

Approved: 3-13-98
Date

MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

The meeting was called to order by Chairperson David Corbin at 8:00 a.m. on March 10, 1998 in Room 254-E of the Capitol.

All members were present except:

Committee staff present: Raney Gilliland, Legislative Research Department
Mary Ann Torrence, Revisor of Statutes
Lila McClafin, Committee Secretary

Conferees appearing before the committee:
William Wix, Asst. General Counsel, Conservation Division, Kansas Corporation Commission (KCC)
Don Schnacke, Kansas Independent Oil & Gas Association
Maurice Korphage, Director, Conservation Division, Kansas Corporation Commission (KCC)

Others attending: See attached list

A motion was made by Senator Tyson with a second from Senator Schraad to approve the minutes of the March 5 meeting. The motion carried.

HB 2418 - Reporting of transfer of responsibility for oil or gas well, gas gathering system or underground gas storage system.

Chairperson Corbin opened the hearing on the bill and call on Bill Wix.

William J. Wix, Asst. General Counsel, KCC, supported **HB 2418**. Currently there is no express statutory authority requiring operators to register a transfer of an oil and gas lease with the Commission. He thought it was necessary to make it a statutory responsibility. Mr. Wix said an additional benefit to this legislation will be the assistance it provides in determining responsible parties for wells in terms of plugging liability (Attachment 1).

Donald P. Schnacke, Kansas Independent Oil & Gas Association, thought it was in the best interest of their industry and the State Corporation Commission to have the responsibility for operations that have been transferred reported to the Commission (Attachment 2).

The hearing was closed on **HB 2418**.

HB 2419 Increased penalties for certain violations of oil and gas wells.

Chairperson Corbin called on Maurice Korphage to testify on **HB 2419**.

Maurice Korphage, Director, Conservation Division, Kansas Corporation Commission, supported the bill. It would amend four sections of the existing law by clarifying unlawful actions and changes the penalties with respect to the production of oil and gas. The bill increases the current fine from not exceeding \$500 to not exceeding \$5,000.00, and reduces the imprisonment in the county jail. The bill would make the violation for disposing of oil field waste a severity level 9, nonperson felony (Attachment 3).

Mr. Korphage responding to a question about using the salt water waste on dirt roads in western Kansas, said it can still be done but it must be approved by the Kansas Department of Health and Environment. He also explained how the wells are prioritized.

Don Schnacke representing the Kansas Independent Oil & Gas Association supported the bill. He suggested **SB 25** introduced in the 1997 session by Senate Committee on Assessment and Taxation be amended into

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, Room 254-E Statehouse, at 8:00 a.m. on March 10, 1998.

HB 2419. A copy of SB 25 and the fiscal note were attached to Mr. Schnacke's testimony (Attachment 4). Mr. Schnacke said he thought the dollar amount of the fiscal note was a problem last session. He suggested the tax credit could be capped to a given amount per year, and this would lower the amount of the fiscal note. He thought this would be an incentive for landowners to plug wells on their property. When Mr. Schnacke was asked if a sunset provision would be appropriate he responded "Yes".

The hearing on HB 2419 was closed.

The committee turned their attention to HB 2418.

Senator Morris moved to amend the dates in the bill to read appropriately and the bill be passed as amended. The motion was seconded by Senator Karr. The motion carried.

The Chairperson called for action on HB 2419.

Senator Morris moved to amend HB 2419 to include a new Section that would incorporate SB 25. A Kansas taxpayer would be given a credit on their Kansas income tax return of an amount equal to 50% of such expenditures incurred in plugging an abandoned oil or gas well in accordance with the rules and regulations of the Kansas Corporation Commission. There would be a cap of \$250,000.00 for any one fiscal year, and the amendment included a two year sunset provision. The motion was seconded by Senator Biggs. Motion carried. A motion was made by Senator Morris with a second by Senator Karr the bill be passed amended. The motion carried.

The next meeting is scheduled for March 11, 1998.

The meeting adjourned at 8:55 a.m.

Testimony of William J. Wix
Assistant General Counsel
Kansas Corporation Commission
Conservation Division
before the
Senate Committee on Environment and Natural Resources
March 10, 1998

Good morning, I am William (Bill) J. Wix, Assistant General Counsel, for the Conservation Division of the State Corporation Commission. I am appearing today to testify in support of House Bill No. 2418.

