

Approved: 1-31-95
Date

MINUTES OF THE SENATE COMMITTEE ON ENERGY & NATURAL RESOURCES.

The meeting was called to order by Chairperson Don Sallee at 8:00 a.m. on January 25, 1995 in Room 254-E of the Capitol.

All members were present except: Senator Phil Martin

Committee staff present: Raney Gilliland, Legislative Research Department
Dennis Hodgins, Legislative Research Department
Mike Corrigan, Revisor of Statutes
Clarene Wilms, Committee Secretary

Conferees appearing before the committee:

Donald P. Schnacke, Executive Vice-President, Kansas Independent Oil & Gas Association
Danny Biggs, President, Kansas Independent Oil & Gas Association
Mike Terry, Executive Director, Oklahoma Energy Resources Board
Clark Duffy, Kansas Petroleum Council
David P. Bleakley, President, Eastern Kansas Oil and Gas Association and Director of Acquisitions and Land Management, Colt Energy, Inc.
Larry Knoche, Director, Bureau of Environmental Remediation

Others attending: See attached list

The chairman announced the appointment of a sub-committee chaired by Senator Vancrum with Senator Lee and Senator Morris as members to deal with amendments suggested on **SB 76**.

SB 37: An act concerning oil and gas; transferring jurisdiction and authority for cleanup of certain pollution from the department of health and environment to the state corporation commission; imposing certain assessments; providing for establishment and expansion of certain programs; creating an energy education and remediation board and an energy and remediation fund;

Donald P. Schnacke, Executive Vice President, Kansas Independent Oil & Gas Association, appeared in favor of **SB 37** and presented written testimony stating a major goal of their industry this year is directed at promoting more money and effort to environmental issues as well as improving the image of the oil and gas industry. (Attachment 1). Mr. Schnacke told the committee that inactive sites with pollution of soil and water under KDHE have received no attention during the past nine years with no funds being expended to clean them up. **Senate Bill 37** would provide funds to address these sites by assessing the industry and be administered by a Board provided for in the bill.

Danny Biggs, Kansas President, Kansas Independent Oil & Gas Association, appeared in support of **SB 37** stating that a public relations/public education effort is badly needed to deal with adverse environmental perceptions. Mr. Biggs told the committee of a program used in Oklahoma which has been very successful. This bill is patterned after the Oklahoma-approved plan. (Attachment 2).

Mike Terry, Executive Director, Oklahoma Energy Resources Board, appeared before the committee in support of **SB 37**. Mr. Terry explained the Oklahoma program noting the Oklahoma Oil Checkoff Program was the first environmental/educational program of its kind in the nation. The Oklahoma bill differs from **SB 37** in that it assesses only petroleum where the proposed Kansas bill would assess both natural gas and oil. (Attachment 3). Mr. Terry stated that Oklahoma was taking responsibility as an industry by spending industry dollars on the environment and allows all industry participants to share in the cost and the program.

Clark Duffy, Kansas Petroleum Council, appeared in support of **SB 37** stating the bill would impose a tax on the petroleum industry to generate money to clean up orphaned oil and gas contamination sites and would also establish an energy awareness program. (Attachment 4). Mr. Duffy stated in his written testimony that the Kansas Petroleum Council believes this bill could be improved and differences are reflected in **HB 2067**. Two amendments were suggested to the committee and are included in Mr. Duffy's written testimony.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, ROOM 254-E
Statehouse, at 9:00 a.m. on January 25, 1995.

David P. Bleakley, President, Eastern Kansas Oil and Gas Association appeared and strongly supported **SB 37**. Mr. Bleakley stated the members of his organization have long wanted to establish an industry wide public relations campaign that would educate the public as to who they were, what they did and their value to the economy of the state. This bill would accomplish this as well as provide the ability to work with the KCC and help fund the cleanup of old abandoned oil and gas leases (Attachment 5).

Larry Knoche, Director, Bureau of Environmental Remediation, KDHE, appeared concerning **SB 37** noting concern that the bill does not sufficiently define the term "oil and gas activities" and suggested a definition from K.S.A. 74-623 Section 6(a), also that the definition be moved to the front of the bill (Attachment 6). Mr. Knoche noted general agreement with the concept of transferring authority to the KCC the cleanup of pollution from oil and gas activities associated with abandoned leases but felt the jurisdiction and authority section needs to be clarified to clearly acknowledge both the KCC and KDHE program authorities.

Numerous questions were asked of conferees by committee members concerning structure of the bill, reasons for a board separate from the Kansas Corporation Commission as well as touching on many other points.

Time was not sufficient to hear opponents to the bill, therefore, hearings on **SB 37** were continued to January 26, 1995.

The next meeting is scheduled for January 26, 1995.

