

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 ~~xxxx~~ a.m./p.m. on February 5, 1986 in room 526-S of the Capitol.

All members were present except:

Representative Sughrue (excused)
Representative Sutter (excused)

Committee staff present:

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

Conferees appearing before the committee:

H. Phillip Martin, Chairman, Kansas Water Authority
Shelby Smith, Member of Blue Ribbon Panel
Bill Henry, Executive Vice President, Kansas Engineering Society

The meeting was called to order by Vice Chairman Patterson. This was the last of the continuous hearings relative to the Joint Oil and Gas Program.

Phillip Martin, Chairman of the Kansas Water Authority, reviewed the annual report of the Kansas Water Authority for 1985. He noted that a good share of the time that the Authority had devoted to water resource issues in 1985 was on subsections of the Fish, Wildlife and Recreation components of the State Water Plan. He called attention to the proposed purchase of storage space within our reservoirs as mentioned in the report. He said that the primary issue the Water Authority intended to address in 1986 would be the quality component of the State Water Plan. (See Attachment 1)

Shelby Smith, who is associated with the Slawson Companies of Wichita and was on the Blue Ribbon Committee, read a letter which he had written to the chairman of the committee. The letter stated that he wished to be recorded as a proponent of placing the oil and gas regulatory program with the Kansas Corporation Commission. Mr. Smith also submitted a proposal for establishing a separate Oil and Gas Commission (OGC). His proposal advocated an expanded and stronger role for the Director, who would serve at the pleasure of the Governor and hire section managers and district office supervisors. The plan would be fee funded by the industry. (See Attachment 2) Committee discussion followed.

Bill Henry appeared on behalf of the Kansas Engineering Society. He noted that there had been much improvement in the program, particularly in the past year, and that much of that improvement was due to the appointment of Bill Bryson to head the joint program. However, he felt that there still were many problems, and his solution would be the formation of a cabinet level Department of Environmental Resources. The entities to be included in such a department are listed in Mr. Henry's written testimony. (See Attachment 3) It was Mr. Henry's belief that David Pope, current Chief Engineer of the Water Resources Division, would be an excellent nominee for the secretarial position in such an agency. Mr. Henry said that under this proposal, or whatever organization this oil-gas program might be placed under, it still would have to be funded with state resources. Further committee discussion followed.

Representative Spaniol distributed copies of a newspaper article relative to falling oil prices. (See Attachment 4) He was concerned that many wells which produce small amounts of oil would become temporarily non-producing because of low oil prices. While oil prices will probably rise again, many of those producers might not make the effort to reopen their wells if they had been plugged. For this reason,

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES,
room 526-S, Statehouse, at 3:30 a.m./p.m. on February 5, 1986.

Representative Spaniol made a motion requesting that a bill be introduced which would give discretionary authority on extending the length of time before a well is required to be plugged. Representative Roe seconded and the motion carried.

Chairman Fox urged the committee to bring their ideas regarding the joint program to the meeting on February 6. It was hoped that this issue could be resolved at that time.

The meeting was adjourned at 4:20 p.m.

The next meeting of the House Energy and Natural Resources Committee will be held at 3:30 p.m. on February 6, 1986 in Room 526-S.

Date: Feb. 5, 1986

GUEST REGISTER

HOUSE

COMMITTEE ON ENERGY AND NATURAL RESOURCES

| NAME | ORGANIZATION | ADDRESS | PHONE |
|------------------|----------------------------|----------------|--------------|
| Bill Jenny | Kansas Engineering Soc. | Topeka | 233-1867 |
| Russ Bishop | Panhandle Eastern Pipeline | Kansas City | 816-968-2960 |
| Robert Henderson | MidCont Oil & Gas | Box 07 | 298-1234 |
| Bill Anderson | Water Dist #1 of Jo Co | Mission | 722-3000 |
| Leslie E. Rolf | DWR - KSBA | Topeka | x3717 |
| Jan Johnson | Budget Division | Topeka | 2436 |
| Joe HARKINS | KWU | TOPEKA | 3185 |
| Phil Martin | KLWA | Larned | 285-3813 |
| TERRY DENKER | KDED | Topeka | 296-3665 |
| Barbara (Azel) | Speakers Office | | 7892 |
| Bill Bryson | KCC - KDHE | Topeka | 862-9360 |
| Stacy Smith | SLAWSON | Wichita | 261-5151 |
| Walter Nunn | EKOGA | Topeka | 272-5674 |
| TREVA POTTER | NORTHERN NAT. GAS | TOPEKA | 357-5121 |
| Glenn Cogswell | WCentral Pipeline Corp. | Topeka | 273-4550 |
| Mark Mlinar | KCC | Topeka | 2936 |
| Keith Herley | KCC | Topeka | 3324 |
| Ken Peterson | Ks Petroleum Council | Topeka | 234-0589 |
| John Jordanson | Peoples Natural Gas | Council Bluffs | 712-325-2155 |
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KANSAS WATER AUTHORITY

