

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES

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

3:30 XX a.m./p.m. on January 22, 1986 in room 526-S of the Capitol.

All members were present except:

All members present

Committee staff present:

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

Conferees appearing before the committee:

Francis Cox, Executive Director, Kansas Water Well Association
Howard O'Connor
Barbara Sabol, Secretary, Kansas Department of Health and Environment
Darrel Plummer, Section Chief, Regulation & Permitting Section,
Kansas Department of Health and Environment
Rich McKee, Executive Secretary, Feedlot Division, Kansas Livestock Assoc.
Kathy Peterson, Legislative Agent, Committee of Kansas Farm Organizations
David L. Pope, Chief Engineer-Director, Division of Water Resources,
Kansas State Board of Agriculture
Joe Zinn, Past President of Kansas Water Well Association
Jerome Weninger, President, Kansas Water Well Association and
Member, Kansas Water Advisory Council
Big Bend Groundwater Management District No. 5 (Written testimony only)

Francis Cox of Cox-Beswick Irrigation Service, Inc. at Clifton, Kansas, who also is Executive Director of the Kansas Water Well Association, testified in opposition to House Bill 2653--Groundwater exploration and protection; requiring intent to drill application. Re Proposal No. 23. He noted that the other drillers with whom he had discussed this bill also opposed it, and pointed out the reasons for their opposition. (See Attachment 1)

Mr. Cox testified in favor of House Bill 2648--Establishing civil penalties for violations of the Kansas groundwater exploration and protection act. Re Proposal No. 23. He felt that those in violation of the Rules and Regulations would either operate accordingly or discontinue well work if penalties were imposed. (See Attachment 1, last paragraph)

Barbara Sabol, Secretary of the Kansas Department of Health and Environment, introduced Sharad Bhatia, Bill Bryson, and Darrel Plummer, of her Department. They were called upon to answer questions of the committee during the hearings.

Howard O'Connor opposed House Bill 2653. He commented that the fee requirement in this bill would, at times, increase the water well drillers' costs, decrease their work efficiency and create problems for the consumer who has a water emergency and needs a water well drilled on short notice. He felt that this legislation would add considerable costs to the industry and the state without significant beneficial results. (See Attachment 2)

Darrel Plummer of the Kansas Department of Health and Environment testified in favor of House Bill 2653. He stated the official position of his Department in support of the bill, noting that it would enhance groundwater protection. Mr. Plummer gave background information as well as strengths and weaknesses relative to this bill in the view of his Department. (See Attachment 3)

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES,
room 526-S, Statehouse, at 3:30 ~~xxx~~/p.m. on January 22, 1986.

Barbara Sabol, Secretary of the Department of Health and Environment, testified in favor of House Bill 2651--Kansas water authority; secretary of health and environment to be a member. Re Proposal No. 26. She recommended a change in the language so that the Secretary may designate the Director of the Division of Environment. Secretary Sabol felt it would be appropriate that the agency head have access to membership in the water authority.

Turning back to House Bill 2653, Rich McKee, representing the Kansas Livestock Association, testified in opposition to the bill. Mr. McKee listed six points on which his agency disagreed with House Bill 2653. One of the points objected to was changing water appropriation approval or disapproval from the Division of Water Resources to the Department of Health and Environment. (See Attachment 4)

Kathy Peterson represented the Committee of Kansas Farm Organizations, which is comprised of 21 farm organizations in Kansas. She noted that her organization appreciated the committee's concerns with groundwater, but questioned this approach to ensuring quality. (See Attachment 5)

David L. Pope, Division of Water Resources, stated that he was not testifying either as a proponent or opponent of House Bill 2653. He gave a presentation in which he discussed the advantages and disadvantages of the measure, as well as some issues not covered in the bill. (See Attachment 6)

Joe Zinn of the Kansas Water Well Association testified in opposition to House Bill 2653. He noted that his organization wanted all the protection for groundwater possible, but strong opposition to this bill was expressed at the annual meeting of the Water Well Association.

