

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES

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

3:30 ~~xxx~~ a.m./p.m. on March 19, 1985 in room 519-S of the Capitol.

All members were present except:

All members were present.

Committee staff present:

Ramon Powers, Legislative Research  
Betty Ellison, Committee Secretary

Conferees appearing before the committee:

Senator Leroy A. Haden  
Representative Eugene L. Shore  
Mr. Jack Graves, Representing Anadarka Products Company  
Mr. Robert Anderson, Representing Mid-Continent Oil and Gas  
Barbara Sabol, Secretary, Kansas Department of Health and Environment  
Mr. Don Schnacke, Kansas Independent Oil & Gas

NOTATION: A brief meeting was held on March 14 and no objection was made regarding the minutes of March 6 and 7, 1985.

The first conferee in the hearing on Senate Bill 41 was Senator Leroy Hayden. He passed out copies of testimony and information which had been given to the Senate Committee (Attachment 1) and a fact sheet relating to the bill. (Attachment 2) The Senator reviewed the fact sheet, noting that the company which sold the high priced gas for the City of Hugoton's electric generation production last year was not represented at this meeting and did not oppose the bill. He used a large map of the State of Kansas to show the area (one section of land) which would be affected. This area would be exempted from control of the Kansas Corporation Commission for three years under the sunset provision, to allow the residents of Hugoton to use their gas to operate their power plant. Senator Hayden used a map on the last page of Attachment 1 to illustrate the meaning of "correlative rights" which he said were violated in 1930 when Hugoton was not allowed by statute to drill a well. He felt that the Corporation Commission was not represented at this meeting because they could not allow the exemption under their rules and present statutes.

Considerable committee discussion followed Senator Hayden's testimony. During that discussion, Chairman Fox asked for a copy of the letter from the Kansas Corporation Commission which had been referred to. The Senator provided a copy of that letter, along with copies of the two letters written to the Corporation Commission by the City of Hugoton. (Attachment 3)

Representative Eugene Shore also testified in favor of Senate Bill 41. He noted that this was a local bill seeking to remedy an injustice caused by regulation of pricing of natural gas. (Attachment 4) More committee discussion followed Representative Shore's testimony.

Mr. Jack Graves represented Anadarko Products Company. He was opposed to Senate Bill 41 because he felt that it would create problems relative to correlative rights. The committee asked several questions of Mr. Graves.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES,  
room 519-S, Statehouse, at 3:30 ~~a.m.~~/p.m. on March 19, 1985.

Mr. Robert Anderson spoke on behalf of Mid-Continent Oil and Gas, in opposition to Senate Bill 41. He felt that this was a complex engineering matter which should be decided by the Kansas Corporation Commission. More questions from the committee followed Mr. Anderson's testimony, concluding the hearing on Senate Bill 41.

Before addressing Senate Bill 120, Secretary Sabol introduced Mr. Dennis Murphy, Bureau Manager of the Bureau of Waste Management and Mr. Larry Kanoke, Acting Bureau Manager for the Bureau of Oil Field and Environmental Geology. She noted that Senate Bill 120 represented another step on the part of the State of Kansas in protecting water resources. She gave background information, describing the formation of the Hazardous Waste Injection Well Task Force, which studied this issue during the summer of 1984. Details regarding the Task Force and their recommendations are included in the Secretary's written testimony. (Attachment 5)

Mr. Don Schnacke of Kansas Independent Gas and Oil made a few comments, noting that he had been asked and served voluntarily on the task force. He complimented Secretary Sabol for her outstanding job in bringing together many diverse interests for the study, and felt that this bill which had sprung from the study should be passed.

Chairman Fox echoes Mr. Schnacke's remarks regarding the task force. The hearing on Senate Bill 120 was closed.

The Chairman called attention to a draft of the small lakes bill and passed out copies of it to the committee. (Attachment 6)

The meeting was adjourned at 4:50 p.m.

The next meeting of the House Energy and Natural Resources Committee will be held on March 20 at 3:30 p.m. in Room 527-S.

STATE OF KANSAS

SENATOR LEROY A. HAYDEN

SENATOR 39TH DISTRICT  
GREELEY, HAMILTON, KEARNY,  
FINNEY, STANTON, GRANT,  
MORTON, STEVENS AND PART  
OF HASKELL COUNTIES  
BOX 458  
SANTANTA, KANSAS 67870



TOPEKA

SENATE CHAMBER

COMMITTEE ASSIGNMENTS  
MEMBER: ASSESSMENT AND TAXATION  
ENERGY AND NATURAL RESOURCES  
PUBLIC HEALTH AND WELFARE  
TRANSPORTATION AND UTILITIES  
JOINT COMMITTEE ON SPECIAL  
CLAIMS AGAINST THE STATE

Mr Chairman and Members of the Committee:

Senate Bill 41 exempts a second class city, namely Hugoton, that owns its own gas well, from KCC regulations.

Hugoton has it's own municipal electrical generation plant, which is run on natural gas. While there was a demand for the gas from the Hugoton Gas Field, Hugoton was allowed a sufficient amount of gas to supply their electrical generation plant's needs. It is presently unfeasible for Natural Gas Companies to produce large amounts of gas from the Hugoton Field, therefore, Hugoton is left with their need but due to KCC regulation they can only produce a coorelative amount to the surrounding wells. At the end of 1984, Hugoton had used 232,306 MCF, under KCC regulation they could only produce 80,637 MCF, leaving them 151,669 MCF short of their need. Hugoton thus was forced to buy the extra gas they needed at an estimated cost of 5 to 600,000 dollars. This money will be added on to the electric bills of the citizens who own the gas well, in addition to the generation plant. Due to marketing techniques of gas companies, Hugoton is a victim of circumstances beyond it's control.

An argument against Senate Bill 41 that the Committee might hear will be: Once you start exemptions, everyone will want them. This bill specifically sets regulations so that only city owned wells, inside their corporate boundaries, and only the gas from these wells consumed by the city. Hugoton is the only city that meets this criteria. (See table)

Another argument that will come up is coorelative rights. The Hugoton well is 1 of 4,000 in the Hugoton Gas Field, thus produces only .025% of the entire production from the field. Such a small % could not greatly infringe on coorelative rights. Also the projection of the gas bubble ending will make it

Attachment 1 -- 3/19/85  
Energy and Natural Resources

STATE OF KANSAS

SENATOR LEROY A. HAYDEN

SENATOR, 39TH DISTRICT  
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FINNEY, STANTON, GRANT,  
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more feasible for natural gas companies to produce more gas from the Hugoton Field. As this happens their wells will soon be producing amounts equivalent or greater than that of the Hugoton well. This will level out any discrepancy that was caused by the higher production from the Hugoton well.

It is interesting to note that some of the companies opposing this bill because gas will be "sucked out from under us" are some of the same companies that are supporting infield drilling (Which I support.). With the basic argument that one well per 640 acres will not drain the field.

It is common knowledge that a bill exactly the same as Senate Bill 41 was introduced in the House. This bill was by Committee action, tabled, pending an official application by the City of Hugoton to the KCC for an emergency hearing exempting this city from the control on production from this well which is wholly owned by the City of Hugoton. The City has hired counsel that is preparing a petition that will be filed with the KCC, but there is no possible way that all the requirements for such a hearing can be met and action taken prior fo the ending of the legislative session. The City of Hugoton has no other recourse other than the enacting of Senate Bill 41

I hope that this testimony has answered some of your questions. I feel that since the citizens have bought and paid for their own well and generation plant, they should be able to use both to their fullest extent and hope that you support me on this issue.

	<u>Class</u>	<u>Gas Well in City Limits</u>	<u># of Gas Wells Owned</u>
Rolla	3	NO	0
Ulysses	2	<u>YES</u> , not used, sold	1
Satanta	3	NO	0
Syracuse	3	NO	0
Lakin	3	NO	2
Garden City	<u>1</u>	YES	4, 3 in city
Elkhart	2	NO	0

