

Approved: 4-29-99  
Date

MINUTES OF THE HOUSE COMMITTEE ON ENVIRONMENT.

The meeting was called to order by Chairperson Joann Freeborn at 3:30 p.m. on March 23, 1999 in Room 423-S of the Capitol.

All members were present except:

Committee staff present: Raney Gilliland, Legislative Research Department  
Mary Torrence, Revisor of Statutes  
Mary Ann Graham, Committee Secretary

Conferees appearing before the committee: Clark Duffy, Assistant Director, Kansas Water Office, 109 SW 9<sup>th</sup> Street, Ste 300, Topeka, KS 66612-1249

Others attending: See attached list

Chairperson Joann Freeborn called the meeting to order at 3:30 p.m. She announced that a sign up sheet was being distributed for all committee members to sign if they would like additional information from Duracool Limited Refrigerants, their representative testified in the March 18, 1999 committee meeting on **HB2387**.

The Chairperson asked Rep. Becky Hutchins, Chairperson of the sub-committee on **SB132**, if she would like to report to the committee. The sub-committee members were, Rep. Becky Hutchins, Chairperson; Rep. Bill Light; and Rep. Tim Tedder.

**SB132: An Act concerning drycleaners; amending the Kansas drycleaner environmental response act.**

Rep. Becky Hutchins reported that the sub-committee met on Tuesday, March 16, 1999. A majority of the sub-committee recommended four proposed amendments that were requested by the industry in the hearing and provided a balloon to the bill. (See attachment 1) She explained the recommended changes that were made.

The Chairperson asked if there was any motions for action on **SB132**.

Rep. Tim Tedder made a motion the balloon for SB132 be adopted. Rep. Melvin Minor seconded the motion. Motion carried.

Rep. Becky Hutchins stated she was the Chairperson of the sub-committee but does not support the proposal. She believes there is not a consumer in her district that doesn't think drycleaning fees are high enough and believes this balloon will only increase the costs to the consumer. If the owner/operator of a drycleaners are asked why the costs for cleaning have gone up, they probably will say they are being taxed more, so therefore have to pass the costs on to the consumer. The only one of the four amendments she feels she could support is the deductible being raised to \$5,000 from \$2,500. She stated she supported the bill in 1995 and is surprised it is back in the legislature four years later and she does not believe the Senate will support it.

Rep. Tom Sloan made a motion the bill as amended be recommended favorably for passage. Rep. Tim Tedder seconded the motion. Motion carried.

Chairperson Freeborn asked the Chairman of the sub-committee on **SB287**, if he would like to report to the committee. The sub-committee members are Rep. Clay Aurand, Chairman; Rep. Tom Sloan; Rep. Dan Johnson; Rep. Dennis McKinney; and Rep. Laura McClure.

**SB287: An act concerning the chief engineer of the division of water resources of the department of agriculture; relating to powers thereof.**

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENVIRONMENT, Room 423-S Statehouse, at 3:30 p.m. on March 23, 1999.

Mary Torrence, Revisor of Statutes, distributed a draft of a proposed substitute for **SB287**, to committee members.

Rep. Clay Aurand, Chairman of the sub-committee, reported what the sub-committee considered. He stated they broke it down to the four major topics that they felt needed to be addressed. The first dealt with the rule and regulation authority, and where that lies; second, policy and guidelines and getting them in rules and regulations; third, the hearing procedure, people requesting a hearing; fourth, appointing a task force on water issues; and fifth, dealing with the amount of time for perfecting water rights in **HB2518**. Rep. Aurand explained the new language in the proposed substitute bill.

Rep. Dan Johnson made a motion to adopt **Substitute for SB287**. Rep. Tom Sloan seconded the motion. Motion carried.

Rep. Tom Sloan made a motion **Substitute for SB287** be recommended favorably for passage. Rep. Douglas Johnston seconded the motion. Motion carried.

Rep. Dennis McKinney made a motion that the Committee on Environment requests the Agriculture and Natural Resource Budget Committee review the staffing needs of the Division of Water Resources to insure it is adequate to dispose of the backlog of water rights awaiting certification. Rep. Clay Aurand seconded the motion. Motion carried.

Rep. Tim Tedder will carry **SB132** on the House floor. Rep. Clay Aurand will carry **SB287** on the House floor.

The Chairperson welcomed Clark Duffy, Assistant Director, Kansas Water Office. He briefed the committee on the Status of Sunflower Army Ammunition Plant Water Rights. At the request of Kansas Development Finance Authority, the Kansas Water Office has analyzed how to dispose of the water rights at the former Sunflower Army Ammunition Plant in the most prudent manner, and yet not interfere with the land transaction. (See attachment 2) Mr. Duffy distributed copies of a Conceptual Amendment. The Kansas Water Office, on behalf of the State, may enter into negotiations, agreements and contracts with the federal government on any water rights pertinent to the former Sunflower Army Ammunition Plant, when such negotiations, agreements and contracts may be necessary for the achievement of the policies of the state relative to the water resources thereof. Any such agreement or contract shall require legislative approval. (See attachment 3) A map showing the Kansas River Basin Water Assurance District was also presented for the committee to view. Questions and discussion followed.

The Chairperson thanked Mr. Duffy for his presentation.

The meeting adjourned at 4:55 p.m. No further meetings have been scheduled.

Minutes of committee meetings for February 18, 19, 23 and March 4 were distributed on March 30 and approved on April 1, minutes for March 9 and 11 were distributed on April 6 and approved April 8. Minutes of committee meetings for March 16, 18, and 23 were distributed, if the committee secretary is not contacted by noon April 29 for corrections, they will be considered approved.

