

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 March 8, 2000 in 245-N of the Capitol.

All members were present except: Senator Pugh who was 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:

Jamie Clover Adams, Secretary, Dept of Agriculture  
Karl Muedener, Kansas Department Health and Environment, (KDHE)  
Charles Benjamin, Kansas Natural Resources Council  
Karol Schlicher, Commission Church & Society, Kansas West Conference of United Methodist Church  
Randy Scholfield, Kansans for Clear Water  
Larry Ross, Wichita, KS  
Tom Kneil, Sierra Club, Wichita, KS  
Jolene Grabill, Regional Economic Area Partnership (REAP)  
Bill Fuller, Kansas Farm Bureau  
Mike Taylor, City of Wichita  
Kim Gulley, League of Kansas Municipalities  
Mike Jensen, Kansas Pork Producers  
Karen France, Kansas Association of Realtors

Others attending:

See attached list.

The hearing was opened on **SB 636**—concerning the equus beds; prohibiting issuance of certain permits for confined feeding facilities for swine, water supply systems, waste water treatment facilities and public water supply systems. A fiscal note was distributed indicating that any fiscal effect resulting from the passage of the bill would be negligible.

Jamie Clover Adams, Secretary of Agriculture, reported this legislation is an attempt to address concerns they have 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 concerned citizens, and **SB 636** addresses all potential sources of pollution instead of singling out just one industry (Attachment 1).

Karl Muedener, KDHE, testified in support of the bill and suggested an amendment to remove water supply systems from the moratorium. KDHE does not consider water supplies a significant pollution threat to groundwater (Attachment 2).

Charles M. Benjamin, Kansas Natural Resource Council, testimony stated they support the bill. However they think it is too inclusive and water supply sources should be deleted, the definition of swine waste management and pollution control systems needs to be looked at, and he recommended that equus beds region be amended to Groundwater Management District No. 2. Attached to his testimony is a marked up copy of **SB 636** showing his proposed amendments (Attachment 3).

Karol Schlicher, Kansas West Conference, United Methodist Church, supported the bill with appropriate amendments. The suggested amendments were:

- Close the loophole that applies only to a facility or lagoon that discharges sewage either directly or indirectly and thus excludes hog waste lagoons.

- Cover only Groundwater Management District No.2, which includes the Equus Beds aquifer.
- Remove language concerning water supplies.

She further stated, the year long 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 ([Attachment 4](#)).

Randy Scholfield, Kansans for Clean Water, suggested several amendments that they thought were necessary and if these amendments were adopted he would support the bill. He emphasized the need to protect the Groundwater Management District #2 from the threat posed by hog lagoon sewage ([Attachment 5](#)).

Larry Ross said if the legislature doesn't fix the language so that the moratorium clearly applies to hog-waste lagoons, the bill would serve no purpose. He handed out a copy of an editorial published in The Wichita Eagle on Saturday, March 4, 2000 titled "A Lagoon Loophole?" The handout will be on file in Legislative Research.

Thomas R. Kneel, Kansas Chapter of the Sierra Club, said he lived in Wichita and drinks water that comes from the Equus Beds through the Wichita water supply system, so his personal concern was protecting that supply from pollution. He thought the bill was flawed, and it needed to be amended to protect the Equus Beds and Wichita's water supply and in his testimony on page 2 he outlines amendments that he believes were necessary to provide that protection ([Attachment 6](#)).

Jolene Grabill, Regional Economic Area Partnership (REAP), supported the bill. She said REAP's number one priority is to, "Guarantee that there is absolutely no threat to the region's public water supply." She suggested substitute language for lines 30 through 36 clarifying the Secretary of Health and Environments's authority to protect the groundwater supply from both imminent and potential threats of pollution ([Attachment 7](#)). She also, submitted written testimony opposing the bill from another of her clients the Wichita area Girl Scouts ([Attachment 16](#)).

Bill Fuller, Kansas Farm Bureau, opposed a moratorium on any agricultural operation. However he thought if there is a moratorium on issuing permits for pork production facilities then **SB 636** probably is more fair and more appropriate measure since then other bills that have been introduced because it treats all entities the same ([Attachment 8](#)).

Mike Taylor, City of Wichita, opposed the bill. He said the city of Wichita accepts its duty and obligation to preserve and protect their natural resources, and protection of the Equus Beds Groundwater Aquifer is crucial for their future. They are working with representatives of the pork producer's council and livestock association to find a common sense solution to provide that protection. He did not think **SB 636** was the answer ([Attachment 9](#)).

Kim Gulley, League of Kansas Municipalities, opposed the bill, as they believe the provisions were premature and too broad. Their testimony contains three primary objections to the legislation ([Attachment 10](#)).

Mike Jensen, Kansas Pork Producers, said their organization was neutral on the proposed legislation. They have in the past and are willing to continue to work with all the others involved to protect the equus beds and the waters of the state ([Attachment 11](#)).

Karen France, Kansas Association of Realtors, opposed the bill, as the legislation presumes that septic and lagoon systems for homes are guilty of polluting the equus beds, without any evidence having been presented that this is the case ([Attachment 12](#)). Responding to a question Ms. France said that if the legislation were passed it would shut down and new construction in that area.

Written testimony from the following persons opposing **SB 636** was received and distributed: Janet Stubbs, Executive Director, The Kansas Building Industry Association, ([Attachment 13](#)), Art Brown, Mid-America Lumbermen's Association ([Attachment 14](#)), Ron Gaches, Executive Vice President, Kansas Society of Professional Engineers ([Attachment 15](#)), and as stated above Jolene Grabill, Legislative Monitor for Wichita Area Girl Scout Council ([Attachment 16](#)).

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

The committee time expired. Chairperson Corbin said the hearing would be continued on Wednesday, March 15, 2000 and at that time two other bills concerning potential pollution will be scheduled. The meeting adjourned at 9:00 a.m. The next scheduled meeting will be March 9, 2000.

SENATE ENERGY & NATURAL RESOURCES  
COMMITTEE GUEST LIST

DATE: 3-8-2000

NAME	REPRESENTING
Lesley Kaufman	KFB
Gene M. Sobell	KEAD
Bill Fuller	Kansas Farm Bureau
John Garlinger	KIDAg
Jamie Clower Adams	Ks Dept Ag.
Mike Taylor	City of Wichita
GREG A. Foley	KDHE
Randy Schultfield	Kansas for Clean Water
Karol Schlicher	Ko. West Conf. - United Methodist Church
Marcie Voss	Sedgewick County
Kern Guelley	LKM
Dawn Hottel	Wescom
Rhett E. Gehring	KICOT
Bob Korman	mid-America Com. Bureau 1857 (M.L.A.)
Hartha Sue Smith	KMHA
Janet Stubbs	KBIA
Wally Serbet	Arkansas River Coalition
Larry Ross	Southwind Op. - Sierra Club
Craig Vollard	Spectrum Technologists



STATE OF KANSAS

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Jamie Clover Adams, Secretary of Agriculture  
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KANSAS DEPARTMENT OF AGRICULTURE

Senate Committee on Energy & Natural Resources

March 8, 2000

Testimony regarding Senate Bill 636

Jamie Clover Adams, Secretary of Agriculture

Good morning Chairman Corbin and members of the Senate Committee on Energy and Natural Resources. I am Jamie Clover Adams, Secretary of the Kansas Department of Agriculture. I appear today in support of S.B. 636, which imposes a moratorium on new wastewater disposal facilities and discharges over the Equus Beds.

As has been reported, the Department of Agriculture drafted this legislation 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 industry.

The elected leadership and citizens of south central Kansas have expressed a strong desire

Equal Opportunity in Employment and Services

Senate Energy & Natural Resources

Attachment: 1

Date: 3-8-2000

1-1

to protect the water in the Equus beds. I share this goal. Following is a selection of their published comments, clearly outlining their views.

