

Approved: Carl Dean Holmes
Date 2-21-94

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

The meeting was called to order by Vice Chairperson Walker Hendrix at 3:30 p.m. on February 14, 1994 in Room 526-S of the Capitol.

All members were present except: Representative Carl Holmes - Excused
Representative Charlton - Excused
Representative McKinney - Excused

Committee staff present: Raney Gilliland, Legislative Research Department
Dennis Hodgins, Legislative Research Department
Mary Torrence, Revisor of Statutes
Shirley Wilds, Committee Secretary

Conferees appearing before the committee: Bill Upman, Waste Management, Inc.
Bill Lewis, County Commissioner, Rawlins County
John Bremenkamp, County Commissioner, Thomas County
Paul Taylor, Engineer, City of Wichita
Chiquita Cornelius, Executive Director, BIRP
Jim Reardon, KS Association of Counties
Brenda Beringer, NW KS Solid Waste Landfill Authority

Others attending: See attached list

Vice Chairperson Walker Hendrix opened the meeting with an announcement that the Sludge Subcommittee will meet upon adjournment of this Standing Committee meeting, chaired by Representative Doug Lawrence.

Hearing on: Solid Waste Landfill Regulations

Bill Upman. (See Attachment #1) As an environmental engineer, Mr. Upman reported that Waste Management, Inc. is the nation's largest provider of solid waste management services, owning and/or operating approximately 140 solid waste landfills in the United States (two in Kansas). Mr. Upman has been personally involved in the Subtitle D rule, making process in three states, including Kansas, Missouri and Nebraska.

Giving a brief synopsis of Subtitle D, Mr. Upman said the regulations were meant to be self implementing by landfill owners and that state regulatory agencies must obtain Subtitle D authority to enforce the program locally and authorized states have the ability to modify portions of the federal regulations. (Kansas has obtained this authority.)

Mr. Upman alleged there are several shortcomings in the federal regulations that will create unreasonable technical requirements and unreasonable financial burdens on the regulated community. To address these shortcomings, he reported his company has always taken full advantage of the flexibility offered by the federal regulations. He lamented that few states have taken advantage of the flexibility, having instead adopted regulations that basically mirror the federal regulations (including Kansas). He believes those regulations currently adopted in Kansas will be a burden on the regulated community.

The Bureau of Waste Management developed draft regulations taking advantage of the flexibility offered by the federal regulations. In addition, he commended the Bureau for establishing the Solid Waste Advisory Group to review and comment on the draft.

Mr. Upman concluded by recommending the adoption of the proposed regulations, stating they are as strict as the federal regulations, providing equal environmental protection.

Bill Lewis. (See Attachment #2) Mr. Lewis is a member of the State Solid Waste Advisory Committee, and a member of the Northwest Kansas Small Landfill Authority (composed of Cheyenne, Greeley, Rawlins and Wallace Counties).

There are several people on the State Solid Waste Advisory Committee that are concerned with the regulation concerning bottom liner requirements for exempt small landfills. They are concerned that the EPA does not require liners at the bottoms of the landfills in arid areas and that KDHE would have the authority to require some sort of bottom liner requirement if they so desire.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES, Room 526-S Statehouse, at 3:30 p.m. on February 14, 1994.

Mr. Lewis said that there are several who plan to build regional landfills that do require liners, believing the intent is to push this regulation, forcing small counties to join them in building their regional landfills. Although Mr. Lewis is not pleased with the liner requirements, he commended Mr. Charles Jones for his fine work and the resulting proposal given to the Energy and Natural Resources Committee.

Mr. Lewis recommends that KDHE make their recommendations, in writing, to the County Commissioners. The corrections recommended (and that are greater than EPA regulations) will then be made on the basis of geological reports from a specific landfill. In addition, he said County Commissioners should also have a licensed engineer who can offer specific recommendations. He said this follows state laws that made landfill the responsibility of the County Commissioners in 1970.

John Bremenkamp. In addition to his position as Thomas County Commissioner, he is President of Northwest Kansas Solid Waste Authority, a 15-county organization, who are studying the regional landfill concept. (He also served on the State Advisory Committee). He said it was a valuable experience to meet with those whom are experts in this field and those who will be in charge of implementing the process. He is of the opinion they arrived at a good set of regulations, given the cooperation of all concerned.

