



Friday, October 15th, 2021

Re: Public Comment on draft Kansas Water Plan
Attn: Connie Owen, Director of the Kansas Water Office

Dear Director Owen and the Kansas Water Office,

Thank you for the opportunity to provide comments on the 2021 Kansas Water Plan. As a group that has long been dedicated to promoting the long-term health of the land and its people, the Kansas Rural Center (KRC) can appreciate the effort and intention that went into the renewing Kansas' premier guide for the management, conservation, and development of our water resources. At 284 pages, it's clear by the breadth of this report, as well as the more specific Regional Planning Area section that comprises roughly three-quarters of the document, that plenty of time and consideration went into this Kansas Water Plan. We extend our gratitude for all the good work here, especially given water's significance as a basis for all life and as Kansas' greatest natural resource.

Today's topic of water resource management via the State Water Plan is of special interest to KRC, because since 1979, our mission has focused on utilizing research, education, and advocacy to advance an economically viable, ecologically sound, and socially just food and farm system. Over the forty years of our work, we have partnered with state agencies, universities and colleges, health-focused foundations, nonprofits, and businesses to help farmers and ranchers implement better farming and land management practices toward water conservation and improving water quality. With smarter use and preservation of our clean water resources, we know the expanded use of these better land management practices will ultimately benefit the sustainability of farmers' enterprises, preserve their livelihoods and ecosystems, and support their rural communities.

It is with this wisdom and deep concern for water and all it provides to Kansas that we offer the following comments:

Urgency

The draft Kansas Water Plan does well spelling out our current Kansas water challenges. But we cannot approach these challenges with 'business as usual' strategies that have unclear or limited results, as we've previously done. We need bold and transformative action now to preserve our water resources for current and future generations.

The dire situation of water in Kansas was made evident throughout the draft KWP:

- “Projections in some areas show no more than 20 years of water remaining if pumping continues at current rates. Other areas in west central Kansas have already reached the point of no return...” [page 23]
- “86% of state’s assessed stream miles” and “over 96% of the state’s assessed lakes are impaired for one of these uses - aquatic life, contact recreation, or food procurement.” [page 43]
- “...over 100 water bodies affected by HABs in the past 10 years.” [page 45]
- “Previous studies have found that about 30% of domestic wells in Kansas have nitrate levels greater than the Maximum Contaminant Level (MCL) for public drinking water.” [page 46]
- “Storage capacity is continually being lost to sedimentation in reservoirs... [page 33]
- “From 1980 to 2021, 6 flooding and 17 drought billion-dollar (CPI-adjusted) disaster events affected Kansas...” [page 66]

However, it is our opinion that many of the policy/program recommendations and implementation actions do not match the urgency or severity of the problems we face. While some suggested solutions put forward are new and innovative (e.g., ‘ensure crop insurance, banking, and property valuation policies do not discourage water conservation and/or use of alternative, specialty and cover crops’ [page 27]), many of the recommendations suggest the State simply continue ongoing efforts. It is apparent the ‘ongoing efforts’ have resulted in limited progress. Certainly, there are notable exceptions, like the success of Sheridan County 6’s surpassing and renewing its LEMA goal [page 24], but by and large, the nominal volunteer actions and narrowly-focused regulatory controls have not significantly changed the negative trends impacting our water resources.

What is increasingly clear is that Kansas is facing a ‘tragedy of the commons’ of our most precious resource, where selfish interests (often for-profit enterprises) are exploiting our public resource for private gain. Much in the way the Kansas Rural Center believes that farm policy should not benefit the few at the expense of the many, our water policy should do the same. Sadly, it is to all our detriment that private actors have degraded our public resource and that the State of Kansas has not taken the issue of water more seriously than it has— in terms of major policy reform, behavioral change, and funding support – because our ecosystems, communities, and businesses have and will suffer as a result. It is come time for our government to govern and be more proactive for the public good. Therefore, it is imperative that final Kansas Water Plan put forth much more substantial and definitive recommendations that both contain timelines and goals, but also encompass more holistic view of water resource protection.

