

Approved: Carl Dean Holmes
Date 4-24-96

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

The meeting was called to order by Chairperson Carl Holmes at 11:40 a.m. on March 8, 1996, in Room 526-S of the Capitol.

All members were present except: Representative Doug Lawrence - Excused
Representative Terry Presta - Excused
Representative Dennis McKinney - 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: Howard D. Partington, The City of Great Bend
Elmer Ronnebaum, Kansas Rural Water Association
John Metzler, Johnson County Unified Wastewater Districts
Edie Snethen, Division of Public Works, City of Topeka
Scott M. Lambers, City of Ottawa
Richard Nienstedt, City of Fort Scott
Ed Sramek, City of Independence
Karl Mueldener, Kansas Department of Health & Environment

Others attending: See attached list

Action on SB 517: Abolishing Kansas coal commission; repeal

Representative Bob Krehbiel moved that SB 517 be passed out favorably. Representative Joann Freeborn seconded the motion. The motion carried.

Chairperson Holmes appointed a sub-committee to work on SB 337 chaired by Representative Tom Sloan with Representatives Alldritt and Lloyd as members.

Hearing on HR 6013: Requesting department of health and environment to meet with municipalities regarding new water quality based effluent limits, defer setting new effluent limits and report to the Legislature regarding designated uses of waters of the state

Howard Partington. Mr. Partington, city administrator of the City of Great Bend, urged support of HR 6013 and suggested a section be added requesting a cost-benefit analysis to know what the benefits of the new ammonia regulations are. (Attachment #1)

Elmer Ronnebaum. Mr. Ronnebaum, general manager of the Kansas Rural Water Association, supported adoption of HR 6013 because it suggests that use attainability analysis be conducted taking into account receiving stream quality before and after municipal wastewater discharge. (Attachment #2)

John Metzler. Mr. Metzler, who is chief engineer with the Johnson County Unified Wastewater Districts, testified in support of HR 6013 for several reasons related to use designation. (Attachment #3)

Edie Snethen. Edie Snethen, public works director for the City of Topeka, distributed a paper titled, *Significance of Stream Use Designations and Use Attainability* and drew the members' attention to the flow chart on the second page. She spoke in support of HR 6013 and requested that the state review the surface water use designations established by KDHE in the Kansas Water Quality Standards by conducting a Use Attainability Analysis prior to setting any new water-quality based effluent limits for municipal point source discharges. (Attachment #4)

Scott Lambers. Mr. Lambers, city manager of the City of Ottawa, supported HR 6013 but requested consideration of some text changes and felt there should be some reference to the review and reevaluation of

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES, Room 526-S Statehouse, at 3:30 p.m.. on March 8, 1996.

stream standards for low-flow amounts and ammonia discharge standards. (Attachment #5)

Richard Nienstedt. Mr. Nienstedt, city manager for the City of Fort Scott, testified in support of **HR 6013** and expressed concerns with the current water quality standards in the areas of designated stream classifications, ammonia levels, other pollution sources, disinfection requirements and testing for heavy metals. (Attachment #6)

Ed Sramek. Mr. Sramek, utility supervisor for the City of Independence, spoke in support of **HR 6013** and expressed concern that the proposed discharge permit for their waste water treatment plant could require the city to make an expenditure of six to nine million dollars. He also felt there should be a definition for setting new effluent limits since their active permit will be issued April 15th, and the language should define the discharge based on the new water quality standards. (Attachment #7)

Chairperson Holmes distributed a packet of letters to the members from numerous cities in support of **HR 6013**. (Attachment #8)

Karl Mueldener. Mr. Mueldener, Director of the Bureau of Water, Division of Environment for KDHE, opposed the resolution as drafted and, due to the complexity of this subject, suggested the committee consider more in-depth briefings instead of adopting **HR 6013**. (Attachment #9)

Questions followed after which the hearing was closed.

Chairperson Holmes appointed a sub-committee on the resolution consisting of Representative Sloan, Representative Becker, and Representative Alldritt.

The meeting adjourned at 1:27 p.m.

The next meeting is scheduled for March 11, 1996.

ENERGY AND NATURAL RESOURCES COMMITTEE
COMMITTEE GUEST LIST

DATE: March 8, 1996

NAME	REPRESENTING
Dwight Metzler	Self
Karl Mueldener	KDHE
John Metzler	Johnson County Government
Edie Snetken	City of Topeka, KS
Scott Lamsons	CITY OF OTTAWA
Kim Sulley	League of KS Municipalities
ELMER RONNEBAUM	KS. RURAL Water Assoc.
Rick Duncan	KS. Rural Water Assoc.
MIKE Baldwin	CITY OF PARSONS
Simon Martinez	city of Parsons
Glen E Welden	City of Parsons
Lee J M Mast	city of Independence
Dave Holman	Western Resources
George F. Drake	city of Great Bend
Howard Partington	city of Great Bend
Tom Sikes	KWO
Ed Sramek	City of Independence KS
JAMIE Clover Adams	KS Fertilizer & Chemical Assn
Rich McKee	KS Livestock Assoc



THE CITY OF GREAT BEND

George F. Drake, Mayor

March 8, 1996

TO: House Committee on Energy and Natural Resources

FROM: Mayor George F. Drake
City Administrator Howard D. Partington

RE: HR 6013

On behalf of the City of Great Bend, we appreciate the opportunity to speak in favor of HR 6013. We urge you to support a resolution similar to HR 6013.

In 1980 our wastewater treatment plant received a major upgrade and renovation. The Federal Government paid for seventy-five percent of that upgrade. EPA and KDHE regulations were followed at that time. Now, just sixteen years later we are faced with a five million dollar plus upgrade of our plant because of the new regulations relating to ammonia. The Federal Government no longer pays for a share of the cost of the upgrade, but does have a loan subsidy which may help some. We are faced with changing to a mechanical plant which is expensive to build and very expensive to operate.

According to the EPA regulators, ammonia standards were in place in the late 1970's when the City's plant was being designed and built. The State of Kansas did not have the ammonia regulations in place at that time. The EPA regulations have not changed but the state requirements now have. The City built its plant to comply with state requirements in 1980. The City would have complied with the EPA regulations had the State notified the City of the requirements and its obvious intention to adopt those regulations. The State apparently thought it was protecting the City but, in the long run, is going to cost the City several million dollars.

We have asked many people at EPA and KDHE what the benefits of the new ammonia limits would be. To date, we have not received a cost-benefit analysis. We would like to know what the benefit of the new ammonia regulations are.

The extreme cost to the citizens of this state should warrant a cost-benefit analysis for each project. It would be helpful to add this to the proposed resolution.

Great Bend residents can not understand the need to spend over five million dollars on an upgrade that may not have any benefits. Our residents would rather make improvements to our schools where they may see the benefits.

We urge your support of HR 6013 and would request that you add a section requesting a cost-benefit analysis. Thank you for your consideration.

House ENR
3-8-96
Attachment 1



KANSAS
RURAL
WATER
association

Quality water, quality life

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

COMMENTS IN SUPPORT OF HOUSE RESOLUTION 6013
BEFORE THE HOUSE ENERGY AND NATURAL RESOURCES COMMITTEE
March 8, 1996

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to appear again before this Committee. I am Elmer Ronnebaum, General Manager of the Kansas Rural Water Association. Although the Association has traditionally provided assistance to public water supplies, since 1992, the Association has also provided assistance to wastewater utilities. The Association has active membership of over 300 cities including many medium-sized cities.

