



## Kansas-Oklahoma Arkansas River Commission

Kansas Division of Water Resources  
1320 Research Park Drive  
Manhattan, KS 66502  
Main Phone: (785) 564-6700

Oklahoma Water Resources Board  
3800 Classen Boulevard  
Oklahoma City, OK 73118  
Main Phone: (405) 530-8800

July 24, 2017

The President  
United States of America

The Honorable Sam Brownback, Governor  
State of Kansas

The Honorable Mary Fallin, Governor  
State of Oklahoma

Dear Mr. President and Governors:

Pursuant to Article XI of the Kansas-Oklahoma Arkansas River Commission, submitted herewith is a copy of the report covering the activities of the Commission for 2015. A budget covering the anticipated expenses of the Commission for July 1, 2015 – June 30, 2016 is also included in the report.

The 2015 annual meeting was hosted by the State of Oklahoma and held in Langley, Oklahoma. Reports of the Engineering, Legal, and Budget and Finance Committee were made along with new committee assignments.

Sincerely,

Earnie Gilder  
Federal Commissioner

**2015 MEETING AGENDA  
AND MINUTES**



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### **AGENDA**

#### **KANSAS – OKLAHOMA ARKANSAS RIVER COMMISSION**

**Fifty-First Annual Meeting, July 22, 2015**

**Grand River Dam Authority Ecosystem and Education Center, Grand Hall**

**420 E. Highway 28, Langley, Oklahoma 74350**

**9:00 a.m.**

1. Call to Order, Federal Commissioner and Chairman Earnie Gilder
2. Chairman's Remarks – Introductions and Announcements
3. Presentation of Credentials – New Appointments to the Commission
4. Reading and Amendments to / Approval of the Minutes of the 50<sup>th</sup> Annual Meeting, October 15, 2014
5. Report of the Federal Chairman
6. Reports of the State Commissioners: Kansas / Oklahoma
7. Report of the Secretary
8. Report of the Treasurer
9. Engineering Committee Report
  - A. Presentation of Neosho RCPP and potential water quality grant projects – Shanon Phillips, Oklahoma Conservation Commission and Steve Frost, Kansas Division of Conservation
10. Legal Committee Report
  - A. Consideration of resolution pertaining to approval of funding water quality initiative projects within the compact area
11. Finance Committee Report
12. Reports of the State and Federal Agencies and Others
13. New Business: Designation of Committee Members/Next Meeting/Other
14. Adjournment: The Commissioners, staff and guests will tour Pensacola Dam following the meeting.

**KANSAS - OKLAHOMA  
ARKANSAS RIVER COMMISSION**

**MINUTES OF THE FIFTY-FIRST ANNUAL MEETING**

**July 22, 2015**

**Grand River Dam Authority Ecosystem and Education Center  
Grand Hall  
420 E. Highway 28, Langley, OK 74350**

**1. Call to Order - Federal Chairman Earnie Gilder**

Federal Commissioner and Chairman Albert Earnest Gilder called to order the Fifty-First Annual Meeting of the Kansas-Oklahoma Arkansas River Commission at 9:00 a.m. on July 22, 2015, in the Grand Hall meeting room of the Grand River Dam Authority Ecosystem and Education Center, 420 E. Highway 28, Langley, Oklahoma. A copy of the agenda is attached (see Exhibit A).

**2. Introductions and Announcements:**

Chairman Earnie Gilder welcomed everyone to the Kansas-Oklahoma Arkansas River Commission Annual Meeting, and asked that the States' Commissioners and State representatives introduce themselves:

**Commissioners Present**

Earnie Gilder, Federal Commissioner  
Chuck Shively, Alternate Federal Commissioner  
Bryce Benson, Commissioner for Oklahoma  
J.D. Strong, Commissioner for Oklahoma  
Peggy Blackman, Commissioner for Kansas  
M. Bruce Falk, Commissioner for Kansas  
Greg Foley, proxy for David Barfield, Commissioner for Kansas

**Commissioners Absent:**

J. Ross Kirtley, Commissioner for Oklahoma

**Committee Members Present:**

Julie Cunningham, Oklahoma Water Resources Board  
Jonathan Allen, Oklahoma Water Resources Board  
Mary Schooley, Oklahoma Water Resources Board  
Robert Large, Kansas Department of Agriculture-Division of Water Resources  
Bob Lytle, Kansas Department of Agriculture-Division of Water Resources

**Others:**

Steven Elsener, Natural Resources Conservation Service, Stillwater, OK  
Mark Rude, Southwest Kansas Groundwater Management District #3, Garden City, KS  
Carl Metcalf, Grand Lake Watershed Alliance Foundation, Grove, OK

Scott Strong, USGS, Tulsa, OK  
Shanon Phillips, Oklahoma Conservation Commission  
(See Exhibit B-Attendance list)

### **3. Presentation and Verification of Credentials:**

There were no new appointments or changes to the Commission members. Current representation includes Federal Commissioner Albert Earnest Gilder, appointed by President Obama February 24, 2012. Alternate Federal Commissioner Chuck Shively was appointed by President Obama on February 24, 2012. Mr. J. Ross Kirtley was appointed by Oklahoma Governor Brad Henry on September 9, 2003. Mr. Bryce Benson was appointed by Oklahoma Governor Brad Henry on September 19, 2008. Mr. M. Bruce Falk was appointed by Kansas Governor Sam Brownback on July 25, 2011. Peggy Blackman was first appointed by Kansas Governor Mark Parkinson and re-appointed by Governor Brownback on July 13, 2012. Copies of the appointments are on file with the Commission.

Mr. David Barfield serves as a Commissioner for the State of Kansas as the State official responsible for administering water law in that state. Mr. Greg Foley represented Mr. Barfield at this meeting as a Kansas Commissioner as authorized by letter from Mr. Barfield. (See Exhibit C)

### **4. Reading, Correction and Approval of Minutes of the Fiftieth Annual Meeting**

Chairman Earnie Gilder asked if there were any changes to the draft minutes of the 50<sup>th</sup> Annual Meeting of the Kansas-Oklahoma Arkansas-River Compact Commission. There were no changes, and he said he would accept a motion to approve the minutes.

A motion was made by Commissioner J.D. Strong to approve the minutes of the 50<sup>th</sup> Annual Meeting of the Kansas-Oklahoma Arkansas River Commission meeting, and Acting Commissioner Greg Foley seconded. Chairman Gilder called for the vote, and the motion carried unanimously.

### **5. Report of the Chairman**

Chairman Gilder stated there was no report by the Chairman.

### **6. Reports of the Commissioners of the States:**

**State of Kansas.** Acting Commissioner Greg Foley reported on drought conditions and other state activities within the Arkansas River Basin in Kansas. The climatic change in Kansas has been dramatic as compared to last year's drought monitor report when all of the state was under drought conditions and currently conditions are significantly wetter.

Regarding water planning, Mr. Foley said the Governor established a 50-year vision for water quantity/supply, reviewed by the Economic Advisory Council which identified two areas of water supply focus for sustaining the 50-year vision: the Ogallala is critical but declining, and reservoirs are experiencing reduced inflows in the west and are 40% or greater siltation in the east. Following 500 public meetings, staff developed fourteen planning regions drawn by geographic boundaries over saturated thickness of groundwater over the high plains.

Mr. Foley highlighted water-related bills passed during the 2015 Legislative Session and signed into law amending the Water Appropriation Act to allow for the creation of voluntary "Water Conservation Areas" to implement water use reductions via a consent agreement with the chief engineer, authorizing augmentation to satisfy water rights specific to the Rattlesnake Creek Sub Basin, and amending Multi-Year Flex Accounts to

allow a carry forward of appropriation as well as measures for conservation. In addition, the appropriation act and groundwater management district acts were amended to require consideration of existing conservation in water use restrictions

Mr. Foley updated the members the recent decision on *Kansas v. Nebraska and Colorado* finding Nebraska overused Republican River water in 2005 and 2006 and took the unprecedented step ordering Nebraska to give up a portion of the unjust economic gains from keeping and using Kansas water. Regarding the Arkansas River Basin, Mr. Foley said the US Fish and Wildlife Service has requested water right protection for the Quivira National Wildlife Refuge impairment which the Division of Water Resources is investigating, and the City of Hay's purchase of water rights and transfer to the City of Russell, where changing the place of use and type of use is historical.

Acting Commissioner Foley informed the members on the RCPP (Regional Conservation Partnership Program) project on the Neosho River. He said there are growing concerns in the basin from a water quality perspective of the amount of poultry litter. There is essentially no poultry industry in Kansas (fewer than 20 turkey growers) and therefore regulations are not as controlling as Oklahoma or Arkansas; however, because of the nutrient restrictions in the basin, they are receiving hundreds of thousands of tons of poultry litter and the issues concerning this lake are being pushed up the watershed. He emphasized the need for participation in the conservation programs, partnerships with the Universities, education efforts and transportation costs.

Commissioner Peggy Blackman stated that she is aware of activities that have been occurring through the Watershed Restoration Watershed Strategy and the problem is a lack of funding to go to the producer to put BMP conservation practice on the ground. She is pleased about the RCPP project on the Neosho which impacts Marion Reservoir, and she is hopeful to continue monitoring water quality and the continued reduction of nutrients in the lakes. The RCPP on Salina Creek will be above the John Redmond Reservoir with a water quality emphasis. There is an additional RCPP in the Neosho Basin with Kansas Forestry looking at the riparian areas and implementing conservation practices limited to the riparian areas. She said there has been an effort to obtain an assessment of one-third of the watershed to have a better idea of what works. Commissioner Blackman mentioned a new documentary film, "When the Well Runs Dry" with Kansans telling personal stories that focus on the issues of shortage and quality of surface water in the east and groundwater in the west.

Acting Commissioner Foley concluded the Kansas report noting the Natural Resources Conservation Service had been an integral partner by offering a multi-million dollar budget through the EQUIP program. He wanted to clarify that funding has been available; however, participation has not been forthcoming. (Exhibit D)

**State of Oklahoma** - Commissioner J.D. Strong, Executive Director of the Oklahoma Water Resources Board, presented the Oklahoma Commissioners Report stating a written report had been provided. He noted the climate conditions of the state which had changed dramatically the past year, and comparing the drought maps in the report there are no areas under drought with only a few reservoirs less than 100% full. Some parts of the state had over 15 inches of rain in the first half of this year—going from drought conditions to floodplain management issues. The state continues to focus on the Oklahoma Comprehensive Water Plan (OCWP) developed in 2012 and as a result there are many activities underway, including the Water for 2060 Advisory Council – created as a result of legislation establishing a statewide goal of using no more fresh water in 2060 than consumed in 2010—which is developing recommendations to meet the projected 20% growth in water demand over the next 50 years through water conservation and efficiencies, using current available water more efficiently, brackish water desalinization, wastewater reuse and recycle, and looking at alternatives to developing new freshwater sources to meet needs. Mr. Strong is chairman of the Advisory Council which will be providing a report to the Governor and Legislature this fall regarding additional incentives and educational efforts. Staff continues work on three studies regarding the 12 "Hot Spot" basins (identified in the OCWP) reviewing strategies to mitigate the supply shortages projected. Staff also continues to look at fish and recreation flow issues and how that might fit within the appropriation system with the pilot study that was kicked off at the beginning of this year in the Illinois River Watershed. Regarding water reuse and aquifer recharge as part of the Water for 2060 effort, there is a particular focus with agency partners reviewing whether there are regulatory obstacles in order to take advantage of waste water reuse opportunities as well as being able

to store water underground , i.e., flood waters (i.g. Equus Bed Aquifer in Kansas). Regional water planning was also recommended in the OCWP, and although there was no legislation, local concerns particularly in western Oklahoma have been reviewing long term needs regional water plans and projects that might need to be implemented. He described the activities associated with the Panhandle Regional Water Plan documenting 60% decline in crop irrigation water usage from the Ogallala Aquifer in the Panhandle Region since 1990 and an increase in irrigable acres, implementation of voluntary conservation measures and efficient irrigation equipment so that future generations will be able to continue the agricultural tradition they have enjoyed. The Southwest Oklahoma Plan has identified mid-term and long-term needs as that area has been the driest of the last five years of drought. The Northwest Region Water Plan was just recently released concerning Enid, Woodward, Alva and other communities identifying long term needs. Staff position has been created to focus on reaching out and assisting with technical and financial resources for these water planning groups.

Commissioner Strong noted the report presented an update on other activities the OWRB is engaged in, particularly basin studies underway for groundwater and surface water, water quality projects, on-going water monitoring projects, update of the Oklahoma Water Quality Standards, dam safety and floodplain program, and the Financial Assistance Program which is now over \$3 billion in water and wastewater financing, providing low interest financing to water and waste water systems. Commissioner Strong concluded his report noting the status of ongoing litigation regarding the southeast Oklahoma Tribes.

There were no comments by other Oklahoma Commissioner. (Exhibit E)

## **7. Report of the Secretary**

Chairman Gilder called for the Report of the Secretary. Ms. Julie Cunningham, Commission Secretary, stated the FY 2013 report has been completed, and copies have been distributed to the states as well as being uploaded to the OWRB website. The 2014 report is assembled and awaiting approval of the 2014 meeting minutes today.

There were no questions or comments by Commissioners. Ms. Cunningham concluded the report.

## **8. Report of the Treasurer**

Mr. Bob Lytle, Kansas Division of Water, presented the report of the Treasurer. He said the Compact has solid financial figures and has been operating under a resolution signed in July 2011 that assigned the responsibility of a former staff person the responsibilities of Treasurer to Kansas, and responsibilities of the Secretary to Oklahoma. He said he and Ms. Cunningham had established a banking account in February 2012 with the Bank of America because the former bank was no longer located in Kansas; the opening balance was \$9,920.39. The report indicated that as of July 1, 2012, the account balance was \$15,503.46, and contained the ledger of transactions since opening the new account indicating a balance of \$28,766 as of July 15, 2015.

Mr. Lytle noted the 2015 Annual Audit had been completed in July and he provided copies to the Federal Commissioner and each state.

He reported on anticipated expenditures for FY2016 which totaled \$12,000.00, including expenses for the water quality project, which will be discussed later in the meeting. Following the projected expenditures, the Compact would have a balance of \$16,766 by June 30, 2016 (end of the fiscal year). The assessments for both states remain at a total of \$5,800.00, for a final balance of \$22,566.00.

There were no questions or comments by Commissioners.

Chairman Gilder stated the report should be accepted, and Mr. Lytle stated the budget would also need to be accepted. Chairman Gilder asked for a motion.

