

Approved February 22, 1988
Date

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES

The meeting was called to order by Representative Dennis Spaniol at
Chairperson

3:30 ~~xxx~~ p.m. on February 16, 19 88n room 526-S of the Capitol.

All members were present except:
Representative Holmes (excused) Representative Sallee (excused)
Representative Freeman (excused) Representative Sifers (excused)
Representative Roe (excused) Representative Lacey (excused)
Representative Sughrue (excused)
Committee staff present: Representative Webb (excused)

Laura Howard, Legislative Research
Theresa Kiernan, Revisor of Statutes' Office
Betty Ellison, Committee Secretary

Conferees appearing before the committee:

Representative Jack Beauchamp

Chairman Dennis Spaniol called the meeting to order. There were no objections to the minutes of February 8 and they were approved. The minutes of February 9, 10 and 11 were distributed.

Representative Beauchamp was recognized for the purpose of introducing a bill relative to the state water plan. Two documents were distributed--an outline of the requests he had made (Attachment 1) and a draft of the bill. (Attachment 2) Representative Patrick, seconded by Representative Mollenkamp, moved that this be introduced as a committee bill. The motion carried.

Laura Howard of the research staff gave a briefing on the Mississippi legislation which was mentioned in testimony regarding non-point sources of contamination given by Chris Wilson of Kansas Fertilizer and Chemical Association and Kansas Grain and Feed Association on February 10. Staff reviewed the legislation section by section, noting that several sections were similar to Kansas law. (Attachment 3)

This concluded committee briefings on non-point sources of contamination. Representative Patrick requested a copy of the Iowa bill which was discussed in staff's overview on February 9.

Representative Grotewiel commented that the bill draft relative to franchise fees which he had requested from staff had been completed. A motion was made by Representative Grotewiel, seconded by Representative Charlton, to introduce this as a committee bill. The motion passed.

There being no further business, the meeting was adjourned at 3:50 p.m.

The next meeting of the House Committee on Energy and Natural Resources will be held at 3:30 p.m. on February 18 in Room 526-S.

STATE OF KANSAS

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TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS

MEMBER: AGRICULTURE AND SMALL BUSINESS
INSURANCE
LOCAL GOVERNMENT

February 16, 1988

I would like to see current figures on returns to investment in various water-related contributions, usages, developments, as relates to agriculture, parks, wildlife resources, industry, recreation, etc.

Also, costs of present water crisis situations - contamination loss of water on an annual basis. Costs of health related problems in contaminated areas. Losses of income capability in contaminated areas.

Cost of water per capita down to daily average Kansan cost as compared to other states per capita consumption.

Representative Jack Beauchamp

Please deliver to
Rep. Beauchamp
7 RS 2483

PROPOSED HOUSE BILL NO. _____

By Committee on Energy and Natural Resources

AN ACT concerning water; relating to the state water plan; amending K.S.A. 1987 Supp. 82a-903 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 1987 Supp. 82a-903 is hereby amended to read as follows: 82a-903. In accordance with the policies and long-range goals and objectives established by the legislature, the office shall formulate on a continuing basis a comprehensive state water plan for the management, conservation and development of the water resources of the state. Such state water plan shall include sections corresponding with water planning areas as determined by the office. The Kansas water office and the Kansas water authority shall seek advice from the general public and from committees consisting of individuals with knowledge of and interest in water issues in the water planning areas. The plan shall set forth the recommendations of the office for the management, conservation and development of the water resources of the state, including the general location, character, and extent of such existing and proposed projects, programs, and facilities as are necessary or desirable in the judgment of the office to accomplish such policies, goals and objectives. The plan shall specify standards for operation and management of such projects, programs, and facilities as are necessary or desirable. The plan shall be formulated and used for the general purpose of accomplishing the coordinated management, conservation and development of the water resources of the state. When developing such plan, the Kansas water office shall prepare a cost-benefit analysis of all aspects of the plan. The division of water resources of the state board of agriculture, state geological

survey, the division of environment of the department of health and environment, state park and resources authority, fish and game commission, state conservation commission and all other interested state agencies shall cooperate with the office in formulation of such plan.

