

MINUTES

JOINT COMMITTEE ON ENERGY AND ENVIRONMENTAL POLICY

October 17-18, 2011
Room 152-S—Statehouse

Members Present

Representative Carl Holmes, Chairperson
Senator Carolyn McGinn, Vice-chairperson
Senator Marci Francisco
Senator Ralph Ostmeyer
Representative Mitch Holmes
Representative Forrest Knox
Representative Annie Kuether
Representative Tom Sloan
Representative Vince Wetta

Members Absent

Senator Mike Peterson
Senator Mark Taddiken

Staff Present

Cindy Lash, Kansas Legislative Research Department
Heather O'Hara, Kansas Legislative Research Department
Matt Sterling, Office of the Revisor of Statutes
Tamera Lawrence, Office of the Revisor of Statutes
Renaë Hansen, Committee Assistant

Others Attending

See attached list.

Monday, October 17

Chairperson Holmes called the meeting to order and welcomed Committee members and guests to the meeting.

Representative Tom Sloan moved to approve the minutes from the September 9, 2011, meeting, seconded by Representative Vince Wetta. The motion carried.

Abandoned Oil and Gas Well Plugging

Review of Committee Charge

Cindy Lash, Kansas Legislative Research Department (KLRD), explained the charge to the Committee as denoted by the Legislature ([Attachment 1](#)).

Discussion of Abandoned Well Data

Cindy Lash reviewed the testimony of the individuals who spoke to the Committee at the previous meeting about the abandoned well issue, and highlighted specific important information pertaining to the charge of the Committee.

Bob Jenkins, Kansas Corporation Commission (KCC), noted the Equus Beds Aquifer has had salt brine flowing into it. The KCC is recommending using the groundwater recharging effort to keep the water from being contaminated by the salt brine. Mr. Jenkins spoke regarding the way the agency chooses the order in which wells are plugged. A request was made to estimate how many more wells would have been plugged had State General Funds (SGF) been available during the years when it was not included in the agency's appropriation. Additionally, a request was made to identify how many new wells have been found over each of the prior years.

Tax Incentives

Ms. Lash spoke regarding the lack of other states that have incentives or funds available to assist in plugging abandoned wells. Ms. Lash noted there are some existing incentives in other states to bring abandoned wells back into production; however, it does not appear other states have programs to encourage plugging of abandoned wells.

Effects of Incentive Structures

Richard Cram, Department of Revenue, spoke to the Committee regarding the tax incentives that the state offers to land owners for plugging abandoned oil and gas wells. ([Attachment 2](#)). Mr. Cram also gave information about the number individuals that have filed to receive those tax credits.

Mr. Cram explained the incentives and the age of the wells to which the incentive is applicable. He noted that the incentives only apply to the land owner and not the operator of the well. Mr. Cram stated a credit is more of an incentive than a deduction on income taxes.

John McCannon, KCC, noted if the operator was added to the tax incentives statute in existence, there would be few operators using the incentive, as it would still cost them money. He said if the state gave 100 percent credit, there would be an increase in the abandoned well plugging initiative. Most of the time, the industry plugs the wells they have drilled when the wells are no longer producing a product in order to drill more wells. Mr. Jenkins spoke to the Committee regarding the post-1996 Abandoned Well Fund and how quickly the current \$4.0 million would be used if the oil price dropped and wells had to be plugged with the funding.

Hydraulic Fracturing

Environmental Concerns

Joe Spease, Kansas Sierra Club, reviewed the regulatory trends and environmental issues concerning hydraulic fracturing the State of Kansas is encountering ([Attachment 3](#)). He focused on regulatory trends, federal regulatory status, state-permitting trends, federal air quality protection, bans, and moratoriums. Mr. Spease noted municipalities have an easier time banning hydraulic fracturing than do state governments. He included an article about hydraulic fracturing from the *New York Times*, dated August 3, 2011.

