

MINUTES OF THE HOUSE AGRICULTURE & NATURAL RESOURCES COMMITTEE

The meeting was called to order by Chairman Larry Powell at 9:00 a.m. on March 8, 2012, in Room 783 in the Docking State Office Building.

All members were present except:

Representative Michael Peterson (Unexcused)

Committee Staff Present:

Randy Gilliland, Kansas Legislative Research Department

Sean Ostrow, Office of the Revisor of Statutes

Chris Sevedge, Kansas Legislative Research Department

Joyce Hladky, Committee Assistant

Conferees appearing before the committee:

William L. Bider, Kansas Department of Health & Environment (Proponent)

Doug Louis, Kansas Corporation Commission (Proponent)

Zack Pistora, Kansas Chapter Sierra Club (Opponent)

Others attending:

See Attached List.

Chairman Powell opened the floor for hearings on **SB375 adding a new exemption for solid waste permit.**

William L. Bider, Director, Bureau of Waste Management, Kansas Department of Health and Environment, presented testimony in support of **SB375**. The bill would establish land-spreading of drilling waste as an approval disposal method that does not require a solid waste disposal permit issued by KDHE. K.S.A. 65-3407c already lists several disposal activities that can occur without a permit, but special site specific approvals are required. The approval process is administered by the Bureau of Waste Management for all existing exemptions, but under the proposed bill, the land-spreading approval process would be administered by the KCC. The bill specifies that the KDHE and the KCC will enter into a memorandum of agreement to describe thoroughly the application review and approval responsibilities. Kansas Department of Health and Environment gathered information from numerous sources, including state officials outside of Kansas and Kansas State agronomists, to assist the department in determining that controlled

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CONTINUATION SHEET

Minutes of the HOUSE AGRICULTURE AND NATURAL RESOURCES Committee at 9:00 a.m. on
March 8, in 783-DSOB

land spreading of these drilling wastes could be done in a safe manner. Furthermore, it appears that land-spreading in close proximity to the drilling sites may be the most environmentally sound manner to manage this very large waste stream. In response to KDHE's study of relevant information, the department is in the process of developing an application process and a mathematical model to calculate waste-loading rates on the receiving soil. Much of this work is completed; however, certain details must still be resolved. KDHE has coordinated the development of the application and approval process with KCC and presented an initial draft to an industry group for review.

It is noteworthy that several changes to the original bill were made in the Senate to provide additional assurances that any land-spreading would be done in a manner that is protective of soil and water resources. KDHE is in agreement with these changes.

The KCC and KDHE agreement will specify that KCC will oversee the administration of this program including routine compliance assessments. The agreement will also specify how enforcement will take place when serious noncompliance is identified considering relevant existing statutory authorities and directives to both agencies.

Mr. Bider thanked the Committee and answered questions. ([Attachment 1](#))

Mr. Doug Louis, Director of Conservation Division of the Kansas Corporation Commission, presented testimony in favor of **SB375**.

The Kansas Corporation Commission has been involved in regulating oil and gas exploration and production operations since the mid-1930s. In the summer of 2011, an out-of-state oil and gas exploration company approached commission staff asking if landspreading drilling mud and drill cuttings was an approved practice in Kansas. The exploration company explained they had plans to begin drilling horizontal wells in southern Kansas as a continuation of their activities in Oklahoma. It had been their experience the horizontal wells, by virtue of cutting nearly twice as much hole, generates approximately twice as much hole, generates approximately twice as much drilling waste as vertical wells. They further explained in other states they had switched to land spreading in lieu of disposal in earthen pits, as they felt managing these much larger pits caused problems. The problems include: the additional costs of dewatering the pits in times of wet weather to keep the pits from overflowing and the multiple trips by heavy equipment to push the sides of the pits to the center periodically, as the edges of the pits dry.

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As the majority of the land spreading would occur off-lease, (where KDHE has statutory authority) and because KDHE had expertise in solid waste disposal, it was clear they should be involved early on.

KDHE staff did research on the topic, and worked with K-State agronomists, and other states' agencies to come up with the procedure for landspreading as presented in **SB375**. The KCC regularly meets with industry and other forums to discuss pertinent topics. This topic was discussed with our Oil and Gas Advisory Committee, other operators, and other state agencies in various meetings this fall. The general feedback from the meetings was that it was appropriate for KDHE to develop the technical aspects of landspreading, while KCC administer the program.

Commission staff supports **SB375** and agrees with the general consensus expressed in the meetings and believes land spreading is a viable option for disposal of drilling wastes and solids.

Mr. Louis thanked the Committee and answered questions. (Attachment 2)

Representative Powell asked Mr. Louis if he could get copies for the Committee of the rules and regulations for North Dakota, Oklahoma and Texas. Mr. Louis responded that he would.

Zack Pistora, Legislative Director for the Kansas Chapter of Sierra Club, presented testimony in opposition to **SB375**.

Hydraulic fracking has recently become a high-profile issue across the nation while certainly fracking has been around since its inception in 1947 in Kansas, new fracking technologies as well as the advent of combined fracking and horizontal drilling, are creating a new boom for natural gas industry.

Americans across the country feel these new methods employed by the natural gas industry puts both our environment and our communities at substantial risk, unless there are important environmental safeguards in place first.

Land-spreading of solids from fracking, as **SB375**, would allow could be very problematic for Kansas landowners, especially our farmers. Actually the solid waste we are talking about is more like sludge, not just soil and rock. The rock substrate mixes in with the petroleum distillates, like kerosene or diesel, used to lubricate the drill during the excavation process. In addition, the

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unearthed sludge can carry heavy metals, which can be toxic or possibly radioactive and be absorbed by soil and plants.

The arguments on behalf of the Kansas Chapter of the Sierra Club come from hard lessons learned in other states. For example, after facing many citizen complaints, Texas has strengthened its permitting process and site monitoring to include soil testing over intervals of time. Kansas has the advantage of implementing safeguards before problems arise. Because many states and federal regulatory agencies have already dealt with specific complications surrounding new hydraulic fracturing and horizontal drilling technologies, Kansas Sierra Club also encourages our state to explore and utilize other state and federal standards and best practices.

The Kansas Sierra Club supports the state regulatory agency in implementing necessary rules on energy extraction to make sure the people and ecosystem are healthy and protected.

We need to make sure the landowners' needs, like safety and ecological protection, are prioritized before industry profits.

Ms. Pistora thanked the Committee and answered questions. Representative O'Hara asked Mr. Pistora to provide copies of the formal complaints from Texas and Mr. Pistora indicated that he would. (Attachment 3)

Written Testimony:

Jimmie Hammontree, Manager, Regulatory Affairs, Chesapeake Energy (Proponent)
(Attachment 4)

There being no further testimony on **SB375**, Chairman Powell closed the hearings.

Meeting adjourned at 10:50 a.m.