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February 10, 2015

TESTIMONY OF JAROLD W BOETTCHER, PRESIDENT, BOETTCHER ENTERPRISES, INC.

IN SUPPORT OF HB 2177

KANSAS HOUSE OF REPRESENTATIVES, COMMITTEE ON LOCAL GOVERNMENT

Mr. Chairman, members of the Committee, thank you for the opportunity to express my support and that of our Company for the provisions of HB 2177. From 1961 until January of 2007, we operated a number of retail fertilizer plants in north central Kansas and southern Nebraska. Most of our facilities have been sold to Crop Production Services, which is a subsidiary of Agrium, Inc.

Several of our plant sites (5 to be specific) have been identified by KDHE as being potential sources of contamination, primarily nitrate in groundwater and the soil. The first investigation dates to 1991 and the last one started in 2006. We have been actively engaged with KDHE in both the VCP (Voluntary Control Program) or the Cooperative Program for over 20 years. Three sites are enrolled in the VCP. The other two are in the Cooperative Program, which is generally reserved for sites where contamination has, or threatens to impact a public water supply well. In all cases, poor housekeeping practices are primarily responsible for the contamination which occurred rather than deliberate acts. The industry has learned a great deal about what constitutes good housekeeping practices, and I am confident that our future is better because of those learning experiences, some of them being very expensive.

All remediation required or requested by KDHE has been completed at four sites. Nitrate levels have been reduced significantly but on-going monitoring efforts show levels which exceed existing standards. Remediation has included soil excavation, operation of an irrigation system, and at our fifth site, a remediation well discharges water to a river under permits authorized by KDHE. In all cases, active monitoring and reporting continues and along with other responsible parties, we would like to move forward and bring a measure of closure to all of our sites. We, and KDHE, could take a step forward through the provisions of HB 2177, in order to deal with current and future issues at the sites, primarily through long term monitoring programs.

As regards implementation, the principals of a Risk Management Program (RMP) are critical to operations under HB 2177. Such an approach is in use by the U.S. Environmental Agency (EPA), where risks are specifically identified, exposure to those risks is specifically identified and finally, consequences of such risk and exposure are determined. For example, you could have a situation where there is substantial risk, but with either zero, or minimal exposure to human health and the environment. You have a undesirable situation which you have already employed remediation measures but location, concentration, or perhaps depth of contaminants makes the outcomes of further remediation efforts questionable – specifically as regards current and future risk to human health and the environment. One could dig, dig, and dig some more and still not remove all contamination.

One of our sites has a remediation well which has reduced the contamination of a city well, to the point where that city well could be operated today – but the city has chosen not to restart the well. The city is fortunate to have options in this regard.

I have dealt with these issues for 24 years. If there were any means whatsoever to go back in time and implement responsible practices at the five sites under KDHE supervision, I would do so, without hesitation. Such is not the case. Therefore, we must seek a responsible, pro-active, and working model approach towards achievement of a common objective – to protect human health and environment. The provisions of HB 2177 will help us and KDHE, do just that.

Thank you for your consideration of my comments.

Jarold W Boettcher