

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES

The meeting was called to order by Representative Dennis Spaniol at _____
Chairperson

3:30 ~~xxx~~/p.m. on March 21, 1990 in room 526-S of the Capitol.

All members were present except:
Representative Charlton
Representative Roenbaugh

Committee staff present:
Raney Gilliland, Principal Analyst, Legislative Research
Mary Torrence, Revisor of Statutes' Office
Pat Mah, Legislative Research
Maggie French, Committee Secretary

Conferees appearing before the committee:
Mr. Pete Nucz, Mid-West Tire Disposal, Rose Hill, Kansas
Mr. Larry Anglemeyer, Mid-West Tire Disposal, Rose Hill, Kansas
Representative Michael Tom Sawyer, Ninety-Fifth District
Mr. Michael Sorcher, President, M.A. Associates, Inc., Overland Park, Kansas
Mr. Thomas T. Pajor, Energy Resources Director, The City of Wichita
Mr. James A. Power, Jr., P.E., Director, Division of Environment
Mr. Edward R. Moses, Kansas Aggregate Producers Association
Ms. Anne D. Smith, Kansas Association of Counties
Mr. Harold Becker, Great Bend, Kansas
Mr. David L. Pope, Chief Engineer-Director, Division of Water Resources
Mr. Douglas R. Henkle, Vice-President, Kansas Water Well Association

Chairman Dennis Spaniol called the meeting to order.

Senate Bill No. 310 -- An act concerning vehicle tires; relating to disposal thereof; imposing taxes on retail sales of new vehicle tires and providing for disposition thereof; prohibiting certain acts and providing penalties for violations.

Chairman Spaniol advised the committee that Senator Ross O. Doyen had hoped to be able to express his views personally as a proponent of this bill; but, he was unable to attend due to a conflict in schedule.

The chairman announced written testimony had been received and distributed to committee members from Peter J. Pantuso, Director, Legislative Affairs, Rubber Manufacturers Association (Attachment 1); Rich McKee, Executive Secretary, Feedlot Division, Kansas Livestock Association (Attachment 2); Northwest Kansas Groundwater Management District No. 4 (Attachment 3), and Robert L. Vincent, C.P.G., P.Hg., Ground Water Associates, Inc., Wichita, Kansas (Attachment 4), relating to Senate Bill No. 310.

Mr. Pete Nucz, Mid-West Tire Disposal, Rose Hill, Kansas, was recognized by the chairman and presented testimony as a proponent on Senate Bill No. 310. Mr. Nusz discussed landfill problems and dumping of tires (Attachment 5). The chairman expressed his concern about tire disposal since approximately 6,000 tires are disposed of daily. Other committee discussion included questions regarding environmental problems resulting from this bill and potential use of tires for highways.

The chairman called Mr. Larry Anglemeyer, Mid-West Tire Disposal, Rose Hill, Kansas, as the next conferee. Mr. Anglemeyer presented testimony as a proponent on Senate Bill No. 310, discussing the tire disposal process (Attachment 6). Questions from the committee included fees set by the state to subsidize the tire business; private disposition of tires; processing of steel-belted tires in the same manner as other tires for disposal, and if the cement companies are equipped to meet EPA clean air standards in disposition of shredded tires.

The chairman welcomed Representative M. T. Sawyer. Representative Sawyer expressed his support of Senate Bill 310.

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 HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES,

room 526-S Statehouse, at 3:30 ~~xxx~~/p.m. on March 21, 1990

Mr. Michael Sorcher, President of M.A. Associates, Inc., Overland Park, Kansas, was requested to present his testimony. He testified in favor of Senate Bill No. 310, stating that many states have passed tire legislation similar to the legislation proposed in Kansas (Attachment 7). Discussion followed including questions regarding the number of tires disposed of annually; distribution of the fee to help defray costs of tire dealers; adding of the fee to the sales price of tires; purpose for exempting farmers and ranchers from the statute; if the bill would be viable without the fee; exemptions for retreaders, etc.

Mr. Joseph T. Pajor, Energy Resources Director, Department of Public Works, The City of Wichita, was recognized by the chair and testified as a proponent on Senate Bill No. 310, stating he believed the passage of this bill would help solve some of the waste tire disposal problems (Attachment 8). Committee members questioned Mr. Pajor regarding current fee charges at landfills; pick-up and storage of waste tires, and sites where tires are now accumulated in large quantities.

Chairman Spaniol introduced Mr. James A. Power, Jr., P.E., Director, Division of Environment, Kansas Department of Health and Environment, who testified as a proponent on Senate Bill No. 310 stating the committee may wish to consider whether or not the Secretary of the Department of Health and Environment should have greater discretion to utilize grants to meet regional needs (Attachment 9). Discussion included the effect on the quality of water when it rains on waste tires and the basis for distinction of exemptions from the bill. Representative Patrick requested the Division of Environment staff to review the bill and furnish the committee with a memorandum regarding exemptions for farming, ranching and feed lots. The committee continued to discuss fees charged by other states for tire disposal and experiments performed by cement plants.

Mr. Edward R. Moses, Kansas Aggregate Producers Association, was the next conferee called on by the chairman. Mr. Moses testified as a proponent on Senate Bill No. 310 and requested that grants be made to facilities to develop technology for burning tires. Discussion followed on the value of shredded tire material; system for delivering tires to the burning site, and the concern about the impurities which could be introduced into the environment by the tires in the process.

The chair recognized Ms. Anne D. Smith, Kansas Association of Counties, who presented testimony as a proponent on Senate Bill No. 310. She commented that anything the state can do to reduce the waste stream will have a positive impact (Attachment 10). No questions were forthcoming from the committee.

Chairman Spaniol called on Mr. Harold Becker, Great Bend, Kansas, who furnished testimony as an opponent to Senate Bill No. 310 (Attachment 11). The chairman commented the list of concerns expressed by Mr. Becker would be retained by the committee and would be available for referral when final action is taken.

Chairman Spaniol concluded hearings on Senate Bill No. 310.

Senate Bill No. 569 -- An act concerning waters; relating to requests for extension of time to complete diversion works or perfect the water right; concerning the reinstatement of water rights or permits to appropriate.

At the request of the chairman, Mr. David L. Pope, Chief Engineer-Director, Division of Water Resources, Kansas State Board of Agriculture, presented his testimony in support of Senate Bill No. 569 which would require a fee for an extension of time and for the reinstatement of a water right or permit previously dismissed (Attachment 12). The committee questioned Mr. Pope regarding the true costs to process permits.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES,
room 526-S, Statehouse, at 3:30 ~~xxm~~/p.m. on March 21, 1990

Senate Bill No. 538 -- An act amending the Kansas groundwater exploration and protection act; concerning continuing educational requirements for licenses.

Mr. Douglas R. Henkle, Vice-President, Kansas Water Well Association and water well contractor from Garden City, Kansas, was recognized by the chairman. Mr. Henkle presented testimony in favor of Senate Bill No. 538 pointing out that the present statute does not assure the public that the water well contractor offering his services in Kansas is aware of up-to-date well construction techniques, tools or equipment (Attachment 13). Mr. Henkle was questioned by the chairman about who will provide the continuing education, including the mandates for hours. Discussion followed.

