

MINUTES OF THE HOUSE COMMITTEE ON ENVIRONMENT.

The meeting was called to order by Chairperson Representative Joann Freeborn at 3:30 p.m. on January 28, 2003 in Room 231-N of the Capitol.

All members were present except:

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

Conferees appearing before the committee: Theresa Hodges, Director, Bureau of Environmental Field Services, KS Department of Health and Environment, 1000 SW Jackson, Ste 430, Topeka, KS 66612-1367
 Karl Mueldener, Director, Bureau of Water, Division of Environment, KS Department of Health and Environment, 1000 SW Jackson, Ste 420, Topeka, KS 66612-1367

Others attending: See attached sheet

Chairperson Joann Freeborn called the meeting to order at 3:30 p.m. She reviewed the committee agenda for Thursday, January 30. Professor Wadley, Washburn University School of Law, will review Kansas Water Law.

The Chairperson asked if anyone had a bill request at this time. No one came forward.

Chairperson Freeborn welcomed Theresa Hodges, Director, Bureau of Environmental Field Services, KDHE, to the committee. She presented a summary of activities conducted by the Department to implement KSA 82a-2001. The statute required KDHE to perform two major tasks and to report annually to the Legislature on the progress being made: (1) Evaluate the classification of stream segments against the criteria for classification provided in the statute; and (2) Evaluate the designated uses of classified stream segments. The report provides a chronology of KDHE's efforts. KDHE contracted with United States Geological Survey (USGS) to perform stream flow studies and modeling to determine which streams have a median 1 cfs flow or greater. That work was completed in December and the final report, which was made available to KDHE on January 16, 2003. Of the 2,232 stream segments on the Kansas Surface Water Register, 30% of the segments had an estimated median stream flow of less than 1 cfs when the statutory analysis (most recent 10 years) was used. When the all-available hydrology (AAH) analysis was used, 40% of the stream segments had an estimated median stream flow of less than 1 cfs. An easy way to determine if a stream of interest meets the criteria of a median 1 cfs or greater stream flow is to use the USGS website: www.usgs.gov/Kansas/pubs/press/wrir.02-4292.html

Looking ahead to future tasks, there are several. KDHE is in the process of conducting the triennial review of the surface water quality standards. Seven public meetings have been held across the state to receive input and ideas for revisions to the standards. In addition KDHE has attempted to coordinate the water quality efforts by having attended 3 basin advisory committee (BAC) meetings and plan to attend 4 or 5 other BAC meetings to let them know about the review and seek their input. KDHE will now develop regulatory changes in the water quality standards based upon the comments received. The revisions will then go through the regulatory process. KDHE has met all of the deadlines for activities stipulated in the statute. (See attachment 1) Two maps were provided: (1) Median Streamflows using KSA 82a-2001 Criterion and; (2) Median Streamflows using All-Available Hydrology (AAH) (See attachment 2). Committee questions and discussion followed.

The Chairperson welcomed Karl Mueldener, Director, Bureau of Water, Division of Environment, KDHE, to the committee. He gave a review of two State Revolving Funds (SRF's) which KDHE administers to provide financial assistance to municipalities for the construction of water and wastewater infrastructure. Federal grants have provided capitalization grants to the states for the SRF's. All states operate similar funds. The wastewater SRF was authorized federally in 1987 to phase out the EPA Construction Grant Program

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENVIRONMENT at 3:30 p.m. on January 28, 2003 in Room 231-N of the Capitol.

established in 1972 by the Federal Clean Water Act. The Federal Safe Drinking Water Act was amended in 1996 authorizing a revolving loan fund based on the success of the Clean Water Act SRF for wastewater projects.

Information was provided for Kansas projects receiving SRF loans: (1) Wastewater SRF projects funded since October 1, 2001 and; (2) Drinking water SRF projects funded since July 1, 2001. (See attachment 3) Committee questions and discussion followed.

