

PERFORMANCE AUDIT REPORT

**Reviewing Potential Duplication of
Water Regulation Activities**

**A K-GOAL Audit of the Kansas Water Office,
the Kansas Water Authority, and the
Division of Water Resources**

**A Report to the Legislative Post Audit Committee
By the Legislative Division of Post Audit
State of Kansas
September 1994**

Legislative Post Audit Committee

Legislative Division of Post Audit

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PERFORMANCE AUDIT REPORT

Reviewing Potential Duplication of Water Regulation Activities

A K-GOAL Audit of the Kansas Water Office, The Kansas Water Authority, and the Division of Water Resources

OBTAINING AUDIT INFORMATION

This audit was conducted by Joe Lawhon, Scott Claassen, and Ron Green. If you need any additional information about the audit's findings, please contact Mr. Lawhon at the Division's office.

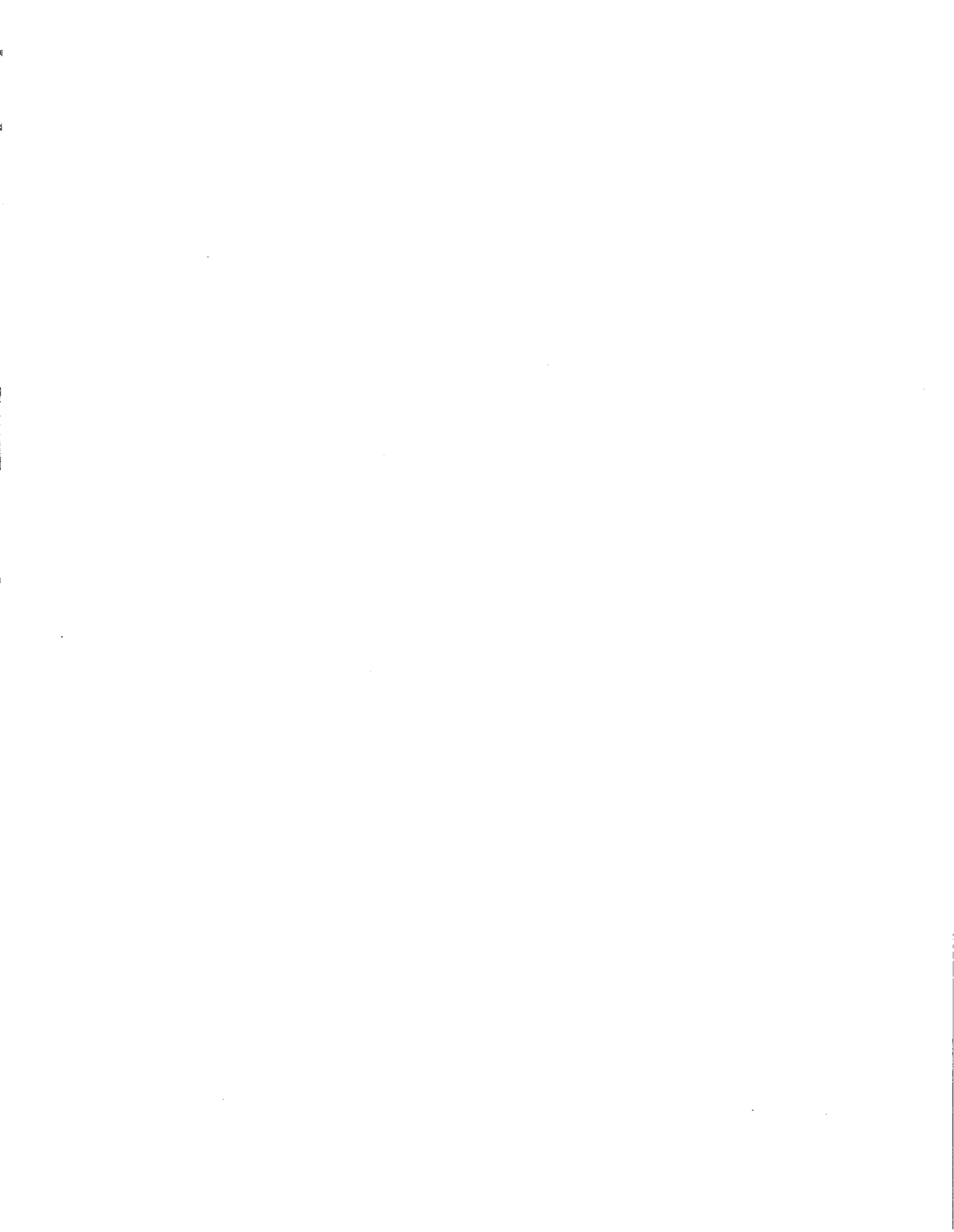


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REVIEWING POTENTIAL DUPLICATION OF WATER REGULATION ACTIVITIES


A K-GOAL AUDIT OF THE KANSAS WATER OFFICE, THE KANSAS WATER AUTHORITY, AND THE DIVISION OF WATER RESOURCES

Summary of Legislative Post Audit's Findings

Is there duplication of effort between the Kansas Water Office, the Kansas Water Authority, and the Board of Agriculture's Division of Water Resources, and if so, how can it be eliminated? Although State law gives the agencies shared responsibility for three water-related programs, we found no significant duplication of effort. In the few areas where these agencies' activities overlap, they have entered into agreements to help minimize the possibility for duplication; however, some of those agreements have expired and need to be renewed and updated. We contacted a number of people who deal with the agencies, and generally they thought the agencies worked well together and did not duplicate each other's work. Both agencies have been working on issues related to the Republican River, but the Division of Water Resources is focusing on water use in Nebraska to determine whether Nebraska has violated its compact with Kansas. The Water Office is assessing how lowered streamflows on the Republican River may affect water levels in Milford Reservoir.

How does Kansas' organizational structure for regulating water compare with structures in other states? Kansas' organizational structure for water resource management is more decentralized than the structure in the 12 other central and western states we surveyed. Many of these states have consolidated the responsibilities for water resource management into one or a few agencies. In contrast, Kansas has a separate agency for each aspect of water resource management. Also, Kansas is the only state we reviewed that has placed the water permitting process within an agricultural agency. Our audit revealed no serious concerns that would suggest a need to change the current organizational structure of the three agencies included in this audit. But without a broader look at all agencies involved in water management and regulation in Kansas, it is difficult to make judgments about whether there should be consolidation of agency functions or other changes in the way that water is regulated.

This report contains one recommendation for ensuring that the agencies continue to operate without duplication. We would be happy to discuss this recommendation or any other items in this report with any legislative committees, individual legislators, or other State officials.


Barbara J. Hinton
Legislative Post Auditor



Reviewing Potential Duplication of Water Regulation Activities

A K-GOAL Audit of the Kansas Water Office, the Kansas Water Authority, and the Division of Water Resources

The Kansas Governmental Accountability Law (K-GOAL) requires the Legislative Division of Post Audit to conduct a performance audit of specified State agencies each year on an eight-year cycle. Depending on the directions given by the Legislative Post Audit Committee, these audits can include reviewing the operations of selected agencies; determining the necessity, propriety, and legality of their operations; identifying areas of inefficiency and ineffectiveness; and providing information to allow the Legislature to take action to retain appropriate and effective governmental operations, and terminate inappropriate or obsolete governmental operations.

To fulfill the requirements of the law, the Legislative Post Audit Committee directed the Legislative Division of Post Audit to review the operations of the Kansas Water Office and the Kansas Water Authority, and specifically look for duplication of work performed by the Board of Agriculture's Division of Water Resources. The Committee was interested in duplication because a House Appropriations subcommittee had noted, during its review of fiscal year 1994 budget requests for the Board of Agriculture and the Kansas Water Office, that both agencies had requested money for issues related to the Republican River.