The chairman asked Mr. James A. Power, Director, Division of Environment, Department of Health and Environment, to present his testimony on Senate Bill No. 538. Mr. Power expressed his support of the bill stating that the intent of the bill is to continually provide the driller with updates. Committee members continued to discuss the length of continuing education training; whether the number of hours should be set forth in the statute; availability of training for persons who are not members of organizations providing the training, and if the Department of Health and Environment would approve the curriculum for the continuing education and certify that the courses have been completed. (Attachment 14)

Hearing on Senate Bill No. 538 was concluded by the chairman.

The meeting adjourned at 5:08 p.m.

The next meeting of the committee will be at 3:30 p.m., March 22, 1990.

Date: 3-21-90

GUEST REGISTER

HOUSE

COMMITTEE ON ENERGY AND NATURAL RESOURCES

NAME	ORGANIZATION	ADDRESS	PHONE
Terry Leatherman	KCCI	Topeka	357-6321
Anne Smith	Ks. Assoc. of Counties	Topeka	233-3291
Joseph T. Pajor	City of Wichita	4550 Main Wichita	316-2684256
E. R. Moses	KAPA	Topeka, KS	235-1188
Mike Savelle	M.A. Assoc.	Overland Park	338-3509
Chiquita Cornelius	K.S. B.I.R.P.	Topeka	273-6808
John Strickler	KSU Forestry	Manhattan	534-4050
STEVE KEARNEY	PRESIDENT ASSOCIATION FOR WASTE MANAGEMENT	TOPEKA	233-4612
Harold Becker	Becker Tire - great Bend	great Bend	793 5414
J. J. Sisson	Becker Tire	Great Bend	793-5414
John C. Bottomberg	Rubber Mgmt. Assoc.	TOPEKA, KS	235-2324
Joe Lieber	Ks Coop Council	Topeka	233-4085
Doug Henkle	KWWA	Barren City	316-277-2387
ELIZABETH E. TAYLOR	KSWATER WELL ASSN	TOPEKA	913-354-9900
James Power	KDHE	Topeka	913 296-1535
Darrel Plummer	KDHE	Topeka	913 296-5523
David L Pope	DNR, KSWA	Topeka	296-3119
Larry Andamaza	Midwest Tire Disposal	Wichita, KS	716-0124
Rete Dury	midwest Tire Disposal	Wichita KS.	733-2514
Tom Sawyer	Leg.	Wichita	296-7669



*Seventy Five
Years*
1915-1990

RUBBER MANUFACTURERS ASSOCIATION
1400 K STREET, N.W. • WASHINGTON, D.C. 20005 • (202) 682-4800

March 16, 1990

Honorable Dennis Spaniol, Chairman
House Energy and Natural Resource Committee
State Capitol
Topeka, KS 66612

Dear Representative Spaniol:

The Rubber Manufacturers Association supports Senate Bill 310, as adopted by the Kansas Senate, and urges its passage in the House of Representatives.

Our industry has been a proponent of similar legislation in nearly every state and to date, eighteen states have enacted laws aimed at addressing proper scrap tire disposal and processing.

If this office can assist you or the Department of Health and Environment in any way, to assure the provisions contained in S.B. 310 are properly implemented and administered, please do not hesitate to contact me at 202-682-4832.

Sincerely,

Peter J. Pantuso
Director, Legislative Affairs

PJP:slb

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ATTACHMENT 1



6031 S.W. 37th Street • Topeka, Kansas 66614-5128 • Telephone: (913) 273-5115
FAX: (913) 273-3399

Owens and Publishes The Kansas STOCKMAN magazine and KLA News & Market Report newsletter.

March 21, 1990

STATEMENT OF THE
KANSAS LIVESTOCK ASSOCIATION
TO THE HOUSE COMMITTEE ON
ENERGY AND NATURAL RESOURCES
REPRESENTATIVE DENNIS SPANIOL, CHAIRMAN
WITH RESPECT TO PROPOSAL SB 310
DISPOSAL OF WASTE TIRES

Presented by

Rich McKee

Executive Secretary, Feedlot Division

Mr. Chairman and members of the committee, I am Rich McKee, representing the Kansas Livestock Association. KLA speaks for a broad range of over 10,000 livestock and crop producers. Their operations can be found in virtually every geographic corner of the state.

Good morning! The Kansas Livestock Association would ask for your support of friendly amendments contained in this bill. The amendment can be found on lines six through nine on page two, and lines one through three on page three. This language clarifies that feedlots, farmers and ranchers who use old tires for ag related activities are exempt from the provisions of this bill.

Stockman frequently use old tires to hold down tarpaulins on silage pits, hay stacks, etc. As originally written, this bill would have inadvertently required these entities to obtain a permit from the Department of Health and Environment.

Thank you!

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ATTACHMENT 2

S.B. 538

House Energy and Natural Resources Committee

TESTIMONY

by

Northwest Kansas Groundwater Management District No. 4
March 21, 1990

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

Thank you for this opportunity to offer testimony regarding the above referenced proposed legislative bill.

The proposed bill as we understand it would give the Secretary of Health and Environment the discretion of requiring certain additional conditions, specifically a pre-requisite for a water well contractors license renewal.

Our district has over the past 18 months been organizing, through the state environmental grants program within the state water plan, the NW Kansas counties into one of the state's first regional environmental planning groups. Once organized and funded via the grants available, we will begin producing a sanitary code for the region which will soon thereafter need to be locally implemented and enforced. One element of this required sanitary code deals with private water wells - their location, construction and final disposition (plugging).

As stated above, once developed, this locally designed code will need to be implemented and enforced. From the perspective of our local environmental group, there are two basic implementation and enforcement alternatives which will be available to us when we're ready to implement the code.

- 1 -- We could design a code embracing a formal licensing, permitting and site inspection process. This option would be staff intensive and would require at least the local registration of all well drillers working in the region, issuing permits for all wells constructed or plugged, and finally the site inspection of all permits before work begins. All this to insure the proper code requirements are met.

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- 2 -- The other alternative is to see that an adequate well driller education program is put in place which includes sufficient instruction on proper well location, construction and plugging - all in the context of the locally developed sanitary codes which will be coming on line in the near future. This approach would be far less formal, onerous and expensive (staff intensive) to implement. Under this concept, the contractors would be assumed to know and abide by the local codes, and consequently an effective enforcement effort is then simply spot checking a small percentage of permits, requiring re-work on those problem sites.

The fact that the Kansas Water Well Association stands ready and able (with amazingly little fiscal impact) to design and offer the kinds of continuing education needed by the well drillers of the state, under the scrutiny of KDHE, is yet another plus for this mandatory education idea. Of course, it also should go without saying that an appropriately educated drilling industry can only pay many other dividends to the state as well.

IN SUMMARY, WITHOUT PASSAGE OF THIS BILL AND THE SUBSEQUENT ESTABLISHMENT OF AN EFFECTIVE EDUCATIONAL PROGRAM FOR THE STATE'S WELL DRILLER, THE IMPLEMENTATION ALTERNATIVES FOR ALL THE LOCAL SANITARY CODES NOW BEING PLANNED WILL BE VERY LIMITED AND UNNECESSARILY EXPENSIVE.

Thank you again for your time and consideration.

A STATEMENT CONCERNING
SENATE BILL 538

Statement presented to: Representative Dennis Spaniol, Chairman
House Committee on Energy & Natural Resources
Topeka, Kansas
March 21, 1990

Statement presented by: Robert L. Vincent, C.P.G., P.Hg.
Ground Water Associates, Inc.
Wichita, Kansas

I am a consulting ground water geologist and I have spent the past 33 years helping to develop ground water resources throughout Kansas and the western portion of the United States. My employment first as a contractor and now as a consultant has allowed me to be involved with water supply projects concerning both quantity and quality of water in all areas of Kansas. It is my observation that most of the water quality problems we have today in Kansas are a direct result of man's activities. Therefore, I support the enactment of legislation which will allow the Secretary of the Kansas Department of Health and Environment to require additional continuing education as a part of the licensing of water well contractors.

