

Rex Buchanan: Good afternoon. I'm Rex Buchanan, former director of the Kansas Geological Survey. Today is December 22, 2023. We're here today to interview Rod Bremby for the Kansas Oral History Project. We're recording this interview on Zoom. Mr. Bremby is in Arizona; I'm in Lawrence, Kansas.

As we sit down for this interview, Rod Bremby leads the enterprise positioning and solution strategy team for the Global Public Sector at Salesforce, Inc. His primary subject matter expertise is in health and human services, social services, and public health markets. Bremby joined Salesforce in 2019 after a thirty-year public sector career at the state and local levels. Rod served as assistant city manager for the city of Lawrence [KS] from 1990 to 2000. From 2003 to 2011, he was Secretary of the Kansas Department of Health and Environment [(KDHE) (Health and Environment)], the state's largest and most complex regulatory agency with responsibilities for a varied portfolio of policies as its name implies. As Secretary, Rod became the first US public official to deny a coal-fired energy plant operating permit due to climate change. The agency also led the Kansas response to its 2009 H1N1 pandemic. After leaving Kansas, Rod led Connecticut's Health and Human Services Agency for eight years from 2011 to 2019.

A graduate of Leavenworth, Kansas High School, Rod received a BA from the University of Kansas [(KU)]. He earned his MPA from KU's Edwin O. Steen's Master's Program in Public Administration. Rod's dedication to public service has been widely recognized. While he served Kansas, he received honors from the Sierra Club, the Kansas Public Health Association, and the Kansas Natural Resource Council. He was named in 2008 Kansas Public Administrator of the Year and was awarded the 2008 Edwin O. Steen Award for Managerial Excellence.

This interview is part of the Kansas Oral History Project's collection examining the development of public policy at the nexus of energy and environment during the late 20th and 21st centuries. In these interviews, we explore those policies through the eyes of experts, executives, administrators, legislators, environmentalists, and others. The Kansas Oral History Project is a nonprofit corporation created to collect and preserve oral histories of Kansans who were involved in shaping and implementing public policy. Recordings and transcripts of these oral history interviews are accessible at ksoralhistory.org and through the Kansas Historical Society and the State Library of Kansas. The Kansas Oral History Project is supported by donations from generous individuals and grants from Evergy and ITC Great Plains.

Thank you, Rod, for agreeing to visit with us today and for being present over Zoom.

Rod Bremby: Thank you, Rex. It's my pleasure.

RB: Good to have you on board. Let's start a little bit with your background. Obviously, you're a native Kansan. You went to KU. Did you go directly into that public administration program and then come to the city of Lawrence? Walk us through your background a little bit.

RBr: I like to say that I'm a Kansas native, but I'm really a Kansan by choice rather than by birth. I'm an Army brat. My father and my stepdad both retired after careers in the US Army, but

it was the Army that brought us to Kansas. So, I graduated from Leavenworth High School and went on to KU as an undergrad and decided to go to the master's program to join their city management program.

The city management program requires a one-year internship. So, I went down to Fort Worth, Texas, and completed my internship there. I actually worked seven years there in Fort Worth and then came back to Lawrence as the Assistant City Manager after the untimely death of Buford Watson, who had been city manager in Lawrence for quite some time. Mike Wildgen was selected as City Manager, and I filled the Assistant City Manager role under Mike.

RB: How do you go from the Assistant City Manager of Lawrence to Secretary of Health and Environment?

RBr: That's a great question. After I left the service at Lawrence, I actually went back to KU. I started working on a PhD. I was working out of the KU work group on health promotion and community development. I did a lot of work in public health. One summer, I went to Uganda for the USAID [U.S. Agency for International Development] on a project. As it turns out, I went to a reception, a candidate reception, late that summer and got to know, or met, Kathleen Sebelius for the first time. In the conversation, I shared what I had done that summer, and she shared that her father had run the USAID program at the federal level. So, we talked a little bit more about the project and what I worked on.

Shortly after her election and her successful bid as Governor, I got a call from the office, and I went up to talk. I thought it was perhaps to work on a task force. So, I went up and I was ready to talk about service on a task force. I was asked if I had any thought as to service on the Sebelius cabinet, and I said no, not at the time because I was still working on a PhD and working with the work group. But I was asked if I would complete an analysis on a report that KHI, Kansas Health Institute, had published on whether the organization, KDHE, should be retained as one agency or split into an environmental agency and a public health agency.

I took about a week to do that and presented a report back to say that I felt that the agency should be retained as a unified agency, but it needed to be further integrated. And on that conversation, I was asked if I would serve as Secretary of the agency to lead that integration. So, I think that's the rationale for how I made the transition from local government to state government. To be clear, we would have to ask Governor Sebelius for more on that response.

RB: I want to come back to that issue of structure of Health and Environment as we talk. But before we do that, first, what provoked your interest in the health services side as a career?