Annual Report to the Governor and Legislature

January 1986

Attachment 1

House Energy and Natural Resources 2/5/86

KANSAS WATER AUTHORITY

Suite 200, 109 S.W. 9th Street, Topeka, KS 66612 (913) 296-3185

H. Philip Martin, Chairman

P.O. Box D, 702 Broadway, Larned, KS 67550 (316) 285-6514



January 23, 1986

The Honorable Robert V. Talkington
President of the Senate
Statehouse, Third Floor
Topeka, Kansas 66612

Dear Honorable Talkington:

It is my pleasure, on behalf of the members of the Kansas Water Authority, to forward the Annual Report of the Authority for calendar year 1985. Accompanying the Annual Report you will also find the 1985 Kansas Water Authority Research Report and the 1985 Research Needs Status Report.

Under separate cover, Joseph Harkins, Director of the Kansas Water Office, will forward proposed additions and modifications to the State Water Plan. The additions are consistent with commitments made by the Authority to the executive and legislative branches of government during the 1985 legislative session.

All water resource agencies in Kansas are now working in cooperation in addressing planning and management issues. Kansans are also acknowledging the importance of the task at hand and have donated many hours in discussion of issues and solutions to problems.

The members of the Kansas Water Authority stand ready to work with Legislators on water resource matters. Please feel free to ask questions, make suggestions and advise us of your position as we fulfill our statutory responsibilities.

Yours truly,

A handwritten signature in cursive script that reads "H. Philip Martin".

H. Philip Martin

HPM:ch
Enclosure

ANNUAL REPORT
KANSAS WATER AUTHORITY

The Kansas Water Authority is pleased to forward its annual report for calendar year 1985 to the Governor and the Legislature. This report will highlight major activities of the Kansas Water Authority during the past year and provide a summary of recommendations for water resource planning and management in 1986.

The planning process initiated by the Kansas Water Authority and the Kansas Water Office in 1984 continued in 1985. Results include the development of seven new or revised subsections to the State Water Plan. The Kansas Water Authority believes this comprehensive and coordinated process is an effective method of state water planning, as it provides for extensive public involvement.

Although the planning process is working effectively, the Authority would like to stress the importance of plan implementation. If the plan is to continue as an effective tool in water resource management, implementation must keep pace with the planning process. The Kansas Water Authority and Kansas Water Office urge favorable consideration of the budget and legislative action suggestions on those sections of the State Water Plan scheduled for implementation in 1986.

1986 STATE WATER PLAN

In 1985, the Kansas Water Office worked closely with the Kansas Fish and Game Commission, other state and federal agencies, private interest groups and the general public in preparation of a new Fish, Wildlife and Recreation Section to the State Water Plan. Planning subjects considered in this section include Environmental Coordination, Riparian Protection, Wetland Protection and Stream Recreation. A new Stream Recovery and Aquifer Restoration Subsection was also completed as part of the existing Management Section.

Additionally, the Urban Flood Management and Minimum Desirable Streamflow Subsections to the existing plan were revised. The Kansas Water Authority has approved the new and revised Subsections of the State Water Plan. The Kansas Water Office, under separate cover, will forward the updated plan to the Governor and the Legislature.

Recommendation: The Kansas Water Authority requests approval and implementation of these new policy recommendations.

1985 STATE WATER PLAN IMPLEMENTATION

The Kansas Water Authority and the Kansas Water Office have established an annual review procedure to monitor and evaluate the implementation of the State Water Plan. A report entitled "1985 Review of State Water Plan Implementation" was made available to water-related agencies in preparation of their budgetary and legislative requests for 1986. A review of state agencies reveals appropriate actions have been taken to implement the 1985 State Water Plan. A summary of the legislative and budgetary action necessary to implement the 1985 State Water Plan is listed in Table 1.

Table 1
Summary of Legislative Action Necessary
To Implement the 1985 State Water Plan

| <u>Subsection</u> | <u>Legislation</u> | <u>Funding</u> |
|-----------------------------------|--------------------|----------------|
| Large Reservoir Management | Yes | Yes |
| New Reservoirs | Yes | No |
| Water Marketing | Yes | No |
| Large Reservoir Finance | Yes | No |
| Multipurpose Small Lakes | No | Yes |
| Minimum Desirable Streamflows | Yes | Yes |
| Urban Flood Management | Yes | Yes |
| Rural Flood Management | No | Yes |
| Local Planning Policy | No | Yes |
| Research | No | Yes |
| Agricultural Conservation | Yes | Yes |
| Municipal Conservation | Yes | Yes |
| Industrial Conservation | Yes | Yes |
| Public Water Supply Protection | | |
| Plans for Small Impoundments | Yes | Yes |
| Public Water Supply Aquifer | | |
| Protection Plans | Yes | Yes |
| County-Wide Water/Wastewater Plan | Yes | Yes |
| New Subdivision Water/Wastewater | | |
| Plan | Yes | Yes |
| A State Groundwater Information | | |
| System | No | Yes |

Recommendation: The Kansas Water Authority recommends favorable consideration of the budget and legislative action requests necessary to implement the 1985 State Water Plan.