SENATE COMMITTEE ON ENERGY & NATURAL
RESOURCES GUEST LIST COMMITTEE

DATE: January 25, 1995

| NAME | REPRESENTING |
|-------------------|-----------------|
| Ron Hammerschmitt | KDHE |
| Larry Knoche | KDHE |
| Joullie Rains | KCC |
| Jim Allen | EKOGA |
| Nick Powell | EKOGA |
| Dail Bleakley | EKOGA |
| Ken Peterson | KIOGA |
| Jack Slane | Oky, USA |
| Chuck Shuffly | KPC |
| Leeland E. Rolf | DWR-KSDA |
| Mike Terry | OERB - OKLAHOMA |
| Don Schmitt | KIOGA |
| Danny Biggs | KIOGA |
| Ron Hein | MESA |
| Dwain Seltzer | KCC |
| Dan Stevens | Texaco |
| Karl Muldner | KDHE |
| Margaret Fast | KWO |
| Pat Casey | KDHE |



KANSAS INDEPENDENT OIL & GAS ASSOCIATION

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SENATE ENERGY & NATURAL RESOURCES COMMITTEE
JANUARY 25, 1995

**TESTIMONY OF DONALD P. SCHNACKE, EXECUTIVE VICE PRESIDENT
KANSAS INDEPENDENT OIL & GAS ASSOCIATION**

***RE: In Support of the Passage of SB 37
Transferring KDH&E Authority to KCC and
Creation of the Energy Education & Remediation Board & Fund***

Mr. Chairman and members of the Committee, I am Don Schnacke, Executive Vice President of the Kansas Independent Oil and Gas Association, appearing in favor of passage of SB 37.

A major goal of our industry this year with which the legislature can be of direct assistance to us is devoting more money and effort to environmental issues and we want to help improve the image of the oil and gas industry.

Our studies indicate the image of our industry in the public mind is not good, particularly because of the lack of good environmental practices of the past when there were no laws or rules regulating how oil field wastes were disposed.

The pollution of soil and water found on the sites transferred from KDH&E in SB 37 has publicly been laid at the feet of our industry. These are the same sites that were left with KDH&E nine years ago, as inactive producing sites, and no funds have been expended to clean them up. SB 37 would address this issue. No public funds are involved in SB 37! We do not recommend transferring these properties to the KCC unless funds are provided to deal with them, as provided in SB 37.

SB 37 would assess industry production and spend at least 50% on remediation of oil pollution sites transferred from KDH&E to the KCC. The balance of the money would be used for public education, seminars, training and public relations to improve the public image of this important Kansas industry--somewhat like an agricultural check-off program. Again, I want to emphasize that no public funds are involved in SB 37.

Sections 1-13 address the mechanics of how KDH&E transfers the inactive oil and gas leases to the KCC. Beginning on page 12, New Section 14 begins to describe the creation of the Energy Education and Remediation Act. It describes the make up of the Board, members of which are all from industry. Section 15 describes the Board and its mission. Section 16 on page 13 creates the fund and describes how the funds will be used. The

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Attachment 1

Senate Energy & Natural Resources Committee

January 25, 1995

Page 2

RE: SB 37

remediation work is in cooperation with the KCC. Section 17 sets up the assessment levy against oil and gas production. We estimate this would raise approximately \$1.5 million annually.

Mr. Chairman, we have two other conferees for SB 37 who we believe will be of interest to you. I suggest reserving your questions until you have heard from them. As a panel, we can address your questions.

The first is the President of the Kansas Independent Oil and Gas Association, Danny Biggs of Great Bend, Kansas, representing nearly 1,000 members and companies and who presides over an 80 member Board of Directors which has long studied this legislation and who will be affected.

The second conferee is Michael E. "Mike" Terry of Oklahoma City who is the Executive Director of the Oklahoma Energy Resources Board. The Oklahoma Board was enacted in Oklahoma two years ago. SB 37 is patterned after the Oklahoma legislation and it has been highly successful to date and has the support of the Oklahoma Corporation Commission and the producing industry in Oklahoma. We asked Mike to come to Topeka to tell you about the Oklahoma experience and allay any doubts you have about this effort.

Donald P. Schnacke



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SENATE ENERGY & NATURAL RESOURCES COMMITTEE
JANUARY 25, 1995

**TESTIMONY OF DANNY BIGGS, GREAT BEND, KANSAS
PRESIDENT, KANSAS INDEPENDENT OIL & GAS ASSOCIATION**

RE: In Support of the Passage of SB 37; Energy Education & Remediation Act

My name is Danny Biggs. I live in Great Bend, Kansas. I'm appearing today in favor of the passage of SB 37.

As President of the Kansas Independent Oil & Gas Association, KIOGA, I speak for the independent segment of the Kansas oil and gas industry statewide. Our Association has been in existence for nearly sixty years. Our membership is composed of nearly 1,000 companies, partnerships and individuals that are active with the Kansas oil and gas industry.

For a number of years KIOGA has urged the establishment of an industry-supported public relations/public education effort. Various industry organizations have successfully established *check-off* programs. Our industry's attempt to rally around a similar check-off program on a national scale, authorized by the U.S. Congress, has not yet developed, but we are still working toward that goal.

In the meantime, the State of Oklahoma legislature, at the urging of the Oklahoma oil and gas industry, authorized the establishment of a statewide program in Oklahoma that addresses two important issues, both of which are public relations and educational oriented: 1) The remediation of old abandoned oil and gas leases that have been identified as contributing to the pollution of waters and soil; and 2) the establishment of a public education/public relations effort by the industry to make the public more aware of the importance of our industry. SB 37 is patterned after the Oklahoma-approved plan.

Our industry is willing to pay the price to eliminate public criticism directed at our industry as a result of past pollution that has not been addressed. The attached ***Wichita Eagle*** story is the kind of publicity we abhor. Our goal is to address this issue with an independent board working in close conjunction with the State Corporation Commission to clear up old pollution sites that give our industry a black eye.

