

Approved: 2-22-93
Date

MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

The meeting was called to order by Chairperson Don Sallee at 8:00 a.m. on February 19, 1993 in Room 423-S of the Capitol.

All members were present or excused:

Committee staff present: Raney Gilliland, Legislative Research Department
Dennis Hodgins, Legislative Research Department
Don Hayward, Revisor of Statutes
Clarene Wilms, Committee Secretary

Conferees appearing before the committee:

Bill Gahan, President, Kansas Aggregate Producers Association
Tracy Diel, Assistant City Attorney, City of Lenexa, KS
George R. Austin, Division of Water Resources
Kenneth K. Kern, State Conservation Commission
Larry Knoche, Director, Environmental Remediation, KDHE

Others attending: See attached list

SB 169 - surface - mining land conservation and reclamation

Bill Gahan, President, Kansas Aggregate Producers Association, appeared before the committee and presented testimony in support of SB-169. Attachment 1 Mr. Gahan noted land reclamation is an unaddressed area in the regulatory matrix and should be addressed at the state level. It was stated that the purpose of this bill is to provide the citizens of Kansas and Kansas Aggregate Producers a framework by which all are assured that safe and professional land reclamation procedures will be conducted within the state of Kansas. A second attachment provided a Land Reclamation Policy to committee members. Attachment 2

Tracy Diel, Assistant City Attorney, City of Lenexa, Kansas, appeared before the committee and presented testimony in support of SB-169. Mr. Diel told the committee that other states, including Missouri, have implemented laws addressing limestone mining reclamation and require that a performance bond be set aside per acre to ensure compliance. Other existing regulations impact only the coal industry. Several suggested changes and additions to the bill were called to the attention of the committee in Attachment 3.

George Austin, Division of Water Resources, Kansas State Board of Agriculture, appeared in support of the general emphasis of SB-169. Mr. Austin told the committee that surface mining, without reclamation, often creates a blight on the general landscape of Kansas when no authority is exercised to control the final disposition of these locations. Landowners find their property devalued and subject to other unreasonable impacts without any statutory recourse. Comments regarding specific language and issues are contained in Attachment 4.

Kenneth F. Kern, Executive Director, State Conservation Commission, appeared in support of SB-169. Mr. Kern stated in his testimony that his organization is currently working with the Kansas Aggregate Association on several technical issues in the bill. He further stated that the Commission requested permission to present proposed amendments to the bill before the Committee takes final action. Attachment 5

Larry Knoche, Director of the Bureau of Environmental Remediation, Division of Environment, appeared in opposition to SB-169 in the present form. Mr. Knoche stated that the concept of the bill is laudable but will do little to achieve said concept in its present form. After expressing a number of concerns Mr. Knoche said KDHE would be more than willing to assist in amending the bill to make it a fair and effective act. Attachment 6 Further information and comments are found in Attachment 7.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, Room 423-S Statehouse, at 8:00 a.m. on February 19, 1993.

A conceptual motion was made by Senator Lee to amend Line 22, page 1 of SB-133 changing "eight" to "sixteen" and to bring the language into conformity with code set forth in other states. Senator Morris seconded the motion and the motion carried.

A motion was made by Senator Walker to pass SB-133 favorably out of committee. The motion was seconded by Senator Hardenburger and the motion carried.

The meeting adjourned at 8:50 a.m.

The next meeting is scheduled for February 22, 1993.

GUEST LIST

SENATE COMMITTEE ON ENERGY & NATURAL RESOURCES

DATE February 19, 1993(PLEASE PRINT)
NAME AND ADDRESS

ORGANIZATION

Larry Knoche	Topeka
Glen Kirk	"
George Austin	Topeka
TRAY DIEL	Topeka
Lawrence Brody	Lawrence KS
Lenny Platt	Ottawa KS
Tracy Shuster	Topeka, KS
GREG FOLEY	TOPEKA, KS
Lola Warner	" "
Kenneth Kern	" "
DeAnn Hupe Seib	" "
Le Burland	
Steve Adams	Topeka
Woody Mous	Topeka

KOHE
KS Water Office
Div. of Water ^{Resources} Office
City of Linxx, KS
Kansas Geol. Survey
Fogle quarry & Co.
State Cons. Comm.
" " "
" " "
" " "
Div. of Water Resources
Kansas Geological Survey
Dept. of Wildlife & Parks
KS Appropriate Production



Kansas Aggregate Producers' Association

STATEMENT

of

The Kansas Aggregate Producers Association

before the

SENATE ENERGY and NATURAL RESOURCES COMMITTEE

Topeka, Kansas
February 21, 1993

Regarding

SB169 - an act concerning land reclamation

Good Morning Mr. Chairman and members of the committee. My name is Bill Gahan. I am the President of the Kansas Aggregate Producers Association. Our Association represents over 250 aggregate, concrete, and associate member firms in the Kansas construction industry.

I would like to commend the members of this committee for convening this hearing to examine the status of land reclamation legislation and regulation in the state of Kansas. As we proceed, I would caution you, however, to look beyond the emotional issues normally associated with the regulatory control of an industry and focus your attention on the true issues before you--the questions of how best to fulfill our obligations to future generations with regard to the wise use of our state's lands and the conservation of its natural resources. Crushed stone, or more generally construction aggregates, are indeed one of this state's most valuable natural resources. Without the basic construction materials necessary to our economy, or the multitude of consumer and agricultural products which depend upon stone production, the very foundations of our standard of living would be undermined.

I would like to pause for a moment and consider some interesting points concerning aggregate production:

- In 1982 our nation consumed 790 million tons of crushed stone. Estimates of 1992 consumption rest at 1.15 billion tons and projections for the year 2000, just 7 years from now, call for 1.65 billion tons annually. That is about a 36 percent increase in the annual demand forecast for the next decade. Similar trends can be developed for our state.

- Crushed stone consumption parallels population concentration. Generally, the more people in a given area the more stone is demanded and used.
- Rocks don't have baby rocks! That is another way of saying that stone, is a nonrenewable resource. It is also a resource which does not respect political boundaries, that is, it is located where the Creator put it not necessarily where you or I might have preferred to find it!
- Finally, carefully conceived and executed mineral resource development plans must be established if we, as a state, are to become wise stewards of the natural resources with which we have been endowed.

The above stated principles are tried and true and can be generally accepted without debate. Referring to the final point, the regulatory control of mining activities, including the general siting of the mines and mined land reclamation planning, are a proper purview of governmental entities, for it is our governmental entities that are charged with the preservation and enhancement of the public good and welfare. The question remains, however, which level of government should be so charged?

We of the Kansas Aggregate Producers believe the proper level of government to be the local level. The level at which the needs of the community and its residents can be reconciled with the needs of the same community for crushed stone products. However, there is one unaddressed area in our regulatory matrix we think can and should be addressed at the state level. In this area, land reclamation, we believe it is more sensible to support regulation on a statewide basis.

