

MINUTES OF THE STATE CONSERVATION COMMISSION

1. The State Conservation Commission conference call meeting was called to order by Rod Vorhees, Chairman and Area V Commissioner at 1:04 p.m. Tuesday, February 8, 2011 presiding over the conference call.

2. ATTENDANCE:

Elected Commissioners:

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

Ex-Officio & Appointed Member:

Eric Banks, State Conservationist, USDA, Natural Resources Conservation Service (NRCS)
David Barfield, Kansas Department of Agriculture (KDA), Division of Water Resources
Dan Devlin, Director, Kansas Center for Agricultural Resources and the Environment (KCARE), K-State Research and Extension

Staff:

Greg Foley, Executive Director
Scott Carlson, Assistant Director
Max Foster, Chief Fiscal Officer

3. APPROVAL OF AGENDA:

Motion by Ted Nighswonger to approve the agenda as presented. Seconded by John Wunder. Motion carried.

4. GUESTS:

Pat Lehman, Executive Director, Kansas Association of Conservation Districts

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5. UNFINISHED BUSINESS:

- a. Review and take possible action on the Governor's Executive Reorganization Order (ERO) consolidating the State Conservation Commission (SCC) in the Kansas Department of Agriculture (KDA) creating the Division of Conservation effective July 1, 2011 – Greg Foley. See attachment A.

Motion by Brad Shogren to support the Governor's Executive Reorganization (ERO) consolidating the SCC into the KDA creating the Division of Conservation, effective July 1, 2011. The support action is contingent upon the final ERO being consistent with the draft version as reviewed. In addition the SCC directs staff to work closely with the KDA to facilitate a smooth transition. Ted Nighswonger seconded. Motion carried unanimously.

6. ADJOURN:

The next regular Commission meeting is scheduled for April 11, 2011 (time to TBD) at Topeka, Kansas.

Motion by Andy Larson to adjourn. Seconded by Ted Nighswonger. Motion carried. Meeting adjourned at 2:00 p.m.



Greg A. Foley,
Executive Director

EXECUTIVE REORGANIZATION ORDER NO. 40
GOVERNOR SAM BROWNBACK

Section 1. (a) There is hereby established, within and as a part of the Kansas department of agriculture, the agriculture marketing and promotions program.

(b) (1) The secretary of agriculture shall appoint such employees as may be needed to carry out the powers and duties of the program, and all such officers and employees shall be within the classified or unclassified service.

(2) All employees shall act for and exercise the powers of the secretary of agriculture to the extent that authority to do so is delegated by the secretary of agriculture.

Sec. 2. (a) The agriculture products development division within the department of commerce created by K.S.A. 74-50,156, and amendments thereto, is hereby abolished.

(b) Except as otherwise provided by this order, all powers, duties and functions of the agriculture products development division within the department of commerce created by K.S.A. 74-50,156, and amendments thereto, are hereby transferred to and imposed upon the agriculture marketing and promotions program within the Kansas department of agriculture created herein.

Sec. 3. (a) The agriculture marketing and promotions program within the Kansas department of agriculture shall be the successor in every way to the powers, duties and functions of the agriculture products development division within the department of commerce which were in effect prior to the effective date of this order and that are transferred pursuant to section 2. Every act performed in the exercise of such transferred powers, duties and functions by or under the authority of the agriculture marketing and promotions program within the Kansas department of agriculture shall be deemed to have the same force and effect as if performed by the agriculture products development division within the department of commerce in which such powers, duties and functions were in effect prior to the effective date of this order.

(b) Whenever the agriculture products development division or words of like effect are referred to or designated by a statute, contract, or other document and such reference is in regard to any of the powers, duties, or functions transferred to the agriculture products marketing and promotions program such reference or designation shall be deemed to apply to the program or the secretary of agriculture.

(c) All rules and regulations, orders and directives of the agriculture products development division within the department of commerce which relate to the functions transferred by this order and which are in effect on the effective date of this order shall continue to be effective and shall be deemed to be rules and regulations, orders and directives of the agriculture marketing and promotions program within the Kansas department of agriculture transferred herein until revised, amended, revoked or nullified pursuant to law.

Sec. 4. (a) The balances of all funds or accounts thereof appropriated or reappropriated for the agriculture products development division within the department of commerce relating to the powers, duties and functions transferred by this order are hereby transferred within the state treasury to the agriculture marketing and promotions program within the Kansas department of agriculture transferred herein and shall be used only

for the purpose for which the appropriation was originally made.

(b) Subject to acts of the legislature, all fees, grant funds, and loan repayment funds dedicated to the agriculture products development division within the department of commerce prior to the effective date of this order shall be transferred to the agriculture marketing and promotions program within the department of agriculture.