Large Oil Perspective

Dan Klaus, Basic Energy Services, spoke to the Committee about the large oil perspective on hydraulic fracturing. He explained the processes it uses in hydraulic fracturing and said he is not aware of any problems with the water supply in Kansas due to hydraulic fracturing. He showed a video produced by Chesapeake Energy explaining the hydraulic fracturing process. The video has been uploaded on YouTube by Chesapeake Energy: <http://www.youtube.com/watch?v=73mv-WI5cgg>.

Texas Requirement for Disclosure of Fracturing Fluid Composition

Matt Sterling, Office of the Revisor of Statutes, spoke to the Committee regarding Texas legislation about disclosure of hydraulic fracturing components ([Attachment 4](#)). Mr. Sterling stated the specifics of Texas House Bill 3328 and the details it outlines that the operator must disclose. He also noted the rule would exempt certain hydraulic fracture ingredients from disclosure. A copy of the Texas legislation was included in his testimony.

Mr. Spease noted one thing the Kansas Sierra Club requested is for states to require full disclosure of the ingredients used in the hydraulic fracturing process. Mr. Spease also stated the Kansas Sierra Club believes a baseline measurement of water quality should be completed before any hydraulic fracturing occurs. Mr. Klaus noted most of the hydraulic fracturing in Kansas is done in the southeast part of the state. The oil producers do not want the U.S. Environmental Protection Agency (EPA) to regulate them and would be more satisfied if regulation came from a grassroots effort. Mr. Spease stated he would like the effort for monitoring hydraulic fracturing be preemptive to the drilling of the wells. Mr. Klaus noted the remaining fluid is put into a salt water disposal holding area.

Equus Beds Recharge Project Update

Dale Goter, City of Wichita, provided a graph explaining the funding sources of the Equus Beds Aquifer Storage and Recovery Project. Additionally, a PowerPoint presentation was handed out to the Committee ([Attachments 5 and 6](#)).

Dane Baxa, Water Resources Committee of the South-Central Regional Economic Area Partnership, spoke about the hydraulic fracturing and where it is appearing in relation to the Equus Beds. He noted there are three brine pits in the Equus Beds vicinity.

Mr. Jenkins, KCC, noted the State of Kansas stopped allowing brine pits to be used in the late 1950s. It was noted by Committee members that if brine pits are still being used, that use is illegal.

Utilities Issues

Costs and Effects of Complying with EPA Regulations

Patti Petersen-Klein, KCC, spoke to the Committee on her new role as Executive Director, and on the various energy resources of the state, including wind, gas, oil, and energy efficiency.

Mark Ourada, American Coalition for Clean Coal Electricity (ACCCE), spoke on the ACCCE and its role in clean coal ([Attachment 7](#)). Mr. Ourada talked about the National Energy Modeling System and how it was developed. He informed the Committee about the most recent analysis of proposed Environmental Protection Agency (EPA) rules and how the rules will affect the coal producing industry. The preliminary impact of the proposed rules, including the Cross-State Air Pollution Rule (CSAPR), Utility Maximum Achievable Control Technology (MACT), Clean Water Act §316(a), and Coal Combustion Residuals (coal ash) regulations will cost the industry around \$127 billion. Mr. Ourada stated the long-term impact will be the increase of the cost of electricity for consumers. It is projected these four proposed EPA regulations will increase the price of electricity by 12 percent for the Kansas consumer. Mr. Ourada also spoke about job losses due to these regulations. He noted the ACCCE website includes a presentation explaining the effects of the new EPA regulations. Mr. Ourada noted each of the new regulations will cost the industry and consumers. He commented the industry is going to do more with cleaning up the coal plants emissions. It was noted the CSAPR Rule is being moved back to a later implementation date. Extra time will be required to get the technology needed to comply with the change in emission requirements.

Bill Eastman, Westar Energy, spoke about Westar Energy's plans for emission reduction going forward ([Attachment 8](#)). The plans were in effect before the new EPA regulations. Mr. Eastman commented on a regulatory summary of the new regulations, including their status, effective date, emissions or areas covered, energy centers impacted, and the issues involved. He stated the final regulations, with respect to emissions reduction, are making it virtually impossible for the company to comply. He showed the different areas that may suffer blackouts when the CSAPR regulation goes into effect.

