

Approved: Carl Dean Holmes
Date 2-14-94

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

The meeting was called to order by Chairperson Carl Holmes at 3:30 p.m. on January 31, 1994 in Room 526-S of the Capitol.

All members were present except:

Committee staff present: Raney Gilliland, Legislative Research Department
Dennis Hodgins, Legislative Research Department
Mary Torrence, Revisor of Statutes
Shirley Wilds, Committee Secretary

Conferees appearing before the committee: Representative Jim Slattery, U.S. Congress
Chris McKenzie, KS League of Municipalities
Dennis Schwartz, Kansas Rural Water Association
Dr. Robert C. Harder, KS Health and Environment
Larry Shannon, City of Topeka
John Gottschamer, President -KS Wildlife Federation
Charles Jones, KS Health and Environment
William Craven, KS Sierra Club; KS Natural Resource Council

Others attending: See attached list

Chairperson Holmes called the meeting to order.

Hearing on HCR 5030:

Congressman Jim Slattery. (See Attachment #1) In his opening remarks, Congressman Slattery commended this Committee for holding hearing on the important issue of safe drinking water, and the Committee introduction **HCR 5030**. He stated if this Resolution is passed it will send a message to Congress the importance of this legislation and its reforms to the State of Kansas.

Congressman Slattery acknowledged some of the background information furnished to the Committee by Shaun McGrath on January 26, reiterating some key points. Further, he told the Committee the purpose of the Slattery/Bliley bill (HR 3392) is to learn from the experience gained during the last eight years since the Act was last authorized, and reform the law so that limited public resources are not wasted on negligible benefits, but rather focused on the greatest threats to a system's drinking water supply.

As of February 1, Congressman Slattery said 13 more U. S. House members' names will be added to the growing list of cosponsors for HR 3392, bringing the total to 105 in less than two months time. In addition, the bill is endorsed by state and local government officials, public health officials, and both the rural and metropolitan water systems' associations. Mr. Slattery has scheduled a meeting for February 2 among environmental groups, the coalition of organizations backing HR 3392, the EPA, and the majority and minority staffs of the Committee and Subcommittee with jurisdiction over the Act. It is his intention to pursue dialogue with all interested parties to ensure that identified problems are appropriately addressed, and appreciates the working relationship he enjoys with this particular Committee.

Mr. Slattery assured the Committee that the goal of his legislation patterns **HCR 5030**. He explained the Resolution would memorialize Congress to "amend the Safe Drinking Water Act in such a manner as will permit state, county and city government to focus their resources on issues which threaten public health. It will also provide flexibility in meeting the real health needs of its citizenry." He urged Committee members to pass favorably **HCR 5030**, which will send Congress the message that the Safe Drinking Water Act (as well as its reform) is important to the members and their constituents, thereby strengthening Kansas' role in affecting legislation which eventually becomes law.

Congressman Slattery will remain available to the Committee, providing any additional assistance or

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES, Room 526-S Statehouse, at 3:30 p.m. on January 31, 1994.

information they might need.

Chris McKenzie. (See Attachment #2) Speaking on behalf of 540 cities, Mr. McKenzie told the Committee **HCR 5030** and Slattery/Bliley Resolution (and other related legislation by Congressman Pat Roberts) addresses concerns of having little local flexibility in protecting public health. He said these measures will introduce some much needed balance and common sense into the regulatory process by amending the Safe Drinking Water Act to:

- protect drinking water quality more effectively by changing the standard setting process to allow EPA to consider risk reduction benefits, as well as costs;
- replace the requirements to regulate 25 new contaminants every 3 years with a requirement to regulate contaminants that are of public health concern and actually occur in drinking water; and
- allow states to establish monitoring requirements that are practical, affordable and which reflects the conditions in a particular community.

Mr. McKenzie urged the Committee to support HCR 5030 and to become active in the effort to streamline and reform this important law. (He provided a flow chart depicting options for qualifying for small systems, information obtained from the EPA and KDHE as of August 4, 1993.)

Dennis Schwartz. (See Attachment #3) Speaking on behalf of 270 rural and public wholesale water districts in 225 cities across the state, Mr. Schwartz urged Committee members to give favorable action to **HCR 5030**, which would, in turn, urge Congress to amend the Safe Drinking Water Act as specifically proposed by HR 3392. He feels confident to relay from all public water systems in Kansas that their hope is that HR 3392 will be approved by Congress, which holds the future to many communities. He added that HR 3392 will enable necessary changes to be made without jeopardizing public health.

Mr. Schwartz recommended modifications to **HCR 5030** on Lines 9,16, 20,28 and 36, changing state, county and city governments to "public water supply systems."

Mr. Schwartz provided copies of letters sent to Congressmen Glickman and Roberts and Congresswoman Meyers requesting their cosponsorship and support of HR 3392, which letters were signed by numerous interested and involved departments and associations in Kansas.

Robert C. Harder. (See Attachment #4) Dr. Harder said KDHE supports **HCR 5030** in concert with HR 3392. He urges swift consideration and favorable action as Congress seeks to re-authorize the Safe Drinking Water Act.

Larry Shannon. (See Attachment #5) Mr. Shannon is Acting Superintendent for the City of Topeka Water Division and also urged passage of **HCR 5030**, enhancing the support of HR 3392. He added that the bill will replace the requirement to regulate 25 new contaminants every three years with a requirement to regulate only those contaminants that are of public health concern and occur in drinking water. Also, it will require the EPA to identify the best available technology for small, medium and large systems.

John Gottschamer. (See Attachment #6) Mr. Gottschamer reported to the Committee that the 5,000 members of the Kansas Wildlife Federation recognize the dilemma that the Safe Drinking Water Act amendments have placed on public water supply systems. He said the regulations are too inflexible and another example of the numerous and unnecessary mandates facing Kansas' communities. Therefore, speaking for his Federation members, he said it is essential that the regulation-setting process for public water supply systems be amended. HR 3392 address that need, in attempting a realistic, workable solution to a major share of water supply problems currently existing within our state.

William Craven. (See Attachment #7) Mr. Craven stated this matter is important, though largely symbolic. He said that Safe Drinking Water Act standards are health and technology based, and should not be replaced by a vague cost-benefit analysis, explaining it is inherently subjective and politically manipulatable. Further, he said HR 3392 would weaken the EPA standards for drinking water, allowing many systems to readily get waivers of health standards and relax other rules. It would also remove the requirement that water suppliers remove most lead service lines that cause excessive lead levels in drinking water, and would dilute the current requirement that water systems in violation of health and testing standards notify their customers. Among several objections to **HCR 5030** and HR 3392, to name a few are:

- It eliminates granular activated carbon as the objective technical benchmark for water treatment performance.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES, Room 526-S Statehouse, at 3:30 p.m. on January 31, 1994.

- Replaces requirements that EPA review standards every three years and strengthen them when technology or science dictates, with a requirement to eliminate standards for contaminants if the pollutant "does not occur in public water systems at levels of public health concern."
- Provides funding to state agencies, but not to water systems. (Mr. Craven said a far better bill is HR 1701 introduced by Representatives John Dingell and Henry Waxman, which provides such assistance by authorizing a drinking water state revolving fund program.

Mr. Craven concluded by saying there are several environmental groups opposed to HR 3392. He reported there some organizations interested in childrens' issues and consumer issues also opposed.

Chairperson Holmes referred the Committee to written testimony handed out today from persons unable to personally attend.

Proponents: The Honorable Nancy Landon Kassebaum (See Attachment #8)

City of Wichita (See Attachment #9)

City of Lindborg (See Attachment #10)

Opponent:

Bob Eye, Independent candidate for Governor of Kansas (See Attachment #11).

Chairperson Holmes reminded the Committee that Thursday of this week is scheduled to work any and all bills and to meet with staff to work on any amendments they have planned.

Upon completion of its business, the meeting adjourned at 5:10 p.m.

The next meeting is scheduled for February 1, 1994.



