

Bits & Pieces . . .

Drought Conditions Continue to Worsen Across Kansas

As of October 5, reports by the Kansas Water Office noted that drought conditions are continuing and expanding in Kansas with nearly three-fourths of the state abnormally to exceptionally dry. A total of 86 counties are under state drought stages, with 30 counties in an emergency stage, 29 in Warning and 27 in Watch. *U.S. Drought Monitor* reports into early October showed abnormally dry conditions expanding northward across Kansas. Much of south-central Kansas is in the exceptional to extreme drought category. As of October 5, more than 80 percent of the state was reported as abnormally dry to experiencing exceptional drought.

County Drought Declarations: As of October 5, a total of 86 counties are under state drought stages, with 30 counties in an emergency stage, 29 in Warning and 27 in Watch. State Emergency allows public water suppliers to receive aid and opportunities to supplement their water supply, as well as provide the availability for domestic and livestock water from emergency sources.

Kansas Drought Emergency: Barber, Clark, Comanche, Harper, Harvey, Kingman, Kiowa, Meade, Morton, Pratt, Reno, Sedgwick, Seward, Stafford, Stanton, Stevens, and Sumner.

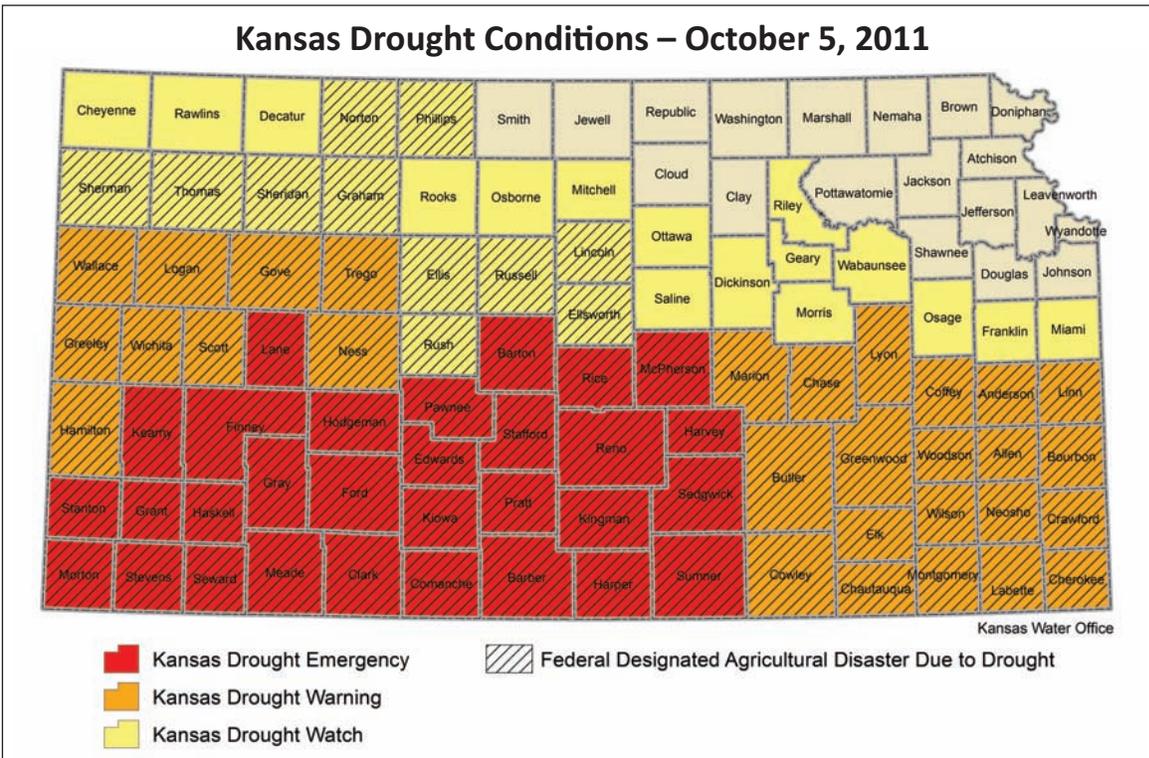
Kansas Drought Warning: Allen, Anderson, Barton, Bourbon, Butler, Chase, Chautauqua, Cherokee, Coffey, Cowley, Crawford, Edwards, Elk, Finney, Ford, Gove,