In order to meet the challenges and goals outlined above we appear in support of SB169 which was introduced by this committee at our request. The purpose of this bill is to provide the citizens of Kansas and Kansas Aggregate Producers a framework by which all are assured that safe and professional land reclamation procedures will be conducted within the state of Kansas. By providing for such requirements as:

- Mine operator licensing,
- Registration of mining sites,
- Review and approval of reclamation plans,
- Bonding requirements, and

- Oversight and supervision by the State Soil Conservation Commission. An existing agency familiar with land reclamation and restoration issues. And, as over 95% of mined land is now currently restored to pasture use common sense dictates this agency supervise such restoration.

Before and since the introduction of this bill we have been working with the Soil Conservation Commission and the Kansas Department of Health and Environment concerning some of the requirements. As a result of these discussions we will be offering amendments to address some of the concerns raised and improve this legislation.

At various times since 1969 the Kansas Aggregate Producers Association has proposed simple but effective reclamation legislation to deal with the question of abandoned mine sites. The only unregulated area in our industry's highly regulated environment. The legislature has periodically studied this reclamation legislation in the past and we feel it is appropriate for you to do so now. We urge your review and approval of this proposal through its enactment into law.

We thank you for the opportunity to appear before you today and discuss these issues. I would be happy to respond to any questions you may have at this time.

Kansas Aggregate Producers Association

Land Reclamation Policy.

It is the policy of the members of this association to provide for the reclamation and conservation of land affected by their surface mining operations and thereby to preserve natural resources, protect and perpetuate the taxable value of property, and protect and promote the health, safety and general welfare of the people of the State of Kansas

Adopted the 24th day of March 1969, by action of the Board of Directors at a duly called meeting on that date.

Senate Energy + Natural Resc.
February 19, 1993
Attachment 2

KANSAS AGGREGATES FACT SHEET - 1991

- 1) In fiscal year 1990, 20.8 million tons of mineral aggregates were produced in Kansas. Crushed stone sold or used by producers in the state of Kansas in 1990 was valued at \$83.2 million; the total for sand and gravel was \$21.2 million.
- 2) Aggregate is produced from about 350 surface mines located throughout the State. There is some aggregate mining in every county in Kansas.
- 3) A large number of aggregate mines in the State are family owned and operated. Over 80 percent of such mines operate with 5 or less employees.
- 4) The average price of mineral aggregate is \$4.00 per ton, at the plant site.
- 5) The aggregate industry directly employs over 5,000 people in the State at an average wage of \$7.90 an hour or \$316 a week.
- 6) Kansas Aggregates Producers' Association members account for approximately 80 percent of the aggregate produced in Kansas each year. Some of the major aggregate producers in Kansas are:

Allied, Inc.
N. R. Hamm Quarries
Martin Marietta Aggregates
Midwest Minerals, Inc.
J. H. Shears Sons, Inc.

- 7) Aggregate production was about equally split between stone and sand and gravel in 1989.
- 8) Over the next 20 years the trend will be toward use of more crushed stone products as gravel deposits are used up in some areas. As an example, stone sand is more widely used in northwest Kansas as the natural sand supply is deplete.
- 9) The average production span for a sand and gravel deposit is 25 years, whereas a good stone quarry is productive for over 50 years.
- 10) A number of aggregate deposits are not available for development as they are covered by urban sprawl or where mining is prohibited by zoning. Much of Wyandotte, Johnson, Leavenworth, Douglas and Shawnee Counties are built on top of limestone and gravel deposits.
- 11) About 10 tons of aggregate are required annually for each Kansas resident. A new subdivision requires an average of 400 tons of aggregate per home.
- 12) Nearly 95 percent of all aggregate produced is moved by dump truck. Over 3,000 dump trucks are engaged in hauling aggregate. Most aggregate is used within 40 miles of where it is produced. A small volume is moved by rail - including railroad ballast, metallurgical stone, and industrial sand. Aggregate is moved by barge on the Kansas and Missouri Rivers.
- 13) Haul distance largely controls the price of aggregate. The cost of material produced on the south side of Johnson County will double by the time it is delivered in the north end of Wyandotte County.
- 14) Better than half of all aggregate used is paid for by tax dollars. Large users are the State, Counties, Townships and Municipalities in their road and infrastructure programs. Federal

dollars are involved in airports, building, dams, locks, erosion control and waste treatment facilities.

- 15) Aggregate is widely used as a filter medium in water and sewage treatment plants. More recently, limestone and lime are being used in flue gas desulfurization processes. Limestone and dolomite are key ingredients in fluidized bed combustion and other processes being used to burn Kansas' high sulfur coal.
- 16) About 1.5 million tons of agricultural limestone is used annually to help Kansas farmers increase crop yields. Aglime is very beneficial when used with conservation tillage. Air-cooled blast furnace aggregate and ponds fines also make a good soil conditioner.
- 17) A number of lakes resulting from aggregate excavation have been reclaimed to make excellent water recreation facilities. Lakes formed by aggregate extraction in the area are now helping to recharge the groundwater aquifers that local industry and municipalities depend on as a source of water.
- 18) The biggest problem facing the aggregate industry in the coming years is to receiving zoning favorable to the extraction of minerals. There is also a need to have planning groups designate critical resource areas to be set aside to meet aggregate demands for future generations.

INFORMATION COMPLIED BY THE
KANSAS AGGREGATE PRODUCERS'
ASSOCIATION

References:

U.S. Bureau of Mines
Mine Safety & Health Administration
Martin Marietta Aggregates