Commissioner Strong moved to approve the report of the Treasurer, and Commissioner Blackman seconded. The motion was unanimously approved. (Exhibit F)

## 9. Report of the Engineering Committee.

Ms. Julie Cunningham, asked Mr. Lytle to begin the report of the Engineering Committee. Mr. Lytle distributed the written report. He said the report compared flows of 2014 with flows of 2015, provided water quality at various sites within the basin, and noted construction of reservoir conservation storage capacities in the compact basin areas. He said the Compact provides for allocations from each subbasin and there were two new dams built in Kansas – Crandall Ranch located in Crawford County in the Grand-Neosho Basin for 262 acre-feet, and Otter Creek WJD #83 in Greenwood County in the Verdigris Basin for 228 acre-feet. He said the structures fit within Kansas’s allocations. (Exhibit G)

Ms. Cunningham presented the next item concerning the Engineering Committee’s search for a water quality project. Last year, the Commission discussed spending \$10,000.00 on a project that would benefit both states and the Engineering Committee was to review criteria and types of projects, i.e., the Neosho RCPP and potential water quality grant projects. Mr. Lytle added the Legal Committee was to review the compact and determine whether such a project would be within the purview of the compact and not violate rules. Mr. Jonathan Allen stated the amount was determined by the Commission based upon a surplus in compact funds and determined \$10,000 would be appropriate, and then assigned to the Legal and Engineering Committees to find an appropriate project. Ms. Cunningham clarified the Legal Committee has a resolution stating the Commission has the ability to appropriate the funds and the Engineering Committee discussed an application (Exhibit H), and in the meantime discussed with Shanon Philips about the Neosho project, which is the type of project that could be funded. The Commissioners could vote to allow the Chairman to approve at a later date. She said the Committee did not recommend a certain project, but types of project.

Ms. Shanon Philips, Water Quality Director, Oklahoma Conservation Commission, addressed the members and provided a PowerPoint presentation on the Middle and Lower Neosho Basin RCPP which began in 2014. She described the project as one that brings together non-NRCS resources with NRCS resources to address conservation issues in the basin. She said that for every dollar that NRCS funding was available, it is hoped there would be dollars from other partners. In 2014, there were \$300 million dollars of projects nationwide--\$400 million in leveraged dollars-- illustrating there is much potential for partnership. She said there are many water quality issues, in the Neosho Basin, i.e., nutrients, sediments, bacteria, and the states are working together on addressing problems independently. There has been a large amount of modeling and monitoring to identify the sources which drain to the lake and she discussed the contributing sources and work in Oklahoma that has been done to identify issues within the 12 watersheds in Oklahoma (Honey Creek) and in Kansas (Middle Neosho) including the WRAP program as well as TMDL development on LaBatte Creek, for example, as the type of areas that would benefit from an RCPP project. She discussed the partners in the RCPP and their roles including, the Natural Resource Conservation Commission, the Oklahoma Conservation Commission, the Kansas Dept. of Agriculture/Conservation Commission, the Kansas Health and Environment Department, the Kansas Forestry Service, the Local Conservation Districts, and the Grand River Dam Authority that will identify funding and make recommendations with the goal to give a higher priority to the project that will have the greater water quality benefit – either resulting in funding or higher cost-share. Both states formed watershed advisory groups, which will begin meeting in August, to develop practices, funding, and prioritize work, and the states are working with producers to develop plans for education, monitoring, verifying carbon sequestration, monitor soil health, and implement conservation practices. She provided a budget and staff breakdown that totaled \$3 million from NRCS, and \$2.9 million from Kansas and Oklahoma partners, with the Oklahoma Conservation Commission as the lead agency. She described the role of the partners, as well as the workgroup’s vision of working with the Conservation Districts and the NRCS to decide how to use the funding for incentive payments (in areas of riparian loss) and water quality monitoring efforts, as well as an education outreach program (i.e., demonstration farms and recognition of producers). Ms. Philips provided details on certain projects and areas that will benefit from the RCPP project with the goal to share the funding 50/50, but that dollars can be shifted where needed in order to enlist landowners to implement conservation practices.

Ms. Philips explained how this program operates under the NRCS and EQIP rules through the States advisory group involving incentive payments to implement conservation practices where loss of riparian areas

have occurred, for example. She said there is interest but people need to get into the program, evaluate if there the right amount of dollars, where to best use federal dollars for education outreach, conducting meetings and demonstration farms, and recognition of producers. She said there is no recommendation for the \$10,000 from the Kansas-Oklahoma Arkansas River Commission, but suggested the watershed advisory groups may be able to provide recommendations.

Ms. Cunningham followed up with a presentation of program goals, and added the Engineering Committee is comfortable with the advisory groups making the recommendation. Chairman Gilder and Commissioner Falk agreed. There was discussion that the advisory groups will be meeting in July/August, and the Compact funding could be added to the total funding amount to further fund all aspects of the program. Mr. Jonathan Allen, Oklahoma Water Resources Board and member of the Legal Committee, suggested that the Commission approve a resolution that either directs the funding to a specific project, or be combined with other funding for a larger project, and that all projects should meet the Commission guidelines and criteria. The Commissioners discussed the benefits of both; whether the advisory committee should decide where the funding will be spent and move forward, or whether the Commission should ask the Legal and Engineering Committee to present to the Commission a scope of work, the need for an application considering the timing of Commission meetings, and that the funds could be used to match an ongoing project, monitoring projects, or educational efforts with producers. The Commissioners were supportive and expressed that ultimately the funding – which is not a large amount—should go toward a project that will achieve a common goal of the Compact.

Mr. Allen asked and Ms. Philips responded that both states conduct water quality monitoring for verification of what partners are doing and if the projects are actually having an effect, and that information can be shared with the Commission to tie in with the purpose of the Compact. Acting Commissioner Foley spoke about active monitoring of waste storage sites in Kansas under the Safe Drinking Water and Clean Water Acts which is public information.

Mr. Carl Metcalf, Grand Lake Watershed Alliance Foundation, thanked Ms. Philips for her involvement in the Neosho Basin monitoring project, and spoke to the Commission about the work of the Spring River WRAPS program (in Kansas) which is currently unfunded. He suggested this group could be a possible recipient and asked the Commission to take a look at the group as it will be without funding for one year, and will only be able to receive a maximum funding of \$50,000.00 per year for three years. Commissioner Blackman agreed and described the program's situation, emphasizing the importance of good leadership and there is a need for their work and a contact in the area. Ms. Philips clarified that the Spring River area is not part of the RCPP project so the RCPP could not count funding the group as leverage dollars. Mr. Metcalf said the group has been successful in implementing litter storage projects in the watershed.

Acting Commissioner Foley discussed the state coordinating agency perspectives on evaluating projects and factors for ranking projects for funding; sometimes it isn't a matter of ranking, but that the issue was handled in a different way. Commissioner Strong asked about the Spring River WRAP ranking in the lower one-third, and Mr. Foley explained in regard to the Spring River watershed his agency has hired a retired extension agent that reviews activities in the 9-county area as a check and balance of the system. He said there needed to be a multi-county effort where there is a platform and common approach, and a consistent equitable set of guidelines communicating one message. Commissioner Blackman commented all the WRAPS have a scorecard to determine ranking, and she explained the Marion Reservoir WRAP ranking system and BMP criteria and deadline for spending funds. Commissioner Strong stated he was concerned about the best areas to spend the Compact funds to benefit a program, and everyone agreed education is important to achieving success.

There were no other questions or comments by the Commissioners.

#### **10. Report of the Legal Committee.**

Mr. Jonathan Allen, Assistant General Counsel for Oklahoma and Legal Committee member, addressed the Commission on behalf of the Legal Committee. He referred to the distributed report and noted the

Committee's assignment was to review legal restrictions to providing \$10,000.00 in surplus funds. Federal and state laws were reviewed and the only restrictions that apply are found in the Compact rules and are summarized in the report under, "Conclusion and Recommendations" which he read (Exhibit I). He said the Committee believed that if the funding ties to the purposes of the Compact it would be appropriate. The Committee added "commonsense" factors regarding liability, continuing contributions, and no financial benefit to Commissioners or Committee members.

Mr. Allen reviewed the proposed resolution for the Commissioner's review, "Resolution Pertaining to the Approval of Funding of Water Quality Initiative Projects within the Arkansas River Compact Area by the Kansas-Oklahoma Arkansas River Compact Commission" (Exhibit J) which contains conclusions of the Legal Committee Report. He read the last paragraph and said if the Commission desired to take action today the Committee would suggest a modification to the language to include that the \$10,000.00 amount be directed to total funding or a specific project. If there is a specific project, the Commission would need to review and approve the project and authorize the Federal Chairman to enter the contract or approve the application. He said a review of the rules allows a special meeting to take this action in the interim time, by telephone, with ten days' notice.

Chairman Gilder said everyone agreed on an educational component for the funding, but he did not see that in the resolution and asked if the Committee believed that an appropriate expense. Mr. Allen responded if the Commission wanted to use the funding for educational purposes, there should be verification of water quality in the watershed that education is beneficial. Commissioner Benson said verification that the \$10,000.00 used for education may not come through water quality data for two-three years, and Ms. Philips stated evaluation of conservation practices already in the area can be compared if people are considering new practices that have a greater water quality benefit than in the past, which is a method to evaluate the education effort.

Commissioner Strong and Mr. Allen discussed whether the Commission could delegate to the Treasurer to make disbursement of the money to an unspecified project, and the Committee is comfortable that the use of the money is within the purposes of the Compact. He said because of the use of State funds, it should be on the record the project would meet those requirements, and if the funding is to go to a specific project, the Commission should hear about the project. The decision-making should not be delegated to one person. Commissioner Strong was interested in discussing whether action on a project could be done today and not having to hold a special meeting at some time in the future. Chairman Gilder agreed, but questioned whether there is enough information at this point. Commissioner Blackman stated if the Commission is interested in providing the money to one project, there were ample projects available but would require an application process. She said the Committee recommends the Commission decide the approach.

The Commissioners and Chairman discussed the process of adopting the resolution to approve a specific source that would be voted on in the future, approve the resolution that the Compact would approve funding for a specific project at a future point, that it is appropriate to review a project and to spend the money, that the Commission can adopt the resolution but there is no project or application for funding, and if there is no specific project there should be guidelines to approve. Mr. Robert Large, Kansas Division of Water, stated that the resolution is drafted that the Commission can approve a project, but the scope is needed; or, it can be approved that the money goes to the total funding. The resolution could be approved today (as written) with a separate motion to approve a specific project. Mr. Strong questioned whether the resolution should limit the amount expended.

Commissioner Strong moved approval of the resolution as drafted with the addition of language in the last paragraph authorizing disbursements of "no more than \$10,000.00... to the identified parties or sponsors..." Acting Commissioner Foley seconded. Chairman Gilder noted the motion and asked if there was further discussion. There was no discussion and the Chairman called for the vote. The motion passed unanimously.

Regarding the second phase of the issue, Acting Commissioner Foley stated there should be limited time to present an application for a scope of work presented to the Commission which through a conference call could be reviewed and approved to move forward.

Acting Commissioner Foley moved that 90 days be required for the submittal of a scope of work for the up to \$10,000.00 including an action plan, deliverables and evaluation to be brought before the Federal Chairman and Commission for final review and approval.

Mr. Allen suggested because of the time limit, adding that specifying the first application that meets the requirements will be funded.

There was discussion by the Commissioners and staff about how to proceed. Because the approved resolution required an application and the Neosho RCPP project is initial in implementation, but the resolution authorizes the expenditure at a future date. They discussed the Engineering Committee should review applications and make a recommendation, as well as how to solicit for projects, and whether bidding is required. It was recognized that if the Commission preferred to fund a specific project, more work would be involved in accepting and reviewing applications, etc., and they talked about potential projects that are ready to go now such as the Spring River WRAP.

Commissioner Strong moved that the Commission assign to the Engineering Committee the task of developing criteria for applications, solicit applications for the funding by whatever means are necessary, review the applications and to come back to the Commission at a future date to recommend what project or projects should be funded.

Acting Commissioner Foley seconded. There was no further discussion, and Chairman Gilder called for the vote. The motion passed unanimously.

Acting Commissioner Foley mentioned Mr. Bob Lytle's retiring, and members discussed the membership of the Engineering Committee, and that assignments would be considered under agenda item 13. Commissioner Blackman noted her term expires in June of 2016.

## **11. Report of the Finance Committee (Budget)**

Mr. Robert Lytle, Chairman of the Finance Committee and Treasurer, stated to the Chairman and Commissioners he distributed the proposed FY 2016 and 2017 budgets; the 2015-2016 budget included the audit fees, and included the \$10,000 water quality project in the 2017 proposed budget. The 2016 proposal is from July 1, 2015 through June 30, 2016 and reflects the anticipated expenses, which he reviewed with the Commission. He said cash on hand as of July 10, 2015 was \$29,416, and the states' assessments are \$2,900 (\$5,800 total); anticipated expenses total \$12,000, leaving a balance of \$22,566. Moving forward from July 1, 2016-June 30, 2017, he reviewed the expected expenses of \$12,250, plus assessments, leaving a balance of \$16,166. The proposed budgets include two years of funding the water quality initiative. He said the proposals do not contain what could be discussed under item 13., Committee Assignments.

Mr. Lytle suggested that if there is a contract regarding (water quality) services that would have to be developed and brought back to the Commission when it could then also consider the second proposal, allowing time to consider both. Mr. Lytle explained that he had announced his retirement in March, but there had not been discussions about who would fill his position; his retirement is July 30, and he was concerned about a gap in services to the Commission. Chairman Gilder recommended item 13., Committee Assignments, be discussed along with the Finance Report, and the Commissioners agreed. Commissioner Bryce said the applications for the water quality project could be brought back to next year's meeting and the \$10,000 would be ready to spend; Commissioner Strong said the Commission just passed the resolution regarding \$10,000, but according to the budget proposals, there is now \$20,000 to spend.

Ms. Cunningham said that she had just recently learned of Mr. Lytle's retirement, and she and Mr. Lytle had discussed the possibility of his taking on the administration of the compact as Mr. Harold Springer had done in the past, and she reminded the Commissioners that when Mr. Springer retired, the duties of Secretary

and Treasurer were divided among the states. Her proposal today is that the Commission considers a contract (with Mr. Lytle) combining those duties as well as coordinating meeting arrangements, etc.; Mr. Springer was paid \$3,600 by the Commission. Chairman Gilder stated he had no problem with the proposal.