GUEST LIST

Committee: Energy and Natural Resources

Date: January 31, 1994

NAME: (Please print)	Address:	Company/Organization:
Steve Hurst	Topeka	Kansas Water Office
RALPH GELVIO	Lawrence	PUAD
Charles & Gorge	LAWRENCE	KDHE
Karl Muldrew	Topeka	"
Paul Rupp	"	Ks Retiree Council
Jim Lantry	"	Western Resources
Larry D Shannon	Topeka	Topeka - KSAWWA
JOHN GOTTSCHAMER	KS WILDLIFE FEDERATION	TOPEKA, KS
Dob Lambly	KIDA	Topeka, KS
Obed Roe	Glen Elder	Glen Elder KS
Ken Roe	Glen Elder KS	
Michelle Taborn	Topeka	Ks Gov Consulting
Megan Carrolins	Liberal, KS	guest of the Chairman
Debbie Symon	Liberal, KS	
River Mothers	Liberal, KS	
Victor Symon	Liberal, KS	
Carolyn Symon	Liberal, KS	
Wendy Holmes	Liberal, KS	
Paul Royce	Lawrence	
David Leavor	Topeka	
Dennis Schwartz	Tecumseh	Ks Rural Water Assoc
Mark Crow	Topeka Leavenworth	KDHE

MEMBER:
COMMITTEE ON
ENERGY & COMMERCE
COMMITTEE ON
VETERANS' AFFAIRS
CHAIRMAN:
SUBCOMMITTEE ON
COMPENSATION,
PENSION, AND INSURANCE



Congress of the United States

House of Representatives

JIM SLATTERY
SECOND DISTRICT, KANSAS

WASHINGTON OFFICE
2243 RAYBURN HOUSE
OFFICE BUILDING
WASHINGTON, DC 20515-1602
(202) 225-6601
KANSAS OFFICES:
700 SW JACKSON
SUITE 803
TOPEKA, KS 66603
(913) 233-2503
1001 NORTH BROADWAY
SUITE C
P.O. BOX 1306
PITTSBURG, KS 66762
(316) 231-6040

TO: House Energy and Natural Resources Committee
FROM: Representative Jim Slattery
RE: Kansas House Concurrent Resolution No. 5030
DATE: January 31, 1994

Mr. Chairman and members of the Committee, I would like to begin my testimony by commending you for holding this hearing on the important issue of drinking water, and for allowing me to appear before you to explain my current efforts in Congress to reauthorize the federal Safe Drinking Water Act. I would also like to compliment you for introducing House Concurrent Resolution No. 5030, legislation which, if passed, would strongly signal to Congress the importance of this Act -- and its reforms -- to the State of Kansas.

Having been a member of this body prior to being elected to Congress, I can appreciate your frustrations with federal legislation which is unfunded, underfunded, or which creates problems along with the ones it solves. Thus, I believe it is appropriate, if not essential, for you and this Legislature, to

*Energy & Natural Resources
Attachment #1
1/31/94*

actively participate in the development of such federal policies which so impact your own governance.

Last year, this Committee established the important contribution the Kansas Legislature can make toward federal policy-making. By passing House Concurrent Resolution No. 5020, this Committee helped make Kansas a leading player in Washington, D.C., in the efforts to assist smaller landfill operators in compliance with the U.S. Environmental Protection Agency's (EPA) new solid waste landfill regulations. As evidence of Kansas' influence, the eventual rule proposed by the EPA closely resembled the recommendations by Chairman Holmes and the Kansas delegation.

Last week, Shaun McGrath of my staff appeared before you to explain the current efforts in Congress to reform the Safe Drinking Water Act, including my own bill, H.R. 3392, the Safe Drinking Water Act Amendments of 1993, which I introduced together with Representative Thomas Bliley of Virginia. Shaun discussed the problems water systems are now experiencing under the statute:

- * A rigid statutory requirement under the 1986 Amendments to arbitrarily regulate 25 additional contaminants every three years, which, we know now, diverts time, attention and resources from major public health risks, raises compliance costs, increases the complexity of monitoring and hampers

science-based decisionmaking.

- * An inflexible and overreaching monitoring requirement which amounts to a one-size-fits-all program despite vast differences between systems and the respective threats to their water supplies.
- * Underfunding with regard to both administration (primacy), and implementation (especially for smaller systems which bear a disproportionate share of the costs).
- * The law does not balance cost and risk. The EPA is required by law to set standards as close to zero risk as technologically possible, taking costs into consideration only for the largest water systems in the nation. This seriously discounts the enormous costs to be faced by the great majority of water systems. Moreover, EPA may not consider the risk reduction benefits of its standards and set them at a level representing a sound "regulatory buy." Indeed, there are standards in place or proposed for which there are very questionable and unquantified benefits.

The purpose of the Slattery/Bliley bill, H.R. 3392, is to learn from the experience gained during the last eight years since the Act was last reauthorized, and reform the law so that limited public resources are not wasted on negligible benefits,

but rather focused on the greatest threats to a system's drinking water supply. This would be accomplished through the following reforms:

- * Remove the requirement to regulate 25 new contaminants every three years and replace it with a system based on actual occurrence data.
- * Allow states to tailor monitoring requirements to particular circumstances, with flexibility and waivers more easily available.
- * Provide greater attention to the problems of smaller systems in complying with the Act by requiring the EPA to identify technology for small systems as well as large ones.
- * Make a commitment to substantially increase the federal support for this program, including both state costs of administration and water systems' cost of compliance.
- * Allow EPA to consider risk reduction benefits as well as costs in setting standards, and to pick an appropriate regulatory level.

Tomorrow, 13 more U.S. House members' names will be added to the growing list of cosponsors for H.R. 3992, bringing the total to 105 in less than two months time. The bill also enjoys endorsements from state and local government officials, public health officials, and both the rural and metropolitan water systems' associations. This support has assured that we will have a seat at the table when reforms for the Safe Drinking Water Act are discussed. Indeed, my office has begun this process by organizing a meeting on Wednesday, February 2, between environmental groups, the coalition of organizations backing H.R. 3392, the EPA, and the majority and minority staffs of the Committee and Subcommittee with jurisdiction over the Act. I intend to continue to work with all interested parties to ensure that any legislation which emerges appropriately addresses the problems we identify.

Before you for consideration today is House Concurrent Resolution No. 5030. This resolution would memorialize Congress to "amend the Safe Drinking Water Act in such a manner as will permit state, county and city government to focus their resources on issues which threaten public health and which will provide flexibility in meeting the real health needs of its citizenry." I assure you that this is indeed the goal of my legislation.

I urge you to pass H. Con. Res. 5030 in order to send Congress the message that the Safe Drinking Water Act -- as well as its reform -- is important to you and your constituents, and,

in order to strengthen Kansas' role in affecting the legislation which eventually becomes law.

In closing, I wish to reiterate that the working relationship forged between you and my office as a result of our work on Subtitle D is one which served well the citizens of Kansas. I welcome the opportunity to continue this cooperation on the very important federal reauthorization of the Safe Drinking Water Act.



League of Kansas Municipalities

PUBLISHERS OF KANSAS GOVERNMENT JOURNAL 112 S.W. 7TH TOPEKA, KS 66603-3896 (913) 354-9565 FAX (913) 354-4186

TO: House Committee on Energy and Natural Resources

FROM: Chris McKenzie, Executive Director

DATE: January 31, 1994

RE: HCR 5030

It is with enthusiasm and pleasure that I appear today as a proponent of HCR 5030 on behalf of the 540 cities that are members of the League of Kansas Municipalities. This measure addresses one of the priority concerns of city governments today--the "one size fits all" federal mandates that afford state and local officials little flexibility in protecting public health. The federal legislation that has been introduced to address this concern, including H.R. 3392 by Representative Slattery and Representative Bliley and other legislation on this subject by Representative Pat Roberts, will introduce some much needed balance and common sense into the regulatory process.

Last week Shaun McGrath explained quite clearly how the 1986 amendments to the Safe Drinking Water Act (SDWA) set in place a regulatory system at the federal level for drinking water quality that assumes all areas of the country are threatened by the same contaminants and that is absolutely blind to a community's ability to pay for compliance with standards that may not even address potential risks in the community. The National League of Cities presently describes the SDWA as the most seriously flawed federal environmental statute due to its unworkable standards, cumbersome monitoring requirements, and arbitrary contaminant selection process. H.R. 3392 would inject a much needed breath of fresh air into the regulatory process by amending the SDWA to:

- protect drinking water quality more effectively by changing the standard setting process to allow EPA to consider risk reduction benefits as well as costs;
- replace the requirement to regulate 25 new contaminants every 3 years with a requirement to regulate contaminants that are of public health concern and actually occur in drinking water; and
- allow states to establish monitoring requirements that are practical, affordable and which reflect the conditions in a particular community.