Chairperson Freeborn thanked Ms. Hodges and Mr. Mueldener for their presentations and the committee and guests for their attention.

The meeting adjourned at 5:05 p.m. The next meeting is scheduled for Thursday, January 30, 2003.



K A N S A S

RODERICK L. BREMBY, SECRETARY

DEPARTMENT OF HEALTH AND ENVIRONMENT

KATHLEEN SEBELIUS, GOVERNOR

Briefing
to
House Committee on Environment
January 28, 2003

Good afternoon Chairperson Freeborn and members of the committee. My name is Theresa Hodges. I am the Director of the Bureau of Environmental Field Services, Kansas Department of Health and Environment. I will present a summary of activities conducted by the Department to implement K.S.A. 82a-2001 et.seq. (SB 204).

The statute required KDHE to perform two major tasks and to report annually to the Legislature on the progress being made:

1. Evaluate the classification of stream segments against the criteria for classification provided in the statute; and
2. Evaluate the designated uses of classified stream segments .

The report provides a chronology of KDHE's efforts. KDHE contracted with USGS to perform stream flow studies and modeling to determine which streams have a median 1 cfs flow or greater. That work was completed in December and the final report, which I believe you have, was made available to KDHE on January 16, 2003. Of the 2,232 stream segments on the Kansas Surface Water Register, 30% of the segments had an estimated median stream flow of less than 1cfs when the statutory analysis (most recent 10 years) was used. When the all-available hydrology (AAH) analysis was used, 40% of the stream segments had an estimated median stream flow of less than 1 cfs. An easy way to determine if a stream of interest meets the criteria of a median 1cfs or greater stream flow is to use the USGS website, www.usgs.gov/Kansas/pubs/press/wrir.02-4292.html.

The Statute describes a 4-part test for stream classification: 1) stream segments with a median flow (most recent 10 years) >1cfs; or 2) stream segments with a wastewater treatment plant discharge (and segments downstream); or 3) stream segments that have actually been shown to have "aquatic" threatened or endangered (T & E) species listed in rules and regulations; or 4) stream segments that have <1cfs median flow, but have pooling that provides important biological refuge and the benefits of

DIVISION OF ENVIRONMENT
Bureau of Environmental Field Services
CURTIS STATE OFFICE BUILDING, 1000 SW JACKSON ST., STE 430, TOPEKA, KS 66612-1367
Voice 785-296-6603 Fax 785-291-3266 <http://www.kdhe.state.ks.us>

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1-28-03
Attachment 1

classification outweigh the costs. We are working to identify those stream segments that receive a wastewater discharge. And, we are working with the Department of Wildlife and Parks to identify what is considered "aquatic" T & E species.

In order to integrate the provisions of the statute into the water quality standards, the regulations were modified, public hearings were held and the regulations were adopted by the Secretary December 9, 2002, with an effective date, under State law, of January 3, 2003. The regulations were sent to EPA on December 10, 2002 for approval. To date, we have had no response from EPA. By regulation, EPA has 60 days to approve the submittal, or 90 days to disapprove.

A use attainability analysis (UAA) is defined as a study conducted or accepted by the department that is designed to determine whether or not a surface water or surface water segment supports, or is capable of supporting in the absence of artificial sources of pollution, one or more of the designated uses. KDHE published a guidance document December, 2001 which describes the protocol for such a study. The surface water quality standards define 7 designated uses: agricultural water supply use (irrigation and livestock watering), aquatic life support use (special, expected, restricted), domestic water supply use, food procurement use, groundwater recharge use, industrial water supply use, and recreational uses (primary and secondary contact recreation).

The statute requires KDHE to complete recreational UAAs on all stream segments listed in the 1999 Surface Water Register where such UAAs have not been conducted (25% each year through October, 2005). During the 2001 field work season UAAs were performed on 167 stream segments. In the December 9, 2002 regulatory adoption of water quality standards, 29 stream segments were proposed for deletion; 67 stream segments were proposed for secondary contact recreation and 1 stream segment was proposed for primary contact recreation. Recreational UAA field work was conducted on 314 stream segments during the period of April 1 through October 31, 2002. The reports on these latest UAAs are being developed for review, both internally and then subject to the public participation process.

