

Approved Carl Dean Holmes 4-4-88
Date

MINUTES OF THE House Sub COMMITTEE ON ENERGY

The meeting was called to order by Representative Holmes at
Chairperson

February 19, 1988

527-S

8:00 a.m./p.m. on _____, 19__ in room _____ of the Capitol.

All members were present except:

Representative Mollenkamp

Committee staff present:

Raney Gililand, Research Dept.
Laura Howard, Research Dept.

Conferees appearing before the committee:

James Power, Kansas Dept. of Health & Environment
Wayland Anderson, Division of Water Resources
Jerry Doop, Kansas Fertilizer Association
David Pope, Division of Water Resources
Dale Lambley, Director, Board of Agriculture
Representstive Eugene Shore
Margaret Boggs, Ks. Water Office
Alex Hawkins, Ks. Board of Agriculture
Charlene Stinard, Ks. Natural Resource Council
Chris Wilson, Kansas Fertilizer Association
Bill Buller, Ks. Farm Bureau
Freeman Biery, Topeka

Representative Holmes called the meeting to order.

Representative Shore reviewed the 1985 law and said it was considered model legislation, that it was a good law, a workable law and should be given a chance. He explained the difference between irrigation and the problems of the oil and gas industry. Questions and discussion followed. (Attachment 1)

Dale Lambley said he had no more additional testimony, but would answer questions. He was asked about filing permits applied for and he responded that proper forms are sent out and then followed out. There is an annual review. Told the committee they will be dealing with federal violations and they are understaffed.

In answer to questions submitted at a previous meeting, Mr. Lambley in answer to a question on fees, he estimated that at \$40 per well, and 4,000 wells would generate around \$160,000. The cost for one ECO specialist is about \$37,000. Concerning enforcement, Mr. Lambley indicated he felt it we get to every well once a year, you are talking about a larger field staff. We follow upon compliance, accidents and that is the area where more staff is needed.

× Discussion was held on the solenoid valve which is coming out under the federal pesticide label. Kansas had looked at requiring it in the chemigation law, but a decision was made that it would not be necessary.

Other items discussed were non-compliance, penalties, permits signed under oath, inspection reports and educational programs.

Representative Holmes asked if the training section should be put back in.

Chris Wilson introduced Jerry Doop, member of the Kansas Fertilizer Association, who told the committee that our chemigation law is used as a model. He said the University of Georgia is the leading expert in chemigation and the equipment we use follows their guidelines. In answer to Representative Holmes question regarding training, Mr. Doop said he thought a training session was necessary. Felt education and a public relations program would help. Discussion was held as to whether consultants were licensed and Mr. Doop said they were.

CONTINUATION SHEET

MINUTES OF THE House Sub COMMITTEE ON Chemigation Safety Law,
room 527-S, Statehouse, at 8:00 a.m./~~p.m.~~ on February 19, 1988

Bill Fuller, Kansas Farm Bureau said we feel strongly that agriculture must be responsible. He told committee members that farmers want to be proactive and assist in addressing the problems.

He stated the Farm bureau Board feels strongly about groundwater and other natural resources and have appointed a statewide NER committee. Mr. Fuller said the Act has been administered according to legislative intent and the Department of Agriculture has done well in administering the new program. We would oppose any consideration of taking the Kansas Chemigation Safety Law from the Kansas Board of Agriculture. We support accurate labeling of all agricultural chemicals. We urge the subcommittee to maintain the administration of the Kansas Chemigation Safety Law in the Kansas State Board of Agriculture, looking over labeling requirements as they relate to chemigation, any changes in the Act be based on actual information and scientific knowledge and the economic impact should be considered. (Attachment 2)

Freeman Biery described his background and the part played in forming the chemigation law. Mr. Biery said they asked the EPA in 1983 to review labels and they are just now coming out with them. K-state was also asked to come out with a publication that was comprehensive on this matter, but they have not done so. Mr. Biery said he wrote a set of educational material and requested examinations for supervisors. He said two mistakes were made when they took out the requirement to have a qualified individual meeting strict qualifications on the job and not to allow for more staff.