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Attachment 2

**Testimony of Danny Biggs
before the
Senate Energy & Natural Resources Committee
January 25, 1995
RE: SB 37**

The first 12 pages of SB 37 simply transfer the abandoned leases to the State Corporation Commission from KDH&E. There are several pollution sites under the present jurisdiction of the KDH&E that haven't been addressed and continue to publicly haunt us.

The balance of SB 37 establishes the new board, composed of industry appointed members who will work in concert and cooperate with the KCC. **No public funds are involved in this legislation.** Not less than 50% and no more than 60% of the money, estimated to be around \$1.5 million, would be directed at remediation of pollution. The balance would be an array of public relations, public education seminars, etc., sponsored by the industry board to improve the public image of this important Kansas industry.

We hope you will approve SB 37 and allow this effort to begin.

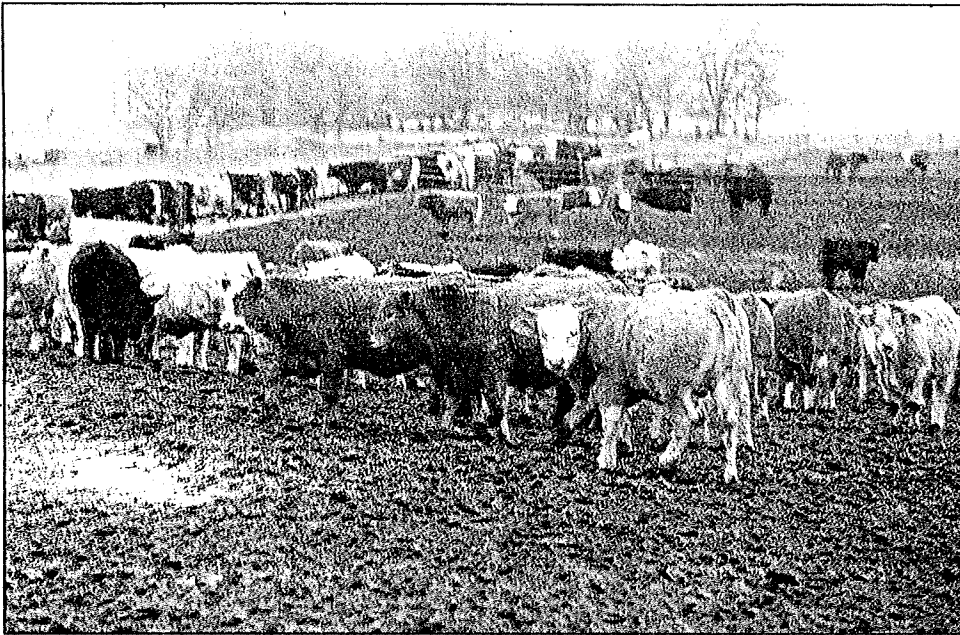
Danny Biggs
President, KIOGA

TROUBLE RUNS DEEP

100%

Waterway cleanup lacks results

How much of the 22,500 miles of rivers and streams in the state is too polluted for the following:



Brian Conn/The Wichita Eagle

Manure washing off feedlots is one of the main sources of pollution of Kansas' rivers. Cooperation from the feedlot industry is considered crucial to cleaning up the water.

By Jean Hays
The Wichita Eagle

Kansas still has some of the most polluted rivers in the nation, a soon-to-be-released state report says, and little progress has been made in cleaning up the waterways in the past three years.

The majority of the state's rivers and streams are so laden with bacteria and manure that people who dare to wade, water ski or swim in 80 percent of them are risking their health.

Twenty percent of the rivers routinely have bacteria levels so high that they are unfit for boating. Nearly 46 percent are unfit for boating part of the time.

In addition, more than half of the 22,500 miles of rivers and streams in the state are too polluted to serve as

a source of water for thirsty towns, or for farmers wanting to irrigate their crops.

"We still have work ahead of us," said Charles Jones, director of environment for the Kansas Department of Health and Environment, noting that no significant improvements have been made in the past several years.

The water won't get any better until farmers and livestock operators change their practices, he said. City folks won't get off easy, either.

Wichita residents will soon be bombarded with pleas from the city of Wichita to cut their use of lawn chemicals and reminders not to pour used motor oil into the gutters, which drain into the Arkansas River, as part of a federal program to reduce urban pollution.

The state's rivers are no doubt cleaner now than they were in the 1960s, when the rivers served as sewers for both industry and cities. Pipes dumping toxic wastes into rivers from manufacturing plants were easy targets.

That pollution, for the most part, has been stopped.

Now attention is focusing on farmers, owners of small feedlots and city dwellers who have been largely untouched by water-quality rules.

The overwhelming source of pollution in Kansas rivers today is bacteria and the manure that washes off of feedlots and dairy farms, according to the Department of Health and Environment.

Bacteria levels won't decrease until the state has an adequate program to regulate feedlots and more cooperation from the livestock industry, Jones said. The state may need to spend more money to help owners of small feedlots reduce pollution, he said.

The state already spends about \$700,000 a year planting filter strips and building lagoons at small feedlots to reduce pollution.