This audit addresses the following questions:

- 1. Is there duplication of effort between the Kansas Water Office, the Kansas Water Authority, and the Board of Agriculture's Division of Water Resources, and if so, what options exist for eliminating that duplication?**
- 2. How does Kansas' organizational structure for regulating water compare with structures in other states?**

To answer these questions, we reviewed State statutes, budget documents, contracts, Water Authority board minutes, various policies and procedures issued by each agency, and documents published by the Kansas Water Office, including the State Water Plan, the Annual Implementation Plan, and the Authority's Recommendations to Implement the State Water Plan. We surveyed and interviewed staff of both agencies, and contacted members of the Water Authority, persons serving on basin advisory committees, staff of other Kansas water agencies, federal employees whose jobs involve water regulation or administration, and representatives from water agencies in other states.

In conducting this audit, we followed all applicable government auditing standards set forth by the U.S. General Accounting Office. Given the limited scope of this audit, we did not attempt to determine the effectiveness of the programs operated by the Kansas Water Office and the Division of Water Resources. In addition, at the direction of the Legislative Post Audit Committee, we did not look for duplication of effort involving any of the other State agencies that operate water-related programs in Kansas.

In general, we found no significant duplication of effort among the Kansas Water Office, the Kansas Water Authority, and the Division of Water Resources. We identified a few areas where the activities of the Kansas Water Office and the Division of Water Resources overlap, but the agencies have entered into agreements that minimize the possibility for duplication of effort. Although both agencies requested money in fiscal year 1994 for activities in the Republican River basin, those activities are not duplicative. Kansas' organizational structure for water resource management is more decentralized than other states' structures. However, our work revealed no serious concerns that would justify changing the current structure of the three agencies included in this audit.

Overview of Water Regulation in Kansas

A number of State agencies are involved in various aspects of water regulation in Kansas. This audit focuses on the activities of three of those agencies — the Kansas Water Authority, the Kansas Water Office, and the Division of Water Resources within the State Board of Agriculture.

The Kansas Water Office is the State's primary water planning and water marketing agency. During fiscal year 1994, the Water Office spent about \$4.2 million. The Water Office has 23 employees authorized for fiscal year 1995. The Director of the Water Office is appointed by the Governor. Under State law, the Water Office is required to:

- develop a State plan for managing, conserving, and developing Kansas' water resources
- collect and compile information on climate, water, and soil and determine how they influence water use
- develop and maintain guidelines for water conservation plans and practices, and provide technical assistance to anyone required to adopt conservation plans
- advise the Governor when conditions of drought exist in an area of Kansas

The Water Office also administers three water supply programs. These programs allow the Kansas Water Office to purchase water storage space in lakes and reservoirs, and then sell the water to municipal and industrial water users. (The 1994 Legislature appropriated \$13.6 million to purchase additional storage space in federal reservoirs.) The Kansas Water Office is involved with a number of other activities that are not required by law, including analyzing water-use data and monitoring streamflow levels. In addition, the Office is heavily involved in the development of a Statewide Geographic Information System, which contains hydrologic, topographical, and other types of geographic information about the State.

The Kansas Water Authority is an oversight and management body established as part of the Kansas Water Office. The Water Authority has no staff, other than the staff of the Kansas Water Office. Under State law, the Water Authority has 23 members. Eleven of the Authority members, including the chairperson, are appointed by the Governor. One member is appointed by the President of the Senate, and one by the Speaker of the House. The other 10 members are *ex-officio*, non-voting representatives from the following State agencies:

State Board of Agriculture	Department of Health and Environment
Kansas Corporation Commission	Department of Commerce and Housing
State Conservation Commission	Department of Wildlife and Parks
Kansas State University	Kansas Geological Survey (Univ. of Kansas)
Kansas Water Office	Division of Water Resources (Bd. of Agriculture)

Definitions of Selected Terms Used in This Report

State Water Plan: A plan which addresses the management, conservation, and development of water in the State. The plan was developed by the Water Office, and is updated every year. A number of local, State, and federal agencies, as well as the general public, are involved in formulating and implementing the water plan.

State Water Plan Fund: A fund set up in 1989 to support the activities in the State Water Plan. The Legislature makes the final funding decisions after considering recommendations from the Kansas Water Authority. The money in the Water Plan Fund — about \$16 million per year — comes from several sources, including the State General Fund, fees for municipal, industrial, and irrigation water use, and fees for stock watering and fertilizer use.

Water Marketing Program: The State, through the Water Office, has purchased water storage space in ten federal reservoirs in Kansas through long-term, low-interest contracts with the federal government. Municipal and industrial water users buy this water through the Water Marketing Program. The Water Office uses the fees received to pay the costs of purchasing the storage space.

Water Assurance Program: A program that provides municipal and industrial users within an assurance district with water during periods of low streamflows. The assurance district pays the Water Office to maintain storage space in the federal reservoirs in the region. In periods of drought, water from these reservoirs is released into streams to meet the needs of the district members.

Minimum Desirable Streamflows: A program enacted in State law to protect certain streams from depletion. By maintaining a specific minimum amount of water flowing down the stream, the State protects the water quality and preserves fish, wildlife, recreation, and domestic uses. In times of drought, the Division of Water Resources can restrict some water users to help maintain the desired streamflows.

Water right: A legal permit issued by the Division of Water Resources which allows the owner to use surface or groundwater. Anyone in the State using surface or groundwater for any purpose, except domestic use, must have a water right. The right to use water in Kansas is based on the principle of "first in time, first in right." In times of shortage, the holder of the earliest water right is entitled to the first use of the water.

Water conservation plan: A plan that outlines the steps a water user will follow to ensure that

water use does not exceed reasonable needs. The Kansas Water Office can require conservation plans from participants in the Water Marketing and Water Assurance programs. The Division of Water Resources can require a conservation plan as a condition of approving a change in a water right or approving a new water use permit.

Basin advisory committee: A river basin encompasses an area that drains into a specific river. Kansas is divided into 12 river basins. Each basin has an 11-member committee that evaluates the proposed additions and changes to the State Water Plan that affect the basin. The Committee makes recommendations to the Kansas Water Authority concerning the proposed changes.

Area Coordination Teams: Five regional groups that coordinate the activities of the State water agencies and basin advisory committees within a region to implement the State Water Plan. The area coordination teams are made up of field office staff from State agencies and the chairpersons of the basin advisory committees in the region.

Groundwater Management District: A local district set up to manage the groundwater within a region. Each district adopts a management plan to deal with the groundwater supply problems in its district. This plan must be approved by the Division of Water Resources.

Watershed district: A local organization which constructs, operates, and maintains dams and other structures in order to reduce erosion, flooding, or sediment damage within the watershed. Each district adopts a management plan that must be approved by the Division of Water Resources.

Intensive Groundwater Use Control Area: An area identified by the Division of Water Resources which needs special controls to stop declining water levels or deteriorating water quality. The Division can limit the amount of water that can be used within the control area.

Multipurpose Small Lakes Program: Under this program, the State can pay for additional water storage space in a new or renovated lake if the Water Office determines additional water supply will be needed in the area within 20 years. Upon approval by the Division of Water Resources, the State Conservation Commission provides the funds to expand the lake. When the project is completed, the Water Office holds the right to store and use the water in the lake. The Water Office can recover the State's costs by selling the storage space or the associated water rights.

Under State law, the Water Authority is advisory to the Governor, the Legislature, and the Water Office. For example, it makes recommendations concerning expenditures from the State Water Plan Fund, and concerning any changes in State laws relating to water matters. Also, the Water Authority can make recommendations to State and local agencies to help coordinate their activities. In addition to making recommendations, the Water Authority is specifically required by law to:

- approve all changes to the State Water Plan
- approve all Water Office contracts with the federal government
- approve all Water Office rules and regulations
- approve all Water Office contracts related to the storage and sale of water
- approve changes in the price of water sold from storage in federal reservoirs
- approve guidelines for water conservation plans and practices

By law, the Water Authority holds at least four public meetings each year. At these meetings, the Authority discusses issues relevant to the management, conservation, and development of the water resources of the State.

The Division of Water Resources, headed by the Chief Engineer, is one of six major units within the State Board of Agriculture. In fiscal year 1994, the Division spent nearly \$4.9 million. It was authorized 95.5 full-time positions and 13 special project positions for fiscal year 1995. The Division's headquarters are in Topeka, with field offices in Garden City, Stafford, Stockton, Chanute, and Topeka.

