

MINUTES OF THE SENATE NATURAL RESOURCES COMMITTEE

The meeting was called to order by Vice Chairman Ralph Ostmeyer at 8:30 a.m. on January 19, 2007, in Room 423-S of the Capitol.

All members were present except:

Chairman Carolyn McGinn-excused

Committee staff present:

Raney Gilliland, Kansas Legislative Research Department
Emalene Correll, Kansas Legislative Research Department
Art Griggs, Revisor of Statutes Office
Judy Holliday, Committee Assistant

Conferees appearing before the committee:

Roderick L. Bremby, Secretary, Kansas Department of Health and Environment

Others attending:

See attached list

Vice Chairman Ralph Ostmeyer noted that the Committee members had received two handouts, one on maps of dams discussed in the January 18 meeting (Attachment 1), and the other a letter from Secretary Michael Hayden, Kansas Department of Wildlife and Parks, on the disbursements by the Kansas Farmers and Hunters "Feed the Hungry" program (Attachment 2).

Vice Chairman Ostmeyer asked for bill introductions. Senator Francisco introduced two bills. The first bill is a KDHE waste tire grants adding language for local units of government to pay up to 75% to purchase and install playground equipment from recycled Kansas tires. She asked for discussion on the issue. Senator Francisco made the motion to have the bill introduced by the Committee, seconded by Senator Teichman. The motion passed.

The second bill introduced by Senator Francisco deals with siting restrictions for solid waste which was discussed last year and is again being brought before the Committee for discussion. Susan Kang, Policy Director for the Kansas Department of Health and Environment, clarified a change in the language on this year's bill regarding the distance a municipal landfill can be from a water source. The distance is now one-half mile, not the one-mile distance that was a previous cause for concern. Senator Francisco made a motion to have the bill heard by the Committee, seconded by Senator Teichman. The motion passed.

Vice Chairman Ostmeyer asked for the agency overview by the Kansas Department of Health and Environment (Attachment 3). Secretary Roderick L. Bremby introduced Kansas Department of Health and Environment staff: Ron Hammerschmidt, Director, Division of Environment; Dr. Duane Boline, Director, Division of Health and Environmental Laboratories; and Susan Kang, Policy Director.

Secretary Bremby told the Committee the agency's mission was to protect the health and environment of Kansas by promoting responsible choices. KDHE is the largest regulator in state government, and is looking at compliance rather than being punitive. The agency is made up of three operating divisions: the Health Division, Environmental Division, and Health and Environmental Laboratory Division. These are supported by two additional divisions, the Office of the Secretary and the Division of Management and Budget.

In brief, Division of Health duties include: assists communities in providing services for public health, primary care and preventive healthcare; investigates health outbreaks; promotes immunizations; credentials healthcare workers; registers and stores vital statistics such as birth and death certificates; maintains databases for providing data to policymakers, healthcare providers, and the public; inspects and licenses child care and health care facilities; inspects restaurants to prevent food borne illness; and provides resources to improve preparedness under the Federal Homeland Security program.

Secretary Bremby told the Committee that there is a projected \$3.4 million reduction in the budget between this year and 2008, but the recommended budget will allow the agency to continue operating.

CONTINUATION SHEET

MINUTES OF THE Senate Natural Resources Committee at 8:30 a.m. on January 19, 2007, in Room 423-S of the Capitol.

Some areas which require Department of Health and Environment response include remedial water treatment with priority based on risk to the public; environmental responses to Wolf Creek incidents; illegal dumps; solid and hazardous wastes; water discharge from pharmaceutical companies, dairies, hog operations, etc.; how to address subsidence issues in areas of Kansas where maps show mining and salt water wells; efforts to reduce ozone levels in Kansas City; and contamination from methamphetamine labs. Senator Francisco commended KDHE for their cleanup efforts.

Senator Huelskamp asked Secretary Bremby to provide regular detailed updates on KDHE.

The meeting adjourned at 9:30 a.m.

The next committee meeting will be on January 25.

KANSAS

DEPARTMENT OF AGRICULTURE
ADRIAN J. POLANSKY, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

Memorandum

To: Special Committee on Agriculture and Natural Resources

From: Kansas Department of Agriculture

Re: Response to Committee Questions

Date: Nov. 17, 2006

1. *The committee requested a list of dams and classifications.*

Attached are maps showing the number of high and significant dams in each county in Kansas. The maps are current as of October 16, 2006. Since there are some 6,000 dams in the state, we have not included a map of the numerous low-hazard dams.

2. *The committee asked about model legislation to enable local government to participate in dam fixing costs and what authority might be necessary.*

The State Conservation Commission's rehabilitation program for watershed district dams provides an in-state model. This is a cost-share program with the dominant share being the state's responsibility. It appears a similar statute open to local units of government other than watershed districts could address the issue.

Attached is information on a model revolving loan fund developed by the Association of State Dam Safety Officials (ASDSO).

The Department of Agriculture recently provided Legislative Research with draft language of legislation to implement the agency's proposal presented to the Interim Committee at the first hearing on September 18. A copy is attached.

*Special Committee on Agriculture
and Natural Resources
November 28, 2006
Attachment 6*

3. *Inspections by KDA – how many were deficient? What were the owners' cost estimates to fix?*

**Summary of Deficiencies for
 High and Significant Hazard Dams
 Kansas Department of Agriculture, 2006**

| Ownership | No. of Dams by Owner | No. of Deficient Dams by Priority Class | | | | | |
|---------------------|----------------------|---|------------|---------------|------------|--------------|------------|
| | | Top Priority | | Mod. Priority | | Low Priority | |
| | | Dams | % of Total | Dams | % of Total | Dams | % of Total |
| Cities and Counties | 112 | 6 | 5% | 13 | 12% | 37 | 33% |
| Home Owners Assoc. | 30 | 6 | 20% | 8 | 27% | 4 | 13% |
| Other Private | 100 | 5 | 5% | 11 | 11% | 24 | 24% |
| State | 27 | 1 | 4% | 3 | 11% | 4 | 15% |
| Watershed Districts | 174 | 3 | 2% | 17 | 10% | 34 | 20% |
| Totals | 443 | 21 | 5% | 52 | 12% | 103 | 23% |

Notes:

- a. Unlike the rest of this document, the number of high and significant hazard dams on this table is current as of August, 2006.
- b. The table is based upon the most current inspection for each dam, regardless of whether or not Kansas Department of Agriculture staff conducted that inspection.
- c. *Top priority dams* are those dams that need rehabilitation in the immediate future, the next 2 or 3 years, to remedy serious physical and hydrologic deficiencies.

Moderate priority dams are those which need rehabilitation within the next decade in order to ensure they do not develop into Top Priority dams. They have serious deficiencies, but those deficiencies do not rise to the urgency of the Top Priority dams.

Low Priority dams are those with physical deficiencies that require more than mere maintenance to remedy or which suffer hydrologic deficiencies but of a less severe nature than the other two categories.

- d. This table shows the results of a prototype evaluation system. As the agency itself conducts required safety inspections, the data used in this analysis will be refined and made consistent among all the high and significant hazard dams in the state. The evaluation system itself will require further refinement.
- e. The 27 dams noted as belonging to the state are under the control of the Kansas Department of Transportation or the Kansas Department of Wildlife and Parks.
- f. Note that for any dam for which the Chief Engineer considers legal action, a detailed review of the file would be conducted prior to taking action to verify the urgency of the condition of the dam as reflected in the rating scores above.

Owners rarely provide the agency with information regarding the cost of rehabilitating dams. Therefore, we do not have a useful answer to the cost portion of the question.

4. *The committee asked for a list of locations and owners of dams who received letters requiring inspections by July 1.*

Attached is a map titled *High and Significant Hazard Dams Inspections Due June 30, 2006 and Not Received* showing the locations by county of those dams for which the agency did not receive the required inspection report by June 30, 2006, or any authorized extension of time.

5. *Size of all hazardous dams in acre-feet at top of dam, emergency spillway and taking into account siltation.*

Since 1978 when the state of Kansas changed the regulatory size of a dam to 30 acre-feet, we have measured the volume in storage at the top of the dam. The national Model Dam Safety Law prepared by the Association of State Dam Safety Officials (ASDSO) and upon which the 2002 amendments to K.S.A. 82a-301 through 305a are based, also assumes the measurement will be to the top of dam. Finally, the criteria for dams to be included in the National Inventory of Dams are that the dams be either 25 feet high or higher, or 6 feet high or higher and able to impound 50 acre-feet of water at the top of dam elevation. Measuring the volume of water that may be stored at the top of dam elevation is consistent with both Kansas and national practice.

