

**MINUTES**

**SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES**

August 25-26, 1993  
Room 526-S, Statehouse

**Members Present**

Senator Don Sallee, Chairperson  
Senator Bob Vancrum, Vice-Chairperson  
Senator Tim Emert  
Senator Janice Hardenburger  
Senator Janis Lee  
Senator Phil Martin  
Senator Steve Morris  
Senator Doug Walker

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**Members Absent**

Senator Barbara Lawrence  
Senator Carolyn Tillotson (August 26)  
Senator Bill Wisdom

**Staff Present**

Raney Gilliland, Kansas Legislative Research Department  
Don Hayward, Revisor of Statutes Office  
Clarene Wilms, Committee Secretary

**Conferees**

Ken Kern, Director, State Conservation Commission  
Tracy Streeter, Resource Administrator, State Conservation Commission  
Don Peterson, State Conservation Commission  
Richard Jones, Kansas Association of Conservation Districts, Salina  
Don Paxson, Kansas Association of Conservation Districts, Penokee  
Robert Harder, Secretary, Kansas Department of Health and Environment  
Charles Jones, Director of Environment, Kansas Department of Health and Environment  
Woody Moses, Managing Director, Kansas Aggregate Producers' Association  
Bill Gahan, President, Kansas Aggregate Producers' Association, Topeka  
Harold Morgison, Dodge City Sand Company, Dodge City  
George Pearson, Jr., Miles Sand Company, Wichita

David Walker, Walker Stone Company, Chapman  
Steve Hatfield, Ritchie Sand, Inc., Wichita  
Marvin Zielsdorf, Hamm Quarry, Perry  
Dane Barclay, Alsop Sand Company, Concordia  
Joe McGuire, Cessford Construction Company, LeGrand, Iowa  
Larry Knocke, Kansas Department of Health and Environment  
George Austin, Division of Water Resources, Kansas State Board of Agriculture  
Bill Craven, Kansas Sierra Club  
Tracy Diel, Assistant City Attorney, City of Lenexa  
Joe Pille, Bureau of Mines and Minerals, Division of Soil Conservation, Iowa Department  
of Agriculture and Land Stewardship (written testimony presented)

#### **Others Attending**

See Attached List.

**August 25, 1993  
Morning Session**

Committee Chairman, Don Sallee, called the meeting to order shortly after 10:00 a.m. and opened hearings on S.B. 374.

#### **S.B. 374 -- Relating to Funding of Local Conservation Districts**

A copy of S.B. 374 was provided to Committee members (Attachment 1), as well as a memorandum describing S.B. 374 (Attachment 2).

Ken Kern, Executive Director, State Conservation Commission appeared before the Committee to present a briefing on the State Conservation Commission's role in natural resources and the local conservation districts' role in natural resources (Attachment 3). Attention was called to the opening page of Attachment 3 which lists various organizations and entities who assist and cooperate with the State Conservation Commission. Mr. Kern presented the background of the State Conservation Commission, noting the responsibilities, role, administration, and mission of the agency. It was further noted the natural resource programs administered by the Commission are included in the Kansas Water Plan with funding for the programs provided from the Kansas Water Plan Fund.

The composition of the Commission and the organization of the agency was explained as well as a flow chart of the programs administered by the State Conservation Commission.

When questioned as to whether commissioners received remuneration, Mr. Kern stated that travel and subsistence plus \$35 per meeting held was paid to Commission members. Mr. Kern estimated that 120-140 hours a year were involved for the nine meetings held each year.

A Committee member noted a constituent had expressed concern that the Water Office was considering allocating some State Water Plan money currently used for conservation projects to

other activities. Mr. Kern stated the Commission planned a very thorough discussion on this issue at their August meeting.

Staff noted this issue had come about due to the bills passed in the last legislative session concerning the purchase of further water storage supply capacity in federal reservoirs. The bill also included a requirement for the Water Office to study the financing potential for this purchase. It was further noted that the agencies receiving these funds had been asked if they would forgo some of their allocation to permit a down payment on the purchase. Mr. Kern noted there was concern about the quality of water versus the quantity. He stated they had had good reports on the effect of flood control this summer.

Tracy Streeter, Resource Administrator, State Conservation Commission, presented information concerning the formation of local conservation districts. He called attention to the fact that the district offices are co-located with the United States Department of Agriculture (USDA) offices in each county with the exception of Sedgwick County which maintains a separate office. Originally, the State Conservation Commission's role was to assist the districts in carrying out their conservation programs. Due to federal mandates, the State Conservation Commission was not able to fully meet technical needs of conservation districts. Consequently, a memorandum of understanding and gratuitous agreement between them and the conservation district established a working relationship for the local/federal partnership. Mr. Streeter discussed the district powers and responsibilities as well as district funding. Conservation district activities include local, state, and federal programs. Further details are shown in Attachment 3.

Mr. Streeter called attention to page 10, Attachment 3, noting the magnitude of funds which have been appropriated for the programs since the plan was established. Attention also was called to page 17, Attachment 3, the nonregulated categories of the Non-Point Pollution categories.

A Committee member noted the largest cost appeared to be the federal government's Conservation Reserve Program (CRP) which pays farmers to convert cropland to unused grassland and requested a breakdown as to who receives the ten largest payments per year, the size and location of the farms. The member further noted the total amount of funds was substantial and that farmers did not like to pay taxes. Mr. Streeter pointed out those receiving CRP payments do not receive other payments or subsidies, therefore, it is somewhat a tradeoff.

Another Committee member stated that part of the reason the Program came into being was because of the problem with soil loss and people not being able to make their conservation plan which was mandated by the federal government. The Committee member explained that the emphasis came from the urban areas out of concern for stable farm prices and more control over production. Also, the acres eligible have to be highly erodible acres and currently there is concern as to outcome at the end of the program period, especially those acres which should never have been put under cultivation.

A Committee member requested and received an explanation that a qualified elector was similar to other qualified electors in a general election and a land occupier is one who owns or occupies five acres or more. It was further noted that each year every district is required to hold an annual meeting and usually the election is held at that meeting.

A member questioned who was involved with sharing resources and Mr. Streeter said there was a state contract directly with the landowner although the county provides some funds on a limited basis.

In final analysis of S.B. 374 Mr. Kern noted the proposal to increase the state funds from \$7,500 to \$10,000 would have a fiscal impact of an additional \$203,050 above the FY 1994 appropriation of \$778,700. These figures would be based on 105 county conservation districts annual budgets for calendar year 1994. A maximum of \$1,050,000 in state funds would be required if all districts received \$10,000 in state assistance.

A Committee member questioned why the state would match funds on a \$10,000 per district basis. Mr. Kern replied that the state has requested implementation of a number of programs at the conservation district level with no increase in financial remuneration since 1979. These requests have placed an additional burden on the funds as well as staff already struggling to maintain the level of service. Mr. Kern explained that conservation district funds are a mix of county general funds, special mill levy funds, and other county funds noting that a number of county commissioners have indicated to the district that further funds would be provided if the state would increase their match. The member noted there appeared to be a larger local effort in some counties and questioned whether or not it was right that the state should be matching or should the greater local effort being made by some of the counties be recognized. Mr. Kern agreed that local participation in each county was not equal nor was the implementation of state programs or the need for the programs equal in each county.

A Committee member questioned whether the \$7,500 contributed by the state to each county covers the work required to comply with the mandates from the state. Mr. Kern noted the work was covered until the advent of the Non-Point Source Pollution Program and the Riparian and Wetlands Protection Program. The member noted this is yet another case where the state is requiring mandates from the local level without helping fund the mandates. Mr. Kern noted that their programs are implemented at the local level and the mandates have put a tremendous burden on the local districts.

A Committee member questioned what state mandates are over and above the mandates of the federal government. Mr. Kern noted the major state mandate over and above federal requirements was the Riparian and Wetlands Protection Program. Otherwise the state was basically implementing the federal mandates. The member questioned the \$10,000 per county restriction and Mr. Kern stated that, by statutory authorization, the commissioners in Sedgwick and Johnson counties determine the amount put into the program. When questioned whether the State Conservation Commission would object to the removal of the \$10,000 cap, Mr. Kern stated he did not foresee a problem at either the Commission or local level and noted it was a local level issue.

Don Peterson, State Conservation Commission, Clifton, appeared before the Committee noting county conservation district supervisors are elected at the annual meeting of each conservation district. A qualified elector must either rent or own five acres or more and should be very interested in conservation. He stated that the federal mandate for clean water affects both rural and urban areas with the local conservation districts providing the vehicle to administer such a mandate. No other agency has a physical presence in each county. The staffing is provided through a Memorandum of Understanding (MOU) with the local Soil Conservation Service, USDA, which is usually one employee providing the clerical help to the Soil Conservation Service in return for them providing office space to the conservation district. Mr. Peterson noted that 1979 budget dollars really do not suffice in 1993 dollars of buying power. Therefore, much of what is needed is not available. When questioned, Mr Peterson stated he would not be opposed to removal of the \$10,000 cap.

Richard G. Jones, Executive Director, Kansas Association of Conservation Districts, appeared and presented written testimony (Attachment 4). Mr. Jones noted his association



introduced a bill in 1989 that would have raised the state's contribution to \$10,000. That bill failed to pass the Legislature. At that time, deletion of the cap was considered but it appeared the county commissioners objected, therefore, the \$10,000 figure was retained.

Mr. Jones stated his organization was in the process of studying the laws, financing, and how the district offices operate, with recommendations to be presented at their annual meeting. He stated he would like to present the adopted recommendations to the Committee during the 1994 Legislative Session. In other comments, Mr. Jones said it was becoming clear that if the federal government passes mandates to operate at a local level they also will have to make funding available at that level as well.

Concerning S.B. 374, Mr. Jones recommended allowing district supervisors travel expenses for out-of-state meetings since natural resource technology is occurring beyond the state and district level.

There was considerable discussion concerning whether or not county commissioners were able to provide funds over and above the cap.

Don Paxson, Kansas Association of Conservation Districts, Penokee, appeared before the Committee noting the workload of district supervisors has probably increased tenfold in the past ten years making it extremely difficult to keep up. Mr. Paxson reiterated that an increase of \$2,500 would provide many districts with more opportunities to contribute to the well being of the people in their district.

#### Afternoon Session

Dr. Robert C. Harder, Secretary, Kansas Department of Health and Environment, presented documents to Committee members concerning the low-level radioactive waste issue (Attachment 5). Dr. Harder called attention to the "Continuous Progress Report" stating the report had been designed by Nebraska and the staff of the interstate commission. He felt that in "close reading" there was at least the suggestion that if the first site in Nebraska is rejected for whatever reason, Nebraska may make a move to open up the whole discussion about host state. Dr. Harder noted some small success in language changes in the "Continuous Progress Report," although the critical point of whether or not Nebraska would remain the host state was still not resolved.

Dr. Harder noted that the Southeast Compact does not want states continuing to use Barnwell and not showing good faith in building their own facility. Whether the progress plan from the Compact Commission gives such assurance is not known.

Dr. Harder noted the lawsuit concerning the community consent issue in Nebraska is scheduled for hearing in September or October. The other issue is the declaration by the Nebraska agency of its intent to deny the permit which is still pending. U.S. Ecology has agreed to reconfigure the site to exclude the wetlands and that reconfiguration has been presented to the State of Nebraska. The feeling was expressed by many of those involved that Nebraska is not moving forward toward the establishment of a facility and Nebraska remaining the host state issue could become a follow-up lawsuit.

A member asked at what point does Kansas have to decide on an alternative and Dr. Harder replied that unless the compact dissolves Kansas cannot leave the compact for five years; additionally, by the terms of the compact and federal legislation, Kansas also would have a financial penalty to pay. It was further noted that several other states in the compact have inquired about joining with Texas in a new compact and Kansas could explore this idea in the future.

Charles Jones, Director of Environment, Kansas Department of Health and Environment, presented a Solid Waste Update document (Attachment 6). Mr. Jones told the Committee that 14 applications had been received for grants, most from regions and several from counties. A map included in the attachment shows the regions which are being formed. Guidelines and application forms for solid waste planning grants are included in Attachment 7. Mr. Jones said that most regions should receive their grant money this year and KDHE is waiting for EPA approval of the Kansas solid waste program. Also, KDHE is moving forward to adopt Subtitle D by reference and said regulations should become effective prior to October 9, 1993 (Attachment 8). The Department also supported EPA's proposed extension of Subtitle D Landfill regulations to allow for state flexibility in certain areas such as making allowances due to the July and August flood.

Mr. Jones stated a Solid Waste Advisory Committee was formed and is presenting valuable input. Also noted was the proposed regulatory package tailoring the federal regulations for specific needs of Kansas. More stringent regulations will be proposed by KDHE on the issue of additional depth of topsoil to cover a landfill site. Also desired is having flexibility of accepting proof there is no water in the area thereby negating the need for groundwater monitoring.

Guidelines for design, operation, and permitting of solid waste transfer stations are presented in Attachment 9. A member noted he had received complaints from county commissioners that plans were being sent in for transfer stations and they were being told nobody at KDHE knew whether or not they could be approved. Mr. Jones stated they could not approve permits without regulations, but every effort was being made to work with and give feedback to county commissioners.

A member posed the question of liability should the proposed extension not be granted. Mr. Jones noted there is a provision in the law which shields landfill facilities from the citizen suit provision as long as those facilities are under some type of agreement with KDHE. Should an extension not be granted, KDHE would enter into consent agreements giving counties a reasonable amount of time to make the transition from present status to where they need to be.

The question was asked whether giving grants to regions before single counties was an indication that regional arrangements were preferred. Mr. Jones noted that by the Legislature giving regions a higher percentage (90 percent) funding versus funding to county plans the Legislature was giving regions a higher priority.

The meeting recessed shortly after 3:30 p.m. and will reconvene at 9:00 a.m. August 26.  
**August 26, 1993**  
**Morning Session**

The Chairman called the meeting to order at 9:00 a.m.

Members were provided a summary memorandum from the Kansas Legislative Research Department concerning 1993 S.B. 169 on Land Reclamation (Attachment 10).

Woody Moses, Managing Director, Kansas Aggregate Producers' Association, presented an engineering concept of a reclamation plan showing three phases; planning for a quarry operation, the actual extraction operation, and finally the reclamation or returning the land to its natural state. Mr. Moses was asked who currently makes the final decision to accept the final reclamation phase and it was noted it was usually the local zoning board.

Mr. Moses presented two videos concerning the aggregate industry; one titled "Crushed Stone," and the second "Sand and Gravel Production," to illustrate various methods of blending the operation into the neighborhood, community services, and reclamation of land into future home development areas, recreational and park areas, and other uses. It was further explained that in efficient reclamation operations the areas were reclaimed as the project continued so no one area was exposed for too long a time.

Mr. Moses told Committee members that S.B. 169 was being proposed because as the population continues to grow, the aggregate supply will diminish, and therefore, more aggregate will be needed.

Bill Gahan, President, Kansas Aggregate Producers' Association, presented testimony noting the issue of regulation has been discussed since 1969 (Attachment 11). He stated the proposed legislation is based on current reclamation law now in effect in Iowa. Iowa has used the bonding system for 20 years and provides for licensing of mine operators. Mr. Gahan told members that his organization feels reclamation legislation is necessary to deal with the questions of unlicensed operators and abandoned mine sites. It was noted the bill was designed as a reclamation bill, not as a regulation bill as envisioned by KDHE. The bill is designed to fund itself and deal only with the unregulated industry. Mr. Gahan presented a balloon containing proposed amendments to S.B. 169 (Attachment 12).

A member questioned what the opposition was with KDHE administering the bill. Mr. Gahan replied that in consideration of what the bill was trying to accomplish (proper reclamation), it seemed more appropriate to be administered by the State Conservation Commission. KDHE regulates strip mines and the two are not at all similar.

A member, noting the similarities, also questioned why KDHE should not regulate this industry. Mr. Gahan replied that strip mining often reclaimed half a section while the aggregate industry business could be looking at ten to 15 acres. It was noted that Iowa does have a few strip mines but not nearly as many as in Kansas.

Harold Morgison, Dodge City Sand Company, presented testimony. He stated that he was a small employer with ten employees. He told members he would like to see passage of S.B. 169 because it will take care of both large and small operators. The way rules and regulations are written it would separate the large from the small operators, possibly causing small business operators to go out of business.

A Committee member asked what difficulties had been encountered over this issue in prior years. Mr. Morgison yielded to Mr. Moses who noted that one time the Governor blocked the bill, once it just did not progress through the legislative system, once it was not the aggregate association's bill which mimicked coal mining and therefore was opposed because of differences between their operations and strip mining. Another time the counties opposed the bill.

A member questioned what type of regulations they operated under now. The reply stated that there were actually no regulations, thereby allowing fly-by-night operations to exist. The member noted the bill establishes registration and licensing, and payment of bonds. There were approximately 120 legitimate operators in the state, with those who are not licensed moving in and out, which permits leaving without reclamation. Another member questioned whether this would affect property owners who use their own rock and it was noted this would probably not affect personal use.

George Pearson, Jr., Miles Sand Company, Wichita, appeared before the Committee noting the business was of long standing, had moved several times, and one of the past operation sites has now become one of the most exclusive housing areas near Wichita with developed canals and lakes.

David Walker, Walker Stone Company, Chapman, presented testimony to the Committee stating he supported S.B. 169 because it was developed by producers who feel it is necessary. It was in his opinion that those who wrote previous bills did not have any idea what occurs in the field, and that 15-20 years can elapse before a great deal of movement occurs. He stated he was an environmentalist who worked recycling concrete and asphalt and they worked to recreate the environment in a different form. He expressed the feeling that it was not necessary to go back and attempt to reclaim past areas which have already moved on to other uses but should proceed from this time forward.

Steve Hatfield, Ritchie Sand, Inc., Wichita, appeared before the Committee, stating his company had been in business for over 40 years and they had pioneered reclamation in that area. His company has developed a shopping center in Wichita, purchased and reclaimed an abandoned sand operation and converted the area into an apartment complex, and a recent site is under development at the present time. Mr. Hatfield stated support of this legislation adding that Sedgwick County was more heavily regulated from a zoning point of view and the only true bite of that regulation is denial of future zoning permits.

Marvin Zielsdorf, Sales Manager, Hamm Quarry, Perry, told members that his company works at locations in 20 counties and in the last three years they have reclaimed eight different locations. Mr. Zielsdorf stated that reclamation was much easier and more efficient cost wise if they went into a sight with a plan of action. Support was expressed for this legislation. He did express concern that the time frame might need to be closely scrutinized.

Dane Barclay, Alsop Sand Company, Concordia, appeared before the Committee stating his support for the bill as presented. He noted his company had been reclaiming their own sites for the past 30 years and were very proud of their reclamation work. It was Mr. Barclay's opinion that the State of Kansas needs a workable reclamation bill, one that would not burden the taxpayers. It was noted that today the responsible producers are penalized for reclaiming their pits and quarries. By voluntarily reclaiming the sites, the operating costs are considerably increased and this in turn hinders competitive bidding with producers who do not reclaim their sites. Earlier legislation involved new tax dollars to clean up sites left by less responsible producers. Therefore, a workable reclamation law is necessary. Earlier bills which were proposed failed to recognize that individual sites differ and vary across the state and rules and regulations need to address these differences. Mr. Barclay pointed out this bill was a case of the industry striving to regulate itself without involving tax dollars, noting the plan is totally self-funding. He stated Iowa started out with two full-time and one part-time positions and are now down to one full-time and one part-time position.

Joe McGuire, Cessford Construction Company, LeGrand, Iowa, presented testimony to the Committee (Attachment 13). Mr. McGuire stated this bill is a starting point and would provide guidance to that segment of operators who are not and who never will be good stewards of land. Concern was expressed that the bill not be caught up in bureaucracy, especially since strip mining deals with a myriad of problems not involved with the aggregate operations.

A member noted that there appeared to be a major dispute as to who would be responsible for completed work in the reclamation area but the end result is to return the land to as nearly as possible its natural state. Mr. McGuire noted differences in Iowa, by dealing with this issue through the soil conservation department spends about \$60,000 whereas Missouri, working through natural resources spends a great deal more. It was further noted that Iowa has a separate entity dealing with cleaning up strip mining problems.

Kenneth F. Kern, Executive Director, State Conservation Commission, appeared and presented written testimony stating that the Kansas Aggregate Producers' Association had presented a proposal to administer a surface-mining land conservation and reclamation program to his organization which they had agreed to support (Attachment 14). Mr. Kern noted the Commission recommends the license fee and renewal fee remain at the proposed levels and assess a one cent per ton on material extracted. This would provide the necessary funding. An alternative to the tonnage fee would be a per acre fee. A further recommendation suggested that funds not used for administration would be designated for future land reclamation of existing inactive sites. Mr. Kern noted rules and regulations would need to be developed. He stated that his organization's experience in this type of operation is very similar to that in the area of nonpoint pollution control.

A member questioned who was now overseeing the reclamation issues. It was stated that in some cases it was between the property owner and the zoning regulation officials. Concern was expressed that once such regulations were encompassed in state government there would be no end to the growth of costs and therefore it becomes a burden on the producers.

Another member also expressed concern with adding to state bureaucracy and noted the State Conservation Commission had someone located in each county. Reclamation numbers each year are small, the projects being an ongoing process.

Mr. Kern was questioned as to staff needs. It was noted a Civil Engineer III experienced in geology and hydrology and a Secretary II with the local person working on a limited basis was needed. The question also was posed as to whether the State Conservation Commission was willing to take on this effort. Mr. Kern noted they did not have much experience in some areas. The thought also was expressed that the aggregate producers want some reclamation, but are concerned about the expense of getting into total reclamation as is done in strip mining with the numerous regulatory aspects.

Larry Knocke, Director of the Bureau of Environmental Remediation, Division of Environment, KDHE, presented written testimony in opposition to S.B. 169 (Attachment 15). Mr. Knocke stated in his opinion this was a registration bill and definitely lacked performance standards on reclamation. He noted that until such standards were in place you were comparing apples and oranges where costs were concerned. Mr. Knocke stated that the bill did have some merit as far as registration was concerned and additionally, the amount of bonding required probably was not sufficient.

A Committee member noted even though there was not sufficient bonding, even some bonding would be preferable to none at all. It also was suggested that with the proposed method the county should have some say in the area of reclamation.

Another member questioned how many people in KDHE are overseeing the mining operations. Mr. Knocke stated that in the mining area near Pittsburg, it was divided into three areas; one in reclamation of abandoned mining areas, the active mining section, and the emergency section. Fifteen-and-one-half positions are overseeing eight counties. When asked how many more positions would be required statewide, Mr. Knocke suggested that if there was a standard for reclamation, then someone would need to be in the field to check those standards. One engineer, an office assistant, and one technician would be needed just for a registration bill with no formal standards. When questioned as to whether KDHE would support the bill if it named them rather than the State Conservation Commission, Mr. Knocke stated he did not think they could support the bill without performance standards and it would be necessary to look at the fiscal impact.

A member questioned whether the department felt this bill was better than nothing and questioned whether the department had ever supported a bill on reclamation. Mr. Knocke stated he could not give a definitive answer and would have to check records concerning previous bills.

George Austin represented David L. Pope, Division of Water Resources, Kansas State Board of Agriculture and presented testimony (Attachment 16). It was noted their agency had discovered state regulations on small operations are extremely costly for both the operators and the agency when compared to large production operations. Consequently, their agency has established levels of differing regulatory requirements to reflect a fair impact on applicants. This differing regulatory requirement allows reduced work for application and permit while translating into less expense for minor activities. Mr. Austin noted the Division of Water Resources could support S.B. 169 with such clarification as shown in the attachment.

William Craven, Legislative Coordinator, Kansas Sierra Club, presented testimony (Attachment 17). Mr. Craven stated the real issue is how to reclaim those sites now operating and how to deal with remnants of quarry operations in the state. Mr. Craven stated his organization was neutral on the bill but questioned naming the State Conservation Commission as the lead agency. Also, at question is the issue of inactive or historical mines and the need to establish a trust fund or a revolving fund to reclaim such sites while dealing with the issue.

A member noted the magnitude of cost for closure of abandoned sites would be tremendous. Mr. Craven stated it would still be of use to know where the various sites are located and what type of site they are.

Tracy Diel, Assistant City Attorney, City of Lenexa, appeared in support of S.B. 169. Mr. Diel noted the city had little regulation over the three quarries plus one inactive quarry now within the city limits of Lenexa. Three areas were suggested to improve the bill. The first of these is to expand the definition of the affected land to include stockpiles. Accessory uses should be included within the bill to help the city in dealing with all aspects of the operation. The second is to expand the definition of reclamation to include "the reconditioning of the area or land affected by surface mining so that the mined or affected lands are reclaimed to a useable condition that are readily adaptable for alternative land uses and create no danger to public health or safety." The third area would be to give some consideration to abandoned mines. Within city limits these sites, will not return to pasture land as in other parts of the state. The original bill dealt with active sites and inactive sites defining inactive as those operations where surface mining is not currently being

conducted but the site has been disturbed in the past and the operator anticipates future mining activity. Mr. Diel further noted that not everybody in the community is performing in the right way. Further direction is needed to deal with future operations.

A member questioned whether Mr. Diel was concerned about regulations being set at a state level and whether this would affect a city's ability to require more stringent regulations on a highly urbanized area. Mr. Diel noted regulation would give them some ability to deal with problems now present.

A member commented that although Health and Environment opposed this bill, the Sierra Club took a neutral position and others were in favor, all have put the same qualifiers on the testimony, that is, requiring some performance standards and requirements of addressing abandoned sites and stockpiles.

A member commented that there is definitely a difference between various areas of the state and whether the setting is urban or rural. The member noted that some type of local involvement would be necessary.

Woody Moses pointed out that the first two points suggested by Mr. Diel were included in the balloon of S.B. 169 presented in Attachment 18. He also noted that each reclamation plan would have standards involved and those standards would vary depending on the area involved.

Written testimony was provided by Joe Pille, Bureau of Mines and Minerals, Division of Soil Conservation, Iowa Department of Agriculture and Land Stewardship (Attachment 19).

The Chairman placed S.B. 374 before the Committee for discussion and possible action.

**S.B. 374 -- Concerning Conservation Districts;  
Relating to Funding Thereof**

Senator Emert made a motion to delete line 17 starting with "The" through lines 18 and 19 through "county" on line 20. Senator Vancrum seconded the motion.

Anne Smith, Kansas Association of Counties, told Committee members that the counties appear to be split concerning the issue of an annual cap and that county commissioners sometimes use this method of disclaiming responsibility.

A member noted that both the bill and the amendment go contrary to what he is hearing from his constituency, that is, removing the limit and allowing more spending. Another member voiced the opinion that the issue needs to be decided at the local level and another member stated this just removes the mandate and lets counties spend what they deem proper. Another thought was expressed that flexibility was sought and this bill would provide that flexibility.

**The motion carried.**

Senator Vancrum made a motion to delete on page 2, line 5 "shall," delete all of lines 6-9 and all of line 10 including district." and insert "would come in with a request for an amount equal to the sum of the allocations of each county and each conservation district."

The motion died for lack of a second.

Discussion continued concerning the issue of out-of-state travel and it was determined to leave it as it is since no requests were made for change.

Senator Lee made the motion to pass S.B. 374 out favorably as amended with Senator Emert seconding the motion. The motion carried. Senator Walker requested his no vote be recorded.

The meeting adjourned at 12:15 p.m. and the next meeting is scheduled for October 25-26.

Prepared by Raney Gilliland

Approved by Committee on:

October 25, 1993

(Date)



## GUEST LIST

## SENATE COMMITTEE ON ENERGY &amp; NATURAL RESOURCES

DATE August 26, 1993(PLEASE PRINT)  
NAME AND ADDRESS

BILL GAHAN TOPEKA

Steven P. Hatfield Wichita

Marvin Zielsdorf Topeka

George Pearson Wichita

Joe McGuire Le Grand, Ia

Harold Morgan Dodge City

DAVE BARCLAY Seaside, KS

IRACLY IEL Lenexa, KS

JOHN PSKAC MANHATTAN

Rex Buchanan LAWRENCE

Marty Burke Topeka

Jim McQuade Topeka

Sam Wells Topeka

Tram Hunter Topeka

Bill Caven Topeka

Anne Smith Topeka

Dev Bradley Topeka

Larry Krone Topeka

ORGANIZATION

MARVIN MARLETTA

Ritchie Sand Inc.

HAMM Quarry

Miles Sand Inc

Cassford Const. Co.

Dodge City Sand Co

Alsup Sand Co.

City of Lenexa, KS

USDA-SCS

KS. GEOLOGICAL SURVEY

KS Wildlife &amp; Parks

OK &amp; EXR

State Conservation Comm.

State Cons Com

Sierra Club of Kansas

KS Assoc of Counties

KS Assoc of Counties

KOHE

## SENATE BILL No. 374

By Committee on Federal and State Affairs

2-18

8 AN ACT concerning conservation districts; relating to funding there-  
9 for; amending K.S.A. 2-1907b and 2-1907c and repealing the ex-  
10 isting sections.

11  
12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. K.S.A. 2-1907b is hereby amended to read as follows:  
14 2-1907b. The board of county commissioners, upon request of the  
15 board of supervisors of the conservation district, may pay to the  
16 district moneys from the county general fund for the supervisors to  
17 carry out their duties under this act. The amount authorized shall  
18 not exceed \$10,000 annually, except that such limitation shall not  
19 apply to the board of county commissioners of Sedgwick and Johnson  
20 county. In addition to moneys from the county general fund, the  
21 board of county commissioners may levy an annual tax against the  
22 taxable tangible property within the district, not to exceed 2 mills  
23 or \$55,000 whichever is less, to provide additional moneys for the  
24 operation of the conservation district.

25 The levy shall be sufficient to pay a portion of the principal and  
26 interest on bonds issued under the authority of K.S.A. 12-1774, and  
27 amendments thereto, by cities located in the county, which levy  
28 may be in addition to all other tax levies authorized by law and not  
29 subject to or within any tax levy limit or aggregate tax levy limit  
30 prescribed by law. Funds appropriated or allocated under the pro-  
31 visions of this section and K.S.A. 2-1907c, and amendments thereto,  
32 shall be used to carry out the activities and functions of the district  
33 including cost of travel and expenses of supervisors and employees  
34 of the district ~~incurred within the state~~, educational materials,  
35 conservation awards, annual meeting expenses, excluding meals, and  
36 membership dues to conservation related organizations. Such funds  
37 shall not be used for prizes, or incentives for achievements or at-  
38 tendance at meetings or for travel or expenses for anyone other than  
39 supervisors and employees of the district.

40 Sec. 2. K.S.A. 2-1907c is hereby amended to read as follows: 2-  
41 1907c. ~~Each conservation district shall~~ On or before September  
42 1 of each year, *each conservation district shall* submit to the state  
43 conservation commission a certification of the amount of money to

Senate E + NR  
8-25/26-93  
Attachment 1

1 be furnished by the county commissioners for conservation district  
2 activities for the ensuing calendar year; ~~this sum to.~~ *Such amount*  
3 *shall* be the same as authorized for such purposes in each approved  
4 county budget. For the purpose of providing state financial assistance  
5 to conservation districts, the state conservation commission ~~shall~~  
6 ~~then in their in the~~ regular budget request, as a line item for the  
7 forthcoming fiscal year, *shall* submit a special request for an amount  
8 equal to the sum of the allocations of each county to each conser-  
9 vation district, but in no event to exceed the sum of ~~seven thousand~~  
10 ~~five hundred dollars (\$7,500)~~ \$10,000 per district. The state con-  
11 servation commission ~~shall~~ as soon as practicable after July 1 of the  
12 following year *shall* disburse such moneys as may be appropriated  
13 by the state for this purpose to each conservation district to match  
14 funds allocated by the commissioners of each county. Distribution  
15 shall be prorated in proportion to county allocations in the event  
16 that appropriations are insufficient for complete matching of funds.  
17 Municipal accounting procedures shall be used in the distribution  
18 of and in the expenditure of all funds.

19 Sec. 3. K.S.A. 2-1907b and 2-1907c are hereby repealed.

20 Sec. 4. This act shall take effect and be in force from and after  
21 its publication in the statute book.

# MEMORANDUM

## Kansas Legislative Research Department

300 S.W. 10th Avenue  
Room 545-N -- Statehouse  
Topeka, Kansas 66612-1504  
Telephone (913) 296-3181 FAX (913) 296-3824

August 12, 1993

To: Senate Energy and Natural Resources Committee  
From: Dennis A. Hodgins, Research Assistant  
Re: Funding of Local Conservation Districts -- S.B. 374

The following information briefly describes 1993 S.B. 374.

S.B. 374 would allow the spending of appropriated or allocated funds from a county general fund for the cost of travel and expenses, within the state or out of the state, by supervisors and employees of a conservation district of that county. Language restricting such expenditures to within the state would be stricken from the bill.

Under current law, the State Conservation Commission submits a special request from its regular budget request for an amount equal to the sum of the allocation of each county for its conservation district. Presently, this amount cannot exceed the sum of \$7,500 per district. S.B. 374 would increase this allocation from \$7,500 to \$10,000 per district.

S.B. 374 was introduced by the Senate Committee on Federal and State Affairs and referred to the Senate Energy and Natural Resources Committee on February 19, 1993. This bill was withdrawn from the Senate Energy and Natural Resources Committee and referred to the Ways and Means Committee which rereferred the bill to the Senate Energy and Natural Resources Committee on March 3, 1993.

Information from the State Conservation Commission indicates that for FY 1994, 99 out of 105 counties received the current maximum of \$7,500. The total state funding appropriated for FY 1994 is \$778,700.

If S.B. 374 had been law for FY 1994, 76 counties would have qualified for the full \$2,500 increase and 11 counties would have received some increase above their current allocation, depending on the total amount of their contributions. The total increase in FY 1994 state cost would have been \$203,050.

Under S.B. 374, if the 29 counties which do not currently provide \$10,000 of support for their conservation district raised their contributions to the maximum allowable amount, then the total state cost of the program would be \$1,050,000. This amount would be a \$271,300 increase from the FY 1994 appropriation and a \$262,500 increase from the state's maximum contribution under state law.

93-7070/DAH

Senate E + NR  
8-25/26-93  
Attachment 2

STATE CONSERVATION COMMISSION

PRESENTATION TO THE

SENATE ENERGY AND NATURAL RESOURCES COMMITTEE

AUGUST 25, 1993

DON PETERSON  
CHAIRMAN

KENNETH F. KERN  
EXECUTIVE DIRECTOR

TRACY STREETER  
RESOURCE ADMINISTRATOR

Senate Energy and Nat. Resources  
August 25-26, 1993  
Attachment 3

3





# State Conservation Commission

109 S.W. 9TH STREET, SUITE 500

TELEPHONE (913) 296-3600

TOPEKA, KANSAS 66612-1299

SENATE ENERGY AND NATURAL  
RESOURCES COMMITTEE  
August 25, 1993

I am Kenneth Kern, Executive Director of the State Conservation Commission.

The State Conservation Commission appreciates the opportunity to discuss the Commission and Conservation Districts role in natural resource management in Kansas. I have been asked to present some background information on the State Conservation Commission and Conservation Districts.

Before this information is presented, the Commission and Conservation Districts would like to express their appreciation and thanks for the cooperation and assistance from local, state, and federal agencies and the private sector as programs have been planned and implemented. The state water planning process has contributed to a better understanding of roles and the need for working together.

Special recognition and thanks is extended to the following for their assistance and cooperation:

Kansas Water Authority  
Kansas Water Office  
Kansas Department of Wildlife and Parks  
Kansas Department of Health and Environment  
State Board of Agriculture  
Cooperative Extension Service  
Agricultural Experiment Station  
Kansas Corporation Commission  
USDA, Soil Conservation Service  
U.S. Fish and Wildlife Service  
Environmental Protection Agency  
Farmers Home Administration  
County Conservation Districts  
Watershed Districts  
Ground Water Management Districts  
County Health Departments  
The many environmental groups interested in protection of the  
natural resources  
Numerous local and state organizations  
Legislature  
Governor's Office  
Citizens of Kansas

There is always danger of leaving someone out when making a list like this. We do want to thank everyone who has helped to conserve and protect the natural resources of Kansas.

## STATE CONSERVATION COMMISSION

### 1. BACKGROUND:

- a. The Commission was established by the 1937 Legislature pursuant to K.S.A. 2-1901, et. seq. The law, referred to as the Conservation District Law, charges the Commission with the protection of the State's soil and water resources.
- b. Initially, the responsibility of the Commission was to assist in the formation of conservation districts. This task was completed in 1954 with the formation of the 105th conservation district.
- c. Since then, the Commission's role is to administer the Conservation Districts Law and Watershed District (K.S.A. 24-1201 et. seq. in each of the conservation districts and organized watershed districts (86) across Kansas.
- d. Presently, the Commission establishes policy for administration of nine financial assistance programs. Eight of the programs are part of the state water plan and eligible for funding from the state water plan special revenue fund. One program, Aid to Conservation Districts, normally funded from the state general fund, has been funded through the state water plan special revenue fund since FY 1991. Funding for the Commission's administrative operations is from the state general fund.

2. GOVERNING BODY: The agency is governed by a nine member Commission: Five elected Commissioners; two ex-officio representing the Agricultural Experiment Station and Cooperative Extension Service, Kansas State University; and two appointed members representing the Kansas State Board of Agriculture and the USDA, Soil Conservation Service. Pages 3 and 4 provides additional Commissioner information.

3. STAFF: The staff consists of eleven full time equivalent (FTE) employees. One position, partially funded from an Environmental Protection Agency (EPA) grant, coordinates the Riparian and Wetlands Protection Program.

- a. A Special Project Position provides Information and Education and serves as contracting officer for several cost-share programs.
- b. A Consultant is contracted for Non-Point Source planning assistance to Conservation District's.

4. MISSION: The State Conservation Commission, established in 1937, works to protect and enhance Kansas' natural resources through the development, implementation and maintenance of policies, guidelines and programs designed to assist local government entities and individuals to conserve our renewable resources.

5. **RESPONSIBILITIES:**

- a. Provide administrative assistance to conservation districts and watershed districts (KSA 2-1904, 24-1211, and 24-1212). The map on page 5 shows the organized watershed districts and Commission areas.
- b. Implementation and administration of Kansas Water Plan and other programs authorized by the Legislature.
- c. Cooperate, coordinate, and communicate with local, state, and federal agencies, and the private sector on natural resource management.

