

Approved February 13, 1986
Date

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES

The meeting was called to order by Representative Jim Patterson at
Chairperson

3:30 ~~xxx~~ a.m./p.m. on February 4, 1986 in room 526-S of the Capitol.

All members were present except:
Representative Acheson (excused)
Representative Ott (excused)
Representative Spaniol (excused)

Committee staff present:

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

Conferees appearing before the committee:

Donald P. Schnacke, Chairman, Blue Ribbon Subcommittee
Ken Peterson, Associate Director, Kansas Petroleum Council
G. Bob Barnett, Immediate Past President, Eastern Kansas Oil & Gas Assoc.
Member, Blue Ribbon Committee
Marsha Marshall, Kansas Natural Resource Council
Bob Anderson, Midcontinent Oil and Gas Association
Richard D. Kready, Director, Governmental Affairs,
KPL Gas Service (Written testimony only)

The meeting was called to order by Vice Chairman Patterson. As a continuation of the February 3 meeting, Donald Schnacke, who had been Chairman of a Blue Ribbon Subcommittee, stood for questions of the committee. Asked who is the number one polluter in Kansas, Mr. Schnacke thought that the field of agriculture and the field of salts on highways and streams would probably be identified as two of the top polluters in America. He recommended a book entitled, "A Citizens' Handbook on Groundwater Protection," produced by the Natural Resources Defense Council of New York, for information in this area.

During questions, Mr. Schnacke reiterated his recommendation of February 3, that one agency would be more efficient, probably cost less money, and there would be better enforcement of the program by having already in place only one authority to undertake this task. He felt that the Kansas Corporation Commission would be the appropriate agency to administer the program, in that they would always be involved with certain elements of regulation in the oil and gas industry, such as pipelines, utilities, etc. Mr. Schnacke also felt that the cost of operating a single agency would be more than operating the program under the KCC. Asked about the different figures for the cost of the Joint Program, Chairman Lennen had said on February 3 that it was about \$2.8 million. Mr. Schnacke said he had received the figure of \$4.8 million total from one of the Corporation Commission's staff attorneys and that about 70 percent of that amount was in the Corporation Commission.

Ken Peterson represented the Kansas Petroleum Council, a trade association whose members are major oil companies doing business in Kansas and affiliated with the American Petroleum Institute. He noted that his association was not represented on the Blue Ribbon Task Force, but did monitor the group's meetings and had discussed the final report with their member companies. Mr. Peterson's association supported the recommendation that the oil and gas regulatory program be administered by the State Corporation Commission. (See Attachment 1)

G. Bob Barnett represented the Eastern Kansas Oil & Gas Association. He listed the problems that had been experienced by members of his organization relative to the Oil and Gas Regulatory Program. The recommendation of his organization, based on the Blue Ribbon Committee's Report, was to consolidate all oil and gas regulatory functions under the Kansas Corpora-

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES,
room 526-S, Statehouse, at 3:30 ~~xxx~~ p.m. on February 4, 1986

tion Commission. (See Attachment 2) Discussion followed.

Marsha Marshall spoke on behalf of the Kansas Natural Resource Council. Her organization agreed with moving the joint program to a single agency, but felt that because the purpose of the program was to protect ground-water and surface water from oil and gas pollution, the Kansas Department of Health and Environment should be the responsible agency. (See Attachment 3) Discussion followed.

Bob Anderson represented Midcontinent Oil and Gas Association. He supported the recommendation to place oil and gas regulation under the Kansas Corporation Commission. He commended Secretary Sabol for the work her Department had done, but felt that this is the time to move it to one agency. Further discussion followed.

Written testimony was provided to the committee by Richard D. Kready, Director of Governmental Affairs for KPL Gas Service. He urged caution in considering any organizational changes dealing with energy regulation, but if a change is to be made, the Kansas Corporation Commission would be best qualified. (See Attachment 4)

No objections were offered to the minutes of January 30 and February 3, so they stand approved as written.

The meeting was recessed at 4:30 p.m. until February 5 at 3:30 p.m. in room 526-S.

HOUSE ENERGY AND NATURAL RESOURCES COMMITTEE
TESTIMONY ON THE JOINT OIL AND GAS PROGRAM
SUBMITTED BY THE KANSAS PETROLEUM COUNCIL
FEBRUARY 4, 1986

Mr. Chairman and Members of the Committee, my name is Ken Peterson. I am associate director of the Kansas Petroleum Council, a trade association whose members are major oil companies doing business in Kansas. The Petroleum Council is affiliated with the American Petroleum Institute.

