

Approved February 8, 1989
Date

MINUTES OF THE Senate COMMITTEE ON Energy and Natural Resources

The meeting was called to order by Senator Ross Doyen at
Chairperson

8:06 a.m./p.m. on January 31, 1989n room 422-S of the Capitol.

All members were present except: quorum was present.

Committee staff present:

Don Hayward, Revisor
Raney Gilliland, Research
Laura Howard, Research
Lila McClaflin, Committee Secretary

Conferees appearing before the committee:

Stanley Grant, Secretary of Health and Environment
Dennis Murphey, Department of Health and Environment
Charles Nicolay, Kansas Oil Marketers Association
Charlene Stinard, Kansas Natural Resource Council

List of others present is on file.

Chairman Doyen called on Senator Martin to brief the committee regarding a bill request.

Senator Martin distributed information relating to the fees required for the filing of applications for permit to appropriate water as established by K.S.A. 82a-708a raised by a potential water user in his district (Attachment I).

A motion was made by Senator Hayden to introduce the legislation. Senator Lee seconded the motion. Motion carried.

Chairman Doyen called on Secretary Grant. He request the introduction of a new section to Kansas Groundwater exploration and protection act and amendments to K.S.A. 65-167 and 170c Protection of Water from Pollution (Attachment II).

A motion was made by Senator Daniels to introduce the legislation. Senator Frahm seconded the motion. Motion carried.

Chairman Doyen then called on Dennis Murpehy to brief the committee on the trust fund bill.

Mr. Murpehy stated the trust fund bill will create a mechanism to provide the resources for owners and operators of underground tanks which under federal law and under the provisions of S.B. 94 would be required to provide evidence of financial assurance for corrective action for leaks that might occur from those tanks of petroleum or hazardous substance.

A motion was made by Senator Daniels to introduce the legislation. Senator Sallee seconded the motion. Motion carried.

The hearing on S.B. 94, relating to the regulation of storage tanks; providing duties and authorities for the department and secretary of health and environment relating thereto; prescribing unlawful acts and providing penalties therefor, was opened. The Chairman called on Secretary Grant to testify for the Department of Health and Environment.

Secretary Grant presented written testimony supporting the UST program (Attachment III). The secretary responded to questions concerning the implementation of the bill.

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Engergy and Natural Resources,
room 422-S, Statehouse, at 8:06 a.~~xxx~~^{am}.m. on January 31, 1989

Senator Martin requested information concerning the percentage rate of compliance in response to the departments letter in disposing of tanks. Also, he ask for a list of the leaking underground storage sites.

Charles Nicolay testified they support the bill and their association has work with the department on the proposed legislation.

Charlene Stinard presented written testimony supporting the legislation. She also appear on behalf of the Sierra Club and the Audubon Council.

(Attachment IV).

The minutes of the meeting of January 25, 1989 were approved.

The meeting adjourned at 8:44 a.m. The next meeting will be February 1, 1989.

1989 SENATE ENERGY AND NATURAL RESOURCES COMMITTEE

Date 1/31/89

PLEASE PRINT

GUEST LIST

<u>NAME</u>	<u>REPRESENTING</u>
Margaret Ahrens	Ks Chapter Sierra Club
Terry Leathersman	Ks Chamber of Commerce & Industry
Dan Stevens	Texaco
Robert Anderson	Mid Cont Oil & Gas
Bill R. Fuller	Kansas Farm Bureau
ED SCHAUB	COSTAL CORP
ROSS MARTIN	KS PETROLEUM COUNCIL
TOM DAY	Ks CORP. Comm.
Kathy Taylor	Kans. Bankers Assn.
Chuck Stones	"
Charles Ficalor	Ks Oil Marketers
BOB ANDERSON	KODMA
James Power	KDHE
Dennis Murphy	KDHE
JOE RICKBAUGH	Ks. Livestock Assoc.
Woody Woodman	KCPL KCMA
Mike Beam	Ks Livestock Assoc.
Catherine Hodeman	City of Wichita
Ken Bahr	KCMB
John Strickler	Governors Office

1989 SENATE ENERGY AND NATURAL RESOURCES COMMITTEE

Date 1/31/89

PLEASE PRINT GUEST LIST

NAME

REPRESENTING

Mike Germann

Boeing Military Airplanes

ED DE SOIGNIE

KANSAS CONTRACTORS ASSOC.