Jerome Weninger also represented the Water Well Association in his testimony opposing House Bill 2653. He passed out to the committee a questionnaire regarding the purpose of intent to drill. (See Attachment 7)

A written statement from Big Bend Groundwater Management District No. 5 concerning House Bill 2653 was requested to be incorporated in the minutes of this meeting. (See Attachment 8)

Chairman Fox announced a request by Representative Spaniol for a bill draft to place the "Joint Program" under the Kansas Corporation Commission entirely, taking it out of the Kansas Department of Health and Environment. Representative Grotewiel moved that the bill be introduced as a committee bill. Representative Acheson seconded and the motion carried.

There were no objections to the minutes of January 16, and they stand adopted.

The meeting was adjourned at 5:35 p.m.

The next meeting of the House Committee on Energy and Natural Resources will be held on January 23, 1986 at 3:30 p.m. in Room 526-S.

Date: Jan. 22, 1986

GUEST REGISTER

HOUSE

COMMITTEE ON ENERGY AND NATURAL RESOURCES

NAME	ORGANIZATION	ADDRESS	PHONE
Kevin Davis	League of Ks Municipal	112 W 7 th Topeka	
ROSEMARIE T. STONEHILL	ANR PIPELINE CO	509 RENDEN, DETROIT	
TREVA POTTER	NORTHERN NAT. GAS	TOPEKA	
WALTER DUNN	EASTERN Ks D. I. GAS	Topeka	272-5674
Robert L. Bezek Jr	K. C. C.	" "	3361
John Blythe	Ks Farm Bureau	Manhattan	537-2261
Rich McKee	K. L. A.	Topeka	232-9358
Kathy Petersen	Comm. of Ks. Farm Organ.	Topeka	267-4356
B. J. SABOL	KDHE	Topeka	
Patty Skalle	AP	Topeka	
Bill Anderson	Water Dist #1 of Jo. Co	Mission	
PA SCHAFER	DIVISION OF BUDGET	TOPEKA	
Daniel L. Paul	DWR - Board of Agric	Topeka	796-3710
Ralph K. Davis	Big Bend GMA #5	Stafford, Ks	316-234-5352
Bill Juelow	Kansas Farm Bureau	Manhattan	
Pam Chattee	Ks. Geological Survey	Lawrence	864-3865
Norad McKin	Moza L.P.	Topeka	
Ralph Wintworth	Mesa	Amantla	376-1000
Paul Carr	" "	" "	" "
Bill Denny	Ks Engineering Society	Topeka	233-1867
Samuel Blatny	KDHE	Topeka	862-9360
Don Schnack	ILIOGA	Topeka	232-7772
Rob Holger	KCC	Topeka	357-6321

I am Francis Cox with Cox-Beswick Irrigation Service, Inc. at Clifton, Kansas. I am also Executive Director of the Kansas Water Well Association.

I would like to make a few comments on House Bill #2653 - "Intent to Drill". I am opposed to this bill and all the other drillers I have visited with about House Bill #2653 are also opposed to it. We see no significant advantages of it to the State, the drillers, our customers, or protection of our groundwater.

I understand the purpose is to (1) bring in added revenue to aid financial support to State agencies involved in groundwater. Fees last year doubled for water appropriation rights. An example, for an irrigation well the fee went from \$75.00 to \$150.00. An inspection fee of \$200.00 was imposed. This is an increase of \$275.00 for an irrigation well. With a \$25.00 Intent to Drill fee, the cost would amount to \$375.00 for application fees only. I can remember drilling and completing irrigation wells for this amount. It appears to me the fees now are about all we can stand. Protection and use of our Kansas groundwater is the responsibility and pleasure of all citizens of Kansas. I feel it is no more than fair all the citizens in Kansas should share in the cost of protecting and good management of our ground water. This funding should come from taxpayers.

With the problem of not receiving well reports on all the wells completed, Intent to Drill forms will also be a problem, especially with a fee required. Those contractors now faithfully sending in well reports will also send in an Intent to Drill; those that aren't, wont.

