

Approved

3/27/84

Fred Kerr
Date

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./~~p.m.~~ on Friday, March 23, 1984, 19____ in room 423-S of the Capitol.

All members were present except: Senator Richard Gannon (E)

Committee staff present: Raney Gilliland, Research Department
Jim Wilson, Revisor's office

Conferees appearing before the committee:

Dr. G. D. Gurss, Animal Health Department
Mike Beam, Kansas Livestock Association

Senator Norvell moved the March 21, 1984 minutes be approved, seconded by Senator Warren. Motion carried.

HOUSE BILL 3056 - Senator Kerr called on Dr. Gurss who stated this bill covers the brand division giving the two theft investigators the right to carry arms--one is located in eastern Kansas and the other in western Kansas. They work with sheriffs and law enforcement agents in cattle thefts. It does limit it strictly to the cattle theft area and gives them the authority to make arrests. Answering Senator Karr's inquiry as to the training needed, Dr. Gurss stated they would need one week gun control training in Hutchinson. As to Senator Norvell's statement that they would have to go through the normal procedures issued by the judge, Dr. Gurss stated that is correct.

Raney Gilliland inquired if the state brand inspectors now make arrests as permitted under KSA 47-1013, Dr. Gurss stated they do not exercise that option since they have not been trained.

Answering Senator Arasmith's inquiry as to the background of the two theft investigators, Dr. Gurss stated they incorporate law enforcement on county level, KBI and highway patrol experience. As to Senator Karr's inquiry if it would be possible to hire someone who has no law enforcement training, Dr. Gurss stated he would not hire them. Dr. Gurss, in answering Senator Arasmith's inquiry, stated he did not know how many incidents of theft were investigated last year. Dr. Gurss stated if there is a violation of the branding law, they try to correct it. The most frequent violation is the use of branding irons not registered --they have 27,000 brands registered.

Mike Beam distributed Attachment 1, stating they support the bill. In answer to Senator Karr's inquiry if they should be put under the Kansas Highway Patrol administration, Mr. Beam said that could be possible in working theft cases only.

HOUSE BILL 2299 - Senator Karr called attention to Attachment 2 which was requested and had been distributed to committee members setting out additional information furnished by Professor Keith Behnke, KSU, relative to their electronic moisture meter survey. Senator Kerr stated since there has been no agreement between interested groups relative to the moisture meter problem, he asked the committee to voice their opinions on the bill. Senator Montgomery was disturbed since those groups interested in agriculture problems do not seem to come to an agreement and this is detrimental to agriculture. He feels they should get together.

Senator Karr questioned if the committee had the technical knowledge to work such a bill. Senator Kerr questioned if the bill could accomplish what was needed since dishonest operators could still tamper with the testing. Senator Doyen suggested the bill require elevators to have three testers--making three tests and taking the average.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON AGRICULTURE AND SMALL BUSINESS,
room 423-S, Statehouse, at 10:00 a.m./~~p.m.~~ on Friday, March 23, 1984, 19 .

Senator Arasmith stated he does not see that Professor Behnke's report clarifies the survey test. Senator Reilly questioned the cost of grain testers; Senator Doyen stated some are very expensive and others can be purchased for \$50.

Senator Warren questioned how much it would cost to have the meters tested and statement was made the fiscal note could be \$60,000 to \$61,000. Representative Fuller felt most meters were checked. but it is desired to get to the irresponsible operators.

Senator Reilly moved that a concept be amended into the bill requiring three meters to be used in testing the moisture, seconded by Senator Doyen. Senator Karr felt such a requirement would cause more conflict at the point of sale and would be difficult to administer; it may be workable in large areas but not in smaller elevators. The motion lost.

Senator Karr moved that a letter be prepared and sent to groups involved with moisture testing, including the Kansas Coop Council, Kansas Feed and Grain Dealers and Kansas Livestock Association, expressing the concern of the Agriculture and Small Business Committee as to the accuracy of the moisture testing meters and what steps the industry is taking to keep them accurate; and that a request for this being a topic for interim study be submitted by the committee, seconded by Senator Arasmith. Motion carried.

The meeting was adjourned.

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SENATE

AGRICULTURE AND SMALL BUSINESS COMMITTEE

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

Friday, March 23, 1984
Date

NAME	ADDRESS	ORGANIZATION
Kenneth M. Wilke	Topeka	Board of Agriculture
Richard Harper	H. Smith	Legislature
Bill Fuller	Miltonvale	Legis
B. Crenshaw	Topeka	Council of Farm Orgs
Doc Libos	"	KLA
Mike Bean	Topeka	KLA
J.D. Gunn	Topeka	Animal Health



ATTACHMENT 1, 3/23/84

2044 Fillmore • Topeka, Kansas 66604 • Telephone: 913/232-9358
Owns and Publishes The Kansas STOCKMAN magazine and KLA News & Market Report newsletter.

Statement
of the
Kansas Livestock Association
in support of
HB 3056
which gives special investigators of the Animal Health Department
law enforcement powers
before the
Senate Agriculture & Small Business Committee
Senator Fred Kerr, Chairman
presented by
Mike Beam
Executive Secretary
Cow-Calf/Stocker Division
March 22, 1984

Mr. Chairman and members of the committee, my name is Mike Beam and I represent the Kansas Livestock Association. KLA has had a longstanding policy in support of this concept.

