

MINUTES FOR DECEMBER 13, 2010
COLUMBUS, KANSAS, CHEROKEE COUNTY
OFFICE OF THE COUNTY CLERK
CRYSTAL L. GATEWOOD

The Cherokee County Commissioners met December 13, 2010. Commissioners Collins, Garner and Hilderbrand were present. The Pledge of Allegiance was said by all present. Commissioner Hilderbrand made a motion to table the commission meeting minutes from December 6, 2010 until County Counselor Kevin Cure could review them, his motion was seconded by Commissioner Collins, and Commissioners Garner, Hilderbrand, and Collins voted in favor. Commissioner Collins made a motion to approve and pay the December Mid-Month Accounts Payables as presented by Clerk Gatewood, his motion was seconded by Commissioner Garner, and all three commissioners voted in favor. Cherokee County Clerk Gatewood, Commissioners Garner, Hilderbrand, and Collins signed off on the documents. County Counselor Kevin Cure was not present and did not sign.

OTHER BUSINESS

Commissioners Hilderbrand, Garner, and Collins, and County Clerk Gatewood went out to view a fence on John Gaither's and Robert Lucian's property in the county. The commission agreed to the terms after viewing the fence problem with the two properties. A motion was made by Commissioner Garner to allow Mr. Gaither to pay for the cost of pushing the hedgerow ½ on Gaither and ½ on Lucian. Mr. Gaither would also pay for the labor cost. Mr. Lucian would buy the wire and the post and other materials needed for the project. The materials for the project would be purchased at the Farmers Coop in Columbus. The commission also asked County Clerk Gatewood to contact County Counselor Kevin Cure to write a letter to Mr. Lucian, the stipulations agreed by the commission and Mr. Gaither. County Counselor Kevin Cure will also take care of the legal requirements. (It is noted that Clerk Gatewood contacted Mr. Cure so he could start work on the proposal.) Commissioner Collins seconded Commissioner Garner's motion for the project, and all three commissioners voted in favor.

Carl Hayes, the Environmental Director for Cherokee County, came to give an update on what he had done this year. He gave an overview of activities and duties in Cherokee County for 2010. He administers KDHE's Local Environmental Protection Program for Cherokee County. The information he provided to the commission has been added as an attachment to the minutes. The commissioners asked questions and thanked him for coming in.

Ray Ryan of Ryan Insurance came before the commission to update his bid for the county's property and work comp insurance. (The bid is attached to the minutes). He thanked the commission for the opportunity to return and give a current proposal. The commissioners thanked him and asked questions involving coverage. No decisions have been made by the commission regarding 2011 coverage.

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Carl Eyman and Philip Rippee of KWORCC presented the commissioners with a plaque for them regarding their work comp claims. Cherokee County had just over a one percent loss ratio for 2009 and it was the lowest ratio out of all the other counties who participate in KWORCC. He also reported that the county loss ratio looks very good for 2010. The commission thanked them for the plaque and for coming in personally to present it.

Audy Holman of Fabick Caterpillar came before the commission to submit a bid for a re-finance loan for four road graders. He explained that the county currently has a depreciation program to trade in road graders when the 5,000 hours are reached. He explained that the county could get four new road graders and keep the current payment the same. The commission listened to his proposal and said they would get back with him at a later time.

The commission gave an invoice from the Kansas Department of Transportation to the County Clerk to be paid. The Invoice was for Project #11c-4583-01 (Pin & Hangar Bridge Inspection) to be taken out of Special Bridge - Line item #190/30190/89 in the amount of \$1,340.00.

MOTIONS MADE BY COMMISSIONERS

Commissioner Collins made a motion to sign a letter of support for the Kansas Mental Health Center transportation Project, his motion was seconded by Commissioner Garner, and all three commissioners voted in favor. The commission referred this over to Clerk Gatewood to prepare and submit.

Commissioner Hilderbrand made a motion to recess for lunch, his motion was seconded by Commissioner Collins, and all three voted in favor.

Commissioner Hilderbrand made a motion to approve the 2011 Cherokee County Pay Schedule and Holiday Schedule, his motion was seconded by Commissioner Garner, and all three voted in favor.

Commissioner Garner made a motion to appoint Nathan Coleman to the Cherokee County Contract Attorney Position in the Cherokee County District Court, his motion was seconded by Commissioner Collins, and all three commissioners voted in favor.

Commissioner Garner made a motion to give all county employees a \$50.00 Wal-Mart Gift Card for Christmas, his motion was seconded by Commissioner Collins, and all three commissioners voted in favor. The commission referred this over to Clerk Gatewood and Treasurer Juanita Hodgson to initiate.

Commissioner Hilderbrand made a motion to **pass and approve Resolution #16-2010**, his motion was seconded by Commissioner Collins, and those **voting in favor were Commissioners Hilderbrand and Collins**, with **Commissioner Garner voting "No"**. Those signing the resolution were Commissioners Hilderbrand and Collins, and Commissioner Garner not signing. Cherokee County Clerk Gatewood attested the signatures of Collins and Hilderbrand. **It is duly noted that Commissioner Garner had agreed with the Human Resource Department, but he expressed that the commission needed to get more information before removing the Account Payable clerical duties from the Clerk's Office. A copy of Resolution #16-2010 is attached to the minutes. It is**

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also noted that Clerk Gatewood expressed a concern for the lack of transparency in government with this move, and also removing duties of another Elected Official.

EXECUTIVE SESSIONS

Commissioner Hilderbrand made a motion to go into Executive Session for ten minutes for Attorney/Client Privilege with himself, Commissioners Collins and Garner, and County Counselor Kevin Cure, his motion was seconded by Commissioner Collins, and all three commissioners voted in favor. They went in at 12:37 PM and returned at 12:50 PM.

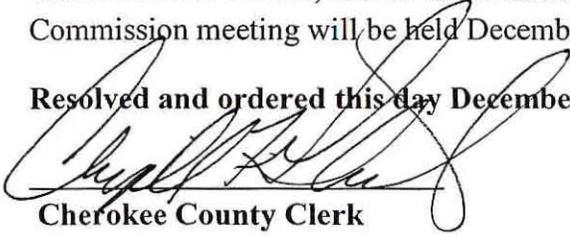
Commissioner Collins made a motion to go into Executive Session for ten minutes for Non/Elected Personnel with himself, Commissioners Garner and Hilderbrand, his motion was seconded by Commissioner Garner, and all three commissioners voted in favor. They went in at 2:48 PM and returned at 3:04 PM.

Commissioner Hilderbrand made a motion to go into Executive Session for fifteen minutes for Non/Elected Personnel with himself, Commissioners Garner and Collins, Tammy Spear and Deana Randall, his motion was seconded by Commissioner Garner, and all three commissioners voted in favor. They went in at 3:10 PM and returned at 3:29 PM.

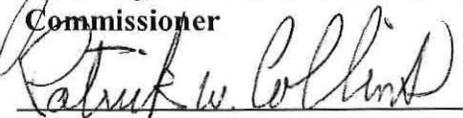
ADJOURNMENT

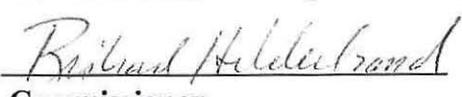
Commissioner Garner made a motion to adjourn at 3:32 PM for the day, his motion was seconded by Commissioner Collins, and all three commissioners voted in favor. The next Cherokee County Commission meeting will be held December 20, 2010 in the Cherokee County Courthouse at 9:00 AM.

Resolved and ordered this day December 20, 2010


Cherokee County Clerk


Commissioner


Commissioner


Commissioner

November 24, 2010

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

Bureau of Waste Management

1000 SW Jackson, Suite 320

Topeka, Kansas 66612-1366

Attn: Sam Sunderraj

Dear Mr. Sunderraj,

My name is Sharon Sparlin. My husband Jim and I have lived on the corner of west 19th and Swalley Rd for 26 years. In that 26 years, this is the third time we have had to protest a landfill in this Southeast corner. Two of those landfills have been successfully defeated, as I hope this one will be. For the life of me, I can't understand why the Kansas Department of Health and Environment always think that this corner of Southeast Kansas should be the armpit of America. With all the mine shafts and gravel piles that we have had to endure through the years, why would anyone want to put a landfill on the land that is just now beginning to look decent. Why is the State of Kansas wanting to jeopardize that beauty?

The Federal Government has spent millions of the tax payers dollars to clean up this part of the USA. The Picher, Ok., Hockerville, Ok., Treece, Ks , and an area just outside of Baxter is also being cleaned up with tax payers dollars. The Hockerville area is just across the road from the proposed landfill. **This is absurd!** This is not what the Kansas tax payers expect to happen to their hard earned money, spend to clean up and then allow a landfill to devalue the land. Why would anyone want to put an unsightly landfill in this area anyway? It's just more pollution.

Just because the owners of the land say they will take care of it, doesn't mean that they will always have the funds in place to do it. Then who gets the bill...we do. A landfill would be another environmental mess that the Government would have to come in and fix. I don't think that the economy could sustain another astronomical cleanup.

We have spent thousands of dollars putting siding and windows on our home to make it more environmental inside and out. We are very concerned about the termites and rat population that usually stay around old wood and debris. Why would we want to increase our tax base to let a landfill come in on the same mile section and devalue our property.

The taxes in SE Kansas are the highest in Kansas now and the income is the lowest. The taxpayers are doing everything possible to make ends meet in this economy. Is that landfill going to lower the taxes in any way? No... we will always have to pay more even though they will devalue the area. Just look at the mobile homes in the midst of the new homes on west 19th. Did that lower their taxes?

We, and the homeowners in the area are **protesting** this landfill. We are asking the Kansas Department of Health and Environment to do anything possible to keep the land in this Southeast corner in tact.

Thank you in advance,

Sharon Sparlin
2910 SE Star Rd
Baxter Springs, Ks 66713

November 30, 2010

Charles Bowers
KDHE
1500 W. 7th
Chanute, Ks 66720

Mr. Bowers:

I was present at the November 29th meeting in Baxter Springs regarding the approval of a landfill for Robison Environmental Services, LLC. I gave several comments verbally as to my disapproval of such a landfill, and have also formulated some written questions regarding the operations of this site.

1. Waste- I realize that this is “suppose” to be a C&D landfill, but living next to the ~~How~~okerville, Oklahoma dump site, I have seen what gets put into them. Is there going to be someone in the scale house at all times to screen the loads? What hours is the facility open to take the trash? What will keep people out of the area when no one is there? Who can bring trash to the site? Will it be getting a lot of out of county trash? What will the cost be? Will it be equivalent to other landfills so that it doesn't encourage more traffic to this area? What route will the traffic take? We have school children in this area that are not used to a lot of traffic. Increased truck use and poor road conditions will decrease the value of our land.

2. Noise & Vandalism- I have a friend that used to own a landfill and was there a lot. What about the noise level? What kind of equipment will be used to compact the trash? What hours will they be running? Is there a specific start and stop time and days of operation that won't effect all of us? With the disposal of metal and other sellable goods in this area it will increase the possibility of vandalism. There are many homes in the area and we are at the far end of the county for law enforcement to get to or observe. Why would we want to open ourselves up to that?

3. Water Table- I spoke about the deep wells that many of us have at the meeting. Some homes use these as their main drinking source. Our area has problems with contaminants from the mining anyway. Being so close to the Picher, and eventually Treece, clean-up,

what will keep this material from coming to this site? If that material is so bad that the homes must be destroyed ,then why is alright to move it into our drinking water? There is already an approved landfill in Cherokee County, only 10 miles away. It has been in operation for years and there seems to be none opposing it. What purpose does it serve to have another landfill in an area that already has problems with contamination and that is causing so much resentment from the area residents?

4. Conflict of Interest- My last comment refers to the comment that Mr. Robison made at the meeting, when he stated that he already has a contract with KDHE and was paid to fill in cave holes on his own land. Therefore, he was paid with tax payers money to fill in cave holes on his own property, and this was done so that he can now receive tax payers money by taking trash in his landfill. He already has a contract with KDHE and yet it is KDHE that makes the final approval of the permitting of this site. With the present lack of trust in our State government, this sounds a little “fishy” to me.

In conclusion, I am protesting the approval of this site for a landfill. There are too many unanswered questions, too many reasons for opposition, and too many reasons to worry about further contamination to our land and water from area clean-up sites. Due to the location of this area it WILL be used for disposal of this trash.

I am awaiting the timely response to these questions and I will be one of the many signatures on the petition against the approval.

Thank-you,

Larry Renick

CHEROKEE COUNTY BUDGET FUND REPORT FOR DECEMBER 2010					
BUDGET #S AVAILABLE AS OF 12/08/2010			AFTER/DEC. 20, 2010		
	REM/BUDGET	SALARIES	AC/PAYABLES	REM/BUDGET	
COMMISSIONER	\$15,966.62	\$5,753.53	\$2,859.36	\$8,612.89	
CLERK	\$37,019.03	\$9,874.05	\$7,896.78	\$19,248.20	
TREASURER	\$19,260.04	\$17,343.91	\$226.75	\$1,689.38	
C- ATTORNEY	\$40,330.73	\$16,192.29	\$4,212.02	\$19,926.42	
REG/DEEDS	\$11,083.58	\$8,490.07	\$387.67	\$2,205.84	
SHERIFF	\$223,750.94	\$81,615.77	\$42,765.65	\$99,369.52	
DIST/COURT	\$70,274.01	\$2,184.00	\$25,905.78	\$42,184.23	
COURTHOUSE	\$164,360.96	\$4,729.59	\$22,563.25	\$137,068.12	
EM/PREP	\$8,071.57	\$3,750.00	\$2,165.29	\$2,156.28	
JAIL	\$94,844.20	\$49,710.94	\$22,012.85	\$23,120.41	
JUV/DET	\$28,932.00	0	\$8,301.00	\$20,631.00	
E-911	\$16,834.20	\$3,897.60	\$286.41	\$12,650.19	
CTY COUNSEL	(\$5,784.52)	\$2,185.45	\$742.10	(\$8,712.07)	
ROAD&BRIDGE	(\$457,544.12)	\$100,659.97	\$49,548.09	(\$607,752.18)	
ELECTION	\$51,283.16	\$4,361.00	\$13,449.24	\$33,472.92	
APPRAISER	\$61,002.77	\$20,286.42	\$1,384.71	\$39,331.64	
HEALTH	\$438,161.31	\$37,279.94	\$4,970.71	\$5,219.92	
NOX/WEED	\$25,450.37	\$2,189.83	\$200.08	\$23,060.46	
SEWR/D-1	\$213,761.79	\$1,490.34	\$10,646.03	\$201,625.42	
COUNTY GENERAL	\$239,910.90	\$205,727.20	\$146,820.01	(\$112,636.31)	