- *What we do now could have a definite bearing on 500,000 people in the future, said council member Bob Martz. Mayor Bob Knight called the Equus Beds a geologic wonder that must be protected.* Wichita Eagle editorial, December 22, 1999.
- **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.**
- *We are not saying that industrial and municipal pollution are not causes of concern.* Randy Scholfield, AP News, February 9, 2000.
- *The aim is not to prevent livestock operations, he said, but to make sure that everybody has safe drinking water . . .* Hutchinson Mayor Jeffrey Roberts, Hutchinson News, February 10, 2000.
- *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
- *The future is what this is all about. The problem is not today. It's 10 to 15 years down the road.* Wichita City Council Member Martz, quoted in the Wichita Eagle, February 8, 2000.
- *Managers of the Equus Beds, the aquifer that supplies drinking water to 23 cities, including Wichita, say they have halted efforts to protect the aquifer from pollution because of a lack of money. But long term, pollution such as toxic chemicals and salt water could go undetected until it shows up in a town's drinking water.* Wichita Eagle news story, January 24, 2000.

- *Clean water is absolutely critical to the health and vitality of our communities*, Randy Scholfield, spokesman for Kansans for Clean Water, in a February 4, 2000 press advisory.
- ***This is not just a hog farm issue.*** Newton Mayor Kathryn Gaeddert, **Wichita Eagle, February 10, 2000.**
- *It's alarming to hear the governor toss aside multiple calls and bills aimed at safeguarding an aquifer that supplies drinking water to about a half-million people in 23 cities, including Wichita.* Wichita Eagle Editorial, February 8, 2000.
- *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
- ***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**

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; 57<sup>th</sup> and North Broadway EPA Superfund site in Park City which contains volatile organic compounds; leaking underground fuel storage tanks at 100 Main in Halstead; 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.

S.B. 636 is a reasonable, temporary way to address concerns outlined by the elected leadership and citizens of south central Kansas and reinforced by existing data, until Kansas State University finishes their research.

Mr. Chairman, this is not about agriculture. This is not about economic development. This is not about politics. This is about clean water, something which we should all agree on. After we have more conclusive research about the effects of wastewater disposal facilities over the Equus Beds we can then work together to find solutions. As was outlined during the Governor's Water Quality Forum last fall in Wichita, the most effective way to meet these challenges is through watershed approaches and people working together in a cooperative manner.

Finally, I understand someone has been working the halls of the statehouse claiming that S.B. 636 does not cover agriculture. Nothing could be further from the truth. For us non attorneys, remember back to our grammar school days where we learned how to diagram a sentence. Diagram the pertinent sentences in this bill, and you will see that agriculture clearly is covered. Further, several different state attorneys tell me that S.B. 636 clearly meets our original intent to include agriculture in this moratorium.

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

Senate Bill 636  
March 8, 2000  
Page 5

resources.

Thank you for the opportunity to speak in support of S.B. 636. 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

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, fa-  
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

1-6



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

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Testimony Presented to  
Senate Committee on Energy and Natural Resources  
by Karl Mueldener  
March 8, 2000  
Senate Bill 636

KDHE is supportive of SB 636.

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.

Attachment: KDHE suggested amendment

Senate Energy & Natural Resources

Attachment: 2

Date: 3-8-2000

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Session of 2000

SENATE BILL No. 636

By Committee on Ways and Means

2-16

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10 tain permits for confined feeding facilities for swine, ~~water supply sys-~~  
11 ~~tems, and~~ waste water treatment facilities. ~~and public water supply systems.~~

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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.

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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.

1 Sec. 2. This act shall take effect and be in force from and after its  
2 publication in the Kansas register.

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**Testimony in Support of Senate Bill 636**  
**Before the Kansas Senate Committee on Energy and Natural Resources**  
**March 8, 2000**  
**On Behalf of the Kansas Natural Resource Council**

**Charles M. Benjamin, Ph.D., J.D.**  
**Attorney at Law**  
**401 Boulder Street**  
**Lawrence, Kansas 66049**

I appear before you today in support of this bill with suggested amendments. First I want to briefly explain my own background of dealing with pollution problems in the Equus Beds aquifer. From 1981 until 1997 I was a Harvey County Commissioner. As you now know, much of Harvey County lies over the Equus Beds aquifer and Groundwater Management District Number 2. The residents of the county rely almost solely on the aquifer for drinking water, water for industrial uses, and most importantly, for agriculture. However, a major problem for the aquifer was salt pollution left over from oil extraction practices in the early part of the 20<sup>th</sup> century. Oil drillers would extract oil from below the aquifer as well as salty water. The practice was to dump the salty water in unlined, open pits after the oil was separated. Naturally, the water would evaporate from the pits leaving only a salty encrusted layer of soil that could grow nothing. I have personally viewed many of these sites in Harvey County. The salt not only polluted the soil but also migrated through the sandy soil during rains and infiltrated into the aquifer. During the middle 1980's the Harvey County Commission partnered with the GMD # 2 and the U.S. Geological Survey funding studies to determine how the aquifer recharged itself and how the salt plumes were moving in the aquifer.

With this background in mind, I was appalled when in 1998, H.B. 2950, allowed seepage rates from hog waste lagoons that would allow significant pollution of the Equus Beds aquifer. I felt that even the most stringent seepage rate allowable for the so-called "mega-facilities" would allow for pollution into the aquifer. You will recall that at the time you were holding hearings on the bill, Seaboard announced that they favored Great Bend as the site for their second slaughter facility. The concern even then was not that "mega" facilities would be located in Harvey, McPherson and Reno counties but rather a proliferation of contract feeding facilities of a size that fell below the 3,725 animal units with the most stringent regulations. I pointed this out to this committee two years ago during hearings on the bill.

During the Spring of 1999 a contractor who did work for Seaboard contacted Harvey County staff inquiring about the possibility of locating a swine facility in Harvey County. I was asked by the County Administrator to work the County Counselor and other staff to draft language for a resolution to regulate such a facility. The main concern of the staff was odor as well as groundwater pollution.

Senate Energy & Natural Resources

Attachment: 3

Date: 3-8-2000 3-1



The resultant resolution, that both the County Counselor and I felt was within the purview of H.B. 2950, used the inherent police powers of local government, affirmed in Kansas Supreme Court decisions, to ban anaerobic earthen lagoons and sprayfield technology and require filtration systems on hog barn ventilating fans (all to deal with odor) while limiting the siting of hog facilities to areas not deemed "sensitive groundwater areas."

There then ensued a great debate in Harvey County over this issue during the late spring and early summer. The County Commissioners decided to convene an ad-hoc committee of "stakeholders" and local government officials to examine the issue further. This ad-hoc committee asked the KDHE Secretary to have the Kansas State hog waste lagoon researchers specifically study potential impacts of hog waste lagoons located over the Equus Beds. The preliminary findings of that research were announced in the July. I have included in my testimony a July 27, 1999 interview with Dr. Jay Hamm, the principal author of the study, from the Newton Kansan. You will see in that interview that Dr. Hamm is recommending site and species-specific regulations for hog waste lagoons – not present in the regulations in H.B. 2950.

In the meantime, City of Newton, City of Wichita, and Chamber of Commerce officials in both cities were growing increasingly concerned that their major water source now and in the future would be compromised in any way. Both cities have subsequently passed resolutions setting up "environmental zones" around their respective cities that they intend to enforce – including not only protection of groundwater, but also protection from odor and toxic gases emanating from animal waste lagoons.

By the middle of December 1999 the Kansas State University researchers were telling southcentral Kansas cities that their research would not be sufficiently complete to make any recommendations to the 2000 legislature. See the attached Newton Kansan article of December 18, 1999. On that date officials from 22 southcentral Kansas cities announced that they would seek a "moratorium" from the KDHE Secretary or the Kansas legislature on the permitting of any earthen lagoons for swine, cattle, industries or municipalities not only over the Equus Beds but also over all "sensitive groundwater areas" in the state. See the attached December 18 and December 22, 1999 Wichita Eagle articles.

That brings us to S.B. 636. There are several problems we have with the bill. First of all it is too inclusive. We see no need to include water supply sources in the bill. Secondly, it appears to actually exclude hog waste lagoons. I have included a copy of K.A.R. 28-18a-8(b)(2). That definition of swine waste management and pollution control systems defines them as non-discharging, except in a rare 25 year storm event. Therefore, one could read S.B. 636 as not including swine waste lagoons since they don't discharge either directly or indirectly. Third, as you heard yesterday, the "equus beds region" is too

amorphous to be accurately defined. We recommend using Groundwater Management District No. 2 instead. I have provided a marked up copy of the bill with these recommendations.

