Approved March 7, 1985
Date

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

The meeting was called to order by Representative Ron Fox at
Chairperson

3:30 ~~a.m./~~p.m. on March 4, 1985 in room 313-S of the Capitol.

All members were present except:

All members were present.

Committee staff present:

Ramon Powers, Legislative Research
Theresa Kiernan, Revisor of Statutes' Office
Betty Ellison, Committee Secretary

Conferees appearing before the committee:

Barbara Sabol, Secretary, Kansas Department of Health and Environment
William M. Henry, Executive Vice President, Kansas Engineering Society
Marsha Marshall, Kansas Natural Resource Council (Written testimony only)

The meeting was called to order by Chairman Ron Fox. The minutes of February 12, February 18, February 19, February 20, and February 25 were adopted. The minutes of the February 26 and 27 meetings were distributed and minutes of the Natural Resource Subcommittee meeting of February 28 were available for those members.

Secretary Sabol of the Department of Health and Environment was the first conferee in the hearing on Senate Bill 1 as amended by the Senate Committee, concerning underground burial of hazardous waste. Her written testimony contained background information relative to the bill, strengths of the bill as viewed by her Department, and the Department's position. The Secretary strongly supported Senate Bill 1, noting that prohibition of below ground burial would establish the state's leadership in providing protection for our environment and our valuable groundwater resources. (Attachment 1) Some questions and discussion followed Secretary Sabol's presentation.

Mr. Bill Henry testified as a proponent of Senate Bill 1 on behalf of the Kansas Engineering Society. He noted that his organization supported the bill, but suggested that the reference to "mound landfill" and "land treatment" be removed from New Section 1. He felt that striking this language would not necessarily prohibit the use of these alternatives but would expose these treatment measures to the same regulatory review that would exist for the underground burial of hazardous waste. (Attachment 2) Discussion followed Mr. Henry's testimony.

Written testimony by Marsha Marshall of the Kansas Natural Resource Council was distributed. Her organization supported Senate Bill 1 but recommended amending language in line 0085 to read: "Any person adversely affected." Also recommended was language to prohibit certain alternative methods of disposal of hazardous waste. (Attachment 3) Discussion of Senate Bill 1 continued.

Representative Ott made a motion to pass Senate Bill 1 favorably for passage. Representative Heinemann seconded the motion. Motion carried.

Turning to House Bill 2335, relating to minimum desirable streamflows, the Chairman noted that hearings had been held on February 27, 1985. The committee had no further discussion. Representative Spaniol made a motion to report House Bill 2335 favorably. The motion was seconded by Representative Patrick. The motion carried. Attention

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES,

room 313-S, Statehouse, at 3:30 ~~a.m.~~/p.m. on March 4, 1985.

was called to a technical amendment: on line 0031 following 82a-703, the letter "a" should be inserted. Representative Spaniol and Representative Patrick agreed to accept this amendment and the motion to report House Bill 2335 as amended favorably was passed.

The meeting was adjourned at 4:15 p.m.

The next meeting of the House Energy and Natural Resources Committee will be held on March 5, 1985 at 3:30 p.m. in Room 313-S.

Date: March 4, 1985

GUEST REGISTER

HOUSE

COMMITTEE ON ENERGY AND NATURAL RESOURCES

NAME	ORGANIZATION	ADDRESS	PHONE
Linda M. Gill	WMI	Topeka	233-4512
Bill Penny	KS Engeering Society	Topeka	233-1867
Chip Wheeler	WMI	Topeka	233-4512
JIM YOUNG	CWM	OAK BROOK	654-8800
Dennis Murphy	KD&E	Topeka	862-9360
Michael Foley	UOK	~~Eoy~~ Lawrence	684-4810
Martha Marshall	Ks Natural Resource Council	Topeka	233-6707
Ed Reinert	Ks League Women Voters	Topeka	273 6093
JERRY Conrad	KG&E	TOPEKA	354-1821
Roy J. Shenkel	K.C.P.&L. CO	Shawnee	354-1821
Louis Stroup Jr.	KMU	McPherson	241-1423
D. WAYNE ZIMMERMAN	THE ELECTRIC ~~CO~~ ASSOC OF KS	TOPEKA	354-1821
JEFF RUSSELL	UNITED Tel. of KS	TOPEKA	232-3826
RICK FEMEWOLD	AT+T	"	232-2128

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

TESTIMONY ON SB 1 as amended by Senate Committee

PRESENTED TO House Energy and Natural Resources Committee, March 1985

This is the official position taken by the Kansas Department of Health and Environment on SB 1.