This legislation will give the special investigators of the Brand Division within the Kansas Animal Health Department the authority to make arrests, carry firearms and conduct searches and seizures in the livestock theft field. I must note that these special investigators will not be allowed to carry firearms without first completing an adequate training course as outlined in the bill.

First, allow me to clarify the often misused terms "brand inspectors" and "special investigators". There are 11 full-time "brand inspectors" in Kansas who work at 17 auction markets and in 4 brand inspected counties to inspect branded cattle and verify the ownership of such cattle. Owners of cattle that are viewed by a brand inspector are charged 25¢ per head to cover these inspection costs.

The "special investigators" are employed by the Kansas Animal Health Department to investigate livestock theft cases. Currently there are two investigators in Kansas. The two Kansas special investigators have a large amount of experience and expertise in working with livestock theft cases in Kansas and surrounding states.

Attch. 1

Many times the Animal Health Department or one of the special investigators receive a call of a loss from the victim. This may happen even before the local sheriff is contacted. The two special investigators also receive calls from the local sheriff's office to conduct investigation of a possible livestock theft. The sheriff's office may be too busy to handle a theft report and in most cases these law enforcement officials do not have a livestock background and feel uncomfortable or incapable of adequately investigating a theft. In other words, they rely on the livestock theft investigative experts (special investigators) for assistance.

At times, when the special investigators work a theft case, they work alone. Some of the procedures would be to process the crime scene and gather whatever evidence may pertain to the crime. They often interview the victim to gather whatever facts may be relative to the loss. They also interview possible witnesses and neighbors and follow up on leads that may arise from their investigative work. At times this involves checking records at livestock markets and interviewing possible suspects. These special investigators at times have been present when local authorities have made the arrests and issued search warrants. They give sworn testimony that may be needed to obtain arrest or search warrants and often testify in court when necessary to try to obtain a conviction.

The important point is that these two special investigators work criminal investigations and deal with the criminal element and yet, should the need ever arise, they do not have the right to protect themselves or arrest a livestock thief. Other states' theft investigators or officers have this authority. (See attachment.)

By giving the special investigators the authority to make arrests, carry firearms and conduct searches and seizures, we are merely following what other states have done in the livestock theft investigative area. I would like to remind the committee that during the 1982 Kansas legislative session a bill was passed that would give state fire marshal employees assigned to investigative duties similar powers. Livestock theft investigators are no different in their importance and necessity in addressing this rural and agricultural crime. We urge your support of HB 3056.

OTHER STATES' LIVESTOCK THEFT INVESTIGATIVE PROGRAMS:

NEBRASKA

- Employ six "deputy state sheriffs" who enforce the state brand laws
- Have the same power of arrest as Highway Patrol
- Also supervise the brand inspectors in five districts

OKLAHOMA

- Oklahoma Cattlemen's Association employs one investigator
- Investigator is commissioned by the Oklahoma Crime Bureau and has the power of arrest, carrying firearms, etc.
- Three Texas field investigators live and operate in Oklahoma

COLORADO

- No system for investigators
- Employ "brand inspectors" who have same arrest authority as private citizens
- Brand inspectors do have the authority to "tie up" livestock, hold sale proceeds and stop vehicles on public highways.

TEXAS

- The Texas & Southwest Cattle Raisers Assn. (TSCRA) employs 32 "field investigators". (Three operate in Oklahoma.)
- Commissioned by the Texas Department of Public Safety
- Function as all peace officers except they are not to be involved in traffic related offenses.

SOUTH DAKOTA

- One "chief brand inspector" and one investigator are employed by the South Dakota Stockgrowers Assn.
- Another investigator works for the State Brand Board.
- All three have police powers in livestock theft related circumstances.

NORTH DAKOTA

- North Dakota Stockmen's Assn. employs two investigators and one chief inspector
- Have power to stop vehicles but none for making arrests and carrying firearms

NEW MEXICO

- The New Mexico Livestock Board employs 54 "livestock inspectors"
- All livestock inspectors are allowed to carry guns and make arrests in livestock theft related cases. (Become certified law enforcement officers after certified training.)

KANSAS ANIMAL HEALTH DEPARTMENT
LIVESTOCK BRAND DIVISION

STRAY AND STOLEN ANIMAL REPORT

<u>YEARLY SUMMARY TOTALS</u>	<u>1983</u>	<u>1982</u>	<u>1981</u>	<u>1980</u>	<u>1979</u>	<u>1978</u>	<u>1977</u>
Total number of head reported missing ---	2057	1842	1299	2344	1809	1617	1205
Total number of head returned to owner or recovered -----	724 (35%)	646 (35%)	366 (28%)	594 (25%)	405 (22%)	361 (22%)	278 (23%)
Total number of cases handled -----	417	400	323	404	330	395	314

Branding

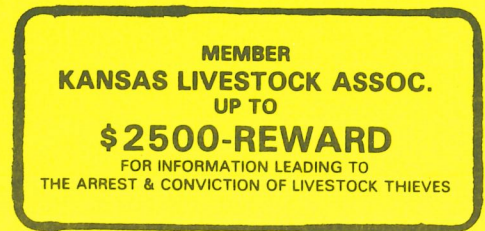
The Kansas Livestock Association encourages and promotes the use of livestock branding as sound management practice. Branding is necessary to trace, locate and prosecute livestock theft cases. It also aids in return of lost or strayed livestock. All county sheriffs' officers have a copy of the current Kansas Brand Book for assistance in returning lost or strayed livestock.

