

Approved: 3-5-96  
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 February 23, 1996 in Room 254-E- of the Capitol.

All members were present except:  
Senator Martin, Excused

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

Conferees appearing before the committee:  
M. L. Korphage, Director, Kansas Corporation Commission, Conservation Division  
Donald P. Schnacke, Kansas Independent Oil & Gas Association  
Lynda Clinger, Manager, Ownership Services Group of Koch Oil Company  
David L. Pope, Chief Engineer-Director, Division of Water Resources

Others attending: See attached list

**SB 685-relating to gas and oil; concerning the prevention of pollution and protection of water quality**

M. L. Korphage, Kansas Corporation Commission presented testimony in support of **SB 685** which contains two amendments to statutes needed by the Conservation Division (Attachment 1).

Mr. Korphage told members these changes were needed in an effort to hold individuals more accountable for wells to lessen the number of future wells accruing to their inventory of abandoned wells.

Donald P. Schnacke, KIOGA, appeared in support of **SB 685** noting concerns on two sections of the bill (Attachment 2). Mr. Schnacke noted involvement in discussions concerning this issue. One step was clarified, the order is issued, the procedure is set up and then the seal is installed, which satisfied one concern. A second concern was expressed about Section 2, (b) lines 5-6 on page 3 which could conceivably affect an innocent party. Mr. Schnacke stated this had been discussed and the commission felt the order could be written in such a way that when the order goes out the owners will comply with all procedures, in addition, the selling of equipment could be added. He noted the emphasis should always be on the operator and as long as that is done he could recommend passage of the bill.

A member expressed the belief that numerous problems do exist where people come in and steal equipment from the well. Mr. Schnacke stated he believed that orders can be written to handle the problem.

Senator Morris moved to report **SB 685** favorable for passage. Senator Lawrence seconded the motion and the motion carried.

**SB 520--relating to oil and gas; concerning interest payments on proceeds from oil and gas production**

Lynda Clinger, Koch Industries, suggested a balloon to **SB 520** which would add language requiring the payors to provide notice to the payee that there is an option concerning payment of proceeds (Attachment 3). Ms. Clinger stated in Oklahoma the information had been furnished in a newsletter sent out to payors.

Senator Hardenburger made a motion to move the amendment. Senator Lawrence seconded the motion and the motion carried.

Senator Emert moved to pass the bill out favorable as amended. Senator Lawrence seconded the motion and the motion carried.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, ROOM 254-E-Statehouse, at 8:00 a.m. on February 23, 1996.

**SB 473--amending the nongame and endangered species conservation act; concerning the listing of nongame, threatened and endangered species**

Chairperson Sallee informed the Committee he had received a letter from Secretary Williams of the Department of Wildlife and Parks which would allow the proposed task force to study the endangered species issue with no action to be taken until January 31, 1997 (Attachment 4). It was noted that two more members would be added, one being the Secretary of Wildlife and Parks or his designee and one from the Kansas Building Industry Association.

Senator Emert moved to amend and pass by substituting therefore SB 473. Senator Walker seconded the motion and the motion carried.

**SB 621--concerning sand and gravel pits; relating to evaporation of water from such pits**

David L. Pope spoke to the Committee and presented a draft copy for a **Substitute for SB 621** (Attachment 5). Mr. Pope stated that all sides are comfortable with this substitute bill. He told members this substitute bill would repeal last year's action and provide other provisions which are listed in Attachment 5. The substitute bill provides a grandfather clause, provides for water rights applications to be filed before December 31, 1997, sets the evaporation amounts and with this act brings the sand pit evaporation issue under the Kansas water appropriation act.

Discussion touched on the application and permitting process with the comment that the forms may need to be revised. It was also noted this would be a statewide approach and a provision for historic data and records would be needed. The concern was expressed that it was necessary to insure the operators do not get cut back with Mr. Pope stating he and Senator Morris needed to visit. Staff questioned the phrase "when they make application for maximum annual quantity of water requested shall not exceed the projected water needs". Mr. Pope stated there was a desire to say that evaporation was not as much in the past and the way the evaporation was calculated. The wording would remove that issue and Mr. Pope stated he did not feel it was a problem. Mr. Moses stated the group he represented felt that as long as the appeal process is available for each applicant it was a basis on which they can work.

