

MINUTES OF THE HOUSE COMMITTEE ON ENVIRONMENT.

The meeting was called to order by Chairperson Joann Freeborn at 3:30 p.m. on March 16, 2000 in Room 231-N of the Capitol.

All members were present except: Rep. Douglas Johnston - excused
Rep. Dennis McKinney - excused
Rep. Ted Powers - excused
Rep. Tom Sloan - excused

Committee staff present: Raney Gilliland, Kansas Legislative Research Department
Mary Torrence, Revisor of Statute's Office
Mary Ann Graham, Committee Secretary

Conferees appearing before the committee: Jamie Clover-Adams, Secretary, Kansas Department of Agriculture, 901 S. Kansas, Topeka, KS 66612-1311
Ronald Hammerschmidt, Director, Division of Environment, KS Department Health and Environment, Forbes 740, Topeka, KS 66620-0001
Charles Benjamin, KS Sierra Club and KS Natural Resource Council, 401 Boulder Street, Lawrence, KS 66049
Kim Gulley, League of KS Municipalities, 300 SW 8th Avenue, Topeka, KS 66603-3912
Rich McKee, KS Livestock Association, 6031 SW 37th Street, Topeka, KS 66614-5129
Bill Fuller, KS Farm Bureau, 2627 KFB Plaza, Manhattan, KS 66505-8508
Mike Jensen, KS Pork Producers, 2601 Farm Bureau Road, Manhattan, KS 66502
Jolene Grabill, Regional Economic Area Partnership, 1845 Fairmount, Wichita, KS 67260-0155

Others attending: See Attached Sheet

Vice Chairperson Gerry Ray called the meeting to order at 3:30 p.m. She chaired the committee for Chairperson Joann Freeborn, who was in attendance but recovering from an illness. Chairperson Ray opened **HCR5069** for discussion and possible action.

HCR5069: A concurrent resolution urging all agencies and authorities of the State and of subdivisions of the State to use soydiesel in their diesel-powered vehicles.

Mary Torrence, Revisor of Statutes, distributed a balloon to the resolution and explained the changes that were made. (See attachment 1)

Rep. Dan Johnson made a motion to adopt the balloon. Rep. Vaughn Flora seconded the motion. Motion carried.

Rep. Sharon Schwartz made a motion the resolution be passed as amended. Rep. Dan Johnson seconded the motion. Motion carried.

Chairperson Ray opened **HB2987** for public hearing.

HB2987: An act concerning the equus beds region; prohibiting issuance of certain permits for confined feeding facilities for swine, water supply systems, waste water treatment facilities and public water supply systems.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENVIRONMENT, Room 231-N of the Capitol
at 3:30 p.m. on March 16, 2000.

The Chairperson welcomed Secretary of the Kansas Department of Agriculture, Jamie Clover Adams. She appeared before the committee in support of the bill, which imposes a moratorium on new wastewater disposal facilities and discharges over the Equus beds. The Department of Agriculture drafted this legislation over a month ago in an attempt to address concerns they heard coming from both citizens and elected officials in south-central Kansas and the agricultural community. Many of the other bills that focused solely on agriculture do not address the concerns raised by these groups. The elected leadership and citizens of south-central Kansas and others have expressed a strong desire to protect the water in the Equus beds. She reviewed a list of their published comments, clearly outlining their views. The Department is pleased with the efforts of Dr. Hamm and Kansas State University to provide sound science which shows that producers can operate in a safe fashion. They are pleased with Executive Order 00-04, signed by Governor Graves, and also with KDHE's approach toward a site and species specific permitting process, based on sound science. (See attachment 2)

Ronald Hammerschmidt, Director, Division of Environment, Kansas Department of Health and Environment, was welcomed. He addressed the committee in support of the bill. The Department has suggested an amendment which essentially removes water supplies from the moratorium. Water supplies include water wells, water lines, water towers, treatment plants, and other facilities associated with water supply infrastructure. The Department considers these water supply structures as protective of public health and does not consider water supplies a significant pollution threat to groundwater. They offered amendments to Senate Bill 636, the companion, and now offer the same amendments to this bill. Their intent is to make this a responsible, yet feasible piece of legislation. (See attachment 3)

Charles Benjamin, Sierra Club and Kansas Natural Resource Council, was welcomed to the committee. He testified in support of the bill and commends the Governor for issuing Executive Order 00-04, asking the Kansas Department of Health and Environment to compile records on existing and potential pollution sources to the Equus beds aquifer. This executive order is a recognition of the genuine concerns expressed by the citizens and local officials of south central Kansas that sufficient resources be devoted to remediation of past instances of man made pollution and the avoidance of future instances of man made pollution to an aquifer so many rely on for irrigation, industry and everyday drinking water. The Equus beds are too precious a natural resource and the legislature has invested too much of the public's money in research to take any chances that new swine waste lagoon facilities are constructed without the benefit of new rules and regulations based upon sound science because of a loophole in existing law. (See attachment 4)

Written testimony only, in support of the bill, was submitted by Karol Schlicher, United Methodist Church, Kansas West Conference, Wichita, Kansas. (See attachment 5)

Kim Gulley, League of Kansas Municipalities, was welcomed. She testified in opposition to the bill. The League understands and is sensitive to the environmental concerns that have been raised with respect to potential groundwater contamination. The cities of this state are willing to accept and enforce reasonable regulations to ensure that our water supplies are protected. However, they believe that the provisions of this bill are premature and overbroad. They listed three primary objections to this legislation. (1) Scope. The bill places a moratorium on wastewater treatment facilities, water supply systems, and confined feeding facilities. However, other types of dischargers including certain agricultural uses, oil and gas dischargers are not included. It is unclear why municipal facilities and confined feeding facilities would be lumped together and treated differently than other dischargers. (2) Water Quality Standards. Because the bill places an absolute moratorium on lagoons used for wastewater facilities, some small cities may be placed in the untenable position of either violating this new legislation or violating existing water quality standards established in state law. (3) Moratorium is Premature. They have not seen any scientific evidence that municipal lagoons are contaminating the equus beds. They would support any efforts to study the issue and believe that decisions as to the location of lagoons should be made on a site-specific, scientific basis, rather than by an arbitrary moratorium. (See attachment 6)

Rich McKee, Kansas Livestock Association, was welcomed. He testified in opposition to the bill and believes this bill would impose a moratorium on any further permits within the Equus beds region. The Association does not believe a moratorium is the best way to address concerns over improving the way we protect water

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENVIRONMENT, Room 231-N of the Capitol
at 3:30 p.m. on March 16, 2000.

quality. Rather than pass this bill, they think a more prudent approach would be to closely analyze the research being conducted by Kansas State University to see what, if any, additions can be made to existing regulations. (See attachment 7)

Bill Fuller, Kansas Farm Bureau, was welcomed to the committee. He testified on behalf of Farm Bureau in opposition to the bill. This bill prohibits the Secretary of the Kansas Department of Health and Environment and the cities and counties in the Equus beds region from issuing any new permit for a confined feeding facility, swine facility, a waste water treatment facility, system or lagoon that discharges sewage until July 1, 2001. The 442 farm and ranch members selected by the 105 county Farm Bureaus to serve as voting delegates at the 81st Annual Meeting of Kansas Farm Bureau reviewed and reaffirmed policy opposing a moratorium on any agricultural operation: "We oppose the imposition of a moratorium on the development of any agricultural crop or livestock production facility or operation." They believe that all entities share the responsibility of protecting water quality. Farmers and ranchers have a history of good stewardship, strive to be proactive and will continue to accept their environmental responsibilities. As long as we continue working together, this bill and all similar legislation will not be needed. Without well documented, science based evidence of real threats to our natural resources, government should not halt the expansion, development of construction of any business or industry. (See attachment 8)

