

Approved

Date

3/14/91

MINUTES OF THE HOUSE COMMITTEE ON ENERGY & NATURAL RESOURCES

The meeting was called to order by Representative John McClure at
Vice Chairperson

3:30 ~~am~~ p.m. on March 6, 1991 in room 526-S of the Capitol.

All members were present except:

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 Gayle Mollenkamp
Representative Robin Jennison
Marcia Giess - Arnold, Kansas
Rev. Chad Anglemyer, Arnold, Kansas
John Irwin - Director, Bureau of Air and Waste Management
Dr. Floyd Preston, Professor of Chemical and Petroleum Engineering,
University of Kansas, Lawrence
Jim Kaup - Counsel, League of Kansas Municipalities
Bill Bryson - Director, Oil and Gas Conservation Division for the
Kansas Corporation Commission
Don Schnacke - Kansas Independent Oil & Gas Association

Vice Chairperson McClure called the meeting to order and opened the hearing on HB 2309.

Representative Mollenkamp testified in support of HB 2309. He stated that the intent of this bill is not to discredit the reclaiming procedure or the purpose of the industry but to allow KDHE and local units of government some control over these facilities. (Attachment 1)

Representative Jennison testified in support of HB 2309, stating that a mechanism needs to be in place to protect people who are forced to live in close proximity to facilities like this from personal loss. (Attachment 2)

Marcia Giess, Arnold, Kansas, testified in support of HB 2309. She stated that oil reclamation facilities which treat, process and store oil sludge should be confined to areas away from towns, residential areas and dwellings. (Attachment 3)

Rev. Chad Anglemyer, Arnold, Kansas, testified in support of HB 2309. He stated that he supports the process of application and inspection to obtain a permit because it gives accountability to those who are operating or who propose to construct and operate an oil reclaiming facility. (Attachment 4)

John Irwin, Bureau of Air and Waste Management, testified in support of HB 2309, stating that this bill appears to contain appropriate requirements for those aspects of these operations that are of greatest concern to KDHE. He also suggested three amendments. (Attachment 5)

Dr. Floyd Preston, University of Kansas, testified in support of HB 2309. He stated that as our society becomes more aware of environmental hazards, we look naturally to regulate those previously unregulated activities that, under some conditions, can become hazardous. (Attachment 6)

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY & NATURAL RESOURCES,
room 526-S, Statehouse, at 3:30 ~~am~~/p.m. on March 6, 1991.

Jim Kaup, League of Kansas Municipalities, testified in support of HB 2309. He stated that they believe that any city which now has an oil reclaiming facility within its city limits, or in its vicinity, will welcome state regulation and permitting by KDHE. He also suggested one amendment, as shown on (Attachment 7).

Bill Bryson, Kansas Corporation Commission, appeared before the committee to provide information on oil reclaiming facilities and future regulatory activities which deal with the issues of facility siting, permitting and closure of such facilities. He also said that they believe that regulation of these facilities can be effective without new legislation. (Attachment 8)

Don Schnacke, KIOGA, testified in opposition to HB 2309. He stated that they don't want oil reclaimers to be regulated out of business, which would cause a reliance on out of state reclaimers. (Attachment 9).

The Vice Chair closed the hearing on HB 2309.

Chairperson Grotewiel requested the Committee to turn to HB 2494.

A motion was made by Representative Shore, seconded by Representative Correll, to pass HB 2494. The motion carried.

The Chair directed the Committee to turn to HB 2495.

A motion was made by Representative Freeman, seconded by Representative Shore, to pass HB 2495. The motion carried.

The Chair directed the Committee to turn to HB 2496.

A motion was made by Representative Shore, seconded by Representative Webb to amend HB 2496 to change the late payment fee from \$15 to \$5 in line 10 on page 2.

A substitute motion was made by Representative Thompson, seconded by Representative Rezac, to change the late payment fee from \$15 to \$10. The substitute motion failed.

A vote was taken on the original motion by Representative Shore to amend. The motion carried.

A motion was made by Representative Holmes, seconded by Representative Gatlin to pass favorably as amended HB 2496. The motion carried.

Representative Patrick requested to be recorded as being present.

The Chair directed the Committee to turn to HB 2526.

A motion was made by Representative Patrick, seconded by Representative Correll to amend HB 2526 to make this bill take effect January 1, 1992. The motion carried.

A motion was made by Representative Shore, seconded by Representative Stephens, to amend HB 2526 to include a new penalty of \$100 for hunting without written permission.

A substitute motion was made by Representative Patrick, seconded by Representative McKechnie, to pass HB 2526 favorably as amended. The motion carried.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY & NATURAL RESOURCES,
room 526-S, Statehouse, at 3:30 ~~xxx~~/p.m. on March 6, 1991.

The Chair directed the Committee to turn to HB 2407, and directed Representative Holmes to review the proposed substitute for HB 2407.

Representative Holmes suggested three changes to the draft substitute for HB 2407: on the top line of page 2 to include the words "do not" after "determines;" on page 3, (3), line 4, after "truckload" to add "subject to rules and regulations of the secretary of Health and Environment;" on page 4, to reinsert stricken language for (5) to read "a person engaged in a farming or ranching activity; including the operation of a feedlot as defined by K.S.A. 47-1501, and amendments thereto; as long as the accumulation has a beneficial use."
(Attachment 10)

A motion was made by Representative Gatlin, seconded by Representative Corbin, to approve (Attachment 10) with the suggested changes made by Representative Holmes as a substitute bill for HB 2407, except for stricken language on page 4, (5) as requested by Representative Patrick. The motion carried.

A motion was made by Representative McKechnie, seconded by Representative Correll, to not strike in HB 2407 the language on page 4, (5) (Attachment 10), to correct the statute number to 47-1501, and to add the words "as long as the accumulation has a beneficial use." The motion carried.

A motion was made by Representative Freeman, seconded by Representative McClure, to recommend the proposed substitute for HB 2407 as amended favorable for passage. The motion carried.

A motion was made by Representative Shore, seconded by Representative Correll, to approve the minutes of March 4, 1991. The motion carried.

The meeting adjourned.

COMMITTEE: _____

DATE: 3/6/91

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
JOHN C. Irwin	Forbes Field	KDHE
Bill Bryson	Topeka	KCC
Chad B. Angemyer	Arnold, KS	
James W. Mollenkamp	Arnold, KS	
Maria L. Hess	Arnold, KS	
Floyd W. Breton	Univ. of Kansas	
Paul D. Pavlu	Brownell, KANSAS	Wass County Comm.
Rex Rex Huxman	ARNOLD, KANSAS	
Jean Huxman	Arnold, KS.	
Pamela Pavlu	Brownell, KS ^{Ness} _{County}	
Chiquita Cornelius	Topeka	Ks. BIKP
Marilyn Clark	Topeka	KEC
Jason Sutton	Lawrence	Intern / Rep. McClure
Theresa McQueen	Glen Elder	Self
Barl Daugherty	Columbus	Empire Distric Elec
Geoff Carpenter	Great Bend	Centel
Dan Haas	Overland Park	KCPH
DAN STEVENS	TULSA, OK	TEXACO
TREVA POTTER	TOPEKA	PEOPLES NAT. GAS
STEVE KEARNEY	TOPEKA	COASTAL
Anne Smith	Topeka	Ks. Assoc. of Counties
Dave P. Schuack	Topeka	KIOGIA
Richard Pinn	Topeka	Amoco
I R ANDERSON	Atchison	NACB CONT-OFF
Jim Lunn	Topeka	KPL GAS SERV.
Shawn McGrath	Topeka	KNRC

GAYLE MOLLENKAMP
 REPRESENTATIVE, 118TH DISTRICT
 LOGAN, GOVE, TREGO, GRAHAM,
 WALLACE AND PARTS OF WICHITA AND
 ROOKS COUNTIES
 HC2, BOX 5
 RUSSELL SPRINGS, KANSAS 67755-0005



TOPEKA

HOUSE OF
 REPRESENTATIVES

COMMITTEE ASSIGNMENTS
 MEMBER: AGRICULTURE AND SMALL BUSINESS
 ENERGY AND NATURAL RESOURCES
 LOCAL GOVERNMENT

March 6, 3:30 PM

ENERGY & NATURAL RESOURCES COMMITTEE

TESTIMONY

I appreciate the opportunity to testify before this committee concerning HB 2309.

Oil claiming facility is a company in the business of reclaiming oil field tank bottom oil through a heating and processing procedure reclaiming a portion of oil from tank bottoms making it suitable for resale.

The intent of HB 2309 is not to discredit the reclaiming procedure or the purpose of the industry. The intent of the bill is to allow KDHE and local units of government to require

- 1) a permit to site and operate a facility
- 2) an annual fee of \$50.00
- 3) plans and designs and relevant data for construction, be prepared by licensed engineer
- 4) the Secretary of KDHE would approve the types and quantities of oil sludge allowable for treatment or processing
- 5) the permitter be required to provide proof of surety bond, cash, insured trust and liability insurance including coverage against non-sudden occurrences, or any combination thereof, to cover any liability incurred in the operation of the facility.

The location of a facility in Arnold, Kansas, is a prime example of why HB 2309 is necessary. I urge your support. Conferees from Arnold will give you the circumstances surrounding the Arnold facility. I will stand for questions.

Gayle Mollenkamp

E+NR
3/6/91
Attachment 1

ROBIN L. JENNISON
REPRESENTATIVE, 117TH DISTRICT
HODGEMAN, NESS, LANE AND FINNEY COUNTIES
RR1, BOX 132
HEALY, KANSAS 67850



TOPEKA

HOUSE OF
REPRESENTATIVES

March 6, 1991

COMMITTEE ASSIGNMENTS
MEMBER: AGRICULTURE
EDUCATION
TRANSPORTATION

HOUSE ENERGY & NATURAL RESOURCES COMMITTEE

HOUSE BILL 2309

Mr. Chairman and Members of the Committee:

I appreciate this opportunity to testify on HB 2309. I will be brief. I think it is important that you have adequate time with the citizens of Arnold and Ness County so you can fully understand the situation.

In the way of a general overview, I would like to make a few points. As you will hear, Arnold is a small unincorporated town in northern Ness County. Representative Mollenkamp represented Arnold last year. Due to reapportionment, I now represent that area of Ness County. The facility in Arnold has made it clear to Senator Moran, Representative Mollenkamp and myself that facilities like this one in Arnold need to come under closer scrutiny, and a mechanism needs to be in place to protect people who are forced to live in close proximity to facilities like this from personal loss. I would hope after hearing from the citizens of Ness County, you will share our concern.

Thank you. I will stand for questions.

Robin L. Jennison
117th District

E+NR
3/6/91
Attachment 2

Committee Hearing of House Bill #2309
drafted by Rep. Gayle Mollenkamp
Energy & Natural Resources Committee

Testimony of Marcia L. Giess
Arnold, Kansas
March 6, 1991

Mr. Chairman and members of the committee, I thank you for this opportunity to testify in favor of House bill #2309. To give you a little personal background I am a farm wife, I have a masters degree in business from Fort Hays State University and I have taught in Ness County schools for the past 18 years.

This bill addresses the regulation and permitting of oil reclaiming facilities where oil sludge retrieved from old field collection tanks is stored, treated or processed. The community of Arnold, Kansas takes particular interest in this bill because just such a facility now sits in the southwest corner of our small town. Arnold has "home town" atmosphere and is made up of 43 residents. Among those residents are 10 children whose families represent new growth in the community. Several elderly persons also call this town home. One gentleman, who celebrated his 98th birthday just last Saturday, still takes a daily walk through town. Our local church is deeply rooted in local history and is the heart of the community. I speak to you today as a land owner whose property borders Wallace Oil Reclaiming. My family is involved in farming and our farmstead and acreage lie across Highway 4 from this facility. I speak also on behalf of other property owners who are residents of the town of Arnold and whose homes and property lie within a few hundred feet of this same reclaiming facility. If you will refer to the map of Arnold you will get an idea of the approximate location of Wallace Oil Reclaiming and the location of other dwellings (occupied and vacant) as well as the church, museum and local businesses.

