

Approved: Carl Dean Holmes 3-15-95  
Date

## MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

The meeting was called to order by Chairperson Carl Holmes on February 14, 1995 in Room 313-S of the Capitol.

All members were present except: Representative Aurand - Excused  
Representative Kline - Excused

Committee staff present: Raney Gilliland, Legislative Research Department  
Dennis Hodgins, Legislative Research Department  
Mary Torrence, Revisor of Statutes  
Shirley Wilds, Committee Secretary

Conferees appearing before the committee: Karl Mueldener - KS Department of Health and Environment  
Bill Bryson - KS Corporation Commission  
John Hier - City of Abilene  
Dave Bleakley - East KS Oil and Gas  
Roger O'Kane - Automotive Controls, Independence KS  
Laverne D. Bartell - Douglas County Rural Water District #3  
William Ramsey - City of Olathe  
Jack Glaves - Oxy USA  
Don Gray - Kansas City KS Board of Public Utilities  
Rick Workenstein - North American Salt  
Don Schnake - KIOGA  
Steve Phillips - KS Water Environment Association  
Ron Parker - City of Arkansas City  
Richard Porter - City of El Dorado  
Kenneth Umholz - Hay and Forage Industries  
Douglas Smith - Johnson County Waste  
Van Pooler - Texaco, El Dorado  
David Warren - Wichita Waste and Sewer  
George Barbee - KS Consulting Engineering  
Chris McKenzie - League of Municipalities  
Bill Anderson - Johnson County Water District #1

Others attending: See attached list

Chairperson Holmes opened the meeting with the announcement that the Committee will work bills tomorrow. He reminded members of the pending deadline and the remainder of bills to be heard in Committee

The Chair referred the Committee to background materials from Karl Mueldener, Kansas Department of Health and Environment, as a follow-up to his presentation yesterday. (See Attachments #1, #2 and #3.) Additionally, he informed the Committee of a list of names before them referencing the bills in hearing today that have been received via correspondence, faxes and phone. He invited members to peruse his file on this material at their convenience. (See Attachment #4.)

### Hearing on HB 2159 and 2160:

**Karl Mueldener.** (See Attachment #5.) Mr. Mueldener reported that passage of these two measures would be a "giant step backwards," in terms of leadership, state and local control, influence in the federal statutes and regulations, and protection of Kansas public health and environment. He said he understands the frustration that prompted these two bills. However, Mr. Mueldener maintains that if the issues are examined closely, it is in the best interest of the state to remain in a leadership role. Listing a myriad of success stories to support this position, he contends the successes would not have been possible without state leadership. He

## CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES, Room 313-S Statehouse, at 3:30 p.m.. on February 14, 1995.

recognizes that challenges do remain, but that KDHE is confident there will be continuing success in the future.

When speaking to state control, Mr. Mueldener said that the Department endorses keeping decision-making as close to the local level of government as possible. Without state primacy, all decisions would be made by EPA staff - reporting directly to Washington. Examples of decisions relinquished to EPA would include:

- Enforcement actions - including penalty setting calculations and corrective actions, priority setting for not only program expenditures, but expenditure of capital improvements primarily funded by local government;
- Nonpoint source program decisions;
- Establishment of designated uses for state streams and lakes, and establishment of criteria (water quality standards) for lakes and streams; and
- utilization of state variance or exemption procedures

Mr. Mueldener referred to the very successful Kansas Water Pollution Control Revolving Fund, wherein by the end of the year the fund will be approximately \$173 million. This fund is used to make below-market loans to 85 local governments for water quality projects, and these bills would dismantle the Revolving Loan Fund. Mr. Mueldener said there are other examples that could be cited in support of state and local control.

He reported a significant portion of KDHE's water resource efforts go to technical assistance and continues to provide the best rate of return in correction of problems and achieving compliance. The Department responds to local emergencies such as floods, droughts, power outages, etc. Recommendations are routinely provided regarding utilities operations to help protect the public health - and assure compliance. Technical assistance has been provided by KDHE for several years focusing on groundwater contamination cleanup impacting public water supplies. (These would be curtailed by bill in hearing today.) Also, when industries evaluate a potential move to Kansas, the Kansas Department of Commerce looks to KDHE for their expertise.

A very important service administered through the Kansas Health and Environment Laboratory (KHEL) constitutes an essential component of the state's safe drinking water and ambient water protection program. The Laboratory currently receives 55,250 samples from public water supplies each year. According to Mr. Mueldener, this laboratory is a large and very efficient facility, providing analytical tests at low cost. Interpretive information is provided through scientists and engineers who also are available for advice and counsel.

The state public health laboratory also provides 77,560 test results on 4,590 water samples taken from lakes, rivers, streams, and reservoirs in Kansas. This ambient water surveillance information helps in detecting pollution sources and define contaminant levels.

In speaking to the federal financial assistance, Mr. Mueldener reported that state water quality programs rely heavily on federal funding. He listed the ten programs for which federal assistance is used and that would be abandoned under the clean water program.

A letter was sent last session to the congressional delegation urging re-authorization of the Safe Drinking Water Act. Mr. Mueldener stated the letter was unusual, in that the partnership of signatures comprised of KDHE; the Kansas Rural Water Association; American Water Works Association; the League of Municipalities; the Kansas Natural Resource Council; and the Sierra Club. He said it is now anticipated that re-authorization of the two federal water Acts will be much more friendly to the needs of the states. Also, the federal law will somewhat reduce the overemphasis on monitoring, allowing the return of more resources to other issues. Leaving responsibility and decision making at the state and local levels is what Kansas has strived for and, Mr. Mueldener concluded, it is timely for the state now to step forward and be prepared for an even stronger role in managing our state's water resources.

**Bill Bryson.** (See Attachment #6.) Mr. Bryson spoke to some serious concerns by the Commission if **HB 2159** is enacted. He said the Commission is involved with Kansas implementation of the Federal Safe Drinking Water Act, because the Conservation Division administers the Class II Underground Injection Control under primacy with EPA. KCC has had primacy since February 1984, and their attempts to administer a cost effective program have been successful. Through an annual evaluation since 1987, the EPA has given good to excellent marks for the way the program achieves primacy objectives.

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Mr. Bryson said the philosophy behind **HB 2159** appears to question why is it not preferable to have EPA run Safe Drinking Water Act programs, if they are not willing to fund the expenses of requirements (which are imposed at the Federal level). He cited several major reasons why the Commission believes a state administered Class II Underground Injection Control program is essential. He reported he is the current President of the National Ground Water Protection Council, an organization of State Underground Injection Control (UII) and Ground Water Pollution Control directors. In this capacity, he reported he has had occasion to review other state UIC programs which, at some time, made the unwise decision to let EPA run their state Class II programs. All but three of the original eight have since obtained primacy (or are in the process of doing so), because operators had inordinate delays in getting UIC applications approved. Mr. Bryson said the Commission considers it devastating to the Kansas Independent Petroleum industry, if they had to be regulated on a daily basis by an agency that has neither the personnel nor the wide breadth of technical expertise to administer the program.

In the interest of avoiding redundancy, given the number of conferees appearing before the Committee (from several locales around Kansas), the following are brief reports of testimony presented.

**John Hier.** (See Attachment #7.) KDHE has historically provided local government excellent technical assistance and advice concerning water and waste water programs, recently providing the City of Abilene extensive assistance in their effort to achieve compliance with new requirements of the Safe Drinking Water Act. (See Attachment #7.)

**David Bleakley.** (See Attachment #8.) Representing the Eastern Kansas Oil and Gas Association, Mr. Bleakley reported they are in strong opposition to **HB 2159** and **HB 2160**, referencing the measures as "big government." He said a transfer of this responsibility to the federal level only increases the bureaucracy, and imposes more strain on the small operators - who are presently struggling to survive in a distressed industry.

**Roger O'Kane.** (See Attachment #9.) Mr. O'Kane said that the Automotive Controls Corporation is opposed to relinquishing authority to the EPA, citing key points in the State of Iowa's case history. He suggested that the State of Kansas should look upon the lessons learned by Iowa, and to keep local control so Kansas can realize the most out of the tax dollars.

**LaVerne D. Bartell.** (See Attachment #10.) According to Mr. Bartell, the Tri District Water Facility is against bringing in an outside agency for the impersonal law enforcement of monitoring maximum contaminant levels. He argued that it would not improve their ability to make a higher quality water - or meet all the regulations. He said smaller systems that have limited knowledge and finances, would have a much harder time understanding the requirements as well as meeting them - if it were not for the support of KDHE.

**William A. Ramsey.** (See Attachment #11.) Mr. Ramsey cited examples of the types of interaction between the City of Olathe and KDHE, reflecting the need to maintain state primacy over the administration of the Clean Water Act and the Safe Drinking Water Act. He requested the Committee reevaluate both these measures. It is their belief that state primacy over both Acts provide for necessary control that a federal oversight would not support.

**Jack Glaves.** (See Attachment #12.) Mr. Glaves reported it is the opinion of Oxy USA that the proposed transfer of responsibility and enforcement of the Acts to the EPA presents serious problems to Kansas oil and gas operators. He said that when permits had to be filed on new wells with EPA at their Mississippi facility, their programs were delayed for up to two years prior to their approval. If the Clean Water Act were to be transferred, it would significantly impact their production facilities and authorization for new drilling locations and other facilities could be delayed significantly.

**Donald Gray.** (See Attachment #13 and #14.) Mr. Gray testified in lieu of Ervin Sims from the Kansas City Board of Public Utilities.

Mr. Gray cited two examples where the KDHE officials have worked closely with the Board of Public Utilities in Kansas City, Kansas in administering the Safe Drinking Water Act. He said the State continues to provide technical support, compliance monitoring, laboratory and operator training, laboratory and operator certification, etc. Additionally, Mr. Gray reported that the State also supports their utility in implementation of the Clean Water Act.

Mr. Gray contends that if the State relinquishes primacy, water utilities will be acting on their own in interpreting and implementing all the complex environmental regulations. This will result in confusion, non-compliance and heavy penalties.

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**Rick Workenstein.** Representing the North American Salt Company, Mr. Workenstein referred the Committee to a letter being handed out authored by Charles E. Nichols of his company. (See Attachment #15.) Mr. Workenstein reported that he has had numerous interactions with KDHE with a tremendous amount of cooperation, something not experienced on the EPA level. He has observed a genuine concern for the industry and the public welfare. They have a willingness to be available when needed and - "they also return my calls."

**Donald Schnacke.** (See Attachment #16.) Reporting on behalf of KIOGA, Mr. Schnacke said they would much rather deal with the KCC and KDHE than deal directly with EPA, Kansas City, which has jurisdiction over four states with limited personnel and funds. He said they have often stated that Kansas would be better off if it would assume primacy over federally mandated programs as they relate to their industry.

**Steve Phillips.** (See Attachment #17.) As a member of the Executive Board of the Kansas Water Environment Association (KWEA), Mr. Phillips reported the Board has serious concerns about the impact that **HB 2160** would have on waste water programs in Kansas. He said their experience over the past 20 years has been initiated in an amiable reasonable and rational way. Their members benefit from the technical assistance of KDHE and the Department works with their members to translate the regulations promulgated by EPA into programs that are reasonable and effective. Although there is not always agreement, Mr. Phillips said their membership feels very strongly that the people of Kansas receive significant benefit by having KDHE involved in administering the Clean Water Act.

**Ron Parker.** (See Attachment #18.) As Environmental Superintendent for the City of Arkansas City, Mr. Parker said their city evaluates KDHE as performing an outstanding job in its regulatory duties and recommends both bills be killed. He reported that EPA plays a vital role in the products they produce, but not in the operation of a state's system, and EPA's involvement will only increase the utility rates for all concerned.

**Richard Porter.** (See Attachment #19.) Mr. Porter is Director of Public Utilities, City of El Dorado. He spoke on behalf of Edward L. Blake and reported the City is adamantly opposed to both of these bills. Over the last 15 years he said that he has experienced excellent relations with the KDHE and have relied on their technical assistance many times. He said that particularly in the smaller communities the benefits of KDHE come to the fore.

**Kenny Umholtz.** (See Attachment #20.) Mr. Umholtz appeared on behalf of Charles Miller, General Manager of Hay and Forage Industries. He addressed several reasons why the KDHE is valuable to their industry, stating their company has received considerable assistance and cooperation from the Bureau of Water. He said that since the requirements will be same in their industry no matter which agency implements the program, they prefer that it remain with KDHE.

**Douglas L. Smith.** (See Attachment #21.) On behalf of the Johnson County Unified Wastewater Districts, Mr. Smith detailed four main concerns regarding **HB 2160** as is briefly listed:

- Increased cost to local jurisdictions
- Cities and Counties must still comply with federal mandates
- Loss of technical guidance
- Retain of local control

He said the cost to Kansas cities in the long-term could easily run into the hundreds of millions of dollars, and would make the already difficult task of complying (with the bewildering array of water pollution requirements) even more difficult.

**Van Pooler.** (See Attachment #22.) In terms of adapting businesses to changing economic conditions, Mr. Pooler said Texaco believes KDHE has proven itself as having a vested interest in the Kansas economy, while still complying with federal and state regulations. The resources that have been provided by KDHE are extremely important in attracting and keeping a positive business climate in Kansas.

