

Approved _____

Date

Fred Kerr 2/1/84 184

MINUTES OF THE SENATE COMMITTEE ON AGRICULTURE AND SMALL BUSINESS

The meeting was called to order by Senator Fred Kerr at _____
Chairperson

10:00 a.m. ~~xxx~~ on Tuesday, January 31, 1984, 19 in room 423-S of the Capitol.

All members were present ~~except~~

Committee staff present: Raney Gilliland, Research Department

Conferees appearing before the committee:

Bob Read, Pres. & Mgr., Cherryvale Grain Co., Cherryvale
Delbert Bosley, Western Region Merchandising Mgr., Cargill, Inc., Wichita
Nancy Kantola, Exec. Vice Pres., Kansas Cooperative Council
Anthony Bergkamp, Gen. Mgr., Farmers Coop Elevator, Garden Plain
R. E. Bert, Bert & Wetta Sales, Inc., Maize
Tom Tunnell, Exec. Vice Pres., Kansas Grain & Feed Dealers Asn., Hutchinson
John Blythe, Kansas Farm Bureau, Manhattan

Senator Neil Arasmith moved the January 30, 1984 minutes be approved, seconded by Senator Joe Norvell. Motion carried.

Senator Kerr stated the committee would be hearing from the industry relative to the air quality permit fees assessed by the Kansas Health and Environment Department on grain elevators.

Tom Tunnell stated we would hear from a small country elevator operator and a large terminal representative.

Bob Read presented his testimony as contained in Attachment 1. They comply with insurance requirements and the federal regulations, and he feels there is a difference between the rural and metropolitan areas. If air quality is for the benefit of the general public, they should help defray the cost.

Answering Senator Allen's inquiry, Mr. Read stated the Health and Environment Department checked their elevator some three months ago by visual observation. The elevator is located just across the street from a Senior Citizen's Complex and they have never complained about his operation. Answering Senator Arasmith's inquiry, he stated the inspection took some two hours. Mr. Read stated they are very interested in keeping the air and their elevator clean for their employees, and do so. Senator Kerr inquired if he would favor reducing the fees. Mr. Read feels the general public should pay the fees. He feels agriculture is assessed too many fees and some alternative should be considered.

Delbert Bosley presented his testimony as contained in Attachment 2. In answer to Senator Gannon's question, he stated their operation has not been cited as having a problem. He feels the federal government's regulations are strict enough. They have spent some \$2½ million meeting mandated requirements. There may be some isolated times when there is an undue amount of emissions but they would probably be due to malfunctions of equipment and are soon remedied. Answering Senator Norvell's inquiry, he stated he feels Kansas regulations are an excessive burden on their industry.

(MORE)

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON AGRICULTURE AND SMALL BUSINESS,
room 423-S, Statehouse, at 10:00 a.m./~~pm~~ on Tuesday, January 31, 1984, 19 .

Nancy Kantola stated the Cooperatives are opposed to the proposed user fees and they add insult to injury since they have received no complaints, particularly in the rural areas. She read and quoted from Attachment 3. They had inquired of a number of states if they knew of any changes taking place in the near future and their answer was "No". She feels the inspections are inexact. She had a coop representative in Washington make inquiry of Iowa, Oklahoma, Idaho, Nebraska and Texas as to the state's regulations, and their remarks are contained on page 3 of Attachment 3.

Attachment 4 incorporates Mr. Bergkamp's remarks. He stated they have a high volume but have received no complaints. He is opposed to user fees. They try to have facilities to help with the dirt, etc. He feels in the inspections there is much human element and it isn't realistic. He feels there should be no fee. He pointed out they comply with the insurance codes and the insurance company inspects twice a year and give them a report; any suggestions are complied with within a few weeks.

Mr. Bert stated he has been in the alfalfa industry for 50 years. They have spent lots of money complying with EPA requirements. There is nothing toxic in plain alfalfa dust. He stated Iowa, Colorado and Nebraska have no fees and he feels agriculture should be exempt. Answering an inquiry, he stated there is no scientific way to accurately measure emissions.

Commenting on Senator Thiessen's statement if it would be helpful if state requirements were rolled back to coincide with federal standards, Mr. Bert felt that would be simple and helpful.

Mr. Tunnell distributed Attachment 5, stating his industry is opposed to the fee schedule. Mr. Tunnell feels the insurance companies have highly qualified engineers who inspect once or twice a year. He stated they have complied with many costly legislative laws within the past few years, and they are opposed to this added fee.