The following table shows the volume of water in storage at the top of dam and at the crest of the emergency spillway for high and significant hazard dams in Kansas.

| Volume stored at: | No. of Dams by Hazard Class | | | % by Hazard Class | |
|---------------------------|-----------------------------|-------------|------------|-------------------|-------------|
| | High | Significant | Total | High | Significant |
| Emergency Spillway | | | | | |
| < 50 acre-feet | 21 | 26 | 47 | 14% | 13% |
| 50 - 100 acre-feet | 16 | 27 | 43 | 10% | 13% |
| 100 - 500 acre-feet | 47 | 82 | 129 | 31% | 40% |
| > 500 acre-feet | 70 | 69 | 139 | 45% | 34% |
| Total with data | 154 | 204 | 358 | | |
| Top of Dam | | | | | |
| * < 50 acre-feet | 2 | 2 | 4 | 1% | 1% |
| 50 - 100 acre-feet | 22 | 49 | 71 | 12% | 20% |
| 100 - 500 acre-feet | 63 | 75 | 138 | 33% | 30% |
| > 500 acre-feet | 103 | 123 | 226 | 54% | 49% |
| Total with data | 190 | 249 | 439 | | |

* These four high and significant hazard dams are over 25 feet and therefore regulated under K.S.A. 82a-301 through 305a even though there is less than 50 acre-feet in storage at the top of the dam.

Note: Our database does not include the requested data for all high and significant hazard dams, particularly for those that are not permitted or which were permitted many years ago.

Without routine bathymetric surveys to determine the volume of sediment trapped in reservoirs, the Department of Agriculture has no way to determine the volume of sediment in reservoirs. From a dam safety point of view, it must be emphasized that the loss of water storage volume in reservoirs due to sediment accumulation does not reduce the potential damage of a dam failure. Sediment trapped in reservoirs is still fluid and will flow through a breach of the dam to cause damage downstream. In some ways the sediment has the potential to cause more damage than water, due to its weight and the force with which it would strike constructed facilities, and the greater impact sediment has on affected buildings and other facilities.

6. *What caused the change in the dam status and when did the development or other cause take place?*

Hazard classifications of dams are used by the Department of Agriculture to establish design, construction, and operation criteria for dams permitted under the Obstructions in Streams Act. The requirements for the design, construction, and operation of a high hazard dam are greater than the requirements for a low hazard dam in order to provide appropriate levels of protection to the public. It should be emphasized that the hazard classification of a dam does not reflect on its safety or condition, but only on the consequences that can be expected if the dam should fail. The more serious those consequences, the more stringent are the requirements for design, construction, operation, and routine inspection of the dam.

The hazard classification of a dam may change to a more restrictive class for a variety of reasons, all having to do with an increased risk to life or valuable property in the event that the dam would fail. A frequent reason for a change in hazard classification is that a home has been constructed downstream of a dam and in the breach inundation area (the area that would be flooded if the dam failed). Sometimes, an important facility such as a water treatment plant is built downstream of a dam in the breach inundation area. Other times, traffic on a road downstream of a dam increases significantly, posing a more serious risk to public safety if the dam should fail.

Finally, prior to the 1970s, dams were not routinely assigned hazard classifications. When hazard classifications were assigned they were based on the professional judgment of the design engineers, as computational methods to determine breach inundation areas were too complex for routine use. Infrequently, the department must upgrade the hazard classification of one of these dams, although more frequently we downgrade the hazard classification of one of these dams because a design engineer was particularly cautious and used an unnecessarily restrictive hazard classification.

7. *Use of high and significant hazard dams.*

Uses of High and Significant Hazard Dams in Kansas

| Use | Number of Dams with Use Indicated: | | | |
|-----------------------|------------------------------------|-------------|--------------------|-------------|
| | Single Purpose Dams | | Multi-Purpose Dams | |
| | High | Significant | High | Significant |
| Flood control | 72 | 101 | 23 | 29 |
| Grade stabilization | 1 | 0 | 4 | 15 |
| Fish and wildlife | 1 | 0 | 4 | 4 |
| Hydro power | 0 | 0 | 0 | 0 |
| Irrigation | 3 | 1 | 4 | 8 |
| Stockwater | 0 | 1 | 2 | 2 |
| Other | 6 | 4 | 4 | 1 |
| Farm pond | 11 | 35 | 2 | 1 |
| Recreation | 36 | 24 | 26 | 30 |
| Water supply | 6 | 17 | 15 | 17 |
| Tailings (mining) | 0 | 0 | 0 | 0 |
| Highway | 2 | 1 | 1 | 0 |
| Unknown | 15 | 22 | | |
| Total No. Dams | 153 | 206 | 39 | 49 |

Note: The columns under "Multi-Purpose Dams" won't total to the total number of dams shown because each dam has more than one purpose.

Note: The use of the dam is typically the use for which the dam was originally constructed. That use may have changed without the agency being informed of the change.

8. *Number, owners, location of dams that have been inspected and are on the agenda to be inspected with the 2007 appropriation.*

A total of 119 dams are to be inspected in FY 2007. They include 74 high hazard dams and 45 significant hazard dams.

All inspections are to be completed by April 30, 2007. The reports of the inspections are to be completed by June 30, 2007 and will be mailed to the owners of the dams by that date.

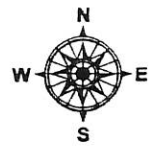
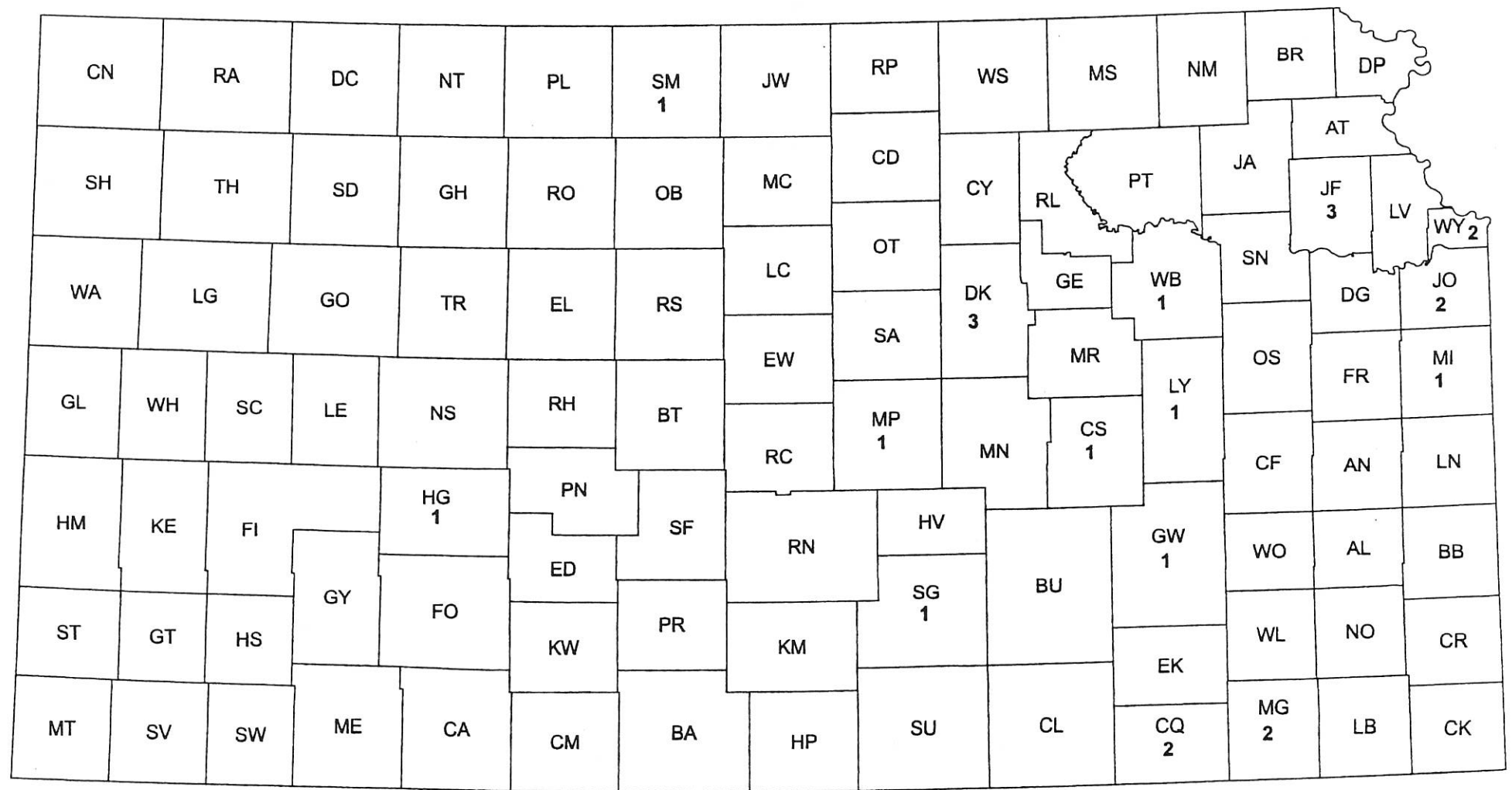
The following table lists the number of dams to be inspected by type of owner.

