

Approved: 3-18-98  
Date

MINUTES OF THE HOUSE COMMITTEE ON ENVIRONMENT.

The meeting was called to order by Vice-Chairperson Joann Freeborn at 3:30 p.m. on March 5, 1998 in Room 526-S of the Capitol.

All members were present except: Rep. Steve Lloyd - excused

Committee staff present: Raney Gilliland, Legislative Research Department  
Hank Avila, Legislative Research Department  
Mary Torrence, Revisor of Statutes  
Mary Ann Graham, Committee Secretary

Conferees appearing before the committee: John Zupancic, Agronomist, P.O. Box 1933, Dodge City, Kansas 67801  
Chris Cokinos, Northern Flint Hills Audubon Society, 2328 Bailey Drive, Manhattan, Kansas 66502  
Byron Bird, 224 N. Lincoln, Liberal, Kansas 67901  
Kathy Bloom, Rt 1, Box 180, Liberal, Kansas 67901  
Robert Eye, Attorney, 1535 SW 29th, Topeka, Kansas 66611  
Bob Runnels, Executive Director, Kansas Catholic Conference, 6301 Antioch, Merriam, Kansas 66202  
Charles Benjamin, Kansas Natural Resources, & Kansas Chapter Sierra Club, 935 S. Kansas Ave., Suite 200, Topeka, Kansas 66612  
Ellen Verell, M.D., 2127 18 Road, Meade, Kansas 67864  
Raymond Schmitz, 1006 Roanoke Street, Seneca, Kansas 66538  
Dan Thalmann, Kansas Audubon Council, 3200 W. 27th, Lawrence, Kansas 66047  
John Carter, 935 S. Kansas Avenue, Suite 200, Topeka, Kansas, 66612  
Stephen Anderson, Rt 2, Alma, Kansas 66401  
Mary Fund, Kansas Rural Center, P.O. Box 133, Whiting, Kansas 66552  
Spencer Tomb, Vice President and Chair, Kansas Wildlife Federation, 5321 Thompson Road, Manhattan, Kansas 66502  
Kathy J. Martin, Martin Environmental Services, 3122 Tall Oaks Circle, Norman, Oklahoma 73072

Others attending: See attached list

Chairperson Joann Freeborn called the meeting to order at 3:30 p.m. in Room 313-S. She introduced several Representatives attending the meeting today, Rep. Bruce Larkin, Rep. Joann Flower, Rep. Carl Holmes, Rep. Judy Showalter, Rep. Dan Thimesch, Rep. John Faber, and Rep. Dave Gregory. She announced there is a revised agenda for next week, Monday March 9, continued hearing on Substitute for HB2950, for neutral conferees, with possible action on the bill. Tuesday, March 10, hearing on HB2499, with possible action on previously heard bills, Wednesday, March 11, hearing on SB483, with possible action on previously heard bills, and a post audit report on KS Corporation Commission Conservation Division, and Thursday March 12, hearing on HCR5048. Also a document was distributed which is a proposed moratorium for the State of Oklahoma, for the committee to review. (See attachment 1) She opened public hearing on Substitute for HB2950 for opponents to the bill.

Substitute for HB2950: An act concerning livestock; relating to regulation of confined animal feeding facilities; imposing restrictions on construction, operation and expansion of certain facilities; relating to disposal of certain dead animals; providing for certain income tax credits.

## CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENVIRONMENT, Room 526-S Statehouse, at 3:30 p.m. on March 5, 1998.

The Chairperson welcomed John Zupancic, Agronomist, Dodge City, KS. He appeared in opposition to the bill and asks the committee to strengthen the requirements of the bill to require deep soil sampling and placement of monitoring wells in the Ogallala aquifer notwithstanding the depth to groundwater. (See attachment 2)

Chris Cokinos, Manhattan, KS, representing Northern Flint Hills Audubon Society, was welcomed to the committee. He provided a summary of concerns from the Society, which find it mind boggling that the State of Kansas, various organizations, and corporations would dare to consider drafting public policy and regulations without seriously investigating the environmental impacts of large confined animal feeding operations on State and Federal refuges, where birds and other animals are protected under such legislation as the Endangered Species Act and the Migratory Bird Act. (See attachment 3) He also distributed a letter from Susan George, State Counsel, Defenders of Wildlife, to Seaboard Farms, expressing their concerns. (See attachment 4)

The Chairperson welcomed Byron Bird, Liberal, Kansas. He provided testimony in opposition to the bill and feels there are many areas of concern whereby the stricter regulations only apply to facilities with more than 4,500 animal units. He contends that the stricter regulations should apply to all facilities with more than 500 animal units, and that the facility must have a written waiver from all affected neighbors before a permit should be approved. (See attachment 5)

The Chairperson welcomed Kathy Bloom, Liberal, Kansas. She appeared in opposition to the bill and feels the legislature should wait for the results of studies being done by Kansas State University on the many problems associated with the swine industry and allow the industry into Kansas only when strict, bold new regulations and laws are set. (See attachment 6)

Robert V. Eye, Attorney, Topeka, Kansas, was welcomed to the committee. He provided testimony opposing the bill. He feels if this bill becomes law, there will be a dramatic and devastating increase in industrial swine facilities. Corporate agriculture giants will rush to get their piece of the action with little or no consideration of long term impacts on the state. He urges the committee to reject the bill and instead, proceed with a bill to enact a moratorium while there is still time to protect the environment. (See attachment 7)

The Chairperson welcomed Bob Runnels, Executive Director, Kansas Catholic Conference. He appeared in behalf of the Catholic Bishops of Kansas in opposition to the bill. They feel there is a "ground swell" of concern throughout Kansas regarding the potential devastating effect of swine waste and the proper management of its disposition and hope other supporting legislation will emerge which will place a two year moratorium on future swine farm facilities of 1,000 hogs or more. (See attachment 8)

The Chairperson welcomed Charles Benjamin, Kansas Natural Resource Council and Kansas Sierra Club. He provided testimony in opposition to the bill. He came not in opposition to improved environmental regulations on swine production facilities, but rather to point out what the groups he represents consider serious defects in the law as currently proposed. (See attachment 9)

Written testimony from Craig S. Volland, Spectrum Technologists was distributed to the committee which Mr. Benjamin summarized. (See attachment 10)

The Chairperson welcomed Dr. Ellen Verell, Meade, Kansas, to the committee. She spoke in opposition to the bill and is concerned with public health. She believes almost every decision on environment protection is left to the discretion of the Secretary of Kansas Department of Health and Environment, who has no background in either public health or environment and feels the Governor should have appointed a health care professional or an environmental scientist as secretary. (See attachment 11)

The Chairperson welcomed Raymond J. Schmitz, Seneca, Kansas. He provided testimony opposing the bill and feels it does not address the concerns of the wheel that is squeaking the loudest. Namely, those who feel the intent of the Corporate Farming Law of 1994 is being circumvented by out of state family corporations. (See attachment 12) He provided testimony for Ivan Wyatt, President, Kansas Farmers Union in opposition to the bill. (See attachment 13)

Dan Thalmann, representing Kansas Audubon Council, Lawrence, Kansas, was welcomed to the committee. He provided testimony in opposition to the bill and feels in relation to the potential operations around Cheyenne Bottoms and Quivira National Wildlife Refuge, is concerned that the bill won't adequately address the odor problem should confined animal feeding operations locate in that area. He hopes the committee will consider the concerns of hunters and birders in Kansas and across the country who wish to continue to utilize these important habitat areas. (See attachment 14)

## CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENVIRONMENT, Room 526-S Statehouse, at 3:30 p.m. on March 5, 1998.

The Chairperson welcomed John Carter, Topeka, Kansas, to the committee. He appeared in opposition to the bill and believes it has been represented in the media that the problems connected with the mega hog facilities are mere paperwork problems. Most of the new provisions of the regulation require new or additional paperwork. He submits that the problems connected with these facilities go far beyond paperwork and are simply not addressed through this regulation. What is required are adequate restrictions based on valid science and effective enforcement and feels this legislation provides neither. (See attachment 15)

Stephen Anderson, Alma, Kansas, was welcomed to the committee. He spoke strongly in opposition to the bill. (No written testimony was provided)

The Chairperson welcomed Mary Fund, Kansas Rural Center, Whiting, Kansas. She provided testimony in opposition to the bill. The Rural Center believes that the only way this bill or any environmental bill will address the legitimate concerns of the public, is if environmental regulation is done in conjunction with legislation that ensures the county option vote process works and if the definitions of family farm corporations and other entities within the corporate farm law are revised. (See attachment 16)

The Chairperson welcomed Spencer Tomb, Vice President and Chair, Kansas Wildlife Federation Issues and Actions Committee. He spoke in opposition to the bill. The Wildlife Federation asks that the bill not be passed or if it is passed, to consider imposing Total Maximum Daily Loads of Ammonia that can be released and impose limitations of the density of confined animal feeding operations in a watershed. (See attachment 17)

Written testimony was submitted by Kenneth Webber for LeRoy G. Scharte, Great Bend, Kansas (See attachment 18)

The Chairperson welcomed Kathy J. Martin, Martin Environmental Services, Norman, Oklahoma. She spoke in opposition to the bill and provided a list of comments regarding sections of the bill. She believes it is not an environmentally protective law but a very obvious "free ticket" to the swine industry to come to Kansas and do whatever they wish. (See attachment 19) Questions by the committee for conferees followed.

Don Carlson, Chief of Industrial Programs, Kansas Department of Health & Environment, was in attendance and answered questions also.

The Chairperson thanked all of the conferees and guests for attending today's meeting and the committee for their attention.

The meeting adjourned at 5:40 p.m.

The next meeting is scheduled for March 9, 1998.

# HOUSE ENVIRONMENT COMMITTEE COMMITTEE GUEST LIST

DATE: 3-5-98

NAME	REPRESENTING
Bob Kurnals	St. Cath. Conf
JOHN CARTER	LAX & HOUSING COUNCILS
KATHY MARTIN	FACT & SOL
Lewis H. Webster	FACT
Elizabeth Webster	FACT
John Zupancic	KANSAS
Wanda Adams	myself
MARE COTTRELL	CITIZENS OF KANSAS
Dwight Metzler	SELF
Raymond J. Schmitz	KFU Ivan Wyll
Raymond J. Schmitz	SELF
Gladys Rempel	
John J. Rempel	SELF
Judith Cole	Inten for Sen. Tyson
Orville Cole	Senator Tyson
Ellen Verell	MEADE COUNTY CITIZENS
Richard W. Verell	Meade County Citizens
Mary Fund	Ks. Rural Inter
Wardie Recht	Jon Small

# HOUSE ENVIRONMENT COMMITTEE COMMITTEE GUEST LIST

DATE: 3-5-98

NAME	REPRESENTING
Marty Vanier	KAA
Doug Wareham	Ks. Grain & Feed Assn. Ks. Fertilizer & Chemical Assn.
Lee Maserthun	KDOC&H
John Spiels	Rep. Glasscock's intern
Greg Foley	KDHE
Don Carlson	KDHE
Steven Graham	KSU
Julia Christoad	Majority Leader
Mike Beam	Ps. Livestock Assn.
Kerri Ebert	KS Dairy Association
Blythe Ridensow	Intern - Rep. Johnson
Breder Windl	Inter (Schwarz)
Don Bigg	Senate #3
Margha Stahlm	Stahlm Farms, Inc.
KENNETH WEBBER	SELF
Kellynda Holmes	Leg.
Michaela Jacobs	Leg. Intern
Stephen Anderson	Family Farms
Daniel King	Ks. Reform PARTY

Billee Flora Senator Ks Howe County Ks



ENGROSSED HOUSE  
JOINT  
RESOLUTION NO. 1093

By: Benson, Boyd (Laura),  
Rice, Steidley, Bastin,  
Hilliard, Settle,  
Hamilton, Adair,  
Kinnamon, Thomas,  
Blackburn, Braddock,  
Collins, Davis, Gray,  
Roach, Tyler, Covey,  
Gilbert, Roberts, Sadler,  
Satterfield and  
Deutschendorf of the  
House

and

Taylor of the Senate

A Joint Resolution relating to agriculture; imposing moratoriums on the issuance of certain licenses, permits, certificates and other authorizations and amendments for certain swine feeding operations and expansions to existing swine feeding operations and for water use; prohibiting certain processing and administration processing procedures; providing exceptions to the moratoriums; providing for time period; specifying certain distance limitations for certain facilities; providing for applicability; providing for construction of act; providing exceptions; defining terms; and declaring an emergency.

WHEREAS, the State of Oklahoma has been blessed with abundant natural resources including clean air, land, and water; and

WHEREAS, agriculture, including animal feeding operations, is one of Oklahoma's top industries with a value of over Six Billion Dollars (\$6,000,000,000.00) annually; and

WHEREAS, Oklahoma has historically fostered the growth and economic development of agriculture and animal operations and has always recognized the importance of the family farm; and

WHEREAS, because of Oklahoma's abundant natural resources and positive climate for economic development, large swine animal feeding operations have seen tremendous growth in the past few years; and

WHEREAS, although the Oklahoma Legislature recognizes the importance of large swine animal feeding operations that bring

*House Environment  
3-5-98  
Attachment 1*

millions of dollars to the Oklahoma economy, the Oklahoma Legislature also recognizes the need for appropriate environmental safeguards against waste produced by that industry; and

WHEREAS, the waste produced by swine animal feeding operations has caused considerable private and public concerns as to the impact of such waste on the health, safety, and welfare of the citizens of Oklahoma and on the natural resources of the state; and

WHEREAS, the State of Oklahoma, through recently enacted laws and regulations, has attempted to address many of these concerns by requiring licensure of large swine animal feeding operations, in particular those operations having over 5,000 swine each weighing over 55 pounds and over 20,000 weaned swine each weighing under 55 pounds; and

WHEREAS, continued careful planning, design, location, and management by swine animal feeding operations is crucial in lessening or preventing any adverse impact on the citizens of Oklahoma and on the natural resources of the state; and

WHEREAS, to protect the health, safety, and welfare of the citizens of Oklahoma and natural resources of this state, it is imperative to stem the growth of some of the swine animal feeding operations while still protecting the family farm until a state policy can be developed for the management of some swine animal feeding operations in Oklahoma; and

WHEREAS, it is the intent of the Oklahoma Legislature to impose a moratorium on the issuance of certain licenses, permits, certificates, other authorizations for swine animal feeding operations and on processing thereof until legislative action can be taken this session.

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE 2ND SESSION OF THE 46TH OKLAHOMA LEGISLATURE:

SECTION 1. A. 1. There is hereby imposed a moratorium on the issuance of licenses, permits, certificates, and other authorizations and on application processing and other administrative processing procedures by the State Board of Agriculture and the Department of Agriculture for swine animal feeding operations, and on the issuance of licenses, permits, certificates, or other authorizations and on



application processing and other administrative processing procedures for expansions to existing swine animal feeding operations.

2. There is hereby imposed a moratorium on the issuance of permits or amendments thereto or other authorizations and on application processing and other administrative processing procedures by the Oklahoma Water Resources Board for the use of water for licensed managed feeding operations for swine.

3. a. There is hereby imposed a moratorium on the issuance of permits or amendments thereto, or other authorizations and on application processing and other administrative processing procedures by the Oklahoma Water Resources Board for the use of water for swine animal feeding operations wholly or partially located within three (3) miles of:

- (1) the outside boundary of any real property owned or leased by a for-profit or not-for-profit organization which provides outdoor recreational activities to its membership, including, but not limited to, youth camps, fraternal retreats, or church camps, or
- (2) any water well which is used as a public water supply, as such term is defined, by rules promulgated by the Department of Environmental Quality.

b. The provisions of this paragraph shall apply only if the real property was owned or leased by such for-profit or not-for-profit organization, or the water well was used as a public water supply, prior to the construction or establishment of the swine animal feeding operation.

B. The moratoriums are imposed for a one-year period beginning on the effective date of this resolution, unless earlier repealed or revoked by the Oklahoma Legislature.

