

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 8, 2000 in 245-N of the Capitol.

All members were present except: Senators Goodwin and Vratil 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:

Derek Schmidt, Legislative Liaison and Special Counsel, Office of the Governor Bill Graves
Doug Wareham, Vice President, Kansas Grain & Feed Assn./Kansas Fertilizer & Chemical Assn.
Jarold W. Boettcher, President/Owner Boettcher Enterprises, Beloit, KS
David Andra, Danville Cooperative Assn., Danville, KS
Paul Dalke, Director of Safety, St. Paul, KS
David Murphy, Mid American Green Industry Council, Shawnee Mission, KS
Jeffrey L. Field, Superfund Coordinator, U. S. EPA Region VII, Kansas City, KS

Others attending:

See attached list.

SB 501 –Enacting the agricultural and specialty chemical remediation act.

The committee was advised that the Division of the Budget is preparing a fiscal note for the bill indicated above. As soon as the necessary information is received, the fiscal note will be completed and submitted for the committees deliberation.

Derek Schmidt, Legislative Liaison, Governor's Office, supported the bill. His testimony states Governor Graves commends the industry for taking responsibility to clean up contamination of our soil and groundwater, and this proposal would result in significant environmental benefits with a minimal burden on taxpayers (Attachment 1).

Doug Wareham, Vice President, Kansas Grain & Feed Assn./Kansas Fertilizer & Chemical Assn, said it is their believe that the information presented would undeniably show the need for the program in Kansas. (Attachment 2) He said he hope his testimony would clarify the following:

- Why their organizations believe the establishment of an environmental remediation fund and low-interest loan program is needed for agricultural sites in Kansas;
- What SB 501 would establish, including:
 1. How it would be administered;
 2. How it would be funded;
 3. Whom would it benefit.

Mr. Wareham responded to questions. He introduced Tony Dyer, Kansas Farmers Services Association. Mr. Dyer would be available for question.

Jarold W. Boettcher, President, Boettcher Enterprises, Inc., Beloit, KS, said he supported SB 501 as the current operating Voluntary Remediation Program, operated by the Kansas Department of Health and Environment, is missing a funding mechanism. This legislation would spread out the cost so that no one sector bears all the burden (Attachment 3).

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

David Andra, Danville Cooperative Assn., Danville, KS, supported the Agricultural and Specialty Chemical Remediation Act, for the following reasons:

- The funding would be shared by the Agricultural and Specialty and Chemical Industry.
- Rural communities, where chemical contamination occurs, will have more financial support for the clean-up effort. Plus, these communities will avoid the potential loss of goods and services of their Agri-Business Company, would cease operation.
- Agricultural Lenders would be able to lend capital to agri-business operations, if the financial risk is reduced by financial assistance from a remediation fund.
- This would be a positive, pro-active approach, for the clean-up from contamination. (Attachment 4).

Paul Dalka, Director of Safety, Beachner Grain, Inv., St. Paul, KS, said this is a quality approach to true voluntary cleanup and will provide the much needed incentives for individuals and businesses to move forward. This bill would allow the entire agribusiness industry, specialty chemical industry, Kansas Department of Health and Environment and EPA to work for cleaner safer water for all Kansans (Attachment 5).

Dave Murphy, Mid-America Green Industry Council, said they are in general agreement with the bill. However, their members would like to suggest a few changes. The term "specialty chemical needs to be defined, and in "New Sec. 9" the language needs to be amended to include one representative of the board be a specialty chemical distributor or retailer (Attachment 6).

Jeffrey L. Field, Superfund Coordinator, U.S. EPA Region VII, Kansas City, KS, said their roll in addressing the committee was to provide information, and their position was a neutral one (Attachment 7). Mr. Field responded to several questions.

For information purposes, Tim Shallenburger, Treasurer, State of Kansas, provided written testimony (Attachment 8).

The committee time expired and the hearing was continued until the next scheduled meeting which will be February 9, 2000

The meeting adjourned at 9:00 a.m.

SENATE ENERGY & NATURAL RESOURCES
COMMITTEE GUEST LIST

Please Sign in
Black Ink

DATE: 2-8-00

NAME	REPRESENTING
John Amir	Ks Grain + Feed Assn
Tom Dyer	Ks. Farmers Service Assn
Steve Murphy	MID-AMERICA GREEN INDUSTRY COUNCIL
David Andra	Domino Cooperative Assn
Paul Dilke	Beckner Grain
Harold Boettcher	Boettcher Enterprises
Doug Wareham	Ks Grain Feed / Kansas Fert + Chem Assn
Tom Bruno	Farm Credit Council /
Joe Lieber	KS Coop Council
JOSEPH YOST	CSMA
Diane Gruner	KS Co-op Council
Jeff Field	EPA Region VII
Barbara Reinert	citizen
R. Ed Reinert	League Women Voters
Dale Lambly	Ks. Dept of Agric
Rick Bean	KDHE
Mary Jane Stattelman	KDA
Reslie Kaufman	Ks Farm Bureau
Joe Lund	KDHE

**Testimony presented to
Senate Committee on Energy and Natural Resources
By
Derek Schmidt
Legislative Liaison and Special Counsel
Office of Governor Bill Graves
February 8, 2000**

Senate Bill 501

Mr. Chairman and members of the committee, thank you for the opportunity to testify this morning on Senate Bill 501. My name is Derek Schmidt, and I serve in the Office of the Governor as legislative liaison and special counsel.

The administration supports Senate Bill 501, the Agricultural and Specialty Chemical Remediation Act. I will leave it to others to discuss the nuts-and-bolts workings of this legislation. But I want to outline the general points that caused Governor Graves to lend his support to this bill.

This is a case in which the interests of specific industries clearly coincide with the interests of the public at large. An important industry in our State – the grain storage industry and other users of agricultural chemicals -- which is subject to significant potential and actual liability under federal and state environmental law, has concluded that its best course of action is to be pro-active in environmental cleanup. And all Kansans will benefit not only from the cleaner environment that results from this effort but also from the continued financial health of grain elevators and other businesses in many rural communities – businesses that have used agricultural chemicals over the years and that face substantial cleanup liability which they can ill-afford on their own.

Key users and sellers of agricultural chemicals in our state have joined together, organized support among diverse interest groups ranging from the Kansas Association of Wheat Growers to the Kansas Bankers Association, and brought forth a proposal that would help pay for the cleanup of scores of sites across Kansas that have been contaminated by agricultural chemicals. The industry itself will pay most of the remediation costs for these sites through a fund financed by assessments on certain agricultural products and users. The only cost to the State would be in the form of lost interest on State money made available for low-interest remediation loans from a new linked deposit loan program.

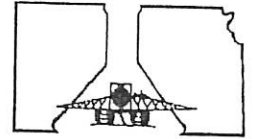
Governor Graves commends the industry for taking responsibility to clean up contamination of our soil and groundwater – even though much of that contamination occurred when the contaminating chemicals were used in accordance with the state and federal laws in effect at the time. This proposal would result in significant environmental benefits with a minimal burden on taxpayers. The administration believes the State should support this effort and is prepared to work with you to enact this legislation.

Senate Energy & Natural Resources

Attachment: 1

Date: 2-8-2000

1-1



STATEMENT OF THE
KANSAS GRAIN & FEED ASSOCIATION
AND THE
KANSAS FERTILIZER AND CHEMICAL ASSOCIATION
BEFORE THE
SENATE ENERGY & NATURAL RESOURCES
COMMITTEE
REGARDING S.B. 501
SENATOR DAVID CORBIN, CHAIR

FEBRUARY 8, 2000

KGFA & KFCA MEMBERS ADVOCATE PUBLIC POLICIES THAT ADVANCE A SOUND ECONOMIC CLIMATE FOR AGRIBUSINESS TO GROW AND PROSPER SO THEY MAY CONTINUE THEIR INTREGAL ROLE IN PROVIDING KANSANS AND THE WORLD THE SAFEST, MOST ABUNDANT FOOD SUPPLY.