MINERAL EXTRACTION QUESTIONNAIRE

1. Is your county currently zoned?

_____ Yes _____ No _____ Unknown

2. Do your current zoning regulations require any special permits for extraction of rock, sand and gravel?

_____ Yes _____ No _____ Unknown

3. Sand and gravel extraction should be considered under the same regulations that control rock extraction.

Strongly
Disagree

_____ 1 _____ 2 _____ 3 _____ 4 _____ 5 _____ 6 _____ 7

Strongly
Agree

4. Have existing or proposed mineral extraction operations caused any problems in your county?

_____ Yes _____ No _____ Unknown

5. How would you rate the above?

No
Problem

_____ 1 _____ 2 _____ 3 _____ 4 _____ 5 _____ 6 _____ 7

Severe
Problem

6. Have you received any complaints on existing mining operations.

None

_____ 1 _____ 2 _____ 3 _____ 4 _____ 5 _____ 6 _____ 7

Frequently

7. Do you receive any objections to expansion of existing mining operations?

Frequently

_____ 1 _____ 2 _____ 3 _____ 4 _____ 5 _____ 6 _____ 7

None

8. Do you receive any objections to new or proposed mining operations?

Frequently

_____ 1 _____ 2 _____ 3 _____ 4 _____ 5 _____ 6 _____ 7

None

9. Do your current zoning regulations adequately address those issues usually associated with mineral extraction?

Inadequately

_____ 1 _____ 2 _____ 3 _____ 4 _____ 5 _____ 6 _____ 7

Adequately

10. The following items sometimes generate concern about mining operations. Please rate them.

	<u>NOISE</u>							
Severe Problem	<u>7</u>	<u>6</u>	<u>5</u>	<u>4</u>	<u>3</u>	<u>2</u>	<u>1</u>	No Problem
	<u>BLASTING</u>							
Severe Problem	<u>7</u>	<u>6</u>	<u>5</u>	<u>4</u>	<u>3</u>	<u>2</u>	<u>1</u>	No Problem
	<u>LOCATION OF MINE SITE</u>							
No Problem	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	Severe Problem
	<u>DUST</u>							
Severe Problem	<u>7</u>	<u>6</u>	<u>5</u>	<u>4</u>	<u>3</u>	<u>2</u>	<u>1</u>	No Problem
	<u>TRAFFIC</u>							
No Problem	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	Severe Problem
	<u>WATER CONCERNS</u>							
No Problem	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	Severe Problem
	<u>VISUAL INTRUSION</u>							
Severe Problem	<u>7</u>	<u>6</u>	<u>5</u>	<u>4</u>	<u>3</u>	<u>2</u>	<u>1</u>	No Problem
	<u>RECLAMATION</u>							
Severe Problem	<u>7</u>	<u>6</u>	<u>5</u>	<u>4</u>	<u>3</u>	<u>2</u>	<u>1</u>	No Problem
	<u>OTHER</u> _____							
No Problem	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	Severe Problem

11. There may be several factors which have contributed to the problems being experienced by the mining industry today as they attempt to expand their operations. Several are listed below. Please rate them.

a. Lack of responsibility by operators in their operations.

Important Factor	<u>7</u>	<u>6</u>	<u>5</u>	<u>4</u>	<u>3</u>	<u>2</u>	<u>1</u>	No Factor
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b. Lack of Regulations or Enforcement (circle one) at the federal level.

Important Factor	<u>7</u>	<u>6</u>	<u>5</u>	<u>4</u>	<u>3</u>	<u>2</u>	<u>1</u>	No Factor
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c. Lack of Regulations or Enforcement (circle one) at the state level.

No Factor	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	Important Factor
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d. Lack of Regulations or Enforcement (circle one) at the local level.

Important Factor	<u>7</u>	<u>6</u>	<u>5</u>	<u>4</u>	<u>3</u>	<u>2</u>	<u>1</u>	No Factor
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e. Lack of information provided to the general public about issues surrounding the mining industry.

No Factor	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	Important Factor
--------------	----------	----------	----------	----------	----------	----------	----------	---------------------

f. Lack of information provided to operators about issues surrounding the mining industry.

No Factor	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	Important Factor
--------------	----------	----------	----------	----------	----------	----------	----------	---------------------

g. Lack of information provided to County Administrators about issues surrounding the mining industry.

Important Factor	<u>7</u>	<u>6</u>	<u>5</u>	<u>4</u>	<u>3</u>	<u>2</u>	<u>1</u>	No Factor
---------------------	----------	----------	----------	----------	----------	----------	----------	--------------

h. The negative image of the mining industry today due to the unregulated mining practices of the past.

No Factor	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	Important Factor
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i. Increased awareness of the negative impacts of mining.

No
Factor

1 2 3 4 5 6 7

Important
Factor

j. Increased awareness and pressure from environmental groups.

Important
Factor

7 6 5 4 3 2 1

No
Factor

k. Inadequate mine and reclamation planning by operators.

Important
Factor

7 6 5 4 3 2 1

No
Factor

12. What kinds of things do you think the mining industry could do or change to make the obtaining of permit approval easier. Rate the following.

a. Educate or provide better information to the general public.

Strongly
Agree

7 6 5 4 3 2 1

Strongly
Disagree

b. Educate or provide better information to regulatory agencies.

Strongly
Agree

7 6 5 4 3 2 1

Strongly
Disagree

c. Educate or provide better information to the industry itself.

Strongly
Disagree

1 2 3 4 5 6 7

Strongly
Agree

d. Attempt to operate more responsibly.

Strongly
Agree

7 6 5 4 3 2 1

Strongly
Disagree

e. Make existing mine sites more visually acceptable.

Strongly
Disagree

1 2 3 4 5 6 7

Strongly
Agree

f. Develop improved reclamation planning and practices.

Strongly
Agree

1 2 3 4 5 6 7

Strongly
Disagree

g. Work with county and local planning agencies to develop mining regulations that protect operator's interests.

Strongly
Disagree

1 2 3 4 5 6 7

Strongly
Agree

h. Work with county and local planning agencies to develop mining regulations that protect the public's interests.

Strongly
Disagree

1 2 3 4 5 6 7

Strongly
Agree

13. Do you feel an educational session or class designed to address the elimination or mitigation of the negative impacts of mining would be of benefit to planning agencies, concerned public and mine operators?

Strongly
Disagree

1 2 3 4 5 6 7

Strongly
Agree

14. What subject matter would you like to see provided in such a session? Rate the following 10 items in the order of importance from 1 to 10.

_____ Dust Control

_____ Visual Intrusion

_____ Blasting

_____ Noise

_____ Mine Location

_____ Reclamation

_____ Water Concerns

_____ Mine Planning

_____ Traffic

_____ Regulation Development.

_____ Erosion & Sedimentation

_____ Post Mine Land Use

15. How many hours would be appropriate for such a session? (Circle one)

2 3 4 6 8 12 16

16. A State Minerals Board, rather than a local board or agency, should have final authority over opening or locations of new mine sites.

Strongly
Agree

1 2 3 4 5 6 7

Strongly
Disagree

17. Comments: (Provide any additional information or comments you feel are important to you on this subject.)

Please respond appropriately to the following items: (Voluntary)

Are you a _____ Mine Operator _____ Public Official _____ Other

What is your title? _____

AGGREGATE PRODUCERS ONLY

Which of the following do you produce?

_____ Sand & Gravel _____ Limestone _____ Both

_____ Other (Please List) _____

How many mine sites or operations do you have?

_____ 0-5 _____ 5-10 _____ 10-25 _____ 25-50 _____ 50 or more

COUNTY OFFICIALS ONLY

Does your county have a land use plan? _____ Yes _____ No

Does your county have land use zoning? _____ Yes _____ No

Is mining of sand, gravel, or stone regulated by your county? _____ Yes _____ No

If yes, how is it regulated?

