

Approved: 3-12-96  
Date

MINUTES OF THE SENATE COMMITTEE ON ENERGY & NATURAL RESOURCES.

The meeting was called to order by Chairperson Don Sallee at 8:00 a.m. on March 8, 1996 in Room 254-E- of the Capitol.

All members were present except:

Senator Janice Hardenburger, Excused  
Senator Phil Martin, Excused  
Senator Bill Wisdom, Excused

Committee staff present: Raney Gilliland, Legislative Research Department  
Ardan Ensley, Revisor of Statutes  
Clarene Wilms, Committee Secretary

Conferees appearing before the committee:

Jon K. Miles, Kansas Electric Cooperatives, Inc. (KEC)  
Bruce Graham, Corporate Relations Coordinator, KS Electric Power Cooperative, Inc.  
Whitney B. Damron, P.A., The Empire District Electric Company  
Bill R. Fuller, Associate Director, Public Affairs Division, Kansas Farm Bureau  
Kim Gulley, League of Kansas Municipalities  
David Schlosser, The Williams Company  
Ron Hammerschmidt, Ph.D, Director of Environment

Others attending: See attached list

**Continuation of hearings on HB 2600 -- concerning retail electric service; establishing the retail wheeling task force to study competition in such service; relating to authorization of such competition by the state corporation commission**

Jon K. Miles, Director of Governmental Relations, Kansas Electric Cooperatives, Inc. (KEC), presented testimony in support of **HB 2600** (Attachment 1). Mr. Miles told members his organization is a statewide association representing thirty-three rural electric cooperatives in Kansas, including two generation and transmission cooperatives, Kansas Electric Power Cooperative (KEPCo) and Sunflower Electric Power Corporation. He pointed out a map included in testimony detailing the relationship of KEC, Sunflower and KEPCo and their members.

Mr. Miles addressed the issue of stranded investment/costs noting that recovery of such costs must be considered when considering deregulation, otherwise plants may be forced to go bankrupt.

Bruce Graham, Corporate Relations Coordinator, Kansas Electric Power Cooperative, Inc. (KEPCo), presented testimony in support of **HB 2600** in its current form which includes his organization in the task force (Attachment 2). Mr. Graham again expressed concern for the residents of rural Kansas knowing that electric cooperatives, with an average of less than three consumers per mile of line, will likely bear the brunt rather than the benefit of retail wheeling.

Whitney B. Damron, representing The Empire District Electric Company, appeared in support of **HB 2600** noting the belief that the approach taken by the Kansas Legislature is a responsible step towards insuring interests of all parties concerned will be fairly represented throughout the review process (Attachment 3).

Bill R. Fuller, Associate Director, Public Affairs Division, Kansas Farm Bureau, presented testimony in support of **HB 2600** stating this support represents a new policy adopted at the 77th annual meeting of Kansas Farm Bureau which states "Energy regulation and retail wheeling should be advantageous to all segments of the economy including agriculture and rural communities." The entire text of the resolution on "Energy Regulation" is a part of Attachment 4. Mr. Fuller stated the belief that the creation of the Retail Wheeling Task Force is essential in developing appropriate long-range state policy that serves Kansas citizens and industries well and promotes competition among those providing electric service.

William Craven, Sierra Club and KNCR, requested the chairperson to announce support of his organizations.

Kim Gulley, Assistant General Counsel, League of Kansas Municipalities, presented written comments in support of **SB 2600** (Attachment 5). Comments stated the bill allows a sufficient period of time for the task force to study this complex issue and make suggestions for appropriate statutory and regulatory changes.

David Schlosser, representing The Williams Company which supports **HB 2600** presented testimony requesting inclusion in the task force stating that currently no representatives from the industry that supplies raw material for

## CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, ROOM 254-E-Statehouse, at 8:00 a.m. on March 8, 1996.

generating electricity hold a position on the task force (Attachment 6). Mr. Schlosser stated that The Williams Company recently dealt with similar deregulation and could offer insight and experience to the task force.

Discussion touched on various requests for inclusion on the Task Force and the distribution of representatives between industry and private customers. The point was made that the KCC and CURB were both representing individual consumers as well as the legislators. A suggestion was made that the legislators serving on the task force be from different congressional districts, thereby providing more equal representation.

Senator Emert moved amend HB 2600 to provide that no more than two legislators come from the same Congressional District. Senator Lawrence seconded the motion. The motion carried.

Senator Emert made a motion to use capitalize company names on page 2, lines 3 through 7. Senator Morris seconded the motion and the motion carried.

There was brief discussion concerning the mention of overlapping or parallel studies by the task force and the KCC. Larry Holloway stated it was the intention of the KCC to work on a parallel with the task force. The chairperson noted that the KCC will develop their expertise "in house".

A member questioned the inclusion of the Department of Commerce. It was stated that whatever the task force determines will have a major effect on industry in Kansas, namely the cost of energy which is a major point with industry. Other comments expressed the opinion that one consumer should be representative of the residential community, another stated that everyone in the world is a residential consumer.

A comment from the audience stated the House Committee had essentially the same argument and this was when they added CURB thinking their presence would answer some of the objections.

Senator Vancrum made a motion to add a small commercial or industrial customer and a residential customer to the task force. Senator Lee seconded the motion and the motion carried.

Senator Walker made a motion to eliminate electric cooperatives except the Electric Cooperative Association and to eliminate all municipalities except the Board of Municipalities and to remove the Department of Commerce and then withdrew the motion.

Discussion continued concerning provisions of pay for members of the task force and it was eventually suggested if there were difficulties with this section it would be corrected on the Senate floor.

Senator Lee moved to pass the bill out favorable as amended. Senator Lawrence seconded the motion and the motion carried.

### **HB 2966--concerning certain limits on the aboveground petroleum storage tank release trust fund**

Ron Hammerschmidt, Director of Environment, KDHE, presented testimony in support of **HB 2966** stating reduction of remedial activities associated with this fund have declined resulting in accumulation of a large fund balance being carried forward the past three years (Attachment 7). Mr. Hammerschmidt stated support to lower the fund balance to \$1.5 million and \$500,000 transferring the excess. Testimony did express reservations should a catastrophic release from a storage tank site needing remedial action occur.

