

MINUTES OF THE Senate COMMITTEE ON Agriculture

The meeting was called to order by Senator Allen at
Chairperson

10:00 a.m. ~~PM~~ on March 8, 1985 in room 423-S of the Capitol.

All members were present except: Senator Montgomery (excused)
Senator Doyen (excused)
Senator Gordon (excused)
Senator Karr (excused)

Committee staff present: Raney Gilliland, Research Department
Jim Wilson, Revisor of Statute's Office

Conferees appearing before the committee: Freeman Biery, Director, Noxious Weed Law
Administrator, State Board of Agriculture
Marsha Hutchison, Kansas Fertilizer and
Chemical Association
Jerry Doop, Maxima, Inc., Garden City
Marsha Marshall, Kansas Natural Resource Council
Malcolm Moore, Kansas Sierra Club
Terry Schafer, Kansans for Safe Pest Control
Don Snethan, Department of Health & Environment

Senator Allen called the committee to order at 10:00 a.m. for a hearing on SB 330. Senator Allen called on Freeman Biery to explain the background on this bill.

Freeman Biery explained chemigation has been going on in the state and after meetings and a survey conducted proved there was a need for regulations. Mr. Biery stated there needs to be continued research, education and records kept, by registration, of who is using chemigation; also safe equipment needs to be used so the chemicals won't accidentally be forced back into the source of the irrigation water. Mr. Biery said SB 330 was compiled by information gathered during the last two years and some changes would likely have to be made later. Mr. Biery stated section 8 (a) needs to be deleted now. Mr. Biery also reported there would be a yearly fee for registration which would partly pay for the costs this bill would create.

Discussion following centered around these questions: What is being done in other states regarding chemigation issues, are we sure the equipment used will not allow chemicals to back up into irrigation wells.

Senator Allen called on Terry Shafer, a proponent, to present her testimony for the bill. Ms. Shafer reported she represented Kansans for Safe Pest Control who support this SB 330 with section 8 (a) removed. (see attachment A).

The chairman next called on Marsha Hutchison a proponent. Ms. Hutchison stated the Kansas Fertilizer and Chemical Association had been involved and interested in the subject of chemigation for some time; and then introduced Jerry Doop to testify. Mr. Doop stated he had helped draft the plans for the chemigation bill now before the committee. He stated most farmers abided by chemigation regulations but expressed support for SB 330 which will require everyone to be regulated.

Discussion followed expressing the view that Kansas farmers already are concerned about regulations regarding the use of chemicals, are concerned about keeping our water pure, do have good irrigation equipment which is not allowing chemicals back into sources of irrigation water.

Senator Allen called on Marsha Marshall, a proponent, to testify. Ms. Marshall expressed support for chemigation legislation as expressed in SB 330 with the omission of section 8 (a). (see attachment B).

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Agriculture,
room 423-S, Statehouse, at 10:00 a.m./~~p.m.~~ on March 8, 1985

The chairman called on Malcolm Moore, a proponent, to testify. Mr. Moore expressed support for the concept of SB 330. (see attachment C).

The chairman called on Don Snethan to testify. Mr. Snethan stated the bill complemented the mission of the Department of Health and Environment and expressed support and encouragement for its enactment. (see attachment D).

Senator Allen declared the hearing on SB 330 completed and ask the committee for recommendations on the bill.

Senator Norvell, because of the recommendation of several conferees, made a motion to delete section 8 (a), lines 187-189. Senator Warren seconded the motion.

Several expressed the feeling that section 8 (a) should be left in the bill. When ask the meaning of the section Jim Wilson stated as written he was not sure, but if the committee wishes to leave this section in with a specific meaning intended that meaning should be stated.

Senator Allen declared the committee adjourned at 11:00 a.m. until Monday a.m., March 11.

GUEST LIST

COMMITTEE: SENATE AGRICULTURE

DATE: Month 8, 1985

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
MARSHA HUTCHISON	HUTCHINSON	KS FERTILIZER + CHEMICAL Assn.
Jerry Doop	GARDEN CITY	MAXIMA COOP / KFCA
MARLYN SPARE	GARDEN CITY	MAXIMA COOP /
ROLLIE STUKENHOLTZ	DODGE CITY	SERVI-TECH - KFCA
Belgona Crenshaw	Topeka	Comm of Farm Orgs
Audie S Jacobs	Manhattan	Kansas State University
Art L Campbell	Russville	Farmer
Martina Wilmquist	Topeka	K.U. Dept of Public Affairs
Nancy Pantola	Topeka	Kansas Co-op Council
Harland Priddle	topeka	KS STATE Bd of Ag.
Doris Nagel	"	Div. of Budget
Gerald Riley	Dighton	KS Assn of Wheat Growers
DENNIS SHANEY	NORCATA MO	
Don Snethen	Topeka	KS Dept Health & HO
Joe Lieber	"	KS Co-op Council
John K. Blythe	Manhattan	KS Farm Bureau
David A. McFarlane	Baldwin City	KS Ag Aviation Assn
Shawn McGrath	Lawrence	KNRC
Vicky Foth	Topeka	KNRC
Malcolm MOORE	Auburn	Sierra Club
Terry Shafer	Lawrence	Kansans for Safe Pest Control
Howard Wittes	Hutchinson	KAWG
JOE HARKINS	TOPEKA	KWD

KANSANS FOR SAFE PEST CONTROL
639 Mississippi Street
Lawrence, Kansas 66044
8 March 1985

Senator Jim Allen, Chairman
Committee on Agriculture and Small Business
Statehouse
Topeka, Kansas 66612

Dear Senator Allen:

We have been watching with some concern the growing unregulated use of chemicals in irrigation systems. We have been concerned about both the threat to groundwater in case of equipment failure or inadequate safeguards and also the danger to the public from an unsupervised use of pesticides. We were glad to see the Kansas State Board of Agriculture take the initiative in promoting safety in chemigation. We support the protective measures included in this bill.