Purchase Agreement With the Corps of Engineers

The Kansas Water Office recently completed negotiations with the Corps of Engineers and executed a Memorandum of Understanding for the purchase of additional supply storage from federal reservoirs in Kansas. This agreement was approved by the Kansas Water Authority at its December meeting. Approval of this agreement represents a major step toward the implementation of the Large Reservoir Management Section of the State Water Plan. Through implementation of the agreement an opportunity exists for a unique federal-state partnership to assure operation of our reservoirs while maximizing benefits for Kansas.

Recommendation: The Kansas Water Authority recommends appropriate action be taken to implement this agreement.

Report on Research Needs

The Kansas Water Authority held its annual Water Research Needs Conference in April, and in June approved its "Annual Research Report (1985)." This report was then circulated to participating agencies and individuals in the research community.

This report, along with the 1985 Research Need Status Report, accompany this document.

Table 2 indicates the priority listing of 1985 research needs.

Table 2
Priority Listing of 1985 Research Needs

Highest Priority

River Basin Systems Analysis
Data/Information for River Basin Systems Analysis
Quality and Quantity of Water Available from the Dakota Aquifer
Interaction of Other Formations with the Dakota Aquifer
Stream-Aquifer Interaction in General
Impacts of Stream-Aquifer Interaction on Water Rights
Estimation of Water Supply and Demand
Fate and Effects of Chemicals in the Environment
Evaluation of Quality of State Water Resources

High Priority

Enhancement of Water Supplies and their Potential Use
State Water Right Issues
Federal/State Water Right Issues
Groundwater Quality Transitions
Conservation in Agricultural Water Use
Conservation in Municipal Water Use
Techniques for Determining Instream Flow Requirements
Biological Impacts of Low Flow Conditions
Protection of Quality of State Water Resources
Impacts of Watershed Structures
Groundwater Recharge
Saltwater Intrusion

Medium Priority

Study of Sinkholes and Other Substrata Phenomena
Groundwater Data Base
Groundwater Modeling
Impacts of Land Treatment and Soil Conservation Practices
Evaluation of the Weather Modification Program
General Wetland Inventory
Management of Cheyenne Bottoms
Evaluation and Diagnosis of Wastewater Treatment Plants
Disposal of Wastewater Sludges
Water Quality Impact on Human/Animal Health
Water Quality Impact on Fisheries
Data and Techniques for Measuring Water Use

Recommendation: The Kansas Water Authority recommends funding of the highest priority research needs.

Basin Advisory Committees

The Development Section of the State Water Plan outlines the procedures for the development of basin plans for twelve (12) major river basins in Kansas. The Local Policy Planning Section, which was implemented in 1985, requires the Kansas Water Office and the Kansas Water Authority to seek advice from the general public and from committees having members with knowledge of and interest in water issues in the basin planning areas. To meet this requirement 11-member basin advisory committees were established in each of the twelve (12) river basins by the Kansas Water Authority. The purpose of the basin advisory committees is to identify needs and advise the Kansas Water Office and the Kansas Water Authority on basin planning issues.

The twelve (12) basin advisory committees are now fully operational and meet on a regular basis. To date, they have identified more than 175 water-related problems and are working with the Kansas Water Office in preparation of recommendations for the preliminary drafts of basin plans for the 1986 State Water Plan.

Basin advisory committee members volunteer their time to participate in this important advisory role without compensation or reimbursement for any expenditures. Based on a survey conducted by the Kansas Water Office, only approximately 19 percent of current committee members are reimbursed for travel expenditures. The survey further indicated that approximately 73 percent of the committee members were interested in having the state provide reimbursement for travel expenditures.

Recommendation: The Kansas Water Authority recommends that basin advisory committee members be reimbursed for mileage expenses incurred in basin advisory committee activities.

OTHER ISSUES ADDRESSED IN 1985

Water Marketing

At the time the rate was set for the price for water in 1986, the Kansas Water Authority expressed concern in the amount of the rate increase over the 1985 price. The Kansas Water Authority asked the Kansas Water Office to conduct an analysis of the current rate setting formula to determine whether changes in the procedure were warranted. The analysis revealed that there are procedural requirements in the current pricing formula which prevent the intent of the law from being fully carried out. Modifications to these procedures were proposed by the Kansas Water Office in conjunction with the amendments necessary to implement the State Water Plan. Those amendments to the Water Marketing Program which are necessary to implement portions of the State Water Plan include: authorization for contracting in

advance of availability of water, authorization for contract volumes to be based on a graduated use schedule, a requirement that water conservation plans be implemented prior to contracting and authorization for specific use of monies in the Development Fund.

Recommendation: The Kansas Water Authority recommends favorable consideration of this legislative action.

