Approved 3/16/88
Date

MINUTES OF THE SENATE COMMITTEE ON ENERGY & NATURAL RESOURCES.

The meeting was called to order by Senator Merrill Werts at
Chairperson

8:00 a.m./~~p.m.~~ on March 1, 1988 in room 123-S of the Capitol.

All members were present except:

Committee staff present:
Don Hayward- Revisor
Nancy Jones- Secretary
Laura Howard - Research

Conferees appearing before the committee:
Representative Eugene Shore
Larry Kepley, SW Kansas Irrigation Association
Don Schnacke, KIOGA
Ron Hein, Mesa Limited Partnership, Counsel
Ken Kern, State Conservation Commission
Tom Stiles, Kansas Water Office, Resources Manager
David Pope, Division of Water Resources

A motion was made by Senator Hayden to approve minutes of the February 25, 1988 meeting; seconded by Senator Gordon. Minutes approved.

SB 700 - Relating to natural gas

Chairman Werts called upon Senator Hayden, who had requested introduction of the bill, to brief the committee.

Senator Hayden stated the bill was requested to address a problem faced by irrigators in Western Kansas. Determining which crops to be planted can depend upon the price of natural gas used to operate irrigation equipment, as the amount of water needed varies with choice of crops. Senator Hayden feels more control of pricing by gas producers is vital to the agriculture industry. Reservations regarding the constitutionality of the proposed legislation should be addressed by the judicial branch rather than the legislative.

Representative Shore stated the problem arises from authority granted natural gas producers, by the Federal Energy Regulatory Commission, to increase by renegotiation the price of gas sales to interstate gas pipelines. If the pipeline operators are unwilling to pay the producer's price, the producers are free to sell the gas at a higher price in a smaller market, and irrigators are forced to pay the higher price. Producers can alter prices month to month and are placing unpaid royalties in escrow awaiting a court challenge to this action. The price of old gas has increased nearly 500%. Constitutionality of this bill was researched and established in February, 1988. (Attachment I)

Larry Kepley testifying as a proponent of SB 700 stated this is a critical issue to the agricultural community. Mr. Kepley referred to a study by the U.S. Commerce Department highlighting the expected decrease in employment with a decline of irrigation due to unstable natural gas pricing. (Attachment II)

Mr. Kepley stated more gas companies will be transmitting notices of price increase under Order 451, which will be reflected in lower crop yeilds and less agricultural income. The spot market sales of natural gas must be addressed to protect against the economic impact on irrigation farmers. (Attachments III, IV, V).

Don Schnacke, testifying as an opponent to SB 700, stated this bill violates the right to contract and hence probably is unconstitutional. SB 700 would

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ENERGY & NATURAL RESOURCES,

room 123-S, Statehouse, at 8:00 a.m./p.m. on March 1, 1988.

be an attempt to regulate only 20% of the gas in Kansas and result in certain classes of end users to lose out altogether. Mr. Schnacke feels a question of impairment to contract arises which could adversely affect the oil & gas lease royalty clause, inter and intra state contracts and irrigation gas contracts. (Attachment VI)

Responding to questions from committee members, Mr. Schnacke stated a problem in Kansas has been that of gas producers moving into the stripper category to obtain higher prices. Under present federal law, gas may be kept in the ground, by producers, and sold as intrastate rather than interstate. Senator Feleciano requested clarification of authority given KCC for regulating natural gas. Frank Carl, Counsel of KCC, responded that Order 451 sets a maximum lawful price for old interstate gas and this is a mechanism for interstate producers and pipeline operators to bring old gas prices up to a higher level, or market level, price. The KCC cannot intervene when interstate gas is involved, under federal law. Presently, the Conservation Division of KCC is studying options whereby KCC can affect intrastate contracts.

Ron Hein, testifying in opposition to SB 700, stated Kansas is hurt by federal regulations governing pricing of natural gas. Increases in natural gas rates for irrigators are still below market rate. Under the proposed legislation, the rates for stripper wells used by irrigators will go beyond the market rate. Mr. Hein stated that many of the irrigators are also royalty owners who have entered into contracts with producers. Transportation of the gas has to be included in the rates regardless of the location of the user. Mr. Hein feels this legislation, in essence, is an attempt to take property.

HB 2036 - Authorizing the purchase of a water right.

Tom Stiles stated this bill creates a program to buy back surface and ground water rights and provide a management tool to correct depletion problems in streams and acquiters. This bill provides the means to reduce the use for water where demand exceeds supplies. Consideration is being given to the providing of financial incentives to those desiring to return their water rights to the state. Local entities will negotiate the purchase price with owners and pay 20% of that price. This bill grants authority for acquifer restoration in specified areas and stream recovery in areas closed to future water right appropriations as part of the State Water Plan. (Attachment VII)

David Pope stated the bill imposes complex responsibilities on the Water Resources Division but the problems need to be addressed. Many entities will avail themselves of the provision of the bill for cost share money which will require certification of eligibility. Passage of this bill will provide another tool to manage properly water supplies in the state. (Attachment VIII)

Ken Kern Stated the Conservation Commission would implement the program through adoption of rules and regulations. The Commission supports this bill as part of the Kansas Water Plan. (Attachment IX)

Meeting adjourned. The next meeting will be March 2, 1988.