Last summer the League and the Kansas Rural Water Association sponsored ten seminars around the state to explain the SDWA water monitoring requirements applicable to cities and RWDs. The over 1,000 persons in attendance were in shock over the complexity of the requirements and the lack of resources from the state and federal levels to assist with implementation. Moreover, it became clear that the requirements are so complicated that even the resourceful EPA and KDHE representatives who were present were at times at a loss to explain them. In the instance of one provision which offered limited help to smaller systems serving less than 3,300 persons, the League developed a flow chart to explain the decision process (attached).

While public health must always be our mutual and highest concern, it is time to breathe some common sense and reasonableness into the SDWA. We urge you to support HCR 5030 and to become active in the effort to streamline and reform this important law. Thank you.

*Energy: Natural Resources
Attachment #2
1/31/94*

Options For Qualifying For Small Systems (<3,300 persons) Exemption For VOC/SOC Monitoring

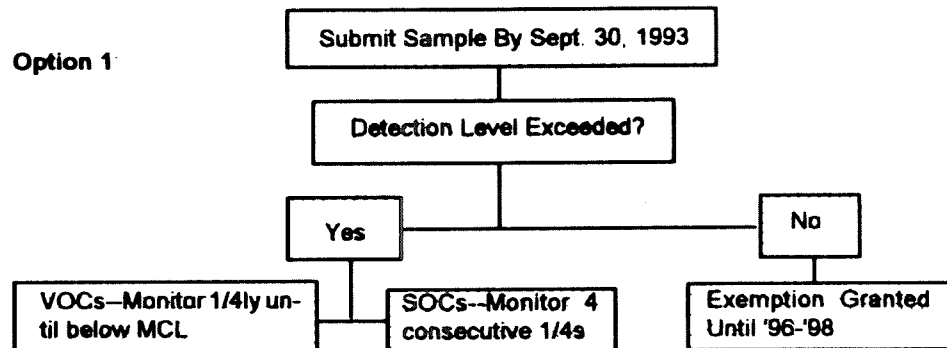
Option 1: Contact with EPA certified lab and send samples to lab by September 30, 1993. This is best option for systems relying solely on groundwater. If followed and no VOCs or SOCs detected, additional monitoring not necessary until next three-year period of 1996-1998. If organic chemicals detected, begin quarterly monitoring.

Option 2: If unable to secure private lab testing services or if Option 1 not viable, follow KDHE proposed waiver procedures and take sample after October 1, 1993 (in May-June, 1994 if surface water/combined system) and submit to KDHE. If no VOCs or SOCs detected, additional monitoring not necessary until next three-year cycle of 1996-1998. If organic chemicals detected, begin quarterly monitoring. This option presumes EPA approval of the KDHE proposed waiver process. Approval is not expected until after October 1, 1993.

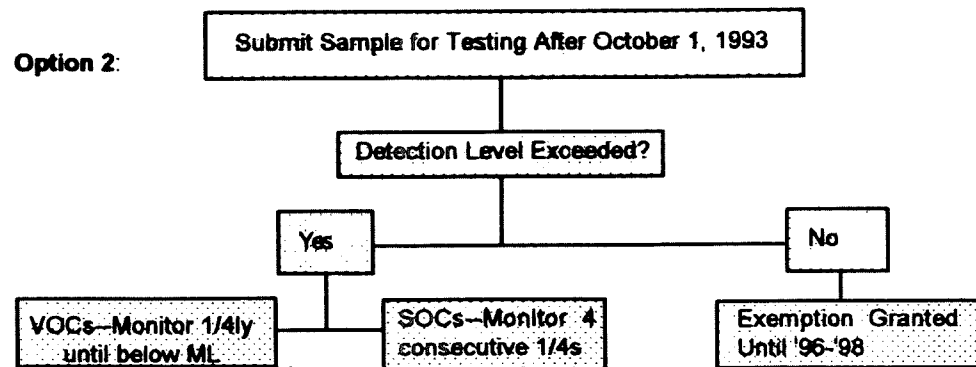
Option 3: Do not seek small system exemption, and begin full scale monitoring.

Groundwater Systems

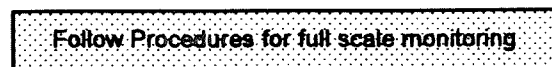
Option 1:



Option 2:



Option 3:

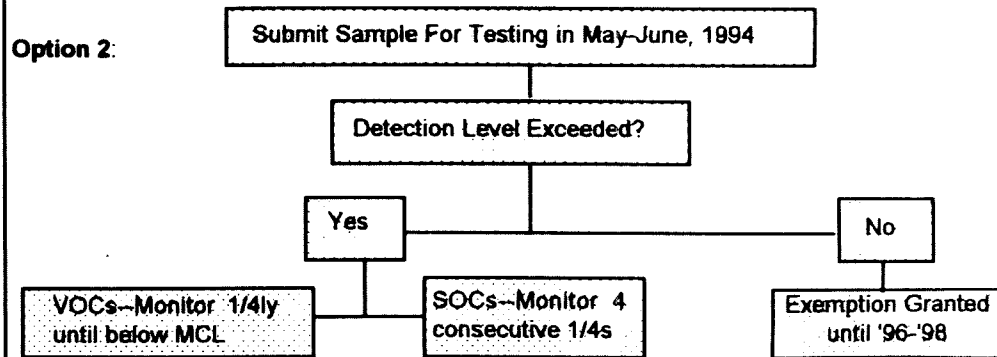


Surface Water/Combined Systems

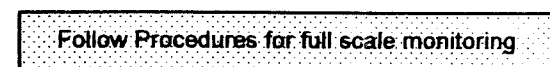
Option 1:

This Option not viable since EPA has determined samples for purposes of exemption must be taken between May-June, 1994

Option 2:



Option 3:



Note: This represents the best information from the EPA and KDHE as of August 4, 1993.
Source: League of Kansas Municipalities

2-2
GMR



P.O. Box 226 • Seneca, KS 66538 • 913/336-3760 • FAX 913/336-2751

January 31, 1994

TO: House Committee on Energy and Natural Resources

Mr. Chairman and Members of the Committee, I come before you today as a member of the Board of Directors of the Kansas Rural Water Association. The Kansas Rural Water Association has active membership of 270 rural and public wholesale water districts and 225 cities across the state. The Kansas Rural Water Association provides on-site technical assistance to public water supply systems, including the cities and rural districts, trailer courts, school districts that have their own water systems and many other privately owned public water systems. I am also a member of the Board of Directors of the National Rural Water Association which represents over 15,000 water supply systems.

The Kansas Rural Water Association and our members urge you to give favorable action on House Concurrent Resolution No. 5030 to urge Congress to amend the Safe Drinking Water Act as specifically proposed by HR 3392. HR 3392 has the unanimous support of all public water supply organizations. It also has support of other organizations such as the National Governors' Association, the Association of State Drinking Water Administrators and the National League of Cities. I'm confident to say all public water systems in Kansas hope that HR 3392 will be approved by Congress. Truly, HR 3392 holds a key to the future of many communities. It's imperative that the regulation setting process for public water systems be amended.

For example, HR 3392 will remove the requirement that EPA establish standards for 25 new contaminants every three years. Instead EPA would be required to only regulate those contaminants that are of public health concern and which occur in drinking water.

HR 3392 will allow EPA to consider public health risk reduction benefits in setting contaminant standards. Currently the standards are set in a two-step process. The first is to set a contaminant goal at a level at which no known health effects occur. The second step is to set the standards as close to the goal as treatment techniques allow. HR 3392 also will require EPA to identify best available technology for small, medium and large systems. The current standards are based on what a system of one million users can afford.

As of Friday, January 28, 1994, HR 3392 had more than 100 Congressional co-sponsors. Many other members of Congress indicate they will support the legislation. The Kansas Rural Water Association asks that you approve of HR 5030 so the State of Kansas sends Congress the strongest request possible to support HR 3392. Cities and rural water districts, private systems, school districts and other public water systems need relief from the way the current Safe Drinking Water Act impacts and will impact them in the future. HR 3392 will enable those changes to occur without jeopardizing public health.

