

CHAPTER 6

DISTRICT OPERATIONS

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Introduction

District operations are guided by Kansas Statutes and DOC policy and procedures. Conservation districts are also subject to the Civil Rights Act as they receive assistance from a federal agency; NRCS. In accordance with regulations of the Secretary of Agriculture (7CFR-15, Subparts A & B) provides that no person in the United States shall, on the grounds of race, color, national origin, age, sex, religion, marital status, or disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination.

Planning

Planning is a basic tool to assist in formulating a detailed outline (method) to accomplish a task, project, or program. Do not be intimidated by fancy planning terminology and techniques. Planning is basically an organized way of getting things done. The process of developing and carrying out a plan increases the effectiveness of the conservation district in meeting its responsibilities. Districts should choose the planning technique that is appropriate and best meets their needs. No matter what technique is going to be used, before the actual planning process begins the following questions should be answered by the conservation district board.

1. What is our expected outcome of the plan?
2. What components of the planning process should we include?
3. What do we need to begin the planning process?
4. Who should be involved in the planning process and at what stage?
5. When should the planning process begin?

The importance of planning can be summed up by the adage "failing to plan is planning to fail." The following is information on strategic planning and additional planning information can also be found in the *Kansas Conservation District Supervisors Handbook*.

Strategic Planning

Strategic planning may be defined as a disciplined effort to produce fundamental decisions and actions that shape and guide what an organization is, what it does, and why it does it. Strategic thought and action are increasingly important to the continued viability and effectiveness of a conservation district. Strategic planning also assists conservation districts in identifying high priority items to ensure the wise and intelligent use of limited time and resources.

Strategic planning is a continuous and recurring process, and should be integrated with other management systems and plans. It requires commitment because it is time consuming and may not be easy to perform. Keep in mind that sometimes groups have to repeat steps before satisfactory decisions can be reached and actions taken. The benefits reaped from strategic planning are well worth the time spent. Eventually strategic planning will become a part of organizational life, rather than a product.

Planning Sessions

The strategic planning process calls for an input of ideas from a wide spectrum of interested parties inside and outside of the conservation district. Take the time to get people who are qualified and interested in serving on a planning steering committee. Input from others at various times throughout the process will also prove to be very beneficial. Ideally the planning process should include input from all supervisors; district staff; local, state and federal agency representatives; land users; business leaders; county commissioners; legislators or their staff; school teachers or administrators; and others interested in strengthening conservation efforts in your county. This will be very time consuming, but allows for people with diverse experiences and backgrounds to generate ideas and suggestions that may not have been otherwise considered. Also community input may be obtained through casual contact, public meetings, mail and telephone surveys, local newspapers, and newsletters. All these input efforts will foster participation, communication, and commitment that will enhance public support.

Elements of a Strategic Plan

There are many strategic planning models to choose from. The following are common elements of a strategic plan presented in an easy-to-follow manner.

1. **MISSION STATEMENT.** A clear, concise description of the reason the conservation district exists usually consisting of one to two sentences. A mission statement identifies what the organization is, authority, purpose, and primary service.
2. **AGENCY PHILOSOPHY.** The expression of core values and principles used by the conservation district to carry out its mission.
3. **VISION STATEMENT.** A clear, forceful and inspiring statement of what the conservation district wants to be in five to ten years. A vision statement is a present tense statement of an attainable, desired state of the future representing what the conservation district would like to achieve or become.
4. **INTERNAL/EXTERNAL ASSESSMENT.** An evaluation of key factors affecting the success of the conservation district in achieving its mission. This includes identifying the strengths, weaknesses, opportunities, and threats (SWOT analysis). This step is very important because every effective strategy will build on strengths and take advantage of opportunities, while it overcomes or minimizes weaknesses and threats. Internal analysis involves the conservation district's view of itself in terms of strengths and weaknesses (limitations). The information is derived from those within the conservation district. Districts should assess their resources, present strategy (process), and performance (outputs). External assessment encourages the district to look beyond its walls in order to identify the opportunities and threats the conservation district faces. Factors (present and future) that may influence the success of your programs such as political, social, economic, cultural, or events should be analyzed. By completing an internal/external assessment, a conservation district can better utilize resources and better anticipate barriers to progress.
5. **GOALS.** Goals are broad, issue-oriented statements reflecting a conservation district's priorities. They state **what** the conservation district wants to achieve. Goals should always relate to the mission statement and are based on the vision and the internal/external assessment. Goals are qualitative and quantifiable, but are not in themselves quantified in the strategic

planning process. In addition, goals are not time-specific because they are expected to be met in a time frame longer than that covered by the plan. Some commonly used goal categories are service or program, resource development, and administrative.

Before setting goals, it might be helpful if the issues affecting your conservation district are brainstormed and prioritized. Do not spend time on issues out of your control. In summary, goals should be attainable, measurable, and placed in priority of order.

Goal Example: "To conserve and improve soil, water, and other related natural resources in Happy County."

6. **OBJECTIVES.** One or more measurable, target statement **how** the conservation district is going to achieve a goal. Objectives (subgoals) are detailed, quantified and time-specific (within plan time frame). They are presented in a priority order.

Objective Example: "Increase awareness and understanding of Best Management Practices."

7. **STRATEGIES.** One or more action-oriented, specific measurable statement **how** the objective will be accomplished.

Strategy Example: "Sponsor one conservation tour of land treatment practices."

8. **ACTION PLANS.** Action plans provide a detailed description of how a strategy will be implemented. They outline specific activities or tasks, responsibility assignments, and time frames that will be followed. The action plan becomes the specific **who**, **when** and **what** of the strategic planning process. Sometimes the cost and where the money will come from are included.

9. **EVALUATION.** Evaluating how well the conservation district is doing the things it set out to do and the probable reasons for their success or failure will assist in improving future performance. Evaluation is a constructive effort to develop information and knowledge that can guide action to bring about improvement. A decision needs to be made on what to evaluate and when. Periodic reviews or progress reports completed throughout the year have proved to be very beneficial to ensure the action plans are being carried out, to make sure everyone is focused, and to make plan revisions if new developments arise.

The following is a sample format of an action plan and progress reporting:

| Objective 1: Increase awareness and understanding of best management practices. | | | |
|---------------------------------------------------------------------------------|-------------------|-----------------|--------------------------------------------------------------------------|
| Activity | Who | Completion Date | Progress |
| Coordinate plans for conservation tour | M. Fields | 9-15-97 | 3-15-97 - Contacted caterer & landowners 4-17-97 - Contacted sponsors |
| Three newspaper articles | I. Good & S. Soil | 12-31-97 | 2-12-97 - One article written and published in conservation edition |

Annual Work Plan Guide

Preparation of an annual work plan by districts provides a systematic utilization of assistance available from federal, state, and local sources in carrying out their authorities granted by Kansas statutes. (K.S.A. 2-1901 et seq.) The annual work plan documents activities to be completed during the fiscal year consistent with the Conservation District Law, district missions and long range plans. Conservation districts are to submit a copy of their annual work plan each year to the Division of Conservation, Kansas Department of Agriculture by **September 1** (K.S.A. 2-1901 et seq.).

Plan Development and Utilization:

1. Conservation district affairs are conducted on a calendar year basis (Jan. 1 to Dec. 31) in compliance with statutory requirements and accounting procedures.
2. The NRCS field office annual plans of operations (APO's) reflect what NRCS personnel will do in assisting the district in meeting objectives and goals set forth in the district annual work plan.
3. The annual work plan provides a document that indicates responsible, prudent planning for the expenditure of public monies.
4. Information from the annual work plans assist the DOC in:
 - a. developing statewide programs
 - b. support needed for legislative authorities
 - c. cost-share programs
 - d. securing technical and monetary assistance

Format:

The format for the annual work plan should fulfill the requirements of the law, be easily explainable ("usable format"), be professional looking, indicate a well thought out planning process, and serves as a working document to assign responsibilities and schedule work priorities. (Refer to the planning information previously presented for helpful information).

The content of the annual work plan should reflect identified district concerns and issues as they relate to the conservation of natural resources and district programs including resource management concerns of water quality and quantity, erosion and sediment control, and wildlife habitat as they pertain to riparian and wetland protection.

To meet the above needs, the format should contain the following information:

1. **TITLE PAGE.** Identify the district, office location, the document, and the applicable fiscal year.

2. **DISTRICT INFORMATION.** Identify the supervisors and their positions, advisors, district personnel and their positions, and NRCS staff and their positions.
3. **INTRODUCTION.** Include the district's mission or purpose and information on the status of the long range plan in the overall picture of economic, agricultural, and conservation conditions throughout the district.
4. **GOALS AND OBJECTIVES.** Identify major concerns and priorities.
5. **STRATEGIES.** Describe the specific action items directed to meet each objective stated and should provide units of measure for purposes of analyzing progress.
6. **ACTION PLAN.** Detailed description of how each strategy will be implemented and include assignment of responsibilities and dates for completing actions.
7. **BODY.** Include information on district services provided, methods of financing, planned assistance from cooperating agencies, district committees and their chairperson, and other relevant information.
8. **CONSERVATION DISTRICT CALENDAR.** List dates of board meetings, events sponsored by the district, and events supervisors or staff should attend. It might also be helpful to include important deadlines.
9. **SIGNATURE PAGE.** Certifying board approval and date. Below is sample wording that can be used on the signature page (or use wording similar to Long Range Program).