**Dams to be Inspected with 2007 Appropriation
By Owner Category**

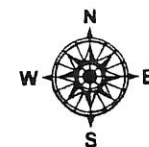
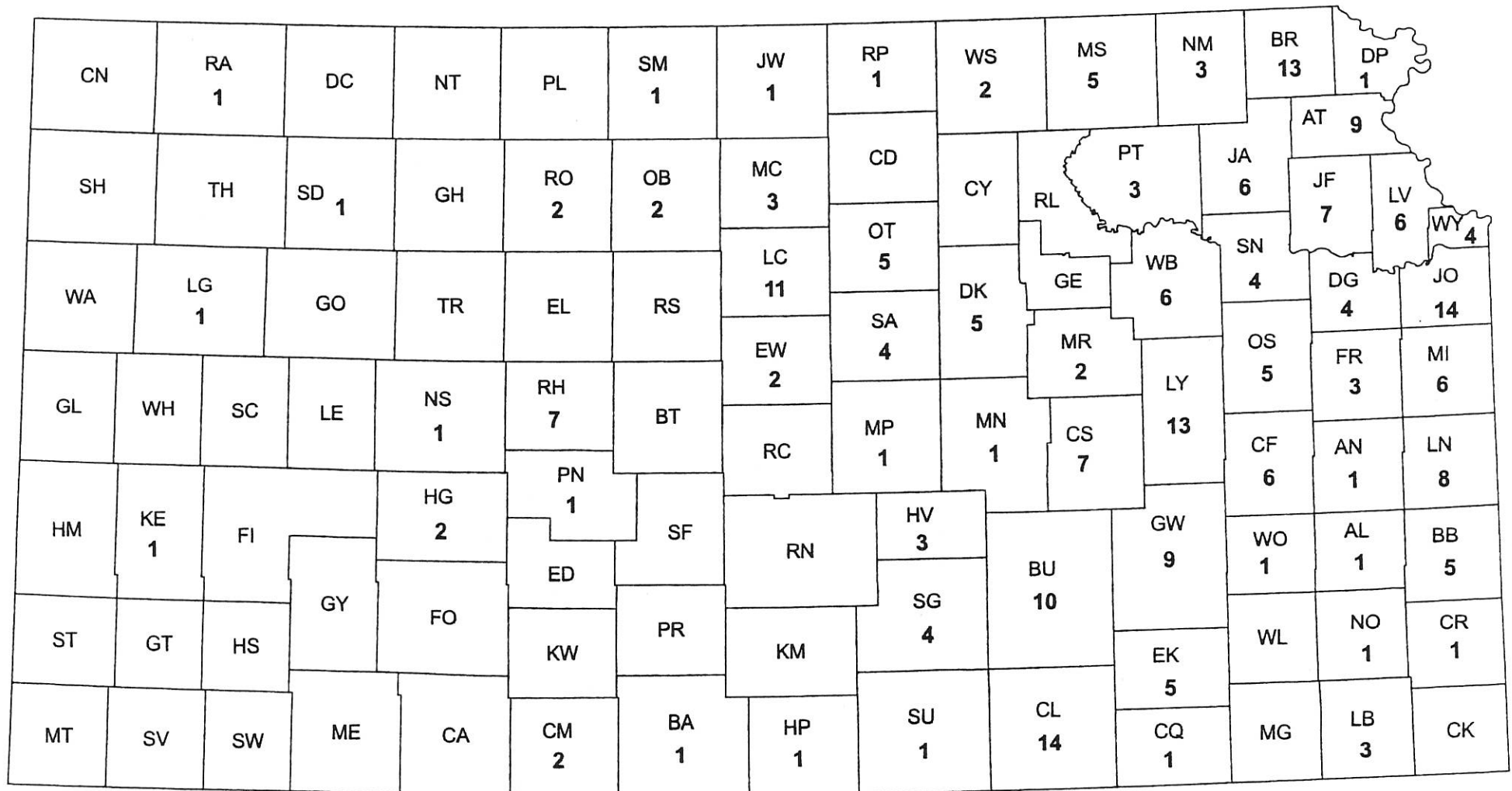
| Owner Category | Number |
|-----------------------------|--------|
| City | 27 |
| City and Watershed District | 1 |
| County | 2 |
| Drainage District | 2 |
| Homeowners Association | 3 |
| Industrial | 4 |
| Private | 22 |
| Rural Water District | 2 |
| State | 18 |
| Watershed District | 38 |
| | |
| Total | 119 |

The locations of these dams are shown by county on the attached map titled *High and Significant Hazard Dams to be Inspected by April 30, 2007*.

High and Significant Hazard Dams Inspections Due June 30, 2006 and Not Received Total: 23 Dams



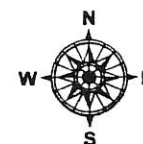
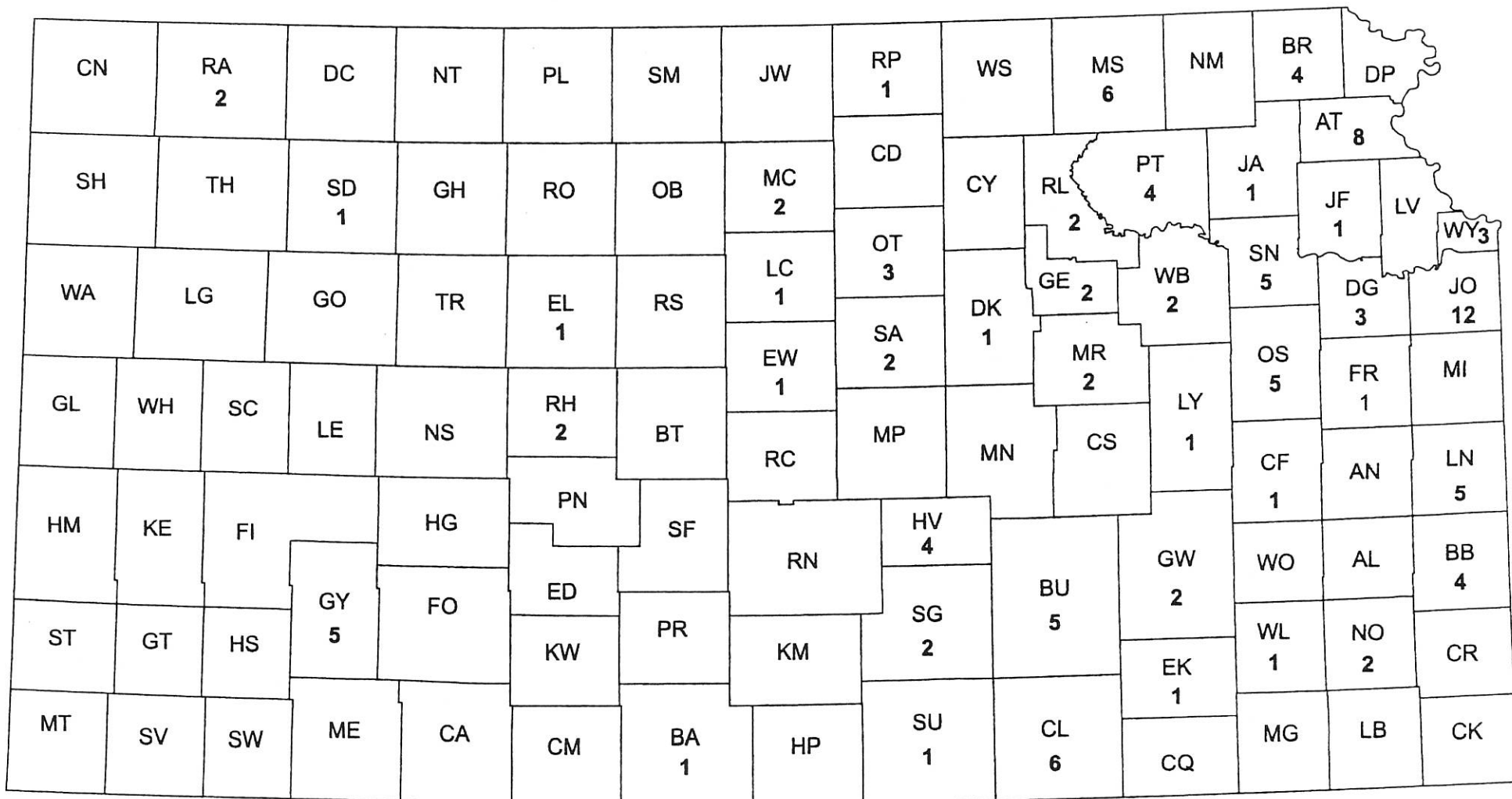
Significant Hazard Dams in Kansas Total: 255 Dams