The Kansas Rural Water Association supports adoption of House Resolution 6013. The Association had previously supported HB 3029. Based on comments by many public wastewater systems, they are concerned that the Kansas Department of Health & Environment has taken a blanket approach to stream classification which in turn is placing demands on many municipalities beyond what these municipalities and even the engineering fields suggest is cost effective.

Many of these same concerns were expressed at a public hearing conducted by the Kansas Department of Health & Environment in May 1994 when KDHE held the public hearings on the proposed revisions to the state's water quality standards. There were many experts who opposed the method by which KDHE was intending to classify receiving streams in the Kansas Surface Water Registry. The Association 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.

We urge your support of HR 6013 which suggests that use attainability analysis be conducted taking into account receiving stream quality before and after municipal wastewater discharge. We believe that this authority rests with KDHE and that intervention by EPA should not be a concern. The standards in Kansas are much more stringent than in surrounding states and those state plans have been approved by EPA.

Respectfully submitted,

Elmer Ronnebaum
General Manager, Kansas Rural Water Association

House ENR
3-8-96
Attachment 2

Johnson County Unified Wastewater Districts

Testimony Before House Energy and Natural Resources Committee
on House Resolution 6013
10:30 a.m., March 7, 1996

My name is John Metzler, I am Chief Engineer with the Johnson County Unified Wastewater Districts. The Wastewater Districts serve most of Johnson County, with a service population in excess of 300,000 people. We are governed by the Board of County Commissioners, which has asked me to testify today in support of House Resolution 6013. The Board supports House Resolution 6013 for the following reasons:

1. House Resolution 6013 embodies a common sense approach to control the discharge of pollutants into the streams of Kansas. It seems only common sense to defer upgrades of wastewater treatment plants if the state's pollution standards and designated uses for the streams cannot be attained by making these requirements.
2. House Resolution 6013 calls for accountability in establishing treatment requirements for wastewater treatment facilities in that the department is asked to explain the justification for the additional treatment to the governing bodies that must increase taxes and user rates to pay for the improvements. Cities and Counties have often found it difficult to obtain information on the basis for these more stringent requirements.
3. House Resolution 6013 is consistent with National EPA Headquarters' policies that direct states to study watersheds, set priorities, and allocate resources in accordance with these watershed studies. These studies are critical to determining if the uses of the streams designated by the state can be attained.
4. House Resolution 6013 asks the state to conduct the necessary studies to determine if the uses designated by the state for various stream are appropriate. In a paper co-authored by Edie Snethen, Public Works Directors of the City of Topeka and I, we studied the water quality standards of the states of Iowa, Missouri, Nebraska, and Oklahoma, and found that the use designation scheme of the state of Kansas is substantially more stringent than these four neighboring states. As a consequence, many Kansas cities must provide treatment levels well beyond those required in the neighboring states.

To help explain use designation, I have enclosed excerpts from EPA's Water Quality Standards Notebook and the previously mentioned paper I co-authored with Ms. Snethen. The importance of use designation cannot be overstated. Studies by the Council of State Governments shows that Kansas has the dirtiest streams with 88% of streams not meeting state standards. Oklahoma and Missouri, which receive virtually all Kansas streams, are the cleanest, at 0% of streams not meeting state standards. The water quality where streams cross these state lines does not change, but the designated uses do. For example, Kansas designates the Kansas River for swimming, which requires that the river not exceed a very low bacteria level. In Missouri, the Missouri River which receives the Kansas River flow is not designated for this use and has no bacteria requirement. It is therefore "clean". Consequently, it appears these inconsistencies should be remedied.

In conclusion, the Board of County Commissioners supports House Resolution 6013 and ask that the members of the House of Energy National Resources Committee approve the resolution.

JAM:wm
0996P158

House ENR
3-8-96
Attachment 3

CHAPTER 2 DESIGNATION OF USES

2.1 Use Classification - 40 CFR 131.10(a)

A water quality standard defines the water quality goals of a water body or portion thereof, in part, by designating the use or uses to be made of the water. States adopt water quality standards to protect public health or welfare, enhance the quality of water, and serve the purposes of the Clean Water Act. "Serve the purposes of the Act" (as defined in sections 101(a)(2), and 303(c) of the Act) means that water quality standards should:

- provide, wherever attainable, water quality for the protection and propagation of fish, shellfish, and wildlife, and recreation in and on the water ("fishable/swimmable"), and
- consider the use and value of State waters for public water supplies, propagation of fish and wildlife, recreation, agriculture and industrial purposes, and navigation.

These sections of the Act describe various uses of waters that are considered desirable and should be protected. The States must take these uses into consideration when classifying State waters and are free to add use classifications. Consistent with the requirements of the Act and Water Quality Standards Regulation, States are free to develop and adopt any use classification system they see as appropriate, except that waste transport and assimilation is not an acceptable use in any case (see 40 CFR 131.10(a)). Among the uses listed in the Clean Water Act, there is no hierarchy. EPA's Water Quality Standards Regulation emphasizes the uses specified in section 101(a)(2) of the Act (first bullet, above). To be consistent with the 101(a)(2) interim goal of the Act, States must provide water quality for the *protection and propagation of fish, shellfish,*

and wildlife, and provide for recreation in and on the water ("fishable/swimmable") where attainable (see 40 CFR 131.10(j)).

DESIGNATED USES 40 CFR 131.3(f)

Uses specified in Water Quality Standards for each water body or segment whether or not they are being attained.

2.1.1 Public Water Supplies

This use includes waters that are the source for drinking water supplies and often includes waters for food processing. Waters for drinking water may require treatment prior to distribution in public water systems.

2.1.2 Protection and Propagation of Fish, Shellfish, and Wildlife

This classification is often divided into several more specific subcategories, including coldwater fish, warmwater fish, and shellfish. For example, some coastal States have a use specifically for oyster propagation. The use may also include protection of aquatic flora. Many States differentiate between self-supporting fish populations and stocked fisheries. Wildlife protection should include waterfowl, shore birds, and other water-oriented wildlife.

To more fully protect aquatic habitats and provide more comprehensive assessments of aquatic life use attainment/non-attainment, it is EPA's policy that States should designate aquatic life uses that

federally permitted or licensed activities that may result in a discharge to waters of the United States. The decision to grant or to deny certification, or to grant a conditional certification is based on a State's determination regarding whether the proposed activity will comply with applicable water quality standards and other provisions. Thus, States may deny certification and prohibit EPA from issuing an NPDES permit that would violate water quality standards. Section 401 also allows a State to participate in extraterritorial actions that will affect that State's waters if a federally issued permit is involved.

In addition to the above sources for solutions, when the problem arises between a State and an Indian Tribe qualified for treatment as a State for water quality standards, the dispute resolution mechanism could be invoked (see section 1.7, of this Handbook).

2.3 Use Subcategories - 40 CFR 131.10(c)

States are required to designate uses considering, at a minimum, those uses listed in section 303(c) of the Clean Water Act (i.e., public water supplies, propagation of fish and wildlife, recreation, agriculture and industrial purposes, and navigation). However, flexibility inherent in the State process for designating uses allows the development of subcategories of uses within the Act's general categories to refine and clarify specific use classes. Clarification of the use class is particularly helpful when a variety of surface waters with distinct characteristics fit within the same use class, or do not fit well into any category. Determination of non-attainment in waters with broad use categories may be difficult and open to alternative interpretations. If a determination of non-attainment is in dispute, regulatory actions will be difficult to accomplish (USEPA, 1990a).

