

## MINUTES OF THE HOUSE ENVIRONMENT COMMITTEE

The meeting was called to order by Chairperson Joann Freeborn at 3:30 P.M. on January 26, 2006 in Room 231-N of the Capitol.

All members were present.

## Committee staff present:

Raney Gilliland, Legislative Research Department  
 Lisa Montgomery, Revisor of Statutes Office  
 Pam Shaffer, Committee Secretary

## Conferees appearing before the committee:

Michael Johnson, Kansas Turnpike Authority  
 Leslie Kaufman, Kansas Cooperative Counsel  
 Mary Jan Stankiewicz, Association of Ethanol Processors  
 Terry Holdren, Kansas Farm Bureau

## Others attending:

See attached list.

Chairperson Freeborn asked for everyone to please sign the guest list being passed around. She announced the agenda for next Tuesday, January 31<sup>st</sup> meeting would be, a briefing by Lane Letourneau, Dept of Agriculture, Division of Water regarding ***SB364, which was passed in 2004 and*** a hearing on ***HB2683 - Addition to membership of Kansas water authority.***

Bill requests were then taken, Tom Palace, Petroleum Marketers and Convenience Store Association, introduce a bill Kansas essential fuel supply act, this bill would help offset the cost of fuel due to EPA. Representative Sloan moved to carry this bill, Representative Schwartz seconded, motion carried.

Briefing on abandoned oil and gas wells by Bob Jenkins, Kansas Corporation Commission (KCC) Coordinator of abandoned well/site remediation fund, and Maurice Korphage, Director of KCC Conservation Division. The Abandoned Well/Site Remediation Fund was created in 1996 with passage of ***House substitute for SB755.*** The purpose of the fund is to provide additional funding to the KCC Division with which to address the problem of both abandoned oil and gas wells and exploration and production related to contaminated sites. In addition to the creation of the fund the legislation directed the Conservation division to establish financial responsibility requirements for oil and gas operators within the state of Kansas. These requirements were in place by January, 1998. ***SB321*** passed during the 2001 legislative session extends the original fund sunset date 7 years to June 30, 2009. Funding to this abandoned well plugging and site remediation program is provided through four funding sources: (1) Increased assessment on crude oil and natural gas production through the conservation fee fund (2) General fund monies (3) 50% of monies received by the state through the federal mineral leasing program, and (4) State water plan monies (\$400K) Total funding package expected to be \$1.6M/yr. Intents to drill are driven by the crude oil price, in 2004 there was a 36% increase in intents to drill over 2003, a 109% over 2002. Mr. Korphage turned the presentation over to Bob Jenkins, Coordinator of Abandoned Well/Site Remediation Fund. Mr. Jenkins explained that we compete with the oil business for equipment, labor, and materials for plugging remediation operations. The KCC total abandoned well inventory currently contains 15,117 wells documented and verified. This represents an increase in the total inventory of 625 wells over that reported in January, 2005. 14,008 wells are listed as priority I inventory, of which 6,519 still require plugging operations, 306 less than one year ago. Expenditures for FY 2005 will result in the plugging of approximately 665 abandoned wells. Plugging costs for 461 wells have been paid to date totaling \$1.56M, which is \$3387/well including restoration costs. For the first 6 months of fiscal year 2005, 260 wells have been authorized to be plugged or have been plugged with monies from the fund. Distribution of remaining 6,519 priority I wells requiring plugging operations are by action level: Level A-90 wells(1%) Level B-1,544 wells (24%), Level C-4,885 wells (75%). Intents to drill are driven by the crude oil price. Mr. Jenkins showed several slides of Abandoned well sites before and after remediation. Galva city Site, McPherson County, 1926 abandoned well, plugged up to 200' Kingman county, abandoned well leaking saltwater in Verdigris River floodplan, Montgomery county and several others. (See attachment 1)

CONTINUATION SHEET

MINUTES OF THE House Environment Committee at 3:30 P.M. on January 26, 2006 in Room 231-N of the Capitol.

Chairperson Freeborn opened the hearing for **HCR5028 - Concurrent Resolution encouraging KTA to require service area operators to offer fuels containing ethanol and biodiesel.**

Michael Johnston, Kansas Turnpike Authority, proponent testified that the KTA is pleased that the Legislature is engaged in finding ways to encourage the use of alternative fuels. (See attachment 2)

Leslie Kaufman, Kansas Cooperative Council, proponent stated that HCR 5028 sends a message to the Kansas Turnpike Authority that this state supports renewable fuel use and encourages wide-spread availability. (See attachment 3)

Mary Jane Stankiewicz, Association of Ethanol Processors, proponent testified that KAEP supports the resolution that would encourage the Kansas Turnpike Authority to review their contracts and amend them in the future to require the offering of ethanol and biodiesel at the stations on the turnpike. (See attachment 4)

Questions and discussion followed the testimony.

Chairperson Freeborn closed the hearing on **HCR5028.**

Chairperson Freeborn announced that there would be no action taken on **HB2558 - Conservation and environmental protection or encroachment restriction** today, but that everyone had been given a handout with balloons on it for everyone to look at. There is an additional correction that is not reflected on the attachment, a title change to include that the bill would apply to military installations only. (See attachment 5)

Questions and some discussion followed regarding **HB2558.**

Chairperson Freeborn adjourned the meeting at 4:50pm. The next scheduled meeting is Tuesday, January 31.

HOUSE ENVIRONMENT COMMITTEE GUEST LIST

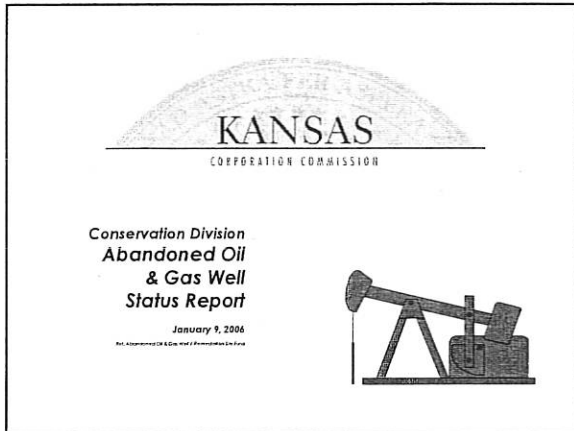
DATE: 01/26/06

NAME	REPRESENTING
Mike Johnston	KTA
Steve Miller	Sunflower Electric
Linda Yonkov	RURAC Telephone
Jennifer Lyon	Prugar, Smith, and Associates
Leslie Kaufman	Ks Coop Council
MaryJane Stankiewicz	Ks Ethanol Producers Assoc
Ed Cross	KIOGA
Dave Holthaus	KFC
Kent Weatherby	KS River Water Assur Dist
Tom Palace	PMAPF KS
TOM DAY	KCC
MAURICE KORPHAGE	KCC
BOB JENKINS	KCC
Jess Price (intern)	
BRAD HARRELSON	KFB
TERRY HOLDREN	KFB
Carol McDowell	Talkgrass Ranchers
Mark Schreiber	Westar Energy