The (2) purpose for Intent to Drill was for the State to advise drillers of problem areas where special well completion is required. State agencies have agreed to send information and maps to all Kansas water well contractors pointing out problem areas and advise on the proper well construction and completion.

As the bill reads, there would be a delay between time of application and permit to proceed. If this carries, there will be more violations because of the delay to the driller. Some wells are drilled the same day and many are drilled the next day or two after the customer calls, especially if his livestock is out of water.

I am in favor of House Bill #2648 providing civil penalties for well violations. If penalties are imposed upon those in violation and they either operate according to the Rules and Regulations or they discontinue well work, most of our problems will be solved. An "Intent to Drill" would be unnecessary. Let's enforce the laws before we make more to be broken. Let's strengthen our foundation before we build the house.



KANSAS GEOLOGICAL SURVEY

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The University of Kansas
Lawrence, Kansas 66044-3896
913-864-5672

Statement in Opposition to HB2653 - an act concerning groundwater exploration and protection; requiring filing of an application of intent to drill.

Representative Ron Fox and other members of the House Committee on Energy and Natural Resources.

My name is Howard O'Connor, Senior Geologist, Geohydrology Section of the Kansas Geological Survey. I have worked in the field of ground water and ground water geology in Kansas the past 38 years. My statement represents my personal opinions and does not necessarily represent those of the Kansas Geological Survey.

I have no objection to a reasonable fee being assessed for various kinds of water wells, whether they be irrigation, municipal, industrial, domestic or monitoring wells, in order to provide funding for basic water programs to protect and conserve the States most important mineral resource, water, and to provide a flow of good geologic and hydrologic information concerning this resource for administrative and research purposes.

As I understand HB2653 if it becomes law would create a second fee administered by KDHE in addition to the current fees and permits administered by the Division of Water Resources for all wells except domestic wells for which there is no current fee.

Line 31 of HB2653 indicates "No drilling shall be commenced until authorized agents of the secretary have approved the application." There is no way that this requirement will not, at times, increase the water well drillers' costs, decrease their work efficiency and create problems for the consumer who has a water emergency and needs a water well drilled on short notice.

Line 33 of HB2653 indicates "The secretary's agent in giving approval, shall determine that the proposed construction of the well will protect all useable waters." In my opinion this is an impossible requirement to put on the secretary's agent because there are about 5,000 wells per year that this information would have to be prepared for. In some instances neither the driller, land owner or secretary's agent can determine with certainty, what the geologic and hydrologic conditions will be at a given site before the well is drilled.

Attachment 2

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One of the ideas generated and discussed at a recent Advisory Council to KDHE meeting is described below. (The Advisory Council set up by secretary Sabol was patterned after HB2256 considered at the last legislative session. The council includes representatives of the water well industry, manufacturers and suppliers, DWR and KGS and provides a mechanism for communication and discussion to develop programs the State water agencies, the water well contractors and KDHE can all support in order to develop, conserve and protect the states ground-water resources.)

The idea was for KDHE to identify on a map or by legal locations the known areas of ground-water contamination or problem areas and supply this to the licensed contractors, DWR and KGS. This in a way would serve the same purpose as an intent to drill by maintaining good communication between regulatory agencies and water well contractors for any consultation and needed exchange of information for the construction or plugging of any water wells in or near areas of ground water contamination or ground water problems. KDHE had agreed they have the capability to provide this information.

In conclusion I do not think HB2653 is a needed nor a desirable piece of legislation and I believe it will add considerable costs to the industry and the State without significant beneficial results.