# HOUSE ENVIRONMENT COMMITTEE GUEST LIST

DATE: March 23, 1999

NAME	REPRESENTING
Alan Steppat	Water PACK
Buxton H. JOHNSON	Water Dist #1 of Jo Co
Mary Fund	Ks. Rural Center
Nancy Sargent	League Women Voters Kansas
MIKE ARMSTRONG	Water District No 1 of Jo Co
Derenda J. Mitchell	Ks. Dept. of Agricul.
Mary Jane Stattelman	KS Dept of Agriculture
Larry Knoche	KDHE
Leo Henning	KDHE
ED ROWE	LEAGUE OF WOMEN VOTERS/KS
Ron Gaches	McGill, Gaches & Asso.
WAYNE BOSSERT	NW KS GMD # 4, COLBY
STEVE KEARNEY	KANSAS DRUCEANERS
John Neal	" "
Steve Leonard	" "
Clark Ruffey	KWO
JOHN C. BOTTEMBERG	Doffenbaugh Foods

SENATE BILL No. 132

By Committee on Energy and Natural Resources

1-26

65-34, 145,

65-34, 150,

10 AN ACT concerning drycleaners; amending the Kansas drycleaner en-  
11 vironmental response act; amending K.S.A. 1998 Supp. 65-34,144, 65-  
12 34,146, 65-34,148, 65-34,151, 65-34,152 and 65-34,153 and repealing  
13 the existing sections.

14  
15 *Be it enacted by the Legislature of the State of Kansas:*

16 Section 1. K.S.A. 1998 Supp. 65-34,144 is hereby amended to read  
17 as follows: 65-34,144. (a) It shall be unlawful for any person to:

18 (1) Operate a drycleaning facility in violation of this act, rules and  
19 regulations adopted pursuant to this act or orders of the secretary pur-  
20 suant to this act;

21 (2) prevent or hinder a properly identified officer or employee of the  
22 department or other authorized agent of the secretary from entering,  
23 inspecting, sampling or responding to a release as authorized by this act;

24 (3) knowingly make any false material statement or representation in  
25 any record, report or other document filed, maintained or used for the  
26 purpose of compliance with this act;

27 (4) knowingly destroy, alter or conceal any record required to be  
28 maintained by this act or rules and regulations adopted under this act;

29 (5) willfully allow a release or knowingly fail to make an immediate  
30 response to a release in accordance with this act and rules and regulations  
31 pursuant to this act.

32 (b) ~~A person who violates any provision of this section may incur, in~~  
33 ~~a civil action brought by the secretary, a civil~~ *The director of the division*  
34 *of environment, upon a finding that a person has violated a provision of*  
35 *subsection (a), may impose on such person an administrative penalty in*  
36 *an amount not to exceed \$500 for every violation.*

37 (c) ~~In assessing any civil an administrative penalty under this section,~~  
38 ~~the district court~~ *director of the division of environment shall consider,*  
39 *when applicable, the following factors:*

40 (1) The extent to which the violation presents a hazard to human  
41 health;

42 (2) the extent to which the violation has or may have an adverse effect  
43 on the environment;

House Environment  
3-23-99  
Attachment 1



1-2

1 (3) the amount of the reasonable costs incurred by the state in de  
 2 tection and investigation of the violation; and  
 3 (4) the economic savings realized by the person in not complying with  
 4 the provision for which a violation is charged.  
 5 Sec. 2. K.S.A. 1998 Supp. 65-34,146 is hereby amended to read a  
 6 follows: 65-34,146. (a) There is hereby established in the state treasury  
 7 the drycleaning facility release trust fund. The fund shall be administered  
 8 by the secretary. Revenue Moneys from the following sources shall be  
 9 deposited in the state treasury and credited to the fund:  
 10 (1) Any proceeds from the taxes and fees imposed by this act;  
 11 (2) ~~transfers from the state general fund pursuant to section 4;~~  
 12 ~~(3)~~ any interest attributable to investment of moneys in the dryclean-  
 13 ing facility release trust fund;  
 14 ~~(3)~~ ~~(4)~~ (3) moneys recovered by the state under the provisions of this  
 15 act, including any moneys paid under an agreement with the secretary or  
 16 as civil penalties; and  
 17 ~~(4)~~ ~~(5)~~ (4) moneys received by the secretary in the form of gifts,  
 18 grants, reimbursements or appropriations from any source intended to  
 19 be used for the purposes of this act.  
 20 (b) Moneys in the fund may be expended for only the following pur-  
 21 poses and for no other governmental purpose:  
 22 (1) The direct costs of administration and enforcement of this act;  
 23 and  
 24 (2) the costs of corrective action as provided in K.S.A. 1998 Supp.  
 25 65-34,148, and amendments thereto.  
 26 (c) It is the intent of the legislature that the fund shall remain intact  
 27 and inviolate for the purposes set forth in this act, and moneys in the  
 28 fund shall not be subject to the provisions of K.S.A. 75-3722, 75-3725a  
 29 and 75-3726a, and amendments thereto.  
 30 (d) On or before the 10th day of each month, the director of accounts  
 31 and reports shall transfer from the state general fund to the drycleaning  
 32 facility release trust fund interest earnings based on: (1) The average daily  
 33 balance of moneys in the drycleaning facility release trust fund for the  
 34 preceding month; and (2) the net earnings rate for the pooled money  
 35 investment portfolio for the preceding month.  
 36 (e) All expenditures from the drycleaning facility release trust fund  
 37 shall be made in accordance with appropriation acts upon warrants of the  
 38 director of the accounts and reports issued pursuant to vouchers approved  
 39 by the secretary for the purposes set forth in this section.  
 40 Sec. 3. K.S.A. 1998 Supp. 65-34,148 is hereby amended to read as  
 41 follows: 65-34,148. (a) Whenever a release poses a threat to human health  
 42 or the environment, the department, consistent with rules and regulations  
 43 adopted by the secretary pursuant to subsections (d) and (e) of K.S.A.

