

MINUTES OF THE HOUSE COMMITTEE ON ENVIRONMENT.

The meeting was called to order by Chairperson Joann Freeborn at 3:30 p.m. on January 25, 2001 in Room 231-N of the Capitol.

All members were present except: Rep. Ted Powers - excused  
Rep. Tom Sloan - excused

Committee staff present: Raney Gilliland, Kansas Legislative Research Department  
Mary Ann Graham, Committee Secretary

Conferees appearing before the committee: Rick Bean, Chief of Remedial Section, Bureau of Environmental Remediation, KDHE, Forbes 740, Topeka, KS 66620-0001  
Mary Jane Stattelmann, Administrator for Kansas Agricultural Remediation Board, 816 SW Tyler, Topeka, KS 66612  
Tracy Streeter, Exec. Director, Conservation Commission, Mills Bldg. 109 SW 9<sup>th</sup>, Ste. 500, Topeka, KS 66612-1299  
Bill Fuller, Kansas Farm Bureau, 2627 KFB Plaza, Manhattan, KS 66505-8508

Others attending: See Attached Sheet

Chairperson Joann Freeborn called the meeting to order at 3:30 p.m. She announced that bill introductions would be first on the agenda today.

Ken Corbet, Ravenwood Lodge, Topeka, Kansas, requested a bill to eliminate the need for hunting licenses on licensed controlled shooting areas in Kansas. (See attachment 1)

Rep. Dan Johnson made a motion the bill requested by Ken Corbet be introduced. Rep. Ray Merrick seconded the motion. Motion carried.

Tom Day, Kansas Corporation Commission, requested two bills. (1) Amend KSA 55-178 and 55-179 (Broaden responsibilities for abandoned wells or pollution from well by including abandoned exploration and production facilities.) (2) Amend KSA 55-155, 55-161, 55-179, 55-180 (Clarify of legislative intent for monies deposited in the Conservation Fee Fund which are derived from financial assurance requirements passed by the 1996 Legislature). (See attachment 2)

Rep. Vaughn Flora made a motion the two bills requested by KCC be introduced. Rep. Dennis McKinney seconded the motion. Motion carried.

Rep. Sharon Schwartz requested a bill that would give the Department of Agriculture civil penalty authority for violations of the Kansas Water Appropriations Act.

Rep. Vaughn Flora made a motion the bill requested by Rep. Schwartz be introduced. Rep. Clay Aurand seconded the motion. Motion carried.

The Chairperson announced that Tuesday, January 30 will be the last day for bill introductions in this committee.

Rick Bean, Chief of Remedial Section, KDHE, was welcomed. He provided an update of two KDHE cleanup programs, the Voluntary Cleanup and Property Redevelopment Program and the State Cooperative Program. Throughout the briefing he specifically discussed contaminated sites associated with the agri-business industry to provide a better understanding of the relationship between KDHE's cleanup programs and the Kansas Agricultural Remediation Trust Fund. The Voluntary Cleanup and Property Redevelopment Act was enacted by the Kansas Legislature on July 1, 1997. The purpose of the Act is to allow voluntary cleanups of contaminated properties with oversight by the Kansas Department of Health and Environment to promote the transfer, redevelopment and reuse of contaminated properties and protect public health and the environment.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENVIRONMENT, Room 231-N of the Capitol  
at 3:30 p.m. on January 25, 2001.

The VCPRP is designed for low to moderate priority contaminated sites. The State Cooperative Program is designed for higher priority sites, such as sites that directly impact drinking water supplies. The program has been in existence since 1991 and creates a process that resembles the federal superfund process, yet allows responsible parties to work with the State without federal involvement. (See attachment 3) Discussion and questions followed.

Mary Jane Stattelman, Administrator for the Kansas Agricultural Remediation Board, was welcomed to the committee and gave an overview of the Board's program. She introduced members of the Board in attendance today; Linda Peterson, Chair; Larry Shivers, Vice Chair; Laura Pearl; Kamyar Manesch; Rick Bean; and Gary Meyer. **SB501**, which was passed last year created the following: (1) Remediation Linked Deposit Loan Program, this program is to be administered by the state treasurer for the purpose of providing lower interest loans to eligible persons to pay the costs of corrective action approved or ordered by the Kansas Department of Health and Environment. (2) Remediation Reimbursement Program, this program is administered by the Kansas Agricultural Remediation Board and provides reimbursement to an eligible person for the costs of corrective actions approved by KDHE or taken in accordance with an order from KDHE. (3) Kansas Agricultural Remediation Board, this Board includes five members who are appointed by the Governor and confirmed by the Senate and two ex officio members representing KDHE and KDA. These Board members will serve a term of four years. (See attachment 4) Discussion and questions followed.

The Chairperson thanked Mr. Bean and Ms. Stattelman for their presentations and opened the hearing on **HB2048**.

**HB2048: An act concerning riparian buffers.**

Tracy Streeter, Exec. Director, Conservation Commission, was welcomed to the committee. He appeared before the committee in support of the bill and believes this bill will allow Kansas landowners an additional incentive to plant lands adjacent to streams to trees. Current state law allows riparian buffer strips up to 150 feet in width that are enrolled in the Conservation Reserve Program to be taxed as grassland or wasteland. Last year, USDA modified the CRP rules to increase the maximum width for riparian forest buffer strips to 180 feet. As a result, the state tax incentives offered under the Governor's Buffer Initiative are not in direct alignment with the CRP rules. This revision only affects buffer strips planted to trees. Currently, only 230 acres of the approximately 3,000 acres enrolled in the Initiative have been planted to trees. (See attachment 5)

Bill Fuller, Kansas Farm Bureau, was welcomed to the committee. He testified in support of the bill and encourages; (1) additional efforts to prevent contamination of ground water and surface water; (2) adequate funding to assist landowners with projects including the installation of stream buffers; (3) and support of the Governor's Water Quality Initiative. Kansas Farm Bureau supports the Governor's recommendation in his recent State of the State message to a joint session of the Kansas Legislature proposing to expand the buffer program to three additional river basins where TMDL's are now being implemented. While this initiative is being worked through the legislature's appropriation process, they ask each member of the committee to promote and support this important water quality program. (See attachment 6) Discussion and questions followed.

Chairperson Freeborn closed the hearing on **HB2048** and asked if there were any objections to taking action on the bill today. There were no objections.

Rep. Bruce Larkin made a motion the bill be passed favorably and placed on the consent calendar. Rep. Sharon Schwartz seconded the motion. Motion carried.

The Chair announced that The Water Protection Agency of Central Kansas (WaterPACK) which was on the agenda to present a brief statement and introduction, cancelled for today.