I would like to make mention at this time that approximately 20 years ago the water well at our farm site and a majority of the water wells in Arnold were ruined

E & NR
3/6/91
Attachment 3

by a salt water disposal well.

Arnold, Kansas is unincorporated and, therefore, there were no zoning regulations in place to prohibit this facility from being located within the town proper. Therefore, I take this opportunity to speak on behalf of other unincorporated towns located throughout the state of Kansas who might at some time in the future be faced with this same situation.

Oil reclamation facilities which treat, process and store oil sludge should be confined to areas away from towns, residential areas and dwellings. There are currently many oil reclaiming facilities located throughout the state. Many are located along county or state roads away from collective population or individual residences. These operators have shown good common sense in reducing their liability to those around them. The danger of fire or explosion is a very real possibility. Please refer to the newspaper articles from the HAYS DAILY NEWS and the PLAINVILLE TIMES regarding an accident in 1985 at Wallace Oil Reclaiming located south of Plainville, Kansas. We feel the history of this company speaks for itself regarding the danger this operation represents. The plant manager is at the Arnold site from 8:00 a.m. until 5:00 p.m. Monday through Friday. There are many days that the propane burner continues to burn unattended through the night and on weekends.

It is one thing to have this type of accident in an isolated rural area--quite another to have such an accident within a community. As you can see, with this type of fire, the amount of smoke is tremendous and there would most certainly be problems in evacuating the residents of the community--especially the elderly. There are also several children who arrive home from school before their parents return from work that would need to be accounted for. Arnold has no local fire department and must rely on a township fire department located seven miles to the west. The fire chief has advised us that the department is not equipped to fight oil

fires and their approach would be to let the fire burn itself out. Due to the proximity to homes, businesses, and vacant buildings a major disaster is certain.

This plant, its manager and owner have created a public nuisance for the community over the past seven months. The threat of fire and explosion, the intolerable odors of burning propane and heated oil, as well as fear of pooling of poisonous hydrogen sulphide gases has become a daily nuisance. House bill #2309 would allow the secretary of health and environment to establish criteria for the location of oil reclaiming facilities to avoid such situations as ours and provide protection of public health and environment as well as prevent public nuisances.

This bill contains provisions requiring the permittee of an oil reclamation plant to insure his/her financial responsibility for any liability incurred in the operation of the facility. Any businessperson who is socially conscious and who carries a feeling of goodwill toward those around his/her operation would look after this facet of operation willingly and faithfully. This bill will protect people from those unscrupulous operators who have no regard for the lives and property rights of their neighbors. Many of the people of Arnold and other small communities are life long residents. It is their home. Their property may be all they have. When a plant manager or owner chooses to live next to an oil reclaiming plant it is their choice. The people of Arnold have had Wallace Oil Reclaiming forced upon them. The only way for them to avoid this nuisance and possible danger is to move. These people, their property rights, their health and welfare must be protected. House bill #2309 would address this issue. As you know, however, no amount of liability insurance will ever replace a human life.

Mr. Chairman, the citizens of Arnold have addressed this problem for seven months. We have researched the oil reclaiming process and consulted with experts in the petroleum field. We have conferred with oil field workers and other reclaiming plant operators. We have sought legal advice, and consulted with our

local county commissioners and county attorney. We have sought out other citizens groups that have faced similar situations as well as environmental groups.

A questioning session between the owner of Wallace Oil Reclaiming and a panel of local residents was held. During that session several questions were fielded to the owner the majority of which he either refused to answer and said he did not know the answer to.

We have contacted many individuals in the Kansas Department of Health and Environment, the Environmental Protection Agency, the Kansas Corporation Commission seeking advice and assistance. There seems to repeatedly be some question as to under whose authority these operations fall.

Letters and phone calls have gone to Senators Dole and Kassenbaum, Representatives, Glickman, Roberts, Moran, Jennison, Moomaw, and Mollenkamp.

Mr. Chairman, the community of Arnold wants this committee to know that they see this bill as being important not only for Arnold but for other people throughout the state. We are grateful for the efforts of Representatives Mollenkamp, Moran and Jennison in working to address our concerns. As I am sure you are aware, Ness county is a leading oil producer. Many people rely on jobs in the oil business. However, a individual's right to make money should not preclude responsibility. We are asking that House bill #2309 be approved so that those individuals involved in this sector of the oil business be required to assume responsibility in the design, location and operation of their businesses.

Thank you and I would be glad to answer your questions at this time.

3-5

Map of Arnold, Kansas showing location of Wallace Oil Reclaiming at southwest corner of town. The number within the dwellings or business locations indicates the number of people. V indicates vacant buildings.

2

RAILROAD

RAILROAD

RAILROAD

ELEVATOR

WHEAT FIELD

5

2

6

1

ELEVATOR OFFICE

1

V

LUMBER YARD

2

MUSEUM

V

1

1 2

1 Diesel REPAIR SHOP

2

3

1

POST OFFICE

V

3

1

GAS STA-TION SHOP

1

BULK STATION

1

2

3

WALLACE OIL RECLAIMING

- a) Waste tanks
- b) Propane burner
- c) Propane tank
- d) In/Out tanks
- e) Office

ABANDONED SCHOOL BUILDING

a b c d e

5

4

METHODIST CHURCH

V

2

V

V CHURCH RENTAL

1

V

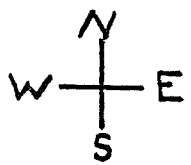
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HIGHWAY 4

HIGHWAY 4

3

WHEAT FIELD



NOTE: This map is not drawn by absolute scale.

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PRELIMINARY ESTIMATES indicated damage to the Wallace Oil Reclaiming plant resulting from the fire at the plant Monday morning. No injuries were reported.

12-2-85

Plainville Times
12-5-85

Deal Lifestyle Subject of NY

Major Fire Damage at Oil Reclaiming Plant

File Date
12-2-85

3-7

A ruptured pipe joint was the cause of a major fire that occurred at the Wallace Oil Reclaiming plant south of Plainville Monday morning, resulting in approximately \$300,000 damage.

According to Rooks County Sheriff Frank Skovold, plant manager Ed Dreher and other workmen at the scene were transferring oil from one tank to another when a joint in the pipe ruptured, spraying oil on an electric motor and igniting it.

"The men tried to extinguish the fire with an extinguisher, but it soon got out of hand," Skovold reported.

Lost in the blaze were three tank batteries, an oil tanker truck, the company office and records, and some outbuildings.

Plainville fire fighters were called to the scene immediately. However, due to the possibility of other dangerous explosions, chemical foam used to extinguish the flames was not applied until later in the afternoon.

"The estimated loss only covers the replacement cost of the tank batteries and the oil lost," Skovold pointed out. "Insurance held by the company will cover a portion of the loss."

Although company officials could not be reached for comment, Sheriff Skovold noted that company owner Richard Wallace is contemplating putting the plant back into operation.

SAS 67663

Town
Saturday,
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1985

The Hays Daily News

Tuesday even
December 3, 1985
3 sections, 50 pages
Our 57th year - No
Hays, Kansas 671

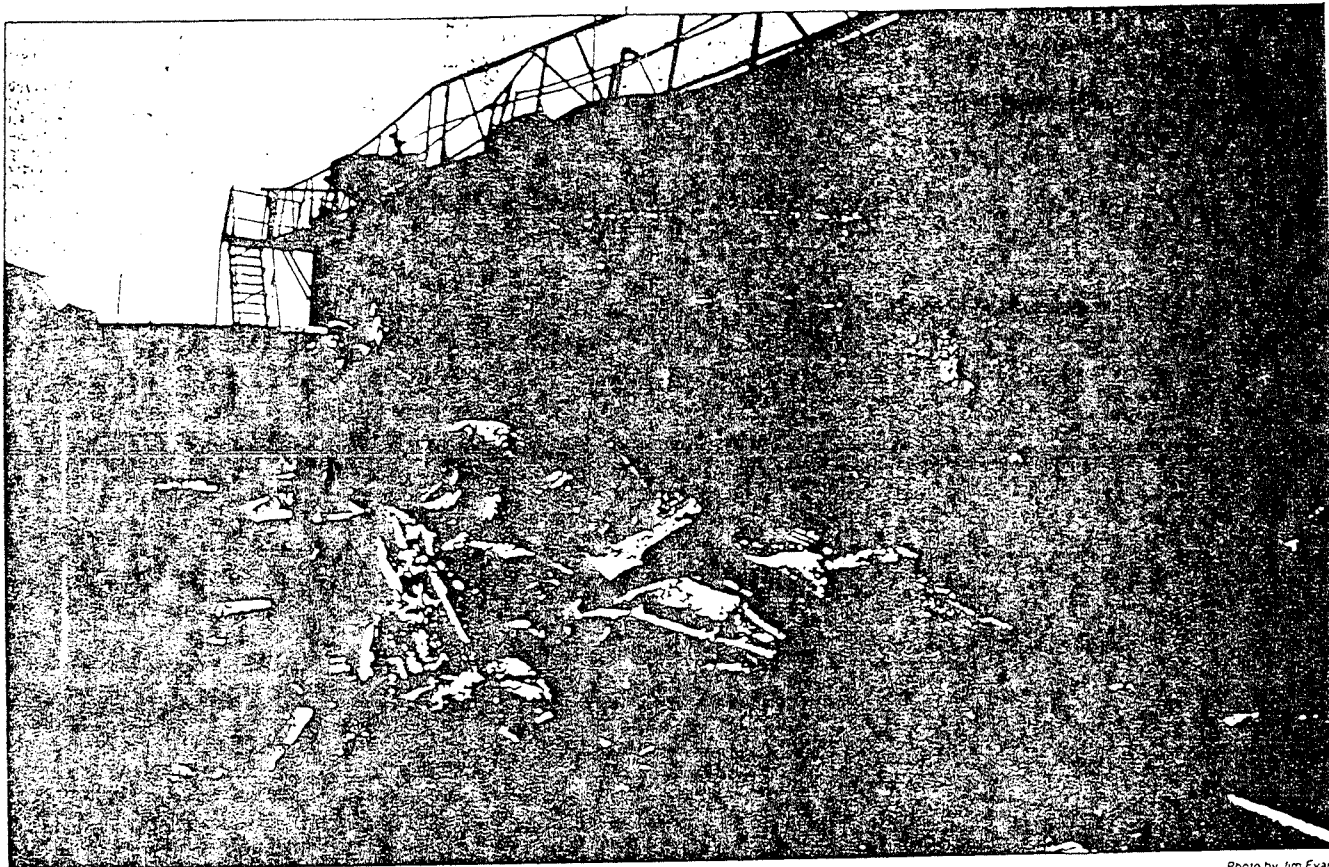


Photo by Jim Evans

Aftermath at Plainville oil plant

Rick Wallace, Denver, and Ed Dreher, 1503 Oakmont, pick through the rubble left this morning after a fire Monday that damaged Wallace Reclaiming, southwest of Plainville. No injuries were reported from the fire at the oil reclaiming plant, which has six tank batteries. The fire broke out at about 11:04 a.m. Monday at the plant, about two miles south of Plainville and one mile west of U.S. 163 on Airport Road. Plainville Rural Fire department was able to bring the fire under control in the afternoon and it was extinguished at about 7:30 p.m. During the fire, three tank batteries and a Clear Creek oil refinery tanker exploded, a dispatcher for the department said. Wallace, owner of the plant, who arrived at the scene Monday night, said that he hoped the plant would be receiving oil again by next week. The cause of the fire is undetermined and is under investigation by the Rooks County sheriff's department. No estimate of damage had been made by midday today.

NASA chief indicted for fraud

LOS ANGELES (AP) — NASA administrator James M. Beggs has rejected demands that he resign for charges that he and three present or former General Dynamics Corp. executives tried to defraud government by hiding cost overruns on the ill-fated Sgt. York anti-air gun.

Beggs was a General Dynamics executive vice president before being head of the National Aeronautics and Space Administration in 1981. Rep. Robert G. Torricelli, D-N.J., member of the House Science and Technology Committee that over the past year urged his resignation on Monday.

