

Approved March 21, 1988
Date

MINUTES OF THE Senate COMMITTEE ON Agriculture

The meeting was called to order by Senator Allen at
Chairperson

10:05 a.m./~~p.m.~~ on March 16, 1988 in room 423-S of the Capitol.

All members were present ~~except~~

Committee staff present: Raney Gilliland, Legislative Research Department
Jill Wolters, Revisor of Statutes Department

Conferees appearing before the committee: Tim Rose, President, Kansas Pork Producers Council
Sam Brownback, State Board of Agriculture
Roy Poage, President, DeKalb Swine Breeders, Inc.
DeKalb, Illinois
Bob Deacon, pork producer, Kismet, Kansas
Vail Fruechting, sorghum producer, Plains, Kansas
Jerald Stinson, Vice-President, Plains State Bank
Plains, Kansas.
David Riley, DeKalb employee, Plains, Kansas
Steve Lloyd, hog producer, Palmer, Kansas
Rich McKee, Kansas Livestock Association
Bill Fuller, Kansas Farm Bureau

Senator Allen called the committee to order and called for approval of committee minutes.

Senator Warren made a motion the committee minutes of March 15 be approved. Senator Gordon seconded the motion. Motion carried.

The Chairman turned attention to SB 727 and introduced the following proponents to testify.

Tim Rose provided copies of his testimony for the committee (attachment 1).

Sam Brownback gave the committee copies of his testimony (attachment 2). Mr. Brownback questioned the language of SB 727 in lines 224 and 361. Mr. Brownback requested the language read so that, for sure, family farm corporations and authorized farm corporations are not excluded.

Roy Poage gave copies of his testimony to the committee (attachment 3).

Bob Deacon furnished his testimony in writing (attachment 4).

Vail Fruechting furnished his testimony in writing (attachment 5).

Jerald Stinson provided in writing his testimony (attachment 6).

David Riley provided his testimony in writing (attachment 7).

Steve Lloyd gave the committee copies of his testimony (attachment 8).

Rich McKee provided the committee with copies of his testimony (attachment 9).

Bill Fuller gave the committee copies of his testimony (attachment 10).

The Chairman announced the hearing closed for proponents of SB 727 and that the next committee meeting would be for opponents of SB 727; he then adjourned the committee at 11:02 a.m.

GUEST LIST

COMMITTEE: Senate Agriculture

DATE: March 16, 1988

NAME	ADDRESS	ORGANIZATION
BILL FULLER	Manhattan	Kansas Farm Bureau
Chris Wilson	Jopola	KS Grain & Feed Ass'n
Willis Leonard	Topoka	Comm. Ks Farm Org.
Rich McKee	Topoka	KFA
MIKE BEAM	TOPEKA	KS. LIVESTOCK ASSN.
Jean Anderson	Liberal	Detalk
Sam Brownback	Topoka	SBOA
Ray Burns	Topoka	SBOA
Greg Sibstap	TOPEKA	WIBW
VAIL FRUECHTING	PLAINS KS	sorghum producer
Mike Jensen	Manhattan	KS Pork Producers
STEVE LLOYD	PALMER	KPPC
Chris Shalke	mayetta	NFO
Cecil Bowen	mayetta	Farmer
HOIN SQUISH	KDOL	KDOL Topoka
D. Mills		Krus Office
Steve Sutton	Omaha	Grain & Grain
Jerry Jant	Whitely	KEC
John Hulasing	Barleynille	K F U
ROD BIGHAM	MERIDEN, KS	OPPONENT JEFF CO PORK PROD
Kellynda Holmes	Plains, Ks.	Rep Holmes "Free" staff
Steve Sutton	Plains Ks	Detalk. Swine Breeder
Dary J. [Signature]	Plain Ks.	DSB

PRES

GUEST LIST

COMMITTEE: Senate Agriculture

DATE: March 16, 1988

NAME	ADDRESS	ORGANIZATION
Wright Naber	Kismet Ks.	Delall Svine Breeder
Garold Stinson	Plains, KS	Plains State Bank
Harvey Correll	Plains, Ks	Trucking
Jack Elliott	Plains, Ks	FARMER
James Evans	Meade Ks	Mayor
Harold Rechin	Plains Ks	County Commissioner
John [unclear]	Kismet Ks	Meat Trucking
Jimmy Rogers	Liberal Ks	Rogers Trucking
Bob Deaton	Kismet Ks.	Pork Chop Hill
Roe Alexander	Plains Ks	JD Farm Implement Dealer
Shawn McGrath	T. poka	KDOC
Layne Norbert	Secumset, Ks.	Farm Wife Ks Agri-Women
Shannon Francis	Liberal, KS	AAA Electric
David Riley	Plains, Ks	Delall Svine
Vernon Dimes	Ramona, Ks.	Kansas Farmers Union
Jim Rose	Lyons, Ks	KPPC
Roy Towle	Emporia	KF U.
Span W. Wyatt	McPherson	Ks Farmers Union
Emil P. Mulbrink	McPherson	Kansas Farmers Union

LOIS
COPY

TESTIMONY TO SENATE AG. COMMITTEE

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, AND GUESTS. I WANT TO THANK YOU FOR ALLOWING ME THE OPPORTUNITY TO BE WITH YOU THIS MORNING TO TALK ABOUT THE LEGISLATION YOU HAVE BEFORE YOU. I KNOW YOU ARE ALL TIRED OF THE TOPIC OF CORPORATE FARMING IN THE SWINE INDUSTRY. BELIEVE ME YOU ARE NOT AS TIRED OF IT AS I AM. YOU PEOPLE NEED NOT FEAR THAT I WILL BE AFTER ANY OF YOUR JOBS, BECAUSE, I'VE HAD ALL THE POLITICS THAT I CAN TAKE FOR A GOOD LONG WHILE.

I RECENTLY ATTENDED THE ANNUAL MEETING OF THE NATIONAL PORK PRODUCERS COUNCIL. WHILE THERE, IT BECAME VERY APPARENT THAT MANY STATES ARE WRESTLING WITH THE SAME SUBJECT. THE PEOPLE I TALKED WITH ALL THOUGHT THAT THE COMPROMISES THAT THE PROPOSED LEGISLATION HERE IN KANSAS CONTAINS WOULD WORK. THERE IS SOME TALK OF PUSHING FOR FEDERAL LEGISLATION THAT WOULD ACCOMPLISH MUCH OF THE SAME PURPOSE, SPECIFICALLY IN BLOCKING PACKER PRODUCTION OF ANIMALS FOR THEIR OWN SLAUGHTER.

I COMMEND ALL OF YOU FOR YOUR WORK ON THIS TOPIC. I REALIZE IT IS JUST ONE OF MANY MATTERS THAT YOU MUST ADDRESS THIS SESSION, AND TO MANY OF YOUR CONSTITUENTS IT MUST SEEM RELATIVELY MINOR COMPARED TO SOME OTHER ISSUES. HOWEVER, I CAN ASSURE YOU IT IS NOT A MINOR MATTER TO MANY OF THIS STATES PORK PRODUCERS. YOU MOST CERTAINLY WILL BE HEARING FROM A NUMBER OF THEM TOMORROW.

SINCE JANUARY, THE KPPC POSITION HAS BEEN THAT IF ANY CHANGES WERE TO BE MADE WE WANTED AN INCREASE IN TECHNOLOGICAL AND RESEARCH EFFORTS FOR THE CURRENT PRODUCERS OF THE STATE.

attachment 1
3-16-85

EVEN HAD THE CHANGES NOT BEEN ATTEMPTED THIS YEAR, I WAS PREPARED TO PUSH FOR THIS AID TO HELP INCREASE THE ODDS OF SURVIVAL FOR OUR STATE'S CURRENT PRODUCERS. THE TRENDS OF OUR INDUSTRY ARE CLEARLY ESTABLISHED AND THOSE ALREADY PRODUCING PORK IN THIS STATE WILL BE COMPETING AGAINST THE CORPORATE SECTOR WHETHER THAT CORPORATE PRODUCTION IS IN KANSAS OR NOT. THOSE ULTRA LARGE PRODUCTION UNITS HAVE ON STAFF THE NUTRITIONISTS, GENETICISTS AND OTHER SUPPORT PERSONNEL THAT IS IMPOSSIBLE FOR THE SMALL AND MEDIUM SIZED PRODUCERS TO HIRE. AGRICULTURAL MARKETS ARE NATIONAL AND INTERNATIONAL IN NATURE TODAY. STATE LINES MEAN VERY LITTLE TO THOSE MARKETS. IF WE WANT THE CURRENT INDUSTRY OF THE STATE TO STAY HEALTHY, AND I THINK WE CLEARLY MUST KEEP WHAT WE HAVE NOW, THEN AN INVESTMENT OF THE KIND WE'VE ASKED FOR IS REQUIRED AND SHOULD PAY SOME VERY HEALTHY DIVIDENDS IN THE FUTURE.