Charlene Stinard, Kansas Natural Resource Council, said groundwater is a major concern. Contaminated groundwater is difficult to clean up. Three issues that should remain in the foreground are: 1) safety of chemigation process, still not confirmed, 2) compliance and 3) Monitoring. (attachment 3)

Meeting adjourned

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TOPEKA

HOUSE OF
 REPRESENTATIVES

COMMITTEE ASSIGNMENTS
 MEMBER: COMMUNICATIONS, COMPUTERS AND
 TECHNOLOGY
 PENSIONS, INVESTMENTS AND
 BENEFITS
 TRANSPORTATION
 KANSAS WATER AUTHORITY

TESTIMONY BEFORE THE ENERGY SUB COMMITTEE:
 FEBRUARY 19, 1988.

Kansas had a chemigation law passed in 1985 and became effective in 1987. The law was carefully crafted and is now considered model legislation and is being copied by surrounding states. Just yesterday I had a request for Kansas chemigation law and other water quality laws for a meeting which will be attended by Senators Dole and Kassebaum and Secretary of Agriculture Richard Lyng. We have a good law, we have adequate law, we have workable law, let's give it a chance.

In committee I heard concern for integrity of irrigation well casing being compared to integrity and potential for problems of the oil and gas industry. The major difference is oil and gas and saltwater are under pressure and can easily be forced into the aquifer should production pipe and surface pipe corrode and rupture or not be correctly cemented. Irrigation casing is perforated so water from the aquifer flows from the aquifer into the well. Even if a chemical was spilled into the well, the product would not be forced in to the aquifer because it is not under pressure, and according to hydrologists it would move no farther than 100 feet into the aquifer if it remained liquid for 12 months in the well. The minute the well is started, the well becomes a vacuum and water moves toward the well forming a cone of depression which may reach 1/4 mile during the irrigation season. Nature provides a very effective clean-up procedure in itself. Turbine oil which is used in lubricating an irrigation pump normally is emulsified and pumped out with the water. If left dripping during the off season, the oil accumulates on top of the water in the well and is pumped out as soon as the well is started, never is it forced into the aquifer. The same would be true of an emulsifiable chemical which was lighter than water. When a turbine pump is started the effect is much the same as pulling the stopper in a tub full of water, a vacuum is formed at the bottom of the well. My point is the aquifer would not be contaminated even if the well was, and the well would be cleansed within minutes after the well was started.

An appropriate question would be, why would any farmer who has invested \$40 or 50 thousand dollars in an irrigation system be careless in protecting the well which is the life-blood of the system. These same irrigators have been required to go to school, pass a test and obtain a license before purchasing or handling toxic chemicals. They are aware of the danger involved when chemicals are misused.

The chemigation law has been in place for about one year. Estimates are 60% of known chemigation systems are now licensed. They have never had a chemigator refuse to get in compliance when informed of the new law. They have never found a well even suspected of being contaminated by careless or malfunctioning chemigation equipment. Funds were budgeted for only one full time position to administer the law. How does this compare to efficient use of manpower and money when it comes to known problems and compliance in other government agencies?

Water and irrigation is regulated and monitored by the division of water resources and the ground-water management districts. These agencies are not charged with enforcing chemigation law, nor should they be. I don't think we should expect water agencies and their hydrologists to enforce chemigation and other chemicals laws, they simply aren't the same. They are separate issues and require different areas of expertise.

The chemigation law is an ounce of prevention, we should not try to make it a pound of cure unless we have something to cure. We have a good law, let's give it a chance to work.