Written testimony only, in opposition to the bill, was submitted by Karen France, Director of Governmental Relations, Kansas Association of Realtors (See attachment 9) and M. S. Mitchell, Legislative Chair for the Kansas Building Industry Association. (See attachment 10)

Mike Jensen, Executive Vice-President, Kansas Pork Producers Council, was welcomed. He addressed the committee in a neutral position and believes this is very interesting legislation in that it considers other industries in the same arena that the pork industry has faced alone for the last several years. That means being considered guilty without substance or facts. Pork producers in this state are very bullish on their environmental record. We were the first state to institute a voluntary environmental audit program. In fact, they have scheduled an open audit next month to allow media and any interested legislators to see first hand, what a modern pork operation is like, but most importantly, for your insight as to how thorough an assessment is. He believes, if the goal is truly to protect the Equus beds, and not single out the weakest, most unpopular industry to attack, encourages the committee to fully support the Governor's Executive Order 00-04. He is confident they will find that swine production has not in any way impaired the Equus beds, and in fact, others may be responsible. (See attachment 11)

Jolene Grabill, Regional Economic Area Partnership (REAP), was welcomed to the committee. She testified in a neutral position to the bill and believes without question, REAP's number one priority in 2000 is to "Guarantee that there is absolutely no threat to the region's public water supply." The legislative debate this year on groundwater protection, in particular for those from the third house representing local governments or the swine industry, have been forced to move past fear and toward a process for gathering the facts needed to make responsible decisions. Both the new Equus Beds Database and the products of Kansas State's research will give the tools needed to keep their efforts focused on the facts. She personally hopes the dialogue begun on this issue, this year, will continue and strengthen over time. (See attachment 12) A copy of the Governor's Executive Order on Equus Beds and a statement from Secretary of Kansas Department Health and Environment, Clyde Graeber, was distributed. (See attachment 13) Questions and discussion followed.

The Chairperson closed the hearing on **HB2987**. She announced that the next meeting is scheduled for Tuesday, March 21.

The meeting adjourned at 4:50 p.m. The next meeting is scheduled for Tuesday, March 21, 2000.

House Concurrent Resolution No. 5069

By Committee on Environment

2-21

House Environment
3-16-00
Attachment 1

9 A CONCURRENT RESOLUTION urging all agencies and authorities
10 of the State and of subdivisions of the State to use soydiesel in their **blend**
11 diesel-powered vehicles.

12
13 WHEREAS, Soydiesel, ~~also known as biodiesel, is a blend of soybean~~ **blend**
14 ~~oil and diesel fuel that is proven through extensive research studies to~~
15 offer superior performance in diesel-powered engines while reducing
16 harmful emissions; and **blend**

17 WHEREAS, Soydiesel is recognized and accepted as an alternative
18 fuel by the United States government; and

19 WHEREAS, Soydiesel provides another market for surplus soybean
20 oil, offering farmers an opportunity for an additional \$.11 a bushel as a
21 result of this new market and in turn helping the state's economy; and

22 WHEREAS, Soydiesel is being made available to Kansas consumers **blend**
23 through at least five terminal fuel outlets located throughout the state of
24 Kansas: Now, therefore,

25 *Be it resolved by the House of Representatives of the State of Kansas,*
26 *the Senate concurring therein:* That all agencies and authorities of the
27 State or of any subdivision of the State are urged to adopt a policy that
28 would ~~mandate that~~ all diesel-powered vehicles owned by such agency or **provide for**
29 subdivision to ~~run on a low blend (2%) of soybean oil and diesel fuel~~

30 ~~known as soydiesel or biodiesel, when available and economically feasible;~~ **use soydiesel blend of at least 2% soydiesel**
31 and

32 *Be it further resolved:* That all such vehicles, with the exception of
33 vehicles used for undercover law enforcement, should be identified with
34 a bumper sticker or other decal, provided by the Kansas Soybean Asso-
35 ciation, ~~to indicate to the public that such vehicles are reducing emissions~~ **and the Kansas Soybean Commission**
36 and are powered in part by Kansas soybeans; and

37 *Be it further resolved:* That the Secretary of State is directed to send
38 enrolled copies of this resolution to the League of Kansas Municipalities,
39 the Kansas Association of Counties, the Kansas Turnpike Authority, the
40 Kansas Association of School Boards, the Secretary of Transportation and
41 the Secretary of Administration.

STATE OF KANSAS

BILL GRAVES, GOVERNOR
Jamie Clover Adams, Secretary of Agriculture
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KANSAS DEPARTMENT OF AGRICULTURE

House Committee on Environment

March 16, 2000

Testimony regarding House Bill 2987

Jamie Clover Adams, Secretary of Agriculture

Good morning Chairperson Freeborn and members of the House Committee on Environment. I am Jamie Clover Adams, Secretary of the Kansas Department of Agriculture. I appear today in support of H.B. 2987, which imposes a moratorium on new wastewater disposal facilities and discharges over the Equus Beds.

The Department of Agriculture drafted this legislation over a month ago in an attempt to address concerns we heard coming from both citizens and elected officials in south-central Kansas and the agricultural community. Many of the other bills that focused solely on agriculture do not address the concerns raised by these groups.

Further, I would have been remiss in my role as Secretary of Agriculture if I did not advocate for a solution that addresses all potential sources of pollution, instead of singling out just one segment of one industry.

The elected leadership and citizens of south-central Kansas and others have expressed a strong desire to protect the water in the Equus beds. I share this goal. Following is a selection of

their published comments, clearly outlining their views.

- *REAP members want a guarantee that there's no threat to the region's public water supply, which means protection of the Equus Beds.* Wichita Eagle editorial, January 11, 2000.
- *We are not against hog farms . . . We are for clean water.* Randy Scholfield, quoted in the Wichita Eagle, February 6, 2000.
- *This is not just a hog farm issue.* Newton Mayor Kathryn Gaeddert, Wichita Eagle, February 10, 2000.
- *We see the protection of our water supply as our highest priority.* Newton Mayor Kathryn Gaeddert, as quoted by the Associated Press, Topeka Capital Journal, December 20, 1999
- *New rules may be needed to keep large hog farms or suburban housing development away from the city of Wichita's wells. McGinn said she is equally concerned about sewage from lagoon or septic systems that serve suburban housing developments. There could be potential leaking out there today.* Sedgwick County Commissioner Carolyn McGinn, Wichita Eagle, November 23, 1999
- *The Wichita City Council asked state officials to prohibit new hog farms, cattle feedlots or other activities that use open waste lagoons which could threaten the region's water supplies.* Wichita Eagle, December 22, 1999
- *People of faith believe that water is sacred because God made it. We are asking people of faith to speak up for the natural environment.* Karol Schlicher, Wichita Eagle, February 8, 2000
- *Although this resolution addresses protection from swine waste pollution, we are just as concerned with all waste storage facilities in these groundwater sensitive areas. The Board of Directors is not against economic development. Protection of the water supply promotes economic stability.* Sharon Falk, manager, GMD #5, testifying before the Senate Committee on Energy and Natural Resources, March 15, 2000.

A look at data available today about current pollution in the Equus Beds illustrates why we should be concerned about all sources of pollution — actual or potential. Current areas of concern include: the Burrton oil field brine contamination plume, threatening drinking water in Reno and Harvey counties; 57th and North Broadway EPA Superfund site in Park City which contains volatile organic compounds; the city of Burton's leaking municipal lagoon; sand dredging pits along the north branch of the Kisiwa Creek in Harvey County; septic systems which may fail in the future, in addition to the 113 that have already been addressed by the State Conservation Commission since 1997; and instances of increased nitrate and heavy metals levels at several monitoring sites.