2/1/83

Guest List.

Don Schnacke	KIOGA	Topeka
Ron Hein	Mesa	"
JOHN C. BOTTENBERG	Self.	TOPEKA
Rick Kready	KPL Gas Service	"
DAN McGEE	CENTEL	GREAT BEND
Charlene Stinard	Ks Natural Rscs Council	Topeka
Ed Reinert	Ks League Women Voters	Topeka
Tom Stiles	Kansas Water Office	Topeka
Leland E. Rolfs	DWR-KSBA	Topeka
Walter Dunn	EKOGA	✓
Ross Martin	KPC	✓
Tom Taylor	KPL Gas Service	Topeka
James Stubbs	HBAK	"
Robert Cardman	NCID Corp Ocha [illegible]	Ottawa

paid in any sale of natural gas, if such amount is deemed to be just and reasonable under subsection (b) of this section.

(2) RECOVERY OF JUST AND REASONABLE PRICES PAID.—*For purposes of sections 4 and 5 of the Natural Gas Act, the Commission may not deny any interstate pipeline recovery of any amount paid with respect to any purchase of natural gas if—*

(A) *under subsection (b) of this section, such amount is deemed to be just and reasonable for purposes of sections 4 and 5 of such Act, and*

(B) *such recovery is not inconsistent with any requirement of any rule under section 201 (including any amendment under section 202),*

except to the extent the Commission determines that the amount paid was excessive due to fraud, abuse, or similar grounds.

SEC. 602. EFFECT ON STATE LAWS.

(a) AUTHORITY TO PRESCRIBE LOWER MAXIMUM LAWFUL PRICES.—*Nothing in this Act shall affect the authority of any State to establish or enforce any maximum lawful price for the first sale of natural gas produced in such State which does not exceed the applicable maximum lawful price, if any, under title I of this Act.*

(b) COMMON CARRIERS.—*No person shall be subject to regulation as a common carrier under any provision of Federal or State law by reason of any transportation—*

(1) *pursuant to any order under section 302(c) or section 303 (b), (c), (d), or (i) of this Act; or*

(2) *authorized by the Commission under section 311(a) of this Act.*

And the House agree to the same.

HARLEY W. STAGGERS,
THOMAS L. ASHLEY,
AL ULLMAN,
RICHARD BOLLING,
THOMAS S. FOLEY,
JOHN D. DINGELL,
PAUL D. ROGERS,
BOB ECKHARDT,
PHILIP R. SHARP,
CHARLES WILSON,
DAN ROSTENKOWSKI,
JAMES C. CORMAN,
CHARLES B. RANGEL,

Managers on the Part of the House.

HENRY M. JACKSON,
FRANK CHURCH,
FLOYD K. HASKELL,
DALE BUMPERS,
WENDELL H. FORD,
SPARK M. MATSUNAGA,
MARK O. HATFIELD,
JAMES A. McCLURE,
PETE V. DOMENICI,

Managers on the Part of the Senate.

ATTACH I 3-1-88

Shore

ATTACH I
3/1/88

FACTS ON THE OGALLALAH ACQUIFER
Taken From The
Six-State High Plains Ogallalah Acquifer
Regional Resources Study - 1982

1. 15 million acres of irrigated crops
2. States in the study are Colorado, Kansas, Nebraska, New Mexico, & Oklahoma
3. Ogallalah Formation, of Tertiary Age, Vast deposits of gravel, sand & silt eroded from the ancestral Rockies
4. 180 counties encompassed and 220,000 square miles
5. 21 million acre feet pumped in 1980
6. Efficiency of use has increased at an average rate of about 1% per year from 1950 to date.
7. Feed grain production has gone from 150 million bushels in 1950 to 1.25 billion bushels in 1980 and now feeds well over 40% of the U.S. fed cattle.
8. Has developed a very complex and massive infrastructure of agricultural business supply and value added -- fertilizers, farm equipment, capital investment, cattle feeding, cattle packing, and population expansion.
9. The northern 3 states have a greater relative economic dependence on irrigation farming than does the 3 southern states.
10. The southern 3 states have relative lower total water supply, but almost equal parity of irrigated acres. This tends to cause irrigators in Texas, New Mexico & Oklahoma to be more water conserving, less high crop yield geared and more economic crop yield geared, grow higher return specialty crops and to revert to dryland crop production sooner when traditional grain crops drop in value or natural gas prices or other inputs increase in relative large increments or in limited time frames.
11. Total value added in all sectors of the 3 southern states economy is over twice that of the northern 3 states.
12. 94% of the crop income in the 6 states comes in order of value from corn, wheat, grain sorghum and cotton. If irrigation is limited over the whole region for whatever reason the total farm income of the region would decline and cotton would move above grain sorghum and corn would fall from the first place to fourth place under a no irrigation matrex. A one or two crop farming program under dryland longterm has bad soil productivity and conservation implications.
13. U.S. consumers will pay $2.60 per person per year more if irrigation water use is reduced by 5.5%. Export volume would also drop by 1.4% on oilseed and 1.7% on cotton of the U.S. total.
14. In 1977 the High Plains irrigation accounted for 3.1% of the nations wheat, 12.3% of corn, 22.8% of the sorghum, and 16.5% of the cotton.
15. Population in 1980 of the Ogallalah are = 2,223,564
16. 1980 dryland crop acres = 18,270,000
17. 1977 marketed natural gas = 4,638 BC Feet