Mr. Blythe pointed out the Farm Bureau is opposed to the state's requirements being ten times greater than the federal, and that the health hazard of elevators was greatly exaggerated yesterday. He feels the fees should be set aside, as others have been in years past.

The meeting was adjourned.

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SENATE

AGRICULTURE AND SMALL BUSINESS COMMITTEE

10:00 a.m., Room 423-S

Tuesday, Jan. 31, 1984

Date

NAME	ADDRESS	ORGANIZATION
Ona Mae Hunt	Rto 3 Harrott Ks.	And Co. Commission
Charles P. Lambert	Holtan	Jackson Farmers Inc (Coop)
Walter W. H.	Kiowa Ks. Rep	Sen. Kassebaum office
Bill Dumas	Berthelville OH	Phillips Petroleum Co
ROSS MARTIN	TOPEKA	Ks Petroleum Cl
Joe Hodges	TULSA, OK	CITIES SERVICE OIL & GAS
Wayne Howarter	Helda Ks.	Anderson co
GLENN POE	OVERLAND PARK, KS.	AMERICAN DEHYDRATED
RE. BERT	MAIZE, KS	BERT + WETTA SALES INC.
Donald Kram	Laurens Ks.	Co. Comm
Joseph Riley	Righton, Ks	KAWC
Larry Lutz	Topeka	Ls Co-op Council
Edward P. Archer	Phillips Co.	Commission
Glenn Pritchard	Topeka	Kansas Co-op Council
Joseph J. Bergkamp	Darwin Plam.	Texas Co-op Elev Co
Glenn L. Hester	Commissioner	Wabamaw City
Harold Davies	Commissioner	Coffey Co
Orval True	Commissioner	Coffey Co
Clyde Nelson	"	Mitchell Co.
Vernie Frankhouse	"	Chase Co
Walter B. Burge	"	C. Coffey
Tom Tummell	KS GRAIN & FEED ASSN.	HUTCHINSON, KS
Bob Redd	Crane Cream Co	Charney, Ks
Lawrence Purdell	Mitchell Co. Comm.	Crane City, Kan
John Blythe	Marshallan, Ks	Ks. Farm Bureau
Gloria Nelson	Wailan Ks.	Nelson Farms Inc

Mr. Chairman, committee members, I appreciate the opportunity to comment on the fee being levied by the Department of Health and Environment on our industry.

I am Bob Read, President and Manager of the Cherryvale Grain Company of Cherryvale, Kansas. The company has been in existence since 1900 and I have been associated with it since September, 1946. Like most country elevators, we are located in a small town.

Our licensed capacity is 270,000 bushel with a permit fee of \$120.00. In our business, we will average about 1½% to 2% net on the dollar sales. This means that we have to increase our gross sales by approximately \$8,000.00 just to cover this added cost of doing business.

Each year, we are visited at least one time by our insurance representative. He checks each elevator from the basement to the head house, inspecting and looking for ways to reduce the exposure for fire and explosions.

I feel that somewhere along the line, people fail to recognize the difference between the rural and the metropolitan areas. On a windy day, we have more dust blowing off of alleys, railroad tracks, and streets than is emitted from our elevator in a three-month period.

If air quality is for the benefit of the general public, they should help defray the cost and not put the burden on just a few.

Atch. 1

MEMBERS OF KANSAS LEGISLATURE:

GENTLEMEN:

I THANK YOU FOR THE OPPORTUNITY TO APPEAR BEFORE YOU TODAY, AND ALLOWING ME TO EXPRESS MY VIEWS ON THE NEWLY ENACTED REGULATIONS REQUIRING THE COLLECTION OF FEES FROM THE GRAIN AND FLOUR MILLING INDUSTRIES IN THE STATE OF KANSAS, FOR THE PURPOSE OF FUNDING THE INSPECTION WORK OF THE STATE BUREAU OF AIR QUALITY.

MY NAME IS DELBERT H. BOSLEY, AND I AM THE WESTERN REGION MERCHANDISING MANAGER FOR CARGILL, INC. FLOUR MILLING DIVISION, LOCATED IN WICHITA, KANSAS. CARGILL'S WESTERN FLOUR MILLING REGION OPERATES FIVE FLOUR MILLS AND EIGHT TERMINAL AND FLOUR MILL ELEVATORS WITHIN THE STATE OF KANSAS. CARGILL ALSO OPERATES IN KANSAS AS A PART OF OTHER DIVISIONS A SOYBEAN PROCESSING PLANT, TWO FEED PROCESSING PLANTS, THREE COUNTRY TERMINAL ELEVATORS, AND THREE TERMINAL ELEVATORS. WE ARE MEMBERS OF THE KANSAS GRAIN AND FEED DEALERS ASSOCIATION, AND SHARE THE CONCERNS WITH OTHER MEMBERS IN REGARD TO THIS ADDED COST BROUGHT ON BY THE TRANSFER OF FUNDING OF AIR QUALITY INSPECTIONS FROM THE STATE GENERAL FUND TO THE GRAIN AND FLOUR MILLING INDUSTRY.