It's also important to put this week's K-State research findings about lagoons into perspective. The science clearly shows that there is some seepage from lagoons. Dr. Hamm's presentation on Tuesday shows that a significant portion of the ammonium from the lagoon collects in a "bulge" within about the first 12 feet of soil beneath a lagoon. We also know that while the cation exchange capacity (CEC) depends upon the type of soil, this "bulge" effect does occur beneath all lagoons.

Dr. Hamm reported to you that a swine lagoon with a high nitrogen content seeps about 800 thousand pounds of ammonium over its 25-year life. Annualized, that is about 32 thousand pounds per year. On the other hand, the City of Wichita's wastewater treatment plant discharges on average approximately 7,300 pounds of nitrogen per day into the Arkansas River. Annualized, that is about 2,660,000 pounds of nitrogen per year. While I understand that mixing occurs in a

river discharge, Dr. Hamm has verified that ammonium is stationary until a lagoon is closed. Given this information, a reasonable person will conclude that the potential for pollution between these two types of sources is not all that different.

Since Kansas State University presented their report on Tuesday, several important things have happened relating to lagoons and the Equus Beds region. First, Governor Graves signed Executive Order 00-04, directing the Kansas Department of Health and Environment to identify all known existing and potential pollution sources located in the Equus Beds groundwater area. The impetus for this executive order was a very well crafted bill authored by Senator Christine Downey. S.B. 625 was universally well-received as a reasonable way to gather data about this unique groundwater resource.

Additionally, KDHE Secretary Graeber released a statement on Wednesday saying that — given the findings of the K-State research — he intends to use his authority in state statutes to begin developing site and species specific rules and regulations for permitting waste handling lagoons.

You might ask, then, is H.B. 2987 still necessary?

We are pleased with the efforts of Dr. Hamm and Kansas State University to provide sound science which shows that producers can operate in a safe fashion. We are pleased with Executive Order 00-04. We are pleased with KDHE's approach toward a site and species specific permitting process, based on sound science.

But the possibility of a moratorium on all swine lagoons, regardless of size, as proposed in Senate Concurrent Resolution 1638 or other legislative vehicles still presents a real and

unnecessary threat to an important segment of Kansas agriculture, and does not address the proven polluters in the Equus Beds region. This is contrary to our original purpose in proposing H.B. 2987, and its companion in the Senate, which was to protect our water resources and to prevent one segment of agriculture from being singled out for adverse treatment without a requisite scientific rationale. If the moratorium path is chosen, then H.B. 2987 is a reasonable, temporary way to address these concerns.

Finally, several questions have been raised about the scope of H.B. 2987.

There has been some discussion that H.B. 2987 as written does not cover agriculture. Nothing could be further from the truth.

In an effort to be perfectly clear however, I would offer the attached amendment, which clearly shows that we are committed to advocate for fair treatment of Kansas agricultural producers, and for science-based solutions to problems which may affect our valuable water resources.

There has been some discussion that "Equus Beds" is an undefined term. We left it in the bill because we did not want to arbitrarily limit the scope of the bill when it was unclear as to the exact geographic area in question.

H.B. 2987 inadvertently includes public water supplies. We fully support a friendly amendment from KDHE to strike this language.

Thank you for the opportunity to speak in support of H.B. 2987. I would stand for any questions the Committee might have at the appropriate time.

SENATE BILL No. 636

By Committee on Ways and Means

2-16

2-6

9 AN ACT concerning the equus beds region; prohibiting issuance of cer-
10 tain permits for confined feeding facilities for swine, water supply sys-
11 tems, waste water treatment facilities and public water supply systems.
12

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

14 Section 1. (a) As used in this section:

15 (1) "Swine facility," "swine waste retention lagoon or pond" and "per-
16 mit" have the meanings provided by K.S.A. 1999 Supp. 65-1,178, and
17 amendments thereto.

18 (2) "Water supply system" and "waste water treatment facility" have
19 the meanings provided in K.S.A. 65-4501 and 65-164 *et seq.*, and amend-
20 ments thereto.

21 (3) "Public water supply system" has the meaning provided in K.S.A.
22 65-162a, and amendments thereto.

23 (4) "Discharge," "indirect discharge" and "direct discharge" have the
24 meanings provided in K.S.A. 65-161, and amendments thereto.

25 (5) "Site specific standards" means standards applicable to a specific
26 location and developed for the protection of the groundwater at that
27 location.

28 (6) "Confined feeding facility" has the meaning provided in K.S.A.
29 65-171d, and amendments thereto.

30 (b) Notwithstanding any other provision of law, on and after the ef-
31 fective date of this act and before July 1, 2001, the secretary of health
32 and environment and the cities and counties in the equus bed region shall
33 not issue any new permit for a confined feeding facility, swine facility, a
34 waste water treatment facility, a water supply system, a public water sup-
35 ply system or any other facility, system or lagoon that discharges sewage,
36 either directly or indirectly, within the equus beds region of the state.

37 (c) The secretary of health and environment, or any city or county,
38 shall process all registrations or applications for new permits that were
39 received by January 1, 2000.

40 (d) This act shall not apply to any applications that are for the purpose
41 of renewing an existing facility or system permit as long as the renewal
42 permit does not include a request for an expansion of the existing facility
43 or system.

swine waste retention lagoon or pond,
non-discharging lagoons and systems or
lagoons that discharge



KANSAS

DEPARTMENT OF HEALTH & ENVIRONMENT

BILL GRAVES, GOVERNOR

Clyde D. Graeber, Secretary

Testimony Presented to
House Environment Committee
by Ronald F. Hammerschmidt, Ph.D.
Director, Division of Environment

March 16, 2000
House Bill 2987

KDHE is supportive of HB 2987.

KDHE has a suggested amendment, a copy of which is attached. The suggested amendment essentially removes water supplies from the moratorium. Water supplies include water wells, water lines, water towers, treatment plants, and other facilities associated with water supply infrastructure. KDHE considers these water supply structures as protective of public health and does not consider water supplies a significant pollution threat to groundwater.

We offered amendments to Senate Bill 636 – the companion – and now offer the same amendments to House Bill 2987. Our intent is to make this a responsible, yet feasible piece of legislation.

Attachment: KDHE suggested amendment

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Division of Environment

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*House Environment
3-16-00
Attachment 3*

HOUSE BILL No. 2987

By Committee on Taxation

2-14

9 AN ACT concerning the equus beds region; prohibiting issuance of cer-
10 tain permits for confined feeding facilities for swine, ~~water supply sys-~~
11 ~~tems; and waste water treatment facilities and public water supply systems.~~

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

14 Section 1. (a) As used in this section:

15 (1) "Swine facility," "swine waste retention lagoon or pond" and "per-
16 mit" have the meanings provided by K.S.A. 1999 Supp. 65-1,178, and
17 amendments thereto.

18 (2) ~~"Water supply system" and "waste~~ *Waste water treatment facility* " ~~have has~~
19 ~~the meanings~~ *meaning* provided in K.S.A. ~~65-4501 and~~ 65-164 et seq., and amend-
20 ments thereto.

21 (3) ~~"Public water supply system" has the meaning provided in K.S.A.~~
22 ~~65-162a, and amendments thereto.~~

23 (4) (3) "Discharge," "indirect discharge" and "direct discharge" have the
24 meanings provided in K.S.A. 65-161, and amendments thereto.

25 (5) ~~"Site specific standards" means standards applicable to a specific~~
26 ~~location and developed for the protection of the groundwater at that~~
27 ~~location.~~

28 (6) (4) "Confined feeding facility" has the meaning provided in K.S.A.
29 65-171d, and amendments thereto.

30 (b) Notwithstanding any other provision of law, on and after the ef-
31 fective date of this act and before July 1, 2001, the secretary of health
32 and environment and the cities and counties in the equus bed region shall
33 not issue any new permit for a confined feeding facility, swine facility, a
34 waste water treatment facility, a water supply system, a public water sup-
35 ply system or any other facility, system or lagoon that discharges sewage,
36 either directly or indirectly, within the equus beds region of the state.

