



# Kansas Register

Bill Graves, Secretary of State

Vol. 11, No. 1

January 2, 1992

Pages 1-22

## In this issue . . .

	Page
<b>Executive appointments</b> .....	2
<b>Historic Sites Board of Review</b>	
Notice of meeting.....	3
<b>Attorney General</b>	
Opinions No. 91-155, 91-157 and 91-158.....	3
<b>Northwest Kansas Groundwater Management District No. 4</b>	
Notice of meeting.....	4
<b>Social and Rehabilitation Services</b>	
Notice of hearing on proposed administrative regulations .....	4
<b>Department of Health and Environment</b>	
Notice concerning Kansas water pollution control permits.....	5
Notices concerning proposed permit action .....	6, 7
<b>Department of Administration</b>	
Notice of hearing on proposed administrative regulations .....	6
<b>Kansas Judicial Council</b>	
Notice of meetings.....	7
<b>State Corporation Commission</b>	
Notice of motor carrier hearings.....	7
<b>Department of Transportation</b>	
Notice to consulting engineers .....	8
<b>State Fair Board</b>	
Notice of meeting.....	9
<b>University of Kansas</b>	
Notice to bidders .....	9
Notice to bidders for state purchases.....	9
<b>Legislative interim committee schedule</b> .....	10
<b>Supreme Court docket</b> .....	10
<b>Temporary Administrative Regulations</b>	
The Kansas Lottery.....	13
<b>Permanent Administrative Regulations</b>	
State Board of Agriculture—Division of Water Resources .....	15
<b>Notice of Bond Redemption</b>	
City of El Dorado.....	17
<b>Index to administrative regulations</b> .....	18

## State of Kansas

## Secretary of State

## Executive Appointments

Executive appointments made by the Governor, and in some cases by other state officials, are filed with the Secretary of State's office.

Complete listings of state agencies, boards and commissions are included in the Kansas Directory. County officers are listed in the Directory of County Officers. Both directories are published by the Secretary of State's office.

The following appointments were filed December 16-27:

**State Representative, 89th District**

**Ruby Gilbert**, 2629 N. Erie, Wichita 67219. Term expires when a successor is elected and qualifies according to law. Succeeds Theo Cribbs, resigned.

**District Judge, 8th Judicial District, Position 2**

**Larry E. Bengtson**, 1212 McFarland Road, Junction City 66441. Term expires when a successor is elected and qualifies according to law. Succeeds Judge William D. Clement.

**Harvey County Attorney**

**Mary A. McDonald**, 2013 Forest Park, Derby 67037. Effective January 5, 1992. Term expires when a successor is elected and qualifies according to law. Succeeds Mike Cleary, resigned.

**Rail Service Assistance Program Advisory Committee**

**John Horner**, Shortline/Regional Representative, 402 W. 3rd, Coffeyville 67337. Term expires September 30, 1994. New position.

**Board of Regents**

**Frank C. Sabatini**, 2423 S.E. 37th, Topeka 66605. Effective January 1, 1992. Subject to Senate confirmation. Term expires December 31, 1995. Succeeds Robert A. Creighton.

**Secretary of Wildlife and Parks**

**Jack Lacey**, 2745 S.W. Villa West Drive, Topeka 66614. Subject to Senate confirmation. Serves at the pleasure of the Governor. Succeeds Robert L. Meinen.

**Bill Graves**  
Secretary of State

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Topeka, KS 66612-1594  
(913) 296-2236



**Register Office:**  
235-N, State Capitol  
(913) 296-3489

## State of Kansas

## Historic Sites Board of Review

## Notice of Meeting

The Kansas Historic Sites Board of Review will meet at 10 a.m. Saturday, January 18, in the classroom at the Kansas Museum of History, 6425 S.W. 6th, Topeka. The agenda includes recommendations for funding of survey and planning grant applications and evaluation of the following properties for the National Register of Historic Places and/or the Register of Historic Kansas Places:

- Warren W. Finney House, 927 State St., Emporia, Lyon County
- Harris-Borman House, 827 Mechanic, Emporia, Lyon County
- Keebler-Stone House, 831 Constitution, Emporia, Lyon County
- Walt Mason House, 606 W. 12th, Emporia, Lyon County
- Bixby House, 321 S. Maple, McPherson, McPherson County (state register only)
- Wall-Ratzlaff House, 103 N. Maple, Buhler, Reno County
- Giles-Nellis House, 915 S.W. Munson, Topeka, Shawnee County
- Chester Woodward House, 1272 S.W. Fillmore, Topeka, Shawnee County

Ramon Powers  
Executive Director

Doc. No. 011432

## State of Kansas

## Attorney General

## Opinion No. 91-155

**Minors—Kansas Code for Care of Children—Investigation of Child Abuse or Neglect Cases.** Donna Whiteman, Secretary, Department of Social and Rehabilitation Services, Topeka, December 12, 1991.

The Department of Social and Rehabilitation Services (SRS) is not prohibited from investigating an abuse or neglect case involving the grandchild of an SRS employee when the employee is not a suspect in the case. Cited herein: K.S.A. 1990 Supp. 38-1523. MJS

## Opinion No. 91-157

**Legislature—Legislative Post Audit—Legislative Post Audit Committee to Specify Who Performs Financial Compliance Audits; Firm or Firms Selected by Contract; Audit Working Papers.**

**Public Records, Documents and Information—Records Open to Public—Definitions; Public Records; Audit Working Papers Prepared by Private CPA Firm Under Contract with Legislative Post Audit.**

**Accountants, Certified Public—General Provisions—Client Communications and Working Papers.** Barbara J. Hinton, Legislative Post Auditor, Topeka, December 12, 1991.

It is our opinion that, pursuant to the definitions of public record and public agency set forth at K.S.A. 45-217, and in accordance with the declarations set forth in K.S.A. 1-401, working papers created, maintained and in the possession of a private CPA firm, whose only connection with a public entity is a service contract entered into pursuant to K.S.A. 1990 Supp. 46-1122, are records which are not subject to the provisions of the Kansas open records act (KORA). However, Post Audit may review such working papers in accordance with the oversight duties dictated by K.S.A. 1990 Supp. 46-1127(a), the access powers of the Division of Legislative Post Audit and as recognized by general legal principles applicable to the accountant/client relationship. Access to or review of CPA working papers by Post Audit does not automatically alter the nature of the records for purposes of the open records act. If copies of records are provided to Post Audit, records in the possession of Post Audit must be closed by Post Audit if the records in question are subject to a duty of confidentiality. Cited herein: K.S.A. 1-401; 45-215; 45-217; K.S.A. 1990 Supp. 45-221, as amended by L. 1991, ch. 149, § 12; K.S.A. 46-1101; K.S.A. 1990 Supp. 46-1106; 46-1108; 46-1114; 46-1122; K.S.A. 46-1127; K.A.R. 74-5-101; 74-5-105. TMN

## Opinion No. 91-158

**Legislature—Legislative Post Audit—Additional Performance Audits at Direction of Post Audit Committee; Access to Records; Mortgage Credit Certificate Program; Duty of Confidentiality.**

**Public Records, Documents and Information—Records Open to Public—Definitions; Public Records; Mortgage Credit Certificate Program Records.** Barbara J. Hinton, Legislative Post Auditor, Topeka, December 13, 1991.

It is our opinion that pursuant to K.S.A. 1990 Supp. 46-1114(c)(1), 26 U.S.C.A. §§ 25 *et seq.*, 26 C.F.R. §§ 1.25-1T *et seq.* and K.S.A. 1990 Supp. 74-5058 *et seq.*, Post Audit should be given access to the records in question unless federal or state law concerning confidentiality of income tax returns prohibits Post Audit access. These records concern the mortgage credit certificate program which is being implemented and administered by a private entity on behalf of and pursuant to contracts with Kansas counties. Records obtained by Post Audit remain subject to any duty of confidentiality imposed by law. Cited herein: K.S.A. 1-401; 12-2901; K.S.A. 1990 Supp. 12-2904; K.S.A. 19-101; 45-215; 45-217; K.S.A. 1990 Supp. 45-221, as amended by L. 1991, ch. 149, § 12; K.S.A. 46-1101; K.S.A. 1990 Supp. 46-1106; 46-1108; 46-1114; K.S.A. 46-1115, 46-1116; K.S.A. 1990 Supp. 74-5058; 74-5060; 74-5061; K.S.A. 77-201, as amended by L. 1991, ch. 33, § 37; K.S.A. 79-3234; 26 U.S.C.A. §§ 25; 26 U.S.C.A. § 6103; 26 C.F.R. §§ 1.25-1T, 1.25-3T, 1.25-4T. TMN

Robert T. Stephan  
Attorney General

Doc. No. 011429

## State of Kansas

**Northwest Kansas Groundwater  
Management District No. 4**

**Notice of Meeting  
and Public Hearing**

The Northwest Kansas Groundwater Management District No. 4 will conduct a board meeting at 10 a.m. Thursday, January 9, at the Ramada Inn, 1950 S. Range, Colby. General administrative matters and other business will be discussed. The board will also hold a public hearing at 11 a.m. on the revised 1992 operating budget.