Sec. 2. K.S.A. 1987 Supp. 82a-903 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

By: Senator Mohamed

To: Conservation

SENATE BILL NO. 2778
(As Passed the Senate)

1. AN ACT TO AMEND SECTIONS 49-17-5 AND 49-17-19, MISSISSIPPI
2. CODE OF 1972, TO PROVIDE THAT THE DEPARTMENT OF NATURAL RESOURCES
3. SHALL ESTABLISH STANDARDS FOR GROUNDWATER QUALITY AND MONITOR
4. GROUNDWATER SUPPLIES; TO AMEND SECTIONS 69-23-7 AND 75-47-7,
5. MISSISSIPPI CODE OF 1972, TO IMPOSE A FEE FOR THE REGISTRATION OF
6. PESTICIDES AND FERTILIZERS TO DEFRAY THE EXPENSES OF THE
7. GROUNDWATER MONITORING AND POLLUTION MITIGATION PROGRAM; TO AMEND
8. SECTION 75-47-11, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO;
9. TO AMEND SECTIONS 51-3-5, 51-3-7 AND 51-3-15, MISSISSIPPI CODE OF
10. 1972, TO REGULATE THE WITHDRAWAL OF WELL WATER BY CERTAIN PERSONS
11. DEVELOPING REAL PROPERTY FOR USE IN MAINTAINING OR ENHANCING AN
12. IMPOUNDMENT OF SURFACE WATER FOR PURELY AESTHETIC PURPOSES; AND
13. FOR RELATED PURPOSES.

14. BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

15. SECTION 1. Section 49-17-5, Mississippi Code of 1972, is
16. amended as follows:

17. 49-17-5. For the purposes of Sections 49-17-1 through
18. 49-17-43, the following words and phrases shall have the meanings
19. ascribed to them in this section:

20. (1) Water.

21. (a) "Pollution" means such contamination, or other
22. alteration of the physical, chemical or biological properties, of
23. any waters of the state, including change in temperature, taste,
24. color, turbidity or odor of the waters, or such discharge of any
25. liquid, gaseous, solid, radioactive, or other substance or leak
26. into any waters of the state unless in compliance with a valid
27. permit issued therefor by the permit board.

28. (b) "Wastes" means sewage, industrial wastes, oil field
29. wastes, and all other liquid, gaseous, solid, radioactive or other
30. substances which may pollute or tend to pollute any waters of the
31. state.

32. (c) "Sewerage system" means pipelines or conduits,
33. pumping stations, and force mains, and other structures, devices,
34. appurtenances and facilities used for collecting or conducting
35. wastes to an ultimate point for treatment or disposal.

36. (d) "Treatment works" means any plant or other works,
37. used for the purpose of treating, stabilizing or holding wastes.

38. (e) "Disposal system" means a system for disposing of
39. wastes, either by surface or underground methods, and includes
40. sewerage systems, treatment works, disposal wells and other
41. systems.

42. (f) "Waters of the state" means all waters within the
43. jurisdiction of this state, including all streams, lakes, ponds,
44. impounding reservoirs, marshes, watercourses, waterways, wells,
45. springs, irrigation systems, drainage systems, and all other
46. bodies or accumulations of water, surface and underground, natural
47. or artificial, situated wholly or partly within or bordering upon
48. the state, and such coastal waters as are within the jurisdiction
49. of the state, except lakes, ponds, or other surface waters which
50. are wholly landlocked and privately owned, and which are not
51. regulated under the Federal Clean Water Act (33 U.S.C. 1251 et
52. seq.).

53. (g) "Underground water" means an underground source
54. of drinking water as defined within the regulations of the Federal
55. Safe Drinking Water Act.

56. (2) Air.

57. (a) "Air contaminant" means particulate matter, dust,
58. fumes, gas, mist, smoke or vapor, or any combination thereof,
59. produced by processes other than natural.