Paul Ling, Kansas City Power and Light (KCP&L), presented testimony focusing on the CSAPR rule ([Attachment 9](#)). Mr. Ling noted details relating to SO_x and NO_x for emissions versus allowances. Part of the company's plan for compliance includes reduced generation. On the Kansas border, the company is looking at installing low NO_x parts in the LaCynge plant. Additionally, KCP&L will reduce production to meet the compliance standards. Mr. Ling noted KCP&L is asking for more time from EPA in order to meet the compliance mandates. Finally, Mr. Ling noted KCP&L's costs to comply with five of the rules will cost them \$1 billion.

George Thullesen, Empire District Electric Company, offered testimony in response to the EPA regulations and noted the company's most important concern is being able to meet the needs of the consumers for electricity while still staying in compliance with the EPA regulations ([Attachment 10](#)).

Wayne Penrod, Sunflower Electric Power Corporation, presented information on CSAPR and the electric generating unit MACT for hazardous air pollutants ([Attachment 11](#)). Included with his testimony was additional information on:

- Cross-State Air Pollution Transport Report submitted to the U.S. House of Representatives Committee on Science, Space, and Technology, September 15, 2011;
- Comments to EPA Technical Staff in Washington, D.C., July 13, 2011;
- Comments to the EPA on National Emission Standards for Hazardous Air Pollutants from Coal and Oil by Sunflower Electric Power Corporation, August 4, 2011; and
- Comments to the EPA on National Emission Standards for Hazardous Air Pollutants from Coal and Oil by Coalition of New Units, August 4, 2011.

Phil Wages, Kansas Electric Power Cooperative, spoke about the modification they need for the diesel-fired generators the company operates close to Wolf Creek Nuclear Power Plant ([Attachment 12](#)). The cost to comply with the Reciprocating Internal Combustion Engine (RICE) rule is estimated to be \$300,000 to \$400,000.

Brad Mears, Kansas Municipal Utilities, spoke about the RICE rule and how it will affect their combustion engine electricity generators ([Attachment 13](#)). Mr. Mears noted, in Kansas, approximately 603 MW of energy production will be affected. He included a synopsis of all 56 municipalities that will be affected by the RICE rules. Mr. Mears noted these engines are in a declining population base and will have to spread the costs of the upgrades to a small number of customers. There is some legislation pending in Washington, D.C. to exempt a number of entities, including small municipalities, from the RICE ruling.

Pat Cassidy, Kansas City Board of Public Utilities, spoke about the company's options in order to comply with the new EPA rulings ([Attachment 14](#)). Mr. Cassidy offered some long-term compliance options, but stated there are no concrete solutions.

Written comments were submitted by Earnest Lehman, Midwest Energy, Inc., in regard to the costs and effects of complying with the EPA regulations ([Attachment 15](#)).

Several company representatives commented they are not sure if the companies are going to be long or short on generation when they do the shutdowns in order to comply with the EPA regulations. KCP&L and Westar Energy discussed intermittent power shut off to some of their major customers and how this would affect those customers.

Extension of Cost Recovery for Security

Matt Sterling, Office of the Revisor of Statutes, spoke about KSA 66-1233 ([Attachment 16](#)). The statute expired on July 1, 2011, due to the sunset on the statute not being extended.

Recouping Costs of SO2 Allowances

Lana Ellis, KCC, spoke about recouping the cost of the SO2 allowances ([Attachment 17](#)).

Dr. Robert Glass, KCC, spoke regarding the utility recovery of the cost of SO2 allowances ([Attachment 18](#)).

Dr. Ellis and Dr. Glass noted the environmental equipment that will need to be added in order to meet EPA regulations will cause the rates of the individual companies' product to increase. They stated retrofitting an existing plant will be cheaper than building a new plant. They explained that a cost-benefit analysis needs to be done to determine whether investment in additional environmental equipment is justified.

SO2 Monitoring Gaps

Tom Gross, Bureau of Air, Kansas Department of Health and Environment), presented information relating to air monitoring and CSAPR ([Attachment 19](#)). He noted the agency tends to monitor air quality rates where there are large populations of people.

