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The KDA Connection is a quarterly electronic newsletter published by the Kansas Department of Agriculture.

2009 Wheat Harvest Bittersweet

by Secretary of Agriculture Adrian Polansky



Secretary Adrian Polansky and Governor Mark Parkinson visit with Mike Brown who grows wheat near Colby.

On Monday, I had the honor and pleasure of accompanying Governor Mark Parkinson to Colby to join Mike Brown and his family as they were wrapping up wheat harvest.

The trip was bittersweet for me. It was the governor's first wheat harvest since taking office in April, and it probably was my last appearance with the governor while serving as secretary of agriculture.

Last week, the Obama administration announced my selection to lead the Kansas Farm Service Agency. It's a familiar job—I held it from 1993 to 2001—so I'm looking

forward to returning to known territory, but I'm going to deeply miss serving as secretary of agriculture.

Governor Kathleen Sebelius appointed me secretary in 2003, and I have relished every moment serving our fine state and the farmers and ranchers who make a living here. It's been a great honor to represent agriculture and rural community interests in state and national policy discussions, just as it will be an honor to return to the Farm Service Agency, where I can put federal farm policy and programs into practice.

I've also deeply enjoyed leading the Kansas Department of Agriculture these last six years. We have a well-earned reputation for efficient, effective programs that I often get credited for, although I know it's due to many hardworking, dedicated employees who are passionate about making the agency the best it can be. It's been a successful team effort, and I appreciate everyone who has helped.

I'm also glad for the many opportunities I've had to meet folks like Mike Brown and his family who are involved in agriculture. As secretary, I've had the opportunity to travel to every corner of the state to meet people who make it their job to feed families all across America and, indeed, around the world. I've never been disappointed in the gracious hospitality you've shown me, and I appreciate it.

I didn't plan for my first column in our department's new, quarterly electronic newsletter to be a farewell message, but that's what it's turned out to be. Again, my thanks to everyone who has made my years of service as secretary of agriculture a heartwarming and enriching experience.

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Governor's Wheat Harvest Visit Brings Back Memories

by Bill Spiegel, Kansas Wheat

Years ago, Kansas Governor Mark Parkinson was a frequent visitor to his grandparent's wheat farm in Scott County. Pictures of him riding a combine as a youth, he says, are notable in part because those machines had no cab, let alone air conditioning. After emerging from a combine operated by Tanner Brown southwest of Colby July 6, Governor Parkinson remarked that today's combines are vastly improved.

Governor Parkinson's visit to the Thomas County farm of Tanner Brown and his father, Mike, symbolizes the importance agriculture plays in the states' economy.

"It's important to highlight how important agriculture is to the state and particularly, how important wheat is to our agricultural sector. We have an awful lot of parts of the state that are hurting because of the recession," Parkinson says. "The recession has hurt everybody but it has probably affected agriculture less. Kansas needs some good news and we wanted to highlight that there are good things happening in the state. Farmers in many parts of the state are having good crops and yields and can help us come out of the recession."



Tanner Brown and Governor Mark Parkinson exit the combine cab after harvesting some wheat on the Brown farm near Colby.

The Kansas wheat crop was projected to average about 40 bushels per acre, based on National Agricultural Statistics estimates in May. Mike Brown expects his wheat crop to follow suit.

"The harvest so far has been fairly decent, with yields in the 40 to 60-bushel-per acre range. Proteins are running from 9 to 12.5, so they're pretty variable. Test weights have been running 60 to 64 pounds, so those are good," he says. "We've lost 450 acres to hail. We still haven't cut a whole field yet, because we've run into some green wheat we've had to cut around."

Brown asserts that a positive wheat crop means good news in rural Kansas communities.

"When we have good yields and the prices are good, it makes a big difference to Main Street in these small towns. Implement dealers, car dealers and hardware store merchants. It's a big factor for all of us out here in the western part of the state," he says.

More than 20% of the Kansas population is involved in farming or other sectors of agriculture, Parkinson says. But that doesn't mean rural Kansas is recession-proof.

"Agriculture has changed dramatically over the years. We've gotten very good at farming and very efficient at it. And as a result of becoming more efficient, it takes fewer people and that's had a dramatic impact on cities around farms. We've sort of been a victim of our own efficiency and that's been a problem. The number of people directly involved in farming has declined but it's still a very important part of our economy," he says. "

Adrian Polansky, Kansas Secretary of Agriculture and USDA's appointee to run the Kansas Farm Service Agency, joined Parkinson on the harvest trip to Colby. Polansky, who farms near Belleville, says wheat harvest is a nostalgic time for many Kansans.