Senator Lee moved the substitute bill. Senator Lawrence seconded the motion and the motion carried.

The meeting was recessed until 8:00 a.m. Monday morning.  
The next meeting is scheduled for February 26, 1996.

SENATE ENERGY & NATURAL RESOURCES  
COMMITTEE GUEST LIST

DATE: February 23, 1996

NAME	REPRESENTING
Dino B. Schmoeger	Pete McGuire & Assoc.
Tom Bruno	Alke + Assoc.
Dana Schwartz	KIOGA
Bill Fuller	Kansas Farm Bureau

Testimony of M.L. Korphage  
Director  
Kansas Corporation Commission  
Conservation Division  
before the  
Senate Committee on Energy and Natural Resources  
February 23, 1995

Good morning, Mr. Chairman, members of the Committee. I am Maurice Korphage, Director of the Conservation Division of the State Corporation Commission. I am appearing before you today to testify in support of Senate Bill No. 685. That Bill amends two Statutes which are of vital importance to our Division.

During the course of the Summer before the Interim Committee on Energy and Natural Resources and before the Legislative Budget Committee, testimony was given concerning the number of abandoned wells in the State of Kansas. Both Committees suggested that we explore ways to hold individuals more accountable and thereby lessen the number of future wells accruing to our inventory of abandoned wells.

Section 1 of Senate Bill No. 685 amends K.S.A. 55-162. This concerns investigations by the Commission into violations of any of the rules and regulations or Statutes pertaining to the production of oil and gas. Currently when an operator is in violation of a Commission Order, their license is suspended. At that time we seal all known wells of a producer in order to obtain compliance. However, there is no current provision within the law to stop the operator from removing the seal and resuming operations. This amendment would make it a severity level 9 non-person felony to remove the seal without formal Commission approval.

Section 2 of Senate Bill No. 685 amends K.S.A. 55-179. The first part of that amendment is to Sub Section (a)(2)(A) and strikes the provision that

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Attachment 1

we must plug an abandoned well within sixty (60) days after completing our investigation. This Statute, if literally read, could compel the Conservation Division to plug wells whether we consider them high priority wells or not. In addition, we believe that there has to be a limitation that we can only plug wells as funds are available.

The most important part of the amendment to K.S.A. 55-179 is found in the amendment to Section (b) which expands the definition of responsible party to any person who tampers with or removes surface equipment or downhole equipment on a well. At the present time there are individuals in the State who do not have oil and gas licenses but merely strip the leases, sell off the equipment and leave the abandoned well. This amendment would give us jurisdiction over those individuals without question and allow us to pursue the same. Currently the State has a lien on equipment salvaged in the course of a plugging. This can sometimes result in substantial savings to the Conservation Division. For us to attempt to plug a lease which has been stripped entails greater expense and may pose a greater threat to the environment.

I would ask that you pass Senate Bill No. 685 in order to assist us in pursuing people who we believe should be held accountable for the plugging of abandoned wells. We are continuing to review the Statutes to see if there are any other changes which may be helpful in addressing the abandoned well problem and we may be seeking additional action during the next legislative session.

If you have any questions, I would be glad to answer them. Thank you.



## KANSAS INDEPENDENT OIL & GAS ASSOCIATION

105 S. BROADWAY • SUITE 500 • WICHITA, KANSAS 67202-4262

(316) 263-7297 • FAX (316) 263-3021

800 S.W. JACKSON • SUITE 1400 • TOPEKA, KANSAS 66612-1216

(913) 232-7772 • FAX (913) 232-0917

Statement of Donald P. Schnacke, Executive Vice President  
Kansas Independent Oil & Gas Association  
before the  
Energy & Natural Resources Committee  
February 23, 1996

**RE: SB 685 - Concerning Actions that Tamper with KCC Sealed Wells  
and Further Responsible Party in Cases of Well Defining Abandonment**

SB 685 contains the subject of proposed legislation that the State Corporation Commission wants and we are in the spirit of supporting the concept of the bill.

