

Approved: Carl Dean Holmes
Date 3/14/96

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

The meeting was called to order by Vice Chairperson Joann Freeborn at 3:37 p.m. on February 20, 1996, in Room 526-S of the Capitol.

All members were present except: Chairperson Carl Holmes - Excused
Representative Doug Lawrence - Excused
Representative Terry Presta - Excused
Representative Vaughn Flora - Excused

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

Conferees appearing before the committee: Dwight F. Metzler, P. E.
Scott Lambers, City of Ottawa
Chris McKenzie, League of Kansas Municipalities
Rick Duncan, Kansas Rural Water Association
Richard Nienstedt, City of Fort Scott
Karl Mueldener, Kansas Department of Health & Environment

Others attending: See attached list

Vice Chairperson Freeborn opened the meeting by acknowledging the conferees present.

Hearing on HB 3029: Imposition of certain water quality standards deferred until achievability demonstrated

Dwight Metzler. Mr. Metzler thanked the committee for considering this idea and for having it put into a bill and printed and heard today. He reviewed the background of the Kansas Water Quality Standards and the unsatisfactory attempt to describe how water is used in Kansas. Mr. Metzler testified that **HB 3029** fits in with EPA national policy and would defer upgrading until stream studies are done. (Attachment #1)

Scott Lambers. Mr. Lambers, City Manager of the City of Ottawa, expressed support for **HB 3029** which would provide a more macro perspective of the impacts along an entire river basin as opposed to focusing in on an isolated discharge point perspective. (Attachment #2)

Chris McKenzie. Mr. McKenzie, Executive Director of the League of Kansas Municipalities, testified in support of **HB 3029** because it would place responsibility for demonstrating the validity of the water quality standards on the Kansas Department of Health and Environment. (Attachment #3)

Rick Duncan. Mr. Duncan, who is Program Manager for the Kansas Rural Water Association, supported **HB 3029** and promoted that use attainability analysis be conducted on a case by case basis, taking into account receiving stream quality before and after municipal wastewater discharge. (Attachment #4)

Richard Nienstedt. Mr. Nienstedt, City Manager for City of Fort Scott, spoke in support of **HB 3029** and expressed reservations about implementation of the Kansas Surface Water Quality Standards. (Attachment #5)

The Vice Chairperson allowed questions of the proponents.

Karl Mueldener. Mr. Mueldener, Director of the Bureau of Water in the Division of Environment, appeared in opposition to **HB 3029**. He testified the bill is not needed and is likely to cause harm to collaborative efforts among state agencies and others to improve surface water quality in Kansas. (Attachment #6)

Questions followed after which the hearing was closed.

Vice Chairperson Freeborn handed out copies of the sub-committee report of **HB 2711**. The meeting adjourned at 5:00 p.m.

The next meeting is scheduled for February 21, 1996.

ENERGY AND NATURAL RESOURCES COMMITTEE
COMMITTEE GUEST LIST

DATE: February 20, 1996

NAME	REPRESENTING
Bill Gaven	KARC / Siena
Chris McAnzie	League of Ks Municipalities
RICHARD H. NIENSTEDT	CITY OF FORT SCOTT
Karl Muedener	KDHE
Ron Hammerschmidt	KDHE
DWIGHT METZLER	Self
Edie Snethen	City of Topeka
Mike McGee	" " "
Jim Bradley	City of Ottawa
Scott Lambert	" " "
Phil Simon	KRWAA
Dale Howard	City of Ottawa
Margaret Fast	Ks Water Office
PHILIP HURLEY	PATRICK J. HURLEY & CO.
Anne Spiess	Ks. Assoc. of Counties
DAVE HOLTHAUS	Western Resources
Jamie Clover Adams	KS Fertilizer & Chemical Assn
Bill Henry	Ks Engineering Society

TESTIMONY FOR HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES

by Dwight F. Metzler, P. E.

House Bill 3029 has the potential to save Kansans a great deal of money and frustration, while contributing to improved quality of Kansas streams. KDHE is under pressure from the Region VII EPA office in Kansas City to impose new and higher effluent requirements for point source discharges. I believe that it is wasteful to require towns, cities and industries to spend millions for higher degrees of treatment, without knowing if such added treatment will improve the quality of water in the stream. For example, it would be wasteful to require chlorination of treated sewage to kill fecal coliforms if land runoff and natural conditions prevent attainment of the standards.

For reasons I will detail later, this approach fits EPA, Washington policy. KDHE has the discretion to defer the imposition of water quality-based effluent limits until watershed studies have been completed. I believe that this is the direction that the national program is going. Therefore KDHE would be wise to take this approach. The Region VII EPA staff will likely resist and cause KDHE some difficulty in issuing permits. However, in the past, Region VII staff has generally dragged its feet in complying with directions from EPA headquarters. I believe that it is simply a matter of time until they "get on board" with their central office and the other regions.

This bill fits in with EPA national policy—a change I might add, from the heavy-handed approach previously followed. An October 7, 1994, memorandum states that the EPA Administrator has "called on us to forge partnerships with the States . . . to achieve place-based environmental protection." Plans are to be "based on sound scientific information and techniques." For water programs, the staff is directed to use a watershed approach.

The approach has four key principles:

1. Geographic Focus - The focus will be on watersheds, not individual discharges.
2. Action Driven by Environmental Objectives and Strong Science and Data - Good science and adequate data on receiving water quality have been inadequate in the past.
3. Partnerships - The approach will encourage the involvement of private citizens, local and state government, interest groups and others in the watershed process.
4. Coordinated Priority Setting and Integrated Solutions - This recognizes that pollution problems and solutions vary from watershed to watershed.

The memo summarizes key changes in the EPA approach to water quality:

1. Invest in State Reorientations - EPA's water programs are implemented by states. EPA must refocus the states from program to watershed approaches.
2. Realign Federal Services to Meet Local Needs as Defined through State Programs - EPA and other federal agencies must provide financial and technical support for comprehensive state watershed programs.

In conclusion, it is noted that decisions about environmental impacts cannot be made without considering economic and social impacts.

