

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 11, 1998 in Room 526-S of the Capitol.

All members were present except: Rep. Steve Lloyd - excused
Rep. Kent Glasscock - excused
Rep. Richard Alldritt - excused

Committee staff present: Raney Gilliland, Legislative Research Department
Mary Ann Graham, Committee Secretary

Conferees appearing before the committee: Gary Mitchell, Secretary, Kansas Department of Health and Environment, 900 SW Jackson, Room 620, Topeka, KS 66612-1290
Cindy Lash, Principal Auditor, Legislative Division of Post Audit, 800 SW Jackson, Suite 1200, Topeka, KS 66612-2212
Maurice Korphage, Director, Conservation Division, Kansas Corporation Commission, 130 S. Market, Room 2078, Wichita, KS 67202

Others attending: See attached list

Chairperson Joann Freeborn called the meeting to order at 3:30 p.m. She announced that the Senate Energy and Natural Resources Committee will be hearing two bills that were passed out of this committee. On Thursday, March 12, the Kansas river bill and on Friday, March 13, the Steve Lloyd Wetlands bill will be heard. If anyone wishes to testify on either of these bills they can contact the secretary of that committee, Lila McClafin. She also announced that the former members of the sub-committee on Substitute for HB2950 will be leaving the committee early today to work on presenting that bill to the COW. She opened public hearing on SB483.

SB483: Concerning solid waste; authorizing disposal of certain wastes without a permit.

The Chairperson welcomed Gary Mitchell, Secretary, Kansas Department of Health and Environment, to the committee. He provided testimony in support of the bill. (See attachment 1) This bill was introduced by the department to expand the types of solid waste disposal activities which may occur without obtaining a solid waste landfill permit. The department is requesting statutory authority to "approve of" certain waste disposal practices, rather than utilize the more time consuming and expensive permitting process, if special circumstances exist which warrant this approach. This new authority will greatly benefit Kansans because waste management problems can be more promptly handled and disposal costs will be significantly reduced. KDHE will ensure that environmental protection is not compromised when approving of unpermitted disposal activities. Discussion and questions followed.

Written testimony, in support of the bill, was provided by Linda Peterson, Marion County Commissioner and board member of the Central Kansas Solid Waste Authority made up of Dickinson, Harvey, Marion and McPherson counties. (See attachment 2)

The Chairperson closed the hearing on SB483.

Chairperson Freeborn welcomed Cindy Lash, Principal Auditor, Legislative Division of Post Audit. She appeared to brief the committee on the Performance Audit Report on the Activities of the Corporation Commission's Conservation Division (A K-GOAL Audit). The audit focused on the Commission's regulation of the State's oil and gas producers. Those regulatory activities are carried out by the Commission's Conservation Division. She discussed answers to questions in the audit which asked if the Conservation

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENVIRONMENT, Room 526-S Statehouse, at 3:30 p.m. on March 11, 1998.

Division has an adequate program for ensuring that oil and gas producers comply with state regulations, do they effectively deal with the backlog of old, unplugged oil and gas wells in the state, and do they have adequate controls to ensure that the state doesn't incur costs for plugging wells abandoned by operators. Discussion and questions followed.

The Chairperson thanked Cindy Lash for her presentation. Several members of the Kansas Corporation Commission were in attendance and introduced. Thomas Day, Legislative Liaison, Topeka; Maurice Korphage, Director, Conservation Division, Wichita, and Bill Wix, Attorney, Wichita.

Maurice Korphage was recognized by the Chairperson and addressed the committee. He answered questions that were raised concerning tracking ownership of abandoned wells and operation performance. He addressed recommendations that were made by the audit team. He suggests there is call for legislative action to correct perceived deficiencies in the statute covering financial assurance and Commission regulations based on that statute. (See attachment 3) (The complete Performance Audit Report can be seen in the Legislative Post Audit Division)

The Chairperson thanked Maurice Korphage for his cooperation, other guests for appearing, and the committee for their attention.

