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## STATUS OF THE WATER MARKETING PROGRAM

### **Purpose**

The purpose of the water marketing program is to develop adequate water supply storage to meet, as nearly as practicable, present and anticipated municipal and industrial water needs through the purchase of water supply storage in federal reservoirs, which is then sold to water supply users, in the best interests of the state.

## Program Background

Although 2001 was the 25<sup>th</sup> anniversary of the first Water Marketing Program contract with a water supply customer, the study, planning, and establishment of the program spanned nearly 20 years prior to the signing of that contract.

The effects of several significant events converged during the 1950s which led to the creation of the State Water Marketing Program:

- ◆ The floods of 1951, followed by the drought of 1952 through 1957, made Kansans aware of the need to combine planning for future water supply needs with planning for controlling floods.
- ◆ The Kansas Water Resources Board (now the Kansas Water Office) was created in 1955 with responsibility for water resources planning, water policy development, and coordination of water-related activities at all levels of government.
- ◆ In 1958, the Federal Water Supply Act was passed with provisions which would allow a non-federal entity to add water supply storage space to planned flood control structures. The non-federal entity would be required to repay the costs of the add-on water supply storage space.
- ◆ Also in 1958, Kansas voters approved a constitutional amendment which would allow the state to financially participate in the development of flood control works or works for the conservation or development of the state's water resources.

The newly created Kansas Water Resources Board began work on comprehensive studies of the state's water resources. The 1961 Legislature approved the general concepts embodied in a report presented by the agency with the passage of a Concurrent Resolution (1961 H.C.R. 5) which allowed the state to provide assurances to the federal government for repayment of costs for add-on water supply storage in five major federal reservoirs: Elk City, Council Grove, John Redmond, Milford, and Perry lakes. The resolution further required the Legislative Council to conduct a comprehensive study to determine the state's role in financing the costs of add-on conservation water supply storage. The Council's report, "A Suggested Water Development Program for Kansas," was prepared with the assistance of the Kansas Water Resources Board and submitted to the 1963 Legislature. The 1963 Legislature enacted the State Water Plan Act (K.S.A. 82a-901 *et seq.*), which made provisions for state financial participation in water projects and directed the Kansas Water Resources Board to submit a comprehensive State Water Plan to the 1965 Legislature.

As a result of the Board's report to the 1965 Legislature, the first phase of the State Water Plan was enacted in 1965 (K.S.A. 82a-927 *et seq.*). The Board was given authority to provide assurances to the federal government regarding the need for future municipal and industrial water supply storage in any proposed or authorized water project in Kansas (K.S.A. 82a-933). In addition, the agency was given authority to enter into agreements with the federal government for repayment of the costs for such water supply, subject to legislative approval through

appropriations (K.S.A. 82a-934). These authorities were transferred to the Director of the Kansas Water Office, with the approval of the Kansas Water Authority, in 1981 when the Water Resources Board was abolished.

In carrying out the authorities and directives embodied in the laws passed in 1963 and 1965, the Water Resources Board provided assurances to the federal government for repayment of costs of water supply storage and signed agreements for water supply storage space in nine federal lakes in the eastern one-third of the state. (See details of contracts beginning on page 13.) In addition, the Board carried out detailed studies of pricing and revenues relating to the sale of water from state controlled storage in those lakes.

The 1974 Legislature enacted the State Water Plan Storage Act (K.S.A. 82a-1301 *et seq.*) establishing the basic framework of the current Water Marketing Program. Although the Act has been amended several times since 1974, certain underlying policies have been retained:

- ◆ The state will require payment of water storage costs by the entities using and benefiting from the program equal to the total state's costs of providing the water supply.
- ◆ The State of Kansas should retain material and fiscal control of the waters stored in the reservoirs covered by agreements with the federal government.
- ◆ The state will only sell raw (untreated) water to users at the reservoir. This means the state is not responsible for the delivery or treatment of water.
- ◆ The entire system of reservoirs is to be treated as one large reservoir pool for pricing purposes, so that no particular user or region of the state receives preferential treatment in the pricing of water.

Amendments to the law over the years have included, but are not limited to:

- ◆ Adjustment in the 50% minimum annual payment requirement such that the purchaser may negotiate a graduated minimum "take or pay" schedule.
- ◆ Provisions that a contract may be negotiated with a user for water supply not yet owned or controlled by the state (with payment deferred until the state does own or control such storage).
- ◆ Establishment of a rate setting formula with a 2.5 cents per thousand gallons conservation storage water supply development charge and a surcharge on the remainder of the contracted quantity after calculation of the minimum annual charge.
- ◆ Requirement that purchasers have a state approved water conservation plan prior to approval of a water purchase contract.

By 1974, a program structure for Water Marketing was in place for the Kansas Water Resources Board to recoup the state's costs for the add-on water supply storage space by contracting with

municipal and industrial water users to provide them with water supply from state-controlled storage. With the signing and approval of the first water supply contract with a water user in 1976, the State Water Marketing Program became operational. Thus, a state-federal-local partnership was formed to help the state meet the future water supply needs of its citizens.