37 (c) The secretary of health and environment, or any city or county,
38 shall process all registrations or applications for new permits that were
39 received by January 1, 2000.

40 (d) This act shall not apply to any applications that are for the purpose
41 of renewing an existing facility or system permit as long as the renewal
42 permit does not include a request for an expansion of the existing facility
43 or system.

Testimony in Support of an Amended Version of House Bill No. 2087
Before the House Committee on the Environment
March 16, 2000

Kansas Sierra Club and Kansas Natural Resource Council
Charles M. Benjamin, Ph.D., J.D.
Attorney at Law
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(785) 841-5902

Madam Chair, members of the Committee, thank you for the opportunity to testify in support of an amended version of H.B. ~~2087~~₉.

What a difference a day makes! We want to commend the Governor for issuing Executive Order 00-04 asking the Kansas Department of Health and Environment to compile records on existing and potential pollution sources to the Equus Beds aquifer. This executive order is a recognition of the genuine concerns expressed by the citizens and local officials of south central Kansas that sufficient resources be devoted to remediation of past instances of man made pollution and the avoidance of future instances of man made pollution to an aquifer so many rely on for irrigation, industry and everyday drinking water.

We want to especially commend the Secretary of the Kansas Department of Health and Environment for the statement he released yesterday in which he said: "I intend to fully utilize the authority given me in state statute which allows the Secretary to adopt more protective rules and regulations in regard to swine facilities if deemed necessary. We will begin working on the drafting of proposed changes to our rules and regulations that will target more site specific requirements for lagoons."

What remains for this legislature to do is to clarify the language in Substitute for H.B. 2950 passed in 1998. You recall in that legislation under New Section 3(h) the legislature put into law the following language: ***The department shall make the determination to approve or disapprove the issuance of a permit not later than 180 days after the completed application is filed with the department.***

The concern is that operators of swine facilities can submit and complete an application and have that application approved before KDHE finishes the process of drafting, public hearings, and promulgation of new regulations based upon the "sound science" of the KSU hog lagoon research. Furthermore, in drafting new regulations the KDHE Secretary may determine that he needs the 2001 legislature to change existing law.

House Environment
3-16-00
Attachment 4

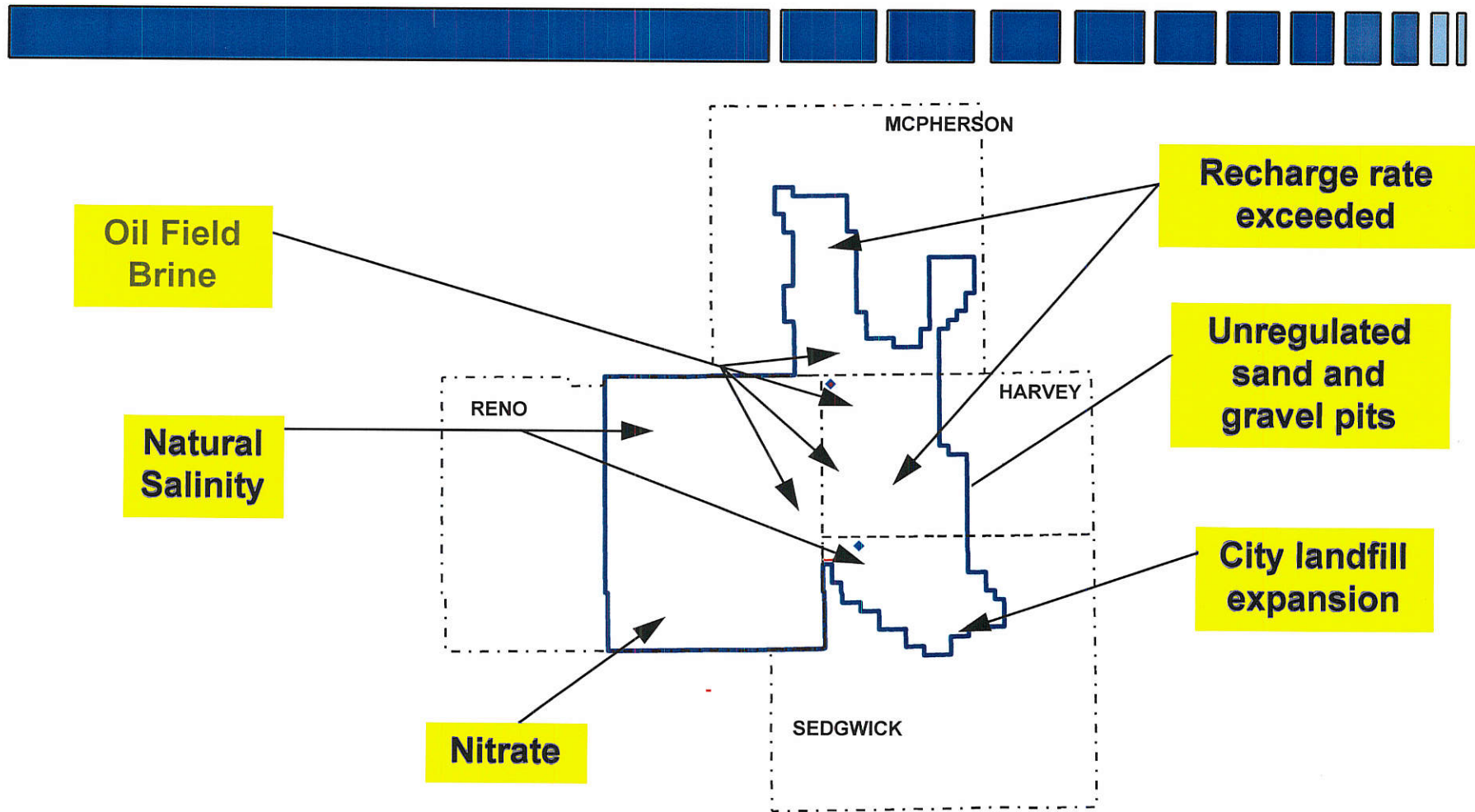
In order to deal with this situation we recommend amending H.B. 2987 (1)(b) in the following way:

“Notwithstanding any other provision of law, on and after the effective date of this act and before July 1, 2001, the secretary of health and environment and the cities and counties in Groundwater Management District No. 2 shall not issue any new permit for a confined feeding facility or a swine facility within the geographic area of Groundwater Management District No. 2.”

The Equus Beds are too precious a natural resource and the legislature has invested too much of the public's money in research to take any chances that new swine waste lagoon facilities are constructed without the benefit of new rules and regulations based upon sound science because of a loophole in existing law.

Thank you for your time and attention.

Equus Beds Groundwater Management District No. 2 Groundwater Management Issues



Produced using: Windows Hydrologic Evaluation and Analysis Toolkit
Prepared by: Equus Beds Groundwater Management District No. 2



United Methodist Church Kansas West Conference

I am Karol Schlicher from Wichita, Kansas. I am here as an advocate for environmental justice on behalf of the Commission on Church & Society for the Kansas West Conference of the United Methodist Church.

The proposed four million head-per-year hog slaughter facility in Great Bend and the probable location of many new large hog feeding facilities to support it are cause for great concern. HB 2950, the bill that governs hog farming in Kansas, does not provide adequate protection for the environment. Laws and regulations should be based on the risk of environmental damage and not merely the size of the facility. Requirements should be specific to the site including type of soil and depth of water table. Requirements should also be specific for the species involved.

Our goal is to prevent contamination of Kansas water. We must safeguard our water until we determine the best ways to protect it from pollution. "It's better to build a fence at the top of a cliff than to have an ambulance at the bottom," according to Reverend Peter Story, a retired Methodist bishop speaking to justice issues.