This bill will not correct all that is faulty about the Kansas Water Quality Standards, but it makes a start. Karl Mueldener deserves much praise for keeping over-eager staffers of EPA at bay. With assistance from the cities and the legislature, he can make the needed watershed studies. Finally, this approach fits well with our Governor's Lower Republican River initiative.

Thank you for the opportunity to express my views.

House E+NR Comm.
2-20-96
Attachment 1



February 19, 1996

Representative Carl Dean Holmes, Chairman
House Committee on Energy and Natural Resources
State House, Room 115-S
Topeka, Kansas 66612

Dear Chairman Holmes and Members of the Committee:

I am writing to you on behalf of the Ottawa City Commission to express our strong support for your favorable consideration of House Bill 3029. This bill, if passed, would establish a requirement for a new dimension that heretofore has been absent from the regulatory review process of wastewater effluent discharge into rivers and streams.

The City of Ottawa has been advised by the Kansas Department of Health and Environment that the City's current wastewater effluent discharge will not meet the new ammonia discharge standards that are proposed to be imposed on the City during the next discharge permit period. The City's current discharge permit is set to expire in 1997. The City has commissioned George Butler & Associates to perform a comprehensive study of the improvements that would be necessary in order for the City to comply with the proposed new discharge standards for ammonia. This study has been completed and the consultant has advised the City that the improvements will cost the City residents several millions of dollars.

Throughout this entire process, there has never been offered any documentation as to the possible negative impact to aquatic life that the City's discharge may have nor has there been any indication as to what impact the complete removal of the City's discharge in the Maris des Cynges River would have on the overall ammonia content in the river. This bill would provide for such an analysis to be performed that would take into account all point and non-point source discharges into the river basin and be submitted to the City in order to justify the imposition of the new discharge standards and subsequent improvement costs necessary to comply with such standards.

The Committee should be cognizant, however, that the impact analysis can be easily skewed in one direction or another and therefore should be objective in its examination of any river basin and not be biased so as to disregard the normal conditions of a river basin such as the current standard which is used by the Kansas Department of Health and Environment that relies on the five day low-flow period that occurred during the drought of the 1950's.

House E+ NR Comm.
2-20-96

In closing, this bill clearly attempts to provide a more macro perspective of the impacts along an entire river basin as opposed to focusing in on an isolated discharge point perspective. Again, we urge your favorable consideration of HB 3029.

Sincerely,

A handwritten signature in cursive script, appearing to read "Scott Lambers".

Scott Lambers
City Manager

cc: Governor Bill Graves
Senator Doug Walker
Representative Ralph Tanner



**League
of Kansas
Municipalities**

PUBLISHERS OF KANSAS GOVERNMENT JOURNAL 300 S.W. 8TH TOPEKA, KS 66603-3896 (913) 354-9565 FAX (913) 354-4186

TO: House Committee on Energy and Natural Resources

FROM: Chris McKenzie, Executive Director

DATE: February 20, 1996

RE: HB 3029

Between 1992 and 1994 the League worked with a coalition of city officials to persuade the Kansas Department of Health and Environment to develop water quality standards that would allow for progress in cleaning up the state's streams and rivers while not unfairly burdening wastewater ratepayers in the process. We also felt it was important that municipal dischargers not be asked to make system improvements at great cost that would contribute little, if anything, to the overall quality of the stream into which the city discharged its waste because of the contributions from nonpoint and other sources of pollution.

When the water quality standards were issued in mid-1994 the estimated fiscal impact of the changes had decreased from over \$1 billion to approximately \$67 million, with most of the impact being the result of more restrictive ammonia limitations. Attached for your information is a copy of the KDHE notice of hearing on the regulations from 1994, including the explanation on page 3 of the changing ammonia standards and a facility-by-facility analysis of the impact on ratepayers of the proposed change. As you can see, the department estimated 60 plants may be required to implement these changes, and the highest estimate of increase in monthly user charges per household was for the City of Hiawatha of from \$35 - \$40 per household per month.

As you have heard today from other conferees, there still remain questions today about whether the water quality standards are achievable given other pollutants in the streams into which municipal discharges are deposited. Today the current regulations impose a burden on city ratepayers to rebut the presumption the water quality standards place on the city through expensive studies of various types. We believe HB 3029 would place responsibility for demonstrating the validity of the standards where it belongs--on the Kansas Department of Health and Environment.

Thank you very much for your consideration of this measure.

House E+NR Comm.
2-20-96
Attachment 3

State of Kansas

Department of Health and Environment

Notice of Hearing of Proposed Administrative Regulations

The Kansas Department of Health and Environment will conduct two public hearings to consider adoption of revisions to the water quality standards currently in Kansas Administrative Regulations 28-16-28b through 28-16-28f. The public hearings will be held on:

Thursday - May 26, 1994

1:00 P.M.

Butler County Community College

Student Union - Gold Room

901 S. Haverhill Road

El Dorado, Kansas

Friday - May 27, 1994

10:00 A.M.

Kansas Museum of History

Auditorium

6425 S.W. 6th

Topeka, Kansas

Revision of the Kansas Water Quality Standards is required on a three year basis by the Clean Water Act and it is a requirement for KDHE to retain authorization of the federal wastewater discharge permit program (National Pollutant Discharge Elimination System) and general administration of the Clean Water Act at the state level.

Changes from the existing standards, adopted in 1987, have been proposed in a number of areas. The number of specific criteria has been expanded in order to reflect changes in federal statutes and regulations, and protect public health and aquatic life within Kansas waters. Mixing zone provisions have been made more specific and the means of calculating wastewater treatment plant effluent limits has been clarified in terms of zones of initial dilution and mixing zones. Specific language has been added concerning pre-sedimentation discharges, waste stabilization ponds, and disinfection. EPA Gold Book criteria have been adjusted to reflect bioavailability and appropriateness for Kansas species. Provisions have been added to address effluent created flow from wastewater treatment discharges to dry streams or ditches. The general narrative criteria for surface waters have been expanded requiring surface waters be free from a variety of pollutants, including trash, hazardous materials, health hazards and nuisances, oil and grease, sludge deposits, taste, odor and color producing substances.

