

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARYThe meeting was called to order by Representative Bob Frey at
Chairperson3:30 ~~XXX~~ p.m. on February 7, 1983 in room 526-S of the Capitol.

All members were present except:

Representatives Knopp and Duncan were excused.

Committee staff present:

Mark Burghart, Legislative Research Department
Mike Heim, Legislative Research Department
Mary Ann Torrence, Revisor of Statutes Office
Nedra Spingler, Secretary

Conferees appearing before the committee:

Senator Merrill Werts
Representative Joan Adam
Representative Keith Farrar
Justice Robert W. Holmes, Kansas Supreme Court
Ron Miles, Former Court Administrator, 1st Judicial District
Eugene Shores, Stanton/Morton Counties Farmer, Southwest Kansas Irrigation Association
George Sims, Mobil Oil Company
Robert Anderson, Mid Continent Oil and Kansas-Nebraska Natural GasHB 2165 - An act relating to the administration and filing of loyalty oaths.

Senator Werts, 1982 Chairman of the Administrative Rules and Regulations Committee, said the bill is the result of an interim review by this committee of the Department of Administration and was requested by the Division of Accounts and Reports. Line 28 is the substance of the bill and changes the filing system of city, county, and state employees' loyalty oaths from Accounts and Reports to the employing agency. Maintaining filed oaths has become unmanageable for the Division. Changes in lines 54 and 55 lessen the penalty classification. Other changes in the bill are cleanup. Senator Werts said agencies agree in principle that filing oaths should be an agency function. The Rules and Regulations Committee did not discuss abolishing the loyalty oath entirely.

HB 2114 - An act relating to judgeships in the 1st Judicial District.

Representative Adam gave a statement in support of the bill (Attachment No.1). It contains supportive statements from the bar associations of Atchison and Leavenworth Counties and from the legislative delegation from the two counties.

Justice Robert Holmes, Kansas Supreme Court, supported the bill and gave comparison statistics with other two-county districts, noting if the 1st Judicial District converted from magistrate to associate judgeships it would be comparable, and the caseload justified the change. He listed the advantages of this change which would eliminate extra costs and time in having out-of-district judges assist. There will be no fiscal impact from this bill this session. The judicial system and the Supreme Court support the bill.

In discussion, Justice Holmes said he would support the concept of changing from a magistrate judgeship directly to a district judgeship, eliminating the associate judgeship. In regard to creating associate or district judgeships in areas other than Atchison/Leavenworth, he said he supported these wherever they were justified.

Ron Miles, a former court administrator in the 1st Judicial District, testified as a private citizen and supported HB 2114. He told of problems the administrator has in this district in assigning cases to different judges and, because of the caseload, the need for obtaining out-of-district judges and getting cases resolved.

HB 2081 - An act relating to natural gas for irrigation purposes.

Representative Farrar, sponsor, explained the purpose of the bill in his statement (Attachment No.2). In discussion, he said, if a landowner has been paying a lower amount for gas to irrigate, it makes a big difference in his ability to sell the land if gas rates are increased or contracts terminated. There is nothing presently to insure that contracts will not be cancelled in a little as 30 days. Although HB 2114 could be ignored by gas com-

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY

room 526-S, Statehouse, at 3:30 ~~a.m.~~/p.m. on February 7, 19⁸³.

panies, it would show legislative intent that gas should be sold to a new property owner. Representative Farrar said there have been cases of people not being able to sell land because gas companies would not continue the contract. The federal government has given gas for irrigation high priority.

Testimony in support of HB 2081 from Bernard E. Nordling, Secretary of the Southwest Kansas Royalty Owners Association, Hugoton, who was unable to attend this hearing, is attached (Attachment No.3).

Eugene Shores, representing himself as a farmer in Stanton and Morton Counties and the Southwest Kansas Irrigation Association, gave a statement supporting the bill (Attachment No.4). In discussion, Mr. Shores said there are different reasons why gas companies can cancel contracts, but they should not be able to cancel a contract because the land is sold. People in his area are concerned that this can happen. The Chairman noted irrigators know when they sign their contracts that gas companies can cancel them. The bill would have no effect if a 30-day cancellation notice is left in the contract. There is a court case in this regard at present.

George Sims, representing Mobil Oil, furnished background information concerning Kansas' jurisdiction over the control of natural gas practices of the oil companies and Federal Energy Regulatory Commission decisions (Attachment No.5). He pointed out that the federal natural gas policy determines what gas prices will be. Before companies can make changes, they must get the consent of their purchasers and the FERC. Mr. Sims opposed HB 2081 as the oil companies would be in conflict between state and federal laws. Control of gas is needed because everyone must be supplied.