DALJIT JAWA

KANSAS WATER OFFICE

Kathleen Warren

DOB

Charlene Stinard

Ks Natural Resource Council

KANSAS STATE BOARD OF AGRICULTURE
Division of Water Resources

MEMORANDUM

TO: Senator Phil Martin
FROM: David L. Pope, *DL*
Chief Engineer-Director
DATE: January 26, 1989
RE: K.S.A. 82a-708a
Filing fee

The purpose of this memorandum is to call to your attention a concern related to the fees required for the filing of applications for permit to appropriate water as established by K.S.A. 82a-708a raised by a potential water user in your district. Since the 1982 Session of the Legislature, filing fees have been based on a schedule in which the fee varies with the quantity of water requested in the application. The fees were increased by the 1985 Legislature and are now used as special revenue to conduct contract field inspections related to the perfection of water rights by our office.

The fee schedule has generally worked very well and is appropriate for normal applications for permit to appropriate water such as municipal, industrial, irrigation and most other uses of water. However, it has been called to our attention that a proposed hydropower facility is being considered for installation at the existing Empire Lake by the JDJ Energy Company in extreme southeast Kansas near Riverton on the Spring River.

Hydropower facilities are unique in the sense that they do not consume any water but merely use the water to flow through turbines to generate electricity. Hence, such a facility does constitute a beneficial use of water, can potentially have an affect on other existing or future water users and does require a permit. No significant concerns are expected in this case. However, the filing fee for a relatively small hydropower facility would be large because the amount of water diverted through the turbines would be a large quantity, probably at least 750,000 acre-feet per year, in this case. This would result in a filing fee of at least \$75,000, perhaps as much as \$125,000, depending on the specific details of operation and river conditions. This seems to be an unreasonable fee for the processing of an application of this nature and would possibly render the proposed facility infeasible. By comparison, a typical application fee for most proposed appropriations ranges from several hundred dollars to a few thousand, even for relatively large uses of water.

As result, it appears that K.S.A. 82a-708a should be amended to include a provision that would base the filing fee for water power purposes (i.e. hydropower facilities) on the maximum flow rate diverted through the facility. I believe a reasonable fee would be \$100 plus \$200 for each 100 cubic feet per second or portion thereof of water to be diverted through the turbines. This would result in a fee for the facility used in our example of approximately \$4,000 as compared to a fee of at least \$75,000 as now required and appears to be acceptable to the parties involved. For your information, please find enclosed "draft" legislation that would make the proposed changes to K.S.A. 82a-708a.

While this proposed fee change will theoretically reduce our revenues, it probably will actually increase them, because this type of project may not be built at all under the current fee schedule.

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(attachment I)

BILL DRAFT

K.S.A. 82a-708a. (a) Any person may apply for a permit to appropriate water to a beneficial use, notwithstanding that the application pertains to the use of water by another, or upon or in connection with the lands of another. Any rights to the beneficial use of water perfected under such application shall attach to the lands on or in connection with which the water is used and shall remain subject to the control of the owners of the lands as in other cases provided by law.

(b) Except as otherwise provided in subsections (d) and (e), each application for a permit to appropriate water, except applications for permits for domestic use, shall be accompanied by an application fee fixed by this section for the appropriate category of acre feet in accordance with the following:

Acre Feet	Fee
0 to 100	\$100
101 to 320	\$150
More than 320	\$150 + \$10
	for each additional 100 acre feet or any part thereof

(c) Except as otherwise provided in subsections (d) and (e), each application for a permit to appropriate water for storage, except applications for permits for domestic use, shall be accompanied by an application fee fixed by this section for the appropriate category of storage-acre feet in accordance with the following:

Storage-Acre Feet	Fee
0 to 250	\$100
More than 250	\$100 + \$10
	for each additional 250 storage-acre feet or any part thereof

(d) For any application for a permit to appropriate water, except applications for permits for domestic use, which proposes to appropriate by both direct flow and storage, the fee charged shall be the fee under subsection (b) or subsection (c), whichever is larger, but not both fees.

