Report to the Kentucky Legislative Research Commission on House Joint Resolution 56

KENTUCKY DIVISION OF WATER
Introduction

There are numerous small, privately owned and operated wastewater treatment systems (small systems) across Kentucky, many of which are under-capitalized, poorly operated, and have significant compliance challenges. Some of these systems are actively failing. These small systems are commonly older than their design life and are approaching critical service junctures wherein the plants may need significant infrastructure investments to continue service. Applicable environmental regulations, relatively small customer bases, and aging infrastructure are increasing the costs of operation of these systems. The owners of such systems, for a variety of reasons, including death, financial distress, and abandonment, are becoming increasingly divested of the plants, leaving those who rely on these systems for wastewater treatment in a situation that is not easily remedied. These systems are regulated by the discharge permitting rules under the Clean Water Act for which these facilities commonly cannot achieve compliance. Further, the financial, managerial, and technical capacities of these systems are commonly such that their continued operation is not sustainable. Primarily in response to a catastrophic collapse and the number of abandonments of failing systems, and recognizing the array of challenges and resulting environmental and public health risks, the 2017 General Assembly passed House Joint Resolution 56 (HJR56) directing the Division of Water to study this situation, develop measures to ensure sustainable small systems, and identify actions to mitigate failure and abandonment of these systems.

The modern Clean Water Act (CWA), which was passed by Congress in 1972, has improved the quality of the nation’s waters by establishing pollution control standards for wastewater that is discharged to waters of the United States, and in Kentucky, to waters of the Commonwealth. These successes have been the result of implementing technology to treat human and industrial wastes, more commonly known as “sewage.” Generally, municipal wastewater treatment is accomplished by constructing a large custom-built facility which is operated by a local governmental entity, such as a city, county, or sanitation district. These facilities are designed to serve entire communities and are preferred over smaller turn-key type wastewater treatment systems. Larger regional wastewater treatment systems are preferred because they tend to be better funded and more consistently operated than smaller non-regional facilities. However, on occasion it is necessary to construct small systems to serve subdivisions, apartment/condominium complexes, mobile home parks, and other developments as a temporary solution when regional treatment facilities are unavailable.

To provide some perspective, there are 180 small, privately owned and operated wastewater systems in the Commonwealth that treat domestic wastewater. These small systems are practical but provide only limited solutions for wastewater treatment to serve the need of a particular situation in a given period of time. Throughout the time that the CWA has been in effect, many places in the Commonwealth have been served by these small systems. As regional sewers have become available the cabinet has pursued and succeeded in its primary goal of encouraging regional facilities to capture the flow from these small systems. However, regionalization is not the only solution to the problem because there are areas in which it is not economically or practically feasible to connect these systems to a regional facility. In these cases, the agency’s goal is the long-term success of these systems, including proper capitalization, maintenance, and operation, which can be achieved by supporting the smaller systems with financing and technical assistance, or “regionalization through consolidation” by forming partnerships with local government (county/city, or utility) to operate and maintain the smaller systems.

HJR 56 directed the EEC, with the help of stakeholders who could bring additional insight and resources, to accomplish four (4) tasks:
(a) Identify the privately owned and operated small wastewater treatment plants in Kentucky and collect the relevant information regarding the plant and collection system attributes;
(b) Identify indicators that are useful and necessary in conducting an assessment of the risks of financial failure, technical failure, structural failure, or abandonment of privately owned and operated small wastewater treatment plants;
(c) Identify potential emergency intervention methods to respond to plant failures in a collaborative manner between state and local entities and;
(d) Identify legislative changes that may assist to mitigate the failure or abandonment of small wastewater treatment plants or to otherwise provide for continuity of service to the plants’ customers.

The cabinet convened the stakeholder conferring committee, as directed by HJR 56 Section 2 (see Appendix A and Appendix B). These stakeholders met six times from June through November (see Appendix C and Appendix D) as did several interim ad hoc workgroups over that same period.

The body of this report addresses the four tasks listed above, and contains the cabinet’s recommendations for further study to better characterize the scope of wastewater infrastructure needs in the Commonwealth.
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Section 1: Identifying the small systems and their attributes

(a) Identify the privately owned and operated small wastewater treatment plants in Kentucky and collect the relevant information regarding the plant and collection system attributes

The cabinet and stakeholders such as the Kentucky Infrastructure Authority (KIA), collect, store, and manage data regarding wastewater systems and infrastructure in a variety of databases. Some of the data is required by federal and state statutes and regulations, and some is part of project profiles when facilities seek funding to repair, replace or expand infrastructure. This information includes both infrastructure and financial information. Much of the data is compiled in KIA’s Water Resources Information System (WRIS), and is used to make financial decisions, as well as by local communities and utilities to better manage and plan for the infrastructure they control. Wastewater infrastructure data is also collected by the Division of Water via applications for construction and operating permits, otherwise known as Kentucky Pollution Discharge Elimination System (KPDES) permits. Much of this data is required by state regulations set forth in 401 KAR Chapter 5. Basic information such as the wastewater treatment plant name, owner, and location is housed in the EEC database called Tools for Environmental Management and Permitting Organizations (TEMPO). Data from TEMPO is also transmitted and housed in the Federal Integrated Compliance Information System (ICIS) which contains other information, such as wastewater discharge effluent quality data, which is required to assess compliance with the KPDES permit. Appendix E lists small systems and associated attributes that have been identified through information stored in TEMPO and ICIS.

Initial queries of the data indicated that 202 small systems serve neighborhoods/developments, apartment/condominium complexes and mobile home parks. HJR 56 directed the cabinet to assess these systems for risk of financial, structural, or technical failure or abandonment. Further investigation revealed that several of the 202 facilities are no longer in operation or the flow from these facilities has been redirected to regional WWTPs. The current number of small systems is 180.

Figure 1 depicts the locations of the 180 small systems in the Commonwealth in relation to regional planning boundaries statewide (indicated in light green). Appendix F contains more detailed regional maps of the locations of these small systems by Area Development Districts and Legislative districts.
Pursuant to 401 KAR 5:002 Section 1 (10), a regional wastewater facility is considered ‘available’ to a small system that is located within one mile of the regional facility and is within the regional planning area. KPDES permits for small systems require the permit holder to connect the small system to a regional facility when it becomes available. That language is shown below:

“This WWTP is temporary and in no way supersedes the need of a regional sewer system. The permittee shall eliminate the discharge and WWTP plant by connection to a regional sewer system when it becomes available as defined in 401 KAR 5:002.”

A number of factors complicate the compulsory connection to a regional wastewater system. Natural features such as topography, streams, etc. can challenge the ability and practicality of connecting to a regional sewer system. Other conditions, such as the presence of major highways, railroads, uncooperative landowners and permit holders, as well as limited capacity to receive the flow in the regional sewer system, can also be impediments to regionalization.

Figure 2 illustrates the distribution of the small systems in relation to regional facilities. This figure illustrates that approximately 94 of the small systems are located within 1.0 mile of a regional wastewater facility (401 KAR 5:002 Section 1 (131)).
Section 2: Indicators critical to WWTP assessment

(b) Identify indicators that are useful and necessary in conducting an assessment of the risks of financial failure, technical failure, structural failure, or abandonment of privately owned and operated small wastewater treatment plants

The HJR 56 conferring committee devoted its June and July meetings to the discussion of these critical criteria for assessing the risk of financial, technical, and structural failure or abandonment of these small systems, and formed a subcommittee to further evaluate these criteria. The risk criteria identified by the subcommittee and confirmed by the HJR 56 conferring committee include:

**Financial Indicators**
- Sewer-use rates
- Lack of recapitalization
- Median household income of customers served by a WWTP
- Ability of utility to collect fees
- Number of customers/households served
- Operating costs

The financial category criteria are useful to identify small systems at risk of operational deficiencies and to determine whether they are adequately capitalized.

**Sewer-use rates**
Most small systems do not charge sewer-use rates, and therefore data is not readily available regarding sewer-use rates for systems not regulated by the Public Service Commission (PSC). The cost to customers for most of these systems is included in rent, Home Owners Association fees, or another non-rate
mechanism. Where PSC data is available, sewer-use rates for small systems generally do not reflect the actual costs of operating and maintaining the system. In addition, sewer-use rates for these systems generally do not provide sufficient funds for proper reinvestment in the system. The rate adjustment process is administratively costly, and customers are generally opposed to increases in rates, and as such, small utilities do not commonly request appropriate rate adjustments. The challenge is to develop a mechanism by which small systems are required to ensure that they collect adequate revenue to cover the actual costs of operating the systems.

**Lack of Recapitalization**

The owners of these small systems are commonly the original developers or founders of the areas served by these small systems, which were a temporary and necessary means by which these communities could be developed. In that regard, owners and operators of these small systems are reluctant to reinvest in the infrastructure and therefore the general condition of the systems are commonly substandard. In order to plan for replacement of wastewater infrastructure, utilities often employ asset management plans that account for depreciation of equipment and infrastructure. Currently utilized by larger publicly operated facilities, asset management plans address wastewater system components, age, and condition. With that information, utility operators make plans to address capacity issues and replace deteriorating system components. It may be beneficial to require owners of small systems to employ similar plans on a smaller and more simplified scale.

Asset management plans require implementation of a recapitalization funding mechanism which can be accomplished in several ways. One mechanism is an infrastructure sinking fund that furnishes a regular or periodic cash contribution from user fees and reflects the depreciation costs of the various system components. This sinking fund provides capital to appropriately maintain the system until such time that regionalization of the flow is possible. The recommendations in Section 4 of this report address this issue and apply to both catastrophic failure and deteriorating systems.

