Approved: January 27, 2011
Date

MINUTES OF THE HOUSE AGRICULTURE & NATURAL RESOURCES COMMITTEE

The meeting was called to order by Chairman Larry Powell at 9:00 a.m. on January 20, 2011, in Room 783 in the Docking State Office Building.

All members were present except:
Representative Elaine Bowers - Excused
Representative Charlotte O'Hara - Excused
Representative Michael Peterson - Excused
Representative Caryn Tyson - Excused
Representative Ponka-We Victors - Excused

Committee staff present:
Jill Wolters, Office of the Revisor of Statutes
Sean Ostrow, Office of the Revisor of Statutes
Raney Gilliland, Kansas Legislative Research Department
Michael Wales, Kansas Legislative Research Department
Kay Scarlett, Committee Assistant

Conferees appearing before the Committee:
Tom Gross, Chief of Policy & Monitoring Section, Bureau of Air, Kansas Department of Health & Environment
Mike Beam, Senior Vice President, Kansas Livestock Association
Steve Swaffar, Director of Natural Resources, Kansas Farm Bureau

Others attending:
See attached list.

Representative Tom Moxley provided background on how burning in the Flint Hills had caused ozone exceedance in Kansas City and Wichita and how EPA had denied the Kansas Department of Health & Environment's request to flag 2009 ozone exceedance data due to lack of a smoke management plan. He explained the formation of a committee and the commitment to develop a smoke management plan in 2010. Representative Moxley then introduced Tom Gross, Chief of Policy & Monitoring Section, Bureau of Air, Kansas Department of Health & Environment, to review the Flint Hills Smoke Management Plan.

Tom Gross, Chief of Policy & Monitoring Section, Bureau of Air, Kansas Department of Health & Environment, stated that a smoke management plan is necessary to reduce impacts on public health, help meet national air quality standards, and to receive an exceptional event flag in case of air quality exceedance. He explained that the Flint Hills Smoke Management Plan:

- Is voluntary for prescribed burns of range land;
- Includes restrictions on some types of burning in April;
- Includes tools to assist land managers and local fire officials in making burn decisions;
- Has a pilot program to evaluate use of a burn checklist;
- A web site with a tool to predict smoke plume movement and other burn resources; and
- Includes plans for outreach and education. (Attachment 1)

Mike Beam, Senior Vice President, Kansas Livestock Association, addressed the committee and stated that prescribed burning of grasslands is an essential management practice for ecological and economic reasons. When ozone exceedance occurred in urban areas from smoke originating in the Flint Hills, it became obvious to their members that they must engage in the process of development of a smoke management plan so that ranchers and landowners could continue to burn without a future imposition of state and/or federal regulations. He included a copy of an article that appeared in the January 2011 edition of their association's magazine providing background on the issue and more details about the plan. (Attachment 2)

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

Minutes of the House Agriculture & Natural Resources Committee at 9:00 a.m. on January 20, 2011, in Room 783 of the Docking State Office Building.

Steve Swaffar, Director of Natural Resources, Kansas Farm Bureau, explained that the economy and ecology of the Flint Hills region is directly tied to the ability to burn old growth thatch and young woody growth from the landscape. Smoke generated from burning of the Flint Hills creates some temporary issues with air quality in local areas and some downwind metropolitan areas, these ozone air quality violations led to the development of the Kansas Flint Hills Smoke Management Plan. KFB has been an active participant in the meetings with the Kansas Department of Health and Environment and the Environmental Protection Agency, data review, and drafting of the plan. He said it has been an educational process for all involved and has resulted in a greater understanding of both rural and urban needs when it comes to prescribed burning. (Attachment 3)

Representative Fund moved to approve the minutes of the January 11, 12, and 13 meetings. Seconded by Representative Arpke, the minutes were approved.

On behalf of Representative Joe Seiwert, Representative Kerschen requested introduction of a committee bill to create a Kansas Goat Commission. There being no objection, Chairman Powell stated that this request would be introduced as a committee bill.