Drilling contractors are in all areas of the state and many times they are the only source of information for a potential water user that the user is aware. And, the contractor has equipment to accomplish what the user wants to do. Therefore, knowledgeable and informed drilling contractors can be very instrumental in avoiding new problems and alleviating existing ones.

It has been my privilege to serve as an instructor at the educational seminars which have been presented by the Kansas Water Well Association for drillers and

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pump installers. These have been well received by contractors which are interested in keeping up on new developments and as refresher courses having to do with contaminants, products and methods. Unfortunately, those that could benefit the most from the education have not attended. And, I suspect that is why some wells are still improperly located and constructed, and why avenues for the direct entry of contaminants into the water table are still found.

I am aware of present licensing requirements for contractors, and I am also cognizant of what is actually going on in the field. Some contractors simply do not recognize the consequences of their actions and procedures. But informed contractors can and will do their part to protect our ground water.

To my knowledge all professions and the public have benefited from continuing education requirements. The results in the water well industry will be the same.

#

Robert L. Vincent

MID-WEST TIRE DISPOSAL

Rt. 1, Box 168 • Rose Hill, Kansas 67133 • (316) 733-2544 • (316) 776-0124

March 20, 1990

Energy & Natural Resources Committee
Topeka, Kansas

Re: Tire Disposal; SB 310

To Whom It May Concern:

We from the Midwest Tire Disposal Company (Pete Nusz and Larry Anglemeyer, owners) want to express our thanks to the committee for this opportunity to give you a view of the tire problems. Our land fills do not want them because of limited space. There is also the problem of them resurfacing once they are buried. Another problem is, we see tires dumped in road ditches, fences, creeks and water streams. This is polluting our water and providing breeding grounds for mosquitoes and rats.

A year ago we started looking into what we could do to help solve this problem. We talked to Rep. Tom Sawyer and learned that Sedgwick County was very much interested in a tire regulating law as well as the state. Through this information we formed Midwest Tire Disposal. We have been operating for eight months processing 10 to 12,000 tires monthly. We find it a very competitive business as we are competing against the tire jockies that dump the tires in fence and tree rows. Therefore, we encourage a tire law in Kansas to stop this tire dumping and make it profitable for the companies that are helping the cause.

We at Midwest Tire Disposal are currently operating an Al Jon Tire Cutter which is stationery. We are looking at a totally mobile unit where we can set up collection stations in each county. It would, of course, depend on the number of tires in the county as to how often we would service the county. We are looking at different options of disposing the shredded tires such as using them for energy or maybe stockpiling them until we can get some large company to look at us.

We would appreciate your vote in favor of this bill (SB 310). We will be glad to answer any questions you may have.

Sincerely,

Pete Nusz



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MID-WEST TIRE DISPOSAL

Rt. 1, Box 168 • Rose Hill, Kansas 67133 • (316) 733-2544 • (316) 776- 0124

Energy and National Resources Committee
Topeka, Kansas

Re: SB 310; Tire Disposal and HB 2362

To Whom It May Concern:

Midwest Tire Disposal, the first in the state, has been operating since mid-summer, 1989. We gather tires from Wichita tire dealers and auto salvages. Tires are hauled by us, then chopped or sliced for proper disposal. Presently, we dispose of approximately 10 - 12,000 tires monthly. We are expecting a large volume increase for the spring and summer months.

Currently, we have acquired approximately 70% of the disposed tires within the immediate Wichita area. Our goal is to expand throughout the whole state. To do this, we will be obtaining a mobile shredding unit. It would be taken to designated stockpiles on a scheduled basis.

We are currently seeking a possible use for our rubber parts. Until a use is found, we have an approval from a privately owned rock quarry to stockpile these rubber parts. Before we begin doing this, we would have the approval from the Health Department and the State and Local Zoning Department.

At present, the fee for tire pick-up is very competitive as well as inadequate to sustain our disposal process. We are competing with "tire jockies" who can haul the tires for a lesser cost because of no legal requirements for the tire disposal. Tires are being dumped in fields, ditches, creeks, streams, etc. We, at Midwest Tire Disposal, are very concerned about the effect these improperly

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MID-WEST TIRE DISPOSAL

Rt. 1, Box 168 • Rose Hill, Kansas 67133 • (316) 733-2544 • (316) 776- 0124

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disposed tires have on our environment. We are soliciting your support from the Kansas Legislature and trust action will be taken during the 1990 session.

We are open to any questions you may have.

Sincerely,

MIDWEST TIRE DISPOSAL


Larry Anglemeyer

M. A. ASSOCIATES, INC.

A Resource Recovery Company

35 Corporate Woods
9101 W. 110th Street
Overland Park, Kansas 66210
(913) 338-3509
FAX (913) 345-2687

March 21, 1990

Good morning ladies and gentleman of the committee.

My name is Michael Sorcher, President of M.A. Associates, Inc. located in Overland Park, Kansas. I would like to thank the committee for giving me the opportunity to address you today. M.A. Associates, Inc. is a resource recovery company involved in the scrap tire processing industry. We are very interested in building and operating a scrap tire processing facility in the Kansas City area, with collection points located throughout the state of Kansas. We are prepared to have the facility up and operating this year. Financing has been completed, and scrap tire by-product markets are presently being finalized. This plant will be able to process well over 1,000,000 scrap tires per year.

We commend the members of the committee for reviewing proposed Senate Bill 310 that deals with the disposal of scrap tires. We endorse the legislation and would like to see the Bill passed. This would ensure our plant of being able to collect the necessary quantity of tires to be a long term financially viable operation.

Many states have passed tire legislation similar to what Senate Bill 310 has proposed. We feel that the residents of Kansas will view this bill as a step forward in solving part of the solid waste disposal problem. In addition, we feel the passage of this bill will help to spur private industry towards solving the tire disposal problem in an environmentally sound manner.

In conclusion, we welcome the opportunity to work with members of the House prior to your final action on the proposed bill. Thank you for your time and consideration on this matter.

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ATTACHMENT 7

THE CITY OF WICHITA

March 21, 1990

**DEPARTMENT OF
PUBLIC WORKS**

OFFICE OF THE DIRECTOR
CITY HALL — EIGHTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202

House Energy and Natural Resources Committee
Representative Dennis J. Spaniol, Chairman
State Capitol Building - Room 115-S
Topeka, Kansas 66612

RE: Senate Bill No. 310: Disposal of Waste Tires

Chairman and Committee Members:

I am Joe Pajor, the Energy Resources Director for the City of Wichita. I want to start by thanking you for this opportunity to testify on the problems presented by the improper disposal of waste tires and on the merits of what the City of Wichita believes is a very workable program proposed in Senate Bill No. 310.

The disposal of waste tires is a major problem across Kansas. This is especially true in cities and towns where piles of tires reduce the quality of the environment in both physical and aesthetic ways. In Sedgwick County, for example, there are some 267,000 tires discarded annually. Put another way, if those 267,000 tires were laid in a line touching each other they would stretch from Sedgwick County to Topeka.