The meeting adjourned at 4:45 p.m. The next meeting is scheduled for Tuesday, January 30, 2001.

# HOUSE ENVIRONMENT COMMITTEE GUEST LIST

DATE: January 25, 2001

NAME	REPRESENTING
Linda J. Peterson	KARB
Saura Peare	KARB
Kamya Manesh	KARB
Mary Jane Stattelman	KGFA
Tom TUNNELL	KGFA & KFCA
JACK DUTRA	KFCA
Rick Bean	KDHE
Gary Meyer	KDA
Dary Wareham	KGFA/KFCA
Rebecca Lead	KDA
RON APPLETOFT	WATER DIST NO 1 of So Co
Larry S. Shivers	KARB
<del>Don</del> <del>Shen</del>	mis - km Rudener
TOM DAY	KCC
Todd Johnson	KLA
Kerri Ebert	Kansas Dairy Association
<u>Tom Bruno</u>	<u>Allent Assoc</u>

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Date: January 25, 2001  
To: Committee Member  
Subject: The Elimination of Hunting License Requirement  
on Licensed Controlled Shooting Areas (Hunting Preserves)

My name is Ken Corbet. I am the owner of Ravenwood Lodge located in Topeka, Kansas. Ravenwood is a licensed controlled shooting area (CSA), i.e. licensed hunting preserve. There are over one hundred and forty (140) licensed CSA's that operate under the guidelines of the Kansas Wildlife and Parks Department.

A licensed CSA in Kansas is like every business you drive by each day. We own or rent our land, buildings etc. We buy or raise our inventory (pheasant, quail, chukar). But, here is where we are held at somewhat of an economic business disadvantage. The Kansas Wildlife and Parks Department require all of our customers to purchase a hunting license before they can do business with us. There are many examples that could be used to parallel this injustice. To use the hamburger business as one, McDonald's are licensed to do business in Kansas. They own or rent their facility; they buy their inventory for their customers, as do CSA's. However, the State does not require their customers to purchase an eating license or permit before they enjoy a Big Mac.

I know this sounds somewhat ridiculous. However, our recreational hunting businesses would like to have the opportunity to operate on a level playing field. I can think of no other business in Kansas, where the customer has to pay a license fee to shop.

This is to request that a bill be presented to eliminate the need for hunting licenses on Licensed Controlled Shooting Areas in Kansas.

*Ken Corbet*

*House Environment  
1-25-01  
Attachment 1*



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## Kansas Corporation Commission

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Bill Graves, Governor John Wine, Chair Cynthia L. Claus, Commissioner Brian J. Moline, Commissioner

January 25, 2001

Honorable Joann Freeborn, Chairperson  
House Environment Committee  
Statehouse, Room 155-E  
Topeka, Kansas 66612

Dear Representative Freeborn:

The Kansas Corporation Commission would request the House Environment Committee to introduce the following legislation. The legislation proposed for introduction has been routed through the Governor's office.

Attached please find a brief synopsis of the statutory change and proposed statutory amendment.

- 1) Amend KSA 55-178 and 55-179 (Broaden responsibilities for abandoned wells or pollution from well by including abandoned exploration and production facilities.)
- 2) Amend KSA 55-155, 55-161, 55-179, 55-180 (Clarify of legislative intent for monies deposited in the Conservation Fee Fund which are derived from financial assurance requirements passed by the 1996 Legislature).

The Corporation Commission respectfully seeks introduction of the bills through the House Environment Committee. Should you have questions, please feel free to call me at 271-3190.

Thank You,

A handwritten signature in black ink, appearing to read "Thomas A. Day".

Thomas A. Day  
Legislative Liaison

*House Environment  
1-25-01  
Attachment 2*

## SUMMARY

### **Amend KSA 55-178 and 55-179**

#### Summary

The proposed amendments broaden responsibilities for abandoned wells or pollution from wells by including abandoned exploration and production facilities. Currently the language of this statute speaks only to the "abandoned well" or "pollution from the well". In practice, the field offices receive complaints relative to other abandoned exploration and production facilities and other conditions located on leases which hold potential for pollution of fresh and usable water resources or soils. These would include various types of abandoned pits and tank battery sites.

In the past, the Division has taken an expanded view of K.S.A. 55-179 to include such other facilities which are or were directly related to the wells on a particular lease as being subject to this statute. While this policy has been reasonably effective, the statutory authority may be unclear as these facilities are not specifically mentioned. In addition, over the life of a lease it can become more difficult to link a facility or condition to an existing leasehold. Language should be added to K.S.A. 55-179 to insure that responsibility is also fixed for such related facilities and conditions. This proposal has no fiscal impact.

### **Amend KSA 55-155, 55-161, 55-179, 55-180**

#### Brief Summary

This proposed amendment provides clarification of legislative intent for monies deposited in the Conservation Fee Fund which are derived from financial assurance requirements passed by the 1996 Legislature. During the 1997-1998 K-Goal audit of the Conservation Division, legislative post-audit suggested the Division seek clarification of legislative intent with respect to these funds. The question being: "Did the legislature intend these funds to be used for future well pluggings not covered by the Abandoned Well / Site Remediation Fund or should the monies be used to fund normal operations of the Conservation Division?" During the past two legislative sessions the Division provided information to legislative committees on the amount of financial assurance monies generated through the licensing procedure and explained that those funds while being added to the Conservation fee fund were in fact being tracked through our accounting systems. While several legislators indicated the intent was to use these funds for future well pluggings not covered under the Abandoned Well Fund no amendments were offered in any of the committees.

During the 2000 legislative session the Conservation Division, with the approval of the Commission and the Governor, was prepared to offer statutory changes to K.S.A. 55-155 which would have resulted in the creation of an additional plugging fund to pay for potential future plugging liabilities that may not be met through the current Abandoned Well Fund (wells drilled prior to July 1, 1996) or which are incurred by the Division by acting as a bonding agent for certain operators who are unable to secure bonding (section (d)(4) of the statute). However, the amendments were offered by a legislator which became HB 2782 and eventually died in conference committee. This proposal has no fiscal impact outside of normal operations. The funds will merely be segregated into a separate account.

## PROPOSED AMENDMENTS

Amend KSA 55-178 and 55-179

**55-178. Complaint concerning pollution from abandoned wells or other lease conditions; contents.** Any person who has reason to believe that any well or other lease condition which has been abandoned is causing or is likely to cause the pollution of any usable water strata or supply or the loss of any usable water through downward drainage by reason of the fact that the well or other lease condition has not been plugged, restored or remediated; was improperly plugged, restored or remediated; or that the plugging, restoration or remediation; is no longer effective by reason of the deterioration of the pipe or other equipment or by any other cause, may file a complaint in writing, so alleging, with the commission secretary. Such complaint shall state the location of the well or other lease condition and the facts which caused the complainant to believe that such well or other lease condition is causing or is likely to cause the pollution of any usable water strata or supply or the loss of usable water.

