

Approved: 3/22/07 Date

MINUTES OF THE SENATE ELECTIONS AND LOCAL GOVERNMENT COMMITTEE

The meeting was called to order by Chairman Tim Huelskamp at 1:30 P.M. on February 15, 2007 in Room 423-S of the Capitol.

All members were present.

Committee staff present:

Martha Dorsey, Kansas Legislative Research Department
Matt Spurgin, Kansas Legislative Research Department
Ken Wilke, Revisor of Statutes
Zoie Kern, Committee Secretary

Conferees appearing before the committee:

Senator Francisco
Jamie Shew, Douglas County Clerk
Brad Bryant, Secretary of States Office
Woody Moses, Kansas Aggregate Producers Association
Eric Bettis, Mid-America Materials
Janis McMillen, League of Women Voters

Ken Wilke gave summary of **SB 283 concerning election boards; relating to operation thereof.**

Senator Francisco gave testimony in favor of **SB 283** in that it gives flexibility, a right to add.

Janis McMillen gave testimony in support of **SB 283 (Attachment 1).**

Jamie Shew, Douglas County Clerk gave testimony in support of **SB 283 (Attachment 2).**

Written testimony was submitted in support of **SB 283** on behalf of Sonya Stohs, Marshall County Clerk. (Attachment 3).

Written testimony provided by R.J. Wilson, Crawford County Clerk, supporting **SB 283 (Attachment 4).**

Discussion.

Hearing closed.

Ken Wilke gave summary of **SB 249, concerning cities and counties; relating to natural recourse development districts.**

Woody Moses, Managing Director of the Kansas Aggregate Producers Association and the Kansas Ready Mix Association, gave testimony on behalf of **SB 249 (Attachment 5).**

Discussion.

Eric Betts, managing member of the Mid-States Materials gave testimony in support of **SB 249 (Attachment 6).**

Discussion.

Hearing closed.

Meeting adjourned.

Respectfully submitted,

Zoie C. Kern, Committee Secretary



LEAGUE OF WOMEN VOTERS® OF KANSAS

February 15, 2007

Honorable Tim Huelskamp, Chair
Elections and Local Government Committee
The Kansas Senate

President
Janis McMillen
Overland Park

Chairman Huelskamp and members of the Committee:

1st Vice President
Sharon Ailsliieger
Wichita

I am pleased to speak on behalf of the League of Women Voters of Kansas in support of SB 283. Our interest in this legislation stems from a study on Election Administration conducted by the League in 2001-2002. During that time, we sent an approximate 60 question survey to all 105 election officers in Kansas. The topic areas assessed included: Voter Access, Disabled Voter Issues, Community Issues, Voting Procedures, Poll Workers, and Voter Education. An impressive 101 election officers returned the completed survey to us.

2nd Vice President
Cathy Hoy
Emporia

Secretary
Carol Snyder
Overland Park

After analyzing the data, we determined that: 1) election administration in this state generally works well, and 2) three counties had resorted to split shifts for poll workers, that is, permitting them to work partial days. It was our understanding that the use of split shifts was not consistent with existing statutes, and in our follow-up discussions with Secretary Thornburgh, he indicated that allowing poll workers to work "split shifts" was not a practice that was encouraged, for a variety of reasons.

Treasurer
Leonore Rowe
Overland Park

Directors

Gwen Elliott
Topeka

In talking with election officers from around the state, we confirmed that it was becoming increasingly difficult to recruit persons to work more than a 12-hour day at the polls. One of the recommendations that emerged from our study was to provide county election officers the option of offering a more flexible workday for poll workers, while requiring that the supervising judge be present the entire day.

Ellen Estes
Wichita

Linda Johnson
Manhattan

Several things are changing about elections: 1) increasing numbers of women are employed and thus unavailable to work at the polls, 2) the retirees who volunteer are older now, 3) businesses have not been enthusiastic about offering employees time-off to work and the polls, and 4) the 12-14 hour days of monitoring increasingly complex processes (technology changes, more provisional ballots, etc) are stressful. For these reasons, we are advocating the changes reflected in this bill as a way of acknowledging the need to encourage citizens to volunteer to work on elections. Now seems to be the right time to consider changes regarding the election workforce, and Secretary Thornburgh is in agreement. This proposed legislation is the first step in recognizing how we can meet the ever increasing demands on election workers and election officers.

Bob Kruh
Manhattan

Janice Norlin
Salina

Nona Ponder
Wichita

Webmaster
Carol Yoho
Topeka

Attached to my testimony is the League's entire position on Election Administration that was developed following our study.

I urge you to give favorable consideration to this bill.

Janis McMillen

Senate Elections and Local
Government Committee

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F Attachment

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Election Administration

BACKGROUND: An evaluation of the Election Administration process in Kansas was adopted as a state study in April, 2001. A survey questionnaire, developed and used by the League of Women Voters U.S. following Election 2000, was distributed to the local election official in every Kansas County. Responses were received from 101 of 105 counties. The information provided the basis for consensus and developing a position statement. Implementation of the proposed changes in administration of statewide elections will require legislative action. The goal is to improve the voting process and enhance the voters' confidence in the process. This statement of position was adopted in 2003.