THIS ISSUE IS SO EMOTIONAL THAT PERSONAL OPINIONS QUITE OFTEN CLOUD GOOD JUDGEMENT. MANY OF THE THINGS SAID AND DONE BY THOSE ON BOTH SIDES OF THE ARGUMENT WILL LEAVE SCARS THAT MAY BE A LONG TIME IN HEALING. I KNOW THAT IN AN ELECTION YEAR THESE DECISIONS ARE EVEN HARDER FOR YOU TO MAKE BECAUSE YOU DON'T ALWAYS HAVE THE TIME TO REPAIR SOME OF THE RIFTS THAT ARE TORN OPEN BY THE EMOTIONS OF THE ARGUMENT. I ASK YOU TO BEAR IN MIND THAT THE EASY THING TO DO IS RARELY THE RIGHT THING. THE KPPC STANCE OBVIOUSLY WAS NOT EASILY ARRIVED AT. IT DOES REPRESENT WHAT WE CONSIDER TO BE THE CORRECT ASSESSMENT OF WHAT THE FUTURE HOLDS FOR ALL THE PORK PRODUCERS OF OUR STATE.

WHAT CHANGES IN CORPORATE FARM LAW THAT ARE TO BE MADE WILL

ULTIMATELY BE UP TO YOU AND YOUR FELLOW LEGISLATORS. YOU KNOW WHAT WE'VE SAID ABOUT THE VARIOUS POSSIBILITIES. YOU ARE AWARE OF THOSE WE'VE SAID WOULD SERIOUSLY DAMAGE THE CHANCES OF SURVIVAL FOR THOSE ALREADY OUT THERE MAINTAINING THIS STATES BILLION DOLLAR PLUS PORK INDUSTRY. I JUST CAN NOT STRESS ENOUGH HOW CRITICAL TO THAT INDUSTRY THE INVESTMENT IN RESEARCH, TECHNOLOGY, AND INFORMATION DISSEMINATION WILL BE.

THANK YOU, AGAIN, FOR ALLOWING ME THIS TIME.

STATEMENT OF
SAM BROWNBACK
KANSAS SECRETARY OF AGRICULTURE
TO THE
SENATE AGRICULTURE COMMITTEE

Senate Bill 727

March 16, 1988

Mr. Chairman it is my pleasure to testify today on behalf of the State Board of Agriculture in support of Senate Bill 727. At the 1988 Annual Meeting of the State Board of Agriculture the delegate body voted to support a center for swine technology and transfer, that is no IRB's, tax abatements or other artificial government inducements to corporate hog enterprises be allowed and that with these safeguards and assistance to small and mid-sized producers they supported changes in the corporate farming law to allow corporations to operate swine farming operations in the state of Kansas. The verbatim resolution is attached hereto. You will recall that the delegate body of the State Board of Agriculture Annual Meeting is composed of all farm organizations and not-for-profit statewide agribusiness groups so it is a general, recognized meeting of all agriculture and agribusiness interests in the state.

Subsequently, the State Board of Agriculture met and approved by a vote of 8 to 1 with one abstention a resolution similar to the one passed by the delegate body. A copy of the State Board's resolution is attached. It in essence states that with proper safeguards, assistance and technology transfer to small and mid-size farms and limitations on vertical integration from the processor back to the producer that the State Board would support changes in the corporate farming law as affecting swine production.

The State Board of Agriculture feels that changes need to occur in the corporate farming law in Kansas regarding swine if the industry is to remain vibrant. Internally we have reviewed the statistics numerous times as we have seen them coming from the Agricultural Statistic Service and as produced by the George O'Day study. Furthermore, we have had numerous industry contacts with large and small producers and have reviewed a significant amount of data regarding changes in the swine industry. These changes are very real, they are structural and they are not turning back. The industry is getting more concentrated and there is nothing that we in the state of Kansas can do to prevent that. We can keep the industry out of Kansas as we did in the poultry industry, yet one has to question how much that cost Kansans in lost jobs, markets for grain and rural development. We have gone from 14,000 pork producers in Kansas in 1980 to 6,900 in 1987. During the same time period we have gone from producing roughly 776 million pounds of pork annually to producing 588 million pounds annually. Our state ranking has gone from 8th in 1980 to 10th in 1987. We are and have been losing pork producers, pork production and state ranking in this field. Something is not working. We see Senate Bill 727 as a package helping to address the problems the swine industry faces in Kansas.

As I stated earlier we in the state of Kansas cannot prevent the swine industry from concentrating. We can prevent the industry from concentrating in Kansas but by doing so we will have a continually declining pork industry in the

attachment 2

3-16-88

state. Conversely in the beef production area where we have let the large-scale, corporate entities operate in the state we have actually grown as a beef state and in beef production and processing. We have taken market share from other states. It's important to note that corporations are, as much as anything else, a way to access capital. Capital formation is a problem in Kansas agriculture. The money is out there but frequently is inaccessible to individuals.

Mr. Chairman, with the safeguards and requests made at the outset of my presentation the State Board does support changes in the corporate swine farming law in Kansas.

Delegate Resolution

1988 Kansas State Board of Agriculture Annual Meeting

Charles Hamon made a motion from the first district regarding corporate farming as follows: First district caucus recognizes the need to stimulate growth in the pork industry in Kansas. We support measures to increase the technological information available to current producers. In order to increase capital availability to the Kansas Swine Industry the first district would support changes in the current corporate farming law only if there are legislative safeguards against any artificial economic incentives and only if the current producers of the state receive the help of an enlarged technological and research effort. The motion was seconded by Vic Krainbill, of the first district. The motion carried 113 votes in favor and 25 against. The motion carried.

RESOLUTION ADOPTED BY THE KANSAS STATE BOARD OF AGRICULTURE

February 22, 1988

WHEREAS the Kansas State Board of Agriculture has always and continues today to whole-heartedly support the family farm. Changes need to be made in certain laws to continue and increase market access for family swine producers, increase in-state grain consumption, increase grain marketing opportunities and create rural jobs.

Therefore, the Kansas State Board of Agriculture supports the following resolution:

The Kansas State Board of Agriculture recognizes the need to assist the current pork producers in the state. To this end, the Kansas State Board of Agriculture supports measures to increase the technological information available to current producers which includes a Center of Excellence for Swine production to be located at K-State.

In order to assist the family pork producer, the Kansas State Board of Agriculture will oppose any corporate swine law changes unless there are legislative safeguards against all artificial economic incentives, and unless current producers of the state receive the help of an enlarged technological and research effort.

Kansas State Board of Agriculture also recognizes the need to maintain a viable pork industry in Kansas. To this end, the Kansas State Board of Agriculture would allow changes in the current swine farming law to include contract production, corporate breeder farm operations, and corporate farrow to finish operations that exclude any vertical integration link between production and processing entities.

Vote count: 8 in favor, 1 against, 1 abstention

March 16, 1988

TESTIMONY BEFORE
KANSAS SENATE AGRICULTURAL COMMITTEE
CORPORATE FARM LAW

Mr. Chairman and members of the Senate Agriculture Committee.

My name is Roy Poage and I'm president of DEKALB Swine Breeders, Inc. I've been asked to come here to answer some specific questions and inform you about DEKALB's operations in southwestern Kansas.

DEKALB is going to build more hog farms whether Kansas changes the corporate farming law or not. If we can't build in Kansas, we will have no other choice, but build somewhere else. We have to increase our production to meet the demand we have for our breeding stock. We are supply restricted. We can sell more breeding stock than we can presently produce.

I. Outline of DEKALB's operations in Kansas and the U.S.

Let me briefly give you the location of DEKALB's breeding stock locations throughout the U.S.

1. DEKALB has four research farms near DeKalb, Illinois.
2. We have Genetic Evaluation breeding stock sales

*attachment 3
3-16-87*

facilities located in Nebraska, Minnesota, Iowa, Illinois, Missouri, Indiana, North Carolina and Georgia.

3. All of DEKALB's foundation farms are located near Plains, Kansas. We have eight farms near Plains that produce all the boars, GP females and about 30% of the hybrid gilts we sell.
4. We have two farms near Lubbock, Texas for research and production.
5. We have crossing farms throughout the hog belt of the U.S. producing about 70% of the gilts we sell.
6. In addition to our domestic sales, we sell breeding stock in Mexico, Canada, Venezuela, Dominican Republic, Ecuador, Japan, China, and Thailand. About 15 to 20% of the profit of the company comes from our international business.
7. Ninety eight percent of the breeding stock that is produced and sold by DEKALB is sold outside the state of Kansas either internationally or in other parts of the U.S.