**History:** L. 1986, ch. 201, §§ 30; July 1.

**55-179. Investigation of complaint by the commission; findings; responsibility for remedial action; costs; hearings; orders.** (a) Upon receipt of any complaint filed pursuant to K.S.A. 55-178 and amendments thereto, the commission shall make an investigation for the purpose of determining whether such abandoned-well or other lease condition is polluting or is likely to pollute any usable water strata or supply or causing the loss of usable water, or the commission may initiate such investigation on its own motion. If the commission determines:

(1) That such abandoned-well or other lease condition is causing or likely to cause such pollution or loss; and

(2) (A) that no person is legally responsible for the proper care and control of such well or other lease condition; or (B) that the person legally responsible for the care and control of such well or other lease condition is dead, is no longer in existence, is insolvent or cannot be found, then, after completing its investigation, and as funds are available, the commission shall plug, replug, or repair, restore or remediate such well or other lease condition, or cause it to be plugged, replugged, or repaired, restored or remediated in such a manner as to prevent any further pollution or danger of pollution of any usable water strata or supply or loss of usable water, and shall remediate pollution from the well or other lease condition, whenever practicable and reasonable. The cost of the investigation; the plugging, replugging or repair; and the restoration and remediation shall be paid by the commission from the conservation fee fund or the abandoned oil and gas well fund, as appropriate.

(b) For the purposes of this section, a person who is legally responsible for the proper care and control of an abandoned well or other lease condition shall include, but is not limited to, one or more of the following: Any operator of a waterflood or other pressure maintenance program deemed to be causing pollution or loss of usable water; the current or last operator of the lease upon which such well or other lease condition is located, irrespective of whether such operator plugged or abandoned such well or other lease condition; the original operator who plugged or abandoned such well or other lease condition; and any person who without authorization tampers

with or removes surface equipment or downhole equipment from an abandoned well *or the lease*.

(c) Whenever the commission determines that a well *or other lease condition* has been abandoned and is causing or is likely to cause pollution of any usable water strata or supply or loss of usable water, and whenever the commission has reason to believe that a particular person is legally responsible for the proper care and control of such well *or other lease condition*, the commission shall cause such person to come before it at a hearing held in accordance with the provisions of the Kansas administrative procedure act to show cause why the requisite care and control has not been exercised with respect to such well *or other lease condition*. After such hearing, if the commission finds that the person is legally responsible for the proper care and control of such well *or other lease condition* and that such well *or other lease condition* is abandoned, in fact, and is causing or is likely to cause pollution of any usable water strata or supply or loss of usable water, the commission may make any order or orders prescribed in K.S.A. 55-162, and amendments thereto. Proceedings for reconsideration and judicial review of any of the commission's orders may be held pursuant to K.S.A. 55-606, and amendments thereto.

(d) For the purpose of this section, any well *or other lease condition* which has been abandoned, in fact, and has not been plugged, *restored and remediated* pursuant to the rules and regulations in effect at the time of *such plugging, restoration and remediation*, such well *or other lease condition* shall be and is hereby deemed likely to cause pollution of any usable water strata or supply.

(e) For the purpose of this section, the person legally responsible for the proper care and control of an abandoned well *or other lease condition* shall not include the landowner or surface owner unless the landowner or surface owner has operated or produced the well, has deliberately altered or tampered with such well *or other lease condition* thereby causing the pollution or has assumed by written contract such responsibility.

(f) "*Other lease condition*" shall mean any pollution of the soils and waters of the state from oil and gas activities within the commission's jurisdiction pursuant to K.S.A. 74-623, and shall specifically include but not be limited to any petroleum hydrocarbon or other waste, whether or not contained in a pit, pond, dike, or other structure or abutment, which is related to, or used or produced in conjunction with, current or past oil or gas activities conducted on or from the leasehold acreage.

**History:** L. 1986, ch. 201, §§ 31; L. 1988, ch. 356, §§ 165; L. 1993, ch. 62, §§ 1; L. 1996, ch. 263, §§ 7; July 1.

**Amend KSA 55-155, 55-161, 55-179, 55-180**

This proposal will be the same language as HB 2782 as Amended by House Committee (2000 Session)



**HOUSE ENVIRONMENT COMMITTEE**

**BRIEFING OF THE**

**VOLUNTARY CLEANUP AND PROPERTY REDEVELOPMENT**  
**PROGRAM**

**AND**

**STATE COOPERATIVE PROGRAM**

**January 25, 2001**

**Presented by: Kansas Department of Health and Environment**

*House Environment  
1-25-01  
Attachment 3*

BRIEFING ON THE VOLUNTARY CLEANUP AND PROPERTY REDEVELOPMENT PROGRAM  
AND  
STATE COOPERATIVE PROGRAM

January 25, 2001

**Good afternoon Madam Chairperson and members of the House Environment Committee. My name is Rick Bean and I am the Chief of the Remedial Section for the Kansas Department of Health and Environment (KDHE). I am here this morning to provide you with an update of two KDHE cleanup programs: the Voluntary Cleanup and Property Redevelopment Program and the State Cooperative Program. Throughout the briefing I will specifically discuss contaminated sites associated with the agri-business industry to provide you with better understanding of the relationship between KDHE's cleanup programs and the Kansas Agricultural Remediation Trust Fund.**

**Voluntary Cleanup and Property Redevelopment Program:** The Voluntary Cleanup and Property Redevelopment Act was enacted by the Kansas Legislature on July 1, 1997 (*Kansas Statutes Annotated 65-34,161 through 65-34,174*). The purpose of the Act is to allow voluntary cleanups of contaminated properties with oversight by the Kansas Department of Health and Environment to promote the transfer, redevelopment and reuse of contaminated properties and protect public health and the environment. The VCPRP is designed for low to moderate priority contaminated sites.

In accordance with the law (*K.S.A. 65-34,173*), the department publishes an annual program report in the Kansas Register which describes the activities accomplished by the department in the Voluntary Cleanup and Property Redevelopment Program for the calendar year. Please refer to the tables and charts in your handout for a summary of the program. Table 1 summarizes the activities in the program over the last three and one-half years. As of December 31, 2000, the department has received a total of 175 completed application packages of which 173 properties have been determined eligible to participate in the program. A total of 162 voluntary agreements have been signed. Voluntary Cleanup Investigations have been initiated or completed at 114 properties. Currently, 27 properties have entered the Voluntary Cleanup phase and cleanups have been completed at 6 properties. To date, the department has issued 16 No Further Action Determination letters. Figure 1 shows the cumulative total of applications received by KDHE since the program's inception on July 1, 1997. The average number of applications submitted to the program on a monthly basis is 3.5 applications.