Senate Energy & Natural Resources

816 SW Tyler, Topeka KS 66612 - 785-234-0461 - Fax:

Attachment: 2

Date: 2-8-2000

2-1

Chairman Corbin and members of the committee, I am Doug Wareham appearing today on behalf of both the Kansas Fertilizer and Chemical Association (KFCA) and the Kansas Grain and Feed Association (KGFA). KFCA's over 550 members are primarily plant nutrient and crop protection retail dealers with a proven record of supporting Kansas producers by providing the latest crop protection products and services. KGFA is comprised of 1150 member firms including country elevators -- both independent and cooperative -- terminal elevators, grain merchandisers, feed manufacturers and associated businesses. KGFA's membership represents 99% of the over 860 million bushels of commercially licensed grain storage space in the state of Kansas.

I want to express our support for Senate Bill 501, the Agricultural and Specialty Chemical Remediation Act, and I appreciate the opportunity to share information with you that we believe will undeniably show the need for this program in Kansas.

Over the next few minutes I will do my best to clarify the following:

- Why our organizations believe the establishment of an environmental remediation fund and low-interest loan program is needed for agricultural sites in Kansas;
- What Senate Bill 501 will establish, including:
 1. How it will be administered;
 2. How it will be funded;
 3. Whom it will benefit.
- Why our organizations support the adoption of Senate Bill 501.

Why is this program needed?

During the past five years the need for an environmental remediation fund became very apparent to the leadership of the Kansas Grain and Feed Association and Kansas Fertilizer and Chemical Association for two very different reasons. In 1995, the Kansas Grain and Feed Association was approached by representatives from EPA Region VII concerning the many former USDA Commodity Credit Corporation Bin Sites that had been tested in Kansas and found to have either soil or groundwater contamination caused by carbon tetrachloride, a chemical agent found in commercial grain fumigants used prior to 1984 (examples: weevilcide and 80/20). Because environmental assessments of these former USDA sites yielded several cases of soil or groundwater contamination, EPA informed us they believed that commercial grain elevators, also known to use carbon tet based grain fumigants prior to 1984, were "highly probable" candidates for similar contamination and would likely require investigation.

EPA Region VII officials indicated they hoped our organizations would voluntarily work with them to identify commercial grain storage facilities with a "high potential" for carbon tetrachloride contamination in the hopes that those facilities would in turn voluntarily address contamination if found. This initial meeting with EPA Region VII and subsequent meetings led to the development of the Voluntary Public Water Supply Safety Program for Kansas. A copy of the program brochure is attached to my testimony today (green copy).

What did the Voluntary Public Water Supply Safety Program yield?

- Voluntary surveys distributed to the headquarters of grain elevator firms in Kansas (Responses received from over 225 sites).
- Establishment of the Kansas Grain and Feed Association's Groundwater Protection Committee to establish a protocol for investigating sites determined by EPA to be "high potential" for carbon tetrachloride contamination.
- Initial discussions, within our organization, of the need for financial assistance for grain elevator firms found to have soil or groundwater contamination caused by carbon tetrachloride.

I should point out that our industry did have another option. The Kansas Grain industry could have refused to work with EPA. But we were told if sites were not voluntarily reviewed, then EPA would likely turn over the sites they believed to be "high potential" for contamination to their Superfund Investigation Team for further review and possible investigation. If anyone does not believe EPA would have followed through with this action had we not taken a proactive position, they need only review the copy of the attached *Certified Letter* and *Consent to Property Access Form* (hot pink copies) that were recently distributed to grain elevators suspected of carbon tetrachloride contamination in Oklahoma. I do point out that Oklahoma is in EPA Region VI, but I think our choice to work with EPA has clearly been the best decision for the Kansas grain handling and storage industry.

The voluntary survey I eluded to earlier was actually distributed in late 1997, a time that coincided with a meeting held between leaders of the Kansas Grain and Feed Association, Kansas Fertilizer and Chemical Association and then Secretary of KDHE Gary Mitchell along with then KDHE Environmental Remediation Section Chief Larry Knoche. Both Mr. Mitchell and Mr. Knoche expressed their belief that an Environmental Remediation Financial Assistance Fund, similar to the Drycleaner and Underground Petroleum Storage Tank Funds that currently exist in Kansas, was needed to address the growing number of agricultural sites being placed on KDHE potential contaminator list and enrolled in KDHE's various remediation programs. The comments made by then Secretary Mitchell and Mr. Knoche were quickly substantiated as we began reviewing the number of

agricultural sites that had been placed on KDHE's potential contaminator list during the past two years.

I have included a current list of agricultural sites (blue copy) that are enrolled in one of KDHE's three applicable remediation programs. Those programs are:

- Voluntary Cleanup and Property Redevelopment Program (1997)
- State Cooperative Program
- State Water Plan Program

Today, the total number of agricultural sites currently under review or enrolled in KDHE's various remediation programs totals 160. A list of the towns those sites are located in or near is attached to my testimony (blue copy). Of those 160 agricultural sites, 30 are enrolled in the Voluntary Cleanup and Property Redevelopment Program, and I want to point out that this program was established just two and one half years ago (July 1, 1997). I have also included a copy of a letter one of our member firms received from KDHE that led to their firm enrolling in the Voluntary Cleanup and Property Redevelopment Program for your review (purple copy).

In addition to the Voluntary Program Sites, the total number of agricultural sites currently enrolled in the State Cooperative Program is 41. The number of sites enrolled in the State Water Plan Program is 36 and I should mention that just under \$1.4 million dollars within the State Water Plan is targeted for Environmental Remediation, however, those dollars are only used in the remediation of "orphan" sites where a responsible party no longer exists or to initiate remediation before a party can be made responsible.

I hope the information I have provided thus far has helped answer my initial question: "Why our organizations believe the establishment of an environmental remediation fund and low-interest loan program is needed for agricultural sites in Kansas?" The simple answer is we believe this trend will continue.

With regards to the second question I posed, "What will Senate Bill 501 establish?", I would like to quickly lead you through the yellow copies attached to my testimony that will clarify how this program would be administered, how it would be funded and whom it would benefit.

Who will administer this Program?

A

The Kansas Remediation Board

- * Appointed by the Governor
- * Approved by the Senate

Board Members:

- * Agricultural Producer
- * Agricultural Retailer
- * Agricultural Processor
- * Agricultural or Specialty Chemical Distributor
- * Agricultural or Specialty Chemical Registrant

Balloon Amendment:

Specialty Chemical Distributor or Retailer
Agricultural and Specialty Chemical Registrant

Board Administrative Functions:

B

- * Hire or contract for qualified administrative services.
 - * Total expenses for administrative services and board expenses capped at \$150,000 annually.
- * Determine Direct Reimbursement Amounts to Eligible Persons.
- * Authorize Eligible Persons to Apply for Linked Deposit Low-Interest Environmental Remediation Loans.
- * Submit an Annual Report, including an independent audit to the Governor, Senate Energy & Natural Resources Committee and House Environment Committee.

How will the Remediation Program be Funded?

C

- * Registered Pesticide Assessment
- * Commercial Grain Assessment
- * Registered Pesticide Dealer Assessment
- * Registered Fertilizer Product Assessment
- * Licensed Custom Fertilizer Blenders Assessment.

Registered Pesticide Assessment --

D

An Assessment of \$60.00 placed on pesticide products registered with the Kansas Department of Agriculture would annually generate \$441,840 based on the 7,364 pesticide products (not including disinfectants) currently registered with the Kansas Department of Agriculture. The current Pesticide Registration Fee is \$130.

\$441,840

Commercial Grain Assessment

E

A \$.0005 per bushel assessment on commercially licensed grain storage facilities would annually generate \$430,000 based on the current level of 860 million bushels of licensed storage capacity in Kansas. This assessment shall be collected annually from licensed grain warehouses by KDA. Assessment collection shall take place on state licensed facilities at the normal time of license renewal and on federally licensed facilities on or before August 31.

\$430,000

Registered Pesticide Dealer Assessment

F

An Assessment of \$80.00 placed on individuals or businesses that maintain a Pesticide Dealers License with the Kansas Department of Agriculture would annually generate an additional \$140,000 in revenue based on the 1,750 pesticide dealers currently registered by the KDA. The current Pesticide Dealer License is \$20.

\$140,000

Registered Fertilizer Product Assessment

G

An Assessment of \$20.00 placed on 3,593 fertilizer products that are currently registered with the KDA would annually generate \$71,900. The current Fertilizer Product Registration Fee is \$5.00

\$71,900

Licensed Custom Fertilizer Blenders Assessment

H

An Assessment of \$100.00 placed on individuals or businesses that maintain a Custom Fertilizer Blenders License with the Kansas Department of Agriculture would annually generate an additional \$41,500 in revenue based on the 415 fertilizer blenders currently licensed by the KDA. The current Custom Fertilizer Blenders License Fee is \$25.