6. **KANSAS WATER PLAN:**

- a. Natural resource programs administered by the Commission are included in the Kansas Water Plan. A brief description of the Commission programs is on page 6.
- b. Appropriations from the Kansas Water Plan Special Revenue Fund provides funding for the programs. The chart on Page 7 gives the estimated receipts and the appropriations for FY 1994 from the State Water Plan Special Revenue Fund.
- c. The Executive Director is an ex-officio member of the Kansas Water Authority.



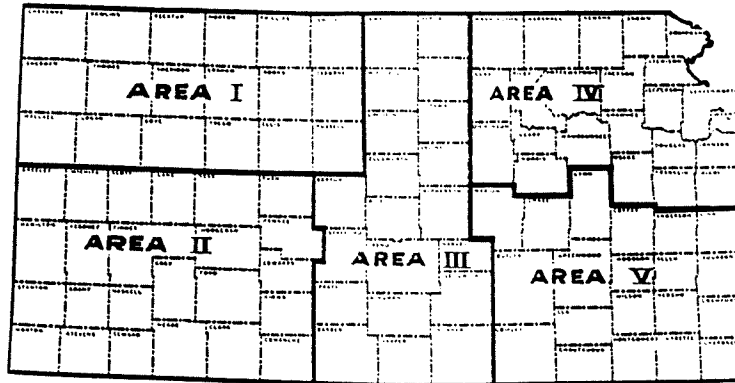
# State Conservation Commission

1992

ELECTED MEMBERS: Area Commissioners elected to two-year terms  
by Supervisors of Conservation Districts within each area.



Donald C. Peterson  
Area IV  
Clifton



Kathleen Olson-Wilson  
Area II  
Ulysses



Darrel Gale  
Area I  
Phillipsburg



Russell Burger  
Area III  
Salina



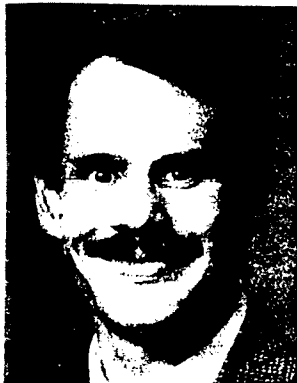
Rodney Vorhees  
Area V  
Fredonia

## COOPERATING AGENCIES

### EX OFFICIO REPRESENTATIVES

### APPOINTED

### APPOINTED



John Hickman  
Cooperative Extension  
Service  
Manhattan



James Steichen  
Agricultural  
Experiment Station  
Manhattan



David Pope  
State Board of  
Agriculture  
Topeka



Jim Habiger  
Soil Conservation  
Service  
Salina

## STATE CONSERVATION COMMISSION

### ELECTED COMMISSIONERS

**DONALD C. PETERSON** Area IV Commissioner  
Chairperson RR 1, Box 70, Clifton, KS 66937-9714  
(Telephone: 913-729-3825)

**DARREL GALE** Area I Commissioner  
Vice-Chairperson RR 1, Box 78, Phillipsburg, KS 67661-9801  
(Telephone: 913-638-2241)

**KATHY OLSON-WILSON** Area II Commissioner  
2437 S Road C, Ulysses, KS 67880-9998  
(Telephone: 316-356-1668)

**RUSSELL BURGER** Area III Commissioner  
5000 W Shipton Road, Salina, KS 67401-9358  
(Telephone: 913-823-8959)

**RODNEY VORHEES** Area V Commissioner  
RR 1, Box 172, Fredonia, KS 66736-9614  
(Telephone: 316-692-3621)

### EX-OFFICIO

**DR. JOHN HICKMAN** Kansas State Univ., Cooperative Extension Service  
Throckmorton Hall, Room 219, Manhattan, KS 66506-0001  
(Telephone: 913-532-5776)

**DR. JAMES STEICHEN** Kansas State Univ., Agricultural Experiment Station  
149 Seaton Hall, Manhattan, KS 66506-0001  
(Telephone: 913-532-5580)

### APPOINTED

**DAVID L. POPE** Kansas State Board of Agriculture  
901 S Kansas Avenue, Topeka, KS 66612-1299  
(Telephone: 913-296-3717)

**JAMES "JIM" HABIGER** USDA Soil Conservation Service  
760 S Broadway, Salina, KS 67401-4655  
(Telephone: 913-823-4565)

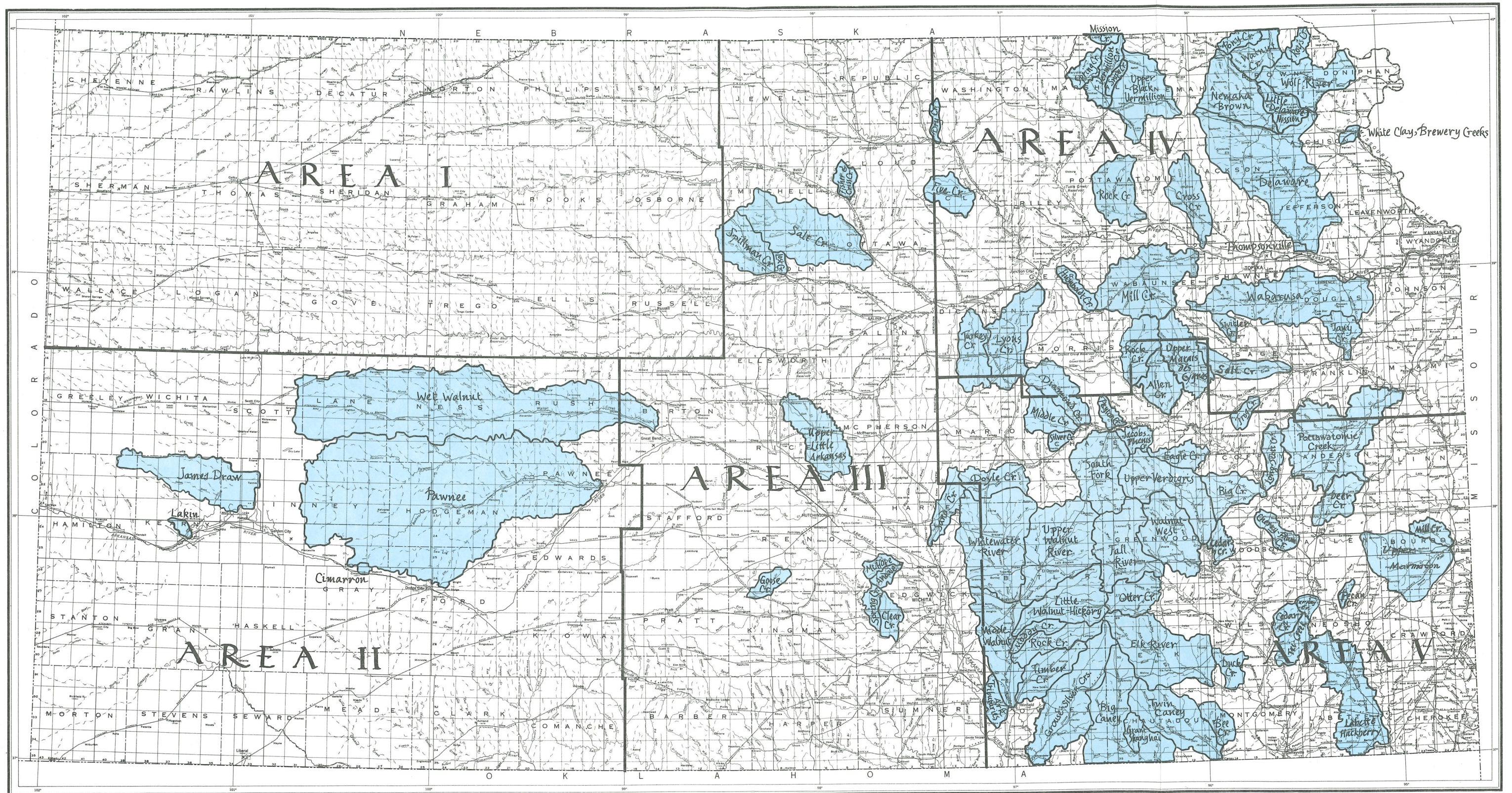
### STAFF

**KENNETH F. KERN** Executive Director, State Conservation Commission  
109 SW 9th Street, Suite 500, Topeka, KS 66612-1299  
(Telephone: 913-296-3600)

Phil Balch, Riparian & Wetlands Coord.	Dee Turner, Conservation District
Greg Foley, Program Specialist	Program Coordinator
Donna Meader, Secretary	Lola Warner, Fiscal Administrator
Yolanda Rivera, Accountant	Pam Wells, Special Project Officer
Opal Rodenbaugh, Office Assistant	Steven Wilhite, Keyboard Operator
Tracy Streeter, Resource Administrator	Patti Woodcock, Office Specialist



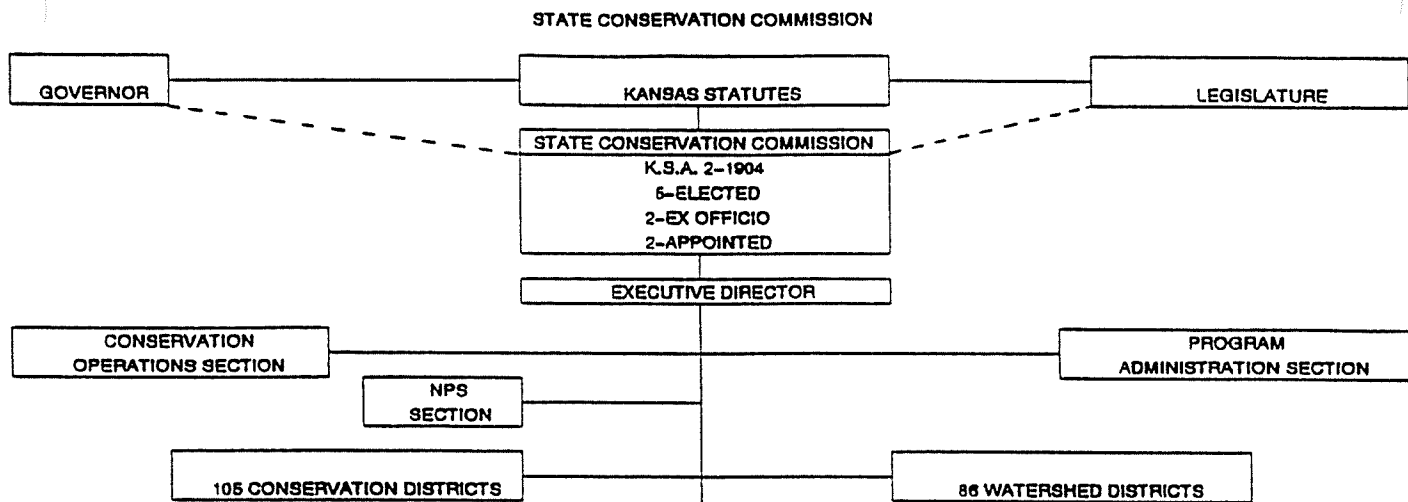
# STATE CONSERVATION COMMISSION AREAS, COUNTY CONSERVATION DISTRICTS AND WATERSHED DISTRICTS



Conservation districts are organized and operating in each of the 105 counties--boundaries are coterminous.

KANSAS  
January, 1992





**PROGRAM EXPLANATION**

Below is a brief explanation of the programs administered by the State Conservation Commission.

**CONSERVATION DISTRICTS  
"MATCHING FUND"**

K.S.A. 2-1907c provides that the state can match county funds appropriated by the county commissioners up to a maximum of \$7,500 per district. K.S.A. 2-1907b provides that each county can levy an additional tax, not to exceed 2 mills or \$55,000, whichever is less. These monies are to be used for the operation of the conservation district.

**WATER RESOURCES  
COST-SHARE PROGRAM**

K.S.A. 2-1915 enables the state to provide cost-sharing assistance to landowners for the establishment of enduring structures (practices) to develop and improve the quality and quantity of Kansas water resources. Due to implementation requirements of the 1985 Food Security Act, cost-share assistance is prioritized for the treatment of highly erodible land (HEL).

**STATE ASSISTANCE  
WATERSHED DAM CONSTRUCTION**

K.S.A. 2-1915 enables the state to provide cost-sharing assistance to watershed and drainage districts in the construction of detention dams and/or grade stabilization structures (Non-P.L. 566 structures). All general plans and construction program structure plans and specifications must be approved by the Chief Engineer, Division of Water Resources, State Board of Agriculture.

**STATE OFFICE  
ADMINISTRATION**

The purpose of the administrative program is to provide leadership, direction and support to the conservation districts, watershed districts, and other special purpose districts of the state. This fund provides for staff salaries, communications, printing, travel and subsistence for staff and commissioners, rents, office supplies, capital outlay and miscellaneous items.

**MULTIPURPOSE SMALL  
LAKES PROGRAM**

This program, developed out of the State Water Plan, provides state cost-share assistance to a sponsor for construction or renovation of a dam. Multipurpose features of flood control, water supply and/or recreation are eligible for cost-share assistance. Special non-point source pollution control assistance is available to protect the site from non-point sources of pollution.

**BENEFIT AREA  
PROGRAM**

This program, established by K.S.A. 82a-909 in 1963, was transferred from the Kansas Water Office to the Commission by the 1986 Legislature and is designed to provide state reimbursement to a public corporation for a portion of those expenditures that provide more than 20 percent of the benefits to an area outside the boundaries of the taxing entity responsible for construction of the flood control project.

**WATERSHED PLANNING  
ASSISTANCE PROGRAM**

This program, authorized in FY 58, provides assistance by contracting with Kansas consulting engineers to obtain engineering services and environmental assessments needed to supplement the federal government's technical planning efforts in the preparation of watershed district plans. The basic information obtained by these contracts is incorporated into the general plan to meet requirements of the Kansas Watershed District Act.

**NPS POLLUTION  
CONTROL FUND**

This fund was established by the 1989 legislature to develop a comprehensive program to provide technical and financial assistance to implement NPS pollution control measures for the protection and/or restoration of surface and groundwater quality. The county conservation districts coordinate the planning and implementation of local management plans.

**RIPIARIAN/WETLAND  
PROGRAM**

As authorized in K.S.A. 2-1915, the State Conservation Commission has developed a state program to address resource management concerns of water quality, erosion and sediment control and wildlife habitat for the protection of riparian and wetland areas. This program is implemented by conservation districts' programs utilizing existing federal, state and local funds.

**WATER RIGHTS  
PURCHASE PROGRAM**

The purpose of this program is to provide state cost-share assistance with a local entity to purchase a water right to restore base flows in designated streams and/or slow or reverse the decline of groundwater levels in specific aquifers. This program is available to any eligible holder of a Kansas Water Right who is willing to voluntarily return all or a part of the water right to the state.

7/22/93

## KANSAS INITIATIVES IN NATURAL RESOURCE MANAGEMENT

STATE WATER PLAN FUNDING  
DEDICATED FUND

## SOURCE AND PROJECTED REVENUES - FY 1994

1. Beginning Balance July 1, 1993 (Estimated)	\$ 873,330
2. Transfer From:	
- State General Fund	6,000,000
- Lottery Funds	2,000,000
3. Water Protection Fees:	
- Municipal Water Use (3 cents/1000 gallons)	3,300,000
- Industrial Water Use (3 cents/1000 gallons)	1,000,000
- Stock Water Use (Large Operations 3 cents/1000 gallons)	250,000
- Pesticidal Labels (\$100/ag chemical registered)	736,700
- Fertilizer Use (\$1.40/ton)	2,121,539
4. Environmental Fines	57,277
5. TOTAL RECEIPTS	\$15,467,516
6. TOTAL AVAILABLE	\$16,440,846

## FY 1994 APPROPRIATIONS - \$15,346,430

State Board of  
Agriculture

1. Water Conservation Planning/Coordination	\$100,000
2. Subbasin Water Management	500,000
3. Total	\$600,000

University of Kansas  
Kansas Geological Survey

1. Dakota Aquifer Study	\$200,000
2. Total	\$200,000

State Conservation  
Commission

1. Land Treatment Cost-Share Program	\$ 5,736,772
2. Watershed Dam Construction Program	1,255,815
3. Multipurpose Small Lakes Program	933,663
4. Non-Point Source Pollution Control	849,594
5. Aid to Conservation Districts	778,700
6. Riparian & Wetlands	100,000
7. Total	\$ 9,854,544

Department of Health  
& Environment

1. Environmental Remediation	\$1,096,422
2. Household Hazardous Waste	150,000
3. Local Environmental Protection Grants	1,253,628
4. Public Water Supply Outreach	200,000
5. Non-Point Source Pollution	44,883
6. Total	\$2,743,933

## Kansas Water Office

1. Data Base Manager	\$ 47,787
2. Economic Impact Study	47,000
3. Data Access & Support Center (GIS)	120,000
4. Database Development (GIS)	300,000
5. Riparian Ecosystem Study	50,000
6. Educational Assistance to Water Users	75,000
7. Geography Resource Center	50,000
8. Impact of Pumping Center on Streamflow	20,166
9. Mineral Intrusion	130,000
10. Neosho Subbasin Plan	150,000
Republican Subbasin Plan	128,000
11. Total	\$1,152,953

Department of  
Wildlife & Parks

1. Cheyenne Bottoms Renovation	\$ 820,000
2. Cheyenne Bottoms Land Acquisition	175,000
3. Total	\$ 995,000

## CONSERVATION DISTRICTS

### 1. BACKGROUND:

- a. Conservation districts were formed as authorized by the Conservation District Law, KSA 2-1901 et. seq. The first one was organized in 1938 and the last one in 1954.
- b. Districts are governmental subdivisions of the state, a public body corporate and politic, and exercise public powers.

### 2. GOVERNING BODY: Five elected supervisors make up the governing body of the district.

- a. The Supervisors are elected by qualified electors and land occupiers in the county at the district annual meeting.
- b. Elected for a three year term.
- c. Must be a qualified elector and land occupier residing within the district.
- d. The supervisors serve without compensation for services, but may be entitled to expenses, including travel, necessarily incurred in the discharge of duties.

### 3. OFFICE AND STAFF:

- a. District offices are co-located with the USDA, Soil Conservation Service (SCS) Field Office. There is one exception, Sedgwick County Conservation District, which maintains a separate office.
- b. Originally, the SCS provided the necessary technical expertise to assist the districts in carrying out their conservation programs. However, SCS has not been able to fully meet the technical needs of Conservation Districts due to federal mandates (Food Security Act of 1985) and new and expanded programs in the State Water Plan.
- c. Eighty districts employ one person, either a District Manager or a District Secretary. Twenty-five districts employ two persons.
- d. A Memorandum of Understanding and Gratuitous Agreement between the SCS and the Conservation District establishes the working relationship for the local/federal partnership.

### 4. DISTRICT POWERS AND RESPONSIBILITIES:

- a. The corporate powers, authorized by KSA 2-1908, provide a wide range of local activities for soil and water protection and conservation.

- b. Conservation districts have been asked, and have responded with their time and funds, to implement a number of state programs and assist with the implementation of various federal programs. This is in addition to their local programs. Districts provide the grass roots approach necessary for successful program implementation.
- c. Conservation Districts provide liaison between landowner and federal and state programs, keep them advised of conservation problems and solutions, and coordinate programs with other districts and the state.
- d. The Food Security Act (FSA) of 1985 requires the involvement of conservation districts in planning, implementation, and in the review process.
- e. The development and implementation of the State Water Plan requires active involvement of conservation districts.
- f. The chart on page 10 illustrates district involvement with state and federal programs and the amount of money involved. Conservation district activities have had and continue to have a positive economic and environment impact on the state.
- g. Components of the FSA are explained in the fact sheets on pages 11 through 16.
- h. The responsibilities and workload of conservation districts has increased tremendously since 1985.

5. **DISTRICT FUNDING:**

- a. KSA 2-1907b provides authority for the County Commissioners to appropriate up to \$10,000 annually from the county general fund, except the limitation does not apply to Sedgwick and Johnson Counties.
- b. In addition, the county commissioners may levy an annual tax not to exceed 2 mills or \$55,000 whichever is less for conservation activities.
- c. KSA 2-1907c authorizes the state to appropriate up to \$7,500 per district to "match" the funding from the county commission.
- d. Funding for District operations have not kept up with inflation and the increased workload primarily due to the county tax lid and no increase in the state matching funds since 1979.

## CONSERVATION DISTRICT ACTIVITIES

### LOCAL PROGRAMS:

1. Normal administrative operations and accounting responsibilities.
2. Provide secretarial assistance to the Soil Conservation Service (SCS) and other services as provided in the Memorandum of Understanding and Gratuitous Agreement.
3. Monthly meetings to approve contracts, review state and federal program progress, and conduct other district business.
4. Education programs:
  - a. Outdoor classrooms for schools.
  - b. Conduct teacher workshops and inservice training.
  - c. Conservation/environmental presentations to schools.
  - d. Scholarships for teachers.
  - e. Student scholarships to Range Youth and 4-H Discovery Camps.
  - f. Poster, limerick and speech contest.
5. Provide conservation materials to churches as part of the soil stewardship week activities.
6. Develop and distribute conservation newsletter to schools and producers in the county.
7. Promote conservation by participation in conservation award programs offered by:
  - a. Goodyear/NACD conservation
  - b. Kansas Bankers
  - c. Kansas Department of Wildlife and Parks
8. Provide equipment rental (drills, root plow, mowers, terracing equipment, tree planter, etc.) and other conservation materials and services to producers.
9. Provide county or district funds for cost-share programs.
10. Member of the county planning board.
11. Provide local review for the state's Environmental Coordination Act.

### STATE PROGRAMS:

1. Water Resources Cost-Share Program (Land Treatment)
  - a. Establish county program based upon state guidelines.
  - b. Provide information and education to landowners concerning the cost-share program.

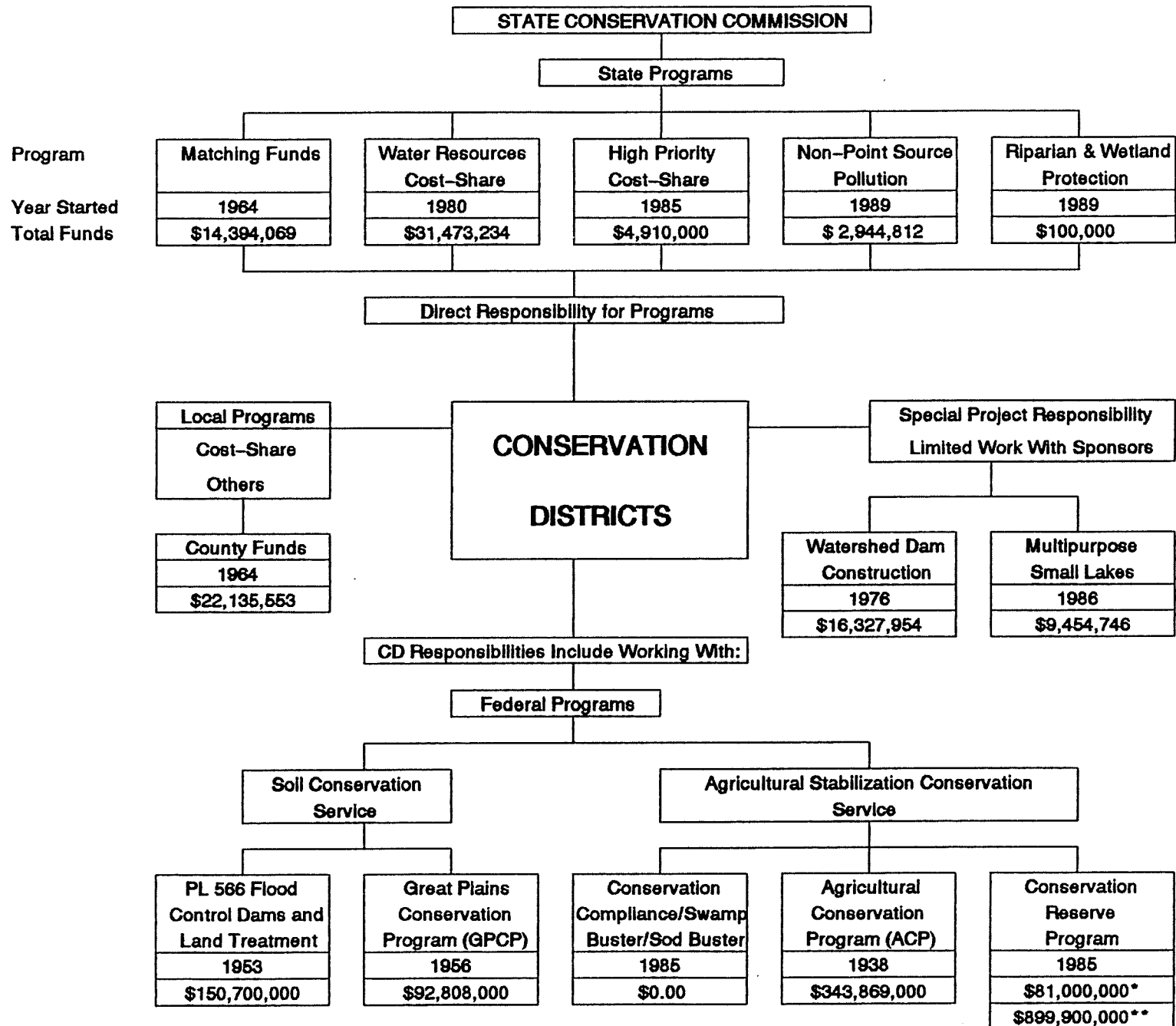


- c. Secure and submit landowner applications for cost-share.
  - d. Process paperwork for revisions and final payment of contracts.
  - e. Financial accounting of the state program.
2. Non-Point Source Pollution
    - a. Develop a Local Non-Point Source Pollution Management Plan.
    - b. Develop Project Work Plans to implement an approved Management Plan.
    - c. Implement the Project Work Plan, including an information and education program.
    - d. Process all paperwork, including applications, contracts, revisions and payments.
  3. Riparian and Wetlands Protection Program
    - a. Develop and implement a county riparian and wetlands protection program and include the program in the district's annual work plan and long range program.
    - b. Work with cooperating agencies with demonstration projects and information and education activities.
    - c. Process all paperwork associated with the riparian and wetlands protection program.
  4. Multipurpose Small Lakes Program
    - a. Develop the statutory required Local NPS Pollution Management Plan and Project Work Plans to protect the water supply and/or recreation lake from pollution.
    - b. Implement the Project Work Plan.
    - c. Process all paperwork associated with the NPS program.
  5. Watershed Dam Construction Program - Work with the watershed district and assure that 75% or more of the drainage area above a structure has adequate conservation measures applied.

**FEDERAL PROGRAMS:**

1. PL-566 Flood Control Program - Cooperate with the watershed district and SCS to assure that the drainage area above a structure has the required conservation measures applied to prevent siltation problems.
2. Great Plains Conservation Program - Assist the SCS in implementing the program in the western 63 counties.
3. Food Security Act of 1985 - Provide the following assistance to SCS and the Agricultural and Conservation Service (ASCS) for Conservation Compliance, Conservation Reserve Program, Swampbuster, and Sodbuster provisions of the act:
  - a. Preapplication information
  - b. Assist in preparation of documents
  - c. Board of Supervisors review and approve plans and agreements

- d. Review progress reports
  - e. Participate in review process for landowners when declared by the SCS as not actively applying their Conservation Compliance Plan.
4. Agricultural Conservation Program - Assist ASCS and SCS by providing clerical assistance in preparation of contracts.



- \* Cost-share assistance to establish grass, trees.
- \*\* Estimated total of annual rental payments to date.

July 1993

# FACT SHEET

## Conservation provisions of the 1985 Farm Bill



December 1986

### Introduction

Several provisions of the Food Security Act of 1985 -- the 1985 farm bill -- make the goals of U.S. Department of Agriculture (USDA) farm and conservation programs more consistent. These new provisions encourage the reduction of soil erosion and the retention of wetlands, and will reduce production of surplus commodities. The provisions are known as the Conservation Reserve, conservation compliance, sodbuster, and swampbuster.

### The Conservation Provisions

**Conservation Reserve:** The Conservation Reserve offers producers help in retiring highly erodible cropland. The Agricultural Stabilization and Conservation Service (ASCS) will share up to half of the cost of establishing permanent grasses, legumes, trees, windbreaks, or wildlife plantings on your highly erodible cropland. ASCS will make annual rental payments to landowners and operators under 10-year contracts as long as the terms and conditions of the contract are met.

**Conservation Compliance:** Conservation compliance applies if you continue planting annually tilled crops on highly erodible fields. To remain eligible for certain USDA program benefits, you must develop and be actively applying a locally approved conservation plan for those highly erodible fields by January 1, 1990. You must have the plan fully implemented by January 1, 1995.

**Sodbuster:** Sodbuster applies if you plant annually tilled crops on a highly erodible field after December 23, 1985 (the date the farm bill was signed) that was not used for crop production during the period 1981-85. If you break out such a highly erodible field, you must do so under a conservation system approved by the local conservation district in order to remain eligible for USDA program benefits.

**Swampbuster:** Swampbuster applies if you drain, dredge, level, or fill naturally occurring wetlands to produce annually tilled crops after December 23, 1985. With some exceptions, to remain eligible for certain USDA farm program benefits you must discontinue production of annually tilled crops on newly converted wetlands.

### USDA Programs Affected

- \* Farmers Home Administration (FmHA) loans and guarantees
- \* Federal Crop Insurance including reinsured companies
- \* Wheat, cotton, and feed grain payment
- \* Commodity price supports
- \* Commodity Credit Corporation storage payments
- \* Farm storage facility loans
- \* Conservation Reserve Program annual payments
- \* Other programs under which USDA makes commodity-related payments.

### Your Options

As an agricultural producer, you may:

- \* Develop and apply a conservation plan for your highly erodible fields, in cooperation with the Soil Conservation Service (SCS) and the local conservation district. The plan will help you reduce soil loss to levels that are technically and economically achievable. You will retain eligibility for USDA farm program benefits.
- \* Plant permanent cover on land where annually tilled crops cannot be grown because of excessive erosion. If you choose this option, you may want to consider entering the land into the Conservation Reserve and planting permanent grasses, legumes, trees, windbreaks, or wildlife cover. You still would have other USDA programs open to you.
- \* Produce crops on a highly erodible field without using a locally approved conservation system, but you would lose eligibility for USDA program benefits.  
Produce annually tilled crops on newly converted wetlands, but lose eligibility for USDA program benefits.

### If You Need Help

ASCS, FCIC, and FmHA have information about the effects of various conservation provisions on their respective USDA farm assistance programs. Producers should contact their local ASCS office to fill out an AD-1026 form in order to initiate highly erodible field and wetland determinations for their cropland. SCS conservationists will determine if you have wetlands or highly erodible fields, and they will help you prepare a conservation plan. Local conservation districts approve all plans. All of the USDA staffs would like to help you continue to qualify for USDA farm program benefits.

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All programs and services of the USDA are available to anyone, without regard to race, color, religion, sex, national origin, age, or handicap.

# FACT SHEET

## Conservation Compliance



United States  
Department of  
Agriculture

December 1986

### Introduction

More than one in every three of Kansas's cropland acres is highly erodible. Some USDA farm programs have, in effect, promoted soil erosion and overproduction of surplus commodities by allowing farmers to include this highly erodible cropland in their base acreage without requiring soil protection.

The conservation compliance provision of the Food Security Act of 1985 discourages the production of crops on highly erodible cropland where the land is not adequately protected from erosion. If you produce crops on such fields without an approved conservation system, you may lose your eligibility for certain U.S. Department of Agriculture (USDA) program benefits. Conservation compliance applies to land where annually tilled crops were grown at least once during the period 1981-85, and will apply to all highly erodible land in annual crop production by 1990.

### What is Highly Erodible Land?

Any soil with an erosion index of 8 or greater is considered highly erodible (i.e. inherent potential to erode at 8 times its tolerable erosion rate). To be considered a highly erodible field, the highly erodible area must be at least one-third or more of the field or 50 acres, whichever is less.

### How to Determine Erodibility

Employees of the Soil Conservation Service (SCS) determine if a field is highly erodible by consulting soil maps and/or by visiting the site.

### Effective Dates

You have until January 1, 1990, to develop and begin actively applying a conservation plan on highly erodible cropland. You have until January 1, 1995, to have that conservation plan fully operational. However, if soil maps of your farm or ranch are not available, you will have until two years after mapping to develop and begin actively applying a locally approved conservation plan.

### USDA Programs Affected

- \* Farmers Home Administration loans and guarantees
- \* Federal Crop Insurance including reinsured companies
- \* Wheat, cotton, and wheat grain payments
- \* Commodity price supports
- \* Commodity Credit Corporation storage payments
- \* Farm storage facility loans
- \* Conservation Reserve Program annual payments
- \* Other programs under which USDA makes commodity-related payments.

### Your Options

If you are farming highly erodible cropland -- or if you aren't sure if your land is highly erodible -- you may:

- \* Contact your local Agricultural Stabilization and Conservation Service (ASCS) office to fill out at AD-1026 form in order to initiate highly erodible field determinations.
- \* Develop and apply a conservation plan on your highly erodible fields, in cooperation with SCS and the local conservation district. The plan will help you reduce soil loss to levels that are technically and economically achievable. You will regain eligibility for USDA farm program benefits.
- \* Plant permanent cover on fields where annually tilled crops cannot be grown without excessive erosion. If you choose this option, you may want to consider entering the land into the Conservation Reserve and planting permanent grasses, legumes, trees, or wildlife cover. You will continue to have other USDA programs open to you.
- \* Farm highly erodible fields without using a locally approved conservation plan. You will lose your eligibility for certain USDA farm program benefits.

### If You Need Help

The ASCS, FCIC, and FmHA have information about the effects of conservation compliance and other provisions on their respective USDA farm assistance programs. SCS conservationists will determine if you have highly erodible fields and they will help you prepare a conservation plan. Local conservation districts approve all plans. All of the USDA staffs would like to help you continue to qualify for USDA farm program benefits.

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All programs and services of the USDA are available to anyone, without regard to race, color, religion, sex, national origin, age, or handicap.

# FACT SHEET

## Swampbuster



United States  
Department of  
Agriculture

December 1986

### Introduction

Wetlands are some of our most diverse and productive habitat for fish and wildlife. In addition, they help recharge aquifers, improve water quality, and provide many recreational opportunities. Some wetlands also are potentially productive cropland. More than half of the wetlands that existed when America was first settled are gone. Many farmers have drained and planted them to crops, under incentives offered through various commodity support programs.

The swampbuster provision of the Food Security Act of 1985 is aimed at discouraging the conversion of wetland for agricultural purposes. Conversion of wetlands occurs when you drain, dredge, level, or fill wet areas after December 23, 1985. If you convert wetlands, you may lose your eligibility for numerous U.S. Department of Agriculture (USDA) program benefits.

### What are Wetlands?

Wetlands consist of soils that are saturated, flooded, or ponded long enough to develop conditions that support mostly water-loving plants. Wetland areas may include depressional areas such as prairie potholes, playas, and similar depressional areas. The Soil Conservation Service (SCS) maintains lists of the kinds and combinations of soils and plants that define wetland areas.

### Do You Have Wetlands?

Employees of the SCS determine if an area is a wetland by consulting maps and/or by visiting your farm or ranch.

### Effective Date

Swampbuster was effective December 23, 1985, the date the Food Security Act was signed. With some exceptions, if you convert a wetland area and plant an annually planted crop you lose eligibility for certain USDA program benefits -- not just on the converted wetland area, but on all the land you farm.

### USDA Programs Affected

- \* Farmers Home Administration (FmHA) loans and guarantees
- \* Federal Crop Insurance including reinsured companies
- \* Wheat, cotton, and feed grain payments
- \* Commodity price supports
- \* Commodity Credit Corporation storage payments

- \* Farm storage facility loans
- \* Conservation Reserve Program annual payments
- \* Other programs under which USDA makes commodity-related payments

### Certification Requirement

When you apply for any of the USDA farm programs listed above, you must certify that you are not producing annually planted crops on land that has been converted from wetlands since December 23, 1985.

### Exceptions

- You are not subject to the swampbuster provision if you:
- Began the conversion of wetlands before December 23, 1985;
  - \* Converted wetlands that had been created artificially or through irrigation;
  - \* Produced crops on wetlands that became dry through natural conditions such as drought (other restrictions may apply);
  - \* Converted wetlands where SCS has determined that the conversion has minimal effect on wetland values.

### Regaining Eligibility

You are ineligible for USDA farm program benefits in any year that you produce an agricultural commodity on a converted wetland. To regain eligibility in any year, you must not produce annually tilled crops on the converted wetland area.

### If You Need Help

For more information on swampbuster or for conservation planning assistance, contact the local office of the SCS or Agricultural Stabilization and Conservation Service (ASCS). ASCS, FCIC, and FmHA can provide information about the effects of swampbuster and other provisions on their respective USDA farm assistance programs. You should also fill out an AD-1026 form at the ASCS office to initiate a wetland determination. SCS conservationists can tell you if you have wetlands and help you prepare a conservation plan. Local conservation districts approve all plans. All of the USDA staffs would like to help you continue to qualify for USDA farm program benefits.

# FACT SHEET

## Sodbuster



United States  
Department of  
Agriculture

December 1986

### Introduction

In the past, relatively high commodity prices have led to the plowing out of thousands of acres of grassland and clearing of woodland for crop production in the U.S. After two years of production on those fields, farmers then qualified for a base acreage for price support programs -- in effect, the government encouraged farmers to plow out highly erodible land. This has contributed to both excessive soil erosion and overproduction of many commodities. Most highly erodible land cannot be cropped productively year after year without special care.

The sodbuster provision of the Food Security Act 1985 is aimed at discouraging the conversion of highly erodible land for agricultural production. If you plant annually tilled crops on highly erodible land that was grassland or woodland, you may lose your eligibility for numerous U.S. Department of Agriculture (USDA) program benefits. The sodbuster provision applies to highly erodible land that was not planted to annually tilled crops during the period 1981-85.

### What is Highly Erodible Land?

Any soil with an erosion index of 8 or greater is considered highly erodible (i.e. inherent potential to erode at 8 times its tolerable erosion rate). To be considered a highly erodible field, the highly erodible area must be at least one-third or more of the field or 50 acres, whichever is less.

### How to Determine Erodibility

Employees of the Soil Conservation Service (SCS) determine if a field is highly erodible by consulting soil maps and/or visiting the site.

### Effective Date

The Sodbuster provision is effective as of December 23, 1985, the date the Food Security Act was signed. If you break out a highly erodible field and plant it to an agricultural commodity without an approved conservation system, you become ineligible for certain USDA program benefits -- not just on the sodbusted part, but on all the land you farm.

