

Approved: Carl Dean Holmes
Date 2/13/96

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

The meeting was called to order by Chairperson Carl Holmes at 3:35 p.m. on January 22, 1996, in Room 526-S of the Capitol.

All members were present except:

Committee staff present: Raney Gilliland, Legislative Research Department
Dennis Hodgins, Legislative Research Department
Mary Torrence, Revisor of Statutes
Marcia Ayres, Committee Secretary

Conferees appearing before the committee: Don Schnacke, Kansas Independent Oil & Gas Association
Maurice Korphage, Kansas Corporation Commission
Ron Hein, MESA
David Bleakley, Eastern Kansas Oil & Gas Association
Clark Duffy, Kansas Petroleum Council

Others attending: See attached list

Chairperson Holmes opened the meeting by distributing flyers about the Wildlife and Parks Commission Meeting this week at the Ramada Inn which Darrell Montei had given to the committee and a listing of the Water in Kansas video series produced by "Sunflower Journeys."

The Chair appointed a special sub-committee on **HB 2574 - Department of wildlife and parks, acquisition of real estate, guidelines and limitations.** Representative Freeborn will serve as chairperson with Representative Hutchins and McKinney as members.

Action on HB 2615: Time limits for perfection of abandonment of water right

Chairperson Holmes asked Leland Rolfs of the Division of Water Resources for his preference on the balloon prepared by the Revisor. (Attachment #1) Mr. Rolfs had discussed it with David Pope, the Chief Engineer, who indicated he could live with either one of the Alternatives but preferred Alternative 2. Discussion and questions followed.

Representative Doug Lawrence moved to amend HB 2615 by inserting Alternative 2 beginning on line 15 after the number "713" and by striking the word "abandoned" on line 39 and inserting the words "declared abandoned and terminated by the chief engineer." Representative Clay Aurand seconded the motion. The motion carried.

Discussion followed.

Representative Doug Lawrence moved that HB 2615 be passed out favorably as amended. Representative Don Myers seconded the motion. The motion carried.

Chairperson Holmes asked the committee if they wished to draft any additional bills. Representative Laura McClure moved to draft a bill regarding fishing and hunting licenses for Kansas residents in the military who are home on leave. Representative Doug Lawrence seconded the motion. The motion carried.

Chairperson Holmes had a request from a non-committee member to draft a bill that would exempt the State of Kansas from applying the federal law dealing with freon. Representative Steve Lloyd so moved. Representative Joann Freeborn seconded the motion. The motion carried.

Hearing on HB 2599: Creation of fund to pay costs of remediation of pollution from certain abandoned oil and gas sites

Don Schnacke. Mr. Schnacke testified in support of **HB 2599.** (Attachment #2)

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES, Room 526-S Statehouse, at 3:30 p.m.. on January 22, 1996.

Morris Korphage. Mr. Korphage discussed the financing of oil and gas contamination site remediation. (Attachment #3)

Ron Hein. Mr. Hein testified in support of passage of HB 2599. (Attachment #4)

David Bleakley. Mr. Bleakley testified in support of the funding mechanism by which HB 2599 will receive funds. (Attachment #5)

Clark Duffy. Mr. Duffy appeared in support of HB 2599. (Attachment #6)

Discussion and questions followed after which Chairperson Holmes closed the hearing.

The meeting adjourned at 4:55 p.m.

The next meeting is scheduled for January 23, 1996.

ENERGY AND NATURAL RESOURCES COMMITTEE
COMMITTEE GUEST LIST

DATE: January 22, 1996

NAME	REPRESENTING
Tom Day	KCC
Bill Wix	"
Jack Graves	Dwy
M.L. Korphage	K.C.C.
Susan SeHeam	KCC
Don Schuack	KCOGA
Leland E. Bell	PUR - KDA
Phil Duffly	KCC
Jim Blakely	KCOGA
Tom Bruno	Allen & Assoc.
Doug Smith	SW KS Royalty Owners.
Matthew Holt	Division of the Budget
David B. Semrosser	KCC
Michelle Peterson	Peterson Public Affairs Group
Melissa Wangemann	Hein, Ebert & Weir
Julie Hein	Hein, Ebert & Weir
Nancy Heinz	KCC

HOUSE BILL No. 2615

By Committee on Energy and Natural Resources

1-8

9 AN ACT concerning water rights; relating to perfection and abandon-
10 ment; amending K.S.A. 82a-713 and 82a-718 and repealing the existing
11 sections.
12