High and Significant Hazard Dams to be Inspected by April 30, 2007

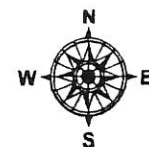
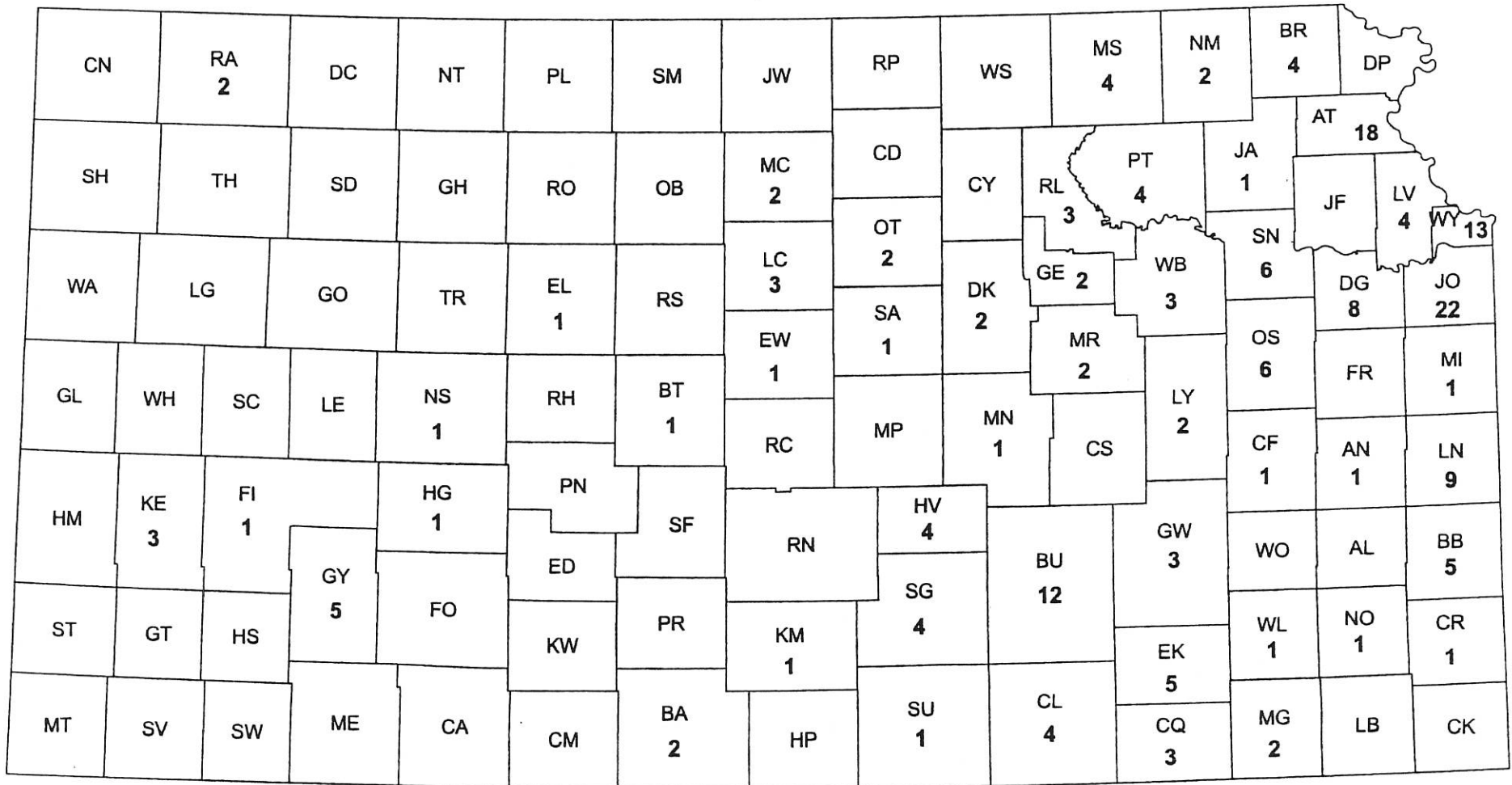
Total: 119 Dams

1-fo



High Hazard Dams in Kansas

Total: 192 Dams





Association of State Dam Safety Officials
**Model State Dam Rehabilitation
Funding Program**

MODEL LAW
FOR STATE SUPERVISION OF A
LOW INTEREST
REVOLVING
DAM REHABILITATION LOAN PROGRAM

Chapter 1. Vision, Declarations and Purpose

Article 1. Vision

1000. The loss of lives, property, and environmental and cultural damage caused by dam failure floods is a matter of deep concern to the State affecting the life, health, property, and vital utility lifelines of the people. Regardless of ownership, funding must not stand in the way of safety of dams that present a public safety risk.

Article 2. The following are declared:

2000. Dams are inherently hazardous structures because of the energy that can be released by elevated stored water.

2001. Many privately owned dams in the State present public safety risks if they were to fail. Many of these privately owned dams also provide public benefit.

2002. Dam safety is an issue of growing national, regional and State importance as:
(a) Like any man-made infrastructure item, dams age.
(b) With age comes potential deterioration. Minor issues can grow into larger compounding problems. The risk of failure increases.
(c) Many dams were built before downstream areas become heavily populated. This ongoing development below dams continues to increase the risk to more lives and property.
(d) The number of dams continues to increase.

2003. Inspections alone will not make dams safe.

2004. Many privately owned dams and many local government owned dams in the State require rehabilitation, repair, or removal in order to reduce their public safety risk to areas downstream.

Chapter 3. General Provisions

Article 1. Owners' responsibilities

1000. Once a loan has been granted under this statute, the owner of a dam must have an operation and maintenance plan with written, regularly scheduled reports, so as to maintain and keep the structure and its appurtenant works in the state of repair and operating condition required by the exercise of prudence; due regard for life or property; the application of sound and accepted engineering principles; the provisions of the Model Law for State Supervision of Dams and Reservoirs and any associated rules, guidelines, or policies.

1001. As part of any rehabilitation project utilizing funds from this program the owner must have an emergency action plan developed (if one doesn't currently exist).

1002. The owner of a dam, levee, dike, or floodwall and appurtenant works shall do the following:

- (a) Cooperate with the Agency's agents, engineers, and other employees in the conduct of the statute.
- (b) Facilitate access to the structure or appurtenance.
- (c) Furnish upon request the plans, specifications, operating and maintenance data, or other information that is pertinent to the structure, appurtenance, and loan.

Article 2. Dam Rehabilitation Loan Program

2000. The Agency shall create a Dam Rehabilitation Loan Program; or may partner with other public or private agencies or organizations to create a Dam Rehabilitation Loan Program.

2001. The Agency may participate in and obtain funds from any program created by the Federal Government for the purpose of funding dam rehabilitation.

