

MINUTES OF THE SENATE UTILITIES COMMITTEE.

The meeting was called to order by Chairperson Sen. Pat Ranson at 1:30 p.m. on March 13, 2000 in Room 231- N of the Capitol.

All members were present except:

Sens. Hensley and Salisbury were excused

Committee staff present:

Lynne Holt, Legislative Research Department

Mary Torrence, Revisors of Statute Office

Jeanne Eudaley, Committee Secretary

Conferees appearing before the committee:

Edwin Bideau III, Attorney for Mike & Jerry Wimsett, W-W Production Co., Chanute and Mike Kepley, Kepley Well Service, Chanute

Jim Kepley, K-W Oil Well Service, Chanute

Fran Welch, Purchases Division, State of Kansas

Others attending:

See attached list

Sen. Ranson recognized pages who are assisting the committee today and asked for introductions. They are sponsored by Sen. Brownlee. Sen. Ranson announced the committee will continue the hearing for **HB 2782- concerning oil and gas; relating to disposition of certain fees.** She introduced Edwin Bideau III, who gave testimony regarding the bill (Attachment 1). Mr. Bideau stated he is appearing before the committee representing W-W Production Company and Kepley Well Service, both of Chanute. He also stated the reasons for their appearance is in response to testimony given to the committee last week regarding the plugging of abandoned wells. He told of his clients' experience working in the well plugging business and outlined problems he believes exists between the Splanes and contracts awarded by the Chanute office. He was complimentary to the KCC Field Office personnel in Chanute and told of his clients' experience in dealing with the office. Mr. Bideau outlined bid procedures and qualifications, how the bid pricing is done and the funding. Mr. Bideau pointed out that there is an action before the KCC assessing a rather large penalty against a J.G.K., Oil, Inc. as well as a U.S. Bankruptcy Court action in which a motion to dismiss the case has been filed by the Trustee in Bankruptcy, which was set for hearing in April, 1999. Attached to Mr. Bideau's testimony are documents and other information from the Kansas Corporation Commission and contractors. He stated the information and documents relate to the question of being a qualified bidder.

Sen. Barone asked Mr. Bideau when he decided to come to Topeka to speak to the committee and what made you decide to come? Mr. Bideau answered that they decided to come on Friday after Mr. Splane's testimony to the committee, as they were not aware that the contract procedures were an issue. The reason was a sworn statement of John E. Galemore one of his clients acquired when he was here last week for EKIOGA meetings. In answer to Sen. Barone's questions regarding funding and how the contracts are bid, Mr. Bideau stated he supports the funding, and he believes bidding the wells on a per well basis will cost more; that most work is done on a per unit basis. He stated it is difficult to evaluate how much to bid on the wells, and that they are continually finding new wells which they did not know existed. He stated the way the bid procedures are set up now that the state is requesting pricing by the unit services, not per well. Sen. Ranson then asked Mr. Bideau if either of his clients have done well plugging for private companies. Mr. Bideau replied Mr. Kepley has. Sen. Ranson asked Mr. Kepley to come to the podium and identify himself. Sen. Ranson asked how he priced his bid when working for private companies and then for the state. Mr. Kepley responded that he estimates how long the job will take him, and doubles his bid to try to cover costs when bidding for a state contract, since he has no idea what problems may be encountered. However, when he bids for private companies, he bids it by the hour. He believes it would be cheaper for the state to base bids on an hourly basis, with a KCC employee monitoring the job to ensure they are charging only for the time they are working on the well. Sen. Ranson stated the information is important, as one of the major complaints is how the contracts are bid and the complaint that the

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bidding procedures have slowed down the process.

Sen. Ranson introduced Francis Welch, for a presentation on the bidding process and asked her to tell the committee how the system is supposed to work (Attachment 2). The committee asked Ms. Welch questions regarding the bidding process, and Sen. Steffes asked if the bid is always given to the lowest responsible bidder and to define that phrase. Ms. Welch answered contractors with a poor performance record and those who have proven they are irresponsible are eliminated from the list, even though they may be the lowest bidder. Sen. Clark asked Ms. Welch if she knows of an exchange of equipment in place of money changing hands, and she answered she is not aware of that happening; if that were to happen, the agency would investigate and turn it over to their legal department. Sen. Brownlee asked if there is a list of contractors who are potential bidders, and Ms. Welch responded that she does not have a list; that there are 25 to 30 well plugging operators in Southeast Kansas who are licensed. Sen. Ranson asked how many are licensed statewide, and Mr. Korphage responded there are approximately two thousand oil and gas operators in the state. Ms. Welch added that the KCC gives them a list of potential vendors and they also receive recommendations and solicit bidders from those who have filled out applications. Sen. Ranson stated the Purchasing Department has had four years to develop a list and solicit vendors who are interested, and they don't know how many vendors are interested or are available. Sen. Barone also questioned why they do not have a list of eligible bidders in place after four years and if some of the bidders are out of state. Ms. Welch stated they receive a list from the KCC indicating those who are eligible on each project they put out for bids; however, she does not know if any are sent out of state. She also referred to changes that have been made in the contracting and administering of contracts; she also indicated to the committee there are no set number of slots for each project as well as no set number of bids required, and they can reject bids and solicit other bidders. Ms. Welch also discussed with Sen. Brownlee which department's rules and regulations govern the process, changes that have been made and certain specifications they follow. Sen. Ranson asked if they only send the low bid to the KCC, and Ms. Welch responded that is right. She added that the KCC does not sit in on the bidding process, and that she coordinates the bid process with Ruth Scott in the Topeka KCC office.