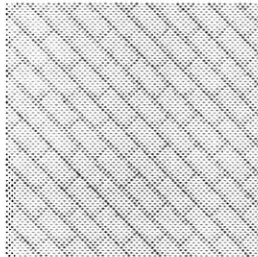
Thank you for your time and attention.

**Charles M. Benjamin**

**From:** Charles M. Benjamin <knrcsierra@cjnetworks.com>  
**To:** <knrcsierra@cjnetworks.com>  
**Sent:** Wednesday, December 22, 1999 11:55 PM  
**Subject:** Newton Kansan Interview with Jay Hamm, 7/27/99

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## Study's author says law doesn't consider varying soil types

By **Bill Wilson**  
Newton Kansan

MANHATTAN -- The principal author of a study that leans against lagoons over groundwater said combining swine lagoons, sandy soil and the Equus Beds could be a dangerous mix.

Jay Ham, a Kansas State University extension agronomist, said the first two years of a three-year program to look at lagoons and their impact on the environment suggests the Kansas Legislature may have erred in House Bill 2950, the bill that governs **hog farming** in Kansas.

"The big takehome message from our study so far is when we study this state, we find a tremendous diversity in the impact of lagoons as we travel," Ham said. "There is a lot of geographic variability in soils across the state, and a lot of variability in the depths of the water table. Our feeling is the regulations regarding lagoons in Kansas should be site- and species-specific."

There's where the Kansas Legislature may have gone wrong, Ham said.

"We feel like it's pretty tough to make a blanket set of regulations for the whole state," he said. "If you do that, then you are invariably going to overregulate some producers and underregulate others."

As a result, Ham and his researchers will focus on how to set up site-specific lagoon criteria

specific lagoon criteria.

"We feel like the requirements might be a lot more stringent near the Equus Beds than if you've got 200 feet to the water table in western Kansas," Ham said.

With one year remaining in the K-State study, Ham said his group will focus on studying lagoons in south central Kansas.

"We still have a lot of work to do," he said. "The things we have found are that most lagoons are seeping at a fairly low rate. The rates are much lower than the KDHE (Kansas Department of Health and Environment) standard of a quarter inch. Most are easily meeting the one-eighth inch standard."

But there's more to the story.

"The thing we did find is there is a lot of nitrogen in the lagoon waste," he said. "There's about five to seven times the nitrogen in a swine lagoon than in something you'll find in a cattle feed lot. And there are big differences in lagoons as you move across the state, especially as a function of species."

What concerns Ham is the movement of materials that collect over time at the bottom of these lagoons.

"You get a buildup of ammonium and nitrogen under these lagoons over time," he said. "The movement downward of that material is going to be highly dependent on the properties of the soil in question. Soils with a lot of high clay content tend to absorb those materials and keep them fairly close to the lagoon. Lagoons in very sandy soils, though, tend to not have that kind of absorption and allow the ammonia to move to lower depths."

Nonetheless, Ham is reluctant to state any conclusions about Harvey County's **hog** debate until K-Staters can study a lagoon in the area.

"There are subtle things about soil that we just don't understand," he said. "Soil can look sandy to the eye, but our analysis can find some clays in that sand. Before we make too many firm comments about your area, we'd be more comfortable to have some research behind us."

As a result, Ham and his team are looking for current lagoon operators in the county and the region to volunteer for his study. For information contact Ham at (785) 532-6119.

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EACK

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3-5  
3/7/00

## Charles M. Benjamin

**From:** Charles M. Benjamin <knrcsierra@cjnetworks.com>  
**To:** <knrcsierra@cjnetworks.com>  
**Cc:** <hartwood@gvi.net>  
**Sent:** Wednesday, December 22, 1999 11:42 PM  
**Subject:** More answers needed on hog lagoons, 12/18/99

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# The Kansan

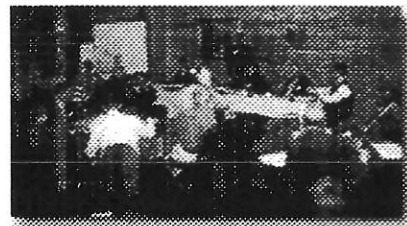
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12/18/99

## More answers needed on hog lagoons Researchers still looking for partners over Equus Beds

By **Lisa Elliott**  
Newton Kansan

Although Kansas State University researchers will give a report to the Kansas Legislature in February with the preliminary results of their confined feeding lagoon study, they don't expect to have any definitive answers to the environmental issues associated with the feeding operations for at least another



Representatives of 20 communities that receive water from the Equus Beds Aquifer attended an environmental forum Friday presented by the Newton City Commission. Kansas State University assistant professor Jay Ham, right, answers questions from Newton Mayor Kathryn Gaeddert, third from right, during the discussion portion of the forum at Spear's Restaurant.

*Valerie Bontrager/Newton Kansan*

feeding operations for at least another year.

"Really, we've only been focusing on this area this fall," said Bill Hargrove, director of the Kansas Center for Agricultural Resources and the Environment. "I think (Gov. Bill Graves) called the dean of agriculture in August and asked us to look at the Equus Beds area. We'll have a lot better information by next February, and possibly enough information to make a decision by then."

Hargrove and Dr. Jay Ham, assistant professor of agriculture at Kansas State University, were among the speakers at an Environmental Forum Friday at Spear's sponsored by the city of Newton.

X However, Hargrove said there won't be sufficient information in the report scheduled to be given to the legislature this February to make any definite conclusions about the Equus Beds area because they have had little opportunity to work with a farmer in the area to study a lagoon.

Dr. Jay Ham, associate professor of agriculture, said the study was originally designed to determine if the design standards used to construct confined feeding lagoons in Kansas really operated the way they were designed.

"The 1/4-inch per day is a design standard, but it's not really a performance standard," Ham said. "Nobody had actually gone out and measured the seepage."

From the study so far, Ham said lagoons in western Kansas appear to seep less than the maximum allowed by state law. Ham said Iowa recently completed a study using different methods and came up with the same seepage rates his study has uncovered in Kansas.

"We're starting to feel pretty confident that with earthen lagoons in the great plains area, this is probably pretty typical of what you're going to see," Ham said.

However, if there is seepage, there are other questions pertaining to water quality that need to be answered. What chemicals are seeping out of the lagoons and what happens to those chemicals when the lagoon is closed?

"When you talk about studying seepage, you always have to think about three things," Ham said.

X These include: toxicity, which is what is in the lagoon that we need to be worried about; input loading, which is the rate at which materials leave the lagoon and move into the unsaturated soil zone immediately below the lagoon's compacted soil lining and immediately above the water table; and aquifer vulnerability, which is how likely the aquifer is to become contaminated based on soil type and hydrology.

"When you manage or build a lagoon, you can use technology to combat the first two," Ham said. "The third one relies only on location, location, location."

What Ham and his associates have learned from the core lagoon samples they have taken so far, is the depth beneath the aquifer where ammonium is present varies across the state, he said.

"We feel the clay content below the lagoon is very important," Ham said. "Ammonium is positively charged, and the clay is negatively charged. When ammonium gets into the soil, it quickly bonds with the clay particles in the soil and doesn't penetrate any further."

However, nitrate, which is a more dangerous form of nitrogen, is negatively charged and is free to move throughout the soil and into the groundwater.

In addition, as the ammonium, which is produced in an anaerobic process, is exposed to oxygen and broken down, it could turn into nitrate, Ham said.

"The risk of contamination to groundwater is very dependent on location and species," Ham said.

For that reason, he said he believes the state's regulations should be site specific as well as species specific. He said it would not be difficult to produce a framework for evaluating sites that would be efficient and economical for the state.

"Regulators kind of cringe because it sounds like it's going to be complicated and expensive," Ham said. "It just doesn't make sense to regulate a cattle producer in Grant County the same way as you do a **hog** farmer over the Equus Beds."

He also said it would be beneficial if the state moved toward performance-based testing of lagoons to ensure they are performing to the standard.

"There is a lot of movement toward that in other states as well," Ham said.