The cabinet acknowledges that there is a significant and important difference in developing a regulatory approach to existing as compared to new, small systems. New facilities have the opportunity to build the costs of depreciation, recapitalization, operations, and maintenance into their business models. Existing facilities generally did not include these considerations in their business models, and many had no discernable business model. The cabinet recognizes that existing facilities will be challenged to adequately capitalize their systems retroactively. Therefore, implementing this provision of the recommendations in Section 4 may need to distinguish between new and existing facilities.

**Median household income of customers served by WWTP**

Median household income data for small systems is not widely or readily available. However, the available data and the experience of the cabinet and the HJR 56 conferring committee members is that these systems commonly serve populations that are below the median household incomes for the Commonwealth and the regions. Lower household incomes common to the customers of these small systems present challenges in the ability and the willingness of customers to pay sewer use rates.

**Ability of utility to collect fees**

Most wastewater systems generally enforce fee collection by shutting off the user’s access to drinking water, normally through an agreement with the local public water system. Most small systems do not have such agreements, in part, because the public water systems charge the small system owner/operators to provide this service. Even where agreements are in place, the public water system has limited ability to enforce this provision. The inability to enforce collection of user fees via rates, Home
Owners Association fees, or otherwise, combined with the inability or unwillingness of customers to pay for the service, is an especially significant risk factor to proper operations and abandonment.

Number of customers/households served
Many small systems have a limited number of customers, which presents an unsustainable economy of scale. Small numbers of customers cannot generate the revenue required to properly operate and maintain a system. The small number of customers/households served can also be a barrier to regionalization because the cost per connection is greater than with larger systems. Additionally, regional facilities are less likely to make the investment for fewer customers unless connecting the small system is incidental to a larger project that is proximal to the small system.

Operating Costs
Some operational cost data is available for small systems regulated by the PSC. However, this is a small subset of the 180 small systems, and there are no regulatory requirements for small systems to provide operational cost data to the cabinet. This condition makes analysis on the unit costs and viability determinations difficult.

Technical Indicators
- Number and classification of certified operators
- Operator classification appropriateness for size of the system
- Number/frequency of visits by the certified operator to the small system (i.e., #/week)
- Number of overflows or bypasses reported in a given timeframe
- Design flow
- Sludge/solids disposal records available for the small system
- Complaints lodged against the system in a given timeframe

The technical criteria are useful for identifying small systems at risk of operational and/or capacity deficiencies, and that lack the ability to properly operate in compliance with the KPDES permit.

Number and classification of certified operators
401 KAR 5:010 requires operators of wastewater systems to have a certification that demonstrates they are qualified to operate such facilities. The regulation ensures that personnel who operate wastewater systems have adequate education and experience necessary to provide proper operation and maintenance of that system. Lack of a certified operator is a violation of the regulation and is an indication that the system could be at risk for technical failure.

Operator classification appropriateness for size of WWTP
401 KAR 11:030 identifies the classes of operator for both treatment and collection systems based on the design capacity and length of collection system, respectively. Classification is necessary due to the increasing complexity of infrastructure from Class 1 to Class 4 for both treatment and collection. It is a violation of the regulation to operate a wastewater system larger than that for which the operator is certified, and is also an indicator of risk for technical failure.

Number of visits by operator to WWTP
Small systems are not required to have a certified operator on-site in order to operate and maintain the plant. However, small systems that receive regular monitoring by a certified operator have a lower
probability of upsets and bypasses of the treatment process resulting in decreased risk of substandard effluent quality.

Number of overflows or bypasses reported per timeframe
A higher number of overflows and bypasses reported in a given period of time indicates inadequate maintenance of the treatment or collection system. This indicator is related to the number of operator visits (above). Frequent overflows and bypasses also reflect significant inflow and infiltration in the collection system associated with wet weather.

Design Flow
Design flow itself is not necessarily an indicator of any type of risk for failure. Design flow is important because it indicates the size of the customer base the facility serves. The larger the facility, the more customers who can be impacted by system failure, and the more severe the consequences in the event of an emergency.

Sludge/Biosolids disposal records available for WWTP
All biological treatment of domestic wastewater generates waste solids also known as “sludge”. Periodically these solids must be removed from the treatment process and disposed of appropriately. Permit requirements for small systems do not mandate providing solids management data to the cabinet. Records of proper management of biosolids is an indicator of proper maintenance and thus less risk of failure.

Complaints lodged against owner in given timeframe
Complaints are received by the cabinet on a variety of situations involving the regulation of water. A high number of complaints against a given system can indicate poor operation and maintenance, as well as excessive problems with inflow and infiltration associated with wet weather conditions.

Structural Indicators
- Age
- Maintenance history
- Construction material
- Installation method

Age
Age of the system is an indicator of risk because small systems have a limited design lifespan, typically in the range of 20 to 30 years. Some components have shorter lifespans, but design life cannot be considered independent of the amount of regular maintenance performed at the facility. As with anything mechanical, the better it is maintained, the longer it will last.

Maintenance history
As mentioned above, proper, regular maintenance is key to maximizing the life of a wastewater system. It is also key to having a system that is compliant with regulations and protective of human health and the environment. A high number of violations and a lengthy enforcement history generally indicate a lack of proper operation maintenance and a higher risk of structural failure.
Construction Material
Materials are indicators of structural failure in context with age and maintenance. Many small WWTPs are made of steel, or portions of steel and concrete. These materials are exposed to varying pH and corrosive elements in wastewater which, combined with exposure to the environment, will weaken those materials over time. Similarly, older collection systems commonly utilize vitreous clay pipe collection lines which have many challenges, including breakage and collapse, which lead to infiltration into the collection system where there is shallow groundwater or during wet weather, resulting in overflows, bypasses of treatment and degradation of receiving waters.

Installation method
Depending on size and configuration, wastewater plants have varying degrees of exposure to the environment and ways in which they can structurally fail. Small system wastewater plants can be built above the ground or below grade. Each method has its advantages, but the size of the components and geology of the site generally dictate which design is used. This indicator is similar to construction materials in that it is important in context with other factors.

Abandonment Indicators
- Ownership Type
  - Private individual
  - Limited Liability Corporation
  - Home Owners Association
- Small systems regulated by PSC
- Small systems not regulated by PSC
- Enforcement history
- Small systems within “available” range of a regional utility
- Small systems not within “available” range of a regional utility
- Costs

Ownership type
Ownership type is an indicator of risk because larger, well-funded organizations generally have the resources to operate and maintain wastewater systems more effectively. It is atypical for an individual to have the financial and technical resources to effectively own and operate a wastewater facility, even a small system.

Regulated by PSC
PSC regulates only 36 of the 180 small systems cited in this report. These small system utilities are highlighted in the table in Appendix D. A PSC-regulated utility has an available process for petitioning the Commission to allow it to abandon its utility and cease providing wastewater treatment services to customers. Abandonment can be caused by lack of financial resources to continue operating the utility, the death of the owner and lack of willingness of the heirs to operate the utility, and aging of the owner and lack of willingness to operate the utility due health capacity, among other reasons. Upon the PSC making a finding of abandonment, the PSC must then petition the Franklin Circuit Court to appoint a receiver so that utility services can continue. Finding a willing receiver can be challenging, particularly in cases where the long-term solution does not involve connection to a regional sewer system. Abandonment of small systems regulated by the PSC have increased in recent years.

Since 1995, the following plants regulated by PSC have undergone abandonment proceedings:
1995 – Green Meadows Associates, Inc. (Connected to the Ohio County Regional WWTP, via Beaver Dam)

2000 – Forest Hills Developers, Inc. (Connected to the Louisville Metropolitan Sewer District)

2004 – Clearwater Disposal, Inc. (Connected to the City of Middlesboro)

2012 – Appalachian Waste Control (Connected to the City of Paintsville)

2014 – Cedarbrook Treatment Plant (Harrison County Sanitation District is owner)

2015 – Bullitt Utilities, Inc. (Bullitt County Sanitation District is receiver)

2015 – Cedar Hills Disposal (Owensboro RWRA is new owner)

2015 – Friendly Park Development, Inc. (Owensboro RWRA is new owner)

2016 – Farmgate Subdivision (Farmdale Sanitation District is new owner)

2016 – Meadowbrook Subdivision (Farmdale Sanitation District is new owner)

2016 – Airview Estates (Filed notice of abandonment, currently in Franklin Circuit Court)

2017 – Edgewood Subdivision (Farmdale Sanitation District is new owner)

2017 – Coolbrook Subdivision (Farmdale Sanitation District is new owner)

2017 – Evergreen Subdivision (Farmdale Sanitation District is new owner)

2017 – Farmdale Subdivision (Farmdale Sanitation District is new owner)

The data presented above illustrate that while there were only three abandonment cases from 1995 to 2012 (a 17-year span), there have been ten cases in the last five years.

**Not regulated by PSC**

Abandonment of small wastewater systems not regulated by the PSC also occurs. There is no clearly defined process in this case. Typically, there are instances of non-compliance with the regulations which prompts the cabinet to initiate an enforcement action. Once the enforcement process begins, the cabinet may seek a receiver from the Franklin Circuit Court if the current owner or operator is unable or unwilling to properly operate the system in compliance with its permits.

**Enforcement history**

A lengthy history of non-compliance with the regulations is an indicator of risk for abandonment because this suggests a lack of good system management. Repetitive enforcement actions also add considerable costs to operating the facility because there are legal costs and financial penalties for excessive violations.