Acting Commissioner Foley asked to return discussion to the budget proposals. He asked if there was an audit in 2016, one document showed the audit fee the other did not. Mr. Lytle explained the audit has been conducted and the funds expended, and there has not been an audit in FY2016. The Commissioners and Mr. Lytle discussed there should be a line item for the annual audit fees in every annual budget, that the fee had been paid and should be reflected, and that the amount should be estimated at about \$700. Mr. Lytle added if there is a (water quality) proposal for the Commission to consider a special meeting, and contract proposal could be another item for consideration and that Mr. Barfield had indicated he needed time to consider the idea. He had informed the State of Kansas of his retirement notice in March but no one has been named to assume these duties, thus, Ms. Cunningham's response was the contract proposal for a staff employee. Mr. Foley expressed concern about there being a gap in someone performing the compact duties of Treasurer and other committee assignments until such time as a contract could be considered and if a motion is needed. Mr. Robert Large stated it would be Kansas's responsibility to decide (Kansas assignments), and it would be appropriate to have a motion regarding who would assume that role.

Acting Commissioner Foley moved that a contract be developed for consideration for a contract position inserting Mr. Lytle's name, to perform the Treasurer and recorder duties----

Mr. Lytle interjected he would assist significantly with the preparation of annual reports so the contract would include the duties of Treasurer and Secretary.

Mr. Foley continued the motion to include----to develop a contract with the scope of Treasurer and Secretary, and in the interim, appoint Chris Beightel, Kansas Department of Agriculture, to the current existing roles Mr. Lytle has on the Commission during this interim period including the Engineering Committee.

Mr. Jonathan Allen, Oklahoma Legal Committee, stated the development of the contract is appropriate as a Legal Committee assignment, and he recommended for some unnamed person to be decided later to perform the duties of the Secretary and Treasurer within the time frame the Commission decides. As a separate item, the Commission can act on an interim Treasurer today.

Commissioner J.D. Strong seconded the motion by Acting Commission Foley.

Chairman Gilder asked if the motion is understood; there were no questions. He called for the vote. The motion passed unanimously.

Commissioner Blackman stated that if there is to be a special meeting, could the agenda also include the Commission look at the applications the Engineering Committee will bring forth, and Chairman Gilder and the Commissioners agreed.

There was clarification that Mr. Foley's motion included the appointment of Chris Beightel as Interim Treasurer. Chairman Gilder asked if the Commission could at this time assign the Legal Committee the task of formulating a contract with a certain amount of money and should that be approved now, or at a later time? Mr. Lytle responded the Legal Committee could develop a contract with or without an amount which the Commission could decide later. Commissioner Strong asked about approving the budget and Chairman Gilder asked whether it could be approved at this time.

Mr. Lytle responded the audit fees should be listed as expenditure for 2015, and he recommended adjusting the proposed budget FY2016 and FY2017 budgets to include the audit fee. Commissioner Bryce Benson recommended adding a line in the FY2016 budget to include \$650, and adjusting the total to \$12,650, and the cash on hand of \$29,416. He believed the Commission could approve the July 1, 2015 through June 30, 2016 budget, with the modification. In order to approve the FY2017 budget, Commissioner Strong suggested removing the \$10,000 (for the water quality project). Chairman Gilder agreed, and Commissioner Bryce moved to approve the proposed budgets with the \$10,000 water quality project removed from the FY2017 proposed budget.

Mr. Allen asked for clarification on approval of the FY2016 budget regarding the \$650 line item amount. Chairman Gilder stated the amount has been paid. Commissioner Benson stated that amount was for

the audit and should be added in the proposed budget for FY2016, increasing the bottom line amount to 29,416, making the balance the same of \$28,766.

Mr. Lytle repeated the modifications: the line item of \$650 for the annual audit will be added to the proposed audit for FY2016, the total value changes from \$12,000 to \$12,650, cash on hand as of July 15, 2015 is \$29,416; the total equals \$29,416, plus the \$5,800 (assessments) minus \$12,650 equals a balance of \$22,566.

Chairman Gilder stated that is correct and \$10,000 would be stricken from the proposed FY2017 budget. Commissioner Strong seconded. Chairman Gilder asked if the motion is understood, and there were no questions. He called for the vote, and the motion carried unanimously, as amended.

Mr. Lytle will distribute the amended proposed budgets. (Exhibit K).

Chairman Gilder asked if there were additional matters under agenda item 13. regarding committee assignments that needed to be addressed. Ms. Cunningham and Mr. Lytle stated the memberships of the Committees are as follows:

Engineering Committee: Chris Beightel and Julie Cunningham

Finance Committee: Julie Cunningham and Chris Beightel, and Chris as Interim Treasurer

Legal Committee: Jonathan Allen and Robert Large

Chairman Gilder stated the Commission makes the designation; no motion is needed.

## **12. Reports of Various State and Federal Agencies and Other Interested Parties**

Chairman Gilder asked for reports by state or federal agencies.

Mr. Mark Rude, Southwest Kansas Groundwater Management District, addressed the members and presented a letter (Exhibit L) to the Commissioners regarding local efforts to develop strategies to conserve and extend the available groundwater supplies of the District (GMD3) and concerns with what appears to be limited regulation or management criteria governing further development of the Oklahoma Panhandle aquifers. He talked about the interest to enter a multi-state RCPP project. Commissioner Strong offered to provide contact information for people in the Panhandle that are involved in regional planning and have similar conversations. Commissioner Strong explained the limits of groundwater withdrawal in Oklahoma and Mr. Rude encouraged the two states to enter into discussions about strategies and water transfer projects.

Chairman Gilder thanked Mr. Rude for his presentation.

There were no other presentations by other state or federal agencies.

## **13. New Business/Designation of Committee Members/Next Meeting.**

There were no other assignments of Committee members in addition to action taken under the discussion of combined items of 11. and 13.

There was no discussion of the 2016 meeting of the Kansas-Oklahoma Arkansas River Commission meeting.

### **Other**

There were no other items of business for the Commission's consideration.

**14. Adjournment**

There being no further business, Chairman Earnie Gilder adjourned the Fifty-First Annual meeting of the Kansas-Oklahoma Arkansas River Commission at 11:30 a.m. on Wednesday, July 22, 2015, in Langley, Oklahoma.

*M Bruce Falk*

*Julie Gray*

*J. Van Kester*

*David Barfield*

*Byron Benson*

*Earnie Gilder*

**LIST OF EXHIBITS**

- A. Agenda
- B. Attendance list
- C. Mr. Greg Foley represented Mr. Barfield letter
- D. Kansas Report
- E. Oklahoma Report
- F. Treasurer Report
- G. Engineering Committee Report
- H. Engineering Committee draft application
- I. Legal Committee Report
- J. Legal Committee Resolution
- K. Finance Report
- L. GMD3 Letter

**2015 MEETING  
ATTENDANCE**

**PLEASE WRITE CLEARLY AND FURNISH COMPLETE MAILING ADDRESS  
ATTENDANCE**

**MEETING:** 51<sup>st</sup> Annual Meeting of the Kansas-Oklahoma Arkansas River Commission

**LOCATION:** Grand River Dam Authority, Ecosystem and Education Center  
420 E. Highway 28, Langley, OK

**DATE:** July 22, 2015

**TIME:** 9:00 a.m.

| NAME                       | MAILING ADDRESS                               | REPRESENTING                                |
|----------------------------|---|---|
| CARL METCALF               | P.O. BOX 452323 GROVE, OK 74345               | GRAND LAKE WATERSHED ALLIANCE FOUNDATION    |
| Scott Strong               | 10207-D E 6111 St.<br>Tulsa OK 74133          | U.S.G.S.                                    |
| Shanon Phillips            | 4545 N Lincoln suite 11A<br>OKC, OK 73105     | OCC   |
| MARK RUDE                  | 2009 E. SPRUCE ST.<br>GARDEN CITY, KS. 67846  | SW KANSAS GROUNDWATER MGMT DIST. 3          |
| Ernie Gildea               | P.O. BOX 2519<br>MUSKOGEE, OK 74402           | USA   |
| Julie Cunningham           | 3800 N. Lincoln Blvd.<br>OKC 73118            | DWRB  |
| J.D. Strong                | OWRB  | DWRB  |
| STEVE ELSNER               | NRCS- STILLWATER OK                           | NRCS  |
| <del>Penny Blackburn</del> | 1120 Highland<br>Mauvire KS 66861             | Kansas<br>KWAR                              |
| <del>Chuck Sibley</del>    | P.O. Box 1629<br>Coffeyville, KS 67337        | USA   |
| GREG A. FOLEY              | 1868 E 350 Rd<br>LECOMPTON, KS 66050          | (785) 564-6621<br>KDA greg.foley@kda.ks.gov |
| Bruce Falk                 | 33 NE 75th Ave.<br>Stafford, KS 67578         | Ks.   |
| Robert Large               | 1320 Research Park Dr.<br>Manhattan, KS 66502 | KDA   |

KDA  
KS  
JC



**2015 COMMISSION  
DIRECTORY AND  
CREDENTIALS**

**KANSAS - OKLAHOMA ARKANSAS RIVER COMMISSION  
2015**

**Federal Members**

|  |                         |  |
|--|-------------------------|--|
| Gilder, Earnie<br><a href="mailto:egilder@interstateproperties.com">egilder@interstateproperties.com</a><br>(918) 682-1119 or (918) 687-7200 | Federal<br>Commissioner | 10 Oak Park Lane<br>Muskogee, OK 74401 |
|--|-------------------------|--|

|  |                                   |  |
|--|-----------------------------------|--|
| Shively, Chuck<br><a href="mailto:cshively@coffeyville.com">cshively@coffeyville.com</a><br>(620) 252-6007 | Alternate Federal<br>Commissioner | P.O. Box 1629<br>Coffeyville, KS 67337 |
|--|-----------------------------------|--|

**Kansas Members**

|   |              |   |
|---|--------------|---|
| Barfield, David<br><a href="mailto:dbarfield@kda.ks.gov">dbarfield@kda.ks.gov</a><br>785-564-6632 | Commissioner | Kansas Division of Water Resources<br>1320 Research Park Drive<br>Manhattan, KS 66502 |
|---|--------------|---|

|  |              |                                   |
|--|--------------|-----------------------------------|
| Blackman, Peggy J.<br><a href="mailto:65blackman@sbcglobal.net">65blackman@sbcglobal.net</a><br>(620) 382-2541 | Commissioner | 1120 Highland<br>Marion, KS 66861 |
|--|--------------|-----------------------------------|

|   |              |   |
|---|--------------|---|
| Falk, Bruce<br><a href="mailto:bs-falk@sbcglobal.net">bs-falk@sbcglobal.net</a><br>(620) 546-5228 | Commissioner | 33 NE 75th Avenue<br>Stafford, KS 67578 |
|---|--------------|---|

**Oklahoma Members**

|   |              |  |
|---|--------------|--|
| Strong, J.D.<br><a href="mailto:jd.strong@owrb.ok.gov">jd.strong@owrb.ok.gov</a><br>(405) 530-8800 (office)<br>(405) 530-8900 | Commissioner | Oklahoma Water Resources Board<br>3800 N. Classen Boulevard<br>Oklahoma City, OK 73118 |
|---|--------------|--|

|  |              |  |
|--|--------------|--|
| Kirtley, J. Ross<br><a href="mailto:lrkirtley54@gmail.com">lrkirtley54@gmail.com</a><br>(405) 698-7155 (cell)<br>(405) 376-0295 (home) | Commissioner | 10501 Crystal Creek Drive<br>Mustang, OK 73064 |
|--|--------------|--|

|   |              |                                  |
|---|--------------|----------------------------------|
| Benson, Bryce<br><a href="mailto:Bryce_Benson@afbisinc.com">Bryce_Benson@afbisinc.com</a><br>(580) 327-2000 | Commissioner | 518 2nd Street<br>Alva, OK 73717 |
|---|--------------|----------------------------------|

**Treasurer**

|  |          |   |
|--|----------|---|
| Bob Lytle<br><a href="mailto:Bob.Lytile@kda.ks.gov">Bob.Lytile@kda.ks.gov</a><br>785-564-6632 (office) | Chairman | KS Division of Water Resources<br>1320 Research Park Drive<br>Manhattan, KS 66502 |
|--|----------|---|

**Secretary**

|   |        |  |
|---|--------|--|
| Julie Cunningham<br><a href="mailto:julie.cunningham@owrb.ok.gov">julie.cunningham@owrb.ok.gov</a><br>(405) 530-8800 (office) | Member | OK Water Resources Board<br>3800 N. Classen Boulevard<br>Oklahoma City, OK 73118 |
|---|--------|--|

**Engineering Committee**

|                  |          |                                |
|------------------|----------|--------------------------------|
| Bob Lytle        | Chairman | KS Division of Water Resources |
| Julie Cunningham | Member   | OK Water Resources Board       |

**Budget and Finance Committee**

|                  |          |                                |
|------------------|----------|--------------------------------|
| Bob Lytle        | Chairman | KS Division of Water Resources |
| Julie Cunningham | Member   | OK Water Resources Board       |

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**Legal Committee**

Robert Large  
(785) 564-6716  
[Robert.Large@kda.ks.gov](mailto:Robert.Large@kda.ks.gov)

Member

KS Department of Agriculture

Jonathan Allen  
(405) 530-8800  
[Jonathan.Allen@owrb.ok.gov](mailto:Jonathan.Allen@owrb.ok.gov)

Member

OK Water Resources Board

**Other**

Chris Beightel  
(785) 296-3830  
[Chris.beightel@kda.ks.gov](mailto:Chris.beightel@kda.ks.gov)

Kansas Division of Water Resources

Mary Schooley  
[Mary.schooley@owrb.ok.gov](mailto:Mary.schooley@owrb.ok.gov)

Oklahoma Water Resources Board

**Governors**

The Honorable Mary Fallin, Governor  
State of Oklahoma  
212 State Capitol Building  
Oklahoma City, OK 73105

The Honorable Sam Brownback, Governor  
State of Kansas  
300 S.W. 10<sup>th</sup> Ave., Ste. 241S  
Topeka, KS 66612-1590

7/2015

1320 Research Park Drive  
Manhattan, Kansas 66502  
(785) 564-6700



900 SW Jackson, Room 456  
Topeka, Kansas 66612  
(785) 296-3556

Jackie McClaskey, Secretary

Governor Sam Brownback

July 20, 2015

Mr. Earnie Gilder, Chair  
Kansas-Oklahoma Arkansas River Compact Commission  
10 Oak Park Lane  
Muskogee, OK 73044

RE: 2015 Kansas-Oklahoma Arkansas River Compact Commission Meeting

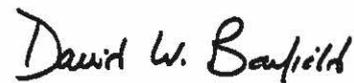
Dear Mr. Gilder:

Due to an unavoidable conflict, I will be unable to attend the annual meeting of the Kansas-Oklahoma Arkansas River Compact Commission to be held in Langley, OK on July 22, 2015.

I hereby appoint Greg Foley, Executive Director of the Conservation Division, Kansas Department of Agriculture, to act on my behalf as provided in Article IV of the compact rules.

I regret the fact that I will not be able to attend. Best wishes for a successful meeting.