Figure 2 presents the category breakdown of properties within the VCPRP by percentage. As illustrated, there are 37 contaminated properties in the VCPRP that are related to agri-business which equates to 20 percent of all properties in the VCPRP. The top category include properties related to the Oil and Gas industry (32%) such as contamination caused during pipeline breaks (56 sites).

Figure 3 provides further breakdown of the agri-business properties in the VCPRP. The figure illustrates that a variety of contaminants have been identified at these properties. Nitrate is the primary contaminant impacting 75 percent of the properties, pesticide/herbicide contamination has been detected at 46 percent of the properties and carbon tetrachloride has been detected at 33 percent. Most of the agri-business properties involve two or more types of contaminants.

**State Cooperative Program:** The State Cooperative Program (*K.S.A. 65-3452a through 65-3457a*) is designed for higher priority sites, such as sites that directly impact drinking water

BRIEFING ON THE VOLUNTARY CLEANUP AND PROPERTY REDEVELOPMENT PROGRAM  
AND  
STATE COOPERATIVE PROGRAM

January 25, 2001

**State Cooperative Program:** The State Cooperative Program (*K.S.A. 65-3452a through 65-3457a*) is designed for higher priority sites, such as sites that directly impact drinking water supplies. The program has been in existence since 1991 and creates a process that resembles the federal superfund process, yet allows responsible parties to work with the State without federal involvement.

Over 300 sites have been managed throughout the years in the State Cooperative Program. There are 235 contaminated sites currently being managed by the State Cooperative Program of which 46 sites are related to agri-business. As illustrated on Figure 4, agri-business sites make up 20 percent of the universe of sites managed by the State Cooperative Program.

Please refer back to Figure 3 for further breakdown of the agri-business properties in the State Cooperative Program. Carbon tetrachloride is the primary contaminant impacting 60 percent of the sites, herbicide/pesticide contamination has been detected at 38 percent of the sites, and nitrate has been detected at 56 percent. As with the VCPRP, many of the agri-business sites involve two or more types of contaminants.

**Other Known Agri-Business Sites:** In addition to the 37 properties managed by the Voluntary Cleanup and Property Redevelopment and the 46 sites managed by the State Cooperative Programs, there are 36 orphan sites related to agri-business managed by the State Water Plan Contamination/ Remediation Program (*K.S.A. 82a-901 et.seq.*); and 50 agri-business sites that are currently waiting for further investigation and have not been assigned to a project manager. Once investigated many of these sites will either be managed by the Voluntary Cleanup and Property Redevelopment Program or the State Cooperative Program.

**Summary:** The department is aware of 169 known contaminated sites in the state of Kansas that are directly related to agri-business operations. The Voluntary Cleanup and Property Redevelopment Program and State Cooperative Program are well established programs that are addressing these contaminated sites. The Agricultural and Speciality Chemical Act (Senate Bill 501) passed by the 2000 legislature will provide much needed financial assistance to qualifying agri-businesses to address contamination at their facilities. This will in turn complement our existing programs and assist the Department in carrying out it's mission to protect the public health and environment of the State of Kansas.

I appreciate the opportunity to provide you today's briefing on behalf of the Kansas Department of Health and Environment. Dr. Hammerschmidt, Director of Environment, Gary Blackburn, Bureau Director of Environmental Remediation and I will be glad to answer any questions that you may have at this time. Thank you Madam Chairperson and Committee members.

BRIEFING PRESENTED BY:

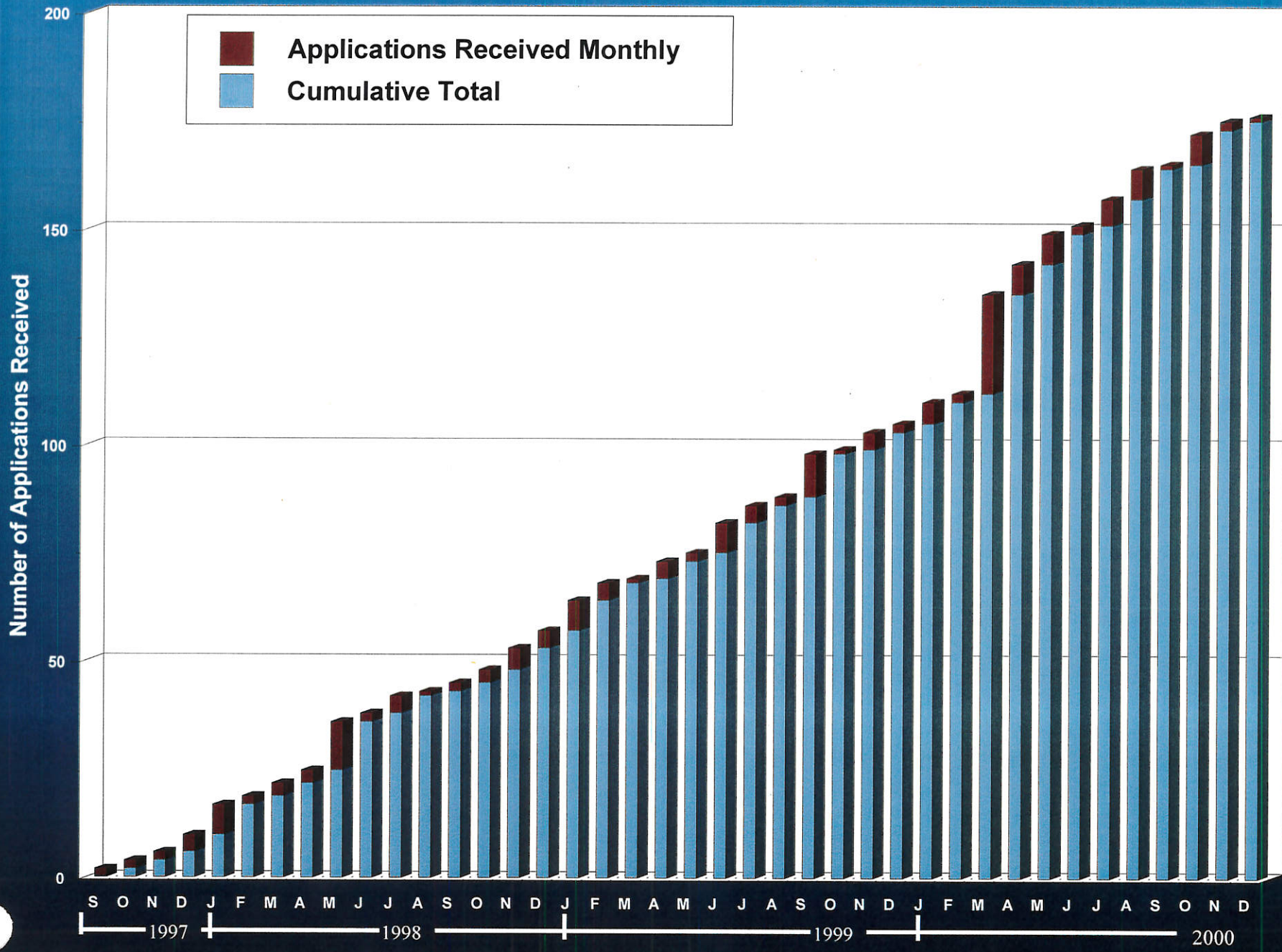
Rick L. Bean  
Chief, Remedial Section  
Bureau of Environmental Remediation  
Kansas Department of Health and Environment