**WWTPs within “available” range of a regional utility**

Section 1 of this report presents the concept of regional availability established in 401 KAR Chapter 5. Generally, small WWTPs that are located within one mile of a regional system are less at risk for abandonment than plants more than a mile away. Ninety-four of the 180 small systems are within one mile of a regional system. To understand the concept of regional availability, it is important to note that the one-mile distance was measured as a straight-line distance. However, it is atypical to connect utilities in this manner. Existing roads and right-of-ways are typically used to make an actual connection, resulting
in a longer than actual distance than the straight-line distance. Additional study needs to be performed in order to determine these distances with greater accuracy. Additional barriers to available regionalization can be topography, the presence of highways and railroads, and private land easements, which may be required.

**WWTPs not within “available” range of a regional utility**

Small systems that fall outside the range of “available” regional utilities are at a greater risk of abandonment because resolution of the problem can reasonably be expected to be more costly. Resolving this distance issue may involve continued operation of the small plant with an investment in the infrastructure. It may also require the construction of new sewer lines of longer length to connect to a regional facility.

**Costs**

Appendix G contains cost summaries of a representative sample of three (3) project abandonment procedures at the PSC. As illustrated in the summary information, total costs range from $1.66M to approximately $3.35M. It is important to note that these costs **do not** include rehabilitation of the collections systems, which can be a concern to the receiving facility because that regional facility may have hydraulic capacity issues of its own. Connection costs range from approximately $8,300 to $22,600 per household connection. Appendix G also includes typical unit pricing for the installation of pump stations and force mains to make regional connections. The cost ranges cited were researched and discussed with the engineering community and include a best-case scenario with smaller piping installed in unconsolidated material (dirt), up to a more expensive scenario in which a larger pipe is installed in consolidated material (rock). Currently available data reflect that some situations may be mitigated with funding through local utilities, but this often requires operational or capital expenditures beyond the capability of the local receiving utility. It is often the case that local utilities are unaware of arising situations that ultimately require immediate mitigation in order to avoid disruption of service to existing local customers.

The recommendations of this report identify at least two challenges to covering costs. The first is funding capital infrastructure to replace failing lines and installing new lines to connect to regional facilities. The second is adequately improving the infrastructure of small systems such that a potential regional receiver would be willing to take the flow from the small systems, and can represent a significant cost concerning compliance with the Clean Water Act. Capacity issues within the receiving system itself may complicate the potential for connection.

The actual cost of the connection itself can be prohibitive, but is only one of the cost considerations when making a connection to a regional facility. The examples provided in Appendix G show that there are significant costs beyond the straight-line connection that must be considered when regionalizing a small utility. The unknown costs of controlling inflow and infiltration issues (I/I) within the private collection system can pose significant challenges to moving forward with regional connections.

It should be reiterated that there are widely varying, problematic conditions with the infrastructure currently in service at these facilities. Depending on the indicators listed in this section, a regional facility may have significant concerns with connecting the small system due to potential non-compliance, especially if the regional utility is already subject to formal enforcement.

**Section 3: Emergency and Intervention of Failures**

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(c) Identify potential emergency intervention methods to respond to plant failures in a collaborative manner between state and local entities.

Generally, “emergencies” regarding small systems can be separated into two categories:

- Catastrophic failure (e.g. Hunters Hollow WWTP) with impacts to public health and environment (KRS 224.1-400).¹
- Imminent failure (e.g. structural/catastrophic, operational, abandonment by death or neglect)

The cabinet has existing, statutory tools to address emergencies:

- The cabinet secretary has the authority to declare an environmental emergency (KRS 224.1-400 (15) and, once an environmental emergency has been declared, the authority to:
  
  (a) Recover from persons liable therefor for the benefit of the hazardous waste management fund, the cabinet’s actual and necessary costs expended in response to a threatened release, an environmental emergency, or a release of a hazardous substance that is reportable under this section. Except as provided in paragraph (b) of this subsection, this section is intended solely to recognize the existence of a cause of action on behalf of the cabinet and is not intended to expand or contract the bases of liability, the elements of proof, or the amount of liability of any person;

  (b) Notwithstanding paragraph (a) of this subsection, recover its costs incurred in the removal of oil or hazardous substances discharged in violation of Section 311(b)(3) of the Federal Clean Water Act from any person liable therefor under Section 311 of the Federal Clean Water Act subject to limitations of liability and defenses provided in the section. The limitations of liability shall apply to the total of state and federal expenses; and

  (c) In every case where action required under this section is not being adequately taken or the identity of the person responsible for the release or threatened release is unknown, the cabinet or its agent may contain, remove, or dispose of the hazardous substance, pollutant, or contaminant or take any other action consistent with this section, including, but not limited to, issuance of an emergency order as provided in KRS 224.10-410 to the person possessing, controlling, or responsible for the release or threatened release as necessary for the protection of the environment and public health, safety, or welfare.

- KRS 224.1-400 (14) requires the cabinet to develop a contingency plan for undertaking an emergency:
  o When the cabinet declares an emergency:
    ▪ If the responsible party (RP) is responsive, the RP takes corrective action with direction from the cabinet. The desired result is the return to compliance and normal operations.
    ▪ If the RP is non-responsive (not viable or recalcitrant), the cabinet takes direct action via cabinet personnel or contractor. Historically, this response has been predicated on the cabinet having the financial resources to take actions. Alternative methods, such as

¹ It is difficult to calculate the risk of acute structural failure; historically, only two WWTPs have catastrophically failed.
temporary reliance on capable neighboring utilities to assume operation of a system in distress should be planned and organized.

- The cabinet has the responsibility to develop contingency plans, but does not necessarily have the resources to implement the plans.2
- Lack of resources will result in the loss of sewer services to households and businesses, thereby creating a risk to public health. Hence, the necessity to plan and develop appropriate actions to respond.

Non-catastrophic failures that create public health and environmental issues are more common, including:
- Power failure without generator redundancy
- Septic conditions due to power failure, equipment failure, non-normal waste load inflow (e.g. high Bio-chemical Oxygen Demand)
- Spills and bypasses
- General non-compliance

Non-catastrophic failures are generally addressed via normal enforcement procedures.

Non-Emergency communications and solutions to aging small WWTP infrastructure currently in practice:
- Using set-asides from the Clean Water Act State Revolving Fund loan program. KIA and the cabinet have made $500,000 available in each of the last two fiscal years to provide partial funding to facilitate regionalization of small systems where those needs were identified.
- The cabinet has worked with local officials to develop new sanitation districts or activate sanitation districts that existed on paper only to address specific situations in various counties. In addition, the cabinet has worked with local officials and regional sewer authorities to address abandonment of small systems.

Section 4: Legislative proposals to address the small WWTPs

(d) Identify legislative changes that may assist to mitigate the failure or abandonment of small wastewater treatment plants or to otherwise provide for continuity of service to the plants’ customers.

The cabinet offers the following recommendations, including: general statutory recommendations and related regulatory changes, funding to mitigate risks presented by small systems and to facilitate regionalization or the sustained operation of these facilities, and cabinet programmatic changes to improve operation and oversight of these systems.

Legislative Needs/Actions

1. Provide the cabinet with the statutory authority to require small systems to implement financial measures to: 1) ensure proper operation and maintenance of the system; 2) implement an asset management plan to assure the future viability of the system; 3) ensure continued operation of the facility in case the owner/operator fails to operate the facility; and 4) replace the treatment facility in the event of catastrophic failure or

2 In the event of catastrophic failure or imminent catastrophic failure, the cabinet does not have the resources to address the environmental/public health emergency. It is likely, in most cases, that the owner/operator will not have the resources to address the environmental/public health emergency.
destruction of the facility. It may be necessary to distinguish between new and existing facilities as it relates to the applicability and implementation of financial measures. This recommendation will require legislative action by the General Assembly and regulatory changes.

2. Create a new source of funding, or identify and enhance existing sources of funding (e.g. KIA Fund B), to provide incentives via grants, low-interest loans, and principal forgiveness loans to cities, counties, water districts, sanitation districts, and non-profit corporations, and to regional entities, such as joint sewer agencies and regional wastewater facilities. The uses for the funding would be: 1) to facilitate regionalization of the wastewater flow from the small system; 2) for the consolidation of the management of a small system; 3) where financial assurance is inadequate or does not exist, for the continued operation of a small system by a third party (e.g. new owner, receiver, custodian, fiduciary) in the event that the owner/operator of the facility fails to operate the facility; or 4) where financial assurance is inadequate or does not exist, for the replacement of the small system by a third party where regionalization of flow is not possible or practical, in the case of the catastrophic destruction of the facility. This recommendation will require legislative action by the General Assembly and regulatory changes.

3. Provide statutory authority to the cabinet to have a receiver, custodian, or other type of fiduciary appointed by a court to assume the management and operation of a small system that presents a present or likely threat to public health or the environment or that is in abject non-compliance with its discharge permit. The fiduciary shall have all the authorities of the owner/operator, including the power to sell assets and property as may be necessary to rehabilitate, repair, or replace the wastewater treatment plant and sewer system, or to otherwise regionalize the wastewater flow. This recommendation will require legislative action by the General Assembly and regulatory changes.

4. Provide statutory authority to the cabinet to require in a discharge permit that a structural analysis of the facility be conducted in a specified time period. This recommendation will require legislative action by the General Assembly and regulatory changes.

Cabinet Needs/Actions

1. This report will be used to educate state and local officials about where these small systems exist and the risk factors and conditions which constitute jeopardy to public health or the environment and threaten continuity of sewer service.

2. The cabinet will continue the regular inspection of small systems and prioritize the enforcement of violations for these systems.

3. The cabinet will explore the development of a pool of willing potential receivers, custodians and fiduciaries, and experienced certified operators to plan for, manage, and operate failed or failing facilities on an interim basis, as needed based on inspection data and other information.
4. The cabinet will identify non-financial incentives (e.g. Agreed Orders that forbear on enforcement action and provide protection for certified operators for local governments, sanitation districts, or regional facilities) to facilitate regionalization or consolidation of management of small systems.