Minimum Desirable Streamflow Standards

The 1986 State Water Plan recommends minimum streamflow standards for nine additional streams or reaches of streams in Kansas. These streams are: Saline River, Smoky Hill River, Medicine Lodge River, Chikaskia River, Big Blue River, Republican River, Delaware River and Mill Creek. These standards are a continuation of the state's effort to work toward achievement of minimum desirable streamflows for Kansas' streams. The Kansas Water Office has proposed submitting legislation to implement the standards for these nine streams to the 1986 Legislature.

Recommendation: The Kansas Water Authority recommends favorable consideration of this legislative action.

Arkansas River Compact

Following the presentation of reports on the status of the Arkansas River Compact Administration, the Kansas Water Authority unanimously supported the litigation against Colorado to preserve the rights of Kansas to water on the Arkansas River. In addition, the Authority pledged full cooperation to the Attorney General in pursuing this matter.

Recommendation: The Kansas Water Authority supports the efforts of the Attorney General on behalf of the State of Kansas regarding the litigation against the State of Colorado.

Transfer of "Assistance for Payments of Land Rights" Program

The Kansas Water Office currently administers a program which provides financial assistance for payment of land rights for certain water development projects. This program is managed in context with the state's overall watershed development program. The State Conservation Commission currently administers all other watershed programs dealing with financial assistance. The Kansas Water Office will submit proposed legislation which would transfer this program to the State Conservation Commission.

Recommendation: The Kansas Water Authority recommends favorable consideration of this legislative change.

Missouri River Compact

After receiving a briefing by the Kansas Water Office, the Kansas Water Authority unanimously supports the efforts of the Governor to bring the states of the Missouri River Basin together to negotiate a limited compact regarding managed use of the Missouri River.

Recommendation: The Kansas Water Authority supports the efforts of the Governor's negotiating team to develop a limited compact directed at managed use of the Missouri River.

ACTIVITIES SCHEDULED FOR 1986

The Kansas Water Authority will continue to advise the Governor, Legislature and Director of the Kansas Water Office on water policy issues. The Authority will also fulfill its responsibilities for approving proposed water storage sales; revisions to the State Water Plan; federal contracts; regulations and legislation submitted by the Kansas Water Office.

Special Committee on Administration

The Kansas Water Authority has formed a Special Committee on Administration comprised of representatives of the Authority; the executive and legislative branches of government; and the public. The committee will independently view present operations of the Authority, including its interaction with other water resource agencies and basin advisory committees. A goal will be to improve operational policies and procedures for the benefit of future administrations.

State Water Plan-Water Quality

The Kansas Water Authority has established the examination of water quality issues as its highest priority for 1986. The Authority believes it is essential that the state protect the quality of its water resources. It is also essential for water quality protection programs to be closely coordinated with the state's water management programs.

At the public meetings held last August, there were many comments received regarding water quality issues. The Water Quality Committee of the Kansas Water Authority reviewed these comments to determine issues which merit consideration for the planning effort in the area of water quality. After review of a technical paper prepared for the Authority on the issue of water quality, it was determined that the recommendations in the current Water Quality Section of the plan did not go far enough with regard to pollution prevention and that a remedial action policy was needed.

The Kansas Water Authority and Kansas Water Office will review the existing Water Quality Section of the plan to determine how this section can be strengthened. This effort will concentrate on policy recommendations related to water quality protection strategies and state mitigation programs.

State Water Plan-Basin Plans

The Kansas Water Authority has reached a consensus on the process for the development of basin plans as subsections of the State Water Plan. The major objective of the basin planning process is for basin advisory committees to work with local residents, the Kansas Water Authority and the Kansas Water Office in: 1) identification of priority problems in the basin; 2) identification of local and state programs that can help resolve problems in the basin; and 3) proposed guidelines for the operation of state programs that can assist in the resolution of problems in the basin.

The Kansas Water Authority has also endorsed the basin plan format which recognizes the vital role basin advisory committees play in the basin planning process. During the last six months of this year, the problem identification process has been essentially completed. Basin advisory committees are currently working with the Kansas Water Office to develop drafts of basin plans for each basin. The first planning cycle for basin plans is scheduled for completion in September of 1986. The Kansas Water Authority is required to approve these plans before they become effective.

Revised Planning Cycle

The annual planning cycle has been revised to prevent delays in implementation of policy recommendations contained in the plan. The State Water Plan will be submitted to the Kansas Water Authority for approval prior to July 1 of each year. This change will allow the state agencies time to prepare their requests to implement new plan sections in the legislative session immediately following the completion of the plan each year. Time does not allow for this transition to be completed in one year. Therefore, the Kansas Water Office is scheduled to submit the new State Water Plan sections it prepares during 1986 to the Kansas Water Authority for approval in September of 1986. The plan will be submitted to the Kansas Water Authority for approval effective on or about July 1 in 1987 and subsequent years. This transition will make the most recent revisions of the plan available for guidance in preparing the Governor's budget each year.