-actual \$ available for budget

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with 250,000 transfer

Sales tax Payments from State of Kansas

<u>Date</u>	<u>Local Comp</u>	<u>Local Retail</u>	<u>Jail Salestax</u>	<u>Total Salestax</u>
January 2010	\$ 16,361.57	\$ 66,214.27	\$ 41,287.92	\$ 123,863.76
February 2010	\$ 19,065.09	\$ 79,322.38	\$ 49,193.74	\$ 147,581.21
March 2010	\$ 26,779.61	\$ 86,243.76	\$ 56,511.69	\$ 169,535.06
April 2010	\$ 20,414.17	\$ 76,199.35	\$ 48,306.77	\$ 144,920.29
May 2010	\$ 32,887.05	\$ 81,799.08	\$ 57,343.07	\$ 172,029.20
June 2010	\$ 22,626.72	\$ 70,022.49	\$ 46,324.61	\$ 138,973.82
July 2010	\$ 23,721.98	\$ 67,913.02	\$ 45,817.50	\$ 137,452.50
August 2010	\$ 27,647.62	\$ 78,863.92	\$ 53,255.77	\$ 159,767.31
September 2010	\$ 17,063.45	\$ 75,480.85	\$ 46,272.15	\$ 138,816.45
October 2010	\$ 21,308.43	\$ 77,283.41	\$ 49,295.91	\$ 147,887.75
November 2010	\$ 18,497.09	\$ 64,083.47	\$ 41,290.28	\$ 123,870.84
December 2010	\$ -	\$ -	\$ -	\$ -
	<u>\$ 246,372.78</u>	<u>\$ 823,426.00</u>	<u>\$ 534,899.41</u>	<u>\$ 1,604,698.19</u>

<u>Date</u>	<u>Local Comp</u>	<u>Local Retail</u>	<u>Jail Salestax</u>	<u>Total Salestax</u>
January 2009	\$ 29,705.26	\$ 77,462.60	\$ 53,583.93	\$ 160,751.79
February 2009	\$ 20,125.24	\$ 82,925.13	\$ 51,525.19	\$ 154,575.56
March 2009	\$ 21,181.22	\$ 88,751.71	\$ 54,966.47	\$ 164,899.40
April 2009	\$ 21,323.33	\$ 60,223.78	\$ 40,773.55	\$ 122,320.66
May 2009	\$ 22,636.87	\$ 75,939.56	\$ 49,288.22	\$ 147,864.65
June 2009	\$ 22,585.59	\$ 50,200.07	\$ 36,392.83	\$ 109,178.49
July 2009	\$ 48,340.82	\$ 19,782.20	\$ 76,899.45	\$ 145,022.47
August 2009	\$ 25,396.97	\$ 73,387.47	\$ 49,392.23	\$ 148,176.67
September 2009	\$ 21,540.39	\$ 76,136.95	\$ 48,838.68	\$ 146,516.02
October 2009	\$ 24,261.76	\$ 75,761.89	\$ 50,011.82	\$ 150,035.47
November 2009	\$ 19,837.90	\$ 73,452.09	\$ 46,644.99	\$ 139,934.98
December 2009	\$ 17,709.71	\$ 74,196.98	\$ 45,953.34	\$ 137,860.03
	<u>\$ 294,645.06</u>	<u>\$ 828,220.43</u>	<u>\$ 604,270.70</u>	<u>\$ 1,727,136.19</u>

<u>Date</u>	<u>Local Comp</u>	<u>Local Retail</u>	<u>Jail Salestax</u>	<u>Total Salestax</u>
January 2008	\$ 20,989.47	\$ 77,225.55	\$ 35,365.37	\$ 133,580.39
February 2008	\$ 18,513.47	\$ 87,060.13	\$ 52,786.80	\$ 158,360.40
March 2008	\$ 23,598.38	\$ 87,515.41	\$ 55,556.90	\$ 166,670.69
April 2008	\$ 75,769.48	\$ 20,837.49	\$ 48,303.49	\$ 144,910.46
May 2008	\$ 27,971.15	\$ 84,934.78	\$ 56,452.96	\$ 169,358.89
June 2008	\$ 23,973.03	\$ 70,211.07	\$ 47,092.05	\$ 141,276.15
July 2008	\$ 31,806.65	\$ 75,283.52	\$ 53,545.09	\$ 160,635.26
August 2008	\$ 27,399.85	\$ 79,029.53	\$ 53,214.69	\$ 159,644.07
September 2008	\$ 41,087.52	\$ 78,037.87	\$ 59,562.70	\$ 178,688.09
October 2008	\$ 39,629.89	\$ 84,286.51	\$ 61,958.19	\$ 185,874.59
November 2008	\$ 33,225.85	\$ 83,776.87	\$ 58,501.36	\$ 175,504.08
December 2008	\$ 27,860.23	\$ 84,249.58	\$ 56,054.90	\$ 168,164.71
	<u>\$ 391,824.97</u>	<u>\$ 912,448.31</u>	<u>\$ 638,394.50</u>	<u>\$ 1,942,667.78</u>

**2011 Payroll Worksheet
for KWORCC**

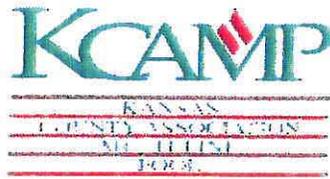
CLASSIFICATION WORDING	DESCRIPTION	CLASS CODE	Est. GROSS WAGES	Deduct Est. 1/3 Overtime	Deduct Est Holiday/Vac Sick Pay - Gross	ESTIMATED WC Wages
Quarry Operations	Includes operation of crushers; construction repair or maintenance of all buildings, structures or equipment; installation of machinery.	1624	\$	\$	\$	\$
Concrete Construction Bridges and Culverts	Concrete work on bridges and culverts including setting up and tearing down of forms.	5222	\$ 80213.00	\$ 1223.00	\$ 11215.00	\$ 67775.00
Street & Road Paving or Repaving	Street and road or bridge repair or repaving & associated work by road crews.	5506	\$ 1195751.00	\$ 6835.00	\$ 156911.00	\$ 1032005.00
Excavation and Drivers - NOC	LANDFILL, NO TRANSFER STATION. Includes burrowing or back filling	6217	\$	\$	\$	\$
Ambulance Service	Operation of ambulance service whether in police, fire or separate department>	7370	\$	\$	\$	\$
Ambulance Attendants EMT's	Number of Volunteers: _____ Hours Worked: _____ Number of Volunteers: _____ Hours Worked: _____					
Transit Authority and Drivers	All employees operating buses, taxis or limousines.	7380		\$		
Airport Operations	All airport employees except pilots, including clerical and maintenance of heavy equipment.	7423	\$	\$	\$	\$
Water Works	Includes salesmen, drivers, store employees, meter readers and the construction of extension of lines. Includes maintenance of heavy equipment.	7520	\$	\$	\$	\$
Sewage Disposal Plant	Sewer treatment plant, line maintenance, laboratory employees and drivers.	7580	\$ 18439.00	\$ 0	\$ 0	\$ 18439.00
Garbage Works	All employees of a garbage reduction plant operated by the county EXCEPT the drivers who truck raw garbage and refuse to the plant and haul off noncombustibles and furance residue.	7590	\$	\$	\$	\$
Fire Fighters	All employees of the fire department including drivers except clerical, building and electronic equipment maintenance and ambulance service.	7710	\$	\$	\$	\$
Volunteer Firefighters Storm Spotters	Number of Volunteers: _____ Hours Worked: _____ Number of Volunteers: _____ Hours Worked: _____	7711	\$	\$	\$	\$
Law Enforcement	All employees, such as sheriff, Undersheriff, deputy sheriffs, uniformed and plain cloths officers, probation officers, warrant service guards, juvenile home attendants, police academy students, jailers, food service director, etc. <u>except clerical, building and electronic equipment maintenance.</u>	7720	\$ 880309.00	\$ 10418.00	\$ 74065.00	\$ 795826.00
Volunteer Emergency Personnel Sheriff's Reserve Search & Rescue	Number of Volunteers: _____ Hours Worked: _____ Number of Volunteers: _____ Hours Worked: _____	7720v	\$	\$	\$	\$
Recycling Center Employees	Container recycling. Bottle or can and Drivers. Paperstock, used and Drivers No collecting or handling of scrape iron or steel	8264	\$	\$	\$	\$
Clerical - Office	Employees whose duties are confined to keeping books, records or conducting correspondence or who are engaged wholly in office work.	8810	\$ 1057337.00	\$ 7402.00	\$ 105979.00	\$ 943.956.00
Hospital - Clerical Employees	Employees whose duties are strictly clerical in nature.	8810H	\$	\$	\$	\$
Library & Museum	Includes librarians, curators and professionals	8810L	\$	\$	\$	\$

**2011 Payroll Worksheet
for KWORCC**

CLASSIFICATION WORDING	DESCRIPTION	CLASS CODE	Est. GROSS WAGES	Deduct Est. 1/3 Overtime	Deduct Est Holiday/Vac Sick Pay - Gross	ESTIMATED WC Wages
Appointed Board & Commission Members	All non-salaried members of boards and commissions under control of the county and whose members are appointed by the Board of County Commissioners. Number of Volunteers: _____	8810B	\$	\$	\$	\$
County Attorney Office	County Counselor, legal aides and legal secretaries.	8820	193756.00	0	7396.00	186360.00
Animal Shelter	Operation of animal shelter, driver, humane officers, veterinary care, animal control, etc.	8831	\$	\$	\$	\$
Clinic & Health Department	Professional employees in the county health department, public health nurses and professional employees assigned to organized outpatient clinics.	8832	301203.00	1122.00	24422.00	275659.00
Hospital - Professional Employees	Nurses, nurses aides, physical therapists, bacteriologists, psychotherapist, etc.	8833	\$	\$	\$	\$
Homemaker Services	Home help services to families with children, convalescent, aged, acutely or chronically ill or disabled persons.	8835	102147.00	1819.00	18855.00	81473.00
Building Operations - NOC	Operations of owned, leased or occupied buildings, including janitorial and custodial, maids, elevator operators and maintenance employees, if not otherwise classified.	9015	107027.00	173.00	13057.00	93797.00
Hospital - All Other Employees	All other employees of hospitals.	9040	\$	\$	\$	\$
Country Club	Country Club, Golf, Fishing, etc	9060	\$	\$	\$	\$
Restaurant - NOC	All employees engaged in the preparation and service of food and beverages (e.g. at Jails, Senior Center)	9082				
Restaurant	Restaurant facility (e.g. courthouse coffee shop)	9083	\$	\$	\$	\$
Parks & Recreation - NOC	All employees including drivers that maintain and operate county parks and park activities <u>except clerical.</u>	9102	\$	\$	\$	\$
Weed Department Employees	Includes employees and directors engaged in the spraying of herbicides to control noxious weeds.	9102w	26277.00	0	0	26277.00
Cemetery Operations	All employees including drivers that maintain cemeteries <u>except clerical.</u>	9220	\$	\$	\$	\$
Refuse Collections and Disposal	Collection of refuse, garbage, trash and/or brush. <u>Including transfer station operators & HHW.</u>	9403	\$	\$	\$	\$
County Employees -NOC	Laboratory work, engineers, inspectors, Board of Health, electrical inspectors & similar not assigned elsewhere	9410	185872.00	1730.00	10810.00	173332.00
Volunteer (and Trustee/Community Service) Work Not Previously Indicated	Class Code: _____ Hours Worked: _____ Class Code: _____ Hours Worked: _____ Class Code: _____ Hours Worked: _____ <i>Please attach separate sheet if necessary</i>		\$	\$	\$	

TOTAL ESTIMATED WAGES \$ 3,694,899.00

FULL-TIME EMPLOYEES: 154
 PART-TIME EMPLOYEES (FULL-TIME EQUIVALENCY): 9
 VOLUNTEERS (FULL-TIME EQUIVALENCY):
 TOTAL NUMBER OF EMPLOYEES 163
 COUNTY: CHEROKEE
 PERSON WHO COMPLETED FORM: DEANA RANDALL
 TELEPHONE NUMBER: 620-429-2042
 DATED: JULY 29, 2010



November 29, 2010

Cherokee County Commissioners
100 W. Maple
Columbus, Kansas 66725

Dear Commissioners:

KCAMP is pleased to present to Cherokee County this proposal for the continuation of risk management and insurance services. Cherokee County is a charter member of KCAMP, one of the founding members of this self-insured pool, which you own and operate. KCAMP is not an insurance company and as a result when you "take bids" you are trying to compare us like a commodity, to insurance companies which we are not. We have one purpose and that is to provide services to our member counties, that is all we do and no one else has the level of expertise or does it better than KCAMP. Any premiums paid and not used to pay claims and provide services are owned by the member counties not sent out of state to the home office.

I would like to point out some of the features of our risk management program that sets us apart from the rest:

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- Only one deductible applies to a hail claim**
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- "Attorney Assist" free and unlimited access by all elected officials & supervisors**
- Direct access to all decision makers, CEO, Board of Trustees, adjusters and attorneys**
- Risk Management services designed only for Counties

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Thank you for your support and loyalty over the past 20 years and hope that you will continue your commitment to the company that you own.

Respectfully,

Thomas Job
KCAMP Administrator

5425 S.W. 7TH STREET TOPEKA, KANSAS 66606

(785) 267-2373, (800) 240-9828, FAX (785) 267-2383

website: www.kcamp.org



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 Topeka, KS 66603

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 Facsimile (785) 233-5440

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www.kworcc.com

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 Columbus, KS 66725-0014

State Code **15**

Policy Effective Date **01/01/11**
Policy Expiration Date **01/01/12**
Experience Modification **1.29**
Modification Effective Date **1/1/2011**
Rate Effective Date **1/1/2011**
Risk ID **154027033**

AMOUNT OF PAYROLL BY OCCUPATIONAL CLASSIFICATIONS

Occupation	Manual Class Code	Exposure Payroll Amount
Concrete Construction: Bridges & Culverts	5222	\$ 67,775
Street or Road Construction: Paving or Repaving & Drive	5506	\$ 1,032,005
Sewage Disposal Plant Operation & Drivers	7580	\$ 18,439
Law Enforcement	7720	\$ 795,826
Clerical Office Employees NOC	8810	\$ 943,956
County Attorney: All Employees & Clerical, Messengers.	8820	\$ 186,360
Clinic & Health Department	8832	\$ 275,659
Homemaker Service	8835	\$ 81,473
Buildings: Operation By Owner or Lessee	9015	\$ 93,797
Noxious Weed Department	9102w	\$ 26,277
County Employees - NOC	9410	\$ 173,332
	Total Payroll	\$ 3,694,899
	Premium	\$ 130,593

FAXTELECOPY COVER SHEET

COUNTY CLERK'S FAX NUMBER: 620-429-1042

COUNTY CLERK'S TELEPHONE NUMBER: 620-429-2042

Deliver to:

NAME Charlie Bowers

FIRM/DEPT. KDHE

FAX NO. 620 431 1211

From:

NAME Crystal Gatewood

DIVISION Cherokee County Clerk

THERE SHOULD BE 4 PAGES, INCLUDING COVER SHEET

COMMENTS:

Let me know if you need

anything else, At this point

this is all we have.

