

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE.

The meeting was called to order by Chairman Dan Johnson at 3:30 p.m. on April 4, 2002, in Room 243-N of the Capitol.

All members were present except: Representative Flora - excused  
Representative Hayzlett - excused  
Representative Larkin - excused  
Representative Light - excused  
Representative O'Brien - excused

Committee staff present: Raney Gilliland, Legislative Research Department  
Gordon Self, Revisor of Statutes  
Kay Scarlett, Committee Secretary

Conferees appearing before the committee:

Leslie Kaufman, Associate Director, Public Policy Division, Kansas Farm Bureau  
David Pfrang, cattle producer, Nemaha County  
Ginny Pfrang, cattle producer, Nemaha County  
Donn Teske, President, Kansas Farmers Union  
Mike Schultz, Kansas Cattlemen's Association (written only)  
Mike Beam, Governmental Affairs Staff, Kansas Livestock Association  
Greg Foley, Assistant Secretary, Kansas Department of Agriculture  
Kansas Association of Conservation Districts (written only)

Others attending: See attached list

**Hearing on SCR 1615 - Concurrent Resolution urging Congress to enact country of origin labeling.**

Chairman Johnson opened the hearing on **SCR 1615**. Raney Gilliland explained that **SCR 1615**, introduced at the request of the 2001 Special Committee on Agriculture, was identical to the amendment made to **HCR 5037** on the House floor. The resolution would urge Congress to include in its current work on the farm bill a requirement that would result in country of origin labeling of certain beef, lamb, pork, farm-raised fish, and perishable agricultural commodities or peanuts when its country of origin is the United States.

Janet McPherson, on behalf of Leslie Kaufman, Associate Director, Public Policy Division, Kansas Farm Bureau, appeared in support of **SCR 1615** to require mandatory country of origin labeling. (Attachment 1)

David Pfrang, a cattle producer and farmer from Nemaha County, testified in favor of **SCR 1615** and mandatory country of origin labeling. (Attachment 2)

Ginny Pfrang, Nemaha County, appeared in support of mandatory country of origin labeling and **SCR 1615**. (Attachment 3)

John Rempe, on behalf of Don Teske, President, Kansas Farmers Union, expressed support for **SCR 1615** and mandatory country of origin labeling. (Attachment 4)

Ginny Pfrang read written testimony submitted by Mike Schultz, Kansas Cattlemen's Association, in support of **SCR 1615** and mandatory country of origin labeling. (Attachment 5)

Mike Beam, Governmental Affairs Staff, Kansas Livestock Association, expressed KLA's concerns in regard to **SCR 1615**. He discussed pending federal legislation and reported that although many KLA and National Cattlemen's Beef Association members believe federal labeling legislation is warranted, the consensus is to oppose mandatory country of origin labeling in favor of voluntary USA labeling. (Attachment 6)

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE on April 4, 2002, in Room 243-N of the Capitol.

There being no other conferees, the hearing on **SCR 1615** was closed.

**Hearing on SB 436 - Fees and inspections of dams, levees, and other water obstructions.**

Chairman Johnson opened the hearing on **SB 436**. Raney Gilliland reviewed the bill, as amended in the Senate, concerning proposed changes in current statutes that regulate flood plain fill and levees, dams, and channel changes or stream obstructions. He explained the Water Structures Program policy changes and new fees this bill would establish. All fees collected would be deposited in a Water Structures Fund to be created by this legislation. The original bill was similar to **HB 2689** heard in committee on January 28.

Proposed technical amendments to **SB 436** were submitted by the revisor. (Attachment 7)

Joe Lawhon, Legislative Division of Post Audit, reported on the findings, conclusions, and recommendations of the completed performance audit, *Department of Agriculture: Reviewing the Water Structures Program*, March, 2002. He discussed recommendations for making the Water Structures Program more efficient, effective, and accountable. Copies of the performance audit report are available from the Legislative Division of Post Audit.

Greg Foley, Assistant Secretary, Kansas Department of Agriculture, presented testimony in support of **SB 436** and provided an overview of the bill as amended in the Senate. He reported that **SB 436**, as amended, addressed many of the policy issues outlined in the post audit report. (Attachment 8)

Greg Foley and David Pope, Chief Engineer, Water Resources Program, Kansas Department of Agriculture, answered committee questions.

The Kansas Association of Conservation Districts submitted written testimony expressing their concerns with **SB 436** in regard to the permit procedures required for very shallow water areas developed through the USDA Wetlands Reserve Program and through other state and local conservation programs. (Attachment 9)

As there were no other conferees, the hearing on **SB 436** was closed.

The meeting adjourned at 6:00 p.m. The next meeting is scheduled for April 10, 2002.

# HOUSE AGRICULTURE COMMITTEE GUEST LIST

DATE: April 4, 2002

NAME	REPRESENTING
Jessica DeLong	KS Dairy Assn.
Janet McPherson	KS Farm Bureau
Don Ryan	KCA
Lissy Phang	self
David Phang	4200 + consumers & producers
John J. Rempel	Farmers spokesman - K.F.W.
Mike Repoor	Sedgwick County
Leslie Kaufman	Ks Farm Bureau
Tom Bruno	GBBA
Mike Beem	KS. LIVESTOCK ASSN.
Keith Bradshaw	Div of the Budget
Ed Johnson	KLA
Greg A. Moly	KDA
Joe Lawton	Post Audit
Bob McDonald	KWA
Joe Lieber	KS - Co-op Council



## **Kansas Farm Bureau**

2627 KFB Plaza, Manhattan, Kansas 66503-8508 • 785.587.6000 • Fax 785.587.6914 • www.kfb.org  
800 S.W. Jackson, Suite 817, Topeka, Kansas 66612 • 785.234.4535 • Fax 785.234.0278

### **PUBLIC POLICY STATEMENT**

## **HOUSE COMMITTEE ON AGRICULTURE**

**RE: SCR 1615 – Encouraging Congress to enact requirements related to country of origin labeling.**

**April 3, 2002  
Topeka, Kansas**

**Prepared by:  
Leslie J. Kaufman, Associate Director  
Public Policy Division  
Kansas Farm Bureau**

Chairman Johnson and members of the House Agriculture Committee, thank you for the opportunity to express Farm Bureau's support for SCR 1615 requiring that only beef, lamb or pork that is exclusively born, raised and slaughtered in the U.S. can be designated as having a United States country of origin. I am Leslie Kaufman. I serve as the Associate Director of Public Policy for Kansas Farm Bureau.

This past November, the farmer and rancher delegates at the 83<sup>rd</sup> Annual Meeting of Kansas Farm Bureau added policy language to their 2002 state resolutions clearly supporting mandatory country of origin labeling.

In January of 2002, agriculture producers representing the Farm Bureau members in all 50 states and Puerto Rico, including Kansas farmers and ranchers, approved policy positions for 2002. AFBF policy recommends that all agricultural imports be clearly labeled as to country of origin at the retail level. New language clarifies that country of origin shall mean that only animals that are born, raised and slaughtered in the U.S. are eligible for a "Made in the USA" label. Additionally, FB supports aggressive efforts to implement country of origin labeling programs that are both feasible and reasonable to the livestock industry which enhance demand for U.S. meat products without creating significant industry implementation costs.