Mr. Bremenkamp sees only two items that are more stringent in the proposed regulations than is in Subtitle D. One is the minimum cover on the bottom and the final cover on the top of a landfill. He explained the reason for putting the bottom liner more stringent at that time was a report they had just received from 25 counties wherein wells had been drilled at landfills west of the 25" rainfall (and 13 had shown some sort of contamination). Mr. Bremenkamp said by putting the bottom liner in, over a long period of time this will save constituents a great deal of money

With the EPA regulations requiring 12" of final covering over the landfill, and the new regulations requiring application of enough soil over it to protect the liner from frost, it is a sensible regulation and a good investment. He added that in western Kansas where conditions are more arid they could not grow grass on 12" of soil over a plastic liner. (His county had already made the decision to self impose this plan due to these particular conditions.)

Mr. Bremenkamp will furnish the Committee written copies of his testimony and the process report that was done by the Solid Waste Advisory Committee.

Paul Taylor. (See Attachment #3) Mr. Taylor reported that the City of Wichita operates Brooks Landfill, which serves all of the citizens of Sedgwick County and accepts over 1500 tons of solid waste per day.

Mr. Taylor, too, is a member of the Solid Waste Advisory Committee and complimented KDHE for their assistance and cooperation in putting together the regulation proposals. He said while there are many implications to the requirements, the City of Wichita agrees with the need for a large majority of them and will better protect the environment.

While there was not unanimous agreement on the many issues they discussed, he cited one example of reaching a consensus. On the issue of vertical expansion Subtitle D is silent. He reported this issue generated considerable discussion. He said Subtitle D did not address vertical expansion, which makes an allowance for landfills to build higher. He said there are drawbacks to this process, with possible sliding-off at the side slopes; if it is an older landfill there would possibly be poor protection. KDHE proposed that there be some limitation on vertical expansion which started out to be more stringent than that proposed in the current regulations.

Mr. Taylor said the City of Wichita does not oppose the vast majority of KDHE's proposal. There are a few possible minor modifications they will request which can be handled through public hearings. He encouraged the Committee to take whatever action is appropriate to enact these regulations.

Chiquita Cornelius. (See Attachment #4) Being involved with the creation of the proposed regulations through her Advisory Committee membership, Ms. Cornelius spoke to her observations of the process used to develop these regulations. She emphasized as a member of the Advisory Committee and working with KDHE, she found the interaction to be open, fair and an offering of deliberate discussion of the issues. She said KDHE was extremely thorough in their efforts when preparing for the meetings. She added no one was ever denied an opportunity to explain or elaborate on a point of concern. Although always being mindful of their charge to their department, KDHE was sensitive and responsive to concerns of all members of the Advisory Committee.

Within these meetings she said no single issue was left unsolved or defined as unsatisfactory by any sector represented on the committee. Ms. Cornelius concluded by saying she deemed it a privilege to serve on the Advisory Committee.

Jim Reardon. Mr. Reardon said the success of the Solid Waste Advisory Committee is a tribute to the Committee's insistence that EPA standards not be imposed without adequate consideration of the concerns of local citizens and their governments. The reported the process that was implemented and it worked and agreed with the comments of many of the conferees who shared plaudits for the KDHE. He said many who were not a member of the Advisory Committee were invited to attend and present their testimony for consideration into the process.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES, Room 526-S Statehouse, at 3:30 p.m. on February 14, 1994.

Mr. Reardon said that although the counties may not be totally comfortable with some of the regulations, they are such they can and will accept, having had adequate consideration and opportunities to be heard.

Upon conclusion of proponent's remarks, Vice Chairperson Walker Hendrix said he would echo the thoughts of many of the conferees. He said Chairperson Carl Holmes and Representative Fred Gatlin were involved with the formulation of some of the original statutes that allowed for this event to occur. He said they were extremely instrumental in assuring that this process was as accommodating that it now appears to have been.

Brenda Beringer: (See Attachment #5) Her organization representing four western Kansas counties (Cheyenne, Greeley, Rawlins, and Wallace), Ms. Beringer said she speaks in their behalf as an opponent to the regulations proposal.