HOUSE ENVIRONMENT COMMITTEE GUEST LIST

DATE: 1/26/06

NAME	REPRESENTING
SEAN MILLER	KS Dairy Assn



### Abandoned Well / Site Remediation Fund

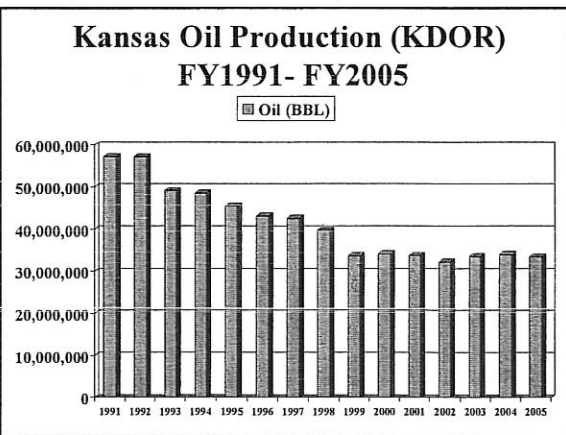
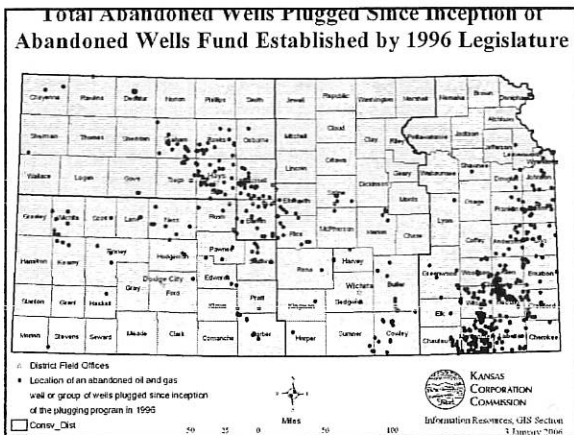
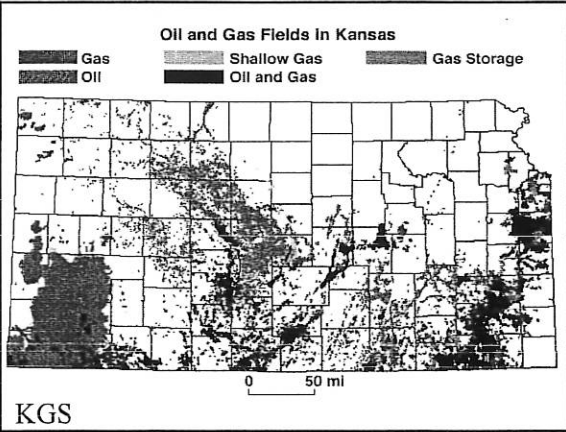
- The fund was created during the 1996 legislative session with the passage of House substitute for S.B. 755.
- The purpose of the fund is to provide additional funding to the Kansas Corporation Commission, Conservation Division with which to address the problem of both abandoned oil and gas wells and exploration and production related contamination sites.
- In addition to the creation of the fund the legislation directed the Conservation Division to establish financial responsibility requirements for oil and gas operators within the state of Kansas. These requirements were in place by January, 1998.
- S. B. 321, passed during the 2001 legislative session, extends the original fund sunset date 7 years to June 30, 2009.

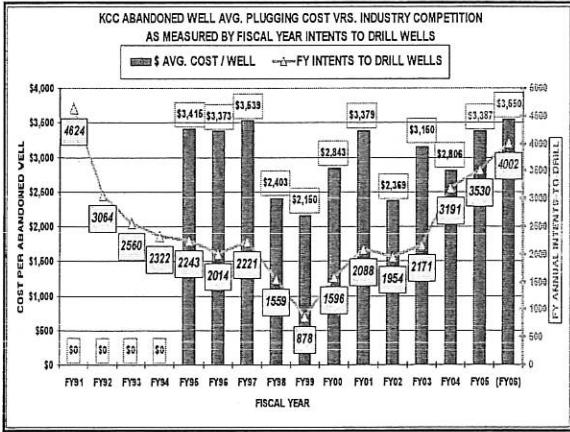
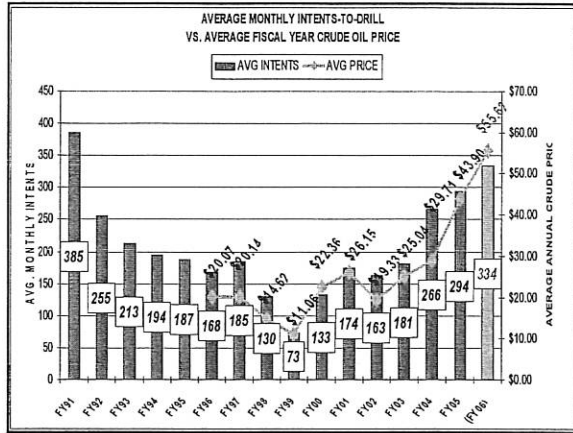
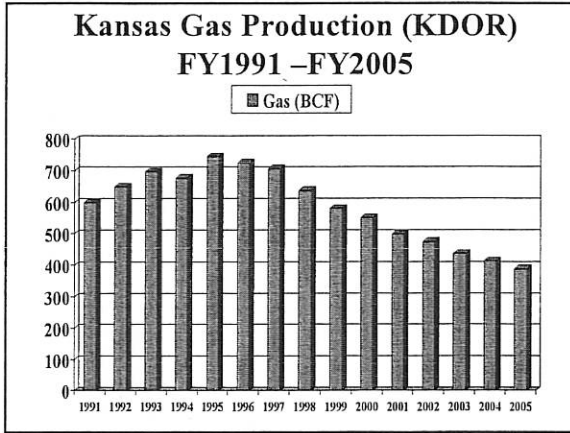
### Abandoned Well / Site Remediation Fund Funding Sources