In addition to the lagoon study, Hargrove said soil samples are being tested for agricultural sites where producers have used **hog**, cattle and municipal effluent as fertilizer to see what the longterm effects are.

Hargrove said the researchers also have talked to the Kansas Department of Health and Environment about writing a protocol for closing confined feeding lagoons. Permit applicants have to include a plan for closing the lagoons in their five-year permit applications, but KDHE's only criteria is for the lagoon to be drained.

"We've talked to KDHE about setting up a protocol for closure that includes something more than just draining it," Hargrove said.

Newton City Manager Jim Heinicke Friday's forum reinforced his own view that more research needs to be done before a conclusion can be drawn, particularly research in the Equus Beds area.

"I'm just real pleased," said Newton Mayor Kathryn Gaeddert. "It makes me feel good that Newton is taking a leadership role in this important issue. Once you go wrong with the water, you can never go back."

She said she also felt Friday's discussions, which included an overview of House Bill 2950, which regulates large **hog farms** in the state and a presentation of the city's environmental strategic plan, were valuable because they focused on providing facts and not on the emotional aspects of the issue.

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BACK

A banner image with a dark, textured background. The text "Honey Toasted," is written in a white, serif font, positioned in the upper right portion of the banner.

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## Charles M. Benjamin

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**From:** Charles M. Benjamin <knrcsierra@cjnetworks.com>  
**To:** <knrcsierra@cjnetworks.com>  
**Sent:** Sunday, December 19, 1999 12:18 AM  
**Subject:** Kansas cities propose hog factory moratorium

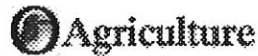
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Updated SATURDAY December 18, 1999



# Cities want moratorium on new hog farms

**By Jean Hays**  
*The Wichita Eagle*

The state of Kansas should ban new hog farms until researchers determine whether the animals' waste is a threat to drinking water supplies, officials for the city of Newton said Friday.

Officials called together representatives of 21 other cities, including Andover, Hutchinson, Wichita and McPherson on Friday. City leaders asked them to join together and seek a year-long moratorium until Kansas State University can finish its study of hog lagoons, the open pits used to store millions of gallons of manure.

"We are saying it is too risky," said Carl Harris, Newton's vice mayor.

"We are not willing to take a chance on the water supply of a half million people for the benefit of a handful of hog producers."

Mike Jensen, executive vice president of the Kansas Pork Producers Council, said the call for a moratorium was part of a continuing vendetta against the hog industry.

After this study, Jensen said, "They will say there is not enough research. It is not conclusive enough. We need to do more. I view it as a sham and a fraud that they are going down this route."

The proposed moratorium is gaining some support.

The Regional Economic Area Partnership, made up of 30 south-central Kansas towns, voted Thursday to call for a moratorium and to make protecting water supplies its No. 1 legislative priority.

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The Legislature considered a ban on hog farms two years ago, but did not pass one. Lawmakers may be reluctant to tackle such a controversial issue again during an election year, said Keith Lawing, who represents the partnership.

The Wichita City Council is scheduled to discuss the issue Tuesday.

"We have one shot at this," said Wichita City Council member Bob Martz, who represented Wichita at the meeting. "We don't have (water) contamination today. If we don't do something, we will."

X The requested moratorium would apply not only to hog farms, but to cattle feedlots, industries or towns that use the open dirt pits to store waste.

Hog farms that store waste in concrete pits or in glass-lined tanks would not be included.

The proposed moratorium also would only apply to the 35 percent of the state that has been designated by the state as having sensitive groundwater areas, or areas with sandy soil and shallow groundwater that are susceptible to pollution.

The main concern is the Equus Beds, an underground water supply that supports a \$5 billion annual payroll.

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**From:** Cliff Smedley <cliff@pld.com>  
**To:** <cliff@pld.com>  
**Sent:** Wednesday, December 22, 1999 11:49 AM  
**Subject:** City of Wichita seeks moratorium...

Updated **WEDNESDAY** December 22, 1999



## **Wichita seeks moratorium on hog farms**

**City officials fear groundwater pollution from waste lagoons.**

**By Steve Painter**  
*The Wichita Eagle*

The Wichita City Council asked state officials Tuesday to prohibit new hog farms, cattle feedlots or other activities that use open waste lagoons which could threaten the region's water supplies.

Several other cities in central Kansas are expected to join Wichita in seeking a ban on new lagoons while Kansas State University completes studies on the threat to groundwater. The cities want to prevent pollution of the Equus Beds groundwater formation, which supplies drinking water to half a million people in south-central Kansas.

"What we do now could have a definite bearing on 500,000 people in the future," said council member Bob Martz. Mayor Bob Knight called the Equus Beds a "geologic wonder" that must be protected.

Newton city officials drafted the letter seeking the moratorium. At a meeting last week, representatives from 22 cities were asked to endorse the letter and send it to Gov. Bill Graves and Clyde Graeber, secretary of the Kansas Department of Health and Environment.

Sharon Watson, spokeswoman for Graeber, said it was unlikely that he would be able to impose a moratorium. She said state law requires KDHE to issue wastewater control permits if the applicant meets all conditions required by the Legislature.

In the case of hog lagoons, the regulations were made part of state law, which cannot be changed through the administrative rule-making process.

Mike Jansen, executive vice president of the Kansas Pork Producers

MIKE JENSEN, EXECUTIVE VICE PRESIDENT OF THE KANSAS PORK PRODUCERS Council, said last week that the call for a moratorium was part of a continuing vendetta against the hog industry. "I view it as a sham and a fraud that they are going down this route," he said.

In June, K-State researchers concluded that the state's one-size-fits-all laws governing hog farms may not be the best way to protect groundwater in areas where the water level is only a few feet below the surface. Shortly after that, Graeber ordered that all new hog lagoons over the Equus Beds be lined with plastic.

Last month K-State launched a \$250,000 study, at KDHE's request, to determine if hog farms, other farming practices and rural septic systems threaten drinking water supplies in sensitive areas such as the Equus Beds.

Graves' spokesman, Don Brown, said the governor had not seen the letter drafted by Newton officials.

"The governor is supportive of the protective measures already taken by Secretary Graeber, and is pleased that KSU researchers are expanding their lagoon studies in the Equus Beds region," Brown said.

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the notice to be published in newspapers to the county in which the structure is to be located. In addition, a copy of the notice shall be directed to the mayor of the municipality whose municipal boundary is nearest to the facility. Notification shall be made to the department places the record in the Kansas register. The applicant shall provide proof of this notification within 20 calendar days after the notice is mailed.

For structures located within 100 feet of a water body, the separation distance pertains to the proposed expansion of the structure. Those that seek a public hearing shall comply with the requirements:

1. A public hearing either before or after the permit period established in the Kansas register.

2. A public hearing in conformance with the rules set forth in the public notice of the mailing address and telephone number of the structure owner;

3. A request and in a form prescribed by the department, of ownership of the facility. (Authorized by K.S.A. 28-16-62 as amended by L. 1998, ch. 143, sec. 3 [K.S.A. 28-16-62] implementing K.S.A. 1997 Supp. 65-165, as amended by L. 1997, ch. 62, sec. 1, K.S.A. 65-166, 65-167, 65-171d, as amended by L. 1998, ch. 143, sec. 1, K.S.A. 65-171h, and L. 1998, ch. 143, sec. 2, 1998 Supp. 65-1,179] effective 7/1/98).

**Terms and conditions.** The terms and conditions of all permits shall be consistent with the requirements of K.A.R. 28-16-62.

2. For structures designed, constructed, operated, and maintained in a manner consistent with the requirements of this act to prevent the discharge of swine or other process wastes to surface waters of the state, the permit shall include the following conditions: (a) The permit shall require the swine waste management and pollution control system designed, constructed, operated, and maintained to contain all swine or other process wastes, plus the direct precipitation and the runoff from a 25-year, 24-hour precipitation event for the location of the confined feeding facility.

to prevent the discharge of swine or other process wastes to surface waters of the state. Swine or other process wastes from a waste-retention lagoon or pond or other storage structure may be discharged to surface waters of the state, whenever precipitation events, either chronic or catastrophic, cause an overflow of swine or other process wastes from a swine waste management or pollution control system designed, constructed, operated, and maintained to contain all swine or other process wastes, plus the direct precipitation and the runoff from a 25-year, 24-hour precipitation event for the location of the confined feeding facility.

