

Approved

Ken Grotewiel

Date

2/25/91

MINUTES OF THE HOUSE COMMITTEE ON ENERGY & NATURAL RESOURCES

The meeting was called to order by Representative Ken Grotewiel at
Chairperson

3:30 ~~xxx~~ p.m. on February 19, 1991 in room 526-S of the Capitol.

All members were present except:
none

Committee staff present:

Raney Gilliland, Principal Analyst, Legislative Research
Mary Torrence, Revisor of Statutes' Office
Pat Mah, Legislative Research
Lenore Olson, Committee Secretary

Conferees appearing before the committee:

Representative Anthony Hensley
David Traster - Assistant Secretary & General Counsel - Department of
Health & Environment
Jan Garton, Manhattan, Kansas
Derek Shafer - Citizen of Shawnee County
Art Davis - Assistant to the City Administrator, City of Lenexa
Scott Andrews - Sierra Club, Kansas Chapter
Terry Leatherman - Kansas Chamber of Commerce & Industry
Steve Fogel - Ridgeway Township Trustee, Osage County
Neal Whitaker - Carbondale, Kansas
Gaylord Duffy - Dickinson County
Ken Platt - President, Kansas Aggregate Producers' Association
Dan Fogle - President, Fogle Quarry
David Walker - President, Walker Stone
Woody Moses - Kansas Aggregate Producers' Association

Chairperson Grotewiel called the meeting to order and opened the hearing on HB 2195.

Representative Anthony Hensley testified in support of HB 2195, stating that homeowners in particular have had problems with quarries that operate in residential neighborhoods. He also stated that this bill should give homeowners more voice in regulating rock quarry operations.

David Traster, Department of Health and Environment, testified in support of HB 2195. He stated that Kansas is one of the few states in the mid-continent region that does not regulate quarries and that the unregulated quarry industry presents a variety of environmental and safety concerns. Mr. Traster also stated that the regulatory program established in this bill would require additional staffing and funds which would be paid from a dedicated fee fund created in this act. (Attachment 1)

Jan Garton, Manhattan, Kansas, testified in support of HB 2195. She stated that it is becoming increasingly clear that human activities that create major disturbances to the landscape require some guidance so that the impacts and consequences that occur outside of the direct disturbance do not harm other private or public interests. (Attachment 2)

Derek Shafer, attorney and citizen of Shawnee County, testified in support of HB 2195, stating that this bill will level the playing field between the quarry operators and neighboring residents. (Attachment 3)

Art Davis, City of Lenexa, testified in support of HB 2195, stating that the blight from a strip mining limestone quarry operation or from the underground surface operations can be great unless the state or local government has had the foresight to review such an application and extract stringent requirements from the operator as well as a reclamation plan and the surety to carry out the plan. (Attachment 4)

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY & NATURAL RESOURCES,

room 526-S, Statehouse, at 3:30 ~~xxx~~/p.m. on February 19, 1991.

Scott Andrews, Kansas Chapter of the Sierra Club, testified in support of HB 2195. He stated that they believe this bill fills a need to regulate and conduct environmental review of quarry operations. Mr. Andrews suggested several areas they would like to see the bill address. (Attachment 5)

Terry Leatherman, Kansas Chamber of Commerce and Industry, testified in support of HB 2195. He stated that this bill establishes a solid base for the development of rules and regulations which ensures environmental protection, yet should protect the economic viability of surface mining operations in Kansas. He also addressed two areas of concern, as shown on (Attachment 6)

Steve Fogel, Osage County, testified in support of HB 2195. He stated his concern with the effect on his native stone home by nearby percussions. He was also concerned with property values of homes near quarries.

Neal Whitaker, Carbondale, testified in support of HB 2195. He stated that the present system is definitely stacked against citizens who do not want a rock quarry in their neighborhood. He suggested two additions to this bill as shown on (Attachment 7)

Gaylord Duffy, Dickinson County, testified in support of HB 2195. He stated that they are opposed to the hazardous and unsightly conditions in which his area is left after rock is quarried nearby. (Attachment 8)

Ken Platt, Kansas Aggregate Producers Association, testified in support of HB 2195. He commended the Committee for convening this hearing. He also cautioned the Committee to look beyond the emotional issues normally associated with the regulatory control of an industry and to focus their attention on the true issues before them -- the questions of how best to fulfill obligations to future generations with regard to the wise use of Kansas' lands and the conservation of its natural resources. (Attachment 9)

Dan Fogle, Fogle Quarry, testified in support of HB 2195, stating that he and 90 percent of the industry supports this bill; however, they would like to see zoning laws left to local units of government.