Bob Anderson, representing Mid-Continent Oil and Kansas-Nebraska Natural Gas, said, if the latter has a contract with a producer who cuts out a well, the irrigator may be out of luck. He did not believe HB 2081 would benefit anyone.

The Chairman stated the scheduled hearing on HB 2075 would be postponed until a later date. House Bills 2008, 2009 and 2058 will be on the agenda for the February 8 meeting.

The meeting was adjourned at 5:00 p.m.

ATTACHMENT # 1

I am here today in support of HB 2114, which offers a statutory change affecting Division two of the 1st Judicial District of Kansas, otherwise known as Atchison County.

I want to indicate to you the exact intent of this bill, and list some of the reasons why I hope this bill will be given favorable consideration by this committee.

At the end of my comments I want to introduce the Honorable Richard W. Holmes, Justice of the Kansas Supreme Court, who will also offer testimony in support of this bill. Mr. Ron Miles, Director of the State Board of Indigent Services, but formerly the Court Administrator for the 1st Judicial District, will also offer brief testimony. Also with me today is Judge John Brookens from the Kansas Bar Association and Marjorie VanBuren from the Judicial Center, who will be available to answer any questions you might have.

By authority under KSA 20-338, Atchison County now has 1 District Judge and 2 District Magistrate Judges. The change sought by HB 2114 will provide that neither of the two Magistrate Judge positions be filled and at the time both these positions become vacant, a single Associate District Judge position be created.

The main reason for this request is a need in Atchison for a second judge with authority beyond that allowed to a District Magistrate Judge. Over time, the type of caseload has changed in Atchison County and the present situation with 1½ Magistrate Judges has become less and less efficient. Reassignment is often needed to hear cases in Atchison County placing an added burden on Leavenworth County Judges. The problem is not that we do not have the right number of judges but that given the jurisdictional differences within which the judges are permitted to function, they are not of the right type to suit the present situation in Atchison County.

The main reason, **then**, that HB 2114 is being proposed is greater efficiency in judicial operation in Atchison County and in fact, in the entire 1st Judicial District.

There are other points which, I believe, support this change. First, this change allows for a shift in judge positions to occur in a planned way. After the retirement of both Magistrate Judges, this approach will result in a cost savings over other approaches. (1½ Magistrate Judges will convert to 1 Associate Judge - rather than 1 Magistrate Judge position to an Associate Judge Position.)

Second, as I mentioned before, this approach will eliminate the need for judges to be reassigned to Atchison County from Leavenworth.

Third, this change will allow more conformity within the judicial district itself, as Leavenworth County now has 1 District Judge and 2 Associate District Judges.

Fourth, this change is in keeping with the court unification plan which, in general, has shifted District Magistrate positions to District or Associate District Judge positions.

There is another point that I would like to emphasize. This change has the full support of the Atchison County Bar Association and the Leavenworth County Bar Association. (At your places, are copies of statements from these Bar Associations which indicate this support.)

In addition, Senators Edward Reilly, and Francis Gordon, Representatives Ambrose Dempsey, Robin Leach, Al Ramirez, Jim Murphy, and Don Sallee who represent portions of Atchison or Leavenworth Counties, also lend their full support to this change. Although committee meetings have prevented them from being here this afternoon they have also indicated their support in a statement which should be in front of you.

Because we believe the change outlined in HB 2114 will benefit the residents of both counties in the 1st Judicial District, all the delegation joins me in urging you to consider this bill favorably.

February 2, 1983

Representative Joan Adam
281 West, Statehouse
Topeka, Kansas 66612

In Re: House Bill 2114


Dear Representative Adam:

I have reviewed this Bill concerning the gradual replacement of two magistrate judge positions with one associate district judge position in Atchison County with the executive committee of the Leavenworth County Bar Association and several individual members of our Bar who practice consistently in Atchison County.

It appears to be the consensus of the Leavenworth County Bar that such a change would be beneficial not only to Atchison, but Leavenworth County as well. With two general jurisdictional judges in Atchison, most of the cases that now require assignment to a Leavenworth County judge could be handled in Atchison. Those cases involving juvenile, probate or limited claims jurisdiction, could be handled more expeditiously without the necessity of review by the district judge of Atchison County, and an additional jurisdictional judge could be occasionally assigned to Leavenworth County when our case load required it. The elevation of these positions to one associate district judge position would also encourage the best possible candidates to apply for that future vacancy.

