

## STATE CONSERVATION COMMISSION SPECIAL MEETING

USDA-NRCS Conference Center, 747 Duvall, Salina, KS

**FRIDAY, DECEMBER 10, 2010**

1. The meeting was called to order by Rodney Vorhees, Chairperson and Area V Commissioner, at 10:05 a.m. in the conference room at the address above.

2. **ATTENDANCE:**

**Elected Commissioners:**

Ted Nighswonger, Area I Commissioner  
Andy Larson, Area II Commissioner  
Brad Shogren, Area III Commissioner  
John Wunder, Area IV Commissioner, Vice-Chairman  
Rod Vorhees, Area V Commissioner, Chairman

**Ex-Officio & Appointed Members:**

David W. Barfield, Kansas Chief Engineer, Division of Water Resources

**Staff:**

Greg Foley, Executive Director  
Scott Carlson, Assistant Director

**Guest:**

Chris Grunewald, Assistant Attorney General, attorney for the Conservation Commission  
David Traster, Foulston & Siefkin, attorney for the Conservation Commission

3. **APPROVAL OF AGENDA:**

a. **A motion was made by Brad Shogren to approve the agenda as presented. Seconded by Ted Nighswonger. Motion carried.**

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### 4. OLD BUSINESS:

- a. Update on Spring Workshop dates and locations.
- b. Review and approve/disapprove a new practice code for “Streambank Riparian Buffer Incentive.” See Attachment A.

**A motion was made by Ted Nighswonger to approve Practice Code 002 – Streambank Riparian Buffer Incentive Payment as printed in attachment. Seconded by Andy Larson. Motion carried.**

### 5. NEW BUSINESS:

- a. The purpose of the special meeting was consideration of and action upon the Interim Partial Settlement Agreement and Interlocal Cooperation Agreement (the “Agreement”). A copy of the proposed Agreement had been previously provided to all Commissioners and the Executive Director, and a copy is attached to these minutes. See Attachment B.

**Ted Nighswonger moved and Andy Larson seconded that the meeting be adjourned to executive session for the purpose of confidential attorney-client consultation with the Commission’s attorneys regarding the Agreement and the pending litigation of the Kickapoo Tribe v. Knight et al., with the open meeting to reconvene at 11:30 a.m. at the same location. After discussion, the motion passed without dissent and the meeting went into executive session at 10:24 a.m.**

**At 11:30 a.m., the executive session was terminated and the open session resumed, following a motion for same by John Wunder, seconded by Brad Shogren, and approved by all Commissioners.**

**John Wunder moved and Brad Shogren seconded that the meeting be adjourned to executive session for the purpose of confidential attorney-client consultation with the Commission’s attorneys regarding the Agreement and the pending litigation of the Kickapoo Tribe v. Knight et al., with the open meeting to reconvene at 12:00 p.m. at the same location. After discussion, the motion passed without dissent and the meeting went into executive session at 11:31 a.m.**

**Thereafter, a motion was made by Brad Shogren, and seconded by Andy Larson to approve the Interim Partial Settlement Agreement and Interlocal Cooperation Agreement and to authorize the Executive Director, Greg Foley, to sign said agreement on behalf of the Commission with any insubstantial changes, editorial changes or editorial corrections to the Agreement as are deemed necessary by both legal counsel for the Commission and Greg Foley, if any, and to authorize legal counsel for the Commission to approve such motions,**

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**stipulations and orders as are necessary to obtain court approval of and effectuate the Agreement. Motion carried.**

**Note for the Record John Wunder voted Nay on the above action.**

**ON MOTION DULY MADE AND PASSED, THE FOLLOWING RESOLUTIONS WERE ADOPTED:**

- i.** RESOLVED, by the State Conservation Commission, that the Agreement, with the aforementioned changes or corrections, if any, be approved, and
- ii.** BE IT FURTHER RESOLVED, that the Commission hereby authorizes the Executive Director, Greg Foley, to sign said Agreement on behalf of the State Conservation Commission; and
- iii.** BE IT FURTHER RESOLVED, that the Commission hereby authorizes Christopher M. Grunewald and David M. Traster, legal counsel for the Commission, to approve such motions, stipulations and orders as are necessary to obtain court approval of and effectuate the Agreement, including but not limited to those in substantial conformity with the proposed motion, stipulation and order attached to the Interim Partial Settlement Agreement.