Ms. Beringer reported the four counties she represents wish to maintain their small county landfills. She said the first obstacle faced by all Kansas landfills came when the courts ruled in favor of the Sierra Club and required the EPA to amend their regulations. These regulations require ground water monitoring at all landfill sites, including the small exempt landfills. The second obstacle was the October 1993 compliance deadline determined by EPA. (This was ultimately delayed until April 1994).

Ms. Beringer said these small counties are faced with regulations that basically strip the small landfills of all previous considerations, although they have complied with the laws to maintain their landfills. She said the counties have complied with and exceeded each of the criteria set forth by the federal EPA. As the proposed regulations are understood, she said that the design standards which are waived in the Subtitle D regulations are now debilitating the potential of some of the landfills being able to continue. She cited an example of the impact in the requirement of bottom liners for small exempt landfills. She estimates that one two-acre cell would cost approximately \$76,000 to develop a two-foot clay liner with soils found from that area. This cost is devastating to counties with populations of 1,800-3,400 (who generate less than five tons of refuse per day).

Ms. Beringer suggests that blanket regulations serve only to create a more financial and physical hardship to counties than may be necessary. She asks that the Committee consider very carefully the ramifications of approving the proposed regulations that take away the flexibility that EPA has always intended to provide for the small landfills.

Upon completion of conferee testimony, discussions ensued covering issues around small landfills vs those in larger communities; bottom and top cover liners for the landfills, etc. In addition to discussions with the conferees, Committee guests Mr. Charles Jones; Mr. Bill Bider and Mr. Tom Daily also stood for questions from Committee members.

In answer to a Committee inquiry, Ms. Beringer said the expended monies are going back out to hire engineer specialists and they are on site, working with people within the counties and they know the geological formations. They can surely provide the recommendations that meet the individual needs within each county so those counties can make appropriate decisions for their own people. She would ask the KDHE to make certain accommodations within the guidelines of the rules and regulations that would permit the small county landfills, otherwise exempt, from some of the more strenuous standards in order to comply and put that flexibility into the regulations.

Representative Rezac moved that the Committee minutes for January 31; February 1; 2; 3; 7; and 8; and Addendums for January 26 and February 2 be approved. Representative Mills seconded. Motion carried.

Meeting adjourned.

Upon adjournment, a request was made from a Committee member to resume questioning for conferees and the three guests aforementioned.

Meeting resumed with further discussion:

The opponent conferee feels Subtitle D is more flexible for their small counties for the liner regulations.

Mr. Jones reported that Subtitle D would require less than the proposed regulations. Under Subtitle D as soon as groundwater contamination is found exempt status is lost, meaning all other requirements (more expensive top liner, monitoring requirements and more aggressive cleanup, additional operating requirements) come into play. KDHE felt it was "penny-wise and pound-foolish" not to have some mechanism in place, knowing it was at risk both in terms of groundwater and exempt status.

It was mentioned that an approximate \$76,000 expenditure for a bottom liner is not excessive when one looks at the time-frame use involved with a landfill.

On a landfill that is not a new regional one and is half full and but does not have a liner KDHE is encouraging the use of construction demolition material to fill it in.

KDHE wanted to make sure that vertical expansion is not exacerbated by groundwater problems. A special hydrologic investigation must be completed; more groundwater monitoring and other technical actions must be done in order to prevent

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES, Room 526-S Statehouse, at 3:30 p.m. on February 14, 1994.

increased groundwater contamination.

Mr. Bider said Subtitle D allows the flexibility for verticals; it does not allow the flexibility that is suggested for small landfills. (Depends upon which area.)

Many of the landfills that are discussing vertical expansion are not subject to the small landfill exemptions.

Upon completion of its business, the meeting adjourned at 5:00 p.m.

The next meeting is scheduled for February 15, 1994.