I am pleased to provide copies of a letter sent to Congressman Glickman, Congresswoman Meyers and Congressman Roberts which requests their co-sponsorship and support of HR 3392. This letter is signed by the Kansas Rural Water Association; Mr. Charles Jones, Director, Division of Environment, KDHE; Chris McKenzie, League of Kansas Municipalities; Larry Nelson, Kansas Section American Water Works Association; David Waldo, Kansas Representative, Association of State Drinking water Administrators; Mr. Wade Culwell, President of the Kansas Engineering Society.

Respectfully,

Dennis Schwartz
Director: Kansas Rural Water Association
National Rural Water Association

Energy & Natural Resources
Attachment #3
1/31/94

January 4, 1994

Congressman Pat Roberts
1110 Longworth House Office Bldg.
Washington, DC 20515

RE: HR 3392

Dear Congressman Roberts;

We are jointly writing to you to request your co-sponsorship and support of HR 3392, legislation to reauthorize the Safe Drinking Water Act. HR 3392, introduced jointly by Congressmen Slattery and Bliley, has the unanimous support of a coalition of municipal and industry interests, including the National Governors' Association, Association of State Drinking Water Administrators, National Rural Water Association, American Water Works Association, National League of Cities, among others. All these organizations had input into drafting HR 3392.

The last major reform of the Safe Drinking Water Act (SDWA) was in 1986. Since its original adoption in 1975, the Environmental Protection Agency established standards for just 23 drinking water contaminants. The 1986 Amendments mandated that the EPA promulgate 83 standards within three years, and 25 new standards every three years thereafter.

Although the SDWA certainly has provided improved drinking water, it has created many inflexible requirements which hinder the state primacy agencies.

We ask your support for HR 3392 because this legislation will allow EPA to consider public health risk reduction benefits in setting contaminant standards. Current standard setting is a two step process. The first step is to set a contaminant goal at a level at which no known health effects occur. The second step is to set the standard as close to the goal as technology treatment techniques allow.

HR 3392 will also replace the requirement to regulate 25 new contaminants every three years with a requirement to regulate only those contaminants that are of public health concern and which occur in drinking water.

HR 3392 also will require EPA to identify best available technology for small, medium and large systems. The current standards are based on what a system of one million or more can afford.

HR 3392 will allow states to establish monitoring requirements that reflect the contaminant threats in a particular community. Currently, the SDWA has one standard for the entire country.

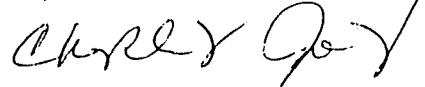
HR 3392 will allow for a variance if the water system is unable to afford the treatment technology and has no other immediate options. The state and EPA may approve the use of an interim, alternative technology that would not meet the standards but would protect against unreasonable risk until the system is able to comply with the standard.

HR 3392 will not weaken drinking water standards. HR 3392 correctly addresses the problems that public water systems -- especially small towns and rural water districts -- are experiencing under the current SDWA. We ask your consideration for co-sponsorship and support of HR 3392.

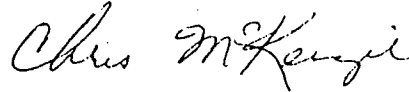
Sincerely,



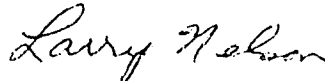
Dennis Schwartz
Director, Kansas Rural Water Association



Charles Jones
Director, Division of Environment, KS Dept. Health & Env.



Chris McKenzie
Executive Director, League of Kansas Municipalities



Larry Nelson
Chairman, KS Section, American Water Works Assoc.

 KS representative

David Waldo
Assoc. of State Drinking Water Administrators



Wade Culwell
President, Kansas Engineering Society

c: Governing Bodies and Membership:
League of Kansas Municipalities
American Water Works Association
Kansas Rural Water Association
Kansas Engineering Society

State of Kansas

Joan Finney, Governor



Department of Health and Environment

Robert C. Harder, Secretary

Testimony presented to
House Energy and Natural Resources

by
The Kansas Department of Health and Environment

House Concurrent Resolution 5030

I am Robert C. Harder, Secretary of the Department of Health and Environment. KDHE supports House Concurrent Resolution 5030, which

"urges Congress to amend the Safe Drinking Water Act in such a manner as will permit state, county and city government to focus their resources on issues which threaten public health and which will provide flexibility in meeting the real health needs of its citizenry."

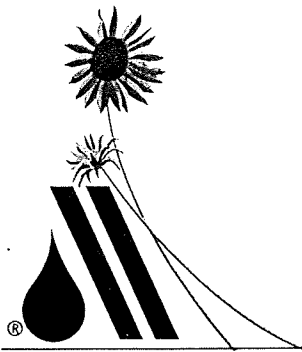
Americans served by large water systems continue to receive fine drinking water supplies at a very modest price. EPA estimates that the average residential customer of a large water system pays less than \$14 per year on water quality testing. On average, an estimated 95% of Kansas household water bills supports infrastructure which treats and distributes drinking water, with only 5% going to water quality testing. Unfortunately, these percentages can shift dramatically in the small communities which abound in Kansas. Of the total 1300 water supplies operating in this State, nearly two million people are served by the top fifteen systems, while 95% serve populations of less than 3300, and 67% serve populations of less than 500. When the new SDWA sampling requirements are applied by small systems, a significant per household increase in water rates can occur. For large systems, concerns have arisen about the sensibility of the SDWA: particularly in such areas as continued testing requirements for contaminants which never or no longer occur in Kansas waters; or the setting of Maximum Contaminant Levels (MCLs) which are of small benefit but potentially great expense.

Referenced in HR 5030 is HR 3392, Safe Drinking Water Act Amendments introduced by Representative Jim Slattery of Kansas and Representative Thomas Bliley of Virginia. KDHE applauds HR 3392 for its sensible approach to setting drinking water standards, and for its efforts to mitigate the impacts of drinking water regulation on small towns. The balance of pragmatism and protection embodied in HR 3392 ensures a drinking water program which is both effective and economically affordable. Toward those goals, KDHE supports HR 5030 and joins the Kansas Legislature in urging swift consideration and favorable action upon HR 3392 as Congress seeks to reauthorize the Safe Drinking Water Act.

Thank you for giving KDHE this opportunity to testify. We'll be happy to try to answer any questions you may have.

Testimony presented by: Robert C. Harder
Secretary, KDHE
January 31, 1994

Energy: Natural Resources
attachment 4 1/31/94



Kansas Section-American Water Works Association

January 31, 1994

Chairman Carl D. Holmes
House Energy and Natural Resources Committee
Capitol Building, Room 115S
Topeka, Kansas 66603

Re: House Concurrent Resolution No. 5030 - Elimination of
Certain Unfunded Mandates Under Safe Drinking Water Act.

Dear Chairman Holmes:

I am Larry Shannon, Acting Superintendent for the City of Topeka Water Division. I am also a trustee on the Board for the Kansas Section of the American Water Works Association.

The Kansas Section of the American Water Works Association along with other organizations, including the Kansas Rural Water Association, League of Kansas Municipalities, Association of State Drinking Water Administrators, and the Kansas Engineering Society, wrote letters to Representatives Pat Roberts, Dan Glickman, and Jan Myers asking them to co-sponsor and support House Resolution 3392, the Slattery/Bliley Bill, which reauthorizes the Safe Drinking Water Act.

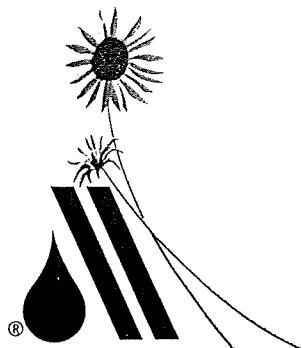
Today, I urge you to pass House Concurrent Resolution 5030. Your action will enhance the support already shown for the Slattery/Bliley bill.

House Resolution 3392 would allow the EPA to consider public health reduction benefits in setting contaminant standards. Currently the standard is set as close to zero as feasible regardless of whether there is an actual benefit to public health in doing so and with no regard to cost.

The bill will replace the requirement to regulate 25 new contaminants every three years with a requirement to regulate only those contaminants that are of public health concern and which occur in drinking water. The bill will also require the EPA to identify the best available technology for small, medium, and large systems.

