

Approved Feb. 4, 1992
Date

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE

The meeting was called to order by Representative Lee Hamm at
Chairperson

9:05 a.m./~~p.m.~~ on Thursday, January 30, 1992 in room 423-S of the Capitol.

All members were present except: Representative Wempe, excused
Representative Wisdom, excused
Representative Bryant, excused

Committee staff present: Raney Gilliland, Legislative Research
Jill Wolters, Revisor of Statutes Office
Pat Brunton, Committee Secretary

Conferees appearing before the committee: Representative Steve Wiard
Council Grove

Larry Cordell
Council Grove

Elden Cordell
Havensville

Dale Lambley, Director
Plant Health Division
Kansas State Board of Agriculture

Ray Aslin
State & Extension Forestry
Manhattan

Rex Naanes
Consulting Forester
Neosho County

Robert Whelpley
McPherson

Chris Wilson
Director of Public Affairs
Kansas Fertilizer and Chemical Association

Robert Grace
Kansas Ag Aviation Association
St. Francis

Randy Hardy
Professional Insurance Management Inc.
Wichita

Wayne Weatherley
President
Kansas Ag Aviation Association

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE

room 423-S, Statehouse, at 9:05 a.m./~~p.m.~~ on Thursday, January 30, 1992

Chairman Hamm informed the committee of a request from the State Grain Inspection Department for introduction of a bill that would increase some of their fees and allow them to contract for services outside of the state.

A motion was made by Representative Correll to introduce such legislation. Seconded by Representative Lloyd. Motion carried.

Hearings were opened on **HB 2704**. Representative Wiard testified in favor of **HB 2704**, informing the committee of his constituents concern that when sprayers cause drift, it affects wind breaks and crops and he feels someone should be held liable.

Larry Cordell, Council Grove, testified in favor of **HB 2704** and furnished the committee with written testimony from Rosalie Clymer, Council Grove who was unable to attend the hearings. Mr. Cordell furnished the committee with his written testimony also. (Attachment 1).

Elden Cordell, Havensville, testified in favor of **HB 2704** informing the committee of damage to crops and trees on his farm resulting from sprayer drift. (Attachment 2).

Dale Lambley, Kansas State Board of Agriculture, appeared before the committee stating **HB 2704** would specify that the liability insurance must include occurrences of drift from aerial application of pesticides. He informed the committee of his concern with problems of enforcement relating to drift damage. He also stated the committee may wish to closely examine the language found on page 2, line 21. (Attachment 3).

Ray Aslin, State Forester, testified in support of **HB 2704**. He informed the committee of the State Forestry Agency's concern about the impact of herbicide spray drift on native woodlands and tree plantings. (Attachment 4).

Rex Naanes, landowner and Consulting Forester, testified in favor of **HB 2704** stating the better definition of the requirements should prevent damage and make it easier for landowners to recover damages. He further stated the amended law should prevent bitter conflicts among neighbors and encourage good forestry in Kansas. (Attachment 5).

Robert Whelpley, McPherson, testified in favor of **HB 2704**. He stated it is very expensive to start a tree farm and when damage occurs, it hurts. He further stated he is in favor of any legislation that might make applicators more responsible and more financially accountable for damages.

Chris Wilson, Kansas Fertilizer and Chemical Association, testified before the committee stating KFCA neither opposes nor supports this bill, but would like to offer some information which may be helpful to the committee in their consideration of such legislation. (Attachment 6).

Robert Grace, Kansas Ag Aviation Association, testified in opposition to **HB 2704**. He stated this legislation is discriminatory and will lead to more frivolous insurance claims. (Attachment 7).

Randy Hardy, Professional Insurance Management, testified in opposition to **HB 2704**. He stated the areas of concern; frivolous claims, increased cost and non-availability of chemical coverage to all operators, are in their opinion, substantial reasons to leave the current insurance requirements in the State of Kansas as they are, and not proceed with the proposed mandatory chemical liability bill. (Attachment 8).