THE ADDITIONAL FEES FOR THE FLOUR MILLING DIVISION OF CARGILL ALONE IS IN EXCESS OF \$2,100.00 AND WOULD BE DOUBLE THIS AMOUNT FOR THE ENTIRE CARGILL OPERATIONS. WITH THE EXPENDITURES WE HAVE ALREADY MADE TO BRING OUR FACILITIES INTO COMPLIANCE WITH FEDERAL AND STATE REGULATIONS, THIS ADDED COST SURELY DOESN'T SEEM WARRANTED. WE ARE QUICK TO UNDERSTAND THE BUDGET PROBLEMS OF THE STATE OF KANSAS BUT TRANSFERRING THE RESPONSIBILITY TO AN INDUSTRY ALREADY BURDENED WITH HIGH

Atch. 2

OPERATING COSTS, AND ONLY MARGINAL PROFITABILITY SEEMS QUESTIONABLE.

IN THE PAST FIVE YEARS WE HAVE SPENT IN EXCESS OF TWO AND A HALF MILLION DOLLARS IN OUR ROSS ELEVATORS AND MILLS LOCATED AT NEWTON, WICHITA AND WELLINGTON, KANSAS. SIMILAR AMOUNTS HAVE BEEN SPENT IN TOPEKA. THESE EXPENSES ARE SLOW TO RECOVER FROM THE PROFITS OF OUR BUSINESS, BUT THEY ARE NONE THE LESS A REQUIREMENT TO MEET THE EXISTING REGULATIONS TO CONTINUE TO OPERATE.

WE HAVE REASONABLE DOUBTS WHETHER THE WORK OF THE BUREAU OF AIR QUALITY IS STILL NEEDED, OR REALLY A DUPLICATION OF THE OCCUPATIONAL SAFETY & HEALTH ADMINISTRATION'S AREAS OF RESPONSIBILITIES; AND ALSO SIMILAR REQUIREMENTS OF OUR OWN PRIVATE INSURANCE CARRIERS. THE COST OF GOVERNMENT IS EXCEEDINGLY HIGH, WITHOUT DUPLICATING THE CONTROLS ON ONE OF KANSAS' BEST KNOWN INDUSTRIES.

IF WE FIND THIS BUREAU IS NEEDED, THEN THE COST SHOULD BE PLACED WITH THOSE THAT BENEFIT FROM IT THE MOST - THE PEOPLE OF KANSAS.

THE FUNDING SHOULD AGAIN COME FROM THE STATES GENERAL FUND.

SINCERELY,

DELBERT H. BOSLEY

Testimony Presented to
Senate and House Ag Committees
January 31, 1984
Nancy E. Kantola, Executive Vice President
Kansas Cooperative Council

You are aware by now, that the co-ops I represent are opposed to the Bureau of Air Quality's recently imposed "user fees" for inspecting grain elevators, seed cleaning facilities, feed mills, pellet plants and other agricultural produce handling facilities where the so-called "pollutants" are natural rather than man made or manufactured chemicals.

I would like to add that the Co-op Council has refineries, generating plants and anhydrous manufacturing facilities as members, too, and we are not requesting changes in their fees.

Our industry did indeed offer a solution at the November public hearing. We stated, "Clean air is for the benefit of everyone therefore everyone, not the individual industries should bear the expense of overseeing compliance."

Our cooperatives have complied with the requirements to the tune of several million dollars.

Let me cite you some examples of the cost of the "less sophisticated" equipment to keep rural air clean.