SCR 1615 is consistent with these principals. We encourage the Committee to act favorably on SCR 1615. Thank you.

*Kansas Farm Bureau represents grassroots agriculture. Established in 1919, this non-profit advocacy organization supports farm families who earn their living in a changing industry.*

House Agriculture Committee  
April 4, 2002  
Attachment 1

Senate Concurrent Resolution 1615

Mr. Chairman and Members of the Committee,

My name is David Pfrang, and I'm a cattle producer and farmer. I have here a petition for mandatory Country of Origin Labeling that I've been working on for a little over a year. The rest of the signatures are already in Washington. So I guess you could say that I represent the 4200+ people--Kansans and others--who want mandatory Country of Origin Labeling.

We've all heard about the 4 deaths caused by anthrax back east. We've heard that if a piece of mail has a hand written address with no return address then it's probably not safe to open it. Shouldn't our meat demand the same strict identification??

The opposition will probably say that US meat inspection program will not necessarily improve food safety. According to USDA reports, less than 2% of our imported meat is USDA inspected. All imported food is .07%. One bad germ and we're **all** to blame!

The way it is now, we're playing with a loaded gun as far as diseases go. The Ag Department's inspector general reported that at the height of the foot-and-mouth epidemic in Europe, at least three-quarters of a million pounds of prohibited meat found its way into inspection warehouses in the U.S. According to Channel 13 news recently, we imported over 200,000 pounds of beef last year from countries that now have BSE.

The USDA, which once based its own inspectors overseas, now operates under trade agreements and universal standards. USDA inspectors visit a foreign plant only once every 3-5 years on an average. Even when it discovers serious flaws, it rarely returns to ensure that problems are fixed.

Opposition will probably say that Country of Origin Labeling would involve more cost than benefits. The General Accounting Office in Washington D.C. estimateds the cost to range from \$500,000 to \$8 milion per year. Our U.S. beef production is 27 billion pounds per year. In using the higher estimate number of \$8 million, that equals .0003 cents per pound to label our beef.

Opposition might also say that that there's no direct evident saying that U.S. consumers would pay premium to buy U.S. meat. A 1999 survey by Wirthlin Worldwide revealed that 76% of U.S. consumers want the U.S. to enforce Country of Origin Labeling. As producers, we know that our product is the best and safest in the world, and we can compete against anyone.

Opposition says that there's no way of keeping track of beef. Not true. There's already tracking systems in place today--certified angus and hereford beef and national school lunches. (all meat bought for school lunches must be a domestic product).

House Agriculture Committee  
April 4, 2002  
Attachment 2

Opposition wants to try voluntary Country of Origin Labeling. We've had that for over 200 years, and they know it doesn't work. We need **mandatory** Country of Origin Labeling. The line has been drawn in the sand. Those who want mandatory labeling are the producers and consumers. Those who oppose it are big feeders, packers and retailers.

Mandatory labeling gives consumers a choice, and their choice is usually the safest and best product. After a B.S.E. outbreak in Japan, the only meat that the consumers considered safe was the meat with the red, white and blue stamp. Now that Canada has started labeling their meat, their consumers are buying their own product hands down over anything else.

We import beef from 26 countries, some of which I personally wouldn't want to visit let alone eat their meat!

31 countries already label their meat. If **they** can make it work, **surely** we can, too!

The U.S., with 4% of the world's population, imports over 18% of its beef (which equals 4.9 billion pounds, which equals 6.6 million head, which is the total inventory of beef in the state of Nebraska!!) making us the largest importer of meat in the world.

On behalf of the 4200+ consumers who want mandatory Country of Origin Labeling, we ask for your support on the resolution presented. I know where **all** my meat comes from--do you??!

Thank you for your time.

David Pfrang

COUNTRIES THAT IMPORTED BEEF TO THE U.S. IN 2001  
(Supplied by the USDA-Economic Research Service)

Canada  
Mexico  
Honduras  
Nicaragua  
Costa Rica  
Peru  
Brazil  
Paraguay  
Uruguay  
Argentina  
United Kingdom  
Netherlands  
France  
Germany  
Austria  
Switzerland  
Poland  
Ukraine  
Spain  
Italy  
Croatia  
Philippines  
Hong Kong  
Japan  
Australia  
New Zealand  
Burkina Faso

FOREIGN COUNTRY OF ORIGIN LABELING  
Survey 1998

<u>Require Country of Origin</u>	<u>Varies</u>
Argentina	Austria
Australia	Belgium
Brazil	Finland
Bosnia	France
Canada	Germany
Chile	Italy
Colombia	Portugal
Costa Rica	Spain
Czech Republic	Sweden
Dominican Republic	United Kingdom
Egypt	
El Salvador	
Estonia	
Guatemala	
Honduras	
Hungary	
Indonesia	
Israel	
Japan (April 2000)	
Latvia	
Malaysia	
Mexico	
Philippines	
Russia	
Switzerland	
Taiwan	
Thailand	
Turkey	
United Arab Emirates	
Venezuela	



Senate Concurrent Resolution 1615  
Country of Origin Labeling

Mr. Chairman and Members of the Committee;

My name is Ginny Pfrang. I live up in Nemaha County. My husband farms and raises cattle, and I'm a stay-at-home Mom with our 3 little girls.

I don't know what I can say that hasn't already been said in the last several years to convince you to request mandatory country of origin labeling. I **know** that the American producer--whether he raises cattle, hogs or strawberries-- has to follow strict guidelines to insure the safety of the consumer. But I don't have that confidence in producers from other countries. I'm proud of the fact that my husband raises top quality cattle, so I **know** what I'm feeding our kids. Can you say the same??

In the last year or so that my husband has been trying to get mandatory country-of-origin labeling, I've not been able to avoid getting involved in the battle. I've asked many of my friends--none of whom raise their own meat--which they would buy at the grocery store, USA grown and raised or that raised in China. They all say without hesitation, USA meat.

When I go shopping with my girls, the 2 older ones are always looking at the labels to see where the item is made. They're only 5½ and 7! As a Mom, what I put **inside** my children is **much** more important to me than what I put **on** them.

I urge you, on behalf of all the mothers out there, please support a mandatory Country-of-Origin Labeling Resolution.

Thank you for your time!

Ginny Pfrang

**Mandatory Country of Origin Labeling**

Donn Teske

President, Kansas Farmers Union

4/4/02

Mr. Chairman and Members of the Committee,

Kansas Farmers Union wishes to express our support for Mandatory Country of Origin Labeling. The United States is one of a very few developed countries in the world that does not have country of origin labeling. Common sense dictates that a citizen of the U.S. should have the right to know where their food is coming from. Knowing this would allow the consumer in the U.S. to make educated decisions about the food that he eats. Kansas Farmers Union feels that this is an especially timely issue considering the fears of agri-terrorism that is so much a part of our lives now. Also, the A. P. report printed in the Topeka Capital Journal on February 26th exposing the abuses of meat processors in foreign countries that import directly into the United States glaringly shows the need for country of origin labeling.