The proposed standards adopt a Kansas surface water register which lists Kansas classified water bodies, streams, and lakes. The designated uses for the water bodies are indicated in the registry. Designated uses from the old registry were carried forward into the new registry with several exceptions. One exception is that all newly listed classified streams were designated for protection of expected aquatic life use support and would also, under narrative requirements, be anticipated for non-contact recreation. The new registry is a more complete listing. New use designations will be considered through a watershed approach. Newly proposed use designations will be discussed in a public

process, after consideration of which, a final designation will be made. Some stream classifications were changed to reflect the presence of threatened and endangered species or outstanding natural resources. The department can provide a summary of those changes and their justification.

The fiscal impact of the proposed revisions to these regulations on the regulated community is primarily limited to those with municipal wastewater discharges. The estimated fiscal impact of these changes is primarily related to ammonia treatment and is estimated at an additional \$63 million.

It is estimated the fiscal impact on the agency will be less than \$1000 annually. These costs are associated with 1) publishing the public notice in the Kansas Register and local newspapers, and 2) any public hearings.

Copies of the regulations and the fiscal impact statement may be obtained from the Kansas Department of Health and Environment, % Jeanne Woodard, Bureau of Water, Forbes Field - Bldg 283, Topeka, Kansas 66620, 913/296-5500.

The time period between the publication of this notice and the May 25, 1994 scheduled hearing constitutes the public comment period for the purpose of receiving written comments prior to the hearing. All interested parties will be given reasonable opportunity during the hearing to present their views, orally or in writing, concerning the adoption of the regulations. Following the hearing, all comments will be considered in determining whether to make changes to the proposed revisions.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the proposed regulations and fiscal impact statements in an accessible format. Requests for accommodation to participate in the hearing should be made at least five working days in advance of the hearing by contacting Bethel Spotts at 913/296-5519.

Robert C. Harder
Secretary of Health and Environment

**Economic Impact Statement for Proposed Amendments to
K.A.R. 28-16-28b through 28-16-28f
(Kansas Water Quality Regulations)**

I. Introduction

The Department of Health and Environment has the responsibility for the development and adoption of water quality standards under the provisions of the Federal Clean Water Act. These standards are reviewed and revised periodically. The draft revisions dated April 7, 1994 are the current revision of these standards. The Water Quality Standards address a range of topics including general provisions; surface water use designation and classification; surface water quality criteria and administration of surface water quality standards. Since December 22, 1992 the state of Kansas has been operating under the provisions of 40 CFR Part 131 Part II. This federal regulation was imposed on a number of states adopting water quality criteria for a variety of toxic materials including synthetic organic compounds, metals, and pesticides. Criteria for the compounds in 40 CFR 131 Part II are included in the revised Kansas Water Quality Standards.

The proposed regulations K.A.R. 28-16-28b through 28-16-28f are revisions of the existing regulations last amended in May, 1987. Changes are proposed to a number of sections. These changes include the addition or revision of a number of definitions; clarification of regulatory language, e.g. antidegradation and mixing zones; revisions to the numeric criteria; and designation of outstanding natural resources waters; the application of use attainability analysis to modify the designated use of surface waters. The proposed regulations also adopt by reference the Kansas Surface Water Register. This document is an extensive list of the Kansas surface waters and their designated uses.

The Kansas Water Quality Standards are used by the department in the development of permit conditions for the National Pollution Discharge Elimination Systems, NPDES program. These permits are held by local units of governments, public utilities, private business and the public. While the federal Clean Water Act requires a review of the water quality standards on a triennial, i.e. three year, cycle, the NPDES permits are typically issued on a five year basis. The requirements of the revised surface water quality standards are not imposed on facilities operating under an existing permit until the permit is reissued or renewed under the five year cycle. Facilities for which a new permit is issued are subject to the water quality standards in place at the time of permit issuance. These standards are also used by the department as benchmarks in reviewing water quality trends throughout the state.

II. Methodology

The proposed regulations K.A.R. 28-16-28b through 28-16-28f were prepared by the Office of Science and Support in consultation with the Bureau of Water. Subsequent to the development of the proposed regulations and accompanying documents, e.g. Kansas Surface Water Register, staff of the Office of Science and Support and the Bureau of Water

conducted a review of the proposed regulations to identify possible fiscal impacts upon the agency and the regulated community.

Upon completion of the review of possible impacts, staff of the Office of Science and Support reviewed existing monitoring data and other empirical data, designated uses and locational data for facilities permitted under the delegated NPDES program. Utilizing this data, Office of Science and Support staff developed a comprehensive database for use by both OSS and Bureau of Water in completing the fiscal impact estimates. Staff of the Bureau of Water conducted a review of facility design and operation, facility type, and other factual information for permitted facilities. The staff of the Bureau of Water also developed cost estimates for the determination of potential costs using worst case conditions if a potential water quality violation from the point source discharger was identified. Staff of the Bureau of Water developed the final fiscal impact estimates based upon the information developed in this process.

No attempt was made to identify the potential benefits to ecological systems, improvements in fisheries, migratory bird habitat or other wildlife effects, enhancement of scenic areas and other tourism related effects, or other direct or indirect benefits accrued by adoption of these regulations. All costs cited are estimates based upon the professional judgement of the KDHE staff. The aggregate estimates for the fiscal impacts are based upon estimates for individual facilities. The estimates for individual facilities should not be used for project planning but rather additional site specific professional evaluation should be performed. While individual treatment plant costs could be questioned, the aggregate estimate is considered accurate. Only aggregate costs are included in this economic impact statement.

III. Potential Fiscal Impacts

Direct fiscal impacts of the proposed regulations were examined for the Kansas Department of Health and Environment and facilities regulated by the NPDES program administered by KDHE. These facilities include confined animal feeding operations, municipal wastewater treatment discharges, public utilities and industrial and manufacturing facilities. Each of these regulated entities was reviewed for potential direct fiscal impacts.