II. What consideration do we give when contemplating locating in a particular state?

DEKALB intends to locate production facilities in progressive agriculture states. States that nurture and promote agriculture rather than restrict the growth of agriculture units. Since we are a corporation, a state's posture on corporate farming is of paramount importance, because the development of hog production takes infusions of patient money. Corporate structures whether it is from farmers and businessmen forming a corporation or other types of corporations are one of the few entities that can provide the type of capital necessary to build a viable hog production industry. DEKALB decided to come to Kansas in 1972, because Kansas appeared to be a progressive, agricultural state. Our observations were that Kansas would do everything within its' power to promote the development of its' agriculture economy. At least we never imagined it would pass laws to restrict it. We knew about the tremendous growth of the cattle feed lots in Kansas since their inception in the 1960's and we felt hog production could be developed in a similar manner. It was our observation that Agriculture is Kansas' natural resource. We had no indication in 1972 that Kansas would do something to prevent the development of its best natural resource. Kansas doesn't have large oil fields, great deposits of minerals, it doesn't have a sea port, it doesn't have a large labor force necessary for large scale manufacturing. Kansas has agriculture as a natural resource.

III. Economic advantages or disadvantages of locating large swine confinement facilities in Kansas.

When compared to other states Kansas has the best combination of favorable factors for commercial hog production.

1. Kansas has a good climate for hog production. It has a more moderate temperature and is drier than the corn belt states. Both of these factors favor production efficiencies.
2. There is an excess of grain in Kansas and it appears there will be a surplus of grain in Kansas for many years to come. It produces grain, sorghum, wheat, corn and barley. All can be fed to hogs. Grain can be shipped out of the state or it can be used to produce value added products to bolster the state economy.
3. The biggest disadvantage of locating a swine facility in Kansas at the present time is the uncertainty about the state legislature being willing to support and nurture the development of agriculture in Kansas. Kansas could be a major state in hog production in the years ahead but it must take a progressive stance towards animal agriculture. Restructuring of the swine industry will continue for another 25 - 30 years. If Kansas is going to be included in that restructuring, it has to promote the advantages of

Kansas for hog production. Most people don't realize the advantages of hog production in Kansas. The question that we have asked the most since we decided to locate here in 1972 is; why are DEKALB Swine facilities in Kansas? DEKALB has promoted Kansas as a hog producing state ever since we located here. As a result I believe more people within and outside of the state are becoming more aware of Kansas' potential for hog production.

IV. What statutory changes would you believe be necessary in order for your company to build more facilities in Kansas?

Before we will expand in Kansas or before we would relocate any of our research or production facilities in other states in Kansas, we would have to feel the political environment in Kansas is and will be favorable to all of agriculture, large and small. Of course there has to be a change to the corporate farming law to allow land purchases for the production of pigs. The current law will allow the purchase of land to feed hogs but it will not allow for the breeding and production of pigs. Because of disease problems and other management factors, it isn't possible or practical to build a swine industry on feeder pig operations. The most efficient producers have farrow to finish operations.

V. What types of incentives do you believe the state can offer or make available in order to make swine production in Kansas a larger industry?

1. Kansas has to project an image of being a progressive agriculture state in which the legislature will not unduly or unjustly restrict growth of agriculture units large or small. If the swine industry in Kansas is to become a sound, thriving industry it is going to require a constant infusing of capital over many years from those who will participate, be it farmers or corporations. Farmers or any other participant will not invest their money in an uncertain political environment. Kansas farmers are not investing in hog production in Kansas. If there are any farmers in Kansas making a major investment in hog production, we don't know where they are. In fact the last five years have been the most profitable in the history of hog production. During that period 1400 farmers quit producing hogs in Kansas.

2. I don't believe there is any special economic incentives that you have to offer because Kansas has the natural resources for the development of a large swine industry. We didn't locate here because of IRB's and the benefits attached to it. We didn't get in the swine business because of any federal tax breaks. We are in the swine business because we feel it has a great future because many farmers don't want to raise hogs or breeding stock anymore. The trend in the swine

industry for the past 40 years has been to fewer and larger farms. We believe this trend will continue for the next 20 - 30 years. In 1954 there were 2.4 million hog producers in the U.S. Today there are 350,000. Fifty-eight thousand producers have discontinued their hog operations in the last two years even though the last two years have the greatest profitability in hog production in history. No special economic incentives are necessary. Kansas has an environment for hog production.

VI. Do you believe, if Kansas were to permit large corporate swine operations to own agricultural land in its state that this would eventually attract swine processing facilities?

Large hog farms per say will not attract packing plants. It is going to take an increase in hog numbers in order to attract swine processing plants. The cattle processing plants in Kansas came after the cattle were being fed not before. I think the immediate concern is that there is for the only large processing plant left in the state of Kansas. If hog numbers decline any further, that plant will probably close. That one plant can kill most of the hogs produced in Kansas today. Wisconsin recently lost their last large packing plant. Producers are now trying to find a place to sell their hogs. Most will have to ship to Iowa or Illinois. The price of hogs in Wisconsin will decline and more producers will discontinue their operations. The same

situation has already happened in Georgia, Texas and Kentucky. At one time these states were in the top fourteen hog producing states.

VII. The restructuring of U.S. agriculture

There is a misunderstanding by farmers as well as other people about what is happening in agriculture. U.S. agriculture is changing and has been changing since the 1920's. In 1940 25% of the U.S. population lived on farms. Today less than 5% of the U.S. population lives on farms. Just recently the census bureau stated there are 4,986,000 people living on farms in 1987, 240,000 fewer than in 1986. This is the smallest farm population since farm census records have been kept. The Census Bureau estimated that the last time there were fewer than 5 million farmers, was in 1820. The U.S. farm population grew to a peak of 32.5 million in 1916, and remained near 30 million until world war II when a steady decline began. This trend has not been disrupted and from all indicators will continue. Even the \$25 to \$30 billion government subsidy each year for agriculture has not and will not stem the exit of the population from the rural areas to the cities across this land. The continuing flow of people from farms to the cities is a reality that must be put into proper perspective. The federal and state governments attempts to create artificial barriers and artificial environments in order to keep people on farms have been failing for many years.

Some people are contending that Corporations are putting farmers out of business. That is a misconception. Corporations are not putting farmers out of business.

Corporate hog farms are not displacing small hog farmers. I submit to this committee there is no verifiable evidence that this has happened or is happening. I submit to you that hog corporations have only taken the place of hog producers who have quit.

1. In 1959, there were 37,615 hog farms in Kansas by 1969 there were 19,784. 17,000 hog farmers discontinued their operations from 1959 to 1969. There were no corporations in Kansas during that period. Corporations didn't displace small hog producers in the 1960's nor are they doing it today.
2. Large hog corporations started after hundreds of thousands of producers discontinued their hog operations.
3. There are ten large corporate hog farms that have been identified by name in the Kansas Inc. Study. These farms did not become large operations until the late 1970's after nearly 1.5 million hog producers had quit raising hogs in the previous 16 years.

- a. Wendell Murphy was an Ag teacher and started on a small scale hog farm in 1960's. Wasn't big until the mid to late 1970's.
- b. Tyson started in the late 1960's. Wasn't big until the mid to late 1970's.
- c. Cargill started in the early 1970's. Wasn't big until the early 1980's.
- d. National Farms started in the early 1970's but didn't become big until early 1980's.
- e. Carrolls' Foods started in the late 1960's. Not real large until 1980's.
- f. Sand Livestock started in the early to mid 1970's. Wasn't big until late 1970's.
- g. Goldkist started in the mid 1970's.
- h. Hastings Pork started in the early 1970's.
- i. Agrivest started in the late 1970's.
- j. DEKALB started in 1971.

These companies including DEKALB farrow less than 3% of the pigs farrowed in the U.S.

The number of hog producers have declined 85% in the last 33 years. Over one million farmers in the U.S. quit hog production from 1960 to 1970, which was before most of the large hog corporations were in existence.

The proper perspective of corporations roles in hog production is that they started only after over 1.5 million producers quit. Corporations didn't displace producers. Large corporate hog farms didn't force small producers out. Corporations took the place of the producers who quit.

VIII. DEKALB's impact on southwest Kansas.

I would like to set the record straight on DEKALB's affect on hog production in SW Kansas. It has been called to my attention that information has been circulated to many of you about how DEKALB has displaced hog producers in southwestern Kansas. In the information I received was this statement "DEKALB's entrance into hog production in the mid-seventies in southwest Kansas has lead to the decline of other hog producers." That is simply not true. First of all one must compare what has happened in northwest, central and eastern Kansas as compared to southwestern Kansas before a true perspective can be established. We have made that comparison, which I will hand out.

DEKALB decided in 1972 to start production in southwest Kansas. So we took the inventory of hogs and pigs of the year prior to our decision so there is no influence by DEKALB on the numbers which was 1971. We compared the inventory of all hogs and pigs of 1971 to 1986. We used the inventory of all hogs and pigs on December 1st as reported by the USDA and the Kansas Crop and Livestock Reporting service. The inventory number of all hogs and pigs are the most accurate numbers available because the numbers are determined for a given date. The pig crop numbers used in the hand out that were circulated are inaccurate because pig crop numbers are based on years and cannot be accurately verified for a given county or region. Inventory numbers can be verified because they are taken on a given date.