### USDA Programs Affected

- \* Farmers Home Administration (FmHA) loans and guarantees
- \* Federal Crop Insurance including reinsured companies
- \* Wheat, cotton, and feed grain payments
- \* Commodity price supports
- \* Commodity Credit Corporation storage payments

- \* Farm storage facility loans
- \* Conservation Reserve Program annual payments
- \* Other programs under which USDA makes commodity-related payments

### Certification Requirement

When you apply for any of the USDA farm programs listed above, you must certify that you have not sodbusted highly erodible land since December 23, 1985, in order to produce crops -- unless you have done so under a locally approved conservation system.

### Your Options

If you intend to break out highly erodible grassland or woodland to plant crops -- or if you aren't sure if your land is highly erodible -- you can:

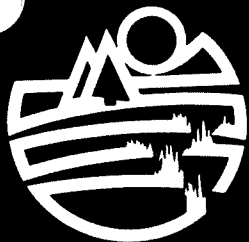
- \* Contact your local Agricultural Stabilization and Conservation Service (ASCS) office to fill out an AD-1026 form in order to initiate highly erodible field determinations.
- \* Develop and apply, in cooperation with SCS and the local conservation district, a conservation plan for your highly erodible fields. The plan will help you reduce soil loss to levels that are technically and economically achievable. And you will retain eligibility for USDA program benefits.
- \* Break out the land without using a locally approved conservation system, but you will not be eligible for USDA program benefits.

### Regaining Eligibility

If you break out highly erodible grassland or woodland and plant it to an agricultural commodity without using a locally approved conservation system, you are ineligible for USDA farm program benefits for that crop year. To regain eligibility, you must produce the next crop under an approved conservation system.

### If You Need Help

ASCS, FCIC, and FmHA have information about the effects of sodbuster and other conservation provisions on their respective USDA farm assistance programs. SCS conservationists can tell you if you have highly erodible fields, and they will help you prepare a conservation plan. Local conservation districts approve all plans. All of the USDA staffs would like to help you continue to qualify for USDA farm program benefits.



Conservation in the  
1985 Farm Bill

## Conservation Reserve

United States  
Department of  
Agriculture

# What the Conservation Reserve Program Means to You

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### What Is the Conservation Reserve Program?

The Conservation Reserve Program (CRP), enacted December 23, 1985, as a part of the Food Security Act of 1985, encourages farmers to stop growing crops on highly erodible cropland and plant it to grass or trees through 10-year contracts with the U.S. Department of Agriculture.

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### How Do You Sign Up for the Conservation Reserve Program?

The Agricultural Stabilization and Conservation Service (ASCS) is the administering agency and applications are made at the local ASCS office. Signup periods are announced periodically by the Secretary of Agriculture.

At the time of application, you must submit bids stating the rental payment you would accept per acre per year to convert your highly erodible cropland to permanent vegetative cover for the duration of the contract period.

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### Annual Payments

Annual rental payments will be made to you if you enter a contract to convert eligible cropland to permanent vegetative cover. Rental payments will not affect the total amount of payments you are eligible to receive through other programs. Payments will be made in cash or commodity certificates.

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### Can Cost-Sharing For Establishing Cover Practices Be Obtained?

USDA will pay up to 50 percent of your cost for establishing permanent vegetative cover. Eligible practices are permanent grasses and legumes, forest tree plantations, permanent wildlife habitat, field windbreaks and shallow water areas for wildlife, or any combination of these practices. Combinations of eligible practices are particularly beneficial for wildlife production.

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### What Croplands Are Eligible?

Eligibility is limited to fields with two-thirds or more highly erodible cropland. Cropland is defined as land that has been planted to an agricultural commodity other than orchards, vineyards, or ornamental planting; or has been set aside in a production adjustment program in at least two of the crop years from 1981 through 1985 and is suitable for crop production. Alfalfa and other grasses and legumes in a rotation practice are considered an agricultural commodity for CRP purposes. CRP land is not eligible to be designated as set-aside or diverted acres for annual production adjustment purposes. Your local ASCS and Soil Conservation Service (SCS) offices can provide more detail on land eligibility.



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**Conservation  
Plan Needed?**

A conservation plan must be developed and must be approved by the local conservation district for the offered acreage. The plan will set forth the conservation measures and maintenance requirements to be carried out by the owner or operator during the term of the contract. Technical assistance in developing conservation plans can be obtained from SCS in cooperation with State Forestry Agency, Cooperative Extension Service, and other state and local agencies.

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**Will My Cropland  
Bases Be Affected?**

Bases, quotas, and allotments will be reduced by the ratio of cropland on the farm to the acreage put into the program. You choose which bases, quotas, or allotments will be reduced over the life of the contract, and that history will be preserved over the life of the contract.

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**Are Haying and  
Grazing Authorized?**

Haying and grazing are not permitted on lands in the Conservation Reserve Program during the contract period. However, you can charge for recreational access such as hunting or other recreational uses.

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**What Happens When  
Ownership or  
Operators Change?**

Tenants and sharecroppers will share payments with owners on a fair and equitable basis. To prohibit land speculation, land must be owned for 3 years prior to entering it into the CRP, if ownership has changed since January 1, 1985. Participants who lose control of reserve lands must refund payments unless the new owner or operator continues the contract.

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**Who Has More  
Detailed Information  
Relating to the  
Conservation  
Reserve Program?**

Additional information on the Conservation Reserve Program is available from the Agricultural Stabilization and Conservation Service, Soil Conservation Service, Extension Service, State forestry agencies, and local conservation districts.

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*This fact sheet provides general information on a key concept in the Food Security Act of 1985. Published rules and regulations are available at local USDA offices.*

*All USDA programs and services are available without regard to race, color, national origin, religion, sex, age, marital status, or handicap.*

# TABLE 1. NONPOINT SOURCE POLLUTION CATEGORIES

## \* NON-REGULATED CATEGORIES

REVISED July 25, 1989

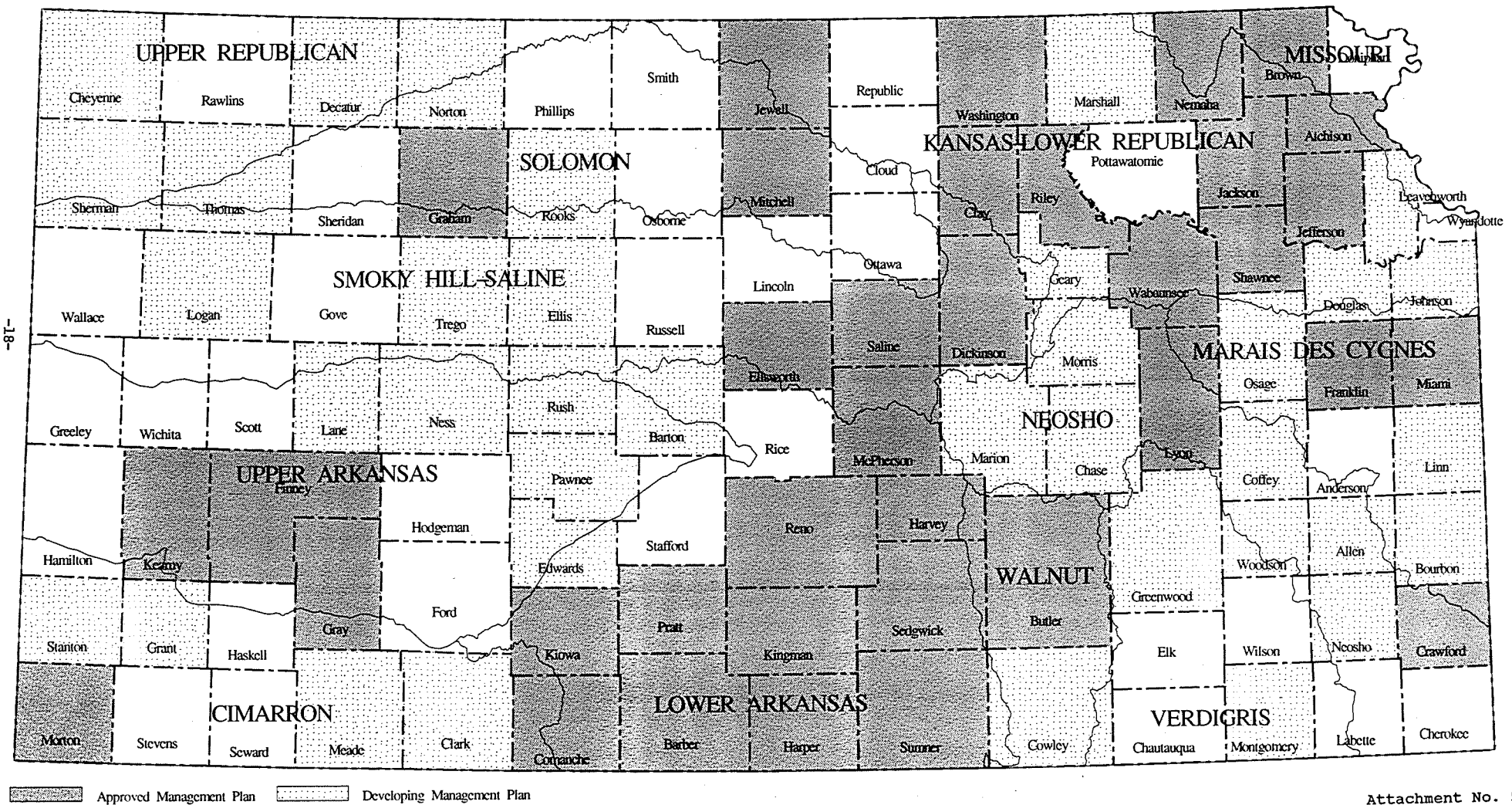
10	<u>Agriculture</u>		73:	Dam Construction
	*10.1: Fertilizer & Nutrient Application		*74:	Flow Regulation/Modification
	10.2: Pesticide Application		75:	Bridge Construction
	*10.21: Pesticide Application - Field Practices		*76:	Removal of Riparian Vegetation
	10.22: Pesticide Application - Certified Applicators		77:	Streambank Modification/De-stabilization
	*10.23: Pesticide Application - Non-certified Applicators	80	<u>Other</u>	
	10.3: Chemigation		*81:	Atmospheric Deposition
	10.31: Chemigation - Source Control		82:	Storage Tanks - Petroleum or Regulated Substances
	*10.32: Chemigation - Application Procedures		*82.3:	Non-regulated Storage Tanks
	*11: Non-irrigated Crop Production		*82.5:	Abandoned/Buried Storage Tanks
	*11.1: Crop Production - Suspended Solids		*82.6:	Abandoned Tank Piping
	*11.2: Crop Production - Nutrients		*83:	Highway Maintenance and Runoff
	*12: Irrigated Crop Production		84:	Spills
	*13: Specialty Crop Production (e.g. truck farming and orchards)		*85:	In-place Contaminants
	*14: Pasture Land	83	*86:	Natural
	*15: Range Land		<u>Transportation</u>	
	16: Confined Livestock Cooperations		*83.1:	Highways
	*17: Aquaculture		*83.11:	Runoff
	*18: Animal Holding/Management Areas		*83.12:	Deicing
	*19: Residences		*83.13:	Maintenance
	*19.1: Farmstead		83.14:	Pesticide Use
	*19.2: Rural Non-farm		*83.2:	Rail Roads
20	<u>Silviculture</u>		*83.21:	Runoff
	*21: Harvesting, Reforestation, Residue Management		*83.22:	Maintenance
	*22: Forest Management	87	83.23:	Pesticide Use
	*23: Road Construction/Maintenance		<u>Utility Corridor</u>	
30	<u>Construction</u>		*87.1:	Pipeline
	*31: Highway/Road/Bridge		*87.11:	Pipeline Leaks
	31.1: Highway/Road/Bridge - Federal Financed		*87.2:	Electrical
	31.2: Highway/Road/Bridge - State Financed		*87.21:	Construction
	31.3: Highway/Road/Bridge - Locally Financed		87.22:	Pesticide Application
	*32: Land Development	88	<u>Abandoned Wells</u>	
40	<u>Urban, Commercial, Industrial Areas</u>		88.1:	Water Wells
	*41: Storm Sewers (source control)	90	<u>Source unknown</u>	
	42: Sanitary Sewer Systems			
	*43: Surface Runoff			
	44: Industrial Fluid Disposal			
45	<u>Commercial and Institutional Sites</u>			
	*45.01: Gasoline/Service Station			
	*45.02: School			
46	<u>Recreation Sites</u>			
47	<u>Industrial Site</u>			
	47.011: Ag. Chemical - Fertilizer - Bulk Storage and Handling			
	47.012: Ag. Chemical - Pesticide - Bulk Storage and Handling			
	47.01: Ag Chemical			
	*47.02: Rail Yard			
	47.03: Tank Farm			
	47.1: Industrial Park			
50	<u>Resource Extraction/Exploration/Development</u>			
	51: Surface Mining			
	51.1: Coal Mining			
	51.2: Rock Quarry			
	52: Subsurface Mining			
	53: Placer Mining			
	54: Dredge Mining			
	55: Petroleum Activities			
	55.1: Petroleum Activities - Drilling Waste Storage and Handling			
	55.2: Petroleum Activities - Disposal of Brines and Mineralized Waters			
	55.3: Petroleum Activities - Abandoned Oil and Gas Wells			
	56: Mill Tailings			
	57: Mine Tailings			
	58.1: Water Well Development - Licensed Contractors and Non-domestic, Individual			
	*58.2: Water Well Development - Domestic, Individual			
60	<u>Land Disposal (Runoff/Leachate From Permitted Areas)</u>			
	61: Sludge			
	62: Wastewater			
	63: Landfills			
	*64: Industrial Land Treatment			
	65: On-site Wastewater Systems (septic tanks, etc.)			
	66: Hazardous Waste			
70	<u>Hydrologic/Habitat Modification</u>			
	71: Channelization			
	72: Dredging			

Source: Adapted from - US EPA. Guidelines for the Preparation of the 1988 State Water Quality Assessment (305(b) Report), April 1, 1987, p. 19.

# Kansas

## Non – Point Source Pollution Planning Status

### August 1, 1993



**WATER RESOURCES COST-SHARE PROGRAM  
FY 1993**

Fiscal Year 1993 was a very difficult time to do conservation work because of weather conditions. A total of \$2,511,377 has been paid on completed contracts. Funds under contract and encumbered for completion in FY 1994 amount to \$2,995,647. The following are the conservation practices eligible for cost-sharing and the quantity completed as of June 30, 1993:

Animal Waste Control Facilities-----	No.	8
Critical Area Planting-----	Acres	516
Diversions-----	Cu. Yds.	222,459
Fencing-----	Ft.	23,723
Field Windbreak-----	No. Trees	14,980
Grade Stabilization Structure-----	No.	12
Grassed Waterway-----	Acres	6,686
Irrigation Pit-----	No.	1
Irrigation Water Conveyance Pipeline (Surge Valve)-----	Ft.	55,160
Irrigation Water Conveyance Pipeline (Sprinkler Conversion)-----	Ft.	73,614
Livestock Pipelines-----	Ft.	73,409
Livestock Tanks-----	No.	59
Livestock Wells-----	No.	39
Mulching (Weed barrier fabric for windbreak plantings)-----	Ft.	98,106
Pasture and Hayland Planting-----	Acres	6,348
Range Seeding-----	Acres	1,908
Ponds-----	No.	42
Spring Development-----	No.	18
Subsurface Drain-----	Ft.	6,818
Terraces-----	Miles	1,634
Tree Planting-----	No. Trees	1,741
Tile Outlet Terraces and/or Underground Outlets-----	Ft.	122,882
Water & Sediment Control Basin-----	No.	26

### ANALYSIS OF SB 374

Conservation districts are a vital part of the implementation of the Kansas Water Plan. The districts have limited local resources due to previous stated reasons. Additional state funding for local district operations is recommended by the State Conservation Commission.

As previously stated, districts receive funding from the county commissioners in an amount not to exceed \$10,000 from the county general fund (with the exception of Johnson and Sedgwick Counties which are unlimited) and/or a tax levy up to 2 mills not to exceed \$55,000. The state is authorized to appropriate up to \$7,500 to "match" these funds.

The proposal to increase the state funds from \$7,500 to \$10,000 has a fiscal impact of an additional \$203,050 above the FY 1994 appropriation of \$778,700. The fiscal impact is based on the information from the 105 county conservation districts annual budgets for calendar year 1994. (Note: Conservation districts fiscal year is from January 1 to December 31. Funding for calendar year 1994 was appropriated by the 1993 Legislature.) A summary of the district budgets is attached.

The maximum of \$1,050,000 in state funds would be required if all districts received \$10,000 in state assistance.

The program guidelines and procedures to dispense state funds to conservation districts is in place; therefore, passage of this bill would not have a fiscal impact on Commission administration.

**CONSERVATION DISTRICT FUNDS - FY 1994**

COUNTY -----	COUNTY GENERAL FUNDS -----	SPECIAL MILL LEVY FUNDS -----	OTHER COUNTY FUNDS -----	TOTAL FROM COUNTY -----	STATE OF KANSAS MATCHED -----
Allen	\$0	\$12,300	\$0	\$12,300	\$7,500
Anderson	\$10,000	\$0	\$0	\$10,000	\$7,500
Atchison	\$15,500	\$0	\$0	\$15,500	\$7,500
Barber	\$7,500	\$5,000	\$0	\$12,500	\$7,500
Barton	\$3,000	\$21,000	\$0	\$24,000	\$7,500
Bourbon	\$10,000	\$22,000	\$0	\$32,000	\$7,500
Brown	\$0	\$16,500	\$0	\$16,500	\$7,500
Butler	\$9,000	\$0	\$0	\$9,000	\$7,500
Chase	\$7,500	\$0	\$0	\$7,500	\$7,500
Chautauqua	\$7,000	\$0	\$0	\$7,000	\$7,000
Cherokee	\$10,000	\$6,000	\$0	\$16,000	\$7,500
Cheyenne	\$0	\$10,851	\$0	\$10,851	\$7,500
Clark	\$0	\$7,500	\$0	\$7,500	\$7,500
Clay	\$0	\$9,250	\$0	\$9,250	\$7,500
Cloud	\$0	\$21,997	\$4,547	\$26,544	\$7,500
Coffey	\$10,000	\$15,000	\$0	\$25,000	\$7,500
Comanche	\$0	\$6,000	\$0	\$6,000	\$6,000
Cowley	\$7,500	\$3,590	\$0	\$11,090	\$7,500
Crawford	\$10,000	\$9,150	\$0	\$19,150	\$7,500
Decatur	\$0	\$8,000	\$0	\$8,000	\$7,500
Dickinson	\$10,000	\$0	\$0	\$10,000	\$7,500
Doniphan	\$10,000	\$3,250	\$0	\$13,250	\$7,500
Douglas	\$0	\$35,310	\$8,190	\$43,500	\$7,500
Edwards	\$0	\$4,700	\$0	\$4,700	\$4,700
Elk	\$6,500	\$0	\$0	\$6,500	\$6,500
Ellis	\$0	\$38,625	\$0	\$38,625	\$7,500
Ellsworth	\$0	\$25,000	\$0	\$25,000	\$7,500
Finney	\$7,500	\$16,500	\$0	\$24,000	\$7,500
Ford	\$0	\$30,000	\$0	\$30,000	\$7,500
Franklin	\$0	\$20,000	\$0	\$20,000	\$7,500
Geary	\$7,500	\$0	\$0	\$7,500	\$7,500
Gove	\$0	\$8,000	\$0	\$8,000	\$7,500
Graham	\$0	\$20,500	\$0	\$20,500	\$7,500
Grant	\$8,500	\$0	\$0	\$8,500	\$7,500
Gray	\$7,500	\$0	\$10,500	\$18,000	\$7,500
Greenwood	\$0	\$14,156	\$0	\$14,156	\$7,500
Greeley	\$7,500	\$0	\$0	\$7,500	\$7,500
Hamilton	\$10,000	\$0	\$8,000	\$18,000	\$7,500
Harvey	\$0	\$15,000	\$0	\$15,000	\$7,500
Harper	\$6,000	\$15,000	\$0	\$21,000	\$7,500
Haskell	\$0	\$11,025	\$0	\$11,025	\$7,500
Hodgeman	\$0	\$10,550	\$0	\$10,550	\$7,500
Jackson	\$0	\$22,550	\$0	\$22,550	\$7,500
Jefferson	\$0	\$16,000	\$0	\$16,000	\$7,500
Jewell	\$10,000	\$0	\$0	\$10,000	\$7,500
Johnson	\$17,500	\$0	\$0	\$17,500	\$7,500

**CONSERVATION DISTRICT FUNDS - FY 1994**

COUNTY -----	COUNTY GENERAL FUNDS -----	SPECIAL MILL LEVY FUNDS -----	OTHER COUNTY FUNDS -----	TOTAL FROM COUNTY -----	STATE OF KANSAS MATCHED -----
Kearny	\$7,500	\$50,000	\$0	\$57,500	\$7,500
Kingman	\$10,000	\$0	\$0	\$10,000	\$7,500
Kiowa	\$7,500	\$0	\$0	\$7,500	\$7,500
Labette	\$10,000	\$0	\$0	\$10,000	\$7,500
Lane	\$10,000	\$31,000	\$0	\$41,000	\$7,500
Leavenworth	\$0	\$20,000	\$0	\$20,000	\$7,500
Lincoln	\$0	\$12,844	\$1,156	\$14,000	\$7,500
Linn	\$25,600	\$0	\$0	\$25,600	\$7,500
Logan	\$10,000	\$0	\$0	\$10,000	\$7,500
Lyon	\$0	\$5,000	\$0	\$5,000	\$5,000
Marion	\$0	\$14,457	\$0	\$14,457	\$7,500
Marshall	\$10,000	\$7,500	\$0	\$17,500	\$7,500
McPherson	\$0	\$23,530	\$0	\$23,530	\$7,500
Meade	\$7,500	\$0	\$0	\$7,500	\$7,500
Miami	\$0	\$33,400	\$0	\$33,400	\$7,500
Mitchell	\$0	\$14,000	\$0	\$14,000	\$7,500
Montgomery	\$10,000	\$0	\$0	\$10,000	\$7,500
Morris	\$8,000	\$0	\$0	\$8,000	\$7,500
Morton	\$0	\$38,275	\$0	\$38,275	\$7,500
Nemaha	\$0	\$11,153	\$2,847	\$14,000	\$7,500
Neosho	\$10,000	\$0	\$0	\$10,000	\$7,500
Ness	\$10,000	\$4,000	\$0	\$14,000	\$7,500
Norton	\$0	\$7,500	\$0	\$7,500	\$7,500
Osage	\$10,000	\$0	\$0	\$10,000	\$7,500
Osborne	\$9,500	\$0	\$0	\$9,500	\$7,500
Ottawa	\$8,500	\$0	\$0	\$8,500	\$7,500
Pawnee	\$7,500	\$0	\$0	\$7,500	\$7,500
Phillips	\$0	\$8,500	\$0	\$8,500	\$7,500
Pottawatomie	\$10,000	\$55,000	\$0	\$65,000	\$7,500
Pratt	\$0	\$12,500	\$0	\$12,500	\$7,500
Rawlins	\$0	\$7,500	\$0	\$7,500	\$7,500
Reno	\$10,000	\$23,100	\$0	\$33,100	\$7,500
Republic	\$10,000	\$28,000	\$0	\$38,000	\$7,500
Rice	\$10,000	\$19,000	\$0	\$29,000	\$7,500
Riley	\$9,200	\$10,000	\$0	\$19,200	\$7,500
Rooks	\$10,000	\$0	\$0	\$10,000	\$7,500
Rush	\$10,000	\$15,000	\$0	\$25,000	\$7,500
Russell	\$10,000	\$0	\$0	\$10,000	\$7,500
Saline	\$0	\$12,500	\$0	\$12,500	\$7,500
Scott	\$10,000	\$0	\$0	\$10,000	\$7,500
Sedgwick	\$88,888	\$0	\$0	\$88,888	\$7,500
Seward	\$8,500	\$0	\$0	\$8,500	\$7,500
Shawnee	\$10,000	\$0	\$0	\$10,000	\$7,500
Sheridan	\$7,000	\$0	\$0	\$7,000	\$7,000
Sherman	\$0	\$12,500	\$0	\$12,500	\$7,500
Smith	\$0	\$12,500	\$0	\$12,500	\$7,500
Stanton	\$7,500	\$3,000	\$0	\$10,500	\$7,500

# CONSERVATION DISTRICT FUNDS - FY 1994

COUNTY -----	COUNTY GENERAL FUNDS -----	SPECIAL MILL LEVY FUNDS -----	OTHER COUNTY FUNDS -----	TOTAL FROM COUNTY -----	STATE OF KANSAS MATCHED -----
Stafford	\$0	\$9,377	\$623	\$10,000	\$7,500
Stevens	\$7,500	\$7,020	\$0	\$14,520	\$7,500
Sumner	\$0	\$13,078	\$0	\$13,078	\$7,500
Thomas	\$7,500	\$0	\$0	\$7,500	\$7,500
Trego	\$0	\$7,500	\$0	\$7,500	\$7,500
Wabaunsee	\$10,000	\$0	\$0	\$10,000	\$7,500
Wallace	\$10,000	\$0	\$0	\$10,000	\$7,500
Washington	\$7,500	\$10,000	\$0	\$17,500	\$7,500
Wichita	\$0	\$9,800	\$0	\$9,800	\$7,500
Wilson	\$0	\$7,500	\$0	\$7,500	\$7,500
Woodson	\$0	\$17,000	\$0	\$17,000	\$7,500
Wyandotte	\$0	\$43,288	\$0	\$43,288	\$7,500
TOTALS	\$640,688	\$1,096,626	\$35,863	\$1,773,177	\$778,700



Statement  
of the  
Kansas Association of Conservation Districts  
on  
Hearings on 1993 S.B. 374  
Relating to Funding of Local Conservation Districts

Presented to  
Senate Committee on Energy and Natural Resources  
Topeka, Kansas  
August 25, 1993

I am Richard G. Jones, Executive Director of the Kansas Association of Conservation Districts.

The Association represents the 105 county conservation districts in Kansas. The conservation districts are a subdivision of state government and provide assistance to Kansas landowners and operators for the protection and improvement of their soil, water, plant, and animal resources. Conservation Districts are governed by a five member board of supervisors made up of local landowners who serve without compensation.

Conservation Districts are being ask, in some cases mandated, to carry out more and more programs that are directed at maintaining and/or improving our state's natural resources. Through the State Conservation Commission, Conservation Districts are assisting in carrying out the State Water Resources cost share program, the Clean Lakes program, the Nonpoint Source Pollution program, the Riparian and Wetlands Protection program as well as local county cost share programs to assist local farmers install conservation practices that benefit the county. Add these to the federal mandates that they assist the U.S. Department of Agriculture in carrying out, through a Memorandum of Understanding between the district and the Department, which include the Agricultural Stabilization and Conservation Service cost share program for farmers to install conservation practices, the Soil Conservation Service's Great

Senate E+NR  
Aug. 25-26, 1993  
Attachment #4

Plains Conservation program, the 1985 and 1990 Food Security Act requiring farmers to control erosion on highly erodible lands through compliance plans or they would forfeit any benefits from USDA, and the Conservation Reserve program from the same federal legislation. These activities do not include the everyday assistance to local people in solving resource conservation problems. They are and have been carrying out these programs without any increase in operating or administrative funds. We cannot keep giving them jobs to do without giving them proper funding to efficiently and effectively carry out their responsibilities. Senate Bill 374 will somewhat help correct this deficiency.

Conservation District Supervisors in carrying out the business of their district volunteer over 25,000 hours of service to the state each year. (12 meeting/year X 4 hours per meeting X 525 supervisors) Many districts have resorted to selling grass seed, trees, drip irrigation systems, in order to meet their operational and administrative needs. Since they are carrying out state and federal programs directed at protecting our natural resources for the use of all citizens, they should be adequately funded to most effectively carry out their duties. The Conservation District Law was changed in 1989 (I believe) to allow the County Commissioners to match the state funding to conservation districts up to \$10,000 dollars. The state matching funds remained at \$7,500. The state's funding for district operations has remained at \$7,500 since 1979. Districts cannot continue to operate all the programs they have been ask to do without an increase in operating and administrative funds. If the District Law is changed to allow the state to match the county funding at \$10,000, it would mean that 90 districts would get an increase in funding and 76 districts would be eligible to receive the maximum of \$10,000.

The total cost to the state under present conditions would be \$203,050. If next year each district were to get the maximum operating funds of \$10,000 from the county, the increase from state funding would be \$271,300. If we were to increase the maximum state input to \$12,000, 90 districts would get increased funding including 55 districts that would be eligible for the maximum \$12,000. This would increase the state's input by \$317,066. If all districts were to get the maximum funding of \$12,000 from the county and matched by the state, the increase to the state would only be \$481,300 per year. When looking at the total state budget we are asking for a very, very, small increase.

Our Association was ask to testify before the Kansas Congressional Delegation on the proposed Clean Water Act legislation in Hutchinson on August 10, 1993. The hearings recognized that if the Clean Water Act was passed, it would have to be implemented at the state and local level and that conservation districts were the most logical choice to implement the the program. Our Association's testimony agreed that the logical ones to implement the Clean Water Act programs at the local level would be the local conservation district and that if it were mandated that the state carryout a clean water program at the local level then funding for administering and operating the program should be provided to the local unit of government that implements the programs. We emphasized that the programs could not be carried out locally without operating and administrative funding.

Our Association (KACD) and the State Conservation Commission (SCC) have recognized how important it is for conservation districts to be efficient and effective in carrying out their duties. This year a joint KACD/SCC District Operations Task Force was established to study better

ways for districts to operate with all the programs they have to direct. The Task Force was made up of district supervisors from across the state, advisors from conservation district employees and from the Soil Conservation Service and with staff help from the Commission and KACD. The Task Force divided itself into 3 subcommittees. One was to look into the State Conservation District Law for bringing it up to date with current state and local needs, another was to study or investigate possible ways of funding for district operations, administration and for conservation programs, and another subcommittee was to study how districts can be more efficient through changes in management. The Task Force has completed it's assignment and is presently reporting their recommendations to local conservation districts at area meetings being held across the state. These recommendations will be brought before all the districts at their annual meeting in November, 1993. At the business session of the KACD Annual Convention each district will have the opportunity to hear the recommendations and to vote on any changes they feel will improve their operations as a district. Some of the recommended changes could require changes in the Law and would be brought before the Kansas Legislature for adoption. The districts at their annual meeting will determine this.

Senate Bill 374 asks for increased funding from the state for conservation district operations and administration, but it also asks that funds appropriated or allocated under the law be used to carry out the activities and functions of the district including cost of travel and expenses of supervisors and employees attending meetings; and does not limit them to meeting within the state only. It would allow for expenses to be paid for meetings attended out of state. Natural resource technology and information is not normally developed at each local area,

but is developed on more of a regional or sometimes national level. It is important that those people who administer or implement resource programs be aware of the latest technology so they can better meet their local resource problems. Conservation District supervisors cannot keep up on the most effective way of treating resource problems if they are restricted from attending meetings where the information is made available. Many times there are meetings held at various locations across the nation that would benefit the supervisors and employees in the carrying out their duties. We should not limit local districts from doing the best job they can and it is very hard to do when access to technology is restricted.

The Kansas Association of Conservation Districts urge the Senate Energy and Natural Resources Committee to recommend passage of Senate Bill 374 at the next session of the Kansas Legislature. We would also like to have the opportunity during the next session to review with your Committee the recommendations adopted by the districts at this years annual convention.

We appreciate your Committee holding these special hearings on Conservation District operations and thank you for giving us the opportunity to testify.

State of Kansas

Joan Finney, Governor



Department of Health and Environment

Robert C. Harder, Secretary

(913) 296-0461  
(913) 296-8112 (FAX)

DATE: July 1, 1993

TO: Governor Joan Finney & Low Level Radioactive Waste Advisory Group

FROM: Robert C. Harder *RCH* Secretary

RE: CIC Meeting, Lincoln, NE, June 28 and 29  
Southeast Compact Import Committee Meeting, June 30

My thanks to all of you for the support you gave as we tried to hold Nebraska to their commitment to be the continuing host state under the Central States Compact.

I am enclosing the statements we made as we moved through the last three days. Hopefully, they are self-explanatory. If you have any questions, please give me a call.

A special thanks to Representative Holmes, Brian Moline, Pat Hurley, Harold Spiker, Bill Mondt and Charles Jones who were present in Lincoln to help in the negotiations and to give moral support

A second special thanks to Senator Sallee, Representative Holmes and Charles Jones who traveled with the Secretary to Nashville to present our minority report to the Southeast Compact Import Committee.

All of the help, support and guidance at every point was appreciated. We are hopeful the Southeast Compact will let Kansas and others continue going to Barnwell provided Nebraska assumes its appropriate responsibilities. The Southeast Compact Commission may not make a decision until August 1993.

Again, my thanks to all of you. If you have questions, please let me hear from you.

*Senate Energy & Nat. Resources*  
*Aug. 25-26, 1993*  
*Attachment #5*

State of Kansas  
Joan Finney, Governor



Department of Health and Environment  
Robert C. Harder, Secretary

POSITION OF THE STATE OF KANSAS

The State of Kansas cannot support the "Continuous Progress" report as currently worded. We recommend that the meeting with the Import Policy Committee of the Southeast Compact Commission be deferred. By deferring, we will have time to draft a blueprint for action which will advance, rather than impair, the Central Interstate Commission's goal of siting a regional facility.

Kansas fully appreciates and shares the concerns of those member states who seek continued access to Barnwell. We believe, however, that the SEC Import Policy Committee will recognize the "Continuous Progress" report for what it is: a plan which offers little hope and promises only ongoing delay and frustration.

Until recently, the CIC led the nation in its enviable progress in meeting milestones and advancing the development of a regional facility. Unfortunately, this report -- in concert with the suit over community consent, and the announced intent-to-deny -- leads us further from the path of commitment and good faith efforts which sponsored past accomplishments. If adopted by the CIC, the "Continued Progress" report, as currently drafted, has the potential to trash the years worth of effort and the \$50 million spent in Nebraska, starting the process all over again. Kansas simply cannot sanction the waste and delays which are embodied in this report.

Kansas is mindful of public concerns over health and safety, and shares the state's commitment to protecting the well-being of public health and the environment.

Kansas has been successful participant in 22 interstate compacts, and we remain fully committed to the success of the CIC. We believe that future statement of progress, which adequately addresses the concerns of all states and interested parties, can and must be drafted before entering into further discussion with the Southeast Compact Commission.

June 28, 1993

5-2

State of Kansas

Joan Finney, Governor



Department of Health and Environment

Robert C. Harder, Secretary

MEMORANDUM

TO: Danny Valentine  
FR: Charles Jones *CJ*  
RE: Continuous Progress Report  
DA: 28 June 1993

We met with Secretary Harder and briefed him on our discussion of earlier this afternoon.

Kansas continues to insist that the following statements be included in the Contingency Plan of the Continuous Progress report:

Nebraska will continue to serve as Host State.

Should the Boyd County site prove unlicensable, Nebraska agrees to pursue alternative sites in Nebraska.

If we can overcome threshold concerns by including these statements in the report's Contingency Plan, we would be happy to meet tonight to discuss additional issues. If the statements cannot be included, we believe that the gap is too great to allow for useful discussion.

cc: Secretary Harder

5-3



State of Kansas  
Joan Finney, Governor



Department of Health and Environment  
Robert C. Harder, Secretary

STATEMENT TO THE CENTRAL INTERSTATE  
LOW-LEVEL RADIOACTIVE WASTE COMMISSION

SECRETARY ROBERT C. HARDER

Kansas wishes to propose an amendment to the Contingency Plan included in the Continuous Progress Report.

There is no joy in being the outside member of a five member body. However, as I have thought through the issues facing us today, I arrive at conclusions which place me as the outside member.

The CIC Continuous Progress Report would seem to suggest progress to the Southeast, and well it should. However, the Continuous Progress Report notes a lawsuit on the question of community consent and an administrative ruling of intent-to-deny. The Continuous Progress Report notes Nebraska's desire for further clarification of Host State status, with the implication that the Host State designation would be subject to redetermination, with the clock starting over. This means the losing of six years of activity and at least the expenditure of over \$50 million. The Timeline for the Contingency Plan proposes a time span of seven and one-half years. Conservatively, we are looking at thirteen and one-half years to become operational and untold millions of dollars in expenditures.

For myself, as a person involved in state government for over thirty years, my desire has always been to see government work. The citizenry has reached a point where they are nearly convinced that government can't work and can't do problem solving. Let's not confirm citizen cynicism.

Compacts are mechanisms the states use to solve problems which cross state lines. The states have the obligation to make these compacts work. Today, we are at a testing point and a determination as to whether we can make this work. The Compact will work only if each state takes seriously the provision in the Compact law which states:

"Each party state has the right to rely on the good faith performance of each other party state."

The CIC is concerned and will continue to be concerned about the well-being of all citizens within the states. That concern is best expressed by moving ahead with a single site in the Host State, and by avoiding multiple sites within the five states.

5.4

Through this day we have heard information regarding financial liability which may fall on the Compact and its member states. Recently, there has been discussion in California about not continuing with a disposal site. It is my understanding that the major generators in California became concerned about the abandonment or delay of a site, and indicated to the State of California the prospect of recovering monetary damages for past inactivity as well as the future costs incurred by the companies as a result of lack of disposal capacity. Those liability issues need to be further explored and resolved in relation to the developments within the CIC.

During the 1993 Legislative Session, one part of the KDHE legislative program was to secure the amendments to the Compact language which had been insisted upon by Nebraska and adopted by the other three states. This was legislation which had failed to be passed in the two previous sessions.

As I appeared before the legislative committees, the constant question because of the nature of the material in the amendments was: Is Nebraska operating in good faith? As the discussion related to the Continuous Progress Report has continued, I find myself less sure of the answer I gave during the Legislative Session when I said that Nebraska was indeed acting in good faith and that the amendments were appropriate.

I reported to our Governor and the Legislature that Nebraska is the Host State for a period of 30 years or until a facility has 2.5 million cubic feet of low-level waste. I cannot agree to any other position than this without full review by the Governor and Legislature.

The way in which the CIC can show progress and move ahead to revolve pressing issues is through adoption of the following two amendments as a part of the Contingency Plan:

1. Nebraska remains the Host State; and
2. If the current site is deemed unacceptable for any reason, Nebraska remains the Host State and responsible for securing or providing a licensable site.