Waste tire disposal today is an almost nonexistent concept. If we try to bury the rascals in a landfill they take up excessive volume, and worse, they tend to "float" to the surface of the landfill. As a result the City of Wichita, like many landfill owners, has had to charge a special handling fee for tires. The result of this charge is that waste tire haulers who are operating on marginal economics either stockpile the tires, take them to someone who does, or yield to the temptation to illegally dump them on public or private land.

So much for the problem; now as to the solution.

The best way to look at waste tires is as a resource, not as a problem. Efforts have been made to identify uses for these tires. Such efforts range from the very low tech options, like shredding to make them into a material to use under playground equipment, to the very high tech pyrolysis process to convert them into energy. These efforts continue. Todate, however, no

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widespread economical use for the tires has been found resulting in the stockpiling described earlier.

It is necessary to process these tires in some way in order to be able to landfill them without the problems of wasting volume and having the tires float to the surface. The technology to slice and even shred waste tires exists today. The remaining question is how to finance such processing. The \$1.00 per tire charge as proposed in Senate Bill No. 310 would be used to fund grants to counties to underwrite the cost of facilities to accomplish this processing. The resulting tire material can be put to some beneficial use or landfilled as any other solid waste would be.

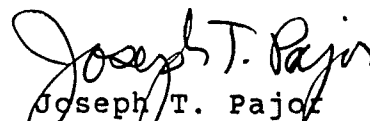
The City of Wichita is in strong support of the proposed legislation to place this \$1.00 charge on new tires when they are sold and use this money to fund grants to process tires into a form in which they can be handled effectively. The City would, however, request that the wording of the legislation be expanded to allow for the grants to be made to either counties or cities. In those instances in which cities own the landfills or where they wish to take the lead in providing for the processing of tires in their corporate limits, they would then be able to make direct use of these grant funds.

The City supports the concept of awarding these grants on the basis of population. Waste tire generation rates logically correlate with population. The major population centers of the state have a proportional size problem with waste tires, as I indicated was the case for the Wichita area. The City would hope the grant process could be as simple and as streamlined as possible to ensure that only a minimum amount of the funds need to be used to cover grant administration costs.

In summary, the City of Wichita, along with the rest of Kansas, faces a major problem in how to dispose of waste tires. The technology to shred or cut up the tires exists and is proven, but means of funding such operations must be created. The City believes the approach of a \$1.00 fee on new tires sold will be a very good way to create the funds for allowing grants to the cities and counties in Kansas to deal with this problem. The City supports Senate Bill No. 310 with the recommendation that the grants be made available to both cities and counties.

Thank you for this opportunity to appear before the committee.

Very truly yours,



Joseph T. Pajor
Energy Resources Director
Department of Public Works

JTP:sab



State of Kansas

Mike Hayden, Governor

Department of Health and Environment

Division of Environment

Stanley C. Grant, Ph.D., Secretary

Forbes Field, Bldg. 740, Topeka, KS 66620-0002

(913) 296-1535

FAX (913) 296-6247

Testimony Presented to
House Committee on Energy and Natural Resources

by

Kansas Department of Health and Environment
Senate Bill 310

Senate Bill 310 regarding use of waste tires parallels the task undertaken by the Solid Waste Advisory Task Force assembled by Secretary Grant. The task force is charged with reviewing the state solid waste management system and making recommendations regarding any administrative, regulatory, statutory, or policy changes it believes are appropriate in revising the Kansas solid waste management plan.

Last year, the task force reorganized into four subcommittees to discuss specific subtopics of solid waste and disposal, incineration, and special wastes. The issue of tires and batteries was assigned to the Special Wastes Subcommittee. The issue of recyclables is the responsibility of the Waste Minimization Subcommittee.

On March 10 and April 7, 1989, the Special Waste Subcommittee received testimony and discussed scrap tires and batteries. Testimony was received from the following individuals:

Bob Randall, Goodyear Tire Company - tire disposal
Jeff Dees, Canton Salvage Yard - tire disposal
Katy Goering, Sedgwick County Department of Environmental Resources - tire disposal
Harold Becker, Becker Tire and Shredding - used tire disposal
D. R. Hahn, Wichita Public Works Department - rubberized asphalt

In reviewing the subcommittee meeting minutes and materials provided by the conferees, it can be concluded there are two separate problems in dealing with scrap tires:

1. collection and handling
 - a. tires left whole
 - b. tires shredded

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ATTACHMENT 9

Charles Konigsberg, Jr., M.D., M.P.H.,
Director of Health
(913) 296-1343

James Power, P.E.,
Director of Environment
(913) 296-1535

Lorne Phillips, Ph.D.,
Director of Information
Systems
(913) 296-1415

Roger Carlson, Ph.D.,
Director of the Kansas Health
and Environmental Laboratory
(913) 296-1619

2. what to do with tires after collection
 - a. use for fuel
 - b. add to asphalt
 - c. landfill for future use
 - d. disposal in sanitary landfill

Each year Kansans probably dispose of about 2 million tires. These may end up at: (1) one of the more than 100 piles of scrap tires we have identified across Kansas, (2) the two scrap tire landfills in Leavenworth and Concordia, or (3) may be sent to any of the county landfills. From response to a questionnaire developed by the department, we learned 64 of the landfills will bury the tires, 15 will stockpile the tires, 3 will recycle/sell, and 9 of the responders did not answer the question or do not take scrap tires.

Mr. Dees and Mr. Becker recommended shredding of tires. Mr. Dees lives in Canton. He wants to build a commercial shredding company but has found it economically unfeasible, considering the high start-up cost of the business.

Mr. Becker noted a shredded tire takes about one-fourth the space a whole tire requires. The conferees agreed the shredded tires could be used for fuel, added to asphalt, or landfilled for future use. Our staff contacted the Kansas Department of Transportation (KDOT) and learned their research concludes that using rubberized asphalt is not economically feasible at this time. Several states have had success -- notably Arizona, Minnesota, and Massachusetts.

A letter from Paul Taylor, Assistance Maintenance Engineer for the City of Wichita, indicated there appears to be very limited use and limited success with the product. However, he will continue to examine the options, if materials become economically justified.

Mr. Dees, Ms. Goering, and Mr. Becker provided an overview of what is occurring in other states and reviewed enacted or proposed legislation. Mr. Dees made recommendations regarding House Bill 2362 (disposal of tires).

Attached for the Committee's information is a short resume of regulations governing scrap tires in other states prepared published in Scrap Tire News.

The Solid Waste Advisory Task Force has made 17 recommendations to the Secretary dealing with used tires. Although some methods of disposal have proven profitable, many have not consumed a sufficient number of used tires to significantly affect the problem of used tires. Other methods have the ability to use a large number of tires, but have proved unprofitable. Based on that history of performance, the task force presumes any used tire disposal system will require subsidization.

Recommendations 36-1 through 36-17 from the task force follow:

36-1. The Legislature should levy a fee or tax to establish a fund for the subsidization of used tire disposal systems on a state, regional, or local level. -- Action needed to implement this policy is legislative.

36-2. The source of revenue for the used tire disposal fund described in 36-1 would be an excise tax on new tire sales and on tires on new motor vehicles. The tax would be prorated according to the type and size of tire. Dealers would be allowed to retain a small portion of the collected funds to defray their administrative costs. -- Action needed to implement this policy is legislative.

36-3. The used tire disposal fund should be dedicated exclusively to the management and disposal of used tires in Kansas. -- Action needed to implement this policy is legislative.