60. (b) "Air pollution" means the presence in the outdoor
61. atmosphere of one or more air contaminants in quantities, of
62. characteristic, and of a duration which are materially injurious
63. or can be reasonably expected to become materially injurious to

64. human, plant or animal life or to property, or which unreasonably
65. interfere with enjoyment of life or use of property throughout the
66. state or throughout such area of the state as shall be affected
67. thereby.

68. (c) "Air contamination" means the presence in the
69. outdoor atmosphere of one or more air contaminants which
70. contribute to a condition of air pollution.

71. (d) "Air contamination source" means any source at,
72. from, or by reason of which there is emitted into the atmosphere
73. any air contaminant, regardless of who the person may be who owns
74. or operates the building, premises or other property in, at, or on
75. which such source is located, or the facility, equipment or other
76. property by which the emission is caused or from which the
77. emission comes.

78. (e) "Air-cleaning device" means any method, process or
79. equipment, the primary function of which is to remove, reduce or
80. render less noxious air contaminants discharged into the
81. atmosphere.

82. (f) "Area of the state" means any city or county or
83. portion thereof, or other substantial geographical area of the
84. state as may be designated by the Mississippi Air and Water
85. Pollution Control Commission.

86. (g) "Federal Clean Air Act" means the Federal Clean Air
87. Act, 42 U.S.C. 7401 et seq., as amended.

88. (3) General.

89. (a) "Commission" means the Mississippi Commission on
90. Natural Resources acting through the Bureau of Pollution Control
91. of the Department of Natural Resources.

92. (b) "Person" means the state or other agency or
93. institution thereof, any municipality, political subdivision,
94. public or private corporation, individual, partnership,
95. association or other entity, and includes any officer or governing

96. or managing body of any municipality, political subdivision, or
97. public or private corporation, or the United States or any officer
98. or employee thereof.

99. SECTION 2. Section 49-17-19, Mississippi Code of 1972, is
100. amended as follows:

101. 49-17-19. (a) In order to carry out the purposes of
102. Sections 49-17-1 through 49-17-43, the commission may set ambient
103. standards of air and water quality for the state or portions
104. thereof. Such ambient standards of quality shall be such as to
105. protect the public health and welfare and the present and
106. prospective future use of such air and of such waters for public
107. water supplies, propagation of fish and aquatic life and wildlife,
108. recreational purposes, and agricultural, industrial and other
109. legitimate uses. Such ambient standards may be amended from time
110. to time as determined to be necessary by the commission. In order
111. to carry out the purposes of Sections 49-17-1 through 49-17-43,
112. the commission may also set emission standards for the purpose of
113. controlling air contamination, air pollution and the sources
114. thereof. In establishing ambient air quality standards for odor,
115. the commission shall adopt recognized objective standards if they
116. exist. In the absence of a recognized objective ambient air
117. quality standard for odor, the commission may adopt such
118. subjective standards as may be appropriate.

119. In establishing such standards for underground water, the
120. commission shall adopt federal standards if they exist. If no
121. federal standard exists, the commission shall petition the U.S.
122. Environmental Protection Agency to establish a federal standard
123. for the substance of interest. If the commission determines that
124. a federal standard cannot be obtained within thirty (30) days, it
125. shall consult with the U.S. Environmental Protection Agency's
126. Office of Drinking Water and Office of Pesticide Programs
127. regarding the agency's conclusion relative to available

128. toxicological information on the substance of interest and on the
129. methodology used for establishing a federal standard. The
130. commission shall utilize this information and methodology to
131. establish a standard. The commission may also consult with and
132. request similar information from other sources.

133. (b) Prior to establishing, amending or repealing
134. standards of air and water quality, the commission shall, after
135. due notice, conduct public hearings thereon. Notice of public
136. hearing shall specify the areas or waters for which standards are
137. sought to be adopted, amended or repealed and the time, date and
138. place of such hearing. Such notice shall be given by publication
139. once a week for three (3) successive weeks in a newspaper
140. published in Hinds County and in a newspaper published or having a
141. general circulation in each county in the area affected or in
142. which the waters to be affected may be situated, and by mailing
143. notice to all county and municipal officials in the counties and
144. municipalities affected, as well as to all persons and agencies
145. who have had their names placed on the mailing list of the
146. commission.