A few ideas for your consideration:

- Establish an overarching State goal for the conservation of water; e.g., let’s save 20% of Kansas’ water by 2030 (by reducing water consumption).

- Prioritize beneficial use/water rights by type of use (favoring those uses that enhance water resource and public interest), instead of by date of water right.
- Prescribe that the heaviest users of water (particularly for private gain) and biggest polluters be curtailed and/or pay a more appropriate premium for their water right privilege.

Scope

Water is paramount for *all* life (human and otherwise). The draft Kansas Water Plan seems to narrowly cater to human interests, instead of a wider focus on the broader ecosystems, habitat, and growing needs for all living beings.

In our view, the draft Kansas Water Plan mostly contextualizes water resource management within the needs of the people of Kansas, thus neglecting its broader value of water to the State's ecosystems and wildlife. Terms like 'ecosystems', 'habitat', and 'wildlife', are barely mentioned in the document before the Regional Planning Area section. This perpetual lack of emphasis or framing of the water management within the protection of ecosystems is arguably why our Kansas waters are as impaired as they are; the State has yielded to economic interests over ecological needs for too long. If Kansas leaders were to have adopted an ecology-first mindset much earlier, perhaps we wouldn't have as much mercury in our predatory fish or nitrate in our water wells, we wouldn't allowed oil and gas operations to intentionally contaminate millions of gallons of our freshwater resources and permanently expel them out of the water cycle, and we wouldn't allowed so much toxic pesticide and synthetic fertilizers to be applied to our lands and compromise our water bodies. This version of the Kansas Water Plan can *and should* provide this sorely needed paradigm shift.

Funding

We must increase our fiscal commitment to Kansas' water resources. The work to manage our water resources has suffered from inadequate funding. Therefore, urging lawmakers to stipulate locked-in, dedicated, and expanded funding is wholly vital and appropriate.

We applaud the Kansas Water Office for recommending the full funding of the State Water Plan Fund. As pointed out on page 13, the cumulative deficit of \$80 million over the past 13 years owed to the State's water programs is both shameful and unacceptable for such a critical resource. In our view, this is part of the reason that the State has not made more progress in protecting our water resources. To be serious about protecting the State's waters, we need to put money where our mouth is.

The 2016 Blue Ribbon Task Force came to the consensus that \$55 million is needed in annual funding for the full implementation of the *Long Term Vision for the Future of Water Supply in Kansas*. Because of the shortfall in dedicated state funding, we would urge the Kansas leaders to consider aiming for \$60-\$80 million in annual funding, though any significant upgrade from the \$15-\$20 million of average annual funding would be highly beneficial. Certainly, previous ideas

of a dedicated portion of sales tax revenue, a sin tax on bottled water (or perhaps plastic generally), increases on existing fees that feed the State Water Plan Fund, etc. could be reexamined.

Steadfast adherence of legislative intent on existing funding sources, including the annual transfer of \$6 million of State General Fund monies to the State Water Plan Fund as well as more use of the Economic Development Initiatives Fund (EDIF) for water, is badly needed.

A recent [Legislative Post Audit report](#) analyzed the fiscal year 2018 spending of \$42.3 million of EDIF funds. The report found that of that spending, only \$7.8 million or 18% of the EDIF funds went to programs consistent with specific legislative intent (like funding the State Water Plan Fund). More money could be appropriated from the lottery revenue within EDIF to the State's water programs.

A bigger pot of revenue that could be tapped for dedicated water funding is from state-owned casinos via the Expanded Lottery Act Revenues Fund (ELARF). This fund is dedicated in part toward 'state infrastructure improvements' which could include water infrastructure.