Energy Emergency Response Plan

Leo Haynos, KCC, spoke on what the KCC does to plan for and manage emergency outages ([Attachment 20](#)).

Comments by Public Utilities

Mr. Thullesen, spoke on Empire District Electric Company's emergency response plan. He noted the company recently had to deal with an F5 tornado in its district that went through Joplin, Missouri.

Scott Jones, KCP&L, spoke to the Committee about KCP&L's emergency preparedness plan ([Attachment 21](#)).

Mr. Penrod offered information to the Committee about Sunflower Electric Power Corporation's emergency preparedness plan for reliability issues ([Attachment 22](#)).

Mark Schrieber, Westar Energy, stated Westar Energy has responsibilities under the North American Electric Reliability Commission (NERC) standards to have transmission crisis plans written that can be utilized during emergency situations. Westar Energy also has energy crisis plans in place for Wolf Creek Nuclear Power Plant.

Mr. Haynos stated the emergency preparedness plan is broad enough to handle blackout issues. This solution starts at the local level and moves up within the state, going all the way to the Governor's Office. Mr. Haynos is not aware of specific plans to help people who require medical assistance powered by electricity. Westar Energy noted it has a list of people who would require service should the power go out, and it would be able to contact them. KCP&L stated they have a list of customers who have a need for power for medical devices. The Kansas Electric Power Cooperative noted its nineteen individual companies also have

medical necessity lists and the individuals on the lists would be contacted should a blackout occur. The Committee and the utility companies engaged in a conversation regarding cyber security. The only sure way to maintain security is to have isolation from the internet by individual energy systems.

Committee Discussion

Chairperson Holmes began a discussion on the tax incentive credit in place to incentivize the abandoned well plugging program. Representative Knox stated the state should study a plan to deal with the issue for the next 50 to 100 years. Senator Francisco stated the tax credit should be transferable to future owners.

Chairperson Holmes began a discussion on a disclosure bill on hydraulic fracturing fluid composition. Representative Kuether noted the KCC should create rules, rather than have the Legislature create new statutes.

The security confidentiality currently in place for utilities was discussed. The Committee decided to leave it as it is, unless the Legislature requests to change it from the utility companies.

Chairperson Holmes recessed the meeting at 4:00 p.m.

Tuesday, October 18

Chairperson Holmes called the meeting to order.

Water Issues

Earl Lewis, Kansas Water Office, spoke on the effects of the record drought in Kansas to the water supply and the health of the water supply in Kansas (Attachments 23 and 24). Mr. Lewis described the potential for the low level lakes to refill. He noted the 2012 Kansas precipitation predictions from National Oceanic and Atmospheric Administration (NOAA) are similar to the actual precipitations in 2011.

Unfunded Liability for Reservoirs

Mr. Lewis explained the sources of funding for the various federal lakes in Kansas. He presented charts showing how many acre-feet of water the state can access from the federal lakes. Additionally, Mr. Lewis presented a chart explaining how much it would cost the state to access that water and the total liability cost for that access. Of the three rates to pay for the future water needed for Kansas citizens and for what industry is using, the 20-year bonding of the final payment is the best option. It allows those who need the water in the future to pay for the water, as opposed to making current users to pay for future users needs.

Sedimentation and Streamside Erosion Issues

Mr. Lewis spoke about streambank sedimentation and erosion. One of the things the state has done is to make the the streambanks more level to help stabilize the movement of the

riverbanks downstream. Additionally, the Kansas Water Office is beginning the process of new reservoir siting. Along with that process, they are evaluating how to best use the predicted funds available for future water use.

Mr. Lewis noted the Legislature would have to give the authority to issue bonds for water-need improvements. While the bond interest rates are the lowest the state has seen in years, the types of bonds that qualify to be put on the market are not at those low interest rates. He noted each assurance district pays into the fund for water, based on their specific costs. These rates vary by area, based on the acres of water at each lake or water area. Mr. Lewis noted the marketing program generates about \$2.7 million while the assurance program generates about \$600,000. Perry Lake has low future-use needs downstream from the dam. The customers downstream from Perry are the cities of Lawrence, Olathe, Bonner Springs, and DeSoto. Mr. Lewis noted before the end of the contract, he expects the assurance district to buy more water storage for those cities from Milford Lake and Perry Lake.

