

Approved: Carl D. Holmes
Date 4/29/94

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

The meeting was called to order by Chairperson Carl Holmes at 3:30 p.m. on March 8, 1994 in Room 526-S of the Capitol.

All members were present except:

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: Edward Moses, KS Aggregate Producers
 Ken Kern, KS Conservation Commission
 Tom Scheefer, City of Lenexa
 Marvin Zielsdorf, KS Aggregate Producers
 Terry DuVall, KS Water Office

Others attending: See attached list

Action on SCR 1623:

Representative Grotewiel moved to report HCR 1623 favorably. Representative Powers seconded the motion. Motion carried.

Chairperson Holmes announced to the Committee that upon his final review of the message to accompany **HCR 5030** it will now be mailed to the other 49 states.

Hearing on SB 169:

Edward Moses. Mr. Moses said this bill was introduced last year in Senate Energy and Natural Resources at their request. There were amendments to the original bill, resulting from various issues presented by opponents and proponents at that time. He said perhaps there could still be areas in the legislation that need some modification. He explained this bill is based upon the so-called Iowa reclamation bill that provides for a simple mine land reclamation bill and uses primarily as its enforcement a bonding mechanism in the hopes of keeping most the decisions on a local level and would basically provide state-level framework.

Mr. Moses then introduced Mr. Marvin Zielsdorf.

Marvin Zielsdorf. (See Attachment #1) Mr. Zielsdorf told the Committee that the Kansas Aggregate Producers Association represents more than 250 aggregate, concrete and associate member firms supplying the Kansas construction industry.

He cautioned the Committee to look beyond the emotional issues normally associated with the regulatory control of an industry and focus attention on the true issues - the questions of how best to fulfill the obligations to future generations with regard to wise use of the state's lands and the conservation of its natural resources. He said that without the necessary construction materials necessary to the economy, the very foundations of the citizens' standard of living would be hindered.

Mr. Zielsdorf said his organization believes it is appropriate to regulate this industry at the local level. He added there is one unaddressed area in their regulatory matrix which should be addressed at the state level. It is more sensible to support land regulation on a statewide basis.

Since 1969 the Association has proposed effective reclamation legislation dealing with abandoned mines (the only unregulated area) and the legislature has periodically studied that reclamation - and feels it is now time to do so again. He urged the Committee's review and approval of this proposed legislation.

Mr. Zielsdorf provided a fact sheet on Kansas Aggregates - 1991 and a matrix of Kansas aggregate regulation.

Kenneth F. Kern. (See Attachment #2) Due to concerns and issues raised regarding administering a surface-mining and land conservation and reclamation program, Mr. Kern, along with Tracy Streeter, Resource Administrator for the Association went to Des Moines to review their reclamation law. Their law is administered by the Iowa Division of Soil Conservation (the State

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES, Room 526-S Statehouse, at 3:30 p.m. on March 8, 1994.

Conservation Commission's counterpart). Upon visiting with several echelon involved in administering their program, it verified their feeling that one field person and one clerical person would be able to administer the program.

He submits the land reclamation fee fund (derived from operators license fees and site registration fee) will provide the necessary monies to operate the Kansas program. The first year expenditures are estimated at \$86,767 and start-up costs will come primarily from the one-time operators license fee of \$300 per operator. Thereafter, administrative cost funding will be from the annual operators license renewal and site registration fees.

Mr. Kern reported that the Commission supports **SB 169**, as amended, stating the bill allows rules and regulations specific and detailed procedures for implementation and recommends its passage.

Tom Schaefer. (See Attachment #3) As Assistant to the City Administrator for the City of Lenexa, Mr. Schaefer reported his community presently has more than 36,000 resident encompassing 28.95 square miles of land in Johnson County - and is still growing.

Within the city limits of Lenexa there are three active limestone rock quarries/underground mining operations, and one abandoned quarry. Mr. Schaefer said that the City legal and planning departments have been involved in the issue of regulating mining activities, resulting from litigation on two occasions involving rock quarries. Through these litigations it was discovered all existing regulations are directed at the coal industry, with the exception of filing of underground mining maps and notification and consent requirements prior to excavating near adjoining lands.

On previous occasions the City has presented testimony in support of similar measures and supports his one as well. They do have suggested changes and additions they believe to be essential for an improved bill:

- Expand the definition of "affected land" to include "stockpiles" (or "stockpiles" containing "waste rock." Also, they would to see the accessory uses that routinely accompany mining operations be included.
- 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, such that these areas are readily adaptable for alternative land uses and create no danger to public health or safety."
- Consideration given to abandoned mines, particularly addressing "inactive sites." Determining the future intent of an operator may be difficult when it is referred to as anticipating future mining activity. They would like to see the requirement of future mining deleted (so that inactive sites would also include abandoned operations.

Mr. Schaefer said **SB 169** addresses an important problem and the City of Lenexa offers assistance in any manner to effectuate the change.

Hearing on HB 3058:

Terry Duvall. (See Attachment #4) Ms. Duvall concentrated her testimony on appropriation time lines and the impact of purchasing additional storage if this bill should become law. Her chart illustrated projected appropriations from 1995 through 1998. She pointed out that Elk City and Marion Reservoirs are included in her list in order to demonstrate the maximum potential cost.