RBr: It's part of the reason why I left local government and went to KU for a PhD. I was beginning to see that the work that we were doing in local government was more focused on the civil infrastructure—the freeze and thaw cycles, effluent from wastewater treatment plants, and the physical plant of communities—and not so much about the livability of communities. Lawrence was going through a transition where a lot of young folk there were starting to get

gang involved. We really didn't have a solution for that. We didn't have a set of policies to put before a council to consider, or a commission to consider, in acting to address that issue.

So, one of the things that I did was work to build and create a nonprofit to focus on putting some dollars into supports around children. I think the organization focused on the America's Promise to ensure that children had access to a caring adult, that they had safe places. So, it was in that public health orientation that I felt that that work could go to scale at the state level. I was very much interested in a public health policy, a wellness policy for the state, and that was also one of the objectives that was handed to [KDHE] to create a Healthy Kansas program. So, I think it was really about the changing population at the local level and the inability of the city management profession to adequately address for that. I knew that some of those solutions resided within public health.

RB: You were relatively early in your career when you became Secretary of Health and Environment. Was that an intimidating role to take on, or are you not built that way?

RBR: It was challenging, but the previous role as Assistant City Manager in Lawrence was pretty intimidating. We had engineers like George Williams. George had been working for the city longer than I had been alive, and yet I was supposed to guide him. So, understanding how to collaborate, how to understand the science from a consummate professional and be able to help him achieve his objectives, that bode well for me. In fact, the Fire Chief and the Police Chief, they were all senior officials that knew what they were doing. They really needed more structure in eliminating barriers and blockers rather than being told what to do.

So, when I got to KDHE, I found a phenomenal engineer, Ron Hammerschmidt, who understood environment inside and out. So, I actually got schooled on environmental policy by Ron Hammerschmidt, and it was a really good education, and I was able to look for ways in which to infuse understandings of health policy but from the prevention standpoint from people like Paula Marmet. She led up prevention on the health side of the agency. So, it wasn't intimidating, but it was a challenge, and having some great deputies, I think we did a really good job of initiating that work.

RB: That's interesting that you mention Ron. I worked with Ron a fair amount over the years, but particularly in 2001, there was a series of natural gas explosions in Hutchinson. This would have been prior to the time you were at KDHE. And [the Kansas] Geological Survey worked closely with Health and Environment because they were the agency that was regulating natural gas storage caverns that led to the explosion, and you're absolutely right about Ron, a consummate professional who knew his stuff and was really, really good to work with. I have the same kind of regard for him as you mentioned.

And we'll talk again about this bifurcation of this health and environment combination. It always looked to me like from a distance that the Secretary of that organization was one or the other. They typically were somebody strongly on the health side or on the environment side.

RBr: Yes.

RB: From my perspective, it seemed like it was more common for them to be from the health side. It wasn't unusual for an MD, for example, to come in and lead that agency.

RBr: Yes.

RB: You maybe are not quite so strong towards the health side, but you're clearly more oriented towards the health side than the environment side. Is that a fair statement, do you think?

RBr: I think it would be a pretty fair statement that I was not encamped on either side. From local government, I understood the environmental components because of the work that we did in Parks and Recreation, making sure that we knew how to care for the land, parks. For water and wastewater, we always had to interface with KDHE, of all things, for permitting effluent. So, I had a stronger operational awareness of the environment components than I did on the public health side. But I was gaining that [familiarity with health policy] from an academic standpoint as I was going into this role.

RB: Because of the way the agency is structured, I would have thought that the director of each division is really, really key. So, was Ron the director of the Division of Environment when you came on board?

RBr: Yes. He was.

RB: So, you had an experienced, capable person as director of the Division of Environment?

RBr: Absolutely. And I had, let's say, a very seasoned physician who led the health side, but we had a transition, I would say, within two to three months, I had to find someone who would lead the health organization in a more preventative health fashion. So, Dr. Rodenberg came up from Florida to take over the reins of the organization. But again, we had great bureau directors. So, it wasn't a difficult stretch, bringing someone in from outside of the state in order to run the agency.

RB: Obviously, we're going to talk about Holcomb [Power Station of the Sunflower Electric Power Corporation] and the power plant as a major focus in this conversation. What were the other kinds of environmental challenges that you faced in your time as Secretary, say, prior to the advent of that particular issue?

RBr: Prior to that issue, we were concerned about the growth of ag[ricultural] environments – those that were processing hogs, in particular—ensuring that they were being good neighbors, trying to be sure the effluent, or the pits were not spilling over, entering streams or harming the groundwater. So, there were a number of environmental issues that we were trying to contend with. I think in the southeast part of the state we were concerned about rehabilitating the land there so it could be used after the mining remnants that occurred there in the early part of [the

20th] century. So, there were a handful of issues that we were considering and giving our attention to. Underground storage tanks, were a perennial issue. Sometimes those tanks leaked, and those tanks were typically—some of the larger ones were—like those in Salina, adjacent to old airfields. So, some of the chemicals that were used to either de-ice or to maintain the weapon systems, we needed to make sure that those tanks wouldn't leak and cause or create harm in other communities. So, there were a handful of pretty, I would say, knotty issues that we were facing.