Facts You Should Know About Brand Laws

- Any person who knowingly brands another person's cattle with his brand or alters a brand on livestock is guilty of a felony punishable by imprisonment.
- A county may designate a "brand inspection area" whenever a petition is submitted to the Board of County Commissioners and signed by not less than 51% of the registered owners of cattle in that county.
- A brand inspector will be provided by the Animal Health Department at any livestock market at the request of the market. A fee of 20¢ per head is charged to the owner or seller of the cattle inspected.
- By law a brand must be registered with the Kansas Animal Health Department and brands can only be used by the recorded owner.

How Do I Register A Brand?

Forward a drawing of your proposed brand and \$30.00 to the Animal Health Department, Livestock Brand Division, 535 Kansas Avenue, Topeka, Kansas 66603. A certificate of brand title will be issued for a five-year period. If the brand title is not renewed after a six month grace period it will be placed in a delinquent status and be illegal for use.



KLA Theft Reward

The Kansas Livestock Association has established an up to \$2,500 reward program for individuals who provide information leading to the arrest and conviction of livestock thieves. The exact amount of the reward is determined by the KLA Board of Directors and is paid only in instances where the stolen livestock belong to KLA members. In addition, the theft victim must have a KLA theft reward sign posted at the farm or ranch headquarters. These signs can be obtained from the KLA office at a cost of \$1.00 each.

In Addition To Branding, How Else Can I Help Prevent Livestock Theft?

- Check pastures, pens and head count frequently so a loss is detected early.
- Be observant of strange vehicles in the area.
- Ask neighbors to be observant of strange occurrences before leaving on trips.
- Make it more inconvenient for thieves by locking pasture gates and pens and preferably disassembling loading facilities.

What If I Am Hit By Rustlers?

If you suspect a possible theft loss, immediately notify:

- local county sheriff
- Animal Health Department
- Kansas Bureau of Investigation
- Kansas Livestock Association

For further information contact:

Kansas Livestock Association

2044 Fillmore
Topeka, Kansas 66604
(913)232-9358

Animal Health Department

Livestock Brand Division
535 Kansas Avenue
Topeka, Kansas 66603
(913)296-2326

G.D. Gurs, D.V.M.....Livestock Commissioner

SPECIAL INVESTIGATORS

Allen Richards, Oberlin.....Phone (913)475-2058
Rudy Deines, OzawkiePhone (913)876-2331

OFFICE STAFF

Lois Patton, RecorderTopeka
Rosalita Marshall, Marjorie Hewitt.....Topeka



Cattle Rustling ...

It Could Happen To You!





**Department of Grain Science
and Industry**

Shellenberger Hall
Manhattan, Kansas 66506
913-532-6161

March 16, 1984

Senator Fred Kerr
State Capitol Bldg
Room 143,-N
Topeka, KS 66612

Dear Senator Kerr:

The attached report on our electronic moisture meter survey is being submitted to you at the request of Mr. John Blythe from the Kansas Farm Bureau. I understand that there is some misinformation concerning this survey that is a result of an error on my part in communicating the 1983 results to interested parties. It is my hope that this report will clarify the results.

Please feel free to reproduce the report for distribution as you see fit. If you have questions concerning the results please feel free to contact me.

By copy of this letter, I am transmitting copies of the report to interested parties who have contacted me concerning the work. I hope this clarifies the results of our studies. Again if there are questions please contact me.

Sincerely,

A handwritten signature in cursive script that reads 'Keith C. Behnke'.

Keith Behnke
Associate Professor

KB:jt

Enclosures

Atch. 2

Electronic Moisture Meter Survey
in Kansas, 1982-1983

Extensive electronic moisture meter survey studies in other states have indicated a rather significant discrepancy between meter results and results of oven moisture analysis. Because of this, a rather extensive survey was undertaken during the 1982 Kansas wheat crop and repeated in 1983.

Elevator selection was based on capacity (>100,000 bu) and location within a crop reporting district. During 1982, fifty elevators were selected to represent the approximate proportion of the crop grown in various parts of the state. Of the fifty elevators surveyed in 1982, 43 were revisited in 1983.

At each elevator 10 samples were collected (1 ea from 10 consecutive truck loads) and tested in the elevators moisture meter. After the moisture was determined, the sample was placed in an air and moisture tight container, frozen and transported to the K.S.U. Dept. of Grain Science for oven moisture analysis. The oven procedure used was the A.S.A.E. method for whole grains. Sampling storage and analysis procedures were identical for both years.

For purposes of this study, it was assumed that the oven method was accurate and that any deviation was due to moisture meter error. Because of this, the data reported with a negative sign (-) indicates the meter was reading lower than actual moisture and those data with a positive (+) sign indicates that the meter was reading higher than actual moisture.

The data was recorded by meter make, elevator and sample within elevator site. Data from each elevator (10 samples) were averaged to give a single result for that elevator. Data were also grouped by meter make to give an analysis based upon that parameter.

Results:

Because this report is intended to summarize two years of data the raw data and statistical analysis is not included.