Sincerely,



David W. Barfield, P.E.  
Compact Commissioner for Kansas

PC: JD Strong  
Julie Cunningham  
Peggy Blackman  
Bruce Falk  
Chuck Shively



**Report of the Kansas Commissioners  
to the  
KANSAS-OKLAHOMA ARKANSAS RIVER COMMISSION  
Annual Meeting – Vinita, Oklahoma  
July 22, 2015**

**Kansas Commissioners**

Commissioner **David Barfield**, Chief Engineer of the Kansas Department of Agriculture's Division of Water Resources, continues to serve by virtue of his office. As he was unavailable for the meeting, he appointed Greg Foley, Executive Director of the Conservation Division, Kansas Department of Agriculture, to act on his behalf as provided in Article IV of the compact rules.

Commissioner **Peggy Blackman** is currently serving an appointed four-year term beginning June, 2012. Ms. Blackman resides in Marion, Kansas. She is vice chair of the Neosho Basin Advisory Committee and coordinator of the Marion Reservoir Watershed Restoration and Protection Strategies (WRAPS) Implementation & Assessment Workgroup. She was mayor of the City of Marion from 1977-1986.

Commissioner **Bruce Falk** was appointed commissioner by Governor Brownback during July, 2011. Mr. Falk resides in Stafford, Kansas. Before his retirement in 2008, he served the Kansas Department of Agriculture, Division of Water Resources for 35 years including 16 years as water commissioner in the division's Stafford Field Office.

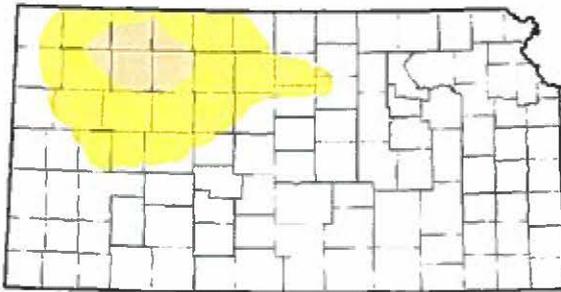
**Climate Conditions** below is last year's info. It should be updated...conditions continued to improve.. updated maps

**Drought conditions** have subsided over much of the state over this year and thereby reducing, but not eliminating, the stress on agriculture and water management. Below is a summary of current conditions as well as graphics showing conditions of a year ago.

**U.S. Drought Monitor**  
Kansas

**July 14, 2015**  
(Released Thursday July 16, 2015)  
Valid 8 a.m. EDT

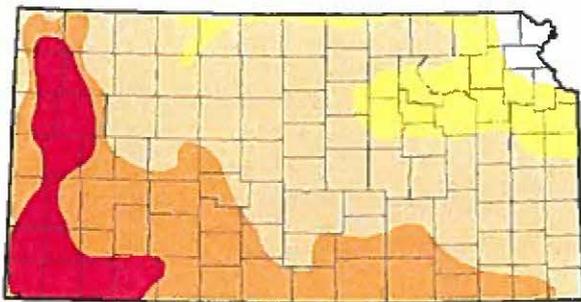
Statistics type: Traditional Percent Area Export table:   



| Week                                 | None  | D0-D4 | D1-D4 | D2-D4 | D3-D4 | D4   |
|--------------------------------------|-------|-------|-------|-------|-------|------|
| Current<br>2015-07-14                | 78.76 | 21.24 | 3.49  | 0.00  | 0.00  | 0.00 |
| Last Week<br>2015-07-07              | 90.38 | 9.64  | 3.49  | 0.00  | 0.00  | 0.00 |
| 3 Months Ago<br>2015-04-14           | 7.88  | 92.12 | 68.18 | 27.67 | 4.02  | 0.00 |
| Start of Calendar Year<br>2014-12-30 | 19.49 | 80.51 | 37.49 | 18.30 | 2.25  | 0.00 |
| Start of Water Year<br>2014-09-30    | 18.51 | 81.49 | 46.13 | 19.50 | 2.37  | 0.00 |
| One Year Ago<br>2014-07-10           | 1.82  | 98.18 | 85.42 | 37.08 | 10.16 | 0.00 |

Population Affected by Drought **10,563** [View More Statistics](#)

**Intensity:**  
 D0 (Abnormally Dry) 
  D2 (Severe Drought) 
  D4 (Exceptional Drought)  
 D1 (Moderate Drought) 
  D3 (Extreme Drought)



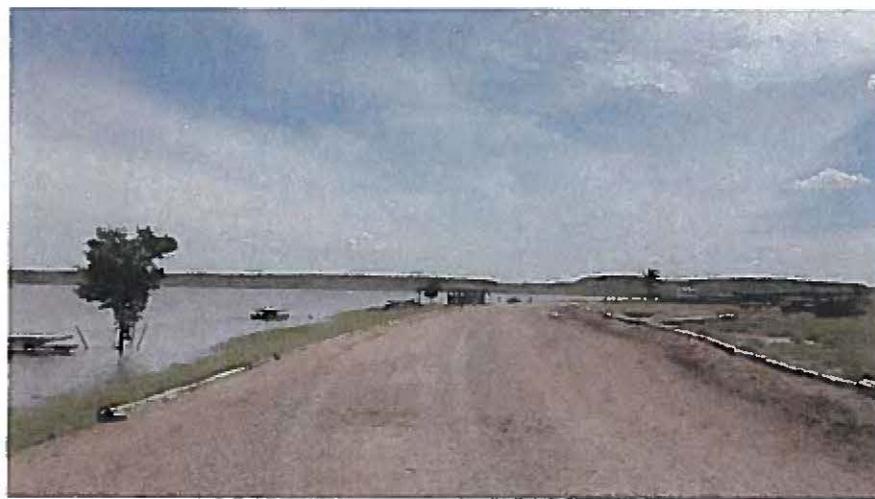
Drought Map from July 2014

**Minimum Desirable Streamflows:** MDS administration has been less this year than in the recent past years. The year started with administration of 18 water rights on 2 streams where the statutory criteria for minimum desirable streamflows had been set. At this point, we are administering 12 water rights on 2 streams; none in the Arkansas River Basin.

MDS was established to protect ecological, water quality, and domestic needs.

**Horsethief Reservoir in Hodgeman County**

For the first time since its construction in 2009(?) Horsethief Reservoir filled in late May, 2015



## **50-year water vision :**

Last year, Governor Brownback called on state water-related agencies, led by the Kansas Department of Agriculture and the Kansas Water Office, to work with stakeholders to develop a 50-year vision for our improved development and management of the State's water resources. His request, and the subsequent work, has two principle areas of focus:

- Reservoirs – Kansas relies on a system of federal and non-federal reservoirs to provide a water supply to our population centers and industry of central and eastern Kansas. Unfortunately, the yield of the system is being reduced over time by siltation and the system will not be sufficient for future demands in some parts of the state.
- Ogallala management – The Ogallala aquifer is a critical but declining source of water supply for much of western Kansas.

The "Vision Team" has hosted over 500 meetings to listen to the public's thoughts, over 15,000 participants, on improved management and how to meet water supply demands for the coming 50 years. They are currently finalizing the draft of the Vision. The 50-year Vision is currently underway and implementing phase 1 action items.

**Legislation:** The 2015 Kansas Legislature passed several important water-related bills.

### **SB 52:**

Augmentation: Chief Engineer may authorize augmentation to satisfy a water right within Rattlesnake Creek Sub Basin, if such replacement is available and offered voluntary.

Multi-Year Flex Accounts (MYFA): Allows up to 1 year's base average water use to rollover into a new MYFA. Also allows water right owners to make small (less of 10 acres or 10% of authorized) adjustment in their place of use while enrolled in a MYFA.

Conservation: When evaluating a LEMA, allows the Chief Engineer to give due consideration to those that have previously implemented voluntary conservation measures.

Small Lake Project: Calculation of interest on state's cost in providing storage (Alma City Lake).

### **SB 156**

Water Conservation Areas (WCA): Allows a group of water right owners of any size to form

a WCA to enter into voluntary water use reductions, requires 100% consensus.

Ag Liming: removes language requiring calcium carbonate equivalents to be prescribed by "Association of Official Analytical Chemists".

Arkansas River Gaging: allows expenditure for groundwater gage sites at the state line in the Arkansas River Basin to monitor quantity and quality of groundwater.

### **HB 2061**

Conservation Easements: allows the Division of Conservation to hold third party easements for Watershed Districts to satisfy 404 permitting process for construction of watershed dams.

### **SB 36**

Conservation Lending Program: allows the Secretary of KDHE to establish and administer the conservation lending program to facilitate loans by eligible financial institutions for the construction of eligible conservation practices.

## **Litigation:**

**Kansas v. Nebraska and Colorado:** On February 24, 2015, The U.S. Supreme Court today found Nebraska “recklessly” overused Republican River water in 2005 and 2006, and the court took the unprecedented step of ordering Nebraska to give up a portion of its unjust economic gains from keeping and using Kansas water, Attorney General Derek Schmidt said.

In a 28-page majority opinion, the court unanimously agreed that Nebraska “knowingly” violated the Republican River Compact and took water that belonged to Kansas. As a remedy, the Supreme Court ordered by a 6-3 vote that Nebraska not only must pay Kansas’ actual damages from loss of water during those two dry years but also must “disgorge” a portion of the economic gain Nebraska received from higher yields from irrigating crops with water that should have been sent downstream to Kansas.

But even before the ruling, the states

## **Arkansas River Basin Matters**

**Quivira National Wildlife Refuge impairment** – update The U.S. Fish and Wildlife Service operates the Refuge, a wetland of international significance along the Central Flyway. For almost 20 years, the Service has been expressing concern about the impact of upstream groundwater pumping on water resources to meet the needs of the Refuge and its very senior surface water right in the Rattlesnake Creek basin. After 15 years of seeking to work to reduce groundwater use through voluntary means failed to produce a fraction of the desired reductions, during April of 2013 the Service requested that its water right be protected. DWR is currently working to complete its impairment investigation to determine if junior upstream groundwater pumping is impairing the Services right, and if so, what action should be taken.

**Water transfer** - shorten and update (change applications received, in process) During the mid-1990’s, after decades of search for a source of water to meet its long-term water supply needs, the City of Hays purchased a ranch near Kinsley, Kansas with the intent to develop it as a water supply source for the future. During April 2014, the City of Hays’ City Commission asked its staff to take steps to initiate the processes needed to bring this about. This will include a series of water right change applications to change the points of diversion, place of use, and use made of water from the existing irrigation use to municipal use for Hays, the City of Russell and likely other partners. DWR’s rules applicable to the change applications will insure that only the consumptive use portion of the water rights are allowed to be used for the new use, likely reducing the 8000 acre-feet of water rights to approximately 5,000 acre-feet. In addition, as the proposal would authorize the transport of more than 2000 acre-feet more than 35 miles, it will also have to be approved under the Kansas Water Transfer Act, the first permanent transfer to be considered under the Act.

**2015 OKLAHOMA  
COMMISSIONER REPORT**

# OKLAHOMA COMMISSIONERS' REPORT

Kansas-Oklahoma  
Arkansas River Compact Commission

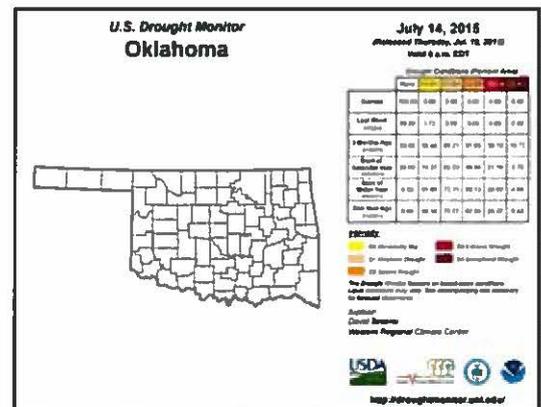
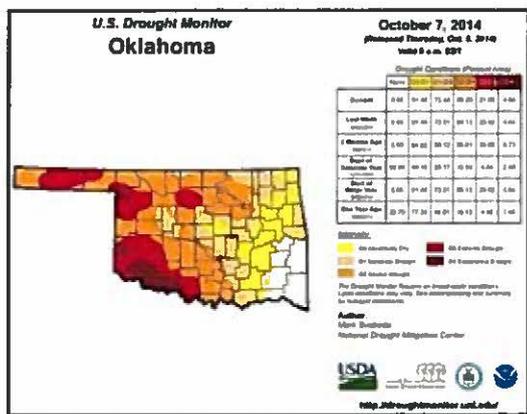
Marion, Kansas

July 22, 2015



## CLIMATE

According to the Oklahoma Climatological Survey, historic rains throughout May and June eliminated nearly five years of drought in Oklahoma. Statewide average rainfall for May was 14.4 inches—9.58 inches above normal—setting a new record for any month in the state’s history. Twenty-two Mesonet stations recorded at least 20 inches of rain, and 54 recorded at least 15 inches. The U.S. Drought Monitor for Oklahoma reported that the number of Oklahomans affected by drought (category D1-D4) was at zero by the end of June. At this time last year, more than 78% of the state was suffering from drought with more than 10% experiencing exceptional drought (D4). Just three months ago, more than 85% of the state was affected by drought. At the end of May, 23% of the state was reported to still be experiencing abnormally dry conditions (D0), but by the end of June, that number was down to less than 2%, and included about half of Cimarron county and a small portion of Texas county. Proof of drought recovery can easily be seen in Oklahoma’s lakes. Real-time lake gages monitored by the U.S. Army Corps of Engineers and U.S. Geological Survey show that most of the state’s largest lakes have remained at greater than 100% of normal pool storage capacity throughout the month of June. According to the U.S. Seasonal Drought Outlook released by the National Weather Service Climate Prediction Center, from mid-June through the end of September, none of the state’s climate regions are likely to develop drought conditions, which is also the case for Oklahoma’s neighboring states in all directions. However, Utah, Arizona, Nevada, Idaho, and all states along the west coast are expected to experience persistent or intensifying drought.



## BOARD APPOINTMENT UPDATES

The OWRB defines policy and conducts the state’s water business through a nine-member Board appointed by the Governor. Members serve staggered seven-year terms and represent all geographic areas of the state and diverse groups of water users. In April 2015, Governor Mary Fallin appointed Stephen B. Allen, of Jenks, OK, to represent industrial water use interests and the OWRB’s region seven (Tulsa County). Allen’s term will expire in May 2021. In addition to Allen’s appointment, both Ford Drummond and Bob Drake were reappointed as board members. Drummond, of Bartlesville, OK, represents the OWRB’s Region 6 (North-Central Oklahoma), and his term expires in May 2020. Drake, of Davis, OK, represents the OWRB’s Region 4 (South-Central Oklahoma), and his term expires in May 2021.

