Approved March 27, 1990
Date

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

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

3:30 ~~a.m.~~/p.m. on March 26, 1990 in room 526-S of the Capitol.

All members were present except:
Representative Charlton
Representative Lucas
Representative Roenbaugh

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

Conferees appearing before the committee:
Mr. Wayland Anderson, Asst. Chief Engineer-Director, Div. of Water Resources
Mr. Bill Keefer, Assistant City Manager, Hays, Kansas
Mr. E. A. Mosher, Executive Director, League of Kansas Municipalities
Ms. Joyce Wolf, Kansas Audubon Council
Ms. Charlene A. Stinard, Program Director, Kansas Natural Resource Council
Mr. Scott Andrews, Kansas Chapter, Sierra Club
Mr. Robert L. Meinen, Secretary, Kansas Department of Wildlife and Parks
Mr. David M. Traster, Assistant Secretary-General Counsel, Division of Environment, Kansas Department of Health and Environment
Mr. John Bailey, Kansas Engineering Society
Ms. Kay Johnson, Site Manager, Chemical Waste Management of Kansas
Mr. Terry Leatherman, Executive Director, Kansas Industrial Council, Kansas Chamber of Commerce and Industry
Mr. Vic DeJong, Plan Manager, APTUS, Coffeyville, Kansas
Mr. Mike Beam, Executive Secretary, Cow/Calf Stocker Division, Kansas Livestock Association
Mr. Bill R. Fuller, Assistant Director, Public Affairs Division, Kansas Farm Bureau
Mr. William A. Anderson, Jr., Commissioner, Kansas Department of Wildlife and Parks
Ms. Kathy George, Commissioner, Kansas Department of Wildlife and Parks
Mr. Spencer Tomb, Kansas Wildlife Federation, Inc.
Mr. Lowell N. (Nile) Fowler, Topeka, Kansas
Mr. Walter Greer, Ash Grove Cement Company, Overland Park, Kansas

Chairman Dennis Spaniol called the meeting to order.

Senate Bill No. 642 -- An act relating to intensive groundwater use control areas; concerning the enforcement of corrective control measures.

Chairman Spaniol recognized Mr. Wayland Anderson, Assistant Chief Engineer-Director, Division of Water Resources, Kansas State Board of Agriculture, who provided testimony supporting Senate Bill No. 642. Mr. Anderson stated he was testifying in behalf of Mr. David L. Pope, Chief Engineer-Director, Division of Water Resources, who was unable to be present. He commented the division would exercise great care to make sure any enforcement authority delegated is compatible with provisions of the Water Appropriation Act and the intensive groundwater use control area established (Attachment 1).

Mr. Bill Keefer, Assistant City Manager, Hays, Kansas, was called on by the chairman. Mr. Keefer stated he was testifying in place of Mr. Ken Carter who was not able to attend the meeting. Mr. Keefer testified as a proponent on Senate Bill No. 642 stating the City of Hays believes the public would be best served by having local officials regulate and control water use within their jurisdiction (Attachment 2).

Mr. E. A. Mosher, Executive Director, League of Kansas Municipalities, was requested by the chairman to present his testimony. Mr. Mosher testified in favor of Senate Bill No. 642, commenting that the bill permits political

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.

subdivisions (including cities) to assist the division in the enforcement of water conservation measures in appropriate circumstances, urging passage of the bill (Attachment 3).

The chair recognized Ms. Joyce Wolf, Kansas Audubon Council, who presented testimony on Senate Bill No. 642 supporting the bill; however, she stated the Kansas Audubon Council believes the language in the bill should be clarified (Attachment 4).

Ms. Charlene A. Stinard, Program Director, Kansas Natural Resource Council, presented her testimony as a proponent on Senate Bill No. 642 at the request of the chairman, requesting the bill be amended to specifically address the situation in Hays (Attachment 5).

Chairman Spaniol recognized Mr. Scott Andrews, Kansas Chapter, Sierra Club. Mr. Andrews testified as an opponent on Senate Bill No. 642, suggesting the bill be amended to limit it to the City of Hays or to municipalities (Attachment 6).

No questions were forthcoming from the committee and the chairman concluded hearings on Senate Bill No. 642.

Senate Bill No. 740 -- An act relating to the Kansas department of wildlife and parks; authorizing the department to assist and cooperate with citizen support organizations.

Chairman Spaniol called on Mr. Robert L. Meinen, Secretary, Kansas Department of Wildlife and Parks, who testified as a proponent on Senate Bill No. 642. He described the intent of the bill and stated it would require no new personnel and would provide the opportunity to realize substantial new funding for conservation and park purposes (Attachment 7). Questions from the committee included a request for names of the type of organization envisioned to be cooperating with the State of Kansas if the bill is passed; possible prohibition of providing citizen support to a group which provides lobbying, and groups working with the Kansas Department of Wildlife and Parks.

Ms. Joyce Wolf, Kansas Audubon Council, presented testimony as a proponent on Senate Bill No. 740. She stated she had no written testimony; but, she felt the Kansas Audubon Council would benefit from passage of this bill. Discussion by the committee included whether or not lobbying organizations should be eligible for financial subsidy from the State of Kansas.

Chairman Spaniol concluded hearings on Senate Bill No. 740.

House Bill No. 3095 -- An act concerning health and environment; hazardous wastes; fees.

Mr. David M. Traster, Assistant Secretary and General Counsel, Division of Environment, Kansas Department of Health and Environment, was recognized by the chairman and proceeded to present an overview of House Bill No. 3095. Mr. Traster supported the bill and discussed problems which may be encountered, stating this bill places a fee on treatment and disposition of hazardous wastes on commercial facilities (Attachment 8). Discussion followed including questions regarding amount of revenue which would be generated by this bill; taxing of those selling to third party; current regulations of the industry and the number of commercial storage sites in the State of Kansas.

The chair called on Mr. John Bailey, Kansas Engineering Society, who testified as a proponent on House Bill No. 3095. Mr. Bailey stated he was also testifying in behalf of the National Society of Professional Engineers. He commented the lack of a comprehensive hazardous waste treatment and disposal facility in Kansas is neither environmentally sound nor conducive to the establishment of an increased business base in the state (Attachment 9).

The chairman recognized Ms. Kay Johnson, Site Manager, Chemical Waste Management of Kansas, who presented testimony as an opponent on House Bill No. 3095, expressing concern that the new fee schedule could have a major impact on the state's available capacity for disposal of hazardous wastes and ability to attract general industry and reliable operators (Attachment 10). Committee members questioned the conferee regarding inspection of waste management sites; number of tons of hazardous waste generated by Kansas economy; the amount of revenue projected if House Bill No. 3095 is enacted, and disposal of commercial waste in Kansas.

Mr. Terry Leatherman, Executive Director, Kansas Industrial Council, Kansas Chamber of Commerce and Industry, presented his testimony in opposition to House Bill No. 3095 when called on by the chairman (Attachment 11). Mr. Leatherman introduced Mr. Walter Greer, Vice President of Environmental Affairs, Ash Grove Cement Company, Overland Park, Kansas. Mr. Greer testified on House Bill No. 3095 as an opponent, stating his company strongly requests the bill be amended to specifically exclude manufacturing facilities that burn hazardous wastes for energy recovery purposes from any fees based on quantities of waste consumed (Attachment 12).

Chairman Spaniol recognized Mr. Vic DeJong, Plan Manager of APTUS, Coffeyville, Kansas. Mr. DeJong, testifying as an opponent on House Bill No. 3095, stressed that the fee recommended is well above those in other states (Attachment 13).

The chairman announced it was necessary to conclude the hearings on House Bill No. 3095 due to shortage of time and requested committee members to read the opposition testimony which was to have been presented by Mr. Paul J. Peters, Systech Environmental Corporation, Fredonia, Kansas (Attachment 14), and Mr. H. H. Compton, Plant Manager, Lafarge Corporation, Fredonia, Kansas (Attachment 15).

Senate Bill No. 595 -- An act relating to fish and game; concerning big game permits.

Chairman Spaniol announced the committee had been furnished copies of testimony on Senate Bill No. 595 from Dr. Tom Krauss, Phillipsburg, Kansas, who recommended amendments to the bill prior to adoption (Attachment 16), and Mr. Ron Smith, Chairman, Legislative Committee, Kansas Bowhunters Association, whose written testimony proposed the bill be adopted (Attachment 17). Dr. Krauss and Mr. Smith were unable to be present to testify.

Mr. Robert L. Meinen, Secretary, Kansas Department of Wildlife and Parks, was called on by the chairman to present an overview on Senate Bill No. 595. Mr. Meinen encouraged passage of the bill and stated the department supports the inclusion of provisions to allow limited non-resident deer hunting (Attachment 18). Discussion followed and the committee questioned Mr. Meinen regarding fees for out-of-state licenses; advantages to the landowner/tenant, reciprocity with other states, permits for landowners, etc.

At the request of the chairman, Mr. Mike Beam, Executive Secretary, Cow/Calf Stocker Division, Kansas Livestock Association, presented testimony in favor of Senate Bill No. 595, stating the bill is a step in the right direction to curb the ever increasing deer herd size to a much more tolerant level (Attachment 19).

Chairman Spaniol recognized Mr. Bill R. Fuller, Assistant Director, Public Affairs Division, Kansas Farm Bureau. Mr. Fuller proposed passage of Senate Bill No. 595, commenting that Kansas Farm Bureau policy is that "such permit should be granted at no cost" (Attachment 20).

The chairman recognized Mr. William A. Anderson, Jr., Commissioner, Kansas Department of Wildlife and Parks, who offered testimony in favor of Senate Bill No. 595, requesting the committee to permit limited non-resident

hunting (Attachment 21). The committee discussed the strategic plan and the lowering of age for turkey permits to 14 years.

Ms. Kathy George, Commissioner, Kansas Department of Wildlife and Parks, was called on by the chairman. Ms. George stated that due to the shortage of time she would not testify. She commented testimony from other conferees had included her views and urged passage of Senate Bill No. 595.

Mr. Spencer Tomb, Kansas Wildlife Federation, Inc., was recognized by Chairman Spaniol and provided testimony in support of Senate Bill No. 595; however, he suggested the age limit to hunt turkeys be reduced and a fee for non-resident deer applications be added (Attachment 22).

The chairman requested testimony from Mr. Lowell N. (Nile) Fowler, a concerned sportsman from Topeka, Kansas. Mr. Fowler opposed Senate Bill No. 595 as it is written and outlined his objections, addressing the issues of landowners/tenants, non-resident landowners and the age limit for turkey hunters (Attachment 23).

Chairman Spaniol concluded hearings on Senate Bill No. 595.

The chairman announced action will be taken on several bills at the next meeting of the committee and encouraged all members to be present.

The meeting adjourned at 4:58 p.m.

The next meeting of the committee will be at 3:30 p.m., March 27, 1990.

Date: 3-26-90

GUEST REGISTER

HOUSE

COMMITTEE ON ENERGY AND NATURAL RESOURCES

NAME	ORGANIZATION	ADDRESS	PHONE
Terry Leatherman	KCCI	Topeka	357-6321
Eric Allison	Chemical Waste Mgmt of KS	Wichita	263-1029
D. Kay Johnson	Chemical Waste Mgmt of KS	Wichita	316 744-1286
Walter Greer	Ash Grove Cement	O.P.	451-8900
Jack Ross	Ash Grov Cement	O.P	451-8900
Horace Compton	Lafarge Corp	Fredonia	378-2521
Paul J Peters	Systech Environmental	"	378-4451
Steve Kearney	Peterson Gault & Associates for Chem Waste Mgmt of KS	Topeka	233-4572
John Goetz	KDHE	Topeka	296-1607
John Irwin	KDHE	Topeka	296-1542
Bill Fuller	Kansas Farm Bureau	Manhattan	587-6116
Bill Brysom	KCC	Topeka	296-5713
Mike Beam	Ks Livestock Assn	Topeka	273-5115
Vic DeJong	APTUS	Coffeyville	316-251-6390
Nile Fowler	—	Topeka	478-3376
Joyce Wolf	Ks. Audubon Council	Lawrence	749-3203
Scott Andrews	KS-Chapter Sierra Club	Topeka	862-0739
Charlene Stinard	Ks Natural Resource Council	Topeka	233-6707
Spencer Tomb	Kansas Wildlife Federation	5321 Thompson Rd. Manhattan KS	537-8265
[illegible]	[illegible]	Topeka	354-9565
DAVID M. TRISTER	KDHE	Topeka	296-1291
Anne Smith	Ks. Assoc of Counties	Topeka	233-2271

BILL NO. SB 595

BILL TITLE: An act relating to fish and game; concerning big game permits

HEARING DATE 3-26-90

CONFEREES	PROPONENT OPPONENT	NOTIFIED	ADDRESS	PHONE
Robert L. Meinen	Proponent	3-21-90	Secretary, Kansas Department of Wildlife and Parks	2281
Mike Beam	Proponent	3-21-90	Kansas Livestock Association, Topeka, Kansas	273-5115
Bill R. Fuller	Proponent	3-21-90	Kansas Farm Bureau	913 587-6110
Bill Anderson	Proponent	3-21-90	Commissioner, Kansas Department of Wildlife and Parks	
Kathy George	Proponent	3-21-90	Commissioner, Kansas Department of Wildlife and Parks	
Spencer Tomb	Proponent	3-21-90	Kansas Wildlife Federation	266-6185
Nile Fowler	Opponent	3-26-90	Topeka, Kansas	478-3376

BILL NO. SB 642

BILL TITLE: An act relating to intensive groundwater use control areas; concerning the enforcement of corrective control measures

HEARING DATE 3-26-90

CONFEREES	PROPONENT OPPONENT	NOTIFIED	ADDRESS	PHONE
Joyce Wolf	Proponent	3-22-90	Kansas Audubon Council	
Charlene Stinard	Proponent	3-22-90	Program Director, Kansas Natural Resources Council	
Bill Keefer	Proponent	3-23-90	Asst. City Manager Hays, Kansas	
Ernie Mosher	Proponent	3-23-90	Executive Director League of Municipalities	
Wayland Anderson	Proponent	3-23-90	Asst. Chief Engineer-Director Division of Water Resources	
Scott Andrews	Opponent	3-26-90	Sierra Club Kansas Chapter	

BILL NO. SB 740

BILL TITLE: An act relating to the Kansas department of wildlife and parks; authorizing the department to assist and cooperate with citizen support organizations

HEARING DATE 3-26-90

CONFEREES	PROPONENT OPPONENT	NOTIFIED	ADDRESS	PHONE
Robert L. Meinen	Proponent	3-26-90	Secretary, Kansas Department of Wildlife and Parks	2281
Joyce Wolf	Proponent	3-22-90	Kansas Audubon Council	

BILL NO. HB 3095

BILL TITLE: An act concerning health and environment; hazardous wastes; fees

HEARING DATE 3-26-90

CONFEREES	PROPONENT OPPONENT	NOTIFIED	ADDRESS	PHONE
David M. Traster	Proponent	3-26-90	General Counsel, Kansas Department of Health and Environment	
John Bailey	Proponent	3-26-90	Kansas Engineering Society	
Walter Greer	Opponent	3-21-90	Ash Grove Cement Company	
Kay Johnson	Opponent	3-23-90	Chemical Waste Management	
Terry Leatherman	Opponont	3-26-90	Kansas Chamber of Commerce and Industry	
Paul Peters	Opponont	3-26-90	Systech Environment Corporation	
Horace Compton	Opponent	3-26-90	Lafarge Corporation	
Vick DeJong	Opponent	3-26-90	APTUS	

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. 642

March 26, 1990

Mr. Chairman and members of the Committee, thank you for the opportunity to provide testimony on Senate Bill No. 642. I am here today to testify in support of Senate Bill No. 642 which would authorize the Chief Engineer to delegate the enforcement of any corrective control measures established within an intensive groundwater use control area to any political subdivision within or partially within that control area.

One of the difficulties the Division of Water Resources faces is that there are areas in which there is a need for additional monitoring and enforcement activity but we simply do not have the staff or resources necessary to undertake such activity. At times there are qualified entities that do have the manpower available to undertake monitoring and enforcement activity but lack the authority to enforce provisions adopted by the Division of Water Resources. Senate Bill No. 642 would allow the Chief Engineer in certain instances to delegate his authority to such entities so that needed enforcement can occur.

A good example would be the intensive groundwater use control area established in the City of Hays and the surrounding area in which the Division established a corrective control provision limiting the outdoor use of water by private well owners. During the hot and dry summers of 1988 and 1989, when the corrective control provision was in effect, the Division did not have the staff necessary to enable the Division to enforce the control provision. The City of Hays, however, did have adequate staff and was in fact already enforcing the

H ENERGY AND NR
3-26-90

ATTACHMENT 1

provisions of its water conservation plan. Through agreement with the Division the City took on limited enforcement activities such as issuing warnings to private well owners that they were in violation of the control area order. However, the City's activity was limited by its lack of authority to enforce an order issued by the Division of Water Resources. Senate Bill No. 642 would allow the Chief Engineer to formally give the City the necessary enforcement authority.

Another type of political subdivision which would be a potential candidate for delegation by this bill would be groundwater management districts, within or partially within the boundaries of an intensive groundwater use control area. This would seem to have some merit in certain instances.

In any event, the Division would exercise great care so as to make sure any enforcement authority delegated was compatible with provisions of the Water Appropriation Act and the intensive groundwater use control area so established.

I would be happy to answer any questions you may have.

HOUSE ENERGY AND NATURAL RESOURCES COMMITTEE

Chairman Dennis Spaniol

Testimony in Support of
Senate Bill 642

March 26, 1990

Chairman Spaniol, Members of the Energy and Natural Resources Committee:

My name is Ken Carter. I am the City Manager of Hays, Kansas. I am appearing before you today in support of Senate Bill No. 642, which allows the Chief Engineer of the Division of Water Resources to delegate to a qualified political subdivision, which is within, or partially within, an Intensive Groundwater Use Control Area, the authority to enforce control provisions ordered for such an area by the Division of Water Resources.

As I think everyone in the State of Kansas is aware, the City of Hays has been grappling with the issue of an adequate supply of water for a long period of time. The drought of 1988 and 1989 has severely impacted our existing sources of water supply and the City is aggressively pursuing both short-term and long-term solutions to our water supply problem. However, we recognize that even a short-term solution will take several years to implement. Therefore, we must continue to stress conservation and do all things that we can to conserve our very limited supplies of water.