(3)(A) Except as provided in paragraph (3)(B), swine waste management and pollution control systems for confined feeding facilities with an animal unit capacity of 999 or less shall be designed, constructed, operated, and maintained to prevent the discharge of swine or other process wastes to surface waters of the state as required in paragraph (b)(2).

(B) Swine waste management and pollution control systems for confined feeding facilities with an animal unit capacity of 999 or less may discharge to surface waters of the state, consistent with the requirements of K.A.R. 28-16-28b through K.A.R. 28-16-28f, K.A.R. 28-16-57a, and K.A.R. 28-16-62, as appropriate, when specifically authorized by a permit.

(c) For each emergency or accidental discharge, overflow, or unplanned release of swine or other process wastes, each swine operator shall report the incident to the department within two hours of discovery. Each operator shall report any emergency, spill, accidental discharge, overflow, or unplanned release associated with swine or other process wastes to the department using telephone numbers as provided by the department. Each operator shall submit a written report to the department within three days of the incident.

(d) The swine operator shall retain a copy of the current permit issued by the department at the facility's site office.

(e) The swine operator shall report, within 72 hours to the department, whenever the required amount of land application area utilized by the facility is not available or accessible for use by the facility for land application, utilization, or disposal purposes because of a change in property ownership, lease, or agreement with the property owners.

(f) The swine operator shall be responsible for

advising the department within 60 days of any changes in mailing address or telephone number regarding the facility or designated facility contact.

(g) The swine operator shall operate the facility in a manner to minimize or prevent any discharge that is in violation of the permit and that has a potential to adversely affect human health or the environment.

(h) The swine operator shall, at all times, properly operate and maintain the swine waste management and pollution control system and any related appurtenances that are installed or utilized by the swine operator to achieve compliance with the conditions of the permit.

(i) The operator of a swine facility with an animal unit capacity of 1,000 or more shall comply with the manure management plan, emergency response plan, odor control plan, and dead swine handling plan, as approved by the department. The swine operator shall amend these plans whenever warranted by changes in the swine facility or in other conditions affecting the facility, as established pursuant to L. 1998, ch. 143, secs. 5, 8, 11, and 17, and amendments thereto [K.S.A. 1998 Supp. 65-1,181, 65-1,184, 65-1,187 and 65-1,188, and amendments thereto].

(j) The operator of a swine facility with an animal unit capacity of 1,000 or more shall notify the department whenever the swine operator does not own all the swine at the facility, pursuant to L. 1998, ch. 143, sec. 5, and amendments thereto [K.S.A. 1998 Supp. 65-1,181, and amendments thereto].

(k) The operator of a swine facility with an animal unit capacity of 1,000 or more shall notify the department before the operator sells or gives manure or wastewater to a person that is not employed by the swine facility and whenever disposal is by means other than land application on areas covered by the swine facility's nutrient utilization plan. When the approved manure management plan for the swine facility addresses the requirements in L. 1998, ch. 143, sec. 5, and amendments thereto [K.S.A. 1998 Supp. 65-1,181, and amendments thereto], notification to the department shall not be required.

(l) The operator of a swine facility with an animal unit capacity of 1,000 or more who land applies manure or wastewater shall comply with the nutrient utilization plan approved by the Kansas department of agriculture, pursuant to L. 1998,

shall address only those matters for which the secretary has authority.

(b) A swine operator proposing either new construction of a swine facility or new expansion of an existing swine facility shall meet the following requirements:

(1) Publish a single notice of application in the official county newspaper and in a newspaper regularly published and generally circulated serving the county and general area of the proposed or existing swine facility, notifying the public of the proposal. If the official county newspaper is regularly published and generally circulated throughout the county and general area of the proposed or existing swine facility, a single notice in the official county newspaper shall be adequate. If a proposed or existing facility site is within one mile of an adjoining county, a single notification shall also be provided in the official newspaper serving the adjoining county.

(A) Publication of the notice in the newspaper or newspapers by the swine operator shall be made before the department can place the permit on public notice in the Kansas register. The operator shall be responsible for the cost of publication in the newspaper or newspapers.

(B) The notice that the swine operator shall publish in the newspaper or newspapers shall contain the information pursuant to L. 1998, ch. 143, sec. 3, and amendments thereto [K.S.A. 1998 Supp. 65-1,179 (c), and amendments thereto].

(2) Notify the department verbally or by facsimile within two working days after the date of publication of the notice in the newspaper or newspapers to confirm that the notice has been published. Within 20 calendar days following the date of publication, the operator shall provide the department a publisher's affidavit of publication or certified copy of the publication. The processing of the permit shall be terminated by the department until the operator provides the publisher's affidavit or certified copy of the publication.

(3) Provide a copy of the notice to be published in the newspaper or newspapers to owners of habitable structures located within the prescribed separation distance for the swine facility. The notification shall be provided before the department places the permit on public notice in the Kansas register. The notice shall be provided by certified mail. The swine operator shall provide proof of this notification to the department within 20 calendar days of the notice being mailed.

(4) Provide a copy of the notice to be published in the newspaper or newspapers to the county commission representing the county in which the swine facility is or will be located. In addition, a copy of the notice shall be directed to the mayor of each municipality whose municipal boundary is located three miles or less from the swine facility or facility perimeter. Notification shall be made by certified mail before the department places the permit on public notice in the Kansas register. The swine operator shall provide proof of this notification to the department within 20 calendar days of the date the notice is mailed.

(c) Owners of habitable structures located within the applicable separation distance pertaining to habitable structures and either a proposed new swine facility or the proposed expansion of an existing swine facility that seek a public hearing shall meet the following requirements:

(1) Request a public hearing either before or during the public comment period established in the public notice published in the Kansas register by the department;

(2) request a public hearing in conformance with the provisions set forth in the public notice and shall also include the mailing address and telephone number of the habitable structure owner; and

(3) provide proof, upon request and in a form satisfactory to the department, of ownership of the habitable structure. (Authorized by K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1, and L. 1998, ch. 143, sec. 3 [K.S.A. 1998 Supp. 65-1,179]; implementing K.S.A. 1997 Supp. 65-164, K.S.A. 1997 Supp. 65-165, as amended by L. 1998, ch. 62, sec. 1, K.S.A. 65-166, K.S.A. 1997 Supp. 65-171d, as amended by L. 1998, ch. 143, sec. 1, K.S.A. 65-171h, and L. 1998, ch. 143, sec. 3; [K.S.A. 1998 Supp. 65-1,179] effective Jan. 15, 1999.)

#### **28-18a-8. Permit; terms and conditions.**

(a) Terms and conditions of permits shall be consistent with the requirements of K.A.R. 28-16-62, as appropriate.

(b) (1) Swine waste management and pollution control systems shall be designed, constructed, operated, and maintained in a manner that prevents pollution of waters of the state.

(2) Swine waste management and pollution control systems for confined feeding facilities with an animal unit capacity of 1,000 or more shall be designed, constructed, operated, and maintained

to prevent the discharge of wastes to surface waters or other process wastewater pond or discharge to surface waters, ever precipitation, catastrophic, cause an excess wastes from a pollution control system operated, and manage other process wastewater and the runoff from a precipitation event for the ing facility.

(3)(A) Except a swine waste management systems for confined animal unit capacity constructed, operate the discharge of surface waters of graph (b)(2).

(B) Swine waste control systems for an animal unit capacity charge to surface waters with the requirement through K.A.R. 28-16-62, K.A.R. 28-16-62, authorized by a permit

(c) For each charge, overflow, or other process report the incident hours of discovery, emergency, spill, or unplanned release other process water phone numbers. Each operator shall department with

(d) The swine the current permit the facility's site

(e) The swine hours to the department amount of land facility is not a the facility for disposal purposes ownership, lease owners.

(f) The swine

# SENATE BILL No. 636

By Committee on Ways and Means

2-16

Groundwater Management District No. 2

(7) Groundwater Management District No. 2 as established under the provisions of K.S.A. 82a-1020 et seq.

