

MINUTES OF THE HOUSE ENVIRONMENT COMMITTEE

The meeting was called to order by Chairperson Joann Freeborn at 3:30 P.M. on January 18, 2005 in Room 231-N of the Capitol.

Committee members absent:

Representative Tom Sloan- excused

Committee staff present:

Raney Gilliland, Legislative Research Department
Lisa Montgomery, Revisor of Statutes Office
Emalene Correll, Legislative Research
Dana Wurdeman, Committee Secretary

Conferees appearing before the committee:

Gary Blackburn, Director, Bureau of Environmental Remediation
Karl Mueldener, P.E., Director, Bureau of Water

Others attending:

See Attached List

Chairperson Joann Freeborn called the meeting to order.

Announced that the revised agenda consisted of presentations on the Public Water Supply Loan Fund and the Safe Drinking Water Act and the Aboveground Storage Tank and Underground Storage Tank programs.

The Chairperson also announced that there will be a hearing on **HB 2017, an act concerning public water supply systems on January 20.**

Chairperson Freeborn welcomed Gary Blackburn, Bureau of Environmental Remediation, Kansas Department of Health and Environment to provide an overview of the Aboveground Storage Tank and Underground Storage Tank (UST) programs. (See attachment 1). Federal regulations passed December 22, 1988, required tank registration financial assurances for releases. Additional requirements were passed December 22, 1998, requiring UST's in service to protect against corrosion, spills and overfills. The Kansas Legislature passed the Kansas Storage Tank Act in 1989 to enable the state to respond to Environmental Protection Agency requirements. Additional legislative actions have been taken to enable meeting the financial obligations of EPA requirements.

Chairperson Freeborn asked whether there were issues for discussion. Committee questions and discussion followed.

Chairperson Freeborn complimented Mr. Blackburn and KDHE staff for their program leadership which has served as a model for other states.

Chairperson Freeborn asked if there was anyone present wishing to request legislation on behalf of their agency or the public. There was no response.

The Chairperson welcomed Karl Mueldener, Director, Bureau of Water, KS Department of Health and Environment, to present information regarding the Kansas Public Water Supply Loan Fund (drinking water) and the Water Pollution Control Revolving Fund (wastewater). An overview of the wastewater revolving fund was presented first (See Attachment 2) Both funds have their origins in federal law and are quite similar. The funds allow low interest loans by the state to local municipalities. Originally designed as a grant program but when it became known that the issues would be ongoing, the revolving loan fund concept evolved. In 1988, the state passed laws that allowed funds to be set up in perpetuity. KDHE and the Kansas Development Finance Authority (KDFA) cooperate in these programs with KDHE providing engineering/scientific expertise and KDFA serving as the financier. The loan fund concept is much easier to administer because it does not require the minute details of a grant program.

Mr. Mueldener provided an overview of the drinking water state revolving fund, touching on the similarities

CONTINUATION SHEET

MINUTES OF THE House Environment Committee at 3:30 P.M. on January 18, 2005 in Room 231-N of the Capitol.

and variances from the water pollution control revolving fund (See Attachment 3) One of the differences in this program is that we had state authority prior to federal mandates. Kansas is the only state to have an association (KRWFA) that provides financial oversight for borrowers without taxing authority, to assure continued good financial health.

Chairperson Freeborn adjourned the meeting at 4:50. The next meeting is scheduled for January 20.

HOUSE ENVIRONMENT COMMITTEE GUEST LIST

DATE: 18 Jan, 05

NAME	REPRESENTING
Randy Carlson	KDHE
Gary Blackburn	KDHE
Amber Shaverdi	PMCA
SEAN MILLER	KS Dairy Assn
CV CotsoRADIS	KDA
Karl Mueldeener	KDHE
Gary Moya	KACD
Larry Miller	KCID
Dave Waldo	KDHE
Red Kunkin	KDHE
TERRA FEATHER	KDFA
Lucas Bell	Kearney and Associates
Mary Ann Stankiewicz	KGFA / KARA
John W. Botkin	Wostar
Steve Swaffar	KS Farm Bureau
BRAD HARRELSON	KFB
TOM PALACE	PMCA
Ron Seibel	Ken Law Firm

Charles Benjamin
John C. Peterson

KS Sierra Club
KS Governmental Consulting



K A N S A S

RODERICK L. BREMBY, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

DEPARTMENT OF HEALTH AND ENVIRONMENT

**Testimony on Petroleum Storage Tank Program
to
House Environment Committee
Presented by Gary Blackburn
Director of Bureau of Environmental Remediation**

January 18, 2005

Chairperson Freeborn and members of the House Environment Committee, I am pleased to appear before you today to provide an overview of the Storage Tank Program.