KANSAS WATER AUTHORITY

| <u>Name</u> | <u>Representing</u> | <u>Term Expires</u> |
|-----------------------|--|---------------------|
| Hugh Armstrong | Association of Watersheds | 5/1/86 |
| Sharad V. Bhatia | Ex Officio | |
| Robert J. Binder | Conservation District | 5/1/88 |
| Russell L. Crites | Kansas Association of Commerce & Industry | 5/1/87 |
| Dr. William Hambleton | Ex Officio | |
| Joseph F. Harkins | Ex Officio | |
| H. Philip Martin | Governor | Pleasure |
| Loren McCrory | Groundwater Management Districts #1, 3, 4 | 5/1/86 |
| Larry K. Panning | Groundwater Management Districts #2, 5 | 5/1/86 |
| David L. Pope | Ex Officio | |
| Doyle Rahjes | President of Senate | 6/30/87 |
| Raymond Roemer | Speaker of the House | 6/30/87 |
| Helen Schabel | Public | 5/1/89 |
| Marshall N. Tatum | Rural Water Association | 5/1/88 |
| Dr. Walter Woods | Ex Officio | |
| John D. Wynkoop | Kansas League of Municipalities | 5/1/89 |

STUDY PROPOSAL
RECOMMENDED BY
THE JOINT OIL & GAS PROGRAM REVIEW COMMITTEE
September 20, 1985

Submitted by: SHELBY SMITH

Attachment 2

House Energy and Natural Resources 2/5/86

This proposal is submitted pursuant to the Joint Oil & Gas Program Review Committee's recommendations to place the responsibility for oil and gas industry regulation with one agency, and to study the concept of a separate commission for this regulation.

THE GOAL

The goal is a long overdue strengthening of the regulatory program envisioned by 1982 Substitute Senate Bill 498 (SB 498). This requires a comprehensive approach. A combination of central accountability, upgrading of personnel, elevation within the organizational structure of Kansas government, and a change of emphasis to meet today's issues and needs is contained in this proposal. The days of a "conservation" division, department, agency, or commission have passed. Consistent with national goals, the state should have priorities on energy independence for the United States in addition to the protection of fresh and usable water. In striking a balance, we need not, and we must not sacrifice the environment for profit.

THE PROBLEM

The Kansas experiment in 1982 as the only State to assign joint jurisdiction to two State agencies¹ for the regulation of the oil and gas industry has produced unacceptable results. We have had four Directors in three years. During its review the committee found the following: inconsistent policy and enforcement procedures; organizational inefficiencies in communication channels; duplications within the UIC Class II program; non-uniform

¹ Kansas State Corporation Commission (KCC) and the Kansas Department of Health & Environment (KDHE).

statistical activity reports; a lack of coordination with the district offices and between district offices; follow-up problems on pollution complaints; untimely processing of applications and permits with conflicting directives; an inability to address problems and take corrective measures; and confusion as to who, how, and why decisions are rendered. All of these findings were unchallenged in committee deliberations.

From my personal observations, the most positive developments under SB 498 have been the advisory role of the ten-member Oil and Gas Advisory Committee and the consolidation of the positions of Director of the Office of Oilfield and Environmental Geology, KDHE, and Director of Oil and Gas Conservation, KCC. The most serious deficiency is the uncoordinated budget. The budgetary process and the budget document itself are the key mechanisms for planning, coordinating and control.

Fiscal budget controls are uncoordinated or inefficient at best under the joint program concept. KCC staff has nearly doubled from 36 in FY '81 to 69 in FY '84. KDHE staff increased from 28 to 32, but salaries and wages increased \$278,946 (\$533,120 to \$812,066). Overall, total actual joint program expenditures increased from \$1,614,811 in FY '81 to \$3,208,983 in FY '84, a 99 percent increase in three years, quite possibly the fastest-growing bureaucracy in state government.²

² The increase is 183% in five years, if 1981 is compared with the approved FY '86 budget of \$4,573,229.

Rationale for a Separate Oil & Gas Commission (OGC)

The rationale for a separate OGC is fourfold:

1. Policy makers need to make a straightforward acknowledgement of and response to the long-standing bureaucracy politics and coordination problems between KCC and KDHE. A transfer of program responsibility to either KCC or KDHE will not only be resisted but be unacceptable within State bureaucracy.
2. The mere number of employees (115) involved in the joint program justifies a separate agency.
3. The financing and regulation of monopoly utilities vs. exploration and production of oil and gas are worlds apart. Their regulatory authority should be just as distinct organizationally. These differences include:
 - A. The regulation of prices for utility services are set by company rate cases, while prices for oil and gas are determined by national and international markets. The public interest in terms of consumer pricing is best served by competition and maximizing investment capital in exploration and production and minimizing both in the area of utilities.

B. The financing through capital markets for institutional and individual investors are traditionally distinct and separate for utility and oil and gas investments. This applies to both the equity and debt markets. Risk in exploration is on the producer; the loser in a utility failure is the public. A low capital entry level exists for oil and gas exploration and production; a high level capital entry level is required for utilities.