(e) Each application for a permit to appropriate water for water power purposes shall be accompanied by an application fee of \$100 plus \$200 for each 100 cubic feet per second, or part thereof, of the diversion rate requested in the application for the proposed project.

(f) All fees collected by the chief engineer pursuant to this section shall be remitted to the state treasurer as provided in K.S.A. 82a-731 and amendments thereto.

*E+NR
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JDJ Energy Company

P.O. BOX 225 JONES MILL, ARKANSAS 72105 501-337-4904 501-844-4435

November 10, 1988



Mr. David Pope, Chief Engineer - Director
Division of Water Resources
109 SW Ninth St., Suite 202
Topeka, Kansas 66612-1283

Re: Riverton Water Power Project
FERC Project No. 9419

Dear Mr. Pope:

Since receiving your letter of October 13 we have also received a license for the above referenced project. Therefore, we are interested in pursuing a possible amendment to KSA 82a-708a of the Kansas Water Appropriation Act.

Your suggested changes to the Act, as contained in your letter of October 13, are appreciated and would result in a fee of \$18,100 for our proposed 3,600 KW project. While this fee is certainly much less than what an unamended fee would be, I respectfully request that additional consideration be given to the \$200 per 100 cfs of hydraulic capacity fee that you mentioned during our phone conversation in April. Our proposed project, as far as hydro projects are concerned, is relatively small. A 25,000 KW project, which is not at all unusual in the hydro industry would result in a fee of \$125,100. The main rationale, in my opinion, for a smaller fee is that hydro projects represent a non-consumptive use of the water resource.

In any event, we wish to initiate the process of working with legislators to sponsor a proposed amendment to the Act. If you would please provide us with the names of a member of both the House and Senate Energy and Natural Resources Committee with whom we could work with on the amendment, we would be most appreciative.

Thank you for your attention to this matter and should you wish to discuss this matter please contact me at 501-372-1773.

Yours truly,

JDJ ENERGY COMPANY

Stewart Noland/sj

Stewart Noland, P.E.

SN:sj

ENR
11/18/88
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INTRODUCTORY STATEMENT

TO

SENATE ENERGY & NATURAL RESOURCES COMMITTEE

Room 423-S

by
Secretary Stanley Grant

Tuesday, January 31, 1989

Mr. Chairman, Members of the Committee,

Thank you for the opportunity to appear before your Committee to request the introduction of a new section to Kansas Groundwater Exploration and Protection Act, and amendments to K.S.A. 65-167 and 170e -- Protection of Water from Pollution.

1. Kansas Groundwater Exploration and Protection Act

The Kansas Groundwater Exploration and Protection Act, K.S.A. 82a-1201 et seq., applies to anyone, including the landowner, who constructs, reconstructs, plugs or treats water wells in Kansas. Present penalties for violations include the revocation of water well contractor's licenses and/or filing of Class B misdemeanor charges and injunctions on the violators. The proposed bill would authorize the Secretary to issue an administrative order or civil penalty to a water well contractor or landowner who violates the act.

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1/31/89
(Attachment II)

2. Protection of Water from Pollution

Kansas has administered the EPA wastewater permits program since passage of the Clean Water Act in 1972. At that time, the Kansas program was accepted to administer the program for EPA. The federal Clean Water Act has been revised four times since 1972 and only minor changes have been made to Kansas law.

In 1985, the EPA Regional Legal Office conducted an in-depth audit of Kansas wastewater statutes and requested a variety of modifications. Considerable negotiations followed the EPA audit and the Attorney General's office worked with KDHE's attorneys on proposed changes. Some changes were made by regulation and have been implemented. This bill has two parts -- one provides some consistency in penalty amounts for criminal violations of the law, and the second allows public intervention in administrative actions by the Department of Health & Environment.