I understand this information has also been given to this committee, that DEKALB doesn't buy its' grain in Kansas and doesn't buy supplies locally. Again that is not true. About 80 to 90% of the two million bushels of grain we use is bought within a 20 mile radius of our farms near Plains. The remainder is bought from other parts of Kansas. Each year we purchase the following within Kansas:

- * Grain - \$3.5 to \$5 million
- * Other feed ingredients \$3 to \$4 million
- * Labor \$3 million
- * Kansas natural gas and

Kansas electrical power	\$1 million.
* Kansas trucking	\$.6 million.
* Equipment, supplies, building material and local contractors service	<u>\$1 million</u>

TOTAL \$12 - \$14 spent yearly in
Plains, Liberal, Dodge City,
Garden City, Wichita, Lyons,
Emporia, Gypsum and Kansas
City.

There are big expenses involved in breeding stock production.

DEKALB decided to locate its' facilities in Kansas in 1972 because we thought it was the best place to build a swine operation. I hope this information puts in perspective, the positive impact that DEKALB has had on hog producers in southwest Kansas as well as the state economy.

If you have any questions, I would be glad to try to answer them.

**INVENTORY OF ALL HOGS AND PIGS
ON DECEMBER 1, 1971 VS. DECEMBER 1, 1986**

1971			1986			% chge						
NW	107,000	59,000	-	45%	NC	430,000	268,000	- 38%	NE	370,000	311,000	- 16%
WC	47,000	47,000	0%	CC	207,000	139,000	- 33%	EC	319,000	151,000	- 53%	
SW	64,000	145,000	227%	- 20%	SC	227,000	144,000	- 37%	SE	329,000	186,000	- 43%
Seward and Meade Counties (DEKALB Excluded)												
	11,500	18,500	+ 61%									

TOTAL WESTERN REGIONS			TOTAL CENTRAL REGIONS			TOTAL EASTERN REGIONS		
218,000	251,000	+ 15%	864,000	551,000	- 36%	1,018,000	648,000	- 36%
(DEKALB EXCLUDED)		- 28%						

	1971*	1986	% change
TOTAL KANSAS	2,100,000	1,450,000	- 31%

ALL HOGS AND PIGS ON DECEMBER 1ST

* Highest inventory on December 1, of last 16 years.

CORPORATE FARMING LAW FACT SHEET

1. Decline of hog producers in Kansas.*

	<u># of Producers</u>	<u>Change in Hog Production</u>	<u>% Change</u>
1959	37,615		
1969	19,784	- 17,831	- 47%
1979	15,000	- 4,784	- 24%
1987	6,900	- 8,100	- 54%

* SOURCE: U.S.D.A.

2. Decline of hog producers in Kansas since the corporate farming law was enacted in 1981.

	<u># of Producers</u>	<u>Change in # Of Producers</u>	<u>% Change</u>
1981	13,000		
1987	6,900	- 6,100	- 47%

3. Decline in number of U.S. hog producers.*

	<u># of Producers</u>	<u>Change</u>
1954	2.400 million	
1971	.870 million	- 1.530 million
1986	.348 million	- .522 million
1987	.332 million	- 16 thousand

* SOURCE: U.S.D.A.

Corporate Farming Law Fact Sheet
Page 2

4. U.S. farm population decline.*

	<u>Farm Population</u>	<u>Change</u>
1916	32.5 million	
1940	30.5 million	- 2.5 million
1986	5.23 million	- 25.3 million
1987	4.99 million	- 240 thousand

Last time U.S. Farm population was less than 5 million was in 1820.

* SOURCE: U.S. Census Bureau

The Des Moines Register

A Gannett Newspaper

Charles C. Edwards Jr., President and Publisher
James P. Gannon, Editor

Arnold H. Garson, Managing Editor James S. Flansburg, Editor of Editorial Pages
Diane Graham, Deputy Managing Editor Richard Doak, Deputy Editor of Editorial Pages

THE REGISTER'S EDITORIALS

Farms just will get bigger

The Legislature has discovered another loophole in the law against corporate ownership of farmland. The discovery is what most any student of business knows — that limited partnerships are a lot like corporations — so there's a bill in the works to prohibit a limited partnership from owning more than 1,500 acres of farmland.

It probably won't be the last time the corporate-ownership law needs patching. When it was first enacted in the 1970s, it contained loopholes big enough to drive a combine through, and more keep opening up as fast as the old ones are patched.

Meanwhile, family farms, which the law was supposed to protect, keep right on disappearing. That ought to give lawmakers a hint that maybe they're going about it the wrong way.

The law was a response to worries about the future of the family farm. The fear was that corporations would buy up the farmland, replacing Iowa's small and medium-sized owner-operated farms with giant corporate food factories.

The law prohibited corporations from buying farmland — well, some corporations. Family corporations are exempted. And there are numerous other exceptions.

Whenever it is necessary to keep patching a law, it ought to raise suspicions about whether the law is the on the right track.

In the corporate-ownership law, the problem is that the Legislature addressed only one type of business organization — the corporation and now the limited partnership. That's like passing a law against speeding, but applying it only to a few kinds of vehicles.

The enemy of family farming in Iowa is not a form of business organization called the corporation, or the limited partnership. The enemy is bigness, in whatever form.

Bigness isn't limited to corpora-

tions. Most family farms that disappear are not bought by outsiders. They're bought by other family farmers who are enlarging their operations. As long as the buyer doesn't call himself a corporation, he could buy up the county.

What's the point in restricting a few types of corporations and limited partnerships, but allowing any other form of ownership to amass unlimited amounts of farmland? (And if it had a point, a 1,500-acre limit is too generous. One could build an awfully big factory farm on that.)

If the Legislature really wants to preserve the small and medium-sized farm, it should consider passing laws discouraging bigness in any form.

There are possible ways to stack things in favor of small and medium-sized farms. Acreage limits could be placed on all owners, not just corporations. The agricultural land tax credit could be limited to, say, the first 300 acres. Or there could be a progressive property tax where rates would increase as the size of the landholdings grew.

But these remedies probably would encounter fierce resistance from farmers themselves, because many small farmers harbor dreams of someday becoming big farmers. The biggest enemy of the family farm isn't the corporation, it's the farmer down the road.

Patching up the corporate-ownership law may make legislators feel good, but it's not going to change that.

March 16, 1988

TESTIMONY BEFORE
SENATE AGRICULTURAL COMMITTEE

Mr. Chairman and members of the Senate Agricultural Committee on Corporate Farm Law.

My name is Bob Deacon. I grew up on a farm in northwest Iowa and attended a two-year animal husbandry course at a voc-tech in Iowa. From there I went to work on a farm in California and then came to DeKalb Swine Breeders in Kansas in 1974. I worked for DeKalb for 10 1/2 years before buying my own hog farm three years ago. DeKalb has been and is one of the foremost leaders in the swine industry. I know I would not be as successful as I am today if it were not for the knowledge and experience I gained by working at DeKalb.

I feel that corporations should be able to own land to raise livestock in Kansas as long as there are no tax breaks or incentives given to them that are not given to individuals. This country is based on the free enterprise system. Free enterprise means that anybody has a chance to own his own business and make it successful. With the corporate law that we now have, we are limiting the free enterprise system. Most corporations were started by one individual.

I am certain there are plenty of cities in Kansas that would welcome a new McDonalds, a new Walmart, or a new K-Mart in their town. On the other hand, we are standing back and allowing a few to limit the

attachment 4
3-16-88

economic and agricultural progress that corporate hog farming could offer their communities and the state of Kansas.

I have had several people ask me about being neighbors with DeKalb: "How do you compete?" I always reply: "I am not really competing with DeKalb. I am competing with the other people in the world who produce other protein sources such as beef and poultry." As pork producers, we have to stick together and promote our product to the fullest. We have to find new ways to use our products. We have to get consumers educated as to how pork can be a nutritious part of their diet.

I am sure there are still some that say the larger producer has an economic advantage over a small producer. Farming is like many other industries. There are certain advantages to size and scale. It is and will be very difficult to make a living farming a quarter section of land; there simply is not enough income potential. This same situation exists for the small hog farmer. I am certain I can generate more income with a 125 sow herd than with a 50 sow herd and thus better support my family.

However, the real key to being in the swine industry today is efficiency, not size. I am aware of my cost of production, and having worked for DeKalb, I have an idea of what their costs are. Through good management of swine husbandry and economics, I am able to be a part of the industry along with any large producer in the state of Kansas.

If you are a believer of the free enterprise system, you will pass this corporate bill.

March 16, 1988

TESTIMONY BEFORE
SENATE AGRICULTURAL COMMITTEE

Mr. Chairman and Members of the Senate Agricultural Committee.

My name is Vail Fruechting from Plains, Kansas. I am here in support of corporate farming in general, and DeKalb Swine Breeders in particular. I believe that corporate hog farming in Kansas could greatly benefit the state of Kansas, and create greater opportunities for young farmers, such as myself, and all farmers in general.