Grant, Gray, Greeley, Greenwood, Hamilton, Haskell, Hodgeman, Kearny, Labette, Lane, Linn, Logan, Lyon, Marion, McPherson, Montgomery, Neosho, Ness, Pawnee, Rice, Scott, Trego, Wallace, Wichita, Wilson, and Woodson.

Kansas Drought Watch: Cheyenne, Decatur, Dickinson, Ellis, Ellsworth, Franklin, Graham, Lincoln, Miami, Norton, Osage, Ottawa, Phillips, Rawlins, Rooks, Rush, Russell, Saline, Sheridan, Sherman, and Thomas.

A total of 50 counties have been designated federal agricultural disasters due to drought, high winds and excessive temperatures. Those counties are now eligible for federal programs, along with contiguous counties. A request for the addition of 20 counties was sent to USDA on August 24. If these requests are approved, 70 counties designated as primary and 15 contiguous counties will be eligible for programs. USDA agricultural disaster declarations are based on anticipated crop losses, while Kansas drought stages are based primarily on water resource conditions. Federal agricultural disasters have also been declared by the Secretary of USDA for areas of Colorado and Oklahoma that include Kansas counties as contiguous. These are all included in the Kansas declaration or as a contiguous county.

For updates on the drought situation, check the Kansas Water Office Web site at www.kwo.org.



Debt Reduction Calls for \$33 Billion Cut in Farm Programs

President Barack Obama's plan for deficit reduction would cut \$33 billion from farm programs, taking a highly disproportionate amount of federal spending reductions from one of its smallest line items and perhaps stymieing Congress' efforts to write a workable 2012 farm bill, according to a recent report in *The Western Farm Press*.

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The agriculture proposals outlined included:

- ❖ Eliminating the direct payment.
- ❖ Reducing federal government assistance to crop insurance companies and farmers using crop insurance – reductions that would come on top of \$12 billion in cuts to that important program since 2008.
- ❖ Reducing conservation spending by \$2 billion over ten years.
- ❖ Extending until 2016 the SURE disaster assistance program, which has no money allocated to it after this fiscal year.

It is unclear how seriously the proposal will be taken on Capitol Hill, particularly since it included tax cuts Republicans almost immediately labeled as “class warfare”.

Still, the proposal fell at the very high end of estimated potential cuts to safety net programs through the debt-reduction process. Previous numbers floated have ranged from \$10 billion to \$11 billion in the President's debt commission report and the Gang of Six discussions to \$30 billion or more in debt talks led by Vice President Joe Biden and the House-passed budget resolution.

In addition to dramatic cuts in spending in farm safety net areas, the proposal would also make serious changes to farm policy most agriculture associations and farmers think should only be made by the congressional agriculture committees.

Leaders of those committees have generally supported that view and have made statements supporting agriculture stakeholders' contentions that any cuts to the farm safety net should be proportionate to cuts in other areas of federal spending.

Recent Court Case Favors City Over RWD in Territory Dispute

A long-standing territorial dispute between the City of Louisburg and Miami RWD 2 recently had some closure. Chief District Judge Richard M. Smith filed a written ruling that reaffirmed an appraised value of \$133,200 for nearly 1,800 acres of land that was involved in an annexation dispute. RWD 2 had sought between \$8 million and \$12.8 million for lost future revenue on the tracts of land.

The value was determined in early 2007 by a three-member panel of appraisers. That ruling was appealed by the RWD in April 2007. In 2008, District Judge Smith ruled that RWD 2 failed to prove that the appraisers' award was not reasonable. That ruling was also appealed by RWD 2 and the issue went to the Kansas Supreme Court. The Court ruled that RWD 2 was entitled to another trial; that took place in early March 2011.

