

MINUTES OF THE SENATE AGRICULTURE COMMITTEE.

The meeting was called to order by Chairperson Derek Schmidt at 8:30 a.m. on January 30, 2001 in Room 234-N of the Capitol.

All members were present except:

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

Conferees appearing before the committee:

Dirk Hanson, Executive Director, Board of Veterinary Examiners  
Jamie Clover Adams, Secretary, Department of Agriculture  
J. D. Rector, Chautauqua County, Kansas  
Frances Kelsey, Shawnee County, Kansas  
Larry Dahlsten, McPherson County, Kansas  
Greg Krissek, Kansas Corn Growers Association  
Doug Wareham, Kansas Grain & Feed Association and Kansas  
  Fertilizer and Chemical Association  
Terry Leatherman, Kansas Chamber of Commerce and Industry  
Alan Hess, Kansas Livestock Association  
Charles Benjamin, Sierra Club

Others attending:        See attached list

Dirk Hanson, Executive Director, Board of Veterinary Examiners, appeared before the Committee requesting that a bill be introduced amending KSA 47-816, KSA 47-822 and KSA 47-825. Mr. Hanson stated the proposed amendments are (1) technical, (2) will reduce the number of examinations required for licensure; and (3) will expand the time from 45 to 60 days between time of application and the taking of the examination.

Senator Tyson moved, seconded by Senator Downey, that a bill pursuant to Mr. Hanson's request be introduced as a committee bill and referred back to the Committee for consideration. The voice vote was in favor of the motion.

Upon a motion by Senator Corbin, seconded by Senator Umbarger, the Minutes of the January 23<sup>rd</sup> and January 24<sup>th</sup> meetings were unanimously approved.

**SCR 1605 - Requesting President Bush to permanently withdraw certain EPA regulations**

Jamie Clover Adams, Secretary, Department of Agriculture, testified in support of the intent of **SCR 1605**. Secretary Adams advised that the Confined Animal Feeding Operation (CAFO) regulation was proposed on January 12, 2001 in the *Federal Register*, and a draft document was released to the public around the middle of December 2000. The scope of this proposed rule not only impacts "large factory farms" but it would impact many small and mid-size family farm operations in Kansas with as few as 300 animal units; therefore, a 60-day moratorium and extension of the comment period is appropriate. (Attachment 1)

The Department of Agriculture also supports application of the 60-day moratorium to the EPA proposed water quality standards for Kansas published in the *Federal Register* on July 3, 2000. Inasmuch as there is an interpretation of whether or not Kansas Water Quality Standards promulgated under state law conflict with provisions of the Clean Water Act, it is reasonable to allow Administrator-nominee Whitman to determine if the interpretation coincides with her own.

## CONTINUATION SHEET

Secretary Adams stated the proposed rules are contrary to the voluntary, incentive based approach Kansas has chosen to address nonpoint source pollution and has required the State to shift limited resources from activities to improve water quality to activities in administration, which does nothing to address the water quality in the state. Secretary Adams stated it is both appropriate and prudent for the Bush Administration management team to review all proposed regulations and to determine whether such regulations are in the best interest of the nation. It is also appropriate that Kansans be a part of the review process.

J. D. Rector, Chautauqua County, Kansas, testified in support of **SCR 1605**, stating Kansans react to persuasion rather than the “hammer”. Mr. Rector cited an article in the January 24<sup>th</sup> Issue of *The 2001 Chautauqua County Soil Conservation* paper that reported on a “riparian” project undertaken that upgraded game bird habitat, improved stockwater quality, reduced fertilizer runoff from cool-season grasses and provided the ability to rotate pastures. This was accomplished by individual initiative and incentive programs through the Soil Conservation Commission. ([Attachment 2](#))

Francis Kelsey, Silver Lake, Kansas, testified in support of **SCR 1605**, stating that the water regulations published in the *Federal Register* were major rules and have a cost: 1) to the taxpayers for upgrades to wastewater treatment facilities; 2) to individual landowners because of restricted use of their own private lands and private waters; and 3) to the state in having their water quality regulations developed by regulators in Washington. Mr. Kelsey stated the Kansas Attorney General and the US Supreme Court have both determined that farm ponds should not be considered navigable waters, and therefore, are not subject to the regulation. At the very least, this part of the regulation should be eliminated. The Supreme Court reinforced the rights of individual states to regulate water quality in its recent decision. ([Attachment 3](#))

