

Before the House Appropriations Committee  
Presented by Zack Pistora, Kansas Sierra Club  
Opponent to HB 2536  
February 13, 2020



Chairman Waymaster and Honorable Members of the Committee,

Thank you for the opportunity to submit oppositional testimony on HB 2536, which would amend existing law concerning responsibility for abandoned well plugging. Specifically, the bill would include an exclusive listing of parties that could be considered responsible for plugging abandoned wells, as well as grant authority to the Kansas Corporation Commission (KCC) to adopt regulations to establish a program to reimburse non-responsible parties for plugging abandoned wells.

The Sierra Club understands that part of the legislative intent of HB 2536 is to help expand and expedite the plugging of the abandoned oil and gas wells in Kansas. We understand that the State seemingly has ‘its hands full’ in terms of having a long list – thousands – of abandoned oil and gas wells left to plug. Conceptually, if we can ultimately get more abandoned wells plugged, then that compels the Sierra Club’s favor of the bill, as these abandoned wells left unplugged continually pose a threat to our environment.

However, in addition to this reimbursement element of the bill there are several proposed changes to law that are deeply concerning to us. For several reasons in combination, we must oppose the bill unless significant amendments are added.

**HB 2536 reduces the scope of KCC’s mission to protect against pollution and potential risks created by abandoned oil and gas wells by changing many statutory terms and deleting important provisions.**

First, the Committee may notice the change in definition of ‘abandoned well’ that partly is described by a well ‘not claimed on an operator’s license active with the commission.’ The Sierra Club is nervous that this language provides for a loophole in which operators that (for whatever reason) do not choose to claim certain wells in future time, may effectively remove their obligation to those wells and allow them to inevitably become lost or ‘abandoned’ in the agency’s mind. Hopefully, this is not the actual case, but the change in language gives us serious pause.

Furthermore, HB 2536 changes many obligations of the KCC to investigate matters from ‘shall’ to ‘may’. This is a legal trick to let the KCC off the hook on matters they should be doing. It is important for our regulatory agency to regulate; that is the KCC’s job. In fact, if the KCC were better at regulating in the past, perhaps we would not have such a major problem of abandoned oil and gas wells as we do (not to mention other problems of oil and gas, including our recent problem of induced seismicity and the more recent water contamination threat with buildup of hydrostatic pressure in the Arbuckle formation). The bill strikes ‘threat of pollution’ and changes it to ‘imminent’ pollution, thus reducing the concern of pollution to that which is already happening, versus preventing the pollution as the statute suggests currently. Same situation with changing statute from ‘is causing or is likely to cause pollution’ to ‘is causing pollution’ in HB 2536.

Ultimately, there are too many semantic changes in HB 2536. The new changes are indeed purposeful, to reduce the scope of the regulatory powers of the KCC and give industry less accountability and liability for the problems and pollution they may cause.

**HB 2536 seems to override judicial precedent as ruled in recently in an appellate court case.**

The Legislature ought to respect the autonomy of the Kansas Judiciary with regards to a recent ruling in John M. Denman v. State Corporation Commission (2015). The Denman case clarified the accountability of abandoned oil and gas wells relating to leases and liability. HB 2536, as authored by the industry-heavy Oil and Gas Advisory Committee seeks to circumvent this ruling and reduce the accountability of the industry to abandoned oil and gas wells.

**Finally, does this bill go far enough in addressing the root cause of abandoned oil and gas wells?**

Perhaps increasing the bonding amounts, liability, or fees may better prevent abandoned oil and gas wells going forward. Why wasn't this included? Why is the KCC failing to address some Priority 1-A wells, some of which have not been plugged in several years? We keep adding more abandoned oil and gas wells to the total abandoned list; shouldn't we have a better hold/accountability on this by now?

For those reasons, the Kansas Sierra Club respectfully asks the committee to oppose HB 2536 at this time. We hope we can work together with the KCC to improve this bill so that the legislative intent of plugging more abandoned wells gets accomplished.

Sincerely,

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*The Sierra Club is the largest grassroots environmental organization dedicated to enjoying, exploring, and protecting our great outdoors. The Kansas Chapter represents our state's strongest grassroots voice on environmental matters for more than forty years.*