_____ Special Use Permit

_____ Conditional Use Permit

_____ Mining Districts

_____ Other Please Explain _____

MINERAL EXTRACTION QUESTIONNAIRE

PURPOSE OF QUESTIONNAIRE:

- * Assess how mining industry is perceived by local (County) regulatory agencies,
- * Assess how mining industry perceives itself, and
- * Assess how the mining industry views local regulatory agencies.

QUESTIONNAIRE DESIGN:

- * Same questions asked of both mining companies and local regulatory agencies,
- * Questions 1-10 were designed to elicit responses concerning opposition to aggregate mining operations and rating of items usually associated as negative impacts of mining operations,
- * Questions 11 and 11 subparts were designed to elicit responses concerning factors which might contribute to problems the mining industry experiences today,
- * Questions 12 and 8 subparts were designed to elicit responses on possible ways to mitigate problems the industry might experience,
- * Questions 13-15 were developed to elicit reactions to educational sessions as part of the problem mitigation process,
- * Question 16 focused on establishment of agency which would have final permit authority over aggregate mine expansion.
- * Scale Design: (Example)

Strongly Agree 7 6 5 4 3 2 1 Strongly Disagree
 └──┬──┘ | └──┬──┘
 Total Neutral Total

COUNTIES SAMPLED:

- * All 105 Kansas Counties were mailed questionnaires,
- * 43 Kansas Counties have zoning regulations,
- * 62 Kansas Counties do not have zoning regulations,
- * Information obtained from 1990-91 Directory of Kansas Public Officials.

AGGREGATES PRODUCERS:

- * 134 Kansas Aggregate producers were mailed questionnaires,
- * Information obtained from M.S.H.A. list of Kansas mine sites.

RETURN RATE:

- * **Counties:** 48 returned equals 46% return rate; 26 or 54% were from "Zoned" Counties; and 22 or 46% were returned from "Unzoned" Counties,
- * **Aggregate Producers:** 39 of 134 mailed were returned for a return rate of 29%. Of these, 25 or 64% were Sand and Gravel Producers and 14 or 36% were Limestone (Other) Producers,
- * Return rate of both groups is high enough to support the findings of this questionnaire.

OBSERVATIONS:

- * Counties with zoning respond differently from counties without zoning. Experience more problems!
- * Sand and Gravel producers respond different from Limestone producers. (No blasting and overall less problems.)
- * Producers in "Zoned" counties respond different from producers in "Unzoned" counties.
- * When responses of these groups are combined, trends remain but are somewhat softened.

OPPOSITION TO EXPANSION OR NEW SITES:

- * **Aggregate Producers:**
 - * 28% do not have complaints on existing sites
 - * 59% have
 - * 49% have experienced objections to expanding existing sites or opening new sites.
- * **Counties:**
 - * 68% have not received complaints on existing sites, only 18% have.
 - * 31% have experienced objections to expanding existing sites or opening new sites, 47% in "zoned" counties.

IMPACTS ASSOCIATED WITH MINING: (SEVERE PROBLEMS/NO PROBLEMS)

	<u>Aggregate Producers</u>			<u>Counties</u>		
	<u>C</u>	<u>L</u>	<u>S&G</u>	<u>C</u>	<u>Z</u>	<u>UN</u>
Noise:	26%	30%	24%	16%	20%	14%
Blasting:	31%	71%	8%	25%	35%	14%
Location of Site:	49%	51%	48%	30%	50%	10%
Dust:	36%	49%	28%	29%	43%	14%
Traffic:	46%	49%	48%	33%	46%	19%
Water Concerns:	41%	21%	52%	29%	46%	9%
Visual Intrusion:	21%	30%	16%	17%	23%	10%
Reclamation:	33%	42%	32%	31%	39%	23%

CONTRIBUTING FACTORS: (IMPORTANT FACTORS/NO FACTOR)

<u>Aggregate Producers</u>	<u>Counties</u>
* Lack of Responsibility by operators in conducting operations: 72% / 18%	48% / 27%
* Lack of Regulations - Federal level: 38% / 49%	29% / 44%
* Lack of Regulations - State level: 44% / 43%	31% / 44%
* Lack of Regulations - County level: 28% / 57%	29% / 44%
* Lack of Information to Public: 60% / 22%	38% / 37%
* Lack of Information to Operators: 54% / 28%	27% / 32%
* Lack of Information to County Officials: 62% / 23%	34% / 33%
* Negative Image of Mining Industry due past: 74% / 21%	50% / 37%
* Increased awareness about impacts of mining: 56% / 31%	38% / 31%
* Awareness of pressure from environmental groups: 72% / 20%	38% / 35%
* Inadequate mine and reclamation planning: 74% / 21%	51% / 28%

MITIGATION MEASURES: (STRONGLY AGREE/ STRONGLY DISAGREE)

<u>Aggregate Producers</u>	<u>Counties</u>
* Educate or provide better information to the public: 85% / 7%	57% / 10%
* Educate or provide regulatory agencies: 74% / 13%	48% / 17%
* Educate or provide industry itself: 75% / 7%	47% / 20%
* Operate more responsibility: 87% / 5%	60% / 2%
* Make existing site more visually acceptable: 77% / 18%	55% / 8%
* Develop improved reclamation planning and practices: 77% / 15%	61% / 10%
* Work with local agencies to develop mining regulations that <u>protect operator's interests:</u> 77% / 13%	50% / 8%
* Work with local agencies <u>protect public's</u> <u>interest:</u> 69% / 16%	41% / 8%

EDUCATION: (STRONGLY AGREE/STRONGLY DISAGREE)

* Would an educational session dealing with mine planning, reclamation planning and problem mitigation be of benefit to operators, agencies and concerned public? 70% / 13%	55% / 10%
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EDUCATIONAL AREAS OR TOPICS:

<u>Aggregate Producers</u>	<u>Counties</u>
Mine Planning	Reclamation
Mine Location	Mine Planning
Reclamation	Regulation Development
Water Concerns	Water Concerns
Blasting	Mine Location
Regulation Development	Blasting
* A State Minerals Board final authority over opening or location of new mine sites. 62% / 25%	64% / 10%

CONCLUSIONS: (GENERAL)

- * Indication obtaining new permits or expanding existing sites is increasingly more difficult,
- * Both regulatory agency and operator's responded very similar on items pertaining to image problems, causes of problems, mitigation measures.
- * Both groups trend to agree "education" and "information" is part of the solution to the problem,
- * Both seem to identify the same areas as needing improvement,
- * Responsibility, mine planning and reclamation tend to be major themes or areas of concern,
- * Superficial analysis at this point, additional analysis will be performed in future months.