David Walker, Walker Stone, testified in support of HB 2195, stating that he conceptually supports this bill, but that it is a "big business" bill and will hurt small businesses. He supported leaving siting regulations to local units of government.

Woody Moses, Kansas Aggregate Producers Association, testified they have for years been in favor of developing some type of reclamation regulation.

The Chair concluded the hearing on HB 2195.

A motion was made by Representative Freeman, seconded by Representative Hendrix, to introduce a bill on recycling and disposal of vehicle tires, which was requested by the Commission on Waste Reduction, Recycling and Market Development. Motion carried. (Attachment 10)

A motion was made by Representative Thompson, seconded by Representative Correll, to introduce a bill to prohibit waste from any state that has less stringent hazardous waste laws. The motion carried.

A motion was made by Representative Corbin, seconded by Representative Shore, to approve the minutes of February 13 and 14. The motion carried.

The meeting adjourned.



State of Kansas

Joan Finney, Governor

Department of Health and Environment Office of the Secretary

Stanley C. Grant, Ph.D.,
Acting Secretary

Landon State Office Bldg., Topeka, KS 66612-1290

(913) 296-1522
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Testimony presented to
House Energy and Natural Resources Committee

by

The Kansas Department of Health and Environment

House Bill 2195

House Bill 2195 provides for regulation of quarries by the Department of Health and Environment. The act and resulting regulations would cover all phases of quarry operations including permitting, operation, reclamation, enforcement and closure. Kansas is one of the few states in the mid-continent region that does not regulate quarries. Regulations in the mid-continent region vary from registration to comprehensive regulation. The bill as drafted would provide for comprehensive regulation. The Department supports the concept of regulating these operations.

The unregulated quarry industry presents a variety of environmental and safety concerns. Groundwater is clearly one of the state's most valuable resources. Quarrying operations expose this resource to the environment and provide a conduit for pollutants to enter the groundwater. The use of quarries that are no longer operational must also be addressed. Closure requirements depend largely on the proposed use and on the geology and hydrology of a particular location. In addition, there are concerns about the safety of an abandoned quarry. Many times these operations are left with very steep slopes and even cliffs and may fill with water to a considerable depth, all of which pose a threat to public health and safety. One of the major functions of the abandoned mined lands program is addressing these problems left over from the coal mining which took place prior to 1968. These same concerns are present in the quarrying industry and will be addressed by this bill.

The regulatory program established in this bill would require additional staffing and funds which would be paid from a dedicated fee fund created in this act. This concept is supported by the Department. KDHE estimates the costs of a comprehensive regulatory program as envisioned by this act at approximately \$460,000.00. One of the major costs will result from the requirement that each permitted operation be inspected quarterly. Based on staff estimates of the tonnage of quarried material produced in the state, the fee required to support the program must be raised from \$.01 to \$.03 per ton.

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2/19/91

Attachment 1

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

Ronald Hammerschmidt, Ph.D.,
Acting 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

The experience of the Department with regulation of coal mines provides the Kansas Department of Health and Environment with a natural base for this program. It is the intent of the Department to integrate the two programs. In this way, KDHE can rely on expertise that already exists to move the quarry program forward and to enhance the capability of the mined lands program.

The bill, as now drafted, provides for the imposition of a civil fine as the only enforcement mechanism. KDHE's experience with other programs indicates that our enforcement actions are most effective when we also have the authority to deny, revoke or suspend a license or permit. KDHE recommends that the bill be amended to include this authority for failure to comply with the statute or the rules and regulations promulgated thereunder. We also recommend that the rights to an administrative hearing be specifically spelled out in the bill.

A note about the mined lands program is in order. In 1968 Kansas established its own mined lands program which required that mine operators level the land rather than leaving the mine spoils exposed. Kansas was considered a leader in establishing this program at the time. In 1977 Congress passed the Surface Mining Control and Reclamation Act which placed much more stringent requirements on the closure of coal mines. The mined lands program provides enhanced public safety and environmental protection just as this quarry legislation will do.