Our member companies are engaged in the exploration and production of oil and gas in Kansas. Some of them also operate refineries and others operate retail gasoline stations. All of these activities are regulated by various state agencies. We are subject to the oil and gas regulatory program which, since 1982, has been administered jointly by the State Corporation Commission and the Dept. of Health and Environment.

The Kansas Petroleum Council was not represented on the Blue Ribbon Task Force that reviewed the joint program, but we did monitor the group's meetings and we have discussed the final report with our member companies.

Attachment 1

House Energy and Natural Resources 2/4/86

We want to commend the state for appointing a task force to study the inherent problems associated with a joint program for oil and gas. At the same time, we feel we should express our disappointment with the negative comments that were made about our industry during the course of the study. Mr. Chairman and Members of the Committee, we want to assure you that our industry does appreciate the environmental problems that concern you. As part of the energy industry in Kansas, we intend to continue doing our level best to comply with environmental laws and regulations.

The position I have been asked to convey to you today is that we support the recommendation that a single agency be given control over the oil and gas regulatory program. As the Task Force noted several times, the split authority Kansas has adopted is unique among the energy-producing states. The study points out there are several problems with the current regulatory system. You are, by this time, well aware of them. I would only sum up the list as including duplication of effort, management inefficiencies, and generally poor communications between the two agencies. We agree these problems exist, even though Kansas has experimented with a joint regulatory program for almost four years. The old axiom that you cannot serve two masters seems all too evident.

We believe the citizens of Kansas, and the energy industry, would be far better served if the oil and gas regulatory program were administered by the State Corporation Commission. Until the whole program is made the sole responsibility of the State Corporation Commission, we believe problems that led to the task force study will not be solved.

Mr. Chairman, this concludes my remarks. I want to thank you for the opportunity to appear today on behalf of the Kansas Petroleum Council.

STATUS OF THE CURRENT
OIL & GAS REGULATORY PROGRAM
UNDER SENATE BILL 498

By: G. Bob Barnett
Immediate past President of
Eastern Kansas Oil & Gas Association
and member of the Blue Ribbon Committee

Meetings were held in the Eastern Kansas area, at Eureka and Yates Center, Kansas. The object was to explore the problems being experienced with the Oil and Gas Regulatory program. Following is a summary of the most prevalent problems:

PROBLEMS:

- I. Poor Coordination and Communication
Different answers to a common problem between areas;
and between personnel in same area.
- II. Duplication and Time Delays
Especially disposal and repressuring permits.
- III. Inconsistent handling of MIT Program
Different procedures, criteria, and timing between
areas.
- IV. Excessive Paperwork, Redtape, Cost
Injection well forms are best example.
- V. Lack of Fiscal Controls and Accountability

RECOMMENDATION:

Alternative 2 of the Blue Ribbon Committee Organization Report which is to consolidate all Oil and Gas Regulatory functions under the Kansas Corporation Commission.

2-4-86

Kansas Natural Resource Council

Testimony before the House Energy and Natural Resources Committee
Presented by Marsha Marshall
Concerning the Joint Oil and Gas "498" Program

February 4, 1986

KNRC concurs with the Blue Ribbon task force in the long range goal of moving the 498 program to a single agency. The Kansas Dept. of Health and Environment is the only state agency with a direct mandate to protect the waters of the state. Therefore, since the purpose of the 498 program is to protect groundwater and surface water from oil and gas pollution, KDH&E should ultimately be the responsible agency. We argue that government operates most efficiently when the goals of a program match the mandate of an agency.

Chairman Lennen stated concern in his testimony yesterday that moving the 498 program out of the KCC could discourage integration of the Commission's energy responsibilities. The KCC would nonetheless still be responsible for the prorationing of oil and gas--the energy part of oil and gas regulation. However, moving the environmental regulation of an industry with a major impact upon water quality outside KDH&E's jurisdiction would profoundly restrict that agency's ability to protect the waters of the state from pollution.

KDH&E has broad powers and obligations to enforce provisions of federal environmental laws, particularly the Clean Water Act and Safe Drinking Water Act in this case. Moving the 498 water protection program to any other state agency would most certainly cause a duplication of efforts between state and federal programs.