5. Pursuant to KRS 224.1-400, the cabinet may develop a Contingency Plan for addressing environmental emergencies resulting from small systems. The Contingency Plan would include the identification and roles of governmental and non-governmental stakeholders, and a process for effective intervention in the event of an environmental emergency resulting from such facilities.
Appendix A: House Joint Resolution 56
A JOINT RESOLUTION directing the Kentucky Division of Water in the Energy and Environment Cabinet to study privately owned and operated small wastewater treatment systems and declaring an emergency.

WHEREAS, there are over 200 privately owned wastewater package treatment plants in operation in the Commonwealth with a presence in nearly every county, and

WHEREAS, these privately owned and operated small wastewater treatment plants are commonly older than their design life and are approaching critical service junctures wherein the plants may need significant infrastructure investments to continue service; and

WHEREAS, environmental regulation, relatively small customer bases, and aging infrastructure may affect the costs of operation of these plants; and

WHEREAS, owners of privately owned and operated small wastewater treatment plants, for a variety of reasons, including death, financial distress, and abandonment, become divested of the plants, leaving the users in a situation that is not easily remedied; and

WHEREAS, these privately owned and operated small wastewater treatment plants are all regulated by way of the Clean Water Act Section 402 permit process and related programs and commonly cannot meet compliance standards; and

WHEREAS, the financial, managerial, and technical capacities of these privately owned and operated small wastewater treatment plants are commonly such that the continued operation of these plants is not sustainable.

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Division of Water in the Energy and Environment Cabinet is directed to:

1. (a) Identify the privately owned and operated small wastewater treatment plants in Kentucky and collect the relevant information regarding the plant and collection
system attributes;

(b) Identify indicators that are useful and necessary in conducting an assessment of the risks of financial failure, technical failure, structural failure, or abandonment of privately owned and operated small wastewater treatment plants;

(c) Identify potential emergency intervention methods to respond to plant failures in a collaborative manner between state and local entities; and

(d) Identify legislative changes that may assist to mitigate the failure or abandonment of small wastewater treatment plants or to otherwise provide for continuity of service to the plants' customers.

(2) The Division of Water shall prepare a report that outlines potential measures to ensure the sustainability of privately owned and operated small wastewater treatment plants and identifies actions, including proposed legislative changes, that may mitigate the failure or abandonment of privately owned and operated small wastewater treatment plants.

Section 2. The Division of Water is further directed to accomplish the directives set out in Section 1 of this Resolution by conferring with the following entities:

1. Kentucky Infrastructure Authority;
2. Kentucky Public Service Commission;
3. Kentucky Department for Public Health;
4. Kentucky Rural Water Association;
5. Kentucky Rural Community Assistance Partnership;
6. Kentucky League of Cities;
7. Kentucky Council of Area Development Districts;
8. Kentucky Water and Wastewater Operators Association;
9. Kentucky Association of Counties;
10. Kentucky Municipal Utilities Association;
11. American Council of Engineering Companies—Kentucky;
(12) Kentucky Attorney General's Office of Rate Intervention;
(13) One member of the Kentucky Senate, as appointed by the Senate President;
(14) One member of the Kentucky House of Representatives, as appointed by the Speaker of the House; and
(15) Any other entity or individual whose involvement is deemed necessary by the Division to accomplish the goals of the study.

Section 3. The Division of Water shall:

(1) No later than July 31, 2017, present a progress report to the Legislative Research Commission, which shall refer the report to the Interim Joint Committee on Natural Resources and Environment and the Interim Joint Committee on Local Government. That report shall include a summary of the division's research it has gathered relative to subsection (1) of Section 1 of this Act, as well as providing a planned timeline for the remaining work. The report may include such other information the division deems useful or otherwise informative to the committees.

(2) On or before December 1, 2017, prepare and present to the Legislative Research Commission the report required by subsection (2) of Section 1 of this Resolution. The Legislative Research Commission shall refer that report to the Interim Joint Committee on Natural Resources and Environment and the Interim Joint Committee on Local Government.

Section 4. Whereas, the Division of Water will require time to complete the study prior to the report deadlines and the commencement of the 2018 Regular Session of the General Assembly, and to allow time for any legislative recommendations to be considered prior to that session, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.
Appendix B: List of Members
### HJR56 Committee Members

| Kentucky Infrastructure Authority: | Donna McNeil, Exec. Director  
| Kentucky Infrastructure Authority |  
| 1024 Capital Center Dr # 340  
| Frankfort, KY 40601 |  
| [donna.mcneil@ky.gov](mailto:donna.mcneil@ky.gov) |

| Kentucky Public Service Commission: | David Spenard, Attorney  
| Kentucky Public Service Commission |  
| 211 Sower Blvd  
| Frankfort, KY 40601 |  
| [DavidE.Spenard@ky.gov](mailto:DavidE.Spenard@ky.gov) |

| Kentucky Department for Public Health: | Ken Spach  
| Division of Public Health Protection and Safety  
| Cabinet for Health and Family Services  
| 275 E Main St #4WG  
| Frankfort, KY 40621 |  
| [Ken.Spach@ky.gov](mailto:Ken.Spach@ky.gov) |

| Kentucky Rural Water Association: | Gary Larimore, Executive Director  
| Kentucky Rural Water Association |  
| 3251 Spring Hollow Ave  
| Bowling Green, KY 42104 |  
| [g.larimore@krwa.com](mailto:g.larimore@krwa.com) |

| KY Rural Community Assistance Partnership: | Kim Padgett, Director  
| 101 Burch Court  
| Frankfort KY 40601 |  
| [khpadgett@capky.org](mailto:khpadgett@capky.org) |

| Kentucky League of Cities: | J.D. Chaney, Dep. Exec. Director  
| Kentucky League of Cities |  
| 100 East Vine St. Ste. 800  
| Lexington, KY 40507 |  
| [jchaney@klc.org](mailto:jchaney@klc.org)  
| 1.800.876.4552 Ext: 3719 |

| Kentucky Council of Area Development Districts: | Darrell Link, Exec. Director  
| 501 Capital Ave  
| Frankfort, KY 40601 |  
| [dlink@kcadd.org](mailto:dlink@kcadd.org) |
KY Water and Wastewater Operators Assoc: Tom Sanders, Operations Manager
City of Elizabethtown WWTP
2501 Gaither Station Road
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tom.sanders@elizabethtownky.gov
(270) 737-7733

Kentucky Association of Counties: Roger Recktenwald, Dir. Of Research & Planning
400 Englewood Drive
Frankfort 40601.
Roger.Recktenwald@kaco.org

Kentucky Municipal Utilities Association: Steve Baker, Superintendent
London Utility Commission
801 North Main Street
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American Council of Engineering Companies: Chris Stewart, HMB
3 HMB Circle
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castewart@hmbpe.com

Dave Schrader, Bell Engineering (Alternate)
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Lexington, Kentucky 40509
dschrader@hkbell.com

Kevin Howard, Summit Engineering (Alternate)
3205 Summit Square
Lexington, KY 40509
khoward@summit-engr.com

Kentucky Attorney General's Office: Kent Chandler
Kentucky Attorney General's Office of Rate Intervention
1024 Capital Center Drive, Suite 200
Frankfort, Kentucky 40601
Kent.Chandler@ky.gov
| Member of the Kentucky Senate: | Senator Joe Bowen  
Capitol Annex, Rm. 228  
702 Capitol Ave.  
Frankfort KY 40601  
Joe.Bowen@lrc.ky.gov |
|-----------------------------|--------------------------------------------------------|
| Member of the Kentucky House of Representatives: | Representative Russell Webber  
Capitol Annex  
702 Capitol Ave.  
Frankfort KY 40601  
Russell.Webber@lrc.ky.gov |
Appendix C: Agendas
The Kentucky House Joint Resolution 56 Committee Meeting

June 14, 2017

1:30 pm
Conference Room 232
Department for Environmental Protection
Frankfort, Kentucky 40601

The meeting is open to the public.

Agenda:

1. Welcome and Introductions

2. Presentation from DOW re: context (Pete Goodmann)
   a. Background/Overview
   b. Scope
   c. Identify what the group is tasked with

3. Ground rules and schedule (Tony Hatton)

4. Presentation from DOW (Jory Becker) re: Section 1. (1) (a): Identify the privately operated small wastewater treatment plants in Kentucky and collect the relevant information regarding the plant and collection system attributes
   a. Relevant information regarding the plant and collection system attributes (Jory Becker)
   b. Discussion regarding HJR 56 Section 1. (1) (a) issues;
      i. Questions
      ii. What other information is needed
      iii. How to present in a report?

5. Presentation from PSC about wastewater utilities and abandonment (David Spenard)

6. Needs for next meeting?

7. Adjourn
The Kentucky House Joint Resolution 56 Committee Meeting

July 11, 2017

1:30 pm
Conference Room 232
Department for Environmental Protection
Frankfort, Kentucky 40601

The meeting is open to the public.

Agenda:

1. Welcome and Introductions

2. Roll call

3. Review minutes

4. Review privately owned and operated small wastewater treatment plants relevant information and system attributes

5. Presentation by DOW regarding indicators that are useful and necessary in conducting an assessment of the risks of financial failure, technical failure, structural failure, or abandonment of privately owned and operated small wastewater treatment plants
   a. Discussion regarding HJR 56 Section 1. (1) (b);
      i. Questions
      ii. What other information is needed
      iii. How to present in a report?

