

INTERIM JOINT COMMITTEE ON NATURAL RESOURCES AND ENERGY

Minutes of the 3rd Meeting of the 2018 Interim

August 6, 2018

Call to Order and Roll Call

The 3rd meeting of the Interim Joint Committee on Natural Resources and Energy was held on Monday, August 6, 2018, at 1:30 PM, in Room 154 of the Capitol Annex. Representative Jim Gooch Jr., Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jared Carpenter, Co-Chair; Representative Jim Gooch Jr., Co-Chair; Senators C.B. Embry Jr., John Schickel, and Brandon Smith; Representatives John Blanton, Larry Brown, McKenzie Cantrell, Jeffery Donohue, Myron Dossett, Jim DuPlessis, Daniel Elliott, Kelly Flood, Angie Hatton, Dennis Keene, Reginald Meeks, Suzanne Miles, Robby Mills, and Rick G. Nelson.

Guests: Bruce Scott, Deputy Secretary, Energy and Environment Cabinet; Peter Goodmann, Director, Division of Water, Energy and Environment Cabinet; Gary Larimore, Executive Director, Kentucky Rural Water Association; Jimmy Keeton, Director of Government Affairs, Kentucky American Water and Brent O'Neill, Director of Engineering, Kentucky American Water.

LRC Staff: Stefan Kasacavage, Janine Coy-Geeslin, Tanya Monsanto, and Susan Spoonamore, Committee Assistant.

The July 5, 2018 minutes were approved, by voice vote, without objection, upon motion of Senator Schickel and second by Representative DuPlessis.

Discussion of State Water and Wastewater Infrastructure Needs

Energy and Environment Cabinet

Pete Goodmann, Director for the Division of Water, stated that water is the most important natural resource and that it is critical to Kentucky's public health, economic development, economic and environmental sustainability, and quality of life. Water and wastewater infrastructure includes water treatment plants, wastewater treatment plants and their distribution and collection systems, and dams. Kentucky has already made significant strides in expanding water and wastewater infrastructure throughout the state. Over 95 percent of Kentuckians are provided public water. Most Kentuckians are connected to

regional sewers that require extensive infrastructure. However, the current investment is not sufficient to meet the needs for long-term maintenance. Consolidation of systems is ongoing, and they involve old infrastructure where maintenance had been deferred. Extensive data on water and wastewater has been compiled and can be used for funding decisions, asset management, and future planning. Bruce Scott, Deputy Secretary of the Energy and Environment Cabinet, noted that the Division of Water had spent a lot of time assessing the data to determine the age of the infrastructure and redundancy.

Mr. Goodman stated that the Louisville Metropolitan Sewer District (MSD) is the largest wastewater utility in the Commonwealth and has regionalized the most facilities. Since 1996, more than 145 small wastewater treatment plants (WWTPs) have been taken offline, but there are still more in operation. The 180 wastewater treatment systems are priority candidates for regionalization. Mr. Scott said that the passing of 2018 House Bill 513 allows the cabinet to provide better regulatory oversight of small private wastewater treatment plants. It also allows sanitation districts, water districts, and others to own and operate systems outside of their jurisdictions with voluntary agreements. Each of the 180 remaining public and private systems are unique and have to be dealt with in order to move forward. Mr. Goodman stated the compliance history in wastewater reached about 64 percent but has been declining. Some plants have met their compliance ceiling only because of old infrastructure. Mr. Scott said that all wastewater and water systems rely upon competent operators. Because those individuals are often not paid much, the operators at smaller plants are recruited to work for bigger entities.

Mr. Goodman stated that the challenges facing wastewater plants are the age of infrastructure, deferred maintenance and investment in infrastructure, and insufficient planning for the future. There are approximately 800 wastewater treatment plants that are beyond their design lives. The average age of a plant is 36 years, and the average age for the 18,000 miles of sewer lines is 42 years. There are more than 4,000 sewage lift stations. According to the Environmental Protection Agency's 2014 Clean Watersheds Needs Survey, Kentucky needs \$6.232 billion in investment funding through 2035 to address its wastewater infrastructure needs. The American Society of Civil Engineers' 2017 report gave Kentucky a D+ in wastewater infrastructure.

Mr. Goodman stated that, in 1974, Kentucky had approximately 2,200 public water systems. There are 213 water treatment plants, with an average age of 38 years. There are 64,000 miles of distribution lines, with an average age of 40 years, as well as aging water storage tanks and pumping stations. Kentucky will need \$8.2 billion in infrastructure funding through 2035 to address its drinking water infrastructure needs.

Mr. Goodman explained the benefits and risks of dams. Dams serve as flood protection downstream, provide reservoirs for water supplies for drinking water, and provide opportunities for recreation. The risks include inundation zones if failure occurs and risk creep when development occurs in the downstream inundation zone. Kentucky

has 954 dams; 72 dams are state-owned, 14 are federally-owned, 315 are owned by local governments, and 553 are privately-owned. Of the 954 dams, 177 are classified as high-hazard, 131 are moderate-hazard, and 646 are low-hazard dams. According to the 2014 Dam Safety Mitigation Plan, it was estimated that \$100 million would be needed to cover dam failures that could result in the loss of homes, businesses, infrastructure, and agricultural assets.