Senator Lee moved to report HB 2966 favorable for passage. Senator Vancrum seconded the motion and the motion carried.

Ron Hammerschmidt, Director of Environment, KDHE, presented testimony in support of **HB 2620** stating the bill was a cleanup bill eliminating an obsolete portion of the solid waste statutes (Attachment 8). Mr. Hammerschmidt stated that in 1995 the position of state coordinator of waste reduction, recycling and market development within the Department of Commerce was allowed to expire. Therefore this portion of the statutes is no longer needed.

Senator Vancrum moved to report HB 2620 favorable for passage. Senator Morris seconded the motion and the motion carried.

The meeting was recessed until 8 a.m. Monday, March 11, 1996.

The next meeting is scheduled for March 11, 1996.

# SENATE ENERGY & NATURAL RESOURCES COMMITTEE GUEST LIST

DATE: March 8, 1996

NAME	REPRESENTING
Whitney Damon	Empire Electric Company
DAVID B SCHLOSSER	PETE McGUIRE & ASSOC.
Ron Hammerschmidt	KDHE
Wayne Kitchen	Western Resources
Meggen Griggs	Kearney Law Office
Jon K. Giles	KCC
BRUCE GRAHAM	KCEPCo.
TOM DAY	KCC
J.C. LONG	UtiliCorp United, Inc.
ED SCHAUB	WESTERN RESOURCES INC.
Bill Fuller	Kansas Farm Bureau
Larry Holloway	Kansas Corporation Commission
Chris Startfield	KDHE
Sten Clark	
Rich McKee	KLA

**TESTIMONY BEFORE THE SENATE ENERGY  
AND NATURAL RESOURCES COMMITTEE  
THURSDAY, MARCH 7, 1996**

Good morning, Mr. Chairman and members of the Committee. My name is Jon Miles. I am the Director of Governmental Relations for Kansas Electric Cooperatives, Inc. (KEC). KEC is the statewide association representing thirty-three rural electric cooperatives in Kansas, including two generation and transmission cooperatives, Kansas Electric Power Cooperative (KEPCo) and Sunflower Electric Power Corporation.

If you would allow me to take just a moment, I would like to explain the structural relationship between KEC, KEPCo and Sunflower. I think it's important to note that, while our organizational structure in the eyes of the law might be similar, our concerns may be different when it comes to the large number of issues surrounding retail wheeling and how those issues affect the variety of electric generation resources and their impact on rural ratepayers.

° KEC serves rural electric cooperatives in Kansas with a variety of services that are traditionally offered by trade associations such as legislative relations, communications and printing department, rate analyst, regulatory specialist and legal staff, to name just a few. KEC is not involved in providing power supply. That is the responsibility of KEPCo and Sunflower.

° KEPCo and Sunflower are the power suppliers to most of our members. Although KEPCo and Sunflower are members of KEC, each is a separate entity with a separate purpose from KEC. KEPCo owns six percent of Wolf Creek generating station along with hydro-power allocations, and the remainder of their power supply is secured through long-term contracts from other utilities in the state and the open market.

° Sunflower is the owner and operator of the Holcomb generating station in western Kansas. Holcomb is a coal-fired plant which provides all of Sunflower's generation requirements.

The attached map details more clearly the relationship of KEC, Sunflower and KEPCo and their members.

Today, we are here to testify in support of House Bill 2600. This position is based on our belief that the impact of retail competition should be thoroughly and carefully studied before it is implemented. There is little doubt that retail wheeling is an extremely complex matter and one that we dare not rush into.

HB 2600 calls for the formation of a 21-member task force to study all of the various aspects involved in competition.

A major hurdle to competition in Kansas is stranded investment/costs. Producing electricity is extremely capital-intensive. New power plants do not come cheap and millions of dollars were spent in Kansas to bring power plants into compliance with federal and state regulatory and safety requirements as the plants were being built.

If the industry is suddenly deregulated, some power plants will become instantly uncompetitive. They cost far more to produce power than smaller, newer plants which are nothing more than a set of jet engines converted to run on natural gas.

*Senate Energy & Natural Res  
March 8, 1996  
Attachment 1*

In addition, rural electric cooperatives are locked into long-term contracts to purchase electricity. If deregulation comes, as some say it will, there may be plants forced to close down due to power costs produced at above-market rates.

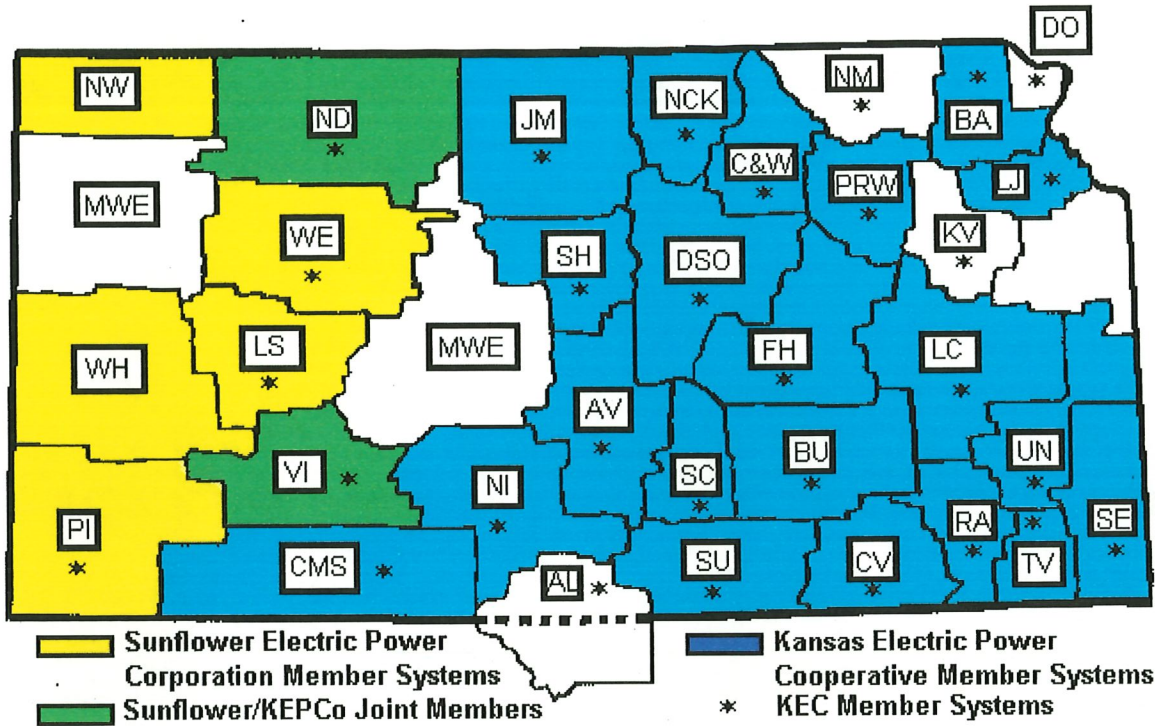
Utilities built power plants and signed long-term contracts in response to demand from federal regulators for a secure and reliable supply of electricity. Currently, there is an oversupply of capacity for just that reason. Years of running this industry on a public/private basis cannot be changed overnight. The decision regarding how or if Kansas should have full competition needs to be cautiously and carefully studied. It would be unwise for any decision to be made that would cause utilities with stranded investment to go bankrupt. Stranded cost recovery must be a part of the equation.

