

Approved: 1-31-95
Date

MINUTES OF THE SENATE COMMITTEE ON ENERGY & NATURAL RESOURCES.

The meeting was called to order by Vice-Chairperson Robert Vancrum at 8:00 a.m. on January 26, 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:
Susan M. Seltsam, Chair, Kansas Corporation Commission
Ron Hein, on behalf of MESA
Jack Glaves on behalf of OXY USA

Others attending: See attached list

The meeting opened with the continuation of hearings on **SB 37**.

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;

Susan M. Seltsam, Chair, Kansas Corporation Commission, appeared and presented testimony in opposition to **SB 37**. (Attachment 1) Ms. Seltsam pointed out numerous areas of difficulty in administration and funding. It was also stated this bill called for a new state agency. Ms. Seltsam told the committee she would prefer to see a structure created where the Commission and the industry participated together to address mutual concerns of cleanup, environmental remediation and education vital to the state's economy. Ms. Seltsam handed to committee members a number of charts related to fees, spills and active remediation sites (Attachment 2).

Ron Hein, appeared on behalf of MESA presenting written testimony strongly opposing **SB 37**. (Attachment 3) Mr. Hein told members that when completed the severance tax reduction will not even offset the previous property tax increase on the natural gas industry resulting from the 1992 School Finance Act and this is not the time to put another fee or tax on natural gas producers.

Jack Glaves appeared on behalf of OXY USA presenting written testimony opposing **SB 37**. (Attachment 4) Mr. Glaves told the committee his organization supported the first twelve sections but could not support the independent board concept of Section 13. Concern was expressed that such legislation would create a division in the industry to the detriment of the state's economy. Mr. Glaves stated this may well be a good idea that needs more study.

In answer to a member's question Ms. Seltsam stated it was her understanding that a number of years ago there was some division of responsibility between KDHE and the KCC. There are still outstanding responsibilities that in the past few years have been covered with a memorandum of understanding between the two groups. The commission is much more focused on oil and gas with KDHE dealing with concerns about safe water. The wells where a responsible party cannot be found or is "orphaned" remain under the jurisdiction of KDHE. Ms. Seltsam stated a difficult situation is created as people do not know which agency to contact.

The issue concerning lack of funds for more aggressive plugging programs and funding was discussed. Presently the mill levy is 21 mills per barrel of oil and 5.5 mills per each MCF gas. The 1996 projection of funds is \$4.9 million.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, Room 254-E, Statehouse, at 8:00 a.m. on January 26, 1995.

A member questioned whether one of the reasons the fees had not been raised to provide more funds for remediation was due to the concern about the economic viability of some of the producers. Ms. Seltsam answered in the affirmative. She further stated the mill levy currently in place for the commission, 1.1 mills, produces \$906,000 from oil and \$4,039,000 from gas.

Discussion touched on current mill levy yield for 1996 which would be about \$5 million dollars. About \$300,000 to \$500,000 is expended on remediation each year, essentially for plugging wells and some start-up costs on contamination problems. The remainder is expended on operation which includes salaries for 75 people, 50 of which are in district offices and activity of the conservation division. Mr. Bryson stated there were eleven positions unfilled to conserve funds, that other remediation activities include contamination sites, sending personnel to all spill sites, lending technical assistance and assuring that federal standards are met and testing oversight for 16,000 injection wells.

A member asked Ms. Seltsam if there was some way a bill could be structured to assure that the funds raised by industry were placed into a dedicated expenditure category to be used only for remediation. During this discussion Ms. Seltsam offered to provide an overview of the budget to committee members.

Discussion touched on the three year limit mentioned on page 14 with a consensus noting it had been included erroneously.

Discussion about jurisdiction noted the Memorandum of Understanding defined responsibilities between KDHE and the KCC. The KCC was asked to take control of inactive leases under the purview of KDHE because of confusion on jurisdiction. It was felt the KCC has a better working relationship with the industry.

In answer to why the gas industry was included Mr. Schnacke stated the industry includes both oil and gas. The industry started efforts five years ago toward public relations and remediation was chosen as part of that effort.

There was lengthy discussion over the split in authority and the number of involved sites with Mr. Bryson stating there are many sites which are not documented, therefore not counted.

The question was asked of Mr. Hein or Mr. Graves if legislation was changed to allow for a check off program so a company could apply for a refund whether the companies they represent would want to participate and whether it would be more palatable. It was noted the Oklahoma statute provided for recoupment of the money which Mr. Graves felt would be more acceptable. Mr. Hein felt the Oklahoma statute which does not include gas would be preferred but felt private industry should not be having government impose a tax to be used for the industry's education program.