36-4. Levying fees and establishing appropriate regulation of used tire disposal must be a state function. -- Action needed to implement this policy is legislative and administrative.

36-5. Storage of used tires should be limited by quantity and length of time of storage. -- Action needed to implement this policy is legislative and administrative.

36-6. Owners of used tire storage areas should be required to post a bond with the state on a per tire basis. Such bond would inhibit the accumulation of large numbers of tires and would be used to clean up the bonded tire piles if abandoned. Governmental entities should not be exempted. -- Action needed to implement this policy is legislative and administrative.

36-7. Used tires must be reduced in volume prior to long-term storage. -- Action needed to implement this policy is administrative.

36-8. Whole tires and/or processed, volume-reduced tires should not be stored or disposed of in existing or future sanitary landfills. -- Action needed to implement this policy is legislative and administrative.

36-9. Goals of used tire management should be recycle, reuse, and/or permanent disposal. -- Action needed to implement this policy is legislative and administrative.

36-10. Processed used tires should be stored in a monofill for possible future use. Such monofills should be regulated by the state. -- Action needed to implement this policy is legislative and administrative.

36-11. Consideration should be given to one or more regional used tire monofill for processed used tire storage for future use. The used tire disposal fund could subsidize such operations which may be privately operated. -- Action needed to implement this policy is administrative.

36-12. Consideration should be given to processed tire-to-energy facilities which are subsidized by the state's used tire disposal fund. Appropriate projects could include existing cement kilns and the provision of processed tires as fuel for boilers. -- Action needed to implement this policy is legislative and administrative.

36-13. The used tire disposal fund should not be used to subsidize the transportation of used tires to the processing location. However, the fund could be used to fund transportation of the processed product to a disposal facility. -- Action needed to implement this policy is legislative and administrative.

36-14. Innovative solutions to the used tire problem should be encouraged and explored. -- Action needed to implement this policy is administrative.

36-15. The legislature should establish a licensing and permitting system for used tire storage, management, and disposal facilities. -- Action needed to implement this policy is legislative and administrative.

36-16. The used tire disposal problem consists of two elements: the newly generated used tires and existing stockpiled storage areas. The former problem should be addressed and controlled prior to the latter problem. -- Action needed to implement this policy is administrative.

36-17. The Kansas Department of Transportation should participate in demonstration projects utilizing rubberized asphalt and processed tires as aggregate. Such projects should be conducted on a cost sharing basis with local governments. Some projects should be conducted in urban areas. -- Action needed to implement this policy is legislative and administrative.

Many of the task force's recommendations complement the provisions of Senate Bill 310. One area the committee may wish to consider is Section 7: whether or not the Secretary should have greater discretion to utilize grants to meet regional needs. We may be talking about one and probably more than three used tire shredding facilities statewide.

Presented by: James A. Power, Jr., P.E.
Director, Division of Environment
Kansas Department of Health and Environment

Date: March 21, 1990

Regulations governing scrap tires by state

The following information was compiled by Mary B. Sikora, publisher of Scrap Tire News and a principal of Recycling Research Inc., a Connecticut-based company that provides research, information and consulting services to the waste industry.

Alaska

Recycling bill gives preference to bidders using recycled products.

Arizona

Last year, legislature passed Senate Bill 1412, which created a legislative committee on waste recycling and requires cities to examine recycling in their solid waste management plans.

Arkansas

No scrap tire legislation proposed. Under existing regulations, tires cannot be buried in municipal landfills. They must be buried separately or stockpiled.

California

A bill introduced this year recommends:

- A disposal fee of 50 cents or \$1 per tire to be collected by tire retailers;
- Establishment of a grant/loan subsidy program to fund scrap tire recycling facilities;
- Permit requirements for tire stockpiles; and
- Procurement provisions for recycled products.

Colorado

Regulations governing scrap tire storage, processing and disposal facilities took effect in May 1988 that:

- Define safe storage as placing tires or tire shreds in trenches and covering them with plastic and dirt;
- Identify storage requirements that include fire control, security measures, access roads and proper solid waste and environmental permits; and
- Limit the number of tires a facility can accept to the number it can process, store, recycle or dispose of in a year.

Connecticut

Tire storage facilities must obtain a license from the state Department of Environmental Protection. Requirements include groundwater protection, environmental health and safety and financial assurance.

Florida

Senate Bill 1192 was enacted early in 1988. Provisions include:

- A 50 cents per tire fee on retail new tire sales in 1989, increasing to \$1 per tire in 1990, providing funds for scrap tire research, cleanup of illegal tire piles and grants for tire disposal projects;
- Banning whole tires from landfills;
- Mandatory permitting of scrap tire collectors, transporters and processors by the Department of Environmental Regulation; and
- A requirement that scrap tires be disposed of only through permitted businesses/facilities.

Illinois

Scrap tire legislation is expected to be introduced this year. The proposed bill likely will include requirements for a scrap tire collection system, tire pile abatement and a funding mechanism to encourage recycling.

Last summer the Illinois Pollution Control Board adopted emergency rules on scrap tire storage to discourage the further spread of the Asian tiger mosquito within the state. These rules, likely to become permanent in 1989, mandate storage methods that prevent water accumulation in the tires and/or their treatment with pesticides.

Indiana

The state Board of Health is charged with enforcing the cleanup of existing scrap tire piles. Cleanup requirements include putting at least two feet of cover over buried tires and recording the existence of stockpiles—above ground or buried—on property deeds.

Permits for operating a scrap tire storage/recycling facility require:

- Keeping records of the volume of scrap tires handled, where they come from and what becomes of them;
- Proof of financial responsibility;
- A site closure plan.

Iowa

The legislature is expected to consider legislation that would increase the recovery of special wastes, including tires, motor oil and lead-acid batteries. The proposed measure would levy a \$2 per tire fee on new vehicle sales, the proceeds from which would be used to fund scrap tire disposal projects through private enterprise or local governments. Also, landfills in the state would likely be closed to whole tires.

Kentucky

A legislative task force has been appointed to study waste management practices in the state.

A nine-county consortium (including two in Indiana) in the Louisville area is expected to enact legislation directing all scrap tires in the area to a central processing site.

Louisiana

State regulatory agencies are drafting a comprehensive solid waste management package to be presented to the legislature in April.

An advisory group is developing a program for scrap tires, batteries and waste oil. Disposal fees and handling and storage regulations will be considered.

Maine

Tire storage facilities must be licensed. Regulations governing scrap tire storage and disposal include:

- Provision for surface and groundwater protection;
- Buffer zones and fire protection;
- Litter control; and
- Operational and financial insurance.

The Bureau of Solid Waste Management is preparing a report on hard-to-handle wastes—including tires—for submission to the legislature this year. The report will include recommendations for establishing a fund to encourage recycling and disposal of these wastes.

Maryland

Recycling legislation passed last year requires counties to develop plans to reduce their solid waste stream by at least 15 percent. This law also charged the Department of the Environment to prepare a report on the feasibility of disposing/recycling scrap tires. No plans for the study are available, however.

Draft legislation to be considered this year would provide state funds for solid waste cleanup efforts. Scrap tires would qualify for cleanup funds under this bill.

Massachusetts

Last year, the Department of Environmental Quality Engineering issued an interim policy on tire disposal and stockpiling that encourages tire shredding prior to landfilling. It also makes whole tires subject to landfill criteria established by local boards of health, which can ban whole tires from landfills.