I request the Committee introduce these bills for consideration by the Legislature. Are there any questions?

11-23-88

BILL NO. _____

BY _____

AN ACT relating to the Kansas Groundwater Exploration and Protection Act, concerning licensing and regulation of Water Well Contractors, which includes language granting the Kansas Department of Health and Environment the authority to issue corrective orders and civil penalties for violations of the act.

Be it enacted by the Legislature of the State of Kansas:

Section 1. Civil penalties; corrective orders; appeal and review; disposition of moneys recovered. (a) Any water well contractor or landowner who violates any provision of this article, any rules or regulations adopted under this article or any order issued by the secretary to this article shall incur in addition to other penalties provided by law, a civil penalty not to exceed \$5,000 for each violation. In the case of a continuing violation every day such violation continues shall be deemed a separate violation.

(b) The secretary of the department of health and environment and/or the director of the division of environment, if designated by the secretary, upon a finding that a water well contractor or landowner has violated any provision of this article or any order issued pursuant to this act, or any rule or regulation adopted under this article, may (1) issue a written order requiring that necessary corrective action be taken within a reasonable time period or, (2) assess a civil penalty for each violation within the limits provided in this section which shall constitute an actual and substantial economic deterrent to the violation for which is assessed or, (3) both. The order shall specify the provisions of this article or rules or regulations alleged to be violated and the facts constituting each violation. Said order shall include the right to a hearing. Any such order shall become final unless, within 15 days after service of the order, the water well contractor or landowner named therein shall request in writing a hearing by the secretary. If a hearing is requested, the secretary shall notify the alleged violator or violators of the date, place and time of the hearing.

(c) No civil penalty shall be imposed under this section except after notification by issuance and service of the written order and hearing, if a hearing is requested, in accordance with the provision of the Kansas administrative procedure act.

(d) Any water well contractor or landowner aggrieved by an order of the secretary made under this section may appeal such order to the district court in the manner provided by the act for judicial review and civil enforcement of agency actions.

(e) Any penalty recovered pursuant to the provisions of this section shall be remitted to the state treasurer, deposited in the state treasury and credited to the state general fund.

(f) Nothing in this act shall be construed to abridge, limit or otherwise impair the right of any person to damages or other relief on account of injury to persons or property and to maintain any action or other appropriate proceeding therefor.

Sec. 2. Injunctions. (a) Notwithstanding the existence or pursuit of any other remedy, the secretary may maintain, in the manner provided by the act for judicial review and civil enforcement of agency actions, an action in the name of the state of Kansas for injunction or other process against any water well contractor or landowner to restrain or prevent any violation of the provision of this act or of any rules and regulations adopted under this act.

(b) In any civil action brought pursuant to this section in which a temporary restraining order, preliminary injunction or permanent injunction is sought, it shall not be necessary to allege or prove at any stage of the proceeding that irreparable damage will occur should the temporary restraining order, preliminary injunction or permanent injunction not be issued or that the remedy at law is inadequate, and the temporary restraining order, preliminary injunction or permanent injunction shall issue without such allegations and without such proof.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

_____ BILL NO. _____
 BY _____

AN ACT concerning water; relating to the protection of water from pollution;
 amending K.S.A. 65-167 and 65-170 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 65-167 is hereby amended to read as follows: 65-167.
 Upon conviction, the penalty for the willful or negligent discharge of sewage into or from the sewer system of any municipality, township, county or legally constituted sewer district by the public authorities having, by law, charge thereof or by any person, company, corporation, institution, municipality or federal agency, into any of the waters of the state without a permit, as required by this act, or in violation of any term or condition of a permit issued by the secretary of health and environment, or in violation of any requirements made pursuant to K.S.A. 65-164, 65-165 or 65-166, and amendments thereto, shall be not less than \$2,500 and not more than \$25,000, and a further penalty of not more than \$25,000 per day for each day the offense is maintained. The penalty for the discharge of sewage into or from any sewage system into any waters of the state without filing a report, in any case in which a report is required by this act to be filed shall be ~~\$1,000~~ not less than \$1,000 and not more than \$10,000 per day for each day the offense is maintained.