Sec. 3. K.S.A. 1998 Supp. 65-34,145 is hereby amended to read as follows: 65-34,145.  
(a) Each owner of an operating drycleaning facility shall register annually with the department on a form provided by the department. The registration shall be accompanied by a fee of \$100 for each operating drycleaning facility owned by the owner. The secretary shall remit daily the fees paid pursuant to this section to the state treasurer, who shall deposit the entire amount in the state treasury to the credit of the fund.  
(b) The owner of a drycleaning facility shall post the owner's registration number, in a manner prescribed by the secretary, in the public area of each operating drycleaning facility owned by the owner.

Renumber sections accordingly

1 1998 Supp. 65-34,143, *and amendments thereto*, shall expend moneys  
2 available in the fund to provide for:

3 (1) Investigation and assessment of a release from a drycleaning fa-  
4 cility, including costs of investigations and assessments of contamination  
5 which may have moved off the drycleaning facility;

6 (2) necessary or appropriate emergency action, including but not lim-  
7 ited to treatment, restoration or replacement of drinking water supplies,  
8 to assure that the human health or safety is not threatened by a release  
9 or potential release;

10 (3) remediation of releases from drycleaning facilities, including con-  
11 tamination which may have moved off of the drycleaning facility, which  
12 remediation shall consist of clean up of affected soil, groundwater and  
13 surface waters, using the most cost effective alternative that is technolog-  
14 ically feasible and reliable, provides adequate protection of human health  
15 and environment and to the extent practical minimizes environmental  
16 damage;

17 (4) operation and maintenance of corrective action;

18 (5) monitoring of releases from drycleaning facilities including con-  
19 tamination which may have moved off of the drycleaning facility;

20 (6) payment of reasonable costs incurred by the secretary in providing  
21 field and laboratory services;

22 (7) reasonable costs of restoring property, as nearly as practicable to  
23 the conditions that existed prior to activities associated with the investi-  
24 gation of a release or clean up or remediation activities;

25 (8) removal and proper disposal of wastes generated by a release of  
26 a drycleaning solvent; and

27 (9) payment of costs of corrective action conducted by the depart-  
28 ment or by entities other than the department but approved by the de-  
29 partment, whether or not such corrective action is set out in a corrective  
30 action plan, provided, however, that reimbursement for corrective action  
31 costs incurred before the effective date of this act shall be limited to  
32 \$100,000 per site.

33 (b) Nothing in subsection (a) shall be construed to authorize the de-  
34 partment to obligate moneys in the fund for payment of costs which are  
35 not integral to corrective action for a release of drycleaning solvents from  
36 a drycleaning facility. Moneys from the fund shall not be used: (1) For  
37 corrective action at sites that are contaminated by solvents normally used  
38 in drycleaning operations where the contamination did not result from  
39 the operation of a drycleaning facility; (2) for corrective action at sites,  
40 other than drycleaning facilities, that are contaminated by drycleaning  
41 solvents which were released while being transported to or from a dry-  
42 cleaning facility by a party other than the owner of such drycleaning fa-  
43 cility or the owner's agents or employees; (3) to pay any costs associated

1-3

1 with any fine or penalty brought against a drycleaning facility owner under  
2 state or federal law; or (4) to pay any costs related to corrective action at  
3 a drycleaning facility that has been included by the United States envi-  
4 ronmental protection agency on the national priorities list or at any facility  
5 which is a hazardous waste disposal facility, as defined in K.S.A. 65-3430  
6 and amendments thereto.

7 (c) Nothing in this act shall be construed to restrict the department  
8 from:

9 (1) Modifying, in the discretion of the secretary, the priority status of  
10 a site where warranted under the system of priorities established pursuant  
11 to subsection (d) of K.S.A. 1998 Supp. 65-34,143 *and amendments*  
12 *thereto*; or

13 (2) temporarily postponing completion of corrective action for which  
14 moneys from the fund are being expended whenever such postponement  
15 is deemed necessary in order to make moneys available for corrective  
16 action at a site with a higher priority.

17 (d) At any multisource site, the secretary shall utilize the moneys in  
18 the fund to pay for the proportionate share of the liability for corrective  
19 action costs which is attributable to a release from one or more dryclean-  
20 ing facilities and for that proportionate share of the liability only.

21 (e) At any multisource site, the secretary is authorized to make a  
22 determination of the relative liability of the fund for costs of corrective  
23 action, expressed as a percentage of the total cost of corrective action at  
24 a site, whether known or unknown. The secretary shall issue an order  
25 establishing such percentage of liability. Such order shall be binding and  
26 shall control the obligation of the fund until or unless amended by the  
27 secretary. In the event of an appeal from such order, such percentage of  
28 liability shall be controlling for costs incurred during the pendency of the  
29 appeal.