STATEMENT OF POSITION: The League of Women Voters of Kansas supports:

1. A statewide standard for training poll workers and supervisory judges who administer elections as well as a mandatory training requirement for all first time poll workers and all supervisory judges.
2. Provision of training materials, mandatory training sessions for new poll workers, and abbreviated refresher training sessions for experienced workers in each county.
3. Base compensation set by each county for poll workers and additional compensation for supervisory judges, to reflect increased training and increased responsibilities.
4. Requiring supervisory judges to work the full day, with the option of a split shift for other poll workers.
5. Inclusion in the training materials and sessions of sufficient information on the use of provisional ballots in order to ensure poll workers are able to explain their use to voters.
6. A statewide effort conducted by the Secretary of State to educate voters on the use of the provisional ballot. The Secretary should make known the criteria for discarding a provisional ballot and release statistics for each county and for the state on the numbers of provisional ballots issued, the numbers discarded and the reason for discarding. The goal is to make the use of the provisional ballot in Kansas a fail-safe method of voting.
7. Reminding all voters, in advance of elections, of the criteria for discarding a provisional ballot, and posting these criteria at each polling place.



JAMIE SHEW
DOUGLAS COUNTY CLERK

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Keith D. Campbell
Deputy Clerk-Elections

Senate Committee on Elections and Local Government

Testimony on SB 283

February 15, 2007

Jamie Shew, Douglas County Clerk

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to testify in support of the proposed changes found in SB 283. I am grateful to Senator Francisco for her work on this very important bill.

One of the largest challenges facing many counties in Kansas is a growing shortage of election board workers. Factors complicating my ability to recruit and retain board workers include: increased polling place responsibilities, the introduction of new voting technologies, the maturation of our current pool of dedicated election board workers and a changing civic demographic. The key to a successful Election Day is in having the polls staffed by well-trained, experienced election board workers. During the 2006 General election, Douglas County used almost 300 election board workers. In the seventy-two hours prior to the General Election, we had over 30 election board workers drop out for a variety of reasons. This represented almost 10% of the election work force. After depleting our pool of substitutions, I resorted to staffing the polls with individuals hired through a temporary labor agency. While this situation was not ideal, it was necessary to adequately staff the polls.

In Douglas County, we have implemented programs to help recruit poll workers; including allowing county employees to work the polls without taking a vacation day, recruiting from local universities and outreach to civic organizations. We have also increased the compensation in an effort to recruit more workers. One of the common barriers to working the polls for citizens and students is the ability to work the full 14 hour day. Having the flexibility to use some citizens on a part-time basis could increase my ability to staff the polling place. In addition, this bill would allow counties to use supplemental staffing during heavier voting times on Election Day. An additional poll worker could be used during the morning and evening times to provide extra coverage while using our resources efficiently.

Security and continuity are also extremely important in polling place operations. Having two board workers, including the supervising judge, that are required to be present for the full-day addresses my concerns about security.

Election board workers are the unsung heroes and heroines of Election Day. Their efforts are essential to the democratic process. This bill provides me an additional tool to address the current challenges in staffing these boards. Your support for this bill is strongly encouraged.

Thank you for your time, and I am available to stand for any questions.

Senate Elections and Local
Government Committee

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SONYA L. STOHS
MARSHALL COUNTY CLERK

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Senate Committee on Elections and Local Government

Testimony on SB 283

February 15, 2007

Sonya L. Stohs, Marshall County Clerk

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to testify in support of the ability to have split shifts for election board workers as found in the language of SB 283. As an Election Official for a rural county of 10,400 residents with 7,035 registered voters it becomes increasingly difficult to find workers to staff my ten election boards. In Marshall County my average election board workers' age is 70 years old.

As a County Election Official, I do my best to recruit younger board workers, but with the increase of dual family incomes it is harder to get residents to work on election boards. In the last few years I have had requests from my residents to work either the first seven hour shift or the last seven hour shift. I feel that with the ability to have one of the election board members work a split shift, it could be very beneficial in helping to staff election boards in Marshall County.

In addition, it will allow for the ability of my older population to continue to work election boards and it will also help as a recruiting tool for the younger generation. I again want to thank you for the opportunity to testify on behalf of SB 283. I feel that this is an important issue that could directly affect the way elections will be conducted in Marshall County.

Sonya L. Stohs
Marshall County Clerk and Election Official

Senate Elections and Local
Government Committee
2-15-07
Attachment

Crawford County Clerk
R. J. Wilson



Written testimony in support of Senate Bill 283
Provided by R.J. Wilson, Crawford County Clerk

Mr. Chairman Huelskamp and Honorable members of the Senate Elections and Local Government Committee:

Thank you for this opportunity to submit testimony today in support of Senate Bill 283. Four years as a member of the House Elections Committee (now GO&E) provided me an invaluable opportunity to learn about elections and campaign finance and I will always be eternally grateful for the experience and the friendships fostered during my years in the Kansas Legislature. During that time I enjoyed the opportunity to serve with my colleagues across the rotunda on several conference committees. Those negotiations and new relationships are valuable to me in my position as Crawford County Clerk.

As the administration of elections becomes more scrutinized through the final implementation of the Help America Vote Act it becomes more and more important for local election officials to have additional tools at their disposal to assure that every vote is counted and every voice is heard.

I am conferring with you by written testimony today to ask for your favorable consideration of allowing the Secretary of State's Office to promulgate rules and regulations pertaining specifically to poll workers and the hours they are permitted to work at the polls. Commonly, we would refer to this provision as "split shifts" for poll workers on Election Day.