State policy also gives preference in purchasing to products containing secondary/recycled materials, which could include recycled scrap rubber.

Michigan

Scrap tire legislation to be introduced in 1989 likely will seek a \$1 per tire tax on the retail sale of new tires to fund scrap tire disposal projects and will license and regulate scrap tire transporters and storage/processing facilities.

Minnesota

Minnesota enacted the first statewide scrap tire legislation in 1985, banning tires in any form from landfills and placing a \$4 tax on vehicle title transfers to fund stockpile cleanup and a grant/loan program for processing facilities.

Other regulations require:

- Scrap tire transporters and storage facilities to obtain permits;
- Anyone disposing of scrap tires to use permitted transporters and/or storage facilities. Dealers must keep records of numbers of scrap tires generated and how they were disposed of;
- Scrap tire transporters to submit quarterly manifests detailing, with numbers, where tires are collected and dropped off.

Recently introduced legislation would establish at least one waste tire collection facility in each of six regions of the state, where scrap tires could be disposed of on an interim basis without a tipping fee.

Mississippi

A proposal from the state Environmental Protection Council calls for establishing a scrap tire disposal fee to help fund recycling projects.

Missouri

The legislature will review proposed legislation that would establish a scrap tire disposal fund through one of two mechanisms: a \$1 per tire tax on retail sales of new tires; or a \$4 per vehicle registration fee. It would also require tires stored outdoors be cut or shredded.

Montana

State solid waste regulations require scrap tire collection/storage facilities be permitted and licensed as tire landfills.

Landfills that accept tires must separate and stockpile them or dispose of them in separate areas (monofills).

Nebraska

The legislature will consider a waste reduction and recycling bill (LB 163) that recommends levying a \$1 per tire fee on retail sales of new tires to set up a fund for encouraging recycling projects.

New Hampshire

Scrap tire legislation is expected this year; details are not yet available.

New Jersey

The Department of Environmental Protection is preparing a report that likely will recommend:

- A statewide ban on the landfilling of tires;
- Enforcement mechanisms, including penalties, for dumping tires illegally;
- Paying rebates to end users of scrap tires. Funding would come from a tax on vehicle title transfers or one on retail tire sales.

New York

State solid waste regulations require operating permits for waste tire storage facilities (with 1,000 tires or more).

Legislation to generate funds for solid waste management—including tires—is expected this year.

North Carolina

The legislature is expected to consider a solid waste management proposal this year that would give regulatory power to county governments, enabling them to levy fees and pass ordinances governing solid waste disposal and recycling. The proposal would require counties to recycle 25 percent of their wastes.

Ohio

Legislation enacted last year requires development of a state waste management plan that addresses waste reduction and recycling, including scrap tires.

Ohio Environmental Protection Agency and Department of Natural Resources officials are writing a waste tire plan for the state that covers storage, hauling and disposal. It likely will include requirements for licenses, permits and performance bonds, as well as some sort of funding mechanism that charges vehicle owners/operators.

Oklahoma

Scrap tire facilities must have a solid waste permit, which incorporates storage regulations, bonding requirements and a vector (mosquito) control plan.

The legislature will study additional standards for solid waste facilities this year.

Legislation enacted last year requires state agencies to give preference to recycled goods in their buying programs.

Oregon

Scrap tire legislation passed in 1987 regulates collection, storage and processing, and put a \$1 per tire tax on all retail sales. The money goes into a special state fund that provides monies to businesses that use scrap tires in a manufacturing process or as fuel.

Pennsylvania

A recycling act passed last year that shifted responsibility for solid waste disposal from municipalities to counties:

- Directed the Department of General Services to develop a preferential procurement program for recycled products, including scrap rubber; and

- Allows the state Department of Transportation to award grants to research and promote the use of recycled materials in highway construction and maintenance.

The state has issued an interim policy for storage of waste tires and tire-derived materials.

Legislative proposals are being developed that would regulate the flow of scrap tires, require licensing of tire processing facilities and create a funding mechanism to raise money for cleanup of tire stockpiles.

Rhode Island

Proposed legislation would impose taxes on hard-to-dispose-of wastes, including tires, with the proceeds used to establish a recycling fund. The bill recommends a 50 cents per tire tax on retail sales of new tires.

South Carolina

The Department of Health and Environmental Control has mandatory guidelines for the storage of tires.

A draft measure before the legislature would impose an additional \$2 per vehicle registration fee to fund tire disposal: \$1.50 would be returned to the counties to fund sites for scrap tire collection, recycling and/or disposal; 50 cents would go into a state fund for research and development into scrap tire recycling and disposal. Under the bill, each county would be required to take care of scrap tires generated in its jurisdiction.

Tennessee

The legislature has mandated the Department of Health and Environment to study recycling as a waste management option. The study will include all waste, but there is no indication that scrap tires will be acted on this year.

Texas

Scrap tire storage, processing and disposal are currently regulated by the Department of Health to discourage the spread of the Asian tiger mosquito.

Five bills regarding scrap tire issues are expected to be introduced this year. Their provisions include:

- A disposal fee on tires to establish a fund to promote tire recycling/disposal;
- A manifest system of tracking scrap tires from generation to disposal;
- Permit and license requirements for storing, transporting or processing scrap tires; and
- Procurement guidelines for recycled products and materials.

Utah

Legislation introduced this year would require the state to form a task force to study solid waste management and recycling options.

Vermont

The governor has appointed a standing committee on special wastes, including tires, batteries and used motor oil, that will make recommendations on recycling and disposal alternatives.

Virginia

Last year, the state's solid waste management regulations were changed to require that tires be split, cut or shredded prior to disposal in landfills.

This year, the legislature will consider a bill on scrap tires, used batteries and waste oil that recommends a \$1 tax on new tire sales to create a fund for further research into scrap tire recycling options and technologies. It implies tire haulers must be registered.

Washington

The legislature has adopted licensing rules for tire haulers and owners of stockpiles and storage and/or processing facilities. Haulers must document delivery of scrap tires to approved facilities.

The legislature is expected to adopt an additional \$1 per vehicle charge for vehicle registrations to generate monies for a tire disposal fund. It also is likely to require a feasibility study to locate and operate a tire recycling facility.

West Virginia

Last year the legislature approved emergency solid waste regulations that included some regarding tire storage:

- A permit is required to store more than 1,000 scrap tires; and
- Tires must be split, cut or shredded prior to disposal in a landfill and must be dispersed in the workface with other solid wastes.

Wisconsin

Legislation passed in late 1987 placed a \$2 per tire fee on all new vehicle titles to establish a fund for scrap tire recovery and stockpile cleanup. The Department of Natural Resources was directed to formulate a plan to clean up existing stockpiles and deal with future scrap tire generation that is likely to include the regulation of tire storage/landfill sites.

Wyoming

Regulations governing the collection and storage of scrap tires have been proposed; details are not available.

Note: States not listed in this directory have neither enacted scrap tire legislation nor are they currently considering any.