6. Discussion regarding identifying potential emergency intervention methods to respond to plant failures in a collaborative manner between state and local entities (HJR 56 Section 1. (1) (c));
   a. History of how DOW and PSC have addressed abandonments and failure
   b. Open discussion

7. Needs for next meeting?

8. Adjourn
The Kentucky House Joint Resolution 56 Committee Meeting

August 16, 2017

1:30 pm
Conference Room 232
Department for Environmental Protection
Frankfort, Kentucky 40601

1. Welcome and Introductions (Tony Hatton)

2. Roll call (Tony Hatton)

   Members: Donna McNeil (KIA), David Spenard, Attorney (PSC), Ken Spach (DPH), Gary Larimore (KRWA), Kim Padgett (RCAP), J. D. Chaney (KLC), Darrell Link (KCADD), Tom Sanders, Denny Nunnelley (KACO), Steve Baker, Chris Stewart (HMB), Kent Chandler (KY AG), Senator Joe Bowen, and Representation Russel Weber

3. Review minutes (Tony Hatton)

4. Report out of sub-committee (Jory Becker)

5. Discussion on review of HJR 56 Section 1. (1) (c) regarding identifying potential emergency intervention methods to respond to plant failures (Tony Hatton):
   i. Questions
   ii. What other information is needed

6. Problem Formulation (Tony Hatton)
   i. Compliance and Regulatory tools/limits (Pete Goodmann)
   ii. Identifying potential legislative recommendations (Jory Becker)

7. Develop a report outline with group (Jory Becker)

8. Needs for next meeting? (Tony Hatton)

9. Adjourn
The Kentucky House Joint Resolution 56 Committee Meeting

September 13, 2017
1:30 pm
Conference Room 232
Department for Environmental Protection
Frankfort, Kentucky 40601

1. Welcome and Introductions (Tony Hatton)

2. Roll call (Tony Hatton)

   Members: Donna McNeil (KIA), David Spenard, Attorney (PSC), Ken Spach (DPH), Gary Larimore (KRWA), Kim Padgett (RCAP), J. D. Chaney (KLC), Darrell Link (KCADD), Tom Sanders, Roger Rectenwald (KACO), Steve Baker, Chris Stewart (HMB), Kent Chandler (KY AG), Senator Joe Bowen, and Representation Russel Weber

3. Review minutes (Tony Hatton)

4. Receivership Process and Associated Legal Issues (Daniel Cleveland)

5. Report out of sub-committee (Greg Goode)

6. Discussion on review of HJR 56 Section 1. (1) (d) (Tony Hatton)

7. Flesh out the report with group (Tony Hatton)

8. Needs for next meeting? (Tony Hatton)

9. Adjourn
The Kentucky House Joint Resolution 56 Committee Meeting

October 11, 2017

1:30 pm
Conference Room 232
Department for Environmental Protection
Frankfort, Kentucky 40601

1. Welcome and Introductions (Tony Hatton)

2. Roll call (Tony Hatton)

   Members: Donna McNeil (KIA), David Spenard, Attorney (PSC), Ken Spach (DPH), Gary Larimore (KRWA), Kim Padgett (RCAP), J. D. Chaney (KLC), Darrell Link (KCADD), Tom Sanders, Denny Nunnelley (KACO), Steve Baker, Chris Stewart (HMB), Kent Chandler (KY AG), Senator Joe Bowen, and Representative Russell Webber

3. Review minutes (Tony Hatton)

4. Report out of cost sub-committee (Jory Becker)

5. DOW presentation on draft report for LRC (Pete Goodmann)
   a. Discussions/questions/suggested edits
   b. Deadline for comments 10/27

6. Needs for next meeting? (Tony Hatton)

7. Adjourn
The Kentucky House Joint Resolution 56 Committee Meeting

November 15, 2017

1:30 pm
Conference Room 232
Department for Environmental Protection
Frankfort, Kentucky 40601

1. Welcome and Introductions (Tony Hatton)

2. Roll call (Tony Hatton)

   Members:  Donna McNeil (KIA), John Lyons, Deputy Executive Director (PSC), Ken Spach (DPH),
   Gary Larimore (KRWA), Kim Padgett (RCAP), Rusty Cress (KLC), Darrell Link (KCADD), Tom
   Sanders, Roger Recktenwald (KACO), Steve Baker, Chris Stewart (HMB), Kent Chandler (KY AG),
   Senator Joe Bowen, and Representative Russell Webber

3. Review minutes for September and October (Tony Hatton)

4. DOW presentation on final draft report for LRC (Pete Goodmann)
   a. Discussions/questions/final edits

5. Adjourn final meeting of HJR 56 Committee
Appendix D: Meeting Minutes
Meeting called to order: Tony Hatton

Tony Hatton gave the introduction and welcome. This meeting and other are open meetings and the general public is welcome. There are no official minutes however general notes will be captured and provided.

Attendees:

Secretary Charles Snavely of the Environment and Energy Cabinet gave opening remarks and welcome.

The goal of these meeting will be to identify the universe of wastewater.

a. Systems set up
b. Emergency methods
c. Protocols
d. Payments
e. Legislative Changes

Peter Goodmann Presentation

The question arose in reference to the credentials or variance of the algorithm used to rank the Package Treatment Plant.

The algorithm was focused toward solution not for tiers.

A temporal identification of tiers may be a possibility.

Mr. Larimore stated the KRWA is in the inception of identifying trends and triggers.

This group should attempt solutions for proactive solutions rather than waiting on a system or organization failure.

Peter Goodmann suggested a possible sub group could be formed to identify risk

Mr. Larimore also presented literature entitled “Emergency Intervention for Utilities”
Referring back to the credentials of the algorithm Mr. Chandler and others asked if several identifiers should be considered

   a. operator and/owners should be identified as a identifier
   b. Developers
   c. Neighborhood Association
   d. Past owners of abandon facilities
   e. Feasibility to tie into other systems
   f. Structural risk assessment

Ms. McNeil addressed trends of the above identifiers

Mr. Goodmann restated the purpose of a formed work group would quantify the algorithm.

Volunteers were accepted for this sub committee

  1. Jory Becker          DOW
  2. Roger Rectenwald    KACo.
  3. Tom Sanders         City of Elizabethtown WTP
  4. David Spenard       KPSC
  5. Kent Chandler       KY AG Office
  6. Rusty Anderson      KIA

Donna McNeil referenced the WRIS from Senate Bill 409 with KIA suggesting more information and Data transferred can be used through project profiling.

The DOW offered to reveal a current assessment of the algorithm through GIS (Jo Blanset section) at the July meeting

Ken Spach ask to address the floor. He stated a consideration need to be given to cost vs. care and care vs. cost. Many times the initial cost is minimum but the after care is great. The operation and maintenance (O&M) for ongoing operations needs to be in placed when considering permitting facilities. Also review if the expenses to operate are identified and allocated for ongoing use.

Mr. Spenard gave a presentation and noted that the majority of the identified systems are not regulated by the Public Utilities Commission.

Discussion went further referencing

   a. Rates
   b. Cost incurred by being a receiver
   c. Criteria for the receiver
   d. Collection of fees
   e. Availability of regional sewers
   f. Most systems are over 40 years of age
   g. Inter local agreement
   h. Legislative change
   i. Past practices of the receiver
   j. Incentives for receivers
Assistant Secretary Bruce Scott voiced concerns and stated that the current practices must be addressed. Incentives must be offered for the receiver and in actuality the responsibility should lay with the county of origin.

Issues to be addressed at a later time

1. Identification Risk Tiers
2. Sub-work Group
3. Project Profiles
4. Structural Risk Assessments
5. O&M
6. Incentives for Receivers
7. Challenges for Potential Receivers
The Kentucky House Joint Resolution 56 Committee Meeting

July 11, 2017

1:30pm

Conference Room 232
Department for Environmental Protection
Frankfort, Kentucky 40601

1. Attendees


Public: Corey Bond, Claude Carothers, Daniel Cleveland, Jocelyn Gross, Kevin Howard, Aaron Keatley, Haley McCoy, Nick Nash, Earl Norris, Robin Snider

2. Welcome and Introductions:

Tony Hatton, DEP Deputy Commissioner, opened the meeting and noted that this meeting is open to the public.

3. Review minutes

Mr. Hatton inquired if there were any questions or concerns for the June meeting minutes. No questions or concerns were presented.

4. Review privately owned and operated small wastewater treatment plants relevant information and system attributes

Jory Becker (DOW Branch Manager, Water Infrastructure Branch) delivered a Power Point Presentation entitled “Small WWTPs Assessing the Risk”

Mr. Becker explained the readily available data (KPDES, location, design flow, sewer rates, connections, serviceable individuals: however some data will be not be available due to time or accessibility.

Following the presentation, topics discussed included:

The license requirements for an operator including wrong license or no license

Abandonment/exit rate for those who are governed by the Public Service Commission (PSC)

Out of 202 plants, only 36 are under the PSC (18%)
Possible criminal violation enforcement of the Clean Water Act through the Division of Water (DOW)

Mr. Cleveland (EEC Office of General Counsel) advised that the DOW does not have the authority to issue a criminal violation.

Life expectancy of a plant is approximately 35 years

401 KAR 5:002 Sec 1 (10) identifies “available” sewers within 1.0 miles of a regional sewer system

Funding often becomes a burden when attempting to connect to a regional system

Obstacles other than funding also arise (interstate or other geographical easement) that complicate the opportunity to connect

Mr. Becker explained that the initial ranking was formed by an equation he developed through years of expertise (age of plant times 2 plus points for flow capacity)

Mr. Becker also offered that one of his branch employees, Greg Goode, suggested creating more authority through regulation mandating structural risk analysis

Some attendees asked to review the information in greater detail.

Ranking, rating, and tier language may cause concern, however Mr. Hatton stated that the resolution identifies systems at greatest “risk”

ECHO Enforcement and Compliance History Online is available to find enforcement and compliance criteria

The purpose of the rating is to identify the scope of the problem, risk factors and solutions, and is used as a tool for communication.