Atch. 3

	<u>fee</u>	<u>equipment expense</u>
etchison County Farmers Union Co-op Assn. etchison, Kansas	\$640	\$186,000
arden City Co-op, Inc. arden City, Kansas	\$1,320	\$155,674
odge City Cooperative Exchange odge City, Kansas	\$720	\$110,000
idway Co-op Assn. sborne, Kansas	\$1,180	\$34,280
armers Cooperative Assn. anhattan, Kansas	\$400	"entirely self-contained dust control-none emitted
armers Cooperative Assn. awrence, Kansas	\$420	\$40,000
armers Union Cooperative Assn. lay Center, Kansas	\$500	\$55,000
lkhart Cooperative Equity Exchange lkhart, Kansas	\$320	\$130,000
anarado Cooperative Assn. anarado, Kansas	\$140	\$60,000
armers Union Cooperative Bus. Assn. t. Marys, Kansas	\$460	\$75,083
armway Co-op, Inc. eloit, Kansas	\$1,360	\$102,000
redonia Cooperative Assn. redonia, Kansas	\$140	\$5,414
reat Bend Cooperative Assn. reat Bend, Kansas	\$420	\$109,114
ne Farmers Grain Cooperative alton, Kansas	\$700	\$25,000
	-----	-----
TOTALS	\$8,720	\$1,087,565

May I suggest the reason people have a record of longevity in Kansas - thus the old people in rural communities - supports the idea that "natural" pollutants pose less health hazard.

However, we do indeed want clean air. And we are bearing the costs of equipment to control dust for safety and insurance compliance as well as for the benefit of our rural residents.

But let's compare the requirements enacted in Kansas with some other states.

Iowa allows 40% opacity or .01 grain dust per cubic foot, and no compliance required away from urban areas.

Oklahoma, on 6 tons per hour processing capacity 13.6 lbs. is allowed, on 1 ton per hour, 4.10 lbs. allowed. There is a 2 fee structure for permit and operating with a total of not over \$235.00.

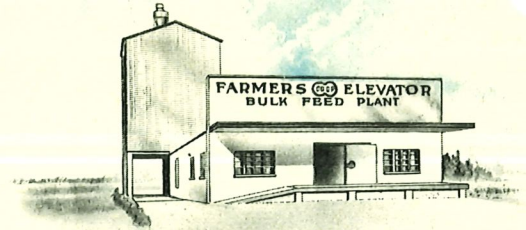
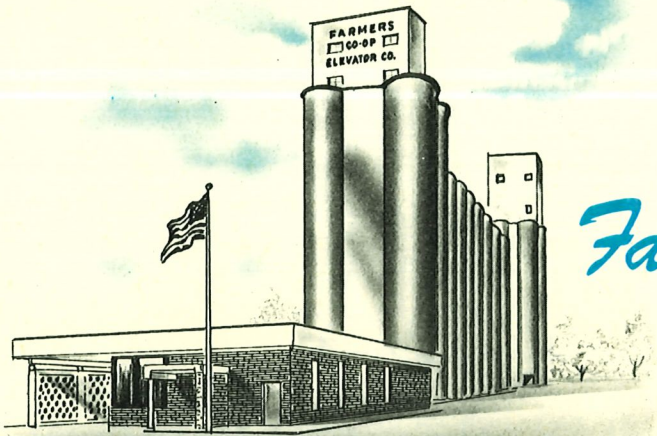
Idaho - 20% opacity level, no user fee but a strict fine for noncompliance.

Nebraska - fugitive concept (emission must not be seen beyond the premises) but is basically not enforced unless they receive a complaint.

Texas does not enforce their regulations, but new facilities come under the new performance controls. They exempt anything less than 25 tons, have no user fee, and a permit fee minimum of \$300, maximum \$7,500.

I don't quote the other states to suggest we do likewise, but to point out the flexibility the states have under Federal Guidelines.

The co-ops urge removal of the user fee so the public will have more input into the amount of protection for which they choose to pay.



Farmers Coop Elevator Co.

GARDEN PLAIN, KANSAS 67050

ELEVATOR PHONE 535-2221 • FEED PLANT PHONE 535-2291

October 27, 1983

Mr. Randy Tosh, Executive Assistant
 Kansas Cooperative Council
 700 Kansas Avenue
 Topeka, Kansas 66603

Dear Randy:

We want to express our fears and concerns regarding the permit fee proposal of the Kansas Department of Health and Environment.

1. The user fees to our cooperative could conceivably be \$740.00 plus.
2. We now have the finest clean air equipment possible, within reasonable economic costs, to control pollution at our facilities, and intend to maintain it accordingly.
3. Although the proposed user fee does not appear to be an extreme financial burden at this time, we certainly do not need any further operating costs. History demonstrates that once implemented, such licensing grows price-wise and coverage-wise. They start determining that other types of installations should carry a separate type license. Clean air is for the benefit of the general public. It should be as much their concern as the company. It seems extremely harsh to force responsible companies to pay when irresponsible companies are the problem. A responsible operation in Garden Plain, Kansas, should not be the only entity helping to pay policing costs for an irresponsible company in Wichita. All taxpayers should share the burden - if such a proposal is necessary.
4. History also shows that there is a very human element in the inspectors determination of what should be licensed, of needed repairs to bring equipment into compliance and type of equipment approved. Inconsistency in the treatment of similar or even identical facilities by the inspector is a paramount problem.