9 AN ACT concerning ~~the equus beds region~~; prohibiting issuance of cer-  
10 tain permits for confined feeding facilities for swine, ~~water supply sys-~~ and  
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.~~ GMD #

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.

1     Sec. 2. This act shall take effect and be in force from and after its  
2     publication in the Kansas register.



**Charles M. Benjamin**

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**From:** Mark Derichsweiler <Mark.Derichsweiler@DEQMAIL.STATE.OK.US>  
**To:** <jeannine.hale@worldnet.att.net>; <shatfield@home.com>; <kjm2@aol.com>;  
<oksmith@aol.com>; Susie Shields <Susie.Shields@DEQMAIL.STATE.OK.US>  
**Sent:** Thursday, December 16, 1999 4:46 PM  
**Subject:** New Threat to the Ogallala

**WATER CONTAMINATION SPEEDING INTO HIGH PLAINS AQUIFER**

OKLAHOMA CITY, Oklahoma, December 15, 1999 (ENS) - Nitrate and tritium concentrations in groundwater samples collected this year by the SGS from the High Plains aquifer in western Oklahoma show that water may be seeping from the land surface to the water table within the span of a few decades. The finding could affect water users, irrigated agriculture and livestock operations in the region. Many people had thought that it took hundreds or thousands of years for water and water borne contaminants to seep down to the water table in the High Plains aquifer. Because there is little rainfall, the water table is often more than 200 feet below land surface, and sheltered by layers of naturally cemented sand and gravel. The High Plains aquifer is the sole source of drinking water for most residents in the Oklahoma panhandle.

The USGS sampled 12 domestic wells built in the aquifer in Oklahoma in early 1999. Seven of those water samples had tritium concentrations exceeding 2.5 picocuries per liter, indicating seepage from rainfall that fell since 1953, when atmospheric testing of hydrogen bombs began. Tritium is an isotope of hydrogen that is harmless at low concentrations. Water samples collected for the project are being analyzed for ratios of tritium to helium-3 gas or for concentrations of carbon-14 to determine when the ground water fell as rainfall and started seeping toward the water table. This study may modify previous beliefs about the vulnerability of the High Plains aquifer to contamination in western Oklahoma.

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3-18

3/7/00



## 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.

**Debbie Maltbie**  
Treasurer/  
Administrative Ministries  
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Wichita, KS 67207-3600  
800-745-2350 or 316-684-7201  
debumc@southwind.net

316-684-0044 (Fax)

**Kathy Kruger Noble**  
Marketing/Communications  
9440 E. Boston—Suite 150  
Wichita, KS 67207-3600  
800-745-2351 or 316-684-0266  
316-267-5823 (Home)  
kathyumc@southwind.net

**Anne Rosebrock**  
Leadership Development  
9440 E. Boston—Suite 150  
Wichita, KS 67207-3600  
800-745-2351 or 316-684-0  
anneumc@southwind.net

**Barbara Sheldon**  
Nurture-Outreach-Witness  
9440 E. Boston—Suite 150

Senate Energy & Natural Resources

Attachment: 4

Date: 3-8-2000

4-1

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

Testimony on SB 636  
Randy Scholfield  
Kansans for Clean Water

There is good reason for Kansans to be concerned about corporate megahog farms moving into the state, especially here in the Equus Beds region, where more than a half million people depend on the aquifer for their drinking water. Our communities absolutely depend on a clean, dependable source of water for their health and economic vitality. That's why there is broad, bipartisan support in south central Kansas for stricter oversight of factory hog farms. Kansans for Clean Water is one of several citizens groups working to raise public awareness about this threat to our drinking water.

The Graves administration recently introduced a bill to impose a waiting period on new hog confinement permits in the Equus beds region until July 2001 (SB 636 and HB 2987) to give K-State time to complete a study of the threat posed by hog farms. That seems to be a move in the right direction. Our group supports the bill but has strong reservations about its language. Unfortunately, there appears to be a large loophole in the bill's language that exempts--incredibly enough--hog sewage lagoons.

The problem lies in a clause that states that the secretary of health and environment shall not issue any new permit for a swine facility or lagoon "that discharges sewage." But hog sewage lagoons by their very definition under state law (HB 2950, passed in 1998) are "zero discharge waste management systems." Hence, they wouldn't seem to be covered under the language of the bill. At the same time, the bill includes several other kinds of facilities--such as public water supply systems--that don't seem relevant in the bill and only confuse the original intent of the legislation, to address the threat of pollution posed by hog sewage lagoons.

The bill needs to be revised to emphasize the original intent of this bill, to protect the Groundwater Management District #2 from the threat posed by hog lagoon sewage. We suggest changing the name of the bill to "An Act concerning Groundwater Management District No. 2 prohibiting issuance of certain permits for confined feeding facilities for swine and waste water treatment facilities." This would be a more precise definition of the intent and geographical region covered by the bill.

Further, we urge you to delete "water supply system" from Section 1(a)(2)--water supply systems are carefully regulated and are not a threat to the groundwater in GMD #2. Past and current pollution is the problem. Another needed change is the deletion of Section 1(a)(3), for the same reason. The addition of water supply systems and public water supply systems seems to be an attempt to divert attention away from the concerns of the citizens of south central Kansas about the potential proliferation of large hog operations and an attempt to kill the bill by attracting opposition from cities and developers.

We urge further that you change 1(b) as follows: "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 the Groundwater Management District No. 2 shall not issue any new permit for a confined feeding facility, swine facility, a waste water treatment facility or lagoon within Groundwater Management District No. 2."

Kansans for Clean Water can support this present bill if the suggested changes are incorporated. We strongly urge this committee to revise the language of this bill and pass meaningful legislation on this crucial issue.

Senate Energy & Natural Resources

Attachment: 5

Date: 3-8-2000

5-1

8 March, 2000

Testimony before the Senate Energy and Natural Resources Committee relative to Senate Bill No. 636

On behalf of the Kansas Chapter of the Sierra Club

Thomas R. Kneil, PhD

6110 Edinburg

Wichita, KS 67220-3824

316-744-1016

I live in Wichita and drink water that comes from the Equus Beds through the Wichita water supply system so I am speaking from a very personal concern about protecting that supply from pollution, not only for myself but also for the half million others who depend upon that source for their drinking water.

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Sometimes it's little wonder that members of the general public distrust their government and elected politicians. Case in point: Senate Bill 636 (and its companion HB 2987) was not drafted by stupid or incompetent people. It was, I am sure, carefully crafted by quite talented people to meet a perceived need. That need being to satisfy in one fashion or another those who are calling for a one-year halt to animal waste facilities that might endanger our precious groundwater however it appears to me to have been crafted with one thought in mind - to fail. The Kansas State University researchers studying the issue of seepage from waste lagoons are not finished with their analysis, but have already raised serious questions about hog lagoons of any significant size being placed over the permeable soils of the Equus Beds, even those with liners. It seems to me, as a lay person looking at the process from the outside that the only reasonable thing to do is to hold off on any further permitting and wait for the research to be completed. It appears however that those who have a considerable financial interest in seeing the development of large-scale hog operations are opposed to such a prudent wait-and-see approach and want only to get their collective feet in the door to protect their bottom line *before* the research is in. It appears to me that it is these individuals and groups that have the ear of public policy officials and that is reflected in this bill. Indeed, I don't believe this bill was crafted in good faith.

Senate Energy & Natural Resources

Attachment: 6

Date: 3-8-2000 6-1

I would prefer to believe that some of the language in SB 636 was due to oversight, but I cannot. I might believe that the phrase "equus beds region" was not a deliberate attempt to make the bill unenforceable since "region" is undefined, but the inclusion of "a water supply system, a public water supply system or any other facility that discharges sewage" makes absolutely no sense other than to raise the ire of municipalities and developers and ultimately get these constituents to lobby against the bill. Furthermore, and in many ways more egregious, is the fact that hog waste lagoons are specifically defined as having zero waste discharge of sewage (K.A.R. 28-18A-8) and thus would be exempt from the provisions of this bill. I find it hard to believe that the writers of this bill were not aware of this. However, if I am wrong in my assumptions, and the writers of this bill did indeed have the protection of the groundwater of the equus beds in mind, then I challenge them and this committee to make modifications to the bill in the following ways:

1) change the wording of the Equus Beds region to say GMD No. 2 - whose boundaries are clearly defined, and 2) remove the language in lines 34 - 36 where it says "water supply systems and public water supply systems or any other facility, system [ ] that discharges sewage directly or indirectly" (I suggest that you can leave the word lagoon in there). If that is done, I believe the bill will meet the concern of Kansas citizens who worry about the pollution of their precious water supplies. The bill will then avoid our rushing into permitting hog waste lagoons until the scientific data are in from the Kansas State University research. This will allow a review of the research in a timely manner and thus permit the 2001 Legislature to draw up statutory and regulatory requirements based on scientific data.