The presentation will be emailed to attendees

5. Presentation by DOW regarding indicators that are useful and necessary in conducting an assessment of the risks of financial failure, technical failure, structural failure, or abandonment of privately owned and operated small wastewater treatment plants
   a. Discussion regarding HJR 56 Section 1. (1) (b);
      Peter Goodmann delivered a Power Point Presentation entitled “What Constitutes an Emergency?”
      i. Discussion
KRS 224 1-400 addresses the hazardous waste management fund, generating approximately $1.4 million per year in which about $400,000 is distributed to the DOW. This is not adequate to address the needs of privately owned wastewater treatment plants.

When a declaration is declared who declares it and the purpose of the term “declaration” is intentional so that KRS 45A will be addressed properly from the position of the Finance Cabinet.

The Cabinet has the authority to declare an emergency, however funding is not available for the emergency.

KIA may have potential funding including a $10 million increase in the new budget year (Fund A, Fund B).

The potential for a risk pool funding similar to workman’s compensation insurance should be explored.

Cooperation between state and local government and individuals may better address an adequate solution.

Current checks and balances within the Health Department and the concerns over WWTPs have been a concern for well over 20 years. Now the Health Dept. aim is to be proactive rather than reactive.

A 20yr present cost worth analysis and replacement and reserve accounts were discussed.

Mr. Hatton reminded attendees the agency involvement is to assist in developing short term solutions and to suppress the immediate threat to the environment and/or consumers.

ii. What other information is needed

401 KAR Chapter 5 does not address structural integrity or equipment maintenance.

iii. How to present in a report?

Talking points need to be streamlined to generate resolutions.

6. Discussion regarding identifying potential emergency intervention methods to respond to plant failures in a collaborative manner between state and local entities (HJR 56 Section 1. (1) (c));

(The meeting time expired and it was agreed that this item will be placed on the August agenda)

a. History of how DOW and PSC have addressed WWTP abandonments and failure.
b. Open discussion.

7. Needs for next meeting?
Sub group will report on rating system

GIS will provide spatial data identifying which systems are within a 1 mile range of a municipal connection

Incentive for receivership

Produce report outline

Potential development of another subgroup to address the declaration (terminology) of emergency

Daniel Cleveland will present item 6 information from the July agenda

8. Adjourn – The meeting adjourned at XX p.m.
The Kentucky House Joint Resolution 56 Committee Meeting

August 16, 2017

1:30pm

Conference Room 232
Department for Environmental Protection
Frankfort, Kentucky 40601

1. Attendees

Members: Steve Baker, Jory Becker, Kent Chandler, Peter Goodmann, Roger Rectenwald, Tony Hatton, Kim Padgett, Tom Sanders, Ken Spach, David Spenard, Chris Stewart

Public: Corey Bond, Daniel Cleveland, Tim Corrigon, Greg Goode, Kevin Howard, Haley McCoy, Tim McGill, Earl Norris, Robin Snider

2. Welcome and Introductions

Tony Hatton, DEP Deputy Commissioner, opened the meeting and noted this meeting is open to the public. Mr. Hatton stated we need to form an outline of what the report may look like.

3. Review Minutes

Mr. Hatton inquired if there were any questions or concerns for the July meeting minutes. No Questions or concerns were presented.

4. Report from Sub-committee

Jory Becker stated we started with 202 wastewater treatment plants of concern, were able to eliminate 22 of these from the list through data corrections, leaving 180 small plants of concern. We are now to 94 of the 180 which fall within the definition of having an “available” regional wastewater system within a mile 1.0 miles of the regional utility (401 KAR 5:002). Those could potentially still have many challenges. Mr. Becker presented a slide presentation. He followed up showing Aerial maps of some of the risk areas that Jocelyn Gross provided to DOW. Following the presentation, topics discussed include.

Mr. Hatton brought up the financial challenges. How do we put a price on it? Bonds? Need to look at the big picture of the expense project. (concrete, railroads and major infrastructure interference) Every project is unique and very hard to put a price on it. Suggested looking at the top risks possible engineer study.

A subcommittee was suggested and volunteers were asked for. With the smaller group looking deeper into the cost and recommendations for the larger committee.
Mr. Peter Goodman stated the funding being looked for should just not be sought only from legislature but possibly also Federal funding.

Suggested to have incentive funding as well.

5. **Discussion on review of HJR 56 Section1/ (1) (c) regarding identifying potential emergency intervention methods to respond to plant failures.**

Should the state take action before the owner when they have not reacted in a timely manner?

We have the authority to declare an emergency (KRS224). We hire someone then try to recover cost. We do what has to be done. Potential sources of funding.

What types of things can we do to make it go quicker?

6. **Problem Formulation**

Peter Goodmann’s presentation

Discussion following presentation.

Base on the 180 left as potential risk what is the violation and compliance history.

Compliance issues- lack for resources and the people who run them

Look into the persistent violations. How many are on the SNK list? Magnitude of the violations?

They can be in compliance but doesn’t mean structures are still not deteriorating.

How much can we regulate other governments?

We need to look beyond DEP/DOW to make change

7. **Forming an Outline**

1. Provide financial assurance for new infrastructure for both treatment and collection systems through bonding and other mechanisms by the entity so the regionalization and recapitalization issue doesn’t arise in the next 30 year cycle.

   Suggested: Bonds being collected during initial permit process. 5 Years of O & M Cost. 3rd party holding.

2. Look in the regulations. What authority do we have to evaluate operation, managerial, and financial prior to permitting?

3. Wish list – Superfunds and other sources of funds

4. Make changes to 401 KAR 5:060 (KPDES permit application requirements) to require structural analysis at the 4th or 5th renewal (25 years or 30 years operating life) in order to
obtain additional operational permits. Potential revisions for permit denial. Potential provisions connect to bullet following below.

Suggested: Earlier and more often

5. Provide financial incentive mechanism for regionalization. Can develop requirements tied to the above bullet of an additional subsection which would be independent.

Suggested: How do we fund the bucket? Shared Services? Consider compliance grace period for those who take on receivership.

6. Consider regulation requiring a specified period of time between rate reviews for utilities regulated by PSC

8. Next meeting

DOW to come up with a list of Incentives (Daniel Cleveland)

9. Meeting adjourned @4:30pm
The Kentucky House Joint Resolution 56 Committee Meeting

September 13, 2017

1:30pm

Conference Room 232
Department for Environmental Protection
Frankfort, Kentucky 40601

1. Welcome and Introductions

The meeting began @ 13:34pm with greetings by Tony Hatton. Tony also reminded the committee that this is the 4th meeting with only 2 left before the Final Report is due to the LRC. The draft report will be reviewed next meeting, also the Cost Funding Sub group report should be completed as well. The November meeting should entail covering the entire report and making any corrections for final release.

2. Roll Call

Members Attendees: Kent Chandler (KY AG), Peter Goodmann (DOW), Tony Hatton (DEP), Gary Larimore (KRWA), Donna McNeil (KIA), Kim Padgett (RCAP), Roger Rectenwald (KACO), Tom Sanders (KWWOA), Ken Spach (DPH), David Spenard, Attorney (PSC), Chris Stewart (ACEC), Representative Russell Webber (LRC)

Alternate: David Schrader (Bell Engineering)

DOW: Claude Carothers, Tom Gabbard, Greg Goode, Robin Snider

Public Attendees: Cory Bond (City of Elizabethtown), Daniel Cleveland (OGC), Rusty Cress (KLC), Secretary Charles Snavely (EEC)

3. Review Minutes

August minutes reviewed and approved.

4. Receivership Process and Associated Legal Issues

Daniel Cleveland presented to the committee “Receivers, Custodians & Administrators – Process & Legal Issues”. Several questions aroused after the presentation.

- The possibility for criminal charges to be pursued for negligence under the Clean Water Act. - Mr. Cleveland reminded the committee that the DOW does not have the authority to prosecute for any criminal activity
- When violations are present and it is deemed reputable harm when is it catastrophic failure?
- Mr. Chandler inquired if the Circuit Court appoints a receiver and fees need to be collected from previous entity, what is the cost recovery mechanism?
- What are the liabilities of receivership?
- Special Master Commissioner vs receiver – Mr. Daniel states this is a Civil Court Issue
5. **Report from Sub-Committee**
   Greg Goode reported on behalf of the Subcommittee – See attached notes.