Testimony presented by: David M. Traster
Assistant Secretary and General Counsel
February 19, 1991

j.s.garton

Testimony on behalf of House Bill 2195

February 19, 1991

Jan Garton
219 Westwood Rd.
Manhattan, Ks. 66502

Mr. Chairman,

It is becoming increasingly clear than human activities that create major disturbances to the landscape require some guidance so that the impacts and consequences that occur outside of the direct disturbance do not harm other private or public interests.

HB 2195 is an effort to insure that new quarries and those presently in operation are properly regulated and reclaimed when quarrying activity is completed. This program has my support.

However, on my reading of the bill, it appears to me to exclude from the reclamation requirements any quarry that has been abandoned. Last year's bill included specific provisions to deal with abandoned quarries -- I would encourage such considerations be incorporated into this bill.

Along the same line, there are quarries that remain open but have only a small section being actively worked. It might be that such an operation could continue for a century or more, leaving most of the quarry site and surrounding resources susceptible to erosion, contamination or safety problems. The same situation may be true for an operation that is temporarily inactive due to economic reasons.

Under this bill, the state would be powerless to deal with these problems unless other statutes exist that apply to some of the specific problems such as water or wind erosion and blowing dust. Some provisions should be considered to require a temporary cover or permanent reclamation of areas unquarried for reasonable lengths of time.

One of the good things about HB 2195 is how much simpler it is than the one proposed last year. Nevertheless, I would encourage this committee to recommend that the issues addressed in Sections 8 through 12 of HB 2911 from the 1990 session be incorporated by the Secretary of the Kansas Department of Health and Environment into his rules and regulations that govern activities under this bill. It is especially important that the Natural Heritage Inventory, Kansas Department of Wildlife and Parks and the State Historical Society be informed of any proposed quarrying explorations, operations or expansions. These agencies can advise the Secretary whether the site in question is critical as wildlife habitat, the domain of a rare plant species or a priceless historical site. The state should try to prevent actions which led to the plowing of the Elkins Prairie and the destruction of two rare plant species.

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Attachment 2

Last year's bill provided for the possible acquisition by the state of abandoned quarries found desirable for recreation or wildlife purposes. In a state of wide open spaces where little land is actually accessible to the public, this may provide an opportunity to add to the public's outdoor enjoyment.

Finally, I'd like to ask one question. Does this bill prevent the use of a quarry as a possible landfill site? There is a quarry in Dickinson County that has been identified as the best site for disposal of solid waste by members of a three-county compact, of which Riley County is a participant. If that site is declared off-limits by this bill, the other options involve tearing up Flint Hills prairie. I would ask that this committee make any necessary changes to this bill if it currently prohibits the use of solid waste as a means of reclamation -- as long as it is done within the bounds of standard reclamation practices.

I suspect that many of the issues I have raised can and should be addressed by regulation rather than direct legislation. But my purpose in identifying some of them is to encourage your committee to guide the Secretary as he develops the framework to implement this bill.

Including abandoned quarries in this bill may stall its passage; if that is so, then I would encourage the committee to pass HB 2195 without such provisions if the sponsors of this bill will agree to look into this issue further and to introduce appropriate legislation during next year's session.

Thank you.

DEREK SHAFER
TESTIMONY

FEBRUARY 19, 1991

HB #2195/QUARRY REGULATION

Quarry operators are business people, as such they:

- 1) are organizers and planners;
- 2) have access to experts (environmental, blasting and legal);
- 3) are familiar with planning, zoning, and local council rules, procedures and personnel; and
- 4) are able to beneficially schedule matters.

Because the above sounds so negative, I wish the Committee to understand that I am aware that:

- 1) quarry operators provide a necessary resource to the community; and
- 2) quarry operators benefit the community in which they are located by tax payments and job opportunities.

The reason for my support of this bill is that it will "level the playing field" between the quarry operators and neighboring residents. When first apprised of a quarry's desire to operate, or increase the size of its operation, a group of disorganized residents attempts to oppose expert opinions offered by quarry operators when said residents have little, if any, knowledge as to procedures, areas of appropriate expertise or the staff and members of the governmental agencies who will make a decision as to approval of the quarry operation.