The statute required KDHE to publish a listing of currently classified stream segments that have had UAAs conducted to assign designated uses other than recreational uses, where other uses have been determined not attainable and those stream segments where such UAAs have not been conducted. The report includes a series of maps which depict, by individual uses, the stream segments in each of these categories.

Looking ahead to future tasks, there are several. KDHE is in the process of conducting the triennial review of the surface water quality standards. Seven public meetings have been held across the state to receive input and ideas for revisions to the standards. In addition KDHE has attempted to coordinate the water quality efforts by having attended 3 basin advisory committee (BAC) meetings and plan to attend 4 or 5 other BAC meetings to let them know about the review and seek their input. KDHE will now develop regulatory changes in the water quality standards based upon the comments received. The revisions will then go through the regulatory process.

The designated use changes resulting from the UAAs conducted during the 2002 field work season will be reviewed internally, public comment will be sought and then they too must be adopted into regulations through the regulatory process. Additionally KDHE is to establish a procedure in rules and regulations to insure that all reviews pertaining to the scientific studies to determine if the stream segment provides an important biological refuge and the determination of the cost/benefit analyses meet the statutory requirements. EPA is currently working on developing recreational UAA guidance which is to include economic analyses. KDHE is hopeful that this guidance from EPA will be helpful in the development of a protocol to address cost/benefit as it pertains to use attainability analyses. And, with the stream flow data now available from USGS, we can better delineate those streams which fall into the category that will require a cost/benefit analysis.

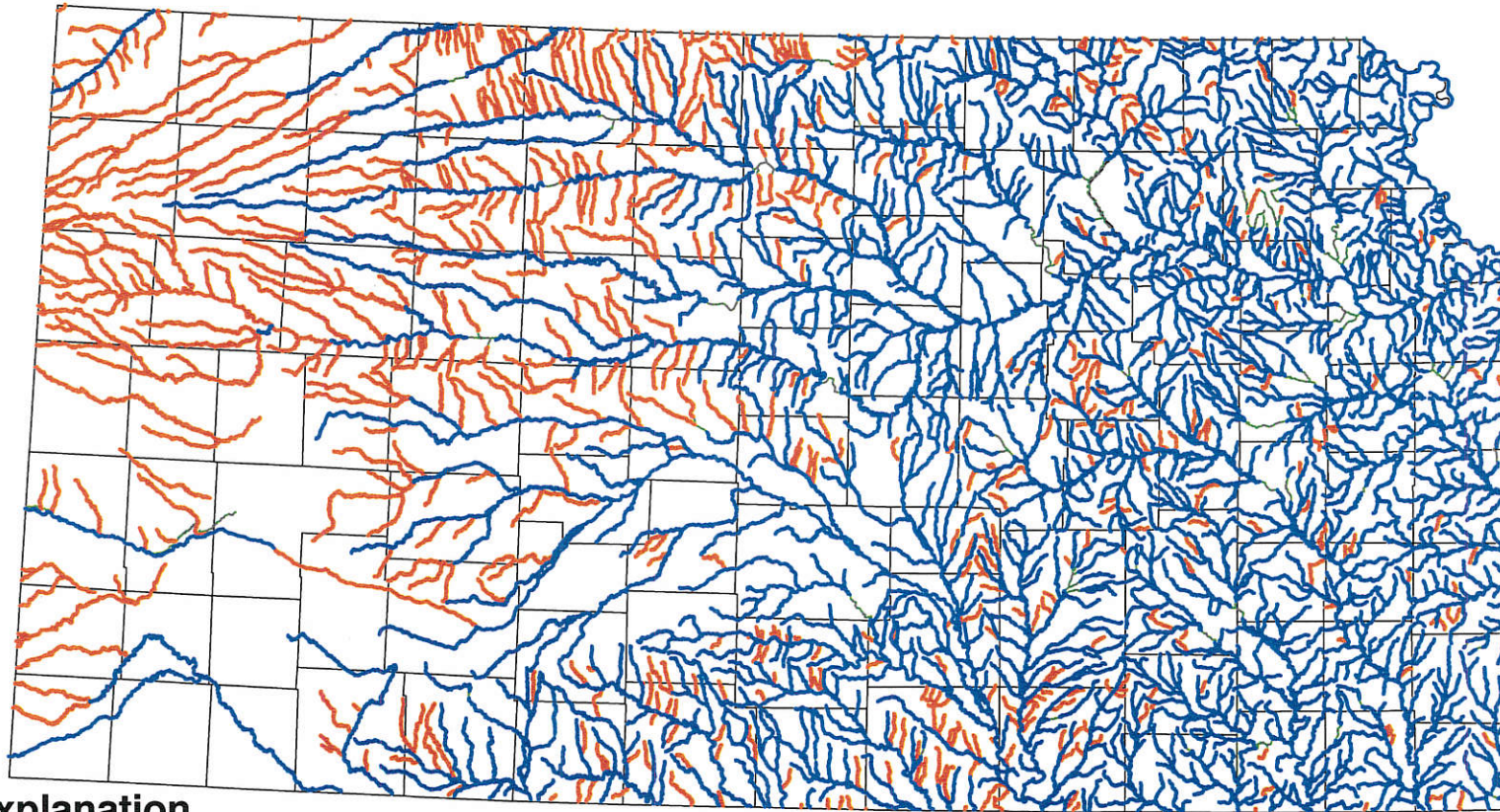
KDHE has met all of the deadlines for activities stipulated in the statute.