The Division is a regulatory agency, responsible for the administration of numerous State laws. Its two major statutory responsibilities are the Kansas Water Appropriation Act and the Kansas Stream Obstruction Act. The Water Appropriation Act requires a water user to obtain a permit from the Division before using the waters of the State. The Stream Obstruction Act requires anyone to obtain a permit from the Division before constructing certain types of dams or changing the course or current of a stream. Under these and other State laws, the Division of Water Resources' responsibilities include:

- processing applications for permits to use water
- processing applications for changes in existing water rights
- investigating and resolving disputes about water rights
- reviewing and approving water conservation plans required by the Division
- issuing certificates to document the legal status of a water right
- reviewing and approving the construction or alteration of any dam or other type of water obstruction
- reviewing and approving plans to construct levees
- requesting information from all water users (excluding domestic or temporary users) about the amount of water used annually
- reviewing and approving local ordinances and resolutions that change flood plain zoning
- reviewing and approving the establishment of watershed districts, groundwater management districts, intensive groundwater use control areas, and water assurance districts
- representing Kansas on interstate river compacts with other states

The following table summarizes the primary duties and responsibilities of the Kansas Water Office, the Kansas Water Authority, and the Division of Water Resources.

Principal Duties and Responsibilities

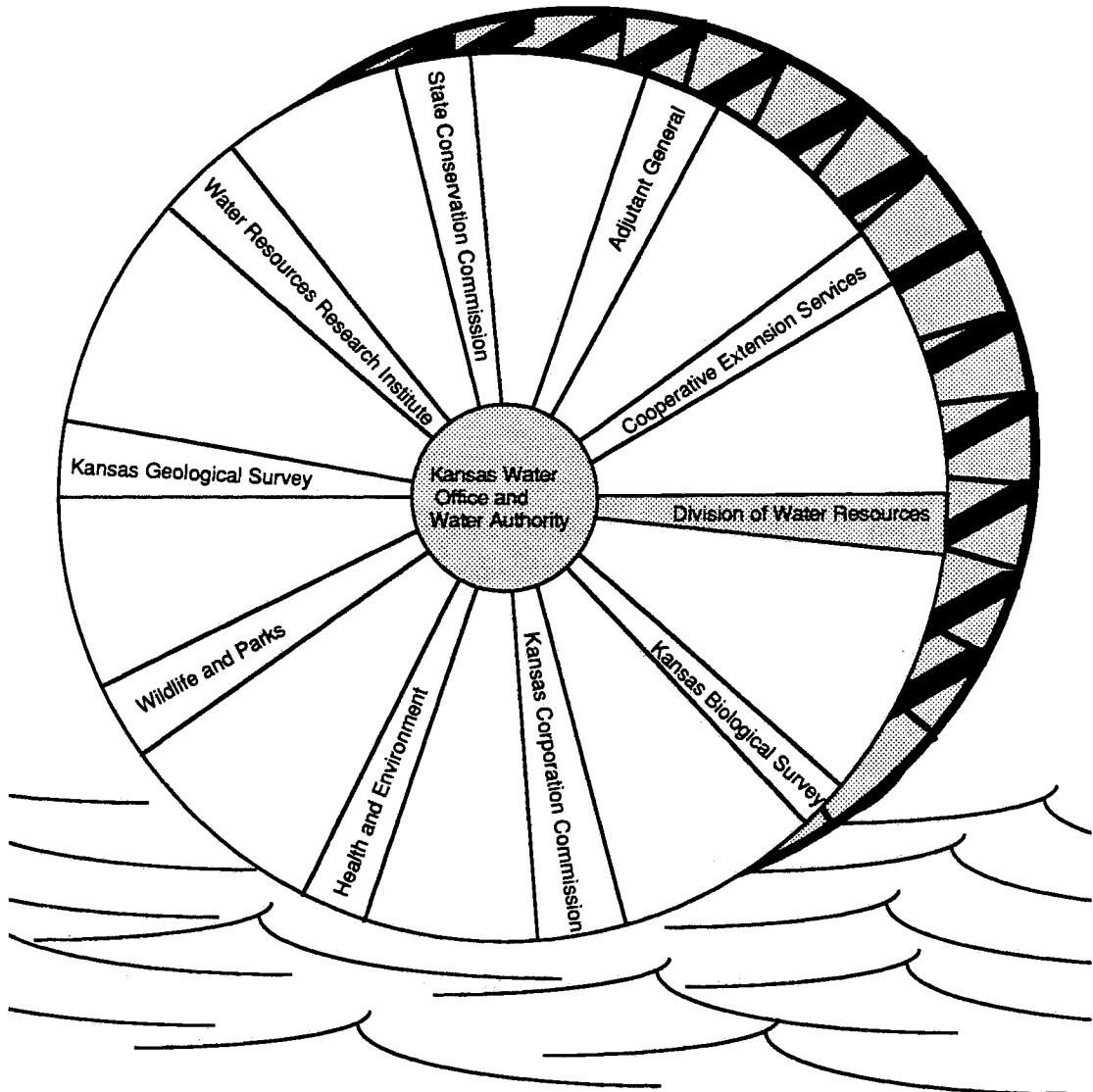
<u>Kansas Water Authority and Kansas Water Office</u>	<u>Division of Water Resources</u>
Develop the State Water Plan	Process water use, stream obstruction and dam applications
Acquire water storage space in federal reservoirs	Investigate and resolve disputes about water rights
Sell water from federal reservoirs to industrial and municipal users	Collect water use data from all users and determine whether the amount used exceeds the permitted amount
Develop water conservation guidelines, and approve the conservation plans it requires	Review and approve water conservation plans
Make recommendations to the Governor and Legislature	Represent Kansas on interstate river compacts

As the table shows, the Kansas Water Office and Water Authority primarily formulate plans and policies, and act in an advisory capacity to the Governor and Legislature. In contrast, the Division of Water Resources primarily acts as a regulatory body which enforces various State water laws.

Many other State agencies are involved in water-related issues and programs. The figure on the facing page shows the Kansas agencies that play a role in the State's system of water regulation and protection.

The figure illustrates that the Kansas Water Office and the Kansas Water Authority are at the center of the State's water planning system. They are responsible for coordinating the activities and programs of the various State agencies through the continuous process of revising and implementing the State Water Plan. Appendix A lists some of the key water-related duties and responsibilities of the State agencies that were not included in this audit.

**Kansas Water Office and the Kansas Water Authority
Direct State Water Management Activities**



The Kansas Water Office and Water Authority act as the hub of the water wheel. These agencies identify the needs of the State, and assign responsibility through the adoption of the State Water Plan. The results are shared by all agencies for use in planning future activities. This audit covered only the agencies that are shaded on the wheel.

**Is There Duplication of Effort Between
The Kansas Water Office, the Kansas Water Authority, and
The Board of Agriculture's Division of Water Resources,
And If So, How Can it Be Eliminated?**

We found that the Kansas Water Office and the Division of Water Resources work on several of the same programs. However, within the functions that each agency performs, there were only minor areas where the activities of the agencies overlapped. That overlap occurred primarily in the review of water conservation plans. However, in this and other areas, the agencies have developed agreements or other methods of coordination that minimize the possibility for duplication of effort. Most people who regularly dealt with the three agencies told us the agencies generally worked well together and did not duplicate each other's efforts. Finally, we found that although the Water Office and the Division of Water Resources both requested money in fiscal year 1994 for activities related to the Republican River basin, those activities are not duplicative. These and other findings are discussed in the sections that follow.

**State Law Gives the Agencies Responsibilities
For a Only a Few of the Same Programs**

We reviewed Kansas laws to determine whether the agencies included in this audit were given joint responsibility for any of the same programs. The following table shows the major program responsibilities the statutes assign to each agency. (We did not list the Kansas Water Authority in the table because it does not operate programs; its responsibilities are carried out mainly by the staff of the Water Office.)