Mr. Scott stated that water, sewer, and dam infrastructure systems are foundational to who Kentucky is as a state, along with gas and electric infrastructure systems. Kentucky cannot have economic development or a good quality of life if investments are not made in infrastructure. There are several funding options including public-private partnerships. Kentucky is not meeting the funding needs for all systems, nor are all of the systems availing themselves of current funding options. Small systems, public and private, have inadequate fee rate structures, insufficient borrowing capacity, or inadequate technical capacity. Nobody wants to inherit the responsibility and challenges of a substandard operating system.

Mr. Scott recommended creating a Kentucky-specific Water Infrastructure Fund. Funds would be dedicated to target investment in Kentucky's water infrastructure and develop community partnerships.

By investing in infrastructure, 15 jobs are created for every \$1 million spent. The cabinet believes it would be beneficial to establish a workgroup to address the issues.

In response to Representative Miles, Mr. Goodman said that planning and zoning play a role in establishing guidelines for building in areas surrounding places like Rough River Dam. Flowage easements are common. When package plants and home units are built, operational permits require hookup after sewer service is available.

In response to Senator Carpenter, Mr. Scott stated that some systems are regulated by the Public Service Commission (PSC) and some are not. The systems that are regulated by PSC typically do a better job of maintaining a decent rate structure.

In response to Representative Meeks, Mr. Scott stated that the cabinet has good relationships with MSD and the Louisville Water Company, which have the capacity to do more by crossing county lines to put agreements in place to better serve adjacent areas. Mr. Goodman said that he speaks regularly with MSD to help provide regional solutions. Mr. Scott said a consent decree several years ago dealt with combined sewers and sanitary overflows. The cabinet and the Environmental Protection Agency (EPA) can deal with situations where there has been no "demonstrative progress," which is an ambiguous term.

In response to Representative Blanton, Mr. Scott said that the cabinet has tools to force entities to fix their problems, but if the entity ends up paying a penalty, then that

money is not available to them to fix the problem. Most of the problems are financial, not regulatory. A regulation mandating that rates be assessed regularly might help, but that would create another problem as to who assesses the rates.

Representative Gooch said that many small communities do not have the money to fix old lines. Having a source of revenue to help with matching funds would be useful.

Kentucky Rural Water Association

Gary Larimore, Executive Director of the Kentucky Rural Water Association (KRWA), stated the KRWA performs multiple rate studies through the Public Service Commission for the utilities at no charge.

The KRWA serves 112 water districts, 21 non-profit water associations, approximately 210 municipals, and wastewater utilities. Contributing factors for the success of Kentucky's water and wastewater utilities success are: KRWA, climate, geography, federal laws, state laws and regulations, federal funding, state funding, and natural consolidation.

In 1974, there were 2,178 public water supplies, but the number has decreased to 400 in 2018. There are also 361 community water supplies. Public water supplies are not as prevalent in Hickman, Carlisle, Ballard, Calloway, and Graves counties due to an abundant groundwater supply in the Purchase Region.

There is an \$8.2 billion need in funding for aging infrastructure, including transmission lines and leaks. Interest rates are at a historic low, and waiting on grants can create significant costs. Kentucky utilities currently have \$3.93 billion in water and wastewater debt; however, utilities are unable to expand without borrowing money.

Kentucky American Water

Jimmy Keeton, Director of Government Affairs, Kentucky American Water (KAW), stated KAW is a subsidiary of American Water, which is the largest and most geographically diverse publicly-traded water and wastewater service provider in the United States. KAW treats and delivers more than one billion gallons of water daily and manage more than 370 individual water systems across the country, and provides services to approximately 15 million people in 46 states. KAW has 6,900 employees.

KAW serves approximately 500,000 people with more than 2,000 miles of water mains, 20,000 valves, over 8,000 public fire hydrants, three surface water treatment plants, and four wastewater treatment facilities.

Brent O'Neill, Director of Engineering, KAW, stated that there has been a 35 percent decrease in the condition of the pipes in Kentucky from 1980 to 2010 due to

deferred maintenance and delayed pipe replacement. Six percent of pipes are more than 70 years old, 10 percent are 51 to 70 years old, and 29 percent are 31 to 50 years old.

Neglecting water infrastructure could cost American businesses \$734 billion and 700,000 jobs because failing systems limit the ability for the economy to grow. According to the United States Conference of Mayors, every dollar invested in water infrastructure adds \$6.35 to the national economy.

In response to Representative DuPlessis, Mr. O'Neill stated that KAW uses anti-corrosion agents and monitors pH levels to combat lead.

The next meeting will be September 6, 2018. Documents distributed during the meeting are available in the LRC Library and at www.lrc.ky.gov.

There being no further business, the meeting was adjourned.