The meeting adjourned at 10:15 a.m. The next meeting of the House Agriculture & Natural Resources Committee will be a joint meeting with the Senate Agriculture and Natural Resources Committees at 8:30 a.m. on January 25, 2011. Dr. Gary M. Pierzynski, Interim Dean of the College of Agriculture and Interim Director, K-State Research & Extension, will address the committees.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

HOUSE AG & NATURAL RESOURCES COMMITTEE
GUEST LIST

DATE: JANUARY 20, 2011

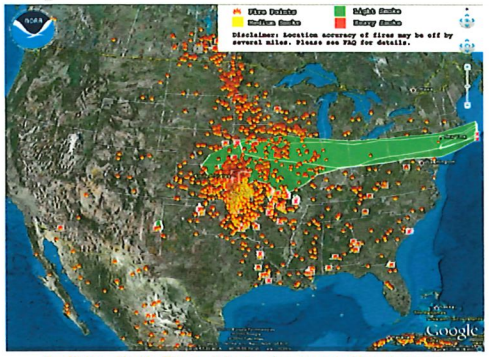
NAME	REPRESENTING
Steve Swafford	KFB
Tom Gross	KDHE
Bobby Martin	Edwards County Leadership
Tonya Taylor	"
Linette Welch	"
Matt Francis	"
Nikie Painter	"
Andrea Wood	"
Rebecca Menard	" "
Diana Rice	" "
Michelle Butler	Cap. Strategies

Flint Hills Smoke Management Plan

January 18 and 19, 2011
Legislative Briefing

Tom Gross
Bureau of Air
Kansas Department of Health and Environment

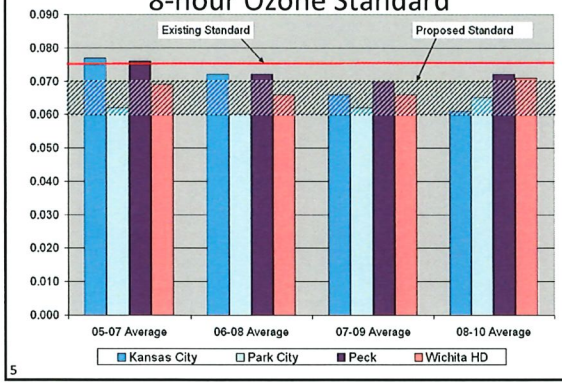
April 11, 2010 Fire and Smoke Plumes



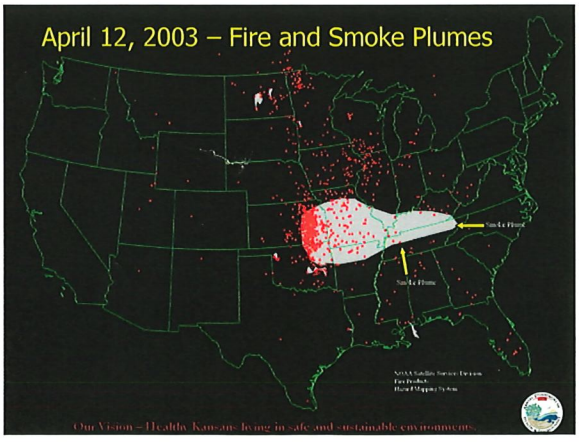
Flint Hills Burning and Air Quality

- Flint Hills burning caused ozone exceedances in KC in 2003 and KC and Wichita in 2009 & 2010
- EPA & KDHE have met with agricultural representatives from 2003 to present
  - Research, education, outreach & field training
- EPA denied KDHE's request to flag 2009 ozone exceedance data due to lack of SMP
- KDHE contacted by ag groups in 2009
- Commitment to develop Smoke Management Plan in 2010
- Committee formed and multiple meetings in 2010 on developing SMP

8-hour Ozone Standard



April 12, 2003 – Fire and Smoke Plumes



Why have a smoke management plan?

- To reduce impacts on public health
  - Emissions include Nitrogen Oxides, Volatile Organic Compounds and particulate matter
  - Nitrogen oxides and volatile organic compounds combine to form ozone
- To help meet national air quality standards
- To receive exceptional event flag in case of air quality exceedance

House Ag & Natural Resources
January 20, 2011
Attachment 1

What happens when air quality standards are exceeded?