A very short overview of the history of the Hays water situation may be in order. The City of Hays currently receives it water supply from two different sources--the Smoky Hill River (approximately 12 miles south of Hays) produces approximately two-thirds of the City's water supply. The other one-third of our water supply comes from

H ENERGY AND NR
3-26-90

ATTACHMENT 2

wells in the City along Big Creek. Following an exceedingly dry year of 1983, the City of Hays, along with other water users in the Smoky Hill River Valley, consented to the designation of that stretch of the river as an Intensive Groundwater Use Control Area. The City of Hays and all other water users suffered a ten percent reduction in water rights as a result of that designation. The City of Hays further requested the declaration of the City itself as a separate Intensive Groundwater Use Control Area. This was done to allow some measure of State control over domestic water wells existing within the City.

Due to existing State law, the City of Hays does not have any control over domestic water wells. To the best of our knowledge, there exists approximately 1,436 private registered water wells within the City of Hays. We honestly believe there are more than this figure but cannot document that fact. These shallow wells produce from five to twenty gallons per minute and are used almost exclusively for lawn watering purposes. The City of Hays has very restrictive regulations governing the outdoor use of water for anyone connected to the City's water system. This past summer the City restricted outside water use to six hours per week. In addition, we are pursuing very high water rates to further encourage water conservation. However, a large part of our effort has been diluted due to the number of private wells that operate within our community.

The City finds it exceedingly difficult to enforce six hour limitations on outdoor water use for some individuals and almost unlimited usage for anyone who can both afford to drill a private well and has water available beneath their residential lot. The existing situation pits neighbor against neighbor and raises an issue of fairness throughout the community. We do not feel it is acceptable for individuals who have the financial resources to drill a well, and by coincidence have water underneath their lot, to be able to do unlimited outside watering while other citizens must suffer. This situation does not allow the City to have an effective outdoor water conservation program.

We therefore urge your support of Senate Bill No. 642. It is our understanding the Division of Water Resources would hold public hearings to increase the scope of authority in the Intensive Groundwater Use Control Area which includes the City of Hays. Citizen input regarding these proposed rules would thus be allowed during that public hearing process. If the Chief Engineer would then decide, based upon the testimony presented at the public hearing, that there should be additional regulations on outdoor water use by private wells, the order could be implemented. He could then delegate the enforcement of those rules to the City.

We believe the public would be best served by having local officials regulate and control water use within their jurisdiction. The State has neither the resources nor manpower to effectively regulate domestic water use within the city limits of Hays. We are more than ready to assume that responsibility. This proposed Senate Bill No. 642 would establish a procedure by which we could be given that authority and responsibility. We again urge your support of Senate Bill No. 642.

I will attempt to answer any questions you might have concerning our position on this bill.

Respectfully submitted: Ken Carter, City Manager
City of Hays, Kansas

League
of Kansas
Municipalities

Municipal
Legislative
Testimony

An Instrumentality of its Member Cities. 112 West Seventh Street, Topeka, Kansas 66603 913-354-9565 Fax 354-4186

TO: House Committee on Energy and Natural Resources
FROM: E.A. Mosher, Executive Director
RE: SB 642, Enforcement of IGUCA Corrective Control Measures
DATE: March 26, 1990

The League of Kansas Municipalities is in support of SB 642. The bill would allow the chief engineer of the division of water resources to delegate enforcement of corrective water control measures to any political subdivision within or partially within an intensive groundwater use control area. The League's Statement of Municipal Policy provides, in part: "The legislature should. . .delegate specific authority to cities to limit the harmful withdrawal of water by domestic well operators within the city as part of a formally adopted municipal emergency water conservation program." This issue has been highlighted by problems that have occurred in the City of Hays, which is completely within an intensive groundwater use control area and has experienced water shortages, but has been unable to enforce conservation measures on private water supply use by those individuals with private domestic wells within the city limits.

SB 642 does not delegate the authority to establish groundwater use appropriation and conservation measures--the authority to create and administer intensive groundwater use control areas remains with the division of water resources (DWR). Instead, the limited aim of SB 642 is to allow DWR to delegate enforcement of water control measures in appropriate circumstances to political subdivisions. If DWR finds delegation appropriate, SB 642 will promote conservation enforcement efforts by allowing local officials to assist state officials in water conservation efforts. SB 642 will also enhance observance of local water conservation ordinances in certain cities, such as Hays, because city water users and private water users can be treated similarly by a city enforcing the water conservation measure along with delegated enforcement of a DWR order.

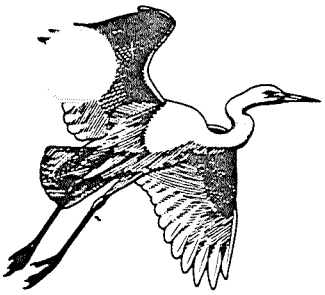
Under K.S.A. 82a-1036, the chief engineer of the division of water resources can establish an intensive groundwater use control area (IGUCA) subject to certain findings, generally relating to declines in groundwater levels or preventable waste of water. The IGUCA designation allows the chief engineer to take certain corrective control measures under K.S.A. 82a-1038(b) (1)-(5), generally limiting the withdrawal and use of groundwater within the IGUCA territory.

In 1985, the chief engineer amended an IGUCA order in Hays, to provide that the use of registered water wells, should not be subject to the mandatory provisions of any water conservation plan adopted by the city. The chief engineer removed the ability of the city to enforce the DWR conservation plan against water wells because there was a question as to the ability of the chief engineer to delegate IGUCA enforcement powers to a political subdivision. This uncertainty in the law is the impetus for the proposed change.

President: ***Irene B. French,*** *Mayor, Merriam* ⋆ *Vice President:* ***Frances J. Garcia,*** *Mayor, Hutchinson* ⋆ *Directors:* ***Ed Eilert,*** *Mayor, Overland Park* ⋆ ***Harry Felker,*** *Mayor, Topeka* ⋆ ***Greg Ferris,*** *Councilmember, Wichita* ⋆ ***Idella Frickey,*** *Mayor, Oberlin* ⋆ ***William J. Goering,*** *City Clerk/Administrator, McPherson* ⋆ ***Judith C. Hollnsworth,*** *Mayor, Humboldt* ⋆ ***Jesse Jackson,*** *Mayor, Chanute* ⋆ ***Stan Martin,*** *City Attorney, Abilene* ⋆ ***Richard U. Nienstedt,*** *City Manager, Concordia* ⋆ ***Judy M. Sargent,*** *City Manager, Russell* ⋆ ***Joseph E. Steineger,*** *Mayor, Kansas City* ⋆ ***Bonnie Talley,*** *Mayor, Garden City* ⋆ *Executive Director:* ***E.A. Mosher***

H ENERGY AND NR
3-26-90
ATTACHMENT 3

League support of SB 642 should not be interpreted as questions the constitutional home rule authority of cities to regulate the use of water or regulate the placement of wells within city limits. Instead, SB 642 allows political subdivisions (including cities), in appropriate circumstances, to assist the division of water resources in the enforcement of water conservation measures.



Kansas Audubon Council

SB 642, March 26, 1990
House Energy and Natural Resources Committee

I am here today to offer testimony on behalf of the 5000 Kansas members of the National Audubon Society who support the wise use and protection of our natural resources.

I have spoken with members of the Division of Water Resources staff about the intent of the amendment to K.S.A. 82a-1038. We understand the necessity to alter the language in order to establish the means by which enforcement of corrective control provisions can be delegated to the City of Hays. The city needs the authority to enforce the provisions and the Division of Water Resources does not have the personnel to carry out the orders, thus, upon first examination, the amendment seems reasonable and supportable.

Closer examination, however, raises several important questions:

1) Political subdivision is a very broad term and can have many meanings. We are told in this case it refers to the City of Hays, but we assume other entities would also be possible options: counties, rural water districts, county conservation districts, irrgation districts, drainage districts, townships, and groundwater management districts. The Kansas Audubon Council believes that either the word "qualified" should be carefully defined, or perhaps better yet, replace the phrase "qualified political subdivision" with the word "municipality." We hope this would accomodate the needs of Hays without restricting it solely to that city.

2) One of the reasons that DWR needs to delegate the enforcement authority to the City of Hays is the division's manpower shortage to carry out the plans. Another way of saying this is "lack of funding." Will the municipality be reimbursed for its costs incurred in enforcing the control provisions? If a municipality does not have the necessary funding to take on the added responsibilities of enforcement -- can it decline to accept the delegation of enforcement powers from the Chief Engineer? Or conversely, once delegated, can the enforcement authority be rescinded by the Chief Engineer?

3) There appears to be no mechanism for the political subdivision to report back to the Chief Engineer. Will personnel from DWR follow up with on-site inspections? Will the political subdivision be required to file reports assessing the effectiveness of the control provision and/or make recommendations for alternative measures?

H ENERGY AND NR
3-26-90

100% recycled paper

ATTACHMENT 4

4) There are certain scenarios in which a political subdivision, because of its predominant membership, might have a problem with potential conflict of interest by being forced to scrutinize and/or penalize the actions of its own members. We realize the authority to delegate enforcement responsiblilities is an option the Chief Engineer can choose or not choose to exercise. Sensitivity to all parties will need to be taken into account before such authority is delegated to local entities. We think Mr. Pope has that ability; however, we cannot be assured that we'll always be served by someone of his caliber and integrity.

As you can see, we have serious concerns because the amendment is so broadly worded. We understand its intent for the City of Hays and support that particular application; however, we believe the language should be clarified so as to be free from ambiguities.

Kansas Natural Resource Council

Testimony presented before the House Energy and Natural Resoruces Committee
SB 642: delegating enforcement to local authorities

Charlene A. Stinard, Program Director

March 26, 1990

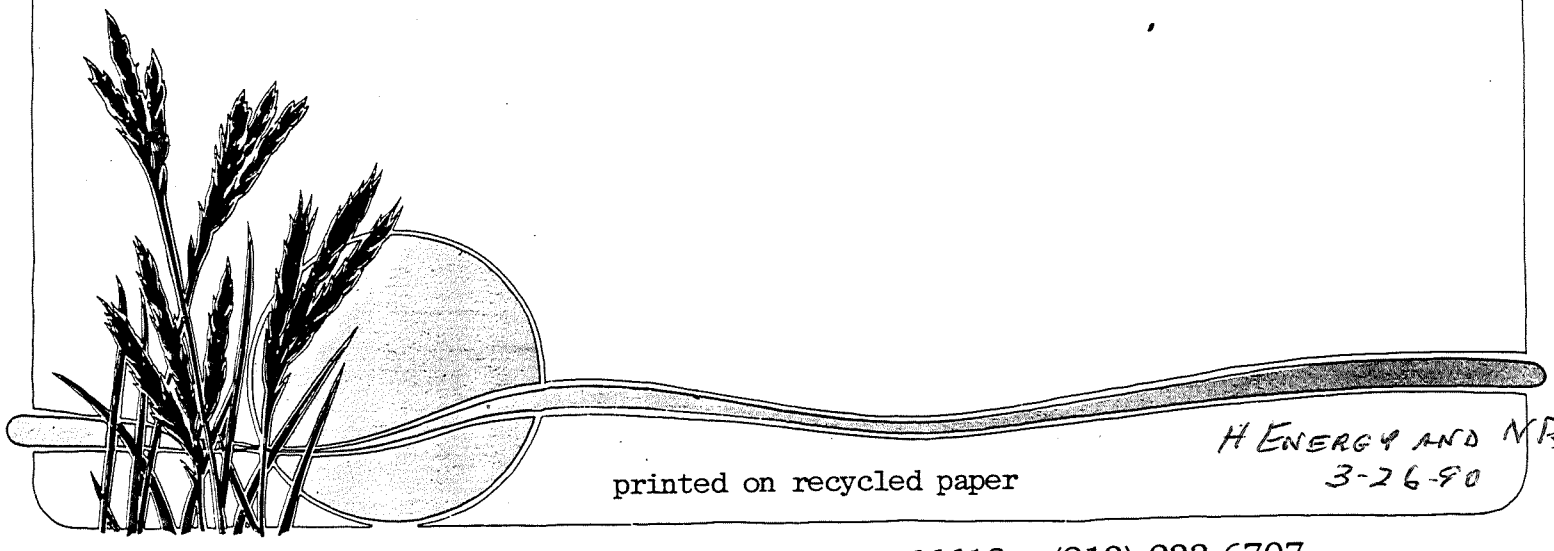
My name is Charlene Stinard, and I represent the Kansas Natural Resource Council whose Board of Directors and 800 members promote sustainable natural resource policies for the state of Kansas.

SB 642 offers the possibility to enhance the state's enforcement capabilities by delegating certain responsibilities to local governments. Enforcement is an issue our organization has taken seriously. We realize that the state's capacity to enforce is often limited by scarce resources, and delegation of certain limited authorities to local government offers some relief.

Our concern with this proposal arises because the "qualified political subdivision" to which authority may be delegated is undefined. This bill is intended to help with enforcement of water conservation measures in Hays. We support that purpose.

While city-by-city statute is not a preferred norm, neither is the broad delegation of state enforcement responsibility to unspecified local governing units.

We would recommend that SB 642 be amended to address specifically the situation in Hays. With that change, we support passage of SB 642.



printed on recycled paper

H ENERGY AND NR
3-26-90

1516 Topeka Avenue • Topeka, Kansas 66612 • (913) 233-6707

ATTACHMENT 5

SIERRA CLUB

Kansas Chapter

Testimony to House Energy and Natural Resources Committee on SB 642

My name is Scott Andrews, I represent the 2500 members of the Kansas Chapter of the Sierra Club.

Water and control of water, as the members of this committee are well aware, is a contentious issue, and therefore, an issue which should be approached with some caution. The Sierra Club has concerns about the types of political subdivisions that SB 642 might allow to be put in control of Intensive Groundwater Management Areas. It is my understanding that this bill was written primarily to address the situation in Hays. Then why not amend the bill to apply only to Hays? Or if a broader application is desired, to all municipalities which have IGUCA within their boundaries? To leave "qualified political subdivisions" undefined creates uncertainty and opens the door to additional conflicts.

I urge the committee members to ask yourselves, "what is this bill supposed to do?", and then tighten it to do that. Again I would suggest amending the bill to limit it to the City of Hays or to municipalities, and thereby avoid a host of other complicating possibilities.

H ENERGY AND NR
3-26-90

ATTACHMENT 6

S.B. 740

Testimony Provided to House Energy and Natural Resources Committee

March 26, 1990

Prepared by Kansas Department of Wildlife and Parks

S.B. 740 would establish conditions for Department involvement with foundations. It would specify the Secretary's ability to cooperate and assist with foundations including board memberships, to insure that foundation goals and objectives are compatible with natural resource or park needs, and to provide assistance primarily in the form of services rendered. The latter could include limited staff assistance, office space, promotional activities, etc.

The bill would also address the Department's ability to cooperate closely with associations and organizations in fund raising efforts for Department projects of mutual interest. This cooperative effort may involve limited staff assistance and promotional efforts.

Department funding has been a subject of Executive and Legislative interest for many years. At least three Legislative Interim Study Committee assignments have directly or indirectly reviewed funding needs and potential funding sources. The Department has been encouraged to intensify donation efforts including involvement with foundations and organizations to promote resource conservation and to generate funds for conservation purposes.

Foundations have been effectively used as a private sector fund raising mechanism for a wide variety of purposes in Kansas and throughout the nation. The conservation agencies in many other states are directly involved with foundations for purposes of generating funding for conservation projects.

Although the Department has a successful donation program known as "Wildtrust", the thrust is directed at general donations rather than formal institution of a private fund raising effort. The use

H ENERGY AND NR
3-26-90

ATTACHMENT 7

of foundations as a fund raising approach has proven to be effective. It is also popular and beneficial as it promotes strong state and private cooperative efforts.

It is state policy and a Department mission to properly manage our natural resources and our parks for public benefit. Public involvement with that mission is essential. A foundation approach promotes that involvement. Of equal importance, a new source of funding is created that is voluntary and without impact on fee funds or state general funds or on traditional users.

If enacted, this bill will require no new personnel nor will it require any noticeable increase in normal operational expenditures of the Department. It will provide the opportunity to realize substantial new funding for conservation and park purposes.

State of Kansas
Mike Hayden, Governor

Department of Health and Environment
Division of Environment
Forbes Field, Bldg. 740, Topeka, KS 66620-0002

Stanley C. Grant, Ph.D., Secretary

(913) 296-1535
FAX (913) 296-6247

Testimony presented to

House Energy and Natural Resources Committee

by

Kansas Department of Health and Environment

House Bill 3095

Background

K.S.A. 65-3431, enacted in 1981, authorizes and directs the Secretary of Health and Environment to implement a comprehensive hazardous waste management program for the State of Kansas. Specific authorities include adopting rules and regulations as necessary to protect the public health and environment and establishing fee schedules to offset the costs of implementing the program and for other purposes as described in the law. Under current statutes, two hazardous waste fee schedules are authorized and established.

The first fee schedule is authorized by K.S.A. 65-3431 (u) and established in K.A.R. 28-31-10, and provides for the payment of fees by hazardous waste treatment, storage, and disposal facilities in Kansas, as well as hazardous waste transporters and generators for the purpose of reimbursing the State of Kansas for the costs incurred by the Secretary in monitoring the operation of these facilities. These funds are deposited into the State General Fund and replace the state funds appropriated by the Kansas Legislature for the Department's routine inspection and evaluation activities.

The second existing fee schedule is authorized by K.S.A. 65-3431 (v) and is established in K.A.R. 28-31-11 and provides for the payment of fees specifically by hazardous waste disposal facilities into a perpetual care trust fund. This fund was established to provide for the monitoring of disposal facilities after closure.

Current Problem

In addition to the costs to the Department of the routine hazardous waste program implementation activities that are being addressed by the fee structure discussed earlier, the agency is also

H ENERGY AND NR
3-26-90

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

ATTACHMENT 8

experiencing greatly increased resource demands for responding to nonroutine hazardous waste program activities such as highly-technical permit applications for new hazardous waste facilities and specialized compliance monitoring procedures. The receipt of new permit applications cannot be anticipated by the Department and the resources required to respond to these applications cannot be provided through the traditional budget process. As a result of the unforeseen nature of these expenses, extreme fluctuation in the permit-related demands on the program occurs when a new application is received. Since the program's budgeted staff resources are based upon the normal and more routine workload, significant temporary staff shortages and delays occur in the evaluation of applications for new permits. K.S.A. 65-3438 currently requires the Secretary to make a final decision on a permit application within 240 days of receipt; however, the extensive delays that can occur during the process of compiling a complete and accurate application, given existing staff resources, have made this goal an elusive one. These problems are believed to be addressed by House Bill 3095 by providing for two new fee schedules and by establishing a permit revenue fund into which a share of these fee revenues are to be deposited.