GUEST LIST

Committee: Energy and Natural Resources

Date: 2/14/94

NAME: (Please print)	Address:	Company/Organization:
Alvin R Perez	723 S Cypress Stockton KS 67669	Rooks County Landfill
GARY G. LEROCK	50450. MERIDIAN PLAINVILLE KS.	ROOKS CO. COMM. "
Tom Gross		KDHE
Ron Hammerschmidt	Bldg 740 Forbes Field	KDHE
Charles Jones	" "	KDHE
George Sugars	206 W 1st. Hutchinson, KS 67501	Reno County Public Works
Paul E. Taylor	Public Works Dept. - 8th Fl. 455 N. Main, Wichita 67202	City of Wichita
KIRK ELLIS	10401 HOLMES RD, Ste 400 K.C., Mo 64131	SCS ENGINEERS
John Breckenkamp	2295 K25 Colby, KS 67201	Thomas Co. & NWKSWPA
MICHAEL TATE	Bldg. 740, Forbes Field	KDHE
William L. Anderson	Suite 904, LSO B	KDHE - OLS
BRENDA REUBEN	SHARON SPRINGS P.O. Box 508 KS 67258	Wallace County
BRACK SEAN	P.O. Box 577 TRIPLINE KS 67219	GREECEY COUNTY
Wm Lewis	740 Paige Atwood, KS 67730	Rawlins Co.
Margaret Buchholz	H.C. 1 Box 73 St. Francis, KS 67156	Cheyenne Co
KATHY M. LUTHI	PRATT BOX 15 Colony, KS 67430	Wichita County
Paul Ware	P.O. Box 907 Chanute, KS 66720	City of Chanute
John Venneman	P.O. Box 907 Chanute, KS 66720	City of Chanute
Robert Parsons	P.O. Box 306 COLUMBUS, KS 66725	American Disposal Services, INC
John McDonnell	P.O. Box 306 Columbus, KS 66725	American Disposal Serv.
MARTI CROW	Leavenworth.	KDHE
STEVE KEANEY	TOPEKA, KS.	WASTE MANAGEMENT
Bill Upmorr	P.O. Box 1116 Kansas City, KS 66111	Waste Management of Kansas, Inc
Patrick Skerley	Topeka	Amor, Inc

Members of the Committee, my name is Bill Upman. I represent Waste Management, Inc. in the capacity of Environmental Engineer. Waste Management is the nation's largest provider of solid waste management services and owns and/or operates approximately 140 solid waste landfills in the United States, including two here in Kansas. Since 1988 our company has participated in the Subtitle D rule making process at the federal level and also has participated in the Subtitle D rule making process in approximately 30 states. My responsibilities include the oversight of engineering and compliance activities at company landfills in Kansas and Western Missouri. I personally have participated in the Subtitle D rule making process in three states, including Kansas, Missouri, and Nebraska.

My purpose for being here today is to discuss the proposed solid waste landfill regulations in front of you.

I'd first like to briefly summarize the history of Subtitle D. Subtitle D is the first comprehensive regulations governing the design and operation of municipal solid waste landfills and was promulgated on October 9, 1991. The regulations provides a framework for Federal, State, local and private cooperation to handle, effectively and efficiently, the disposal of non-hazardous solid waste. Subtitle D sets minimum standards for location restrictions, operating criteria, design standards, groundwater monitoring and corrective action, closure and post-closure care, and financial assurance. Subtitle D went into effect on October 9, 1993 with an extension to

April 6, 1994 for small landfills.

The Subtitle D regulations were meant to be self implementing by landfill owners and that state regulatory agencies must obtain Subtitle D authority to enforce the program locally. The State of Kansas has obtained this authority. Authorized states have the ability to modify portions of the federal regulations.

It is important to note that the federal regulations have several shortcomings that will create unreasonable technical requirements and unreasonable financial burdens on the regulated community. We, as a company, have always maintained that states should take full advantage of the flexibility offered by the federal regulation to address these shortcomings.

Unfortunately, few states have taken advantage of this flexibility and have adopted state regulations that basically mirror the federal regulations, including here in Kansas. In our opinion, the regulations currently adopted in Kansas will be a burden on the regulated community.