At trial the Court heard evidence from the parties and experts on the central question of whether or not the city owed the RWD for the annexation of territory that had no existing RWD customers, but where the RWD had installed the necessary improvements to supply water to the annexed territory. While the Court did decide that annexed territory without customers could be something that requires compensation under the law, the Court determined the facts of the case did not support more compensation than was awarded by the appraisers.

The Court pointed to a couple of factors that prevented additional compensation. First, county zoning regulations made it impossible for the development of land at the density needed to support the RWD's request. Second, this proposed density also required a connection to the City's sewer facilities. These factors, together with the Court's determination that developers and customers would want city services that the RWD could not provide, resulted in the Court deciding that additional compensation was not warranted. In addition, the Court noted that the RWD did not prove that the annexations resulted in a current loss of revenue or that the annexations otherwise damaged it financially.

What does this mean for cities and rural water districts? The technical, legal answer is that since this is a district court decision, rather than one from an appeals court, it is not binding on other Kansas courts. Also, the case was brought under a statute that has since been substantially changed, limiting the ruling's application to new cases. However, the ruling does show that compensation based upon growth of residential areas may be limited to population densities that are rural in character and it may be hard to convince a court that compensation is needed absent an immediate monetary loss to the RWD involved.

Augusta Modifies Water Restrictions for New Customers

The Augusta City Council has dealt with more water issues than Sea World this year.

A drought combined with a pair of projects to repair the concrete face of Augusta City Lake dam and spillway and a huge federally funded levee project to help protect the city from future floods have kept the city staff and council under water all summer.

At Monday's (October 3, 2011) City Council meeting, the governing body took up the question of whether to modify the watering restrictions on city residents since the lake was going to have to be pumped dry in about another month.

City Manager Bill Keefer said the residents of Augusta were to be commended for how well the watering restrictions have worked.

Since Sept. 15, the city has only been forced to use water from the city lake four times. Every other day, the city's usage has been less than the amount that can be safely drawn from El Dorado Lake – about 2.5 million gallons per day.

Several residents have approached city staff and council members about lifting the restrictions in order to allow residents to reseed lawns that did not survive the hot, dry summer months.

Mayor Kristey Williams said, due to potential water emergencies, she was not in favor of lifting the restrictions. However she was willing to consider special allowances for people who have built new businesses and residences in Augusta who have never had a lawn to help them get an initial lawn in place.

"I don't know about reseeding since we could still be under these restrictions in the spring," Williams said. "The lake will take some time to refill."

Other council members wanted to consider allowing extra watering time for established trees and shrubs. However, the consensus of the governing body was that the current 14-hour per week window was sufficient to handle those needs.

But the council did decide to modify the restrictions for new construction projects.

Those homes and businesses will still only be able to water for 14 hours per week. However, they will be allowed to water all seven days per week – instead of the two times per week under the current restrictions. This will be under an honor system.



Photo by Pat McCool, KRWA

The city of Augusta in south-central Kansas is able to receive about 2.5 MGD of raw water from El Dorado Reservoir as its main water source. However, due to extreme drought conditions in 2011, it was also necessary to draw water from a city lake. This photo shows the very low supply available in the lake.

The motion passed 5-1 with Councilor Matt Childers voting opposing the motion. Williams asked Childers why he was against the change.

"I have concerns about letting them use the honor system and the apparent favoritism of allowing it only for new construction," Childers said.

Mayor Williams said she understood his concerns but she did not believe it was showing favoritism.

"These people have made an investment in our community," Mayor Williams said. "They have never had an established lawn."

"The people who live here also make an investment in the community," Childers said.

But he added that he understood the modifications, he just did not support them.

Williams thanked Childers for his voicing his concerns and moved the discussion on to the million-gallon water tank in the city's system.

Work planned on the tank would require it to be out of service during the same time that the city lake was dry.

Williams asked Willis Wilson if the project could be delayed so that the city would have access to the extra million gallons in case of a water line break between Augusta and El Dorado during the dry lake period.

Wilson said the project is necessary although he did not believe tank failure was imminent. Williams asked for the possibility of delaying the project to be reviewed before the next meeting.

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