**Table 1 - Summary of Voluntary Actions**  
By Year

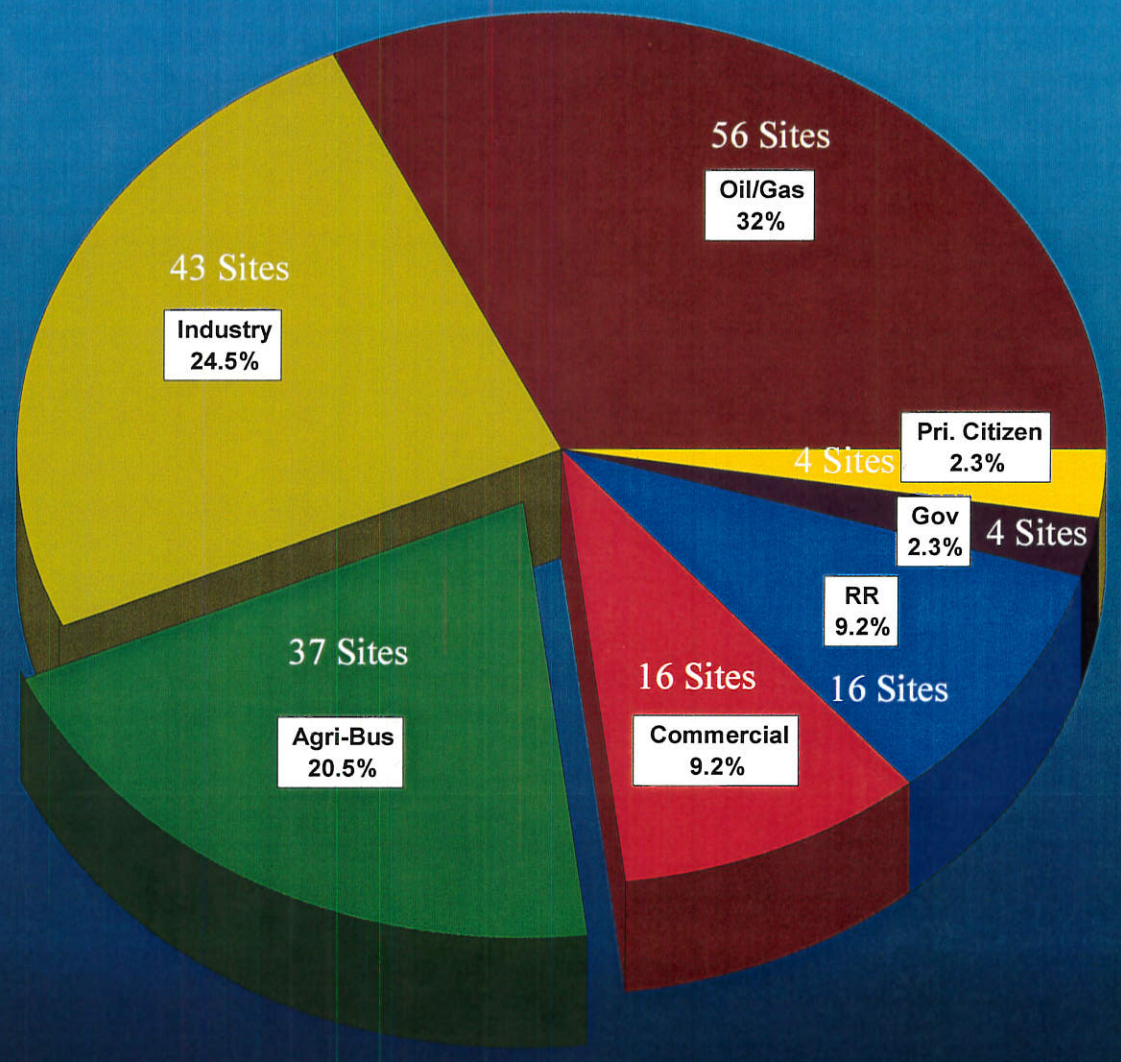
	TOTALS	Year 2000	Year 1999	Year 1998	Year 1997*
Applications Apvd.	173	73	44	50	6
Applications Denied	2	0	1	1	0
Applications in Rvw.	2	2	0	0	0
Signed Agreements	162	66	50	43	3
Investigations	114	57	38	19	0
Voluntary Cleanups	27	13	14	3	0
Cleanups Complete	6	4	2	0	0
NFA Letters Issued	16	9	4	3	0

\* - the program started on July 1, 1997 and the first application was not received until 10/97.

# Figure 1 - Cumulative Total of Applications Received



# Figure 2 - Summary of VCPRP Applicant Categories



- Agri-Business
- Governmental Entity
- Oil/Gas
- Industry
- Private Citizen
- Commercial
- Railroad Related