In order to address the shortcomings of the federal regulations, the Bureau of Waste Management developed a package of draft regulations taking full advantage of the flexibility offered by the federal regulations. The Bureau also established the Solid Waste Advisory Group to review and provide comments on the draft regulations. The Solid Waste Advisory Group is made up of members from the full spectrum of the regulated community, including local

municipal officials, consultants, public and private landfill operators and KDHE staff. By establishing and involving the Solid Waste Advisory Group early in this process, the regulated community has had an opportunity to provide constructive input into the development of the proposed regulations. The Bureau is to be commended for establishing the Solid Waste Advisory Group. I am not aware of any other state in which the regulated community has had an opportunity to discuss the Subtitle D regulations with a regulatory body to such a degree. We wish more state regulatory agencies would take this approach.

With regard to the issue of these regulations being stricter than the federal regulations, I don't believe it is an issue of these regulations being stricter, but rather these regulations making more sense. As stated earlier, the federal regulations and those currently adopted here in Kansas, are far from perfect. There are shortcomings in these regulations that will create unreasonable technical requirements and unreasonable financial burdens on the regulated community including municipalities. States should take advantage of the flexibility offered by the federal regulation to address these shortcomings. The Bureau has taken this step with the proposed regulations.

Finally, the proposed regulations are as strict as the federal regulations in that they provide equal environmental protection. From a technical standpoint, the proposed regulations allow more flexibility than the federal regulations in the implementation of design and operating standards. This ultimately allows landfill operators more flexibility in how their facilities are designed and operated, resulting in reduced cost of operation and ultimately reduced cost to the people of Kansas, while still maintaining an equal level of environmental protection. The Committee

should recommend the adoption of the proposed regulations.

I'd be happy to answer any questions.

February 14, 1994

TO: Senate Energy and Natural Resources Committee
House Energy and NATural Resources Committee

FROM: William H. Lewis

RE: Proposed Solid Waste Landfill Regulations

I am a member of the State Solid Waste Advisory Committee which worked jointly with the Kansas Department of Health and Environment Commission to draft regulations concerning landfills in the State of Kansas. Also, I am a member of the Northwest Kansas Small Landfill Authority, which is composed of Cheyenne, Greeley, Rawlins and Wallace Counties. These four counties joined in this endeavor because we are similiar in size, with an approximate population of 3000 in each of the counties. Also, each county is interested in maintaining their own small landfill. Each county has appointed five members, and alternates, to represent them in developing a study of the existing landfill in their county.

Several of the people on the committee are concerned with the regulation concerning Bottom Liner Requirements for Exempt Small Landfills. Their concern is that EPA does not require liners at the bottoms of landfills in arid areas and the regulations would give KDHE the authority to require some sort of bottom liner requirement if they so desire. When the advisory committee was drawing up the regulations, that was not a concept which I liked. However, there were many people there that are planning to build regional landfills which do require liners and thought that all landfills should require the same. I believe their intent to push this regulation was to force small counties to join them in building their regional landfills. Charles Jones, however, did a fine job of listening to both sides and weeded through everyone's ideas to draw up the plan which has been given to the legislature. Although I did not like the above mentioned requirement, I realize it is hard to have one landfill plan for the entire region.

Let me say in ending that the biggest problem that I have concerning this regulation, or any regulation which is more stringent than EPA's, is that I like the law passed last year by the Kansas Legislature which states that no requirements will be made greater than those of the Environmental Protection Agency. If I were a State Legislature, I would keep that approach!

*Energy & Natural Resources
Attachment 2
2/14/94*

I would also recommend that KDHE make their recommendations, in writing to the County Commissioners. The corrections which are recommended and are greater than EPA regulations will then be made on the basis of geological reports from that specific landfill.

The County Commissioners should also have a licensed engineer that can make specific recommendations to them. It should then be up to the County Commissioners to make decisions on the actions to be taken at the landfill, based on KDHE and the licensed engineer's recommendation. This follows state laws which made the landfill the responsibility of the County Commissioners in the early 1970's.

THE CITY OF WICHITA

DEPARTMENT OF
PUBLIC WORKS
OFFICE OF THE DIRECTOR
CITY HALL — EIGHTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202

HOUSE ENERGY AND NATURAL RESOURCES COMMITTEE
RE: KDHE REGULATIONS FOR LANDFILLS
MONDAY, FEBRUARY 14, 1994
3:30 P.M. ROOM 526-S

Members of the Committee, I am Paul Taylor, Assistant Maintenance Engineer for the City of Wichita. We thank you for the opportunity to speak to you regarding solid waste, a matter that is becoming increasingly important to all of us, like many other environmental issues.