There are two substantive amendments to K.S.A. 65-3431 proposed in House Bill 3095. The first of these provides for the addition of a new subsection (w) which establishes authority for a new schedule of fees to be paid by applicants for permits for new or modified hazardous waste facilities. This new subsection also establishes a new revenue fund named the Environmental Permit Fund, and requires that the monies collected from this new schedule of fees be deposited into this fund.

The Department strongly supports the concept of an application fee because it provides for resources to evaluate new permits immediately at the time that applications are received. This procedure allows the Department to supplement their staff resources, temporarily, during periods of increased workloads. By providing the Secretary access to a separate fund established for this purpose, the Department's response to major new applications can be timely and comprehensive. This procedure also places the burden for many of the expenses associated with the permit review process upon the applicant. If no new applications are received, no revenue will be generated by this fee schedule. The proposed amendment provides for an application fee not to exceed $250,000; however, the actual fee will be determined through a rule-making process during which a schedule of fees will be established based upon the size and nature of the proposed facility.

The second major amendment to K.S.A. 65-3431 involves the addition of a new subsection (x) which provides for a second new schedule of fees specifically applicable to off-site hazardous waste treatment

and disposal facilities. The term "off-site facility" is defined under existing Kansas law (K.S.A. 65-3430) as a facility where treatment, storage, or disposal activities are conducted by a person other than the hazardous waste generator. The term "off-site hazardous waste treatment and disposal facility" will, therefore, include hazardous waste incineration facilities, disposal facilities at which hazardous waste will remain after closure, and underground injection wells; provided that these facilities receive wastes that are not generated on-site. In practice, these new fees will apply to any new commercial hazardous waste treatment or disposal facilities that would begin operation in the state, as there are currently no facilities in Kansas to which this proposed fee schedule would apply. The Department has under review, however, an application from the Aptus Corporation for a commercial hazardous waste incineration facility in Coffeyville, Kansas and when issued a permit, this facility would likely become the first to fall under this new fee schedule.

The new subsection (x) also provides that the fees to be collected not exceed five cents per pound ($100 per ton) of hazardous waste disposed of or two cents per pound ($40 per ton) of hazardous waste treated and that this money be deposited into three different funds as follows: 25% - State General Fund, 50% - Environmental Permit Fund; and 25% - Hazardous Waste Collection Fund.

The revenue from these fees that is deposited into the Environmental Permit Fund is limited in its use by the Department as described in the new subsection (w). These uses include enhancing the state's hazardous waste minimization efforts, conducting extra-ordinary facility surveillance activities such as specialized air monitoring, groundwater sampling and analysis, and assuring compliance with special operating conditions established during the permit evaluation process. These activities are all directly related to the permit-review emphasis of this fund as established and are consistent with the intended uses for this fund.

The Department strongly supports the proposal to allocate a share of these fees to support the state's waste minimization activities. Assuring that every effort is made to minimize the generation of hazardous wastes is indicative of the future direction of the hazardous waste program in Kansas. In 1988, the Department competed for and received $325,000 in federal grant funds to be spent over a three-year period to establish a demonstration waste minimization program for Kansas. The Department is currently implementing this project through a cooperative agreement with both Kansas State University and Kansas University that will provide technical assistance and educational services to hazardous waste generators in Kansas to encourage waste minimization. The Department expects this project to be very successful and hopes to continue this or a similar effort through the use of fee revenues when the grant project has been completed.

The Department also supports the concept of setting aside a portion of these fees for deposit into the state's Household Hazardous Waste Fund (established under K.S.A. 65-3460) to provide a supplemental source of funding for this program. This fund was established to provide a 50/50 grant program to assist local communities in starting household hazardous waste programs in order to eliminate to the greatest extent possible the disposal of household chemical wastes into Kansas landfills.

Following the enactment of the new subsection (x), the Department will promulgate a regulation that details a new off-site treatment and disposal facility fee schedule. In arriving at the appropriate schedule of fees, the Department will evaluate the chemical nature of the wastes involved, the economic impact upon the facilities affected, the costs of treatment and disposal, and the fees established by other states for similar facilities.

In addition to the amendments discussed above, House Bill 3095 also contains several other statutory changes that have been included to clarify existing language in the affected statutes in response to the Department's experience, to date, in its hazardous waste program. A very brief discussion of these minor changes is presented below.

1. K.S.A. 65-3431 (u) is amended to clarify that all persons owning or operating hazardous waste facilities are subject to the appropriate fees. There has been past confusion on this issue where illegal facilities that do not have "permits" were involved.

2. The fee cap established in K.S.A. 65-3431 (u) is clarified so as to apply to all treatment, storage, and disposal facilities and not just storage facilities and is increased from $25,000 to $50,000. There will be no immediate impact of this change; however, the Department does intend to review the existing fee structure established under K.A.R. 28-31-10 at some future date.

3. K.S.A. 65-3431 (v)(1) is amended to convert the fees being deposited into the Hazardous Waste Perpetual Care Trust Fund from units of cubic feet to pounds. Difficulties have arisen in calculating these fees because private industries do not normally measure wastes in cubic feet.

4. K.S.A. 65-3431 (v)(2) is amended to clarify the intent of the Perpetual Care Trust Fund to apply to hazardous waste disposal facilities closed after 1981 and any unlawful facilities.

5. K.S.A. 65-3437 is amended to delete the provisions for application fees for hazardous waste injection wells as these fees will become a part of the new schedule established under

the new subsection K.S.A. 65-3431 (w) and these provisions would be duplicative.

In summary, the Department strongly encourages the enactment of these proposed amendments as a partial solution to the increasing resource demands being placed upon our state's hazardous waste management program. The fees proposed are believed to represent an innovative approach to financing these needs in a year of growing concern over taxes and public demands for fiscal restraint. The Department believes that the changes proposed provide the framework for arriving at an acceptable balance between the resource needs of a complex regulatory program and the resulting economic impacts upon the commercial hazardous waste industry in Kansas.

Testimony presented by: David M. Traster
Assistant Secretary and General Counsel
March 26, 1990

jp/testimon.jci

KANSAS ENGINEERING SOCIETY
HAZARDOUS WASTE MANAGEMENT PROGRAM

A. OBJECTIVE AND RATIONALE

The Kansas Engineering Society (KES) and the National Society of Professional Engineers (NSPE) have been concerned with the control and proper disposition of hazardous waste for many years. KES desires to take an active role in making recommendations to the Legislature and Governor concerning hazardous waste and has therefore established the following position statement on these issues.

Existing and proven engineering processes can be applied to detoxify most hazardous wastes. The hazardous waste problem has not been solved in the United States in spite of the fact that extensive legislation, regulation, and enforcement activities have been ongoing. In fact, the problem is greater than originally understood because of the continually decreasing number of locations for disposal of wastes, and the increasing knowledge regarding the contamination of our water supply sources by waste materials.

An information gap of massive proportions still exists between those knowledgeable in the area of hazardous wastes and the public. The education of Americans regarding the importance of proper waste disposal, down to the household level, is imperative. In addition, education of the public regarding the necessity to treat and detoxify waste and to the proper disposition of those treated residues is mandatory to reduce the obstacles in locating the facilities required to perform treatment and disposal.

B. ASSESSMENT OF NATIONAL HAZARDOUS WASTE PROGRAM NEEDS

The intent of the Resource, Conservation, and Recovery Act has been widely misunderstood. EPA has continued to rely on landfilling and storage of hazardous wastes in their untreated hazardous form as the ultimate disposal option. This solution extends the problem into the future, creating new leaking hazardous waste landfills and consequent ground water contamination.

Legislative and regulatory change should address the following issues related to the hazardous waste program:

--Increase emphasis on resource recovery, recycling, and actual detoxification of hazardous waste materials.

--Prohibit land burial for non-detoxified waste materials that present a significant risk to the environment and for which environmentally-sound alternatives are available.

--Disallow exemptions for small quantity generators of wastes which pose a significant hazard to human health or the environment.

H Energy and NR
3-26-90

Attachment 9

--Encourage establishment of detoxification centers which can receive and detoxify hazardous wastes from all waste generators, including waste from small quantity generators.

--Provide guidance to generators for recycling and detoxification of hazardous on-site waste.

--Simplify and streamline the complex regulations which have been issued to date. Make compliance requirements more understandable to those who generate, treat, or store hazardous waste.

--Revamp requirements for delisting petitions to EPA for detoxified wastes, to provide 'an avenue of safe passage' for removal of the detoxified waste and the generator from the hazardous waste system. Specific guidelines for delisting petitions should be published. Properly prepared petitions should be acted on promptly. Delisting by the states should be encouraged.

C. ASSESSMENT OF KANSAS HAZARDOUS WASTE PROGRAM NEEDS

The lack of a comprehensive hazardous waste treatment and disposal facility in Kansas is neither environmentally sound nor conducive to the establishment of an increased business base in the state.

KES recommends that Kansas develop a comprehensive hazardous waste program that incorporates the following practices:

1. Comprehensive Regional Treatment/Recycling Facilities:

The State of Kansas should cause to be operated one or more comprehensive treatment facilities for combustible and non-combustible, non-radioactive, hazardous wastes. These facilities should receive and store properly segregated hazardous wastes from generators, provide appropriate treatment to render the wastes non-hazardous or non-toxic, and dispose the residues in an environmentally approved manner. The final disposition of detoxified solid wastes should be a sanitary landfill or an industrial landfill, even though this disposal mode is not possible under current EPA and Kansas regulations. Wastes which are not treatable at a given facility or for which appropriate processing is not available, should be referred to a facility having proper treatment capability. Such facilities should be encouraged to become recycling centers.

Kansas should consider a separate new, or enhanced existing, authority for the development and implementation of hazardous waste treatment and disposal facilities. Neither this authority nor any facility operator should be responsible for the final testing and verification of the detoxified state of the treated wastes. This responsibility should lie in an oversight agency which would have responsibility for promulgation and enforcement of hazardous waste regulations.

2. Encouragement of Treatment/Recycling Operations by Industry:

Legislation providing economic incentives at the state level for the installation of waste treatment and recycling or recovery facilities by privately owned industry should be considered and encouraged in Kansas. Support should be given to similar incentive programs on the federal level.

3. Disposition of Household and Small Quantity Generator Hazardous Waste:

The Kansas Engineering Society encourages and supports programs which would enable household and other individually generated wastes to be segregated for recovery of recyclable materials. Collection centers should be promoted which would provide a convenient disposal point for hazardous wastes generated by households and other small generators. This would conserve valuable resources and reduce the burden on sanitary landfills.

4. Siting of Hazardous Waste Treatment, Disposal, and Recycling Facilities:

Kansas should give consideration to legal mechanisms which will expedite the siting of hazardous waste treatment, recycling and disposal facilities.

Revised 3/23/90

KANSAS HAZARDOUS WASTE AUTHORITY

Kansas Department of Health & Environment

Responsibilities:

- Regulate Permits
- Issue and Renew Permits
- Establish Discharge Limits
- Review Compliance Data
- Release Treated Wastes for Ultimate Disposal

Operational Control of Transport, Treatment, Monitoring & Disposal of Hazardous Waste

Private Hazardous Waste Treatment & Disposal Facilities

Responsibilities:

- Construct and Operate Treatment and Disposal Facilities
- Perform Specialized Treatment Procedures
- Dispose Properly Treated Wastes
- Provide Short-term Storage for Waste Before and After Treatment

Contract Research for Development of Hazardous Waste Processes

Responsibilities:

- Develop Procedures for Detoxification Treatment of Specific Wastes

Regional Public Hazardous Waste Treatment and Disposal Facilities

Responsibilities:

- Construct and Operate Treatment and Disposal Facilities
- Perform Specialized Treatment Procedures
- Monitor and Enforce Pretreatment Programs
- Dispose Properly Treated Wastes
- Provide Short-term Storage for Waste Before and After Treatment

Responsibilities of the Kansas Hazardous Waste Authority

1. Create, Fund, and Administer Private and Public Hazardous Waste Treatment and Disposal Facilities
2. Establish Policy for Waste Treatment and Disposal
3. Receive, Review, and Forward Applications for the Establishment and/or Operation of Hazardous Waste Treatment and Disposal Facilities to KDH&E (Private and Public)
4. Control and Disburse Funds
   a. Issue Bonds Backed by the State of Kansas to Fund the Construction of Waste Treatment Facilities
   b. Collect Fees and Surcharges from Generators and Disburse Payment to Contractor's Facilities for Properly Treated Wastes
   c. Disburse Research Funds under Contracts to Qualified Applicants
5. Receive Applications for Delisting of Wastes and Process in Accordance with Current Regulations
6. Operate Manifest Program for Transportation and Disposal of all Wastes
7. Develop and Administer Monitoring Program to assure that Hazardous Waste Treatment is in Compliance with all Applicable KDHE and EPA Permits and Regulations. Compliance Monitoring to be Performed by Independent Laboratories under Contract to KHWA.
8. Report Annually to the Governor

Organization of the Authority

- Five-Member Board Selected and Appointed by the Governor
- Board Members Nominated By:
  - General Public
  - Kansas Association of Commerce and Industry
  - Kansas Engineering Society
  - Kansas Farm Bureau
  - Kansas League of Municipalities

  (No more than three from any one political party. One board member selected from each nominating groups' nominees.)
- Board Chairman Elected from Authority Members
- Director and Chief Administrative Officer selected by Board
- Staff Selected by Director

prepared March 8, 1990

TESTIMONY

OF

KAY JOHNSON

SITE MANAGER

OF

CHEMICAL WASTE MANAGEMENT OF KANSAS

BEFORE THE

KANSAS HOUSE OF REPRESENTATIVES'

COMMITTEE

ON

ENERGY AND NATURAL RESOURCES

THIS

MARCH 26TH, 1990

RE: HB 3095

H ENERGY AND NR
3-26-90
ATTACHMENT 10

Mr. Chairman and Members of the Committee:

My name is Kay Johnson. I am Site Manager of Chemical Waste Management of Kansas, a closed hazardous waste facility in Sedgwick County. Chemical Waste Management is the Nation's largest industrial waste disposal firm. I appreciate the opportunity to appear before you today.

My comments concern HB 3095 and its proposed fees.

The concept of cost recovery makes sense. The state must have the ability to recover staff costs to control hazardous wastes and disposal facilities. The ability to do these tasks well protects not only the state's citizens, but also the companies that manage hazardous waste.

However, our concern is that the new fee schedule could have a major impact on:

1. The state's available capacity for disposal of hazardous wastes currently generated by Kansas industries, and

2. Kansas' ability to attract general industry and reliable operators of hazardous waste facilities.

In its capacity assurance plan to the U.S. Environmental Protection Agency, the Department of Health and Environment estimated Kansas had five million tons excess capacity in 1989.

The report further predicts a capacity shortfall of 128,000 tons by 1995. The Department assumes that, quote, "Facilities will see the projected shortfalls and take the steps needed to increase capacity."

This proposed fee structure limits capacity growth.

Section 1 (W) establishes fees of up to 250,000 dollars for permits to construct, modify, or operate a hazardous waste facility. This fee creates a significant barrier for reliable companies to provide service to Kansas Industries.

We can't count on shipping excess wastes to other states. Alabama already prohibits the disposal of Kansas-generated wastes because Kansas lacks comparable facilities. This ban was upheld by the courts and is being considered by other states.

Further, Subsection (w) (2) (E) duplicates annual fees already stipulated in Section 1 (U).

The irony of the issue is its impact on economic growth and development.

Industries creating facilities today consider more than just location, labor and utilities. Companies must also consider the disposal costs of hazardous wastes. Section 1 (X) (1) raises waste disposal fees by more than 2,000 percent. This significant increase in operating costs creates a classic ripple effect.

The impact on Economic development is significant, too. A state's inability to offer efficient, affordable waste management handicaps its competitive position in attracting new industry.

The important point is the state's ability to recover actual costs. Rate schedules should be developed to reflect specific costs rather than creating a financial black hole.

In summary, HB 3095 creates unnecessary burdens on long-range economic growth. It restricts development of new technologies or facilities for minimizing and handling wastes generated by Kansas businesses. General industry will be discouraged from managing wastes on-site because of mandated fees. Additionally, the state has not yet secured needed disposal capacity for projected growth.

We believe this bill is counterproductive to the state's long-range economic growth and hazardous waste disposal needs.

HB 3095, as written, should be rejected.

Thank you.

LEGISLATIVE TESTIMONY

Kansas Chamber of Commerce and Industry

500 Bank IV Tower One Townsite Plaza Topeka, KS 66603-3460 (913) 357-6321

A consolidation of the
Kansas State Chamber
of Commerce,
Associated Industries
of Kansas,
Kansas Retail Council

HB 3095

March 26, 1990

KANSAS CHAMBER OF COMMERCE AND INDUSTRY

Testimony Before the

House Committee on Energy and Natural Resources

by

Terry Leatherman
Executive Director
Kansas Industrial Council

Mr. Chairman and members of the Committee:

My name is Terry Leatherman. I am the Executive Director of the Kansas Industrial Council, a major division of the Kansas Chamber of Commerce and Industry. Thank you for this opportunity to express the Chamber's concerns regarding HB 3095.

The Kansas Chamber of Commerce and Industry (KCCI) is a statewide organization dedicated to the promotion of economic growth and job creation within Kansas, and to the protection and support of the private competitive enterprise system.

KCCI is comprised of more than 3,000 businesses which includes 200 local and regional chambers of commerce and trade organizations which represent over 161,000 business men and women. The organization represents both large and small employers in Kansas, with 55% of KCCI's members having less than 25 employees, and 86% having less than 100 employees. KCCI receives no government funding.

The KCCI Board of Directors establishes policies through the work of hundreds of the organization's members who make up its various committees. These policies are the guiding principles of the organization and translate into views such as those expressed here.

H ENERGY AND NR
3-26-90
ATTACHMENT 11

KCCI has not established a policy in support of, or in opposition to, the issues addressed by HB 3095. However, the Chamber has heard from several of its members who are concerned about this legislation. Their concerns revolve around the maximum fees the legislation permits the Kansas Department of Health and Environment to charge for reviewing applications for hazardous waste facilities, and for treatment and disposal at off-site hazardous waste facilities.