A statement was made correcting an earlier comment concerning the ability to adopt rules and regulations which follows only after public hearings; also the legislature does have oversight on the rules and regulations.

Mr. Bleakley told members virtually every state has started some type of public relation and education programs. The industry is going through difficult times particularly the 3,000 independent operators dealing with 40,000 wells and the people of Kansas should be concerned. National scale public relations will help major producers much more than independents in Kansas. It was suggested Kansas money be kept in Kansas for remediation which is public relations.

SCR 1604 scheduled for this date will be rescheduled.

The meeting adjourned at 8:56 a.m.

The next meeting is scheduled for January 31, 1995.

**SENATE COMMITTEE ON ENERGY & NATURAL
RESOURCES GUEST LIST COMMITTEE**

DATE: January 26, 1995

| NAME | REPRESENTING |
|-----------------------------|------------------------|
| DAVE BLEAKLEY | EKOGA |
| Don Schucke | ICIOGA |
| Danny Biggs | KIOGA |
| Ron Heiri | MESA |
| DAN STEVENS | TEXACO |
| Whitney Damon | Pete McGill Associates |
| Glenda Moh for Dale Lembley | Ks. Dept Agriculture |
| Margaret East | KWCO |
| Harold Spiker | KDHE |
| Suzanne Larsen | Vastar, ARCO |
| Pat Casey | KDHE |
| Ron Hammingschmidt | KDHE |
| Randy Kuehn | KDHE |
| Mike Cochran | KDHE |
| Jack Graves | Opq |
| JOHN BOTTENBERG | WESTERN RESOURCES |
| Jim Allen | EKOGA |
| Susan Seltsam | KCC |
| Bill Bryson | KCC |

SENATE ENERGY AND NATURAL RESOURCES COMMITTEE

January 25, 1995

Presented by Susan M. Seltsam, Chair
Kansas Corporation Commission

Mr. Chairman, Members of the Committee:

Thank you for the opportunity to appear on Senate Bill 37. The first part of this bill transfers remedial action responsibility for abandoned oil and gas wells to the KCC.

The Commission shall have jurisdiction and authority for prevention and cleanup of pollution from oil and gas activities. Any prior jurisdiction and authority of Kansas Department of Health & Environment (KDH&E) is now transferred to the Commission. All rules and regulations of KDH&E in effect 7-1-95 that relate to cleanup of pollution from oil and gas activities are to continue in effect and shall be deemed to be rules and regulations of the KCC. This applies to orders and directives as well.

Section 7(b) on page 10 while intending to direct federal or private funding to the Commission for the purpose of cleanup of pollution from oil and gas activities to the soil or water of this state is probably administratively impossible.

The language which relates to the proration of funding as it compares to responsibilities of the Commission and all other state agencies is vague and potentially an administrative and appropriation nightmare.

If legislative policy determines that the Commission should have the responsibility for cleanup of pollution of abandoned oil and gas activities it is imperative that adequate funding be provided.

The Governor's budget recommendation includes \$1.5 million from the Water Plan Fund for KDH&E for contamination remediation. With the additional KCC responsibility, at least a portion of this funding should follow.

Funding difficulties arose last year in the conservation fee fund. Our projections indicate that even by maintaining vacant positions and the reduced expenditure level brought about by lack of funds that in FY 1997 expenditures will again exceed revenue.

Senate Energy & Nat'l Res.
January 26, 1995
Attachment 1

New Section 13 of the bill creates the Kansas Energy Education & Remediation Act.

I appreciate the oil and gas industries desire to raise additional funding to address areas critical to the industry; however, I do not believe this bill provides authority or jurisdiction to the Commission which I interpret the first part of this bill as doing.

The 11 member board has no representative from the Commission; in fact, it has no public sector membership.

It does, however, have the following powers and duties:

- 1) administer and enforce this energy education and remediation act**
- 2) establish an office for the board**
- 3) elect a chairperson and other officers, employee personnel as they deem necessary, prescribe their duties and fix their compensation**
- 4) administer the fund, which is envisioned to exceed \$3 million**
- 5) set the budget for the board**
- 6) promulgate rules and regulations; and**
- 7) enter into contracts and incur expenses necessary to carry out the purposes of this act.**

This is a new state agency!

The money collected, a mandatory assessment levied on each barrel of oil and mcf of natural gas will be expended according to the private boards discretion, with a minimum of 50% and a maximum of 60% during the first 3 years going to environmental cleanup and remediation projects authorized by the board from a priority list submitted by the KCC.