Table 1 is a summary of both the 1982 and 1983 survey results. In 1982 the average moisture meter difference was -0.7% indicating that, on the average, the meters were reading below the actual moisture (in favor of the producer). In 1983, the results indicate that the difference was $+0.17\%$ (in favor of the receiving elevator). Because of the sample size (500 in 1982 and 430 in 1983) these differences were not thought to be highly significant and the results were inconclusive.

In order for the reader to visualize the scatter, figures 1, 2 and 3, for 1982 and 4, 5 and 6 for 1983 are included. Each plus (+) in figures 1-3 and each dot (·) in 4-6 represent a truck load of wheat and its moisture deviation above or below the zero line. As one can surmise, there is a wide variance in many cases between actual (oven) and meter moisture readings. For 1982 the range was from $+2.25\%$ (figure 1) to -2.7% (figure 3). For 1983, the range was $+2.4\%$ (figure 5) to -1.6% (figure 6).

These results indicate that, on occasion, a meter is found that gives either consistently high or consistently low results. We also found meters that would read high on one sample and low on another. This may be due to multiple operators or operator error of various types.

Summary:

The survey results in this report indicates that in general, the performance of electronic moisture meters used on Kansas wheat is not unreasonable. Some meters appear to be out of calibration and in need of attention.

The results from 1983 show less variance from the expected values than 1982 data. This may be due to the weather and environmental differences between years. In addition, it is known that several meters were recalibrated after the results of the 1982 survey were returned to the participants.

Table 1. Summary of results for 1982-83
electronic moisture meter survey

1982 RESULTS

STEINLITE (ALL MODELS)

AVG. METER ERROR.....-0.55%
R square......02
slope.....-0.089

BURROWS 700

AVG. METER ERROR.....-0.5%
R square......03
slope.....-0.07

DICKEY-JOHN GAC II

AVG. METER ERROR.....-1.06%
R square......25
slope.....-0.2

OVERALL METER ERROR.....-0.7%

1983 RESULTS

STEINLITE (ALL MODELS)