\$41,500

Total Estimated Annual Revenue

\$1,125,240.00

Who will benefit from the Remediation Fund and Linked Deposit Low-Interest Loan Program?

Responsible Parties or Owners of Real Property that Perform Corrective Action(s) Approved by the Kansas Department of Health and Environment.

Would include, but not be limited to --

- Agricultural or specialty chemical retailers/distributors
- Commercial grain handlers and feed processors
- Agricultural Producers
- Homeowners

What type of assistance will S.B. 501 Provide?

Situation #1:

Eligible persons who are required to pay one or a combination of the assessments listed above would be eligible to receive a direct reimbursement for corrective actions approved by KDHE equal to 90% of the total costs greater than \$1,000 and less than or equal to \$100,000 plus 80% of total costs greater than \$100,000 and less than or equal to \$200,000.

(For example: assume an eligible person that pays one or a combination of the assessments listed above has completed corrective actions (remediation) approved by KDHE that total \$200,000 in cost. That individual would be eligible to receive \$169,100 after meeting the deductibles prescribed by Senate Bill 501.)

What type of assistance will S.B. 501 Provide?

Situation #2

Eligible persons that are not required to pay any of the assessments listed above would be eligible to receive a direct reimbursement for corrective actions approved by KDHE equal to 100% of total costs greater than \$1,000 and less than or equal to \$10,000.

(For example: assume a Kansas landowner that does not pay any of the assessments listed above, purchases agricultural or specialty chemicals and has an incident or spill that creates the need for remediation/cleanup. This individual would be eligible to receive up to \$9,000 for corrective actions approved by KDHE.)

What type of assistance will S.B. 501
Provide?

M

Situation #3:

Eligible persons that are faced with remediation costs that exceed the maximum amount of direct reimbursement described in Situations # 1 and # 2 would, upon approval of the Kansas Remediation Board, be eligible to apply for a low interest loan (maximum of 4% interest) for corrective actions approved by KDHE.

(For example: assume an eligible person that pays one or a combination of the assessments listed above has a site that required remediation and those costs totaled \$350,000. Assuming this person received the total amount of direct reimbursement (\$200,000 minus deductibles), this person would be eligible to submit an application for a linked deposit loan for \$150,000 once approved by the Kansas Remediation Board.)

As I conclude my comments today, I hope my review of the cause, components and benefits of Senate Bill 501 effectively answered the final question I raised earlier, "Why do the Kansas Grain and Feed Association and Kansas Fertilizer and Chemical Association support this bill?" We believe this proactive approach to address agricultural sites that have been identified by EPA Region VII or by the Kansas Department of Health and Environment is responsible, practical and will help ensure businesses faced with the costs of environmental remediation have the financial tools available to address areas of concern.

Later this morning, you will hear from agribusiness representatives whose first-hand experience can attest to the importance of this proposed program. You will also hear from a number of other proponents that realize this responsible, proactive approach will yield both economically and environmentally positive results for Kansas towns and rural communities. I hope you will agree this is the approach Kansas should take in addressing agricultural sites and will positively consider Senate Bill 501 for passage.

Mr. Chairman, I do have the balloon amendment attached to my testimony that I referenced earlier and respectfully ask the committee to consider that amendment favorably as well.

Again, thank you for the opportunity to testify in support of Senate Bill 501 and I would be happy to respond to any questions you might have at this time or at an appropriate time.

1 gible corrective action costs greater than \$1,000 and less than or equal to
2 \$10,000.

3 New Sec. 9. (a) There is hereby created the Kansas remediation
4 board. The board shall consist of five members appointed by the gover-
5 nor. Of the five members, one shall be a representative of agricultural
6 retailers, one shall be a representative of agricultural producers, one shall
7 be a representative of agricultural processors, one shall be a representa-
8 tive of ~~agricultural or specialty chemical distributors~~ and one shall be a
9 representative of agricultural ~~or specialty chemical registrants~~. Not more
10 than three voting members shall be members of the same political party.
11 One representative of the Kansas department of agriculture and one rep-
12 resentative of the Kansas department of health and environment shall
13 serve as members of the board *ex officio*.

or retailers

and

14 (c) Members appointed by the governor shall be subject to confir-
15 mation by the senate as provided by K.S.A. 75-4315b, and amendments
16 thereto. Except as provided by K.S.A. 1999 Supp. 46-2601, and amend-
17 ments thereto, no person appointed to the board, whose appointment is
18 subject to confirmation shall exercise any power, duty or function as a
19 member of the board until confirmed by the senate. The term of office
20 of each member of the board shall be four years, except the initial ap-
21 pointments to the board shall be as follows: Two members shall be ap-
22 pointed for terms of two years, two members shall be appointed for terms
23 of three years and one member shall be appointed for a term of four
24 years. The governor shall designate the term of office for each member
25 appointed to the first board. Each member shall serve until a successor
26 is appointed and confirmed. Whenever a vacancy occurs in the member-
27 ship of the board prior to the expiration of a term of office, the governor
28 shall appoint a qualified successor to fill the unexpired term.

29 (d) The governor shall designate the chairperson and vice-chairper-
30 son of the board from the members of such board.

31 (e) Meetings shall be held as determined by the board.

32 (f) Members of the board attending meetings of the board, or at-
33 tending a subcommittee meeting thereof authorized by the board, shall
34 be paid compensation, subsistence allowances, mileage and other ex-
35 penses as provided in K.S.A. 75-3223, and amendments thereto.

36 New Sec. 10. The board shall have the following powers, duties and
37 functions:

38 (a) Administer the fund and the remediation reimbursement
39 program.

40 (b) Subject to this act, adopt rules and regulations concerning the
41 terms and conditions of any reimbursements from the fund.

42 (c) Adopt rules and regulations establishing, for purposes of the re-
43 mediation linked deposit loan program and the remediation reimburse-

2-10



WORKING TOGETHER

The Kansas Grain and Feed Association and the Kansas Department of Health and Environment (KDH&E) are working closely with the U.S. Environmental Protection Agency (EPA) to arrive at a common sense plan to protect precious drinking water supplies from possible contamination by carbon tetrachloride. Past experience has taught us that the cleanup of groundwater contamination is extremely expensive and lengthy. If we, together, can implement a well-coordinated and streamlined approach to focus on vulnerable water supplies, we will be able to find cost effective and practical solutions. The emphasis is on the word "together." It must be a cooperative effort with you, your grain and feed association, KDH&E and EPA.



A VOLUNTARY PROGRAM

The focus of this program is on protection of public water supplies. Participation in this voluntary program through a self-evaluation will give you access to the combined resources and support of your Grain and Feed Association, KDH&E and the EPA in assessing the potential for carbon tetrachloride contamination from your facility. Should problems arise they will be addressed in a straightforward, cost effective and logical manner. Instead of going it alone, you'll be working with environmental agencies to prepare a plan that addresses your specific site and works best for you.



BENEFITS

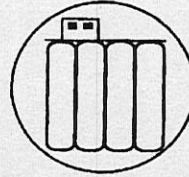
It appears many commercial operators used proper label rates and diligence in applying grain fumigants and won't have any problems. If problems should be detected, however, you will have a support network to deal with them cost effectively and logically. As a partner you'll be able to take advantage of a streamlined self-evaluation and problem solving program. Each participating facility will receive a letter from KDH&E or EPA that recognizes the efforts you have made. Knowing that your facility is not a potential source for carbon tetrachloride contamination should result in less stress and more assurance in future property and business dealings.