We have all heard the comparison statement of "Why shouldn't the American consumer know where his food comes from, after all they have known where the clothes they wear comes from for years." Even the vegetables we eat are grown under different rules governing their production in other countries. Chemicals that are banned in the United States can be used on these vegetables and then imported directly in the U.S. food chain.

Kansas Farmers Union strongly supports mandatory country of origin labeling. Kansas would be showing great character to be setting an example for the U.S. Congress by establishing a Mandatory Country of Origin Labeling Resolution.

Thank you.

# Kansas Cattlemen's Association

---

PO Box 251  
Brewster, KS 67732  
Phone (877) 694-2906  
Fax (785) 694-2992  
e-mail [cowsrus@st-tel.net](mailto:cowsrus@st-tel.net)

## Senate Concurrent Resolution 1615 Country of Origin Labeling

Mr. Chairman and members of the Committee,

As the past President and newly appointed Executive Director for the Kansas Cattlemen's Association I, Mike Schultz would like to address a few concerns with you that not only affect the cattle producer, but the safety of the American consumers as well.

With the current events of September 11<sup>th</sup>, and the unfounded scare in Holton, KS. with the Foot and Mouth Disease followed by a full ten days of negative market breaking prices. This committee should be unanimously supportive to this resolution of country of origin labeling presented today. The financial losses suffered by producers continue and are devastating to our communities, state and country when we are all faced with budget shortfalls and concerns for public safety. We can't say that we'll never have the dreaded "mad cow disease" or "foot and mouth disease" in our country because other countries with that problem can reroute or trans-ship their beef to Mexico and Canada. From there these cattle can easily be shipped into the U.S. due to the Free Trade Agreement when arriving full scaled inspections of all livestock or beef crossing the borders are reportedly marginal at best.

In 2000 U.S. Congresswoman Helen Chenoweth from Idaho found that less than 1% of imported hamburger is ever inspected, and we import somewhere between 16 and 22% of our beef consumed. In 2001 we have imported over 5 billion pounds of beef and cattle all while we have reduced our U.S.A. cow herd by 6.8 million head valued at \$725.00 per head (USDA ERS 2001) or \$4,930,000,000.00 a very substantial amount.

Because our USDA stamp is used on everything, we can't be sure that everything coming in has met and passed the same stringent specifications that our own beef has met. The cattle raised today in the U.S. are raised according to some of the strictest and highest standards of any country in the world, but our meat is being blended with imported products. Country of Origin should be MANDATORY with Born, Fed and Slaughtered. No days in a country or slaughter point shall constitute any allowable change in the labeling requirements. We have the BEST market and prices for beef in the world and we are giving it away at the expense of producers going broke.

House Agriculture Committee  
April 4, 2002  
Attachment 5

As you can see, there is a real need for food safety here, and this need can be met by country-of-origin labeling. Congresswoman Chenoweth also found that more than 30 of America's trading partners including Japan, Canada, Argentina and Egypt, have laws which require country-of-origin labeling for meat.

We have spent over 1 Billion dollars by producer contributing to the Beef Checkoff. When as some like NCBA (National Cattlemen's Beef Association) and it's fraternity of associates claim it is spent only for Development, Research and Education, **why would we producers not want to label our product?** These same groups say they don't want government involvement in our business but yet now that the constitutionality of the Beef Checkoff is in question and in the hands of a South Dakota Judge they now claim the Checkoff is "Government Speech". These groups LOBBY continually for environmental issues, taxing issues, and other issues which are expected to be resolved by Legislators and government departments and they don't want government involvement!

We would like for you to support the Senate Concurrent Resolution 1615. Special interest groups argue that it would cost too much to implement country-of-origin labeling. They say that retailers will pass costs on to consumers, and consumers would stop buying meat. As I understand it, meat comes into the country in packages already labeled. In this day and age of computers and bar codes, how hard can it be to re-label the smaller packages for retail? Once again, if it is too hard for retailers in this country, why does it work in over 30 other countries? Other opponents to the bill argue that if the animal is in the U.S. for 100 days, then they qualify for the USA stamp. No, this is not acceptable. Too many diseases can be picked up from the first 1-½ year of life. By that time the disease has already been introduced into the U.S.

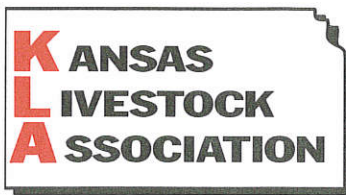
The USDA stamp of approval has been the mark of excellence on U.S. products for many years. How did it happen that now importers like Brazil, Mexico, Argentina, etc. can continue to use this quality grade stamp? Then we allow these countries market access without a price to our market the VERY BEST IN THE WORLD!

KCA recently polled the membership and 99.% supported Mandatory Country of Origin Labeling – Born, Fed and Slaughtered. An NCBA poll found that 78% of consumers support country-of-origin labeling and when given a choice, 90% would purchase an American meat product. Just recently the Agri -Talk radio Program was in Bonner Springs,KS. and talking to consumers in a local grocery store about the reasons for shopping including the question was asked, "is labeling important in knowing where your meat comes from"? All of the shoppers agreed that it was important and they would even pay more if it would help the farmers and ranchers. They were very concerned over the Pre packaged, Pre cooked products with nutrition concern and quality of product. Most thought that a home cooked meal was higher in quality and nutrition for their family.

On behalf of Kansas Cattlemen's Association, we ask for your support on the Country of Origin Labeling Resolution presented. If you have any further questions, please feel free to the Kansas Cattlemen's Association toll free at (877) 694-2906 or my mobile at 785-462-1447.

Respectfully,

Mike Schultz /KCA Executive Director



Since 1894  
**Testimony**

To: House Agriculture Committee  
Representative Dan Johnson, Chairman

From: Mike Beam, KLA Governmental Affairs Staff

Subject: Testimony on SCR 1615 - Country of Origin Labeling for Meat

Date: April 3, 2002

Good afternoon Mr. Chairman and committee members. This hearing provides the Kansas Livestock Association (KLA) the opportunity to provide our perspective about an emotionally charged, controversial issue that is pending in the U.S. Senate/House farm bill conference committee. The Senate passed their version of the next farm bill, which includes a provision for *mandatory* country-of-origin labeling for beef, lamb, pork, fish and other perishable agricultural commodities. The House bill does not contain a provision for meat labeling.

KLA and National Cattlemen's Beef Association members have studied and debated this issue at great length. Although there are many members who believe federal labeling legislation is warranted, the consensus is to oppose *mandatory* country-of-origin labeling legislation. KLA's policy supports *voluntary* USA labeling for beef when the cattle are born, raised, and processed in this country. We are opposed, however, to a federal law mandating such a labeling program.

Since SCR 1615 states the Kansas legislature urges "Congress to amend the current farm bill to include country of origin labeling requirements," we are opposed to this resolution. If this committee chooses to re-write SCR 1615 to express support for voluntary labeling, we would gladly withdraw our concern for this resolution.

