments thereto, held by the Purchaser shall not be used by the Purchaser to offset the minimum cost or volume of any quantity of raw water obligated under the terms of this contract. The Purchaser will pay for water received at its point of redirection as specified in Article 7 of this contract; however, the Purchaser shall be entitled to receive without making payment

therefor any water in excess of 9,368 million gallons per year as allowed under K.S.A. 82a-701 et seq., as amended. Any water received under authority of such water appropriation rights shall not be counted against the Purchaser's annual water entitlement under this contract even though the Purchaser may have to pay the State as if the water had been received under this contract as provided in Article 9.

d. The Purchaser may use water withdrawn in accordance with the terms of this contract without obtaining a permit or water right under the Kansas Water Appropriation Act. Rights of the Purchaser under this contract shall be entitled to the same protection as any other vested property interest including vested water rights, water appropriation rights, and approved applications for permit to appropriate water.

ARTICLE 7. PRICE OF WATER

a. Price. The Purchaser agrees to pay the State at the rate set in accordance with K.S.A. 82a-1308a, and amendments thereto, for each one thousand (1,000) gallons of raw water used or raw water which must be paid for under terms of this contract; provided, however, that the Purchaser is obligated and agrees to pay the minimum charges in accordance with this Article regardless of the quantity of raw water actually used, except as provided in Article 13. The rate for raw water which must be paid for under terms of this contract shall be \$0.392 for each one thousand (1,000) gallons during calendar year 2018.

b. Minimum Charge. The Purchaser agrees to pay to the State a minimum charge whether or not water is withdrawn during the calendar year. The minimum charge for each calendar year shall be determined as provided in K.S.A. 82a-1306(a)(2), and amendments thereto. The minimum charge for calendar year 2018 and each succeeding calendar year, unless changed by amendment of State statutes, shall be the sum of the following two components:

(1) fifty (50) percent of the total amount of water contracted for annually during the term of this contract multiplied by the rate established in accordance with paragraph (a) of this Article or as adjusted in accordance with paragraph (c) of this Article; and

(2) a charge on the remaining fifty (50) percent of water contracted for during the year computed by multiplying the net amount of moneys advanced from state funds for costs incurred and associated with that portion of the conservation storage water supply under the State Water Marketing Program by the average rate of interest earned during the past calendar year by the Pooled Money Investment Board on thirty (30) day repurchase agreements and by the portion of the remaining fifty (50) percent under contract to the total conservation water supply capacity available under the State Water Marketing Program.

c. Review and Adjustment of Rates. The rate as stated in this contract may be subsequently adjusted on January 1 of the year following the execution of the contract and on every subsequent January 1 thereafter, pursuant to the terms and conditions of this contract. The Director shall review the rate stated in this Article by July 15 of each year during the term of this contract and may adjust the rate effective January 1 of the following year. Such adjusted rate shall be charged for all water used or water which must be paid for under terms of this contract as provided in Article 9. The Director shall notify the Purchaser by July 31 of each year of the adjusted rate which will become effective on January 1 of the ensuing year. Failure to furnish such notification by July 31 shall not relieve the Purchaser of the obligation to pay such adjusted rate.

ARTICLE 8. PURPOSE AND PLACE OF USE

a. Purpose. Water purchased under this contract shall be used for purposes which are stated in the preamble of this contract.

b. Place of Use. The place of use for water purchased under this contract shall be at the Wolf Creek Nuclear Generating Station located in Burlington, Kansas.

c. Approval of Change in Place of Use. The Purchaser shall inform the Director of any intention to sell any water under this contract to any person or entity located outside the place of use defined in (b) of this Article. Whenever the Purchaser shall propose to enter into a contract to sell water purchased under this contract to any such person or entity outside the defined place of use, the Purchaser shall, before execution thereof, submit a copy of such contract to the Authority for review. The Purchaser agrees not to execute and enter into any such contracts unless approved by the Authority.