"There is something special about wheat. I don't know exactly what it is, whether it is the golden fields, the time of the year, or the tradition of wheat harvest going back to binding machines and threshers. But there is something magical about wheat harvest that at least in me, gets the emotion going like no other crop. It's an opportunity to focus on agriculture in a larger sense. It's an important time in Kansas now, and will be in the future," he says.

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A Close Look at a Pesticide Complaint Investigation

by Lindsey Douglas

As an environmental policy specialist for the Kansas Department of Agriculture, I routinely work with our [pesticide and fertilizer program](#) on policy issues and interaction with state and federal agencies. I had not had the opportunity to work with field staff on a pesticide complainant before, so I was excited to see one in action.

The pesticide program's laws and regulations are designed to protect the environment and human health, as well as to regulate products that benefit farmers, homeowners and the public. The pesticide program receives about 140 pesticide complaints a year, and they investigate each one.

One recent Sunday we received a complaint of pesticide drift in northeast Kansas. The complaint was assigned to Duane Simon, the investigator who works in that area. I went with him as he conducted his investigation the following Wednesday.

We met with the complainant during his lunch break at a Topeka business to fill out paperwork and to get his statement. Since he was not going to the property with us, he gave us directions to where he alleged the pesticide drift occurred.

Simon explained to me that an investigator must be unbiased and be focused on facts and evidence that support them. He said it can be very challenging, regardless of how clear the case seems to be to the complainant or the respondent, because there must be evidence to prove the law was violated.

When we arrived at the complainant's property, I quickly learned how difficult it was to investigate a complaint and to follow required sampling procedures.



Investigator Duane Simon collects vegetation samples to test for pesticide residue.

Simon explained the sampling procedure as he donned gloves, clipped the vegetation samples and put them in individual containers. He labeled and sealed each one according to procedure to show that the integrity of each sample was maintained. Writing on sticker seals, jars and bags was difficult in the wind, but Simon said it is essential to deliver properly collected, official samples for the program's enforcement team.



Simon labels and seals sample containers according to protocol.

Once we collected the samples, we contacted the respondent to meet with him. During the meeting he became agitated as we discussed the complaint, and he refused to make a statement. After additional explanations, he finally agreed to sign the forms to allow the investigation to proceed.

The respondent had a very different view of what had occurred. Fortunately, Simon, who has worked with the pesticide program for 15 years, is good at building rapport and that allows him to collect both versions of an event and to collect facts for the case file.



Simon documents area where he collected samples.

This case was unusual in that the complaint was made before there was evidence of damage. There had been a previous dispute between the two neighbors in the past over a pesticide application, so the complainant did not wait to see if actual damage was sustained to his property to file this complaint.

Simon said it was not uncommon for some families and neighbors to attempt to settle disputes through our complaint process. These complaints often are made with other disagreements or a broader dispute in the background. Regardless of motivation, the investigator must remain neutral and not express any personal opinion. Simon consistently showed great skill bringing the conversations with the complainant and respondent back to the facts of the event that led the complaint.

The final part of the investigation involves the laboratory analyzing the vegetation samples for pesticide residue, followed by the investigator writing his report. As of this writing, this complaint is not yet resolved. The inspector's report has been sent to the enforcement team, and lab results are pending.

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Weed-Free Certification Adds Value to Forage, Mulch

by Jessica Bowser

During the last week of June, with heat indexes reaching 110°F, I walked through 40 acres of wheat to observe a weed-free forage inspection that had been requested by a farmer in Marshall County.

For forage or mulch to be certified weed free, an inspector from the Kansas Department of Agriculture's **plant protection and weed control program** has to inspect it. There also are seven county weed directors approved to conduct these types of inspections, but the department still handles certifying the crop as weed free.

Weed-free forage and mulch are required on many U.S. Forest Service and Bureau of Land Management lands, in national parks, military locations, tribal lands and National Fish and Wildlife refuges. Certifiable forage products include straw, alfalfa hay, grass hay, grain hay, and forage pellets and cubes. Recreational horse riders using federal property may need weed-free forage to feed their horses, and state and federal agencies may require weed-free mulch for right-of-way projects. Having a crop certified as weed free opens the door to more lucrative marketing opportunities for the producer.

For this inspection, I traveled to Marshall County with the Kansas Department of Agriculture's state weed specialist, Jeff Vogel. Vogel said that farmers often wait until the last minute to call the department to schedule an inspection but that it is more helpful if they call a little earlier to ensure there's plenty of time to get it scheduled. The program inspects about 15,000 acres of forage a year. With only six inspectors, and the seven county weed directors, it's challenging to get all the inspections done within the time they are needed.