C. The moratoriums shall not apply to the issuance of:

1. Any renewal or reauthorization license, permit, certificate, or other authorization or application processing or administrative

procedure if such renewal or reauthorization does not result in an increase in swine population at the facility; or

2. Any new license, permit, certificate, or other authorization or application processing or administrative procedure for:

- a. any application for a swine animal feeding operation submitted to the Department of Agriculture prior to the effective date of this resolution, if the facility is operating in accordance with applicable state laws, as a licensed managed feeding operation prior to the effective date of this resolution,
- b. any construction to repair a component of an existing swine animal feeding operation licensed, permitted, certified or otherwise authorized by the Department,
- c. any construction to replace a component of an existing swine animal feeding operation licensed, permitted, certified, or otherwise authorized by the Department, if the replacement does not result in an increase in swine population at the facility, or
- d. any construction or expansion for purposes of complying with applicable municipal, state, or federal animal waste management rules or orders and not for the purpose of increasing the swine population.

D. The provisions of this resolution shall be construed to be a part of the Oklahoma Concentrated Animal Feeding Operations Act.

E. For purposes of this resolution, "swine animal feeding operation" means an animal feeding operation where swine are primarily housed in a roof-covered structure and which uses a liquid waste management system. The terms "animal feeding operation", "licensed managed feeding operation", and "liquid waste management system" shall have the same meaning as such terms are defined by the Oklahoma Concentrated Animal Feeding Operations Act.

SECTION 2. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

March 5, 1998

To: Kansas House Committee on the Environment  
From: John Zupancic, Agronomist, DodgeCity, KS

I come to you simply as a concerned Kansan and I represent no special interest group. You may be interested to know that I am not a native Kansan but am originally from Colorado. I moved here in 1982 following graduate school in Nebraska. In these 16 years I have come to appreciate the land of Kansas and its people. I proudly call Kansas my home and have turned down many offers to move elsewhere.

My work today takes me throughout the United States and sometimes abroad. This travel helps me to appreciate the true value of our Kansas resources - open space, deep soils, clean air, and the pristine, ancient water of the Ogallala aquifer.

Therefore, I wish to express my appreciation to the Environment sub-committee for their efforts on HB 2950. This effort goes along way toward addressing some of the problems that I foresee coming from rapid, large-scale development of the swine industry in Kansas. I am most pleased to see the provisions for nutrient utilization planning. The requirement of these plans will ultimately lead to better management of manure resources and a cleaner environment.

As I mentioned to the sub-committee two weeks ago, my primary concern is that we deal effectively with the fate of manure derived solubles in the vadose zone. My work in the past twenty years has caused me to do several investigations into the movement of nitrates in the soil. In the course of this work, I have learned that once nitrate escapes the upper, most effective rootzone of a crop, it leaches downward toward groundwater and there is little hope of recovering it. The same is true for chlorides and sulfates. In sandy soils phosphate and ammonium will also leach.

I have observed that the tendency to leach these solubles is greater when animal wastes and irrigation are intermixed. In many cases, when soil samples were taken to five or more feet in depth, I have noted thousands of pounds of nitrates per acre traveling through the vadose.

*House Environment  
3-5-98  
Attachment 2*

Interestingly, if those soil samples would have been taken from only the surface six to eight inches as is common practice in Kansas following a crop harvest one would get the impression that there is little carryover nitrate and all is well. In fact it is normal to find that the top two feet of the soil profile is fairly depleted after a growing season.

Unfortunately very few farmers or agronomists bother to look more deeply to verify whether or not they have lost nitrogen beyond the root zone. Thus they lack adequate feedback to measure the success of their nutrient management activities.

As manager of Servi-Tech Laboratories from 1982 to 1989, I had the opportunity to review several hundred thousand soil and water reports. In most cases where our clients were responsible enough to sample soils beyond the root zone it was obvious that large amounts of nitrates were slipping past the root zone. This was particularly true where the need to dispose of livestock waste was greater than the incentive to apply it judiciously.

There are important inferences that can be made from the 10 year study of the mixed municipal effluent from Dodge City and High Plains Dressed Beef. This is a very well managed project, farmed by a very competent group of farmers. However, all involved have been surprised at the degree of nitrate enrichment in the deep soils irrigated by this project. The deepest samples taken to date reach down to 50 feet and attest to the fact that nitrates are moving toward an incredibly pure section of the Ogallala aquifer at the rate of three to five feet per year.

I wish that I could provide this committee with more hard data but most of the data that I am aware of is the private domain of those who pay for the testing and evaluation. However, I am confident that if Kansas State University does in fact undertake a deep soil study of nitrate and other manure-borne solubles accumulation where swine effluent is applied, they will observe the same trends that I have discussed. I am however disappointed that we will have to wait until that study is completed before we have more definitive guidelines for soil testing. I feel that soil samples should be taken to a depth of at least twice the effective rootzone of various crops. This is the only way that producers will get the proper feedback as to the success of their nutrient utilization plans.

Another pathway of these solubles to groundwater is through leaks in lagoons. Many feel that the depth of the vadose above the Ogallala aquifer in western Kansas protects it from contamination. I wish this were the case. The impact is only delayed.

Monitoring wells near packing plants with synthetically lined lagoons are now showing contamination of the Ogallala. At least these operations have monitoring wells which tell us that a problem needs to be corrected somewhere. It appears that there will be very few monitoring wells near lagoons in western Kansas since depth to groundwater usually exceeds 150 feet. There needs to be a feed back mechanism in place to indicate whether lagoon liners are successful. If not monitoring wells then what else? How will operators assure neighbors that their wells are safe?

I do not believe that it is too much to ask of the swine industry to address these two issues in a responsible manner. However, I am not convinced that such initiatives would be undertaken if not forced to do so by law. Therefore I request that you strengthen the requirements of this bill to require deep soil sampling and placement of monitoring wells in the Ogallala aquifer notwithstanding the depth to groundwater.



**Summary of Flaws & Questions  
HB2950**

**March 5, 1998**

**Submitted by Northern Flint Hills Audubon Society**

\* No requirement for an Environmental Impact Assessment for CAFOs in general or for EIAs in same watershed as parks or refuges. (Nutrient utilization and waste application plans are not the same thing.) This is a major flaw.

\* No fees levied per swine or animal unit to provide revenue for a clean-up fund. This is a major flaw. Precisely how would KDHE determine annually that firms have financial capacity to pay for closure? This is not the same thing as ensuring that firms have capacity to pay for mitigating pollution emergencies.

\* Separation distance of merely 1,000 feet from park or refuge boundary for waste application is insultingly inadequate. On what basis was this distance determined? Common sense would dictate that run-off and odor would suggest a separation distance at least on the order of 2 to 3 miles. Further, the bill would provide an exception to this already inadequate distance through treatment options--but the bill does not specify that the treatments must be effective or by what standards effectiveness would be measured. As well, in Section 15, the bill explicitly states the owners of parks and refuges will "know that they will be subject to agricultural sights, sounds, odors and other farm characteristics." This proviso clearly undercuts the already inadequate separation distance from parks and refuges for wastewater application and facilities. This is a major flaw. (See New Section 6(f) and New Section 15).

\* The bill provides various setback exception and loopholes for both wastewater application and facilities. These exceptions might allow Seaboard Farms to site operations nearer to Cheyenne Bottoms and Quivira National Wildlife Refuge. For example, separation distances for facilities can be waived by KDHE Secretary on the basis of technological improvements and/or no substantial objection from owners of habitable structures. (Sec. 1(i)2(B) and (C)). The bill does not specify that the technological improvements must be effective nor does it define what substantial objection is taken to be.

\* What are the scientific standards by which KDHE would waive separation distances? What research was consulted by the committee on this question?

\* What research on wetlands ecology in general and the specific ecologies and hydrologies of Cheyenne Bottoms and Quivira NWR were consulted in drafting this bill?

\* Did the committee or subcommittee seek information from refuge managers and/or refuge biologists?

\* What research on swine facility and wastewater application setback distances from parks and refuges was consulted?

\* What research on migratory birds, waterfowl in particular, was consulted in drafting this bill?

\* What research on airborne deposition of ammonia onto downwind surface waters was consulted? What kinds of effects will this process have on Kansas wetlands?

\* What is the justification for not requiring the covering of waste lagoons, as is required of oil pits?

\* What is the potential economic impact on birding and hunting in or near refuges that are only 1,000 feet away from hog waste applications and/or multiple hog facilities of each about 2,500 hogs a quarter of a mile away and/or multiple hog facilities of each about 11,000 hogs less than a mile away from a park or refuge?

\* What specifically would be the precautions taken to "flood-proof" a swine facility located in a 100-year floodplain? What research was consulted on this question? (New Section 4).

\* Exception is provided for surface water separation distances if surface water is owned by the operator. Why? This

*HOUSE ENVIRONMENT  
3-5-98  
Attachment 3*

section of the bill does not take downstream effects into account. (New Section 4).

**SUMMARY:** This bill appears to have been drafted without answers to most, if not all, the above questions. The legislature does not have time to address these questions through credible research by objective parties. This issue is being scrutinized not only by state residents, but by national environmental organizations with a very strong interest in protecting parks, refuges and the Kansas environment. This bill is deeply flawed, despite recent public assurances that it will strictly regulate corporate swine. It will not. The bill should be scrapped in a favor of a two-year time-out on confined animal feeding operations AND the establishment of an expert commission to study these and related questions. (See full testimony on these points, attached.) This approach has worked in the past on equally contentious issues.

**Testimony on HB2950,  
submitted by the  
Northern Flint Hills Audubon Society**

Thank you for the opportunity to respond to the current draft of HB 2950.

The questions preceding this document summarize our concerns. In short, we find it mind-boggling that the State of Kansas, various organizations and corporations would dare to consider drafting public policy and regulations without seriously investigating the environmental impacts of large confined animal feeding operations on state and Federal refuges, where birds and other animals are protected under such legislation as the Endangered Species Act and the Migratory Bird Act.

As well, I want to raise some contextual points about the very serious ramifications of this continuing controversy--because this issue is now in a national context, a context that Kansas cannot ignore. Finally, I will offer what I hope will be a compromise approach we all can find appealing.

It's clear to us that the legislature believes it can make important public and environmental policy decisions as if the context for those decisions is no larger than this room. But this is bigger than the legislature, bigger than Western Kansas--this is a matter not only for the whole state but for the nation. How you answer these questions and how you address the issue of CAFOs--especially in relation to Cheyenne Bottoms, Quivira National Wildlife Refuge, and other refuges--matters not only to the organization I represent today but to the national and international conservation community.

When you have the possibility of siting many CAFOs in the area of Cheyenne Bottoms and Quivira, and when this possibility is raised in the context of ignorance over fundamental ecological ramifications and in the context of KDHE's poor enforcement record and in the context of Seaboard's blatant disinterest in fessing up to problems in Oklahoma--when you have all that, then you get the attention of the president of the National Audubon Society, one of the nation's largest and most respected conservation groups. And you get the attention of the Grassroots Environmental Effectiveness Network, which has hammered anti-environmental legislation in Congress and throughout the country. And you get the attention of the state legal counsel for Defenders of Wildlife. And you get the attention of the legal counsel for the Western Environmental Law Center.

Let me remind this committee that, in recent history, every time an environmental issue in Kansas has received wide state, regional and even national attention, the conservation community has prevailed. Not too long ago, we won a suit to enforce Cheyenne Bottoms' water rights. A lawsuit to end the unconstitutional method of selecting a Secretary of Agriculture was successful. Against the opposition of large agricultural organizations, and with the help of a respected Kansas Senator, we found a way to establish a Federal tallgrass preserve--and we're in the midst of publicizing management practices at the preserve which concern us. As well, a lawsuit over the enforcement of TMDL standards in the Clean Water Act is near settlement.

What you do in this session will have a wide net of ramifications--ecological, social, legal, and political. We've raised questions about the ecological ramifications. Others--most notably everyday, tax-paying Kansas citizens--have



raised questions about ecological, economic and social ramifications. The legal ramifications depend on the bills you pass, how regulations are enforced and how the industry conducts itself. (I might point out that we can think of at least four areas of Federal regulation that could affect CAFO operations in the refuge areas: the Clean Water Act, the Endangered Species Act, the Migratory Bird Act and NEPA.) As to the political ramifications, no one--not the Governor, not those who hope to be his Lt. Governor, not any member of legislature--will be able to finesse this one with soundbites and loopholes. This is serious public policy and careful consideration, not political expediency, should be the order of the day.

So it's time, we think, to leave behind HB2950, with its Swiss Cheese approach to CAFO policy and return to a model that Audubon and others have helped forge in this state.

Those who oppose corporate hog farms are often branded as emotional, as unobjective. This suggests to us that proponents of corporate hog farms have an interest in obtaining objective data about the many uncertainties concerning environmental problems. We share that interest in objectivity. If it is sincere, then many people in this room should join us in endorsing a time-out, with a difference. We urge support for a two-year moratorium on new corporate hog farm facilities so long as a commission of legal, policy, engineering and scientific experts is convened to review relevant studies, laws and data from Kansas and other states and which would report back to the legislature.

We have seen this model work well with threatened and endangered species legislation and with the Kansas River recreation corridor study. Sierra Club, Audubon, government agencies, KLA, Farm Bureau--we all sat down and worked out a better approach on the T&E statues. It can work. We believe it can work here as well, achieving a cooling-off period, much-needed careful consideration of various forms of information, and providing all of you with a viable way to manage a politically explosive issue.

Briefly, I'd like to review a commission structure we think would work best: an 11-member panel of experts, with four experts appointed by agricultural groups such as Kansas Farm Bureau and Pork Producers Association and four experts appointed by conservation organizations such as Audubon and Kansas Wildlife Federation. The panel should have two co-chairs, one picked by the Governor and one picked by the Kansas Senate President and the Kansas House Speaker. All appointments must have academic credentials either in law, engineering, medicine, science or public policy.

To conclude, we wish to reiterate our support for a two-year time-out, during which there will no new construction or expansion of hog breeding, furrowing, and finishing facilities with a capacity of 1,000 hogs or more. But we believe that simply saying "no" will be unsatisfactory to all parties involved, regardless of point of view. That's why we urge the legislature to follow a relatively successful model and appoint a commission based on our recommended structure, a commission that will report on these matters by January 2000.

As a matter of principle, as well, we must register our support for any legislation that maintains and strengthens decision-making power at the county level. A time-out and commission study are compatible with legislative efforts to put the decision on these operations where it belongs: in the hands of the voters.

Submitted by: Christopher Cokinos, Conservation Co-Chair, NFHAS, 2328 Bailey Drive, Manhattan, KS 66502



Rick Hoffman, CEO  
Seaboard Farms, Inc.  
9000 W. 67<sup>th</sup> St.  
Box 29135  
Shawnee Mission, Kansas 66201

March 3, 1998

Dear Mr. Hoffman:

On behalf of Defenders of Wildlife and its members and supporters in Kansas, I am writing to express my concern about your impending decision to site a hog processing plant near Cheyenne Bottoms wildlife refuge. Such a decision could have significant environmental impacts on the many threatened and endangered species that depend on this area.

Cheyenne Bottoms is a state-owned refuge and has been designated as a wetland of international importance. It, as well as Quivira National Wildlife Refuge to the south, serves as host to endangered and threatened species such as whooping cranes, bald eagles, peregrine falcons, least terns and piping plovers. Both the federal Endangered Species Act and the Kansas Nongame and Endangered Species Conservation Act prohibit the "taking" of listed species, ranging from the actual killing of a species to the destruction of its habitat.

It is my understanding that the proposed plant is slated to pull up to three million gallons of water per day out of the local water supply. Equally of concern is the possibility of seepage from the waste lagoons and processing plant. Among potential threats are runoff from excess waste application, migration into groundwater from waste application and lagoon leakage and atmospheric wet deposition of nitrates and ammonia. These impacts threaten the water sources for both Cheyenne Bottoms and Quivira National Wildlife Refuge.

Defenders of Wildlife is strongly opposed to the siting of a processing plant that could harm such natural treasures as Cheyenne Bottoms and Quivira NWR. On behalf of Defenders, I urge you to withdraw the proposal for a site near these areas.

