

Approved March 16, 1992
Date

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE

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

1:10 ~~am~~/p.m. on Monday, March 2, 1992 in room 521-S of the Capitol.

All members were present except: Representative Garner, Representative Minor,
Representative Rock, Representative Weiland,
Representative Wisdom, Representative Neufeld,
Representative Crumbaker and Representative Gatlin
Committee staff present: (all excused)

Raney Gilliland, Legislative Research
Pat Brunton, Committee Secretary

Conferees appearing before the committee: Pam Baugh, LinnWatch, LaCygne
Bob Nichols, LinnWatch, Linn County
Bob Mangold, LaCygne

Hearings were continued on **HB 3082** - limited liability agricultural companies.

Pam Baugh, LaCygne, testified in support of **HB 3082** which would close loopholes allowing limited liability corporations to operate in the state of Kansas. (Attachment 1).

Bob Nichols, LinnWatch, testified in support of **HB 3082**. He stated if corporate farming continues to expand, the local hog farmer will become a thing of the past. (Attachment 2).

Bob Mangold, Linn County, testified in support of **HB 3082** as it is his feeling that agricultural corporations that are formed in Kansas need to be responsible for their actions. (Attachment 3).

Hearings were closed on **HB 3082**.

The meeting adjourned at 1:30 p.m. The next meeting will be held on Tuesday, March 3, 1992, at 9:00 a.m. in room 423-S, State Capitol.

Pam Baugh
LinnWatch
Linn County Kansas 66040

Rep. Lee Hamm
Chairman: House Agricultural Committee
Topeka, Kansas

Mr. Chair and Members of the Committee:

My name is Pam Baugh and I reside in LaCygne, Kansas in Linn County. I am speaking on behalf of a grassroots organization in Linn County that refers to itself as Linnwatch.

We would like to take this opportunity to express our support of HB3082 that would close loopholes allowing Limited Liability Corporations to operate in the state of Kansas. Under the current law and guidelines, we find that Limited Liability Corporations would not be in the best interests of the State. A perfect example of how Limited Liability Corporations can adulterate what we believe was the original bill's intent; now exists in our own county. I would like to take a few moments to acquaint you with Sugar Creek Farms, L.L.C.

Sugar Creek Farms, L.L.C. has three stockholders: Steve Middleton, Mike Christie, and a yet to be named farm manager. Mr. Christie and Mr. Middleton are also the co-owners of MidLand Land and Cattle Company which acquired a tract of land consisting of approximately 9000 acres formerly owned by and known as Pittsburg-Midway Mine.

It is the intent of Sugar Creek Farms, L.L.C. to operate a massive swine production facility within this tract. I would like to briefly outline the specifics of this proposed operation:

- A) One genetics facility housing 700 sows
- B) Five farrowing facilities
- C) Each facility will house 2400 sows and 133 boars
- D) Each facility will produce approximately 48,000 feeder pigs per year or 234,000 annually

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Through our collective research, we have been able to ascertain how this type of facility would impact several concerns within the county. Impact statements in the areas of employment, environment, existing and future business, tourism, property values and the existing agricultural base will be made later by others in attendance today.

However; since Linn County is zoned, it was necessary for this Limited Liability Corporation to request a conditional use permit from the Linn County Board of Zoning Appeals.

Thus, on October 10, 1991, an application was made for a conditional use permit under the name of Prairie Farms L.L.C. But, on October 28, 1991, another application was made under the name Sugar Creek Farms, L.L.C. for their swine facility.

After much research by Linn Countians, a public hearing, and careful consideration of the facts by the Board of Zoning Appeals, their request was denied on November 26, 1991.

Soon after this denial, several interesting events initiated by Midland Land and Cattle Company ensued:

Firstly, allow me to backtrack briefly and assess you of situation in which concerned citizens began to research Midland and its principles in order to separate fact from rhetoric. When those facts were made public, key members in Linnwatch were sent the following letter from a law firm representing Midland: and I quote, (copy attached).

Also, tenants renting farm ground were notified that rent would be \$60/acre rather than the \$32/acre currently being paid. Pasture ground rented at \$12.50 and \$15/acre would be raised to \$17.50 and \$20.00 respectively.