During the 1996 Legislative Session, House Substitute for Senate Bill 755 was enacted. That act accomplished many important legislative changes to the laws governing the regulation of oil and gas production in the State of Kansas. A major part of that law was the financial assurance provisions for licensing. Those provisions to establish financial responsibility requirements for oil and gas operators within the State took effect on January 1, 1998.

K.S.A. 55-155(d) sets forth the different types of financial assurance which must be demonstrated annually in order to be licensed. Subsections (1) and (2) both are computed based upon the number of wells which are an individual operator's responsibility and are computed by reference to the depth factor of each well.

Currently there is no express statutory authority requiring operators to register a transfer of an oil and gas lease with the Commission. Although we do have a regulation pertaining to the filing of such transfers, we feel it is necessary that this be made a statutory responsibility. Only by keeping track of all leases and the number of wells on each lease and the depth of each well, can the Commission properly compute the amount that an operator will have to pay when renewing their license when required.

An additional benefit to this legislation will be the assistance it provides in determining responsible parties for wells in terms of plugging liability. There have been cases where claims have been made against the last known operator only to discover that the lease has been transferred through several other operators but never reported.

Senate Energy & Natural Resources

Attachment: 1

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In dealing with such abandoned wells, our district field staff always verify recordings with the Register of Deeds to determine if an oil and gas lease or assignment is of record. Quite often they are not.

By making this a statutory responsibility the Commission will be better able to implement the legislative intent of the 1996 Legislature in enforcing financial assurance and in assisting with the identification of responsible parties.

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



KANSAS INDEPENDENT OIL & GAS ASSOCIATION

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March 10, 1998

In the Senate Committee on Energy and Natural Resources
Statement By Donald P. Schnacke

RE: HB 2418 - Transfer of Oil and Gas Responsibility.

My name is Don Schnacke, representing the Kansas Independent Oil & Gas Association.

We support the enactment of HB 2418. It was discussed at a meeting of the KCC Oil & Gas Advisory Committee last year. KIOGA's a member of that committee. The bill was introduced last session, but too late to schedule a hearing.

We believe it is in the best interest of our industry and the State Corporation Commission to have the responsibility for operations that have been transferred reported to the Commission. Therefore, we support HB 2418 and urge its enactment.

Donald P. Schnacke

DPS:sm

Senate Energy & Natural Resources

Attachment: 2

Date: 3-10-98 2-1

Testimony of Maurice Korphage
Director
Kansas Corporation Commission
Conservation Division
before the
Senate Committee on Energy and Natural Resources
March 10, 1998

Good morning, I am Maurice Korphage, Director of the Conservation Division of the State Corporation Commission. I am here today to comment on amendments recommended by the Kansas Corporation Commission, Conservation Division to K.S.A. 55-708, 904, 1004 and 1005 as contained in House Bill No. 2419 and as further amended by the House Committee on the Environment and the House Committee of the Whole.

The amendment to K.S.A. 55-708 would increase the existing fine from not exceeding \$500 to not exceeding \$5,000 and would reduce potential imprisonment in the county jail from not exceeding six months to not exceeding 30 days. K.S.A. 55-708 establishes penalties for violations of K.S.A. 55-701 to K.S.A. 55-713. All of these statutes pertain to the production and conservation of natural gas. The net effect of the amendment to K.S.A. 55-708 would be to make the criminal penalty for violation of the gas statutes the same as the penalty for violations of oil production and conservation statutes contained in K.S.A. 55-607.

The amendments to K.S.A. 55-904, 1004 and 1005 all raise penalties from what are currently misdemeanors to severity level 9 nonperson felonies. These statutes all pertain to injection or disposal of saltwater and other oil field wastes. The Conservation Division believes that the increases in the criminal penalties for violation of these statutes is justified because of the potential for environmental damage that could result from injecting or disposing of non-approved or hazardous substances or by exceeding authorized injection pressures. Such actions could cause injected substances to move into fresh and usable water zones or producing oil and gas zones.

A level 9 nonperson felony carries a sentence of from 7 to 9 months. There is however a presumption of probation for a first offense. Under federal law, the same types of violations are classified as a class E felony and carry a sentence of up to 3 years in prison.

Senate Energy & Natural Resources

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In 1995 a case occurred in Southeast Kansas where a company was found to be improperly disposing of waste machine oil from Missouri into a Class II disposal well. This violation was discovered by the State Corporation Commission field staff but was prosecuted by the U.S. Attorney under federal statutes because of the stiffer criminal penalties and because Kansas statutory foundation for criminal prosecution was questionable.