A. Impact on KDHE

Since the department currently conducts a number of activities under state accepted administration of the NPDES program, the revision of the surface water quality standards will have a minimal fiscal impact on the agency. The permit application and water quality certification programs of the agency may require modification to accommodate regulatory changes. However, the effects of the revisions should not result in a discernable fiscal impact on the agency. Continued delay in revision of the 1987 Kansas Water Quality standards may result in additional federal actions beyond the current impacts of 40 CFR 131. These actions could include imposition of additional federal rules and loss of NPDES program status.

B. Fiscal Impact on Agriculture

A number of confined animal feeding facilities are regulated under federal NPDES requirements. These operations are, however, permitted as non-discharging facilities which do not discharge to the surface waters of the state under normal climatic conditions. The discharges which do occur at the confined feeding facilities under abnormal rainfall are not regulated by the surface water quality regulations. Therefore, there is no direct fiscal impact of the proposed regulations on the confined animal feeding facilities. Similarly, the department does not directly administer programs for the control of agricultural practices. The KDHE Nonpoint Source, NPS, program does work with agricultural entities and the State Conservation Commission using a cooperative approach to address a variety of environmental issues. The criteria listed in the proposed regulations may be utilized as a benchmark in the NPS program. Therefore, the department cannot identify any direct fiscal impact of the proposed water quality standards on the agricultural industry.

C. Fiscal Impact on Municipal Wastewater Treatment Facilities

The proposed water quality standards will have an impact on municipal wastewater treatment facilities. The study conducted by the Bureau of Water and the Office of Science and Support identified three potential fiscal impacts related to the proposed regulations. The first is the impact of revised ammonia discharge limits. The second is the impact of revised toxic limits, *i.e.* metals discharge limitations. Finally, potential impacts of disinfection requirements were also examined.

Ammonia

The proposed regulations guide development of numeric ammonia discharge limits based upon the ambient temperature, stream flow, and the pH of the receiving stream. In addition, changes in the classification of some streams for aquatic life support have been proposed. These two changes, separately or together, may result in the imposition of more restrictive ammonia limitations on a number of municipal wastewater treatment plants. These limits will result in a requirement for modification of plant operation and maintenance, and additional capital costs for some plants. Approximately 60 plants may be required to implement these changes. The estimated fiscal impact of the changes related to these proposed regulation related to ammonia treatment is \$63 million capital cost and \$3.5 million additional annual operational cost. A portion of this cost, less than \$1 million is related to changes in stream designations.

An estimated \$28.5 million in expenditures are not included in the above cost as they have or will be incurred in the near future to meet existing requirements for ammonia removal. These expenditures would have been necessary without the adoption of the proposed regulations.

The waste water treatment facilities affected by the proposed regulatory change are limited to mechanical treatment facilities and a few heavily loaded waste stabilization pond systems. The majority of facilities using waste stabilization pond treatment are not affected under the proposed provision of K.A.R. 28-16-28(c)(d)(3) which reads:

"(3) Waste stabilization ponds meeting "Minimum Standards of Design" as published by the department on August 17, 1978 and hereby adopted by reference, are accepted as providing disinfection and ammonia removal."

Some existing mechanical wastewater treatment facilities can meet the more stringent ammonia discharger limits through existing processes or with operational changes. No capital expenditures will be required for these facilities.

Metals

The proposed regulations adopt numeric criteria for seven metals based upon the hardness of the water in the receiving stream. The proposed regulations also acknowledge the toxicological impacts of dissolved metals on aquatic life versus the more traditional total metal criteria. An adjustment factor, as shown below, is used to calculate the relative amount of dissolved metal species. This calculation may also be modified through use of water effects ratio, WER.

<u>Element</u>	<u>Adjustment Factor</u>	
	<u>Chronic</u>	<u>Acute</u>
Cadmium	1.2	1.2
Chromium III	1.2	1.2
Copper	1.2	1.2
Lead	2.0	4.0
Nickel	1.2	1.2
Silver	no criteria	1.2
Zinc	1.2	1.2

The current federal toxics regulations as applicable to Kansas, 40 CFR 131 Part II, includes discharge limitations for these same seven metals. The federally imposed criteria do not allow for modifications of the criteria to allow for the effects of dissolved metals versus total metals. The federal criteria do use a hardness dependent calculation. The impact of the metal criteria in the proposed regulations are less than those imposed by the federal criteria.

Disinfection (Fecal Coliform)

A third potential direct fiscal impact, the cost of disinfecting wastewater treatment plant discharge to reduce the amount of fecal coliform was also examined. The proposed standards do not impose any disinfection requirements beyond those now implemented. A number of facilities, however, will be required, based upon human health protection, to begin or expand their disinfection activities in the next few years in order to meet the requirements of current water quality standards. These disinfection requirements may result in a need for modification of plant operation and maintenance, and perhaps additional capital costs. These costs however cannot be attributed to the proposed regulations.

D. Fiscal Impact on Industrial Wastewater Treatment Facilities

The proposed water quality standards will also have an effect on a small number of industrial ammonia discharge limits. These impacts will be felt by less than five facilities which may be required to perform capital improvements. The aggregate cost of these improvements is estimated to be less than \$1 million. There should be no impacts of either metals removal or disinfection requirements on the permitted industrial NPDES discharges.

E. Summary

The Department of Health and Environment proposes modifications to K.A.R. 28-16-28b through 28-16-28f as required under the provisions of the Federal Clean Water Act and 40 CFR 131. The fiscal impact of these changes on the agency will be minimal. The fiscal impact of these regulatory changes on the agricultural sector will also be minimal. Only the revision of the ammonia criteria will affect municipal wastewater treatment facilities. The estimated cost for municipal facilities is approximately \$63 million over the requirements of the existing standards. A much lesser fiscal impact will be felt by industrial dischargers with an aggregate cost of less than \$1 million for ammonia discharge control.