Larry Dahlsten, Lindsborg, Kansas, testified in support of **SCR 1605**, stating that since the publication of EPA’s proposed water quality standard rules last July, there has been a great deal of discussion on the impact on Kansas farmers and ranchers. The common thread throughout the discussions is of the heavy handedness of the federal government. Federal mandates do not encourage producer participation, nor do they necessarily result in improved water quality. Mr. Dahlsten stated he applied for and signed six separate Environmental Quality Incentive Program (EQIP) contracts for a total of 672.7 acres. Each contract falls within the “statewide concerns” category and extends for a period of five years, with payments pro-rated over the first three years. These contracts have produced tangible results and are the antithesis to federal mandates. They more quickly and more sustainably meet water quality goals because producers embrace them, rather than run from them. Rescinding the water quality rule proposed by the EPA last summer and replacing them with incentive-based voluntary programs will have more positive results. ([Attachment 4](#))

Greg Krissek, Director of Operations for the Kansas Corn Growers Association and the Kansas Grain Sorghum Producers Association, testified in support of **SCR 1605**, stating the Resolution would send an urgent and important message to the newly elected Bush Administration and the US Congress about Kansans’ concern over the proposed EPA water quality regulations for the state. The Associations have analyzed, discussed and commented upon the proposed regulations, and it has become clear they will not provide true environmental benefits. The resources required to participate in the rulemaking process have seriously detracted from programs that agricultural organizations had in place to work with producers and others for water quality education and outreach. Mr. Krissek stated EPA grossly underestimated the potential cost of the proposed regulations to Kansans. The estimates developed by the State Conservation Commission reflect the true expected cost which amount to millions of dollars.

With new leadership in the federal government and the USEPA, it is hoped that the opportunity exists for Kansas leadership to begin new discussions concerning these proposed regulations with the goal of resolving issues that remain. It is the Associations’ desire to resume the good progress that was made on the state’s water quality issues prior to the issuance of the new regulations. ([Attachment 5](#))

Doug Wareham, Kansas Fertilizer and Chemical Association (KFCA) and the Kansas Grain and Feed Association (KGFA), testified in support of **SCR 1605** urging the Bush Administration to withdraw environmental regulations proposed by the EPA. Mr. Wareham stated the new surface water quality standards proposed would supercede existing Kansas water quality laws and establishes unachievable affluent discharge

standards for many rural Kansas communities, requires an additional 1,292 streams and

## CONTINUATION SHEET

164 lakes in Kansas to fall under the most stringent recreational use designation and applies stringent water quality standards to privately owned ponds and lakes. ([Attachment 6](#))

Even though the cost estimates associated with EPA's proposed water regulations ranged from several million to hundreds of millions of dollars, the most disquieting part of EPA's attempt to impose new standards was the interruption of the voluntary education activities in the water quality arena undertaken by public and private sector alliances. These efforts came to a virtual standstill and have had an unintended impact on the Kansas farmer and rancher.

Terry Leatherman, Vice President-Legislative Affairs, Kansas Chamber of Commerce and Industry (KCCI), testified in support of **SCR 1605**, stating the KCCI membership is very concerned about the actions taken by the EPA this past summer regarding water quality issues in Kansas. The KCCI, at its Business Congress last fall listed Kansas water quality as its 5<sup>th</sup> item on this year's list of major legislative objectives. Passage of **SCR 1605** adds the collective voice of the Kansas Legislature to the effort of the state to manage its own water quality. ([Attachment 7](#))

Alan Hess, Kansas Livestock Association (KLA), testified in support of **SCR 1605**, stating the proposed rules and regulations promulgated by EPA last summer place an unfair burden on the ranchers and farmers in Kansas. The CAFO guidelines, recently proposed by EPA, are stacked with cumbersome record keeping requirements that will impact small and moderate sized operations throughout the state. Mr. Hess stated the Kansas Water Quality Standards require waters subject to the Clean Water Act including ponds, be free from foam and algae. To meet such standards, it is necessary to fence each facility to assure no livestock contacts the water, and to build many miles of fence around ponds and drainage areas. The cost of compliance would be prohibitive. ([Attachment 8](#))

The KLA is opposed to EPA designating certain streams for primary contact recreation as many streams on ranches are dry or have less than 6 inches of water. It is obvious that it is impossible for humans to immerse in these streams and ingest stream water.

Joe Lieber, Kansas Cooperative Council, submitted written testimony, supporting the passage of **SCR 1605**. ([Attachment 9](#))

Charles Benjamin, Sierra Club, testified in opposition to **SCR 1605**, stating passage of the resolution would send a message to rescind a law enacted by Congress. Mr. Benjamin testified that there has been a lot of misinformation circulated by certain organizations who feel threatened by EPA's proposed water quality standards for Kansas. Mr. Benjamin distributed to the Committee a Sierra Club, Kansas Chapter press release dated September 7, 2000, ([Attachment 10](#)), Pages 41220 through 41223, *Federal Register/Vol. 65, No. 128, Monday July 3, 2000/Proposed Rules* ([Attachment 11](#)), and EPA Region 7, Fact Sheet ([Attachment 12](#))

Due to time restraints, Mr. Benjamin's testimony will be continued.

The Committee adjourned at 9:35 a.m.

The next meeting is scheduled for January 31, 2001.