BACKGROUND INFORMATION:

In the past few years, particularly since the implementation of the Resource Recovery and Conservation Act (RCRA) in 1980, the state-of-the-art in hazardous waste management has been evolving such that alternatives to landfills are available for hazardous wastes. At the same time, a growing body of information has indicated significant problems with the process of landfilling hazardous wastes. The Environmental Protection Agency (EPA) recognized these problems when the agency proposed regulations concerning land disposal in the February 5, 1981 Federal Register. The register states, "There is good theoretical and empirical evidence that the hazardous constituents which are placed in land disposal facilities very likely will migrate from the facility into the broader environment. This may occur several years, even many decades, after placement of the waste in the facility, but data and scientific prediction indicate that, in most cases, even with the application of best available land disposal technology, it will occur eventually." The Office of Technology Assessment (OTA), a branch of the U.S. Congress, also recognized the peril inherent in land disposal of hazardous wastes. In a 1983 summary, Technologies and Management Strategies for Hazardous Waste Control, OTA stated, "even well intentioned and presently accepted waste management practices, particularly the use of landfills....., might still constitute substantial threats. These threats arise from the potential slow leakage of waste constituents or leachate through the soil and into the groundwater."

The State of Kansas cannot afford to risk the contamination of its groundwater by the below ground burial of hazardous wastes. Groundwater must be treated as a valuable resource to be protected by any means available to us. For example, 772 public water suppies in Kansas presently rely upon groundwater as their sole source of water. Large quantities of groundwater are also utilized for agricultural purposes in the state. The costs for restoring or containing groundwaters contaminated by below ground burial of hazardous wastes will far outweigh the expense which will be borne by Kansas industry required to use alternative methods of disposal. The State of Kansas and the nation as a whole has learned a great deal about the management of solid and hazardous wastes in the seventeen years since the passage of the Federal Solid Waste Management Act. We still have much more to learn, however, and protecting such a valuable resource as the groundwater of the State of Kansas requires us to be prudent in our regulatory program.

Attachment 1 -- 3/4/85
Energy and Natural Resources

The Kansas Legislature recognized the danger we face when it enacted K.S.A. 65-3443 in 1981. Under K.S.A. 65-3443, the Secretary of KDHE has the authority to study alternatives to land burial for specific types of hazardous waste. If alternatives are available for a specific type of hazardous waste, the Secretary may order that the use of land burial for that waste be discontinued. However, conducting such studies for every specific category of hazardous waste generated in Kansas would require a tremendous commitment of time and financial resources.

It should be mentioned that the 1984 amendments to RCRA signed by the President on November 8, 1984, now provide a national statutory mandate that the land disposal of hazardous waste must be banned unless EPA determines that the prohibition of one or more methods of underground burial is not required in order to protect human health and the environment. EPA must review and decide within 66 months whether to allow continued underground burial of each specific hazardous waste. Therefore, it is now a national policy that continued reliance on underground burial of hazardous waste be reduced and the best interests of Kansas will be well served if we take action now instead of waiting for EPA to make their determinations during the next 5½ years.

STRENGTHS:

1. SB 1 provides clear direction for future management of hazardous waste in Kansas by eliminating regulatory burden on the Secretary to ban each hazardous waste on a case by case basis.

2. It encourages development of alternatives to underground burial of hazardous waste.

3. It provides for reasonable exceptions to the ban if it can be demonstrated that no economically reasonable or technologically feasible methodology exists for the disposal of a particular hazardous waste.

