

MINUTES OF THE SENATE NATURAL RESOURCES COMMITTEE.

The meeting was called to order by Chairperson Robert Tyson at 8:30 a.m. on January 19, 2001 in Room 423-S of the Capitol.

All members were present except: All present

Committee staff present: Raney Gilliland, Legislative Research Department
Jill Wolters, Office of Revisor of Statutes
Judy Krase, Committee Secretary

Conferees appearing before the committee:
Mary Jane Stattelmann, Administrator, KS Agricultural Remediation Board
Rick Bean, Chief of Remedial Section, KDHE
Gary Blackburn, Director, Bureau of Environmental Remediation, KDHE
Clint Riley, Kansas Department of Wildlife and Parks

Others attending: See attached list

Senator Umbarger moved that the minutes from the January 11 and January 12, 2001 meetings be approved. Senator Taddiken seconded the motion. The motion carried.

The first conferee to appear before the committee was Mary Jane Stattelmann, Administrator, Kansas Agricultural Remediation Board. Before she began her overview of the Kansas Agricultural Remediation Board (Attachment 1) she introduced the board members who were with her. They included Linda Peterson, chair and producer representative, Laura Pearl whose family runs an ag retail business, Gary Meyer, Dept. of Ag., manager of the pesticide and fertilizer program, and Rick Bean, KDHE, Chief of Remedial Section. Questions and discussion followed Ms. Stattelmann's presentation.

Staff of Legislative Research pointed out this is a unique board that was established and that it does not operate like other state agencies. The money that the agency expends does not get appropriated by the legislature but yet the board promulgates state rules and regulations. There may be additional responsibility on the rules and regulations committee since the regulations will have the force and effect of law. The rationale for establishing this board was to provide the ability to identify specific areas of pollution around agribusinesses that need to be addressed or cleaned up and to provide a mechanism to get those areas remediated.

Rick Bean briefed the committee of the Voluntary Cleanup and Property Redevelopment Program and State Cooperative Program (Attachment 2). Questions and discussion followed.

Two bill introductions were presented by Gary Blackburn, KDHE. One was concerning natural resource damages trust fund (Attachment 3). The second was the extension of the UST and AST Funds to year 2014 (Attachment 4). Senator Lee moved to recommend the introduction of the bills, seconded by Senator Taddiken. Motion passed.

Wildlife and Parks proposed two bills. The first was concerning furharvester licenses and the second was concerning state park permit late payment fee (Attachment 5). Senator Oleen moved to recommend the introduction of the bills, seconded by Senator Corbin. Motion passed.

The meeting adjourned at 9:30 a.m.

The next meeting is scheduled for January 25 at 8:30 a.m.

SENATE NATURAL RESOURCES COMMITTEE

GUEST LIST

DATE: January 19, 2001

NAME	REPRESENTING
Andy Shaw	Kearney Law Office
Tom Bruno	GRBA
PEGGY HANNA	STATE TREASURER'S OFFICE
Sharon Peave	KARB
B. DePeters	KARB - Chair
Mary Jane Stattelman	KARB
Ed Fung	KDHE
Gary Bloebur	KDHE
Susan Storer	Kansas Water Office
Rick Bean	KDHE
TOM TUNNELL	KGFA/KFCA
Dave Wareham	KGFA/KFCA
Greg Krissch	KCGA/KGSPA
Clint Riley	KDWP
Todd Johnson	KLA
Rebecca Reed	KPA
Gary Meyer	KDA
David Miller	DOB
Chris Wilson	KS Ag Aviation Ass'n
Charles Benjamin	KS Sierra Club
J.P. SMALL	KOCH INDUSTRIES
Jelene Cole	Sen. Lyons Office Staff

SENATE NATURAL RESOURCES COMMITTEE

OVERVIEW OF THE

KANSAS AGRICULTURAL REMEDIATION BOARD

JANUARY 19, 2001

Senate Natural Resources Committee

Date *1-19-01*

Attachment # *1*

Good morning Chairman Tyson and members of the Senate Natural Resources Committee. My name is Mary Jane Stattelman 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 \$90,000 **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 3 Board meetings (another is planned for January 25th) and has had 4 subcommittee meetings. These meetings have focused mainly on the challenge of drafting rules and regulations. 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 in the next few weeks 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.