The _____ County Conservation District board of supervisors has reviewed the 20_____ Annual Work Plan and was officially approved on _____, 20_____.

Attest _____
Chairperson

District Manager

Basic Distribution:

1. District file - original copy.
2. District board members, district conservationist, district employees, and advisors (if any).
3. NRCS Area Office -- 1 copy.
4. Division of Conservation -- 1 copy.

Optional Distribution:

- Cooperating Agencies
- Constituents
- County Commissioners
- Local Legislators
- Annual meeting attendees
- News Media

The annual report is the story of what your district accomplished in the last year. It is your most

Annual Report Guide

important report and the one that will receive the most public view. The annual report is required by K.S.A. 2-1907.

Your report can focus on special events of the year the public wants and needs to know about. Tours, demonstrations, visits by VIP's, watershed progress, outdoor classrooms established, your annual meeting. These events and others should be discussed in your report. Use pictures, charts, drawings, and graphs occasionally to spice up your text.

The annual report can be a glossy brochure included in a section of the annual meeting printed program or an issue of the district newsletter or local newspaper.

1. REQUIREMENTS:

- a. Supervisors shall make full and due report of their activities and financial affairs annually.
- b. Report is to be presented orally or printed at district's annual meeting, (K.S.A. 2-1907).
- c. One copy of annual report submitted to the Division of Conservation by **March 1**.
- d. One copy to the NRCS Area Conservationist.

2. OBSERVATIONS AND RECOMMENDATIONS BY THE DOC (K.S.A. 2-1904, Sec. D):

- a. Printed copies for handout at annual meetings are well received.
- b. Report should reflect conservation progress, including correlation with other agency and organizational programs.
- c. An explanation of district purpose and supervisor responsibilities leads to better understanding by the general public.
- d. Well-done booklets, brochures, and reports attract extra attention. They may cost a bit more, but value received can be tremendously more important than initial cost.

Note: Remember, your publication must compete with a lot of other printed pieces for the reader's attention. The best way to get your share of readers is to make the report attractive and meaningful.

3. **SUGGESTED FORMAT:**

- a. Heading
- b. Report and review of district's accomplishments
 - (1) Land treatment
 - (2) Conservation problems solved
 - (3) Remaining conservation problems
 - (4) Progress as related to "Long Range Program"
 - (5) Community assistance
 - (6) Other
- c. Cost-share assistance programs
 - (1) Water Resources Cost-Share Program
 - (2) Multipurpose Small Lakes Program
 - (3) NPS Pollution Control Fund
 - (4) Riparian and Wetland Protection
 - (5) Water Rights Purchase Program
 - (6) Agricultural Conservation Program (ACP)
 - (7) County
 - (8) Other
- d. Administration
 - (1) Utilization of district employees
 - (2) Working arrangements with NRCS
 - (3) Compliance with newly enacted Kansas statutes affecting district operations
 - (4) Update of involvements with DOC

- e. Financial report
- f. Special district activities
 - (1) Equipment sales and/or rentals, services, etc.
 - (2) Special projects
 - (3) Assistance to and coordination with agencies and organizations having conservation interests
 - (4) Conservation informational and promotional programs
 - (5) Participation in KACD and NACD activities
 - (6) Awards and other special recognition programs
 - (7) Other, as appropriate

4. OPTIONAL DISTRIBUTION:

- Local cooperating agencies and organizations
- Landowners and Operators
- National Association of Conservation Districts
- Kansas Association of Conservation Districts
- State Association of Kansas Watersheds
- Others, as appropriate.

Policies and Procedures:

Written guidelines provide consistent implementation of district operations and programs. District policies and procedures should be in a collective manual or individual subject statement formats. Your policies and procedures should establish the type of service the district provides and related procedures and guidelines for appropriate use of district resources. Basic mandatory guidelines for operating a conservation district are set by the state legislature with assistance from the Division of Conservation. Local district policy may be established in coordination with the Division of Conservation. It is always a good idea to cross-reference the adopted policy or procedure to the date of the board meeting in which the official board action was taken (motion made).

Other district policies will be set by past boards, and are not necessarily mandatory. Study local conservation district policies to see if they are still appropriate to current conditions. Update them if necessary.

Long Range Program Guide

Factors affecting use of Kansas soil, water, and related resources are undergoing constant change thus creating a need for conservation districts to develop and maintain up-to-date long range programs. Those factors having major impact are: Crops and cropping systems, available machinery, tillage practices, fertilizer and pesticide uses, size of farm units, economic conditions, government programs

and social influences. The long range plan should be a guiding document that helps conservation districts frame and prioritize their annual work plan. The following is a guide to be used to develop and/or supplement/update a districts long range plan.

Long Range Plan Format:

1. INTRODUCTION

- a. Title page (descriptive title, identification of principals, location and date)
- b. Table of contents
- c. Preface (the reasons for its preparation; what the plan covers and what it does not; how the conclusions were arrived at; and acknowledgements)

2. BODY. Sets forth all the pertinent information, data, evidence, analysis and interpretations needed to fulfill the purpose of the plan. (Consider all available information including the Soil and Water Resources Conservation Act (RCA) Public Participation Records)

- a. Introduction (sets forth the objectives, scope, methods and other relevant background information)
- b. District Description (relate to map(s), tables, etc. to be included in appendix)

(1) Location and historical background

(2) Physical Characteristics

- (a) Geologic
- (b) Topography
- (c) Soils and land classification
- (d) Climate

(3) Economic, Sociologic, Environmental and Cultural Settings (brief narrative descriptions)

c. Natural Resources Evaluation (a combination of inventory and judgmental features)

(1) Land

- (a) Cropland (extent and general usage and identify and appraise problems)
- (b) Grassland (develop in same manner as cropland)
- (c) Woodland (develop in same manner as cropland)
- (d) Other (develop in same manner as cropland)

- (2) Water
 - (a) Surface water (principle streams and impoundments)
 - Extent and general usage
 - Problems
 - (b) Ground water (develop in same manner as surface water)
 - (3) Fish and Wildlife
 - (a) Extent and characteristics
 - (b) Concerns
 - (4) Other
- d. Conservation Measures and Actions Completed and/or Needed (an evaluation of accomplishments and needed practices or programs)
- (1) Conservation Plans and/or Revisions
 - (2) Practices of Land Usage, Land Treatment and/or Management
 - (a) Installation
 - (b) Maintenance
 - (3) Water Management Programs (as applicable -- comprehensive and complex activities may be included as a supplement in the appendix or referenced as separate documents)
 - (a) Agricultural Water Quality Management Plan
 - (b) Flood control and water resource developments - PL 566 Programs
 - (c) Ground Water Management
 - (4) NPS Management Plan
 - (5) Riparian and Wetland Protection Plan
 - (6) Environmental Programs
 - (7) Public Information and Education
- e. Inventory of Available Assistance (list as appropriate citing type and extent of aid reasonably anticipated)
- (1) Cooperating Agencies

- (a) Federal
 - (1) USDA, Natural Resources Conservation Service
 - (2) USDA, Farm Services Administration
 - (3) Other
 - (b) State
 - (1) Division of Conservation
 - (2) Water Resource Agencies
 - (3) Kansas Department of Health and Environment
 - (4) Kansas Department of Wildlife and Parks
 - (5) Other
 - (c) Local
 - (1) County Commission
 - (2) Extension Service
 - (3) Other
 - (2) Financial (realistic evaluations)
 - (a) Federal
 - (b) State
 - (c) Local (county, district, etc.)
 - (d) Other
 - (3) Special Programs
 - f. Program of Action (a narrative summary of long range goals, objectives and the means of achieving)
3. **CONCLUSION** (summary of main points)

4. **ADOPTION STATEMENT AND SIGNATURES** (see sample below)

"This revised long range program was adopted by official action of the _____ County Conservation District Board of Supervisors meeting at _____, Kansas, on _____, 20_____."

Attest _____

Chairperson

Secretary

5. **APPENDICES** (Maps, tables, bibliography, supplemental guides, etc.)

6. **DISTRIBUTION**

a. Required -- Five (5) Copies

- (1) Conservation District Office - (original)
- (2) NRCS Area Office - 1 copy
- (3) NRCS State Office - 2 copies (one for USDA)
- (4) Division of Conservation - 1 copy

b. Recommended -- Additional Copies for:

- Supervisors
- Cooperating Agencies
- News and Communications Media
- Land Owners and Operators
- Others

Liability/Tort Claims Act

Accountability is important because as stewards of public funds and a governmental body working with individuals and other entities, legal complications may arise. District supervisors and employees have protection from liability while discharging their official duties.