Brad Harrelson of the Kansas Livestock Association declined to comment on the report until he had

See **WATER**, Page 12A

Supporting fish and aquatic life:

90%

Swimming, water skiing, wading:

70%

Drinking water supplies:

60%

Irrigating crops:

58%

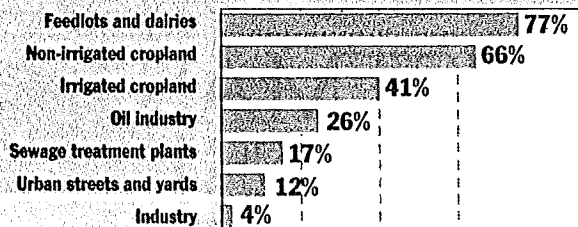
Boating:

46%

Livestock watering:

3%

Percentage of the state's rivers affected by identifiable sources of pollution



Source: Kansas Department of Health and Environment

WATER

From Page 1A

reviewed it.

What happens next is unknown.

Gov.-elect Bill Graves is committed to improving water quality, said Mike Matson, a spokesman for Graves. But Graves has made no statements on how he intends to accomplish that.

Feedlots alone cannot be blamed for the sorry state of Kansas' rivers. Sewage treatment plants, leaking septic tanks and fertilizer from lawns and farm fields also contribute to the high bacteria levels.

Brine from oil wells and natural salt deposits make some water too salty to be used for irrigation.

Pesticides and fertilizers threaten to destroy rivers and lakes that serve as drinking water supplies.

Those conclusions are part of the official report card that the Department of Health and Environment must submit every two years to the federal government to show progress — or lack of it — in cleaning up the nation's rivers. The report is used to shape policy at the national and state levels.

Kansas' report — now seven months overdue — won't be released for several more weeks. But part of the information is being given to members of the basin advisory committees and the Kansas Water Authority, the groups that advise the Kansas Legislature on what must be done to improve the state's water quality.

The results were based on several thousand water tests taken between 1990 and 1993 in 200 locations.

The study does not include small creeks and drainage ditches that run through Wichita and other towns. Those creeks, which are also likely to be polluted, may pose the greatest health risk because small streams are popular wading and splashing places for children.

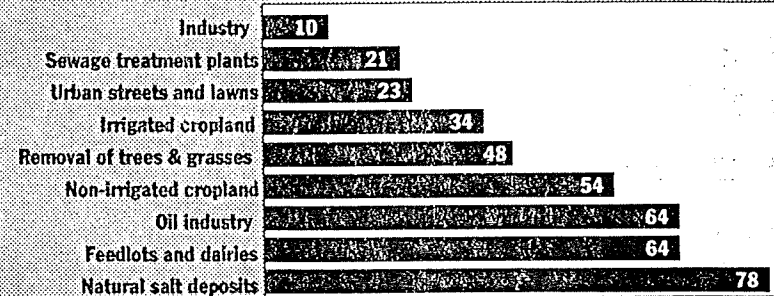
There is some good news.

While the state has made little headway overall during the past few years, the quality of rivers has improved dramatically from the 1960s and early 1970s, when rivers were literally dumping grounds for municipal sewage and industry's toxic waste.

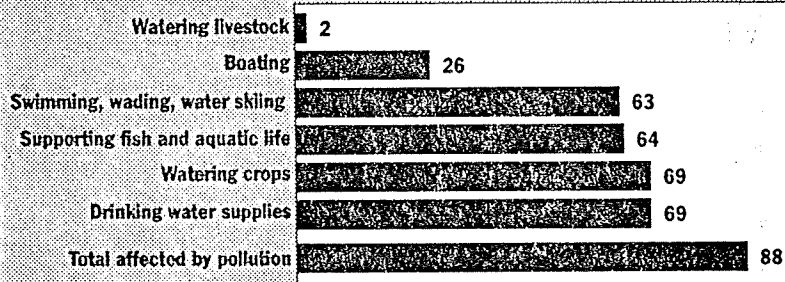
Today, only traces of toxic chemi-

Kansas rivers affected by pollution

Percentage of the rivers in a 14-county area in south central Kansas, affected by individual sources of pollution:



Of the 3,278 miles tested in the lower Arkansas basin, the percentage of rivers and streams too polluted for:



* exceeds 100 percent because most rivers are affected by more than one source of pollution.

Source: Kansas Department of Health and Environment

The Wichita Eagle

The news isn't all bad. The quality of rivers has improved dramatically from the 1960s and early 1970s.

cals can be found in the Arkansas River, said Jack Brown, the environmental health director for the Wichita-Sedgwick County Department of Community Health.

"We are not seeing a lot of industrial type of dumping," he said.

The Arkansas River is cleaner now than it has been for decades, thanks to millions of dollars the cities of Wichita and Hutchinson have spent rebuilding their sewage treatment plants to reduce the amount of bacteria.

Weekly samples of the Arkansas

River as it flows through downtown Wichita show it is safe for boating at least 80 percent of the time, according to Brown. The city began testing the water after high bacteria levels from a malfunctioning sewage treatment plant in Park City made the river unsafe for boating during the Wichita River Festival.

The main sources of pollution in the Arkansas River near Wichita are upstream feedlots and small, outdated sewage treatment plants.

Farm fields and city lawns also contribute.

Stopping pollution from so many small sources is going to be harder and more costly than stopping pollution that flowed out of industrial drainage pipes and large sewage treatment plants, said David Warren, who heads Wichita's water department and serves on the Kansas Water Authority.

