

John C. Frieden\*  
Michael J. Unrein  
Randall J. Forbes\*  
Kevin M. Fowler  
Brenda L. Head



Eric I. Unrein\*\*  
Clinton E. Patty  
Matthew R. Bergmann  
Timothy D. Resner

555 South Kansas Avenue, Suite 303, Topeka, Kansas 66603 • [www.fuflaw.com](http://www.fuflaw.com)

Tel: 785-354-1100 • Toll Free: 888-293-4916 • Fax: 785-354-1113

\*Also admitted in Missouri \*\*Also admitted in Illinois

[cpatty@fuflaw.com](mailto:cpatty@fuflaw.com)

## TESTIMONY

By

**Clinton E. Patty**

**Before the House Agriculture and Natural Resources Committee**

**Regarding HB 2698**

**February 15, 2012**

Chair Powell, members of the committee, my name is Clint Patty. I am an attorney with the law firm of Frieden, Unrein & Forbes in Topeka, Kansas, and am here representing my client, the Kansas Aggregate Producers Association. I have been asked to provide testimony regarding proposed revisions to the Kansas water appropriations act at K.S.A. 82a-734, and its modified permit process for the Chief Engineer to evaluate proposed sand and gravel pit operations in the State of Kansas.

HB 2698 clarifies and improves the permitting process for sand and gravel operators to operate within the State of Kansas. It allows for a general project permit to be issued for the use of sand and gravel pits, and removes the restrictive time limitations to allow a permit to exist through the life of a project. The bill specifically requires the Chief Engineer to include authorization for net average annual groundwater evaporation and all consumptive and non-consumptive uses on each project. The bill additionally requires the Chief Engineer to evaluate each project under the current “unreasonable or prejudicial affect on the public interest” standard contained in the water appropriations act. The bill also removes the “safe-yield” standard of evaluation for sand and gravel projects. Finally, HB 2698 requires the Chief Engineer to expeditiously approve or deny permit applications and a direct appeal for operators to district court under the Kansas Judicial Review Act.

In short, these proposed changes to K.S.A. 82a734 strike the appropriate balance between the State’s need for aggregate natural resources and protection of our water resources.

Thank you once again for allowing me the opportunity to provide my client’s position on this important matter.