RB: A number of those revolve around water obviously in terms of particularly groundwater containment issues, and another one of your staff that we worked with a fair amount over the years was Karl Mueldener who had dealt with the Bureau of Water who again had been there quite a while and was very familiar with the issues, how the agency, how the other agencies worked together. You know, it feels a little bit—those kinds of water quality issues feel a little bit like the line, “The poor we will always have with us.” It also feels that water issues in general, and water quality issues in particular, are sort of like that for the state of Kansas. They're always there and always a challenge to deal with.

Let's go to Holcomb a little bit. When does this issue show up on your radar screen?

RBr: So, the issue showed up really, really early. Ron gave me a heads-up that we had a permit that had been submitted, an application. He walked me through the process, what would happen, the public comment periods, how the team would review the permit, what regulations they would be using. So, he really gave me a quick update early on, just to say, “This is something that we're going to be watching very closely. It's something that is really big.” At the time, when it was first submitted, I think there were three 700-megawatt facilities, and over time, one of the facilities was removed.

But there were two 700-megawatt facilities, and Ron would bring me forward at each juncture after they had completed the review, the staff had completed the review. We would have public comment periods. He would tell me what the team would do as those comments came in, how they would process, evaluate the comments, respond to the comments.

So, it was early in the process that I became aware that this could be a large issue. Slightly, I would say 2006 or so, Ron shared with me that there had been a case filed with the [U.S.] Supreme Court that could impact the permit, and I thought, “Okay. So, tell me more.”

It was *Massachusetts v. EPA [(Mass. v. EPA)]*. In that ruling, Massachusetts, and I think it was maybe another dozen states, had filed a case with the Supreme Court to determine whether CO₂ could be regulated as a greenhouse gas. And in 2007, I think it was April 2007 the Supreme Court did rule in favor of Mass. To say that the EPA could regulate CO₂ as a greenhouse gas emission.

Once that ruling came out, we had another internal conversation about what that meant. I told Ron and the team at that point in time that we would not attempt to change the internal process, the of reviewing a permit based on that decision. We needed the team to continue the process

that they knew, they knew well, and that if there were any impacts of that decision on the permit that we would hold those at a leadership level. We would hold those at the Secretary level along with Ron's counsel, legal counsel, and others. But we wouldn't burden the team that was reviewing the permit to learn something new or do something different. We felt that they were experts in the work that they did, and we didn't want to complicate that by trying to interject something that was not grounded in policy at the time or process.

RB: Is this permit coming up the air quality side of the agency?

RBr: Yes.

RB: Is that the primary focus of the permit?

RBr: Yes.

RB: I know that there were water related, water rights had to be acquired, but those don't really have anything to do with Health and Environment. I would kind of assume that there wouldn't be any water quality impacts permitting-wise. Or maybe they are, but they're not as big a deal as the air side of the permit.

RBr: The air side was much larger. The water quality issues related to the disposal of waste and whether the retention ponds were bermed properly, whether they had adequate distance from groundwater. So, it was important, but it wasn't nearly as central as the air quality concerns.

RB: So, when does this permit review process finally land on your desk for a decision? How does that work?

RBr: So, August, September 2007, the team, the staff, was ready to share their decision about the permit. Their recommendation was to approve the permit. We had in the intervening time learned a little bit more about what the EPA and others were thinking about in terms of responding to *Mass. v. EPA*. I needed to know the realm in which I could work, what my options were, and so again, another great team member, our legal counsel, Yvonne Anderson, recommended that we reach over to the Attorney General's [(AG)] office and ask for an opinion. What is the authority of the Secretary with respect to this permit? So, I thought, "That's a great idea" because it at least bounds or helps provide some guidance and some boundary into what I could do as Secretary.

The AG came back and said that I had the authority under state statute to approve, to deny, or modify the permit. At first blush, I thought, "Well, that's great. That leaves me pretty much where I am. But it's very clear that I can modify the permit."

So, we went through a round of internal discussions about "What would a modification look like? What are we trying to modify? What are we trying to limit? What are the touch points, what are the guidelines that we could seek to limit CO₂ as a part of this permit?"

And the more we thought about trying to modify the permit, I think it became very clear to us that that was probably not a good path. I felt that—again, this is being grounded out of my experience as a trained City Manager to implement and administer policy rather than to set policy. And I felt that we needed to yield to the legislature on modification of a permit, but in the intervening time, I could approve or deny.