June 29 1993

State of Kansas

Joan Finney, Governor



Department of Health and Environment

Robert C. Harder, Secretary

STATEMENT TO THE IMPORT POLICY COMMITTEE  
SOUTHEAST COMPACT COMMISSION

SECRETARY ROBERT C. HARDER

Kansas comes before the Import Policy Committee with a dual purpose in mind. We come to voice our protest against the "Continuous Progress Report" as presented by the Central Interstate Compact Commission. At the same time, we come to join our fellow states in urging the SEC to grant continued access to the Barnwell disposal facility through July 1, 1994.

The State of Kansas cannot support the "Continuous Progress Report" as currently worded. We believe that the report -- particularly the Contingency Plan -- contains elements which put years worth of effort and more than \$50 million at even greater risk than they currently face. In our opinion, the report advances questions about Host State status which, in combination with other troubling issues, simply adds to those problems first noted by this Committee as it considered CIC progress in light of the suit over community consent and the announced intent-to-deny. Kansas simply cannot sanction this report or any other impediment to completing the CIC goal of developing regional disposal capacity.

Nonetheless, we sincerely hope that the Import Policy Committee will reconsider the decision to cut off CIC access to Barnwell. Until recently, the CIC led the nation with its enviable progress in meeting milestones and advancing development of regional disposal capacity. In spite of these recent setbacks, we believe that the CIC has moved ahead in a manner which rivals many of those states and compacts which continue to enjoy access to Barnwell. While Kansas has made provisions to manage its low-level waste without the interim access to Barnwell, it is our understanding that some of the other member states face dire shortages of storage capacity which may adversely impact their ability to provide certain medical therapies and to complete important research projects. We submit to you that the Compact's efforts have been sincere and most aggressive, and that punishing the entire Compact for the recalcitrance of one state is neither equitable nor likely to accomplish anything more than furthering erosion of the CIC and frustrating the development of regional capacity.

Kansas recognizes that our appearance here today raises a bit of a conundrum for the Import Policy Committee: how can you support the reestablishment of access, when one of the member states is challenging its own Compact's claims of diligent pursuit of progress?

5-6

In response, Kansas offers two suggestions which might, if acted upon by the Import Policy Committee both help put the CIC back on track and allow for continued access to Barnwell.

Kansas recommends that the SCC make access to Barnwell dependent upon inclusion of the following statements in the Contingency Plan of the "Continuous Progress" Report:

1. Nebraska remains the Host State; and
2. If the current site is deemed unacceptable for any reason, Nebraska remains the Host State and responsible for securing or providing a licensable site within that State.

If the member states of the CIC pursue inclusion of those statements in good faith and find themselves simply unable to secure the cooperation of Nebraska, Kansas would recommend that the other four CIC states, either jointly or independently, be allowed to seek access to Barnwell.

Kansas greatly appreciates being allowed to appear before the Import Policy Committee to express its concerns and present its recommendations.

June 30, 1993

## KANSAS POSITION STATEMENT ON DRAFT #6

Kansas has developed the following position statement on Draft #6. The Kansas position was developed in consultation with representatives from the State Legislature, the Attorney General's Office, Major and Minor Generators, the State Corporation Commission, KDHE, and the academic community. There was no dissent in support for the Kansas position.

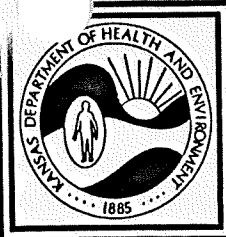
Kansas does not support Draft #6, especially its Contingency Plan, for the following reasons:

1. it does not reaffirm Nebraska's Host State responsibilities;
2. it contains elements which may cause undue delays by requiring legislative action in Nebraska or among the Compact States;
3. it provides opportunities to establish technical and community consent requirements which exceed existing state laws and rules and regulations approved by the CIC; and
4. it allows for selection of a new developer, putting the \$45 million investment in the proposed project at great risk.

Kansas would support a position statement adopted by the CIC for the purpose of regaining access to Barnwell containing the following elements:

1. Nebraska affirms its responsibilities unequivocally as Host State, consistent with Article V of the CIC;
2. Candidate and Potential Sites are to be located in Nebraska;
3. Nebraska's DEQ and DOH shall
  - a. enter productive discussions with the applicant to resolve issues associated with the Intent-to-Deny,
  - b. base site license decisions solely on the issues of health, safety and site suitability, and
  - c. suggest actions which correct any deficiencies which may be used to deny licensure;
4. Nebraska commits to exercise prudent regulatory cost control by limiting reviews to threshold issues until the Intent-to-Deny matter is resolved;
5. Major Generators commit to continue funding the prelicensing costs of the Butte-site facility;
6. In the event the Butte site proves unlicensable,
  - a. provisions of Article V of the CIC shall determine the process for selection of an alternate site,
  - b. all parties would proceed in good faith to facilitate and expedite the siting process, and
  - c. to the maximum extent feasible, development of an alternate site would be built upon developed plans and work products and the already expended financial investment.

Kansas will offer this proposal at the June 28-29 meeting of the CIC and may voice its concerns in other appropriate forums.



# SOLID WASTE UPDATE

August 1993

Bureau of Waste Management

## Planning Grant Process Underway

KDHE announced the availability of solid waste planning grants with a letter to all counties on July 9, 1993. The letter included a grant application form and a guidance document. The Department's grant program establishes grant amounts based upon the population of the county. Grants are available for evaluating the feasibility of continuing to operate existing landfills under the new Subtitle D solid waste regulations and for preparing comprehensive solid waste management plans. The deadline for submitting the first round of grant applications was August 13. KDHE received 14 applications requesting a total of \$2,162,516. KDHE expects to fund the regional requests this fiscal year. More requests are anticipated, however, prior to the next application deadline of October 1, 1993. The table below lists the applicants and the number of counties addressed by the grant applications.

### Grant Requests

Applicant	No. of Counties
MN/DK Co. Region	2
Lake Region	6
Gyp Hills Region	7
NE KS Region	2
NW KS Region	18
SC KS Region	4
SE KS Region	9
SW KS Region	13
Hodgeman Co.	1
Morton Co.	1

## Transfer Station

Due to the number of anticipated landfill closings attributed to Subtitle D, KDHE anticipates a large number of transfer stations will be constructed. Therefore, the Department has completed a guidance document to assist counties who are planning to close landfills and use a transfer station to collect solid waste for shipment to a landfill. The document is available by calling 913/296-1600. KDHE intends to adopt the majority of this guidance as regulation at a later date. The goal date for the draft regulation is late spring 1994.

## KDHE Waiting for EPA Approval

*Kansas submits first fully approvable application to Region VII*



On July 26, 1993, the Department submitted to EPA an application for approval of the Kansas solid waste program. EPA will review the application, and, if acceptable, issue approval to the state to implement a solid waste program that is equivalent to the federal Subtitle D regulations. Prior to issuance of approval, EPA will have to issue a notice in the Federal Register that they intend to approve KDHE's program and may choose to hold a public hearing in conjunction with that notice. EPA has stated that the notice should be published no later than August 27, 1993.

The application includes the proposed state regulations which adopt the federal regulations by reference (*see later article*), a review of the department's resources to administer the program, guidance material to interpret areas where Subtitle D is not specific, and a certification by the attorney general that the state has legal authority to carry out the program. The application was submitted to EPA by the deadline established by the EPA Region VII office in order to receive approval of the program by October 9, 1993.

## KDHE to Adopt Subtitle D by Reference

On August 16, 1993 KDHE held a public hearing on proposed permanent and temporary regulations K.A.R. 28-29-98 and 99. The hearing went smoothly as only one party submitted comments during the hearing. One additional comment letter was received during the written comment period. The regulations should be formally in place by the end of September. Additionally, KDHE has developed K.A.R. 28-29-6a which provides for public input into the solid waste permitting process. This regulation is making its way through Department of Administration and the Attorney General's Office. That regulation should become effective prior to October 9, 1993.

Senate E + NR  
Aug. 25-26, 1993  
Attachment #6



## ***KDHE Supports EPA's Proposed Extension of Subtitle D Landfill Regulations***

On August 23, 1993 KDHE submitted written comments to the US. EPA in support of their July 28th proposal to extend the effective dates of the federal municipal solid waste landfill regulations. The EPA proposal would grant a six month extension from October 9, 1993 to April 9, 1994 for all landfills which can demonstrate that they received less than 100 tons of waste per day during the period October 9, 1991 to October 9, 1992. A two year extension to October 9, 1995 was also proposed for all small landfills (less than 20 tons per day) located in arid areas (less than 25 inches of precipitation per year) which have no evidence of groundwater contamination. KDHE emphasized to EPA that the delays would offer many small communities and counties much needed time to complete the complex solid waste planning process including regionalized planning activities.

KDHE also provided comments to EPA which suggested modifications of the proposed rule to allow for state flexibility in the following areas:

1. To grant the 6 month extension to landfills which exceed the 100 tons per day limit provided the reason for the exceedance is related to a natural disaster such as a tornado, flood, ice storm, earthquake, etc. This flexibility should apply to both historical waste generation as well as generation after October 9, 1993.
2. To determine appropriate groundwater standards at small landfills which qualify for the arid land exemption. It is KDHE's understanding that this flexibility is allowed under the recent Court of Appeals

decision which stated that small landfills cannot be totally exempt from groundwater monitoring under Subtitle D.

3. To grant up to a 6 month extension on a case-by-case basis to large landfills which have received more than 100 tons per day if the landfills have been impacted by the Midwest flood of July and August 1993. This flexibility is needed because several large landfills have devoted much time and effort to address wet conditions and large quantities of waste generated by flood cleanup activities rather than work on facility upgrades as planned.

KDHE hopes to see these suggestions incorporated into the final rule before the October 9th deadline.

## **Advisory Committee Provides Assistance**

The Solid Waste Advisory Committee formed by KDHE has offered, and continues to offer valuable input on several important issues. The committee consists of volunteers with an interest and expertise in many facets of solid waste management. The Committee first convened on May 7, 1993 to provide input into KDHE's originally proposed draft regulations dealing with municipal solid waste landfills. Much valuable information was transferred between KDHE staff and the Committee. Based on that input, the regulations are being revised to reflect changes the majority of the Committee deemed applicable (see later article).

Select Committee members with expertise in solid waste planning also provided input on the Department's solid waste grant program. The Advisors helped fine tune the grant application packet including input on establishing reasonable allowable limits for planning. This should help maximize grant assistance provided by KDHE.

The entire Committee is currently reviewing an Operating Plan Guidance Document developed by Dr. Carl Burkhead. Dr. Burkhead is a professor of Civil Engineering at KU who was on loan to the Department this past summer. The Committee will meet in early September to discuss the guidance document.

## **New Staff on Board**

The Department continues to add Topeka and District Office Staff to fill approved vacancies in Topeka and the District Offices. We are pleased with the quality of staff hired and expect an immediate positive impact from each of them. New staff include:

Phil Rosewicz	Environmental Engineer
Mark Duncan	Environmental Geologist
Jim Gerlaugh	Office Specialist

## **Kansas Proposed Municipal Solid Waste Regulations**

KDHE is moving forward with a regulatory package designed to enhance the Federal Subtitle D regulations by filling in the gray areas in the federal regulations, and tailoring the Federal Regulations to Kansas needs. The package will clearly delineate the requirements for designing and operating a Subtitle D-compliant landfill in Kansas. The regulations have been developed with the assistance of the

Solid Waste Technical Advisory Committee. The Advisory Committee agreed there are many areas of the regulations that maximize KDHE's flexibility in dealing with municipal landfills. There are some areas of the regulations, however, where the Advisors was agreed that Kansas should be more stringent than, or address areas of the Federal Regulations where EPA was silent. Due to this fact, and the passage of HB 2428, KDHE will propose the regulations but not consider adoption of them until at least 45 days after the start of the 1994 legislative session. Some of the areas addressed include:

- + clarify qualification requirements for the small landfills
- + adequate top soil requirements
- + flexibility in design criteria
- + flexibility in groundwater monitoring requirements for large landfills
- + vertical expansions

The proposed timing of the regulations as well as the schedule for the current regulation package is presented below. Please note that the current regulation package which adopts Subtitle D is referred to as the *EPA Pkg*, while KDHE's proposed regulation package is referred to as the *KDHE Pkg*.

## Landfill Closures

Due to the large numbers of landfill closures associated with the promulgation of Subtitle D, KDHE has assigned staff from the Bureau of Environmental Remediation (BER) to oversee landfill closures. BER staff has been assisting a number of landfill operators in their landfill closure planning. Questions pertaining to landfill closures can be directed to Marv Glotzbach at 913/296-2783.

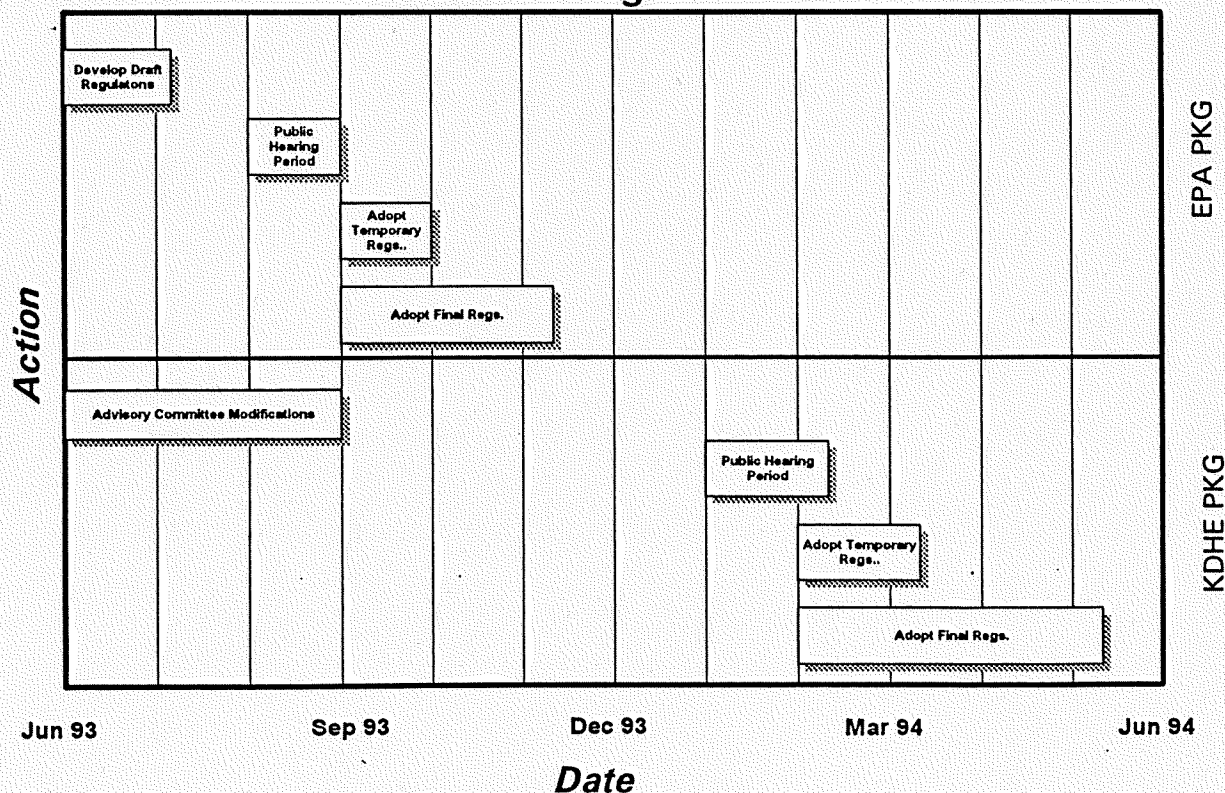
## Regional Planning Update

See page 4 for a map delineating regions and counties who submitted grant applications on or before the deadline for the first round of grants. The map indicates regionalization is beginning to take place. Congratulations to those counties, commissioners, and planning committees for their hard work in establishing the regions!

### Bureau of Waste Management Key Staff

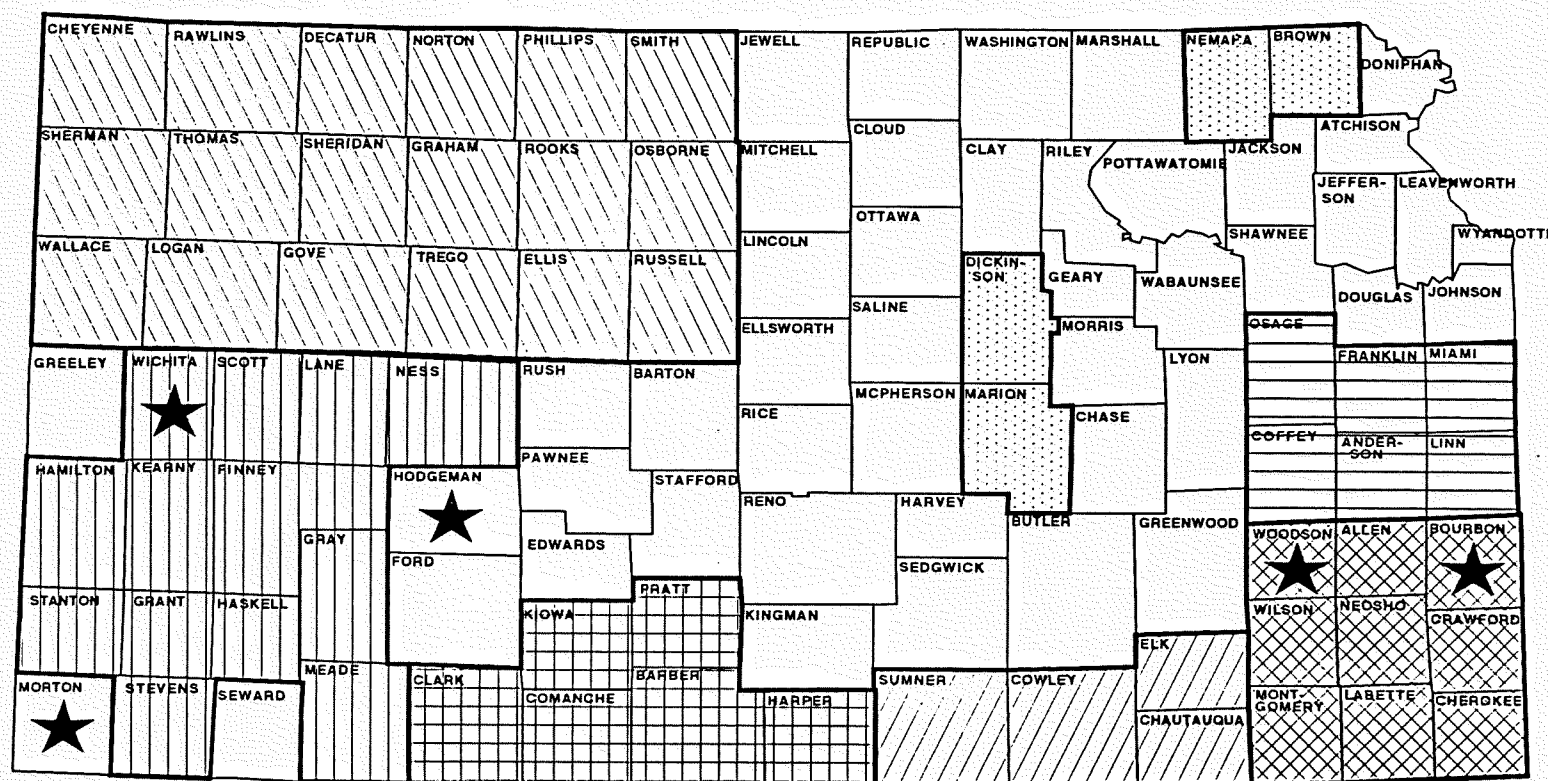
Bill Bider, Bureau Director	913/296-1612
Tom Gross, Solid Waste Section Chief	913/296-1603
Joe Cronin, Solid Waste Permits	913/296-1667
Sam Sunderraj, Solid Waste Grants	913/296-1595
Mike Tate, Solid Waste	913/296-0724

## Solid Waste Action Dates MSWLF Regulations



# Solid Waste Management Planning Grant Applications

## August 1993 Grant Cycle



★ Individual Counties

State of Kansas

Joan Finney, Governor



Department of Health and Environment

Robert C. Harder, Secretary

July 9, 1993

TO: County Commissions, County Solid Waste Management Committees

RE: Solid Waste Planning Grant Application Forms and Guidance

The Kansas Department of Health and Environment, Bureau of Waste Management is now accepting applications for solid waste management planning grants. Individual counties will be eligible for up to 50% funding, while regional efforts will be eligible for up to 90% funding. Applicants will have to certify on the application that the county or region has a legally formed solid waste planning committee according to K.S.A. 65-3405.

Regional solid waste planning grant proposals that had interlocal agreements in place by July 1, 1993 and submit applications by August 13, 1993 will receive first priority. Second priority will be for regions that have interlocal agreements in place and submit applications by August 13, 1993. All grant applications beyond that time will be prioritized and funded quarterly starting October 1, 1993. Funding of applications will be based upon established grant selection criteria and available funds. Each application will be placed on a priority list and funded based upon its ranking on the priority list. Applications that arrive after the quarterly deadline will be prioritized the following quarter. Grant applications can be improved and resubmitted for the next quarter if the applicant desires to move up the list to gain earlier funding. A copy of the application review criteria can be found in the enclosed Solid Waste Planning Grant Guidance document.

The solid waste grant application deadlines for the next 12 months will be:

4:30 pm, August 13, 1993

4:30 pm, October 1, 1993

4:30 pm, January 7, 1994

4:30 pm, April 1, 1994

We anticipate the prioritization of applications and selection of projects to be funded will take approximately two weeks. The applicants to be funded will be notified and provided a grant contract to start the funding process. When the contract has been signed by both KDHE and the grant recipient, funds will be made available. The entire process from selection of recipients to completion of the contract should take from four to five weeks.

If you have questions about the application forms or the guidance document,  
contact the Planning and Grants Unit at (913) 296-1540 or 296-1595.

Sincerely,

A handwritten signature in cursive script that reads "Bill Bider".

Bill Bider, Director  
Bureau of Waste Management

xc: Charles F. Jones  
Solid Waste staff  
Technical advisors  
Ron Fox  
Ron Smith  
District Offices

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# **SOLID WASTE PLANNING GRANTS**

June 1993

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## **GUIDELINES AND APPLICATION FORMS**



Kansas Department of Health and Environment  
Bureau of Waste Management  
Building 740 Forbes Field  
Topeka, Kansas 66620-0001



## **Introduction and Background**

The Kansas Legislature passed House Bill 2801 (K.S.A. 65-3401 et seq) in 1992 which set the stage for substantial changes in the way solid waste will be managed in the State. These changes were necessary due to the revision of Subtitle D of the federal Resource Conservation and Recovery Act which governs solid waste management nationally. House Bill 2801 directed KDHE to seek approval from EPA to administer the solid waste landfill regulations.

According to Kansas statute, each region, county or designated city, individually or jointly, must develop and adopt a solid waste management plan. The plan must address the solid waste management needs of all the communities and persons within the county or within all the counties forming the region. This does not preclude a plan from designating the use of facilities outside the planning region for waste management services.

The Kansas statute also provides for a program of grants to counties for developing and revising these official solid waste management plans. It is funded by a statewide \$1.50 per ton tipping fee. The grants can cover the costs of planning and carrying out related studies, surveys, investigations, inquiries, research and analysis.

Rules and regulations are being developed for the grant program. Until they are promulgated, this guidance document describes what may be funded with a solid waste planning grant, and the process to be followed in applying for a grant.

## **Grant funding levels**

Regions with more than one county that are formed by an Interlocal Agreement under K.S.A. 12-2901 may receive up to 90% of the planning cost. To be eligible for up to 90% reimbursement, the regional plan has to be prepared by a regional solid waste management committee constituted per K.S.A. 65-3405(b).

Single counties or cities designated to plan on behalf of a county pursuant to K.S.A. 65-3405(b) can receive up to 50% of the cost of developing a plan. An individual county plan has to be prepared by a statutorily constituted County Solid Waste Management Committee.

### **Who may apply for a grant?**

- \* An eligible (as noted above) Regional Entity which is a legal fiscal agent for receiving both the state planning grant and member county matching funds. This entity must also be able to expend monies for the purpose of the grant.
- \* A Regional Solid Waste Management Planning Committee, provided it has designated a legal entity (e.g. a member county, regional planning commission, etc.) to be the fiscal agent for receiving and expending grant monies.
- \* In the case of individual county plans, the County, or designated city, may apply and shall be the fiscal agent.

### **What costs and tasks are eligible?**

The costs of preparing and revising official solid waste management plans are eligible for funding. This includes the cost of carrying out related studies, surveys, investigations, inquiries, research and analyses to prepare all elements of Plans as outlined in K.S.A. 65-3405(e). Any of these activities that were performed after January 1, 1993 are eligible for grant funding.

In order to extend the available grant dollars to as many regions and counties as possible, the Department has established caps for total project costs that will be eligible for grant purposes. The caps are listed in the application form. An individual county may receive up to 50% of the cap amount and a region may receive up to 90% of the cap amount. The caps are not the amount of money a county or region can expect to receive for any given activity. Any county or region may choose to spend more than the cap for a planning activity, however, the amount above the specified cap will not be eligible for state grant funding.

Examples of eligible tasks are listed below.

- Feasibility study of an existing landfill.
- Development of a comprehensive solid waste management plan.
- Related studies, surveys, investigations, inquiries, research and analyses.

Costs associated with the development of a landfill at a new site or expansion of an existing site and costs incurred before January 1, 1993 are not eligible for funding under the planning grants.

**Criteria to be used in awarding grants**

Prior to evaluating proposals for their content, each application will be reviewed for compliance with state solid waste statutes. Any county operating a landfill that is not submitting the \$1.50 per ton tipping fee contained in K.S.A. 65-3415(b) will be considered ineligible for receipt of grant funds. In addition, all applicants must certify, as part of the application, that their planning committees have been formed in accordance with the requirements of K.S.A. 65-3405.

After passing the legal review described above, all grant applications will be evaluated and placed on a priority list. The first prioritization of applicants will be on applications from regions which had interlocal agreements in place by July 1, 1993 and submit applications by August 13, 1993. Regions who complete interlocal agreements and submit applications prior to August 13, 1993 will be considered next. After this initial focus on regions, prioritization and funding decisions will occur on a quarterly basis if sufficient funds are available. Those applications at the top of the list will receive available funds. As new grant applications are received they will be prioritized and placed on the list. Any eligible planning activity performed by an individual county which joins a region before October 1, 1993 may be considered eligible for up to 90% reimbursement, if that planning work product is incorporated into that regional plan. In the initial year of the solid waste management planning grant program the funding priorities will focus on regional approaches and on the short term activities necessary to meet the Subtitle D landfill criteria.

Solid waste planning grant applications will be evaluated and prioritized based upon the following factors in the noted percentages:

1. Potential Environmental Impact (25%)
  - ☐ Minimization of impacts to air, water and soil resources
  - ☐ Identification of groundwater or other environmental problems
  - ☐ Conformance to solid waste hierarchy (reduce, recycle, dispose)
2. Regionalization (20%)
  - ☐ Regional versus individual county
  - ☐ Number of counties participating in region
3. Quality of Application (20%)
  - ☐ Completeness
  - ☐ Clarity
  - ☐ Technical merit
  - ☐ Comprehensiveness of the proposal

## **Kansas Solid Waste Management Planning Grant Guidelines**

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- 4. Applicant Need (20%)**
  - ☐ Relation of proposed activity to Subtitle D deadlines
  - ☐ Readiness to proceed with planning activities
  - ☐ Other sources of funding available for planning activities
  
- 5. Cost Effectiveness (15%)**
  - ☐ Phased approach to project
  - ☐ Repetitious of previous efforts
  - ☐ Commitment of recipient demonstrated through active participation in the planning process
  - ☐ Justification for the funds requested

For more information please contact:

**Planning and Grants Unit  
Solid Waste Section  
Bureau of Waste Management  
Kansas Department of Health and Environment  
Building 740, Forbes Field  
Topeka, Kansas 66620  
(913) 296-1540 or 296-1595**

# Solid Waste Management Planning Grant

## APPLICATION FORM

\_\_\_\_\_  
Date of Application

\_\_\_\_\_  
Contact Person (responsible for day to day project management)

\_\_\_\_\_  
Name of Applicant Organization

\_\_\_\_\_  
Address

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip Code

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
FAX Number

\_\_\_\_\_  
FEIN (IRS) Tax Number

State Funding Requested \$ \_\_\_\_\_

Local Match (Monetary or In Kind) \$ \_\_\_\_\_

Total Cost of Proposed Project \$ \_\_\_\_\_

Proposed Project is for:

- ☐ Individual County at up to 50% state funding
- ☐ Regional at up to 90% state funding

If Regional, please list all the participating counties:

Proposed starting date of project: \_\_\_\_\_

Proposed completion date of project: \_\_\_\_\_

## **Solid Waste Management Planning Grant**

### **ELIGIBLE TASKS:**

**Check the appropriate boxes for the tasks to be funded with this grant:**

The caps indicated are for the total eligible project costs. Individual counties may receive up to 50% of the cap in grants. Regions may receive up to 90% of the cap in grants.

#### **EXISTING LANDFILL FEASIBILITY STUDY**

The tasks below may be conducted for evaluating an existing landfill for planning purposes. In order to be eligible for reimbursement, the work products resulting from these tasks must be used to revise an existing solid waste management plan or to develop a new comprehensive plan.

- ☐ Installation of ground water monitoring wells and groundwater sampling and analyses. The eligible work does not constitute a hydrogeological characterization and assessment of the site, a step that is essential for proper design of landfill cells and for locating and designing monitoring wells for landfills subject to the Subtitle D criteria. This task may be conducted in conjunction with a comprehensive solid waste management plan.

\$10,000 cap for each individual site per county or region.

- ☐ Determination of a landfill's remaining capacity, which may include a topographical survey of the site and the calculation of available airspace based on proposed soil use and availability. This task may be conducted in conjunction with a comprehensive solid waste management plan.

\$8,000 cap for each individual site per county or region.

- ☐ Conduct a study to evaluate the feasibility of continuing to operate an existing landfill versus closure of the site and direct haul to a neighboring landfill or construction of a transfer station. The study may include evaluating the existing landfill to determine if it meets the Subtitle D siting requirements. The evaluation shall include review of the technical and economic implications of the options and may include preparation of conceptual engineering plans. This task may not be performed in conjunction with a comprehensive solid waste management plan.

\$7,000 cap for single counties.

## **Solid Waste Management Planning Grant**

### **ELIGIBLE TASKS (cont)**

#### **COMPREHENSIVE SOLID WASTE MANAGEMENT PLAN**

The following tasks may be conducted in preparing a comprehensive solid waste management plan:

- ☐ The plan must include a description and evaluation of the planning area's demographics, geography and geology; transportation network; waste stream characterization; solid waste collection, transportation and disposal. The plan is to address all special wastes and identify existing problems and future needs in the planning area. The plan should investigate all options for waste reduction, processing, storage, collection, transportation and disposal with the related cost/benefit analyses and lead times needed for implementation of the various options. The plan shall identify elements of the plan that will require public education and include a plan for delivering such education. From this information, a workable solid waste management plan with implementation and financing schedules will be created.

\$40,000 cap for individual counties of pop. < 20,000

\$60,000 cap for individual counties of pop. > 20,000 and < 60,000

\$80,000 cap for individual counties of pop. > 60,000 and < 100,000

\$100,000 cap for individual counties of pop. > 100,000 and < 150,000

\$120,000 cap for individual counties of pop. > 150,000

The base grant for regions is the individual cap for the largest county of the region, plus an additional \$20,000 for each of the other counties in the region.

#### **OTHER TASKS**

This section is for any other eligible task not covered elsewhere on this application form.

- ☐ Carry out related studies, surveys, investigations, inquiries, research and analyses in the preparation and revision of official solid waste management system plans as authorized by K.S.A. 65-3415.

## Solid Waste Management Planning Grant

Organization: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

### BUDGET BREAKDOWN BY TASK:

	State Requested <u>Funding</u>	In Kind/Monetary <u>Match</u>
EXISTING LANDFILL FEASIBILITY STUDY		
ground water evaluation	\$ _____	\$ _____
landfill capacity evaluation	\$ _____	\$ _____
alternative evaluation	\$ _____	\$ _____
COMPREHENSIVE SOLID WASTE MANAGEMENT PLAN	\$ _____	\$ _____
OTHER TASKS	\$ _____	\$ _____
SUBTOTAL	\$ _____	\$ _____
TOTAL (COLUMN 1 + COLUMN 2)		\$ _____
PERCENTAGE OF TOTAL	_____ %	_____ %



## Solid Waste Management Planning Grant

### BUDGET BREAKDOWN BY COST CATEGORIES:

	State Requested <u>Funding</u>	In Kind/Monetary <u>Match</u>
PERSONNEL SERVICES	\$ _____	\$ _____
TRAVEL	\$ _____	\$ _____
PROFESSIONAL SERVICES	\$ _____	\$ _____
SUPPLIES	\$ _____	\$ _____
EQUIPMENT	\$ _____	\$ _____
ALL OTHER COSTS	\$ _____	\$ _____
 SUBTOTAL	 \$ _____	 \$ _____
TOTAL (COLUMN 1 + COLUMN 2)		<u>\$ _____</u>
PERCENTAGE OF TOTAL	_____ %	_____ %

## Solid Waste Management Planning Grant

Please attach a detailed description of the project to be funded. The description should include the components of the project, a timetable for completion of the elements that comprise the project and a detailed cost estimates of each element of the project. The description should also include documentation on how the estimates were made. and a list of other sources of grants and funds used for solid waste management planning in the past three years.

Remember that the caps indicated are for the total eligible project costs. Individual counties may receive up to 50% of the cap. Regions may receive up to 90% of the cap.

### CERTIFICATION:

The undersigned is an official authorized to represent the agency. The applicant certifies that all proposed activities will be carried out; that all grant money received will be utilized solely for the purposes for which it is intended; that records documenting the planning process and implementation will be maintained and submitted when requested, and that KDHE is hereby granted access to inspect project sites and/or records.

The applicant hereby certifies that the membership of it's Solid Waste Management Planning Committee is legally constituted pursuant to K.S.A. 65-3405.

\_\_\_\_\_  
Authorized representative (Please Print)

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature of authorized representative



## Department of Health and Environment

Robert C. Harder, Secretary

Reply to: (913) 296-1612  
Fax Number: (913) 296-1592

August 23, 1993

Docket Clerk  
OSW (OS-305)  
Docket No. F-93-XMLP-FFFFF  
U.S. Environmental Protection Agency  
Headquarters  
401 M Street, SW  
Washington, D.C. 20460

Re: State of Kansas Comments to Docket No. F-93-XMLP-FFFFF related to EPA Proposed Rule: Solid Waste Disposal Facility Criteria; Delay in Effective Date dated July 28, 1993

Dear Sir:

Please accept this comment letter for consideration in finalizing the above-referenced proposed rule. The Kansas Department of Health and Environment (KDHE) greatly appreciates EPA's proposal. The delays in the effective dates of certain requirements will offer much needed time for many small communities and counties to complete the complex solid waste planning process, to raise the funds needed to implement operational changes in solid waste management practices, and to construct or upgrade existing waste management facilities. The extra time to allow these tasks to be completed will have little if any adverse impact on environmental quality.

Regional planning has been encouraged by KDHE and the Kansas legislature as demonstrated by a solid waste planning grant program in which regions consisting of two or more counties receive larger grants and a higher funding priority than individual counties. The regional planning process in Kansas is a voluntary action which means that the formation of regions is left up to the counties themselves. There are many possible regional options and many parties involved; therefore, extended time periods are required to allow counties to assess all reasonable planning options. In addition, the planning process established by the Kansas legislature requires the formation of local planning committees which must develop plans for recommendation to local county commissioners.

KDHE believes that the best long-term solid waste management decisions will be made if the proposed time extension is finalized. Many landfills in western Kansas are eligible for the small landfill exemption and without the necessary time to study their situation and work with local citizens, several counties may make the investments required to stay open. If such investments are made, counties are more likely to decide to stay open to justify those investments. Although KDHE believes that each county has the right to determine whether to stay open or close in response to the increased requirements of Subtitle D, the department also believes that it is most practical from an economic perspective for counties operating

Senate E+NR  
Aug. 25-26, 1993  
Attachment # 8

small landfills to consolidate into regions which can operate larger compliant facilities at lower cost to their citizens. Therefore, KDHE believes that the additional planning time offered by the proposed extension could save taxpayers' money on a long-term basis.

In addition to the general comments provided above, KDHE would like to offer the following comments related to specific areas raised by EPA in the proposal:

**Method of Determining if a Landfill Qualifies for the Less Than 100 Tons per Day Extension**

EPA proposes to grant the 6 month extension to all landfills which receive less than 100 tons per day of solid waste using the period October 9, 1991 to October 9, 1992 as the base period for the determination. KDHE supports the extension for this group of landfills; however, we request that EPA reconsider the proposed method for determining if the landfill exceeds the 100 tons per day limitation. If the sole reason that a facility exceeded 100 tons per day during the base period was due to some type of natural disaster such as a flood or a tornado, that facility should also be eligible for the extension. KDHE recommends that landfill owners/operators be given the opportunity to establish an alternate time period to determine the eligibility of their landfills for the extension. In addition, facilities which have qualified based upon historical disposal records but which receive more than 100 tons per day during the proposed 6 month extension should not lose their eligibility if the exceedance(s) are due to ongoing or new local emergency cleanup activities such as the ongoing Midwest flood cleanup efforts.

**Groundwater Monitoring at Small Landfills in Arid Areas (less than 20 tons per day)**

It is our understanding that the recent Court of Appeals decision regarding the small landfill exemption allows for groundwater monitoring flexibility based on the conditions which are normally observed at these landfills. For example, many small landfills in rural counties receive mostly all residential waste with small amounts of commercial solid waste. The presence of hazardous constituents in such waste is limited and groundwater contamination potential is lower than at sites which receive substantial amounts of industrial wastes. Another important factor is that the exemption as proposed can only be granted to facilities in areas of low rainfall (less than 25 inches per year). Under such conditions, there is a reduced potential for precipitation to vertically drive any contaminants in the landfill to the groundwater.

