

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 3, 1988 in room 123-S of the Capitol.

All members were present except:
Senator Vidricksen - Absent

Committee staff present:
Don Hayward - Revisor Raney Gilliland - Research
Nancy Jones - Secretary

Conferees appearing before the committee:

Discussion on:

SB 700 - Relating to natural gas

Chairman Werts recognized Senator Hayden who stated the 2% of total gas produced which is being used by irrigators at a relative low cost has made Western Kansas blossom, greatly contributing to the growth of the economy and creating vital industry benefiting the entire state. An increase in the price of gas could be very detrimental to many otherwise viable industries in Western Kansas.

During discussion, Senator Hayden stated 60% of the operators are not royalty owners and the range of contract prices are approximately 44¢ to \$3.10/1000 cu. ft. Prices have increased with more irrigation of crops and stabilization is needed as variable pricing by producers has created a problem which this bill addresses.

Senator Yost expressed opposition to passage of this legislation. Senator Langworthy feels more time and study should be given to the intent of this bill.

A motion was made by Senator Hayden to recommend SB 700 favorably; seconded by Senator Martin. Motion failed on a hand count of 3 to 5.

HB 2036 - Authorizing the purchase of a water right

A motion was made by Senator Hayden to recommend HB 2036 favorably; seconded by Senator Yost. Motion carried.

Discussion continued on:

SB 455 - Enacting the Environmental Contamination Response Act.

Chairman Werts recognized Pat Casey, KDHE Counsel, who offered new language clarifying "access to property" in Section 5, lines 217 through 224, which had been requested by the Committee. It was noted that due process in Section 10 interfaces with the proposed new language. (Attachment I)

A motion was made by Senator Feleciano to strike lines 217 through "environment" in line 222 and add proposed new language; seconded by Senator Martin. Motion carried.

A motion was made by Senator Feleciano to add "all actions under Section 5 are subject to the due process provisions of Section 10; seconded by Senator Thiessen. Motion carried.

Proposed language to follow line 286 was read by Don Hayward. "Monies recovered from any responsible person for remediation to reduce or eliminate environmental contamination shall be deposited to the credit of the Environmental Response fund, except that a proportional share may be returned to the

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 3, 1988

to the federal source from which it came."

A motion was made by Senator Feleciano to adopt the new language to be added after line 286; seconded by Senator Langworthy. Motion carried.

Discussion of the definition of "responsible party".

A motion was made by Senator Langworthy to delete lines 312 through 328; seconded by Senator Hayden. Motion carried.

The intent of lines 340 and 341 were discussed. The burden of liability for any remedial action required in proportion to the activities of involved persons is a concern. Chairman Werts requested the Committee to refer to page 7 subsection (d)(1) of the Interim Committee report discussed during the February 11 meeting. (Attachment II). This page is part of the original bill draft and reconsideration of inclusion in SB 455 on page 10 after line 367 was requested. The intent is to reduce the strict liability standard to one of negligence for cleanup people. This establishes a lesser standard than strict liability for the purpose of getting bidders to contract for cleanup of contaminated sites. A lack of bidders for cleanup contracts due to strict liability regulations has been a problem and this language could alleviate this concern of the KDHE.

A motion was made by Senator Yost to add section (d)(1) of the original bill draft to line 367; seconded by Senator Hayden. Motion carried.

Written testimony from the Sierra Club in opposition to SB ⁷⁰⁰~~455~~ was made available to Committee members. (Attachment III)

Meeting adjourned. The next meeting will be March 4, 1988.

3/3/88
Guest List

Ron Hammar schmidt	KDHE
Jim Power	"
Dennis Murphey	"
PAT Casey	"
Brian LaRue	KCC/Mixed Land Board
Margaret Ahrens	Ks Chop Sierra Club
Mary Ann Bradford	League of Women Voters
Rick Kready	KPL Gas Service
Woody Woodman	KCP & L
Eugene Lshoe	legislature
Robert Anderson	WMA Cont Biller Jca
Joe A. Morris	KCSI
Kathy Duncan	
Bob Hodges	KCCI
John Strickler	Gov. Office
Janet Stubbs	NBAK
Rebecca Hill	Amoco
Ross Martin	KPC
David Pope	DWR VERA
Ron Hein	me's
Ken Peterson	KPC

Any authorized officer, employee or agent of the department or any person under contract with the department may enter onto any property or premises, at reasonable times upon written notice to the owner or occupant to gather data, conduct investigations, or take remedial action where the secretary determines that such action is necessary to protect the public health or environment.

a. If consent is not granted by the person in control of a contaminated site or suspected contaminated site regarding any request made by any employee or agent of the secretary under the provisions of this section, the secretary may issue an order directing compliance with the request. The order may be issued after such notice and opportunity for consultation as is reasonably appropriate under the circumstances.

b. The secretary may ask the Attorney General to commence a civil action to compel compliance with a request or order referred in subparagraph a. Where there is a reasonable basis to believe there may be a release of a contaminant, the court shall take the following actions:

(i) In the case of interference with entry or investigation, the court shall enjoin such interference or direct compliance with orders to prohibit interference with entry or investigation unless under circumstances of the case the demand for entry or investigation is arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law.

(ii) In the case of information or document requests or orders, the court shall enjoin interference with such information or document requests or orders or direct compliance with the requests or orders to provide such information or documents unless under the circumstances of the case the demand for information or documents is arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law.

(d) (1) The liability of any person performing environmental contamination mitigation or cleanup services in accordance with procedures established pursuant to state or federal law for any injury to a person or property caused by or related to these services shall be limited to acts or omissions of the person during the course of performing these services which can be shown, based on a (preponderance of the evidence) to have been negligent. For the purposes of this act, the demonstration that acts or omissions of a person performing mitigation or cleanup services were in accordance with generally accepted practice and state-of-the-art scientific knowledge, and utilized the best technology reasonable available to the person at the time the mitigation or cleanup services were performed shall create a rebuttable presumption that the acts or omissions were not negligent.

(2) When a person has taken remedial action with the department's approval, such action shall not be admissible in evidence to establish that person's responsibility for the contamination.

(e) (1) Any authorized officer, employee or agent of the department may enter onto any property or premises, at reasonable times and upon notice to the owner or occupant, to oversee and monitor the investigation or remedial action efforts of a responsible person. Notice to the owner or occupant is not required if the delay to provide such notice is likely to result in an imminent risk to public health or welfare or the environment.

(2) Any authorized officer, employee or agent of the department or any person under contract with the department may enter onto any property or premises, at reasonable times and upon notice to the owner or occupant, to take remedial action where the secretary determines that such action is necessary to protect the public health or welfare or the environment. The secretary may provide reasonable compensation for any taking of property or damage done in the process of performing such remedial action.



SIERRA CLUB

Kansas Chapter

SB700 and Conservation

Since we realized the threat of shortages of irreplaceable resources such as oil and natural gas in the '70's, we have known that one factor above all affects conservation of those resources; PRICE. A higher price that reflects the marketplace as well as the cost of replacement encourages conservation. An artificially low price encourages waste.

SB700 calls for a maximum or fixed price for the natural gas Kansas irrigators buy to run irrigation equipment. By keeping the price of natural gas artificially low, it would

--encourage greater use of natural gas when the deregulated price suggests that conservation is necessary and

--encourage further depletion of scarce water, particularly water from aquifers which in some places are being depleted at a rate 10-14 times the rate of recharge.

SB700 would in effect subsidize wasteful use of TWO natural resources, natural gas and water.

Please vote opposition to SB700.

Margaret Post Ahrens

March 2, 1988

Attach III
3-3-88