Funding to this abandoned well plugging and site remediation program is provided through four funding sources:

- Increased assessments on crude oil and natural gas production through the conservation fee fund
- General fund monies
- 50% of monies received by the state through the federal mineral leasing program
- State water plan monies

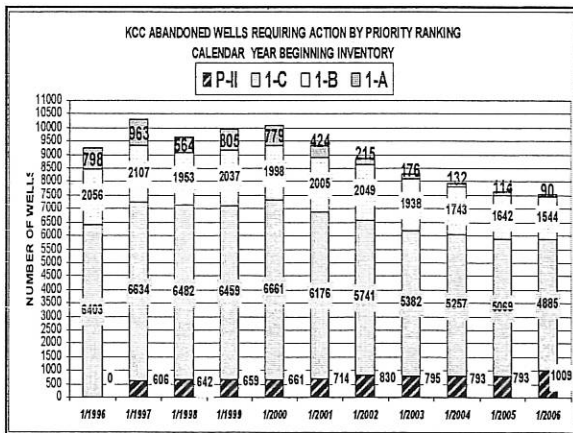
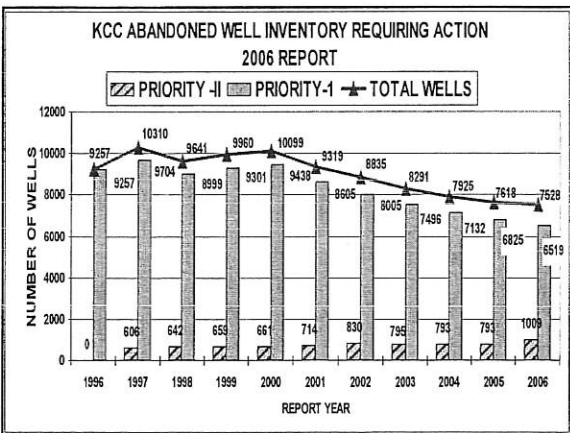
Total funding package was expected to be in the amount of \$1,600,000 per year.



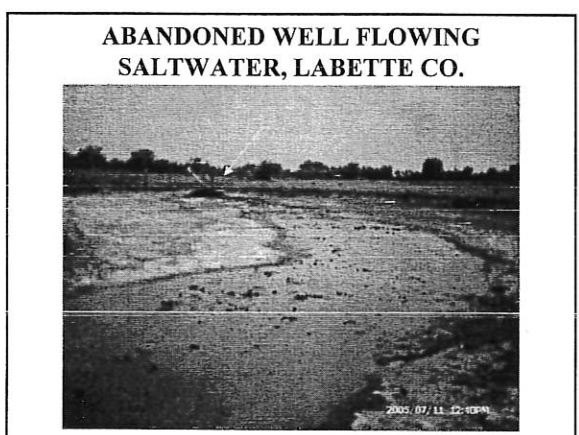
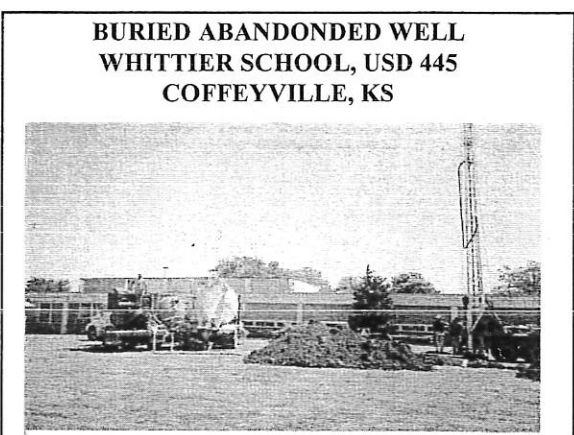
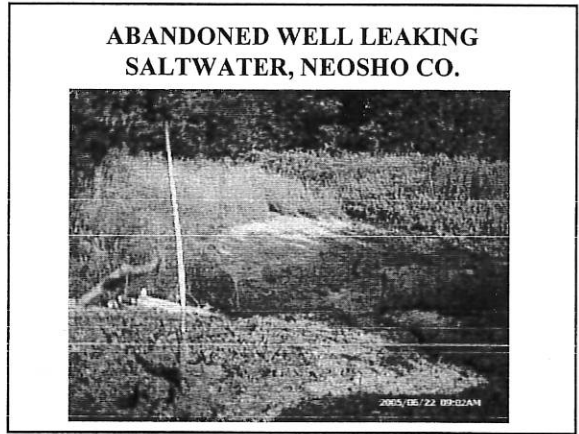
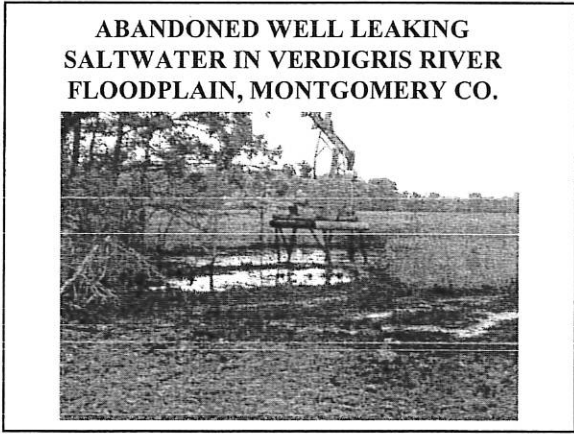
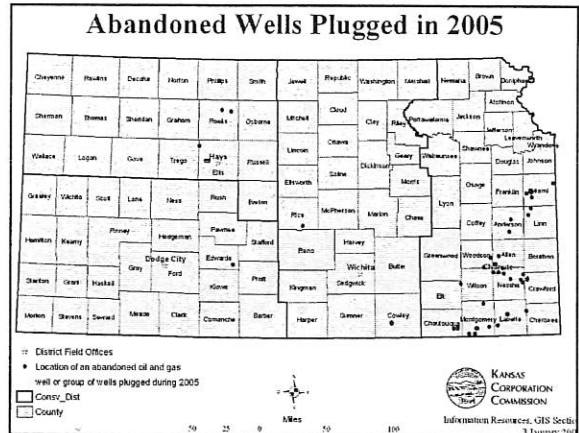
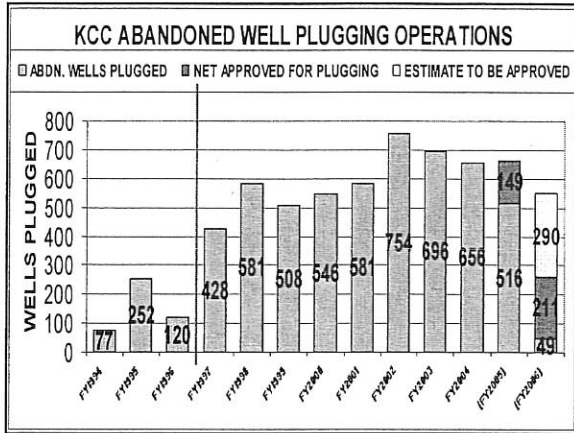