Our poll worker force has diminished significantly since I took office in 2005. Any number of reasons can take the blame for this reduction including the collective age of the workforce prior to the implementation of the Help America Vote Act. Monthly, one of our poll workers in Crawford County will die or move away from the county for various reasons. HAVA implementation has caused some of our poll workers to feel too overwhelmed by the technology before they even touched or saw one of the new devices. Another byproduct of HAVA has been the reduction of polling places and some poll workers have decided that

Testimony in support of SB 283

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Crawford County Clerk
R. J. Wilson

they don't want to make the move to a new location with new people. Others simply refuse to endure the hours of training I require for all poll workers. In each example poll workers are lost and their replacement is not easily found.

Today I am asking for your favorable consideration of the idea of split shifts for poll workers. For people with children, grandchildren or a dependent spouse who require care at certain times of the day; For people who have medical issues that will only allow them to be seated or in one place for a set period of time; or for people who lead busy lives or run businesses, fulfilling civic duty as a poll worker is impossible for a committed 12-14 hour day.

Your favorable consideration of this Act will allow the Secretary of State to promulgate rules and regulations so a poll worker may work a split shift. Split shifts will allow one person per polling place the opportunity to split the day providing time for the necessities mentioned in the previous paragraph. In our consolidated polling places we will be able to use college students, stay at home moms and dads, corporation employees and many others who have commitments which fall within the 12-14 hour period.

During your consideration I would recommend one amendment prior to the passage of this measure. That amendment would involve the tightening of the phrase "...*may allocate staffing resources, as needed at the voting place...*" I believe it to be important to make certain that this act apply only to rule and regulation power for the provision of split shifts of election workers in the polling place. Without tightening the language specifically to the issue of split shifts I believe the Secretary of State, both currently and in the future, may have latitude over local control of polling places by the County Election Officer. I am sure the committee can provide guidance to the Revisor of Statutes in this regard to prevent the act from applying to all facets of KSA 25-2810. With such an amendment I am fully in favor of this legislation.

Thank you for your potentially favorable consideration of SB 283 and thank you again for the opportunity to confer in writing today.

Best wishes and I hope to see you all soon:



R.J. Wilson
Crawford County Clerk

Testimony in support of SB 283

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KRMCA

Kansas Ready Mixed
Concrete Association

KAPA

Kansas Aggregate
Producers' Association

TESTIMONY

By the
Kansas Aggregate Producers Association &
Kansas Ready Mixed Concrete Association

Before the
Senate Committee on Elections & Local Government

Regarding SB 249
Natural Resource Development Districts

February 15, 2007

Mr. Chairman and members of the committee:

My name is Woody Moses, Managing Director of the Kansas Aggregate Producers' Association, and the Kansas Ready Mixed Concrete Association. Thank you for the opportunity to provide testimony on behalf of SB 249. The Kansas Aggregate Producers' Association (KAPA) and The Kansas Ready Mixed Concrete Association (KRMCA) is a statewide trade association comprised of over 250 members and one of the few industries to be represented in every county of this state.

The purpose of SB 249 is to provide a clearer definition regarding access to and development of natural resources within our state. As a result of ever increasing urbanization we believe it is time to consider the concepts embodied in SB 249. This is required in order to achieve three important policy goals:

1. Provide a frame work whereby all citizens are informed of proposed and existing natural resource developments.
2. Promote reasonable limits for operation including safety, environment and noise.
3. Provide for the complete development, once approved, of natural resource deposits.

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While aggregate resources, like air and water, appear to be plentiful the simple truth is they are not. Once again just like air quality and water quality are often important; so too is rock or sand & gravel quality. **Quality** deposits, meeting required absorption and hardness standards; are only found in those rare places where nature put them and must be protected. If we are to fully develop these limited resources for the future of our state and its citizens we must be allowed the ability to develop them. Adoption of such as measure will also be consistent with the recommendations contained in the Kansas Natural Resources Alliance report presented to the Legislature in January 2004, specifically that the State adopt measures to preserve access to limited natural resources for their future utilization. In our opinion SB 249 while limited in scope is a step in the right direction.

Please join us in supporting this proposal.

Thank you for receiving our comments on SB 249, I will be happy to respond to any questions you may have at the appropriate time.

by Therese Dunphy,
Executive Editor

Evening the Playing Field

As most local governments fail to protect aggregate resources, learn new strategic tactics from this roundup of land-use planning initiatives.

Sometimes success comes from failure. That's the premise of an emerging school of thought regarding the protection of aggregate resources for future development. For more than three decades, governments have grappled with competing land-use interests, typically with aggregates resource identification and protection coming in last in a long line of other options.

But as aggregate producers manage to work around permitting constraints in various markets, their success may actually undermine the growing urgency to protect such reserves for future development.

Despite numerous initiatives, including the Colorado Front Range project was launched in 1973, to the new zoning classifications such as Tooele County, Utah's MG-EX, which was developed in the '90s, no broad-based, government-initiated protection program has been implemented.

"In the '70s, people started recognizing these conflicts," says Bill Langer, a research geologist with the U.S. Geological Survey (USGS) in Denver. "The state geological surveys and the USGS made efforts to demonstrate the location of the resources, residential communities, and projections of development."

As an example of the results, Langer points to Anne Arundel County in Maryland. "Everyone would gasp and develop maps of resources, but then they'd stop there," he explains. "They failed to take that next step by taking action to protect it. People could still build there, and they did."