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Last Transaction

Date	Time	Type	Station ID	Duration Digital Fax	Pages	Result
Dec 8	8:24AM	Fax Sent	16204311211	1:03 N/A	4	OK

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Imagery Dates: Jun 1, 2003 - Jun 26, 2008 37°04'08.28" N 94°43'05.76" W elev 819 ft Eye alt 6422 ft

**Preliminary Cost Estimates
Walker Addition
Cherokee County Sewer District
November, 2010**

Sewer System

<u>Description</u>	<u>Unit</u>	<u>Quantity</u>	<u>Unit Price</u>	<u>Extended Total</u>
8" Gravity Sewer,	Lf	2400	55	132000
Service Taps,	Ea	9	1000	9000
Manhole, 4' diameter	Ea	7	3000	21000
Roadway Surface Replacment	Ls	1	10000	10000
Surface Restoration	Ls	1	5000	5000
Lift Station	Ea	1	75000	75000
			Subtotal	252000
			Engineering Design	22000
			Const. Inspection	36000
			Legal/Fiscal	10000
			Estimated Total	320000

PRELIMINARY ENGINEERING REPORT

Sewer System Improvements

for

Cherokee County, Kansas

1999

Prepared by

Turner Consulting
P.O. Box 167
Baxter Springs, Kansas
316-856-5714 FAX 316-856-5724

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Preface:

Executive Summary:

*

Densely populated areas of Southern Cherokee County are faced with significant problems with sewage disposal. Problems are:

1. Individual, on-site disposal systems operating inadequately, causing direct threats to health and safety via raw sewage being discharged into residential areas.
2. Unsuitable soil for septic tank systems.
3. Unsewered residential areas being adjacent to recreational areas of Shoal Creek and Spring River.

The above problems are all generated from areas in the County not having a sanitary sewer collection and treatment system. The proposed improvements are recommended to eliminate significant health hazards caused by raw sewage discharge in densely developed southern areas of the County. These densely populated areas are locally referred to as north and east of Riverton, Rest-a-while and Skip Scott's addition.

The cost to provide sewer collection service to each of these areas is summarized as follows:

Riverton Interceptor	\$1,594,140.00
Rest-a-While	\$ 846,335.00
Skip Scott's Addition	\$ 579,305.00

PRELIMINARY ENGINEERING REPORT
Sewer System Improvements
Cherokee County, Kansas

I. GENERAL *

This report presents the results of engineering studies of densely populated areas of southern Cherokee County, Kansas. In particular the areas studied are locally referred to as Riverton, Rest-a-while and Skip Scott's addition. These areas are in close proximity to either Spring River or Shoal Creek, near the Lowell Dam.

II. PROJECT PLANNING AREA *

2.1 Topography:

This area of Cherokee County is dissected by both Spring River and Shoal Creek. In Kansas, Spring River flows generally North to South, with Shoal Creek flowing generally East to West. Ground surface elevations in the area range from approximately 800 to 870 feet above mean sea level, and slope in the area varies considerably.

2.2 Geology:

Most of the County is underlain by shale and limestone. These formations are at the base for various series of the Pennsylvanian system. Past coal mining activity in northern areas of the County is significant, with these southern areas being considered part of the Ozark Plateau and the Tri-State lead and zinc belt. Abandoned shafts, pits and tailing piles from the past lead and zinc mining is common in the area.

The Soil Conservation Service indicates that the areas in question generally consist of Clarksville, Dennis, Nixa and Tonti soil types. (see Appendix). Because of low permeability and poor drainage, these soil types are generally considered unsuitable for septic tanks and lateral field use.

2.3 Hydrology:

Surface Runoff: Because of the natural topography and the proximity of the Spring River, Shoal Creek and their tributaries, the collection and transport of stormwater runoff does pose some problems for the areas of the City.

2.4 Climate:

The climate in the vicinity of the site is continental in nature. The average annual precipitation is 42 inches, and the average temperature 58 degrees Fahrenheit. The climate is characterized by frequent and sometimes extreme changes in temperature, humidity, cloudiness, and winds.

The winters are generally mild, but may last until March, ending with a final blast

of snow or ice. Sub-zero temperatures rarely last more than two days.

Summers are generally warm and growing seasons usually last about 185 days. Hot humid weather may last for two week periods before being disrupted by thunderstorms and rains.

Spring temperatures vary from frost to the mid 70s due to the clash between lingering winter cold air masses and warm humid air moving northward from the Gulf of Mexico.

The autumn season in the area is usually a period of warm days and cool nights. Frost may occur as early as the first week in October, following the heavy thunderstorm activity in September.

The precipitation is well distributed with approximately thirty percent in the spring, approximately thirty percent in the summer, approximately twenty-six percent in the autumn, and fourteen percent in the winter. Snowfall averages less than ten inches per year.

2.5 Population

The 1990 Census indicates a population of 22,054 for all of Cherokee County. As none of the Study area is contained within a municipal corporate limits, firm population data is not available. The current sewer districts in the area (see Vicinity Map) serve a total of 328 connections.

In this case, the population equivalent should be considered, as the current sewer districts serve the Riverton School (USD 404 enrollment 760 +/-), and the Empire District Power plant. Both of these entities add a population equivalent that will be discussed in later sections of this report.

2.6 Environmental Resources

The U.S. Fish and Wildlife Department has determined that Spring River and Shoal Creek contain the most diverse aquatic life in Kansas. Spring River and its tributaries are thought to contain the Neosho Madtom and the Arkansas Snail Darter, which are both endangered species. Improvements to the sanitary sewer system in the study areas will improve conditions of habitat for both. No other endangered species are known to exist within the study area.

3.1 Existing Facilities

Currently, sewer service to the area is confined within the boundaries of Sewer District No.1 (Riverton) and No. 2 (Lowell). The existing collection system in these areas are shown on Figure 2.

These Districts currently bill approximately 328 hookups and billing units. The Riverton collection system consists of approximately 26,500 feet of gravity collector pipe, the majority of which is vitrified clay. This area is served by five lift stations, including the main Riverton lift station. (see Figure 2) The four local stations pump sewage through approximately 3800 lf of pressure sewer. The main lift station pumps approximately one and one half miles through an 8 inch diameter pipe to the treatment facility.

The Lowell collection system consists of approximately 12,900 feet of collector pipe. The majority of this system is PVC pipe. The Lowell area is served by one lift station, which serves as a main lift station that pumps sewage through a pressure sewer attached to the Spring River and Shoal Creek bridges. This pressure sewer failed in 1995 due to freezing and was replaced. This pressure main empties into the Riverton gravity system, with the sewage eventually reaching the main Riverton Lift Station.

The main Riverton Lift Station was constructed in 1997 in conjunction with the relocation of the treatment facility from the Spring River flood plain. The recently constructed treatment facility is a three cell stabilization pond. The cells have surface areas of 7.35 acres, 5.14 acres and 3.28 acres respectively. Cells one and two have a maximum depth of five feet, with the maximum depth of cell three being 8 feet. At maximum depth, a total volume of 28.98 million gallons is provided. Excerpts from the construction drawings for the Riverton Lift Station, River Crossings, and Treatment Facility are contained in the Appendix to this report. The ability of these existing Riverton/Lowell facilities to transport and treat sewage from the proposed areas is discussed in following section of this report.

3.2 Regulatory Requirements

Where direct discharge systems, such as stabilization ponds are utilized, a National Pollution Discharge Elimination System (NPDES) permit is required by KDHE. Monthly sampling and laboratory testing is required to determine compliance with the permitted limits. The NPDES permit for the existing facility is contained in the Appendix to this report.

IV. WASTEWATER CHARACTERISTICS

*

4.1 Treatment Alternative

Three basic alternatives exist for treatment of sewage generated by the study area. These alternatives are:

- a) Construction of new treatment facility.
- b) Transport to Galena municipal facility .
- c) Transport to existing County facility.

4.1.1 Proposed Area Loadings

The unsewered areas in question contain on estimated 175 residential units would be served. At 2.5 people per unit, an estimated population of 438 people would be served. At 100 gpcpd, a potable water usage of 43,800 gpd is expected. It can be conservatively estimated that 90% of potable water would enter the sewer system. The daily loading from potable water would therefore be 39,420 gpd.

With 438 people, organic loadings of 75 lbs/BOD/day and 92 lbs/TSS/day could be expected (.17 lb/BOD & .21 lb/TSS per capita per day). The required 120 day detention time would govern overall sizing of this facility. With a 20% allotment for I/I, this equates to a facility with a volume of 5.7mg. At 5 foot depth, this facility would have a surface area of 3.5 acres.

The unsewered areas north of Riverton are considerable distance from Rest-A-While and Skip Scott's Addition. If construction of a facility to serve any of this area is the most feasible solution, it is likely that the areas north of Riverton would have a separate treatment scheme.

4.1.2 Existing County Facility

4.1.2.1 Hydraulic Loadings

Three rural water districts provide potable water to the study area. These water suppliers also provide water to users outside the study area, making exact usage within the area unavailable. Except for the Riverton school, Empire District Electric Company and Lowell Manor Nursing Home the users in the district can be expected to be typical. The Empire District facility employee loading is quite variable. It is estimated that a sewage population equivalent of 50 exists at this facility. The current enrollment at the Riverton School is 760, with a sewage population equivalent of 300. The Quaker Hill Manor is a 71 bed facility, with a population equivalent of 90. Assuming 2.5 people per connection for the remaining 325 connections, a population equivalent of 1253 is served by existing infrastructure.

For this semi-rural area, it can be conservatively estimated that 90% of water used would enter the collection system. Theoretical sewer flow for the existing infrastructure is therefore estimated at:

$$.90 \times 100 \text{ gpcpd} \times 1253 = 112,770 \text{ gpd}$$

4.1.2.2 Existing Infiltration/Inflow

4.1.2.2.1 General:

Infiltration is defined as groundwater or subsurface water entering the sewage collection system via deteriorated collection pipes or manholes. Inflow is generally defined as stormwater entering the collection system through roof drains, basement drains, or cross connections of the stormwater system.

In the past, the Riverton district experienced significant problems relating to Infiltration and Inflow. A limited Sewer System Evaluation and subsequent Infiltration and Inflow abatement programs were initiated. The resulting reduced peak loads, combined with the increased capacity of the recently constructed pumping and treatment facilities, provided a manageable combination of I/I reduction and capacity to transport and treat.

4.1.2.2.2 Quantities:

The existing system lacks a flow recorder, making exact quantification of the actual flow that would reach the pumping and/or treatment facility impossible to accurately measure. Flow for NPDES permitting requirements has been measured by hour meters in motors, times expected hourly flow. This does not appear to be accurate. Operating staff has recently changed procedures to measure flow at the effluent weir of the recently constructed stabilization ponds. The most accurate data available from staff is for August 6, 1997 (new lift station on line). Over the next 16 months 89,000,000 gallons were pumped which equates to a flow of 197,339 gpd.

Peak hourly flow has been estimated by operator staff to be in existence at 600,000 gpd. The peak 7 day average flow is estimated at 300,000 gpd. The total yearly I/I is estimated by:

$$365 \text{ days} \times (197,339 - 112,700 \text{ gpd}) = 30,867,685 \text{ gallons}$$

4.1.2.2.3 I/I Impact on System:

During long-term wet weather conditions, the peak hydraulic loadings reaching the waste stabilization ponds do not appear to adversely affect available capacity as it relates to the detention time and related treatment capacity of the system. Due to the lack of a flow recorder and the relatively recent construction of the stabilization ponds, a long period of accurate flow data is not available.

4.1.2.3 Organic Loadings

At an average daily flow of .198 MGD, the existing stabilization pond facilities have a detention time of approximately 146 days. No significant industrial users are present,

with typical strength domestic sewage being treated.

$$1253 \times .17 = 213 \text{ lbs/day BOD}$$

$$1253 \times .22 = 276 \text{ lbs/day TSS}$$

4.1.2.4 Study Area Impact

If the sewage study from the area were transported to the existing Riverton/Lowell infrastructure, minor improvements would be made to the Lowell lift station. (i.e. low flow pump, odor control)

The total loadings reaching the treatment facility would be:

$$197,339 + 39,420 = 236,759 \text{ gpd}$$

$$213 \text{ lbs/day} + 75 \text{ lbs/day} = 288 \text{ lbs/day/BOD}$$

$$276 \text{ lbs/day} + 92 \text{ lbs/day} = 368 \text{ lbs/day/TSS}$$

With a total value of 28.98 MG, the retention time is reduced to 122 days. With a primary & secondary cell surface area of 12.49 acres, total BOD loading is increased to 23 lbs BOD/acre/day. These loadings compare to an allowable 120 days retention (minimum) and a 34 lbs BOD/acre/day maximum KDHE standard.

4.1.3 Existing Galena Facility

The existing stabilization ponds for the City of Galena have a surface area of 28 areas and an operating volume of approximately 5,500,000 cubic feet (41 mg). The average daily flow is .42 mgd.

The 1990 Census data indicates a population of 3,376 people for Galena. Using LDHE standards, this equates to a loading of 574 lbs/day BOD and 709 lbs/day TSS.

The BOD loading equates to 20.5 lbs/day, which is within state standards. The hydraulic loading provides a retention time of 97.6 days. This is below the KDHE standard of 120 days retention. Past conversation with KDHE concerning stabilization pond retention items indicate that this 120 days is required for facilities to remain exempt from ammonia and fecal coliform effluent monitoring, and that this monitoring requirement is also dependent upon receiving stream characteristics.

As the receiving stream is quite small and is a tributary to Shoal Creek, future improvement to meet KDHE criteria for the current loading is likely.

It is therefore apparent that substantial improvement to the Galena facility would be required for the study area loadings to be accommodated.

V. RECOMMENDATIONS/CONCLUSIONS

*

5.1 General:

The engineering study and investigation of the wastewater system for Riverton included:

1. On site review of the collection and treatment system;
2. Review of estimates of the flow quantities;
3. Discussions with County engineering and operating personnel;
4. A review of relevant operation records, maps and reports for the wastewater system
5. Examination of existing facilities to transport expected flows;
6. Review and examination of individual, onsite disposal systems in unsewered areas of the County

This engineering investigation revealed that numerous problems exist due to the lack of a sanitary sewage collection system in areas with soil unsuitable for septic tanks and lateral fields.

5.2 Improvements:

In summary, the engineering study revealed that unacceptable conditions are present in unsewered, densely populated areas of southern Cherokee County. These conditions include ponding and runoff of inadequately treated septic tank leachate. The only viable solution is construction of a sanitary sewer collection system to serve these densely populated areas.

Options for extending the sewage collection system to serve areas North and East of Riverton, Rest-A-While, and Skip Scott's Addition are discussed in the following:

North and East of Riverton:(Walker addition, Greatplains Estates, etc.) This general area has recently experienced substantial growth. Approximately 100 residential dwellings within an area 1 mile north and 1/2 mile east of the existing service area (see Figure 5). Extension of an interceptor Northeast along an existing drainageway appears to be the most cost effective means of providing sewer service to the area. Cost estimates are included in following sections of this report.

Rest-A-While: Due to the likelihood of encountering solid rock in a densely developed area, and relatively flat areas, a pressurized collection system appears to be the most cost effective. With this alternative, each unit served would include an individual grinder pump station. Cost estimates for this alternative are contained in following sections of this report.

Skip Scott's Addition: Due to the distance between units to be served, and the relatively flat grade, a pressurized collection system with grinder pump stations at each unit served,

appears to be the most cost effective solution. Cost estimates are included in following sections of this report.