*Jan Henry*  
*Handwritten signature*

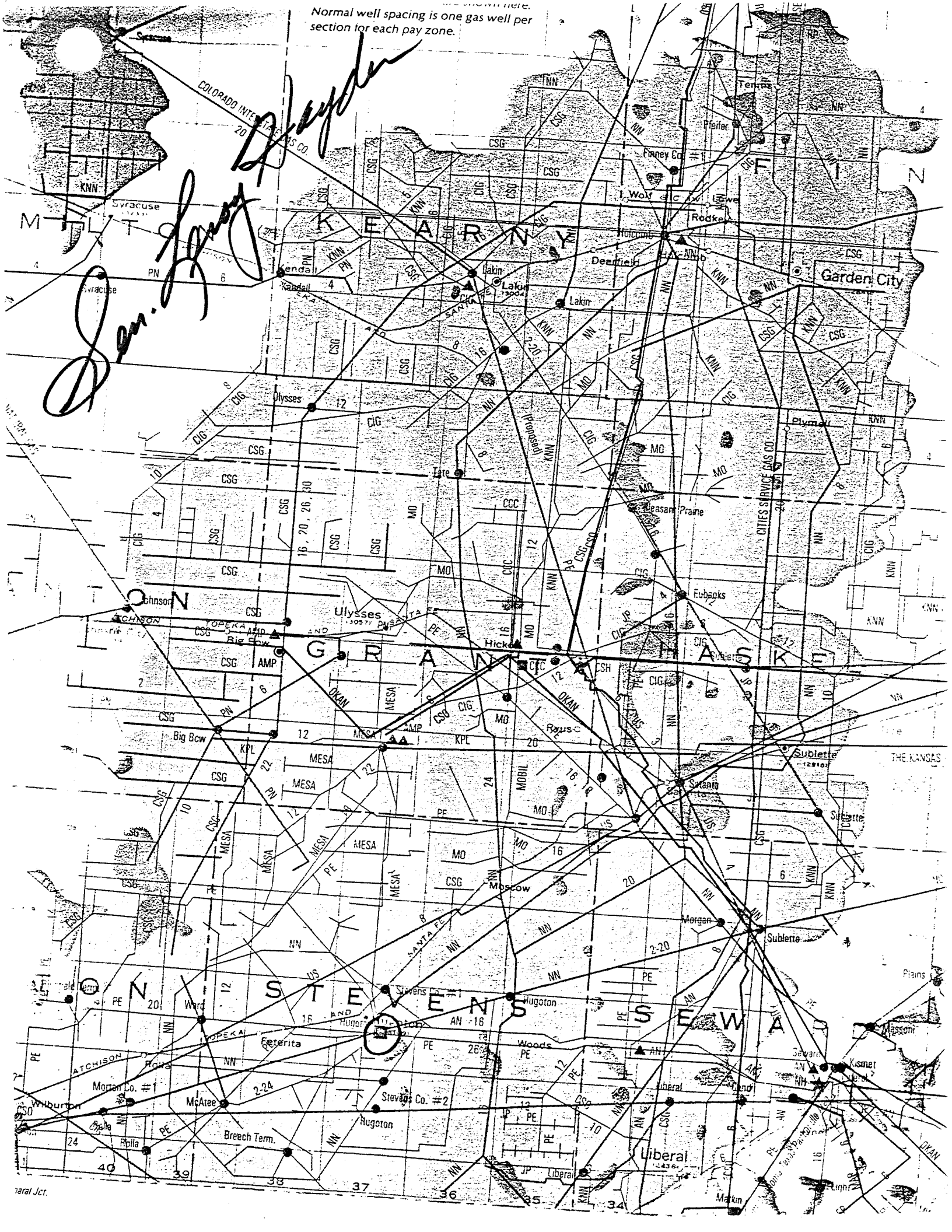
None of the cities that own their own gas wells use the gas in their own power plant. It is all sold.

Bret Bullard

Normal well spacing is one gas well per section for each pay zone.

*Handwritten signature: D. H. ...*

*Handwritten signature: J. ...*



*Don Leroy  
H. Hays*



<p>Mobil 1930 402 PSI</p>	<p>Mobil 1930 Anardako 1947</p> <p>First Street</p>	<p>Mobil 1949</p>
<p>Mobil 1930 450 PSI</p> <p>West City Limits</p>	<p>Hugoton 1945 395.1 PSI</p> <p>Eleventh Street</p> <p>Washington Street</p>	<p>Mobil 1942 402 PSI</p>
<p>Panhandle 1946</p>	<p>Panhandle 1946 Anadarko 1952</p>	<p>Mobil 1945 Mobil 1945</p>

SENATOR LEROY A. HAYDEN

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PUBLIC HEALTH AND WELFARE  
TRANSPORTATION AND UTILITIES  
JOINT COMMITTEE ON SPECIAL  
CLAIMS AGAINST THE STATE

QUICK FACTS REGARDING S.B. - 41

1. City of Hugoton bought \$500,000 to \$600,000 worth of gas last year due to the fact they are not allowed to produce enough from their gas well to run their electrical generating plant.
2. The Company that sold all of the high price gas for the city of Hugoton's electric generation production last year does not oppose this bill.
3. The KCC did not appear against this bill during Senate deliberations.
4. Regarding opposition statements about violation of coorelative rights, virgin pressures of surrounding wells were as high as 450 PSI, the Hugoton well, drilled 15 years later only was 395.1 PSI. Whose coorelative rights were violated for 15 years while the City of Hugoton was unable by statues to drill a well?
5. It is estimated "gas bubble" will burst and at that time surround wells will be allowed to produce more and catch up with the Hugoton well. Sunset Provision provides ample protection against inequities.
6. Hugoton is the only city that has their own gas well and uses that gas only for consumption. It is therefore the only city that will be exempted under this bill.



STATE OF KANSAS

SENATOR LEROY A. HAYDEN

SENATOR, 39TH DISTRICT  
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7. The Hugoton well contains only .025% of total area of the Hugoton gas field, it is 1 out of 4,000 wells.
8. The Senate passed the bill on final action 32-5.



JOHN CARLIN  
MICHAEL LENNEN  
MARGALEE WRIGHT  
KEITH R. HENLEY  
JUDITH A. McCONNELL  
BRIAN J. MOLINE

Governor  
Chairman  
Commissioner  
Commissioner  
Executive Secretary  
General Counsel

State Corporation Commission

Fourth Floor, State Office Bldg.

Ph. 913/296-3355

TOPEKA, KANSAS 66612-1571

March 21, 1985

The Honorable Ron Fox  
House of Representatives  
Room 523-South, The Statehouse  
Topeka, Kansas 66612

Dear Representative Fox:

You have requested a letter indicating my opinion on Senate Bill 41. SB 41 is identical to House Bill 2037 which was tabled by the House Energy Committee early in this session.

The bill would amend K.S.A. 55-703 to permit a gas well located within the corporate boundary of and solely owned by a second class city to produce whatever amount can be consumed for that city's benefit.

K.S.A. 55-703 establishes a system of gas proration which protects the correlative rights of producers, prevents waste, and permits the orderly development of common sources of supply. The statute requires the commission to consider the market demand for gas when determining an appropriate level of production from a common source of supply. In my judgment the current proration system is working well. Certainly, the precedent established by SB 41 in sanctioning the potential violation of correlative rights would appear to undermine the vitality and effectiveness of this system.

Though the Commission has taken no position on SB 43, it is my personal opinion that the proposed amendment excepting certain city-owned gas wells may do serious damage to this system of proration. A well which is permitted to produce amounts of gas significantly greater than those being produced by wells on adjoining leases may unnecessarily deplete the energy

The Honorable Ron Fox  
March 21, 1985  
Page Two

drive of the reservoir and permit increasing amounts of water to come to the surface with the gas. Excessive production of any gas well may lead to premature water encroachment. The problem of water encroachment in some Kansas fields, most notably Hugoton and the Panoma Council Grove Field, is a growing concern and could be aggravated by this proposal. It is possible that a second class city (defined by statute as one with more than 2,000 but less than 15,000 residents) could use for its benefit an amount of gas that would lead to waste of natural gas reserves.

The amendment to K.S.A. 55-703 would appear to have an unavoidable impact on the correlative rights of producers whose leases would be adjacent to the excepted wells. Many wells in Kansas are either shut-in or producing less gas than allowed because of current market conditions. Gas in subsurface formations will move toward areas of lower pressure. If a well is not producing, or producing at a lower rate than its offset well, gas in the reservoir will move toward the offset well. If such a well were permitted to produce at a high rate there will be drainage away from the non-producing well. The current system of proration would protect the rights of both producers in such a situation by adjusting allowables to permit compensating drainage. A city-owned well under this proposal would be exempt from this proration formula with a resulting violation to the rights of offset producers and royalty owners.

Sincerely,



MICHAEL LENNEN  
Chairman



# CITY OF HUGOTON

CITY OFFICE PHONE 316-544-8531 / 114 EAST FIFTH STREET / P.O. BOX 788 / HUGOTON, KANSAS 67951  
POLICE PHONE 316-544-2020

March 20, 1985

Representative Ron Fox  
Representative District Number 21  
Chairman, House Committee on Energy and  
Natural Resources  
State House  
Topeka, Kansas 66612

Dear Representative Fox:

Senator Hayden asked that I provide the following information.

The drop in allowables for our city owned gas well due to the decline in the market demand for Hugoton gas caused the City of Hugoton to raise its electric rates 2 1/2¢ per KWH across the board. The average cost per KWH sold for a residential customer became \$.0948. The average cost per KWH for a commercial customer became \$.1120.

The breakdown in the city's cost per KWH are as follows:

Fuel costs	\$ .038
Engine repairs & main.	.021
Transmission & dist.	.006
Administration & gen.	.013
Debt retirement	.019
TOTAL	<u>\$ .097</u>

I hope this information provides sufficient support data to amplify our plight.

Thank you for your concern and consideration.

Sincerely,

Thomas G. Hicks  
City Clerk

TGH:jfh

CC: Senator LeRoy A. Hayden  
Representative Eugene Shore  
Mr. Louis Stroup, KMU



# CITY OF HUGOTON

CITY OFFICE PHONE 316-544-8531 / 114 EAST FIFTH STREET / P. O. BOX 788 / HUGOTON, KANSAS 67951  
POLICE PHONE 316-544-2020

March 14, 1984

State Corporation Commission  
Fourth Floor, State Office Bldg.  
Topeka, Kansas 66612-1571

Dear Sirs:

For a number of years, the City of Hugoton has been in the unique position of being able to fuel our power plants with natural gas (theoretically) from our city owned gas well. The gas from our well goes into Northern's pipeline system. The gas to our power plants is purchased from Peoples Natural Gas. In the past, as long as the power plant consumption did not exceed the take from the well, the City paid a 5¢ transportation charge for natural gas used in electric generation.

Because of the drop in market demand for gas in the Hugoton Field and the resultant decline in allowables based on that demand, the city owned gas well is not allowed to produce the quantity of gas needed to offset our plant consumption. All indications are that the well is capable of sufficient production. But, because of the allowables, the electric rates to our citizens have been forced up dramatically. The once 5¢ gas has become \$3.2837 gas for the majority of the gas used in our system.