I am thirty years old and have been farming on my own for three years since 1985. There are a lot of young farmers around Plains just like myself who have had the opportunity to begin farming in recent years, in spite of the poor agricultural economy. Because of the irrigation, which almost guarantees us a crop to sell, and industries such as DeKalb Swine Breeders, the cattle feeding and beef packing industry in western Kansas, lending institutions have been willing to help young farmers get their start in farming. I have had the opportunity to visit with other young farmers and ranchers across the state and across the nation, and I feel that southwest Kansas has one of the strongest agricultural economies in the nation. As you know, a strong agricultural sector greatly benefits the nonagricultural economy as well. Plains is a growing, thriving community with prosperous

attachment 5
3-16-88

businesses. Many young people are able to stay in the community and on the farm because of opportunities created by industries like DeKalb.

I'd like to tell you how DeKalb benefits me as a grain sorghum producer. From harvest time until about the middle of December, I have the opportunity to sell my milo for approximately \$.20/cwt higher than the local elevator market. This means about five to six thousand dollars in additional net income for my operation. If I choose not to sell after harvest, then in mid-December my grain goes on "open contract." This means that DeKalb's buying price will be the same as the local elevators, but I will not be charged storage. Generally, about March or April, DeKalb will be back in the market for more grain sorghum. Farmers with on-farm storage have the opportunity again to sell their stored grain for a premium. I think that local consumption of our grain sorghum benefits growers in a much broader area, also. If we did not sell to DeKalb, that grain would be going somewhere, and probably at a lower price, wherever it is shipped.

I am also a director on the Kansas Grain Sorghum Producers Association board. At our February board meeting we went on record in support of an exemption to the corporate farm law for hog farms, as long as private hog farmers have access to the same economic incentives (tax breaks, etc.) as corporate farms might receive. We believe this exemption would benefit grain sorghum

growers statewide, without injuring the family hog farmer.

In closing, I would like to urge your support for a change in the Kansas corporate farm law. I believe it would benefit not only myself as a beginning young farmer, it would benefit the state of Kansas as a whole.

March 16, 1988

TESTIMONY BEFORE THE KANSAS SENATE AGRICULTURE COMMITTEE

Mr. Chairman and members of the Senate Agriculture Committee.

I am Jerald Stinson, Vice President and a Director of The Plains State Bank, Plains, Kansas.

We are a rural community of approximately 1,100 population. Our bank was chartered in 1906 and has \$24 million in total assets. We employ 14 people. Our capital of 3½ million dollars represents about 14% of our total assets, which is relatively high as bank capital ratios go today.

Since 1974, our deposits have increased an average of \$954,000 per year. There are three banks, 2 credit unions, and a Savings and Loan branch in Meade County, all of which benefit from the Dekalb payroll, grain purchases, and housing rentals.

There is a cross-section of our area residents here today all in support of a change in the Corporate Farm Law which would allow Dekalb Swine Breeders, Inc. to increase their breeding stock operation which, in turn, would have good economic impact on our local and state economy.

With Oklahoma being located only 15 miles south of us, our Meade County, Kansas community appreciates the tremendous boost the Dekalb payroll gives our merchants and the larger area towns of Liberal, Garden City, and Dodge City. That same payroll brings our bank some flexibility in managing our deposit, loan, and income bases. Due to Dekalb, the bank has an opportunity to compete for 175 checking accounts, savings accounts, and various loans for local purchases which is a fact any banker or merchant can appreciate.

In the last five years, our young farmer/borrower base has increased rather than declined. Some of the reasons are: The government farm program with the \$50,000 per farm limitation, but also we have a number of college educated young farmers returning to our area using more efficient farming practices and various marketing tools. Some of those tools include forward sales contracts, commodity hedging and faster electronic information gathering by satellite and computer. Dekalb Swine

attachment 6

3-16-88

Breeders offers local farmers forward contracting of grain with free storage and direct purchase of grain at approximately 10¢ per bushel bonus when delivered to their feed mill near Plains. Because milo purchased by Dekalb is produced in Kansas, processed in Kansas, and consumed in Kansas, those dollars are rolled over numerous times in our state by farmers for fertilizer, seed, fuel, taxes, wages, repairs, entertainment, medicine, machinery, insurance, food, schools, housing, etc. Even the exporting of the hogs across the U.S. is done by trucks owned or financed by my customers.

Dekalb does not farm the land they own in our area. As an example, only about 18% of a quarter section of land is used per farm for swine facilities, lagoon, and housing. The remainder of the land is leased to local farmers, who, in most cases, get the benefit of the lagoons for liquid fertilizer which is applied back on the next crop of milo. In fact, some of the family farms leasing the land from Dekalb own or control much more land themselves than the six quarters of land owned by the corporation.

I feel it is better for Kansas to have the benefit of corporate farmers owning land for the purpose of breeding stock production, than for those benefits previously mentioned to end up in a neighboring state. This type of value added agricultural production has more economic benefits when we export a finished product of boars and sows to China, than only exporting our raw product of grain out of state where the value will be added and then purchased by Kansans.

We do finance farmers who have small hog operations and those operations have increased locally in recent years. Breeding stock and advice has been available from Dekalb making the corporate hog producer very beneficial to the agricultural economy of Kansas. We are glad to have Dekalb Swine Breeders, Inc. in Meade County and support their desire to expand here.

Thank you.

March 16, 1988

TESTIMONY BEFORE
SENATE AGRICULTURAL COMMITTEE

Mr. Chairman and members of the Senate Agricultural Committee on Corporate Farm Law.

My name is David Riley, and I am a farm manager for DeKalb Swine Breeders in Plains, Kansas. Three years ago upon graduation from Texas A & M University, my options for employment in agriculture were limited. There was no family farm to inherit; my father teaches school. I did not have the experience or collateral to qualify for a loan to begin on my own. I did not think I had a chance to work in animal husbandry, which is what I wanted to do. A corporate swine farm in Kansas gave me that opportunity.

A degree in agriculture does not guarantee a job in agriculture. Many of my classmates at school now must work in other careers, such as insurance sales, real estate sales, and banking, but they really wanted to work in agricultural production. Accessible jobs in agriculture are limited, and enrollment in agricultural studies at land-grant colleges, such as my school, will continue to decrease.

A corporate farm was my chance to work in swine husbandry and in agriculture. My classmates want to work in agriculture, but I am doing it. I am happy to be a contributing part of American agriculture

attachment 7
3-16-88

and a rural community. I, and others like me, are a flow into agriculture, when so many are leaving agricultural production. I am proud of the way I earn my living and I am proud of my company. I enjoy trying to raise the best pigs that I can every day. A corporate farm gave me and many of my fellow employees the chance to work in agriculture without inheriting, marrying, or borrowing it.

Thank you.

March 16, 1988

My name is Steve Lloyd. I am a pork producer from northern Clay County I am the Area Group Director for the Washington County Pork Producers and also a second year executive board member of the Kansas Pork Producers Council. I also serve as a representative for Kansas Farm Bureau on American Farm Bureau Federation Swine Advisory Committee.

As you and I both know by now, expanding the Kansas corporate farm laws relative to swine production is a very emotional issue. It is an issue that has pitted neighbor against neighbor, relative against relative, husband against wife AND pork producer against pork producer Why then did the KPPC Executive Board decide to make a policy change on such a controversial issue? Why didn't we take the easy road and continue to fight the corporate hog?

For me the answer to those questions is that we need to face the reality of the situation, and we as leaders in the pork industry need to take an aggressive approach to help provide our members the tools they will need to compete in the future. We believe this legislation addresses both of these criteria.

The reality of the situation is that we are already competing against the corporate hog. Any product that can be and is grown nationwide cannot be isolated from the eventual laws of supply and demand or by protectionist legislation. The price that we receive for our hogs in Kansas is already being effected by the corporate hog production in states such as North Carolina and Arkansas and by the contract feeding of hogs in Iowa.

In a visit with Frank Wilson, director of agricultural services for Ark City Packing Company, I found that his company is currently receiving three to four semi loads per day from Tyson in Arkansas and in a recent article in the farm journal publication HOGS TODAY, I was surprised to read that a 5,000 sow corporation in Colorado, High Plains Land and Livestock, shipped their market hogs some 600 miles back to Ark City Packing. I might add that these hogs are shipped through the local NFO, one of the strong opponents of this legislation.

Congressman Pat Roberts once remarked to me, "Long term you cannot legislate what economics dictate." We cannot legislatively stop the corporate influx of hogs through protectionist legislation here in Kansas. That legislation should have been passed 20 or 30 years ago in Washington. As Hank Ernst, editor of the Kansas Farmer wrote recently in an editorial, the corporate sow has her head through the gate and we are trying to stop her by hanging onto her tail. Any of you who have handled hogs know that is not an enviable position to be in.

