

MINUTES OF THE HOUSE COMMITTEE ON ENVIRONMENT

The meeting was called to order by Chairperson Joann Freeborn at 3:30 p.m. on January 31, 2002 in Room 231-N of the Capitol.

All members were present except: Representative Clay Aurand - excused
 Representative Becky Hutchins - excused
 Representative Bruce Larkins - excused
 Representative Ray Merrick - excused
 Representative Jeff Peterson - excused
 Representative Ted Powers - excused
 Representative Daniel Thimesch - excused
 Representative Jonathan Wells - excused

Committee staff present: Mary Torrence, Revisor of Statute's Office
 Mary Ann Graham, Committee Secretary

Conferees appearing before the committee: Gary Blackburn, Director, Bureau of Environmental Remediation, KDHE, 1000 SW Jackson, Ste. 410, Topeka, KS 66612
 Rick Bean, Chief, Remedial Section, Bureau of Environmental Remediation, KDHE, 1000 SW Jackson, Ste. 410, Topeka, KS 66612
 Al LeDoux, Director, Kansas Water Office, 901 SW Kansas Ave., Topeka, KS 66612-1249
 Clark Duffy, Assistant Director, Kansas Water Office, 901 SW Kansas Ave., Topeka, KS 66612-1249
 Tom Bogner, Chair Ogallala Mngt. Advisory Committee, 10055 Eagle Rd., Dodge City, KS 67801
 Representative Tom Sloan
 Alvin Fishburn, Rural Water District #5, Douglas County, 295 E. 550 Road, Overbrook, KS 66524
 Dave Yearout, KS Association of County Planning & Zoning Officials, 6206 SW 9th Terrace, Topeka, KS 66615
 Gary Hanson, 2887 SW MacVicar Ave., Topeka, KS 66611
 Kim Gulley, League of Kansas Municipalities, 300 SW 8th Avenue, Topeka, KS 66603-3912

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 and asked if anyone wished to request a bill.

Gary Blackburn, Kansas Department of Health and Environment, requested a bill regarding Environmental Use Controls; prohibition or restriction of activities on or use of property where contamination has occurred. (See attachments 1 & 2)

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

Chairperson Freeborn welcomed Rick Bean, KS Department Health and Environment, to the committee. Mr. Bean reviewed the Voluntary Cleanup and Property Redevelopment Program (VCPRP). The VCPRP was enacted by the Kansas Legislature on July 1, 1997. The purpose of the Act is to allow voluntary cleanups of contaminated properties with oversight by the Kansas Department of Health and Environment (Department) to promote the transfer, redevelopment and reuse of contaminated properties and protect public health and the environment. The Department shall publish annually in the Kansas Register a summary of the number of applicants, the general categories of those applicants and the number of cleanups completed pursuant to this act. This annual report describes the activities accomplished by the Department in the VCPRP for the period of December 31, 2000 to December 31, 2001. The previous annual reports to the legislature contained descriptions of VCPRP activities that reflected significant program building and implementation. VCPRP Program activities conducted during 2001 continued to involve program building and implementation while

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increased attention was provided to VCPRP program refinement. In September 2001, the program released the second version of the Risk-based Standards for Kansas (RSK) manual which provides a risk based approach to voluntary cleanups across Kansas. The RSK manual allows voluntary parties to take a tiered, risk based approach to address contamination at their properties. The approaches and contaminant concentrations described in the RSK manual follow the regulations as developed by the regulation committee which consisted of twelve major stakeholders. Program refinement will be an on-going objective for the VCPRP during the upcoming year. As of December 31, 2001, the Department has received a total of 227 completed application packages of which 219 properties have been determined eligible to participate in the program. A total of 206 voluntary agreements have been signed. Voluntary Cleanup Investigations have been initiated or completed at 156 properties. Currently, 39 properties have entered the cleanup phase in either the preliminary cleanup proposal process, cleanup planning stage, or in the active cleanup phase; cleanups have now been completed at 11 properties. To date, the Department has issued 39 No Further Action Determination letters. Although the Voluntary Cleanup and Property Redevelopment Program is only four years old, the program has become a preferred option for owners of contaminated property to appropriately address their environmental concerns. A significant development was achieved during last year in the VCPRP program. On March 2, 2001, a Memorandum of Agreement (MOA) was signed between the United States Environmental Protection Agency (USEPA) and the department acknowledging the adequacy of Kansas' VCPRP program. The MOA includes assurances to participating parties that there will be no federal involvement at properties properly addressed in the VCPRP program. This assurance provides participating parties a finality that their property has been addressed and does not present a risk to public health or the environment. (See attachment 3) An Annual Program Report for the Voluntary Cleanup and Property Redevelopment Program was distributed. (See attachment 4) Discussion followed.