AVG. METER ERROR.....+0.04%
R square......00
slope.....-0.001

BURROWS 700

AVG. METER ERROR.....+0.6%
R square......42
slope.....-0.25

DICKEY-JOHN GAC II

AVG. METER ERROR.....-0.16%
R square......04
slope.....-0.06

OVERALL METER ERROR.....+0.17%

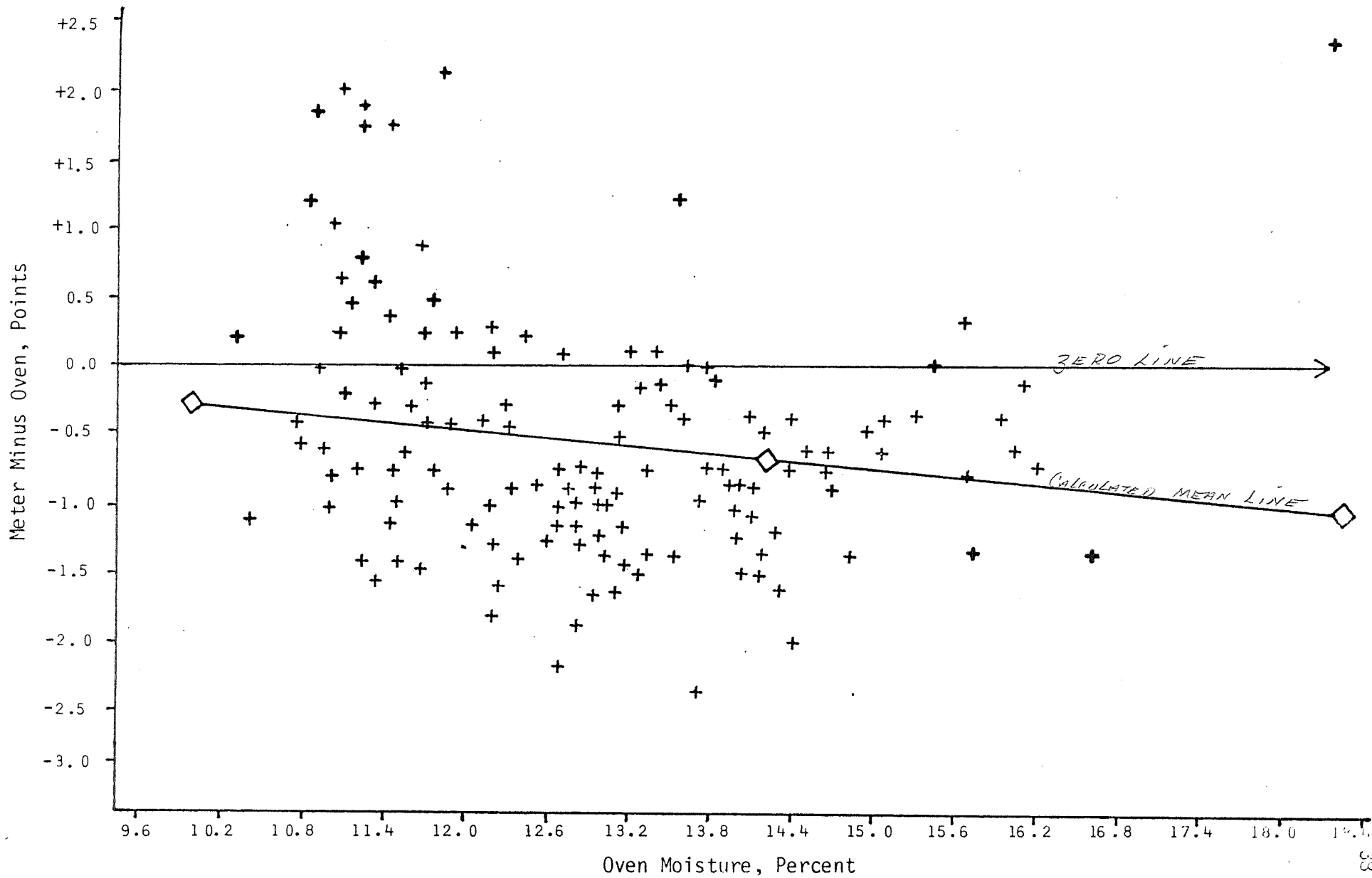


Figure 1. SCATTER PLOT AND REGRESSION LINE, STEINLITE (WHEAT)

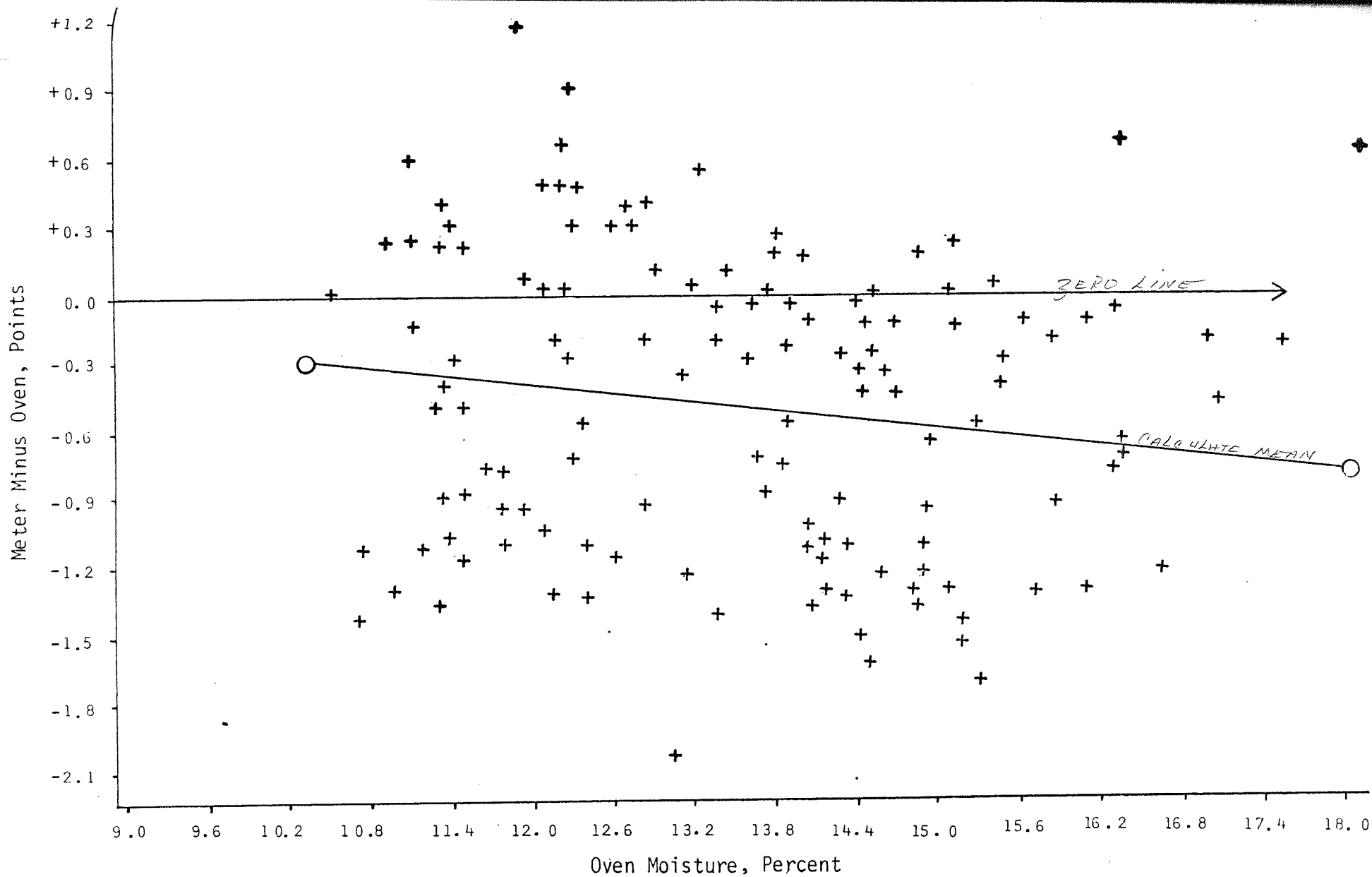


Figure 2. SCATTER PLOT AND REGRESSION LINE, BURROWS 700 (WHEAT)