A water 'severance tax' or a 'water depletion valuation depletion trust fund' (modeled after funds issued upon Kansas' oil and gas sector) could be implemented upon Kansas' heaviest water users, namely heavy irrigators. This approach could provide additional sources of revenue for water programs, particularly at the local level, perhaps aiding the regional planning areas.

In sum, the State cannot dramatically improve the management of water resources – particularly through an incentive-based approaches – without a strong fiscal commitment to the Kansas Water Plan. While the current draft Kansas Water Plan does good to acknowledge the shortfall in funding and asks for the full amount of statutory annual transfers, the draft does not go nearly far enough in urging significant funding additions in any detail.

Conservation

Improved and expanded conservation efforts – including amplifying federal conservation programs in Kansas – will broaden the positive impacts for addressing Kansas' water challenges. Water conservation should also considered a 'beneficial use' of water.

Conservation efforts – whether applied to land and water – are key to improving our water resources, both with respect to water quality and quantity. Throughout the draft Kansas Water Plan, this point is well emphasized. That said, more discussion could be had on how the State should leverage federal conservation initiatives for its Kansas Water Plan objectives. Brief mention of federal conservation programs is given on page 22, page 26, and occasionally through the regional planning area sections, but KRC feels that the State could really stretch/multiply its efforts by making the most of federal conservation programs.

The United States Department of Agriculture (USDA) programs like the Conservation Stewardship Program (CSP), Conservation Reserve Program (CRP), and Environmental Quality

Incentives Program (EQIP), all hold opportunities to help build soil health, reduce erosion and sedimentation, and improve water quality. Together, these programs totaled about \$200 million last year in Kansas. [Yet, only 18% of Kansas' CSP applicants and 23% of EQIP applicants were awarded contracts last year.](#) Therefore, too many Kansans lose out on opportunities for either targeted or whole-farm water conservation improvements (or both) because there is not more capacity with these programs. In other words, the State of Kansas would be wise to convey to its U.S. Congressional delegation the importance of the conservation programs and federal funding provided by the Farm Bill because of their impact(s) on the State's water resources.

The Kansas Rural Center also advises that conservation of water be incorporated as a 'beneficial use'. Such a designation could incentivize water users to conserve water without fear of losing their water rights, expanding upon the State's answer to the previous 'use it or lose it' provision of Kansas' water appropriations law. If done right, adding conservation as a beneficial use of water may help expand the opportunity for 'water banking' or water-saving credit system that (with proper oversight and strict preference for conservation and equity) may help water users financially benefit from conserving water, distribute water to those who need it more, and create an overall more resilient water appropriation system. Water banking is discussed on page 118 with the reference to the Central Kansas Water Bank Association, however there is hardly any analysis to how this innovative approach is or is not helping water conservation efforts and how a statewide application could be beneficial. Regardless of water banking, the idea of conservation as a prioritized beneficial use seems like a way to balance ecological and economic interests of water. Conservation should be also be considered the chief strategy for water management, versus other than approaches like transfer or augmentation.

Agriculture

Agriculture has the biggest impact on Kansas' water future. We need to dramatically upgrade conventional farming practices to improve soil health, nutrient reduction, decrease runoff, increase water retention, and lessen irrigation and chemical use. We also need to prioritize the State's water use for meeting the production and consumption of organic, healthy, and local foods, which will consequentially address Kansas' other water challenges (like pollution and overuse).

It is hard to deny that Kansas agriculture has the most profound influence on Kansas' water resources, whether considering water quantity or quality. On the quantity side, roughly 85% of Kansas' consumptive water use is for crop irrigation, despite irrigators comprising a minor fraction of Kansas' total farmers and farm output. Irrigators – especially those in Southwest Kansas that are unsustainably mining the fossil water of the Ogallala aquifer to subsidize surface crop needs (mainly for corn production as highlighted on page 18) in semi-arid climates – are using more water than all the drinking water needs of all the Kansas towns and cities combined, by far. What is especially concerning is that a predominant use of that precious water in the crop production does not directly land on the food plate, rather the corn is largely utilized for food for livestock and ethanol fuel. While the State, particularly the Kansas Department of Agriculture, realizes the economic output that comes from this unsustainable farming system, our State has not assigned an appropriate, true economic value of this water as in its larger role as in supporting the overall needs

of the communities and ecosystems. Furthermore, while the draft Kansas Water Plan does clearly say ‘the best method to keep groundwater available longer is to pump less’, the recommendations do not clearly convey we need to lessen irrigation by any measurable goal, nor suggests the large-scale reduction of water appropriations.