Sen. Ranson recognized Maurice Korphage, who is returning to the committee to answer questions related to his slide presentation to the committee yesterday. Sen. Lee questioned him regarding the bids that are under \$10,000, as to what percentage of the total number of wells that have been bid. Mr. Korphage responded it is a small percentage and estimated approximately one-third of the total are under the \$10,000 cost. He explained those contracts go through an internal bid process with the district office and require at least three bidders. Sen. Lee also questioned regarding bids from out of state, and Mr. Korphage responded there was only one bid that he can remember from out of state from a company which provides service to other states. She also asked how contractors and the public gets information regarding the well plugging program. Mr. Korphage answered that when the program first began they did a mass mailing to contractors to inform them and to let them know this is an on-going program, which he admits needs to be updated. He also added that the notice to contractors was put on the web site last month and that the Purchasing Division advises contractors by phone; notices are also posted on the bulletin board in the district office and now will be posted on the web site. Sen. Barone stated that if one-third of the wells have been plugged by bids going to the district office, how does it compare with the wells that were publicly bid? Mr. Korphage stated in District 3, from January, 1997, 84 projects under \$10,000 have been bid and completed; of the 84, twenty had cost overruns, with twelve greater than 15% and 5 had overruns over \$2,000. Sen. Barone requested that Mr. Korphage furnish the committee with lists of the contractors notified and approximate cost of the overruns and asked Mr. Korphage to explain the salvage process. He answered that putting salvage up for bids is rare; however, when it is necessary they call three people who are interested in bidding for the salvage, it goes to the highest bidder, and the money is sent to the KCC to go back into the program. Sen. Barone added he has heard of disputes arising regarding the salvage from a lease or well. Sen. Brownlee asked questions regarding cost overruns for contracts under \$10,000 and pointed out that a \$2,000 overrun is significant when the contract was under \$10,000; in fact, that means it more than doubled. She stated she did not understand how that could happen. Mr. Korphage responded this is called a turn key bid and includes an estimated cost per well. When the work on the well is underway, the contractor may find the situation includes more work than estimated, or additional material is needed, which increases the cost; some of those may double. Sen. Brownlee asked if the Comprehensive Environmental Response Compensation, and Liability Act (known as CERCLA) comes into effect and asked Mr. Korphage for more information on it.

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Sen. Ranson referred to the Budget for the Conservation Division, money collected and spent and recited the following amounts that were spent: \$1.1 million in 1997, \$1.0 million in 1998 and \$1.8 million in 1999. Projected spending in 2000 is \$1.8 million and \$1.6 million in 2001 and \$1.6 million in 2002. She asked Mr. Korphage if the Division has corresponding figures to show how many wells were plugged for those years. Mr. Korphage responded that information was in the slide presentation he gave last Thursday and is shown on Page 3 of the written testimony. Sen. Ranson stated it is the committee's responsibility to study and determine what the problem is with the well plugging problem, why we aren't plugging more wells, and the reason there seems to be a shortage of well pluggers. Mr. Korphage stated the well plugging can only be done by licensed contractors and in some areas of the state, there is a shortage of those that are licensed. However, he admitted there is probably no shortage in the Southeast Kansas area. Sen. Ranson referred to the Audit report and the recommendations and guidelines, especially for those wells under \$10,000. She stated that before considering additional funding, the committee would like to see ideas and examples of how the process can be speeded up. Sen. Barone then asked Mr. Korphage questions regarding photographs of oil wells that show oil seeping up to the ground, killing off the trees and other vegetation, and asked if we are plugging the right wells? He also asked if the wells shown in the pictures should be given top priority?

Meeting adjourned at 2:30.

Next meeting will be March 14, 2000.