Sincerely,

Susan George  
State Counsel

P.O. Box 40709  
Albuquerque, NM 87196  
505-277-3197

National Headquarters  
1101 Fourteenth Street, NW  
Suite 1400  
Washington, DC 20005  
Telephone 202-682-9400  
Fax 202-682-1331  
<http://www.defenders.org>

House Environment  
3-5-98  
Attachment 4

House Environmental Committee:

March 5, 1998

1) I was informed on Saturday, February 28, that permit application number N-CISW-7002 was filed with KDHE on December 2, 1997 for Clint Thomason. It is for a 52,000 head hog facility. The parcels of land in this application are S/2 Sec. 11, Sec. 14, N/2 Sec. 23, SW/4 Sec. 23, NE/4 Sec. 24 and NW/4 Sec. 26, all in Township 33S, Range 33W, Seward County, Kansas. The site appraisal form warns that the soil series present in the area appear to be marginal. It also warns that there are a number of residential dwellings within the proposed area of development. If approved, the 52,000 head facility would be the largest single facility in Kansas. It is on the Cimarron River breaks about ten miles north and four miles east of Liberal. Any accidental spills such as happened on the Hitch Ranch in Oklahoma could potentially contaminate the ground water at the Arkalon Recreation Area, a short five miles downstream. The Arkalon Recreation Park is a city park and would not be covered under substitute HB 2950. The City of Liberal acquired it as a future source for our drinking water. Chance Morrow of the KDHE office in Dodge City has informed me that the financial backer for this project has withdrawn. However, he has no written documentation to that effect. Therefore, a site plan could be presented at any time before December 2, 1998 and the application process would continue. If substitute HB 2950 passes as presently proposed it would not be a factor in this facility. The bill apparently exempts all facilities for which an application is pending at the time the bill is published (possibly July 1, 1998).

2) A portion of the bill would provide that if a swine facility is in compliance with all applicable requirements of this bill and any other environmental law, the facility would be presumed not to be a nuisance under K.S.A. 2-3202 (the right to farm legislation).

*House Environment  
3-5-98  
Attachment 5*

The citizens of southwest Kansas have a very good quality of life now. However, I contend that even if you allow the swine production facilities to come in with very strict rules and regulations, that quality of life will deteriorate very rapidly. That has already happened in the Oklahoma panhandle and the Kansas counties of Morton, Stanton and Stevens. Without the threat of lawsuits and substantial fines or penalties, the companies may ignore sound science at the facility and destroy the quality of life for miles around. I know that the swine producing companies have a right to grow their hogs. I also have a right to enjoy my property. Like the old saying goes, "your right to swing your fist stops where my nose begins." Therefore, I ask the committee to make these regulations a minimum to be applicable all over Kansas and then give each county the authority to adopt regulations that are applicable in their county. The legislature gave each county the power to approve the corporate swine production facilities. Please give us the unquestioned authority to set regulations applicable to each county. We already have all the cities with different zoning laws, why can't the counties do the same?

3) I also ask you to review my summary. There are many areas of concern whereby the stricter regulations only apply to facilities with more than 4,500 animal units. I contend that the stricter regulations should apply to all facilities with more than 500 animal units.

4) I also ask that the facility must have a written waiver from all affected neighbors before a permit should be approved.

Sincerely,



Byron G. Bird

224 N. Lincoln, Liberal, KS 67901

Telephone 316-624-1994

Summary of synopsis of substitute HB 2950

5-3

	Animal Units	300-999	1000-1499	1500-4499	4500+
	# of Animals	<u>750-2499</u>	<u>2500-3749</u>	<u>3750-11249</u>	<u>11,250+</u>
1	Separation distance from habitable structure, etc.	1,320'	None stated	4,000'	5,000'
2	Distance from water well				
	Domestic	250'	250'	250'	250'
	Municipal	1,000'	1,000'	1,000'	1,000'
3	Distance from surface water	100'	250'	250'	500'
4	Manure management plan	NO	YES	YES	YES
	Nutrient utilization plan	NO	YES	YES	YES
5	Waste retention lagoon				
	New requirements	NO	NO	NO	YES
	a) ground water less than 25 feet under the surface of the lagoon				
	b) ground water more than 150' under surface	NO	NO	NO	????
6	Authority to Secretary to require installation & sampling of monitoring wells, planting of trees and other rules/regulations	NO	YES	YES	YES
7	Prescribed conditions under which manure & waste water applications may be made	NO	YES	YES	YES
8	Submission of a plan for odor control	NO	NO	NO	YES
9	Closure plan	NO	NO	NO	YES
	Demonstrate financial ability	NO	NO	NO	YES
10	Periodic inspections every (unless has specific water pollution problem)	36 months	18 months	18 months	12 months
11	Plan for handling of dead swine	NO	YES	YES	YES

*Kathy Bloay*

Honorable members of the Kansas House of Representatives Environmental Committee:

I am proud to be a native Kansan. I am a Kansas ranchers daughter. I now farm with my husband who is a 4<sup>th</sup> generation western Kansas farmer. I a life long member of Farm Bureau, have served on state committees and was District 9 Leader of the Year. As farmers we do our best to protect the environment and use the rich abundant resources of western Kansas wisely. We simply expect our neighbors, no matter who they may be, to do the same.

Every state that has allowed corporate pork production is now trying to get stricter regulations in place. Just last month D & D Farms located in the extreme north-east corner of Colorado (whose soil is much like that of western Kansas) tests revealed the ground water was indeed polluted, showing nitrate levels more than twice that allowed by the Environmental Protection Agency, but not from the lagoon....the pollution was coming from the effluent which had been applied to the field nearby. (Article appeared in the Denver Post, Feb. 5 1998 by Mark Eddy.)

On January 22 I drove by a hog facility located east of Liberal. The lagoon at the site was completely full. The effluent from the lagoon was being sprayed on the field nearby. The ground was frozen from weeks of temperatures below the freezing mark and was not able to absorb any moisture. This in not an isolated incident. The ditch along the road by this field is often full of run-off. When the lagoon is full the effluent must be applied regardless if it's needed or not.

In Seward County we live next door to hundred of thousands of hogs in neighboring Oklahoma as well as southwest Kansas counties. We've seen the realities of corporate hog farming first hand. In September we had the right to decide for ourselves if we would like to invite further expansion of this industry into our county. Seventy-five percent of the voters rejected corporate hog farming.

I commend the 1997 Kansas Legislature for commissioning Kansas State University to research the many problems associated with this industry. Let's wait for the results of this study and base the decisions regulating this industry on sound science. Continue Kansas' proud tradition on being a leading agricultural state. Allow this industry into Kansas only when strict, bold new regulations and laws are set. Allow this industry to come on your terms NOT their terms.

- Set strict, bold new regulations that limit the number of hogs allowed in any area based on the environment. As Indira Gandhi once said "The land can support the needs of the people not the greed of the people."
- Lower the A.U. being considered in this bill which most of these regulations apply from 4,500 A.U. To 500 A.U. (4,500 A.U. equals 11,250 hogs. ) Our fragile environment can support some hogs, just not thousands and thousands in one place.

*HOUSE ENVIRONMENT  
3-5-98  
Attachment 6*

- Continue to honor and respect the people that live in each county to know what is best for their county by allowing them to determine the future of their county by keeping the county option.

We elected you to be our voice in government. Be the Legislature that can look back proudly in 10, 25, 50 years and say we protected the rich abundant resources and fragile environment of Kansas for future generations.

Respectfully Submitted,



Kathy Bloom  
Route 1, Box 180  
Liberal, Kansas 67901  
(316)624-5723

# IRIGONEGARAY & ASSOCIATES

1535 S.W. 29TH STREET  
P.O. BOX 5795  
TOPEKA, KANSAS 66605-0795  
(785) 267-6115

\* PEDRO LUIS IRIGONEGARAY, J.D.  
† ELIZABETH R. HERBERT, J.D.  
ROBERT V. EYE, J.D.

March 4, 1998

\* Also Admitted in Florida  
† Also Admitted in Alabama  
Fax No. (785) 267-9458

## TESTIMONY OF ROBERT V. EYE CONCERNING H.B. 2950

This bill represents a legislative attempt to reconcile a conflict between industrialized agriculture and protection of the environment. While on its face, the bill purports to identify and resolve environmental problems associated with industrial swine production, in reality, it is an invitation for more serious problems. This bill is a massive corporate welfare program which will result in more, not less, pollution, and require Kansas taxpayers to subsidize environmental destruction.

The bill legalizes water pollution by explicitly allowing liquids from swine waste lagoons to "seep" into the soil and groundwater. In return, polluters pay nothing to the citizens of Kansas for this privilege. Instead, polluters actually will receive tax reductions for constructing the very lagoons which cause environmental harm. Any short-term benefits realized by these tax "incentives" will be more than offset by the long-term environmental and economic harm caused by industrial swine production.

This bill has a built-in assumption that there is no actual limit to the number of industrial swine facilities that can be borne by the biosphere. If this bill becomes the law, ten years from now our state will likely have hundreds more industrial swine facilities, each imbued with the legal right

*House Environment  
3-5-98  
Attachment 7*



to pollute the only environment we have. While the so-called seepage rates in this bill appear to minimize pollution, the actual impacts are devastating over time. Do the math. Even at the prescribed seepage rates, these facilities will be allowed to discharge many millions of gallons of polluted water into the general environment. This bill presumes there is no end to how much pollution we can stand. This is folly.

This bill is designed to benefit large, capital-intensive industrial agriculture corporations. These firms will be the beneficiaries of a giveaway program which actually pays them to pollute. Then at some future time, when the damage is done, these firms will pull up stakes and leave the problems behind. Ah, but the proponents point to the vaunted closure provisions of the bill. How much should be set aside for closure of these facilities? Does the amount anticipate cleanup of polluted groundwater, surface water and soil? If history is any indication, taxpayers will be expected to carry most of this load while being forced to live in a seriously compromised environment.

This bill is little more than a panicked response by advocates of industrialized agriculture to a ground swell of opposition by citizens of this and other states. What is needed is a time out on further increases in the number of industrial swine production facilities. Only with a moratorium can the actual consequences of these facilities be honestly considered.

The present and future citizens of our state are entitled to nothing less.

If this bill becomes law, there will be a dramatic and devastating increase in industrial swine facilities. Corporate agriculture giants will rush to get their piece of the action with little or no consideration of long-term impacts on our state. I urge you and your colleagues to reject this bill and, instead, proceed with a bill to enact a moratorium while there is still time to protect the only environment we will ever have.

Thank you.

## TESTIMONY

### HOUSE BILL 2950

#### HOUSE ENVIRONMENT COMMITTEE

Thursday, March 5, 1998 – 3:30 p.m., Room 313-S

#### KANSAS CATHOLIC CONFERENCE

Bob Runnels, Executive Director

Vice-Chairperson Freeborn and members of the committee, I am here today speaking for the Catholic Bishops of Kansas.

We see this bill as a very important first step in protecting the quality of life here in Kansas.

There is a "ground swell" of concern throughout rural Kansas regarding the potential devastating effect of swine waste and the proper management of its disposition.

We would hope that other supporting legislation will emerge which will place a two year moratorium on future large swine farm facilities of 1,000 hogs or more. Such a moratorium would allow Kansas State University the time they need to complete their study of this problem.

*House Environment  
3.5.98  
Attachment 8*

Testimony in Opposition to Proposed Substitute for H.B. 2950

March 5, 1998

Charles M. Benjamin, Ph.D., J.D.  
Attorney at Law  
Legislative Coordinator  
Kansas Sierra Club  
Kansas Natural Resource Council  
935 S. Kansas Ave., Suite 200  
Topeka, KS 66612

Thank you for the opportunity to testify in opposition to proposed substitute for H.B. 2950. I come to you today not in opposition to improved environmental regulations on swine production facilities, but rather to point out what the groups I represent consider serious defects in the law as currently proposed. I do not want my comments to in any way reflect poorly on the work of the Subcommittee who proposes this bill.

Environmental regulation of large scale swine production is a complex subject that many states other than Kansas and the federal government are struggling with. It is obvious that the vast majority of Kansans who have voted on this subject in county wide referenda have serious reservations about large scale swine production coming to their communities. I want to thank the members of the Subcommittee for taking my comments, and those of Craig Volland, seriously during the Subcommittee's deliberations. I especially want to thank Representative Glasscock for treating me and Mr. Volland with respect and for not implying motives or questioning our integrity and credentials to speak on this issue. We and the groups we represent are concerned citizens and taxpayers in Kansas and we will continue to make serious critiques and suggestions on this and other environmental issues in Kansas.

I have highlighted below some specific language in the current proposed legislation that I find troubling.

**Section 1, (i), p. 7:** As this language currently exists, the KDHE Secretary has the authority to reduce a separation distance over the refusal of a property owner to sign a written waiver. This is a very serious responsibility to give to the Secretary without any standard to determine when such a reduction should occur. Furthermore, there is no mechanism in the current law or proposed statute for the affected property owner to seek relief from the KDHE Secretary's decision. There is the very real possibility that the KDHE Secretary will reduce a separation distance and the subsequent expansion of a neighboring swine facility will cause odors and other environmental impacts to degrade the value of the affected property owner. Should the affected property owner see a decrease in his property value or be unable to sell his property due to the undesirability of a swine expansion, the KDHE Secretary has potentially been put in the position of a property taking. Is the state prepared to compensate that property owner for losses he has suffered due to a decision by the KDHE Secretary to reduce separation distances? Is the state

*House Environment  
3-5-98  
Attachment 9*

prepared for the possibility of class action lawsuits that seek to remedy injuries suffered by potential plaintiff landowners injured by the decision of the KDHE Secretary to override their refusal to sign a waiver?

Recommendation: Strike all of Section 1(i). If you chose to continue to allow the KDHE Secretary to reduce separation distances over the objection of affected property owners then insert language requiring the KDHE Secretary to find “no substantial harm” to a property owner from a reduction of a separation distance and give the affected property owner access to state district court if the property owner wishes to challenge the KDHE Secretary’s decision.

**New Section 4 (b) (2) and (3), p. 13:** These provisions of the proposed legislation allow applicants for new facilities with applications “pending” or applications for expansions “pending” on the “effective date of this act” to be exempt from the separation distances from flood plains, surface water, private drinking water wells and public drinking water wells. An example of the problem with this exemption is that of the application of the December 2, 1997 application by Clint Thomason for a 52,000 head (20,800 a.u.) capacity facility to be located in Seward County. This facility would be the largest swine production facility in Kansas. Yet because the application is “pending” the facility would be exempt from the separation distances mentioned above.

Recommendation: Remove this language and instruct the KDHE Secretary to put a hold on any further permit approvals while informing applicants for permits that the applicant is responsible to comply with any new regulations promulgated on the effective date of this legislation.

**New Section 13 (c):** While this section is an attempt to ensure that taxpayers do not get stuck with the clean-up of a swine production facility that has closed, this language does not accomplish that goal. First of all this section takes effect “on or after July 1, 2000.” Too many facilities can come into existence in two years that may cause problems in the future. The financial assurances in (A) and (B) can be ephemeral. As we are seeing now with the problem of drinking well pollution in the Riverview area of Wichita, or salt water pollution to the groundwater in Harvey and McPherson County, it can be hard to track down entities that cause pollution and force them to pay when the effects of their polluting activities are felt some years after the fact. In my 16 years experience as a Harvey County Commissioner I often found myself trying to figure out what to do with polluted properties that the County inherited upon the non-payment of property taxes.

Recommendation: Kansas should follow the lead of Missouri and impose a ten cent per head fee on large swine production facilities that would go into a permanent clean-up fund for abandoned swine production facilities of any size.

**New Section 5(i)(1), p. 15, line 17; New Section 5 (i)(2)(B), p. 15, line 31; New Section 5 (i)(3), p. 16, line 10:** As the language in these lines currently reads a liner would be required if water were found as measured from the *surface* of the lagoon. Since many lagoons for large scale operations approach 25 feet in depth, a lagoon would not be required to have a liner in New Section 5(i)(1), p. 15.

Recommendation: The measurement to groundwater should be taken from the *bottom* of the lagoon in all of the lines listed above.

