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## Is water conservation a beneficial use of our state's water resources?

by Secretary of Agriculture Josh Svaty



I believe that it is. At first blush, this may seem a universal truth. However, in the world of Kansas water law, this is a novel concept currently prohibited by state law, but a change the state ought to adopt.

Kansas has long been a leader in how we manage our water resources. Our Water Appropriation Act, enacted in 1945, was years ahead of neighboring states and has served the state well for more than six decades. However, when the act was first passed in 1945, the emphasis was on developing our water resource.

A person or entity that received a water right was required by law to put that right to a "beneficial use," whether through irrigation, municipal or industrial use, stockwatering, or any one of the other 14 beneficial uses. If the person or entity failed to put the water to use for any five year stretch of time, the water right could be considered "abandoned" and taken away.

Like any other 65-year-old piece of legislation, the Water Appropriation Act must respond to an ever changing environment, and we certainly face one today. Our water resource, over much of the state, has been heavily developed, with many areas of the state now closed to any new water rights.

As water became scarce, the value of a water right rose exponentially. Because of this, many water right holders—primarily farmers and ranchers—will do anything to keep their rights, even if it means pumping water when they would rather conserve it. They are looking to the future, when their sons or daughters come back to farm, or a better, more efficient method of irrigating becomes available, so we shouldn't point at them with the finger of blame.

The Kansas Department of Agriculture believes that water right holders themselves are the people best suited to make long-term decisions about their property interest. That is why we introduced Senate Bill 510 this year in the

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**Fun Facts About  
Kansas Agriculture**

All the wheat grown in Kansas in a single year would fit in a train stretching from western Kansas to the Atlantic Ocean.

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The KDA Connection is a quarterly electronic newsletter published by the

Kansas Legislature. It would allow conservation to be included as a beneficial use along with the others outlined in our regulations.

SB 510 would create a voluntary program that would allow a water right holder to set all or part of his or her water right aside in conservation. If the water was ever needed again, the person holding the right could simply change its use back to the original purpose or use it for something else. If the water right holder wanted to sell the conservation portion, he or she could. It was a voluntary effort to say to our farmers and ranchers, "You no longer need to wastefully pump your water just to keep from losing your water right."

When SB 510 was introduced in the Senate and heard before the Senate Natural Resources Committee, it had broad--but not unanimous--support. The lone dissenting lobbyist concern was that conservation use would be applied statewide like all other beneficial uses of water, rather than confined to small geographical areas. Unfortunately, without unanimous support, the committee would not work the bill.

This change in water policy is not just timely. It's long overdue. It's time we put our trust in the water right holders who stand to benefit the most—our farmers and ranchers—by equipping them with a tool to stop wasteful water pumping just to prevent losing their water rights. That's why the Kansas Department of Agriculture will continue to push for this policy change.

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## Dairy fee bill ensures future market for Kansas milk

The Kansas Department of Agriculture gained some much needed traction in its quest to ensure the future marketability of Kansas milk when the Legislature approved a fee package to sustain its dairy inspection program.

"We were facing a significant funding shortfall to the extent that it threatened our ability to continue to provide the inspections required under the interstate milk shippers' agreement," said Josh Svaty, secretary of agriculture. "Getting state general fund support at this time was out of the question, so we had to find another way to maintain the program, and we couldn't have done it without industry support."



*Dairy inspector Cella Bissen inspects a dairy barn.*

House Bill 2566 was supported by the dairy industry, passed by the Kansas Legislature and signed into law by Governor Mark Parkinson. It goes into effect July 1, 2010, and its primary provisions are that:

- Dairy manufacturing plant and milk distributor annual license fees will increase from \$155 to \$200 until June 30, 2015, when they would revert to \$120;
- Inspection fees for packaged Grade A pasteurized milk or milk products sold; Grade A raw milk for pasteurization delivered to a processor; and milk or cream produced for manufacturing purposes will increase from \$.01 to \$.02 until June 30, 2015, when it will revert to the prior rate.
- Inspection fees for frozen dairy dessert or dessert mix will increase from \$1.50 to \$2 per thousand gallons until June 30, 2015, when it will revert to \$1 per thousand gallons.
- License fees for operators of milk or cream transfer stations and receiving stations, and for manufacturers of single service dairy containers and container closures, will increase from \$65 to \$100 until June 30, 2015, when it will revert to \$5

The bill also includes requirements that milk tank truck cleaning facilities be licensed annually and pay a maximum annual license fee of \$100 and that milk tank trucks be inspected annually and pay a maximum annual inspection fee of \$50, although the fee will be set at \$25 for fiscal year 2011. And, it adds new definitions for the terms "bulk milk pick up tanker," "milk plant," "milk tank truck," "milk tank truck cleaning facility," "milk transport tank" and "milk transportation company."

