Approved February 9, 1989
Date

MINUTES OF THE Senate COMMITTEE ON Agriculture.

The meeting was called to order by Senator Allen at
Chairperson

10:09 a.m./~~p.m.~~ on February 8, 1989 in room 423-S of the Capitol.

All members were present except: Senator Harder (excused)

Committee staff present: Raney Gilliland, Legislative Research Department
Lynne Holt, Legislative Research Department
Jill Wolters, Revisor of Statutes Department

Conferees appearing before the committee: Dale Lambley, Director, Plant Health Division, State Board of Agriculture
Al Czajkowski, Monsanto Company, Kansas City
Bill Hawks, Wichita
Paul Ohlenbusch, Extension Specialist, Range and Pasture Management, KSU
Joyce Wolf, Kansas Audubon Council, Lawrence

Senator Allen called the committee to order and attention to SB 3. The Chairman explained that SB 3 allows for changes in the pesticide laws; he then called on the following to testify.

Dale Lambley gave copies of his testimony and suggested amendments for SB 3 (attachment 1). Mr. Lambley explained that the proposed amendments would fit into SB 3 and requested the committee accept the proposed amendments.

During committee discussion it was suggested that decisions should not be made by the Secretary of the Board of Agriculture that the Board should be in on decision making along with the Secretary. Staff was requested to prepare a balloon draft for SB 3 including the proposed amendments by Mr. Lambley.

Al Czajkowski gave copies of his testimony (attachment 2) to the committee. Mr. Czajkowski requested that regulations in section 2 (ee) of FIFRA regulations be included in SB 3.

Bill Hawks, Jr. gave copies of his testimony (attachment 3) to the committee and expressed support for section 2 (ee) of FIFRA regulations to be included in SB 3.

Paul Ohlenbusch provided copies of his testimony to the committee (attachment 4) and expressed need for the provisions of section 2 (ee) of FIFRA regulations to be included in SB 3.

Joyce Wolf gave copies of her testimony (attachment 5) to the committee and expressed support for the concept of SB 3.

The Chairman announced that due to the lack of time the hearing for SB 3 would continue on February 10; he called for action on committee minutes.

Senator Sallee moved the committee minutes of February 3 be approved; seconded by Senator Francisco; motion carried.

The Chairman adjourned the committee at 11:00 a.m.

GUEST LIST

COMMITTEE: Senate Agriculture DATE: February 8, 1987

NAME	ADDRESS	ORGANIZATION
Gary L. Friesen	428 E. 11th Hutchinson, Ks	Vistor
James Power	Topeka	KDHE
Carl W. Friesen	Rt 2 Box 350 Hillsboro	Visitor
Karl Mueldener	Topeka	KDHE
Paul E. Fleener	Manhattan	Kansas Farm Bureau
Mike Beam	Topeka	Ks. Lvstk. Assn.
Paul Ohlenbusch	Manhattan	KS. State Univ.
Hyde Jacobs	Manhattan	KSU
M. Bokuhoff	Topeka	DOB
Jayne Wolf	Lawrence	Ks. Audubon Council
John Peterson	Topeka	Nat'l Ag Chem Assn
Joe Lieber	Topeka	Ks Co-op Council
Alan Steppat	Topeka	Pete McGill & Assoc.
Margaret Ahrens	Topeka	Ks Chapt. Sierra Club
Dean Garwood	Topeka	Schendel Services, Inc
AL CZAJKOWSKI	12212 Carter O.P. 66213	Monsanto Co
John Strickler	Topeka ~~Governor's Office~~	Governor's Office
Denell E. Hutton	Box 678 Monument, Ks.	Bertrand Elev.
Chris Wilson	Topeka	KS Fert & Chem Ass'n
Warren Parker	Manhattan	Kansas Farm Bureau
Don Lindsey	Osawatomie	UTU
Vernon McKinzie	Emporia	Ks. Pest Control Assn
NORMAN O. BESHEER	K.C.	" " " "

GUEST LIST

COMMITTEE: Senate Agriculture DATE: February 8, 1989

NAME	ADDRESS	ORGANIZATION
Deb Lumbly	KSBOA - 109 S.W. 9th	
Alan Weiss	Topeka	
Wilbur Leonard	Topeka	Comm. Ks. Farm Org.
C A Stinard	Topeka	Ks Natural Resource Council
Kenneth M. Wilke	Topeka	KSBA
Sam Brownback	Topeka	KSBA