While no national initiative has been implemented, a number of state and local programs have been developed, with varying degrees of success. "The folks

"The issues are generally ignored in terms of protecting the resource." — Bill Langer, USGS

that study this kind of thing have come to the conclusion that there is a real lack of consideration of aggregate resources in the planning literature," Langer says. "The issues are generally ignored in terms of protecting the resource. On the other hand, there tends to be a fair amount of effort designed to protect the people from the impacts of developing the resource."

Colorado's H.B. 1529

Colorado was one of the early, although not most successful states, to attempt resource planning. In 1973, the state Legislature passed H.B. 1529, which was designed to encourage devel-

opment of mineral resources based on rational and practical planning.

The bill required the state geological survey to develop maps of sand and gravel resources in the populous Front Range counties and subsequently required the counties to use those maps in their plans for growth and development.

Langer says that a 1980 study, performed by the U.S. Department of Labor, concluded that the initiative did




not work for various reasons. One reason was that the legislation had no "teeth" to it. There was no penalty for failure to comply with H.B. 1529. Another reason the measure did not succeed was that the land could be developed for alternative uses. Developers were required to cite how the land was going to be used, but then they could simply point to another aggregate source and have their plans approved. Finally, the measure included a laundry list of requirements to protect citizens from the "nuisance" of resource development.

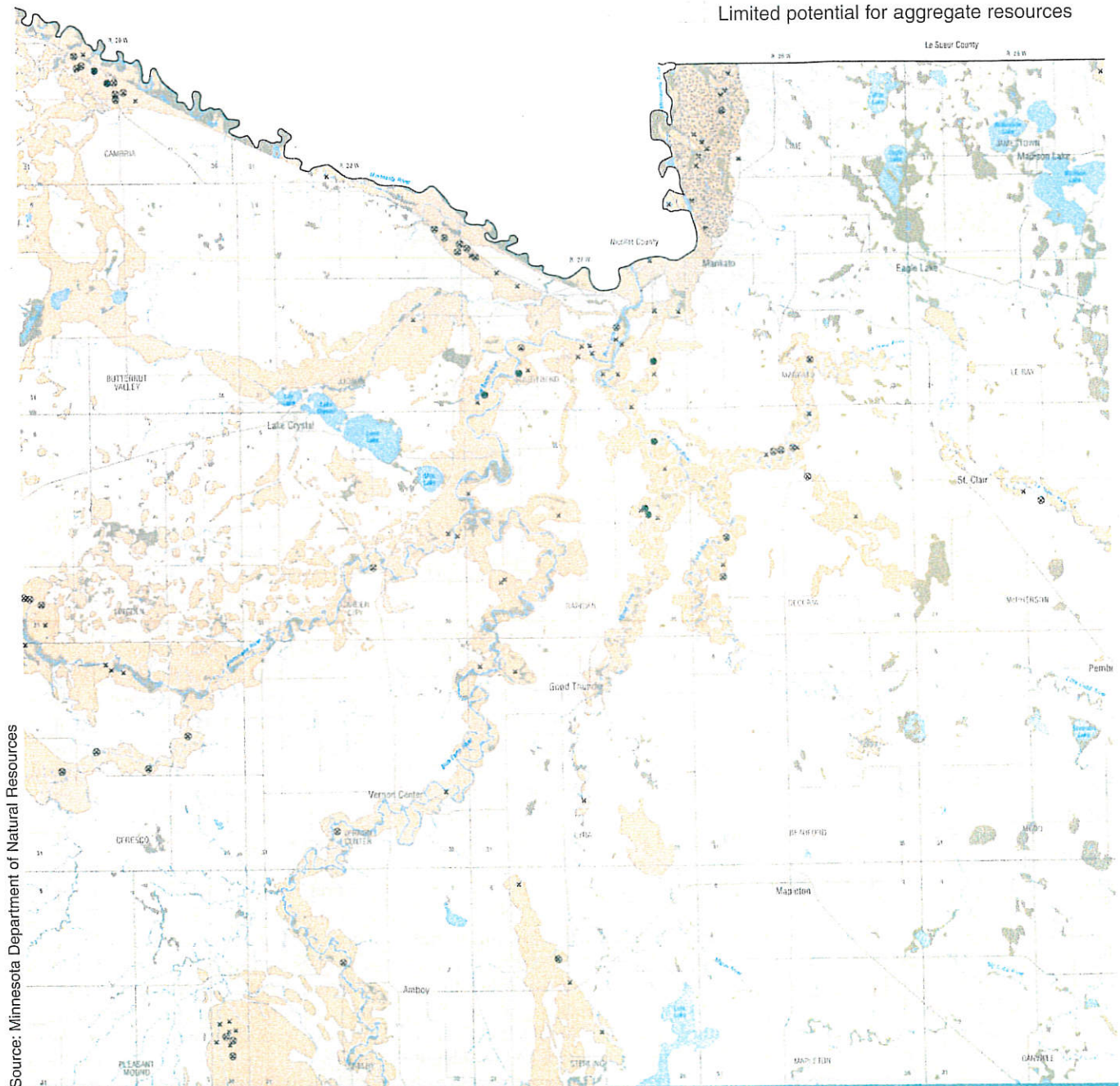
"It protected the citizens from the resource, but the part of protecting the re-

Significant Aggregate Resource Deposits

(Blue Earth County, Minn.)