Wayne Weatherley, Kansas Ag Aviation Association, testified in opposition to **HB 2704**. He feels this bill is not needed at this time.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE,
room 423-S, Statehouse, at 9:05 a.m. ~~p.m.~~ on Thursday, January 30, 1992.

Representative Garner made a motion to approve minutes of January 21, 1992. Representative White seconded. Motion carried.

Written testimony was furnished by Linda Hessman, Director, Rural Life/Peace & Justice, Catholic Diocese of Dodge City, pertaining to the NAFTA hearings held before the House Agriculture Committee on Wednesday, January 29, 1992. (Attachment 9).

The meeting was adjourned at 10:40 a.m. The next meeting of the House Agriculture Committee is scheduled for Friday, January 31, 1992, in room 423-S, State Capitol.

GUEST LIST

COMMITTEE: HOUSE AGRICULTURE

DATE: January 30, 1992

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Johr Veteisen	Topeka	
Kathy Cordell	RR #2 Box 52 CG	—
Jean Cordell	Havensville	—
Elden Cordell	Havensville	—
Larry Ladell	RR #2 Box 52 CG	
Dale Lambley	Topeka	KSBA
MICHAEL E. FINK	Overbrook KS RR. FIELDSTONE	
Steve WIARD	Rt 3 Council Grove	Legislator
Tom Tummel	Topeka KS	KGFA/KFCA
Bud Koehler	Burlington	KS NP FMIS
Rex Deamer	Box 2 Box 142 In. KS.	Private Consulting Forester
Kenneth M. Wilke	Topeka	KSBA
Jul Lueber	Topeka	KS Co-op Council
Arlan Holmes	Topeka	Budget
Chris Wilson	Topeka	KS Fert. & Chem Ass'n
Russell A. FREY	Topeka	KS Vet Med Assoc.
Dean Garwood	Box 5026 Topeka KS	KS Termit & Pest Control
Kandy Hardy	2120 Airport Rd ^{Wichita} KS	Professional Insurance Agent
Wayne Weatherley	DRAWER 249 E. 11500th KS 67439	KAAFA
Robert GAGE	Box 227 ST FRANCIS KS	CAA
Alex Hawkins	901 S. Kansas Ave.	KSBA
Robert & Whelpley	1009 S. Chestnut McPherson KS	Tree Farmer
JOHN STRICKLER	1523 UNIVERSITY DR. MANHATTAN, KS	KSU - STATE & EXT. FORESTRY
Ray Astin	2610 Clifton Road Manhattan, KS	STATE & EXTENSION FORESTRY KSU

To the House Ag Committee

When Kermit Karns sprayed Eldon and Jean Cordell's timber he was totally unconcerned. He said, "Yeah, I sprayed the timber and there's not a damn thing you can do about it. I'm flat broke, everything I own is fully mortgaged, I'm behind on child support and I just mailed a check to the IRS with no money in the bank. So sue me, you get a court order. I have a large stack of court orders. There just damn pieces of paper."

I thought, maybe!

When we came up here last year and talked to several people they all told us a bill to put some limits on aerial spraying would pass the house if we could get it out of committee. They also said Farm Bureau Insurance and Don Rezac would kill it in committee.

I thought, maybe!

No one was willing to predict what will happen to any bill in the Senate.

HS. AG.
1-30-92
ATTACHMENT 1

I believe we should have the right to grow any legal crop we choose and have windbreaks around our homes. If anyone destroys our crops and windbreaks they should have to pay for them.

There is probably more support in Kansas for a total ban on aerial spraying and a ban on mist blowers than there is for HB 2704. Most people I have talked to say special interests will kill HB 2704. There appears to be growing support for initiative and referendum. Many people believe this will cure all the problems the legislature refused to face.

Again I think, Maybe!