2002. The Dam Rehabilitation Loan Program may obtain funds through partnerships with any private or public, bonding or loaning, agency or organization.

2003. The State Legislature may authorize required funding to expand the financial size of the Dam Rehabilitation Loan Program.

2004. State funding to the Dam Rehabilitation Loan Program cannot be reduced because of federal funds provided for a rehabilitation loan program.

2005. Owners of dams without taxing authority should be allowed to participate in the Dam Rehabilitation Loan Program.

2006. Complete rehabilitations are to be encouraged, but phased projects can be funded.

2007. Removal of dams as a rehabilitation alternative should be allowed.

Article 2. General

2000. The Agency and its agents, engineers, and other employees may, for the purposes of this Model State Law, enter upon any land or water in the State without a search warrant or liability for trespass.

2001. This statute does not create a liability for damages against the Agency, its officers, agents, and employees caused by or arising out of any of the following:

- (a) The construction, maintenance, operation, or failure of a dam, or appurtenant works.
- (b) The issuance and enforcement of an order or a rule issued by the Agency to carry out the Agency's duties.

2002. The Agency may take any administrative or legal action necessary for the administration of this statute.

2003. The State does not assume ownership obligations, responsibilities, or liabilities if an owner defaults on a loan.

KANSAS

DEPARTMENT OF WILDLIFE & PARKS

KATHLEEN SEBELIUS, GOVERNOR

January 9, 2007

Senator Carolyn McGinn, Chairperson
Senate Committee on Natural Resources
State Capitol, Room 222-E

and

Representative Lana Gordon
House Committee on Economic Development and Tourism
State Capitol, Room 143-N

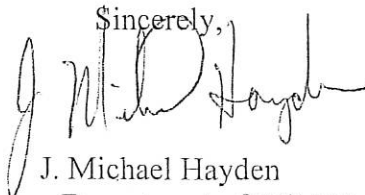
Dear Senator McGinn and Representative Gordon;

In accordance with KSA 32-995, the following report regarding the Kansas Farmers and Hunters Feeding the Hungry is provided to your committees. This program allows persons who obtain a hunting license to include a voluntary contribution of \$2.00 or more to support the activities of the Kansas Farmer and Hunters Feeding the Hungry Organization. Any contributions are deposited to the Feed the Hungry Fund in the Kansas State Treasury.

The Kansas Department of Wildlife and Parks (KDWP) is required to quarterly disburse funds deposited in the Feed the Hungry Fund to the organization to support their program activities. For the calendar year, 2005, the KDWP disbursed a total amount of \$20,594.00. For the calendar year, 2006, the amount disbursed was \$20,470.00.

If you or members of your committees have any questions, please advise. Thank you.

Sincerely,



J. Michael Hayden
Secretary, Kansas Department of Wildlife and Parks

Senate Natural Resources
January 19, 2007
ATTACHMENT 2



Kathleen Sebelius, Governor
Roderick L. Bremby, Secretary

DEPARTMENT OF HEALTH
AND ENVIRONMENT

www.kdheks.gov

Agency Overview
to
Senate Natural Resources Committee
Presented by
Roderick L. Bremby, Secretary
Kansas Department of Health and Environment

January 19, 2007

Senator McGinn and members of the Committee, I am pleased to appear before you today to provide an overview of the Kansas Department of Health and Environment (KDHE). After my overview, Dr. Ronald Hammerschmidt, the Director of the Division of Environment will talk more specifically about the Division of Environment.

The agency's mission is to protect the health and environment of Kansans by promoting responsible choices. This is a mission we take very seriously and one that challenges us every day. The agency is comprised of three operational divisions: Health, Environment, and the Health and Environmental Laboratories. Supporting the operational divisions are the Office of the Secretary and the Division of Management and Budget.

Dr. Hammerschmidt will outline the responsibilities of the Environment Division, but I want to give you a brief description of the duties of the Division of Health. The Division of Health, among many other duties, assists communities in providing public health, primary care, and prevention services; investigates disease outbreaks and helps to prevent the spread of disease by promoting healthy behavior and immunizations; credentials health care workers; registers and provides permanent storage for all vital records, such as birth and death certificates; maintains multiple datasets to provide needed data to policy makers, health care providers, and the public; performs epidemiological services necessary to respond to both short-term and long-term health issues; inspects and licenses health care and child care facilities; inspects restaurants in order to prevent food borne illness; and provides needed resources to improve public health preparedness under the federal Homeland Security program.

The Office of the Secretary and the Division of Management and Budget, among other duties, provides policy guidance and leadership to the Department's programs; provides core administrative support such as budget development, grants management, financial transactions, human resource activities, purchasing, financial reporting, information technology development and support and numerous other support activities.

I encourage you to visit our website at www.kdheks.gov for a comprehensive view of the agency.

*Senate Natural Resources
January 19, 2007
Attachment 3*

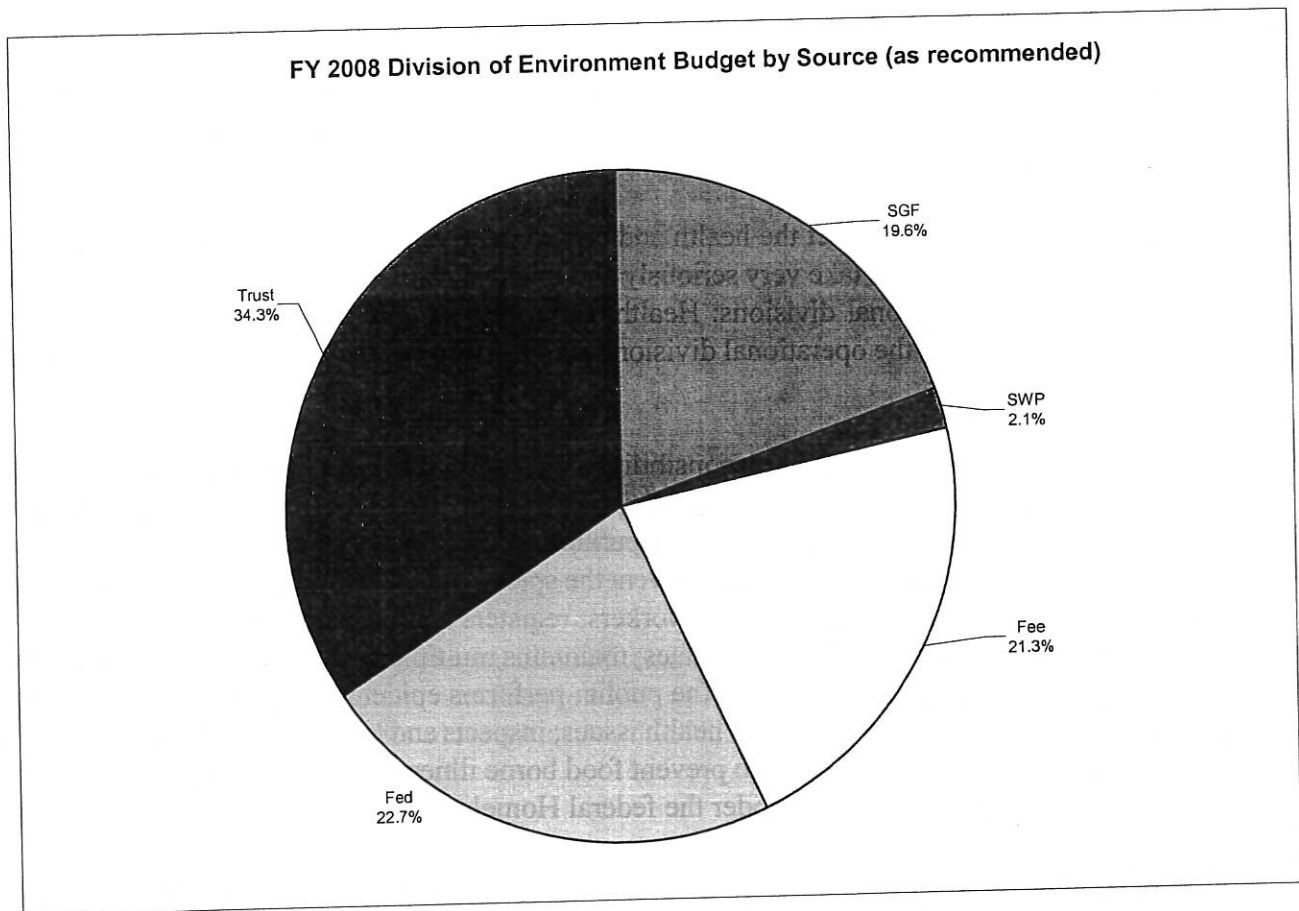
CURTIS STATE OFFICE BUILDING, 1000 SW JACKSON ST., STE. 540, TOPEKA, KS 66612-1368

Voice 785-296-0461 Fax 785-368-6368

Agency Budget

The Kansas Department of Health and Environment FY 2008 recommended operating budget is \$217 million, which is about 4.7% more than our FY 2006 actual operating budget and 3.1% below our FY 2007 estimated expenditures. The decrease in the FY 2008 budget is largely due to a projected reduction in federal funds related to Homeland Security; we are currently projecting a \$3.4 million reduction in these funds between FY 2007 and FY 2008. The recommended budget allows the agency to continue our current operations, with a few enhancements, which we will discuss later.