147. (c) When standards of air or water quality have been
148. adopted as provided herein, the commission shall give notice
149. thereof in the same manner as provided in subsection (b) of this
150. section, and may further give notice thereof by certified mail to
151. all persons holding permits who may be affected thereby. Upon the
152. adoption of such standards of air or water quality, all persons
153. affected thereby shall thereupon comply therewith. However, where
154. necessary and proper, the commission may specify a reasonable time
155. for persons discharging wastes into the waters of the state to
156. comply with such standards.

157. SECTION 3. The following shall be codified as Section
158. 49-17-26, Mississippi Code of 1972:

159. 49-17-26. If the commission determines, after adequate
160. scientific investigation and evaluation, that a chemical as
161. defined in Sections 69-23-3 and 75-47-5(a) in the underground
162. water exceeds or is likely to exceed duly adopted state standards
163. and that the source of the chemical is not within the regulatory
164. jurisdiction of the commission, the commission shall notify the
165. Department of Agriculture and Commerce, which shall proceed in
166. accordance with Section 69-23-7 and other existing laws.

167. SECTION 4. Section 69-23-7, Mississippi Code of 1972, is
168. amended as follows:

169. 69-23-7. (1) Every pesticide which is distributed, sold or
170. offered for sale within this state or delivered for transportation
171. or transported in intrastate commerce or between points within
172. this state through any point outside this state shall be
173. registered in the office of the commissioner, and such
174. registration shall be renewed annually; provided, that products
175. which have the same formula, are manufactured by the same person,
176. the labeling of which contains the same claims and the labels of
177. which bear a designation identifying the products as the same
178. pesticide may be registered as a single pesticide; and additional
179. names and labels shall be added by supplement statements during
180. the current period of registration. The registrant shall file
181. with the commissioner a statement including:

182. (a) The name and address of the registrant and the name
183. and address of the person whose name will appear on the label if
184. other than the registrant;

185. (b) The name of the pesticide;

186. (c) A complete copy of the labeling accompanying the
187. pesticide and a statement of all claims to be made for it,
188. including directions for use and the use classification as
189. provided for in FIFRA;

190. (d) If requested by the commissioner, a full
191. description of the tests made and the results thereof upon which
192. the claims are based. In the case of renewal of registration, a
193. statement shall be required only with respect to information which
194. is different from that furnished when the pesticide was registered
195. or last reregistered; and

196. (e) Any other information required by the commissioner
197. which may be prescribed by regulation.

198. (2) The registrant shall pay an annual fee of Fifty
199. Dollars (\$50.00) for each brand or grade of pesticide
200. registered. Fees collected under authority of this section
201. shall be deposited in a special fund in the Treasury of the State
202. of Mississippi; and subject to appropriation by the Mississippi
203. Legislature, said fees shall be used by the Division of Plant
204. Industry, Mississippi Department of Agriculture and Commerce, for
205. enforcement of this chapter, and by the Mississippi Department of
206. Natural Resources to carry out a program of protecting the
207. underground water resources from pesticides.

208. (3) The commissioner, whenever he deems it necessary in the
209. administration of this chapter, may require the submission of the
210. complete formula of any pesticide. If it appears to the
211. commissioner that the composition of the articles is such as to
212. warrant the proposed claims for it, and if the article and its
213. labeling and other material required to be submitted comply with
214. the requirements of Section 69-23-5, he shall register the
215. article; provided, that the article is registered under FIFRA. If
216. the state is certified by the administrator of EPA to register
217. pesticides pursuant to Section 24(c) of FIFRA, he may register the
218. article to meet special local needs if he determines that the
219. registration will not be in violation of FIFRA.