"That is going to be a big bullet to bite," he said.

SUPPORTING THE KANSAS ENERGY EDUCATION & REMEDATION ACT

**BY: Mike Terry, Executive Director
Oklahoma Energy Resources Board**

January 25, 1995

**To: Members of the Senate Energy & Natural Resources Committee
State of Kansas**

It is an honor for me to be here today addressing this group. I would like to inform you why the Oklahoma Energy Resources Board was formed, its purpose, current progress, and why industry leaders in Oklahoma support the proposed Kansas legislation.

The petroleum industry continues to be hit hard with costly waves of environmental overkill and regulatory discrimination that seem to grow yearly. We are wrongly symbolized as prime polluters in an age when the environment is a national priority. Every two years we face the re-authorization of the Resource Conservation Recovery Act, also known as RCRA, to fight for an exemption of certain materials such as salt water and drilling mud from being classified as hazardous waste. Without this exemption, oil production would be shut down overnight. We also fight new rules on energy transportation, Natural Occurring Radioactive Material better known as NORM and ridiculous bonding requirements for spill prevention. And the list goes on and on. The results are more abandoned wells, decreased exploration and the growing glut of imports and corresponding plummeting of jobs and state tax revenues.

We simply do not deserve the abysmal record of protecting the environment that we are saddled with by the eco-terrorists and the media. It's time to quit apologizing for our industry and start talking about the positive things we have done for years. In Oklahoma, we have drilled over 600,000 wells and produced billions of barrels of salt water, and yet gratefully we are a state of brilliant lakes, rolling hills of grasses and wheat, and countless trees and wildlife. Ladies and gentlemen - we must be doing something right.

However, we must be realistic in remembering and recognizing that in today's society, perception is reality. Despite individual efforts, the domestic energy industry has not unified in such a concerted effort to answer the bombastic charges by extremists. This bias is now encountered at virtually every level of society--even in producing states. We are perceived as being bad environmental stewards--so therefore it must be true. A 1991 study conducted by the API cited the oil and gas industry as ranked 46 out of 47 industries surveyed in favorable public sentiment. The only industry that got a worse rating was the tobacco industry. The sad thing is that even in Oklahoma where oil and gas is the state's largest industry, we don't do much better.

In August of 1994, the Oklahoma Energy Resources Board charged its public relations firm, Ackerman McQueen, with the task of conducting research to determine the industry's image in

*Senate Energy & Nat'l Res.
January 25, 1995
Attachment 3*

Oklahoma. To assess differences among geographic and demographic audiences, twelve different groups across Oklahoma were tested. When asked to name the five largest industries in Oklahoma, only the industry group and one other could consistently rank oil and gas in the top five Oklahoma industries.

Respondents associated oil negatively with power, greed and of course pollution. Many dramatized about the pictures on television of the oily birds, and were skeptical of any positive environmental claims made by the industry. At least one participant in every group subscribed to the unrealistic theory of America using up all the cheap foreign oil and then returning to our own domestic production. They believe foreign oil is healthy to the U.S. economy because it encourages competition. As evidenced by talking to the youth groups, energy education in the schools is extremely limited. Only one college student could remember learning anything about oil or gas in public school.

I believe the answer lies in demonstrating to the public that we care about our environment. We must admit the problems we face and be proactive in correcting them. In Oklahoma our greatest area of exposure lies within the abandoned well sites and other past damaged sites. We know the EPA has identified this as a significant problem. It is imperative that producing states start exploring ways to fund the cleanup of these sites. We must face our problems now before the Feds address them for us. By demonstrating our environmental respect in restoration of orphaned properties, we are taking a proactive role of responsible citizenship to blunt the arguments that are weakening our ability to survive.

It is vitally important that our activities be understood and amplified throughout society as being in the best interests of our state and nation, its environment and its consumers. Remember, in today's society it is no longer enough to provide jobs, tax revenues and economic opportunity. Instead, we must now operate in the mainstream or even ahead of emerging public opinion to survive.

The Oklahoma Oil Checkoff Program is the first environmental/educational program of its kind in the nation. Proponents have compared it to other similar commodity programs that have proved successful across the nation. Our program differs from the Kansas proposed bill in that the Oklahoma assessment is two cents per barrel on petroleum only, and offers a refund option to the interest owner/contributor. I applaud the Kansas producers for including natural gas in the proposed assessment and being forthright in its funding approach. We also recommend a private board made up of industry representatives and an equal percentage of funding for environmental reclamation and education.

The Oklahoma program is moving forward on all fronts. The Oklahoma Corporation Commission has recommended abandoned sites of all descriptions across Oklahoma for potential cleanup. After a lengthy, exhaustive search, the OERB has contracted with a private environmental consulting firm with oilfield experience to assess and remediate these sites. We expect to spend over \$1 million in 1995 in environmental restoration. Many sites can be reclaimed quickly and inexpensively, but more severe problems also exist. Our approach is to hire one firm to complete all the phase I assessments, and subcontract the actual reclamation and phase II services as

needed. To date, land owners have been very satisfied with the program. We have completed three sites and are currently assessing over twenty more. We have asked the OCC to recommend an additional 30-40 sites by the end of February. The important thing is that we are taking responsibility as an industry by spending industry dollars on the environment in a time when the economic climate is less than desirable. This provides a way for all industry participants to share in the cost and the progress.