**New Section (5)(i)(4), p. 16, lines 11-15:** This language would allow the KDHE Secretary, after January 1, 2000, to increase the animal unit capacity of facilities covered in subsection (i)(1), (2) and (3) if he determines “based on scientific evidence” that the standards imposed in those sections “are not required to protect the groundwater.” This means that the liner requirements in those sections could be eliminated in a little over a year and a half presumably based upon the lagoon studies being carried out by Kansas State University. Is that enough time for the KDHE Secretary to make a decision to eliminate liners?

Recommendation: Eliminate this section to insure a “belt and suspenders” approach to protecting groundwater quality from swine effluent pollution or, in the alternative, stretch the date to January 1, 2003, to give at least five years of scientific studies on which the KDHE Secretary can make a decision.

**New Section 17, p. 29, line 2:** The proposed language requires swine carcasses to be picked up within 48 hours under normal circumstances. Seaboard Corporation, in it’s settlement of fines imposed by the state of Oklahoma for the improper disposal of dead animals, agreed to have swine carcasses picked up within 24 hours.

Recommendation: Change the required pick-up time to 24 hours. Under hot temperature conditions dead animal carcasses can burst and provide habitat for flies within 30 hours.

## HB 2950 : New Swine Waste Regulations Won't Solve the Hog Problem (2-28-98)

**Animal Unit Thresholds.** Special requirements are applied to Swine feeding facilities. However, the more stringent of the new requirements for lagoon liners, groundwater monitoring, inspection, odor control plans and closure apply only to facilities with a capacity of 4500 animal units (a.u.'s) or larger (11250 adult hogs), called "megas" by the subcommittee. According to our records only 21 of 951 swine farms permitted in Kansas would fall into this category comprising 23% of the total head exclusive of nurseries.<sup>1</sup> This includes only 6 Seaboard facilities and 3 Dekalb facilities. Seaboard Farms has stated they intend to feed 2 million hogs in finishing facilities of 5000 to 10,000 head each (2000 - 4000 a.u.) to serve their proposed packing house in Great Bend. These would not be classified as megas. Three 14000 head breeding facilities proposed by Murphy for Hodgeman and Lane counties would qualify as megas, but they typically use 3300 head finishing and 3400 head nursery facilities. Further, it would be a simple matter to downsize planned facilities to avoid the mega category by using separate lagoons and non-contiguous sites. Thus the vast majority of the new hog capacity proposed for Kansas will not fall into the mega category. *Recommendation:* All new provisions should apply to facilities with 500 a.u.'s or greater to ensure that most, if not all, new capacity is properly constructed and operated.

**Odor.** Setbacks for certain megas are extended to 5000 feet. However facilities may expand beyond 4500 au's, and retain the 4000 foot separation distance, if the new construction remains within the existing perimeter, even though the potential for odor increases. The Secretary of KDHE may reduce setbacks applicable to all sizes if "no substantial objection" is received from nearby residents in response to the operator's notice. He may reduce the setbacks for non-megas, if the county commissioners submit a written request, and for megas if he decides new technology will compensate. These rules reopen the opportunity, previously provided in 1994, for operators of swine facilities to expand from less than 1000 a.u.'s to 2000 and yet keep the same 1320 foot setback.

Megas are required to submit an "odor control plan", but no enforceable provisions are specified. The separation distance for applying wastewater, previously 660 ft (by permit condition), has been extended to 1000 ft. "unless the manure and wastewater have been subject to physical, biological or biochemical treatment ...or waste is applied with innovative treatment...or "best available technology for swine facilities" (determined by KDHE, K. State and the swine producers). This could mean anything, even an anaerobic lagoon which is biological treatment. The Secretary may require facilities >1000 animal units to plant a vegetative barrier believed to reduce odor.

This is a woefully inadequate response to the critical odor problem. The new separation distance for megas is still less than the 5280 foot guideline in effect for 5000 head facilities prior to July 1, 1994 (SB800).<sup>2</sup> The opportunities for reducing setbacks invite abuse of neighbors' rights. The lack of demonstrated odor control technology is a serious problem. During committee hearings Dr. Zahn of Iowa State acknowledged that lagoon additives don't work well and that odor solutions are two years or more away. Murphy Farms, Inc. said that their new digester technology has been in operation only 90 days and had "experienced setbacks." Rick Hoffman of Seaboard Farms, Inc. called this technology "experimental." *Recommendation:* Prohibit for two years new permits until the odor problem is solved, or extend the setback distance from habitable structures to 10,000 feet and from a city or town to 4 miles,<sup>3</sup> for facilities >500 a.u.'s

House Environment  
3-5-98  
Attachment 10

**Public Notice by operator.** The Operator is required only to give notice by certified mail. Nothing in this bill requires the operator to inform the neighbor of his or her rights and to elicit a specific response to guarantee those rights. *Recommendation:* The Secretary's authority to reduce separation distances should be revoked. A written, notarized waiver from the owner or the owner's guardian should be required in all cases..

**Lagoon Construction.** If groundwater is at a depth of 25 feet or less under the *surface* of a lagoon, Megas must use a soil liner (of unspecified thickness) built to a 1/8 inch/day seepage rate or they must use a 40 mil synthetic liner on top of soil compacted to a 1/4 inch/day seepage standard. If the soil cannot be sufficiently compacted then the operator must use a 40 mil synthetic liner in combination with groundwater monitoring. If the groundwater is more than 150 feet down, the monitoring may be omitted. Leachate recovery (leak detection) is not required. The Secretary can essentially revoke these standards after Jan. 1, 2000 based on "scientific evidence." Existing megas must install groundwater monitoring before January 1, 2000 if the groundwater is more than 150 ft. from the surface.

KDHE can keep the weak, 1/4 inch/day seepage standard for smaller facilities. Operators can dig lagoons and count the top one foot of remaining soil as an "in situ" liner. No compaction standard is specified, and no post construction permeability test is required. This technique is allowed in soils that contain substantial sand and gravel. Due to difficulty in achieving adequate compaction, this cannot be considered a true liner. The scientific literature does not verify that "biosealing" consistently prevents contamination of groundwater. Also, analysis of strata down to the water table is not required.

The requirement for groundwater monitoring at existing megas would eventually yield very valuable information, but it's unclear if any of the existing megas would have to do it since most are in western Kansas (usually > 150 ft. to groundwater). The reluctance of KDHE to require monitoring in the past (20-30<sup>4</sup> out of some 4000 regulated facilities<sup>5</sup>) is why we have so little data on the performance of animal waste control systems in Kansas. In practice, a synthetic liner will never actually be required because mega lagoons are typically 20 feet deep and the bottom must be at least 10 above the water table, ie. the surface of the lagoon will always be 30 feet or more above groundwater. This exceeds the 25 foot or less threshold for the requirement. No one would choose this option anyway when they can just use the 1/8 inch/day soil liner instead. The latter would require closer attention to construction details but will not prevent the eventual contamination of groundwater. In rare cases an operator may not be able to meet the 1/8 inch/day seepage standard, in which case he can add bentonite clay rather than employ a plastic liner. Meanwhile the vast majority of new facilities, which are non-megas, will be built to weak standards without proper verification. *Recommendation:* The synthetic liner should be required for all facilities 500 animal units and larger.

**Waste Application.** This section most nearly addresses the problem. However KDHE acknowledges they don't have the manpower to monitor this activity. Records will be kept at the facility. Evidence was given to the subcommittee demonstrating that nitrates can easily get below the root zone in a wastewater application project (in Dodge City). Having K State add deep soil testing to their project is a good first step. The high evaporation rate in western Kansas may cause salts and alkalinity in wastewater to concentrate and damage crops when applied. However these regulations do not require analysis of the salinity of lagoon wastewater, and very little data is publicly available to assess this issue. The ability of the Secretary of Agriculture to take into account "economic impact" when defining "agronomic rates" of wastewater application is a potential loophole that could lead to substantial pollution. *Recommendation:* Systematic testing of wastewater salinity and assessment of its effects on crops should be added to the K State project with appropriate funding. Also K State should be asked to suggest ways KDHE can economically monitor the waste application performance of all CAFOs.



**Setbacks to water.** The setback from surface water has been increased from 100 feet to 250 feet for 1000-4499 a.u.'s, and to 500 feet for mega's. This is a significant improvement. Setbacks have been increased from 100 ft in existing regulations to 250 feet from private wells and 1000 feet from public wells. While much better, these setbacks are still inadequate. If contamination reaches the Ogalalla aquifer, water users under these circumstances need wait only eight to fifteen months for the stuff to reach the private well. Public wells are at greater risk because of their cone of depression. At a minimum they should be protected for their expected life or 40 years. Contamination in the Ogalalla can migrate about two miles in forty years (.7 ft/day). Wastewater can still be applied 100 feet from a drinking water well. *Recommendation:* Setbacks for all size lagoons should be 1320 feet from private wells and two miles from public wells. Wastewater application should be 1320 feet from both.

**Facility Closure.** Operators of megas must submit a closure plan and, annually, they must submit financial statements. This does not ensure that taxpayers will avoid picking up the tab for the clean up of abandoned facilities. *Recommendation:* A modest head tax should be levied to create a cleanup fund similar to Missouri's.

**Dead Animal Disposal.** The rules allow operators 48 hours to have dead animals picked up. Only a \$100 fine is levied for violations of dead livestock rules. Burial of animals is allowed, and KDHE will develop the rules. We note that Seaboard Farms Inc. has been disposing of 35,000 dead hogs a month in Oklahoma. They recently agreed to pay a \$88,200 fine for improper disposal, and they agreed to dispose of carcasses within 24 hours. *Recommendation:* Only 24 hours should be allowed for pickup, and fines should be commensurate with the vastly larger scale of corporate hog farming.

**Summary.** The new odor control provisions in HB 2950 will have little or no practical effect in the next several years. Almost all new lagoons in Kansas will be installed according to the old, weak standards and, therefore will be designed to leak. The consequences of this leakage is still not known. Rules for wastewater application are significantly improved but much research and follow up will be required to ensure it is being done correctly.

Many of the problems with large scale, industrialized hog farming can be attributed to anaerobic lagoon technology. HB 2950 provides no guidance or incentive to look at new and better technologies for handling pig waste. Anaerobic lagoons emit over 90% of the nitrogen into the air as ammonia. No one seems to be concerned about this vast loss of valuable nutrients nor the impact of this ammonia on water bodies downwind. In summary, HB 2950 falls far short of providing adequate assurance that the influx of several million hogs will not seriously harm the environment of Kansas.



Craig S. Volland, QEP

- Notes: 1. KDHE list by capacity, dated 2-19-98, less pending permits.  
2. KDHE Design Standards for CAFOs, Nov. '93.  
3. Per Duke Univ. research, odor plumes can move four miles with little dilution in stable atmospheric conditions. source: National Hog Farmer, Feb.15, 1996.  
4. Testimony of Don Carlson to subcommittee. He was not aware of any monitoring wells at hog facilities.  
5. KDHE : All CAFOs, total regulated facilities, as of April 25, '97. In response to Post Audit Report

Sen. Huelskamp has said the mega hog issue is many issues, not just one. He is right. When will legislators come to grips with these issues, or will they avoid, evade and gloss over them for various interests that are not the people's interests?

There is sad irony in leaving almost every decision on environment protection to the discretion of the Secretary of KDHE, who has no background in either public health or environment. Our governor has demonstrated a profound lack of understanding of the issues by not having appointed a health care professional or an environmental scientist as Secretary. A political friend may be an astute legislative assistant, but unqualified to make judgement calls on what is good for public safety. Consider these:

1. It is immoral to exploit the health of anyone, even migrant workers. By permitting them to walk randomly through our population, untreated for their chronic diseases, ( giardiasis, ascariasis, tuberculosis, etc.) we threaten the public's health with easily transmitted diseases.

Workers carrying Mycobacterium bovis (bovine TB) can infect not only fellow workers but also the hogs they feed daily. How? Through ignorance of spitting, urinating or defecating into the feed, a practice they consider normal. Bovine TB is more infectious than human or avian strains and crosses readily from bovines to humans to hogs and other domesticated species. Transmissible through infected milk, common in countries south of us, in the human digestive tract it can attack all other systems and be spread by all body fluids, feces and sputum. Drug resistant strains are becoming common, untreatable and fatal.

2. What are the chances of a Hanta virus epidemic? New cases are now occurring in Western Kansas, indicating a huge reservoir of infection. Its chief mode of spread is through aerosol dust off rodent feces. Who are the people exposed to rodent feces? Farmers, outdoorsmen and poor people who have the worst housing. Where do rodents proliferate? Near grain and dead animals, their two main food sources.

Who is responsible for better housing for migrants earning near minimum wage? Legislators need to answer that question. As with all other issues of responsibility, someone has to pick up the tab. Will it come off the corporate bottom line as part of operating expense, or will it be passed on to taxpayers--the usual route?

Where is a public health announcement to warn citizens of the danger of inhaling rodent dust? If we can afford warnings about the danger of passively inhaling smoke, can we not warn citizens and migrants of an even greater danger?

For information on Hantaviruses, read EMERGING AND RE-EMERGING VIRUSES: AN ESSAY, Alison Jacobson, Dept. of Microbiology, Univ. of Cape Town. Available on Internet. For tuberculosis in pigs, read MERCK VETERINARY MANUAL, 7th ed., 1991, p.370. For other disease threats via hog transmission, consult Internet or call me for lists. I will respond by same day Fax letter or next-day mail. I will also attempt to answer specific questions or, if not certain, will refer you to an authority. Thank you for your attention.

---

Ellen Verell, M.D.

House Environment  
3-5-98  
Attachment II



are passed from species to species, and what makes one treatable and another deadly.

Generally, birds, pigs, and humans are the principle players in a viral chain reaction that determines how serious an influenza outbreak is going to be. As viruses are exchanged between various members of various species, subtle changes to the viruses' genetic material can occur. Usually such mutations are minor, resulting in a process called *antigen drift*. Even minor changes in the virus's make-up, however, mean that new vaccines must be developed to combat it. When significant mutations occur a process called *antigen shift* results. An example of antigen shift is seen when a flu virus from a bird and a flu virus from a human combine inside a pig and result in a new, virulent strain. Scientists speculate that such a scenario sets the scene for pandemics such as those of 1957 (the Asian flu, which killed 70,000 Americans) and 1968 (the Hong Kong flu, which resulted in the deaths of 28,000 Americans), and point out that incidents of antigen shift resulting in pandemics occur roughly every 30 years. By that calculation, an influenza pandemic could be expected in the near future.

The responsibility of tracking emerging influenzas and predicting which ones pose a serious threat to human populations falls upon several government health agencies: the Centers for Disease Control and Prevention (CDC), the National Institutes of Health (NIH), and the Food and Drug Administration (FDA). These US agencies combine forces with the World Health Organization (WHO) and attempt the tricky task of flu forecasting.

An international surveillance network of flu trackers records and disburses data regarding outbreaks, in various species, from all over the globe. In recent years, new flu strains have been seen originating in Asia with some regularity. Health authorities believe the close proximity of people, birds, and pigs found in Asian nations contributes heavily to influenza virus propagation. Information gathered by

# EMERGING AND RE-EMERGING VIRUSES: AN ESSAY

By:

**Alison Jacobson**

**Department of Microbiology**

**University of Cape Town**

- INTRODUCTION
- THEORETICAL CONSIDERATIONS
- A HISTORICAL PERSPECTIVE
- EXAMPLES OF EMERGING AND POTENTIALLY EMERGENT VIRUSES
  - ARBOVIRUS DISEASES
    - AETIOLOGY
    - EPIDEMIOLOGY
    - TRANSMISSION
    - IMMUNITY
      - ACTIVE IMMUNITY
      - PASSIVE IMMUNITY
    - GENERAL CLINICAL FEATURES
  - ECOLOGICAL FACTORS
- CASES IN POINT
  - HANTAVIRUSES ✓
    - HANTAAN VIRUS
    - SEOUL VIRUS
    - "FOUR CORNERS VIRUS"
  - EBOLA VIRUS
  - INFLUENZA VIRUS: A MODEL FOR VIRAL EMERGENCE
- MUTATION FREQUENCY
- SELECTIVE PRESSURES AND CONSTRAINTS

Eastside Veterinary Clinic

210 Tuttle Creek Boulevard

Manhattan, Kansas 66602

(913) 537-3719

March 3, 1998

The Hon. Bill Graves,  
Governor of Kansas  
Topeka KS 66612

Dear Governor Graves:

I read in several papers that you are satisfied with the swine laws as they are and have been since 1994. They probably do not look too bad from the State House. Effects are not terribly apparent here in Manhattan.