T E S T I M O N Y

SENATE BILL 3

PRESENTED TO

SENATE COMMITTEE ON AGRICULTURE

BY

Dale Lambley, Director
Plant Health Division
Kansas State Board of Agriculture

February 8, 1989

Senate agriculture
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attachment 1

TESTIMONY

SENATE BILL No. 3
Senate Committee on Agriculture
February 8, 1989

by

Dale Lambley, Director
Plant Health Division
Kansas State Board of Agriculture

Senate Bill No. 3 was submitted through action of the Special Committee on Agriculture and Livestock following an interim study held of the Kansas Pesticide Law during late summer and early fall of this last year. You will recall from testimony which I provided to committee last week that an interim study was also held on the chemigation program during the same time period and hearings were scheduled back to back. Senate Bill No. 3 contains a number of items which are a direct response to recommendations made by the Plant Health Division to the interim committee and it is these toward which I would like to direct my remarks this morning. In particular, I would like to discuss the issues of "less than label rate" and "chemical use districts" which are addressed in New Sections 1 and 2 of this bill. These are, I believe, two of the most fundamental components of the bill from the standpoint of agriculture in Kansas.

New Section 1 and affiliated language (lines 150-151, 163-166 and 213-216) is designed to allow the use of a pesticide in amounts less than those specified by the directions for use on a pesticide's label. This subject has been discussed many times throughout the years, and the Agency has always maintained that pesticides should be used strictly according to label. Use of less than label rate was not and is not now allowed by the Kansas Pesticide Law. The Agency took this stand as a consequence of concerns over consumer fraud as well as potential for development of resistance among insect pests treated. However, evidence exists that pesticides used at less than label rate can, in some instances, provide effective pest control with an overall reduction in the total amount of pesticide placed into the environment. Costs to producers and consumers are also reduced. There are both good environmental and economic reasons for reconsidering our stand.

One specific example of the technique is apparent in chemigation practices where it has been shown that insect and mite control is in a large part related to adequate coverage rather than maximum dosage. There are similar examples available in the area of termite control where total coverage is essential to forming a barrier between the structure to be protected and the surrounding soil. Since broaching this subject before interim committee, I have received a number of comments from a wide variety of parties. Obviously, there is a great deal of interest in the subject. Several individuals have made suggestions relative to amendments in the language used in this bill to establish less than label rate. We have some possible changes which we would also like to submit for your consideration.

New Section 2 also is an outgrowth of a recommendation which the division made to the interim committee. We felt it would be in the best interests of the state were the agency to be provided with the

authority to initia and establish what I referred ' as intensive chemical use or man ement districts. This recommend ion has some history behind it which I would like to outline for you.

Approximately one year ago we received notice from the U.S. Environmental Protection Agency that regulatory actions were being taken which would affect above ground uses of strychnine. Strychnine is a rodent control product commonly used in Kansas in bait mixtures for prairie dog control. Basically, EPA indicated that they would allow registration and use of strychnine in the state only if we could develop a plan of use which if followed would insure protection of any black-footed ferret (an endangered species) populations existing within the state. If we chose not to develop and follow the plan, the agency would not allow us to register the product for use within the state. This put the Plant Health Division in a very difficult position in that we had no authority to develop such a plan. Further, state law basically requires us to register any product submitted for registration except where that pesticide might be of an acute human health concern. In short, we were violating federal regulations if we registered the compound and state law if we did not. There are some minor adjustments which need to be made with another statute which I won't address here. However, had we had authority provided by this bill in New Section 2, we could have prepared a protection plan for portions of 2 to 3 counties in the state and allowed registration and regular use in other portions of the western Kansas area. As it finally turned out, an order by a federal district judge in Minnesota put a stop to all above ground uses of strychnine and rescued us from our dilemma at least for the time being.

While the division was in the midst of attempting to handle the problem posed by the strychnine order, EPA came out with their proposed groundwater protection strategy. This strategy calls for states to develop pesticide use plans for specific pesticides so as to prevent contamination of our water supplies. Development of the plan, if approved by EPA, would allow continued usage of that product in other areas or portions of the state. Absence of a plan would bring EPA cancellation of the use of that pesticide in a several county area, at a minimum, or more probably total EPA cancellation of the product's use on a statewide basis.