Mr. Randy Tosh
October 27, 1983
Page Two

5. The added fee to now unrealistic construction costs would be very burdensome to any agri-related company desiring to expand facilities to better serve the needs of our farmer. Additionally, the approved types of clean air equipment is removed from competition, and prices tend to escalate when tied to mandatory government regulations. The burdensome cost of such fee could be only the tip of the iceberg when the contractor starts adding the costs of additional equipment allegedly required, many times superfluous.

People have developed a justifiable distrust of regulatory agencies. Justifiable in that the treatment between entities is very inconsistent, once implemented, the fees escalate and further it does nothing more than force responsible companies to provide funds for a governmental agency to police irresponsible operators.

Yours truly,

FARMERS COOPERATIVE ELEVATOR COMPANY


Anthony Bergkamp, General Manager

AB:hs



KANSAS GRAIN & FEED DEALERS

Association

1722 NORTH PLUM / A/C 316 662-7911 / HUTCHINSON, KANSAS 67501

STATEMENT

BY THE

KANSAS GRAIN AND FEED DEALERS ASSOCIATION

PRESENTED TO THE

SENATE AGRICULTURE AND SMALL BUSINESS COMMITTEE

TOPEKA

MONDAY, JANUARY 30, 1984

CONCERNING THE PROPOSED ADOPTION

OF NEW AND AMENDED REGULATIONS

STATEMENT OF

TOM R. TUNNELL

EXECUTIVE VICE PRESIDENT

KANSAS GRAIN AND FEED DEALERS ASSOCIATION

1722 NORTH PLUM STREET

P. O. BOX 949

HUTCHINSON, KANSAS 67504-0949



Atch. 5

STATEMENT OF
KANSAS GRAIN AND FEED DEALERS ASSOCIATION
BY TOM R. TUNNELL BEFORE THE
SENATE AGRICULTURAL AND SMALL BUSINESS COMMITTEE
JANUARY 30, 1984

In support of testimony presented here today by members of the grain industry, and on behalf of the over 1,000 grain and feed locations in Kansas, I appreciate this opportunity to speak in opposition of the Bureau of Air Quality's permit fee and fee collection system.

To the grain and feed industry, these fees are excessive, unjustified and considering they total over \$130,000, very costly.

To familiarize everyone with the grain and feed industries' situation, I would like to briefly point out that from the very start, the industry has complied with the provisions of the Clean Air Act and, I might add, the cost of compliance has been enormous - averaging in most cases between 50 and 100 thousand dollars per location.

The industry is also already policed very heavily by the Federal Occupational Safety and Health Administration (OSHA). For reasons of safety as well as health, OSHA monitors closely an elevator's emissions and emissions controls. As a matter of fact, in the January 6 Federal Register, OSHA proposed some very stringent rules for elevator safety. Particularly concerning grain dust; specifically, placing a maximum level on how much dust could be on the floor.

OSHA did however offer alternatives. Firms could either sweep the floor clean after every shift or install a pneumatic dust cleaning system. (By the way, adding a system will cost a lot of money, and when industry is required by Federal regulations to make costly capital improvements, it doesn't set well to have another branch of government establish a permit fee system that axes those improvements. The Bureau of Air Quality's proposal K.A.R. 28-19-14a will tax those improvements.

(Continued)

Now if it isn't enough that OSHA keeps such a watchful eye on us, consider that our own insurance underwriters are also sticklers about emission controls. Insurance companies staff engineers to help our industry design and update grain handling facilities, and the industry listens . . . we try to keep our insurance premiums down, and our accident experiences to a minimum.

We see the fees as excessive because we already have backup after backup of costly inspection, policing and monitoring systems.

When employees wanted occupational safety and health, industry accepted paying for it. When insurance companies place stipulations on eligibility for coverage, industry accepts paying for it. But when the public requires a state agency to go around and also check emissions, should industry also bear that expense? We believe these fees are just not justifiable.

Members of the grain and feed industry have asked for relief and I am confident this committee can develop a workable solution that will relieve our industry from what it sees as an excessive, unjustifiable, and unnecessary financial burden.

Thank you and I will be happy to answer questions.

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