We support SB636 and HB2987 for a moratorium through July 1, 2001 with the following amendments:

- Close the loophole that applies only to a facility or lagoon "that discharges sewage, either directly or indirectly" and thus excludes hogwaste lagoons, which are by definition zero-discharge (K.A.R. 28-18a-8).
- Cover only Groundwater Management District No. 2, which includes the Equus Beds aquifer.
- Remove language concerning water supplies.

The yearlong moratorium protects the groundwater as requested by citizens and community leaders. It allows time for the KSU research to be evaluated and for the 2001 legislature to base requirements for hog waste lagoons on scientific evidence.

We have presented petitions signed by over 2000 church members and friends asking governmental leaders to take measures to protect water supplies from contamination. The signatures were easy to collect and obtained in a relatively short period of time. I have no doubt that if this petition drive continues the numbers will increase significantly.

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<http://www.gbqm-umc.org/kansas-west>

*House Environment
3-16-00
Attachment 5*

The petition reads as follows:

*"All creation is the Lord's, and we are
responsible for the ways in which we use and
abuse it."*

United Methodist Social Principles

*As people of faith we, United Methodist members and friends, know
that the purity of our groundwater must be protected from pollution.*

*We implore our local, state, and federal government leaders to
safeguard vulnerable water supplies (such as the Equus Beds) from
contamination, including waste from confined animal feed lots.*

*There is no justice when God's water is contaminated for economic
gain.*

The church has been called the sleeping giant of the environmental movement. In Kansas, the giant is awakening and there is growing momentum of environmental awareness and action.

Karol Schlicher

Karol Schlicher
139 Brendonwood
Wichita, KS 67206
(316) 684-5953



League of Kansas Municipalities

300 SW 8th Ave.
Topeka, Kansas 66603-3912
Phone: (785) 354-9565
Fax: (785) 354-4186

To: House Environment Committee
From: Kim Gulley, Director of Policy Development
Date: March 16, 2000
Re: Opposition to HB 2987

Thank you for allowing me to testify on behalf of the League of Kansas Municipalities and our member cities. We appear today in opposition to HB 2987.

The vast majority of cities in Kansas are small cities under 1,000 in population. Many of those cities operate wastewater treatment facilities that utilize lagoons. While the "equus beds region" as referenced in HB 2987 is not a specifically defined area, we estimate that 20-25 cities would be included within the provisions of this bill.

Issues concerning water quality were discussed during our policy development process last fall and the following statement was adopted as a 2000 Legislative Priority for our organization:

We Support a Clean and Adequate Public Water Supply. Citizens of the cities of Kansas depend upon an adequate supply of clean water for their lives and their businesses. We support reasonable regulations which are scientifically based and which protect the quality and quantity of the water supply. Such regulations should take into consideration a cost/benefit analysis and should not be unduly restrictive on the smallest cities.

We understand and are sensitive to the environmental concerns that have been raised with respect to potential groundwater contamination. The cities of this state are willing to accept and enforce reasonable regulations to ensure that our water supplies are protected.

However, we believe that the provisions of HB 2987 are premature and overbroad. We have three primary objections to this legislation:

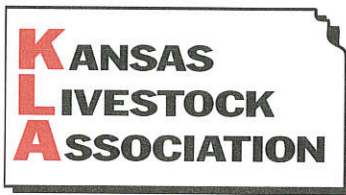
- **Scope.** HB 2987 places a moratorium on wastewater treatment facilities, water supply systems, and confined feeding facilities. However, other types of dischargers including certain agricultural uses, oil and gas dischargers are not included. It is unclear why municipal facilities and confined feeding facilities would be lumped together and treated differently than other dischargers.
- **Water Quality Standards.** Because HB 2987 places an absolute moratorium on lagoons used for wastewater facilities, some small cities may be placed in the untenable position of either violating this new legislation or violating existing water

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quality standards established in state law. For example, if KDHE determines that in reviewing an NPDES permit, the facility needs to be expanded in order to meet state water quality standards, HB 2987 would prohibit the expansion of the facility even for that purpose.

- **Moratorium is Premature.** We have not seen any scientific evidence that municipal lagoons are contaminating the aquifer beds. We would support any efforts to study the issue and believe that decisions as to the location of lagoons should be made on a site-specific, scientific basis, rather than by an arbitrary moratorium.

For these reasons, we are opposed to HB 2987 in its current form and we would urge that you reject this proposal. Thank you for taking the time to consider our comments on this very important issue. I would be happy to answer any questions or provide any further information.



Since 1894

Testimony
Presented by

Rich McKee
Executive Secretary, Feedlot Division

Regarding

House Bill 2987

Before the

HOUSE COMMITTEE ON ENVIRONMENT

March 16, 2000

The Kansas Livestock Association (KLA), formed in 1894, is a trade association representing over 7,000 members on legislative and regulatory issues. KLA members are involved in all segments of the livestock industry, including cow-calf, feedlot, seedstock, swine, dairy and sheep. In 1998, cash receipts from agriculture products totaled over \$8.9 billion, with nearly fifty-five percent of that coming from the sale of livestock. Cattle represent the largest share of cash receipts, representing ninety percent of the livestock and poultry marketings.

Madam Chairman and members of the committee, we appreciate the opportunity to express the position of the membership of the Kansas Livestock Association on this bill. We do not support House Bill 2987.

This bill would impose a moratorium on any further permits within the Equus Beds region. Simply said, we do not believe a moratorium is the best way to address concerns over improving the way we protect water quality. Rather than pass this bill, we think a more prudent approach would be to closely analyze the research being conducted by Kansas State University to see what, if any, additions can be made to existing regulations.

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Attachment 7



PUBLIC POLICY STATEMENT

HOUSE COMMITTEE ON ENVIRONMENT

RE: HB 2987 – Prohibits issuance of permits in Equus Beds region for confined feeding facilities for swine, water supply systems, waste water treatment facilities and public water supply systems.

**March 16, 2000
Topeka, Kansas**

**Prepared by:
Bill R. Fuller, Associate Director
Public Policy Division
Kansas Farm Bureau**

Madam Chair Freeborn and members of the House Committee on Environment, my name is Bill Fuller. I serve as the Associate Director of the Public Policy Division for Kansas Farm Bureau.

HB 2987 prohibits the Secretary of the Kansas Department of Health and Environment and the cities and counties in the Equus Beds region from issuing any new permit for a confined feeding facility, swine facility, a waste water treatment facility, system or lagoon that discharges sewage until July 1, 2001.

The 442 farm and ranch members selected by the 105 county Farm Bureaus to serve as voting delegates at the 81st Annual Meeting of Kansas Farm Bureau reviewed and reaffirmed policy opposing a moratorium on any agricultural operation:

“We oppose the imposition of a moratorium on the development of any agricultural crop or livestock production facility or operation.”

As a result of this member-adopted policy, Kansas Farm Bureau cannot support HB 2987. However, if the legislature is going to seriously consider approving any other legislation (HB 2830, SB 636, SCR 1638) that will place a

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moratorium on issuing permits for pork production facilities, we suggest HB 2987 is the more fair and appropriate measure since the bill treats all entities the same.