ATTACH II
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18. 90% of the freshwater used in the High Plains is withdrawn for irrigation and 95% of that comes from the Ogallalah Acquifer.
19. Between 20 and 25% of the nations natural gas comes from the area but only 3.6% of the nations total use of natural gas is used in the High Plains study area.
20. 13% of the total personal income in 1978 of the area comes from gas and oil which is up from 6% in 1973.
21. Transition To Dryland Farming

    Surveys in nine Texas South Plains counties and in 14 Southwest Kansas counties were conducted to assess conditions that might be encountered in a transition from a presently mixed irrigation-dryland agricultural economy to a dryland economy. Conditions before the beginning of substantial irrigation development in 1945, trends from 1946 through 1981, and projected conditions in these two areas as water becomes scarcer and more costly were analyzed.

    Three probable sets of consequences could be projected as the transition to dryland farming occurs:

    1. If the farmer, agri-business, and related economic interests are forced to operate in a nearly dryland farming economy in the near term, say the next three to five years, with stable land prices, high mortgages, rising energy and other production costs, and today's crop prices, resulting economic and social readjustments could be devastating for some.
    2. If crop prices and yield relationships of 1975 to 1980 were to hold for the next 40 years, while projected rates of ground water depletion continue, adjustments would be difficult. Declines of 25% to 50% in gross incomes, depending on area, would occur over an extended time-span, but as an offsetting factor dryland farming involves lower production costs than irrigated farming.
    3. If crop prices and yields increase more than farm costs, as projected in the analysis used for this Study, while rates of water depletion continue, the transition would occur within a long-term agricultural setting that could provide opportunities to cushion severe local economic and social disruptions.
22. I did a very subjective analysis of the irrigation-fertilizer usage ratio in the western 1/3 of Kansas in 1986.

    82% of the total fertilizer used in the last 1/2 of 1986 or $28,132,920 worth was used on irrigated crop land. A similar percentage and a higher dollar value for the first half of the year would be used.

    As you can see that total usage of fertilizer in Kansas was fairly stable up to the early 1960's when irrigation development was expanded in Western Kansas. Since early

1980 the usage trend has been down due to lower grain prices and higher input costs such as irrigation fuel. Fertilizer costs have been lower since the early 1980's vs. the 1970's.

23. In the High Plains study when natural gas prices increased by three times from the baseline 1977 year the usage of natural gas was cut in half. Most of this reduced use came at the reduction of acres irrigated, but, some at the conversion to alternate energy sources (electricity).
This reduced employment by the following amounts and as noted log time:

EMPLOYEMENT SECTOR	% CHANGE	LOG TIME EFFECT
Corn Irrigated	(-29%)	Immediate
	(-77%)	In 5 years
Sorghum Irrigation	(-47%)	Immediate
	(-67%)	In 5 years
Soybeans	74%	Immediate
	163%	In 5 years
Wheat Irrigated	19%	Immediate
	44%	In 5 years
Cattle Feedlots	1%	Immediate
	(-30%)	In 35 years
Range Cattle	13%	Immediate
	(-12%)	In 35 years
Other Ag Products	(- 7%)	Immediate
	(-30%)	In 35 years
Electricity	92%	Immediate
	209%	In 35 years

24. Kansas Irrigation Data

ITEM	1976	1978	1977
Wells used	16,245	15,933	NA
Ac. Ft. Water	3,165,000	3,436,000	NA
Nat. Gas Use	17 trill.btu	NA	NA
Wells Power Nat.Gas.			11,675
Well Electricity			2,320
Wells Diesel			1,746

