



**Testimony on House Bill 2363
Aggregate Mining Operations
to
House Agriculture and Natural Resources Committee
Presented by John Mitchell
Director, Division of Environment
February 25, 2013**

Good Afternoon Madam Chair and members of the committee, I am pleased to appear before you today to discuss House Bill 2363 relating to aggregate mining operations.

I am John Mitchell, Kansas Department of Health and Environment (KDHE) Director of the Division of Environment. I appear before you today to present KDHE's position in support of House Bill 2363. Only New Section 1 would be pertinent to KDHE. Based on our understanding of that new section, this bill does not affect the current manner in which KDHE addresses most land-based sand, gravel and aggregate operations and reiterates how sand and aggregate operations are currently handled. Currently, if all of the wash and/or dredge water from such an operation is directed back to the pit or pond from which it came, and the pit has no opportunity to discharge water from the pit back to the surface, no permit has been required. It must be noted, however, if the pit may discharge water to the surface, or there is a stormwater discharge from other areas of the operation, a federal NPDES permit required by the Clean Water Act must be obtained. The Clean Water Act is a federal law that requires permits for discharge of wastewater to the surface and would take precedence over state law. KDHE is authorized by EPA to administer the NPDES program in Kansas.

Many sand or aggregate operations in Kansas also catch stormwater in the pits and ponds and are therefore are subject to discharge. Based on that ability to discharge, those operations would require an NPDES permit. The bill, however, does not identify stormwater as a source of water entering the pits or ponds; therefore the assumption is that it is excluded.

We understand this bill may have to do with a recent permit for a quarry north of Topeka. Because of the geology of the site (limestone and shale), KDHE was concerned water from a wash pit could discharge off-site through the bottom of the pond due to fractures in the limestone and shale. The operator of the quarry did additional geological work and sought a variance from additional lining of the pit which was granted by the department. KDHE Bureau of Water would not typically request additional geological work, however this site was unique and we believed it necessary.

To reiterate: 1) if a pit or pond only accepts dredge return flows, water from aggregate classification, or flows from washing aggregate, and 2) there is no surface discharge from the pit or pond; no permit is currently required nor is it anticipated a permit would be required.

Thank you for the opportunity to present the position of KDHE on House Bill 2363 and the proposed amendment. I will be happy to respond to questions at the appropriate time.