4. It provides long term protection of the public health and environment by assuring secure management of hazardous waste.

WEAKNESSES:

None.

DEPARTMENT'S POSITION:

SB 1 addresses a critical issue confronting Kansas and provides a clear, firm statement of policy for the state. Continued reliance upon land burial as a means for hazardous waste management poses an unacceptable risk to the citizens of Kansas and their natural resources.

The bill also includes two amendments to our hazardous waste statutes which, according to EPA, will eliminate the issue of statutory equivalency with RCRA and would overcome the last hurdle delaying the delegation of "final authorization" for the RCRA program to the state

of Kansas. K.S.A. 65-3431(c) is amended to clearly state that criminal penalties are subject to assessment on a per day basis for the duration that the criminal violation continues. Such authority is currently included in the federal statute. Also, K.S.A. 65-3450 is amended to provide the right of citizen intervention in cases brought by county or district attorneys or by the attorney general. Such right currently exists for actions brought by the secretary and this change would expressly provide such rights for actions initiated under the hazardous waste statutes by the various other officials.

In conclusion we strongly encourage your support of SB 1. Prohibition of below ground burial would establish the state's leadership in providing protection for our environment and our valuable groundwater resources in particular.

Presented by: Barbara J. Sabol, Secretary
Kansas Department of Health
and Environment

ADDENDUM TO TESTIMONY DOCUMENT ON S.B. 1

Alternatives to Land Burial for Hazardous Waste

a. The optimal waste management strategy is source reduction or waste elimination. This usually involves changes in industrial processes so that hazardous by-products are not produced or produced in smaller quantities. In some cases raw material substitution can result in waste reduction. Generators have also discovered that separation of wastes for recycle or treatment instead of mixing them together can be an effective means for reducing the total volumes of hazardous waste requiring disposal.

b. Recycling or reuse, the second best approach, offers opportunities for reducing dependence on landfill disposal. Recycling includes any activity which converts waste materials into new products or an energy resource. Examples of on-site recycling include the filtering of waste solvents so they can be used again and the reuse of metal plating liquids after removal of solid residues/sludges. Waste exchanges, such as the Midwest Industrial Waste Exchange, are an option for waste generators to locate potential buyers of their wastes. One person's waste may be another person's raw material.

c. Numerous treatment processes have been developed that either reduce toxicity, reduce the volume of the hazardous waste or render the material completely innocuous. These are considered as the third most preferable alternative. These treatment techniques use physical, chemical and biological methods. Oftentimes these treatment methods are used in sequence or selectively to handle a variety of influent wastes.

d. Incineration is a treatment technology which significantly reduces the volume of hazardous wastes, and in many cases actually destroys their hazardous characteristics. Because incineration may involve the potential release to the environment of significant hard-to-destroy wastes (either through air emissions or solids/ashes left over from combustion), it must be closely regulated and monitored to assure that it is an environmentally acceptable treatment alternative. The technology to control the air emissions from such hazardous waste incinerators does exist and has been satisfactorily demonstrated in EPA supervised tests.

e. Warehousing of labeled wastes in sealed containers could be implemented for wastes that are not readily amenable to the above mentioned alternatives. In some cases, it may develop that recovery of constituents such as heavy metals in such stored wastes would become an economically viable alternative at some future date.