FROM 1985 KANSAS FARM FACTS

USDA & Kansas Department of Agriculture

W/3 of Kansas

No. Farms	13,491	
No. Acres Farms	16,800,000	acres
Average size farm	1244	acres
Value crops	$1,141,404,300	
Value L.V.	830,106,500	
Total	$1,971,510,800	

Average Rainfall 19.34"

	1984	1985
Irr. Wht. Ac. Harv.	722,000 ac.	746,800 ac.
Irr. Wht. Avg. Bu.	56.6 bu.	53.87 bu.
Irr. Wht. Total Bu.	40,852,400 bu.	40,226,300
Summer fallow Wht. Ac. Harv.	3,023,200 ac.	3,348,600 ac
Summer fallow Wht. Avg. Bu.	40.46 bu.	43.00 bu.
Summer fallow Wht. Total Bu.	122,297,900 bu.	143,979,500
Cont. Crop Wht. Ac. Harv.	351,700 ac.	316,600 ac.
Cont. Crop Wht. Avg. Bu.	34.37 bu.	33.93 bu.
Cont. Crop Wht. Total Bu.	12,086,700 bu.	10,741,100
Irr. Milo Ac. Harv.	549,700 ac.	586,500 ac.
Irr. Milo Avg. Bu.	94.28 bu.	93 bu.
Irr. Milo Total Bu.	51,821,200 bu.	54,540,800
Dryland Milo Harv.	1,095,400 ac.	829,200 ac.
Dryland Milo Avg. Bu.	40.2 bu.	43.23 bu.
Dryland Milo Total Bu.	44,034,700 bu.	35,846,000
Irr. Corn Ac. Harv.	467,900 ac.	516,000 ac.
Irr. Corn Ac. Avg. Bu.	151.5 bu.	145.72 bu.
Irr. Corn Total Bu.	70,886,300 bu.	75,193,500
Dryland Corn Ac. Harv.	16,600 ac.	11,000 ac.
Dryland Corn Av. Bu.	49 bu.	56.31 bu.
Dryland Corn Total Bu.	813,800 bu.	619,400 bu.
*Forage Sorghum Silage Ac.	76,800 ac.	40,700 ac.
*Corn Silage Ac.	76,500 ac.	45,700 ac.
Forage Sorghum Total Tons	1,024,500 ton	568,000 ton
Corn Silage Total Tons	1,534,500 ton	799,700 ton
Soybeans Irr. Ac. Harv.	128,600 ac.	111,400 ac.
Soybeans Irr. Avg. Bu.	42 bu.	37.52 bu.
Soybeans Irr. Total Bu.	5,292,500 bu.	4,179,200 bu
Soybeans Dryland Ac. Harv.	16,300 ac.	6,000 ac.
Soybeans Dryland Bu. Avg.	16.08 bu.	28.28 bu.
Soybeans Dryland Bu. Total	262,100 bu.	169,700 bu.
Alfalfa hay Ac. Harv.	208,300 ac.	213,000 ac.
*Alfalfa Hay Ton Total	968,200 ton	1,046,600

	1984	1985
Cattle on feed Dec. 31	1,093,000 head	1,067,000 hd
Hogs on feed Dec. 1	268,000 head	246,000 hea
Value Prod. Cattle	$815,364,600	$770,466,700
Value Hog Prod.	$48,254,500	$43,121,100
Value Sheep Prod.	$1,733,800	$1,667,800
Value Milk Prod.	$14,539,300	$14.344.000

* Almost all is irrigated.

Mobil Earnings Rise 92%; Shell Profit Up 72%

Sharp Fourth-Quarter Gain Spurred by Price Rise; Amerada Hess Has Loss

By CALEB SOLOMON
Staff Reporter of THE WALL STREET JOURNAL

Mobil Corp. and Shell Oil Co. joined most other major oil companies in reporting exceptionally large increases in fourth-quarter profit.

However, Amerada Hess Corp., which is primarily a refiner, posted a large loss, mainly reflecting inventory write-downs in the volatile envirnment of oil prices.

The gains posted by Mobil and Shell, a unit of Royal Dutch/Shell Group, were generally spurred by higher crude oil prices, a late-year turnaround in the refining business, record chemical earnings and continued cost-cutting.

Role of Natural Gas

The natural-gas market also played a prominent, if varying role, in the results of both Mobil and Shell. Allen E. Murray, chairman of Mobil, cited increased sales of natural gas in the quarter. John F. Bookout, president of Shell, said that lower gas prices restrained the fourth-quarter earnings gain but noted that gas prices have been rising sharply this year.

Mobil, based in New York, reported that net income jumped 92% to $389 million, or 95 cents a share, from $203 million, or 50 cents a share, a year earlier. The latest quarter included a $140 million write-down of foreign inventories. Revenue rose 25% to $15.66 billion from $12.5 billion.

Houston-based Shell reported that net surged 72% to $436 million from $254 million a year earlier. Revenue increased 30% to $5.89 billion from $4.51 billion.