So, as we moved further down this road, I felt that we couldn't just approve the permit, given what *Mass. v. EPA* communicated and also what the IPCC, the Intergovernmental Panel on Climate Change, had published to say that CO₂ was a key component in climate change and the impacts of climate change. So based on that, I pretty much decided that, yes, we need to deny the permit. Prior to the staff's recommendation coming forward, we also briefed the Governor's office, to let them know the timeframe, what was at play, what we had heard from the Attorney General's office, and what the routes were, and that I would circle back before announcing a decision one way or the other. So that was really kind of the process by which we came to the decision.

RB: I want to go to the specific grounds for denial here. First, before I do that, were you subject to political pressure about this decision?

RBr: I think political pressure, no. Not prior to the decision. Only after the decision was there pressure from, I believe, people who believed that the agency was going to approve the permit. But internally, within the administration, the Sebelius administration was clearly hands off. They did not intrude. They did not second-guess.

In fact, one of the—I don't know that I shared this before. I talked with a group over in Kansas City in Wyandotte [County] in January 2011 about some of the things that had happened. The day of the announcement, we had released a press release to say that about 4:00 I would be announcing our decision. I went over to the Governor's office at 2:00 PM, or something like that, and shared with her and her team what the decision was and how I'd gotten to this place. Her guidance was really, "Just do the right thing. If you feel that this is the right thing, we will support you."

So I went back to the office, and I reached out to the Speaker of the House, and I shared with him what I was going to share with the public at 4 PM. After that call, I reached out to the President of the Senate, and I also shared with him what the decision would be. At no point in time was there any pressure to take a different approach. The President of the Senate was very civil and gracious, as he always was, and he said, "You know, that's really going to hurt us out here." I said, "I'm sorry for that, but I believe this is the right thing to do." On the House side, I think there was an immediate response that there would be a challenge, and I expected no less, but there was no pressure to change the decision before the announcement. It was only after the announcement that we had political pressure to take a different approach.

RB: Let's talk about the legal basis for denying the permit. What was the legal basis for saying no?

RBr: The legal basis for saying no was that—I think I—yes, I did use a quote context to say that it would be irresponsible to ignore the information about the contribution of carbon dioxide and other greenhouse gases to climate change and the potential to harm the environment and health if we do nothing. We used the IPCC as some of the evidence for CO₂ being a harmful, CO₂ gas. The authority of the Secretary was sufficient for approval or denial or modification. I didn't feel that modification was appropriate for an appointed official. I felt that that would fall within the domain of the legislature.

And this denial was not simply a summary position. That was not the intent. It was to deny, but to allow a conversation, a process to take place by which the state could create a set of guidelines by which CO₂ and what level of CO₂ would be acceptable. I didn't feel that I should come in and say, "How about 800 parts per million?" That was not my—I didn't feel that that was an appropriate role for the agency.

RB: My memory is that there was sort of a specific sort of statutory charge to the Secretary of Health and Environment about protecting the health of the people of the state of Kansas, a pretty general statement. Was that a key factor here?

RBr: It was. It was. That was the summary or the grounding statutory authority of the Secretary, but within that statutory authority, the AG's opinion, which wasn't binding, but an opinion, was that I could then approve, modify, or deny a permit, but it's under that duty and responsibility statute of the Secretary's authority.

RB: And that is a pretty broad statute.

RBr: Yes.

RB: Was that challenged then legally?

RBr: Absolutely. In fact, in the next session of the legislature in January, there were several attempts, I think three attempts, to introduce legislation to modify that authority or remove that authority from the position of the Secretary. In each instance, the Governor vetoed the legislation and was able to maintain that veto.

RB: How stressful was this decision? Was this the biggest decision you made as Secretary of Health and Environment, do you think, and how stressful was it?

RBr: Without a question. It was very stressful. Not only stressful personally, but organizationally because there was internal work to be done, some through Ron, some with Ron, but I needed to explain to the professionals who had done their job, who had recommended that a permit be approved, rationale for not approving their work. And I needed to be clear that their review was pristine. It's just that we wanted and needed to respond to emerging science, something that we had not tasked them with.

So, there was internal work to be done. There was external work to be done. Trying to explain to a very angry legislature about why we felt it was important to focus on this pollutant in particular and the impact that the particulate matter, which was really not a part of this conversation, was having on downstream health. So, many people from KU Med [University of Kansas Medical Center] were able to weigh in. The health director that I was able to bring in from Florida, he was able to weigh in to talk about those impacts in a very real way. And we tried to juxtapose the value of the facility, the plant, versus the harm to the state's environment and health to try to get to an ROI [Return on Investment], and we felt that there was really not a good return for the state of Kansas.

RB: Was it a close call for you?

RBr: It was not a close call once we had sufficient information and material to articulate the why. What was difficult was knowing how we would address the issue post-*Mass. v EPA* without the IPCC work, without other information that we were able to capture. So, there was a period of time between April and say August where we were somewhat in limbo, didn't know quite how to process that Supreme Court ruling. Again, Yvonne Anderson had a great suggestion in terms of what the processing could look like could be bound by the AG's opinion about the authority of the Secretary.

RB: And Yvonne Anderson is your in-house counsel?