I find it more than a little noteworthy that we spend three days of hearings looking for a non-point problem where we don't know of any and don't even mention the septic tank problems in the Great Bend and Hutchinson areas, salt water pollution, both man made and nature occurring state-wide pollution in the Roboudioux in Southeast Kansas, shallow encased or poorly constructed wells in the Herrington area. Polluted aquifer statewide from grain fumigants and termite chemicals, factory and manufacturing refuse and by-products in numerous areas of the state, and many known problems state wide which don't have a chemigation law to monitor or license them.

The farmers and ranchers of Kansas deserve better than to be singled out for what appears to be a witch hunt. They are doing a commendable job and are paying the bill themselves.



PUBLIC POLICY STATEMENT

HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES
Energy Subcommittee

RE: KANSAS CHEMIGATION SAFETY LAW

February 18, 1988
Topeka, Kansas

Presented by:
Bill R. Fuller, Assistant Director
Public Affairs Division
Kansas Farm Bureau

Mr. Chairman and Members of the Subcommittee:

My name is Bill Fuller. I am the Assistant Director of the Public Affairs Division of Kansas Farm Bureau. We appreciate this opportunity to present remarks concerning the "KANSAS CHEMIGATION SAFETY LAW."

Agriculture must be responsible in its actions to protect our environment and natural resources. Farmers and ranchers want to be proactive and assist in addressing the problems.

The agricultural community developed, recommended and supported S.B. 330 during the 1985 Legislative Session. That bill created the Kansas Chemical Safety Law. The law is administered by the Kansas State Board of Agriculture. The act requires persons applying any chemical by the chemigation process to:

1. Register with the Secretary of the State Board of Agriculture;
2. Use anti-pollution devices; and
3. Keep records and make reports as required by the Secretary.

Any person found guilty violating the Act is subject to a fine up to \$500.

We believe the Act has been administered according to the Legislative intent as expressed in 1985. In fact, we believe with the limited resources ... both funds and personnel ... the Kansas State Board of Agriculture has done well in administering this new program. The leveraging of their resources with the cooperation and assistance from other water agencies and organizations is commendable. We would strongly oppose taking the administration of the Kansas Chemical Safety Law from the Kansas State Board of Agriculture.

We do not condone the misuse or overuse of agricultural chemicals. We support the complete and accurate labeling of all agricultural chemicals. "Labeling" maybe an area that should be reviewed as it relates to chemigation.

One of the resolutions concerning Conservation and Natural Resources adopted by the voting delegates at the Kansas Farm Bureau Annual meeting states:

Environmental Standards

We believe any legislation that is enacted, or any environmental regulations which are proposed for promulgation must be based on:

1. Factual information;
2. Scientific knowledge; and
3. Economic impact studies.

We oppose legislation which would permit harassment of agricultural producers because of unsubstantiated allegations regarding damage or probable damage to the land, water or air.

We believe any state standards adopted in Kansas should be no more stringent than federal standards approved by the U.S. Congress or adopted by a federal agency.

We believe review of any new program is appropriate. We offer our assistance as agricultural producers in this process.

We urge the Subcommittee to:

1. Maintain the administration of the Kansas Chemigation Safety Law in the Kansas State Board of Agriculture.
2. Review adequacy of product "labeling" for use with chemigation.
3. Any changes in the Act be based upon factual information and scientific knowledge.
4. The economic impact of any proposed changes be considered.

Thank you for allowing our input on this issue. We will attempt to respond to any questions you might have.

Kansas Natural Resource Council

Testimony presented before the House Energy and Natural Resources
Subcommittee on Chemigation
Charlene A. Stinard, Kansas Natural Resource Council
February 19, 1988

My name is Charlene Stinard, and I represent the Kansas Natural Resource Council, a private, nonprofit organization which promotes sustainable natural resource policies.

Groundwater quality in Kansas is one of our major concerns. Once groundwater becomes contaminated, it is difficult, if not impossible to clean up. For this reason, we have supported state efforts to prevent contamination as the best approach to protecting this precious resource.