The remainder of the money is to be used for a public relations program, a program to encourage efficient use of energy, a program to promote environmentally sound production methods, an educational program for public schools and a voluntary continuing education program for oil and gas operators.

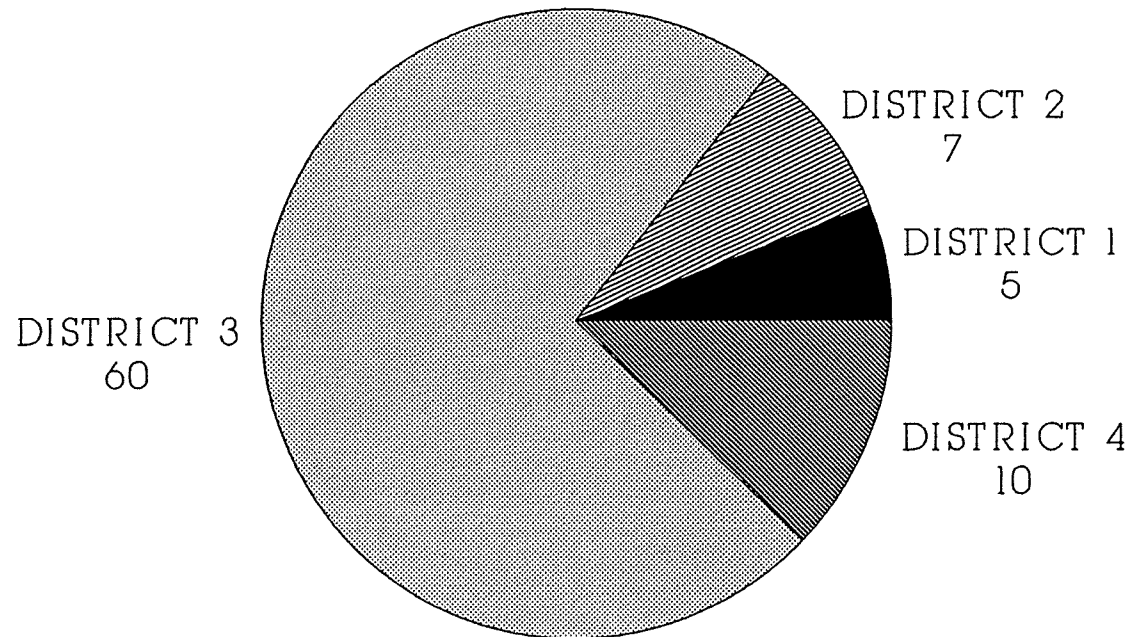
If you endorse the concept in the first part of this bill you will surely have questions about the second part which puts public purpose money into the hands of a totally private board, creates an additional state agency with functions and duties already being administered by the KCC's conservation division and creates additional bureaucratic obstacles for the public as they try to determine who bears responsibility of the cleanup and remediation of oil and gas activities.

The industry has told the Commission that they oppose any increase in the mill levy which supports conservation division activity. We all understand this is a declining industry which has severe environmental problems. Each year it is difficult for the Commission to determine the allocation of \$300,000 to \$500,000 for well plugging when the needs are so much greater.

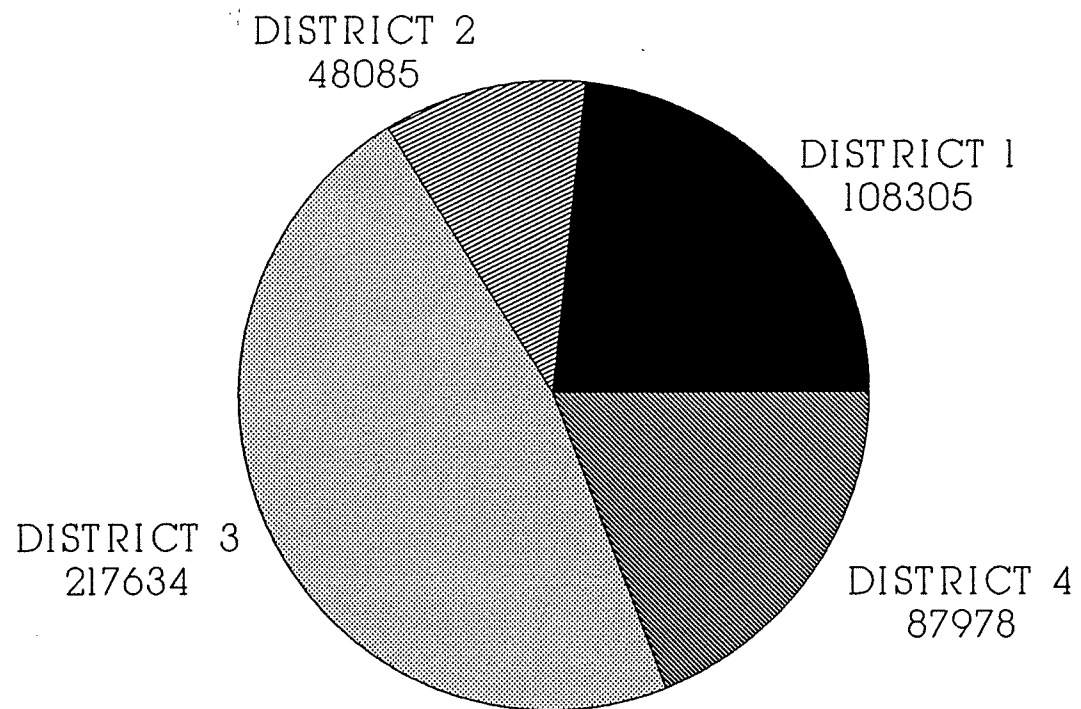
We would prefer to see a structure created where the Commission and the industry participated together to address our mutual concerns of cleanup, environmental remediation and education for this industry which we both believe is vital to our states economy.