RBr: Yes.

RB: Did you use outside-the-agency counsel other than the AG's office?

RBr: So once the decision was made and once we knew that litigation was in play, the AG, the Office of the AG, went through a transition. We were also unable to spend any state dollars for legal support. We were also unable to use the AG's office for legal support.

I got a call one day from a woman who had just stood up an office. It was a laboratory, if you will, for environmental law at Harvard. Her name was Wendy Jacobs. And Wendy said, "We've been reading the news, and we understand that you're going to be facing litigation. Is there any way that we can help?" I thought, "Sure."

So, I put Wendy in touch with Yvonne, and so we had a team of, I believe, six or eight Harvard law students in an environmental laboratory working to pull case law, to do research, to put together briefs. I mean, they were phenomenal. So, yes, we did rely upon "outside counsel," but not in the way in which we thought we needed, but it was the only way that we could get assistance, and that was free assistance.

RB: The reaction to this was national. This was a big deal. I'm sure you weren't surprised at that. Were you?

RBr: Yes. We knew that it was a big deal, but we didn't believe that the reaction would be so apoplectic. If you might recall, the *Wichita Eagle* ran a number of editorial cartoons surfacing the issue. There was a lot of feedback from the legislature. In fact, I think it was the Speaker that went out to a Rotary meeting out in Garden City [KS]. It was late October or early November. It was really close after the decision. He assured the crowd that he would, or the legislature would, be able to overturn that "Black Thursday" decision.

You might remember the full-page ad where Sebelius, the President of Iran, and I believe it was the President of Venezuela were captioned, photographed, and said, "What do these three people have in common?" I mean, it was really, really nasty. So, yes, we knew that there would be an impact, but I had no idea that it would have that significant of an impact.

RB: In some respects, it's a little bit of a perfect storm of issues. There's climate change and the fight about climate change. Also, there is a real strong east vs west element in Kansas which is always a tension simmering under the surface. Sometimes it boils up, and you put those two things together, and man, oh, man, isn't that a lot of what was going on?

RBr: It was a lot of it. I think there was an animosity from the western part of the state and an eastern-based decision, if you will, denying them economic opportunity. It was a \$3+ billion project, and they felt that this would have jumpstarted the western Kansas economy. So, they were looking at housing starts. They were thinking about the way in which revenue would flow into the communities, a renaissance if you will. So, to have that pulled away by, again, someone from the east, and knowing that the eastern part of the state benefited from so much that the state had to offer. I think that was a part of the fuel that really ignited this reaction and response.

Not to mention the east-west divide, there was also an emerging conversation about renewables [renewable fuels for power production]. We started seeing the [wind] farms go up, and they were really beginning to get attention in southeast Kansas. The farms were up, and we were really questioning how far we could go. How much of our energy could we produce? But, again, my agency wasn't the energy agency, but again we were looking toward that as a way to help reduce and tamp down some of the costs of energy across the state.

There were health issues that were starting to emerge. At the same time, we were talking about clean indoor air, and so having the Health Division talk about clean indoor air and the benefit of an ordinance or a statute while permitting pollutants externally seemed to be counterproductive from an agency standpoint, conflictual with the agency's position. So, there were so many potential policy questions needing to be resolved.

The Governor, I thought, took a great position to create an Energy and Environmental Policy Advisory Group. We knew that other states were starting to look at CO₂ and trying to regulate that, and we thought that that would be a gift to the legislature to help guide in the development

of a policy so that if a permit was reissued or applied for again, at least there would be some framework around CO₂ that it could land within, and the decision could be made.

That did not go well. Jack Pelton who was CEO of Cessna led the group, and we thought, “Gosh, this is an industry guy,” and we had so many really good people around the table, but there was really not a willingness to engage. There was a decision to try to deal with this politically, meaning “Let’s overturn the decision. Let’s remove the authority of the Secretary, and let’s see if we can’t offer a different set of options as a choice, as a permit choice.”

RB: I have one more question related to this, and we’ll move on a little bit, but you must have felt like a lightning rod here because in a lot of respects, the decision is coming out of the agency. Once the decision was announced, my memory is you were the face of the agency, that people might not have known who the Secretary of Health and Environment was, but by the time that was announced, they knew who the Secretary of Health and Environment was.

RBr: Yes, exactly. What I was trying to do was buttress or cushion the agency from additional inquiry. I felt the team did their job. We have hundreds of permits that were being reviewed throughout the year. And the team needed to be seen as a team delivering reliable, grounded permit recommendations, decisions. And we needed to separate this because it was something new. It was something that was emerging, and I felt that we needed to find a way to pause this but put the policy construct back in the hands of the legislature so that once, perhaps, a new permit would be requested, we would have a better framework within which to make a decision, utilizing the framework of the professionals within the agency.