ARTICLE 9. BILLING AND PAYMENT SCHEDULE

a. Payments. The Purchaser shall transmit all payments due hereunder to the Director as provided in Article 9(j) or as the Purchaser may thereafter be directed, in writing, by the Director. Remittance for minimum payments as provided in Article 9(d) and 9(e) shall be paid to the Director in either one annual payment on or before the due date established in Article 9, or in equal monthly installments during the calendar year in which the minimum payment is due, whether or not water is withdrawn during the calendar year. Remittance for payments due for raw water used in excess of the quantity obligated by the minimum payment as provided in Article 9(f) shall be paid to the Director in full within thirty (30) days after date of billing by the State.

b. Determination of Charges. Charges for water for which payment is required shall be determined by the State in accordance with K.S.A. 82a-1308a and subsequent amendments thereto. The Purchaser acknowledges and agrees that rate computations are subject to change, based on subsequent amendments to State statutes which may affect the terms of this contract.

c. Water Subject to Payment. The Purchaser shall pay as specified in this contract for all water received under terms of this contract up to the maximum quantity obligated by this contract (9,368 million gallons per year). In no event shall the Purchaser be permitted to withdraw in any one year more than the maximum of 9,368 million gallons per year.

d. Initial Minimum Payment. The initial minimum payment shall become due on or before February 28, 2018. Remittance for the initial minimum payment shall be in accordance with Article 9(a). Payment of the initial minimum charge shall entitle the Purchaser to receive up to one-half (1/2) of the maximum annual quantity of water in 2018 as set forth in Article 6, without additional charge.

e. Subsequent Minimum Payments. On each succeeding February 28 following the due date of the initial minimum payment, subsequent minimum payments shall become due. Remittance for minimum payments shall be in accordance with Article 9(a). Payment of the minimum payment shall entitle the Purchaser to receive during the calendar year, without additional charge, one-half (1/2) of the maximum annual quantity obligated under terms of this contract.

f. Water in Excess of Minimum. At the end of each calendar year throughout the term of this contract or within thirty (30) days after the end of each calendar year, the State shall bill the Purchaser for any water used during the calendar year in excess of one-half (1/2) of the total annual quantity of water used to compute the minimum charge. The Purchaser shall be given credit for the proportionate share of the payment which was made as an interest charge on the net amount of monies advanced from the State General Fund for the costs incurred and associated with providing fifty (50) percent of the total annual amount of water contracted for purchase during that calendar year.

g. Overpayment or Underpayment. If for reason of error in computation, measuring device malfunction, or other causes, there is an overpayment or underpayment to the State by the Purchaser of the charges provided herein, such overpayment shall be reimbursed or underpayment shall be billed, as the case may be. The State shall notify the Purchaser thereof in writing. However, all charges made in any year shall be conclusively presumed to be correct six (6) months after the end of such year.

h. Adjustment for Apportionment. In the event the Purchaser is unable in any year due to an apportionment under Article 13 herein to withdraw the amount which the Purchaser is entitled to receive after payment of the minimum payment, the amount of such minimum payment in excess of the amount of water actually received by Purchaser shall be credited to reduce the minimum payment obligation of the Purchaser during the next succeeding calendar year.

i. Overdue Payments. If the Purchaser shall fail to make any of the payments when due, then the overdue payments shall bear interest, compounded annually at the rate prescribed in K.S.A. 82a-1317, and amendments thereto, during the term of this contract. This shall not be construed as giving the Purchaser the option of either making payments when due or paying interest, nor shall it be construed as waiving any of the rights of the State that might result from such default by the Purchaser.

j. Payments. Any payments due and payable to the Kansas Water Office under the terms of this contract shall be transferred electronically under such arrangements as the Purchaser and the State determine or shall be sent to:

Kansas Water Office
Attention: Accounts Payable/Water Marketing
900 SW Jackson Street, Suite 404
Topeka, KS 66612

ARTICLE 10. POINT OF WITHDRAWAL

The point of withdrawal from the reservoir shall be in NW1/4, NW1/4, Section 10, T21S, R15E in Coffey County, Kansas. The spillway and outlet works at the point of withdrawal consist of a spillway and a gated concrete ogee-weir with fourteen tainter gates; and a 30-inch diameter water supply pipe and two 24-inch low-flow pipes located in the left non-overflow section.

The point of redirection shall be the Purchaser's intake structure in NW1/4, NW1/4, Section 10, T21S, R15E in Coffey County, Kansas. The Purchaser's means of conveying water to the point of redirection consists of an approximately 450 foot long diversion channel along the left bank from the stilling basin to the intake structure equipped with necessary pumps and piping.