The moratorium requires that the task force get to work quickly on this matter and submit its first report to the Legislature in January 1997 and a final report in January 1998. During the moratorium, the task force will be in a position to take advantage of further study and efforts being conducted in other states. About forty states have considered competition, with Massachusetts, New Hampshire and California leading the way.

Again, we feel that HB 2600 is a good bill that allows Kansas to take a hard look at retail wheeling and how consumers might be affected.

We thank you for allowing us the opportunity to testify.

# Service Areas of Electric Cooperatives in Kansas



AL--Alfalfa, Cherokee, OK  
 AV--Ark Valley, Hutchinson  
 BA--Brown-Atchison, Horton  
 BU--Butler, El Dorado  
 C&W--C&W, Clay Center  
 CMS--CMS, Meade  
 DSO--DS&O, Solomon  
 DO--Doniphan, Troy  
 FH--Flint Hills, Council Grove  
 JM--Jewell-Mitchell, Mankato  
 KV--Kaw Valley, Topeka  
 LC--Lyon-Coffey, Burlington  
 LJ--Leavenworth-Jefferson, McLouth  
 LS--Lane-Scott, Dighton  
 MWE--Midwest Energy, Hays  
 NCK--NCK, Belleville

NI--Ninnescah, Pratt  
 ND--Norton-Decatur, Norton  
 NM--Nemaha-Marshall, Axtell  
 NW--Northwest Kansas, Bird City  
 PRW--PR&W, Wamego  
 PI--Pioneer, Ulysses  
 RA--Radiant, Fredonia  
 SC--Sedgwick County, Cheney  
 SE--Sekan, Girard  
 SH--Smoky Hill, Ellsworth  
 SU--Sumner-Cowley, Wellington  
 TV--Twin Valley, Altamont  
 UN--United, Iola  
 VI--Victory, Dodge City  
 WE--Western, WaKeeney  
 WH--Wheatland, Scott City



# **Kansas Electric Power Cooperative, Inc.**

**Comments on H.B. 2600  
Presented by the Kansas Electric Power Cooperative, Inc.  
Before the Senate Energy and Natural Resources Committee  
Thursday, March 7, 1996**

Mr. Chairman and members of the Committee. Thank you for the opportunity to comment in support of H.B. 2600. My name is Bruce Graham, Corporate Relations Coordinator for the Kansas Electric Power Cooperative (KEPCo).

KEPCo is a generation and transmission cooperative utility which supplies wholesale power to 23 rural electric cooperatives. Those cooperatives serve approximately 100,000 homes and businesses located across two-thirds of rural Kansas.

KEPCo was privileged to testify on retail wheeling during the 1995 interim study session and comment on the resulting bill in hearings before the House Energy and Natural Resources Committee last month. We are a participant in the task force as amended in action by the House Committee--and support the bill in its current form.

As part of our earlier remarks, KEPCo expressed its concern for the residents of rural Kansas knowing that electric cooperatives, with an average of less than three consumers per mile of line, will likely bear the brunt rather than the benefit of retail wheeling. Nevertheless, we are dedicated to providing our members with the best value for their energy dollar and if retail wheeling is truly inevitable, we must be sure the proposal is structured to help all consumers, not just a fortunate few. With that in mind, this task force has been given a list of study topics which will provide an opportunity to examine the potential and the pitfalls of retail wheeling in Kansas. We are also in favor of the timeline stated in the bill which will give the group a chance to review the experience of other states and determine how that might translate to a relatively rural state like Kansas.

Thank you for the opportunity to comment in support of H.B. 2600.

Senate Energy & Natural Res  
March 8 1996  
Attachment 2

WHITNEY B. DAMRON, P.A.  
COMMERCE BANK BUILDING  
100 EAST NINTH STREET - SECOND FLOOR  
TOPEKA, KANSAS 66612-1213  
(913) 354-1354 ♦ 232-3344 (FAX)

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March 7, 1996

Good morning Chairman Sallee and Members of the Senate Committee on Energy and Natural Resources. My name is Whitney Damron and I appear before you today on behalf of The Empire District Electric Company in support of HB 2600 creating a retail wheeling task force.

The Empire District Electric Company, headquartered in Joplin, Missouri, is an Investor-Owned company serving the four corner areas of SE Kansas, NE Oklahoma, SW Missouri and NW Arkansas. Empire's Kansas territory consists of parts of Cherokee County and the communities of Columbus, Baxter Springs, Riverton and Galena.

Empire supports HB 2600 establishing a retail wheeling task force to study competition in the area of retail electric service. Retail wheeling of electric power is a highly complex issue with significant ramifications for the State of Kansas and deserves thorough study before legislation or regulatory changes can be fairly considered. Empire believes the approach taken by the Kansas Legislature in HB 2600 is a responsible step towards insuring that the interests of all parties concerned, both energy providers and consumers, will be fairly represented throughout this review process.