30 (f) Any authorized officer, employee or agent of the department, or  
31 any person under order or contract with the department, may enter onto  
32 any property or premises, at reasonable times and upon written notice to  
33 the owner or occupant, to take corrective action where the secretary de-  
34 termines that such action is necessary to protect the public health or  
35 environment. If consent is not granted by the person in control of a site  
36 or suspected site regarding any request made by any officer, employee  
37 or agent of the department, or any person under order or contract with  
38 the department, under the provisions of this section, the secretary may  
39 issue an order directing compliance with the request. The order may be  
40 issued after such notice and opportunity for consultation as is reasonably  
41 appropriate under the circumstances.

42 (g) Notwithstanding the other provisions of this act, in the discretion  
43 of the secretary, an owner may be responsible for up to 100% of the costs

1-5

1 of corrective action attributable to such owner if the secretary finds, after  
2 notice and an opportunity for a hearing in accordance with the Kansas  
3 administrative procedure act, that:

4 (1) Requiring the owner to bear such responsibility will not prejudice  
5 another owner or person who is eligible, under the provisions of this act,  
6 to have corrective action costs paid by the fund; and

7 (2) the owner:

8 (A) Caused a release by willful or wanton actions and such release  
9 was caused by operating practices contrary to those generally in use at  
10 the time of the release;

11 (B) is in arrears for moneys owed pursuant to this act, after notice  
12 and an opportunity to correct the arrearage;

13 (C) substantially obstructs the efforts of the department to carry out  
14 its obligations under this act, provided, however, that the exercise of legal  
15 rights shall not constitute a substantial obstruction;

16 (D) caused or allowed the release because of a material violation of  
17 the performance standards established in this act or the rules and regu-  
18 lations adopted by the secretary under this act; or

19 (E) has more than once failed to report or failed to take an immediate  
20 response to a release, knowing or having reason to know of such release.

21 For purposes of this subsection (g), unless a transfer is made solely to  
22 take advantage of this provision, purchasers of stock or other indicia of  
23 ownership and other successors in interest shall not be considered to be  
24 the same owner or operator as the seller or transferor of such stock or  
25 indicia of ownership even though there may be no change in the legal  
26 identity of the owner or operator. To the extent that an owner is respon-  
27 sible for corrective action costs under this subsection, such owner shall  
28 not be entitled to the exemption set out in subsection (c) of K.S.A. 1998  
29 Supp. 65-34,149 and amendments thereto.

30 (h) The fund shall not be liable for the payment of costs in excess of  
31 ~~\$2,000,000~~ \$5,000,000 for corrective action at any contaminated dryclean-  
32 ing site. For purposes of this subsection, "contaminated drycleaning site"  
33 means the areal extent of soil or groundwater contamination with dry-  
34 cleaning solvents.

35 (i) There shall be a deductible of ~~\$2,500~~ of corrective action costs  
36 incurred because of a release from a drycleaning facility. Nothing herein  
37 shall prohibit the department from taking corrective action because the  
38 department cannot obtain the deductible.

\$5,000

Insert section 5, attached, and renumber sections accordingly

39 Sec. 4. K.S.A. 1998 Supp. 65-34,151 is hereby amended to read as  
40 follows: 65-34,151. (a) Subject to the provisions of K.S.A. 1998 Supp. 65-  
41 34,152 and amendments thereto, there is hereby imposed on and after  
42 July 1, 1995, a fee on the purchase or acquisition of drycleaning solvent  
43 by any owner of a drycleaning facility. The fee shall be paid to the director



Sec. 5. K.S.A. 1998 Supp. 65-34,150 is hereby amended to read as follows: 65-34,150. (a) Subject to the provisions of K.S.A. 1998 Supp. 65-34,152 and amendments thereto, there is hereby imposed ~~on-and-after-July-17-1995,~~ an environmental surcharge in the form of a gross receipts tax for the privilege of engaging in the business of laundering and drycleaning garments and other household fabrics in this state. The tax shall be at a rate of 2% 2.5% of the gross receipts received from drycleaning or laundering services. The tax shall be paid by the consumer to the retailer and it shall be the duty of the retailer to collect from the consumer the full amount of the tax imposed or an amount as nearly as possible or practicable to the average thereof.

(b) Gross receipts otherwise taxable pursuant to this section shall be exempt from the tax imposed by this section if they arise from:

(1) Services rendered through a coin-operated device, whether automatic or manually operated, available for use by the general public;

(2) the laundering without use of drycleaning solvents of uniforms, linens or other textiles for commercial purposes, including any rental of uniforms, linens or dust control materials; or

(3) charges or services to entities that qualify for exemption from retailers' sales tax on laundering and drycleaning services pursuant to K.S.A. 79-3606 and amendments thereto.

(c) The tax imposed by this section shall be imposed on the same tax base as the Kansas retailers' sales tax and shall be in addition to all other state and local sales or excise taxes.

(d) The secretary of revenue shall remit daily the taxes paid under this act to the state treasurer, who shall deposit the entire amount in the state treasury to the credit of the fund. For the purpose of this section, the proceeds of the tax shall include all funds collected and received by the director of taxation pursuant to this section, including interest and penalties on delinquent taxes.

(e) Every retailer liable for the payment of taxes imposed by this section shall report the taxes for the same periods and at the same time as the returns that the retailer files under the Kansas retailers' sales tax act, as prescribed by K.S.A. 79-3607 and amendments thereto. Each retailer shall report the tax imposed by this act on a form prescribed by the secretary of revenue.