Let's look at specific provisions of the Senate country-of-origin labeling bill:

- Retailers shall inform consumers, at the final point of sale, of the country-of-origin of muscle cuts of beef and ground beef. Processed beef is excluded from this requirement.

House Agriculture Committee  
April 4, 2002  
Attachment 6

- Retailers may designate beef as having a United States country-of-origin only if the meat is “exclusively from an animal that is exclusively born, raised & slaughtered in the United States”.
- The country-of-origin labeling requirement does not apply to restaurants, cafeterias, lunchrooms, food stands, taverns, or other types of foodservice establishments.
- Processed beef is exempt from the labeling requirement.
- Frozen entrees with imported beef are exempt from the labeling requirement.
- USDA may require an entity that prepares, stores, handles, or distributes muscle cuts or ground beef for retail sale to maintain a verifiable record keeping audit trail to ensure compliance with the new labeling law and subsequent regulations.
- Any entity engaged in the business of supplying muscle cuts or ground beef to a retailer shall provide information to the retailer indicating the product’s country of origin.
- This law would become effective 180 days from the effective date (October 1, 2002) of the bill.

Our primary concern with a mandatory labeling program is the uncertain impact such a program would have on the entire beef industry. Any new requirements imposed upon the beef distribution and retailing sector likely will add new costs to the beef marketing system. What are these costs? Who will bear these costs?

Some have suggested these costs will be close to a \$1 billion for all segments of the industry. Proponents are likely to say these costs are greatly exaggerated. We cannot know for sure, but it is likely that costs for tracking, segregating, preserving identity, and labeling will be passed back to the producer in the form of lower prices or forwarded to consumers with higher meat prices at supermarkets.

When USDA studied this question in 1999, it concluded country-of-origin labeling could potentially involve far more costs than benefits for the domestic livestock and meat industry. This same report suggested there is no direct or empirical evidence that suggests consumers will pay a premium for U.S. meat, and if they would, how long that premium might persist.

Despite the unknown consequences of a legislative mandated labeling program, we believe there is merit for private market driven labeling initiatives. Attached is a summary of the **Beef: Born and Raised in the USA™** marketing venture that is certified by USDA and registered by a cattle producer from California. This marketing program is one option for producers who want to verify their cattle as domestic and for retailers who wish to provide their customers with a guaranteed USA product. This approach is more productive and less disruptive than a government imposed requirement.

I hope I have been able to explain our reasons for opposing the pending federal labeling legislation and why we have concerns for SCR 1615. I'd be happy to respond to any questions or comments from committee members.

Thank you!



**THIS SEARCH**

[Next Hit](#)

[Prev Hit](#)

[Hit List](#)

**THIS DOCUMENT**

[Forward](#)

[Back](#)

[Best Sections](#)

[Doc Contents](#)

**GO TO**

[New Bills Search](#)

[HomePage](#)

[Help](#)

---

## H.R.2646

### Agriculture, Conservation, and Rural Enhancement Act of 2002 (Engrossed Senate Amendment)

---

#### **SEC. 1001. COUNTRY OF ORIGIN LABELING.**

*The Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.) is amended by adding at the end the following:*

*‘Subtitle D—Country of Origin Labeling*

#### **‘SEC. 281. DEFINITIONS.**

*In this subtitle:*

*‘(1) BEEF- The term ‘beef’ means meat produced from cattle (including veal).*

*‘(2) COVERED COMMODITY-*

*‘(A) IN GENERAL- The term ‘covered commodity’ means—*

*‘(i) muscle cuts of beef, lamb, and pork;*

*‘(ii) ground beef, ground lamb, and ground pork;*

*‘(iii) farm-raised fish;*

*‘(iv) wild fish;*

*‘(v) a perishable agricultural commodity; and*

*‘(vi) peanuts.*

*‘(B) EXCLUSIONS- The term ‘covered commodity’ does not include—*

*‘(i) processed beef, lamb, and pork food items; and*

*‘(ii) frozen entrees containing beef, lamb, and pork.*

*(3) FARM-RAISED FISH- The term 'farm-raised fish' includes--*

*(A) farm-raised shellfish; and*

*(B) fillets, steaks, nuggets, and any other flesh from a farm-raised fish or shellfish.*

*(4) FOOD SERVICE ESTABLISHMENT- The term 'food service establishment' means a restaurant, cafeteria, lunch room, food stand, saloon, tavern, bar, lounge, or other similar facility operated as an enterprise engaged in the business of selling food to the public.*

*(5) LAMB- The term 'lamb' means meat, other than mutton, produced from sheep.*

*(6) PERISHABLE AGRICULTURAL COMMODITY; RETAILER- The terms 'perishable agricultural commodity' and 'retailer' have the meanings given the terms in section 1(b) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499a(b)).*

*(7) PORK- The term 'pork' means meat produced from hogs.*

*(8) SECRETARY- The term 'Secretary' means the Secretary of Agriculture, acting through the Agricultural Marketing Service.*

*(9) WILD FISH-*

*(A) IN GENERAL- The term 'wild fish' means naturally-born or hatchery-raised fish and shellfish harvested in the wild.*

*(B) INCLUSIONS- The term 'wild fish' includes a fillet, steak, nugget, and any other flesh from wild fish or shellfish.*

*(C) EXCLUSIONS- The term 'wild fish' excludes net-pen aquacultural or other farm-raised fish.*

## ***SEC. 282. NOTICE OF COUNTRY OF ORIGIN.***

*(a) IN GENERAL-*

*(1) REQUIREMENT- Except as provided in subsection (b), a retailer of a covered commodity shall inform consumers, at the final point of sale of the covered commodity to consumers, of the country of origin of the covered commodity.*

*(2) UNITED STATES COUNTRY OF ORIGIN- A retailer of a covered commodity may designate the covered commodity as having a United States country of origin only if the covered commodity--*

*(A) in the case of beef, lamb, and pork, is exclusively from an animal that is exclusively born, raised, and slaughtered in the United States;*

*(B) in the case of farm-raised fish, is hatched, raised, harvested, and processed in the United States;*

*(C) in the case of wild fish, is--*

*(i) harvested in waters of the United States, a territory of the United States, or a State; and*

*(ii) processed in the United States, a territory of the United States, or a State, including the waters thereof; and*

*(D) in the case of a perishable agricultural commodities or peanut, is exclusively produced in the United States.*

*(3) WILD FISH AND FARM-RAISED FISH- The notice of country of origin for wild fish and farm-raised fish shall distinguish between wild fish and farm-raised fish.*

*(b) EXEMPTION FOR FOOD SERVICE ESTABLISHMENTS- Subsection (a) shall not apply to a covered commodity if the covered commodity is--*

*(1) prepared or served in a food service establishment; and*

*(2)(A) offered for sale or sold at the food service establishment in normal retail quantities; or*