As a proposed member of the task force created under HB 2600, The Empire District Electric Company looks forward to participating in this comprehensive discussion of all issues related to retail wheeling of electric power.

On behalf of Empire, I thank you for the opportunity to present comments in support of HB 2600 to you today and respectfully request you pass this bill in its present form. I would be pleased to stand for questions from the Committee at the appropriate time.

Senate Energy & Natural Res  
March 8, 1996  
Attachment 3





# PUBLIC POLICY STATEMENT

## SENATE COMMITTEE ON ENERGY & NATURAL RESOURCES

Re: HB 2600 - Establishing the Retail Wheeling Task Force

March 7, 1996  
Topeka, Kansas

Presented by:  
Bill R. Fuller, Associate Director  
Public Affairs Division  
Kansas Farm Bureau

Chairman Sallee and members of the Committee:

Many farm and ranch members of Farm Bureau in Kansas have a number of concerns and a wide range of questions about retail wheeling. Our members recognize the issue is very complicated and extremely important to all Kansans. Agriculture is dependent upon, in fact many farming operations consume significant quantities of electricity.

My name is Bill Fuller. I am the Associate Director of the Public Affairs Division for Kansas Farm Bureau. I am here to express support for HB 2600. The 411 Voting Delegates representing the 105 county Farm Bureaus in Kansas adopted new policy at the 77<sup>th</sup> Annual Meeting of KFB that says, "Energy regulation and retail wheeling should be advantageous to all segments of the economy including agriculture and rural communities." Farm Bureau further

Senate Energy & Natural Res  
March 8, 1996  
Attachment 4

recommends, "Rules and regulations promulgated as a result of legislation on regulation and retail wheeling should assure Kansas is not at a competitive disadvantage with any other state." The entire text of Kansas Farm Bureau's resolution on "Energy Regulation" is attached to this statement.

We believe creation of the Retail Wheeling Task Force is essential in developing appropriate long-range state policy that serves Kansas citizens and industries well and promotes competition among those providing electric service. We respectfully encourage passage of HB 2600.

Thank You!

Legislation regarding energy regulation should result in fair competition. Competition should result in lower prices, better service through utility innovations, and more choices. Energy regulation and retail wheeling should be advantageous to all segments of the economy including agricultural and rural consumers.

We support the Kansas Corporation Commission's role in monitoring service quality and equitable rate treatment for all segments of the energy industry served by regulated monopolies. Rate structures should facilitate an open market and allow a reasonable return on generation, transmission, and distribution investments. Rules and regulations promulgated as a result of legislation on regulation and retail wheeling should assure Kansas is not at a competitive disadvantage with any other state.



**League of  
Kansas  
Municipalities**

**Legal Department  
300 S.W. 8th  
Topeka, Kansas 66603  
Phone: (913) 354-9565/ Fax: (913) 354-4186**

**Legislative Testimony**

To: Senate Energy and Natural Resources Committee

From: Kim Gulley, Assistant General Counsel

Re: Support for HB 2600

Date: March 7, 1996

Thank you for allowing the League to provide written comments in support of HB 2600. We support creating a task force to study the issue of retail wheeling for the following reasons.

First, the creation of this task force allows for a considered study of the issue and does not prejudice whether or not electric retail wheeling is a good or bad idea. Second, we believe the bill allows a sufficient period of time for the task force to study this complex issue and make suggestions for appropriate statutory and regulatory changes.

As to the three year moratorium, we believe that it is necessary to allow the study to be completed before any significant steps in this area are taken. The moratorium will allow for a reasoned, rather than hasty approach to the issue. Given the complexity of the 18 different issues which the task force must address, we see no alternative to the imposition of a three year moratorium on electric retail wheeling in Kansas.

Again, thank you for allowing the League to offer comments in support of HB 2600.

*Senate Energy & Natural Res  
March 8, 1996  
Attachment 5*

**TESTIMONY PRESENTED**

**TO THE**

**SENATE**

**ENERGY & NATURAL RESOURCES**

**COMMITTEE**

**BY**

**DAVID SCHLOSSER**

**OF**

**PETE MCGILL & ASSOCIATES**

**ON BEHALF OF**

**THE WILLIAMS COMPANY**

**ON**

**HB 2600**

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**MARCH 8, 1996**

*Senate Energy & Natural Res.  
March 8, 1996  
Attachment 6*

Mr. Chairman, members of the committee, thank you for the opportunity to appear before you on HB 2600. My name is David Schlosser, and I work with Pete McGill and Associates to represent The Williams Companies. Williams is one of the largest producers and transporters of natural gas in the country, and has a great interest in all energy matters -- in this case, retail competition in the electricity industry.

Williams supports HB 2600, and asks to be included in the task force for three reasons:

First, because of new technology and stricter environmental regulations, burning natural gas is an increasingly popular way to generate electricity at new energy facilities. The task force currently has no representatives from the industry that supplies that raw material for generating electricity.

Second, as a company that recently went through the same sort of deregulation and open-access transportation issues the task force will contemplate for the electricity industry, Williams could offer valuable insight and experience to the task force.

Third, Williams remains highly interested in all issues related to unbundling of monopoly utility services and recovery of stranded investments, as will be discussed by the task force, because such language could possibly impact the gas industry through precedent and future legislation.

For these reasons, The Williams Companies asks that you allow one of their representatives to serve on the retail wheeling task force. Thank you for your time.

State of Kansas

Bill Graves



Governor

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Department of Health and Environment

James J. O'Connell, Secretary

Testimony presented to  
Senate Committee on Energy and Natural Resources  
by  
The Kansas Department of Health and Environment  
House Bill 2966

We thank the committee for the opportunity to testify in support of this bill. Since the establishment of the Aboveground Storage Tank Fund, the remedial activities associated with this fund have been lower than anticipated by the department. This reduced level of activity has resulted in accumulation of a large fund balance which has been carried forward for the last three years.

The department supports lowering the fund balance limits to \$1.5 million and \$500,000 and the provision to transfer the unobligated principal balance in excess of \$1,500,000 to the underground fund.