Wayne A. Bossert  
Manager

Doc. No. 011438

## State of Kansas

**Social and Rehabilitation Services**

**Notice of Hearing on Proposed  
Administrative Regulations**

A public hearing will be conducted at 9 a.m. Tuesday, February 4, in the SRS Staff Development Conference Room, 300 S.W. Oakley, Topeka, to consider the adoption of proposed changes in existing rules and regulations on a permanent basis.

This 30-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written public comments on the proposed regulations. All interested parties may submit written comments prior to the hearing to the Secretary of Social and Rehabilitation Services, Room 603-N, Docking State Office Building, 915 Harrison, Topeka 66612. All interested parties will be given a reasonable opportunity to present their views orally on the adoption of the proposed regulations during the hearing. In order to give all parties an opportunity to present their views, it may be necessary to request each participant to limit any oral presentation to five minutes.

These regulations are proposed for adoption and are scheduled to become effective April 1. A summary of the proposed regulations and their economic impact follows.

**Article 5.—PROVIDER PARTICIPATION, SCOPE  
OF SERVICES, AND REIMBURSEMENTS FOR  
THE MEDICAID (MEDICAL ASSISTANCE)  
PROGRAM**

**30-5-58. Definitions.** This regulation is being amended to make the definitions in Articles 5 and 10 consistent.

Economic Impact: None.

**30-5-94. Reimbursement for pharmacy services.** This regulation is being amended to allow the department to adjust the dispensing fees of providers participating in other pharmacy service programs which provide 5 percent or more total prescription sales revenue. This change provides equity between dispensing fees paid by the Kansas Medicaid program and those paid by other third party programs.

Economic Impact: Estimated increased expenditures of \$45,000 (\$18,600 state general funds).

**30-5-95. Cost report requirement for pharmacy services.** This regulation is being amended to allow pharmacies to receive a dispensing fee if they had not previously complied with department cost report filing requirements.

Economic Impact: Estimated increased expenditures of \$10,000 (\$4,124 state general funds).

**Article 10.—ADULT CARE HOME PROGRAM**

**30-10-1a. Nursing facility program definitions.** This regulation is being amended to alphabetize the terms being defined, makes the definitions in Articles 5 and 10 consistent, and to eliminate obsolete material.

Economic Impact: None.

**30-10-200. Intermediate care facilities for mentally retarded (ICF's-MR) definitions.** This regulation is being amended to replace the term "heavy care" with "extra care" and to delete the section for "survey correction budget" since this is no longer allowed.

Economic Impact: None.

**30-10-210. ICF-MR reimbursement.** This regulation is being amended to remove dialysis from the list of routine services and supplies and to clarify that clients have the freedom to select a day habilitation program offered by another agency.

Economic Impact: None.

**30-10-212. ICF-MR heavy care.** This regulation is being amended to change the terminology from "heavy care" to "extra care."

Economic Impact: None.

**30-10-217. ICF-MR reserve days.** This regulation is being amended to revise the order and to clarify that the ICF-MR may be paid for up to 10 days when the local agency office has approved client reserve days for hospitalization.

Economic Impact: None.

**30-10-219.\* ICF-MR costs allowed with limitations.** This regulation is being amended to clarify that while costs of airplanes and associated expenses are not allowed, trips by non-commercial plane may be charged for the equivalent distance at the automobile mileage rate.

Economic Impact: None.

Copies of the regulations and their economic impact statements may be obtained from the Office of the Secretary, Room 603-N, Docking State Office Building, Topeka 66612, (913) 296-3969.

The public is invited to this meeting. Telephone hook-ups are provided at the following locations of Social and Rehabilitation Services offices: Chanute, Emporia, Garden City, Hays, Hutchinson, Kansas City, Lawrence, Manhattan, Olathe, Salina, Topeka (area office), and Wichita.

Donna L. Whiteman  
Secretary of Social and  
Rehabilitation Services

Doc. No. 011433

State of Kansas

Department of Health and Environment

Notice Concerning Kansas Water Pollution Control Permits

In accordance with state regulations 28-16-57 through 63, 28-18-1 through 4, and the authority vested with the state by the administrator of the U.S. Environmental Protection Agency, tentative permits have been prepared for discharges to the waters of the United States and the state of Kansas for the applicants described below. The tentative determinations for permit content are based on preliminary staff review, applying the appropriate standards, regulations and effluent limitations of the state of Kansas and the EPA, and when issued will result in a state water pollution control permit and national pollutant discharge elimination system authorization to discharge subject to certain effluent limitations and special conditions.

Public Notice No. KS-AG-92-1/4

Name and Address of Applicant	Legal Description	Receiving Water
Merle File Courtland, KS 66939	SE/4 Section 12, Township 2S, Range 6W, Jewell County, Kansas	Lower Republican River Basin

Kansas Permit No. A-LRJW-S001

The existing facility has the capacity for approximately 950 swine. Wastewater Control Facilities: Wastewater will be impounded for subsequent disposal upon agricultural land. Storage capabilities will be provided in excess of minimum requirements.

Compliance Schedule: A livestock waste management plan for the facility shall be developed. The plan shall cover, but not be limited to, the following items: handling and disposal equipment for both solid and liquid wastes, land application practices used to protect against runoff and leaching, waste application rates based on crop nutrient utilization, and identification of adequate land areas for application of all wastes. The waste management plan shall be based on accepted principles, methodologies and data for waste characteristics and crop utilization. The plan shall be submitted to the department within six months following receipt of detailed requirements. The approved plan will become part of this permit.

Name and Address of Applicant	Legal Description	Receiving Water
Ivan Keim Route 3, Box 176 Garnett, KS 66032	NW/4 Section 18, Township 20S, Range 19E, Anderson County, Kansas	Marais des Cygnes River Basin

Kansas Permit No. A-MCAN-M012

The proposed facility will have capacity for approximately 45 head of dairy cattle.

Wastewater Control Facilities: Wastewater will be impounded for subsequent disposal upon agricultural land. Storage capabilities will be provided in excess of minimum requirements.

Compliance Schedule: Should evaporation not maintain the empty storage depth in the retention pond, as specified in Section A, a written rental agreement shall be obtained for a wastewater tankwagon.

Name and Address of Applicant	Legal Description	Receiving Water
Cecil Phillips Route 2 Valley Falls, KS 66088	SE/4 Section 21, Township 8S, Range 18E, Jefferson County, Kansas	Kansas River Basin

Kansas Permit No. A-KSJF-S003

The existing facility has the capacity for approximately 300 swine and 100 cattle.

Wastewater Control Facilities: Wastewater will be impounded for subsequent disposal upon agricultural land. Storage capabilities will be provided in excess of minimum requirements.

Compliance Schedule: None, existing controls adequate.

Name and Address of Applicant	Legal Description	Receiving Water
Rich Brothers Farm Randy Rich Route 1 Uniontown, KS 66779	S/2 Section 5, Township 26S, Range 22E, Bourbon County, Kansas	Marais des Cygnes River Basin

Kansas Permit No. A-MCBB-S006

The existing facility has the capacity for approximately 800 swine. Wastewater Control Facilities: Wastewater will be impounded for subsequent disposal upon agricultural land. Storage capabilities will be provided in excess of minimum requirements.

Compliance Schedule:

1. At least 40 acres of additional wastewater application area shall be acquired by written agreement by April 1, 1992.
2. The earthen wastewater channel from the finishing building to the center lagoon shall be concrete lined by June 1, 1992.

Written comments on the proposed determinations may be submitted to Angela Buie, Permit Clerk, Kansas Department of Health and Environment, Division of Environment, Bureau of Water, Forbes Field, Topeka 66620. All comments received prior to February 1 will be considered in the formulation of final determinations regarding this public notice. Please refer to the appropriate public notice number (KS-AG-92-1/4) and the name of applicant as listed when preparing comments.

If no objections are received, the Secretary of Health and Environment will issue the final determinations. If response to this notice indicates significant public interest, a public hearing may be held in conformance with state regulation 28-16-61. Media coordination (newspapers, radio) for publication and/or announcement of the public notice or public hearing is handled by the Kansas Department of Health and Environment.

The application, proposed permit, including proposed effluent limitations and special conditions, fact sheets as appropriate, comments received, and other information are on file and may be inspected at the Kansas Department of Health and Environment offices, Building 740, Forbes Field, Topeka, from 8 a.m. to 4:30 p.m. Monday through Friday. The documents are available upon request at the copying cost assessed by KDHE. Additional copies of this public notice also may be obtained at the Division of Environment.