KDHE requests EPA to allow alternate groundwater monitoring standards for small landfills in arid areas. Such alternate standards should be developed as appropriate by the authorized state program based upon local hydrogeological conditions and the landfill's current and anticipated disposal practices. The flexibility which approved states should have involves monitoring frequencies, parameters measured, and site characterization requirements. Authorized states should also have the authority to waive groundwater monitoring in exceptional situations where local hydrogeological conditions demonstrate that no groundwater is present in the subsurface zones which might be impacted by the landfill. For example, groundwater may only be located at great depth with the presence of a major geologic zone of very low permeability between the landfill and groundwater.

### **Proposed Two Year Extension for Small Landfills in Arid Areas**

KDHE requests that EPA maintain its proposed extension for all Subtitle D requirements for qualifying small landfills rather than allowing a groundwater monitoring exemption only. The owner/operators of these landfills have been assuming that they would be exempt from most groundwater monitoring requirements, if granted exempt status. Based upon that assumption, some counties have decided to keep their landfills open because they believed that they would only be required to modify operational practices. With the new knowledge that groundwater monitoring may also be required, several counties may now perform more comprehensive financial assessments which lead to the conclusion that they should close their facilities. These facilities should not be required to implement operational changes at potentially significant cost when they may decide to close before October 9, 1995.

### **Extension of Closure Completion Deadline**

KDHE supports EPA's proposal to extend the date for the completion of final cover until October 9, 1994 and October 9, 1996 for small exempt landfills. This time is needed to allow a good construction season at closing landfills receiving more than 20 tons per day. It is quite probable that the final cover could not be constructed at many landfills which accept waste right up to the October 9, 1993 deadline due to weather constraints.

### **Midwest Flood-Related Considerations**

The State of Kansas was hard-hit by the flood of July and August 1993. Numerous counties were declared disaster areas and very large quantities of flood related solid waste are being generated as part of cleanup activities. Cleanup has just begun and will likely continue for several months.

Many of the landfills in the state were impacted by the flood, both directly and indirectly. Most landfills in the state were adversely impacted by the abnormally high rainfall which caused the flooding in the Midwest. These very wet conditions made it difficult for landfills to work on upgrading facilities prior to the October 9th deadline. In addition, many large landfills which intend to stay open are receiving large quantities of flood generated wastes. Many of these wastes are unusual in nature and an increased level of screening is being performed to ensure that only acceptable materials are being received. This time and effort is also detracting from the efforts of some large facilities to make planned changes in operations before October 9th.

Some extension of the October 9, 1993 deadline is warranted for facilities which have been impacted by the flood even if they have historically received greater than 100 tons of waste per day. KDHE believes that an additional 6 months should be adequate for the impacted facilities to handle flood related matters and to upgrade to meet all Subtitle D requirements. This conclusion is based upon Kansas experience where no large landfills were totally flooded. In other states where landfills experienced significant flooding, more than a 6 month extension could be necessary.

Kansas requests EPA to give states which have submitted their landfill program application the authority to grant an extension of up to 6 months to any facility receiving greater than 100 tons per day. Extensions should be granted on a case by case basis in accordance with demonstrated need. Kansas believes that as many as 10 landfills could apply for and receive an extension if this provision is added to the final

Docket No. F-93-XMLP-FFFFF  
August 23, 1993  
page 4

rule. KDHE does not believe this flexibility will result in any measurable environmental impacts in the state but it will allow certain facilities to devote the necessary time and effort to serve the needs of local communities during this time of emergency cleanup activities.

In summary, KDHE believes that EPA was very responsive to the needs of small communities and counties across the country when they agreed to propose this extension. This responsiveness is appreciated by states such as Kansas which have major rural areas. KDHE strongly urges EPA to maintain the proposed extensions and to consider the additional ideas presented in this letter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Robert C. Harder".

Robert C. Harder  
Secretary

C Governor Joan Finney  
U.S. Representative Jim Slattery  
U.S. Senator Nancy Kassebaum  
State Representative Carl Holmes  
State Senator Don Sallee  
John Torbert, Kansas Association of Counties



## Department of Health and Environment

Robert C. Harder, *Secretary*

July 29, 1993

**TO:** County Public Works Directors, Landfill Operators, Emergency Preparedness

**RE:** Flood response and clean up issues

The recent flooding in portions of Kansas has resulted in the Department receiving several questions about flood clean up. In order to answer these and other potential flood-related questions in a timely manner, the following information has been prepared.

The primary issue associated with flood clean up will be the proper disposal of special or large quantity wastes generated by flood clean up activities. The following is a list of the types of flood related wastes to be expected and appropriate disposal methods for each.

**Tree and brush debris** (open burning with KDHE approval, burial at temporary or permitted sites)

**Furnishing debris**--carpet, furniture, etc. (burial at temporary or permitted landfill)

**White goods** (recycling of white goods without CFCs, white goods with CFCs to permitted site for CFC removal and recycling or burial at permitted landfill)

**Building demolition waste** (open burning of clean lumber, burial at temporary or permitted sites)

**Carcasses of dead animals** (rendering, burial at permitted sites with special precautions)

**Contaminated soils**---USTs, process tank spills, etc. (on site treatment with KDHE approval or disposal at permitted sanitary landfill)

**Tires** (burial at temporary or permitted sites when mixed with other flood debris, processing by permitted facilities when not mixed with other flood debris)

**Used sandbags** (reuse for fill material or burial at temporary or permitted landfill)

**Damaged consumer merchandise** (screening for hazardous materials first burial at permitted sanitary landfill)

**Industrial wastes** (screen first, than burial at permitted sanitary landfill if appropriate)

**Spoiled grain (use for alcohol production or burial at permitted sanitary landfill)**

**Farm chemical wastes--pesticides (screen first for hazardous materials, than burial at permitted sanitary landfill)**

**Will the Department allow disposal of flood clean up waste in unpermitted landfills?**

Yes, with certain restrictions. The Department will allow cities, counties or townships to establish temporary solid waste disposal facilities for flood generated wastes. All such sites should receive prior approval of the Department. Chuck Linn will be the Department contact for getting such sites approved. His phone number is (913) 296-8025. You may also contact the District office nearest you, who will coordinate the approval with Chuck. If Department staff are familiar with the site, approvals will be granted on the same day requested. If a field visit is needed, the approvals should take one to two days. These temporary sites will be limited to receiving tree and brush waste, demolition waste, used sandbags, tires, and furnishing debris.

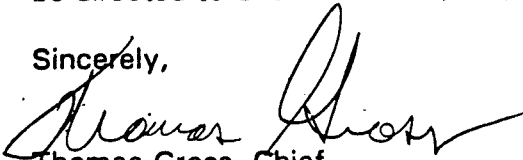
**Is waste generated from flood clean up subject to the \$1.50 per ton tipping fee?**

Construction and demolition wastes from public sources are exempt from the tipping fee. Much of the waste from flood clean up would fall into this category and be exempt. Temporary sites established by a county to receive flood clean up wastes would also be exempted from the fee.

Landfill operators should step up screening activities for flood clean up waste from industrial, commercial and agricultural sources to ensure that hazardous materials commingled with other flood clean up wastes are not received. Those counties with household hazardous waste programs in place should consider extending the operating hours for the programs to provide a place for such wastes resulting from flood clean up.

Some of the flood clean up wastes described above are special wastes requiring different handling when received at a sanitary landfill. Examples include animal carcasses, white goods containing freon, contaminated soils, spoiled grain, industrial wastes and some types of consumer merchandise. Industrial wastes and large quantities of other special wastes will also require a disposal authorization. We will try to process request for solid waste disposal authorizations as quickly as possible. If you have any questions about special handling procedures for any of these wastes or need a disposal authorization, please contact the Solid Waste Section in Topeka. Our phone number is (913) 296-1600. Once again, questions about establishing temporary disposal sites for flood waste should be directed to Chuck Linn at (913) 296-8025.

Sincerely,

  
Thomas Gross, Chief  
Solid Waste Section  
Bureau of Waste Management

xc: Sec. Harder, C.F. Jones, Bill Bider, Ron Fox, District Offices & SWM Staff.





# Environmental Fact Sheet

## Proposed Extension of Some Effective Dates in Federal Landfill Regulations

### Background

On October 9, 1991, the Environmental Protection Agency (EPA) issued regulations for municipal solid waste landfills. The federal requirements cover location restrictions, facility design and operations, ground-water monitoring, corrective action measures, conditions for closing and performing post-closure care, and provisions for assuring financial responsibility.

Since October 1991, the Agency has received information describing difficulties many communities—particularly small ones—are experiencing in meeting some compliance dates. EPA continues to be concerned about the problems communities face in managing their solid waste, and proposes to amend certain effective dates in the federal regulations.

In addition, the U.S. Court of Appeals for the District of Columbia Circuit (Natural Resources Defense Council v. EPA) directed EPA to eliminate an exemption from ground-water monitoring for very small landfills in arid and remote locations. As a result, the Agency proposes to modify these requirements, along with their relevant compliance dates.

### Action

EPA proposes to allow certain small landfill owners/operators additional time to prepare for implementing the federal regulations. The proposal does not change the basic requirements for managing landfills. The standards continue to ensure the safe management of municipal solid waste. EPA proposes:

- To postpone the effective date of the federal standards, for existing, smaller landfills, from October 9, 1993 to April 9, 1994. This extension applies to landfills that: (1) accept 100 tons or less of waste per day; (2) are in a state that has submit-

ted an application to EPA for approval of its permit program by October 9, 1993; and (3) are not on the Superfund National Priorities List.

Because of the recent court ruling, the Agency plans:

- To delete the current exemption from the ground-water monitoring requirements, and to extend the effective date of the federal regulations to October 9, 1995, for those landfills that previously qualified for the exemption (see qualifications in 40 CFR 258.1(f)). This additional time will give these small communities time to make practical, economic decisions about managing their solid waste.

In addition, to the six-month extension for smaller landfills, the Agency proposes extensions regarding financial assurance and closure requirements for all existing landfills. This action proposes:

- to delay the financial assurance requirements for one year, from, April 9, 1994 to April 9, 1995. This extra time should allow EPA to promulgate financial tests that provide significant cost savings to landfill owners and operators.
- to extend the cover installation time for landfills that stop receiving waste before the effective date. These landfills may have until October 9, 1994, to install a cover that meets the federal requirements.

Because the effective date of the federal regulations currently is set for October 9, 1993, the Agency needs to finalize this action as soon as possible. Comments on the proposal will be accepted only for 30 days following publication in the *Federal Register*. Interested parties are encouraged to provide comments on all aspects of this action.

## Contact

For additional information or to order a copy of the *Federal Register* notice, contact the RCRA Hotline, Monday-Friday, 8:30 a.m. to 7:30 p.m. EST. The national, toll-free number is (800) 424-9346; TDD (800) 553-7672 (hearing impaired); in Washington, D.C., the number is (703) 412-9810, TDD (703) 412-3323.

Submit an original and two copies of comments to: RCRA Docket No. F-93-XMLP-FFFFF, U.S. EPA, Office of Solid Waste (OS-305), 401 M Street SW, Washington, D.C. 20460. The Docket Number must appear on all correspondence.

State of Kansas

Joan Finney, Governor



Department of Health and Environment

Robert C. Harder, Secretary

TO: KDHE Solid Waste Advisory Group  
FROM: Charles Jones, Director *CJ*  
RE: EPA Announcement on Extending Subtitle D Deadline  
DATE: 25 June 1993

Please find attached two factsheets which announce EPA's intention to promulgate rules to extend the Subtitle D deadline. In brief, the EPA proposal has several elements:

All Landfills would be granted a one-year extension of the financial assurance requirement, during which EPA will promulgate a financial test for local government

Mid-Sized and Small Landfills would be granted a six-month extension (until 9 April 1993) of the Subtitle D deadline if the landfill

- a. accepts less than 100 tons per day,
- b. is in a state which has submitted its application for approval by October 9, 1993, and
- c. is not on the Superfund National Priorities List.

Small Landfills in Arid or Remote Areas would be granted a two-year delay (until 9 October 1995) of the Subtitle D deadline if that landfill

- a. accepts less than 20 tons per day,
- b. exhibits no groundwater contamination, and either
  - serves communities that experience annual interruption of surface transportation, or
  - is located in an area that receives less than 25 inches of precipitation per year.

Consistent with the recent ruling by the Washington D.C. Court of Appeals, these small landfills will be required to do groundwater monitoring.

ANALYSIS

1. The majority of Kansas landfills would benefit from the 6-month extension in the Subtitle D deadline. KDHE recently submitted its draft approval application to EPA, with the final application to follow within two weeks. There are currently no Kansas landfills on the Superfund National Priorities List.

2. EPA's proposal would have a profound impact on those small landfills (less than 20 tpd) located in arid regions of the state.
  - The 2-year extension of the Subtitle D deadline is extremely helpful. We hope and anticipate that solid waste planning efforts and the development of regional solid waste solutions will advance. We must all take full advantage of the extension, if enacted, to be prepared to come into full compliance in 1995.
  - The requirement for groundwater monitoring could spark reconsideration of some decisions about extending or not extending the life of area landfills. Under Subtitle D, discovery of groundwater contamination -- defined as a "statistically significant increase over background conditions" -- triggers the loss of the small landfill exemption. While EPA proposes a delay until 1995-96 in requiring landfill monitoring, KDHE encourages the early installation of monitoring systems at landfills which may continue operation so that accommodations can be made if contamination is found.
3. It must be noted that EPA has announced a proposed rule. EPA will establish a comment period and possibly a public hearing on this proposal. As more information becomes available, we will pass it along. We strongly recommend that landfill operators and representatives of local government submit comments on the proposed rule. We also recommend sending a copy of comments to Representative Slattery and other members of the Kansas Congressional delegation.
4. The proposed rule adds yet another twist to KDHE's complicated task of promulgating rules and regulations for Subtitle D. Without rules and regulations, KDHE will not be approved to operate the program and would not be able to provide flexibilities which EPA grants approved states. In order to best manage this situation, KDHE will promulgate its regulations in the following fashion:
  - KDHE will hold to an aggressive time schedule for promulgating regulations.
  - KDHE will submit Subtitle D regulations which contain the existing Small Landfill Exemption. Although the exemption has been vacated by the Washington D.C. Court of Appeals, KDHE will keep the exemption in the proposed regulations, then replace it as soon as EPA promulgates a final Small Landfill Exemption regulation.

- KDHE will promulgate a regulation to address the 6 month extension for landfills of less than 100 tpd. Th's regulation will be modified when EPA's rules are finalized.

#### CONCLUSION

We are greatly appreciative of EPA's responsiveness to concerns raised by Kansas and other states.

As reported in earlier correspondence, Representative Slattery's office arranged for Representative Carl Holmes, John Torbert of the Kansas Association of Counties, and Charles Jones of KDHE to meet with EPA on May 10 in Washington, D.C. In that meeting, Kansas advocated for an across-the-board extension of 6 months, and an additional extension for units which qualified for the Small Landfill Exemption. EPA has proposed a rule which is in alignment with Kansas requests.

Our joint efforts have been effective in drawing attention to much-needed relief from the federal government. We must now support the EPA proposed rule and, more importantly, bring that same cooperative spirit and focus to Kansas solid waste planning and management efforts.

cc: Representative Jim Slattery  
Representative Carl Holmes  
John Torbert, Kansas Association of Counties

# Solid Waste Transfer Stations

April 1993

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## Guidelines for Design, Operation and Permitting



Kansas Department of Health and Environment  
Bureau of Waste Management  
Building 740 Forbes Field  
Topeka, Kansas 66620 - 0001

Senate E+NR  
Aug 25-26, 1993  
Attachment # 9

# **Guidelines for the Design, Operation and Permitting of Solid Waste Transfer Stations**

## **Introduction**

The following guidelines have been prepared to assist persons interested in constructing and operating a solid waste transfer station through the design, permitting and operating phases. It describes what information must be included in a permit application, design requirements that must be met and operational requirements and guidance for transfer stations built and operated in the state of Kansas.

## **Design Requirements**

The following requirements should be taken into consideration when designing a transfer station:

### **General**

1. All processing, tipping, sorting, storage and compaction areas should be located within an enclosed building or covered area whenever possible. Transfer stations receiving small quantities of waste may be constructed without a roof provided that the facility is designed and operated to minimize wind-blown litter. Such designs should take into consideration prevailing winds and utilize natural topographical features or man-made berms to shield the facility from winds.
2. Consideration should be given to constructing the transfer station with additional room so that activities such as storage of white goods, separation of materials for recycling or composting or other solid waste management activities could be conducted at the facility.
3. The design must provide for the collection, storage and disposal of washdown water and stormwater that has come into contact with solid waste.
4. Water must be provided in sufficient quantity and pressure to wash down the tipping floor.
5. Sanitary facilities, drinking water and handwashing water should be provided for facility workers.

### **Unloading and Loading Areas**

1. The unloading area must be adequate in size and design to allow efficient unloading from collection vehicles and the unobstructed movement of vehicles. The unloading and storage areas should have sufficient capacity to store two days worth of solid waste in the event of an interruption in transportation or disposal service.
2. The unloading and loading areas must be constructed of concrete or asphalt paving material and equipped with drainage structures for washdown water and stormwater that has come into contact with solid waste.

3. Make provisions for weighing or measuring all solid waste processed by the facility.
4. Provide truck wheel curbs to prevent vehicles from backing into the receiving pits while unloading.

#### **Structures**

1. Enclosed structures must have active exhaust systems to ensure against accumulations of noxious or flammable gases.
2. The structure and trash-handling equipment must be constructed of materials that will not absorb odors or liquids from the waste.
3. The main door opening and roof of the structure must be tall enough to allow collection vehicles to unload. A minimum of 25 feet is suggested to provide clearance for collection vehicles currently in use.

#### **Storage Areas**

1. Sufficient internal storage area must be provided for the largest projected waste volumes to be received.
2. If special wastes such as medical waste and asbestos are to be managed at the transfer station, the design should include storage areas to segregate these wastes.

#### **On-site roads**

1. The facility must be designed to accommodate expected traffic flow in a safe and efficient manner.
2. Where public dumping is allowed, separate access for passenger vehicles is strongly recommended.
3. The road surface design must be suitable for heavy vehicles and the road base must be capable of withstanding expected loads.
4. On-site roads must be passable by loaded collection and transfer vehicles in all weather conditions. Provisions must be made for de-icing ramps during winter months.

#### **Operational Requirements**

The following requirements should be considered when developing an operational plan for a transfer station:

1. Medical waste, asbestos waste and industrial process wastes that may cause



harmful vapors or dusts, or contain toxic, ignitable, or reactive constituents shall not be accepted unless handling plans have been specifically approved by the department and a special waste authorization has been issued. Regulated quantities of hazardous wastes may not be accepted at transfer stations. The operator should attempt to screen wastes as they are received and handled to identify inappropriate materials.

2. All solid waste passing through the transfer station must be ultimately treated or disposed at a facility authorized by the department if in this State, or by the appropriate governmental agency or agencies if in other states.
3. All entrances to the transfer station should have a sign with the operator name and telephone number, the hours of operation, and the types of solid waste accepted and prohibited at the transfer station.
4. A transfer station with permanent operating mechanical equipment must have an attendant on duty at all times the facility is open.
5. Facilities which cannot be secured should provide suitable fencing and gates to prevent unauthorized persons from access to the facility when the transfer station is closed. Fences are recommended for all transfer stations to prevent blowing litter problems.
6. The transfer station should be operated and maintained to present a neat and orderly appearance. Blowing papers, insects, and other nuisances must be controlled. The transfer station and transfer vehicles must be cleaned by wash-down or other appropriate methods to minimize odors, disease vectors, and accumulations of trash.
7. All floors should be kept free from standing water. All drainage from cleaning areas must be discharged to sanitary sewers or other facilities approved by the department.
8. Maintain on-site roads in a dust free condition.
9. Solid wastes must be loaded into the transfer vehicle on the same day it arrives at the transfer station. Solid waste must be removed from the transfer station facility whenever transfer containers are full, or weekly, whichever comes first.
10. Fire protection equipment must be available at all times to respond to fires resulting from incoming waste containing hot ashes, oxidizers or other fire sources. Transfer station personnel should be trained in use of the equipment.
11. Operational records must be maintained at transfer stations including a daily log of the quantity of solid waste received and transported, including the origin and the destination of the solid waste received.

12. An annual report must be prepared and submitted to the department by March 1 of each year. This report must contain the weight or volume of waste received, the origin of the waste, the destination of the waste, the weight or volume and type of each material recovered, and any changes in operation that have occurred in the previous year.
13. A contingency plan must be developed that specifies the procedures to be followed in case of equipment breakdown, fires, receipt of hazardous materials, or other conditions that may cause an emergency or suspend operations at the transfer station. The plan should detail an alternate solid waste handling system for periods when operations are suspended. The contingency plan must be available at all times at the transfer station and station personnel should receive training on its contents.

### **Permit Application Requirements**

#### **General**

1. Transfer station permit applications should be submitted to the department for review at least 60 days prior to construction, alteration, or operation to allow time for review and processing of the permit.
2. The transfer station design plans and engineering reports must bear the seal and signature of a professional engineer licensed to practice in Kansas.(K.A.R. 28-29-6)
3. The proposed location for the transfer station must meet local zoning requirements or the applicant must obtain a special use authorization. The time period for the special use authorization must be for the projected life of the facility.
4. The proposed transfer station must be compatible with the county or regional solid waste plan in effect for the area in which the facility will be located. The applicant must obtain certification of the county commission or regional governing body to demonstrate this.
5. Applicants must prepare a closure cost estimate and submit proof of financial assurance in the amount necessary for proper closure of the transfer station. Government entities may use taxing authority to make the financial assurance demonstration.
6. The applicant must either own the property where the transfer station is to be built or have a lease for the duration of proposed permitted life of the facility.

7. The applicant must provide liability insurance coverage with a minimum liability limit of \$500,000 for bodily injury and \$200,000 for property damage. The policy shall have not more than \$5,000 deductible for each occurrence. The coverage shall include premises and operations, including operations of independent contractors.
8. There is a permit application fee of \$1,000 for a transfer station. Governmental entities are exempt from this fee.

**Permit Application Contents:**

The permit application must include the following:

1. A local or regional map outlining the service area of the proposed transfer station.
2. A site location map showing section, township, range, site boundaries and latitude and longitude expressed in degrees, minutes and seconds.
3. A site layout drawing, showing size and location of all pertinent man-made and natural features of the site including access roads, structures, surface impoundments, storage areas, ditches, surface water discharge points, surface water bodies, and the location of the 100 year flood plain boundaries.
4. A USGS topographic map using a scale of no less than one inch equals 2,000 feet, with 10 foot intervals on 7.5 minute series showing site boundaries.
5. A description of site conditions and projected site utilization including all site structures (such as buildings, fences, gates, entrances and exits, parking areas, on-site roadways, and signs) and the location of all water supplies.
6. Drawings showing all proposed structures and areas designated for unloading, sorting, storage, and loading; including dimensions, elevations, and floor plans of these structures and areas, and the general process flow.
7. A description of adjacent properties including land use and the names and addresses of property owners. If the proposed site is adjacent to a public road or street, include property across the street or road.
8. A proposed transfer plan specifying the transfer route, the number and type of transfer vehicles to be used, and how often solid waste will be transferred to the disposal site;
9. A description of all machinery and equipment to be used, including the design capacity.

10. A general operating plan for the proposed facility including the origin, composition, and expected volume of all solid waste to be accepted, the proposed capacity of the facility, how waste will flow through the facility, the maximum time waste will be stored, where all waste will be disposed, the proposed operating hours of the facility, the expected life of the facility, how incoming wastes will be screened and the number and type of personnel working at the station.
11. A facility contingency plan.
12. A plan for training equipment operators and other personnel concerning the contingency plan and the operation of the facility.
13. Certification from local land use authority that proposed use conforms with local planning and zoning regulations.
14. Certification from the county commission that the proposed facility is consistent with the county solid waste management plan.

#### References

Topographic maps are available for \$2.50 each plus tax and minimal shipping costs through:

Kansas Geological Survey  
Attn: Maps and Publications  
The University of Kansas  
1930 Constant Avenue  
Campus West  
Lawrence, KS 66047-3726  
(913) 864-3965 Extension 420  
(913) 864-5317 (FAX)

KGS  
Well Sample Library  
4150 Monroe Street  
Wichita, KS 67209  
(316) 943-2343

U.S. Geological Survey  
Map Distribution, Federal Center  
Box 25286  
Denver, CO 80225  
(303) 236-7477

For site location maps contact the:

Kansas Department of Transportation (KDOT)  
Bureau of Planning  
816-N Docking State Office Building  
Topeka, KS 66612  
(913) 296-3841 (913) 296-7173 (FAX)

Technical Questions:

Kansas Department of Health and Environment (KDHE)  
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responsible for the paying out of funds to the owner or operator or other person authorized to conduct closure or post-closure care, up to an amount equal to the face amount of the policy.

(3) The insurance policy must be issued for a face amount at least equal to the current cost estimate for closure or post-closure care, whichever is applicable, except as provided in § 258.74(a). The term *face amount* means the total amount the insurer is obligated to pay under the policy. Actual payments by the insurer will not change the face amount, although the insurer's future liability will be lowered by the amount of the payments.

(4) An owner or operator, or any other person authorized to conduct closure or post-closure care, may receive reimbursements for closure or post-closure expenditures, whichever is applicable. Requests for reimbursement will be granted by the insurer only if the remaining value of the policy is sufficient to cover the remaining costs of closure or post-closure care, and if justification and documentation of the cost is placed in the operating record. The owner or operator must notify the State Director that the documentation of the justification for reimbursement has been placed in the operating record and that reimbursement has been received.

(5) Each policy must contain a provision allowing assignment of the policy to a successor owner or operator. Such assignment may be conditional upon consent of the insurer, provided that such consent is not unreasonably refused.

(6) The insurance policy must provide that the insurer may not cancel, terminate or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may cancel the policy by sending notice of cancellation by certified mail to the owner and operator and to the State Director 120 days in advance of cancellation. If the insurer cancels the policy, the owner or operator must obtain alternate financial assurance as specified in this section.

(7) For insurance policies providing coverage for post-closure care, commencing on the date that liability to make payments pursuant to the policy accrues, the insurer will thereafter annually increase the face amount of the policy. Such increase must be equivalent to the face amount of the policy, less any payments made, multiplied by an amount equivalent to 85 percent of the most recent investment rate or of the

equivalent coupon-issue yield announced by the U.S. Treasury for 26-week Treasury securities.

(8) The owner or operator may cancel the insurance policy only if alternate financial assurance is substituted as specified in this section or if the owner or operator, is no longer required to demonstrate financial responsibility in accordance with the requirements of § 258.71(b), 258.72(b) or 258.73(b).

(e) *Corporate Financial Test.* [Reserved]

(f) *Local Government Financial Test.* [Reserved]

(g) *Corporate Guarantee.* [Reserved]

(h) *Local Government Guarantee.* [Reserved]

(i) *State-Approved Mechanism.* An owner or operator may satisfy the requirements of this section by obtaining any other mechanism that meets the criteria specified in § 258.74(1), and that is approved by the Director of an approved State.

(j) *State Assumption of Responsibility.* If the State Director either assumes legal responsibility for an owner or operator's compliance with the closure, post-closure care and/or corrective action requirements of this part, or assures that the funds will be available from State sources to cover the requirements, the owner or operator will be in compliance with the requirements of this section. Any State assumption of responsibility must meet the criteria specified in § 258.74(1).

(k) *Use of Multiple Financial Mechanisms.* An owner or operator may satisfy the requirements of this section by establishing more than one financial mechanism per facility. The mechanisms must be as specified in paragraphs (a), (b), (c), (d), (e), (f), (g), (h), (i), and (j) of this section, except that it is the combination of mechanisms, rather than the single mechanism, which must provide financial assurance for an amount at least equal to the current cost estimate for closure, post-closure care or corrective action, whichever is applicable. The financial test and a guarantee provided by a corporate parent, sibling, or grandparent may not be combined if the financial statements of the two firms are consolidated.

(l) The language of the mechanisms listed in paragraphs (a), (b), (c), (d), (e), (f), (g), (h), (i), and (j) of this section must ensure that the instruments satisfy the following criteria:

(1) The financial assurance mechanisms must ensure that the amount of funds assured is sufficient to cover the costs of closure, post-closure care, and corrective action for known releases when needed;

(2) The financial assurance mechanisms must ensure that funds will be available in a timely fashion when needed;

(3) The financial assurance mechanisms must be obtained by the owner or operator by the effective date of these requirements or prior to the initial receipt of solid waste, whichever is later, in the case of closure and post-closure care, and no later than 120 days after the corrective action remedy has been selected in accordance with the requirements of § 258.58, until the owner or operator is released from the financial assurance requirements under §§ 258.71, 258.72 and 258.73.

(4) The financial assurance mechanisms must be legally valid, binding, and enforceable under State and Federal law.

#### Appendix I to this Part 258— Constituents for Detection Monitoring <sup>1</sup>

Common name <sup>a</sup>	CAS RN <sup>a</sup>
<b>Inorganic Constituents:</b>	
(1) Antimony.....	(Total)
(2) Arsenic.....	(Total)
(3) Barium.....	(Total)
(4) Beryllium.....	(Total)
(5) Cadmium.....	(Total)
(6) Chromium.....	(Total)
(7) Cobalt.....	(Total)
(8) Copper.....	(Total)
(9) Lead.....	(Total)
(10) Nickel.....	(Total)
(11) Selenium.....	(Total)
(12) Silver.....	(Total)
(13) Thallium.....	(Total)
(14) Vanadium.....	(Total)
(15) Zinc.....	(Total)
<b>Organic Constituents:</b>	
(16) Acetone.....	67-64-1
(17) Acrylonitrile.....	107-48-1
(18) Benzene.....	71-43-2
(19) Bromochloromethane.....	74-07-5
(20) Bromodichloromethane.....	75-27-4
(21) Bromoform; Tribromomethane.....	75-25-2
(22) Carbon disulfide.....	75-15-0
(23) Carbon tetrachloride.....	56-23-5
(24) Chlorobenzene.....	108-90-7
(25) Chloroethane; Ethyl chloride.....	75-00-3
(26) Chloroform; Trichloromethane.....	67-66-3
(27) Dibromochloromethane; Chlorodibromomethane.....	124-48-1
(28) 1,2-Dibromo-2-chloropropane.....	96-12-8
(29) 1,2-Dibromoethane; Ethylene dibromide; EDB.....	106-93-4
(30) o-Dichlorobenzene; 1,2-Dichlorobenzene.....	95-50-9
(31) p-Dichlorobenzene; 1,4-Dichlorobenzene.....	106-46-7
(32) trans-1,4-Dichloro-2-butene.....	110-57-6
(33) 1,1-Dichloroethane; Ethylidene chloride.....	75-34-3
(34) 1,2-Dichloroethane; Ethylene dichloride.....	107-06-2
(35) 1,1-Dichloroethylene; 1,1-Dichloroethene; Vinylidene chloride.....	75-35-4
(36) cis-1,2-Dichloroethylene; cis-1,2-Dichloroethene.....	156-50-3

Note: eliminated compounds will be replaced by geochemical parameter (see attached list)



Common name *	CAS RN *	Common name *	CAS RN *	Common name *	CAS RN *
(37) trans-1,2-Dichloroethylene; trans-1,2-Dichloroethene.....	156-60-5	(47) Methyl ethyl ketone; MEK; 2- Butanone.....	78-93-3	(50) 1,2,2-Trichloropropane.....	98-18-4
(38) 1,2-Dichloropropane; Propylene dichloride.....	78-87-5	(48) Methyl iodide; Iodomethane.....	74-88-4	(60) Vinyl acetate.....	108-05-4
(39) cis-1,3-Dichloropropene.....	10061-01-5	(49) 4-Methyl-2-pentanone; Methyl isobutyl ketone.....	108-10-1	(61) Vinyl chloride.....	75-01-4
(40) trans-1,3-Dichloropropene.....	10061-02-6	(50) Styrene.....	100-42-5	(62) Xylenes.....	1330-20-7
(41) Ethylbenzene.....	100-41-4	(51) 1,1,1,2-Tetrachloroethane.....	699-80-6		
(42) 2-Hexanone; Methyl butyl ketone.....	591-78-6	(52) 1,1,2,2-Tetrachloroethane.....	79-34-5		
(43) Methyl bromide; Bromometh- ane.....	74-83-9	(53) Tetrachloroethylene; Tetrach- loroethene; Perchloroethylene.....	127-18-4		
(44) Methyl chloride; Chlorometh- ane.....	74-87-3	(54) Toluene.....	108-88-3		
(45) Methylene bromide; Dibromo- methane.....	74-85-0	(55) 1,1,1-Trichloroethane; Meth- ylchloroform.....	71-55-6		
(46) Methylene chloride; Dichloro- methane.....	75-09-2	(56) 1,1,2-Trichloroethane.....	79-00-5		
		(57) Trichloroethylene; Trichloroeth- ene.....	79-01-6		
		(58) Trichlorofluoromethane; CFC 11.....	75-80-4		

\* This list contains 47 volatile organics for which possible analytical procedures provided in EPA Report SW-846 "Test Methods for Evaluating Solid Waste," third edition, November 1986, as revised December 1987, includes Method 8260; and 15 metals for which SW-846 provides either Method 6010 or a method from the 7000 series of methods.

\* Common names are those widely used in government regulations, scientific publications, and commerce; synonyms exist for many chemicals.

\* Chemical Abstracts Service registry number. Where "Total" is entered, all species in the ground water that contain this element are included.

Appendix II to this Part 258—List of Hazardous Inorganic and Organic Constituents <sup>1</sup>

Common Name *	CAS RN *	Chemical abstracts service index name *	Sug- gested meth- ods *	PQL (µg/ L) *
Acenaphthene.....	83-32-9	Acenaphthylene, 1,2-dihydro.....	8100	200
Acenaphthylene.....	208-96-8	Acenaphthylene.....	8270	10
Acetone.....	67-64-1	2-Propanone.....	8100	200
Acetonitrile; Methyl cyanide.....	75-05-8	Acetonitrile.....	8270	10
Acetophenone.....	98-86-2	Ethanone, 1-phenyl.....	8260	100
2-Acetylaminofluorene; 2-AAF.....	53-96-3	Acetamide, N-9H-fluoren-2-yl.....	8015	100
Acrolein.....	107-02-8	2-Propenal.....	8270	10
Acrylonitrile.....	107-13-1	2-Propenenitrile.....	8270	20
Aldrin.....	308-00-2	1,4,5,8-Dimethanonaphthalene, 1,2,3,4,10,10-hexachloro- 1,4,4a,5,8,8a-hexahydro- (1α,4α,4aβ,5α,8α,8aβ)-.....	8030	5
Allyl chloride.....	107-05-1	1-Propene, 3-chloro.....	8260	100
4-Aminobiphenyl.....	92-67-1	[1,1'-Biphenyl]-4-amine.....	8030	5
Anthracene.....	120-12-7	Anthracene.....	8260	200
Antimony.....	(Total)	Antimony.....	8080	0.05
Arsenic.....	(Total)	Arsenic.....	8270	10
Barium.....	(Total)	Barium.....	8010	5
Benzene.....	71-43-2	Benzene.....	8260	10
Benzo[a]anthracene; Benzantracene.....	56-55-3	Benz[a]anthracene.....	8030	5
Benzo[b]fluoranthene.....	205-99-2	Benz[e]acephenanthrylene.....	8100	200
Benzo[k]fluoranthene.....	207-08-9	Benzo[k]fluoranthene.....	8270	10
Benzo[ghi]perylene.....	191-24-2	Benzo[ghi]perylene.....	8100	200
Benzo[a]pyrene.....	50-32-8	Benzo[a]pyrene.....	8270	10
Benzyl alcohol.....	100-51-6	Benzenemethanol.....	8100	200
Beryllium.....	(Total)	Beryllium.....	8270	10
alpha-BHC.....	319-84-6	Cyclohexane, 1,2,3,4,5,6-hexachloro-, (1α,2α,3β,4α,5β,6β)-.....	8270	20
beta-BHC.....	319-85-7	Cyclohexane, 1,2,3,4,5,6-hexachloro-, (1α,2β,3α,4β,5α,6β)-.....	8010	3
delta-BHC.....	319-86-8	Cyclohexane, 1,2,3,4,5,6-hexachloro-, (1α,2α,3α,4β,5α,6β)-.....	7090	50

June 28, 1993

Kansas Department of Health and Environment  
Proposed New Permanent Regulation

28-29-98. Criteria for municipal solid waste landfills. (a) 40 CFR Part 258, as in effect June 1, 1993, exclusive of appendix I of that part, is adopted by reference.

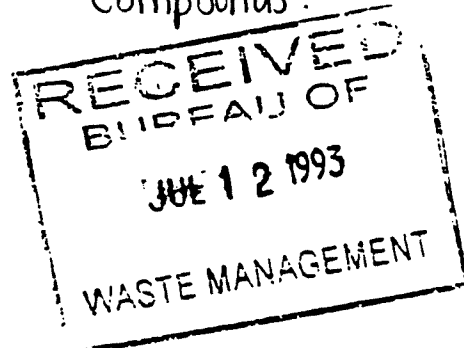
(b) Wherever "appendix I" is referenced in 40 CFR part 258, the table titled "Appendix I to this Part 258 - constituents for detection monitoring" shall be replaced with the following table:

Appendix I - constituents for detection monitoring

Geochemicals:

Alkalinity  
Calcium  
Chemical Oxygen Demand (COD)  
Chloride  
Nitrogen (Ammonia)  
Potassium, dissolved  
Sodium, dissolved  
Sulfate  
Total dissolved solids (TDS)

← New Chemical parameters  
to replace metals and  
many semi-volatile organic  
compounds.



Organics:

Acetone  
Benzene

**APPROVED**  
ATTORNEY GENERAL  
by Lis 7-1-93 Ass.

DEPT OF ADMINISTRATION

JUN 30 1993

APPROVED BY FDL

# JIM SLATTERY

U.S. Representative

Second District, Kansas

8/18

Bill -

Thanks for your help  
in constructing this letter.

As you can see, we got  
12 members (during the  
budget debate!) to co-  
sign. Not bad.

Shaun

2243 Rayburn House  
Office Building  
Washington, D.C. 20515-1602  
(202) 225-6601

700 SW Jackson  
Suite 803  
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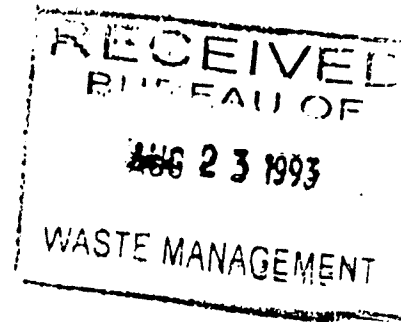


Congress of the United States

House of Representatives

Washington, DC 20515

August 9, 1993



The Honorable Carol Browner  
Administrator  
U.S. Environmental Protection Agency  
401 M Street, SW  
Washington, D.C. 20460

Dear Administrator Browner:

In response to the EPA's proposed rule modifying groundwater monitoring requirements in the Municipal Solid Waste Landfill (MSWLF) Criteria affecting landfills in arid and remote locations, we submit this letter to be included in the public comment record on the proposed rule.