KDHE's budget is split between the Health and Environment functions in the state budgeting system. The budget for the Health function (\$149.3 million) consists of the Division of Health and Central Administration, while the budget for the Environment function (\$67.8 million) accounts for the Division of Environment and the Division of Health and Environmental Laboratories. The Environment function budget for FY 2008 is allocated to the programs as follows: Division of Environment - 91.5% and the Division of Health and Environment Labs - 8.5%.



There are five primary funding source categories within the Environment function budget. In the recommended budget, the largest source of funding for the operating budget is agency trust funds,

which total \$23.3 million or 34.3%, with the majority of these funds related to Petroleum Storage Tanks (\$21 million) followed by federal resources of \$16.5 million or 22.7%. State General Fund (SGF) resources provide 19.6% of the funding for the Division of Environment budget, with 12.8% in Environment and 6.8% in Labs. Of the total SGF allocation, 64.2% fund salaries and wages, and 24.5% fund other operating costs and 11.3% aid to local.

As we look to the out years, the agency is anticipating impacts from the increasing federal deficit. Reductions in domestic spending to address the deficit could have a catastrophic impact on our budget and service capability due to our strong reliance on federal resources.

Notable 2006 Environment Accomplishments

Total Maximum Daily Loads (TMDLs):

During 2006 we completed the first round of Total Maximum Daily Loads, TMDLs for the waters of Kansas. This work was required under a court decree involving the US EPA, the Kansas Natural Resource Council, Sierra Club and State of Kansas. In the nine years since the decree was signed, KDHE has worked across the state within all 12 river basins in developing TMDLs, which recognize the reality of changing hydrological conditions which affect both stream characteristics and the contributing watersheds. An agreement has been reached among all parties to close the decree. As required by the federal Clean Water Act, we have begun the process of periodically repeating this process for impaired waters across Kansas.

Foreign Animal Disease (FAD):

Kansas is ranked among the top animal agriculture states of the country. One of the concerns we face is the potential for responding to a foreign animal disease, FAD, outbreak. Great Britain dealt with a 2001 hoof and mouth disease incident which caused major loss of animals, embargoes on exports, etc. There is also the concern relative to use of these agents in a terrorist attack. We have worked with the animal agriculture industry and Animal Health Department to develop plans for disposal of animals in a FAD incident. As part of this forward looking planning effort approximately 450 pre-selected burial sites have been identified. We anticipate an additional 70 to 80 will be completed in this calendar year. Kansas is recognized as a leader in this planning with staff making numerous presentations on this process in regional and national forums.

Public Wholesale Water Supply Districts (PWWSD)

Drinking water suppliers in Kansas have improved customer service through utilization of Public Wholesale Water Supply Districts (PWWSD). Kansas has many small communities and some ran out of drinking water during dry periods. Additionally, small water supplies sometimes struggle to meet increasing regulations and customer expectations. Consolidation of water supply systems has helped some communities improve their quality of service. One consolidation option provided by KSA 19-3535 et seq is formation of a PWWSD which allows local representation of each district on the PWWSD board. This tool has proved valuable and successful in allowing small water suppliers to economically improve service. Progress in consolidation of infrastructure takes time. Since passage of the legislation in 1977 there are 9 active PWWSDs serving 126,000 customers. Twenty-four PWWSDs have been formed with some later dissolved, inactive, or still planning. The 9 active PWWSDs are composed of 97 individual water suppliers such as cities and rural water districts. Creation of these

PWWSDs is an effort that takes strong local leadership and commitment from various water agencies.

Clean Air Improvements:

Despite a growing population and an expanding economy, air pollution in Kansas declined over 3% for the third consecutive year. In 2006, air pollution from regulated sources (approximately 15% of the emissions) was reduced by 2.73% and air pollution from non-regulated activities (approximately 85% of the emissions) was reduced by 3.38%. Monitors throughout the state demonstrate that the seven National Ambient Air Quality Standards are being met in Kansas. In 2006, the agency was given additional statutory authority to implement the Federal Regional Haze Program. Throughout 2006 and continuing in 2007, the agency will develop and implement plans to control the interstate transport of air pollutants, reduce mercury from power plants by 70% and implement the regional haze plan to improve visibility in the 156 national parks and wilderness areas.

Remedial Water Treatment:

The Bureau of Environmental Remediation works through many programs to insure that contaminated sites are cleaned up. Due to limited funds, sites are prioritized based on the risk to public and private water supplies. In passed years, many remedial actions have involved pumping and treating contaminated water to be discharged to the surface. Recently the bureau has worked with the effected communities to treat the contaminated water so that, where possible, the community can use this treated water for public use. This approach makes good use of limited financial, manpower and water resources. Often the community provides the local staffing to perform the daily operations with the state providing the treatment facility and monitoring. Currently KDHE, EPA, and the city of Colby are operating a large scale Superfund system to treat water contaminated with chrome and petroleum. Agency staff are also working with the city of Frankfort to install a treatment system to address contamination from a former USDA grain storage facility. A treatment system has also been installed to remove PCE, a drycleaning solvent, from a contaminated well in the city of Downs. The Storage Tank program has implemented dozens of remedial systems to treat petroleum contaminated public water supply wells resulting from service station sites across the state. These treatment systems currently provide 150,000 Kansas citizens with safe, clean, drinking water. The water treatment systems serve Hays, Salina, Satanta, Atwood, LaCrosse, Manter, Moscow, Park, Park City, Quinter, Scott City, Manhattan, Miltonvale, and Oakley.

Division of Environment

The mission of the Division of Environment is *protecting public health and environment for Kansas*. To implement this mission, the Division of Environment has adopted the following goals:

Implement environmental programs in Kansas to achieve regulatory compliance and maintain assurance that environmental programs are protective of public health and the environment.

Be responsive to the needs and inquiries of the citizens of Kansas and the regulated community with respect to environmental programs.

Provide citizens of the state with accurate assessments of the environmental conditions of the state.

In order to fulfill this mission and meet these goals the Division of Environment has developed and implemented regulatory, compliance assistance, monitoring and educational programs within each of the bureaus and the division as a whole.

The performance measures for the Division of Environment are described at length in the state fiscal year 2008 KDHE budget request document. The results of the division's activities are also listed in that document. In addition, the division also operates under the terms of the various program delegation agreements with the US EPA, Nuclear Regulatory Commission, and Office of Surface Mining, Department of Interior.

Division of Environment Organizational Structure:

The Division of Environment is organized into five distinct bureaus: Bureau of Air and Radiation, Bureau of Water, Bureau of Waste Management, Bureau of Environmental Remediation, and Bureau of Environmental Field Services. For simplicity in budgeting, the Office of the Director, Division of Environment is budgeted with the Bureau of Environmental Field Services. The division staff is composed of scientific and technical staff with a heavy emphasis on physical and biological sciences, and engineering. The staff of the Division is authorized at 464 FTEs.

Bureau of Air and Radiation: is the state's air quality regulatory program including radiation safety. Activities include monitoring air quality, tracking air pollutant emissions, conducting air modeling and development of a plan for Kansas to conserve air quality. Activities also include the permitting of sources of air pollutants prior to construction and issuing operating permits to all large air pollution sources to control pollution. Finally, air quality activities include inspection and testing of permitted sources and public outreach to increase public knowledge of their role in reducing air emissions.

