

Approved: 2-10-99
Date

MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

The meeting was called to order by Chairperson Senator David Corbin at 8:12 a.m. on February 9, 1999 in Room 254-E of the Capitol.

All members were present except: Senator Vratil who was excused.

Committee staff present:

Dennis Hodgins, Legislative Research Department
Mary Ann Torrence, Revisor of Statutes Office
Lila McClafin, Committee Secretary

Conferees appearing before the committee:

Edward "Woody" Moses, Kansas Cement Council

Others attending:

See attached list.

Chairperson Corbin called for action on the minutes of February 4. With a motion from Senator Biggs and a second from Senator Goodwin the minutes were approved as written.

Chairperson Corbin opened the hearing on **SB 172 - Repeal of statutes relating to certain abandoned excavations.**

Edward "Woody" Moses, Kansas Cement Council, said they asked to have the bill introduced because of a situation last summer when a neighboring landowner attempted to use this law incorrectly against one of their members. He thought if these statutes were repealed it would eliminate conflicts between state and local officials, eliminate the unneeded utilization of scarce county and township resources, and create a clearer policy regarding the administration of our state's good environmental law (Attachment 1). Mr. Moses responded to several questions.

Clark Duffy was unable to be present, however he submitted written testimony which was distributed to the committee. His testimony states this is a good law and it should not be repealed (Attachment 2).

The hearing on **SB 172** was closed.

The meeting adjourned at 8:20 a.m.

The next meeting will be held on February 10, 1999.

KAPA

Kansas Aggregate
Producers' Association

Testimony

Edward R. Moses
Managing Director

By The
Kansas Aggregate Producers' Association

Before the
Senate Committee on Energy and Natural Resources

Regarding SB 172

February 9, 1999

Good Morning, Mr. Chairman and members of the committee. Thank you for the opportunity to come before you today with our comments on SB 172. My name is Edward R. Moses, Managing Director of the Kansas Aggregate Producers' Association.

The Kansas Aggregate Producers' Association (KAPA) is an industry-wide trade association comprised of over two hundred fifty (250) members located in all one-hundred and sixty five (165) legislative districts in this state, providing basic building materials to all Kansans.

We thank you for the opportunity to come before you today with our comments on SB 172; a bill introduced at our request. The existence of the abandoned mine/well law came to our attention last summer when a neighboring landowner attempted to use this law incorrectly against one of our members. Interestingly enough, the quarry in question, was not only still operating but has received national recognition for its environmental practices. Today our industry is well regulated by the Kansas Department of Health and Environment, the Kansas Division of Water Resources, the State Conservation Commission and many others. In addition to this, local governments exercise a great deal of regulatory power through zoning laws and the conditional use permit.

K.S.A. 19-2504, et. seq.; first entered our lawbooks in 1895 and has received little or no use in the last 100 years. Since that time the legislature has enacted a great deal of law regulating the manner in which quarry operations should be conducted and eventually closed. By allowing these statutes to remain on the books, there is an inherent conflict established between the old statutes and modern regulatory policy. By repealing these statutes, the legislature would achieve the following things:

- Eliminate conflicts between state and local officials.
- Eliminate the unneeded utilization of scarce county and township resources.
- Create a clearer policy regarding the administration of our states good environmental law.

Senate Energy & Natural Resources

Attachment: 1

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SB 172 Testimony

We urge this committee to recommend SB 172 favorable for passage. Once again, thank you for allowing me the time to appear before you today. At this time, I am willing to respond to any questions you may have.

MATRIX OF KANSAS AGGREGATE REGULATION

National

United States Army Corps of Engineers
404 Clean Water
414 Wetlands

United States Department of Labor
Mine Safety & Health
Administration
Occupational Safety & Health
Administration
Bureau of Wage Standards

United States Department of Treasury
Bureau Alcohol Tobacco & Firearms
U.S. Coast Guard (Adjacent to
Navigable Rivers)

Environmental Protection Agency
Storm Water Regulations
Air Quality Regulations
Wetlands

United States Department of Interior
U.S. Geological Survey
Bureau of Mines
Bureau of Reclamation

Federal Communication Commission

United States Department of Commerce

United States Department of Agriculture
Soil Conservation Service

United States Department of
Transportation
Hazardous Materials
Explosives Transportation

Federal Bureau of Investigation

State

Kansas Department of Health &
Environment
Water Regulations
401 Certifications
Stormwater BMPP Plans
Air Regulations
Subpart 000
Title V Certifications
Solid Waste Regulations

State Board of Agriculture
Division of Water Resources

Weights & Measures

Kansas Geological Survey

State Fire Marshall
Blasting Certification
Blasting Notification

State Emergency Response Commission
Blasting Permits

Kansas Corporation Commission
Motor Carrier Safety Regulations
Mandatory Drug Testing

State Conservation Commission
Mining Licenses
Reclamation Plans
Bonding Requirements

Regional

Groundwater Management Districts

Watershed Districts

Regional Planning Commissions

Local

Zoning Boards

Planning Commissions

Emergency Preparedness
Jurisdiction

Fire Departments

County Commissions

City Government

CLARK R. DUFFY

1501 SW Boswell Avenue
Topeka, KS 66604

Phone: (785) 235-3751
FAX: (785) 235-8966

Testimony in Opposition to SB 172
Before the Senate Energy and Natural Resources Committee
By Clark Duffy
February 9, 1999

My name is Clark Duffy. I am testifying as a private citizen in opposition to SB 172. I apologize for not being present today, but I am out of state on business. I will be back on Thursday and available to discuss my testimony with Committee Members.

The current law is quite simple. If a person abandons a well, mine or excavation and someone believes it is dangerous and a locally elected official agrees there is a danger, then the person responsible must remove the danger. This is a good law and it should not be repealed.

I am the owner of my family's farm located at 1690 3100 Avenue, Abilene, Kansas. This farm is located adjacent to a "rock quarry" site. Last year the other adjacent landowners and I used the section of state law that would be repealed by this bill to work with Township and County officials regarding a problem that exists with the "operator" of this site.

The "rock quarry" is a 160 acre site that was opened in 1969. Some of the acreage was quarried after the passage of the State Quarried Land Reclamation Act.(KSA 49-601et seq). Although this land has not been quarried in recent years, it has not been reclaimed.

The operator has testified that he has completed quarrying the site. However, it is the position of the State Conservation Commission that the operator does not have to reclaim the site as required by law unless he submits a report to the Commission stating he has completed quarry operations. In other words, the operator will never need to reclaim this land as long as the operator decides not to submit a report to the State Conservation Commission.

With this interpretation of the law the only recourse left to address this dangerous hazard is to use the statute that would be repealed by this bill. Without this law, this site will never be reclaimed and the site will remain a dangerous hazard. The large pits on this site are next to a major State highway and, unfortunately, this operator has previously been cited for illegal dumping and illegal dumping has already been documented at this site.

Please allow us to work with our local elected officials to resolve our own problems.

Thank you for your consideration. I will be glad to discuss my testimony in more detail when I return.

Senate Energy & Natural Resources

Attachment: 2

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