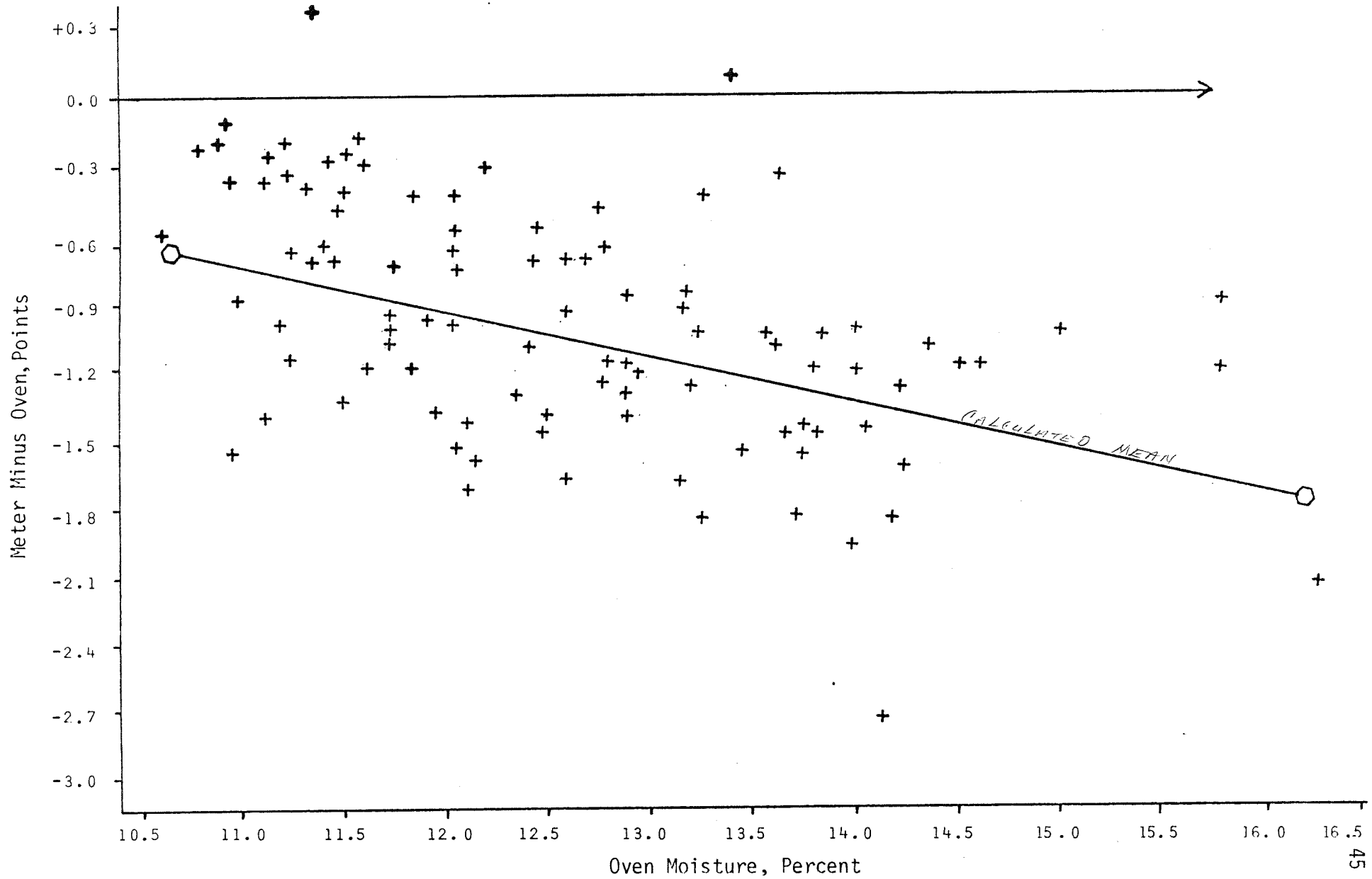


Figure 3. SCATTER PLOT AND REGRESSION LINE, DICKEY JOHN GAC II, (WHEAT)

