

**BIG BEND GROUNDWATER MANAGEMENT DISTRICT
NUMBER FIVE
125 SOUTH MAIN
STAFFORD, KANSAS 67578
TEL: 620-234-5352 - FAX: 620-234-5718**

April 3, 2012

RE: Rattlesnake Creek Partnership Agreement Review

To the Rattlesnake Creek Partnership Partners:

It is the feeling of the board of directors of GMD #5 that the issues related to the Rattlesnake Creek Partnership have been conversed and addressed quite thoroughly.

The analysis of the data and the model that has been presented clearly shows that the problems described in the initial agreement occur on a far less frequent basis than what was put forth by the other partners. As stated in the Certificate of Appropriation for Water Right File No. 7571 “the right of the appropriator shall relate to a specific quantity of water and such right **must allow for a reasonable raising or lower of the static water level and for the reasonable increase or decrease of the stream flow at the appropriators point of diversion.**” The information shows that even though the flows were not available when USFWS **wanted** them, adequate flows were still available in all but eleven years in the records. In fact, in most years there was water in amounts substantially greater than what is allowed to be diverted by WR # 7571. In a letter sent to the USFWS in 1994 the Chief Engineer cautioned the Service that “even under pristine conditions, most of the streams in central and western Kansas are **not** a continuously dependable source of supply” thus reiterating the fact that, at times, low flows should be expected.

The processes which the District has diligently worked trying to appease the partnership agreement has cost the District hundreds of thousands of dollars. The actual programs first envisioned were not able to be implemented until 2006 and have had little to no use due to restrictions placed upon them by the state authority. These restrictions have led to difficulty in meeting the demands of the agreement. While we failed to meet them for the entirety of the 10-year rolling average there are signs of conservation and decreased use when looked at on a yearly basis.

The data presented by the Balleau Model is showing that even if all MDS wells within the boundaries of the sub-basin were to be shut off it would take approximately thirty years to see a result of 1 cfs increase in stream flow. This is by far a substantially greater impact on water users up stream than the resulting benefit at the point of diversion for WR #7571.

In closing, even though the water use goals that were agreed to were not met, we feel that they may have been extremely unreasonable considering the timeframe and lack of programs in place. The stream flow is available in more years than it is not and based on more accurate information being available now we believe there is no real issue to be addressed by the partnership, especially considering that the conditions of low flows was explicitly stated in the Certificate of Appropriation for Water Right File No. 7571.

Sincerely,

The Big Bend Groundwater Management #5 Board of Directors

Darrell Wood
Edwards County

Phillip Martin
Barton County

Curtis Tobias
Rice County

John Janssen
Kiowa County

Kent Lamb
Stafford County

Fred Grunder
Pratt County

Bob Standish
Pawnee County

Ed Shultz
Reno County

Tom Taylor
Kiowa County
Director-At-Large