6. **Discussion on review of HJR 56 Section1. (1) (d) (Tony Hatton)**
   1. Develop a financial assurance system for new wastewater treatment infrastructure, including the associated collection systems.
      - HJR56 resolution is for the privately owned scope.
      - Privately owned plants are not required to have property insurance for catastrophic failure such as public plants.
   2. Consider requesting authority for the Division of Water to evaluate the operational, managerial and financial aspects of a proposed system prior to permitting, including the necessity to submit key personnel disclosure statements for owners/operators.
      - Most privately owned system can’t afford bonds being added to permit renewal and could cause a flood of abandonments.
      - Who would oversee a created reserve account for entities who could not secure bonds?
   3. Recommend a funding source that would enable the cabinet to respond to environmental emergencies as authorized in KRS 224.1-400.
      - When deemed an emergency funding will be released from the Waste Superfund, therefore recoupment of cost is unlikely
      - The Clean Water SRF program has language that address such emergencies
      - Creation of an emergency task force with collaboration of government and the private sector.
   4. Make changes to 401 KAR 5:060 (KPDES permit application requirements) to require structural analysis, at the discretion of the cabinet.
      - When structural analysis is submitted to DOW, how will this information be used?
      - A conversation of Inflow & Infiltration was generated also
   5. Provide financial incentive mechanisms for regionalization.
      - Share services that are needed to look at options for disconnect(Water/sewer bill – nonpayment/shut off)
      - Define regionalization
   6. Consider establishing regulations that would require an evaluation of rate reviews for utilities regulated by PSC.
      - Take a look at a rate structure and/or flexibility of the structure

7. **Draft Report**
   Tony Hatton informed the committee that an outline will be provided at the next meeting

8. **Need for Next Meeting**
   - Next meeting Oct 11, 2017
   - Subcommittee info to place in draft report
   - Structural analysis cost per unit
   - Outline and Draft Report

9. **Meeting adjourned @16:30pm**
The Kentucky House Joint Resolution 56 Committee Meeting

October 11, 2017
1:34pm

Conference Room 232
Department for Environmental Protection
Frankfort, Kentucky 40601

1. Welcome and Introductions (Tony Hatton)

2. Roll call (Tony Hatton)

   Members: Donna McNeil (KIA), John Lyons, Attorney (PSC), Angela Billings for Ken Spach (DPH), Gary Larimore (KRWA), Kim Padgett (RCAP), Rusty Cress for J. D. Chaney (KLC), Tom Sanders, Roger Recktenwald (KACO), Steve Baker, Chris Stewart (HMB), Kent Chandler (KY AG),

   Alternates: David Schrader

   EEC: Tony Hatton, Peter Goodman, Jory Becker, Daniel Cleveland, Greg Goode, Robin Snider, Claude Carothers

   Public Attendance: Corey Bond

   Absent: Darrell Link, Senator Joe Bowen, Representative Russell Webber

3. Report out of cost sub-committee (Jory Becker)
   a. Gathered random samples to identify cost ($1.6 million - $3.5 million)
   b. Typical pump station sizes and sewer line sizes in consolidated and unconsolidated material were used in identifying cost per foot for connections
   c. Concerns arose in reference to the engineers assisting with the cost estimation if this would lead to exclusion from future projects identified and funded as part of HJR 56 due to procurement rules
   d. Community Development Block Grants and other options were also discussed

4. DOW presentation on draft report for LRC (Pete Goodmann)
   a. Discussions/questions/suggested edits

Section 4: Legislative proposals to address the small WWTPs

(a) Identify legislative changes that may assist to mitigate the failure or abandonment of small wastewater treatment plants or to otherwise provide for continuity of service to the plants’ customers.
The Cabinet has made the following recommendations

1. The Division of Water will implement a structural integrity inspection program to assess wastewater treatment plants for the potential for structural failure. This recommendation may require additional statutory authority and/or regulatory language changes.
   
a. A structural analysis was discussed
   b. End of life expectancy of plants
   c. Existing O & M
   d. 401 KAR 5:005 & 401 KAR 5:060

2. Provide specific statutory authority to the cabinet to condition permits (e.g. financial assurance, require rate evaluations) or require other permits (e.g. asset management) to attain compliance and sustainability? This recommendation may require additional statutory authority and/or regulatory language changes.
   
a. Privately owned waste water plants

3. Newly permitted small, privately owned wastewater treatment plants shall be required to maintain a source of financial assurance for continued operation in the case that the owner/operator of the facility fails to operate the facility. This recommendation may require additional statutory authority and/or regulatory language changes.
   
a. 3 (O&M) & 4 (Capitol) can be merged
   b. CHFS has a working model for an escrow account

4. Newly permitted small, privately owned wastewater treatment plants shall be required to maintain a financial instrument (e.g. insurance policy) to replace the treatment facility in the event of a catastrophic destruction of the facility. This recommendation may require additional statutory authority and/or regulatory language changes.
   
a. Expand from replace to and/or regionalization

5. Create a new source of funding or identify an existing source of funding in order to assure the continued operation of existing permitted privately owned wastewater treatment plants in the case that the owner/operator of the facility fails to operate the facility. This recommendation may require additional statutory authority and/or regulatory language changes.
   
a. 5 & 6 can be merged liken to 3 & 4
   b. Fund B identified and further capitalization was discussed
   c. Fund B set up under 151

6. Create a new source of funding or identify an existing source of funding in order to assure the replacement or regionalization of an existing permitted privately owned wastewater treatment plant in the case of the catastrophic destruction of the facility. This recommendation may require additional statutory authority and/or regulatory language changes.

7. Small, privately owned wastewater treatment plants should be required to establish an infrastructure reinvestment sinking fund to assure the sustained operation and maintenance
activities of the facilities. This recommendation may require additional statutory authority and/or regulatory language changes.

   a. Depreciation account based on a formula
   b. Strike O & M replace with sustain the recapitalization of the facilities

8. Create a new source of funding, or identify an existing source of funding of grants to local governments, sanitation districts, or municipal regional facilities to facilitate regionalization of the wastewater flow or consolidation of the management of small, privately owned wastewater treatment plants. This recommendation may require additional statutory authority and/or regulatory language changes.

   a. Add “incentives” after grants to
   b. Define regionalization
   c. Possible merge with number 3 – 6 (8a, 8b, 8c, 8d)

9. Provide the cabinet the authority to assign a Master Commissioner to take over the management and operation of a failed or failing facility. The Master Commissioner shall have all the authorities of the owner/operator. This recommendation will require additional statutory authority and regulatory language changes.

   a. Change name to Special Master Commissioner
   b. Require change of ownerships to meet new permit requirements
   c. Treat public transfers differently

10. Develop a pool of willing, potential receivers and Master Commissioners to manage and operate failed or failing facilities on an interim basis.

11. Identify incentives for local governments, sanitation districts, or municipal regional facilities to assume ownership and management of small, privately owned wastewater treatment plants.

   a. Non-financial

12. Consider modifying the Kentucky Public Service Commission regulations to require a specified period of time between rate reviews for regulated utilities.

   a. #2 & 7 would address #12

13. Pursuant to KRS 224.1-400 the cabinet shall develop a Contingency Plan for addressing environmental emergencies resulting from small, privately owned wastewater treatment plants. The Contingency Plan will include the identification and roles of governmental and non-governmental stakeholders, and a process for the effective intervention in the event of an environmental emergency resulting from such facilities.

   a. #9, 10 & 13 deals inspection and enforcement
b. Deadline for comments 10/27

HJR 56 Timeline

10/11- Monthly Meeting

10/13- Send committee members draft report

10/16- week of need to schedule briefing with Secretary. 30 mins. Keep it concise. Secretary, Bruce, Aaron, Tony, and Pete

10/27- receive feedback from committed on draft

11/10- send final report to committee members

11/15- final monthly meeting to discuss final report

11/29- LRC briefing (tentative)

5. Needs for next meeting? (Tony Hatton)

   a. The draft Sep minutes need to be voted on

6. Adjourn
The Kentucky House Joint Resolution 56 Committee Meeting

November 15, 2017
1:34pm

Conference Room 232
Department for Environmental Protection
Frankfort, Kentucky 40601

1. Welcome and Introductions

The meeting began @ 13:40 with greetings by Mr. Tony Hatton. Mr. Hatton informed those in attendance that he and Mr. Goodmann will be testifying before the Interim Joint Committee on Local Government on November 29, 2017 and encouraged attendance for support. The final HJR 56 report will be released by mid-December.

2. Roll call

Member Attendees: Tony Hatton (DEP), Peter Goodmann (DOW), Kent Chandler (KY AG), Gary Larimore (KRWA), John Lyons (PSC), Donna McNeil (KIA), Kim Padgett (RCAP), Roger Recktenwald (KACO), Tom Sanders (KWWOA), Ken Spach (DPH), Chris Stewart (HMB)

Public Attendees: Corey Bond, Daniel Cleveland (OGC), Tim Corrigan

Division of Water: Tom Gabbard, Jory Becker, Claude Carothers, Greg Goode, Robin Snider

3. September and October minutes approved by consensus

4. DOW presentation on final draft report for LRC

Mr. Hatton verified that all members had received draft report and explained that the initial 15 recommendations were condense to a smaller amount (totaling 6).

Tony asked for general comments before proceeding and suggested that the recommendations be addressed in the order listed.

a. Concerns were voiced about the possibility of hindering future package plants. Mr. Goodmann stated that a narrative would be inserted into the report to address any unintended consequences, also if included into the presentation/testimony it would become part of the record.

b. Concerns arose with definitions. Clarification was asked to given between “collection system” and “package treatment plant”. Treatment plants should include collection system and related appurtenances.
c. Section 1 – 3
   i. The suggested was made to merge sections 1, 2 and 3 addressing new and ongoing treatment and collections facilities.
   ii. Keeping the report more generalized will also limit the opportunity for wording to become a source of entrapment.

d. Section 4
   i. Language addressing regionalization and consolidation must also be clarified.
   ii. Also when addressing funding words such as “enhance” (section 4-b) should state supplement.
   iii. Operation and Maintenance in section 4 will be addressed in section 1 – 3 merger.
   iv. Funding opportunities for multiple entities were address which also includes non-profits.

e. Section 5
   i. The cabinet has authority to seek receivers similar to PSC. Refer to PSC 278.021 (3).

f. Section 6
   i. Guidance for inspections was addressed.