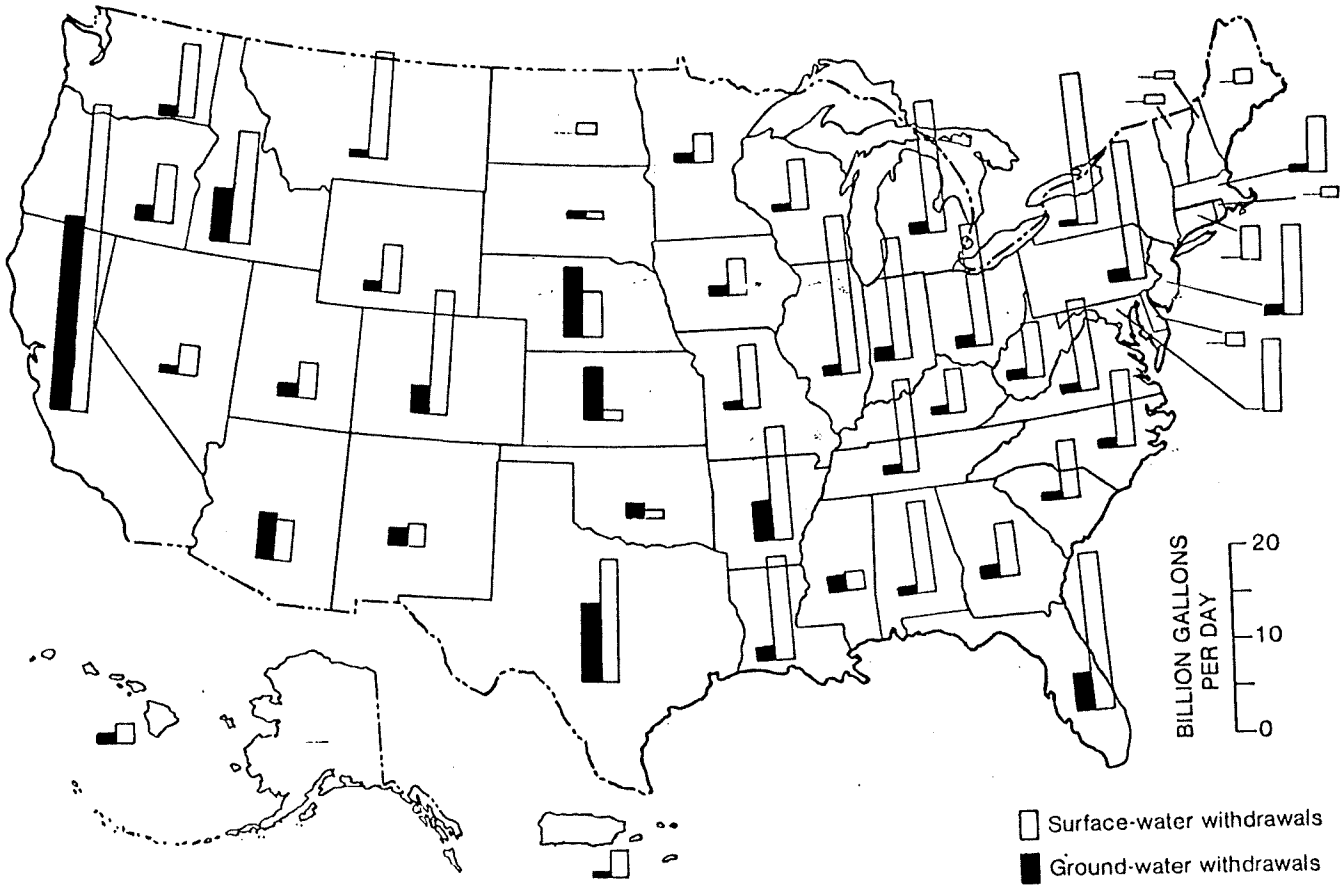

FIGURE 12. Withdrawals from ground water and surface water, by State, 1980. (From Solley and others, 1983.)

Kansas Engineering Society, Inc.
216 West Seventh, P.O. Box 477
Topeka, Kansas 66601 (913) 233-1867

Testimony for the House Energy & Natural Resources Committee
Monday, March 4, 1985
by the
Kansas Engineering Society

Mr. Chairman, members of the committee, I am Bill Henry, Executive Vice President of the Kansas Engineering Society, and I appear before you today as a proponent of Senate Bill 1 on behalf of the Kansas Engineering Society's 1200 members.

As the study of the problem of hazardous waste has evolved in recent years we have learned more each year that enlightens us in this area. The major keystone to KES's policy in this area is that nearly all hazardous waste should be treated so as to render it inert or harmless before subjecting it to underground disposal.