**David Warren.** (See Attachment #23.) As director of Wichita's Water and Sewer Department, Mr. Warren said although Wichita can support a technical staff and support facilities to deal with complex issues, the same cannot be said of smaller utilities. Therefore, it is appropriate that KDHE remain should be retained as the regulatory body.

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MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES, Room 313-S Statehouse, at 3:30 p.m.. on February 14, 1995.

**George Barbee.** (See Attachment #24.) Appearing on behalf of the Kansas Consulting Engineers, (KCE), Mr. Barbee approached opposition to **HB 2159** and **HB 2160** from the perspective of the engineering firms that design public and private works projects, with many of them specializing in clean water and drinking water design of treatment plants and distribution collection systems. He said KCE members work with municipal and industrial clients and serve as a communication link between local, state and federal governments. In that endeavor, KDHE's role is vital and consultants rely on the professional staff of the Department, and their staff is well qualified and knowledgeable in water and wastewater infrastructures issues and have exhibited genuine concern for the state.

Mr. Barbee shared a copy of a letter received by the KCE from KDHE indicating the cooperation between the two regarding notification of required revisions to the state's water quality standards in the calendar year 1997. Mr. Barbee pointed out that the meetings mentioned in the letter are not a requirement, but a voluntary effort on the part of KDHE and is not the attitude that has prevailed by the Washington-based EPA in the past.

**Chris McKenzie.** (See Attachment #25.) Mr. McKenzie said he echoed the above conferees testimonies in their support of KDHE. He said the city officials of Kansas are highly dependent upon the technical expertise of the central and field staffs of the Department. Also, these relationships are of critical importance to members of the League of Kansas Municipalities.

**Bill Anderson.** (See Attachment #26.) Reporting that Johnson County Water District #1 strongly opposes the approval of **HB 2159** and **HB 2160**, he touched on several issues previously mentioned. In essence, he reiterated the paramount theme throughout the views in opposition to these measures, i.e. KDHE knows and understands the issues that are specific to Kansas, and will be more responsive to the utilities it regulates.

Recognizing the time and distances devoted to appearing before the Committee today, the Chair thanked the conferees for coming in to testify.

Chairperson Holmes inquired of Chris McKenzie if he considered it feasible for the League of Kansas Municipalities to create a 1995 Summer Task Force to study the Division of Environment Statutes in their entirety. The three areas of study for the Task Force would be, 1) The statutes that are current and should remain as is; 2) Statutes that should be repealed; and 3) Any changes that could or should be revised in policy. He asked if Mr. McKenzie would take the lead role of this Task Force and serve as its Chair, and invite any one within the regulated community to either serve on the Task Force or offer input into the study. Mr. McKenzie agreed to accept this charge. Chairperson Holmes announced to interested parties in the audience to take part in this Task Force, if they are so inclined. The charge to the Task Force is to report their findings to the 1996 House Energy and Natural Resource Committee.

There being no further business to come before the Committee, the meeting adjourned at 5:15 p.m.

The next meeting is scheduled for February 15, 1995.

# ENERGY AND NATURAL RESOURCES COMMITTEE GUEST LIST

**DATE: February 14, 1995**

NAME	REPRESENTING
DAVID R WARREN	City of Wichita
John Carder	City of Herington
Gerald B. Taylor	City of Abilene
JOHN R ZUTAVERN	"
John Hier	City of Abilene
Don Schnacke	Ks. Indep. Oil & Gas Assn.
R. E. Pelton	Ks Rv. Water Assurance Dist #1
RICHARD WICKENTINE	NORTH AMERICAN SALT COMPANY
Roger Okane	Echlin Inc / ACC Independence
DAN WILLIS	ECMLINE / MIDLAND BRAKE
DAVID VAN PARYS	LEAVENWORTH COUNTY
CRAIG PANGBURN	RICE Engineering Corp. Great Bend KS
Bill Gabelmann	Rice Engineering Great Bend
Karl Mueldecker	K D H E
Dennis Schwartz	Ks Rural Water Assoc
David F. Walds	KDHF
David Bleaker	Eastern Kansas Oil & Gas ASSOC.
Zuverne Bartell	Douglas Rural Water Dist. #3
JOE DICK	KCKBPU

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# ENERGY AND NATURAL RESOURCES COMMITTEE GUEST LIST

DATE: February 14, 1995

NAME	REPRESENTING
Steve Phillips	KS. Water Exp. Associa.
Bill Ramsey	City of Olathe, KS
Doug Cochran	city of Olathe
DOUGLAS L. SMITH	JOHNSON COUNTY, KS.
John Metzler	Johnson County, KS
Marynell Hollenbeck	KCK BPU
DON GRAY	KCK BPU
RICHARD PORTER	City of El Dorado
Ron Parker	City of Arkansas City
W. L. McKim, MD	City of Milford
Verne McKim	City of Milford
Steve Weather	Intern for Tom Sloan
Shannon Ueland	Rep Eugene Shore (intern)
Bill Henny	KS Engineering Society
Red Geisler	KDHE
Roger Carlson	KDHE - LABORATORY
Adam Johns	Division of Budget
Chiquita Cornelius	Kansas B.I.R.P.
Ethan Richerson	Intern for Steve Ueland

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# ENERGY AND NATURAL RESOURCES COMMITTEE GUEST LIST

DATE: February 14, 1995

NAME	REPRESENTING
Dale Lambley	KIDA
Stanley P Sutton	KDHE Laboratory
Terry Leatherman	KCCI
Ken Peterson	KPC
VAN POOHER	TEXACO
George Banbee	US Consulting Engr's
Randy Pitre	OXY USA Inc.



## STATE REVOLVING LOAN FUND

**PURPOSE:** Assist municipalities in construction of wastewater systems through low interest loans.

**AUTHORITY:** Federal/State

**UNIVERSE:** Local Government  
Consulting Engineers  
85 Loans for \$173 M,  
\$15 Million/Year Long-term  
Annual Average

**STAFF:** 5 FTE

**FUNDING:** Federal  
State Bonds

**ISSUES:** Future Fund Use  
Administrative Funds

*Energy & Natural Resources  
7/14/95  
Attachment #1*

## **CONSTRUCTION GRANTS**

**PURPOSE:** Assist municipalities in construction of wastewater systems.

**AUTHORITY:** Federal

**UNIVERSE:** Local Governments  
Consulting Engineers

Since 1972 - 500 Projects;  
\$500 Million Grant Funds

**STAFF:** 2 FTE

**FUNDING:** Federal

**ISSUES:** Closing Out

## MUNICIPAL WASTEWATER CONTROL

**PURPOSE:** Protect water quality by assuring municipal wastewater systems meet minimum standards of design and discharge quality.

**AUTHORITY:** State

**UNIVERSE:** 850 Municipal Sewer Systems  
625 Plans Approved/Year -  
\$50 Million/Yr  
170 Treatment Plant Permits  
Reviewed Annually

**STAFF:** 4 FTE

**FUNDING:** State/Federal

**ISSUES:** Regional System  
Siting  
Effluent Limits/Toxicity  
Funding Coordination  
Sludge Quality  
Construction Quality

## **INDUSTRIAL WASTEWATER DISCHARGES**

**PURPOSE:** Protect water quality by regulation of wastewater control systems at industrial facilities.

**AUTHORITY:** Federal/State

**UNIVERSE:** 478 Discharging Facilities  
12,000 Stormwater Potential. 2300 applications received to date.

**STAFF:** 5 FTE's and 2 SPO's (SPO's terminate in 1995)

**FUNDING:** Federal/State

**ISSUES:** Toxicity Standards  
Groundwater Protection  
Water Quality Standards  
Industrial Liner Policy  
Stormwater Permits  
General Permits  
Federal Facilities

## **INDUSTRIAL PRETREATMENT**

**PURPOSE:** Protect water quality and municipal wastewater treatment systems from adverse impacts from industrial discharges.

**AUTHORITY:** Federal/State

**UNIVERSE:** 16 Local Pretreatment programs  
249 Industries in 16 Local Programs  
48 Industries Located in 28  
Municipalities Permitted Directly  
by KDHE

**STAFF:** 2 FTE

**FUNDING:** Federal

**ISSUES:** Local Limit Development  
Sludge Regs  
Additional POTWs  
Program Delegation

## LIVESTOCK WASTE CONTROL

**PURPOSE:** Protect water quality by regulating confined livestock feeding.

**AUTHORITY:** State/Federal

**UNIVERSE:** 305 Federal Permits  
2063 State Permits

**STAFF:** 4 FTE (6 more in Districts)

**FUNDING:** State/Federal

**ISSUES:** Education/Communication  
Unpermitted Facilities  
Regulations/Requirements  
Siting  
Industry Growth/Impact  
Staffing  
Turnaround  
Complaints  
General Permits

## **UNDERGROUND INJECTION CONTROL**

**PURPOSE:** Prevent pollution from injection of wastewater to deep geological formations.

**AUTHORITY:** Federal/State

**UNIVERSE:** 5 Hazardous Waste Wells - Vulcan  
39 Non-Hazardous Waste Wells  
147 Solution Mining Wells -  
5 facilities  
3567 Class V Wells

**STAFF:** 2 FTE

**FUNDING:** Federal

## Underground Injection Control (con't)

**ISSUES:**            **Toxic Release Ranking - Vulcan**  
**Significant reductions achieved**  
**through waste minimization and**  
**pollution prevention.**

**Field Coverage**

**Different Standards for Oil Field**  
**Wells**

**State's Hazardous Waste Injection**  
**Well Policy**

**Well Testing Criteria**

**Potential Industrial Impact with**  
**Changes to Hazardous Waste**  
**Definition (Benzene-Gas Plants)**

**Pollution Prevention/Waste**  
**Minimization**



## **LIQUIFIED PETROLEUM GAS STORAGE**

**PURPOSE:** Prevent pollution from underground storage of liquified petroleum gas.

**AUTHORITY:** State

**UNIVERSE:** 16 Facilities  
606 Active Wells  
192 Abandoned Wells Monitored  
41 Brine Ponds  
463 Monitoring Wells

**STAFF:** 1 FTE

**FUNDING:** State Funds

## **Liquified Petroleum Gas Storage (con't)**

**ISSUES:            Brine storage, spillage and resulting contamination. Replacement of liners be initiated.**

**Integrity testing regulations.**

**Conway remediation project.**

**Financial assurance to ensure plugging.**

**Field coverage.**

## WATER WELLS

**PURPOSE:** Protect groundwater quality, public health, and provide data on water wells.

**AUTHORITY:** State; Groundwater Exploration & Protection Act

**UNIVERSE:** 194 Well Drillers Licensed  
292 Drill Rigs  
7500 Well Records/year

**STAFF:** 3 FTE

**FUNDING:** State General Funds

**ISSUES:** Detail and Conformance with Regs  
Abandoned Wells  
Enforcement  
Education - Cont. Education Reg  
Sandpoint Reg  
Termiticide  
Monitor Wells  
Construction Regs

## NON-POINT SOURCE

**PURPOSE:** Prevent water pollution from diffuse sources through integrated efforts of private sector, federal, state, and local government.

**AUTHORITY:** Federal/State

**UNIVERSE:** 105 Conservation Districts  
Soil Conservation Commission  
Soil Conservation Service  
EPA -- Section 319 Demonstrations  
Others

**STAFF:** 7 FTE

**FUNDING:** Federal/State

**ISSUES:** Setting Water Quality Objectives  
PWS Source Protection  
Funding Projects  
Results Measurement  
Coordination:  
Numerous Agencies  
Numerous Programs

## **LOCAL ENVIRONMENTAL GRANTS**

**PURPOSE:** Assist local government in development of programs to address environmental problems.

**AUTHORITY:** State

**UNIVERSE:** 105 Counties  
89 Counties Involved  
41 Grants

**STAFF:** 4 FTE

**FUNDING:** State

**ISSUES:** Allocation of Funds  
Continued Funding  
Technical Assistance

## **WELLHEAD PROTECTION PLAN**

**PURPOSE:** Protect groundwater quality near public water supply wells. Provide State guidance.

**AUTHORITY:** Federal

**UNIVERSE:** 1200 Public Water Supply Wells  
640 Groundwater Systems

**STAFF:** 1 FTE

**FUNDING:** Federal

**ISSUE:** Completing State wellhead protection plan.

**Develop Local Programs**

## **PUBLIC WATER SUPPLY - PLAN REVIEW**

**PURPOSE:** Protection of public health through assurance of adequate water meeting state and federal standards. Assure source, plant and distribution meet minimum standards.

**AUTHORITY:** Federal/State

**UNIVERSE:** 1150 Public Water Supplies  
(10 service connections or  
25 people for 50 days)

Consulting Engineers

**STAFF:** 5 FTE

**FUNDING:** State/Federal

**ISSUES:** Monitoring Increases/\$  
Strict Standards/\$  
Small Systems  
Viability  
Re-Use  
Reg Development  
Design Standards

**PUBLIC WATER SUPPLY  
MONITORING ASSISTANCE/COMPLIANCE**

**PURPOSE:** Protection of public health through assurance of adequate water meeting state and federal standards. Assure source, plant and distribution meet minimum standards.

