

MINUTES OF THE HOUSE COMMITTEE ON ENVIRONMENT.

The meeting was called to order by Chairperson Joann Freeborn at 3:30 p.m. on January 24, 2002 in Room 231-N of the Capitol.

All members were present except: Representative Ted Powers - excused
Representative Clay Aurand - excused
Representative Daniel Thimesch - excused

Committee staff present: Emalene Correll, Kansas Legislative Research Department
Raney Gilliland, Kansas Legislative Research Department
Mary Torrence, Revisor of Statute's Office
Mary Ann Graham, Committee Secretary

Conferees appearing before the committee: Dr. Ronald Hammerschmidt, Director, Division of Environment, KDHE, 1000 SW Jackson, Ste 400, Topeka, KS 66612-1367
Karl Mueldener, Director, Bureau of Water, KDHE, 1000 SW Jackson, Ste 420, Topeka, KS 66612
Theresa Hodges, Environmental Field Services, KDHE, 1000 SW Jackson, Ste 430, Topeka, KS 66612

Others attending: See Attached Sheet

Chairperson Joann Freeborn called the meeting to order at 3:30 p.m. She opened the floor for bill introductions.

Janet Stubbs, Kansas Building Industry Association, requested a bill to clarify what happens to policies of groundwater management districts that have the force and effect of law but are not promulgated as regulations, as required under KSA 82a-1903. (See attachment 1)

Rep. Vaughn Flora made a motion the bill by KBIA be introduced. Rep. Becky Hutchins seconded the motion. Motion carried.

Janet Stubbs, Kansas Building Industry Association, requested a bill to define the terms "substantial adverse impact on the area" and "direct impairment." (See attachment 2)

Rep. Vaughn Flora made a motion the bill by KBIA be introduced. Rep. Dan Johnson seconded the motion. Motion carried.

Bill Sneed, Kansas Construction and Demolition Landfill Association, requested a bill concerning Solid and Hazardous Waste; relating to Construction and Demolition Landfills; amending KSA 65-3402 and repealing the existing sections. (See attachment 3)

Rep. Vaughn Flora made a motion the bill by the C&D Landfill Association be introduced. Rep. Bill Light seconded the motion. Motion carried.

The Chairperson welcomed Dr. Ronald Hammerschmidt, Director, Division of Environment, Kansas Department of Health and Environment, to the committee. He introduced Karl Mueldener, Director, Bureau of Water, KDHE. Mr. Mueldener reviewed the implementation of **Sub for SB 204** from the 2001 Legislative session.

Sub for SB204: Classified stream segments and designated uses of classified stream segments.

US Geological Survey includes: (a) **SB204** in Section 1 defines classified streams. One definition includes streams with a 10 year median flow equal to or in excess of 1 cfs based on US Geological Survey work. (b) A contract with the USGS was signed in July, 2001, and the work is underway. (c) The USGS work will identify stream segments flows based on; (1) actual measured flows and ; (2) where actual stream flow

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENVIRONMENT, Room 231-N of the Capitol
at 3:30 p.m. on January 24, 2002.

measurements are absent, flows will be extrapolated based on parameters such as drainage area, latitude, and topography of the basin.

Draft regulations are now being reviewed by the Attorney General and Department of Administration. Changes are intended to be minimal to existing regulations, i.e, limited to removing conflicts with **SB204** from the existing regulations. Anticipate public release this month, January 2002, and adoption possible by July, 2002. Triennial review is coincidentally scheduled for this year. Review of Water Quality Standards is required every 3 years by Federal law. Items for consideration include: changes in stream classification, particularly removing some dry streams from the register, conversion to e-coli criteria from the existing fecal criteria.

Stream segments actually inhabited by threatened and endangered aquatic species are defined as classified stream segments under **SB204**. The Kansas Department of Wildlife and Parks and the U S Fish and Wildlife Service have been requested to furnish information on streams where T&E aquatic species have been recorded. Both agencies have indicated some data will be provided in response to the request. (See attachment 4)

Chairperson Freeborn thanked Mr. Mueldener for his presentation and welcomed Theresa Hodges, Director, Bureau of Environmental Field Services, KDHE. Ms. Hodges briefed the committee on **SB204** concerning Designated Use Attainability Analysis. **SB204** set two milestones for KDHE related to use attainability analyses. (1) October 15, 2001 KDHE published a list identifying the streams for which: (a) recreational UAAs had been conducted. (b) recreational use has been determined not attainable. (c) recreational UAAs have not been completed. List published October 12, 2001. (2) December 1, 2001 KDHE to publish UAA protocols as guidance document; task completed November 30, 2001. Published on KDHE web site, <http://www.kdhe.state.ks.us/befs/index.html#resources>.

Other tasks include: (1) The 2001 Legislature allocated \$100,000 for contracting for the development of a protocol for the cost/benefit analysis required for classifying non-flowing streams that lack T&E species, NPDES discharges, but that do have remnant pools that serve as important ecological refugia. (2) KDHE has: (a) Solicited proposals from Kansas universities, but did not receive any proposals. (b) Expanded the solicitation to a national search, but did not receive any proposals. (c) Convened a meeting to discuss viable approaches for evaluation the net benefits of classifying streams that show pooling during periods of zero flow and serve as important ecological refugia.

Annual update of Kansas Surface Water Register. (1) Notice of intent to revise Register was published in *Kansas Register*, December 6, 2001. (2) Notification letters were also sent to BACs, KAC, League of Municipalities, Conservation Districts, SCC, KWO, KDA, KDWP and 58 other interested persons. Two written comments and one telephone comment were received. KDHE is moving forward to revise the Register and proceed with the regulatory process, which also includes a 60-day public comment period. (See attachment 4) A map was distributed, "Recreational Use Attainability Analyses Field Work 2001". (See attachment 5) Committee discussion and questions followed.

The Chairperson thanked the Kansas Department of Health and Environment for their review and the committee and guests for their attention.

The meeting adjourned at 4:25 p.m. The next meeting is scheduled for Tuesday, January 29, 2002.