We are disappointed that unwarranted fear and emotion has caused these kinds of bills to even be introduced. Allow us to list several examples why this legislation should not be approved:

- Kansas, one of the first states in the nation to regulate feedlots, has 30 years of experience administering laws and regulations on confined livestock feeding operations designed to protect water quality and the environment. Historically, the confined livestock laws of Kansas have been considered effective and often used as a model for legislation in other states.
- Legislative approval of SB 800 in 1994 and Sub. HB 2950 in 1998 makes Kansas environmental laws and regulations dealing with livestock production rank very high when compared to other states. If Kansas does not have the most stringent restrictions, our state definitely is among the leaders in protecting water quality and the environment for the citizens of Kansas.
- A provision in Sub. HB 2950 that became law in 1998 authorizes the Secretary of the Kansas Department of Health and Environment to require liners for livestock lagoons in sensitive groundwater areas. Other statutes authorize the Secretary to take necessary actions to protect the environment in special situations were threats occur.
- K-State is conducting extensive studies and a thorough review of the construction standards for livestock lagoons. Not one livestock lagoon in Kansas has been identified as a source of contamination of any groundwater.
- Governor Bill Graves issued an Executive Order yesterday aimed at protecting a sensitive groundwater area in south central Kansas. KDHE was directed to identify all known existing and potential pollution sources located in the Equus Beds area. Municipal, industrial agricultural and homeowner activities will be examined. Regulations and programs intended to prevent pollution will be reviewed. Cooperation and

coordination will be encouraged among the federal, state, local and private entities. The information is to be compiled and made available to all interested parties no later than February 1, 2001. To a large extent, the Executive Order implements the concepts outlined in SB 625 which KFB supported.

Kansas Farm Bureau is actively involved in a number of programs, projects and activities designed to protect water quality. KFB has invested in four "EnviroScape" watershed demonstration units and four table-top displays. The past four years, members, leadership and staff have been conducting programs to promote watershed protection to thousands of students and adults across the state. The central theme of the display unit emphasizes this message:

WATERSHED PROTECTION

... is everyone's responsibility!

- **Agriculture**
- **Construction**
- **Homeowners**
- **Business**
- **Municipalities**
- **Industry**
- **Government**

We believe that all entities share the responsibility of protecting water quality. Farmers and ranchers have a history of good stewardship, strive to be proactive and will continue to accept their environmental responsibilities. As long as we continue working together, HB 2987 and all similar legislation will not be needed. Without well documented, science based evidence of real threats to our natural resources, government should not halt the expansion, development of construction of any business or industry.

Thank you!



Kansas Association of REALTORS®

3644 S.W. BURLINGAME ROAD • TOPEKA, KANSAS 66611-2098
TELEPHONE 785/267-3610 • 1-800-366-0069
FAX 785/267-1867



TO: THE HOUSE ENVIRONMENT COMMITTEE
FROM: KAREN FRANCE, DIRECTOR OF GOVERNMENTAL RELATIONS
DATE: MARCH 16, 2000
SUBJECT: HB 2987, The issuance of permits in the equus beds region

Thank you for the opportunity to testify. The Kansas Association of REALTORS® opposes HB 2987 in its current form. While we understand the political pressures that brought about this broadly stroked piece of legislation, we object to penalizing the home buying public for a crime that has not been proven to be committed.

This legislation presumes that septic and lagoon systems for homes are guilty of polluting the equus beds, without any evidence having been presented that that is the case. This is a harsh penalty to inflict upon the innocent. Passage of this legislation means penalizing rural communities who are continuously struggling to have new construction in their town. On a continuous basis, our members work with many other groups in the state to spur new construction in rural communities. To shut down that process for one year sets back the process not for just one year, but in all likelihood there is a real potential that you will have shut down development for multiple years. Why would individuals or investors want to gamble that a moratorium such as this might be renewed?

An informal survey of our members in these counties indicate this would stop the building of at least 30-40 homes each in Harvey, McPherson and Reno counties. And for what reason? Where is the evidence that residential septic systems are the culprit? Before taking any action as dramatic as this proposal before you, we urge you to have scientific evidence that this is the cause of the perceived problem. If the research shows that these residential septic/lagoon systems are the problem, we stand ready to work with you to develop the solution.

Thank you for the opportunity to testify.

LEGISLATIVE TESTIMONY



2300 SW 29th St., Topeka, KS 66611 ♦ 785-267-2936 Fax 785-267-2959 ♦ E-mail: janetstubbs@worldnet.att.net

HOUSE ENVIRONMENT COMMITTEE

March 16, 2000

Madam Chair and members of the Committee:

I am M. S. Mitchell, Legislative Chair for the Kansas Building Industry Association, submitting written testimony today to tell you that the members of this Association support the efforts to conduct scientific research as is being conducted by Kansas State University, as well as the Governor's issuance of the Executive Order of March 15 requiring the Kansas Department of Health & Environment to identify all known existing and potential pollution sources located in the Equus Beds groundwater area of south central Kansas.

We oppose HB 2987, as we have interpreted it. As we understand this bill, the counties would not be allowed to permit a new wastewater treatment facility for single family rural housing. We believe the innovative and technologically advanced systems now available for single family homes are much different than those previously used and with which most of us are familiar.

We have testified on the other bills and resolutions which have been introduced on this issue and urge the Committee to consider the economic and political ramifications of a moratorium on residential construction in rural areas. We believe this is one of many no-growth proposals used by the environmental community to stimulate emotional reactions rather than actions based upon scientific findings of fact.

We urge the Committee to support the action of the Governor and await the findings of the research being conducted before taking action as drastic for residential construction as that proposed in HB 2987.

Thank you for your consideration of our concern on this matter.

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3-16-00
Attachment 10*



Testimony Concerning HB No. 2987

Presented on behalf of the Kansas Pork Producers Council

by Mike Jensen, Executive Vice-President

Chairman, members of the committee, I am Mike Jensen. I serve as Executive Vice-President of the Kansas Pork Producers Council. Our members produce the overwhelming majority of pork in this state.

This is very interesting legislation in that it considers other industries in the same arena that the pork industry has faced alone for the last several years. That means being considered guilty without substance or facts. Our pork producers in this state are very bullish on their environmental record. We were the first state to institute a voluntary environmental audit program. In fact, we have scheduled an open audit next month to allow media and any interested legislators to see first hand, what a modern pork operation is like, but most importantly, for your insight as to how thorough an assessment is.

This bill does serve one very strong purpose. It brings to light the underlying unfairness and down right bigotry of singling out one innocent industry for legislative retribution without knowing the facts. Here are some very simple facts:

This bill has exposed some that have only a vendetta against the hog industry as their goal. I cannot count how many times I have been approached in regards to this bill, and in public testimony, with comments that can be best summed up by a paraphrase "It just isn't fair to single out one industry when we have never been proven to cause a problem". Being in the shoes of the swine producer in Kansas during this persecution has indeed altered some attitudes.

Food is needed for people. It has been estimated that a mathematical projection of the world's food supply is 45 days. Kansas is a leader in the nation and world in supplying that food and fiber. Our producers lead the nation in both the stringency of Kansas environmental regulations as well as their attitudes to protect our environment. While protecting our water is critical, any condemnation of a component of our food supply through a moratorium action is solely the action of people who have no concept of hunger.

Until recently, agriculture has been held in high esteem for its stewardship of the land and its ability to insure that America has had literally generations of people who have never had the unfortunate opportunity to understand what it means to not have an adequate and safe food supply.

If your goal is truly to protect the equus beds, and not single out the weakest, most unpopular industry to attack, I would encourage you to support fully support the Governor's Executive Order 00-04. We are confident you will find that swine production has not in any way impaired the equus beds, and in fact, others may be responsible. But rest assured, being a good environmental steward is not about pointing fingers. It is about responsibility. It is about a balance between our resources. It is about science. And agriculture is about feeding the world. Our industry is willing to be a part of that balance, and will be a part of that dialogue, but not if your only solution is to impose unfounded moratoriums on us.

It is also time to put to rest the fallacy that the Secretary of KDHE does not have the authority to do his job and to impose site specific requirements. There are a number of swine producers who would gladly tell you how much they have spent on engineering fees to accurately assess a site and to construct lagoons **specifically** for that chosen location. They will also tell you how unscientifically based decisions during the dialogue on HB 2950 have unnecessarily caused them dollars in an time when that is the last economic nail that really need in their coffin.