**AUTHORITY:** Federal/State

**UNIVERSE:** 1150 Public Water Supplies  
(10 service connections or  
25 people for 60 days)

**STAFF:** 6 FTE

**FUNDING:** State/Federal

**ISSUES:** Data Management  
Standards  
Education/Training  
Cost  
Reg Development



## BUREAU OF WATER FUNDING - 1995

*Approx  
KMM*

	<u>\$</u>	<u>%</u>
State General Fund	606,000	16
Public Water Supply Fee	231,000	6
Public Water Supply Grant	770,000	21
UIC Grant	160,000	4
106 Grant	864,000	23
Revolving Loan Fund*	445,000	12
Non-Point Source - 319*	492,000	13
Water Plan*	130,000	4
<b>TOTAL</b>	<b>\$3,698,000</b>	

\*w/o fund seed money.

Project pass throughs total \$16,000,000.

## **OFFICE OF SCIENCE & SUPPORT**

**PURPOSE:** Water quality monitoring, assessment and scientific support.

**AUTHORITY:** Federal/State

**UNIVERSE:** Water Program

**STAFF:** 18 FTE

**FUNDING:** State/Federal

**ISSUES:** Water Reporting Formats  
Standards Development

## **BUREAU OF DISTRICT OPERATIONS**

**PURPOSE:** Field activities to implement programs, i.e. inspections, technical assistance, emergency response, community outreach.

**AUTHORITY:** State/Local

**UNIVERSE:** Local government, utilities, industries, business, citizens.

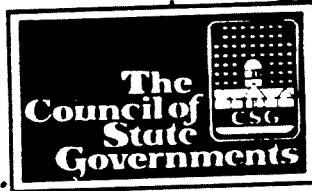
**STAFF:** 25 FTE in Water  
78 Total

**FUNDING:** State/Federal

**ISSUES:** Local Contracts/Input  
Coordination

# Resource Guide To State Environmental Management

Third Edition



2/14/95  
Energy & Nat. Resources  
Attachment #2



This report is a product of The Council of State Governments, Daniel M. Sprague, Executive Director. The authors of this report are R. Steven Brown (state profiles and chief editor) and Karen Marshall (expenditures) with assistance from Corey Miller and Ellen Quinn (directory). The authors wish to acknowledge the assistance of Doris Ball, Janet Murphy, Skip Olson and the many state officials without whose help this publication would not have been possible.

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See page 249 for details.

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Attach 2-2

**Table 4**  
**Stream Miles Not Supporting Designated Use, Rank-Ordered**

	State	Total Stream Miles	Stream Miles Assessed	Miles Not Supporting	Percent of Stream Miles Not Supporting Designated Use
1.	Kansas	13,295	12,144	10,721	88%
2.	Minnesota	91,944	5,316	3,374	63%
2.	Delaware	643	643	402	63%
4.	Arkansas	11,310	4,713	2,538	54%
5.	Nevada	7,500	1,447	635	44%
6.	Ohio	43,917	7,444	3,236	43%
7.	Massachusetts	8,053	1,624	588	36%
8.	Arizona	17,537	5,185	1,717	33%
9.	Washington	40,492	4,897	1,468	30%
10.	South Dakota	9,937	4,028	1,040	26%
11.	Oregon	90,000	27,738	6,695	24%
12.	Nebraska	24,000	7,331	1,392	19%
13.	Kentucky	18,490	9,556	1,729	18%
14.	Rhode Island	724	626	109	17%
15.	Texas	80,000	16,184	2,636	16%
15.	Utah	11,779	8,874	1,434	16%
15.	Indiana	20,000	4,917	788	16%
18.	South Carolina	9,900	3,493	460	13%
18.	California	26,970	12,122	1,590	13%
20.	Pennsylvania	50,000	23,832	2,713	11%
20.	Florida	12,659	7,908	897	11%
20.	New Hampshire	14,544	1,348	150	11%
20.	Tennessee	19,124	10,247	1,103	11%
24.	Louisiana	14,180	13,101	1,338	10%
25.	Alabama	40,600	12,016	1,071	9%
25.	New Mexico	3,500	3,125	274	9%
27.	Iowa	18,300	7,156	514	7%
28.	West Virginia	28,361	17,456	1,116	6%
28.	Connecticut	8,400	893	54	6%
28.	North Carolina	37,222	35,234	2,100	6%
31.	Virginia	27,240	10,809	479	4%
31.	Vermont	5,266	5,266	212	4%
31.	Michigan	36,350	36,350	1,361	4%
34.	Montana	51,212	51,212	1,266	2%
34.	Colorado	31,470	30,582	725	2%
34.	Mississippi	15,839	15,839	330	2%
34.	Wisconsin	43,600	13,595	267	2%
34.	Maine	31,672	31,672	565	2%
34.	New York	70,000	70,000	1,208	2%
40.	Illinois	14,080	13,122	158	1%
40.	Hawaii	349	349	4	1%
40.	Maryland	17,000	17,000	125	1%
43.	Georgia	20,000	20,000	49	0%
43.	Missouri	21,064	21,064	17	0%
43.	Wyoming	19,437	19,437	7	0%
43.	North Dakota	11,868	9,173	0	0%
43.	Oklahoma	19,791	4,400	0	0%

New Jersey, Alaska, Idaho — No Data

Notes: Data for the "Delaware River Basin" (206 miles) and the "Ohio River Valley" (981 miles) are not included.

Source: U.S. Environmental Protection Agency, *National Water Quality Inventory: 1990 Report to Congress*.

# Water Program Review Panel

## Final Report

### Sept. 1, 1993

2/14/95  
Energy & Natural Resources  
Attachment # 3

The Water Program Review Panel met on July 19, 1993 to finalize its evaluation of and recommendations for improving KDHE's Bureau of Water programs. Previous meetings were held on April 13, May 5, May 27, and June 9. Panel members are:

Wayne Bossert	Groundwater Management District 4
John Cramer	City of Parsons
Mike Everhart	Boeing - Wichita
Bill Fuller	Kansas Farm Bureau
Jerry Hazlett	Kansas Wildlife Federation
Charles Jones	KDHE - Division of Environment
John Metzler	Johnson County Wastewater Districts
Karl Mueldener	KDHE - Bureau of Water
Paul Studebaker	FMC
Jim Triplett	Pittsburg State University
Joyce Wolf	Kansas Audubon Council

The Kansas Rural Water Association was also included in panel membership, but did not participate. KDHE appreciates all panel members who contributed their time and efforts toward improving the effectiveness and efficiency of the Bureau of Water and its programs.

### Brief Summary of Meetings

- April 13, 1993      The panel convened for the first time to get a better understanding of which programs are a part of the Bureau of Water (see attached handouts and meeting notes). They identified initial goals and items for future discussion.
- May 5, 1993        This meeting was an open forum for individuals and groups to offer comments and ask questions regarding the water programs (see attached meeting notes). Information was gathered at this meeting to help develop recommendations for program improvements.
- May 27, 1993      Led by Charles Jones, the panel began defining a mission, goals, and tasks for the Bureau of Water. A working draft summary report was created based on the day's discussion.
- June 9, 1993      Presentations were given by staff from each of the Division of Environment's other bureaus regarding how they relate to the



Bureau of Water and its programs. At this time, there was further discussion and fine-tuning of the draft summary report.

July 19, 1993      The panel met again to review and refine the draft summary report.

## **Committee Findings**

### **Mission Statement**

The Bureau of Water's mission is to provide an adequate system to ensure quality water for citizens, industry, agriculture, recreation, and wildlife using a holistic environmental approach and leadership that emphasizes pollution prevention and fairly balances environmental, economic, and social interests in a way that earns the respect and trust of all Kansans.

### **Goals and Tasks**

**Goal 1      Ensure the continued viability of water and wastewater systems**

- Tasks:
- 1) Retain primacy over the Safe Drinking Water and Clean Water Acts
    - A) Improve effectiveness of communicating with and influencing the Kansas congressional delegation
    - B) Influence federal legislation by KDHE participation through EPA/industry organizations and committees
  - 2) KDHE's Division of Environment should recognize the need to strengthen the water supply program with particular attention to system planning and managing federal mandates
  - 3) Develop water and wastewater system infrastructure and capacity assurance
    - A) Urge increase of federal grants
    - B) Establish revolving loan fund for water supplies
  - 4) Promote viability of small water and wastewater systems
    - A) Develop funding mechanisms targeted toward small and rural systems
    - B) Urge consolidation of small water and wastewater systems
    - C) Increase technical assistance
  - 5) Establish regulations and requirements that are practical and appropriate

**Goal 2      Emphasize pollution prevention**

- Tasks:
- 1) Work toward prevention of point source pollution
    - A) Encourage the development of pollution prevention plans which focus on source reduction and in-process recycling
    - B) Encourage the treatment of hazardous waste to render them non-hazardous before their release
    - C) Identify proper disposal methods of other wastes
  - 2) Work toward control of nonpoint source pollution
    - A) Improve the feedlot program
    - B) Improve and continue to develop the Local Environmental Protection Program
    - C) Improve interagency coordination, especially relative to district office involvement in Basin Advisory Committees, nonpoint source pollution control, riparian wetland restoration and protection, stream teams, the Environmental Coordination Act, etc.
    - D) Strengthen the nonpoint source pollution control program by addressing all sources, and providing educational opportunities and economic incentives

**Goal 3      Improve KDHE's analytic and management capabilities**

- Tasks:
- 1) Design data collection and analysis programs to meet problem solving needs
  - 2) Provide up-to-date and accurate data and information
  - 3) Perform a fiscal and cost-benefit analysis of proposed regulations
  - 4) Improve communication and coordination between standard setting and permitting functions within the Division of Environment

**Goal 4      Develop the core program**

- 1) Maintain the basic understanding of and support for programs through development of effective outreach programs
  - A) Develop educational materials
  - B) Provide training for the regulated community and districts
  - C) Use advisory groups to review and strengthen programs
- 2) Develop economic mechanisms to promote environmental protection
  - A) Charge fees for permits and/or releases
  - B) Collect penalties for violations

- C) Develop other incentive mechanisms
- 3) Balance support and enforcement efforts
- 4) Improve the permitting process
  - A) Improve the scientific rationale for decision making
  - B) Process applications in a timely fashion

**Goal 5      Develop the program's infrastructure**

- Tasks:
- 1) Secure adequate resources
    - A) Consider sources
      - 1) Charge fees
      - 2) Acquire monies from grants
      - 3) Acquire monies from the state general fund
      - 4) Obtain more positions
    - B) Develop model funding mix
      - 1) Cover permit and inspection costs by permit fees
      - 2) Collect fee on emissions for 50 percent of incidental costs
      - 3) Utilize state general funds for 50 percent of incidental costs
      - 4) Establish dedicated fee funds
  - 2) Build professionalism
    - A) Insure technical competence
    - B) Be effective and efficient
    - C) Provide better customer service
    - D) Respond promptly to all inquiries and requests for service
  - 3) Develop ongoing performance indicators
    - A) Shift from process-based to outcome-based programs
    - B) Develop specific mechanisms to evaluate success using outcomes

**Goal 6      Expand usage and responsibilities of KDHE's district offices**

- Tasks:
- 1) Improve outreach and education
    - A) Offer more outreach activities
    - B) Provide more and better technical assistance
  - 2) Consider realignment of the district offices along watersheds
    - A) Implement a watershed-based management approach
    - B) Urge other agencies to adopt similar configurations
  - 3) Improve interagency coordination
    - A) Balance between point and nonpoint sources of pollution

- B) Provide better siting and permitting coordination
- C) Develop and implement more interagency projects

**Energy and Natural Resources Committee**  
**List of Opponents to House Bills 2159 and 2160**  
**(Communications to Chair by Fax; Phone; Letter)**

Thomas Joyce, Executive Vice  
President  
Landoll Corporation  
Marysville KS

Gerald Rothenberger, Mayor  
City of Osborne

Michael K. Dunnaway, P.E.  
Bartlett & West Engineers Inc  
Topeka

Paul W. Studebaker, CHMM  
Environmental Professional  
Lawrence KS

Dwight F. Metzler  
Topeka

Fred A. von Ahrens, Resident  
Manager  
Phosphorus Chemicals Division  
Lawrence KS

Mark Abeles-Allison  
City Administrator  
City of Council Grove

James L. Martin, P.E.  
White, Martin & Associates, Inc.  
Topeka KS

Andy Haney, President  
KS Chapter  
American Public Works Assn  
Millie Reed, President  
KS Water Environment Association

George F. Drake, Mayor  
City of Great Bend

Randy Burnison, Plant Manager  
Schuller International Inc  
Building Insulation Division  
McPherson KS

Rodney Shinn  
Superior Industries International  
Midwest Division - Pittsburg Plant

Don Martin, Utilities Supt  
City of Hanover

James G. Bradley  
Director of Utilities  
City of Ottawa

Edward L. Specht  
City of Beloit

Edward L. Blake, Mayor  
City of El Dorado

Mike Gilliland  
Water, Wastewater Supt  
City of Osage City

J. Patrick Cox, .E.  
BG Consultants Inc  
Manhattan KS

Louis Stroup, Jr. (13-page letter)  
Executive Director  
KS Municipal Utilities Inc  
McPherson KS