The State selects the level of specificity it desires for identifying designated uses and subcategories of uses (such as whether to treat recreation as a single use or to define a subcategory for

secondary recreation). However, the State must be at least as specific as the uses listed in sections 101(a) and 303(c) of the Clean Water Act.

Subcategories of aquatic life uses may be on the basis of attainable habitat (e.g., coldwater versus warmwater habitat); innate differences in community structure and function (e.g., high versus low species richness or productivity); or fundamental differences in important community components (e.g., warmwater fish communities dominated by bass versus catfish). Special uses may also be designated to protect particularly unique, sensitive, or valuable aquatic species, communities, or habitats.

Data collected from biosurveys as part of a developing biocriteria program may assist States in refining aquatic life use classes by revealing consistent differences among aquatic communities inhabiting different waters of the same designated use. Measurable biological attributes could then be used to divide one class into two or more subcategories (USEPA, 1990a).

If States adopt subcategories that do not require criteria sufficient to fully protect the goal uses in section 101(a)(2) of the Act (see section 2.1, above), a use attainability analysis pursuant to 40 CFR 131.10(j) must be conducted for waters to which these subcategories are assigned. Before adopting subcategories of uses, States must provide notice and opportunity for a public hearing because these actions are changes to the standards.

2.4 Attainability of Uses - 40 CFR 131.10(d)

When designating uses, States may wish to designate only the uses that are attainable. However, if the State does not designate the uses specified in section 101(a)(2) of the Act, the State must perform a use attainability analysis under section 131.10(j) of the regulation. States are encouraged to designate uses that the State believes can be attained in the future.

"Attainable uses" are, at a minimum, the uses (based on the State's system of water use classification) that can be achieved 1) when effluent limits under sections 301(b)(1)(A) and (B) and section 306 of the Act are imposed on point source dischargers and 2) when cost-effective and reasonable best management practices are imposed on nonpoint source dischargers.

2.5 Public Hearing for Changing Uses - 40 CFR 131.10(e)

The Water Quality Standards Regulation requires States to provide opportunity for public hearing before adding or removing a use or establishing subcategories of a use. As mentioned in section 2.2 above, the State should consider extraterritorial effects of such changes.

2.6 Seasonal Uses - 40 CFR 131.10(f)

In some areas of the country, uses are practical only for limited seasons. EPA recognizes seasonal uses in the Water Quality Standards Regulation. States may specify the seasonal uses and criteria protective of that use as well as the time frame for the ". . . season, so long as the criteria do not prevent the attainment of any more restrictive uses attainable in other seasons."

For example, in many northern areas, body contact recreation is possible only a few months out of the year. Several States have adopted

primary contact recreational uses, and the associated microbiological criteria, for only those months when primary contact recreation actually occurs, and have relied on less stringent secondary contact recreation criteria to protect for incidental exposure in the "non-swimming" season.

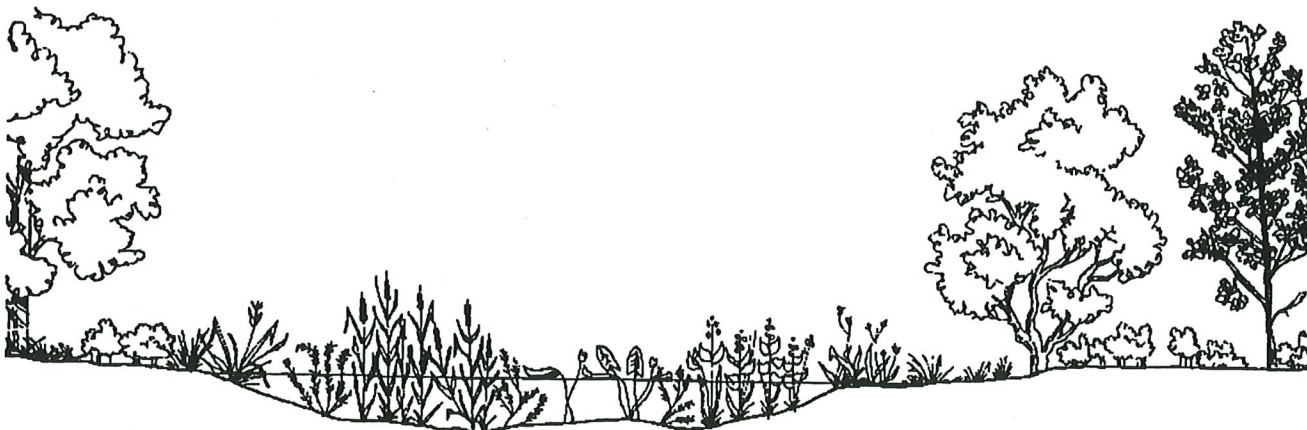
Seasonal uses that may require more stringent criteria are uses that protect sensitive organisms or life stages during a specific season such as the early life stages of fish and/or fish migration (e.g., EPA's *Ambient Water Quality Criteria for Dissolved Oxygen* (see Appendix I) recommends more stringent dissolved oxygen criteria for the early life stages of both coldwater and warmwater fish).

2.7 Removal of Designated Uses - CFR 40 131.10(g) and (h)

Figure 2-1 shows how and when designated uses may be removed.

2.7.1 Step 1 - Is the Use Existing?

Once a use has been designated for a particular water body or segment, the water body or water body segment cannot be reclassified for a different use except under specific conditions. If a designated use is an existing use (as defined in 40 CFR 131.3) for a particular water body, the existing use cannot be removed unless a use requiring more stringent criteria is added (see



Example Use Designation

	<u>Recreation</u>	<u>Aquatic Life</u>	<u>Water Supply</u>
Rolling River	X	X	
Puddle Lake	X	X	X
Babbling Stream		X	

Example Criteria

	<u>Recreation</u>	<u>Aquatic Life</u>	<u>Water Supply</u>
Di-Methyl Grunge	N/A	0.2 mg/L	0.4 mg/L
Nitrate	N/A	N/A	10.0 mg/L
Fecal Coliform	200/100 ML	N/A	N/A

Significance of Stream Use Designations and Use Attainability

A significant upgrade of Kansas municipal wastewater treatment facilities is being required as a result of water quality based effluent limitations. Prior to initiating these requirements and subsequent expenditures, it is requested that the state review the surface water use designations established by KDHE in the Kansas Water Quality Standards by conducting Use Attainability Analyses. The following information is provided to briefly explain the critical importance of use designation and how essential a Use Attainability Analysis is in the proper assignment of these uses to ensure responsible expenditure of scarce public funds.

Water quality standards are the focus of the water quality-based approach to pollution control. A "water quality standard" has two parts:

- 1) a designation of the desired use for a given body of water, and
- 2) the water quality criteria appropriate for that use. Water quality criteria are specific levels of water quality that, if not exceeded, are expected to render a body of water suitable for its designated use.