I view HB #2195 as empowering an agency of the state to minimally regulate, where no authority has previously existed, activities which may represent a health and/or environmental hazard in the form of dust, noise, blast danger and "runoff" problems. If I could personally amend the bill, I would strengthen the powers of the Secretary.

After hearing partial testimony to the Committee and questions by the Committee, I believe a most crucial and appropriate amendment should be made as to the Secretary's power to limit activity of a permittee. It is necessary that the Secretary be empowered to limit the hours of operation and particularly the hours of blasting.

Further, from my reading of the bill, it appears that aside from a "per ton" fee for product extracted, funding will come from a one time \$50.00 application/permit fee for a ten (10) year permit. I think the permit fee should be an annual fee for each year of the permit.

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Attachment 3*



City of Lenexa

Phone (913) 492-8800

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TESTIMONY TO HOUSE ENERGY AND
NATURAL RESOURCES COMMITTEE

RE: HOUSE BILL 2195

ART DAVIS, ASSISTANT TO THE CITY ADMINISTRATOR

FEBRUARY 19, 1991

Mr. Chairman and Members of the Committee:

My name is Art Davis and I am the Assistant to the City Administrator for the City of Lenexa, Kansas. Lenexa is a growing community, consisting of 33,000 residents and encompassing approximately 28.95 square miles of land in Johnson County, Kansas.

The City of Lenexa strongly supports HB 2195 and I am here today to speak in favor of HB 2195. Located within the city limits of Lenexa, Kansas are at least three (3) active limestone rock quarry and underground mining operations, one (1) abandoned quarry and one (1) additional underground mining operation approved two (2) years ago by the Lenexa City Council, but which is currently in litigation and has not yet begun its operation. Each of the existing operations also consist of rock crushing facilities,

concrete ready mix and asphalt plants -- all of which are commonly associated with quarry operation.

Our City Legal and Planning Departments have been actively involved in the regulation of quarry activities as a result of participation in two (2) large pieces of litigation involving rock quarries in our city. The City was amazed during its investigations to discover that filing of underground mining maps (primarily for purposes of human safety) and notification and consent requirements prior to excavating near adjoining lands were the only regulation directly affecting limestone quarry operations in Kansas and that all other regulation impacted only the coal industry.

The blight from a strip mining limestone quarry operation or from the underground surface operations can be great unless the State or local government has had the foresight to review such an application and extract stringent requirements from the operator as well as a reclamation plan and the surety to carry out the plan.

The City of Lenexa testified before you at this time last year in support of a similar quarrying bill. The City also supports this Bill, however, we would like to suggest several changes and additions which we believe would make this an even better bill:

1. Expand the definition of "quarrying operation" to include underground mining. This is especially needed because underground mining operations can result in cave-in situations, abandoned portals, etc.

2. Expand the definition of "reclamation" to include "the reconditioning of the area of land affected by underground or surface mining operations that minimizes water degradation, air pollution, flooding, erosion and other adverse lands are reclaimed to a usable condition which is readily adaptable for alternative land uses and create no danger to public health or safety."

3. Specify in Section 7 the contents of the Reclamation Plan. Such a requirement would relieve the Secretary from deciding what information should be submitted and would advise citizens and government officials as to what information is available for review. We would suggest that the Reclamation information to be furnished should include:
 - A. a description of the manner in which contaminants will be controlled and mining waste will be disposed of;

- B. a description of the manner in which rehabilitation of affected stream channels and banks to a condition minimizing erosion and sedimentation will occur;
- C. a topographic map showing final contours of the property after reclamation;
- D. an operational diagram showing how reclamation will be coordinated with the surface mining operation;
- E. a plan showing the types and location of revegetation, the soil distribution and compaction to be used as a part of the reclamation;
- F. a ground water hydrology plan and a surface water drainage plan;
- G. an estimate of the cost of reclamation;
- H. such further information as may be requested by the Secretary.

4. Finally, we would suggest that the statute prescribe a time frame within which reclamation must be commenced and completed, otherwise it will be very difficult to enforce the reclamation requirements and if necessary, make a claim on the surety bond.

In summary, HB 2195 is good legislation and addresses an important problem in the State of Kansas. The City of Lenexa would like to assist in any manner possible to effectuate this important change. I would be happy to answer any questions the Committee may have.