A prime example of the thrust of EPA's efforts were provided by the recent actions that agency took against the pesticide aldicarb. This is a pesticide which has been found contaminating groundwater supplies in portions of several states, most notably on Long Island, New York and in Wisconsin. In this instance, EPA has developed three tiers of states. The first group are those where aldicarb contamination is considered to have highest potential. These states are being required to develop aldicarb protection plans prior to registration and use of the compound within the state. Kansas is in the second tier of states. In this group, the pesticide manufacturer is being required to do water sampling to determine if additional protection is required. Should that be the case, states in this grouping would also be required to formulate protection plans. The final grouping of states because of various factors do not appear to have a potential of aldicarb contamination problems and for them no special protection plan is required. We are fortunate in that this product has very limited use in Kansas. Actually most use is in greenhouse pest control. Only 30 pounds of material were used in the state last year.

As a consequen of these experiences, I outlin to interim committee the concep of creation of chemical specific pesticide use or management districts which would allow the development and institution of management efforts to protect certain strategic areas. These would, I believe, allow us to take steps necessary to more closely manage use of a certain pesticide in specific areas while preventing loss of that product to users on a statewide basis.

Current language in Senate Bill No. 3, New Sec. 2 covers the main thrust of of the recommendation, but does not outline the mechanisms which might be used to reach that end. The basic procedure which I have in mind would be, upon notification that a potential problem is arising, to pull together a committee of knowledgeable persons to formulate a draft plan of action, then take the plan out for full public hearing and input prior to adoption and implementation. Consequently, Mr. Chairman, I would like to direct attention to review language which Allie Devine and I have developed which we would like to ask the committee to consider as substitute language.

Proposed Amendments to Senate Bill No. 3

Definition.

"Pesticide Management Areas" means a site or an area wherein the secretary of the State Board of Agriculture has designated, after public hearing, that due to the precipitation, topography, soil type, depth to the watertable or other factors that a specific pesticide management plan is deemed necessary for the protection of the public health, safety, and welfare or the natural resources of this state.

Section 1 (a) The secretary of the Kansas State Board of Agriculture is hereby authorized and may develop pesticide management areas after receiving notification by the Administrator of the United States Environmental Protection Agency or by the secretary of the Kansas Department of Health and Environment, that a pesticide poses a serious threat to the public health, safety, and welfare or the natural resources of this state.

(b) The secretary upon his or her own investigation may initiate such proceedings whenever the secretary has reason to believe that a pesticide poses a serious threat to the public health, safety, and welfare or the natural resources of this state.

Section 2 (a) These management areas shall be developed by examination of the following factors:

(a) precipitation;

(b) topography;

(c) soil type;

(d) depth to the watertable;

(e) other factors as the secretary deems relevant.

These areas shall be designated as permitted, modified, or prohibited for the use of certain types of pesticides as determined by the pesticide management

plan for the management area. The order of the secretary designating such pesticide management area shall define specifically the boundaries of the pesticide management area and shall indicate specifically the pesticide management plan for the area. Pesticide management plans may include provisions for the handling or release of pesticides, including but not limited to the application, mixing, loading, storage, disposal, or transportation.

(b) When considering whether to establish such pesticide management areas, the secretary shall consult with a technical advisory committee composed of a representative(s) of each of the following institutions; (1) the Kansas Department of Health and Environment, (2) the Kansas Department of Wildlife and Parks, (3) the Kansas State University, (4) Kansas Water Authority, (5) Conservation Commission, (6) and other persons the secretary determines to have beneficial information to the establishment of such areas. This technical advisory committee shall assist the secretary in the development of the proposed boundaries of the pesticide management area and the proposed plan for the pesticide management area.

Section 3 Notwithstanding the provisions of section 4, before designating any pesticide management area, the secretary shall hold a public hearing at which any interested party may appear and be heard in person or by attorney. Notice of the hearing shall be given by a publication in the Kansas Register and by three publications in a newspaper or newspapers of general circulation within the area in question within the thirty (30) day period prior to the date set for the hearing. The notice shall state the proposed boundaries of the pesticide management area and a summary of the proposed pesticide management plan to be applied within the proposed pesticide management area.