(f) All taxes imposed by this section and not paid at or before the time taxes are due from the retailer under the Kansas retailers' sales tax act shall be deemed delinquent and shall bear interest at the rate prescribed by subsection (a) of K.S.A. 79-2968 and amendments thereto from the due date until paid. In addition, there is hereby imposed upon all amounts of such taxes remaining due and unpaid after the due date a penalty on the unpaid balance of the taxes due in the amounts and percentages prescribed by K.S.A. 79-3615 and amendments thereto.

(g) Whenever any taxpayer or person liable to pay tax imposed by this section refuses or neglects to pay the tax, the amount of the tax, including any interest or penalty, shall be collected in the manner provided by law for collection of delinquent taxes under the Kansas retailers' sales tax act.

(h) Insofar as not inconsistent with this act, the provisions of the Kansas retailers' sales tax act shall apply to the tax imposed by this section.

(i) The secretary of revenue is hereby authorized to administer and enforce the provisions of this section and to adopt such rules and regulations as may be necessary to carry out the responsibilities of the secretary of revenue under this section.

1 of taxation by the person who acquires distributes the solvent to the di-  
2 rector of taxation.

3 (b) The amount of the fee imposed by this section on each gallon of  
4 drycleaning solvent shall be an amount equal to the product of the solvent  
5 factor for the drycleaning solvent and the following fee rate:

6 (1) For any purchase or acquisition on and after July 1, 1995, and  
7 before January 1, 1996, \$3.50 per gallon; and

8 (2) thereafter, fee rate of \$3.50 plus .25 added on January 1 of each  
9 successive calendar year, beginning in 1996, until the fee rate reaches a  
10 maximum of \$5.50 per gallon.

11 (c) The solvent factor for each drycleaning solvent is as follows:

12 Drycleaning solvent	Solvent Factor
13 Perchloroethylene	1.00
14 Chlorofluorocarbon-113	1.00
15 1,1,1-trichloroethane	1.00
16 Other chlorinated drycleaning solvents	1.00
17 Any nonchlorinated drycleaning solvent	0.10

18 (d) In the case of a fraction of a gallon, the fee imposed by this section  
19 shall be the same fraction of the fee imposed on a whole gallon.

20 (e) ~~If any fee is paid pursuant to this section with respect to dryclean-~~  
21 ~~ing solvents that are subsequently resold for use other than in a dryclean-~~  
22 ~~ing facility or are actually used other than in a drycleaning facility, the~~  
23 ~~purchaser shall be entitled to claim, pursuant to rules and regulations~~  
24 ~~adopted by the secretary of revenue, a refund or credit for any fee paid.~~

25 (f) The secretary of revenue shall remit daily the fees paid pursuant  
26 to this section to the state treasurer, who shall deposit the entire amount  
27 in the state treasury to the credit of the fund. For the purpose of this  
28 section, the proceeds of the fee shall include all funds collected and re-  
29 ceived by the director of taxation pursuant to this section, including in-  
30 terest and penalties on delinquent fees.

31 (g) Subject to rules and regulations adopted pursuant to this section,  
32 the fees imposed by this act shall be paid to the director of taxation for  
33 the same reporting period and on the same reporting date as the pur-  
34 chaser or user of the solvent reports Kansas retailers' sales tax, as pre-  
35 scribed in K.S.A. 79-3607 and amendments thereto. The fees imposed by  
36 this section shall be reported on a form prescribed by the secretary of  
37 revenue.

38 (h) Subject to rules and regulations adopted pursuant to this section,  
39 all fees imposed under the provisions of this section and not paid on or  
40 before the 25th day of the month succeeding the reporting period in  
41 which the solvent was purchased shall be deemed delinquent and shall  
42 bear interest at the rate prescribed by subsection (a) of K.S.A. 79-2928  
43 and amendments thereto from the due date until paid. In addition, there

No person who distributes drycleaning solvent shall sell any such solvent for use in a drycleaning facility unless such person first obtains the registration number of the owner of such facility.

8-1

1 is hereby imposed upon all amounts of such fees remaining due and  
2 unpaid after the due date a penalty on the unpaid balance of the fees due  
3 in the amounts and percentages prescribed by K.S.A. 79-3615 and  
4 amendments thereto.

5 (i) Whenever any person liable to pay the fee imposed by this section  
6 refuses or neglects to pay the fee, the amount of the fee, including any  
7 interest or penalty, shall be collected in the manner provided by law for  
8 collection of delinquent taxes under the Kansas retailers' sales tax act.

9 (j) Insofar as not inconsistent with this act, the provisions the Kansas  
10 retailers' sales tax act shall apply to the fees imposed by this section.

11 (k) The secretary of revenue is hereby authorized to administer and  
12 enforce the provisions of this section and to adopt such rules and regu-  
13 lations as may be necessary to carry out the responsibilities of the sec-  
14 retary of revenue under this section.

15 ~~(l) Upon request by the secretary, the director of taxation shall pro-~~  
16 ~~vide to the department a report identifying each drycleaning establish-~~  
17 ~~ment's place of business in the state of Kansas. Such report shall be made~~  
18 ~~available within a reasonable time after it has been requested from the~~  
19 ~~director of taxation. Information received by the department pursuant to~~  
20 ~~this subsection shall be confidential and it shall be unlawful for any officer~~  
21 ~~or employee of the department to divulge any such information in any~~  
22 ~~manner.~~

23 New Sec. 5. (a) On or before January 15, April 15, July 15 and Oc-  
24 tober 15 of each year, the secretary of revenue shall certify to the director  
25 of accounts and reports total revenues credited to the state general fund  
26 from taxes imposed under the Kansas retailers' sales tax during the pre-  
27 ceeding calendar quarter that are attributable to drycleaning sales that are  
28 subject to the tax imposed by K.S.A. 65-34,150 and amendments thereto.  
29 Upon receipt of such certification, the director of accounts and reports  
30 shall transfer from the state general fund to the drycleaning facility release  
31 trust fund an amount equal to the amount certified.