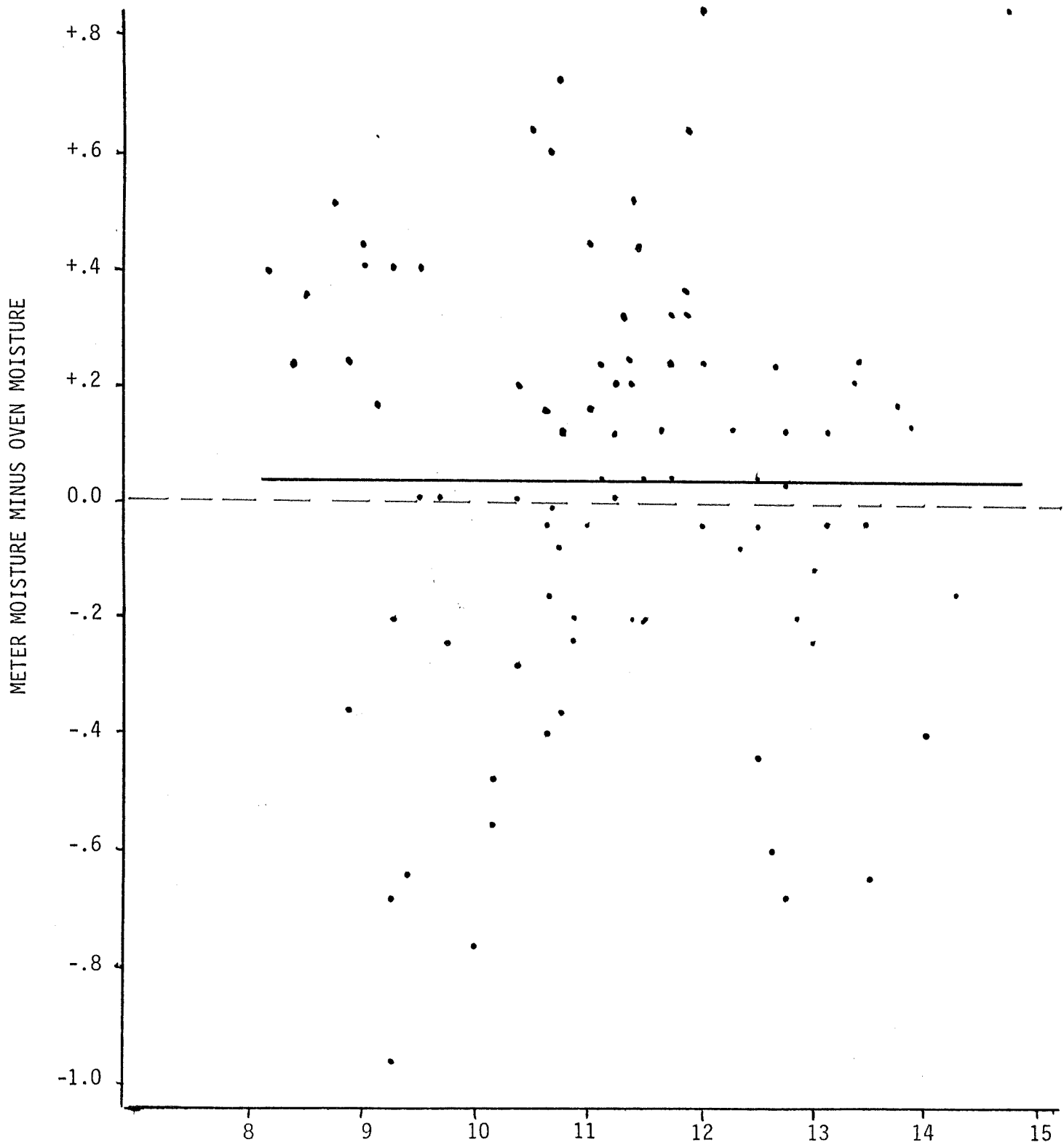


Fig. 4

OVEN MOISTURE
STEINLITE
1983 WHEAT HARVEST

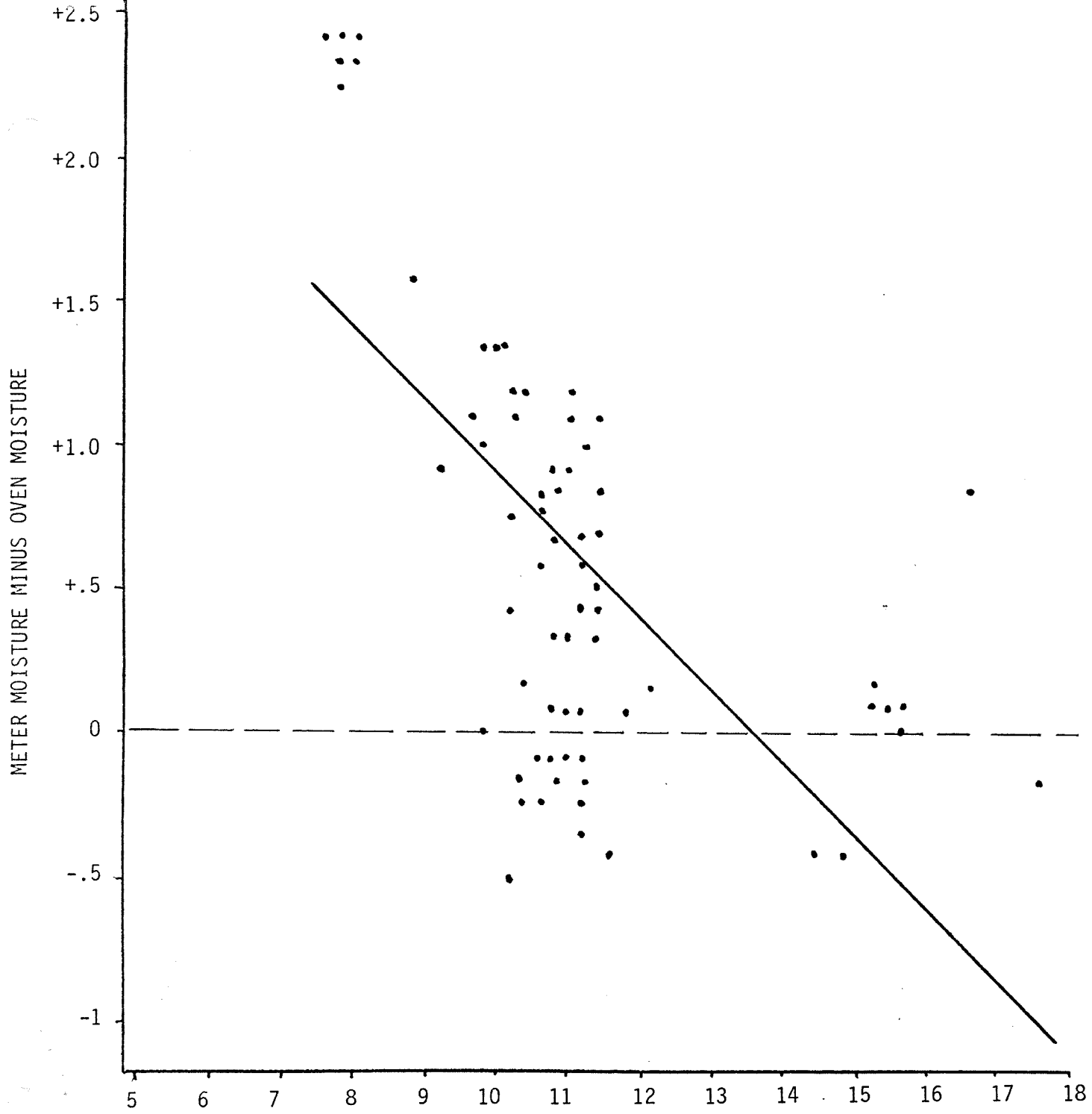