Chairperson Freeborn congratulated the Department for getting approval from the United States Environmental Protection Agency acknowledging the adequacy of Kansas' Voluntary Cleanup and Property Redevelopment Program and for having a very good and understandable report.

The Chairperson thanked Mr. Bean for the briefing and welcomed Al LeDoux, Director, Kansas Water Office. The Kansas Water Office gave an update to the committee on State Water Plan Issues; Ogallala Management and Total Maximum Daily Loads. (See attachment 5 & 6) Mr. LeDoux addressed the committee and believes the top issues that the Kansas Water Authority and Kansas Water Office are addressing are those of quantity, with the Ogallala-High Plains Aquifer, and quality, as total maximum daily loads are established and must be met in our surface waters. There has been an awareness for a number of years that the water resources of the High Plains Aquifer are not unlimited. It has been heavily developed, there are over 18,400 wells in the Ogallala aquifer alone and that level of use cannot be supported indefinitely. **House Substitute for SB287** generated new discussion on how to manage that water resource far into the future to continue to meet the water needs of western Kansas. This is one of the largest water resource challenges we are facing. One idea that developed out of the studies for the **SB287** reports was the "two pools" management approach. This concept was presented to this committee about one year ago and at over 50 meetings, most of them in western Kansas. The Kansas Water Authority wanted to hear what people thought of this approach, and while the idea generated a lot of discussion, there were mixed reactions. The Kansas Water Authority decided to get advice from those most directly involved and impacted, western Kansans. The Director of the Kansas Water Authority appointed both advisory committees, and worked to get a geographic diversity and variety of backgrounds on the two committees. The water planning process allows for the input of all Kansans on the use and management of our water resources. Basin advisory committee, conservation districts, groundwater management districts, the general public, state agencies all have several opportunities to review and comment on the draft plan, before the Authority finalizes it in July. The Ogallala Aquifer Management Advisory Committee's report has five primary recommendations, 17 guiding principles, and a number of specific programmatic, technical and time frame recommendations in appendix A & B. (See pages 1 thru 7, attachment 5) Discussion followed.

Tom Bogner, Chairman, Ogallala Management Advisory Committee, was welcomed. He discussed the Ogallala Management Report Recommendations; (1) Delineate Ogallala aquifer into aquifer subunits. (2) Within each aquifer subunit in decline or suspected decline, define a water use goal. (3) Assign a priority of high, medium or low to each aquifer subunit. (4) Support and expand programs to extend and conserve the life of the Ogallala aquifer. (5) Research and education on the Ogallala aquifer. The three western Groundwater Management Districts are to be the lead on defining these aquifer subunits, water use goals and priorities for their areas. The Division of Water Resources are to define them for areas of the Ogallala aquifer outside of the districts and Kansas Water Office, Division of Water Resources, Kansas Geological Survey and

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Kansas State University are to cooperate and assist. If approved the next steps are; No new legislation planned; Groundwater management Districts #1, 3, and 4 submit protocols and time schedules by November 2002 for the FY 2005 Kansas Water Plan, and; Target state program resources to high priority aquifer subunits to achieve water use goals. (See pages 8 thru 10, attachment 5) Discussion followed

Clark Duffy, Assistant Director, Kansas Water Office, was welcomed. Mr. Duffy briefed the committee on the Status of Federal Action on Conservation of the Ogallala Aquifer. Issues considered in the Federal Farm Bill; (1) Conservation Reserve Program Enhancement; (2) Ground Water Conservation Cost Share; (3) Federal Block Grants to States; and (4) Commodity Incentive Program. Issues Corrdinated through Western States Water Council; (1) High Plains Aquifer Coordination Council; (2) Modeling, Monitoring & Mapping; (3) Research; (4) Education; (5) Federal Assistance for Economic Stability. He reviewed the Status of Total Maximum Daily Loads as of January 2002 and the Kansas Water Plan of TMDLs; State Water Plan Funds dedicated for FY 2002 almost 2.6 million dollars. This does not represent total investment which includes local, federal and other State resources. (See pages 11, 13, and 14, attachment 5) Discussion followed.

The Chairperson thanked the Kansas Water Office staff for their briefing and opened the hearing on **HB2607**.

HB2607: Rural water districts mail ballot elections.