In closing, thank you for the opportunity to appear and voice my concerns regarding Senate Bill 37.

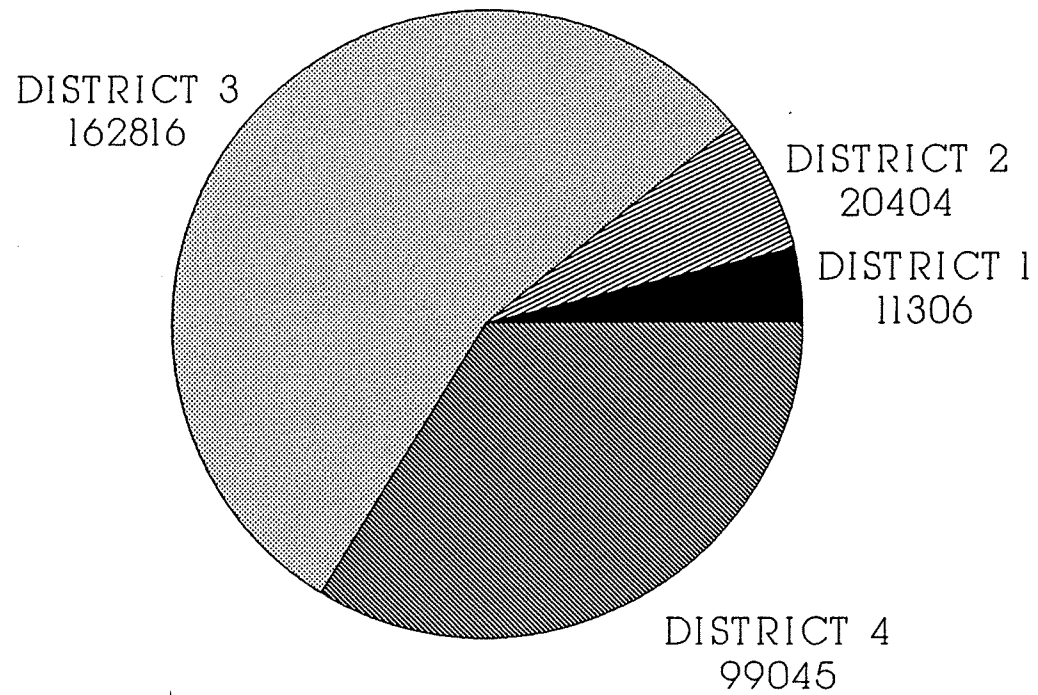
FISCAL 1993 FEE FUND WELL PLUGGINGS



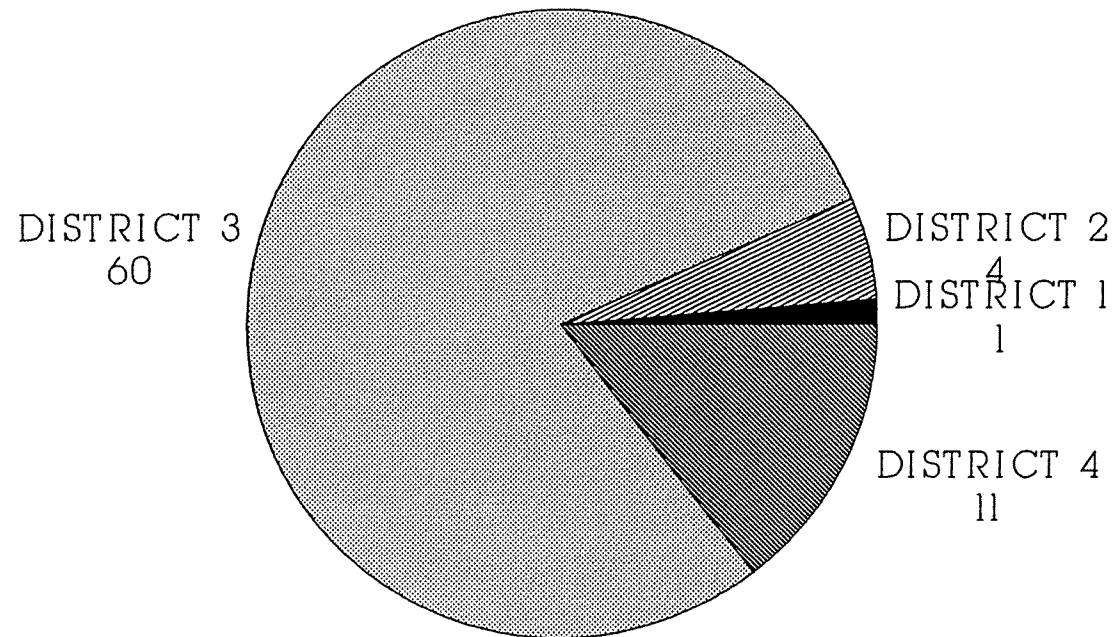
FISCAL 1993 FEE FUND EXPENDITURES