32 (b) All transfers pursuant to this section are subject to reduction un-  
33 der K.S.A. 75-6704 and amendments thereto. All transfers made in ac-  
34 cordance with the provisions of this section shall be considered to be  
35 demand transfers from the state general fund.

36 Sec. 6. 5. K.S.A. 1998 Supp. 65-34,152 is hereby amended to read  
37 as follows: 65-34,152. (a) Whenever on April 1 of any year the unobligated  
38 principal balance of the fund equals or exceeds ~~\$4,000,000~~ \$6,000,000,  
39 the taxes and fees imposed by K.S.A. 1998 Supp. 65-34,150 and 65-  
40 34,151, and amendments thereto, shall not be levied, and demand trans-  
41 fers pursuant to section 4 shall be discontinued, on or after the next July  
42 1. Whenever on April 1 of any year thereafter the unobligated principal  
43 balance of the fund equals ~~\$2,000,000~~ \$4,000,000 or less, the taxes and

9-1

1 fees imposed by K.S.A. 1998 Supp. 65-34,150 and 65-34,151 and 65-  
2 34,152, and amendments thereto, shall again be levied; and demand trans-  
3 fers pursuant to section 4 shall be resumed, on and after the next July 1.

4 (b) The director of accounts and reports, not later than April 5 of  
5 each year, shall notify the secretary of revenue of the amount of the  
6 unobligated balance of the fund on April 1 of such year. Upon receipt of  
7 the notice, the secretary of revenue shall notify taxpayers under K.S.A.  
8 1998 Supp. 65-34,150 and 65-34,151 and 65-34,152, and amendments  
9 thereto, if the levy of taxes and fees under those sections will terminate  
10 or recommence on the following July 1.

11 Sec. 7. 6. K.S.A. 1998 Supp. 65-34,153 is hereby amended to read  
12 as follows: 65-34,153. (a) Any person adversely affected by any order or  
13 decision of the director of the division of environment or the secretary  
14 under this act may, within 15 days of service of the order or decision,  
15 make a written request for a hearing. Hearings under this section shall  
16 be conducted in accordance with the provisions of the Kansas adminis-  
17 trative procedure act.

18 (b) Any person adversely affected by any final action of the secretary  
19 pursuant to this act may obtain a review of the action in accordance with  
20 the act for judicial review and civil enforcement of agency actions.

21 Sec. 8. 7. K.S.A. 1998 Supp. 65-34,144, 65-34,146, 65-34,148, 65-  
22 34,151, 65-34,152 and 65-34,153 are hereby repealed.

23 Sec. 9. 8. This act shall take effect and be in force from and after its  
24 publication in the statute book.

65-34,145,

65-34,150,

**HOUSE ENVIRONMENT COMMITTEE**

**Clark Duffy**

**BY KANSAS WATER OFFICE**

**March 23, 1999**

**STATUS OF SUNFLOWER ARMY AMMUNITION PLANT WATER RIGHTS**

At the request of Kansas Development Finance Authority, the Kansas Water Office (KWO) has analyzed how to dispose of the water rights at the former Sunflower Army Ammunition Plant in the most prudent manner, and yet not interfere with the land transaction.

**Status of the Water Rights**

The Sunflower surface water right, File No. 37, is for a maximum quantity of 42,523 acre-feet and the ground water right, File No. 38 is for a maximum quantity of 11,201 acre-feet. These water rights are a part of a complex hydrologic river-reservoir system that is uniquely managed by a combination of three state programs: Water Appropriation Act, Water Marketing Program and the Water Assurance Program.

The Kansas Water Office does not believe that these water rights are an asset to the federal government. The water rights in question carry with them a significant financial obligation of over \$1 million to the Kansas River Water Assurance District. However, the actual purchase price has not yet been set by the General Service Administration.

The City of DeSoto, Water District No. 1 of Johnson County and the State of Kansas have all made application to the General Service Administration (GSA) for the purchase of the water rights. The following tables highlight the water supply status of the applicants and the entities in the vicinity of the Sunflower Plant.

**The disposition of the water rights should:**

1. Facilitate transfer of land and water rights from the former Sunflower Plant.
2. Ensure City of DeSoto's current contractual obligations are met.
3. Ensure Kansas River Water Assurance District is not "harmed" financially.
4. Ensure water needs of Oz Entertainment Company are met.
5. Help ensure the long-term water demands ( year 2040) of Water District No. 1 of Johnson County, DeSoto, the surrounding communities and the Assurance District are met.

**Recommendation**

It is recommended Legislation be enacted to allow the Kansas Water Office to negotiate with GSA to dispose of the Sunflower water rights.

If managed correctly the Sunflower water rights can help all public water suppliers in the region meet their needs. This will take time.

Any such agreement would be subject to Legislative approval.