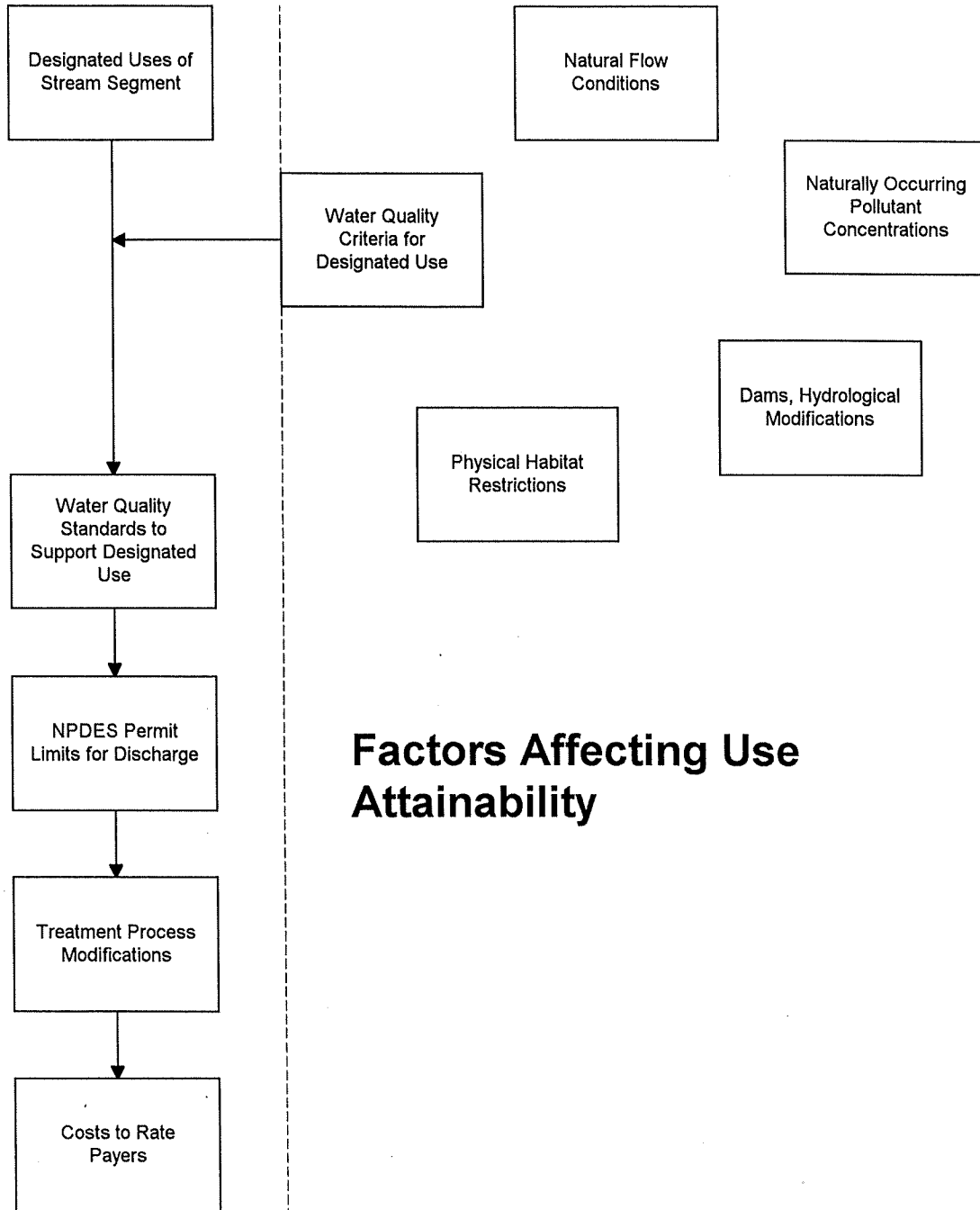
The federal Clean Water Act requires states to classify the surface waters of the state according to beneficial uses. The State of Kansas' water quality standards provide for the following use designations:

Agricultural Water Supply Use
Aquatic Life Support Use
Domestic Water Supply Use
Groundwater Recharge Use
Industrial Water Supply Use
Recreational Use
Non-contact Recreational Use
Contact Recreational Use

These use designations describe existing or potential uses of the water bodies. States are free to develop and adopt any use classification system deemed appropriate. The need for classifying surface waters is based on the recognition that all surface waters will not support the same level of use, and that different use classes may require different levels of water quality to be achieved. After classifications are assigned to water bodies, numeric criteria for specific pollutants are developed to protect the designated use. More than one use can be assigned to a stream segment. Where more than one use has been designated, water quality criteria must be adequate to protect the most sensitive use. In such cases, the most stringent numeric criteria applies to that water body. For example, a stream designated for aquatic life use and domestic water supply would be subject to more water quality criteria than a stream segment with only aquatic life use designation. Not only would the stream with the two use designations have more pollutants regulated, if the two designated uses had different criteria for the same pollutant, the more restrictive criteria for that pollutant would apply.

House ENR
3-8-96
Attachment 4

Use classification is the foundation and driving force in water quality management programs. The elements of water quality criteria, point source discharge limits, treatment requirements, and treatment costs develop from the starting point of use classifications. This is illustrated in the diagram below.



To be consistent with Section 101 (a)(2) of the Clean Water Act, states must provide water quality for the protection of fish, shellfish, and wildlife, and provide for recreation in and on the water (“fishable, swimmable”) **where attainable**. The words “where attainable” must be emphasized. What factors can affect use attainability? Certainly water quality is a factor, but there are also many other factors which must be considered. 40 CFR 131.10(g) identifies several factors which can limit full attainment of uses. These limiting factors include:

- ◆ Naturally occurring pollutant concentrations
- ◆ Natural, intermittent or low flow conditions or water level conditions
- ◆ Human-caused conditions that cannot be remedied or would cause more harm to remedy than to leave in place
- ◆ Dams, diversion or other types of hydrologic modifications that preclude the attainment of use
- ◆ Physical habitat limitations
- ◆ Advanced wastewater treatment requirements that would cause substantial and widespread socioeconomic impact

A stream is an ecosystem affected by climate, watershed, banks, bed, water volume, water quality, and biota. A stream’s use is dependent upon the natural characteristics of the entire stream ecosystem and the man-made alterations or impacts which have occurred or are occurring. If natural stream conditions are not supportive of a designated use, additional restrictions on discharges will have no impact on use attainment. Is it reasonable to produce a swimmable water quality if there is only six inches of water in the stream bed? Some man-made alterations are more or less irreversible. Impoundments and levee systems which have been constructed for flood control and recreational purposes have also eliminated spawning habitats which have impacted fish populations. These stream alterations are not likely to be reversed. In such cases, where altered flow and habitat characteristics have impaired designated uses, costly investments in additional treatment processes to improve water quality will not return the specie to the stream and will not achieve attainment of the designated stream use. If the use is impaired because of factors other than the point source discharge, is it reasonable to place further restrictions on the discharge by the mere coincidence that the impairment exists? Failure to give appropriate consideration for these factors overlooks the “where attainable” component of Section 101(a)(2) of the Clean Water Act.

We request that the state review the surface water use designations established by KDH&E in the Kansas Water Quality Standards by conducting a Use Attainability Analysis prior to setting any new water-quality based effluent limits for municipal point source discharges. A Use Attainability Analysis is a multi-step scientific assessment of the physical, biological, economic, as well as chemical factors affecting the attainment of a use. This assessment identifies and defines the existing uses of the water body, determines whether the designated uses are impaired, and the reasons for the impairment. Mathematical models are then used to predict the amount of reduction in pollutant loadings necessary to achieve the designated use.

Without information from a Use Attainability Analysis, Kansas communities are being required to provide costly treatment improvements without any assurance that the designated uses for the receiving stream will be supported after the additional treatment facilities are in place and functioning. Without this assurance and justification, it will be extremely difficult to explain or justify the expenditures to our rate payers.



March 8, 1996

Representative Carl D. Holmes
Chairman, House Energy and Natural Resources Committee
Room 115-S
State Capitol
Topeka, Kansas 66612

Dear Chairman Holmes and Members of the Committee:

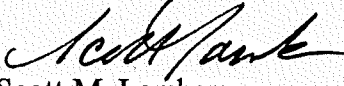
I am writing to you on behalf of the City Commission to express our support for House Resolution No. 6013, which deals with quality based effluent limits for municipality wastewater systems.