I am representing the City of Wichita, who operates Brooks Landfill. Brooks serves all of the citizens of Sedgwick County and accepts over 1500 tons of solid waste per day.

As you are aware, some people have been concerned about the requirements and ultimately the cost of the new EPA Subtitle D and the proposed KDHE requirements related to landfills. While there are many implications to these requirements, the City of Wichita agrees with the need for a large majority of the regulations so that we better protect the environment.

One reason I am here today is to tell you that we have been pleased with the opportunity we have had for input into the proposed new regulations that has been afforded to us by Charles Jones, Bill Bider, Tom Gross and all the other KDHE staff. I am a member of the Solid Waste Advisory Committee and I believe I attended every meeting. There were a wide variety of interests represented, including some legislators. From my perspective, I felt we were all given ample opportunity to express our opinions and that KDHE was very responsive.

I am not here to tell you that there was unanimous agreement on the many issues we discussed; that would probably be almost impossible. But with leadership from the KDHE staff, the group was able to have good discussion and reach a consensus opinion that appears to be workable for most, while still affording protection for the environment.

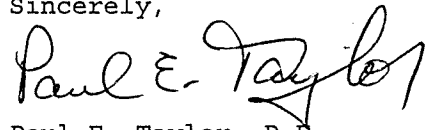
One example of reaching a consensus is the issue of vertical expansion. Subtitle D is silent on this important subject. The subject generated considerable Advisory Committee discussion and we believe a consensus was reached that most will find workable. The City of Wichita did not get everything they wanted on this subject, but we, too, feel that it is workable.

*Energy & Natural Resources
Attachment #3
2/14/94*

House Energy & Natural Resources Committee
Re: KDHE Regulations For Landfills
February 14, 1994
Page 2

In summary, the City of Wichita does not oppose the vast majority of KDHE's proposed new landfill regulations. There may be a few minor things where we will request a modification, but that can be handled through their public hearings. We do not feel that the regulations are overly restrictive. In fact, I believe there are probably many states that are more restrictive than Kansas. We encourage you to take whatever action is appropriate so that these regulations may be enacted soon. If you have any questions, please feel free to contact me at 316-268-4369. Again, thank you for the opportunity to address your committee on this important issue.

Sincerely,

A handwritten signature in black ink that reads "Paul E. Taylor". The signature is written in a cursive style with a large, stylized "T" at the end.

Paul E. Taylor, P.E.
Assistant Maintenance Engineer

PET/bn

Kansas Business and Industry Recycling Program, Inc.

2933 SW Woodside Dr., Suite C, Topeka, Kansas 66614-4181
(913) 273-6808 FAX (913) 273-2405



Testimony to House Energy and Natural Resources Committee

on

Solid Waste Landfill Regulations

by

Chiquita Cornelius, Executive Director

Kansas Business and Industry Recycling Program, Inc.

February 14, 1994

Mr. Chairman and Members of the Committee:

I am Chiquita Cornelius, Executive Director of the Kansas Business and Industry Recycling Program (Ks. BIRP). I am a member of the Solid Waste Advisory Committee that jointly with the Kansas Department of Health and Environment (KDHE) developed the regulations before you today. I also serve on the Shawnee County Solid Waste Management Committee that is charged with the responsibility of developing the counties' solid waste management plan.

While the Ks. BIRP program has followed closely, the solid waste issue as it has developed, and been instrumental in developing recycling and waste minimization program, my expertise does not lend itself to speaking to the technical aspects of the regulations before you. Rather, my testimony today will reflect on my observation of the process used to develop these regulations.

Serving on this committee was the first opportunity I have had to follow the process of drafting regulations that "supposedly" reflect the intent of legislation passed at the state or federal level. I think all of us have observed on occasion that what we felt was the

intent of a piece of federal or state legislation seems to change when placed in the hands of a regulatory agency.

Therefore, I entered into this process with some trepidation. However, what transpired, was in fact the most open, fair, and ~~x~~deliberate discussions of the issues.