Representative Gatlin explained to the Committee that **HB 3058** is the bill that was referred to a subcommittee. He reported the current bill is the result of meetings the subcommittee members had with the Water Office.

Chairperson Holmes announced the Committee agenda for tomorrow and adjourned the meeting at 4:55 p.m.

The next meeting is scheduled for March 9, 1994.



Date: 3/8/94

[illegible]



Kansas Aggregate Producers' Association

STATEMENT

of

The Kansas Aggregate Producers Association

before the

HOUSE ENERGY and NATURAL RESOURCES COMMITTEE

Topeka, Kansas

March 8, 1994

In support of

SB169 - an act concerning land reclamation

Good afternoon, Mr. Chairman and members of the committee. My name is Marvin Zielsdorf. I am the Vice President of the Kansas Aggregate Producers Association and General Manager of N.R. Hamm Quarry, Inc. Our Association represents over 250 aggregate, concrete, and associate member firms supplying 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.

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. This opinion is supported by the National Academy of Sciences in their 1980 report on this subject entitled *Surface Mining of Non-Coal Minerals*. 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 before you in support of SB169 which was introduced 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 Conservation Commission. An existing agency familiar with land reclamation and restoration issues.

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 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

MATRIX OF KANSAS AGGREGATE REGULATION

National

United States Army Corps of Engineers

United States Department of Labor
Mine Safety & Health
Administration
Occupational Safety & Health
Administration
Bureau of Wage Standards

United States Department of Treasury
Bureau Alcohol Tobacco & Firearms
U.S. Coast Guard (Adjacent to
Navigable Rivers)

Environmental Protection Agency
Storm Water Regulations
Air Quality Regulations
Wetlands

United States Department of Interior
U.S. Geological Survey
Bureau of Mines
Bureau of Reclamation

Federal Communication Commission

United States Department of Agriculture
Soil Conservation Service

United States Department of
Transportation
Hazardous Materials
Explosives Transportation

Federal Bureau of Investigation

State Emergency Response Commission
Blasting Permits

Kansas Corporation Commission
Motor Carrier Safety Regulations
Mandatory Drug Testing

State Conservation Commission
State Watersheds

Regional

Groundwater Management Districts

Watershed Districts

Regional Planning Commissions

Local

Zoning Boards

Planning Commissions

Emergency Preparedness
Jurisdiction

Fire Departments

County Commissions

City Government

State

Kansas Department of Health &
Environment
Water Regulations
Air Regulations
Solid Waste Regulations

State Board of Agriculture
Division of Water Resources
Aglime
Weights & Measures

Kansas Geological Survey

State Fire Marshall
Blasting Certification
Blasting Notification



State Conservation Commission

109 S.W. 9TH STREET, SUITE 500

TELEPHONE (913) 296-3600

TOPEKA, KANSAS 66612-1299

TESTIMONY ON SB 169
HOUSE ENERGY AND NATURAL
RESOURCES COMMITTEE

KENNETH F. KERN
EXECUTIVE DIRECTOR
MARCH 8, 1994

Thank you for the opportunity to appear before the Committee and testify on Senate Bill No. 169.

The Kansas Aggregate Producers Association presented the State Conservation Commission with a proposal to administer a Surface-mining and Land Conservation and Reclamation program in February 1993. The Commission, after due consideration and review of the proposed program, agreed to support it.

Senate Bill 169 is patterned after the State of Iowa's reclamation law. Due to concerns and issues raised during the Interim Study last summer, Tracy Streeter, Resource Administrator, and I went to Des Moines, Iowa to review their program. The law is administered by the Iowa Division of Soil Conservation, the State Conservation Commission's counterpart. We visited with the individual administering Iowa's program, the administrator of the coal mining reclamation section, the Director of the Division of Soil Conservation, and several producers. The visit verified our feeling that one field person and one clerical person would be able to administer the program.

The land reclamation fee fund will provide the necessary monies to operate the program. The fee fund derives resources from two sources:

1. OPERATORS LICENSE FEE - A one time operators license fee of \$300 will provide funds to begin administration of the program.

*Energy & Natural Resources
Attachment #2 3/8/94*

According to the Kansas Aggregate Producers Association, there are 250 mining operators. The operators license fee will total approximately \$75,000. An annual operators license renewal fee will be available in future years. The renewal fee will be established by rules and regulations.

2. SITE REGISTRATION FEE - The site registration fee will be the primary source of funds to administer the program after the first year. The Kansas Aggregate Producers Association estimates there are 600 sites in Kansas. The fee structure will be established to cover the cost of administering the program, then approved by the Commission, and included in administrative rules and regulations. As you know, the administrative rules and regulations procedures provides time for public input and legislative oversight.

The first year expenditures are estimated to be \$86,767. Funds will not be available until the program is implemented by rules and regulations. Start-up costs will primarily come from the one time operators license fee of \$300 per operator. Funding for administrative costs after the first year will be from the annual renewal fee for operators license and site registration.

Senate Bill 169, as amended, is flexible and will allow rules and regulations to spell out more specific and detailed procedures for implementation.