4. Kansas needs to establish a regulatory program with stature and competence to function effectively within our state and with other major producing states at national governmental and industry councils.

THE PROPOSAL

The proposal is an OGC serving as the policy and operations review board. Membership is made by gubernatorial appointment with Senate confirmation. The Chairperson is selected by the Governor. A strong role for the Director is provided in the administrative structure. The Director would serve at the pleasure of the Governor and hire section managers and district office supervisors.

This is not a super-agency concept for more bureaucracy but a reorganization and restructuring of an unworkable joint regulatory program. Personnel reductions could start with the elimination of the Deputy Director position; the six District Deputy Officer-in-Charge positions; the KDHE UIC Geologist position at the Conservation Division; the KCC Environmental

Protection Agency monitoring and reporting positions, and either the KCC Director and staff of the Underground Injection Control Program or the KDHE Director and staff.

With the KCC's well-established administrative procedures (rules and regulations, hearing process, and applicable appellate court review decisions) transferred intact -- the recommendation for study is:

1. A separate Oil and Gas Commission (OGC)
2. Three Commissioners appointed by the Governor
 - a. Part-time positions similar to the Board of Regents³
 - b. Six-year staggered terms
 - c. No more than two commissioners from any one political party
3. Senate confirmation of the appointments
4. Gubernatorial selection of the Chairperson
5. Monthly commission meetings
 - a. Policy planning and operations review
 - b. Hearings on special-appeal cases only
 - c. Institute a trial examiner's procedure⁴
6. Continuation of the ten-member 498 Committee in its advisory role
7. An expanded and stronger role for the Director
 - a. The Director would hire section managers, and district office supervisors.

³ This is not intended to preclude the Governor from appointing a full-time state employee, such as the State Geologist, to the OGC.

⁴ A modification in the present system where it appears that the staff wears two hats -- brings the cases to a hearing and makes the recommendation.

- b. Unclassified position
 - c. Salary range \$60,000-\$70,000
 - d. Monthly meetings with the Governor's senior legislative liaison representative and selected cabinet members, based on the Director's agenda
8. Three Section Managers (See Organizational Chart)
- a. Unclassified positions
 - b. Salary range \$45,000-\$60,000
9. Discontinue the positions of Deputy Director and Deputy Officer-in-Charge (DOIC) in the district offices
10. Statutory amendments or repealers:
- a. Transfer all KCC responsibilities and authority to the new Oil and Gas Commission (OGC), KSA 55-100 et seq, 65-1, 185.
 - b. Transfer all of the joint program to OGC.
 - c. Give OGC specific authority to prevent brine storage in ponds.
 - d. Delete KDHE approval of salt water disposal wells, KSA 55-1003.
 - e. Delete KDHE prescribing maximum pressure under which salt water could be injected in a disposal well.
 - f. Transfer the regulation of underground petroleum storage tanks to OGC.
 - g. Transfer the regulation of liquified petroleum gas (LPG) storage to OGC.
 - h. Clarify that the primary responsibility of UIC Class II wells lies with OGC.
 - i. Clarify OGC and KDHE cleanup responsibilities, KSA 55-140(a), 55-121, and 65-171 et seq.
 - j. Delete KDHE responsibility to review intents to drill, KSA 55-151.
11. Issue a Governor's Executive Order to assure inter-agency communications and coordination, particularly as it relates to ground and surface water planning with the Kansas Water Authority and KDHE.