**Statutory Areas of Responsibility for the
Kansas Water Office and the Division of Water Resources**

<u>Program</u>	<u>Water Office</u>	<u>Division of Water Resources</u>
State Water Resource Planning	X	
Weather Modification Program	X	
Water Marketing Program	X	
Water Conservation Plan Guidelines	X	
Water Assurance Program	X	X
Multipurpose Small Lakes Program	X	X
Water Transfer Act	X	X
Water Appropriations Program		X
Minimum Desirable Streamflows		X
Interstate Water Matters		X
Levees and Drainage District Program		X
Groundwater Management Districts		X
Intensive Groundwater Use Control Areas		X
Stream Obstruction Program		X
Water Use Report Program		X

As shown in the table, there are three program areas where the two agencies each have some statutory responsibilities. Those are the Water Assurance Program, the Multipurpose Small Lakes Program, and the Water Transfer Act. In each case, however, the specific duties assigned to each agency are distinct and seem to make sense within the overall State system of water regulation. The following table describes how each program works, and shows the duties of each agency.

<u>Kansas Water Office</u>	<u>Division of Water Resources</u>
Water Assurance Program — A program designed to help ensure that municipalities and industrial users which have joined together to form an assurance district have sufficient water in times of drought.	
<p>Contracts with water assurance districts to provide water stored in federal reservoirs during drought conditions. (Moneys the Water Office receives from these contracts help to pay for the cost of the water "storage" space the State purchases in federal reservoirs.)</p> <p>Requests the federal government to release stored water from federal reservoirs during drought conditions to increase streamflows and to meet the needs of water assurance district members.</p>	<p>Reviews and approves a proposal submitted by water users wanting to form water assurance districts. The Division decides which water users will become members of the district.</p> <p>Monitors the water release from the reservoir to ensure that it reaches members of the water assurance district.</p>
Multipurpose Small Lakes Program — A program that allows the State to pay for additional water storage space in a new or renovated lake.	
<p>Approves funding to build or renovate a lake when it determines that additional public water supply storage space will be needed in that area within 20 years.</p> <p>Applies to the Division of Water Resources for a right to store and use water in the lake.</p> <p>Contracts with water users to provide water stored in the lake, or may sell the water right.</p>	<p>Reviews and approves a proposal to expand a lake after reviewing the costs and benefits, and after obtaining other State agencies' assessment of the environmental impact.</p> <p>Issues dam permit and performs follow-up inspections for dam safety purposes. Approves Kansas Water Office's application for water storage rights.</p>
Water Transfer Act — A law which governs diverting large amounts of water (2,000 acre-feet or more) over long distances (35 miles or more).	
<p>The Director of the Water Office is a statutory member of the water transfer panel.</p>	<p>Receives an application for a water transfer and the water transfer panel appoints a hearing officer to render an initial decision about the application.</p> <p>Chief Engineer convenes the water transfer panel to make a final decision about the water transfer application. The Chief Engineer of the Division of Water Resources, the Director of the Water Office, and the Secretary of the Department of Health and Environment are the three panel members.</p>

For the Water Assurance and Multipurpose Small Lakes Programs, the Division of Water Resources performs functions primarily related to reviewing and approving the use of water — one of its principal statutory charges. In both of these programs, the Kansas Water Office obtains water storage space and sells the water to municipal or industrial water users. This is consistent with its designation as the State's water marketing agency. No duplication occurs in these programs because each agency is responsible for distinct functions at distinct points in time.

With regard to the Water Transfer Act, the only role that the Kansas Water Office plays is that the Director is designated by statute as a member of the panel that approves applications to transfer water. Hence the agencies are not duplicating each other's work for this program.

The fact that the agencies' responsibilities under State law do not significantly overlap does not necessarily mean that the agencies never duplicate efforts. To make that determination, we looked more closely at the kinds of activities and procedures the agencies follow in carrying out their various duties and programs.

Our Review of the Activities Performed by Each Agency Did Not Identify Any Significant Overlap or Duplication

In addition to reviewing State laws, we took several other steps to identify areas where the Kansas Water Office and the Division of Water Resources could be duplicating each others' efforts.

First, we conducted a telephone survey of 34 people who are involved in the administration of water issues within the State, or who have an interest in water regulation. These included members of the Water Authority, people serving on basin advisory committees, and staff from various State and federal agencies. Appendix B lists the people we contacted. Second, we surveyed staff in each agency to determine whether they could identify areas of duplication or overlap, or could identify examples of lack of coordination between the two agencies. We received survey responses from 91% of the 23 employees in the Kansas Water Office and from 78% of the 110 employees in the Division of Water Resources. The great majority of all the people we surveyed thought the agencies worked well together, with little or no duplication of effort.

Third, we interviewed key management personnel in each agency to better understand the specific activities performed within the agencies. Through this work, we identified eight common activities that both agencies perform. Those activities are shown in the table on the following page.

Of the eight activities shown in the table, the four activities shown in the top portion do not appear to be duplicative because in each case, the agencies appear to be working in specialized areas. For example, although each agency issues permits, the Water Office issues only weather modification permits while the Division of

Activities Performed by Both the Staff of the Kansas Water Office and the Division of Water Resources

Activity	Comments
Similar Activities, But No Apparent Duplication of Efforts:	
Attend Water Authority, Basin Advisory Committee, and other water-related meetings	As the agency responsible for the State Water Plan, the Kansas Water Office (KWO) is concerned about formulating long-range plans for the management, conservation, and development of the water in the State. Staff of the Division of Water Resources (DWR) attend these meetings as one of the agencies that must implement the activities outlined in the Water Plan, and to provide advice on the feasibility of the activities under discussion.
Develop rules, regulations, and guidelines	The agencies do not issue regulations and guidelines about the same topics. KWO issues only a few regulations. They pertain to weather modification activities and to the sale of water from federal reservoirs. KWO also issues the guidelines for water conservation plans. DWR, being a regulatory agency, issues many regulations. Most relate to water use and the construction of bridges, levees, and dams.
Review applications and issue permits	The agencies issue different types of permits. KWO issues permits only for weather modification activity; in recent years, only one permit has been issued each year. DWR normally issues hundreds of permits each year for water use and the construction of dams, levees, and bridges.
Conduct hydrologic studies	KWO studies deal with regional issues such as water quality, quantity, vegetation, and wildlife. These studies generally result in new State Water Plan recommendations for water agencies to implement certain projects or activities. DWR studies determine the amount of water available in a specific, but much smaller, area. They occur because of a request to use water, and result in the approval or denial of a water use permit.
Duplicate Activities:	
Administrative tasks such as personnel, accounting, etc.	Both agencies incur administrative costs.
Potential for Duplication Minimized by Interagency Agreements:	
Review water conservation plans	KWO reviews and approves conservation plans only for participants in its water marketing or water assurance programs — about 50 plans since 1986. DWR approves conservation plans for all other irrigators, municipalities and industrial users — about 1,000 plans since 1986.
Collect and analyze water use data	DWR collects the data from all water users, and makes it available to the KWO. KWO analyzes the data reported by irrigators and municipalities, which normally accounts for at least 90% of the Statewide use of water.
Monitor and regulate minimum desirable streamflows	KWO uses computer data from the U.S. Geological Survey to monitor water flows on selected streams. When the flows fall below target levels, KWO can ask DWR to take action to help maintain the desired levels. Generally, DWR restricts some water users along the stream.

Water Resources issues a variety of other types of permits, such as permits to build dams, or permits to use water.

Of the eight activities, the only clearly duplicative activity was the performance of administrative functions such as budgeting and accounting. This type of duplication will show up anytime two or more agencies are compared because these are functions common to all agencies.

The three activities shown at the bottom of the table appear to have potential for duplication based on comments we received from survey respondents and based on our discussions with agency management. Those activities include reviewing water conservation plans, collecting and analyzing water use data, and monitoring and regulating streamflows.

When we reviewed each of those activities in more detail, we found that although there has been some duplication in the review of water conservation plans in the past, the Water Office and the Division of Water Resources currently have cooperative agreements to minimize the likelihood of duplication in each of the three areas. Each of these areas is discussed in the sections that follow.

