

MINUTES OF THE SENATE NATURAL RESOURCES COMMITTEE

The meeting was called to order by Vice Chairman Ruth Teichman at 8:30 a.m. on February 26, 2009, in Room 446-N of the Capitol.

All members were present except:

Senator Terry Bruce- unexcused

Committee staff present:

Kristen Kellems, Revisor of Statutes Office

Jason Thompson, Revisor of Statutes Office

Corey Carnahan, Kansas Legislative Research Department

Raney Gilliland, Kansas Legislative Research Department

Alissa Vogel, Committee Assistant

Conferees appearing before the committee:

Terry Holdren, National Policy Director, Kansas Farm Bureau

Rich Felts, Producer, Surface Owner

Erick Nordling, Southwest Kansas Royalty Owners Association

Tom Schnittker, Farmer and Contract Land Manager, Sumner County

David W. Bolton, Executive Vice-President, Land for Quest Resource Corporation (written only)

Dave Dayvault, Chairman, Kansas Independent Oil and Gas Association

David Bleakley, Legislative Chairman, Eastern Kansas Oil and Gas Association

Ken Peterson, Executive Director, Kansas Petroleum Council (written only)

Others attending:

See attached list.

Vice Chairman Teichman opened the meeting for Chairman McGinn, who later joined the meeting, and announced the hearing on **SB 184 - Surface owner notice act.**

Raney Gilliland, Legislative Research Department, provided a brief overview of **SB 184** that would require notice to be given to landowners when there are certain oil and gas operations proposed to be conducted upon the surface land. **SB 184** includes provisions for emergency entry and gives the Kansas Corporation Commission (KCC) the authority to adopt rules and regulations deemed necessary to carry out provisions of the act.

The hearing on **SB 184** was opened. Vice Chairman Teichman introduced Terry Holdren, National Policy Director of the Kansas Farm Bureau, who spoke as a proponent to **SB 184**. (Attachment 1) He stated KFB members have benefitted greatly from the development of oil and gas. However, the ability to develop a working relationship with the oil and gas industry has been frustrating and, at times, resulted in significant damage to the surface estate. The damage could have been avoided by efforts to notify and communicate with the surface owner. KFB supports **SB 184** as it: presents the opportunity for good communication and common courtesy between the surface owner and the oil and gas operator, preserves the sanctity of a lease, focuses only on activities that substantially affect the surface of the earth, does not impact existing leases and enforces the voluntary Good Neighbor Initiative, ensuring compliance by all oil and gas operators.

Rich Felts, producer and surface owner from Montgomery County, spoke as a proponent to **SB 184**. (Attachment 2) He stated that a great challenge in the rapid development of coal bed methane fields in Eastern Kansas has been the lack of communication between landowners and new oil and gas operators, and the multiple parties that represent operators. He stated that a landowner should be involved in oil and gas development prior to the onset of any activity, as the landowner knows the land's drainage and erosion patterns.

Erick Nordling, Executive Secretary of the Southwest Kansas Royalty Owners Association, spoke as a proponent to **SB 184**. (Attachment 3) He supports the legislation, as it will ensure that oil and gas operators communicate with landowners. He provided a summary of what other states have enacted in regard to surface owner notification and provided the Committee with a compendium of the various statutes. (Attachment 4)

CONTINUATION SHEET

Minutes of the Senate Natural Resources Committee at 8:30 a.m. on March 2, 2009, in Room 446-N of the Capitol.

Tom Schnittker, farmer and contract land manager from Sumner County, provided verbal testimony in support of **SB 184**. He provided two examples to the Committee that dealt with the lack of communication between landowners and oil and gas operators. He noted the burden placed on agricultural operations.

David W. Bolton, Executive Vice-President of the Land for Quest Resource Corporation, provided written testimony in support of **SB 184**. (Attachment 5)

Dave Dayvault, Chairman of the Kansas Independent Oil and Gas Association (KIOGA), spoke in opposition to **SB 184**. (Attachment 6) He explained to the Committee that it is common practice to notify landowners prior to oil and gas operations. KIOGA is opposed to **SB 184** for the following reasons: the required notification to the surface owner may not always be given to the appropriate party, the rights of ingress and egress are made conditional upon notification that reduces the rights the operator previously bargained for, and time limitations and unavailability to incorporate a waiver within the lease limits the rights of the two parties to enter into contracts and a greater financial burden will be placed on the KCC.

David Bleakley, Legislative Chairman for the Eastern Kansas Oil and Gas Association (EKOGA), spoke in opposition to **SB 184** and any legislation that would alter the private contract rights and obligations conferred upon oil and gas operators through oil and gas leases. (Attachment 7) EKOGA believes the real issue is that some oil and gas operators are not courteous to landowners, a problem that should not be resolved through legislation. He provided Committee members with the first paragraph of a standard oil and gas lease and an informal survey sent out by the KCC to document surface owner complaints regarding oil and gas companies. EKOGA's solution to the problem would be to educate the industry and work to improve the Good Neighbor Initiative. He also suggested that companies that are experiencing difficulties in communicating with landowners amend their leases and create a standard form amendment that would include provisions found in **SB 184**.

Ken Peterson, Executive Director of the Kansas Petroleum Council, provided written testimony as an opponent to **SB 184**. (Attachment 8)

The conferees stood for questions. Senator Lee requested that Mr. Bleakley provide information to the Committee on the percentage of leases that are signed with landowners versus the percentage of leases that are signed with mineral owners.

Senator Lee requested that Mr. Dayvault provide documentation to the Committee on the case law that grants the right of ingress and egress on land that oil and gas operators do not own. Mr. Dayvault replied that Bob Krehbiel would work on finding the information.

Senator Abrams requested a list of drilling permits that were approved in 2007 and 2008 and the total number of landowner complaints before the KCC. Mr. Bleakley responded that there is no mechanism for surface owner complaints to be registered before the KCC.

The hearing on **SB 184** will continue next week.

The next meeting is scheduled for March 5, 2009.

The meeting was adjourned at 9:30 a.m.