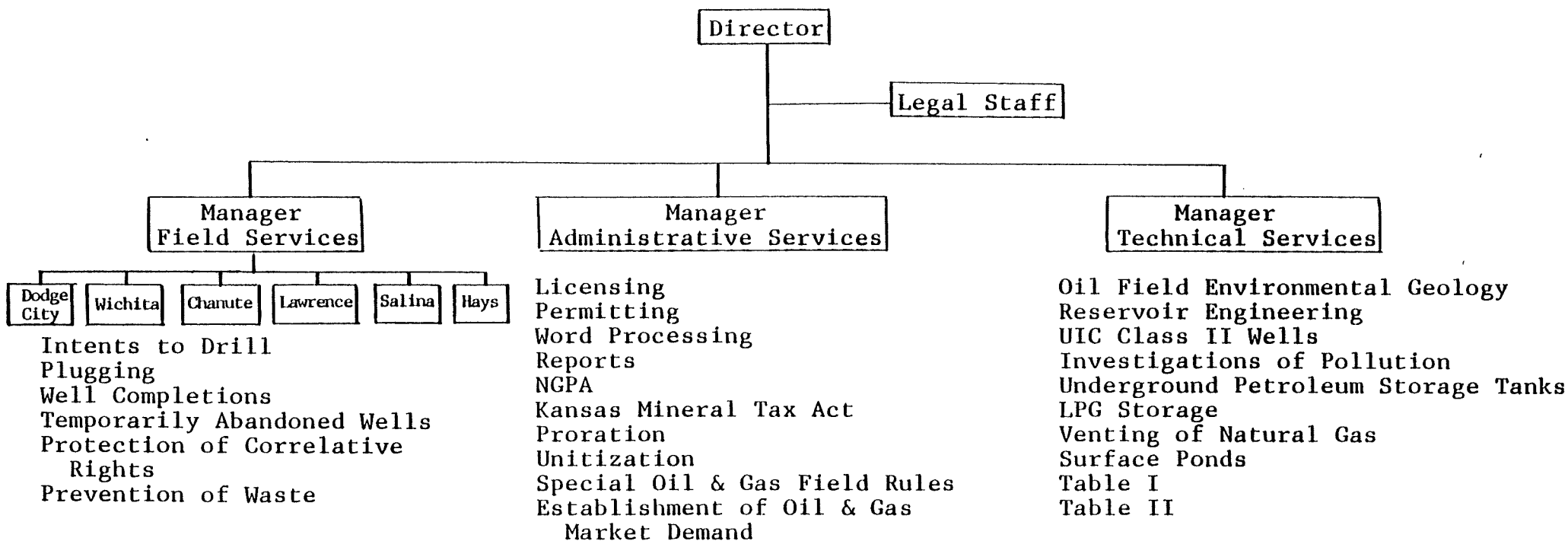
The study also needs to define the role of KDHE as it would relate to the OGC (i.e., laboratory services, ground water strategies, and status of pollution investigations).

The proposed structure establishes accountability. It can improve our protection of fresh and usable water, strengthen policy formulation, improve communication and coordination for the district offices, and show a positive attitude to the State's second-largest industry that it is no longer a step-child. The industry cannot effectively serve two masters. They could look forward to a firm but fair authority -- one maker of the rules, one interpreter of the rules, and one enforcement criteria.

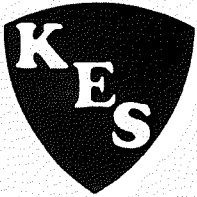
In summary, there is manifest an inherent deficiency in SB 498. In addition to immediate corrections, Kansas needs a long-range solution to the problems presented by joint jurisdiction.

For the proposed study it is suggested that the Governor convene a Task Force for the implementation of one agency to regulate the oil and gas industry, and make his recommendations to the 1986 Session of the Kansas Legislature.

ORGANIZATIONAL CHART



The Director appoints Section Managers and the Officer in Charge of the District offices



Kansas Engineering Society, Inc.
627 S. Topeka, P.O. Box 477
Topeka, Kansas 66601 (913) 233-1867

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Blue Rapids

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Richard Heisler, P.E.
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Ted Farmer, P.E.
El Dorado

William M. Henry
Executive Vice President

Testimony before the
House Energy & Natural Resources Committee
February 5, 1986

Mr. Chairman, members of the committee, I am Bill Henry, Executive Vice President of the Kansas Engineering Society, and appear today on behalf of the 1100 engineers who belong to our organization.

As you are aware, based upon our past appearances and presentations, we have great interest in the subject before your committee today—the protection of groundwater and the protection of the environment as a whole for all citizens of this state.

Mr. Powers, in his opening remarks Tuesday gave you the background for the organization for the joint oil and gas program which was created by S.B. 498 in 1982. At that time the Society opposed the joint proposal based upon the difficulty that we foresaw in getting two agencies with two different missions to join forces.

Despite our original opposition we must concur that the improvements cited by Commissioner Lennen in his presentation Tuesday are significant. Indeed, in surveying our members who are in the field and who have to work with the joint program we have found that they are unanimous in their reports that the program's operation is much improved, particularly during the last year. We would submit that much of that recent improvement in performance is due to the naming of Bill Bryson to head the joint program.

We concur however with the statements of Mr. Schnake that there are still miscommunications and problems within the operations of the program.

But where do we go from here?

One option is to pursue the commission approach embodied in H.B. 2650. Our Society is opposed to this approach and our philosophical opposition is chiefly this:

All of the policy discussions involving water since 1982 in Kansas have been based upon the premise that water is not a subject that can be handled in a piece meal fashion. Water

Attachment 3

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supply and quality are interrelated and the responsibility for maintaining the same are the responsibilities of all citizens of this state-not just agriculture, not just the oil and gas industry nor the municipalities nor industrial users. To create a special commission or special agency designed just to handle one facet of water protection does not seem to be logical to the members of our organization. We feel that one agency, responsible for all facets of water and environment, is the logical answer.

To pass H.B. 2650 and say you have handled the immediate problem of groundwater pollution would be a stop-gap approach. Protection of the state's waters can not be laid simply at the feet of the oil and gas industry. To guard against pollution of our state's waters is the duty of the state as a whole and the cost and the structure for this protection should be met by the state as a whole.