State of Kansas
Joan Finney, Governor

Phone: (913) 296-5501
FAX: 296-5500
Forbes Field, Bldg. 283
Topeka, KS 66620-0001



Department of Health and Environment

Robert C. Harder, Secretary

5/03/94
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Post-It™ brand fax transmittal memo 7671	# of pages ▶	3
	From	Rod Geislor
	Co.	KDHE
	Phone #	296-5527
	Fax #	296-5509
To	Chris McKeown	
Co.	As League of Cities	
Dept.		
Fax #	354-4186	

IMPACT OF AMMONIA STANDARDS
ON MUNICIPAL WASTEWATER DISCHARGERS

Estimated Increases in Monthly User Charges per Household

No Increase or Reduced Charges

Madison	Garnett - North
Colwich	Garnett - South
Clayton	Yates Center

Increase of \$0.00 to \$2.00/Month

Ellis	Maize
Atchison	Jo. Co. M/T
Peabody	Topeka (Oakland)
Wichita	Ellsworth

Increase of \$2.01 to \$5.00/Month

Olathe (both Cedar Creek and Harold Street WWTP's)	
Frontenac	Independence
Ottawa	Gypsum
Douglas	Bennington
El Dorado	Kensington
Augusta	Chanute

Increase of \$5.01 to \$7.00

Victoria	Pratt
Parsons	Rose Hill
Coffeyville	Caldwell
Auburn	Meade
Lyndon	Winfield
Beloit	Gardner
Russell	

Increase of \$7.01 to \$10.00

Basehor (both North and South WWTP's)	
Sabetha	Great Bend

Increase of \$10.01 to \$15.00

Mulvane	Haysville
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3-9

5/03/94
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Estimated Increases in Monthly User Charges per Household

Increase of \$15.01 to \$20.00

Belleville

Medicine Lodge

Increase of \$25.01 to \$30.00

Ellinwood

Fort Scott

Increase of \$35.01 to \$40.00

Hiawatha

Note:

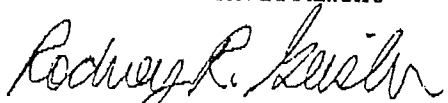
1. The per household monthly cost estimates presented herein are increases as necessary to build upgraded or new treatment facilities. These estimates do not (and can not) include existing user charges for existing debt service or O&M of the collection system.
2. Present operation and maintenance costs were estimated from standard curves, and were subtracted from the annual household costs of a construction upgrade if the existing treatment facilities were noted for replacement. These same curves were used to estimate operation and maintenance costs of the new facility, and are added in to monthly costs.
3. Capital costs were amortized at 4% over a 20 year period. 1990 community populations and 3 persons per household were utilized in calculating per household costs.
4. The household cost figures were determined from individual upgrade costs determined by the screening process conducted by KDHE to determine a state-wide municipal ammonia cost. Individual discharger costs will not be as accurate as the final state-wide cost figure and should not be utilized in decisions. A wastewater facility plan for the individual treatment facility developed by a Professional Engineer must be provided to municipal officials to allow informed decision making.

5. Various dischargers not listed above which could not meet current ammonia standards were determined as capable of meeting both current and proposed ammonia standards with improved operations. Minor increased operational costs will result from the operational changes for the following:

Buhler
Junction City

Mankato
Wellsville

Division of Environment


Rodney E. Geisler, P.E., Chief
Municipal Programs Section
Bureau of Water

RRG:eam



KANSAS
RURAL
WATER
association

Quality water, quality life

P.O. Box 226 • Seneca, KS 66538 • 913/336-3760 • FAX 913/336-2751

COMMENTS ON HOUSE BILL No. 3029
BEFORE THE HOUSE ENERGY AND NATURAL RESOURCES COMMITTEE
February 20, 1996

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to present comments on House Bill No. 3029. I am Rick Duncan, Program Manager for the Kansas Rural Water Association. The Kansas Rural Water Association provides technical assistance to public water and wastewater systems and training to system operators and governing bodies. The Association has active members of over 300 cities and 293 rural water districts. Personally, I was in charge of the water and wastewater utilities for the City of Hiawatha previous to my employment with the Association. At Hiawatha, we operated two large rotating biological contactors wastewater treatment plants.

The Kansas Rural Water Association supports HB 3029. Two years ago, the Association made comments at a public hearing conducted by the Kansas Department of Health & Environment in opposition to KDHE's proposed revisions to the state's water quality standards. Particularly, we opposed the method by which KDHE was classifying receiving streams in the Kansas Surface Water Registry. We commented that it was unreasonable for KDHE to hold that because any stream has an intermittent flow rate deep enough for immersion of a human body, that these streams be labeled as contact recreation streams. For one example, the stream at the North Hiawatha Wastewater Treatment Plant begins at the plant's discharge. This is a tributary of a tributary to the Delaware River. KDHE has considered the entire basin as contact recreation.

A report by John Metzler, Chief Engineer of Johnson County Unified Wastewater Districts and former KDHE employee, Howard Andrews of Black and Veatch Consulting Engineers, Terry McKanna, Olathe City Engineer and Edie Snethen, Director of Public Works of the City of Topeka, provided an extensive report and review on Kansas Water Quality Standards. Their conclusion was that Kansas designation of all streams for all uses were more stringent than those established by other states. Their report also suggested that if KDHE persisted in its blanket approach to use designation, then the economic impact statement should reflect the costs associated with protecting all classified streams in the states. And that this analysis should include all dischargers -- not just the municipalities. It should be noted that Kansas Department of Health & Environment is the only regulatory agency in surrounding states that utilizes the blanket approach for stream designation.

The report also focused on ammonia criteria, particularly for cold weather conditions. Other nearby states have higher criteria which are approved by EPA.

KRWA promotes that use attainability analysis be conducted on a case by case basis, taking into account receiving stream quality before and after municipal wastewater discharge. In other words, if the receiving stream water quality is degraded, then the burden of correcting it should not be placed on the municipality. KDHE's present regulations are costing million of dollars to individual systems with no real benefit to the environment.

When KRWA made these same comments at KDHE's public hearing on May 27, 1994, we were told that the hearing was not a democratic process. In other words, KDHE gave no reconsideration to its blanket approach. Thank you today for providing opportunity to make this issue a democratic process.