Therefore, please consider this letter the endorsement of House Bill 2114 by the Leavenworth County Bar Association, and feel free to call on me if I can be of any further assistance.

Very truly yours,


Frederick N. Stewart,
President
Leavenworth County
Bar Association

LAW OFFICES
O'KEEFE, BALL, LACEY & ASHER

503 ON THE MALL

ATCHISON, KANSAS 66002-2482

TELEPHONE 913-367-2032

MAURICE P. O'KEEFE (1893-1977)
STEADMAN BALL (1904-1977)

PHILIP C. LACEY
MARTIN ASHER

EFFINGHAM, KANSAS 66023
PROFESSIONAL BUILDING

WED.-FRI. 2:00-5:00 P.M.
TELEPHONE: 913-833-9741

January 27, 1983

Honorable Richard W. Holmes
Kansas Supreme Court
Kansas Judicial Center
Topeka, Kansas

Dear Justice Holmes:

On January 21, 1983, the Atchison County Bar Association held its regular monthly meeting. At the meeting the proposed Resolution for the establishment of an Associate District Judge position in the Second Division of the First Judicial District was discussed and voted upon by the members. The Resolution received the unanimous support of those present at the meeting.

There was a strong sentiment expressed at the meeting that the creation of an Associate District Judge's position would enhance the efficiency of the judicial system in the First Judicial District and it will enable our courts to better serve the needs of our community.

The Atchison County Bar Association supports the introduction of legislation that will implement the position of Associate District Judge and hopes that said legislation will soon become law.

Sincerely,



President, Atchison County Bar Association

MA:v

cc: Honorable Kenneth Harmon
Honorable Maurice P. O'Keefe, Jr.
Representative Joan Adam
Senator Francis Gordon

TO: Judiciary Committee

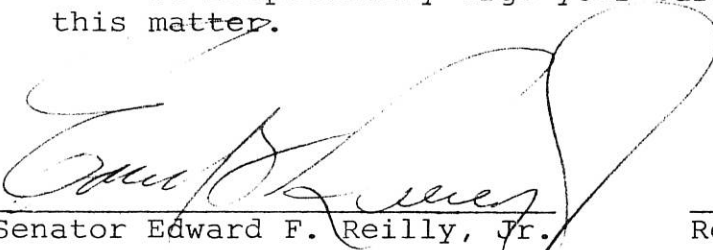
FROM: Members of Atchison & Leavenworth County Delegations

DATE: January 31, 1983


As members of the Atchison and Leavenworth County Delegations, we wish to indicate our unanimous support for House Bill 2114, relating to judges in division two of the 1st Judicial District of Kansas (Atchison County).

It is our belief that this change will allow more efficient use of the Judiciary in the entire 1st Judicial District and therefore prove beneficial to the constituency of our respective counties.

We respectfully urge your careful consideration of this matter.



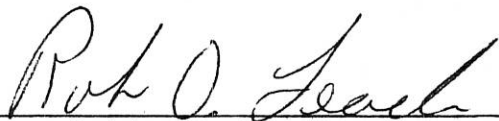
Senator Edward F. Reilly, Jr.



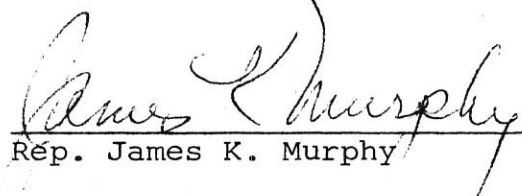
Rep. Ambrose L. Dempsey




Senator Francis E. Gordon



Rep. Robin D. Leach



Rep. James K. Murphy



Rep. Alfred Ramirez



Rep. Don Sallee

KEITH FARRAR
REPRESENTATIVE, 124TH DISTRICT
STEVENS, GRANT, STANTON,
MORTON, HASKELL COUNTIES
STAR ROUTE
HUGOTON, KANSAS 67951



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
MEMBER: WAYS AND MEANS
JOINT COMMITTEE ON STATE BUILDING
CONSTRUCTION
INSURANCE

ATTACHMENT # 2

STATEMENT BY REP. KEITH FARRAR

Before the House Judiciary Committee

Tuesday, February 1, 1983 on HB 2081

Mr. Chairman and members of the committee, House Bill 2081 says that the change in ownership of agricultural land cannot be used as justification to refuse to continue the availability of natural gas for irrigation fuel. The following are points that are relevant to the bill.

- #1. Natural gas for irrigation fuel has been established as a high priority use.
- #2. Gas producing companies have been required to establish the approximate volume of gas that they sell for such use.
- #3. Passage of the NGPA provides for increases on the price of natural gas.
- #4. Replacement contracts cannot be for more than the original contract.
- #5. Valuation of irrigated land is approximately twice that of dry land.
- #6. The valuation affects the local tax base and to some extent, the state tax base.