5. Adjourn final meeting of HJR 56 Committee
Appendix E: List of Facilities
## Barren River Area Development District

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## Big Sandy Area Development District

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**Bluegrass Area Development District**

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**Buffalo Trace Area Development District**

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**Cumberland Valley Area Development District**

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**FIVCO Area Development District**

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### Kentuckiana Regional Planning & Development Agency

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**Purchase Area Development District**

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Appendix F: Area Development District Maps
HJR 56: Small At Risk Sewer Systems

FIVCO Area Development District

Boyd
- BIRCHWOOD TOWNHOUSES
- Distance (miles): 3.33
- BOYD COUNTY SANITATION DISTRICT 94

Carter
- BROWN APARTMENT RENTALS
- Distance (miles): 3.24
- GRAYSON UTILITY COMMISSION

Greenup
- ALPINE VILLAGE SUBD
- Distance (miles): 3.77
- GREENBO LAKE STATE RESORT PARK

2013 Kentucky House Districts

Distance to Sewer Lines

- < 0.5 Miles
- 0.5 - 1.0 Miles
- 1.0 - 1.5 Miles
- 1.5 - 2.0 Miles
- > 2.0 Miles

Note: Distances measured are the shortest distances between small system sewer treatment facilities and nearest system connection points. The accuracy of this information cannot be determined without further review.
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<td>GRANT COUNTY SANITARY SEWER DISTRICT</td>
<td></td>
</tr>
<tr>
<td>GRANTLAND ESTATES SUBD</td>
<td>Distance (miles): 3.2</td>
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<tr>
<td>GRANT COUNTY SANITARY SEWER DISTRICT</td>
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<tr>
<td>Pendleton</td>
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</tr>
<tr>
<td>BOSTON HEIGHTS MHP</td>
<td>Distance (miles): 1.8</td>
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<td>BUTLER WATER &amp; SEWER DEPARTMENT</td>
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</tr>
<tr>
<td>GOESA</td>
<td>Distance (miles): 1.8</td>
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<td>BUTLER WATER &amp; SEWER DEPARTMENT</td>
<td></td>
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<tr>
<td>MT AUBURN APARTMENTS</td>
<td>Distance (miles): 1.2</td>
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<tr>
<td>KENWOOD LAKE STATE PARK</td>
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</tbody>
</table>

#### 2013 Kentucky House Districts

- **047**: 047, 048, 050, 059
- **050**: 050, 051, 055, 060
- **051**: 051, 056, 064
- **063**: 064, 067

**Distance to Sewer Lines**

- **< 0.5 Miles**: Blue
- **0.5 - 1.0 Miles**: Green
- **1.0 - 1.5 Miles**: Yellow
- **1.5 - 2.0 Miles**: Orange
- **> 2.0 Miles**: Red

Credits: Distances measured are the shortest distance between small system sewer manhole facilities and nearest system collection line. The accuracy of these distances cannot be determined without further review.
Appendix G: Costs
Airview Estates Franklin Co: Pump Station, force main, collection system rehab
Connections: 200
MHI: $45,095
Sewer Rehab: $1,000,000
Pump Station and Interceptor: $250,000
Total Construction: $1,250,000
Non-construction costs: $406,500
Total Project Cost: $1,656,500
Cost per connection: $8,282

City of Georgetown (Ponderosa/Spindletop) Scott Co: Pump Station, 13,500 LF of force main, 5,200 LF of gravity
Connections: 350
MHI: $59,009
Sewer Rehab:
Collector Sewers: $825,500
Pump Station and Interceptor: $1,809,600
Total Construction: $2,635,100
Non-construction costs: $714,900
Total Project Cost: $3,350,000
Cost per connection: $9,571

Friendly Park Village Sewer Daviess Co: Pump Station, approximately 4.5 miles of force main
Connections: 96
MHI: $57,187
Sewer Rehab:
Collector Sewers: 
Pump Station and Interceptor: $1,672,946
Total Construction: $1,672,946
Non-construction costs: $496,688
Total Project Cost: $2,169,634
Cost per connection: $22,600
### Pump Station Costs

<table>
<thead>
<tr>
<th>WWTP Capacity</th>
<th>Item Description</th>
<th>Depth (0-10 ft)</th>
<th>Depth (10-15 ft)</th>
<th>Depth (15-20 ft)</th>
<th>Solid Rock Adder (25%)</th>
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</thead>
<tbody>
<tr>
<td>0-100,000 gpd</td>
<td>80 GPM Duplex Submersible P.S.</td>
<td>$175,000.00</td>
<td>$225,000.00</td>
<td>$275,000.00</td>
<td>$48,750.00</td>
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<tr>
<td>100,000 - 250,000 gpd</td>
<td>80 GPM Duplex Submersible P.S.</td>
<td>$225,000.00</td>
<td>$300,000.00</td>
<td>$350,000.00</td>
<td>$63,750.00</td>
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### Pipeline Costs

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<th>WWTP Capacity</th>
<th>Item Description</th>
<th>Depth (10-15 ft)</th>
<th>Solid Rock Adder (25%)</th>
<th>Tight Working Conditions Adder (15%)</th>
<th>Worst Case Conditions</th>
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<tbody>
<tr>
<td>0-100,000 gpd</td>
<td>4-inch PVC Force Main</td>
<td>$25.00</td>
<td>$0.25</td>
<td>3.75</td>
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<td>100,000 - 250,000 gpd</td>
<td>6-inch PVC Force Main</td>
<td>$30.00</td>
<td>$7.50</td>
<td>4.50</td>
<td>$42.00</td>
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**Construction Contingency** 15%
**Project Non Construction Costs** 40%

---

### Item Description:

<table>
<thead>
<tr>
<th>Quantity</th>
<th>Amount</th>
<th>Units</th>
<th>Unit Cost</th>
<th>Amount</th>
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</thead>
<tbody>
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<td>80 gpm Pump Station</td>
<td>$175,000</td>
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<td>175,000.00</td>
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<tr>
<td>4&quot; FM Non Rock</td>
<td>$264,000</td>
<td>10560</td>
<td>25.00</td>
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<tr>
<td>Contingency (15%)</td>
<td>$65,850</td>
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<td>$65,850</td>
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<tr>
<td>Non Construction* (40%)</td>
<td>$175,600</td>
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<td>$175,600</td>
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<tr>
<td>*Design, Bidding, Environmental, Right of Way, ETC</td>
<td>$680,450</td>
<td>Total Project Cost</td>
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### Item Description:

<table>
<thead>
<tr>
<th>Quantity</th>
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<th>Units</th>
<th>Unit Cost</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>180 gpm Pump Station</td>
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<tr>
<td>6&quot; FM In Rock</td>
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<tr>
<td>Contingency (15%)</td>
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<td>$126,528</td>
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<tr>
<td>Non Construction* (40%)</td>
<td>$337,408</td>
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<td>$337,408</td>
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<tr>
<td>*Design, Bidding, Environmental, Right of Way, ETC</td>
<td>$1,307,456</td>
<td>Total Project Cost</td>
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</table>
Appendix H: Progress Report
July 31, 2017

Mr. David A. Byerman, Director
Legislative Research Commission
700 Capitol Ave Loop
Frankfort, KY 40601

RE: HJR 56 Progress Report

Dear Director Byerman,

HJR 56 Section 3 (1) (attached) requires that the Division of Water shall "No later than July 31, 2017, present a progress report to the Legislative Research Commission, which shall refer the report to the Interim Joint Committee on Natural Resources and the Environment and the Interim Joint Committee on Local Government. The report shall include a summary of the Division's research it has gathered relative to subsection (1) of Section 1 of this Act, as well as providing a planned timeline for the remaining work." Please allow this letter and attachments to serve as a Progress Report from the Division of Water regarding its efforts pursuant to HJR 56 (2017).

The Division of Water has convened a Conferring Committee with representatives of the entities identified in Section 2 of HJR 56 (see HJR 56 Conferring Committee Member List, attached). The Division of Water pre-scheduled monthly meetings from June through November and drafted tentative agendas to lay out its Plan of Action (see HJR 56 Plan of Action, Schedule and Tentative Agendas; attached). The Plan of Action conforms to the structure in HJR 56; the conferring committee is systematically working through each of the issues identified in HJR 56 Section 1 (1).

Thus far, the division has compiled a complete list of privately owned and operated small wastewater treatment plants, and the relevant information available regarding the plant and collection system (see HJR 56 list small WWTPs; attached).

A subcommittee of the Conferring Committee is working on further identifying indicators that are useful and necessary in conducting an assessment of the risks of financial failure, technical failure, structural failure, or abandonment pursuant to HJR 56 Section 1 (1)(b) and is scheduled to report back to the Conferring Committee at its August meeting.

The Conferring Committee has also had vigorous discussions regarding the options for these small systems going forward and various approaches and needs to intervene in emergency and non-emergency scenarios. These discussions will continue through the August and September meetings. Copies of the minutes of the June and July meetings are also attached.
The division is drafting an outline of the final report and beginning to draft report language. There remains significant work to complete in a short timeframe.

If you or your staff have any questions, or need other information, please do not hesitate to contact me at peter.goodmann@ky.gov, or at (502) 782-6956.

Sincerely,

Peter T. Goodmann, Director
Division of Water

c: Anthony Hatton, Deputy Commissioner
   Senator Joe Bowen
   Representative Russel Webber
   Stefan Kasacavage, LRC
   Mark Michell, LRC
Appendix I: Definitions
**Consolidation**: The process by which a regional wastewater facility takes ownership or control of another, non-regional wastewater facility.

**Regionalization**: Regionalization means (a) the creation of expanded service areas which take in a large geographic area or multiple systems; (b) the creation of multi-jurisdictional utility commissions, special districts, authorities or corporations; (c) the consolidated operation or management of multiple systems, or on-site systems; or (d) the merger, consolidation or combination of two or more existing facilities or systems.

**Inflow and Infiltration**: Inflow and infiltration are terms used to describe the ways that groundwater and stormwater enter the sanitary sewer system.

Inflow is water that is dumped into the sewer system through improper connections, such as downspouts and groundwater sump pumps. (Sump pumps that pump only laundry water or other sanitary wastes are not a problem.)

Infiltration is groundwater that enters the sewer system through leaks in the pipe.