According to Kansas Conservation District Law K.S.A 2-1908, conservation districts may sue and be sued in the name of the district.

The Kansas Tort Claims Act, K.S.A. 75-6101 et seq., covers district supervisors and employees if acting within the scope of their duties. The Attorney General of Kansas determines if fraud or malice is evident. A basic goal of the Tort Claims Act is to protect the supervisors from being personally sued for their actions or omissions. Coverage under the Tort Claims Act means that district officials and employees have liability coverage for damages to others or property while acting within the scope of

their duties or employment. In the event of a claim the State Attorney General will represent the district and the State will pay all legal expenses. Claims made against a conservation district cannot exceed \$500,000 and are paid by the State of Kansas. (K.S.A. 75-6105).

A conservation district may obtain its own insurance to provide for its defense or liability for claims. (K.S.A. 75-6111) This insurance may be purchased from any insurance company. The DOC does not recommend a district purchase liability insurance as the Attorney General of Kansas has determined through an official opinion that conservation districts are covered under the Tort Claims Act.

When a district does obtain additional liability insurance the limitation of awards in K.S.A. 75-6105 does not apply. The limitation will be fixed at the amount for which insurance coverage has been purchased. If an award is made by the courts, the districts purchased insurance will be awarded before the state tort liability insurance.

According to K.S.A. 75-6102, "employee" means any officer, employee, servant or member of a board, commission, committee, division, department, branch or council of a governmental entity, including elected or appointed officials and persons acting on behalf or in service of a governmental entity in any official capacity, with or without compensation.

The best way to avoid legal liability is to conscientiously perform the job of supervisor; understand the role and responsibilities, keep accurate minutes, go to board meetings, keep well informed of what the district is doing and stay free of any potential conflicts of interest.

A district may call upon the county attorney within the district, the State Attorney General and the Division of Conservation for assistance. The DOC staff can best help a district determine the best source of assistance or information regarding legal questions.

Note: Although districts are covered under the Tort Claims Act, it is advisable that districts maintain insurance coverage to protect district property from accidental damage or theft and to cover expenses of an injury.

Tort claims are civil actions that are brought on allegations of wrongful death or injury to a person or damage to property. The law suits are typically based on negligence, breach of duty or nuisance providing commissioners are acting within the limits of their duties, the State Attorney General's Office will defend them against suits. Contact IDALS-DSC whenever you are unsure about possible liability resulting from a district action that you are considering. They will contact the Attorney General's Office for advice on the matter.

District Services

Districts may provide services to land users within the district. These may include equipment rental, sale of grass seed, trees, moisture barrier and irrigation supplies. These services not only provide a service to land users, but may be a significant source of income to further district activities. The NACD has additional fund revenue ideas for conservation districts. District services are available to all individuals regardless of age, political or religious opinions or affiliations, race, creed, gender, color, national origin or physical handicap.

The following outlines some of the considerations involved in various services.

Rental of District Equipment:

The conservation district should develop rental policies and a rental agreement to be signed by the using party. Districts should protect their investment by obtaining damage and theft insurance on district owned/leased equipment. The purchase of liability insurance for district rental equipment is not necessary as supervisors and employees are covered under the Kansas Tort Claims Act.

When a district considers renting earth moving equipment as a district service, the district should consider what is available in the district from area contractors. Kansas Conservation District Law allows districts to provide these services, but the intent is to primarily provide a needed service to land users and secondly provide a source of district income.

Seed and Tree Dealer Licenses:

If a district sells grass seed it is required to obtain a Kansas Seed License. Districts selling trees are required to have a nursery dealer license. Licenses are issued by the Kansas Department of Agriculture.

Competitive Bid Procedure Guidelines

Conservation districts may desire to obtain competitive bids when making a purchase, obtaining a service, or contracting for construction. K.S.A. 75-3739 outlines competitive bid procedures for state agencies that do not include political subdivisions. However, the general guidelines are provided here to assist a district in conducting equitable and competitive bidding.

Invitation For Bids:

1. **USE:** The invitation for bids is used to initiate a competitive sealed bid.
2. **CONTENT:** The invitation for bids shall include the following:
 - a. Instructions and information to bidders concerning the bid submission requirements, including the time and date set for receipt of bids, the address of the office to which bids are to be delivered, the maximum time for bid acceptance by the district, and any other special information.
 - b. The project description, evaluation factors, performance schedule, and such inspection and acceptance requirements as are not included in the purchase description; and
 - c. The contract terms and conditions, including bonding or other security requirements, as applicable.
1. **INCORPORATION BY REFERENCE:** The Invitation for Bids may incorporate documents by reference provided that the Invitation for Bids specifies where such documents can be obtained.

2. **ACKNOWLEDGEMENT OF AMENDMENTS:** The Invitation for Bids shall require the acknowledgement of the receipt of all amendments issued.
3. **BIDDING TIME:** Bidding time is the period of time between the date of distribution of the Invitation for Bids and the time and date set for receipt of bids. In each case, bidding time will be set to provide bidders a reasonable time to prepare their bids. A minimum of three days should be provided.

Bidder Submissions:

1. **BID FORM:** The Invitation for Bids should provide a form which should include a space in which the bid price should be inserted and which the bidder shall sign and submit along with all other necessary submissions.

Public notice:

1. **DISTRIBUTION:** Invitation for Bids or Notices of the availability of Invitations for Bids shall be mailed or otherwise furnished to a sufficient number of bidders for the purpose of securing competition. Notices of Availability shall indicate where, when and for how long Invitations for Bids may be obtained; generally describe the supply, service, or construction desired; and may contain other appropriate information. Where appropriate, the Contracting Officer may require payment of a fee or a deposit for the supplying of the Invitation for Bids.
2. **PUBLICATION:** Invitation for bids is recommended to be publicized in a newspaper of local and general circulation.
3. **PUBLIC AVAILABILITY:** A copy for the Invitation for Bids shall be made available for public inspection in the district office.

Receipt, Opening and Recording of Bids:

1. **RECEIPT:** Upon its receipt, each bid and modification shall be time-stamped but not opened and shall be stored in a secure place until the time and date set for bid openings.
2. **OPENING AND RECORDING:** Bids and modifications shall be opened publicly at the time, date and place designated in the Invitation for Bids. The name of each bidder, the bid price and such other information as is deemed appropriate by the Contracting Officer, shall be read aloud or otherwise made available. Such information also shall be recorded at the time of bid opening, that is, the bids shall be tabulated or a bid abstract made.

Bid Evaluation and Award:

1. **GENERAL:** The contract is to be awarded to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the Invitation for Bids. The Invitation for Bids shall set forth the requirements and criteria which will be used to determine the lowest responsive bidder. No bid shall be evaluated for any requirement or criterion that is not disclosed in the Invitation for Bids.

2. **RESPONSIBILITY AND RESPONSIVENESS:** A "responsive bidder" is a person who has submitted a bid which conforms in all material aspects to the invitation for bids.
3. **AWARD:** Written notice of award shall be sent to the successful bidder. Following award, a record showing the basis for determining the successful bidder shall be made a part of the project file.

Personnel Management

K.S.A. 2-1907 states "the supervisors may employ a secretary, technical experts, and such other officers, agents, and employees, permanent and temporary, as they may require, and shall determine their qualifications, duties and compensation." District employees are not county, state, or federal employees, but are employees of the individual conservation districts. Because conservation districts are municipalities of the state, their employees are public employees.

While the board's involvement in day-to-day personnel management may be minimal, each supervisor should review the Personnel Section of this handbook to become familiar with the responsibilities, guidelines and requirements established by the DOC and/or other entities.

Employee Oath (K.S.A. 75-4308):

It is a requirement under K.S.A. 75-4308 that all public employees, before beginning duties of a public employee shall subscribe in writing to the oath set out in K.S.A. 54-106. The Conservation District Employee Oath, DOC/ADM-7, is retained in the district office and a copy is submitted to the Division of Conservation.

Official Board Action Requirements:

Hiring a new employee (or reinstatement of a former employee, such as seasonal help), and a status change of a current employee requires official action of the board of supervisors. When official action is taken by the board, the vote and all conditions for employment as agreed upon by the board and the employee needs to be recorded in the board's minutes.

Notice of Personnel Action:

Following the official board action as described above, the Notice of Personnel Action form, DOC/ADM-8, needs to be submitted to the DOC with the applicable information completed (K.S.A. 2-1907).

The information this form provides enables the DOC to improve their administrative assistance to conservation districts and provides useful data for the preparation of legislative budget requests.

Upon formal request the DOC will provide general employee information, i.e., area or state. Information requests specific to a conservation district will be directed to that particular district. All employee information the DOC requires is subject to the Open Records Act.

District Records and Files

Records are a resource critical to the operation of the conservation district. The files must be accurate and provide a complete record of all district activities. Good records also help provide an historical record of the district. Proper management of these records is the responsibility of each conservation district. A staff member should be assigned the duties of records manager.