#7. The valuation for sale, estate tax planning, etc. depends, to a great extent, upon the fuel available to run the irrigation pumps. In some instances, the lack of continuation of a natural gas fuel contract would change irrigated land to dry land.

You can imagine how this can affect estate planning and the local tax base, not counting the value to be used in obtaining a loan. The problem was brought to my attention by some farmers who were retiring and have been irrigating for several years using natural gas as a fuel. They were unable to sell their property as irrigated land because of the refusal by the gas producer to continue the contract to the new owner. To repeat, HB 2081 is designed to continue the present contract to the new owner of the land to guarantee as much as possible the availability of natural gas as a fuel.

STATEMENT OF
BERNARD E. NORDLING, SECRETARY
SOUTHWEST KANSAS ROYALTY OWNERS ASSOCIATION
HUGOTON, KANSAS

February 28, 1980

To the Honorable Members of the Kansas
House Energy and Natural Resources Committee:

My name is Bernard E. Nordling of Hugoton. I am Executive Secretary of the Southwest Kansas Royalty Owners Association and am an attorney. Our Association, formed in 1948, has over 2,000 landowner members. Its primary objective is to protect the rights of landowners in the Hugoton Gas Field.

I am appearing before your honorable committee on behalf of members of our Association and on behalf of Kansas landowners in support of House Bill 2842 requiring the continuation of supply of natural gas for irrigation purposes.

One of the major concerns of our members over the years has been the availability of natural gas for irrigation pumping. Many of our members are irrigation farmers or own land under irrigation. A substantial portion of the 2,500,000 acres in the Kansas portion of the Hugoton Field is under irrigation. One of the primary reasons for the development of this former "dust bowl" area has been the availability of natural gas to supply fuel for irrigation engines.

In 1975, I made a statement to the members of the Kansas legislative Interim Special Natural Gas Committee. At that time the committee was advised that information furnished by the U. S.

Geological Survey at that time showed there were an estimated 15,000 irrigation wells in Kansas irrigating approximately 2,800,000 acres. Seven thousand of these irrigation wells were irrigating 1,400,000 acres in Southwest Kansas. Ninety (90%) percent of the irrigation wells are pumped by motors using natural gas. At that time, between one-fourth and one-third of the land over good sources of irrigation water was being irrigated. The potential of irrigated land in Kansas was between 8,000,000 and 10,000,000 acres.

While I have not updated the study, it was then estimated, in 1975, that irrigation in Kansas had increased the economy of Kansas in the neighborhood of one billion dollars per year. Much of the increased production in Southwest Kansas would be lost if the land under irrigation would have to revert to dry land farming. It naturally follows that land values would be greatly reduced, causing a loss in tax dollars from income tax and property taxes.

Irrigation has changed the semi-arid regions of western Kansas to some of the most productive agricultural land in Kansas. This increased food production is necessary for the feeding of the rapidly increasing world population and must be protected.

Most of the irrigation gas hookups in the Hugoton Field are at the wellhead. For many years, nearly all of the lessee-producers in the Field voluntarily permitted farmers to purchase natural gas at the wellhead for irrigation. This has been with

the cooperation and encouragement of the Kansas Corporation Commission. On May 9, 1956, the Commission issued an Administrative Bulletin setting forth its prescribed rules governing the use of natural gas for irrigation. A copy of this bulletin is attached.

In 1970, at the request of the Honorable Dale E. Saffels, then Chairman of the State Corporation Commission, a study was made by the Committee on Labor and Industry through the Kansas Legislative Council to determine if legislation could be enacted to ensure the availability of natural gas for irrigation.

Hearings were conducted in Garden City and Topeka in the fall of 1970. At that time, the Interim Committee determined that no legislation was needed at that time, principally because the lessee-producers were cooperating with the irrigation farmers on a voluntary basis to furnish natural gas for irrigation use.

The situation has drastically changed since then and the problems anticipated in 1970 have become a reality. Some companies in the Field are reluctant to permit hookups without full ownership of the minerals, while in other instances, companies are refusing the hookup under any circumstances. There are inconsistencies among the gas companies in the granting or transferring of irrigation gas hookups, causing a great deal of confusion and inequities. Land potentially suitable and available for irrigation is going undeveloped because natural gas is not available as a fuel source, and alternate fuels are too costly to use.