## **DROUGHT MANAGEMENT AND FLOODING RESPONSE**

Given Oklahoma's historical precipitation patterns and forecasts for the future, there is a high probability of more, and even more significant, droughts for the state. Unfortunately, our recent historically significant drought ended in equally significant flooding, and with it came a tragic loss of life and property damage. The OWRB's Floodplain Management staff continues to work with both FEMA and National Flood Insurance Program (NFIP) participant communities throughout Oklahoma on data collection and damage assessments. While we acknowledge the dangers of flooding, we also recognize the benefits the heavy rain brought, including the filling of many near-empty reservoirs across western Oklahoma. The respite, however brief, provides the state's citizens and water planners the opportunity to redouble efforts to prepare for the next prolonged drought. Water officials and planners, agricultural producers, industrial water users, and many other Oklahomans must continue to conserve water, plan for the worst, and improve infrastructure for the inevitable time when flood waters are a distant memory.

### **Planning**

The Oklahoma Water Resources Board initiated several drought preparedness and planning programs over the last two years, as well as created several drought-related tools and resources for both citizens and communities in Oklahoma. For example, the OWRB recently finalized the Public Water Supply Planning Guide to assist public water supply systems in developing plans to meet their specific long-term water needs.

During Oklahoma's recent 5-year drought, the Governor and State Legislature also took a number of steps to help communities and Oklahomans respond to immediate conditions and to prepare for future drought-related issues. These steps have included the passage of legislation to bring grant funding to communities struggling with drought, the creation of multiple drought-related and water planning-related resources for citizens and public water systems, and the implementation of several drought-planning forums to foster better communication and understanding of sound drought preparedness and planning.

### **Resources**

In September 2014, Governor Mary Fallin announced the Water for 2060 Drought Grant Program, which made \$1.5 million available in drought grants for cities, counties, water districts and other public entities to help fund projects that highlight responsible use of water. In addition to the Water for 2060 Drought Grant Program, separate legislation was approved in 2012 to create the Emergency Drought Commission and Relief Fund to provide funding for drought mitigation and related projects in conjunction with a formal gubernatorial drought declaration. As a result of Governor Fallin's drought declaration in the fall of 2013, an additional \$1.125 million in emergency drought relief grants were made available to struggling western Oklahoma communities. Specific assistance projects were limited to affected counties and were approved by the Oklahoma Emergency Drought Commission, consisting of the Secretary of Agriculture and Executive Directors of the Oklahoma Water Resources Board and Oklahoma Conservation Commission.

## **OKLAHOMA COMPREHENSIVE WATER PLAN**

Considerable progress was made during 2013-2014 toward implementing the priority recommendations included in the 2012 Update of the Oklahoma Comprehensive Water Plan (OCWP), including Water Monitoring; Water Supply Reliability; Water Conservation, Efficiency, Recycling and Reuse; Water Infrastructure Funding; and Instream Flows. The OWRB has enhanced and expanded water monitoring activities and hydrologic studies, as well as revitalized financing of water and wastewater projects to meet the anticipated \$82 billion dollar need over the next 50 years. In addition, the OWRB and contractors have facilitated initial meetings of the Water for 2060 Advisory Council and the Instream Flow Advisory Group, as well as agency collaboration on rule updates necessary to encourage water reuse, reclamation, and recycling throughout Oklahoma.

## Water for 2060 Advisory Council

With passage of House Bill 3055 (the Water For 2060 Act) in 2012, Oklahoma became the first state in the nation to establish a bold, statewide goal of consuming no more fresh water in 2060 than was consumed in 2010. The OWRB has partnered with the U.S. Army Corps of Engineers to begin preliminary work required to support the new Water for 2060 Advisory Council, chaired by OWRB Executive Director, J.D. Strong. The Water for 2060 Advisory Council, a 15-member group appointed to develop recommendations aimed at stabilizing Oklahoma's water use through improved conservation and efficiency, held its first four meetings in 2013-2014. Each successive meeting focused on the major water use sectors and stakeholders in Oklahoma including: public water supply systems, crop irrigation, and the power generation and energy production sectors. The Council's final report of findings and recommendations will be submitted to the Governor, Speaker of the House, and President Pro Tempore by late 2015.

## "Hot Spot" Basin Studies

Officials and planning specialists from the OWRB continue work on three in-depth studies focused on reviewing specific strategies to prevent future water supply shortages in three of the state's twelve "Hot Spot" basins located in western Oklahoma. The three water basins include the following: Basin 26, part of the Beaver-Cache Watershed Planning Region located near Duncan; Basin 38, part of the Southwest Watershed Planning Region located near Altus; and Basin 51, part of the Central Watershed Planning Region located between Yukon and Watonga (see Figure 1). The three studies will focus on how water conservation, marginal quality water supplies, and public water supply system regionalization strategies might address the needs of hot spot basins on a local implementation level as examples for water users statewide.

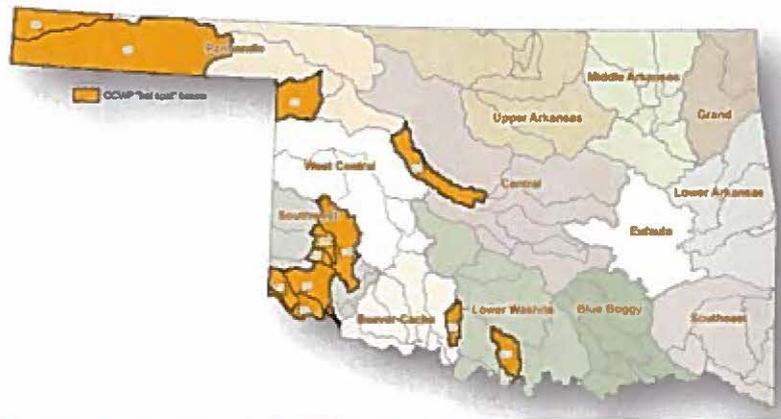


FIGURE 1. HOT SPOT BASINS, 2012 UPDATE OF THE OKLAHOMA COMPREHENSIVE WATER PLAN

## Instream Flow Workgroup

The OCWP Instream Flow Workgroup met several times during 2014-2015. Most recently on January 22nd, the OWRB hosted a public forum in Tahlequah, OK to kick off the Scenic River Instream Flow Pilot Study. The pilot study was developed to incorporate a process for evaluating economic and environmental impacts that could result from establishment of instream flow requirements in Oklahoma. The Workgroup—commissioned during the OCWP update process to conduct an independent technical, legal, and policy analysis of a potential instream flow program in Oklahoma—continues to craft recommendations for the most efficient, feasible method for balancing the water needs of consumptive users with those that rely upon water flowing in streams and lakes for economic development, recreation, and quality of life.

## Water Reuse Regulatory Collaboration

The OWRB continues to work with the Oklahoma Department of Environmental Quality, and several engineering and consulting firms to facilitate and promote reasonable wastewater reuse as the drought deepens. Because the WQS provide additional protection to several municipal sensitive water supplies (SWS) around Oklahoma, the agencies are partnering to explore how the protection measures can be blended with both direct and indirect potable reuse. With the drought expected to last several more years, utilizing treated wastewater more effectively is becoming more and more important.

## WATER RESOURCES TECHNICAL STUDIES

Hydrologic studies, another primary initiative of the OCWP, are ongoing throughout the state. OWRB Technical Studies staff continues to focus on completion of the statutorily-required hydrologic studies, 20-year updates, and stream water allocation studies, including the completion of pending maximum annual yield determinations for at least four prioritized aquifers. In April 2015, the OWRB and the Bureau of Reclamation commenced the three-year Upper Red River Basin Study with a public meeting in Altus, OK. The study will build upon existing planning efforts in the area; update information on groundwater and surface water demands and supplies; assess risks to the long-term reliability of reservoirs during drought periods; and evaluate adaptation strategies that address water supply challenges. The Rush Springs Aquifer Study was initiated in 2011 in conjunction with a hydrologic investigation and stream water allocation model of the Upper Washita River Basin. Staff have been drafting the hydrologic investigation report and designing a steady-state groundwater model for the Rush Springs aquifer study. OWRB has also been completing a 20-year hydrologic study update for the Enid Isolated Terrace and has been preparing the hydrologic investigation report. In addition, the OWRB entered into an agreement with the USGS to begin a 20-year update of the Washita River Reach I alluvium and terrace aquifer.

## WATER QUALITY PROJECTS & MONITORING

The 2014 version of the “new and improved” Beneficial Use Monitoring Program (BUMP) report was released in May 2015 by the OWRB. The BUMP report can be found at the Oklahoma Water Resource Boards's [Monitoring & Assessment website](http://www.owrb.ok.gov/quality/monitoring/monitoring.php) (<http://www.owrb.ok.gov/quality/monitoring/monitoring.php>). The report again includes the Groundwater Monitoring and Assessment Program, or GMAP, as well as the results of our updated and enhanced stream, river and lakes monitoring work. The next round of sampling for the GMAP has begun as well as groundwater sampling efforts to assist the Oklahoma Department of Agriculture, Food & Forestry.

Routine sampling as part of the BUMP is ongoing. In addition, a Nutrient Limited Watershed (NLW) Pilot Study at Crowder Lake is currently underway. This study is designed assess water quality on the reservoir and streams in the watershed to determine which beneficial uses are impacted and if the lake is impaired due to elevated nutrients. Also near shore bathymetric mapping of Grand Lake (via a contract with the Grand River Dam Authority) is nearing completion. Lastly, field efforts as part of the National Rivers and Streams Assessment have been completed for 2014.

## OKLAHOMA WATER QUALITY STANDARDS

OWRB Water Quality staff continue to refine and improve Oklahoma’s Water Quality Standards, and prepared several projects for rulemaking that began in the Fall of 2014. One major project is a revision to clarify existing dissolved oxygen criteria. The objective of this revision is not to make the criteria more stringent, but to clarify the application of the dissolved oxygen criteria for use in 303(d) assessments and TMDL analyses. Other projects in progress and/or anticipated include updating Human Health Criteria to reflect new science on body weight and water consumption rates, as well as potential updates to ammonia and selenium criteria.

Another project underway is the development of wetland water quality standards (WQS). Currently, Oklahoma’s wetlands are protected by default WQS that were developed for lakes and streams and are often not suitable for wetlands. As a result, there have been both scientific and regulatory challenges with applying the default standards to wetlands. Developing WQS specifically for wetlands will provide a scientifically sound foundation for the state’s wetland programs and regulatory relief by providing clarity for all regulated stakeholders going forward.

The OWRB’s/WQPD WQS staff presented the proposed rules relating to the Water Effect Ration and Dissolved Oxygen Proposal to the Board on February 17, 2015, and they were subsequently approved. However, OWRB staff recommended withdrawal of the Wetlands WQS provisions at that time in order to conduct an additional year of work on refining and clarifying language associated with wetlands.

## DAM SAFETY PROGRAM

In 2013, and again in 2014, the OWRB introduced a free inspection program for low hazard-potential dams in Oklahoma. In addition, inspection and maintenance training was conducted for private and municipal dam owners, and breach inundation maps were developed for 15 high hazard-potential dams (provided to dam owners at no cost) and integrated into site-specific Emergency Action Plans to assist emergency managers in the event of dam failure. Staff has also been generating hydrologic and hydraulic reports for these dams, if not in existence, to ensure that the design flood requirements are met. OWRB's Dam Safety Program has also conducted free Emergency Action Plan (EAP) in 2014 to emphasize the importance of the EAP and its regular maintenance, defining emergency processes and related actions, roles of NRSC and NWS in improving or simplifying the emergency action plan, and reviewing OWRB rules and regulations.

## FLOODPLAIN MANAGEMENT

The OWRB continues to participate in FEMA's RiskMAP program, an innovative approach to fostering working partnerships between FEMA and participating National Flood Insurance Program (NFIP) communities, regional agencies, state agencies, tribes, and universities in identifying and communicating risk throughout local watersheds. To date, the OWRB has initiated seven FEMA RiskMAP Discovery projects throughout Oklahoma. The OWRB continues to train and accredit floodplain administrators in Oklahoma's 396 participating NFIP member communities.

## WATER RESOURCES FINANCING

The OWRB administers the State Financial Assistance Program (FAP), backed by the Statewide Water Development Revolving Fund, which awards loans and grants for the construction and improvement of water and sewer facilities. In all, through the OWRB's five loan and grant programs, more than \$3.2 billion in financing has been provided for water and sewer projects in Oklahoma with a total estimated savings of more than \$1 billion to Oklahoma communities.

| PROGRAM                 | NUMBER AND AMOUNT                |
|-------------------------|----------------------------------|
| FAP Loans               | 365 for \$935,065,000            |
| CWSRF Loans             | 286 for \$1,299,124,392          |
| DWSRF Loans             | 174 for \$916,958,300            |
| REAP Grants             | 633 for \$56,197,061             |
| Emergency Grants        | 568 for \$33,882,821             |
| Drought Response Grants | 10 for \$1,543,848               |
| Water for 2060          | 4 for \$1,500,000                |
| <b>TOTAL</b>            | <b>2,040 for \$3,244,211,422</b> |

The new Water Infrastructure Credit Enhancement Reserve Fund—a \$300 million pledge of credit from the state enabled through an OCWP priority recommendation and subsequent passage of State Question 764—was instrumental in Standard and Poor's rating upgrade to AAA of the State Revenue Bond Loan Program. The upgrade allows municipalities and rural water/sewer districts to receive loans from the program at lower interest rates than what they could receive through conventional financing.

## LEGAL MATTERS

### Chickasaw and Choctaw Nations v. Gov. Fallin, OWRB, and Oklahoma City

On August 18, 2011, the Chickasaw Nation and Choctaw Nation of Oklahoma filed a lawsuit in the U.S. District Court for the Western District of Oklahoma. The lawsuit names as defendants Gov. Mary Fallin, the members and Executive Director of the OWRB, the City of Oklahoma City and the Oklahoma City Water Utility Trust (OCWUT). The lawsuit alleges the Indian Nations have federally-protected rights to the water within a 22-county territory in southeastern Oklahoma. Among other things, the lawsuit seeks: (1) declaratory judgments against any action by the OWRB on a pending application by Oklahoma City and OCWUT for a permit to use stream water from Sardis Reservoir in southeastern Oklahoma, or any other withdrawal or export of water from the area at issue, unless and until there is

initiated a general stream adjudication that satisfies the requirements of the federal law known as the McCarran Amendment; and (2) permanent injunctions against any such action unless and until a general stream adjudication that satisfies the McCarran Amendment is completed. On February 10, 2012, the Oklahoma Attorney General filed on behalf of the OWRB to initiate such McCarran Amendment adjudication proceedings to protect and accurately determine all rights to the use of water in the Kiamichi, Clear Boggy, and Muddy Boggy stream systems and moved to dismiss the Tribes' federal court action as a premature effort to have federal courts usurp Oklahoma's management of waters of the State. However, on March 12, 2012, the United States filed a Notice of Removal with the federal district court in Oklahoma City. Since that time, a joint motion to stay proceedings has been granted for both cases (Chickasaw Nation and Choctaw Nation v. Fallin and OWRB v. United States) and has been renewed on a continual basis to allow further efforts in mediation.