The results were in line with Wall Street expectations. Mobil closed at $41.625, unchanged, and Amerada Hess finished at $25.50, down 50 cents, both in New York Stock Exchange composite trading.

Price Volatility

The entire industry has been forced to reduce costs to react more quickly and preserve margins in an era of intense oil-price volatility. For instance, Mobil reduced fourth-quarter corporate and other costs 40% to $45 million.

Mobil said profit of its Montgomery Ward unit rose to a record $82 million from $77 million a year earlier. The company said the improvement came from the retailer's core merchandising business. Mobil recently said it was studying the possible sale of Montgomery Ward to a number of investors; a sale has been widely anticipated.

But the bulk of the earnings gains for both Mobil and Shell came from the increase in crude prices, which Shell said ter, a 32% increase from a year earlier. Shell noted, though, that prices "remained substantially below" levels before the collapse in early 1986.

Loss for Amerada Hess

For New York-based Amerada Hess, refining and marketing operations showed a net loss of $195 million in the fourth quarter, primarily reflecting the inventory write-downs. As a result, the company had a net loss of $79.6 million compared with year-earlier profit of $78.1 million, or 93 cents a share. Revenue increased 38% to $1.27 billion from $923.5 million.

For the year, Amerada Hess reported net of $229.9 million, or $2.73 a share, compared with a loss of $182.6 million a year earlier. Revenue rose to $4.78 billion from $4.06 billion.

At Mobil, full-year net declined 10% to $1.26 billion, or $3.08 a share, from $1.4 billion, or $3.45 a share, in 1986. Revenue increased 13% to $56.45 billion from $49.87 billion.

Shell said 1987 net rose 39% to $1.23 billion from $883 million. Revenue increased

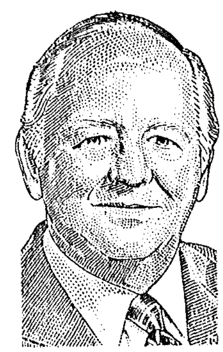
ATTACH III
3/1/88

Mobil Corp., With $4.4 Billion Less Debt Than 3 Years Ago, Gets Ready to Spend

By JAMES TANNER
Staff Reporter of THE WALL STREET JOURNAL

NEW YORK—After reducing its debt by $4.4 billion in three years, **Mobil Corp.** is ready to begin spending more money again.

Allen E. Murray, chairman of the nation's second-largest oil company, said that capital expenditures will increase this year, after holding steady for two years, and that Mobil will consider making acquisitions if opportunities arise.



Allen E. Murray

In a wide-ranging interview, Mr. Murray also said Mobil hasn't yet decided whether to sell Montgomery Ward, though he said the company's main focus in the years ahead will be its "core" businesses of oil, natural gas and chemicals. He also disclosed that Mobil has had "general discussions" with representatives of Saudi Arabia regarding the kingdom's interest in investing in refineries abroad.

Mr. Murray also said he expects higher combined sales volumes of oil and gas this year, as well as an improvement in depressed refining margins. But the chief influence on Mobil's profit—and the most uncertain—will be the price of oil.

"The crude price element so dominates every thing that a couple dollars a barrel can swing earnings dramatically," he said.

Financial Flexibility

But Mr. Murray's main message involved an era of "new financial flexibility" at Mobil, whose debt surged with the 1984 acquisition of Superior Oil Co. Cutting that debt has been a major goal of Mr. Murray, who was named chairman two years ago.

Current debt totals $8.7 billion, down from $13.1 billion three years ago. In the same period, debt as a percentage of equity has dropped to 34% from 49%. "We never were worried about our debt-equity ratio," Mr. Murray said, "but it's more comfortable down at a level where, if opportunities come along, we can take them—or increase our spending in our core business if we want."

To that end, he said, "we can afford to increase our capital spending somewhat over the $3 billion level we've been at for the past two years," he said. "We don't expect to go up in huge jumps, but we do have excellent opportunities and are planning some increases—maybe (to) $3.5 billion in 1988." He said funds generated internally can support the increases.

Asked whether Mobil would consider another Superior-size acquisition, Mr. Murray replied: "We don't have any acquisitions on the shelf at the moment. I haven't noticed many bargains out there." But Mobil recently bought an ethylene plant. And Mr. Murray said the company, with or without a Ward sale, is in a situation in which it could consider additional acquisitions in oil, gas or chemicals.

Montgomery Ward Turnaround

Montgomery Ward, the major non-oil unit acquired in Mobil's diversification spree more than a decade ago, has a book value of $1.5 billion. Mobil's goal of turning the subsidiary around has been accomplished, Mr. Murray said. Ward earned a record $130 million last year, compared with $106 million in 1986. Oil analysts speculate that Mobil might sell it for $2 billion.