Legend:

-  Potential sand and gravel resources
-  Potential crushed stone resources
-  Limited potential for aggregate resources



Source: Minnesota Department of Natural Resources

The state of Minnesota has developed maps of aggregate resources on a county basis for use by local municipalities.

Minnesota's smart-growth measure includes aggregate resource protection as part of its land-use controls.



Photo courtesy of Susan Kilmer

As potential aggregate resources continue to be sterilized, aggregate producers should begin to consider their options for long-term resource availability.

source from the citizens could be discounted with a simple statement in (a developer's) zoning application that said there were downstream resources," Langer says.

California's SMARA

In 1975, the California legislature passed the Surface Mining and Reclamation Act (SMARA). The act requires the California Division of Mines and geology to classify specified lands based on their mineral content, but does not require that the reserves be permitted or even protected from alternative uses.

"SMARA has had some pretty good impacts, but — as I understand it — it comes on a case-by-case basis," Langer says. "It hasn't had the hoped for goal of protecting resources."

The hope was that once resources were identified and the scarcity was verified, those lands would be protected for future development. While the idea is sound in theory, it rarely works in practice. As government agencies try to protect aggregate resources from sterilization, they often trigger a public backlash that elected officials may not be willing to endure.

Basically, the way the act has worked is that information was collected by the state geological survey and used to

identify local resources. Because the information comes from a government source, it is typically viewed as quality, unbiased data.

When a producer seeks a permit, they can use that information to demonstrate how much of the resource is available and the location of that resource. "That may or may not give them an edge in a permit exercise," Langer notes.

Minnesota's Section 84.94

The state of Minnesota passed an aggregate planning and protection measure, Section 84.94, in 1984. The legislation details its purpose as "to protect aggregate resources; to promote orderly and environmentally sound development; to spread the burden of development; and to introduce aggregate resource protection into local comprehensive planning and land-use controls."

According to Dennis Martin, manager of the Mineral Potential Section of the Division of Lands and Minerals within the Minnesota Department of Natural Resources (DNR), it was viewed as a neutral party and asked to "identify, map, and classify aggregate resource deposits in an entire on a county-by-county basis" for each of the state's 87

counties.

"By giving (local governments) a map and a database, we give them a tool and encourage them to plan for future mineral resources for their community and their region," Martin says. "Counties have people that understand the value of having local construction aggregates available to them, especially now with the cost of fuel for transporting aggregates."

The formation of Aggregate Resources Task Force also helped open a dialogue among various groups concerned with mining. "That task force was a mechanism to open discussion," Martin recalls. While no legislation resulted directly from the task force, it was the impetus behind at least two state conferences on construction aggregates and certainly increased awareness of resource preservation. "All of those things have led to where we are at now," Martin adds.

For example, many local governments must choose between mining and its most common competing land use, residential development. Some of the more rapidly growing suburban areas learned from what happened in the seven-county area that makes up the greater Minneapolis-St. Paul area. In that part of the state, rapid urbanization led to the sterilization of resources. As a result, those counties are paying higher transportation costs to import construction aggregates.

Martin says that while the DNR has had some success in encouraging local governments to meet their current aggregate needs, the real challenge is to get them to think about a future supply. That may be changing with the recent development of Blue Earth County's Greenprint project.

"In that project, agricultural land, natural lands such as wetlands, and construction aggregate resources were considered to be very important. Through the process, they are actually planning for the future by protecting these resources from encroachment and other types of development," Martin explains.

Goals of the plan include the following:

- Identification and prioritization of natural resources, corridors, and green-

ways for conservation management; and

■ Development and implementation of comprehensive plans that preserve, protect, and restore important natural resources corridors and greenways.

As part of the project, a master plan for mining reclamation throughout the county is to be developed. That plan is intended to manage mining in priority conservation areas identified through the plan.

"This model process looks to be very good for construction aggregates," Martin says.

"Other counties have, in their comprehensive plan, strong statements about aggregate resources, but this Greenprint plan looks really powerful, like the best plan out there."

Washington's GMA

The state of Washington passed the Growth Management Act (GMA) in 1990. According to the state's Web site, it was adopted because the state legislature found that "uncoordinated and unplanned growth posed a threat to the environment, sustainable economic development, and quality of life in Washington."

Ironically, what may have been the nation's first foray into smart growth also represents what may be its most effective program for resource protection. The GMA requires state and local governments to manage the state's growth by identifying and protecting critical areas and natural resource lands, designating urban growth areas, preparing comprehensive plans, and implementing them through capital investments and development regulations.

"What the GMA posits is that the local governments must do good planning," says Bill Lingley, chief state lands geologist with the Washington Department of Natural Resources. "It doesn't say they must set aside a certain amount of rock resources, but it does require that they think it through and that the thought process be more than casual."