**Motion by Andy Larson to adopt the above resolution. Seconded by Ted Nighswonger. Motion carried.**

**Note for the Record John Wunder voted Nay on the above action.**

**6. ADJOURN:**

**At 12:46 p.m., Andy Larson moved and Brad Shogren seconded the motion to adjourn the meeting. The motion passed without dissent and the meeting was adjourned.**



Rodney Vorhees, Chairperson



Greg Foley, Executive Director

# **TENTATIVE**

## **State Conservation Commission 2011 Spring Workshops**

### **Area I**

**March 1**      **Location: Sternberg Museum of Natural History  
3000 Sternberg Drive, Hays**

### **Area II**

**March 2**      **Location: Lee Richardson Zoo  
Finnup Center for Conservation Education  
312 Finnup Drive, Garden City**

### **Area III**

**March 3**      **NRCS Conference Center  
747 Duvall, Salina**

### **Area IV**

**March 8**      **Location: Shawnee County Farm Bureau  
3801 SW Wanamaker Rd., Topeka**

### **Area V**

**March 9**      **Location: Allen County Country Club  
1318 2000<sup>th</sup> Street, Iola**

**STREAMBANK RIPARIAN BUFFER INCENTIVE PAYMENT**  
**CODE No. 002**  
**(PROGRAM: NPS & RW)**

1. **DEFINITION**

A one-time payment to a landowner who provides land and access for the installation of a 66 foot wide riparian forest buffer in association with a streambank protection project.

2. **PURPOSE**

To establish a riparian forest buffer in association with an eligible streambank protection project.

3. **CONDITIONS WHERE PRACTICE APPLIES**

Where Practice Code 580 Streambank Protection is required to stabilize highly erodible or critically eroding streambanks. If practice code 002 Streambank Riparian Buffer Incentive Payment is selected by the landowner in combination with practice code 580 Streambank Protection, a riparian forest buffer shall be part of the design of the streambank protection project and is an important component of the overall success of the project.

4. **COMPONENTS AND ASSOCIATED PRACTICES**

a. The following component is authorized for the landowner payment.

i. Streambank Riparian Buffer Incentive Payment (Each)

The one-time payment to allow the installation of a riparian forest buffer will be computed by using the following calculations:

- a. The acres eligible for the incentive payment will be determined upon completion of the streambank protection project. The acres will be calculated by multiplying the total length of the project by 66 feet, and divide by 43,560.

$$(\text{project length(in feet)}) \times (66 \text{ feet}) / 43,560 \text{ square feet} = (\# \text{ acres})$$

- b. The Farm Service Agency (FSA) dryland cropland soil rental rate (SRR) for the soil type associated with the riparian forest buffer is used to determine the per acre payment.
- c. Payment will be calculated by multiplying the acres in the 66 foot wide riparian forest buffer by the FSA dryland cropland soil rental rate by 10 (years).

$$(\# \text{ acres}) \times (\text{SRR}) \times 10 \text{ (years)} = \text{Incentive Payment}$$

$$\text{Example: } 1 (\# \text{ of acres}) \times \$100 (\text{SRR}) \times 10 \text{ (years)} = \$1,000.00$$