Many of the irrigation farmers own the minerals under their irrigated land. They have made large capital investments,

based upon the use of natural gas, which will take years to recover. Because of the failure to adopt guidelines, either on a state or federal level, or to pass legislation to ensure the use of natural gas as a fuel source for irrigation engines, there have been serious repercussions in the Southwest Kansas area insofar as land use and sales are concerned.

I know of several instances in recent months in which a prospective seller of land has not been able to consummate the sale of his irrigated land because the gas company furnishing irrigation gas will not agree to the transfer of the existing irrigation gas sales contract to the prospective purchaser of the land. Within the past two weeks, in my home county of Stevens, an irrigated half section of land was offered for sale at public auction. The seller was asked at the sale if he could guarantee the continued use of natural gas as a fuel source under the existing irrigation gas contract. The answer was "no," resulting in a "no sale" of the land because the prospective seller was offered \$300.00 per acre less than what he was willing to take as the sales price.

Our law firm is handling a real estate transaction in which we are representing the buyer. Our client was informed by the gas supplier that the irrigation gas sales contract could not be transferred to him, as purchaser of the land, even though he had been farming the land for the prospective seller for over 15 years as farm tenant and had been paying all of the irrigation gas fuel bills.

To date, our client has not been able to negotiate with the gas company for the irrigation gas connection. The following is a direct quotation from the real estate contract:

"9. Such sale is subject and contingent upon the Buyers obtaining permission and a contract to purchase gas for irrigation purposes at the wellhead from the present oil and gas lessee. The Buyers have made application to purchase such gas from the present oil and gas lease and agree to diligently pursue obtaining such contract. If such contract to purchase well-head irrigation gas is not granted to the Buyers by the oil and gas lessee on or before April 15, 1980, then this contract shall be declared null and void and the escrow agent is directed to return the down payment"

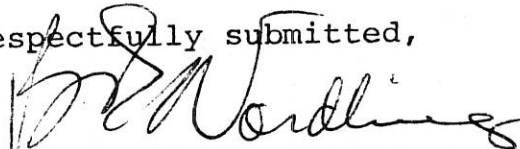
We need the passage of HB 2842 to eliminate these problems.

CONSTITUTIONALITY OF HB 2842

Always, one of the favorite ruses of opponents to any bill is to raise the question of constitutionality. While I am an attorney and have my own opinions, what I say or what opponents to HB 2842 might say, only the courts have the power to determine the constitutionality of any bill.

We submit that HB 2842 is in the best interests of Kansas and Kansans and should be favorably considered by your Honorable Committee. Any question as to constitutionality of the bill should be left to the courts.

Respectfully submitted,


B. E. Nordling, Secretary
SOUTHWEST KANSAS ROYALTY
OWNERS ASSOCIATION



STATE CORPORATION COMMISSION
TOPEKA

May 9, 1956

ADMINISTRATIVE BULLETIN

TO ALL PARTIES OF INTEREST:

In re: Use of Gas for Irrigation Purposes.

It has long been the policy of this Commission that the use of gas for irrigation purposes on a landowners' premises is a lawful use under Kansas statutes and that it is highly desirable that natural gas produced from their land be made available to landowners for such purposes wherever possible.

Pursuant to a recent study conducted by the staff, the Commission has reconsidered the entire matter giving particular attention to the farmers' need for this most efficient and economical fuel, and has revised its former policy as set forth hereinafter. Subject to the following prescribed conditions and limitations governing use of natural gas for irrigation purposes, gas may be made available to any farmer desiring it for that use who will take delivery at the wellhead, make his own connection to the wellhead and transport his own gas to his irrigation pumps:

- (1) Contracts entered into between the farmer-user and the producing company must be ratified by the contract purchaser of gas produced from the well.
- (2) Each such contract shall be submitted to the Director of Conservation for approval and a copy as approved filed in his office before any gas is delivered thereunder.
- (3) All gas so furnished shall be metered and proper records of same shall be kept in a manner approved by the Director of Conservation.

(4) The amount of gas taken from a well and furnished to a farmer-user for irrigation purposes shall be charged against the monthly current allowable for such well.

(5) It is understood that producing companies will charge a nominal price for gas furnished for irrigation purposes, and the price shall be uniform to all such users.

The cooperation of all parties interested in this matter is invited.

STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

By Raymond B. Harvey
Raymond B. Harvey, Secretary

SOUTHWEST KANSAS IRRIGATION ASSOCIATION

RECOMMENDATIONS ON

ATTACHMENT # 4

HB 2081

I AM EUGENE SHORE, I LIVE AND FARM IN STANTON AND MORTON COUNTIES. THE TESTIMONY I WILL GIVE TODAY WILL BE ON BEHALF OF THE SOUTHWEST KANSAS IRRIGATION ASSOCIATION AND MYSELF AS AN INDIVIDUAL.