Duane R. Morgan  
(Environment Business - 30 yrs)  
Wichita KS

Gilbert E. Hanson, Jr.  
General Manager  
KS Municipal Energy Agency

Beau Kansteiner, Manager (Phone)  
Leavenworth Water Dept

Linda Yohon, Director  
Economic Development  
The City of Stockton

Christopher M. Carrier, P.E.  
Director of Public Works  
City of Dodge City

Perry Smith, City Superintendent  
City of Holcomb

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Attachment #4

~~Over Please~~

Darla Brummet, City-Clerk  
City of Miltonvale

Robert E. Bostrom, Chair  
Rural Water District #2

R. C. Sheffield  
Texaco Refining and Marketing  
El Dorado KS

Dr. Laura Meeks, President  
Fort Scott Community College

Paul Huston, Mayor  
City of Dennison

Steven King, City Administrator  
City of Hiawatha

With The City of McClouth:

Glenn Wear, Mayor  
Council Members:

Doug Walbridge  
Dan Courtney  
John Kimberlin  
Rhea Connelly  
Stell Luse

Kevin D. Adams, Mayor  
City of Oskaloosa

Leonard L. Clary, Mayor  
City of Troy

Fred H. Meyer, Mayor  
City of Alma

Brian W. Wilcox, City Administrator  
City of Baldwin City

Cecelia Reinhart, Mayor  
City of Centralia

John Kimberlin, Coun

State of Kansas

Bill Graves



Governor

Department of Health and Environment  
James J. O'Connell, Secretary

Testimony presented to

House Energy and Natural Resources Committee

by

The Kansas Department of Health and Environment

House Bills No. 2159 & 2160

KDHE opposes these bills. We believe abandoning state primacy for water supply and wastewater treatment activities included within these two bills would be a giant step backwards in terms of state leadership, state and local control, influence in the federal statutes and regulations, and protection of Kansas public health and environment. KDHE understands and shares the frustrations that caused these bills to be introduced. When the issues are examined more closely, however, KDHE has concluded it is in the best interest of the state to remain in a leadership role in drinking water and water protection issues.

The state has formally reviewed the issue of primacy on two occasions since 1992. A Water Program Review Panel identified as a priority retention of primacy for both the Safe Drinking Water Act and the Clean Water Act. The Water Review Panel was composed of diverse membership interests from environmental interest groups, academia, water utilities, and agriculture.

Safe Drinking Water Act primacy was previously considered by this body in 1992. With the support of water utilities, a small fee (0.2¢/1000 gallons of drinking water sold or about 2¢ per meter per month) was established by state statute. This bolstered the state's program in assisting local water supplies and compliance with the Safe Drinking Water Act. During those hearings the drinking water utilities were clear in their support for the state retaining primacy.

Drinking water and water quality (improvement or protection projects) are generally accomplished with little fanfare. As with most things, the "bad news" exceptions get the most attention. Over the past 20 years in Kansas, corresponding to the state's implementation of these two federal Acts, there have been many success stories which are the direct result of a strong local-state partnership. As this body well knows, it is a contemporary trend to disparage others, especially government programs. Contrary to popular belief, we welcome any constructive criticism and have also espoused state government can learn from our critics.

Listed below are examples of typical success stories reflecting this strong state-local relationship in Kansas:

- Improvement of ambient water quality in the Lower Arkansas River as a result of municipal and industrial treatment plant upgrades at Hutchinson and Wichita.
- Reduction in basement backups and sewage bypassing in the Johnson County Unified Wastewater Districts and the Olathe sewer systems.

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Energy & Natural Resources  
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attachment # 5

- Regional wastewater management such as the new Mill Creek regional wastewater system in Johnson County, the Four Mile Creek facility in eastern Sedgwick County, the West Sedgwick County Interceptor in western Sedgwick County, and city-county planning encouraging regionalization and commonsense growth avoiding adverse stream impacts.
- Public Health protection through installation of sewers in areas with inadequate septic tank systems. An estimated 110 projects have been completed bringing sewer service and environmental improvement to 43,000 Kansans in small towns and urban areas.
- Stream improvements from the elimination or pollutant reduction within discharges, despite continued growth and industrialization.
- Significant growth of the livestock industry, including processing plants, with facilities avoiding direct discharge by water management.
- Creation of a local infrastructure, including managers, lab technicians, operations personnel, and a utility fee structure, all designed to protect water quality.
- Creation of a state program to monitor stream and lake quality, implement grants and loans, and to permit, inspect, train, and regulate dischargers.
- Development of a livestock waste management program that other states as well as EPA have used as a model in developing their programs.
- KDHE use of waivers in water supply sampling have saved cities \$2.6 million per year in analytical costs for the years of 1993, 1994, and 1995. These savings are laboratory costs only without an estimate for collection costs. These savings were achieved in meeting the Safe Drinking Water Act's required monitoring for synthetic and inorganic compounds and coliforms. Kansas does not require monitoring for the often mentioned pineapple insecticide, 1,2-dibromo-3-chloropropane.
- KDHE maintains a state of the art analytical laboratory providing service to KDHE programs and local water utilities. KDHE lab scientists are valuable members of the state's water analysis program. For example, an emergency situation, declared by EPA, at the Kickapoo water supply was quickly found by KDHE scientists to be a misinterpretation of lab results. This knowledge allayed a perceived crises.
- Kansas water utilities have achieved an outstanding compliance rate with EPA's lead and copper testing regulations for water supplies. This program was designed to measure tap water for lead and copper, and is very cumbersome. Only six of 1,200 Kansas utilities have yet to complete the sampling. KDHE has staff dedicated to making sure utilities understand the regulation and coordinate sampling and reporting.
- KDHE promotes regional water supply systems to take advantage of economy of scale, consolidated management, and large system reliability. There are presently 7 public wholesale water supply systems formed (13 are formed) and numerous small water systems have been interconnected.
- Emergency assistance is provided to water and sewer systems. Recent examples include emergency engineering advice to Mound City in construction of a temporary filter following failure of their treatment plant, and assistance to Lebo to implement repairs to their raw water intake.
- Kansas communities have received a disproportionately high number of national awards through EPA's program of excellence awards. Winners have included El Dorado, Clay Center, Andover, Dodge City, Wichita, and Lindsborg.
- KDHE is assisting 16 municipalities with local pretreatment programs mandated by the Clean Water Act. This program regulates industrial discharges to municipal sewer systems. These 16 municipalities are regulating 249 industries through their local pretreatment program.
- KDHE's industrial permitting and technical assistance program has resulted in few instances of water quality violations resulting from the release of toxic pollutants. Coordination efforts by KDHE have helped to ensure



industry does not move toxics from one media to another, but to remain in compliance with all environmental program requirements.

- Kansas lead the effort to assure the use of waste stabilization lagoons remained a viable option for small towns. This initiative lead to specific provisions in amendments to the Clean Water Act recognizing lagoons as secondary treatment. We estimate this has saved several hundred million dollars in costs to Kansas towns.
- Establishing and successful in implementation of a state revolving loan fund to assist local government in financing wastewater system improvements. By the end of 1995 the state revolving fund will have made 85 loans for \$173 million, at below market rates, on customized repayment schedules. The revolving loan is testimony to what can be positively accomplished when local, state, and federal programs work together. The involvements of the City of Hays, Topeka, and Johnson County were critical to establishing the loan program.

The above are examples of past successes. Challenges remain and we are confident of continuing successes in the future. Again, we reiterate our position to maintain state primacy. The successes listed above would not have been possible without state leadership.

Other arguments for state primacy are listed.

### CONTROL

We endorse keeping decisions as close to the local level of government as possible. Without state primacy, all decisions would be made by EPA staff reporting directly to Washington. Examples of decisions which the state would relinquish to EPA include:

- Enforcement actions - including penalty setting calculations and corrective actions; priority setting for not only program expenditures, but expenditure of capital improvements primarily funded by local government;
- nonpoint source program decisions;
- establishment of designated uses for state streams and lakes, and establishment of criteria (water quality standards) for lakes and streams; and
- utilization of state variance or exemption procedures.

Headlines often refer to the absurdity of testing for a pineapple insecticide. Several years ago, under exemption procedures available under primacy, KDHE, working with the Board of Agriculture, exempted testing for this pineapple insecticide. EPA has made it clear they would not have provided this exemption. Under state primacy, a nitrate standard of 20 has been adopted for a group of water supplies known as non-community systems. This standard is established with little threat to public health and would not have been provided without state primacy.

A very successful program has been the Kansas Water Pollution Control Revolving Fund. By year's end, the fund will be approximately \$173 million and is used to make below market rate loans (lowest at 3%) to 85 local governments for water quality projects. These bills would dismantle the Revolving Loan Fund. The Department of Commerce Community Development Block Grant (CDBG) program has been very helpful in assisting local utilities with water infrastructure improvements. The Water Office, DWR, KDHE, and KDOCH coordinate potential grants in an attempt to best reflect state priorities for this annual expenditure of approximately \$15 million. This bill would prevent the state from providing technical and financial assistance for these water infrastructure projects.

Other examples of the importance of state and local control can be listed, but we think the argument is understood.

### TECHNICAL ASSISTANCE

A significant portion of KDHE's water resource efforts go to technical assistance. Technical assistance continues to provide our best rate of return in correction of problems and achieving compliance. Technical assistance is provided through our central office in terms of interpretation of statutes, regulations, system design, funding, etc. Staff from our six district offices

also provide technical assistance, local inspections, and counsel. We respond to local emergencies such as floods, droughts, power outages, and system breakdowns. Routinely, recommendations are provided regarding operation of utilities to help protect public health, and again, assure compliance. KDHE staff offers advice regarding alternates in the construction of local facilities.

For instance, we routinely encourage regional water and sewer projects, and we think have been successful in that regard. This results in significant environmental benefits as well as a long term economical approach. Technical assistance provided by KDHE has for several years focused on cleanup of groundwater contamination impacting public water supplies. These state activities would be curtailed by this bill. The Kansas Department of Commerce utilizes KDHE's expertise when assisting industries evaluating whether to locate in Kansas. KDHE's knowledge of federal water pollution control regulations, technical considerations regarding various wastewater treatment technologies, and municipal wastewater/water supply systems and their capacities assists Commerce in siting these operations and providing industry with information in a timely manner.

### ASSESSMENT AND SURVEILLANCE

The Kansas Health and Environmental Laboratory (KHEL) constitutes an essential component of the state's safe drinking water and ambient water protection program. All but a few of the largest water utilities utilize the state public health laboratory through a partnership which protects the health of public water supply clients. Because safe drinking water is an important public health priority, required monitoring analyses are provided on a cost for service basis by the state laboratory. This state/local relationship is particularly important to the 54% of water utilities which serve less than 500 people. Without some assistance, utilities in small towns cannot handle the broad scope of sophisticated chemical and biological analyses and interpretive challenges which are now required. The public water supply protection program has been designed to fill this need. For example, KHEL mails specially prepared water sample bottles to the local utility with instructions on how and when to collect the samples. Samples are returned to KHEL for analysis and the results are promptly provided to local utility and to KDHE water program personnel. If a problem is detected which threatens the safety of the water supply, we can react quickly to correct the situation. The local utility is spared the burden of keeping track of when, where, how, and how many samples must be collected for analysis, which now includes 86 different laboratory tests. KDHE field staff also assist utilities by collecting some difficult samples for organic chemistry analysis. Laboratory fees, reflective of the actual cost of laboratory service, are collected from local governments and deposited into the state general fund. The state public health laboratory currently receives 55,250 samples from public water supplies each year. One hundred forty-one thousand, five hundred sixty-five (141,565) specific test results are returned to public water utilities and water program staff. KHEL is a large and very efficient laboratory which provides analytical tests at low cost. Interpretive information is provided through scientists and engineers who are available for advice and assistance. This is a very important service that is taken for granted.

Each year, the state public health laboratory also provides 77,560 test results on 4,590 water samples taken from lakes, rivers, streams, and reservoirs in Kansas. This ambient water surveillance information helps to detect pollution sources and define contaminant levels so that state water resources can be appropriately utilized for recreational, agricultural, and drinking water purposes.

