



*Since 1894*

## **KLA Water Committee Meeting**

**November 19, 2019**

**Noon - 3:00 p.m.**

**K-State Southwest Research & Extension Center**

**4500 E. Mary Street**

**Garden City, KS**

### **-AGENDA -**

1. Lunch
2. Introductions and additions to agenda.
3. Updates and discussion on pending issues:
  - a. DWR guidance pertaining to over-pumping penalties on stock water rights.
  - b. DWR draft Water Conservation Area (WCA) regulations.
    - i. Stockwater impacts.
    - ii. Irrigation impacts.
  - c. Status of SB 182 - reform to meter technician and meter tolerance laws.
  - d. Quivira National Wildlife Refuge impairment case status update.
    - i. Draft administrative orders and the potential impact on water users.
    - ii. KLA efforts to facilitate a settlement and the potential need to amend KLA's LEMA policy.
    - iii. Changes to the restrictions on who can be chief engineer.
  - e. Status of R9 Ranch inter-basin water transfer to the cities of Hays and Russell.
  - f. Discussion about the status of LEMAs after the GMD #4 LEMA was recently upheld by a Kansas district court.
  - g. Other water issues for review and discussion?

4. Review of 2017 expiring resolutions:
  - #48 INTENSIVE GROUNDWATER USE CONTROL AREAS (IGUCA) (2017).

*Note: Resolutions dated 2017 expire unless reconfirmed or amended.*

5. Review of 2018 and 2019 resolutions:
  - #44 CLEAN WATER ACT (2019).
  - #45 WATER APPROPRIATION (2019).
  - #46 WATER CONSERVATION PROGRAMS (2019).
  - #47 PROTECTION OF WATER RIGHTS (2018).
  - #49 STATE WATER PLAN FUNDING (2018).

*Note: Resolutions dated 2018 and 2019 will remain in force for 2020 unless repealed or amended.*

6. Other business.

7. Adjourn.



# 2019 Policy Resolutions

for consideration by the  
Water Committee

## 44. CLEAN WATER ACT (2019) **Renews Automatically**

WHEREAS, water is a precious resource that has social, environmental, and economic value, and is a resource that members of the Kansas Livestock Association manage for the benefit of society and the stability of the livestock industry.

THEREFORE BE IT RESOLVED, the Kansas Livestock Association urges the appropriate agencies to recognize the states' abilities to best manage the water resources within their jurisdictions.

BE IT FURTHER RESOLVED, the Kansas Livestock Association opposes amendments to the Clean Water Act or federal regulations that would usurp state primacy issues or impair state water allocations, management systems, and property rights.

BE IT FURTHER RESOLVED, the Kansas Livestock Association opposes federal legislation and agency rulemakings that propose to expand federal jurisdiction of the Clean Water Act, including proposals to redefine "Waters of the United States".

BE IT FURTHER RESOLVED, the Kansas Livestock Association supports language in the Clean Water Act that would uphold and promote voluntary educational programs directed at nonpoint source management practices that consider environmental and economic impact.

BE IT FURTHER RESOLVED, the Kansas Livestock Association encourages the state and federal governments to work together with landowners to assure water quality laws and regulations recognize and preserve private property and exempt private waters.

BE IT FURTHER RESOLVED, the Kansas Livestock Association requests that all water quality standards, including stream classifications, designated uses, and total maximum daily loads, be practical, reasonable, and attainable within the scope of the Clean Water Act.

BE IT FURTHER RESOLVED, the Kansas Livestock Association opposes legislation that would establish new and separate environmental standards in addition to those set forth in the National Pollutant Discharge Elimination System permitting program under the Clean Water Act.

## 45. WATER APPROPRIATION (2019) **Renews Automatically**

WHEREAS, current water appropriation laws state water belongs to the State of Kansas and agriculture is one of the beneficial users of this resource, and

WHEREAS, a water right is considered real property.

THEREFORE BE IT RESOLVED, the Division of Water Resources (DWR) should adopt policies that encourage water conservation practices, accurate reporting of water use, and do not arbitrarily reduce the amount of water authorized for use under a water right.

BE IT FURTHER RESOLVED, the Kansas Livestock Association supports the "first-in-time-first-in-right" principle of state water laws.

BE IT FURTHER RESOLVED, the Kansas Livestock Association will defend the law retaining the Chief Engineer of the Division of Water Resources as part of the Kansas Department of Agriculture.

BE IT FURTHER RESOLVED, the Kansas Livestock Association supports legislative and administrative actions that provide flexibility in the determination of what constitutes "due and sufficient cause" before the DWR declares an abandonment or partial abandonment of water rights.

BE IT FURTHER RESOLVED, the Kansas Livestock Association supports efforts to allow non-use of perfected water rights to be considered a "beneficial use" of groundwater in areas closed to new appropriations of groundwater.

BE IT FURTHER RESOLVED, the Kansas Livestock Association encourages DWR to consider a multi-year allocation system for water permits at the discretion of and guidance by groundwater management districts.

BE IT FURTHER RESOLVED, the Kansas Livestock Association supports water banks for depositing and leasing water and providing incentives for water conservation.

BE IT FURTHER RESOLVED, the Kansas Livestock Association urges DWR and/or groundwater management districts to modify their policies and allow a permit holder to acquire water rights from local landowners and shift the point of diversion without a loss in the quantity of appropriation.

BE IT FURTHER RESOLVED, the Kansas Livestock Association opposes legislation or state regulation that further restricts the movement of the point of diversion of a water right.