SIERRA CLUB

Kansas Chapter

Testimony to House Energy & Natural Resources

H.B. 2195 - Quarry Regulation

I am Scott Andrews representing the 3300 members of the Kansas Chapter of the Sierra Club. We are in favor of H.B. 2195 and believe it fills a need to regulate and conduct environmental review of quarry operations. Especially important is the reclamation of quarries following operations. Far too many sites have been abandoned with no attempt at reclamation and are left as useless pits as well as posing environmental and health hazards. With H.B. 2195 we will have a framework with which to deal with these impacts.

We do have several suggestions of areas that we would like to see the bill address.

- Alluvial Sand and Gravel. Regulation and reclamation of these operations is also needed. If not addressed by inclusion in this bill, then hopefully they will be addressed in future legislation.

- Wildlife and habitat effects. While KDHE is the proper agency for over-all environmental review and regulation, cooperation with the Dept. of Wildlife and Parks is needed to properly assess the impacts on natural resources. One method would be to broaden the Environmental Coordination Act to include activities such as quarry operations.

- Reclamation for wildlife habitat or recreation. A related issue to that above is KDWP involvement in the planning for reclamation as either a wildlife area or a recreation site. Some former quarry pits in other states have been made into beautiful local parks or wildlife areas. With the cooperation of KDWP, local government and a willing seller, some Kansas quarries could be reclaimed for similar uses.

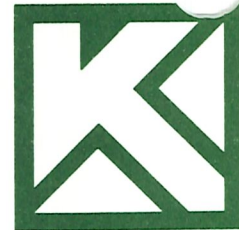
Thank you for the opportunity to testify. The Sierra Club asks you to consider the above improvements to the bill and urges your support for H.B.2195.

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2/19/91
Attachment 5*

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 2195

February 19, 1991

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:

I am Terry Leatherman. I am the Executive Director of the Kansas Industrial Council, an arm of the Kansas Chamber of Commerce and Industry. Thank you for this opportunity to express the Kansas Chamber's views in support of HB 2195.

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.

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attachment 6

KCCI feels the state of Kansas should have procedures in place to direct surface mining operations in our state in their efforts to reclaim and conserve the land used in their operations. HB 2195 would accomplish this by developing a permitting process through the Kansas Department of Health and Environment. Before a permit could be issued, the Department would determine if operational requirements would be followed, and that financial steps have been taken to insure that land reclamation would take place when quarrying operations conclude. HB 2195 establishes a solid base for the development of rules and regulations which ensures environmental protection, yet should protect the economic viability of surface mining operations in our state.

While KCCI supports HB 2195, there are two areas of concern in the bill I call to the committee's attention. First, the legislation requires the Secretary of the Department of Health and Environment to reject permit applications if the location of the quarrying operation adversely affects public health and safety, or the environment. By allowing the rejection of a permit request because of the location, the bill grants the state veto authority over a local government's right to land zoning or permitting. It is the obligation of the Department of Health and Environment to protect the public health and safety of Kansans and the state's environment. Since Section 4 of the bill permits the Secretary to impose conditions on quarrying permits, it is unnecessary and improper to strip local governing units of the right to determine if the location of a quarrying operation is proper.

Second, KCCI would caution the Committee about the quarrying permit condition regarding the containment of water run-off from permitted areas. It is the Kansas Chamber's understanding that a difference of opinion exists between state agencies regarding this issue.

KCCI applauds the authors of this legislation for their efforts to work with surface mining operators in our state in developing regulations which protect our environment and permit quarrying operations to continue to make an important contribution to the Kansas economy. Thank you for this opportunity to express KCCI's support for HB 2195. I would be happy to attempt to answer any questions.

Testimony
by
Neal Whitaker
Route #1, Box 59
Carbondale, Kansas
in favor of House Bill 2195
House Energy Committee

February 19, 1991

Mr. Chairman and Members of the Committee:

I am appearing here today representing myself and my family in support of **House Bill 2195**. Interest in this bill comes from three years' worth of hearings before the Osage County Board of Zoning Appeals, County Commission, Ridgeway Township, the District Court and finally the Court of Appeals concerning the siting of a rock quarry one mile from my house. This tedious and expensive process convinced me that it is in the State's interest to regulate the siting and operation of rock quarries.