Benefit Districts for Reservoirs

Tamera Lawrence, Office of the Revisor of Statutes, spoke focusing on the benefit districts for Kansas reservoirs ([Attachment 25](#)). Her handout focused on the geographic and recreational-use models. Additionally, it included a brief explanation of the Horsethief Reservoir project.

Guidance on Waters of the United States

Tom Stiles, Bureau of Water, Kansas Department of Health and Environment, presented information about the history of the legal guidance documentation of the jurisdictional question of navigable waters of the United States and in particular its effects on the waters in the State of Kansas ([Attachment 26](#)). Many of the concerns of the Kansas issues have been deferred, with the hope the regulations will be issued defining the waters of the United States and would require the State of Kansas to apply safeguards for environmental protection. The agency believes they have adequate authority for fixes to streamflow conservation without the changes in the definitions of the classification of surface water.

Mr. Stiles noted, in the State of Kansas there is a difference between the definitions of intermittent and ephemeral. Kansas defines intermittent as a stream that can be depended upon to flow at certain times of the year due to the watertable rising, snow melt, and other predictable water sources. Ephemeral streams only have water in them due to a thunderstorm occurring above them.

Wind Development

New Projects and Future Development

Kimberly Svaty, The Wind Coalition, spoke to the Committee about the new and future wind projects being developed currently in the state ([Attachment 27](#)). Additionally, Ms. Svaty offered a map ([Attachment 28](#)) that included the wind resources of Kansas with the current wind generators operating in Kansas and a map ([Attachment 29](#)) showing commercial-sized renewable generation within the state. She noted, in the next 13 months, there will be 1,388 MW of new wind generation coming online in the state, bringing new capital investments and new

construction jobs. Ms. Svaty informed the Committee about manufacturing plants associated with wind generation projects that will bring new permanent jobs to Kansas.

Ms. Svaty stated there is uncertainty surrounding the production tax credit sunset of 2012. It was noted many legislators are saying the production tax credit should be extended another three to five years and then begin the process of easing wind producers off the production tax credit.

Property Tax Exemption for Renewables

Matt Sterling, Office of the Revisor of Statutes, spoke to the Committee on current state law that allows for tax credits for investment in renewable electric facilities ([Attachment 30](#)). In addition, there are laws that allow for a deduction for the amortization of the costs of a renewable electric facility and waste heat utilization system at an electric generation facility.

Wind Developers

Frank Costanza, Trade Wind Energy, spoke on the tax exemptions that have arisen since the construction of the new wind generation projects. Selection of where they build new wind generation projects is dependent on the cost of construction and production; therefore, those states having wind production tax credits are getting more business from the wind industry business. The projects Trade Wind Energy has in Kansas are Smokey Hill, phases one and two, and the Kearney County wind project.

Dean Baumgardner, Wind Capital Group, spoke their contribution in rural areas for wind energy. The Wind Capital Group has a new project for wind generation for the Post Rock wind project. They also are working to develop two other large wind energy production farms. The Wind Capital Group believes the tax exemptions and credits are crucial to their investment in the wind energy production market. He suggested Kansas leave the current tax exemption in place to further encourage investment in wind energy production farms.

Karl Pierce, BP Wind Energy, presented testimony in support of continued tax incentives for wind energy production investment ([Attachment 31](#)). Mr. Pierce noted they are involved in the Flat Ridge 1 and 2 wind projects. He also noted, without the tax exemption, their power price would be about 30 percent higher than it is now. He stated the contracts they have with Kansans now require them to decommission the towers from the premises at the end of their life.

Rorik Peterson, EDP Renewable North America, presented testimony in support of the continued property tax incentive in the State of Kansas ([Attachment 32](#)). They operate a 201 MW wind farm in Cloud County, Meridian Way.