We recognize that the proposed rule comes in response to the May 7, 1993, U.S. Court of Appeals for the District of Columbia decision, Natural Resources Defense Council v. EPA, which found that the EPA did not have the authority to exempt arid and remote landfills from groundwater monitoring. However, we believe that the EPA's attempt to comply with the court order through the proposed rule would place an inordinate burden on the operators of these landfills. By requiring arid and remote landfills to meet the same groundwater monitoring specifications as those for large landfills in areas of high rainfall, the EPA will be requiring excessive monitoring standards which may not be necessary to adequately protect human health and the environment.

We, therefore, strongly urge the EPA to amend the proposed rule by granting states the authority to approve alternative groundwater monitoring techniques -- which would satisfy the federal statutory groundwater monitoring requirements -- for small quantity landfills in arid regions based upon local geological conditions, waste types, and waste quantities.

Sincerely,

Phil Ruckelshaus

Jim Kattug

Barbara Z. Ucanovich

Ron Cole

Jim Vukobratovic

Amy Montzmay

Mike Crapo

Joe Sker

Mike Synar

Pat Roberts

Sam W.

Jim Harkin

MEMBER:

COMMITTEE ON  
& COMMERCE

COMMITTEE ON  
VETERANS' AFFAIRS

CHAIRMAN:

SUBCOMMITTEE ON  
COMPENSATION,  
PENSION, AND INSURANCE



AUG 03 1993

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1001 NORTH BROADWAY  
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PITTSBURG, KS 66762  
(316) 231-6040

# Congress of the United States

## House of Representatives

JIM SLATTERY  
SECOND DISTRICT, KANSAS

### SPARE SMALL COMMUNITIES FROM EXPENSIVE, UNNECESSARY LANDFILL COSTS!

July 30, 1993

Dear Colleague:

Municipal solid waste landfills which receive less than 20 tons of waste per day in areas where precipitation is less than 25 inches per year will now be required to conduct groundwater monitoring. Whether or not you believe these landfills should be exempt from groundwater monitoring, there is good reason for co-signing the attached letter to EPA Administrator Carol Browner.

After the May 7, 1993, U.S. Court of Appeals decision, Natural Resources Defense Council v. EPA, in which the court ruled that the EPA did not have the authority to exempt small quantity landfills from groundwater monitoring, the EPA was forced to begin requiring such monitoring at these landfills. The proposed rule was posted on July 28, 1993.

As the rule now reads, small quantity landfills in remote regions will have to conduct groundwater monitoring which meets the same standards as those for very large landfills in areas of high rainfall.

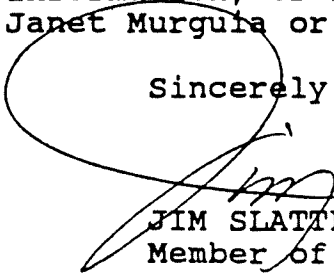
Alternative groundwater monitoring techniques based on the specific conditions of these landfills could adequately protect human health and the environment, and could save local governments from unnecessary, costly monitoring.

I realize some members have proposed exempting these landfills from groundwater monitoring legislatively. But, until this legislation passes - if indeed it can be passed -- the current requirement is for groundwater monitoring which may be excessive.

I urge you to join me in sending the attached letter to Administrator Browner, asking that the proposed rule be changed so that states have the authority to approve alternative groundwater monitoring techniques for small quantity landfills.

If you need additional information, or if you would like to co-sign this letter, please contact Janet Murgula or Shaun McGrath at x56601.

Sincerely,

  
JIM SLATTERY  
Member of Congress

# MEMORANDUM

## Kansas Legislative Research Department

300 S.W. 10th Avenue  
Room 545-N - Statehouse  
Topeka, Kansas 66612-1504  
Telephone (913) 296-3181 FAX (913) 296-3824

August 18, 1993

To: Senate Committee on Energy and Natural Resources  
From: Raney Gilliland, Principal Analyst  
Re: Summary of 1993 S.B. 169 -- Land Reclamation

The following memorandum describes the contents of 1993 S.B. 169.

The bill would enact legislation that would be known as the Surface-Mining Land Conservation and Reclamation Act (Section 1). The bill would make it the policy of the State of Kansas to provide for the reclamation and conservation of land affected by surface mining. As stated in the bill, the purpose would be to preserve natural resources, protect and perpetuate the taxable value of property, and protect and promote the health, safety and general welfare of the citizens of the state (Section 2).

The proposed legislation would not affect the operator of a mining operation which was mined prior to the effective date of the bill and would apply only to those areas of land after the effective date. In addition, the bill would not affect or control the stockpiling, method of stockpiling or mining from stockpiles of gypsum, clay, shale, stone, sandstone, sand, silt, gravel, volcanic ash, or other minerals. The provisions of the bill also would not apply to river sand producers subject to dredging permits issued by the Chief Engineer (Section 4).

Under the provisions of the bill, all persons, firms, partnerships, or corporations would be required to obtain an operator's license from the Director of the State Conservation Commission before engaging in any surface mining or operation of an underground mine or mines. The initial license fee would be \$50. Licenses would expire on December 31 of each year and would be renewed within 30 days for a fee of \$10 (Section 5).

The Director, with the approval of the Commission, would be permitted to commence proceedings to suspend, revoke, or refuse to renew a license for repeated or willful violation of the Act. These proceedings would be conducted in accordance with Kansas Administrative Procedure Act (Section 6).

Operators of mining sites would be required to register them with the Director at least seven days before the commencement of mining or removal of overburden at a site not previously registered. Registrations are to be renewed each year and expire on December 31 of each year. Registration and renewal fees would be established by the Commission in an amount not to exceed the cost of administration. These fees would be developed through rules and regulations of the

Senate E + NR  
Aug. 25-26, 1993  
Attachment # 10

Director. The operators of a mine site registered by the Director must have, at the primary entrance, a clearly visible sign indicating the name, business address, and phone number of the operator. Additional information may be required at the time of registration by the Director. A person who falsifies the information required by the Director would be subject to a misdemeanor (Section 7).

Applications for registration of a mining site would be required to be accompanied by a bond or security. Once the mine site is registered, the Director would issue written authorization to operate a mine (Section 8).

Operators of mining sites would be permitted to apply for amendment or cancellation of registration of any site by following prescribed procedures. Any land where overburden had been disturbed or deposited would not be permitted to be removed from registration or released from bond or security (Section 9).

Provisions would be established to provide a procedure for the registration of a mining site where a new operator has gained control of an active mining site or an inactive mining site. The Director would not release the former operator's bond or security until the new operator's bond or security has been accepted. The Director would be given authority to adopt procedures for transferring the responsibility for reclamation of a mine site to a state agency or political subdivision which intends to use the site for some other purpose (Section 10).

Specific conservation and reclamation guidelines for the operator of a mining operation to follow after the completion of mining operations would be established by the bill. The bond or security posted to assure reclamation or affected lands would not be released until all reclamation work has been performed (Section 11).

The operator of mining sites would be required to file periodic reports with the Director for each site under registration. These reports would show the location and extent of all surface land area affected by mining and the extent to which removal of mineral products has been completed. Additional provisions would require the filing of a report within 90 days after the completion of all surface mining operations regardless of the date of the last report (Section 12).

Operators of mining sites would be given a three year period to reclaim affected lands after filing the report that is required when surface mining operations are completed. The Director would be authorized to grant an extension for certain postmining land uses, such as a sanitary landfill. The operator of a mining site would apply to the Director in writing for approval of the reclamation work and the Director would be given 90 days to inspect the reclamation work (Section 13). The bill would provide for a mechanism to extend the time for completion of the reclamation work upon presentation of satisfactory evidence by the operator (Section 14).

The amount of bond or other security required to be filed with each application for registration of a surface mining operation would be a minimum of \$250 per acre or a maximum of \$500 per acre. The bonds would be made payable to the State of Kansas (Section 15). The bill would permit the posting of a single bond if an operator wishes to register two or more surface mining sites (Section 16). Bonds could not be canceled by a surety without at least 90 days' notice to the Director (Section 17).

The Director or the Director's designee would be given authority to inspect any land on which mining operations are taking place to determine compliance with the provisions of the Act. These inspections would take place only within regular business hours. If a violation is found, the



operator must commence corrective measures within 90 days. Otherwise, the State Conservation Commission would be notified (Section 18).

Once a violation has been referred, the Commission would be required to schedule a hearing within 30 days. The operator would have the right to appear before the Commission as well as have the right to counsel. If the Commission determines that a violation has occurred, then the Attorney General would be requested to institute bond forfeiture proceedings (Section 19).

The forfeiture of the operator's bond would fully satisfy all obligations of the operator to reclaim affected land covered by the bond under the provisions in the bill. The Director would have the authority to use the proceeds from bond forfeiture for necessary reclamation work (Section 20).

The Director would be authorized to impose, upon an operator, a civil penalty not exceeding \$1,000 for each day of noncompliance with any condition of license or site registration. An operator would be able to appeal the civil penalty to the Director within 15 days after the imposition of any civil penalty. If appealed, a hearing would be conducted in accordance with the provisions of the Kansas Administrative Procedure Act. Any action of the Director ultimately would be subject to review in accordance with the Act for Judicial Review and Civil Enforcement of Agency Actions (Section 21).

Finally, the Director, with the approval of the Commission, would be authorized to adopt rules and regulations necessary to administer and enforce provisions of the Act (Section 22).



# Kansas Aggregate Producers' Association

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## TESTIMONY

of

The Kansas Aggregate Producers Association

before the

SENATE ENERGY and NATURAL RESOURCES COMMITTEE

Topeka, Kansas

August 26, 1993

on

Senate Bill No. 169 - Land Reclamation

Good Morning Mr. Chairman and members of the committee. My name is Bill Gahan. I am the President of the Kansas Aggregate Producers' Association and General Manager of Martin Marietta Aggregates - Kansas. The Kansas Aggregate Producers' Association represents over 250 aggregate, concrete and associate member firms doing business and providing employment in the Kansas construction industry.

It is a pleasure to appear before you again today concerning Senate Bill 169. After your last hearing on this measure held February 23, 1993, the Association, in conjunction with the State Conservation Commission, has reviewed the testimony presented by other conferees on that day. The purpose of this review was to consider and incorporate many of the good suggestions made during that hearing. In your information packet provided for today's hearing you will find a "mark up" or "balloon" containing the results of this review. It is our hope this amended version of the bill can provide the basis for today's discussion.

Also, appearing before you today will be several of my colleagues representing a cross section of our industry. They will be visiting with you about how this measure will effect their business and give you their reasons for supporting this measure. They are also prepared to answer any questions you may have regarding this legislation.

Before calling upon my colleagues, I would like to present some further information and background concerning reclamation and our sponsorship of this bill:

- The Kansas Aggregate Producers' Association has been sponsoring this measure since 1969.
- This measure is based upon the current reclamation law now in effect in the State of Iowa. This was done primarily because mining conditions in Iowa are very similar to those in Kansas and it seemed inefficient to "reinvent" the wheel. By utilizing bonding as the main enforcement tool, Iowa has successfully administered this law for over twenty years with less than 2 FTE's.
- Since the aggregate industry is already well regulated this bill was designed to neatly dovetail into our current matrix of regulation by providing for two things 1.) licensing of mine operators and 2.) approved reclamation upon closure. Contrary to testimony presented during the earlier hearing this bill has never "**purported**" to be anything else. We, as does the State of Iowa and many others, think there is very little to be gained from enacting an extensive mine regulation bill as envisioned by the Kansas Department of Health and Environment.
- Oversight and supervision of this program is provided for by the State Conservation Commission (as in Iowa). An existing agency familiar with land reclamation and restoration issues. As over 95% of mined land in this state is now currently restored to pasture, common sense dictates that this agency supervise such restoration.
- Local units of government may impose stricter requirements than provided for in this bill. As aggregate operations are fixed and cannot move, similar to "strip mining" operations, they must comply or shut down.
- This bill is intended to be self funding by the aggregate industry. We will work closely with the State Conservation Commission to ensure that it is.

At various times since 1969 the Kansas Aggregate Producers' Association has proposed simple but effective reclamation legislation to deal with the questions of unlicensed operators and abandoned mine sites. This is the only unregulated area in our industry's highly regulated environment. The legislature has studied reclamation legislation in the past and we think it is appropriate for you to do so now. We urge your review and approval of this proposal through it's enactment into law.

Thank you for the opportunity to appear before you today and discuss these issues.

## KANSAS AGGREGATES FACT SHEET - 1991

- 1) In fiscal year 1990, 20.8 million tons of mineral aggregates were produced in Kansas. Crushed stone sold or used by producers in the state of Kansas in 1990 was valued at \$83.2 million; the total for sand and gravel was \$21.2 million.
- 2) Aggregate is produced from about 350 surface mines located throughout the State. There is some aggregate mining in every county in Kansas.
- 3) A large number of aggregate mines in the State are family owned and operated. Over 80 percent of such mines operate with 5 or less employees.
- 4) The average price of mineral aggregate is \$4.00 per ton, at the plant site.
- 5) The aggregate industry directly employs over 5,000 people in the State at an average wage of \$7.90 an hour or \$316 a week.
- 6) Kansas Aggregates Producers' Association members account for approximately 80 percent of the aggregate produced in Kansas each year. Some of the major aggregate producers in Kansas are:

Allied, Inc.  
N. R. Hamm Quarries  
Martin Marietta Aggregates  
Midwest Minerals, Inc.  
J. H. Shears Sons, Inc.

- 7) Aggregate production was about equally split between stone and sand and gravel in 1989.
- 8) Over the next 20 years the trend will be toward use of more crushed stone products as gravel deposits are used up in some areas. As an example, stone sand is more widely used in northwest Kansas as the natural sand supply is deplete.
- 9) The average production span for a sand and gravel deposit is 25 years, whereas a good stone quarry is productive for over 50 years.
- 10) A number of aggregate deposits are not available for development as they are covered by urban sprawl or where mining is prohibited by zoning. Much of Wyandotte, Johnson, Leavenworth, Douglas and Shawnee Counties are built on top of limestone and gravel deposits.
- 11) About 10 tons of aggregate are required annually for each Kansas resident. A new subdivision requires an average of 400 tons of aggregate per home.
- 12) Nearly 95 percent of all aggregate produced is moved by dump truck. Over 3,000 dump trucks are engaged in hauling aggregate. Most aggregate is used within 40 miles of where it is produced. A small volume is moved by rail - including railroad ballast, metallurgical stone, and industrial sand. Aggregate is moved by barge on the Kansas and Missouri Rivers.
- 13) Haul distance largely controls the price of aggregate. The cost of material produced on the south side of Johnson County will double by the time it is delivered in the north end of Wyandotte County.
- 14) Better than half of all aggregate used is paid for by tax dollars. Large users are the State, Counties, Townships and Municipalities in their road and infrastructure programs. Federal

dollars are involved in airports, building, dams, locks, erosion control and waste treatment facilities.

- 15) Aggregate is widely used as a filter medium in water and sewage treatment plants. More recently, limestone and lime are being used in flue gas desulfurization processes. Limestone and dolomite are key ingredients in fluidized bed combustion and other processes being used to burn Kansas' high sulfur coal.
- 16) About 1.5 million tons of agricultural limestone is used annually to help Kansas farmers increase crop yields. Aglime is very beneficial when used with conservation tillage. Air-cooled blast furnace aggregate and ponds fines also make a good soil conditioner.
- 17) A number of lakes resulting from aggregate excavation have been reclaimed to make excellent water recreation facilities. Lakes formed by aggregate extraction in the area are now helping to recharge the groundwater aquifers that local industry and municipalities depend on as a source of water.
- 18) The biggest problem facing the aggregate industry in the coming years is to receiving zoning favorable to the extraction of minerals. There is also a need to have planning groups designate critical resource areas to be set aside to meet aggregate demands for future generations.

INFORMATION COMPLIED BY THE  
KANSAS AGGREGATE PRODUCERS'  
ASSOCIATION

References:

U.S. Bureau of Mines  
Mine Safety & Health Administration  
Martin Marietta Aggregates



RESOLUTION

WHEREAS, The Kansas Aggregate Producers' Association is to be included as one of the extractive industries with regard to legislation proposed to be submitted to the Kansas Legislative Council,

and,

WHEREAS, The Kansas Limestone Producers' Association have initiated the movement toward the adoption of meaningful legislation with regard to land reclamation procedures concerned with surface mining operations,

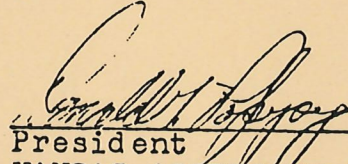
and,

WHEREAS, The Kansas Aggregate Producers' Association has a vital interest in such legislation.

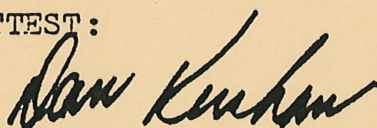
THEREFORE, BE IT RESOLVED:

The Board of Directors of the Kansas Aggregate Producers' Association hereby authorize the Legislative Committee, through the Managing Director's office, to cooperate fully with all other interested parties in development of such legislation to be presented to the Kansas Legislature at its next session.

Adopted this 24th day of March, 1969, by action of the Board of Directors at a duly called meeting this date.

  
\_\_\_\_\_  
President  
KANSAS AGGREGATE PRODUCERS'  
ASSOCIATION

ATTEST:

  
\_\_\_\_\_  
Secretary-Treasurer  
KANSAS AGGREGATE PRODUCERS'  
ASSOCIATION

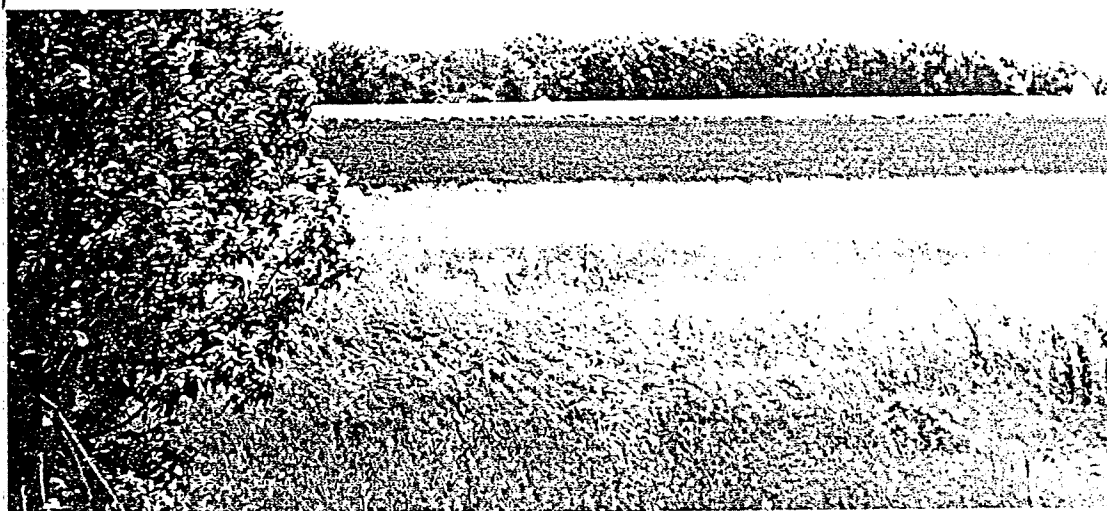
# Restoration Works In Kansas Quarries

The plant of his feet and the expression on the face of the Kansas farmer said, "Show me."

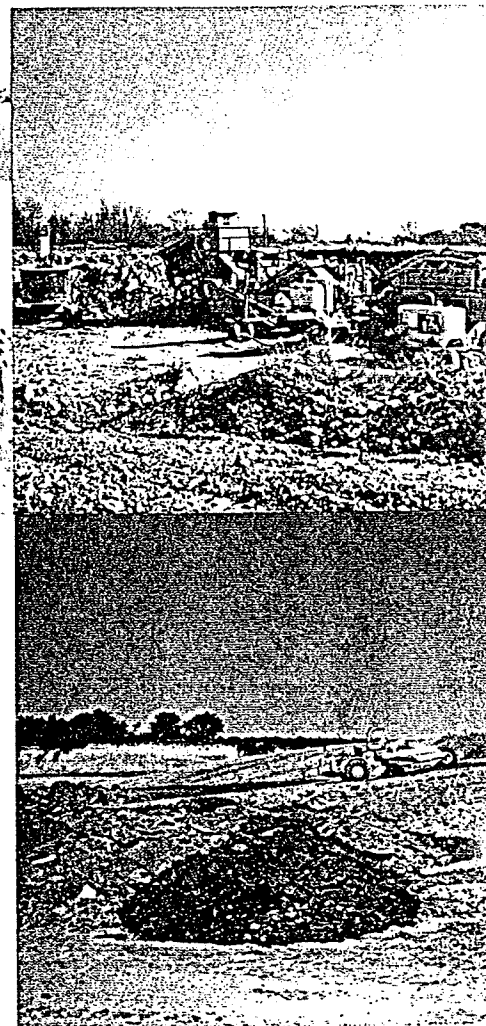
More than a casual observer of human nature, Verne Dow didn't need a textbook course in body language to guess what the farmer's next question would be. As chief geologist for the Kansas District of Martin Marietta's Concrete Materials Division, Dow had witnessed the same reaction many times before — during early negotiations for quarry leases with farmers throughout eastern Kansas.

"I'd sure like to sell you the rock on my land, but are you sure my place will look as good as it does now? Can you show me?" the farmer asked Dow as if on cue.

"It certainly will look as good," Dow replied. "In fact, when we get through clearing the land, removing the limestone, and restoring the area, you will probably say it looks better than it did before. And worth more too, because the land will be cleared of trees and brush and graded into either a fresh



The Coryell Quarry (above before it was opened) is a typical example of a leased quarry site mined for its valuable limestone deposits and then restored by Concrete Materials, one of the Corporation's Rock Products operations. On the right, this quarry becomes a center of activity as the stone is removed and the topsoil is backfilled into the depleted area.





we. And for crop irrigation and cattle watering, or leveled for the planting of more farm crops or pasture. That option is up to you."

"Well, you can't blame me for being skeptical," the farmer said. "The last thing I want is a large, empty hole in the ground that will leave my land useless and scarred."

Waiting for this particular moment in their conversation, Dow responded: "We don't work that way. We are conscious of land conservation and reclamation from the first day we take test borings to the last day, when we remove our portable equipment from your property."

"But don't just take my word for it. Here is a list of farms where we have quarried limestone. Check our reputation with the owners and then see their land for yourself. You might find it hard to tell that we have removed tons of stone, some 60-70 feet deep, from these areas. Also check with your banker and lawyer, and we'll be back in touch with you in a few days."

The farmer later agreed to lease a part of his property to Concrete Materials because he was impressed by not only what he had heard but by what he had seen — quarried land serving a useful purpose again.

This new lease became one of the more than 150 acquired by Concrete Materials in recent years to provide construction aggregates to customers in various home and highway markets across the face of eastern Kansas. The division also sells agricultural lime to help the Kansas farmer gain larger yields from his land.

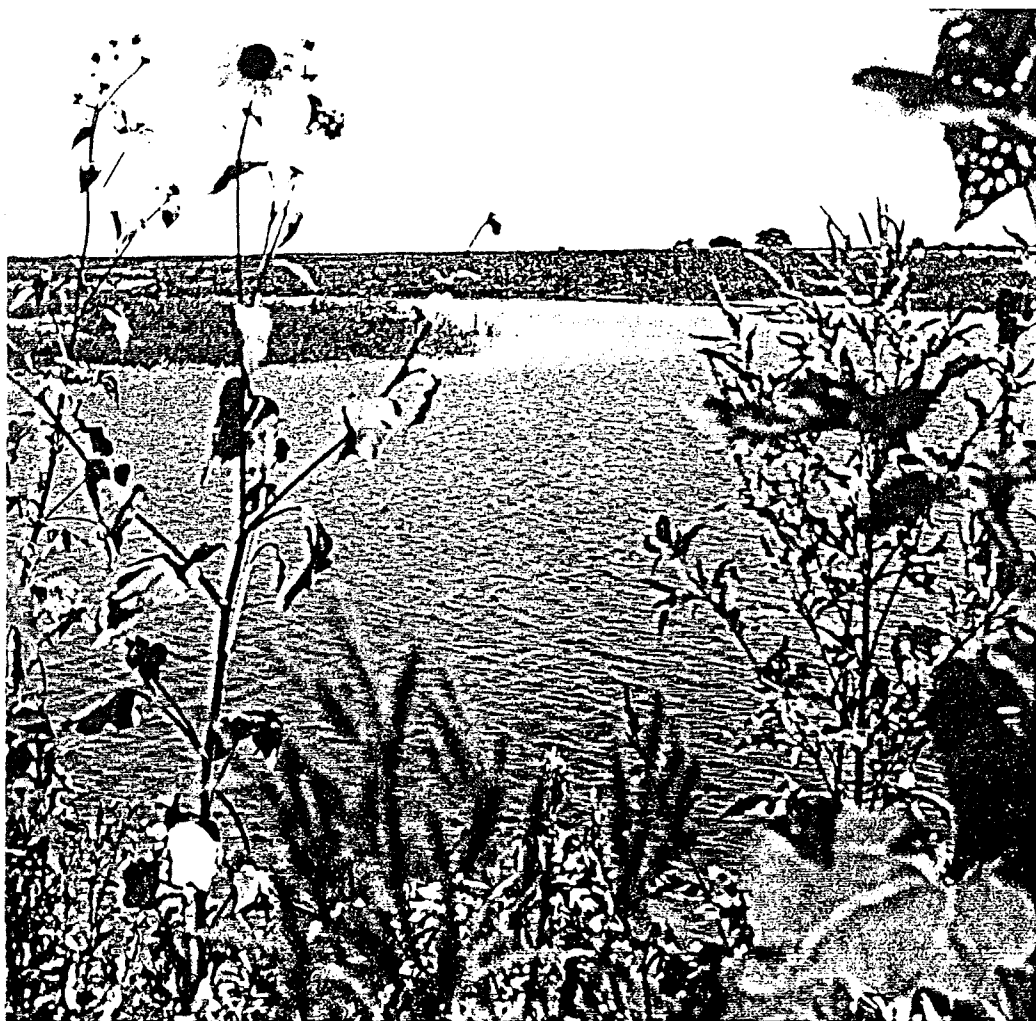
Headquartered in Topeka, the Kansas District's restoration and conservation program is directed by Jack Hurlburt, Vice President and General Manager. The division operates two permanent quarries, one in East Topeka and the other in Moline. To supply a growing market area, more than 20 new quarries (operated by portable plant) have been made operational this year.

According to Jack Hurlburt, one of the

reasons the reclamation program has been so successful in the past several years is because the program is carefully planned into the quarry operations from the beginning, wherever the terrain makes it feasible. "It wouldn't be profitable to backfill a quarry after it has been mined and left empty. The only way to do it right is to backfill as the stone is removed; planning every step in the conservation program, and watching over it all closely", he added.

The very success of Concrete Materials' program has become evident to even the company's competitors who are finding that they too must restore quarried property.

In fact, all members of the Kansas Limestone Association (KLA) have joined with Concrete Materials in support of Kansas legislation to license and regulate surface miners and to require the posting of bonds to insure the restoration of land affected by such mining. Such an act has already been drafted by the company and submitted through the KLA to legislators in Topeka.



The same Coryell Quarry, as it looks today (left) after many tons of limestone have been removed and the land has been restored, provides a new irrigation and cattle watering pond. Landowners — usually farmers who receive royalties for their stone — are given the option of having a pond built on the quarry site or having the area graded for new pasture or farm land, as in the case of the former Richard Quarry (above).



## MATRIX OF KANSAS AGGREGATE REGULATION

### National

United States Department of Labor  
  Mine Safety & Health  
    Administration  
  Occupational Safety & Health  
    Administration  
  Bureau of Wage Standards

United States Department of Treasury  
  Bureau Alcohol Tobacco & Firearms  
  U.S. Coast Guard (Adjacent to  
    Navigable Rivers)

Environmental Protection Agency  
  Storm Water Regulations  
  Air Quality Regulations

United States Department of Interior  
  U.S. Geological Survey  
  Bureau of Mines  
  Bureau of Reclamation  
  U.S. Army Corps of Engineers

Federal Communication Commission

United States Department of Agriculture  
  Soil Conservation Service

United States Department Of  
Transportation  
  Hazardous Materials  
  Explosives Transportation

Federal Bureau of Investigation

### State

Kansas Department of Health &  
Environment  
  Water Regulations  
  Air Regulations  
  Solid Waste Regulations

State Board of Agriculture  
  Division of Water Resources  
  Aglime

Kansas Geological Survey  
  Weights & Measures

State Fire Marshall  
  Blasting Certification  
  Blasting Notification

State Emergency Response Commission  
  Blasting Permits

Kansas Corporation Commission  
  Motor Carrier Safety Regs

Soil Conservation Commission  
  State Watersheds

State Historical Society

### Regional

Groundwater Management Districts  
Watershed Districts  
Regional Planning Commissions

### Local

Zoning Board  
Planning Commission  
Emergency Preparedness  
  Jurisdiction  
Fire Department

## SENATE BILL No. 169

By Committee on Energy and Natural Resources

2-3

AN ACT enacting the surface-mining land conservation and reclamation act.

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

Section 1. This act shall be known and may be cited as the surface-mining land conservation and reclamation act.

Sec. 2. It is the policy of this state to provide for the reclamation and conservation of land affected by surface mining and thereby to preserve natural resources, protect and perpetuate the taxable value of property, and protect and promote the health, safety and general welfare of the citizens of this state.

Sec. 3. As used in this act:

(a) "Director" means the executive director of the commission or a designee.

(b) "Affected land" means the area of land from which overburden has been removed or upon which overburden has been deposited, but shall not include stockpile areas or roads.

(c) "Commission" means the state conservation commission.

(d) "Mine" means any underground or surface mine developed and operated for the purpose of extracting ~~any materials except coal.~~

(e) "Operator" means any person, firm, partnership, corporation, government or other agency.

(f) "Overburden" means all of the earth and other materials which lie above the natural deposits of material being mined or to be mined.

(g) "Peak" means a projecting point of overburden removed from its natural position and deposited elsewhere in the process of surface mining.

(h) "Pit" means a tract of land from which overburden has been or is being removed for the purpose of surface mining.

(i) "Ridge" means a lengthened elevation of overburden removed from its natural position and deposited elsewhere in the process of surface mining.

(j) "Surface mining" means:

(l) The mining of material, except for coal, oil and gas, for sale or for processing or for consumption in the regular operation of a business by removing the overburden lying above natural deposits

rocks, minerals, and industrial materials; other than coal, oil and gas; and borrow areas created for construction purposes.

Senate E & NR

Aug. 25-26 1993

Attachment #12

1 and mining directly from the natural deposits exposed, or by mining  
 2 directly from deposits lying exposed in their natural state. Surface  
 3 mining shall include dredge operations lying outside the high banks  
 4 of streams and rivers.

[or the surface affects of underground mining.]

5 (2) Removal of overburden and mining of limited amounts of any  
 6 materials shall not be considered surface mining when done only for  
 7 the purpose and to the extent necessary to determine the location,  
 8 quantity or quality of the natural deposit, if the materials removed  
 9 during exploratory excavation or mining are not sold, processed for  
 10 sale or consumed in the regular operation of a business.

11 (k) "Topsoil" means the natural medium located at the land sur-  
 12 face with favorable characteristics for growth of vegetation.

[Which is normally the A and/or B soil horizon  
layers of the four soil horizons.]

13 (l) "Active site" means a site where surface mining is being  
 14 conducted.

15 (m) "Inactive site" means a site where surface mining is not being  
 16 conducted but where overburden has been disturbed in the past for  
 17 the purpose of conducting surface mining and an operator anticipates  
 18 conducting further surface mining operations in the future.

19 (n) "Materials" means natural deposits of gypsum, clay, stone,  
 20 sandstone, sand, shale, silt, gravel, volcanic ash or any other minerals  
 21 of commercial value found on or in the earth with the exception of  
 22 coal, oil and gas and those located within cut and fill portions of  
 23 road rights-of-way.

24 (o) "Reclamation" means the reconditioning of the area of land  
 25 affected by surface mining.

26 (p) "Stockpile" means the ~~mining by surface~~ mining of gypsum,  
 27 clay, shale, stone, sandstone, sand, silt, gravel, volcanic ash or other  
 28 minerals and removal from its natural position and deposited else-  
 29 where for future use in the normal operation as a business.

[finished products of the]

30 Sec. 4. Sections 2 through 22 shall not apply to:

31 (a) Affected land mined prior to the effective date of this act and  
 32 shall apply only to those areas of land affected after the effective  
 33 date of this act;

34 (b) in any way affect or control the stockpiling, method of stock-  
 35 piling or mining from stockpiles of gypsum, clay, shale, stone, sand-  
 36 stone, sand, silt, gravel, volcanic ash or other minerals which are  
 37 consumed in the regular operation of the business; or

38 (c) ~~river sand producers subject to dredging permits as issued~~  
 39 ~~by the chief engineer of the division of water resources.~~

[ (q) "Underground mining means the extraction of  
rocks, minerals, and industrial materials ,  
other than coal, oil, and gas from the earth by  
developing entries or shafts from the surface to  
the seam or deposit before recovering the  
product by underground extraction methods.

[ (c) operations which involve the removal of sand  
and gravel from within streams and are already  
subject to the provisions of KSA 82a-301 through  
305 (a) .

40 Sec. 5. No person, firm, partnership or corporation shall engage  
 41 in surface mining or operation of an underground mine or mines,  
 42 as defined by this act without first obtaining a license from the  
 43 director.

12-2

1 (a) Licenses shall be issued upon application submitted on a form  
 2 provided by the director and shall be accompanied by a fee of ~~\$50~~.  
 3 Each applicant shall be required to furnish on the form information  
 4 necessary to identify the applicant. Licenses shall expire on ~~Decem-~~  
 5 ~~ber 31 of each year~~ and shall be renewed by the director upon  
 6 application submitted within 30 days prior to the expiration date and  
 7 accompanied by a fee of ~~\$10~~.

[\$300]

[one year from date of issue]

8 (b) A license to mine is only valid when approved by the com-  
 9 mission and acknowledged by a certificate which has been signed  
 10 by the director and lists the operator and the assigned license  
 11 number.

renewal fee. License renewal fees shall be  
 established by the rules and regulations of the  
 director in an amount not exceeding the cost of  
 administering the provisions of this act ,  
 estimated by the commission.

12 Sec. 6. The director may, with approval of the commission, com-  
 13 mence proceedings to suspend, revoke or refuse to renew a license  
 14 of any licensee for repeated or willful violation of any of the provisions  
 15 of this act. Proceedings for the suspension or revocation of a license  
 16 pursuant to this section shall be conducted in accordance with the  
 17 Kansas administrative procedure act by the director or a hearing  
 18 officer appointed by the director.

19 Sec. 7. (a) At least ~~seven~~ days before commencement of mining  
 20 or removal of overburden at a surface mining site not previously  
 21 registered, an operator engaged in surface mining in this state shall  
 22 register the site with the director. Application for registration shall  
 23 be made upon a form provided by the director. All site registrations  
 24 shall expire on ~~December 31 of each year~~. Application for renewal  
 25 of registration shall be on a form provided by the director. Regis-  
 26 tration and registration renewal fees shall be established by the  
 27 commission in an amount not exceeding the cost of administering  
 28 the registration provisions of this ~~section~~. The application shall  
 29 include:

[thirty calendar]

[one year from date of issue.]

30 (1) A description of the tract or tracts of land where the site is  
 31 located and the estimated number of acres at the site to be affected  
 32 by surface mining;

[act.]

33 ~~(3) (2)~~ the description shall include the section, township, range and  
 34 county in which the land is located and shall otherwise describe the  
 35 land with sufficient certainty to determine the location and to dis-  
 36 tinguish the land to be registered from other lands;

New Subparagraph (2) A reclamation plan  
 detailing the post mining land use, how the  
 final reclamation will be achieved and  
 illustrating the proposed final topography.

37 ~~(4) (3)~~ A statement explaining the authority of the applicant's legal  
 38 right to operate a mine on the land; and

[Renumber Subparagraphs 2-4 accordingly]

39 ~~(5) (4)~~ proof of compliance with all applicable zoning codes or rules  
 40 and regulations.

41 (b) The registration application fees and registration renewal fees  
 42 shall be established by the rules and regulations of the director in  
 43 an amount not exceeding the cost of administering the registration

and all applicable local, state, and federal  
 permits, except those contingent upon the  
 issuance of a registration under the provisions  
 of this act.



1 provisions of this act, as estimated by the commission.

2 (c) A mine site registered pursuant to this section or section 21  
3 shall have, at the primary entrance to the mine site, a clearly visible  
4 sign which sets forth the name, business address and phone number  
5 of the operator. Failure to post and maintain a sign as required by  
6 this subsection, within 30 days after notice from the director, in-  
7 validates the registration.

8 (d) A person who falsifies information required to be submitted  
9 under this section shall be guilty of a misdemeanor.

[class A.]

10 Sec. 8. The application for registration shall be accompanied by  
11 a bond or security as required under sections 20 or 21. After as-  
12 certaining that the applicant is licensed under section 5 and is not  
13 in violation of this act with respect to any site previously registered  
14 with the director, the director shall register the mine site and shall  
15 issue the applicant written authorization to operate a mine.

16 Sec. 9. (a) An operator may at any time apply for amendment  
17 or cancellation of registration of any site. The application for amend-  
18 ment or cancellation of registration shall be submitted by the operator  
19 on a form provided by the director and shall identify as required  
20 under section 7 the tract or tracts of land to be added to or removed  
21 from registration.

22 (b) If the application is for an increase in the area of a registered  
23 site, the application shall be processed in the same manner as an  
24 application for original registration.

25 (c) If the application is to cancel registration of any or all of the  
26 unmined part of a site, the director, after ascertaining that no over-  
27 burden has been disturbed or deposited on the land, shall order  
28 release of the bond or the security posted on the land being removed  
29 from registration and cancel or amend the operator's written au-  
30 thorization to conduct surface mining on the site.