The present system is definitely stacked against citizens who do not want a rock quarry in their neighborhood. The process begins before the board of zoning appeals appointed by the county commission who is in the road building business. The companies, having been through the appeals process a number of times, appear with slick presentations that include engineers, geologists and other expert professionals to make their case while citizens are left to defend the value of their property and quality of life with very limited resources. The quasi-legal nature of a zoning appeals hearing necessitates that citizens hire appraisers to do comparison studies with land values surrounding other quarries, engineers to do an independent analysis of the quarry site and study the safety of access roads leading to and from the proposed quarry as well as an attorney well versed in zoning issues, all to conduct a hearing before a board that is more interested in promises of cheap, easily accessible rock than the interest of a few citizens who will have to live with the disruption every day. **HB 2195** requires the Secretary of Health and Environment to make a number of determinations prior to the issuance of a quarry permit. It also provides for continuing oversight by the department to insure that the quarry is operated safely. Local units of government do not have the financial

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Attachment 7

resources to employ experts to oversee the effects of quarrying; noise, dust, water, pollution, traffic hazards, reclamation practices, and many other environmental issues. Health and Environment can play an important role protecting the public's health and safety just as they do in many other industries.

There are a couple of additions that I would like to see in **HB 2195**. Page 2, line 28, requires the Secretary to make a determination that the quarry's operation does not adversely affect the public health and safety or the environment. I believe the Secretary should be required to hold a hearing on this issue. In addition, since quarrying dramatically alters the landscape, consideration should be given to the number and location of quarries in the area. In this particular case the Kansas Geologic Survey says that there are six quarry leases in Osage County and, as you heard in testimony from my neighbor, Mr. Fogel, there is a quarry five miles from the proposed quarry site owned by the same company. The Secretary's independence from local politics would allow a more impartial determination of interests.

Once the board of zoning appeals approves the quarry permit, local citizens find themselves in an uphill legal battle. Courts won't hear any evidence that wasn't presented to the board of zoning appeals. Quoting from District Court Judge White's decision in this particular case, "the court is mindful that it is not its duty to find whether the board's findings were wise ones; its duty is to determine whether the findings were made arbitrarily or capriciously." And, the Kansas Court of Appeals in its ruling says that these decisions are best left to local authorities. Remember, these local authorities are people in the road building business who want easily accessible, low cost rock.

Another amendment I would suggest: In line 17 on page 3, the bill allows four years for any person who is currently operating a quarry to comply with the law. I believe this time period should be reduced to one year.

I appreciate the opportunity to appear on this issue and would be happy to answer any questions.

My name is Gaylord Duffy. I am a retired farmer. My wife and I live on our farm northwest of Chapman, Kansas, where our farm ^{ad}joins a rock quarry. On behalf of ourselves and our community I will state why we favor House Bill No. 2195.

First, let me say that we are not opposed to the quarrying of rock, which is vitally needed, but we are opposed to the hazardous and unsightly conditions in which the area is left after the rock is quarried.

Living near a quarry, we have experienced blowing dust for miles and for days, which is so thick at times that it is dangerous for cars traveling the road. Noxious weeds are blown over the entire neighborhood. Huge unsightly mounds of subsoil rise above the deep depressions. The pit between the mounds located near Highway 18 and approximately 24 feet from the road right-of-way has been open for ~~many many~~ ^{many many} years. It is 30 or 40 feet deep; besides being unsightly, it is dangerous to cars or trucks, which might accidentally drive off the road and then not be found for days. Is this the image and the danger we want visitors and travelers to encounter in Kansas?

I have discussed House Bill No. 2195 with all my neighbors and we agreed that Rock Quarries need some rules and regulations. We think that House Bill 2195 is good. However, we realize that the bill will not correct huge mistakes made in the past, but it is a good start for the future. Therefore, we hope House Bill No. 2195 will become a law for a better future in Kansas.

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2/19/91
Attachment 8



Kansas Aggregate Producers' Association

STATEMENT

of

The Kansas Aggregate Producers Association

before the

HOUSE ENERGY and NATURAL RESOURCES COMMITTEE

**Topeka, Kansas
February 21, 1991**

Regarding

HB2195: an act concerning quarrying

My name is Ken Platt. I am the President of the Kansas Aggregate Producers Association. Our Association represents over 250 aggregate, concrete, and associate member firms in the Kansas mining industry. The Kansas Aggregate Producers' appear before you today, as we have done so since 1969, in support of your efforts to develop meaningful land reclamation legislation.