I will be glad to answer any questions.

Respectfully Submitted,

Theresa L. Hodges
Director
Bureau of Environmental Field Services

Median streamflows Using KSA 82a-2001 Criterion
(Last 10 years of streamflow data at sites with at least 10 years of record)



Explanation

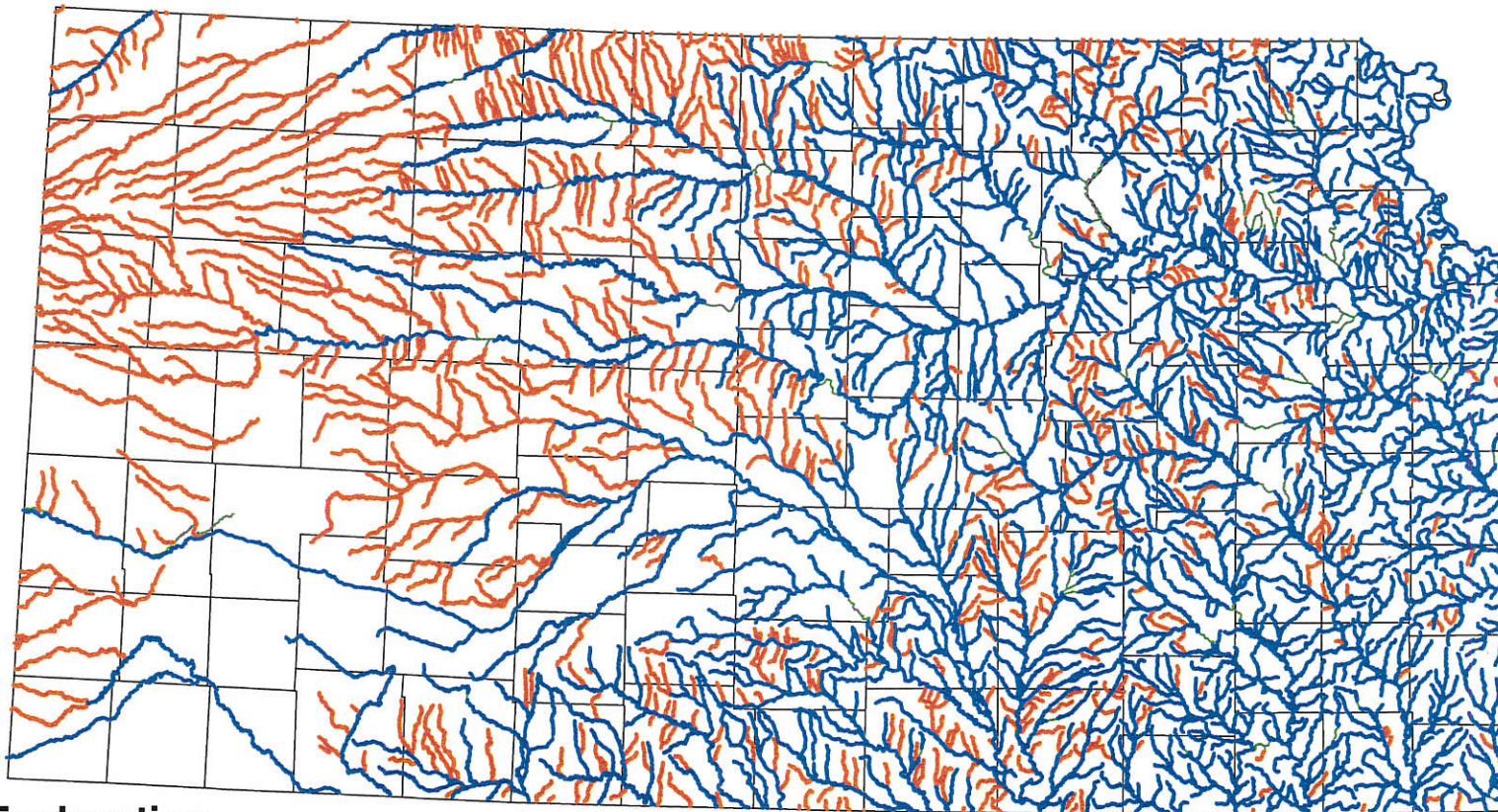
- KSA Median flow ≥ 1 CFS
- KSA Median flow < 1 CFS
- Unclassified stream segment
- County boundary

30 % of the stream segments of the Kansas Surface Water Register have less than 1 CFS median flow at their downstream end (KSA)

Reference: U.S. Geological Survey Water Resources Investigations Report 02-4292

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Attachment 2*

Median Streamflows Using All-Available Hydrology (AAH) (All streamflow data at sites with 10 or more years of record)



Explanation

- AAH Median flow ≥ 1 CFS
- AAH Median flow < 1 CFS
- Unclassified stream segment
- County boundary

40 % of the stream segments of the Kansas Surface Water Register have less than 1 CFS median flow at their downstream end (AAH)

Reference: U.S. Geological Survey Water Resources Investigations
Report 02-4292



K A N S A S

RODERICK L. BREMBY, SECRETARY

DEPARTMENT OF HEALTH AND ENVIRONMENT

KATHLEEN SEBELIUS, GOVERNOR

**Testimony on State Revolving Funds
to
House Environment Committee
Presented by Karl Mueldener
Director, Bureau of Water**

January 28, 2003

KDHE administers two revolving loan funds (SRF's) to provide financial assistance to municipalities for the construction of water and wastewater infrastructure. The programs are authorized under K.S.A. 65-3321 et seq. and K.S.A. 2001 Supp. 65-163d et seq. Federal grants have provided capitalization grants to the states for the SRF's. All states operate similar funds. The wastewater SRF was authorized federally in 1987 to phase out the EPA Construction Grant Program established in 1972 by the Federal Clean Water Act. The Federal Safe Drinking Water Act was amended in 1996 authorizing a revolving loan fund based on the success of the Clean Water Act SRF for wastewater projects.