[shall substantially met the criteria, as  
established by the reclamation plan, before it]

31 (d) ~~No~~ land where overburden has been disturbed or deposited  
32 shall be removed from registration or released from bond or security  
33 under this section.

34 Sec. 10. (a) If control of an active site or the right to conduct  
35 any future mining at an inactive site is acquired by an operator other  
36 than the operator holding authorization to conduct surface mining  
37 on the site, the new operator, within 15 days, shall apply for reg-  
38 istration of the site in the new operator's name. The application shall  
39 be made and processed as provided under sections 7 and 8. The  
40 former operator's bond or security shall not be released until the  
41 new operator's bond or security has been accepted by the director.

42 (b) The director may establish procedures for transferring the  
43 responsibility for reclamation of a mine site to a state agency or

12-4

1 political subdivision which intends to use the site for other purposes.  
 2 The director, with agreement from the receiving agency or subdivi-  
 3 sion to complete adequate reclamation, may approve the transfer  
 4 of responsibility, release the bond or security, and terminate or  
 5 amend the operator's authorization to conduct surface mining on the  
 6 site.

7 Sec. 11. (a) An operator authorized under this act to operate a  
 8 mine, after completion of mining operations and within the time  
 9 specified in section 13, shall:

10 (1) Grade affected lands except for impoundments, ~~pit floors, the~~  
 11 ~~high banks of sand pits, and highwalls;~~ to slopes ~~having a maximum~~  
 12 ~~of one foot vertical rise for each three feet of horizontal distance.~~  
 13 Where the original topography of the affected land was steeper than  
 14 one foot of vertical rise for each three feet of horizontal distance,  
 15 the affected lands may be graded to blend with the surrounding  
 16 terrain.

17 (2) Provide for the vegetation of the affected lands, except for  
 18 impoundments, pit floors, and highwalls, as approved by the director  
 19 before the release of the bond as provided in section 16.

20 (b) Notwithstanding subsection (a), overburden piles where dis-  
 21 position has not occurred for a period of 12 months shall be stabilized.

22 (c) Topsoil that is a part of overburden shall not be buried in  
 23 the process of mining.

24 (d) The director, with concurrence of the ~~advisory~~ commission,  
 25 may grant a variance from the requirements of subsections (a) and  
 26 (b).

27 (e) A bond or security posted under this act to assure reclamation  
 28 of affected lands shall not be released until all reclamation work  
 29 required by this section has been performed in accordance with the  
 30 provisions of this act, except when a replacement bond or security  
 31 is posted by a new operator or responsibility is transferred under  
 32 section 10.

33 Sec. 12. (a) An operator shall file with the director a periodic  
 34 report for each site under registration. The report shall make ref-  
 35 erence to the most recent registration of the mine site and shall  
 36 show:

37 (1) The location and extent of all surface land area on the mine  
 38 site affected by mining during the period covered by the report.

39 (2) The extent to which removal of mineral products from all or  
 40 any part of the affected land has been completed.

41 (b) A report shall also be filed within 90 days after completion  
 42 of all surface mining operations at the site regardless of the date of  
 43 the last preceding report. Forms for the filing of periodic reports

[and]  
 [no steeper than]

[The grading of high banks of sand pits and  
 highwalls may be modified or exempted by the  
 director.]

[or will not occur]

[or destroyed]

1 required by this section shall be provided by the director.

2 Sec. 13. (a) An operator of a mine shall reclaim affected lands  
3 within a period not to exceed three years, after the filing of the  
4 report required under subsection (b) of section 12 indicating the  
5 mining of any part of a site has been completed.

6 (b) For certain postmining land uses, such as a sanitary land fill,  
7 the director, with the approval of the commission, may allow an  
8 extended reclamation period.

9 (c) An operator, upon completion of any reclamation work re-  
10 quired by section 11, shall apply to the director in writing for ap-  
11 proval of the work. The director, within ~~90 days~~, shall inspect the  
12 completed reclamation work. Upon determination by the director  
13 that the operator has satisfactorily completed all required reclamation  
14 work on the land included in the application, the commission shall  
15 release the bond or security on the reclaimed land, shall remove  
16 the land from registration, and shall terminate or amend as necessary  
17 the operator's authorization to conduct surface mining on the site.

[ a reasonable time as determined by the  
commission ]

18 ~~(d) In the event the director fails to inspect the completed re-~~  
19 ~~clamation work within the time specified in subsection (c), the op-~~  
20 ~~erator and surety shall notify the commission of substantial~~  
21 ~~completion of reclamation upon the affected area. Upon receipt of~~  
22 ~~such notice the commission shall release the bond without further~~  
23 ~~prejudice.~~

[ (d) Periodic inspections may be conducted by the  
director or the director's designee, to ensure  
that the operator is following the reclamation  
plan. ]

24 Sec. 14. The time for completion of reclamation work may be  
25 extended upon presentation by the operator of evidence satisfactory  
26 to the director that reclamation of affected land cannot be completed  
27 within the time specified by section 13 without unreasonably im-  
28 peding removal of material products from other parts of an active  
29 site or future removal of material products from an inactive site.

30 Sec. 15. (a) A bond filed with the director by an operator pur-  
31 suant to this act shall be in a form prescribed by the director, payable  
32 to the state of Kansas, and conditioned upon faithful performance  
33 by the operator of all requirements of this act and all rules and  
34 regulations adopted by the director pursuant to this act. The bond  
35 shall be signed by the operator as principal and by a corporate surety  
36 licensed to do business in Kansas as surety. In lieu of a bond, the  
37 operator may deposit cash, certificates of deposit or government  
38 securities with the director on the same conditions as prescribed by  
39 this section for filing of bonds.

40 (b) The amount of the bond or other security required to be  
41 filed with each application for registration of a surface mining site,  
42 or to increase the area of affected land previously registered as  
43 required under section 9 shall be a minimum of \$250 per acre and

12.6

1 shall not exceed a maximum of ~~\$500~~ per acre.

2 Sec. 16. Any operator who registers with the director two or  
3 more surface mining sites may elect, at the time the second or any  
4 subsequent site is registered, to post a single bond in lieu of separate  
5 bonds on each site. The amount of a single bond on two or more  
6 surface mining sites may be increased or decreased from time to  
7 time in accordance with sections 8, 9, ~~and 13~~. When an operator  
8 elects to post a single bond in lieu of separate bonds previously  
9 posted on individual sites, the separate bonds shall not be released  
10 until the new bond has been accepted by the director.

11 Sec. 17. No bond filed with the director by an operator pursuant  
12 to this act may be canceled by the surety without at least 90 days'  
13 notice to the director. If the license to do business in Kansas of any  
14 surety of a bond filed with the director is suspended or revoked,  
15 the operator, within 90 days after receiving notice thereof from the  
16 director, shall substitute for the surety a corporate surety licensed  
17 to do business in Kansas. Upon failure of the operator to make  
18 substitution of surety as herein provided, the director shall have the  
19 right to suspend the operator's authorization to conduct surface min-  
20 ing on the site or sites covered by the bond until substitution has  
21 been made. The Kansas commissioner of insurance shall notify the  
22 director whenever the license of any surety to do business in Kansas  
23 is suspended or revoked.

24 Sec. 18. The director or the director's designee, when accom-  
25 panied by the operator or operator's designee during regular business  
26 hours, may inspect any lands on which any operator is authorized  
27 to operate a mine for the purpose of determining whether the op-  
28 erator is or has been complying with the provisions of this act. The  
29 director shall give written notice to any operator who violates any  
30 of the provisions of this act or any rules and regulations adopted by  
31 the director pursuant to this act. If corrective measures approved  
32 by the director are not commenced within 90 days, the violation  
33 shall be referred to the commission. The operator shall be notified  
34 in writing of the referral.

35 Sec. 19. Upon receipt of the referral, the commission shall  
36 schedule a hearing on the violation by the operator within 30 days  
37 after the date of receipt. The commission, upon written request,  
38 shall afford the operator the right to appear before the commission  
39 at the hearing. The operator shall have the right to counsel, and  
40 may produce witnesses and present statements, documents and other  
41 information with respect to the alleged violation. If the commission  
42 determines that the operator is in violation of this act or of any rule  
43 and regulation adopted by the director pursuant to this act, the

[ \$1,000 ]

[ New Paragraph (c) - Any political subdivision of  
the state of Kansas which engages or intends to  
engage in surface mining shall meet all  
requirements of this act except the subdivision  
shall not be required to post bond or security  
on registered land. ]

[ and 15. ]

12-7



1 commission shall request the attorney general to institute bond for-  
2 feiture proceedings.

3 Sec. 20. The attorney general, upon request of the commission,  
4 shall institute proceedings for forfeiture of the bond posted by an  
5 operator to guarantee reclamation of a site where the operator is in  
6 violation of any of the provisions of this act or any rule and regulation  
7 adopted by the director pursuant to this act. Forfeiture of the op-  
8 erator's bond shall fully satisfy all obligations of the operator to  
9 reclaim affected land covered by the bond. The director shall have  
10 the power to reclaim as required by section 11, any surface mined  
11 land with respect to which a bond has been forfeited, using the  
12 proceeds of the forfeiture to pay for the necessary reclamation work.

13 Sec. 21. (a) The director, upon finding that the operator has  
14 failed to comply with any condition of a license or site registration  
15 with which the operator is required to comply pursuant to this act,  
16 may impose upon the operator a civil penalty not exceeding \$1,000  
17 for each day of noncompliance.

18 (b) All civil penalties assessed pursuant to this section shall be  
19 due and payable within 35 days after written notice of the imposition  
20 of a civil penalty has been served upon whom the penalty is being  
21 imposed, unless a longer period of time is granted by the director  
22 or unless the operator appeals the assessment as provided in this  
23 section.

24 (c) No civil penalty shall be imposed under this section except  
25 upon the written order of the director or the director's designee to  
26 the operator upon whom the penalty is to be imposed, stating the  
27 nature of the violation, the penalty imposed and the right of the  
28 operator upon whom the penalty is imposed to appeal to the director  
29 for a hearing on the matter. An operator upon whom a civil penalty  
30 has been imposed may appeal, within 15 days after service of the  
31 order imposing the civil penalty, to the director. If appealed, a  
32 hearing shall be conducted in accordance with the provisions of the  
33 Kansas administrative procedure act. The decision of the director  
34 shall be final unless review is sought under subsection (d).

35 (d) Any action of the director pursuant to this section is subject  
36 to review in accordance with the act for judicial review and civil  
37 enforcement of agency actions.

38 ~~23~~ Sec. ~~22~~. The director, with the approval of the commission, shall  
39 adopt such rules and regulations as necessary to administer and  
40 enforce the provisions of this act.

41 ~~24~~ Sec. ~~23~~. This act shall take effect and be in force from and after  
42 its publication in the statute book.

New Section 22 - (a) There is hereby created a fee fund within the state treasury which shall be known and cited as the "Land Reclamation Fee Fund".

(b) The director shall remit daily to the state treasurer all moneys collected from fees imposed pursuant to this act. Upon receipt thereof, the state treasurer shall deposit the entire amount in the state treasury and credit it to the land reclamation fee fund herein created.

Sec. 22 - renumber accordingly

Sec. 23 - renumber accordingly

12-8

The following is the Surface Mining Sections comments on Senate Bill No. 169:

1. The bill needs to define underground mining. This could be done using the following language "Underground mining means the extraction of rocks, minerals, and industrial materials, other than coal, oil, and gas from the earth by developing entries or shafts from the surface to the seam or deposit before recovering the product by beneath the ground extraction methods."
2. The definition of "Surface Mining" in Sec. 3(j) needs to include "the surface affects of underground mining."
3. The definition of "Topsoil" in Sec. 3(k) is very weak and could create a loss of one of the state's most valuable resources. A better definition of topsoil is "the A and E soil horizon layers of the four master soil horizons."
4. The definition of "reclamation" in Sec. 3(o) should have the following added to better explain what activities will be involved "The configuration of the reclaimed lands are to be blended into and compliment the drainage patterns of the surrounding terrain, with all highwalls and spoil piles eliminated; water impoundments may remain if the director determines they are in compliance with the performance of this act."
5. Sec. 5(a) calls for a licensing period until December 31. This will create a situation where many licenses will become renewable at the same time creating an extremely large workload over a very short period. To alleviate this problem the licenses should expire one year from the date of issuance. This will spread the licensing workload over the entire year.
6. Sec. 7(d) specifies that providing false information is a misdemeanor offense. The regulation's need to be more specific as to what class of misdemeanor the falsifying of information involves.
7. Sec. 9(d) implies that no disturbed land can obtain a bond release at any time. The subsection needs to be rewritten to state that the disturbed area must meet the criteria for a bond release prior to any release of bond.
8. Sec. 11(a)(1) excludes the sloping of highwalls, impoundment slopes, and high banks of sand pits. This will create conditions which are both hazardous to the general public and can be environmentally unsound. The state pays millions of

Amended to  
include

Amended to  
include

Amended to  
clarify

Partially amended  
balance to be addressed  
by rules & regulations

Amended to  
include

Amended to  
include

Amended to  
clarify

Partially  
amended and  
remainder to  
be addressed  
by rule & regulations



dollars each year to alleviate problems caused by the past coal mining practice of carelessly leaving unreclaimed highwalls and steep slopes into impoundments. Also, the 1V:3H slopes which are being left are marginally accessible by farm equipment and should be flattened to a minimum of 1V:4H for the safety of the equipment operators. The operator needs to submit a reclamation plan to the commission detailing what the post mining land use will be, how the final reclamation will be achieved and present the final topography of the area. The commission can then determine if the reclamation plan is feasible and if the final reclamation will alleviate any potential hazardous conditions to the general public or the environment.

*From page  
one*

9. Sec. 11(a)(2) discusses the revegetation of the reclaimed area. This section should discuss the fact that revegetation should be accomplished to a specific standard, which should be set at a minimum as the cover necessary to control erosion. The SMS gets several calls every year from people who are concerned with the reclamation of quarries and the erosion which is occurring on them.

*To be addressed by  
rules and regulation.  
This is far too  
complicated for statute*

10. A Sec. 11(a)(3) should be added to this bill that will provide for the protection of the general public and their property as well as the environment. The SMS receives many calls each year about blasting damage from quarries. Another potential hazard to the general public is if an operator leaves an open pit in close proximity to a road. Also, this bill remains mute on the question of environmental degradation caused by mining. The operator should submit an assessment of the impact of mining on the environment. This would include at a minimum both air and water pollution. The operator needs to submit a short operation plan detailing how the operation, including blasting, will be conducted to protect both the general public, their property and the environment.

*Blasting and set asides  
are already regulated  
by law. The whole  
purpose of bill is  
to prevent degradation  
see SEC. 2. Air and  
water permits are already  
required by KDHE & DWR.*

11. Sec. 11(b) needs to include the wording "or will not occur" following "disposition has not occurred". This will create a situation where the operator can stabilize a stockpile which they know will remain inactive for more than a year. Also, the term stabilized needs to be defined so there is no future disagreement as to its meaning.

*Amended to  
include.*

12. Sec. 11(c) needs to be written in a manner that describes the replacement of the topsoil over the disturbed area. With the present wording of this regulation there is a potential for losing topsoil. The wording "or destroyed" needs to be placed following the word buried. Also, the manner of soil replacement and depth of soil replacement should be contained in the aforementioned reclamation plan. This will ensure the protection of one of the states greatest resources.

*Amended to  
include.*



13. Sec. 11(d) needs to be deleted. The reclamation mandated by this regulation is very minimal and to not enforce the bare minimum is not feasible or prudent.

*Works both ways*

14. Sec. 12(a) should call for a yearly report not a periodic report. Quantifying the time frames involved is less confusing to both the operator and the commission. There is less chance of confusion do to misunderstanding.

*What about  
periodic reports  
for midyear closures?*

15. Sec. 13(d) is a loop hole in completing reclamation. Regardless of the time frames the director should have to report to the commission on whether or not the reclamation is considered satisfactory prior to bond release. The way this regulation is presently worded the commission could be forced into releasing the performance bond prior to any reclamation being done.

*Amended to strengthen*

16. A Sec. 13(e) should be included outlining monthly or quarterly inspections throughout the life of the operation of the mine. This inspection is important to ensure that the operator is following the reclamation and operation plan. Only in this way can the general public and environment be protect from the adverse impacts caused by mining. Also, the commission can be informed of the progress of any mine and especially if a mine is having problems with their reclamation. Problems can be found early in the operation before they are allowed to become large.

*The commission  
can do this thru  
rule and reg. As  
most operations last  
30 to 50 years. Quarterly  
may be too frequent.*

17. Sec. 13 needs to contain a request for an operation and reclamation plan prior to licensing. The only way it can be determined if reclamation is complete and successful is to have a goal to achieve. This goal should be contained in the reclamation plan. Then following reclamation the director can compare the actual reclamation with the projected reclamation to determine if the objective has been met.

*Licensing and reclamation  
are different components  
of this bill. Licensing  
prevents wildcaters  
from even starting.*

18. Sec. 15(b) needs to specify who set the bond amount. The way the regulation is presently written it is confusing as to who actual sets the bond amount. Also the amount of bond should be set on a case by case basis using a worst case scenario detailing to what point the mining will be allowed to progress. Having experience with setting bonds and reclaiming bond forfeited lands the SMS believes that the \$250 per acre to \$500 per acre figure is to low and should be left out entirely. The mining company should only be allowed to mine up to a worst case condition and at that point the mining should be stopped. The bond for the permitted area should be large enough to cover this worst case liability. Also, experience has shown that when posting a set per acre fee for each area it generally is to low to complete reclamation in an environmentally sound manner. To ensure that the worst case

*Amended to  
raise limit to \$1000.  
Cities and counties  
may go higher under  
conditional use  
permits.*



scenario has not been surpassed, inspections should be done on a fairly routine basis.

19. Sec. 16 needs to be changed from allowing the role over and multiple bonding of an area to the bonding of specific areas. The SMS bonds independent discrete areas to alleviate the problems of tracking multiple bonds which would be quite time consuming and messy to track. There is also the potential legal problem of trying to reclaim one area with bond from another area. The SMS has found that it is much cleaner and easier to determine the bond amount for areas which are bonded independently of each other.
20. Sec. 17 needs to be rewritten because it is possible for a surety to cancel its bond prior to a company obtaining new bonding. This would create a situation where the operator would either have to continue mining without bond or shut down. From experience the SMS has learned that this creates a situation where none of the objectives of the program can be met. Without the revenue of mining the operator cannot stay in business and obtain a bond. The commission would then have no bond to do the reclamation and the operator would have no cash flow to do the reclamation. To allow them to keep mining without a bond would create a situation where the commission is faced with the possibility of having an even larger bill to complete reclamation and still no money to do reclamation with. The section needs to be rewritten where the surety can not withdraw their bond without offering the commission a chance to forfeit it should the operator be unable to obtain new bonding.
21. Sec. 18 needs to be rewritten where the operator or his designee does not necessarily have to accompany the director or his designee on the inspection. This will alleviate the problem of the operator preventing the inspection because he will not accompany the inspector. Also, the operator needs to provide the commission with a legal right of entry on to the property so reclamation can be done in case of bond forfeiture.
22. A Sec. 24 needs to be added outlining that the operator must obtain all the required federal, state, and local permits necessary to conduct mining operations. This would ensure that all the environmental regulations are being abided by.
23. The committee needs to be aware that a \$50 and \$10 per acre fee may not be sufficient to implement the program. The legislation may need to contain language in Sec. 5(a) outlining a per ton fee for each ton of material mined in the state.

*This bonding system emulates Iowa's which has worked well for 20 years. The surety is liable for everything. Not just one area.*

*SEC 17 was written to dovetail with Kansas law. KDHE should check with Insurance Commission*

*This system is currently used by Mine Health & Safety Administration and works well. It is also used by other agencies. CAN be addressed in rules & regs.*

*Amended in balloon to give commission more leeway.*



24. The committee needs to keep in mind while they review this bill that KDHE already has in place a mechanism to execute these regulations and should be the responsible party for implementing them. The SMS already has the expertise, policies, and organizational structure in place to handle these regulations. By making some changes to K.S.A. 49-402 et. seq. the legislation would be there to implement the program. It would appear that placing the mining act in the state conservation commission would entail creating a whole new program to implement the act. By rewriting the existing Mined-Land Conservation and Reclamation Act the new legislation could be placed in an existing organization which has scored high marks with the Office of Surface Mining in its implementation of the coal mining and reclamation program. With the new legislation in place it would only take a little more staff and equipment to implement the new program.

KSA 49-402 et. seq. was written to address the strip mining of coal which cuts across many jurisdictions. Aggregate operations and others were specifically exempted by the legislature as they are stationary. As the operational constraints of these industries have not changed it makes no sense to amend the aggregate industry or others into KSA 49-402 et. seq.

The positions of the Kansas Department of Health and Environment concerning reclamation have varied considerably over the years. The agency was approached, prior to and just after introduction of this bill and expressed no interest in it on both occasions. Consequently, we are more comfortable with the State Conservation Commission as this agency is more familiar with the type of reclamation envisioned by this bill.

JOE MC GUIRE  
CESSFORD CONSTRUCTION COMPANY

I have worked in the environmental and permitting areas of aggregate production for 10 years. During this time I have worked with operations in Iowa, Missouri, Wisconsin, and Kansas. It has been my experience those states with mining regulations (Missouri and Iowa) have more control and experience less problems with the mining industry than the states who do not have regulations. In the states with regulations, mineral extraction and reclamation of mined/disturbed areas are accomplished in a more ordered manner and substantially reduce the numbers of abandoned mine sites which cause part of the negative image the mining industry experiences today.

Regulations, such as these proposed for Kansas, will not have as much impact on the reputable mine operators in Kansas, who are currently doing much of what is proposed in the rules, as it will on those mine operators who are not and will never be good stewards of land. It is hoped these regulations will bring that segment of our industry into compliance with sound mining and reclamation practices.

I am currently completing my Ph.D at Iowa State University. The focus of my research is on attitudes of mine operation and regulatory agencies. The research was conducted in both Iowa and Kansas. I have attached some general findings of my research for your review. I believe my research will support the industries request for this "mine bill". As you review the attached, focus on reclamation and mine planning questions. You will note this is a concern from both sides. This law will help reduce that concern.

When these same responses are compared to Iowa Producers they are substantially higher in Kansas. My research tends to support the hypothesis that:

Aggregate producers who operate under a mined land reclamation law are less concerned or do not perceive problems to be as significant as aggregate producers who have no guidance or direction because there are no laws in place.

Proposed Law Will:

- \* Provide guidance to producers.
- \* Provide for registration of mining companies.
- \* Provide for mine site registration.
- \* Makes all producers accountable in operations.

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- \* Provide bonding to assure land will be restored.
- \* Provide protection for citizens who feel they are impacted by mining operations.

Implementation of these regulations does not need to be complicated process requiring creation of a whole new department in the state costing producers and tax payers a great deal of money.

The proposed regulations, while they may not be perfect are adequate to protect the interests of both the producers and the public. These regulations can always be modified to correct any problems or short comings. As you are aware there is a multitude of environmental regulations covering this and all industries and licenses. Keeping the rules, processes and regulatory agency simple will benefit all sides.

Thank you for your consideration.



## MINERAL EXTRACTION QUESTIONNAIRE

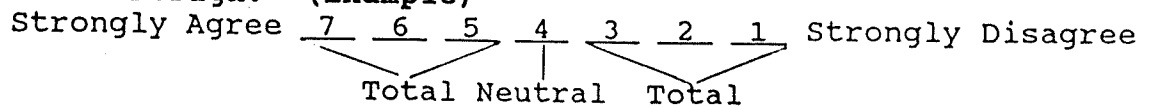
### PURPOSE OF QUESTIONNAIRE:

- \* Assess how mining industry is perceived by local (County) regulatory agencies,
- \* Assess how mining industry perceives itself, and
- \* Assess how the mining industry views local regulatory agencies.

### QUESTIONNAIRE DESIGN:

- \* Same questions asked of both mining companies and local regulatory agencies,
- \* Questions 1-10 were designed to elicit responses concerning opposition to aggregate mining operations and rating of items usually associated as negative impacts of mining operations,
- \* Question 11 and 11 subparts were designed to elicit responses concerning factors which might contribute to problems the mining industry experiences today,
- \* Question 12 and 8 subparts were designed to elicit responses on possible ways to mitigate problems the industry might experience,
- \* Questions 13-15 were developed to elicit reactions to educational sessions as part of the problem mitigation process,
- \* Question 16 focused on establishment of an agency which would have final permit authority over aggregate mine expansion.

\* **Scale Design: (Example)**



COUNTIES SAMPLED:

- \* All 105 Kansas Counties were mailed questionnaires,
- \* 43 Kansas Counties have zoning regulations,
- \* 62 Kansas Counties do not have zoning regulations,
- \* Information obtained from 1990-91 Directory of Kansas Public Officials.

AGGREGATE PRODUCERS:

- \* 134 Kansas Aggregate producers were mailed questionnaires,
- \* Information obtained from M.S.H.A. list of Kansas mine sites.

#### RETURN RATE:

- \* **Counties:** 48 returned equals 46% return rate; 26 or 54% were from "Zoned" Counties; and 22 or 46% were returned from "Unzoned" Counties,
- \* **Aggregate Producers:** 39 of 134 mailed were returned for a return rate of 29%. Of these, 25 or 64% were Sand and Gravel Producers and 14 or 36% were Limestone (Other) Producers,
- \* Return rate of both groups is high enough to support the findings of this questionnaire.

#### OBSERVATIONS:

- \* Counties with zoning respond differently from counties without zoning. Experience more problems!
- \* Sand and Gravel producers respond different from Limestone producers. (No blasting and overall less problems.)
- \* Producers in "Zoned" counties respond different from producers in "Unzoned" counties.
- \* When responses of these groups are combined, trends remain but are somewhat softened.

OPPOSITION TO EXPANSION OR NEW SITES:

\* Aggregate Producers:

\* 28% do not have complaints on existing sites

\* 59% have

\* 49% have experienced objections to expanding existing sites or opening new sites.

\* Counties:

\* 68% have not received complaints on existing sites, only 18% have.

\* 31% have experienced objections to expanding existing sites or opening new sites, 47% in "zoned" counties.

IMPACTS ASSOCIATED WITH MINING: (SEVERE PROBLEMS/NO PROBLEMS)

	<u>Aggregate Producers</u>			<u>Counties</u>		
	<u>S&amp;G</u>	<u>L</u>	<u>C</u>	<u>UN</u>	<u>Z</u>	<u>C</u>
Noise:	24%	30%	26%	14%	20%	16%
Blasting:	8%	71%	31%	14%	35%	25%
Location of Site:	48%	51%	49%	10%	50%	30%
Dust:	28%	49%	36%	14%	43%	29%
Traffic:	48%	49%	46%	19%	46%	33%
Water Concerns:	52%	21%	41%	9%	46%	29%
Visual Intrusion:	16%	30%	21%	10%	23%	17%
Reclamation:	32%	42%	33%	23%	39%	31%

S&G = Sand & Gravel  
L = Limestone  
C = Combined

MITIGATION MEASURES: (STRONGLY AGREE/ STRONGLY DISAGREE)

<u>Aggregate Producers</u>	<u>Counties</u>
* Educate or provide better information to the public: 85% / 7%	57% / 10%
* Educate or provide . . . . . regulatory agencies: 74% / 13%	48% / 17%
* Educate of provide . . . . . industry itself: 75% / 7%	47% / 20%
* Operate more responsibility: 87% / 5%	60% / 2%
* Make existing site more visually acceptable: 77% / 18%	55% / 8%
* Develop improved reclamation planning and practices: 77% / 15%	61% / 10%
* Work with local agencies to develop mining regulations that <u>protect operator's interests:</u> 77% / 13%	50% / 8%
* Work with local agencies . . . . . <u>protect public's</u> <u>interest:</u> 69% / 16%	41% / 8%

**EDUCATION:** (STRONGLY AGREE/STRONGLY DISAGREE)

- \* Would an educational session dealing with mine planning, reclamation planning and problem mitigation be of benefit to operators, agencies and concerned public?

70% / 13%

55% / 10%

**EDUCATIONAL AREAS OR TOPICS:**

Aggregate Producers

Counties

Mine Planning

Reclamation

Mine Location

Mine Planning

Reclamation

Regulation Development

Water Concerns

Water Concerns

Blasting

Mine Location

Regulation Development

Blasting

- \* A State Minerals Board . . . . . final authority over opening or location of new mine sites.

25% / 62%

10% / 64%



CONCLUSIONS: (GENERAL)

- \* Indication obtaining new permits or expanding existing sites is increasingly more difficult,
- \* Both regulatory agency and operator's responded very similar on items pertaining to image problems, causes of problems, mitigation measures.
- \* Both groups trend to agree "education" and "information" is part of the solution to the problem,
- \* Both seem to identify the same areas as needing improvement,
- \* Responsibility, mine planning and reclamation tend to be major themes or areas of concern,
- \* Superficial analysis at this point, additional analysis will be performed in future months.

COMPARISON - KANSAS VS IOWA

RETURN RATE:

	<u>KANSAS</u>	<u>IOWA</u>
Combined Counties	46%	74%
Zoned	54%	67%
Unzoned	46%	33%
Combined Aggregate Producers	29%	32%
Limestone	64%	63%
Sand & Gravel	36%	37%

CONTRIBUTING FACTORS:

<u>KANSAS</u>		<u>IOWA</u>	
<u>Producers</u>	<u>County</u>	<u>Producers</u>	<u>County</u>
Lack of Responsibility by Operators in conducting operations:			
72%	48%	40%	46%
Lack of Regulation - State Level:			
44%	31%	26%	9%
Lack of Information to the Public:			
60%	38%	31%	45%
Lack of Information to County Officials:			
62%	34%	34%	33%
Lack of Information to Operator:			
54%	27%	7%	22%
Negative Image due to . . . . . past:			
74%	51%	52%	42%
Inadequate Mine and Reclamation Planning:			
74%	51%	52%	42%

MITIGATION MEASURES:

<u>KANSAS</u>		<u>IOWA</u>	
<u>Producers</u>	<u>County</u>	<u>Producers</u>	<u>County</u>
Educate or provide better information to public:			
85%	57%	59%	69%
Educate or provide . . . . . regulatory agencies:			
74%	48%	66%	63%
Educate or provide . . . . . industry itself:			
75%	47%	55%	53%
Operate more responsibly:			
87%	60%	70%	63%
Develop improved reclamation planning and practices:			
77%	61%	45%	77%
<u>Work with agencies to develop regulations to protect operator's interests:</u>			
77%	50%	63%	51%
Work with agencies . . . . . <u>public's interests:</u>			
69%	41%	49%	67%
Education sessions to deal with problems:			
69%	41%	45%	56%



# State Conservation Commission

109 S.W. 9TH STREET, SUITE 500

TELEPHONE (913) 296-3600

TOPEKA, KANSAS 66612-1299

TESTIMONY ON THE PROPOSED  
SURFACE-MINING LAND CONSERVATION  
AND RECLAMATION ACT  
SENATE BILL NO. 169  
SENATE ENERGY AND NATURAL RESOURCES COMMITTEE

KENNETH F. KERN, EXECUTIVE DIRECTOR

AUGUST 26, 1993

K.S.A. 2-1904 empowers the Commission to cooperate in and carry out, in accordance with state policies, activities and programs to conserve and develop Kansas' water resources and maintain and improve the quality of water resources.

The Kansas Aggregate Producers Association presented the State Conservation Commission with a proposal to administer a Surface-mining Land Conservation and Reclamation program in mid-February. The Commission, after consideration of several concerns in the provisions of the program, agreed to support it.

One concern was financing the program. The bill as originally written provides for a \$50 license fee and a \$10 renewal fee. Kansas has approximately 250 mining operators and 600 sites. Considering the fee structure, first year revenue would be \$30,000, while future years' income would be \$6,000. The Commission estimates first year expenditures of \$90,000. As the program and workload increase, and with proper program administration, the expenditures are estimated to reach \$275,000.

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TESTIMONY ON SB 169  
State Conservation Commission  
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The Commission recommends the license fee and renewal fee remain at the proposed levels and assess a one cent per ton on material extracted. According to the Kansas Aggregate Producers Association, approximately 30 million tons are excavated annually. This would provide approximately \$300,000 annually.

An alternative to the tonnage fee would be a per acre fee. The Kansas Aggregate Producers Association estimates there are 11,250 acres of surface mining. At \$25 per acre, a total of \$281,250 would be available for necessary expenditures.

The Commission recommends funds not used for administration be designated for future land reclamation of existing inactive sites.

Another concern was the bill's affect on small operators and their ability to secure a bond or provide another type of security.

Senate Bill 169 also provides for the reclamation and conservation of land affected by surface mining. The bill excludes the mining of materials subject to existing laws or regulations, such as coal, oil, and gas.

Funds to administer this provision are generated from operator license and site registration fees.

Thank you for the opportunity to discuss the proposed surface-mining land conservation and reclamation act.

State of Kansas

Joan Finney, Governor



Reply To: (913) 296-1660/ FAX (913) 296-1686  
Bureau of Environmental Remediation  
Forbes Field, Building 740  
Topeka, Kansas 66620-0001

Department of Health and Environment

Robert C. Harder, Secretary

Testimony Presented to  
Senate Committee on Energy and Natural Resources

by

Kansas Department of Health and Environment  
Senate Bill 169

Introduction

My name is Larry Knoche, Director of the Bureau of Environmental Remediation, Division of Environment, Kansas Department of Health and Environment. I am here today to testify on Senate Bill 169, which purports to enact a surface-mining land conservation and reclamation act.

Summary/Background

Senate Bill 169 is a bill that will register and license surface mining activities, except for coal, oil and gas; and further, is intended to require reclamation of lands affected by such mining activities conducted after the effective date of this act. While the concept of this bill is laudable, in reality, this bill will do little to achieve its objective as it is written, except for the registration of mines. I have arrived at this conclusion for the following reasons:

1. Performance standards or guidelines for mining operations are not addressed as they should be to ensure that the public health and the soils and waters of the state are protected.
2. The bill provides for annual license fees of \$50 for the 1st year and \$10 each year thereafter; and annual registration fees in an amount to be established by the commission, but not to exceed the cost of administering the **registration provisions**. It does not appear that this bill provides funding for administering and enforcing the provision of the reclamation sections. This is important if you take a look at Section 13(d) which states that the operator's bond may be released upon the operator's statement



that reclamation is substantially completed, if the director of the state conservation commission fails to inspect the completed reclamation work within the time specified. If funding is not provided, how will the director perform these inspection duties in the time specified?

3. Reclamation standards are not sufficient to ensure that reclamation activities are completed in an appropriate manner.
4. The bond required as a means to ensure performance of reclamation activities is inadequate. A bond in the amount of a minimum of \$250 per acre and a maximum of \$500 per acre is an amount that is so small in relation to probable cost of reclamation that the operator may be tempted to walk away. Section 20 states that "forfeiture of the operator's bond shall fully satisfy all obligations of the operator to reclaim affected land covered by the bond". While the director may use proceeds of bond forfeitures to conduct reclamation activities, KDHE believes that very little land could be reclaimed for \$250-\$500 per acre, and that a larger bond should be required to assure completion of the reclamation activities.
5. This bill, as it is written, is strictly a registration bill and does little to protect the citizens of this state or the environment.

In addition to the general concerns I have just addressed, the KDHE Surface Mining Section has advised me that there are many additional problems with this bill. As it is now written, KDHE cannot support passage of this bill; however, if you wish, KDHE will be more than willing to assist in amending this bill to make it a fair and effective act.

Testimony presented by : Larry Knoche  
Director, Bureau of Environmental Remediation  
Division of Environment  
August 26, 1993

Testimony Regarding Senate Bill No. 169  
before the  
Senate Committee on Energy and Natural Resources  
By George A. Austin (Appearing for David L. Pope, Chief Engineer  
& ex officio member of the State Conservation Commission)  
Division of Water Resources  
Kansas State Board of Agriculture  
August 26, 1993

The Division of Water Resources thanks the committee for their interest in this matter and wishes to make the following statement in support of the general emphasis of the bill.

Surface mining, without reclamation, often creates a blight on the general landscape of Kansas when no authority is exercised to control the final disposition of these locations. Often landowners adjacent to such a site find their property devalued and subject to other unreasonable impacts without any statutory recourse. Open pits which intercept surface water may funnel contaminants directly into groundwater water supplies. Because of this situation and the complaints, which are received within the Division of Water Resources concerning such activities, the Division wishes to echo its support for the concept contained in this bill. While the Division does not object to the specific language and direction of the bill, we would like to make the following comments regarding specific language and issues contained in Senate Bill No. 169.

Senate Bill No. 169 contains an exemption for river sand dredgers to the requirement to register the site and its reclamation provided a permit for dredging is received from the Chief Engineer. The Division welcomes this exemption and in a balloon of the bill suggests some technical clarifications of the exemption.

As an agency, we have discovered that state regulations on small operations are extremely costly for both the operators and us when compared to large production operations. As a consequence, within our regulatory processes we have established levels of differing regulatory requirements to reflect a fair and even-handed impact on applicants. Within this variability reduced work for application and permit for both the agency and the applicant translates into less expense for minor activities. The Division of Water Resources suggests that Senate Bill No. 169 should consider placing a bottom limit on activities requiring full compliance with the provisions of the act so that the fees and bonding requirements do not weigh too heavily on the small operations. It appears that a minimum acreage limitation may be appropriate considerations.

Based on testimony given by KDHE and the State Conservation Commission, it appears that the current fee structure proposal would fall significantly short of fully financing the operation of a regulatory program. The state's cost of administering the program will be closely linked to the size of the operation, whether in terms of surface acres involved or on the volume of material mined or moved. Since mining reclamation is most simply areal a fee based on disturbed and mined area would most closely reflect the cost to Kansas of administration and reclamation of sand and gravel sites.

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Another additional concern of the Division of Water Resources is that the act may be interpreted to include all borrow sites for materials used in the construction of dams, levees, or virtually any other civil works other than roads and highways. Such borrow areas are difficult to reclaim and one wonders if the added expense of bonds and registration are justified in these particular projects. A specific exemption is found in Senate Bill No. 169 for roads and highways and perhaps that could be clarified or amended to include other types of structures which by their very nature may include excavation or mining for subsurface materials during their construction. Granting the Director and Commission waiver authority on a site specific basis for those projects would be appropriate. Suggested language is contained in our attached balloon version of Senate Bill No. 169.