Records management is the use of efficient, cost effective techniques in the creation, storage, retrieval, and disposition of various records. This involves inventorying records, preparing retention and disposition schedules, managing files and forms, protecting vital records, and granting adequate public access to the information in records. The Kansas Open Records Act requires most government records to be open to public inspection. Certain records, however, may be closed according to specific federal or state statutes and regulations. Any record with public access restrictions should be indicated by marking the file or document. Also provide citations for specific state or federal statutes and regulations that limit public access to these records.

Note: Refer to the Open Records Act found in this chapter for more information on public access. The district's files should be maintained in the manner that best suits the records manager's needs, taking into consideration, however, that anyone who comes into the district office should be able to find files by subject. The files should be indexed and include cross-referenced titles and subjects.

Storage of Records:

File cabinets and bookshelves are commonly used to store records. When these types of storage become full, the use of uniform cardboard boxes designed for holding one cubic foot of records in each container is recommended. Such boxes are the right size for letter size or legal size file folders, depending on how they are filled. Larger containers are too heavy for convenient handling. An inventory system using location codes should be devised so that the contents of each box will be known and so that it can be found efficiently. Taking the time to provide adequate labels for storage boxes also is important.

File folders and boxes ideally should be made of acid-free materials when used in storing records with permanent value. These records should be stored in areas that are not subject to extreme temperature changes, flooding or water leaks, and that provide security from loss and defacement.

Record Disposition:

A records retention and disposition schedule is an essential tool in establishing a sound records management program. A records retention and disposition schedule is a timetable that identifies the minimum length of time a record must be retained before it is destroyed. Records should be kept for as long as they are needed and not for as long as they are wanted. The objective of a records retention and disposition schedule are:

1. To destroy records that no longer have administrative, fiscal, legal, or historical value.
2. To minimize requirements for filing equipment and space.
3. To ensure compliance with the Kansas Open Records Act.

4. To assure the identification and protection of vital records.

Records should be surveyed annually and disposed of if appropriate. Discretion should be used for material not listed. The board of supervisors should order the destruction of any records to be discarded and such motion should be recorded in the minutes listing the records.

The Conservation District Files and Records Retention Schedule, Appendix 6.1 provides conservation districts with a filing guide and minimum retention recommendations. The filing guide is categorized by subjects. It contains main subject headings, their corresponding symbol, and subheadings. The retention information comes from the Kansas State Historical Society, Department of Archives and other sources. Conservation district records managers are encouraged to use the information to prepare a filing system and retention schedule tailored to your district files.

Open Records Act (K.S.A. 45-215 et seq.)

By law, all conservation district files and records are open to the public for inspection during normal business hours, except as otherwise provided by K.S.A. 45-215 et seq., and suitable facilities shall be made available by each public agency for this purpose.

The following is a reprint of the Kansas Open Records Act (KORA). Sections that do not apply to conservation districts were intentionally deleted from this text.

Definitions (K.S.A. 45-217):

1. **BUSINESS DAY** means any day other than a Saturday, Sunday or a day designated as a holiday by the congress of the United States, by the legislature or governor of this state or by the respective political subdivision of this state.
2. **CUSTODIAN** means the official custodian or any person designated by the official custodian to carry out the duties of custodian of this act.
3. **OFFICIAL CUSTODIAN** means any officer or employee of a public agency who is responsible for the maintenance of public records, regardless of whether such records are in the officer's or employee's actual personal custody and control.
4. **PUBLIC AGENCY** means the state or any political or taxing subdivision of the state or any office, officer agency or instrumentality thereof or any other entity receiving or expending and supported in whole or in part by the public funds appropriated by the state or by public funds of any political or taxing subdivision of the state.
5. **PUBLIC RECORD** means any recorded information, regardless of form or characteristics, which is made, maintained or kept by or is in the possession of any public agency including, but not limited to, an agreement in settlement of litigation involving the Kansas public employees retirement system and the investment of moneys of the fund.
 - a. "Public Records" **shall not** include records of employers related to the employer's individually identifiable contributions made on behalf of employees for workers compensation, social security, unemployment insurance or retirement. The provisions of this

subsection shall not apply to records of employers of lump-sum payments for contributions as described in this subsection paid for any group, division or section of an agency.

Inspection of Records (K.S.A. 45-218):

1. All public records shall be open for inspection by any person, except as otherwise provided by this act, and suitable facilities shall be made available by each public agency for this purpose. No person shall remove original copies of public records from the office of any public agency without the written permission of the custodian of the record.
2. Upon request in accordance with procedures adopted under K.S.A. 45-220, any person may inspect public records during the regular office hours of the public agency and during any additional hours established by the public agency.
3. If the person to whom the request is directed is not the custodian of the public record requested, such person shall so notify the requestor and shall furnish the name and location of the custodian of the public record, if known to or readily ascertainable by such person.
4. Each request for access to a public record shall be acted upon as soon as possible, but not later than the end of the third business day following the date that the request is received. If access to the public record is not granted immediately, the custodian shall give a detailed explanation of the cause for further delay and the place and earliest time and date that the record will be available for inspection. If the request for access is denied, the custodian shall provide, upon request, a written statement of the grounds for denial. Such statement shall cite the specific provision of law under which access is denied and shall be furnished to the requestor not later than the end of the third business day following the date that the request for the statement is received.
5. The custodian may refuse to provide access to a public record, or to permit inspection, if a request places an unreasonable burden in producing public records or if the custodian has reason to believe that repeated requests are intended to disrupt other essential functions of the public agency. However, refusal under this subsection must be sustained by preponderance of the evidence.
6. A public agency may charge and require advance payment of a fee for providing access to or furnishing copies of public records, subject to K.S.A. 45-219.

Copies of Records (K.S.A. 45-219):

1. Any person may make abstracts or obtain copies of any public record to which such person has access under this act. If copies are requested, the public agency may require a written request and advance payment of the prescribed fee. A public agency shall not be required to provide copies of radio or recording tapes or discs, video tapes or films, pictures, slides, graphics illustrations or similar audio or visual items or devices, unless such items or devices were shown or played to a public meeting of the governing body thereof, but the public agency shall not be required to provide such items or devices which are copyrighted by a person other than the public agency.

2. Copies of public records shall be made while the records are in the possession, custody and control of the custodian or a person designated by the custodian and shall be made under the supervision of such custodian or person. When practical, copies shall be made in the place where the records are kept. If it is impractical to do so, the custodian shall allow arrangements to be made for use of other facilities. If it is necessary to use other facilities for copying, the cost thereof shall be paid by the person desiring a copy of the records. In addition, the public agency may charge the same fee for the services rendered in supervising the copying as for furnishing copies under subsection (c) and may establish a reasonable schedule of times for making copies at other facilities.
3. Except as provided by subsection (f) or where fees for inspection or for copies of a public record are prescribed by statute, each public agency may prescribe reasonable fees for providing access to or furnishing copies of public records, subject to the following:
 - a. In the case of fees for copies of records, the fees shall not exceed the actual cost of furnishing copies, including the cost of staff time required to make the information available.
 - b. In the case of fees for providing access to records maintained on computer facilities, the fees shall include only the cost of any computer services, including staff time required.
4. Except as otherwise authorized pursuant to K.S.A. 75-4215 and amendments thereto, each public agency within the executive branch of the state government shall remit all moneys received by or for it from fees charged pursuant to this section to the state treasurer in accordance with K.S.A. 75-4215 and amendments thereto. Unless otherwise specifically provided by law, the state treasurer shall deposit the entire amount thereof in the state treasury and credit the same to the state general fund, or an appropriate fee fund as determined by the agency head.
5. Each public agency of a political or taxing subdivision shall remit all moneys received by or for it from fees charged pursuant to this act to the treasurer of such political or taxing subdivision at least monthly. Upon receipt of any such moneys, such treasurer shall deposit the entire amount thereof in the treasury of the political or taxing subdivision and credit the same to the general fund thereof, unless otherwise specifically provided by law.
6. Any person who is a certified shorthand reporter may charge fees for transcripts of such person's notes of judicial or administrative proceedings in accordance with rates established pursuant to rules of the Kansas supreme court.

Procedures for Obtaining Access to Records (K.S.A. 45-220):

1. Each public agency shall adopt procedures to be followed in requesting access to and obtaining copies of public records, which procedures shall provide full access to public records, protect public records from damage and disorganization, prevent excessive disruption of the agency's essential functions, provide assistance and information upon request and insure efficient and timely action in response to applications for inspection of public records.
2. A public agency may require a written request for inspection of public records but shall not otherwise require a request to be made in any particular form. Except as otherwise provided by subsection (c), a public agency shall not require that a request contain more information than the requesters name and address and the information necessary to ascertain the records to which the

requestor desires access and the requestor's right of access to the records. A public agency may require proof of identity of any person requesting access to a public record. No request shall be returned, delayed or denied because of any technicality unless it is impossible to determine the records to which the requestor desires access.