MINERAL EXTRACTION QUESTIONNAIRE

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QUESTIONNAIRE DESIGN:

- * Same questions asked of both mining companies and local regulatory agencies,
- * Questions 1-10 were designed to elicit responses concerning opposition to aggregate mining operations and rating of items usually associated as negative impacts of mining operations,
- * Questions 11 and 11 subparts were designed to elicit responses concerning factors which might contribute to problems the mining industry experiences today,
- * Questions 12 and 8 subparts were designed to elicit responses on possible ways to mitigate problems the industry might experience,
- * Questions 13-15 were developed to elicit reactions to educational sessions as part of the problem mitigation process,
- * Question 16 focused on establishment of agency which would have final permit authority over aggregate mine expansion.
- * Scale Design: (Example)
Strongly Agree 7 6 5 4 3 2 1 Strongly Disagree
 / \ / \ / \ /
 Total Neutral Total

COUNTIES SAMPLED:

- * All 99 Iowa Counties were mailed questionnaires,
- * 65 Iowa Counties have zoning regulations,
- * 34 Iowa Counties do not have zoning regulations,
- * Information obtained from Iowa State Association of Counties.

AGGREGATES PRODUCERS:

- * 178 Iowa Aggregate producers were mailed questionnaires,
- * Information obtained from Iowa Department of Soil Conservation.

RETURN RATE:

- * **Counties:** 73 returned equals 74% return rate; 49 or 67% were from "Zoned" Counties; and 24 or 33% were returned from "Unzoned" Counties,
- * **Aggregate Producers:** 57 of 178 mailed were returned for a return rate of 32%. Of these, 36 or 63% were Sand and Gravel Producers and 21 or 37% were Limestone (Other) Producers,
- * Return rate of both groups is high enough to support the findings of this questionnaire.

OBSERVATIONS:

- * Counties with zoning respond differently from counties without zoning. Experience more problems!
- * Sand and Gravel producers respond different from Limestone producers. (No blasting and overall less problems.)
- * Producers in "Zoned" counties respond different from producers in "Unzoned" counties.
- * When responses of these groups are combined, trends remain but are somewhat softened.

OPPOSITION TO EXPANSION OR NEW SITES:

- * **Aggregate Producers:**
 - * 10% do not have complaints on existing sites
 - * 75% have
 - * 10% have experienced objections to expanding existing sites or opening new sites.
- * **Counties:**
 - * 72% have not received complaints on existing sites, only 18% have.
 - * 4% have experienced objections to expanding existing sites or opening new sites, 47% in "zoned" counties.

IMPACTS ASSOCIATED WITH MINING: (SEVERE PROBLEMS/NO PROBLEMS)

	<u>Aggregate Producers</u>			<u>Counties</u>		
	<u>C</u>	<u>L</u>	<u>S&G</u>	<u>C</u>	<u>Z</u>	<u>UN</u>
Noise:	5%	5%	6%	19%	26%	4%
Blasting:	5%	38%	20%	24%	30%	12%
Location of Site:	19%	19%	19%	25%	32%	8%
Dust:	17%	29%	12%	55%	55%	54%
Traffic:	24%	34%	20%	44%	44%	42%
Water Concerns:	14%	14%	14%	30%	34%	17%
Visual Intrusion:	14%	15%	15%	23%	30%	8%
Reclamation:	21%	15%	25%	30%	42%	17%

CONTRIBUTING FACTORS: (IMPORTANT FACTORS/NO FACTOR)

<u>Aggregate Producers</u>	<u>Counties</u>
* Lack of Responsibility by operators in conducting operations: 40% / 40%	46% / 23%
* Lack of Regulations - Federal level: 28% / 42%	8% / 66%
* Lack of Regulations - State level: 26% / 48%	9% / 60%
* Lack of Regulations - County level: 27% / 50%	16% / 61%
* Lack of Information to Public: 31% / 40%	45% / 32%
* Lack of Information to Operators: 7% / 49%	22% / 43%
* Lack of Information to County Officials: 34% / 41%	33% / 30%
* Negative Image of Mining Industry due past: 51% / 27%	51% / 28%
* Increased awareness about impacts of mining: 39% / 37%	35% / 26%
* Awareness of pressure from environmental groups: 58% / 20%	44% / 28%
* Inadequate mine and reclamation planning: 52% / 29%	42% / 30%

MITIGATION MEASURES: (STRONGLY AGREE/ STRONGLY DISAGREE)

<u>Aggregate Producers</u>	<u>Counties</u>
* Educate or provide better information to the public: 59% / 23%	69% / 12%
* Educate or provide regulatory agencies: 66% / 12%	63% / 14%
* Educate or provide industry itself: 55% / 16%	53% / 19%
* Operate more responsibility: 70% / 8%	63% / 10%
* Make existing site more visually acceptable: 49% / 23%	69% / 18%
* Develop improved reclamation planning and practices: 45% / 23%	77% / 7%
* Work with local agencies to develop mining regulations that <u>protect operator's interests</u> : 63% / 10%	51% / 10%
* Work with local agencies <u>protect public's interest</u> : 49% / 22%	67% / 8%

EDUCATION: (STRONGLY AGREE/STRONGLY DISAGREE)

* Would an educational session dealing with mine planning, reclamation planning and problem mitigation be of benefit to operators, agencies and concerned public? 45% / 30%	56% / 6%
--	----------

EDUCATIONAL AREAS OR TOPICS:

<u>Aggregate Producers</u>	<u>Counties</u>
Mine Planning	Reclamation
Water Concerns	Water Concerns
Reclamation	Mine Planning
Mine Location	Regulation Development
Blasting	Blasting
Regulation Development	Mine Location
* A State Minerals Board final authority over opening or location of new mine sites. 46% / 32%	56% / 25%

CONCLUSIONS: (GENERAL)

- * Indication obtaining new permits or expanding existing sites is increasingly more difficult,
- * Both regulatory agency and operator's responded very similar on items pertaining to image problems, causes of problems, mitigation measures.
- * Both groups trend to agree "education" and "information" is part of the solution to the problem,
- * Both seem to identify the same areas as needing improvement,
- * Responsibility, mine planning and reclamation tend to be major themes or areas of concern,
- * Superficial analysis at this point, additional analysis will be performed in future months.