Craig Good, a fellow KPPC Executive Board member asked recently, "Why do we always have to be fighting something? Why can't we do

attachment 8
3-16-88

something positive for our members." Well if the reality of the situation is that we are going to have to compete with the corporate hog--whether it is produced in or out of our state-- then what can we as leaders in the pork industry do to help our members compete. There are a number of items here that need our attention.

LEVEL PLAYING FIELD - You and our legislators in Washington have done a good job in eliminating most of the tax advantages that corporations had over the individual producer, but we as leaders and representatives must continue to work to find and eliminate all artificial economic incentives that might give the corporate entity an advantage over the individual producer. We must be careful here not to confuse issues of size with issues of type. The large operation will always have some advantages in buying power and marketing power but these are size relative advantages not type relative advantages. The large operation also has the disadvantages and inefficiencies of hired labor to contend with.

VERTICAL INTEGRATION - The packer must never have total control of our industry. This is one of my biggest concerns and an area where the poultry and beef industries are going to run into trouble in the future. If the packers cannot own the market hog it will be in their best interest to have a large number and variety of producers to buy from. For example, one packer buying all his hogs from one huge corporation would be at the mercy of that corporation who at any time could switch packers, leaving the original packer with no hogs to kill. Conversely it is in the producer's best interest to retain a variety of packers to sell to in order to guarantee himself a competitive bid. I believe that drawing the line on vertical integration between the producer and the packer would help guarantee good competition for both the producer and the packer.

TOOLS TO COMPETE - We all want to see the survival of the family farm but the only way to insure the survivability of the family farm is to make it the most profitable, the least costly, the most efficient ag production unit in America today. We can do this by providing the family farmer with the tools to compete: the latest technology, the most current research, easily accessed information, and the people and equipment to transfer that knowledge to us. This is the center for swine technology. This is an investment by you our elected officials to help insure the survivability of the family farm. This is an investment in an industry that will return money to the state with potential taxes and enhanced economic activity, potential packing plants and value added products. And, this is an investment in a major industry in our state that has the potential to provide new jobs for some, retain jobs for others and keep the independent pork producers in the community supporting the local economy and community activities. This is an investment that will return money to the state not act as a syphon tube on the state treasury.

We clearly have two choices. Like the ostrich, we can bury our head in the sand ignoring the realities around us and slowly find our way of life, our communities, our neighbors and finally us forced out of business by the competition. Or, we can arm ourselves with the best information, the most current research, the most accurate marketing advice, the latest technological innovations, and become the least cost producer, the most profitable marketer and finally the most competitive pork producer in the industry for the future.

If we treat farming as a business first, it will provide us with a way of life; but if we treat it as a way of live first, it will surely fail us as a business.

Won't you help me to help myself and at the same time provide a business atmosphere in Kansas that will attract new businesses and industry as well as retain our present ones.

Submitted by:

Steve Lloyd
Palmer, KS



2044 Fillmore • Topeka, Kansas 66604 • Telephone: 913/232-9358
Owns and Publishes The Kansas STOCKMAN magazine and KLA News & Market Report newsletter.

STATEMENT
OF THE
KANSAS LIVESTOCK ASSOCIATION
TO THE
COMMITTEE ON
AGRICULTURE
SENATOR JIM ALLEN, CHAIRMAN
SENATOR DON MONTGOMERY, VICE CHAIRMAN
WITH RESPECT TO SB 2448 727
PRESENTED BY
RICH MCKEE
EXECUTIVE SECRETARY, FEEDLOT DIVISION
MARCH 16, 1988

Mr. Chairman and members of the committee, I am Rich McKee. I am here representing the Kansas Livestock Association. KLA represents a broad range of over 9,000 livestock producers. These members raise cattle, swine, dairy, and sheep. In addition, many KLA members produce grain, hay, and other feedstuffs.

The Kansas Livestock Association supports Senate Bill 727.

KLA members reviewed and approved the swine center of excellence concept. Our members concur with the findings of the joint committee, that swine producers need technical assistance.

attachment 9
3-16-88

KLA members have traditionally supported legislation that encourages free entrance into any business. Some portions of SB 727 would allow more open entrance into the production of swine. Specifically, lines 0324-0331 would allow DeKalb to expand their Kansas operation. KLA members feel DeKalb has been good for Kansas. We believe that DeKalb should have the right to expand.

The third area addressed by the bill is contract feeding, lines 0332-0337. We believe this amendment would restrict entry into pork production as compared to current law. It's our understanding this language was added in response to opinions given by the Attorney General last year. Both of those opinions are attached for your review. Under current law, and as stated in the Attorney General's clarifying and latest opinion on the issue, **any** corporation can contract with a farmer for the production of hogs. New section 5 would prohibit corporations that are directly or indirectly considered a pork processor, as defined in lines 0211-0222. KLA is in favor of allowing corporations to contract for the production of hogs, or any livestock. In this regard, KLA would be open to working with the committee on possible amendments to Senate Bill 727.

Thank you for considering the opinion of the members of the Kansas Livestock Association.



RECEIVED
NOV 23 1987
M...

STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN
ATTORNEY GENERAL

November 23, 1987

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751
ANTITRUST: 296-5299

ATTORNEY GENERAL OPINION NO. 87-160A

Christopher Y. Meek
Cherokee County Attorney
Cherokee County Courthouse
Columbus, Kansas 66725

Re: Corporations--Agricultural Corporations--
Prohibition Against Certain Corporations Owning
Agricultural Land

Synopsis: A hog raising operation in which a corporation contracts with a farmer to raise hogs to a slaughter weight and the animals are taken to slaughter comes within K.S.A. 1986 Supp. 17-5904(a)(8), the feedlot exception to the proscription against a corporation directly or indirectly owning, acquiring or otherwise obtaining or leasing any agricultural land. Cited herein: K.S.A. 1986 Supp. 17-5903; 17-5904; K.S.A. 47-1502 et seq.

*

*

*

Dear Mr. Meek:

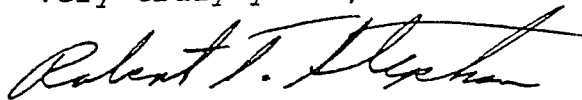
In response to an additional factual determination concerning a hog operation such as that discussed in Attorney General Opinion No. 87-160, we are issuing a clarification opinion. We have been advised that in a situation where a corporation contracts with a farmer to raise hogs to a slaughter weight, the animals are indeed taken to slaughter because there is no other marketable use for the animals. This factual information determines the applicability of an exception to the proscription found in K.S.A. 1986 Supp. 17-1504.

One of the exceptions to the proscription in K.S.A. 1986 Supp. 17-5904 (which prohibits a corporation from directly or indirectly owning, acquiring or otherwise obtaining or leasing agricultural land) is K.S.A. 1986 Supp. 17-5904(a)(8). This exception would allow a corporation to hold or lease agricultural land for use as a feedlot. A feedlot is defined in K.S.A. 1986 Supp. 17-5903(f) as a lot, yard, corral, or other area in which livestock fed for slaughter are confined. The feedlot regulation statutes found in K.S.A. 47-1502 et seq. define livestock as cattle, swine, sheep or horses. Thus, hogs can be animals that may be used in a feedlot operation, and if the hog operation requires not only that they be raised to slaughter weight but also that the animals be fed for slaughter in accordance with the statute, it is our opinion that the operation comes clearly within the feedlot exception.

In addition, we have been advised that while a swine confinement facility is equated with a feedlot (see Minutes of the House Economic Development Committee, February 1987), they are not the same. This information alleviates our concern that the 1987 Session of the Legislature had rejected a hog operation such as Rickel's as an exemption.

In summation, the additional facts presented to us persuade us to conclude that the hog operation described in Attorney General Opinion No. 87-160 comes within the feedlot exception to the proscription against a corporation indirectly or directly owning, acquiring or otherwise obtaining or leasing agricultural land.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Guen Easley
Assistant Attorney General

RTS:JLM:GE:jm



RECEIVED
NOV 09 1987
Ans'd.....

STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN
ATTORNEY GENERAL

October 30, 1987

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751
ANTITRUST: 296-5299

ATTORNEY GENERAL OPINION NO. 87- 160

Christopher Y. Meek
Cherokee County Attorney
Cherokee County Courthouse
Columbus, Kansas 66725

Re: Corporations--Agricultural Corporations--
Prohibition Against Certain Corporations Owning
Agricultural Land

Synopsis: The proscription against a corporation, directly or indirectly, owning, acquiring or otherwise obtaining or leasing any agricultural land is found in K.S.A. 1986 Supp. 17-5904, as amended by L. 1987, ch. 368, sec. 2. A hog raising operation where a corporation contracts with a farmer to raise hogs to a slaughter weight allows the corporation to indirectly acquire agricultural land in violation of the statute. Cited herein: K.S.A. 1986 Supp. 17-5903; 17-5904, as amended by L. 1987, ch. 368, sections 1 and 2; 1987 House Bill No. 2076, as introduced.