Until July 1994, both agencies reviewed all municipal and industrial water conservation plans. Both the Kansas Water Office and the Division of Water Resources can require a water user to develop a water conservation plan. The Division of Water Resources can require a plan from any municipal, industrial, or irrigation water user or applicant. The Kansas Water Office can require a plan from any municipal or industrial water user who participates in either of the Water Office's two water marketing programs. Therefore, it would be possible for both agencies to require the same municipal or industrial water user to have a water conservation plan.

In January 1990, the two agencies entered into a memorandum of understanding to clarify their responsibilities. The agencies agreed that if a water conservation plan were approved by one agency, the other agency could accept that plan without a separate approval. To ensure that both agencies interpreted the State's water conservation guidelines the same way, the agencies began a joint review of all plans submitted by municipal or industrial water users.

In July 1994, the joint review process was discontinued because of the time commitment involved, and because each agency was satisfied with the other's level of review. Although some duplication of effort on the part of the agencies occurred for about four years, agency officials said it was needed to allow each agency to become comfortable with the other's interpretation of the water conservation guidelines. Agency officials said they plan to revise their memorandum of understanding to eliminate the requirement for both agencies to review the same plans.

While it is true that some duplication of effort occurred during this period, the amount of time spent on the "double reviews" did not appear to be highly significant.

For example, officials in the Kansas Water Office estimated spending a total of about 120 hours on those reviews in 1993.

In our surveys, several Kansas Water Office staff members mentioned that the Division of Water Resources needed to inform the Water Office about any water conservation plans required by the Division, because the Water Office is required by statute to provide technical assistance to anyone needing to prepare a plan. In addition, Water Office staff suggested the Division should limit the number of water conservation plans it requires, to avoid over-burdening the staff of the Water Office. Agency officials said these coordination issues would be addressed under a revised memorandum of understanding.

Both agencies cooperate in the review and analysis of water use data. State law requires water users to report their annual water usage to the Division of Water Resources. Analysis of this data can provide information concerning local, regional, and Statewide water use trends. It also can help identify individual water users who used more water than expected and, therefore, would be good candidates for water conservation plans.

Division of Water Resources staff told us they have not had the time to perform much analysis of the data. Because this information can be beneficial to the Kansas Water Office from its planning perspective, and could be used to help conserve the State's water supply, the Kansas Water Office began analyzing the data in 1988. The two agencies entered into a memorandum of understanding which said that the Water Office would review and evaluate municipal and industrial water use data, and said that the Division of Water Resources would maintain its responsibility for collecting the data.

The process has evolved to the point where the two agencies jointly publish reports about annual municipal and irrigation water use, and identify water users who need to develop water conservation plans. The effort is coordinated because the Division of Water Resources collects the data, enters the information into a computer database, and makes the database available to the Kansas Water Office, which performs most of the quality control and data analysis work. The Kansas Water Office then has detailed information for use in its planning functions, and the Division of Water Resources has reliable, detailed information about water use in localized areas, which is useful when reviewing applications for water permits.

Both agencies are involved in the State's effort to maintain water flows on Kansas streams, but they are not duplicating each other's efforts. Effective April 12, 1984, State law established minimum desirable streamflows for numerous rivers and creeks. A minimum desirable streamflow is the minimum amount of water the State would like to have flowing down a designated stream or river. The State's right to have that water supersedes the rights of all water users who applied for rights to take water from these designated waterways after April 12, 1984.

Through a 1984 memorandum of understanding, the Kansas Water Office and the Division of Water Resources agreed that the Water Office would monitor streamflows, using data supplied by the U.S. Geological Survey. If the Water Office determines that streamflows on a waterway are below the statutory levels and corrective action is necessary, it is to notify the Division of Water Resources. Through the power given it under State law, the Division of Water Resources can prohibit those who have water rights dated after April 12, 1984, from taking water from the stream. Agency officials said that groundwater rights have been curtailed only once under this law; that occurred in the Republican River basin in 1992.

According to the Chief Engineer of the Division of Water Resources, the memorandum was written to be consistent with the interpretation of western water law, which holds that a regulatory agency should respond to complaints about impairment of water rights, and not be given day-to-day monitoring activities. By giving the monitoring responsibility to the Kansas Water Office, Kansas conforms to traditional western water law.

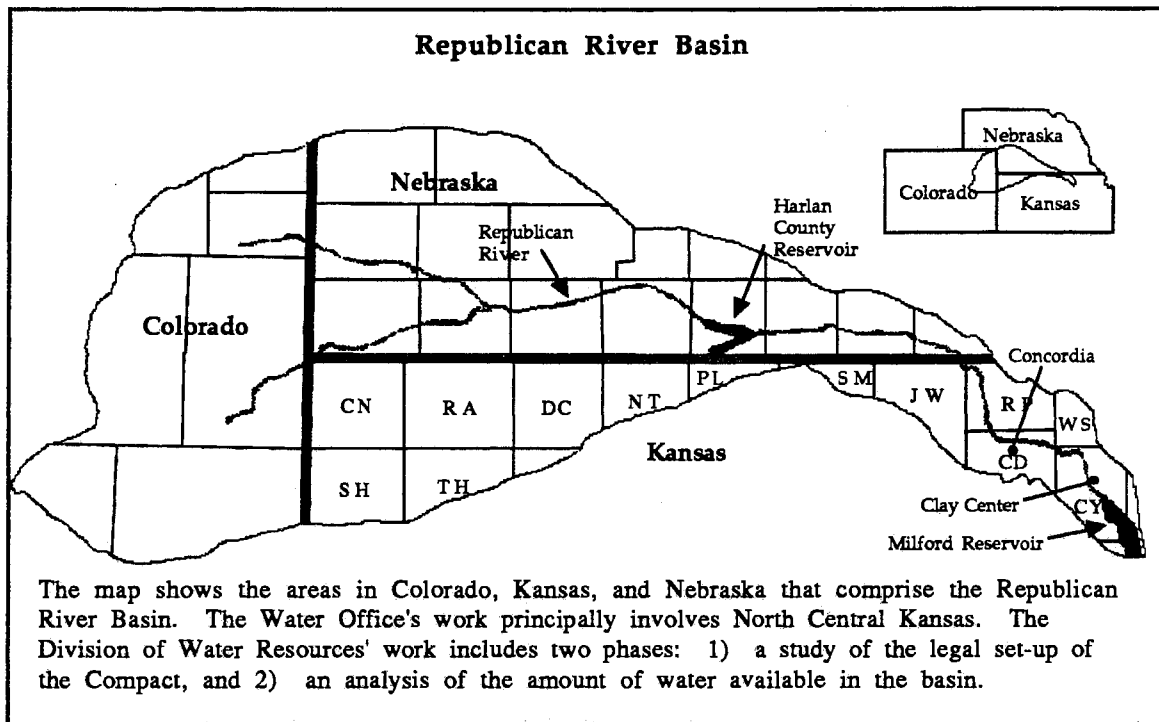
The Kansas Water Office and the Division of Water Resources need to review and update their memoranda of understanding. Over the years, the Kansas Water Office and the Division of Water Resources have entered into 16 memoranda of understanding with each other. They also have entered into many other agreements with a variety of State and federal agencies. The memoranda cover a wide range of topics, from sharing equipment and office space to working with the federal government on various projects.

Two of the three memoranda of understanding that we reviewed during this audit either had expired or did not reflect current practices. For example, the memorandum concerning the development of a program for reviewing annual water use data expired on December 31, 1991, and has not been renewed. As mentioned earlier, the memorandum regarding the review of water conservation plans also needs to be revised. Because these documents help ensure that these programs work as intended, the two agencies should make sure that all memoranda between the two agencies, as well as those involving other State and federal agencies, clearly outline the specific duties and responsibilities of the parties involved.

Kansas Water Office and Division of Water Resources' Projects On the Republican River Do Not Duplicate Each Other

During their budget hearings for fiscal year 1994, the House Appropriations Committee and the Senate Ways and Means Committee expressed concern about potential duplication or overlap of effort between the Kansas Water Office and the Division of Water Resources. These committees noted that the Kansas Water Office initially had requested \$175,000 and the Division of Water Resources had requested \$127,587 for work in the Republican River basin. The agencies received \$125,000, and \$136,072, respectively.

