

Approved: 3-22-94
Date

MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

The meeting was called to order by Chairperson Don Sallee at 7:00 a.m. on March 18, 1994 in Room 423-S of the Capitol.

All members were present or excused:

Committee staff present: Raney Gilliland, Legislative Research Department
Dennis Hodgins, Legislative Research Department
Don Hayward, Revisor of Statutes
Clarene Wilms, Committee Secretary

Conferees appearing before the committee:
Mike Armstrong, Water District #1, Johnson County
Karl Mueldener, Director, Bureau of Water, Department of Health and Environment

Others attending: See attached list

The chairman called the meeting to order stating that the March 17 meeting had closed with a motion on the floor by Senator Walker, seconded by Senator Wisdom to amend HB-2797. Senator Walker handed out a second copy of the previous day's amendment stating the second copy was drawn in correct form. Attachment 1

Senator Walker explained that with his amendment funds would be divided into two separate funds thereby allowing money from one fund to be used for the repair and upkeep of the parks.

Discussion elicited support for the idea but concerns were expressed about putting such limitations into statutes. The author of the amendment said he was concerned that the department was raising fees and this amendment would assure the money was spent for the original intent, that of repairing and up-grading parks. The question was called.

Division was called for and the motion failed, with 3 yea votes and 4 no votes.

Further discussion touched on passing legislation which has major problems, especially issuing permits for two diametrically opposed groups to use the same lands, hunters versus anti-hunters. The opinion was expressed that this bill should be studied by an interim committee to look for a better way to handle possible difficulties in administering the bill.

Several members spoke to the double license, one for state parks and one for public use land areas. It was pointed out the park fees brought in about \$1 million and the public land use produced \$2.6 million. Also it was felt the \$10-\$20 per person for a permit was not prohibitive for most. A troublesome issue was concern about enforcement in a situation where people could wander from state parks to adjacent public use lands, be unaware they had crossed from one area to another and had only a permit for one area. Concern was also expressed that young families being able to afford the park fees. A member said he felt the committee had to support the efforts of the agency to solve their problems.

A member questioned the effect this bill would have on the present wildlife and parks budget and was told that no anticipated proceeds from the proposed bill were included in the budget. Should public land use fees be removed from the bill the park fees would generate about \$1 million a year.

The issue of the present audit difficulties with the Department of Interior, which are yet to be resolved, and the effect on the department's budget were discussed. Expenditures need to be made from the Wildlife fee fund on fishery projects. Initially the state would have to replace \$2.4 million into the wildlife fee fund and at that

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, Room 423-S Statehouse, at 8:00 a.m. on March 18, 1994.

point expenditures of \$3.2 million over a three year period would have to be made on hunting and fishing projects.

A member stated that in view of the numerous budget problems of the department it appeared there was no other option but to raise fees.

A member questioned the provisions for out of state guests to use the park and the department stated there would be a \$4 daily use fee for those over 16 years of age, in state or out of state. A second question dealt with removal of those over 65 from hunting and fishing exemptions which would have provided \$634,000, with about \$230,000 of that amount coming from federal funds based on license sales.

A member commented that the mechanics of the repayment to the federal government was just an interpretation made by one person in Denver, CO and it was difficult to understand how one person's dislike of the way Kansas did their accounting could cause such a major problem.

A member told the committee that they supported the bill, that the state parks and public lands were assets to the state, just as the highways are and we keep up the highways. They stated the flood was not expected and the legislature needed to either close the parks or raise taxes or raise the fees to users.

A member expressed concerns "about the concerns" on this bill and felt the fee had gotten totally out of perspective, that this fee was for a yearly permit. He further stated the parks were one of the best assets of the state and felt the fees could be higher.

A member referred to conferees who came before the committee noting it appeared they were using the facilities a great deal, therefore there should be support for the areas or we will no longer have them.

A member questioned whether Ways and Means would eventually cut funds to the parks and the thought was expressed that in the future more funds would have to go into the agency.

A matter of clarification concerning the age 65 exemption was noted, previously in the vehicle permit fee those over age 65 were exempted and when that portion was stricken and an individual permit fee inserted no exemption language was used.

Senator Vancrum moved to report HB-2797 favorably. Senator Tillotson seconded the motion and the motion carried.

House Bill 2561 was placed before the committee. The chairman told members of discussions which took place with the Bureau of Waste Management concerning the waste tire situation and referred to the Memorandum from Bill Bider to Charles Jones. Attachment 2 The concept was to direct funds collected to deal with the waste tire problem to that effort rather than fund government or business to compete with others already in business.