Midland's next step was to send existing tenants a letter dated December 31, 1991 which reads: (letter attached).

Additionally, when inquiries were made regarding the sale of the stated land it was found that particular tracts of land were not for sale to specified people.

It was also discovered that included in the fine print of land sale contracts a clause that stated if the buyer were to ever oppose any Midland or Midland related venture the contract would be void and the land taken back. This clause specifically mentioned Linnwatch association or petitions.

Sugar Creeks Farm's latest ploy was issued to the Linn County Commissioners only last Monday, Feb. 24. Midland attorneys informed the commissioners that Midland did not need a permit and by State Law, hog operations couldn't be restricted because it is for AGRICULTURAL USE. Their attorneys told the commissioners if they refused to grant a permit, that their next choice would be to file a lawsuit. Further, Midland attorney's told the commissioners they expected their answer by the following Monday which of course is today.

By citing this one example, we hope the committee can appreciate the generalizations to all other counties throughout the State. The case in point only reiterates the more global effect and ramifications the Limited Liability Corporations act has for the entire State. Our concerns are not confined to only our section of the state but encompass the best interests of all who live in Kansas.

We ask you whether this case study is indicative of what you wanted for intended when the original bill was drafted? We certainly hope not and urge you to support the passage of HB3082 so all Kansans do not have to experience the nightmare we now face in Linn County.

I hope that this cursory information and brief remarks will assist you in the passage of this bill and I would like to thank you Mr. Chair and Members of the Committee for the opportunity to address this issue with you this morning.

LAW OFFICES
SMITH, GILL, FISHER & BUTTS
A PROFESSIONAL CORPORATION

FACSIMILE NUMBERS:
MISSOURI (816) 391-7800
KANSAS (913) 339-9446

ONE KANSAS CITY PLACE
35TH FLOOR
1200 MAIN STREET
KANSAS CITY, MISSOURI 64105-2152
(816) 474-7400

KANSAS OFFICE
7300 COLLEGE BOULEVARD
OVERLAND PARK, KANSAS
(913) 339-8585

July 15, 1991

Virginia Nichols
P.O. Box 473
Pleasanton, Kansas 66075

Re: *Midland Land & Cattle Company*

Dear Ms. Nichols:


This firm represents Midland Land & Cattle Company ("ML&C") and its current shareholders. As you are aware, a few aspects of the development project that our clients are contemplating in Linn County, Kansas has become a controversial issue to some citizens of Linn County. Unfortunately, our clients have been made aware of the fact that several people in Linn County are circulating false, misleading and inaccurate information concerning ML&C and/or its owners in an apparent attempt to prevent ML&C from pursuing its legal right to develop its property in Linn County.

This letter is intended to inform you that our clients intend to undertake and utilize all available legal remedies and causes of action against those who facilitate, aid, abet or further transmit untrue, misleading or inaccurate written or oral statements concerning the shareholders of ML&C that ultimately hinder, delay or prevent ML&C from legally developing its property in Linn County.

Very truly yours,

SMITH, GILL, FISHER & BUTTS,
a Professional Corporation

By


Michael J. Royle

MJR/klh

MIDLAND LAND AND CATTLE CO.

December 31, 1991

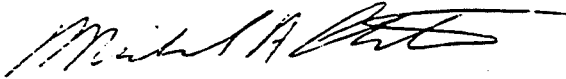
Dear Tenant:

Midland Land and Cattle Co. has been forced to reevaluate all of its agricultural leases because of the recent actions of Linn County regarding our proposed uses for our property. As you know we had requested plan approval to develop a Hunt Club and Swine Facilities which were denied by the Zoning Board in November. We feel both of the uses would have greatly benefited you and the community.

Let this letter serve as formal written notice of the termination of your existing lease. We regret having to make this decision and feel sorry for the people it will effect. Midland Land and Cattle Company will expect you to comply with all terms and conditions of the lease document.

The activist group in Linn County created this problem and Midland must make other arrangements to make our farm viable. Midland will be selling several thousand acres of its property. If you have any interest, please give us a call.