QUESTIONS? CONTACT THE FOLLOWING:

- Tom Tunnell
Kansas Grain and Feed Association (913)-234-0461*
 - Larry Knoche
Kansas Department of Health and Environment .. (913)-295-1662*
 - Pradip Dalal
U.S. Environmental Protection Agency (913)-551-7454*
-

2-11



Kansas Grain and
Feed Association



2-12

*Self-Evaluation
To Protect
Public Drinking Water Supplies*

**IT PAYS TO
CHECK
IT OUT!**

Early DETECTION and CORRECTION Means:

- ✓ *Protection of our water supplies*
- ✓ *Support through Grain and Feed Association*
- ✓ *Streamlined, logical, cost-effective procedures*
- ✓ *Reduced costs from working as a group*
- ✓ *Assurance for the future*

**BENEFIT!!! PREVENT carbon tetrachloride from
reaching precious drinking water supplies!**

2-12

01-19-2000 10:28AM

The Triangle Companies



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
 REGION 6
 1445 ROSS AVENUE, SUITE 1200
 DALLAS, TX 75202-2733

CERTIFIED MAIL/RETURN RECEIPT REQUESTED #: Z 187 272 202

January 12, 2000

Post-It* Fax Note	7871	Date 1-14-00	# of pages 3
To	Melt	From	J. E. G. P. S. U.
Co./Dept.		Co.	
Phone #		Phone #	237-4276
Fax #		Fax #	

Re:

Gentlemen:

The Environmental Protection Agency needs information from the above referenced sites to assist in assessing the degree of risk to public health, welfare, and the environment related to hazardous substances, pollutants or contaminants that may be present at the sites. This inspection will be conducted pursuant to EPA's response and enforcement responsibilities under the Comprehensive Environmental Response, Compensation and Liability Act (Superfund), 42 U.S.C. Section 9601 et seq.

We understand from available information that you are the owner of the properties. Please sign the enclosed "Consent For Access To Property" forms and return to:

Don Markham (6SF-RA)
 UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
 REGION 6
 1445 ROSS AVENUE, SUITE 1200
 DALLAS, TX 75202-2733

Ecology and Environment, Inc., (E & E) has been authorized to serve as a representative of the U.S. Environmental Agency for the purpose of conducting these inspections. After receipt of the signed "Consent For Access To Property" form, one of E & E's personnel will be contacting you to arrange the specific date of the inspections.

Internet Address (URL) > <http://www.epa.gov>


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January 12, 2000

Page 2 of 2

If you are not the owner or authorized representative for the above listed sites, please return the forms with any information that you may have on who is the current owner or authorized representative for these sites. If you have any questions regarding this request, please contact me at 214/665-6784.

Sincerely,



Susan D. Webster (6SF-RA)
Site Assessment Team Leader
EPA Region 6

cc: Phillip Ofose, EPA-SAM
Hal Cantwell, ODEQ

bcc: Edlund (6SF-L)
McFarland (6SF)
Peycke (6SF-DL)
Honker (6SF-A)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
 REGION 6
 1445 ROSS AVENUE, SUITE 1200
 DALLAS, TX 75202-2733

CONSENT FOR ACCESS TO PROPERTY

NAME: _____

ADDRESS OF PROPERTY: _____

STATE/ZIP: _____

TELEPHONE NUMBER(S): _____

I consent to officers, employees, and authorized representatives of the United States Environmental Protection Agency (EPA) entering and having continued access to my property for the following purposes:

the collection of such soil, water, air samples as may be necessary;

other actions related to the investigation of surface or subsurface conditions;

the taking of a response action necessary to mitigate any threat to human health and the environment;

I realize that these actions by EPA are undertaken pursuant to its response and enforcement responsibilities under the Comprehensive Environmental Response, Compensation and Liability Act (Superfund), 42 U.S.C. Section 9601 et seq. Under those authorities, EPA can only remediate and restore contaminated property, and it legally cannot improve property beyond removing hazardous substances located on such property.

By entering into this agreement, the undersigned in no way admits to having generated the hazardous substances, pollutants, or contaminants in question, nor does the signing of this agreement constitute an admission that the undersigned in any way consented or acquiesced to the deposition of the hazardous substances, pollutants, or contaminants upon the property in question.

This written permission is given by me voluntarily with knowledge of my right to refuse access and without threats or promises of any kind. By signing this access agreement I am not waiving any rights in law or in equity I may have against any person or party in connection with the response action EPA will perform.

Date _____

Signature _____

Internet Address (URL) • <http://www.epa.gov>

Recycled/Water-Soluble • Printed with Vegetable Oil Based Ink on Recycled Paper (Minimum 25% PostConsumer)

COMPREHENSIVE LIST OF AGRICULTURAL BUSINESS SITES IN KDHE/BUREAU OF ENVIRONMENTAL REMEDIATION PROGRAMS			
Location	Program	Site Status	Contaminant
Agenda	VCPRP	VCPRP Investigation	Nitrate, Ammonia
Agenda	SCP	Site Characterization	Carbon Tet, Nitrate
Agra	SCP	Site Characterization	Carbon Tetrachloride
Almena	VCPRP	VCPRP Investigation	Nitrate, Pesticides
Alton	SWP	CI	Nitrate
Andale	SCP	Enforcement/Negotiations	Pesticides
Argonia	VCPRP	VCPRP Investigation	Nitrate, Pesticides
Argonia	SWP	CI	Carbon Tetrachloride
Arlington	VCPRP	VCPRP Investigation	Nitrate, Ammonia, Pesticides
Arlington	VCPRP	VCPRP Investigation	Nitrate, Ammonia, Pesticides
Atchison	Unassigned	Not Assigned	Carbon Tet
Barnes	SWP	Phase I & II CI	Carbon Tet
Bazine	SWP	CI/LTM	Carbon Tet, Nitrate
Beattie	Unassigned	Not Assigned	Carbon Tet
Beeler	Unassigned	Not Assigned	Nitrate
Belle Plaine	SWP	CI	Nitrate
Belpre	VCPRP	VCPRP Investigation	Nitrate, Carbon Tet
Bendena	SCP	Pilot Study	Carbon Tet/Nitrates/MTBE
Bendena	SWP	CA/LTM	Carbon Tet, Nitrate
Bennington	VCPRP	VCPRP Investigation	Nitrate, Pest, VOC, Carbon Tet
Beverly	VCPRP	VCPRP Investigation	Nitrate, Pesticides
Big Bow	Unassigned	Not Assigned	Carbon Tet
Breman	Unassigned	Not Assigned	Carbon Tet
Burlingame	Unassigned	Not Assigned	Pesticides
Burns	VCPRP	VCPRP Investigation	Nitrate, Ammonia, Pesticides
Canada	SCP	Site Characterization	Carbon Tet
Cawker City	Unassigned	Not Assigned	Carbon Tet
Centralia	Unassigned	Not Assigned	Carbon Tet
Chapman	Unassigned	Not Assigned	Pesticides
Cheney	VCPRP	VCPRP Investigation	Carbon Tet
Clay Center	Unassigned	Not Assigned	Carbon Tet
Clay Center	SCP	Comprehensive Investigation	Nitrate, Pesticides
Clifton	VCPRP	VCPRP Investigation	Nitrate, Pesticides
Concordia	VCPRP	VCPRP Investigation	Nitrate
Conway Springs	VCPRP	VCPRP Investigation	Nitrate
Corbin	SCP	Comprehensive Investigation	Carbon Tet, Nitrate
Courtland	Unassigned	Not Assigned	Carbon Tet
Courtland	Unassigned	Not Assigned	Pesticides
Courtland	Unassigned	Not Assigned	Pesticides
Culver	VCPRP	VCPRP Investigation	Nitrate, Pesticides, VOC
Danville	Unassigned	Not Assigned	Carbon Tet
Denton	SWP	CI	Carbon Tet
Dighton	Unassigned	Not Assigned	Carbon Tet
Dodge City	SCP	Site Characterization	Nitrate, Brine
Elbing	SWP	CI	Carbon Tet
Ellis	SCP	Comprehensive Investigation	Nitrate
Everest	SCP	Site Characterization	Carbon Tet
Everest	Unassigned	Not Assigned	Carbon Tet
Fairview	SWP	CI/LTM	Carbon Tet
Fort Scott	Unassigned	Not Assigned	Nitrate
Frankfort	SCP	Site Characterization	Carbon Tet
Furley	Unassigned	Not Assigned	Pesticides
Galva	SCP	Remediation	Carbon Tet, Nitrate
Garden City	SCP	Site Characterization	Brine
Garden City	Unassigned	Not Assigned	Carbon Tet
Gaylord	SWP	CI	Nitrate
Glasco	SWP	SA/CI/LTM	Carbon Tet
Greensburg	SCP	Preliminary Investigation, Resolved	Atrazine, Pesticides
Hackney	SWP	CI/LTM	Carbon Tet, Nitrate
Haddam	SWP	CI	Carbon Tet, Nitrate
Hanover	Unassigned	Not Assigned	Carbon Tet
Hays	SWP	SA/CI/CAS	Carbon Tet
Herkimer	VCPRP	VCPRP Investigation	Nitrate