The executives and the corporation were charged Monday with each of conspiring to defraud the Department of Defense between 1978 and Aug. 31, 1981. They were charged with six counts of making false statements.

The 39-page indictment said \$20 million was mischarged, resulting in a \$3.2 million net loss to the government.

The indictment was the latest in more than a year of government accusations of improper billing and bribery by the nation's third largest defense contractor.

"He is presiding over nearly \$1 billion in federal spending. We are indicted on a charge of fraud in spending taxpayer money. It's difficult for him to continue any confidence," Torricelli said in Washington.

"I will not resign," Beggs said through a spokesman.

He said he hadn't seen the charges and couldn't address them specifically. "But from what has been reported to me by my attorney I can state I am innocent of any criminal wrongdoing and I intend to vigorously defend the case," Beggs said.

BAD FIRE AT TANK BATTERIES NEAR PLAINVILLE

Representatives from the Rooks County sheriff's department assisted other law officials from the area and fire fighting units in fighting a bad fire Monday about 2 miles south of Plainville. The fire started about 11 o'clock at the Wallace Reclaiming location when a transfer was being made and a leakage came in contact with a hot spot on an electric motor. There were six tank batteries and three exploded. A tank truck was also destroyed and residents of the area were on alert to be evacuated. The blaze was subdued about 7:30 p.m. with foam from the Stockton fire department being used. There were fortunately no injuries but extensive property damage.

Rooks County Record

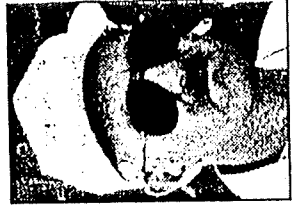
12-5-85

3-8

Waste-recycling plant draws complaints

By Alan Montgomery
The Hutchinson News

ARNOLD — After receiving complaints from concerned citizens, an inspection team from the Kansas Department of Health and Environment came to this Ness County community of 53 people Thursday to view a crude-oil processing unit being installed there.



The plant — designed to receive oil from a "tank-bottom" waste crude and upgrade it to pipeline quality crude oil — is regarded by some local citizens as a health risk.

Charlotte Martin, who has both children and grandchildren living in the Ness County town, said she feared that the plant would belch clouds of poisonous hydrogen sulfide gas. She lives on the town's east side.

"I guess they think just because we're a little community, we get wiped out, they have their million-dollar insurance coverage," Mrs. Martin said. "What that, compared to someone's life — compared to my grandson's life?"

Rick Wallace, owner of the crude plant, said the unit would not present a health risk to the community. To insure that, he has a hand-held "sniffer" device that he will use to monitor the crude oil processing tanks at the site to check for emissions, he said.

His company, Wallace Energy Inc., has operated a similar plant at Plainville for more than 10 years. The plant has had two fires that heavily damaged the facility, but no problems with emissions, he said.

The KDHE inspection team also visited the Plainville plant Thursday and indicated that the town would also visit two similar plants on the northern fringe of Ness City, Wallace said.

Protest

Continued from Page 1

In Topeka Thursday, KDHE Chief of Air Engineering Harish Agarwal said he would receive a report today from the inspection team; the report would say if there were potential health risks from the Arnold crude plant.

Wallace, whose company is based in Denver, said the waste-crude processing industry was born in 1973, after the Arab oil embargo sent crude-oil prices spiraling and made it possible to make money in the business.

Before 1973, oil producers commonly gave away the layers of thick, gooey sediment that accumulated in the bottoms of their oil field collection tanks.

In a crude-oil processing plant, the thick crude is heated to about 170 degrees, then treated with chemicals to separate waste products. About 50 barrels of marketable crude can be gleaned from 100 barrels of tank-bottom waste, he said.

Mrs. Martin, in Arnold, said she was angry that Wallace's crude-oil tanks, at the southwest corner of town, had no fence or dikes around them. She said she feared that lightning would strike the tanks and cause them to explode, show-

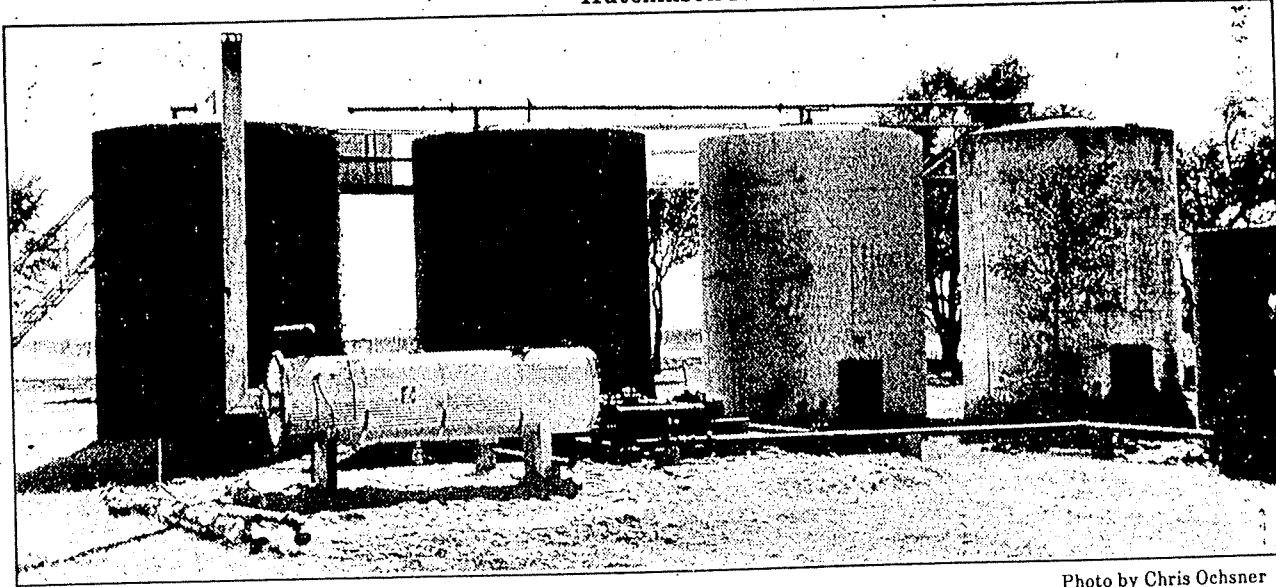


Photo by Chris Ochsner

The Wallace Energy Inc. waste crude processing plant is under construction at the southwest edge of Arnold, an unincorporated town of 53 people about 30 miles southwest of

Hays. Some local citizens fear that the plant will produce toxic emissions. This photograph shows storage tanks and the propane-fired unit that heats the crude oil.

ering the town with deadly steel fragments and fire.

Such an explosion could set off the Apco station's bulk fuel-storage tanks in the center of town, only two blocks from her house, she said.

Curiously, she expressed no concern that the above-ground bulk fuel tanks — which store up to 42,000 gallons of gasoline and diesel

fuel — for decades have had no lightning rods, no dikes around them and no fence.

Jim Mellencamp, who operates the Apco station, said that the fire marshal never required him to have lightning rods but that later this year he did plan to build dikes around the tanks.

Wallace said he planned to erect

dikes and a fence around his plant. He has purchased two utility poles that he will set at each end of the tanks and stretch a cable across, to act as a lightning deflector. The cables will be grounded.

He got the cable idea at a Kansas Independent Oil and Gas Association meeting in Great Bend, he said.

3-9

Arnold residents object to oil reclamation plant

By BRUCE BAIR
Hays Daily News

ARNOLD — Residents of the 21 households in Arnold are upset about a crude oil reclaiming plant now under construction on the southwest outskirts of town.

Deanne Dechant and her husband, Bill, think the plant will produce hydrogen sulfide gas, which will at the least smell up the town, or at worst, settle in basements in poisonous or explosive levels.

They also worry about a potential fire hazard. Two fires have occurred at a similar plant near Plainville operated by Wallace Energy Inc., Denver, which is building the Arnold plant.

But Richard Wallace, owner of the company, says that the people are making a "mountain out of a molehill."

The plant won't produce hydrogen sulfide gas, and though he admitted there are fire dangers, those dangers wouldn't be any greater than those encountered in the operation of a grain elevator.

But Wallace's arguments have done little to sway the opinion of Arnold residents.

Almost a dozen of them gathered Thursday in the Dechants' home to discuss the problem.

Several said that a Wallace employee, Gib Augustine, of Ellis, told several residents about two months ago that Wallace Energy intended

to build the plant near the town.

The company purchases bottom sludge from oil producing companies. For more than two years, the sludge has been trucked to Arnold, and stored in Wallace Energy storage tanks. Residents say they have had no problems with the company before.

The reclaiming plant, according to Wallace, will consist of several additional tanks, and a 500,000 BTU propane heater. The sludge will be pumped from storage tanks into treatment tanks, and circulated through the heater in an enclosed system to warm it.

Warming the sludge, and adding chemicals to it, separates the usable crude from saltwater, dirt, iron and other materials.

The crude then is taken from the tank and shipped to a Phillipsburg refinery. The saltwater is disposed of in injection wells, and the remaining material disposed of in approved disposal areas, said Wallace.

But, said Dechant and the others, Augustine only contacted a few residents. The Arnold residents also say that Wallace himself talked to several people.

The Dechants and another resident, Jacob Bauer, who lives closest to the plant, objected to the plant, but Wallace went ahead anyway.

OIL / see page 3

OIL: Wallace continues with const

Continued from page 1

Bill Dechant, who works in the oil fields, alerted the town to the potential dangers, including the hydrogen sulfide gas.

That prompted residents to contact state agencies ranging from the Kansas Corporation Commission, which regulates the oil industry, to the Kansas Department of Health and Environment, which oversees air quality. They even called the Atlanta Center for Disease Control.

At first, they said, they got the run-around. Officials were out and didn't return calls.

One, said Deanne Dechant, said

there was nothing that could be done because Arnold is unincorporated and Ness County has no zoning laws.

But calls to Gayle Mollenkamp, R-Russell Springs, who represents the area, and to U.S. Rep. Pat Roberts, R-Dodge City, the area's representative, did produce results.

A team of three KDHE employees from Topeka, and Richard Robinson, the Hays KDHE employee responsible for air quality, visited the plant and a similar plant in Plainville, yesterday.

Residents were again angered. None of the officials contacted

them, they said.

Robinson said that he detected no odor about the Plainville plant, and could only detect a slight odor of crude oil when he lifted an access hatch in the Plainville treatment tanks.

But he admitted, KDHE has never faced the problem before and simply doesn't know if the process will produce hydrogen sulfide gas. Samples of the sludge will be taken to determine if they contain the gas. The potential fire hazard, if it exists, is the problem of another agency, he said.

If it is determined that the plant

10-12-90 HAYS DAILY NEWS

struction of the reclamation plant

is an air polluter, Wallace will have to go through a permit procedure.

Meanwhile, Wallace, confident his plant will produce no objectionable odors or gasses, is proceeding with construction. The only thing residents will smell is fumes from the propane burner, no worse than the fumes produced by burners in the town.

Some residents already have reported odors. Some think Wallace has tested the plant. But a quick look around the grounds indicates that oil lines are not yet hooked up to the burner.

If Wallace is defensive, it is only

because he took steps to avoid a confrontation with townspeople that happened anyway, he said. And adds that he has gone too far with construction and spent too much money to back off now.

He looked for another suitable plant location, but found none. Townspeople say an area farmer offered to lease him the land, but Wallace says that location was unsuitable because it was not along the highway.

Wallace says he will fence and dike the area, and construct a lightning arrestor to minimize the fire hazard.

Townspeople say that similar tanks are sometimes hit by lightning, despite lightning protection, and have been known to catch on fire or explode.

Wallace makes no fire guarantees, but says that any fire would likely be confined to the location. The hazard could be further minimized if his neighbors would mow their weeds, he said.

The best argument he has that his plant will not harm the environment is that he is continuing with construction. If he thought his plant could not pass all tests he would stop, he said.

Greenwood
Rt. 1
Box 20
Arnold, Mo.