Although we support the Resolution in its current form, we believe some text changes to the Resolution are in order and we would strongly request your consideration of the following changes. In the first Resolution clause, we propose the following additions: "...other municipalities at least one year prior to expiration of their NPDES permit to explain and document in detail...". In the second Resolution clause, we propose the following change: "...the Secretary of Health and Environment is ~~requested~~ directed to ~~exercise~~ maximize all regulatory flexibility...". In the third Resolution clause, we propose the following change and addition: "...the Secretary of Health and Environment is ~~requested~~ directed to review and reevaluate and report ...".

We also believe that this Resolution should have some reference to the review and reevaluation of stream standards for low-flow amounts and ammonia discharge standards.

We appreciate your consideration of our comments and we urge the Committee to favorably report this Resolution out to the full House.

Very truly yours,


Scott M. Lambers
City Manager

House ENR
3-8-96
Attachment 5

CITY OF FORT SCOTT, KANSAS 66701

ESTABLISHED IN 1842

COMMENTS MADE BEFORE THE KANSAS
HOUSE ENERGY AND NATURAL RESOURCES
COMMITTEE CONCERNING

HOUSE RESOLUTION 6013
BY CITY OF FORT SCOTT, KANSAS

MARCH 8, 1996

Page - 1

House ENR
3-8-96
Attachment 6

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 Resolution 6013

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 Res. 6013. 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 Res. 6013 gives the State an opportunity to thoroughly review the standards in question. If House Res. 6013 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 Res 6013 will allow us the time to work together with KDHE and examine these regulations in depth.

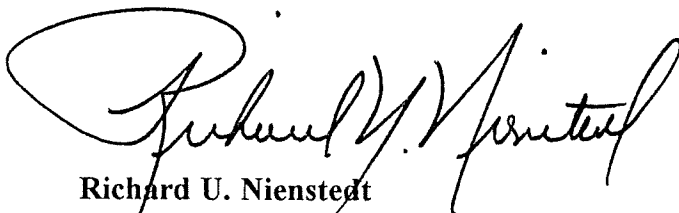
We have been working with KDHE staff for over two years on this particular issue. They have been willing to listen and, I believe, have an appreciation for our concerns and the impact of these standards. On this particular issue, I am convinced that KDHE does not have much flexibility without this type of legislation. HR 6013, 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 Res. 6013 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 Res6013 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 HR 6013 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,

A handwritten signature in black ink, appearing to read "Richard U. Nienstedt". The signature is written in a cursive style with a large, looping initial "R".

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.

6-5

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 Coliform 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.

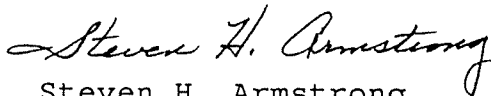
Elected and appointed officials deal with the formulation of public policy on a daily basis. It is our responsibility to ensure that the basis for determining public policy is sound, reasonable, equitably based upon facts, strives to achieve a realistic balance and addresses real problems, especially 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.

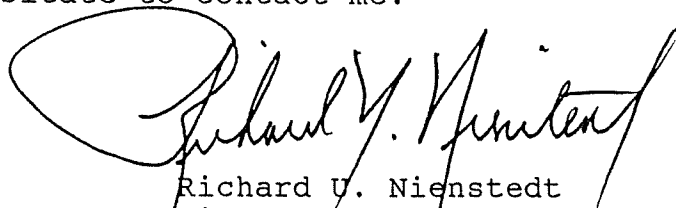
We are asking that KDHE not adopt the standards, in their present form, until such time as all the facts are known concerning the issues raised in this letter. We believe that the process should include representatives from municipalities who are dealing with the problems of compliance and pollution 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

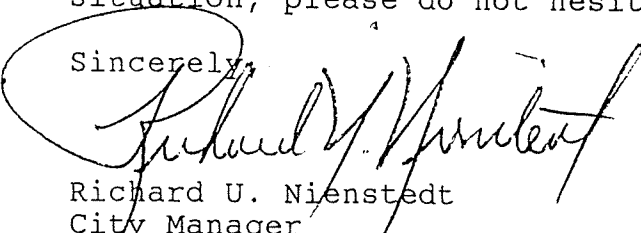
6-9

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

Office of the City Manager

City Hall - 120 North Sixth Street
Independence, Kansas 67301

March 6, 1996

Representative Carl D. Holmes
Chairman
House Energy and Natural Resource Committee
State House
Topeka, KS 66612

RE: House Resolution #6013

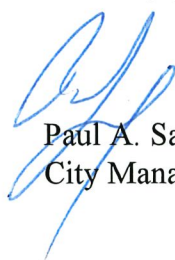
Dear Representative Holmes:

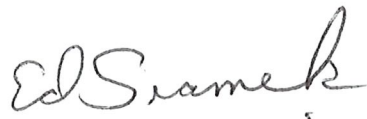
The City of Independence wishes to speak in support of House Resolution #6013. The City has no objection to complying with needed environmental standards. Our concern is that the standards that have been established for the City of Independence as indicated in proposed discharge permit for our waste water treatment plant could require the City to make an unnecessary expenditure of six to nine million dollars. The impact of this increase on our citizens would require a rate increase, just to finance the necessary debt service, of 90%. This increase does not include the anticipated annual operating expenses for an upgraded sewer treatment plant from the existing process which we believe would add an additional 50-60% rate increase. Rate increases of this magnitude could adjust the cost of an individual receiving the minimum waste water service of 2,000 gallons per month, an additional \$100 per year; or for an average residential consumer, utilizing 5,000 gallons per month, an increase of \$149 per year.


It is our opinion that adequate scientific and technical study has not been done as a basis for establishing our discharge requirements. Nor do we feel the results of the upgraded treatment to meet the proposed permit requirements which have been placed on the City will materially affect stream quality and aquatic life.

Adoption of this resolution would provide the Kansas Department of Health and Environment some authority to put some rationality into the establishment of standards and also provide a method of relief to our City and our citizens.

Sincerely yours,


Paul A. Sasse
City Manager


Ed Sramek
Utility Supervisor


Carl D. Holmes
Utility Supst.

House ENR
3-8-96
Attachment 7

City of Hiawatha

723 Oregon • Hiawatha, Kansas 66434

MAR 7 1996

March 6, 1996

Representative Carl D. Holmes
Chairman
House Committee on Energy and Natural Resources
State House 115-S
Topeka, Ks. 66612

Dear Representative Holmes:

I would like to express the support of the City of Hiawatha for the passage of House Resolution No. 6013.

Due to the burden of complying with the ammonia standards contained in the 1994 water quality regulations, I ask for your consideration of H.R. 6013.

Thank you for your consideration

Sincerely,



Tim Shanahan
City Administrator

CC: Chris McKenzie

House ENR
3-8-96
Attachment 8

CITY OF PARSONS

P.O. Box 1037
112 South Seventeenth St.
Parsons, Kansas 67357-1037



March 6, 1996

316-421-7000 Phone
316-421-7012 Fax

Representative Carl D. Holmes
Chairman
House Committee on Energy and
Natural Resources
115 -S Statehouse
Topeka, KS 66612

Dear Representative Holmes:

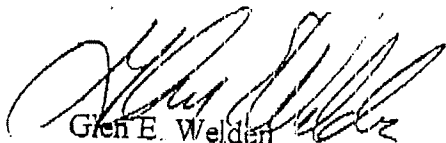
I have recently received a copy of House Resolution No. 6013 requesting the Kansas Department of Health and Environment meet with those cities that will be effected by changes in water quality standards.