Alton	Unassigned	Not Assigned	Carbon Tet
Holcomb	Unassigned	Not Assigned	Carbon Tet
Holton	Unassigned	Not Assigned	Pesticides
Home	Unassigned	Not Assigned	Carbon Tet
Hope	SWP	CI/LTM	Carbon Tet
Horton	SWP	CI	Carbon Tet
Hutchinson	SCP	Comprehensive Investigation	Carbon tet
Hutchinson	SCP	None	Carbon Tet
Hutchinson	SCP	Remedial Investigation	Carbon tet
Inman	Unassigned	Not Assigned	Carbon Tet
Iuka	VCPRP	VCPRP Investigation	Nitrate, Carbon Tet
Kansas City	VCPRP	VCPRP Investigation	Carbon Tet
Kansas City	VCPRP	VCPRP Investigation	PAHs, Btex, Carbon Tet
Kansas City	Unassigned	Not Assigned	Carbon Tet
Kensington	SWP	CI	Nitrate
Kinsley	SWP	SA/CI/CAS/CA/LTM	Pesticides
Kinsley	Unassigned	Not Assigned	Carbon Tet
Kiowa	SWP	CI	Nitrate, Carbon Tet, Atrazine
Kipp	SCP	Pending Add'l KDHE Work	Nitrate
Kirwin	SCP	Pending Add'l KDHE Work	Carbon Tet, Nitrate
Latimer	SWP	CI/CA/ER	Nitrate
Lawrence	SCP	Remediation	Carbon Tet
Leoti	SCP	Treating Public water & Monitoring	BTEX, Metals, PAHs
Leoti	VCPRP	VCPRP Investigation	Pesticides
Levant	SCP	Soil Removal, Resolved	Nitrate, Carbon Tet
Lewis	VCPRP	VCPRP Investigation	Nitrate
Lincolville	SCP	Initiating Negotiations	Nitrate
Logan	SWP	CI	Carbon Tet
Lyons	SWP	CI	Carbon Tet
Manter	SWP	LTM	Pesticides
Marienthal	SCP	Soil Removal, Resolved	Pesticides
Marysville	Unassigned	Not Assigned	Pesticides
McPherson	SCP	Monitoring	Pesticides
Miltonvale	SWP	SA/CI/LTM	Pesticides
Mingo	SWP	Not Assigned	Pesticides
Minneapolis	Unassigned	Negotiations	Pesticides
Montezuma	SWP	CI	Pesticides
Morrill	SWP	CI/LTM	Carbon Tet
Mound Valley	Unassigned	Not Assigned	Carbon Tet
Moundridge	SCP	Comprehensive Investigation	Carbon Tet
Navarre	SCP	Negotiationg Order	Carbon Tet, Nitrate
Nemaha	Unassigned	Not Assigned	Pesticides, Nitrate
New Cambria	VCPRP	VCPRP Investigation	Nitrate, Pesticides, VOCs (TPH)
Oak Hill	VCPRP	VCPRP Investigation	Nitrate, Ammonia, Pesticdes
Oakley	Unassigned	Not Assigned	EDB
Oberlin	VCPRP	VCPRP Investigation	Atrazine
Osage City	Unassigned	Not Assigned	Nitrate
Paola	Unassigned	Not Assigned	Pesticides
Park	SWP	CI/LTM	Carbon Tet
Pensacola	Unassigned	Not Assigned	Pesticides
Piqua	Unassigned	Not Assigned	Nitrate
Plainville	SCP	Long Term Monitoring	Carbon Tet
Portis	SWP	CI	Nitrate
Potwin	SWP	CI/LTM	Carbon Tet
Powhattan	SWP	CI/LTM	Carbon Tet
Preston	SCP	Comprehensive Investigation	Nitrate, Pesticides
Protection	SCP	Monitoring	Carbon Tet
Ramona	SWP	CI/LTM	Carbon Tet
Randall	SWP	CI/LTM	Carbon Tet, Nitrate
Republic	Unassigned	Not Assigned	Carbon Tet
Rolla	Unassigned	Not Assigned	Carbon Tet'
Rozel	Unassigned	Not Assigned	Nitrate
Ruleton	SCP	Prelimin Investigation, Resolved	Pesticides

Sabetha	Unassigned	Not Assigned	Carbon Tet
Salina	SWP	CI	Carbon Tet
Salina	SCP	Comprehensive Investigation	Carbon Tet
Salina	SCP	Prelimin Investigation, Resolved	Carbon Tet
Salina	VCPRP	VCPRP Investigation	VOCs, Carbon Tet
Salina	SCP	Negotiating Order	Carbon Tet
Salina	SCP	Comprehensive Investigation	Carbon Tet
Sedgwick	SCP	Negotiations	Pest
Seldon	Unassigned	Not Assigned	Carbon Tet, EDB
Shady Bend	VCPRP	VCPRP Investigation	Nitrate, Pesticides, VOCs (TPH)
Silver Lake	SWP	SA/LTM	Carbon Tet, Nitrate
Solomon	VCPRP	VCPRP Investigation	Nitrate, Pesticides, VOCs (TPH)
St. George	Unassigned	Not Assigned	Carbon Tet
St. Marys	Unassigned	Not Assigned	Nitrate
Stockton	Unassigned	Not Assigned	Pesticides
Stuttgart	SCP	Negotiation Order	Carbon Tet
Sylvan	Unassigned	Not Assigned	Carbon Tet
Sylvan Grove	Unassigned	Not Assigned	Pesticides
Talmage	Unassigned	Not Assigned	Carbon Tet
Tescott	VCPRP	VCPRP Investigation	Nitrate
Turon	Unassigned	Not Assigned	Carbon Tet
Wamego	Unassigned	Not Assigned	Carbon Tet
Washington	Unassigned	Not Assigned	Carbon Tet
Webber	Unassigned	Not Assigned	Carbon Tet
Wellington	VCPRP	VCPRP Investigation	Carbon Tet
Wellington	VCPRP	VCPRP Investigation	Nitrate
Whie City	Unassigned	Not Assigned	Pesticides
Wichita	SCP	Source Control	Carbon Tet
Wilsey	SWP	CI	Nitrate
Wilson	Unassigned	Not Assigned	Carbon Tet
Winchester	VCPRP	VCPRP Investigation	Nitrate, Ammonia
Woodbine	SWP	LTM	Nitrate
Wright	SCP	EPA/MACA	Carbon Tet
Yoder	SCP	EPA/MACA	Carbon Tet



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

October 23, 1998

[REDACTED]

Dear Mr. [REDACTED]

The Kansas Department of Health and Environment (KDHE) has completed an investigation that was conducted at [REDACTED] Kansas. The investigation identified elevated levels of pesticides, volatile organic compounds and nitrate contamination in the soil and ground water at your facility. The extent or magnitude of this contamination is currently unknown and should be further investigated.

Based on the findings of the investigation, our routine procedure is that your facility will be included on KDHE's list of contaminated sites that require further action. KDHE will prioritize the contamination located at your facility for future work under the State Cooperative Program or the Federal Pre-Remedial/ Superfund Program. However, an alternative may now exist for contaminated sites such as the [REDACTED] facility.

In July 1997, the Voluntary Cleanup and Property Redevelopment Act was passed into law by the 1997 legislature and signed by the governor. The new law was designed to allow voluntary cleanups of contaminated properties with department oversight to promote the transfer, redevelopment and reuse of contaminated properties and protect public health and the environment. The law encourages property owners or other entities to proceed with environmental investigations and cleanups in a streamlined and cost-effective manner.

I have enclosed a package of information which includes a fact sheet, statutes, regulations and an application package for the Voluntary Cleanup and Property Redevelopment Program. If you

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DIVISION OF ENVIRONMENT
Bureau of Environmental Remediation

Forbes Field, Building 740
(785) 296-1673

Printed on Recycled Paper

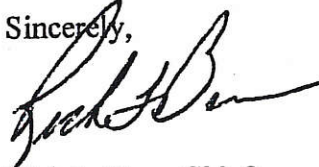
Topeka, KS 66620-0001
FAX (785) 296-7030

[REDACTED]
October 23, 1998

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decide to participate in the program, please return the completed application form and fee. Please respond by November 23, 1998, as to your participation in this new program. If a response is not received, KDHE will initiate prioritization and assignment of your site into an enforcement-based program. Should you have any questions or need additional information, please contact: Frank Arnwine at (785)-296-1665 or myself at (785)-296-1675.