220. (4) If it does not appear to the commissioner that the
221. article is such as to warrant the proposed claims for it or if the

222. article and its labeling and other material required to be
223. submitted do not comply with the provisions of this chapter, he
224. shall notify the applicant of the manner in which the article,
225. labeling or other material required to be submitted fail to comply
226. with the chapter so as to afford him an opportunity to make the
227. necessary corrections. If, upon receipt of such notice, the
228. applicant does not make the required changes, the commissioner may
229. refuse to register the article and the applicant may request a
230. hearing. In order to protect the public, the commissioner, with
231. approval of the advisory board provided for in Section 69-25-3,
232. may, at any time, cancel or suspend the registration of a
233. pesticide if he determines that it does not comply with this
234. chapter or creates an imminent hazard; or, pursuant to a notice
235. from the Commission on Natural Resources under Section 49-17-26 in
236. relation to state underground water quality standards, he shall
237. provide for modification of the labeling of any pesticide, or
238. suspend or cancel the registration of any pesticide or any use of
239. any pesticide, or adopt a regulation in accordance with Section
240. 69-23-9 to protect the underground water resources, as defined in
241. the Federal Safe Drinking Water Act, in the shortest reasonable
242. time. He may advise EPA of the manner in which a federally
243. registered pesticide fails to comply with FIFRA and suggest the
244. necessary corrections.

245. (5) Notwithstanding any other provision of this chapter,
246. registration is not required in case of a pesticide shipped from
247. one plant within this state to another plant within this state
248. operated by the same person.

249. SECTION 5. Section 75-47-7, Mississippi Code of 1972, is
250. amended as follows:

251. 75-47-7. (1) Each brand and grade of commercial fertilizer
252. shall be registered before being distributed in this state. The
253. application for registration shall be submitted to the

254. commissioner on forms furnished by the commissioner, and shall be
255. accompanied by a fee of Ten Dollars (\$10.00) per brand and
256. grade, except that those fertilizers sold in packages of ten (10)
257. pounds or less shall be registered at a fee of Fifty Dollars
258. (\$50.00) each. One-half (1/2) of the fees collected for the
259. registration of fertilizer products or Five Dollars (\$5.00) per
260. brand and grade and Twenty-five Dollars (\$25.00) for those
261. fertilizers sold in packages of ten (10) pounds or less shall be
262. deposited in a special fund in the State Treasury described under
263. Section 69-23-7(2), and such funds shall be subject to
264. appropriation by the Mississippi Legislature. Such fees shall be
265. used by the Division of Plant Industry, Mississippi Department of
266. Agriculture and Commerce and the Mississippi Department of Natural
267. Resources to carry out a program of protecting the underground
268. water resources from commercial fertilizers or fertilizer
269. materials. Upon approval by the commissioner and State Chemist
270. a copy of the registration shall be furnished to the applicant.
271. All registrations expire on June 30 of the following year. The
272. application shall include the following information:

- 273. (a) The net weight.
- 274. (b) The brand and grade.
- 275. (c) The guaranteed analysis.
- 276. (d) The name and address of the registrant.

277. (2) A distributor shall not be required to register any
278. commercial fertilizer which is already registered under this
279. chapter by another person, providing the label does not differ in
280. any respect.

281. (3) A distributor shall not be required to register each
282. grade of commercial fertilizer formulated according to
283. specifications which are furnished by a consumer prior to mixing,
284. but shall be required to register his firm in a manner and at a
285. fee as prescribed in the regulations by the commissioner and State

286. Chemist, and to label such fertilizer as provided in Section
287. 75-47-9(b). All fees collected by the commissioner shall be paid
288. into the State Treasury.

289. (4) After a public hearing open to all interested parties,
290. the commissioner, State Chemist, and Director of Mississippi
291. Agricultural and Forestry Experimental Station shall have
292. authority to establish minimum amounts of plant nutrients which
293. may be guaranteed and to promulgate ratios and minimum analysis
294. grades of mixed fertilizers adequate to meet the agricultural
295. needs of the state. Such a list shall be published and furnished
296. to fertilizer manufacturers and guarantors on or before June 1 of
297. each year.

298. (5) Pursuant to a notice from the Commission on Natural
299. Resources under Section 49-17-26 in relation to state underground
300. water quality standards, the Commissioner of Agriculture shall
301. provide for modification of the labeling of any fertilizer, or
302. suspend or cancel the registration of any fertilizer or any use of
303. any fertilizer, or adopt a regulation in accordance with Section
304. 69-23-9 to protect the underground water resources, as defined in
305. the Federal Safe Drinking Water Act, in the shortest reasonable
306. time.