COMPARISON - KANSAS VS IOWA

RETURN RATE:

	<u>KANSAS</u>	<u>IOWA</u>
Combined Counties	46%	74%
Zoned	54%	67%
Unzoned	46%	33%
Combined Aggregate Producers	29%	32%
Limestone	64%	63%
Sand & Gravel	36%	37%

Lack of Responsibility by Operators in conducting operations:

	<u>Producers</u>	<u>County</u>	<u>Producers</u>	<u>County</u>
	72%	48%	40%	46%
Lack of Regulation - State Level:				
	44%	31%	26%	9%
Lack of Information to the Public:				
	60%	38%	31%	45%
Lack of Information to County Officials:				
	62%	34%	34%	33%
Lack of Information to Operator:				
	54%	27%	7%	22%
Negative Image due to past:				
	74%	51%	52%	42%
Inadequate Mine and Reclamation Planning:				
	74%	51%	52%	42%

Educate or provide better information to public:

<u>KANSAS</u>		<u>IOWA</u>	
<u>Producers</u>	<u>County</u>	<u>Producers</u>	<u>County</u>
85%	57%	59%	69%
Educate or provide regulatory agencies:			
74%	48%	66%	63%
Educate or provide industry itself:			
75%	47%	55%	53%
Operate more responsibly:			
87%	60%	70%	63%
Develop improved reclamation planning and practices:			
77%	61%	45%	77%
<u>Work with agencies to develop regulations to protect operator's interests:</u>			
77%	50%	63%	51%
Work with agencies <u>public's interests:</u>			
69%	41%	49%	67%
Education sessions to deal with problems:			
69%	41%	45%	56%

**TESTIMONY TO SENATE ENERGY AND
NATURAL RESOURCES COMMITTEE**

RE: SENATE BILL 169

CITY OF LENEXA, KANSAS

TRACY DIEI, ASSISTANT CITY ATTORNEY

FEBRUARY 19, 1993

Mr. Chairman and Members of the Committee:

My name is Tracy DieI and I am an Assistant City Attorney for the City of Lenexa, Kansas. Lenexa is a growing community, consisting of 35,000 residents and encompassing approximately 28.95 square miles of land in Johnson County, Kansas.

The City of Lenexa strongly supports SB 169 and I am here today to speak in favor of SB 169. Located within the city limits of Lenexa, Kansas are three (3) active limestone rock quarry and underground mining operations and one (1) abandoned quarry. Each of the existing operations also consists of rock crushing facilities, concrete ready mix and asphalt plants -- all of which are commonly associated with mining operations.

Other states including Missouri have implemented laws addressing limestone mining reclamation and require that a performance bond be set aside per acre to ensure compliance.

Our City Legal and Planning Departments have been actively involved in the regulation of mining activities as a result of participation over the last 3 years in 2 large pieces of litigation involving rock quarries in our city. The City was amazed during its investigations to discover that the filing of underground mining maps (primarily for purposes of human safety) and notification and consent requirements prior to excavating near adjoining lands are the only regulations directly affecting limestone quarry operations in Kansas. All other existing regulations only impact the coal industry.

The blight from a strip mining limestone quarry operation or from the underground surface operations can be great unless the State or local government has had the foresight to review such an application and extract stringent requirements from the operator, require reclamation and the financial surety to carry out the reclamation.

The City of Lenexa has testified before the House Energy and Natural Resources Committee on at least 2 previous occasions in support of similar mining bills. The City also supports this Bill, however, we would like to suggest several changes and additions that we believe would make this an even better bill:

1. Expand the definition of "affected land" to include "stockpiles," or at least "stockpiles" containing "waste rock." Under the Bill's current definition of "affected land" it specifically excludes "stockpiles." This is significant because many operators will stockpile their waste rock and pilings and then walk away from the site when mining is completed leaving mountains of waste rock that has no value. We would also like to see the accessory uses that accompany mining operations (such as rock crushing, and concrete plants) be included in these regulations.

2. Expand the definition of "reclamation" to read "the reconditioning of the area of land affected by surface mining so that the mined or affected lands are reclaimed to a usable condition that are readily adaptable for alternative land uses and create no danger to public health or safety."
3. We would like to see some consideration given to abandoned mines. This Bill currently addresses "active" sites and "inactive" sites. "Inactive sites," by definition, are those operations where surface mining is not currently being conducted but overburden has been disturbed in the past and the operator anticipates future mining activity. We believe that determining the future intent of an operator may be difficult. We would like to see this requirement of future mining be deleted so that inactive sites would also include abandoned operations.

In summary, SB 169 is good legislation and addresses an important problem in the State of Kansas. The City of Lenexa would like to assist in any manner possible to effectuate this important change. Certainly, our staff would be willing to offer any information we have to make this Bill a reality.

Testimony Regarding Senate Bill No. 169
before the
Committee on Energy and Natural Resources
By George A. Austin
Division of Water Resources
Kansas State Board of Agriculture
February 19, 1993

The Division of Water Resources thanks the committee for their interest in this matter and wishes to make the following statement in support of the general emphasis of the bill.

Surface mining, without reclamation, often creates a blight on the general landscape of Kansas when no authority is exercised to control the final disposition of these locations. Often landowners adjacent to such a site find their property devalued and subject to other unreasonable impacts without any statutory recourse. Because of this situation and the complaints, which are received within the Division of Water Resources concerning such activities, the Division wishes to echo its support for the concept contained in this bill. While the Division does not object to the specific language and direction of the bill, we would like to make the following comments regarding specific language and issues contained in Senate Bill No. 169.

Senate Bill No. 169 contains an exemption for river sand dredgers to the requirement to register the site and its reclamation provided a permit for dredging is received from the Chief Engineer. The Division interprets this to mean the bill would not apply to sand producers operating their dredges in the channel of a stream. The agency feels that this may not be broad enough and that some clarification may be needed. Let me point out that there are actually two DWR permit requirements which a sand producer may encounter. First, a permit to change the channel of a stream or river requires information for permit from DWR similar to what is being proposed in this bill. Those operators with the Division of Water Resources' permit under the provisions of the Obstruction in Streams Act, K.S.A. 82a-301 through 305a, may not need to register further with the State Conservation Commission.

Second, a water appropriation right under the Water Appropriation Act (K.S.A. 82a-701 et seq.) is required in connection with many of these same operations for hydraulic dredging, but also by operations which use water in an industrial sense that are not necessarily in a river or stream. The Division of Water Resources would propose that for clarity, the exemption be for operations which involve the removal of sand and gravel from within streams and are already subject to the provisions of K.S.A. 82a-301 through 305a.

As an agency, we have discovered that state regulations on small operations are extremely costly when compared to large production operations. As a consequence, within our regulatory processes we have a bottom limit for which the full regulatory requirements are implemented. Below those limits reduced work for application and permit for both the agency and the applicant translates into less expense for minor activities. The Division of Water Resources suggests that Senate Bill No. 169 should consider placing a bottom limit on activities which would have to fully comply with the provisions of the act so that the fees and bonding requirements do not weigh too heavily on the small operation. It appears that a minimum acreage limitation or annual tonnage may be an appropriate considerations.