County Commissioners

Carol Voran, Kingman County, noted many of the contracts they have for wind generation are based largely on the current tax credits authorized through state law ([Attachment 33](#)).

Carla Pentz, Harper County, spoke about the infrastructure maintenance necessary to construct the wind farms. She noted they are concerned about the emergency medical services

needed to meet the needs of 500 construction workers and for fire protection as a result of putting in major wind projects.

Liz Hendricks, Elk County, spoke about the Caney River wind project currently affecting their county ([Attachment 34](#)). She noted the Governor's recent ruling will keep two large projects out of their county. She stated there is a need to keep the property tax exemption in place and leave it to the counties to negotiate the PILOT contract.

The Committee discussed what would happen to the wind energy agreements with local authorities should the federal tax exemption expire. The wind developers have financially invested in the projects based on the present value of future income. Additionally, when developers finance the projects, they have to build a forecast incorporating the costs and the revenues of the 20-year model, which is used to secure financial backing. It was noted the companies are requiring their contractors to have a percentage of local workers for the projects. If there are specialty skills needed, such as crane workers, they have to use workers from other areas, if they are not available locally. Committee members asked whether decommissioning plans are available. In several counties there is a bonding licensing requirement to ensure monies are available to decommission the towers, should it become necessary. Also, most of the plans have a decommissioning clause written into the contract. In addition, they have repowering agreements in place, so at the end of the 20-year life of the tower, they can put up new towers incorporating current technology. Oklahoma is subsidizing the cost of energy generated in their state that can be sold to any energy company.

Transmission Update

Carl Huslig, ITC Great Plains, presented information about the Spearville-Axtell 345 kV transmission line ([Attachment 35](#)). He noted the projected completion date is April 2012. Additionally, he presented information on the 345 kV Kansas Y-Plan ([Attachment 36](#)). He noted the projected completion date to be December 2014.

Dave Peck, Westar Energy, gave an update on the Rosehill-Sooner line. This line is estimated to be finished in March 2012 and is projected to come in under budget. Mr. Peck also offered information on their portion of the Y-Plan. Westar Energy is a 50 percent partner in Prairie Wind Transmission, which is construction in the eastern and southern portions of the project. Their portion of the line is 108 miles. The cost estimate is \$220 million. Black and Veach is the design engineer for the project. The project is expected to be completed in December 2014.

Mark Lawlor, Clean Line Energy Partners, explained the company's Grain Belt Express project ([Attachment 37](#)). The full project is estimated to cost \$1.7 billion and will involve approximately 550 miles of new transmission lines. It is estimated there will be approximately \$7 billion of investments made in new wind farms due to the transmission line construction.

ARRA Energy Programs and Weatherization

Review of KCC Programs

Reallocation of Efficiency Kansas Funds

Secretary Pat George, Kansas Department of Commerce, discussed the involvement of the Department of Commerce with the American Recovery and Renewal Act (ARRA) funds

originally dedicated to the Efficiency Kansas program that were reallocated to fund two projects that promote renewable energy ([Attachment 38](#)). The state will invest about \$15.6 million for the purchase of bio-methane digester equipment technology at an ethanol facility operated by Western Plains Energy near Oakley, Kansas. For the second project, the state will invest \$4.9 million to support a biomass harvesting, handling, and delivery demonstration project for the Kansas Alliance for Bio-refining Energy. He noted the Department of Commerce worked together with the KCC and the U.S. Department of Energy to move the projects through the approval process on a short-time frame. Included in his testimony were letters from both of the entities benefiting from the distribution of the ARRA funds.

Secretary George stated the agency worked with the KCC to make sure there was money left in the fund for the Efficiency Kansas applications in process. He noted the two projects funded by the Department of Commerce will be replicable without further stimulus dollars elsewhere in the state and nation.

Ryan Freed, KCC, spoke to the Committee on the Energy Division's Recovery Act programs ([Attachment 39](#)). His testimony included an Energy Division ARRA Grant Budget submitted by the KCC. The written testimony also outlined the ARRA funds distributed to the state universities for energy efficiency programs and noted the particular projects for which the funds were used.