A House bill would allow shredded tires to be used as part of the cover for closing landfills. The Kansas Department of Transportation indicated they could use some of the material for fills.

The intent of the amendment would be to make sure funds collected were used for actual disposal and not used for machinery for private or government enterprise.

A member questioned whether a letter previously discussed concerning this issue had been sent. The chairman stated a draft had been received and would be made available to committee members.

Senator Vancrum moved to amend a form of the waste tire provisions in Attachment 2 into HB-2561. Senator Morris seconded the motion and the motion carried.

Chairman Holmes of the House Energy and Natural Resources Committee stated, in answer to questions, that SB-669 had been amended to exempt 4 sets of regulations from the notification procedure dealing with the "more stringent than" regulations as set forth in HB-2428.

Senator Tillotson moved HB-2561 as amended favorable for passage. Senator Morris seconded the motion and the motion carried.

HB-2819 - relating to regulation of certain water treatment residues; requiring certain permits

Mike Armstrong, Water District #1, Johnson County, appeared and presented written testimony explaining

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, Room 423-S Statehouse, at 8:00 a.m. on March 18, 1994.

that originally HB-2820 sought to revise most of the pollution and sewage statutes. Attachment 3 The definition of sewage included water treatment residue composed of river silt and chemicals produced by water districts as they treated river water for public consumption.

Mr. Armstrong stated there is no definition for water treatment residue other than sewage and this creates problems for the water district. The water district is not connected with any municipality. This presents a unique problem because other utilities are usually owned by municipalities and therefore regulate the land use as well as the entire operation. House Bill 23819 seeks to provide a remedy for a regional, governmental water utility by accurately characterizing the nature of its operation and placing it under uniform regulation administered by the Kansas Department of Health and Environment regardless of where its facilities are located.

Mr. Armstrong stated HB-2819 simply amends K.S.A. 65-163 to deal with water treatment residue.

A member questioned why this issue was not included with the interim study of HB-2820. Mr. Armstrong stated that the bill was originally sent to a sub-committee which determined that basically water treatment residue and sewage were such different substances that they should be split into two bills. From that point they were handled as companion bills with HB-2820 being held for interim study.

A member questioned the department's position with Mr. Armstrong stating that KDHE informally permits such monofils under K.S.A. 65-163 now but there is no specific written regulations at this time and there is no definition of water treatment residue. Mr. Armstrong stated the plant is in Wyandotte County, Kansas City, Kansas, with most of the water consumers being located in Johnson County. Sixty acres of land in the 100 year flood plan are involved with the monofill. In answer to whether this monofil might be moved to another county Mr. Armstrong stated he felt the costs would be prohibitive.

Karl Mueldener, Director, Bureau of Water, Kansas Department of Health and Environment, appeared and presented written testimony concerning HB-2819. Attachment 4 Mr. Mueldener stated there were several issues not yet resolved relating to the subject. One issue is a request, which was denied, that the water district be allowed to discharge into the Kaw river. This issue is still under discussion. Secondly, an issue in Wyandotte county concerning a zoning case could be somewhat related.

Mr. Mueldener pointed out that the Department feels they have the authority to regulate the practice involved in HB-2819. He also stated that regulating under K.S.A. 65-163 would be slightly curtailing the department's authority by regulating for health reasons rather than in K.S.A. 65-165 which would regulate for environmental reasons. Under those laws and regulation facilities would be more thoroughly regulated for environmental concerns rather than only public health concerns as in K.S.A. 65-163. He further stated that operating under the 163 section would do away with 30 day public notice which oftentimes is an issue with siting a waste water plant or issues related to livestock facilities.

Mr. Mueldener told the committee that HB-2820 was originally conceived to deal with residue and the ability to control out of state sludges, namely municipal wastewater sludges. A train or more each day comes through the state enroute to Colorado and there is concern that some day that product will be used in Kansas, therefore the department was seeking the ability to regulate such products. There were also concerns as to how the department would not be regulating this material as applied to land. Thus the bill was sent to interim. Consequently water treatment was separated from waste water treatment.

A member asked Mr. Mueldener if the department was "opposed to the bill but not very" to which he replied this was probably an accurate statement.