Through the requirements set forth in RCW 36.70A.050 (Guidelines to classify agriculture, forest, and mineral

Show and Tell

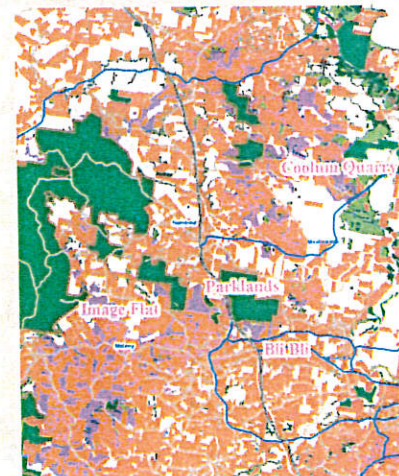
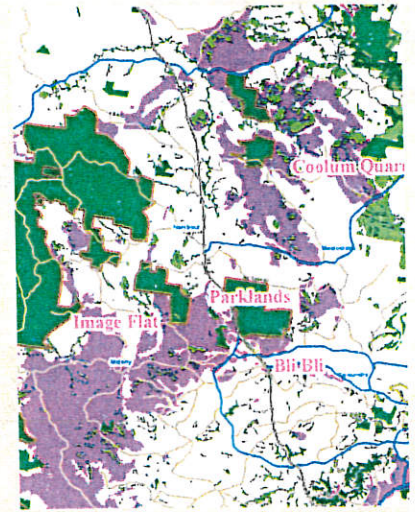
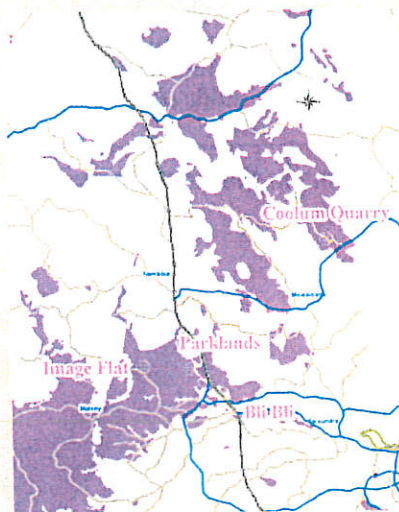
Until a broad-based, overarching plan to set aside aggregate resources is developed, one of the most effective tools for aggregate producers is a simple exercise of show and tell.

"A key issue is the application of scientific information. You really need to look at the available aggregate resources within a market and describe that market concept to the local government," says Bill Lingley, chief state lands geologist with the Washington Department of Natural Resources.

"Start with an assessment of what's actually available, irregardless of land use restrictions. Subsequently, provide an overlay of land use restrictions," he adds. "It becomes abundantly clear to local governments when there is a resource shortage."

Lingley says that he believes that hard science provides a fairly irrefutable argument. "Once local governmental officials understand that there isn't a lot of leeway, they tend to make better decisions, and they tend to give industry a more sympathetic ear," he adds.

To contact a state geologist, look for individual state links at www.stategeologist.org.



Using GIS technology, government officials in Queensland, Australia, demonstrated the scarcity of developable aggregate reserves. The areas in purple show the distribution of crushed stone resources in a portion of Queensland, while the green areas show national parks, conservation parks, and state forests. Finally, the red highlights remove all land parcels smaller than 250 acres to show the remaining areas that are large enough for a mine and a buffer zone.

Photos courtesy of Bill Langer, U.S. Geological Survey

The Washington Growth Management Act is unique in that it penalizes local governments that fail to adequately plan for their resource needs.

lands and critical areas), local governments are required to produce maps of aggregate resources, examine consumption rates, and set aside a minimum 25-year aggregate resource.

Since the act was passed 16 years ago, it has been amended. "When the original provisions came out they were pretty tough on small governments," Lingley says. "It required too much science and expenditure for them to meet the requirements, so they backed off some of the requirements for the remote, rural counties."

What differentiates the Washington GMA from many other aggregate resource protection programs is the fact that the act includes punitive measures for local governments that fail to meet the set aside requirements. According to the penalties outlined in the act, the governor can impose sanctions including the following:

- Revise allotments in appropriation levels;

- Withhold the portion of revenues to which the county is entitled under one or more of the following: motor vehicle fuel tax, transportation improvement account, urban arterial trust account, rural arterial trust account, sales and use tax, liquor profit tax, and liquor excise tax; and

- File a notice of noncompliance with the secretary of state and the county or city, which shall temporarily rescind the county or city's authority to collect the real estate excise tax.

Lingley says that some of the larger counties, such as King County — which includes the Seattle area — have aggressively defended their zoning determinations and protected their aggregate resources. Other counties, however, have not done as good of a job. In some cases, he says, counties have developed excellent plans and thought the process through only to turn to junk science to refute findings from the industry and scientific community re-