KDHE has estimated that these changes would result in approximately \$63,000,000.00 of additional costs to communities in Kansas. These communities effected primarily are the smaller communities in Kansas that can ill afford additional charges that must be passed on to their consumers.

In the case of Parsons, we have just completed in December 1995, a \$1.3 million upgrade in our wastewater treatment plant. This upgrade was mandated by KDHE. The water quality standard changes under discussion could mean that the City would be forced to immediately begin planning for additional modification.

The City of Parsons supports House Resolution No. 6013 and that provision of the resolution that requires the Secretary of Health and Environment to review these regulations and report to the legislature in 1997. The City of Parsons requests that you support HR. 6013.

Sincerely,


Glen E. Welden
City Manager

"SABETHA"
Open for Expansion

March 5, 1996

Carl D. Holmes, Chairman
House Committee on Energy & Natural Resources
Statehouse, Room 115-S
Topeka, Kansas 66612

RE: HR. 6013

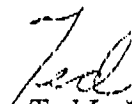
Dear Representative Holmes,

The City of Sabetha holds a significant interest in the development of the statutes that establish effluent limits for communities in our State. The fact the Department of Health & Environment followed the customary channels in responding to another Federal Mandate lacks a responsible approach to maintaining an environment that allows small communities to remain a viable part of Kansas.

There is a time and point the leadership of our State must halt the normal process and challenge these mandates that flow through the main stream unscathed. With the support of the legislative body, the Department of Health & Environment and other agencies could successfully defend the small communities position that the proposed discharge limits are not practical in our lower populated areas and prove to ourselves the blanket mandates created by the Federal Government cannot be levied equally across the entire fifty states.

We are asking your committee for a voice in these decisions and a more deliberate responsible approach towards establishing any lower water quality effluent limits. Thank you for your attention to our concerns.

Sincerely,


Ted L. Hayden
Administrator

TLH:lj

8-3



The City of Medicine Lodge

114 West First Street - Medicine Lodge, Kansas 67104 (316) 886-3908

March 6, 1996

Representative Carl D. Holmes
House Committee on Energy and Natural Resources
Statehouse, 115-S
Topeka, KS 66612

Dear Representative Holmes:

I am writing to request your support of House Resolution No. 6013, requesting the KDHE to meet with municipalities regarding water quality based effluent limits, to defer setting new effluent limits and report to the legislature regarding designated uses of waters of the state.

The impact of the implementation of these new effluent limits, effectually requiring us to build a new sewer treatment plant would be catastrophic. We are retiring this year, a bond issue for KDHE required improvements in 1986. Combined with the impact of a \$2 million decline in assessed valuation in Barber County and increased property taxes as a result, an estimated \$1,000,000 in capital expenditures for a new treatment plant in Medicine Lodge would result in the doubling of present sewer rates for the next 20 years.

Undertaking this project against the city's bonded indebtedness capacity without state and federal funding would prevent other planned or anticipated capital expenditures. Who is to say that within that 20 year time frame of debt retirement that EPA/KDHE will not require an even more advanced treatment plant requiring us to build again?

Therefore, I strongly urge you and your committee to vote in favor of this resolution and recommend passage to the full House.

Thank you for your support.

Respectfully,

Rick Shain
City Administrator

cc: Chris McKenzie
Richard Aldritt
Governing Body
City Superintendent

8-4

CITY OF MULVANE

211 NORTH SECOND STREET
MULVANE, KANSAS 67110
(316) 777-1143
(316) 777-4081 (Fax)

Attn:
Chris
McKenzie

3/6/96

Representative Carl D. Holmes
State Capitol Bldg.
Room 115 South
Topeka, Ks. 66612

RE: Support For House Resolution 6013

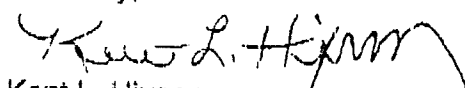
Dear Rep. Holmes,

This letter is to urge you to support House Resolution 6013. The new KDHE requirements could result in a monthly water rate increase of over \$2.00 per household in order to comply with the ammonia standards contained in the 1994 water quality regulations.

H.R. 6013 directs the Secretary of KDHE to conduct additional studies of the basis for this and other water quality standards prior to increasing effluent limits.

Your support of H.R. 6013 is very much appreciated.

Sincerely,



Kent L. Hixson
City Administrator

8-5

State of Kansas

Bill Graves



Governor

Department of Health and Environment

James J. O'Connell, Secretary

Testimony Presented to

HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES

by

Kansas Department of Health and Environment

House Resolution No. 6013

KDHE opposes the resolution as drafted. KDHE agrees with certain key elements, but several provisions are inappropriate.

KDHE certainly agrees with the resolution's apparent intent for the agency to explain or justify sewage discharge permit limits and stream use designations. During public meetings in the development of the state's existing water quality standards, comments were received and some changes made, and some not made, to stream designations. KDHE is well aware of differing opinions regarding the value and use of Kansas streams. Objections were received on all sides of this argument with environmental groups and state and federal natural resource agencies pushing for stricter stream use designations to protect Kansas streams as natural resources now and into the future. Some dischargers, concerned with the direct cost they would bear, argued for lesser stream uses. KDHE's job was then to sort through the information, evidence, and honest differences in opinion, and move on in implementing clean water programs. Moving on does not mean ignoring concerns by either side of this argument, but means moving on with programs which KDHE finds scientifically required to carry out the legal mandate, and assuring an ongoing process to review issues. KDHE believes these processes are in place within the water quality standards and the discharge permit program.

Specifically, the regulations allow for development of site-specific criteria, variances, and examination of stream uses through studies known as Use Attainability Analyses (UAAs). KDHE anticipated requests from cities, environmental groups and government agencies to modify stream designations. During development of the water quality standards, comments were received that the agency should perform UAAs to modify stream designations at the request of interested parties, in particular NPDES permit holders. The department lacks the resources to respond to all anticipated requests for UAAs and did not want to be a continuous advocate for downgrading uses. The agency's approach requires the interested party, either NPDES permit holder or interest group, to perform the UAA and then submit to KDHE for review. The data acquired would then be considered in determining the necessity for modifications to the designated uses.

A recognized disagreement is whether the state or the discharger should do these stream studies. The agency has left the cost of petitioning a change to the standards or stream designations with the discharger or public interest group requesting that change. To do otherwise has the potential of creating an unrestricted demand and cost for state resources.

House ENR
3-8-96
Attachment 9

Regardless of the approach taken in modifying designated uses, the procedure will be open to public review and comment. This procedure must be equally rigorous for proposals to increase or decrease the stringency of the designations.

KDHE is available to meet with groups and local government, and does so routinely. The resolution's requirement to have the secretary, division director, and water director do the explanations is, at best, unusual. Suggested rewording of this provision is attached.

Another suggested wording change affects page 2, line 3: substituting "reissuance" for the word "expiration".