Sec. 2. K.S.A. 65-170e is hereby amended to read as follows: 65-170e.
(a) The attorney general, upon the request of the secretary of health and environment, may bring an action in the name of the state of Kansas in the district court of the county in which any person who violates any of the provisions of this act may do business, to recover penalties or damages as provided by this act.

(b) Any person having an interest which is or may be affected shall have the right to intervene in any civil actions brought under this section or any administrative actions brought under K.S.A. 65-170d, and amendments thereto, which seek:

(1) Restraint of persons from engaging in unauthorized activity which is endangering or causing damage to public health or the environment;

(2) injunction of threatened or continuing violations of this act, regulations promulgated thereunder and permit conditions;

(3) assessment of civil penalties for violations of the act, regulations promulgated thereunder, permit conditions or orders of the director of environment or secretary of health and environment.

Sec. 3. K.S.A. 65-167 and 65-170e are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

Testimony Presented to the
Senate Energy and Natural Resources Committee
by
The Kansas Department of Health and Environment

Senate Bill No. 94

Introduction

Over the past several years legislative interest and public concern in Kansas and nationwide has increasingly focused upon the protection of groundwater. The attention has arisen from a growing recognition that groundwater is one of our state's most valuable resources and that we are highly dependent upon a sufficient quantity of high quality groundwater for use by our agricultural industry, our business community, and most importantly as a source of drinking water. At the state level significant legislation has been enacted by the Kansas Legislature to address the threats to groundwater posed by hazardous waste management, solid waste management, use of agricultural chemicals, and production of oil and gas.

In 1984 in response to their concerns regarding the storage of petroleum and hazardous materials in an estimated 2 million underground tanks, Congress added Subtitle I to the Resource Conservation and Recovery Act (otherwise known as RCRA). This section provided EPA with the responsibility to develop a regulatory program for underground storage tanks (UST). On September 23, 1988 EPA issued comprehensive regulations affecting the design, installation, and operation of existing and new tank facilities. On October 26, 1988 EPA issued the federal financial responsibility requirements for tank owners and operators.

Statewide we have approximately 19,000 underground tanks registered in 7,200 locations which are owned or operated by 4,200 individuals. The majority of these are petroleum marketing facilities, although a large number belong to cities, townships, counties, state agencies, school districts, trucking companies, utilities, and hospitals. We estimate that 40% of the underground tanks are owned by non-marketers. The sheer number of facilities and the fact that many of the owners and operators are not accustomed to complying with environmental regulations make the operation of an effective regulatory program for underground tanks a monumental challenge. However, the size of the potential regulated community and the knowledge that tanks historically were installed underground in proximity to private and public drinking water supplies without any protective measures against corrosion make it a most important task. Although we believe the estimate that as many as a third of the existing underground tanks are presently leaking is somewhat high, it is likely that 10 to 15% of the old tanks have already begun to leak and many others are going

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(Attachment III)

to leak in the future unless measures are taken to prevent it. No doubt in the travels around your districts some of you on this committee have seen a few of the many unprotected steel tanks being removed from the ground in rather deteriorated condition as a result of corrosion.

Underground tanks are present throughout the state near population areas large and small. Based upon the total number of underground tanks in existence and their location, this represents a staggering potential for widespread groundwater contamination. At the present time we are aware of 162 leaking underground storage tank sites in Kansas and they are becoming an increasingly large percentage of the workload for the Department's Bureau of Environmental Remediation.

The Federal UST Program

The federal requirements for underground tanks encompass four primary areas:

- 1) New tank installation standards. New tanks and associated piping systems must be designed and constructed in accordance with stringent technical requirements, including corrosion protection, leak detection and spill/overflow protection.
- 2) Standards for existing installations. Existing tanks are required to be upgraded to new tank standards during a ten-year phase in period, with the oldest tanks having the shortest compliance period.
- 3) Operational standards. All tank owner/operators must implement strict management procedures to ensure system integrity and to provide for cleanup of product releases which may occur.
- 4) Financial assurance requirements. On January 24, 1989 federal requirements went into effect which will require tank owner/operators to provide assurance of funds to pay for corrective action and third party liability for releases from tanks. The assurance may be provided by insurance, letters of credit, state-sponsored trust funds, or other means. EPA has designated a phased schedule for compliance based upon the number of tanks an owner/operator has.