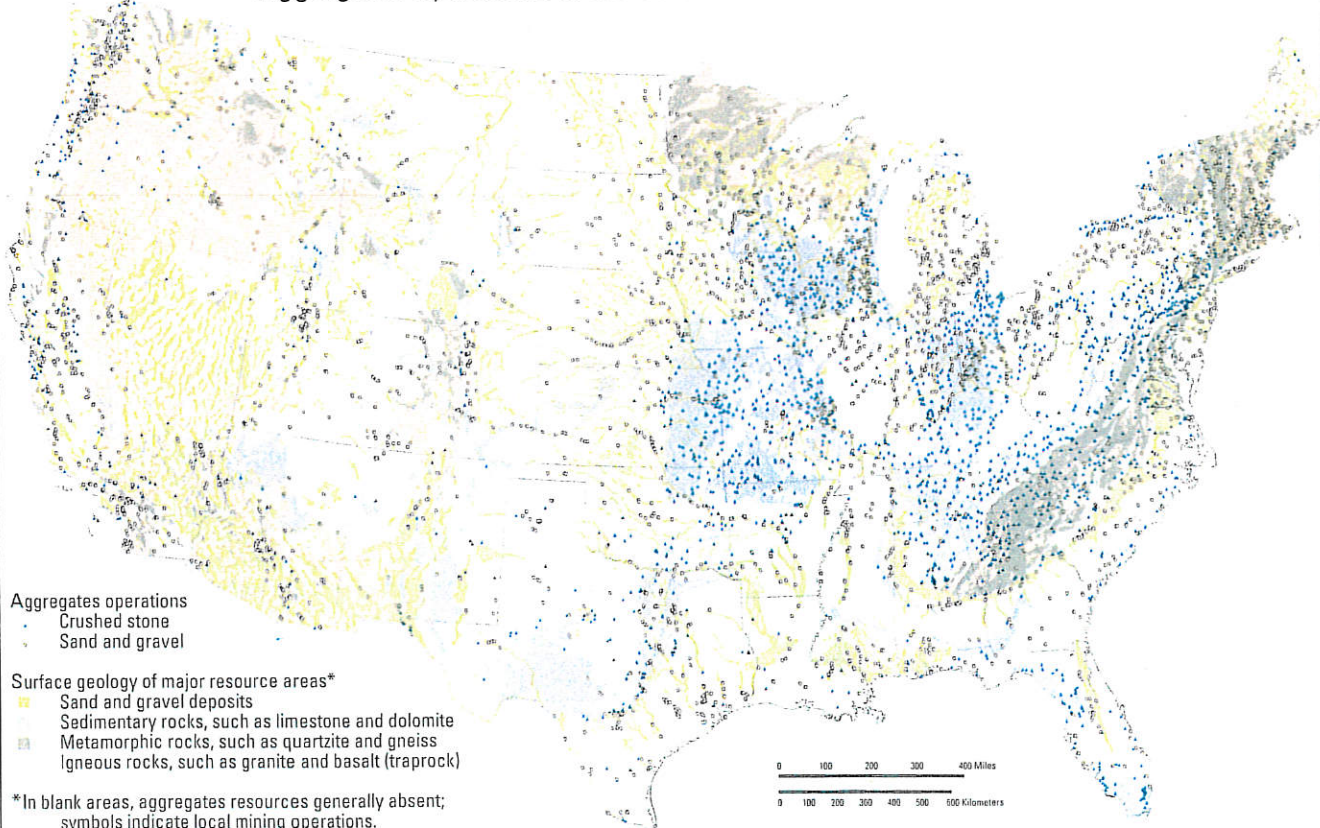
garding resource availability. In those cases, he says, counties effectively performed a "pocket veto" on protecting resources.

While Lingley is quick to point out that Washington is a state rich in aggregate resources, including abundant bedrock and world-class glacial deposits, pockets of the state still experience a construction material shortage. "There are areas where there is an acute shortage because of geologic constraint," he notes. "We tried to bring it to the attention of those local governments — that they had a problem, and they needed to address it. The success has been mixed."

Tooele County, Utah's MG-EX

The competing need for aggregate and desire to have it "not in my backyard" played themselves out in a contentious situation in Tooele County, Utah. Between 1990 and 2000, the population of the county, which is a bed-

Aggregates Operations in the Conterminous United States in 2004



The U.S. Geological Survey

After experiencing exponential development, Tooele County, Utah, developed an extraction zone that alleviates NIMBY concerns.

room community of the greater Salt Lake City area, increased by a whopping 51.3 percent.

"It's an honest-to-goodness example of aggregate development issues," Langer declares. "You want a source of aggregate where those houses are so you can get the concrete and asphalt to them as cheaply as possible, so they have aggregate operations and ready-

"We're in a leap frog exercise where no one is happy." — Bill Langer, USGS

mixed plants right near those houses. While they're being built, that's all fine and dandy. When people start living in those houses, it's no longer fine and dandy. They complain and put pressure on civic leaders who put pressure on the aggregate producers who get tired of the pressure and pack up and move out. We're in a leap frog exercise where no one is happy."

By the late '90s, the county became entangled in litigation between the residents and aggregate producers. As a result, the county developed a new zoning classification, the MG-EX (Chapter 27 – Mining, Quarry, Sand and Gravel Extraction Zone). Any producer can petition to have their zoning changed to the new classification. After demonstrating that the producer has a resource that needs to be mined and showing that it will be mined in an environmentally responsible manner that meets certain predefined criteria such as setbacks, the zoning reclassification should be granted. Permits may also be renewed in a streamlined manner so long as the producer operates responsibly.

"The good news is that anybody that moves into land zoned with this classification has no right to demand that things be changed. They can't move in, complain about the smell, and ask that (the operation) be shut down," Langer says.

Shrinking supply

Maintaining a steady supply of aggregates to all markets is an ongoing challenge, particularly in some markets. While many producers are aware of the

sterilization of aggregate reserves along portions of the East Coast, other areas also face shortfalls in supply.

For example, when the Denver International Airport was being built several years ago, contractors had a difficult time securing enough construction materials for the job as aggregate producers refused to forsake long-term clients for a relatively short-term project.

Following hurricane damage in Louisiana, that market — which has never had an abundant supply of crushed stone — faced a greater-than-normal challenge in obtaining construction materials for rebuilding efforts.