### Abandoned Well / Site Remediation Fund Status of the Abandoned Well Inventory

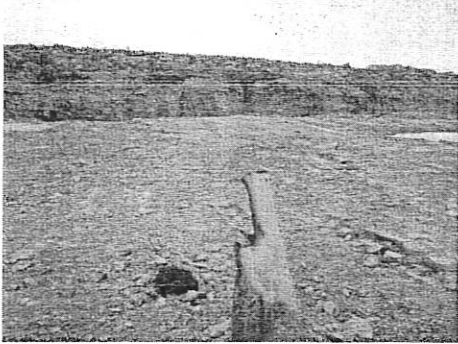
- The Kansas Corporation Commission total abandoned well inventory (priority I and priority II) currently contains 15,117 wells, documented and largely verified. This represents an increase in the total inventory of 625 wells over that reported in January of 2005. Of this total, 14,008 wells are listed in the priority I inventory. Of these priority I wells, 6,519 still require plugging operations, which is 306 less than one year ago.
- Expenditures for fiscal year 2005 will result in the plugging of approximately 665 abandoned wells. Plugging costs for 461 wells have been paid to date totaling \$1,561,223, which is \$3,387 per well including restoration costs. For the first 6 months of fiscal year 2006, 260 wells have been authorized to be plugged or have been plugged with monies from the fund. A total of 5,315 abandoned wells have been plugged under this program since July 1, 1996.
- Distribution of the remaining 6,519 priority I wells requiring plugging operations are, by action level: level A = 90 wells (1%), level B = 1,544 wells (24%), level C = 4,885 wells (75%).



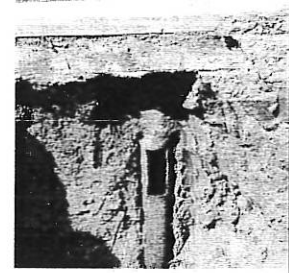




**ABANDONED WELL FOUND DURING EXCAVATION IN A QUARRY, NEOSHO CO.**



**ABANDONED GAS WELL FOUND UNDER HOUSE FOUNDATION, NEODESHA, KS**



**ABANDONED WELL FOUND DURING EXCAVATION FOR HOUSE, BUTLER CO.**



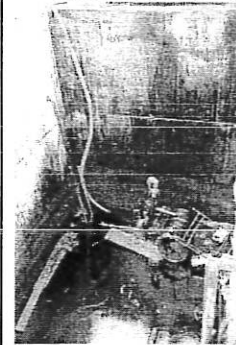
**OIL IN CREEK FROM LEAKING ABANDONED WELLS, MIAMI CO.**



**ABANDONED WELL FOUND IN A FLOODPLAIN DIKE, NEOSHO CO.**



**ABANDONED WELL IN CELLAR RESIDENTIAL AREA, LINDSBORG, KS**





**ABANDONED WELL FLOWING  
SALTWATER INTO POND, LABETTE CO.**



**ABANDONED WELL IN SCHOOL YARD  
LOST SPRINGS, MARION CO.**

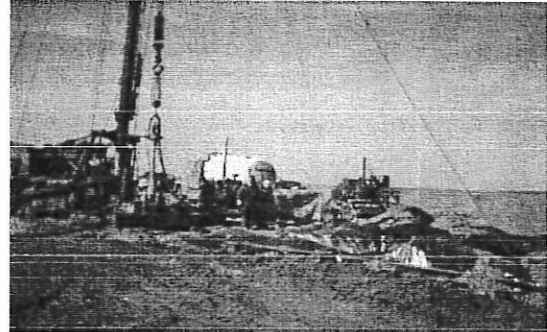


**ABANDONED  
WELL  
DRILLED IN  
1926**

**VENTING GAS  
AND FLOWING  
SALTWATER**

**KINGMAN CO.**

**PLUGGING OPERATIONS  
1926 ABANDONED WELL, KINGMAN CO.**



**Financial Assurance Requirements for  
Kansas Oil & Gas Operators:**

House Bill No. 2390, passed during the 2005 legislative session, increased financial assurance requirements effective July 1, 2005. The Well Plugging Assurance Fund is designated for those wells drilled after 7/01/1996, which may become abandoned and require plugging with state funds.

- For operators having an acceptable record of compliance with KCC rules and regulations over the proceeding 36 months, pay a nonrefundable fee of \$100 per year. (Increased from \$50/Yr in 2005)

**Financial Assurance Requirements for Operators:  
For all other operators, one of the following must be  
furnished on an annual basis:**

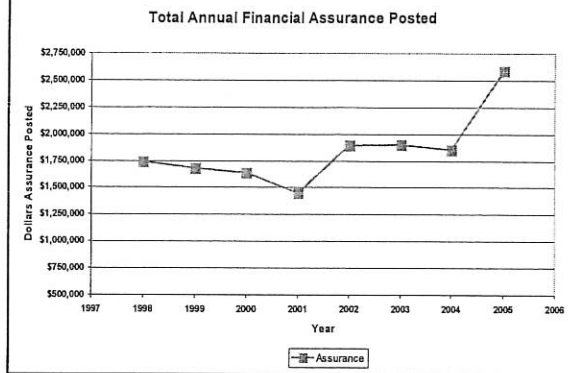
- An individual performance bond or letter of credit in the amount equal to \$.75 x the aggregate depth of all wells under his control.
- A Blanket bond or letter of credit amounts are now as follows:
 

<u>Wells less than 2,000' depth</u>	<u>Wells 2,000' or more in depth</u>
- 1-5 wells: \$7,500	1-5 wells: \$15,000
- 6-25 wells: \$15,000	6-25 wells: \$30,000
- Over 25 wells: \$30,000	Over 25 wells: \$45,000
- A non-refundable fee in place of the the blanket bond amount. That fee increased from 3% to 6% in 2005.
- A first lien on equipment equal to the bond requirement.
- Other assurance as approved by the Commission.