Kansas pork producers willingly worked with the Kansas Legislature in 1998 to enact HB 2950. This bill effectively placed the most stringent requirement of any state on our Kansas producers. Our producers have continually shown their willingness to work within the bounds of science and governed by the philosophy that the water of our state is ours to share and protect. Our reward has been the continual onslaught of unsubstantiated attacks by both the editorial writers and those who choose to be uninformed. Our producers are proud of their ability to raise enough pork in this state to feed over 10 million people both here and abroad. They are also very proud of their ability to recycle manure to help supplement commercial fertilizer sources to produce crops which also feed the world. We would respectfully ask that our government take a step back and consider the science of the sustainability of agriculture and fairly evaluate it. Our members are confident you will be pleasantly surprised. The next time a morsel of food enters your mouth, feel confident that if it was a Kansas producer who provided that nourishment for you, it was done in concert with our environment.

Kansas Pork Industry Facts

Kansas pork producers help feed the world

There are 1,900 hog farms in Kansas. Of these operations, 400 produce 91% of the state's pork.

Kansas is the number 10 state in hog and pig inventory producing about 2.2 percent of the nation's total.

In 1998, Kansas producers marketed 2,495,092 hogs with a gross market value of \$198,858,129. These hogs produced over 450,000,000 pounds of **Pork. The Other White Meat®** which helped feed over 10 million people both in the U.S. and abroad.

Did you know?

Before the turn of the last century, Kansas producers had well over twice the number of hogs in their inventory as they do today.

Pork industry important to Kansas economy

Kansas pork operations consume nearly 30 million bushels of grain. Primarily, these operations utilize Kansas-grown dryland milo, but they also feed significant amounts of corn and soybean products.

The Kansas swine industry annually spends about:

- \$200 million for feed grains
- \$35 million in construction
- \$20 million in supplies
- \$10 million for utilities (gas, propane & electric)
- \$10 million for trucking costs
(hog marketing only, no grain)
- \$8 million in interest
- \$8 million for veterinary care

Numbers as of January 1, 2000

Environmental Stewardship

Nearly 1,000 pork producers have complied with KDHE's state-mandated requirements for the size of their operation. This includes: 102 producers with NPDES permits, 765 producers with state permits and 92 producers with state certifications.

For decades, KDHE has required pork producers to control enough land to sustainably utilize the nutrients generated by the operation. About 80 acres of cropland is needed for a 500 Animal Unit pork operation.

Pork producers with over 1,000 Animal Units are now required to submit a Nutrient Utilization Plan showing the fields where plant food will be applied.

For more information, contact:

Mike Jensen

Executive Vice President
Kansas Pork Producers Council
2601 Farm Bureau Road
Manhattan, KS 66502
(785) 224-0374 Cellular
(785) 776-0442 Office
(785) 776-9897 Fax
E-mail - kppc@flinthills.com





Regional Economic Area Partnership

strengthening the economy of south central Kansas through joint action of cities and counties

Testimony on Equus Beds Groundwater Protection House Environment Committee, Rep. Joann Freeborn, Chairperson Thursday March 16, 2000

Thank you Madame Chairperson, Rep. Flora and members of the Committee. I am Jolene Grabill, Legislative Representative of the South Central Kansas Regional Economic Area Partnership known as REAP. REAP is a partnership of cities and counties who speak with one voice on critical issues effecting the economic well being of South Central Kansas. Nearly 700,000 Kansans reside in the local governments that make up the membership of REAP. Those Kansans depend on the availability of clean water to fuel a vital South Central Kansas economy that provides jobs, services and products to the region and the state as a whole. Over 500,000 Kansans directly depend on the Equus Beds for drinking water and other public water supply needs.

Without question, REAP's number one priority in 2000 is to:

"Guarantee that there is absolutely no threat to the region's public water supply."

Guaranteeing that there is absolutely no threat to the region's public water supply will require persistent efforts on many fronts, including the very local governments who join together as REAP. Make no mistake about it, REAP understands that was the primary message sent by introduction of HB 2987. REAP members pledge to ensure their own water systems, lagoons, and treatment facilities operate with the care and environmental protections REAP asks other industries to exercise in order to protect our common groundwater supply.

HB 2987's prohibition against new permits of all types does not provide an answer to the question of groundwater protection, it only delays the asking of the basic question, "What action is needed to protect the groundwater in the Equus Beds?"

Until yesterday, REAP was ready to ask for a substitute bill clarifying the Secretary of Health and Environment's authority in regard to groundwater protection, particularly in regard to swine facilities operating or planning to operate with under 3,724 animal units. However, the Graves administration took administrative action yesterday to clarify that concern. Executive Order 00-04 states:

"...effective protection of the state's aquifers can be accomplished only by cooperation and coordination among federal, state, local and private efforts."

REAP agrees. Until yesterday, REAP was concerned about the commitment of state government to protection of our groundwater supply should that goal conflicted with economic

ANDOVER
Mayor Dennis Bush

ARKANSAS CITY
Commissioner Jim Ramirez

AUGUSTA
Mayor Ross Rountree

BEL AIRE
Mayor Gary O'Neal

BENTON
Mayor Will Johnson

BUTLER COUNTY
Commissioner Linsey Cutstinger

CHENEY
Mayor Carl Koster

DERBY
Mayor Richard Standrich

EL DORADO
Mayor Susan Seeber

HALSTEAD
Mayor Mark McCall

HARVEY COUNTY
Commissioner Eugene Wendling

HAYSVILLE
Mayor Tim Norton

HESSTON
Council Member Randy Stauffer

HUTCHINSON
Mayor Jeffrey Roberts

KINGMAN
Commissioner Jack Ford

MAIZE
Mayor Karen Fitzmier

MULVANE
Mayor James Ford

NEWTON
Mayor Kathryn Gaeddert

RENO COUNTY
Commissioner Frances Garcia

ROSE HILL
Council Member Marsha Francis

SEDGWICK
Mayor D. Keith DeHaven

SEDGWICK COUNTY
Commissioner Bill Hancock

SUMNER COUNTY
Commissioner Robert Courtney

TOWANDA
Mayor Edward Rando

UDALL
Mayor Mitchell Kratochvil

VALLEY CENTER
Mayor James 'Jet' Truman

WALTON
Mayor Alan Heine

WELLINGTON
Mayor James Chisham

WICHITA
Mayor Bob Knight

WINFIELD
Mayor Mike Ledy

development strategies of our state's livestock industry. Our concern was eliminated by the Governor's executive order putting the planning and reporting provisions of SB 625 into effect, and Secretary Graeber's statement clarifying his intended course of action on the Equus Beds and related groundwater issues.

REAP wanted was two things 1) the state's partnership in our goal to protect the groundwater supply and 2) assurance that new permits would be evaluated on a site-specific basis using sound science. REAP believes those two goals were achieved yesterday. I am pleased to report we no longer seek a legislative solution to this issue this year.

The legislative debate this year on groundwater protection, in particular for those of us from the third house representing local governments or the swine industry, has forced us to move past fear and toward a process for gathering the facts we all need to make responsible decisions. Both the new Equus Beds Database and the products of K-State's research will give us the tools needed to keep our efforts focused on the facts. I personally hope the dialogue begun on this issue, this year, will continue and strengthen over time.

Sometimes the legislative process produces the right result even when it doesn't produce legislation. This is one of those times.

I thank you for the opportunity to address the committee on these important issues today, and for the role many of you played in working toward a policy solution to the groundwater protection concerns raised by the South Central Kansas Regional Economic Area Partnership.

I will be happy to answer questions of the committee.