Respectfully submitted,


Rick Duncan
Program Manager, Kansas Rural Water Association

House E + NR Comm.
2-20-96
Attachment 4

CITY OF FORT SCOTT, KANSAS 66701

ESTABLISHED IN 1842

**COMMENTS MADE BEFORE THE KANSAS
HOUSE ENERGY AND NATURAL RESOURCES
COMMITTEE CONCERNING
HOUSE BILL 3029
BY CITY OF FORT SCOTT, KANSAS
FEBRUARY 20, 1996**

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House E+NR Comm.
2-20-96
Attachment 5

TO: Honorable Members of The House Energy and Natural Resources Committee
FR: Governing Body of the City of Fort Scott, Kansas; Bourbon County
RE: House Bill 3029

On behalf of the Governing Body of the City of Fort Scott, I appreciate this opportunity to make a few short remarks in support of House Bill 3029. In the interest of time, attached is a copy of our remarks to a KDHE Hearing Officer on May 27, 1994 in which the City of Fort Scott expressed reservations about implementation of the proposed Kansas Surface Water Quality Standards. Our concerns have not changed. I have also attached a letter written to each of our Congressional Representatives expressing our concerns and frustrations with the standards being proposed and any future revisions to them.

Our intent is *not* to avoid a better environment for today and tomorrow. What does bother us is having to implement and pay for standards which do not appear to be reasonable or even achievable. The KDHE estimate for compliance with the 1987 and 1994 ammonia standards *alone*, amount to \$120 million for Kansas cities; the estimate to meet 1994 requirements is \$60.3 million. Fort Scott's cost has been estimated at \$6 million; 10% of the total estimate for compliance with ammonia standards. Needless to say, the cost for our community will create a heavy burden for standards which may or may not be realistic or achievable. Our contention is that they are neither. Imposition of the new standards will not bring about a cleaner Marmaton River. At the end of the day, our water quality will not be vastly improved because of these expensive regulations; the Marmaton will not be a pristine stream. What is even more disconcerting is that another round of water quality standards are due for consideration very soon. The City Commission is concerned about what new costs will be imposed upon our Citizens without justification.

House Bill 3029 will give the State an opportunity to thoroughly review the standards in question. If House Bill 3029 had been in effect, the Cities of Fort Scott and Pittsburg would not have felt compelled to engage a consultant to review the applicability of the standards to our communities. We want clean water. We want a clean environment, but it is unfair and impractical to place regulations upon a captive audience that has done more than their fair share and cannot afford the price tag when compared to what little may be achieved in the way of stream quality. House Bill 3029 will allow us the time to work together with KDHE and examine these regulations in depth.

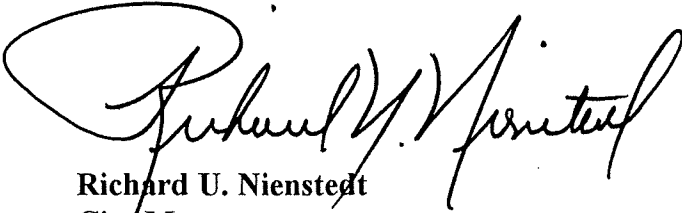
We have been working with KDHE staff for over two years on this particular issue. They have been willing to listen and, I believe, have an appreciation for our concerns and the impact of these standards. On this particular issue, I am convinced that KDHE does not have much flexibility without this type of legislation. HB 3029, to a great extent, allows them time to review the regulations and it very clearly puts the discussion where it should be: between elected state officials and elected federal officials.

The proposed Water Quality Standards are *unfunded* and *unfounded* mandates. We believe that passage of House Bill 3029 will be of benefit to all Kansans and may very well reduce unwarranted compliance costs which are a result of these regulations. This legislation will give the elected Leaders of Kansas an opportunity to signal to the federal bureaucracy and rule makers that Kansans will not be burdened with water quality standards, no matter how admirable, which are *unrealistic, unreasonable and unachievable*.

I am confident that you will hear why House Bill 3029 will not work and why you should not pass it; you will hear how it is an attempt to not support a clean environment; you will hear threats of lawsuits against the State for not adopting such standards; you will hear how it shows a lack of concern about the environment our Children will inherit. Ladies and Gentlemen, nothing could be farther from the truth. The record of Kansas Cities complying with environmental regulations speaks for itself. It is recognized by the State of Kansas that other segments of our economy contribute the majority of pollutants to Kansas Rivers and Streams, therefore this legislation will cause river basins to be evaluated in their entirety. It is now time to look at the entire picture and not single out one segment for compliance.

I again refer you to our May 27, 1994 comments which are attached. the City of Fort Scott appreciates the opportunity to appear before this Committee. If House Bill 3029 passes, the City is committed to working with the Legislature and KDHE in determining if these standards can be achieved. We, too, want to achieve the best public policy possible for our citizens.

Respectfully Submitted On Behalf of the Governing Body of The City of Fort Scott,



Richard U. Nienstedt
City Manager



CITY OF FORT SCOTT, KANSAS 66701

ESTABLISHED IN 1842

**COMMENTS PRESENTED AT THE PUBLIC HEARINGS FOR
THE PROPOSED KANSAS SURFACE WATER QUALITY STANDARDS**

**KANSAS MUSEUM OF HISTORY
TOPEKA, KANSAS
10:00 A.M., MAY 27, 1994**

Hearing Officer
Kansas Department of Health and Environment

Dear Sir:

The City of Fort Scott appreciates this opportunity to provide public comments of record on K.A.R. 28-16-28b through 28-16-28f, water quality standards. While the majority of these standards appear to be reasonable and workable, there are several sections which we in Southeast Kansas feel need to be studied further before being adopted in final form.

First, let me assure you that the City of Fort Scott supports wastewater effluent regulations which serve to protect water sources, human and aquatic life. Rivers and streams of Kansas are a significant resource and therefore water quality is of concern. All regulations should be reasonable, based upon sound information and not create an undue financial hardship for municipalities. However, the costs should be borne by other identified dischargers since they are also factors in water quality deterioration.

Our concerns are in the areas of designated stream classifications, ammonia levels, other pollution sources, disinfection requirements and testing for heavy metals. Specifically, we raise the following issues:

1. The Fort Scott Wastewater Treatment Plant is in compliance with current ammonia standards. To the best of our knowledge, there has been no documented instances where our effluent has an adverse effect upon aquatic life in the Marmaton River, Kansas or Missouri.