However, in my native Western Kansas, swine have caused a lot of environmental pollution and, consequently, a great deal of anxiety among those who must live with it. My family still lives mostly in the west, our grandfather having come there in 1879. They have seen a variety of conditions over time, but none more environmentally threatening than now.

My concern with pollution is the potential for infectious diseases to get out of control. As you know, migratory water fowl fly over and stop off to feed and rest all over the state, but especially over the western half of Kansas, the grain fields, green wheat and abundant water attracting them.

All birds, including ducks and geese, carry numerous viruses with impunity. They, along with rodents, have the world's largest pool of viruses. Unfortunately, their excrement is loaded with these viral particles which can live virtually forever under the right conditions. Arthropods transmit viral diseases to birds, to domestic and wild animals and to man. One of the commonest viral transmission routes is from bird to hog to man. This isn't just a possibility. It is fact. Some strains of viral encephalitis and influenza are very detrimental to man; fatalities can be staggering.

Rats are attracted to hog barns for a) the grain, b) the dead carcasses in open pits. Rats are a reservoir for the dread Hanta virus which seems to be surfacing more and more frequently in Kansas since 1993. Inhalation of rodent fecal dust is the main route of transmission so far. People in the most primitive and rodent infested living quarters are in the greatest danger.

The potential for large outbreaks of infectious diseases may be very near the emergent stage. Kansas law needs to address this public health threat before it becomes an epidemic.

Sincerely,

*Richard W. Lewis, D.V.M.*  
Richard W. Lewis, D.V.M.

cc: House and Senate  
Committee on Environment

March 4, 1998

Rep. Melvin Neufeld,  
Members, Committee on Environment  
Topeka, Kansas 66612

Gentlemen:

From the news I get, the Governor is happy with the 1994 hog law and many in the House prefer status quo. Maybe you need to visit Meade County to see things as they are.

We have lived with a rising tide of pig pollution for 25 years. It causes a lot of misery for those next door to it.

Capitol Journal reports H.B. 2950 as just short of wonderful. How many of the committee would actually want to live within 3 miles of a mega hog operation? It's wise to come check one out before you volunteer. A mega barn of 4500 animal units can put out 236,000+ pounds of hog manure daily. Do you have any idea how big a pile that is? Over 1180 tons! Mixed with water, it can cause misery for miles around.

Your #2950 doesn't deal with odor. It doesn't mention the health risks from spread of parasites and disease. These are both likely because nature is never static. Mutations happen. Anti-biotics build resistant germs. The Hanta virus is already a threat in western Kansas.

Your bill doesn't mention a better method than lagoons. China doesn't allow manure lagoons. Why not? No wonder the biggest companies can ship pork to Asia at a profit. Lax environmental rules make it possible. Our small farmers give up rights to clean soil and water to countries that prefer to bury us. What nonsense is this? Whose interests come first?

Who wants to drink water pumped 250 ft. from a manure pond? No one in his right mind. Then why is it o.k. for me? A setback of 1320 ft. is risky.

You propose the cheapest route for the hog company to make the highest possible profits. No responsibility to pay their own freight. We have such a law now; we need better.

Thanks for understanding and hopefully for some help,

*Bretta Zortman*  
Gretta Zortman  
4199 22 Road  
Fowler, Ks. 67844

23121 3 Road  
Plains KS 67869

January 30, 1998

The Hon. Bill Graves  
State House  
Topeka KS 66612

Dear Governor Graves:

My grandparents, James K. and Lula Pope, homesteaded our farm (SE 1/4-30-33-30) in Meade County, KS in 1906. We are the third generation to live on the farm and we would love to pass it on to further generations. Now we are faced with the possibility of water contamination and depletion and poor air quality.

We are surrounded by DeKalb Swine Breeder farms in every direction. Within a five mile radius of our home we have twelve huge DeKalb farms; this includes approximately 375-400 barns and would accommodate thousands and thousands of pigs. There is also a large feed mill plus several isolation farms with pigs and many other buildings.

Many of the fields we farm are adjacent to DeKalb lagoons. It is very difficult to work next to a lagoon and put up with the foul odors--it literally makes a person sick. It is especially bad when DeKalb or our neighbors are spraying effluent on fields. That simply takes your breath away and you cannot breathe. In some cases the effluent comes within 500-600 feet of a home!

When it gets so bad, you can't have a family cook-out, hang clothes on a line or open your windows. It is BAD! Flies and mosquitoes are a continuous battle; mice and rats are taking over. Rats are eating battery cables, fuel lines, etc., on vehicles. We have increased traffic problems. Their big trucks keep the roads torn up constantly. Where are our rights? We believe we are abused and taken advantage of. We tend our farm and try to respect our neighbors.

These hog facilities have adversely impacted our lives and livelihood in all areas: living and working conditions, health, finances, and lowered property values. Who would want to invest in a farm in the middle of hog corporations? Our air is polluted with gases. Our water is in danger of depletion and pollution. What price can one put on clean air and water?

Since 1973 Plains has been home to DeKalb Swine Breeders who fell under a grandfather clause in the state's old corporate farming law. DeKalb received industrial revenue bonds worth several million dollars to locate near Plains. Now that it



has continued to grow and spread roots, people have had second thoughts, including those who had originally testified in favor of bringing DeKalb to the area. On November 12, 1997 Meade County residents voted by a nearly 2-1 margin to rescind the corporate hog law.. As of now, our Commissioners have NOT rescinded the 1994 law and have also let our moratorium expire. How can three Commissioners represent the tax-paying citizens and not respect the wishes of a majority?

Our taxes have increased because of increased enrollment in the schools. It has become necessary to build additions to accommodate the influx of legals and illegals moving in. We are left in the position to teach the children English; the parents of the children pay very little in taxes. Why should we have to pay for their education? Why can't the employer (DeKalb) be required to pay a certain amount for each one of their employees' children to attend school? Any person who employs migrant workers should have to pay tuition for educating the workers' children.

I ask you to please consider at least a 2-year moratorium, if not 5 years, on any corporate hog farms or any large-scale "family" hog farms coming into Kansas. Please take steps to stop the expansion of those who have been here for years and continue to pollute. These corporations are like cancer; once they get started, they just keep spreading. I realize we cannot shut down DeKalb, but we could stop their expansion, if you will help us. We must consider the fact that Oklahoma's moratorium will drive the hog corporations north to Kansas. Let's control it before it's too late.

Water contamination, water depletion and air quality are a legitimate concern, created by large-scale hog facilities in rural communities. Please examine environmental regulations and take a common sense approach. We realize there can be testing of lagoons and of soil; but why do that when PREVENTION would be a much cheaper and wiser decision?

Thank you for your consideration.

Sincerely,

*Lelia George & Don George*  
Lelia and Don George

cc: Members of Legislature

TESTIMONY OF RAYMOND J. SCHMITZ  
1006 ROANOKE STREET  
SENECA, KANSAS 66538

Having spent considerable time in various board rooms during the past 30 years, I'm accustomed to at least some controversy.

Ideally negotiated settlements are arrived at by placing all issues in discussion.

Sub. 2950 does not address the concerns of the wheel that is squeaking the loudest. Namely, those who feel the intent of the Corporate Farming Law of 1994 is being circumvented by out-of-state family corporations.

My suggestion is:

1. To fix that loophole and
2. Perhaps a much more important issue is to let the balloting be both "site and count specific".

Let the voters know up front where and how many hogs are being proposed.

Example: Seneca, Kansas has only two mile zoning.

To open the county would likely be defeated since this could allow 20,000 sows very close to town.

A "site and count specific" proposal to place 10,000 sows in a very remote corner of the county not close to occupied dwellings would certainly be given a much different consideration.

I offer this as an olive branch. It is time to look at tomorrow and forget what our positions have been for 10 or 15 years.

Thanks,

Raymond J. Schmitz

*House Environment  
3-5-98  
Attachment 12*

STATEMENT  
OF

IVAN W. WYATT, PRESIDENT  
KANSAS FARMERS UNION

ON  
HB-2950

BEFORE

THE HOUSE COMMITTEE ON THE ENVIRONMENT

(MARCH 5, 1998)

MADAM CHAIR, MEMBERS OF THE COMMITTEE:

THE KANSAS FARMERS UNION OPPOSES THIS BILL. IF YOU WANT TO KNOW WHAT THE CITIZENS OF KANSAS THINK OF THIS BILL, ASSURE ANY COUNTY MAY VOTE, WITHOUT OVERRIDING INFLUENCE, BEFORE ANY MEGA CORPORATE HOG FARM CAN COME INTO THEIR COUNTY. THERE IS NO GOVERNOR OR LEGISLATIVE BODY IN KANSAS THAT CAN WRITE AND ENFORCE AN ENVIRONMENTAL REGULATION THAT WILL FIT EVERY COUNTY OF THE STATE. WOULD JOHNSON COUNTY OR JEFFERSON COUNTY OR CLOUD COUNTY WANT A 100,000-200,000 HOG OPERATION SOUTH OF THEIR COUNTY SEAT OR NEXT TO THEIR GOLF COURSE? THERE IS A GREAT VARIANCE BETWEEN JOHNSON COUNTY AND GREELY COUNTY. THE LEGISLATURE SHOULD SHOW A LITTLE FAITH IN THE COMMON SENSE OF THE FAMILIES OF THE KANSAS COUNTIES. THE LEGISLATURE ISN'T INFALLIBLE.

THE FARMERS UNION VIEWS THIS BILL AS A FEEBLE EFFORT TO WHITEWASH A MAJOR THREAT TO THE GENERAL PUBLIC AND FAMILIES LIVING IN THE RURAL AREAS OF OUR STATE. THIS BILL MAY BE A SUBTLE EFFORT TO CARRY OUT THE KDHE SECRETARY'S THREAT TO CLOSE DOWN MANY OF THE STATES FEW REMAINING INDEPENDENT PRODUCERS. THIS SAME SCHEME HAS BEEN USED OVER THE YEARS TO DRIVE INDEPENDENT PRODUCERS OUT OF MANY SEGMENTS OF FOOD PRODUCTION, SO A VERY FEW CAN GAIN MARKET CONTROL. DR. BARRY FLINCHBAUGH WARNED OF THIS THREAT SEVERAL YEARS AGO STATING, "WHO EVER CONTROLS THE MARKET WILL CONTROL AGRICULTURE".

IT IS OBVIOUS THIS BILL IS ABOUT MORE THAN THE ENVIRONMENT. THERE HAS BEEN NO DEBATE ON THE ECONOMIC RAMIFICATION OF THE COSTS TO COMMUNITIES AND/OR THE BENEFITS TO FARM FAMILIES AND COMMUNITIES. YET, HERE IS THE "ENVIRONMENTAL BILL" WITH A TAX CREDIT TO BE PAID FOR BY ALL KANSANS TO AN INTERNATIONAL CORPORATION TO SUBSIDIZE

*House Environment  
3-5-98  
Attachment 13*

R NEW CONSTRUCTION, SO THEY CAN DRIVE OUT THE ALREADY ESTABLISHED INDEPENDENT PRODUCERS, WHO HAVE ALREADY PAID THEIR OWN WAY.

THE DEBATE ON THIS ENTIRE ISSUE BOILS DOWN TO COMMON SENSE VS. FREE MONEY (TAXPAYER DOLLARS) POLITICAL INFLUENCE.

I SPEAK OF THE COMMON SENSE OF 40,000 PEOPLE WHO WENT TO THE POLLS TO CAST NO VOTES IN 21 COUNTIES (ONE-FIFTH OF THE STATES COUNTIES). 71% OF THE VOTERS VOTED NO. THE OTHER FOUR-FIFTHS HAVE VOICED THEIR OPINIONS ON CORPORATE HOGS BY NOT EXTENDING AN INVITATION TO THEM.

THOSE WHO CLAIM TO REPRESENT CATTLE FEEDERS DO A GRIEVOUS DISSERVICE TO THE STATE'S CATTLEMEN WHEN THEY CLAIM THERE IS NO DIFFERENCE BETWEEN THE DEVELOPMENT OF THE CATTLE FEEDING ENTERPRISES AND THE SUBSIDIZED CONFINEMENT HOG FEEDING OPERATIONS OF SEABOARD INC. AND MURPHY INC.

SUCH STATEMENTS ARE AN INSULT TO THE LEGACY OF THE STATE'S CATTLEMEN.

THE STATE'S CATTLE FEEDERS, OVER THE DECADES, DIDN'T GO RUNNING FOR "FREE MONEY" (TAXPAYERS DOLLARS). THEY DIDN'T NEED IT. THEY BUILT FROM THE GROUND UP, WORKING WITHIN THEIR COMMUNITY, SO THE COMMUNITY BENEFITED ALSO, WITH A "COMMON SENSE". THEY HAD SUCCESS BECAUSE THEY DIDN'T HAVE A LOT OF ECO-DEVO BUREAUCRATS RUNNING AROUND, SCREWING THINGS UP, OFFERING UP OTHER PEOPLES TAX DOLLARS (FREE MONEY).

TODAY, THE POLITICAL ATTITUDE TOWARD THE CORPORATE HOG FEEDING SITUATION IS A PRIME EXAMPLE OF CORPORATE SOCIALISM, CAPPED OFF WITH THE PROPOSED TAX CREDIT. BUT THAT ISN'T THE ONLY ONE.

I FIND IT IRONIC THAT THESE ORGANIZATIONS ARE SUPPORTING TAXING (FEDERAL AND STATE) THE LOCAL CATTLE RANCHERS OF THE STATE TO SUBSIDIZE THEIR COMPETITION WITH ABSENTEE PORK CORPORATIONS.

WHAT A DIFFERENCE BETWEEN THOSE CITIZENS WHO BUILT THE CATTLE PRODUCING ENTERPRISES AND TODAY'S CORPORATIONS, WHO HAVE AN ATTITUDE TOWARD THE PEOPLE OF RURAL KANSAS MUCH LIKE THE ATTITUDE TOWARD THE CITIZENS OF THIRD WORLD NATIONS, WHERE CITIZENS ARE CONSIDERED STUPID, IGNORANT, SUPERSTITIOUS AND UNDER THE CONTROL OF CORRUPT POLITICIANS. THE CITIZENS OF KANSAS AND OKLAHOMA HAVE PROVEN THAT THOUGHT WRONG.

THE MEGA, CORPORATE HOG OPERATIONS' ONLY HOPE TO SUCCEED IS WITH HUGE AMOUNTS OF (FREE MONEY) TAXPAYER MONEY. SEE THE COPIES OF PAGES 23, 24, 35 AND 36, OF THE 1996 SEABOARD ANNUAL REPORT FOR AN EXAMPLE OF WHAT I MEAN.

IT APPEARS THAT THE "COMMON SENSE" APPEAL OF THE 40,000 CITIZENS VOTES IS BEING IGNORED BY THE KANSAS GOVERNOR AND NUMEROUS MEMBERS OF THE LEGISLATURE. THEY APPEAR IMPRESSED WITH THEIR FALSE FEELING OF MENTAL SUPERIORITY OVER THE CITIZENS OF THE STATE OF KANSAS, AND ARE BEING ENCOURAGED BY THE INFLUENCE OF THESE CORPORATIONS.

HISTORY SHOWS THINGS SELDOM CHANGE. THE KING OF ENGLAND AND HIS TORY ALLIES CLAIMED THE "COMMON SENSE" OF THE COLONISTS WAS INFERIOR, AND THAT THE IGNORANT FARMERS, SHOPKEEPERS AND CRAFTSMEN OF THE COLONIES COULD NEVER RUN A COUNTRY. THEY WERE PROVEN WRONG. TODAY, IT'S ABSENTEE HOG CORPORATIONS AND THEIR POLITICAL ALLIES IN HIGH PLACES WHO ARE SAYING MUCH THE SAME THING.

TODAY, WHAT A DIFFERENCE THERE IS BETWEEN OKLAHOMA AND KANSAS. THE PLAYERS ARE THE SAME; THE RESULTS ARE GREATLY DIFFERENT.