Representative Tom Sloan was recognized. He addressed the committee in support of the bill, which he sponsored. He believes Rural Water Districts are quasi-governmental units developed by the citizens who desire safe drinking water, approved by the appropriate county commissions, and regulated by the Department of Health and Environment. They do not have taxing authority, but rely on the sale of water and other services for operating funds. Under current law, members of a Rural Water District's Board of Directors are elected at their annual meeting and generally serve without pay. This is a simple bill that will permit, but not require, Rural Water Districts to conduct their annual director elections by mail ballot. The expectation is that additional persons will participate and that the resulting boards will be more representative of their patrons. (See attachment 7)

Alvin Fishburn, Rural Water District #5, Douglas County, was welcomed. He testified in support of the bill on behalf Water District #5, which supplies water service to 885 patrons in an area lying south and southwest of the City of Lawrence. Historically there is low patron turn out at annual meetings of water districts and quite often the only attendees are standing board members. The potential process would be to send the notice of annual meetings to patrons of the district and include a biography of candidates nominated by a nominating committee. Included with the letter would be a ballot listing candidates and a benefit unit holder verification card that would require patron signatures and sates. Ballots would be returned to the District office or carried to the annual meeting. These would be counted by nominating committee members at the annual meeting. (See attachment 8)

Clark Duffy, Kansas Water Office, was welcomed. He supports the bill on behalf the Kansas Water Office and believes one of the fundamental principles of the State Water Resources Planning Act is recognition of the importance of public participation in addressing water issues. Mail ballot elections have proven effective in increasing citizens' participation in other subdivisions of government. (See attachment 9)

Written only testimony was submitted by Elmer Ronnebaum, General Manager, Kansas Rural Water Association, in support of the bill. This bill would provide that rural water districts in Kansas could, if they so chose, to hold elections of directors by mail ballot. (See attachment 10) Discussion followed.

Chairperson Freeborn closed the hearing on **HB2607** and opened the hearing on **HB2624**.

HB2624: Rural water districts and public wholesale water supply districts; wastewater treatment works, facilities and services.

The Chairperson recognized Representative Tom Sloan. He addressed the committee in support of the bill, which he sponsored. This bill would include rural water districts on the list of public/quasi-public agencies authorized to operate and maintain public wastewater (sanitation sewer) systems. He distributed a letter which he received from John E. Taylor, Chairman, Board of County Commissioners, Franklin County, the County Commissioners have reviewed the bill and applaud the efforts by Rep. Sloan. However, request that the bill be amended to permit Rural Water Districts to contract with the governing body (County Commissioners or

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City Council) only for the operation and maintenance of wastewater systems within their respective districts. (See attachment 11)

David Yearout, Kansas Association of County Planning and Zoning Officials, was welcomed to the committee. He testified in support of the bill with three recommended changes which he believes was the original "intent" of this change to state law. He believes the bill, as drafted, appears to empower Rural Water Districts with the ability to initiate the establishment of sanitary sewer services within or without the established service territory of that District. It also would enable Rural Water Districts to "contract" for the operation and maintenance of sanitary sewer services. The idea has some merit, but the approach presented within the bill is not the answer to deal with the problems facing counties. (See attachment 12)

Clark Duffy, Kansas Water Office, was welcomed back to the committee. The KWO supports the intent of the bill while recognizing that the concepts proposed in this legislation need additional thought, further refinement and study. This bill is one approach to address the problem with the continued proliferation of onsite septic systems in suburban areas. The importance of addressing the problem of failing onsite systems has been heightened by the need to address high priority TMDLs in many of these same suburban areas. The concepts in the bill would provide a creative method to address this problem. However, care should be taken to ensure that this is a coordinated approach that will be supported by the Kansas Department of Health and Environment and local units of government. (See attachment 13)

Gary H. Hanson, Counsel to the Kansas Rural Water Association, was welcomed to the committee. He testified in support of the bill because it would allow Rural Water Districts and Public Wholesale Water Districts to contract to operate wastewater systems. The bill as introduced would allow PWWSDs to also acquire and then own and hold wastewater facilities. He suggests that the bill be amended to delete these provisions. After committee discussion it was suggested that lines 15 to 19, of the bill, be deleted. (See attachment 14)

The Chairperson welcomed Kim Gulley, Director of Policy Development, League of Kansas Municipalities. She testified in opposition to the bill and believes this bill would serve to undermine subdivision and zoning regulations imposed by cities. Many such regulations include requirements concerning water and wastewater treatment. Authorizing a housing subdivision, for example, to establish its own system just outside of the city limits would serve to undermine the planning rules and the growth of the existing system. And, should that area ever be annexed, there would be no way to insure that the new system would be of the same quality as the existing city system. (See attachment 15) Committee discussion followed.

Chairperson Freeborn thanked guests for their participation and the committee for their attention. She reviewed next week's committee agenda.

The meeting adjourned at 5:15 p.m. The next meeting is scheduled for Tuesday, February 5, 2002.