



To: Chairman Lance Kinzer
And Members of the House Judiciary Committee

From: Steve Cadue
Tribal Chairman
Kickapoo Tribe in Kansas
1107 Goldfinch Road
Horton, Kansas 66439

Re: HB 2553 – Nemaha-Brown Watershed Funding Bill

Date: February 29, 2012

Good afternoon Chairman Kinzer and Members of the House Judiciary Committee. I am Steve Cadue, Tribal Chairman of the sovereign Kickapoo Nation and I appear before you today to oppose HB 2553. I am opposed to the continuing damaging effort of the Nemaha Brown Watershed District to prevent the Kickapoo Tribe of securing a safe and dependable water supply. Water is life and yes, for the Kickapoo people it is a matter of Life or Perish.

We depend on water for a total life-sustaining need including drinking water, health conditions and spiritual blessings. Our Kickapoo people utilized and are dependent on water before the coming of the white man. The United States Supreme Court, *Winters v. United States* (1908) cited Indian tribal rights original use of water and declared Indian tribe's use of water before the coming of the white man. Our Kickapoo treaty is the Supreme Law of the Land and is under the protection of the federal trust responsibility of the United States to Indian tribes. Water is a sacred element in our Kickapoo traditions. Water is life.

Our Kickapoo tribal reservation homeland is a federally recognized reservation and exists due to treaty agreements with the United States of America. We settled in the land that was called the Kansas territory in the treaty of 1832 on the western banks of the Missouri river at Leavenworth. In a subsequent treaty we ceded thousands of acres of land and were re-located in now present Brown County, Kansas.

In accordance with federal trust responsibility of the United States of America to the Kickapoo Tribe the U S Bureau of Indian Affairs appropriated \$150,000 in federal monies and in concurrence with the United States Department of Agriculture's federal trust responsibility to Indian tribes jointly developed the Kickapoo Nemaha Brown Watershed Plan in 1978. One major purpose of the BIA funding was to enable the Kickapoo Tribe to work in cooperation with the watershed board and utilize the eminent domain powers of the Nemaha Brown Watershed. The Kickapoo Tribe does not have eminent domain powers over non-Indian owned land. A joint board was formed between the Kickapoo tribal council and the Nemaha Brown Board of Directors. A major element of the plan was to construct the multi-purpose Plum Creek reservoir for the Kickapoo Tribe and was officially approved by the United States Congress upon legislation developed by then Congressman Jim Ryun. U S Senators Bob Dole and Nancy Kassebaum also approved the plan due to the mutual agreement between the Kickapoo Tribe and the Nemaha Brown Watershed board.

Upon completion and utilization of the BIA \$150,000 planning grant and after congressional approval the Nemaha Brown Watershed Board of Directors reneged on their promise to assert eminent domain powers for land acquisition. The Kickapoo Tribe filed a federal lawsuit in 2006 to gain a water resource for the Kickapoo Tribe as originally agreed upon in the forming of the joint tribal watershed district.

Eminent domain has been asserted most recently by the Delaware Watershed Board in the building of the Banner Creek reservoir in Jackson County, Kansas. In one comment in a Nemaha Brown watershed board meeting a landowner stated that if the Board asserts eminent domain for the Kickapoo Tribe, "you won't be on the board tomorrow." Unconstitutional selective decisions are being made by the Nemaha Brown Board in refusing to assert state of Kansas laws equally to all people. This is injustice against the Kickapoo Indian people. Now, the Nemaha Brown Watershed Board is furthering unconstitutional racial practices in requesting funding as proposed in HB 2553. Upon detailed review of the justification for HB you and the citizens will see the folly of HB 2553. We respectfully request that upon diligent review you take no action on HB 2553.