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

TESTIMONY ON H.B. 2653

PRESENTED TO House Energy and Natural Resource Committee, 1986

This is the official position taken by the Kansas Department of Health and Environment on H.B. 2653

BACKGROUND INFORMATION:

Each year the wide use and protection of the state's groundwater becomes more important because of the increases in the potential for contamination and the discovery of groundwater contamination which was due to past industrial disposal practices. Since an uncontaminated groundwater supply is very important to the state's economy and welfare, its vulnerability for contamination and waste should be closely monitored. The Kansas Groundwater Exploration and Protection Act provides for the protection of the groundwater and in K.S.A. 82a-1205 the Secretary of the Department has been given specific charge and authority in the construction, reconstruction, treatment and plugging of all water wells in the state. The Department has adopted regulations to require water wells to be constructed, reconstructed, and plugged in such manner as to provide proper protection of existing groundwater supplies. However, there are areas of the state that require more specific and stringent methods to be used during the actual construction of water wells. Under a memorandum of understanding the Department has with the Division of Water Resources, State Board of Agriculture, the Department receives information on large volume wells which are being drilled. This information does not include the smaller residential type wells. Even with the information supplied to the Department by DWR, due to administrative and procedural time lags, many times the Department does not know about the existence of a water well until the water well contractor files the well record at least 30 days after the construction of the well which is too late for the Department to make any special drilling, grouting or screening requirements. Also, many times water well contractors get into difficult situations when drilling water wells in unfamiliar areas. These situations could be avoided if the Department is notified that a well is being proposed before the actual construction process begins.

STRENGTHS:

Intents to drill water wells as proposed in H.B. 2653 can accomplish the following:

1. Allow the Department to make special construction requirements for a well, if needed, before the well is drilled.
2. Provide a check to make sure water well records are being completed on every well constructed.
3. Provide opportunity for the Department to make on-site inspections of the wells during the actual construction process, not after construction, as is the case presently.
4. Provide a cross check with Division of Water Resources, State Board of Agriculture to make sure all proposed water wells that require a formal water right (i.e., irrigation, industrial, municipal and oil field water supply wells), have one.

WEAKNESSES:

In line 27 of section 1, subsection (a) the bill requires the secretary to approve any change in the use of the well. This requirement is unnecessary since the Department does not have any statutory or regulatory purpose for this type of information other than for the accumulation of statistical data. The Division of Water Resources requires this type of information and already has the authority for it under the Kansas Appropriation Act.

In line 28 through 30, wells for the purpose of obtaining geologic information are exempted from the fee. Since all permanent water wells have the same potential for polluting the groundwater every permanent water well should be treated equally and therefore be required to, not only file an Intent to Drill, but also be required to submit the same fee.

Subsection (b) beginning on line 41 is unnecessary if section 1 is made a part of the Kansas Groundwater Exploration and Protection Act. The Act under K.S.A. 82a-1214 already contains authority for penalties for violations of any sections of the Act.

Another concern and possible weakness of this bill would be that the number of permits required to construct a public water supply well would increase.

DEPARTMENT'S POSITION

The Department supports the passage of H.B. 2653 as it would enhance groundwater protection.

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

HOUSE BILL No. 2653

By Special Committee on Energy and Natural Resources

Re Proposal No. 23

12-17

0017 AN ACT concerning groundwater exploration and protection;
0018 requiring the filing of an application of intent to drill.

0019 *Be it enacted by the Legislature of the State of Kansas:*

0020 Section 1. (a) No person shall cause a water well to be
0021 constructed unless an application of intent to drill as been filed
0022 with and approved by the secretary of the department of health
0023 and environment. Such application shall be accompanied by a
0024 fee of not to exceed \$25 as provided by rules and regulations
0025 adopted by the secretary and shall include such information as
0026 required by the secretary and shall be on a form prescribed by
0027 the secretary. No change in the use of a well shall be made
0028 without express approval of the secretary. No fee shall be re-
0029 quired to accompany any application of intent to drill a well for
0030 the sole purpose of obtaining geologic information or for any
0031 application for change in use of a well. No drilling shall be
0032 commenced until the authorized agents of the secretary have
0033 approved the application. The secretary's agent, in giving ap-
0034 proval, shall determine that the proposed construction of the
0035 well will protect all usable waters. Such approval of the secretary
0036 shall include plugging requirements upon abandonment and
0037 other requirements deemed appropriate by the secretary. The
0038 secretary may refuse to process any application submitted pur-
0039 suant to this section unless the applicant has been in compliance
0040 with all rules and regulations adopted pursuant to this section.