Azzie Young  
Secretary of Health  
and Environment

Doc. No. 011446

## State of Kansas

## Department of Administration

Notice of Hearing on Proposed  
Administrative Regulations

A public hearing will be conducted at 10 a.m. Tuesday, February 4, in Room 108 of the Landon State Office Building, 900 S.W. Jackson, Topeka, to consider the adoption of proposed changes in existing rules and regulations of the Division of Personnel Services.

This 30-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written public comments on the proposed rules and regulations. All interested parties may submit written comments prior to the hearing to the Secretary of Administration, Room 263-E, State Capitol, Topeka 66612. All interested parties will be given a reasonable opportunity to present their views orally on the adoption of the proposed regulations during the hearing. In order to give all parties an opportunity to present their views, it may be necessary to request each participant to limit any oral presentation to five minutes.

Summaries of the proposed permanent regulations and of their economic impact follow.

K.A.R. 1-20-30, Designated position (new); K.A.R. 1-2-81 (revoked); K.A.R. 1-6-2, Recruitment (amended); K.A.R. 1-6-32, Applicant drug screening test for designated positions (amended); and K.A.R. 1-9-19a, Drug screening test for employees in designated positions (amended) are proposed for adoption in order to implement the provisions of L. 1991, Chap. 146, Sec. 1. This legislation authorizes the Director of Personnel Services to establish a drug testing program for employees of institutions of mental health. The program must be established and administered in the same manner and subject to the same conditions and limitations as the existing drug screening program established for "safety sensitive positions" under K.S.A. 75-4362.

The term "designated positions" is defined in K.A.R. 1-2-30 to include these safety sensitive positions and positions within institutions of mental health as specified by the Director of Personnel Services. K.A.R. 1-2-81 is revoked, as the definition of safety sensitive position has been transferred to K.A.R. 1-2-30. The remaining regulations are amended to replace the term "safety sensitive positions" with the new term "designated position."

The estimated cost of conducting an estimated 750 additional drug screens is \$29,150 per fiscal year. Some additional costs for training materials may be incurred. As the expanded drug screening program is limited to certain mental health institutions of the Department of Social and Rehabilitation Services, there is no economic impact anticipated on other state agencies. No economic impact on the general public is anticipated.

A further change to K.A.R. 1-6-2, Recruitment, is proposed. This amendment would remove the requirement that agencies give notice of vacancies which are to be filled by transfer. This amendment will provide flexibility to agencies in filling vacancies where time

constraints are a factor. K.A.R. 1-6-32 also contains an amendment clarifying that a confirmed positive result or failure to participate in the drug screen will result in the disqualification of the applicant for designated positions for one year. No economic impact on the Department of Administration, other state agencies or governmental units or on the general public is anticipated as a result of these changes.

Copies of these regulations and of the associated economic impact statement can be obtained from the Division of Personnel Services, 9th Floor, Landon State Office Building, 900 S.W. Jackson, Topeka 66612, (913) 296-4278.

James R. Cobler  
Secretary of Administration

Doc. No. 011447

## State of Kansas

Department of Health  
and Environment

## Notice Concerning Proposed Permit Action

The Secretary of Health and Environment is proposing to issue a permit in accordance with K.A.R. 28-19-14 (permits required) to the Pawnee Gas Co. (PG), Englewood, Colorado, to install and operate new gas compressors at Section 21, T20S, R19W, Pawnee County, Kansas.

Written materials, including the permit application and information relating to the application submitted by PG, draft permit, permit summary and analysis of KDHE describing the basis for the proposed permit, are available for public inspection during normal business hours through February 3 by contacting Wayne Neese at the KDHE office, 302 W. McArtor Road, Dodge City 67801, (316) 225-0596. This material also can be reviewed at the KDHE office in Building 740, Forbes Field, Topeka. Questions concerning this proposed permit should be directed to L. C. Hinthner, KDHE, (913) 296-1576.

K.S.A. 65-3008 provides that any person affected by the issuance of a permit can request a public hearing prior to its issuance. The request for hearing must be in writing and addressed to the secretary. If the secretary determines there is sufficient reason in the request, a public hearing will be conducted—the place, date and time of the hearing will be announced in this publication. A request for hearing or written comments on the proposed permit must be submitted to the Secretary, KDHE, Landon State Office Building, 901 S.W. Jackson, Topeka 66612, before February 3.

Azzie Young  
Secretary of Health  
and Environment

Doc. No. 011442

State of Kansas

**Kansas Judicial Council**

**Notice of Meetings**

The Kansas Judicial Council and its advisory committees will meet according to the following schedule at the Kansas Judicial Center, Room 259, 301 W. 10th, Topeka.

Date	Committee	Time
Jan. 10	Judicial Council	9:00 a.m.
Jan. 13	Municipal Court Manual	9:30 a.m.
Jan. 24	PIK	9:30 a.m.
Jan. 31	Family Law	9:30 a.m.

Justice Kay McFarland  
Chair

Doc. No. 011431

State of Kansas

**Department of Health  
and Environment**

**Notice Concerning Proposed Permit Action**

The Secretary of Health and Environment is proposing to issue a permit in accordance with K.A.R. 28-19-14 (permits required) to Sherwood Cabinets Inc. to install a cabinet making shop on South U.S. Highway 75 near Burlington.

Written materials, including the permit application and information relating to the application submitted by Sherwood Cabinets, draft permit, permit summary and analysis of KDHE describing the basis for the proposed permit, are available for public inspection during normal business hours through February 3 by contacting Lynn Ranabargar, KDHE, 1500 W. 7th, Chanute 67202, (316) 431-2390. These materials also are available for inspection by contacting Gene Sallee, KDHE, Building 740, Forbes Field, Topeka, (913) 296-1575.

K.S.A. 65-3008 provides that any person affected by the issuance of a permit can request a public hearing prior to its issuance. The request for hearing must be in writing and addressed to the secretary. If the secretary determines there is sufficient reason in the request, a public hearing will be conducted—the place, date and time of the hearing will be announced in this publication. A request for hearing or written comments on the proposed permit must be submitted to the Secretary, KDHE, Landon State Office Building, 900 S.W. Jackson, Topeka 66612, before February 3.

Azzie Young  
Secretary of Health  
and Environment

Doc. No. 011441

State of Kansas

**State Corporation Commission**

**Notice of Motor Carrier Hearings**

Applications set for hearing are to be heard on the date indicated before the State Corporation Commission, 1500 S.W. Arrowhead Road, Topeka, at 9:30 a.m. unless otherwise noticed.

This list does not include cases previously assigned hearing dates for which parties of record have received notice.

Questions concerning applications for hearing dates should be addressed to the State Corporation Commission, 1500 S.W. Arrowhead Road, Topeka 66604-4027, (913) 271-3196 or 271-3149.

Your attention is invited to Kansas Administrative Regulation 82-1-228, "Rules of Practice and Procedure Before the Commission."

**Applications set for January 14, 1992**

**Application for Extension of Certificate of Convenience and Necessity:**

Carl E. Schwerman, dba ) Docket No. 157,491 M  
Schwerman Trucking )  
Route 1, Box 16 )  
Beloit, KS 67420 ) MC ID No. 129060

Applicant's Attorney: None

*General commodities (except classes A and B explosives, household goods and hazardous materials as defined in 49 CFR 172.101),*

Between all points and places in Kansas.

\*\*\*\*\*

**Application for Certificate of Convenience and Necessity:**

William E. Wright, dba ) Docket No. 178,943 M  
Wright's Moving Service )  
Route 3, Box 94 )  
Chanute, KS 66720 ) MC ID No. 142138

Applicant's Attorney: None

*Household goods,*

Between all points and places in Kansas.

\*\*\*\*\*

**Application for Abandonment of Certificate of Convenience and Necessity:**

Fry's Tank Service, Inc. ) Docket No. 56,593 M  
210 8th St. )  
Claflin, KS 67525 ) MC ID No. 100547

Applicant's Attorney: None

\*\*\*\*\*

(continued)

**Application for Certificate of Convenience  
and Necessity:**

Harold D. Koehn, dba ) Docket No. 178,945 M  
Koehn Trucking Co. )  
HC 69, Box 30 )  
Wilmore, KS 67155 ) MC ID No. 143046

Applicant's Attorney: None

*Grain, livestock, dry feed, dry feed ingredients, salt,  
building materials, fertilizer (except ammonium nitrate),  
hay, machinery,*

Between all points and places in Kansas.

\*\*\*\*\*

**Application for Abandonment of  
Contract Carrier Permit:**

Martha I. Kramer ) Docket No. 116,670 M  
Route 2 Lakeroad, Box 39 )  
Pratt, KS 67124-5912 ) MC ID No. 115555

Applicant's Attorney: None

\*\*\*\*\*

**Application for Amendment of  
Contract Carrier Permit:**

Industrial Molasses ) Docket No. 129,821 M  
Company, Inc. )  
6600 France Ave. South, )  
Suite 670 )  
Minneapolis, MN 55435 ) MC ID No. 110556

Applicant's Attorney: Larry Gregg, 3401 Harrison,  
Topeka, KS 66611

*Liquid feed and feed ingredients,*

Between points in Wichita, Stafford, Ford and Scott  
counties, Kansas, on the one hand, and points in Kan-  
sas, on the other. Under contract with Midwest Mo-  
lasses, Inc., of Dodge City, Kansas.