We do offer two constructive amendments as follows:

1. On page 2, line 20, after the words "*offending party*" add a comma and the words "*, pending the giving of notice and hearing in accordance with the provisions of the Kansas administrative procedures act.*" This is the procedure authorized on page 1, line 43 and ending at line 6 on page 2. The point is the KCC should not just enter the property and seal the well without giving notice and setting up a hearing.
2. On page 3, beginning on line 5, the language creates a new category of person who becomes legally responsible for the proper care and control of an abandoned well. We have innocent people who buy used equipment from third persons off abandoned wells. If an innocent operator or person wants to buy a used motor off an abandoned well, does this person who removes the motor become liable for the proper care and control of all the expenses of the abandoned well? For this one act, the liability shifts to this innocent purchaser. Perhaps the emphasis should be that the person or operator in charge of the well should be *prohibited* from selling equipment off the well until all State Corporation Commission regulations are satisfied.

I have concluded that the above concerns can be addressed by the orders issued by the KCC. Therefore, we recommend the passage of SB 685.

Donald P. Schnacke

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Attachment 2

## SENATE BILL No. 520

By Committee on Energy and Natural Resources

1-24

9 AN ACT relating to oil and gas; concerning interest payments on proceeds  
10 from oil and gas production; amending K.S.A. 55-1614 and repealing  
11 the existing section.

12  
13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 55-1614 is hereby amended to read as follows: 55-  
15 1614. As used in this act:

16 (a) "Payee" means any person or persons, or a court of competent  
17 jurisdiction, to whom payment of revenues accrued from the first sale of  
18 oil or gas from an oil or gas well located in Kansas should be made,  
19 whether the same arises from ownership of the proceeds or an interest  
20 in the producing property or a contract right to receive or disburse the  
21 payment.

22 (b) "Payment" means the sum to be paid to a payee by a payor arising  
23 from payee's interest in a first sale of oil or gas occurring on or after the  
24 effective date of this act.

25 (c) "Payor" means:

26 (1) The first purchaser of production of oil or gas from an oil or gas  
27 well. If the first purchaser makes payment to a third party for distribution  
28 to payee, the first purchaser is a payor as to the third party to whom  
29 payment is made, or

30 (2) any person who has entered into an agreement with the first pur-  
31 chaser to make payment to payee and receives moneys from the first  
32 purchaser for distribution pursuant to such agreement.

33 (d) "First sale" means the transfer of ownership of oil or gas first  
34 occurring after its severance from the ground.

35 (e) "First purchaser" means the owner of the oil or gas after consum-  
36 mation of a first sale.

37 (f) "Initial sale" means that first sale first made in time after a well  
38 commences initial oil or gas production, excluding any sale of frac oil or  
39 swab oil.

40 (g) "Person" means any individual, corporation, limited partnership,  
41 partnership, association, joint stock company, living trust, irrevocable  
42 trust, trust where the interest of the beneficiaries are evidenced by a  
43 security, an unincorporated organization, a government, a political sub-

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1 division of government, or any combination thereof.

2 (h) "Interest rate provided herein" means that rate equal to one and  
3 one-half percentage points above the interest rate charged on loans to  
4 depository institutions by the New York Federal Reserve Bank at the start  
5 of business on the first business day of each month, unless the payor  
6 segregates the payment from its operating funds and deposits the same  
7 in a demand deposit account with a federally insured bank or savings and  
8 loan institution that earns interest at the highest rate being offered by  
9 that institution for the amount due payee by payor in such account, in  
10 which case the "interest rate provided herein" means the interest rate  
11 actually earned by payor on that account.