### Figure 3: Breakdown of Agri-Business Sites by Contami By Percentage of Total

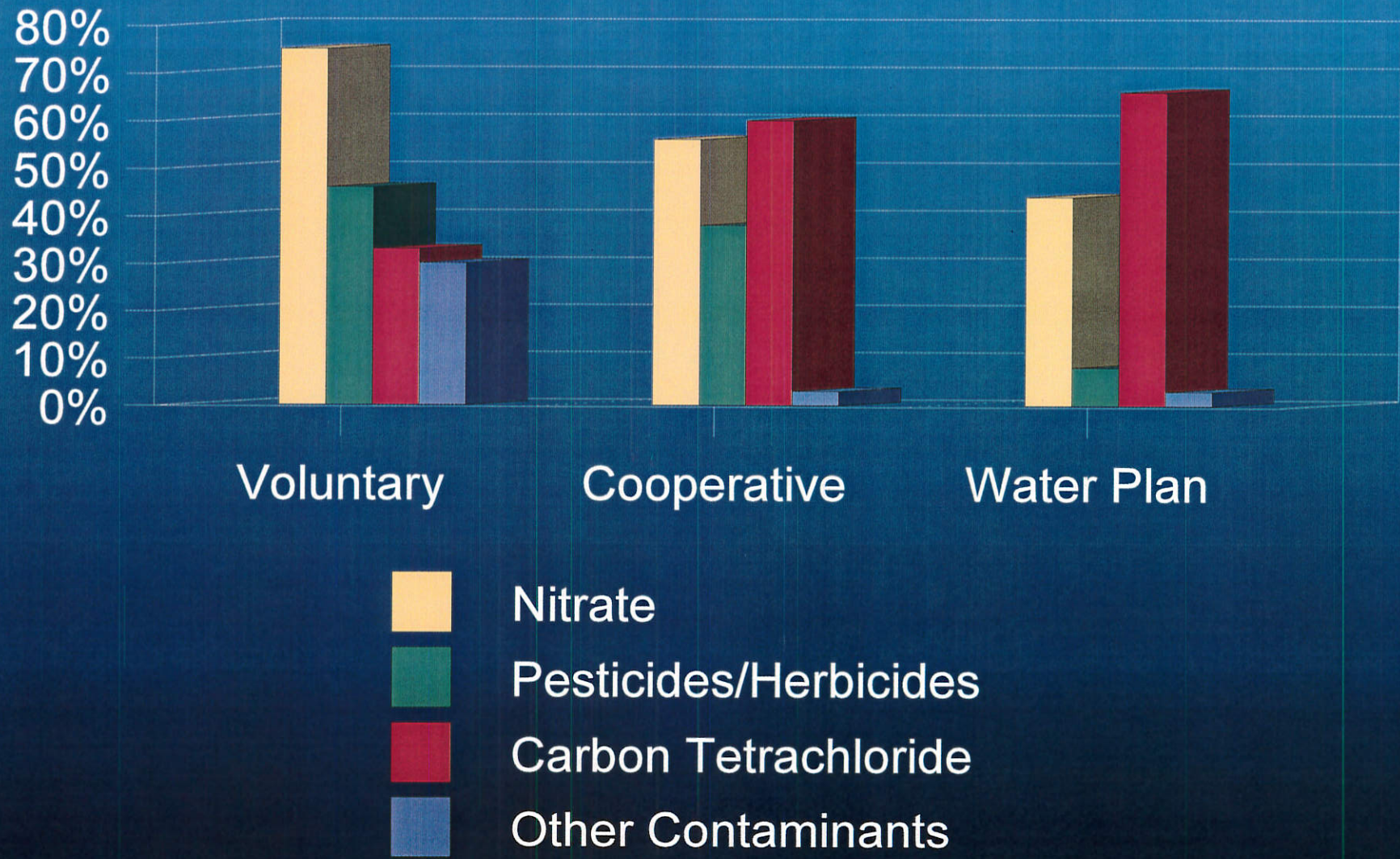
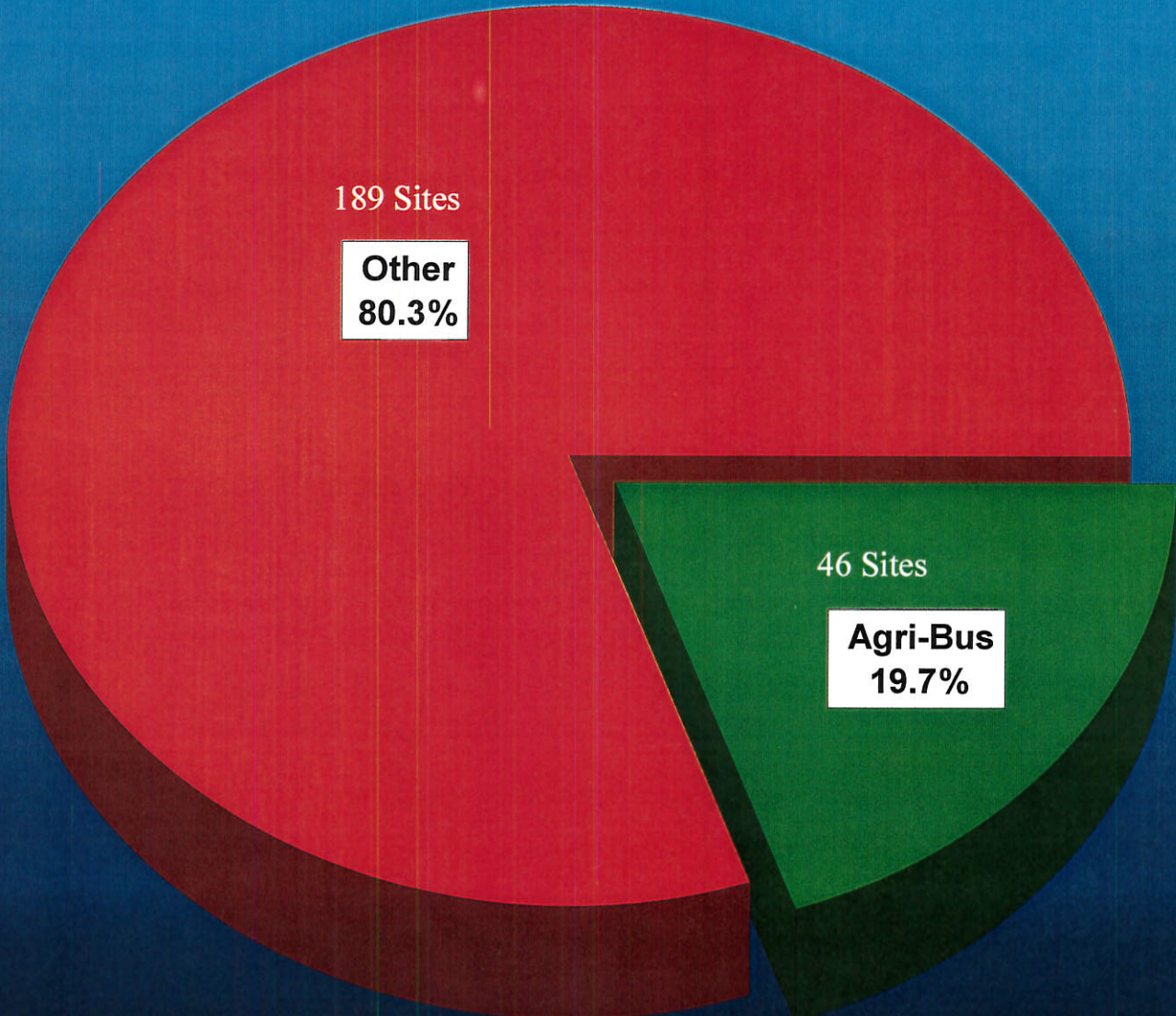


Figure 4 - Percentage of Agri-Business sites in the State Cooperative Program



■ Agri-Business      ■ Other Categories



**HOUSE ENVIRONMENT COMMITTEE**

**OVERVIEW OF THE**

**KANSAS AGRICULTURAL REMEDIATION BOARD**

**JANUARY 25, 2001**

*House Environment  
1-25-01  
Attachment 4*

Good afternoon Chairperson Freeborn and members of the House Environment Committee. My name is Mary Jane Stattelmann and I am the administrator for the Kansas Agricultural Remediation Board. Before I begin my overview of the program, I would like to introduce the Board members that are in attendance today.