\*\*\*\*\*

**Application for Certificate of Convenience  
and Necessity:**

Donny Ray Button, dba ) Docket No. 178,946 M  
Don's Wrecker Service )  
126 Humboldt )  
Fort Scott, KS 66701 ) MC ID No. 142140

Applicant's Attorney: None

*Wrecked, disabled, repossessed and replacement  
motor vehicles,*

Between all points and places in Bourbon, Miami  
and Linn counties, Kansas.

\*\*\*\*\*

**Application for Certificate of Convenience  
and Necessity:**

Ohlde Trucking, Inc. ) Docket No. 178,947 M  
Route 1, Box 221 )  
Linn, KS 66953 ) MC ID No. 142141

Applicant's Attorney: William Barker, 3401 Harrison,  
Topeka, KS 66611

*Grain, feed, feed ingredients, fertilizer, fertilizer ingredients,  
livestock, salt, seed, building and construction materials,  
and machinery (restricted against the transportation of  
hazardous materials),*

Between all points in Kansas.

\*\*\*\*\*

Don Carlile  
Administrator  
Transportation Division

Doc. No. 011444

**State of Kansas**

**Department of Transportation**

**Notice to Consulting Engineers**

The Kansas Department of Transportation is seeking  
qualified consultant engineering firms for construction  
inspection on an as-required basis.

Prequalified consultant engineering firms will pro-  
vide the following services on a time and material plus  
percentage fee contract: Performance of construction  
inspection on projects prescribed by KDOT on an as-  
required basis. Consultants will be chosen for KDOT  
Districts One, Four and Five. Work will be authorized  
by work order and charges to authorized KDOT pro-  
jects. The minimum call out time would be for one  
week's work. The minimum notice will be one week  
in advance.

A time schedule will not be included for consider-  
ation by the firms, as this will be covered during dis-  
cussion and negotiations at a later date.

From those firms expressing interest, KDOT will se-  
lect a list of the most highly qualified and invite them  
to attend a pre-proposal conference. Those firms not  
selected to attend a pre-proposal conference will be  
notified by letter. A negotiating committee appointed  
by the Secretary of Transportation will conduct dis-  
cussions with firms on the most qualified list and select  
several with which to negotiate a contract. After final  
contracts have been awarded, the remaining firms not  
selected will be notified by letter.

It is the policy of KDOT to use the following criteria  
as the basis for selection of engineering consultant  
firms:

1. Size and professional qualifications of the firm.
2. Experience of staff.
3. Location of firm with respect to proposed project.
4. Work load of firm.
5. Firm's performance record.

Firms should send seven copies of the request for  
selection by January 16 to: Al Cathcart, P.E., Project  
Control Engineer, Kansas Department of Transporta-  
tion, Office of Engineering Support, Docking State Of-  
fice Building, 915 S.W. Harrison, Topeka 66612-1568.

Michael L. Johnston  
Secretary of Transportation

Doc. No. 011439



## State of Kansas

## State Fair Board

## Notice of Meeting

The State Fair Board will meet at noon Thursday, January 9, at the Ramada Inn Downtown in Topeka. For further information, contact Deana Novak at (316) 669-3612.

Deana K. Novak  
Administrative Officer

Doc. No. 011448

## State of Kansas

## University of Kansas

## Notice to Bidders

Sealed bids for the items listed below will be received by the University of Kansas Purchasing Office, Lawrence, until 2 p.m. local time on the date indicated and then will be publicly opened. Interested bidders may call (913) 864-3416 or FAX (913) 864-3454 for additional information.

January 13, 1992

RFQ # 92 0670

Optical table with vibration isolation legs

RFQ # 92 0671

Syringe pump and controller

RFQ # 92 0682

Computer workstations and software for high-performance graphics

Gene Puckett, L.C.P.M.  
Director of Purchases

Doc. No. 011434

## State of Kansas

Department of Administration  
Division of Purchases

## Notice to Bidders

Sealed bids for the purchase of the following items will be received by the Director of Purchases, Landon State Office Building, 900 S.W. Jackson, Room 102, Topeka, until 2 p.m. C.S.T. on the date indicated and then will be publicly opened. Interested bidders may call (913) 296-2377 for additional information.

Monday, January 13, 1992

28674

Kansas Correctional Industries—One- and five-gallon polyethylene container

90811

University of Kansas—Telecommunication cable

Tuesday, January 14, 1992

A-6342(g)

Kansas State University—Plant Sciences Building, Phase II demolition of Hollis House, small animal quarters and facilities shop

28671

Statewide—Assorted plastic trash bags

28675  
Kansas State University—February (1992) meat products

90815

Kansas State University—Corn

Wednesday, January 15, 1992

28677

Kansas Correctional Industries—Broadway

90814

Topeka Correctional Facility—Duplex printer (IBM 3816)

90816

University of Kansas Medical Center—Refrigerated centrifuge

90818

Department of Transportation—Crack seal machine, various locations

Thursday, January 16, 1992

A-6720

Kansas State School for the Visually Handicapped—Fire exit stair, Carriage House

Friday, January 17, 1992

90825

Kansas State School for the Deaf—Auditory training equipment

90826

University of Kansas Medical Center—Respiratory therapy equipment

90827

University of Kansas Medical Center—Electrocardiograph (ECG) system

Tuesday, January 21, 1992

28676

Kansas Correctional Industries—Paint surfacant

Wednesday, January 22, 1992

A-6744

University of Kansas—Malott Hall, NSF grant-Phase II

A-6814

Kansas State University—Reroof designated areas, Kansas State Union

Thursday, January 23, 1992

A-6713

Department of Social and Rehabilitation Services—Renovate portions of training center and dorm building, Rehabilitation Center for the Blind

A-6741(b)

Kansas State University—Replace chilled water coils—electronics and computer building, Salina

Friday, January 31, 1992

28672

University of Kansas Medical Center—Software, dietary

Friday, February 28, 1992

28673

University of Kansas Medical Center, College of Health Sciences and Hospital—Professional liability insurance for students in School of Nursing

Jack R. Shipman  
Director of Purchases

Doc. No. 011440

## State of Kansas

## Legislature

## Interim Committee Schedule

The following committee meetings have been scheduled during the period of January 6-12:

Date	Room	Time	Committee	Agenda
January 8	522-S	Noon	Waste Reduction, Recycling and Market Development Commission	Discussion of recommendations to Governor and 1992 Legislature.
January 9	522-S	10:00 a.m.		

Emil Lutz  
Director of Legislative  
Administrative Services

Doc. No. 011445

## State of Kansas

## Office of Judicial Administration

## Court of Appeals Docket

(Note: Dates and times of arguments are subject to change.)

Monday, January 13, 1992

9:30 a.m.

Case No.	Case Name	Attorneys	County
66,224	State of Kansas, Appellee,	Robert T. Stephan, Attorney General Debra Byrd Wagner, Assistant District Attorney	Sedgwick
	v. James Earl Richmond, Appellant.	Jessica R. Kunen, Chief Appellate Defender Steven R. Zinn, Assistant Appellate Defender	
65,869	State of Kansas, Appellee,	Robert T. Stephan, Attorney General Debra Byrd Wagner, Assistant District Attorney	Sedgwick
	v. Sedrick Scott, Appellant.	Jessica R. Kunen, Chief Appellate Defender Rebecca E. Woodman, Assistant Appellate Defender	
65,626	State of Kansas, Appellee,	Robert T. Stephan, Attorney General Debra Byrd Wagner, Assistant District Attorney	Sedgwick
	v. Sherman C. Edwards and Wanda J. Edwards, Appellants.	Jessica R. Kunen, Chief Appellate Defender Thomas Jacquinet, Assistant Appellate Defender	On Petition for Review
65,451	State of Kansas, Appellee,	Robert T. Stephan, Attorney General Debra Byrd Wagner, Assistant District Attorney	Sedgwick
	v. Brandon N. Irons, Appellant.	Jessica R. Kunen, Chief Appellate Defender J. Patrick Lawless, Jr., Assistant Appellate Defender	On Petition for Review

1:30 p.m.

66,513	Charlett M. Harding, Individually, and as Executrix of the Estate of Jerry R. Harding, Deceased, Appellee, v. K. C. Wall Products, Inc., a Missouri Corporation, Appellant.	Jerry R. Palmer Mark A. Furney  Daniel L. Fowler Jason R. Brown	Sedgwick
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Tuesday, January 14, 1992

9:30 a.m.