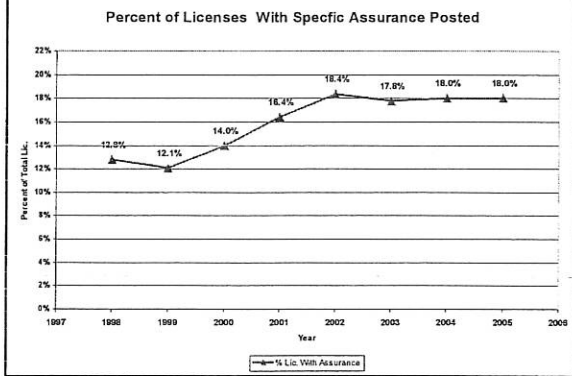
### Financial Assurance Posted in 2005

Method of Assurance	Number of Licenses	Revenue	Assurance
\$50 Fee 1/1/05 to 6/30/05	986	\$49,300	\$49,300
\$100 Fee 7/1/05 to 12/31/05	655	\$65,500	\$65,500
Cash Bond To KCC	246	\$173,950	\$173,950
Surety Bond	25		\$685,000
CD / Letter of Credit	92		\$1,613,725
<b>Total</b>	<b>2,004</b>	<b>\$288,750</b>	<b>\$2,587,475</b>

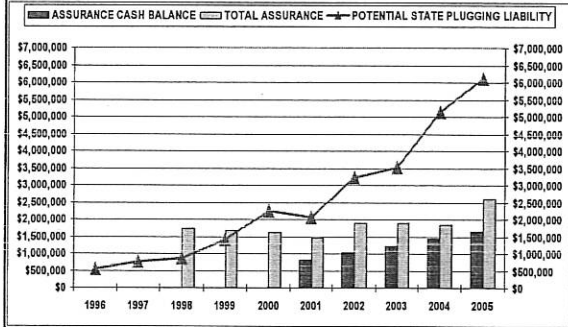
### Financial Assurance Trends



### Financial Assurance Trends



### POTENTIAL STATE LIABILITY FOR PLUGGING ABANDONED WELLS DRILLED AFTER 7-1-1996 (ASSUME 10% DEFAULT RATE) VS. FINANCIAL ASSURANCE BALANCES



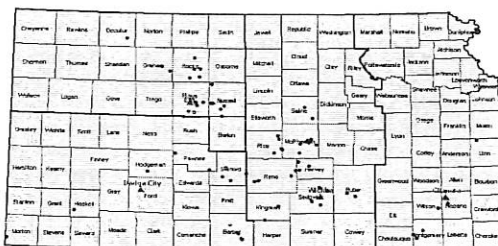
### Conservation Division Remediation Site Status Report

January 7, 2006

For information only. Not for use in legal proceedings.



### 2004 Active Remediation Sites



▲ District Field Offices

● Location of Active Remediation Site

0 10 20 30 40 50 Miles

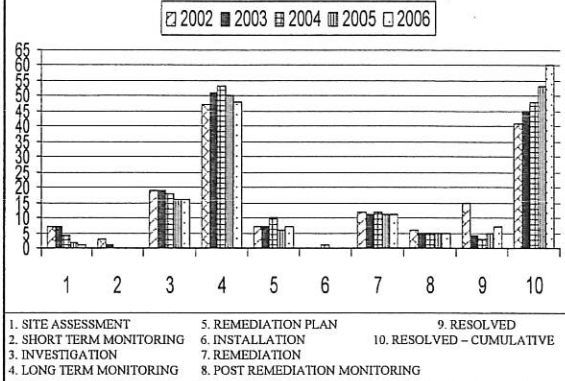


Information Resources, GIS Section  
12 January 2005

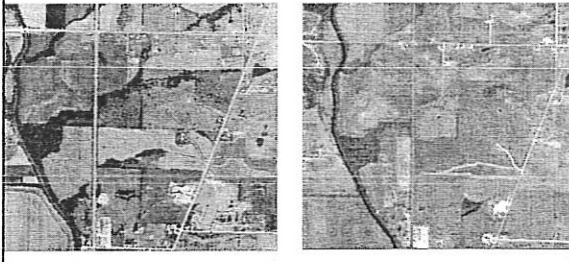
### Abandoned Well / Site Remediation Fund Status of the Site Remediation Inventory

- When the abandoned well / site remediation fund was first created the KCC carried a listing of 109 sites. Of the original 109 sites, four were combined with other sites. During previous evaluation periods, 53 sites have been resolved and 18 sites have been added. Seven sites were resolved, and two sites were added during the current evaluation period, January 1, 2005 through December 31, 2005, resulting in a current total of 65 active remediation sites.
- Current distribution of active sites with respect to immediacy level is: low & low to moderate = 45%, moderate = 20%, moderate to high & high = 18%, other (under remediation) = 17%.
- Authorizations for Expenditures against projects initiated in FY2005 stand at \$88,012. Authorizations for Expenditures against projects initiated in FY2006, to date, stand at \$85,862. Indirect expenditures in KCC staff time to these projects are valued at \$57,931.