Sincerely,



Rick L. Bean Chief
Remedial Section
Bureau of Environmental Remediation

RLB/jdh

[REDACTED]

enclosure

Who will administer this Program?

A

The Kansas Remediation Board

- * Appointed by the Governor
- * Approved by the Senate

Board Members:

- * Agricultural Producer
- * Agricultural Retailer
- * Agricultural Processor
- * Agricultural or Specialty Chemical Distributor
- * Agricultural or Specialty Chemical Registrant

Balloon Amendment:

Specialty Chemical Distributor or Retailer
Agricultural and Specialty Chemical Registrant

B

Board Administrative Functions:

- * Hire or contract for qualified administrative services.
 - * Total expenses for administrative services and board expenses capped at \$150,000 annually.
- * Determine Direct Reimbursement Amounts to Eligible Persons.
- * Authorize Eligible Persons to Apply for Linked Deposit Low-Interest Environmental Remediation Loans.
- * Submit an Annual Report, including an independent audit to the Governor, Senate Energy & Natural Resources Committee and House Environment Committee.

How will the Remediation Program be Funded?

- * Registered Pesticide Assessment
- * Commercial Grain Assessment
- * Registered Pesticide Dealer Assessment
- * Registered Fertilizer Product Assessment
- * Licensed Custom Fertilizer Blenders Assessment.

C

Registered Pesticide Assessment --

D

An Assessment of \$60.00 placed on pesticide products registered with the Kansas Department of Agriculture would annually generate \$441,840 based on the 7,364 pesticide products (not including disinfectants) currently registered with the Kansas Department of Agriculture. The current Pesticide Registration Fee is \$130.

\$441,840

Commercial Grain Assessment

A \$.0005 per bushel assessment on commercially licensed grain storage facilities would annually generate \$430,000 based on the current level of 860 million bushels of licensed storage capacity in Kansas. This assessment shall be collected annually from licensed grain warehouses by KDA.

Assessment collection shall take place on state licensed facilities at the normal time of license renewal and on federally licensed facilities on or before August 31.

\$430,000

E

2-25

Registered Pesticide Dealer Assessment

An Assessment of \$80.00 placed on individuals or businesses that maintain a Pesticide Dealers License with the Kansas Department of Agriculture would annually generate an additional \$140,000 in revenue based on the 1,750 pesticide dealers currently registered by the KDA. The current Pesticide Dealer License is \$20.

\$140,000

Registered Fertilizer Product Assessment

G

An Assessment of \$20.00 placed on 3,593 fertilizer products that are currently registered with the KDA would annually generate \$71,900. The current Fertilizer Product Registration Fee is \$5.00

\$71,900

Licensed Custom Fertilizer Blenders Assessment

An Assessment of \$100.00 placed on individuals or businesses that maintain a Custom Fertilizer Blenders License with the Kansas Department of Agriculture would annually generate an additional \$41,500 in revenue based on the 415 fertilizer blenders currently licensed by the KDA. The current Custom Fertilizer Blenders License Fee is \$25.

\$41,500

Total Estimated Annual Revenue

\$1,125,240.00

Who will benefit from the Remediation Fund and Linked Deposit Low-Interest Loan Program?

Responsible Parties or Owners of Real Property that Perform
Corrective Action(s) Approved by the Kansas Department
of Health and Environment.

Would include, but not be limited to --

- Agricultural or specialty chemical retailers/distributors
- Commercial grain handlers and feed processors
- Agricultural Producers
- Homeowners

What type of assistance will S.B. 501 Provide?

K

2-31

Situation #1:

Eligible persons who are required to pay one or a combination of the assessments listed above would be eligible to receive a direct reimbursement for corrective actions approved by KDHE equal to 90% of the total costs greater than \$1,000 and less than or equal to \$100,000 plus 80% of total costs greater than \$100,000 and less than or equal to \$200,000.

(For example: assume an eligible person that pays one or a combination of the assessments listed above has completed corrective actions (remediation) approved by KDHE that total \$200,000 in cost. That individual would be eligible to receive \$169,100 after meeting the deductibles prescribed by Senate Bill 501.)

What type of assistance will S.B. 501 Provide?

Situation #2

Eligible persons that are not required to pay any of the assessments listed above would be eligible to receive a direct reimbursement for corrective actions approved by KDHE equal to 100% of total costs greater than \$1,000 and less than or equal to \$10,000.

(For example: assume a Kansas landowner that does not pay any of the assessments listed above, purchases agricultural or specialty chemicals and has an incident or spill that creates the need for remediation/cleanup. This individual would be eligible to receive up to \$9,000 for corrective actions approved by KDHE.)

What type of assistance will S.B. 501 Provide?

M

2-33

Situation #3:

Eligible persons that are faced with remediation costs that exceed the maximum amount of direct reimbursement described in Situations # 1 and # 2 would, upon approval of the Kansas Remediation Board, be eligible to apply for a low interest loan (maximum of 4% interest) for corrective actions approved by KDHE.

(For example: assume an eligible person that pays one or a combination of the assessments listed above has a site that required remediation and those costs totaled \$350,000. Assuming this person received the total amount of direct reimbursement (\$200,000 minus deductibles), this person would be eligible to submit an application for a linked deposit loan for \$150,000 once approved by the Kansas Remediation Board.)

TESTIMONY OF JAROLD W. BOETTCHER

PRESIDENT, BOETTCHER ENTERPRISES, INC., BELOIT, KANSAS

IN SUPPORT OF SENATE BILL NO. 501, TO PROVIDE FUNDING FOR VOLUNTARY

ENVIRONMENTAL REMEDIATION OF AGRICULTURAL FACILITIES

BEFORE THE SENATE ENERGY AND NATURAL RESOURCES COMMITTEE

SENATOR DAVID CORBIN, CHAIRPERSON

February 8, 2000

Thank you Mr. Chairman and members of the Committee, for the opportunity to provide testimony in support of Senate Bill Number 501, which would provide for a funding mechanism for the voluntary environmental remediation of agricultural related facilities in the State of Kansas.

My name is Jarold Boettcher. I am President of Boettcher Enterprises, Inc., based in Beloit, Kansas. We are a family and employee owned company with 36 retail fertilizer locations in North Central Kansas and Southern Nebraska. I am here today representing our Industry Association, the Kansas Fertilizer and Chemical Association. I serve on the Board of Directors of that group and am a past president as well.

The effort to provide for industry funding grows out of initiatives by the Governor and the Legislature in the 1997 Session through SB 276 for a program for voluntary remediation of environmental problems in the State of Kansas. The industry has discussed the possible need for a funding mechanism in the past but there was hesitation on the part of some because of a concern that by addressing the problem more openly, our industry might draw unwanted attention and scrutiny by the regulatory authorities. We have gotten past those concerns and are focusing on the problems.

The funding in Senate Bill 501 has important precedent in the program for underground petroleum storage tanks and in the dry cleaning industry. To address known problems, funding mechanisms were put in place in the beginning. These programs are working today to address

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environmental problems, many of which like the grain and fertilizer industries, can be traced to old, but accepted working practices of 20 or 30 or 40 years ago, or more, which we now know are not acceptable and indeed, such working practices have led to many of the problems we have today.

What is missing from the currently operating Voluntary Remediation Program, operated by the Kansas Department of Health and Environment, is a funding mechanism. The grain and fertilizer industries are proposing a series of revenue gathering mechanisms which will provide funds by which some of these pending environmental problems can be dealt with sooner, rather than later, and therefore more effectively than they might be otherwise. Experience demonstrates that the sooner the remediation effort starts, the sooner we begin to solve the problems. The progress of identified sites in the State's Cooperative Program is impeded mostly by the requirements of the Environmental Protection Agency (EPA). The process is complicated, lengthy, and expensive for all parties and not just the PRP (Potentially Responsible Party). We need to get to work, minimize the time, effort, and expenditure of resources on the process and move towards more resources being devoted to solving the problems, and not just for our citizens of today, but for those of tomorrow. The Voluntary Remediation Program (VRP) is exactly the sort of partnering that needed to be put in place. A funding mechanism will make it better and more effective, sooner.