Case No.	Case Name	Attorneys	County
66,635	Bank IV Wichita, et al., Appellants, v. Arn, Mullins, Unruh, Kuhn, Wilson, A General Partnership, et al., Appellees.	James D. Oliver  Darrell D. Kellogg	Sedgwick
66,471	Vyrnon E. Slaby, et al., Appellees, v. Jason A. Cox, et al., Appellees, and Alliance Insurance Company, Garnishee, Appellant.	David S. Wooding  William A. Vickery	Sedgwick
67,057	Robert Steele, et al., Appellants, v. City of Wichita, Appellee.	Timothy J. Finnerty Joseph H. Cassell Bruce C. Ward  Thomas R. Powell Ed L. Randels, Assistant City Attorney	Sedgwick
66,240	State of Kansas, Appellee, v. William H. Mason, Appellant.	Robert T. Stephan, Attorney General David L. Miller, County Attorney  Jessica R. Kunen, Chief Appellate Defender Kaye Messer, Assistant Appellate Defender	Miami

1:30 p.m.

67,056	Debra Stephenson, Appellant, v. Sugar Creek Packing, et al., Appellees.	Timothy A. Short  Garry W. Lassman	Crawford
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Wednesday, January 15, 1992

9:30 a.m.

Case No.	Case Name	Attorneys	County
65,704	Norman Kuhl, Appellee, v. The Atchison, Topeka & Santa Fe Railway Co., A Corporation, et al., Appellants.	Davy C. Walker Jon Carlson Susan S. Baker  William P. Coates, Jr. Michael J. Dutton	Wyandotte  On Petition for Review
66,529	Ruby L. Jones, Appellant, v. Neuroscience Associates, Inc., P.A., et al., Appellees.	Rosie M. Quinn  James D. Griffin Janet M. Simpson Hal Pierce	Wyandotte
65,530	State of Kansas, Appellant, v. Feliz Garcia, a/k/a Felix Garcia, a/k/a Felip Garcia, Appellee.	Robert T. Stephan, Attorney General Rodney H. Symmonds, County Attorney  Don W. Lill	Lyon  On Petition for Review

(continued)

65,754 State of Kansas, Appellant, Robert T. Stephan, Attorney General Lyon  
 v. Rodney H. Symmonds, County Attorney  
 Larry D. Simms, a/ka/ Larry D. Sims, Cortland E. Berry On Petition for Review  
 Appellant.

Thursday, January 16, 1992

9:30 a.m.

Case No.	Case Name	Attorneys	County
66,482	Barbara Oil Company, v. Kansas Gas Supply Corp., et al., Appellees—Cross-Appellants, v. Kansas Gas & Electric Company, Appellant—Cross-Appellee.	Larry L. Lorenzen Mark E. Greenwold Gordon B. Stull	Barber
66,420	Bank IV, Olathe, Adm. C.T.A. of the Estate of Tillie A. Flinn, Deceased, Appellant, v. Capitol Federal Savings and Loan Association, et al., Appellees.	Darrell L. Warta Keith Martin	Johnson
66,350	Marsha A. Martindale, Appellant, v. Robert T. Tenny, M.D., P.A., et al., Appellees.	John Anderson, Jr. H. Reed Walker	Johnson
66,507	Akandas, Inc., et al., Appellants, v. B. W. Klippel, et al., Appellees.	M. Warren McCamish Gary A. Nelson Dana L. Gorman David E. Pierce Dale L. Pohl John G. Pike Michael R. Hull	Wilson

Friday, January 17, 1992

9:30 a.m.

Case No.	Case Name	Attorneys	County
66,701	Farmers Bانشares of Abilene, Inc., Appellant, v. Hon. Bill Graves, State of Kansas, Appellee.	H. Boone Porter III Robert T. Stephan, Attorney General Martha M. Snyder, Assistant Attorney General	Shawnee
66,665	Dr. Frank P. Kosik, Appellee, v. Cloud County Community College, Appellant.	Terry D. Criss Stephen J. Dennis	Cloud
67,251	In the Matter of Diane Hensley-Martin, Respondent.	Bruce E. Miller, Disciplinary Administrator	Original
67,219	In the Matter of William T. Lewis, Jr., Respondent.	Diane Hensley-Martin, <i>pro se</i> Bruce E. Miller, Disciplinary Administrator William T. Lewis, Jr., <i>pro se</i>	Original

Carol G. Green  
Clerk of the Appellate Courts

## State of Kansas

**The Kansas Lottery**  
**Temporary Administrative**  
**Regulations**

**Article 4.—INDIVIDUAL GAME RULES**

**RULES FOR INSTANT GAME NO. 43**  
**"3 OF A KIND"**

**111-4-362. Name of Game.** The Kansas Lottery shall conduct an instant winner lottery game entitled "3 OF A KIND" commencing on December 26, 1991. The specific rules for the "3 OF A KIND" game are contained in K.A.R. 111-3-1 *et seq.* and 111-4-362 through 111-4-365. (Authorized by and implementing K.S.A. 1990 Supp. 74-8710; effective, T-111-11-19-91, Nov. 15, 1991; amended, T-111-12-18-91, Dec. 13, 1991.)

**Article 7.—CASH LOTTO GAME RULES**

**111-7-64. Name of Game.** The Kansas lottery shall conduct a lotto game "Pick 3" beginning at 6:00 a.m., January 21, 1992. The specific rules for "Pick 3" are in K.A.R. 111-7-64 through 111-7-75, and applicable generic rules are in K.A.R. 111-6-1 *et seq.* (Authorized by and implementing K.S.A. 1990 Supp. 74-8710; effective, T-111-12-18-91, Dec. 13, 1991.)

**111-7-65. Definitions.** The following definitions shall apply to "Pick 3":

(a) "Exact order" or "straight bet" means a three digit number designed to match in exact order the three digit number selected by the Lottery in a given drawing.

(b) "Any order" or "box bet" means a three digit number designed to match, in any sequence, the three digits of the winning number selected by the Lottery in a given drawing.

(c) "Six-way any order" or "six-way box bet" means a three digit number, in which the digits are all different, designed to match in any order the three digits of the winning number selected by the lottery in a given drawing.

(4) "Three-way any order" or "three-way box bet" means a three (3) digit number where two of the three digits are the same, designed to match in any order the three digits of the winning number selected by the lottery in a given drawing.

(e) "Play" means the three digit number between 000 and 999 selected by the player.

(f) "Quick pick" means the random selection by a terminal of a three digit number from 000 through 999, which appears on a ticket and is played by the game player.

(g) "Winning number" means the three digit number between 000 and 999, randomly selected at each drawing, which shall be used to determine winning plays contained on a game ticket. (Authorized by and implementing K.S.A. 1990 Supp. 74-8710; effective, T-111-12-18-91, Dec. 13, 1991.)

**111-7-66. Game Description; Drawing.** (a) Pick 3 is a daily game in which drawings shall be conducted every day but Sunday in accordance with lottery procedures.

(b) To play Pick 3 a player shall select a set of three single digit numbers from three sets of single digit numbers beginning with zero and progressing by increments of one through the number nine by (1) communicating the numbers to the retailer; (2) marking up to four boards on each play slip and submitting the play slip to the retailer; or (3) requesting a quick pick from the retailer.

(c) The cost of a single ticket shall be either \$.50 per play or \$1.00 play times the number of plays.

(d) A validated ticket shall be the only proof of a game play or plays, and the submission of a winning ticket to and receipt of the ticket by the lottery or its authorized retailer shall be the sole method of claiming a prize or prizes. A play slip has no pecuniary or prize value and shall not constitute evidence of ticket purchase, of numbers selected or prizes to be paid.

(e) A ticket may not be voided or cancelled by returning the ticket to the selling retailers, including tickets that are printed in error.

(f) Ticket sales will end at approximately 6:45 p.m. central time (CT) on each drawing day and resume at approximately 7:00 p.m.

(g) Drawings will be conducted daily except Sundays at approximately 6:55 p.m. central time (CT) immediately after the game is closed, and the external auditor has verified that the game is closed, under conditions and procedures promulgated by the executive director of the lottery.

(h) It shall be the sole responsibility of the player to verify the accuracy of the game plays and other data printed on the ticket. The placing of plays is done at the player's own risk through the on-line retailer who is acting on behalf of the player in entering the plays. (Authorized by and implementing K.S.A. 1990 Supp. 74-8710; effective, T-111-12-18-91, Dec. 13, 1991.)

**111-7-67. Prize Pool; Reserve Pool.** (a) The prize pool in the lottery prize payment fund for all prize categories shall consist of fifty per cent (50%) of sales for each draw.

(b) Any moneys remaining in the prize pool following each draw, except unclaimed prizes, shall be placed in a prize reserve pool for subsequent Pick 3 drawings. (Authorized by and implementing K.S.A. 1990 Supp. 74-8710; effective, T-111-12-18-91, Dec. 13, 1991.)