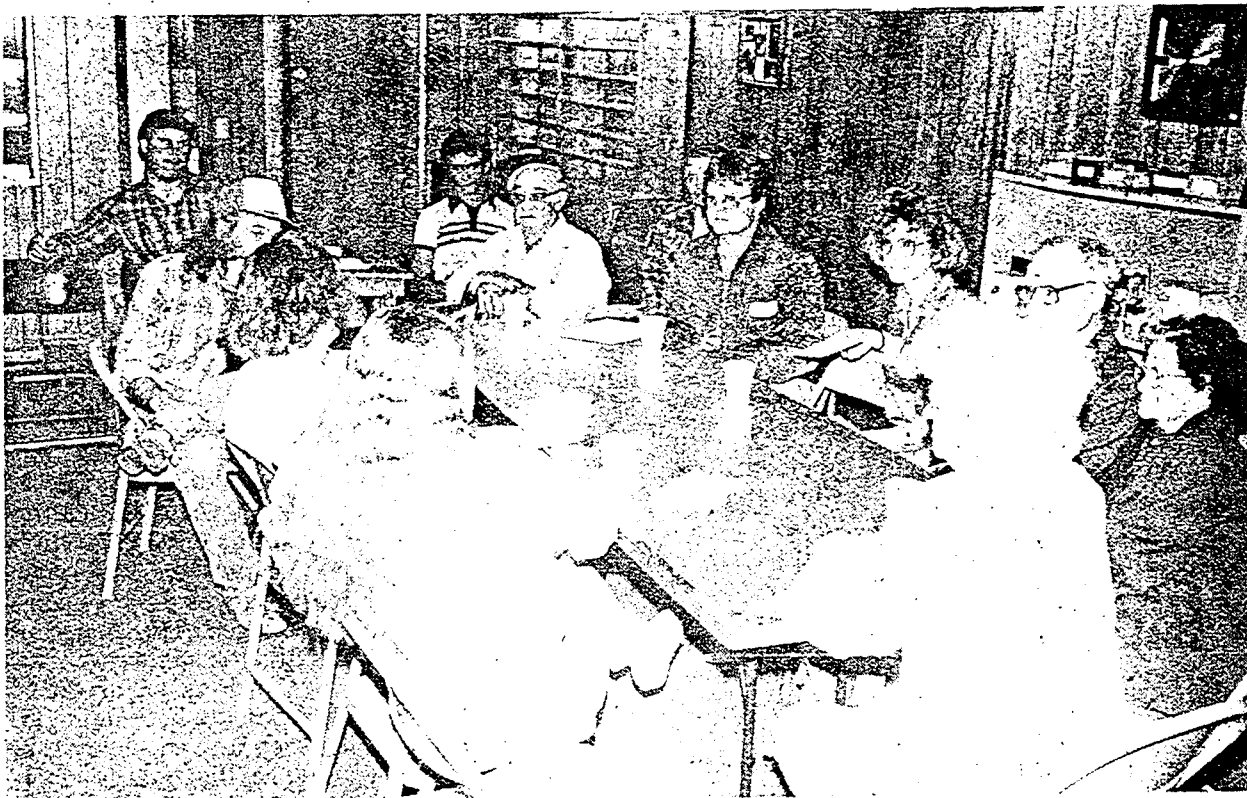
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County NEWS

NESS CITY, KANSAS 67560, Thursday, October 18, 1990

Vol. 106 -- No. 48



Arnold residents met Monday evening at the Arnold United Methodist Church to plan their strategy to keep Wallace Energy, Inc. from operating a waste crude processing plant just west of the church on the old Arnold school grounds.

Arnold residents met Monday evening at the Arnold United Methodist Church to plan their strategy to keep Wallace Energy, Inc. from operating a waste crude processing plant just west of the church on the old Arnold school grounds.

Arnold Residents:

"We Don't Want Your Stinky Plant Here"

Fifteen Arnold community residents met Monday night to plan their strategy to get the Wallace Energy, Inc. oil reclaiming plant out of town.

Arnold residents have been working hard the past week in their effort to convince plant owner Richard Wallace to locate his plant elsewhere. The Arnold people are worried that the plant will produce hydrogen sulfide gas that will smell up their town. They also fear the gas may be poisonous and a potential fire hazard.

Chad Anglemyer, pastor of the United Methodist Church in Arnold, said, "It's important to get the facts. We need to know rather or not it is dangerous. Officials I've talked to say they don't know--they'll look into it."

A group of Arnold citizens met with the Ness County Commissioners Monday morning to see if they could be of any help with their problem. Jim Mollenkamp, spokesman for the group, said he feels optimistic. "I think we have a good shot at getting it out of here."

Mollenkamp said the State Fire Marshal was to have an

inspector in Arnold Monday or Tuesday to check on the plant.

The general counsel for the Kansas League of Municipalities suggested the group file a nuisance suit and seek an injunction against the company while studies of the potential danger from the plant are being made.

Anglemyer said the biggest issues are air pollution and the disposal of waste from the plant.

Mollenkamp said John Erwin, the head of the bureau of Air and Waste Management for the Kansas Department of Environment, told him (Mollenkamp) that there was definitely a land use violation.

Wallace says the plant won't produce hydrogen sulfide gas, and although he admitted there are fire dangers, those dangers won't be any greater than those encountered in the operation of a grain elevator.

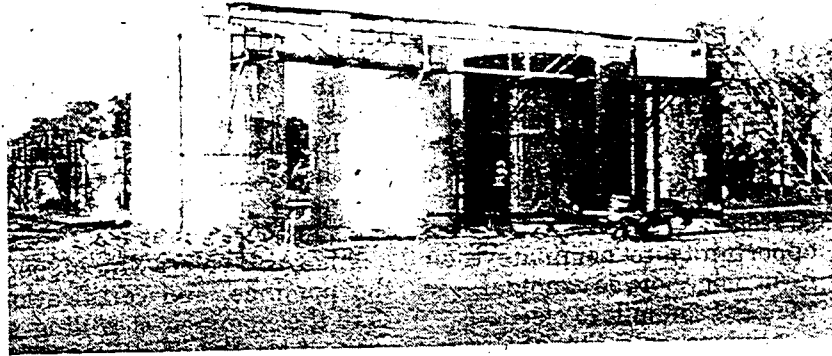
There are seven families with homes from 300 to 500 feet of the plant. Mr. and Mrs. Bernie Summey have two children, Mr. and Mrs. Kent Huxman have three children, Larry Horácek has two children, Mr. and Mrs. Bill Dechant have two children,

Ruth Bauer has two children, Mr. and Mrs. Dennis McNinch have one child and Mr. and Mrs. Jake Bauer have no children at home.

"The community is probably powerless politically, but we can do a lot with public pressure," Anglemyer said. "We need to sort out the facts so we can confront the issues."

**NESS COUNTY
NEWS**

10-18-90



Wallace Energy, Inc. is building this waste crude processing plant on the old school grounds at the southwest corner of Arnold. Residents there are concerned that the plant will produce toxic hydrogen sulfide gas.

10-17-90 HAYS DAILY NEWS

State officials give OK to Arnold oil plant

ARNOLD (HNS) — A new crude oil processing plant here has passed muster by the Kansas Department of Health and Environment.

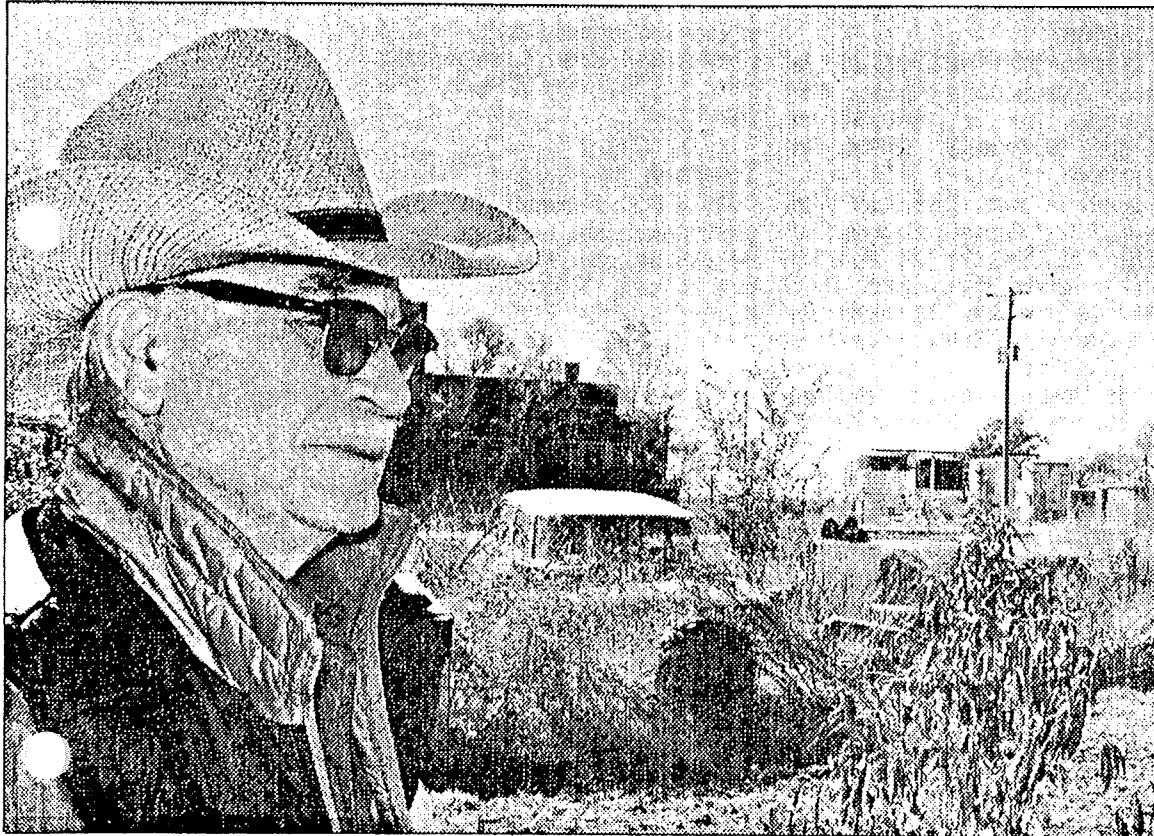
“As far as we can tell, there would be no emissions that would require an air-quality permit from the department,” KDHE spokesman Greg Crawford said Tuesday. “First off, they aren’t emitting that much. They’d be hard pressed to get that much emission from it.”

There likely would be a “hydrocarbon odor” wafting from the plant at times, he said.

“It would be the same one you would sense if you drive by an oil pumping platform,” he said.

A KDHE inspection team last week visited the newly built plant on the southwest fringe of Arnold in northern Ness County after local citizens reported that it was a health hazard.

8-15



Mike Berry/The Wichita Eagle

Jake Bauer, who now has a waste oil recycling plant across from his backyard garden, is worried about what the plant may bring to his quiet way of life.

New neighbor brings fears to small town

Arnold residents leery of oil recycling plant

By Mike Berry

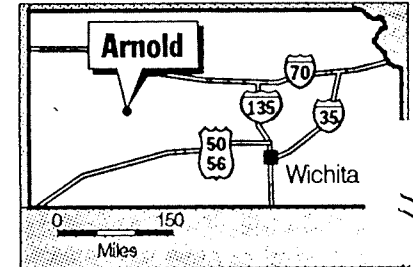
Eagle Western Kansas bureau

ARNOLD — As construction workers at the Wallace Oil Reclaiming plant on the southwest edge of this tiny Ness County town prepare to fire up the plant's propane burner for the first time, controversy over the sludge oil operation is coming to a fast boil.

But so far, townspeople's efforts to halt the project haven't worked.

"There are four or five families that live within 100 yards of it," said Kent Huxman, an insurance salesman who owns one of the close-by houses. "We're a little 12-square-block town, and we have no idea what he will be emitting into the air."

Most of the town's 53 residents worry that putrid-smelling, possibly toxic, hydrogen sulfide gas will foul their clean air. They also fear the



300-barrel storage tanks could explode in a wall of flame, leaving their hometown nothing but a charred spot on the prairie.