13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 82a-713 is hereby amended to read as follows: 82a-
15 713. ~~(a) The chief engineer shall limit the time for the perfecting of an~~
16 ~~appropriation to a reasonable period within which the proposed works~~
17 ~~can be completed by expeditious procedure, and he or she shall time for~~
18 ~~perfecting an appropriation shall be five years, but the chief engineer may~~
19 ~~allow an extension of that time for good cause shown by the applicant~~
20 ~~allow an extension of time.~~

21 (b) ~~The amendment to this section establishing the time for perfecting~~
22 ~~an appropriation applies to any proposed appropriation for which the~~
23 ~~chief engineer has approved the application on or after July 1, 1993. The~~
24 ~~time for perfection of such proposed appropriation shall be calculated~~
25 ~~from the date of approval of the application.~~

Insert alternative 1 or alternative 2, attached

26 Sec. 2. K.S.A. 82a-718 is hereby amended to read as follows: 82a-
27 718. (a) All appropriations of water must be for some beneficial purpose.
28 Every water right of every kind shall be deemed abandoned and shall
29 terminate when without due and sufficient cause no lawful, beneficial use
30 is henceforth made of water under such right for ~~three~~ five successive
31 years. Before any water right shall be declared abandoned and terminated
32 the chief engineer shall conduct a hearing thereon in accordance with the
33 provisions of the Kansas administrative procedure act. Notice shall be
34 served on the user at least 30 days before the date of the hearing.

35 (b) The verified report of the chief engineer or such engineer's au-
36 thorized representative shall be prima facie evidence of the abandonment
37 and termination of any water right.

38 (c) ~~The amendment to this section increasing the time for abandoning~~
39 ~~a water right does not apply to any water right abandoned before the~~
40 ~~effective date of this act in accordance with the law in effect at the time~~
41 ~~of abandonment.~~

declared abandoned and terminated by the chief engineer

42 Sec. 3. K.S.A. 82a-713 and 82a-718 are hereby repealed.
43

*House E + NR
1-22-96
Attachment #1*

*House Energy + Nat. Resources
1-22-96
Attachment 1*

ALTERNATIVE 1

The holder of an approval of application shall expeditiously proceed to construct the diversion works and to perfect the appropriation right. The chief engineer shall adopt rules and regulations: (a) Limiting to a reasonable period of time the time for construction of diversion works, but such period shall not be less than one full calendar year following approval of the application for construction of diversion works; and (b) limiting to a reasonable period of time the time for perfecting the appropriation right, but such period shall not be less than four full calendar years following the deadline for construction of diversion works. The chief engineer shall allow, based on consideration of factors established by rules and regulations adopted by the chief engineer, a reasonable extension of the time period for construction or perfection if the request for extension is timely filed and accompanied by the filing fee required by K.S.A. 82a-714 and amendments thereto.

ALTERNATIVE 2

The holder of an approval of application shall expeditiously proceed to construct the diversion works and to perfect the appropriation right. The chief engineer shall limit to a reasonable period of time: (a) The time for construction of diversion works, but such period shall not be less than one full calendar year following approval of the application for construction of diversion works; and (b) the time for perfecting the water right, but such period shall not be less than four full calendar years following the deadline for construction of diversion works. The chief engineer shall allow, for good cause shown, a reasonable extension of the time period established if the request for extension is timely filed and accompanied by the filing fee required by K.S.A. 82a-714 and amendments thereto.



KANSAS INDEPENDENT OIL & GAS ASSOCIATION

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HOUSE ENERGY & NATURAL RESOURCES COMMITTEE JANUARY 22, 1996

*Testimony of Donald P. Schnacke, Executive Vice President
Kansas Independent Oil & Gas Association*

RE: HB 2599 - Abandoned Oil & Gas Sites Remediation Fund

I am Donald P. Schnacke, Executive Vice President of the Kansas Independent Oil and Gas Association.

We are appearing today in support of the passage of HB 2599 which would establish a new fund within the State Treasury, identified as the Abandoned Oil and Gas Sites Remediation Fund. The money to be designated into this fund would arise from severance tax money paid by producers to the State of Kansas from the production of crude oil and natural gas. The money would be dedicated to paying the cost of remediation of pollution identified on seventeen sites that were transferred from KDH&E to the KCC by action taken by the 1995 legislature.

We participated in the 1987 legislative session when the active producing sites under the jurisdiction of KDH&E were transferred to the KCC along with KDH&E staff. The inactive, non-producing sites, refineries and pipelines remained with KDH&E.