I would like to commend the members of this committee for convening this hearing to examine the status of mine legislation and regulation in the state of Kansas. I would caution you, however, to look beyond the emotional issues normally associated with the regulatory control of an industry and focus your attention on the true issues before you--the questions of how best to fulfill our obligations to future generations with regard to the wise use of our state's lands and the conservation of its natural resources. Crushed stone, or more generally construction aggregates, are indeed one of this state's most valuable natural resources. Our standard of living would be undermined without the basic construction and agricultural materials which depend upon aggregate production.

I would like to pause for a moment to consider some interesting points.

- In 1982 our nation consumed 790 million tons of crushed stone. Estimates of 1990 consumption rest at 1.25 billion tons and projections for the year 2000, just 10 years from now, call for 1.65 billion tons annually. That is about a 35 percent increase in annual demand forecast for the next decade. Similar trends can be developed for our state.
- Crushed stone consumption parallels population concentration. The more people in a given area the more stone demanded and used. Often resulting in situations where the people, who desire our product the most, are the least willing to tolerate our operating constraints. It is estimated that each and every Kansan consumes approximately 7 tons of aggregate per year.
- Rocks don't have baby rocks! That is another way of saying that stone, is a nonrenewable resource. It is also a resource which does not respect political boundaries, that is, it is located where the Creator put it not necessarily where you or I might have preferred to find it!
- Finally, carefully conceived and executed mineral resource development plans must be established if we, as a state, are to become wise stewards of the natural resources with which we have been endowed.

The above stated principles are tried and true and can be generally accepted without debate. Referring to the final point, the regulatory control of mining activities, including the general siting of the mines and mined land reclamation planning, are a proper purview of governmental entities, for it is our governmental entities that are charged with the preservation and enhancement of the public good and welfare. The question remains, however, which level of government should be so charged?

We of the Kansas Aggregate Producers believe the proper level of government to be the local level. The level at which the needs of the community and its residents can be reconciled with the needs of the same community for aggregate products. We also believe certain activities concerning the surface mining of minerals need to be addressed at the state level; consequently, as an industry, we appear in support of H.B. 2195. We would like, however, to make the following suggestions for improving the proposal before you today:

1. HB 2195 should be expanded to include all types of surface mining and perhaps underground mining as well. Many of the definitions, as set forth in 2195, need to be reviewed and changed to reflect the realities of mining in Kansas. We support an exemption for river sand producers as they are already regulated by the Division of Water Resources.
2. Your predecessors have spent many years studying and enacting a good body of "land-use" law. In almost all cases this law has vested authority to administer "land-use" provisions at the local level. The level best equipped to uniquely deal with local "land-use" problems. We support mine operator licensing uniform and reclamation provisions at the state level. Actual siting of mines should remain within the province of the local level of government.
3. Our industry is already regulated well beyond the norm. Many of the provisions including in HB 2195 especially relating to air, blasting and water are already required. To apply these provisions to our current regulatory scheme would be redundant, confusing and wasteful. We suggest that this bill be carefully constructed to require good reclamation plans and be administered by the State Conservation Commission. As they are the state agency best equipped to evaluate reclamation and conservation plans which will provide for the productive use of mine sites long after mining operations have ceased.

4. To date there has been no clear definition, at the federal level, of an environmental impact statement. We suggest the requirement for such a statement should be dropped from HB2195 until a better definition is developed. An interim requirement, if needed, can be addressed and modified more easily by administrative rules and regulations.

The legislature has periodically studied reclamation legislation in the past and we feel it is appropriate for you to do so now. We would like to suggest as you conduct your study that you review the adequacy of local zoning and "land-use" laws in light of the concerns brought before you today. In conclusion we support , as we have many times in the past, responsible mining legislation which will lead to the responsible extraction of mineral resources in an environmentally safe and economically viable manner.

We thank you for the opportunity to appear before you today and discuss these issues.