A similar plant three miles south of Plainville, also operated by Rick Wallace, an Inglewood, Colo., businessman, has had three fires in the past decade, two of them major blazes.

Plainville's fire chief, Bill Strouse,

See **PLANT**, Page 4D

PLANT

From Page 1D

said he was surprised the Arnold plant was located in town. "I wouldn't want it sitting that close," he said.

But Wallace says the Arnold plant can be run safely and any fire could be contained to the site. Wallace also says the plant's manager monitors the site and incoming tankers for hydrogen sulfide.

The people of Arnold aren't convinced. They want the plant shut down before it ever starts recycling waste oil. The oil will be heated to 160 to 180 degrees and mixed with chemicals.

The Kansas Department of Health and Environment has checked the site, and says if Wallace properly disposes of waste water and if emissions of hydrogen sulfide gas don't approach state standards, it has no reason to get involved.

Likewise, the state fire marshal's office says the site meets the 100-foot setback requirement from resi-

dences and the tanks and 500,000 BTU propane burner meet standards, so it has no reason to shut the plant down.

A field inspector for the Kansas Corporation Commission checked the plant this past week and found a containment dike and the tanks up to regulations.

"We have talked to so many agencies," said Marcia Giess, who lives across the road from the plant. "And they just keep passing the buck," finished her friend, Dee Dechant.

Because Arnold, about 225 miles northwest of Wichita, has never been incorporated, and is below 200 population, the limit for incorporation, it can't regulate or zone out businesses such as Wallace's, Huxman said. Likewise, Ness County has no zoning regulations to prohibit the plant from firing up.

"It's starting to seem like we're not a part of the state anymore ... like we're just a territory or something," Huxman said.

Wallace said his operation is no more dangerous than the above-

ground gasoline storage tanks in town, or the grain elevator.

But he has offered to move his equipment elsewhere, if another site can be found, and if residents help pay to move the equipment. Arnold was not his first choice, he said, but he could find no landowner west of town willing to rent him property.

"This community doesn't have the money to fight this thing in court," said Giess, so it's unlikely Arnold could raise the money to finance a move for Wallace's burner and tanks.

Wallace said there was little opposition to his plan when he first visited with 12 to 15 Arnold residents. "Basically, there were two people who said, 'I don't want it here,' and the rest were non-committal. One even said it would be good for the town," Wallace said.

"I really feel nobody's health will be endangered by my operations," Wallace added. "If I thought it was going to be harming anybody, I wouldn't be continuing my operation there."

Spill of oil sludge adds to town's fears

Company suspects sabotage at plant

By Mike Berry

Editor, Western Kansas bureau

Residents of Arnold are saying that a sludge oil spill Tuesday night near a propane-fired burner at a processing plant in their tiny hometown confirms just how dangerous the oil recovery plant is.

The owner of the plant says it's a case of sabotage — of vandals trying to create a near-disaster to force his operation out of town.

The plant has been controversial since it opened in the fall. Most of the town is opposed to its operation.

Tuesday's spill at the Wallace Oil Reclaiming plant was discovered about 6 p.m., when Peggy Huxman, who lives nearby, saw hot oil gushing from an open valve at the unattended plant.

At the time an oil field worker could be summoned to shut off the valve, an estimated 115 barrels, or nearly 5,000 gallons, of sludge oil

heated to about 140 degrees had poured to the ground inside an earthen containment dike, according to Don Ubel, a district geologist with the Kansas Department of Health and Environment.

The plant manager is on-site only from 8 a.m. to 5 p.m. each day.

Marcia Giess, another nearby resident, said that most of the 53 residents of Arnold, about 50 miles southwest of Hays, gathered around the plant Tuesday evening, watching events unfold, until they realized that the spill and nearby gas burner might pose the danger of an explosion.

There was actually little chance of an explosion, said KDHE's Ubel, because most of the volatile vapors in the sludge oil, recovered from the bottoms of storage tanks, already had been processed off. The dike contained the spill, and cleanup was expected to be finished by today, he said.

Giess and Jim Mollenkamp, who runs a gas station and works part

See **SPILL**, Page 3D

2-22-91
Wichita Eagle Beacon

SPILL

From Page 1D

time as a deputy sheriff, both think the spill was an accident. "I think the guy that works up there didn't shut the valve or something," Mollenkamp said. "I think they're just trying to cover up his mistake, maybe."

But Rick Wallace, the Denver businessman who owns the sludge oil processing plant, said that nothing was amiss when the plant manager left the site at about 5 p.m. Tuesday. Wallace said he thinks somebody climbed over the padlocked gates at the plant shortly after the manager left and turned on the valve.

"We have had vandalism there since we began operating in October," Wallace said. Windows in a

mobile home used as an office have been shot out and, this month, somebody spilled chemicals on the ground and opened the valves on a 500-gallon propane tank, letting that highly flammable fuel pour out.

"That could have been a very dangerous situation," Wallace said. "Had the furnace in the mobile home kicked in, I think the mobile home would have exploded."

Plant manager Gib Augustine and his wife were in the trailer when they discovered the propane leak, Wallace said, and Augustine was able to prevent an explosion.

Ness County Sheriff Gary O'Brien confirmed that there had been vandalism at the plant but said he had nothing more than general suspicions about who was responsible. He plans to beef up patrols around the plant but said he could not keep an eye on it around the clock with a staff of only three officers.

2-14-91 Ness Co News
Legislators Ask
For Opinion

Senator Jerry Moran, R-Hays, Rep. Robin Jennison, R-Healy, and Rep. Gayle Mollenkamp, R-Russell Springs, have requested an Attorney General's opinion concerning Kansas Statute 65-3402 and its applicability to Wallace Petroleum's reclamation facility at Arnold.

If the Wallace Petroleum facility falls under 65-3402 it would be required to have a license issued by the Department of Health and Environment and liability insurance as required by the rules and regulations of the Department of Health and Environment.

Western K. World
Feb. 14, '91

Page 4

Senator Jerry Moran, Rep. Robin Jennison, and Rep. Gayle Mollenkamp have requested an Attorney General's opinion concerning Kansas Statute 65-3402 and its applicability to Wallace Petroleum's reclamation facility at Arnold. If the Wallace Petroleum facility falls under 65-3402 it would be required to have a license issued by the Department of Health and Environment and liability insurance as required by the rules and regulations of the Department of Health and Environment.

3-17

13

Board of County Commissioners

Ness County, Kansas
202 West Sycamore
Ness City, Kansas 67560



1st Dist. Paul D. Pavlu
2nd Dist. Grover Rothe
3rd Dist. Otto G. Popp

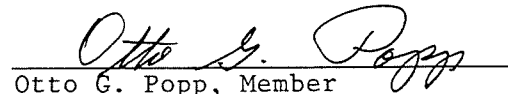
Ness City, Kansas
March 4, 1991

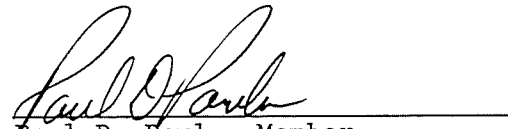
TO WHOM IT MAY CONCERN:

We, the County Commissioners of Ness County, Kansas,
support the draft of House Bill No. 2309, by Representative
Mollenkamp.

BOARD OF COUNTY COMMISSIONERS
Ness County, Kansas


Grover Rothe, Chairman


Otto G. Popp, Member


Paul D. Pavlu, Member

Chemical of the Month

Hydrogen Sulfide:



Synonyms: sulfuretted hydrogen hydrosulfuric acid stinkdamp

Physical Properties

boiling point: -60°C (-76°F)
 freezing point: -82°C (-116°F)
 vapor pressure at 20°C (68°F): 19 atm
 25°C (77°F): 20 atm

Threshold Limit Values (TLV)

Time Weighted Average: 10 ppm; 14 mg/m^3
 Short Term Exposure Limit: 15 ppm; 21 mg/m^3

Flammability Limits in Air

lower flammability limit: 4.3% by vol.
 upper flammability limit: 46% by vol.

Combustion Properties

flash point: Not listed, since the chemical is a gas
 autoignition temperature: 260°C (500°F)

Densities

liquid (water = 1.0): 1.54
 vapor (air = 1.0): 1.19

Identifiers

U.N. Number: 1053
 CHRIS Code: HDS

"Sour" is the name given to crude oil which contains a high concentration of this issue's Chemical of the Month, hydrogen sulfide. "Smelly" might be more appropriate. Hydrogen sulfide is a colorless, flammable gas with an offensive odor reminiscent of rotten eggs. It has not always gotten the best press—early accounts tell of deaths from hydrogen sulfide in sewer gas (Paris and London) and the gas formed in an outhouse (the United States). Miners dubbed the chemical "stinkdamp."

The concentrations of hydrogen sulfide released into the air by sour crude can be lethal. During one topping off operation, for example, the sour crude oil going into a tank had a hydrogen sulfide concentration of only 70 ppm (parts per million); the vapor stream coming out of an ullage opening in the tank measured a deadly 7,000 ppm. Personnel would thus be well advised to stand upwind of such an operation. The table accompanying this article shows different types of crude and their hydrogen sulfide content (values are for ppm by weight in the liquid).

A second possible source of exposure for mariners is molten sulfur. Hydrogen sulfide is released during the loading, carriage, and discharge of molten sulfur. This is more of a problem with "dark" sulfur than "bright," since the "dark" sulfur comes from deposits near petroleum deposits and has a higher hydrogen sulfide content. (For more information on sulfur, see *Chemical of the Month, September/October 1981*).

Hydrogen sulfide has a density of 1.19 on a scale where air = 1, meaning that it can be found at the bottom of confined spaces or cargo

Crude	Hydrogen sulfide
Arabian	20 - 60
Agha Jari	20
Jambur/Bai Hassan	40
Kirkuk	40 - 70
Gach Saran	70
Brega	260
Qatar	200 - 300
West Texas	Up to 1,000
Murban	Below 70

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3-19

HOUSE BILL #2309
BY REPRESENTATIVE MOLLENKAMP
SUPPORTIVE TESTIMONY BY REVEREND CHAD B. ANGLEMYER
ARNOLD UNITED METHODIST CHURCH
ARNOLD, KANSAS 67515

Mr. Chairman and members of the committee, I want to take this opportunity to thank you for allowing me the time to speak in favor of house bill #2309. My name is Chad Anglemyer, I am an ordained elder and a full member of the Kansas West Conference of the United Methodist Church. I am a graduate of Southwestern College in Winfield, Kansas with a Bachelor of Arts in Religion and Philosophy. I also hold a Master of Divinity degree from the Iliff School of Theology in Denver, Colorado.

On the outset, I would note that portions of this supportive testimony heard today might be redundant. Nevertheless, it is of some significance that this repetitiveness only illustrates our oneness of thought. At this time, I want to share with this committee what I perceive to be some key points of house bill #2309. In conjunction to these four points, I will interject my rationale for favoring this bill. Point one will speak to the requirement by the bill in section 3 parts (a) and (b) discussing the requirements needed to garner a permit for operating a proposed facility. Point two will address the thinking in section 3 part (d) pursuant to design and construction of the proposed

E+NR
3/6/91

Attachment 4

facility. Point three will speak to section 3 part (f) of the bill as it relates to insurance requirements. Finally, point four will comment on section 3 part (g) and the authority that it grants to the secretary of environment. To summarize, I will give a brief closing appeal.

POINT #1

Here I want to address section 3 part (a) and (b) of the proposed bill. This portion details the process of an oil reclaiming operation being inspected, paying a fee and receiving a permit. Each proposed and existing facility must file for a permit and be subject to an investigation by the authorities stated in the bill under examination. I support this process of application and inspection, to obtain a permit, due to the fact that it gives accountability to those who are operating or who propose to construct and operate an oil reclaiming facility. In this process the secretary of environment is given the time need to insure that the plant will not pose a threat to the human life. This portion of the bill engenders accountability on the part of all parties involved.