This letter is directed to the State Corporation Commission in hopes that you can provide us with an avenue that will remedy or at least ease our situation. Any help you can provide us will be greatly appreciated by the rate payers of the City of Hugoton.

A copy of this letter is being sent to our area legislators to explain our situation to them. In the event that the KCC cannot help, the City will be looking to Mr. Farrar and Mr. Hayden for ideas on special legislation. This situation is so serious to our community that we must explore all possibilities.

Sincerely,

TGH:jfh

CC: Mr. Robert R. Gill  
Mr. B. E. Nordling  
Mr. Wayne R. Tate  
Mr. Keith Farrar  
Mr. Leroy Hayden

Thomas G. Hicks, City Clerk



JOHN CARLIN  
MICHAEL LENNEN  
R C PETE LOUX  
PHILLIP R DICK  
JUDITH A Mc CONNELL  
BRIAN J MOLINE

Governor  
Chairman  
Commissioner  
Commissioner  
Executive Secretary  
General Counsel

State Corporation Commission

Fourth Floor, State Office Bldg.  
Ph. 913-296-3355  
TOPEKA, KANSAS 66612-1571

April 5, 1984

Mr. Thomas G. Hicks, City Clerk  
City of Hugoton  
114 East 5th St.  
P.O. Box 788  
Hugoton, Kansas 67951

Dear Mr. Hicks,

Thank you for your letter of March 14, 1984. We have reviewed our files and records that relate to the City of Hugoton well and its production. The reduction in past years of the well's allowable generally is a result of a lowering in market demand for gas in the Hugoton Field. This reduction, when considered with the production limitations of the Basic Proration Order of the Hugoton Field, results in a reduced allowable for your well. The Basic Proration Order itself does not allow or make any provisions for exceptions on an individual well basis. Thus the only relief which could be provided in your particular situation would be through a change in the Basic Proration Order itself. If such a change would be considered, it would have to be reviewed in light of the effect on the over 4,000 wells in the Hugoton Field.

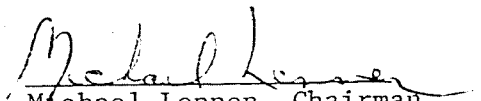
The production limitations of the Basic Proration Order serve the important function of protecting the correlative rights of all the producers in the field. Those production limits are not unduly restrictive, considering the vast size of the field and the number of operators and purchasers involved.


In conclusion, the Commission does not have the flexibility through the Basic Proration Order, to provide any relief for your particular situation.

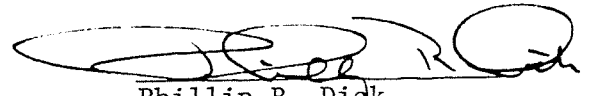
The City may want to consider any available techniques which would enhance the deliverability of the well, which would then be reflected on the well test, and consequently result in an increased allowable. The City could also consider the possibility of drilling or obtaining a well on the same unit in a different formation, such as the Panoma Council Grove.

Please do not hesitate to contact us or our staff in the event we may provide any information or be of any service you. We certainly share your concerns and are hopeful that a solution may be found.

Sincerely,

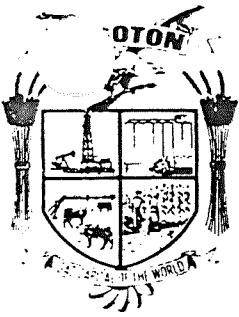
  
Michael Lennen, Chairman

  
R. C. (Pete) Loux  
Commissioner

  
Phillip R. Dick  
Commissioner

PRD:ps

cc: B. E. Nordling  
Representative Keith Farrar  
Senator Leroy Hayden



# CITY OF HUGOTON

CITY OFFICE PHONE 316-544-8531 / 114 EAST FIFTH STREET / P. O. BOX 788 / HUGOTON, KANSAS 67951  
POLICE PHONE 316-544-2020

December 7, 1984

State Corporation Commission  
Fourth Floor, State Office Building  
Topeka, Kansas 66612-1571

Dear Sirs:

In March of this year, I wrote the KCC in regard to the problem the City of Hugoton is experiencing because of the lack of allowable on the municipally owned gas well. We are no longer able to offset our power plant consumption against Northern Natural's take from our well. A copy of the previous correspondence and the KCC reply is enclosed.

We were very disappointed in the recently released allowable for the city well. We were thankful for the increase, but the new allowable is far short of our needs.

We are having a very hard time convincing our rate payers of the justice of this situation. Presently, Northern includes the gas produced from the City of Hugoton gas well in its nominations. However, it is very hard to get people to believe that the gas company genuinely wants all the gas possible to be taken from the municipal well. A 5¢ per MCF transportation charge is all the gas company receives for any gas taken from the well. Any excess volumes of gas brings \$3.2837+ per MCF. Now, if you were on the receiving end of this deal, which would you prefer?

The \$538,321.57 that has left this community via the suffering of our rate payers so far this year should command a lot of consideration from the KCC versus the correlative rights of the proximate producers in the field.

Please try to help us.

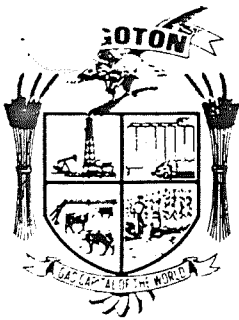
Sincerely,

IGH:jfh

CC: Mr. Leroy Hayden  
Mr. Gene Shore  
Mr. L. L. Morgan  
Mr. Phil Johnson

Thomas G. Hicks  
City Clerk





# CITY OF HUGOTON

CITY OFFICE PHONE 316-544-8531 / 114 EAST FIFTH STREET / P. O. BOX 788 / HUGOTON, KANSAS 67951  
POLICE PHONE 316-544-2020

Mr. Chairman and Members of the Committee:

I am Tom Hicks, City Clerk. I, like Langdon, was born, raised, and have lived in Hugoton all of my life except for the time I attended college.

Because of the limits on time, I wish to address two points this morning. We have written the KCC on two occasions attempting to get some help on our problem. I am quoting from their reply, "In conclusion, the Commission does not have the flexibility through the Basic Proration Order, to provide any relief for your particular situation". As well, the Hutchinson News picked up on our situation. They interviewed our local officials and then interviewed a staff member of the KCC. His reply was that they were not going to be able to help us. The House sub-committee's decision to table the bill until formal application for an exception can be made before the Corporation Commission is probably sending us on a "wild goose chase".

Secondly, the statement was made at this hearing that the city was getting 29¢ for gas from their well. That statement would be true if we were selling the gas for a royalty. We are not doing that. We are using all of the gas. For any gas that comes from our well, we pay a 5¢ per MCF transportation charge. For any excess volumes of gas over and above what is taken from the well, our cost in 1984 was \$3.2837 per MCF. It is very hard to convince our citizens that Northern Natural Gas is really trying to get all the gas they can taken from our well, although I personally believe they are including our well in their nominations. The half a million dollars in added utility bills that our citizens paid in 1984 is a lot of suffering per capita in a community of our size. That fact should deserve a lot of consideration versus correlative rights.

SENATE ENERGY AND NATURAL RESOURCES

TESTIMONY

SENATE BILL 41

REPRESENTATIVE EUGENE L. SHORE

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

SENATE BILL 41 PROVIDES FOR THE EXEMPTION OF A SECOND CLASS CITY WHICH OWNS THE MINERALS WITHIN ITS CORPORATE LIMITS, WITHIN WHICH IT PRODUCES ITS OWN GAS WELL AND THE TOTAL PRODUCTION IS CONSUMED BY AND FOR THE BENEFIT OF THAT CITY.

THE FACTS ARE THESE:

- 1 - THIS IS A LOCAL BILL DESIGNED TO BENEFIT THE CITY OF HUGOTON, KANSAS.
- 2 - HUGOTON OWNS 640 ACRES OF MINERALS WITHIN ITS CORPORATE BOUNDARIES.
- 3 - HUGOTON DRILLED AND MAINTAINS ITS OWN GAS WELL SOLELY TO GENERATE ELECTRICITY FOR ITS CITIZENS. NO ELECTRICITY IS SOLD OUTSIDE THE CITY.
- 4 - HUGOTON OWNS ITS OWN ELECTRIC GENERATING PLANT WITH NO BACK UP BY AN ALTERNATE SOURCE.
- 5 - BECAUSE OF CURRENT ALLOWABLES SET BY KCC, HUGOTON MUST PURCHASE 7,000 TO 10,000 MCF OF ADDITIONAL GAS FROM ALTERNATE SUPPLIERS. SOLELY BECAUSE OF LOW TAKES FROM THE SURROUNDING WELLS (WHICH IS FOR ALL PRACTICAL PURPOSES STORING THE GAS WHILE USING TAKE OR PAY GAS)

- 6 - HUGOTON IS PAYING FOR ITS GAS TWICE; ONCE WHEN IT DRILLED AND MAINTAINS ITS GAS WELL, AND A SECOND TIME WHEN FORCED TO BUY SUPPLEMENTAL SUPPLIES.
- 7 - HUGOTON'S GAS WELL CURRENTLY HAS A WELL HEAD PRESSURE OF 131# COMPARED TO 100# AND 120# FOR ADJOINING WELLS, SO ANY GAS MIGRATION WOULD BE AWAY FROM, NOT TO HUGOTON'S well.
- 8 - TWO LETTERS TO KCC HAVE BROUGHT LITTLE HOPE FOR RELIEF BY THEM. THE FIRST CONFIRMED THAT LOWERING OF ALLOWABLES WAS DUE TO LOW MARKET DEMAND AND EXCEPTIONS WERE DOUBTFUL. THE LAST LETTER WAS NOT ANSWERED.
- 9 - KCC INFORMS ME THAT APPLYING TO THEM FOR RELIEF IS NOT REALISTIC BECAUSE OF
  - A - TIME - KCC IS PREOCCUPIED WITH SUNFLOWER, WOLFCREEK, AND INFILL DRILLING HEARINGS
  - B - MONEY - APPLYING FOR RELIEF WOULD REQUIRE A FULL EVIDENTURARY HEARING, BEFORE KCC
  - C - THE REASONS RELIEF CAN BE GRANTED.
- 10 - OUR ATTORNEY ADVISES US THAT TWO COURSES OF ACTION COULD BE TAKEN BEFORE KCC:
  - A - ATTEMPT TO PROVE THE HUGOTON WELL IS NOT A PART OF THE HUGOTON FIELD (WHICH WE KNOW IS NOT TRUE)
  - B - ASK KCC TO EXEMPT THIS ACREAGE FROM THE ALLOWABLES SET FOR THE HUGOTON FIELD. (THIS MAY BE POSSIBLE BUT THE KCC HAS NO CURRENT BASIS OR HISTORY FOR THIS TYPE OF EXEMPTION SO AT BEST IT WOULD BE A LONG-SHOT).