*

*

*

Dear Mr. Meek:

As County Attorney for Cherokee County, Kansas you have requested an Attorney General's opinion regarding a possible violation of K.S.A. 1986 Supp. 17-5904 and amendments thereto. Specifically, you inquire whether a Kansas corporation can engage in a hog raising operation without violating the proscription against a corporation, directly or

indirectly, owning, acquiring, or otherwise obtaining or leasing any agricultural land in this state.

You indicate that Rickel, Inc., a corporation doing business in Kansas, currently operates and maintains grain elevators in Kansas and surrounding states. This corporation contracts with area farmers to maintain several hundred hogs to a slaughter weight. When the hogs reach the slaughter weight, they are removed by Rickel, Inc. and taken to market. Thereupon a new set of hogs are delivered to the contracting farmer to be raised to slaughter weight. The farmer in turn receives a weekly payment for his services. The farmer utilizes his land and facilities but Rickel, Inc., does not acquire a direct interest in the land or facilities. The contract, however, specifies that the farmer is to provide the land and necessary buildings, feeders and water troughs to perform under the contract.

K.S.A. 1986 Supp. 17-5904, as amended by L. 1987, ch. 368, sec. 2, states in part:

"(a) No corporation, trust, limited partnership or corporate partnership, other than a family farm corporation, authorized farm corporation, limited agricultural partnership, family trust, authorized trust or testamentary trust shall, either directly or indirectly, own, acquire or otherwise obtain or lease any agricultural land in this state. The restrictions provided in this section do not apply to the following. . . ."
(Emphasis added.)

The statute lists fourteen exceptions, none of which apply to your situation. The question is whether the facts as presented allow the corporation to "directly or indirectly own, acquire or otherwise obtain or lease" agricultural land in violation of the statute.

A statute is not subject to statutory construction if the intent appears from clear and unambiguous language. State v. Haug, 237 Kan. 390 (1985), Szoboszlay v. Glessner, 233 Kan. 475 (1983). The language in K.S.A. 1986 Supp. 17-5904, as amended plainly and clearly prohibits a corporation from having any direct or indirect interest in agricultural land. While the facts indicate that Rickel, Inc. obtains no direct


interest, it is our opinion that the circumstances give the corporation an indirect interest in agricultural land.

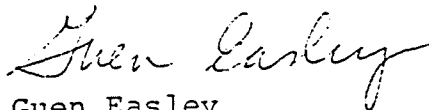
We are also persuaded that the operation described is very similar to that proposed to the legislature during the 1987 legislative session. 1987 House Bill No. 2076 amended K.S.A. 1986 Supp. 17-5904 to include two additional exemptions, where a corporation could hold or lease agricultural land to operate a poultry confinement facility or a rabbit confinement facility. Subsection 2(a)(8) of 1987 House Bill No. 2076, as introduced, also contained an exemption to permit a corporation to hold or lease agricultural land to operate a swine confinement facility. This provision, however, was deleted by the House Economic Development Committee. Minutes of the House Economic Development Committee, January 23, 1987 to March 5, 1987. Before deletion, subsection 1(p) (amending K.S.A. 1986 Supp. 17-5903) of 1987 House Bill 2076 included the following definition of a swine confinement facility:

"Swine confinement facility' means the structures and related equipment used for housing, breeding, farrowing or feeding of swine in an enclosed environment. The term includes within its meaning only such agricultural land as is necessary for proper disposal of liquid and solid wastes and for isolation of the facility to reasonably protect the confined animals from exposure to disease."

It is clear from the legislative changes that a hog enterprise resembling Rickel, Inc.'s has been rejected as an exemption to the proscription against a corporation owning or acquiring agricultural land. Thus, in conclusion, it is our opinion that until the legislature exempts the operations described from the proscription in K.S.A. 1986 Supp. 17-5904 and amendments thereto, such activity violates the statute by providing the corporation with an indirect interest in agricultural land.

Very truly yours,


ROBERT T. STEPHAN
Attorney General of Kansas


Guen Easley
Assistant Attorney General



PUBLIC POLICY STATEMENT

SENATE COMMITTEE ON AGRICULTURE AND SMALL BUSINESS

RE: S.B. 727 - Implementing the Recommendations of the Select
Committee on Corporate Farming

March 16, 1988
Topeka, Kansas

Presented by:
Bill R. Fuller, Assistant Director
Public Affairs Division
Kansas Farm Bureau

Mr. Chairman and Members of the Committee:

My name is Bill Fuller. I am the Assistant Director of the Public Affairs Division of Kansas Farm Bureau. We appreciate this opportunity to testify on S.B. 727.

Spirited debate over the Corporate Farm Law is not new in Kansas. After much hot political debate, the 1931 Legislature enacted one of the earliest and strictest corporate farming laws in this nation. In 1981, a number of you committee members were involved in the extensive study, debate and rewriting of the Corporate Farm Law. We all are aware of the activities concerning poultry, rabbits and hogs in recent years.

Few issues have stirred emotions more than proposals to change the Corporate Farm Law. Farm Bureau has not escaped that debate. We are a general farm organization ... representing both livestock producers and crop farmers. Frankly, some of our members want no change, others suggest limited expansion and others say open the door because we can compete with corporations.

Our membership has studied issue papers, responded to questionnaires, attended meetings and extensively debated the

attachment 10
3-16-88

issue. However, when it comes time to decide policy, the majority prevails in Farm Bureau as it does in this Committee and the entire Kansas Legislature. The voting delegates representing the 105 county Farm Bureaus adopted the following policy at the 69th Annual Meeting of Kansas Farm Bureau in Wichita, December 1, 1987:

Corporate Farm Law

Kansas needs to be responsive and innovative in capital formation for agriculture and economic development in agriculture. We support changes in the Kansas Corporate Farm Law that will enhance economic opportunities for farm families, and for growth and expansion of grain and livestock operations. We are opposed to any expansion of the Kansas Corporate Farm Law which would provide economic incentives or tax advantages not available to family farmers.

In order to evaluate any changes in the Corporate Farm Law, including consideration of S.B. 727, we must remind ourselves there is considerable corporate hog farming already allowed in Kansas under current law. In fact, unlimited pork production in feedlots is allowed today. In addition, a 1983 opinion by the Attorney General is interpreted to permit corporate farrow-to-finish facilities when the production is limited to market hogs. However, the sale of corporately produced feeder pigs and breeding stock is prohibited. It is important to realize S.B. 727 is not the beginning of corporate hog farming in Kansas!

We want to share our thoughts on several provision of S.B. 727:

1. We believe there is a need to establish a Swine Technology Center at Kansas State University. Such a center will "enhance economic opportunities for farm families." We insist the center be provided

adequate resources, both funding and personnel, to do the job our Kansas pork producers need and expect.

2. We believe clarification of the "production contract" issue is appropriate. Currently, some farmers who do not have the capital, or do not desire to tie up the investment, are contract feeding. They should continue to have that opportunity. We all must remember a contract is a voluntary agreement between two parties. Farmers must assure the terms of the contract are beneficial and understand the agreement before signing the contract. Our policy does not specifically address the section in the bill that prohibits processors from owning hogs and entering into production contracts with farmers. The issue of vertical integration was discussed in our policy development process. In that discussion, no opposition to the ban on processor ownership was expressed. In fact, it appears this provision is intended to prevent monopolies and protect producers and consumers. We believe the authority in the bill for a \$50,000 fine and issuance of an injunction is needed. This protection is not currently granted to farmers.
3. "We are opposed to any expansion of the Kansas Corporate Farm Law which would provide economic incentives or tax advantages not available to family farmers." We support sections 8, 9 and 10 of S.B.

727 disallowing corporations the use of property tax abatements, revenue bonds, and designating enterprise zones. We supported similar amendments, though not as comprehensive, last session when corporate poultry and rabbits were allowed.

4. The provision to permit corporations currently engaged in swine production to expand is restricted to the region where this activity is already taking place. Many people ... grain farmers, pork producers, businessmen, financial advisors and community leaders ... recently expressed to the Select Committee on Corporate Farming support for the corporate hog activity in their region.

Excessive restrictions by Kansas on corporate production, unless a strong wall can be built around the state that will insulate against such activity in other states, will not likely provide the protection some expect. The majority of our members realize we cannot prevent change. Rather, we can be most effective in guiding the change to reap the most advantages and minimize any adverse affects.

S.B. 727 is a "limited" proposal. It does not swing the door wide open to corporate hog farming. We believe the concepts expressed in S.B. 727 are appropriate at this time. We will attempt to respond to any questions you may have. Thank you!

Swine farm has neighbors in hog heaven

By Bob Cox
Staff Writer

PLAINS — There is a six-letter word that spells prosperity for this southwestern Kansas town — DeKalb.

To some Kansans, corporate hog farms are an evil that threatens small farms and rural communities. But that's not the view in Plains, where DeKalb Swine Breeders is the single largest driving force behind the economy.