I would not be here if I did not believe the current system works. I am asking for your support of HB 2704

Thank You

Larry Cordell

Rural Route 2, Box 51
Council Grove, Kansas 66846
January 17, 1992

To Whom It May Concern:

I am writing this letter in support of liability insurance for aerial spraying. A few minutes with an aerial sprayer can destroy hours of hard work and beauty. To establish farm yards and windbreaks, it takes many long hours of hand labor of digging, planting and cultivating.

Drifting of mist can wipe out this hard work of planting trees, stunt the growth or permanently damage them for lumber. The weeping willow in my yard is almost completely destroyed by aerial spraying.

I realize there are times when aerial spraying is necessary. I am requesting that aerial sprayers have liability.

Please give this your serious consideration. Provide protection for those who have no say concerning whoflies over their farms. Remember it takes a life time to grow a tree.

Sincerely,

Rosalie Clymer

Rosalie Clymer
Rural Route 2, Box 51
Council Grove, Kansas 66846

Since we purchased our farm in 1979 we have had damage from spray to our timber and crops six different years. We have lost approximately 90 walnut trees, ranging from two to twelve inches in diameter; about 60 hackberry trees; ten cherry trees; and numerous other trees.

On the morning of May 29, 1990, with a southeast wind of over 12 miles per hour, the pasture south of us was sprayed. I had given my permission to the owner to have this sprayed with a north wind only. These were the instructions that had been given to the sprayer.

In the drift from this spray we lost seven acres of sweet clover that had been left for seed. The north end of this field was almost one quarter mile from the spray.

We had been setting out crown vetch plants to stop erosion. We had approximately 200 plants set out at this time; we had only one left.

On May 21, 1991, I complained to the county weed department about spraying my fruit trees the previous week. They said they had not been spraying in my area. When I came home and looked, we had a strip of drift about ten ^{Rods} yards wide, running from the southwest to the northeast side of our farm. In this we lost two patches of crown vetch and our alfalfa field was damaged.

Drift from spray has not allowed me to grow the crops that I need to in order to build up my farm.

Hs. Ag.
1-30-92
ATTACHMENT 2

TESTIMONY

HOUSE BILL NO. 2704

DALE LAMBLEY
PLANT HEALTH DIVISION
KANSAS STATE BOARD OF AGRICULTURE

JANUARY 30, 1992

For many years, Kansas law has required licensing of those who are in the business of applying pesticides to the property of others for compensation. To obtain a pesticide business license, an applicant must take four (4) basic steps. These are:

1. submit the appropriate application for licensure;
2. pay the appropriate fees;
3. provide proof that at least one (1) of the employees of the company has taken the appropriate exams and is a state certified commercial applicator; and
4. show proof that the business has sufficient bond or insurance to meet proof of financial responsibility requirements set forth in the Kansas Pesticide Law.

In respect to insurance coverage, the statute states that "the liability insurance policy shall provide coverage (a) for not less than \$25,000 for bodily injury liability for each occurrence; and (b) for not less than \$5,000 for property damage liability for each occurrence".

The current language does not specifically denote the type of property damage liability coverage which must be maintained. House Bill No. 2704 would specify that the liability insurance must include occurrences of drift from aerial application of pesticides.

It is our understanding that at present a substantial portion of the agricultural aviation industry maintains drift damage coverage. Those who do not indicate that they prefer to settle claims independently because their damage claim costs are normally less than insurance premium payments. Irrespective of company insurance status, most members of the public at large appear to believe that drift damage insurance coverage is a prerequisite of licensing. It is for this reason that the division periodically includes the issue on our list of items for review whenever amendments to the Kansas Pesticide Law are being considered. The insurance issue was last discussed, as I recall, during the 1988 interim study of the pesticide law program. The bottom line is, however, that damaged parties expect to be compensated for damages occurring from drift.

