

MINUTES OF THE HOUSE ENVIRONMENT COMMITTEE

The meeting was called to order by Chairman Joann Freeborn at 3:30 P.M. on January 27, 2005 in Room 231-N of the Capitol.

All members were present except:

Representative Forrest Knox- excused

Committee staff present:

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

Conferees appearing before the committee:

Bill Bider, Director, Bureau of Waste Management
Steve Irsik, Chairman, Kansas Water Authority
Tracy Streeter, Director Kansas Water Office

Others attending:

See attached list.

Chairperson Freeborn called the meeting to order.

Chairperson Freeborn introduced the new Committee Secretary, Pam Shaffer, and asked that she say a few things about herself, which she did.

Chairperson Freeborn announced the agenda for next Tuesdays meeting, possible action on **HB2052** - **Changes definition of uncontaminated soil in the solid waste statutes.** There will also be an overview of Abandon gas & oil well remediation by Mr. Jenkins from the Commission. There were no bill requests..

Chairperson Freeborn announced a change in the agenda today, stating that first would be the Hearing on **HB2052** - Mr. Bider who was testifying in behalf of the bill had another appointment and needed to leave.

Chairperson Freeborn opened the hearing on **HB2052**. Bill Bider, Director, Bureau of Waste Management, KDHE testified in support of the proposed legislation which he sponsored. Mr. Bider appreciated the opportunity to provide testimony. This bill was introduced by KDHE to provide flexibility in the ways that lowly contaminated soil may be managed. According to current law, all "contaminated" but non-hazardous soil must be disposed of in a permitted land fill, regardless of how low the contamination may be. Soils that present little or no risk may not be used as beneficial fill, but must instead be land filled consuming valuable and limited landfill space. This is because soil with any level of contamination fails to conform to the statutory definition of "clean rubble" which can only include "uncontaminated" soil. This proposed change to the law directs KDHE to define "contaminated soil" in rules and regulations. This will give KDHE an opportunity to define "uncontaminated soil" as soil that actually contains low levels of contamination, if it can be demonstrated that risks to human health and the environment are acceptable. At this time, KDHE intends to use the department's "RSK Manual" (Risk based Standards for Kansas) to establish contaminant levels that are considered safe. These risk based standards are presently used by KDHE regulatory programs to determine if corrective measures are necessary at a contaminated site. If contaminant levels in the soil are below the standards, no further actions or control are required. It follows that soil with contaminant levels below these standards should be usable as beneficial fill rather than require landfill disposal. Since KDHE already has the RSK Manual and since it is routinely reviewed and updated as appropriate, no additional staff effort is required. Therefore, this bill has no fiscal impact to the state. Benefits of this bill to Kansas would be (1) lower clean-up costs to responsible parties; (2) conservation of soil by allowing its use as fill; and (3) conservation of landfill space. Mr. Bider thanked the committee for their time and consideration of this proposal to increase flexibility in how lowly contaminated soil is managed. (Attachment 1)

Chairperson Freeborn thanked Mr. Bider for his testimony. Committee questions and discussion followed.

CONTINUATION SHEET

MINUTES OF THE House Environment Committee at 3:30 P.M. on January 27, 2005 in Room 231-N of the Capitol.

Chairperson Freeborn closed the hearing on **HB 2052**.

Chairperson Freeborn welcomed Steve Irsik, Chairman, Kansas Water Authority, and Tracy Streeter, Director, Kansas Water Office to provide a briefing on the Kansas Water Authority and to introduce Water Authority members who were present. Mr. Irsik thanked the Chair and Committee Members. Mr. Irsik introduced the Water Authority members who were present, Dennis Schwartz, Water Authority Member and Don Paxson, Kansas Water Authority Vice-Chair. Mr. Irsik stated that everything is not fine with water in the state of Kansas. He then referred to MAP in brochure, the Ogallala-High Plains aquifer area in western area of the state is being depleted. Every gallon taken out is one less gallon there to recover. That is the primary water source for the western third of the state. The blue polka dots on the map indicate the watersheds and the dams that 750,000 people rely on as their only water source. Siltation, in most cases premature siltation, because of this, we are losing 6,000 feet of water storage capacity per year. We need to do some things to slow down that premature siltation, thus watershed restoration and protection. The Red on the Map is for Capital Development Projects. In Kansas there is an unfunded liability to the tune of \$100M, we do not own all the water storage capacity. The clock is ticking, we have a contract with the federal government at which time we can buy the water in those reservoirs now or we can wait until the future. It was decided that questions would be fielded after Tracy Streeter's presentation, as it might answer some of the questions.