ARTICLE 11. METERING OF WATER

a. The Purchaser shall, at its own expense, furnish, install, operate, and maintain at the place of diversion, a commercial measuring device as ordered by the Director.

b. The Purchaser shall test and calibrate as accurately as possible such measuring device or devices upon installation and thereafter as necessary or whenever requested by the Director, but not more frequently than once every twelve (12) months. A measuring device that meets the standards as set forth in the current regulations regarding water meter specifications (K.A.R. 5-1-4) shall be deemed to be accurate. Certification of measuring devices shall be obtained from a commercial testing company approved by the Director.

c. The previous readings of any measuring device disclosed by test to be inaccurate shall be corrected for the three (3) months previous to such test or one-half (1/2) the period since the last test, whichever is shorter, in accordance with the percentage of inaccuracy found by such tests.

d. If any measuring device fails to register for any period, the amount of water furnished during such period shall be agreed upon by the Director and the Purchaser.

e. The Purchaser shall read the measuring device on or before the last calendar day of each month, and shall send such reading to the Director within ten (10) days after it has been taken, or at another reasonable interval agreed upon by the Director and the Purchaser.

f. The Purchaser shall provide to the State monthly reports of all water withdrawn from any sources under authority of Purchaser-held water use permits or water appropriation rights at Wolf Creek Nuclear Generating Station. Representatives of the State shall, at all reasonable times, have access to the measuring device for the purpose of verifying all readings.

g. The State may measure withdrawals by other suitable means to verify the accuracy of the Purchaser's measuring device or to measure the amount of water furnished when the Purchaser's measuring device fails to register.

ARTICLE 12. WATER WITHDRAWAL

The Purchaser shall notify the Director in writing, of the date for the initial withdrawal of water at least five (5) days prior to such withdrawal. At such time, the Purchaser shall also notify the Director, in writing, of the estimated amounts, dates, and rates of withdrawal. In no event, during the term of this contract, shall the Purchaser withdraw water in excess of the maximum daily rate of 77.56 million gallons.

ARTICLE 13. CONTINUITY OF WATER SERVICE

a. The Director shall make all reasonable efforts to perfect and protect the water reservation rights necessary for the satisfaction of the water supply commitment. In the event it becomes necessary for any reason to apportion the water among the persons having contracts, therefore, or to temporarily discontinue the furnishing of water to such persons, the Director will

give each person oral notice, followed by a written notice, of such action as far in advance as is reasonably practicable.

b. Neither the Director nor the Authority shall be responsible or have any legal liability for any insufficiency of water or the apportionment thereof, and the duty of the Director and the Authority to furnish water is specifically subject to the following conditions:

(1) If the total amount of water contracted for withdrawal by all purchasers from the Reservoir in the year is greater than the supply available from the conservation water supply storage in the Reservoir, the Director, with the approval of the Authority, will apportion the available water among all the purchasers having contracts therefore, as may best provide for the health, safety, and general welfare of the people of this State as determined by the Authority.

(2) The Director shall evaluate the effect of sediment deposits in the Reservoir and, if such evaluation indicates that the sediment deposits have reduced the yield from the State's conservation water supply storage space, the Director will apportion available water among the persons having contracts in relation to the annual volume of water contracted. If a reduction has been made and future calculations and/or experience proves an increased yield from the Reservoir, the Purchaser's contract quantity shall be increased proportionally up to the contract quantity described under Article 6 of this contract.

(3) If the United States temporarily discontinues or reduces water storage available to the State in the Reservoir under the State's agreement with the United States of America for the purpose of inspection, investigation, maintenance, repair, or rehabilitation of the Reservoir or for other reasons deemed necessary by the United States of America, the Director will apportion the available water among the persons having contracts as determined by the State.

(4) If, because of an emergency, the Director deems it necessary for the health, safety, and general welfare of the people of Kansas to reduce or terminate the withdrawal of water from the Reservoir, the Director, with the approval of the Authority, will apportion any available water among the persons having contracts therefore as may best provide for the health, safety, and general welfare of the people of Kansas.

c. In the event the Director finds it necessary to apportion the available water from the Reservoir among the persons having contracts therefore, and such apportionment results in the Purchaser being unable during the year to receive the amount of water that has been purchased by payment of the minimum charge, the Purchaser shall pay the State only for the amount of water actually made available to the Purchaser during the year.