- State Implementation Plan (SIP) preparation
- Economic development curtailed
- New rules to reduce NO_x & VOC emissions
- Potential sanctions for failure to meet standard
- Increased costs for fuel, electricity, goods, etc.
- Citizens breathing polluted air

About the Plan

- Is voluntary for prescribed burns of rangeland
- Includes restrictions on some types of burning in April
- Includes tools to assist land managers and local fire officials in making burn decisions
- Has a pilot program to evaluate use of a burn checklist
- A web site with a tool to predict smoke plume movement and other burn resources
- Includes plans for outreach and education

Chapter 1 - Introduction

- Air Quality Impacts From Flint Hills Burning
  - History
- Flint Hills Ecosystem
  - Topography & geology
  - Climate
  - Animal species & habitats
  - Preservation of tallgrass
  - Historic fire cycles & roll of fire

Chapter 2 - Reasons for Having a SMP

- Health Concerns
- National Ambient Air Quality Standards
- EPA Interim Fire Guidance
- Nonattainment Consequences & Costs
  - State Implementation Plans
  - Reasonably Available Control Technology regulations
  - Transportation Conformity, potential loss of federal highway funds
- Maintaining Flint Hills & Ag Economy
  - Description of intensive early stocking
  - Discussion of weight & financial gains
  - Potential for prairie loss for areas not burned

Chapter 3 - Reducing Downwind Impacts of Flint Hills Burning

- Review Need for Burning
- Fire Management Practices
  - Air quality, timing, transport wind, mixing height, dispersion
  - Humidity, fuel moisture, temperature
  - Ignition & burn techniques
- Smoke Plan Pilot Project – Spring 2011
  - Greenwood & Chase counties
  - Fire Management Practices booklet

Chapter 4 - Restrictions on April Burning

- Counties Affected
  - Butler, Chase, Chautauqua, Cowley, Elk, Geary, Greenwood, Johnson, Lyon, Marion, Morris, Pottawatomie, Riley, Sedgwick, Wabaunsee & Wyandotte
- Examples of restricted burns
  - Crop residue
  - Land clearing
  - Yard waste
- Types of burning allowed
  - Agricultural burning to manage prairie and grasslands
  - CRP burning
  - Other burns approved by local authorities on case-by-case basis

Chapter 5-Outreach, Education & Public Notification

- Outreach
  - Fire training events
  - Fire & Smoke Planning Resource website (www.ksfire.org)
  - Broadcast and print media
  - Group presentations
- Audience
  - General public
  - Land managers
  - Fire officials
- Message
  - Health effects
  - Fire management practices
  - April burn restrictions

Chapter 8 - Contingency Measures

- Expand April burn restrictions to counties surrounding Flint Hills
- Require fire management practices checklist, notification, & data collection
- Require burn approvals based on weather & pre-existing conditions
- Establish time-of-day windows for burning
- Burn bans based to potential air quality impacts

Chapter 6 - Surveillance and Enforcement

- Surveillance
  - Air monitoring
  - Review of Satellite imagery
  - Post burn season survey of land managers
- April Burn Restrictions Enforcement
  - Local fire officials/emergency managers
  - KDHE district offices

Plan Implementation

- Work with KSU to develop web site, modeling tool, producer brochure and other outreach information
- Draft April burn restriction regulation and share with fire officials and other interested parties
- Prepare for voluntary data collection effort
- Work with KDHE health side officials on health messages for burn season
- Outreach activities by KSU, KDHE, KFS, NRCS, KLA, KFB, EPA, and more
- Gather meteorological and monitoring data during burn season for post season technical report

Chapter 7 - Data Collection, Research Needs & Long Term Strategies

- Data Collection Pilot program for 2011
- Research Needs
  - Characterize emissions & remote sensing
  - Monitoring studies
  - Timing & frequency
  - Management techniques
  - Health impacts
  - Prairie Chicken
- Long Term Strategies
  - Computer modeling of air quality impacts

QUESTIONS?