Even though most of the members of the Committee are familiar with the provisions of SB 501, which was passed last year, I thought a brief overview might be helpful. The bill created the following programs and board:

1. Remediation Linked Deposit Loan Program - This program is to be administered by the state treasurer for the purpose of providing lower interest loans to eligible persons to pay the costs of corrective action approved or ordered by the Kansas Department of Health and Environment (KDHE).
  - The costs must also be approved by the Kansas Agricultural Remediation Board (KARB).
  - The total amount of linked deposit loans for any one site cannot exceed \$300,000.
  - The total amount of money in the linked deposit program shall not exceed \$5 million.
  - This provision will sunset in 10 years.
  
2. Remediation Reimbursement Program - This program is administered by the Kansas Agricultural Remediation Board (KARB). This program provides reimbursement to an eligible person for the costs of corrective actions approved by KDHE or taken in accordance with an order from KDHE.
  - If an eligible person is assessed a fee, then that person can receive 90% of the total costs greater than \$1,000 and less than \$100,000 **plus** 80% of the total eligible corrective action costs greater than \$100,000 and less than \$200,000.
  - If a person does not pay an assessment, then the person is eligible to receive 100% of their costs greater than \$1,000 and less than or equal to \$10,000.
  - This provision sunsets in 10 years.
  
3. Kansas Agricultural Remediation Board (KARB) – This Board includes 5 members who are appointed by the Governor and confirmed by the Senate and two ex officio members representing KDHE and KDA. These Board members will serve a term of 4 years. The Board has the following authority and responsibility:
  - Promulgate rules and regulations;
  - Contract or hire an administrator;
  - Provide an annual audit of the fund;
  - Provide an annual report to the Governor, the Senate Natural Resources Committee and the House Environment Committee on or before February 1st, of each year;

- The Board and the Fund shall be subject to an annual audit by the legislative post-audit committee.

**Kansas Agricultural Remediation Board Members (KARB)**

The following individuals were selected by Governor Graves and confirmed by the Senate:

Linda Peterson, Chair

Representing agricultural producers

Term expires: 2003

Residence: Burdick

Larry Shivers, Vice Chair

Representing specialty chemical distributors

Term expires: 2004

Residence: Salina

Kamyar Manesch

Representing grain processors

Term expires: 2003

Residence: Olathe

Laura Pearl

Representing agricultural retailers

Term expires: 2002

Residence: St. Marys

Roger Long

Representing agriculture and specialty chemical registrants

Term expires: 2002

Residence: Great Bend

Rick Bean, ex-officio member

Representing the Kansas Department of Health and Environment

Residence: Topeka

Gary Meyer, ex-officio member

Representing the Kansas Department of Agriculture

Residence: Topeka

## KARB Activities

The Board was confirmed in the fall of 2000, and entered into a contract with the Kansas Grain and Feed Association in October of 2000 under which KGFA agreed to provide administrative and management services to the Board. This contract is for the timeframe from October 1, 2000 through June 30, 2001 with the following terms and deadlines:

- KGFA shall hire an administrator by November 1, 2000;
- The annual report shall be delivered to the Board by January 1, 2001;
- The rules and regulations regarding this program shall be drafted and delivered to the Board by February 1, 2001;
- The by-laws and policies shall be delivered to the Board by February 1, 2001;
- A job description for the administrator shall be delivered to the Board by May 1, 2001;
- Arbitration shall be used if the parties disagree about any terms or conditions of this agreement.

After entering into the contract with the Board, KGFA hired me to be the administrator for the Board. Therefore, although I am an employee of KGFA, my primary duty is to serve as the Administrator for the Kansas Agricultural Remediation Board. I am pleased to report that each and every deadline in the contract have been met. The attached annual report is not quite complete due to the fact that we are awaiting the auditor's report regarding the fund, which is due to the Board tomorrow. However, we do not expect any problem or discrepancy involving the fund.

We have worked diligently to ensure that the Board operates separately from KGFA, this is evidenced by the establishment of a separate phone number, a separate email address, a separate copier code etc. The Board members and I have had several discussions about the fact that they are the drivers of this program and that it is my responsibility to represent their views. I believe the relationship is working well based on the strides we have made in getting this program established.

During the approximate 2.5 months since my hiring, the Board has held 4 Board meetings and has had 4 subcommittee meetings. These meetings have focused mainly on the challenge of drafting rules and regulations. While the Board has been given rule and regulation authority, this authority is very narrow. The Board will issue regulations regarding what constitutes an eligible cost (removal or the soil, lab samples) or an ineligible cost (i.e. attorney fees, costs that have been covered by insurance), how to prioritize the applications and other procedural issues. As with any other rule and regulation, these will be reviewed and scrutinized by the Kansas Department of Administration and the Attorney General's office and then will be published in the Kansas Register and discussed and reviewed by the Rule and Regulation Committee.

The remediation fund administrators from Minnesota and Wisconsin are reviewing our draft rules and regulations and we anticipate submitting these draft

regulations to outside entities for review next week and shortly thereafter to the Department of Administration and the Attorney General's office. We are hopeful that the Board will be in the position of being able to accept applications by the beginning of summer. This aggressive schedule and pace is indicative of the commitment by the Board members to this program and their intense desire to put the money that is being collected back into the hands of the private sector. To highlight the progress that the Board has made, please note that Minnesota and Wisconsin took 2-3 years to get their remediation board and rules and regulations in place. They are amazed that we anticipate being up and running within 12 months after the effective date of this act.