The Republican River drainage basin encompasses an area of eastern Colorado, northwest Kansas and southwest Nebraska. The main channel of the Republican River eventually enters Kansas in Jewell County, and serves as the major source of water supply for Milford Reservoir. Below Milford dam, the Republican River joins the Smoky Hill River near Junction City to form the Kansas River. The Republican River is an important source of water for much of north central and northeast Kansas.



Concern about reduced streamflows in the Republican River basin began in the 1970s. During the late 1980s, heavy water use in the upper Republican River basin lowered streamflows in the Republican River and caused shortages for water users in Kansas. Because of continuing drought conditions, increased water use in Nebraska and Kansas, a lack of water returning from irrigated fields, and minimal water releases from Harlan County Lake in Nebraska, the Republican River suffered record low flows in autumn 1991.

To maintain minimum desirable streamflows, the Water Office asked the Division of Water Resources to restrict the consumption of water by some water users in the basin for the first six months of 1992. Because all the available water has already been assigned to users, the Division of Water Resources has not issued any new permits to take water from the Republican River, its tributaries, or the surrounding area.

The Division of Water Resources is studying water use in Nebraska in the Republican River basin to determine whether Nebraska has violated the compact with Kansas. State statutes give the Division of Water Resources the

The Kansas Water Authority Provides Independent Oversight of the Kansas Water Office

The Kansas Water Authority has 23 members, of which 13 are voting members and 10 are non-voting officials from State agencies.

One issue we reviewed in this audit was whether the Kansas Water Authority was simply a "rubber stamp" for whatever proposals were offered by the Kansas Water Office. After reviewing the minutes of past Authority meetings, attending the July meeting of the Authority, and interviewing the current Chairman of the Authority, we concluded the Water Authority has not acted as a rubber stamp for the Kansas Water Office or any other agency.

A combination of factors, including open public hearings and the wide variety of people involved in the State water planning process, would make it difficult for the Water Office staff to manipulate the decisions of the Kansas Water Authority. For example, before it gives final approval to the annual State Water Plan, the Water Authority receives input from the 12 basin advisory committees, made up of citizens who live in those local areas. In addition, the Water Authority can call upon the expertise of many different State agencies during discussion of any controversial issue.

From our limited review of the activities of the Kansas Water Authority, it appeared that the Authority was fulfilling its intended role as an independent oversight body.

responsibility to represent Kansas on four interstate river compacts, including the Republican River Compact (K.S.A. 82a-518). The Compact, approved in 1943, divides the water in the Republican River basin between the states of Colorado, Nebraska, and Kansas. State officials in Kansas contend that Nebraska is consuming more water than the Compact rules permit by allowing the unregulated pumping of groundwater in the state.

In fiscal year 1993 the Division created a special team to begin compiling data to support Kansas' contention. In fiscal year 1994, the Division sought funding to continue this work. The special team is gathering data on water use in Nebraska to be used when negotiating with Nebraska. The situation is similar to the ongoing legal dispute with Colorado regarding the Arkansas River Compact. If an administrative solution cannot be reached, it is possible that a similar lawsuit might be filed against Nebraska.

The Division's work includes a review of historical documents to

determine whether the Compact originally intended to cover groundwater as well as surface water, and research to estimate the amount of water used by Nebraska over the years.

The Kansas Water Office is studying streamflows within Kansas' borders to determine whether there will be sufficient water to satisfy its contractual obligations to water users in Kansas. The efforts of the Kansas Water Office in the Republican River basin focus on determining the amount of water flowing into Milford Reservoir. The State, through the Water Office, owns considerable water supply storage space in Milford. The Water Office has contracted to provide this water to Kansas Power & Light (for the Jeffrey Energy Center) and the Kansas River Water Assurance District #1, which supplies water to 14 municipal and industrial users, including Junction City, Manhattan, Topeka, Lawrence, and Kansas City.

The Water Office is trying to estimate how soon, and under what conditions, the lower inflows from the Republican River into Milford will affect its ability to

meet its contractual obligations. To accomplish this, the Water Office requested State Water Plan Fund money to contract with various organizations to develop computer models which predict the levels of streamflow in the river under varying conditions. Working under the assumption that streamflows in the Republican River may continue to remain low, or even deteriorate further, the Kansas Water Office has to identify actions the State can take to make the best of the situation. This fulfills the Water Office's role as the State's water planning and water marketing agency.

The following table shows some of the key distinctions between the work being performed by each agency in the Republican River basin.

**Distinctions in the Work Done by the Division of Water Resources
And the Kansas Water Office in the Republican River Basin**

<u>Characteristic</u>	<u>Division of Water Resources</u>	<u>Kansas Water Office</u>
Purpose of projects:	Protect streamflow crossing the State line	Assess inflows into Milford Reservoir
Basic question:	Is Nebraska in compliance with the Compact?	How much water will be available to sell from Milford?
Geographic area of interest:	Whole Republican basin, including parts of Colorado, Nebraska, and Kansas	North central Kansas
Key aspects of projects:	Determine overuse in Nebraska and economic losses in Kansas due to reduced flows	Evaluate alternatives within Kansas to manage water flowing into and out of Milford
Timeframe of interest:	Determination of potential <u>past</u> noncompliance by Nebraska	Determination of <u>future</u> yield from Milford Reservoir
Potential beneficiaries:	<u>All</u> water users in north central and northeast Kansas	Milford water customers, and Kansas River Assurance District members in northeast Kansas

As the table shows, the activities of the two agencies are distinct. While the Kansas Water Office and the Division of Water Resources are concerned with the same problem—lower streamflows in the Republican River—each agency is dealing with the part of the problem that falls within the scope of its programs and duties.

How Does Kansas' Organizational Structure for Regulating Water Compare with Structures in Other States?

Kansas' organizational structure for regulating water is more decentralized than the structures in place in 12 other central and western states. Several of the states we contacted have consolidated the responsibility for their water regulation programs into one or a few agencies.

Kansas' Organizational Structure Is More Decentralized Than Other States' Structures

One of the issues for possible consideration under the Kansas Governmental Operations Accountability Law is whether there is a need for any change in the organization of the state agency or agencies under review. When the Legislative Post Audit Committee authorized this audit, it included the direction to compare Kansas' organizational structure for water regulation with the organizational structures used in other states.

Officials from the Division of Water Resources told us that many states in the western part of the country have adopted similar legal doctrines to regulate the use of their water. Therefore, we decided to contact several of these western states, as well as a few other states in the Midwest. In all, we contacted officials in 12 other states. The states are listed in the table on the facing page. Our review of the structural organization of water management agencies in the 12 other states showed that Kansas has the most decentralized system of water resource management.

In Kansas, the Legislature established the current decentralized structure of water regulatory agencies in 1981. In January 1981, then-Governor Carlin issued an executive reorganization order that would have merged the existing Water Resources Board, the Board of Agriculture's Division of Water Resources, and water supply functions of the Department of Health and Environment into a new Kansas Water Resources Authority. However, the 1981 Legislature rejected that reorganization plan, and instead passed a bill which abolished the Water Resources Board and created the present Kansas Water Authority and Kansas Water Office. This bill designated the Kansas Water Office as the State's water planning agency, and transferred two positions from the Department of Health and Environment to the Water Office. The bill did not transfer the water-related duties and responsibilities of other Kansas agencies to the Water Office. Thus, program administration remained decentralized, with as many as 10 different agencies being involved. (See the graphic on page seven.)