11 - RELIEF BY LEGISLATION RATHER THAN A KCC HEARING IS:

A - JUSTIFIED - AS LOCAL AND SMALL USEAGE

B - LESS EXPENSIVE THAN FULL HEARINGS BEFORE KCC

C - QUICKER SINCE OTHER MAJOR HEARINGS ARE PENDING

D - SURER SINCE KCC HAS NO HISTORY OF THIS TYPE OF  
EXEMPTION

E - FAIRER SINCE THIS SMALL CITY IS HELD HOSTAGE BY  
NON - USE BY THE MAJOR PRODUCERS.

12 - THE THREE YEAR SUNSET SHOULD ALLEVIATE ANY FEARS THAT  
THIS WOULD ALLOW MISUSE OF THE RESOURCE.

13 - WHEN SURROUNDING PRODUCERS START PRODUCING THEIR WELLS  
AGAIN THE ALLOWABLES WILL RAISE AND THIS LEGISLATION WILL  
NOT BE NEEDED.

SENATE BILL 41 IS A LOCAL BILL WHICH SEEKS TO REMEDY AN INJUSTICE  
CAUSED BY REGULATION OF PRICING OF NATURAL GAS, SPECIFICALLY WHEN  
A SMALL TOWN HAS PROVIDED FOR ITS OWN PEOPLE AND BECOMES HOSTAGE TO  
LARGE PRODUCERS WHO USE TAKE OR PAY GAS AT HIGH PRICES AND STORE  
CHEAP GAS BY NON-USE, KNOWING CURRENT LAW WILL PROTECT THESE SUPPLIES  
UNTIL THE PRICE IS RAISED EITHER BY INFILL DRILLING OR DEREGULATION.  
SENATE BILL 41 HAS MERIT AND SHOULD BE PASSED.

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

TESTIMONY ON S. B. 120

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 S.B. 120

BACKGROUND INFORMATION:

Mr. Chairman, members of the Committee: I am pleased to be able to discuss with you today the recommendations of the Hazardous Waste Injection Well Task Force as submitted to me shortly after October 2, 1984.

Let me begin by describing some background. On June 7, 1984, I announced the formation of a task force to review deep well injection of hazardous wastes and develop, if necessary, new hazardous waste injection well policies. The formation of the task force was initiated at the request of Governor Carlin, who indicated that he was interested in having a task force study the issue of deep well injection of hazardous wastes as a separate issue from his legislative initiative last year, for a prohibition of land burial of hazardous waste.

In forming the Hazardous Waste Injection Well Task Force, I charged the task force with four duties: (1) to determine the appropriateness of prohibition of liquid hazardous waste injection; (2) to determine if injection to certain geologic formations would be environmentally acceptable; (3) to review existing requirements and develop new criteria, if necessary, by which future applications for hazardous waste injection may be judged; and (4) to develop a document outlining findings of the task force and recommendations on statutory, regulatory, and/or policy changes.

In forming the task force, I invited 13 organizations to designate a representative. All of the invited organizations accepted my invitation. Attached is a list of the members and the organizations they represent (Attachment No. 1). I also appointed Dr. Allan S. Abramson, Director, Division of Environment for the Department of Health and Environment, to serve as chairperson for the task force. In selecting the organizations to be represented on the task force, I felt it important to have a broad spectrum of representation, including organizations having technical expertise and working knowledge of hazardous waste injection wells, as well as public interest organizations.

I feel the mix of representation provided the basis for a thorough consideration of the issues involved with hazardous waste injection wells.

I asked the task force to submit its findings to me by early Fall, 1984. Within the timeframe they had, the task force met on five occasions (July 6, July 25, August 3, September 7, and October 2). At their second meeting on July 25, the task force held a technical workshop during which invited experts discussed various aspects of the hazardous waste injection well issue. The information gained during this technical workshop was very helpful to the task force in forming their recommendations. Attached is a list of the conferees (Attachment No. 2), the organizations/agencies they represent and the topic of their presentations.

As mentioned in the task force's transmittal letter to me, they found a complex set of issues involved in discussing hazardous waste injection wells. Many of these issues relate to technical processes, monitoring and pretreatment requirements as well as the public's perception of the destiny of the wastes, once injected into a well.

Because of the complexity of the issues and the short timeframe within which they had to submit their recommendations, the task force pointed out that they decided early in their deliberations to concentrate on making policy recommendations, rather than specific proposals for rewording of existing statutes and regulations. It was felt that the proposals for rewording of the existing statutes and regulations would be a natural and straight forward extension of the policy recommendations once they were made.

The recommendations of the task force are attached along with their letter of transmittal (Attachment No. 3). Accompanying their recommendations are two qualifying minority statements from the Kansas Natural Resource Council and the League of Women Voters of Kansas.

Upon receiving the task force's recommendations, my personal review was supplemented by that of a KDHE staff review committee. Assimilating the staff review committee's comments with my review, led to my adoption of the task force's recommendations, with minor modifications. The adopted version of their recommendations is also attached (Attachment No. 4). In adopting the recommendations of the task force, I identified whether I felt the individual recommendations should be implemented through modification of the statutes or regulations. There were five recommendations I felt lended themselves well for implementation through statutory modification.

Let me take a moment to highlight these recommendations. The first recommendation of the task force states that, "A hazardous waste injection well may be permitted only if it is deemed the most reasonable method after consideration of all other options. Factors to be considered in determining the most reasonable method may include, but are not limited to, health and environmental effects, alternate treatment and disposal technologies, potential for reuse, and economic impacts." It is this policy recommendation that seems to set the stage for all the others, in that it does not recommend a total prohibition of the use of injection wells for hazardous waste disposal, but clearly states that such technology should only be allowed after all other options have been considered, and then outlines the factors that may be considered in determining the most reasonable method.

The second recommendation of the task force identifies that prior to injection, the fluids must meet minimum pretreatment requirements that are set by the Secretary. The basis for my adoption of this recommendation, and I am sure the basis by which the task force recommended it, is to provide a margin of safety for a disposal technology which places the waste in a location which would make it very difficult to retrieve or reverse the process should something go wrong. The implications of permanence associated with this disposal option are more prominent than with other disposal options.

The task force stated that one of the reasons for making this recommendation is to encourage adoption of alternatives to the injection of hazardous waste.

In addition, I would like to point out that they have recommended values that must be considered in setting the pretreatment requirements, including a provision to allow consideration of other values that would be necessary to prevent contamination of underground drinking water supplies, to protect the public health, and to take into account environmental and compatibility considerations.

The fourth recommendation of the task force proposed the establishment of a hazardous waste injection well review board to recommend approval, denial or conditions for approval of all hazardous waste injection well applications. They identified the type of expertise that should be represented on the board, that they should be compensated for their work and that the review board may be used for review of applications for other types of hazardous waste disposal facilities.

I did not adopt this recommendation because I did not feel it was necessary to establish such a review board, as the type of expertise and review being recommended is an existing function of the KDHE staff and would therefore be duplicative of the KDHE staff function as well as the purpose of the hearing process for Class I UIC application for a permit. Rather than adopting this recommendation, I have proposed that provision be made for appropriation of funds for contracting with outside consultants to provide additional technical expertise if needed for hazardous waste injection well permit application review or for the review of other types of hazardous waste disposal facilities on a case-by-case basis. Specific instances may arise when additional expertise may be useful. The Secretary of the Department of Health and Environment currently has the authority to utilize outside consultants for additional expertise, as provided in K.S.A. 65-171c and 65-3431g.

The task force proposed in their recommendation number eight, the establishment of an initial application fee of \$25,000, and in the case of an already permitted facility submitting an application for the construction and operation of an additional well on the permitted site, the permit fee would not exceed \$10,000. I have adopted this recommendation as a means of defraying the estimated average costs to the department in staff time and expenses for review of a hazardous waste injection well application under the two circumstances of: a new well; and an additional well at an already existing facility.

The last task force recommendation I wanted to highlight concerns the establishment of monitoring fees. As I have adopted the task force's recommendation, an annual monitoring fee would be increased from a quantity not to exceed \$10,000 annually to a quantity not to exceed \$25,000 annually. As indicated in the recommendation, the higher amount is intended to provide for on-site witnessing of injection well operations, if determined appropriate by the Secretary. The actual amount of the fee is also proposed to be determined by the Secretary. The basis for determination of the actual amount of the fee would be based on the estimated costs for defraying the costs to the department for providing oversight of the injection well operations. I not only feel it is important to provide the opportunity for on-site witnessing but also provide for the funding to provide this service.