*(B) served to consumers at the food service establishment.*

*(c) METHOD OF NOTIFICATION-*

*(1) IN GENERAL- The information required by subsection (a) may be provided to consumers by means of a label, stamp, mark, placard, or other clear and visible sign on the covered commodity or on the package, display, holding unit, or bin containing the commodity at the final point of sale to consumers.*

*(2) LABELED COMMODITIES- If the covered commodity is already individually labeled for retail sale regarding country of origin, the retailer shall not be required to provide any additional information to comply with this section.*

*(d) AUDIT VERIFICATION SYSTEM- The Secretary may require that any person that prepares, stores, handles, or distributes a covered commodity for retail sale maintain a verifiable recordkeeping audit trail that will permit the Secretary to ensure compliance with the regulations promulgated under section 284.*

*(e) INFORMATION- Any person engaged in the business of supplying a covered commodity to a retailer shall provide information to the retailer indicating the country of origin of the covered commodity.*

*(f) CERTIFICATION OF ORIGIN-*

*(1) MANDATORY IDENTIFICATION- The Secretary shall not use a mandatory identification system to verify the country of origin of a covered commodity.*

*(2) EXISTING CERTIFICATION PROGRAMS- To certify the country of origin of a*

*covered commodity, the Secretary may use as a model certification programs in existence on the date of enactment of this Act, including--*

*(A) the carcass grading and certification system carried out under this Act;*

*(B) the voluntary country of origin beef labeling system carried out under this Act;*

*(C) voluntary programs established to certify certain premium beef cuts;*

*(D) the origin verification system established to carry out the child and adult care food program established under section 17 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766); or*

*(E) the origin verification system established to carry out the market access program under section 203 of the Agricultural Trade Act of 1978 (7 U.S.C. 5623).*

### **SEC. 283. ENFORCEMENT.**

*(a) IN GENERAL- Except as provided in subsection (b), section 253 shall apply to a violation of this subtitle.*

*(b) WARNINGS- If the Secretary determines that a retailer is in violation of section 282, the Secretary shall--*

*(1) notify the retailer of the determination of the Secretary; and*

*(2) provide the retailer a 30-day period, beginning on the date on which the retailer receives the notice under paragraph (1) from the Secretary, during which the retailer may take necessary steps to comply with section 282.*

*(c) FINES- If, on completion of the 30-day period described in subsection (c)(2), the Secretary determines that the retailer has willfully violated section 282, after providing notice and an opportunity for a hearing before the Secretary with respect to the violation, the Secretary may fine the retailer in an amount determined by the Secretary.*

### **SEC. 284. REGULATIONS.**

*(a) IN GENERAL- The Secretary may promulgate such regulations as are necessary to carry out this subtitle.*

*(b) PARTNERSHIPS WITH STATES- In promulgating the regulations, the Secretary shall, to the maximum extent practicable, enter into partnerships with States with enforcement infrastructure to carry out this subtitle.*

### **SEC. 285. APPLICATION.**

*This subtitle shall apply to the retail sale of a covered commodity beginning on the date that is 180 days after the date of the enactment of this subtitle.*

**THE LABEL  
FOR OUR  
U. S. CATTLE  
AND BEEF**



**...BECAUSE YOU  
ASKED FOR IT !**

### ***Certification System Tracks and Verifies Cattle Born & Raised in the USA™***

A Born & Raised in the USA™ certificate verifies the U.S. origin of cattle and accompanies them from birth to final processing. Procedures are in place to track split bunches of cattle and changes in ownership. All sellers, beginning with the original cattle producer, must certify that the cattle they represent have been Born & Raised in the United States of America™, under their care and control since birth or purchase.

At final processing, cattle will be inspected by the USDA, and the certificate pertaining to those cattle returned to the B&R-USA office, where it will be recorded and filed with the USDA.

The enrollment fee is fifty cents per head, plus the cost of an ear tag exhibiting the logo, if needed. Participation is voluntary. For animals to qualify, certification must be maintained from birth.

### ***Licensing for Auction Yards, Feed Yards, Packers, Wholesalers, and Retailers of Born & Raised in the USA™ Beef***

Agents or dealers of live cattle -- auction yards, video auctions, feed yards -- will be licensed at \$100.00 per year. If they own B&R-USA cattle, the accompanying certificate will be transferred, as usual, at the next change of ownership.

Sellers of beef or beef products -- packers, processors, wholesalers, restaurants, grocery stores -- will be licensed annually for \$50.00 plus 2/10 of one cent per pound (20 cents per hundred weight), based on the number of pounds sold during the previous year.

Packers, for example, may use the label on B&R-USA product, boxes, invoices, etc. Restaurants may use the logo for promotion on menus and in advertising. Grocery stores may promote the label in ads and place it on verified Born & Raised in the USA™ beef in their meat cases.

Copies of all licenses will be filed with the USDA.

### ***So . . . What Are They Saying?***

"Carolyn Carey does what the rest of the U.S. beef industry just talks about ... starts her own Born & Raised in the USA™ beef certification program ... in less than six months." *Steve Kay, Cattle Buyers Weekly, July 23, 2001*

"Carey's label carries meaning and it can be picked up by ranchers and retailers immediately." *Ali Bay, Capital Press, California Edition, July 20, 2001*

"Western Video Market is proud to support the Born & Raised in the USA™ program. We see it as a benefit to U.S. cattle producers and a way to promote U.S. ranch raised beef." *Andy Peek, Western Video Market, Cottonwood, CA*

"We are proud to be the first store in the nation ... in the world! ... to sell meat with a real USA label on it." *Ray and Peggy Page, Page's Market, Cedarville, CA*

"NCBA applauds Carolyn Carey's efforts. This is a private sector initiative to provide consumers with the information they want -- and quality minded producers with the kind of brand equity they deserve." *Chuck Lambert, National Cattlemen's Beef Association, Washington, DC*

"Thank you, Carolyn! You have slipped through all the political loopholes and made it possible for us to label our U.S. beef all the way to the consumer." *Tony and Brenda Richards, Ranchers, Murphy, ID*

"Carolyn, I applaud you for your efforts and common sense approach .... You should be an inspiration to those in the beef industry who prefer regulatory activity." *John Nalivka, Sterling Marketing, Inc., Vale, OR*

SENATE BILL No. 436

By Committee on Agriculture

1-24

Proposed Technical Amendments to SB 436

House Agriculture Committee  
April 4, 2002  
Attachment 7

10 AN ACT concerning dams, levees and other water obstructions; fees;  
11 inspections; amending K.S.A. 24-126, **82a-301**, 82a-302 and 82a-303b  
12 and repealing the existing sections; **also repealing K.S.A. 82a-304.**  
13

14 *Be it enacted by the Legislature of the State of Kansas:*

15 Section 1. K.S.A. 24-126 is hereby amended to read as follows: 24-  
16 126. (a) It shall be unlawful for any person, corporation, drainage or levee  
17 district, county, city or township, without first obtaining the approval of  
18 plans for the same by the chief engineer of the division of water resources,  
19 to construct, cause to be constructed, maintain or cause to be maintained,  
20 any levee or other such improvement on, along or near any stream of this  
21 state which is subject to floods, freshets or overflows, so as to control,  
22 regulate or otherwise change the flood waters of such stream. Any person,  
23 corporation, county, city, township or district violating any provision of  
24 this act shall be deemed guilty of a misdemeanor, and upon conviction  
25 shall be punished by a fine of not less than \$100 nor more than \$1,000,  
26 or by imprisonment in the county jail for a period of not more than one  
27 year, or by both such fine and imprisonment. Each day any structure is  
28 maintained or caused to be maintained shall constitute a separate offense.