Unlike Kansas, most states we contacted have an umbrella organization that administers several water regulation programs. The programs housed within the umbrella organization vary from state to state. None of the states we contacted have identical organizational structures, but they do have at least one thing in

Comparison of the Organizational Structures States Use to Manage Their Water Resources

State	Agency Responsible For:				Agencies Shown
	Developing the Water Plan	Issuing Water Use Permits	Protecting Water Quality	Managing Wildlife at State Lakes	
Kansas	Kansas Water Office	Board of Agriculture Div. of Water Res.	Dept. of Health & Environment	Dept. of Wildlife & Parks	4
Wyoming	Water Development Commission	State Engineer	Dept. of Environmental Quality	Game & Fish Department	4
Idaho	Dept. of Water Resources	Dept. of Water Resources	Dept. of Health & Environment	Dept. of Fish & Game	3
Minnesota	Environmental Quality Board	Dept. of Natural Resources	Department of Health	Dept. of Natural Resources	3
Montana	Dept. of Natural Resources & Conservation	Dept. of Natural Resources & Conservation	Department of Health	Dept. of Fish, Wildlife, & Parks	3
Nebraska	Not done	Dept. of Water Resources	Dept. of Environmental Quality	Game & Parks Commission	3
North Dakota	State Water Commission/ State Engineer	State Water Commission/ State Engineer	Department of Health	Game & Fish Department	3
Oklahoma	Water Resources Board	Water Resources Board	Dept. of Environmental Quality	Department of Wildlife	3
Texas	Water Development Board	Natural Resources & Conservation Commission	Natural Resources & Conservation Commission	Parks & Wildlife Dept.	3
Colorado	Not done	Dept. of Natural Resources	Department of Health	Dept. of Natural Resources	2
Missouri	Dept. of Natural Resources	Not done	Dept. of Natural Resources	Department of Conservation	2
South Dakota	Dept. of Environmental & Natural Resources	Dept. of Environmental & Natural Resources	Dept. of Environmental & Natural Resources	Dept. of Game, Fish, & Parks	2
Iowa	Dept. of Natural Resources	Dept. of Natural Resources	Dept. of Natural Resources	Dept. of Natural Resources	1

common: overall, they have fewer agencies involved in water management than Kansas. The table on page 19 demonstrates this. The table lists four key water programs, and identifies the agency in each state responsible for administering each program. (Although more or different programs could be listed, the point of the table is to show the diversity among states.) The table shows that most states have consolidated two or more of these programs within a single agency, while Kansas has given a separate State agency the responsibility for each program.

As the table shows, 11 of the 12 states we contacted have fewer agencies involved in these programs than Kansas. Iowa was the only state which has placed all four programs within a single agency. Three states — Colorado, Missouri, and South Dakota — have consolidated these programs within two agencies. The remaining seven states — Idaho, Minnesota, Montana, Nebraska, North Dakota, Oklahoma, and Texas — have consolidated these programs within three agencies.

The other state we contacted — Wyoming — was like Kansas in several ways. Wyoming has a separate agency, the State Engineer's Office, which handles the regulation of surface and groundwater, dam safety, and compacts with other states. Wyoming's Department of Environmental Quality protects the quality of water. Several other state agencies are involved in water-related programs such as soil conservation, fish and wildlife management, and the operation of Wyoming's state parks. However, Wyoming is unlike Kansas in that no body similar to the Kansas Water Authority oversees water planning on a continual basis.

One other point is worth mentioning. Kansas is the only state where the permitting process remains within an agricultural agency. Other states generally have placed this process within a Department of Natural Resources or a Water Resources agency.

As with any organizational structure, there are certain advantages and disadvantages to Kansas' system for managing and regulating water resources. Through our discussions with water officials in Kansas and other states, we learned there is no single preferred organizational structure for managing and regulating water. However, certain key factors are critical for success. These critical factors include:

- State laws that are clear in their intent, and give agencies sufficient authority to carry out that intent
- Adequate planning (with public input) to identify short and long-term needs, and the ability to prioritize those needs
- Agencies working toward similar goals, and coordinating their efforts to avoid duplication
- Adequate funding to allow agencies to carry out their assigned tasks

By and large, Kansas has these elements in place. Kansas statutes clearly define the missions of the three agencies included in this audit. The Kansas Water

Office annually updates the State Water Plan, and gets public input at each stage of the process. Through the planning and implementation processes, the Kansas Water Authority seeks to coordinate the work of the various State agencies involved in water management. Although funding for all State agencies is tight, the State Water Plan Fund does provide a limited amount of funding for water-related projects.

During this audit, we identified several advantages and disadvantages with Kansas' organizational structure, as listed below:

Advantages of the current structure in Kansas:

- As a separate agency, the Kansas Water Office can do objective, unbiased planning.
- Water planning is continuous and does not get put on the "back burner." Several states told us their state water plans have not been updated for many years.
- The Kansas Water Authority provides a mechanism for many people to have input into the State Water Plan, and for agencies to cooperate on water-related issues.
- Through basin advisory committees, area coordination teams, and various public meetings, many people can express their opinions regarding the formation and implementation of the State Water Plan.

Disadvantages of the current structure in Kansas:

- The large number of agencies involved in water-related issues can be confusing to members of the public. Also, each agency incurs costs for common administrative functions such as accounting, budgeting, and personnel matters.
- The Kansas Water Office and the Water Authority have little power to implement the State Water Plan, but they do make annual recommendations to the Governor and Legislature about how the Water Plan Fund should be spent to implement the plan.
- Because 84% of the water use reported for 1992 was for irrigation, having the Division of Water Resources located in the State's agriculture agency could create the perception of bias toward agriculture.

On balance, it appears that the advantages may outweigh the disadvantages, because many informed people we spoke with from other states and the federal government had a high regard for Kansas' system for regulating and safeguarding its water resources.

Conclusion

Generally, State law has defined the duties of the agencies covered in this audit to avoid significant duplication. In those few areas where a potential for duplication exists, the agencies appear to have come to agreement on the role that each agency will play. It will be important for the agencies to continually update and refine those agreements to ensure that no duplication occurs in the future. Kansas' organizational structure for regulating water is more decentralized than the structures in place in 12 other states. But without a broader look at all agencies involved in water management and regulation in Kansas, it is difficult to make judgments about whether there should be consolidation of agency functions or other changes in the ways that water is regulated. Based on the fact that people who deal with the water agencies in Kansas did not express any particular concerns about the Water Office, the Division of Water Resources, or the Water Authority, and the fact that we did not find any significant duplication or overlap in functions, we found no reason to suggest changes in these agencies at this time.

Recommendation

To ensure that their activities are carried out efficiently and without duplicated effort, the Kansas Water Office and the Division of Water Resources should establish a method to regularly review and revise all memoranda of understanding.

APPENDIX A

Other State Agencies That Have Water Management Programs

Many other State agencies have programs that help Kansas manage its water resources. This appendix lists some of the key water-related duties and responsibilities of the State agencies that were not included in this audit.

Department of Health and Environment

- ensures safe drinking water is provided to Kansas residents
- monitors the storage, treatment, and disposal of hazardous waste to protect the State's water supply
- monitors the treatment of waste water

State Conservation Commission

- works to minimize farmland erosion and water runoff
- provides financial assistance for the construction or renovation of dams for flood control, water supply, or recreational purposes
- protects streams from over use and improves wildlife habitat in the surrounding area

Cooperative Extension Service

- provides educational programs in water quality, water conservation, and soil conservation throughout the State
- conducts water conservation research concerning irrigated and dry land crop production

Kansas Geological Survey (University of Kansas)

- conducts geological and hydrological studies related to groundwater quality or groundwater quantity

Kansas Biological Survey (University of Kansas)

- conducts research into issues involving water quality, and plants and animals

Adjutant General's Office

- works with other State and local agencies to help minimize the effects of flooding
- coordinates the restoration of water supplies and the repair of water facilities after major disasters

Department of Wildlife and Parks

- operates State parks and lakes
- provides technical assistance to cities and counties to help enhance fishing in locally operated lakes.
- helps develop and maintain wetlands to protect and improve wildlife habitat areas

Kansas Corporation Commission

- protects groundwater and surface water from pollution resulting from oil and gas production

Water Resources Research Institute

- conducts water quality, water conservation, and groundwater depletion research to support the objectives of the State Water Plan

APPENDIX B

List of People Surveyed

As part of this audit, we surveyed 34 people who have an interest in Kansas water issues to see if they could identify any duplication or overlap between the Kansas Water Office, the Kansas Water Authority, and the Division of Water Resources. They included members of the Kansas Water Authority, basin advisory committees, and staff of other Kansas and federal agencies whose jobs involve water regulation or administration. These people are listed below.