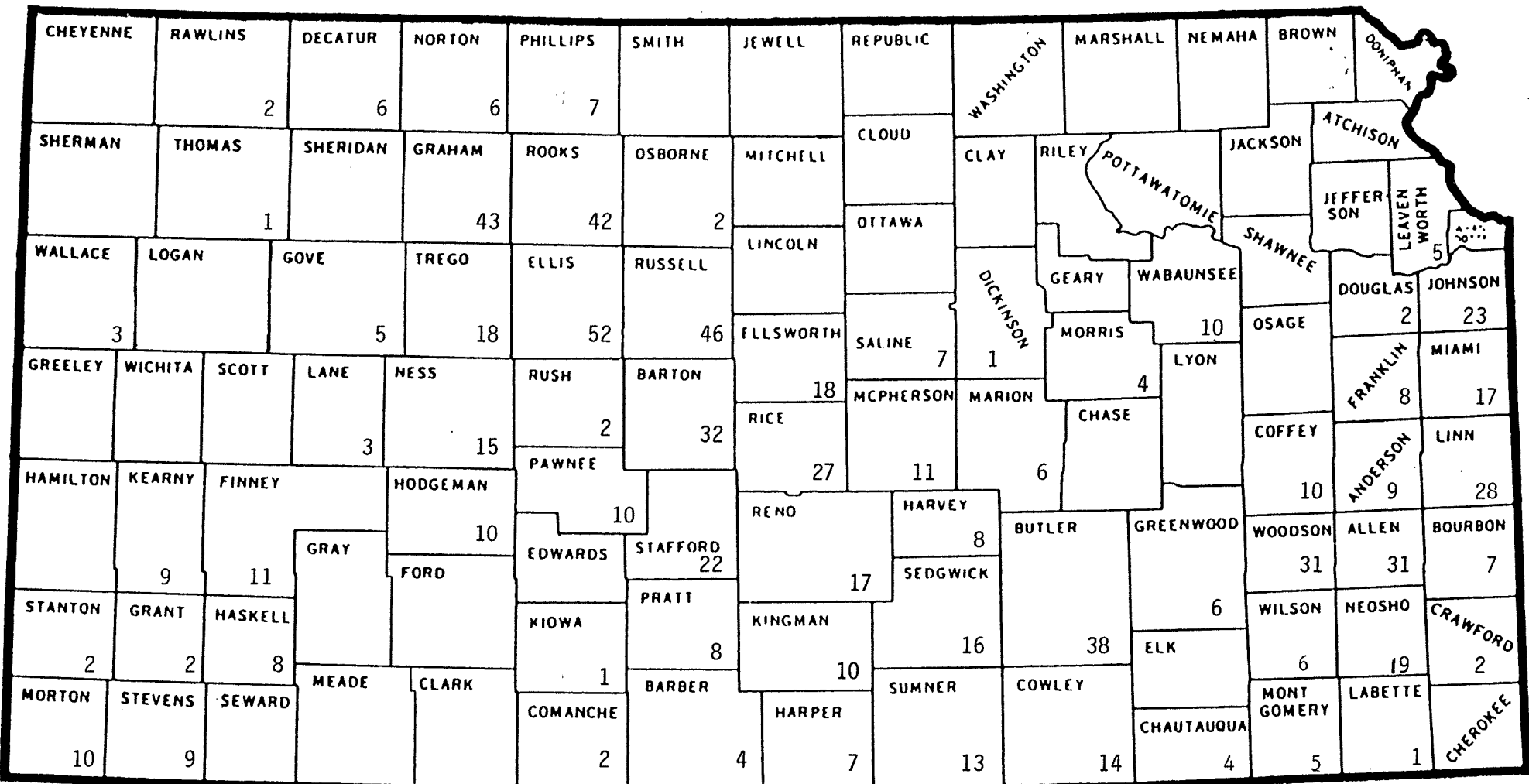
FISCAL 1994 FEE FUND EXPENDITURES



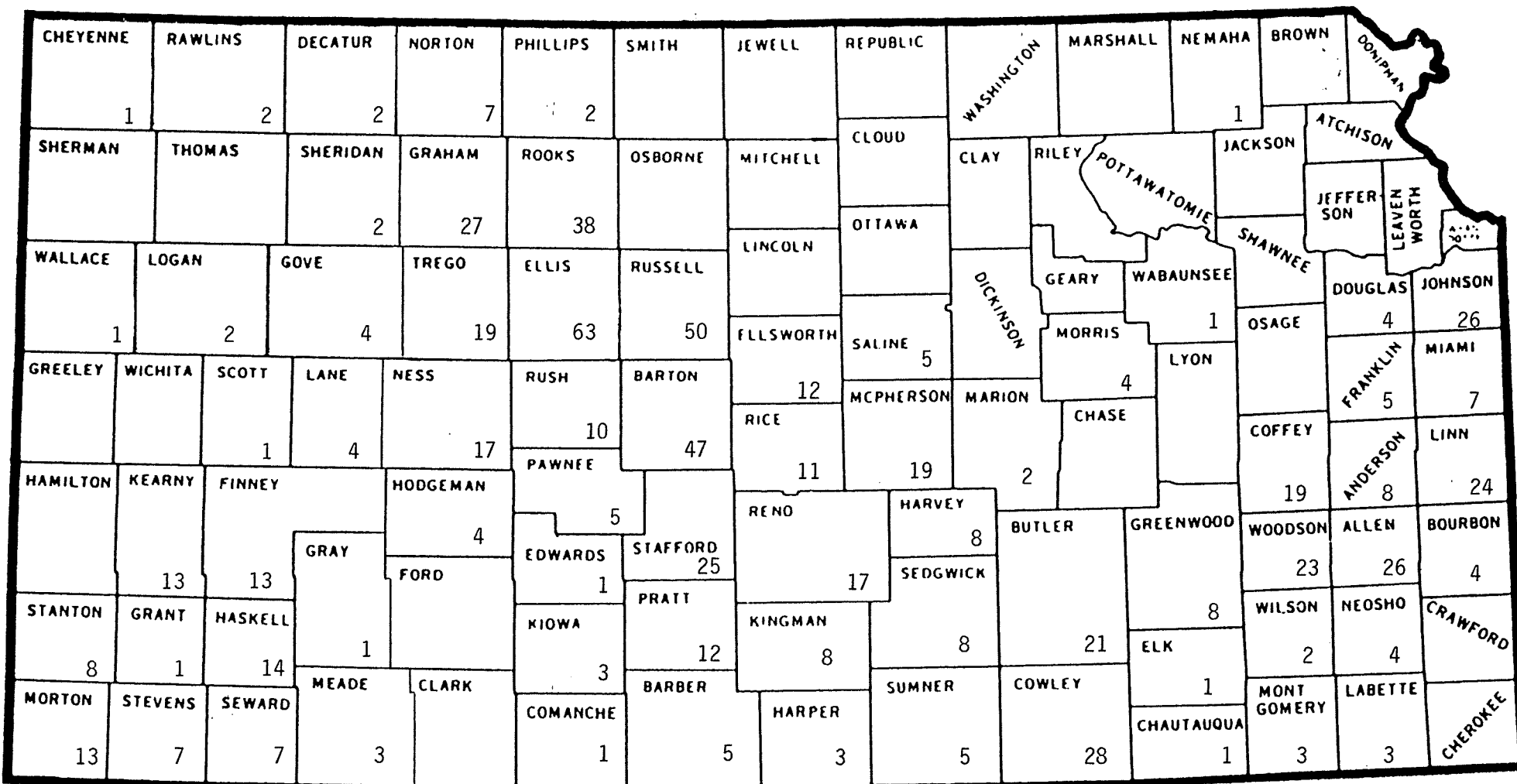
FISCAL 1994 FEE FUND WELL PLUGGINGS



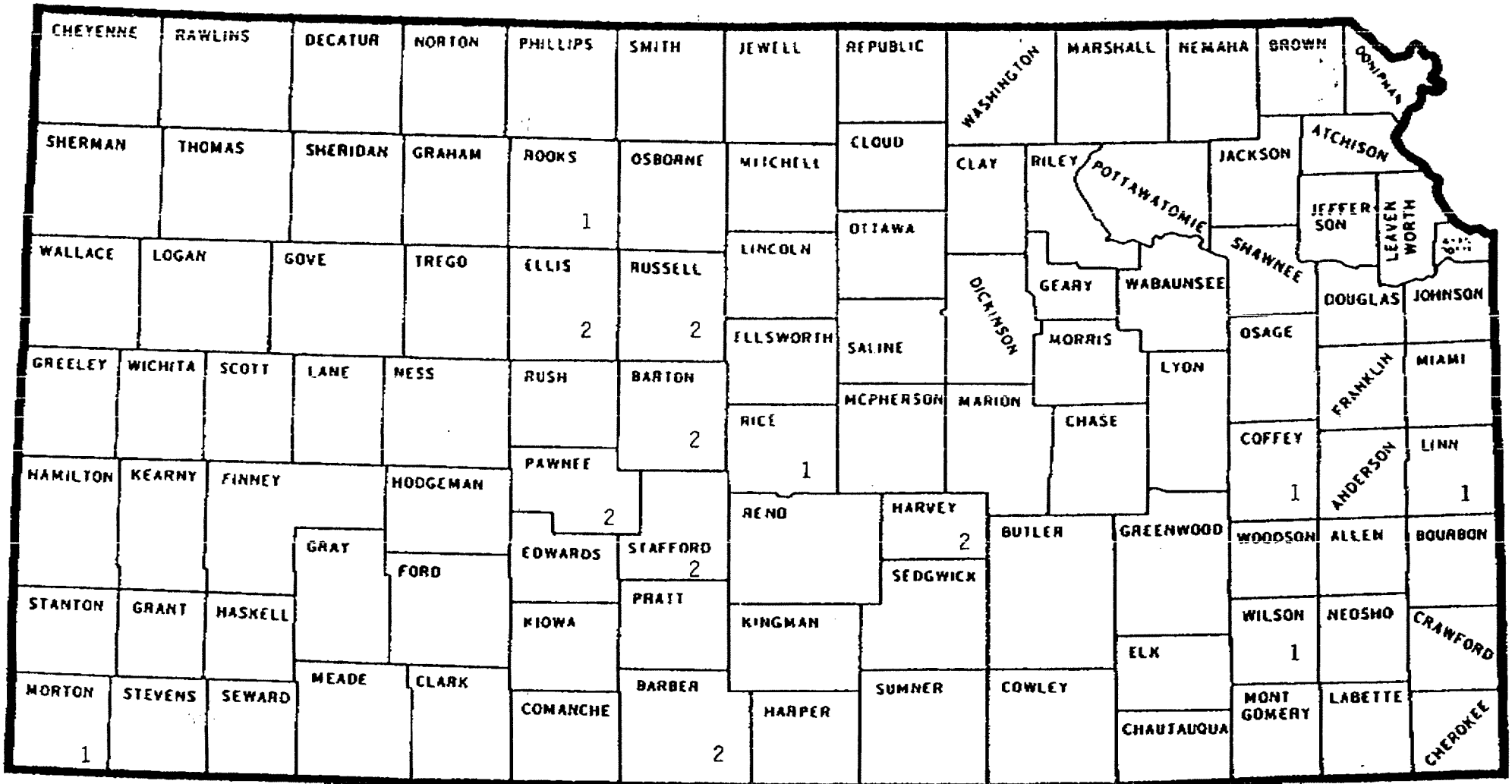
1993 SPILLS PER COUNTY



1994 SPILLS PER COUNTY



1994 ACTIVE REMEDIATION SITES



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Stephen P. Weir
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SENATE ENERGY AND NATURAL RESOURCES
TESTIMONY RE: SB 37
Presented by Ronald R. Hein
on behalf of
MESA
January 25, 1995

Mr. Chairman, Members of the Committee:

My name is Ron Hein, and I am legislative counsel for MESA. MESA is one of the nation's largest independent natural gas producers and currently has approximately 60% of its natural gas reserves in the state of Kansas.