5. **POLICIES**

- a. Land Eligibility: To be eligible, the acres must be currently classified as cropland by the FSA.
- b. Project Eligibility: Streambank Projects funded by the SCC, American Recovery and Reinvestment Act (ARRA), and State Revolving Loan (SRL) funds are eligible for the incentive payment.
- c. Kansas Forest Service (KFS) and/or Kansas Forest Service contract personnel will be responsible for the installation and maintenance of the riparian forest buffer. The KFS is responsible to develop the tree planting and maintenance plans.
- d. The landowner agrees to permit access to the Kansas Forest Service and/or Kansas Forest Service contract personnel or SCC personnel for the installation, maintenance, and monitoring of the 66 foot wide riparian forest buffer for 10 years.
- e. The field side boundary of the 66 foot riparian forest buffer will be marked with permanent six and one half foot steel t-post with a white PVC pipe sleeve every one hundred feet for the total length of the project. This boundary will be installed by Kansas Forest Service and/or Kansas Forest Service contract personnel and must remain in place for 10 years.
- f. The landowner's only responsibility is not to destroy the riparian forest buffer or field side boundary markers for 10 years.

CS-3(20)

State Conservation Commission  
Riparian and Wetland Protection Program  
Contract for Financial Assistance

State Code

Streambank Riparian Buffer  
Incentive Payment

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Part IV. – Landowner Agreement Signature

This contract is entered into between the State Conservation Commission (referred to as the SCC) and the undersigned landowner(s) on the site identified in PART I. By signing below, the landowner understands and agrees that upon his/her signature this contract will become effective, as evidenced by the conservation district electronic seal on PART II affixed by an authorized conservation district representative and the SCC electronic seal affixed by an authorized SCC representative. Furthermore, the undersigned landowner agrees to the terms set forth herein by the regulations governing the SCC Riparian and Wetland Protection Program to include:

1. All program participants receiving incentive payments for practices are required to follow the SCC Approved Standards and Specifications. The contents and terms stated in practice code **002 Streambank Riparian Buffer Incentive Payment** shall be considered part of this agreement and shall be carried out by the applicant as a condition of receiving a practice incentive payment.
2. As a condition of accepting the state practice incentive payment, I agree not to destroy the riparian forest buffer or field side boundary markers for 10 years. Destruction of a conservation practice(s) by an act beyond the control of the landowner is exempt from this provision.
3. I agree to permit access to the Kansas Forest Service and/or Kansas Forest Service contract personnel or SCC personnel for the installation, maintenance, and monitoring of the 66 foot wide riparian forest buffer for 10 years.
4. Should I destroy the riparian forest buffer or field side boundary markers, it is understood that I may be declared ineligible for future cost-share funds and will be required to repay 100% of the incentive payment funds.
5. The practice incentive payment will be made to the landowner once the associated Streambank Protection project is verified complete by the technical service provider that designed the project.
6. The Farm Service Agency (FSA) dryland cropland soil rental rate for the 66 foot wide riparian forest buffer area will be used as the basis for payment. Payment will be determined by multiplying the FSA dryland cropland soil rental rate by the acres in the 66 foot wide riparian forest buffer by 10 (years).
7. When a change of ownership occurs on land, it is the responsibility of the incentive payment recipient to obtain, in writing, a contract with the new owner to transfer the maintenance obligations as stated in this contract to the new landowner. A copy of the transferred contract shall be provided to the conservation district. If such a contract is not made, this contract shall remain binding with the original landowner who received the cost-share.
8. If records indicate you have a debt owed to the State of Kansas, a Kansas municipality or a District Court, the debt must be paid in accordance with K.S.A.75-6201 et seq. The amount owed may be deducted from the earned cost-share amount by the Accounts Receivable Setoff Program administered by the State of Kansas Department of Administrations, Division of Accounts and Reports.

Landowner Signature \_\_\_\_\_

Date \_\_\_\_\_

**Note: A landowner receiving \$600 or more in cost-share assistance will receive Form 1099-G from the State of Kansas. All corporations with the exception of medical corporations are exempt from 1099 reporting.**

**INTERIM PARTIAL SETTLEMENT AGREEMENT**

**INTERLOCAL COOPERATION AGREEMENT**

**PLEASE CONTACT THE STATE CONSERVATION  
COMMISSION AT 785-296-3600 TO ARRANGE FOR A COPY  
OF THE DOCUMENT**