29 (b) Subject to the provisions of subsection ~~(e)~~ (e), plans submitted for  
30 approval shall include maps, profiles, cross sections, data and information  
31 as to the effect upon upstream and downstream areas resulting from the  
32 proposed levee or other such improvement, *the required fee as provided*  
33 *in subsection (c)* and such other data and information as the chief engineer  
34 of the division of water resources may require.

35 (c) (1) *Fill and levee approval fees shall be as follows:*

Type		Pre- construction	Construction in progress
Major	(Fill in defined floodway class C levee)	\$500	\$1000
Moderate	(Fill in flood plain without defined floodway class B levee)	\$300	\$600
Minor	(Fill in floodway fringe class A levee)	\$100	\$200

(2) *The greater construction in progress fee shall be applicable for projects where construction began prior to approval by the chief engineer is applicable. Such fee shall be in addition to any other penalty under law for unapproved fill or levee construction. Projects that require approval under both this act and obstructions in streams act, K.S.A. 82a-301 et seq., and amendments thereto, shall be required to pay only the greater of the two fees when seeking approval from the chief engineer.*

(d) If the chief engineer finds from an examination of such plans and pertinent information that the construction of the proposed levee or other such improvement is feasible and not adverse to the public interest, the chief engineer shall approve the ~~same~~ *proposed levee or other such improvement*. In determining whether or not the construction of any proposed levee or other such improvement designed so as to reduce flood risks to a chance of occurrence in any one year of 1% or less is adverse to the public interest, the chief engineer shall consider the following: (1) The effect upon areas downstream or upstream as a result of the construction of such proposed levee or other such improvement; and (2) the effect of the proposed levee or other such improvement and any other existing or proposed levees or other such improvements upon downstream and upstream areas. In the event any such levee or other such improvement is about to be constructed, is constructed or maintained by any person, corporation, county, city, township or district without approval of plans by the chief engineer, it shall be the duty of the attorney general, to file suit in a court of competent jurisdiction, to enjoin the construction or maintenance of such levee or other such improvement.

~~(e)~~ (e) For fills other than levees located in the floodway fringe within a participating community as defined and identified in the national flood insurance act, all required data and information shall be specified by rules and regulations adopted by the chief engineer. Within 90 days of receipt of plans and such data and information as required by the chief engineer for fills other than levees located in the floodway fringe within a participating community as defined and identified by the national flood insurance act, the chief engineer shall approve or disapprove the plans for such fills. If the chief engineer fails to approve or disapprove a plan within the ~~ninety-day~~ *90-day* period required by this section, such plan shall be deemed approved. The chief engineer shall provide, in writing, specific reasons for any disapproval which shall include any hydrologic and hydraulic analyses or other data upon which such disapproval is based.

~~(f)~~ (f) Prior to the adoption of a general plan of drainage and flood protection, as provided in K.S.A. 24-901, and amendments thereto, and the commencement of construction in carrying such plan into effect, the chief engineer of the division of water resources may give temporary approval for the repair and maintenance of any levee or other drainage

7-2

7-3

work in existence on May 28, 1929; but such approval for such temporary repair and maintenance shall be without prejudice to withdrawal of such approval when a general plan shall be adopted. Nothing contained in this section shall apply to any drainage district heretofore organized under K.S.A. 24-401 *et seq.*, and amendments thereto, and having therein property of an assessed valuation of \$50,000,000 or more.

(e) (g) The chief engineer shall adopt such rules and regulations deemed necessary to administer and enforce the provisions of this section.

(h) All fees collected by the chief engineer pursuant to this section shall be remitted to the state treasurer as provided in section ~~4~~ and amendments thereto.

5

Sec. 2. K.S.A. 82a-301 is hereby amended to read as follows:

82a-301. (a) Without the prior written consent or permit of the chief engineer of the division of water resources of the state board Kansas department of agriculture, it shall be unlawful for any person, partnership, association, corporation or agency or political subdivision of the state government to: ~~(a)~~ (1) Construct any dam or other water obstruction; ~~(b)~~; (2) make, construct or permit to be made or constructed any change in any dam or other water obstruction; ~~(c)~~; (3) make or permit to be made any change in or addition to any existing water obstruction; or ~~(d)~~ (4) change or diminish the course, current, or cross section of any stream within this state. Any application for any permit or consent shall be made in writing in such form as specified by the chief engineer. Jetties or revetments for the purpose of stabilizing a caving bank which are properly placed shall not be construed as obstructions for the purposes of this section.

(b) As used in K.S.A. 82a-301 *et seq.*, and amendments thereto, "dam" means any artificial barrier including appurtenant works with the ability to impound water, waste water or other liquids that has a height of 25 feet or more; or has a height of six feet or greater and also has the capacity to impound 50 or more acre feet. The height of a dam or barrier shall be determined as follows: (1) A barrier or dam that extends across the natural bed of a stream or watercourse shall be measured from the down stream toe of the barrier or dam to the top of the barrier or dam; or (2) a barrier or dam that does not extend across a stream or watercourse shall be measured from the lowest elevation of the outside limit of the barrier or dam to the top of the barrier or dam.

Sec. ~~2~~ 3. K.S.A. 82a-302 is hereby amended to read as follows: 82a-302. (a) Each application for the consent or permit required by K.S.A. 82a-301, and amendments thereto, shall be accompanied by complete maps, plans, profiles and specifications of such dam or other water obstruction, or of the changes or additions proposed to be made in such dam or other water obstruction, the required application fee as provided



7-4

in subsection (b) unless otherwise exempted, and such other data and information as the chief engineer may require. **Notwithstanding any law to the contrary, an applicant for the consent or permit required by K.S.A. 82a-301, and amendments thereto, may have the application reviewed by a licensed professional engineer approved by the chief engineer and if such licensed professional engineer finds that such dam or other water obstruction meets established standards for the construction, modification, operation and maintenance of dams and other water obstructions, such findings shall be submitted to the chief engineer. Upon such submittance, the chief engineer shall grant such consent or permit. Such applicant shall pay all costs associated with the review by the licensed professional engineer.**

(b) (1) ~~The application fee is based upon three criteria and are as follows:~~

~~(A) The size of the dam expressed in volume and height of dam as defined by regulation;~~

~~(B) the hazard class of dam, as defined by regulation; and~~

~~(C) the stage of construction when application is submitted. The additional fees for permits for construction begun prior to obtaining a permit are in addition to any other applicable penalty for an unpermitted structure.~~