0041 (b) Any person who fails to comply with the provisions of
0042 subsection (a) shall be guilty of a class B misdemeanor. In
0043 addition, the secretary of health and environment is hereby
0044 authorized to apply to the district court for enforcement of this
0045 section or rules and regulations adopted under this section for
0046 judicial review and civil enforcement of agency actions.

0047 (c) This section shall be part of and supplemental to the
0048 Kansas groundwater exploration and protection act.

0049 Sec. 2. This act shall take effect and be in force from and
0050 after its publication in the statute book.



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STATEMENT
OF THE
KANSAS LIVESTOCK ASSOCIATION
TO THE
HOUSE COMMITTEE ON ENERGY & NATURAL RESOURCES
REP. RON FOX, CHAIRMAN
WITH RESPECT TO
HB 2653
CONCERNING GROUNDWATER EXPLORATION AND PROTECTION
PRESENTED BY
RICH MCKEE
EXECUTIVE SECRETARY, FEEDLOT DIVISION
JANUARY 22, 1986

Mr. Chairman and members of the committee, my name is Rich McKee and I'm here today representing the over 9,500 members of the Kansas Livestock Association. KLA is a statewide voluntary association of livestock producers. Our association represents the entire spectrum of livestock production and includes members from virtually every geographic corner of the state. A large percentage of the KLA membership is also engaged in farming and crop production activities. We appreciate the chance to appear before your committee to share with you some of our views concerning HB 2653.

The Kansas Livestock Association opposes HB 2653 for several reasons. First, whether it is or is not the intent of this bill the result is to transfer water appropriation rights from the Division of Water Resources to the Department of Health & Environment. Under this bill even on those water appropriation applications approved by the Division of Water Resources, the Department of Health & Environment would retain a "veto" power on whether or not such an appropriated right would be granted. We find that this would be a significant change from past and current law.

In line numbers 0027 and 0028 there appears a sentence which states, "No change in the use of a well shall be made without express approval of the Secretary". This is in direct conflict and duplication of state effort

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now under the authority of the Division of Water Resources. Currently the Division of Water Resources reviews, approves or disapproves any proposed change in the use of an appropriated water right. It is the opinion of KLA that this responsibility should remain with the Division of Water Resources as they have done an admirable job of overseeing this regulation.

If, Mr. Chairman, the intent of this bill is not to appropriate water but rather obtain knowledge on where all wells including domestic wells are located, we would again find this proposed legislation redundant. In fact, under KSA 82a-1212 it is required of all water well contractors, which by the way must be licensed by the state, to submit a detailed report of each and every well they drill within 30 days following the completion of drilling such well to the Department of Health & Environment. This report must include the legal description of the location of the well, the character and depth of the formation, a record of pumping tests, details of the completed water well including length and size of casing, length and size of perforations or screen, and length and size of gravel, the amount, type and placement of plug materials, etc.

If the intent of this bill is to assure that only proper and safe construction procedures are used for drilling water wells, we would again submit to you that current law is in place to assure the highest standards possible. Under KSA 82a-1205 the Department of Health & Environment is given the power and authority to revoke or suspend the license of water well contractors. Furthermore, the Secretary of the Department of Health & Environment has the power to review all phases of construction, reconstruction, treatment or plugging of all water wells. If there is a problem with the construction of water wells, we would respectfully submit that the state pursue actions under this current statute rather than creating new and additional laws and regulations.

We would question how quickly the Department of Health & Environment could approve applications to drill a water well. This is critical to the livelihood of many livestock operations. To illustrate this point, imagine if you can that it is the middle of July and the temperature is 110°. A rancher's well caves in and his stock is without water. If this rancher were lucky enough to locate an available water well contractor for immediate services, how long would he have to wait for approval to drill from the Department of Health & Environment? If the answer is more than 6, 12 or 24 hours, it's likely his entire herd would be dead.