I WANT TO TESTIFY IN FAVOR OF HB 2081.

THERE ARE SOME 3000 IRRIGATION WELLS LOCATED IN WESTERN KANSAS, ABOUT 90% OF THESE USE NATURAL GAS FOR FUEL. WHEN A FARMER DEVELOPS LAND FOR IRRIGATION THERE ARE SEVERAL STEPS THAT MUST BE TAKEN. HE MUST: 1 OBTAIN A WATER RIGHT FROM THE DIVISION OF WATER RESOURCES. 2 DECIDE ON A MEANS OF APPLYING THE WATER, WHETHER SPRINKLER OR FLOOD. 3. HE MUST DECIDE UPON AND OBTAIN A FUEL SUPPLY. THESE DECISIONS AND CARRYING THEM OUT OVER THE YEARS HAVE DEVELOPED LOW PRODUCTIVE SUMMERFALLOW DRY-LAND VALUED AT \$200 PER ACRE INTO HIGHLY PRODUCTIVE IRRIGATED LAND THAT MAY SELL FOR \$1000 PER ACRE OR MORE.

BECAUSE OF NORMAL CHANGES FROM TIME TO TIME, THIS DEVELOPED LAND COMES UP FOR SALE AND ONE WOULD ASSUME THAT AFTER DEVELOPMENT WAS COMPLETED IT WOULD OR COULD SELL WITH THE LAND.

THERE HAVE BEEN SEVERAL INSTANCES WHERE LAND ESPECIALLY LAND SELLING IN AN ESTATE CAME UP FOR SALE AND THE GAS COMPANY REFUSED TO TRANSFER THE IRRIGATION GAS CONTRACT WITH THE LAND. THIS POLICY OF NOT ALLOWING A CONTRACT TO TRANSFER WITH THE LAND SEEMS AT BEST INCONSISTANT SINCE F.E.R.C. HAS DETERMINED THAT A SUPPLY OF GAS ONCE DEDICATED TO INTERSTATE CUSTOMERS IS FOREVER DEDICATED. IT WOULD APPEAR TO BE A CASE OF GAS SALES F.E.R.C. DOESN'T FEEL THEY REGULATE, AND K.C.C. DON'T FEEL THEY REGULATE SO THE GAS CO. MAKES THEIR OWN RULES.

HB 2081 IS NEEDED TO PROTECT PEOPLE WHO HAVE DEVELOPED SOMETHING DURING THEIR LIFE SO THEY CAN PASS IT ON TO HEIRS OR SELL IT FOR WHAT IT'S VALUE REALLY IS, AND NOT BE IN JEOPARDY BECAUSE OF A GAS SUPPLIER CHANGING IT'S MIND. THE GAS CONTRACT SHOULD BE JUST AS BINDING AS THE WATER RIGHT.

two of the company's curtailment plan. The Administrative Law Judge in the case concluded that the affected irrigators had no alternative fuel source, and that they should be considered the same as other "process gas" customers. Proponents also cited the Governor's support for placing a high priority on natural gas which is used for irrigation purposes.

Opponents of H.B. 3032 pointed out that gas companies are now connecting new irrigation customers, and that under FPC rulings, agricultural irrigation pumping presently enjoys a high priority in the event of curtailments. According to opponents, an Oklahoma law which resembled H.B. 3032 was held unconstitutional by that state's supreme court.

Additionally, opponents reasoned that H.B. 3032 would violate existing contractual rights for natural gas which has already been sold. They read the bill as requiring diversion of interstate gas for intrastate use, which the FPC would not permit.

Thus, a key issue during the review of this subject was the extent of Kansas jurisdiction over the control of natural gas destined for interstate use. In written communications from the Federal Power Commission, the Committee learned that any divergence of natural gas which has been dedicated to interstate commerce, such as proposed by H.B. 3032, may well constitute an unauthorized interference with interstate commerce and an unlawful pre-emption of Federal jurisdiction under the Natural Gas Act. At minimum, prior authorization from the FPC permitting the abandonment of natural gas dedicated to interstate commerce would be necessary.