The focus on the seventeen sites arose in proposed 1995 legislation that would have established a check-off public relations effort for the Kansas oil and gas industry, a plan that is in place and very effective in Oklahoma. Because of conflicts and opposition to the check-off plan, the industry abandoned that effort. However, the inactive, non-producing sites were transferred to the KCC with no funds appropriated to undertake any remediation that might be needed. Pipeline and refinery sites still remain with KDH&E. Summer Interim Committee Proposal No. 27 was established and we participated in those hearings. HB 2599 was proposed by Chairman Holmes and it was adopted by the Interim Committee for introduction in the 1996 session.

I'll go into a little history for the benefit of new members who may not have known that the legislature in 1987 took a dramatic move away from the strict regulatory function of the KCC by putting more emphasis on environmental activities related to the industry in the area of plugging, restoration and remediation of old, abandoned properties. It has been said that since 1987, nearly 20% of the Conservation Division effort has been environmentally oriented, including the plugging of abandoned wells. It's our opinion that the Conservation Fee Fund, which has for years been used for the strict regulation of our industry, has been increasingly used for environmental activity. Therefore, we testified this summer, and again reiterate, that the use of non-Conservation Fee Fund money is the appropriate funds to be used for this activity. We have suggested other funds such as water plan funds, KDH&E remediation funds, and federal royalty funds. HB 2599 proposes to use oil and gas severance tax funds and that is a source that we also recommend.

*House Energy + Natural Resources
1-22-96
Attachment 2*

*Testimony of Donald P. Schnacke, Executive Vice President
Kansas Independent Oil & Gas Association
RE: HB 2599 - Abandoned Oil & Gas Sites Remediation Fund
January 22, 1996*

We have not been privy to the justification for the amount of funds needed for the seventeen sites. KDH&E felt they were not of sufficient priority, in most instances, and did not spend any money for their remediation. The KCC has made their study and, hopefully, can justify the expenditures and the need for the remediation effort. We leave that up to the legislature to develop public policy on the expenditure of the funds.

The interim committee was restricted and limited by the Legislative Coordinating Council to the subject of the seventeen sites. It had no authority to expand the use of funds to other sites. There are other sites that were already held by the KCC and more will be identified in the future. We think the fund established with HB 2599 should have the flexibility of adding additional sites for remediation and not be limited solely to the seventeen sites that HB 2599 addresses. This would require an appropriate amendment to accomplish this.

Donald P. Schnacke

DPS:pp

Testimony of M. L. Korphage
Director
Kansas Corporation Commission
Conservation Division
before the
House Committee on Energy and Natural Resources
January 22, 1996

Mr. Chairman, members of the Committee. Thank you for the opportunity to appear before you today to discuss the financing of oil and gas contamination site remediation. Pursuant to Senate Bill 76 which became Chapter 204 of the 1995 Session laws, eighteen such sites were transferred from the Department of Health and Environment to the Kansas Corporation Commission.

During the 1995 legislative session, consideration was given to various pieces of legislation which dealt with the transfer of authority for these sites from KDHE to the KCC and included responsibility for remediation of the sites. Two particular pieces of legislation, which would have imposed a specific assessment on the production of oil and gas, provided for both a remediation program and public education. Neither of these Bills were approved.

Senate Bill 76 did effectuate the transfer of responsibility for these specific sites to the State Corporation Commission. The Bill, however, contained a provision which prohibited the State Corporation Commission from adopting or increasing any fee, assessment or other charge for the purpose of paying expenses incurred in carrying out the powers, duties, and functions that were transferred from KDHE. We have presented to you a preliminary report on the eighteen sites which have been transferred and we are planning on finalizing that report for submission to the Legislature by February 1, 1996 as contemplated by Senate Current Resolution 1614.

Certainly if we have been given the responsibility for managing and remediating eighteen additional sites, some of which are priority concerns to drinking water supplies of municipalities in the State, the Conservation Division needs funding to achieve this end. House Bill 2599 can be considered a step in the right direction.

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Attachment 3

The effect of H.B. 2599 is to provide a financing mechanism for remediation efforts. The Bill provides a fund with a potential cap of one million dollars per annum of which not more than \$100,000 can be used for staffing. If this bill is adopted and put into law, the Conservation Division may wish to hire at least one part time / full time environmental geologist who would assist in determining the appropriate remedial action necessary at each of the sites. Additional staffing for the program could be provided by existing staff by reprioritizing the goals of the Division.

It is important to note that these contamination sites are not directly related to the abandoned well problem which we currently face. The majority of these sites with the highest priority are the result of past operational practices which are expressly prohibited by current regulations but may in the past have actually been permitted by the State. These type of sites are not necessarily the problems of our existing oil and gas operators within the State. As Chair Seltsam stated in her August 23, 1995 testimony, we believe that the oil and gas industry cannot withstand the full brunt of the cost of remediation of these types of sites as well as the plugging of abandoned wells.