307. SECTION 6. Section 75-47-11, Mississippi Code of 1972, is
308. amended as follows:

309. 75-47-11. (1) There shall be paid to the commissioner for
310. all commercial fertilizers distributed in this state an inspection
311. fee at the rate of Twenty-five Cents (25¢) per ton, provided that
312. sales to manufacturers or exchanges between them are hereby
313. exempted. Fees so collected shall be used for the payment of the
314. costs, by act of the Legislature, of inspection, sampling and
315. analysis, and other expenses necessary for the administration of
316. this chapter. On individual packages of commercial fertilizer
317. containing ten (10) pounds or less, there shall be paid in lieu of

318. the annual registration fee of Ten Dollars (\$10.00) per brand
319. and grade and the Twenty-five Cent (25¢) per ton inspection fee,
320. an annual registration fee and inspection fee of Fifty Dollars
321. (\$50.00) for each brand and grade sold or distributed. Where a
322. person sells commercial fertilizer in packages of ten (10) pounds
323. or less and in packages over ten (10) pounds, this annual
324. registration and inspection fee of Fifty Dollars (\$50.00)
325. shall apply only to that portion sold in packages of ten (10)
326. pounds or less, and that portion sold in packages over ten (10)
327. pounds shall be subject to the same inspection fee of Twenty-five
328. Cents (25¢) per ton as provided in this chapter.

329. (2) Every person who distributes a commercial fertilizer in
330. this state shall file with the commissioner, on forms furnished by
331. the commissioner, a quarterly statement for the periods ending
332. September 30, December 31, March 31 and June 30, setting forth the
333. number of net tons of each commercial fertilizer distributed in
334. this state during such quarter. The report shall be due on or
335. before the thirtieth day of the month following the close of each
336. quarter. Upon such statement the registrant shall pay the
337. inspection fee at the rate stated in paragraph (1) of this
338. section.

339. If the tonnage report is not filed and the payment of
340. inspection fee is not made within thirty (30) days after the end
341. of the quarter, a collection fee amounting to ten percent (10%) of
342. the amount, but in no case less than Ten Dollars (\$10.00), shall
343. be assessed against the registrant, and the amount of fees due
344. shall constitute a debt and become the basis of a judgment against
345. the registrant.

346. (3) When more than one (1) person is involved in the
347. distribution of a commercial fertilizer, the last person who has
348. the fertilizer registered and who distributes to a nonregistrant,
349. dealer or consumer, is responsible for reporting the tonnage and

350. paying the inspection fee, unless the report and payment is made
351. by a prior distributor of a fertilizer.

352. SECTION 7. Nothing in this act shall affect or defeat any
353. claim, assessment, appeal, suit, right or cause of action for fees
354. or charges due or accrued under the Mississippi Economic Poison
355. Law of 1950 or the Mississippi Fertilizer Law of 1970 prior to the
356. date on which this act becomes effective, whether such
357. assessments, appeals, suits, claims or actions shall have been
358. begun before the date on which this act becomes effective or shall
359. thereafter be begun; and the provisions of such laws are expressly
360. continued in full force, effect and operation for the purpose of
361. the assessment and collection fees due or accrued and execution of
362. any warrant under such laws prior to the date on which this act
363. becomes effective, and for the imposition of any penalties,
364. forfeitures or claims for failure to comply therewith.

365. SECTION 8. Section 51-3-5, Mississippi Code of 1972, is
366. amended as follows:

367. 51-3-5. (1) No person who is not specifically exempted by
368. this chapter shall use water without having first obtained a
369. permit as provided herein and without having otherwise complied
370. with the provisions of this chapter, the regulations promulgated
371. hereunder and any applicable permit conditions.

372. (2) All persons having acquired a right to use surface water
373. prior to April 1, 1985, are entitled to continue such use,
374. provided that such right shall be contingent upon filing a notice
375. of claim to such use with the commission on a form promulgated by
376. the commission. Any person who shall fail to file said notice
377. within three (3) years of April 1, 1985, shall be deemed to have
378. abandoned such use and the right to such use shall automatically
379. terminate without further action of the board.