Federal regulations developed by the Environmental Protection Agency became effective on December 22, 1988. The requirements were designed to be phased in over a ten year period. During the early phases of the program, owners and operators (O/O) were required to register their underground storage tanks (USTs), provide leak detection and maintain financial assurance for releases. The later phase of the program required all USTs remaining in service to be protected against corrosion, spills and overfills by December 22, 1998.

The Kansas Storage Tank Act was passed by the Kansas Legislature in 1989 to provide KDHE with statutory authority to develop regulations to implement a program to satisfy the EPA mandate. The overall goal of this program is to protect the health, safety and groundwater quality of Kansas from contamination resulting from petroleum product releases from USTs.

The federal law required owners of USTs to meet financial responsibility requirements by October 26, 1991. The Kansas Legislature passed Senate Bills 398 and 554, during the 1989 and 1990 legislative sessions respectively, to provide UST O/Os in Kansas a method to meet the federal financial responsibility requirements. The Petroleum Storage Tank Release Trust Fund (UST fund) was created during the 1989 legislature to provide pollution liability coverage for tank O/O who had no other means of meeting these federal requirements. Coverage for third party claims for personal injury and property damage, as required by the federal law, are not addressed by the UST Fund. S.B. 554 established a program, administered by the Kansas Insurance Department, to provide third party

liability coverage for tank owners. This insurance coverage for third party liability, in compliance with the federal laws, can be arranged through most insurance agents. An average fee of \$175 per tank is required for tank owners to participate in this program.

The UST fund solved several problems by providing the required pollution liability coverage for active USTs and providing funding for corrective action for many past releases. The UST fund is a reimbursement program operated by KDHE that reimburses the O/O for much of the approved cost of corrective action. Three bids are required to accomplish the tasks in a price competitive manner. During the 1992 legislative session the aboveground storage tank fund (AST fund) was enacted which is similar to the UST fund, since releases from these tanks posed similar environmental risks to the public.

Due to the overwhelming number of applications for assistance, KDHE developed a ranking system to evaluate the risk associated with each site. The ranking system is designed to accelerate remedial activities at sites where the greatest risk to the public exists. KDHE Storage Tank staff have closely supervised the installation and operation of several hundred active remediation systems. Systems operated by the funds supply treated drinking water that is provided to over 150,000 residents statewide where releases from storage tanks have contaminated community wells. Water treatment systems are being operated on 48 public water supply wells in 23 communities across the state.

The O/Os are required to perform the remedial action and seek reimbursement from the funds. The O/O selects the consultant to perform the approved work and signs a contract with the consultant to perform the required action. The work is performed and reimbursement is provided to the O/O through the funds, once the work has been completed. These reimbursements are provided within a four week time period because most of the O/Os cannot provide payment for these services through their own resources. At this time about 2000 sites are being addressed through the AST and UST funds. Due to the large number of sites, the complex nature of the work and the long term nature of the corrective action, these scopes of work are negotiated and approved on a two year cycle.

The Environmental Assurance fee provides the funding for the UST and AST funds from a \$.01 fee placed on each gallon of petroleum (except aviation fuel) manufactured in or imported into the state. At any time when the unobligated balance of the UST fund is equal to \$2,000,000 or less, fees are collected and credited to the UST fund until the unobligated balance equals or exceeds \$5,000,000. Any time the unobligated balance of the AST fund is equal to \$500,000 or less and the money is not required by the UST fund, money is credited to the AST fund until the unobligated balance equals or exceeds \$1,500,000 or until the UST fund requires the fees. At any time when neither fund requires money, the Environmental Assurance fee is not levied. The Environmental Assurance Fee was shut off as of the end of December of 2004 after about 11 months of collection.

Based on current spending, the fee will be off for about 3 months.

Even though this program has been in place for 14 years, contaminated sites are still being discovered. As indicated in the attached reports, applications were received at a rate of 4 per month in the UST fund and 10 per year in the AST fund, last year. Many of the sites entering the programs are discovered during redevelopment activities. The program works well with banks and developers to allow for use of the property while corrective action is ongoing. Over the years, this program has been successful in providing tank owners with low cost insurance and performing the corrective action needed to protect the public.

Copies of the FY 2004 Annual reports for the UST and AST funds are included with the package of information. Those reports contain statistics and cost information related to the activities of those programs. I will be happy to answer questions about the testimony or the reports.



K A N S A S

RODERICK L. BREMBY, SECRETARY

DEPARTMENT OF HEALTH AND ENVIRONMENT

KATHLEEN SEBELIUS, GOVERNOR

Testimony on Kansas Water Pollution Control Revolving Fund

Wastewater SRF

Program Briefing

to

House Environment Committee

Presented by Karl Mueldener

Director, Bureau of Water

January 18, 2005

KDHE administers the Kansas Water Pollution Control Revolving Fund, known as the wastewater SRF. SRF stands for state revolving fund. The SRF is a way for the state to help communities finance construction of water pollution control infrastructure. Loans are made by the state to communities at below market rates. Repayments on the loans are returned to the SRF and to revolve for future loans to other communities. The SRF was authorized by federal legislation (Clean Water Act) in 1988, and by state legislation, K.S.A. 65-3321 et seq. in 1989. This program has been very successful and is an example of what can be accomplished cooperatively between local, state, and federal government.