Finally, Mr. Chairman and members of the committee, we would question the fiscal note of such a bill. How many tax dollars would this new law require? How many new state employees would be required to administrate this new law? Who would pay for this new state government program? These are all questions we feel need to be answered.

In summary, the Kansas Livestock Association opposes HB 2653. The only area where current law is not in place as proposed by this bill is giving the water appropriation approval or disapproval to the Department of Health & Environment. We object to this change.

STATEMENT
OF
COMMITTEE OF KANSAS FARM ORGANIZATIONS
TO THE
HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES

HB 2653 - IN OPPOSITION

JANUARY 22, 1986

Mr. Chairman and members of the committee, my name is Kathy Peterson. I represent the Committee of Kansas Farm Organizations (CKFO). As you may know, the CKFO is comprised of 21 farm organizations in the state of Kansas. I will quickly run down the list of our member organizations: The Association Milk Producers, Kansas Agri-Women, Kansas Association of Soil Conservation Districts, Kansas Association of Wheat Growers, Kansas Corn Growers Association, Kansas Electric Cooperatives, Kansas Ethanol Association, Kansas Farm Bureau, Kansas Fertilizer and Chemical Association, Kansas Grain and Feed Dealers Association, Kansas Livestock Association, Kansas Livestock Marketing Association, Kansas Meat Processors association, Kansas Pork Producers Council, Kansas Seed Dealers Association, Kansas Sheep Association, Kansas Soybean Association, Kansas State Grange, Kansas Veterinary Medical Association, and the Mid-America Dairymen.

Before our group takes a stand on an issue, whether in favor or in opposition, it must receive the unanimous support of the member organizations. We work to provide agriculture with a united voice for you the legislators and the public.

At the CKFO meeting yesterday, Jan 21, 1986, the group went on record in opposition to HB 2653. I will remain brief in my comments and will certainly answer any questions you might have.

When discussing this measure, the committee expressed concerns with the practicality of this measure. We fear the delays that could be involved in obtaining a permit to drill any water well would inflict a hardship on agriculture. As the Kansas Livestock Association pointed out, farmers and ranchers do not

Attachment 5

often have the luxury of waiting for paper to move in Topeka before they need to get water to their livestock or to their crops. We can appreciate that that is not the intent of this bill, but fear that might be the end result.

In addition, many rural residents are not always so fortunate to have a water well driller lined up when their household water well caves in or in other ways fail. By adding the intent to drill permit laws, these people would also face potential delays in domestic water wells.

The CKFO appreciates the committee's concerns with groundwater but question this approach to ensuring quality. The CKFO urges the committee to consider fully the consequences of this measure as it pertains to agriculture.

PRESENTATION

by

DAVID L. POPE

CHIEF ENGINEER-DIRECTOR

DIVISION OF WATER RESOURCES

KANSAS STATE BOARD OF AGRICULTURE

RE: HOUSE BILL NO. 2653

BEFORE

THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES

JANUARY 22, 1985

Thank you, Chairman Fox, and members of the committee for this opportunity to appear and testify concerning House Bill No. 2653. I am not testifying either as a proponent or opponent of this bill.

First, I would like to say the Division of Water Resources fully supports the idea that the State of Kansas should take all measures necessary to protect the groundwaters of the State of Kansas from pollution. This is an extremely high priority.

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House Bill No. 2653, would be one means to help insure that the groundwaters in the State of Kansas are protected, but I would like to point out several issues that either are not covered in the bill or things that may need clarification.

Determination of who would be required to file the application (the well driller, the landowner, the tenant, or anyone acting on behalf of any of those individuals or entities) is a major decision and apparently, House Bill 2653 would leave that to be determined by the Secretary of the Kansas Department of Health and Environment (KDH&E) through the rule and regulation process. Determination of who is responsible to file and get a permit will determine who will be subject to the criminal penalty if they fail to get a permit. For example, would it be the well driller or the landowner? Should the decision of who is subject to a criminal penalty be left to the rule and regulation process?