3. If access to public records of an agency or the purpose of which the records may be used is limited pursuant to K.S.A. 21-3914 or 45-221, and amendments thereto, the agency may require a person requesting the records or information therein to provide written certification that:
 - a. The requestor has a right of access to the records and the basis of that right; or
 - b. The requestor does not intend to, and will not:
 4. Use any list of names or addresses contained in or derived from the records or information for the purpose of selling or offering for sale any property or service to any person listed or to any person who resides at any address listed.
 5. Sell, give or otherwise make available to any person any list of names or addresses contained in or derived from the records or information for the purpose of allowing that person to sell or offer for sale any property or service to any person listed or to any person who resides at any address listed.
6. A public agency shall establish, for business days when it does not maintain regular office hours, reasonable hours when persons may inspect and obtain copies of the agency's records. The public agency may require that any person desiring to inspect or obtain copies of the agency's records during such hours so notify the agency, but such notice shall not be required to be in writing and shall not be required to be given more than 24 hours prior to the hours established for inspection and obtaining copies.
 - a. Each official custodian of public records shall designate such persons as necessary to carry out the duties of custodian under this act and shall ensure that a custodian is available during regular business hours of the public agency to carry out such duties.
 - b. Each public agency shall provide, upon written request of any person, the following information:
 - (1) The principal office of the agency, its regular office hours and any additional hours established by the agency pursuant to subsection (c).
 - (2) The title and address of the official custodian of the agency's records and of any other custodian who is ordinarily available to act on requests made at the location where the information is displayed.
 - (3) The fees, if any, charged for access to or copies of the agency's records.
 - (4) The procedures to be followed in requesting access to and obtaining copies of the agency's records, including procedures for giving notice of a desire to inspect or obtain copies of records during hours established by the agency pursuant to subsection (c).

Records Not Required to be Open (K.S.A. 45-221):

1. Except to the extent disclosure is otherwise required by law, a public agency shall not be required to disclose:
 - a. Records the disclosure of which is specifically prohibited or restricted by federal law, state statute or rule of the Kansas supreme court or the disclosure of which is prohibited or restricted pursuant to specific authorization of federal law, state statute or rule of the Kansas supreme court to restrict or prohibit disclosure.
 - b. Records which are privileged under the rules of evidence, unless the holder of the privilege consents to the disclosure.
 - c. Medical, psychiatric, psychological or alcoholism or drug dependency treatment records which pertain to identifiable patients.
 - d. Personnel records, performance ratings or individually identifiable records pertaining to employees or applicants for employment, except that this exemption shall not apply to the names, positions, salaries and lengths of service of officers and employees of public agencies once they are employed as such.
 - e. Letters of reference or recommendation pertaining to the character or qualifications of an identifiable individual.
 - f. Information which would reveal the identity of an individual who lawfully makes a donation to a public agency, if anonymity of the donor is a condition of the donation.
 - g. The contents of appraisals or engineering or feasibility estimates or evaluations made by or for a public agency relative to the acquisition of property, prior to the award of formal contracts therefor.
 - h. Correspondence between a public agency and a private individual, other than correspondence which is intended to give notice of an action, policy or determination relating to any regulatory, supervisory or enforcement responsibility of the public agency or which is widely distributed to the public by a public agency and is not specifically in response to communications from such a private individual.
 - i. Records pertaining to employer-employee negotiations, if disclosure would reveal information discussed in a lawful executive session under K.S.A. 75-4319, and amendments thereto.
 - j. Software programs for electronic data processing and documentation thereof, but each public agency shall maintain a register, open to the public, that describes:
 - (1) The information which the agency maintains on computer facilities; and
 - (2) The form in which the information can be made available using existing computer programs.

- k. Plans, designs, drawings or specifications which are prepared by a person other than an employee of a public agency or records which are the property of a private person.
 - l. Well samples, logs or surveys which the State Corporation Commission requires to be filed by persons who have drilled or caused to be drilled, or are drilling or causing to be drilled, holes for the purpose of discovery or production of oil or gas, to the extent that disclosure is limited by rules and regulations of the State Corporation Commission.
 - m. Notes, preliminary drafts, research data in the process of analysis, unfunded grant proposals, memoranda, recommendations or other records in which opinions are expressed or policies or actions are proposed, except that this exemption shall not apply when such records are publicly cited or identified in an open meeting or in an agenda of an open meeting.
 - n. Records which are compiled for census or research purposes and which pertain to identifiable individuals.
 - o. Records which represent and constitute the work product of an attorney.
 - p. Specifications for competitive bidding, until the specifications are officially approved by the public agency.
 - q. Sealed bids and related documents, until a bid is accepted or all bids rejected.
 - r. Public records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy.
 - s. The bidder's list of contractors who have requested bid proposals for construction projects from any public agency, until a bid is accepted or all bids rejected.
 - t. Engineering or architectural estimates made by or for any public agency relative to public improvements.
 - u. Financial information submitted by contractors in qualification statements to any public agency.
 - v. Any report or record which is made pursuant to K.S.A. 76-711, and amendments thereto, and which is privileged pursuant to K.S.A. 65-4915 or 65-4925, and amendments thereto.
 - w. Information which would reveal the exact location of an archeological site.
2. If a public record contains material which is not subject to disclosure pursuant to this act, the public agency shall separate or delete such material and make available to the requestor that material in the public record which is subject to disclosure pursuant to this act. If a public record is not subject to disclosure because it pertains to an identifiable individual, the public agency shall delete the identifying portions of the record and make available to the requestor any remaining portions which are subject to disclosure pursuant to this act, unless the record is for a request pertaining to a specific individual or to such a limited group of individuals that the individuals' identities are reasonably ascertainable, the public agency shall not be required to disclose those portions of the record which pertain to such individual or individuals.

3. The provisions of this section shall not be construed to exempt from public disclosure statistical information not descriptive of any identifiable person.
4. Notwithstanding the provisions of subsection (a), any public record which has been in existence more than 70 years shall be open for inspection by any person unless disclosure of the record is specifically prohibited or restricted by federal law, state statute or rule of the Kansas Supreme Court or by a policy adopted pursuant to K.S.A. 72-6214, and amendments thereto.

Enforcement of the Act:

1. District court has jurisdiction. (K.S.A. 45-222)
 - a. Any person, the attorney general, or a county or district attorney, may make application.
 - b. Neither the public agency nor any officer or employee shall be liable for damage for failure to disclose a record. (K.S.A. 45-223)

Public Access to District Land User Files:

In the event a conservation district receives a request for information contained in district land user files by someone other than the land user, the district is referred to the Kansas Open Records Act and the following procedures adopted by the NRCS and DOC.

1. All NRCS opinions and orders; policy statements and their interpretations; staff manuals, handbooks and related instructions; and other NRCS records are to be made available to the public upon request.
2. Engineering or other technical data prepared by the NRCS to assist a land user in planning and/or applying a conservation practice or combinations of practices are available to the public upon request.
3. Conservation planning and/or implementation decisions made by land users and recorded in case files should not be indiscriminately provided to the public. Field office staffs may wish to ask the person making the request to contact the land user for approval to review the information. If the land user refuses to give approval, the district conservationist should discuss the options that the NRCS, the land user, and the requesting person have with the conservation district and request the district counsel with all parties to see if the problem can be resolved.
4. If no solution can be arrived at through the procedures outlined above, the district conservationist should inform the person making the request to submit it in writing to the State Conservationist. The request should specifically state the information desired. The State Conservationist will approve or deny the request within ten calendar days. If a request is denied, the person making the request must be informed of the right to appeal the denial to the Administrator, USDA, Natural Resources Conservation Service.

Note: The above procedures only apply to individual's requests and not to subpoenas for information issued through the courts. All court orders will be complied with.

Environmental Coordination Act

The 1986 Kansas Legislature passed the Environmental Coordination Act, K.S.A. 82a-325 et seq., to provide a review process for all water development projects that require a state permit to be issued.

The Division of Conservation, Kansas Department of Agriculture is one of seven state agencies involved in the review process. The DOC reviews the project and makes an evaluation based upon limited information. The DOC has recommended that the project be coordinated through the conservation district office, as the district has more specific knowledge of the site location. The project information and a copy of the DOC's response will be mailed to each district. The district is requested to review the proposed project. In reviewing a proposed water development project, an on-site visit may be appropriate. The conservation district should consider the following when responding to an ECA notice:

1. The beneficial and adverse effects of a proposed project on riparian and wetland areas, water quality, fish and wildlife, forest and natural vegetation, historic, cultural, recreational, aesthetic, agricultural and other natural resources;
2. The means and methods to reduce adverse environmental effects of a proposed project; and
3. Alternatives to a proposed project with significant adverse environmental effects.

Any comments on the proposed project are to be sent to the same address as on the DOC's response letter. Comments are not necessary in most cases. Note the 30 day time limit for the review.