Radiation activities include the licensing and inspection of x-ray machines, radioactive materials and mammography facilities to insure compliance with standards and guidelines to maintain radiation exposures to humans to within acceptable health limits. Activities also include outreach to increase awareness of radiation safety to maintain as low as reasonably achievable (ALARA) exposures. Radiation control activities also include radiological environmental monitoring of any materials released to the environment from Wolf Creek Nuclear Generating Station, and participation in exercises to prepare for emergencies or incidents involving radioactive materials.

A new standard has been recently established for ozone, a component of smog. The standard was not exceeded in the Kansas City area for the 2003-2005 timeframe due to favorable climatic conditions. However, there will be a violation of the ozone standard in Kansas City in 2007 if normal climatic conditions return to the area. The ozone levels in Wichita have also been a concern. The Bureau of Air and Radiation is working with both Kansas City and Wichita to evaluate ways to reduce air emissions that contribute to ozone formation. When this work has been completed in 2007 a plan will be developed and implemented to make sure Kansas continues to meet the new federal standards for ozone.

During 2006 there were no exposures from radiation incidents that were above health limits and less than 2% of identified asbestos exposures were above permissible limits. In FY2006 the agency completed the transition of its radiation activities to full fee fund support which allowed the program to be expanded to comply with federal requirements. Effective education and outreach programs now compliment the inspection and regulatory functions to help the regulated community achieve compliance with legal requirements.

Quality customer service continues in the Bureau of Air and Radiation. During 2006 the agency passed a Wolf Creek Emergency Planning Exercise without an audit exception from the Federal Emergency Management Agency; a Nuclear Regulatory Commission audit determined that the radiation program was compatible with the federal program and received the highest audit classification obtainable by a state; and the air program successfully completed a performance audit conducted by EPA.

Bureau of Waste Management: conducts regulatory, compliance assistance, and public education programs for both solid and hazardous waste. The bureau oversees all permitting activity related to over 500 waste management facilities including municipal solid waste landfills, construction and demolition landfills, transfer stations, composting facilities, household hazardous waste facilities, waste processing facilities (oil, tires, sludges, etc.), and hazardous waste treatment, storage, and disposal facilities. The bureau has now approved about 450 pre-selected burial sites for animal carcasses generated as a result of a foreign animal disease, FAD.

Waste electronics continue to grow as a waste stream. While recycling is also growing, most of the state is not served by recyclers. To promote e-waste recycling, KDHE will award solid waste grants in early FY 2008 to establish pilot e-waste collection centers to facilitate recovery of these materials. These grants will be the top priority for the annual waste reduction grant program funded by the \$1.00 per ton landfill tonnage fee. Information gained through the operation of these pilot programs will be used to determine if a statewide collection program should be implemented and supported using state resources.

The Bureau of Waste Management oversees the permitting of waste combustion activity at cement kilns (or other facilities). At the present time, two kilns are burning hazardous waste both to recover energy and to destroy the hazardous constituents present in the burned wastes. These two facilities include Ash Grove in Chanute and LaFarge in Fredonia. Ash Grove also burns wastes tires along with Monarch in Humbolt to recover the high energy content in rubber tires. Some ethanol plants are also studying the potential to burn waste tires as their primary energy source. These uses of waste as fuels is an excellent energy conservation measure while helping dispose of hard to manage wastes.

The solid waste program provides technical assistance and annual workshop training to all facility owners and operators. Hazardous waste program regulates the generation, handling, treatment and disposal of characteristic and listed hazardous waste in a "cradle to grave" approach administering both state and federal statutes and regulations.

The decade-old waste tire program has made tremendous strides in reducing the number of waste tire piles across the state and overseeing an ongoing system to manage newly generated tires. BWM is

implementing a two-phase waste tire recycling grant program in FY 2007 and 2008 to promote the conversion of waste tires into playground cover. The first phase included grants to two Kansas companies to make the capital improvements to manufacture playground cover from waste tires. The next phase of grants will go to local governments to subsidize the purchase of playground cover made from recycled tires.

The solid waste program also includes illegal dump clean-up performed in cooperation with local governments. Over the past year, BWM has worked with local government officials to clean up 40 illegal dump sites. Notable efforts have included 7 sites in Douglas County and 20 sites associated with abandoned properties at a recreational lake in Wilson County. In addition, BWM has entered into an agreement with Union Pacific Railroad to clean up old railroad tie piles, two of which have now been completed including a 50,000-tie pile in Lucas, Kansas. The Bureau works together with the Bureau of Environmental Remediation to address former city dumps which threaten the public health and environment. The bureau also administers grant programs to encourage the development or enhancement of service related to recycling, composting, and household hazardous waste collection.

Bureau of Water: is the lead environmental regulatory program for actual and potential discharges to water and the protection of the states' public drinking water supplies. The bureau implements the delegated National Pollution Discharge Elimination System (NPDES) program for the regulation of municipal, industrial and animal waste. The bureau also has primacy to implement the Safe Drinking Water Act for the protection of the public. To assist the regulatory programs, the Bureau of Water also conducts state and federal programs to limit pollution caused by non-point sources. The bureau also conducts regulatory and assistance programs for the assurance of the safety of the state's public water supplies. This bureau administers state revolving loan funds to assist municipalities and public utilities in improving or replacing sewer or municipal wastewater systems and public water supplies. The two revolving loan funds make approximately \$100 million in low interest loans annually to assist municipalities and water suppliers.

Drinking Water: New federal regulations, which consist of stricter standards for drinking water quality, are a challenge, especially for Kansas with many small systems. Ninety percent (90%) of Kansas water supplies serve 3,300 people or less, 55% of Kansas water supplies serve 330 people or less. There is no economy of scale for these small systems so they are challenged to upgrade to federal requirements, and consolidation is not always an option.

Municipal Wastewater: For municipal wastewater and water supplies, an emerging issue lies with the discharge of endocrine disrupters. Endocrine disrupters are chemicals, both natural and synthetic, which interact with the endocrine system, the glands and hormones regulating biological processes. The endocrine system includes the thyroid, pituitary, and the reproductive system. Problems observed have included feminized fish populations, decreases in human sperm quantity, decreased reproduction in wildlife.

Endocrine disrupting compounds number in the thousands but include the following and their metabolites which are found in the water environment: steroids, pharmaceuticals, birth control pills, pesticides. Chemical names of concern include: estradiol, estriol, estrone, hydrocodone, triclosan, androstenedione, progesterone, caffeine, ibuprofen, atrazine. These compounds enter the water supply

through discharges and then being taken into water supply intakes. Some of the compounds, such as pesticides and growth hormones, are commonly used in agriculture. The disposal and removal of these compounds is being researched. This research is expensive due to analytical costs and a lack of dose and response impacts.

While wastewater plants remove some of this material, the concentration levels of potential concerns are very small with concentrations generally expressed in ng/l or nanograms per liter. (A ng/l is one in 10 million.) The potential human health and aquatic life impacts raise issues. Research is underway including whether to remove compounds at wastewater plant or waterworks or both. The issue is more of a problem with heavily recycled streams such as Kansas River, but also has potential ecologic impacts.

Mega Dairies

- Kansas now has 26 dairies permitted for 1,000 or more animal units with the largest at 45,000 animal units. KDHE oversees the facility management of wastes and determines proper corrective actions needed when problems are identified.

Water Quality Standards

- Nutrient reduction plan: KS adopted a unique approach to reducing nutrients. The plan is to move forward with voluntary reductions while addressing and setting nutrient criteria locally
- Implementation of K.S.A. 82a-2001 through 2006 continues. These statutes establish criteria for classification and designated uses and require the examination of all streams in the state by the end of calendar year 2007. The department has and will continue to meet the statutory requirements.

Lagoon Regulations

- KDHE has adopted regulations to address the construction of wastewater lagoons. Initial attempts at lagoon regulations grouped the brine lagoons, livestock, industrial, and municipal wastes. This proved difficult, as each group is essentially a category by itself. The draft regulations were broken into the categories described above. The brine lagoon, municipal lagoon and industrial lagoon regulations are in place. Livestock lagoon regulations were delayed due to delays in federal regulations resulting from court rulings but will be finalized soon.

Geologic Issues

- KDHE staff continues to monitor a sink hole near the old Carey Salt plant in Hutchinson. The sink hole is associated with a brine well from the 1920 era and is about 20' deep and 80' in diameter. The sink is next to the main railroad line. Our first concern is with public safety, secondly the groundwater pollution. The Hutchinson area is dotted with old brine wells.

