

Dover – Telecon with Steve Nolen of USACE
Following Wolf Creek NRC Relicensing audit

Phone conversation on June 12, 2007

Robert Dover – Earth Tech
Steve Nolen, U.S. Army Corps of Engineers

Mr. Nolen's name was given to me by James Fry, a USACE employee at John Redmond reservoir, as someone familiar with the 2002 Draft Supplemental EIS for John Redmond Reservoir.

I asked Mr. Nolen about the status of the EIS, and the reallocation action recommended in the EIS. He said that the EIS has not yet been finalized, but he hopes it will be finalized during 2007. He said the current plan is to maintain the same preferred alternative that is in the draft – reallocation. He said that there is a Reallocation Report that is currently under review at headquarters. He told me that any specific questions regarding the water supply contracts should be directed to Jan Hotubbee, at 918-669-7089.

Dover – Telecon with Katherine Tietz, Kansas Water Commissioner
Following Wolf Creek NRC Relicensing audit

Phone conversation on June 21 and 26, 2007

Robert Dover – Earth Tech
Katherine Tietz, Kansas Water Commissioner

I originally spoke with Ms. Tietz on the 21st, and presented questions to her regarding the water use restrictions that had been implemented by her office between November 2006 and February 2007. Information on these restrictions had been provided by WCNO in RAI Response Master #55.

In the call on June 21, Ms. Tietz provided information on the 2006-07 incident. She said that the water right in question (File Number 20049093) was a junior water right held by WCGS to provide water in support of certain dredging operations in Coffey County Lake. She said this particular water right was completely unrelated to the water appropriations and water purchase contracts used by the facility to obtain make-up water for cooling purposes in Coffey County Lake.

I asked Ms. Tietz for information on the appropriations and contract, especially with respect to the question of how and when the state would administer, or has in the past administered, those water sources. She asked for time to review her files before answering, and promised to call me back by Tuesday, the 26th.

Ms. Tietz called back on the 26th, and had obtained the information I was looking for. First, she clarified that her office administers only the water appropriations in the state, and these appropriations are separate from the water purchase contracts, which are administered by the Kansas Water Office (KWO, a separate state agency). For detailed information on the water purchase contract 76-2, she referred me to Cheryl Buttenhoff of the KWO.

Ms. Tietz specified the relationship between the WCGS water appropriations and how/when these appropriations would be administered by her office. She stated that the administration of these appropriations had no relationship to the 1984 Kansas Water Appropriations Act (KWAA) that established Minimum Desirable Streamflows (MDSs) on the Neosho River. She led me through the KWAA, and pointed out language that showed that the KWAA applied only to water rights (not water purchase contracts), and only to water rights obtained after 1984. All of the WCGS water rights (except for the minor dredging right in File Number 20049093) were obtained before 1984, and therefore are unaffected by the MDS. She did lead me through the language of the appropriations that indicate that the two from the Neosho River (14626 and 19882) have a restriction of 250 cfs of remaining flow on them, but she also pointed out that the language allows WCGS to request variances from the 250 cfs limit. She said this variance had been requested, and granted, in the past. However, in incidences where withdrawals are occurring under these variances, the water withdrawal is attributed to the purchase contract, and not to the appropriation.

Although her office does not administer the water purchase contract, Ms. Tietsort did state that she was certain that the MDS limitation did not apply to water purchased under the contract. She led me through the contract language, and demonstrated that, while there are statements regarding consideration of the best interests of the people of the state, there is no language linking the contract to the KWAA or the MDSs. In addition, the KWAA addresses only appropriations, and not purchase contracts. Therefore, Ms. Tietsort agreed with my statement that the MDS is not actually used by the state in any instance to regulate water withdrawals by WCGS.

Dover – Telecon with Cheryl Buttenhoff, Kansas Water Office
Following Wolf Creek NRC Relicensing audit

Phone conversation on June 27, 2007

Robert Dover – Earth Tech
Cheryl Buttenhoff, Kansas Water Office

Ms. Buttenhoff is the state administrator responsible for management of the water purchase contract between WCGS and the Kansas Water Office (KWO). I called her to clarify some issues with respect to the relationship between the water purchase contract and the 40 cfs MDS requirement for the Neosho River in the Kansas Water Appropriation Act (KWAA), specifically, under what conditions water withdrawal under the contract could be curtailed.

Ms. Buttenhoff indicated that there was no relationship between the contract and the MDS. The contract language that addresses instances where water withdrawal would be curtailed is linked to the water level in the lake, and has no relationship to the flow volume in the Neosho River.