KCCI has no quarrel with the KDHE recouping the expense of performing highly technical application reviews, and maintaining a fund to pay the cost of monitoring the treatment and disposal of hazardous waste across the state. However, we urge this Committee to avoid establishing fees so high as to discourage technical innovation and economic management of hazardous waste.

Mr. Walt Greer, Vice President of Environmental Affairs for the Ash Grove Cement Company, which operates a facility in Chanute, is here today to explain to the Committee some of the innovative ways his company is addressing the hazardous waste situation in Kansas, and how HB 3095 might affect his company. While I would be happy to attempt to answer any questions, the Committee might be better served by addressing their questions to Mr. Greer, who is much more of an expert in this field than I.

Once again, thank you for the opportunity to express the Chamber's feelings regarding HB 3095.

ASH GROVE CEMENT COMPANY

Testimony before the House Committee on Energy and Natural Resources, Topeka, Kansas, March 26, 1990

Good afternoon Mr. Chairman and distinguished members of this Committee.

I am Walter Greer, Vice President of Environmental Affairs of Ash Grove Cement Company of Overland Park. I am representing Ash Grove while testifying today regarding House Bill No. 3095.

Ash Grove is a major producer of Portland cement in the United States. Ash Grove's national headquarters is in Overland Park. One of our major cement production facilities is located in Chanute where we have been producing cement for 82 years. Ash Grove is one of the few U.S. owned domestic, cement companies left in existence. The company is 108 years old.

Fuel expense for the rotary cement kilns represents about one-third of the cost of manufacturing Portland cement. As one way of remaining competitive in the seriously depressed cement industry, Ash Grove has focused on the reduction of fuel costs through the use of alternative fuels, such as those derived from hazardous wastes. As a result, Ash Grove has become a recognized leader in burning energy rich hazardous wastes in cement kilns. The Company holds patents for the combustion of solid hazardous wastes in cement kilns for energy recovery.

Ash Grove is not in the waste incineration business. The Company has no interest in these fuels unless they can be acquired and burned at less cost than the price of fossil fuels. Currently, these fuels are available at costs that meet this requirement. Two of the six Ash Grove kilns that utilize hazardous waste derived fuels are located at Chanute. The reduction in fuel costs resulting from the use of these fuels has assured the economic viability of the Chanute plant and forestalled consideration of curtailment or closure of the facility. Ash Grove, therefore, has a strong interest in any legislative or regulatory activity that would increase the costs to the Company of burning hazardous waste derived fuels. We believe that such a potential fuel cost increase is present in the provisions of House Bill No. 3095.

While Ash Grove would argue that the burdensome permitting and regulatory oversight requirements of the current regulations covering the burning of hazardous wastes for energy recovery is not necessary, we do recognize the political realities of the situation. The Company also recognizes the popular legislative philosophy that the regulated community pays for its own regula-

H ENERGY AND NR
3-26-90

ATTACHMENT 12

tion. Ash Grove, therefore, does not object to, or oppose, the recovery by the State of Kansas of the reasonable costs of permit processing, administration and compliance through a schedule of fees. We are unable to comment at this time on an unknown fee schedule that is to be developed later by the Secretary of Health and Environment. The maximum limits for fees for processing new or revised permit applications and annual permit fees, as contained in House Bill No. 3095, have the potential of resulting in unreasonable fees. Ash Grove would prefer that such permitting fees be established in the legislative process rather than being left to the discretion of regulators.

Our Company's greatest concern with this proposed bill is not, however, the proposed permitting fees. Rather our major objection is with the proposed imposition of up to a five cents per pound fee for the burning of the hazardous waste.

Currently, only the storage of hazardous waste derived fuel is subject to RCRA permitting requirements. The burning of these fuels in an industrial furnace does not require a RCRA permit. In the near future the US EPA is expected to promulgate permitting regulations for burning wastes for energy recovery in industrial furnaces, such as cement kilns. We think the present language of this Bill is patently unclear whether the fee imposed upon pounds of hazardous waste treated or disposed of will be applicable to facilities that burn hazardous wastes for energy recovery, either now or in the future. **Ash Grove strongly requests that H.R. 3095 be amended to specifically exclude manufacturing facilities that burn hazardous wastes for energy recovery purposes from any fees based on quantities of waste consumed.**

Ash Grove's concern is based on the simple but devastating economic impact any disposal fee would have on our Chanute operations. A fee of one cent per pound is equal to twenty dollars per ton or about two-thirds of the cost of a ton of coal. Many of the wastes that we burn for energy recovery have about one-half the energy content of coal; therefore, a greater weight of fuel is required for the same energy input. The net effect is that a fee of even one cent per pound of hazardous waste fuel results in fuel costs from the fee alone that exceed those of coal. **Since these fuels already have a cost to Ash Grove,** we would not continue to burn hazardous wastes under almost any imaginable quantity based fee structure. A fee of five cents per pound or one hundred dollars per ton is beyond rational thinking since it would have resulted in the absurd fee, or tax, of $4,900,000 on the Chanute operation in 1989.

Ash Grove would view the loss of this waste destruction capacity as an economic tragedy for the Company and the State of Kansas. The environmental benefits of burning waste derived fuels in industrial furnaces, such as cement kilns, is well known but beyond the scope of this testimony. The use of these wastes as fuels, however, has become one of the rare events when good

12-2

environmental practice also produces positive economic benefits.

Ash Grove does not want to see the imposition of disposal fees on hazardous waste fuel eliminate this environmentally sound method of disposing of wastes in the State of Kansas. A competing cement company in the Midwest would likely burn the hazardous waste fuels that would have been burned at Chanute. The Kansas cement industry, and the State of Kansas, would then be at a competitive disadvantage with those out of state facilities that would receive the fuel. **I, therefore, again encourage this Committee to expressly amend House Bill No. 3095 to exclude all facilities burning hazardous waste for legitimate energy recovery, as defined in KAR 28-31-8a, from any quantity based hazardous waste fees.**

If the fees, based on quantities disposed, that are proposed in House Bill No. 3095 are applicable to cement kilns, it is a certainty that Ash Grove will no longer burn hazardous waste in its kilns. It is also a certainty that the jobs of our 127 employees in Southeastern Kansas will be less secure. I suspect that the same unfavorable economics will also cause other cement companies in the State to stop burning wastes.

This loss of capacity to manage hazardous waste within the State of Kansas will probably have a detrimental effect on the Kansas Capacity Assurance Plan that is required of the State by the Federal Government. We strongly urge that this Committee and the KDHE consider the effects on the Plan of a projected loss of capacity before any hasty passage of this Bill. The Chanute plant burned 48,500 tons or 97,000,000 pounds of hazardous waste fuel in 1989.

I wish to raise one last point concerning this bill regarding the intended use of the proposed fees. If the true intent is to use these new funds to offset higher KDHE operating costs, then Ash Grove doesn't understand why 25% of these fees are earmarked for the State's general fund. Such a distribution would essentially impose a selective tax on the Kansas cement industry. As I have attempted to explain, the tax will likely eliminate the tax base and there will be no revenue to anticipate.

Thank you for this time before this Committee. It is an honor to have been here. I will attempt to answer your questions.

ASH GROVE CEMENT COMPANY

8900 INDIAN CREEK PARKWAY, SUITE 600, P.O. BOX 25900
OVERLAND PARK, KANSAS 66225
(913) 451-8900

JAMES P. SUNDERLAND
PRESIDENT

February 26, 1990

Federal Express

Representative Kerry Patrick
Kansas Statehouse
Topeka, Kansas 66612

Dear Representative Patrick:

As a long time Kansas based company, Ash Grove Cement Company wishes to express its deep concern with regard to a pending bill, i.e. House Bill No. 2698. This recently introduced bill presently before your Energy and Natural Resources Committee would have a devastating impact on our Kansas cement manufacturing operations.

This bill would impose a major increase in hazardous waste disposal permitting fees from the present $25,000 up to $250,000. However, far more onerous and severe is the provision in this bill that would impose a tax of up to $.05 per pound for hazardous waste materials disposed of.

Our company has recently patented a process to totally burn certain flammable hazardous waste material as a substitute fuel source in manufacturing cement (see attached article). We now extensively use this technology as a primary fuel source at our Chanute, Kansas cement plant. The advantages of this energy saving system are several fold:

1. It is a resource recovery system that virtually totally combusts flammable, hazardous waste liquids and solids in the normal cement making process thereby reducing the need for alternate fuels such as coal.

2. By using these waste materials as a substitute for coal it saves burning 23,000 tons of coal a year at Chanute thereby reducing the resulting carbon dioxide emissions from burning this fossil fuel.

12-4

3. The process totally combusts the waste materials so that they need not be permanently landfilled, injected into deep wells or commercially incinerated.

4. And it makes our Chanute cement plant a profitable operation, which it otherwise presently would not be. Our Chanute plant generates substantial taxes flowing to the State, it employs 127 people in Southeastern Kansas and it provides quality construction materials for the people of Kansas.

The cost to us to pay a $.05 per pound fee, or tax, on the material we consume at Chanute would be approximately $4,900,000.00 per year which would virtually wipe out all our profits. Apparently the draftors of this bill thought a $.05 per gallon tax would be reasonable but they failed to recognize that we burn 48,500 tons of this material a year, some of which costs us nearly as much as coal to purchase.

Our technology has been recognized nationally and by the State of Kansas (see attached letter). Development and installation of this new resource recovery method has been a major investment for our company and our business partner, with hundreds of thousands of dollars invested at Chanute alone.

We would not be the only Kansas cement company impacted by this legislation since two or three other Kansas cement plants are presently using or introducing similar alternative fuel source systems.

Our company has no problem with KDHE requiring reasonable fees to defray their permitting, review and monitoring of hazardous waste disposal. We acknowledge their operating and staffing needs have increased and that permitting fees should correspondingly increase. But the radical features of this bill imposing a $.05 tax on a recycling and resource recovery system is wholly counterproductive. It will penalize Kansas companies, like ours, that are solving the waste, landfill and disposal problems. If a tax is to be levied it should be on landfilled material which is permanently buried in Kansas. But don't tax local businesses that are trying to reduce the landfill dilemma and at the same time conserve natural resources.

We certainly hope you will take our situation into consideration when this matter comes up for hearing.

Thank you for your sincere interest in this important legislative matter.

Very truly yours,

President

JPS:blm
Attachments

12-6

Ash Grove Activity

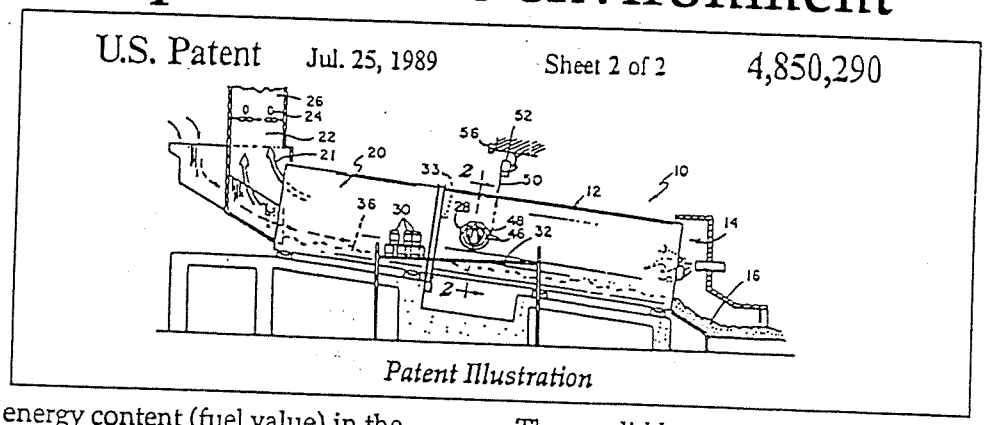
Volume 10, Number 4 | Published by Ash Grove Cement Company | December 1989

Ash Grove patent protects the environment

Ash Grove Cement and Cadence Chemical were jointly granted United States patent number 4,850,290 for a technology called "Method for Energy Recovery from Solid Hazardous Waste." Eric Hansen, Vice President and Technical Director, was a key contributor in developing the method for environmentally sound use of combustible hazardous waste in an operating rotary kiln like that used in portland cement production.

The method involves packaging the wastes into sealable containers (six-gallon steel cans) and charging the complete sealed containers into a rotary kiln. At the point where the containers are charged, the gas temperatures are between 1750 and 2200 degrees Fahrenheit, which assures complete destruction of the organic components of the fuel.

What is particularly unique about the technology is that the energy content (fuel value) in the waste is recovered in the kiln. Therefore, for every unit of heat in the waste, that much coal is not burned, thus saving this valuable resource.



Patent Illustration

The invention came about as a result of an increasingly environmentally aware society. Pressured by society, the government has stepped up its regulations requiring many industrial and manufacturing wastes to be handles as hazardous wastes. These solid hazardous wastes can consist of materials ranging from industrial sludges to common items like dry cleaning filter cartridges and out-of-date commercial products such as nail polish still in the bottle.

These wastes, which were previously landfilled, are now banned from land disposal and must be destroyed by thermal treatment (incinerated). Instead of building new incinerator capacity to destroy these wastes, the patented method allows the wastes to be used in place of coal in cement kiln.

Ash Grove and the Federal Environmental Protection Agency have done extensive studies on cement kilns using hazardous wastes and found that the process is environmentally sound. The added capacity for waste recycling wastes represented by cement kilns will allow the EPA to further restrict the landfilling of undesirable materials.

By beneficially using wastes that must be destroyed, Ash Grove is doing its part to reduce emissions that contribute to global warming, or the greenhouse effect, by preventing the construction of new emission sources.

Holiday Greetings

It is the holiday season and a natural time to look forward to the upcoming year and to reflect on the one quickly passing. Ash Grove has had a successful 1989, and I am confident that 1990 will be a prosperous year.

The new year is a significant one, when we will end one decade and prepare to start another - the last in the century. The Portland Cement Association has called the '90s the "decade of infrastructure rebuilding," and this is good news for the cement industry.

I sincerely wish that each of you can take pride in your past accomplishments and that you will experience health and prosperity while pursuing your personal goals you establish for the '90s.

James P. Sunderland

12-7

HOUSE ENERGY AND NATURAL RESOURCES COMMITTEE

TESTIMONY RE: HB 3095

Presented by Vic DeJong, Plan Manager of
APTUS, Coffeyville, Kansas

March 26, 1990

Mr. Chairman, members of the committee:

My name is Vic DeJong, and I am vice president and a general manager of APTUS, an environmental services and hazardous waste treatment facility located in Coffeyville, Kansas.

Our Coffeyville facility offers a broad range of important and cost-effective environmental services important to Kansas agriculture and industry. We provide effective treatment of polychlorinated biphenyls (PCBs) through a number of processes, including high-temperature incineration. We also offer transportation, a commercial laboratory, site remediation, and emergency spill response. We have applied for a Resource Conservation and Recovery Act (RCRA) permit from the State of Kansas to handle, store, and treat a wider spectrum of waste types. That permit application is currently under review by the Kansas Department of Health and Environment.

We have had a positive economic impact on our community and believe we will be able to continue this role when we have successfully completed our trial burn and have been granted an operating permit.

Our Coffeyville facility began with a six-person staff in 1984. Since that time, our business has grown and we now employ 325 people - nearly all from the local area. In addition to the $10 million annual payroll, we provide the local economy with another $10 million annually in purchased goods and services, and are the second largest employer in the community.

APTUS is proud of its active community involvement in southeastern Kansas and of our role as one of the area's finest corporate citizens. We have attempted to work closely in the development of this measure with KDHE during the past three months to reach a reasonable compromise. We thank KDHE for its willingness to work with us and believe we have made some progress. However, certain key elements of the bill remain totally unacceptable to APTUS.

Therefore, we must oppose HB 3095 in its current form. We do not oppose the concept of providing reasonable fees to enable the Secretary of Health and Environment to have sufficient resources to process permit applications and issue permits on a timely basis, nor do we oppose fees to perform important monitoring and compliance functions associated with operating facilities.

H ENERGY AND NR
3-26-90

ATTACHMENT 13

However, we do not believe it is appropriate to raise fees to such a level that our company or any other is taxed to such an extent that it becomes non-competitive.

We would propose several amendments. We have given the Revisor a draft balloon since it may require technical redrafting. I will propose them conceptually.

First of all, on page 6, line 13, we believe the $250,000 application fee is excessive. We believe the fee should not exceed $125,000. (We have attached a chart to our testimony that reflects fees in our neighboring states and in states with facilities that compete with APTUS. You will see from this chart that the $250,000 fee proposed in HB 3095 is considerably in excess of permitting fees charged in other states.)

On page 6, at lines 18-30, we propose deleting subsections (B) and (E). These functions listed in subsection (B) and (E) of subsection (w)(2) have absolutely nothing to do with the permitting process itself. We do not feel that it is appropriate to use the permitting fee for these other unassociated governmental functions. The fees generated by subsection (x) on page 7 may be used for all of these functions.

On page 7, lines 7-14, subsection (x)(1) provides for a disposal fee of $.02 per pound of hazardous waste treated. **THIS RATE WOULD ASSESS OUR COMPANY, IF THE FACILITY WAS RUN AT THE PROPOSED PERMITTED CONDITION, APPROXIMATELY $2.2 MILLION, AND WOULD HAVE THE EFFECT OF RENDERING US NON-COMPETITIVE IN THIS HIGHLY COMPETITIVE MARKETPLACE.** This fee would add a tax of approximately $40.00 per drum on a drum that would normally cost approximately $100.00 to process and treat. As you can see from the chart, this would make the cost of processing and treating hazardous wastes at APTUS well in excess of the costs of treatment at other plants around the United States.

We strongly recommend that a cap of $300,000 per facility be placed on the fee. We believe a fee of $.01 per pound with a $300,000 cap is more than adequate. The fee of $.02 per pound in HB 3095 should raise $2.2 million yearly from our plant alone. Even utilizing 50% of the fees for other purposes (State General Fund and hazardous waste collection fund) will allow $1.1 million to be used for monitoring. This would mean 22 full-time KDHE staff for our plant alone. This is truly excessive compared to other states where $225,000 is the maximum fee of those states on the chart.

Lastly, there are currently no requirements that a permit be processed by the state within any kind of a reasonable time frame. Permits for hazardous waste plants, just as licenses for all other licensed companies or individuals, are essential to successful operation. Many state statutes require agencies to act on an application for license or permit within a specified time period. We recommend such a schedule in this proposed bill.