POINT #2

Many oil reclaiming facilities are constructed by persons with little or no engineering background. Section 3 part (d) speaks to the need of having a professional engineer to design and assist in construction of an oil reclaiming facility. Oversight by a licensed

professional engineer contributes to higher standards in material used and the operation of the facility. Oil reclamation plants will be design using safe equipment and existing plants will be made safer through professional engineering direction.

POINT #3

Section 3 part (f) will require an oil reclaimer to have liability insurance with a licensed insurance agent or to self-insure. Insurance can never replace the loss of human life that occurs due to industrial accidents. However, requiring oil reclamation facilities to be insured or to self insure, encourages facility owners to operate and maintain their facilities so that accidents are less likely to occur.

POINT #4

This final point gives the secretary of environment the power he or she needs to revoke or suspend the permit of any oil reclamation facility that does not act in accordance with this bill and other statutory requirements that protect environment, persons and property. I believe there is a need for this type of centralized power. It is readily apparent that one office is responsible for the general supervision of oil reclamation facilities. My experience over the past several months has indicated that there has been considerable confusion within the state government on which department or individual is responsible for oil reclamation facilities.

CLOSING THOUGHTS

J. Philip Wogaman in his text, Economics And Ethics, says, ". . . free market competition creates incentives to cut costs in ways that are damaging to people and to the community." (Page 23) I support the concept of the free market economy. However, when running a business as cheaply and efficiently as possible, involves cutting out safety procedures and using substandard equipment, then I protest. Often industry has realized that current political and economic structures make business more profitable through irresponsible behavior than to spend precious capital on safety procedures and top quality equipment. Somehow the rules of the game need to be thought through so that those who participate are rewarded for responsible, safe behavior.

I am here today because I have many concerns about the oil reclamation plant currently operated in Arnold, Kansas by Wallace Oil Reclaiming of Denver, Colorado. A vast majority of the community adamantly opposes this plant being located so close to their homes.

It goes without saying that we want Wallace Oil Reclaiming out of Arnold, Kansas. However, I would be remiss if I were to stop being concerned with this issue when Wallace Oil Reclaiming moves to another sight. I strongly encourage this committee to pursue aggressively passage of house bill #2309 presented by Representative Mollenkamp. There are many other small communities in this state who are in

jeopardy of finding themselves exploited by oil reclaiming companies. I speak not only for the community of Arnold, Kansas but for all the people of this great state who may be vulnerable to corporate irresponsibility in the oil reclamation industry.

I want to thank each member of this esteemed committee for graciously allowing me the time to present my supportive testimony for house bill #2309.

ADDENDUM: TO SUPPORTIVE TESTIMONY

REVEREND CHAD B. ANGLEMYER

HOUSE BILL #2309

As the minister of the United Methodist Church in Arnold, Kansas, I feel it is necessary to add an informal word to the material I have presented here today. I am not a social activist but I am a socially conscious person. I believe that there are times when the Christian community, both world wide and locally, should cry out in opposition to perceived injustices.

Granted, on the grand scale of human history, the oil reclaiming plant in Arnold, Kansas will most likely not even grace the pages of a history text book. Regardless of the magnitude of this issue, it is enough to say that the lives of a handful of persons have been greatly disturbed by this issue. I have seen a peaceful community turned into a place to live in fear. The elderly wonder how they will evacuate should a fire break out. Mothers and fathers fear for the safety of their children. The entire community wonders what will happen if, for a second time, their ground water is destroyed by the oil industry.

On Sunday mornings, I stand in the pulpit and try and preach a message of hope to the members of my parish. All the while, that message of hope is cloaked in the shadow of an oil reclaiming facility.

To this committee, I implore you to look not only at statistics

ut also at the human lives that must bear this burden. Thank you for
your time and consideration in this matter.



State of Kansas

Governor Joan Finney
Department of Health and Environment
Division of Environment

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

Forbes Field, Bldg. 740, Topeka, KS 66620-0001

Respond to:
FAX (913) 296-6247

Testimony presented to
House Committee on Energy and Natural Resources
by
The Kansas Department of Health and Environment
House Bill 2309

The department is pleased to provide testimony in support of the enactment of House Bill 2309 which relates to the regulation of oil reclaiming facilities. Background information available to the department indicates the oil reclaiming industry in Kansas provides a valuable service to Kansas oil production operations. Heavy tank bottoms from oil lease site tanks are removed by oil reclaimers and separated into a marketable crude oil product, salt water brine waste, and a bottom sludge that can be recycled as oil for county and lease roads. Up to fifty percent of these tank bottoms can be reclaimed as marketable crude oil. Without such reclaiming services, the entire lease site tank bottom waste would normally be used to surface lease roads with the subsequent loss of a significant quantity of reclaimable oil.

The department aggressively encourages the minimization of oil field wastes through the use of services such as those the oil reclaiming industry provides. There are, however, several significant environmental regulatory issues involved in the construction and operation of these facilities. Offsite oil reclaiming requires that substantial quantities of tank bottoms be transported to a central offsite location for storage, processing, and waste handling. These processes, if not carefully controlled, have the potential for creating combustible liquid hazards, air emissions, spill containment problems, and waste disposal concerns. Because of the exemptions currently provided in existing state and federal laws for solid waste recycling operations, these facilities are totally unregulated with respect to the management of wastes. Public concerns have surfaced over the operation of an oil reclaiming facility in Ness County. House Bill 2309 appears to contain appropriate requirements for those aspects of these operations that are of greatest concern to KDHE. These issues involve issuing permits that provide for financial assurance of proper closure of the facilities and for establishing permit conditions to protect the public health and the environment during operation. KDHE does, however, recommend the following amendments to improve the bill:

E+NR 3/6/91
Attachment 5

PRINTED ON RECYCLED PAPER

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

██████████
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) 296-1620

1. The definition of oil reclaiming facilities in Section 1 (a) should be clarified to indicate that only "offsite" facilities are to be regulated. The Kansas Corporation Commission already oversees the onsite lease operations.
2. Section 3(c) should be amended to increase the annual operating fee from \$50 to \$5000 to assure the regulatory program is one hundred percent fee-supported.
3. The references to preventing public nuisances in Section 2 (b) and Section 3 (g) should either be deleted or the term "public nuisance" clearly defined. KDHE experience has indicated that public nuisance complaints generally fall under the jurisdiction of local governments and without further clarification, the term is unenforceably vague.

Testimony presented by: John C. Irwin
Director
Bureau of Air and Waste Management
March 6, 1991

**Testimony
before the
House Committee on
Energy and Natural Resources
The Honorable Ken Grotewiel, Chairman
Topeka, Kansas
Wednesday, March 6, 1991**

INTRODUCTION

I am Dr. Floyd W. Preston, Professor of Chemical and Petroleum Engineering, University of Kansas, Lawrence. I am testifying in my capacity as a person who has been trained in petroleum engineering and who has taught petroleum production for over 25 years. I am not a licensed professional engineer. My views are my own. I do not speak for nor represent any constituency at the University of Kansas, nor of any other organization. I have been on the faculty of the University for 36 years as a teacher in the petroleum field, and have served as an advisor to governments of Venezuela, Algeria, Libya, and the country of Trinidad and Tobago. I have observed Kansas oil operations for the past 36 years and have seen the industry grow in environmental awareness. It is from this vantage point that I appear before you in regard to House Bill No. 2309 "AN Act concerning oil reclaiming facilities; providing for regulation and permitting thereof, prohibiting certain acts and providing penalties for violations."

I am in favor of the purpose and intent of the bill. As our society becomes more aware of environmental hazards, we look naturally to regulate those previously unregulated activities that, under some conditions, can become hazardous.

It is my understanding that this bill has arisen to address just such situations that have arisen here in Kansas where there is evidence of clear and present threats to health and public safety.

COMMENTS ON SPECIFIC WORDING OF BILL

Section 3(f) Liability Insurance

I am particularly pleased to see that financial liability coverage is stipulated. It seems entirely appropriate that any business should be required to demonstrate liability coverage for the reasonable and identifiable hazards that the business poses to the public. For us to allow certain companies to hide under the bankruptcy "escape clause" does not serve the needs of our state.

Section 3(d) Plans, Designs and Waiving of Detailed Planning Requirements

I feel the wording of the last sentence of Section 3(d) of the bill is very crucial for profitable, yet safe operations of certain oil field operations. There are many sites and general locations where there will be minimal hazard to the environment and to public safety. Although it is important that the Secretary of Health and Environment specify these areas clearly so that the economic burden of compliance is no more than necessary to protect health and environment, such a state-wide task would be very large and would need significant resources. Because the total number of reclaimers will be small, evaluation of the plans for individual sites will probably be sufficient.

GENERAL BACKGROUND ON THE "TANK BOTTOMS" PROBLEM

Nature of Tank Bottoms

This material, often referred to as "tank bottoms", "tank sludge", or BS&W (bottom

sediment and water) is a complicated mixture of materials created in the normal process of producing oil, the world over. In some oil fields there is essentially none produced, and in others the volume can be 10 to 15 percent or more of the produced crude oil. In Kansas, tank bottoms represent a normal and significant product of most oil fields.

The material is very difficult to characterize in a chemical or composition sense that would cover all circumstances. It is a "mayonnaise" or emulsion that contains, in some proportion, all the constituents that are in the produced oil, including hydrocarbons such as benzene and other materials such as iron scale, calcium-type deposits, and sand.

The proportions of the various constituents in the tank bottoms are not necessarily the same as in produced crude. If the produced oil contains hydrogen sulfide ("rotten egg gas") then some hydrogen sulfide will be found in the tank bottoms from leases producing the oil. The bottoms will contain less than the original oil. The same is true of lighter (lower molecular weight) hydrocarbons. The "water" part will not be fresh, potable water unless fresh water exists in the oil producing formation (a rather rare, but possible circumstance). More likely, the tank bottoms will contain a brine whose salt content equals or exceeds the salt content of the water in the producing formation. In addition, there can be various chemicals, usually at low but significant concentrations, that have been added by oil producers to help in the initial oil and water separation at the oil lease. Because a reclaimer gets bottoms from a variety of leases, the composition varies from time to time. Thus, testing of input or output by one sample is not sufficient to indicate either safety or hazard from the material.

The "bottom line" circumstance for oil producers is that this material must be disposed of in some way that does not pose an impossible physical or financial burden on them and that

is environmentally safe. It is a problem that every Kansas oil operator faces.

Tank Bottom Disposal Methods

In many situations it is not uncommon for operators to spread tank bottoms on lease or other dirt or gravel roads to dispose of it. The oily materials slowly oxidized to a low grade asphalt, part of the water in the brine from the emulsion evaporated, the rest of the water soaked into the soil, carrying with it small quantities of the hydrocarbons. This practice is being called into question at the federal level. Blending of the material with road asphalt is another and probably much more environmentally safe way to dispose of the bottoms. This is a particularly appropriate method for a reclaimer to use. Because of the lack of regulation, the problem of assured proper disposal of tank bottoms still exists. Thus, there is an important role in the state for oil reclaimers who can financially succeed yet operate in an environmentally and physically safe manner. They accomplish an important needed service by removing this waste from the oil fields.

It should be appreciated, however, that simply having oil reclaimers is no final solution to the tank bottoms problem. The processes and equipment used by the reclaimers are essentially those used by oil operators on their own leases. Oil reclaimers produce marketable oil and a "tank bottom" waste of their own. This waste can have even higher concentrations of some environmentally and physically harmful compounds than the original tank bottoms from the oil leases. It is impossible for a reclaimer to operate without producing this "tank bottom" waste also.

The State would benefit by having all lease crude oil "tank bottoms" processed through

an oil reclaimer facility, simply because there would be fewer sites to monitor for health and safety and the larger scale operations would allow more sophisticated separation techniques to be used economically.

However ultimate universally used appropriate methods for "tank bottoms" disposal are still needed.

Federal Action Relative to "Tank Bottoms"

If you have not already done so, I urge you to study carefully the analysis of this "tank bottom" problem as contained in the Federal Register, Vol. 53, No. 129, p. 25466, Wed. July 6, 1988/Notices, Environmental Protection Agency (TOPEKA-3403-9). This reports on a detailed study by EPA as to whether rules under RCRA (Resource Conservation and Recovery Act) should be written by EPA to regulate "wastes from the exploration, development, and production of crude oil, natural gas, and geothermal energy". This very broad category includes "associated wastes" which include tank bottoms.