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2. It is our understanding that the Marmaton River has been classified as a Special Use Aquatic Waters because of the Common Map Turtle being listed as a threatened species. With respect to aquatic species in the Marmaton, we know of no detailed studies indicating what species are present and what level of protection is needed from ammonia. Furthermore, this designation seems to suggest that human contact recreation takes place. The condition of the Marmaton does not permit such recreation. There are no resorts nor points of easy access, such as public land, to encourage full body contact by the public.

It should also be noted that thriving within our lagoon ponds, where the ammonia level is higher than that of the effluent, are several species of fish and turtle (perhaps even the Common Map Turtle) which do not appear to be harmed by ammonia levels. It appears as though the new ammonia standards have been lowered to protect natural species of fish in this river. However, we have not received information as to the nature of those species or their required ammonia tolerance.

We would recommend that KDHE work with local officials to realistically identify species and use of the streams in question before a final designation is set. We recognize that this will also involve working with other State Agencies. The source of this information needs to be accurate in order to reach conclusions which are justified by established authorities and scientific fact.

3. Because of the low flow criterion being changed to 0.1 cfs rather than 1.0 cfs, as a result of the Special Use Category, it is our understanding that the Coloform requirements will change from 2400 ml to 200 ml which will require additional disinfection at the sewage treatment plant. It does not appear that this cost has been factored into the \$6,000,000 estimate by KDHE required to be spent in order to bring our wastewater treatment plant into compliance with these standards.
4. The standards seem to be based upon the assumption the Marmaton is used for drinking water. To the best of our knowledge, it is not used for such a purpose in Kansas or Missouri, with the exception of Fort Scott, especially below the effluent discharge point of Fort Scott. In fact, Missouri has classified the Marmaton

as irrigation which does not demand as stringent of requirements being proposed.

5. There is no known recharge of groundwater practiced which is more intensive than what occurs naturally along the Marmaton. There is also no known documentation of pollution to groundwater as a result of Fort Scott's discharge into the Marmaton.
6. These standards appear to require the potential treatment of heavy metals at the plant. There is no known documentation of this problem existing at the treatment site which would permit the discharge of heavy metals. The State should be concerned about heavy metals which are identified in streams and work towards a solution of such pollution but not to the point where Cities are required to correct a problem that does not exist or is not the fault of a municipality. This cost factor does not appear to be included in the estimate provided by KDHE to bring the plant into compliance with proposed new standards.
7. Assuming that the proposed ammonia standard will help support a number of species in the Marmaton, it is still doubtful that such a standard alone will result in full recreational use of this river. There are numerous gas tanks, tires, car bodies, chemical barrels, and other pollutants in this stream. Non-point sources of pollution need to be identified and also eliminated. The Cities should not have to bear solely the cost of pollution eradication when there are numerous other sources that are known contributors to the problem.
8. This is a mandate for which there does not appear to be any funding assistance allocated by the State and/or Federal Legislative branches.

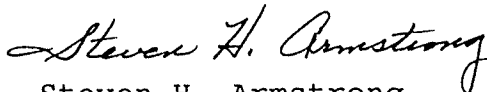
Elected and appointed officials deal with the formulation of public policy on a daily basis. It is our responsibility to ensure that the basis for determining public policy is sound, reasonable, equitably based upon facts, strives to achieve a realistic balance and addresses real problems, especially when it could result in an estimated increase of \$35.00 per month, per residential household, in the City of Fort Scott. This will adversely affect a large portion of our population which are on fixed incomes and economic development recruitment efforts.

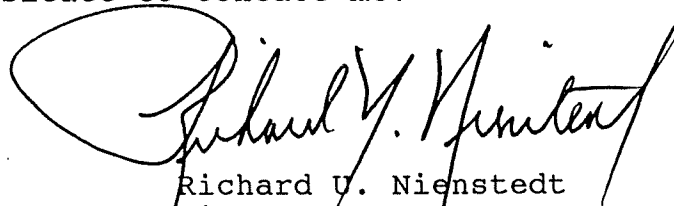
We are asking that KDHE not adopt the standards, in their present form, until such time as all the facts are known concerning the issues raised in this letter. We believe that the process should include representatives from municipalities who are dealing with the problems of compliance and pollution eradication on a daily basis. These standards have to be realistic, workable and affordable.

The City of Fort Scott thanks KDHE for the opportunity to present our concerns. We recognize that a considerable amount of time by Department personnel has been spent in developing these standards and commend the time staff has spent on this issue. We believe that the majority of these standards are workable, however, it is our recommendation that further study needs to be done in several critical areas before final adoption. The City of Fort Scott stands ready to assist KDHE with this task.

We appreciate your serious consideration and understanding of our comments. Should you have questions or need further information, please do not hesitate to contact me.

Sincerely,


Steven H. Armstrong
Mayor, City of Fort Scott


Richard U. Nienstedt
City Manager

cc: City Commission

I/I

CITY OF FORT SCOTT, KANSAS 66701

ESTABLISHED IN 1842

Letter was also sent to:
Senator Kassebaum
Rep. Brownback

April 7, 1995

Senator Bob Dole
141 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Dole:

Please be advised that I recently attended a meeting sponsored by the Kansas Department of Health & Environment and the United States Environmental Protection Agency in Topeka. The purpose of this meeting was to discuss the upcoming 1997 revisions to the Water Quality Standards for the State of Kansas, as based upon EPA regulations. I want to assure you that the City of Fort Scott believes in protection of our aquatic environment and have invested significantly in public works projects to accomplish these goals.

What frustrates municipal officials are the knowledge that we are once again going to have to comply with administrative regulations being handed down by a federal agency that will cost cities millions of dollars in Kansas, much less across this nation. It was very evident during this discussion EPA does not yet understand that the promulgation of regulations needs to be based upon real problems and that a "one size fits all" approach simply does not work. The basic message appeared to be that regardless of what Congress does in the suspension of regulations, EPA will proceed with another round of Water Quality Standards and will even be addressing problems which simply do not exist.