Bureau of Environmental Remediation: is charged with the responsibility for cleanup of environmental damages across the state. These cleanups are conducted in a variety of programs ranging from federal Superfund to the state voluntary programs. These cleanups are predominantly conducted using state trust funds, federal funds or charges to the responsible parties. In recent years, the bureau has seen the maturation of programs such as the state underground and above ground storage tank regulatory and cleanup program, the voluntary and cooperative cleanup programs, dry cleaning

registration and cleanup programs, illegal methamphetamine lab program and state water plan funded orphan site remedial program. In addition, a new program for restoration of property under the Brownfields approach have been implemented using federal funds.

- Agency staff have been working with the industry, including the Petroleum Marketers and Convenience Store Association of Kansas to determine what changes will be needed to the Kansas Storage Tank Act to meet the new requirements of the federal Energy Bill of 2005. Kansas is ahead of many states because the original Kansas legislation contained many of the provisions of the Energy Bill. Legislative changes will be proposed to increase the insurance required for tank installers, establish training requirements for tank operators and to provide additional funding to accomplish these and the other tasks such as increased inspection, enforcement and reporting requirements.
- The Division of Environment has devoted considerable effort during the past year to issues related to a number of subsidence events in Wyandotte, Cherokee and Reno Counties. While subsidence is not a new issue to Kansas, 2006 was a particularly active period. Subsidence issues in Cherokee county have brought to light the need for consideration of an insurance program to allow both the banking industry and property owners to protect their assets from damage resulting from subsidence.
- In the final hours of the 109th session of the U.S. Congress, HR 6111, also known as the "Tax Relief and Health Care Act of 2006", was passed. This bill contains "The Surface Mining Control and Reclamation Act Amendments of 2006" which extends the collection of the Abandoned Mine Land fee on domestic coal production for at least 15 more years. The reauthorization will provide Kansas with AML funding at \$1.5 million per year through 2009. In 2010, the AML funding level will begin to gradually increase to a level of \$3 million per year by 2012.
- The recent declining economy has left many businesses unable to address their environmental obligations at sites where soil and groundwater contamination have occurred. Many of these sites pose a substantial risk to the water supplies and public health of the residents of Kansas. Obtaining adequate funding to respond to these threats to human health and the environment at orphan sites is increasingly important. For several years funding levels for orphan site remediation and for Superfund cost share have been declining.
- In 2005, the Kansas legislature passed the Matt Samuels Chemical Control Act, which made pseudoephedrine a Schedule 5 Substance, and required the powder and tablet forms of the drug to be sold by a pharmacy. This change has reduced the number of meth labs to which KDHE has had to remediate. In 2006, KDHE cleaned up 98 labs, which represents a significant reduction. KDHE is now responding to an average of 8 labs per month.
- The agency lacks sufficient funds to respond to Cherokee County mining sites and impacts to surface waters and match for federal superfund cleanups. Funding from Congress has been requested to begin a comprehensive cleanup of the lead and zinc mine waste in Cherokee Co. The agency has been informed that no money will be provided this year and any future

allocations will involve a minimum of a 10% match from the state.

- The Bureau of Environmental Remediation is currently participating in a national work group to develop investigation strategies for vapor intrusion sites where soil and groundwater are contaminated by volatile organic compounds. Vapor intrusion is the migration of volatile chemicals in the subsurface into overlying buildings. Volatile chemicals in groundwater emit vapors that can migrate through subsurface soils and into the indoor air of overlying buildings. This vapor intrusion pathway is a significant health pathway (inhalation pathway) for existing contaminated sites. Vapor intrusion also poses a risk at contaminated sites scheduled for redevelopment. EPA and many states are working to determine what contaminant levels are protective of building occupants. Additionally, efforts are ongoing within KDHE to develop guidance on investigating vapor intrusion at existing contaminated sites.

With the ever present need for economic growth and redevelopment, the Brownfields program offers communities an excellent opportunity to return underutilized properties to productive use. The department has been awarded funding from EPA to conduct and support brownfields activities in the State of Kansas. The agency conducts assessments of property for local municipalities to allow redevelopment of underutilized properties. The assessments determine the environmental condition of the property at no cost to the local government. Assessments can be performed before they take title to the property. In 2006, a total of 82 assessments were completed with another 17 currently underway, totaling over 244 acres that now have the potential to be redeveloped throughout the state. Cities participating in the program include Pittsburg, Kansas City, Augusta, Chanute, Lyons, Minneola, Clay Center, El Dorado, Ft. Scott, Burlingame, Topeka, Wichita, Hays, De Soto, Derby, and Great Bend. One example of the economic benefits created through the Brownfields program is occurring in El Dorado where an automotive fuel company recently purchased a Brownfields property. This company plans to invest up to \$32 million and create up to 200 new jobs. By investigating and redeveloping Brownfields properties, communities can produce new jobs, increase the local tax base and preserve undeveloped land.

Bureau of Environmental Field Services: provides service to the public and other Division of Environment bureaus through regulatory and compliance efforts, complaint and emergency response, ambient monitoring and pollution prevention efforts. This bureau often serves as the public's first point of contact for investigation and assistance. There are six district offices: Chanute, Wichita, Dodge City (with a satellite office in Ulysses), Hays, Salina and Lawrence. Some staff are located in the Topeka offices. The activities of the bureau staff cross all program lines of the regulatory programs of Air, Water, Waste Management and the tank programs of Environmental Remediation. In addition, this program provides support for the Bureau of Water's implementation of the Clean Water Act through performance of UAAs and sampling for the TMDL program. The activities of the bureau are implemented under working agreements between BEFS and the other four bureaus. It should be noted the district office clerical staff provide service to both Division of Health and Division of Environment staff in the offices.

Stream Classification and Use Designation Activity:

Statutes require KDHE to perform two major tasks related to stream classifications:

1. Evaluate the classification status of stream segments against the criteria for classification of stream segments provided in K.S.A. 82a-2003.
2. Evaluate the designated uses of classified streams against the criteria for use designation of classified stream segments provided in K.S.A. 82a-2004.

On February 1, 2007, the department will publish draft regulations on the annual update to the Kansas Surface Water Register. These regulations will propose recreational uses for 463 stream segments including 352 stream segments proposed for secondary contact recreation, and 111 stream segments proposed as primary contact recreation. Eighty stream segments are proposed for deletion from the Kansas Surface Water Register (removed from classification). One stream segment is proposed for restricted aquatic life and the remaining 17 stream segments have been rerouted and combined to form one segment. An additional 140 lakes/wetlands have been evaluated and 44 are proposed for primary contact recreation and food procurement, and 96 lakes are proposed for irrigation, livestock watering, domestic water supply, industrial water supply, and groundwater recharge.

Other KDHE Divisions:

Division of Health:

KDHE's Division of Health is responsible for investigating disease outbreaks and taking steps to prevent the spread of communicable diseases, as well as preparing for public health emergencies within the state. The Division of Health promotes healthy lives by developing and supporting programs to reduce the preventable chronic diseases and promote health activities such as good nutrition, physical activity, and preventing tobacco use. The Division provides assistance to Kansas communities in establishing or modifying health care delivery, and is responsible for ensuring the special needs of women and children are addressed through specialized screenings, treatments, and more general programs in Family Planning (FP), Maternal and Child Health (MCH), and the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC). The Division of Health also licenses and regulates numerous facilities in the state including childcare, hospitals, home health agencies, mental health facilities, restaurants, food service facilities, and lodging establishments. A wide range of health care workers also receive credentials and certifications through the KDHE Division of Health. A critical function of the Division is the management of all vital statistics records for Kansas and the gathering and analysis of health and environmental data.

Division of Health and Environmental Laboratories (DHEL):

The Division of Health and Environmental Laboratories provides clinical and environmental testing in support of KDHE programs. The clinical laboratories also serve as a reference laboratory for local public health laboratory facilities and are a member of the national laboratory response network. The services provided include newborn screening for genetic disorders, infectious disease detection, chemical and radiological environmental testing, childhood blood lead prevention analysis, and emergency preparedness for detection of biological, chemical and radiological agents.

The DHEL provides certification for clinical and environmental laboratories providing services to Kansas and support for law enforcement agencies through the breath alcohol program.

Thank you for your attention, we will be happy to answer any questions you might have.