ARTICLE 14. LIABILITY

a. The parties herein acknowledge that this contract is for raw water from the conservation water supply storage at the Reservoir. The Kansas Water Office, the Director, the Authority, or any employee, agent, or agency of the State of Kansas, makes no guarantee for nor assumes any liability for any claim arising out of the control, carriage, handling, use, disposal, or distribution of water furnished to the Purchaser beyond the point of withdrawal from the Reservoir by the Purchaser as described in this contract except as provided in the Kansas Tort Claims Act, K.S.A. 1982 Supplement 75-6101 et seq., and amendments thereto; and the Purchaser shall hold the State harmless on account of damage or claim of damage of any nature whatsoever arising out of or connected with the control, carriage, handling, use, disposal, or distribution of water beyond the point of withdrawal. Nothing in this Article shall be construed to impair any protection of the rights of the Purchaser as set forth in Article 6.

b. In addition, neither the Director of the Kansas Water Office nor the Kansas Water Authority shall be liable for any claim by Purchaser arising out of the quality of water in the

Reservoir to the point of withdrawal or redirection. The Purchaser shall hold the State, its agencies, employees, and agents harmless from or on account of any and all damage to Purchaser of any nature whatsoever arising out of or connected with the quality of the water in the Reservoir up to the point of withdrawal or redirection.

ARTICLE 15. AMENDMENT

The contract may be amended or voided by written agreement of the parties, as provided in K.S.A. 82a-1316, and amendments thereto.

ARTICLE 16. ASSIGNMENT OF CONTRACT

a. The Purchaser may not assign, sell, convey, or transfer of all or any part of this contract, or any interest therein unless and until same is approved by the Authority under such reasonable terms and conditions as the Authority may impose.

b. Whenever the assignment, sale, conveyance, or transfer of all or any part of this water purchase contract involves a change in either the place of use or the purpose of use, the Authority shall have the option to cancel the water purchase contract or portion thereof and make the water available for purchase by persons who have filed applications in accordance with rules and regulations for administration of the State Water Plan Storage Act, K.S.A. 82a-1301 et seq., and amendments thereto.

ARTICLE 17. RIGHT OF FIRST REFUSAL

As required by the provisions of K.S.A. 82a-1305(a), and amendments thereto, upon expiration of this contract, the Director shall give the Purchaser the first right of refusal to purchase any offering of the water previously purchased before offering the same to any other applicant under the provisions of K.S.A. 82a-1310a, et seq., and amendments thereto.

ARTICLE 18. TERMINATION

a. In the event the Purchaser is unable to obtain, construct, maintain, operate the necessary water diversion and distribution facilities, or operate a generating station for any reason, the Purchaser may terminate this contract upon giving the State thirty (30) days written notice of its intent to do so, and all rights and liabilities of the Purchaser hereunder shall cease. Provided, however, that nothing in the Article shall be construed to affect the duty of the Purchaser to pay the prorated share of the minimum charge for the year in which the contract is terminated or the actual charge for the quantity of water withdrawn, whichever is greater, before notice of termination is given.

b. In the event that the State or the Purchaser is in breach of this contract and fails to cure the breach within ten (10) days following written notice, the non-breaching party may terminate this contract for such cause upon thirty (30) days written notice. If Purchaser's breach arises from the failure to make full payment under this contract when due, the State may, following such ten (10) day cure period, withhold providing any water for withdrawal to the point of redirection under this contract until payment is made or this contract is terminated as provided herein.

ARTICLE 19. WATER CONSERVATION PLAN

The Purchaser shall adopt and implement a water conservation plan that is consistent with the guidelines for conservation plans and practices, developed and maintained by the Kansas Water Office in effect on the date of the execution of this contract and that relate to the use of water at the Wolf Creek Nuclear Generating Station.

ARTICLE 20. OPERATING AGENT--SEVERABILITY AND OWNERSHIP

The Kansas City Power & Light Company and Kansas Electric Power Cooperative, Inc. hereby designates and appoints the Kansas Gas and Electric Company as its operating agent for

purposes of (a) receiving billings, notices, and demands hereunder on behalf of the Purchaser, and (b) giving notices hereunder to the Kansas Water Office or the Director related to delivery of and accounting for water hereunder. All notices required to be in writing shall be addressed to the Director at his or her principal place of business, and to Kansas Gas and Electric Company at its principal place of business.

All financial obligations of Purchaser under this contract, including any charges hereunder shall not be joint obligations but shall be the several obligations of Kansas Gas and Electric Company, Kansas City Power & Light Company, and Kansas Electric Power Cooperative, Inc. each being obligated for forty-seven (47%) percent, forty-seven, (47%) percent, and six (6%) percent, respectively, of the total.