The major elements of the funding are:

- 1) Increased license fees on fertilizer dealers
- 2) Increased product registration fees for fertilizer and chemical products
- 3) Grain storage fees, based upon storage capacities

Sources are simple and easily administered through existing programs.

The industry believes that the only way to provide adequate funding for the Voluntary Remediation Program is to do it collectively by spreading out the cost so that no one sector bears

all the burden. The same approach was used for the underground storage tanks and dry cleaners. Nearly all the funds would come from existing sources. Some may argue that those of us in the industry will simply "pass on" the fees as a form of taxation. Those who make that charge in a serious manner fail to appreciate the competitive nature of our businesses. If our costs rise, we will make an attempt to pass on the increases, regardless of where they come from, but we are entirely dependent upon the marketplace as to whether we will be successful in doing so. Moreover, in grain markets that can fluctuate many cents per bushel per day, I would argue that a 5/100 of one cent assessment on storage facilities, for example, will get lost in the accounting records at the elevator. Moreover, there is little or no inflation in fertilizers or chemicals - in fact, deflation has been a more recent trend. While it cannot be identified specifically, failure to have a broadly based funding mechanism for the VRP could put an individual business at significant economic risk. The problems must be addressed. Doing so could hasten the economic decline of many businesses thereby having additional negative economic impacts on rural communities, employment, the tax base, schools, and others.

Thank you for the opportunity to discuss this very important legislation.



TESTIMONY

Energy & Natural Resources Committee
February 8, 2000

Prepared by: David Andra, Danville Cooperative Assn., Danville, KS

Mr. Chairman and members of the committee:

I am David Andra, General Manager, of the Danville Cooperative Association, Danville Ks.. Danville Cooperative Assn. operates grain storage, petroleum, fertilizer, and agricultural chemicals facilities at five locations in Eastern Harper, and Western Sumner counties. We serve eight hundred - thirty farmers in this market area.

Thank you for accepting my testimony in support of the Agricultural and Specialty Chemical Remediation Act (Senate Bill 501).

I appreciate the opportunity to share our experience with an underground gasoline tank leak at our Argonia self-serve, refined fuel plant, and the value of the Kansas Department of Health and Environment Underground Storage Tank Trust Fund Program.

In January, 1994, we discovered a shortage of gasoline in the 4,000 gallon underground tank. The Kansas Department of Health and Environment was notified, and there was a representative on-site when the tank was dug out. There was two thousand gallons of gasoline lost, which contaminated the soil around the tank. The KDHE

Senate Energy & Natural Resources

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Representative determined that the event justified the Danville Cooperative Assn. to be eligible to participate in the KDHE UST Trust Fund Program.

Since the tank leak discovery, one hundred cubic feet of saturated sand, and the old tanks were removed. New tanks were purchased to service our customers.

Geo Core Services Inc. was hired to monitor the ground water contamination. They drilled twelve ground water monitoring wells, to test the water on a periodic basis.

To date, \$44,217.70 has been spent to monitor the ground water. The KDHE UST Trust Fund has paid \$39,217.70 of this cost. This cost, if paid by the Danville Cooperative Assn. only, would have a material impact on our Financial Statement.

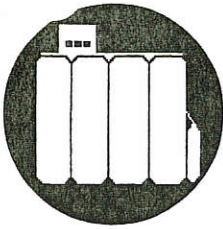
Carbon Tetrachloride was detected in a test well last year. The contamination extent has not yet been determined. Currently there is no remediation fund to assist in clean-up for this chemical. If clean-up costs are substantial, it is possible that our financial viability would be in jeopardy. The most extreme case would be that the Danville Cooperative would cease operation. Eight hundred - thirty farmers would loose their investment in their Cooperative, plus the marketing and Ag input services that we provide.

The Danville Cooperative Association supports Agricultural and Specialty Chemical Remediation Act, for the following reasons:

1. The funding would be shared by the Agricultural and Specialty Chemical Industry.
2. Rural communities, where chemical contamination occurs, will have more financial support for the clean-up effort. Plus, these communities will avoid the potential loss of goods and services of their Agri-Business Company, if it ceases operation.
3. Agricultural Lenders would be able to lend capitol to agri-business operations, if the financial risk is reduced by financial assistance from a remediation fund.

4. This would be a positive, pro-active approach, for the clean-up from contamination.

Thank you, Mr. Chairman, and Committee members, for this opportunity to present our reasons to support and pass the Agricultural and Specialty Chemical Remediation Act.



KANSAS GRAIN AND FEED ASSOCIATION

February 8, 2000

Testimony Presented For Senate Bill 501
As Presented To
Kansas Senate Energy and Natural Resources Committee
Chairman - David Corbin

Good morning, my name is Paul Dalke - Director of Safety, Health & Environment for Beachner Grain, Inc., St. Paul, Kansas. I currently am the chairman of the Kansas Grain and Feed Association's Groundwater Protection Committee and co-chairman of the joint Kansas Grain and Feed Association and Kansas Fertilizer and Chemical Association Environmental Remediation Task Force.

The agribusiness leaders I represent support my concern about the quality of groundwater in our state. Agribusiness wants to be proactive and partner with appropriate government agencies, legislators, statewide elected officials and other business and industry in Kansas to address contamination when and where it exists.

Our Association has pledged to inform and educate its members of programs that can be utilized to investigate and inspect agribusiness sites to clear them as possible groundwater contamination sources. Additionally, it is our intent to provide industry leadership through the development and implementation of cost-effective, efficient and reasonable programs/processes for site assessments, investigation and remediation. The final item I mentioned, "remediation" and the exorbitant costs that often accompany remediation is specifically what Senate Bill 501 will address.

You heard from Doug Wareham earlier about our industry's choice to work with, rather than against the Environmental Protection Agency. As a stakeholder within the Kansas grain industry, I firmly believe EPA will if necessary force us to address agricultural sites they deem as "high potential" for carbon tetrachloride contamination. Voluntary or otherwise we will be forced to either prove ourselves innocent or identify new sites for remediation. We recognize we do and will have sites that are identified as sources of contamination.

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Date: 2-8-2000

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However, we do not feel the agribusiness property owners that have already been identified or will be targeted in the future should bear the total burden of financial cleanup. I remind you that prior to 1984 carbon tetrachloride based grain fumigants were approved for use by the very agencies that are today holding agribusinesses responsible for best management practices of the past. Because of this, the agribusiness community is in agreement that the burden of addressing carbon tetrachloride and other possible contaminants should be shared by our entire industry.

Senate Bill 501 is a quality approach to true voluntary cleanup and will provide the much needed incentives for individuals and businesses to move forward. This bill will allow not only the entire agribusiness industry but the entire agricultural and specialty chemical industry to work with the Kansas Department of Health and Environment and EPA. It is an approach that will foster honesty, integrity, and pride. The results will be cleaner, safer water for all Kansans.

Mid America Green Industry Council

Proponent SB 501
Dave Murphy

I am here to represent MagiCouncil (Mid-America Green Industry Council). Our members include the professional lawn care, tree care and grounds management industries. We believe the establishment of a remediation fund is responsible and reflective of our stewardship philosophy.

Within the last week we have been in contact with many of the other proponents of this bill and have general agreement on a few changes that we would like you to consider.

1. The term "specialty chemical" needs to be defined. As of this time, there is no definition of the term. We have spoken with the department of agriculture and will leave this definition up to them.
2. Just one component of my industry is turfgrass. You might be surprised to hear that the turfgrass alone is the fifth largest crop in the state. The "specialty chemical" segment of the industry (of which we are a part) will pay roughly 1/3 of the cost for the fund. It was therefore agreed that the makeup of the board should reflect the interests of those who are paying the bills. We recommend a change to the wording of the "New Sec.9. (a) There is hereby created the Kansas remediation board. The board shall consist of five members appointed by the governor. Of the five members, one shall be a representative of the agriculture retailers, one shall be a representative of the agricultural producers, one shall be a representative of agricultural processors, one shall be a representative of ~~agricultural or specialty chemical distributors or retailers~~ and one shall be a representative of agricultural ~~or and specialty chemical registrants.~~"

It is generally agreed that this will provide a better balance to the interests on the board.

The Mid-America Green Industry Council supports Senate Bill 501 with these amendments.

Thank you for considering this important legislation.