### FEDERAL FINANCIAL ASSISTANCE

State water quality programs rely heavily on federal funding. Through the years as federal funding was made available, the state was quick utilize available monies, not to enhance our programs, but to supplant state general fund money. Thus, for better or worse, the State of Kansas is now in a position of heavily relying on federal funds in water supply and wastewater programs. A listing of the grants which would be abandoned under this bill follows:

#### Clean Water Act:

Section 106, Water Program Administration	\$ 881,000
Section 319, Nonpoint Source Pollution Control	\$ 1,200,000
Section 604b, Water Planning & Surveillance	\$ 112,000
Section 104b, Special Projects/Tech Assistance	\$ 450,000
SRF Loan Fund Administration	\$ 445,000
SRF Capitalization Grants for Construction	<u>\$11,100,000</u>
Subtotal	\$14,188,000

<b>Safe Drinking Water Act:</b>		
KDHE Program Administration		\$ 770,000
Underground Injection Control at KDHE		\$ 159,000
Underground Injection Control at KCC		\$ 312,000
Public Water Supply Fee Fund (proposed)		\$ - 0 -
Subtotal		\$ 1,241,000
	<b>Total</b>	<b>\$15,429,000</b>
		=====

**REAUTHORIZATION**

Both federal Acts (Clean Water Act and Safe Drinking Water Act) are overdue for reauthorization. Kansas, as many others, has been active in attempts to influence the reauthorized legislation. KDHE's efforts have included forums for public input on revisions. Overwhelmingly states ask for less prescriptive (command and control) mandates and more state flexibility. In this endeavor, state and local governments have been a very effective force. There was an unusual letter sent to the congressional delegation last session urging reauthorization of the Safe Drinking Water Act. The letter was unusual in the partnership of the signatures which included KDHE, the Kansas Rural Water Association, American Water Works Association, the League of Municipalities, the Kansas Natural Resource Council, and the Sierra Club. To demonstrate the state's and local's role in reauthorization, last summer states were scolded by the EPA-Washington administration of scuttling Clean Water Act reauthorization. States response was the administration proposals remained too prescriptive and EPA was not listening. EPA's rebuke to the states was last August, prior to the election. I think they are listening better now. We now anticipate reauthorization of the two federal water Acts will be much more friendly to the needs of states. However, there will still be new federal regulations covering serious public health issues such as cryptosporidium, and further adjustments for various toxic compounds are likely as science indicates appropriate. We anticipate the federal law will somewhat reduce the overemphasis on monitoring allowing the return of more resources to other issues, including system management, pollution prevention, new technology and reliable infrastructure designs. In short, we expect the reauthorized laws to place even more responsibility and decision making at the state and local level. This is what we have asked for. This is not a time for Kansas to step back from its responsibilities and these new opportunities. This is a time for the state to step forward and be prepared for an even stronger role in managing our state's water resources.

Testimony presented by:

Karl W. Muedener  
 Director, Bureau of Water  
 February 14, 1995

TESTIMONY ON HOUSE BILL 2159  
BY THE KANSAS CORPORATION COMMISSION  
PRESENTED BEFORE THE SENATE TRANSPORTATION AND  
UTILITIES COMMITTEE

February 14, 1995

I am William R. Bryson, Director of the Conservation Division for the Kansas Corporation Commission and I am appearing on behalf of the Commission to express some serious concerns we have if HB 2159 is enacted. The Commission is involved with Kansas implementation of the Federal Safe Drinking Water Act (SDWA) because the Conservation Division administers the Class II Underground Injection Control (UIC) under primacy agreement with EPA, the authority is given through Section 1425 of that Act. KCC has had primacy since February 1984. During the past eleven years, KCC has tried to administer a cost effective program and has succeeded. EPA does an annual evaluation of our program and since 1987 has given us good to excellent marks for the way the program achieves primacy objectives, which are to protect the State's ground water resources from pollution by activities associated with oil field brine disposal and injection of salt water into formations to recover oil.

The philosophy behind HB 2159 appears to question why is it not preferable to have EPA run the SDWA programs if they are not willing to fund the expenses of requirements which are imposed at the Federal level. The reasons why the Commission believes a state administered Class II UIC program is essential are many, I will provide you with a few of the major ones.

- (1) You have probably heard the old stale argument that the state doesn't take the program, it will be run in a much stricter manner by EPA. Unfortunately, in the case of our Class II program, that is true. Section 1425 of SDWA, known as the Waxman Amendment, was passed by Congress in 1980, because Section 1422 of the 1974 Act had onerous injection well construction, operating and well closure requirements with which states would have had to make industry comply. Under Section 1425, oil field UIC programs have to demonstrate that any rules and regulations adopted will have equivalent effectiveness in terms of protecting ground water. There is a gulf of difference between adopting regulations by reference as KDHE is required to do under Section 1422 and what KCC is allowed to do under Section 1425.
- (2) If the Class II UIC program is returned to EPA as a result of HB 2159, EPA will be forced to administer a Direct Implementation program under the stricter Section 1422. This also means that:
  - Oil operators would have to file applications for UIC permits with both KCC and EPA. KCC would still have to review applications for protection of correlative rights, prevention of waste, down hole well construction and upper hole cementing. KCC could issue a permit and the operator would not be able to inject until EPA issued theirs. KCC's current turn around time on UIC applications is 30-40 days in most cases. EPA's turn around time in some EPA regions as much as 4-6 months.
  - EPA would either have to line up Mechanical Integrity Tests (MIT) for Kansas' 15,000 injection wells over a five year period by and either making an agreement with KCC to witness these for free or hire an EPA contractor to do the work. KCC receives about \$300,000 in Grant money annually to do the Federal requirements which centers mostly around witnessing MIT's.
  - EPA's Enforcement Division would have the authority to take unilateral actions against operators who are out of compliance with the Federal program. EPA would be under no obligation to coordinate enforcement actions with KCC.

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- (3) EPA has informally indicated that if the KDHE portion of the Federal Safe Drinking Water Program were returned to them, the KCC Class II program would also be going back, even though it is administered under a separate agency and is not under the authority of the Secretary of KDHE.
- (4) Kansas (KCC) would lose much of its authoritative participation at the national level when EPA tries to regulate new regulations that might not be good for Kansas. In other words, Texas, Oklahoma, California or Ohio would be deciding what is good for Kansas.

I have had occasion, as current President of the National Ground Water Protection Council, an organization of State UIC and Ground Water Pollution Control directors, to review other state UIC programs which at sometime or other made the unwise decision to let EPA run the Class II program in their state. All but three of the original eight have since obtained primacy or are seeking primacy because operators had inordinate delays in getting UIC applications approved. We think it would be devastating to the Kansas Independent Petroleum industry if they had to be regulated on a daily basis by an agency that has neither the personnel nor the wide breadth of technical expertise to adequately administer the program.

We appreciate the opportunity to appear and express our concerns over the concept expressed in HB 2159. We hope that discussion provided by both KCC and KDHE will be helpful in understanding why the Safe Drinking Water Act should be administered, if at all possible, by the State.



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CITY BUILDING  
ABILENE, KANSAS 67410  
PHONE: 913-263-2550  
FAX: 913-263-2552

February 6, 1995

Energy & Natural Resources Committee  
State Capitol Bldg.  
Topeka, KS 66612

Dear Committee Members:

On behalf of the City of Abilene, I would like to comment on the issue of primacy with respect to the Safe Drinking Water and Clean Water Acts.

I respectfully suggest that the State of Kansas (KDHE) should retain administration of these programs. KDHE officials have historically provided local government excellent technical assistance and advice concerning water and waste water programs. They recently provided our City with an extensive amount of assistance in our effort to achieve compliance with new requirements of the Safe Drinking Water Act.

I feel that KDHE has a very clear understanding of local issues and is best suited to administer the above noted programs. Experience has shown that they utilize common sense and flexibility in their approach and in their interaction with cities and counties.

Abilene recently was forced with making significant improvements to the water utility, including construction of a new water treatment plant. KDHE officials attended numerous local public meetings on this issue and helped City officials and local citizens understand the complexity of the matter. It is very doubtful that EPA could have offered this level of support.

Through positioning of field offices, KDHE is available to local government and citizens of the state. Because of this, they have historically been available to work with local government on a cooperative basis, to achieve compliance with federal programs.

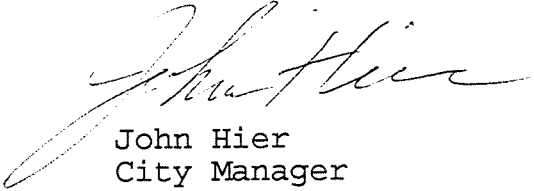
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**VISIT ABILENE - home of the Dwight D. Eisenhower Memorial**

EPA conversely, has a history of rigid enforcement and application of penalties when schedules and timetables are not met. Also, because they have no local offices, it would be very difficult for them to provide assistance to remote cities and counties. It would be no favor to citizens of Kansas to have EPA administer the programs in question. It is likely in fact, that federal administration of these programs would be much more costly to everyone.

If the programs are returned to EPA, for administration, I feel We will not receive the same level of support we have enjoyed with KDHE. Therefore, on behalf of the City of Abilene, I respectfully urge you to retain administration of the Safe Drinking Water and Clean Water Acts.

Sincerely,



John Hier  
City Manager

JH:dt

HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES  
February 14, 1995  
RE: HB 2159 AND 2160 - TRANSFERRING RESPONSIBILITIES TO EPA  
FEDERAL SAFE DRINKING WATER ACT & CLEAN WATER ACT

Testimony of David Bleakley - President  
Eastern Kansas Oil and Gas Association  
&  
Director of Acquisitions & Land Management  
Colt Energy, Inc.

The Eastern Kansas Oil and Gas Association strongly opposes HB 2159 and 2160.

Our association represents and supports eastern Kansas oil and gas producers, service companies, royalty owners and associated businesses along with the overall welfare of the Kansas oil and gas industry in this state.

In testimony against HB 2160 AND 2159, EKOGA feels that the Kansas Corporation Commission and The Kansas Division of Health and Environment should remain as the agency responsible for enforcement of the Underground Injection Control (UIC) program and oil spill regulations.

We feel that transferring these responsibilities to the EPA will cause:

- 1) an excessive increase in the time required to obtain a waterflood permit under the UIC program
- 2) a duplication of some work between the KCC, KDHE and EPA resulting in increased cost to the taxpayer and to our industry
- 3) increased costs to the taxpayer for implementation of training programs for workers new to these areas and programs.

We feel that the KCC and KDHE are currently enforcing these areas with a practical approach to the law. They understand the people, the problems, and although we don't always agree with the KCC or KDHE, we think they can administer these programs with existing, trained personnel far better than the EPA.

We also feel the American voters have clearly voiced their desire to have a downsizing of Federal Government. A transfer of this responsibility to a Federal Agency only increases the bureaucracy we will be required to deal with and imposes more "big government" intervention on the small operators who are already struggling to survive with the low prices of oil and gas in this distressed industry.

Therefore, Mr. Chairman and members of this Committee, we urge you to vote against big government by defeating HB 2159 and 2160 and keep the authority for enforcement and responsibility for oil spill regulations and the UIC program with the Kansas Corporation Commission and KDHE.

Thank you for your time.

David P. Bleakley

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February 14, 1995

Testimony by: Roger O'Kane  
Automotive Controls Corp.  
Independence, Kansas

House Bills: 2159 and 2160 Relinquishing authorization of KDHE Safe Drinking Water Act and Clean Water Act to the United States Environmental Protection Agency.

Position: "Opposed" to Relinquishing Authorization to the US-EPA.

Testimony Outline:

- I. Study of a "Case History" involving the State of Iowa relinquishing authority of Iowa Department of Natural Resources Safe Drinking Water Act and Clean Water Act to the US-EPA.
  - A. 1981 Iowa Dept. of Natural Resources relinquished State authority over the Safe Drinking Water Act and Clean Water Act to US-EPA.
    1. Lack of General Revenues and Fee Structuring reason given.
    2. Abolished State Water Agencies.
    3. Relinquished State authority over Permitting and Monitoring.
    4. State relinquished all documentation to US-EPA.
  - B. EPA's Response to Iowa relinquishing authority.
    1. US-EPA was already under- staffed.
    2. Iowa was an extra work load placed on US-EPA.
    3. US-EPA Staff could not correlate Iowa Permitting format.
    4. Iowa Permitting did not conform to US-EPA forms.
    5. Iowa Documentation was warehoused or archived.
  - C. EPA's Permitting Requirements for Iowa.
    1. All municipalities forced to re-apply for Federal Permitting.
    2. Standards compliance to generic Federal Regulations.
- II. Effects of US-EPA Permitting on Iowa Municipalities.
  - A. Requirements placed on City and Rural programs.
    1. Operators were required to Certify, or
    2. Contractors could be hired in lieu of Certification of Operators.
  - B. Updating of Monitoring Equipment required.
    1. Constant Monitoring equipment forced on Rural Systems.
    2. Waste Disposal Programs were up-graded.
  - C. Costs of Certification and Modifications to Systems passed on to consumers.
    1. Option 1; Systems upgraded to meet federal stds.
    2. Option 2; Close down operations and buy water.
- III. Results of Iowa Relinquishing State authority back to US-EPA.
  - A. Increased cost of clean drinking water.
    1. Re-permitting and testing, a cost to water programs.
    2. Certification of Operators, a cost to water programs.
    3. Sub-Contracting out services, a cost to water programs.
    4. Transporting water or construction costing of new water pipe lines, a cost to water programs.
  - B. Results of non-compliance or lack of funding to comply.
    1. Rural water systems shut down.
    2. Fines levied against non-compliance systems.