We believe that K.S.A. 65-3438 which provides a 240-day period to process hazardous waste permits to be reasonable. We see no reason why a permit cannot be processed from initial filing to approval or rejection, in that time frame. If that section needs amendments to accomplish that, we think it should be so amended.

Again, APTUS does not oppose reasonable fees but must appose the potentially destructive fees proposed in this bill. We understand that the Secretary does not intend to impose the maximum fee, but there is no legislative oversight over the fees once this bill is passed. We are willing to work with the Committee or the Secretary to attempt to reach a viable compromise on this isue.

Thank you for the opportunity to testify before this Committee.

Goes with DeJong Testimony

Session of 1990

HOUSE BILL No. 3095

By Committee on Taxation

3-21

AN ACT concerning health and environment; hazardous wastes; fees; amending K.S.A. 65-3437 and K.S.A. 1989 Supp. 65-3431 and repealing the existing sections.

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

Section 1. K.S.A. 1989 Supp. 65-3431 is hereby amended to read as follows: 65-3431. The secretary is authorized and directed to: (a) Adopt such rules and regulations, standards and procedures relative to hazardous waste management as ~~shall be~~ necessary to protect the public health and environment and enable the secretary to carry out the purposes and provisions of this act.

(b) Report to the legislature on further assistance needed to administer the hazardous waste management program.

(c) Administer the hazardous waste management program pursuant to provisions of this act.

(d) Cooperate with appropriate federal, state, interstate and local units of government and with appropriate private organizations in carrying out the duties under this act.

(e) Develop a statewide hazardous waste management plan.

(f) Provide technical assistance, including the training of personnel, to industry, local units of government and the hazardous waste management industry to meet the requirements of this act.

(g) Initiate, conduct and support research, demonstration projects, and investigations and coordinate all state agency research programs with applicable federal programs pertaining to hazardous waste management.

(h) Establish policies for effective hazardous waste management.

(i) Authorize issuance of such permits and orders, conduct inspections and collect samples or require information and copy records or data as may be necessary to implement the provisions of this act and the rules and regulations and standards adopted pursuant to this act.

(j) Conduct and contract for research and investigations in the overall area of hazardous waste storage, collection, transportation, treatment, recovery and disposal including, but not limited to, new

and novel procedures.

(k) Adopt rules and regulations establishing criteria for identifying the characteristics of hazardous waste and for listing hazardous waste. The secretary shall prepare and keep current a listing of hazardous wastes and set of characteristics based on the rules and regulations adopted pursuant to this subsection. The listing shall identify, but need not be inclusive of, all the hazardous waste subject to the provisions of this act. The criteria for identification and listing shall be consistent with the criteria for identification and listing adopted by the administrator of the United States environmental protection agency under the authority vested in the administrator by the Resource Conservation and Recovery Act of 1976 (42 USC 6921) as amended by the Solid Waste Disposal Act of 1980 (P.L. 94-482, October 21, 1980), and as amended by the Hazardous and Solid Waste Act of 1984 (P.L. 98-616, November 8, 1984).

(l) Adopt rules and regulations establishing: (1) Appropriate measures for monitoring generators, transporters and facilities during operation, closure, and after closure of such facilities to insure compliance with the rules and regulations adopted under this act and any permit issued under this act; (2) procedures to suspend operation of such generators, transporters or facilities as may be required to protect the public health and safety or the environment; and (3) appropriate measures to insure that any use of a hazardous waste disposal facility after closure will not endanger the public health or safety or the environment.

(m) Adopt rules and regulations establishing standards for hazardous waste generators including, but not limited to, notification of hazardous waste generation, reporting, recordkeeping, labeling, containerization, source separation, storage, manifests, monitoring, sampling and analysis and manner of filing notifications, reports and manifests.

(n) Adopt rules and regulations prescribing the form of the manifest and requiring such manifest to accompany any hazardous waste collected, transported, treated, recovered or disposed of, and prescribing the contents of the manifest which shall include, but not be limited to, the quantity and composition of the hazardous waste, generator, transporter, destination, facility and the manner of signing and filing of the manifest and for the maintenance of records.

(o) Adopt rules and regulations establishing standards for routes used for transporting hazardous waste within the state with the concurrence of the state corporation commission. Such standards shall be consistent with those of the United States department of transportation and the state corporation commission, with respect to trans-

portation of hazardous materials. Motor vehicles which are used for the transportation of hazardous waste in accordance with this act shall be exempt from the requirements of K.S.A. 66-1,108 *et seq.* and amendments thereto, and any rules and regulations adopted thereunder pertaining to routes which shall be under the jurisdiction of the secretary as provided in this act including any rules and regulations adopted thereunder. Otherwise such motor vehicles shall be subject to the requirements of K.S.A. 66-1,108 *et seq.* and amendments thereto, and any rules and regulations adopted thereunder.

(p) Adopt rules and regulations establishing standards for transporters of hazardous waste including, but not limited to, notification of hazardous waste transport, manifests, labeling, recordkeeping and the filing of reports.

(q) Adopt rules and regulations establishing standards and procedures to protect public health and the environment from any release of hazardous waste into the environment and to insure the prompt correction of any such release and damage resulting therefrom by the person transporting, handling or managing such hazardous waste.

(r) Adopt rules and regulations requiring that, for such period of time as the secretary shall specify, any assignment, sale, conveyance or transfer of all or any part of the real property upon which a hazardous waste treatment, storage or disposal facility is or has been located shall be subject to such terms and conditions as to the use of such property as the secretary shall specify to protect human health and the environment.

(s) Adopt rules and regulations establishing a permit system which includes standards for facilities and procedures for implementation of a permit system for the construction, alteration, or operation of a hazardous waste treatment, storage or disposal facility including, but not limited to, content of applications, evidence of financial responsibility, existing hydrogeological characteristics, environmental assessment, training of personnel, maintenance of operations, qualifications of ownership, continuity of operation, public notification and participation and compliance with those standards established pursuant to subsection (t).

(t) Adopt rules and regulations establishing minimum standards for the design, location, construction, alteration, operation, termination, closing and long-term care of facilities for the treatment, storage or disposal of hazardous waste including, but not limited to, notification of hazardous waste treatment, storage or disposal, general facility standards, contingency plans, emergency procedures, manifest system, recordkeeping, inspections, monitoring, reporting, clo-

sure and postclosure plans and financial requirements. The operator of the facility shall be responsible for long-term care of the facility for 30 years after closure of the facility except that the secretary may modify the long-term care requirements for any facility when all hazardous waste is removed from the facility at closure. The secretary may extend the long-term care responsibility of any operator of a facility as the secretary may deem necessary to protect the public health and safety or the environment. Any person acquiring rights of possession or operation of any facility permitted by the secretary for the treatment, storage or disposal of hazardous waste at any time after the facility has begun to accept waste and prior to the end of the required period of long-term care shall be subject to all of the requirements, terms and conditions of the permit for the facility including all requirements relating to long-term care of the facility. The sale or acquisition of a hazardous waste disposal facility during the long-term care period shall be subject to the assignment of long-term care responsibilities as determined by the secretary.

(u) Adopt rules and regulations establishing a schedule of annual fees to be paid to the secretary by: (1) ~~Permittees~~ *Persons owning or* operating hazardous waste treatment, storage or disposal facilities; (2) hazardous waste transporters; or (3) hazardous waste generators producing or bringing into existence hazardous waste in Kansas. The fees shall be for monitoring facilities both during and after operation, for monitoring generators of hazardous waste in Kansas and for monitoring the transportation of hazardous wastes. The fees shall be sufficient to reimburse the cost of the state in performing these monitoring responsibilities. The fee established under this subsection for each hazardous waste ~~disposal~~ facility shall not exceed ~~$25,000~~ *$50,000* annually. In setting fees, the secretary may exempt those fees which would be payable by generators for hazardous waste which is treated to recover substantial amounts of either energy or materials from hazardous wastes. The secretary shall remit any moneys collected from such fees to the state treasurer. Upon receipt of any such remittance, the state treasurer shall deposit the entire amount thereof in the state general fund.

(v) (1) Adopt rules and regulations establishing a schedule of fees to be paid to the secretary by permittees operating hazardous waste disposal facilities. In establishing fees, the secretary shall give consideration to degree of hazard, costs of treatment and disposal, estimated future receipts and estimated future expenses to the state for monitoring, maintenance and supervision of the facilities after closure. Fees shall be in an amount not to exceed ~~$.25 per cubic foot~~ *$.01 per pound* of hazardous waste disposed of. Each permittee,

as an advance payment of the fees authorized under this subsection, shall remit to the secretary an amount to be established by the secretary not to exceed $25,000 upon request and notification by the secretary that an initial application for a permit or initial renewal thereof has been approved, subject to receipt of the advance payment. Commencing with the second renewal, no advance payment shall be required. The advance payment shall constitute a credit against any fee which may be assessed pursuant to this subsection.

(2) The secretary shall remit any moneys collected pursuant to this subsection to the state treasurer to be deposited in the state treasury and credited to the hazardous waste perpetual care trust fund, which fund is hereby limited to the following uses: (A) Payment of extraordinary costs of monitoring a permitted hazardous waste disposal facility after the responsibility of the operator has terminated; (B) payment of costs of repairing a hazardous waste disposal facility, as a result of a postclosure occurrence which poses a substantial hazard to public health or safety or to the environment. If an expenditure made under this subsection would not have been necessary had the person responsible for the operation or long-term care of the permitted hazardous waste disposal facility complied with the requirements of a plan of operation approved by the secretary when the permit was issued, a cause of action in favor of the fund shall be accrued to the state of Kansas against such person, and the secretary shall take such action as is appropriate to enforce this cause of action by recovering any amounts so expended. The net proceeds of any such recovery shall be paid into the fund; and (C) on an emergency basis up to 20% of the balance in the hazardous waste perpetual care trust fund may be allocated for investigation, engineering and construction related to the removal, treatment and disposal of hazardous waste disposed of in any hazardous waste disposal facility ~~closed prior to the date of this act~~, when such hazardous waste is found to pose an imminent and substantial risk to the public health or safety or the environment.

(3) The pooled money investment board may invest and reinvest moneys in the *hazardous waste* perpetual care trust fund established under this subsection in obligations of the United States or obligations the principal and interest of which are guaranteed by the United States or in interest-bearing time deposits in any commercial bank located in Kansas or, if the board determines that it is impossible to deposit such moneys in such time deposits, in repurchase agreements of less than 30 days' duration with a Kansas bank or with a primary government securities dealer which reports to the market reports division of the federal reserve bank of New York for

direct obligations of, or obligations that are insured as to principal and interest by, the United States government or any agency thereof. Any income or interest earned by such investments shall be credited to the hazardous waste perpetual care trust fund.

(4) All expenditures from the hazardous waste perpetual care trust fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary for the purposes set forth in this subsection.

(w) (1) Adopt rules and regulations establishing a schedule of fees to be paid to the secretary by applicants for permits to construct, modify or operate a hazardous waste facility. The fees established under this subsection shall not exceed ~~$250,000~~ $125,000 for each application submitted. These fees shall be based upon resources required to review the application, the type of facility, quantity of waste processed, type of waste processed, degree of hazard and potential impact upon human health and environment.

(2) The secretary shall remit any money collected pursuant to this subsection to the state treasurer to be deposited in the state treasury and credited to the environmental permit fund, which fund is hereby established. Moneys from the fund may be expended for the following purposes: (A) Technical reviews of applications for permits including permit modifications and permit renewals for hazardous waste facilities; ~~(B) evaluating options available to applicants for minimizing the generation of hazardous wastes;~~ (B) completing background investigations of applicants pursuant to subsection (c) of K.S.A. 65-3437 and amendments thereto; ~~(D)~~ or (C) completing the site investigations pursuant to subsection (d) of K.S.A. 65-3437 and amendments thereto; ~~or (E) assuring that the permittee fulfills all permit conditions during the effective period of the permit.~~

~~*(3) The pooled money investment board may invest and reinvest moneys in the environmental permit fund established under this subsection in obligations of the United States or obligations the principal and interest of which are guaranteed by the United States or in interest bearing time deposits in any commercial bank or trust company located in Kansas or, if the board determines that it is impossible to deposit such moneys in such time deposits in repurchase agreements of less than 30 days' duration with a Kansas bank or with a primary government securities dealer which reports to the market reports division of the federal reserve bank of New York for direct obligations of, or obligations that are insured as to principal and interest by, the United States government or any agency thereof. Any income or interest earned by such investments shall be credited*~~

1-31-97

~~to the environmental permit fund.~~

~~(4) All expenditures from the environmental permit fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary for the purposes set forth in this subsection.~~

(x) (1) Adopt rules and regulations establishing a schedule of fees to be paid to the secretary by off-site hazardous waste treatment and disposal facilities. In establishing fees, the secretary shall give consideration to the degree of hazard, quantity of waste, costs of treatment or disposal, and estimated future receipts. Fees shall be in an amount not to exceed ~~$.05~~ $.01 per pound of hazardous waste treated and in an amount not to exceed $.05 per pound of hazardous waste disposed of.

(2) The secretary shall remit any money collected pursuant to this subsection to the state treasurer to be deposited in the state treasury and credited in the following manner: (A) State general fund, 25%; (B) ~~environmental permit fund, 50%, and (C)~~ hazardous waste collection fund, 25%; but in no event shall the fees imposed pursuant to this subsection exceed $300,000 per year for any such off-site hazardous waste treatment facility.

~~(w)~~ *(y)* Encourage, coordinate or participate in one or more waste exchange clearing houses for the purpose of promoting reuse and recycling of industrial wastes.

~~(x)~~ *(z)* Adopt rules and regulations establishing the criteria to specify when a change of principal owners or management of a hazardous waste treatment, storage or disposal facility occurs and under what circumstances and procedures a new permit shall be required to be issued to the transferees of a facility which was permitted to the transferor.

~~(y)~~ *(aa)* Adopt rules and regulations concerning the generation, transportation, storage, blending, marketing, burning and types of hazardous waste for which any method, technique or process to recover energy will be considered hazardous waste treatment. Such rules and regulations should specify a minimum heat value of the waste so as to ensure that a legitimate energy recovery will occur and should consider other characteristics of the waste which are appropriate to ensure that such method, technique or process for energy recovery will not pose a threat to the public health or environment.

Sec. 2. K.S.A. 65-3437 is hereby amended to read as follows: 65-3437. (a) No person shall construct, modify or operate a hazardous waste facility or otherwise dispose of hazardous waste within this state without a permit from the secretary.

(b) The application for a permit shall contain the name and ad-

; and (C) the environmental fee fund, (50%), which fund is hereby established. Moneys from the fund may be expended for the following purposes: (A) Technical reviews of applications for permits including permit modifications and permit renewals for hazardous waste facilities; (B) evluating options available to applicants for minimizing the generation of hazardous wastes; (C) completing background investi- gations of applicants pursuant to subsection (c) of K.S.A. 65-3437 and amendments thereto; and (D) completing the site investigations pursuant to subsection (d) of K.S.A. 65-3437 and amendments thereto; (E) assuring that the permittee fulfills all permit conditions during the effective period of permit; or (F) pursuant to K.S.A. 1989 Supp. 65-3460.

dress of the applicant, the location of the proposed facility and other information considered necessary by the secretary, including proof of financial capability. ~~For initial review of an application for a hazardous waste underground injection well, the applicant shall submit an application fee not to exceed $25,000 with the permit application. After the initial review of a permit application, the secretary shall determine the cost of such review. If the cost is less than the application fee required by this subsection, the secretary shall refund to the applicant the amount which exceeds the cost of review. In cases of a permitted facility submitting an application for the construction and operation of an additional well on the permitted site, the permit fee shall not exceed $10,000. For renewal of a hazardous waste underground injection well permit, the permit holder shall submit a permit renewal fee not to exceed $10,000, the amount of which shall be determined by the secretary.~~

(c) Before reviewing any application for permit, the secretary shall conduct a background investigation of the applicant. The secretary shall consider the financial, technical and management capabilities of the applicant as conditions for issuance of a permit. The secretary may reject the application without conducting an investigation into the merits of the application if the secretary finds that:

(1) The applicant currently holds, or in the past has held, a permit under this section and that while the applicant held a permit under this section the applicant violated a provision of subsection (a) of K.S.A. 65-3441, and amendments thereto; or

(2) the applicant previously held a permit under this section and that permit was revoked by the secretary; or

(3) the applicant failed or continues to fail to comply with any of the provisions of the air, water or waste statutes, including rules and regulations issued thereunder, relating to environmental protection or to the protection of public health in this or any other state or the federal government of the United States, or any condition of any permit or license issued by the secretary; or if the secretary finds that the applicant has shown a lack of ability or intention to comply with any provision of any law referred to in this subsection or any rule or regulation or order or permit issued pursuant to any such law as indicated by past or continuing violations.

In case of a corporate applicant, the secretary may deny the issuance of a permit if the secretary finds that the applicant or any person who holds an interest in, or exercises total or partial control of or does business with the applicant or a principal of the corporation was a principal of another corporation which would not be eligible

3-11

to receive a permit because of the provisions of this act.

(d) Upon receipt of a permit application meeting the requirements of this section, the secretary or an authorized representative of the secretary shall inspect the location of the proposed facility and determine if the same complies with this act and the rules and regulations promulgated under this act. An inspection report shall be filed in writing by the secretary before issuing a permit and shall be made available for public review.

Sec. ~~3.~~ K.S.A. 65-3437 and K.S.A. 1989 Supp. 65-3431 are hereby repealed.

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

New Section 3. The pooled money investment board may invest and reinvest moneys in the environmental fee fund or the hazardous waste facility permit fund established under this a in obligations of the United States or obligations the principal and interest of which are guaranteed by the United States or in interest-bearing time deposits in any commercial bank or trust company located in Kansas or, if the board determines that it is impossible to deposit such moneys in such time deposits, in repurchase agreements of less than 30 days duration with a Kansas bank or with a primary government securities dealer which reports to the market reports division of the federal reserve bank of New York for direct obligations of, or obligations that are insured as to principal and interest by, the United States government or any agency thereof. Any income or interest earned by such investments shall be credited to the environmental permit fund. All expenditures from the environmental fee fund or the hazardous waste facility permit fund shall be made in acordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary for the purposes set forth inthis subsection.

4.

5

13-12

(a) The secretary shall approve or disapprove the application within 270 days from the date it is submitted, subject to subsection (f).

(b) Within 60 days after receipt of the application, the secretary shall determine whether the application is complete and contains all information necessary to process the application for approval.