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 st	\$190	\$130	\$60	\$351,840
Grain Storage	650 ** million bushels	August 31 st - or upon license renewal	\$.0005 per bushel	No fee to federally licensed	\$.0005 per bushel	\$325,000
Pesticide Business Dealer License	1646	July 1 st	\$100	\$20	\$80	\$131,680
Fertilizer Products	2951	July 1 st	\$25	\$5	\$20	\$ 59,020
Custom Fertilizer Blenders	382	Jan. 1 st	\$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.

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.

SENATE NATURAL RESOURCES COMMITTEE

BRIEFING OF THE

VOLUNTARY CLEANUP AND PROPERTY REDEVELOPMENT
PROGRAM

AND

STATE COOPERATIVE PROGRAM

January 19, 2001

Presented by: Kansas Department of Health and Environment

Senate Natural Resources Committee
Date *1-19-01*

Attachment # *2*

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

January 19, 2001

Good morning Chairman Tyson and members of the Senate and Natural Resources 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.

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

January 19, 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 its 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 Mr. Chairman 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

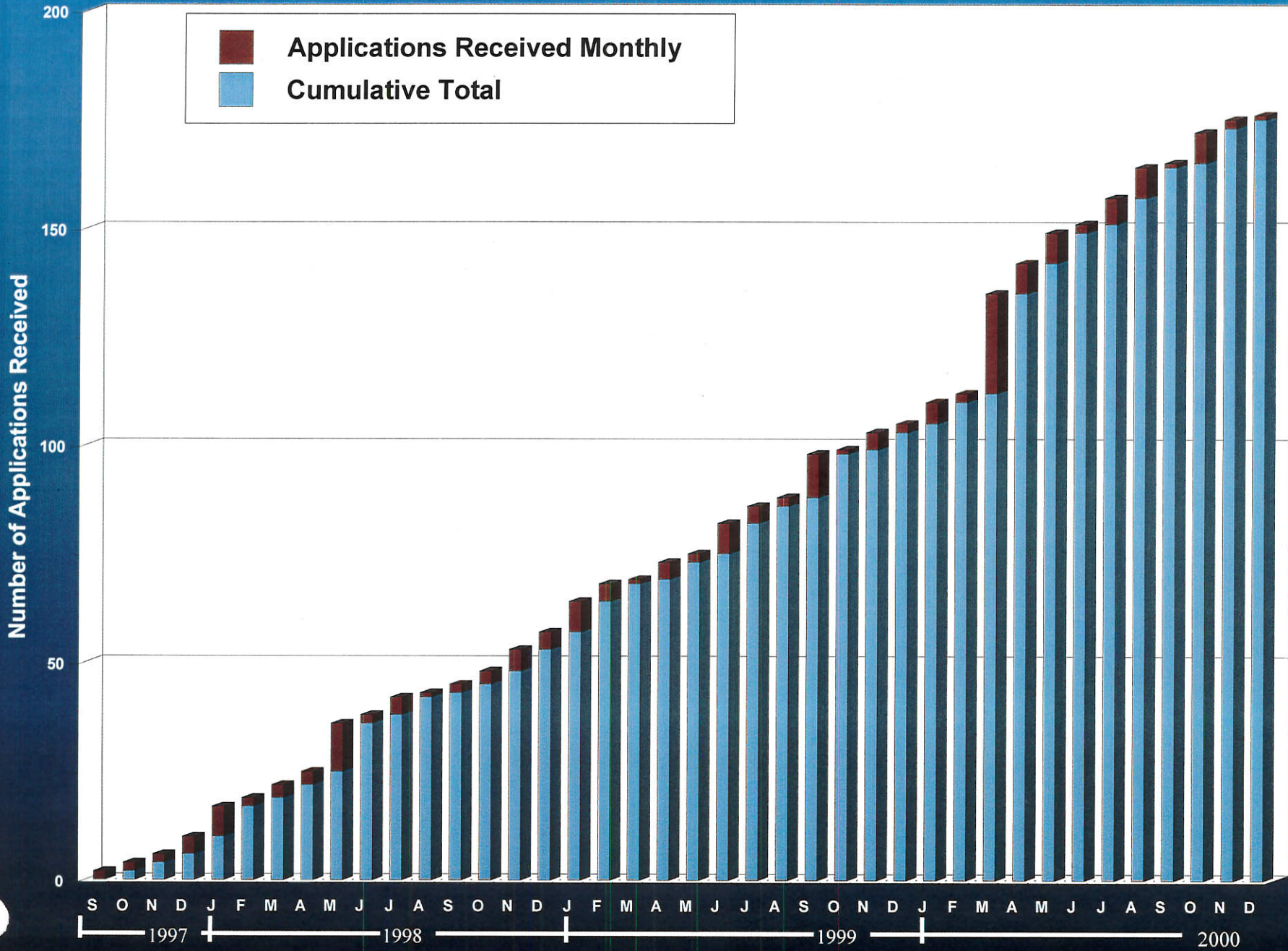
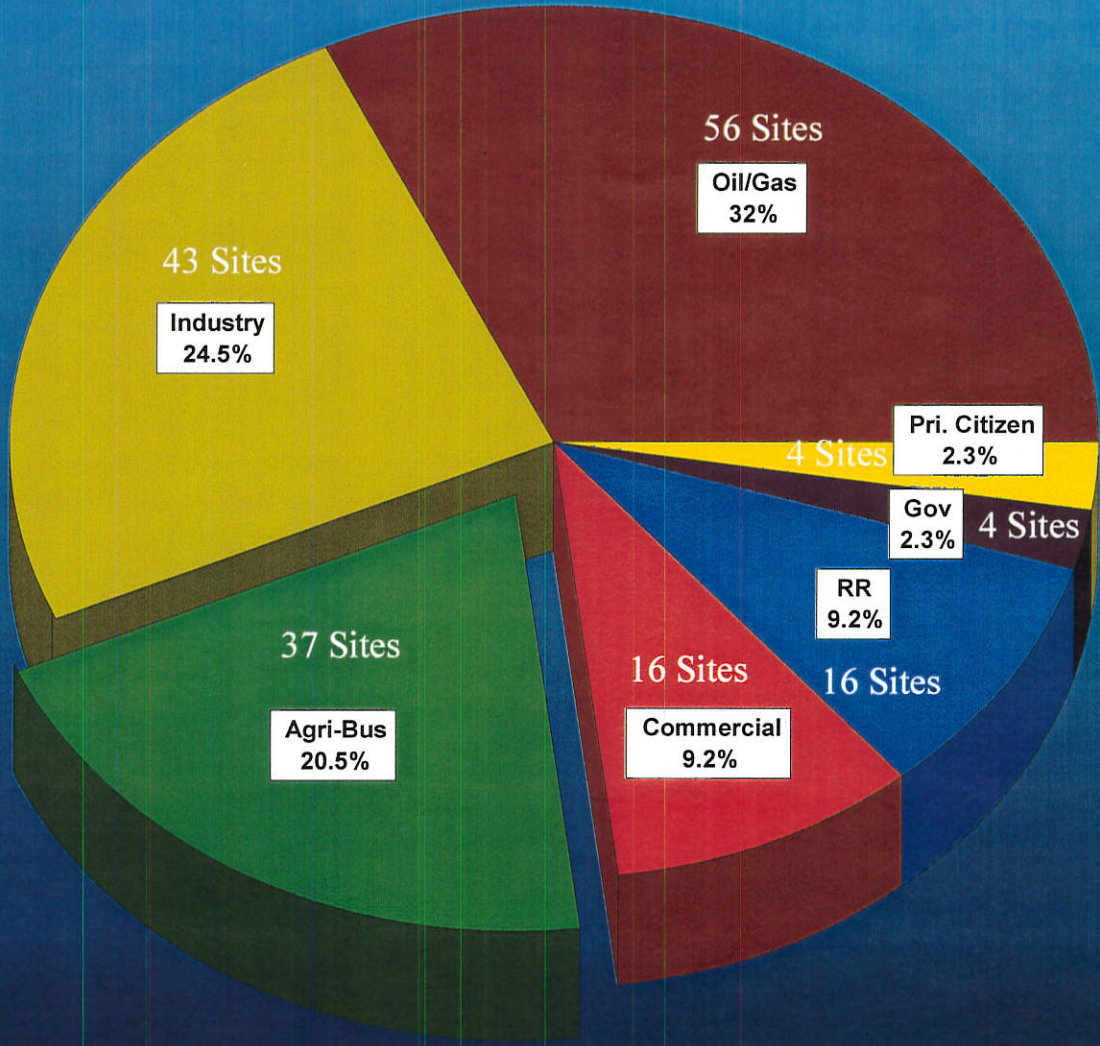