Having highlighted these five task force recommendations, I refer you to the attached adopted version of their recommendations for consideration of the remaining 12 recommendations that seemed to more appropriately be considered for implementation through modification of the regulations. S.B. 120 incorporates all of the recommendations requiring statutory amendments.

In its report to the Legislative Coordinating Council the Special Committee on Energy and Natural Resources commended the Hazardous Waste Injection Well Task Force for its efforts in reviewing the issue of deep well injection. The task force did an outstanding job and the department is also very appreciative of their efforts.

Thank you very much for the opportunity to share these important recommendations with you.

STRENGTHS:

1. Provides clear direction to the department and the regulated community for management of hazardous waste by deep well injection.
2. Encourages development of alternatives to underground injection of hazardous waste.
3. Provides long term protection of the public health and environment by assuring secure management of hazardous waste.
4. Provides compensation to the state of Kansas for its expenses in reviewing permit applications for hazardous waste injection wells.
5. Provides compensation to the state of Kansas for its expenses in monitoring each facility.

WEAKNESSES:

None



DEPARTMENT'S POSITION:

The department believes that S.B. 120 addresses a critical issue confronting Kansas and strongly supports approval of S.B. 120.

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

MEMBERS OF THE HAZARDOUS WASTE INJECTION  
WELL TASK FORCE

Allan S. Abramson, Chairperson.....Director of the Division of  
Environment for KDHE

Norman W. Biegler.....Association of Engineering  
Geologists

Mary Ann Bradford.....League of Women Voters of Kansas

Janis Butler.....Kansas Engineering Society

David C. Clark.....Kansas Water Pollution Control  
Association

James W. Collins.....Mid-Continent Oil and Gas  
Association

Michael Everhart.....Environmental Section of the  
Kansas Public Health Association

Rob Hodges.....Kansas Chamber of Commerce and  
Industry

Manoutchehr Heidari.....Geohydrology Section of the Kansas  
Geological Survey

Ross Martin.....Kansas Petroleum Council

Jack McCord.....Conservation Division of the  
Kansas Corporation Commission

E.A. Mosher.....League of Kansas Municipalities

Mari Peterson.....Kansas Natural Resource Council

Donald P. Schnacke.....Kansas Independent Oil and Gas  
Association

Attachment No. 2

Conferees at the July 25, Hazardous Waste  
Injection Well Task Force Technical Workshop  
Held in Wichita, Kansas and Their Topics of Discussion (In the order  
they appeared during the workshop)

Suzie Ruhl	Legal Environmental Assistance Foundation, Tallahassee, Florida.....Topic: Federal and State Policies Regarding Hazardous Waste Injection Wells
Richard Tinlin	Engineering Enterprises, Inc., Norman, Oklahoma.....Topic: The Meaning of the Term, 'Area of Endangering Influence'
Ernest Angino	Chairman, Department of Geology, the University of Kansas, Lawrence, Kansas.....Topic: Hazardous Waste Disposal Alternatives
Ross Brower	Illinois Geological Survey, Champaign, Illinois.....Topic: The Illinois Experience with Hazardous Waste Injection Wells
Jim Boyd	Plant Manager, Vulcan Materials Company, Wichita, Kansas .....Topic: Vulcan's Experience with Deep Well Injection
Robert Selm	Wilson and Company, Salina, Kansas.....Topic: Injection Well Design and Liquid Pretreatment
Doyle Fair	Consulting Engineer, Wichita, Kansas.....Topic: Construction and Monitoring of Injection Wells
Jerry Carr	U.S. Geological Survey, Lawrence, Kansas.....Topic: The Arbuckle Formation
Howard O'Connor	Kansas Geological Survey, Lawrence, Kansas.....Topic: Siting Criteria

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

MEMORANDUM

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

FROM: Members of The Hazardous Waste Injection Well Task Force

DATE: October 2, 1984

SUBJECT: Final Recommendations

The Task Force convened four times between July 6, 1984 and September 7, 1984 and discussed the issue of hazardous waste injection wells within the scope of the following responsibilities:

(1) To determine the appropriateness of prohibition of liquid hazardous waste injection, (2) To determine if injection to certain geological formations would be environmentally acceptable, (3) To review existing requirements and develop new criteria, if necessary, by which future applications for hazardous waste injection may be judged, and (4) To develop a document outlining findings of the Task Force and recommendations on statutory/regulatory changes and policy.

The Task Force held a workshop on July 25 in Wichita where conferees expressed pros and cons on the hazardous waste injection well issue which were helpful to the task force in forming the recommendations included in the report.

The Task Force found that a complex set of issues are involved in discussing hazardous waste injection wells and their viability as a disposal method. Many of these issues related to physio-chemical processes that involve the waste characteristics, formation properties, and pretreatment opportunities and the public perception of the future destiny of the wastes, once injected into a well.

We hereby submit our recommendations to you for your consideration.

Hazardous Waste Injection Well Task Force Members

*Allan S. Abramson*

Allan S. Abramson, Chairman  
Hazardous Waste Injection Well Task Force

*Norman W. Biegler*


Norman W. Biegler  
Association of Engineering Geologists

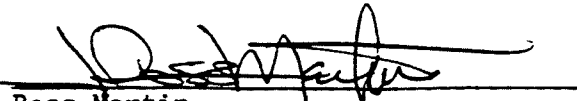
*M. Heidari*

Dr. Manoutchehr Heidari, Chief  
Geohydrology Section  
Kansas Geological Survey

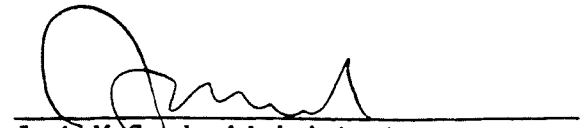
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Hazardous Waste Injection Well Task Force Members (Cont.)

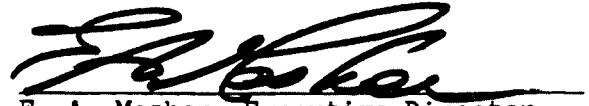
  
Mary Ann Bradford  
League of Women Voters of Kansas

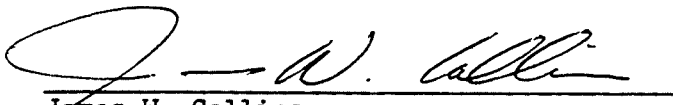
  
Ross Martin  
Kansas Petroleum Council


  
Janis Butler  
Kansas Engineering Society

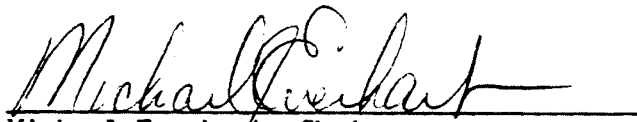
  
Jack McCord, Administrator  
Conservation Division  
Kansas Corporation Commission

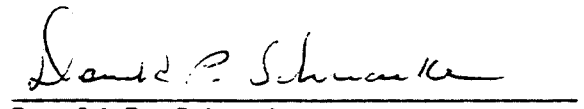
  
David C. Clark  
Kansas Water Pollution Control Assoc.

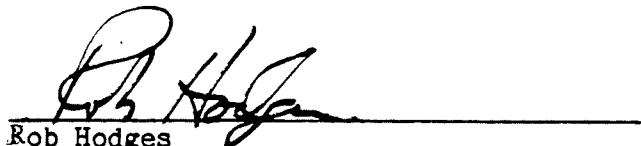
  
E. A. Mosher, Executive Director  
League of Kansas Municipalities

  
James W. Collins  
Mid-Continent Oil & Gas Association

  
Mari Peterson, Executive Director  
Kansas Natural Resource Council

  
Michael Everhart, Chairman  
Environmental Section  
Kansas Public Health Association

  
Donald P. Schnacke  
Kansas Independent Oil & Gas Assoc.

  
Rob Hodges  
Kansas Chamber of Commerce  
and Industry

NOTE: The signing of this document by individual task force members indicates that the task force member, as an individual, acknowledges participation with the task force. Their individual signatures do not necessarily signify endorsement of this document by the organization they represent.

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT  
HAZARDOUS WASTE INJECTION WELL TASK FORCE

RECOMMENDATIONS

General Policies

1. Permitting: A hazardous waste injection well should be permitted only if it is deemed the most reasonable method after consideration of all other options. Factors to be considered in determining the most reasonable method may include, but are not limited to, health and environmental effects, alternate treatment and disposal technologies, potential for reuse, and economic impacts.
2. Pretreatment: Prior to injection, the fluids must meet minimum pretreatment requirements that are set by the Secretary. The purposes of the pretreatment requirements include protecting public health and the environment if the injection well fluids were to inadvertently enter useable aquifers or surface waters, and encouraging adoption of alternatives to the injection of hazardous waste. In addition, pretreatment should render the injected fluid compatible with the well string and with the disposal formation.

In setting these requirements, the Secretary shall consider values 100 times applicable drinking water standards and values 100 times applicable  $10^{-5}$  cancer risk levels, or other values necessary to prevent contamination of underground drinking water supplies, to protect the public health, and to take into account environmental and compatibility considerations.

3. Pressure Injection: All systems other than zero or negative well head pressure injection of hazardous wastes should be prohibited in the State of Kansas.
4. External Review: A hazardous waste injection well review board should be established in order to recommend approval, denial or conditions for approval of all hazardous waste injection well applications.

The review board should consist of up to 7 members. The review board should have expertise represented in the following areas: geology, hydrology, chemistry, toxicology, process engineering and well construction engineering. The members of the review board may be compensated for their work in reviewing applications. The deliberations of the review board should be open to the public.