We feel that Senate Bill 1 agrees with our philosophy in this area and that Senate Bill 1 further gives the Secretary certain flexibility to allow for exceptions when such exceptions are deemed environmentally safe and where this is no technological option available except underground burial.

Our enthusiasm for Senate Bill 1 must be tempered with certain reservations however. Our reservation is in the language of new section 1(a). Specifically, at lines 27 though 30 we question the language which states "such prohibition shall not be construed as prohibiting mound landfill...or land treatment..."

Those of you who served on the interim committee this past summer may recall Janis Butler, P.E., Salina testifying about our reservations as to mound landfill or land treatment. Our major problem with mound landfill treatment is we have no federal definition or any other legal definition of what mound landfill consists.

We feel that these two forms of handling of hazardous waste are as susceptible to misuse as the unregulated undergound burial of hazardous waste. To set them aside as particular exceptions to the general prohibition is to imply acceptability.

Attachment 2 -- 3/4/85
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According to members of our society who have studied these two areas they have found that land treatment has rarely worked successfully. Now, what is land treatment. Statutorialy it is defined at KSA 1984 supp. 65-3430(w) The process of land treatment is where wastes are worked or plowed into the soil. The theory is that the waste will interact with the soil to biodegrade these wastes. This theory works well in the fact that most oily wastes can be broken down and are absorbed by the soil. The problem with this method of treatment is that most oily wastes have heavy metals that remain in the soil such as chromium and lead. And while the original waste may decompose the heavy metals do not. They remain and may migrate from the soil into ground water supplies.

The members of our society do not find the exception references to aboveground storage or underground injection of hazardous waste as similar problem areas. There is federal law and there are definitions in state regulatory sections dealing with underground injection of hazardous waste as well as regulation of above ground storage which should adequately protect the environment and citizens of Kansas.

If the committee would so choose it might wish to remove the reference to "mound landfill" and "land treatment" from section 1. Such action striking this language would not necessarily prohibit the use of these particular alternatives but would expose these particular treatment measures to the same regulatory review that will exist for the underground burial of hazardous waste.

The society appreciates the opportunity to share its remarks with you today and will be happy to respond to any questions now or in the future.

Respectfully submitted,

William M. Henry
Executive Vice President
Kansas Engineering Society

Kansas Natural Resource Council

Testimony
before the
House Energy and Natural Resources Committee
on
SB 1, concerning hazardous waste
presented by Marsha Marshall
March 4, 1984

KNRC supports the ban of underground burial of hazardous waste. Legislative work during the last year at both the federal and state level indicates a growing commitment to strictly regulate the disposal of hazardous waste. Such regulation provides for the protection of groundwater resources. In Kansas this protection is especially important since over 80% of the population depends upon groundwater for their source of supply, the highest percentage of dependence in the nation. Senate Bill #1 is a natural step in developing a policy to protect the state's most valuable resource.

Recommendations

We recommend that you consider amending the language in line 0085, which now reads "Any party aggrieved by the issuance of an order..." to read as follows:

"Any person adversely affected by the issuance of an order..."

"Party" can be defined much more narrowly than "person", perhaps limiting participation to KDHE and the company disposing of the waste. Further, "person adversely affected" is consistent with language in current statutes pertaining to hazardous waste.

In addition, mound landfill, above-ground storage, land treatment and underground injection of hazardous waste are excluded in this bill from the ban. We do not believe that it is your intent to endorse all of these other methods of disposal, some of which are relatively new and untested. However, the way the bill is worded could be construed as legislative approval of these alternatives. Language to state your intent to exclude from the ban but not to endorse these alternative disposal methods would clarify the legislation.

As legislators, you may be reluctant to issue a prohibition since it limits future options for disposal of hazardous waste. However, we believe a prohibition to be the most responsible action. Protecting the quality of groundwater is vital to the future of this state. In comparison, concern for the future of an uncertain and possible dangerous method of hazardous waste disposal is unnecessary and unwarranted.

Attachment 3 -- 3/4/85
Energy and Natural Resources

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