With deepest regrets,



Michael A. Christie
President

MAC/dh

mr. Chairman, fellow committee members:

My name is Bob Nichols. I am a member of Linn Watch and resident in Linn County, Kansas. I am here asking you to promote the passage of House Bill 3082.

The importance of H.B.3082 is, I believe, now critical in Linn County, . We have approximately 20,000 hogs in our county. All are being raised by small operators. We know who each operator is, and each operator is solely responsible for his own welfare and actions. If for any reasons there should be a catastrophe, or any kind of lawsuit, he and he alone is responsible. He cannot hide behind the term "Limited Liability Corporation."

In 1990 Midland Land & Cattle Co. purchased approximately 8,000 acres in Linn County, Kansas. From the beginning, all of their proposals for the use of this land have been for corporate uses only.

Ladies and gentlemen! Who is responsible now? We do not know who the partners and shareholders are and what the limit of their liability is in case of any disaster.

At the Nov. 21st public hearing, in their own words, Midland said they would not hire Linn County people, perhaps later. No grain will be bought in Linn County. The grain would be shipped from Farmland Industries' mill at Muncie, Kansas. After two facilities

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were finished, they would build their own mill, leaving our own mills economically deprived.

Later we learned that according to Mike Christie, president of Sugar Creek Farms, LLC, the building contractor would have been Farmer Boy Ag Inc. of Pennsylvania.

Ladies and gentlemen, when we add this up, we have ; no jobs for local people, no grain from local farmers, and no construction jobs for local workers. But we do have plenty of competition from Farmland, and smell in an area of approximately 300 to 500 people.

Only the buildings and land will be owned by Sugar Creek Farms, LLC. Breeding stock will be provided by Farmland Industries.

Management and all labor for the swine operation will be the responsibility of DeKalb. Local residents "later on" would be considered for employment only after training by DeKalb.

The only gain from this entire projected ~~ope~~ration is the property taxes on the buildings. The loss will be our own small operators going under. The loss of every five farmers will mean the loss of one business in town.

Current projections proposed by Sugar Creek Farms LLC is a 240,665 swine operation. At present, Linn County has approximately 20,000 head of swine including breeding stock and pigs. The operation proposed by Sugar Creek Farms LLC is greater than ten times

that amount, and by the simple law of supply and demand this would prove devastating to our local farmers.

Local farmers are important to a community. They have a broad based impact. Local business, schools, taxes, county government and our environment are each touched by local farmers. In Linn County we are fighting to preserve a way of life and the local farmer is the epitome of honesty, hard work and individual effort.

If corporate farming continues to expand, the local hog farmer will become a thing of the past as did chicken, egg and turkey farmers.

Local hog operators are already fighting to survive declining market values. A flood of thousands of additional feeder pigs into this depressed economy can only be disastrous.

Thank you for your time and consideration.

Sincerely,
Bob Nichols
Rt 2 Box 157
LaCygne, KS 66040

Mr. Hamn and fellow members of the Kansas Agriculture Committee:

I am Bob Mangold, LaCygne, Kans. and Linn County. I am speaking in favor of Bill #3082. Agriculture Corporations that are formed in our state need to be responsible for their actions. As I am standing here, a new Kansas Corporation, the Midland Land and Cattle Co. are attempting to get their application for approval to construct and operate a sizeable sow pig operation in Linn County. This operation proposes to produce in excess of 250,000 hogs per year.

This newly formed Corp. appears to rather indifferent to the outcry of their new adjoining neighbors and landowners, that stand to suffer financially and physically.

They appear to not show concern that their operation adjoining a small rural cemetery, which still has several burials each year, and contains much history of our area.

It matters little that the hog operation lies only one mile from the Linn County Park, which will host in excess of over 100,000 out of county tourist during the 1992 season, most of which will never return, once they inhale the odor that this operation can generate.

This facility can do irreparable damage to our underground limited water supplies and streams that many depend on for water supplies.

The above example is but one example of what is happening, but could happen anywhere in the state, unless measures are taken to ensure that a Kansas Agriculture Corporation must be made responsible for any damages incurred during the course of their operation.

Please give your consideration to Bill #3082

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