The OERB education campaign is being directed by Ackerman McQueen, a nationally known public relations/advertising firm based in Oklahoma City. Hired in July 1994, A M has been busy educating themselves about our industry, doing research (as already mentioned), developing a marketing strategy and creating/producing a statewide advertising campaign. The theme of the OERB campaign is called "Oil Fuels Our Future." The emphasis will be a focus on the OERB's role in environmental cleanup, supported by advertising that asserts the importance of the industry to the state.

As a matter of fact, Sunday, January 29, 1995 (Super Bowl Sunday) marks the launch date for the advertising effort. Newspaper ads will be circulated statewide, followed by a sixty-second and thirty-second television spot shown during the Super Bowl. Press conferences will be held tomorrow in both Oklahoma City and Tulsa to update the press on the environmental cleanup program and announce the details of the 1995 advertising plan. We will also introduce a nationally acclaimed spokesperson along with the new theme. The OERB will also announce a new energy education curriculum entitled "Fueling Around" to be introduced in Oklahoma schools this fall. The curriculum was developed by the National Science Teachers Association and sponsored by the API.

The long term goal of the OERB is to help develop a national or at least regional program. Our enabling legislation allows us the opportunity to designate 50 percent of collected funds to a national program. I cannot emphasize enough the importance of Kansas bill, SB 37. Enactment of this bill would give a strong signal to other producing states that environmental/educational programs such as this are extremely important to our future existence. With your help, we can change the current perception of our industry. And we'll do it by building credibility and taking responsibility. We must begin telling the truth about our industry, its importance to our economy, its role in national security and the fact that our industry's contributions are vital to our nation's future--long into the next century.

Thank you very much for your time. It's been a pleasure being here this morning. I am happy to answer any questions.

SENATE BILL 37
SENATE ENERGY AND NATURAL RESOURCES COMMITTEE
CLARK DUFFY, KANSAS PETROLEUM COUNCIL
JANUARY 25, 1995

I am Clark Duffy, the Associate Director of the Kansas Petroleum Council. The Kansas Petroleum Council represents the major oil and gas companies and allied industries in all aspects of their operations in Kansas.

Senate Bill 37 would impose a tax on the petroleum industry to generate money to clean up orphaned oil and gas contamination sites. This bill would also establish energy awareness programs. No state tax money would be used to finance the estimated \$20 million this act would generate over a 10-year period. Member companies of the Kansas Petroleum Council would pay over two thirds of this total cost, or approximately \$13M.

Some perspective is necessary on this legislation. At this time, the Federal Government is considering reauthorization of CERCLA (Superfund) and RCRA, the Resource Conservation and Recovery Act. Currently, these acts exclude petroleum exploration and production wastes from the law. While Superfund is well intended, it is generally considered to be a very onerous law. Should the production waste exemption be lost, the petroleum industry in Kansas would be devastated (please see attachment). Concerns about the loss of the production waste exemption may have eased because of recent changes in Washington, but the concept behind this bill is prudent. The Interstate Oil and Gas Compact Commission has reviewed the Kansas programs to clean up the abandoned oil and gas sites and said that the programs will never successfully remediate the orphaned sites or plug abandoned wells in Kansas.

In an effort to address this issue, the Kansas Petroleum Council formed a task force over a year ago. This task force included representatives from the Council's member companies, the independent producer associations, and the Kansas Corporation Commission. The general recommendations from that task force

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Attachment 4

are reflected in the Kansas Petroleum Council bill, which is House Bill 2067. As I indicated during the request for introduction, there are minor differences between that bill and Senate Bill 37. The Kansas Petroleum Council does believe that Senate Bill 37 could be improved.

The Council would recommend elimination of the "artificial" maximum of 60 percent of the expenditures that could be spent on clean up [section 16(b)(1) on page 14, line 6]. This would allow at least 50 percent of the money to be spent on remediation, but provide the flexibility to use additional funds for clean-up each year, subject to an appropriation act of the Legislature. Based on the Kansas Department of Health and Environment's estimate of a total need of \$22.5M to clean up 96 sites, this change would allow flexibility to spend more money for projects in some years, based on the actual needs for each specific site.

In addition, most Petroleum Council member companies have not taken a position on the creation of a new state agency to administer this act, as this bill provides in Section 14. However, we believe the Committee should ponder the need to spend up to \$300,000 to administer a new agency, money that could be spent to clean up sites.

While the Kansas Petroleum Council prefers its version of a Remediation and Energy Education Act, we are willing to work with the legislature to address this issue.

January 9, 1995

The Honorable Carl D. Holmes
House of Representatives
Box 2288
Liberal, KS 67905

Dear Representative Holmes:

Enclosed are drafts of two proposed bills. The first would encourage the use of voluntary environmental audit programs and the second would establish the Kansas Remediation and Energy Education Act. The Kansas Petroleum Council requests introduction of these proposed bills and asks for favorable consideration for passage.

Voluntary environmental audit programs significantly improve industry's compliance with state environmental laws. A number of states have successfully enacted laws to encourage such programs. We support any amendatory language to this bill which would carry out this concept to encourage environmental audit programs.