And while some areas face aggregate shortages due to geologic constraints, others face them because of a lack of

will to support the protection of such resources. Several years ago, the *Sacramento Bee* ran a series of articles, entitled "State of Denial" detailing how Californians were unwilling to develop the resources that the state economy consumed. Instead, the state imports materials such as oil from Venezuela, trees from northern Canada, and aggregate from British Columbia.

According to the 2003 report, California has an estimated 81 billion tons of reserves — enough to last 350 years at the current rate of consumption, without importing a truckload. Instead, the state turned to British Columbia to produce aggregate for the controversial reconstruction of the Bay Bridge.

"Today, the state's passion for protecting its own backyard...and its penchant for building homes over rich reserves is beginning to shift the pain of producing those natural resources to other landscapes and cultures," Tom Knudson, a *Bee* staff reporter wrote.



Photo by Tina Grady Barbaccia

As most planners evaluate land parcels, they typically look at many other issues — such as wildlife and water resources — well before they consider protection of aggregate resources.

For a state that prides itself on being environmentally friendly, its disregard for the impact it is creating elsewhere may be considered somewhat surprising. The governor of Baja California Norte, located in the northwest edge of Mexico, halted mining exports to California citing its "plundering" of its natural resources.

"They're doing more environmental damage in those places than they would be if they were mining under the strict controls in California," Langer notes.

A 1997 report in *California Geology*, written by Russell Miller, a senior geologist with the California Department of Conservation, indicates that the number of aggregate mines in the Bay Area dropped from 32 to 23 between the '80s and '90s. During the same time period, the number of operations throughout Southern California dropped from 81 to 56.

Underscoring the value of planning

One way to elevate the importance of protecting aggregate resources amongst the myriad concerns facing local planners is to underscore the cost of transporting the material from remote locations.

While most, if not all, aggregate producers are well aware that shipping costs can outweigh production costs if the material is trucked more than 20 miles, the general public is not as aware of the issue.

In areas that don't have a local aggregate supply, a premium is being paid to import construction materials. Couple the increased cost with the fact that more than half of all aggregate produced is used for government projects, and the tax implications are significant.

"The sad part is that we all end up paying for it. We're all paying higher taxes to support our inability to keep aggregate available at a reasonable distance," Langer says. "Aggregate producers are doing a darn good job of keeping the price down. Maybe if they weren't so darn good at it, people would be suffering and willing to do something about it." **AM**

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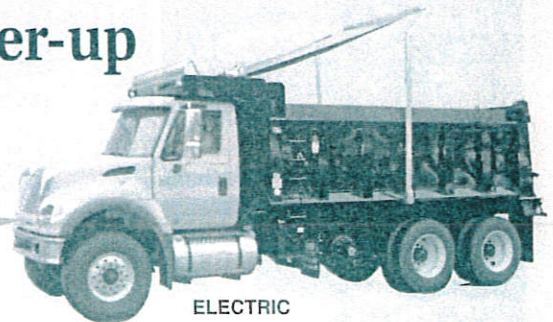
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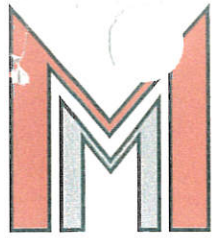
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MID-STATES MATERIALS LLC

TESTIMONY

By

Mid-States Materials, LLC

Before the
Senate Committee on Elections & Local Government

Regarding SB 249
Natural Resource Development Districts

February 15, 2007

My name is Eric Bettis, the managing member of Mid-States Material, LLC located in Topeka, Kansas and a member of the Kansas Aggregate Producers Association. Thank you for allowing me the time to appear before you today in support of SB 249.

Mid-States Materials, LLC is an aggregate material supplier that currently operates quarries in Osage County, Linn County, and Anderson County, Kansas. We currently have 18 to 22 employees with our company. We operate our quarries to serve state, county, township, and city governments along with offering aggregate products to the general public for uses in a wide variety of projects.

SB 249 is of particular importance to our company due to recent experiences we have had relating to our attempts to protect permitted natural resource deposits. Mid-States Materials, LLC is currently in the process of accepting the transfer of an existing quarry in Shawnee and Douglas Counties, along with the transfer of the existing conditional use permits that govern the permitted land use activity in each respective county. Subject to final approval of the transfer, Mid-States Materials, LLC is required to go before each respective county government to obtain approval. During this public hearing process Mid-States Materials, LLC encountered testimony from a neighboring landowner who expressed concern about the location of the quarry and related activities to his house and property. We explained to the board of county planners that the subject quarry received the necessary conditional use permits in 1991 and began quarry activity thereafter. It was also noted that the subject landowner, who is disputing our transfer request, built and improved his property over ten years after the quarry was already in existence and operational. The neighbors concern and proposal to create additional restrictions, which includes larger setbacks, would negatively impact our business and greatly reduce our ability to access permitted recoverable limestone reserves.

*Senate Elections & Local
Government Committee
2-15-07 Attachment 6*

In this instance, it is our opinion, that it is unreasonable to penalize and negatively impact a legitimate business that provides a needed product on account of neighboring landowners' complaints about a business that was operational over 10 years before the landowners' occupation. Mid-States Materials, LLC believes it is important to set aside areas of known recoverable aggregates and be mindful that construction aggregates play a large part in the future benefit and growth of all the surrounding communities.

Please join us in supporting SB 249.