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February 19, 1993
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Another concern of the Division of Water Resources is that the act may be interpreted to include all borrow sites for materials used in the construction of dams, levees, or virtually any other civil works other than roads and highways. Such borrow areas are difficult to reclaim and one wonders if the added expense of bonds and registration are justified in these particular types of projects. A specific exemption is found in Senate Bill No. 169 for roads and highways and perhaps that could be clarified or amended to include other types of structures which by their very nature may include excavation or mining for subsurface materials during their construction. Perhaps giving the Director and Commission waiver authority on a site specific basis would be appropriate.

Finally, the Division of Water Resources would like to note that the State Conservation Commission and its executive director's current regulatory duties are limited regulating the distribution and use of state general fund and water plan monies used in the construction of conservation projects. Senate Bill No. 169 would, for the first time, place the State Conservation Commission in a direct regulatory role over an activity.

In summary, the Division of Water Resources feels that with these clarifications of a few minor issues in the bill, a reclamation program should be favorably considered for the continued health of the state's water supply including its groundwater, its native beauty, its environment, and its fish and wildlife populations.

Thank you very much for the opportunity to express our views. If any committee member has questions or concerns I stand ready to attempt to answer those.



State Conservation Commission

109 S.W. 9TH STREET, SUITE 500

TELEPHONE (913) 296-3600

TOPEKA, KANSAS 66612-1299

TESTIMONY ON THE PROPOSED
SURFACE-MINING LAND CONSERVATION
AND RECLAMATION ACT
SENATE BILL NO. 169

SENATE ENERGY AND NATURAL RESOURCES COMMITTEE

KENNETH F. KERN, EXECUTIVE DIRECTOR

FEBRUARY 19, 1993

1. The State Conservation Commission supports the enactment of the surface-mining land conservation and reclamation act.
2. K.S.A. 2-1904 empowers the Commission to cooperate in and carry out, in accordance with state policies, activities and programs to conserve and develop the water resources of the state and maintain and improve the quality of the water resources.
3. The proposal for the State Conservation Commission to administer the act was supported by the Commissioners at the February 15, 1993, meeting.
4. Senate Bill 169 provides for the reclamation and conservation of land affected by surface mining. The bill excludes the mining of materials subject to existing laws or regulations, such as coal, oil, and gas.
5. Kansas is one of the few states in the midwest which does not require reclamation for surface mining as outlined in the bill.
6. We are currently working with the Kansas Aggregate Association on several technical issues in the bill. Items being discussed include the development of a reclamation plan, clarification of registration fees, clarification of definitions, addressing air and water pollution, and procedure for determining bonding amount.

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7. Funds to administer the act are from fee funds collected for the licensing of operators and registration of sites.
8. The Commission estimates the first year expenditures to be \$88,063. As the program workload increases, the estimated expenditures may reach \$261,995.
9. The Commission requests the opportunity to present proposed amendments to the bill before the Committee takes final action.
10. Thank you for the opportunity to discuss the proposed surface-mining land conservation and reclamation act.



Department of Health and Environment

Robert C. Harder, Secretary

Reply to:

Testimony Presented to

Senate Energy and Natural Resources Committee

by

Kansas Department of Health and Environment

Senate Bill 169

My name is Larry Knoche, Director of the Bureau of Environmental Remediation, Division of Environment, Kansas Department of Health and Environment. I am here today to voice my opposition to Senate Bill 169, which purports to enact a surface-mining land conservation and reclamation act.

Senate Bill 169 is a bill that will register and license surface mining activities, except for coal, oil and gas; and further, is intended to require reclamation of lands affected by such mining activities conducted after the effective date of this act. While the concept of this bill is laudable, in reality, this bill will do little to achieve it's objective as it is written, except for the registration of mines. I have arrived at this conclusion for the following reasons:

1. Performance standards or guidelines for mining operations are not addressed as they should be to ensure that the public health and the soils and waters of the state are protected.
2. The bill provides for annual license fees of \$50 for the 1st year and \$10 each year thereafter; and annual registration fees in an amount to be established by the commission, but not to exceed the cost of administering the **registration provisions**. It does not appear that this bill provides funding for administering and enforcing the provision of the reclamation sections. This is important if you take a look at Section 13(d) which states that the operator's bond may be released upon

the operator's statement that reclamation is substantially completed, if the director of the state conservation commission fails to inspect the completed reclamation work within the time specified. If funding is not provided, how will the director perform these inspection duties in the time specified?

3. Reclamation standards are not sufficient to ensure that reclamation activities are completed in an appropriate manner.
4. The bond required as a means to ensure performance of reclamation activities is inadequate. A bond in the amount of a minimum of \$250 per acre and a maximum of \$500 per acre is an amount that is so small in relation to probable cost of reclamation that the operator may be tempted to walk away. Section 20 states that "forfeiture of the operator's bond shall fully satisfy all obligations of the operator to reclaim affected land covered by the bond". While the director may use proceeds of bond forfeitures to conduct reclamation activities, KDHE believes that very little land could be reclaimed for \$250-\$500 per acre, and that a larger bond should be required to assure completion of the reclamation activities.
5. This bill, as it is written, is strictly a registration bill and does little to protect the citizens of this state or the environment.

In addition to the general concerns I have just addressed, the KDHE Surface Mining Section has advised me that there are many additional problems with this bill. As it is now written, KDHE cannot support passage of this bill; however, if you wish, KDHE will be more than willing to assist in amending this bill to make it a fair and effective act.

Testimony presented by: Larry Knoche
Director, Bureau of Environmental Remediation
Division of Environment
February 19, 1993

The following is the Surface Mining Sections comments on Senate Bill No. 169:

1. The bill needs to define underground mining. This could be done using the following language "Underground mining means the extraction of rocks, minerals, and industrial materials, other than coal, oil , and gas from the earth by developing entries or shafts from the surface to the seam or deposit before recovering the product by beneath the ground extraction methods."
2. The definition of "Surface Mining" in Sec. 3(j) needs to include "the surface affects of underground mining."
3. The definition of "Topsoil" in Sec. 3(k) is very weak and could create a loss of one of the state's most valuable resources. A better definition of topsoil is "the A and E soil horizon layers of the four master soil horizons."
4. The definition of "reclamation" in Sec. 3(o) should have the following added to better explain what activities will be involved "The configuration of the reclaimed lands are to be blended into and compliment the drainage patterns of the surrounding terrain, with all highwalls and spoil piles eliminated; water impoundments may remain if the director determines they are in compliance with the performance of this act."
5. Sec. 5(a) calls for a licensing period until December 31. This will create a situation where many licenses will become renewable at the same time creating an extremely large workload over a very short period. To alleviate this problem the licenses should expire one year from the date of issuance. This will spread the licensing workload over the entire year.
6. Sec. 7(d) specifies that providing false information is a misdemeanor offense. The regulation's need to be more specific as to what class of misdemeanor the falsifying of information involves.
7. Sec. 9(d) implies that no disturbed land can obtain a bond release at any time. The subsection needs to be rewritten to state that the disturbed area must meet the criteria for a bond release prior to any release of bond.
8. Sec. 11(a)(1) excludes the sloping of highwalls, impoundment slopes, and high banks of sand pits. This will create conditions which are both hazardous to the general public and can be environmentally unsound. The state pays millions of

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dollars each year to alleviate problems caused by the past coal mining practice of carelessly leaving unreclaimed highwalls and steep slopes into impoundments. Also, the 1V:3H slopes which are being left are marginally accessible by farm equipment and should be flattened to a minimum of 1V:4H for the safety of the equipment operators. The operator needs to submit a reclamation plan to the commission detailing what the post mining land use will be, how the final reclamation will be achieved and present the final topography of the area. The commission can then determine if the reclamation plan is feasible and if the final reclamation will alleviate any potential hazardous conditions to the general public or the environment.