The only reservation that the department has regarding lowering the fund limits is the potential of a catastrophic release from a storage tank site where the remedial action could exceed the limit of the aboveground fund.

Testimony presented by: Ronald F. Hammerschmidt, Ph.D.  
Director, Division of Environment  
March 8, 1996

Senate Energy & Natural Res.  
March 8, 1996  
Attachment 7

State of Kansas

Bill Graves



Governor

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Department of Health and Environment

James J. O'Connell, Secretary

February 27, 1996

The Honorable Bill Graves  
Governor, State of Kansas  
State House, 2nd floor  
Topeka KS 66612

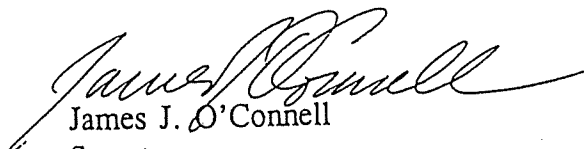
Dear Governor Graves:

In compliance with K.S.A. 65-34,121., attached is a Receipts and Disbursements Report for the calendar year 1995 for the Petroleum Storage Tank Release Trust Fund. Also included is a summary of the extent of the corrective action taken under this act.

The Petroleum Storage Tank Release Trust Fund was created to assist underground and aboveground tank owners/operators to meet federally mandated financial responsibility. This act also provides monetary assistance to remediate release of hydrocarbon products into the environment. Funds are derived from an assurance fee assessed upon refiners, wholesalers and importers operating in Kansas.

The graphs that are attached indicate the total number of sites that are undergoing corrective action. The graphs depict the corrective action phase that the sites are currently in and also includes those sites where corrective action has been completed and the sites are closed.

Sincerely,

  
James J. O'Connell  
Secretary

Attachment



## SUMMARY OF UST FUND ACTIVITIES DURING CALENDAR YEAR 1995

During calendar year 1995, the number of applications received by the UST Fund continued at a rate of 15 new applications per month. Considerable effort was placed on improving the technology utilized by the consulting firms performing UST fund work. Previously, the standard clean-up methods for many sites had been to pump and treat contaminated groundwater to meet standards for discharge to the surface. Pump and treat systems are very time consuming, expensive, and labor intensive to maintain, so efforts were focused on employing more effective clean-up processes. Vacuum extraction and air sparging systems are proving to be the more cost effective technologies to use, with treatment of contaminated water being limited to sites where water must be treated for public consumption. Pump and treat technology commonly require 10 years or more of active remedial action to accomplish a site clean-up, where vacuum extraction and air sparging systems clean-up soil and groundwater in about half the time with less expense. These newer technologies remediate soil and groundwater in place.

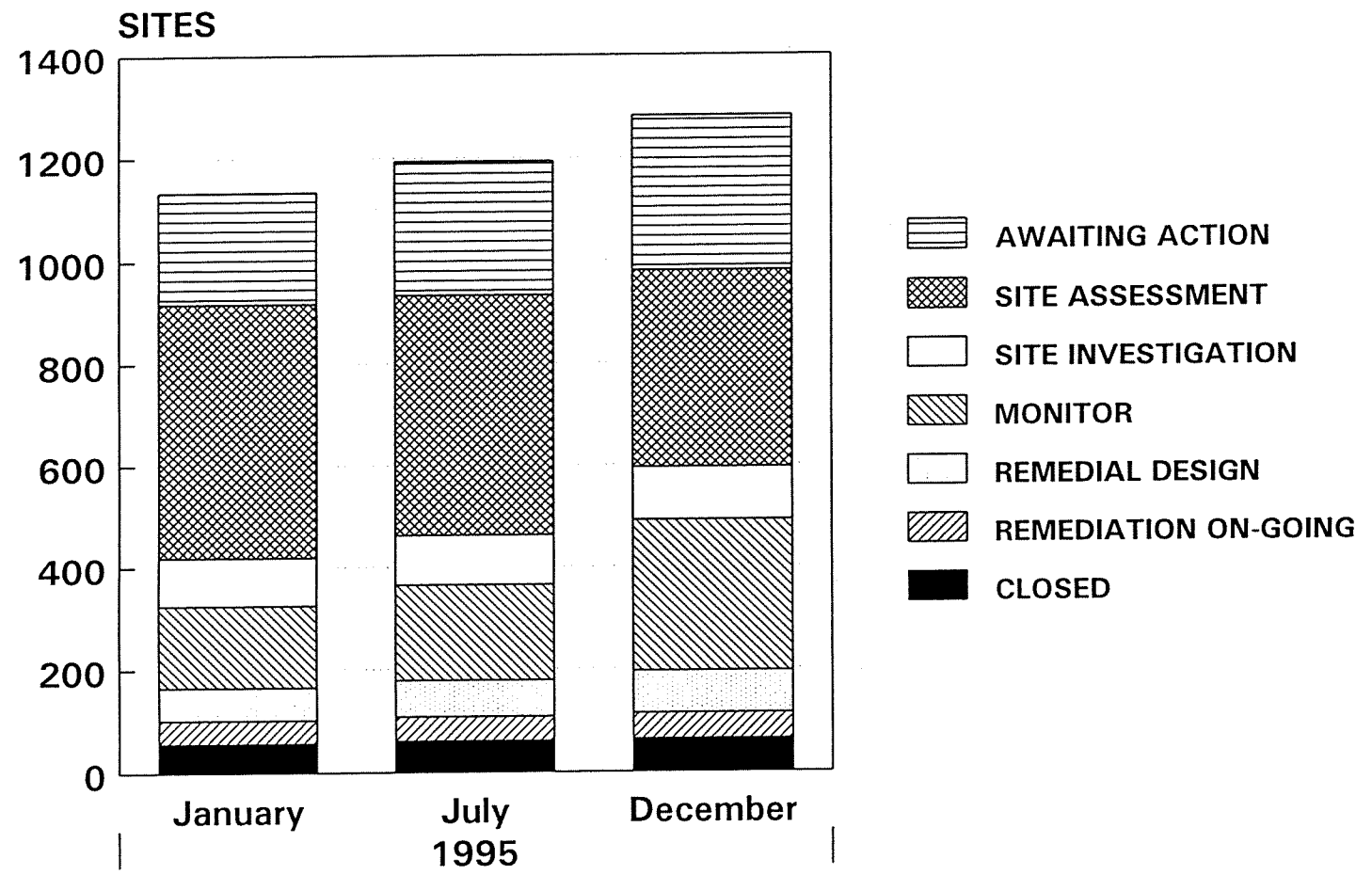
The UST fund, as enacted by the Kansas Legislature (Session of 1989), included a requirement for competitive bidding to establish the amount of reimbursement prior to the work being performed. Implementation of the bidding required considerable time to develop and implement; however the bidding process is presently working very effectively. Due to the technical nature of the activities, few tank owners are able to prepare the bid documents needed to obtain three competitive bids for site investigation and remediation. The department developed pre-approved work-plans for each phase of corrective action needed to complete site remediation. These scopes of work are adapted for individual sites which reduce the overall level of effort required to bid each site.