The resolution appears to encourage watershed studies, to which KDHE agrees. However, KDHE takes exception with the resolution then requesting deferral of new municipal effluent limits until each stream's designated use is reviewed again by the agency, and the watershed study is complete. Watershed studies can be completed in "building block" components. In particular, low flow stream conditions will generally drive sewage discharge limitations. The low flow impact portion of a watershed study is generally done first, and this work has been routinely done around the state for several decades. Again, the agency agrees the effluent limits must be justified and the agency believes this is now being done. To defer addressing needed work is, in our opinion, a delay tactic. If delays are justified due to cost or other valid reasons, solutions are available through variance procedures such as longer term schedules for implementing the improvements. This provision also involves indefinite postponement of needed changes in wastewater treatment affecting low flow conditions while watershed-wide study of agricultural and other nonpoint sources of pollution, which generally have an effect at high flow conditions, are studied.

The perception is left that KDHE is not concerned with regulatory costs to dischargers. Adoption of the last set of water quality standards over EPA objection they were too weak should dispel this allegation. Costs were well documented and KDHE identified and notified each impacted city. The agency wants to highlight significant accommodations made to discharges in the 1994 water quality standards due in part over concern for costs:

1. The 1 cubic foot per second (cfs) default low stream flow was continued, with the exception for streams designated special or outstanding natural resource waters. This means streams wherein actual water flow is less than 1 cfs low flow are still allowed the 1 cfs as potential dilution in calculation of permit limits. We estimate 70% of the discharging cities in the state receive an advantage of this default low stream flow.
2. Municipal wastewater treatment lagoons are recognized by Kansas standards as providing an effluent of acceptable quality in terms of disinfection and ammonia. The advantages, particularly to small towns, of wastewater lagoons are well known and will not be repeated here. The agency has fought hard to use lagoon technology because of its effectiveness and significant cost savings. Of 920 municipal wastewater Kansas municipal permits, 75% utilize lagoon technology.
3. Kansas standards make provisions for effluent created streams. Some municipal discharges are essentially the headwaters of a stream. Even though the stream might be short in length, it exists solely because of the discharge. This is a contentious provision with respect to the federal government. To date, KDHE has prevailed in arguments with EPA on this issue. Elimination of this effluent sustained stream provision would require these discharges to meet even stricter discharge limits at significant expense.
4. For streams designated as a water supply the standard is applicable at the point of diversion, as opposed to the entire stream reach. This allows cities to take advantage of additional stream dilution and pollutant

changes within a stream reach prior to reaching a drinking water intake. If the agency were to apply the water supply criteria to the entire stream reach, municipal wastewater treatment costs would increase significantly including costs of removal for various parameters. The cost impact to agricultural and other nonpoint sources would be even more pronounced.

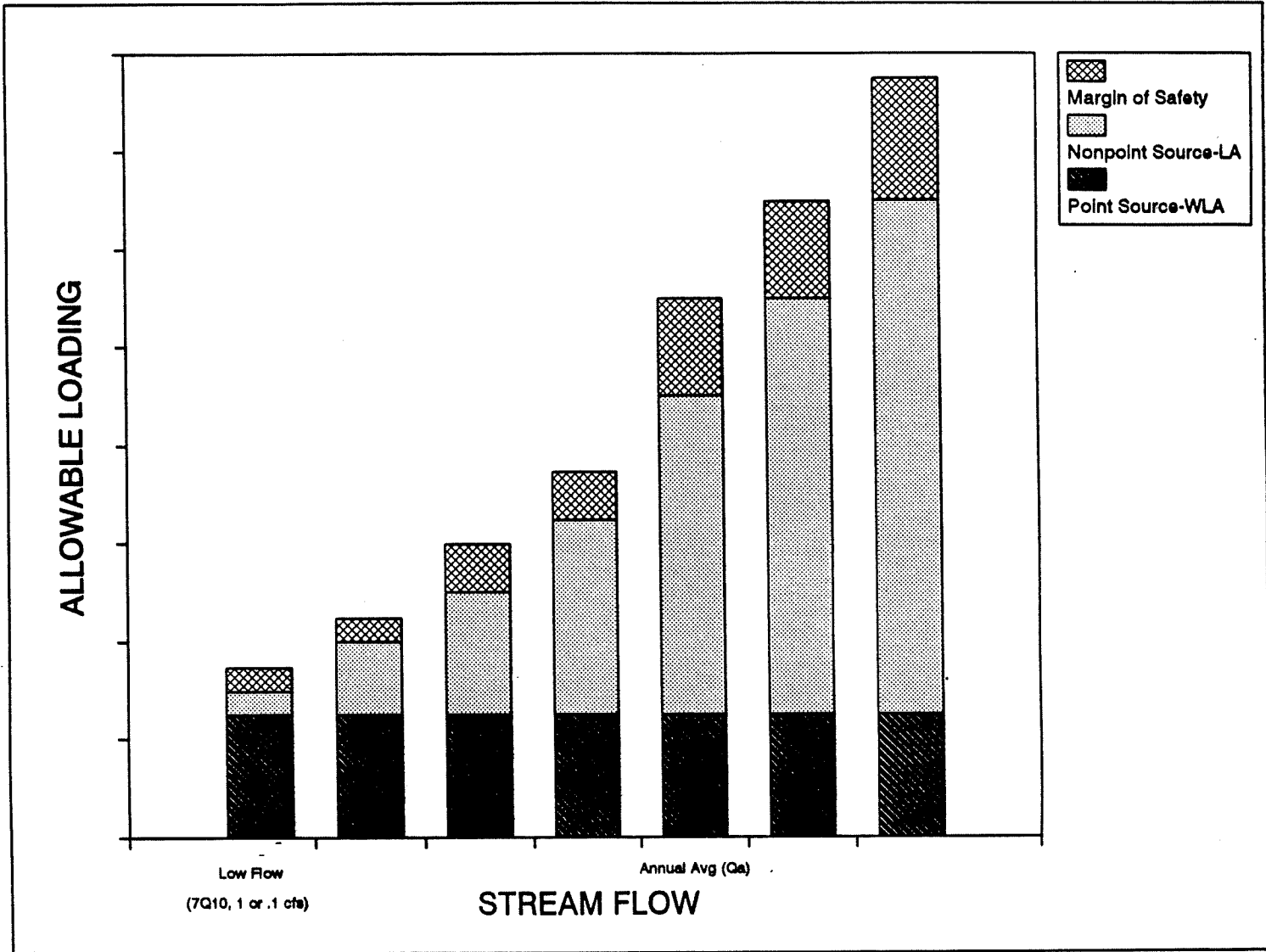
At this point, it seems appropriate to reflect on past and future water quality programs. The attached time line was developed to illustrate where KDHE thinks the state has been, is, and is headed. Certainly watershed or basin management will be emphasized more in the future. To date the emphasis has been on point sources, or as described earlier, the first building block in a watershed plan. The agency has a schedule to study the 12 major basins in the years ahead. The major emphasis will be identifying allowable stream pollutant loadings, and allocation of the loadings to various sources. The agency will be concentrating on pollutants identified as an issue within that particular basin. This work will involve balancing pollution allocations between point and nonpoint sources. In some instances, particularly above reservoirs, we expect to see effluent trading occur. In other words, if the reservoir or stream is already receiving its full allocation of a pollutant, and a new or existing discharger wants to add to the load, that discharger must find an equivalent trade-off or provide a higher level of wastewater treatment, but first there needs to be an agreement on where the loading comes from. This will be tricky.

Attached is a graph demonstrating what KDHE expects will be a major component of stream basin studies and pollution allocations. During testimony on House Bill 3029 the impacts of point and nonpoint sources were discussed. The vulnerability of the stream at low flow conditions and the type of impact seen at low flow versus high flow were reviewed. The attached chart is a tool KDHE plans to use to demonstrate the relationship of point and nonpoint source loadings at various stream flows. We also believe the graph will be helpful in discussing the allocation of pollutant loads to streams.