K.S.A. 82a-325. Water Projects Environmental Coordination Act; Purpose:

1. This act shall be known and may be cited as the water projects environmental coordination act.
2. In order to protect the environment while facilitating the use, enjoyment, health and welfare of the people of the State of Kansas, it is necessary that the environmental effect of any water development project be considered before such water development project is approved or permitted.

K.S.A. 82a-326. Same; definitions. When used in this act:

1. "Water development project" means any project or plan which may be allowed or permitted pursuant to K.S.A. 24-126, 24-1213 and 82a-301 et seq., and amendments thereto.
2. "Environmental review agencies" mean the:
 - a. Kansas Department of Wildlife and Parks
 - b. Office of Extension Forestry
 - c. State Biological Survey
 - d. Kansas Department of Health and Environment

- e. State Historical Society
- f. Division of Conservation, Kansas Department of Agriculture
- g. State Corporation Commission

K.S.A. 82a-327. Same; review of proposed project; considerations:

1. Prior to approval or issuance of a permit for a proposed water development project, the permitting agency shall obtain a review of the proposed project for environmental effects by the appropriate state environmental review agencies, and shall consider their comments in determining whether to approve or issue a permit for such project. The permitting agency may condition the approval of or permit for the project in a manner to address the environmental concerns of the environmental review agencies.
2. In reviewing a proposed water development project, the environmental review agency shall consider:
 - a. The beneficial and adverse environmental effects of a proposed project on water quality, fish and wildlife, forest and natural vegetation, historic, cultural, recreational, aesthetic, agricultural and other natural resources;
 - b. The means and methods to reduce the adverse environmental effects of a proposed project; and
 - c. Alternatives to a proposed project with significant adverse environmental effects.
3. Each environmental review agency shall send its written comments on the proposed project within 30 days of receipt of the proposal from the permitting agency.
4. Nothing in this act shall be construed as prohibiting a permitting agency from approving or issuing a permit if an environmental review agency determines adverse environmental effects will result if the project is approved or permitted. Nothing in this act shall be construed as preempting or duplicating any existing environmental review process otherwise provided or authorized by law.

Note: An example ECA Response Letter, Appendix 6.2, is included at the end of this chapter.

**COUNTY CONSERVATION DISTRICT
EMPLOYEE'S OATH**

_____ COUNTY

K.S.A. 75-4308 et seq. requires the following oath from K.S.A. 54-106, be signed by new employees before entering the duties of employment and before funds for services may be disbursed.

I, _____, do solemnly swear or affirm that I will support the constitution of the United States and the constitution of the state of Kansas, and faithfully discharge the duties of _____ . So help me God.

(Position Title)

Employee Signature

State of Kansas

County of _____

Subscribed and sworn to before me this _____ day of _____ 20_____.

Notary

My term expires _____.

Distribution:
Original - District File
Copy - Employee

NOTICE OF PERSONNEL ACTION

| | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------|
| <input type="checkbox"/> NEW EMPLOYEE <input type="checkbox"/> EMPLOYEE STATUS CHANGE | |
| Conservation District | SCC Administrative Area |
| Employee Name | Position Title <input type="checkbox"/> Change |
| Date of Employment _____ | Rate of Pay <input type="checkbox"/> Change |
| Status Change Date _____ | \$ _____ per |
| Classification <input type="checkbox"/> Change <div style="display: flex; justify-content: space-around;"> <input type="checkbox"/> Permanent Full-Time <input type="checkbox"/> Permanent Part-Time <input type="checkbox"/> Temporary Full-Time <input type="checkbox"/> Temporary Part-Time </div> | |
| List District Assisted Insurance and/or Pension Plan (if applicable) <input type="checkbox"/> Change <div style="height: 150px;"></div> | |
| Termination <div style="display: flex; justify-content: space-between;"> <input type="checkbox"/> Resigned <input type="checkbox"/> Discharged <input type="checkbox"/> End of Temporary Employment </div> <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <input type="checkbox"/> Retired <input type="checkbox"/> Laid Off <input type="checkbox"/> Other </div> | |
| Chairperson Signature: _____ Date _____ Submitted By: _____ Date _____ | |

Appendix 6.1: Example CD Files and Records Retention Schedule

Conservation District Files and Records Retention Schedule

Retention Codes

- P: Permanent Record
 R: Retain until no longer needed
 1: Retain for one year
 2: Retain for two years
 3: Retain for five years
 Other retention information as provided

| <u>Filing Guide Subject</u> | <u>Symbol</u> | <u>Retention</u> |
|-----------------------------------------------------------------------|---------------|-----------------------------------------------------------------------------|
| ADMINISTRATIVE | ADM | |
| - Activity Reports | | 5 |
| - Bid Records, Quotations and Estimates | | 5 |
| - Building Maintenance and Repairs | | 5 |
| - Calendar/Due Dates | | Until Superseded |
| - Certified or Registered Mail Receipts | | 1 |
| - Contracts and Legal Agreements | | 5 years after expiration |
| - Correspondence, Incoming/Outgoing (or file according to subject) | | 2 |
| - Corps of Engineers | | 2 |
| - Extension Service | | 2 |
| - FSA | | 2 |
| - KACD | | 2 |
| - KDHE | | 2 |
| - KDWP | | 2 |
| - Kansas Water Office | | 2 |
| - NRCS | | 2 |
| - DOC | | 2 |
| - Watershed | | 2 |
| - Deeds and Abstracts for Real Estate | | P |
| - Directories | | Until Superseded |
| - Active Kansas Watershed & Drainage Districts | | |
| - KACD | | |
| - Kansas Conservation Districts | | |
| - Kansas NRCS Personnel | | |
| - NACD | | |
| - Equipment Manuals and Warranties | | R |
| - Equipment and Supplies Catalog | | R |
| - Grant Projects | | P |
| - Insurance Claims | | 5 years after settled |
| - Insurance Policies | | 5 years after cancellation or expiration, and after claims settlement |

Appendix 6.1: Example CD Files and Records Retention Schedule (continued)

| <u>Filing Guide Subject</u> | <u>Symbol</u> | <u>Retention</u> |
|-----------------------------------------------------------------------|---------------|-------------------------------------------------------------------------------|
| - Organizational Records: Charter, Hearings, and Petition to Organize | | P |
| - <i>Kansas Conservation District Handbook</i> | | Until Superseded |
| - <i>Kansas Conservation District Supervisors Handbook</i> | | Until Superseded |
| - Inventories of Equipment, Real Estate and Vehicles | | P |
| - Legal Notices/Affidavits of Publication | | 5 |
| - Memorandums of Agreement and Understanding | | Until Superseded |
| - Policy/Procedure Statements | | P |
| - <i>YOU The Conservation District Employee</i> | | Until Superseded |
| CONSERVATION PROGRAMS | CPG | |
| - County Cost-Share Program Documents | | P |
| - Federal Programs, Documents | | P |
| - Federal Programs Information | | R |
| - <i>Kansas Water Plan</i> | | Until Superseded |
| - NPS Program, Documents | | P |
| - DOC Program Manuals | | Until Superseded and Encumbered Contracts Completed |
| - Riparian and Wetlands Protection Program, Documents | | P |
| - Water Resources Cost-Share Program, Documents | | P |
| - Water Quality/Quantity | | R |
| DISTRICT SERVICES | DSV | |
| - Drip Irrigation | | R |
| - Equipment Rental Agreements, Copies | | Until Superseded |
| - Equipment Rental Agreements, Individuals | | 3 |
| - Grass Seed Drill | | R |
| - Grass Seed Analysis | | 5 |
| - Grass Seed Sales | | R |
| - Nursery Dealer Licenses and Applications | | P |
| - Seed Licenses and Applications | | P |
| - Tree Sales | | R |
| INFORMATION AND EDUCATION | INF | |
| - Arbor Day | | R |
| - Brochures/Pamphlets | | R |
| - Catalogs | | R |
| - Comic Books | | R |
| - Contests and Awards | | R, except permanently retain list of CD awardees, or as otherwise noted |
| - Awards received by District, Employees, Supervisors | | P |
| - Bankers' & Wildlife Habitat Awards | | R, except P CD awardees |
| - Environthon Contest | | R, except P CD awardees |
| - Essay, Poster, Speech, Limerick Contests (KACD & NACD) | | R, except P CD awardees |
| - Goodyear Contest | | R, except P CD awardees |
| - Land Judging Contest | | R |
| - NACD District Newsletter Contest | | R |