Although UST is a federally mandated program, it was intended for state and local implementation. The federal law states that in order to be authorized, state programs must include all the

regulatory elements of the federal program and provide for adequate enforcement. The October 1988 National Conference of State Legislatures' report on underground storage tanks indicated that 27 states have enacted underground tank legislation since passage of the 1984 RCRA amendments. Although Kansas was an early leader in the management of underground petroleum storage tanks, the statutory authority for the current program does not provide a sufficient basis for authorization of Kansas to administer the federal program.

As an incentive to encourage states to pursue delegation of the federal program, EPA has indicated that operation of an authorized program may be a precondition for any state to continue receiving financial support from the federal \$500 million Leaking Underground Storage Tank (LUST) Trust Fund. At present the state of Kansas receives approximately \$750,000/year from the LUST Trust Fund to provide corrective action at leaking orphan underground tank sites. It has become a significant portion of our state effort of environmental remediation at contaminated sites, and the loss of such funds would seriously undermine our efforts.

Senate Bill 94 will provide sufficient statutory authority for delegation of the federal UST program to Kansas and provides additional authority to address areas not included in the federal tank program. We believe that the people of Kansas will be best served by state administration of this program. EPA is simply not organized to adequately serve a regulated community of this size. In most instances KDHE responds to UST problems and inquiries from tank owners on the same working day that they occur. We have employed a technical assistance approach in our program operation that we will continue to implement.

Provisions of Senate Bill 94

In addition to the minimum requirements for federal program authorization, Senate Bill 94 contains provisions for above ground tanks. There is a trend toward more widespread use of above ground tanks in response to the more stringent requirements for underground tanks. The purpose of the bill is not to drive tanks above ground -- it is intended to assure that underground tanks are designed, installed, and operated in a manner that will minimize their threat of environmental damage. There are significant public safety and accidental release concerns related to the use of above ground tanks for storage of petroleum and hazardous materials. Since 1981 the department has regulated above ground tanks and we still believe that regulatory requirements are needed for such facilities, but to a much lesser degree than underground tanks. By the adoption of requirements for structural integrity testing, product compatibility, and spill prevention measures applicable to

such tanks we can reduce the undue incentive to bring storage tanks above ground and minimize the potential for a disastrous release such as the million gallon spill by Ashland Chemical Company into the Monongahela River.

The bill also provides for a licensure program for tank installers and contractors. This would provide a level of assurance to the tank owners and operators that those companies who are installing and repairing underground tanks are aware of the regulatory requirements and have demonstrated, through their performance on a written proficiency exam, their knowledge of recommended industry practices. In addition, because it would take a prohibitive number of inspectors to be onsite at each new tank installation or tank upgrade, the licensing of installers will enable the department to keep the number of staff required to operate the program to a minimum by focusing our oversight efforts on a relatively small number of licensed tank contractors.

An area of particular concern to the regulated community and the department is the requirement for financial responsibility. Under current federal regulations (and the state regulations that would be adopted pursuant to Senate Bill 94) petroleum marketers will be responsible for providing assurance of at least \$1 million per occurrence and \$2 million aggregate to cover the cost of a leak or spill and underground tank owners/operators who are not marketers must provide assurance of at least \$500,000 per occurrence and \$1-2 million aggregate (dependent upon the number of tanks they own). Apparently in response to the high probability of substantial claims and the uncertainty over the extent of liability, the private insurance industry has not responded to the needs of the tank owners for insurance to satisfy the federal financial responsibility requirements. A private pooled-risk venture is available to petroleum marketers at a substantial cost and many of the larger corporations will be able to self insure to satisfy the requirements, but many small and intermediate size companies and public tank owners will find it difficult to provide the required financial assurance.