I thought it important for the committees' deliberation on this bill to make some observations relative to the type of problems which the enforcement staff encounters relating to drift damage. Since 1988, the division has received a number of complaints to the effect that as herbicide applications were made, off target damage occurred and the applicator refused to compensate the complainant for property damage which took place. The majority of these complaints were directed toward three (3) different applicators or applicator businesses. Follow up

investigations showed in some instances that the applicator did indeed have drift damage liability coverage, but told the complainant that he did not. In other instances, the business did not maintain such coverage but refused to settle claims in any manner short of going to court. One of the individuals took the complainant to court, then filed bankruptcy when he lost the case. Two of these firms were first assessed civil penalties and are now no longer licensed for operation in Kansas. The third has been assessed civil penalties and is currently on a probationary status relative to continuation of his licensure. As a representative of the enforcing authority, I work very hard to insure uniformity of enforcement action. It is very important that one company violating the statute be treated the same as another committing the same violation. However, I would be less than candid if I neglected to indicate that a company's willingness to settle fully justified damage claims has a significant impact upon my final decision as to amounts of penalty assessed.

I would like now to turn to some items of a technical nature relating to language of the proposed bill. There are, under current law, seven (7) categories of applicator businesses ranging from agricultural pest control to structural pest control. The bill requires pesticide applicator businesses to obtain liability insurance for drift occurrence of not less than \$25,000 for bodily injury for each drift occurrence and not less the \$50,000 for property damage for each occurrence. To my reading, this coverage would be required in addition to any other insurance or bond requirements of the law and would be required of all pesticide applicator businesses regardless of the means of application or the type of pesticide applied. Consequently, both businesses doing aerial application as well as those doing cockroach control in

homes would fall under the drift insurance requirement. The language which does this is found on page 2, line 21. The committee may wish to closely examine the language in that area. The Plant Health Division was forced to confront the same problem with the administrative regulations involving wind direction and velocity records and addressed it by exempting those applying pesticides inside structures, doing seed treatments and for termite control treatments. I would also encourage the committee to include the word "pesticide" in page 2, line 21 and in page 5, line 24 so as to read pesticide drift occurrence . We put a stop on a business license application recently when we learned that the insurance coverage was for fertilizer application and drift.


Finally, I would like to provide some personal observations about the meaning of the term pesticide drift. From the classical standpoint, drift is the off target movement of a pesticide during application. Small spray droplets applied on windy days can be carried a great distance away from the target field. However, there is another type of pesticide movement called vaporization. Some pesticides are highly volatile, which mean that they can evaporate from the field were applied and move to cause damage in nontarget areas. In my opinion, vaporization is responsible for many of the problems confronting the cotton growers in south central Kansas, for example. It is my assumption that "drift" as used in HB 2704 would cover both types of conditions.



Cooperative Extension Service

Department of Forestry
State and Extension Forestry
2610 Claflin Road
Manhattan, Kansas 66502-2798
913-537-7050
FAX: 913-539-9584
Postage Paid

TO: House Committee on Agriculture
Lee Hamm, Chairperson

FROM: Ray Aslin
State Forester 

DATE: January 30, 1992

RE: HB 2704 - Relating to Insurance for Pesticide Applicators

I am Ray Aslin, State Forester, representing State and Extension Forestry, Kansas State University. I appreciate the opportunity to testify in support of House Bill No. 2704.

As the State Forestry Agency, we are concerned about the impact of herbicide spray drift on native woodlands and tree plantings. We have received numerous complaints from landowners regarding careless application of herbicides from aerial applications. In some cases, the guilty party is insured and pays restitution. However, some commercial applicators are not insured and pay no restitution for the damage caused by spray drift on neighboring property.

Tree planting is one of our most popular programs with the citizens of Kansas. We have distributed over 1 million trees and shrubs for conservation planting each year for the past 35 years. These trees and shrubs go into plantings for conservation purposes such as windbreaks, erosion control, wildlife habitat, Christmas trees and timber production.