RELEASE OF GAS FOR IRRIGATION FUEL

WHEREAS, Mobil Oil Corporation, a New York Corporation owns or controls the sale of gas from a gas well located in Section 36, Township 34S, Range 37W, Stevens County, Kansas containing 640 acres, more or less, and described as follows:

Gooch No. 1
Section 36-T34S-Range 37W
Stevens County, Kansas
Station No. 211167

and

WHEREAS, Olive Gooch, whose address is 909 S. Main, Hugoton, Kansas 67951, desires to purchase gas from said gas well for engine fuel in pumping water wells for irrigation of 480 acres on the SW/4 and the N/2 of Section 36-T34S-R37W, Stevens County, Kansas.

NOW, THEREFORE, Northern Natural Gas Company ("Northern"), purchaser of gas from the aforesaid acreage, agrees as follows:

1. Northern hereby releases gas, from the gas well on the above-described property, to be used exclusively for engine fuel in pumping water wells for irrigation on the above-described acreage from the terms of the Contract dated September 13, 1945, between Northern, as Buyer, and Mobil Oil Corporation, as Seller.
2. This Release is expressly conditioned upon the receipt by Seller of appropriate regulatory approval of the discontinuance of the sale and delivery of gas to Northern, as contemplated hereby.
3. Subject to Paragraph 2, above, this Release shall be effective from the date of execution and shall remain in effect until terminated by Northern.

NORTHERN NATURAL GAS COMPANY

By *A. E. Shurg*
Vice President

Attest:

By *[Signature]*
Assistant Secretary

Date Executed: 3/31/80

S-6058-BN

Docket No. G-11742-001

- 3 -

This action is taken pursuant to authority delegated by the Commission in Section 375.307 of Subchapter W of Chapter 1, Title 18 CFR.

Eugene J. Williams
 Kenneth A. Williams
 Director
 Office of Pipeline and
 Producer Regulation

FILED UNDER

A - Initial Service

C - Amendment to add acreage

E - Total Succession

B - Abandonment

D - Amendment to delete acreage

F - Partial Succession

Docket No. and Date Filed	Applicant	Purchaser and Location	FF - 1142-1143-1144		
			Description and Date of Document	Number	Page
G-11742-001 B 6-1-81	Mobil Oil Corporation (Operator)	Cities Service Gas Company Hugoton Field, Grant and Kearny Counties, Kansas <u>1/</u>	Letters dated 10-3-80 and 12-12-80	3	51

1/ Lessors:

Bradner A. Tate, Agent, Tate Ranch, Peggy McCormick Davis and Florence Tate Fletcher

Well Name	Description	County In State of Kansas	Estimated Annual Fuel Requirement (MMcf)
Tate Estate "B"	Section 16-25S-35W	Kearny	5.5
U.S.A. Dean Unit	Section 13-25S-35W	Kearny	5.5
Tate-Holdridge	Section 21-25S-35W	Kearny	5.5
Tate-Flincoane	Section 25-25S-35W	Kearny	5.5
White Heira Unit	Section 26-25S-35W	Kearny	2.75
Tate-White Unit	Section 27-25S-35W	Kearny	5.5
C. A. Loucks Unit B	Section 28-25S-35W	Kearny	5.5
Tate-Scheuerman Unit	Section 24-25S-35W	Kearny	2.75
Tate Estate "A"	Section 35-25S-35W	Kearny	5.5
Petro Tate Unit	Section 8-27S-36W	Grant	5.5
Leslie Walker Unit	Section 12-27S-37W	Grant	5.5
Bessie Moore Unit	Section 1-27S-36W	Grant	5.5
Tate Ward Unit	Section 33-25S-35W	Kearny	2.75
Tate Unrein Unit	Section 5-26S-35W	Kearny	2.75
Tate USA #1	Section 20-26S-35W	Kearny	2.75
Tate Hickok Unit	Section 36-26S-36W	Kearny	5.5
			<u>74.25</u>

Lessor: Henry Meyer, et al.

C. L. Dew "B" #1	Section 5-27S-35W	Grant	<u>2.5</u>
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76.75

422 copy to
Denver list
Hick
W.G. JWP

RDH
CJM

AD
JD
CW

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Docket No. G-11742-001

- 2 -

ABANDONMENT
(Irrigation Sales)

Mobil Oil Corporation) Docket No. G-11742-001
(Operator))

ORDER GRANTING ABANDONMENT APPLICATION
(Issued June 19, 1981)

Mobil Oil Corporation (Mobil) filed pursuant to Section 7(b) of the Natural Gas Act application for authorization to release certain quantities of gas from dedication to Cities Service Gas Company (Cities) in order to supply gas to the lessors for use as irrigation pump fuel.