**111-7-68. Prizes.** Prizes shall be awarded for winning tickets as follows:

Play	\$.50 wager	\$1.00 wager
Exact order (straight)	\$250	\$500
Any order (box) 3-way	80	160
Any order (box) 6-way	40	80

(Authorized by K.S.A. 1990 Supp. 74-8710; implementing K.S.A. 1990 Supp. 74-8710 and 74-8720, as amended by L. 1991, Ch. 246, §2; effective, T-111-12-18-91, Dec. 13, 1991.)

(continued)

**111-7-69. Probability of Winning.** The following table sets forth the probability of winning a prize:

**ODDS OF WINNING ON EACH TICKET**

Match	Play Type	Probability of Winning
3	Exact order (straight)	1:1000
3	Any order (3 way)	1:333.33
3	Any order (6 way)	1:166.67

(Authorized by and implementing K.S.A. 1990 Supp. 74-8710; effective, T-111-12-18-91, Dec. 13, 1991.)

**111-7-70. Prize Payment.** (a) Prizes shall be claimed within one year from the date of the drawing for which the ticket was purchased.

(b) At the conclusion of the prize claim period, all unclaimed prizes shall remain in the lottery's prize payment fund to be used for the payment of other prizes. (Authorized by and implementing K.S.A. 1990 Supp. 74-8710; effective, T-111-12-18-91, Dec. 13, 1991.)

**111-7-71. Limitation of Liability.** When the number of plays placed on a given number and type of play reaches a liability designated by the executive director for that type of play, the lottery reserves the right to permit no additional plays to be placed on that number and type of play. (Authorized by and implementing K.S.A. 1990 Supp. 74-8710; effective, T-111-12-18-91, Dec. 13, 1991.)

**111-7-72. Ticket Validation.** To be a valid ticket and eligible to receive a prize, a Pick 3 ticket shall satisfy all the requirements established by the Kansas lottery for validation of winning tickets. (Authorized by and implementing K.S.A. 1990 Supp. 74-8710; effective T-111-12-18-91, Dec. 13, 1991.)

**111-7-73. Claiming Prizes; Procedure and Time Period.** (a) Prior to the payment of any prize, each ticket shall be validated by the retailer or lottery office pursuant to this article.

(b) The procedure for payment of a "Pick 3" prize on any single game ticket is as follows:

(1) The holder of a ticket purchased in Kansas may present the ticket to any Pick 3 retailer. Upon validation of the ticket, the retailer shall immediately make payment of a prize of \$599 or less to the holder. If the retailer cannot validate the claim, or if the prize is \$600 or more, the claimant shall fill out a claim form provided by the retailer and personally present or mail the completed form together with the ticket to any office of the Kansas lottery. If the claim is validated, then payment shall be made to the claimant by mail.

(2) The claimant may bring the signed ticket to any regional office of the Kansas lottery during the hours that the office is open to the public for business. Upon validation of the claim, and completion of a claim form, payment shall be processed for the claimant.

(3) The claimant may mail the ticket with a completed claim form in any envelope, except an official grand prize envelope, to any office of the Kansas lottery. Claim forms may be obtained from any lottery retailer or any office of the Kansas lottery. Upon validation of the claim, payment shall be processed for the claimant.

If any evidence of alteration, mutilation, tear or other ambiguity appears on the ticket, the retailer shall not make direct payment of a prize. The claimant shall submit a claim form with the ticket to the lottery.

(c) All prizes shall be claimed within one year of the drawing in which the prize was won. Any prize or prizes not claimed within the time specified shall be forfeited. If a prize is claimed by mail, the ticket and claim form must actually be received by the lottery within the claim period. (Authorized by and implementing K.S.A. 1990 Supp. 74-8710 and 74-8720; effective, T-111-12-18-91, Dec. 13, 1991.)

**111-7-74. Ticket Responsibility.** (a) If there is no signature on the back of a ticket in the area designated for a signature, a ticket shall be owned by the physical possessor of the ticket. When a signature appears on the back of the ticket in the designated place, the person whose signature appears in such area shall be the owner of the ticket and shall be entitled, subject to all validation requirements, to any prize attributable to the ticket.

(b) If the signature of more than one person appears on the back of the ticket in the designated place, the lottery shall make payment to the person whose signature appears on the ticket and who also completes and signs the winner claim form. If any person whose signature appears on the ticket and/or claim form cannot be identified as the winner to the satisfaction of the executive director, the lottery shall keep the prize until such determination of entitlement is made. In no event shall more than one person be entitled to a particular prize.

(c) The Kansas lottery shall not be responsible for lost or stolen tickets. (Authorized by and implementing K.S.A. 1990 Supp. 74-8710 and 74-8720; effective, T-111-12-18-91, Dec. 13, 1991.)

**111-7-75. Multi-Draw.** (a) In addition to a single play involving a wager of \$.50 or \$1.00, a player may also have his or her selections entered in multiple drawings. Multi-draw tickets must be purchased for consecutive drawings beginning with the next drawing. This is done by marking one of the multi-draw boxes designated by 2, 3, 4, 5 or 6 on the play slip. The additional draw period(s) for which the ticket is valid will then appear on the computer generated ticket given the player by the retailer.

(b) A player must pay an additional \$.50 or \$1.00 per play depending on the amount he or she wishes to wager for each additional drawing in which he or she wishes to play.

(c) Unless one of the multi-draw boxes is marked and the additional amount paid, the play will only be eligible for the current drawing up to 6:45 p.m. the day of the drawing.

(d) A player may purchase only the same numbers on the same boards for multiple drawings. (Authorized by and implementing K.S.A. 1990 Supp. 74-8710; effective, T-111-12-18-91, Dec. 13, 1991.)

Ralph Decker  
Executive Director

Doc. No. 011437

State of Kansas

**Board of Agriculture  
Division of Water Resources**

**Permanent Administrative  
Regulations**

**Article 40.—DESIGN OF EARTH DAMS**

**5-40-1. Definitions.** As used in these rules and regulations, K.S.A. 82a-301 through 305a, and by the division of water resources in administering K.S.A. 82a-301 through 305a, unless the context clearly requires otherwise, the following words and phrases shall have the meaning ascribed to them in this section:

(a) "Application" means the formal document submitted to the chief engineer requesting a permit, in accordance with the provisions of K.S.A. 82a-301 through 305a, that authorizes the applicant to proceed with the construction of a proposed dam, channel change or stream obstruction.

(b) "Authorized representative" means any staff employee designated by the chief engineer to perform duties and functions on behalf of the chief engineer.

(c) "Channel change or stream obstruction" means any project or structure, including any dam, that:

(1) does not extend above the higher natural bank; or

(2) alters the course, current or cross section of any stream of the state.

(d) "Chief engineer" means the chief engineer, division of water resources of the Kansas state board of agriculture.

(e) "Dam" means any artificial barrier, together with appurtenant works, which does, or may, impound water.

(f) "Freeboard" means the vertical distance between the maximum stage attained in the design storm event and the top of the structure.

(g) "Navigable stream" means the Arkansas river, the Missouri river and the Kansas river.

(h) "Perennial stream" means a stream, or part of a stream, that flows continuously during all of the calendar year, except during an extreme drought.

(i) "Permit" means the formal document issued by the chief engineer to the sponsor of a project, that authorizes the sponsor to proceed with the construction of the dam, channel change or stream obstruction.

(j) "Reservoir" means the area upstream from a dam which contains, or will contain, impounded water.

(k) "Stream" means any watercourse which has a well-defined bed and banks. The stream need not flow continuously and may flow only briefly after a rain in the watershed. The drainage area above the point in question must exceed 160 acres or a greater acreage designated in writing by the chief engineer, except that the chief engineer reserves the right to regulate levees or floodplain fills regardless of the size of the drainage area if the chief engineer determines it to be necessary to protect the public interest, public safety or environmental interests. (Authorized by K.S.A. 82a-303a; implementing K.S.A. 82a-302; effective May 1, 1983;

amended May 1, 1987; amended, T-5-12-30-91, Dec. 30, 1991; amended Feb. 17, 1992.)

**Article 44.—FLOODPLAIN MANAGEMENT**

**5-44-1. Floodplain Management; Definitions.** As used in these regulations, K.S.A. 12-766, and by the division of water resources in administering K.S.A. 12-766, unless the context clearly requires otherwise, the following words and phrases shall have the meaning ascribed to them in this section: (a) "Basement" means any area of a building having its floor subgrade (below ground level) on all sides.

(b) "Chief engineer" means the chief engineer of the division of water resources, Kansas state board of agriculture.

(c) "Development" means any man-made change to real estate, including, but not limited to:

- (1) buildings or other structures;
- (2) mining;
- (3) dredging;
- (4) filling;
- (5) grading;
- (6) paving;
- (7) excavation or drilling; or
- (8) storage of equipment or materials.

(d) "Flood or flooding" means a general and temporary condition of partial or complete inundation of normally dry land from:

- (1) the overflow of waters normally confined between the banks of a stream or other watercourse, or
- (2) the unusual, rapid accumulation or runoff of surface waters from any source.