Kansas Gas and Electric Company, Kansas City Power & Light Company, and Kansas Electric Power Cooperative, Inc. may use water withdrawn hereunder, in accordance with the terms of the contract, without obtaining a permit or water right under K.S.A. 82a, Article 7. The Kansas Gas and Electric Company, the Kansas City Power & Light Company, and the Kansas Electric Power Cooperative, Inc. shall be entitled to the same protection of their rights under this contract as the owner of any other vested property interest (including vested rights, appropriation rights, and approved application for permits to appropriate water) is entitled to receive, and such rights shall be several not joint, forty-seven (47%) percent to Kansas Gas and Electric Company and forty-seven (47%) percent to Kansas City Power & Light Company and six (6%) percent to Kansas Electric Power Cooperative, Inc.

ARTICLE 21. MISCELLANEOUS PROVISIONS

a. Severability. In the event any provisions of this agreement, or any part of any provision of this agreement, are held invalid by a court of competent jurisdiction, such invalidity shall not affect other terms hereof which can be given effect without the invalid provision or

portion of such provision, and to that end the terms of this agreement are intended to be severable.

b. Choice of Law, Jurisdiction, and Venue. Disputes arising out of this contract shall be determined under the laws of the State of Kansas, in the district courts of that state, sitting in Shawnee County, Kansas.


c. Kansas Contract Provisions Attachment. The provisions found in contractual provisions attachment (Form DA-146a – Attachment A), which is attached hereto, are hereby incorporated in this contract and made a part thereof by reference herein.

d. Headings. Headings used in this agreement are informational and not to be considered persuasive or determinative of any clause or matter in dispute.

e. Counterparts. This contract may be executed in counterparts, each of which so executed counterpart is original, and such counterparts, together, shall constitute but the same instrument.


IN WITNESS WHEREOF, the parties affirm and acknowledge the terms and conditions agreed to above, and further affirm that they have the authority to bind the parties by their signatures to the same, and hereto have executed this agreement as of the day and year first above written.

THE STATE OF KANSAS, BY:



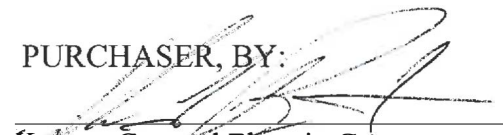
Director, Kansas Water Office

WITH THE EXPRESS APPROVAL OF
THE KANSAS WATER AUTHORITY,
BY:

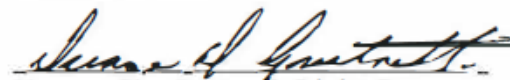


Chairman, Kansas Water Authority

PURCHASER, BY:




Kansas Gas and Electric Company
John Bridson
Vice President



Kansas City Power & Light Company
Duane Anstaett
Vice President, Generation

Approved as to Legal Form	
PJV	12/12/17
KCPL Law Dept.	



Kansas Electric Power Cooperative, Inc.
Marcus Harris
Executive Vice President
and Chief Executive Officer

CONTRACTUAL PROVISIONS ATTACHMENT

Important: This form contains mandatory contract provisions and must be attached to or incorporated in all copies of any contractual agreement. If it is attached to the vendor/contractor's standard contract form, then that form must be altered to contain the following provision:

"The Provisions found in Contractual Provisions Attachment (Form DA-146a, Rev. 06-12), which is attached hereto, are hereby incorporated in this contract and made a part thereof."

The parties agree that the following provisions are hereby incorporated into the contract to which it is attached and made a part thereof, said contract being the _____ day of _____, 20_____.