It also is recommended that this review board may be used by the Secretary, for review of applications for other types of hazardous waste disposal facilities.

### Application Requirements

5. Necessary Information: The applicant should be responsible for providing the information necessary for the Secretary to determine that well injection of the hazardous waste in question is the most reasonable method after consideration of all other options.
6. Area of Review: The area of review for all hazardous waste injection wells should be one-half ( $\frac{1}{2}$ ) mile or shall extend to the limits of the estimated zone of endangering influence, whichever is greater. The estimated zone of endangering influence shall be defined as that area where the cone of "impression" intercepts the boundaries of a useable aquifer.
7. Field Verification: The location of all holes and abandoned wells within the area of review should be ascertained by means of a record search and a field survey, including interviews. The results of the survey should be documented in a report, with a portion of the report including a map to geographically document the location of all holes and abandoned wells within the area of review.
8. Application Fee: In order to defray the costs to the Department for initial review of an application for a hazardous waste injection well facility, the applicant should submit an application fee of \$25,000 with the permit application. In cases of a permitted facility submitting an application for the construction and operation of a new well on the permitted site, the permit fee shall not exceed \$10,000.

### Permit Conditions

9. Liability Coverage: Insurance requirements should be modified to require not less than \$1,000,000 per person and \$1,000,000 per occurrence for bodily injury or death and \$3,000,000 for all damages to the property of others. Minimum amount of coverage should be \$3,000,000.

In lieu of insurance, a financial equivalency requirement which is consistent with the federal requirement (40 CFR 264.147(f)) may be allowed. Higher amounts for insurance, bonds or equivalent may be required by the Secretary.

10. Long-term Assurances: Closure and post-closure requirements will be met by compliance with the federal regulations (40 CFR 264.111 through 40 CFR 264.120) as effective September 1, 1984.

Financial requirements will be met by compliance with the federal regulations (40 CFR 264.141 through 40 CFR 264.151) as effective September 1, 1984.

11. Monitoring:

- a. Injection fluids received from multiple generators by a hazardous waste facility, even if treated at the hazardous waste facility before injection, should be batched tested and the chemical composition confirmed by laboratory analyses prior to injection. However, laboratory analysis of the composition of homogeneous and continuously generated injection fluids generated and disposed at a single site may be permitted on a monthly basis. The results of such laboratory analyses should be the basis upon which the Secretary will determine whether injection of the fluids may occur.

Monitoring should be required only for constituents which were approved for injection. The Secretary may allow for monitoring of indicator constituents rather than the full approved list of constituents, and for other constituents as deemed necessary.

- b. Monitoring wells should be required in appropriate geologic zones as determined by the Secretary to be necessary to protect usable aquifers.
  - c. Records of the continuously monitored injection pressure, flow rate, injection volume and annular pressure should be maintained, in addition to the weekly average, maximum and minimum values of these parameters.
  - d. Monitoring results should be reported to the Department on a monthly basis.
12. Permit Review Term: The Secretary should review each permit for a class I hazardous waste injection well at least every year, to determine whether it should be modified, revoked or reissued.
13. Permit Renewal Fee: In order to defray the costs to the Department for renewal of a class I hazardous waste injection well permit, as identified in 28-46-10-a, the applicant should submit a permit renewal fee not to exceed \$10,000, the amount of which will be determined by the Secretary.

On-going Oversight

14. Monitoring Fees: In order to defray the costs to the Department of monitoring a hazardous waste injection well, the fee schedule should be increased from a quantity of not to exceed \$10,000 annually to a quantity of not to exceed \$25,000 annually. The higher amount is intended to provide for on-site witnessing of injection well operations, if determined appropriate by the Secretary. The amount of the fee will be determined by the Secretary.



15. Integrity Tests: The mechanical integrity of hazardous waste injection wells should have to be demonstrated by the permittee every two years. The Secretary shall provide for a qualified state inspector to witness all mechanical integrity tests performed.
16. Inspections: As a minimum, the Secretary should direct that a monthly, unannounced site inspection be conducted in order to ensure full compliance with permit requirements.
17. Task Force: The Hazardous Waste Injection Well Task Force should be reconvened annually to evaluate program policies and implementation, and to provide its recommendations to the Secretary.

# Kansas Natural Resource Council

## HAZARDOUS WASTE INJECTION WELL TASK FORCE

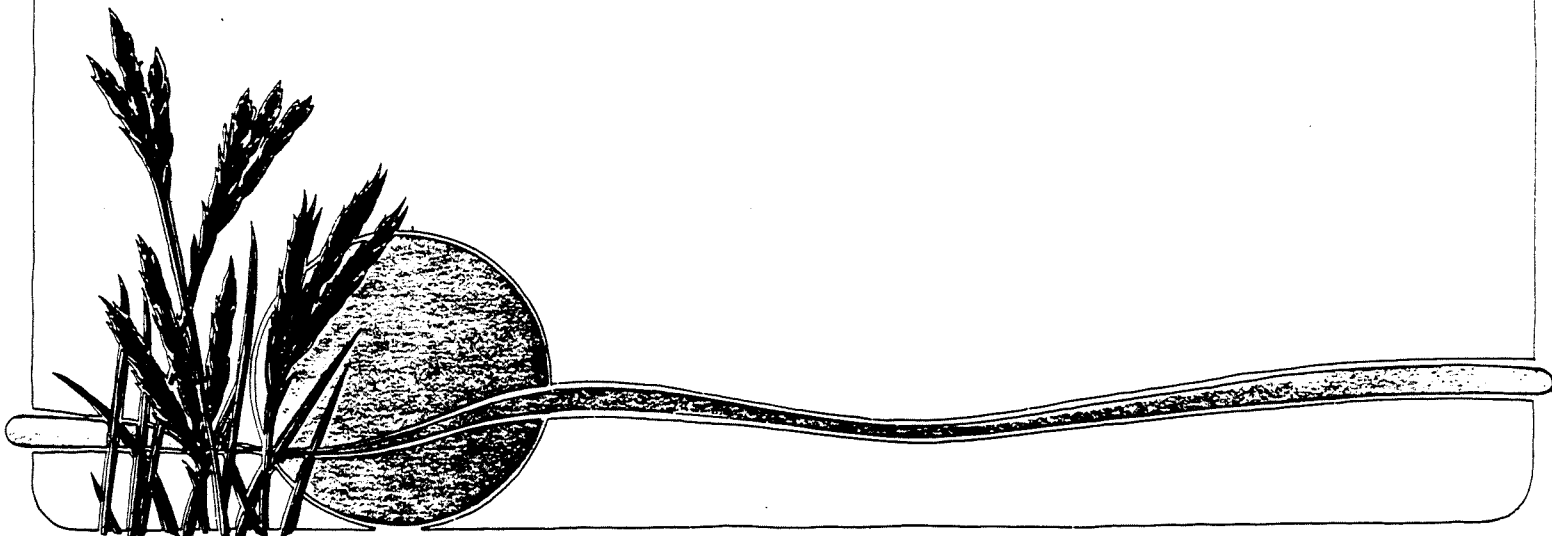
### Minority Statement

We recognize that the policies recommended by the Hazardous Waste Injection Well Task Force represent a significant improvement over current policies, and we recommend, at a minimum, that these policies be implemented.

We still hold serious reservations about the ability to contain hazardous chemicals underground and to monitor their containment. We also believe it is the responsibility of the state and the Department of Health and Environment to address the source of environmental problems, not merely their symptoms.

We recognize the interest and concern of the Kansas Legislature in reducing hazardous waste generation and enhancing hazardous waste treatment. We do not intend for these policy recommendations to preclude the legislature from taking stronger action in this area.

Therefore, we recommend that these proposed policies be viewed as only the first step toward an ultimate goal of banning underground injection of hazardous wastes.



# LWVK LEAGUE OF WOMEN VOTERS OF KANSAS

909 Topeka Avenue-Annex Topeka, Kansas 66612 (913) 354-7478

## STATEMENT ON THE USE OF UNDERGROUND INJECTION WELLS FOR THE DISPOSAL OF HAZARDOUS WASTES

During 1982, the members of the League of Women Voters of Kansas studied and discussed the many aspects of hazardous waste management in general and also focused on the situation in Kansas. Member agreement on waste generation, transportation, facility siting and management options was reached through a consensus process and serves as the basis of the League's position on hazardous waste management in Kansas.

It is the League's position that the use of underground injection wells for disposal of hazardous wastes is an unacceptable procedure. Consequently, the League urges the prohibition of new wells and an expeditious phase out of existing wells.

Should a prohibition on the disposal of hazardous wastes by underground injection wells not occur, the League would support the recommendations of the Task Force as they could provide for a better defined and more stringent program for hazardous waste disposal by underground injection wells.

