

Approved: 2-16-99
Date

MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

The meeting was called to order by Chairperson Senator David Corbin at 8:00 a.m. on February 12, 1999 in Room 254-E of the Capitol.

All members were present except: Senator Stephens and Senator Pugh who were excused.

Committee staff present:

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

Conferees appearing before the committee:

Bill Bider, Kansas Department Health and Environment, (KDH&E)
Dr. Ron Hammerschmidt, Kansas Department Health and Environment, (KDH&E)
Charles Benjamin, Kansas Natural Resource Council and Sierra Club-Kansas Chapter

Others attending:

See attached list.

Chairperson Corbin called for action on the minutes of February 10 and 11. With a motion from Senator Morris and a second from Senator Goodwin the minutes were approved as written.

The hearing was continued on **SB 218 – Solid waste disposal areas; relating to location in Greenwood County.** Bill Bider, KDH&E was called on.

Bill Bider, KDH&E, said they supported the intent of the bill if the permit applicant can demonstrate that the disposal area is (1) Downgradient of the surface water intake point, and (2) Not located in the same watershed or drainage basin as the intake point. The amendment suggested by Mr. Bider, would strike the language on page 4, on line 24, that reads "and not located within the same watershed or drainage basin as" and insert the new language which reads "with respect to surface and subsurface flows" (Attachment 1).

Mr. Bider and Dr. Hammerschmidt responded to questions concerning what the permit applicant's responsibility would be. What needs to be included in the submitted documentation. What is the definition of downgradient? Were there other locations in Greenwood County where a landfill might be placed? Dr. Hammerschmidt said regardless of where a landfill is placed and even when it meets all of the environmental criteria there will always be opposition.

Charles Benjamin spoke in opposition to the bill. He was sympathetic to Greenwood County Commissioner situation. However he was troubled by the vagueness in the proposed language on page 4, lines 23-25 of the bill, as he thought, all landfills contain hazardous waste because of the variety of things people throw into their trash. He further expressed concern that the bill as written did not contain an appeal process if you were not happy with KDH&E findings (Attachment 2).

The meeting adjourned.

The next meeting will be held on February 16, 1999.

SENATE ENERGY & NATURAL RESOURCES COMMITTEE GUEST LIST

DATE: 2-12-99

NAME	REPRESENTING
Linda Meyer	Fall River, KS
Ray Meyer	Fall River, Mo.
Dorcas Kiehn	Ks Assn of the Med
Don Hammerschmidt	KDHE
Bill Bider	KDHE
John Peterson	Brownig Tensog Indust. Co
STEVE KEARNEY	PROPANE MARKETERS ASSN.
LEE EISENHAUER	" " "
Jean Baine	Kaw Drainage Dist
BRUCE GRAHAM	KEPCo
Jon K Miles	KEC
Joe Lieber	Ks Co-op Council
Rep. Mary Compton	
Kim Gully	League of KS municipalities
Charles Benjamin	KNRC/KS Sierra Club



KANSAS

DEPARTMENT OF HEALTH & ENVIRONMENT

BILL GRAVES, GOVERNOR

Clyde D. Graeber, Acting Secretary

Testimony presented to

Senate Energy and Natural Resources Committee

February 12, 1999

by

William L. Bider, Director, Bureau of Waste Management
Kansas Department of Health and Environment

Senate Bill 218

KDHE appreciates this opportunity to provide testimony in support of Senate Bill 218. The goal of this bill is to allow landfills to be constructed in certain locations which are prohibited by current law. K.S.A. 65-3407(k) prohibits KDHE from issuing a permit to construct a landfill. "*within one mile of an intake point for any public surface water supply system.*" This bill, as drafted, would provide an exception to this provision, if the permit applicant can demonstrate that the disposal area is:

- (1) Downgradient of the surface water intake point, **and**
- (2) Not located in the same watershed or drainage basin as the intake point.

Although KDHE agrees with the intent of this bill, we recommend a change to clarify the information which would be needed by the department to review a demonstration provided by a permit applicant. The demonstration must show that any potential releases from the landfill could not reasonably impact surface water quality at the intake point. Surface water could be impacted by the flow of contaminants through either surface flows or subsurface flows. Therefore, the demonstration should provide technical information which allows the department to conclude that the landfill is downgradient of the intake point with respect to **both** surface and subsurface flows.