1. **Terms Herein Controlling Provisions:** It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the contract in which this attachment is incorporated. Any terms that conflict or could be interpreted to conflict with this attachment are nullified.
2. **Kansas Law and Venue:** This contract shall be subject to, governed by, and construed according to the laws of the State of Kansas, and jurisdiction and venue of any suit in connection with this contract shall reside only in courts located in the State of Kansas.
3. **Termination Due To Lack Of Funding Appropriation:** If, in the judgment of the Director of Accounts and Reports, Department of Administration, sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges-hereunder, State may terminate this agreement at the end of its current fiscal year. State agrees to give written notice of termination to contractor at least 30 days prior to the end of its current fiscal year, and shall give such notice for a greater period prior to the end of such fiscal year as may be provided in this contract, except that such notice shall not be required prior to 90 days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided State under the contract. State will pay to the contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any such equipment. Upon termination of the agreement by State, title to any such equipment shall revert to contractor at the end of the State's current fiscal year. The termination of the contract pursuant to this paragraph shall not cause any penalty to be charged to the agency or the contractor.
4. **Disclaimer Of Liability:** No provision of this contract will be given effect that attempts to require the State of Kansas or its agencies to defend, hold harmless, or indemnify any contractor or third party for any acts or omissions. The liability of the State of Kansas is defined under the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.).
5. **Anti-Discrimination Clause:** The contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) (ADA) and to not discriminate against any person because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment or employment in, its programs or activities; (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration; (f) if it is determined that the contractor has violated applicable provisions of ADA, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration.

Contractor agrees to comply with all applicable state and federal anti-discrimination laws.

The provisions of this paragraph number 5 (with the exception of those provisions relating to the ADA) are not applicable to a contractor who employs fewer than four employees during the term of such contract or whose contracts with the contracting State agency cumulatively total \$5,000 or less during the fiscal year of such agency.

6. **Acceptance Of Contract:** This contract shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given.
7. **Arbitration, Damages, Warranties:** Notwithstanding any language to the contrary, no interpretation of this contract shall find that the State or its agencies have agreed to binding arbitration, or the payment of damages or penalties. Further, the State of Kansas and its agencies do not agree to pay attorney fees, costs, or late payment charges beyond those available under the Kansas Prompt Payment Act (K.S.A. 75-6403), and no provision will be given effect that attempts to exclude, modify, disclaim or otherwise attempt to limit any damages available to the State of Kansas or its agencies at law, including but not limited to the implied warranties of merchantability and fitness for a particular purpose.
8. **Representative's Authority To Contract:** By signing this contract, the representative of the contractor thereby represents that such person is duly authorized by the contractor to execute this contract on behalf of the contractor and that the contractor agrees to be bound by the provisions thereof.
9. **Responsibility For Taxes:** The State of Kansas and its agencies shall not be responsible for, nor indemnify a contractor for, any federal, state or local taxes which may be imposed or levied upon the subject matter of this contract.
10. **Insurance:** The State of Kansas and its agencies shall not be required to purchase any insurance against loss or damage to property or any other subject matter relating to this contract, nor shall this contract require them to establish a "self-insurance" fund to protect against any such loss or damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.), the contractor shall bear the risk of any loss or damage to any property in which the contractor holds title.
11. **Information:** No provision of this contract shall be construed as limiting the Legislative Division of Post Audit from having access to information pursuant to K.S.A. 46-1101 et seq.
12. **The Eleventh Amendment:** "The Eleventh Amendment is an inherent and incumbent protection with the State of Kansas and need not be reserved, but prudence requires the State to reiterate that nothing related to this contract shall be deemed a waiver of the Eleventh Amendment."
13. **Campaign Contributions / Lobbying:** Funds provided through a grant award or contract shall not be given or received in exchange for the making of a campaign contribution. No part of the funds provided through this contract shall be used to influence or attempt to influence an officer or employee of any State of Kansas agency or a member of the Legislature regarding any pending legislation or the awarding, extension, continuation, renewal, amendment or modification of any government contract, grant, loan, or cooperative agreement.

MEMO



DATE: April 14, 2022
TO: Kansas Water Authority
FROM: Jeremiah Hobbs, RAC Operations Committee Chair
RE: RAC Membership

900 SW Jackson Street
Topeka, KS 66612
Phone: (785) 296-3185
Fax: (785) 296-0878
www.kwo.ks.gov

The Kansas Water Authority Regional Advisory Committee (RAC) Operations Committee met April 4, 2022, via GoToMeeting. Discussion during the conference call focused on the following topics:

- Membership applications for the Equus-Walnut, Marais des Cygnes and Neosho RACs.
- RAC Messages to the KWA

The Committee reviewed and discussed applications for membership on the Equus-Walnut, Marais des Cygnes and Neosho RACs. The following membership recommendations were approved by the RAC Operations Committee for consideration and action by the full KWA:

- Recommend Tim Boese be considered for the Conservation/Environment (cc) category on the Equus-Walnut RAC with a term expiration of June 2025.
- Recommend Laura Hines be considered for Industry/Commerce (cc) category on the Marais des Cygnes with a term expiration of June 2023.
- Recommend Dean Grant be considered Water Assurance District (cc) category on the Neosho RAC with a term expiration of June 2023.