*House Environment  
3-23-99  
Attachment 2*



## APPLICANTS NEEDS FOR SUNFLOWER PLANT WATER RIGHTS (MGD)

	Year 2020	Current Water Rights	Additional Needs	Sunflower Water Rights
City of DeSoto	0.59	0.37	0.22	
Water Dist. 1 Jo. Co.	66.68	70.16	0.00	
Oz (@ 10 MGD) <sup>1</sup>	10.00		10.00	
Surface WR #37				16.66
Ground water right #38				8.06
<b>TOTALS in Gals./Year</b>	<b>77 MGD</b>	<b>71 MGD</b>	<b>10 MGD</b>	<b>25 MGD</b>

<sup>1</sup> Oz Company does not want water rights. It wants to purchase water from an existing public water supplier.

## WATER SUPPLIERS THAT COULD BE SERVED BY SUNFLOWER WATER RIGHTS

Purveyor	2040 Demands (MGD)
Baldwin	0.69
DeSoto	0.82
DG Co RWD 2	0.24
DG Co RWD 3	0.37
DG Co RWD 4	0.56
DG Co RWD 4	0.001
DG Co RWD 5	0.44
DG Co RWD 6	0.09
Edgerton	0.13
Eudora	0.77

Purveyor	2040 Demands (MGD)
Jefferson Co RWD 13	0.04
Jefferson Co RWD 13	0.30
Jefferson Co RWD 13	0.07
Johnson Co RWD 6C	0.001
Johnson Co RWD 6C	0.33
Johnson Co RWD 1	0.29
Johnson Co RWD 7	0.74
Olathe	17.55
Water District No. 1 of Johnson Co	82.35

## CONCEPTUAL AMENDMENT

The Kansas Water Office, on behalf of the State, may enter into negotiations, agreements and contracts with the federal government on any water rights pertinent to the former Sunflower Army Ammunition Plant, when such negotiations, agreements and contracts may be necessary for the achievement of the policies of the state relative to the water resources thereof. Any such agreement or contract shall require legislative approval.

*House Environment  
3.23.99  
Attachment 3*

## PROPOSED LEGISLATION

### Section 1

- Authorizes the KWO to acquire the water rights
- Only allows the KWO to hold the water rights
- Requires a Legislative determination on how to dispose of the water right
- All existing contracts will remain in effect
- The Assurance District will continue to receive its annual payments

### Section 2

- (a) Authorizes Pooled Money Investment Board to serve as "banker" for acquisition and expenses
- (b) Describes terms and conditions of the "loan" from the PMIB
- (c) Describes how "loan" from PMIB will be repaid from ultimate purchasers of the water rights
- (d) Creates the federal water rights acquisition financing fund
- (e) Authorizes expenditures from the fund to:
  - 1) Pay for the acquisition of the water rights
  - 2) Pay the Principal and Interest on the loan from the PMIB
  - 3) Pay for the costs of "holding" the water right, including the annual payments to the Assurance District

Section 1. "The Kansas Water Office is authorized, as provided herein, to negotiate with, and acquire from the Federal Government all water rights appurtenant to any Federal property located, in the State of Kansas. Such acquisition shall be for the sole and limited purpose of accepting and holding title to such water rights, as Trustee, until the legislature determines the appropriate State agency and procedures for the disposition of such water rights. Until such legislative determination, the Kansas Water Office shall have no power to assign, transfer or otherwise dispose of such water rights. While the Kansas Water Office holds title to any such water rights, as provided herein, all contractual agreements associated with such water rights shall remain in effect, and the provisions of K.S.A. 82a-718 and amendments thereto shall not apply to such water rights. While the Kansas Water Office holds title to any such water rights, as provided herein, it shall make all annual payments associated with such water rights to any Water Assurance District organized under the provisions of K.S.A. 82a-1301 *et seq.*"

Sec. 2. (a) To provide financing that may be necessary to acquire and hold in trust water rights from the federal government pursuant to section 1 and amendments thereto, the pooled money investment board is authorized and directed to loan to the director of the Kansas water office, upon request therefor, sufficient funds for such purpose. The pooled money investment board is authorized and directed to use any moneys in the operating accounts, investment accounts or other investments, of the state of Kansas to provide funds for such loan. On the loan date of such loan, the pooled money investment board shall transfer the loan amount to the director of the Kansas water office by depositing the same in the state treasury to the credit of the federal water rights acquisition financing fund.

(b) A loan pursuant to this section shall bear interest from the date of the loan at an annual rate of interest which is not less than the average yield before taxes received on 91-day United States treasury bills as determined by the federal reserve banks as fiscal agents of the United States at its most recent public offering of such bills in effect on January 1 of the year the loan is made. The principal and interest thereon shall be payable in accordance with subsection (c). Such loan shall not be deemed to be an indebtedness or debt of the state of Kansas within the meaning of section 6 of article 11 of the constitution of the state of Kansas.

(c) The principal and interest on any loan made under this section shall be payable in accordance with appropriation acts from the following sources, in descending order of priority:

- (1) Amounts received by the Kansas water office under contracts entered into with the purchaser or purchasers of the water rights;
- (2) the state water plan fund created by K.S.A. 82a-951 and amendments thereto; and
- (3) the state general fund.

(d) There is hereby created in the state treasury the federal water rights acquisition financing fund. On or before the 10th day of each month, the director of accounts and reports shall transfer from the state general fund to the federal water rights acquisition financing fund interest earnings based on:

- (1) The average daily balance of moneys in the federal water rights acquisition financing fund for the preceding month; and

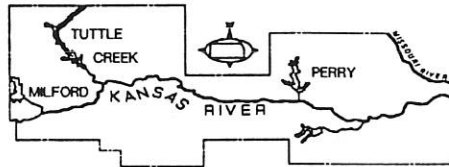
(2) the net earnings rate for the pooled money investment portfolio for the preceding month.