(c) (i) If the application is determined to be complete, the secretary shall issue a notice of completeness.

(ii) If the application is determined to be incomplete, the secretary shall issue a notice of deficiency, listing the additional information to be provided by the applicant to complete the application.

(d) The secretary shall review information submitted in response to a notice of deficiency within 30 days after receipt.

(e) Within 180 days after determining that the application is complete, the secretary shall approve or reject the application or shall approve the application subject to restrictions or conditions.

(f) The following time periods shall not be included in the 180 day plan review period:

(i) time period awaiting response from the owner or operator to requests for information issued by the secretary;

(ii) time period required for public participation and hearings for issuance of plan approvals; and

(iii) time period for review of the permit by other federal or state government agencies.

(iv) time period during which the secretary has ordered a suspension of the deadlines imposed by this section, which suspension may be ordered by the secretary due to natural or other emergencies, delays by consultants or others not under the secretary's control, unavailability or insufficiency of moneys or other resources to adequately process the application, or such other reasonable causes as shall prevent the secretary in good faith from processing the application within the time frames prescribed herein.

HAZARDOUS WASTE TREATMENT FEES

STATE	ANNUAL FEE (1)	PERMIT FEE	PROCESS FEE
Kansas (proposed)	$50,000 max	$250,000 max	2¢/lb ($40/ton) max
Nebraska	0	0	0
Colorado	0	$100,000 max (2)	$4.40/ton
Oklahoma	$12,000	$ 24,000	0
Missouri	$ 1,000	$ 1,000 (3)	$1.00/ton
Texas	$ 2,500	$ 50,000 max	0
Arkansas	$43,500	$ 20,000	0
Louisiana	$11,535	$ 5,875	0
Illinois	$ 2,000	0	3¢/gal $6.06/yd
New Jersey	Formula	$ 65,000	0

(1) In many states this fee is based in part on rated capacity

(2) $75/hr review time

(3) Plus engineering costs

Kansas House of Representatives
Energy and Natural Resources Committee
HB 3095

Paul J. Peters
Systech Environmental Corporation
Fredonia, Kansas

26 March 1990

Systech Environmental Corporation operates a permitted waste fuel blending operation in Fredonia, Kansas. One-hundred percent of our waste derived fuel is burned for energy recovery in the Lafarge cement kilns in Fredonia. Without this source of recycled fuel, the viability of the cement plant would be severely affected.

Our recycling operation represents a new industry in Kansas. It represents an environmentally sound alternative to previous waste management practices throughout the country which frequently resulted in contaminated drinking water.

We are strongly in favor of protection of health and the environment. We also strongly support the Kansas Department of Health and would be in favor of increasing their budget to an appropriate level. We could even support an increased fee structure over and above that which presently exists.

What we can not support are new taxes levied against only our industry. This is what a fee that goes into the general fund would be. We also can not support a package of new fees that would be potentially ruinous to us. Our business is based on high volume and relatively low revenues. In 1989, $0.02 per pound would represent about 83% of our total revenues. And this new off-site fee would be in addition to the existing storage facility fee, the existing generator fee, and the proposed permitting fee, all of which would also apply to us.

We take little comfort from the "not to exceed" provision of the proposed off-site fee. The potential is still there. We take no comfort from the apparent fact that the off-site fee does not currently apply to us. The permitting rules for cement kilns is about to change so that this fee would surely apply to us in the near future.

To reiterate our position, we support the collection of appropriate fees for the Department of Health. We oppose any part of the fees going to the general fund and we oppose the potential collective magnitude of the fees in HB 3095. We do not believe that driving us out of Kansas would be consistent with economic development or protection of the environment.

H ENERGY AND NR
3-26-90
ATTACHMENT 14

Lafarge Corporation

March 22, 1990

Honorable Dennis Spaniol, Representative in Congress
Chairman, Energy and Natural Resources Committee
State Capital
Topeka, Kansas 66603

Dear Sir:

Lafarge Corporation operates a cement plant in Fredonia, Kansas, which recycles waste solvents as fuel in its cement kilns. This fuel is supplied by its wholly owned subsidiary, Systech Environmental Corporation. The use of this recycled fuel helps us maintain our position in a competitive marketplace, while at the same time recovering energy from the safe and complete destruction of hazardous wastes.

Lafarge and Systech have a combined annual operating budget of more than $14 million, the vast majority of which is spent in the State. Our annual payroll exceeds $4 million and turns over several times within the county.

If blenders and recyclers such as ourselves are affected by House Bill 3095, it could seriously jeopardize the viability of both companies by potentially closing the waste fuel operation and significantly impacting the profitability and life of the cement plant.

Should recyclers be placed in the same environmental category as disposers, the chemical recycling industry in Kansas will become extinct. Recycling does not pose a potential long-term liability to Kansas. Recyclers should be encouraged and provided incentives rather than being discouraged by having disincentives placed upon them.

We ask you to please make sure that the appropriate sections of H. B. 3095 does not include recyclers.

Thank you for your consideration in this matter.

Respectfully Yours,

H. H. Compton

H. H. Compton
Plant Manager
Lafarge Corporation
Fredonia, Kansas

Fredonia Co-Processing Facility
P.O. Box 479
Fredonia, KS 66736
316-378-4458
FAX 316-378-2573

H ENERGY AND NR
3-26-90
ATTACHMENT 15

Bookcliff Herefords

DR. AND MRS. TOM KRAUSS
ROUTE 2. BOX 188 PHONE 913-543-5678
PHILLIPSBURG. KS 67661

26 March 90

Rep. Dennis Spaniol
Chairperson, Energy and Natural Resource Committee
Kansas House of Representative
Topkea, Kansas

Re: Senate Bill 595

Dear Sir:

May I introduce myself? I am a practicing dentist in Phillipsburg, Kansas. Since 1962 my wife and I have raised registered Hereford cattle, initially in Western Colorado and since 1977 in Phillips County. We own approximately 600 acres which sustaines approximately 65 mother cows. This is a family operation in which I personally preform most of the work. Presently I am a member of the Kansas Hereford Association Board of directors, a KLA member, and a Farm-Bureau member.

Since 1959 I have been a active hunter safety instructor. As a sponsor member of Duck Unlimited, I am a former State Officer (Greenwing Chairman). Additionally I belong to the National Wild Turkey Federation (local chapter committee member), Rocky Mountain Elk Foundation, and am a life member of the NRA (since 1946)

1. The "hunt your own land" concept is unreasonable and unenforceabe, Deer do not live on just 80 or 160 acres. They migrant according to the habitant environment and food supply. Many land owners have non-adjacent pieces of land that in themseleves don't maintain deer year around yet provide significant contributions to their livelyhood. Limiting the land owner to his own boundries is unrealistic "hunting wise", enforcement wise, and encourages breaking the existing law let alone implement a more detailted, complex type of land owner - tenat definded permit.

   The average land owner will find himself either encouraged to violate the law by crossing his fence "to finish out the draw" or in order to hunt with the group of land owners he's always hunted using his "hunt his own land permit", If he wants to be law abiding he will then be forced to pay the general class (for which KLA and Farm Bureau lobby against) and take his chances on the draw with this urban hunters.

H ENERGY AND NR
3-26-90

ATTACHMENT 16

2. The Wildlife and Parks probably realize that the average Landowner - tenant is law abiding and wants to hunt the the deer that use his own land but have moved to his neighbors quarter section. This principal is very rewarding to the Department budget. If one half of the land owner permittes in 1989 are forced to buy a general licienses.

1989 data:
26,473 General Licences sold at $30.50
19,901 Land owner licienses sold at $15.50
$\frac{1}{2}$ of 19,901 = 9,950.5 x $15.00 = $149,257.50

Many of my Fellow farmers and ranchers comment, "Whats wrong with the present system? It seems to work OK." What is the real reason for the suggested change?

3. If non-resident hunting is to be adopted in Kansas, make it a straight precentage of the general premits avoiding the unlimited permit principal. Requring unlimited permits places econmic reward for continued issues of unlimited permits when the resource might need less hunting pressure.

4. Removing the age limit on turkey hunting isn't in the best interest of safety and those participateing in the hunt. Turkey hunting requires individual "coolness" and the supervisor of an adult can't call back a shot. Youth have bountiful opportunities to hunt in Kansas and certainly won't be damaged by waiting for few privileges and opportunities.

Frankly I am not convinced that it is necessary or prudent to change the land owner provisions of the existing law. Should it be deemed appropriate to adopt Senate Bill 595, the "hunt your own land" provision should be amended so that it is valid thru out the deer management unit that the land is located in. Such an amendment would make it reasonable "hunt-wise" and as enforcable as the present law.

In practice Senate Bill 595 can (and with time will) effectively eliminate any meaningful recognition that the grass roots rancher and farmer feeds the states big game herd.

Respectfully,

Thomas C. Thomas, MD

16-2

END

SENATE BILL 595

The Kansas Bowhunters Association has always opposed non-resident big game hunting in Kansas. I have testified before this committee and before the Wildlife and Parks Commission in opposition of non-resident big game hunting. Our membership has a fear that if non-resident big game hunting is allowed in our state, that Kansas will eventually become like Texas; where all of the land is leased up and unless you are wealthy, you can't afford to hunt. Our members, especially along our bonders, are afraid of the non-resident hunters leasing up or even buying land that they have hunted for a long time.

The Kansas Bowhunters Association realizes that eventually Kansas will need to allow non-resident big game hunters, and maybe the time is now; provided the regulations that allows non-residents to hunt big game in Kansas also gives some protection to the Kansas resident hunters.

The **Kansas Bowhunters Association asks that you support Senate Bill 595** but with the following changes:

1. On Page 4, paragraph 1, we support this paragraph that regulates the number of **non-resident permits at a maximum of 5%** of the total number of resident permits based on the most recent preceding similar season.

2. On Page 4, paragraph m, this is one of the most important paragraphs in this bill for resident hunters. This paragraph gives some much needed protection to the resident hunters that are afraid of losing their hunting ground. We strongly suggest that this paragraph be reworded to only allow for a non-resident to hunt in Kansas every 3 years. We feel that it gives the opportunity to hunt big game in Kansas to more non-residents. In addition, we feel that a non-resident is less likely to come across our border and lease or buy property if he **can only hunt every 3 years.**

3. On Page 5, line 10, we ask that this wording be changed so that a **non-resident is charged a reciprocal fee based on the difference**

H ENERGY AND NR
3-26-90

ATTACHMENT 17

between a resident tag in the non-residents state and the non-resident tag in the non-residents state. Some states gouge the non-residents hunters with a high fee for the privilege of hunting in their state while the resident hunter only pays a nominal fee. The fairest way is to base our fees on their fees. For example: Missouri charges a resident $12.00 for an archery deer tag and the non-resident $75.00. The non-resident is charged 6.25 times more than the resident for the same tag. Under this system, we would charge the non-resident Missouri archer: $187. In Oklahoma, a resident archery tag is $14.75 and a non-resident is charged $143.00. The non-resident is charged 9.69 times more than the resident for the same tag. Under this system, we would charge a Oklahoma non-resident archer: $290. We would be giving our non-resident hunters the same break in our state as we get as non-residents in their state. Some of the other states have been doing this for years. The State of Kentucky is one example. Its the fairest way to determine a fee for the non-resident hunters.

4. On Page 1, line 17, line 21, line 36; and Page 3, line 42, these lines refer to the quantity of land one must own to be classified as a landowner for the purposes of obtaining a landowner deer permit. The KBA feels that the acreage should remain at 80 acres. It was suggested at a Wildlife and Parks Commission meeting last week by a landowner, that its the person that owns the smaller acreage that contributes most to develope habitat for wildlife. In a lot of cases, its the larger farmers and ranchers that are clearing the habitat to plant more crops or make room for more cattle. Its the smaller landowner that is not really trying to make his or her sole living on 80 acres. But its this smaller landowner that may provide more and more habitat. This change would take the landowner status away from someone who may be doing more for wildlife in our state than the owner of 160 acres. We ask that you consider **leaving the wording in these sections at 80 acres.**

Thank-you for your consideration.

If you have any questions, please contact me at 296-1604 or 266-8466.

Ron Smith, Chairman
Legislative Committee
Kansas Bowhunters Association

S.B. 595

Testimony Presented to : House Energy and Natural Resources Committee

March 22, 1990

Prepared By: Kansas Department of Wildlife and Parks

This testimony on S.B. 595 is presented as an overview of the bill. A more detailed narrative is also provided which covers in greater detail the recommendations by the Department for big game management in Kansas. The Department has proposed a number of amendments to current big game statutes and represents a comprehensive effort to improve management of our big game resources and promote recreational opportunity. S.B. 595 in its current amended form contains the following provisions:

- **REDEFINE TENANT.** (Sec. 1)(a)(2) (page 1) (line 22).
  - Definition intended to provide consideration to those actively engaged in agriculture.
- **PERMIT EXPIRATION.** (Sec. 1)(e) (page 2) (line 11).
- **HUNT-ON-YOUR-OWN-LAND PERMITS.** (Sec. 1)(g) (page 3) (line 22).
  - Referred to as "special permits" under current statute.
  - Landowner or tenant must have been unsuccessful in a regular drawing to get a special permit.
  - Landowner or tenant will be able to obtain a hunt-on-your-own-land permit direct if so desired.
  - Permits will be available for purchase during an extended time period (probably July 1 through end of big game season).
  - Would be available for deer and turkey (perhaps also for antelope in some instances).
  - The big game could be hunted by legal methods during any established season for that big game.
  - Permit fee would be further reduced.

H ENERGY AND NR
3-26-90

ATTACHMENT 18

- REMOVE 50% REQUIREMENT BETWEEN GENERAL RESIDENTS AND LANDOWNERS/TENANTS. (Sec. 1) (h) (page 3) (line 29).
  - 50% requirement would be retained for any big game season that would have limited permits authorized and hunt-on-your-own-land permits were not authorized.
- REDUCE MINIMUM AGE FOR BIG GAME HUNTING TO 14. (Sec. 1) (page 4) (h) (line 24).
  - Currently it is 14 for all archery hunting and firearms turkey hunting and 16 for all other firearms big game hunting.
  - Change would make it 14 for all big game hunting.
- REDUCE BIG GAME FEE STRUCTURE MINIMUM. (Sec. 2) (page 5) (a) (line 18).
  - Reducing the minimum from $10 to $7.50 will allow for more flexibility in establishing a hunt-on-your-own-land permit fee.
- ESTABLISH FEE STRUCTURE FOR BIG GAME TAGS. (Sec. 2) (page 5) (a) (line 20).
  - Creates flexibility for issuance of multiple bag permits.
  - Would result in permit cost savings to big game hunters.
  - Encourage participation and harvest.
- ADD "DEALER" TO COMMERCIAL HARVEST FEE STRUCTURE. (Sec. 2) (page 5) (a) (line 27).
  - Housekeeping item
- AUTHORIZE SETTING OF VARIABLE FEES WITHIN THE FEE STRUCTURE. (Sec. 2) (page 7) (d) (line 9).
  - Recognizes difference in value of some Department issues.
  - Marketability of some Department issues. An example would be an anterless deer permit versus an any deer permit.

S.B. 595

Supplemental Testimony in Support of Department Proposed Amendments to S.B. 595.

Presented to: House Energy and Natural Resources Committee

March 22, 1990

Provided by: Kansas Department of Wildlife and Parks

The Senate amended S.B. 595 in two areas. Our original proposal recommended increasing the minimum acreage to qualify for a landowner/tenant type of permit from 80 acres to 160 acres. This change was sought due to the unknown number of landowner/tenant permits that might be issued under a greatly liberalized system for issuing permits to landowners and tenants. Our proposed acreage change was questioned by several organizations and opposed by one conferee. Although we are not formally requesting this committee to further amend the 80 acres back to 160 acres, we would appreciate a discussion on the subject.

The second Senate amendment deleted provisions for issuance of nonresident deer permits. The nonresident issue deserves attention. Kansas is now the only state that does not allow some level of general nonresident deer hunting.

The last other remaining state - Iowa - recently authorized nonresident deer hunting and included a reciprocal clause. In effect, Kansans cannot hunt deer in Iowa until Iowans have an opportunity to apply in Kansas. Nebraska has a similar provision in their legislature and Missouri indicated that they may have to consider the reciprocal issue. Colorado has also reviewed the reciprocal issue, but took no action. Other states have encouraged Kansas to consider allowing their residents to hunt deer in our state. Many Kansans enjoy deer hunting in other states. It does not seem proper that we continue to deny at least limited access to our state.

18-3

Our proposal limited nonresidents to no more than 5% of the total resident permits issued and would not allow a nonresident to receive a permit every year. It would amount to about 3,500 permits issued, but should generate at least $400,000 in annual permit revenue. A reduction in price for hunt-on-your-own-land permits and certain less desirable permits such as for "antlerless only" will result in decreased revenue. Without revenue from nonresident permits, resident permit price reductions will be more difficult to perform. It is important to note that even with the limited number of nonresidents proposed, national averages indicate that Kansas would receive an estimated 1.6 million dollar economic boost from their visit to our state.

One long standing argument against nonresidents involves resident opportunity to obtain permits. This argument no longer has the validity it once had. Anyone can obtain an archery permit and any archer can secure a second permit if desired. During 1989, there were 59,942 firearms permits authorized. There were 57,375 people who applied for those permits. After the first drawing, there were 4,220 unsuccessful applicants and 6,787 permits unissued. A second and third application period was used to finally issue all firearms permits.

With the combination of unlimited archery permits, unit archery permits, regular and special firearms deer seasons, hunt-your-own-land permits, muzzleloader permits, and bonus permits, it was possible for many Kansans to receive multiple deer permits and under certain conditions even harvest up to 8 deer in 1989-90. Although not all receive the exact permit desired, any Kansan wanting to hunt deer in Kansas can do so.

Concern has also been expressed that nonresidents would quickly lease up the state and access for our residents would be a thing of the past. Texas is used as an example. Wildlife management and private land access in Texas evolved under an entirely different

18-4

set of conditions than any other state. Although some leasing may occur in Kansas, it is inconceivable that a significant problem would develop. However, in response to that concern, our proposal contains a provision that a nonresident could not receive a deer permit two years in a row.

Should nonresident deer permits be authorized, it is the department's intent that the number issued would be in addition to, not a part of, the number of resident permits authorized. It is important that this distinction be noted as several news reports have incorrectly stated the number of nonresident permits would be a part of the number of resident permits authorized.