~~Fees for new dam applications~~

Size	Hazard classification	<del>Fees for new dam applications</del>				
		<del>A-construction in progress</del>	<del>B</del>	<del>B</del>	<del>C</del>	
1	\$150	\$300	\$300	\$600	\$450	\$900
2	\$400	\$800	\$600	\$1200	\$800	\$1600
3	\$600	\$1200	\$900	\$1600	\$1000	\$2000
4	\$900	\$1600	\$1000	\$2000	\$1200	\$2400

~~Fees for dam modification applications~~

Size	<del>Fees for dam modification applications</del>	
	<del>Pre-Construction</del>	<del>Construction in Progress</del>
1	\$150	\$300
2	\$400	\$800
3	\$600	\$1200
4	\$900	\$1600

shall be based upon the stage of construction at the time that a complete application has been submitted. The construction in progress fee shall be applicable for construction begun prior to approval by the chief engineer. Such fee shall be in addition to any other penalty for an unpermitted structure. Such fees shall be as follows:

7-5

*Fees for new dam or dam modification applications*

<i>Pre-Construction</i>	<i>Construction in Progress</i>
\$200	\$500

(2) *Permit fees for stream obstructions/channel changes application fee is based upon two criteria and are as follows:*

- (A) *The classification of the stream drainage area category; and*
- (B) *the stage of construction when the application is submitted.*

<i>Stream classification</i>	<i>Pre-Construction</i>	<i>In-Progress</i>
<b><i>Drainage Area Category</i></b>		<b><i>Construction In Progress</i></b>
<i>Major (Drainage area greater than 50 square miles)</i>	\$500	\$1000
<i>Moderate (Drainage area 5 to 50 square miles)</i>	\$200	\$400
<i>Minor Drainage (Drainage area less than 5 square miles)</i>	\$100	\$200
<i>General Permit</i>	\$100	\$200

(c) *All fees collected by the chief engineer pursuant to this section shall be remitted to the state treasurer as provided in section 4 and amendments thereto.*

5

Sec. 4. K.S.A. 82a-303b is hereby amended to read as follows: 82a-303b. (a) (1) In order to secure conformity with adopted rules and regulations and to assure compliance with the terms, conditions or restrictions of any consent or permit granted pursuant to the provisions of K.S.A. 82a-301 to through 82a-303, inclusive, and any amendment thereof and amendments thereto, the chief engineer or an authorized representative of the chief engineer shall have the power and it shall be his or her the duty to inspect any dam or other water obstruction. Upon a finding pursuant to subsection (a) of K.S.A. 82a-303c, and amendments thereto, by the chief engineer that a dam is unsafe, the chief engineer shall order an annual inspection of the dam until it is either in compliance with all applicable provisions of this act, any rules and regulations promulgated pursuant to this act, permit conditions and orders of the chief engineer; or the dam is removed. The safety inspection shall be conducted by the chief engineer or authorized representative and the cost shall be paid by the dam owner. **The class and size of a dam provided for by the provisions of this act shall be defined by rules and regulations adopted by the chief engineer pursuant to K.S.A. 82a-303a, and amendments thereto.** Inspection fees are as follows:

<i>Size of Dam (As Defined by Regulation)</i>	<i>Inspection fee</i>
<i>Class 1</i>	\$1,500
<i>Class 2</i>	\$1,500

Class 3 \$2,500

Class 4 \$4,000.

(2) ~~Each hazard class C dam, as defined by rule and regulation,~~ shall be required to have a safety inspection conducted by a licensed professional engineer qualified in design, construction, maintenance and operation of dams once every three years, unless otherwise ordered by the chief engineer.

(3) ~~Each hazard class B dam, as defined by rule and regulation,~~ shall be required to have a safety inspection conducted by a licensed professional engineer qualified in design, construction, maintenance and operation of dams once every five years unless otherwise ordered by the chief engineer.

(4) Within 60 days of the date of inspection a report of the inspection shall be provided to the chief engineer by the licensed professional engineer who conducted the inspection. The report shall document the physical condition of the dam, describing any deficiencies observed, an analysis of the capacity of the dam and its spillway works, compliance of the dam with approved plans and permit conditions, changes observed in the condition of the dam since the previous inspection, an assessment of the hazard classification of the dam including a statement that the engineer either agrees or disagrees with the current classification, and any other information relevant to the safety of the dam or specifically requested by the chief engineer.

(5) Upon failure of a dam owner to comply with the applicable inspection interval, the chief engineer or such chief engineer's authorized representative shall conduct a mandatory inspection of the dam and the costs as established by this act for the inspection shall be paid by the owner, in addition to any other remedies provided for violations of this act.

(6) The failure to file a complete and timely report as required by the provisions of this act, or the failure to submit the fees assessed for inspections conducted by the chief engineer or such chief engineer's authorized representative shall be deemed a violation of this act and subject to the penalties provided by K.S.A. 82a-305a, and amendments thereto.

(b) For the purpose of inspecting any dam or other water obstruction, the chief engineer or an authorized representative of the chief engineer shall have the right of access to private property. Costs for any work which may be required by the chief engineer or the authorized representative prior to or as a result of the inspection of a dam or other water obstruction shall be paid by the owner, governmental agency or operator thereof of such dam or other water obstruction.

(c) All fees collected by the chief engineer pursuant to this section shall be remitted to the state treasurer as provided in section ~~3~~ and

7-6

1 *amendments thereto.*

2 New Sec. ~~4~~ 5. There is hereby created in the state treasury the water  
3 structures fund. The chief engineer of the division of water resources,  
4 Kansas department of agriculture shall remit all moneys received under  
5 K.S.A. 82a-302, 82a-303b and 24-126, and amendments thereto, to the  
6 state treasurer in accordance with the provisions of K.S.A. 75-4215, and  
7 amendments thereto. Upon receipt of each such remittance, the state  
8 treasurer shall deposit the entire amount in the state treasury to the credit  
9 of the water structures fund. All expenditures from the water structures  
10 fund shall be made in accordance with appropriation acts upon warrants  
11 of the director of accounts and reports issued pursuant to vouchers ap-  
12 proved by the secretary of agriculture or by a person designated by the  
13 secretary.

14 *New Sec. 6. On or before January 1, 2003, the secretary of ag-*  
15 *riculture shall submit and present a report to the committee on*  
16 *agriculture of the senate and house of representatives of the state*  
17 *of Kansas summarizing the department's efforts to affect changes in*  
18 *the water structures program, review of the structure of the water*  
19 *resources programs and actions related to the recommendations of*  
20 *the performance audit report of the legislative division of post audit*  
21 *submitted in March of 2002.*

22 Sec. ~~5~~ 7. K.S.A. 24-126, *82a-301*, 82a-302 ~~and~~, 82a-303b *and 82a-*  
23 *304* are hereby repealed.

24 Sec. ~~6~~ 8. This act shall take effect and be in force from and after its  
25 publication in the statute book.

7-7

STATE OF KANSAS

**BILL GRAVES, GOVERNOR**

Jamie Clover Adams, Secretary of Agriculture  
109 SW 9th Street  
Topeka, Kansas 66612-1280  
(785) 296-3556  
FAX: (785) 296-8389



KANSAS DEPARTMENT OF AGRICULTURE

**House Agriculture Committee**

**April 3, 2002**

**Testimony Regarding**

**Senate Bill 436**

**Greg A. Foley, Assistant Secretary of Agriculture**

Good morning Chairman Johnson and members of the House Agriculture Committee. I am Assistant Secretary of Agriculture Greg Foley. Thank you for the opportunity to appear today to present testimony on Senate Bill 436.