The average loan taken out by Efficiency Kansas consumers totaled \$6,000. Mr. Freed noted the businesses who benefited from the ARRA funding received a grant and will not have to repay it as a loan. KCC's original intent for the individual audits and loans under Efficiency Kansas was to encourage the market and encourage auditors and banks to continue to offer the audits and loans after stimulus funds were no longer available. Executive Director Patti Petersen-Klein assisted in answering questions about the ARRA program.

Weatherization

Al Dorsey, Kansas Housing Resources Corporation, offered the Committee a summary of the weatherization program. He noted with the new ARRA funding, the corporation was able to start replacing "energy hog" appliances with Energy Star appliances. It was noted the funding for 2012 is projected to be reduced by 30 to 40 percent. It is projected for next year, the funds available will be in the \$4 to 5 million range ([Attachment 40](#)).

Underground Pore Space

Basic Concepts in Sequestration of Carbon Dioxide

W. Lynn Watney, Kansas Geological Survey, spoke about carbon sequestration, characterizing pore space and managing the CO₂ plume ([Attachment 41](#)). Mr. Watney spoke about the number of processes happening when the CO₂ is injected in the ground. Their study looks at how the CO₂ behaves when it gets trapped in the underground formations. When the gas gets in a certain depth, it moves into a supercritical fluid state. This fluid state is similar to water, but it is less dense and more buoyant. Mr. Watney talked about the enhanced CO₂ oil recovery. His testimony included various charts and simulation graphs that demonstrate what they predict will happen when CO₂ is injected into the ground. Currently, they are in the permitting process in order to be able to drill the observation well and commence the study. He stated anti-pyrogenic CO₂ is the kind of CO₂ used in Kansas for oil and gas recovery.

Legislation in Kansas and Other States

Matt Sterling, Office of the Revisor of Statutes, spoke on the current state legislation across the country addressing pore space ownership ([Attachment 42](#)). Those states with pending legislation are Montana, North Dakota, and Wyoming.

Royalty Owners Perspective

Erick Nordling, Southwest Kansas Royalty Owners Association, spoke about the royalty owners' perspective on pore space ownership from a legal perspective ([Attachment 43](#)). Mr. Nordling stated common law prescribes the surface owner owns the pore space.

Committee Discussion and Direction to Staff

The Committee discussed the following:

- Cedar Bluff Reservoir has had low levels of water. The coves of the reservoir have trees sprouting when the water gets low. Committee members asked whether it is possible to cut the trees down, so when the water returns, there are not trees interfering with the lake water level;
- Consider the potential for dry dredging when the reservoir coves water levels are low;
- Request the Kansas Water Office to provide information about the logjam around the Neosho River;
- Draft enabling legislation for hydrologic benefit districts;
- Discuss wind development and the best way to incentivize wind projects. Also, understand how property tax exemptions affect school finance;
- Report on Kansas utilities' compliance with the renewable portfolio standard (RPS); where each company stands; and the costs and effects of the state RPS;
- Discuss subsidies for energy, renewable and non-renewable;
- Follow-up on incentives for wind development in other states;
- Consider legislation to require a signed agreement for wind before construction can begin;
- Investigate whether property tax can be charged if there is no agreement on a PILOT before a company starts producing;

- Utility certification currently has no time limit. Discuss changing the time frame of certification to 180 days to act; currently, the KCC may take an unlimited time before authorizing a utility certification;
- Discussion on the weatherization program, including the ARRA funding spent on upgrading appliances;
- Decide what the legislative priorities are concerning energy and environmental policy;
- Discussion on pore space, including having the Committee staff work with others to ascertain industry and the public preferences; and
- Consider legislation to begin charging a fee when drilling and starting production. The bill would require an entity to pay the state to take responsibility for plugging the wells.

Adjourn

Chairperson Holmes adjourned the meeting.

Prepared by Renae Hansen
Edited by Heather O'Hara and Cindy Lash

Approved by Committee on:

November 22, 2011

(Date)