KDHE administers the wastewater SRF in close cooperation with the Kansas Development Finance Authority (KDFA) and the Department of Administration. KDFA provides financial expertise and arranges for the required state match funds. The federal EPA makes a grant to the state, which is required to provide a 20% match. Kansas has provided the required match by issuance of revenue bonds. The repayment stream from local municipalities provides revenue by which the state bond payments are made. In effect the bonds are supported by the monthly wastewater fees of municipalities with an SRF loan. In 1993 our financial analyses indicated the SRF could support additional revenue bonds beyond the minimum 20% required by federal law. As the funding requests from municipalities were greater than the SRF, Kansas has continued to provide a state match in excess of the minimum 20% required. This is commonly referred to as leveraging. Again this leveraging or overmatching is through bonds, which are repaid from the

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Bureau of Water

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House Environment Committee
January 18, 2005
Attachment 2

loan proceeds of the borrowing municipalities. All assets of the SRF are pledged to repay the revenue bonds. The Kansas SRF bonds have been rated by Wall Street and have been well regarded and recently upgraded to AAA rating.

Since inception in 1989, KDHE has made an average of 17 loans per year for an average loan amount of \$2.5 million. Interest rates are set by regulation at 60% of market based on the last three months. A loan today would have an interest rate of 2.70%. Municipalities serving less than 5,000 population having received roughly 75% of the loans and 30% of the dollars. Repayments can be established in any schedule requested by the municipality, but are limited to 20 years. A convenient feature with the SRF is a municipality does not need to arrange for temporary financing. The SRF also covers engineering and administrative costs. The largest and smallest loans to date were for about \$60 million and \$20,000.



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DEPARTMENT OF HEALTH AND ENVIRONMENT

KATHLEEN SEBELIUS, GOVERNOR

**Testimony on Kansas Public Water Supply Loan Fund
Drinking Water SRF
Program Briefing
to
House Environment Committee
Presented by Karl Mueldener
Director, Bureau of Water**

January 18, 2005

KDHE administers the Kansas Public Water Supply Loan Fund, also known as the drinking water SRF. SRF stands for state revolving fund. The SRF is a way for the state to help cities and rural water districts finance construction of water supply infrastructure. Loans are made at below market interest rates. Loan repayments return to the SRF and revolve into future loans to other communities and water districts. The SRF was authorized by the 1996 Amendments to the Federal Safe Drinking Water Act, and by K.S.A. 65-163d to 65-163u. The SRF has been very successful and is an example of what can be accomplished cooperatively between local, state, and federal government.

The SRF is administered in close cooperation with the Kansas Development Finance Authority (KDFA) and the Department of Administration. The EPA makes a capitalization grant to the state and the state is required to provide 20% matching funds. KDFA provides financial expertise and arranges for the required state matching funds through the sale of revenue bonds. The Department of Administration provides accounting services for the program. The Kansas Rural Water Finance Authority (KRWFA) assists by performing financial reviews of all applicants to assure the loans will be repaid. The drinking water SRF provides loans to municipalities, who can pledge property tax as a guarantee of loan repayment; and to rural water districts, who have only their water system revenues to assure repayment. The KRWFA provides additional financial oversight for borrowers without taxing authority, to assure continued good financial health.

DIVISION OF ENVIRONMENT

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January 18, 2005

Attachment 3

The drinking water SRF operates as a leveraged program. The EPA grant is placed in reserve and invested. Investment earnings are used to subsidize the interest rate charged to municipalities. Interest rates are set at 80% of market. All funds loaned to municipalities, as well as the required state matching funds, come from the sale of revenue bonds by KDFA. The reserve account is pledged to bondholders to secure the revenue bonds. The last revenue bond sale was rated AAA by Standard & Poor and by Fitch Investor's Services.

State law limits repayment periods to a maximum of 20 years. Repayments can be structured to meet the needs of the community. The loan program covers engineering and administrative costs in addition to construction costs. A municipality does not need to arrange for temporary notes.

Since its inception in 1997, KDHE has made an average of 16 loans for an average loan amount of \$2.2 million. January's interest rate is 3.60%. Communities and water districts serving less than 5,000 population received 70% of the loans and 37% of the dollars. The largest loan is \$20 million and the smallest is \$33,800. Current EPA funding levels support approximately \$36 million in new loans annually.