**2015 TREASURER  
REPORT**

Treasurers Report  
 Kansas – Oklahoma Arkansas River  
 Compact Commission  
 FY 2015 Expenditures and Summary  
 (July1, 2014 thru June 30, 2015)

The Kansas-Oklahoma Arkansas River Compact Commission continues to operate as described in the Resolution signed by the Commissioners on July 27, 2011, pertaining to the Responsibilities of the Secretary and Treasurer Positions that were vacated when Compact Employee, Harold Springer, resigned from these positions. The Secretary position is held by Julie Cunningham of Oklahoma, and the Treasurer is Bob Lytle of Kansas.

The Compact Commission continues to meet its financial obligations through an account established with Bank of America pursuant to Resolution 2012.1 signed by the Commission in January of 2012, and opened in February of 2012. When the account was opened, an amount of \$9,920.39 was transferred from U.S. Bank.

The Firm of Cummings and Coffman was retained to complete the 2015 Annual Audit. The audit was conducted from July 1, 2014 through July 20, 2014. The cost to the Compact Commission was \$650.00

Below is a ledger of the transactions since July of 2012.

**Balance as of 7-1-12**  
**\$ 15,503.46**

| Check# | Date     | Description                      | Amount     | Balance                |
|--------|----------|----------------------------------|------------|------------------------|
| 1002   | 8-9-12   | B&B Country Dream (2012 Meeting) | \$34.53    | \$15,468.93            |
| 1003   | 8-9-12   | Elgin Hotel (2012 Meeting Room)  | \$125.00   | Check lost in the mail |
| 1004   | 8-9-12   | Peggy Blackman (2012 Meeting)    | \$139.09   | \$15,329.84            |
| 1005   | 10-3-12  | Elgin Motel (2012 Meeting)       | \$125.00   | \$15,204.84            |
|        |          | Interest                         | \$1.28     | \$15,206.12            |
|        | 2-6-13   | Kansas 2013 Assessment           | \$2,900.00 | \$18,106.12            |
|        | 2-11-13  | Oklahoma 2013 Assessment         | \$2,900.00 | \$21,006.12            |
| 1006   | 4-23-13  | M&M Insurance (Bond)             | \$180.00   | \$20,826.12            |
| 1007   | 6-19-13  | OKC Courtyard (2013 Meeting)     | \$400.53   | \$20,425.59            |
|        |          | Additional accrued interest      | \$0.85     | \$20,426.44            |
| 1008   | 9-18-13  | Cummings and Coffman (audit)     | \$1,500.00 | \$18,926.44            |
|        | 3-4-14   | Oklahoma 2014 Assessment         | \$2,900.00 | \$21,826.61            |
| 1009   | 3-12-14  | M&M Insurance (Bond)             | \$180.00   | \$21,646.61            |
|        | 5-5-14   | Kansas 2014 Assessment           | \$2,900.00 | \$24,546.61            |
|        |          | Interest                         | \$2.09     | \$24,548.70            |
| 1010   | 8-8-14   | Cummings and Coffman (audit)     | \$550.00   | \$23,998.70            |
| 1011   | 10-15-14 | Peggy Blackman (2014 Meeting)    | \$204.79   | \$23,793.91            |
|        |          | Interest                         | \$1.39     | \$23,795.30            |
| 1012   | 3-3-15   | M&M Insurance (Bond)             | \$180.00   | \$23,615.30            |
|        | 3-13-15  | Kansas 2015 Assessment           | \$2,900.00 | \$26,515.30            |
|        | 3-27-15  | Oklahoma 2015 Assessment         | \$2,900.00 | \$29,415.30            |
|        |          | Interest                         | \$0.70     | \$29,416.00            |
| 1013   | 7-14-15  | Cummings and Coffman (audit)     | \$650.00   | \$28,766.00            |

**Balance as of 7-15-15 = \$28,766**

| Outstanding expenditures for FY2016   | Estimated Cost |
|---------------------------------------|----------------|
| Printing Annual Reports (2013 & 2014) | \$1,000.00     |
| 2015 Annual Meeting cost              | \$400.00       |
| Incidentals                           | \$400.00       |
| Water Quality Project                 | \$10,000.00    |
| Insurance Bond (2016)                 | \$200.00       |
| Total                                 | \$12,000.00    |

**Expected Balance for End of FY 2016 or as of June 30, 2016**

\$28,766 - \$12,000 (expenditures for FY215) = \$16,766

Assessments for both States = \$5,800

\$16,766 + \$5,800 = **\$22,566**

**AUDIT REPORT**

**KANSAS – OKLAHOMA ARKANSAS RIVER COMMISSION**

**FINANCIAL STATEMENTS  
AND  
INDEPENDENT AUDITOR'S REPORT**

**As of and For the Years Ended June 30, 2015 and 2014**

KANSAS – OKLAHOMA ARKANSAS RIVER COMMISSION  
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Jennifer K. Werth, C.P.A.  
Nancy L. Toelkes, C.P.A.

## INDEPENDENT AUDITOR'S REPORT

To the Commissioners of  
Kansas – Oklahoma Arkansas River Commission

We have audited the accompanying financial statements of Kansas – Oklahoma Arkansas River Commission, which comprise the statements of assets, liabilities, and net assets – cash basis as of June 30, 2015 and 2014, and the related statements of support, revenues, and expenses – cash basis for the years then ended, and the related notes to the financial statements.

### **Management's Responsibility for the Financial Statements**

Management is responsible for the preparation and fair presentation of these financial statements in accordance with the cash basis of accounting described in Note 1; this includes determining that the cash basis of accounting is an acceptable basis for the preparation of the financial statement in the circumstances. Management is also responsible for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

### **Auditor's Responsibility**

Our responsibility is to express an opinion on these financial statements based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the Commission's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Commission's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

**Opinion**

In our opinion, the financial statements referred to above present fairly, in all material respects, the assets, liabilities, and net assets of Kansas – Oklahoma Arkansas River Commission as of June 30, 2015 and 2014, and its support, revenues, and expenses for the years then ended in accordance with the cash basis of accounting described in Note 1.

**Basis of Accounting**

We draw attention to Note 1 of the financial statements, which describes the basis of accounting. The financial statements are prepared on the cash basis of accounting, which is a basis of accounting other than accounting principles generally accepted in the United States of America. Our opinion is not modified with respect to that matter.

*Cummings + Coffman, CPAs, P.A.*

Topeka, Kansas  
July 16, 2015

KANSAS – OKLAHOMA ARKANSAS RIVER COMMISSION  
 STATEMENTS OF ASSETS, LIABILITIES,  
 AND NET ASSETS – CASH BASIS

ASSETS

|                  | <u>June 30</u>       |                      |
|------------------|----------------------|----------------------|
|                  | <u>2015</u>          | <u>2014</u>          |
| Cash             | \$ <u>29,416</u>     | \$ <u>24,548</u>     |
| <br>Total Assets | <br>\$ <u>29,416</u> | <br>\$ <u>24,548</u> |

LIABILITIES AND NET ASSETS

|                                      |                      |                      |
|--------------------------------------|----------------------|----------------------|
| Liabilities                          | \$ -                 | \$ -                 |
| <br>Net Assets, Unrestricted         | <br><u>29,416</u>    | <br><u>24,548</u>    |
| <br>Total Liabilities and Net Assets | <br>\$ <u>29,416</u> | <br>\$ <u>24,548</u> |

The accompanying notes are an integral part of the financial statements.

KANSAS – OKLAHOMA ARKANSAS RIVER COMMISSION  
 STATEMENTS OF SUPPORT, REVENUES,  
 AND EXPENSES – CASH BASIS  
 Years Ended

|  | <u>2015</u> | <u>June 30</u><br><u>2014</u> |
|--|-------------|-------------------------------|
| <b><u>UNRESTRICTED NET ASSETS</u></b>      |             |                               |
| <b><u>SUPPORT AND REVENUE</u></b>          |             |                               |
| Kansas Department of Agriculture           | \$ 2,900    | \$ 2,900                      |
| Oklahoma Water Resources Board             | 2,900       | 2,900                         |
| Interest revenue                           | 3           | 2                             |
| Total support and revenue                  | 5,803       | 5,802                         |
| <b><u>EXPENSES</u></b>                     |             |                               |
| Meeting                                    | 205         | -                             |
| Audit                                      | 550         | 1,500                         |
| Insurance                                  | 180         | 180                           |
| Total expenses                             | 935         | 1,680                         |
| Change in unrestricted net assets          | 4,868       | 4,122                         |
| Unrestricted net assets, beginning of year | 24,548      | 20,426                        |
| Unrestricted net assets, end of year       | \$ 29,416   | \$ 24,548                     |

The accompanying notes are an integral part of the financial statements.

KANSAS – OKLAHOMA ARKANSAS RIVER COMMISSION  
NOTES TO FINANCIAL STATEMENTS  
June 30, 2015

**NOTE 1 ORGANIZATION AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

**Organization**

Kansas – Oklahoma Arkansas River Commission is an interstate administrative agency organized under the Arkansas River Basin Compact in 1965. Its primary purpose is to administer the water apportionment agreed to in the Compact.

**Basis of Accounting**

The accompanying financial statements have been prepared on the cash basis of accounting. Under that basis, the only asset recognized is cash, and no liabilities are recognized. Revenues are recognized when collected rather than when earned and expenses are recognized when paid, rather than when incurred.

**Cash and Cash Equivalents**

The Organization considers all investments with a maturity of three months or less to be cash equivalents. The Organization maintains its cash in bank accounts of local financial institutions. At both June 30, 2015 and 2014, the Organization's cash balance was not in excess of the insured limits.

**Net Assets**

The Organization's net assets and revenues are classified based on the existence or absence of imposed restrictions. Accordingly, net assets of the Organization and changes therein are classified and reported as follows:

Unrestricted net assets-net assets that are not subject to imposed stipulations.

Temporarily restricted net assets-net assets that are subject to imposed stipulations that may or will be met either by actions of the Organization and/or the passage of time.

**Support and Revenues**

Support and revenue are reported as increases to unrestricted net assets unless use of the related assets is limited by imposed restrictions. Expenses are reported as decreases in unrestricted net assets. Assessments are reported in the period received.

**NOTE 2 SUBSEQUENT EVENTS**

The date to which events occurring after June 30, 2015, the date of the most recent statement of assets, liabilities, and net assets, have been evaluated for possible adjustment to the financial statements or disclosures is July 16, 2015, which is the date on which the financial statements were available to be issued. No material items have occurred subsequent to June 30, 2015.

**2015 ENGINEERING  
COMMITTEE REPORT**

KANSAS – OKLAHOMA ARKANSAS RIVER COMPACT COMMISSION  
ENGINEERING COMMITTEE REPORT  
July 22, 2015  
Langley, Oklahoma

This report covers the time period from July 1, 2014 through June 30, 2015. The report contains the standard updating of streamflow data, water quality data and construction of reservoir conservation storage capacities in the compact basin areas.

The 2014 water year flow totals in Oklahoma were higher than the previous year (2013) at two of the five compact gaging stations. The Cimarron River near Waynoka had an average flow of 60 cubic feet per second (cfs), up from 50 cfs, and the salt Fork River at Tonkawa had an average flow of 149 cfs, up from 118 cfs. Caney River near Romona, Chikaskia near Blackwell, and Neosho near Commerce were each down at least fifty percent from the 2013 WY flows.

In Kansas, both of the Compact gaging stations had lower flows for the 2014 water year than that of 2013. The Verdigris River at Independence, Kansas had an average flow of 1,106 cfs compared to 1,521 cfs, and the Arkansas River at Arkansas City, Kansas had an average flow of 1,064 cfs compared to 1,910 cfs in 2013. All gages were below their historic averages.

The Engineering Committee reports that there were two new water storage structures completed in Kansas or Oklahoma compact areas during the July 1, 2014 through June 30, 2015 time period that exceeded the 100 acre-foot conservation storage minimum requirement. They are listed below.

Crandall Ranch LLC  
Storage in AF 262  
11-23-15E Crawford Co.  
Grand-Neosho Basin

Otter Creek WJD #83  
Storage in AF 228  
28-12-22E Greenwood Co.  
Verdigris Basin

The Engineering Committee was given a special assignment to research possible water quality projects such as watershed restoration efforts within the compact area that both states could agree upon as beneficial, and to be funded by the Compact Commission Fund. The Committee will present ideas during the Fifty First annual meeting.

Respectfully submitted by the Engineering Committee.



Robert Lytle, Member



Julie Cunningham, Member





# Kansas-Oklahoma Arkansas River Commission

Application for Funding of Water Quality Project Initiatives  
Within the Kansas-Oklahoma Arkansas River Compact Area  
By the Kansas-Oklahoma Arkansas River Compact Commission Fund

1. Applicant's Name \_\_\_\_\_
2. Name of stream course or watershed \_\_\_\_\_  
\_\_\_\_\_
3. Project Location (State, Co, S,T,R) \_\_\_\_\_
4. Names of primary contact (s) \_\_\_\_\_  
\_\_\_\_\_
5. Names of property owners and partnering parties associated with the project if any \_\_\_\_\_  
\_\_\_\_\_
6. Water quality project's primary objective \_\_\_\_\_  
\_\_\_\_\_
7. Briefly explain the methodology for achieving objective \_\_\_\_\_  
\_\_\_\_\_
8. Briefly explain the benefit to both states \_\_\_\_\_  
\_\_\_\_\_
9. Project proposed starting and completion dates \_\_\_\_\_

Attach any further information such as maps, diagrams, additional narrative, etc. that will help the Compact Commission evaluate the benefits of the proposed project.

(As of July 2015, the Compact's Budget authorizes a maximum of \$10,000 for the first project that is sponsored)

**2015 LEGAL COMMITTEE  
REPORT**

**LEGAL COMMITTEE REPORT**  
**Kansas-Oklahoma Arkansas River Commission**

At the annual meeting of the Kansas-Oklahoma Arkansas River Commission (hereinafter "the Commission") held October 15, 2014 in Marion, Kansas, the Legal Committee was assigned to research what, if any, legal restrictions might apply to the Commission's disposition of \$10,000.00 in surplus funds. The Committee finds as follows:

**I. Disbursements of Commission Funds Are Not Regulated by State Law.** By the express terms of the Compact, disbursements of funds authorized and made by the Commission "are not subject to the audit and accounting procedures of the states." *Arkansas River Basin Compact Kansas-Oklahoma, 1965* ("Compact"), at Art. X, ¶ E. Furthermore, the creation of the Commission and its authorization to receive and disburse funds are derived directly from the Compact. The interpretation and construction of interstate compacts sanctioned by Congress under Article I, Section 10, Clause 3 of the United States Constitution is a matter of federal law. *Deleware River Joint Toll bridge Com'n v. Colburn*, 310 U.S. 419, 60 S.Ct 1039 (1940); *Petty v. Tennessee-Missouri Bridge Com'n*, 359 U.S. 275, 279, 79 S.Ct. 785, 788 (1959).