The department continues to use the site priority ranking system to focus remedial efforts on those sites which pose the greatest risks to the general public. Sites are ranked immediately after being approved for assistance from the fund to determine the order activities will occur at each site. The primary objective of the ranking system is to expedite remedial activities at sites where public health or water supplies are threatened. Along with the ranking system the department continues to work on risk based corrective action procedures which establish remedial levels based on the risk a site poses to the public rather than one numeric action level for all sites. The risk based remedial system will result in the cleanup levels varying from site to site. These methods tend to slow the progress of lower risk sites, however, they preserve the financial solvency of the Kansas UST fund. Although the UST fund is operating very effectively at the present time, the large number of sites continue to pose a potential long term financial risk to the fund. Care must be taken to continue the priority ranking system in conjunction with the bidding process to maintain a strong program.

As indicated in the attached UST fund balance information, KDHE encumbers funds for remedial activities as the work is approved. This process insures that when invoices are submitted, the funds are available to provide timely reimbursements. With rumors of financial problems encountered by UST reimbursement funds operated by other states, the Kansas UST fund is operating well within the budget constraints which the legislation established. During 1995, the processing of reimbursements has been maintained with an average processing time of two weeks.

The attachment indicates the 1995 UST fund activities. A review of the document indicates that the number of sites being remediated continues to increase, however, the increase is small compared to the total number of sites approved for UST Fund assistance. Problems were encountered, during 1995, with several consulting firms who were awarded numerous bids and were unable to complete the work in a timely fashion. This problem has prompted the agency to carefully track the activities of the various consultants to insure that problems of this type do not reoccur. Compliance with deadlines is now tracked to prevent firms from continuing to accept new bids, when existing work is not being completed.

# UNDERGROUND STORAGE TANK TRUST FUND 1995 ACTIVITIES



STATE OF KANSAS  
 UNDERGROUND PETROLEUM STORAGE TANK  
 RELEASE TRUST FUND

Statement of:  
 Receipts, Disbursements  
 and Fund Balance  
 for the period January 1, 1995  
 thru December 31, 1995

RECEIPTS:

Fees	\$12,920,452.68
Fines	\$98,629.93
Interest	\$1,024,734.12
Recovery of Current Year Expenditures	\$380.25
Recovery of Prior Year Expenditures	\$43,824.55
Excess Earnings from The Plan	<u>\$824,665.00</u>

Total Receipts		<u>\$14,912,686.53</u>
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DISBURSEMENTS (Schedule #1):

To Owner/Operators, Current Year Obligations	\$4,328,074.76
To Owner/Operators, On Prior Year Obligations	\$5,332,654.52
Salaries and Benefits	\$1,264,312.45
Other State Operations	<u>\$366,814.76</u>

Total Disbursements		<u>\$11,291,856.49</u>
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Total Receipts over Disbursements		\$3,620,830.04
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FUND BALANCE:

Beginning Fund Balance, Unreserved, January 1, 1995	\$2,093,874.55
Prior Year Outstanding Firm Encumbrances	<u>\$12,445,059.63</u>
Beginning Fund Balance, January 1, 1995	\$14,538,934.18
Receipts over Disbursements	<u>\$3,620,830.04</u>

Ending Fund Balance, December 31, 1995	\$18,159,764.22
Reserve for Firm Encumbrances	<u>\$14,061,899.63</u>
Ending Fund Balance, Unreserved, December 31, 1995	<u><u>\$4,097,864.59</u></u>

STATE OF KANSAS  
 UNDERGROUND PETROLEUM STORAGE TANK  
 RELEASE TRUST FUND

Schedule #1 Disbursements  
 for the period January 1, 1995  
 thru December 31, 1995

DISBURSEMENTS:

OFFICE OF GENERAL SERVICES:

Salaries and Benefits	\$38,285.59	
Other State Operations	\$85,350.50	
Total Office of General Services		\$123,636.09

OFFICE OF PERSONNEL:

Salaries and Benefits	\$1,020.57	
Other State Operations	\$0.00	
Total Personnel Services		\$1,020.57

LEGAL SERVICES:

Salaries and Benefits	\$65,932.95	
Other State Operations	\$762.73	
Total Legal Services		\$66,695.68

OFFICE OF COMMUNICATIONS:

Salaries and Benefits	\$32,362.43	
Other State Operations	\$17,550.00	
Total Office of Communications		\$49,912.43

BUREAU OF REMEDIATION:

Salaries and Benefits	\$905,670.85	
Other State Operations	\$214,392.79	
Total Bureau of Remediation		\$1,120,063.64

BUREAU OF DISTRICT OPERATIONS:

Salaries and Benefits	\$211,610.17	
Other State Operations	\$12,407.72	
Total of Bureau of District Operations		\$224,017.89

HEALTH AND ENVIRONMENTAL LAB:

Salaries and Benefits	\$9,429.89	
Other State Operations	\$36,351.02	
Total of Health and Environmental Lab		\$45,780.91

TOTAL OPERATIONAL DISBURSEMENTS

\$1,631,127.21

Reimbursements For Corrective Action:

Current Year Obligations	\$4,328,074.76	
Prior Year Obligations	\$5,332,654.52	

Total Reimbursements For Corrective Action:

\$9,660,729.28

TOTAL DISBURSEMENTS:

\$11,291,856.49

## SUMMARY OF AST FUND ACTIVITIES DURING CALENDAR YEAR 1995

The number of applications received by the AST Fund remained low during 1995. Since no federal mandate is in place to drive owners of aboveground storage tanks (AST) to upgrade their facilities and perform testing, an average of 1.5 sites per month were reported.