380. (3) Any person using groundwater prior to April 1, 1985, for
381. a beneficial use shall be entitled to continue such use upon the

382. filing with the commission of a notice of claim on a form
383. promulgated by the commission within three (3) years from April 1,
384. 1985. Any such person failing to file said notice of claim within
385. the prescribed period shall be deemed to have abandoned such use
386. and the right to such use shall automatically terminate without
387. further action by the board.

388. (4)(a) Any person in the business of developing real
389. property for resale who was withdrawing water prior to April 1,
390. 1985, from a well, regardless of surface casing diameter, for use
391. in maintaining or enhancing an impoundment of surface water for
392. purely aesthetic purposes shall be entitled to continue such use
393. upon the filing with the commission of a notice of a claim on a
394. form promulgated by the commission within three (3) years after
395. April 1, 1985. Any such person failing to file said notice of
396. claim within the prescribed period shall be deemed to have
397. abandoned such use and the right to such use shall automatically
398. terminate without further action by the board. Before the renewal
399. of such permit, such person shall obtain the written approval for
400. the use of such waters from the entities supplying water for
401. commercial purposes nearest to the site of such impoundment.

402. (b) Any person described in paragraph (a) of this
403. subsection who began withdrawing water on or after April 1, 1985,
404. but before July 1, 1987, for the use as described in paragraph (a)
405. of this subsection shall have until July 1, 1988, to obtain a
406. permit for such use of water. In addition to such permit, such
407. person shall also obtain the written approval for the use of such
408. water from the entities supplying water for commercial purposes
409. nearest to the site of such impoundment. If such permit and the
410. approval of such entities supplying water for commercial purposes
411. are not obtained on or before July 1, 1988, such person shall not
412. continue to use water for such purposes after July 1, 1988.

413. (c) Any person as described in paragraph (a) of this
414. subsection who desires to begin the withdrawal of water for the
415. use as described in paragraph (a) of this subsection on or after
416. July 1, 1987, must first obtain a permit under the procedures set
417. forth in this chapter and must obtain the written approval of the
418. entities supplying water for commercial purposes nearest to the
419. site of such impoundment before beginning such use of water.

420. (5) Notwithstanding rights as envisioned in subsections
421. (2), (3) and (4) of this section, all users of water shall
422. continue to be subject to regulations promulgated by the
423. commission regarding the use of surface water and groundwater for
424. the benefit of the health and public welfare of citizens of this
425. state.

426. (6) As soon as practicable after April 1, 1985, the
427. board shall give notice to all persons affected by the provisions
428. of subsections (2), (3) and (4)(a) and (b) of this section
429. regarding the requirement to file the notices of claims mentioned
430. therein. If the names and mailing addresses of such affected
431. persons are available to the board, actual written notice, by
432. certified mail, shall be given by the board. If such names and
433. mailing addresses are not available to the board, notice shall be
434. given by publication at least one (1) time per week for not less
435. than three (3) consecutive weeks in one or more newspapers of
436. general circulation in each county of the state.

437. SECTION 9. Section 51-3-7, Mississippi Code of 1972, is
438. amended as follows:

439. 51-3-7. (1) Notwithstanding the provisions of this chapter,
440. a person using water for only domestic purposes shall not be
441. required to obtain a permit to use water for such purposes, and no
442. permit shall be required for the use of surface water in
443. impoundments which are not located on continuous, free-flowing
444. watercourses. Further, no permit shall be required for any use of

445. water obtained from a well with a surface casing diameter of less
446. than six (6) inches; however, a permit shall be required of a
447. person in the business of developing real property for resale who
448. desires to withdraw water from a well, regardless of surface
449. casing diameter, which is to be used for maintaining or enhancing
450. an impoundment of surface water for purely aesthetic purposes. In
451. addition to such permit, before the use of such water such person
452. shall obtain the written approval for the use of such water from
453. the entities supplying water for commercial purposes nearest to
454. the site of such impoundment.