The KWA RAC Operations Committee recommends KWA approval of the applications for membership on the Equus-Walnut, Marais des Cygnes, and Neosho RACs as indicated above.

Message from the Upper Republican Regional Advisory Committee:

Message: *“The Upper Republican RAC would like to raise awareness on water quality issues that are being created by chemical applications and contaminations, the possible long-term effects, cost associated with issues that are caused, and how it is paid for.”*

Background: In response to water quality and contamination issues within the region in recent years, members of the Upper Republican RAC expressed concern over issues of chemical applications and fertilizers that could potentially create issues to water sources through exposure and cross-contamination.

Staff Input: Water quality is an important issue for the state of Kansas. Issues with water quality can affect both surface water and ground water and impede the safe use of those water resources for beneficial uses such as public and private drinking water. Communities should be aware of the current and potential contamination threats to their water resources. Various resources are available for communities and regions to gather information on potential contaminations to both ground and surface waters. The long-term effects and cost associated with the issues are dependent on the type of contamination, the beneficial use of the water resource, and the size of the contamination.

Response: The RAC Operations Committee determined that there is timeliness of this memo in regards to an article published on March 28, 2022 on the High Plains Public Radio titled, “As fertilizer pollutes tap water in small towns, rural Kansans pay the price.” The news piece highlighted Kansas towns with active drinking water violations and the cost to those rural towns in cleaning water supplies.

The KWA RAC Operations Committee recommended sharing this message with the full Kansas Water Authority as a topic to call to attention.

MEMO



DATE: April 14, 2022
TO: Kansas Water Authority
FROM: Matt Unruh
RE: FY2024 KWA Budget Recommendation Development Process

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

FY 2024 KWA SWPF Budget Process Review

Included below for the KWA's reference and review is a proposed budget recommendation development process for FY 2024. KWA advice regarding this process is requested at this time prior to initiation.

FY 2024 KWA SWPF Budget Recommendation Process

April

- *KWA approves FY 2024 recommendation budget development process*
- KWA sets appropriation target (i.e. SGF/EDIF restoration or part thereof, pursuing BRFTF recommendation funding or other funding alternatives)
- KWA provides guidance on priorities / areas of funding

May

- Agencies develop funding requests
- Agencies convene to develop recommendations to KWA Budget Committee

May-June

- Research Coordination Group meets to develop research funding recommendations
- Recommendations provided to agencies and KWA Budget Committee

June

- KWA Budget Committee meets to develop draft budget recommendations

June-July

- RACs review draft budget recommendations and provide feedback to KWA Budget Committee

July-August

- KWA Budget Committee finalizes recommendations to full KWA
- Full KWA acts on recommendations

September

- KWA FY 2024 SWPF budget recommendations are submitted by agencies as part of agency administration budget process

MEMO



DATE: April 14, 2022
TO: Kansas Water Authority
FROM: Kirk Tjelmeland
RE: EPA Wetland Grants

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

Approval by the Kansas Water Authority, under KSA 74-2622, is required before the Kansas Water Office enters into agreements with the federal government. The KWO applied to receive funding 2021 Wetland Program Development Grant (WPDG) funding through Environmental Protection Agency (EPA) Region 7. The total amount of the grant is \$330,566.00, with a federal funding amount of \$247,924.00 and a non-federal matching fund obligation of \$82,642.00. All non-federal matches will be provided by in-kind service contributions. KWO has received notification from EPA of successful award of the grant.

The grant is entitled *Shoreline lacustrine wetlands in large Kansas reservoirs: status, trends and limiting factors* this would provide additional information to the 2015 WPDG which looked at wetlands in aging reservoirs. The proposed grant is looking wetland conditions in multiple reservoirs throughout the state.

Grant ideas were developed early in 2021 by a group of state agencies, interest groups and Kansas citizens with wetland knowledge. These grants address tasks identified in the Wetland Program Plan. KWO staff continue to work with the EPA and other wetland entities to accomplish tasks in the Wetland Program Plan to further the knowledge and understanding of wetlands and the water resource benefits they provide to the state of Kansas.

The KWO recommends the KWA authorize the Director to enter into an agreement with the U.S. EPA for the 2021 Wetland Program Development Grant.