With the consolidation of the Aboveground Storage Tank program into the Underground Storage Tank Section during 1994, a greater level of effort is being focused on utilizing more effective technologies. Previously, the standard clean-up methods for many sites had been to pump and treat contaminated groundwater to meet standards for discharge to the surface. Pump and treat systems are very time consuming, expensive, and labor intensive to maintain, so efforts were focused on employing more effective clean-up processes. Vacuum extraction and air sparging systems are proving to be the more cost effective technologies, with treatment of contaminated water being limited to sites where water must be treated for public consumption. Pump and treat technology commonly require 10 years or more of active remedial action to accomplish a site clean-up, where vacuum extraction and air sparging systems clean-up soil and groundwater in about half the time with less expense. These newer technologies remediate soil and groundwater in place.

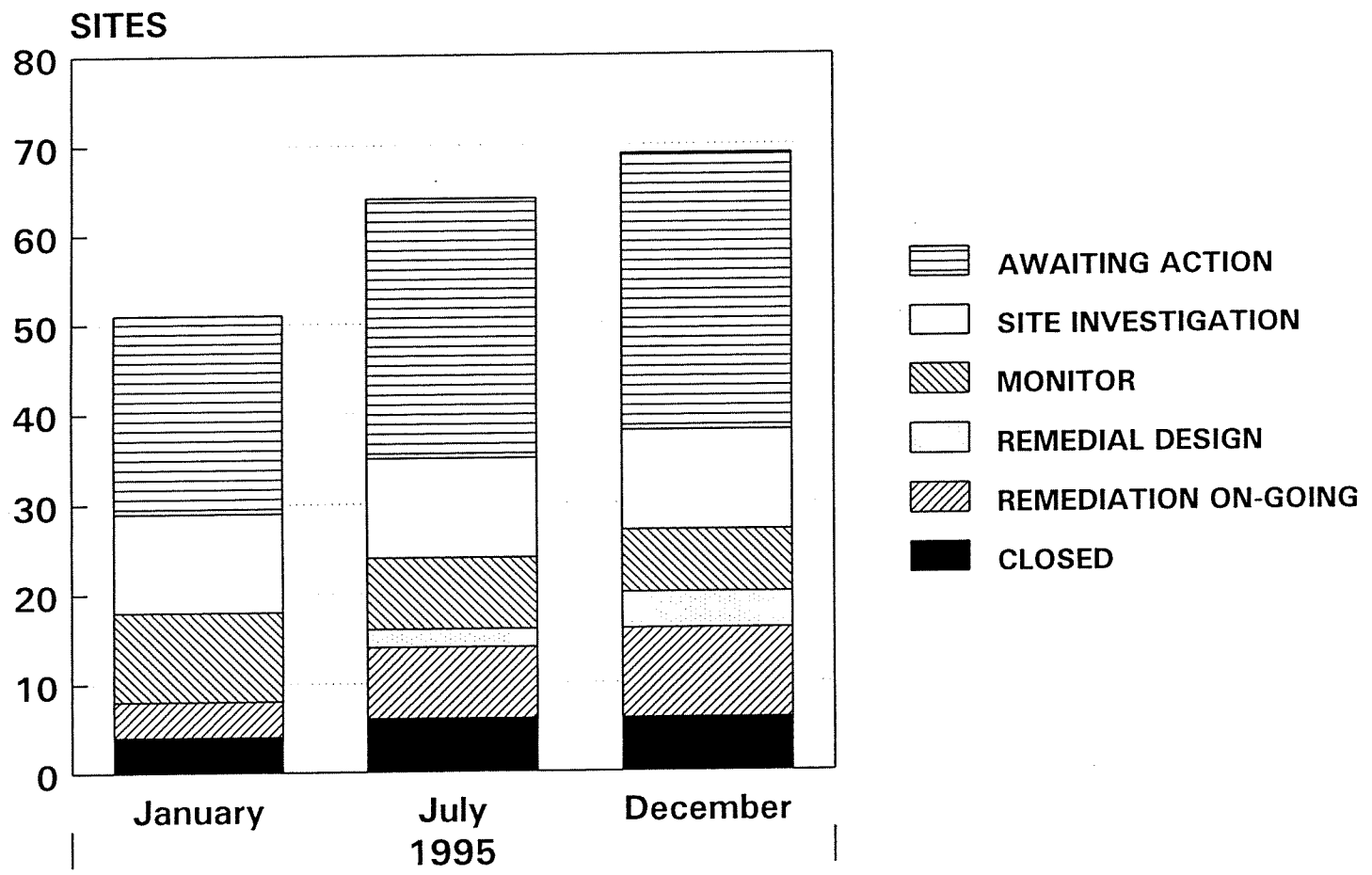
The department continues to use the site priority ranking system to focus remedial efforts on those sites which pose the greatest risks to the general public. Sites are ranked immediately after being approved for assistance from the fund. This ranking determines the order activities will occur at each site. The primary objective of the ranking system is to expedite remedial activities at sites where public health or water supplies are threatened. Along with the ranking system, the department continues to work on risk based corrective action procedures which establish remedial levels based on the risk a site poses to the public rather than one numeric action level for all sites. The risk based remedial system will result in the cleanup levels varying from site to site. This system will eliminate funding of remediation of sites which pose little or no risk.

The AST fund, as enacted by the Kansas Legislature (Session of 1992), included a requirement for competitive bidding to establish the amount of reimbursement prior to the work being performed. Implementation of the bidding required considerable time to develop and implement with the UST fund. By combining the two reimbursement funds this development time was eliminated for the AST fund. Due to the technical nature of the activities, few tank owners are able to prepare the bid documents needed to obtain three competitive bids for site investigation and remediation. The department developed pre-approved work-plans for each phase of corrective action needed to complete site remediation. These scopes of work are adapted for individual sites which reduce the overall level of effort required to bid each site.