Water quality standards are required to be reviewed every three years. Current standards were adopted in 1994, so a review is due by 1997. Considering the complexity of this subject, we suggest the committee not adopt HR 6013 and consider more in-depth briefings. KDHE will assist in any way we can.

Testimony Presented by: Karl Muedener
Director, Bureau of Water
Division of Environment
Health and Environment
March 8, 1996

STREAM FLOW VS LOAD ALLOCATIONS

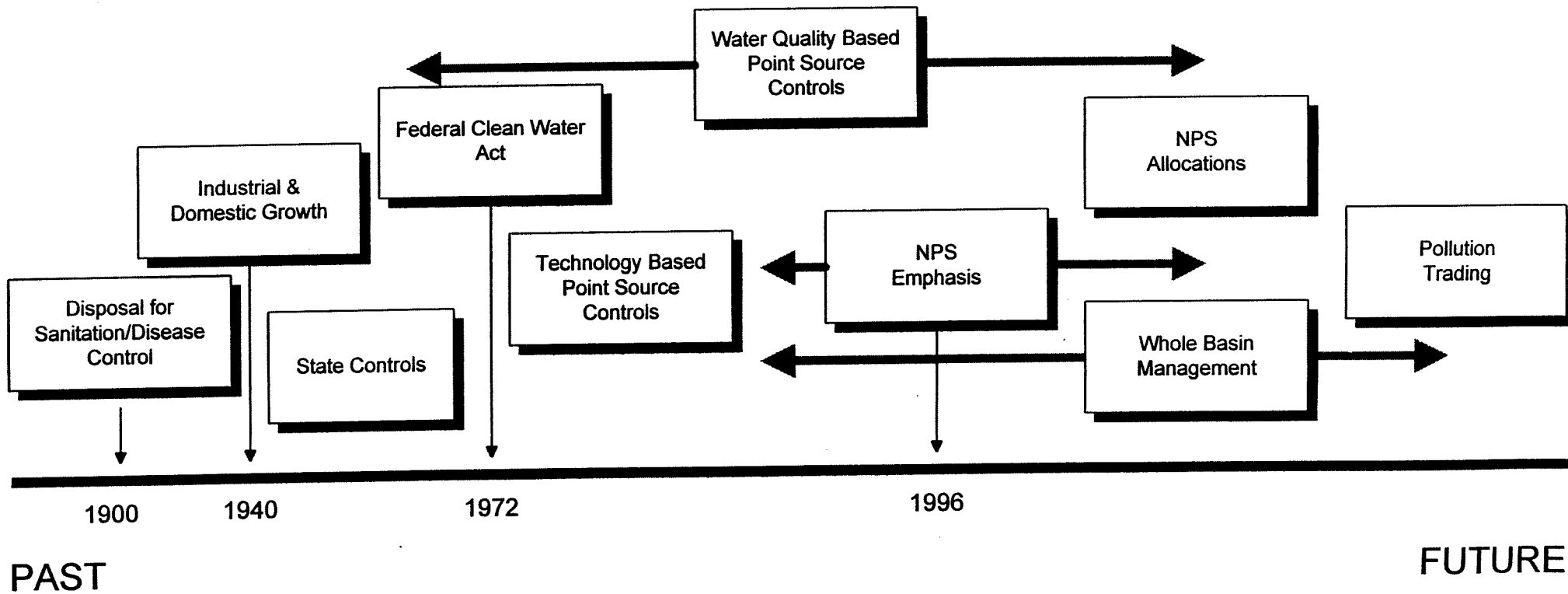


General relationship between stream flow and allowable point source and nonpoint source pollutant loadings. Axis units are arbitrary, increasing from bottom to top and from left to right.

9-4

TIME LINE OF WATER QUALITY PROGRAM EVALUATION

9-5



HOUSE RESOLUTION No. 6013

By Committee on Energy and Natural Resources

2-28

by KDHE
3/8/96
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9 A RESOLUTION requesting the Department of Health and Environ-
10 ment to meet with municipalities regarding water quality based efflu-
11 ent limits, defer setting new effluent limits and report to the Legisla-
12 ture regarding designated uses of waters of the state.

13
14 WHEREAS, The Secretary of Health and Environment in 1994
15 adopted designated uses for surface waters in the Kansas surface water
16 registry; and

17 WHEREAS, Designated uses from the old water registry were carried
18 forward into the new registry, but all newly listed classified streams were
19 designated for protection of expected aquatic life use support and non-
20 contact recreation; and

21 WHEREAS, Some stream classifications were changed to reflect the
22 presence of threatened and endangered species or outstanding natural
23 resources; and

24 WHEREAS, These changes will lead to new effluent limits for existing
25 discharges, which limits will be set by the Department of Health and
26 Environment when a municipal discharger's national pollution discharge
27 elimination system (NPDES) permit is up for renewal; and

28 WHEREAS, The setting of new designated uses for stream segments
29 into which municipalities discharge effluent puts a substantial burden on
30 a municipal applicant to complete a special use attainability analysis, a
31 study designed to determine whether a surface water segment supports
32 or is capable of supporting one or more designated uses in the absence
33 of artificial sources of pollution, the burden of which falls squarely on the
34 municipality; and

35 WHEREAS, The Department of Health and Environment estimated
36 in 1994 that these changes in water quality standards would lead to an
37 estimated \$63 million in increased capital costs by approximately 60 cities
38 in the state, not including operating and consultant study costs, and will
39 be paid by wastewater system rate payers: Now, therefore,

40 *Be it resolved by the House of Representatives of the State of Kan-*
41 *sas:* That the Secretary of Health and Environment ~~and the Director of~~
42 ~~the Division of Environment and the Director of the Bureau of Water of~~
43 ~~the Division of Environment of the Department of Health and Environ-~~

downgrading such uses

or designees

9-7

1 ~~ment~~ are hereby directed to meet in public meetings with the governing
 2 bodies of cities, rural waste water systems, rural sewer districts and other
 3 municipalities prior to expiration of their NPDES permit to explain in
 4 detail: (1) The technical and scientific basis for the designated uses of
 5 water bodies affected by municipal point source discharges; (2) the tech-
 6 nical and scientific basis for the effluent limits that the department has
 7 established or proposed to be established for municipal point source dis-
 8 charges; (3) ~~the justification for the expenditure by municipalities of funds~~
 9 ~~necessary to meet the effluent limits and attain the designated uses for~~
 10 ~~the water bodies affected by municipal point source discharges, and (4)~~
 11 the extent to which the proposed effluent limits will result in attainment
 12 of the designated uses of water bodies affected by municipal point source
 13 discharges; and

issuance

← deletion

14 *Be it further resolved:* That the Secretary of Health and Environment
 15 is requested to exercise all regulatory flexibility granted by the federal
 16 Environmental Protection Agency to defer setting new effluent limits for
 17 municipal point source discharges until the Department completes ap-
 18 propriate watershed studies and reviews the appropriateness of desig-
 19 nated uses for ~~each~~ affected body of water; and

← deletion

20 *Be it further resolved:* That the Secretary of Health and Environment
 21 is requested to review and report to the Legislature, on or before the first
 22 day of the ~~1997~~ regular session, regarding the designated uses for bodies
 23 of water in the state and justifications for the designations; and

1998

24 *Be it further resolved:* That the Chief Clerk of the House of Repre-
 25 sentatives be directed to transmit an enrolled copy of this resolution to
 26 the Governor and to the Secretary of Health and Environment.