Before entering the field, Vogel reviewed common noxious weeds with me. He explained that the department has a written agreement with the North American Weed Management Association to sponsor the state's weed-free forage program. The goal is to stop the spread of noxious weeds and undesirable plants. The agreement lists 54 plant species that are prohibited from being in certified weed-free forage. Vogel said that he also looks for Kansas noxious weeds while inspecting the fields. Currently there are 14 noxious weeds identified in Kansas, and the Kansas Legislature is the only entity that can make changes to the state's noxious-weed list.



State weed specialist Jeff Vogel walks through a wheat field looking for noxious weeds.



Vogel takes a closer look at a weed he found.



Vogel finalizes a preliminary inspection report from the cab of his truck.

We applied sunscreen and insect repellent and grabbed our water bottles. Vogel explained that when performing an inspection he walks the perimeter of the field first. Any weeds he sees along the perimeter are usually in the middle of the field as well. It took us about an hour to inspect this 40-acre field. Walking through the wheat was challenging, but Vogel said it was necessary because it is difficult to distinguish prohibited weeds from other common species after the field is harvested. To be certified weed free, the farmer must wait until the inspection is complete before starting to harvest. That ensures the inspector sees the field with the weeds still standing.

After walking the field, Vogel called the farmer to tell him we were finishing the report and he could meet us in 15 minutes. Vogel found two prohibited weeds in the perimeter of the field, so he rejected three acres. He mapped all his findings on a weed-free forage field map and outlined parts of the field he rejected due to a prohibited weed. With a laptop computer and printer in his truck, Vogel was able to print a preliminary inspection report.

The farmer records the date of harvest and the number and size of bales at the bottom of the inspection report and returns it to the department and a certificate of inspection is issued. Once the certificate is issued, the farmer's weed-free forage is certified. The farmer is billed for mileage and a \$30 per hour inspection fee.

Vogel said buyers like it when the forage is marked weed free, so the department sells bale tags for 15 cents apiece for small loads and transit certificates for \$20 apiece for multiple truck loads.

Of the 40 acres that Vogel inspected, he was able to certify 37 acres as weed free. The farmer said his regular buyer had plenty of straw and no longer needed any, so Vogel said his contact information could be added to a list of certified weed-free producers the plant protection and weed control program maintains online. That way, potential buyers would be able to find him.

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Summertime Food Safety

by Steve Moris

Picnics and other outdoor gatherings are a great way to keep connected with family and friends. By following a few food safety tips, you can enjoy your time together knowing that food you prepared isn't going to send a loved one to the hospital with a foodborne illness.

Here's what you need to remember while preparing, cooking and serving food from your grill:

- Before you open that package of bratwurst, form your first hamburger patty, or season that chicken, wash your hands. Washing your hands is the number one way to prevent a foodborne illness.
- Keep your meat species separate. This tip should be followed starting at the grocery store all the way through serving your meal.
- If you are grilling different species of meat, have utensils ready for each species. Using the same utensil for the hamburgers as the chicken is a very bad idea. This can cross-contaminate your food. Also, keep meats separate on the grill.
- Take temperatures of your meats before serving. You cannot tell if your meat is done by touch or color. You must use a thermometer to verify your meat is properly cooked.
- If you are grilling vegetables at the same time, have a defined set of utensils for the non-meat items. These should also be kept separate and/or above the meats.
- Keep hot foods hot (at or above 135 degrees) and cold foods cold (at or below 40 degrees). The temperature between 40 degrees and 135 degrees is the temperature danger zone.

- Foods that fall inside the temperature danger zone for more than four hours supports the growth of harmful bacteria.
- Foods that are not consumed or brought back to the proper temperature within those four hours should be discarded.
- Do not use the same serving spoon for multiple dishes. Each food should have its own spoon or fork for serving.
- Unused food should be cooled properly or discarded.
- Always remember, if in doubt, throw it out.

If you will be eating fresh fruits and vegetables from your garden, here are a few helpful tips to remember:

- Always wash food from your garden before eating it.
- Prevent your or your neighbor's pets from being in your garden. You may think that if an animal poops in your garden that it will be a natural fertilizer, but those animals also carry E coli in their feces. That can be transferred to your food. In some instances, it cannot be washed off.

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2009 Legislative Session Wrap-Up

A handful of bills passed by the 2009 Kansas Legislature impact Kansas Department of Agriculture programs and the services we provide. These changes took effect July 1, unless otherwise noted.