It takes a strong commitment to grow trees in Kansas. Planting trees is just the beginning of that commitment. To do well, tree plantings must be weeded, watered, protected from insects, disease and animal damage and dead trees need to be replaced. A planting must overcome many natural problems before it is considered established. But, when a man-caused disaster occurs, such as careless application of herbicides, trees become even more difficult to grow.

HS. AG.
1-30-92
ATTACHMENT 4

Many tree growers are becoming discouraged from planting trees right at the time when tree planting is strongly being encouraged at the national and state levels. Major programs by many state and federal agencies are providing cost-share incentives to landowners to improve existing woodlands and plant trees to reduce non-point source pollution and carry out the Riparian and Wetland Protection Program. The State Conservation Commission, Kansas Department of Wildlife and Parks, Kansas Department of Health and Environment, County Conservation Districts and the Soil Conservation Service are all involved in supporting tree planting efforts.

Our concern is this - that licensed commercial pesticide applicators should have ample liability insurance to cover damage claims by landowners growing and maintaining trees. We recognize that many commercial pesticide applicators operate in a responsible manner now, and we also realize that liability insurance will not prevent all careless or accidental applications. But, required liability insurance against drift would help to compensate landowners who suffer damage to their trees from misapplied pesticides. In the long-run, required liability insurance for drift occurrences should lead to more responsible use and applications of herbicide by all commercial applicators. For these reasons, we support House Bill No. 2704.

STATEMENT CONCERNING H.B. 2704

Mr. Chairman and Members of the House Agricultural Committee:

My name is Rex Naanes. I live in Neosho County on Rural Route 2 near Erie. I want to speak in favor of H.B. 2704.

I am a landowner and Consulting Forester. I am a graduate Forester and in order to keep up to date I am a member of the Association of Consulting Foresters of America and am a Registered Forester in Oklahoma and Arkansas. Kansas, Missouri and Nebraska do not have a Registration for Foresters law.

I have been a private Forestry Consultant since 1980. I average about 12 projects each year. 30% of my forestry work is concerned with herbicide drift damage on private woodlands.

Kansas is blessed with some extremely valuable hardwood trees. Black Walnut is a world renown much sought after wood. It is relatively abundant in our creek bottoms and fence rows. As an example, I have made sales for over \$12,000.00 on my land and have helped neighbors sell another \$40,000.00 on a one mile stretch of a small creek. This is income from land that is not suitable for cultivation.

Unfortunately, Black Walnut trees are highly susceptible particularly to phenoxy herbicides damage. Aerial applications on adjoining property may drift into creek bottoms with minimal wind. Above 70 degrees of temperature the chemical may volatilize and severely damage walnut trees up to 2 miles distance. A crippled black walnut soon develops quality destroying sprouts and remains on the land as a near worthless occupant of valuable land.

H.B. 2704 amends present Kansas Law to require insurance for drift occurrences. In Sec. 2 KSA 2-2448 it adds these words a certificate of liability insurance to cover occurrences of drift from aerial application of pesticides and a surety bond or a certificate of liability insurance to cover other occurrences as a condition precedent to such license being issued. The requirement is repeated in KSA 2-2444a and KSA 2-2471.

I strongly support H.B. 2704. The better definition of the requirements should prevent damage and make it easier for landowners to recover damages. The amended law should prevent bitter conflicts among neighbors and encourage good forestry in Kansas.

H.S. AG.
1-30-92
ATTACHMENT 5



KANSAS FERTILIZER AND CHEMICAL ASSOCIATION, INC.
816 S.W. Tyler St. P.O. Box 1517 A/C 913-234-0463 Topeka, Kansas 66601-1517

STATEMENT OF THE
KANSAS FERTILIZER AND CHEMICAL ASSOCIATION
TO THE
HOUSE AGRICULTURE COMMITTEE
REP. LEE HAMM, CHAIRMAN
REGARDING H.B. 2704
JANUARY 30, 1992

Mr. Chairman and Members of the Committee, I am Chris Wilson, Director of Public Affairs of the Kansas Fertilizer and Chemical Association (KFCA). KFCA is the professional trade association of our state's agrichemical industry. Our 600 members include primarily retailers, but also distribution firms and manufacturer representatives and others which serve the industry. Thank you for the opportunity to comment on H.B. 2704, concerning liability insurance for drift occurrences.