Another member asked Mr. Armstrong to explain what he was requesting. He stated they were attempting to make more specific regulation and create more precise definition which would apply to water treatment sludge. One problem is the product being classified as sewage, the second is the department is presently informally approving this but there is nothing in regulations to deal with water treatment sludge. There must be some way to dispose of this material since discharge in the river is being prohibited.

Mr. Armstrong said that Water District #1 had requested a permit which would allow an 18 month test for a Black and Veatch demonstration which would create an engineered discharge where it would not create problems in the river. Study grants had been secured but the department denied the permit and this issue is under litigation.

A member asked Mr. Mueldener whether an accurate statement would be the department wanted very broad regulating authority unfettered by definitions and restrictions. Without statutes the issue could then be

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, Room 423-S Statehouse, at 8:00 a.m. on March 18, 1994.

revisited. Mr. Mueldener stated the department really has not thought that far ahead, the immediate concern was the sludge train which goes through the state. The member stated concern that by leaving the scope of regulation open-ended it amounted to just "trusting" the department and this caused legislative concern. He also commended the department for doing a good job with the open ended authority in the past.

A member questioned the issue of a permit being needed for continuing lagooning or monofilling. Mr. Mueldener stated the department helped the Johnson County Water District #1 to obtain a 4 year special permit so the water district had somewhere beside the river to go with the water treatment sludge. The member questioned whether the department would regulate this at a later date and Mr. Mueldener stated the zoning regulations would be with the area where the monofil was located and he could not predict what the future would bring.

Senator Vancrum moved to report HB-2819 favorable for passage. Senator Emert seconded the motion and the motion carried.

The chairman provided information to the committee following a discussion with Darrel Montei concerning church camps located on wildlife and parks property. Under HB-2797 the costs to one camp could jump dramatically. Previously the department had stated one camp could be exempted but after passing the bill there was no assurance that 501cs and scout camps would be exempted. The age of the campers would be under the age of 16 but the counselors could be required to have permits or pay daily rates. The department's view was there was no end once you started to exempt groups.

A member expressed concern about the process that the department of Wildlife and Parks was going through regarding their accounting and the fact that one administrator in Denver had the ability to make a final decision. The member suggested a resolution from the committee would help./

Senator Morris moved that the committee draft a letter to the appropriate person concerning the parks and wildlife problem. Senator Vancrum seconded the motion and the motion carried.

The meeting adjourned at 8:55 a.m.

The next meeting is scheduled for March 21, 1994.

GUEST LIST

SENATE COMMITTEE ON ENERGY & NATURAL RESOURCES

DATE March 18, 1994(PLEASE PRINT)
NAME AND ADDRESS

ORGANIZATION

DARRELL MONTEI
Ted Emley
Tricia Sears
Randall Holmes
~~CARL~~ CARL DEAN HOLMES
BRENT DAVIS
Karl Muehlener
Donald R. Canby
Larry D. Shannon
STEVE KEARNEY
Krati Crow

KDWP
KDWP
KS. Audubon Council
HOUSE
CHENEY LAKE
KDHE
"
Topeka KS-AWWA
WMA
KDHE

Proposed Draft Amendment to HB 2797

New Section

(a) There is hereby created the wildlife and parks - state operations fund. All moneys transferred or credited to such fund under the provisions of this act or any other law shall be distributed in the manner provided herein.

(b) As of July 1, 1995, on January 15 and July 15 of each year, the director of accounts and reports shall transfer \$2,300,000 from the state general fund to the wildlife and parks - state operations fund of the department of wildlife and parks. All transfers made in accordance with the provisions of this section shall be considered to be demand transfers from the state general fund.

Senate Energy & Natural Resources
March 18, 1994
Attachment 1

DEPARTMENT OF HEALTH AND ENVIRONMENT
Division of Environment
Bureau of Waste Management

MEMORANDUM

TO: Charles Jones
FROM: Bill Bider *Bill Bider*
DATE: March 15, 1994
RE: Proposed Amendments to the Waste Tire Statutes

As you requested, we have developed the attached proposed amendments to the waste tire statutes in order to address problems which were identified by various parties over the past several months. These are just a few of the changes which had been proposed in our comprehensive effort to improve the waste tire statutes in HB 3009.

The four proposed changes which are explained below are those which will give us a very workable tire law. The first change listed is one suggested by Senator Don Saltee in a meeting held with Tom Gross and myself on March 14, 1994. Senator Saltee requested that the proposed language be forwarded to him by early Wednesday, March 16, 1994 for consideration for incorporation into an existing bill.