The State Conservation Commission supports SB 169, Surface-mining Land Conservation and Reclamation Act, and recommends passage of the bill. Thank you for the opportunity to testify.

TO: SENATE ENERGY AND NATURAL RESOURCES COMMITTEE

FROM: TOM SCHAEFER, ASSISTANT TO THE CITY ADMINISTRATOR *72*

RE: SB 169

DATE: MARCH 8, 1994

My name is Tom Schaefer and I am the Assistant to the City Administrator for the City of Lenexa, Kansas. Lenexa is a growing community of over 36,000 residents 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, calculated on a per acre basis, to ensure compliance.

*Energy/Natural Resources
Attachment #3
3/8/94*

Our City Legal and Planning Departments have been actively involved in the issue of regulating mining activities as a result of participation over the last several years in litigation on two occasions involving rock quarries in our city. The City was dismayed during the course of its investigations in these cases 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 are directed at the coal industry.

The blight from a strip mining limestone quarry operation or from underground surface operations can be significant unless that State or local government has had the foresight to review mining applications carefully and extract necessary stringent requirements from mining operators, including realistic reclamation plans and the financial surety to ensure the reclamation plan becomes reality.

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

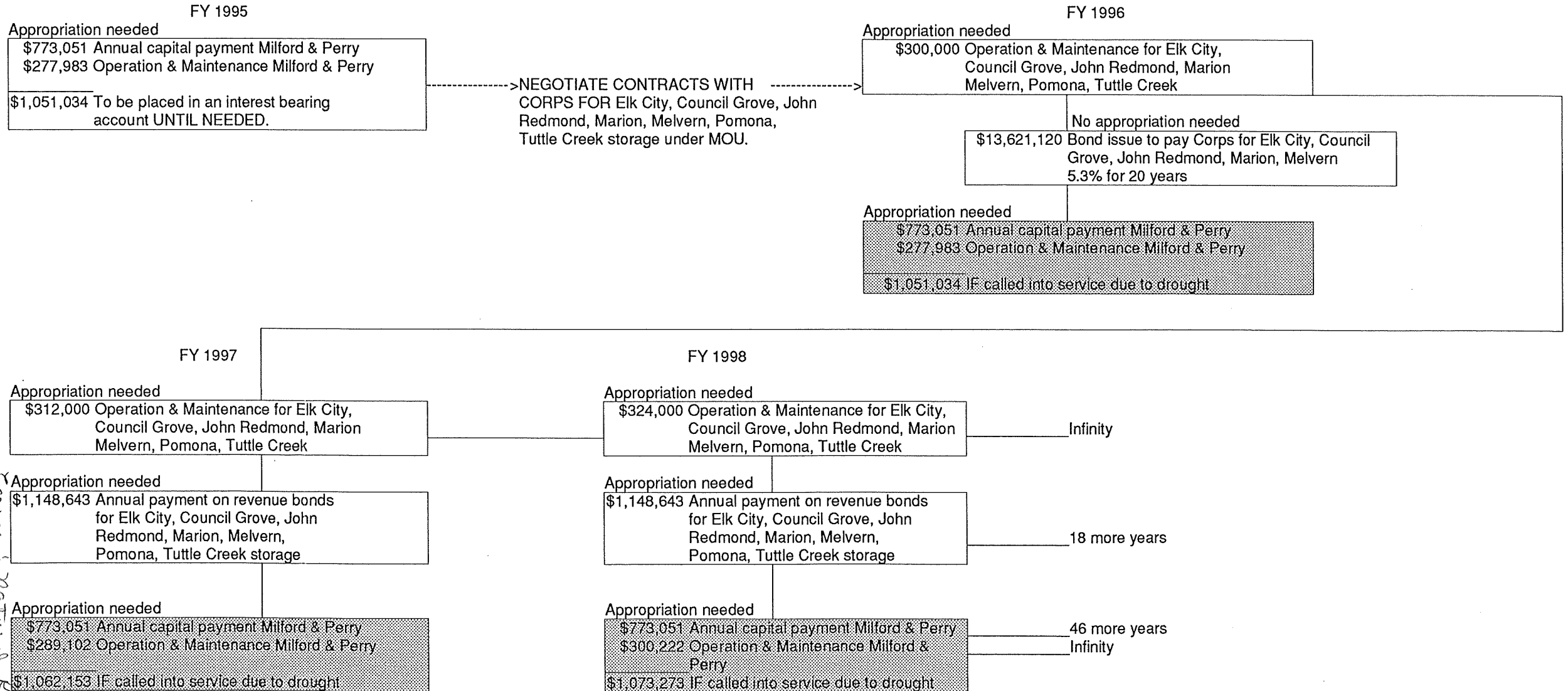
1. Expand the definition of "affected land" to include "stockpiles," or at least "stockpiles" containing "waste rock." Under the Bill's current definition of "affected land" it specifically excludes "stockpiles." This is significant because an operator could easily stockpile waste rock and pilings and then potentially 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 routinely 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 such that these areas 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.

Terry Duval

TIME LINE



Energy: Natural Resources
external # 4 3/8/94