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- IV. State of Iowa's Response to US-EPA's dealing with Iowa Municipalities.
  - A. In 1983 Iowa petitioned US-EPA for Reauthorization.
  - B. Iowa Legislature had to Create a new State Water Agency.
  - C. Iowa Legislature had to create a Fee Funded Program
  - D. Staffing of State Water Program with in-experience staff.
  - E. Documentation lost at US-EPA forced another re-permitting program.
- V. Lessons Learned by State of Iowa.
  - A. US-EPA control was unforgiving to rural communities.
  - B. US-EPA had no vested interest in Iowa.
    - 1. Iowa was extra work load.
    - 2. Iowa was an ideal testing ground for new Federal Legislation.
  - C. Communication from Federal level to Municipalities was non-existent.
  - D. Rural Communities need close State support.
  - E. Cost of Re-Authorization was expensive.
- VI. Personal Views.
  - A. Citizen of State of Kansas.
  - B. Representing ACC-Independence.
  - C. Requesting "Status Quo" on existing programs.
- VII. Reason for State Water Programs.
  - A. Buffer between Federal and Local Agencies
  - B. US-EPA understaffed to maintain existing programs.
    - 1. Recent US-EPA RCRA Audit.
      - a. US-EPA Region VII sub-contracted California firm to conduct Kansas Compliance Audit.
      - b. California firm, auditing Kansas Industry to US-EPA Stds.
    - 2. "Military Intelligence"
  - C. Changes of leadership in Federal Govt. level.
    - 1. Calling for reductions in Environmental Agencies.
    - 2. Returning Federal Dollars to States for compliance Monitoring.
    - 3. Federal Leaders recognize less Federal control and more State Control over some local issues.

The State of Kansas should look upon the lessons learned by the State of Iowa. Our new Federal Government realizes controls over local issues should revert back to the State level. Keep local government here where it belongs, so we can realize the most out of our tax dollars.

# DOUGLAS COUNTY RURAL WATER DISTRICT # 3

Represented by LaVerne D. Bartell  
Operator for RWD # 3 and Tri District Water Facility

The Kansas Department of Health and Environment has done an excellent job of monitoring all the Environmental Protection Agencies Maximum contaminant levels. KDHE is carrying a full load of work due to the paper work involved in the reporting requirements. However, they also track plant problems, assist operations and make recommendations to help solve existing problems.

The most effective police work is done with community involvement and improvement. This is the new concept of law enforcement. With this concept being the base line for the enforcement of laws, why would we not support the people that have the best knowledge of the community being monitored? KDHE continues to offer training and technical advise to operators who make the water that is being monitored and have the greatest impact on the viability of all the water systems in Kansas. Many of the smaller systems that have limited knowledge and finances, would have a much harder time understanding the requirements as well as meeting them, if it were not for the support of KDHE. If this support goes away and law enforcement is the new trend by EPA, then many of the smaller systems will disappear causing regional systems to assume the supply requirements at a much higher price. Small systems have local representation, this would be lost.

To consider turning the monitoring requirements back to EPA has a snowball affect. We will lose more than primacy! Are you prepared to initiate this? Will this actually help the people in Kansas?

Our water district is against bringing in an outside agency for the impersonal law enforcement of monitoring maximum contaminant levels. This will NOT improve our ability to make a higher quality water or meet all the regulations.

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**Testimony presented to the  
House Energy and Natural Resources Committee**

**by  
The City of Olathe**

**House Bills No. 2159 & 2160**

The city of Olathe opposes these bills. The loss of state primacy over water production and wastewater treatment will greatly affect the ability of the city to provide local services in these areas. The Kansas Department of Health and Environment (KDHE) provides the city with technical assistance and support which would be limited if primacy was abandoned to the Environmental Protection Agency (EPA). The city does not have the resources necessary to ensure that local needs are heard at the federal level.

Listed below are examples of the types of interaction between the city and the KDHE which reflect the need to maintain state primacy over the administration of the Clean Water Act (CWA) and the Safe Drinking Water Act (SDWA).

1. The city estimates there is between 300 and 400 interactions per year with the KDHE, including information exchanges, plan reviews, regulatory assistance, inspections, and others. Technical assistance provided by the KDHE helps to ensure that the public health and safety is maintained.
2. The city has \$0.5 million worth of projects funded through the State Revolving Loan Fund program. Further, an additional \$0.9 million is pending and over \$6 million worth of projects anticipated over the near term. These provide low interest loans the city needs to improve infrastructure. There is concern that control of this program by the EPA would limit its effectiveness by delays and a lessened awareness of state priorities.
3. The city has had considerable experience, due to high growth, in working with the KDHE to address local needs and concerns. The KDHE is able to regionalize federal mandates and apply them to the specific concerns and needs of the state. The loss of the KDHE in this process would leave the city to implementing federal regulations that may have no bearing on local needs, thus,

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increasing costs due to unnecessary requirements (for example, requiring water quality standards to meet environmental needs of non-native species).

4. An important source of information and data, the KDHE provides the city with a plethora of knowledge which otherwise would not be attainable by the city. An example is the stream data provided by the KDHE to the city to establish and enumerate the necessary limits on discharges.

5. There are other programs, such as the pretreatment program and the professional laboratory certification program, which KDHE provides a tremendous amount of necessary support. There are over 200 industry which fall into the pretreatment program within the state and of those there are 46 which are directly regulated by the KDHE. These industry in particular, would directly feel the repercussions of the loss of state primacy.

6. There may be other state statutory requirements administered by the KDHE that are not encompassed by the CWA and the SDWA. These would put the city in a position of submitting to both the KDHE and the EPA and potentially having reporting conflicts on similar issues.

The city requests the committee to reevaluate these bills. The city believes that state primacy over the Clean Water Act and the Safe Drinking Water Act are important and provide for necessary control at the state level of issues regarding the public health and environment of the state that a federal oversight would not support.

Testimony presented by:

William A. Ramsey  
Municipal Services Director  
February 14, 1995

BEFORE THE HOUSE ENERGY AND  
NATURAL RESOURCES COMMITTEE  
STATEMENT OF JACK GLAVES  
ON BEHALF OF OXY USA  
IN OPPOSITION TO HOUSE BILLS 2159 AND 2160

OXY USA is the largest oil producer in Kansas, and the third or fourth largest producer of natural gas. It is actively involved in exploration and secondary recovery projects, requiring the injection and disposal of saltwater in numerous projects across the State.

The proposed transfer of responsibility and enforcement of the Federal Clean Water and Safe Drinking Water Acts under these Bills to the Federal Environmental Protection Agency presents serious problems to Kansas oil and gas operators, in OXY's opinion.

Enactment of these measures would require the permitting and reporting of injection wells to the EPA Region VII office instead of to the Kansas Corporation Commission under the Safe Drinking Water provision. It was OXY's experience when permits had to be filed on new wells with EPA in Mississippi, our programs were delayed for up to two years prior to their approval.

Additionally the Clean Water Act allows for storm water discharges through the Kansas Department of Health and Environment and pit permits through the KCC. The transfer of Clean Water Act responsibility and authority back to EPA would significantly impact the operation of our production facilities. Authorizations for new drilling locations and other facilities could be delayed significantly.

  
\_\_\_\_\_  
Jack Glaves, Legislative Counsel  
for OXY USA, INC.

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**TESTIMONY OF ERVIN SIMS, JR.**  
**BOARD OF PUBLIC UTILITIES**  
**IN OPPOSITION TO HOUSE BILL NO. 2159**

My name is Ervin Sims, Jr. I serve as manager of the water operations division of the Board of Public Utilities. The Board of Public Utilities serves all of the residents of Kansas City, Kansas, Edwardsville, Kansas and small neighboring communities. The population of our service area is approximately 175,000 people. The mission of the water operations division is to have available, upon demand to all of our customers, good quality water and to provide all water in the most efficient manner possible.

My comments today before the Energy and Natural Resources Committee are in opposition to House Bill No. 2159. While the Board of Public Utilities recognizes the importance of the state legislature making a demonstrative effort to curb unfunded federal mandates, the Board of Public Utilities strongly suggests that the Safe Drinking Water Act referenced in H.B. 2159 is not the appropriate issue about which the state should relinquish primacy. Over the years, the Board of Public Utilities and other major water purveyors throughout the State of Kansas have developed a positive, cooperative, professional working relationship with the state agencies responsible for administration of EPA mandates as they relate to the Safe Drinking Water Act.

The state health department officials assigned to administer the safe drinking water laws have played a very important role for our utility. They have provided annual on-site lab inspections for us to meet laboratory certification requirements. In addition, they have provided technical guidance on interpretation of the complex drinking water statutes. Furthermore, the quality of operator training would decrease because of no state participation. Currently, the Kansas Department of Health and Environment monitors and tests the chemical and microbial quality for all the drinking water supplies of Kansas. Since the Environmental Protection Agency is primarily an enforcement agency, who would handle this essential function beginning in 1996 if H.B. 2159 becomes law?

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The Board of Public Utilities is confident that the best approach to continued provision of water quality by water utilities is through the professional staff of the Kansas Department of Health and Environment administering EPA requirements. In the best interest of providing continued good quality water to the customers that we represent, I strongly urge denial of passage of H.B. 2159. The Board of Public Utilities also encourages persistence by the state legislature to encourage the federal government to find available funding for the state on such critical issues that must appropriately be administered by the state.



**TESTIMONY OF DON GRAY  
BOARD OF PUBLIC UTILITIES  
IN OPPOSITION TO  
HOUSE BILLS NOS. 2159 AND 2160**

My name is Don Gray. I am the Director of Water Processing for the Board of Public Utilities in Kansas City, Kansas. I have been with the Board of Public Utilities for almost 25 years, and I am currently responsible for water treatment. Our utility provides services to a population of approximately 170,000.

I would like to share with the committee two examples of how representatives from the Kansas Department of Health and Environment (KDHE) have assisted our utility concerning the Safe Drinking Water Act (SDWA). In addition, I will summarize the key role of State officials in administering the SDWA and Clean Water Act (CWA) for our utility.

1. During March, 1979, our utility experienced one of the worst spring run-offs in our history. The Missouri River had become difficult to treat with conventional chemicals such as cationic polymer and alum. As a consequence, the turbidity (cloudiness of water) had risen above 1.0 NTU, which was the standard at that time. According to the regulation, our utility should have gone on public notice. We contacted the late Jack Burriss, who was then the water quality director for KDHE. Mr. Burriss understood that our utility was doing everything it could to comply with the turbidity standard. Also, he recognized that utilities up and down the Missouri River were having similar problems. In addition, he reviewed our microbiological and chemical testing data during that run-off period, which indicated no contamination and that our finished water was safe. As a result, Mr. Burriss did not require our utility to go on public notice. If this reporting had been handled by the Environmental Protection Agency (EPA), they would have required us to go on public notice, which would have caused our customers undue alarm.

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2. During the flood of 1993, our utility almost lost its water treatment plant. During that period, many representatives from KDHE offered a helping hand. We discussed some technical issues that surfaced during that period. Not once did anyone from EPA Region VII contact us to offer their assistance. I find this interesting since the Region VII laboratory and administrative offices are located in Kansas City, Kansas.

Using the two examples stated, I have tried to demonstrate how KDHE officials have worked closely with our utility. In addition, the State continues to provide technical support, compliance monitoring, laboratory and operator training, laboratory and operator certification, microbiological and chemical testing, and new construction permitting. Most of my comments pertain to the State administering the SDWA, but the State also supports our utility in implementation of the CWA as well.

The EPA is primarily concerned with enforcement, compliance and penalties. If the State gives up primacy, water utilities will be acting on their own in interpreting and implementing all the complex environmental regulations. Confusion, non-compliance and heavy penalties will result.



**North American Salt Company**

February 9, 1995

TO: House Energy and Natural Resources Committee

Reference: House Bill No. 2159  
House Bill No. 2160

North American Salt Company operates salt evaporation plants in Hutchinson, Kansas and Lyons, Kansas. The Kansas Department of Health and Environment (KDHE) administers both the Safe Drinking Water Act (SDWA) and The Clean Water Act (CWA) for our Kansas facilities. We have Underground Injection Control Permits under the SDWA and National Pollution Discharge Elimination System (NPDES) permits under the CWA.

The two bills referred to above would transfer primacy for these regulations back to the EPA. We believe that this transfer would be a mistake. North American Salt Company has worked with the KDHE over the years on many regulatory matters. The KDHE is very focused on Kansas issues and has developed a considerable expertise on the special issues affecting Kansas. On balance, we feel the KDHE has performed it's job fairly.

It is our opinion that the passage of these bills would NOT be in the best interest of North American Salt Company, our employees and the communities in which we operate.

Thank you for your assistance on this issue. If I can answer any further questions on this issue, you may contact me at my office telephone: 316-662-0901, extension 206.

Sincerely,



Charles E. Nichols  
Operations Manager  
North American Salt Company

CEN:cm

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## KANSAS INDEPENDENT OIL & GAS ASSOCIATION

105 S. BROADWAY • SUITE 500 • WICHITA, KANSAS 67202-4262  
(316) 263-7297 • FAX (316) 263-3021  
800 S.W. JACKSON • SUITE 1400 • TOPEKA, KANSAS 66612-1216  
(913) 232-7772 • FAX (913) 232-0917

### HOUSE COMMITTEE ON ENERGY & NATURAL RESOURCES FEBRUARY 14, 1995

*Testimony of Donald P. Schnacke, Executive Vice President  
Kansas Independent Oil & Gas Association*

**RE: HB 2159 -- Safe Drinking Water Act  
HB 2160 -- Clean Water Act**

Mr. Chairman and members of the Committee, I am Donald P. Schnacke, Executive Vice President of the Kansas Independent Oil and Gas Association. We are appearing here in opposition to HB 2159 and HB 2160.