STATE OF KANSAS

BILL GRAVES, *Governor*
State Capitol, 2nd Floor
Topeka, Kansas 66612-1590



(785) 296-3232
1-800-748-4408
FAX: (785) 296-7973

OFFICE OF THE GOVERNOR

Wednesday, March 15, 2000
Contact: Don Brown
Communications Director
785/291-3206

GOVERNOR ISSUES EXECUTIVE ORDER ON EQUUS BEDS *ASKS KDHE TO COMPILE RECORDS ON EXISTING AND POTENTIAL POLLUTION SOURCES*

TOPEKA-- Kansas Governor Bill Graves today issued an Executive Order, requiring the Kansas Department of Health and Environment (KDHE) to identify all known existing and potential pollution sources located in the Equus Beds groundwater area of south central Kansas. KDHE will collect, compile and maintain the pollution data in a public reporting format.

The information collected will include known existing and potential pollution sources, the entity responsible for addressing the pollution concern, and sources of financing for identified remediation and clean-up projects.

"I share the concerns of many people who have contacted me about the future safety of this unique groundwater resource," Graves said. "By compiling pollution data from a number of federal, state, local and private entities, we will be better-equipped to address these concerns."

The Governor's Executive Order requires that the information compiled by KDHE be made available to all interested parties no later than February 1, 2001 and to update and maintain the information as needed.

"It is important to base our public policy decisions on the most accurate information available," Graves said. "The information gathered in this effort, combined with the scientific research that continues to flow from Kansas State University, will enable Secretary of Health and Environment Clyde Graeber to make informed and appropriate regulatory decisions."

--30--

NOTE: A copy of Executive Order No. 00-04 is attached.

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3-16-00
Attachment 13*

STATE OF KANSAS

BILL GRAVES, Governor
State Capitol, 2nd Floor
Topeka, Kansas 66612-1590



(785) 296-3232
1-800-748-4408
FAX: (785) 296-7973

OFFICE OF THE GOVERNOR

EXECUTIVE ORDER 00-04

WHEREAS, preventing and remediating pollution of the state's aquifers are important public policy objectives for the State of Kansas; and

WHEREAS, the equus beds aquifer is a precious and fragile natural resource relied upon by citizens throughout South Central Kansas; and

WHEREAS, scientific studies have found that many different sources of pollution, including but not limited to municipal sources, industrial sources, and agricultural sources, exist or may come to exist in the area of the equus beds aquifer; and

WHEREAS, the formulation of effective public policies to prevent and/or remediate pollution in the equus beds aquifer requires the identification and evaluation of each source of pollution or potential pollution so that appropriate prevention and/or remediation steps may be taken; and

WHEREAS, certain federal, state and local programs already are in place to prevent or remediate pollution of the equus beds aquifer that comes from certain sources; and

WHEREAS, effective protection of the state's aquifers can be accomplished only by cooperation and coordination among federal, state, local and private efforts;

NOW, THEREFORE, pursuant to the authority vested in me as Governor and chief executive of the State of Kansas by Article 1, Sections 3 and 4, of the Constitution of the State of Kansas, I hereby order the Secretary of the Kansas Department of Health and Environment to identify all known sources of existing and potential pollution of the equus beds aquifer and to collect, compile and maintain a public reporting of information regarding such existing and potential pollution, including, but not limited to:

- (1) All known sources of such existing or potential pollution;
- (2) the location, nature and known extent of all such existing pollution;
- (3) each current or proposed program to regulate or prevent such existing or potential pollution and the federal, state or local agency having authority over such program;
- (4) each current or proposed program for remediation of such existing pollution and the federal, state or local agency having authority over such program; and
- (5) all current or proposed projects for remediation of such existing pollution and the estimated cost and potential sources of moneys for each project.

I HEREBY FURTHER ORDER the Secretary of the Kansas Department of Health and Environment to make available to the public, to the governor, to the legislature, and to local, state and federal agencies and policy makers the information compiled pursuant to this order, appropriately formatted or summarized, not later than February 1, 2001, and to update and maintain such information as appropriate to maintain its accuracy. The Secretary shall consider whether making such information accessible on the Internet is an appropriate and cost-effective method of making this information, and updates to this information, available to interested parties in a timely manner.

I HEREBY FURTHER ORDER the Secretary of the Kansas Department of Health and Environment to consult with appropriate state agencies and with appropriate federal, local, and private entities and institutions in compiling information pursuant to this order.

I HEREBY FURTHER ORDER all state executive branch officers and agencies, and call upon and request all federal, local, and private entities and institutions, to cooperate with the Secretary of the Kansas Department of Health and Environment in carrying out the requirements of this order.

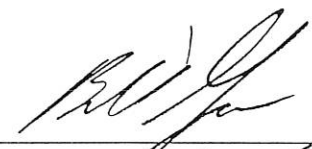
I HEREBY FURTHER ORDER the Secretary of the Kansas Department of Health and Environment to make information compiled pursuant to this order available to the public in accordance with the Kansas open records act.

This document shall be filed with the Secretary of State as Executive Order No. 00-04 and shall become effective immediately.

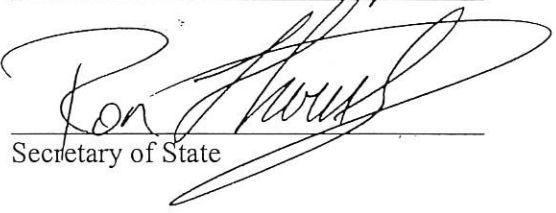
THE GOVERNOR'S OFFICE

BY THE GOVERNOR:

Dated:



March 15, 2000



Secretary of State

FILED

MAR 15 2000

RON THORNBURGH
SECRETARY OF STATE

Assistant Secretary of State



KANSAS
DEPARTMENT OF HEALTH & ENVIRONMENT
BILL GRAVES, GOVERNOR
Clyde D. Graeber, Secretary

March 15, 2000
Contact: Sharon Watson
785-296-1529

KDHE SECRETARY ADDRESSES EQUUS BED GROUNDWATER

Clyde Graeber, Secretary of the Kansas Department of Health and Environment, made the following statement today related to the Equus Beds and groundwater:

"I am pleased with Executive Order 00-04 from Governor Graves which will help us to identify potential pollution sources in the Equus Beds region of south central Kansas. This will give us valuable information about the region and will help us better utilize the research from Kansas State University."

"The report given to the Kansas Legislature Tuesday, March 14, by the Kansas Center for Agricultural Resources, Kansas State Research and Extension Division, dealing with animal waste management and utilization confirms the KDHE position held for some period of time; that waste handling lagoons and their placement should be reviewed for permitting considering various factors. The report certainly supports KDHE's belief that the placement of lagoons and the requirements for construction and operation should be site specific."

"In keeping with that position, as Secretary of KDHE, I intend to fully utilize the authority given me in state statute which allows the Secretary to adopt more protective rules and regulations in regard to swine facilities if deemed necessary. We will begin working on the drafting of proposed changes to our rules and regulations that will target more site specific requirements for lagoons."

"The K-State study pointed out the necessity of looking at various factors when considering granting permits for swine facilities. Some of those are, of course, the depth of ground water in the immediate area, the type of soil, and the proposed facility lifetime. All of these factors should be considered by KDHE in the review of permit applications. In addition, the study supports the importance of closure plans and the need for financial assurance for closure to be in place prior to any permit being approved."

-MORE-

ADD 1 - KDHE Secretary Addresses Equus Beds Groundwater

“At the same time, we feel it is important to look at amending our present rules and regulations particularly in sensitive groundwater areas, that we look at not only mega swine applications, but all smaller ones in those areas where groundwater could be negatively affected. Drafting of these proposed changes in rules and regulations will begin immediately. Until this process is completed, the KDHE requirement for use of synthetic liners for livestock facilities in sensitive groundwater areas will remain in effect.”

“Under Governor Graves’ Executive Order, we will put together a list of all the potential sources of pollution to the Equus Beds region, including swine facilities. We recognize other potential pollution may exist in this area and by having this database, we will have an invaluable tool with which to make future decisions concerning this region.”