Our proposed changes to the statutes would accomplish the following:

1. KDHE would be given authority to directly contract for services related to tire abatement when identified problems constitute a nuisance or threat to human health or the environment. This authority would improve response time and coordination of abatement projects with other related projects such as landfill closures.
2. The current two consecutive year limitation on abatement grants would be eliminated. This limitation could delay action on projects where regional planning and abatement is taking place. In accordance with comments received from the legislature during the debate of HB 3009, this change will maintain the limitation on base grants.
3. The cap on KDHE program operating expenses would be eliminated. Like other fee funded programs, the secretary would be given the authority to utilize the waste tire fund to administer the waste tire program including all inspection, enforcement, planning, grant, and permitting activities.
4. To prevent waste tires from being mismanaged through certain broad exemptions to the applicability portions of the current statute, it is proposed that money may not be received for accepting waste tires, unless the recipient holds a waste tire permit issued by KDHE. This condition would prevent large landholders from claiming the "agricultural exemption" and building fences which really serve no useful purpose other than to offer a disposal alternative for tires.

Attachment

WLB/rg

Senate Energy + Natural Resources
March 18, 1994
Attachment 2

Section 1. K.S.A. 65-3424a is hereby amended to read as follows: 65-3424a. (a) The owner or operator of any waste tire site, within six months after the effective date of this act, shall provide the department with information concerning the site's location and size and the approximate number of waste tires that are accumulated at the site and shall initiate steps to comply with subsection (b).

(b) ~~On or after July 1, 1990,~~ No person shall:

(1) Maintain a waste tire site unless: (A) such site is an integral part of the person's waste tire processing facility; or (B) the tires accumulated at such site are for use in the person's tire retreading business;

(2) dispose of waste tires in the state unless the waste tires are disposed of for processing, or collected for processing, at a solid waste processing facility, a waste tire site which is an integral part of a waste tire processing facility, a waste tire processing facility or a waste tire collection center or are made available to: (A) The department of wildlife and parks for use by the department; or (B) a person engaged in a farming or ranching activity, including the operation of a feedlot as defined by K.S.A. 47-1501, and amendments thereto, as long as the accumulation has a beneficial use to the person accumulating the tires and (i) the secretary determines that the use has no adverse environmental effects and (ii) the accumulation is in accordance with all applicable zoning regulations; ~~or~~

(3) deposit waste tires in a landfill as a method of ultimate disposal, except that the secretary, by rules and regulations, may (A) authorize the final disposal of waste tires at a permitted solid waste disposal facility provided the tires have been cut into sufficiently small parts to assure their proper disposal or are utilized as part of a proven and approved leachate collection system in their original state and (B) allow waste tire material which has been cut into sufficiently small parts to be used as daily cover material for a landfill; or

(4) receive money in exchange for waste tires unless the person holds a permit issued by the secretary under K.S.A. 65-3424b; or unless the person is a tire retailer who collects waste tires from the public in the ordinary course of business.

Sec. 2. K.S.A. 65-3424f is hereby amended to read as follows: 65-3424f.

(a) ~~On or before December 31, 1991,~~ The secretary shall establish a program to make base and abatement grants to private companies, cities and counties which, individually or collectively, submit to the secretary plans, approved by the secretary; Abatement grants shall be used to abate waste tire accumulations. Base grants shall be used to:

(1) Enforce laws relating to collection and disposal of tires;

(2) encourage recycling of tires; or

(3) develop and implement management plans for collection, abatement, recycling and disposal of tires.

(b) Each private company, city, county or group of private companies, cities or counties submitting a plan approved by the secretary shall be eligible for grants pursuant to this section on the basis of priority as determined by the secretary. No recipient shall be eligible to receive ~~such~~ base grants for more than two consecutive fiscal years. No such limitation shall apply to abatement grants. The secretary shall require any private company receiving a grant pursuant to this section to file with the secretary a surety bond, cash bond or other security in an amount and form approved by the secretary and conditioned on the use of the grant in accordance with the plan approved by the secretary.

(c) Private companies, cities and counties may join together, pooling their financial resources, when utilizing their grants for the purposes described in subsection (a).

(d) The secretary, in cooperation with the statewide coordinator of waste reduction, recycling and market development, may provide technical assistance, upon request, to a private company, city, county or group of private companies, cities or counties desiring assistance in applying for waste tire grants or choosing a method of waste tire management which would be an eligible use of the grant funds.

Sec. 3. K.S.A. 65-3424g is hereby amended to read as follows: 65-3424 g. (a) There is hereby established in the state treasury the waste tire management fund.