THE OKLAHOMA GOVERNOR AND LEGISLATURE ARE LISTENING AND RESPONDING TO THE COMMON SENSE OPINION OF THEIR CITIZENS, DESPITE THE THUNDER OF THE INFLUENCE OF FREE MONEY POLITICS.

IN KANSAS, HOWEVER, CITIZENS ARE BEING GREETED WITH THE OFTEN REPEATED WORDS OF "IGNORANT", "STUPID", "SUPERSTITIOUS" AND "EMOTIONAL".

IN CONCLUSION, THE MOST COMMON SENSE APPROACH TO THIS ISSUE OF PROTECTING THE CITIZENS AND THEIR ENVIRONMENT FROM EXPLOITATION WOULD BE THE RIGHT OF THE CITIZENS TO VOTE PERIODICALLY, IF THEY WISH, WITHOUT THE OBSTRUCTION OF OVERRIDING "FREE MONEY" POLITICAL INFLUENCE OF LOCAL POLITICIANS.

IF AMPLE PROTECTION IS PROVIDED THE QUALITY OF LIFE OF RURAL FAMILIES, THEY WILL VOTE LIKEWISE. HOWEVER, IF THEY VOTE "NO" AND THINGS IMPROVE LATER, ANOTHER VOTE CAN BE HELD. THAT IS DEMOCRACY.

CITIZEN COMMON SENSE SHOULD BE THE ULTIMATE TEST.

S E A B O A R D C O R P O R A T I O N  
M A N A G E M E N T ' S  
D I S C U S S I O N & A N A L Y S I S

amounted to \$159.7 million. Capital expenditures of \$8.5 million were made at the Company's poultry processing plant in Athens, Georgia to expand processing capacity. Other capital expenditures in the food production and processing segment for 1995 included \$24.0 million in general modernization and efficiency upgrades of plant and equipment.

Capital expenditures in the transportation segment during 1995 totaled \$34.1 million. The Company purchased two cargo vessels for \$14.7 million for use in the ocean liner service, and other capital expenditures of \$19.4 million were for general replacement and upgrades of property and equipment.

In August 1996, the Company sold three vessels used in the transportation segment to a third party for \$28.5 million. The vessels have been chartered from the third party for terms ranging from seven to ten years. The Company realized a \$5.9 million gain on the sale of the vessels which was deferred and will be recognized over the term of the charter agreements. The charters are accounted for as operating leases.

In July 1996, the Company purchased for \$8.8 million a non-controlling interest in Ingenio y Refineria San Martin del Tabacal S.A. (Tabacal). Tabacal is an Argentinean company primarily engaged in growing and refining sugarcane and citrus production for consumption in Argentina and for export. The investment is being accounted for using the equity method of accounting. As of December 31, 1996, the Company had advanced \$27.6 million to Tabacal for improvements of existing operations, expanding sugarcane and citrus fields and working capital requirements. The Company anticipates making additional loans or guaranteeing loans made to Tabacal by third parties in amounts not expected to exceed \$20 million.

In October 1996, the Company acquired a 50 percent interest in a flour mill located in Mozambique for \$4.6 million with \$1 million paid at closing and the balance to be paid in installments over the next six years. The investment is being accounted for using the equity method of accounting.

During 1996, the Company entered into one-year revolving credit facilities totaling \$90 million and a five-year \$50 million revolving credit facility and reduced certain uncommitted credit lines. At December 31, 1996, the Company had \$75 million outstanding under the one-year revolving credit facilities and \$75.2 million outstanding under the remaining short-term uncommitted credit lines totaling \$135 million. The Company borrowed \$10 million of the five-year revolving credit facility, the proceeds of which were used to retire \$10 million in existing term loans.

As of December 31, 1996, economic incentive grants totaling \$12.4 million had been used to fund construction projects. Use of these funds, contributed by government entities, was limited to construction of a pork processing facility. For accounting purposes, these grants have been recorded in other liabilities and are being amortized over the life of the assets constructed with the funds.

In February 1995, the Company borrowed the proceeds of \$3.3 million in Adjustable Rate, Seven-Day Demand Exempt Facility Revenue Bonds issued by the Guymon Utilities Authority. The funds were used to finance certain costs associated with the construction of a pork processing plant.

In June 1995, the Company issued \$125 million in unsecured Senior Notes to various lenders, the proceeds of which are being used to finance the construction of hog production facilities, a pork processing plant and for general corporate purposes. The notes bear interest at 7.88% and mature in equal installments of \$25 million on June 1, 2003, 2004, 2005, 2006 and 2007.

In December 1995, the Company borrowed the proceeds of \$9.6 million in Adjustable Rate, Seven-Day Demand Exempt Facility Revenue Bonds issued by the Kansas Development Finance Authority. The funds were used to finance certain costs associated with hog production facilities.

Long-term debt of \$17.4 million was repaid in 1995 in advance of its scheduled maturity.

S E A B O A R D C O R P O R A T I O N  
M A N A G E M E N T ' S  
D I S C U S S I O N & A N A L Y S I S

Subsequent to year-end, the Company's one year revolving credit facilities were increased to \$160 million as a result of the extension of an existing facility and the establishment of a new facility. In addition, the existing five-year revolving credit facility was also extended and reduced to \$25 million. The Company also expects to borrow approximately \$10 million of Adjustable Rate, Seven-Day Demand Exempt Facility Revenue Bonds to be issued by the Oklahoma Development Finance Authority. The funds will be used to finance certain costs associated with hog production facilities.

Management intends to continue seeking opportunities for expansion in the industries in which it operates and believes that the Company's liquidity, capital resources and borrowing capabilities are adequate for its current and intended operations.

**RESULTS OF OPERATIONS**

Net sales of \$1,464.4 million for the year ended December 31, 1996, increased by \$290.4 million compared to the year ended December 31, 1995. Operating income in 1996 decreased by \$11.5 million compared to 1995 to total \$19.7 million.

Net sales increased by \$190.2 million compared to 1994 to total \$1,174 million for the year ended December 31, 1995. Operating income of \$31.2 million in 1995 decreased by \$15.9 million compared to 1994.

**FOOD PRODUCTION AND PROCESSING SEGMENT**

<i>(Dollars in millions)</i>	1996	1995	1994
Net sales	\$843.5	\$652.5	\$638.3
Operating income	\$13.2	\$10.1	\$10.7

In 1996, net sales for the food production and processing segment increased \$192 million compared to 1995 as a result of increased poultry and pork sales. Operating income for 1996 decreased \$14 million compared to 1995 as a result of signifi-

cantly higher grain prices during most of 1996. As described in Note 5 to the consolidated financial statements, the Company changed its method of accounting for spare parts and supplies inventories in 1996. The effect of this change was to decrease the operating loss in the food production and processing segment in 1996 by \$1.3 million. In the fourth quarter of 1996, grain prices decreased substantially. Grain commodities are a significant component of the Company's costs. Management expects this decrease in grain prices to have a positive effect on the Company's operating income in the first half of 1997.

Net sales of poultry products totaled \$501.7 million in 1996 an increase of \$43.1 million compared to 1995. The increase was primarily related to increased production resulting from expanded processing capacity and an increase in the average selling price of poultry products. The increased sales prices were partially attributable to higher poultry markets and changes in product mix. Gross income on poultry products decreased by \$26.6 million compared to 1995 to total \$28.5 million. The decrease in gross income was primarily related to higher finished feed costs.

Net sales within the pork operations increased \$142.7 million in 1996 to total \$234.3 million. The increase is related to sales of pork as a result of the new hog processing plant reaching full single-shift capacity during 1996. The market hogs produced at the Company's live hog operations are slaughtered at the pork processing plant. The increase in sales was partially offset by a \$56.1 million decrease in sales resulting from discontinuing the operations at the Albert Lea, Minnesota pork processing plant in December 1995.

The pork operations reported gross income of \$3.1 million in 1996, an increase of \$6.7 million compared to 1995. The increase in gross income is primarily related to large increases in hog production and reaching full single-shift capacity at the new hog processing plant in 1996 along with the discontinuation of unprofitable operations at the Albert Lea plant in December

S E A B O A R D C O R P O R A T I O N  
N O T E S T O C O N S O L I D A T E D  
F I N A N C I A L S T A T E M E N T S

*December 31, 1996, 1995 and 1994*

**NOTE 1**

**Summary of Significant Accounting Policies**

**OPERATIONS OF SEABOARD CORPORATION AND ITS SUBSIDIARIES** Seaboard Corporation and its subsidiaries (the Company) is a diversified international agribusiness and transportation company which is primarily engaged in domestic poultry and pork production and processing, commodity merchandising, baking, flour milling and shipping. Overseas, the Company is primarily engaged in flour and feed milling, shrimp and produce farming and electric power generation.

**PRINCIPLES OF CONSOLIDATION AND INVESTMENT IN AFFILIATES** The consolidated financial statements include the accounts of Seaboard Corporation and its wholly owned domestic and foreign subsidiaries. All significant intercompany balances and transactions have been eliminated in consolidation. The Company's investments in minority-owned, non-controlled foreign subsidiaries are accounted for by the equity method.

**SHORT-TERM INVESTMENTS** The short-term investments are retained for future use in the business and include time deposits, commercial paper, tax exempt bonds, corporate bonds and U.S. government obligations. All short-term investments held by the Company are categorized as available-for-sale and are reported at fair value with unrealized gains and losses reported, net of tax, as a separate component of stockholders' equity. The amortized cost of debt securities is adjusted for amortization of premiums and accretion of discounts to maturity. Such amortization is included in interest income.

**INVENTORIES** The Company uses the lower of last-in, first-out (LIFO) or market for determining cost for poultry and baking product inventories. Live hogs, dressed pork, produce, grain inventories held in milling operations, seafood, parts and supplies inventories are valued at the lower of first-in, first-out (FIFO) cost or market.

**PROPERTY, PLANT AND EQUIPMENT** Property, plant and equipment are carried at cost and are being depreciated generally on the straight-line method over useful lives ranging from 3 to 45 years. Property, plant and equipment leases which are deemed to be installment purchase obligations have been capitalized and included in the property, plant and equipment accounts. Maintenance, repairs and minor renewals are charged to operations while major renewals and betterments are capitalized.

**DEFERRED GRANT REVENUE** Included in other liabilities at December 31, 1996 and 1995 is \$11,974,000 and \$12,000,000, respectively, of deferred grant revenue. Deferred grant revenue represents economic development funds contributed to the Company by government entities that are limited to construction of a hog processing facility in Guymon, Oklahoma. Deferred grants are being amortized to income over the life of the assets acquired with the funds.

**REVENUE RECOGNITION** The Company recognizes revenue on commercial exchanges at the time title to the goods transfers to the buyer. Revenue of the Company's ocean freight service is recognized ratably over the transit time for each voyage.



S E A B O A R D C O R P O R A T I O N  
 N O T E S T O C O N S O L I D A T E D  
 F I N A N C I A L S T A T E M E N T S

**USE OF ESTIMATES** The preparation of the consolidated financial statements in conformity with generally accepted accounting principles requires the Company to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the consolidated financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

**INCOME TAXES** Deferred income taxes are recognized for the tax consequences of "temporary differences" by applying enacted statutory tax rates applicable to future years to differences between the financial statement carrying amounts and the tax bases of existing assets and liabilities.

**EARNINGS PER COMMON SHARE** Earnings per common share are based upon the average shares outstanding during the period. Average shares outstanding were 1,487,520 for each of the three years ended December 31, 1996, 1995 and 1994, respectively.

**CASH AND CASH EQUIVALENTS** For purposes of the consolidated statements of cash flows, the Company considers all demand deposits and overnight investments as cash equivalents. Included in accounts payable are outstanding checks in excess of cash balances of \$20,820,000 and \$28,117,000 at December 31, 1996 and 1995, respectively. The amounts paid for income taxes and interest are as follows:

*TOTAL 48,927,000.*

*(Thousands of dollars)*

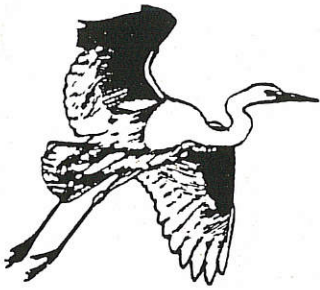
Years ended December 31,	1996	1995	1994
Interest (net of amounts capitalized)	[REDACTED]	\$14,598	\$13,415
Income taxes	[REDACTED]	\$25,384	\$14,464

*See Note 6 for non-cash financing for an investment in foreign subsidiary not consolidated.*

**FOREIGN CURRENCY** The value of the U.S. dollar fluctuates in relation to the currencies of countries where the Company's foreign subsidiaries conduct business. These fluctuations result in exchange gains and losses. The activities of these foreign subsidiaries are primarily conducted with U.S. affiliates or they operate in hyper-inflationary environments. As a result, the Company translates the financial statements of foreign subsidiaries using the U.S. dollar as the functional currency. The gains and losses that result from remeasurement are reported in earnings and are not material for the years ended December 31, 1996, 1995 and 1994. Foreign currency exchange restrictions imposed upon the Company's wholly owned foreign subsidiaries and certain minority-owned foreign subsidiaries do not have a significant effect on the consolidated financial position of the Company.

**FINANCIAL INSTRUMENTS** The Company enters into interest rate exchange agreements which involve the exchange of fixed-rate and variable-rate interest payments over the life of the agreements without the exchange of the underlying notional amounts to hedge the effects of fluctuations in interest rates. The difference to be paid or received is accrued as interest rates change and is recognized as an adjustment to interest expense. These agreements effectively convert variable-rate debt into fixed-rate debt.

Gains and losses on termination of interest rate exchange agreements are deferred and recognized over the term of the underlying debt instrument as an adjustment to interest expense. At December 31, 1996 and 1995, net deferred gains on terminated



# Kansas Audubon Council

*Dan Thalmann*

Testimony on HB2950 submitted by Kansas Audubon Council

Others here today will be speaking to various technical and political points related both to HB2950 and to the controversy over corporate hog farms. From Audubon's perspective, an important aspect of this issue involves public perceptions as it relates to some constituencies whose perspectives seem not to have been considered so far.

We note that the continued controversy over large confined animal feeding operations takes place within a context that is less than favorable for Kansas. The EPA recently criticized the state on several points concerning its water quality standards. An audit last year of KDHE found that in more than 90 percent of the cases revised the agency's own procedures were not followed. These facts sadden Kansas conservationists.

Now, the legislature is grappling with corporate hog operations, which is an issue, at least in part, about the future of water and the environment in Kansas. For us the possibility of a Seaboard Farms operation in the same county as Cheyenne Bottoms State Wildlife Refuge throws these matters into dramatic relief. As a state-owned wetlands refuge of international importance and as a part of the Western Hemisphere Shorebird Reserve Network, Cheyenne Bottoms belongs to all Kansans. Its neighboring wetland, Quivira National Wildlife Refuge, belongs to all Americans. The many bird species that use these wetlands as migratory stopovers and as home during nesting season are creatures so important to America and the hemisphere that they have received various protections under state and Federal law and under international treaty. Some of these bird species are threatened or endangered- - the whooping crane, the peregrine falcon, the least tern... and our national symbol, the bald eagle.

On behalf of the some 5,000 members of the National Audubon Society in Kansas, I wish to express our deep concern over and opposition to the possible placement by Seaboard Farms of a large hog processing plant less than a half-mile from the Arkansas River, in the vicinity of Cheyenne Bottoms. The Kansas Audubon Council also opposes



Recycled Paper

*House Environment  
3-5-98  
Attachment 14*

Seaboard's plans to contract with area farmers to raise from between about two million hogs in a 100-mile radius around the plant - - in part because of the apparently unresolved problem of odor, which Seaboard executives themselves have noted in some press reports as an ongoing problem. I will speak briefly about the odor provisions in HB2950 in a moment.