(e) All expenditures from the federal water rights acquisition financing fund shall be made for the purpose of 1) financing the acquisition of water rights from the federal government; 2) paying the principal and interest on the loan received under this section; and 3) paying all costs associated with the Kansas Water Office holding such water rights in trust including but not limited to annual payments to any water assurance district organized under the provisions of K.S.A. 82a-1301 *et seq.* Such payments shall be in accordance with appropriation acts upon warrents of the Director of accounts and reports issued pursuant to vouchers approved by the director of the Kansas water office or by a person designated by the director.

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



# The Kansas River



## Water Assurance District No. 1

212 SW 7th Street - Topeka, Kansas 66603-3717

March 15, 1999

Honorable David Corbin  
Chairperson  
Energy and Natural Resource Committee  
State Capitol Building  
300 SW. 10th Ave  
Room 120 S  
Topeka, KS 66612-1504

REF: HB 2404: Ammedments autherizing the State to aquire and hold in trust Federal Government water rights.

The Kansas River Water Assurance District No. 1 representing the municipalities and industries along the main stem of the Kansas River support the amenments to HB 2404.

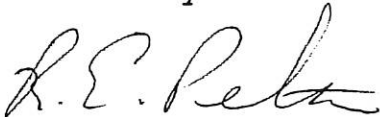
We note that this legislation points up the need for the creation of a market place where water rights can be leased, traded or sold. A task force appointed by the Chief Engineer of the Division of Water Resources has been addressing this issue for the past two years. The Assurance District has been represented on the task force. We hope to have enabling legislation ready for the next session of the legislature.

Ammedments to HB 2404 provides an interim means of retaining the priority of large senior water rights for future use which may potentially be important for economic development of the state. This is a major goal of the water right banking discussion. Absent this legislation these water rights are subject to abandonment pursuant to KSA 82a-718. Further uses would be granted the most junior water rights on the river meaning they would be the first uses to be shut off during drought.

The Prior Appropriation doctrine has served this state well

for the past 50 years but we do not believe we should handcuff our future to the accident of time when our predecessors in time obtained their water rights. This Bill and the water rights banking issue provide a market place where vital interests of the state can go for the purpose of taking charge of their affairs and promote the economic well being of the state.

Sincerely

A handwritten signature in cursive script, appearing to read "R. E. Pelton".

R. E. Pelton  
General Manager

PC Larry D. Shannon  
Clark Duffy  
Roger K. Weatherby



**City of DeSoto**  
"Building On Small Town Values"

Steve Prudden, Mayor

March 10, 1999

Kansas Water Office  
Al LeDoux, Director  
109 SW Ninth, Ste. #300  
Topeka KS 66612-1249

RE: House Bill 2544

Dear Sir:

The City of DeSoto concurs with, and supports, the revised version of H.B.2544, which allows the Kansas Water Office to purchase and hold the Sunflower Army Ammunition Plant water rights.

Sincerely,

Steve Prudden, Mayor  
City of DeSoto

CC Representative John Ballou

Attn:  
Clark  
Duffy



# Memorandum

**Date:** March 10, 1999

**To:** Clark Duffy, Kansas Water Office

**CC:** Water District Board  
 Byron Johnson  
 Mike Howe, City Attorney for Desoto  
 Representative Gerry Ray  
 Professor John Peck

**From:** Mike Armstrong *MA*

**RE:** Proposed Legislation Concerning Sunflower Water Rights

I suggest that the following language be adopted as Section 1 of the proposed legislation concerning the Sunflower water rights:

Section 1. "The Kansas Water Office is authorized, as provided herein, to negotiate with, and acquire from, the Federal Government all water rights appurtenant to any Federal property located in the State of Kansas. Such acquisition shall be for the sole and limited purpose of accepting and holding title to such water rights, as Trustee, until the legislature determines the appropriate State agency and procedures for the disposition of such water rights. Until such legislative determination, the Kansas Water Office shall have no power to assign, transfer or otherwise dispose of such water rights. While the Kansas Water Office holds title to any such water rights, as provided herein, all agreements concerning operation of water treatment and supply facilities associated with such water rights shall remain in effect, and the provisions of K.S.A. 82a-718 and amendments thereto shall not apply to such water rights. While the Kansas Water Office holds title to any such water rights, as provided herein, it shall make all annual payments associated with such water rights to any Water Assurance District organized under the provisions of K.S.A. 82a-1301 et seq."

The modifications you suggested for Section 2 appear acceptable. I have attached a photocopy of those provisions for the reference of those being carbon copied with this memorandum.

If you should have any further questions concerning this proposed language, or would like to discuss this matter further, please let me know.

STATE OF KANSAS



Bill Graves, Governor

KANSAS WATER OFFICE  
Al LeDoux  
Director

Suite 300  
109 SW Ninth  
Topeka, Kansas 66612-1249

785-296-3185  
FAX 785-296-0878  
TTY 785-296-6604

March 10, 1999

Rep. Gerry Ray  
State Capitol Building  
Room 155-S  
Topeka, KS

Dear Rep. Ray:

The Kansas Water Office Supports the proposed legislation concerning Sunflower Water Rights which will be presented to the Senate Energy and Natural Resources Committee on Thursday March 12, 1999.

Thank you for your leadership on this issue.

Sincerely,

*Al LeDoux*  
Al LeDoux *By CJD*

AL;ol