The Kansas Department of Agriculture requested a Legislative Post Audit review of on the structures program to address implementation problems. We testified before this committee early in the session on the original language of the bill. Senate Bill 436, as amended, addresses many policy issues outlined within the audit. The following highlights address the major issues within the bill:

- ▶ It proposes new application fees on fill, levees and dams. SB 436 proposes inspection of unsafe dams and stream obstructions (original language).
- ▶ It requires significant-hazard and high-hazard dam owners to hire a professional engineer to inspect and report findings every 5 or 3 years, respectively (original language).
- ▶ It requires the chief engineer to annually inspect dams that the chief engineer has declared "unsafe" (original language).
- ▶ If dam owners fail to complete required inspections of significant- or high-hazard dams, the chief engineer will inspect, and assess the inspection costs for, the unsafe dams (original language).

The Senate added the following language to narrow the scope of implementation efforts, particularly in relation to dams, and report the progress of change.

- ▶ Adds New Section 6, which requires the secretary to submit and present a report on the department's efforts to both agriculture subcommittees on or before January 1, 2003 (amended language).

House Agriculture Committee  
April 4, 2002  
Attachment 8

- ▶ It changes the definition of a jurisdictional dam to:
  - ≥ 50 acre feet storage and > 6' in height; or,
  - ≥ 25' in dam height; and,Identifies how height is measured(amended language).
  
- ▶ Allows applicants to submit plans, reviewed by a KDA approved third-party licensed professional engineer, in order to facilitate the approval process of the Chief Engineer.

Previously, all dams impounding greater than 30 acre feet, regardless of dam height, were required to have a permit. This statutory change will significantly reduce the regulated universe according to Legislative Post Audit.

Thank you for the opportunity to testify in support of this bill. I will stand for questions at the appropriate time.



THE KANSAS ASSOCIATION OF CONSERVATION DISTRICTS  
 522 Winn Road  
 Salina, Kansas 67401  
 Telephone (785) 827-2547  
 Fax (785) 827-7784

Board of Directors

**SANDRA JONES**  
 President  
 5160 E. Road 17  
 Johnson, Kansas 67855  
 Telephone (620) 492-6495  
 Fax (620) 492-2772

**DON M. REZAC**  
 Vice President  
 12350 Ranch Road  
 Emmett, Kansas 66422  
 Telephone (785) 535-2961  
 Fax (785) 889-4514

**JON STARNES**  
 Secretary-Treasurer  
 443 County Road 1  
 Brewster, Kansas 67732  
 Telephone (785) 694-2734  
 Fax (785) 694-2451

**CARL JORDAN**  
 Past President & Director  
 Route 1, Box 110  
 Glen Elder, Kansas 67446  
 Telephone (785) 545-3361  
 Fax (785) 545-3659

**DENNIS YOUK**  
 Director  
 519 Locust  
 Marion, Kansas 66861  
 Telephone (620) 382-3873

**RICHARD G. JONES**  
 Executive Director  
 522 Winn Road  
 Salina, Kansas 67401  
 Telephone (785) 827-2547  
 Fax (785) 827-7784

**HOUSE COMMITTEE ON AGRICULTURE**

**Senate Bill 436 - AN ACT concerning dams, levees and other water obstructions; fees and inspections.**

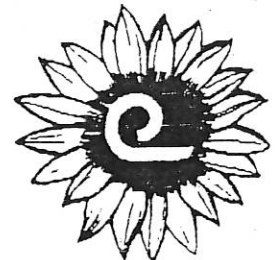
April 3, 2002  
 Topeka, Kansas

Presented by:  
 Kansas Association of Conservation Districts

Chairman Johnson, and members of the Committee, we appreciate the opportunity to express our concerns with Senate Bill 436. Our concerns are not with the proposed fee changes, but with the permit procedures required for very shallow water areas developed through the USDA Wetlands Reserve Program and through other state and local conservation programs.

At their 57th Annual Meeting November 20, 2001, the Conservation Districts of Kansas passed a resolution proposing a construction and water use permit exemption for shallow wetland areas developed through the Wetland Reserve Program (WRP). (Copy Attached)

The WRP was created as a voluntary land-retirement program designed to assist landowners in restoring and protecting wetlands. The program does not create new wetlands but enhances and or improves existing areas that are designated as wetland. Areas having been identified as hydric soils and or with



House Agriculture Committee  
 April 4, 2002  
 Attachment 9

hydrophytic plants. Those developed or planned for landowners in Kansas have fill areas less than five (5) feet and a water depth of less than two (2) feet. Wetlands developed through this program do not obstruct streams, have no water use other than temporary storage of flood flows and incidental wildlife use. They are designed under federal policies and regulations of the Natural Resources Conservation Service with concurrence of the U. S. Fish and Wildlife Service. They do provide significant environmental benefits to the surrounding area. Participants have given many reasons for signing up in the program, but the main reason is the belief that it is good for wildlife, conservation, and economically wise. Producers have commented, "These acres should never have been farmed."

Kansas has nearly 100 WRP contracts covering nearly 10,000 acres. Interest is greatest in the southeastern part of the state. Neosho County is leading the state with about 3,000 acres of WRP easements.

The permit requirements for WRP shallow water areas are nearly the same as for water storage areas designed for flood control, water supply, recreation, etc. These requirements are not practical or applicable to the shallow water areas.

We ask the House Committee on Agriculture to pass Senate Bill 436.



KACD WILDLIFE, FORESTRY AND RECREATION COMMITTEE

RESOLUTION NO. 1: PERMIT EXEMPTION FOR WETLANDS RESERVE PROGRAM PARTICIPANTS

WHEREAS, the wetlands restored and protected through the Wetlands Reserve Program (WRP) are very shallow water areas developed to improve wildlife habitat; and

WHEREAS, WRP wetlands do not obstruct streams, have no water use other than temporary storage of flood flows and incidental wildlife use; and

WHEREAS, WRP wetlands provide significant environmental benefits to the surrounding area including, flood damage reduction, water quality improvement, and wildlife use; and

WHEREAS, WRP wetlands are designed under the federal policies and regulations of the Natural Resources Conservation Service with concurrence of the U.S. Fish and Wildlife Service; and

WHEREAS, the State of Kansas and the Kansas Division of Water Resources require the same permits for WRP wetlands shallow water areas as water storage areas designed for flood control, water supply, recreation, etc., and the forms and reports are not practical or applicable to WRP wetland shallow water areas;

THEREFORE, BE IT RESOLVED, that the Kansas Association of Conservation Districts work to exempt WRP wetland areas (which receive only water from natural runoff) from the requirements of the State Statutes.