Appendix 6.1: Example CD Files and Records Retention Schedule (continued)

| <u>Filing Guide Subject</u> | <u>Symbol</u> | <u>Retention</u> |
|-------------------------------------------------------------------------------------------|---------------|--------------------------------------------------------------|
| - NACD Marketing Excellence Awards | | R |
| - NACD Conservation Education Recognition Program | | R, except P CD awardees |
| - Contractor's Workshops | | R |
| - Display Ideas | | R |
| - Earth Day | | R |
| - 4-H Clubs/Discovery Days | | R |
| - Grant Writing | | R |
| - Kansas Association for Conservation and Environmental Education Newsletters & Workshops | | R |
| - Newsletters | | |
| - <i>Center Scoop</i> | | R |
| - <i>Conservation Briefs</i> | | R |
| - <i>The District Leader</i> | | R |
| - <i>District Update</i> | | R |
| - <i>District's Newsletters</i> | | P |
| - <i>Forestry Notes</i> | | R |
| - <i>The Hydrogram</i> | | R |
| - <i>Tuesday Letter</i> | | R |
| - News Releases/Clippings, District's | | R |
| - News Releases, NACD | | R |
| - Outdoor Classrooms | | R |
| - Publications | | R |
| - Riparian & Wetland Fact Sheets | | R |
| - Scholarships | | R, except permanently maintain list of district's recipients |
| - Soil and Water Stewardship Week | | R |
| - Water Conservation Fact Sheets | | R |
| - Well Plugging | | R |
| FINANCIAL MANAGEMENT | FNM | |
| - Accounts Payable | | 5 years after all claims settled |
| - Audit Proposals and Contracts | | 5 |
| - Audit Reports | | P |
| - Bank Deposit Slips | | 5 |
| - Bank Statements and Cancelled Checks | | 5 |
| - Budgets | | P |
| - Certificate of Deposit | | 5 |
| - Check Book/Stubs | | 5 |
| - Claim Vouchers | | 5 |
| - Exemption Certificates | | 5 |
| - Fidelity Bonds | | 5 years after expiration |
| - Ledgers | | 5 |
| - Receipt Books/Journals | | 5 |
| - Sales Tax Certificate | | P |
| - Sales Tax Reports | | 5 |
| - Savings Account Records | | 5 |

Appendix 6.1: Example CD Files and Records Retention Schedule (continued)

| <u>Filing Guide Subject</u> | <u>Symbol</u> | <u>Retention</u> |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| LEGISLATIVE AFFAIRS - Legislative Issues - Legislator's Addresses | LEG | R Until superseded |
| MANAGEMENT - Annual Meeting - Ballots - Ballots-Samples/Copies - Legal Notice - Program Booklets - Result of Election (DOC/ADM-4 & 5) - Voter Registration List - Annual Report - Annual Work Plan - Board Meetings - Agendas - Minutes/Treasurer's Reports - Pending Board Meeting Material - Long Range Plan - Supervisors - CD Supervisors Oath of Office (DOC/ADM-1) - Information Sheets - Position Descriptions - Record Sheet of Supervisor's Terms | MGT | 6 months after election & settlement of challenge P P P P 5 P P P P Hold until board action, then file according to subject P 5 years after separation R R P |
| PERSONNEL AND PAYROLL - Employment Applications - Employee Time and Payroll Sheets - Insurance; Health and Life - Personnel Records (file by individual's name) - Employee Oath (DOC/ADM-7) - Emergency Information Sheet - Employment Contract - Grievances - Leave Records - Medical Information - Notice of Personnel Action (DOC/ADM-8) - Performance Appraisal - Position Description - Training Plans - W-4 Form - Unemployment Compensation Claims - Worker's Compensation - Payroll and Withholdings Summary - Personnel Policies/ Manuals - Position Descriptions | PER | 2 P Individual employee documents P, other information 5 years 5 years after separation Until superseded or separation P P P P P Until Superseded P 5 years after superseded P P P P P |

Appendix 6.1: Example CD Files and Records Retention Schedule (continued)

| <u>Filing Guide Subject</u> | <u>Symbol</u> | <u>Retention</u> |
|-------------------------------------------------------------------------------------|----------------------|------------------------------------------------------------|
| - Retirement Program | | Individual employee documents, P, other information R 5 |
| - Unemployment Insurance (Employer's Quarterly Wage Report and Contribution Return) | | 5 |
| - Volunteers, Lists and Records | | 5 |
| - W-2 Forms | | P |
| - W-4 Forms | | Until superseded |
| - Withholding Tax Statements | | 5 |
| - Federal | | 5 |
| - State | | 5 |
| - Worker's Compensation Insurance | | 5 |

Appendix 6.2: Example ECA Response Letter

**PARADISE COUNTY CONSERVATION DISTRICT
4567 North Main Street
Rainbow, Kansas 12345**

March 23, 2016

Chief Engineer
Division of Water Resources
Kansas Department of Agriculture
901 S. Kansas Ave., Second Floor
Topeka, KS 66612-1283

RE: Notice No. 93457

Dear Sir:

The Paradise County Conservation District has reviewed the proposed bridge construction, Notice No. 93457. This proposal by the Kansas Department of Transportation (KDOT), affects Current Creek in the SE 1/4 of the SE 1/4 of Section 23, Township 7 South, Range 4 East, Rainbow County Kansas.

Bridge construction will result in the loss of riparian vegetation consisting of three acres of grass and 20 trees greater than 10" diameter at breast height (dbh) on both streambanks of Current Creek. The district recommends the Kansas Department of Transportation make every effort to minimize the loss of riparian vegetation during construction.

Soil erosion can be expected during and after installation of this project. Steps should be taken to minimize erosion during construction. Areas disturbed by construction should be revegetated, preferably with grass and/or tree species native to and harmonious with the surrounding area.

Assistance can be requested from the Paradise County Conservation District and the Natural Resources Conservation Service.

Sincerely,

Sandi Fields, Chairperson
Paradise County Conservation District

cc: Division of Conservation

Appendix 6.3: Legal Opinions

Legal Opinions (Applicable to Conservation Districts)

The following legal opinions apply to conservation districts even though most were not rendered to the Division of Conservation, or to a conservation district.

1. BUDGETS

Attorney General Opinion No. 84-34: "As a general rule, a special district that certifies tax levy or budget to another political subdivision, but which does not directly levy a tax, is not subject to the Kansas Budget Law."

2. CONFLICT OF INTEREST

Attorney General Opinion 74-269: The purpose of K.S.A. 75-4304 is to "prohibit self-dealing, i.e., a contract or agreement whereby a public officer or employee, acting in that capacity, participates in the making of a contract with a business in which he has a substantial interest. Thus, a public officer or employee may not be a party to a contract in connection with which he enjoys a dual role, i.e., acting or participating therein in both his public and private capacities."

COMMENT: A conflict of interest would be avoided if the supervisor (public office) abstains from any action in regard to the contract (K.S.A. 75-4304). The supervisor would not be considered to be one of the public officials or employees making or participating in the making of a contract.

Attorney General Opinion 79-301: "A director of a watershed district established pursuant to K.S.A. 24-1201 et seq., may not at the same time be employed by the district as a paid assistant."

Kansas Governmental Ethics Commission Opinion 89-20: It is not a conflict of interest when a person serves as county commissioner and conservation district supervisor at the same time.

COMMENT: Furthermore, according to the Attorney General's office the county commissioner must abstain from voting on all issues pertaining to the county conservation district in order not to be in conflict with any common law theories.

3. COUNTY COMMISSIONERS

Attorney General Opinion No 82-184: "The provisions of K.S.A. 1981 Supp. 2-1907b are permissive with respect to the payment of county monies for the operation of a conservation district, and boards of county commissioners are not required by this statute to make such payments."

Attorney General Opinion No. 92-152: "The Decatur Board of County Commissioners cannot buy a plow with money from the county general fund to give to the soil conservation district so that they can lease it to private individuals."

Appendix 6.3: Legal Opinions (continued)

Attorney General Opinion No. 96-80: "The prevention of soil erosion caused by wind is governed primarily by K.S.A. 2-2001 *et seq.* which places the duty to prevent erosion on the landowner and the duty to enforce the statutes, on public and private land, on the board of county commissioners in each county. The authority to prevent soil erosion is also provided to conservation districts created pursuant to K.S.A. 2-1901 *et seq.*; however, that authority extends only over public lands as it affects the land use practices under their jurisdiction. A conservation district does not have the authority to prevent soil erosion on private land without the landowner's consent."

4. LEASE PURCHASE AGREEMENTS (INSTALLMENT PURCHASES)/CASH BASIS LAW

Attorney General Opinion No. 96-2: "A conservation district is defined as a municipality under K.S.A. 1995 10-1101(a) and may utilize the provisions of K.S.A. 10-1116b to enter into a lease - purchase agreement if such an agreement does not violate the restrictions still in place under K.S.A. 2-1908(l). A properly worded lease-purchase agreement containing the language and limitations set forth in K.S.A. 10-1116b and 10-1116c, does not create a debt obligation exceeding the current budget year."

COMMENT: K.S.A. 10-1116b permits governing bodies of municipalities subject to the cash basis law to enter into agreements which provide for periodic payments or monthly installments, but only if the agreement specifically states that the municipality is obligated only to pay periodic payments or monthly installments under the agreement as may be lawfully made from (a) funds budgeted and appropriated for that purpose during such municipality's current budget year or (b) funds made available from any lawfully operated revenue producing source.