We think the Kansas Remediation and Energy Education Act reflects good public policy involving state government in cooperation with private industry without involving state monies. Although these are extremely difficult economic times for the petroleum industry in Kansas, the member companies of the Kansas Petroleum Council are willing to accept the additional financial burden imposed by this legislation. They do so because they understand that these programs established by this legislation are extremely important to the petroleum industry as well as to the citizens of Kansas.

With regard to the administration of the Kansas Remediation and Energy Education Act, we recognize that there may be differing points of view on how it should be administered. For that reason, we are willing to work closely with your committee to ensure the appropriate administration of this act.

Thank you for your consideration of this request, if you have any questions, please contact me.

Sincerely,

A handwritten signature in cursive script that reads "Ken Peterson".

Ken Peterson
Executive Director

KP:dl

cc: Senator Sallee
Members of the House Energy and Natural Resources Committee

REMEDATION AND ENERGY EDUCATION ACT

PURPOSE

The purpose of this act is to clean-up orphaned oil and gas contamination sites and establish energy and environmental awareness programs.

BACKGROUND

At the present time, the Federal Government is considering reauthorization of CERCLA, better known as Superfund. Currently, this law excludes the petroleum industry from the act. While Superfund is well intended, it is generally considered to be a very onerous and expansive law. This is especially true in the petroleum industry, since each state is different and a "one-size-fits-all" federal program could not be flexible enough to effectively and efficiently manage and respond to the varying state concerns.

The Kansas Department of Health and Environment and the Kansas Corporation Commission have programs in place to clean-up sites. However, the Interstate Oil and Gas Compact Commission has reviewed these programs and said neither program will ever successfully remediate all orphaned contamination sites and plug all abandoned wells.

ACTION NEEDED

This act will generate the additional funds that will be necessary to clean-up orphaned oil and gas contamination sites. This act would also establish energy and environmental awareness programs which may include:

- 1) A program to promote environmentally sound production methods and technologies,
- 2) Voluntary continuing education programs for licensed oil and gas operators,
- 3) A program to encourage the wise and efficient use of energy,
- 4) A program to promote petroleum-based alternative fuels,
- 5) Educational programs in public schools about the oil and gas industry, and
- 6) A public relations program designed to demonstrate the importance of the Kansas oil and gas exploration and production industry.

No public tax money would be used to finance this act. All activities would be financed from an assessment imposed on the industry through this legislation. This act would generate from \$1.5 million to \$2 million per year based on an assessment of \$0.015 on each barrel of oil and \$0.0015 per mcf of natural gas produced in Kansas.

VOLUNTARY ENVIRONMENTAL AUDIT PROGRAMS

PURPOSE

To encourage the regulated community to develop voluntary internal environmental audit programs.

BACKGROUND

In the past few years, the private sector has made substantial advances in the use of environmental assessment and audit programs to help ensure compliance with state environmental laws. Such programs have arisen from a greater commitment to environmental excellence, a better understanding of how such excellence can be achieved, and a desire to reduce the risk of liability and costs associated with noncompliance.

Environmental auditing, originally designed as a management tool, is now drawing regulatory attention. Unfortunately, present environmental laws and enforcement policies have the unintended effect of discouraging such programs. By their very nature, self-valuative activities identify and document noncompliance and raise obligations to report noncompliance to environmental regulators. Current enforcement policies do not adequately distinguish between those engaging in such desired proactive self-policing activities and those that do not.

The Interstate Oil and Gas Compact Commission recently adopted a resolution to encourage states to enact laws that encourage environmental audit programs.

ACTION NEEDED

Legislation is needed to: 1) recognize that environmental audit programs play an important role in achieving compliance and minimizing environmental risk in the regulated community; 2) acknowledge that such programs will be given substantial consideration in determining whether penalties will be imposed for noncompliance; and 3) establish a self-evaluation privilege for information contained in the audit report.

KANSAS

Impact of Regulating Petroleum Exploration Wastes Under RCRA's Non-Hazardous Waste Program

Proposals for additional federal regulation of oil and gas exploration and production wastes threaten the viability of petroleum production across the nation. Costs could skyrocket by tens of billions of dollars, forcing oil and gas wells in the United States to be shut in. In Kansas, the decline of a major state industry would cost jobs and tax revenue and harm the economy.

Background

In 1989, Kansas had about 57,800 wells producing more than 154,000 barrels of oil and 1.6 billion cubic feet of natural gas per day. There were about 8,100 people employed in jobs relating to oil and gas extraction. The petroleum industry directly employed about 27,900 people in the state.

Economic Impact

If production wastes are regulated as industrial wastes under the Resource Conservation and Recovery Act (RCRA), as proposed in legislation now before Congress, skyrocketing costs would force an end to oil production in the state of Kansas and cause gas production to decline drastically.

At a price level of \$20 per barrel of oil and \$2 per thousand cubic feet of gas, a new study warns that:

- All existing oil wells would be shut in;
- About 5,600 existing gas wells would be shut in, 43 percent of the state's total;
- Gas production would decline by 130 million cubic feet per day, an 8 percent decrease;
- About 3,600 workers in oil and natural gas extraction would lose their jobs;
- Kansas would lose \$86 million in ad valorem and severance tax revenues the first year; and
- Net revenues to royalty owners would be reduced by about \$180 million the first year.

These economic impact estimates were made by Gruy Engineering Corporation, for the American Petroleum Institute, after completing the most comprehensive economic analysis to date of the effects of solid waste regulation on the oil and gas industry. The study includes all onshore producing wells in the United States, using 1989 industry figures, the most recent full-year data available.