Senate Bill 64 (also House Bill 2309) addresses using eminent domain for the condemnation of water rights.

- Amends the definition of "water right" by striking the word "voluntary" to make it clear that a water right passes in connection with a conveyance of land in either voluntary or involuntary situations. The bill also clarifies that no person would be able to acquire a new water appropriation right without obtaining a water right through the chief engineer. Current law speaks to the acquisition of a water right, not a "new" water right. Since existing water rights pass with the conveyance of land when sold or transferred, the only time a right is granted from the chief engineer is for a "new" water appropriation right.
- Amends a section dealing with a person seeking to acquire a new water appropriation right and requires, in addition to the other information required in current law, that the person provide to the chief engineer a sworn statement or evidence of legal access to or control of the point of diversion and place of use from the landowner, or his or her authorized representative.
- Restates and clarifies current law by stating that the date of priority of every water right and not the purpose determines the right to divert and use water when the supply is not sufficient to satisfy all water rights. The bill also clarifies that when the lawful uses of water have the same date of priority (e.g., nonadjudicated vested rights), the order of preference is domestic, municipal, irrigation, industrial, recreational, and water power uses.

Senate Bill 212 affects wine shipments and farm winery sales at farmers' markets.

- It permits in-state and out-of-state wineries to ship wine directly to consumers in Kansas after obtaining a special order shipping license and paying of a \$50 fee to the Kansas Department of Revenue. A license holder is prohibited from shipping more than 12 cases of wine to any one consumer in a calendar year.
- It allows a farm winery to sell wine produced and bottled at a bona fide farmers' market located at a site approved by the Kansas Department of Revenue's division of alcoholic beverage control. The licensee is restricted to selling wine one day per week.

Senate Bill 203 impacts our food safety and lodging program in the following ways:

- It creates uniformity in enforcement actions across all facilities regulated by the food safety and lodging program. These include the ability to issue temporary suspension and cease-and-desist orders, to suspend or revoke a license due to violating a law outside of a food safety standard, and the explicit authority to enter a facility to perform inspections.
- It authorizes the secretary to receive lodging inspection reports from qualified individuals,

private entities, or public entities. The secretary also was given authority to promulgate the rules and regulations necessary to receive these inspection reports.

- It exempts food service establishments from licensure by the Kansas Department of Agriculture if they are licensed, permitted, or registered by the Kansas Department of Health and Environment pursuant to any other law.
- It exempts from food establishment licensure requirements persons who prepare, serve, or sell food for the sole purpose of soliciting funds to be used for community projects, educational and youth activities, or humanitarian purposes, regardless of the frequency or number of times food service is offered.

House Bill 2050 impacts the water appropriation program in the following ways:

- It creates a separate definition for a term permit. Previously, term permits were lumped in with new application permits, and the department was required to charge a field inspection fee. Since the field inspection fee relates to issuing a certificate for a new or change application, it is not relevant to a term permit because it does not result in a water right certificate. This change in statute distinguishes term permits so they are not required to pay the field inspection fee.
- It eliminates the “discount” for change applications that request multiple types of change. This is a more equitable fee system, as each type of change application costs the same, regardless of whether it is grouped with other types of changes. It also reflects the actual cost to the agency to process change applications.
- It reduces from \$400 to \$200 the fee charged for field inspections of watershed dams and industrial groundwater pits.
- It allows for a refund of an application fee after 180 days of receipt of a completed application as opposed to current 150 days.
- It leaves fee sunset language in place but changes the sunset date from June 30, 2010, to June 30, 2015.
- The cumulative fiscal impact of these fee changes is a \$5,000 annual increase. This represents a less than 1 percent increase in total program fees.

We originally asked for a targeted 10 percent fee increase to keep funding at sustainable levels, but it was not approved by the Legislature. As a result of not receiving the fee increase plus subsequent budget reductions, the Division of Water Resources had to reduce its staff. To date, eight employees have been laid off and an additional 23 positions are being held open. This will impact the level of customer service the agency typically provides, as well as delay some inspections, reports and water right application processing. Another area impacted is the agency’s work involving interstate water compacts and litigation.

House Bill 2283 is still active for the 2010 legislative session. If passed, it would prevent the chief engineer from initiating proceedings to establish an intensive groundwater use control area in a groundwater management district without the district requesting it. An IGUCA is an important tool currently available to the chief engineer to use when dealing with regional water shortages. Without it, the chief engineer would be required to administer (shut off) individual water rights to deal with water shortages. The IGUCA gives the chief engineer a more comprehensive tool to satisfy senior water rights without completely shutting off junior water rights. We will continue to oppose the bill to protect the authority of the chief engineer and to ensure that actions to satisfy senior water rights don’t do unnecessary economic harm to an entire region.

