

MINUTES OF THE SENATE UTILITIES COMMITTEE.

The meeting was called to order by Chairperson Sen. Pat Ranson at 1:30 p.m. on March 8, 2000 in Room 231-N of the Capitol.

All members were present except:

Sens. Hensley, Morris, Pugh and Salisbury were excused

Committee staff present:

Lynne Holt, Legislative Research Department

Mary Torrence, Revisors of Statute Office

Jeanne Eudaley, Committee Secretary

Conferees appearing before the committee:

Cynthia Lash, Principal Auditor, Legislative Division of Post Audit

Others attending:

See attached list

Sen. Ranson announced the committee will hear a review of the KCC authority for plugging abandoned wells and the Post Audit report review today, with hearings scheduled for tomorrow. She introduced Lynne Holt, who distributed the following to the committee: Overview of Oil and Gas Well Plugging and Remediation Funds (Attachment 1) and the text of **HB 2782-concerning oil and gas; relating to disposition of certain fees**, (Attachment 2), which is in the Senate Ways and Means Committee. She also distributed a newspaper article from the Lawrence Journal World entitled "Producers enjoying oil boom". She stated the issue of abandoned wells has been referred to this committee from a Ways and Means Subcommittee Report. Ms. Holt's presentation centered around three funds and the purposes of each. She referred to the Overview and explained where the funds originate and went over the Abandoned Oil and Gas Well Fund financial statement for FY 1998 through FY 2000. She stated the Abandoned Oil and Gas Fund was created in 1996 and is a six-year program, which will expire in July, 2002. She told of the sequence of events in 1996 when the fund was created and changes made in the funding mechanism. She pointed out that Priority I wells (most contaminated) are given priority.

Ms. Holt outlined revenue sources and receipts for FY 1999 for the Conservation Fee Fund and explained that \$200,000 of the amount shown goes into the State General Fund each year. The last page of Ms. Holt's presentation outlines policy questions concerning the funds. The last question on that page deals with administrative expenses, and she referred the committee to the text of the bill, Page 1, Lines 24 through 27. She stated the intent of the law needs to be clarified as well as what the KCC is actually authorized to spend money for and the purpose of the Financial Assurance Fund.

Sen. Ranson introduced Cynthia Lash, who referred to the Performance Audit report - "Reviewing the Activities of the Corporation Commission's Conservation Division: A K-GOAL Audit" (which is available through the Legislative Division of Post Audit, February, 1998). She directed the committees' attention to Question 2: Is the Conservation Division Effectively Dealing with the Backlog of Old, Unplugged Oil and Gas Wells in the State?, on Page 18 of the Report. Ms. Lash stated since the law was enacted in 1996, \$1.6 million per year has been earmarked for this purpose, and \$500,000 has been coming out of the Conservation Fund, making a total of \$2.1 million per year being allocated for the problem of plugging abandoned wells. She stated that staff estimated there are more than 49,000 abandoned oil and gas wells in Kansas, and approximately one-third of those are an environmental or safety risk. She estimated there are approximately 15,000 abandoned Priority I wells (present an ongoing or potential risk) and 34,000 abandoned Priority II (presents a lesser risk) wells. Ms. Lash went over an Inventory of Abandoned Wells on Page 21, pointing out that District 3 (Chanute) has the most Priority I wells. She also stated the abandoned wells in the southeast part of the state are the oldest and were drilled before regulations were in place and records are incomplete. The inventorying and classification of abandoned wells are an ongoing process, and as it progresses, more wells are found which require plugging. She also went over a graph on Page 24, which projects in what year the priority wells would be plugged if the enhanced funding continues, and if the funding ends in FY 2002.

## CONTINUATION SHEET

MINUTES OF THE SENATE UTILITIES COMMITTEE, Room 231-N Statehouse, at 1:30 p.m. on March 8, 2000.

Ms. Lash stated the abandoned wells are plugged by private companies hired by the State, who must follow the State's contracting process. That law requires the Department of Administration's Division of Purchases to seek formal bids for all contracts expected to cost more than \$10,000. The Conservation Division has been authorized to award contracts expected to cost less than \$10,000, which accounted for one-third of the money spent in FY 1997. The remaining two-thirds was awarded by the Division of Purchases on nine contracts costing more than \$10,000 each. All purchasing requirements had been followed in awarding the nine contracts, and the Audit found they had been awarded to the lowest bidders. However, the Audit found that when the district offices solicit bids for plugging the smaller wells (those under \$10,000), that the district offices solicited bids for individual services which may include five different types of services for a single project, rather than one vendor for the whole project. The Audit showed that adequate bid documentation was lacking for every project and it could not ascertain if the lowest bid was awarded the contract, or if the bidding was awarded fairly. The problems are outlined on Page 25 of the Audit, with the recommendation the district offices be given guidance for the bid process and that documentation of the process be required. The Audit recommends that the KCC develop a formal plan to target Priority I-A wells before plugging Priority I-B and I-C wells and to place a high priority on completing the inventory of Priority I wells. Another recommendation involves the funding mechanism, with the observation that additional funding may need to come in the form of extending existing funding for the enhanced funding program, rather than increasing the amount currently being provided. Other recommendations are listed on Page 27.

Ms. Lash continued discussing the financial assurances the 1996 Legislature put in place to protect the State from future liability, as she pointed out requirements for operators and options regarding the type of financial assurance they can post. The law does not specify the length of time the financial assurances will be effective and does not define circumstances under which the State can make a claim on a source of financial assurance. Also, the law does not specify how the funds collected under these provisions will be used. Ms. Lash referred to a chart on Page 31 citing the reasons district staff were not able to locate responsible parties for plugging abandoned wells. She pointed out that insufficient documentation make it impossible to know if the division staff has used all reasonable options to locate the responsible parties, who should be made responsible for the wells they have abandoned. The Audit strongly recommends greater effort be made to locate those responsible for abandoned wells and that more documentation be required by the Division and District Offices, so that state dollars will not be spent for this purpose. Ms. Lash pointed out the Audit Recommendations outlined on Page 32 and in particular No.2, regarding locating those responsible parties and determining their financial viability to eliminate state funds from being used.

Sen. Ranson thanked Ms. Lash for explaining the Audit and stated the committee will hear the response from the Conservation Division tomorrow. She also referred to Page 37, and the Commission's response to the Audit, and in particular, the last paragraph, which acknowledges the recommendations and the Commission's desire to remedy the weaknesses of the Conservation Division. Ms. Lash also stated that there is a follow-up Audit, which was done last May, 1999, of the Commission's Status Report and a review of activities since the Post Audit. Sen. Ranson noted this issue came about because the Governor removed \$400,000 from the Conservation Fund and the question arose why the money is not being used. Sen. Ranson requested Mr. Korphage, Director of the Conservation Division, to appear before the committee tomorrow and to bring information which has been requested by the committee.

Meeting adjourned at 2:30.

Next meeting will be March 9.