KFCA neither opposes or supports this bill, but would like to offer some information which may be helpful to you in your consideration of the bill. Our retail and custom applicator members are primarily involved with ground application of pesticides. Currently, our members are required to have liability insurance or a bond, but H.B. 2704 would require that their liability insurance

Hs. AG.
1-30-92
ATTACHMENT 6

specifically include drift coverage. There are two primary providers of liability insurance for our members, Kansas Farmer Services and Mill Mutuals. Both of those companies, which provide liability insurance for approximately 90% of the industry, include drift coverage in their liability policies. So, the current situation is that at least 90% of our members who apply pesticides on the ground already are covered for drift occurrences.

Our members who also apply pesticides aeriually also generally have drift insurance, although the nature of aviation insurance is that they must have an addition to their policies to cover drift and it is fairly expensive. According to underwriters who provide avaiation coverage, there are no rate manuals for determining premiums in the aviation industry; rates are based on the pilot's experience and previous losses.

The minimum premium for drift coverage is currently around \$1100, in addition to other liability coverage, for a pilot with lots of hours of agricultural application and no loss over the past five years. That coverage has a \$1000 deductible. As a result, many pilots, especially those which would infrequently have a claim due to drift damage, will self-insure by paying any damage out of their own pockets, rather than paying the additional insurance premium and then still having to pay for all the claims, since most would be under the deductible.

Conclusions which may be drawn from this information are that passage of H.B. 2704 would not adversely affect most people in the business of application of pesticides. Our members generally want and have the liability coverage, including drift, for any major occurrence which might happen. However, we question the need for passing another law with another requirement that will adversely affect some people. Applicators do not have equal need for drift coverage, since conditions and crop sensitivity vary throughout the state. Also, we question the need for the bill based on unsettled claims. The Board of Agriculture has effectively handled complaints from persons with pesticide damage and dealt with "bad actors" in the industry. H.B. 2704 would seem to penalize those who do a good job and who settle complaints readily when they have them, because of the few who do not. There are many, many applicators who never have a problem.

This bill apparently stems from the experience of one person who did not know that the Board of Agriculture could help him to obtain compensation. We have been told that he contacted the local extension office and the forestry extension office and was not referred to the Board of Agriculture. Generally, extension offices will automatically refer individuals with a complaint to the Board of Ag, and their complaint will be resolved fairly.

Mr. Chairman, I won't go into further detail at this time, but would be glad to supply the Committee with more information concerning insurance for aerial application or to respond to questions. In conclusion, KFCA members view this bill as not being overly burdensome, but on the other hand, question the need for it.

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HB 2704 Testimony

House Agricultural Committee

Testimony by Robert Grace, National Director of the Kansas Agricultural Aviation Association. The KAAA has approximately 200 members. More than half of these members are owners or operators of firms which do custom aerial application.

The KAAA opposes HB2704 for these reasons:

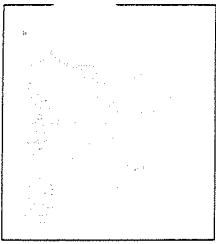
-There are existing methods in Kansas civil law by which a person damaged by chemical drift can be compensated. All persons, not just commercial applicators, are subject to these laws. The KAAA believes that the existing law is adequate.

-The bill is discriminatory, since it singles out aerial application. Aerial application is no more drift prone than other types of application. In fact, the Kansas Board of Agricultural receives at least many drift complaints from other forms of application as it does from aerial application. This means that legislating only aerial application is not a permissible classification under equal protection rights. If such a bill were to be made law, it would have to include *all* forms of commercial application, not just aerial application.