EPA has for several reasons, specifically related to the wording of RCRA, recommended that they not write such rules (at least under RCRA). They indicate that hazards do exist and they document some of these. They recommend strongly that the individual states do prepare such rules because of the different geological, environmental, and economic conditions in each oil producing state. They specifically urge state regulation of oil reclaimers in states that have no such regulations.

Thus, you have a challenge, an opportunity to address a widespread, economically important problem, that is latent in this bill. Locating a reclaiming facility in a safe place is

important, but of equal importance is the wise regulation of the disposal of "tank bottoms" or waste from these reclaimers.

Economics of Oil Reclaiming

One final word about economics is in order. As in any resource recovery process, the market price of the recovered product determines the success or failure of the recovery business. Oil reclaimers make their money by selling "pipe line quality oil" that they recover by heating and chemical treatment of the tank bottoms. As the price of oil drops, there comes a point at which they no longer can make a profit and so they stop operations. However, oil continues to be produced and with it, tank bottoms. There is therefore a strong indirect pressure to dispose of the bottoms in a convenient and not necessarily environmentally safe manner.

This is a situation that we may be fast approaching. Kansas, and every other oil producing state will have to seek a solution under increasingly difficult conditions, balancing economic gain to the industry and state against public safety and environment.

Wise formulation of the rules under this bill will be a severe test of the State's will to face this increasingly difficult problem.

I thank you for your time and for this opportunity to appear before your committee.



**League
of Kansas
Municipalities**

**Municipal
Legislative
Testimony**

PUBLISHERS OF KANSAS GOVERNMENT JOURNAL 112 W. 7TH TOPEKA, KS 66603 (913) 354-9565 FAX (913) 354-4186

TO: House Committee On Energy and Natural Resources
FROM: Jim Kaup, League General Counsel
RE: HB 2309; Regulation of Oil Reclaiming Facilities
DATE: March 6, 1991

By action of its state legislative committee taken on February 22, the League appears today in support of HB 2309.

While HB 2309 has state-wide application and will affect a number of oil reclaiming facilities around the state, the impetus for the bill comes from the location and operation of a facility in an unincorporated area of Ness County. When concerns regarding that facility were first brought to the League's attention last Fall by Representative Mollenkamp, the League's initial response was to see if some type of local regulation would be available to address the concerns for public safety that were being raised. Once we established that the community adjacent to the facility was unincorporated, and therefore held no legal authority by which to take actions to protect itself and its inhabitants, and having been advised that county officials preferred not to enact county laws and regulations regarding the operation or location of the facility, it became obvious that the only feasible avenue remaining was the State of Kansas.

While the League, as a general policy, is reluctant to seek the enactment of state laws to address matters which can be regulated at the local level, there are several justifications for the League's position in support of HB 2309. First, while cities pursuant to home rule and the exercise of the police power can regulate oil reclaiming facilities located within the city limits, when such facilities are located outside the city limits, and therefore generally beyond the jurisdiction of the city, there is very little the city can do under present law. Second, even when such facilities are located on premises which are subject to the jurisdiction of a city, the simple reality is that cities seldom have the technical expertise that the State of Kansas has with respect to determining the safe operation of such facilities.

The League believes that any city which now has an oil reclaiming facility within its city limits, or in its vicinity, will welcome state regulation and permitting, by KDHE.

The League further notes that nothing in HB 2309 appears to pre-empt or preclude local regulation of oil reclaiming facilities, whether by zoning or other land use regulations or by public health and safety related laws.

The League also recognizes that HB 2309 encompasses within its scope oil reclaiming facilities owned or operated by a local unit of government. While we are not aware of any such

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ownership or operation by any of our member cities, we do not oppose the inclusion of cities within the permit requirements of HB 2309.

League Amendment. The League respectfully requests this Committee's consideration of a minor amendment to the bill. Under Section 3(b) KDHE, as part of its consideration of the issuance of a permit, is to receive "advice and counsel from the local health authorities and the county commission". The League suggests the following amendment at page 1, at the end of line 38, after the comma, "or the governing body of the city if the facility would be located within an incorporated area,".

The League respectfully requests favorable action on HB 2309.

TESTIMONY ON HOUSE BILL 2309

BY THE KANSAS CORPORATION COMMISSION

PRESENTED BEFORE THE HOUSE ENERGY
AND NATURAL RESOURCE COMMITTEE

March 6, 1991

I am Bill Bryson, Director of the Oil and Gas Conservation Division for the Kansas Corporation Commission. I am appearing on House Bill 2309 primarily to provide information to the committee on oil reclaiming facilities and future regulatory activities which deal with the issues of facility siting, permitting and closure of such facilities.

Prior to 1986, oil reclaiming facilities were peripherally handled by the Department of Health and Environment as a part of the oil field surface pond permitting program. In 1986, when oil and gas regulatory authority was transferred to the Commission through HB 3078, the inspection of such facilities continued as a district cooperative arrangement between KDHE and KCC personnel but no formal administrative regulatory program was put in place by either agency to carry out a set of procedures as described in HB 2309. Permits issued by KDHE for ponds at a couple of facilities prior to 1986 carried over to KCC with the oil field program.

In preparation of this testimony, I asked our district staff to give me some idea of how many facilities would come under regulation if HB 2309 were passed. Our records indicate the following:

East of U.S. Highway 81 - 7
West of U.S. Highway 81 - 18

These figures include sub-stations located in oil producing areas such as the one of concern to the residents of Arnold.

Oil reclaiming facilities are associated with crude oil production units and are usually located within the general area of active production. The material processed consists of heavy oil and tank bottoms from oil lease operations and is generally considered a resource rather than a

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waste. Only the dirt and oil fraction which cannot be processed would be a waste. The Commission has encouraged this type of facility because a lot of tank bottoms and oily production waste which used to be disposed of in pits or on roads are now reclaimed thus reducing the volume of actual waste.

The Environmental Protection Agency has classified tank bottoms and heavy oil as oil field waste associated with production rather than refining. In most states, including Kansas, the oil and gas regulatory agency would normally be the one to address the problem. I have attached to this testimony a portion of the technical criteria recently developed by the Interstate Oil Compact Commission in conjunction with the EPA Office of Solid Waste. These criteria will form the basis of EPA regulation once the RCRA authorization takes place and would form a basis of future Commission oil and gas regulation for centralized facilities. There is a companion set of administrative criteria which covers financial responsibility and enforcement. These requirements are compatible with the requirements of HB 2309.

These technical criteria for centralized and commercial facilities address permitting which includes a siting plan and a closure plan. The concerns by the citizens of Arnold which made HB 2309 necessary are really over poor site selection. Additionally, once a site is moved or abandoned, proper site closure requirements have to be followed.

The Commission, while adopting a neutral position on this bill, asks the Committee to consider the following:

- (1) Passage of HB 2309 at this time may be premature since the Commission will probably be responsible for regulating production oriented centralized facilities once EPA promulgates regulations for oil production waste.
- (2) The Department of Health and Environment and Commission staff believe the cooperative approach is the best in light of the number of actual facilities. Currently KCC licenses the oil operators and the haulers and has the authority to issue permits for surface waste retention facilities. On the other hand, waste characterization is a

KDHE responsibility and the cleanup of any releases of oil is a shared responsibility. The Commission believes interagency cooperation can address the requirements of HB 2309 with the exception of financial responsibility requirements which are more in line with KDHE's procedures.

In summary, the Commission believes that regulation of these facilities can be effective without new legislation. There are only a few facilities around the state which reclaim oil and the Commission believes adequate environmental requirements can be imposed to protect water resources and the health of humans.

5.7.2.1 Regulatory Agency Responsibilities in Permitting

- a. **Permits.** The regulatory agency should authorize off-site commercial and centralized disposal facilities for E&P wastes by permit. A permit should be in force for a finite period, to be determined by the agency. The agency should use the data and information required by the technical standards of this section to approve or deny applications for permits, to ensure compliance with permit conditions, to order corrective actions in order to prevent or abate violations of the standards, or for any other purpose deemed necessary by the agency.
- b. **Acceptable Wastes.** The agency should prescribe the range of E&P wastes which can be disposed at commercial and centralized facilities and at municipal waste landfills.
- c. **Waste Characteristics and Disposal.** The agency should identify the chemical characteristics of wastes likely to be disposed at commercial and centralized facilities on the basis of published scientific data and on knowledge about regional or site-specific waste characteristics. This information should be used by the agency to match a given disposal apparatus (e.g., a lined evaporation pond with a leak detection system) with a particular waste stream. The agency should prescribe these waste disposal facilities and waste stream relationships by rule or in the permitting process and ensure that operators of commercial or centralized facilities comply with them. For sampling and testing, refer to Section 5.7.2.2.c.v. and vi.

5.7.2.2 Permitting Requirements

- a. Any new or existing commercial or centralized facility must obtain a permit from the regulatory agency to commence operation or to continue to operate. A permit should be issued only upon compliance with the general requirements of Section 5.1 and the technical requirements of this section and upon submittal and approval of an application that contains a Siting Plan, Construction Plan, Operating Plan, and Closure Plan. Operation of a facility should comply with the terms and conditions of the permit.

The regulatory agency may tailor the technical requirements for all existing facilities and for centralized disposal facilities to the conditions present at the locations of such facilities. In the case of centralized facilities, the regulatory agency may adjust the requirements of 5.7.2.2a, b, and c in light of the volume and characteristics of wastes received by the facility.

- b. **Siting Plan.** The specific site for a commercial facility, or to the extent possible the site for a centralized facility, should have natural features (such as isolation from or considerable depths to groundwater, protection against flooding, presence of low-permeability soils and rocks, and topography conducive to protection against wind erosion) that prevent or minimize release of pollutants to offsite waters, lands and air. Additional safeguards may be required by the regulatory agency for centralized facilities that are located on sites that do not exhibit natural protective features. An application for a permit to site a commercial or centralized facility should contain the following information:

- i. Names, addresses and telephone numbers of owners and the operators of the facility, the owner(s) or occupant(s) of properties within close proximity of the site, or any nearby person who may reasonably be adversely affected by release from the site;
- ii. Topographic map showing the location of the site and any highways or roads that abut or traverse through the site, and that depict all water courses, water wells, and dwellings located within one mile of the site;

- iii. Geologic, hydrologic, engineering, chemical and any other data or information that demonstrate disposal of wastes and operation of the facility will not contaminate fresh water, the surrounding soils or air, endanger public health, safety or the environment, or cause property damage;
 - iv. Average annual precipitation and evaporation rate at disposal site;
 - v. Proximity of disposal facilities to surface water courses (priority in net-precipitation climates);
 - vi. Nature and permeability of vadose zone; description of the subsurface strata, identification of and areal extent of underlying aquifer(s), and depth to groundwater; direction of groundwater movement; data on water quality of nearby surface waters and underlying aquifer(s) prior to commencement of operations; and points of past or current use of surface water or groundwater;
 - vii. Proof that all public notice requirements have been met; and
 - viii. Certification by an authorized representative of the applicant that information submitted in the application is true, accurate and complete to the best of the applicant's knowledge.
- c. **Construction Plan.** In general, commercial and centralized disposal facilities should be constructed to prevent or minimize releases of wastes or waste byproducts to surface water, groundwater, soils and air. For commercial facilities, detailed engineering drawings and diagrams of engineered disposal facilities should be required; for centralized, or one-owner facilities, such extensive construction details may not be needed. Construction should follow guidelines and rules adopted by the regulatory agency.
- d. **Operating Plan.** Applications for permits for existing or new facilities should be accompanied by an Operating Plan that describes the wastes that will be accepted at the facility and the methods by which those wastes will be managed and disposed. The Operating Plan should contain the following information:
- i. Volume, rate and type of material to be disposed at the facilities and the facilities that will be used to dispose of each waste stream (i.e., unlined or lined pits, above- or below-grade tanks, etc.);
 - ii. Contingency plan for reporting, responding to and cleaning up spills, leaks and releases of wastes or waste byproducts, including provisions for notifying emergency response authorities and for taking operator-initiated emergency response actions;
 - iii. Plan for routine inspection, maintenance, and monitoring to ensure and demonstrate compliance with permit requirements;
 - iv. Specific engineering plans for preventing or minimizing the generation and emission of hydrogen sulfide gas;
 - v. A plan, including consideration of on-site sampling and testing, to assure that RCRA Subtitle C or other prohibited wastes are not disposed of at the facility.
 - vi. Centralized and commercial waste disposal facilities must submit a plan to characterize wastes received for disposal. Larger facilities may require more testing requirements.