5.3 Preliminary Cost Estimates

5.4 Operation and Maintenance

Annual operation and maintenance costs for the first year of operation is estimated as follows:

Labor (part time)	8,000
Supplies	6,000
Misc	<u>2,000</u>
Total annual O & M	\$16,000

5.5 Conclusion/Cost Analysis

The total estimated capital cost for installing sewers to the study area is \$3,019,780.00. Assuming a 7% interest rate and a 40 year term, the monthly rate for the debt service would be \$107.85 for each of the 175 units. A substantial amount of grant funds and low interest loans would be required to make this project feasible.



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Cherokee County
Insurance Proposal

2011 - 2012

2308 SOUTH BROADWAY - P.O. BOX 106 - PITTSBURG, KANSAS 66762

620 231-3500 - FAX 620 231-3763

X 5/20/2010

KCAMP
PROPERTY SCHEDULE
2010
CHEROKEE

1.02 x 2009

NO.	ADDRESS	CITY	ZIP CODE	OCCUPANCY	YEAR BUILT	# OF STOR	SQUARE FOOTAG	CONST. CODE	SPKL %	FLOOD ZONE	FIRE CLASS	BUILDING VALUE	CONTENT VALUE	COMPUTER VALUE	VALUABLE PAPERS	BLANKET BI-EE	TOTAL
1	100 E. WALNUT	COLUMBUS	66725	HEALTH OFFICE	1967	2	5,445	2	?	C	4	393,319	102,915	0	INCL.	INCL.	496,234
2	110 W. MAPLE STREET	COLUMBUS	66725	COURTHOUSE	1966	3	32,442	2	?	C	4	4,130,928	302,890	203,951	INCL.	INCL.	4,637,769
3	114 WEST COUNTRY	COLUMBUS	66725	4-H BUILDING	1985		4,000		?	?	4	285,600	0	0	INCL.	INCL.	285,600
4	600 E COUNTRY RD	COLUMBUS	66725	ADMINSTRATIVE BLDG	1990	1	4,000	3	?	X	4	186,840	51,000	0	INCL.	INCL.	237,840
5	600 E COUNTRY RD	COLUMBUS	66725	TRUCK BARN	1945	1		3	?	X	4	8,659	0	0	INCL.	INCL.	8,659
6	600 E COUNTRY RD	COLUMBUS	66725	WALTERS EQUIP. BLDG	1985	1		3	?	X	4	21,847	0	0	INCL.	INCL.	21,847
7	600 E COUNTRY RD	COLUMBUS	66725	MECHANIC SHOP	1991	1	9,828	3	?	X	4	341,593	53,040	0	INCL.	INCL.	394,633
8	600 E COUNTRY RD	COLUMBUS	66725	MISC SHOP 1	1977	1	144	3	?	X	4	5,004	1,000	0	INCL.	INCL.	6,004
9	600 E COUNTRY RD	COLUMBUS	66725	MISC SHOP 2	1978	1	144	3	?	X	4	5,004	7,140	0	INCL.	INCL.	12,144
10	600 E COUNTRY RD	COLUMBUS	66725	MISC SHOP 3-TIRE STORAGE	1965		676	1	?	X	4	13,120	5,100	0	INCL.	INCL.	18,220
11	600 E COUNTRY RD	COLUMBUS	66725	FUEL TANKS	N/A	N/A	N/A	N/A	?	X	N/A	38,964	0	0	INCL.	INCL.	38,964
12	600 E COUNTRY RD	COLUMBUS	66725	FUEL PUMP & CARD	N/A	N/A	N/A	N/A	?	X	N/A	27,058	0	0	INCL.	INCL.	27,058
13	600 E COUNTRY RD	COLUMBUS	66725	50X90 POLE BUILDING	1996	1	4,500		?	X	4	91,800	0	0	INCL.	INCL.	91,800
14	600 E COUNTRY RD	COLUMBUS	66725	24X42 CANOPY	1995	1	1,008		?	X	4	20,563	0	0	INCL.	INCL.	20,563
15	600 E COUNTRY RD	COLUMBUS	66725	SIGN SHOP			900		?	X		13,227	0	0	INCL.	INCL.	13,227
16	915 E COUNTRY RD	COLUMBUS	66725	JAIL	2004	2	34,850	4	?	X	4	6,093,480	500,000	0	INCL.	INCL.	6,593,480
17	5761 Bludbird Lane	Columbus	66725	C-1 Lift Station		1						10,608					10,608
	6746 Varck Rd	COLUMBUS	66725	A Lift Station		1						26,520					26,520
	6748 Warck Rd.	COLUMBUS	66725	Sewer Plant		2	400					24,480	20,000				44,480
	6895 73rd Terr	COLUMBUS	66725	B Lift Station		1						9,792					9,792
	7313 Eagle Lane	COLUMBUS	66725	B-1 Lift Station		1						7,956					7,956
18	8437 71st Terr	Columbus		C-1 Lift Station		1						9,792					9,792
19	MAPLE STREET	COLUMBUS	66725	FOUNTAIN	1997	N/A	N/A	N/A	?	C	4	37,139	0	0	INCL.	INCL.	37,139
20	600 E COUNTRY RD	COLUMBUS	66725	TOWER/ANTENNAE								68,360					
BLANKET SUBTOTALS												0		200,000	1,000,000		

11,573,957

2008 CHEROKEE COUNTY CLAIMS

10/24/2008	Law Enforcement	Contusion	\$1,225.52
3/5/2008	Law Enforcement	Eye Cut	\$4,938.17
12/17/2008	Law Enforcement	Strain neck	\$1,088.84
9/7/2008	Law Enforcement	Sprain arm	no pay
10/14/2008	Law Enforcement	Back strain	\$157.83
7/7/2008	Law Enforcement	Attack by inmate	\$12,843.49
10/29/2008	Law Enforcement	Cut Thumb	\$697.24
8/28/2008	Road and Bridge	by falling tree	
		Chest & Rib contusion	\$29,367.40
8/11/2008	Road and Bridge	Poison Ivy	\$186.58
10/7/2008	Road and Bridge	Injury to neck collision	\$47,500.00
3/10/2008	Road and Bridge	Strain to lower back	\$254.61
11/3/2008	Road and Bridge	Shoulder and back	\$239.40
9/17/2008	Road and Bridge	Skin disease	\$193.36
2/29/2008	Road and Bridge	Strained multiple body parts-Turned loader wrong way	\$148,006.40
9/18/2008	Road and Bridge	Vehicle upset	\$606.19
1/17/2008	Road and Bridge	Contusion	\$1,191.97
4/30/2008	Road and Bridge	Hydraulic Jack hit forehead	\$1,408.61
2/13/2008	Road and Bridge	Left Knee	no pay
2/9/2008	Road and Bridge	Fell off dump truck	\$374.45
1/3/2008	Road and Bridge	Right finger contusion	\$103.16
TOTAL WORK COMP CLAIMS 2008			\$250,383.22

2 0 0 9 CHEROKEE COUNTY CLAIMS

7/14/2009	Law Enforcement	Resp Condition	\$469.20
12/3/2009	Law Enforcement	Auto Accident	\$1,620.00
9/10/2009	Road and Bridge	Foreign Object Eye	No pay
1/9/2009	Road and Bridge	Injured Shoulder	No pay
3/5/2009	Road and Bridge	Pry bar slipped hit nose	\$1,062.77
7/31/2009	Road and Bridge	Abrasion putting oil in trk	\$285.65
12/9/2009	Road and Bridge	Vehicle upset no injury	No pay
TOTAL WORK COMP CLAIMS 2 0 0 9			\$3,437.62

2 0 1 0 CHEROKEE COUNTY CLAIMS

2/1/2010	Adm Dept	fell on ice	No Pay
6/13/2010	Law Enforcement	Fell on Rocks cuts & abrasions	\$2,650.00
7/19/2010	Law Enforcement	Respiratory Disorder	\$1,650.00
7/19/2010	Law Enforcement	Respiratory Disorder	\$1,320.00
1/18/2010	Misc	Fell on ice	\$148.26
7/3/2010	Road and Bridge	Lower right arm	\$1,320.00
8/18/2010	Road and Bridge	Electric shock tractor hit power line	\$1,320.00
3/21/2010	Road and Bridge	Sprain to knee	\$105.95
8/1/2010	Road and Bridge	Hit left ankle	No pay
5/21/2010	Road and Bridge	Strain to back	\$1,320.00
TOTAL WORK COMP CLAIMS 2 0 1 0			\$9,834.21

WORK COMP CLAIMS	2 0 0 8	\$250,383.22
	2 0 0 9	\$3,437.62
	2 0 1 0 (thru Aug)	\$9,834.21

PACKAGE POLICY

2007

TOTAL LOSSES	\$27,996.07
Lightning	(\$5,060.00)
Law Enforcement	(\$4,361.00)

NET \$18,575.07

2008

TOTAL LOSSES	\$404,173.83
Wind and hail	(\$79,480.76)
Law Enforcement	(\$256,255.00)

NET \$68,438.87

2009

TOTAL LOSSES	\$102,155.80
Wind and Hail	(\$46,669.00)

NET \$55,486.80

2010

Thru 08/10/2010 \$1,491.55

2007	\$18,575.07
2008	\$68,438.87
2009	\$55,486.80
08/2010	\$1,491.55

TOTAL PCKG LOSSES \$143,992.29



IN THE SUPREME COURT OF THE STATE OF KANSAS

No. 99,369

CAROLYN BERGSTROM,

Appellant,

v.

SPEARS MANUFACTURING COMPANY

AND

ZURICH U.S. INSURANCE COMPANY,

Appellees.

SYLLABUS BY THE COURT

1. When a workers compensation statute is plain and unambiguous, the courts must give effect to its express language rather than determine what the law should or should not be. The court will not speculate on legislative intent and will not read the statute to add something not readily found in it. If the statutory language is clear, there is no need to resort to statutory construction.
2. A history of incorrectly decided cases does not compel the Supreme Court to disregard plain statutory language and to perpetuate incorrect analysis of workers compensation statutes. The court is not inexorably bound by precedent, and it will reject rules that were originally erroneous or are no longer sound.
3. K.S.A. 44-510e(a) contains no requirement that an injured worker make a good-faith effort to seek postinjury employment to mitigate the employer's liability. *Foulk v. Colonial Terrace*, 20 Kan. App. 2d 277, 887 P.2d 140 (1994), *rev. denied* 257 Kan. 1091 (1995), *Copeland v. Johnson Group, Inc.*, 24 Kan. App. 2d 306, 320, 944 P.2d 179 (1997), and all subsequent cases that have imposed a good-faith effort requirement on injured workers are disapproved.

Appeal from Workers Compensation Board. Opinion filed September 4, 2009. Reversed and remanded with directions.

William L. Phalen, of Pittsburg, argued the cause, and *Crystal D. Marietta*, of Pittsburg, was with him on the brief for appellant.

Larry Shoaf, of McDonald, Tinker, Skaer, Quinn & Herrington, P.A., of Wichita, argued the cause and was on the brief for appellees.

The opinion of the court was delivered by

ROSEN, J.: This workers compensation appeal comes before the court on transfer from the Court of Appeals. The appellant, Carolyn Bergstrom, seeks review of an order by the Workers Compensation Board decision limiting her compensation under the "good-faith effort" doctrine articulated by the Court of Appeals in previous cases. We find that the good-faith effort doctrine is not grounded in statute and was therefore improperly applied by the Board.

The factual background can be summarized as follows. Beginning in December 2000, Bergstrom was employed by Spears Manufacturing, Inc., a manufacturer of plastic plumbing parts. As of June 2002, she worked as a production janitor for Spears. On September 23, 2002, she lifted a garbage can containing plastic residue purged from the production machine. When she put the can down, she began to experience pain in her back and was unable to continue the job. She informed her supervisor, who made out an accident report and assigned her to sorting parts for the rest of the day.

The following day, Bergstrom experienced extreme pain and was sent to a nurse practitioner, who prescribed pain medication. She returned to work a couple of days later and was assigned to sorting parts, a task that she could not carry out because she was unable to sit and bend over for an extended time. She was then reassigned to putting parts on a conveyor line (the "bar code" job), but she was unable to continue with that assignment because standing in one place caused her too much discomfort.

Bergstrom was referred to Dr. James Zeiders, an orthopedic surgeon, who directed her to stop working and to file for Social Security disability benefits. She then saw a succession of medical and psychological professionals, who conducted a number of tests on her. These included Dr. Anthony Pollock, an orthopedic surgeon; Dr. T.A. Moeller, a psychologist; and Dr. Chris Fevurly, a physician.

Bergstrom filed an application for a hearing before the Division of Workers Compensation. The administrative law judge (ALJ) awarded Bergstrom 34 weeks of temporary total disability compensation followed by permanent total disability compensation at the rate of \$246.07 per week, not to exceed \$125,000, for a permanent total general body disability. The Board set aside the ALJ's award and remanded the matter for redetermination, to include consideration of the deposition of Dr. Moeller.

The ALJ suggested that Bergstrom attempt to return to work; when she did, Spears assigned her to the same conveyor line job that she was doing when Dr. Zeiders directed her to stop working. She stated that she was unable to perform the job for more than 3 hours because of pain in her back and leg and went home. Spears then terminated her employment.

On May 22, 2007, the ALJ entered a revised award that took into account Dr. Moeller's deposition. The ALJ did not change the earlier disability determination or award amount. On a second petition for review, the Board entered an order extensively modifying the ALJ's award, finding only a 10 percent permanent partial disability to her body as a whole. The Board awarded Bergstrom 34 weeks of temporary total disability compensation, followed by 39.6 weeks of permanent partial disability.

Bergstrom filed a timely notice of appeal with the Kansas Court of Appeals, and this court assumed jurisdiction over the appeal on its own motion.

In reducing the amount of her award, the Board found that Bergstrom did not exercise good faith when she failed to perform alternate job duties that Spears offered her after her injury. She contends the Board erred when it applied a good-faith effort requirement that is not contained in K.S.A. 44-510e.

The interpretation of statutory provisions in the Workers Compensation Act is a question of law over

which this court has unlimited review. *Hall v. Dillon Companies, Inc.*, 286 Kan. 777, 783, 189 P.3d 508 (2008); *Casco v. Armour Swift-Eckrich*, 283 Kan 508, 521, 154 P.3d 494 (2007).

The most fundamental rule of statutory construction is that the intent of the legislature governs if that intent can be ascertained. *Winnebago Tribe of Nebraska v. Kline*, 283 Kan. 64, 77, 150 P.3d 892 (2007). The legislature is presumed to have expressed its intent through the language of the statutory scheme, and when a statute is plain and unambiguous, the court must give effect to the legislative intention as expressed in the statutory language. *Hall*, 286 Kan. at 785.

When a workers compensation statute is plain and unambiguous, this court must give effect to its express language rather than determine what the law should or should not be. The court will not speculate on legislative intent and will not read the statute to add something not readily found in it. If the statutory language is clear, no need exists to resort to statutory construction. *Graham v. Dokter Trucking Group*, 284 Kan. 547, 554, 161 P.3d 695 (2007).