Contact Information:
Thomas Gross
Bureau of Air
1000 SW Jackson, Suite 310
Topeka, Kansas 66612
(785) 296-1692
tgross@kdheks.gov

KANSAS LIVESTOCK ASSOCIATION

Since 1894

To: House Agriculture & Natural Resources Committee
Representative Larry Powell, Chairman

From: Mike Beam, Kansas Livestock Association

Re: **Statement regarding Flint Hills Smoke Management Plan**

Date: January 20, 2011

The Kansas Livestock Association (KLA), formed in 1894, is a trade association representing over 5,000 members on legislative and regulatory issues. KLA members are involved in many aspects of the livestock industry, including seed stock, cow-calf and stocker production, cattle feeding, dairy production, grazing land management and diversified farming operations.

Prescribed burning of grasslands is an essential management practice for ecological and economic reasons. While fire is occasionally used on grasslands in central and western Kansas, burning is an annual occurrence each spring on the tallgrass prairie…better known as the Kansas Flint Hills. In the absence of fire, the grasslands in eastern Kansas would convert from prairie to forest…which one can witness in many areas near population centers where fire has been suppressed for safety concerns.

Since 2003, we've had conversations with officials from the Kansas Department of Health and Environment and federal Environmental Protection Agency about the air quality impact that can result from the burning of the Flint Hills on certain days. It became obvious to our members than we must engage in the process of developing a smoke management plan so that our states ranchers and landowners could continue to burn without a future imposition of state and/or federal regulations.

I've attached an article that appeared in the January 2011 edition of our association's magazine. This article provides readers background on the issue and more detail about the plan. In addition, we'll be cooperating with others in outreach efforts in the next couple of months.

I'd be happy to respond to any questions the committee may have regarding the plan and how it was developed.

*6031 SW 37th Street * Topeka, KS 66614-5129 * (785) 273-5115 * Fax (785) 273-3399 **

House Ag & Natural Resources
January 20, 2011
Attachment 2

Flint Hills subject to **New Smoke Plan**

by Mike Beam
Senior Vice President

The Kansas Department of Health and Environment (KDHE) soon will implement a smoke management plan for the Flint Hills of Kansas. It is intended to reduce the incidences of smoke from prescribed burns that affect air quality in high population areas.

KDHE officials first alerted KLA of problems after an April 12-13, 2003, smoke event. The agency claimed during this period significant burning in the Flint Hills contributed to increased and abnormal ozone conditions in the greater Kansas City area and states as far away as Tennessee.

In April 2009, officials from KDHE again reported complaints from Kansas City and Wichita about the spike in ozone levels a few days after large acreages of the Flint Hills were burned. Why were these folks concerned about a few extra days of smoke from the Flint Hills?

A Kansas legislative committee, led by state Sen. Carolyn McGinn (R-Sedgwick), held several hearings during the 2010 Kansas legislative session regarding the Environmental Protection Agency's (EPA) air quality regulations. It became clear that urban areas in Kansas struggle to maintain compliance with existing federal air quality standards, especially for ozone levels. For example, Wichita is considered to be in attainment, but occasional spikes of ozone levels are causing this area to bump up against the maximum EPA standards. In April 2010, smoke emissions from the Flint Hills were responsible for the highest ozone reading of the year at one of Wichita's monitoring stations. If one or two days of smoke from the spring burns in the Flint Hills raises ozone levels above the threshold in Kansas City or Wichita, the higher-than-normal readings count against these cities for regulatory compliance purposes. To compound the situation, EPA is expected to impose lower thresholds for ozone levels in 2011. These more restrictive standards will increase concerns about the impact of smoke drifting from the Flint Hills.

Since the 2003 incident, stakeholders defending the practice of unregulated prescribed burning have urged EPA to adopt a policy that allows urban areas to disregard high ozone monitoring data if it's caused by a few days of burning in the Flint Hills. EPA's response, repeated several times since 2003, is that the agency can't disregard the higher monitor readings unless the state adopts a smoke management plan designed to reduce the incidence of air quality problems.

In April of this year, KDHE formed an advisory committee charged with the task of drafting such a plan. KLA was one of several participants on this committee and was represented on the subcommittee that met at least six times to craft a plan, which eventually became a 35-page document.