Chairperson Freeborn welcome Tracy Streeter, newly confirmed Director, Kansas Water Office. Tracy will be using the same document during his presentation. Statewide perspective of the 13 projects that were contained in the Water Plan Projects Initiative. Irrigation Transition Assistance Program (ITAP), trying to come up with solutions to extend the use of the aquifer by reducing water use. ITAP would provide grants to irrigators to voluntarily transition irrigated land to dryland use and dismiss their water rights. \$1.3M will transition a great number of acres in this program. Water is being consumed by the invasion of salt cedars, Russian olives and other Phreatophytes in the Cimarron and Arkansas river corridors. Water quality in the Arkansas River at the Colorado-Kansas line is impaired by salt with high total dissolved solids, high sulfates and elevated selenium. A two year lease agreement with the Almena Irrigation District to limit its water withdrawal in exchange for a "rental payment" and discussions are continuing on finding a more permanent solution. Watershed Restoration and Protection Strategies (WRAPS) is designed to engage in watershed stakeholders to identify watershed needs, goals, actions and cost effective strategies and put them into action. Regional public water supplies have numerous issues, Hays/Russell area reallocation study of Wilson Reservoir, a possible long term water supply. Ozark Plateau is an interstate issue, basically SW Missouri is developing so rapidly its use is pulling our share of ground water out and replacing it with poor quality water from the west. Capital Development Plans, the state of Kansas contracted to buy storage in federal reservoirs including Milford, Perry, Big Hill and Hillsdale, balloon payments on these become due between now and 2042. River access for recreation, plans for building an access point on Kansas River between Manhattan and Topeka as part of the Water Plan Projects Initiative. The State Water Plan Fund needs to be restored to its intended purposes. Many programs that once were funded from the State General Fund are now being paid for from the State Water Plan Fund account. There is no attachment for this presentation, booklets were passed out to each committee member, "2005 Annual Report Kansas Water Authority"

Committee questions and discussion followed.

Chairperson Freeborn adjourned the meeting at 4:36. The next committee meeting is scheduled for February 1.

HOUSE ENVIRONMENT COMMITTEE GUEST LIST

DATE: 01/27/05

NAME	REPRESENTING
Ron Applebft	WaterOne
Don Parsons	K.W.A.
Steve Swaffar	KFB
Kent Astren	KFB
Susan Duffly	KCC Topeka
Mary Jut	Ks Water Office
Joe Fund	KWO
Bill Bider	KDHE
Dennis Schwartz	Ks Water Authority
Earl Lewis	KWO
Rob Menly	Helm Low Firm
Richard Sawyer	Man of L. Assoc.
Steve Carter	SEE



K A N S A S

RODERICK L. BREMBY, SECRETARY

DEPARTMENT OF HEALTH AND ENVIRONMENT

KATHLEEN SEBELIUS, GOVERNOR

Testimony on House Bill 2052
Revision of 'Clean Rubble' Definition
to
House Environment Committee
by
William L. Bider
Director, Bureau of Waste Management
January 27, 2005

KDHE appreciates this opportunity to provide testimony on HB 2052. This bill was introduced by KDHE to provide flexibility in the ways that lowly contaminated soil may be managed. According to current law, all "contaminated," but non-hazardous, soil must be disposed of in a permitted landfill, regardless of how low the contamination may be. Soils that present little or no risk may not be used as beneficial fill, but must instead be landfilled consuming valuable and limited landfill space. This is because soil with any level of contamination fails to conform to the statutory definition of "clean rubble" which can only include "uncontaminated" soil.

The proposed change to the law directs KDHE to define "contaminated soil" in rules and regulations. This will give KDHE an opportunity to define "uncontaminated soil" as soil that actually contains low levels of contamination, if it can be demonstrated that risks to human health and the environment are acceptable. At this time, KDHE intends to use the department's "RSK Manual" to establish contaminant levels that are considered safe. These risk-based standards are presently used by KDHE regulatory programs to determine if corrective measures are necessary at a contaminated site. If contaminant levels in the soil are below the standards, no further action or controls are required. It follows that soil with contaminant levels below these standards should be usable as beneficial fill rather than require landfill disposal.

Since KDHE already has the RSK Manual and since it is routinely reviewed and updated as appropriate, no additional staff effort is required. Therefore, this bill has no fiscal impact to the state. Benefits of this bill to Kansas would be: (1) lower clean-up costs to responsible parties; (2) conservation of soil by allowing its use as fill; and (3) conservation of landfill space.

Thank you for your time and consideration of this proposal to increase flexibility in how lowly contaminated soil is managed.

DIVISION OF ENVIRONMENT
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House Environment Committee
January 27, 2005
Attachment 1