The Class II disposal and injection well program operated by the Kansas Corporation Commission is delegated from the Environmental Protection Agency to the State. Each year our program is evaluated to determine if it is comparable to the Federal program. By raising the level of potential criminal penalties associated with Class II wells we are keeping the state program in line with the Federal criminal penalties and protecting State primacy of this program.

The Division is also recommending three additional amendments to K.S.A. 55-904. The first amendment would prohibit the disposal of non-exempt substances in Class II disposal or injection wells. Although we believe this is currently prohibited under our rules and regulations, the amendment makes the statutory foundation clear. It would also give the State clear statutory authority to criminally prosecute egregious violations similar to the case referred to earlier.

The second amendment would amend the definition of "saltwater" in Section (b) of K.S.A. 55-904 to make it clear that, only saltwater produced in conjunction with oil and gas production can be disposed of in Class II wells.

The third amendment changes subsection (d)(2) to provide for a severity level 8, nonperson felony for a second or subsequent violation of subsection (a). The penalty for a second violation should be more severe. The seriousness of a felony goes from a level 1 (most serious) to a level 10 (least serious).

Additional amendments added by the House include: language which limits violations to those that are "knowingly and willfully" committed, and a New Section 5 which requires the Commission to provide notice of violation and opportunity for hearing prior to imposition of penalties. The Commission is agreeable and supportive of these amendments.

Thank you. If you have any questions, I or Division legal staff will be glad to answer them.



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March 10, 1998

Testimony of Donald P. Schnacke
Before the Senate Energy and Natural Resources Committee
RE: HB 2419 - KCC Penalties

My name is Don Schnacke representing the Kansas Independent Oil & Gas Association, appearing in favor of the passage of HB 2419.

The supplemental note reflects our association opposed the bill before it was amended by a special Sub-Committee of the House Energy Committee. The Sub-Committee brought the regulators (KCC) and industry representatives together and worked out the language that is contained now in HB 2419. We now support the passage of HB 2419.

I was present when the Legislative Post Audit Division presented its performance audit report of the Conservation Division of the State Corporation Commission, Friday, March 6, 1998. Your committee seem to express concern, as did the audit, that the plugging of abandoned wells work will stretch out a long number of years even with enhanced funding provided by the legislature.

We agree with that observation and have suggested the passage of SB 25, a copy attached, provide for private involvement in plugging with a 50% income tax credit. What slowed SB 25 was the fiscal note (a copy enclosed). We don't believe SB 25 would encourage more than 100-200 additional wells per year, but we do know there are some landowners that would like to accelerate plugging on their property. Kansas Farm Bureau supports SB 25. If the fiscal note is a problem, we suggest you limit the tax credit to not to exceed \$400,000.00 per year, to allow for up to 200 additional wells to be plugged throughout Kansas.

If this appeals to you, as a result of the performance audit , we suggest you amend SB 25 into HB 2419.

Donald P. Schnacke

Encls: SB 25
Fiscal Note-SB 25
DPS:sm

Senate Energy & Natural Resources

Attachment: 4

Date: 3-10-98 4-1

SENATE BILL No. 25

By Committee on Assessment and Taxation

1-15

9 AN ACT relating to income taxation; providing a credit therefrom for
10 expenses incurred in plugging abandoned oil and gas wells.

11

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

13 Section 1. (a) For any taxable year commencing after December 31,
14 1996, and before January 1, 2006, a credit shall be allowed against the tax
15 imposed by the Kansas income tax act on the Kansas taxable income of a
16 taxpayer for expenditures made for the purpose of plugging any aban-
17 doned oil or gas well in this state in accordance with the rules and reg-
18 ulations of the state corporation commission applicable thereto, the drill-
19 ing of which was commenced prior to January 1, 1970, and for which such
20 taxpayer is not legally responsible for its proper care and control, in an
21 amount equal to 50% of such expenditures made in the taxable year.

22 If the amount of such tax credit exceeds the taxpayer's income tax
23 liability for such taxable year, the amount thereof which exceeds such tax
24 liability may be carried over for deduction from the taxpayer's income tax
25 liability in the next succeeding taxable year or years until the total amount
26 of the tax credit has been deducted from tax liability.

27 (b) The secretary of revenue shall adopt such rules and regulations
28 as may be necessary to carry out the purposes of this section.

29 Sec. 2. This act shall take effect and be in force from and after its
30 publication in the statute book.