(e) "Regulatory floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

(f) "Lowest floor" means the lowest enclosed area, including a basement, of a building. An unfinished or flood resistant enclosure usable solely for parking of vehicles, building access or storage in an area other than a basement is not considered a building's lowest floor.

(g) "Permit" means a signed document from a designated community official authorizing development in a floodplain, including all necessary supporting documentation such as:

- (1) the site plan;
- (2) an elevation certificate; and
- (3) any other necessary or applicable approvals or authorizations from local, state or federal authorities.

(h) "Structure" means a walled and roofed building, a manufactured house, or above ground gas or liquid storage tank.

(i) "Substantially improved" means any reconstruction, rehabilitation, addition to or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the improvement.

(j) "Variance" means a grant of relief by a community from the terms of a floodplain management zoning regulation.

(continued)

(k) "Flood hazard map" means the document adopted by the governing body showing the limits of:

- (1) the floodplain;
- (2) the floodway;
- (3) streets;
- (4) stream channel; and
- (5) other geographic features.

(Authorized by and implementing K.S.A. 12-766; effective, T-5-12-30-91, Jan. 1, 1992; effective Feb. 17, 1992.)

**5-44-2. Floodplain Management; Conditions for Application for Approval.** Before formal adoption by the governing body of any zoning regulation that establishes a floodplain zone or district, or regulates the development within a floodplain zone or district, the governing body shall apply to the chief engineer for approval of the zoning regulations. The governing body shall also apply to the chief engineer for approval of its zoning regulation when: (a) the governing body enters into, or alters its status under, the national flood insurance program;

(b) the governing body adopts a new or revised flood hazard map, base flood elevations, flood insurance study, or regulatory floodway;

(c) the governing body annexes areas containing floodplain;

(d) the governing body assumes administrative jurisdiction over the adjacent floodplain areas outside the governing body's boundaries; or

(e) the governing body changes variance procedures used in granting relief from floodplain regulations. (Authorized by and implementing K.S.A. 12-766; effective, T-5-12-30-91, Jan. 1, 1992; effective Feb. 17, 1992.)

**5-44-3. Floodplain Management; Application for Approval of Zoning Regulations; Time Limit.** (a) The application for approval of zoning regulations shall consist of:

(1) a letter which:

(A) requests approval by the chief engineer under K.S.A. 12-766 on a proposed effective date, which shall not be prior to the approval by the chief engineer;

(B) proposes the date of adoption by the governing body; and

(C) states the reason for application for approval as enumerated in K.A.R. 5-44-2;

(2) a copy of the full text of the zoning regulation including maps, plans, profiles and specifications adopted by the floodplain management zoning regulations which meet the requirements of K.A.R. 5-44-4.

(b) When all the data required by the chief engineer is received, the chief engineer shall notify the governing body in writing as to the beginning and ending dates of the 90 day statutory time period for review. (Authorized by and implementing K.S.A. 12-766; effective, T-5-12-30-91, Jan. 1, 1992; effective Feb. 17, 1992.)

**5-44-4. Floodplain Management; Zoning Regulations; Minimum Standards and Criteria.** Any zoning regulation which regulates development of floodplains shall include the following minimum standards and

criteria: (a) Flood hazard areas shall be identified as follows:

(1) The flood hazard area subject to floodplain management zoning regulation shall be identified by reference to a specific map used to identify the flood hazard. The identification of the map shall include the preparer of the map and the date it was prepared.

(2) When the flood hazard map is revised and republished with a new effective date, the governing body's floodplain management zoning regulations shall amend the zoning regulations to adopt the new map by reference.

(b) The development standards shall meet or exceed the minimum requirements of the national flood insurance act of 1968, as amended, 42 U.S.C. Section 4001 *et seq.* and the regulations adopted pursuant to that act.

(c) Any development standards adopted by the governing body for which minimal requirements have been set by the chief engineer in K.A.R. 5-45-1 *et seq.* shall meet or exceed the requirements of the chief engineer.

(d) The governing body shall designate a local floodplain administrator by position or job title. The local floodplain administrator's responsibilities shall include:

(1) the review and issuance of floodplain development permits;

(2) the conduct or direction of appropriate inspections;

(3) the maintenance of any records necessary to document compliance with floodplain development permit conditions; and

(4) any other matters deemed appropriate by the governing body.

(e) The governing body shall designate by position or job title an enforcement officer who is responsible to enforce the actions of the local floodplain administrator.

(f) The local floodplain administrator and enforcement officer may be combined in a single position or job title.

(g) If any part of a proposed development is located within the floodplain, an application for floodplain development permit shall be made to the local floodplain administrator. The application for a floodplain development permit shall contain:

(1) Sufficient detail for the local floodplain administrator to determine the nature of proposed development and whether permits or approvals are needed from the governing body, state or federal authorities, especially any permits or approvals that may be required by K.S.A. 24-126 or K.S.A. 82a-301 *et seq.* and their respective regulations; and

(2) Written documentation of adequate protection from damages which could be caused by the base flood.

(h) If the proposed residential development will be located in an area designated as zone AO on a flood insurance rate map (FIRM), any new or substantially improved residential structure shall have the lowest floor (including basement) elevated above the highest adjacent natural grade at least as high as the depth number specified in feet on the FIRM. If no depth



number is specified on the FIRM, it shall be elevated at least two feet above the highest adjacent natural grade.

(i) If the proposed non-residential development will be located in an area designated at zone AO on a FIRM, any new or substantially improved non-residential structure shall be dry flood proofed or elevated to at least as high as the depth number specified in feet on the FIRM above the highest adjacent natural grade. If no depth number is specified on the FIRM, it shall be dry flood proofed or elevated at least two feet above the highest adjacent natural grade.

(j) If zone AO is not specified on the FIRM, or the proposed development will be located in the floodplain outside zone AO, then the lowest floor of any new or substantially improved residential structure shall be elevated at least one foot above the base flood elevation. The elevation of the lowest floor shall be certified by a licensed land surveyor.

(k) If zone AO is not specified on the FIRM, or the proposed development will be located in the floodplain outside zone AO, then any new or substantially improved non-residential structure shall be dry flood proofed or elevated to at least one foot above the base flood elevation. The elevation of the lowest floor shall be certified by a licensed land surveyor. If the structure is dry flood proofed, a licensed architect or a licensed professional engineer shall certify that the design and methods of construction of the dry flood proofing meet or exceed the minimum requirements of the national flood insurance act of 1968, as amended, 42 U.S.C. Section 4001 et seq. and the regulations adopted pursuant to that act. (Authorized by and implementing K.S.A. 12-766; effective, T-5-12-30-91, Jan. 1, 1992; effective Feb. 17, 1992.)

**5-44-5. Floodplain Management; Variance Procedures.** Any floodplain management zoning regulations shall include procedures for the approval of a variance to the floodplain management zoning regulations. The procedures shall stipulate the criteria for a variance and specify when a variance may be granted by the local floodplain administrator, the enforcement officer or board of zoning appeals. The procedures shall establish a board of zoning appeals for hearing appeals of decisions of the floodplain administrator or enforcement officer and establish the criteria for the appeals. Variances shall not be granted solely to avoid the requirements of a floodplain development permit. (Authorized by and implementing K.S.A. 12-766; effective, T-5-12-30-91, Jan. 1, 1992; effective Feb. 17, 1992.)

**5-44-6. Floodplain Management; Waiver or Stricter Requirements.** (a) The chief engineer may waive any of the regulations adopted under this article if it is shown to the satisfaction of the chief engineer that waiver of the regulation will not pose a hazard to the public safety and that such waiver is not adverse to the public interest.

(b) The chief engineer may invoke any jurisdiction granted by statute to impose stricter requirements than those required by rules and regulations where such jurisdiction or additional requirements are necessary to protect the public interest, protect the public safety or

prevent damage to public or private property. (Authorized by and implementing K.S.A. 12-766; effective, T-5-12-30-91, Jan. 1, 1992; effective Feb. 17, 1992.)

Sam Brownback  
Secretary of Agriculture

Doc. No. 011436

(Published in the Kansas Register, January 2, 1992.)

**Notice of Call for Redemption  
to the holders of  
City of El Dorado, Kansas  
Hospital Revenue Bonds  
(Susan B. Allen Memorial Hospital)  
(Series of 1979)**

Notice is hereby given that pursuant to Section 5 of Ordinance No. S-633 of the city of El Dorado, Kansas, that all of the above mentioned bonds maturing on and after August 1, 1992, and all unmatured coupons appertaining to such of the bonds as are coupon bonds, have been called for redemption and payment on February 1, 1992, at the office of Bank IV Topeka, National Association (formerly First National Bank of Topeka), Topeka, Kansas (the paying agent).