The meeting adjourned at 4:40 p.m.

The next meeting is scheduled for March 12, 1998.



KANSAS
DEPARTMENT OF HEALTH & ENVIRONMENT
BILL GRAVES, GOVERNOR
Gary R. Mitchell, Secretary

Testimony presented to

House Environment Committee

March 11, 1998

by

Gary R. Mitchell, Secretary

Kansas Department of Health and Environment

Senate Bill 483

KDHE appreciates this opportunity to provide testimony in support of Senate Bill 483. This bill was introduced by the department to expand the types of solid waste disposal activities which may occur without obtaining a solid waste landfill permit. The department is requesting statutory authority to "approve of" certain waste disposal practices, rather than utilize the more time consuming and expensive permitting process, if special circumstances exist which warrant this approach.

The department already has some limited authority to approve of unpermitted solid waste disposal and processing activities. Prior to the 1997 legislative session, the solid waste statutes gave the secretary broad authority to evaluate any waste management situation and determine whether a permit was necessary. However, House Bill 2226 took away that general authority and replaced it with two specific exemptions to the permitting requirements. These include: (1) waste which has already been dumped at an unpermitted site; and (2) waste which is processed as part of a temporary remediation project.

The primary reason for the 1997 legislative action was to ensure that disposal activities would all be subject to the long-term financial assurance requirements related to post-closure care. Today, we recognize that these concerns are not warranted in cases where long-term liabilities are insignificant. Also, KDHE can stipulate certain conditions as part of the unpermitted approval process to provide some assurance that closure and post-closure will be properly carried out.

In 1997 when this change to the statutes was made, it was not possible to foresee all of the potential needs which may arise which warrant an exemption from the solid waste permitting process. Although the department is not requesting a return to the "general" authority which existed prior to 1997, it is appropriate to expand the current list of specific waste disposal practices which can be approved without a permit and to provide a "general emergency" provision to approve of prompt disposal when necessary to protect human health. The three newly proposed disposal practices include:

- (1) The disposal of construction & demolition waste at the site where the waste is generated
- (2) The disposal of waste resulting from a transportation accident near the accident site
- (3) The disposal of dead animals on or near the property where the animals die

The suggested emergency provision is designed primarily to handle waste generated by natural disasters. It also is needed to give the department the flexibility to quickly address other unpredictable problems that may arise. Such approvals will only be granted by the department if the local authorities agree to properly close and maintain the site.

This new authority will greatly benefit Kansans because waste management problems can be more promptly handled and disposal costs will be significantly reduced. KDHE will ensure that environmental protection is not compromised when approving of unpermitted disposal activities.

Thank you for this opportunity to provide testimony on SB 483.

SENATE BILL NO.483 TESTIMONY

My name is Linda Peterson. I am a Marion County Commissioner and a board member of the Central Kansas Solid Waste Authority made up of Dickinson, Harvey, Marion and McPherson counties.

Proposed Senate Bill No. 483 which authorizes disposal of certain wastes as an exemption to the solid waste permitting requirements is very important to Marion County. I have had a long standing concern for cleanup of debris from natural disasters, such as tornadoes, floods and lightning strike fires. Our Emergency Preparedness Coordinator has reminded me many times how important it is for Marion County to be prepared to handle debris from a tornado. He also has had many conversations with K.D.H.E. staff on disposals from natural disasters and fully supports the provisions of Section 1 Paragraph (6) of the proposed Senate Bill No. 483.

Other provisions for exemptions to solid waste permitting requirements needed by Marion County are contained in:

Section 1 Paragraph (3) – Disposal on sight of a building

Section 1 Paragraph (4) – Disposal of wastes from a transportation
Accident

Section 1 Paragraph (5) – Disposal of whole livestock carcasses

I want to thank the K.D. H.E. Bureau of Waste Management staff for their assistance on these disposal needs so important to our rural counties. I am pleased that great progress is being made on solid waste planning and legislation and would encourage your approval of Senate Bill No. 483.