Hunters and birders have long contributed to the economies of communities around the Bottoms and Quivira. Please note the attached table of contents from The Travelling Birder, listing Cheyenne Bottoms as an internationally recognized birding destination. If approved, this proposal likely will dissuade many hunters and birders from utilizing these wetlands for recreation. Terrible smell associated with massive hog-raising and processing will keep many of us home or send us to other areas in which to hunt and to bird... and to spend our hard-earned dollars. These dollars are often coming from outside the region, from people who normally aren't exposed to hog odor and as a result, would be even more affected by this problem.

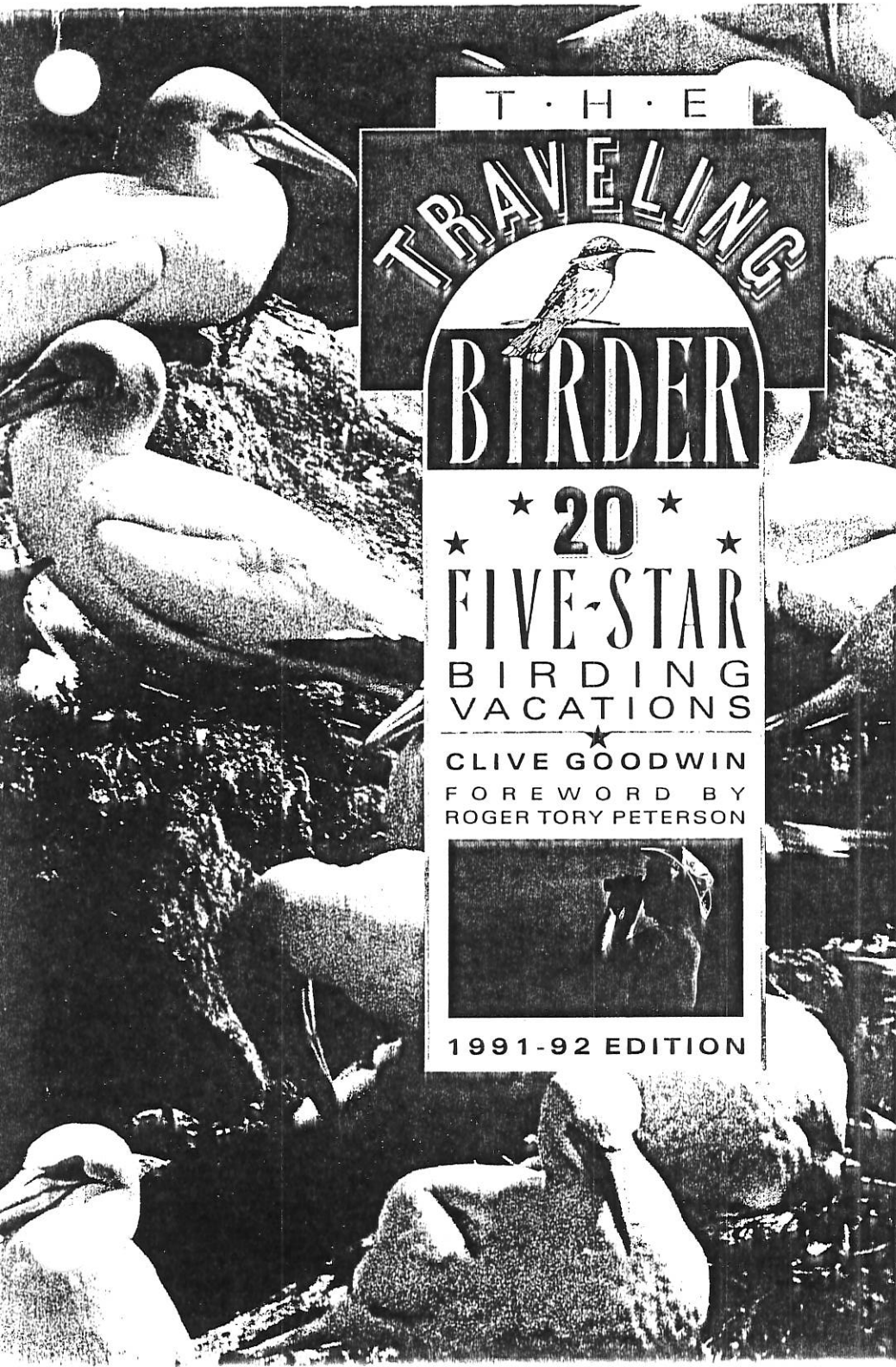
I would note here that KAC is concerned that the provisions in HB2950 concerning odor seem not to require any enforced, technically proven means to control, if not eliminate, odor associated with CAFOs. If our interpretations of these provisions are not correct, we'd welcome further clarification on behalf of our membership. For example, mega operations need to submit an odor control plan but this is not enforceable, at least according to our reading of the legislation. Is enforcement a concern for this committee? If so, the bill needs further amending.

Wastewater treatments, which could control odor, are not specified, though planting of windbreaks for facilities larger than 1000 animal units is a possibility. What are the data for showing that vegetative barriers will effectively control odor? This is a question some of our members have asked. Personally, my father-in-law's dairy farm, in Washington County, is located over a mile from a medium-sized hog operation. During a south wind, the hog odor travels over a tall hill and through a forested area and even overpowers the smell of the dairy farm odor.

Also, according to the bill, KDHE's Secretary can reduce the setback distances specified for mega operations if "no substantial objection" occurs from nearby residents and/or if KDHE believes technology will compensate. KDHE's Secretary can do the

same for non-megas if county commissions submit written requests. We are concerned that these are loopholes, which could mean odor issues are not truly taken care of in Kansas.

In relation to the potential operations around Cheyenne Bottoms and Quivira National Wildlife Refuge, we are concerned that HB2950 won't adequately address the odor problem, should CAFOs locate in that area. We hope that you will consider the concerns of hunters and birders in Kansas and across the country who wish to continue to utilize these important habitat areas. Thank you.



## CHAPTER

## 5

Horicon Marsh, Wisconsin:  
Geese, Geese, and More Geese

65

## CHAPTER

## 6

Southeast Texas:  
A Little Touch of Mexico

73

## CHAPTER

## 7

Newfoundland:  
Seabird Bastion

93

## CHAPTER

## 8

Southern British Columbia:  
Birds of the Northwest Coast

110

## CHAPTER

## 9

Cape May, New Jersey:  
Way Station for the Southbound Flood

128

## CHAPTER

## 10

Southern California:  
Seacoast to Mountain, Forest to Desert

142

## CHAPTER

## 11

Reelfoot Lake, Tennessee:  
Eagles Among the Cypresses

161

## CHAPTER

## 12

England and Wales:  
Where It All Started

171

## CHAPTER

## 13

Stillwater, Nevada:  
Salty Oasis in the High Deserts

193

## CHAPTER

## 14

Southern Florida:  
North America's Subtropics

203

## CHAPTER

## 15

Kenya:  
Barbets and Buffalo, Rollers and Rhino

225

## CHAPTER

## 16

Hawk Mountain, Pennsylvania:  
Raptors Along the Ridges

243

## CHAPTER

## 17

Cheyenne Bottoms, Kansas:  
Prairie Refuge for Shorebirds

255

## CHAPTER

## 18

North Dakota:  
Home of the Legendary Prairie Wetlands

264

## CHAPTER

## 19

Maine:  
Land of Rugged Headlands and Nesting Warblers

275

## CHAPTER

## 20

Southwest Spain:  
Land of Fighting Bulls, Moorish Monuments, and  
the Birds of the Mediterranean

286

## APPENDIX:

Scientific Names of Species Mentioned in the Text

301

14-5

**TESTIMONY IN OPPOSITION TO HB 2950**

Presented By: JOHN CARTER

935 S. Kansas Ave., Suite 200

Topeka, Kansas 66612

Phone: 232-0656 Fax: 232-3647

Madam Chairperson; Members of the committee:

I thank you for the opportunity to testify before you today. To begin I would like to ask the rhetorical question, "what is the scientific basis for this regulation?" A little over two years ago I submitted an Open Records Request to KDHE. This request asked for any report, memorandum or other document providing the basis for KDHE's CAFO regulations, and specifically asked for a description of any scientific basis underlying the 1/4 inch per day seepage standard. I was told on all accounts that there was none.

Yesterday I sat in this room as one of the proponents for this bill misrepresented to this committee the reasons why environmental and local government groups withdrew from the National Environmental Dialogue on Pork Production. It was misstated that these groups withdrew from this dialogue because they did not want to find a final solution. Among other reasons, these groups withdrew because the process for this dialogue was flawed in a manner that would not yield effective results. They also withdrew because, contrary to a prior agreement, the National Pork Producers Council was using this dialogue in press conferences as a means to derail state and local efforts at environmental protection.

My motives for opposing this bill, however, are exactly those represented yesterday by the proponent. I personally agree with what the proponent of this bill testified to yesterday. I, and those groups I represent oppose this, and any bill that reaches a final regulatory solution to the problems presented by mega swine factories...before there is a sound scientific basis for those regulations. In our opinion, there is no valid scientific basis for these regulations. The K-State Lagoon Study which was designed to provide a scientific basis for KDHE's new regulations will not be concluded until October of 1999. The data from the preliminary results of this study have indicated that existing lagoon designs are not adequately protective of soil and groundwater, and will not even meet the State of Kansas 1/4 inch per day standard.

Yesterday I sat in this room and listened to another misrepresentation which seems to have become the mantra of this committee. "Kansas has the most restrictive regulations on hog lagoons in the country." This is nothing more than a

*House Environment  
3-5-98  
Attachment 15*

standard line that the pork producers use in every state they invade. In reality Kansas has some of the most lenient standards in the nation. The new regulation proposed by this legislation would allow a seepage rate more than ten times that allowed in Oklahoma. EPA region six, and all of the surrounding states require a standard many times more restrictive than the new proposed Kansas seepage standard.

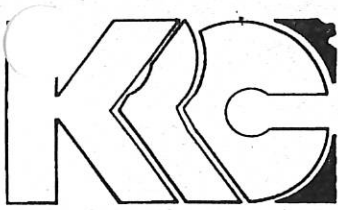
This issue has certainly provided me a lesson in representative democracy. I and a majority of the citizens from Western Kansas brought our concerns to this legislative body in the form of a request for a moratorium, and regulatory reform designed to protect this state, its resources and its citizens from a clearly demonstrably eminent hazard. The response of this legislative body has been to further erode what weak regulation already existed in this state, and to give the environment of this state away to the hog producers.

One of the few sections of this bill which seems favorable to the environment is New Section 16, which allows the secretary to deny or revoke a permit when the operator has intentionally misrepresented material facts, habitually and intentionally violated environmental laws, or had permits revoked elsewhere. These provisions almost accomplish something. If the language of New Section 16(b) were changed to "habitually or intentionally violated environmental laws..." This provision would almost have some teeth in it. As it is, however, this legislative body seems willing to accept habitual violations of law, so long as those violations cannot be proven to be intentional.

It has been represented in the media that the problems connected with these mega hog facilities are mere paperwork problems. Most of the new provisions of this regulation require new or additional paperwork. I submit that the problems connected with these facilities go far beyond paperwork, and are simply not addressed through this regulation. What is required here are adequate restrictions based on valid science and effective enforcement. This legislation provides neither.

Thank you.





KANSAS RURAL CENTER

P.O. Box 133

Whiting, Kansas 66552

(913) 873-3431

Testimony for the House Environment Committee  
Substitute HB 2950  
Submitted by Mary Fund  
March 5, 1998

The Kansas Rural Center is a 19 year old private, non-profit organization that promotes the long term health of the land and its people through education, research and advocacy. The Rural Center cultivates grass-roots support for public policies that encourage family farming and stewardship of soil and water. The Center is committed to an economically viable, environmentally sound and socially sustainable agriculture and rural communities .

The Kansas Rural Center commends the Special Sub-committee for the long hours of work and debate that resulted in Substitute House Bill No. 2950. We recognize that this is a complicated issue . There are some provisions in the bill that we support, but we are here today as opponents.

Our primary concern is with the 4500 animal unit threshold. We do not think that this level gets at the source of the existing or potential environmental problems, and thus does not address the public's concerns about odor and water pollution. 4500 animal units equals 11,250 hogs over 55 lbs. An examination of a list from the Kansas Department of Health and Environment of all permitted facilities ( including some pending permits) over 100 animal units shows that the 4500 animal unit threshold affects only about 20 swine producers or the top 2 percent, which comprise less than 25% of the total head capacity.\*

Furthermore, according to press reports, existing corporate entities who are proposing setting up facilities of their own or contracting with independent producers are talking about facilities in the 2000-4000 animal unit range (or 5,000-10,000 hogs), which would put them below the bill's threshold amount that triggers some of the more stringent regulations. This leads us to our concern that the trigger is set too high, therefore we support lowering that threshold amount.

A second concern of ours is that although some of the provisions attempt to address some of the important problems or potential problems, when applied in practice, the provisions will actually affect very few facilities.

**Lagoon Construction.** To be specific, I refer to New Section 5 (i) on new lagoon construction. The bill would establish requirements for construction where groundwater is 25 feet or less under the surface of the lagoon on those facilities with over 4500 animal units. The bill would require a synthetic liner or a compacted soil liner with an 1/8 inch per day seepage standard. However, many of the lagoons are 20 feet deep, so if you count from the surface of the lagoon, you will rarely find groundwater within 25 feet of the surface. Therefore, in practice, very few facilities would be required to have a synthetic liner or meet the 1/8 inch per day compacted soil liner.

*House Environment  
3-5-98  
Attachment 16*

**Monitoring.** That same section also states that facilities where the groundwater is within 150 feet of the surface would be required to have monitoring wells or equivalent technology in place by January 1, 2000. In western Kansas or any area of the state where groundwater is over 150 feet deep, facilities (with over 4500 animal units) would not have to comply with monitoring regulations. Just because groundwater is deeper does not mean that it cannot be contaminated,; it simply takes longer for contamination to occur.

**Separation Distances.** (Section 1 (h) 2.) Separation distances are the bill's primary vehicle for addressing the public's concerns about odor and nuisance. We recognize that the committee has broken these distances down by size of facility in an effort to expand those setbacks. But we question whether 4000 feet is enough for facilities between the 1000 - 4499 animal unit category (2500-11,000 hogs). We would also raise the setback for over 4500 animal units to a minimum of one full mile. In addition, there is a provision (New Section 11) requiring an odor control plan for facilities with over 4500 animal units. Since there is no commonly accepted technology, we question what this section means in practice. Because there is no working technology, that makes it even more critical that the the separation distances be extended.

**Land Application.** (Section 6(f). The setback distance for land application of wastes does not apply to facilities in existence on the effective date of the bill. Because this is a management practice, we do not feel it is necessary to exempt existing facilities. Meeting the new setback distance for land application should be part of their manure and nutrient management plans.

**Tax Credit.** We commend the committee on providing producers who may be required to take additional steps to bring their facilities up to compliance a financial incentive to do so. However, we would like to see the tax credit targeted by animal unit as well as by definitions of family farm corporations, etc. as found in the corporate farm law. We would like to ensure that tax payers do not end up paying the bill for mega- facilities to clean up their act.

**Summary.** As stated earlier, there are some positive provisions in the bill. Very briefly, the bill does improve the public notice and public hearing provisions. It requires manure and nutrient management plans on all facilities with over 1000 animal units. (At the Rural Center we recommend that for all livestock producers regardless of size, as livestock wastes are a valuable component of a diversified operation. ) It provides for dead animal disposal and closure of facilities. We commend these efforts.

In closing, the Rural Center believes that the only way this bill or any environmental bill will address the legitimate concerns of the public, is if environmental regulation is done in conjunction with legislation that 1) ensures the county option vote process works; and 2) if the definitions of family farm corporations and other entities within the corporate farm law are revised.

---

\* Source: Kansas Department of Health and Environment, List by Capacity and Animal Unit Size Over 100 A.U., Dated February 18, 1998. (List was presented to the Kansas Rural Center. upon request.)

March 5, 1998

## Testimony in Opposition to House Bill 2950

By

Spencer Tomb

Vice President and Chair

KWF Issues and Actions Committee

The Kansas Wildlife Federation is a broad based conservation education organization dedicated to the sustained use of natural resources. We consist of 14 affiliate clubs and individual members with a total membership of about 2,000. We are the Kansas affiliate of the National Wildlife Federation.