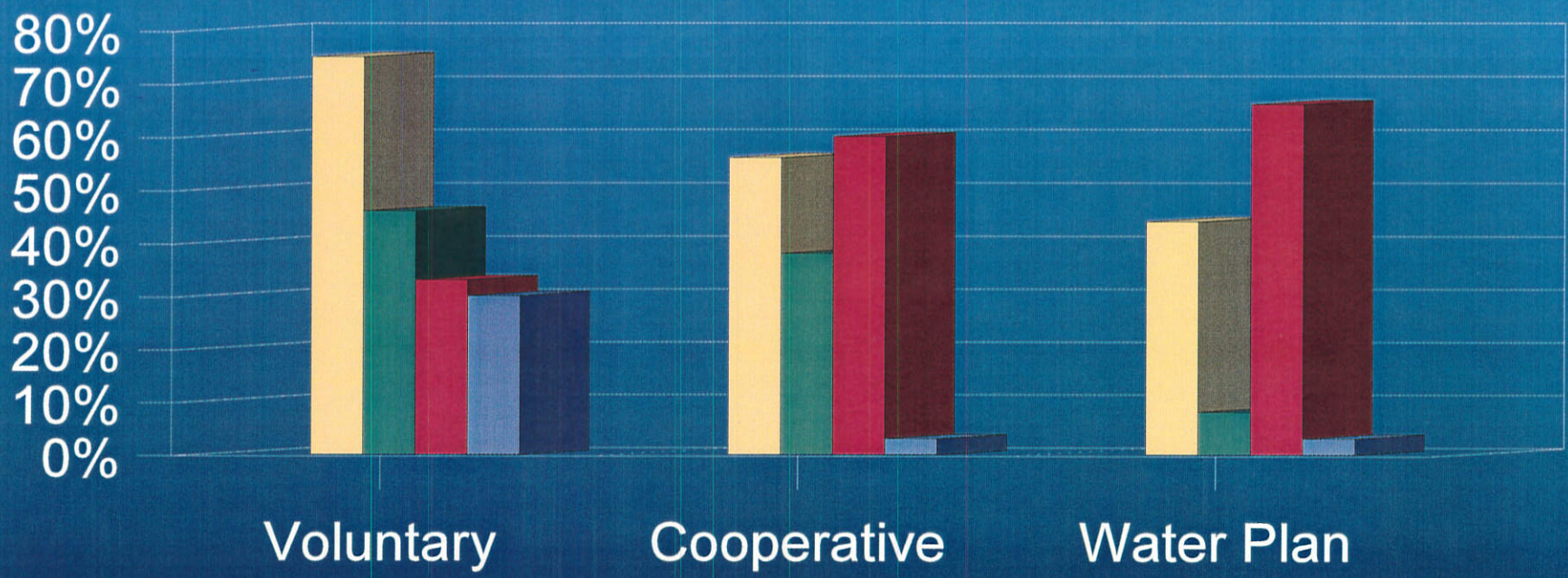
Figure 2 - Summary of VCPRP Applicant Categories