K.S.A. 44-510e(a) reads in relevant part:

"The extent of permanent partial general disability shall be the extent, expressed as a percentage, to which the employee, in the opinion of the physician, has lost the ability to perform the work tasks that the employee performed in any substantial gainful employment during the fifteen-year period preceding the accident, averaged together with the difference between the average weekly wage the worker was earning at the time of the injury and the average weekly wage the worker is earning after the injury An employee shall not be entitled to receive permanent partial general disability compensation in excess of the percentage of functional impairment as long as the employee is engaging in any work for wages equal to 90% or more of the average gross weekly wage that the employee was earning at the time of the injury."

In *Foulk v. Colonial Terrace*, 20 Kan. App. 2d 277, 284, 887 P.2d 140 (1994), *rev. denied* 257 Kan. 1091 (1995), our Court of Appeals examined the legislative intent underlying K.S.A. 1988 Supp. 44-510e(a) and concluded that the statute implicitly contains a requirement that injured workers exercise good faith in attempting to mitigate their wages lost to work impairments:

"Construing K.S.A. 1988 Supp. 44-510e(a) to allow a worker to avoid the presumption of no work disability by virtue of the worker's refusal to engage in work at a comparable wage would be unreasonable where the proffered job is within the worker's ability and the worker has refused to even attempt the job. The legislature clearly intended for a worker not to receive compensation where the worker was still capable of earning nearly the same wage."

In *Copeland v. Johnson Group, Inc.*, 24 Kan. App. 2d 306, 320, 944 P.2d 179 (1997), the Court of Appeals expanded on its ruling in *Foulk*:

"In attempting to harmonize the language of K.S.A. 44-510e(a) [Furse 1993] with the principles of *Foulk*, we find the factfinder must first make a finding of whether a claimant has made a good faith effort to find appropriate employment. If such a finding is made, the difference in pre- and post-injury wages based on the actual wages can be made. This may lead to a finding of lesser wages, perhaps even zero wages, notwithstanding expert opinion to the contrary.

"If a finding is made that a good faith effort has not been made, the factfinder will have to determine an appropriate post-injury wage based on all the evidence before it, including expert testimony concerning the capacity to earn wages."

Our Court of Appeals has applied this good-faith effort requirement in a series of subsequent cases. See, e.g., *Gasswint v. Superior Industries Int'l-Kansas, Inc.*, 39 Kan. App. 2d 553, 185 P.3d 284 (2008); *Robinson v. Southwestern Bell Telephone*, 39 Kan. App. 2d 342, 180 P.3d 597, rev. denied 286 Kan. 1179 (2008); *Deguillen v. Schwan's Food Manufacturing, Inc.*, 38 Kan. App. 2d 747, 172 P.3d 71(2007), rev. denied 286 Kan. 1177 (2008); *Mahan v. Clarkson Constr. Co.*, 36 Kan. App. 2d 317, 138 P.3d 790, rev. denied 282 Kan. 790 (2006); *Parsons v. Seaboard Farms, Inc.*, 27 Kan. App. 2d 843, 9 P.3d 591 (2000); *Lowmaster v. Modine Mfg. Co.*, 25 Kan. App. 2d 215, 219, 962 P.2d 1100, rev. denied 265 Kan. 885 (1998).

Most recently, however, in *Gutierrez v. Dold Foods, Inc.*, 40 Kan. App. 2d 1135, 1142-43, 199 P.3d 798 (2009), a panel of the Court of Appeals cast doubts on the viability of the good-faith effort doctrine in light of the principle that courts should limit their interpretation of statutes to the plain language that the legislature enacted.

This court has not previously addressed the judicial addition of a good-faith effort requirement to the statutory language, but it has recently examined workers compensation statutes in light of their plain and unambiguous language. We have consistently elected to refrain from reading language into the statutes that the legislature did not include. See, e.g., *Hall*, 286 Kan. at 785-88; *Graham*, 284 Kan. at 554; *Casco*, 283 Kan. at 521.

In reducing Bergstrom's award, the Board found that *Foulk* and *Copeland* "require a good faith effort be exerted when considering post-injury job searches. The Board does not find that claimant put forth a good faith effort with regard to the bar code job."

We can find nothing in the language of K.S.A. 44-510e(a) that requires an injured worker to make a good-faith effort to seek out and accept alternate employment. The legislature expressly directed a physician to look to the tasks that the employee performed during the 15-year period preceding the accident and reach an opinion of the percentage that can still be performed. That percentage is averaged together with the difference between the wages the worker was earning at the time of the injury and the wages the worker was earning after the injury. The legislature then placed a limitation on permanent partial general disability compensation when the employee "is engaging in any work for wages equal to 90% or more of the average gross weekly wage that the employee was earning at the time of the injury." (Emphasis added.) K.S.A. 44-510e(a). The legislature did not state that the employee is required to attempt to work or that the employee is capable of engaging in work for wages equal to 90% or more of the preinjury average gross weekly wage.

Foulk and *Copeland* were decided contrary to the principle that an appellate court must give effect only to express statutory language, rather than speculating what the law should or should not be, and that we will not add something to a statute not readily found in it. See *Graham*, 284 Kan. at 554. In *Hall*, we pointed out that a history of incorrectly decided cases does not compel us to disregard plain statutory language and to perpetuate incorrect analysis of workers compensation statutes. 286 Kan. at 787-88. This court is not inexorably bound by precedent; it will reject rules that were originally erroneous or are no longer sound. See *Coleman v. Swift-Eckrich*, 281 Kan. 381, 388, 130 P.3d 111 (2006).

The Board's inquiry into whether Bergstrom made a good-faith effort to assume alternate employment is not supported by the plain language of the workers compensation statutes. The Kansas Workers Compensation Act does not require a worker to seek or accept such employment.

K.S.A. 44-510e(a) contains no requirement that an injured worker make a good-faith effort to seek postinjury employment to mitigate the employer's liability. *Foulk*, *Copeland*, and all subsequent cases that have imposed a good-faith effort requirement on injured workers are hereby disapproved.

Bergstrom's second issue -- that substantial competent evidence did not support the Board's finding that she did not put forth a good-faith effort to engage in alternative employment that Spears offered her -- is moot in light of our determination that the good-faith effort requirement is not a component of the workers compensation scheme.

Finally, Bergstrom contends that the Board relied on medical opinions that were obtained in violation of procedures outlined in the Workers Compensation Act. In particular, she challenges the Board's reliance on Dr. Pollock's opinion that the task to which she was assigned when she briefly returned to work fell within her work restrictions. She contends that Dr. Zeiders was her authorized treating physician, and no proper steps were taken to change her treating physician.

Bergstrom cites no statutory or case-law authority establishing a formal procedure for changing authorized health care professionals.

K.S.A. 44-515(a) states in relevant part:

"After an employee sustains an injury, the employee shall, upon request of the employer, submit to an examination at any reasonable time and place by any *one or more reputable health care providers, selected by the employer*, and shall so submit to an examination thereafter at intervals during the pendency of such employee's claim for compensation, upon the request of the employer, but the employee shall not be required to submit to an examination oftener than twice in any one month, unless required to do so in accordance with such orders as may be made by the director." (Emphasis added.)

K.S.A. 44-515(e) states:

(e) *Any health care provider's opinion*, whether the provider is a treating health care provider or is an examining health care provider, *regarding a claimant's need for medical treatment, inability to work, prognosis, diagnosis and disability rating shall be considered and given appropriate weight by the trier of fact* together with consideration of all other evidence." (Emphasis added.)

These statutes suggest that the Board properly considered the opinions of all the health care providers that were presented to it.

In addition, K.S.A. 2008 Supp. 44-510h(b) provides in relevant part:

"(1) If the director finds, upon application of an injured employee, that the services of the health care provider furnished as provided in subsection (a) and rendered on behalf of the injured employee are not satisfactory, the director may authorize the appointment of some other health care provider. In any such case, the employer shall submit the names of three health care providers who, if possible given the availability of local health care providers, are not associated in practice together. The injured employee may select one from the list who shall be the authorized treating health care provider. If the injured employee is unable to obtain satisfactory services from any of the health care providers submitted by the employer under this paragraph, either party or both parties may request the director to select a treating health care provider.

"(2) Without application or approval, an employee may consult a health care provider of the employee's choice for the purpose of examination, diagnosis or treatment, but the employer shall only be liable for the fees and charges of such health care provider up to a total amount of \$500. The amount allowed for such examination, diagnosis or treatment shall not be used to obtain a functional impairment rating. Any medical opinion obtained in violation of this prohibition shall not be admissible in any claim proceedings under the workers compensation act."

This statutory language shows that a claimant may seek additional or alternative medical opinions, but the record does not show that Bergstrom sought to take advantage of the statutory scheme. The statute does not place a burden on the employer to obtain formal approval in referring a claimant to additional or alternate health care providers.

The Board properly considered all the medical opinions before it; in fact, it would have constituted error for the Board to have disregarded some of those opinions. The Board did not err in following the statutory evidentiary requirements.

Reversed and remanded for further proceedings consistent with this opinion.

McFARLAND, C.J., dissenting. The majority holds that K.S.A. 44-510e(a) does not require injured workers to make a good-faith effort to seek postinjury employment to mitigate wage loss. In so holding, it overrules *Foulk v. Colonial Terrace*, 20 Kan. App. 2d 277, 887 P.2d 140 (1994), *rev. denied* 257 Kan. 1091 (1995), and *Copeland v. Johnson Group, Inc.*, 24 Kan. App. 2d 306, 944 P.2d 179 (1997), in which our Court of Appeals held that K.S.A. 44-510e(a) implicitly contains a requirement that injured workers make a good-faith effort to mitigate their wage loss. The majority reasons that the Court of Appeals in *Foulk* and *Copeland* violated the plain language principle of statutory construction by reading a good-faith mitigation requirement into the statute when no such requirement appeared in the plain language. I believe the majority's decision overruling a 15-year-old statutory construction for no reason other than it would have applied the rules of statutory construction differently if faced with the issue, disregards long-established principles of stare decisis without justification.

Although stare decisis is not an "inexorable command," *Payne v. Tennessee*, 501 U.S. 808, 828, 115 L. Ed. 2d 720, 111 S. Ct. 2597, *reh. denied* 501 U.S. 1277 (1991), it "is the preferred course because it promotes the evenhanded, predictable, and consistent development of legal principles, fosters reliance on judicial decisions, and contributes to the actual and perceived integrity of the judicial process. [Citation omitted.]" 501 U.S. at 827. "Adhering to precedent 'is usually the wise policy, because in most matters it is more important that the applicable rule of law be settled than it be settled right.'" 501 U.S. at 827 (quoting *Burnet v. Coronado Oil & Gas Co.*, 285 U.S. 393, 406, 76 L. Ed. 815, 52 S. Ct. 443 [1932] [Brandeis, J., dissenting]).

This is especially true when interpreting statutes. "Considerations of stare decisis have special force in the area of statutory interpretation, for here, unlike in the context of constitutional interpretation, the legislative power is implicated, and [the legislature] remains free to alter what we have done. [Citation omitted.]" *Patterson v. McLean Credit Union*, 491 U.S. 164, 172-73, 105 L. Ed. 2d 132, 109 S. Ct. 2363 (1989), *superceded by statute on other grounds* Civil Rights Act of 1991, Pub. L. 102-166, 42 U.S.C. § 1981 (2006).

If the Court of Appeals in *Foulk* incorrectly read legislative intent into the statute, the legislature has had the opportunity to correct that error. That it has not done so in the 15 legislative sessions since *Foulk* mandates adherence to that precedent. It is well settled that where judicial construction of a statute has been in place for a number of years, the legislature is deemed to have approved the construction and that construction is as much a part of the statute as if embodied in it in plain and unmistakable language:

"[A] judicial construction of a statute placed upon its language by a united court for more than ten years must be deemed to have received the sanction and approval of the legislative bodies. If this court in the first instance mistook the purpose and intent of the statute, there has been an abundant opportunity for the law-making power to give further expression to its will, and that its failure to act amounts to a ratification of the interpretation placed upon that act by this court. Courts do not write legislation. That is the function of the legislature. Our duty is to declare and apply legislative acts and to construe statutes and

constitutions in accordance with the will of the law-making power where its construction becomes necessary. When such construction has been given to a law and finally established as a part thereof, it is as much a part of it as if embodied therein in plain and unmistakable language. When that situation exists, it is the province of the legislature alone to change the law if it deems advisable. The courts should not attempt it. [Citations omitted.]" *State v. One Bally Coney Island No. 21011 Gaming Table*, 174 Kan. 757, 761-62, 258 P.2d 225 (1953).

See also *Hall v. Dillon Companies, Inc.*, 286 Kan. 777, 785, 189 P.3d 508 (2008) (citing *Halsey v. Farm Bureau Mut. Ins. Co.*, 275 Kan. 129, 136, 61 P.3d 514 [2003]) (when legislature fails to modify a statute to avoid a standing judicial construction of that statute, legislature is presumed to agree with court's interpretation); *State v. Rollins*, 264 Kan. 466, 474, 957 P.2d 438 (1998) (legislature deemed to have adopted judicial construction that has been in place for 126 years); *Windle v. Wire*, 179 Kan. 239, 242, 294 P.2d 213 (1956) (fact that legislature, in 15 regular sessions, had not modified court's construction of worthless check statute held to indicate legislature was satisfied with that interpretation).

This fact is even more compelling in the workers compensation context, for there is, perhaps, no other statutory scheme subject to such constant legislative scrutiny than our Workers Compensation Act. For example, looking just to the 2005-2006 legislative session, over 80 bills related to workers compensation were introduced. See Kansas Legislature Website (bill subject search) <http://www.kslegislature.org/legsrv-bill/Subject/searchKeyword.do> (visited July 10, 2009). There is no possibility that *Foulk's* statutory construction went unnoticed by the legislature. Probably no other area of legislation is subject to more scrutiny by knowledgeable professionals than is workers compensation law. Employers and their insurers, attorneys specializing in representing injured workers, and labor organizations each keep a close watch on workers compensation statutes and proposed amendments thereto. Proposed changes are hard fought issues and frequently are subject to compromises. Nothing just slips by unnoticed. With this near-constant reexamination of our workers compensation statutes, the fact the legislature has not modified *Foulk* allows more than the mere inference of legislative agreement with our interpretation. It can be said with virtual certainty that the legislature agrees with its statutory construction.

Not only has the majority failed to consider the fact that the legislature has, in effect, adopted the good-faith mitigation rule as set forth in *Foulk* 15 years ago, it fails to give due consideration to any other factors relevant to the principle of stare decisis.

Before overruling precedent, the court should consider why departure from the rule of stare decisis is justified. Relevant factors include:

"(1) whether the decision sought to be overturned has proven to be intolerable simply in defying practical 'workability'; (2) whether the decision is subject to a kind of reliance that would lend a special hardship to the consequences of overruling and add inequity to the cost of repudiation; (3) whether related principles of law have so far developed as to have left the rule established by the old decision no more than a remnant of abandoned doctrine; and (4) whether the facts have so changed, or have come to be seen so differently, as to have robbed the rule established by the old decision of significant application or justification." *State v. Marsh*, 278 Kan. 520, 579, 102 P.3d 445 (2004) (McFarland, C.J., dissenting), *overruled on unrelated grounds Kansas v. Marsh*, 548 U.S. 163, 165 L. Ed. 2d 429, 126 S. Ct. 2516 (2006) (citing *Planned Parenthood of Southeastern Pa. v. Casey*, 505 U.S. 833, 854-55, 120 L. Ed. 2d 674, 112 S. Ct. 2791 [1992]).