As indicated in the attached AST fund balance information, KDHE encumbers funds for remedial activities as the work is approved. This process insures that when invoices are submitted, the funds are available to provide timely reimbursements. With level of claims within the AST fund remaining low, no financial problems are expected. During 1995 the processing of reimbursements has been maintained with an average processing time of two weeks.

The attachment indicates the 1995 AST fund activities. A review of the document indicates that the number of sites being remediated continues to increase. The priority ranking system now used, works well to elevate high risk sites. Although limited applications have been made for assistance to the AST fund, the priority ranking system that is being used, focuses staff activities toward the sites which pose the highest risk to the public. Most of those sites are within the UST fund at this time so a majority of the staff time is directed toward those sites. This method may slow the progress of lower risk sites within the AST fund, however, the greatest level of protection to the public is provided by this method.

# ABOVEGROUND STORAGE TANK TRUST FUND 1995 ACTIVITIES



STATE OF KANSAS  
 ABOVEGROUND PETROLEUM STORAGE TANK  
 RELEASE TRUST FUND

Statement of:  
 Receipts, Disbursements  
 and Fund Balance  
 for the period January 1, 1995  
 thru December 31, 1995

RECEIPTS:

Fees	\$0.00	
Fines	\$800.00	
Interest	\$454,500.35	
Recovery of Current Year Expenditures	\$0.00	
Recovery of Prior Year Expenditures	\$0.00	
<b>Total Receipts</b>		<b>\$455,300.35</b>

DISBURSEMENTS (Schedule #1):

To Owner/Operators, Current Year Obligations	\$499,316.24	
To Owner/Operators, On Prior Year Obligations	\$92,930.71	
Salaries and Benefits	\$251,536.27	
Other State Operations	\$86,614.53	
<b>Total Disbursements</b>		<b>\$930,397.75</b>

**Total Receipts over Disbursements** (\$475,097.40)

FUND BALANCE:

Beginning Fund Balance January 1, 1995 Unreserved	\$7,480,850.75	
Prior Year Outstanding Firm Encumbrance	\$390,104.72	
Beginning Fund Balance January 1, 1995	\$7,870,955.47	
Receipts over Disbursements	(\$475,097.40)	
Ending Fund Balance, December 31, 1995	\$7,395,858.07	
Reserve for Encumbrances	\$513,644.10	
<b>Ending Fund Balance, Unreserved, December 31, 1995</b>		<b><u><u>\$6,882,213.97</u></u></b>

STATE OF KANSAS  
 ABOVEGROUND PETROLEUM STORAGE TANK  
 RELEASE TRUST FUND

Schedule #1 Disbursements  
 for the period January 1, 1995  
 thru December 31, 1995

DISBURSEMENTS:

OFFICE OF GENERAL SERVICES:

Salaries and Benefits	\$38,729.66	
Other State Operations	\$17,239.23	
Total Office of General Services		\$55,968.89

LEGAL SERVICES:

Salaries and Benefits	\$11,474.04	
Other State Operations	\$0.00	
Total Legal Services		\$11,474.04

OFFICE OF PERSONNEL:

Salaries and Benefits	\$480.20	
Other State Operations	\$0.00	
Total Office of Personnel		\$480.20

OFFICE OF COMMUNICATION:

Salaries and Benefits	\$33,804.50	
Other State Operations	\$17,550.00	
Total Office of communication		\$51,354.50

BUREAU OF DISTRICT OPERATIONS:

Salaries and Benefits	\$73,764.44	
Other State Operations	\$2,364.66	
Total of Bureau of District Operations		\$76,129.10

ENVIRONMENTAL REMEDIATION:

Salaries and Benefits	\$91,070.71	
Other State Operations	\$42,978.32	
Total Environmental Remediation		\$134,049.03

HEALTH AND ENVIRONMENTAL LAB:

Other State Operations	\$6,482.32	
Total Health and Environmental Lab		\$6,482.32

OFFICE OF THE DIRECTOR OF ENVIRONMENT:

Salaries and Benefits	\$2,212.72	
Other State Operations	\$0.00	
Total Office of the Director of Environment		\$2,212.72

TOTAL OPERATIONAL DISBURSEMENTS:

\$338,150.80

Reimbursements For Corrective Action:

Current Year Obligations	\$499,316.24	
Prior Year Obligations	\$92,930.71	
Total Reimbursements For Corrective Action:		\$592,246.95

TOTAL DISBURSEMENTS:

\$930,397.75



State of Kansas

Bill Graves



Governor

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

Testimony presented to

Senate Energy and Natural Resources Committee

by

The Kansas Department of Health and Environment

House Bill 2620

The Department of Health and Environment appreciates the opportunity to present testimony in support of House Bill 2620. The purpose of this bill is to eliminate an obsolete portion of the solid waste statutes.

In 1995, House 2034 was introduced to extend the position of state coordinator of waste reduction, recycling, and market development within the Department of Commerce to July 1, 1999. However, this committee decided to allow the position to expire on July 1, 1995 as was already provided in the K.S.A. 74-087. HB 2620 revises K.S.A. 65-3424f to eliminate the reference to this position in the solid waste statutes.

When HB 2034 was discussed in committee in 1995, the committee directed KDHE to assume the responsibilities of the state coordinator of waste reduction, recycling, and market development to the extent possible. Utilizing existing staff resources, the department has expanded efforts in this area. Waste reduction and recycling has become a more significant part of many solid waste program activities including solid waste planning, facility permitting, grants, and public education.

One new grant program established by the legislature in 1995 through HB 2036 authorizes KDHE to provide financial support for projects related to waste reduction and recycling. As funding permits, grants will be awarded every six months for the next 2 to 3 years to implement waste reduction, recycling, and public education projects identified in local solid waste plans which have been approved by the department. The first round of these competitive grants applications are currently being reviewed and awards will be made in March 1996. A grants advisory committee appointed by the governor will assist the department in prioritizing applications.

Thank you for allowing us to comment on this bill.

Testimony presented by: Ronald F. Hammerschmidt, Ph.D.  
Director, Division of Environment  
March 8, 1996

Senate Energy + Natural Res  
March 8, 1996  
Attachment 8