Section 4 Where, in the opinion of the secretary, a pesticide poses an imminent threat to the public health, safety, or welfare, or the natural resources of this state the secretary is authorized to establish temporary pesticide management areas for a period not to exceed 90 days. The order of designation of a temporary pesticide management area shall be in full force and effect upon entry in the records of the secretary and the secretary shall take all steps reasonably necessary to disseminate the information of the order to all interested parties.

Section 5 Notwithstanding the provisions of section 4, the order of designation of a pesticide management area shall be in full force and effect 60 days from the date of publication in the Kansas Register unless and until its operation shall be stayed by an appeal therefrom in accordance with the provisions of the act for judicial review and civil enforcement of agency action. The secretary upon request shall deliver a copy of such order to any interested person who is affected by such order, and shall file a copy of the same with the register of deeds of any county which lies within such designated pesticide management area.

Section 6 The secretary is authorized to revoke, modify or expand the boundaries or plan of a pesticide management area after publication and public hearings on the proposed change.

Section 7 Following the establishment of any pesticide management area, all persons shall use pesticides consistently with the provisions of the pesticide management plan for the pesticide management area. Any person who applies pesticides in violation of a plan of an established pesticide management area may incur a civil penalty in the amount fixed by rules and regulations of the secretary in an amount not less than $100 nor more than $5,000 for each violation.

MONSANTO TESTIMONY TO THE KANSAS SENATE

AGRICULTURE COMMITTEE

SB 3, SECTION 1

FEB. 8, 1988

Mr. Chairman, members of the Committee, thank you for allowing me to testify. My name is Al Czajkowski, employed by Monsanto Agriculture Company as a Senior Product Development Associate. I live at 12212 Carter in Overland Park, Kansas. Monsanto is a basic manufacturer of herbicides.

I am before you today to discuss a provision of FIFRA, Federal Insecticide, Fungicide, and Rodenticide Act. Section 2(ee) of FIFRA basically allows recommendation or use of a pesticide at less than labeled rate, or for control of an unlabeled pest provided the application is made to a labeled site and is not specifically prohibited by the label. Most states allow recommendations under section 2(ee) of FIFRA. It is my understanding that the state of Kansas does not recognize this method of recommendation.

To illustrate how this provision is used by industry, I will use Monsanto as an example. This mechanism to make a particular recommendation is used when the intended use has been subjected to the same internal review procedures (including verification of data to support the use) required for normal labeling. Specific use instructions will be provided as an "Authorized Recommendation" in a supplemental label format. Recommendations are made from these written use instructions which will also be made available for distribution in the marketplace.

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attachment 2

You have before you an example of how the section 2(ee) of FIFRA has been used with Monsanto herbicides. There are many advantages to this type of recommendation:

1. Allows a user to reduce rates which results in dollar savings and less exposure to the environment.
2. A method to use a product for a pest not currently labeled. The pest could be a weed of local importance that would not justify an addition to the federal label. The pest could be an insect outbreak that requires immediate attention. Section 2(ee) does not allow use of a product on a crop that is not on the label.
3. Allows for rapid and timely adjustment of a recommendation to meet local needs.
4. When the registrant makes a recommendation under section 2(ee) it accepts liability for the use the same as if the use was contained in the federal label. If someone other than the registrant makes a recommendation that is less than the labeled rate of the pesticide, they also accept the liability for performance. To protect the end user, a recommendation by the registrant of the pesticide is the most conservative use of this provision.

For these reasons, I am requesting that legislation be adopted that would allow the registrant of a pesticide to make specific recommendations under section 2(ee) of FIFRA.

"general purposes" not listed on the label. See id. Thus, EPA has proposed that only products classified for "restricted use" bear a statement to that effect. Products classified for "general use" would not be permitted to bear a classification statement. Id. (proposed § 156.62). EPA believes that the labeling of only those pesticides which are restricted will effect the intent of FIFRA to distinguish between restricted-use and general-use pesticides. Id.

USE IN A MANNER INCONSISTENT WITH THE LABELING

Section 12(a)(2)(G) of FIFRA prohibits use of a pesticide "in a manner inconsistent with its labeling." Such unauthorized use represents "misuse". See 49 Fed. Reg. 37,972 (1984) (proposed § 156.1(e)(2)).