The department supports the inclusion of provisions to allow limited nonresident deer hunting and recommends the struck language on page 4, formerly items (l) and (m) in lines 11 through 23 be reinstated into S.B. 595.

18-5

BIG GAME MANAGEMENT

Department of Wildlife and Parks

Legislative Proposal

Background and Policy Issues - The first modern day deer season in Kansas occurred in 1965. A total of 5,155 hunting permits were issued and 1,504 deer were harvested. By contrast, it is estimated that 75,000+ permits will be issued in 1989 (including a special season in early 1990) and 40,000+ deer will be harvested.

Deer are a valuable natural resource for our state. the man-days of hunting recreation now exceed 455,000 per year. Although the average Kansas hunter spends less for big game hunting than the national average ($282 vs. $476), it still represents an estimated $21 million for the Kansas economy each year.

Nonconsumptive enjoyment of the deer resource through photography, sightseeing and nature study are popular, but the level of participation is unknown.

Deer management is more than management of a resource for recreational and aesthetic purposes. Attention must also be given to agricultural concerns which affect landowner tolerance of deer. As deer populations increase, landowner tolerances become a more focal issue. The majority of landowners still are supportive of a deer population, but opinion is widely varied as to what the population level should be. The 1985 landowner deer survey indicated that 48% of the landowners wanted the population to remain at the 1985 level, while 23% wanted fewer deer. Since the early 1980's, control of the deer herd size has been a primary effort of our Department. Hunting is the most effective and economical method to control the deer population.

Statutes which authorized and provided for deer management and hunting were first enacted in the early 60's. They were basically aimed at establishment and distribution of deer permits and conditions for hunting --- with protection of a limited resource in mind. Although the statutes have undergone several amendments since that time, they do not provide the flexibility to address today's management needs. Deer are no longer a limited resource. New and innovative strategies will be needed to properly manage the resource today and into the future.

Bill Summary - Our proposed legislation would amend L. 1989, Chapter 118, sections 69 and 105 which address big game management and fee structures. The following changes are proposed:

- Redefine "tenant." The ability for tenants to receive special hunting preference the same as landowners has existed since the early 60's. This preference is becoming frequently abused by individuals who are not associated with agricultural use of the land, which is counter to the original intent. The abuse can be stopped by providing a more accurate definition of tenant which would require that the tenant be substantially involved with agricultural pursuits and production. The possibility of extending privileges only to landowners may be explored in lieu of redefining tenants.

- Remove the requirement that 50% of the permits for big game hunting be issued to landowners and tenants. A percentage provision has been in law since the early 60's and was to insure that agricultural interests would receive attention in permit distribution. Since 1987, landowners and tenants have been eligible to receive a hunt-on-your-own-land deer hunting permit if unsuccessful in obtaining a regular permit through a drawing. The same provisions will be available by regulation for turkey hunting in 1990.

  The process for landowners and tenants to obtain a hunt-your-own-land permit would be simplified. Landowners and tenants would need only to apply for a hunt-your-own-land permit and would be given an extended time period to do so. These permits would be authorized each year for management units with limited permits available, thus landowners and tenants would be assured of receiving a hunting permit. If big game population considerations would prevent authorization of hunt-your-own-land permits, then a 50% distribution process would be followed.

  The proposed change will aid in administration of the big game program, but, more importantly, will insure that landowners and tenants can secure a hunting permit with minimal effort on their part. Landowners and tenants could still hunt on lands other than their own, but would have to go through a drawing for limited permits.

  This approach for issuance of landowner-tenant permits is similar to processes used throughout the midwest and many other states.

- Provide for limited nonresident big game hunting. Nonresident big game hunting has been an issue with many Kansas sportsmen due to perceived competition for limited permits and hunting sites. The number of permits which are now available makes it possible for nearly all Kansans to receive a deer or turkey hunting permit if they are willing to make the effort. Some nonresident hunting has been made available during the 1980's due to statutory amendment. Nonresidents can hunt turkey in any unit which has unlimited permits available. Nonresident landowners can secure a deer

18-7

hunting permit on their own land. Individuals having a lifetime hunting license can apply for big game hunting permits regardless of their current residence.

An expanding deer herd and a need to control that herd has required that different types of deer permits be used, i.e., antlerless only, whitetail only, etc. Each year some of the permits are unissued due to lack of demand. Effective control dictates that a planned level of control be attained. Such control is not realized with unissued permits.

Kansas is the only state left that does not provide for some level of nonresident deer permits. Our proposed legislation would authorized issuance of nonresident deer and turkey permits, but not to exceed 5% of the resident permit number in any limited unit. Kansas can easily accommodate that level of nonresident hunting without jeopardizing resident hunting opportunity or the resource. As a further assurance against competition, nonresidents obtaining a permit in one year would not be eligible to receive a permit during the following year. Department revenues would be benefitted by license and permit sales plus expenditures by the nonresidents would be noticeable to the Kansas economy.

- Lower age limit for big game hunting to 14. Current law authorizes individuals to hunt turkey and to hunt deer, antelope and elk by archery at age 14. They must be 16 to hunt deer, antelope and elk by firearms. The Department proposes that the age limit be lowered to 14 for all big game. It may be necessary to require that firearms deer, antelope and elk hunting for those under 16 be done in the company of an adult.

- Modify fee structure. The Department has been limited in big game management due to lack of authority to create various types of permits and pricing of the various permits based on desirability. Amendment of L. 1989, Chapter 118, section 105 is proposed, which would authorize regulatory setting of different fees for various types of licenses, permits, stamps, etc. issued by the Department. With this authority, it will be possible to provide appropriate pricing more in line with public demand for the item. Several examples that may be treated through subsequent regulation include a further reduced price for "hunt-your-own-land" permits and a reduced price for "antlerless" deer permits.

Establishment of a fee structure for game tags is proposed. Fees would be set by regulation. This will provide for expanded bag limits. Individuals wishing to harvest more than one deer could purchase game tags for additional deer at a reduced price. Currently, the

Department is restricted to selling only permits. Those wishing to harvest additional deer must purchase another permit at the same price and often those permits are somewhat less desireable, thus they remain unissued. In an attempt to obtain adequate harvest, the Department has issued some permits authorizing the taking of more than one deer. This represents a loss of potential income to the Department in order to encourage that harvest.

Fiscal Impact - The basic thrust behind this proposed legislation is directed at improving the Department's ability to manage big game resources. The amendments proposed will not create the need for any new personnel nor appreciably change operating expenses. It can be administered within the Department's FY 91 B or C level budget and the same for future budgets.

If successful, fees would be set by regulation and it is not possible to accurately predict at this time what those amounts may be. It is the intent that the overall effect would generate some additional revenue or at least be revenue neutral.

Impact on Other State Agencies - This proposed legislation is not anticipated to have any noticeable impact on other state agencies.

18-9

over firearms deer permit, and may also obtain up to three (3) 'bonus' antlerless permits for unit #12 or #13.

Unit#6,#9,#10,#11,#12,#13,#14,#15

SPECIAL LANDOWNER INFORMATION

A resident LO/T is defined as, a resident owner, manager, or operator of at least 80 acres of farm or ranch land in the unit for which application is made. This includes members of immediate family residing with the LO/T. Not more than one applicant may apply for each 80 acres of land owned, managed or operated.

(50% of all permits authorized are given to LO/T, and 50% of permits are given to general residents.)

SPECIAL UNLIMITED LANDOWNER/TENANT "HUNT ON YOUR OWN LAND" permits will be available for those LO/T who are unsuccessful in the regular firearms season drawing. These permits will be for any deer. To apply for this permit, make this your last choice on your regular season application in the unit where your land is located.

Landowner/tenants applying for units in which they own, operate or manage land, are only required to pay half the amount of fee charged to general residents. If a landowner wants to make a second choice on the application for a unit in which land is not owned the general fee must be paid, if LO/T permit is issued, the extra fee will be refunded.

If a LO/T is applying as a buddy applicant, all buddy applicants must qualify as landowners. All landowners applying as buddies must own land in the same unit. Buddy applications must be for all landowner applicants, or all general applicants. If a landowner applies with a general applicant,the landowner priority does not apply.

NON-RESIDENT LANDOWNERS

For more information on non-resident landowner permits (restricted to hunting on own land) write to: Kansas Department of Wildlife & Parks, RR 2, Box 54A, Pratt, KS 67124.

CUT

UNIT ARCHERY APPLICATIC

Name _____ (Last, First, Middle initial)

Address _____ (Number and Street, Rural Route)

City _____ State _____ Zip Code _____

Birth Date _____ (Mo. Day Yr.) Age _____

Social Security No. (pursuant to L. 1988,ch.307,se (3) - information is voluntary, and will be used for ger information only)

Telephone no. _____

I certify that the above information is true and correct.

Signature _____ (Do not print)

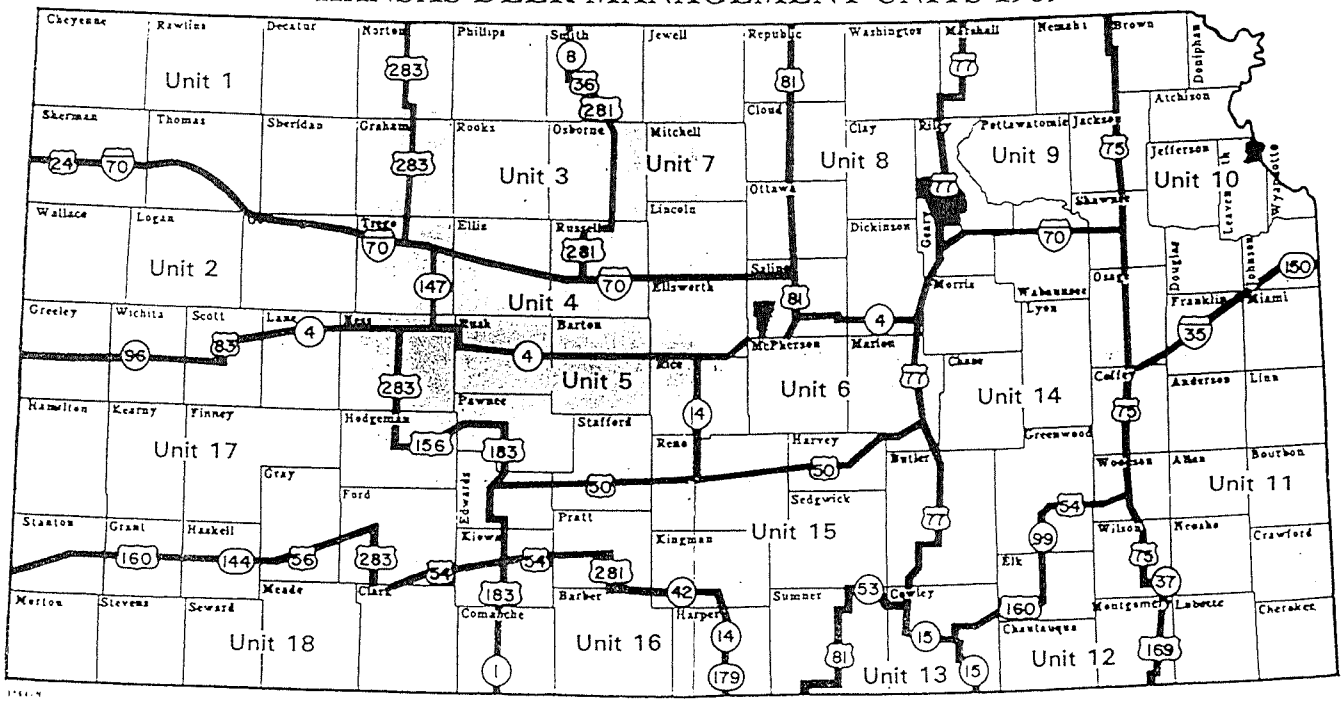
Choice	Hunt No.	Class General Landowner/tenant	LANDOWNER/TENANT ONLY Must own, operate or manage 80 acres or more (pe applicant) to qualify for Landowner/Tenant permit. County ____ Acres ____
1	111		

Amount Enclosed $ _____ General Landowner/tenant Non-resident

Deer ..... $30.50 $15.50 can not apply

A person having a current statewide archery deer permit may apply for a Ur Archery deer permit. Fill out the 'Unit Archery' Deer Permit Application for Landowner/tenant applicants must own, operate, or manage 80 acres in the ur applying for to qualify for the reduced fee.

KANSAS DEER MANAGEMENT UNITS 1989



Military reservations require special application and permits from the installations.

CUT

FIREARMS DEER APPLICATION

Example	
Buck only # permits: 100	1
Whitetail Either sex # permits: 420	5

1989 - FIREARMS DEER APPLICATION INSTRUCTIONS

The attached application form includes a chart of permits available per unit and the type of species available to hunt per unit.

On the chart below, locate the unit in which you prefer to hunt and the species and sex you prefer to hunt within that unit. Indicate your first-choice hunt by placing a "1" in the shaded space beside your selection. Locate your second- third- and fourth-choice hunts, and identify them with a "2", "3", and "4" in the appropriate spaces. Make no more than four choices.

18-10

Unit #1		Unit #3		Unit #5		Unit #9		Unit #13		Unit #17	
Either species # permits:1470	2	Either species # permits: 690	2	Buck only # permits: 270	1	Either species # permits:2075	2	Either species # permits:1000	2	Buck only # permits: 120	1

Kansas Livestock Association

6031 S.W. 37th Street • Topeka, Kansas 66614-5128 • Telephone: (913) 273-5115
FAX: (913) 273-3399
Owns and Publishes The Kansas STOCKMAN magazine and KLA News & Market Report newsletter.

STATEMENT OF THE

KANSAS LIVESTOCK ASSOCIATION

TO THE

HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES

REPRESENTATIVE DENNIS SPANIOL, CHAIRMAN

WITH RESPECT TO

SB 595

PRESENTED BY

MIKE BEAM, EXECUTIVE SECRETARY,

COW/CALF STOCKER DIVISION

MARCH 26, 1990

Thank you Mr. Chairman and committee members for allowing the Kansas Livestock Association to present a few brief comments regarding SB 595. Although the bill speaks to all species of "big game", most of my comments will be directed specifically towards deer management and deer permit fees.

In the past five years, I have found continued discontent and concern among many landowners regarding the size of our deer herd. This issue becomes quit emotional and always stirs a great deal of debate when we discuss it at our policy meetings. I continue to hear complaints regarding deer damage to crops and fences. At our last meeting, one member held up two pieces of a deer antler and explained how these antlers punctured two very expensive tractor tires.

This is why we have historically appeared before your committee urging the state, and particularly the Wildlife and Parks Department, do everything possible to curb the ever increasing deer herd size to a much more tolerant level.

I am convinced that Wildlife and Park Commissioners now admit there is a problem particularly in south central and southeast Kansas. I applaud some of the steps the agency has taken recently to try to reduce the deer herd population. There are several aspects of SB 595 which give them even greater flexibility and hopefully will help address the problem.

H ENERGY AND NR
3-26-90

ATTACHMENT 19

With regards to the provisions of SB 595, I would like to speak on just two areas.

80 Acre Definition of Landowner/Tenant

As the Bill was originally introduced, it called for an increase of 80 to 160 acres for the minimum requirement to be classified as a landowner/tenant. We support the Senate Energy and Natural Resources committee action by striking 160 acres and maintaining the 80 acre standard. We are sympathetic to the potential problems and abuses of the landowner/tenant category. Perhaps the new language on lines 22 and 23 will help tighten the landowner/tenant definition.

Landowner/Tenant Permit Fee

We have advocated for several years that landowners/tenants should receive deer permits at a lesser fee than the regular permit. In fact, our policy states that permits to landowners/tenants should be provided at no charge. The logic of course is that landowners/tenants provide most of the habitat and put up with all of the headaches that can be associated with deer.

While SB 595 does not offer free permits, it is a step in the right direction by giving Wildlife and Parks the ability to distribute "hunt-on-your-own-land permits" at a fee lesser than the amount now paid by landowners/tenants.

The original version of SB 595 allowed Wildlife and Parks to sell non-resident permits. KLA policy supports the issuance of non-resident permits. This is one more tool to distribute more permits and provide opportunities for farmers, ranchers or guides to set up fee hunting ventures. I think it is important to note that the original language placed a cap of 5% on the amount of non-resident permits that could be issued.

Again, thanks for considering our thoughts on the "big game" permit issue. I would be happy to respond to any comments or questions.

Kansas Farm Bureau

PUBLIC POLICY STATEMENT

HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES

RE: S.B. 595 -- Issuing Big Game Permits

March 22, 1990
Topeka, Kansas

Bill R. Fuller, Assistant Director
Public Affairs Division
Kansas Farm Bureau

Chairman Spaniol and Members of the Committee:

My name is Bill Fuller. I am the Assistant Director of the Public Affairs Division for Kansas Farm Bureau. We certainly appreciate this opportunity to speak on behalf of the farmers and ranchers who are members of the 105 County Farm Bureaus in Kansas.

Discussion of hunting and fishing regulations can be counted upon to create spirited debate at Farm Bureau policy meetings. Many farmers are frustrated with wildlife damage to crops and property.

The 437 voting delegates representing the 105 County Farm Bureaus at the 1989 KFB Annual Meeting reviewed and reaffirmed this resolution.

Hunting and Fishing Regulations

We believe the hunting season for upland game birds should be reduced in length with the season ending the first week in January.

We urge enactment of legislation requiring those who hunt and fish to possess written permission, signed by the landowner or operator, stating the days hunting or fishing is permitted, and giving a description and location of land on which permission is granted. All hunting and fishing licenses issued by the Wildlife and Parks Department should include the printed statement, "Written permission must be obtained from landowner, tenant or other agent." We request a warning be included in Wildlife and Parks Department regulations to indicate clearly that rural littering is unlawful and offenders will be prosecuted.

The number of big game permits should be increased. In addition, the application dates should extend to the opening date of the wildlife species season. In areas of the state where it is evident that there is an overpopulation of some species of "big game" and crop damage is evident, those landowners or tenants should be made "vendors" of a limited number of big game permits to hunt in an area prescribed by the Wildlife and Parks Department.

We believe each farmer, whether landowner or tenant, who requests a big game permit for hunting on his own land or that on which he is tenant or operator should be guaranteed, and such permit should be granted at no cost.