However, we cannot support SB 330 unless Section 8(a) is deleted. Section 8(a) would release any person using chemigation from civil liability for damage if he complies with the chemigation safety law. This is a highly unusual protection, and does not serve the farmers or other citizens who might be injured in spite of the law.

We can point out two areas where the law certainly cannot be counted on to provide adequate protection--it does not protect passersby who might unknowingly allow themselves to be sprayed, and it does not prevent damage to others from runoff or drift. In both of these cases, the injured party should be allowed redress through the courts, even if the user is in compliance with the law. The law cannot specify every detail needed to protect everyone, and recourse to civil courts is essential to cover injury that occurs in spite of the law. Compliance with the law can always be used as a defense, but it should not be an affirmative defense.

Kansans for Safe Pest Control supports SB 330 with Section 8(a) removed. There are a few other changes we think would strengthen the bill:

- Require posting of fields where chemigation is being used.
- In order to test the effectiveness of the program, routine groundwater testing should be performed.
- Similarly, those who use chemigation should report the chemicals they use and the quantities to the Kansas State Board of Agriculture so we know what is being applied and how well the law works. The results of groundwater testing and reports of use should be made available to the public in an annual report.

Again, we thank the Board of Agriculture for taking the lead in promoting chemigation safety.

Sincerely,
Terry Shafer
Terry Shafer

3/8/85 attachment A

Kansas Natural Resource Council

Testimony presented before the Senate Agriculture Committee
Marsha Marshall, Kansas Natural Resource Council
March 8, 1985

Re: SB 330

My name is Marsha Marshall, and I represent the Kansas Natural Resource Council, a private, nonprofit organization which promotes sustainable natural resource policies. Over the past two years, groundwater quality in Kansas has been one of our major concerns. Over 80% of Kansans rely on groundwater for their source of supply--the highest percentage in the nation.

Once groundwater becomes contaminated, it is difficult, if not impossible, to clean up. For this reason, we have supported state efforts which aim to prevent such contamination from occurring, as the best approach to protecting this precious resource.

KNRC urges your support for SB 330 because this legislation does adopt such a preventive approach to a potential source of groundwater pollution: chemigation. We are not in a position to endorse the process of chemigation itself; we simply do not know enough yet to draw conclusions as to its ultimate safety and reliability. But by establishing requirements for training, supervision, and anti-pollution devices, we are minimizing the risks of a relatively untried technology, to the benefit of both farmers and the public.



attachment B
3/8/85

page two

One of the advantages of such a law to chemigators is that it gives them some degree of assurance that they are operating in a safe manner. But no law, especially one as new and as comprehensive as SB 330, can anticipate every consideration or every circumstance which might arise in the field. For this reason, we believe that section 8 (a) should be omitted from the bill.

The very existence of chemigation legislation will work to a chemigator's advantage, as compliance with the law is always strong evidence in any civil action. But compliance should not excuse anyone from exercising reasonable care and prudence under circumstances unforeseen by the statute. The term "affirmative defense" could be so interpreted by Kansas courts, exempting chemigators from all civil liability simply because they are in compliance with the letter of this statute.

Again, because this is new legislation, we need information and feedback to tell us that our preventive program is effective. We believe that a groundwater monitoring requirement--testing wells on an annual basis, for example--would provide that necessary test of effectiveness. The limiting factor at present is the cost of such testing. We encourage the Department of Health and Environment to explore these costs and recommend the least expensive approach.

Once again, KNRC supports passage of this much-needed legislation, with the omission of section 8 (a).

SENATE AG COMMITTEE

CH. Jim Allen

The Kansas Chapter of the Sierra Club supports Senate Bill no. 330. Although there are several sections that we don't entirely agree with, we feel the over-all concept of the bill is sound.

The need for guide-lines in chemigation are necessary to prevent serious accidents such as occurred in Indiana last year. Through education and coordination with irrigators the state of Kansas could help to preserve uncontaminated ground water supplies..

Clean water is the concern of both the farmer and the environmentalist. If both parties could work together to insure the purity of the water everyone in Kansas will benefit. It is not the intent of the Sierra Club to impose restraints on agriculture through unnecessary legislation..

Senate Bill 330 should be kept in the simplest form possible so farmers could comply with it.. It should also be strict enough to insure the purity of our ground-water.

Malcolm Moore

Kansas Sierra Club

attachment C
3/8/85

Kansas Department of Health and Environment

Testimony on S.B. 330 - Kansas Chemigation Safety Law

Presented by Don Snethen - Kansas Department of Health and Environment;
Bureau of Water Protection

The Kansas Department of Health and Environment is responsible for assuring the waters of the state are free from substances prejudicial to the health of any of the inhabitants of the state. We consider this bill to complement the mission of the Department of Health and Environment and support and encourage its enactment.

We believe this legislation will provide a positive means of obtaining a comprehensive inventory of chemigation systems, educating chemigators of potential hazards of the practice and the means to minimize these hazards, and ensuring that pollution control equipment is installed.

We have, over the past year, assisted the Weed and Pesticide Division in determining the need for this legislation and believe it is needed to assure protection of regional water supplies as well as the individual chemigator's water supply.

attachment D
3/8/85