### Distribution of Remediation Sites by Status



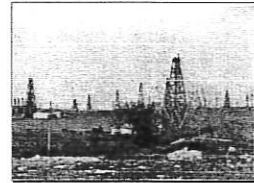
### Abandoned Well & Remediation Site Identification and Prioritization Joint Project with the Kansas Biological Survey



### Remote sensing for detection and identification of abandoned oilfield features

#### Problem:

- Abandoned oilfield features such as wells and waste pits occur across the state.
- These abandoned features can present a hazard to the public, farming operations, and water quality.
- The specific location of many of these features is not known.
- Abandoned wells and pits must be located for plugging and other remediation efforts

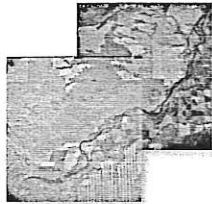


Early 20th Century Oil Field, Kansas

### Remote sensing for detection and identification of abandoned oilfield features

#### Approach:

- Partnership with the Kansas Applied Remote Sensing (KARS) Program of the Kansas Biological Survey at the University of Kansas.
- Use aerial photography to identify and locate abandoned oilfield features.
  - Present-day aerial photos
    - KARS airborne camera
  - Archival photography
    - 1930s, 1940s, 1950s



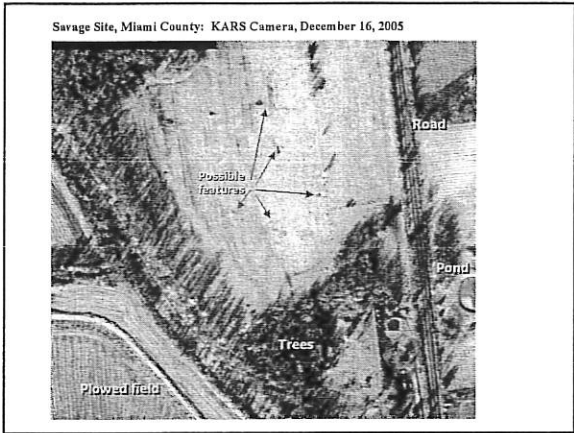
### Remote sensing for detection and identification of abandoned oilfield features

#### Present-day photos:

- KARS airborne imaging system: Digital aerial photos.
- Flown twice:
  - Winter (Flown Dec. 2005)
  - Summer (in 2006)
- Experienced scientists look for evidence of abandoned oilfield features:
  - Disturbed soil
  - Sick or stressed vegetation
  - Any anomalies that might indicate a past well location.



Savage Site, Miami County.  
KARS Camera, December 16, 2005



Remote sensing for detection and identification of abandoned oilfield features

Archival photos:

- US Department of Agriculture air photos go back as far as the 1930s.
- Allow identification of oilfield features that may have existed, or at least were visible, nearly 75 years ago.

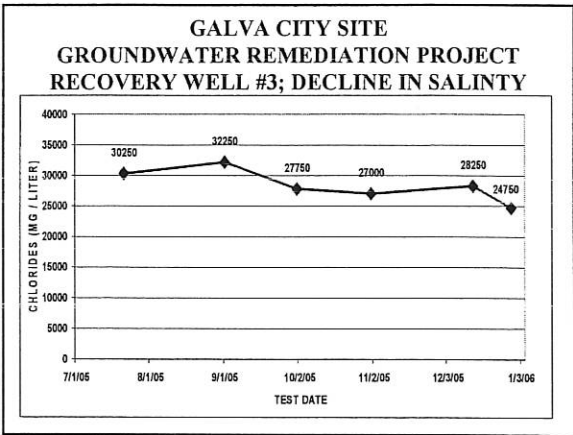
Brine pits, McPherson County, Kansas

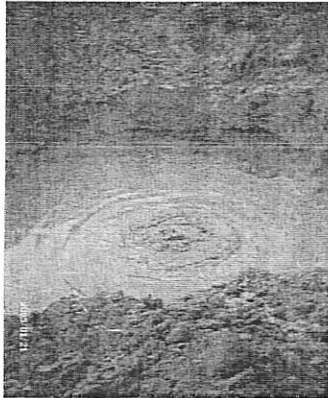
**GALVA CITY SITE**  
**MCPHERSON CO.**  
**SALTWATER PLUME IN GROUNDWATER FROM HISTORIC BRINE EVAPORATION PITS**  
**FOUR REMEDIATION WELLS INSTALLED**

CLM - Human Dept (Dym) Librarian  
 Kansas Corporation Commission  
 Cherokee Phone 2887  
 Galva City Area  
 Nov. 11, 2002 1:40:30 PM  
 Project 089933 AM

**GALVA CITY SITE**  
**MCPHERSON CO.**  
**GROUNDWATER RECOVERY WELL**  
**CASING BEING RUN IN RECOVERY WELL**

**GALVA CITY SITE**  
**MCPHERSON CO.**  
**GROUNDWATER RECOVERY WELL**  
**INSTALLATION COMPLETE**



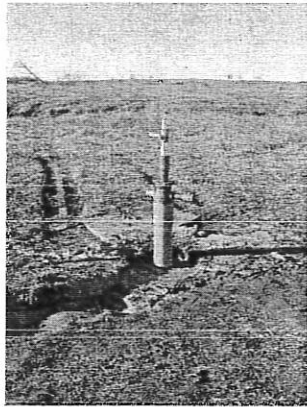
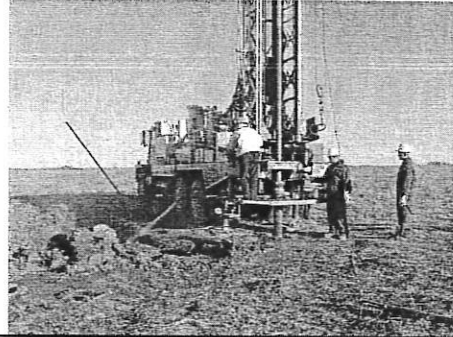


**1926  
ABANDONED  
WELL,  
PLUGGED  
UP TO 200'**

**VENTING  
GAS FROM  
150'**

**KINGMAN  
CO.**

**KINGMAN CO. SITE  
DRILLING RELIEF WELL TO VENT SHALLOW GAS  
AND ANALYZE GROUNDWATER**



**KINGMAN CO.  
SITE**

**RELIEF WELL  
INSTALLED**

**Considerations / Actions**

- A Net Loss of E&P infrastructure during past down-cycles of concern to both industry & KCC.
  - KCC utilizes same contractor base as industry – impacts availability and costs to program
- B KCC must continue to increase emphasis on compliance and enforcement programs while streamlining regulatory processes where possible.
  - Oil and Gas Advisory Committee
    - Continue to pursue compliance cases that assist in developing policy consistent with recent Commission rulings concerning abandoned wells under K.S.A. 55-179

**Considerations / Actions**

- C. Program Under-Funded (FY03, FY04, FY05 & FY06)
  - Federal lease component surplus for the program has been eliminated attempting to continue plugging and remediation projects at meaningful levels.
    - Division must continue efforts to seek alternate / additional funding sources (OPA 90, DOE, IOGCC / Dept. of Interior Authorizations, etc.)
    - Infusion of additional funds from the Conservation Fee Fund will lead to assessment increases on production.
  - If program funding levels not restored then net result will be fewer wells plugged / less remediation undertaken.