RESOLUTION

WHEREAS, The Kansas Aggregate Producers' Association is to be included as one of the extractive industries with regard to legislation proposed to be submitted to the Kansas Legislative Council,

and,

WHEREAS, The Kansas Limestone Producers' Association have initiated the movement toward the adoption of meaningful legislation with regard to land reclamation procedures concerned with surface mining operations,

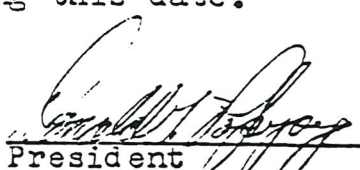
and,

WHEREAS, The Kansas Aggregate Producers' Association has a vital interest in such legislation.

THEREFORE, BE IT RESOLVED:


The Board of Directors of the Kansas Aggregate Producers' Association hereby authorize the Legislative Committee, through the Managing Director's office, to cooperate fully with all other interested parties in development of such legislation to be presented to the Kansas Legislature at its next session.

Adopted this 24th day of March, 1969, by action of the Board of Directors at a duly called meeting this date.



President
KANSAS AGGREGATE PRODUCERS'
ASSOCIATION

ATTEST:



Secretary-Treasurer
KANSAS AGGREGATE PRODUCERS'
ASSOCIATION

9-5

PROPOSED BILL NO. _____

By _____

AN ACT concerning vehicle tires; relating to recycling and disposal; amending K.S.A. 1990 Supp. 65-3424, 65-3424a and 65-3424f and repealing the existing sections; also repealing K.S.A. 1990 Supp. 65-3424c.

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

Section 1. K.S.A. 1990 Supp. 65-3424 is hereby amended to read as follows: 65-3424. As used in K.S.A. 1990 Supp. 65-3424 through 65-3424h, and amendments thereto, unless the context otherwise requires:

(a) "Person" means any individual, association, partnership, limited partnership, corporation or other entity.

(b) "Secretary" means the secretary of health and environment.

(c) "Tire" means a continuous solid or pneumatic rubber covering encircling the wheel of a vehicle.

(d) "Vehicle" means any motor vehicle, as defined by K.S.A. 8-1437 and amendments thereto, ~~other than a traction engine, road roller or farm tractor or trailer.~~

(e) "Waste tire" means a whole tire that is no longer suitable for its original intended purpose because of wear, damage or defect.

(f) "Waste tire collection center" means a site where used or waste tires are collected from the public prior to being offered for recycling and where fewer than 1,000 tires are kept on the site on any given day.

(g) "Waste tire processing facility" means a site where equipment is used to cut, burn or otherwise alter whole waste tires so that they are no longer whole.

(h) "Waste tire site" means a site at which 1,000 or more

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Attachment 10

whole tires are accumulated.

Sec. 2. K.S.A. 1990 Supp. 65-3424a is hereby amended to read as follows: 65-3424a. (a) The owner or operator of any waste tire site, within six months after the effective date of this act, shall provide the department with information concerning the site's location and size and the approximate number of waste tires that are accumulated at the site and shall initiate steps to comply with subsection (b).

(b) On or after July 1, 1990, no person shall:

(1) Maintain a waste tire site unless: (A) such site is an integral part of the person's permitted waste tire processing facility; or (B) the tires accumulated at such site are for use in the person's tire retreading business;

(2) dispose of waste tires in the state unless the waste tires are disposed of for processing, or collected for processing, at a permitted solid waste processing facility, a waste tire site which is an integral part of a permitted waste tire processing facility, a permitted waste tire processing facility or a waste tire collection center or are made available to: (A) The department of wildlife and parks for use by the department; or (B) a person engaged in a farming or ranching activity, including the operation of a feedlot as defined by K.S.A. ~~14-5701~~ 47-1501, and amendments thereto, as long as accumulation or disposal of such tires is in accordance with all applicable zoning regulations; or

(3) deposit waste tires in a landfill as a method of ultimate disposal, except that: (A) Residential waste containing tires may be deposited in a landfill if such waste contains not more than four tires in any one truckload; and (B) the secretary, by rules and regulations, may:--(A) (i) authorize the final disposal of waste tires at a permitted solid waste disposal facility provided the tires have been cut into sufficiently small parts to assure their proper disposal or are utilized as part of a proven and approved leachate collection system in their original state; and (B) (ii) allow waste tire material which has