-The proposed bill will substantially increase the operating costs of Kansas applicators, which will ultimately increase the operating costs of Kansas farmers.

-Finally, mandatory insurance laws of any type tend to increase the incidence of superfluous and frivolous claims. These claims are expensive and time consuming to process, further increasing the net cost of such laws.

The KAAA believes that drift is a serious issue for all types of applicators: this is true of chemigation, home owners, and aerial, ground and right-of-way operators. However, given the excellent overall safety record of commercial application in Kansas, we feel this legislation is not justified.



Professional Insurance Management

P.O. Box 12226 ■ Mid-Continent Airport ■ Wichita, KS 67277
Toll-Free 1-800-826-4442 ■ 1-316-942-0699 ■ FAX 1-316-942-1260

Timothy K. Bonnell, Sr., CIC
Owner/President

January 29, 1992

TO: House Agricultural Committee

I have been asked to speak to your committee today regarding the proposed bill changing the insurance requirements for aerial application in the State of Kansas.

AVIATION INSURANCE

- Agricultural aviation
- Aircraft brokers - floor plans
- Airlines - major & regional
- Airport liability
- Air show liability
- Air taxi operators
- Antique aircraft
- Aviation products liability - airframe & component manufacturers
- Business aircraft
- Cargo liability
- Charter aircraft
- Corporate aircraft fleets
- Commercial liability
- Consultant - insurance surveys
- Excess liability
- Experimental aircraft
- Fixed Base Operators
- Flight schools
- Flying clubs
- Hangarkeepers' liability
- Heliport liabilities
- Helicopters
- Hot air balloons
- Industrial aid aircraft
- Non-ownership liability
- Pleasure aircraft
- Property insurance - hangar & office buildings
- Sales demonstration aircraft
- Space satellites
- Underground storage tank liability
- Warbirds
- Workers' compensation & employers' liability

Professional Insurance Management, Inc., is an aviation insurance agency/broker, located in Wichita. A large part of our business is providing liability coverage, as well as aircraft physical damage coverage, for aerial applicators. As Vice President of our agency, I am responsible for obtaining quotes and placing the coverage with the underwriters. Our agency represents 14 of the major aviation insurance firms, including Lloyds of London. Since aerial application is a special type of risk, only 5 of the carriers currently write aerial application insurance, with recent past years having as few as 2 carriers writing aerial application coverage.

I am also the current insurance representative and board member for the NAAA (National Agricultural Aviation Association), based in Washington, D.C. In addition, I serve as the insurance representative for the Kansas Aviation Advisory Committee, assisting the Director of the Division of Aviation for the State of Kansas.

I would like to speak in opposition to your new proposed bill. In my opinion and experience, by making the requirement for chemical liability insurance mandatory, you would open our industry up to unhealthy claims, costs and restrictions. Some of my concerns are:

1) FRIVOLOUS CLAIMS: Claims persued by individuals who are looking for the "deep pockets", or in hopes of making a settlement, knowing it is cost prohibitive for insurance companies to spend money to defend chemical damage claims. Even though the farmers have ground rigs, the railroads spray their rights-of-way, and the highway divisions spray their rights-of-way, the aerial applicator is highly visible, and thus more likely to be persued.

HS. AG.
1-30-92
ATTACHMENT 8

page 2

In situations where chemical liability is implemented, cases of insurance claims and complaints seem to increase. The cost to defend such claims are causing some carriers to re-examine writing aerial application coverage.

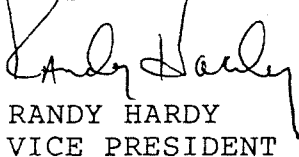
2) INCREASED COST PER AIRCRAFT: The increased cost of chemical liability coverage ranges from \$800 - \$2,200., PER AIRCRAFT, depending on the limit of coverage required. If an aerial applicator has multiple aircraft, this cost is easily doubled or tripled. Keep in mind, this cost is PER AIRCRAFT, not per business. Most likely, the increased cost to do business will have to be passed on to the grower, resulting in less profits for everyone.