**Considerations / Actions**

- D. O&G Advisory financial assurance subcommittee has reported to the Commission on its initial review of assurance requirements for oil and gas operators in Kansas. The report included a review of assurance levels and mechanisms in neighboring states
  - Subcommittee will continue to meet in 2006 with a goal of developing specific statutory and regulatory proposals that would promote operator responsibility for post 1996 wells.
  - Changes in assurance should include continuation and funding of the Abandoned Well / Site Remediation program.
  - Concepts: (Caps on Assurance Fund with a provision for spillover into Abandoned Well / Site Remediation Fund; more flexibility in the statute to allow Commission to make changes to bonding rates; corporate entities to provide blanket bond vs. non-corporate to make payments to assurance fund and provide personal pledge; additional research into mechanisms and cost.)





Thursday, January 26, 2006

Testimony before the House Committee on Environment on HCR 5028,  
Joann Freeborn, Chairperson

Delivered by:  
Michael Johnston, President/CEO  
Kansas Turnpike Authority

Dear Chairperson Freeborn and members of the Committee

You have asked our views on HCR 5048, a concurrent resolution encouraging the Kansas Turnpike Authority to include in its contracts with operators of turnpike service areas a requirement that fuels containing ethanol and biodiesel be offered for sale at the service area. We appreciate the opportunity to be here.

First of all, we are pleased that the Legislature is engaged in finding ways to encourage the use of alternative fuels. We certainly believe that is an important objective, not only for our state, but for the nation as well.

At the present time, we have three separate contract business partners that dispense fuel at our six service areas. Three of the six contracts require our approval to sell "alcohol blend gasoline" and three are silent with respect to any specific reference to those products. One of our operators currently sells a 10% ethanol product in their low- octane no-lead product "when it is available". Another operator is open to selling the blended no-lead product but is very concerned about availability and cost. The final four, all Conoco/Phillips company operations, don't sell a blended product at their turnpike locations. In talking with Conoco/Phillips representatives, they seem to make decisions on whether to sell blended products on the basis of what is required by clean air standards. In addition, they also have concerns about selling only blended products because they may not be as compatible with older model vehicles. Moreover, according to our fuel retailers, biodiesel is not available at all.

While we certainly have no problem encouraging them to sell these products, we would be somewhat reluctant to require them to sell blended fuels through their operating contracts. Our reluctance naturally stems from the fact that requiring the sale of products that may not be readily available, or if available at a cost that may not be competitive, would not be in the best interests of our customers. In addition, since our operating contracts with them are structured to assure that the fuel prices our customers pay are "in the market", any requirement to sell only certain fuels may be in conflict with that objective.

Finally, since our first open contract with any operator does not occur until the fall of 2007, we will have time to evaluate the market for these blended products. At that time, our Board will be in a better position to make a decision on the wisdom of any contract requirement for the sale these specific blended fuel products.

Thank you for the opportunity to offer these brief comments.

House Environment Committee

1-26-2006

Attachment 2



KANSAS COOPERATIVE COUNCIL  
816 S.W. Tyler, Suite 300 — Topeka, Kansas 66612  
Phone: 785-233-4085 — Fax: 785-233-1038 — Toll Free: 888-603-COOP (2667)  
www.kansasco-op.coop — Email: council@kansasco-op.coop

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## House Committee on the Environment

January 26, 2006

Topeka, Kansas

### HCR 5028 - Renewable Fuel Availability Along the KTA

Chair Freeborn and members of the House Environment Committee, thank you for the opportunity to share our support for HCR 5028 encouraging the Kansas Turnpike Authority (KTA) to negotiate renewable fuel availability at service stations along the turnpike. I am Leslie Kaufman and I serve the Kansas Cooperative Council as Executive Director.

The Kansas Cooperative Council represents all forms of cooperative businesses across the state -- agricultural, utility, credit and consumer cooperatives. Of our members, more than half are involved in agricultural pursuits.

The KCC supports initiatives which promote the use of renewable fuel sources such as ethanol and bio-diesel. HCR 5028 sends a message to the KTA that this state supports renewable fuel use and encourages wide-spread availability. It does not require the Authority to take specific action, but indicates lawmakers in Kansas believe renewable fuel use is important enough to be a negotiation requirement when contracting with petroleum companies that want to sell products at sites along the turnpike.

As you know, the Kansas Turnpike is a limited entrance/exit roadway. In a sense, the travelers along the pike are somewhat akin to a "captive audience" when they need to purchase fuel. From that perspective, it seems to us to be appropriate for the KTA to consider whether a marketer will provide renewable fuel options at a KTA service location when negotiating with service providers.

We certainly appreciate the opportunity to appear in support of this measure. We respectfully request the Committee act favorably on HCR 5028. Thank you.

House Environment Committee  
1-26-2006  
Attachment 3





Ethanol - *Made in Kansas*

# Association Of Ethanol Processors

## House Environment Committee

### HCR 5028

January 26, 2006

Good afternoon Chair Freeborn and members of the House Environment Committee. I am Mary Jane Stankiewicz and I am the vice president and general counsel for the Kansas Association of Ethanol Processors (KAEP) and I appear in support of HCR 5028.

KAEP represents all of the major ethanol processors in Kansas, representing 160 million gallons of the 170,000 million gallons produced in Kansas.

KAEP supports the resolution that would encourage the Kansas Turnpike Authority to review their contracts and amend them in the future to require the offering of ethanol and biodiesel at the stations on the turnpike. During 2004, there were 32,319,851 vehicles that traveled on the turnpike. While not all of them purchased fuel, we do not want to miss out on the opportunity to offer ethanol and biodiesel at these gas stations.

As we encourage the use of ethanol and biodiesel in our state through a myriad of proposals, it only makes sense to offer these products on the turnpike. Please keep in mind that this resolution would not require any action it is our hope that by passing this resolution we would encourage the KTA to review their contracts and hopefully start the discussions with these stations so that when the time comes to renew the contracts they will agree that it is in everyone's best interest to offer ethanol and biodiesel fuels at these locations.