Thank you for your time and attention.



# Regional Economic Area Partnership

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

## Testimony of South Central Kansas Regional Economic Area Partnership

### Senate Bill 636

### Senate Energy & Natural Resources Committee

March 8, 2000

Mr. Chairman and Members of the Committee. Thank you for the opportunity to address you this morning in support of Senate Bill 636. My name is Jolene Grabill. I am pleased to appear before you on behalf of REAP, the South Central Kansas Regional Economic Area Partnership.

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 is to:

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

As REAP evaluates and reviews a full range of strategies to achieve this guarantee, we have quickly come to appreciate how broad the groundwater protection issue is. While it is tempting to endorse one groundwater protection strategy over another, or isolate the impacts of one specific industry, truthfully, "guaranteeing that there is absolutely no threat to the region's public water supply", will require persistent efforts on many fronts. It also will require the local governments who join together as REAP to make sure their own water systems operate with the care and environmental protections REAP asks other industries to exercise in their respective operations. If that is the issue raised by SB 636, then REAP clearly agrees and welcomes the conversation. We must all do our part to protect the groundwater supply.

Rather than providing an answer to the question of groundwater protection, SB 636's prohibition against new permits as set out in lines 30 through 36, simply delays the asking of the basic question, "What action is needed to protect the groundwater in the Equus Beds?" The scheduled K-State Lagoon Study team's report to the Legislature next week may provide new answers to that question.

In the end, however, it is the Secretary of Health and Environment who is called upon to guard our groundwater supply. REAP respectfully suggests the committee adopt substitute language for lines 30 through 36, clarifying the Secretary of Health and Environment's authority to protect the groundwater supply from both imminent and potential threats of pollution. Specifically, we request clarification of the Secretary's authority in regard to confined feeding facilities between 1,000 and 3,724 animal units. REAP stands ready to work with the committee and interested parties to draft the necessary language.

Thank you. I will be happy to stand for questions.

Senate Energy & Natural Resources

Attachment: 7

Date: 3-8-2000

7-1

- 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 Cutsinger
- 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



# PUBLIC POLICY STATEMENT

## SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES

**RE: SB 636 – Prohibits issuance of permits for confined feeding facilities for swine, water supply systems, waste water treatment facilities and public water supply systems.**

**March 8, 2000  
Topeka, Kansas**

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

Chairman Corbin and members of the Senate Committee on Energy and Natural Resources, my name is Bill Fuller. I serve as the Associate Director of the Public Policy Division for Kansas Farm Bureau.

SB 636 prohibits the Secretary of the Kansas Department of Health and Environment and the cities and counties in the equus bed 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 81<sup>st</sup> 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.”***

Senate Energy & Natural Resources

Attachment: 8

Date: 3-8 - 2000

8-1



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

Kansas Farm Bureau is actively involved in a number of programs, projects and activities designed to protect water quality. For the past three years, Farm Bureau members, leaders and staff have used four "EnviroScape" watershed demonstration units and exhibits to promote watershed protection to thousands of students and adults across the state (Please examine the photos of the watershed demonstration and display units). The central theme of the display unit includes this message which emphasizes:

## **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, SB 636 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!



CITY OF  
**WICHITA**

# TESTIMONY

City of Wichita  
Mike Taylor, Government Relations Director  
455 N Main, Wichita, KS. 67202  
Phone: 316-268-4351 Fax: 316-268-4519

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## Senate Bill 636 Equus Beds: Moratorium on Permits

Delivered March 8, 2000  
To  
Senate Energy and Natural Resource Committee

*The City of Wichita recognizes its responsibility to be a good steward of the natural resources its citizens use. The City of Wichita accepts its duty and obligation to preserve and protect those natural resources. Protection of the Equus Beds Groundwater Aquifer, which is the primary source of quality water for 500,000 citizens, is crucial for the future of Wichita and South Central Kansas. State laws and administrative procedures should provide for vigorous protection of the Equus Beds from contamination and waste. The City of Wichita supports enhanced water protection measures in sensitive groundwater areas such as the Equus Beds. Those regulations, whether imposed statutorily by the Legislature, or administratively by the Kansas Department of Health and Environment should be scientifically based, subject to cost/benefit analysis and not unduly restrictive.*

That is the policy statement approved by the Wichita City Council for our Year 2000 Legislative Program. It says nothing about moratoriums. It says nothing about singling out swine waste lagoons or any other specific potential pollution source. The discussion of a time-out on issuing swine waste lagoon permits in the Equus Beds region came about because of our desire to have factual, scientifically based data to deal with. The idea was to give K-State researchers time to finish their study of the Equus Beds. There was nothing punitive or discriminatory intended by our discussion of a moratorium on swine waste lagoons.

Senate Bill 636 however, could be interpreted as a way to punish the Wichita area for being concerned about the impact new swine operations could have on the Equus Beds. As written, Senate Bill 636 is ill-conceived and overkill. The fact that the bill as written could place a moratorium on everything but animal waste lagoons, raises even more questions about the rationale behind this proposal. The City of Wichita is concerned about all sources of potential pollution of the Equus Beds, but imposing an arbitrary, one-year long moratorium that could prohibit construction of the state of the art waste water treatment plant the City is in the process of designing and permitting makes no sense.

The best solution is site specific, species specific groundwater protection standards which the Secretary of Health and Environment can require on a permit by permit basis. Many believe the Secretary has this authority now. Unfortunately, the Secretary does not believe that. A pending opinion from the Attorney General should clarify KDHE authority to protect the groundwater and could solve this problem.

Do not misinterpret our opposition to this bill as a weakening of our concern about the possibility of pollution from swine lagoons or as a sign that we aren't concerned about other potential sources of pollution. From the start of this discussion last June, the Wichita City Council has wanted a reasonable, scientifically based remedy. Senate Bill 636 is neither. I have met with representatives of the pork producers council and livestock association in hopes of finding common ground and a common sense solution. Those discussions are continuing. I am confident a solution can be found, but Senate Bill 636 isn't it.

Senate Energy & Natural Resources

Attachment: 9

Date: 3-8-2000

9-1 0



League of Kansas Municipalities

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

To: Senate Energy & Natural Resources Committee  
From: Kim Gulley, Director of Policy Development  
Date: March 8, 2000  
Re: Opposition to SB 636

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 SB 636.

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 SB 636 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 SB 636 are premature and overbroad. We have three primary objections to this legislation:

- **Scope.** SB 636 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 SB 636 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. 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, SB 636 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 equus 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 SB 636 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.



## **Testimony Concerning SB No. 636.**

**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:

Food is needed for people. It has been estimated that a mathematical projection of the worlds food supply is 45 days. Kansas is a leader in the nation and world in suppling 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.

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 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 SB 625. Of course, we would then run the risk of finding out that swine production has not in any way impaired the equus beds, and in fact, others may be responsible. Environmental protection 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.

Kansas pork producers willingly worked with the Kansas legislature in 1998 to enact HB 2950. This bill effectively placed the most stringent requirement on 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 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 SENATE ENERGY AND NATURAL RESOURCES COMMITTEE  
FROM: KAREN FRANCE, DIRECTOR OF GOVERNMENTAL RELATIONS  
DATE: MARCH 9, 2000  
SUBJECT: SB 636, The issuance of permits in the equus beds region

Thank you for the opportunity to testify. The Kansas Association of REALTORS® opposes SB 636 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.