Here, there is not even a suggestion that the good-faith mitigation rule is unworkable or unsound in any way. To the contrary, as noted above, it has been implicitly adopted by the legislature and has been a working part of our workers compensation system for 15 years. Additionally, there is no showing that the

rule has been abandoned by subsequent developments in the law, and the majority does not so find.

There is also no showing or determination that the "premises of fact have so far changed [since the opinion] as to render its central holding somehow irrelevant or unjustifiable in dealing with the issue it addressed." *Planned Parenthood*, 505 U.S. at 855. The premises underlying the decision in *Foulk* have not changed. K.S.A. 44-510e(a) still limits benefits for employees earning nearly as much as they were making at the time of the injury. Moreover, the *Foulk* court's construction is as valid today as it was in 1994:

"[I]t would be unreasonable for this court to conclude that the legislature intended to encourage workers to merely sit at home, refuse to work, and take advantage of the workers compensation system. To construe K.S.A. 1988 Supp. 44-510e(a) [to allow a worker to avoid the presumption of no work disability by refusing to engage in work at a comparable wage] would be to reward workers for their refusal to accept a position within their capabilities at a comparable wage." *Foulk*, 20 Kan. App. 2d at 284.

The majority has wholly failed to consider whether the *Foulk* rule has been "subject to a kind of reliance that would lend a special hardship to the consequences of overruling and add inequity to the cost of repudiation." See *Marsh*, 278 Kan. at 580 (McFarland, C.J. dissenting) (quoting *Planned Parenthood*, 505 U.S. at 854). "The inquiry into reliance counts the cost of a rule's repudiation as it would fall on those who have relied reasonably on the rule's continued application." 278 Kan. at 580 (McFarland, C.J., dissenting) (quoting *Planned Parenthood*, 505 U.S. at 855).

Reliance consideration is an especially significant factor in workers compensation matters. Huge numbers of such cases are processed each year. For illustration, the following statistics are included. In 2006, the Division of Workers Compensation processed 16,185 applications for hearings; 7,194 hearings were held before administrative law judges; 594 applications for review were filed with the Workers Compensation Board; and the Workers Compensation Board issued 512 decisions. See Kansas Department of Labor Division of Workers Compensation, 32nd Annual Statistical Report Fiscal Year 2006, pp. 3, 17, 18 (January 2007). Relatively few decisions are appealed to the court system, and even fewer reach an appellate court.

Under such circumstances there is an exceptionally high reliance interest that participants in the workers compensation system have in the stability and predictability in the law that the policy of stare decisis provides. Yet the majority fails to consider such reliance in cavalierly overruling a 15-year-old statutory construction for no reason other than it would have applied the rules of statutory construction differently if faced with the issue in the first instance.

For these reasons, I dissent.

END



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Comments to: [WebMaster, kscases@kscourts.org](mailto:kscases@kscourts.org).

Updated: September 04, 2009.

URL: <http://www.kscourts.org/Cases-and-Opinions/opinions/supct/2009/20090904/99369.htm>.

Bergstrom v. Spears Manufacturing Co.: The End of the Good Faith Requirement in Work Disability

Author: Brandon Lawson
Evans & Dixon, L.L.C.

Kansas law allows a claimant's disability to be increased beyond the permanency found by physicians if an unscheduled injury results in permanent restrictions the employee cannot accommodate. If the claimant is not making at least 90 percent of their pre-injury wages, then she is entitled to work disability by averaging the task loss percentage and the wage loss percentage. K.S.A. § 44-510e(a). In 1995, the Kansas Supreme Court held that this statute implied that the claimant must make a good faith effort to find work for this to apply. *Foulk v. Colonial Terrace*, 887 P.2d 140 (Kan. App. 1995). This requirement, however, was recently abolished by the Kansas Supreme Court.

Ms. Bergstrom injured her back while working as a janitor for Spears. Because she could no longer perform her job tasks, she sought work disability. However, on appeal, the Board reduced Ms. Bergstrom's award because she failed to exercise good faith in finding a new position. The Supreme Court determined that because the statutory language did not include an explicit requirement of good faith, then one should not be implied. *Bergstrom v. Spears Mfg. Co.*, 214 P.3d 676 (Kan. 2009). Her full award for work disability was reinstated.

The Kansas Supreme Court took a hard line approach towards the Workers' Compensation statutes. The Court indicated that it would look only to the "express statutory language" in interpreting the statute and that it would not add anything to a statute "not readily found in it." *Id.* at 680. Beyond this simple analysis, the Court provided little guidance to how it would proceed on other questions.

The Court did not address or provide any guidance as to whether this would retroactively apply to cases which have been left open. In Kansas, a claimant has a right to future medical treatment and review and modification of the award, unless these rights are explicitly closed in a settlement. The right to review and modification includes the right to modification of disability. K.S.A. § 44-528. Therefore, a claimant whose case has been left open can theoretically seek to have it modified under the *Bergstrom* decision to add work disability if she becomes unemployed. If the Court determines that these cases can be modified, which is likely, then any unscheduled injury that is left open has the potential to become a work disability case if the claimant loses his job for any reason, including termination for cause. For this reason, full and final settlements on unscheduled injuries have become much more important and valuable.

We also anticipate attempts to apply the Court's logic beyond work disability. In the case of temporary total disability payments, we anticipate arguments from claimants' counsel that the *Bergstrom* decision requires that employees who are given work restrictions which are not accommodated must pay TTD, no matter what the employee's employment status is, including those who have been laid off or terminated for cause.

The *Bergstrom* decision also cause problems when viewed in light of the Court's recent decision in *Scheidt v. Teakwood Cabinet & Fixture, Inc.*, 211 P.3d 175 (Kan. 2009). In *Scheidt*, the Court allowed a case which had settled on a running award to be modified to include work disability even though Mr. Scheidt's injuries were no longer considered unscheduled because of the *Casco* decision. Under *Casco*, claimants could no

longer convert injuries to parallel body parts to unscheduled injuries. Considering this case in conjunction with *Bergstrom*, employers will also face exposure for work disability in those cases which are no longer considered unscheduled because of *Casco*.

Overall, *Bergstrom* vastly expands exposure in unscheduled injuries. Employees who are laid off or terminated will instantly have wage loss of 100percent, so even if their task loss is 0 percent, the work disability will average to 50 percent. While an act of the legislature could fix this problem, until that happens, employers and insurers should anticipate a large increase in claims for work disability after this decision.

For questions, please contact your Evans & Dixon attorney.

Evans & Dixon, L.L.C. has published this legal update for informational purposes only. It discusses the issues raised by new developments in the law generally. Readers must avoid considering it to be a substitute for legal advice. This update, furthermore, creates no attorney-client relationship between Evans & Dixon, L.L.C. and any readers or recipients. Because it discusses the issues that it addresses generally, it may not apply to a particular individual legal or factual circumstance. Readers should neither take any action nor avoid taking any action based on the information stated in this update without first obtaining advice from their choice of legal counsel. The choice of a lawyer is an important decision and should not be based solely upon advertisements. © 2009 Evans & Dixon, L.L.C. All rights reserved. Reproduction of all or any part of this article requires the written permission of Evans & Dixon, L.L.C.

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For more information, please visit us on-line at

www.evans-dixon.com

Ryan Insurance
2308 S. Broadway
P.O. Box 106
Pittsburg KS 66762

Insurance Summary For:

**CHEROKEE TREASURER FOR THE
BENEFIT OF CHEROKEE COUNTY
110 W. MAPLE
COLUMBUS KS 66725**

Ray Ryan, Agency Manager
Pam Mendicki, Account Manager
(620) 231-3500 phone
(620)231-3763 fax

Date Prepared: November 22, 2010

CUSTOMERS NAME

City of Arcadia
City of Cherokee
City of Frontenac
City of Galena
City of McCune
City of Mulberry
City of Oswego
City of Pittsburg
City of Baxter Springs
City of Girard

Crawford County

USD # 247 Cherokee
USD # 249 Frontenac
USD # 246 Arma
USD # 499 Galena
USD # 250 Pittsburg
USD # 234 Fort Scott (property only)

SEK Regional Education Center (Greenbush)
SEK Regional Juvenile Detention Center (Greenbush)

Ray Ryan

From: KAIA- Kansas Association of Insurance Agents [info@kaia.com]
Sent: Tuesday, November 16, 2010 5:06 PM
To: Ray Ryan
Subject: News from KAIA

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KANSAS AGENT

The Newsletter of the Kansas Association of Insurance Agents



Registration for Rural & Small is Now Open

Register today for the 2011 Larry Magill Rural & Small Conference-January 25-27, 2011-located at the Ramada Inn in Salina. Be sure to book your hotel room early-The Ramada Inn is sold out, so call one of these neighboring hotels to secure your room today. To be directed to the registration page, [click here](#).



815 SW Topoka Blvd
Topeka, KS 66612
800-229-7048
www.kaia.com

Industry Partners Get First Pick at Rural and Small Booth Selection

Sign up today and become a 2011 Industry Partner with the Kansas Association of Insurance Agents! With a tremendous number of benefits, including association membership dues at each level, your company will stand out to Independent Agents around Kansas. You have until Dec. 1, 2010 to sign up and take advantage of the first event of the year, the 2011 Rural and Small Agents Conference. [Register online](#) today or call [Jill Gray](#) to discuss the newly added benefits of the 2011 Industry Partnership program.

November 16, 2010



An Insurance Exchange To Increase Agent Efficiency

LexisNexis believes it has developed an insurance exchange that will "... reduce workload, facilitate access to new markets, and improve collaboration ..." (see [linked article](#)). Currently, sixteen brokerage firms are testing the LexisNexis Insurance Exchange which is scheduled to be launched in 2011 to all insurance agents and brokers.

Aggregators See Growth

Whether you call them aggregators, networks, alliances, or franchises, these groups have become very popular. The prolonged soft market has made them even more attractive as carriers pressure agencies to continue to grow to meet volume requirements. Agency owners are looking for ways to increase commissions and grow the business and franchises offer some efficiencies. Chris Burand cautions independent agents to carefully evaluate the franchise before joining - [you can read more here](#).

KID Proposes to Strengthen Senior-specific Certifications and Professional Designation Policy and Procedure

The Kansas Insurance Department has proposed a revised policy and procedure for use of senior-specific certifications and professional designations. The proposed language attempts to strengthen current regulation to protect seniors from fraud and abuse. You may review the [proposed language here](#). The public hearing on the proposed regulation is set for December 9 at 1:30 p.m. in the third floor conference room of the Kansas Insurance Department.

Work Comp Pool Assesses Members

The Kansas Employers Workers' Compensation Fund (KEWCF) has issued a "capital call" as a result of a Kansas Insurance Department audit that found their solvency impaired. The KEWCF is assessing any business that was in the pool from 2001 to 2009. As the full impact of recent court cases decisions (i.e. Bergstrom v Spears) fully develops, assessments may become commonplace. NCCI predicts that the consequences of the Bergstrom v Spears decision, among others, will result in an increase in work comp premiums. How much is yet to be determined.

2010 National Outstanding CSR Of The Year



www.kaia.com

Welcome KAIA Newest Members

David Isernhagen Agency, Inc.
Phillipsburg, KS

Matthew Paden Insurance
Lenexa, KS

Smith Ins Management, LLC
Wichita, KS

Southwind Crop Insurance, Inc.
Baileyville, KS

Frank Loeffler Insurance
Overland Park, KS

Midwest Professional
Insurance
Leawood, KS

Tri-County Insurance, LLC
Wamego, KS

Comm. Risk Management -
Madrigal & Assoc
Wichita, KS

Williams Insurance Agency
Basehor, KS

First State Insurance Agency
Burlingame, KS

State Award Winner Selected

Each year, a group of exceptional insurance professionals are chosen by the National Alliance for Insurance Education & Research to represent their states and compete to become the National Outstanding CSR of the Year. This award, regarded as the foremost national award of its kind, recognizes the contributions and commitment of those who serve clients within the insurance industry.

Each state winner receives a framed certificate and is eligible to compete for the national honor, which carries a \$2,000 cash award, a gold and diamond pin, \$1,000 cash award for the nominator, and a scholarship for the recipient's employer to any program offered by The National Alliance. Additionally, the name of the Outstanding CSR of the Year is inscribed on a sculpture permanently displayed at the national headquarters of The National Alliance for Insurance Education & Research in Austin, Texas.

This year we are proud to announce that Maria Dressman, CIC of the SBS Insurance Agency in Seneca is the winner of the Kansas Outstanding CSR of the Year award.

E-Business Insurance

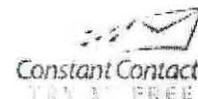
Join the KAIA on December 15 from 8-Noon for "E-Business Insurance for the New E-CONOMY" at the Double Tree hotel in Overland Park. Robert Ray, a 37 year veteran of the insurance industry will be speaking about Cyber Liability and the consequences of poor security, standards of care for e-business risks, legal defenses available to businesses who are accused of poor security, how to sell cyber liability insurance and much more! This class has been filed for 4 PC CE credits in Kansas and Missouri and the cost is \$100 for members only. Price includes class materials, light breakfast, refreshments and state ce fees. Register today at www.kaia.com.

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P.O. Box 1739
Wichita, KS 67201-1739
Phone 316.352-5700
FAX 888.992.7440
www.emcins.com

August, 2010

FEE INSURANCE GROUP, INC.
PITTSBURG, KS

Re: Kansas County Safety Dividend Group Check
CRAWFORD COUNTY

We are pleased to enclose a dividend check payable to the County. This check represents the dividend earned as a participant in the Kansas County Safety Dividend Group. Please deliver to the insured along with the attached cover letter.

Please remind your insured that EMC remains a stable insurance carrier for counties in Kansas. While other companies come and go, EMC has been a stable market for many years. We offer a broad range of coverages, local service, and many value added services.

Thanks

Robert Guse', CPCU
Underwriting Manager
316-352-5758

Enclosures



EMC

P.O. Box 1739
Wichita, KS 67201-1739
Phone 316 352-5700
FAX 888 992 7440
www.emcins.com

August, 2010

CRAWFORD COUNTY
0X4 29 65

Re: Dividend Check

We are very pleased to announce that our Kansas County Safety Dividend Group has returned to profitability. The nearly 40 Kansas counties that EMC insures enjoys not only a customized property/casualty insurance program tailored to their needs but also value added programs including loss control, attorney direct and local claims handling.

For the period of August 2009 to August 2010 each member will share the developed dividend of \$1,236,552.15. Each member's dividend is calculated based upon not individual losses but on group experience as a whole. Dividend amounts for each member reflect their percentage of earned premium to the group's premium.

A check in the amount of \$73,925.43 for 5.96% of the 2009-2010 Dividend is attached to this letter.

Thank you for helping EMC be a success in our Kansas County Safety Dividend Program.