The bill also has provisions that authorize and direct the secretary of agriculture to decrease the fees if it is determined the cost of the program decreases and to increase the fees, up to the statutory limits, if program costs increase.

"Had this bill not passed, the program likely would have been unfunded in 2012. Without our inspections, dairies would not be able to sell their milk across state lines," Svaty said. "This program is far too important to the Kansas dairy industry and the rural communities where our dairies are located, so I'm glad we were able to get the support we needed to sustain these vital services."

Kansas ranked 17th in the nation in milk production in 2008, when the state's dairies produced more than 2.4 billion pounds of milk.

The Kansas Department of Agriculture laboratory got a much needed boost when the Legislature passed and Governor Mark Parkinson signed Senate Bill 396 creating a laboratory equipment fee fund for acquiring, maintaining and replacing equipment.

Funding will come from existing fees paid by the business entities that benefit from the laboratory's services. Up to 10 percent of carryover funds collected by the different programs that rely on the analytical services the laboratory provides will transfer to establish the fund up to \$500,000.



*Media await the addition of water from ice samples for coliform analysis.*



*Lab employee Ursula Gage weighs feed samples for heavy metal testing.*

Lab equipment is used daily in support of the agency's regulatory programs, whether it's to detect pesticides on plant or soil samples, to verify Kansas-produced milk meets Grade A standards, or to detect dangerous pathogens on meat samples. If laboratory equipment fails, it could impact a Kansan's ability to do businesses.

For example, early in the 2008 wheat harvest, the department learned of late-season fungicide applications that had the potential to disrupt the grain's marketability. The lab was able to analyze wheat from affected fields to verify that fungicide residue did not exceed allowable federal standards. During the analytical process, the lab instrument (LC/MS/MS) used to measure the fungicide residue quit working. Fortunately, it could be repaired quickly. However, the department's many requests for state general fund dollars to purchase a new one have been denied in the current climate of scarce resources.

"Our laboratory needs a reliable funding source to purchase and maintain laboratory instruments," Cotsoradis said. "The instruments are necessary to continue to provide a high level of assurance that consumers and industry require of us."

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## **Legislature acts on other bills that affect department**

The 2010 Kansas Legislature passed, and Governor Mark Parkinson signed, a handful of bills that affect Kansas Department of Agriculture programs.

Unless specified, all legislation takes effect July 1.

Senate Bill 393  
Notice and Opportunity for a Hearing;  
Dairy Licenses

The bill amends several sections of law administered by the Kansas Department of Agriculture to provide that actions like revoking a license are subject to notice and opportunity for a hearing. Prior law required the notice and for the hearing to take place. Sections of law amended by the bill include provisions relating to the licenses of live plant dealers; licenses, permits, registrations, or certificates issued by the agency for pest control and the pesticide use laws; licenses issued under the Kansas Egg Law; permits issued to chemigation users; licenses issued to public grain warehousemen; registrations issued under the Kansas Meat and Poultry Inspection Act; licenses and permits issued under the Kansas Dairy Law; certain licenses under the Kansas Weights and Measures Law; and civil penalty actions taken by the secretary for violations of law or rules and regulations under the Department of Agriculture's authority.

Also, a new provision authorizes the secretary to suspend temporarily any licenses and permits issued under the Kansas Dairy Law without hearing and subject to the notice requirements of the emergency adjudication procedures of the provisions of the Kansas Administrative Procedure Act under certain findings of the secretary. The temporary suspension cannot exceed 90 days. After that, the license or permit is to be reinstated, permanently suspended, or revoked.

Senate Bill 394  
Courses and Materials  
Regarding Pesticide Education

The bill adds educational institutions, state and federal agencies, and any other person to the list of entities or individuals that the secretary of agriculture may cooperate with to publish information and conduct short instructional courses on the safe use and application of pesticides. The bill also allows the secretary to cooperate with these same entities to carry out the related provisions of pesticide law.