Fig. 5
 OVEN MOISTURE
 BURROWS 700
 1983 WHEAT HARVEST

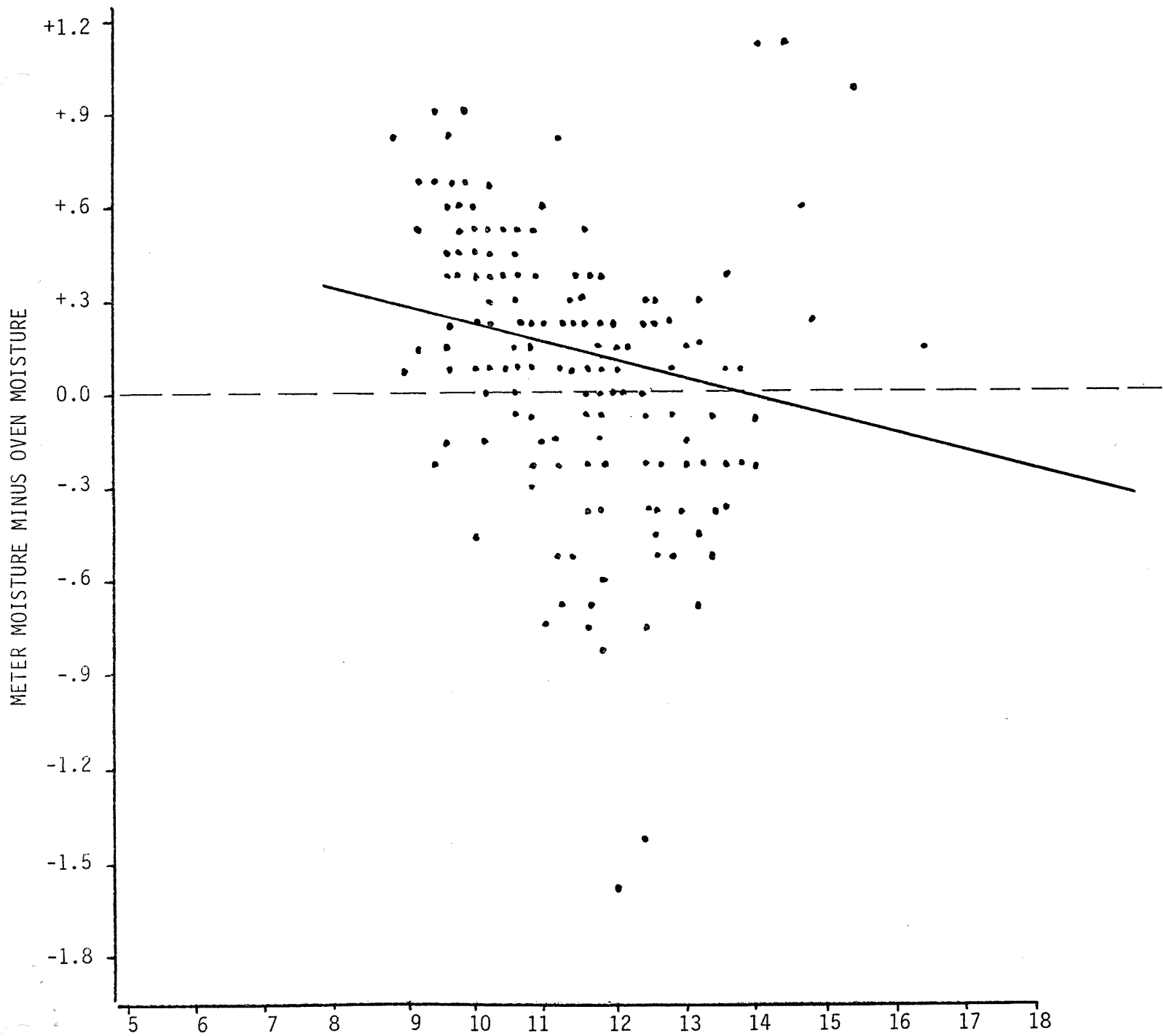


Fig. 6
 DICKEY JOHN GAC II
 1983 WHEAT HARVEST