Robert Guse', CPCU
Underwriting Manager
316-352-5758

Enclosure

Employers Mutual Casualty Company
EMC National Life Company
EMCASCO Insurance Company
EMC Property & Casualty Company

EMC Reinsurance Company
EMC Risk Services, LLC
EMC Underwriters, LLC

Dakota Fire Insurance Company
Hamilton Mutual Insurance Company
Illinois EMCASCO Insurance Company
Union Insurance Company of Providence

EMC

REQ NUMB 451316 CHK DATE 08/25/2010 CHK NUMB 613170
TO COUNTY TREASURER FOR THE
CHK AMT \$***73,925.43

CODES	ATA C CHC BRD O BRD	GL ACCT	SU F ST LN AC U CD CD	\$ AMT
SG00071		5010-01	01	73925.43

NOTES

SAFETY GROUP DIVIDENDS ON POLICY SG00071
SAFETY GROUP DIVIDENDS ON POLICY 0X42965

FROM: EMC INSURANCE COMPANIES
717 MULBERRY
DES MOINES IA 50309-3872

CHECK 613170

IN PAYMENT OF
SAFETY GROUP DIVIDENDS ON POLICY 0X42965

COUNTY TREASURER FOR THE
BENEFIT OF CRAWFORD COUNTY
PO BOX 249
GIRARD KS 66743-0249

THE FACE OF THIS DOCUMENT HAS A COLORED BACKGROUND ON WHITE PAPER

EMC
Insurance Companies

P.O. Box 712
Des Moines, IA 50306

Des Moines
Employers Mutual Casualty Company
EMCASC0 Insurance Company
EMC Property & Casualty Company
Illinois EMCASC0 Insurance Company
Union Insurance Company of Providence
Hamilton Mutual Insurance Company
Bismarck
Dakota Fire Insurance Company

DATE 08/25/2010 613170

36-1901
1012

\$*73,925.43**

DOLLAR SEVEN THREE COMMA NINE TWO FIVE PERIOD FOUR THREE

VOID AFTER 180 DAYS

PAY TO THE ORDER OF COUNTY TREASURER FOR THE
BENEFIT OF CRAWFORD COUNTY
PO BOX 249
GIRARD KS 66743-0249

\$*73,925.43**

THE SUM SEVENTY-THREE-THOUSAND NINE HUNDRED TWENTY-FIVE DOLLARS AND 43 CENTS

UMB BANK, N.A.
ST. JOSEPH, MISSOURI 64507

Russell B. Kelley

⑈ 6 1 3 1 7 0 ⑈ ⑆ 1 0 1 2 1 9 0 1 7 ⑆ ⑈ 5 0 0 8 0 0 8 3 2 9 ⑈



P.O. Box 1739
Wichita, KS 67201-1739
Phone 316.352-5700
FAX 888.992.7440
www.emcins.com

August, 2010

CRAWFORD COUNTY
0X4 29 65

Re: Dividend Check

For those Counties that received the good news about the 2009-2010 Kansas County Safety Dividend Group, there is more good news. More Money! While calculating the dividend for this year, Home Office Actuaries discovered a mistake in last year's dividend calculation. A large loss limitation was not applied to the large loss suffered by Kiowa County from the Greensburg tornado of 2007. With this correction, there will be a dividend generated for the 2008-2009 period.

For the period of August 2008 to August 2009 each member will share the developed dividend of \$731,176.72. Each member's dividend is calculated based upon not individual losses but on group experience as a whole. Dividend amounts for each member reflect their percentage of earned premium to the group's premium.

A check in the amount of \$41,403.06 for 5.64% of the 2008-2009 Dividend is attached.

Thank you for helping EMC be a success in our Kansas County Safety Dividend Group.

Robert Guse, CPCU
Underwriting Manager
316-352-5758

Enclosure



Ryan Insurance
2308 S. Broadway
P.O. Box 106
Pittsburg KS 66762

Insurance Summary For:

**CHEROKEE TREASURER FOR THE
 BENEFIT OF CHEROKEE COUNTY
 110 W. MAPLE
 COLUMBUS KS 66725**

Ray Ryan, Agency Manager
Pam Mendicki, Account Manager
 (620) 231-3500 phone
 (620)231-3763 fax

Date Prepared: November 22, 2010

PROPERTY

Coverage	Effective date	Expiration date	Company
Property	1/1/11	1/1/12	Employers Mutual Insurance Co

Premises Bldg #	Location Address	Occupancy	Subject of Insurance	Amount	Deductible	Cause of Loss	Valuation
001	110 W Maple Columbus KS	Health Dept	Building Contents	\$ 393,319 \$ 102,915	\$1,000	Special	RC
002	110 W. Maple Columbus KS	Courthouse	Building Contents	\$4,130,928 \$ 302,890	\$1,000	Special	RC
003	110 W. Maple Columbus KS	Fountain	Property in The open	\$ 37,139	\$1,000	Special	RC
004	110 W. Maple Columbus, KS	Clock Bldg	Property in the open	\$ 25,000	\$1,000	Special	RC
005	114 W. Country Rd Columbus KS	4-H Building	Building	\$ 285,600	\$1,000	Special	RC
006	600 E. Country Rd Columbus KS	Noxious Weeds Bldg	Building Contents	\$ 186,840 \$ 51,000	\$1,000	Special	RC
007	600 E. Country Rd Columbus KS	Metal Pole Barn	Building	\$ 8,659	\$1,000	Special	RC
008	600 E. Country Rd Columbus KS	Sheriff Impound Truck Storage	Building	\$ 21,647	\$1,000	Special	RC

This Schedule is only a general description of coverages provided. Please refer to your policy for specific coverages is Schedule is only a general description of coverages provided. Please refer to the actual policies for a complete list of terms, conditions, exclusions and limitations.

Ryan Insurance
2308 S. Broadway
P.O. Box 106
Pittsburg KS 66762

Insurance Summary For:

**CHEROKEE TREASURER FOR THE
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 110 W. MAPLE
 COLUMBUS KS 66725**

Ray Ryan, Agency Manager
Pam Mendicki, Account Manager
 (620) 231-3500 phone
 (620)231-3763 fax

Date Prepared: November 22, 2010

Premises Bldg #	Location Address	Occupancy	Subject of Insurance	Amount	Deductible	Cause of Loss	Valuation
009	600 E. Country Rd Columbus KS	Mechanics Shop	Building Contents	\$ 341,693 \$ 53,040	\$1,000	Special	RC
010	600 E. Country Rd Columbus KS	Sign Storage Bldg	Building Contents	\$ 5,004 \$ 1,000	\$1,000	Special	RC
011	600 E. Country Rd Columbus KS	Misc Shop	Building Contents	\$ 5,004 \$ 7,140	\$1,000	Special	RC
012	600 E. Country Rd Columbus KS	Tire Storage Bldg	Building Contents	\$ 13,120 \$ 5,100	\$1,000	Special	RC
013	600 E. Country Rd Columbus KS	3 Fuel tanks	Property in the open	\$ 38,964	\$1,000	Special	RC
014	600 E. Country Rd Columbus KS	Canopy/fuel pump w/card	Property in the open	\$ 27,058	\$1,000	Special	RC
015	600 E. Country Rd Columbus KS	Metal pole/truck barn	Building	\$ 91,800	\$1,000	Special	RC
016	600 E. Country Rd Columbus KS	Canopy w/gas Diesel pumps	Property in the open	\$ 20,563	\$1,000	Special	RC
017	600 E. Country Rd Columbus KS	Sign Shop	Building	\$ 13,227	\$1,000	Special	RC
018	915 E. Country Rd Columbus KS	Jail	Building Contents	\$6,093,480 \$ 500,000	\$1,000	Special	RC
019	5761 Bluebird Lane Riverton KS	C-1 lift station	Property in the open	\$ 10,608	\$1,000	Special	RC
020	6746 SE Varck Rd Riverton KS	Lift Station	Property in the open	\$ 26,520	\$1,000	Special	RC

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 110 W. MAPLE
 COLUMBUS KS 66725**

Ray Ryan, Agency Manager
Pam Mendicki, Account Manager
 (620) 231-3500 phone
 (620)231-3763 fax

Date Prepared: November 22, 2010

Premises Bldg #	Location Address	Occupancy	Subject of Insurance	Amount	Deductible	Cause of Loss	Valuation
021	6748 SE Varck Rd Riverton KS	Sewer Station	Building Contents	\$ 24,480 \$ 20,000	\$1,000	Special	RC
022	6895 SE 73 rd Terr Riverton KS	B-Lift Station	Property in the open	\$ 9,792	\$1,000	Special	RC
023	7313 SE Eagle Lane Riverton, KS	B-1 Lift Station	Property in the open	\$ 7,956	\$1,000	Special	RC
024	8437 71 st Terrace Riverton KS	C-1 Lift Station	Property in the open	\$ 9,792	\$1,000	Special	RC

TOTAL BLANKET LIMIT \$11,584,150

EQUIPMENT PROTECTION ENDORSEMENT ADDED:

- Equipment Breakdown coverage
- Service Interruption coverage
- Computer Equipment

This Schedule is only a general description of coverages provided. Please refer to your policy for specific coverages is Schedule is only a general description of coverages provided. Please refer to the actual policies for a complete list of terms, conditions, exclusions and limitations.

Ryan Insurance
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P.O. Box 106
Pittsburg KS 66762

Insurance Summary For:

CHEROKEE TREASURER FOR THE
BENEFIT OF CHEROKEE COUNTY
110 W. MAPLE
COLUMBUS KS 66725

Ray Ryan, Agency Manager
Pam Mendicki, Account Manager
(620) 231-3500 phone
(620)231-3763 fax

Date Prepared: November 22, 2010

GENERAL LIABILITY

Coverage	Effective date	Expiration date	Company
General Liability	1/1/11	1/1/12	Employers Mutual Insurance Co

General Aggregate \$500,000
 Products & Completed Operations \$500,000
 Personal & Adv Injury \$500,000
 Each Occurrence Limit \$500,000
 Damage to Premises rented to you \$100,000
 Medical Expense Limit \$ 5,000

Employee Benefits Liability \$2,000,000 Aggregate
 \$1,000,000 Each Employee
 \$ 1,000 Deductible

Pesticide and Herbicide Coverage

Code	Description	Exposure
44110	Governmental County	13,877,951
48727	Streets, Roads, Highways Bridges, Maintenance	1,300
66561	Medical Offices	5,445
87506	EMT	8

This Schedule is only a general description of coverages provided. Please refer to your policy for specific coverages is Schedule is only a general description of coverages provided. Please refer to the actual policies for a complete list of terms, conditions, exclusions and limitations.

Ryan Insurance
 2308 S. Broadway
 P.O. Box 106
 Pittsburg KS 66762

Insurance Summary For:

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 BENEFIT OF CHEROKEE COUNTY
 110 W. MAPLE
 COLUMBUS KS 66725**

**Ray Ryan, Agency Manager
 Pam Mendicki, Account Manager
 (620) 231-3500 phone
 (620)231-3763 fax**

Date Prepared: November 22, 2010

INLAND MARINE

Coverage	Effective date	Expiration date	Company
Inland Marine	1/1/11	1/1/12	Employers Mutual Insurance Co

\$1,000 deductible applies to equipment

GRADERS

	Description	SER	AMOUNT
001	1978 Galion T500 Rigid Frame Grader	T500M1C08425	\$ 13,750
002	1985 John Deere 570A Articulated Frame Grader	5867HR	\$ 31,750
003	1985 John Deere 570A Articulated Frame Grader	7084HR	\$ 31,750
004	1985 John Deere 570A Articulated Frame Grader	8514HR	\$ 31,750
005	1994 Dresser Grader	200522	\$ 70,000
006	2007 Caterpillar 12H Motor Grader	1304	\$169,900
007	2007 Caterpillar 12H Motor Grader	1305	\$169,900
008	2007 Caterpillar 12H Motor Grader	1306	\$169,900
009	2007 Caterpillar 12H Motor Grader	1307	\$169,900

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Insurance Summary For:

**CHEROKEE TREASURER FOR THE
BENEFIT OF CHEROKEE COUNTY
110 W. MAPLE
COLUMBUS KS 66725**

Ray Ryan, Agency Manager
Pam Mendicki, Account Manager
(620) 231-3500 phone
(620)231-3763 fax

Date Prepared: November 22, 2010

010	2007 Caterpillar 12H Motor Grader	1308	\$169,900
011	2007 Caterpillar 12H Motor Grader	1309	\$169,900
012	2007 Caterpillar 12H Motor Grader	1310	\$169,900
013	2007 Caterpillar 12H Motor Grader	1311	\$169,900
014	2007 Caterpillar 12H Motor Grader	1314	\$169,900
015	2007 Caterpillar 12H Motor Grader	1315	\$169,900
016	2007 Caterpillar 12H Motor Grader	1318	\$169,900
017	2007 Caterpillar 12H Motor Grader	1319	\$169,900

LOADERS

001	2004 Caterpillar 420D Loader	13082	\$180,000
004	2001 Case Loader 621C Rubber Tired	JEE0125458	\$ 94,350
005	1980 Caterpillar 920 4-WD Articulated wheel loader	62K10406	\$ 24,000

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TRACTORS/MOWERS

001	1998 Ford 6610 Industrial Tractor/ Brush Cutter	6610	\$ 23,000
002	1988 Ford 6610 Tractor/Mower	BB18347	\$ 13,497
003	1989 Ford TW-15 Tractor/Mower	125	\$ 25,000
004	2002 John Deere 6405 Tractor/Mower	323761	\$ 39,000
005	2002 John Deere 6405 Tractor/Mower	324003	\$ 39,000
006	2002 John Deere 6405	324408	\$ 39,000
007	2006 John Deere Tractor w/ Diamond Bood Mower	6872	\$ 82,800
008	2006 John Deere Tractor w/ Diamond Bood Mower	4111	\$ 82,800
009	2006 John Deere Tractor w/ Diamond Bood Mower	2101	\$ 75,800
010	2006 John Deere Tractor w/ Diamond Bood Mower	4018	\$ 82,600

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TRACTORS/LOADERS/BACKHOES

001	1991 Caterpillar 416 Series II Tractor/loader/backhoe	5PC12445	\$ 25,500
002	1991 Caterpillar 416 Series II Tractor/loader/backhoe	5PC13444	\$ 25,500
003	1991 John Deere 300D Tractor/loader/backhoe	T0300DA774481	\$ 24,250
004	1996 John Deere 310D Tractor/loader/backhoe	3796	\$ 41,000
005	2007 John Deere 310G Wheel loader/backhoe	47095	\$ 59,800
006	2007 John Deere 130G Wheel loader/backhoe	54497	\$ 54,600

BACKHOES

001	2006 John Deere 310G Backhoe	4497	\$ 60,000
002	2006 John Deere 310G Backhoe	7095	\$ 60,000
003	2004 Caterpillar 416C Backhoe	8508	\$ 34,500