House Bill 2566  
Dairy Fees;  
Food, Drug and Cosmetic Act Technical Cleanup

The bill changes all references to the Kansas Department of Health and Environment in the Kansas Food, Drug and Cosmetic Act to the Kansas Department of Agriculture as it relates to regulating over-the-counter drugs and cosmetics. The bill also contained the changes to the dairy law summarized in the KDA Connection story ["Dairy fee bill ensures future market for Kansas milk."](#)

Senate Bill 316:  
Water Rights—Cause for Nonuse

The bill permits those holding groundwater rights, and who meet certain criteria, to claim due and sufficient cause for nonuse so their water rights won't be deemed abandoned by the Division of Water Resources. The criteria require the water right have as its local supply an aquifer area that has been closed to new appropriations (by rule, regulation, or order of the chief engineer), and a means of diversion available to put water to a beneficial use within a reasonable time.

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## **Department launches Government Relations web page**

The Kansas Department of Agriculture now has a government relations page on its website to help link the department's programs to the Kansas Legislature, the agriculture sector, and the industries and individuals the department regulates.

"Our staff work with elected officials, other agencies, industry and regulated entities to ensure that new policies are based on sound principles without being unnecessarily burdensome," said Secretary of Agriculture Josh Svaty. "Our government relations page is to enhance that relationship by being a source of useful information."

Since its launch earlier this year, the page has expanded to include a bill tracking feature and agency testimony.

"Many folks want to know how different bills pending before the Legislature are going to impact them or how they do business, and this is our effort to provide answers," Svaty said. "It's also part of our effort to make government more transparent by providing information that may not be as easily accessed elsewhere."

The government relations page can be found at [www.ksda.gov/gov/](http://www.ksda.gov/gov/).

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## **Stop animal movement statewide Kansas/Oklahoma**

*by Sandy Johnson, Homeland Security Specialist*

Is there commercial air service in Liberal? Are rental cars available? Can I use state travel for employees from other states? These are just a few of the

questions that I asked as I began arranging to bring more than 20 state agriculture officials from 11 states to four locations in Kansas and Oklahoma to participate in the first bi-state stop animal movement exercise. Eighteen months prior, I could not have imagined the level of interest this exercise would generate or how complex planning it would turn out to be.

Each year, the Kansas Department of Agriculture and the Kansas Animal Health Department seek Department of Homeland Security grant money to fund our participation in the MultiState Partnership for Security in Agriculture. The partnership is made up of 13 Midwestern states, and our mission is to protect the food and agriculture sector by working together to prevent duplication and enhance our agriculture emergency preparedness and response initiatives. I participate in several meetings and countless conference calls each year to ensure we get the most out of our involvement in the partnership and to learn what the other states are doing.

The 2007 grant was earmarked for a bi-state stop movement exercise, and our neighbors in Oklahoma agreed to join us for the exercise. I wrote a project plan that described how other partnership states could participate and benefit from our experience. We hired a contractor and insisted that exercise staff be provided by partner states. This resulted in a more cost-effective exercise, as the contractor did not have to pay a lot of people to control and evaluate exercise activities. It also brought more meaning to the exercise for partnership states. Instead of “watching” the exercise as observers, they were put to work as simulators, actors, controllers and evaluators.



**Exercise players work in the Kansas Department of Transportation mixing strip near Sitka, Kansas, where vehicles were diverted to for screening and disposition.**

Officials have been planning how to respond to an outbreak of a foreign animal disease for many years. In Kansas, county officials are responsible for screening traffic on all roads in their county. Past exercises showed that this would not be possible and an alternative was provided by the Kansas Department of Transportation. They suggested that a safer, more effective way to screen traffic would be to concentrate on state borders and use KDOT mixing strips as a way to pull traffic off of the roads. KDOT owns hundreds of right-of-ways across the state that they used to mix sand and salt and to stage equipment and materials.

The Kansas Animal Health Department partnered with KDOT, the Kansas Highway Patrol and the Kansas Department of Agriculture to use the exercise as a pilot project to determine the benefit of using the state-owned locations.

This exercise was designed to test using KDOT mixing strips as potential traffic

control points, as well as the plans and procedures that had been developed. If successful, the project would be expanded to include the rest of the state. County officials, KDOT workers and supervisors, KHP troopers and commanders, and others would be trained on this new way of controlling animal movement.

On October 22, a simulated outbreak of foot-and-mouth disease was reported to officials on a 7:45 a.m. conference call. State and federal animal health officials in Kansas and Oklahoma made the call to initiate a statewide quarantine of incoming animals by issuing an order to stop livestock and farm related equipment. The vehicles were screened by law enforcement and decisions were made regarding their disposition. Kansas used the KDOT mixing strip located in Sitka as the traffic control point for the exercise. Oklahoma used a checkpoint in Turpin, 30 miles south of Liberal, Kansas. Both states activated their state emergency operations centers, and each used a variation of an agriculture departmental operations center. The exercise was controlled from the KDA departmental operations center in Topeka. Eleven simulators called in injects to both state emergency operations centers and to controllers at field locations. Actors at the field locations drove through the checkpoints, using scripts to identify themselves as haulers of livestock and related materials.