But, yes, I became the lightning rod of the agency. For two years, I think it was two years, I couldn’t—I was cautioned not to go out to western Kansas. It had gotten that intense. We had regional offices out there, three regional offices, and I had made it a practice to go out to every regional office once a year as Secretary so I would get to meet the team, know what the teams are working on, meet people in those communities to understand how the agency was seen, anything we could do better, just to stay connected. But for two years, I didn’t go out to western Kansas.

I finally went out in 2010—it was the summer of 2010—for the first time. My visit was unannounced, but I flew from Wichita to Dodge City [KS]. We did the Dodge City meeting and stayed overnight and then left the next morning to head back to Hays [KS], but it was just a touch and go rather than staying out there for any length of time. Internally, my team was telling me that it was not safe.

RB: That’s a pretty incredible story. I’m not sure it’s surprising, but it’s a pretty incredible story. I was going to phrase that question by asking were you personally attacked.

RBr: I think we knew that there was—let me answer your question directly first though. I was never personally attacked physically at all. You know, sometimes people would say things. That’s a part of the job. We received a couple of letters that had some comments that weren’t

civil, but you might recall there was a legislator who jokingly, he said he was joking, ran into a member of the Governor's staff underneath the legislature. There's a way out of the legislative chambers beneath the stairs. He was quoted as saying, "Dang _____, I could have shot you. I thought you were Bremby." So, he's joking about this, but it's in the context of knowing that there's a lot of anger. He was quoted in the newspaper when that was followed up, saying, "Oh, I was just joking. I was just joking," but we knew that there was a lot of—quite a bit of animosity out there.

RB: Rod, I'm going to ask you a question I hadn't really planned to ask, but—and feel free to tell me that it's time to move on. Did race enter into this at all?

RBr: I think that without question the lack of engagement or the lack of familiarity contributed to the, I guess, the understanding or the belief in which the decision was being made. And so, yes, I believe that race was a factor. I think that there was a belief that the decision was directed by the Governor, and I was unable to make that decision on my own. So, yes, I think so.

And I think part of this I own because I came out of—again, the city management training where I didn't feel that it was my job, my role to be over at the legislature. I needed to go over for hearings. I needed to go to brief legislators. I didn't go over, getting to know people. And in hindsight, that's something that I regret. I put 90 percent of the effort into the agency and administrative policy, but I think I could have, and should have, gotten to know the legislators just as people so they could get to know me. I think that some of that could have removed some of the, maybe, old beliefs, which they may have brought to an understanding of my actions and the decision making that I made.

RB: Thank you. I appreciate your willingness to explore that. This is obviously a—and I think your comments about spending time with the legislature are interesting as well because I think in a lot of respects, your bureau directors, like Karl, or your division directors, like Ron, they are over there all the time.

RBr: All the time, exactly.

RB: They also tend not to change with administrations. So, they have a long history with legislators that Secretaries don't necessarily have. So, yes, I get that.

RBr: And my calculus was I thought, "Gosh, Ron knows and has worked with these folks for years. So that's the relationship that we need. I need to send messages. They need to send messages through Ron just so that we're in line, in synch so there are not too many surprises."

So, this was a surprise. It surprised everyone, but I didn't have additional time to talk with the chairs of committees, to give them the deference of a call before the announcement. I just went to the President of the Senate and the Speaker of the House. I could have in hindsight visited more with the legislature and just maybe even bringing them along to say, "We're going to request an AG's opinion, and here's what I'm thinking."

In hindsight, there were some things that I think that I could have done better, but I don't know if that would have made a difference. I think that there was quite a bit of anger about taking a different direction.

RB: Yes. My guess is that you could have done all those things, and you would have still been in the same place at the end of the day.

RBr: Yes.

RB: I don't know that. That would be my guess. How long after the decision is made—when does Kathleen Sebelius, then, leave to join the Obama administration?

RBr: I think that was April 2009. So, she got through the 2008 legislative session, which was, gosh, it was a bear, and started the session in 2009. She left in April of 2009. The Lieutenant Governor stepped in. I think it was the second week of April in 2009.

So, yes. Those transitions weren't easy either. I was trying to decide, "Gosh, do I stay at KDHE? Do I go to DC? Do I go to Atlanta? Do I look for a federal opportunity or what?" I thought it was important to stay in place to see the decision all the way through, if you will, because there was still litigation underway.

RB: What is the ultimate result then? Walk me through that of the permitting process.

RBr: So, the ultimate resolution was the week that the Lieutenant Governor was sworn in [as Governor], there was a negotiation made. The following week—I think it was the following Tuesday or Thursday, probably the following Tuesday—an announcement was made that there was a decision to drop the litigation and resubmit [an application for] a permit for an 850-megawatt facility, and there were some additional trade-offs, tics and tacs back and forth. There was an assurance by the Governor's office that the permit would be reviewed.