House Bill 2295 impacts the dairy inspection and pesticide and fertilizer programs in the following ways.

Agriculture Chemical Act.

- Request for market label. Adds language to allow the department to request a copy of the market label when necessary.
- Notification of change. Requires that the department be informed of a change to a product label.
- Confidentiality clause. Adds a confidentiality clause for information obtained during registration to protect business information for registrants.
- Registration denial. Allows the department to deny a registration if they do not comply with statutory requirements.

- Suspension or cancelation of registrations. Adds language that will automatically cancel or suspend registrations that are out of FIFRA compliance, in accordance with federal law. This provision will bring us into compliance with federal law by automatically canceling or suspending registrations that are out of FIFRA compliance.
- Electronic submission. Allows electronic submission of registration information.
- Dealer registration. Allows the department to take action for failure to comply and register as a dealer.
- Special local need exemption. Allows a registration fee exemption for the first year of special local need registration.

Kansas Pesticide Law

- Pesticide dealer civil penalty. Allows the department to impose civil penalties on pesticide dealers who violate the law and gives state authority to act on the violations, rather than referring them to EPA.
- Civil penalty for commercial applicator. Allows the department to impose civil penalties on certified commercial applicators.
- Suspension of pesticide business license. New language allows the department a quicker process to suspend a pesticide business license if the business fails to employ an individual who is certified in each category in which that business makes applications.
- Unlawful Acts. Clarifies unlawful acts associated with pesticide dealerships and allows the department to take action rather than having to refer the cases to EPA.
- Extend all sunset amounts from pesticide and fertilizer fees. The bill extends the sunset dates from July 1, 2010, to July 1, 2015.
- Reciprocity fee. The bill requires a reciprocity fee of \$75 per category for out-of-state applicators.
- Eliminates application fee and creates recertification-by-training fee. The bill eliminates the application fee. Those who renew their certification by training will pay a recertification-by-training fee of \$50 to cover the cost of reviewing education and training programs.
- Examination fee. There will now be a \$45 fee for each examination. There was confusion in the past about what fees were charged by test and what the total amount charged would be.
- Fee totals. In total, the fees were set at those amounts to be as close to budget neutral as possible.

Fertilizer Law

- The bill extends the fee sunsets to July 1, 2015.

Dairy Law

- The bill extends the sunset date on all dairy fees from 2010 to 2015.

We had requested a \$55,000 per year fee increase to fund the program at a level that sustained current services, but it was not approved by the Legislature. The program's budget was further reduced for fiscal year 2010, which required us to lay off one dairy inspector. Program management is assessing how it will adapt to the change and still ensure that minimum inspection requirements are met. The state must continue to comply with the Interstate Milk Shippers Agreement between the states and the U.S. Food and Drug Administration so Kansas-produced milk can continue to move freely in interstate commerce. We are now working with industry to try to resolve funding issues.

Chemigation Safety Law

- Transfers swine nutrient utilization plan review responsibility to the Kansas Department of Health and Environment. Previously, the Kansas Department of Health and Environment reviewed and approve plans as part of KDHE's larger swine waste permitting process.

Choosing a Lawn Care Company

Q. How can I choose a lawn care company that will mow my grass and control any pest weeds or insects?

A. Contact three different companies to compare their services and costs. Confirm their physical addresses and ask for a company representative to come to your property to discuss the level of care you want. Inquire about other lawns they are maintaining in your area and drive by them or visit with the homeowners if you can.

Make sure you understand exactly what work they will do for the quoted fee. For example, weed spraying may be included while an application to control grubs is extra. Ask about what pesticides they use and when they apply them. If you would like advance notice of any pesticide applications, be sure to stipulate this in advance. You may need to move furniture, toys or pet food bowls off the lawn. You also need to find out who is responsible for watering the lawn if it is necessary after a pesticide application. Ask if they offer written service agreements and how often they are renewed. If they renew automatically each year, ask for an annual written confirmation. After collecting this information, call the Kansas Department of Agriculture (785) 296-5210 to confirm the companies are licensed to apply pesticides to control weeds, insects, or diseases. Finally, check with the Better Business Bureau to find out if other consumers have filed complaints about the businesses. You can also find out if any of the businesses has a history of pesticide violations by filing an open records request with the Kansas Department of Agriculture. The request form is online at www.ksda.gov. Use this information to make an educated decision about which lawn care company is right for you.



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