Environmental laws and regulations have been involved with the Kansas oil and gas industry since the early 1930's when the Kansas legislature began to pass laws relating to spills of oil and salt water, the use of casing to protect groundwater, and the plugging of wells. Since those days, the environmental regulation of our industry has gotten very complex in detail and very expensive. The involvement of the federal government, through actions of the U.S. Congress, has set in motion a number of programs that relate to spill reporting regulations, production waste regulations, and remediation requirements.

We put together an environmental guide for oil and gas operators and all of the requirements are contained in the exhibit I have used in preparation for this hearing today.

We have often stated that Kansas would be better off if it would assume primacy over federally mandated programs as they relate to our industry. We can understand the frustration Kansans have with unfunded federal mandates and we support sending a message to the U.S. Congress expressing that concern.

The Clean Water Act (HB 2160) does touch our industry in the areas of Spill Prevention Control and Countermeasures (SPCC) and National Pollutants Discharge Elimination System Permits (NPDES) administered by KDHE and the entire spill program managed by the KCC. Production waste regulations relating to Underground Injection Control Permits (UIC), which include the Mechanical Integrity Testing (MIT) of wells throughout Kansas, are within the Safe Drinking Water Act (HB 2159).

The bottom line for us is that we would much rather deal with the KCC and KDHE than deal directly with EPA, Kansas City, MO which has jurisdiction over four states with limited personnel and limited funds. We oppose HB 2159 and HB 2160.

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February 14, 1995

Kansas House of Representatives  
Record of Testimony to Energy & Natural Resources Committee  
Steve Phillips, Director - Kansas Water Environment Association  
House Bill 2160

Mr. Chairman, Members of the Energy & Natural Resources Committee; Good afternoon. My name is Steve Phillips. I live at 9238 Lee Boulevard; Leawood, Kansas. I am a Licensed Professional Engineer actively in practice in the state of Kansas. Today I am here as a member of the Executive Board of the Kansas Water Environment Association to present the Board's position on House Bill 2160.

The Kansas Water Environment Association is a not-for-profit technical/professional society whose membership is comprised of individuals who are involved in wastewater industry in our state. The Association's current membership, over 500, includes city administrative, operation and maintenance staff; consulting engineers; scientists; members of the academic community; equipment suppliers, and construction contractors. Our members have been involved in all aspects of implementation and administration of Clean Water Act in Kansas since the inception of the law in 1972. Our primary contact in these activities has been the Kansas Department of Health and Environment. KWEA members work with Department of Health & Environment staff on issues relating to the design, construction, operation, and maintenance of wastewater systems throughout the state. KWEA is committed to improving water quality for our State. We truly are on the front lines working to implement the goals of the Clean Water Act in Kansas.

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Record of Testimony - House Bill 2160

The KWEA Executive Board has asked me to speak to you today on their behalf to express their serious concern about the impact that House Bill 2160 would have on wastewater programs in Kansas. Our experience over the past 20 + years has been that KDHE has played an important role in applying the Clean Water Act in a reasonable, rational way. KWEA members benefit from the technical assistance that KDHE staff members provide, the opportunities our members have for dialogue with enforcement officials at KDHE who understand conditions and circumstances in our state, and interaction with KDHE administrative staff who will work with our members to translate the regulations promulgated by EPA into programs that are reasonable and effective. An example of this interaction was witnessed last year during the promulgation of revised Surface Water Quality Standards. This process involved many of our members and KDHE staff working together to formulate a set of regulations that fulfilled our obligation and commitment to environmental protection, while retaining an approach that is reasonable and cost-effective.

I would be remiss if I did not say that the relationship between KWEA and KDHE has included some times of disagreement. We have not always agreed; and I am sure that there will be times in the future when there will be differences of opinion. However, our membership feels very strongly that the people of Kansas receive a significant benefit by having KDHE involved in the administration of the Clean Water Act in the state. EPA's approach in areas where they have primary responsibility for administering the act has clearly been more arbitrary and enforcement oriented than the approach used by KDHE. The focus of their actions has more often been oriented towards fines and administrative action, not support and cooperative implementation, which our organization believes is more effective in accomplishing the goals of the Act.

Record of Testimony - House Bill 2160

KWEA does not believe that cities and industries in Kansas would benefit from this approach to environmental control. It is our belief that this is an area that is best dealt with at a level of government as close as possible to the systems which are being regulated.

In summary, the Executive Board of the Kansas Water Environment Association wishes to go on record as opposing the passage of House Bill 2160, and seeks the committees consideration of our position on this matter as you consider action on the bill.

Respectfully Submitted,

Steve Phillips

Kansas Water Environment Association



# CITY OF ARKANSAS CITY

## BOARD OF COMMISSIONERS

Jerald K. Hooley, Mayor  
Ben R. Givens, Commissioner  
Jesse A. Kindred, Commissioner  
Jean C. Lough, Commissioner  
Charles Tweedy III, Commissioner

CITY MANAGER  
Curtis B. Freeland

February 12, 1995

Representative Carl Holmes, Chairperson  
House Energy and Natural Resources Committee

Honorable Chairperson Holmes:

Please accept this letter as testimony strongly opposing this state's loss of primacy with U.S.E.P.A. for programs under House Bill 2159 (Safe Drinking Water Act) and House Bill 2160 (Clean Water Act).

The City of Arkansas City views U.S.E.P.A. as the regulatory agency establishing standards for compliance. Presently, U.S.E.P.A. does not have the staff to monitor, maintain, and evaluate facilities for improvements; current, future, or emergency conditions, etc. as demonstrated in the aftermath of an Administrative Order of Consent issued to the City of Arkansas City. The City of Arkansas City has a good working relationship with the Kansas Department of Health and Environment and the increased costs of monitoring to U.S.E.P.A. during this Administrative Order could have been greatly reduced, with the same results, if we were able to respond to the Kansas Department of Health and Environment.

U.S.E.P.A. plays a vital role in the products we produce for our customers, but not in the operation of a state's system. In our efforts to produce the best quality effluents at the most economical expense for our citizens, and the citizens throughout the state, U.S.E.P.A.'s involvement will only increase the utility rates for all concerned.

The City of Arkansas City evaluates the Kansas Department of Health and Environment as performing an outstanding job in its regulatory duties and recommend both house bills, HB2159 and HB2160, be "killed" to eliminate anticipated problems in operations and increased utility costs if primacy is returned to U.S.E.P.A.

Respectfully,

Ron Parker,  
Environmental Supt.

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Energy & Natural Resources



City of  
**EL DORADO**  
KANSAS

February 7, 1995

Rep. Carl Dean Holmes, Chairman  
House Energy and Natural Resources Committee  
P.O. Box 2288  
Liberal, Kansas 67905


Honorable Representative Holmes:

Please be advised that the city of El Dorado is adamantly opposed to HB2159 and HB2160, both of which transfer program responsibility and enforcement authority of the "Safe Drinking Water Act" and the "Clean Water Act" from the Kansas Department of Health and Environment back to the U.S. Environment Protection Agency.

The city of El Dorado has had excellent relations with KDHE, and find their personnel very helpful with any questions or problems that we encounter. We anticipate substantial problems arising if primacy is returned to USEPA.

We encourage the House Energy and Natural Resources Committee to "kill" these bills as they will not be in the best interest of the residents of Kansas.

On behalf of the City Commission,

  
Edward L. Blake  
Mayor

ELB:hv

cc: Representative Mason  
Senator Corbin



P.O. BOX 4000 HESSTON, KS 67062-2094  
PHONE (316) 327-6300

February 10, 1995

The Honorable Carl Dean Holmes  
Chairman, House Energy and Natural Resources Committee  
Representative, Kansas House of Representatives  
State Capital, Room 115 South  
Topeka, Kansas 66612

Dear Mr. Holmes:

Hay & Forage Industries (HFI) opposes House Bills No. 2159 and 2160 which seek to transfer the Kansas Department of Health and Environment (KDHE) program responsibility under the federal Safe Drinking Water Act and Clean Water Act to the United States Environmental Protection Agency (U.S. EPA). HFI's reasons for opposing the two bills are as follows.

***THE REQUIREMENTS OF THE WATER PROGRAMS STILL APPLY NO MATTER WHO HAS RESPONSIBILITY FOR THE PROGRAM.***

The Safe Drinking Water Act was enacted to protect and enhance the quality of drinking water supplies. The purpose of the Clean Water Act was to restore and maintain the chemical, physical, and biological integrity of the nation's waters. Both these laws were designed to have EPA delegate authority to states to implement the programs as long as the states' programs were at least equivalent to the federal program.

***THERE HAVE BEEN SUBSTANTIAL BENEFITS FROM HAVING KDHE RATHER THAN U.S. EPA RESPONSIBLE FOR THE WATER PROGRAMS.***

A joint venture between AGCO and Case, HFI manufactures hay and forage products ranging from small square balers to self-propelled windrowers and employs approximately 1,000 people at its facility in Hesston, Kansas. Case, the managing partner, also employs approximately 400 additional people in Wichita and Kansas City.

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Letter to The Honorable Carl Dean Holmes  
February 10, 1995  
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HFI treats production wastes and byproducts in a wastewater treatment plant at its facility prior to discharge. Previously, sludge from that wastewater treatment system was dewatered in a lagoon, which recently went through closure. Both these activities cause HFI to be regulated by the KDHE water program.

HFI has received considerable assistance and cooperation from KDHE staff in the Bureau of Water in developing treatment and pretreatment options for the discharge of treated wastewaters. KDHE staff visited the facility in 1990 to help HFI personnel determine the best option for discharge. Once the decision was made to discharge treated water to the Little Arkansas River via Little Emma Creek, KDHE staff again assisted HFI through the complex and technical NPDES permitting process. KDHE's support throughout the process made this undertaking possible and has meant an investment of nearly \$1.3 million by HFI. KDHE continued its support each time the permit was renewed. KDHE also provided support by providing wastewater treatment system operator training in conjunction with state universities and colleges, which HFI employees have taken advantage of.

Similarly, during the recent lagoon closure, KDHE assisted HFI in assessing the risks of various closure options and developing an option that would minimize cost while being protective to human health and environment. Again, KDHE's cooperation throughout the process greatly expedited the closure process, which cost HFI nearly \$325,000.

Since the requirements will be the same no matter which agency implements the water programs, HFI requests that the programs remain with KDHE so that the existing level of technical assistance and cooperation that has been provided by KDHE be continued. KDHE's partnership approach has allowed it to develop close working relationships with the regulated community. This approach is contrasted by the U.S. EPA's reputation for an enforcement-oriented approach, which tends to alienate the agency from the regulated community.

Thank you for the opportunity to comment on these two proposed bills.

Sincerely,



Charles H. Miller  
General Manager  
Hay & Forage Industries

/kbs

TESTIMONY BEFORE  
HOUSE ENVIRONMENT AND NATURAL RESOURCES COMMITTEE  
IN OPPOSITION TO HOUSE BILL NO. 2160

February 14, 1995

My name is Douglas Smith, I am the Wastewater Administrator for the Johnson County Unified Wastewater Districts and have held that position since 1980. We are the largest provider of sewer services in Johnson County, serving approximately 275,000 people. Even though I only represent the Johnson County Unified Wastewater Districts, my remarks could pertain to the other local governments in Kansas.

I have provided you with both a one page outline and the full text of my testimony. We oppose House Bill 2160, which proposes to transfer the state's enforcement authority under the federal law pertaining to water pollution to the U. S. Environmental Protection Agency (EPA). We are opposed to this legislation primarily for these four reasons; 1) increased cost to cities/counties, 2) cities/counties must still comply with federal mandates, 3) loss of technical guidance, and 4) retain local control. I will explain these concerns in more detail.

1. Increased Cost to Local Jurisdictions - Historically, the Kansas Department of Health and Environment (KDHE) has successfully negotiated the implementation of federal water pollution regulations that are based on the needs of the State of Kansas, and not based on overly restrictive and inappropriate national standards. The most striking example of this ability pertains to the surface water quality standards approved by the Department last June. These standards stipulate the maximum pollutant levels for all streams in the State of Kansas. Under the original proposal endorsed by EPA, these standards would have made most of the 250 lagoons discharging in Kansas in violation of pollution standards. These lagoons serve small communities, ranging in population from 100 to 1,500. The estimated capital cost for these communities to comply is \$100 million, with an estimated \$10 million per year increase in operation costs.

Obviously, these small communities are the least able to afford these massive capital improvements. Fortunately, KDHE has developed these standards so that most lagoon systems could continue to provide simple and cost effective treatment, as they have for many years in Kansas, and still provide protection of the Kansas environment. Had the EPA prevailed, not only would most of these lagoons been required to build a substantial upgrade, many of the other 150 communities operating wastewater treatment facilities would also have had to make improvements. With EPA in control, they will likely change these standards to levels that will require most communities in Kansas to make these improvements costing tens of millions of dollars for little, if any, environmental benefit.