Energy & Natural Resources
Attachment #5

1/31/94



Kansas Section-American Water Works Association

Representative Carl D. Holmes
January 31, 1994
Page 2

The goal of both water utilities and regulators is to provide safe drinking water for everyone. The legislation proposed by Representatives Slattery and Bliley supports this goal while allowing reason to enter the regulatory process.

Thank you for the opportunity to offer testimony in support of House Concurrent Resolution 5030.

Sincerely,

Larry D Shannon

Larry D. Shannon
Trustee
Kansas Section - AWWA
PO Box 1518
Topeka, Kansas 66601

LDS:dc

Kansas Wildlife Federation, Inc.

P.O. Box 5715 200 S.W. 30th Street Suite 106
Topeka, Kansas 66611 Phone 913-266-6185

An Affiliate of the National Wildlife Federation

January 31, 1994

TO: House Committee on Energy and Natural Resources

Mr. Chairman and Members of the Committee, I am John Gottschamer, President of the Kansas Wildlife Federation. The 5000 members of the Kansas Wildlife Federation recognize the dilemma that the Safe Drinking Water Act Amendments have placed on public water supply systems. These regulations are too inflexible and another example of the numerous and unnecessary mandates facing Kansas' communities.

The public's concern for safe drinking water is certainly legitimate. In my professional capacity of working with public water supply systems for almost 20 years, I know that locally elected officials, operators, and managers of these systems hold sacred the delivery of safe drinking water to their customers.

However, the public becomes confused when the media highlights any problem in a public water supply system - many of which have no bearing on the quality of the product being produced. I suspect that public water supply systems are held to higher standards than soft drink dispensers at the local diner.

HR 3392 is supported by major water supply organizations such as the American Water Works Association, and the National Rural Water Association. The National Wildlife Federation, of which KWF is an Affiliate Member, has indicated their opposition to this bill. The Kansas Wildlife Federation can not concur with the position taken by the National Wildlife Federation.

I understand also, that the National Education Association is opposed to this bill because of possible lead contamination in public water supply systems. They should know that all systems are already monitoring for lead and copper, and that HR 3392 has no effect on this monitoring. I have to assume that lack of support from these two organizations is based on a misunderstanding or mis-interpretation of the bill.

As President of the Kansas Wildlife Federation, I encourage the members of this Committee, and the Kansas Legislature to consider the problems that the inflexibility of the current Safe Drinking Water Act places on the state agency with primacy for enforcement, and especially upon the state's public water supply systems. There is no question that too much time and too many resources are being squandered on maintaining compliance with these burdensome regulations. We believe, that the flexibility that HR 3392 will provide, is necessary to ensure that the true risks to public health are addressed.

It is essential that the regulation-setting process for public water supply systems be amended. HR 3392 addresses that need in that it attempts a realistic, workable solution to a major share of the problems

*Energy & Natural Resources
Attachment #6
1/31/94*

currently faced by our state's public water supply systems.

In closing, the Kansas Wildlife Federation encourages your support of House Concurrent Resolution 5030.

Sincerely,

John Gottschamer, President
KANSAS WILDLIFE FEDERATION



SIERRA CLUB

Kansas Chapter

Testimony of William Craven
Legislative Coordinator,
Kansas Natural Resource Council
and
Kansas Sierra Club

Statement Opposing HCR 5030

House Energy and Natural Resources Committee
January 24, 1994

Thank you, Mr. Chairman, for an opportunity to testify on this important--though largely symbolic--matter. My sense is that the committee is prepared to advance this resolution largely in the spirit of opposing federal mandates. I am not dumb enough to stand in front of a speeding train, but just before the train passes, I'd like to make a few points, then jump out of the way.

First, I disagree with the first premise of this resolution that claims that protection of the public health and welfare is the primary concern of state and local governments. Second, I disagree with the second premise of the resolution that the Safe Drinking Water Act has diminished the ability of local units of government to protect their citizens health. Also, the Safe Drinking Water Act may be underfunded, but by no means is it unfunded. Third, I disagree that this particular mandate provides "little or no benefit to public health," as the resolution states, and I disagree that H.R. 3392, the Slattey-Bliley bill, will be more effective in protecting the public health than the current form of the act, which is also a premise of the resolution.

The Safe Drinking Water Act standards are health and technology based, and should not be replaced by a vague cost-benefit analysis. This is inherently subjective and politically manipulatable.

H.R. 3392 would weaken the EPA's standards for drinking water, and allow many water systems to readily get waivers of health standards and relax other rules. It would also remove the requirement that that water suppliers remove most lead service lines that cause excessive lead levels in drinking water, and would dilute the current requirement that water systems in violation of health and testing standards notify

Energy & Natural Resources
Attachment #7

1/31/94

their customers. Currently, EPA can tell water suppliers what what must be in those notices.

The SDWA makes clear that all consumers of water are to be protected from unreasonable risks to public health, and to be assured water as close as possible to a level determined to provide an adequate margin of safety from adverse health effects. The act calls for 83 maximum contaminant levels to be created by 1989, and for 25 additional contaminants that "may have any adverse effect on the health of persons and which [are] known or anticipated to occur in public water systems" to have standards promulgated every three years thereafter. This is not just an arbitrary 25 chemicals, but 25 contaminants that EPA has reason to believe might be in the water. Last week, you were erroneously told that standards for 25 "potentially unnecessary" contaminants would be added every three years. By the way, even with these deadlines, it took EPA until 1992 to issue the first group of standards.

To help place these numbers in context, it may be helpful to know that there are currently about 600 registered active ingredients for pesticides. Also, the proposed Kansas Water Quality Standards will set numerical criteria for about 225 substances.

The reason it is important to have federal standards was made crystal-clear last summer, when the parasite cryptosporidium was found in Milwaukee. Forty people died. EPA knew of the parasite's risks, but lacked sufficient funding to issue a standard under the Safe Drinking Water Act.

By contrast, H.R. 3392 limits the definition of contaminant to those substances that occur at levels of "public health or welfare concern." This phrase is obviously susceptible to many interpretations, and is likely to spur extensive litigation.

Also, last week you heard that Portland, Maine, was required to test for a chemical used only in Hawaii. This was advanced as an example of the alleged inflexibility of the current law.

It's time for a reality check. That herbicide is DBCP (dibromochloropropane), which was first banned in California for causing sterility and cancer in workers. It was used on 40 crops all over the nation until 1979 when its use was restricted to pineapples in California. It was finally banned because of its cancer-causing properties and other health effects, and groundwater contamination problems. It is a very persistent chemical and has been detected in 15 of the 24 states where someone has looked. In nine of those states, it

exceeded the MCL. So it is not unreasonable to look for it wherever it was used.

Kansas has a similar experience with chlordane. It was banned since 1988, but this year a fish advisory for the Kansas and Arkansas Rivers was re-issued and expanded. Chemicals just don't go away because government tells them to.

This next section briefly discusses how standards are set under the Safe Drinking Water Act. The main point is that costs are considered in setting these standards, and that there are ways for communities to obtain variances and exemptions from the Act.

Non-enforceable maximum contaminant level goals (MCLG) are established both for carcinogens and non-carcinogens. For carcinogens, the basic rule is that any level of exposure increases the likelihood of contracting cancer, and thus the MCLG is usually zero. For Class C (possible human) carcinogens, like atrazine, the standard is more flexible.

The MCLG for Class C carcinogens and non-carcinogens is based on an estimated reference dose which means a dose likely not without appreciable risk of adverse health effects during a lifetime. The standard is designed to protect a 70 kg person drinking 2 liters of water per day for 70 years. It does not take into account the greater sensitivity of children or others, the dermal exposure from bathing, synergism or additive effects of other contaminants, or multiple doses from other exposures to the same contaminant in food, air, or soil.

Enforceable maximum contaminant levels are then created and MCL's are required to be as close as feasible to the MCLG. "Feasible" is defined by statute as the level that may be achieved "with the use of the best technology, treatment techniques, and other means which the [EPA] finds, after examination for efficacy under field conditions and not solely under laboratory conditions, are available (taking cost into consideration.)"

EPA takes into account (1) the removal efficiencies of technology, compatibility with other water treatment processes and wide availability; (2) whether the MCL is achievable with large systems and relatively clean raw water sources; (3) the affordability to regional and large water systems and total national compliance cost; (4) monitoring reliability; and (5) whether the level is protective of the public health. For carcinogens, this means a maximum lifetime cancer risk of less than one in ten thousand to one in a million.