September 7, 1984

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT  
HAZARDOUS WASTE INJECTION WELL TASK FORCE

RECOMMENDATIONS

*(as adopted by Secretary Sabol)*

General Policies

- Statute 1. Permitting: A hazardous waste injection well ~~should~~ <sup>may</sup> be permitted only if it is deemed the most reasonable method after consideration of all other options. Factors to be considered in determining the most reasonable method may include, but are not limited to, health and environmental effects, alternate treatment and disposal technologies, potential for reuse, and economic impacts.
- Proposed incorporation into K.S.A. 65-3439 as item "c"
- Statute 2. Pretreatment: Prior to injection, the fluids must meet minimum pretreatment requirements that are set by the Secretary. The purposes of the pretreatment requirements include protecting public health and the environment if the injection well fluids were to inadvertently enter useable aquifers or surface waters, and encouraging adoption of alternatives to the injection of hazardous waste. In addition, pretreatment should render the injected fluid compatible with the ~~well-string~~ <sup>injection tubing</sup> and with the disposal formation.
- Proposed incorporation into K.S.A. 65-3439 as item "d"
- In setting these requirements, the Secretary shall consider values 100 times applicable drinking water standards and values 100 times applicable  $10^{-5}$  cancer risk levels, or other values necessary to prevent contamination of underground drinking water supplies, to protect the public health, and to take into account environmental and compatibility considerations.
- Regulation 3. Pressure Injection: All systems other than zero or negative well head pressure injection of hazardous wastes should be prohibited in the State of Kansas.
- Statute (budget) 4. ~~External Review:--A hazardous waste injection well review board should be established in order to recommend approval, denial or conditions for approval of all hazardous waste injection well applications.~~
- ~~The review board should consist of up to 7 members.--The review board should have expertise represented in the following areas: geology, hydrology, chemistry, toxicology, process engineering and well construction engineering.--The members of the review board may be compensated for their work in reviewing applications.--The deliberations of the review board should be open to the public.~~
- ~~It also is recommended that this review board may be used by the Secretary, for review of applications for other types of hazardous waste disposal facilities.~~
- The Legislature should appropriate funds for contracting with outside consultants to provide additional technical expertise if needed for hazardous waste injection well permit applications reviews or for the review of other types of hazardous waste disposal facilities on a case-by-case basis.*

Application Requirements

Regulation 5. Necessary Information: The applicant should be responsible for providing the information necessary for the Secretary to determine that well injection of the hazardous waste in question is the most reasonable method after consideration of all other options.

Regulation 6. Area of Review: <sup>shall no less than</sup> The area of review for all hazardous waste injection wells ~~should be~~ one-half (½) mile or shall extend to the limits of the estimated zone of endangering influence, whichever is greater. The estimated zone of endangering influence shall be defined as that area where the cone of "impression" intercepts the boundaries of a useable aquifer.

Regulation 7. Field Verification: The location of all holes and abandoned wells within the area of review should be ascertained by means of a record search and a field survey, including interviews. The results of the survey should be documented in a report, with a portion of the report including a map to geographically document the location of all holes and abandoned wells within the area of review.

Statute 8. Application Fee: In order to defray the costs to the Department for initial review of an application for a hazardous waste injection well ~~facility~~, the applicant should submit an application fee of \$25,000 with the permit application. In cases of a permitted facility submitting an application for the construction and operation of ~~a new well on the permitted site~~, the permit fee shall not exceed \$10,000. <sup>an additional</sup>

This recommendation and recommendation No. 13 are proposed for incorporation into K.S.A. 65-171(f)(5)

Permit Conditions

Regulation 9. Liability Coverage: Insurance requirements should be modified to require not less than \$1,000,000 per person and \$1,000,000 per occurrence for bodily injury or death and \$3,000,000 for all damages to the property of others. Minimum amount of coverage should be \$3,000,000.

In lieu of insurance, a financial equivalency requirement which is consistent with the federal requirement (40 CFR 264.147(f)) may be allowed. Higher amounts for insurance, bonds or equivalent may be required by the Secretary.

Regulation 10. Long-term Assurances: Closure and post-closure requirements will be met by compliance with the federal regulations (40 CFR 264.111 through 40 CFR 264.120) as effective September 1, 1984.

Financial requirements will be met by compliance with the federal regulations (40 CFR 264.141 through 40 CFR 264.151) as effective September 1, 1984.

Regulation 11. Monitoring:

- a. Injection fluids received from multiple generators by a hazardous waste facility, even if treated at the hazardous waste facility before injection, should be batched tested and the chemical composition confirmed by laboratory analyses prior to injection. However, laboratory analysis of the composition of homogeneous and continuously generated injection fluids generated and disposed at a single site may be permitted on a monthly basis. The results of such laboratory analyses should be the basis upon which the Secretary will determine whether injection of the fluids may occur.

Monitoring should be required only for constituents which were approved for injection. The Secretary may allow for monitoring of indicator constituents rather than the full approved list of constituents, and *for other constituents as deemed necessary.*

- b. Monitoring wells should be required in appropriate geologic zones as determined by the Secretary to be necessary to protect *may require* useable aquifers.
- c. Records of the continuously monitored injection pressure, flow rate, injection volume and annular pressure should be maintained, in addition to the weekly average, maximum and minimum values of these parameters.
- d. Monitoring results should be reported to the Department on a monthly basis.

Regulation 12. Permit Review Term: The Secretary should review each permit for a class I hazardous waste injection well at least every year, to determine whether it should be modified, revoked or reissued.

Regulation 13. Permit Renewal Fee: In order to defray the costs to the Department for renewal of a class I hazardous waste injection well permit, as identified in 28-46-10-a, the applicant should submit a permit renewal fee not to exceed \$10,000, the amount of which will be determined by the Secretary.

On-going Oversight

Statute 14. Monitoring Fees: In order to defray the costs to the Department of monitoring a hazardous waste injection well, the fee schedule should be increased from a quantity of not to exceed \$10,000 annually to a quantity of not to exceed \$25,000 annually. The higher amount is intended to provide for on-site witnessing of injection well operations, if determined appropriate by the Secretary. The amount of the fee will be determined by the Secretary.

Proposed for  
incorporation  
into K.S.A. 65-  
3431(u)

- Regulation 15. Integrity Tests: The mechanical integrity of hazardous waste injection wells should have to be demonstrated by the permittee every two years. The Secretary shall provide for a ~~qualified state~~ inspector to witness all mechanical integrity tests performed.
- Regulation 16. Inspections: As a minimum, the Secretary should direct that a monthly, unannounced site inspection be conducted in order to ensure full compliance with permit requirements.
17. Task Force: The Hazardous Waste Injection Well Task Force should be reconvened annually to evaluate program policies and implementation, and to provide its recommendations to the Secretary.

**UNDERGROUND INJECTION CONTROL  
(UIC) PROGRAM IN KANSAS**

Statutory Authority

The Department has authority under K.S.A. 65-171d to issue permits for injection wells to dispose of industrial waste waters into subsurface formations. Also classed as injection wells are:

- (a) Salt Solution Mining Wells
- (b) Hydrocarbon Storage Wells (LPG)
- (c) Groundwater and Air Conditioning Return Wells
- (d) Recharge Wells

Other Chapter 65 statutes pertaining to water pollution control also apply to the UIC program but not to the permitting of wells.

Primacy of UIC Program

The Governor has designated the Department of Health and Environment as lead agency for all classes of injection wells except those related to the production or enhanced recovery of oil and gas. Lead agency designation for oil and gas field brine disposal and enhanced recovery wells was given to the Kansas Corporation Commission which is operated as a joint KCC-KDHE program effort through Memorandum of Agreement.

Kansas (KDHE) was awarded primacy for UIC Injection Well Classes I, III, IV and V and Class II (hydrocarbon storage wells) in early 1984 from the U.S. Environmental Protection Agency.

Primacy signifies that the state receives the Underground Injection Control grant to administer the program at the state level. The state promises, in terms of a Memorandum of Agreement with EPA (Federal), to adopt and implement regulations controlling underground injection practices which are at least as strict as the Federal UIC regulations. The EPA role in the State-Federal partnership is one of program oversight and evaluation and the State fulfills ongoing program obligation to EPA through an official document called the EPA-State Agreement. Primacy can be withdrawn by EPA for poor state program performance but only after a rather detailed Federal hearing process.



## DESCRIPTION OF UIC WELL CLASSES

### Class I

Includes disposal wells disposing of industrial waste waters or brine, municipal waste water, and hazardous listed wastes and water withdrawn from groundwater cleanup operations and disposed of by subsurface injection. Kansas has:

Industrial Disposal Wells	57
(a) Non-Hazardous	52
(b) Hazardous	5
Municipal Waste Water	0
Groundwater Cleanup (per se)	0

### Class II - Oil Field Injection Wells

(a) Disposal	5,020
(b) Enhanced Recovery	3,081

(Permits issued by KCC in the form of Orders after KDHE approval).

Hydrocarbon Storage Wells	5
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(Liquid storage in salt at standard-temp. and pressure).

### Class III - Salt Solution Mining Wells

Kansas has five projects - approximately 80 wells

Salt solution mining wells are those where fresh water is injected into salt through one well and salt brine is returned to the surface either through the same well or an adjacent one.

### Class IV - Hazardous Waste Injection

For hazardous waste injection above or into fresh water formations. Well type prohibited in Kansas since 1965.

### Class V - Miscellaneous Injection well types include:

Hydrocarbon Storage wells in salt where product is stored under pressure	- 700+
Recharge wells	- less than 10
Heat Pump-Groundwater Return	- under survey
Air Conditioner Return wells	- under survey
Drainage wells	- under survey

Class V is currently under survey and assessment as to pollution potential.

## HOUSE BILL NO. \_\_\_\_\_

AN ACT concerning water; enacting the multipurpose small lakes program act; amending K.S.A. 2-1915 and 82a-934 and K.S.A. 1984 Supp. 74-2609 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. This act shall be known and may be cited as the "multipurpose small lakes program act."

New Sec. 2. In order to provide public water supply storage and water related recreational facilities in the state there is hereby established a multipurpose small lakes program. The program shall be administered by the state conservation commission. The state conservation commission shall adopt all rules and regulations necessary to implement the provisions of this act.

New Sec. 3. When used in this act:

(a) "Chief engineer" means the chief engineer of the division of water resources of the state board of agriculture.