BE IT FURTHER RESOLVED, the Kansas Livestock Association supports state legislation that requires a water right owner with an alleged impairment claim to first file a complaint with and seek a remedy through the Chief Engineer, before pursuing a claim with the court of jurisdiction.

BE IT FURTHER RESOLVED, the Kansas Livestock Association supports administrative actions by the Chief Engineer that are necessary to ensure that all water transfers under the Water Transfer Act comply with all regulations adopted by DWR, including those regulations that apply in a specific groundwater management district and pertain to safe or sustainable yield.

BE IT FURTHER RESOLVED, the Kansas Livestock Association supports public notice by the Division of Water Resources when a public entity applies for a water appropriation permit.

BE IT FURTHER RESOLVED, the Kansas Livestock Association supports legislative and administrative changes that would not allow a water appropriation permit to be granted, or any alteration of a water right to be granted, to an entity that does not have the consent of the landowner or an interest in the real estate.

#### **46. WATER CONSERVATION PROGRAMS (2019) *Renews Automatically***

WHEREAS, it is a common belief the Division of Water Resources has issued groundwater appropriation rights in excess of a sustainable use for all water right holders in some areas of central and western Kansas, and

WHEREAS, a state-imposed Intensive Groundwater Use Control Area and/or state action to prohibit water use among junior water right owners are two regulatory actions distasteful and disruptive for water users in rural communities.

THEREFORE BE IT RESOLVED, the Kansas Livestock Association supports the creation of a federal Conservation Reserve Enhancement Program (CREP) to temporarily or permanently retire irrigation use along the Arkansas River in western Kansas, and encourages federal changes to CREP that allow non-irrigated production on lands enrolled in the program.

BE IT FURTHER RESOLVED, the use of state funds from the Kansas vs. Colorado lawsuit settlement, appropriated for a state match of a CREP, should all be targeted to the Arkansas River corridor and other critical areas in Kansas considered over-appropriated for water usage.

BE IT FURTHER RESOLVED, the Kansas Livestock Association supports state law authorizing "Local Enhanced Management Areas" (LEMAs), so long as the law stipulates the Chief Engineer only may approve the LEMA as approved by a unanimous vote of the affected water right holders.

BE IT FURTHER RESOLVED, the Kansas Livestock Association supports the continuation of the Division of Water Resources' Water Rights Conservation Program.

BE IT FURTHER RESOLVED, the Kansas Livestock Association supports additional state and federal legislation that provides voluntary incentives for the forfeiture of water rights in areas of over-appropriation for water in the High Plains Aquifer.

BE IT FURTHER RESOLVED, an incentive program to reduce appropriated water rights should contain an option for the partial forfeiture or reduction of a water right, as well as an opportunity for complete forfeiture.

BE IT FURTHER RESOLVED, the Kansas Livestock Association supports changes to the 2015 Water Conservation Areas (WCA) law that facilitates additional flexibility by authorizing management plans which provide the ability for water use of an individual water right or rights to exceed the annual authorized quantity of the individual water right or rights participating in the management plan, provided that the water use shall not exceed the total annual authorized aggregate quantity and rate of all the water rights participating in the management plan in any given calendar year, and the changes ensure the management plan prevents impairment of senior water rights.

**47. PROTECTION OF WATER RIGHTS (2018) *Renews Automatically***

WHEREAS, vested and appropriated water rights are property rights held by landowners.

THEREFORE BE IT RESOLVED, the Kansas Livestock Association believes eminent domain should not be an option used to acquire water rights or potential water rights.

**48. INTENSIVE GROUNDWATER USE CONTROL AREAS (IGUCA) (2017) *Expiring***

WHEREAS, the Chief Engineer has implemented 10 Intensive Groundwater Use Control Areas (IGUCA) in over 20 counties in Kansas, and

WHEREAS, orders impacted many farmers, ranchers, and other holders of water permits, and

WHEREAS, it is likely additional IGUCAs could be triggered in the state.

THEREFORE BE IT RESOLVED, the Kansas Livestock Association believes an economic impact study should be included in the review process when determining whether an IGUCA is necessary.

BE IT FURTHER RESOLVED, the Kansas Livestock Association encourages the Division of Water Resources to rely on sound, objective, and accurate geological data when reviewing an IGUCA request and any IGUCA order should be administered in a manner consistent with the principles of the Prior Appropriation Act.

BE IT FURTHER RESOLVED, the Kansas Livestock Association supports legislation to amend the IGUCA law to require that no IGUCA be established or expanded within the boundaries of a groundwater management district without the approval of such groundwater management district board.

**49. STATE WATER PLAN FUNDING (2018) *Renews Automatically***

WHEREAS, the Blue Ribbon Funding Task Force for Water Resource Management, of which KLA was a member, was organized by Governor Sam Brownback to develop a method of financing for water resource management and protection, and

WHEREAS, the Blue Ribbon Funding Task Force for Water Resource Management recommended that any additional funding for the state water plan come from a statewide sales tax and not an increase in the existing user fee structure, and

WHEREAS, agriculture pays a disproportionate amount of fees in relation to agriculture's benefit under the state water plan, and

WHEREAS, the state has not met current statutory obligations for funding under the state water plan.

THEREFORE BE IT RESOLVED, the Kansas Livestock Association opposes any attempts to create an irrigation fee for the funding of the state water plan.

BE IT FURTHER RESOLVED, the Kansas Livestock Association opposes any attempts to increase current fees paid by water users and utilized to fund the state water plan.