EPA may decide not to establish the MCL and instead require specified treatment if ascertaining a protective MCL is too difficult or expensive.

H.R. 3392 replaces this technology-based requirement of MCL's with a cost-benefit analysis. It also allows "watershed protection" and "pollution prevention" to be considered as appropriate technological treatments without setting standards for them. In fact, in this regard, the proposal confuses the pollution prevention goals of the Clean Water Act with the requirements which govern water suppliers.

Those who support this act should make it clear that they do so on largely economic grounds. I have heard the comment that local units of government simply can't afford to comply with the Safe Drinking Water Act. I concur that the costs of the Act are borne disproportionately by smaller water systems, but I doubt that the committee is aware of how much flexibility there is in the existing act.

Under existing law, communities which can't meet the maximum contaminant level of a given contaminant can obtain a variance, if that will not result in an unreasonable risk to the public health. Variances can be granted if the water supplier can demonstrate that compliance isn't necessary or that another technique, which will be used, is "at least as efficient" in removing the contaminant.

H.R. 3392 changes this to allow water systems to conduct public education and notification, rather than treat their contaminated water. It also says that variances can be obtained for systems that "cannot afford" to treat their water using the best available technology for their system size. This would allow even the largest systems to argue that they can't afford to treat their water. This proposal also eliminates EPA oversight of variances.

Exemptions from compliance with the MCL's can be granted "due to compelling factors" including cost. Exemptions require eventual compliance, notice, and opportunity for hearing, and may not result in unreasonable risks. Exemptions are effective for one year, with the possibility of extension for up to three years. Repeated exemptions are available for small systems (those with fewer than 500 connections) under some circumstances.

Compared to the proposed new standard setting mechanism in H.R. 3392, the exemption and variance system is preferable because it encourages water systems to conserve water and to remove sources of pollution. Second, exemptions are preferable to various tiers of standards because existing law requires a commitment to eventual compliance with the current MCL, and the exemption law requires public participation in the decision to temporarily relax the standards. Finally, the

exemption system retains the principle that everyone is entitled to safe drinking water.

I also disagree with the statement that the environmental community is supporting most of H.R. 3392 except for the standard-setting provision. First, it is unclear how to separate the standard-setting provision with the rest of the Safe Drinking Water Act. Second, it is unwise to restrict the new standards to chemicals that are already known to occur in the drinking water. H.R. 3392 does not address the many new chemicals which are developed annually by industry.

Other problems with this proposal:

- It eliminates granular activated carbon as the objective technical benchmark for water treatment performance.

- It eliminates the deadlines for EPA to issue new standards for high-risk contaminants.

- It weakens the standards for some contaminants and undermines the law with regard to disinfection by-products.

- It eliminates the current requirement that systems comply with standards within 18 months after issuance without a case-by-case extension. Without that requirement, there never would have been the move to lessen atrazine in the Delaware River Basin.

- Extends to 1997 the current deadline for water systems to disinfect their water. This would overturn a court order under which EPA must now issue disinfection rules for groundwater systems.

- Replaces a requirement that EPA review standards every 3 years and strengthen them when technology or science dictates, with a requirement to eliminate standards for contaminants if the pollutant "does not occur in public water systems at levels of public health concern."

- Weakens the public notice requirements and the citizen suit provisions.

- Allows any state to "tailor monitoring requirements for any individual water system, or class of systems, based on occurrence data and other information available to the state," with no criteria for when this could be done and without EPA oversight.

- It provides funding to state agencies, but not to water systems. A far better bill is H.R. 1701, the Drinking Water and Public Health Enhancement Amendments of 1993, introduced

by Reps. John Dingell and Henry Waxman. It provides such assistance by authorizing a drinking water state revolving fund program.

•It's not wise to say water is safe when it's not--which is what it amounts to when you change standards based on costs--as opposed to allowing temporary variances or exemptions.

•It's not wise to eliminate monitoring requirements for contaminants that are not known to occur at levels threatening to public health.

•It's not wise to allow public water suppliers to avoid their responsibilities by calling someone else's pollution prevention efforts their treatment--even if those pollution prevention efforts are good.

•Finally, it's not OK to establish tiers of safe drinking water so that the "safe drinking water" in poorer or smaller towns is not equal to the water in larger or more affluent communities.

The main principle of the Safe Drinking Water Act is that water suppliers will work harder to protect the water they use. An example is the intervention of Johnson County Water District #1 in the atrazine hearings held by the former Board of Agriculture.

H.R. 3392 is opposed not only by environmental groups, including the National Wildlife Federation, Natural Resources Defense Council, Friends of the Earth, the Sierra Club, the League of Conservation Voters, the Environmental Working Group, Citizen Action, Greenpeace, the National Audubon Society, and the U.S. Public Interest Research Group, but also by the National Education Association, the National Parent-Teacher Association, the Alliance to End Childhood Lead Poisoning, the Consumer Federation of America, Consumers Union, and the National Consumers League.

You may not want your town to pay for compliance with the Safe Drinking Water Act. You can call it an unfunded mandate if you want. But I urge you not to couch this resolution in terms of strengthening the commitment to public health. That simply is not the case.

Thank you for the opportunity to express the views of the Kansas Natural Resource Council and the Sierra Club. I think I hear a train.

MYTH:

"Chemicals such as the 'pineapple pesticide' were never used in most of the United States, yet EPA needlessly requires every system in every State to monitor for such chemicals."

FACT:

The so-called "pineapple pesticide" is dibromochloropropane (DBCP), a pesticide that, in fact, has been detected in ground water and surface water supplies across the country.

■ DBCP was used on more than 40 crops including citrus, cotton, grapes, soybeans, peanuts, almonds, strawberries, and commercial vegetables prior to 1979. Its use was restricted by EPA to pineapples in 1979, then banned completely in 1987. The pesticide, considered a probable human carcinogen, is highly persistent and mobile in the environment and still shows up in water supplies.

■ DBCP was detected in 15 out of 24 states for which recent data were analyzed. Nine of these States reported levels exceeding the drinking water standard.

■ EPA encourages States to develop programs that assess drinking water susceptibility to contamination and allow monitoring waivers when there is a high degree of confidence that a chemical is unlikely to pose contamination problems.

*from EPA
1994*

United States Senate

WASHINGTON, DC 20510-1602

January 31, 1994

The Honorable Carl Holmes
Chairman, House Committee
on Energy and Natural Resources
State Capitol, Room 526-S
Topeka, Kansas 66612

Dear Carl:

I regret that I was unable to be with you today as your committee discusses the federal Safe Drinking Water Act. However, I do want to share a few thoughts on this subject.

All Kansans want safe drinking water, and our laws should guarantee that. Too often, however, Washington's penchant for overkill has led to regulation for its own sake, well beyond what is needed to protect human health and the environment. One size does not fit all in environmental regulation; what works in Los Angeles, for example, is ill-suited for Pretty Prairie. The result of these misfit requirements is a crushing, and environmentally unnecessary, burden on many of our Kansas communities.

I long have argued that environmental regulation must be based on solid science, not on political whims. Our resources, including money, are limited, and we must set priorities to use them wisely. For that reason, I have urged my Senate colleagues to incorporate risk-assessment into our environmental laws and to ensure that we target our efforts toward each community's most serious local problems.

These efforts are paying off. I would call your attention to two Senate legislative proposals that would benefit Kansas:

- S.Amdt. 334, to require risk and cost analysis: Nine months ago the Senate passed legislation that would require every regulation proposed by the Environmental Protection Agency to be accompanied by a risk assessment and cost-benefit analysis. Using the best science available, this analysis would show how dangerous the environmental problem is and how its risk to health and the environment compares with that posed by other hazards. This comparison will help ensure we address the real problems. This amendment passed the Senate 95 to 3; however, it has been stripped away in the House of Representatives, primarily by urban Democrats. I will urge its restoration by the conference committee.
- S. 993, to end unfunded mandates: I strongly support the Community Regulatory Relief Act, which now has a bipartisan list of 51 cosponsors in the Senate. Too often, the federal government writes the laws and then orders local governments

The Honorable Carl Holmes
January 31, 1994
Page 2

to write the check. It is no wonder in such a system that Congress churns out environmental requirements, such as mandatory monitoring for certain chemicals in drinking water supplies, that are simply unnecessary and that divert scarce local money from more pressing local needs. This bill would put an end to the practice of passing the financial buck and force Congress to consider the one thing that can ensure common sense in environmental laws--the price tag.