(b) Moneys in the waste tire management fund shall be used only for the purpose of:

(1) Making grants as provided by K.S.A. 65-3424f, and amendments thereto; and

(2) paying compensation and other expenses of employing personnel to carry out the duties of the secretary pursuant to K.S.A. 65-3424 through 65-3424h, and amendments thereto, ~~but not more than 9% or \$130,000, whichever amount is less, of the moneys credited to the fund during the fiscal year shall be used for such purpose.~~ and

(3) action by the department to abate waste tires accumulated prior to July 1, 1990, or to abate a nuisance or risk to the public health or the environment created or which could be created by waste tires accumulated after July 1, 1990, if the owner or operator of the site has not been identified or has not abated the nuisance.

(c) All expenditures from the waste tire management fund shall be made in accordance with appropriations acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary.

New Sec. 4. (a) The secretary may undertake appropriate abatement action and may enter into contracts, including grant contracts, for abatement of waste tire accumulations, utilizing funds from the waste tire management fund.

(b) Any authorized representative of the secretary may enter, at reasonable times and upon written notice, onto any property or premises where an accumulation of waste tires is located to conduct an abatement of the accumulation.

(c) Whenever the secretary has reason to believe that an owner or operator has accumulated waste tires that create a nuisance or risk to public health or the environment, the secretary may require that owner or operator to abate the accumulation. Such abatement shall be performed in accordance with a plan approved by the secretary. The secretary shall give notice, by letter, to the owner and operator that the waste tires constitute a nuisance or risk to public health or the environment, and that the waste tire accumulation must be abated within a specified period. If the owner or operator fails to take the required action within the specified period, the secretary may undertake abatement action utilizing funds from the waste tire management fund. All costs incurred by the secretary in abatement of waste tires accumulated after July 1, 1990, including administrative and legal expenses, are recoverable from an owner or operator and may be recovered in a civil action in district court brought by the secretary. Abatement costs recovered under this section shall be remitted to the state treasurer, who shall deposit the entire amount in the state treasury and credit it to the waste tire management fund. An action to recover abatement costs may be commenced at any stage of an abatement.

(d) Neither the state of Kansas nor the waste tire management fund shall be liable to any owner or operator for the loss of business, damages or taking of property associated with any abatement or enforcement action taken pursuant to this section.

New Sec. 5. (a) Any person adversely affected by any order or decision of the secretary pursuant to K.S.A. 65-3424 through 65-3424i, and amendments thereto, may, within 15 days of service of the order or decision, request in writing a hearing. Hearings under this section shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

(b) Any person adversely affected by any action of the secretary pursuant to this act may obtain review of such action in accordance with the act for judicial review and civil enforcement of agency actions.

Sec. 6. K.S.A. 64-3424a, 64-3424f and 64-3424g are hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its publication in the Kansas register.

TESTIMONY PRESENTED ON
BEHALF OF WATER DISTRICT
NO. 1 OF JOHNSON COUNTY

HOUSE BILL 2819

Presented at the Senate House Energy and Natural Resources Committee
Hearing On Friday, March 18, 1994

Water District No. 1 of Johnson County appears in support of House Bill 2819. This bill is actually a companion to a more comprehensive KDHE bill (House Bill 2820) that attempted a complete revision of the statutes involving the disposal and discharge of pollution and sewage. The House Committee on Energy and Natural Resources voted to hold House Bill 2820 over for further consideration and refer it to an interim study committee.

Water District No. 1 originally got involved in the issue when KDHE suggested certain changes to the pollution and sewage disposal statutes that would have specifically included "water treatment residue" within the definition of "sewage."

Water treatment residue is basically an inert substance made up of calcium carbonate used in the water treatment process as well as silt and hardness removed from the raw river water. These residues are an essential by-product of the water treatment process. Accordingly, the disposal of the residue is an essential part of the operation of a public water supply system. Historically, these residues have been disposed of in basins or monofills on Water District property near the water treatment plant site, and have been informally regulated and permitted by the KDHE as part of the public water supply system under K.S.A. 65-163.

The options for public water supply systems to dispose of this water treatment residue are limited. The overwhelming majority of water utilities dispose of residue by discharging it back into the river or stream. KDHE has expressed concerns over this practice and has expressly prohibited the District from discharging its residue back into the river. Instead of river discharge, the Water District has been placing this residue in shallow monofills excavated in the Kansas River flood plain, which after a period of consolidation and settling are covered with topsoil and landscaped. This method of disposal has been practiced since 1955 without any problems. These monofills are the method of disposal preferred by KDHE.