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2. Cities/Counties Must Still Comply With Federal Mandates - Even if enforcement authority is transferred from KDHE to EPA, federal requirements are still embodied in law and regulation. No city wants to violate these laws and regulations, and consequently must spend the funds to comply regardless of which agency has enforcement authority. EPA will likely be able to hire personnel to enforce environmental mandates by simply withdrawing EPA grants that currently fund KDHE's staff and hire their own personnel.
3. Loss of Technical Guidance - Currently, KDHE provides extensive technical guidance to communities to assist in compliance with water pollution regulations. This advice is critical not only in finding cost effective solutions to achieving compliance, but also provides assurance that communities are on the right track toward achieving compliance. It is almost certain that EPA would not provide a similar service. An excellent example of this is the one aspect of the water pollution laws which currently remain under direct EPA enforcement authority. This area relates to disposal of wastewater treatment sludges. Despite repeated telephone calls and letters to the Kansas City EPA office, we have received no response to our requests for feedback on the project we are currently undertaking to achieve compliance. If we had to deal with this type of regulatory position for all of our water pollution projects, the result would be confusion and chaos.
4. Retain Local Control - The current trend toward less federal control and delegating more authority to the states is a concept I endorse. It appears that House Bill 2160 would do the opposite.

In conclusion, the cost to Kansas cities in the long-term could easily run into the hundreds of millions of dollars, and would make the already difficult task of complying with the bewildering array of water pollution requirements even more difficult.

I urge you to oppose House Bill 2160. The Kansas Engineering Society also opposes this bill. I will be happy to answer any questions you may have.

OUTLINE OF TESTIMONY BEFORE  
HOUSE ENVIRONMENT AND NATURAL RESOURCES COMMITTEE  
IN OPPOSITION TO HOUSE BILL NO. 2160

Presented by Douglas L. Smith, Administrator  
Johnson County Unified Wastewater Districts

- A. Four main concerns regarding House Bill No. 2160:
1. Increased cost to local jurisdictions
    - a. Example: Water Quality Standards, which set stream pollution levels
    - b. EPA endorsed proposal would make 252 city lagoons obsolete
    - c. KDHE negotiated standards that protect cities with lagoons and the environment
    - d. KDHE saved these cities (population 100 to 1,500) estimated \$100 million capital and \$10 million annual operating costs
    - e. KDHE also saved 10's of millions of dollars for the larger 150 cities/counties that discharge.
  2. Cities/Counties must still comply with federal mandates
    - a. Even if enforcement authority is transferred to EPA, federal law will require compliance
    - b. Cities/counties want to avoid violations of federal law
    - c. EPA can withdraw grant funds currently used to fund KDHE staff and hire EPA staff for enforcement.
  3. Loss of technical guidance
    - a. KDHE currently provides technical advice to cities/counties
    - b. The advice yields cost savings to cities/counties
    - c. EPA currently retains enforcement for sludge disposal. Kansas City EPA staff are not as accessible as KDHE
    - d. Implementation of sludge rules has been confused by lack of guidance.
  4. Retain local control

ksm:7395P045  
1-31-95

Testimony of Van Pooler  
Staff Environmental Engineer  
TEXACO REFINING AND MARKETING, INC.

Reference

Kansas House of Representatives  
Committee on Energy and Natural Resources  
House Bill 2159 and House Bill 2160

February 14, 1995

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My name is Van Pooler. I am employed as a Staff Environmental Engineer by Texaco Refining and Marketing, Inc. at their El Dorado, Kansas Refinery. I also serve as a member of the Kansas Department of Health and Environment Clean Air Act Technical Advisory Committee and the Title V Class I Operating Permit Application Review Group.

Texaco is opposed to House Bills 2159 and 2160 which provide for transferring authority for the administration of the Clean Water Act and Safe Drinking Water Act to the United States Environmental Protection Agency. We strongly believe the Kansas Department of Health and Environment (KDHE) provides a valuable service to citizens and businesses in Kansas that is virtually unavailable elsewhere.

In terms of adapting businesses to changing economic conditions, KDHE has proven itself as having a vested interest in the Kansas economy while still complying with Federal and State Regulations. Our experience has shown the EPA to be more focused on federal level issues and therefore necessarily less focused on the individualized needs of Kansas. The KDHE has served Kansas well in terms of providing a source of readily available, competent, and helpful personnel. These qualities are extremely important in attracting and keeping a positive business climate in Kansas. In addition, because of the close relationship that we enjoy with that agency, our experiences have shown KDHE to be significantly better adapted to be more responsive to regulatory inquiries.



Like nearly all Kansas citizens and industry, we too are weary of unfunded mandates sent down to the states from Washington, D.C. and believe they should be held in check. We do not believe, however, that KDHE authority over the Clean Water Act and Safe Drinking Water Act represents an "unfunded mandate." We have been told that the federal government funds these programs at the 80% level so it appears Kansas is getting the whole program at 20% of the cost. While we understand the need for the state to review all of its programs and cut where feasible, we do not believe passing HB 2159 and HB 2160 is the best way to accomplish that goal.

I speak for the business world and I am sure for municipalities when I say that the KDHE does not always bring the news we want to hear in terms of regulatory requirements because the Clean Water Act and Safe Drinking Water Act are federal regulations. Although they cannot change these regulations, KDHE has proven to be a needed partner for the businesses and citizens of Kansas when dealing with the federal agencies regarding these regulations and finding acceptable resolutions.

We believe if the Clean Water Act and the Safe Drinking Water Acts were to be transferred to the EPA, Kansas would lose valuable localized environmental leadership. Consequently, an arrangement where we would just return these programs to the EPA would not be desirable.

Industry will have to comply with the same regulations whether they are administered by the KDHE or EPA. Under the current system, questions are already handled in a timely, cost efficient manner. In addition, many in industry have cultivated a working relationship with the KDHE where both parties now better understand the other's needs. More importantly, because of its status as an agency of for the state, the KDHE has a significant vested interest in environment, economy, and citizens of the State of Kansas.

Please consider Texaco's strong support of the work performed by the Kansas Department of Health and Environment in administering these important programs. We urge this committee to not pass HB 2159 and HB 2160.

Testimony presented to  
House Energy and Natural Resources Committee

by

City of Wichita, Kansas

regarding

House Bills 2159 & 2160

on

February 14, 1995

Chairman Holmes and Honorable Members of this House Committee, I am David Warren. I am director of Wichita's Water & Sewer Department. I appear before this committee in opposition to House Bills 2159 and 2160.

The City of Wichita believes that withdrawing state primacy for water supply (Safe Drinking Water Act) and sewage treatment and disposal (Clean Water Act) regulations, while well-intentioned, is not in the best environmental, regulatory, or economic interests of Kansas. The City of Wichita understands and has shared the frustration of dealing with KDHE on regulatory issues, which may have motivated the HENR Committee to consider this legislation.

This frustration notwithstanding, Wichita believes that, if environmental regulation is to be meaningful, effective and economically sound, it must be the result of a process that includes all stakeholders. Wichita was encouraged by the efforts KDHE made to enact such a process in the recent development of surface water quality regulations for Kansas. Retaining primacy at the state level ensures that this legislative body and the constituency it serves will, at least, have an opportunity to be involved in the regulation development and implementation process. Wichita believes that anything less than retaining primacy at the state level is counter productive to both the short and long term interests of Kansas.

While a water and sewer utility the size and complexity of Wichita's affords it the technical staff and support facilities to deal with the complex issues of environmental regulation, the same cannot be said for many of Kansas' smaller utilities. Wichita believes that the lack of technical support and assistance from KDHE for these utilities that would result from the passage of HBs 2159 and 2160 has the potential for public health and environmental disaster.

Wichita supports and encourages a philosophy of keeping environmental and public health regulation at a local level. Only then can site specific considerations be given the appropriate

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City of Wichita Testimony  
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consideration in making decisions that may have significant social, environmental and economic impacts. The message to KDHE should not be: "Remove yourselves from the process of environmental regulation.", but rather a message to be more proactive in their interaction with Kansas' environmental practitioners and all other stakeholders. Even the U.S. Environmental Protection Agency has found it necessary to work with all stakeholders (customers) if they are to be effective in promulgating new regulations.

Regulations, if they are to be meaningful, must answer the question, "Will the state and its citizens benefit proportionately to the cost they will be asked to bear to implement them?" That question is best answered by the Kansas Department of Health and Environment working in concert with Kansas' cities, towns, industries, businesses, farmers, ranchers, environmentalists and legislature.

Wichita urges you to defeat House Bills 2159 and 2160. Thank you.

State of Kansas

Bill Graves



Governor

Department of Health and Environment

Bob J. Mead, Acting Secretary

February 3, 1995

George Barbee  
Kansas Consulting Engineers  
700 Sw Jackson  
Topeka, KS 66603-3740

Dear Mr. Barbee

*George*

This department recently completed a revision of the state's water quality standards as required by the provisions of the Clean Water Act. The next revision is due in calendar year 1997. During the public hearing phase of the regulatory process, we received a great volume of comments on the regulations. The interest and concern related to the water quality standards indicates a need for dialogue and involvement of interested parties in the formative stages of these regulations.

During calendar year 1995, we will conduct a series of meetings. These informal meetings will be held to provide information on the EPA guidance, applicable science and processes involved in the revision of water quality standards, and to listen to concerns, comments and suggestions from interested parties. This series of meetings will be held prior to preparation of any drafts for the 1997 revision. We hope to have representatives of the U.S. EPA, Region VII in attendance. These meetings will not replace the information meetings and the formal public hearing process.

Our intention is to identify issues and concerns from all perspectives prior to the next revision. We are soliciting participation from all parties with an interest in this important process. We have scheduled the first meeting for February 24, 1995 starting at 9:00 a.m. The location is the MTAA Terminal Building at Forbes Field. If you are interested or want additional information, please contact either Ron Hammerschmidt, 913-296-6603, or Karl Mueldener, 913-296-5500. We can also be reached by fax at 913-291-3266 or 913-296-5509.

Sincerely yours,

Handwritten signature of Ronald F. Hammerschmidt.

Ronald F. Hammerschmidt, Ph.D.  
Director  
Office of Science and Support

Handwritten signature of Karl Mueldener.

Karl Mueldener, P.E.  
Director  
Bureau of Water


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**League  
of Kansas  
Municipalities**

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**LEGISLATIVE TESTIMONY**

TO: House Energy and Natural Resources Committee  
FROM:  Chris McKenzie, Executive Director  
DATE: February 14, 1995  
RE: HB 2159 and HB 2160

Thank you for the opportunity to appear today in opposition to HB 2159 and HB 2160. I can honestly say that in my three years as executive director and even longer as a staff member that only the property tax lid has engendered as much opposition from the League's membership as have these two bills.

Over the past three years I have had extensive contacts with the management and technical staff of KDHE on issues such as solid waste, water quality standards, drinking water standards and monitoring and other issues. While some of those contacts have been less than satisfactory, I have been impressed by willingness of the staff to negotiate and consider alternative points of view. I think it is of particular note that former KDHE Secretary Bob Harder strongly advocated negotiation and discussion, and his impact was indeed felt on all the agency's operations in this regard. I also credit staff of the Bureau of Water and other bureaus, however, for being open to suggestions and input.

As you know from the many letters received by the Committee on these bills the city officials of Kansas are highly dependent upon the technical expertise of the staff of the central and field staff of KDHE. These relationships are of critical importance to our members, and HB 2159 and HB 2160 would effectively end them.

RECOMMENDATION: For these and all the reasons enumerated by other opponent, we recommend that HB 2159 and HB 2160 not be passed.

*Attachment # 25*

# WATER DISTRICT NO. 1 OF JOHNSON COUNTY



5930 Beverly — Mission, Kansas 66202  
Mailing Address: P.O. Box 2921, Mission, Kansas 66201

Tel. (913) 722-3000  
FAX (913) 262-0375

## TESTIMONY PRESENTED TO HOUSE ENERGY & NATURAL RESOURCES COMMITTEE Rep. Carl Holmes, Chairperson Room 526-S, State Capitol

by

### WATER DISTRICT NO. 1 OF JOHNSON COUNTY HOUSE BILL 2159 FEBRUARY 14, 1995

Water District No. 1 of Johnson County strongly opposes the approval of H.B.2159 and H.B.2160 which would return primacy for implementation of the Safe Drinking Water Act and the Clean Water Act from KDHE to EPA. The Water District believes that primacy for these Acts should be retained by KDHE for the following reasons:

1. KDHE knows and understands the issues that are specific to Kansas and will be more responsive to the utilities it regulates.
2. KDHE has an organizational structure developed over years of experience that is responsive to the utilities it regulates. EPA will have to set up an organization to deal with the regulated utilities and it will be years before it becomes fine tuned to the needs of Kansas utilities.
3. Typically, when EPA assumes primacy it operates in a strictly enforcement posture without any technical support. It will be there only to enforce not to solve a problem. KDHE staff attempts to solve the problem and uses enforcement as a tool to solve the problem.
4. KDHE receives significant funding from EPA as a part of primacy. If primacy is returned to EPA, many programs provided by KDHE will go away because they are unfunded. These will include technical assistance programs and laboratory services that small utilities have been unable to provide.
5. If primacy is returned to EPA, there will be two agencies and sets of regulations directly regulating Kansas utilities, KDHE and EPA. Utilities will be required to comply with both KDHE regulations and EPA regulations which may diverge significantly in their requirements. Where, in the past, a utility reported to KDHE which then reported to EPA, the new law could require a utility to submit different and separate reports to both KDHE and EPA.
6. The State collects regulator fees from utilities to cover some of the costs to administer the primacy programs. What will these fees fund if primacy is returned to EPA?

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