Thank you for your time and attention and I will be happy to stand for questions at the appropriate time.

House Environment Committee  
1-26-2006  
Attachment 4

# HOUSE BILL No. 2558

By Representative Sloan

12-28

AN ACT concerning conservation and environmental protection or encroachment restriction districts; providing for the creation, enlargement and dissolution thereof.

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

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

(1) "District" means a conservation and environmental protection or encroachment restriction district created pursuant to this section.

(2) "Governing body" means the governing body of the board of county commissioners of the county where the property is located.

(3) "Military reservation" means a military installation or facility under the supervision of the United States secretary of the army or the United States secretary of the air force or a military installation or facility under the supervision of the Kansas national guard.

(4) "Person" means any individual, sole proprietorship, partnership, joint venture, association, trust, estate, business trust, corporation, limited liability company or not-for-profit corporation; any federal, state or local governmental or quasi-governmental unit or agency, or any instrumentality or political subdivision thereof; or any similar entity or organization.

(5) "Property" means real property used as or contiguous to a military reservation or to a state park, state lake, recreational area, wildlife area and sanctuary, fish hatchery, natural area or other lands, waters or facilities under the jurisdiction of the secretary of wildlife and parks.

(b) A governing body may create, modify or dissolve conservation and environmental protection or encroachment restriction districts in the manner provided by this section for the purpose of protecting the long-term sustainability and economic contribution of the property.

(c) Any person who owns or possesses any property may submit an application for the creation, modification or dissolution of a district to the appropriate governing body. Such application shall be on a form provided by the governing body. The application shall be accompanied by any information deemed necessary by the governing body including, but not limited to, specific conservation, environmental protection, growth management or encroachment restrictions addressing requirements such as light, noise, height and distance restrictions and the reasons such restric-

an

or

military reservation

greater than 10 acres in size

(6) "Land used for agricultural purposes" shall have the meaning ascribed to it by K.S.A. 75-2716, and amendments thereto.

1 tions are necessary or requested to sustain or protect the viability of the  
2 property and its operations and mission requirements. A request also may  
3 be made or included to create a conservation and environmental protec-  
4 tion district adjacent or within close proximity to the border of the prop-  
5 erty to help preserve unique or valuable flora, fauna and associated habitat  
6 within the district. The application also shall include a description of the  
7 impact of the applicant's operations on property not owned or possessed  
8 by the applicant, such as noise levels and frequency at specific distances,  
9 light intensity and other pertinent information, as determined by the gov-  
10 erning body. Such information shall be available to any person seeking to  
11 develop or make improvements to property located within the district.  
12 Such information shall constitute constructive notice of the activities and  
13 shall serve as an affirmative defense to any nuisance claim arising from  
14 the noticed activity. Impacts approved in the district shall not be subject  
15 to restriction and shall be considered an ambient condition of property  
16 located within the district.

17 (d) The governing body shall adopt such regulations as are necessary  
18 to implement the provisions of this section. Such regulations may include:

19 (1) The procedure for the approval of the creation, modification or  
20 dissolution of a district;

21 (2) the time limit within which action shall be taken by the governing  
22 body;

23 (3) a schedule of application fees;

24 (4) penalties for violations of restrictions imposed pursuant to this  
25 section; and

26 (5) any other provision deemed necessary by the governing body.

27 (e) The governing body shall hold a public hearing on the application  
28 and shall cause an accurate written summary to be made of the proceed-  
29 ings. Notice of such public hearing shall be published at least once in the  
30 official city newspaper if the property is located within the corporate  
31 limits of a city or in the official county newspaper if the property is located  
32 outside the corporate limits of a city. Such notice shall be published at  
33 least 20 days prior to the date of the hearing. Such notice shall include  
34 the time and place for such hearing and describe the proposal in general  
35 terms. In addition to such publication notice, written notice of the appli-  
36 cation shall be mailed at least 20 days before the hearing to all owners of  
37 record of property within the boundaries of the proposed district and to  
38 all owners of record of property located outside the boundaries of the  
39 district but within 200 feet of such boundaries. All notices shall include  
40 a statement that a complete legal description of the proposed district is  
41 available for public inspection and shall indicate where such description  
42 is available. At any public hearing held to consider the creation or en-  
43 largement of a district, an opportunity to be heard shall be granted to



1 interested parties.

2 (f) Following the public hearing, the governing body may approve or  
3 disapprove the creation or modification of the district as requested in the  
4 application or may approve the creation or modification of the district  
with such changes as made by the governing body. The governing body  
7 shall consider the impact of approving or disapproving the creation or  
8 modification of the district on the entire community involved in order to  
9 ensure the orderly growth and development of the community. Action by  
10 the governing body approving or disapproving the creation or modifica-  
11 tion of a district shall be by resolution. A copy of any resolution approving  
12 the creation or modification of a district shall be filed in the office of the  
register of deeds of the county in which any part of the district is located.

13 (g) At the time a district is created or modified, the governing body  
14 may exempt property located within the district from restrictions imposed  
15 on other property located within the district.

16 (h) Unless a waiver is granted for a new nonconforming condition in  
17 the district, the governing body shall require development of land or land  
18 use within a district to comply with the restrictions imposed by the res-  
19 olution creating the district. A waiver may be granted upon the written  
20 consent of the governing body, after consultation with the person sub-  
21 mitting the original application for the creation or modification of the  
22 district, or such person's successor or designee.

23 (i) The creation or modification of a district shall not preclude nor  
24 restrict any lawful activity of a public utility holding a certificate of con-  
25 venience and authority from the state corporation commission or lawful  
operations of a rural water district.

26 (j) The provisions of this section are permissive and nothing in this  
27 section shall be construed as repealing or voiding existing planning and  
28 zoning regulations if the governing body determines such regulations pro-  
29 vide the same protection provided by this section. This section shall not  
30 preclude the adoption or enactment of alternative or conflicting regula-  
31 tions which provide the same protection provided by this section.  
32

Sec. 2. This act shall take effect and be in force from and after its  
publication in the statute book.

A governing body creating or modifying a district shall not impose conditions or restrictions on any property located more than one mile away from the boundary of the property.

(j)

(k) No provision of this act shall prohibit, hinder or otherwise restrict the use of any land used for agricultural purposes or require any change or modification in the use of such land as long as normally accepted agricultural practices are employed.

(l)