Dave Murphy
913-248-9800
P. O. Box 328
Shawnee Mission, KS 66201-0328

Senate Energy & Natural Resources

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Testimony
to the
Senate Energy & Natural Resources Committee
on
Senate Bill 501
(Agricultural and Specialty Chemical
Remediation Act)

February 8, 2000

Jeffrey L. Field, Superfund Coordinator
WWPD/DWG
U.S. EPA Region VII
901 N 5th Street
Kansas City, Kansas 66101
913-551-7548

Senate Energy & Natural Resources

Attachment: 7

Date: 2-8-2000

I would like to begin by thanking this committee for inviting the U. S. Environmental Protection Agency to come before you to present the results of investigative efforts by EPA and several states regarding ground water contamination associated with past grain storage and fumigation practices. As you may be aware, the EPA has been addressing the problem of carbon tetrachloride contamination in ground water at a number of former U.S. Department of Agriculture facilities in several states, including Kansas. EPA has also initiated a review of the potential impact of past fumigation practices at commercial grain storage sites. In Kansas, the Kansas Department of Health and Environment has played a significant role in the investigation and resolution process for USDA grain storage sites, and also been active in reviewing and addressing problems at commercial sites.

In addition, a commercial trade-organization, the Kansas Grain and Feed Association, has actively participated in discussion with the state and EPA Region 7, to determine how to best address the potential contamination at commercial grain storage sites. The proposal before this committee to establish a trust fund is being advocated by the Kansas Grain and Feed Association to address the financial burdens that may be encountered by facilities facing investigation for and clean-up of contaminated grain storage facilities. As the Project Manager for this pilot project, I want to convey to this committee that we are extremely pleased with the work of the Kansas Grain and Feed Association in

taking on this issue and working with its membership so actively to address this problem. With regard to the specific proposal under consideration, however, we believe the issue of state funding of this program is best left for the state to resolve. Therefore, while we are here to present information regarding pollution that results from past fumigation practices and our efforts to date to address it, we will not present an opinion regarding the proposed legislation, either as an advocate or opponent.

At your request, and in my role of providing background information to aid in your consideration of the proposed legislation, I have the following to offer:

During the past several years the Environmental Protection Agency has been working with the four states within Region 7 and the U.S. Department of Agriculture to identify and address problems associated with the contamination of drinking water supplies by grain fumigants at former USDA/Commodity Credit Corporation grain storage facilities. The chemical in the majority of groundwater contamination incidences has been carbon tetrachloride, a probable human carcinogen, and a volatile organic compound, which is very persistent in groundwater. To date, approximately 781 former USDA grain storage facilities in Kansas, Nebraska, Iowa, and Missouri have been sampled to determine the potential existence of contamination to drinking water and ground water supplies. Regionally, there are 129

locations (16%) with some level of carbon tetrachloride detected in drinking water supplies. Fifty-eight of these locations (45%) had levels equal to or greater than the established drinking water standard of five parts per billion. These detections have been found in both public and private wells.

Since 1985, the Environmental Protection Agency and the Kansas Department of Health and Environment have conducted sampling activities at approximately 273 locations in Kansas that have been identified as sites of former USDA grain bins. Through this cooperative effort, we have discovered 43 locations or 15% with some level of carbon tetrachloride in drinking water or groundwater supplies. Eighteen of these locations (42%) had levels of carbon tetrachloride above the established drinking water standard of five parts per billion. These levels ranged from five parts per billion to nearly one-thousand parts per billion and were found in both public and private drinking water wells. The data compiled as a result of sampling at former USDA/CCC grain storage facilities in Kansas, has shown that this fumigant can eventually migrate into groundwater and affect public and private drinking water wells.

Carbon tetrachloride contamination from the USDA grain storage sites has been found in the drinking water wells used by small communities as well as in private domestic water wells. Small communities often lack financial resources needed to implement

expensive remedies to overcome these contamination problems. Homeowners with private domestic wells affected by carbon tetrachloride contamination, are even less likely to have the resources needed to deal with the contamination of their well. Some of the contaminated groundwater sites have been brought under the oversight of Superfund, to ensure that human health and environmental concerns by the individuals and businesses responsible are addressed. Such solutions can be quite expensive.

Based on the data collected by EPA, we have been concerned that the same type of problem found at the USDA sites could exist at commercial grain storage facilities. To address this potential problem, a pilot project was developed to involve commercial grain storage facilities in taking a systematic look to determine the potential for contamination of drinking water supplies coming from their operations. In this effort, our emphasis has been on pollution prevention and we have encouraged privately owned grain storage facility owners and operators in Kansas to actively participate in a self-examination. Emphasizing this new "preventive" approach, EPA has worked with KDHE to encourage participating facilities to conduct some level of an environmental site assessment to gather detailed information as to the environmental condition of their property, to identify potential sources of groundwater contamination, to discover problems and resolve them before they reach sensitive targets. The unique aspect of the approach

we have taken on this issue is that we have encouraged participation by the potentially affected business community. The idea is to allow the industry to find ground water contamination before it reaches sensitive targets, such as public and private drinking water sources. We also hope to foster and encourage the active participation of, and partnership with, the owner of the source of contamination before remedial programs, such as Superfund, need to be invoked. We believe advantages of participating in this pilot project could include (1) early detection of any contamination, (2) creation of a positive image in the community, (3) a potential reduction of litigation and insurance costs, (4) a potential for lower costs of investigation if several facilities are investigated in a group, and (5) a potential reduction of costs associated with future property transfers.

After developing an action plan for the pilot project, we approached representatives from the Kansas Grain and Feed Association to determine whether they had an interest in participating in our effort. At their request, we attended the annual Kansas Agri-Business Exposition in November of 1997 to explain our pilot project proposal to the board of directors of the Kansas Grain and Feed Association and the membership at large. Our presentation included an overview of the data that had been compiled from the sampling efforts at former USDA grain storage facilities in Kansas and the concerns we had with regard to commercial grain storage facilities. Our discussions with a committee

from the Kansas Grain and Feed Association have continued, and EPA has had the support of the Association in distributing information to its membership regarding the potential threats posed by earlier fumigation practices, the need to for facilities to evaluate their past practices and surrounding sensitive communities, and the availability of EPA and KDHE to work though these issues.

From the beginning, we consistently emphasized a pro-active approach to further exploring and responding to the potential threats posed by past grain storage fumigation practices. We have worked to build a strong partnership with the state and the trade association to avoid, if possible, many unnecessary steps that inevitably result when a site is initially discovered through the Superfund investigation process. With the goal of implementing a well coordinated and streamlined approach to focus on vulnerable water supplies, in situations where the more complicated Superfund procedures may not be called for, we believe we can leverage the knowledge and resources of state and federal agencies to work in cooperation with the individual grain storage facility operators and associations to find site-specific, cost effective and practical solutions.

In conclusion, the sampling activities at former USDA grain storage facilities has revealed a significant number of locations with groundwater contamination problems. How these results correlate to commercial facilities is not completely clear. Contamination at some

commercial grain storage facilities, however, has been discovered. We believe the approach that has been developed in conjunction with KDHE and the KGFA, recommending that each facility conduct a voluntary self-examination to determine the potential for contamination is an excellent, low cost approach to finding the scope of the potential problem in Kansas. If contamination is discovered at some of these facilities, we look forward to continuing our working relationship with KDHE and KGFA to find pro-active, well-coordinated and effective methods of protecting health and the environment, appropriate to each sites needs.



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February 8, 2000

To: Senate Energy and Natural Resources Committee

From: Tim Shallenburger, State Treasurer

Re: Written Testimony for SB 501

Chairman Corbin and members of the committee:

I would like to thank you for the opportunity to submit written testimony for SB 501.

I, along with many others, recognize that there are legitimate reasons for Kansas to assist in solving problems associated with chemical remediation costs. The Agricultural and Specialty Chemical Remediation Act, which utilizes a linked deposit loan program, would leverage additional dollars for this purpose.

The program drafted in SB 501 would create minimal legal and paperwork costs that would be absorbed within the existing budget of the State Treasurer's office.

It is my opinion that the question of whether we want to use a linked deposit loan program is better left up to the wisdom of the Kansas legislature.

Again, thank you for your time.

Tim Shallenburger
State Treasurer

Senate Energy & Natural Resources

Attachment: 8

Date: 2-8-2000

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