So, we started the process under federal and state law because the federal government was starting to implement their own CO₂ regulations. So, we would be bound by the federal regulations under CO₂. So, we had another permitting process to undergo. So, the team started going through that one. It was 2010, toward the end of 2010, the team had not yet submitted their recommendation or provided their recommendation. We were approaching the election in November. So, the first week of November, I think I was home Election Day—well, let me back up because I think this might be interesting.

There was a negotiated position. A new permit [application] would be filed for the facility. I was thinking, "Gosh, so I wonder if this means there's going to be a change. There's a new governor. Will this be a change?"

So, I got a call to come over to the Governor's office on a Thursday. Monday or Tuesday was when the announcement was made. On the Thursday, I went over to the Governor's office, and I

was prepared for him to say, “Well, it’s been great, but you need to look for something else to do.”

But we had a really good conversation about the priorities of the agency and what I was focusing on. I took that opportunity to ask him if he would be willing to be the face to lead our public health effort on clean indoor air. We needed to get traction. We have a new Governor. As it turns out, he said that he and his wife would be delighted. They had had family members impacted by cancer. So, they would be delighted to lead that effort.

I felt that that was critical because, again, the agency had—I had baggage because of the coal decision, and here I am trying to move another initiative forward in clean indoor air. I felt that that’s probably not going to go too far because, again, I would be associated with that. So, the Governor willing to step in and take a stand and move forward. I thought that was just phenomenal.

We continued to work together through Election Day of 2010. On Election Day, I did get a call from the Chief of Staff to ask if I would lead the transition team, his transition team, to help align the Brownback administration with the offices and the policies that we were leaving. I graciously said, “Yes, absolutely. Love to do it. I look forward to it.”

Then there was a comment made about, “Well, we’ve got an office here for you.” I said, “Wait a minute. What do you mean, you have an office? I can work out of my office?” They said, “No, we would want you to step down as Secretary to do this.” I said, “No, I can do both. I really can.” I was told that that was not an option. I said, “Well, let me talk to the Governor.” “That, too, isn’t an option.” I said, “Really? So, you’re telling me I can lead the transition or not.” She said, “No, actually you can lead the transition, or you’re fired.” “Seriously?” I said, “Well, I’m not going to resign.” I was told that I was fired. “Okay. What do we do now?”

That was Election Day 2010. Finally, there was some clearing of the minds that I would be placed on administrative leave, not fired, and the Environmental Director would serve as Interim Secretary. I think within a week or so, the second permit was approved.

RB: I have to say, Rod, you are just a source of incredible stories here, for better or for worse. One last question related to this, and then I want to move on to the big picture, health vs environment question.

RBr: Sure.

RB: As you look back on this all now, we’re thirteen years removed, do you feel—I’ve used this word with other folks who have looked at both this issue and other environmental issues—do you feel vindicated? Do you feel proud? What are your thoughts about that role now that you’ve got some intervening time to look back?

RBr: Time is a great teacher. In retrospect, I think that without question, it was the right decision. I also believe that there were additional approaches, different ways to have taken to

reach the same decision. Maybe it's the conveyance of the decision. I didn't think about bringing the public along. I didn't think about an external outreach or a campaign. Again, coming out of this narrow city manager's role where you offer up recommendations, you implement policy, you don't get out in front of a City Council or Commission, nor should you get out in front of a Governor, I felt, "Gosh, I've done my job. Now let's move on to the next step, which is to develop policy."

It was so naive. I wish I had that time back because there was so much more we could have done. There was so much more we could have done as a state and as a nation to try to bring people together to do what individuals can do to reduce the effects of climate change. And I think that we became combative. We squared off in different sides of a political conflict that negated the conversation about what was really happening and what we really needed to do to face this existential threat.

We're beginning to see the impacts now, and I feel good that the state of Kansas did not ultimately contribute to what was initially eleven million tons of greenhouse gases a year from this plant. But still I think there was more we could have done as a state and perhaps even informing the nation in how to address climate change.

RB: I get your point, but in effect even though the permit is approved, the expansion is never made for various reasons. Clearly, one is that coal is just not a particularly good idea, and permit or no, everybody eventually arrives at the same place you were at.

RBr: Finally. I believe that pause allowed us to understand the economics. The economics of the plant were ridiculous. Nor did we know about the loans that were in play with the existing Holcomb facility. So, there was so much that we learned to be able to produce and generate a new return on investment by factoring in human health [and] damage to the environment versus energy profit. I don't know you get there in profit, but revenue. Let's say revenue.

So, I think, "Yes, we did get to the right place." But, being a perfectionist, I like to think, "Maybe we could have done this a little better. I could have done this." I feel vindicated in terms of the decision, but I don't feel really good about how we got there.

RB: Let's shift gears here in the time we have left and go back to that big picture health and environment question that we talked about at the beginning. You went from Kansas to Connecticut, ran an agency there. You've had the additional time since then and experience to look back. Does this construct make sense, that wedding of health and environment into one agency, based on your experiences now?