Section 2(ee) of FIFRA establishes four exceptions to the definition of using a pesticide "in a manner inconsistent with its labeling": "(1) applying a pesticide at any dosage, concentration, or frequency less than that specified on the labeling; (2) applying a pesticide against any target pest not specified on the labeling if the application is to the crop, animal, or site specified on the labeling, unless [EPA] has required that the labeling specifically state that the pesticide may be used only for the pests specified on the [label] . . . (3) employing any method of application not prohibited by the labeling, or (4) mixing a pesticide . . . with a fertilizer, when such mixture is not prohibited by the labeling." Section 12(a)(2)(G) is the operative provision for section 2(ee). The 1978 amendments added the foregoing exceptions to FIFRA in order to afford applicators more flexibility in determining the manner in which to apply their pesticides. H.R. Rep. No. 663, 95th Cong., 1st Sess. 15, 20, 70, reprinted in 1978 U.S. Code Cong. & Admin. News 1988, 1993, 2039.

LASSO® HERBICIDE BY Monsanto

LASSO MICRO-TECH® HERBICIDE BY Monsanto

FACT SHEET

MONSANTO RECOMMENDATION FOR DISTRIBUTION AND USE ONLY IN OHIO.

LASSO® AND LASSO MICRO-TECH® plus COMMAND™ plus PREVIEW™ TANK MIXTURE FOR WEED CONTROL IN SOYBEANS

---

1. When applied as directed under the conditions described, these tank mixtures will control or reduce competition of many annual grasses and broadleaf weeds including heavy velvetleaf infestations. Refer to the "Weeds Controlled" sections of the label booklet for Lasso, Lasso Micro-Tech, Command and Preview herbicides for the specific weeds controlled or suppressed.

2. Apply these tank mixtures in 10 or more gallons of water per acre within 7 days prior to planting. Apply the recommended rate to the soil surface as a broadcast application and shallowly incorporate into the upper 2 inches of soil.

   Recommended rates for Lasso plus Command plus Preview:

	BROADCAST RATES PER ACRE *			
			1/2 to 3% organic matter	3% or more organic matter
SOIL TEXTURE GROUP	Lasso® (quarts)	Command (pints)	Preview (ounces)	Preview (ounces)
Coarse - sandy loam only	2 to 2.5	1/2	6	7
Medium	2 to 2.5	1/2	7	8
Fine	2.25 to 2.75	1/2	8	9

* Lasso Micro-Tech can be substituted for Lasso in the tank mixture at the same recommended rates per acre.

3. DO NOT apply these tank mixtures to soils with less than 1/2 percent organic matter or soils with pH greater than 6.8.

4. Observe all precautions and limitations on the Lasso, Lasso Micro-Tech, Command and Preview labels before use of these tank mixtures including minimum recropping interval and rotational guidelines.

Read the "LIMIT OF WARRANTY AND LIABILITY" statement in the label booklet for Lasso and Lasso Micro-Tech before using the herbicides as recommended above. The "Limit of Warranty and Liability" statement of the label is incorporated herein.

Read the entire label booklet for Lasso, Lasso Micro-Tech, Command and Preview before proceeding with this recommendation. Additional precautionary statements are provided on these labels.

This recommendation is for use pursuant to FIFRA Section 2(ee) as amended and has not been approved by the EPA. This recommendation expires December 31, 1989.

Monsanto Company
800 N. Lindbergh Blvd.
St. Louis, Missouri 63167

Monsanto

HAWKS Inter-State

"TERMITES? – Don't Squawk . . . Call HAWKS!"
814 NORTH MAIN STREET WICHITA, KANSAS 67203
Phone: Pest Control 267-8331 – Termite Control 267-8333

TESTIMONY

DATE: February 8, 1988
RE: Senate Bill #3
FROM: Bill Hawks, Jr.

The regulation of wood destroying organism inspection and reporting for real estate transaction purposes is long overdue and much needed.

A more common problem encountered is the use of ambiguous and often proprietary language to generate "bait and switch" type representations made in hopes of converting a $15.00 to $25.00 inspection into a $1,000.00 termite treatment when such treatment would not otherwise be indicated.

An equally unfortunate situation is created when an unstandardized or proprietary reporting transaction results in the Seller unknowingly denying the Buyer rightful access to the reporting process, or worse, inadvertently becoming partly liable for representations or warranties expressed at closing regarding the findings or meaning of the wood destroying insect inspection that are later found to have been untrue or improperly presented to the Buyer.