Lines 27 and 28 require approval of a change in the use of the well to be made by the "secretary". Lines 31 through 33 talk about the "authorized agent of the secretary" and the secretary's "agent". Is this inconsistent?

The Kansas Water Appropriation Act, which is administered by the Division of Water Resources, currently requires all water users, except domestic users, to receive a permit by the Chief Engineer of the Division of Water Resources, Kansas State Board of Agriculture, prior to drilling their water well. Last year, the Division of Water Resources issued about 515 new permits to appropriate water for non-domestic use.

Line 27 and 28 of the Bill prescribes that, "no change in the use in the

well shall be made without the express approval of the Secretary". It is possible to change the "use" of a well without re-drilling the well. We are unable to determine the intent of this provision. Currently, the Water Appropriation Act requires approval of any change in point of diversion, place of use, or type of use, except changes in point of diversion for a domestic well. The Division of Water Resources can impose whatever conditions are necessary on the change approval to protect groundwater quality.

The Division of Water Resources and the Division of Environment currently have in effect a Memorandum of Understanding which went into effect February 1984, which provides coordination between these two agencies to attempt to assure adequate quantities of good quality water within the State of Kansas. In that Memorandum of Understanding, a mechanism is set up for the Division of Environment to furnish to the Division of Water Resources a list of areas within the State where there are water quality problems. Then the Division of Water Resources will notify the Division of Environment any time an application to appropriate water is filed within these areas in which the Division of Environment has notified us there are water quality problems.

This process allows the KDHE to recommend that such permit be denied or recommend any special conditions they feel are necessary on such permit, such as well construction criteria. This also allows the Division of Environment to have advance notice of any permits being considered by the Division of Water Resources. The Division of Water Resources would also be quite willing to furnish KDHE copies of any permits issued so KDHE could inspect construction of any water wells permitted by the Division of Water Resources. This would include all wells drilled for non-domestic purposes.

For all applications to appropriate water for any type of use, other than domestic use, the provisions in this bill would create a dual permitting requirement which might be unnecessarily confusing to applicants, cost up to \$25 more and may not achieve any more beneficial results for the protection of groundwater quality than are now possible under the existing statutes and the Memorandum of Understanding between the Division of Environment and the Division of Water Resources, if fully implemented.

On its face, this bill could arguably give KDHE veto power over any new appropriation of water in the State of Kansas. Merely by denying approval of an intent to drill, KDHE could deny an appropriation of water for any purpose even if a permit to appropriate water could be approved in accordance with the Kansas Water Appropriation Act and regulations properly adopted thereunder. No standards are set in this bill defining criteria for approving or denying an intent to drill application. Such a delegation of power, without guidelines, could be subject to judicial challenge.

The Bill does deal with a category of water wells which are up to this point in time virtually unregulated by the State, except in special circumstances. That is the category of wells drilled for "domestic uses".

"Domestic uses" are defined by statute as, "the use of water by any person or by a family unit or household for household purposes, or for the watering of livestock, poultry, farm and domestic animals used in operating a farm, and for the irrigation of lands not exceeding a total of two (2) acres in area for the growing of gardens, orchards and lawns."

The State's information concerning the number of domestic wells drilled and the location of those domestic wells is not as extensive as it could be. Initially, recordkeeping began in 1974, when the Groundwater Exploration and Protection Act required water well records to be filed with KDHE after each well, including wells for domestic use, was completed. Strong enforcement of this existing law would provide a virtually complete record of all domestic wells and test holes drilled in the State of Kansas. We question whether requiring the filing of the intent to drill will increase compliance by well drillers in reporting the locations of domestic wells drilled if they are not complying with the current statutory requirements.

If special construction requirements are needed for domestic wells in specific areas of the State, it would seem that this could be achieved by notice to the well drillers in the specific areas where there are water quality problems and the specific construction requirements applicable in those areas. Thus, a well driller going into such special designated water quality areas, would know that special construction criteria applied in advance. This would be especially useful if a well had to be drilled within a matter of hours or days.