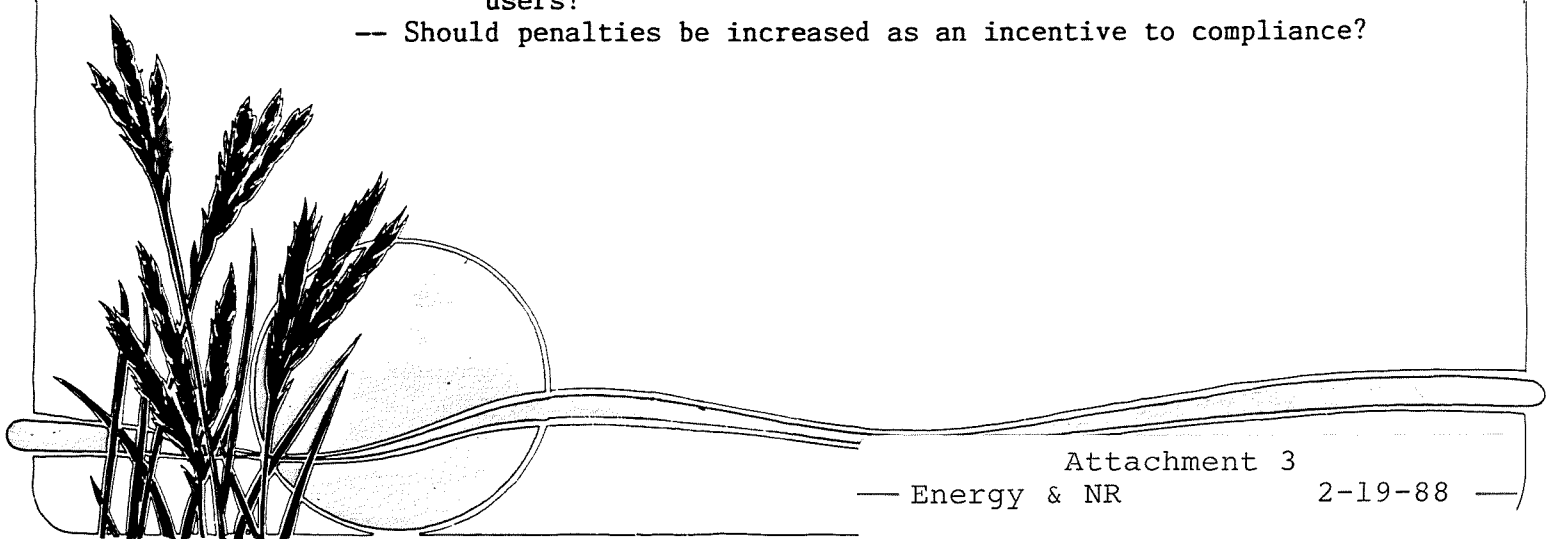
During Committee hearings on nonpoint source pollution, a number of issues were raised concerning the Kansas Chemigation Law. As the Committee reviews the statute and its implementation and effectiveness, we think three issues ought to remain in the forefront: safety, compliance, and monitoring.

SAFETY: The safety of the chemigation process is still not confirmed.

- Are monitoring and sampling data being gathered in sufficient quantity to draw reasonable conclusions?
- What do the data suggest about the safety and reliability of required equipment and procedures?
- Are training elements sufficient to ensure safe use of required systems?

COMPLIANCE: Voluntary compliance with registration and installation requirements has been limited.

- Can procedures be modified to encourage more users to obtain permits?
- Can other agencies/organizations aid in identifying wells and users?
- Should penalties be increased as an incentive to compliance?



MONITORING: Monitoring data can indicate the extent of contamination as well as the effectiveness of chemigation law.

- Will the Legislature consider strengthening the program by committing substantially more resources for its success?
- Would local administration provide solutions to such problems as regional and geographic variation?
- Might the system be improved with annual testing requirements?

Within the parameters of the resources available, this program has the possibility of working well. The task is, however, larger than the resources now committed. Without adequate funding, the program cannot be successful.

We endorse the Committee's investigation, and offer our resources to assist in this important task.