The Senate Committee on Environment and Public Works has begun reworking the Safe Drinking Water Act; the timetable for debate by the full Senate remains uncertain. I will continue to press to incorporate risk assessment and mandate reduction into our drinking water laws, as well as other environmental statutes.

As this effort continues, I look forward to working with you.

Warmest regards,



Nancy Landon Kassebaum
United States Senator

NLK:dw

THE CITY OF WICHITA



WATER & SEWER DEPARTMENT

OFFICE OF THE DIRECTOR
CITY HALL - EIGHTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202-1677
PHONE: (316) 268-4504

January 31, 1994

Kansas Legislature
House Energy and Natural Resources Committee
State Capitol - 526 South
Topeka, Kansas 66612-1504

Re: HCR 5030 - Safe Drinking Water Act Amendments

Attn: Carl D. Holmes, Chair, HENR

Honorable Legislators:

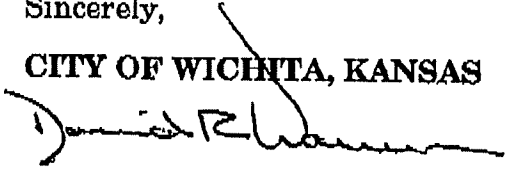
As Director of Wichita's Water and Sewer Department, I have an interest in legislation which impacts my business. HCR 5030, as I understand it, would urge the United States Congress to amend the bill reauthorizing the Safe Drinking Water Act to eliminate any unfunded Federal mandates. It is my opinion that many of the regulatory requirements relative to drinking water lack a reasonable benefit for the money that must be expended to achieve compliance.

At a minimum, drinking water standards should be developed on a basis of maximum contaminant levels for which a health risk has been proven, the availability and affordability of technology to address the contaminants of concern, and risk reduction benefits that justify the cost of treatment. At some point, reason must prevail in the interest of the the consumer. The question should not be, "Will the consumer pay for the cost of regulation?" Rather, you should be asking, "Will the consumer benefit from regulation proportionately to the cost they will be asked to bear?"

I urge you to support Congressman Slattery's and Biley's efforts to return reason to regulation.

Sincerely,

CITY OF WICHITA, KANSAS



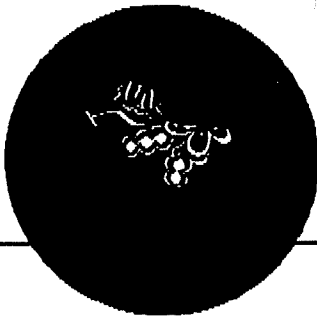
David R. Warren, Director
Water & Sewer Department

c: City Council
Representative Ken Groteweil
City Manager



Energy's Natural Resources
Made with Recycled Paper

Attachment #9
1/31/94



The City of Lindsborg

Little Sweden, U.S.A.

P.O. Box 70 • 101 South Main • Lindsborg, Kansas 67456

Phone 913-227-3355 • Fax 913-227-4128

January 31, 1994

Representative Carl B. Holmes
State Capitol
Room 115-8
Topeka, Ks. 66612

Dear Representative Holmes:

Today, your committee is scheduled to consider a resolution that is important to all Kansans. HCR 5030 is a resolution urging Congress to amend the Safe Water Drinking Act to eliminate unfunded mandates which require State, County and City governments to expend their resources to comply with federal safe drinking water quality standards which provide little or no benefit to public health. I urge you to support HCR 5030 for the following reasons:

1. Municipalities are currently required to test for 83 contaminants, some of which have never been detected in Kansas. In addition, public water supplies will be required to test for an additional 25 contaminants, every three years. The cost of testing is very expensive and will continue to be passed on to the consumer. I have enclosed some information to show the costs of performing the tests.
2. When the maximum contaminant levels are set, it is important to consider the threat that exists. There are some contaminant levels that have been set so low that the threat of a health risk is extremely remote. A person is far more likely to be killed in a traffic accident or struck by lightning than to suffer from a health problem associated with a contaminant at the levels set by the Environmental Protection Agency.

I believe that we all desire and demand safe drinking water. However, we need to apply a degree of reasonableness when setting regulations that impact all water suppliers, regardless of size.

Your support for this resolution is greatly appreciated.

Respectfully,

Gary L. Meagher
City Administrator

GLM/jl

Enc.

Energy: Natural Resources
Attachment 10
1/30/94

BOB EYE FOR GOVERNOR

Suite 209
701 S.W. Jackson
Topeka, Kansas 66603-3772
Phone: 913-354-1224

PRESS RELEASE, 3:30 p.m., January 31, 1994

For more information, contact Owen de Long, Media Coordinator,
BOB EYE FOR GOVERNOR, (913) 232-0464.

Bob Eye, Independent Candidate for Governor of Kansas and former General Counsel of the Kansas Department of Health and Environment, said today that HR 3392, the federal bill on which hearings to support are being held this afternoon by the Kansas House Energy and Natural Resources Committee, is a "child-killer bill" that will in effect create a two-tier hierarchy of drinking-water safety in Kansas: water for poor and politically less-powerful people, and water for rich and politically well-connected people. "Now which kind of water would you prefer to drink?" asked Bob Eye of every citizen of Kansas.

"To say that you've been drinking this water all your life and you're still here is about the equivalent of saying sometime early in the Nineteenth Century that you've had slaves all your life and everybody's doing fine so far," said Bob Eye. "In fact," continued Bob Eye, "Erik Olson, water-quality expert at the Natural Resources Defense Council in Washington, asserts that U.S. Representative Jim Slattery's amendment to the national Safe Drinking Water Act would 'gut' that 1974 law and potentially lead to increased cancer and birth defects nationwide. Indeed, said Olson, Slattery 'had nothing to do with writing the bill. It was presented to him by the water industry. Now he's got this dog of a piece of legislation hanging around his neck.'"

Bob Eye also said that Committee members and other legislators should keep firmly in mind that every major environmental organization in the United States, as well as the PTA, the NEA, and many other national as well as local child health and education groups, are adamantly opposed to this bill as detrimental to child health in particular and citizen health in general. "What is this huge alliance of environmental and educational organizations opposing the bill," asked Bob Eye, "except an extraordinary testimonial to the 'child-killer' aspects of this short-sighted and fatally-flawed amendment?"

Bob Eye says that legislators like Slattery, who try to sell this bill as a clever cost-benefit analysis to appeal to local economic concerns, are just selling their constituents a bucketful of toxics-laden riverwater and groundwater, in the false name of marginal local economy. "Why do you think we have national standards for drinking-water safety in this country?" Bob Eye asked rhetorically. "It's because otherwise, misinformed, misguided, or ambition-motivated people like those now sponsoring this bill will try to lower our safe drinking water standards for personal, political, or short-sighted, short-term economic gain. The failure to link the costs of toxics-prevention now with health-care costs later is one of our greatest mistakes. I for one -- if elected Governor in November -- plan to put an end to such penny-wise, pound-foolish thinking."

Energy, Natural Resources
Attachment # 11
1/31/94

Pretty Prairie making waves in D.C.

By Stephen Blair
The Hutchinson News

WASHINGTON, D.C. — Pretty Prairie's water woes are making quite a splash in the halls of government here.

The Reno County town of 600, whose water wells are contaminated with relatively high levels of nitrates, is viewed as a test case for a proposal that pits the need for public health against the cost of providing it.

The issue will take center stage when Congress considers controversial drinking water legislation proposed by U.S. Rep. Jim Slattery, D-Topeka.

The news travels like ripples pulsing outward from the first drop. It heralds a gathering storm. Slattery says his proposed amendment to the Safe Drinking Water Act would free small communities from budget-busting regulations that do little to increase water quality.

However, a national environmental group, the Natural Resources Defense Council, asserts that Slattery's amendment would cut the 1974 law and could lead to increased cancer and birth defects.

"People would be exposed to more contamination than they are today," NRDC attorney Erik Olson said.

A member of Slattery's Washington, D.C., staff, Shaun McGrath, disagreed.

