

Kansas Farm Bureau POLICY STATEMENT

House Agriculture and Natural Resources Committee

Re:HB 2272 an act concerning water

February 17, 2011

Submitted by:

Steve M. Swaffar

Director of Natural Resources

Chairman Powell and members of the committee, thank you for the opportunity to provide testimony today on House Bill 2272. Kansas Farm Bureau (KFB) has general policy that supports decreasing regulatory burdens on agriculture producers and providing exemptions for normal farming activities and projects. The concepts expressed during the introduction of HB 2272 would certainly fit that model.

However, I don't believe the language in HB 2272 accomplishes what the bill's sponsor is seeking. The exemptions provided to Clean Water Act Section 404 permits are provided through the U.S. Corp of Engineers, not the State of Kansas. Currently, the Kansas Department of Health and Environment reviews 404 activities and provides comment to the Corp, but KDHE does not issue those permits. The Department of Agriculture, Division of Water Resources and the Kansas Water Office have no authority in 404 permitting or providing exemptions to those permits as detailed in the bill.

Additionally, we do have concerns with the intent of Section 1(c)(3), which would allow the construction of impoundments without the examination of safety aspects. Although an exemption from 404 permitting is provided by federal law, there does need to be an examination of the potential threat to public safety and private property when impoundments are constructed. This responsibility lies with the Chief Engineer of the Division of Water Resources. It appears this would no longer be required under the bill. Clearly risking life and property is not in the best interest of Kansans.

KFB believes that the issue identified during the bill's introduction having to do with stream crossings and culvert installations lies with the Kansas Stream Obstruction Act, KSA 82a-301-327 and its associated regulations. It is these statutory requirements where the bill needs to focus, if relief from those requirements is desired. As long as exempted activities do not jeopardize stream health, public safety or downstream areas due to inundation, then KFB supports providing this type of exemption to permitting or regulatory review.

Perhaps interested parties need to discuss the regulatory structure that currently exists and craft a mutually agreeable solution. I would be happy to answer questions at the appropriate time.