The Division of Water Resources would like to note that the State Conservation Commission and its executive director's current duties are limited to governing the distribution and use of state general fund and water plan monies used in the construction of conservation projects. Senate Bill No. 169 would, for the first time, place the State Conservation Commission in a direct regulatory role over an activity. ~~In addition, the bill does not authorize the Commission to prepare regulations to govern the processing of licensing of operations.~~

The Division of Water Resources proposes that to protect the continued health of the state's water supply (including its groundwater, native beauty, environment, and fish and wildlife populations), the reclamation program should be favorably considered. The Division of Water Resources fully supports passage of Senate Bill 169 upon clarification of the issues presented in our balloon and testimony here today.

Thank you very much for the opportunity to express our views. If any committee member has questions or concerns I stand ready to attempt to answer those.

## SENATE BILL No. 169

By Committee on Energy and Natural Resources

2-3

AN ACT enacting the surface-mining land conservation and reclamation act.

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

Section 1. This act shall be known and may be cited as the surface-mining land conservation and reclamation act.

Sec. 2. It is the policy of this state to provide for the reclamation and conservation of land affected by surface mining and thereby to preserve natural resources, protect and perpetuate the taxable value of property, and protect and promote the health, safety and general welfare of the citizens of this state.

Sec. 3. As used in this act:

(a) "Director" means the executive director of the commission or a designee.

(b) "Affected land" means the area of land from which overburden has been removed or upon which overburden has been deposited, but shall not include stockpile areas or roads.

(c) "Commission" means the state conservation commission.

(d) "Mine" means any underground or surface mine developed and operated for the purpose of extracting any materials except coal.

(e) "Operator" means any person, firm, partnership, corporation, government or other agency.

(f) "Overburden" means all of the earth and other materials which lie above the natural deposits of material being mined or to be mined.

(g) "Peak" means a projecting point of overburden removed from its natural position and deposited elsewhere in the process of surface mining.

(h) "Pit" means a tract of land from which overburden has been or is being removed for the purpose of surface mining.

(i) "Ridge" means a lengthened elevation of overburden removed from its natural position and deposited elsewhere in the process of surface mining.

(j) "Surface mining" means:

(1) The mining of material, except for coal, oil and gas, for sale or for processing or for consumption in the regular operation of a business by removing the overburden lying above natural deposits

1 and mining directly from the natural deposits exposed, or by mining  
 2 directly from deposits lying exposed in their natural state. Surface  
 3 mining shall include dredge operations lying outside the high banks  
 4 of streams and rivers.

5 (2) Removal of overburden and mining of limited amounts of any  
 6 materials shall not be considered surface mining when done only for  
 7 the purpose and to the extent necessary to determine the location,  
 8 quantity or quality of the natural deposit, if the materials removed  
 9 during exploratory excavation or mining are not sold, processed for  
 10 sale or consumed in the regular operation of a business.

11 (k) "Topsoil" means the natural medium located at the land sur-  
 12 face with favorable characteristics for growth of vegetation.

13 (l) "Active site" means a site where surface mining is being  
 14 conducted.

15 (m) "Inactive site" means a site where surface mining is not being  
 16 conducted but where overburden has been disturbed in the past for  
 17 the purpose of conducting surface mining and an operator anticipates  
 18 conducting further surface mining operations in the future.

19 (n) "Materials" means natural deposits of gypsum, clay, stone,  
 20 sandstone, sand, shale, silt, gravel, volcanic ash or any other minerals  
 21 of commercial value found on or in the earth with the exception of  
 22 coal, oil and gas and those located within cut and fill portions of  
 23 road rights-of-way.

24 (o) "Reclamation" means the reconditioning of the area of land  
 25 affected by surface mining.

26 (p) "Stockpile" means the mining by surface mining of gypsum,  
 27 clay, shale, stone, sandstone, sand, silt, gravel, volcanic ash or other  
 28 minerals and removal from its natural position and deposited else-  
 29 where for future use in the normal operation as a business.

30 Sec. 4. Sections 2 through 22 shall not apply to:

31 (a) Affected land mined prior to the effective date of this act and  
 32 shall apply only to those areas of land affected after the effective  
 33 date of this act;

34 (b) in any way affect or control the stockpiling, method of stock-  
 35 piling or mining from stockpiles of gypsum, clay, shale, stone, sand-  
 36 stone, sand, silt, gravel, volcanic ash or other minerals which are  
 37 consumed in the regular operation of the business; or

38 ~~(c) river sand producers subject to dredging permits as issued~~  
 39 ~~by the chief engineer of the division of water resources.~~

40 Sec. 5. No person, firm, partnership or corporation shall engage  
 41 in surface mining or operation of an underground mine or mines,  
 42 as defined by this act without first obtaining a license from the  
 43 director.

but does not include those borrow  
 areas used in the construction of  
 dams, levees, floodplain fills or  
 other civil works as determined by  
 the director

(c) operations which involve the  
 removal of sand and gravel from  
 stream channels which are already  
 subject to K.S.A. 24-126 and  
 K.S.A. 82a-301 to 305a.

36

16-4



# SIERRA CLUB

## Kansas Chapter

### Surface-Mining Land Conservation and Reclamation Act S.B. 169

Testimony of William Craven  
Legislative Coordinator, Kansas Sierra Club

Senate Energy and Natural Resources Committee  
Interim Meeting  
August 26, 1993

Thank you for providing an opportunity for the Kansas Sierra Club to testify on this bill. As you know, land reclamation from mining and quarrying is a national problem. One thing that needs to be said is that the aggregate industry in Kansas should be commended for bringing this matter to the attention of the public and the legislature. I think we all agree that historic and present mining operations can, if not reclaimed, pose threats for groundwater contamination, as a "convenient" place to dump trash, including hazardous waste, and as an attractive nuisance for children. It should be noted that the Sierra Club is not expressing a position on the bill, but instead is raising questions which we think will help focus the discussion and conceivably make the bill better.

Although we have other concerns about this bill, the two main issues are as follows:

Sec. 3 (c) names the Kansas Conservation Commission as the lead agency for this bill. Under this bill, the conservation commission would collect license fees and serve as the regulatory agency. My understanding is that the commission's expertise is not that of a regulatory body and the question becomes whether the commission is the best agency to head this effort? As the committee knows, KDHE is the lead agency for coal mine land reclamation, and the Corporation Commission is the lead agency for oil and gas well land reclamation. We believe that the matter of which agency should be in charge is worthy of further review.

Sec. 3 (2)(m) on p. 2, and Section 4 (a) exempts inactive or historical mining sites from the requirements of land reclamation. I can understand the difficulties of dealing with these sites, but wouldn't it be better stewardship of the land to work out details of a trust fund or a revolving fund to reclaim these sites? Abandoned mines, quarries and sand pits dot the landscape of Kansas, and if industry and government don't take the lead in reclaiming these sites, who will? I don't claim to have all the answers to this important problem, but one suggestion to explore is a tonnage surcharge to fund needed reclamation from historic or abandoned sites.

Perhaps a better option in this regard would be to have the appropriate state agencies, (perhaps KDHE and the Kansas Geological Survey) be funded

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by this trust fund in order to do an assessment of the nature and scope of the problem and the costs involved in reclaiming these lands. That way, at least, we all would have a better sense of the dimensions of this problem.

In talking with other Sierra Club lobbyists around the nation, I have learned that this issue is the one that causes the most difficulty. I would be pleased to work with the aggregate association or its members, and the various state agencies, to develop a proposed solution to this matter.

Sec. 3 (1) (2) on p. 2 exempts small-scale testing from this act. Other than the convenience of the operator, is there any reason for this exemption?

A couple more technical points: Section 4(b) doesn't seem to read correctly. And I believe the numbering of paragraphs in Section 3 could use a little work.

Thank you for your consideration of this testimony.



# SENATE BILL No. 169

By Committee on Energy and Natural Resources

2-3

8 AN ACT enacting the surface-mining land conservation and reclama-  
9 tion act.

10  
11 *Be it enacted by the Legislature of the State of Kansas:*

12 Section 1. This act shall be known and may be cited as the  
13 surface-mining land conservation and reclamation act.

14 Sec. 2. It is the policy of this state to provide for the reclamation  
15 and conservation of land affected by surface mining and thereby to  
16 preserve natural resources, protect and perpetuate the taxable value  
17 of property, and protect and promote the health, safety and general  
18 welfare of the citizens of this state.

19 Sec. 3. As used in this act:

20 (a) "Director" means the executive director of the commission or  
21 a designee.

22 (b) "Affected land" means the area of land from which overburden  
23 has been removed or upon which overburden has been deposited,  
24 but shall not include stockpile areas or roads.

25 (c) "Commission" means the state conservation commission.

26 (d) "Mine" means any underground or surface mine developed  
27 and operated for the purpose of extracting ~~any materials except coal.~~

28 (e) "Operator" means any person, firm, partnership, corporation,  
29 government or other agency.

30 (f) "Overburden" means all of the earth and other materials which  
31 lie above the natural deposits of material being mined or to be mined.

32 (g) "Peak" means a projecting point of overburden removed from  
33 its natural position and deposited elsewhere in the process of surface  
34 mining.

35 (h) "Pit" means a tract of land from which overburden has been  
36 or is being removed for the purpose of surface mining.

37 (i) "Ridge" means a lengthened elevation of overburden removed  
38 from its natural position and deposited elsewhere in the process of  
39 surface mining.

40 (j) "Surface mining" means:

41 (1) The mining of material, except for coal, oil and gas, for sale  
42 or for processing or for consumption in the regular operation of a  
43 business by removing the overburden lying above natural deposits

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From	Woody Moses	
Co.	Legislative	
Co.	KAPA	
Dept.	Research	
Phone #	235-1182	
Fax #	235-2544	

rocks, minerals, and industrial materials; other than coal, oil and gas; and borrow areas created for construction purposes.

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1 and mining directly from the natural deposits exposed, or by mining  
2 directly from deposits lying exposed in their natural state. Surface  
3 mining shall include dredge operations lying outside the high banks  
4 of streams and rivers.

[or the surface affects of underground mining.]

5 (2) Removal of overburden and mining of limited amounts of any  
6 materials shall not be considered surface mining when done only for  
7 the purpose and to the extent necessary to determine the location,  
8 quantity or quality of the natural deposit, if the materials removed  
9 during exploratory excavation or mining are not sold, processed for  
10 sale or consumed in the regular operation of a business.

11 (k) "Topsoil" means the natural medium located at the land sur-  
12 face with favorable characteristics for growth of vegetation.

[which is normally the A and/or B soil horizon  
layers of the four soil horizons.]

13 (l) "Active site" means a site where surface mining is being  
14 conducted.

15 (m) "Inactive site" means a site where surface mining is not being  
16 conducted but where overburden has been disturbed in the past for  
17 the purpose of conducting surface mining and an operator anticipates  
18 conducting further surface mining operations in the future.

19 (n) "Materials" means natural deposits of gypsum, clay, stone,  
20 sandstone, sand, shale, silt, gravel, volcanic ash or any other minerals  
21 of commercial value found on or in the earth with the exception of  
22 coal, oil and gas and those located within cut and fill portions of  
23 road rights-of-way.

24 (o) "Reclamation" means the reconditioning of the area of land  
25 affected by surface mining.

26 (p) "Stockpile" means the ~~mining by surface mining of gypsum~~  
27 clay, shale, stone, sandstone, sand, silt, gravel, volcanic ash or other  
28 minerals and removal from its natural position and deposited else-  
29 where for future use in the normal operation as a business.

[finished products of the]

30 Sec. 4. Sections 2 through 22 shall not apply to:

31 (a) Affected land mined prior to the effective date of this act and  
32 shall apply only to those areas of land affected after the effective  
33 date of this act;

34 (b) In any way affect or control the stockpiling, method of stock-  
35 piling or mining from stockpiles of gypsum, clay, shale, stone, sand-  
36 stone, sand, silt, gravel, volcanic ash or other minerals which are  
37 consumed in the regular operation of the business; or

38 (c) ~~river sand producers subject to dredging permits as issued~~  
39 ~~by the chief engineer of the division of water resources.~~

[ (q) "Underground mining means the extraction of  
rocks, minerals, and industrial materials ,  
other than coal, oil, and gas from the earth by  
developing entries or shafts from the surface to  
the seam or deposit before recovering the  
product by underground extraction methods.

[ (c) operations which involve the removal of sand  
and gravel from within streams and are already  
subject to the provisions of KSA 82a-301 through  
305(a) .

40 Sec. 5. No person, firm, partnership or corporation shall engage  
41 in surface mining or operation of an underground mine or mines,  
42 as defined by this act without first obtaining a license from the  
43 director.

(a) Licenses shall be issued upon application submitted on a form provided by the director and shall be accompanied by a fee of ~~\$50~~. Each applicant shall be required to furnish on the form information necessary to identify the applicant. Licenses shall expire on ~~December 31~~ of each year and shall be renewed by the director upon application submitted within 30 days prior to the expiration date and accompanied by a fee of ~~\$10~~.

[\$300]

[one year from date of issue]

(b) A license to mine is only valid when approved by the commission and acknowledged by a certificate which has been signed by the director and lists the operator and the assigned license number.

renewal fee. License renewal fees shall be established by the rules and regulations of the director in an amount not exceeding the cost of administering the provisions of this act, estimated by the commission.

Sec. 6. The director may, with approval of the commission, commence proceedings to suspend, revoke or refuse to renew a license of any licensee for repeated or willful violation of any of the provisions of this act. Proceedings for the suspension or revocation of a license pursuant to this section shall be conducted in accordance with the Kansas administrative procedure act by the director or a hearing officer appointed by the director.

Sec. 7. (a) At least ~~seven~~ days before commencement of mining or removal of overburden at a surface mining site not previously registered, an operator engaged in surface mining in this state shall register the site with the director. Application for registration shall be made upon a form provided by the director. All site registrations shall expire on ~~December 31~~ of each year. Application for renewal of registration shall be on a form provided by the director. Registration and registration renewal fees shall be established by the commission in an amount not exceeding the cost of administering the registration provisions of this ~~section~~. The application shall include:

[thirty calendar]

[one year from date of issue.]

(1) A description of the tract or tracts of land where the site is located and the estimated number of acres at the site to be affected by surface mining;

[act.]

(2) the description shall include the section, township, range and county in which the land is located and shall otherwise describe the land with sufficient certainty to determine the location and to distinguish the land to be registered from other lands;

New Subparagraph (2) A reclamation plan detailing the post mining land use, how the final reclamation will be achieved and illustrating the proposed final topography.

(3) A statement explaining the authority of the applicant's legal right to operate a mine on the land; and

[Renumber Subparagraphs 2-4 accordingly]

(4) proof of compliance with all applicable zoning codes or rules and regulations.

and all applicable local, state, and federal permits, except those contingent upon the issuance of a registration under the provisions of this act.

(b) The registration application fees and registration renewal fees shall be established by the rules and regulations of the director in an amount not exceeding the cost of administering the registration

provisions of this act, as estimated by the commission.

(c) A mine site registered pursuant to this section or section 21 shall have, at the primary entrance to the mine site, a clearly visible sign which sets forth the name, business address and phone number of the operator. Failure to post and maintain a sign as required by this subsection, within 30 days after notice from the director, invalidates the registration.

(d) A person who falsifies information required to be submitted under this section shall be guilty of a ~~misdemeanor~~.

[class A.]

Sec. 8. The application for registration shall be accompanied by a bond or security as required under sections 20 or 21. After ascertaining that the applicant is licensed under section 5 and is not in violation of this act with respect to any site previously registered with the director, the director shall register the mine site and shall issue the applicant written authorization to operate a mine.

Sec. 9. (a) An operator may at any time apply for amendment or cancellation of registration of any site. The application for amendment or cancellation of registration shall be submitted by the operator on a form provided by the director and shall identify as required under section 7 the tract or tracts of land to be added to or removed from registration.

(b) If the application is for an increase in the area of a registered site, the application shall be processed in the same manner as an application for original registration.

(c) If the application is to cancel registration of any or all of the unmined part of a site, the director, after ascertaining that no overburden has been disturbed or deposited on the land, shall order release of the bond or the security posted on the land being removed from registration and cancel or amend the operator's written authorization to conduct surface mining on the site.

[shall substantially met the criteria, as  
established by the reclamation plan, before it]

(d) ~~No~~ land where overburden has been disturbed or deposited shall be removed from registration or released from bond or security under this section.

Sec. 10. (a) If control of an active site or the right to conduct any future mining at an inactive site is acquired by an operator other than the operator holding authorization to conduct surface mining on the site, the new operator, within 15 days, shall apply for registration of the site in the new operator's name. The application shall be made and processed as provided under sections 7 and 8. The former operator's bond or security shall not be released until the new operator's bond or security has been accepted by the director.

(b) The director may establish procedures for transferring the responsibility for reclamation of a mine site to a state agency or

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1 political subdivision which intends to use the site for other purposes.  
 2 The director, with agreement from the receiving agency or subdivi-  
 3 sion to complete adequate reclamation, may approve the transfer  
 4 of responsibility, release the bond or security, and terminate or  
 5 amend the operator's authorization to conduct surface mining on the  
 6 site.

7 Sec. 11. (a) An operator authorized under this act to operate a  
 8 mine, after completion of mining operations and within the time  
 9 specified in section 13, shall:

10 (1) Grade affected lands except for impoundments, pit floors, the  
 11 high banks of sand pits, and highwalls, to slopes having a maximum  
 12 of one foot vertical rise for each three feet of horizontal distance.  
 13 Where the original topography of the affected land was steeper than  
 14 one foot of vertical rise for each three feet of horizontal distance,  
 15 the affected lands may be graded to blend with the surrounding  
 16 terrain.

17 (2) Provide for the vegetation of the affected lands, except for  
 18 impoundments, pit floors, and highwalls, as approved by the director  
 19 before the release of the bond as provided in section 16.

20 (b) Notwithstanding subsection (a), overburden piles where dis-  
 21 position has not occurred for a period of 12 months shall be stabilized.

22 (c) Topsoil that is a part of overburden shall not be buried in  
 23 the process of mining.

24 (d) The director, with concurrence of the ~~advisory~~ commission,  
 25 may grant a variance from the requirements of subsections (a) and  
 26 (b).

27 (e) A bond or security posted under this act to assure reclamation  
 28 of affected lands shall not be released until all reclamation work  
 29 required by this section has been performed in accordance with the  
 30 provisions of this act, except when a replacement bond or security  
 31 is posted by a new operator or responsibility is transferred under  
 32 section 10.

33 Sec. 12. (a) An operator shall file with the director a periodic  
 34 report for each site under registration. The report shall make ref-  
 35 erence to the most recent registration of the mine site and shall  
 36 show:

37 (1) The location and extent of all surface land area on the mine  
 38 site affected by mining during the period covered by the report.

39 (2) The extent to which removal of mineral products from all or  
 40 any part of the affected land has been completed.

41 (b) A report shall also be filed within 90 days after completion  
 42 of all surface mining operations at the site regardless of the date of  
 43 the last preceding report. Forms for the filing of periodic reports

[and]  
 [no steeper than]

[The grading of high banks of sand pits and  
 highwalls may be modified or exempted by the  
 director.]

[or will not occur]

[or destroyed]

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1 required by this section shall be provided by the director.

2 Sec. 13. (a) An operator of a mine shall reclaim affected lands  
3 within a period not to exceed three years, after the filing of the  
4 report required under subsection (b) of section 12 indicating the  
5 mining of any part of a site has been completed.

6 (b) For certain postmining land uses, such as a sanitary land fill,  
7 the director, with the approval of the commission, may allow an  
8 extended reclamation period.

9 (c) An operator, upon completion of any reclamation work re-  
10 quired by section 11, shall apply to the director in writing for ap-  
11 proval of the work. The director, within ~~90 days~~, shall inspect the  
12 completed reclamation work. Upon determination by the director  
13 that the operator has satisfactorily completed all required reclamation  
14 work on the land included in the application, the commission shall  
15 release the bond or security on the reclaimed land, shall remove  
16 the land from registration, and shall terminate or amend as necessary  
17 the operator's authorization to conduct surface mining on the site.

18 ~~(d) In the event the director fails to inspect the completed re-~~  
19 ~~clamation work within the time specified in subsection (c), the op-~~  
20 ~~erator and surety shall notify the commission of substantial~~  
21 ~~completion of reclamation upon the affected area. Upon receipt of~~  
22 ~~such notice the commission shall release the bond without further~~  
23 ~~prejudice.~~

24 Sec. 14. The time for completion of reclamation work may be  
25 extended upon presentation by the operator of evidence satisfactory  
26 to the director that reclamation of affected land cannot be completed  
27 within the time specified by section 13 without unreasonably im-  
28 peding removal of material products from other parts of an active  
29 site or future removal of material products from an inactive site.

30 Sec. 15. (a) A bond filed with the director by an operator pur-  
31 suant to this act shall be in a form prescribed by the director, payable  
32 to the state of Kansas, and conditioned upon faithful performance  
33 by the operator of all requirements of this act and all rules and  
34 regulations adopted by the director pursuant to this act. The bond  
35 shall be signed by the operator as principal and by a corporate surety  
36 licensed to do business in Kansas as surety. In lieu of a bond, the  
37 operator may deposit cash, certificates of deposit or government  
38 securities with the director on the same conditions as prescribed by  
39 this section for filing of bonds.

40 (b) The amount of the bond or other security required to be  
41 filed with each application for registration of a surface mining site,  
42 or to increase the area of affected land previously registered as  
43 required under section 9 shall be a minimum of \$250 per acre and

[ a reasonable time as determined by the  
commission ]

[ (d) Periodic inspections may be conducted by the  
director or the director's designee, to ensure  
that the operator is following the reclamation  
plan. ]

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1 shall not exceed a maximum of ~~\$500~~ per acre.

2 Sec. 16. Any operator who registers with the director two or  
3 more surface mining sites may elect, at the time the second or any  
4 subsequent site is registered, to post a single bond in lieu of separate  
5 bonds on each site. The amount of a single bond on two or more  
6 surface mining sites may be increased or decreased from time to  
7 time in accordance with sections 8, 9, and 13. When an operator  
8 elects to post a single bond in lieu of separate bonds previously  
9 posted on individual sites, the separate bonds shall not be released  
10 until the new bond has been accepted by the director.

11 Sec. 17. No bond filed with the director by an operator pursuant  
12 to this act may be canceled by the surety without at least 90 days'  
13 notice to the director. If the license to do business in Kansas of any  
14 surety of a bond filed with the director is suspended or revoked,  
15 the operator, within 90 days after receiving notice thereof from the  
16 director, shall substitute for the surety a corporate surety licensed  
17 to do business in Kansas. Upon failure of the operator to make  
18 substitution of surety as herein provided, the director shall have the  
19 right to suspend the operator's authorization to conduct surface min-  
20 ing on the site or sites covered by the bond until substitution has  
21 been made. The Kansas commissioner of insurance shall notify the  
22 director whenever the license of any surety to do business in Kansas  
23 is suspended or revoked.

24 Sec. 18. The director or the director's designee, when accom-  
25 panied by the operator or operator's designee during regular business  
26 hours, may inspect any lands on which any operator is authorized  
27 to operate a mine for the purpose of determining whether the op-  
28 erator is or has been complying with the provisions of this act. The  
29 director shall give written notice to any operator who violates any  
30 of the provisions of this act or any rules and regulations adopted by  
31 the director pursuant to this act. If corrective measures approved  
32 by the director are not commenced within 90 days, the violation  
33 shall be referred to the commission. The operator shall be notified  
34 in writing of the referral.

35 Sec. 19. Upon receipt of the referral, the commission shall  
36 schedule a hearing on the violation by the operator within 30 days  
37 after the date of receipt. The commission, upon written request,  
38 shall afford the operator the right to appear before the commission  
39 at the hearing. The operator shall have the right to counsel, and  
40 may produce witnesses and present statements, documents and other  
41 information with respect to the alleged violation. If the commission  
42 determines that the operator is in violation of this act or of any rule  
43 and regulation adopted by the director pursuant to this act, the

[\$1,000]

New Paragraph (c) - Any political subdivision of  
the state of Kansas which engages or intends to  
engage in surface mining shall meet all  
requirements of this act except the subdivision  
shall not be required to post bond or security  
on registered land.

[and 15]

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1 commission shall request the attorney general to institute bond for-  
2 feiture proceedings.

3 Sec. 20. The attorney general, upon request of the commission,  
4 shall institute proceedings for forfeiture of the bond posted by an  
5 operator to guarantee reclamation of a site where the operator is in  
6 violation of any of the provisions of this act or any rule and regulation  
7 adopted by the director pursuant to this act. Forfeiture of the op-  
8 erator's bond shall fully satisfy all obligations of the operator to  
9 reclaim affected land covered by the bond. The director shall have  
10 the power to reclaim as required by section 11, any surface mined  
11 land with respect to which a bond has been forfeited, using the  
12 proceeds of the forfeiture to pay for the necessary reclamation work.

13 Sec. 21. (a) The director, upon finding that the operator has  
14 failed to comply with any condition of a license or site registration  
15 with which the operator is required to comply pursuant to this act,  
16 may impose upon the operator a civil penalty not exceeding \$1,000  
17 for each day of noncompliance.

18 (b) All civil penalties assessed pursuant to this section shall be  
19 due and payable within 35 days after written notice of the imposition  
20 of a civil penalty has been served upon whom the penalty is being  
21 imposed, unless a longer period of time is granted by the director  
22 or unless the operator appeals the assessment as provided in this  
23 section.

24 (c) No civil penalty shall be imposed under this section except  
25 upon the written order of the director or the director's designee to  
26 the operator upon whom the penalty is to be imposed, stating the  
27 nature of the violation, the penalty imposed and the right of the  
28 operator upon whom the penalty is imposed to appeal to the director  
29 for a hearing on the matter. An operator upon whom a civil penalty  
30 has been imposed may appeal, within 15 days after service of the  
31 order imposing the civil penalty, to the director. If appealed, a  
32 hearing shall be conducted in accordance with the provisions of the  
33 Kansas administrative procedure act. The decision of the director  
34 shall be final unless review is sought under subsection (d).

35 (d) Any action of the director pursuant to this section is subject  
36 to review in accordance with the act for judicial review and civil  
37 enforcement of agency actions.

38 ~~23~~ Sec. 22. The director, with the approval of the commission, shall  
39 adopt such rules and regulations as necessary to administer and  
40 enforce the provisions of this act.

41 ~~24~~ Sec. 23. This act shall take effect and be in force from and after  
42 its publication in the statute book.

New Section 22 - (a) There is hereby created a fee fund within the state treasury which shall be known and cited as the "Land Reclamation Fee Fund".

(b) The director shall remit daily to the state treasurer all moneys collected from fees imposed pursuant to this act. Upon receipt thereof, the state treasurer shall deposit the entire amount in the state treasury and credit it to the land reclamation fee fund herein created.

Sec. 22 - renumber accordingly

Sec. 23 - renumber accordingly

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Division of Soil Conservation  
Iowa Department of Agriculture and Land Stewardship

Henry A. Wallace Building  
Des Moines, Iowa 50319  
FAX: 515-281-6170

Date: August 24, 1993

Time: 13:05 PM

Facsimile Transmission

TO: Raney Gilliland  
Kansas Legislative Research Department

FAX No.: 913-296-3824

Sender: Joe Pille  
Bureau of Mines and Minerals  
Division of Soil Conservation  
Iowa Department of Agriculture and Land Stewardship

Pages (Including This Page): 5

Message: Attached information per your request. JPP

NOTE To Facsimile Operator: Please deliver this facsimile transmission to the above addressee(s). If you did not receive all of the pages in good condition, please advise 1-515-242-5003 or FAX No. 1-515-281-6170 at your earlier convenience.

THANK YOU

*Senate Ex NR*  
*August 25-26, 1993*  
*Attachment # 19*

# Iowa Department of Agriculture and Land Stewardship

DALE M. COCHRAN  
SECRETARY OF AGRICULTURE



SHIRLEY DANSKIN-WHITE  
DEPUTY SECRETARY OF AGRICULTURE

HENRY A. WALLACE BUILDING  
DES MOINES, IOWA 50319

August 24, 1993

Don Sallee, Chairman  
Senate Energy and Natural Resources Committee  
RR 2, Box 79  
Troy, Kansas 66087

**COPY**

RE: Senate Bill number 169

Dear Mr. Sallee:

Thank you for the invitation to speak before the Kansas Senate Energy and Natural Resources Committee regarding the Senate Bill Number 169. I respectfully decline the offer, however, in light of my absence I have taken the time to prepare the following material in an effort to respond along the guidelines provided by Mr. Raney Gilliland.

## Synopsis of Iowa Code chapter 208 and the Iowa Minerals Program

At the present time, the Mines and Minerals Bureau, under the Iowa Department of Agriculture and Land Stewardship, Division of Soil Conservation, is charged with administering Iowa Code Chapter 208 and the associated Iowa Administrative Code chapter 27 IAC 60. This involves working with approximately 245 licensed mineral mine operators at over 1075 active non-fuel, mineral mine sites throughout Iowa. Materials produced include gypsum, sand, gravel, limestone, clay and shale.

Most operations are surface mines or open quarries and, once developed, remain serviceable and productive for a number of years. Iowa does not administer safety or blasting requirements for non-fuel, mineral operations. Neither does Iowa require permitting of minerals operations, but requires instead that each site be registered and that a reclamation bond be posted. Operators must also be licensed. Regulation of on-going operations is therefore minimal other than to check reclamation bond adequacy and address citizen complaints.

Reclamation requirements of Iowa Code chapter 208 are rudimentary, requiring grading of all disturbed overburden to a maximum four foot horizontal to one foot vertical (4:1) slope and re-vegetating. Stockpiles and other affected areas must also be re-vegetated and equipment and refuse must be removed from the site prior to bond release. Highwalls, pit floors, and water impoundments are exempt by statute from reclamation requirements. The Division of Soil Conservation currently holds nearly \$4 million in reclamation bonds for approximately 970 sites. Operations which are run by County Engineering and Road Departments are considered self-bonded and are exempt from the bonding requirement.

Generally, in the course of a year, the Minerals section of the Bureau must process new license and site registration applications, process license and registration renewals and annual report information, assist the Attorney General's office in preparing case documentation against violators, advise and update the State Soil

(continued)

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Conservation Committee of all actions and intended actions against violators, travel throughout Iowa to conduct inspections of sand, gravel, clay, gypsum, and limestone mining operations, act as liaison between the Division of Soil Conservation and the mineral mine operators of Iowa, calculate reclamation liabilities on mine sites, evaluate reclamation activities on sites for completeness and compliance to 208, advise and assist mineral mine operators in complying with all requirements under 208, respond to citizen complaints regarding operator misconduct relative to 208, and other duties necessary to interpret and administrate Iowa Code chapter 208.

To accomplish this the Minerals section makes use of the following approximate personnel time;

1.0 FTE Environmental Specialist II  
0.3 FTE Administration

(State Minerals Inspector)  
(Clerk-typist, Bureau Chief,  
Division Administrator, and  
accounting staff)

The Division is not currently required to reimburse the Iowa Department of Justice for legal counsel provided.

Consideration must also be given to office and field supplies and general overhead costs. Some of the more essential supplies would be a personal computer and printer, computer software, topographical maps, plat maps, file and storage space, camera and equipment, a field vehicle, measuring tape, hand auger, shovel, hardhat, and work boots.

The Division currently expends approximately \$60,000 annually to administer statutory requirements for its non-fuel minerals program.

The following are my general observations and comments on Kansas Senate Bill 169.

Page 1, general Senate Bill 169 should be a mineral mining law rather than a surface mining law. Underground or dredging operations (unless these areas are required to complete some form of reclamation under other law) should probably not be excluded. Exclusion could provide an unfair advantage to these types of mines over 'surface' mines. Also, stockpile areas should probably be included in the "Affected land" definition. Processing and stockpiling areas associated with nearly all mine sites are influenced by erosion and are just as visually and environmentally wasted as the individual pits and quarries themselves and should be controlled and revegetated upon completion of mining. Variances may be granted on a case by case basis in situations where the property owner or operator can show reasonable and just cause for leaving a stockpiling area or processing area unreclaimed (eg. a feedlot, parking lot, building site, recreation, or other).

Page 1, section 3 Consider defining highwall. Is it all of the area above the working face of the mine or just the rock portion which is significantly more stable than the overburden materials? For erosion prevention and safety purposes the overburden above a rock cut should at least be stabilized.

Page 2, section 4, part A Exclude previously mined areas only if they are no longer part of an active site. By excluding areas mined prior to the effective date of this legislation, some stockpile and processing areas connected with active sites could be 'grandfathered in' and excluded from reclamation. An active site with ongoing stripping activities is an excellent opportunity to remove some of the unreclaimed acreage from the roster. Materials will continue to be moved at an active site, so take the opportunity to move them in a constructive manner.

Page 2, section 4, part B Requiring the reclamation of stockpiling and processing areas upon completion of mining probably would not unreasonably limit, restrict, or control an operators use of these areas.

Page 2, section 4, part C Unless reclamation of stockpile and processing areas is required by another

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state agency, these areas probably should be included by this legislation. As stated previously, these areas affect topsoil and are just as subject to the erosive forces of nature as are surface mines.

Page 3, section 5, part A If Iowa were to enact Iowa Code chapter 208 today we would consider a mining license fee of \$100 and a license renewal fee of \$25.

Page 3, section 7, part A, subsection 1 A survey map or aerial photograph of the area to be registered could be included as part of the registration application. This would help alleviate any misunderstanding of exactly what is to be included in the registration. You could also consider requiring that the submittal locate houses and buildings on adjacent properties and other features which might be sensitive to the proposed mining activities.

Page 3, section 7, part B This seems to be a repeat of the last part of section 7, part A (line 25).

Page 5, section 11, part A, subsection 1 Excluding high and banks from reclamation could be a source of excessive erosion or property damage. High sand banks are more erodible and tend to have less stability than quarry highwalls. This could be cause for the erosional loss of adjacent property into an old pit. An alternative could be the establishment of setback limits which would take into account the type of material being mined, the depth of the operation, and any preventive measures that the operator is willing to incorporate into his operation.

Page 5, section 11, part A, subsection 2 'Provide for the vegetation of affected lands...' is a somewhat inadequate term because it carries no mental image of establishing a viable vegetative cover. You might substitute 'Stabilize and revegetate affected lands...'.

Page 5, section 12, part B Consider defining a finite completion of mining. Does mining include removal of stockpiled material from the site long after the excavation of material from its natural deposit is completed? Many operators in Iowa put up large stockpiles of material at a site using mobile processing equipment and then may not come back for extraction purposes for several years. Defining mining with a 'cradle to grave' distinctness would cause less confusion on when jurisdiction actually ends.

Page 6, section 13, part C The director could be given a longer period of time in which to inspect any completed reclamation. Unless there are several inspectors or the agency is willing to pay for direct travel to and from a site without cost effective grouping of inspections, ninety day period of time would be insufficient. Consider also that a release request submitted in November would expire in February (hardly ideal travel or inspection conditions). Iowa has set a one year period for completion of inspections. Most are completed in two to three months although there are circumstances where carry over exceeds six months.

Page 6, section 15, part A Government securities seem to have too many problems associated with securing them to anyone but the actual purchaser. Today's changing banking laws also make this an especially difficult option. Keep it simple.

Page 6-7, section 15, part B Consider deleting bond minimums and maximums from the law. Bond minimum, however, is an excellent idea. Actual bond should be based on the costs that the agency might incur should the operator cease business under a worst case scenario. Bond on existing sites should probably be based, as in Iowa law, on the estimated cost of reclamation of each individual site. The cost of reclamation should be estimated on the basis of relevant factors including, but not limited to, topography of the site, mining methods, depth and composition of the mineral deposit.

Minimum bond could probably be set by the commission or the director under the rules and regulations of the agency. Maximum bond per acre is not a very workable idea. I have been to sites that, due to the amounts and types of materials present, an encroachment of the setback limits, or high erosion on the site, the estimated bond has approached \$10,000 plus per affected acre.

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Iowa has a \$2000 per site bond minimum established by rule. When an operator is opening up a previously undisturbed site, the bond for that site is placed at the greater of \$2000 or \$500 per acre to be affected in the first year. In the event of a registration transfer from one operator to another, the new operator must post the amount of bond that the old operator has on file for that particular site.

Page 7-8, section 19 If an operator is in violation the only course of action should not be a path to the attorney general's office and bond forfeiture. The agency may want to establish a penalty schedule based on several factors including, but not limited to, type of violation, degree of violation, and frequency of violations. The penalties might range from file warnings to administrative fines and may include registration suspension or cancellation, mining license suspension or revocation, and, ultimately, bond forfeiture proceedings.

Page 8, section 20 Besides dropping the maximum bond limit, this is probably one of the more important change recommendations I can make. I strongly urge that the sentence (lines 7-9) 'Forfeiture of the operator's bond shall fully satisfy all obligations of the operator to reclaim affected land covered by the bond' be dropped from this bill.

Consider a situation where an operator is carrying a bond of \$5000 on a site. (Assume for argument that the bond maximums have also been dropped). The inspector visits the site and finds that, since his last visit, the operator has dumped 10000 tons of asphalt material on site without stripping back the topsoil, stripped an additional four acres of topsoil and overburden, piled up 25000 tons of crushed limestone, and excavated a 30 foot deep highwall that encroaches ten feet on a public highway right-of-way line for over 400 feet. This doesn't even include the disturbances on which the original \$5000 bond is based. The inspector estimates the amount of bond necessary to complete reclamation at \$65,000. The agency directs the operator to increase his bond to the desired limits. The operator fails to comply. The agency gives a 90 day notice, which the operator ignores. The agency threatens to revoke the operators license and registration. The operator still refuses to conform. If the forfeiture phrase remains as part of this bill that operator could conceivably walk away with no further obligation for reclamation other than the \$5000 bond. Unless the fine structure could be guaranteed to cover situations like this, the agency could get "stuck" with \$60000 worth of reclamation or, more likely, the site reclamation may remain uncompleted and the highwall hazard remain a state liability.

Page 8, section 21, part A & B A very good section to include. An administrative fine structure which is established by law and can be expanded upon under rule is a good idea provided, however, that the fines are deposited in an agency fund for use toward the minerals program. These funds could be used toward reclamation of pre-law sites, as interest free loans or cost share incentives toward ongoing reclamation at active sites, as program expenses for equipment or personnel, or as seed money for a state sponsored bond pool.

I hope that my previous suggestions have been of some help to the committee. Should you have the need to clarify any of the above information or have any additional questions please feel free to contact me at the number listed below. I thank you again for the invitation.

Sincerely,



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