Under the current law, no separate definition for "water treatment residues" exist. Instead, KDHE interprets this material to fall under the definition of "sewage" found at K.S.A. 65-164(b), which defines "sewage" as follows:

"for the purposes of this Act, "sewage" means any substance that contains any of the waste products or excrementations or other discharges from the bodies of human beings or animals, or chemical or other waste from domestic, manufacturing or other forms of industry."

Based upon the classification by KDHE of this material as "sewage" and the resulting misunderstanding of the nature of this residue local authorities have attempted to exert additional, unnecessary regulation over the Water District's monofill operations. Water District No. 1 of Johnson County is a regional water utility organized under K.S.A. 19-3501 *et seq.* specifically to serve the urban region in and around Johnson County. It currently serves over 300,000 residents in that region. Because it is a regional utility, it has no home base outside of some other municipality. For instance, the Water District's intake facility and treatment plant are located in Kansas City, Kansas, in Wyandotte

County. If not located there, it would be in the city of Shawnee, Lenexa or DeSoto, or some other city or county, all with different images and policies for a water utility that is not their own.

Most water utilities do not face a problem with additional local regulation of their operations, because other water utilities are owned and operated by the municipality in which they are located. As a regional water utility, however, Water District No. 1 is facing a somewhat unique problem in this regard. This bill provides a remedy for a regional governmental water utility by accurately characterizing the nature of its operation and placing it under uniform regulation administered by the KDHE regardless of where its facilities are located.

Public water supply systems and their operations, including the disposal of the water treatment residue, is a matter of state-wide concern and should be regulated uniformly by the KDHE under K.S.A. 65-163, which deals with the authorization and regulation of public water supply systems.

House Bill 2819 does not authorize any new practices, it merely provides specific authorization for practices that have been followed for a number of years. House Bill 2819 also sets out a specific definition of municipal water treatment residues. That allows this material to be distinguished from "sewage." It allows specific authorization for public water supply systems to place water treatment residues resulting from the sedimentation, coagulation or softening treatment processes in basins on land under the ownership and control of the public water supply system. It also requires the Kansas Department of Health and Environment to promulgate specific uniform and comprehensive rules and regulations for the location, design and operation of such basins.

Since these inert water treatment residues are an essential by-product of the public water supply system, the storage and disposal of these materials on

land under the control and ownership of the public water supply system should be specifically regulated in a uniform manner under K.S.A. 65-163.

State of Kansas

Joan Finney, Governor



Department of Health and Environment

Robert C. Harder, Secretary

Testimony presented to

The Senate Energy and Natural Resources Committee

by

The Kansas Department of Health and Environment

House Bill 2819

House Bill 2819 was originally proposed to (1) exclude municipal water treatment residues from the authority and regulation of sewage and domestic sewage sludge as proposed in House Bill 2820 and (2) gain preemption over local governing authority. The House Energy and Natural Resources Committee removed the preemption language and the domestic sewage sludge provisions from HB 2819.

HB 2819 as amended by the House would allow municipal water treatment residues "resulting from sedimentation, coagulation or softening treatment processes" in basins on land owned and controlled by the public water supply system operator and permitted and approved by KDHE. The bill also directs the secretary to adopt "comprehensive rules and regulations for the location, design and operation of such basins," under public water supply statutes K.S.A. 65-163 et seq. An amendment to HB 2819 by the House removed a provision placed in the bill by the House Energy and Natural Resources Committee which would have allowed a water treatment facility to apply for a permit and the Secretary of KDHE to issue a permit to discharge water treatment residues into the waters of the state under the authority of the public water supply statutes instead of the wastewater/NPDES permitting program.

HB 2819 would require KDHE to adopt "uniform and comprehensive rules and regulations" for the disposal of water treatment residues in on-site basins. KDHE currently has existing authority to regulate water plant residuals under the NPDES program and wastewater and solid waste laws and regulations. Under these laws and regulation facilities would be more thoroughly regulated for environmental concerns rather than only public health concerns, as is the case under K.S.A. 65-163.

We believe this bill is unnecessary and since the regulatory authority currently exists.

Testimony presented by: Karl Mueldener
Director
Bureau of Water
March 18, 1994

Senate Energy & Natural Resources
March 18, 1994
Attachment 4