Notwithstanding the clear legal authority asserting that state law does not apply, the Committee performed a review of relevant state statutes in Kansas and Oklahoma. A review of Kansas statutes and regulations has not turned up any particular restrictions that would limit the Commission's ability to conduct research on stream flows, water quality, or conservation storage under the terms of the Compact. Similarly, existing constitutional and statutory restrictions on the use of public monies under Oklahoma law, such as Oklahoma's constitutional prohibition of using public monies for a religious purpose, are unlikely to affect any disbursement approved by the Commission related to the aims of the Compact.

**II. Federal Acquisition Regulations Do Not Apply.** While the Commission is an "agency" created by the Compact, and is governed by federal law, the Commission does not appear to qualify as a "federal agency" or an "executive agency" subject to the federal purchasing, contracting, acquisition, and audit requirements that apply to most other federal governmental bodies. The Federal Acquisition Regulation ("FAR"), found in Title 48 of the Code of Federal Regulations, contains the principal set of rules that regulate the purchase of goods and services by most federal agencies. The FAR, according to the statement of scope contained therein, is intended to apply to "all executive agencies." 48 CFR 1.101. "Executive agency" is defined as any executive department, military department, independent establishment, or wholly owned government corporation. 48 CFR 2.101. The Commission does not appear to fall under the applicable statutory definitions for those terms found in 5 U.S.C. §§ 101-105.

The FAR also defines "federal agency" to mean any executive agency or independent establishment in the legislative or judicial branch of the federal government, excepting the Senate, House of Representatives, and the Architect of the Capitol. 48 CFR 2.101. The Commission likewise does not appear to fall within the statutory definitions for those terms. Therefore, it appears that the Commission is not subject to the FAR, and as such, need not comply with the formal rules for acquisition, contracting, or audits which apply to most other federal governmental bodies.

**III. Federal and State Oversight on Fiscal Matters.** The Commission's financial dealings are, however, subject to a certain amount of oversight. The Compact expressly requires the Commission to prepare budgets for each coming fiscal year, and to submit the same to the Governors of Kansas and Oklahoma and to the President of the United States. Compact, at Art.

XII. Similarly, the Compact requires an annual accounting of all funds received and expended by the Commission to be submitted to both Governors and to the President. *Id.* The Compact expressly requires the Commission to make any records or information within its possession available to the Governor or state agency of each state, or to any authorized representative of the United States. *Id.* The oversight afforded to state and federal officers, however, appears to be for informational purposes only, and does not impose any restrictions on the use of funds by the Commission beyond those stated in the Compact itself.

**IV. Purposes of the Compact.** Article XI of the Compact authorizes and requires the Commission power to perform certain acts and functions. Among those enumerated powers and duties are (1) the establishment and maintenance of stream gauges, (2) the collection, analysis, and reporting of scientific data, and (3) the holding of hearings and the taking of testimony. Commission expenditures which do not involve general administration costs of the Commission should fall within one of these three general directives.

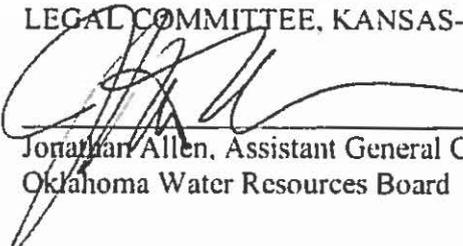
Other relevant considerations include the ability of the states to terminate the Compact under Article XII, and the states' ability to reduce their annual payments into the Commission Fund under Article X. The possibility of either termination of the Compact or reduction of appropriated funds, however remote, makes it inadvisable for the Commission to incur any financial or tort liability beyond their one-time disbursement of funds. For the same reason, the Commission should avoid becoming obligated to any contract or program which requires an annual or otherwise repeating contribution of money extending beyond the current fiscal year.

Finally, while not explicitly addressed in the Compact, the Commission should endeavor to avoid ethical or conflict-of-interest dilemmas which might result from expenditures which improperly benefit one or more members of the Commission personally. Therefore, any project or expenditure considered and recommended by the Engineering Committee must not result in a financial benefit to one of the Commissioners or Committee Members personally.

**V. Conclusion and Recommendations.** Given the foregoing observations, the Legal Committee recommends that the contemplated project or disbursement should meet the following criteria:

1. It should be equally beneficial to the interests of the states of Kansas and Oklahoma;
2. It should promote one of the following three functions of the Commission:
  - a. The installation or maintenance of stream flow gauges;
  - b. The collection, analysis, or reporting of scientific data as to stream flows, water quality, conservation storage, or other compact-related information; or,
  - c. The taking of testimony and holding of Commission hearings.
3. It should not incur financial or tort liability on the part of the Commission exceeding the budgeted amount of \$10,000.00;
4. It should not require an annual or financial contribution extending beyond the fiscal year; and,
5. It should not provide a financial benefit to one of the Commissioners or Committee members personally.

LEGAL COMMITTEE, KANSAS-OKLAHOMA ARKANSAS RIVER COMMISSION

  
Jonathan Allen, Assistant General Counsel  
Oklahoma Water Resources Board

  
Robert Large, Chief Legal Counsel  
Kansas Department of Agriculture

**2015 Legal Committee  
Resolution**



# Kansas-Oklahoma Arkansas River Commission

3800 N. Classen Blvd  
Oklahoma City, Oklahoma 73118

## **RESOLUTION PERTAINING TO THE APPROVAL OF FUNDING OF WATER QUALITY INITIATIVE PROJECTS WITHIN THE ARKANSAS RIVER COMPACT AREA BY THE KANSAS-OKLAHOMA ARKANSAS RIVER COMPACT COMMISSION**

RESOLUTION No. 2015-1

WHEREAS, The Kansas-Oklahoma Arkansas River Compact Commission was established pursuant to Public Law 340 of the 84<sup>th</sup> Congress which authorized the States of Kansas and Oklahoma to negotiate a compact to apportion the waters of the Arkansas River Basin. On March 31, 1965, the Kansas-Oklahoma Arkansas River Commission, an interstate administrative agency, was created when the Compact was ratified and signed into law by the Governors of both States, and when approved by Congress and signed into Federal Law by the President of the United States.

WHEREAS, Article I, D of the Compact identifies one of the major purposes of the Compact is "to encourage the maintenance of an active pollution-abatement program in each of the two states and to seek the further reduction of both natural and man-made pollution in the waters of the Arkansas River basin".

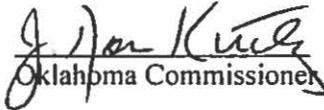
WHEREAS, Article X, Section E of the Compact states in part that "The salaries and personal expenses of each Commissioner shall be paid by the Government which he represents. All other expenses which are incurred by the Commission incident to the administration of the Compact shall be borne equally by the two States and shall be paid by the Commission out of the "Kansas-Oklahoma Arkansas River Commission Fund". Such fund shall be initiated and maintained by equal payments of each State into the fund."

WHEREAS, at the fiftieth annual meeting of the Compact Commission in Marion, Kansas on October 15, 2014, the Compact Commission gave the Legal Committee an assignment to review the Compact and relevant state statutes to determine what, if any, restrictions might apply to the disposition of up to \$10,000.00 of surplus funds from the Commission Fund for, in this instance, water quality initiatives.

WHEREAS, the Legal Committee found no restrictions to the disposition of Compact Funds beyond those arising from the language of the Compact and the Commission's Rules, and after a review of the same, recommended such funds should be for projects that benefit both states, shall not be funded for more than what the current budget authorizes, shall be located within the Arkansas River basin and shall

not create any conflict-of-interest issues by benefiting personally anyone associated with the Compact Commission.

NOW, THEREFORE, BE IT RESOLVED that the Kansas-Oklahoma Compact Commission, upon review and approval by unanimous vote of an Application for Funding from the Kansas-Oklahoma Arkansas River Commission Fund, shall authorize the Treasurer of the Compact to make appropriate disbursements of no more than Ten Thousand (\$10,000.00) U.S. Dollars to the identified parties or sponsors of the water quality initiative project within the Arkansas River basin.

  
Oklahoma Commissioner

State of Oklahoma      This instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ by  
County of \_\_\_\_\_

\_\_\_\_\_  
Notary Public

   
Kansas Commissioner

State of Kansas      This instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ by  
County of \_\_\_\_\_

\_\_\_\_\_  
Notary Public

  
Federal Commissioner

State of Oklahoma      This instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ by  
County of \_\_\_\_\_

\_\_\_\_\_  
Notary Public

**2015 FINANCE  
COMMITTEE REPORT**

Kansas – Oklahoma Arkansas River Commission  
Proposed Budget – FY 2016  
(July 1, 2015 thru June 30, 2016)

|  |          |
|--|----------|
| Expenses                               |          |
| Printing / Mailing Reports (2013&2014) | \$1,000  |
| Audit (2015)                           | \$650    |
| Treasurer's Bond                       | \$200    |
| Annual Meeting                         | \$400    |
| Incidentals                            | \$400    |
| Water Quality Project                  | \$10,000 |
| Total                                  | \$12,650 |

Cash on Hand as of July 10, 2015 \$29,416  
Kansas Assessment \$2,900      Oklahoma Assessment \$2,900

**Total = \$29,416 + \$5,800 - \$12,650 = \$22,566 projected balance for end of FY2016 (June 30, 2016)**

Proposed Budget – FY 2017  
(July 1, 2016 thru June 30, 2017)

|                                   |         |
|-----------------------------------|---------|
| Expenses                          |         |
| Printing / Mailing Reports (2015) | \$550   |
| Annual Audit                      | \$700   |
| Treasurer's Bond                  | \$200   |
| Annual Meeting                    | \$400   |
| Incidentals                       | \$400   |
| Total                             | \$2,250 |

Estimated Cash on Hand as of July 1, 2016 \$22,566  
Kansas Assessment \$2,900      Oklahoma Assessment \$2,900

**Total = \$22,566 + \$5,800 - \$2,250 = \$26,166 projected balance for end of FY2017 (June 30, 2017)**

**Southwest Kansas GMD3  
Letter**



**Southwest Kansas**  
**Groundwater Management District No. 3**  
2009 E. Spruce Street  
Garden City, Kansas 67846  
(620) 275-7147 phone (620) 275-1431 fax  
www.gmd3.org

July 21, 2015  
(Hand delivered)

KANSAS – OKLAHOMA ARKANSAS RIVER COMMISSION  
Fifty-First Annual Meeting, July 22, 2015  
Grand River Dam Authority Ecosystem and Education Center, Grand Hall  
420 E. Highway 28, Langley, Oklahoma 74350

RE: Oklahoma Panhandle Water supply and  
management strategies

Dear Compact Commissioners,

The local efforts to develop adoptable strategies to conserve and extend the available groundwater supplies of the Southwest Kansas Groundwater Management District No. 3 (GMD3) may be significantly hampered in the perceptions of no regulation or management criteria governing further development of the Oklahoma Panhandle aquifers. The area covered by GMD3 is either closed to new appropriations of groundwater from the High Plains Aquifer, or is under a moratorium for new appropriations pending new rules from the Chief Engineer, Kansas Department of Agriculture. Recent modeling efforts indicate we are only about 9% sustainable District wide under the current rate of consumption and irrigation water supplies are now drying up in some areas.

Local efforts to manage and conserve groundwater have been on the agenda of GMD3 as a purpose for its creation in 1976 and in the monthly board meetings and operating programs to date. The current state planning process to develop a "Long-Term Vision for the Future of Water Supply in Kansas" includes work by regional leadership committees. These committees are developing goals to assist the state and the GMD in developing strategies to conserve and extend the depleting groundwater supply to the Oklahoma Stateline.

The open development policy in Oklahoma is a favorite topic of concern raised in Kansas water visioning meetings and groundwater management discussions of the GMD3 Board and water right owners. The current projection in the Oklahoma Comprehensive Water Plan (OCWP) Panhandle Watershed Planning Region appears to be a 21% increase in demand by 2060; mostly Irrigation use. The OCWP informs there are about 1.5 million acre feet appropriated and an additional 6.1 million acre feet available for new appropriations in the Oklahoma Panhandle bedrock supply.

Perhaps now is an appropriate time to invite a dialog between Kansas and Oklahoma water officials to look at interstate aquifer system management strategies for the High Plains that may be in the common interests of both states. With local demand for water in GMD3 already exceeding long term supplies in nearly all areas of GMD3, options for water importation is being actively considered to sustain and grow the economy. The Arkansas River Compact appears to be the appropriate forum for these discussions and we are requesting that the High Plains groundwater management concerns be placed on the agenda. Some of the goals that Kansas local leadership teams have identified for water supply may be governed in part by surface water storage limits under this compact.

GMD3 is looking at aqueducts, pipelines and other water transportation concepts that may even span the Stateline with Oklahoma. GMD3 water management strategies to sustain what has already been developed may want to factor in sustainable water needs in the Oklahoma panhandle. If water import considerations by GMD3 can aid Kansas and Oklahoma in developing a sustainable water management program, we would like to begin discussion of the interests and concerns as soon as is practicable ahead of any applications or project initiatives that could affect future water supplies on either sides of the Stateline.

Please make this request for the Oklahoma panhandle groundwater management discussion a matter of the compact meeting record. We thank you for your consideration and look forward to finding the supply and management strategies that meet the future High Plains water needs in both states.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark E. Rude". The signature is fluid and cursive, with a large initial "M" and "R".