2-6



- 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







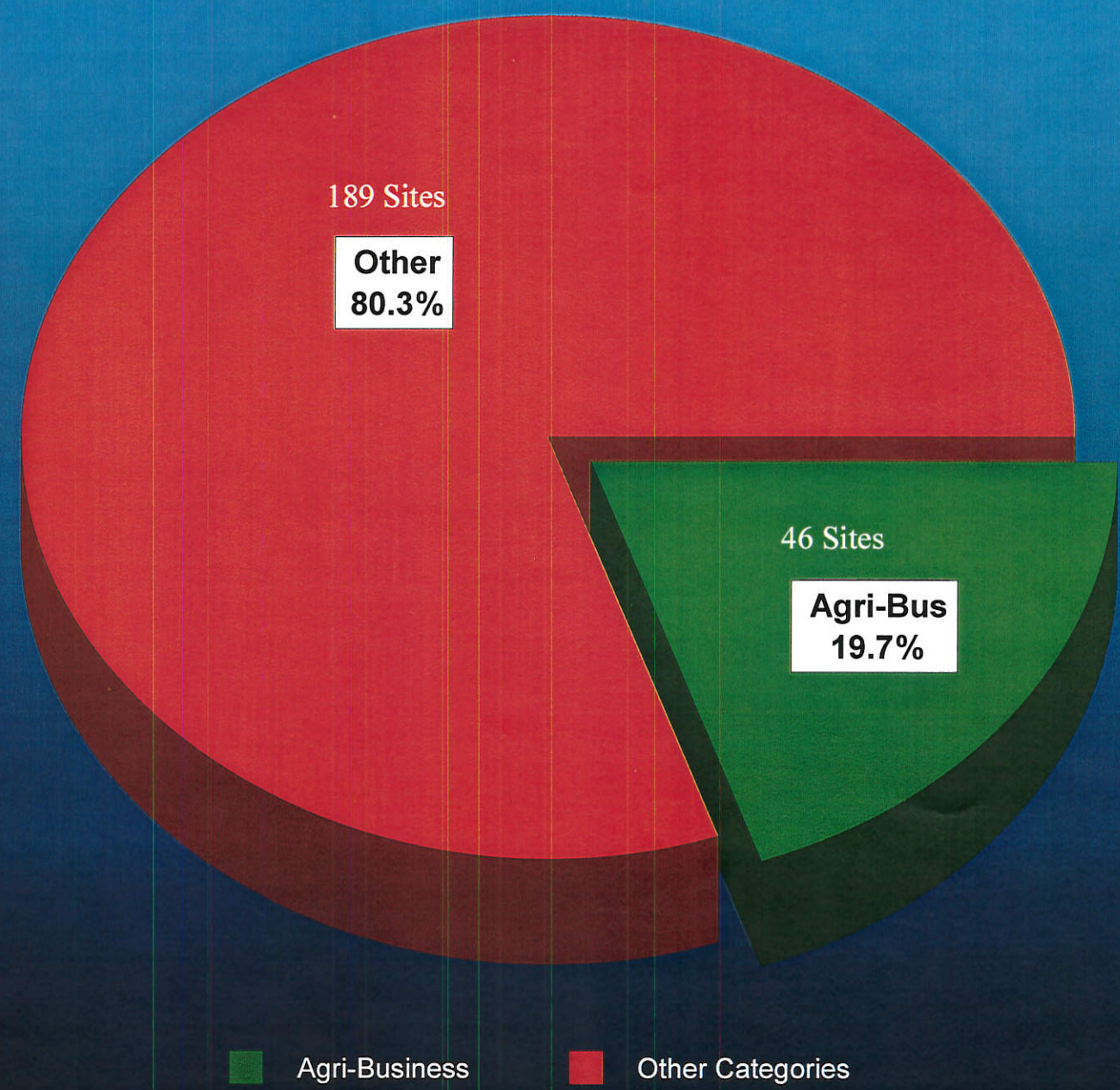
-  Nitrate
-  Pesticides/Herbicides
-  Carbon Tetrachloride
-  Other Contaminants

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



Natural Resource Damage Claims

The Comprehensive Environmental Response, Compensation, and Liability Act, also known as Superfund, authorizes the trustee of the State to assess the damages for injuries to natural resources resulting from releases of hazardous substances at Superfund sites. This process is referred to as Natural Resource Damage Assessment (NRDA). The state's Natural Resource Trustee is the Secretary of the Kansas Department of Health and Environment. Trustees for natural resources may recover damages for injury to, destruction of, or loss of natural resources resulting from the release of a hazardous substance or discharge of oil. Damage awards must be used to restore, replace, rehabilitate, or acquire the equivalent of the injured natural resources. The lead federal agency overseeing the NRDA is the U.S. Department of Interior.

The proposed statute creates an interest bearing fund to receive Natural Resource Damage Claims and provides for the expenditures from the fund to restore the injured natural resources.

PROPOSED LEGISLATION

Natural resource damages fund created; receipts and expenditures allowed.

Be it enacted by the Legislature of the State of Kansas:

Section 1.

(a) As used in this section:

- (1) "Department" means the department of health and environment.
- (2) "Secretary" means the secretary of health and environment.