The staff of KDHE was extremely thorough in their preparation of materials for the meeting. They conducted the meetings very effectively, but deliberation was never cut short on any particular issue. No one was ever denied an opportunity to explain or elaborate on a point of concern.

The makeup of the committee represented a very broad scope of interested or impacted parties so that no one perspective dominated the final regulation proposal before you.

The staff of the Division of Environment was creative, sensitive and responsive to the concerns and input they received from the advisory committee members - while always mindful of the responsibilities the department is charged with.

To my knowledge the final regulation package before you was acceptable to all members of the committee. No single issue was left unresolved or defined as unsatisfactory by any sector represented on the committee.

When flexibility was available with EPA requirements, I believe those with expertise on the committee and KDHE staff arrived at realistic and proper decisions to protect the health and welfare of our Kansas citizens.

I consider my opportunity to serve on the advisory committee as a privilege and left the last full intensive work day with a very positive feeling about the process, the final product and the Department of Environment.

ENERGY & NATURAL RESOURCE COMMITTEE

February 14, 1994

As presented by Brenda Beringer

I thank you for allowing me this opportunity to visit with you. Today I stand before you as the chairman of the Northwest Kansas Small Solid Waste Landfill Authority. This Authority represents four (4) western Kansas counties: Cheyenne, Greeley, Rawlins, and Wallace. I am very honored to be able to represent them in this capacity today.

This group of counties is very unique and very special. These counties represent some of the most sparsely populated areas in the state of Kansas. And yet despite their size, they have shown time and time again that they are some of the most resourceful and responsive people found anywhere. When an issue or a need arises they reach from within to resolve the issues and address the needs. These are people with pride and respect of their resources, their families, and their communities. These people have a real love for the place they call home.

These four counties, which do not border each other, have developed this solid waste authority, through the legal means of an interlocal agreement, because each desires to maintain their small county landfills.

The first obstacle faced by all Kansas landfills came when the courts ruled in favor of the Sierra Club and required the EPA to amend their regulations to require ground water monitoring at all landfill sites, including the small exempt landfills. These small counties bit the bullet and set out to meet the requests of EPA.

The second obstacle was the October 9th, 1993 deadline determined by EPA as the compliance deadline. Thanks to the influence of many people, including a powerful response by these counties, this was delayed to April 9th, 1994.

Now these counties that have done everything within their power to comply with the laws and also maintain their small county landfills are faced with regulations that basically strip the small landfills of all previous considerations.

(1)

*Energy & Natural Resources
Attachment # 5*

2/14/94

The intent of these regulations prepared by the Kansas Department of Health and Environment and the Solid Waste Advisory Committee, is understood and respected. However, we do not feel that the appropriate consideration has been given to the small arid counties such as these.

The Federal Environmental Protection Agency acknowledged that there should be special consideration given to the landfills that meet the criteria of [1] receiving and disposing of less than 20 tons of solid waste daily, based on an annual average, [2] there is no evidence of groundwater contamination, [3] located in an area that receives less than or equal to 25 inches of precipitation, and [4] has no practical waste management alternative. These counties have met and exceeded each one of these criteria.

As we now study the proposed regulations of KDHE, we find that the design standards which are waived in the Subtitle D regulations, are now debilitating the potential of some of the landfills being able to continue in the effort to provide this service to the constituents within their counties.

An example of this impact may be viewed in the requirement of bottom liners for Small Exempt Landfills. It has been estimated to me that one - two acre cell would cost approximately \$76,000 to develop a two foot clay liner with soils found from within that area. A figure such as this is devastating for counties that are with populations between 1800 and 3400 people who generate less than 5 tons of refuse per day.

We are not suggesting that there is no potential risk involved in the small landfills. But we will never eliminate all possible hazards whether in a small landfill or a Subtitle D landfill. Most all counties in the state have acquired the assistance of consulting firms that specialize in these environmental concerns. Therefore, the choices made by the counties are not made without appropriate, individualized, guidance and care. Blanket regulations cannot meet the specific needs found in each county. I submit to you that these blanket regulations serve only to create a more financial and physical hardship to counties than may be necessary.

I ask that this committee consider very carefully the ramifications of approving these proposed regulations that take away the flexibility that EPA has always intended to provide for the small landfills.