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MISC EQUIPMENT

001	1991 Bomag BW120AD Tandem Vibratory Compactor	20246	\$ 15,000
002	1996 Bomag BW135AD Tandem Vibratory Compactor	120266	\$ 31,000
003	1996 Hypac C766A Tandem Vibratory Compactor	A209CO1606K	\$ 39,000
004	1997 Broce RC300 Self-propelled Pavement broom	87852	\$ 17,750
005	2001 Brush Hog 15' Brush Cutter (fold up)	1209	\$ 2,000
006	2005 Snapper Riding Mower		\$ 5,000
007	Coleman 3 HP air compressor	201612172	\$ 2,000
008	Lincoln 300 AMP on welder	14930	\$ 1,000
009	Mark Rite Paint stripper pickup Mounted	39169X	\$ 5,000
010	Seaman-Maxon pulverizer asphalt Mixer/reclaimer/stabilizer	GSP-1103	\$ 10,000
011	Southwest 566 Sheepfoot Towed Vibratory compactor	NSN	\$ 2,500
012	2005 Snapper Riding Mower		\$ 5,000

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013	ELECTION EQUIPMENT		\$203,800
014	MISC SEWER DISTRICT EQUIPMENT		\$ 20,000
015	POLICE CAR MOBILE EQUIPMENT	32@\$10,000	\$320,000
016	MISC CONSTRUCTION EQUIPMENT VALUED UNDER \$2,500		\$100,000
017	Caterpillar 12G	61M12355	\$170,000
018	Caterpillar 12G	61M12412	\$170,000
019	Caterpillar 12G	61M12359	\$170,000
020	Alleycat Recycle 10017	1D9RP2428 AB388009	\$ 15,000

Electronic Data Processing Equipment: \$400,000 Hardware
 \$150,000 Software

Electrical and Power supply disturbance is included
 Mechanical Breakdown included
 Virus and Hacking \$50,000 one occurrence
 \$150,000 annual

Offsite computers \$10,000
 Property in Transit \$15,000

TOWER/ANTENNA \$70,000

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BUSINESS AUTO

Coverage	Effective date	Expiration date	Company
Business Auto	1/1/11	1/1/12	Employers Mutual Insurance Co

Liability CSL: \$500,000
Uninsured/Underinsured Motorists CSL: \$500,000
PIP: BASIC
Hired or Borrowed & Non-owned Liability Included

Unit #	Year/Make/Model/Serial Number	Liability Incl UM/ UIM	Comp Ded \$500	Collision Ded \$500
001	1975 Load Trailer Road & Bridge 5091LOAD	X	X	X
002	1980 Chev Road & Bridge CCW24AZ104455	X	X	X
003	1981 Holden Trailer Road & Bridge HLB372351132	X	X	X
004	1982 Ford F250 PU Road & Bridge	X	X	X
005	1984 Chev Blazer Sheriff	X	X	X
006	1985 Dodge Road & Bridge 1B7FD14H2FS627011	X	X	X

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Unit #	Year/Make/Model/Serial Number		Liability Incl UM/ UIM	Comp Ded \$500	Collision Ded \$500
007	1985 International Truck 1HTLCHYNOFHA47113	Road & Bridge	X	X	X
008	1986 Chev Dump Truck 1GBG6D1A1GV116305	Road & Bridge	X	X	X
009	1986 International Truck 1HTLCHYR6GHA60372	Road & Bridge	X	X	X
010	1988 Ford F250 1FTFF25Y4JKB16665	Road & Bridge	X	X	X
011	1988 GMC 1GDS7D4Y7JV510910	Road & Bridge	X	X	X
012	1988 GMC 1GDS7D4YOJV505497	Road & Bridge	X	X	X
013	1988 GMC 1GDS7D4YJV505528	Road & Bridge	X	X	X
014	1989 Chev Dump Truck 1GBJ7D1B7KV110870	Road & Bridge	X	X	X
015	1989 GMC 1GTGC24JXKE545813	Road & Bridge	X	X	X
016	1991 Chev	Sheriff	X	X	X
017	1992 Chev 1GCFC24HONE195718	Road & Bridge	X	X	X
018	1992 Chev 1GCFC24H9NE217280	Road & Bridge	X	X	X

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Unit #	Year/Make/Model/Serial Number	Liability Incl UM/ UIM	Comp Ded \$500	Collision Ded \$500
019	1993 Ford F150 Road & Bridge 1FTDF15NXPCA63796	X	X	X
020	1994 Chev Road & Bridge 1GCFC24Z4RZ223706	X	X	X
021	1994 Chrysler New Yorker Appraiser 2C3HD46F2RH351371	X	X	X
022	1995 Ford Dump Truck Road & Bridge 1FDYK82E5SVA71412	X	X	X
023	1995 Ford Dump Truck Road & Bridge 1FDYK82E7SVA71413	X	X	X
024	1995 Ford Dump Truck Road & Bridge 1FDYK82E7SAV71671	X	X	X
025	1995 Ford Dump Truck Road & Bridge 1FDYK82E0SVA71673	X	X	X
026	1995 Ford Dump Truck Road & Bridge 1FDYK82E2SVA71674	X	X	X
027	1996 Ford Van Sheriff	X	X	X
028	1997 Chev Blazer 1GNCS13W5V2231671	X	X	X
029	1997 Chev Blazer Appraiser 1GDNT13W8WK145936	X	X	X
030	1998 Chev Suburban Sheriff 1GKFK16R4WJ710705	X	X	X

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Unit #	Year/Make/Model/Serial Number	Liability Incl UM/ UIM	Comp Ded \$500	Collision Ded \$500
031	1998 GMC Suburban Sheriff	X	X	X
032	1999 Chev 1GCGC24R8XR706584 Road & Bridge	X	X	X
033	1999 Merc Marquis 2MEFM74W6XX691728 Engineer	X	X	X
034	2000 Ford Contour 1FAFP66LYK119129 Appraiser	X	X	X
035	2000 Ford Crown Victoria Sheriff	X	X	X
036	2000 Ford Crown Victoria Sheriff	X	X	X
037	2000 Ford PU Road & Bridge	X	X	X
038	2000 Ford Taurus	X	X	X
039	2000 Ford Taurus	X	X	X
040	2000 Ford PU 1FTSW30LXYED50575 Road & Bridge	X	X	X
041	2001 Ford Impala Sheriff	X	X	X
042	2001 Chev Impala 2G1QF55K819317914	X	X	X

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Unit #	Year/Make/Model/Serial Number	Liability Incl UM/ UIM	Comp Ded \$500	Collision Ded \$500
043	2001 Chev Silverado Health Dept 2GCEC19T611236769	X	X	X
044	2001 Ford Crown Victoria Sheriff 2FAFP71W11X193365	X	X	X
045	2001 Ford Crown Victoria Sheriff 1FAFP71W81X114175	X	X	X
046	2001 Ford Crown Victoria Sheriff	X	X	X
047	2001 Ford Expedition Sheriff	X	X	X
048	2001 GMC Truck Road & Bridge 1GTEC14TB1Z334359	X	X	X
049	2001 Jeep Cherokee Sheriff	X	X	X
050	2001 Jeep Cherokee Sheriff	X	X	X
051	2002 Chev Impala Sheriff 2G1WF55K029353551	X	X	X
052	2002 Ford Crown Victoria Sheriff 2FAFP71WX2X129665	X	X	X
053	2002 Ford Taurus	X	X	X
054	Chev Impala Sheriff 2G1WF55K739202398	X	X	X

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Unit #	Year/Make/Model/Serial Number		Liability Incl UM/ UIM	Comp Ded \$500	Collision Ded \$500
055	2003 Chev Suburban 1GNEC16Z93J231123	Health Dept	X	X	X
056	2003 Dodge Intrepid 2B3HD46V53H572684	Sheriff	X	X	X
057	2003 Ford Crown Victoria 2FAFP71WX3X211297	Sheriff	X	X	X
058	2003 Ford Crown Victoria 2FAFP71WB3X133280	Sheriff	X	X	X
059	2003 Ford Crown Victoria 2FAFP71W73X209930	Sheriff	X	X	X
060	2003 Ford Crown Victoria 2FAFP71W23X115244	Sheriff	X	X	X
061	2003 Ford Crown Victoria 2FAFP71W53X122088	Sheriff	X	X	X
062	2003 Ford Escape 1FMYU03193KD99779	Sheriff	X	X	X
063	2003 Ford F150 PU 1FTRF17213NB25826	Appraiser	X	X	X
064	2002 Ford Taurus	Sheriff	X	X	X
065	Chev Silverado 1GCHK23U54F249419	Emergency Management	X	X	X
066	2004 Chev Venture 1GNDX03E44D156780	Health Dept	X	X	X

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Unit #	Year/Make/Model/Serial Number	Liability Incl UM/ UIM	Comp Ded \$500	Collision Ded \$500
067	2004 Ford F250 Road & Bridge	X	X	X
068	2005 Wells Cargo Trailer Emergency Management 1WC200J2X52052981	X	X	X
069	2005 Pace America Trailer Health Dept 47ZFB12135X034646	X	X	X
070	2005 Sterling Dump Highway 2FZAATCSX5AU77744	X	X	X
071	2005 Sterling Dump Highway 2FZAATCS15AU77745	X	X	X
072	2005 Trail Boss Trailer Road & Bridge 1T9TB18Z52111Z03	X	X	X
073	2006 Ford Escape 1FMYU03176KA61351	X	X	X
074	2006 Ford Escape	X	X	X
075	2006 Ford F250	X	X	X
076	2006 Ford F250 Road & Bridge 1FTNF215X6ED27821	X	X	X
077	2006 Ford F350 Noxious Weeds Dept 1FDWF365X6EB72847	X	X	X
078	2006 Ford Passenger Van Sheriff	X	X	X

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Unit #	Year/Make/Model/Serial Number	Liability Incl UM/ UIM	Comp Ded \$500	Collision Ded \$500
079	2006 Sterling Dump Truck Road & Bridge	X	X	X
080	2006 Sterling Dump Truck Road & Bridge	X	X	X
081	2006 Sterling Dump Truck Road & Bridge	X	X	X
082	2006 Sterling Dump Truck Road & Bridge	X	X	X
083	2006 Sterling Dump Truck Road & Bridge	X	X	X
084	2006 Sterling Dump Truck Road & Bridge	X	X	X
085	2006 Sterling Dump Truck Road & Bridge	X	X	X
086	2006 Sterling Dump Truck Road & Bridge	X	X	X
087	2006 Chev Impala 2G1WS551269325212	X	X	X
088	2006 Ford Crown Victoria Sheriff 2FAHP71W86X145894	X	X	X
089	2007 Ford Escape Commissioners 1FMYU02Z87KA53154	X	X	X
090	2007 Ford Expedition Emergency Mngment 1FMFU16507LA4709	X	X	X

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091	2008 Ford F350 Sheriff 1FTWW30578EE06037	X	X	X
092	2008 Chev Impala Commissioners 2G1WB58K589214158	X	X	X
093	2003 Ford Crown Victoria Sheriff 2FAHP71W73X203036	X	X	X
094	2005 Ford Crown Victoria Sheriff 2FAHP71WX5X171900	X	X	X
095	2005 Ford Crown Victoria Sheriff 2FAHP71W65X154513	X	X	X
096	2005 Ford Crown Victoria Sheriff 2FAHP71W55X144345	X	X	X
097	2006 Ford Van Sheriff	X	X	X
098	2006 Ford Crown Victoria Sheriff 2FAFP71W06X163894	X	X	X
099	1979 Home Play Trailer TST402834SPLA	X	X	X
100	1992 Home Trailer Hwy Dept KS111593	X	X	X
101	1995 International Truck 1HSHGALR7SH638272	X	X	X
102	2002 Chev Utility Truck 1GNEK13Z32J323902	X	X	X

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Unit #	Year/Make/Model/Serial Number	Liability Incl UM/ UIM	Comp Ded \$500	Collision Ded \$500
103	2008 East Trailer 5J2US12128E006383	X	X	X
104	2002 Chev TrailBlazer 1GNDDT13X022231572	X	X	X
105	2002 Ford 1FTNF20L62EB37377	X	X	X
106	2003 Play Cargo Trailer 1JW300J2031D31015	X	X	X
107	2006 Ford Crown Victoria Sheriff 2FAHP71W76X117942	X	X	X
108	2006 Ford Crown Victoria Sheriff 2FAHP71W36X117940	X	X	X
109	2004 Ford Hwy Dept 1FTNF21L04EA46896	X	X	X
110	2006 Ford F350 1FDWF36566EA16580	X	X	X
111	2004 Chev Silverado PU 2GCEK13T541343358	X	X	X
112	2006 Ford F150 PU 1FTPX14536FA08606	X	X	X
113	2001 Ford Noxious Weed Dept 1FDSF34L21EB15650	X	X	X

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GOVERNMENTAL CRIME

Coverage	Effective date	Expiration date	Company
Crime	1/1/11	1/1/12	Employers Mutual Insurance Co

Employee Theft \$150,000 PER OCCURRENCE Blanket coverage (all locations)
\$1,500 deductible

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LAW ENFORCEMENT

Coverage	Effective date	Expiration date	Company
Law Enforcement	1/1/11	1/1/12	Employers Mutual Insurance Co

Each Occurrence \$500,000

Aggregate Limit \$500,000

Medical Expense \$ 5,000 Any One Person

Deductible \$ 2,500 (KCAMP has \$5,000)

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LINEBACKER

Coverage	Effective date	Expiration date	Company
Linebacker	1/1/11	1/1/12	Employers Mutual Insurance Co

Aggregate for each policy term \$1,000,000

Each Loss \$ 500,000

Deductible each wrongful act \$ 1,000

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WORKERS COMPENSATION

Coverage	Effective date	Expiration date	Company
Workers Compensation	1/1/11	1/1/12	Employers Mutual Insurance Co

Bodily Injury by Accident	\$500,000	Each Accident
Bodily Injury by Disease	\$500,000	Each Employee
Bodily Injury by Disease	\$500,000	Policy Limit

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Description	Code	Renumeration
Concrete Construction Bridges or Culverts	5222	\$ 68,426
Street or Road Construction/Paving/Repaving	5506	\$839,078
Sewage Disposal Plant Operation	7580	\$ 16,192
Police Officers	7720	\$763,095
Clerical Office Employees	8810	\$771,722
Attorney All Employees	8820	\$199,002
Clinic and Health Dept	8832	\$232,670
Public Heath Nursing Association all Employees	8835	\$ 64,257
Buildings NOC operation by Owner	9015	\$ 71,192
Lawn Maintenance-commercial or domestic	9102	\$ 26,278
Municipal, Township, County or State Employee	9410	\$229,692

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PREMIUM SUMMARY

Coverage	2010-2011
PROPERTY	\$ 21,663.00
GENERAL LIABILITY	\$ 64,383.00
INLAND MARINE	\$ 24,853.00
BUSINESS AUTO	\$ 62,474.00
GOVERNMENTAL CRIME	\$ 294.00
LAW ENFORCEMENT	\$ 17,173.00
<u>LINEBACKER</u>	<u>\$ 4,056.00</u>
SUBTOTAL	\$194,896.00
<u>WORKERS COMPENSATION</u>	<u>\$136,128.00 w/dividend no ded \$134,665.00 w/dividend \$500 ded \$121,314 no ded/no dividend</u>

This Schedule is only a general description of coverages provided. Please refer to your policy for specific coverages. Schedule is only a general description of coverages provided. Please refer to the actual policies for a complete list of terms, conditions, exclusions and limitations.