Testimony of Jim Rice
Seward County Commissioner
Kansas Senate Committee on Natural Resources
Senate Bill 425
Thursday, February 18, 2016

Committee Members:

I am Jim Rice, a County Commissioner representing Seward County. I appreciate the opportunity to speak on behalf of our County in support of SB 425.

First, this Bill would allow local County Commissions the opportunity to regulate Conservation Easements within their county boundaries consistent with the Uniform Conservation Easement Act. This Bill would also give Counties specific authority to adopt guidelines for notification of adjacent landholders, to set procedures and timelines for filing of Conservation Easements at the courthouse, and the ability to set other Standards, such as mapping, locational and/or buffer-zone standards.

I want to provide the committee with some real-life examples of why Seward County so strongly believes local involvement in Conservation Easements to be important.

The first example is from a neighboring County, Meade - where a property owner chose to enroll a half section (~320 acres) into a Qualified Conservation Easement. After the owners death, his heirs inherited the property, which was encumbered by an "in Perpetuity" Conservation Easement. The heirs were bound by the original agreement on land that now sits idle…..with the exception of having some hunting rights and tax liabilities. They have no water rights and even though subsurface resources are intact, the easement prohibits access to them from within the property. The heirs are not allowed to construct a structure upon the property - not even a fence - around or upon the half section. The heirs are asking the legitimate question: "Why *should* we continue to pay property taxes on this worthless land?"

People questioning whether or not to pay property taxes could become a significant problem for County governments in addition to the current ever increasing delinquent county property tax roll we are already facing.

The second problem is that the conservation easement transaction required the land to be re-graded, and water from Crooked Creek was diverted such that when it rains, waters collect and flood a significant portion of a County road. This was intentional and by design – and it worked – water collects along a ½ mile stretch of road pooling to a depth of 12 to 18 inches deep during rainstorms. Had Meade County had the authority to make standards like those afforded by SB 425, the County engineer would have had the opportunity to review and assess impacts to school-bus and mail routes, as well as rural fire, ambulance, EMS coverage, travel convenience, etc.

In another example of how conservation easements can and do affect local tax revenue, I have attached for the Committees review a Conservation Easement from Finney, County, KS.

The Finney County example has an in-Perpetuity Conservation Easement, (PCE) and was enrolled through the Federal Wetlands Reserve Program. Our calculations demonstrate the easement resulted in an 83% decrease in county tax receivables. Specifically, a taxable value of $502.30 in 2011 decreased to $86 dollars in 2012, when the PCE become effective. It further required the Landowner to convey and relinquish any and all other property rights not so reserved. The agreement also limits activities on adjacently owned lands, should those activities be deemed to affect the enrolled land.

I might note this revenue reduction affects far more than just the county. Fire districts, school districts and even state government may feel the effects from the reduced revenue.

In closing, I note that SB 425 gives County Governments the *Option* to regulate conservation easements, just as they do with planning and zoning and other ordinances. It also affords landholders desiring a Conservation Easement the opportunity to deal with their <u>local</u> governments, which is as it should be – local control.

Thank you for your consideration of approving this bill.

Jim Rice
Seward County Commissioner

<u>Case Study</u>: Tax Base Reduction in Finney County, Kansas Resulting from in-Perpetuity Conservation Easements through Federal Wetlands Reserve Program

By Kansas Statute, private lands encumbered with in-Perpetuity Conservation Easements (PCEs) through the Federal Wetlands Reserve Program (WRP) must carry the "Native Grassland" State designation and be valued at $10/acre. Native Grassland valuations typically range from $10/acre to $25/acre, depending upon soil type; agriculture lands may have a different valuation (dry lands ranging from $10/acre-$162/acre, irrigated lands from $10/acre to $494/acre).

Placement of a PCE through US Department of Agriculture's (USDA) Natural Resource Conservation Service (NRCS) Wetlands Reserve Program has resulted in the following, demonstrable impact to the tax base:

- Prior to the change in designation created by the PCE-WRP **2011** tax bill was **$502.30;**
- Following the PCE placement and statutory designation change to Native Grassland, the **2012** tax bill was **$86,** resulting from a lowered valuation to $10/acre;
- The property's designation as Native Grassland represents an **83% decrease in taxes receivable**

Contract Language included in PCEs-WRP deeds recorded in KNRC counties read:

Page 1 **–** "the Grantor(s), hereby grants and conveys with general warranty of title to the

> UNITED STATES OF AMERICA and its assigns, (the Grantee), in ***perpetuity***, all rights, title and interest in the lands… It is the intention of the Landowner to convey and ***relinquish any and all other property rights*** not so reserved. This easement shall ***constitute a <u>servitude</u> upon the land so encumbered***"

Page 3 **–** "The Landowner shall ***<u>comply</u>***… ***<u>are prohibited</u>*** on the easement area: …any

> activities to be carried out on the ***Landowner's land*** that ***is immediately adjacent*** to, and ***functionally related to***, the land that is subject to the easement if such activities will alter, degrade, or otherwise diminish the functional value of the eligible land."