*House Environment
3-11-98
Attachment 2*



Kansas Corporation Commission

Bill Graves, Governor John Wine, Chair Susan M. Seltsam, Commissioner Cynthia L. Claus, Commissioner

February 19, 1998

Ms. Cindy Lash, Principal Auditor
Division of Legislative Post Audit
Mercantile Bank Tower
800 SW Jackson, Suite 1200
Topeka, Kansas



Dear Ms. Lash:

On February 17, the Kansas Corporation Commission submitted its formal response to the draft copy of the Division of Legislative Post Audit's review of certain elements of the Commission's regulation of the State's oil and gas industry. As part of that response, the Commission indicated that it would provide the audit team with specific responses to the conclusions and recommendations contained in the draft report. Enclosed you will find our response.

The audit team provided us with many useful recommendations, some of which we've already begun to implement. The Commission will internally prioritize remaining projects and initiatives so that staff may direct its efforts consistent with meeting the Commission's highest priority objectives.

Should you have any questions or if any member of the Division staff can be of further assistance please do not hesitate to contact us.

Sincerely,

M.L. Korphage
Director, Conservation Division

CC: John Wine, Commission Chair
Commissioner Susan Seltsem
Commissioner Cynthia Claus
David Heinemann, Executive Director
File

House Environment
3-11-98
Attachment 3

**Kansas Corporation Commission Response to
The K-GOAL Audit of the Conservation Division
Conducted by the Legislative Division of Post Audit**

February 17, 1998

Recommendations Page 16 and 17:

Recommendation 1

The Division has relied on the use of the Commission's General Rules and Regulations for the Conservation of Crude Oil and Natural Gas as a general written guide for staff to use in meeting regulatory goals of the Division. The Division supplements this with "in house" training at the Central Office and District levels. We agree that written policies and procedures would allow the Division to standardize its operational procedures. Some progress already has been made in standardizing procedures. The Division is in the final stages of developing a very detailed Quality Assurance Project Plan for water sampling by District field staff.

Recommendation 1a

The Division agrees with post audit recommendation that documentation of lease inspections and their results needs improving. This Division is currently developing a standard operating procedure for lease inspection. It appears the "surface facilities module" of the Risk-Based Data Management System (RBDMS) will effectively schedule and track such inspections.

Recommendation 1b

As the audit team noted, only one District office had a systematic approach for tracking all complaints received and documenting subsequent investigations. The second District now has a system for tracking complaints. Division-wide staff will be reviewing and recommending modifications before the system is implemented on a Division-wide basis.

Recommendation 1c and 1d

Again the Division agrees with the audit recommendation that current procedures for dealing with problem situations need to be expanded and formalized as written procedures.

Recommendation 2

The newly acquired RBDMS does have some built in data entry checks which should reduce data entry error. The Division will also seek assistance from the Commission's Information Services section as to additional efforts that could result in better quality control of data entry. Staff will also develop a monthly edit check for data entry validation.

Recommendation 3

Staff will develop a "raised exception" error check program for date validation (spud date and intent date verification, etc.) A central office staff person will be assigned to perform this review and another staff person will enter the data.

Recommendation 2

The Division agrees with this recommendation. Satisfactorily resolving the number of abandoned wells that need to be plugged can only be achieved with supplemental outside funding. The Abandoned Well / Site Remediation Fund which was created by house Substitute for Senate Bill 755 of the 1996 legislature is set to expire on June 30, 2002. The Commission concurs with the audit recommendation that an extension of the program as opposed to additional current funding is the most practical method to achieve the desired results as set forth in S.B. 755.