The bill contains several sections:

Section 1 - Statement of purpose.

Section 2 - Definition of terms.

Section 3 - Exemptions.

Section 4 - Notification requirements.

Section 5 - Authority of the Secretary to adopt rules and regulations related to performance standards, reporting of releases and taking corrective action, evidence of financial responsibility, closure procedures, retrofitting schedules, fees, licensure of contractors, and registration of exempt tanks. Authority for local units of government to establish more stringent requirements is not preempted.

Section 6 - Permit requirements and denial, suspension, or revocation of permits.

Section 7 - Financial assurance requirements.

Section 8 - Inspections, monitoring, and testing.

Section 9 - Unlawful acts.

Section 10 - Licensure requirements.

Section 11 - Denial, suspension, or revocation of license.

Section 12 - Designation of local agencies to administer act.

Section 13 - Civil penalties.

Section 14 - Enactment clause.

The department has worked closely with tank owners and operators for a number of years under our current regulatory program. We have attempted to provide information and technical assistance to aid the regulated community in understanding the program requirements and how to comply with them. If Senate Bill 94 is enacted we will expand this effort with the use of informational conferences coordinated through the University of Kansas Division of Continuing Education, by the distribution of informational materials, and through onsite visits by departmental staff. The expanded statutory responsibility would require additional staff (one environmental engineer and two environmental technicians) and financial resources (\$91,719) for program administration, but these costs would be provided through increased tank fees. At present Kansas has the lowest annual tank fee (\$3) of any state operating a tank program, and the additional program costs could be provided by a modest increase in that fee. At present EPA also provides partial support of the tank program development through an annual UST grant, which should continue for several more years.

We believe that an UST program is a particularly important element of our state's efforts to protect groundwater and that a state-administered program is preferable to the confusion and undue duplication resulting from a mix of state and federal program operations. Therefore we request your favorable action on Senate Bill 94.

Testimony presented by: Stanley C. Grant, Secretary
Department of Health and Environment
January 31, 1989

Testimony before the Senate Energy & Natural Resources Committee
SB 94: The Storage Tank Act

Charlene A. Stinard, Kansas Natural Resource Council
January 31, 1989

My name is Charlene Stinard and I represent the 700 members of the Kansas Natural Resource Council, a non-profit organization that promotes sustainable natural resource policies for the state of Kansas. Today I appear as well on behalf of the 2200 members of the Kansas Chapter of the Sierra Club and the 5000 members of the Kansas Audubon Council. Our members share a common concern to preserve and protect the quality of our water resources.

Several million underground storage tank systems in the United States contain petroleum or hazardous substances. According to the US Environmental Protection Agency, tens of thousands of these storage tanks, including their piping, are leaking. Many older tanks will soon begin to leak. To address these actual and potential threats to the US groundwater supplies, EPA has promulgated new regulations to detect and prevent leakage.

Because of the enormous size of the regulated community — 19,000 tanks are currently registered in Kansas — effective compliance monitoring and enforcement require that state and local governments share this responsibility to protect public health and the environment. SB 94 addresses the state's responsibilities to protect our resources from contamination by leaking underground storage tanks.

The need is great. The EPA estimates that:

- 75% of existing UST systems are not protected from corrosion. In Kansas that could mean over 14,000 tanks.

- 10-30% of the UST systems already leak or soon will without upgrading. That means more than 5000 tanks could pose immediate environmental and health threats here in Kansas.

Confirming the abstract numbers from the national estimates, KDHE's "identified sites list" includes 162 known sites contaminated by leaking underground storage tanks.

One thing we have learned about environmental contamination: it costs much less to prevent pollution than to clean up afterward. We have here an opportunity to establish a regulatory system that can prevent costly and dangerous contamination.

The members of KNRC, the Sierra Club, and the Audubon Council urge your favorable consideration of SB 94 to prevent the contamination of our water resources by leaking underground storage tanks.

SF & NR
1/31/89
(Attachment IV)