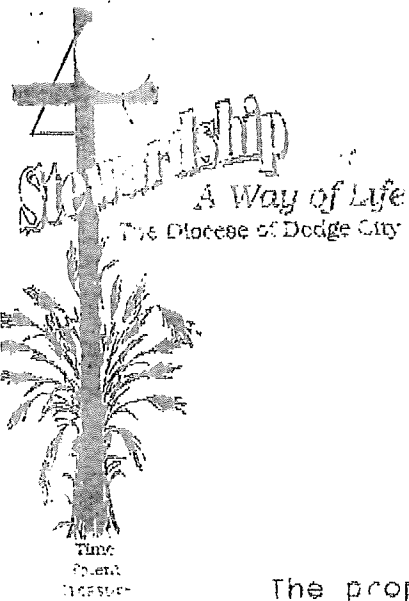
3) CHEMICAL LIABILITY COVERAGE NOT AVAILABLE TO EVERYONE: With the increased activity of new ag pilots coming into the industry, we find most of the ag markets are not willing to provide chemical liability coverage for these new pilots first year of operation, asking the operator to self-insure during training operations.

If chemical liability is provided, the cost factor is again substantially higher, with a load factor of 25-50%.

The areas of concern; frivolous claims, increased cost and non-availability of chemical coverage to all operators, are, in our opinion, substantial reasons to leave the current insurance requirements in the State of Kansas as they are, and not proceed with the proposed mandatory chemical liability bill.

Respectfully yours,


RANDY HARDY
VICE PRESIDENT



Testimony: pertaining to the NAFTA hearings held in Topeka before the Kansas House of Agriculture Committee.

January 29, 1992

From: Linda Hessman, Director
Rural Life/Peace & Justice
Catholic Diocese of Dodge City

The proposed North American Free Trade Agreement should be carefully concerned in several areas before any agreement takes place.

In recent months, I have been a participant in the Tri-national Exchange on Agriculture, Environment and the Free Trade Agreement held in Mexico City. Our group traveled to some Mexican Ejidos (farms) to learn from Mexico's producers first hand.

It appears that our problems are basically the same, exploitation by non-competitive transnational corporations in the market place. NAFTA has many hidden problems. This could affect every aspect of agriculture in Kansas.

The question becomes: "At whose expense?" People on both sides of the border will be exploited for the good of a few. Caution must be undertaken before any agreement is finalized. Another question is: Who will pay for this portion of a "New World Order"? I believe, it will be the producers and rural communities of Mexico, Canada, and the United States.



If we want to benefit the American people and the Mexican people, we have a moral obligation to promote a "fair" trade agreement not a free trade agreement. For there to be benefits for all sides on a long term basis we must not leave destiny in the hands of a few.

The terrain may be different, but it is apparent that problems for farmers and rural communities are the same in Canada, Mexico, and the United States. Products are the basis of traded wealth which will benefit all peoples, the producers of the three nations have no protection. Farmers and rural communities continue to go out of business. They have few alternatives but to leave our rural communities.

I am convinced that many of the Mexican people coming into the United States to work (whom return to Mexico) are farmers/families, who must use that income to supplement their farm income just as at least fifty-two percent of farm income in the United States must come from off the farm sources. Will NAFTA help or hinder this situation?

Government agencies continue to carry out negotiations with seemingly little two-way communication or input from producers as a whole. Better coordination in networking or facilitating between those in the process would greatly influence the success of these negotiations.

Concern in the areas of environment and food safety are vital. NAFTA, which could be overridden by GATT, will effect our present standards and labeling laws.

I was told in Mexico that it will cost the taxpayers ten billion dollars to accomplish the NAFTA Agreement. Considering our present economy this is a concern that again raises the balance of peoples lives and economies into question.

A "Fast Track" approval of the agreement would prove a disadvantage.

Thank-you for your time.

Wanda Wassman, Director