After action meetings and participant and evaluator feedback revealed that using the mixing strip and the planning that was accomplished in conjunction with the exercise paid off. Now the real work begins! Each state will develop an improvement plan based on the evaluation of the exercise. Tasks will be assigned to various agencies and individuals within those agencies. Many things went right in the exercise and many things can be improved. While it is tempting to rest on our laurels, we know that we have to continue to plan for events, train our responders and test ourselves on a regular basis. Because of this project, we now have a cadre of experienced exercise staff, planning templates, four exercise templates and a plan for the future.



***Exercise players in Topeka meet at the end of the exercise to be debriefed and to provide feedback.***

As a result of the after action meeting in December, the Kansas Animal Health Department partnered with the Kansas Department of Agriculture, the Kansas Department of Transportation and the Kansas Highway Patrol to conduct nine regional workshops across the state to brief participants on the SAMS KO exercise. Workshops were in Dodge City, Colby, Salina, Beloit, Hutchinson, Topeka, Chanute, Kansas City and Clay Center.

The workshops consist of a foreign animal disease 101 presentation to orient all

participants on the Kansas Foreign Animal Disease Response Plan. An overview of the SAMS KO (Stop Animal Movement Statewide – KS/OK) exercise is provided to include lessons learned and the plan for the future. KDOT and KHP personnel provide presentations on the roles of their organizations and local partners in the event that a stop movement order is issued by the Kansas livestock commissioner.

The objectives for the workshops are to:

- Familiarize participants with the Kansas Foreign Animal Disease Response Plan;
- Describe roles and responsibilities regarding permitted movement during a foreign animal disease incident;
- Describe current plans and procedures for permitted movement;
- Discuss future planning, training and exercise activities related to permitted movement;
- Provide an overview of the stop movement pilot project including the SAMS KO exercise, lessons learned and next steps.

More than 550 people attended the workshops, and all participating agencies received favorable comments regarding the sessions. State planners will meet with border states to continue to refine the plan to stop and resume (permit) movement of livestock and livestock related traffic in the event of a foreign animal disease outbreak in the United States.

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## **Kansas ag department seeks applicants for 2011 specialty crop grants**

The Kansas Department of Agriculture is seeking applicants who want a share of the \$281,914 the state received for specialty crop projects in federal fiscal year 2011.

Kansas was awarded the grant as a result of the Specialty Crops Competitiveness Act of 2004, which was passed by Congress and authorized the U.S. Department of Agriculture to help states enhance the competitiveness of specialty crops.

Specialty crops are defined as fruits and vegetables, tree nuts, dried fruits and nursery crops, including floriculture. Grants will be awarded for projects that enhance the competitiveness of these

specialty crops, whether it's through research, promotion, marketing, nutrition, food safety and security, plant health, education, buy-local programs, addressing environmental concerns, or developing cooperatives.

Grant applications are due by 5 p.m., Thursday, July 1, 2010, and need to be made to Secretary of Agriculture Josh Svaty, Kansas Department of Agriculture, 109 SW 9th St., Topeka, KS 66612. Grant awards will be announced by the end of July.

The grants are open to commissions, public entities, and associations and/or nonprofit organizations that represent Kansas' specialty agriculture and food producers. Applicants must be a legal entity and have the legal capacity to contract. Applicants are strongly encouraged to have a cash match for their projects.

Applications will be reviewed by staff from the Kansas Department of Agriculture and the Kansas Department of Commerce, as well as by an advisory committee established specifically for the project. Svaty will make the final awards based on his own review of the applications and the feedback he receives from other reviewers.

More information about the specialty crop block grant program and the grant application are available online at [www.ksda.gov/kansas\\_agriculture/content/281](http://www.ksda.gov/kansas_agriculture/content/281).



**Savor the Season cards educate farmers' market customers about the types fresh foods available and how they can be cooked.**

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## **State celebrates agriculture with proclamation, events**

*by Lisa Taylor, Communications Director*

Governor Mark Parkinson urged Kansans to remember where their food came from and to "thank a farmer" during Kansas Agriculture Week, which ran from March 14 to 20.

"Agriculture has always been the backdrop to life in Kansas. It's a tradition that predates our statehood, and it continues to contribute to our economic well-being," said Parkinson. "Whether it's a Thomas County wheat farmer, a Flint

Hills rancher or a truck farmer from Johnson County growing heirloom tomatoes, Kansas farmers and ranchers help fill our food, fiber and fuel needs. During Agriculture Week, especially, we need to remember to thank them for the work they do."