Mobil has received several "unsolicited expressions of interest" in Ward and is "completely open-minded" about the possible sale of the retailer, Mr. Murray said. "But nobody has made an offer that I could take to the bank," he said.

If Ward isn't sold, "I'm satisfied that it will operate successfully (and) will no longer be a drain on Mobil," Mr. Murray said. "In fact, in the long term, it will be a cash contributor."

Some on Wall Street previously viewed as negatives Mobil's debt, its ownership of Ward and its emphasis on refining and marketing and on natural gas. But these now are "actually positives or neutral factors," said Michael L. Mayer, a former Mobil official who is now vice president, research, at Wertheim Schroder & Co. Also, he said, Mobil's oil-finding costs are competitive, and it has gained market share in the oil industry.

Mobil had 1987 net income of $1.26 billion, or $3.08 a share, on revenue of $56.4 billion. Analysts look for higher earnings in 1988—generally around $3.50 a share. Mr. Murray wouldn't comment on the earnings projections because of the uncertain oil-price outlook. Though he said much depends on OPEC, he speculated that oil prices could remain near today's level—"give or take a dollar a barrel"—through June, rising some in the second half.

ATTACH IV
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Attach V
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Irrigators: Order 451 hurting farmers

Southwest Kansas irrigators told an attorney for the Kansas Corporation Commission last weekend that the Federal Energy Regulatory Commission's (FERC) Order 451, which is resulting in higher natural gas prices for farmers who irrigate, will mean lower crop yields and less agricultural income in the area.

Members of the Southwest Kansas Irrigators Association told KCC attorney Shirla McQueen of the impact of Order 451 at the association's annual meeting in Ulysses last Saturday. McQueen was guest speaker at the meeting.

Association directors met with McQueen before the general membership meeting and told her that the FERC's recent ruling, which allows for higher well-head prices for natural gas, will mean that fewer acres will ultimately be irrigated in southwest Kansas, Texas, Oklahoma, Colorado, Nebraska and New Mexico, which will mean lower crop yields and lower income for the area's farmers.

Don Neff, president of the Southwest Kansas Irrigators Association, told McQueen that High Plains irrigators have been adversely affected by the FERC ruling and would continue to be if Order 451 is allowed to stand. Neff said the order has been used by natural gas producers to increase gas prices by as much as 300 percent this year.

McQueen told the association's directors that the KCC doesn't normally intervene in establishing wellhead gas prices in Kansas, but that the state agency can relay gas price and terms issues to the FERC for consideration.

Randy Loder, irrigation association director from Finney County, told McQueen that the natural gas act that the FERC manages doesn't limit the KCC's authority to set prices or terms if doing so is in the best interest of the people of the state. Grant County director Larry Kepley called for irrigators who want lower natural gas prices to write or call KCC representatives in Topeka as well as their state and national legislative delegations.

"This is something that everyone who is affected can do and it could help focus attention on the expected adverse economic impact on the 2.2 million people in the Ogallala Aquifer irrigation area of the High Plains," Kepley said.

Finney County director Andrew Larson appealed to Rep. Eugene Shore of Johnson to submit a natural gas price relief bill proposed by the Southwest Kansas Irrigators Association to the Kansas Legislature. Shore said that the idea might be workable late in the 1988 legislative session and that he would try to get the bill introduced in the legislature's energy committee.

Mrs. Bonita Hame, an irrigator and executive secretary of the Texas County Irrigators, said that members of her organization feel that no natural gas price increase was justified for natural gas producers. She said her group has retained legal counsel in Washington and that they are seeking FERC consideration of gas price and terms of relief for irrigators.

The 200 irrigation representatives on hand met in small groups before the general membership meeting and reviewed alternatives that might be open to members of the Southwest Kansas group. Tony

Continued on Page 2

Irrigators

Continued from Page 1

Leddy, Melvin Webb and Lee Reeves, chairmen of the caucus groups, gave brief reports to the membership.

Don Neff was named Irrigator of the Year for his past years of leadership in the association and for his involvement in the Arkansas River Task Force and Upper Arkansas River Basin Advisory Committee. Neff is a Southwest Kansas Irrigators Association director from Kearney County.

Tony Leddy was elected the SWKIA representative to the Kansas State Board of Agriculture for 1989. Steve Pucket of Grant County was elected alternate.

In county caucus meetings, the following irrigators were elected as directors for 1988:

Don Neff and Martin Neff for Kearney County; Marvin Ogden and Ron Oliver for Seward County; John Jenkinson and John Borth for Meade County; Randal Loden and Andrew Larson for Finney County; John Milburn and Bill Bacus for Morton County; Randall Shore and Ted Julian for Stanton County; Raeburn Powell and Darren Alexander for Haskell County; Kay Murray and Lloyd Crawford for Stevens County; Tony Leddy and Larry Kelpey for Grant County.