<u>Person Contacted</u>	<u>Title and Organization</u>
Bob Best	Chairman, Kansas Water Authority
Sheila Leiker-Page	Member, Kansas Water Authority
Dennis Schwartz	Member, Kansas Water Authority
Ken Maechtilen	Member, Kansas Water Authority
Paul Sasse	Chairman, Verdigris Basin Advisory Committee, City Manager, Independence, Kansas
Larry Kepley	Chairman, Cimarron Basin Advisory Committee, Past Director, SW Kansas Irrigation Association
Art Woodman	Chairman, Lower Arkansas Basin Advisory Committee
Charles Allen	Chairman, Missouri Basin Advisory Committee
Jack Davis	Chairman, Marais des Cygnes Basin Advisory Committee
Harold E. Taylor	Chairman, Walnut Basin Advisory Committee
Clark Russo	Chairman, Upper Arkansas Basin Advisory Committee
R.E. Pelton	Chairman, Lower Republican Basin Advisory Committee
Donald Riffel	Chairman, Solomon Basin Advisory Committee
Norman Nelson	Chairman, Upper Republican Basin Advisory Committee
David Pierson	Member, Smoky Hill-Saline Basin Advisory Committee
Jim Zell	Member, Neosho Basin Advisory Committee
Mike Dealy	Groundwater Management District #2
Wayne Bossert	Groundwater Management District #4
Sharon Falk	Groundwater Management District #5
Jerry Shimek	U.S. Environmental Protection Agency
Kyle Juracek	U.S. Geological Survey
Larry Miles	U.S. Dept. of Agriculture, Soil Conservation Service
Mike Bart	U.S. Army, Corps of Engineers
Jeanette Campbell	U.S. Bureau of Reclamation, Water Conservation Center
Ron Geist	Kansas Department of Health & Environment
Pat McCool	Kansas Department of Health & Environment
Bob Buddemeier	Section Chief, Kansas Geological Survey
Byron Johnson	General Manager, Water District No. 1 of Johnson Co.
Stephen Irsick Jr.	Ogallala Task Force
Chris McKenzie	League of Kansas Municipalities
Kenny Nelson	Kansas Bostwick Irrigation District
Harland Priddle	Geary County Economic Development Group, former Secretary of Agriculture
Elmer Ronnebaum	Kansas Rural Water Association
Bill Henry	Kansas Engineering Society

APPENDIX C

Agency Response

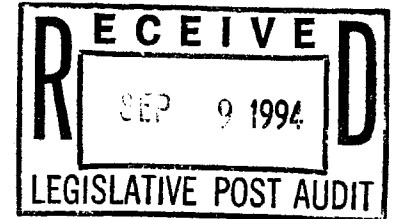
On September 1, 1994, we provided a copy of the draft audit report to the Kansas Water Office and the Board of Agriculture. Their written responses are included as this Appendix.



THE KANSAS STATE BOARD OF AGRICULTURE

Sam Brownback, Secretary
Donald L. Jacka, Assistant Secretary

901 S. Kansas Ave.,
Topeka, KS 66612



September 8, 1994

**BARBARA J HINTON
LEGISLATIVE POST AUDITOR
LEGISLATIVE DIVISION OF POST AUDIT
MERCHANTS BANK TOWER SUITE 1200
800 SW JACKSON
TOPEKA KS 66612-2212**

**Re: Comments on Reviewing
Potential Duplication of
Water Regulation Activities**

Dear Ms. Hinton:

This letter serves to respond to the recent performance audit conducted by your staff over the past several months to address the Legislative Post Audit Committee's requested performance audit of the functions and programs of the Kansas Water Office, Kansas Water Authority and Division of Water Resources, Kansas Department of Agriculture.

On behalf of the Agency, I would like to express our appreciation for the fine overall effort and compliment your staff on their ability to conduct a very thorough and understandable audit of these agency programs.

The Division of Water Resources' staff has completed a review of the Performance Audit Report DRAFT and concur with the general conclusions reached by your staff. Further, we believe the results of the audit not only confirms that little or no duplication of effort exists, but reflects a very high level of mutual cooperation among these State agencies to achieve a common goal; to work cooperatively with other state agencies and members of the public to plan for and manage the State's water resources with the resources available.

We appreciate your staff identifying several Memorandums of Understanding which need to be updated. Efforts are under way to address this issue and update these documents so they accurately reflect the current and future cooperative efforts of both the Kansas Water Office and the Division of Water Resources.

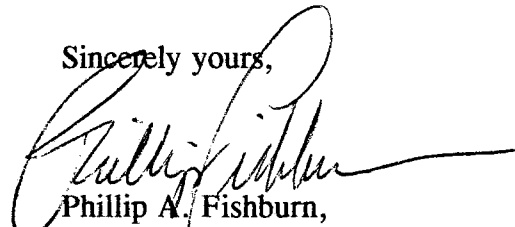
Barbara J. Hinton
September 8, 1994
Page 2

It was also very interesting to be informed of the efforts of your staff in reviewing the structure of several other States' agencies dealing with water resource management programs. We believe the multi-agency program, currently in place here in Kansas, of which the Division of Water Resources is involved, has successfully succeeded in developing an effective and balanced program with mutual cooperation, while at the same time providing important "checks and balances" related to the authority and responsibilities at the interagency level.

Finally, we are providing to you a marked-up copy of the DRAFT report for your staff to review. We believe there are some minor narrative changes you may wish to consider to more accurately portray some of the programs in which the Division is involved and also clarify some of the statutory responsibilities of the Division.

In conclusion, we thank you for your Agency's efforts in reviewing the program of the Division of Water Resources and look forward to your comments to the Committee on September 19, 1994, and an opportunity to appear before the Committee to answer any questions that they may have.

Sincerely yours,



Phillip A. Fishburn,
Secretary

PAF:WJA:dv

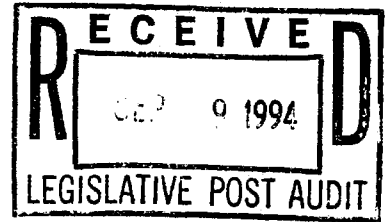
Enclosure

pc: David L. Pope,
Chief Engineer-Director, DWR

STATE OF KANSAS



Joan Finney, Governor



KANSAS WATER OFFICE

Stephen A. Hurst
Director

September 9, 1994

Suite 300
109 SW Ninth
Topeka, Kansas 66612-1249
913-296-3185
FAX 913-296-0878

Barbara J. Hinton, Legislative Post Auditor
Merchants Bank Tower
800 SW Jackson, Suite 1200
Topeka, KS 66612-2212

Dear Ms. Hinton:

I appreciate the opportunity to review and comment on the performance audit report, Reviewing Potential Duplication of Water Regulation Activities. I would first like to note that my staff and I were pleased with the thorough and professional manner in which your staff handled this review. We were particularly impressed with the manner in which they quickly educated themselves regarding complex technical issues involved in water resources issues.

We offer the following comments as points of clarification in the report:

Page 3, third paragraph, first sentence: "The Water Office also administers three water supply programs." In addition to the Water Marketing and Assurance programs, we administer the sale of future use water supply storage under the Multipurpose Small Lakes Program.

Page 4, paragraph 3, line 3: This should say ten reservoirs instead of nine.

Page 4, paragraph 7, lines 2 and 3: "the steps a water user will follow to ensure that water use does not exceed reasonable needs." A new water right applicant does not reduce water use.

Page 18, paragraph 4, line 10: In fact, the 1981 Legislature did transfer two positions from the Kansas Department of Health and Environment to the Kansas Water Office. Those positions had been functioning as a water planning unit at Kansas Department of Health and Environment.

Again, thank you for the opportunity to comment on and clarify information contained in this report.

Sincerely,

A handwritten signature in cursive script, appearing to read "Stephen A. Hurst".

Stephen A. Hurst
Director