9. Sec. 11(a)(2) discusses the revegetation of the reclaimed area. This section should discuss the fact that revegetation should be accomplished to a specific standard, which should be set at a minimum as the cover necessary to control erosion. The SMS gets several calls every year from people who are concerned with the reclamation of quarries and the erosion which is occurring on them.
10. A Sec. 11(a)(3) should be added to this bill that will provide for the protection of the general public and their property as well as the environment. The SMS receives many calls each year about blasting damage from quarries. Another potential hazard to the general public is if an operator leaves an open pit in close proximity to a road. Also, this bill remains mute on the question of environmental degradation caused by mining. The operator should submit an assessment of the impact of mining on the environment. This would include at a minimum both air and water pollution. The operator needs to submit a short operation plan detailing how the operation, including blasting, will be conducted to protect both the general public, their property and the environment.
11. Sec. 11(b) needs to include the wording "or will not occur" following "disposition has not occurred". This will create a situation where the operator can stabilize a stockpile which they know will remain inactive for more than a year. Also, the term stabilized needs to be defined so there is no future disagreement as to its meaning.
12. Sec. 11(c) needs to be written in a manner that describes the replacement of the topsoil over the disturbed area. With the present wording of this regulation there is a potential for losing topsoil. The wording "or destroyed" needs to be placed following the word buried. Also, the manner of soil replacement and depth of soil replacement should be contained in the aforementioned reclamation plan. This will ensure the protection of one of the states greatest resources.

13. Sec. 11(d) needs to be deleted. The reclamation mandated by this regulation is very minimal and to not enforce the bare minimum is not feasible or prudent.
14. Sec. 12(a) should call for a yearly report not a periodic report. Quantifying the time frames involved is less confusing to both the operator and the commission. There is less chance of confusion do to misunderstanding.
15. Sec. 13(d) is a loop hole in completing reclamation. Regardless of the time frames the director should have to report to the commission on whether or not the reclamation is considered satisfactory prior to bond release. The way this regulation is presently worded the commission could be forced into releasing the performance bond prior to any reclamation being done.
16. A Sec. 13(e) should be included outlining monthly or quarterly inspections throughout the life of the operation of the mine. This inspection is important to ensure that the operator is following the reclamation and operation plan. Only in this way can the general public and environment be protect from the adverse impacts caused by mining. Also, the commission can be informed of the progress of any mine and especially if a mine is having problems with their reclamation. Problems can be found early in the operation before they are allowed to become large.
17. Sec. 13 needs to contain a request for an operation and reclamation plan prior to licensing. The only way it can be determined if reclamation is complete and successful is to have a goal to achieve. This goal should be contained in the reclamation plan. Then following reclamation the director can compare the actual reclamation with the projected reclamation to determine if the objective has been met.
18. Sec. 15(b) needs to specify who set the bond amount. The way the regulation is presently written it is confusing as to who actual sets the bond amount. Also the amount of bond should be set on a case by case basis using a worst case scenario detailing to what point the mining will be allowed to progress. Having experience with setting bonds and reclaiming bond forfeited lands the SMS believes that the \$250 per acre to \$500 per acre figure is to low and should be left out entirely. The mining company should only be allowed to mine up to a worst case condition and at that point the mining should be stopped. The bond for the permitted area should be large enough to cover this worst case liability. Also, experience has shown that when posting a set per acre fee for each area it generally is to low to complete reclamation in an environmentally sound manner. To ensure that the worst case

scenario has not been surpassed, inspections should be done on a fairly routine basis.

19. Sec. 16 needs to be changed from allowing the role over and multiple bonding of an area to the bonding of specific areas. The SMS bonds independent discrete areas to alleviate the problems of tracking multiple bonds which would be quite time consuming and messy to track. There is also the potential legal problem of trying to reclaim one area with bond from another area. The SMS has found that it is much cleaner and easier to determine the bond amount for areas which are bonded independently of each other.
20. Sec. 17 needs to be rewritten because it is possible for a surety to cancel its bond prior to a company obtaining new bonding. This would create a situation where the operator would either have to continue mining without bond or shut down. From experience the SMS has learned that this creates a situation where none of the objectives of the program can be met. Without the revenue of mining the operator cannot stay in business and obtain a bond. The commission would then have no bond to do the reclamation and the operator would have no cash flow to do the reclamation. To allow them to keep mining without a bond would create a situation where the commission is faced with the possibility of having an even larger bill to complete reclamation and still no money to do reclamation with. The section needs to be rewritten where the surety can not withdraw their bond without offering the commission a chance to forfeit it should the operator be unable to obtain new bonding.
21. Sec. 18 needs to be rewritten where the operator or his designee does not necessarily have to accompany the director or his designee on the inspection. This will alleviate the problem of the operator preventing the inspection because he will not accompany the inspector. Also, the operator needs to provide the commission with a legal right of entry on to the property so reclamation can be done in case of bond forfeiture.
22. A Sec. 24 needs to be added outlining that the operator must obtain all the required federal, state, and local permits necessary to conduct mining operations. This would ensure that all the environmental regulations are being abided by.
23. The committee needs to be aware that a \$50 and \$10 per acre fee may not be sufficient to implement the program. The legislation may need to contain language in Sec. 5(a) outlining a per ton fee for each ton of material mined in the state.

24. The committee needs to keep in mind while they review this bill that KDHE already has in place a mechanism to execute these regulations and should be the responsible party for implementing them. The SMS already has the expertise, policies, and organizational structure in place to handle these regulations. By making some changes to K.S.A. 49-402 et. seq. the legislation would be there to implement the program. It would appear that placing the mining act in the state conservation commission would entail creating a whole new program to implement the act. By rewriting the existing Mined-Land Conservation and Reclamation Act the new legislation could be placed in an existing organization which has scored high marks with the Office of Surface Mining in its implementation of the coal mining and reclamation program. With the new legislation in place it would only take a little more staff and equipment to implement the new program.