

MINUTES OF THE House COMMITTEE ON Energy and Natural ResourcesThe meeting was called to order by Representative David J. Heinemann at
Chairperson2:00 ~~am~~/p.m. on March 31, 1983 in room 313-S of the Capitol.

All members were present except:

Representatives Keith Farrar, Clint Acheson, Ben Foster, Harold Guldner,
Jim Patterson, Keith Roe, and Thomas Walker (excused)

Committee staff present:

Ramon Powers, Research Department
Theresa Kiernan, Revisor of Statutes' Office
La Nelle Frey, Secretary to the Committee

Conferees appearing before the committee:

Dick Rieke, Regional Office of Surface Mining.

Dick Rieke, head of the Regional Office of Surface Mining (OSM), Kansas City, testified before the Committee regarding OSM's evaluation of Kansas' Mined Land Conservation and Reclamation Board (MLCRB).

Mr. Rieke provided background information regarding the MLCRB by explaining Public Law 9587--Surface Mining Coal and Reclamation Act of 1977. He noted that this Act provides for states to assume primacy, or the control of the regulation of the surface mining program in that particular state. In Kansas, the state submitted a plan asking for primacy which was approved in 1981. Mr. Rieke said that since January 1981, the state has had primacy or full control over the program under the MLCRB, which is under the jurisdiction of the Kansas Corporation Commission (KCC).

He noted that when OSM grants primacy, it then assumes an oversight role. The oversight role mandated by Congress is to take a look at what the state is doing to see if their program is working. Annually, OSM provides a report to Congress regarding each state's program. He said OSM is in the final stages of writing Kansas' report at the present time, and at the end of April the report will go from the Kansas City field office to Director James Harris, OSM in Washington, D.C.

Mr. Rieke stated that OSM has determined there are serious problems in the state administration of the MLCRB program. He noted that there are also problems of different magnitude and types in every state across the country.

He referred to a letter that Director Harris, OSM, recently wrote to Governor Carlin expressing concern that the MLCRB problems are of the magnitude that something should be done. Mr. Rieke said the OSM staff in the Kansas City field office has done everything they can with the staff of the KCC in Pittsburg to iron out those difficulties, but without success. He noted that Director Harris' letter was intended to elevate the awareness of those problems to the highest administrative level for resolution.

Mr. Rieke outlined some of the serious problems in the administration of the MLCRB which they substantiated when the OSM oversight review team went to Pittsburg.

1. Permits--The basic problem of issuing technically complete and adequate permits, is one of the major issues.
2. Inspection and Enforcement--A serious failure on the state's part to inspect, document, and enforce program requirements. These are parts of the law, and the regulations that were approved to give the state primacy.
3. Bonding--Release of land reclamation performance bonds has occurred prior to all the performance standards having been met. Clear liability has been released, yet, deficiencies still exist in the field.

Mr. Rieke said that all of the problems they are citing have occurred for the most part for the last five months. Under mandate, OSM is required to make an on-site, complete inspection of each of the mine sites one time per year. He noted that the state has the responsibility to make a partial

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Energy and Natural Resources,
room 313-S, Statehouse, at 2:00 ~~a.m.~~/p.m. on March 31, 1983

inspection each month, with a complete inspection each quarter. Mr. Rieke said he purposely delayed the OSM's on-site review of these sites until attempts had been made to work out the problems with the KCC staff. When they were unable to do that, they made the required inspections and started finding problems.

Director Harris, in his letter to Governor Carlin, set out specific things that should be done to resolve the problems. Mr. Rieke said if Kansas does not resolve those problems, the OSM is mandated by law to initiate what they call the 733-Process which is an informal hearing. If the state does not assume the responsibility they agreed to, it will become a federal program, administered by the federal government.

He said that when Kansas submitted a plan to achieve primacy, one particular portion of that plan dealt with staffing. Kansas recommended that 15 people would be needed to run the program: professional geologists, hydrologists, an engineer, and agronomists. At this point, Kansas has none of these, except it has a biologist acting as a hydrologist. He said he thought the first thing Kansas should do is to conform to the rules and regulations the Legislature passed and to hire a competent staff with the expertise to run the program.

Mr. Rieke noted that there are some funds raised to support the MLCRB program such as, for every ton of coal that is mined, 35¢ per ton is put into a reclamation fund that is to go to states to reclaim previously mined lands. This is under the Abandoned Mined-Land reclamation program which Kansas has. Also, he said, whenever Kansas grants a permit, they charge a permit fee which goes to help support the MLCRB.

A brief question and answer period followed Mr. Rieke's presentation.

At the request of Chairman Heinemann, Representatives Rochelle Chronister, James Holderman, and John Myers attended the Committee meeting. They serve on a Ways and Means Subcommittee studying the MLCRB.

There being no further business to come before the Committee, the meeting adjourned at 2:30 p.m.

The next meeting of the Committee will be held April 6, 1983.

Rep. David J. Heinemann, Chairman

Date March 31, 1983

GUESTS

HOUSE ENERGY AND NATURAL RESOURCES COMMITTEE

NAME

ADDRESS

ORGANIZATION

NAME	ADDRESS	ORGANIZATION
Steve Porshin	Topeka	AP
Dick Riekie	Kansas City -	Office of Surface Mining
Lynn O'Shaughnessy	Kansas City	Kansas City Times
Robin Huan	Topeka	Legisl. Post Audit
Glenn Deck	Topeka	Legis. Post Audit
Deb Miller	Topeka	Gov. office
Kenneth Swant	Pittsburg	mined Land office
Ray King	Wichita	" " "
Norma Thompson	Topeka	K.C.C.
Mary Hedra	Topeka	K.C.C.
John Jay Bosack	Topeka	K.C.C.
Delno L. Bass	Pittsburg	Mined-Land Conservation and Reclamation Board
Robert Epps	Topeka	Budget Division