States' actions on scrap tire

(States not listed fall under none of these categories)	Has scrap tire laws	Has proposed scrap tire legislation	Has recycled products procurement laws	Has grant/loan and/or tax incentive programs for recyclers
Alaska			✓	
California		✓	✓	✓**†
Connecticut			✓	
Florida	✓		✓	✓†
Illinois		✓	✓	✓
Indiana				✓
Iowa		✓	✓	
Kentucky				✓
Maine			✓	
Maryland			✓	
Massachusetts			✓	✓**
Michigan		✓	✓	✓†
Minnesota	✓		✓	✓†
Mississippi		✓		
Missouri		✓		
Montana			✓	
Nebraska		✓		
New Jersey		✓	✓	✓
New York		✓	✓	✓**†
North Carolina				✓
Ohio			✓	
Oklahoma			✓	✓
Oregon	✓		✓	✓†
Pennsylvania				✓
Rhode Island		✓	✓	
South Carolina		✓		
Texas		✓	✓	
Vermont			✓	
Virginia		✓		
Washington	✓	✓	✓	
Wisconsin	✓			✓†

*Scrap tires specified

**Tax legislation pending

†Funding dedicated to scrap tires available

Source: Mary Sikora, *Scrap Tire News*



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John T. Torbert

March 21, 1990

TESTIMONY

To: House Energy and Natural Resources Committee
From: Anne D. Smith
Subject: SB 310 (Vehicle Tires)

The Kansas Association of Counties is in support of SB 310.

Counties are the unit of government that is responsible for solid waste management in Kansas. It is estimated that Kansans probably dispose of about 2 million tires annually. The disposal problems created by these tires are substantial. They do not decompose and they are large in size and take up a lot of landfill space. Finally, they do not compact well and have the tendency of working back up to the surface. Improperly disposed of tires are breeding grounds for disease carrying mosquitos and tire fires pose a very real health and environmental hazard. We support legislation that will help us with this problem and that is why we are supporting SB 310.

Later this year, the federal Environmental Protection Agency will release its final regulations on landfills. Those regulations will have a substantial financial impact on every landfill in the state. We have been told by EPA representatives that the regulations will contain a stipulation that the amount of trash going into landfills be reduced by 25%. (It is not clear exactly what the 25% figure will be applied to but it is clear that there will have to be some sort of major reduction in the waste stream.) Anything that the state can do to help reduce the waste stream will have a positive impact on our ability to meet the new EPA regulations.

This legislation also appears to be consistent with the recommendations of KDHE's Solid Waste Advisory Task Force. That task force had 17 different recommendations with respect to used tires and SB 310 embodies many of the recommendations in that report.

We urge your favorable consideration of SB 310.

*H ENERGY AND NR
3-21-90*

Sec 3 A

How recover 250 Permit C.
Landfill charge - as high 600 more Per Ton
Wash 75¢ ea -

- 7 collection center
 - g Processing facility
 - H waste Tire site.
- Waste Tire Scrap.
cases recyclable
used - ~~recyclable~~
- H 1000 or more -
 - g less than 1000 - Probably 5000

after July 1

Need proper classification of ~~all~~ ^{born} tires

Sec 7 - B1

no person ~~cannot~~ maintain ^{Maintain} waste site unless Part of ^{Processing} ~~Prof~~ ^{facility}

B2

dispose of ^{of tires only} waste tire site ^{landfills} - can they accept

B3

can no longer take to landfill unless chopped pieces - is true

Sec 3 D

retreading Business less than 1000 waste +
Proper classification waste
1000 to 5000 casing used.

Sec 4 a

Voluntary waste tire collection center
~~at~~ at a fee
Buy from Walmart - R-mart etc - don't leave
Tires - later take to collection center
collection center - Needs fee as
Landfill - does charge for dumping as 60 +
chain stores or anyone. Probably will encourage
customer to take tires with them to such center.
don't have to leave old
May want to give to child

5 A 1.00 fee on New Tires

goes to grants - does not pay
for Disposal & Landfills

Your am. all new sold or - user - int business - or com Sale

What about - Fleets - (motorized)
LCC fleets

Exempt Farm Tires - Implement
off road Tires - construction ^{Indi.} _{Tractor}

? KSA -
Need clarification fast
to all dealers

Motorcycle - dirt bikes
Rider Lawn Mower - Rototiller

Garden Tractor
Wheelbarrow

Motor scooters - Moped
go carts - etc - 1.00 Per Tire

National ag's - We transfer - They bill
Consumer - are you set up to
collect from them

5 B Reports on above

Some we collect Sales Tax on
we do not

Now record of New Tires Sold
Record keeping - Very complicated } Some taxable
Sales Tax on Taxable dollars - really simple } Some not -
Some exempt

Registration -
apls - fee

Simpler

easier to collect.

easier to check + administrate.

less expensive for State etc

would also cover correct vehicles

Take ^{the} confusion away

Okla 5⁰⁰ Re-registration form exempt

Federal government working on national

Bill - if you delay - maybe they

will take burden away from you -

~~Thank you~~

Spiffs - Will Not turn tires
in - Will ~~say~~ save + Pick up Paints.

The dealer in turn will have to secure
tires to keep thievery down
otherwise they people will be
after tires to turn in -

STATEMENT OF DAVID L. POPE
CHIEF ENGINEER-DIRECTOR
DIVISION OF WATER RESOURCES
KANSAS STATE BOARD OF AGRICULTURE
BEFORE THE
HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES
ON
SENATE BILL NO. 569

March 21, 1990

Mr. Chairman and members of the committee, thank you for the opportunity to provide testimony on Senate Bill No. 569 pertaining to fees associated with the administration of certain aspects of the Kansas Water Appropriation Act by the Division of Water Resources, Kansas State Board of Agriculture. I am here in support of the passage of Senate Bill No. 569.

Before I address the specific provisions of the bill, I would like to indicate that Senate Bill No. 569 would address two different aspects of a proposed fee structure that establish a new fee for an extension of time, and for the reinstatement of a water right or permit previously dismissed under certain circumstances. This is a companion bill to Senate Bill No. 570 that would modify the filing fees for applications to change (i.e. modify) an existing water right. This is a revenue bill that seeks to recover a portion of the cost of processing these matters from the applicant and to allow our agency to receive the additional funding necessary to carry out these important functions. I recognize that fee bills may not always be popular. Our request to initiate new fees or increase existing fees is not predicated on a desire to see fees increased, but rather on the need for additional resources to carry out program functions in a timely and responsible manner.

I would now like to explain the provisions of this bill in more detail:

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ATTACHMENT 12

The approval of an application and the issuance of a permit to appropriate water, in accordance with the provisions of the Kansas Water Appropriation Act, authorizes the construction of diversion works and the application of water to the proposed beneficial use within the terms, conditions and limitations of the permit. In accordance with the provisions of K.S.A. 82a-713, the Chief Engineer limits the time in which to perfect an appropriation to a reasonable period within which the proposed diversion works can be completed and the water applied to the proposed beneficial use. An extension of time may be allowed for good cause shown by the applicant.

Currently, the Division handles between 750 and 800 such requests for extensions of time each year without a fee being assessed. Processing these requests consumes a significant amount of staff time. Senate Bill No. 569 would amend the provisions of K.S.A. 82a-714 by requiring a fee of \$50 to accompany a request for an extension of time to: (1) complete the diversion works, or (2) perfect the water right.

In certain very limited instances, the Division believes it to be in the best interest of all concerned to reinstate a permit that has previously been dismissed. The most common circumstance is when the applicant has actually completed the diversion works within the time allowed, but failed to notify the Chief Engineer as required by K.S.A. 82a-714. In spite of a reminder letter, sometimes the applicant overlooks the reminder or does not recognize the importance of the matter until his or her permit gets dismissed. The applicant will then usually request a reinstatement of the permit. Since many areas are now being closed to new appropriations, this may be the only way to use the newly installed well or other diversion works. Currently, we allow such

reinstatements, if requested within 60 days, if the diversion works were completed at the authorized location within the time allowed, and the application was dismissed due to the mere formality of not notifying our office. However, this does result in some additional work for the Division and no fee is authorized by statute. We are not proposing to reinstate applications, permits or water rights where the applicant or owner has not otherwise complied with the provisions of the law, our rules and regulations or the conditions of the permit or water right involved.