455. (2) The board shall have the authority to permit the use of
456. water of any stream only in excess of the established minimum flow
457. as based upon records or computations by the commission. However,
458. exceptions may be made for municipal users. The board may
459. authorize any permittee to use the established minimum flow upon
460. written assurance, supported by such data and reporting
461. requirements that the board deems appropriate that such water will
462. be immediately returned to the stream in substantially the same
463. amount to insure the maintenance at all times of the established
464. minimum flow. The board may authorize a permittee to use the
465. established minimum flow for industrial purposes when such water
466. shall be returned to the stream at a point downstream from the
467. place of withdrawal, where the board shall find that such use will
468. not result in any substantial detriment to property owners
469. affected thereby or to the public interest.

470. (3) The board shall have the authority to permit the use of
471. water of any lake only in excess of the established average
472. minimum lake level as based upon records or computations by the
473. commission. However, exceptions may be made for municipal users.
474. The board, upon affording a hearing to interested parties, may
475. authorize any permittee to use below the established average
476. minimum level when such use will not affect plans for the proper

477. utilization of the water resources of the state, or the commission
478. may establish a level above the established average minimum lake
479. level, after affording an opportunity for a hearing, where plans
480. for the proper utilization of the water resources of the state
481. require it.

482. (4) No use of water shall be authorized that will impair the
483. effect of stream standards set under the pollution control laws of
484. this state based upon a minimum stream flow.

485. (5) No use of water shall be authorized or continued that
486. will impair the navigability of any navigable watercourse.

487. (6) No use of water shall be permitted if such use shall
488. cause mining of any aquifer unless the board shall find that such
489. use is essential to the safety of human life and property or
490. unless the applicant for a permit for such use can show to the
491. satisfaction of the board that he or another person of sufficient
492. financial capability has applied for permit or made any other
493. definite commitment to a plan to acquire water from another source
494. in lieu of the water being mined from the aquifer and which will
495. not also result in mining of any other aquifer.

496. SECTION 10. Section 51-3-15, Mississippi Code of 1972, is
497. amended as follows:

498. 51-3-15. (1) The State Permit Board, as created in Section
499. 49-17-28, shall serve as the permitting authority for this
500. chapter. It shall promulgate such regulations and forms as it
501. deems necessary and appropriate to carry out its permitting duties
502. under this chapter.

503. (2) The board shall have the power to:

504. (a) Grant such permit with such conditions upon the
505. issuance of a permit as it reasonably deems necessary to
506. effectuate the purposes of this chapter. The volume of water
507. withdrawn from a well, regardless of surface casing diameter, and
508. diverted to an impoundment of surface water for use in maintaining

509. or enhancing such impoundment for purely aesthetic purposes by a
510. person in the business of developing real property for resale may
511. be restricted from March 1 through September 30 of each year by
512. the board and the local entities supplying water for commercial
513. purposes nearest to such impoundment, acting jointly in the public
514. interest.

515. (b) Grant any temporary or emergency permit for such a
516. period of time as the board shall specify where conditions make
517. such temporary or emergency permit essential.

518. (c) Modify or revoke any permit upon not less than
519. sixty (60) days' written notice to the permittee affected.

520. (d) Impose such sanctions as the board deems
521. appropriate for failure to adhere to permit conditions, which
522. sanctions may include termination of such permit.

523. (e) Deny such permit if the proposed use is found to be
524. contrary to public interest. Any water user wishing to contest
525. the proposed action shall be entitled to a hearing before the
526. board upon request therefor.

527. (f) Delegate authority to any joint water management
528. district to receive, investigate and make recommendations to the
529. Permit Board regarding applications for permits required under
530. this chapter.

531. (g) Require all abandoned bore holes and wells more
532. than twenty-five (25) feet deep to be properly plugged to prevent
533. groundwater contamination.

534. (3) All hearings of the State Permit Board shall be
535. conducted in the same manner as prescribed in subsection (4) of
536. Section 49-17-29.

537. SECTION 11. This act shall take effect and be in force from
538. and after July 1, 1987.