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KIOGA

KANSAS INDEPENDENT OIL & GAS ASSOCIATION

500 BROADWAY PLAZA • WICHITA, KANSAS 67202 • (316) 263-7297

March 1, 1988

TO: Senate Committee
on Energy & Natural Resources

RE: SB 700 - Price Controls
on Natural Gas

Since 1976 we have watched with dismay the introduction of legislation that relates to the sale of natural gas to irrigators, grain dryers and agricultural users. I believe the first bill was HB 3032 (1976). Then came HB 2003 (1978) and three others since then. HB 700 is very similar to HB 2760 (1982) where we appeared in opposition to the bill and stated we believed that the bill violated the right to contract and, hence, was unconstitutional. We hold that same position today and feel those arguments are equally valid and applicable to SB 700.

Natural gas producers in many cases have an unusual relationship with irrigators and grain dryers. Many do not have contracts because they are dealing with inter-state dedicated gas which is under the jurisdiction of the federal government (FERC). Producers normally must charge irrigators and grain dryers the same price their first purchaser pipeline is paying. If they didn't, a dispute would arise, raised by royalty interests and would probably result in litigation.

In Kansas, unlike our neighbors to the south in Oklahoma, 80% of the natural gas produced is dedicated to inter-state commerce and the balance is dedicated to intra-state commerce. Hence, SB 700 would be an attempt to regulate only 20% of the gas in Kansas, under the jurisdiction of the State of Kansas, much of which is not produced where irrigation and grain drying takes place. Producers of inter-state produced gas must get a waiver from FERC to accommodate an intra-state sale. We fear that if this issue is pushed by irrigators and grain dryers those classes of end-users could lose out altogether.

SB 700 would freeze the price of natural gas to the effective date of the act plus inflation adjustments. This would seem to be an attempt to block natural gas from being priced by what is entitled under the law, or by whatever is subsequently negotiated by the producer and the first purchaser pipeline. As a matter of fact, it can work to the detriment of agricultural users to be frozen into stripper and 103 high cost natural gas when the marketplace will surely reduce these prices. This mechanism does raise the question of the impairment of the right to contract, a right preserved under the constitution. The contracts that would be affected would be (1) the oil and gas lease royalty clauses; (2) inter- and intra-state gas contracts; and (3) irrigation gas contracts.

As has been the history of bills of this type over the years, we would urge you to report SB 700 unfavorably.

Donald P. Schnacke

ATTACH VI
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Testimony Before the
Senate Energy and Natural Resources Committee

by
Thomas C. Stiles, Water Resource Manager
Kansas Water Office

March 1, 1988
Re: H.B. 2036: Water Right Purchase Cost-Share Program

Members of the Committee:

The Kansas Water Office supports House Bill 2036 as a step toward implementing the Stream Recovery/Aquifer Restoration Subsection of the State Water Plan. It creates a program to buy back surface and groundwater rights from willing sellers. The goal of the bill is to provide a management tool to correct depletion problems in streams and aquifers.

Bill Provisions

The provisions of this bill are as follows:

1. It is a voluntary program for water right holders to offer their water rights back to the state.
2. It creates a cost-share program for the State Conservation Commission to administer funds (up to 80 percent) for purchasing the water right.
3. A local entity (city, groundwater management district or conservation district) must provide at least 20 percent of the water right purchase price negotiated by the entity and the right holder.
4. It applies to rights in areas which have been closed to further appropriation by the Chief Engineer and

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designated as needing stream recovery or aquifer restoration.

5. The right must be certified by the Chief Engineer to be eligible for the cost-share program.
6. The right is placed in the custodial care of the state and the water available under the terms of that right will not be available to further appropriation.
7. Water rights outside the state could be purchased after evaluation by the Chief Engineer.

Concepts

This bill is an attempt to begin reducing the demand for water in areas where demands far exceed supplies. Since water rights are property rights, the logical course of action would be to provide financial incentives to anyone wishing to return their water right. Considerable local input is necessary since the local entity will negotiate the purchase price and pay at least 20 percent of that price.

Custodial care means the terms of the right will remain intact and the water it was authorized to withdraw will remain in the system. The right will not be abandoned nor will that water which would have been diverted be placed back into the pool of available water for future appropriation.

Applications

The basin plans of the State Water Plan refer to the need for this program in various ways.

1. Stream recovery in areas which have been closed to appropriations, such as the intensive groundwater use control area along the Smoky Hill below Cedar Bluff or the Pawnee River.
2. Aquifer restoration in intensive groundwater use control areas such as around McPherson.
3. Aquifer restoration in alluvial valleys closed to further appropriation such as along Sappa Creek in Decatur County.
4. Aquifer restoration in areas where depletion equals or exceeds 50 percent of the saturated thickness such as in areas in the Ogallala.