"It's just a total mischaracterization of the intent of our bill," he said.

Pretty Prairie is under an Environmental Protection Agency order to reduce nitrate levels that currently are nearly double the accepted minimum.

Slattery's bill was drafted before the town's problems were an issue, and the bill's precise impact on the town isn't yet known, McGrath said. However, "this will affect every water system in the country," he said.



Slattery

Foes blast Slattery's water bill

Slattery introduced the bill with Rep. Thomas Bliley Jr., R-Va. Slattery insists their amendment would guarantee safe water for the nation and its children, but environmentalists aren't the only ones opposed to his plan.

The opposition has broadened to groups with a direct interest in children's health: the National Education Association and the Parent Teacher Association. McGrath attributes this broad opposition to one man at NRDC.

"Again, that was Erik Olson that went out and talked to them and gave them their side of the story," McGrath said. "It's a misrepresentation."

The PTA, NEA and Alliance to End Childhood Lead Poisoning sent a joint letter to Congress last month stating, "Take all steps within your power to reject efforts such as the bill recently proposed by Congressmen Slattery and Bliley ... The bill would require EPA to go back and rejustify its lead in drinking water rule ... using a vague, inherently subjective, benefit-versus-cost analysis."

Slattery's amendment has the endorsement of governmental groups including the National Association of County Health Officials. However, the PTA's opposition is particularly ill-timed for Slattery — he's considered front-runner in the race for Kansas governor, a fact not lost on the Kansas Sierra Club's pesticide spokesman, Terry Shistar of Lawrence.

"I guess it worries me that someone like Slattery who wants to be governor of Kansas is proposing legislation like this because it gives a lot of leeway to the states and makes me think that when he's governor, he'll want to use some of that leeway, which means it'll be used to weaken standards, because that's where the leeway is," she said.

Slattery's amendment would gut a 20-year act supported by Republican Presidents Richard Nixon, Gerald Ford and Ronald Reagan, Olson said. The act became law in 1974 and was amended in 1986.

"It's enjoyed almost two decades of bipartisan support," Olson said. "I think that speaks volumes."

President Bill Clinton's administration has also gone on record against the amendment, Olson said.

Nitrates in Pretty Prairie
It's possible the expense of current regulation will build support for the Slattery-Bliley amendment. Since October, Pretty Prairie residents have spent more than \$1,900 fulfilling a federal order to provide bottled water to households that request it, City Clerk Patti Brace said.

Twenty percent requested it in November, and fewer households requested it this month. Efforts to clean up city water are on hold while officials seek a variance from EPA rules, something that would be far easier to get under Slattery's proposal, which gives more authority to state officials.

Scientists say nitrates are dangerous, and especially for infants, McGrath said. Slattery and environmentalists agree about that, and differ only in their approach. However, Slattery doesn't have a position on whether adults should drink Pretty Prairie's water — that's an issue for health officials, McGrath said.

The NRDC, by contrast, argues that levels nearly double the minimum standard are too high for anybody. EPA regulations on Pretty Prairie rely on a 30-year standard for nitrates developed by the National Academy of Sciences, Olson said. Research is based on studies of human populations, not experiments on animals.

Nitrates break down, they are cancer-causing chemicals in water, Olson said. Furthermore, people vary considerably in their susceptibility, and some adults may be affected by chemicals that don't affect others, Shistar said.

Slattery's amendment
Under current law, the EPA must deal with pollution by setting regulations at zero risk to public health, Slattery said recently.

"While the 'zero risk' goal might be possible in a perfect world, it lacks justification in the real one," Slattery said.

Local governments end up spending limited financial resources "on potentially negligible risks to their drinking water, rather than on vital services like police and fire protection," he said.

Slattery's amendment would give the EPA administrator, currently Carol Browner, authority to use "cost/benefit analysis" to allow higher levels of contamination in drinking water if they produced a minimal increase in the risk to the public, McGrath said. That would save tax dollars.

"It's giving her the flexibility to set the level that most sensibly protects public health," he said. "... Public health is going to drive the standard setting, but we want to make sure that cost is considered in the equation, and right now, cost is not considered."

If the amendment passes, how would the EPA administrator balance health needs against the cost of providing it? Ultimately that would depend on the administrator's good judgment, McGrath said.

For Olson, that's not good enough. Officials need precise laws to keep them from being manipulated by those who value money more than their neighbors' health, he said.

Slattery believes that EPA would never trade away public health.

"The people like Erik Olson in the NRDC, although well-intentioned, are not very reasonable or responsible when it comes to that issue," McGrath said. "... Congressman Slattery wants the highest protection for drinking water that will cost the least amount of dollars."

Since nitrates are dangerous, the administrator might not allow increased long-term levels at Pretty Prairie under the amendment, McGrath said. However, the town could get a variance while officials try to solve the problem.

Dissension in the ranks
The EPA Safe Drinking Water Committee endorsed the concept of cost-benefit analysis against the objection of one of its own members who happens to be the NRDC's Olson, McGrath said. However, the committee hasn't endorsed the amendment itself. It now has 71 co-sponsors in the 435-member House, but a vote by the full House hasn't been scheduled.

Those who wrote the amendment consulted groups that have now endorsed it, McGrath said.

Such groups include the National Association of Water Companies. Olson thinks that's part of the problem — groups with an interest in keeping costs down are endorsing legislation that could harm public health, he said.

"He (Slattery) had nothing to do with writing the bill," Olson alleged. "It was presented to him by the water industry. Now he's got this dog of a piece of legislation hanging around his neck."

Slattery believes the amendment would make water safer because it eliminates expensive, useless mandates, thus freeing funds for protecting health, McGrath said. For example, utilities would be required to test only for hazards known to occur in their areas.

Opponents' alternatives
Many environmental groups insist that Slattery ought to be finding cost-effective ways to finance safe water in Pretty Prairie rather than rewriting the law that requires it. The most cost-effective approach is to find the source of pollution and prevent it from reaching water, Olson said.

"You don't have to treat it if it meets EPA standards," he said.

If that isn't feasible, new low-cost equipment can be used to modify a town's existing treatment equipment. It's called innovative package technology.

"Do people want to be endangering their health and the health of their children? You don't have to take a knife to the heart of this public health law to get a reasonable solution."

Olson and Slattery agree on at least one approach: Both support a pending bill to loan \$4.6 billion in low-interest federal funds to finance water purification equipment. As the money is repaid, it would revolve to other communities that need loans.

Environmentalists like Olson and Shistar go even farther. "I agree with these folks in Pretty Prairie that it's not fair to have to pay for taking out nitrates," Shistar said. "I think the people who profit from putting it in are the ones who should have to pay to take it out."

The source of the Pretty Prairie nitrates isn't certain. If fertilizers are the source, then users and manufacturers of fertilizers should have to pay, they said.

The issue can't be separated from proposals for a national health plan, because medical costs decline when people remove environmental health hazards, Shistar said. Slattery doesn't yet have a position on making polluters pay, but he'll never support anything that would hurt farmers' pocketbooks, McGrath said.

The vote in Topeka

In January, the Kansas House will send a message to Washington by voting whether to endorse Slattery's amendment. A legislator in a unique position to comment is Pretty Prairie resident Rep. Robert Krehbiel, a Democrat. Krehbiel endorses the amendment but acknowledges that his support is based on local relief rather than knowledge of the bill's wide-ranging effects.

"I'm not privy to the national bill," Krehbiel said.

Here's Krehbiel's cost-benefit analysis:

"Do they spend three-quarters of a million dollars to build a purification system that will take nitrates from 20 to 10 parts per million?" he asked.

"EPA has a program to encourage this: in fact they're doing some pilot work for nitrates right now for small communities," Olson said. "The current law allows this. What Slattery's bill would do is change the law for everybody and allow the lowest common denominator to drive the whole process."

Olson said that emerging technologies should be cheaper than that, and Pretty Prairie City Clerk Patti Brace said she's seen new information to support that.

Krehbiel cheerfully drinks the water and points to his own family to illustrate the harmlessness of nitrate traces.

"I've had a pregnant relative in the house — my wife. We drank the water, and my kids are fine."

However, Krehbiel acknowledged that his children were born about a decade before local nitrate levels crossed the EPA standard in 1987. Levels are now nearly double the 10 parts-per-million requirement.