The department believes that the landfill need not be located in a different watershed or drainage basin as currently drafted because these terms can apply to very large areas which are both upgradient and downgradient of the intake point. We recommend replacing the language proposed in SB 218 with:

"unless the permit applicant demonstrates that the disposal area is downgradient from the intake point with respect to surface and subsurface flows."

It would be the permit applicant's responsibility to provide adequate documentation to KDHE related to the required demonstration. The two basic pieces of information which would be needed to review the demonstration are a topographical map showing surface drainage patterns and one or more maps or figures which characterize subsurface conditions and groundwater flow. The characterization of surface flow patterns will typically be very straightforward using standard topographical maps which are readily available. However, characterizing subsurface flows could range from simplistic to very complex depending upon site specific conditions. To ensure that subsurface flows could not realistically impact the surface water quality at the intake point, it may be necessary for a permit applicant to perform extensive hydrogeological investigations defining all subsurface strata and water flow pathways.

If the information provided by the permit applicant satisfies these criteria, the operation of the landfill could not adversely impact surface water quality at the intake point. For this reason, KDHE is supportive of this bill with the amendment provided in our attached balloon.

Thank you for allowing KDHE to present testimony on SB 218.

Testimony before the Senate Committee on Energy and Natural
Resources

Regarding S.B. 218

February 11, 1999

Charles Benjamin, Ph.D., J.D.
Attorney at Law and Legislative Coordinator
Kansas Natural Resource Council
Kansas Chapter of Sierra Club
935 S. Kansas Ave. Topeka, Kansas 66612

Mr. Chairman, members of the Committee, thank you for the opportunity to testify with regard to S.B. 218. I am sympathetic to the efforts of the Greenwood County Commissioners to find a solution to their landfill problem. Just a little over two years ago I was wrestling with that same issue as a Harvey County Commissioner. Harvey County had a landfill that was a few years away from closing. Also, in the early 1980s the Harvey County landfill leaked leachate into a nearby stream and the county had to compensate a farmer for killing his cows. The fact is that municipal solid waste landfills are all hazardous waste sites because of the variety of things people throw into their trash, including half-filled bottles of solvents, herbicides, pesticides, batteries, etc. When new federal regulations came into place that recognized the hazards of landfills, we were informed by KDHE that the Harvey County landfill had a life much less than we had hoped, no matter what we did. We looked at a variety of options including a new landfill located in Harvey County, a transfer station to truck solid waste to another out-of-county landfill, and a recycling facility to complement either of the first two options. The fact is that these are no easy, or inexpensive, answers to solid waste problems. Local government officials are struggling all over the U.S. with what to do with solid waste in an environmentally friendly way.

Mr. Chairman, I would like to state at the outset what I am not going to testify about. I am not going to testify with regard to whether and where Greenwood County should have a landfill or a transfer station. I am not here to testify if Greenwood County should set up a regional landfill as an outlet for Sedgwick County (or any other county's solid waste). Those are issues that the people of Greenwood County will decide for themselves.

Senate Energy & Natural Resources

Attachment: 2

Date: 2-12-99

Instead I am here to testify to the potential impact, statewide, of amending K.S.A. 1998 Supp. 65-3407. What concerns me is the vagueness in the proposed language contained at (k)(1)(B) on page 4, lines 23-25. I am troubled by the language that requires the permit applicant to "demonstrate" that that the disposal area is downgradient from and not located within the same watershed or drainage basin as the intake point. What does demonstrate mean? Does it mean a detailed geological and hydrological study, paid for by the applicant? Does it mean a drawing on a paper napkin? Who is to be the judge whether or not the applicant has in fact demonstrated that the disposal area is downgradient from and not located within the same watershed or drainage basin as the intake point? Where do potentially affected parties go to appeal the judgment, one way or another, made by a KDHE official?

I fear that the vagueness of this language can only lead to pressures put on officials at KDHE to set aside their good judgment. We cannot afford to make mistakes when it comes to siting landfills. As I said at the outset, all municipal landfills must be considered hazardous waste sites. We have to be careful about the legacy of pollution that we leave our children and grandchildren.

Thank you for your time and attention.