In terms of water quality, the National Water Quality Assessment shows that agricultural runoff nationwide is the leading cause of water quality impacts to rivers and streams, the third leading source for lakes, and the second largest source of impairments to wetlands. Furthermore, more interagency coordination is warranted, as the Kansas Department of Health and Environment and the Kansas Corporation Commission both continually allow more industrial polluters – be it large Concentrated Animal Feeding Operations or oil and gas operations to implicate our water resources.

In the bottom paragraph on page 25, the draft State Water Plan acknowledges ‘recent studies show that by using less water and introducing new farming practices, the same amount of yield or more can be produced.’ The paragraph further describes how healthy soil practices beneficially impact water in water retention, quality, and resiliency, as well as the imperative of these practices in sequestering carbon toward a positive impact on climate change. We couldn’t agree more. For decades, the Kansas Rural Center has advocated that sustainable agriculture practices such as organic, little or no-tillage, ground cover, crop diversity, and rotation can all help improve the health of soils and benefit water resources. With the draft Kansas Water Plan’s recommendations of healthy soil practices and carbon-sequestering farming techniques, we think the Kansas Water Plan is on the right track in this regard. If only the draft would specify more specific goals, like for a certain percentage of farm acres to utilize sustainable farm practices like enhanced use of cover crops, polycultures, perennials, integrated pest management techniques, and more. Likewise, we feel that healthy local food production, such as using more Kansas farmland for our fruit and vegetable needs, particularly organic food production, would go far to help improve land management practices and maximize the benefit of water for people and ecosystems.

Climate

While this State Water Plan necessarily acknowledges extreme weather’s impact on Kansas’ water, it falls short of meaningfully urging the State to dramatically curb greenhouse gases to address human-caused Climate Change.

One of the highlights of this Kansas Water Plan in our eyes is the inclusion of the guiding principle, “Reduce our Vulnerabilities to Extreme Events.” To our knowledge, the onset of manmade Climate Change has not been acknowledged to this degree in previous versions of the Kansas Water Plan. Obviously, extreme weather accelerated by Climate Change has a tremendous impact upon our water resources, particularly in flooding and droughts. State agencies in Kansas are overdue for acknowledging the impact of Climate Change upon our state’s human and natural environments, as well as our economy. We are proud to see the Kansas Water Office take this step in acknowledging the dangerous and costly reality of our situation.

However, many of the policy recommendations and implementation actions side on planning and adaptation. While planning and adaptation is certainly appropriate, there should be more emphasis

on curbing carbon emissions throughout the state. It's to the benefit of water resources in Kansas (as well as the United States and the World) that Kansas do all it can to curtail greenhouse gas emissions in every sector, whether its energy, transportation, agriculture, etc. For example, the Kansas Water Plan could recommend the State lessen its use of coal-burning powerplants or oil and gas drilling that not only both consume and compromise our water resources but also add to Climate Change by burning fossil fuels. This holistic view is missing from the current draft.

Leadership

Kansans not only need awareness of Kansas' water resources, but they need the tools and knowledge to act. Furthermore, it has come time for State and local leaders to step up to ensure accountability through responsible public policy and funding.

Other miscellaneous comments:

On page 23, in paragraph 2, 'livlihoods' should be spelled 'livelelihoods'.

Conclusion:

We hope these comments have been informative. We are happy to answer any more questions or concerns.

Thank you for your consideration.

Sincerely,

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