

MINUTES OF THE HOUSE COMMITTEE ON ENVIRONMENT.

The meeting was called to order by Chairperson Joann Freeborn at 3:30 p.m. on April 6, 2000 in Room 231-N of the Capitol.

All members were present except:

- Rep. Clay Aurand - excused
- Rep. Henry Helgerson - excused
- Rep. Douglas Johnston - excused
- Rep. Bill Light - excused
- Rep. Dennis McKinney - excused
- Rep. Ray Merrick - excused
- Rep. Melvin Minor - excused
- Rep. Ted Powers - excused
- Rep. Tom Sloan - excused
- Rep. Tim Tedder - excused

Committee staff present:

- Raney Gilliland, Kansas Legislative Research Department
- Mary Torrence, Revisor of Statute's Office
- Mary Ann Graham, Committee Secretary

Conferees appearing before the committee:

- Secretary Clyde Graeber, Kansas Department Health and Environment, 400 SW 8<sup>th</sup>, Ste 200, Topeka, KS 66603
- Yvonne Anderson, Managing Attorney, Kansas Department Health and Environment, 400 SW 8<sup>th</sup>, Ste 203, Topeka, KS 66603

Others attending: See Attached Sheet

Chairperson David Corbin called the Joint Committee meeting with House Environment and Senate Energy and Natural Resources to order at 1:00 p.m. in room 313-S. He opened an informational hearing on **SB670** and announced that this was an informational meeting only. Written testimony only will be accepted with no verbal testimony other than guest speaker Secretary Clyde Graeber, Kansas Department of Health and Environment.

**SB670: An act concerning water pollution prevention.**

Chairperson Corbin welcomed Secretary Graeber to the committee. He presented information on **SB670** which amends K.S.A. 65-170e. The purpose of amending this statute is to bring the State of Kansas into full compliance with federal requirements to provide the public the opportunity for judicial review of approval or denial of National Pollutant Elimination System permits. On March 10, 2000 the Supreme Court of the State of Kansas issued its opinion in Case No. 82,962, Families Against Corporate Takeover v. Gary Mitchell and The Kansas Department of Health and Environment. In its opinion, the Court questioned the state's compliance with federal regulations which require the opportunity for judicial review of NPDES permit actions through citizen suits at the state level. Under 33 U.S.C. Section 1342 (c)(2) state permit programs must comply with federal requirements. **SB670** provides for citizen suits to challenge NPDES permits consistent with the requirements of Section 509 of the Clean Water Act and 40 C.F.R. Section 123.30. 40 C.F.R. 123.30 requires that a state with approval to administer an NPDES program not narrowly restrict the rights of any interested person to judicial review of the granting or denial of any NPDES permit. (See attachment 1) A "Notice of Citizen Suit Under Section 505 of the Clean Water Act," was also distributed. Pursuant to the citizen suit provisions of Section 505 of the Clean Water Act, the Kearny County Alliance, a Kansas not-for-profit corporation, gives notice of its intent to file suit against the United States Environmental Protection Agency (USEPA) and the Kansas Department of Health and Environment (KDHE). (See attachment 2) A copy of the Court case "Families against Corporate Takeover v. Gary Mitchell and The Kansas Department of Health and Environment," was distributed for review, (See attachment 3) along with a copy of 40

## CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENVIRONMENT, Room 231-N of the Capitol at 3:30 p.m. on April 6, 2000.

C.F.D. 123.30 “Judicial review of approval or denial of permits,” (See attachment 4) and a copy of 33 U.S.C. Section 1342 (c) (2) concerning Water Pollution Prevention. (See attachment 5). Questions and discussion followed. Yovonne Anderson, Chief Legal Council, Kansas Department of Health and Environment was in attendance to answer committee questions.

Written testimony only in opposition to the bill was submitted by Kansas Ready Mixed Concrete Association, (See attachment 6) and Kansas Aggregate Producers Association. (See attachment 7)

Written testimony was submitted by Kansas Farm Bureau with concerns and questions to the bill and are questioning if this legislation really is necessary. (See attachment 8)

Chairperson Corbin thanked Secretary Graeber for his presentation and closed the informational hearing on **SB670**.

The meeting adjourned at 1:50 p.m.