



*We Educate, Advocate and Litigate  
To Protect the Environment*

P O Box 11415 Overland Park KS 66207-1415

September 12, 2023

Governor Laura Kelly  
Capitol Building, Room 241 South  
Topeka KS 66612

In Re: Governor's 9/8/2023 letter to USFWS about QNWR rights administration

As Governor, your sworn duty is to uphold the laws of our state. The Kansas Water Appropriation Act explicitly adopts the public trust doctrine which has existed in some form or another since Roman times.

*K.S.A. § 82a-702. "All water within the state of Kansas is hereby dedicated to the use of the people of the state, subject to the control and regulation of the state in the manner herein prescribed."*

Our statute requires the Chief Engineer to act immediately to enforce requests for securing impaired water rights without consideration of economic impacts or hardships to junior rights holders. This duty is crystal clear and it is not discretionary.

As you know, litigation is pending against the Chief Engineer for failure to comply with Kansas law, yet you asked the US Fish and Wildlife Service to abandon its request for administration of its Quivira National Wildlife Refuge water rights because of pressure from agricultural interests. A right is not a right if it can't be enforced. And we the public, the citizens of Kansas, are entitled to the lawful regulation of our waters.

The USFWS QNWR water rights have been impaired since the 1980s as a result of groundwater pumping by junior rights holders. For 25 years, the USFWS has collaborated with the Big Bend Groundwater District and local partners to obtain relief from the impairment. All efforts have failed. Although augmentation within the Rattlesnake Basin is a statutory alternative to priority administration, it is by definition voluntary, and as determined by USWFS, it could not completely remedy the impairment.

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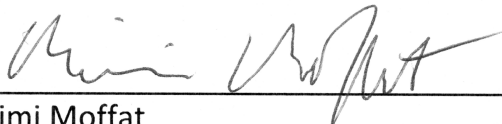
Where is your concern for the environment?

The refuge is a Western Hemisphere Shorebird network site, a Wetland of International Importance (RAMSAR) site, and important Bird Area (American Bird Conservancy) and it is critical habitat for state and federally protected birds. As USFWS noted in its 2013 request for an impairment investigation,

*"Surface water originating from Rattlesnake Creek and groundwater discharge ... are critical to sustaining Refuge wetlands that attract and support the vast variety of associated migratory and resident bird species. Without both of these components, groundwater upwelling or sufficient streamflow, the ecology of the entire system will change. The Refuge and its values will not be sustained unless the aquifer system is brought into balance."*

With necessary support from our judicial system, the Chief Engineer must be allowed to enforce these property rights held in public trust for the people of Kansas and our wildlife without interference from special interests.

Respectfully,



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