KDH&E is just beginning work to formulate a groundwater protection strategy. According to their reports, over eighty percent of groundwater pollution problems can be traced to crude oil activities in the state. It makes no sense to develop protection strategies in one agency when the major component of the program is carried out by another agency. Further, having the Department develop and carry out groundwater protection strategy is consistent with the EPA, which carries out these programs at the federal level.

We believe, based upon statistical reports tracking the implementation of mandates of both KDH&E and the KCC, that due to established procedures and goals for permitting, well plugging and enforcement, the KCC is responding better to their mandates than is

KDH&E at this time. In order for KDH&E to efficiently carry out the entire program, it must establish procedures for recurring problems and enforcement and move away from a reliance on case by case solutions. However, in spite of our conclusions of the superiority of the current KCC program, KNRC submits that the long range implementation of the 498 program most properly belongs with KDH&E.

Short Term Adjustments

As legislators, you are responsible for 1) providing consistent policies and laws that enable the implementation of agency programs, 2) determining the amount of funding necessary for programs to be carried out, and 3) seeing that the policies are properly carried out. In order to assess the 498 program on a continuing basis, you need, at a minimum, annual performance reports which show an overview of programs and responsible personnel involved in carrying out mandates.

Refer to task force statement.

STATEMENT BY THE KANSAS NATURAL RESOURCE COUNCIL
498 BLUE RIBBON TASK FORCE
Summary of Comments from September 25, 1985 Meeting

Three broad areas encompass the concerns of the Kansas Natural Resource Council regarding the 498 Oil & Gas Program: 1) Accountability, 2) Enforcement, and 3) Water Protection.

Water Protection. Protecting the waters of Kansas from oil and gas related pollution is the purpose of the 498 program. All program improvements should be directed toward that goal. Any organizational or administrative changes should enhance or maintain a direct focus on water quality.

Preventing water pollution and responding to impaired water quality are the responsibilities outlined in the 498 program. KNRC notes for the record that the task force deemed remediation of groundwater pollution caused by oil and gas activities to be outside the scope of the 498 program. KNRC sees this as a major issue which must thus be addressed in another context.

Accountability. The 498 program would benefit from greater internal and external accountability. Situated as it is between two agencies and six district offices, 498 program management and coordination is an extraordinary feat. To ensure uniformity, to minimize interagency squabbling, and to give the industry a clear response to program violations, the activities of the program must be more carefully monitored by the director.

KNRC has felt hampered in its evaluation of the 498 program by the lack of objective information on its operation. We have requested that such information be provided, but have not received any useful program performance reports through the duration of this task force.

This kind of information would not only give the director better management capabilities, but it could also be summarized in the form of an annual report and made public to evidence program performance and bolster program support. Such information would also be a useful evaluation tool for the Corporation Commission Chairman, and the Secretary of the Department of Health & Environment (or whoever might have final authority over the program).

Enforcement. The lack of uniform enforcement seems to generate problems between the industry and the 498 program, and between the two agencies within the program. KNRC offers the following two recommendations for improving enforcement.

The establishment of explicit policies, goals, and programs within the 498 program would greatly improve uniform enforcement. Of course, the director will have to ensure these policies are carried out. But in any given instance of an industry violation, it should be clear to all 498 employees exactly how to proceed. Likewise, setting up programs to specifically reach goals such as

spot checking X% of well pluggings, or plugging abandoned wells by 19__ would set employees' sights on priorities and ensure a greater chance of meeting those objectives.

The second area which might improve the 498 program would be to have the director focus solely on the 498 program, and to have the program centrally located. Other current responsibilities of the director, as well as other proposed responsibilities for the director, only serve to dilute the director's focus. As stated above, the focus should be on water protection through efficient operation of the program. Having all principal staff centrally located would help program coordination, and make easier the director's responsibilities.

Testimony Before
HOUSE ENERGY AND NATURAL RESOURCES COMMITTEE

Hearings On
JOINT OIL AND GAS PROGRAM

By RICHARD D. KREADY
KPL GAS SERVICE
Director of Governmental Affairs

February 3, 1986

Mr. Chairman and Members of the Committee:

We believe extreme caution must be displayed in considering any organizational changes dealing with energy regulation. If you determine that some change is necessary, we request you not divide and separate the regulation pertaining to oil and gas as it affects utilities and consumers. Such items as the natural gas allowable production limits for the Hugoton Field and well spacing limits are matters which might be dealt with in a more balanced manner by the current organization because the Kansas Corporation Commission recognizes a responsibility to the consumer as well as to the oil and gas industry.

Attachment 4

House Energy and Natural Resources 2/4/86