H ENERGY AND NR
3-26-90

ATTACHMENT 20

While S.B. 595 does not strictly follow KFB Policy, we believe some of the proposed changes provide the opportunity to accomplish our major goal ... **reduce wildlife damage.** S.B. 595 authorizes the Secretary to issue "hunt-on-your-own-land" big game permits to landowners or tenants. The bill would eliminate the requirement that the landowner or tenant be unsuccessful in a big game permit drawing in order to be issued a "hunt-on-your-own-land" permit. We believe these changes will result in the issuance of more deer permits **and** will result in less crop and property damage.

While the specifics would be outlined in the rules and regulations that would be adopted, we point out that KFB Policy states ... **"such permit should be granted at no cost."** We believe this is a reasonable request since farmers and ranchers provide the habitat, furnish the feed and absorb the financial losses associated with wildlife damage.

It appears the new language (page 1, lines 22-27) defining a "tenant" more clearly identifies a farmer. We support this change if it will prevent abuse.

We support maintaining the 80 acre requirement for defining the size of the farming operation (page 1, line 23).

Thank you for this opportunity to express the views of Farm Bureau on S.B. 595. We would attempt to respond to any questions.

To: House Committee on Energy and Natural Resources

From: William A. Anderson, Jr., Commissioner
Department of Wildlife & Parks

Re: **Senate Bill 595 Big Game Management**

Date: March 22, 1990

Thank you, Mr. Chairman, and Committee members. On behalf of the Wildlife and Parks Commission we wish to express our support for Senate Bill 595. This bill was discussed in detail at the February 22nd Commission meeting, and the Commission voted unanimously to ask for your favorable action.

Two years ago the Commission conducted a number of public meetings around the state for the purpose of discussing deer management. It was obvious that we were at a crossroads in the management of this resource. The complex farmer/rancher needs and the ambitions of the sportsman had changed dramatically over the past 25 years. In areas of the state we faced the need to substantially increase deer harvest and develop hunter interest in dramatically different programs. During the 1989-1990 regular and special seasons a Kansas sportsman could harvest eight deer.

Although the Commission and the Department have made significant changes in big game management during the past two years, it has not been easy. It is difficult because the current statutes evolved under circumstances quite different than the situation we have today. For many years the key issues in deer management were too few deer and too little sportsmen opportunity. Today, in much of Kansas the deer herd is at optimum levels (considering landowner tolerance) and in a few places there are clearly too many. At the same time our once abundant supply of sportsmen no longer appears infinite. The concept of "bonus" deer permits and three deer permits for the price of one were unthinkable only a few years ago.

We do have a successful big game management program in Kansas. The current statutes have worked for 25 years. However, to continue to have a sound program - one that will work for the farmers and ranchers, sportsmen, and all Kansans who enjoy wildlife - we need new tools. The Commission believes SB 595 will assure continued sound big game management. This bill will allow long term management flexibility and the tools the Commission needs to respond to the variables facing big game management today.

H Energy and NR
3-26-90

Attachment 21

Undoubtedly, you will have a few people requesting changes in this bill. The Wildlife and Parks Commission favors the bill in its present form. However, we would ask that you reconsider allowing limited nonresident hunting. For many years it was not possible to consider out-of-state hunters because we were not able to meet the needs of the Kansas residents. Today every Kansan has the opportunity to hunt deer, and in fact, many Kansans are harvesting two or more deer.

The Commission believes that limited nonresident hunting would put us on a basis equal to all other states that offer deer hunting - by welcoming nonresidents. Limited nonresident hunting could provide the Commission with additional hunters where there is an opportunity (or need) for additional harvest. And finally, limited nonresident hunting would bring important economic development to rural areas of the state.

There is fear that nonresident hunting will increase competition for permits and access to land. As a landowner and as an enthusiastic deer hunter with many close friends that enjoy the sport, I can assure you that I would not ask for any authority that would adversely affect my friends and Kansas sportsmen. Nonresident deer hunting on a limited basis need not displace Kansas sportsmen. While the provisions of the original Senate Bill 595 allowed for up to 5% nonresident hunters, the Commission would not be required to authorize 5%, and in many areas could choose to allow little or no nonresident hunting. Fortunately, we have a very successful management system established with our unit boundaries. This system allows us to understand both the biological dynamics and the social implications in each unit. There are units that currently would have no negative impact from 5% additional nonresident hunters. On the other hand, there are units where we may not be able to bring in nonresident hunters simply because the deer population is not currently meeting sportsmen demand.

In conclusion, SB 595 with a nonresident amendment will provide the tools to effectively manage big game hunting well into the 21st century. This bill allows for the responsible treatment of landowners and sportsmen, sound resource management, realistic fee structures for the Department, and new economic benefits for much of rural Kansas.

Kansas Wildlife Federation, Inc.

P.O. Box 5715
Topeka, Ks. 66605

Affiliate of National Wildlife Federation
913/266-6185

200 S.W. 30th
Suite 101
Topeka, Ks. 66611

Testimony SB595
House Energy and Natural Resource Committee

Presented by - Spencer Tomb
For the Kansas Wildlife Federation
March 22, 1990

The Kansas Wildlife Federation is a not-for-profit, natural resource conservation and education organization. Our 8,000 volunteer members join with the 10,000 Kansas members of our national affiliate organization, The National Wildlife Federation, to support the sound use, management and enjoyment of our vital air, soil, and wildlife resources.

We are here to testify in support of SB595.

In 1988, the Kansas Wildlife Federation testified before the Senate Energy and Natural Resource Committee of our concern for deer management in Kansas. At that time, we asked that Committee not to pass piecemeal deer legislation, but to join us in asking the Kansas Department of Wildlife and Parks to prepare a comprehensive and objective deer management plan. Before you today, you have SB595 which is based on that planning effort.

This bill can provide a good framework for future deer management for the good of all Kansans. It gives some needed flexibility to the agency and the Commission for the formulation of regulations to manage deer. The bill is "habitat positive" in the provision for easier landowner access to "Hunt on your own land" permits. Lowering the age for rifle deer hunting is appropriate and is supported by a 1985 KWF resolution.

The initial version of the bill provided for very limited nonresident deer hunting. This is a complex and controversial issue with Kansas sportsmen. Two years ago on a survey as part of a KWF membership renewal drive, we asked the simple and direct question, "Do you think we should have nonresident deer hunting in Kansas?" 56% of the responses were yes. The sample size was 689 responses. 33% of the respondents were landowners. We think that when carefully explained, Kansas sportsmen would not oppose non-resident deer hunting.

Our view is that when Kansans go out of state to hunt big game by the thousands and resident hunters have the opportunity to take more than one deer per person in Kansas, it would be selfish not to have carefully regulated, limited nonresident deer hunting. We think that limited nonresident hunting can be added into those areas of the state where deer and deer permits are plentiful and success in the drawing by landowners and general resident hunters is high. We trust you and the Wildlife and Parks Commission more than a federal judge of a neighboring state to devise a reasonable system for non-resident deer hunting in Kansas. Now that Kansas is the only state without nonresident hunting, we are very concerned about a reactionary exclusion of Kansas big game hunters by other states. Kansas residents cannot hunt deer in one state (Iowa), and Nebraska had a similar bill fail last year.

HENERGY AND NR
3-26-90

ATTACHMENT 22

In late February, after a detailed analysis of SB595, the KWF Board voted to support the initial version of SB595 including nonresident deer hunting and to work for the incorporation of an amendment to remove the age restriction for turkey hunting based on a KWF resolution passed in 1988.

The modification of the landowner tenant acerage requirements from 160 back to 80 acres is a concern for us. The number of acres is less meaningful than the amount of habitat diversity. In its present form the bill will allow two permits per 80 acres, one for the owner and one for the tenant. In much of Kansas that is too many permits per acre, however in the eastern third of the state many 80 acre farms have superb wildlife habitat. Language should be added to allow only 1 permit per 80, or raise the tenant definition to 160 acres.

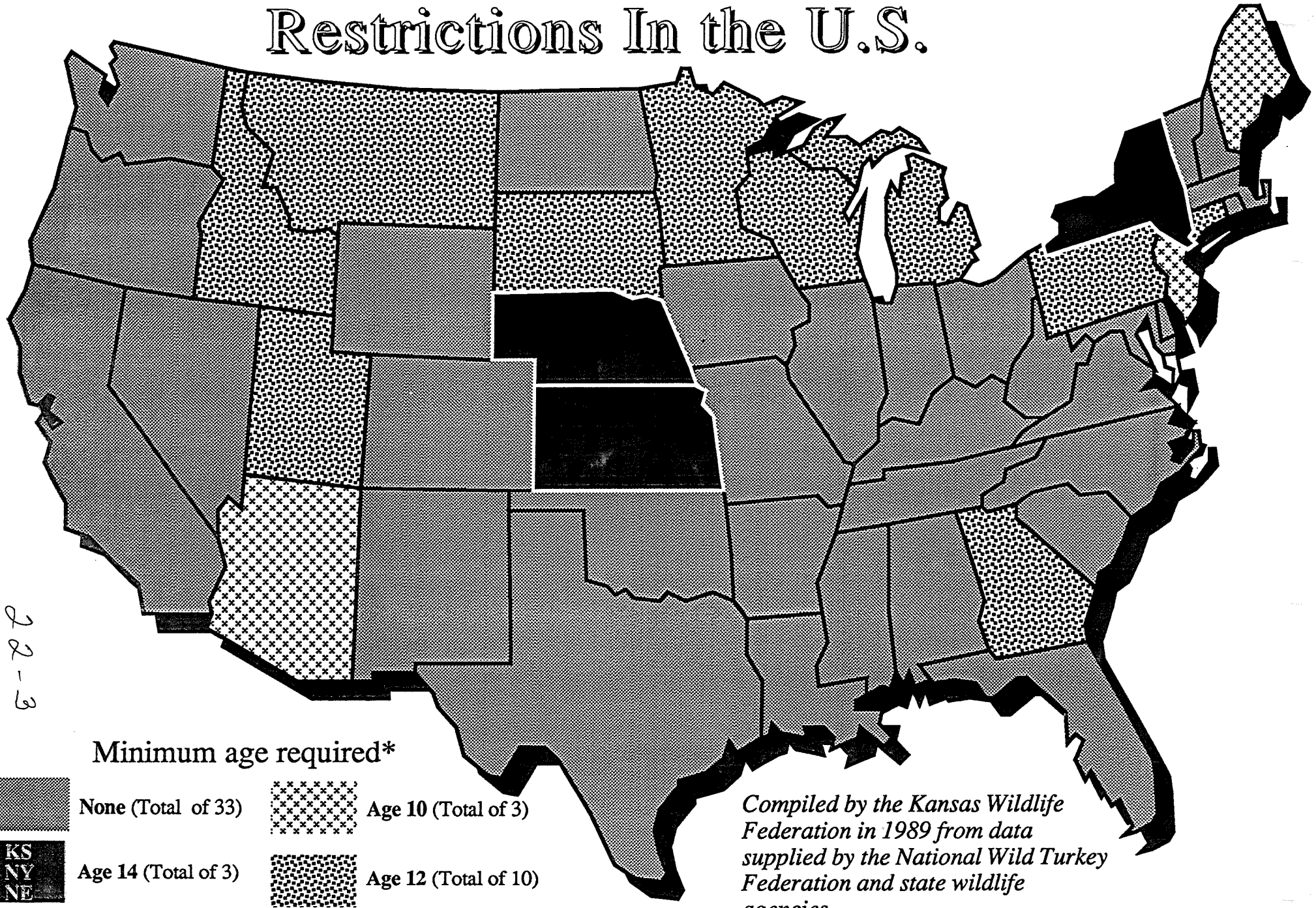
We are also concerned about the fiscal impacts of this change in the bill. As of this time we are not aware of any detailed analysis, however we do know that the Kansas general resident big game hunter pays the highest permit fees in the U.S.

We would like to see the bill amended to reduce the age restriction for wild turkey hunting from 14 to 12 and to include a requirement for hunter education and adult supervision for turkey hunters under 14. Forty-six other states let young hunters into the field to hunt turkeys before we do. (see the attached map) We are tied with Nebraska and New York as the most restrictive states in the United States. Removing the age restriction is part of the Kansas Department of Wildlife and Parks Strategic Plan, a plan for Kansas Wildlife and Parks (1988-1993). This plan was endorsed by the agency and the Commission. Page 104 of the plan very clearly and unambiguously states the removal of the 14 year old age restriction as a strategy. The Kansas Wildlife Federation's 1988 resolution on this issue was modified during the KWF annual meeting to conform to the wording of the KDWP Strategic Plan. A copy of the KWF resolution on this subject is attached to this testimony,

We also ask that a $5, non-refundable drawing or processing fee be added for nonresident applicants. The processing of applications is costly. The number of nonresident applicants will be high because our deer herd is almost legendary for trophy specimens. It could be very costly to process these applications. Other states have this fee for out-of-state applications. The specific wording of the amendments to follow through with these suggestions is attached to our testimony.

In summary, we are convinced that the bill you recieved from the Senate can, and should be, improved to privide the broad and flexible framework that will allow KDWP and the Wildlife and Parks Commission in concert with the Legislature and the public input through the regulatory process to manage our big game species for the future. By restoring nonresident hunting, reducing the age limit to hunt turkeys and adding a fee for nonresident deer applications the bill will be improved considerably.

Wild Turkey Hunting Age Restrictions In the U.S.



22-3

Minimum age required*

None (Total of 33)

Age 10 (Total of 3)

Age 14 (Total of 3)

Age 12 (Total of 10)

*Most states require hunter education and some require adult supervision

Compiled by the Kansas Wildlife Federation in 1989 from data supplied by the National Wild Turkey Federation and state wildlife agencies

Resolution 1988-2

REMOVAL OF AGE RESTRICTIONS FOR WILD TURKEY HUNTING

WHEREAS, the wild turkey is the ultimate game bird and is now found in every county of the state; and

WHEREAS, the age restrictions for big game hunting were first imposed to limit the number of permits to a household when the resource was limited; and

WHEREAS, statistics show that young hunters are safe and reliable when given adult supervision; and

WHEREAS, young hunters can develop the shooting skills required to be safe and effective turkey hunters before they are teenagers; and

WHEREAS, states with longer traditions of wild turkey hunting (i.e. Texas, Missouri and Oklahoma) do not have age restrictions and have no plans to impose age restrictions;

NOW, THEREFORE, BE IT RESOLVED that the KWF Inc., in annual meeting assembled on October 30, 1988, in Lawrence, Kansas resolves to lobby and take all necessary steps to persuade the Kansas Wildlife and Parks Commission and the Kansas Legislature to remove the age restriction for wild turkey hunting so that young hunters can have the chance to hunt the ultimate game bird when they have immediate adult supervision until age 14, have passed a hunter education course, and their parents have decided they have developed enough hunting skills.

'posed ammendments o SB 595

-- Reduction of age limit and adult supervision

by inserting on page 4 line 26:

"except a wild turkey firearm permit may be issued to any individual who has reached 12 years of age, provided the individual has been issued a certificate of completion of an approved hunter education course. Such turkey firearm permit shall only be valid while the individual is hunting under the immediate supervision of an adult who is 21 years of age or older."

2. Nonresident drawing fee

by inserting on page 5 between lines 19 and 20

"Nonresident drawing fee: minimum $5.00, maximum $10.00"

3. Nonresident deer hunting

by restoring on page 4 lines 11 though 23

22-5

SENATE BILL NO. 595
WRITTEN TESTIMONY

TO: House of Representative, Energy and Natural Resources Committee, Rep. Dennis Spaniol, Chairperson

FROM: Lowell N. (Nile) Fowler, Concerned Sportsman from Topeka, Kansas

DATE: March 20, 1990

SUBJECT: Opposition to Senate Bill No. 595, as passed by the Senate.

Thank you for allowing me to present my comments and opinions concerning Senate Bill No. 595 (SB 595). I feel that when this piece of legislation was first introduced, it reflected a major step toward solving some inconsistencies in the management of our state's resources. It was to better enable the Kansas Wildlife and Parks Department to perform its tasks and duties. It also closed some loopholes that have developed over the past few years. This bill initially would have given the secretary more flexibility in managing our wildlife. There are four areas that I felt strongly about and would like to present them here.

I would like for certain provisions to be returned to the bill as were first written with minor changes. First, to file as a landowner, they must be a Kansas resident owning at least 160 acres of Kansas farmland and themselves actively engaged in an agricultural operation. I find it hard to believe that anyone can make a living farming just 80 acres. Next, to be a farm tenant, they should be classified as a Kansas resident actively engaged in the agricultural operation of 240 acres or

H ENERGY AND NR
3-26-90

ATTACHMENT 23

more of Kansas farmland. Both these people should be allowed to obtain one free permit to hunt deer and/or wild turkey in Kansas during a regulated season for each 160 acres per landowner and 240 acres per tenant. They must also be required to hunt on only the land they own or lease to be eligible to receive the free permit. If they wish to hunt on other than their own ground, they need to apply as a general resident. If a landowner truly has a deer problem, then maybe they need to be issued extra permits to use or sell as they see fit, provided they have allowed hunting by the public within the past two years, a modified version of the New Mexico system.

Third, I would like to address the issue of non-resident landowners. This classification should be removed and these people placed into a category with all other non-residents and allowed to hunt deer in Kansas. I feel that the secretary should be allowed to issue up to and yet not to exceed 5% of the total number of resident permits in a management unit. I would hope that this practice would be used sparingly and only as a wildlife management tool and not as a greedy "go for the dollar" attitude. Non-residents also should be required to harvest doe (female) deer the same as their resident counterpart, the fee should be in the neighborhood of $150.00 and a non-resident would not be allowed to hunt two consecutive seasons.

Last, I would like to talk briefly about turkey hunting. I feel that any youngster that has successfully completed a hunter safety course be allowed to pursue wild turkeys when

accompanied by a properly licensed (Ks. state hunting license) adult, 21 years of age or older. I find it ironic that we allow youngsters to go into the field to hunt quail and particularly pheasants, with #2 or #4 shot, in what is an uncontrolled situation but not the chance to harvest a wild turkey in a controlled, supervised environment.

By expanding the abilities of the secretary to manage our state's wildlife, we are letting the professionals do the work they are trained and paid for. I feel that this bill expanded to include non-residents and under 14 year old turkey hunters allows them to do just that. The details and limits allowed by the framework this bill establishes gives the department employees and the commissioners the capability they deserve.

I would like to thank Rep. Spaniol and this committee for listening to my opinions and suggestions concerning SB 595. If there are any questions concerning my comments, I can be reached at my home by mail or phone:

Nile Fowler
3421 SW Hodges Rd.
Topeka, KS 66614
(913) 478-3376