5. LIABILITY FOR OFFICIAL ACTS/KANSAS TORT CLAIMS ACT

Attorney General Opinion No. 87-31: "While the Kansas Tort Claims Act establishes the liability of all governmental entities and governmental employees, providing exceptions to liability, a distinction is made between state and municipal employees for purposes of defense coverage under the tort claims fund. To be covered by that fund, a person must be an employee of the state as opposed to an employee of a municipality." "Even though district supervisors and employees perform functions locally, they act as members of a collective effort to conserve state resources. Therefore they are to be considered state employees for purposes of the Kansas Tort Claims Act."

6. MEETINGS/KANSAS OPEN MEETINGS ACT

Attorney General Opinion No. 80-173: "A telephone conference call among members of a public body may constitute a meeting of such body, where the numbers of members engaged in such call is sufficient by statute to transact the business of the body, and so long as all members thereof are notified of the conference call and given the opportunity to participate. Meetings held pursuant to telephone conference calls are subject to the Open Meetings Act where such calls involve a majority of a quorum of the public body's membership, even though the number of members involved is not enough to transact the business of the public body."

Attorney General Opinion No. 80-197: Title of the gathering--e.g.--work sessions is irrelevant if the three requirements of a meeting are met.

Appendix 6.3: Legal Opinions (continued)

Attorney General Opinion No. 81-262: "Informal gatherings of a majority of a quorum of a city commission to discuss city business, held prior to, during or immediately following regularly scheduled meetings, are subject to the requirements of the Kansas Open Meetings Act."

Attorney General Opinion No. 82-16: "The KOMA does not prohibit the use of written memoranda between members of a public body subject to the act. However, use of written documents at an otherwise public meeting which effectively deny the public access to the decision-making process may constitute a violation of the KOMA..."

Attorney General Opinion No. 82-43: "If a quorum of a municipal council is present and a majority of the members voting vote in favor of a particular matter, abstentions from voting are to be counted as acquiescence with the votes of the majority, and the action will bind the body. Abstentions from voting may not be counted as acquiescence where there is a tie vote and the proposition fails for lack of a majority voting in favor thereof."

Attorney General Opinion No. 82-133: Retreats and meetings held in private clubs are probably prohibited, especially if site makes it impossible for public to attend without cost.

Attorney General Opinion No. 82-141: "The Kansas Open Meeting Act (KOMA) requires notice of all regular and special meetings of bodies subject to the act as provided to all persons requesting it..."

Attorney General Opinion No. 82-176: "A public body subject to the KOMA may not permit individuals or special interest groups, including members of the news media, to attend executive sessions as mere observers while excluding the public generally. Individuals may attend executive sessions of government bodies subject to the Act upon invitation where such persons are present to provide information to the body or participate in its deliberations, but may not attend merely as observers."

Attorney General Opinion No. 82-247: "K.S.A. 1981 Suppl. 75-4319 (b) authorizes legislative and executive bodies or agencies subject to the KOMA to conduct an executive session or recess for the purpose of consultation with an attorney for the body or agency which would be deemed privileged in the attorney-client relationship. However, the attorney-client privilege may not be invoked if the attorney is not present, or if persons, other than the attorney and his or her agents, are parties to the communication. Moreover, the communication must be confidential in character and be so regarded by the governmental body or agency."

Attorney General Opinion No. 84-103: Joint boards are subject to the KOMA if boards composed of members of different governmental bodies and a majority of a quorum of one or more governing bodies is present.

Attorney General Opinion No. 91-78: "K.S.A. 75-4319(a)(1) and (2) require that the motion to go into an executive session contain a statement concerning the subject and the justification for the executive session. In our opinion, the justification statement should be more than a reiteration of the subject. The KOMA does not require the justification statement to be so detailed that it negates the usefulness of an executive session. However, K.S.A. 75-4319(a)(2) requires a justification statement

Appendix 6.3: Legal Opinions (continued)

to be contained in the motion, and it is our opinion that his statement should explain why an executive session is necessary or desirable...”

Attorney General Opinion No. 96-61: “Public bodies subject to the Kansas Open Meetings Act may go into executive session to interview, discuss, and consider applicants or prospective employees of that body under the personnel matters exception to the act. Binding action may not be taken executive session.”

Attorney General Opinion No. 98-49: “A series of meetings or communications between members of a public body, each of which may involve less than a majority of a quorum of a public body, but collectively totaling a majority of a quorum, the purpose of which is to discuss a common topic of the business or affairs of that body so that the views of the members are exchanged in an interactive dialogue, constitutes a meeting for purposes of the Kansas Open Meetings Act. The communications need not be direct for the Act to apply, but must be at the direction or behest of the members of the body. Whether a series of communications is a violation of the Act is very fact specific, and each situation must be decided on its facts.”

Attorney General Opinion No. 2005-03: “A public body subject to the KOMA may legally conduct meetings by telephone, if it does so in compliance with all of the requirements of the KOMA. Regardless whether a meeting is to be conducted telephonically, in person, by video-conference, or even through third parties, the requirements of the KOMA remain applicable.”

7. PUBLIC RECORDS/KANSAS OPEN RECORDS ACT

Attorney General Opinion No. 87-4: “The Kansas Open Records Act provides that public agencies may charge reasonable fees for photocopying public records. Fees are reasonable if they do not exceed the actual cost, or costs directly incurred, in providing copies...”

Attorney General Opinion No. 87-137: “A custodian of public records who reasonably believes that a requestor will use the information for prohibited purposes must deny access to the records. Disclosure of the information in such a case will subject the custodian to possible criminal charges...”

Attorney General Opinion No. 91-50: "If a public record qualifies as a personal record, it may be closed pursuant to K.S.A. 1990 Supp. 45-221 (a) (4), with the exception of the information noted therein. However, not every public record concerning public employees automatically qualifies as a personal record. Public records may be closed pursuant to K.S.A. 1990 Supp. 45-221 (a) (30) when public disclosure would constitute a clearly unwarranted invasion of personal privacy. Closure under this subsection may not occur if the elements of the invasion of privacy are not present, if the invasion of privacy can be eliminated by deleting the identifying personal information pursuant to K.S.A. 1990 Supp. 45-221 (d), by providing statistical information pursuant to K.S.A. 1990 Supp. 45-221 (e), or if the individual whose privacy interest is at risk consents to the disclosure. Closure under K.S.A. 1990 Supp. 45-221 (a) (4) or (a) (30) is discretionary not mandatory."

Appendix 6.3: Legal Opinions (continued)

Attorney General Opinion No. 93-126: “A city is only required to make available to the public those records that it makes, maintains, keeps or possesses. A city is not required to prepare a report or conduct an investigation in response to a request for information. A city may charge reasonable fees for providing access to or furnishing copies of public records pursuant to K.S.A. 45-219.”

Attorney General Opinion No. 94-132: “A public official may not deny access to a public record unless the disclosure is prohibited by federal or state law or the record fits one of the exceptions listed in K.S.A. 45-221. ..A custodian who relies in good faith on a certification by a requestor that the information obtained from public records will not be used in a prohibited manner is not subject to criminal charges under K.S.A. 21-3914. Therefore, a public official may not deny a requestor access to records, which are otherwise open, when the appropriate certification is submitted pursuant to K.S.A. 45-220, and the official is acting in good faith.”

Attorney General Opinion No. 2006-26: “K.S.A. 2005 Supp. 45-230 prohibits public agencies, as defined by K.S.A. 2005 Supp. 45-217, from knowingly selling, giving or receiving, for the purpose of selling or offering for sale any property or service to persons listed therein, any list of names and addresses contained in or derived from public records. It does not, however, prohibit a public agency from using its own records for a purpose related to that agency's services or programs...”

Attorney General Opinion No. 2000-18: “Once a record requestor has submitted a written request that is understood by the record custodian, an agency form is not permitted. If the requested records contain a list of names and addresses, or names and addresses can be derived from the records, the record custodian may require the requestor to complete a certification consistent with K.S.A. 2008 Supp. 45-220(c). If the records do not contain such a list and a list cannot be derived from the records, a record custodian cannot require a requestor to sign a certificate regarding the use of names and addresses as a prerequisite to access.”

8. RETAIL SALES/AUTHORITY TO ENGAGE IN COMMERCIAL ACTIVITIES

Attorney General Opinion No. 82-191: "A soil conservation district, established pursuant to K.S.A. 2-1901 et seq., may sell irrigation equipment for profit to land occupiers within the bounds of the district. Such commercial activity is not violative of either the constitutional prohibition regarding internal improvements or the public purpose doctrine."

COMMENT: It should be noted that irrigation equipment has been interpreted as agricultural equipment as set forth in K.S.A. 2-1908.

9. SECURITIES FOR DEPOSITS OF PUBLIC FUNDS

Attorney General Opinion No. 87-98: "Mutual funds may not be used as securities for the deposit of state and municipal funds."