(b) There is hereby established in the state treasury the natural resource damages trust fund, to be administered by the secretary. All moneys received by the secretary as grants, gifts, bequests, cost recoveries, or state or federal appropriations to carry out natural resource damage restoration or abatement of other environmental damages shall be deposited in such fund. (c) The department shall remit to the state treasurer any proceeds received by the department from the collection of receipts pursuant to Section 2 of this Act. Upon receipt of such proceeds, the state treasurer shall deposit the entire amount in the state treasury and credit it to the natural resource damages trust fund.

Senate Natural Resources Committee

Date 1-19-01

Attachment # 3

Section 2.

(a) Funds from the following sources shall be deposited in the state treasury and credited to the fund:

- (1) moneys received by the secretary in the form of gifts, grants, reimbursements, cost recoveries, or appropriations from any source intended to be used for purposes of the fund; and
- (2) interest attributable to the investment of moneys in the fund.

(b) The natural resource damage fund shall be maintained as individual and separate subaccounts, as follows:

- (1) Funds received from the federal government that are designated for natural resource restoration activities shall be maintained in a separate subaccount. Disbursement of funds from this account shall be made only for activities authorized under Section 2 (c).
- (2) Funds received as cost recoveries, settlements, gifts, grants, or donations from other sources that are designated for natural resource restoration activities shall be maintained in a separate subaccount. Disbursement of funds from this account shall be made only for activities related to the activity for which the funds were collected as specified in the collection document.
- (3) State appropriations, cost recoveries, or funds collected from other sources for emergency response activities or for environmental remediation activities shall be maintained in a separate subaccount. Disbursement of funds from this account shall be made for activities at any sites polluted by environmental pollutants that are excluded from the Environmental Response Act, K.S.A. 65-3452a - 65-3456a, where remedial action is necessary to protect public health or the environment. Moneys may be recovered from persons responsible for these pollutants and moneys collected shall be deposited to the credit of the account.

(c) Subject to the limitations in subsection (b), the secretary is authorized to use funds from the natural resource damages fund to pay the cost of:

- (1) The design, review, implementation or oversight of the implementation of natural resource and environmental restoration plans,
- (2) contracting for services needed to supplement the department's staff expertise in natural resource restoration activities
- (3) mitigation of adverse environmental impacts;
- (4) emergency or long-term remedial activities;
- (5) legal costs, including expert witnesses, incurred in recovery of fund expenditures;
- (6) state cost share for restoration activities undertaken in conjunction with the federal government or others.
- (7) administrative costs necessary to administer the fund

(d) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the natural resource damages trust fund interest earnings based on: (1) The average daily balance of moneys in the natural resource damages trust 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 natural resource damages trust fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary for the purposes set forth in this section.

Section. 3. This act shall take effect and be in force from and after its publication in the Kansas register.

Extension of the UST and AST Funds

Amend **K.S.A. 65-34,123. Advisory board and funds abolished.** Except as provided in K.S.A. 74-7246, and amendments thereto, the board, the underground fund and the aboveground fund shall be and are hereby abolished on July 1, ~~2004~~ 2014.

Senate Natural Resources Committee

Date *1-19-01*

Attachment # *4*



STATE OF KANSAS
DEPARTMENT OF WILDLIFE & PARKS

Office of the Secretary
900 SW Jackson, Suite 502
Topeka, KS 66612-1233
785/296-2281 FAX 785/296-6953



January 18, 2001

Clint Riley

The Honorable Robert Tyson, Chair
Senate Committee on Natural Resources
State Capitol
Room 423-S

Dear Chairman Tyson:

The Kansas Department of Wildlife and Parks requests committee introduction of two proposed bills for 2001 Legislative Session:

1. Furharvester Licenses: Clarifying that a person must either exhibit or attest to having a valid furharvester education card when purchasing a furharvester license.
2. State Park Permit Late Payment Fee: Increasing the amount of a late payment fee when purchasing a state park permit after having been cited for a violation. An individual may not be convicted, if both the permit price and the late payment fee are paid within 24 hours of the citation.

Drafts of each of these proposed bills have been prepared by the Office of the Revisor of Statutes, and are attached.

Thank you for your consideration.

Sincerely,

Steve Williams, Secretary

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Senate Natural Resources Committee

Date *1-19-01*

Attachment # *5*