We oppose H. B. 2950 because it does not give adequate environmental protection to streams, ground water, migratory birds and fragile wetlands that these birds depend on each year. We think that the large number of CAFO waste lagoons that will be needed for several million hogs when considered in concert (not individually as done in H.B. 2950) create a significant environmental risk to watersheds, wetlands and streams and decrease the quality of life for those who live in or visit the area. We are concerned that the size of the CAFO that is the threshold for the application of these standards is much too high and that the setbacks from homes and public use areas are inadequate.

There is a time honored principal of environmental decision making that if you make a mistake in decisions like these that you err on the side of caution and environmental protection. The research is still being done and will not be completed for another year and the Legislature is moving ahead, therefore our opinion is that this bill is not being cautious and is a serious mistake. There is no way with out the research to be confident that these decisions are sound and appropriate. Our final concern is that if these operations fold there should be provisions for those who made the profits to clean up the sites.

We ask that you not pass this bill or if you are inclined to pass it that you should consider imposing Total Maximum Daily Loads of ammonia that can be released and impose limitations of the density of CAFOs in a watershed. We appreciate this opportunity to appear before the Committee and present our views. Thank you.

*House Environment  
3-5-98  
Attachment 17*

# NO BIG CORPORATE HOG OPERATIONS IN KANSAS

March 2, 1998

An open letter to the Editor and:

Especially Barton County Commissioners, all Great Bend City Council, Great Bend City Mayor, and Barton County Economic Development

To: All other County Commissioners, all other City Councils, and Economic Development all in Kansas.

To: All Kansas Legislatures in Topeka  
All Kansas Legislatures in Washington, D.C.

Where were you Saturday, Feb. 28? Why didn't you come to the Barton County Community College to see and hear the "REST OF THE STORY" about what a pork processing plant can do to a community? You could have heard what is happening to the farmers around Guymon. How they can not have a family life anymore, the health problems cropping up, the flies, mosquitoes, etc., which are disrupting their lives. There was even some talk of relocating these people. The businesses that this pork processing plant is suppose to be generating -- which is not true. The new homes that is suppose to be building, when in fact there are over 100 homes for sale, because people are leaving Guymon. Your readers better get informed or do their own investigating. Where were you Feb. 28?

Where is a 50 year facts, of this kind of operation? That needs to be presented to the people.

Politicians: Where you elected by the people? Did you take a legal oath? Were you elected to serve the people, to listen to the people, and do what the people wanted? Not just your own ideas, or to fill your own pockets. In the Oath, did you swear or affirm to uphold this constitution of the United States of America? So help me God? Do you know the Constitution completely? Do you understand the Constitution front wards, backwards, upside down, inside out, front to back, left to right, right to left? If not, how can you swear to something if you don't know it totally? When you affirm to uphold the constitution and in front of God, I wonder how you can look you constituents in the face? Shame, shame, shame on you, what traitors you are. Like Judas betraying Jesus - money, money, money is this all that is on your mind? I guess Jesus better move out of the way for you and your money lords (big corporations).

When you Barton County Commissioners and Great Bend City Council accepted over 1300 signatures on a petition, people who do not want any of this big corporate business here, didn't you understand the public cry? So my recommendation to the big corporate hog facilities is get out of our life and stay out of Barton County and out of Kansas, period

HOUSE ENVIRONMENT  
3-5-98  
ATTACHMENT 18

When the big, mega Corporations disguised as "Family Farms" (like wolves in a lamb's skin), with billions of dollars, wine and dine you politicians, just like little kids around the Christmas tree, and you have forgotten the real purpose you were elected for and then try to turn our "REPUBLIC" into a dictatorship I just cannot find any of this in our Constitution. What I do find is a person should have "life, liberty and happiness" not dictatorship, Corporations have NO HEART or SOUL. Their purpose is only to make MONEY, to control with power and greed, take over everything and they could care less about people.

Like Steve Anderson said at a meeting, the problem is we are getting 1947 prices for agricultural products on the farm, which has driven farmers out of business or bankrupted them. THE SOLUTION IS PARITY PRICES IN THE STEIGLAMENDMENT; that would put money in the farmers pocket. They would spend it on all kinds of things in this town, that would put people to work all over the place, and put more people back on the farms again.

I have no titles behind my name, except that I am a professional farmer. I believe I do have a little of the least "commodity" people have today, which is COMMON sense. When we are accused of being emotional, that is because we do have a heart, soul and feelings, and are answerable to the God Almighty. Big Corporations and science does not have any of this!

Keep the big hog operations out of Kansas and God's country.  
Put this to a vote of the people of Kansas.

May God save our country

~~LeRoy G. Scharte~~  
LeRoy G. Scharte  
RR #3

Sent to many News publishers

P.S. I want to hear from each one of you. Great Bend, Ks. 67530

## MARTIN ENVIRONMENTAL SERVICES

3122 Tall Oaks Circle, Norman, Oklahoma 73072  
(405) 321-3176

Written Comments presented to Kansas House Environmental Committee on March 5, 1998 regarding Proposed Substitute for House Bill No. 2950. Comments prepared by Kathy J. Martin, a licensed professional engineer, with extensive background in environmental regulations, wastewater treatment, and CAFO regulatory issues.

---

Page 5, Line 7 (subsection g): The Bill does not clearly state what size of facility shall have a permit to construct a swine facility. The Bill states what size is required to register (ie., 0 to 999), but does not mention permitting requirements for facilities 1000 au or greater. Bill only refers to requirements.

Page 6, line 29 (subsection i(1)): The Bill states that separation distance waivers shall be filed in the county deeds office. The waivers must also be contained in the public file at the regulatory agency and be a part of the permit application.

Page 7, line 4 (subsection B): The Bill states that the Secretary can reduce the separation distance but does not provide for an INCREASE in separation distance if so warranted. An increase should be allowed for highly sensitive areas not yet identified but they would need to be protected regardless of whether swine facility preceded that identification. For example, phosphorus sensitive watersheds.

Page 7, line 19 (subsection C): the word "or" should be stated as "and" because the lack of objection by adjacent landowners is not equivalent to approval. Many landowners have no idea what to do when given notice of a swine facility. Their inaction cannot be interpreted as complete and total approval. The setback distance is provided to reduce impacts of odors, to reduce impact to surrounding water wells.

Page 8, line 28 (subsection k): The separation distance is stated to begin at the barns and/or lagoon, but does not indicate what portion of the habitable structure will be used. It should be the property boundary, not the corner of the home.

Page 9, line 2 (subsection 1): The Bill requires notice to be given to owners of habitable structures within the separation distance, but does not state exactly what must be included in that notice. The owners of habitable structures must be told their legal options. What about the renters of the habitable structure? Who will inform them of their rights?

Page 9, line 8 (subsection (m)): The Bill requires that the plans and specs be certified by a licensed professional engineer. This is great, but what will the PE certify? Will s/he certify that the plans and specs are sound engineering? Protective of the environment? Printed on recycled paper? A person would want to know what is to be certified before they would put their seal and signature on the certification.

Page 9, line 15 (definition a): The Bill defines Best Available Technology with a definition that is not in line with that used in all EPA regulatory language. The use of Kansas State University to be the source of BAT is questionable. Several publications and statements made by KSU and faculty are clearly wrong both technically and environmentally.

Page 9, line 23 (definition b): The definition should read, 'minimize or prevent pollution of the air, water or soil AND to control odor, flies, rodents, and other pests,....'. The definition as written in the Bill would allow for minimization of pollution OR controlling pests. Obviously, both actions would be desirable.

*House Environment  
3-5-98  
Attachment 19*

Page 9, line 35 (definition f): The definition is poorly written by using the title as the definition. The use of significant potential for pollution in the Bill dictates when certain actions will occur to protect the environment. There should not have to be a "significant" potential before the state takes action to protect the environment. Otherwise, you will have to wait until the environment is ruined before taking action. Do you wait for a fish kill before enforcing beneficial use standards? Do you wait for a traffic accident before you enforce the speed limit? No, there are many laws and rules designed to prevent problems before they occur.

Page 10, line 33 (subsection B): The Bill requires a map of the facility showing "nearby" waters. How close is "nearby"? Swine operators in Oklahoma have failed to show maps where the North Canadian River was within three miles of a facility. So it is important to define how far one must look for surface water. The facility must be required to identify the unnamed tributaries of the major river systems as well.

Page 11, line 7 (subsection E): The Bill requires that the applicant consult with a county agent to insure that correct agronomic rates of application are used. The Bill must require a complete wastewater analysis so that the agronomist is aware of the level of salts, biochemical oxygen demand and other waste components that may be more restrictive than nutrients with respect to land application rates. All municipalities must compare nutrient loading, biochemical oxygen demand loading (ie., the degradable component of the waste) and hydraulic loading (ie., the amount of liquid applied). The loading rate that requires the most land is the rate used.

Page 12, line 10 (subsection f): The Bill does not clearly state if the adjacent landowners have access to a formal administrative hearing convened by an administrative law judge. If not, the district courts will be hearing the cases instead of the agency.

Page 12, line 33 (subsection (3)): The case of a "water" impoundment is not readily understood. Is this a stormwater run off lagoon? The swine waste management facility would not have a water impoundment, but would have a WASTEwater impoundment. If the Bill is kept as is, the meaning could be interpreted to mean that a natural occurring depression can be used as a wastewater lagoon without a construction permit. This is totally unacceptable.

Page 13, line 8 (subsection (4)): The Bill allows for a separation distance waiver for the facility water well. The distance waiver should be conditional to the use of a cement annular seal from the surface of the well to the producing groundwater. The use of a cement seal will prevent vertical migration of pollutants down the excavated wellbore of the facility water well.

Page 13, line 10 (subsection (5)): The separation distance between a swine lagoon and a public drinking water well should be at least 3 miles or greater depending on the amount of water withdrawn and the cone of depression of the public water well(s). The purpose is to prevent the accelerated migration of polluted groundwater from under the swine facility towards the drinking water well. The farther away, the better, especially for the swine facility. It will take longer before they are sued for polluting the public water supply.

Page 13, line 25 (subsection c): What will the facility test the water for? What parameters of concern? Has anyone seen a wastewater analysis for swine wastewater? Does anyone know what is of concern? Should include at a minimum, total nitrogen, ammonia, nitrates, chlorides, calcium, magnesium, potassium, conductivity, pH, fecal coliform, total dissolved solids, and bicarbonate hardness. These components are the fingerprint of swine wastewater.

Page 13, line 27 (new Section 5): The language infers that a permit for construction can be obtained by any facility with greater than 1000 animal units. The language does not state that the facility SHALL obtain a permit. Considering the nuisance exclusion provisions of this law, it is imperative that the Bill clearly state who is required to obtain a permit prior to construction. No one should be allowed to obtain a permit for the sole reason of escaping a nuisance lawsuit.

Page 13, line 35 (subsection b): The existing swine facilities should be able to submit a waste management plan immediately if they are operating their facility correctly. The facility should have a waste management plan regardless of whether or not it is required by law. It just makes good business sense. In addition, every swine facility should already have a manure management plan in place in order to operate their facility regardless if Kansas has or has not made it a regulatory requirement. These documents should be readily accessible by a responsible operator. The swine companies all claim they are environmentally conscious, so this should not be a problem for them to produce immediately.

Page 14, line 8 (subsection c): The manure management plan must include a nutrient management plan, but does not address other pollutants of concern. The Bill must address the complete environmental picture of lost nutrients by volatilization, minimal crop uptake, and other waste constituents, such as salts, hardness, metals, BOD, and enteric bacteria and disease.

Page 14, line 31 (subsection h): Why would an employee of the facility be allowed to accept wastewater from the facility without documentation? All removal must be documented. Being an employee does not insure proper management of the waste.

Page 15, line 9 (subsection 2): The Bill requires the facility to provide the hauler with the most recent manure nutrient analysis. The facility must be required to provide information about all of the waste constituents, not just the nutrients, including salts, hardness, metals, BOD, and enteric bacteria and disease.

Page 15, line 16 (subsection (i)(1)): The only requirements for liner are for facilities with animal units greater than 4500 (equals 11, 250 swine). This is the most laughable part of the Bill. In other words, Kansas will not regulate the swine industry. Over 90% of all facilities in Oklahoma would not qualify for a liner because the number of animals, although very large, are not as HUGE as that allowed by Kansas.

Page 15, line 17 (subsection (i)(1)): The wording "where the groundwater is at a depth of 25 feet or less under the surface of the lagoon or pond..." is very odd. If the lagoon is 20 feet deep, then Kansas is allowing a 5 foot separation between the bottom of the lagoon and the top of the groundwater. However, if the lagoon is 24 feet deep, then Kansas is allowing a ONE FOOT separation, which is ridiculous no matter what type of liner is employed.

Page 15, line 19 (subsection A): The Bill allows for a permeability that is 36 times more lax than that required in Oklahoma.

Page 15, line 22 (subsection B): The Bill allows for a permeability that is 73 times more lax than that required in Oklahoma.

Page 16, line 31 (subsection (B)): The Bill uses a depth of groundwater of 150 feet as a magic cutoff between monitoring for groundwater or not. All groundwater in Kansas would be at risk if it is part of a RECHARGE aquifer system, regardless of depth. The risk is if the pollution is in the recharge area. The risk is if there are vertical migration pathways that would speed up the transport of pollutants from the surface to the groundwater (ie., unsealed water wells, poorly plugged wells, seismic borings, etc.)

Page 16, line 9: The Bill allows the facility to wait until January 1, 2000 before installing monitoring wells. First of all, monitoring wells are not that expensive for facilities with groundwater at depths less than 25 feet. Second of all, the facility could use existing water wells to monitor groundwater quality if groundwater is deeper than 150 feet. Therefore, there is no economic reason why the facility should not be required to install monitoring wells immediately in order for Kansas to start receiving water quality data immediately.



Page 17, line 6: The Bill allows for two state agencies to coordinate their activities in order to permit and regulate the swine industry. The public is unnecessarily exposed to a system that will most certainly bounce them back and forth claiming the "other" agency is responsible. This Bill must make a decision as to which agency will be completely and totally responsible for the protection of health and the environment. Otherwise, be prepared for more lawmaking next year as highly frustrated landowners seek revenge.

Page 19, line 12: The Bill only requires wastewater analysis every two years for nutrient management. The test for nitrogen would cost less than \$50.00. Why not require them to analyze at least quarterly? In addition, the analysis should include basic water quality parameters and bacteria.

Page 19, line 13: The Bill does not specify whether or not the nutrient analysis will be available for public review in a public file at the regulatory agency.

Page 20, line 15: The entire section (f)(1) allows for highly inappropriate land application practices. It basically allows the swine facility to land apply their wastewater to bare soil without incorporation if the facility uses an anaerobic treatment lagoon. That is what all swine facilities are doing already. Why infer that a restriction occurs when it most obviously does not?

Page 20, line 21: Innovative technology is not best available technology purely by definition as commonly used by the EPA nationwide.


Page 20, line 35; Page 21, line 1, line 5, and line 9: The Bill allows for application of manure or wastewater during conditions that are not allowed by federal law, especially on frozen and saturated soils. These exemptions are laughable and represent one of the main methods of surface water pollution. If the facilities are allowed by law to land apply wastewater during a storm event or during conditions of frozen ground, then the environment is at unnecessary risk. The facilities must be required to plan ahead and perform land application only during crop uptake and only when the soil is able to accept moisture and maintain that moisture at the root zone. By allowing the facility to land apply during times when crop uptake will most certainly not occur, the practice of "nutrient management" becomes "waste disposal".

---

In an effort to consolidate my comments for the remainder of the Bill, I will summarize:

1. The Bill is extremely more lenient than CAFO regulations in Oklahoma.
2. The Bill does not restrict the industry in any manner at all.
3. Any restrictions implied have options for waivers or apply to facilities larger than 90% of those built in Oklahoma right now.
4. The provisions of permitting, facility requirements, closure, etc., are not clearly stated as to whether they will be included in a formal public review and administrative hearing process.
5. This is not an environmentally protective law. It is a very obvious "free ticket" to the swine industry to come to Kansas and do whatever they wish.

Sincerely,

  
Kathy J. Martin, PE  
Martin Environmental Services