It is incorrect to assume that the policies of lending institutions create standards for WDI reporting. They are only standards for the lending institution's response to what is reported by the "expert" inspector. Not only does the lender lack professional entomological or pesticide expertise, the "expert" inspector is bound to no uniform standard of inspection or reporting and today operates with virtual impunity, outside of the regulatory umbrella specifically intended to impose standards upon that highly specialized field of knowledge.

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attachment 3

On a statewide basis, today's absence of any uniform standard creates a surprisingly great burden on KSBA pesticide use enforcement and investigation personnel to stand as the only expert, non-competing 3rd-party resource to Kansas citizens who are victimized by this lack of standardization. KSBA also stands with no voice. By empowering the KSBA to speak to the issue of these reporting practices and impose common language and reporting standards, we can greatly reduce the negative environmental, fiduciary and at times larcenous economic impacts that are today routinely encountered by Kansas citizens buying or selling a home.

On another point presently unaddressed in the proposed statutory changes, please consider the following comments:

The legislature has determined that the citizens of Kansas are intitled to certain fundamental protections in pesticide storage and use. The Kansas Pesticide Law now stands as the guardian of our collective right as Kansas citizens to safe, competent and lawful use of these important chemicals that work to maintain the wholesomeness of our foods, our crops and the environment of our structures and complex facilities.

There is, however, a "sub-class" of Kansas citizen who is denied these protections. Citizens whose interests are unconsidered and abrogated by statutes that stand silent and still, with regulations not extending these basic, fundamental protections to include the third-party innocents whose only fault is to work, live, study or play in the facility of a building owner or manager who harvests the economic advantage of choosing to avoid or ignore meeting the basic standards of pesticide applicator competence set by the KPL.

You would think that a 2 year old child is intitled to the basic protections of the KPL when he or she is at the day care center or asleep in her apartment; that the individual who has sprayed pesticide over the carpet he or she plays upon or around the crib he or she sleeps upon is regulated by and can be held

acountable to the standards of lawful practice and competence provided by that legislation.

This child is the symbol of the problem with third-party exposure to pesticide applications made by janitors and building maintenance personnel who, in actuality, make commercial applications of pesticides in the course of their work. This is not a new problem. What has changed is the evolving significance of a third-party "exposee" being denied the most basic protections and stewardship parameters intended by KPL and FIFRA at large. In today's world, is it unreasonable to call the denial of such protections unconcionable?

We could be speaking of your working daughter who may be pregnant; your mother in a nursing home; your child or niece or nephew in a private school; your son, daughter, brother, sister, aunt or uncle living in an apartment or nursing home. We could also be speaking of you. At times we all are exposed to and thereby forced to embrace this "renegade standard" which allows pesticide residues created by undocumented, unstandardized and unreported pesticide applications to be made by individuals who have met no reasonable standard of training or competence; individuals who may not even be aware that the KPL exists.

We must rectify this situation. All uncertified, non-registered or unlicensed pesticide applicators who apply pesticides to sites other than their domicile are disproportionally impacting the rights of third-party interests that the KPL is intended to protect through imposing a uniform standard of competent pesticide use. The "renegade applicator" must be brought within the standard. All I ask is that we require these "renegade applicators" become licensed or certified to use their pesticides within the catagory of their respective uses. Ask yourself: "If they cannot pass or meet this standard, should they be using these toxics at all?"

Paul Hombuckle

THE NEED FOR RECOGNIZING DEVIATION LABELING
(FIFRA 2ee Labels)

When the US Congress revised FIFRA, a special label category was recognized under the classification of 2ee. This type of label allows deviations for selected uses and/or species which are inconsistent with current federal labels. Generally used for less than labeled rates, these labels are also used for more restrictive labeling such as site use limits or specific application methods for a specific species. Kansas and other states currently do not recognize FIFRA 2ee labels.

A STORY

In 1978, EPA announced the suspension of several uses of the herbicides 2,4,5-T and silvex. Both herbicides (primarily silvex) were labeled for use in controlling yucca or small soapweed (Yucca gluca), a common invading species in western Kansas. By 1979, the need for a replacement herbicide was evident. Research was initiated in Rawlins County to screen a large number of herbicides. These efforts yielded no herbicides that were effective.