In summary, the Kansas Water Office supports House Bill 2036 as a strategy for managing water in critical areas of the state.

STATEMENT OF DAVID L. POPE
CHIEF ENGINEER-DIRECTOR
DIVISION OF WATER RESOURCES
KANSAS STATE BOARD OF AGRICULTURE
BEFORE THE
SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES
ON
HOUSE BILL NO. 2036

March 1, 1988

Thank you Chairman Werts and members of the committee for this opportunity to appear.

House Bill No. 2036 would implement the Stream Recovery and Aquifer Restoration Subsection of the State Water Plan. It provides for the Division of Water Resources to evaluate opportunities to recover streamflow in streams which have undergone severe depletion and, where a high probability of success exists, develop strategies for recovery. It also allows the Division of Water Resources to evaluate groundwater aquifers and determine whether such aquifers are in need of recovery.

A State Conservation Commission administered cost-share program would then be used to purchase groundwater or surface water rights from willing sellers or donors to protect and enhance the streams or aquifers. House Bill No. 2036 provides for an 80/20 cost-share program with the state paying 80%. A local entity, such as a groundwater management district, would pay the other 20%.

House Bill No. 2036 limits cost-share purchase of rights to:

1. Active vested or certified water appropriation rights that have not been abandoned.
2. Groundwater rights in an area where the rate of withdrawal of groundwater equals or exceeds the rate of recharge and the Chief Engineer has closed the area to further appropriation and designated the area as one in need of aquifer restoration.

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3. Groundwater or surface water rights within a stream reach designated by the Chief Engineer as being in need of stream recovery that has been closed to further appropriations.
4. Holders of water rights who have agreed to return the water right to the custodial care of the state.
5. Situations where a local entity indicates its willingness to pay at least 20% of the negotiated purchase price of the water right.

I would note that the responsibility to designate certain areas as being in need of aquifer restoration and certain stream reaches as being in need of stream recovery is a complex one, due to the need for detailed understanding of the hydrology of each aquifer or stream system. No fiscal impact to the Division of Water Resources is anticipated in fiscal year 1989 because of the time lag in implementing the bill. Fiscal impact to the Division of Water Resources after fiscal year 1989 would depend on the number and complexity of aquifers and stream reaches to be designated for recovery. This in turn, will largely depend upon the amount of interest by local entities in utilizing this program and providing their share of the cost share.

The Division of Water Resources supports House Bill No. 2036 because we feel that this bill will provide a valuable tool to enable the State of Kansas to take some positive actions to alleviate either aquifer or stream depletions in various areas of the State of Kansas. Even if the legislature did not fund the cost-share provisions for fiscal year 1989, the bill would still provide the mechanism to allow the state to protect <u>donated</u> water rights.

Thank you Chairman Werts and members of the committee for this opportunity to appear. I would be happy to answer any questions.

State Conservation Commission
109 S.W. 9TH STREET, ROOM 300 TELEPHONE (913) 296-3600 TOPEKA, KANSAS 66612-1299

SENATE ENERGY AND NATURAL
RESOURCES COMMITTEE
HOUSE BILL 2036
MARCH 1, 1988

TESTIMONY BY
KENNETH F. KERN
EXECUTIVE DIRECTOR

The State Conservation Commission is the implementing and administrating agency for the cost-share program developed for the purchase of water rights.

The Commission's responsibilities include:

1. Coordination and development of administrative rules and regulations.

2. Establishing policy & guidelines for the state program.

3. Education of those involved in the cost-share program.

    a. Conservation Districts

    b. Groundwater Management Districts

    c. Holders of water rights

4. Processing applications.

5. Requesting certification from DWR for eligible applications.

6. Submit as a line item request in the Commission's budget.

7. Pay approved and funded applications.

Attached is a flow chart of the proposed water rights purchase program.

The State Conservation Commission supports the passage of House Bill 2036.

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Water Rights Purchase Program

Water Right Holder →

Negotiate Agreement

1. Right must be in an intensive groundwater use control area and if a surface right, it must be a certified vested right on a stream designated for recovery by Division of Water Resources.

2. Agree on purchase price.

3. Holder agrees to return right to state.

4. Entity agrees to pay 20 percent.

← Local Entity or Conservation Distr with Donated Funds

↓

1. File Application (Right Holder)

   A. To conservation district
   B. Terms of agreement
   C. By August 1 of each year

↓

2. Process application (State Conservation Commission)

   A. Certify eligibility
   B. Affirm price and cost-share
   C. Request state funding
   D. By September 15 each year

← Division of Water Resources

↓

3. Sign contract (State Conservation Commission/Right Holder)

   A. Purchase right
   B. Retire right
   C. After July 1 each year

← Local Entity
← Division of Water Resources