"We've been quite a growth community," said Elwin Tyson, manager of the Plains co-op elevator. "Without (DeKalb) I'm sure we'd be a dying community, too."

The numbers tend to bear out Tyson's view. The population of Plains numbered 857 in 1970, according to the Census Bureau. DeKalb first set up operations in 1973. By 1980, Plains residents had increased 21 percent to 1,044.

DeKalb is in the hog business in a big way, producing about 180,000 animals each year on eight separate, highly specialized farms south of Plains. The firm sells breeding stock to swine farmers across the country and around the world.

It takes a lot of people and money to raise that many hogs. DeKalb employs about 175 people and spends, depending mostly on grain prices, \$12 million to \$14 million a year in Plains and surrounding environs. The payroll is more than \$3 million, most of which is spent in Plains, nearby Kismet or Liberal.

"I think they're an asset to the community," said Leroy Bowen, owner of Home Lumber and Supply Co., one of the retail merchants whose business benefits from the economic fallout created by DeKalb's presence.

For Tyson, DeKalb is both competitor and customer. They buy grain, mostly milo, from area farmers who might otherwise sell to the elevator. But at other times of the year DeKalb turns to the co-op for milo, as well as other supplies.

At a time when small town Kansas banks have failed in greater numbers than at any time since the Depression, flush is the word to describe The Plains State Bank. Deposits have increased an average of almost \$1 million a year since DeKalb began operating, said bank President Raymond Neu.

DeKalb officials say they would like to spur additional economic activity in the area, if given the opportunity. They have plans to expand, saying that demand for DeKalb breeding stock greatly exceeds what can be supplied. But the company is stymied by a 1981 Kansas law that prohibits corporations from owning land for farming and is seeking a legislative exemption.

A DeKalb hog farm is a marvel of modern agricultural efficiency, a virtual factory. There are no pigs wallowing in mud. From the moment of conception until the time they're marketed, DeKalb hogs are raised in a series of heated barns designed specifically for that purpose. As the hogs grow from infancy to maturity, they progress into larger quarters.

Although critics of confinement hog raising would charge that such practices are, at best, unnatural, the hogs themselves — fat and, when awake, rowdy — appear content.

The first thing that impresses a visitor to the DeKalb farms is the emphasis on cleanliness. Each farm is surrounded by a 6-foot-high, chain link fence.

"That separates the farm, which is considered clean, from the outside world, which is considered contaminated," said Gary Faust, DeKalb's operation's manager.

Preventing disease is a high priority in confinement-swine production. Disease can rage through an entire herd and result in heavy death and financial losses. Everyone — employee and visitor alike — enters the DeKalb farms through a secured building, showers and changes into clothes provided by the company. Going from one part of the

farm to another may require another shower and change of clothes. A tour of the entire farm takes five showers.

Each animal's life is tracked by computer, its vital statistics — weight, feed consumption and health — recorded at regular intervals. Littermates are kept together, since research has shown that family harmony results in improved growth rates.

Not every hog meets DeKalb standards — only about one in four ends up with a career in breeding. The rest become pork.

Each farm is designed to produce only males or females, since the animals are bred for specific, sex-linked traits. Members of the rejected sex are fed for slaughter. Nor is it a benevolent order later on. Only the strong and desirable survive to spread their genes.

But rigorous standards pay off. DeKalb boars, ranked by a computer according to an index of desirable characteristics, sell from \$525 to \$1,150 each. "There's a lot of people that sell \$250 boars, but that's not a market we're after," said Steve Sutton, assistant production manager.

There's another side to the DeKalb operations — a human one. The typical DeKalb employee is 23½ years-old, a graduate of a leading agriculture or agribusiness school, perhaps from as far away as New York or California.

The people are also a boon to the Plains area, said Tyson. "They're good people. They marry into the community. They go to our churches."

Each DeKalb employee is put through an intensive training regimen that includes classroom instruction and hands-on-the-hogs work. It's training with a long-term purpose. Plains may be just the first step in a long career with DeKalb or elsewhere in the swine industry.

"We get good people to start with, put them through the training, then talk to them about their future," said Faust.

For the new employees, the transition to small-town Plains can be difficult. Faust said the company tries to orient and help them get established. The company sponsors softball and basketball teams and other activities.

All of DeKalb's salespeople start out working on the production end of the business, either at Plains or

one of the company's other farms. Turnover is often rapid, either through advancement within DeKalb or to other companies in the hog business. A few have left the company to start their own farms.

About a third of the DeKalb staff are women. One of them, Kim Lane, a Missouri native and veteran of six years with DeKalb, now manages the training farm, overseeing both its production of boars and the education of new employees.

One of her assistants is Linda Oliphant, who says DeKalb offered the opportunity to stay in agriculture that wasn't available on the family farm in Iowa. "I can advance with DeKalb the same as any man," she said.

All things considered, the folks around Plains say they wouldn't mind seeing DeKalb expand. "I haven't heard anybody say they were against it," said Neu, the bank president.

ISSUE ANALYSIS....

INFORMATION on PUBLIC POLICY

Prepared as a Service to Members by the
Public Affairs Division, Kansas Farm Bureau



EXPANDING CORPORATE HOG FARMING

February 1988

THE ISSUE

Emotional fighting over the Corporate Farm Law has raged many years in the Kansas Legislature.

The question today is whether to allow more corporate ownership of agricultural land for other specific purposes. Current Kansas law initially prohibits corporate ownership of agricultural land, then makes 14 "exemptions" to that prohibition.

BACKGROUND

Corporate farming is not new to Kansas. By the end of the 1920's approximately 30 large corporations were engaged in farming. Some of these corporations were huge. The Wheat Farming Company owned some 64,000 acres of farmland and had over 1,200 shareholders, 70 percent of whom were farmers. After much hot political debate, the 1931 Legislature enacted one of the earliest, strictest corporate farming laws in this nation. This act kept corporations from producing wheat, corn, barley, oats, rye, potatoes and milk in Kansas.

The Corporate Farm Law was extensively studied, debated and rewritten by the Legislature in 1981. Considerable corporate hog farming is already allowed under current law in Kansas. Unlimited pork production in feedlots is allowed today. In addition, a 1983 opinion by the Attorney General is interpreted to permit corporate farrow-to-finish facilities when the production is limited to market hogs. The sale of corporately produced feeder pigs and breeding stock is prohibited.

Proponents of expanding corporate production of hogs predict an increased opportunity for construction of slaughtering and processing plants locating in Kansas, more jobs, increased tax revenues and improved

grain markets. Opponents fear increased production will lower profits, feed companies and slaughtering plants through vertical integration may produce unfair competition, and farm families may not be able to compete with more corporate operations.

In 1986, the Kansas Legislature created the "Commission on Economic Development." That entity established the "Task Force on Agriculture" which recommended:

"Kansas needs to amend its corporate farming law to allow confined swine and poultry facilities to purchase agricultural land."

The Kansas Legislature commissioned "A Study of the Impacts on Kansas of Corporate Swine Farm Laws." The study was conducted by Development International of Atlanta, Georgia and funded by Kansas, Inc. The consultant warned that Kansas' swine industry is at a critical threshold and suggested that Kansas must adapt to the changing industry or risk further deterioration. The study said there is an attitude outside Kansas that our corporate farming law inhibits participation in the swine industry compared to other states which encourage and assist such participation. Recommendations included amending the law to allow more corporate activity and establishment of a program for farmer support that includes establishing a "Center of Excellence" at KSU.

The Legislature recently appointed a Select Committee on Corporate Farm Law to further study the corporate farm issue, make a report and recommendations no later than March 14. The 11-member panel consists of five (5) Senators and six (6) House members with representation from both political parties.

CHANGING THE LAW

The 1987 Legislature expanded the law to allow corporate ownership of land for poultry and rabbit operations. Farm Bureau proposed and the Legislature adopted amendments prohibiting corporate entities from receiving tax breaks not available to family farms.

At the beginning of the 1988 Session, the Senate Committee on Agriculture introduced S.B. 497 that clarifies questions arising from recent opinions issued by the Attorney General. The bill establishes that production contracts between a corporation, trust, limited partnership or corporate partnership and persons engaged in farming shall not be construed as acquiring the ownership or lease of agricultural land.

At this time it is uncertain whether a bill will be introduced this Session to allow expansion of corporate hog farming. However, it is expected a bill will be introduced to prohibit "vertical integration" in the Kansas hog industry. The proposal would prohibit packing companies from owning feedlots to feed their own livestock.

FARM BUREAU POLICY

Kansas needs to be responsive and innovative in capital formation for agriculture and economic development in agriculture. We support changes in the Kansas Corporate Farm Law that will enhance economic opportunities for farm families, and for growth and expansion of grain and livestock operations. We are opposed to any expansion of the Kansas Corporate Farm Law which would provide economic incentives or tax advantages not available to family farmers.