Mobil's sale to Cities is made from acreage in the Hugoton Field, Grant and Kearny Counties, Kansas, covered under a contract dated June 17, 1946, on file as Mobil's Gas Rate Schedule No. 3 for which the related certificate was issued in Docket No. G-11742. Mobil estimates that a total of 76,750 Mcf of gas will be used by the lessors annually. The subject contract, as amended, reserves a right to sell gas for irrigation purposes.

Further details are shown on the tabulation hereto.

The proposed release by Mobil to the lessors of gas already dedicated to interstate commerce constitutes abandonment of service and requires the prior permission of the Commission. 1/

For the same reasons and subject to the same conditions set forth in the order issued February 29, 1980, in Northern Natural Gas Producing Company, et al., Docket Nos. G-5716, et al., the proposed partial abandonment shall be granted.

1/ Phillips Petroleum Company, et al., Docket Nos. G-8739, et al., "Order Granting Abandonment Applications And Denying Petition For Declaratory Order", issued December 13, 1979.

After due notice by publication in the Federal Register, no protests or petitions to intervene in opposition have been filed.

At a hearing held on June 17, 1981, there was received and made a part of the record in this proceeding all evidence, including the application submitted in support of the authorization sought herein, and upon consideration of the record,

It is found:

The proposed partial abandonment herein is subject to the requirements of subsection (b) of Section 7 of the Natural Gas Act, and is permitted by the public convenience and necessity and shall be approved as hereinafter ordered.

It is ordered:

(A) The application for partial abandonment in Docket No. G-11742-001 is granted, and the related rate filing is accepted for filing as designated in the tabulation hereto.

(B) Applicant and lessors are advised that:

- (1) the amount of gas to be released for irrigation purposes shall be used only on the royalty owner's land and shall not exceed the amount of gas attributable to the particular owner's royalty interest and;
- (2) the costs incurred in supplying gas to the royalty owner shall be negotiated between the royalty owner and the producer and shall not be passed on to the interstate pipeline purchaser.

RECEIVED

JUN 22 1981

R. D. LAWRENCE
U.S. GAS OGC

FEDERAL ENERGY REGULATORY COMMISSION

WASHINGTON 20426

JUN 1 1982

Honorable Robert Dole
United States Senator
Washington, D.C. 20510

Dear Senator Dole:

Thank you for your inquiry of May 17, 1982 which attached a letter dated May 5, 1982 from Jack and Maxine Campbell concerning the sale of irrigation gas to a non-royalty interest owner.

According to the letter you forwarded, the Campbells wish to sell irrigated farmland. Mobil is currently supplying them with irrigation gas. However, the Campbells state that Mobil told them that no irrigation gas sales could be made to a new owner who is not a royalty interest owner. Consequently, they have been unable to sell their property.

The release by a producer of natural gas which is already dedicated to interstate commerce constitutes an abandonment of service under Section 7(b) of the Natural Gas Act. Such action requires the prior approval of the Federal Energy Regulatory Commission (Commission). In the past, the Commission limited its approval to those situations where the user of the irrigation gas was a royalty interest owner, the gas was to be used on the royalty interest owner's land, and the amount of gas to be released did not exceed the owner's royalty interest.

The Commission has recently changed its policy regarding sales of gas for irrigation purposes. In Mapco Production Company, Docket No. G-6086-000, issued March 4, 1982, the Commission determined that gas for irrigation purposes could be sold to a farmer who was not a royalty interest owner. In that order, the Commission noted that a small volume of gas would be released, the release would have a de minimis impact on the gas supply of the pipeline to which the gas was otherwise dedicated, and the released gas would

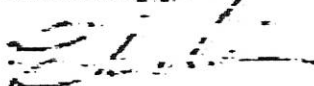
be used for essential agricultural purposes to fuel irrigation pumps. The Commission granted abandonment with the condition that the farmer would be subject to the same curtailment priority level applicable to the pipeline's other essential agricultural users.

As a result of the Mapco order, a buyer of gas for irrigation purposes does not have to be a royalty interest owner. However, a potential purchaser must still negotiate a sales contract with the seller of the gas. If such a contract is negotiated, the seller must file an abandonment application with the Commission. A copy of the Mapco order is enclosed.

In the case of the Campbells, the Mapco holding permits a buyer of the Campbell property to attempt to negotiate a contract with Mobil for the sale of gas for irrigation purposes. If a contract is negotiated, Mobil may seek abandonment authorization from the Commission for release of gas for irrigation purposes to non-royalty interest owners under the criteria set forth in Mapco.

I hope that this information is helpful to you. If I can be of further assistance on this or any other FERC matter, please let me know.

Sincerely,


Charles A. McManus
Director, Office of
Congressional and Public Affairs

Enclosures (2)