While the Board has narrow rule and regulation authority as outlined above, the parameters of the program were established by the legislature and these parameters cannot be changed by rule and regulation, any change would require legislative action. The following is an outline of some of the key provisions of the law that you, the legislature, established:

1. who is an eligible person;
2. the maximum amount that can be reimbursed to an eligible person;
3. the fee that is assessed against the various entities;
4. the requirement that every corrective action must be approved by KDHE before they are eligible for reimbursement;
5. the money is collected by KDA and shows up in their budget as line 2095;
6. the money will be disbursed by KDA once an application is approved by the Board;
7. the fund must be audited annually; and
8. the Board must submit an annual report to the Governor, the Senate Natural Resources committee and the House Environment committee.

Furthermore, the fund is potentially audited twice – once when the auditors for KDA review KDA's finances and another time by the auditor contracted by the Board. Therefore, even though the Board is somewhat of a hybrid creature, the rule and regulation authority of the Board is limited and the handling and disbursement of the money is tied to 2 state agencies. Therefore, the Board will have a number of people and entities reviewing their actions. The Board believes that the system that has been established has merit and can be successful.

## The Remediation Fund

The following is an overview of the Agricultural Remediation fund. The fund was created by assessing fees on the following entities.

Who Pays	Number	Due date	Amount Assessed	Amount to KDA	Amount to KARB	Total Amount to KARB
Pesticide Product	5864*	Jan. 1 <sup>st</sup>	\$190	\$130	\$60	\$351,840
Grain Storage	650 ** million bushels	August 31 <sup>st</sup> - or upon license renewal	\$.0005 per bushel	No fee to federally licensed	\$.0005 per bushel	\$325,000
Pesticide Business Dealer License	1646	July 1 <sup>st</sup>	\$100	\$20	\$80	\$131,680
Fertilizer Products	2951	July 1 <sup>st</sup>	\$25	\$5	\$20	\$ 59,020
Custom Fertilizer Blenders	382	Jan. 1 <sup>st</sup>	\$125	\$25	\$100	\$38,200
Total						\$905,740

\* The original estimate last year from the Kansas Department of Agriculture was 7364 pesticide products, however, this estimate included antimicrobial pesticides which were later exempted from the bill. Therefore, the revenue for this category is approximately \$90,000 short of the original estimate.

\*\* So far KDA has collected fees on facilities involving 650 million bushels. Since the fees for state licensed facilities are collected at the time of licensure, KDA anticipates the collection of another approximately \$105,000 to occur during the rest of this fiscal year.

As you can see, the fund will receive approximately \$1 million annually from the various agribusinesses. While this will be of assistance to a number of people, the Board anticipates that they will be faced with the reality of not being able to fund each and every application. We base that assumption on the fact that Wisconsin has an average of \$3.6 million in claims submitted each year and Minnesota has disbursed approximately \$1.5 million or more during the past 5 years. In anticipation of having more claims than available funds, the Board has reviewed a scientific based priority system that has been

developed by KDHE that would assist the Board in ranking projects based on the effect of the contamination to the groundwater, surface water, and soil. Through this ranking system, the Board is striving to place the money at locations where there is the most risk to the environment.

I hope that this presentation has been informative and beneficial to you. The Board members and I will be glad to try and answer any questions that you may have at this time.



## State Conservation Commission

109 SW 9<sup>th</sup> Street  
Suite 500, Mills Building  
Topeka, KS 66612-1299

Telephone: (785) 296-3600 • Fax (785) 296-6172



# Memorandum

January 25, 2001

**MEMO TO:** House Environment Committee

**FROM:** Tracy Streeter, Executive Director

**SUBJECT:** House Bill 2048

*Tracy Streeter*

Madam Chair and Members of the Committee, I appear before you today in support of HB 2048. This bill will allow Kansas landowners an additional incentive to plant lands adjacent to streams to trees.

Current state law allows riparian buffer strips up to 150 feet in width that are enrolled in the Conservation Reserve Program (CRP) to be taxed as grassland or wasteland. Last year, USDA modified the CRP rules to increase the maximum width for riparian forest buffer strips to 180 feet. As a result, the state tax incentives offered under the Governor's Buffer Initiative are not in direct alignment with the CRP rules.

This revision only affects buffer strips planted to trees. Currently, only 230 acres of the approximately 3,000 acres enrolled in the Initiative have been planted to trees.

I encourage your support of HB 2048 and appreciate the opportunity to appear before you today. At the appropriate time, I will be happy to stand for questions.

*House Environment  
1-25-01  
Attachment 5*





# PUBLIC POLICY STATEMENT

## HOUSE COMMITTEE ON ENVIRONMENT

**RE: HB 2048 – Authorizes an Increase in Size of Riparian Buffers.**

**January 25, 2001  
Topeka, Kansas**

**Presented by:  
Bill Fuller, Associate Director  
Public Policy Division  
Kansas Farm Bureau**

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Representative Freeborn and members of the House Committee on Environment, my name is Bill Fuller. I am the Associate Director of the Public Policy Division for Kansas Farm Bureau.

On March 17, 1998, I testified to this committee in support of SB 523 that created the Kansas Water Quality Buffer Initiative. This new program was an expansion to the Water Quality Initiative launched by Governor Bill Graves in 1995. The purpose of this voluntary and incentive based program is to filter sediments, pesticides, nutrients and other contaminants from runoff before they wash into the rivers and streams during rainfall events. The buffer program has been quite effective and popular with landowners.

The 1998 legislation that launched the state buffer program contained a provision that requires the Executive Director of the State Conservation Commission to ensure that the state initiative is complementary to the federal Conservation Reserve Program (CRP). Today, Kansas Farm Bureau supports HB 2048 that updates the riparian buffer program. Last summer, the federal program authorized an increase in the maximum width for riparian buffers to 180 feet from the original 150 feet. This increased width will allow more water quality protection and makes the

*House Environment  
1-25-01  
Attachment 6*

state buffer initiative compatible with the current federal program.

Additionally, this expanded maximum width can modestly increase the economic benefit to landowners by allowing more cropland that is converted to trees, shrubs and grass to be valued at a lower rate for property tax purposes.

We support Governor Bill Graves' recommendation in his recent State of the State message to a joint session of the Kansas Legislature proposing to expand the buffer program to three additional river basins where TMDL's are now being implemented. While this initiative is being worked through the legislature's appropriation process, we ask each member of this committee to promote and support this important water quality program.

Policy adopted by the farm and ranch members of Farm Bureau contains statements that clearly support the protection of water quality. We encourage:

- Additional efforts to prevent contamination of ground water and surface water;
- Adequate funding to assist landowners with projects including the installation of stream buffers; and
- Support of the Governor's Water Quality Initiative.

We certainly appreciate this opportunity to express our support for HB 2048 that enhances the Kansas Water Quality Buffer Initiative. Thank You!