Senate Bill No. 569 would require a \$100 fee to accompany a request to reinstate a water right or permit to appropriate water which has been dismissed by the Chief Engineer. Such request would have to be filed within 60 days of dismissal.

Use of Revenue

Since this is a revenue bill, I would call your attention to the information provided in the fiscal note for the bill. The Division is currently unable to process all of the applications, and other related matters required to administer the Water Appropriation Act, in a timely and effective manner with our existing staff.

We have reached a point in the State of Kansas where many areas of the state are now fully appropriated or where the water supplies of the area are unable to satisfy all of the demands for the use of water, especially during periods of drought. As a result, it is necessary for the Division to provide a more detailed and thorough review of every application being filed so as to determine whether or not it should be approved, modified or rejected.

While the general trend in the number of applications received had been down for several years, they have sharply increased during the drought of 1988 and 1989, placing an ever increasing work load on our staff. In addition, the number and complexity of changes to existing water rights have never been greater. Many existing wells are now reaching an age where they must be replaced. As farm operations are modified, changes in place of use must be filed and approved. As cities and rural water districts provide for interconnections to allow the distribution of water to a variety of entities, the place of use authorized by the water rights involved must be modified to accommodate these new arrangements. This is necessary to protect the water rights of all of the entities involved and otherwise allow water resources to be administered properly.

In addition, we are starting to see more and more existing water rights purchased in areas closed to new appropriations of water. This effectively allows growing needs for water to be met from existing supplies without increasing the total amount of water authorized.

Another area of need relates to water conservation and use efficiency. As a result of the provisions of the State Water Plan and legislation passed in 1986, we have been requiring each applicant for a new permit for a change in the place of use or type of use under an existing water right to submit a water conservation plan. This has resulted in considerable extra work load to the existing staff processing regular applications since no additional staff was allowed when that statute was passed.

While I realize that subsequent action would be required through the appropriation process to modify our budget, the combined revenues from Senate

Bill Nos. 569 and 570 would provide the resources to fund an additional engineering position to help address the matters referred to above. This new position would allow regular staff to concentrate on the backlog of applications that need to be processed and provide for specialized expertise to coordinate the water conservation program with the various other entities involved such as the groundwater management districts, Soil Conservation Service, KSU Extension and other parties. Even this will not likely take care of our long term needs in this area, but will at least allow us to stay "afloat" another year or so.

Mr. Chairman and members of the committee, I would appreciate your support of Senate Bill No. 569 and would be happy to answer any questions you may have.

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STATEMENT OF DOUGLAS R. HENKLE
VICE-PRESIDENT - KANSAS WATER WELL ASSOCIATION
AND
WATER WELL CONTRACTOR FROM GARDEN CITY
BEFORE THE
HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES
ON
SENATE BILL NUMBER 538

Chairman Spaniol and Members of the Committee, I thank you for the opportunity to testify as a proponent of Senate Bill Number 538. I am presently serving as vice-president of the Kansas Water Well Association (KWWA) and the views I will present have the full support of the Board of Directors of that organization.

The Kansas Groundwater Exploration and Protection Act provides for the licensure of water well contractors and states that "in granting of such licenses due regard shall be given to the interest of the state of Kansas in the protection of its underground water resources". In light of that statement, the Act further declares that "under such reasonable rules and regulations as the secretary may adopt pertaining to the business of water well contracting and construction of water wells, the secretary shall investigate by examination or otherwise, the qualifications of all applicants for initial licenses as water well contractors to construct, reconstruct or treat wells for production of underground waters in this state." The Act then spells out the qualifications required of each candidate for such an examination and include:

H ENERGY AND NR
3-21-90.

(a) Familiarity with Kansas water laws, sanitary standards for water well drilling and construction of water wells, and rules and regulations relating to water well construction, reconstruction, treatment, and plugging as adopted by the secretary;

(b) Knowledge of groundwater and subsurface geology in its relation to well construction.

The KWWA supports the examination process, as far as it goes, and we feel that it does initially help protect Kansas' underground water resources by verifying that the prospective licensee has met the qualifications for licensure at the time of the examination. However, once the contractor passes the examination and receives his license the only requirement which must be met in order to retain the license from year to year is payment of an "annual fee as determined by the secretary". This does not provide assurance that the license holder, in the ensuing years as a Kansas water well contractor, will be familiar with CURRENT Kansas water laws, sanitary standards, and rules and regulations related to water wells as adopted by the secretary and as presumably intended by law.

Neither does the present statute assure the public that the water well contractor offering his services in Kansas is aware of up-to-date well construction techniques, tools or equipment. I would not suggest that the Act was ever intended to provide such an assurance, but, if Senate Bill 538 does become law and continuing education is mandatory, the contractor will at least have been exposed to the latest information in the water well industry.

Continuing education requirements are common among other professionals and should be no less common among groundwater professionals. Physicians, educators, and others providing such essential services to the public are required to attend continuing education classes or seminars for the purpose of retaining the license or certificate required by law in order to practice their chosen professions.

Safe groundwater is no less critical to the welfare of every citizen of our state than is modern medical care or quality education. As aquifer pollution and contamination become less rare, the quality and professionalism of those locating and removing our precious groundwater from the aquifers must increase. The era of the dowser must be replaced with a new generation of well-informed, responsible water well contractors, as are most contractors. Unfortunately, not every driller makes the effort to attend the numerous seminars, conventions, and short courses offered throughout the region by manufacturers, associations, colleges, and state agencies. Many contractors are well-meaning, but do not see immediate returns from time invested in continuing education. However, the benefits to future generations of Kansans will be great.

The Kansas Water Well Association supports Senate Bill 538 and clean groundwater in Kansas and we would appreciate your passage of this bill.



State of Kansas

Mike Hayden, Governor

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Testimony presented to

House Energy and Natural Resources Committee

by

The Kansas Department of Health and Environment

Senate Bill 538

S.B. 538 authorizes and directs the Secretary of Health and Environment to establish continuing education requirements for water well contractors. The statute now requires a water well contractor to be state licensed. The state license is obtained by first passing an exam and annual renewal.

The intent of this Bill is to allow development of regulations which would require well drillers to periodically attend training sessions on drilling techniques and requirements. Most wells are drilled under the control of the driller, as opposed to site specific specifications. The more knowledgeable the driller, the better the final product, helping provide the proper well water quality and protecting groundwater resources. Topics we anticipate for training include casing requirements, grouting, well location from potential pollution sources, water quality, drilling techniques, and materials.

We intend to rely on the drilling industry to provide this training. The Kansas Water Well Contractors Association now hosts at least two training sessions per year. Additionally, similar training is available in surrounding states and nationally. We anticipate keeping a registry of approved training sessions and allowing drillers to present for approval information on sessions not listed. The intent is to continually update the knowledge of the driller.

By relying on training sessions, not necessarily sponsored by KDHE, we are not requesting any new positions or funding. Staff now participate in training sessions so we expect the extra work in reviewing the applications of 180 annual renewals.

We support passage of S.B. 538.

Testimony presented by: James A. Power
Director
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ATTACHMENT 14

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