CUSIP Nos.	Maturity Date	Principal Amount	Interest Rate
283164 AK7	08-01-92	\$265,000	7 <sup>3</sup> / <sub>4</sub> %
283164 AL5	08-01-93	285,000	7 <sup>3</sup> / <sub>4</sub> %
283164 AM3	08-01-94	310,000	7 <sup>3</sup> / <sub>4</sub> %

**Term Bonds**

283164 AN1	08-01-99	\$1,975,000	8.10%
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On such redemption date there shall become due and payable, upon the presentation and surrender of each such bond and unmatured coupons, at Bank IV Topeka, N.A., c/o Bank IV Wichita, N.A., 100 N. Broadway, 3rd Floor Exchange Place, Corporate Trust Operations, Wichita, KS 67202, the redemption price thereof equal to 102 percent of the principal amount of each bond together with interest accrued to the redemption date. Interest shall cease to accrue on the bonds so called for redemption from and after February 1, 1992, subject to the condition that sufficient funds for redemption are then on deposit with the paying agent from the proceeds of refunding bonds issued by the city.

Under the provisions of the Interest and Dividend Tax Compliance Act of 1983, paying agents making payments of interest or principal on corporate securities or making payments of principal on municipal securities may be obligated to withhold a 20 percent tax from remittances to individuals who have failed to furnish the paying agent with a valid taxpayer identification number. Holders of the Series 1979 Bonds who wish to avoid the imposition of the tax should submit certified taxpayer identification numbers when presenting the bonds for payment.

Dated December 26, 1991.

City of El Dorado, Kansas  
By: Bank IV Topeka, National Association  
Topeka, Kansas  
as Paying Agent

Doc. No. 011420

INDEX TO ADMINISTRATIVE REGULATIONS

This index lists in numerical order the new, amended and revoked administrative regulations and the volume and page number of the Kansas Register issue in which more information can be found. This cumulative index supplements the index found in the 1991 Supplement to the Kansas Administrative Regulations.

AGENCY 1: DEPARTMENT OF ADMINISTRATION

Table with columns: Reg. No., Action, Register. Lists regulations 1-5-15 through 1-49-1.

AGENCY 4: BOARD OF AGRICULTURE

Table with columns: Reg. No., Action, Register. Lists regulations 4-3-47 through 4-33-2.

AGENCY 5: BOARD OF AGRICULTURE— DIVISION OF WATER RESOURCES

Table with columns: Reg. No., Action, Register. Lists regulations 5-23-3 through 5-24-5.

AGENCY 7: SECRETARY OF STATE

Table with columns: Reg. No., Action, Register. Lists regulations 7-30-1 through 7-32-2.

AGENCY 9: ANIMAL HEALTH DEPARTMENT

Table with columns: Reg. No., Action, Register. Lists regulations 9-13-1 through 9-18-1.

Table with columns: Reg. No., Action, Register. Lists regulations 9-19-1 through 9-24-3.

AGENCY 14: DEPARTMENT OF REVENUE— DIVISION OF ALCOHOLIC BEVERAGE CONTROL

Table with columns: Reg. No., Action, Register. Lists regulations 14-19-24 through 14-23-4.

AGENCY 17: STATE BANKING DEPARTMENT

Table with columns: Reg. No., Action, Register. Lists regulations 17-11-17 through 17-20-1.

AGENCY 23: DEPARTMENT OF WILDLIFE AND PARKS

Table with columns: Reg. No., Action, Register. Lists regulations 23-3-16 through 23-21-14.

AGENCY 25: STATE GRAIN INSPECTION DEPARTMENT

Table with columns: Reg. No., Action, Register. Lists regulation 25-4-1.

AGENCY 26: DEPARTMENT ON AGING

Table with columns: Reg. No., Action, Register. Lists regulations 26-8-1 through 26-8-14.

AGENCY 28: DEPARTMENT OF HEALTH AND ENVIRONMENT

Table with columns: Reg. No., Action, Register. Lists regulations 28-4-405 through 28-19-61.

Table with columns: Reg. No., Action, Register. Lists regulations 28-19-62 through 28-59-8.

AGENCY 30: SOCIAL AND REHABILITATION SERVICES

Table with columns: Reg. No., Action, Register. Lists regulations 30-2-16 through 30-7-77.





111-7-55 through		
111-7-63	Revoked	V. 10, p. 1217
111-7-58	Amended	V. 10, p. 261
111-7-60	Amended	V. 10, p. 262
111-8-1	New	V. 7, p. 1633
111-8-2	New	V. 7, p. 1633
111-8-3	Amended	V. 10, p. 886
111-8-4	New	V. 7, p. 1714
111-8-4a	New	V. 7, p. 1995
111-8-5 through		
111-8-13	New	V. 7, p. 1634
111-9-1 through		
111-9-12	New	V. 7, p. 1714-1716
111-9-1 through		
111-9-6	Revoked	V. 9, p. 1680
111-9-13 through		
111-9-18	Revoked	V. 9, p. 1680
111-9-25 through		
111-9-30	New	V. 9, p. 699, 700
111-9-31 through		
111-9-36	New	V. 10, p. 262
111-9-37 through		
111-9-48	New	V. 10, p. 1439, 1440
111-10-1 through		
111-10-9	New	V. 8, p. 136-138
111-10-7	Amended	V. 8, p. 301
<b>AGENCY 112: KANSAS RACING COMMISSION</b>		
Reg. No.	Action	Register
112-4-14b	New	V. 10, p. 162
112-4-21	New	V. 10, p. 162

112-6-1 through		
112-6-5	Amended	V. 10, p. 163-165
112-6-8	Amended	V. 10, p. 165
112-7-6	Amended	V. 10, p. 165
112-8-3	Amended	V. 10, p. 166
112-8-4	Amended	V. 10, p. 167
112-8-5	Amended	V. 10, p. 167
112-8-8	Amended	V. 10, p. 168
112-8-10	Amended	V. 10, p. 168
112-9-41	Revoked	V. 10, p. 1494
112-9-41a	New	V. 10, p. 1494
112-10-34	Amended	V. 10, p. 169
112-10-35	Amended	V. 10, p. 170
112-11-21	Amended	V. 10, p. 263, 531
112-12-12	Amended	V. 10, p. 170
112-13-2	Amended	V. 10, p. 170
112-13-4	New	V. 10, p. 171
112-13-5	New	V. 10, p. 171
112-16-1 through		
112-16-14	New	V. 10, p. 1316-1318
<b>AGENCY 115: DEPARTMENT OF WILDLIFE AND PARKS</b>		
Reg. No.	Action	Register
115-1-1	Amended	V. 10, p. 1818
115-4-1	Amended	V. 10, p. 458
115-4-3	Amended	V. 10, p. 458
115-4-5	Amended	V. 10, p. 782
115-4-7	Amended	V. 10, p. 460
115-4-11	Amended	V. 10, p. 461
115-4-12	New	V. 10, p. 461
115-7-1	Amended	V. 10, p. 1820
115-8-9	Amended	V. 10, p. 1820
115-12-3	New	V. 10, p. 1821
115-13-1 through		
115-13-5	New	V. 10, p. 917-919

115-14-1 through		
115-14-10	New	V. 10, p. 1441-1443
115-17-10 through		
115-17-13	New	V. 10, p. 461, 462
115-20-3	Amended	V. 10, p. 1821
115-20-4	New	V. 10, p. 1821

**AGENCY 117: REAL ESTATE APPRAISAL BOARD**

Reg. No.	Action	Register
117-1-1	Amended	V. 10, p. 911, 951
117-2-1	Amended	V. 10, p. 911, 952
117-2-2	Amended	V. 10, p. 912, 952
117-2-3	New	V. 10, p. 912, 952
117-2-4	New	V. 10, p. 912, 952
117-3-1	Amended	V. 10, p. 912, 953
117-3-2	Amended	V. 10, p. 913, 953
117-3-3	New	V. 10, p. 913, 953
117-3-4	New	V. 10, p. 913, 953
117-4-1 through		
117-4-4	New	V. 10, p. 913, 914, 954
117-6-1	Amended	V. 10, p. 914, 954
117-6-2	Amended	V. 10, p. 915, 955
117-6-3	Amended	V. 10, p. 915, 955
117-7-1	Amended	V. 10, p. 916, 956
117-8-1	New	V. 10, p. 916, 956
117-9-1	New	V. 10, p. 916, 956

**AGENCY 119: KANSAS DEVELOPMENT FINANCE AUTHORITY**

Reg. No.	Action	Register
119-1-1	New	V. 10, p. 263
119-1-2	New	V. 10, p. 264
119-1-3	New	V. 10, p. 264

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**In this issue...**

State Board of Accountancy Notice of Meeting.....	Page 20
State Records Board Notice of Meeting.....	20
Kansas Agricultural Value-Added Processing Center Notice of Leadership Council Meeting.....	20
Kansas Water Authority Notice of Meeting.....	21
Kansas Sentencing Commission Notice of Meeting.....	21
Executive Appointments Kansas Apprenticeship Committee Notice of Meeting.....	21
Notice to Bidders for State Purchases.....	22
Notice of Bond Sale City of Hillsboro.....	22

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