MESA strongly opposes SB 37.

SB 37 imposes a tax, under the guise of a fee (see Section 17), on the natural gas industry in Kansas at a time that the industry is under extreme financial duress. Natural gas prices remain unreasonably low with no foreseeable upturn in sight. The State has just commenced a three-year phase in of a reduction in the severance tax. The severance tax reduction when completed will not even offset the previous property tax increase on the natural gas industry resulting from the 1992 School Finance Act.

This is not the time to put another fee or tax on the natural gas producers.

The fee generated by SB 37 will be paid primarily by major producers, and especially by natural gas producers. The remediation program to be funded by the Act will most assuredly be primarily utilized for oil contamination, and will not be available for businesses which are not insolvent, so major producers will not benefit from the remediation program.

MESA already pays for its own environmental compliance, and sees no reason to be assessed an additional tax to pay for those individuals and businesses which are not accountable for their own behavior.

Putting a tax on the good businesses in the oil and gas industry to pay for the acts of law violators is not good policy. Putting a tax on natural gas producers to pay for the acts of oil producers is even worse policy.

Senate Energy & Nat'l Res
January 27, 1995
Attachment 3

**BEFORE THE SENATE ENERGY AND
NATURAL RESOURCES COMMITTEE
STATEMENT OF JACK GLAVES
ON BEHALF OF OXY USA
RE SENATE BILL 37**

OXY USA is the largest producer of oil in the state of Kansas and is 3rd or 4th largest producer of natural gas as well. OXY, through its predecessor companies, has been operating in Kansas since the discovery of the El Dorado Field in 1915. We take very seriously our obligations to the environment. We make every effort to operate in a responsible manner.

1. OXY supports the transfer of authority to the KCC as provided in the first twelve sections.
2. We do not support the independent Board concept of Section 13.

The Board is answerable to no one but the private groups that appoints it. It has governmental powers (adopt rules and regulations having force of law) without public control.

It can hire a PR firm that will control the expenditures of industry funds. If they want to blow it all on Superbowl Sunday, so be it.

3. Let's face it, the conduct of the program would be up to an appointed director whose qualifications are not specified. He would answer only to a Board that meets quarterly. Oversight would be limited by the extent of the interest of the Board members that show up for a quarterly meeting.

Senate Energy & Nat'l Res
January 26, 1995
Attachment 4

4. This is not the Oklahoma legislation. This legislation requires a mandatory assessment whereas Oklahoma permits its recoupment. In other words, in Oklahoma if a company is dissatisfied with the effectiveness of the program they can opt out and do their own thing. In Kansas you're in for the duration (10 years) no matter the effectiveness of the program.
5. SB 37 fee is applied to gas production. Indeed it would supply about 2/3rds of the revenue that would primarily be directed to problems of the oil operators. The 96 identified sites for proposed remediation are all oil sites.
6. How would the Board select the sites for remediation? What criteria would be employed? That's a job for an established regulatory agency, in our view. It involves and requires accountable public service.
7. The required percentage expenditure on remediation is only for the first three years (Section 16b). Thereafter all of the funds could be conceivably be spent on PR.
8. We fear that this legislation would create a divisiveness in the industry to the detriment of the state's economy.

Simply put OXY believes that the concept of the Act is so flawed as to thwart its purpose and usefulness.

Perhaps it's an idea that's worth further study, but we don't believe it's ready for action. We can't support it in its present form.

If the legislature decides that paying for remediation is good public policy, general tax dollars or severance tax dollars should be used for that purpose, but we do not need a new production tax on natural gas.

SB 37 also tried to provide a warm fuzzy for the industry by setting out in Section 16(b)(2) the projects for which these tax dollars can be used. MESA already spends significant amounts of its own money to promote natural gas, energy efficiency, and alternative fuels. MESA does not need to pay another tax to the state to perform these same functions.

Although I understand that Oklahoma has a program such as this, it is my understanding that the tax is only on oil. If the legislation is to be acted upon, I would urge the deletion of the tax on natural gas.

Lastly, SB 37 sets up a new bureaucracy of state government while most states and governments are trying to get less bureaucracy. This new bureaucracy will have rules and regulation authority, ability to hire employees, set up an office, etc. The State does not need another bureaucracy. The KCC and KDHE currently have appropriate authority to deal with remediation.

Therefore, we urge the committee to report SB 37 unfavorably.

Thank you very much for permitting me to testify, and I will be happy to yield to questions.