RBr: I think so. And the reason why I say that is we did take a really important structural step. I don't know if it was retained, but we actually created an environmental health bureau at KDHE. We had all of the health bureaus, and we had all of the environmental bureaus, but we created a bureau to try to begin to inform health by environmental policy and vice versa. It was a place where we could bring people to talk together and work together to begin to put new lenses on reviews or challenges.

For example, if there was a permit for underground storage tanks, and we knew that water systems were impacted downstream, from the health side, what could we look for? What indicators might we sample to know whether there was a problem. On the health side, we were doing lead abatement for years, but we didn't know how that might bind with the soil in neighborhoods. So, yes, we were working on lead abatement in homes, but we weren't doing a very good job at lead abatement in the soil.

So, it's bringing together those components because what we know now is that there's very little genetically that determines our health outcomes, somewhere between 7 to 30 percent. So, 70 to 93 percent of our health outcomes are based upon these genomic, let's call them triggers if you will, predispositions to conditions that are triggered then by the environment, that are triggered by behaviors, that are triggered by other things than just our genetics.

So, it's bringing that understanding together to find a basis for policy, not only health policy, but environmental policy, I think we're still lacking. There are only five states that are situated like Kansas where there's a health and environment organization brought together. I would dare say that there needs to be more. Most states are fixed in having a health organization because they're focused either on clinical health or public health, and oftentimes the clinical and the public health aren't in the same agency, and those two need to be brought together also in a more durable way.

RB: That was a really good answer. I think you informed some of my thinking, just as a person who dealt only with the environmental side, real persuasively there because I'm not sure I always thought that same way. Rod, are there other questions that I should have asked you about Holcomb or any of these other issues that we didn't touch upon, do you think?

RBr: I think you've asked a lot of great questions. I've tried to surface some of the actors appropriately, but I think I would be remiss if I didn't mention Doug Farmer. Doug Farmer was the Deputy of the agency during this period of time. Doug had a longstanding history in the state. He knew a lot of the legislators. He had worked under Duane Goossen in the Budget Office for a while. He had worked on Budget Committee. So, he knew the legislators really well.

Doug was really good at helping to inform them we weren't really out to "get" certain districts. So, when we would go out on our annual visits, he would do the outreach to make sure that we met with a particular legislator or senator. When we'd go down to Wichita, we met with legislators, especially the Chairs on both of our committees. So, Doug was really, really helpful in binding the agency to the legislature, in addition to the environmental team.

Susan Kang did a phenomenal job with our policy. Susan, I think now works for the Kansas Health Foundation. She was new to the legislature, the legislative process, as well. But she was able to help communicate our policy in ways which I think took some of the anger out of the succeeding work that we needed to do. So those two were really remarkable and phenomenal in the work that they did on behalf of the agency and trying to move policy forward after the Holcomb decision.

RB: That's an interesting point, Rod, because in a lot of cases, those agency staff are not the most highly paid individuals on the face of the planet, and yet they're tasked with jobs that are extremely difficult, extremely stressful, and dealing with a lot of folks that are getting paid a lot more money to take on some of these issues. It's a little bit of an unsung role, it seems like.

RBr: It really is. The key is that it's not just the time in Topeka, but it's time also taken away from their families by getting prepared for the work or going over to another district or to another community to have sit-down conversations with members of the legislature in their hometowns. So, yes, they're unsung heroes. Yes.

RB: We had this conversation with some of the folks that were in the water world—who were involved with the *Kansas vs Colorado* lawsuits, which would have been going on a little bit in the time that you were at Health and Environment—and the impact that that had on their personal lives and the amount of time that they spent in that lawsuit. I think a lot of time folks that just see the surface don't appreciate the human impact that it has. I think that's a good point.

RBr: I just think that your question about the decision and the timeline is crucial because but not for *Mass. v EPA*, we wouldn't have had the statutory construct or the understanding that the EPA would eventually regulate this gas, and the IPCC, even if they had released the report, we wouldn't have had the framework to take an alternate position.

What people also forget is that the administration, the Sebelius administration, my agency, my organization approved a previous permit. It was the Sand Sage permit, which was 660 megawatts, but that permit, the timeframe to implement that ran out.

So, it's not that we were opposed to coal completely. It's just that we needed to have a statutory construct in order to do it. Once the construct began to erode based on the Supreme Court decision and then layered on, understanding the impact of CO₂, there was no choice. I don't regret that. I have no hesitation about that. I'd do it all over again.

RB: I think that may be a pretty good place to stop. I really appreciate not just the time you put in here this afternoon, but also the thoughtful and honest answers to these questions. This obviously was a difficult time in all sorts of ways. You were kind of at the eye of the storm in this process and to hear about that from you directly I think is hugely valuable. So, I think that gets at exactly what we're trying to accomplish with these interviews, Rod, and I really appreciate your willingness to talk to us in that fashion. So, thank you very much.

RBr: My pleasure, Rex. Thank you. Mary, thank you for the invitation. I really appreciate it.

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