Mark E. Rude  
Executive Director

Pc    Kent Dunn, President, GMD3  
      Kirk Hager, Vice President  
      Mike McNiece, Secretary  
      Mike O'Brate, Treasurer

**KANSAS-OKLAHOMA  
ARKANSAS RIVER  
COMPACT**

**Kansas-Oklahoma Arkansas River Compact  
1966**

K.S.A. 82a-528. **Arkansas river basin compact.** The legislature hereby ratifies the compact, designated as the "Arkansas river compact," between the states of Oklahoma and Kansas signed in the city of Wichita, state of Kansas, on the thirty-first day of March, 1965, by Geo. R. Benz and Frank Raab as representatives for the state of Oklahoma, Robert L. Smith and Warden L. Noe as representatives for the state of Kansas, and Trigg Twichell as representative of the United States of America, which said compact is as follows:

**ARKANSAS RIVER BASIN COMPACT, KANSAS-OKLAHOMA**

The state of Kansas and the state of Oklahoma, acting through their duly authorized compact representatives, Robert L. Smith and Warden L. Noe, for the state of Kansas, and Geo. R. Benz and Frank Raab, for the state of Oklahoma, after negotiations participated in by Trigg Twichell, appointed by the president as the representative of the United States of America, and in accordance with the consent to such negotiations granted by an act of congress of the United States of America, approved August 11, 1955 (public law 340, 84th congress, 1st session), have agreed as follows respecting the waters of the Arkansas river and its tributaries:

**Article I**

The major purposes of this compact are:

- A. To promote interstate comity between the states of Kansas and Oklahoma;
- B. To divide and apportion equitably between the states of Kansas and Oklahoma the waters of the Arkansas river basin and to promote the orderly development thereof;
- C. To provide an agency for administering the water apportionment agreed to herein;
- D. To encourage the maintenance of an active pollution-abatement program in each of the two states and to seek the further reduction of both natural and man-made pollution in the waters of the Arkansas river basin.

**Article II**

As used in this compact:

- A. The term "state" shall mean either state signatory hereto and shall be construed to include any person or persons, entity or agency of either state who, by reason of official responsibility or by designation of the governor of that state, is acting as an official representative of that state;

- B. The term "Kansas-Oklahoma Arkansas river commission" or the term "commission" means the agency created by this compact for the administration thereof;
- C. The term "Arkansas river" means that portion of the Arkansas river from a point immediately below the confluence of the Arkansas and Little Arkansas rivers in the vicinity of Wichita, Kansas, to a point immediately below the confluence of the Arkansas river with the Grand-Neosho river near Muskogee, Oklahoma;
- D. The term "Arkansas river basin" means all of the drainage basin of the Arkansas river as delimited above, including all tributaries which empty into it between the upstream and downstream limits;
- E. The term "waters of the Arkansas river and its tributaries" means the waters originating in the Arkansas river basin;
- F. The term "conservation storage capacity" means that portion of the active storage capacity of reservoirs, including multipurpose reservoirs, with a conservation storage capacity in excess of 100 acre-feet, available for the storage of water for subsequent use, but it excludes any portion of the storage capacity allocated to flood and sediment control and inactive storage capacity allocated to other uses;
- G. The term "new conservation storage capacity" means conservation storage capacity for which construction is initiated after July 1, 1963, and storage capacity not presently allocated for conservation storage which is converted to conservation storage capacity after July 1, 1963, in excess of the quantities of declared conservation storage capacity as set forth in the storage table attached to and made a part of the minutes of the twenty-fourth meeting of the compact committee dated September 1, 1964, and as filed and identified to this compact in the offices of the secretaries of state of the respective states;
- H. The term "pollution" means contamination or other alterations of the physical, chemical, biological or radiological properties of water or the discharge of any liquid, gaseous, or solid substances into any waters which creates or is likely to result in a nuisance, or which renders or is likely to render the waters into which it is discharged harmful, detrimental or injurious to public health, safety, or welfare or which is harmful, detrimental or injurious to beneficial uses of the water.

### Article III

The physical and other conditions peculiar to the Arkansas river basin constitute the basis for this compact, and neither of the states hereby, nor the congress of the United States by its consent hereto, concedes that this compact establishes any general principle with respect to any other interstate stream.

### Article IV

A. For the purpose of apportionment of water between the two states, the Arkansas river basin is hereby divided into major topographic subbasins as follows: (1) The Grand-Neosho river subbasin; (2) the Verdigris river subbasin; (3) the Salt Fork river subbasin; (4) the Cimarron river subbasin; and (5) the mainstem Arkansas river subbasin which shall consist of the Arkansas river basin, excepting the Grand Neosho river, Verdigris river, Salt Fork river, and Cimarron river subbasins.

B. The two states recognize that portions of other states not signatory to this compact lie within the drainage area of the Arkansas river basin as herein defined. The water apportionments provided for in this compact are not intended to affect nor do they affect the rights of such other states in and to the use of the waters of the basin.

#### Article V

The state of Kansas shall have free and unrestricted use of the waters of the Arkansas river basin within Kansas subject to the provisions of this compact and to the limitations set forth below:

A. New conservation storage capacity in the Grand-Neosho river subbasin within the state of Kansas shall not exceed 650,000 acre-feet plus an additional capacity equal to the new conservation storage in said drainage basin in Oklahoma excepting storage on Spavinaw creek;

B. New conservation storage capacity in the Verdigris river subbasin within the state of Kansas shall not exceed 300,000 acre-feet plus an additional capacity equal to the new conservation storage in said drainage basin in Oklahoma, excepting navigation capacity allocated in Oologah reservoir;

C. New conservation storage capacity in the mainstem Arkansas river subbasin within the state of Kansas shall not exceed 600,000 acre-feet plus an additional capacity equal to the new conservation storage in said drainage basin in Oklahoma;

D. New conservation storage capacity in the Salt Fork river subbasin within the state of Kansas shall not exceed 300,000 acre-feet plus an additional capacity equal to the new conservation storage in said drainage basin in Oklahoma;

E. New conservation storage capacity in the Cimarron river subbasin within the state of Kansas shall not exceed 5,000 acre-feet, provided that new conservation storage capacity in excess of that amount may be constructed if specific project plans have first been submitted to and have received the approval of the commission.

#### Article VI

The state of Oklahoma shall have free and unrestricted use of the waters of the Arkansas river basin within Oklahoma subject to the provisions of this compact and to the limitations set forth below:

New conservation storage capacity in the Cimarron river subbasin within the state of Oklahoma shall not exceed 5,000 acre-feet provided that new conservation storage capacity in excess of that amount may be constructed if specific project plans have first been submitted to and have received the approval of the commission.

#### Article VII

A. The commission shall determine the conditions under which one state may construct and operate for its needs new conservation storage capacity in the other state. The construction or utilization of new conservation storage capacity by one state in the other state shall entitle the state whose storage potential is reduced by such construction to construct an equal amount of new conservation storage in a subbasin agreeable to the commission.

B. New conservation storage capacity constructed by the United States or any of its agencies, instrumentalities or wards, or by a state, political subdivision thereof, or any person or persons shall be charged against the state in which the use is made.

C. Each state has the unrestricted right to replace within the same subbasin, any conservation storage capacity made unusable by any cause.

D. In the event reallocation of storage capacity in the Arkansas river basin in Oklahoma should result in the reduction of that state's new conservation storage capacity, such reallocation shall not reduce the total new conservation storage capacities available to Kansas under Article V; provided that a subsequent reinstatement of such storage capacity shall not be charged as an increase in Oklahoma's new conservation storage capacity.

#### Article VIII

A. In the event of importation of water to a major subbasin of the Arkansas river basin from another river basin, or from another major subbasin within the same state, the state making the importation shall have exclusive use of such imported waters.

B. In the event of exportation of water from a major subbasin for use in another major subbasin or for use outside the Arkansas river basin within the same state, the limitations of Article V and VI on new conservation capacity shall apply against the subbasin from which the exportation is made in the amount of the storage capacity actually used for that purpose within the exporting subbasin or, in the event of direct diversion of water without storage, on the basis of five acre-feet of conservation storage capacity for each acre-foot of water on the average so diverted annually.

C. Any reservoir storage capacity which is required for the control and utilization of imported waters shall not be accounted as new conservation storage.

D. Should a transbasin diversion of waters of the Arkansas river basin be made in one state for the use and benefit of the other state or both states, the commission shall determine a proper accounting of new conservation storage capacities in each state in accordance with the above principles and with the project uses to be made in that state.

#### Article IX

The states of Kansas and Oklahoma mutually agree to:

A. The principle of individual state effort to abate man-made pollution within each state's respective borders, and the continuing support of both states in an active pollution-abatement program;

B. The cooperation of the appropriate state agencies in Kansas and Oklahoma to investigate and abate sources of alleged interstate pollution within the Arkansas river basin whenever such matters are called to their attention by the commission;

C. Enter into joint programs for the identification and control of sources of natural pollution within the Arkansas river basin which the commission finds are of interstate significance;

D. The principle that neither state may require the other to provide water for the purpose of water-quality control as a substitute for adequate waste treatment;

E. Utilize the provisions of the federal water pollution control act in the resolution of any pollution problems which cannot be resolved within the provisions of this compact.

#### Article X

A. There is hereby created an interstate administrative agency to be known as the "Kansas-Oklahoma Arkansas river commission." The commission shall be composed of three commissioners representing each of the states of Kansas and Oklahoma who shall be appointed by the governors of the respective states and, if designated by the president, one commissioner representing the United States. The president is hereby requested to designate a commissioner and an alternate representing the United States. The federal commissioner, if one be designated, shall be the presiding officer of the commission, but shall not have the right to vote in any of the deliberations of the commission.

B. One Kansas commissioner shall be the state official who now or hereafter shall be responsible for administering water law in the state; the other two commissioners shall reside in the Arkansas river basin in Kansas and shall be appointed to four-year staggered terms.

C. One Oklahoma commissioner shall be the state official who now or hereafter shall be responsible for administering water law in the state; the other two commissioners shall reside in the Arkansas river basin in Oklahoma and shall be appointed to four-year staggered terms.

D. A majority of the commissioners of each state and the commissioner or his alternate representing the United States, if so designated, must be present to constitute a quorum. In taking any commission action, each signatory state shall have a single vote representing the majority opinion of the commissioners of that state.

E. The salaries and personal expenses of each commissioner shall be paid by the government which he represents. All other expenses which are incurred by the commission incident to the administration of this compact shall be borne equally by the two states and shall be paid by the commission out of the "Kansas-Oklahoma Arkansas river commission fund." Such fund shall be initiated and maintained by equal payments of each state into the fund. Disbursements shall be made from said fund in such manner as may be authorized by the commission. Such fund shall not be subject to the audit and accounting procedures of the states; however, all receipts and disbursements of funds handled by the commission shall be audited by a qualified independent public accountant at regular intervals, and the report of such audit shall be included in and become a part of the annual report of the commission.

#### Article XI

A. The commission shall have the power to:

- (1) Employ such engineering, legal, clerical and other personnel as in its judgment may be necessary for the performance of its functions under the compact;
- (2) Enter into contracts with appropriate state or federal agencies for the collection, correlation, and presentation of factual data, for the maintenance of records, and for the preparation of reports;
- (3) Establish and maintain an office for the conduct of its affairs;
- (4) Adopt rules and regulations governing its operations;
- (5) Cooperate with federal agencies in developing principles, consistent with the provisions of this compact and with federal policy, for the storage and release of water from all-federal capacities of federal reservoirs, both existing and future within the Arkansas river basin, for the purpose of assuring their operation in the best interests of the states and the United States;
- (6) Permit either state, with the consent of the proper operating agency, to impound water, for such periods of time deemed necessary or desirable by the commission, in available reservoir storage capacity which is not designated as conservation or new conservation storage capacity for subsequent release and use for any purpose approved by the commission;

(7) Hold hearings and take testimony and receive evidence at such times and places as it deems necessary;

(8) Secure from the head of any department or agency of the federal or state government such information, suggestions, estimates and statistics as it may need or believe to be useful for carrying out its functions and as may be available to or procurable by the department or agency to which the request is addressed;

(9) Print or otherwise reproduce and distribute all of its proceedings and reports.

B. The commission shall:

(1) Cause to be established, maintained and operated such stream, reservoir, or other gaging stations as may be necessary for the proper administration of the compact;

(2) Collect, analyze and report on data as to stream flows, water quality, conservation storage, and such other information as is necessary for the proper administration of the compact;

(3) Perform all other functions required of it by the compact and do all things necessary, proper or convenient in the performance of its duties thereunder;

(4) Prepare and submit an annual report to the governor of each signatory state and to the president of the United States covering the activities of the commission for the preceding fiscal year, together with an accounting of all funds received and expended by it in the conduct of its work;

(5) Prepare and submit to the governor of each of the states of Kansas and Oklahoma an annual budget covering the anticipated expenses of the commission for the following fiscal year;

(6) Make available to the governor or any state agency of either state or to any authorized representatives of the United States, upon request, any information within its possession.

## Article XII

A. Recognizing the present limited uses of the available water supplies of the Arkansas river basin in the two states and the uncertainties of their ultimate water needs, the states of Kansas and Oklahoma deem it imprudent and inadvisable to attempt at this time to make final allocations of the new conservation storage capacity which may ultimately be required in either state, and, by the limitations on storage capacity imposed herein, have not attempted to do so. Accordingly, after the expiration of 25 years following the effective date of this compact, the commission may review any provisions of the compact for the purpose of amending or supplementing the same, and shall meet for the consideration of such review on the request of the commissioners of either state: *Provided*, That the provisions hereof shall remain in full force and effect until changed or amended by unanimous action of the states acting through their

commissioners and until such changes are ratified by the legislatures of the respective states and consented to by the congress in the same manner as this compact is required to be ratified to become effective.

B. This compact may be terminated at any time by the appropriate action of the legislatures of both signatory states.

C. In the event of amendment or termination of the compact, all rights established under the compact shall continue unimpaired.

#### **Article XIII**

Nothing in this compact shall be deemed:

A. To impair or affect the powers, rights or obligations of the United States, or those claiming under its authority, in, over and to the waters of the Arkansas river basin;

B. To interfere with or impair the right or power of either signatory state to regulate within its boundaries the appropriation, use and control of waters within that state not inconsistent with its obligations under this compact.

#### **Article XIV**

If any part or application of this compact should be declared invalid by a court of competent jurisdiction, all other provisions and applications of this compact shall remain in full force and effect.

#### **Article XV**

This compact shall become binding and obligatory when it shall have been ratified by the legislatures of each state and consented to by the congress of the United States, and when the congressional act consenting to this compact includes the consent of congress to name and join the United States as a party in any litigation in the United States supreme court, if the United States is an indispensable party, and if the litigation arises out of this compact or its application, and if a signatory state is a party thereto. Notice of ratification by the legislature of each state shall be given by the governor of that state to the governor of the other state and to the president of the United States and the president is hereby requested to give notice to the governor of each state of consent by the congress of the United States.

In Witness Whereof, The authorized representatives have executed three counterparts hereof each of which shall be and constitute an original, one of which shall be deposited in the archives of the department of state of the United States, and one of which shall be forwarded to the governor of each state.

Done at the City of Wichita, state of Kansas, this 31st day of March, A.D. 1965.

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Approved:

Robert L. Smith,

Warden L. Noe,

Compact Representatives for the state of Kansas.

Geo. R. Benz,

Frank Raab,

Compact Representatives for the state of Oklahoma.

Twigg Twitchell,

Representative of the United States. (History: L. 1966, ch. 16, § 1 (Special Session); June 10.