Parkinson signed a proclamation to declare March 14 to 20 Kansas Agriculture Week and March 18 Kansas Agriculture Day. It noted Kansas' leading roles in wheat and grain sorghum production, as well as its second place ranking in cropland, and third place rank in beef production, land in farms and sunflower production. Also noted was the \$13.9 billion market value of all agricultural products sold in 2008, which placed Kansas seventh in the nation. The same year, the state ranked sixth in farm product exports, valued at \$5.9 billion.

"Agriculture is our bedrock. The economy may wax and wane, but demand for food never ends," said Josh Svaty, secretary of the Kansas Department of Agriculture. "During these challenging economic times, it's good to know that one in five Kansans has a job that is tied in some way to agriculture and food production."

### **Svaty Greet Postcard Art Contest Winners**

As part of the Kansas Agriculture Day celebration, Svaty presented awards to winners of the Kansas Foundation for Agriculture in the Classroom's annual postcard art contest.

"It truly was an honor to welcome these students to Topeka and to present them with their awards, especially on Kansas Agriculture Day," Svaty said.

More than 630 kindergarten through sixth grade students from 22 counties across the state entered this year's contest by designing a post card around the theme, "Kansas Crops: Seeds of Understanding."

Artwork was judged on relevance to the theme, creativity, originality, use of color, use of space, and clarity of idea and image.

A first prize winner was selected from each grade level along with one grand



*Fourth grader Ellie Green, Prairie Village, seen*

prize winner. Each first prize award recipient will receive a \$50 U.S. Savings Bond and the grand prize winner will receive a \$100 bond.

*here with Secretary Josh Svaty and Representative Kay Wolf, was the grand prize winner of the postcard art contest.*

This year's winners are:

- Grand prize (fourth grade): Ellie Green, Prairie Village
- Kindergarten: Ryah Griffin, Manhattan
- First grade: Kara Bruna, Hanover
- Second grade: Erick Garcia, Garden City
- >Third grade: Ethan Entz, Newton
- Fourth grade: Lindsey Gile, Sedgwick
- Fifth grade: Claire Walsh, Bonner Springs
- Sixth grade: Lyndie Copeland, Holton

### **Lawmakers Treated to Kansas Foods Lunch**

The Ag Day celebration continued with state lawmakers feasting on a lunch of Kansas foods compliments of several agricultural organizations.

The by-invitation lunch was at the historic Dillon House just west of the Statehouse. It featured a wide array of Kansas foods, including:

- Chipotle sloppy joes with crunchy cole slaw featuring beef from Fairview Farms of Topeka
- Pulled pork in hickory sauce featuring pulled pork from Fairview Farms of Topeka and hickory sauce from Little Audrey's Saus Haus in Colby
- Fresh baked rolls from Wheat Fields Bakery Café in Lawrence
- Fresh spinach salad with poppy seed dressing featuring spinach grown by the Depot Market of Courtland and dressing prepared by Our Daily Bread Bake Shoppe of Barnes
- Spinach and artichoke dip with tortilla chips produced by Original Juan's in Kansas City
- Assorted summer sausages from New Grass Bison of Shawnee and Farmer's Fallow Deer of Viola
- Assorted cheeses from Alma Creamery of Alma and from Jason Wiebe Dairy of Durham
- Fresh baked cupcakes baked by Daddy Cakes in Topeka
- Homemade ice cream from Kansas State University's Call Hall

Freshly brewed coffee from beans roasted and ground by Blacksmith Coffee of Lindsborg

Lunch sponsors were the Kansas Beef Council, Kansas Cotton Association, Kansas Corn Commission, Kansas Farm Bureau, Kansas Farmers Union, Kansas Grain Sorghum Commission, Kansas Pork Association, Kansas Soybean Commission and Kansas Wheat.

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## Ask KDA

**Q.** I went to one of those places where they make pizza in front of you and the workers weren't wearing gloves. Can they do that? Isn't that a food safety risk?

**A.** The Kansas Food Code prohibits bare-hand contact with ready-to-eat foods like raw, washed and cut fruits and vegetables, and foods that require no additional cooking. Because pizza gets cooked before it is eaten, food workers may touch pizza ingredients with their bare hands. If, however, they were preparing a sandwich, gloves or other tools that prevent bare-hand contact with the ready-to-eat food would be required. These can include deli tissue, spatulas, tongs, forks, dispensing equipment or single-use gloves.



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