I think it is also important to consider that prior to the transfer of these 18 sites from KDHE, the Conservation Division already had an inventory of 92 contamination cases currently pending. Many of these sites are merely monitored on a limited basis due to the lack of funding. We hope that in the future if House Bill 2599 is adopted that many of these sites could be transferred to the remediation list so that clean up efforts can be financed out of the remediation fund.

In Chair Seltsam's previous testimony, she suggested a variety of alternative funding sources. She suggested some assessment on industry as was proposed in the Legislation which led to the adoption of Senate Bill 76. But she also suggested a funding mix that could include water plan funds or severance tax. The funding mechanism is left to the Legislature to decide and the Commission does not make any specific recommendation on a particular source of funding. However, we can state unequivocally that some funding must be made available. Thank you for allowing me the opportunity to appear here today on this subject.

If you have any questions Mr. Chairman, my staff and I will be pleased to respond.

HEIN, EBERT AND WEIR, C I O.

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*Ronald R. Hein
William F. Ebert
Stephen P. Weir
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HOUSE ENERGY AND NATURAL RESOURCES COMMITTEE

TESTIMONY RE: HB 2599

Presented by Ronald R. Hein

on behalf of

MESA

January 22, 1996

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.

Last session, MESA strongly opposed the imposition of a tax on the natural gas industry to pay for oil remediation. MESA testified at that time that it would have no objection to the legislature allocating some of the severance tax proceeds currently received from the oil and gas industry and paid to the State General Fund directly to the remediation fund.

MESA believes that HB 2599 is a responsible way to begin solving the remediation problem and supports its passage.

MESA has a very strong environmental record, and takes care of its own problems when they occur. We believe much the same thing to be true of other major natural gas producers, especially in the Hugoton Field.

There is no doubt that many wells have been abandoned, left unplugged, and have not been properly taken care of, with the result of possible environmental damage in the state. The vast majority of these wells were abandoned years ago prior to the kind of regulation that is in place today. The public would benefit by having these sites remediated.

MESA has testified on numerous occasions about the tremendous tax burden on the natural gas industry in Kansas that makes natural gas in Kansas amongst the highest taxed production in the nation. It is appropriate to utilize a small percentage of such industry tax dollars to be used for remediation of polluted sites.

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

*House Energy + Natural Resources
1-22-96
Attachment 4*

HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES

January 22, 1996

**RE: HB 2599 - ESTABLISHMENT OF THE ABANDONED OIL & GAS POLLUTION
SITES REMEDIATION FUND.**

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

THE EASTERN KANSAS OIL AND GAS ASSOCIATION SUPPORTS HB 2599

Our association 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 regarding establishment of the abandoned oil and gas pollution sites remediation fund, EKOGA is glad the KCC and this committee acknowledge and recognize that the oil and gas industry cannot afford any further fee increases to help remediate abandoned oil and gas pollution sites, or anything else for that matter. To put it simply, our industry is broke and any further fee increases of any kind will only compound and hasten the demise of the oil and gas producers and service companies around our state who are already struggling to survive.

The history of many of these abandoned oil and gas pollution sites date back over many years and it is our hopes that the KCC will diligently pursue any personally responsible party (PRP) to cleanup these sites. We understand this is not an easy task. Therefore, we support the funding mechanism by which HB 2599 will receive funds. By using the mineral production tax (severance tax), this offers a way for the industry to actually fund such remediation and cleanup without any additional new fees or taxes.

Therefore, Mr. Chairman and members of this Committee, we urge you to VOTE IN FAVOR OF HB 2599.

Thank you for your time.

David P. Bleakley

House Energy + Natural Resources
1-22-96
Attachment 5

**TESTIMONY
BEFORE THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES**

REGARDING HOUSE BILL 2599

**BY
CLARK DUFFY
KANSAS PETROLEUM COUNCIL
MONDAY, JANUARY 22, 1996**

My name is Clark Duffy, I am the Associate Director of the Kansas Petroleum Council, which represents the major oil companies and their allied industry companies in Kansas. I appear today in support of House Bill 2599.

During the 1995 legislative session, and again during the Summer interim committees, the Kansas Petroleum Council provided extensive testimony concerning remediation of oil and gas pollution. The Kansas Petroleum Council continues to support its previous testimony, which is part of the record on Proposal No. 27 and No. 49.

The Kansas Petroleum Council believes the passage of House Bill 2599 would help address the problems previously identified by the Kansas Petroleum Council.

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Attachment 6