Estimates as to the number of new or replacement domestic wells drilled each year runs in the 3,000 to 5,000 range. The number of existing domestic wells may be in the 100,000 range.

Obviously, the fiscal impact to the State of Kansas and to individuals for registering or permitting domestic wells is enormous. The information would certainly be nice to have, but before a statute is enacted, the reasons the State needs the information should be clearly identified.

A filing of an intent to drill a "water well" is essentially a request to appropriate water. This bill will arguably create two agencies which would be involved in the appropriation of water. The KDHE would issue permits for drilling all types of wells, including those for domestic use, and the Division of Water Resources would permit appropriation of water for all other beneficial uses. We question whether this overlap in agency functions is desirable.

Many wells are generally needed to be drilled on very short notice, especially if they are replacement wells. Many times they must be drilled within a matter of hours. If such wells are quickly approved without verifying the location given and/or checking other available data in the area, would enough be accomplished to justify the public's time and expense in filing the intent to drill? Without assessing a substantial application fee, it would be very difficult for any agency to maintain the manpower necessary to do a meaningful analysis of all such applications, if domestic wells are included, and do an onsite construction inspection within a few days. This would be an additional fiscal burden not only on the State of Kansas, but on many individual water users.

CONCLUSION

The Division of Water Resources fully supports any state regulations necessary to protect the quality of the groundwater supplies of the State of Kansas so that water is available, not only to us, but to future generations. This is an issue of the highest priority.

Current statutory authority, coupled with the Memorandum of Understanding is sufficient to accomplish the goal of protecting groundwater quality which might be harmed by construction of wells drilled to appropriate water for all beneficial uses, except domestic uses.

To require permitting of domestic wells, would have a major fiscal impact on the State of Kansas. If it is done, it should be done in a manner which is not confusing to those who would be drilling domestic water wells, should minimize cost to the applicant, and truly provide some major benefit to the State of Kansas in protecting groundwater quality in the state other than that which can be achieved by existing state programs. Vigorous enforcement of the well reporting requirements will provide the necessary data for the State to know where domestic wells and test holes are located.

Thank you very much for this opportunity to appear here today. I would be happy to answer any questions which you might have.

WENINGER DRILLING

R. R. 1, Box 154-B

Phone (316) 796-0161

Colwich, Kansas 67030

JEROME WENINGER,
President

President, KWWA
Member, Kansas Water Advisory Council

January 22, 1986

Rep. Ron Fox, Chairman
Energy & Natural Resources Committee

SUBJECT: INTENT TO DRILL

Purpose of Intent?

- A. Is it to obtain more log reports?
- B. Is it intended to irritate the water user?
- C. Is it to increase funds for the support of the bureaucracy?
- D. What is the reason?

Attachment 7

House Energy and Natural Resources 1/22/86



Big Bend Groundwater Management District No. 5

125 South Main • P. O. Box 7 • Stafford, Ks 67578 • Phone 316-234-5352

STATEMENT CONCERNING HOUSE BILL NO. 2653 CONCERNING APPLICATION FOR INTENT TO DRILL

Big Bend Groundwater Management District No. 5 is opposed to this legislation for several reasons. We clearly see the need to protect the groundwater resources of the state but do not feel this is the proper mechanism to achieve this goal.

The bill designates the Kansas Department of Health and Environment (KDHE) as the administrative agency. We feel that the KDHE is struggling to properly administrate the programs that currently fall under their jurisdiction and cannot, at this time, expand the scope of their administrative duties.

Big Bend feels that the application for intent to drill creates a redundant filing procedure, overlapping with the water rights applications filed with the Division of Water Resources (DWR). A program to achieve the goal of groundwater protection can be established by the DWR in the current application filing procedure with little or no additional expense to the taxpayers of this state.

We would like to reiterate that we are not opposed to the intent of this legislation but rather the additional fee, the additional time created by redundant filing procedures, and the KDHE as the administrative agency in charge.

Attachment 8

House Energy and Natural Resources 1/22/86