In 1983, work at Texas Tech University indicated that tebuthiuron (Spike), a soil applied herbicide, was active on yucca. Two research locations were established to parallel the Texas Tech work. In the process, another hexazinone (Velpar L), was used to mark the plot locations by treating most woody species adjacent to the research plots. Included in these species was yucca. Evaluations made in the summer of 1984 showed the hexazinone treated yucca plants were heavily injured while the tebuthiuron treated plots lagged behind.

In 1985, two additional locations, including both hexazinone and tebuthiuron, were established. Evaluations made in the summer of 1986 indicated hexazinone was superior. The earlier tebuthiuron treatments had begun to fail after four years and appeared to have been untreated while hexazinone treated plants were dead or dying.

Once hexazinone was established as the best treatment, a large study was established to determine the most cost effective rate, proper placement and other parameters of application. Hexazinone is a soil active herbicide applied to individual plants in exact measured amounts. In the spring of 1987, 13 County Extension Agents located suitable sites and 14 research locations were established. Twelve of the locations remain in the evaluation process. In order to expedite educational opportunities the plots were designed in a manner that when labeling was obtained, the research locations would also serve as demonstrations.

THE PRESENT SITUATION

Data from the 1987 locations together with data from the previous efforts have led to the recent labeling (2ee) of Velpar L for the control of yucca. The use of a 2ee label was necessary because the placement of the herbicide is different from normal labeling (seven other Kansas species are also listed in this label).

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attachment 4

The uniqueness of this situation is that much of the data leading to the new 2ee label was developed in Kansas but its use can not be recommended in Kansas. Currently, about one million acres of yucca could be treated in Kansas helping to reduce yucca invasion. At this time, the states of Oklahoma, Colorado and New Mexico will benefit from the Kansas efforts.

Other examples where recommending other than labeled conditions would be more effective are:

species	rates currently approved	more effective rates
sand sagebrush	2,4-D at 1 lb/a	2,4-D at 0.5 lb/a*
buckbrush smooth sumac sand plum	2,4-D at 1-2 lb/a	2,4-D at 1 lb/a*

* requires specific timing and/or method of application.

THE POTENTIAL BENEFITS

These are a few examples of more cost effective recommendations that could be made if Kansas recognized or had a process similar to the FIFRA 2ee process. The examples cited represent both long- and short-term economic benefits for Kansas. Long-term benefits are accrued through the maintenance and/or improvement of the productivity of grazinglands. Together with good grazing management, short-term benefits will be realized through reduced production costs due to higher forage production.

The use of 2ee type labeling would help reduce the risk of environmental contamination while maintaining the productivity of grazinglands, a renewable natural resource. High quality watersheds, wildlife and other values will be improved or maintained through good grazing management and cost effective vegetation control options.

Thank you for your attention.

Paul D. Ohlenbusch
Extension Specialist
Range and Pasture Management
Extension Agronomy
Kansas State University

Kansas Audubon Council

February 8, 1989

SENATE AGRICULTURE COMMITTEE

My name is Joyce Wolf and I am pleased to be here today to present testimony on behalf of the Kansas Audubon Council which represents the 5000 Kansas members of the National Audubon Society. The Society has a long history of concern for conservation matters and advocacy of positions for protection of our environment. We support the concepts of Senate Bill 3 because we believe it takes another important step in the protection of one of the most important of our natural resources, water, from contamination by pesticides.

We are particularly interested in New Section 2 which will establish chemical use or management districts. In that section, the first three factors listed determine the rate of runoff and percolation of water to the water table. Because pesticides have been detected regularly in surface waters of the state, we believe that:

1) consideration should be given to use the twelve major river basin areas as the basis for the pesticide management districts, or perhaps smaller watershed districts within the basin areas;

2) in addition to public health concerns, consideration should be given for wildlife which is dependent on the availability of clean, unpolluted water, especially for those areas where threatened or endangered species reside in or regularly use waterways, marshes, or wetlands that may be subject to receiving runoff from areas treated with pesticides; and

3) as mentioned in the interim studies report, a broad educational effort to inform both urban and rural Kansans about the hazards of the misuse of pesticieds would be very beneficial in helping protect our surface and groundwater resources from contamination.

Thank you again for this opportunity to share our comments with you. I would be happy to try to answer your questions.

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attachment 5