To build the case, the plan contains an introductory chapter referencing how this native grass ecosystem was shaped by frequent fires and grazing. There also is documentation on the economic consequences of limiting annual burning in the Flint Hills, as well as examples of the costly practices urban areas incur when forced to lower emissions.

As expected, the plan includes a chapter on "Reducing Downwind Impacts of Flint Hills Burning." This chapter outlines a more robust information system land managers can use to assess the impact of burning on a particular day. One tool will be a web-based computer model using forecasted weather conditions to predict the direction smoke may travel for a specified burn location. The theory is that with considerable outreach, education and decision-making tools, Flint Hills land managers will reconsider burning on days likely to create air quality problems for high population areas.

The lone regulatory proposal in the plan is a restriction on nonagricultural burning during April. With this proposed regulation, residents of the Flint Hills and Sedgwick, Wyandotte and Johnson counties would be prohibited from burning yard waste, land-clearing debris, crop residue, construction waste and other materials.

It's important to note the plan has contingency measures if there are continued air quality problems in urban areas resulting from Flint Hills burning. Some of the suggested measures include expansion of the non-essential burning restriction, mandatory smoke plans before burning Flint Hills grasslands, burn approvals from the state and burn ban days designated by the state. The plan suggests these contingency measures must be evaluated by stakeholders before being implemented by KDHE.

KDHE intends to implement the new plan prior to the 2011 spring burning season. KLA has pledged to spread the word about the plan and encourage voluntary participation among land managers. If we can avoid burning on days that are likely to create problems for our neighbors in metropolitan areas, we should be able to hold off any future cumbersome, regulatory proposals.

2.2

KANSAS F M BUREAU
The Voice of Agriculture

2627 KFB Plaza, Manhattan, Kansas 66503-8508 • 785-587-6000 • Fax 785-587-6914 • www.kfb.org
800 SW Jackson St., Suite 1300, Topeka, Kansas 66612-1219 • 785-234-4535 • Fax 785-234-0278

Kansas Farm Bureau Statement

Kansas Flint Hills Smoke Management Plan

House Agriculture and Natural Resources Committee

January 20, 2011
Submitted by:
Steve M. Swaffar
Director of Natural Resources

Chairman Powell and members of the committee, thank you for this opportunity to provide testimony concerning the development of the Kansas Flint Hills Smoke Management Plan. I am Steve Swaffar, Director of Natural Resources for the Kansas Farm Bureau.

The economy and ecology of the Flint Hills region is directly tied to the ability to burn old growth thatch and young woody growth from the landscape. Livestock producers in the region depend on the new growth following a burn to provide nutritious forage for their livestock as well as maintain the diversity of grass and forbs species.

Burning of the Flint Hills region is also vital to maintain the prairie ecosystem. Burning promotes a diversity of grass and other broadleaf species, but more importantly prevents the invasion of woody and tree species from encroaching on the grass landscape. Our members are the practitioners of these fires and have a long history of managing the prairie for economic and ecological purposes.

As you are well aware, smoke generated from burning of the Flint Hills creates some temporary issues with air quality in local areas and some downwind metropolitan areas, primarily Kansas City, Wichita and the Omaha/Lincoln area. As you have already heard, these ozone air quality violations led to the development of the Kansas Flint Hills Smoke Management Plan.

KFB has been an active participant in the meetings with KDHE and EPA, data review and ultimately drafting of the plan. It has been an educational process for all involved but one that has yielded good results and a greater understanding of both rural and urban needs when it comes to prescribed burning.

KFB is pleased that the plan is voluntary in nature for ranchers and focuses on education, outreach and further data gathering. The key to implementation of the plan now is completing and fine tuning the models; putting in place the data

gathering infrastructure; and making ranchers aware of the new tools being developed for their use when making burning decisions. It is vitally important ranchers become aware of these tools and begin to use and understand what they mean.

KFB is committed to working with our members, K-State and KDHE to ensure the word gets to these ranchers. We understand it will take time for full adoption and hope both EPA and KDHE exercise patience with the process. Thank you for allowing me to speak on behalf of the members of Kansas Farm Bureau. I would be happy to answer any questions you may have at the appropriate time.