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SENATE ENERGY AND NATURAL RESOURCES COMMITTEE

January 25, 1995

RE: SB 37 - ENERGY EDUCATION AND REMEDIATION ACT

Testimony of David P. Bleakley - President
Eastern Kansas Oil and Gas Association
&
Director of Acquisitions & Land Management
Colt Energy, Inc.

The Eastern Kansas Oil and Gas Association (EKOGA) strongly supports the passage of SB 37.

EKOGA represents and supports eastern Kansas oil and gas producers, service companies, royalty owners and associated businesses along with the overall welfare of the Kansas oil and gas industry in this state.

In testimony supporting SB 37, EKOGA feels that this is the right bill at the right time. Our members have long wanted to establish an industry wide public relations campaign that would educate the public as to who we are, what we do and our value to the economy of this state. This, coupled with the ability for the industry to work with the KCC and help fund the cleanup of old abandoned oil and gas leases, seems to make good sense. Our members are willing to sacrifice the additional monetary burden because of the potential benefit. The following is why we believe this bill should pass:

COST

1. First and foremost--from the states perspective, this bill is a mandatory self imposed industry fee that will not cost the state any money.
2. The cost to the oil and gas producers of this state is 1 1/2 cents per barrel of oil sold and 1/15 of cent per MCF sold. This fee is fair and equitable to all operators both small and large because you pay based on what you produce and not just a flat fee.

BENEFIT

1. The state benefits from this bill. For the past nine years, the KDHE has had jurisdiction over various old abandoned oil and gas leases that are a potential environmental problem and an eye sore. KDHE has done nothing. This bill addresses the transfer of those abandoned leases from the KDHE to the KCC and the formation of a new agency totally funded by the industry to work closely with the KCC to help cleanup these leases.
2. The oil and gas industry benefits because of the public relations from the cleaning up of these old leases. It benefits from educating the general public, local and state representatives and officials as to what our industry does and our importance to the Kansas economy and tax base. It also allows us to respond to unwarranted and untruthful negative press which constantly precedes us.

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3. The revenue estimated from these self imposed fees would be \$1.5 million. Not less than 50% and not more than 60% would be spent toward remediation of these old abandoned leases with the remaining portion being spent toward education and public relations.

This bill has been modeled closely after the Oklahoma check-off program initiated by the oil and gas industry and passed by the legislature in the State of Oklahoma. So far, it has been a success. EKOGA feels it is important, if the industry is going to self impose a fee, that we have our own identity as a separate agency to work closely with the KCC to cleanup these abandoned leases. We need to be industry cleaning up industry and industry educating the public.

In closing, we hope you see this opportunity for the oil and gas industry to work side by side with the KCC as promising as we do. Therefore, Mr. Chairman and members of the Committee, we urge you to support SB 37.

Thank you for your time.

David P. Bleakley
President, EKOGA



Department of Health and Environment

Bob J. Mead, Acting Secretary

Testimony presented to

Senate Energy and Natural Resources Committee

by

The Kansas Department of Health and Environment

Senate Bill 37

KDHE is in general agreement with Senate Bill 37, which will transfer the cleanup of pollution authority for the abandoned lease oil and gas activities from KDHE to the KCC. However, after reviewing Senate Bill 37, we are concerned that this bill does not sufficiently define the term "oil and gas activities." A proposed definition of "oil and gas activities" from K.S.A. 74-623 as amended in 1986, and set forth in Section 6(a) of this bill, is "Those activities involved in the exploration for and gathering of oil and gas and the drilling, production, lease storage, treatment, abandonment, and postabandonment of oil and gas wells, except refining, treatment, or storing of oil or gas after transportation of the same." We propose this definition be moved to the front of the bill.

KDHE is of the opinion that common environmental remediation cleanup standards should be used through various industries to address pollution cleanup as well as a common rating system to rank sites for priority to receive funding for cleanup. The proposed S.B. 37 refers to the pollution of useable water in K.S.A. 55-179, while K.S.A. 65-171d refers to "protection of the waters of the state." There should be one goal for the remediation of contamination which is protective of the environment.

We do not think it is the intent of SB 37 to create dual permitting and regulatory programs in air, water, solid and hazardous waste programs. The duplication of programs would result in "big government" getting even bigger, and appears to be in direct conflict with the present philosophy of both state and federal government, of smaller and more efficient government. The addition of the definition of "oil and gas activities" proposed above should resolve this issue.

KDHE concurs with the establishment of the Kansas Energy Education and Remediation Fund. This fund would provide funding to address oil field pollution problems where no responsible parties can be identified or the responsibility is insolvent or cannot be located. Possible expansion to include solvent but reluctant parties may be worthy of consideration.

Although in general agreement with the concept of transferring authority to the KCC to the cleanup of pollution from oil and gas activities associated with abandoned leases, KDHE foresees an interpretation of the transfer of jurisdiction and authority to be much broader than the abandoned lease issue. The jurisdiction and authority section needs to be clarified to clearly acknowledge both the KCC and KDHE program authorities. We are available to work with the committee, the KCC and others interested in the passage of this bill.

Thank you for allowing me to speak today.

Testimony presented by:

Larry Knoche, Director
Bureau of Environmental Remediation
January 25, 1995

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