For the above reasons and others, the Kansas Engineering Society believes the best answer to water control and protection transcends agency and specific program boundaries as they are established today. If you are truly serious about creating a structure to address water pollution and water protection we suggest that you consider the formation of a cabinet level department of environmental resources. For a beginning point of discussion we would recommend the legislature consider the inclusion of the following entities as part of such a department:

The Division of Environment, the Kansas Department of Health & Environment; The Division of Water Resources, Board of Agricultural; the Kansas Water Office, the Oil and Gas Well Construction and Physical Standards Division, Kansas Corporation Commission; Environmental Geology, the Kansas Department of Health & Environment; the Environmental Laboratories, Kansas Department of Health & Environment; Mined Land Conservation, Kansas Corporation Commission; and the Kansas Soil Conservation Office.

Whether or not you believe each of these entities is doing either a good or bad job in carrying out its particular mission we feel that you would agree all have data and information that would be shared more efficiently if the entities were united in a single agency operation.

I would also add quickly that we do not have unanimous support within our organization for this approach. Many of our engineers who work with the Water Resources Division within the Department of Agriculture, feel that that agency is one of the best operated and most efficient operations we have in the water area today. I certainly believe that the chief engineer,

David Pope, is one of our best state experts and one of our best managers as well. In fact, if I had a personal preference to share with this committee in creating a so-called super environmental agency I would not hesitate to think that the current chief engineer of the Water Resources Division would be an excellent nominee for the secretarial position in such an agency.

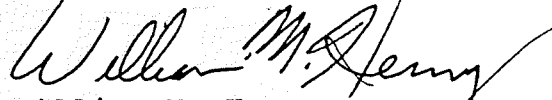
Would it not make sense to the citizens of Kansas if they had a question that related to water quality, supply, permitting or purchase that they would be able to call one office to receive their answer to whatever query they might have?

There would not necessarily be a cost savings with the creation of an environmental resources department. The cost savings would be in the improved abilities and efficiencies of such a department to protect our state's greatest natural resource.

Finally, we believe the structural organization you choose to protect the state's groundwater is only the first step. Until the state is willing to supply the financial resources to police our existing water protection statutes it does not matter what we call our agencies; what matters is how we fund them based on the priority of their mission.

Mr. Chairman on behalf of the engineering society we would be happy to furnish the committee with any further information to answer any further inquiries that the committee might have.

Respectfully submitted,



William M. Henry
Executive Vice President
Kansas Engineering Society

Oil Falls to Near \$15 a Barrel

From Staff and Wire Reports

Oil prices nosedived toward \$15 a barrel Tuesday, the lowest level since the late 1978, after an OPEC meeting broke up without devising a strategy to defend the decaying cartel's share of the oversupplied market.

"Put on your hard hat. The sky is falling today," said Peter Beutel, assistant director of Rudolf Wolff Energy Futures Inc., a New York commodities futures trader. "There is violent trading back and forth."

On the New York Mercantile Exchange, the March delivery price of West Texas Intermediate, the benchmark grade of U.S. crude, plummeted to \$15.44 a barrel from Monday's close of \$17.36. In Europe, Brent crude, produced by Britain, traded for \$15.50 a barrel in the open market, also the lowest this decade.

KANSAS PRICES held steady for the day as most major refiners were paying \$20 a barrel for contract crude.

"I think what you are seeing is everyone waiting a day to see exactly where we stand," said one major oil purchaser. "There is little doubt that by tomorrow (Wednesday), Kansas contract prices will come down — possibly to \$18 a barrel."

It was the latest movement in a slide that has cut in half crude oil futures contract prices since November and caused a skid of more than a third since the year began. The tailspin has triggered factional splits among members of the 13-member Organization of Petroleum Exporting Countries, the cartel that once dictated prices worldwide.

Combined OPEC production is

believed to be 18.5 million barrels a day, while world demand for its oil is 15.5 million barrels a day. Members have been unable to unite in a common strategy to reduce the supply.

DESPITE THE price decline, U.S. consumers have not seen a similar drop in retail gasoline costs, partly because the price for long-term contracts on oil remain several dollars higher per barrel than in the spot and futures markets.

"The consumer can be confident there will be a fall in price, but it will be almost insignificant compared to the drop in other sectors," said Daniel Lundberg, publisher of the Lundberg Letter, a weekly publication based in Los Angeles that reports on gasoline prices.

Nonetheless, prices on the Merc for gasoline did fall sharply Tuesday. March deliveries of regular leaded closed at 48.21 cents a gallon, a nearly 4-cent decline over Monday's price. Unleaded deliveries closed at 48.36 cents a gallon, a decrease of 3.5 cents a gallon.

Wholesale prices for gasoline in Kansas were running about 10 to 12 cents a gallon higher than the Merc on Tuesday, although few refiners expected that level to be maintained.

"There is little doubt that our product prices are headed down," said the oil purchaser. "In fact, it's already started. I think you could easily see another 5 cents a gallon drop within the next few days."

Associated Press and staff writer Forrest S. Gossett contributed to this report.