(b) "Class I funded project" means a proposed new project or renovation of an existing project located within the boundaries of an organized watershed district which is receiving or is eligible to receive financial participation from the state conservation commission for the flood control storage portion of the project.

(c) "Class II funded project" means a proposed new project or renovation of an existing project which is receiving or is eligible to receive financial participation from the federal government.

(d) "Class III funded project" means a proposed new project or renovation of an existing project located outside the boundaries of an organized watershed district which is not

receiving or is not eligible to receive financial participation from the state conservation commission or the federal government.

(e) "Flood control storage" means storage space in reservoirs to hold flood waters.

(f) "General plan" means a preliminary engineering report describing the characteristics of the project area, the nature and methods of dealing with the soil and water problems within the project area, and the projects proposed to be undertaken by the sponsor within the project area. Such plan shall include maps, descriptions and other data as may be necessary for the location, identification and establishment of the character of the work to be undertaken and any other data and information as the chief engineer may require.

(g) "Land right" means real property as that term is defined by the laws of the state of Kansas and all rights thereto and interest therein and shall include any road, highway, bridge, street, easement or other right-of-way thereon.

(h) "Multipurpose small lake project" means a dam and lake containing (1) flood control storage and (2) either public water supply storage or recreation features or both. The project shall include land treatment measures in the drainage area to adequately protect the lake from siltation and pollution.

(i) "Public water supply" means a water supply for municipal, industrial or domestic use.

(j) "Public water supply storage" means storage of water for municipal, industrial or domestic use.

(k) "Recreation feature" means water storage and related facilities for activities such as swimming, fishing, boating, camping or other related activities.

(l) "Sponsor" means any political subdivision of the state which has the power of taxation and the right of eminent domain.

(m) "Water user" means any city, rural water district, wholesale water district or any other political subdivision of the state which is in the business of furnishing municipal or industrial water to the public.

New Sec. 4. (a) The state may participate with a sponsor in the development, construction or renovation of a class I multipurpose small lake project if the sponsor has a general plan which has been submitted to and approved by the chief engineer in the manner provided by K.S.A. 24-1213 and 24-1214, and amendments thereto. If the Kansas water office determines that additional public water supply storage shall be needed in that area of the state within 20 years from the time such project is to be completed and a water user is not available to finance public water supply storage, the state may include public water supply storage in the project. The Kansas water office shall apply for a water appropriation right sufficient to insure a dependable yield from the public water supply storage.

(b) The sponsor of such class I project shall be responsible for acquiring land rights and for the costs of operation and maintenance of such project. The sponsor participating in the construction of recreation features of a project shall pay for that portion of the project attributable to recreation. The state may provide up to 50% of the engineering and construction costs and up to 50% of the costs of land rights associated with recreation features. Subject to the provisions of subsection (a), the state may pay up to 100% of the engineering and construction costs of flood control and public water supply storage. All other costs of such project, including land, construction, operation and maintenance shall be paid by the sponsor.

(c) The state may recover its costs incurred in providing public water supply storage in such class I project by selling such storage and the associated water rights.

New Sec. 5. (a) The state may participate with a sponsor in the development, construction or renovation of a class II multipurpose small lake project if the sponsor has a general plan which has been submitted to and approved by the chief engineer in the manner provided by K.S.A. 24-1213 and 24-1214, and amendments thereto. If the Kansas water office determines that additional

public water supply storage shall be needed in that area of the state within 20 years from the time such project is to be completed and a water user is not available to finance public water supply storage, the state may include public water supply storage in the project. The Kansas water office shall apply for a water appropriation right sufficient to insure a dependable yield from public water supply storage.

(b) In a class II project, the state may assume initial financial obligations for public water supply storage in watersheds by entering into long-term contracts with the federal government. In order to provide security to the federal government, the state may grant assignments of water rights, either appropriation rights or water reservation rights; assignments of rights under existing or prospective water purchase contracts; assignments, mortgages or other transfers of interests in real property held by the state and devoted to the specific small lake project for which security is sought; or may provide other security that is permissible under state law and acceptable by the federal government. Instead of contracting to repay costs under long-term contracts, the state may pay all of the required costs of the public water supply storage in a lump sum.

(c) The sponsor of such class II project shall be responsible for acquiring land rights and for the costs of operation and maintenance of such project. The sponsor participating in the construction of recreation features of a project shall pay for that portion of the project attributable to recreation. The state or federal government may provide up to 50% of the engineering and construction costs and up to 50% of the costs of land rights associated with recreation features.

(d) The state may recover its costs incurred in providing public water supply storage in such class II project by selling such storage and the associated water rights.

New Sec. 6. (a) The state may participate with a sponsor in the development, construction or renovation of a class III

multipurpose small lake project if the sponsor has a general plan which has been submitted to and approved by the chief engineer in the manner provided by K.S.A. 24-1213 and 24-1214, and amendments thereto. If public water supply storage is included in the project, the sponsor of such class III project shall pay for 100% of the costs associated with the public water supply storage portion of such project.

(b) The sponsor of such class III project shall be responsible for acquiring land rights and for the costs of operation and maintenance of the project. The sponsor participating in the construction of recreation features of a project shall pay for that portion of the project attributable to recreation. The state may provide up to 50% of the engineering and construction costs and up to 50% of the costs of land rights associated with recreation features. The state may pay up to 100% of the engineering and construction costs of flood control storage. All other costs of such project, including land, construction, operation and maintenance, shall be paid by the sponsor.

New Sec. 7. Sponsors shall apply to the state conservation commission for participation in the multipurpose small lakes program. The review and approval process of the state conservation commission shall be established by rules and regulations which shall be consistent with the state water plan. Following review, the state conservation commission shall request appropriations for specific projects from the legislature. Any funds appropriated to carry out the provisions of this act shall be administered by the state conservation commission.

New Sec. 8. If state financial participation is approved for a multipurpose small lake project, the state conservation commission shall require land treatment implementation to protect the project from silting and pollution. If public water supply storage is included in such a project, the sponsor shall have a water conservation plan which has been submitted to and approved by the chief engineer. Any funding provided by the state shall

include money necessary to pay for cost-sharing expenses incurred for required land treatment practices.

Sec. 9. K.S.A. 2-1915 is hereby amended to read as follows: 2-1915. Appropriations may be made for grants out of funds in the treasury of this state for the construction of terraces, terrace outlets, check dams, dikes, ponds, ditches, watershed structures and other water conservation structures on public lands and on privately owned lands. Except as provided by the multipurpose small lakes program act, any such grant shall not exceed ~~eighty-percent-(80%)~~ 80% of the total cost of the construction of any such structure. The state conservation commission shall adopt rules and regulations to administer such grant program. Any district is authorized to make use of any assistance whatsoever given by the United States, or any agency thereof, or derived from any other source, in the construction of such structures.

Sec. 10. K.S.A. 1984 Supp. 74-2609 is hereby amended to read as follows: 74-2609. The Kansas water office may:

(a) Seek and accept grants and other financial assistance that the federal government and other public or private sources ~~shall~~ make available and utilize the same for any purpose which the office is required or authorized to study or make recommendations concerning.

(b) Contract with public agencies or with qualified private persons or agencies to accomplish any purpose which the office is required or authorized to study or make recommendations concerning.

~~(c) For the purpose of implementing the watershed program in Middle Creek watershed district No. 50 as designated under the provisions of K.S.A. 82a-939, purchase, hold, sell, and convey real and personal property, and execute such contracts as the board may deem necessary or convenient to enable it to carry out properly the purposes of article 9 of chapter 82a of the Kansas Statutes Annotated, and acts amendatory thereof or supplemental thereto, and such other duties it may have as prescribed by law~~

within-such-watershed-district.

(d) For the purpose of implementing the watershed program in Middle Creek watershed district No. 50 as designated under the provisions of K.S.A. 82a-939, acquire by purchase, lease, agreement, or condemnation or accept donations, bequests, devises, or gifts of any and all water rights, lands, easements, rights-of-way, or other real property, and personal property and moneys, necessary or convenient to the exercise of powers, rights, and duties now or hereafter conferred upon it by law within such watershed district. Title to all property acquired by the board shall be taken in the name of the board on behalf of the state. The power of condemnation herein granted shall be exercised in the manner provided in K.S.A. 26-501 to 26-516, inclusive, and acts amendatory thereof or supplemental thereto. Upon the request of the board, the attorney general shall proceed to acquire for it by condemnation the property that it designates.

(c) For the purpose of providing public water supply storage in either federally funded or nonfederally funded multipurpose small lakes, acquire water rights under the Kansas water appropriation act.

Sec. 11. K.S.A. 82a-934 is hereby amended to read as follows: 82a-934. The office, on behalf of the state, shall enter into negotiations and agreements with the federal government relative to the inclusion or the purchase of, and the payment for, conservation storage features for water supply in any project that has been planned, authorized or constructed by the federal government when the Kansas water authority shall deem such negotiations and agreements to be necessary for the achievement of the policies of the state of Kansas relative to the water resources thereof. Such agreements shall be binding upon the state to the extent that future appropriations are made in support thereof an agreement shall bind the state to a long-term payment obligation if the legislature approves, by enactment, any such agreement following negotiations. Subject to



the foregoing, any agreement made under this section may provide that a portion of the reimbursement cost shall include any payment made by the United States to third parties as a result of the finding of liability by a court of competent jurisdiction or by settlement arising out of the use of the water storage space and the release therefrom, except that no reimbursement shall be made to the extent that the liability arises from the sole fault of the United States.

Sec. 12. K.S.A. 2-1915 and 82a-934 and K.S.A. 1984 Supp. 74-2609 are hereby repealed.

Sec. 13. This act shall take effect and be in force from and after its publication in the statute book.