12 (i) "Excluded payments" means:

13 (1) Payments which in the aggregate of 12 months' accumulation of  
14 oil or gas proceeds to one payee do not exceed \$25, provided excluded  
15 payments are disbursed annually; \$100, provided such excluded payments  
16 are disbursed annually if exceeding \$10, and provided that upon written  
17 request of the payee, such excluded payments are disbursed monthly if  
18 exceeding \$25; or

19 (2) payments which in the aggregate of the accumulation of oil and or  
20 gas proceeds to one payee do not exceed \$10, provided such excluded  
21 payments are disbursed when production from the relevant well or wells  
22 ceases or when the payor's responsibility for making payment for pro-  
23 duction ceases, whichever occurs first, and provided that upon written  
24 request of the payee, such excluded payments are disbursed annually.

25 Sec. 2. K.S.A. 55-1614 is hereby repealed.

26 Sec. 3. This act shall take effect and be in force from and after its  
27 publication in the statute book.

Before proceeds greater than \$25 may be accumulated, the payor shall provide notice to the payee that there is an option to be paid monthly for proceeds greater than \$25. Such notice to the person shall also provide directions for requesting monthly payment and constitutes notice to all heirs, successors, representatives and assigns of the payee.





STATE OF KANSAS

DEPARTMENT OF WILDLIFE & PARKS

Office of the Secretary  
900 SW Jackson, Suite 502  
Topeka, KS 66612  
913/296-2281 FAX 913/296-6953



February 22, 1996

Honorable Don Sallee, Chairman  
Senate Energy and Natural Resources Committee  
Second Floor  
State Capitol  
Topeka, KS 66612

Dear Senator Sallee:

Recent discussions concerning SB 473, an act amending the Nongame and Endangered Species Conservation Act, have centered on the formation of a task force to review the existing act. As you are aware, the department and other organizations have serious concerns about this bill. However, it is my understanding that the task force review process would be offered as a substitute bill for SB 473. I appreciate the opportunity to provide the following information with respect to the department's position on this review process.

The department believes that a periodic and thorough review of the act constitutes sound public policy. This review would provide a forum for the discussion and resolution of any concerns with the existing act. In addition, the review process and information derived from that process may assist legislators, should they desire to amend the act in the future. It is my understanding that the composition of the task force would include those organizations and individuals described in a letter to you from William J. Craven dated February 15, 1996 (see attached) with the addition of the Kansas Department of Wildlife and Parks and the Kansas Building Industry Association. I would request that one member of the Wildlife and Parks Commission also be appointed to this task force. I believe that the inclusion of the Commission, an advisory and regulatory body appointed by the Governor, is entirely appropriate in order to incorporate task force discussions into their decision-making process on this issue.

In the spirit of cooperation, I would further offer to impose a temporary moratorium on future listings of species until January 31, 1997, giving the task force reasonable time to deliver its recommendations with respect to the act. As we have discussed, the department has no authority with regard to the federal listing process or its ramifications. With regard to the state listing of the Topeka shiner, an action currently before the Wildlife and Parks Commission, I have been informed by the Chairman of the Commission that no action would be taken on this listing until the Commission had an opportunity to review the task force's conclusions. This decision is based on the understanding that the conservation groups represented by the task force participants support this proposal to delay action on the Topeka shiner, and that good faith negotiations between the Department and the affected watershed districts will continue.

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I am optimistic that the proposed review process will address public concerns and provide a more widely accepted act that affords protection for those species which are threatened or endangered. If any of the aforementioned conditions are unacceptable to you, please contact me so that we can reconsider this agreement. Please do not hesitate to contact me if you have further questions regarding our position on the proposed task force review process.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Williams". The signature is fluid and cursive, written in a professional style.

Steve Williams  
Secretary

attach.

cc: John Dykes, Chairman, Wildlife and Parks Commission

WILLIAM J. CRAVEN

ATTORNEY AT LAW

935 S. KANSAS AVENUE, SUITE 200

TOPEKA, KANSAS 66612

913-232-1555

913-232-2232 FAX

February 15, 1996

Hand-delivered

Hon. Don Sallee  
Senate Energy and Natural Resources Committee  
Statehouse  
Topeka, KS 66612

Re: State Endangered Species  
Taskforce Proposal

Dear Senator Sallee:

On February 13, several of the stakeholders in the endangered species issue met at my office. In attendance was Cynthia Abbott from Kansas Audubon, Bill Fuller and Leslie Kaufman from the Kansas Farm Bureau, Mike Beam from the Kansas Livestock Association, and Duane Hund, the landowner who has been involved in watershed district negotiations with the Department of Wildlife and Parks. Our purpose in meeting was to try and reach agreement on who should be participants in a review of the state endangered species act consistent with my testimony to the committee.