Recommendation 3

Currently the Division, through its District offices, does seek bids for services for well pluggings and remediation activities where those costs are expected to be less than \$10,000. However the Commission has requested the State's Division of Purchases to assist in preparing a standard bid procedure for well plugging and remediation services. Procedures are being drafted and adopted for use by District staff following those guidelines as suggested by the audit team in this recommendation. In addition the Division has contacted the Department of Administration, Division of Purchasing seeking assistance in staff training. The Commission plans to streamline its current procedures.

Recommendations Page 32

Recommendation 1

The recommendations made in this section call for legislative action to correct perceived deficiencies in the statute covering financial assurance (K.S.A. 55-155) and Commission regulations based on that statute. The Division would note that the Financial Assurance Program has been in place less than sixty days and there is little data currently available to warrant significant changes as the program applies to producers. However legislative clarification as to segregation and use of the funds derived from the program would be helpful.

Recommendation 2

Currently when an authorization for expenditure request is received, it is reviewed by the legal department to determine that the field inspector has reviewed the files of the Register of Deeds, the County Assessor, the Conservation Division including the District office, and the U.S. Bankruptcy Court. The Districts will now also check with past oil and gas purchasers for records that might reflect potentially responsible parties. Generally a determination not to pursue a potentially responsible party is based on a number of factors which include among others: a filing of bankruptcy, ability to locate the party, and death. Sworn financial statements indicating an inability to pay have also been accepted in a limited number of cases. In addition, now that the Division is working closely with the Department of Administration on collection of fines and recoupment of costs, other recovery vehicles are available such as Order in Aid proceedings through District Courts. The Division is developing a procedure to ensure that all reasonable efforts are taken to pursue responsible parties, and that such efforts are appropriately documented.

Recommendation 4

The Division agrees that scheduled and regular lease inspections should be increased and properly documented. The RBDMS "surface facilities module" appears to offer the best method of reaching this goal. Once properly customized and implemented the system would allow the district offices to properly track what leases have been inspected and when.

Recommendation 5

Division management took steps in the fall of 1997 by eliminating most of the clerical preparation work. The Commission will take additional steps to assure the timely handling of enforcement cases.

Recommendation 6

The Division would note that corrective action required by a Commission compliance order is not waived. The compliance problem that caused the order to be issued must be corrected. When a compliance order is appealed, the monetary penalties in that order are sometimes settled for a reduced amount, provided the underlying compliance problem has been satisfactorily corrected. An appeal of a Commission order requires a hearing. Holding such a hearing costs the Commission time and money. Field personnel who investigated the case must spend time preparing testimony and traveling to the Division office to testify at the hearing. Legal staff must prepare for the hearing and the case must be heard. In many cases a settlement of the monetary penalty is cost effective for the Commission. Second and subsequent penalties issued against the same operator are rarely mitigated. Mitigation of a monetary penalty was never intended to affect whether an operator qualifies for reduced financial assurance.

Recommendation 7

The Division agrees that it should ensure that all proration orders are properly enforced. In an effort to bring "out of tolerance" wells into compliance, without incurring negative impacts to agricultural gas users in the field areas, the Division will notify all operators with "over tolerance" wells to immediately limit production to 75 mcf per day or less. Production department staff will perform quarterly reviews of the status of "over tolerance" wells and instruct operators who have failed to maintain limited production by letter that the well or wells are to be shut-in until such time as compliance with the proration order is achieved.

Recommendations Page 27

Recommendation 1a

While the plugging practice set out in this recommendation represents current Commission practice, the Commission will set this out in a formal plan as suggested by the auditors.

Recommendation 1b and 1c

The Division does place a high priority on the orderly completion and reinspection of abandoned well sites. Use of technological improvements such as GPS (Global Positioning Systems) has allowed the Division to complete rapid and precise mapping and documentation of over 1600 abandoned well sites in the District III field area during the last six months. A grant application for support of additional GPS equipment has been filed with the Environmental Protection Agency (EPA), and when implemented will allow even more rapid and widespread use of this technology through out the Division. Additional GPS units will be purchased for District III where the vast majority of the sites are located.