Waste characterization requirements for small centralized facilities may be more limited than for large facilities, based on the limited types and volumes of wastes received. At a minimum, waste characterization must consist of testing for organics, pH, salinity, hydrogen sulfide content, and ignitability. States should determine additional minimum testing criteria applicable to their regions. Testing for organics must be appropriate for the type of waste, method of disposal, and the potential for health and environmental hazards posed by that situation.

- vii. Plan for periodic removal and subsequent handling of free oil; and
 - viii. Security plan for the facility.
- e. Closure Plan. Applications for permits for existing or new facilities should be accompanied by a Closure Plan that describes the methods to be used to reclaim the facility following the cessation of operations. Closure shall comply with the general requirements of Section 5.1 and the burial requirements of Section 5.5 of these criteria, and with any other requirements established by the regulatory agency. The plan should include a closure schedule, a cost estimate for reclamation and a schedule for authorized financial assurance instrument. The cost estimate and authorized financial assurance instrument schedule shall be used to establish a financial surety level for the facility prior to permit approval.

5.7.2.3 Waste Tracking Requirements

To assure that only wastes derived from the exploration and production of oil or natural gas are disposed of at commercial or centralized facilities, a waste tracking system that documents the movement of wastes from the site of their origin to their final disposition should be implemented. The following elements should be included in the waste tracking system:

- a. Three-Part Form Required. A three-part form that contains the names, addresses and phone numbers of the generator (producer), hauler, and disposal facility operator; a description of the waste; the time and date it was collected, hauled and deposited at the disposal facility; and the volume of the waste hauled.
- b. Maintenance of the Form. The form should be maintained by the generator (producer), hauler and operator of the disposal facility for inspection by the regulatory agency. The forms should be maintained for a period of three years after the shipment date.
- c. Attest to No Illegal Dumping. The hauler and the operator of the disposal facility should certify in writing on the three-part form that no wastes were dumped illegally or at a location or facility not designated by the generator or permitted to receive exempt E&P waste, and that no prohibited oil-field or hazardous wastes were mixed with the exempt wastes during transport.
- d. Reporting of Discrepancies. The operator of the disposal facility shall immediately report to the regulatory agency and the generator any discrepancy in waste descriptions, volumes or place of origin based on personal observations or information contained in the three-part form.
- e. Permitting of Waste Haulers. Waste hauling companies should be permitted by the regulatory agency based on a showing of minimum knowledge about the regulatory requirements for disposition of E&P wastes transported from their point of generation to their final disposal site. The regulatory agency may issue permits to individual waste haulers or to waste hauling firms.



KANSAS INDEPENDENT OIL & GAS ASSOCIATION

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March 6, 1991

TO: House Committee on Energy and Natural Resources

RE: HB 2309 - Oil Reclaiming Facilities

I doubt if there is anyone appearing to represent the interests of the oil reclaiming facilities industry in Kansas. I know of only three in Kansas. HB 2309 was introduced to get the operator of one to move his plant because of a public concern about his operations. From what I know, that operator is in the process of moving and the KCC and KDH&E reportedly will approve his operations if set up correctly.

The oil operators in Kansas consider this a necessary service - cleaning tanks and picking up tank bottom sludge. We don't want oil reclaimers to be regulated out of business which would cause us to rely on out of state reclaimers.

If you are inclined to work this bill, we want to remove oil operators from this bill by clarifying "oil reclaiming facility" on page 1, line 14, by adding after the word "location", "except those owned by oil operators".

On line 38, page 1, we suggest you add "State Corporation Commission" after the first "the" as an agency that knows the most about this subject.

On line 11, page 2, add the word "annual" before the word "fee" to be certain you are still talking about the annual fee.

On page 2, line 22, we suggest the words "and reasonable" be added after the word "necessary" to avoid arbitrary, undefined, and unreasonable grounds for denying the permit.

We are unclear as to what is meant in lines 24-26, page 2, which deals with KDH&E approval of types and quantities allowed to be stored, treated or processed, in granting the permit. We believe that involves too much complexity over a very simple issue.

Starting on line 27, page 2, there is a request for bonds. We think liability insurance is adequate and doubt if these operations are bondable or if an operator can support a bond. We suggest evidence of liability insurance be submitted when applying for the permit.

Donald P. Schnacke

*E+NR
3/6/91
Attachment 9*

PROPOSED SUBSTITUTE FOR HOUSE BILL NO. 2407
 By Committee on Energy and Natural Resources

AN ACT concerning vehicle tires; relating to recycling and disposal; prohibiting certain acts and providing penalties for violations; amending K.S.A. 65-3409 and K.S.A. 1990 Supp. 65-3424, 65-3424a, 65-3424b 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) "Abatement" means the processing or removing to an approved storage site of waste tires which are creating a danger or nuisance.

(b) "Beneficial use" means the use or storage of waste tires in a way that creates an on-site economic benefit, other than from processing or recycling, to the owner of the tires.

(c) "Landfill" means a disposal site in which the method of disposing of solid waste is by landfill, dump or pit and which has a solid waste disposal area permit issued under K.S.A. 65-3401 et seq., and amendments thereto.

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

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

(f) "Store" or "storage" means the placing of waste tires in a manner that does not constitute disposal of the waste tires. Storage includes the beneficial use of waste tires as fences, silo covers and erosion control, and other beneficial uses as the

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 Attachment 10*

do not
secretary determines ~~create~~ health or environmental risks.

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

(h) "Tire retailer" means a person in the business of selling new or used replacement tires at retail.

~~(d)~~ (i) "Vehicle" ~~means any motor vehicle, as defined by K.S.A. 8-1437~~ has the meaning provided by K.S.A. 8-1485 and amendments thereto, other than a traction engine, road roller or farm tractor or trailer.

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

~~(f)~~ (k) "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)~~ (l) "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)~~ (m) "Waste tire site" means a site at which 1,000 or more 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~~ the accumulation has a beneficial use to the person accumulating the tires and (i) the secretary determines that the use has no adverse environmental effects and (ii) the accumulation 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, *subject to rules & reg of the Sec of H+E* 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 been cut into sufficiently small parts to be used as daily cover material for a landfill.

~~(c)--Violation-of-subsection-(b)-is-a-class-C-misdemeanor.~~

Sec. 3. K.S.A. 1990 Supp. 65-3424b is hereby amended to read as follows: 65-3424b. (a) The secretary shall establish a system of permits for waste tire processing facilities and permits for waste tire collectors and collection centers. Such permits shall be issued for a period of one year and shall require an application fee established by the secretary in an amount not exceeding \$250 per year.

(b) The secretary shall establish standards for waste tire processing facilities and associated waste tire sites, waste tire

collection centers and waste tire collectors.

(c) On and after ~~July 17, 1990~~ December 31, 1991, no person shall:

(1) Own or operate a waste tire processing facility or waste tire collection center or act as a waste tire collector unless such person holds a valid permit issued therefor pursuant to subsection (a); or

(2) own or operate a waste tire processing facility or waste tire collection center or act as a waste tire collector except in compliance with the standards established by the secretary pursuant to subsection (b).

(d) The provisions of subsection (c)(1) shall not apply to:

(1) A tire retreading business where fewer than 1,000 waste tires are kept on the business premises;

(2) a business that, in the ordinary course of business, removes tires from motor vehicles if fewer than 1,000 of these tires are kept on the business premises;

(3) a retail tire-selling business which is serving as a waste tire collection center if fewer than 1,000 waste tires are kept on the business premises; or

(4) the department of wildlife and parks; ~~or~~

~~(5) a person engaged in a farming or ranching activity, including the operation of a feedlot as defined by K.S.A. 14-5701 and amendments thereto.~~

~~(e) Violation of subsection (c) is a class C misdemeanor.~~

Sec. 4. K.S.A. 1990 Supp. 65-3424f is hereby amended to read as follows: 65-3424f. (a) On or before ~~July 1~~ December 31, 1991, the secretary shall establish a program to make grants to cities and counties which, individually or collectively, submit to the secretary plans, approved by the secretary, to:

(1) Enforce laws relating to collection and disposal of tires;

(2) encourage recycling of tires; or

(3) develop and implement management plans for collection, abatement, recycling and disposal of tires; ~~or~~

~~(4)---fund---research---and-development-for-recycling-and-use-of waste-tires.~~

(b) Each city, county or group of cities or counties, or both, submitting a plan approved by the secretary shall be eligible for grants pursuant to this section on the basis of priority as determined by the secretary. No recipient shall be eligible to receive such grants for more than two consecutive fiscal years.

(c) Cities and counties may join together, pooling their financial resources, when utilizing their grants for the purposes described in subsection (a).

(d) The secretary, in cooperation with the statewide coordinator of waste reduction, recycling and market development, may provide technical assistance, upon request, to a city, county or group of cities or counties, or both, desiring assistance in applying for waste tire grants or choosing a method of waste tire management which would be an eligible use of the grant funds.

New Sec. 5. (a) No tire retailer shall refuse to accept waste tires from customers or offer any discount or other monetary inducement to customers to encourage customers to remove their old tires from the tire retailer's premises at the time or point of transfer.

(b) A tire retailer may: (1) Ask customers if they wish to retain their old tires at the time of sale; or (2) refuse to accept more tires from a customer than purchased by that customer at the time of sale.

Sec. 6. K.S.A. 65-3409 is hereby amended to read as follows:
65-3409. (a) It shall be unlawful for any person to:

(1) Dispose of any solid waste by open dumping, but this provision shall not prohibit: (A) The use of solid wastes in normal farming operations or in the processing or manufacturing of other products in a manner that will not create a public nuisance or adversely affect the public health; or (B) an individual from dumping or depositing solid wastes resulting from such individual's own residential or agricultural activities onto

the surface of land owned or leased by such individual when such wastes do not create a public nuisance or adversely affect the public health or the environment.

(2) Construct, alter or operate a solid waste storage, processing or disposal facility or area of a solid waste management system without a permit or other approval from the secretary or be in violation of the rules and regulations, standards or orders of the secretary.

(3) Violate any condition of any permit issued under K.S.A. 65-3407, and amendments thereto.

(4) Conduct any solid waste burning operations in violation of the provisions of K.S.A. 65-3001 ~~to 65-3020, inclusive, and~~ any through 65-3020, and amendments thereto.

(5) Store, collect, transport, process, treat or dispose of solid waste contrary to the rules and regulations, standards or orders of the secretary or in such a manner as to create a public nuisance.

(6) Refuse or hinder entry, inspection, sampling and the examination or copying of records related to the purposes of this act by an agent or employee of the secretary after such agent or employee identifies and gives notice of their purpose.

(7) Violate subsection (b) of K.S.A. 65-3424a, and amendments thereto, subsection (c) of K.S.A. 65-3424b or section 5, and amendments thereto.

(b) No person shall be held responsible for failure to secure a permit under the provisions of this section for the dumping or depositing of any solid waste on land owned or leased by such person without such person's expressed or implied consent, permission or knowledge.

(c) Any person who violates any provision of subsection (a) ~~of this section~~ shall be guilty of a class A misdemeanor and, upon conviction thereof, shall be punished as provided by law.

Sec. 7. K.S.A. 65-3409 and K.S.A. 1990 Supp. 65-3424, 65-3424a, 65-3424b, 65-3424c and 65-3424f are hereby repealed.

Sec. 8. This act shall take effect and be in force from and

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after its publication in the statute book.

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