I am pleased to report that we accomplished that goal with little or no difficulty. Our plan is as follows: Kathy George from Junction City, as chair of the Kansas Nongame Advisory Council, was agreeable to chair at least the initial meeting of the task force. We agreed to have the task force select its own chair at the first meeting, and the permanent chair may or may not be Kathy George.

We also agreed that the following groups who are already members of the Nongame Advisory Council should be invited to participate: The Kansas Farm Bureau, the Kansas Advisory Council on Environmental Education, the Kansas Chapter of the American Fisheries Society, the Kansas Herpetological Society, the Kansas Chapter of the Wildlife Society, and the Kansas Ornithological Society. We will leave it to the discretion of each of these groups whether their current representative on the Nongame Advisory Council will attend these task force meetings or whether a new designee will be appointed. In addition, we agreed that a representative of the Kansas Livestock Association, the Kansas Audubon Council, the Kansas Association of Conservation Districts, the Kansas Natural Resource Council, and Duane Hund, as a private landowner, should be invited to participate. Including Kathy George, there will therefore be 12 participants.

The net result is that not all the groups who are members of the Nongame Advisory Council will be asked to send a voting member to this task force. Our attempt was to keep this task force membership to a number that is workable. Those at the meeting at my office agreed that these proposed participants are acceptable representatives of the diverse interests which are involved in this issue. We also agreed that we would try to develop our recommendations through consensus, not by a series of "us against them" votes.

Our plan is to conduct a series of meetings during the summer and fall. The exact number hasn't been determined, but we generally agreed that at least four meetings will be held. My assumption is that the location will vary. We plan to make recommendations prior to the 1997 legislative session. We intend to keep all of our meetings public, and to allow for interested parties to attend and to give an opportunity to present their views.

I am pleased that we (all of those who participated) have been able to work this out to this point. If you have any questions or comments, I'm sure you will let me know.

Thank you for your consideration in this matter.

Sincerely yours,

A handwritten signature in cursive script that reads "Bill Craven". The signature is written in black ink and is positioned above the printed name.

William J. Craven

SUBSTITUTE FOR SB 621

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

Section 1. K.S.A. 1995 Supp. 82a-711 is hereby amended to read as follows by adding:

(b)(6) Any application to appropriate water for evaporation caused by a sand and gravel pit operation exposing the groundwater table shall be exempt from meeting the safe yield, allowable appropriation or similar type of criteria if it meets all of the following criteria:

(i) the application is filed for a commercial or governmental sand and gravel operation in existence on or before ~~April 6~~<sup>July 1</sup>, 1995;

(ii) the application is filed on or before December 31, 1997;

(iii) the maximum annual quantity of water requested shall not exceed the projected water needs for evaporation based on the historic average annual rate of expansion of the surface area of the ground water exposed by that pit operation;

(iv) the maximum annual quantity of water requested shall not exceed the projected maximum annual need for evaporation for that pit operation prior to January 1, 2018; and

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(v) the permit shall allow only one pit operation at a time, but any unused quantity shall be transferable to another pit operation within two miles by the same operator in the same source of water prior to January 1, 2018, provided, however, that the maximum annual quantity shall not be increased and the new location shall not cause substantial adverse impacts to the area groundwater supply. The permit may be transferred to another pit operation by the same operator beyond two miles in the same source of water prior to January 1, 2018, if it is demonstrated to the satisfaction of the Chief Engineer that the transfer will not substantially impair a use under an existing water right, nor prejudicially and unreasonably affect the public interest.

Section 2. K.S.A. 1995 Supp. 82a-734 is hereby repealed.

Section 3. This act is part of and supplemental to the Kansas water appropriation act.

Section 4. This act shall take effect and be in force from and after its publication in the Kansas register.