Senate Energy & Natural Resources

Attachment: 12

Date: 3-8-2000



# LEGISLATIVE



# TESTIMONY



2300 SW 29th St., Topeka, KS 66611 ♦ 785-266-4540 Fax: 785-266-7953 ♦ Email: janetstubbs@compuserve.com

TO: SENATE ENERGY & NATURAL RESOURCES COMMITTEE

FROM: KANSAS BUILDING INDUSTRY ASSOCIATION

RE: SB 636

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

My name is Janet Stubbs, Executive Director of the Kansas Building Industry Association, appearing in opposition to SB 636.

Members of the KBIA living and doing business in South Central Kansas oppose SB 636 due to the effect a moratorium may have on the construction of housing in places where no municipal waste water treatment system is available.

There is no clear line of demarcation for what is broadly termed in SB 636 as the "equus beds region". Departments of local governments with these responsibilities are unlikely to interpret the boundaries of the "equus beds region" with enough consistency to make planning for land development and residential construction feasible should this proposed legislation be enacted.

We know of no scientific evidence that suburban residential on-site waste-water treatment facilities such as septic tanks or lagoons have had any adverse effect on groundwater supplies in the "equus beds region".

If the main culprit is lagoons, there is an inconsistency between the concerns of those who would protect the "equus beds region" and the regulations which govern the use of septic tanks and those which require the use of residential lagoons. If claim is that the "equus beds region" is unique since it has very sandy soil and the level of the groundwater is close to the surface, those are regions where septic tanks are the approved residential on-site waste-water treatment facility—but only with the provisions that the leach lines from the septic tank be separated from the groundwater level by a distance which health department personnel have determined to be

Senate Energy & Natural Resources

Attachment: 13

Date: 3-8-2000

13-1

safe (minimum of 10 feet in Sedgwick County). Residential use of lagoons is reserved for only those areas where percolation tests have proven that the soil is too impervious for septic tank use. There isn't likely to be a conflict with the goal of preventing seepage from a residential on site waste-water system into the equus beds watertable.

While we do not feel qualified to judge the importance of keeping hog farms away from the parts of Kansas which are deemed not compatible with such concentrated and toxic wastes, it appears that there is an attempt by some to deify the groundwater in the "equus beds region" and to exaggerate the long term consequences of permitting agricultural (or residential or industrial) waste facilities to be constructed without a fool proof solution.

Kansas State University is researching the matter of how best to handle hog waste, and expects make its report before the Legislature convenes in 2001. What is the likelihood of a hog waste system being permitted in the "equus beds region" before that date----or that a challenge would not be made immediately if such an application would be made?

Mr. Chairman, we urge you to consider the many ramifications of placing a moratorium on building construction in any region of Kansas and ask you to take no action on SB 636 or recommend it unfavorable for passage.



## MID-AMERICA LUMBERMENS ASSOCIATION

# TESTIMONY

**Senate Bill No. 636**

**March 8, 2000**

### **Senate Energy and Natural Resources Committee**

Mister Chairman. My name is Art Brown, and I represent the Mid-America Lumbermens Association. I come before you today as an opponent to Senate Bill No. 636.

The issue of swine and there habitat is a passionate and complicated issue. We do not profess to have the solutions to the problems that this industry seems to bring with it everywhere it goes. Therefore, we won't suggest any.

While no one wants to be in jeopardy of having an unsuitable water supply for human consumption in their part of the State, we would have to believe there is an alternative available which does not completely shut down and development of housing, commercial building or any type of construction for human habitat for one year in the area impacted by this bill. . That is essentially what this bill does. (Lines 32-36)

Surely, there is a less drastic measure available to address this concern than what is being proposed. We don't know if the authors of the bill had the intent to totally stop all development in the areas impacted. If it was, then awareness must be made of the dynamics of economic development. When financing and legal work is done to move forward with developing projects, you cannot realistically say, " would

Senate Energy & Natural Resources

Attachment: 14

IN PARTNERSHIP WITH THE NATIONAL LUMBER AND BUILDING MATERIAL DE

Date: 3-8-2000

14-1

you mind holding on for a year, and we'll get back to you." I can almost assure you that these opportunities will present themselves in other areas more conducive to such economic development initiatives as well as residential and commercial construction projects.

The competition for business and residential growth amongst communities in Kansas is intense. Most of you know that already. In attracting such potential growth, communities are either leading the parade, marching in the parade, or sweeping up after the elephants. The elected officials from the area impacted from this bill certainly don't want their constituents to feel like they are the sweepers. If this legislation is passed, I cannot help but think that these folks would be livid over the impact this bill would have in their communities.

As a matter of good public policy, we feel that what is suggested is simply too draconian a solution to the problem. I again state that in no way am I an expert in this area, but I also feel there has to be a better alternative than the one suggested in this bill.

We implore the Committee to consider options to what I can honestly call the worst piece of Legislation I have seen in the last 12 years in regards to business and residential growth in Kansas. As the bill reads now, we as an Association ask that this Committee does not pass SB 636 favorably.

I would stand for any questions or comments.



# Kansas Society of Professional Engineers

*A state society of the National Society of Professional Engineers*

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## Testimony of the Kansas Society of Professional Engineers Submitted by Executive Vice President Ron Gaches

636  
Regarding Senate Bill ~~363~~  
Prohibiting Certain Permits within the Equus Beds Region

Presented to the Senate Energy and Natural Resources Committee  
Wednesday, March 8, 2000

Chairman Corbin and members of the Committee, the Kansas Society of 636 Professional Engineers (KSPE) believes that enactment of Senate Bill ~~363~~ is not necessary for the protection of the Equus Beds Region. Many of the water use practices that would be prohibited by the bill have not been determined, by years of prior use or by scientific study, to not be a threat to the water supply of the Equus Beds Region.

KSPE has previously gone on record as recommending curtailing further expansion of large scale hog production until studies by Kansas State University and other independent research can determine the parameters of acceptable environmental practices regarding our air, water, and soils.

We encourage the Legislature and Administration to continue their focus on the environmental hazards that pose the greatest threat to our environment, and further investigate the impact of large-scale livestock operations where the parameters of environmentally sound practices have not been scientifically determined.

Senate Energy & Natural Resources

Attachment: 15

Date: 3-8-2000

15-1



Wichita Area  
 Girl Scout Council  
 360 Lexington Road  
 Wichita, KS 67218  
 T 316 684 6531 F 316 684 4141

March 7, 2000

Cynthia L. Stein  
 President

Senator David Corbin, Chairman  
 Senate Energy & Natural Resource Committee  
 Statehouse, Room 120-S  
 Topeka, Kansas 66612

Cindy Frank  
 Executive Director

Dear Senator Corbin:

On behalf of the Wichita Area Girl Scout Council, I would appreciate your help in clarifying the potential impact of Senate Bill 636 on a new Girl Scout Camp under development at 7800 S. 103<sup>rd</sup> Street West in Sedgwick County. The property has a Clearwater, Kansas address.

The Wichita Area Girl Scout Council was quite fortunate to receive this generous gift of land, last December. Upon inspection of the property, we learned the existing lagoons are in a floodplain. We plan to replace those existing lagoons with septic systems before opening the camp. **If Senate Bill 636 will in anyway halt or otherwise impact our planned camp development, we need to know as soon as possible.**

The office of Groundwater Management District No. 2, has advised us that our property, is outside their boundaries. However, as the legislation does not refer to the boundaries of that Groundwater Management District, but rather the "Equus Beds region", we need to know if our new camp property would be included under that broader definition.

If it is determined that the definition of "Equus Beds region" would include our new camp under development in southwest Sedgwick County, we would respectfully request the bill be amended to refer instead to the boundaries of Groundwater Management District No. 2.

Again, I would appreciate any help you can provide me with this matter.

Sincerely,

Cindy Frank, Executive Director  
 Wichita Area Girl Scout Council

Cc: Senator Greta Goodwin  
 Jolene Grabill, Legislative Monitor  
 Martha Fee, Kansas Girl Scout Council Legislative Monitoring Task Force  
 Karen McQuigan, Mid-Continent Girl Scout Council

Senate Energy & Natural Resources

Attachment: 16

Date: 3-8-2000

Where Girls Grow Strong.

MB-1