The financial design of the two SRF's is very similar. States are required to provide at least a 20% match to the federal capitalization grant. Kansas match money is provided through the issuance of revenue bonds through Kansas Development Finance Authority. The bond payments are met through the repayments made by municipalities borrowing from the fund. In both SRF's, Kansas has provided funds beyond the minimum match required in order to make the SRF's larger and to better meet local municipal financial needs.

Interest rates are different between the two SRF's. The wastewater interest rate is 60% of market, while the drinking water rate is 80% of market. The financial design of the drinking water SRF is more aggressive than the wastewater SRF. The drinking water SRF was established after we had the opportunity to learn from our wastewater experiences. Within the drinking water SRF, Kansas essentially turns each federal dollar provided into four dollars in loans to municipalities. Another unique feature of the drinking water SRF is a requirement for a Financial Integrity Assurance Contract (FIAC) with certain borrowers. The drinking water SRF loans money to municipalities,

DIVISION OF ENVIRONMENT
Bureau of Water

CURTIS STATE OFFICE BUILDING, 1000 SW JACKSON ST., STE 420, TOPEKA, KS 66612-1367

Voice 785-296-5500

Fax 785-296-0086

<http://www.kdhe.state.ks.us>

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Attachment 3*

which have taxing authority, and rural water districts, which do not have taxing authority. A loan recipient who does not pledge local taxing authority as a guarantee of loan repayment, or who does not insure the loan, is required to enter into a FIAC. The FIAC is intended to assure the borrowing municipality keeps their local finances in order, thus assuring the loan is repaid. This FIAC program is carried out through a contract with the Kansas Rural Water Finance Authority. Rural Water Finance also assists KDHE in marketing the drinking water SRF. The joint effort provides a good linkage to the many small water systems commonly found in Kansas. This cooperative effort is the only one in place in the United States and has been favorably commented upon by the financial rating agencies.

Attached for your information are summary sheets describing the two SRF's, a simplified schematic of how the fund works, and a list of projects recently funded.

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Attachments

KANSAS PROJECTS RECEIVING SRF LOAN

Wastewater SRF Projects Funded Since October 1, 2001

<u>City/Project Name</u>	<u>Loan Amount</u>	<u>City/Project Name</u>	<u>Loan Amount</u>
Attica	301,986	Moscow	361,250
Beverly	100,000	Newton	1,300,000
Clearwater	1,407,000	Nortonville	691,500
Conway Springs	325,000	Olpe	567,303
Emporia	7,963,900	Ottawa	8,882,693
Ford	192,067	Scranton	199,000
Glen Elder	175,488	Seneca	900,000
Harveyville	138,000	Shawnee Co.	8,434,000
Hutchinson	6,800,000	Shawnee Co.-Stinson Crk	2,219,600
Kinsley	954,500	SO. Hutchinson	6,800,000
Lebo	979,440	St. Francis	400,000
Linwood	215,312	Stark	84,275
Lyons	800,000	Topeka	31,000,000
Meade	1,100,000	West Mineral	360,350
Montgomery Co.	250,000		

Drinking Water SRF Projects Funded Since July 1, 2001

<u>City/Project Name</u>	<u>Loan Amount</u>	<u>City/Project Name</u>	<u>Loan Amount</u>
Douglas Co. RWD #4	1,250,000	Marysville	350,000
Garden City	3,000,000	Medicine Lodge	650,000
Garnett	1,230,000	Newton	1,400,000
Hiawatha	1,374,044	Osage City	2,036,500
Hutchinson	2,508,271	Osage Co. RWD #1	250,000
Iola	9,000,000	Osawatomie	902,250
Jewell	550,300	Overbrook	160,000
Lawrence-1	7,000,000	Pottawatomie RWD #3	564,422
Lawrence-2	5,620,015	Public WWD #4 (Cherryvale)	737,000
Leavenworth Co. CRWD #7	1,652,957	Salina Co. RWD #4	238,605
Maize	5,000,000	Sharon Springs	642,481

KDHE/BOW
January 17, 2003

KANSAS SRF SCHEMATIC