This approach is very expensive to Kansas citizens. If benefits could be shown that paralleled the expense, the expenditure would be made. The Region 7 EPA and the Kansas Department of Health and Environment have not done research to prove the necessity of more rigorous water quality standards and refuse to undertake these tasks due to budget shortcomings at the Federal and State level. Yet, in the absence of good science, artificial standards are being imposed by environmental personnel of the regulatory agencies. Let us

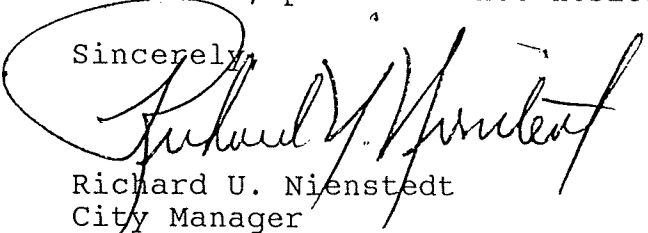
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pause in our imposition of new standards until good science, which is source specific, can be completed that justifies these tremendous expenses to our community.

The City of Fort Scott requests that Congress continue to examine the administrative regulation powers of federal agencies and attempts to ensure that reasonable and cost effective approaches are considered and implemented for the entire nation. This is a continuing situation which frustrates all local elected and appointed officials. Should you be in Fort Scott, we will be happy to give you a tour of our existing treatment facility and spend time explaining the regulatory problems which face us.

I appreciate your efforts in Congress to assist municipalities with the ever increasing problems of unfunded mandates and administrative regulation compliance. Should you have questions or need further information concerning this situation, please do not hesitate to contact me.

Sincerely,



Richard U. Nienstedt
City Manager

cc: Mayor and City Commissioners

RUN/cg

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 Bill 3029

KDHE appears in opposition to House Bill 3029. The bill prevents KDHE from imposing even secondary treatment on sewage dischargers until KDHE demonstrates stream standards can be attained with existing nonpoint contributions. In other words if there is a stream quality problem sewage treatment plants will be held harmless in correcting their contribution to the problem.

The issues behind the bill are not simple and some of the arguments are based on incorrect assumptions of the quality of Kansas streams. The issue is more than point verses nonpoint. Arguments KDHE has heard indicate since nonpoint sources are so widespread and have such a negative impact, that further point source work should be ignored. The impacts on a stream or the environment of a point and nonpoint source are often very different, and apparent at different times. The impacts are related to stream flow and depend on the watershed characteristics. Is the water body a small stream, a large river, or a reservoir? What is the pollutant parameter in question, bacteria, salt, ammonia, a pesticide, a metallic ion, or a nutrient? Each will behave differently in different hydrologic basins. These different cases require individual examination.

A stream is most vulnerable at low flow conditions. All states set limits for sewage treatment plants based in large part upon low stream flow. This is when the stream environment is the most stressed, and the sewage discharge has the biggest impact on the stream. Nonpoint contributions occur during runoff events involving higher stream flows. In short, at higher stream flows the stream can accommodate more pollutant loading than at low flows. At low flows the nonpoint source impacts are not generally a concern. There are exceptions and those are considered when setting permit limits for dischargers.

KDHE has made several accommodations to point source discharges within the state regulations addressing stream quality. A default low stream flow of one cubic foot per second is provided thus giving a break to dischargers to small streams. Wastewater treatment lagoons are, by regulation, considered to provide disinfection and an adequate level of ammonia removal in terms of meeting the state standards. Provisions addressing discharge created streams were placed in regulation relieving many point sources of very expensive upgrades. At the objection of EPA, these major concessions were provided by KDHE, to the advantage of dischargers. Now even more is being requested. KDHE has concern such action has every potential for backfiring.

Federal law (the Clean Water Act) would still prevail. EPA has oversight of Kansas issued permits and would implement the federal requirements Kansas would be ignoring if this bill is enacted. This means the bill provides no practical changes to the regulated community. The bill attempts to overturn

one of the basic and most successful provisions of the Federal Clean Water Act, the requirement for secondary treatment or its industrial equivalent. This basic provision of the Federal Act has been highly successful in cleaning up and protecting streams. The provision also allows for a national base line of treatment requirements for cities and industries, which prevents discharge shopping. The Federal Act requires a sewage discharger to, at a minimum, meet a national standard of performance. Prior to this provision, generally known as the secondary treatment requirement, states had to demonstrate clearly the negative stream impact of a sewage discharge. Today secondary, or its industrial equivalent, is required as a starting point, with more stringent limits imposed when needed based on the state water quality regulations.

There is a legal and administrative system in place to address the appropriateness of waste water permits. This permit process has existed since 1972. A sewage discharger applies for a permit and the necessary permit conditions are developed by KDHE depending on the classification of the receiving stream, the amount and quality of the sewage discharge, and the quality of the stream. The stream quality is considered with and without nonpoint contributions. The discharger reviews the proposed permits limits and may provide further information, or argue, with KDHE over the draft limits. A draft permit is then placed on public notice for comment. At this point, if the sewage discharge applicant still disagrees with the draft permit, they can administratively appeal. This system was developed to resolve the concerns raised by this bill and is in regular use.

KDHE shares the view that permit limits must be justified or explained. More work is underway and needed in balancing point and nonpoint sources, and in allocating available pollutant loads. KDHE anticipates the concept of pollutant trading among dischargers and nonpoint sources will develop within this decade. The first signs of this activity are occurring voluntarily in watersheds such as Cheney and Hillsdale Reservoirs, and in the Kansas River. Allocation of point source pollutants to Kansas streams has occurred since the late 1970's. Continued growth, public expectations, and better stream quality information will drive more intensive efforts in allocation of sewage discharges to streams.

Continued process in protecting and restoring Kansas waters requires attention to all sources of pollution, point and nonpoint. When the impacts and solutions to point and nonpoint problems overlap both are taken into consideration. KDHE must be able to justify sewage discharge permit limits and a system has long been in place and used to challenge and review proposed permits. This bill is not needed and is likely to cause serious harm to collaborative efforts among state agencies and others to improve surface water quality in Kansas.

Testimony presented by:

Karl Muedener
Director
Bureau of Water, Division of Environment
February 20, 1996