(c) Liability for all accrued compensation or salaries of officers and employees who are transferred from the agriculture products development division within the department of commerce under this order shall be assumed and paid by the agriculture marketing and promotions program within the Kansas department of agriculture.

Sec. 5. (a) When any conflict arises as to the disposition of any property, power, duty or function or the unexpended balance of any appropriation as a result of any abolition or transfer made by or under the authority of this order, such conflict shall be resolved by the governor, whose decision shall be final.

(b) The agriculture marketing and promotions program within the Kansas department of agriculture shall succeed to all property, property rights and records which were used for or pertain to the performance of powers, duties and functions transferred to the division. Any conflict as to the proper disposition of property, personnel, or records arising under this order shall be determined by the governor, whose decision shall be final.

Sec. 6. (a) No suit, action, or other proceeding, judicial or administrative, lawfully commenced or which could have been commenced, by or against any state agency or program mentioned in this order, or by or against any officer of the state in such officer's official duties, shall abate by reason of the governmental reorganization effected under the provisions of this order. The court may allow any such suit, action or other proceeding to be maintained by or against the successor of any such state agency or any officer affected.

(b) No criminal action commenced or which could have been commenced by the state shall abate by the taking effect of this order.

Sec. 7. (a) The secretary of agriculture shall determine such employees as are necessary to enable the secretary to carry out the duties of the agriculture marketing and promotions program. All officers and employees of the agriculture products development division within the department of commerce who, immediately prior to the effective date of this order, are engaged in the exercise and performance of the powers, duties and functions transferred by this order, who are determined by the secretary of agriculture to be engaged in providing administrative, technical or other support services that are essential to the exercise and performance of the powers, duties and functions transferred by this order, are hereby transferred to the agriculture marketing and promotions program within the Kansas department of agriculture. All classified employees so transferred shall retain their status as classified employees. Thereafter, the secretary of agriculture may convert vacant classified positions to positions in the unclassified service under the Kansas civil service act.

(b) Officers and employees of the agriculture products development division within the department of commerce transferred by this order shall retain all retirement benefits and leave balances and rights which had accrued or vested prior to the date of transfer. The service of each such officer and employee so transferred shall be deemed to have been continuous. Any subsequent transfers, layoffs or abolition of classified service positions under the Kansas civil service act shall be made in accordance with the civil service laws and any rules and regulations adopted thereunder. Nothing in this order shall affect the classified status of any transferred person employed by the agriculture products development division of the department of commerce prior to the date of transfer.

Sec. 8. (a) The division of animal health is hereby established within the Kansas department of agriculture. The division of animal health shall be a continuation of the Kansas animal health department and the animal health commissioner shall be a continuation of the livestock commissioner of the Kansas animal

health department. The division shall be administered under the supervision of the secretary of agriculture, by the animal health commissioner, who shall be the chief administrative officer of the division. On the effective date of this order, the Secretary of Agriculture shall appoint the animal health commissioner. Thereafter, upon a vacancy in the office of animal health commissioner, the Kansas animal health board shall submit three nominations to the secretary of agriculture for the office of animal health commissioner, and the secretary of agriculture shall choose one of the three nominations to appoint as the animal health commissioner. The animal health commissioner shall serve at the pleasure of the secretary and the animal health board. The animal health commissioner shall be in the unclassified service under the Kansas civil service act and shall receive an annual salary fixed by the secretary of agriculture, with the approval of the governor.

(b) All of the powers, duties and functions of the existing Kansas animal health department and the existing livestock commissioner of the Kansas animal health department are hereby transferred to and imposed upon the animal health division within the Kansas department of agriculture and the animal health commissioner, respectively.

(c) The secretary of agriculture shall appoint such employees as may be needed to carry out the powers and duties of the program, and all such officers and employees shall be within the classified or unclassified service.

Sec. 9. The Kansas animal health department and the office of livestock commissioner as established by K.S.A. 75-1901, and amendments thereto, are hereby abolished.

Sec. 10. (a) The animal health commissioner of the Kansas department of agriculture shall be the successor in every way to the powers, duties and functions of the Kansas animal health department and the livestock commissioner of the Kansas animal health department in which the same were vested prior to the effective date of this order. Every act performed in the exercise of such powers, duties and functions by or under the authority of the secretary of agriculture shall be deemed to have the same force and effect as if performed by the Kansas animal health department and the livestock commissioner of the Kansas animal health department in which such powers, duties and functions were vested prior to the effective date of this order.

(b) Whenever the Kansas animal health department or the livestock commissioner of the Kansas animal health department, or words of like effect, are referred to or designated by a statute, contract, memorandum of understanding, plan, grant, waiver or other document, such reference or designation shall be deemed to apply to the animal health division of the Kansas department of agriculture or the animal health commissioner under the secretary of agriculture.

(c) All rules and regulations, orders and directives of the livestock commissioner of the Kansas animal health department that are in effect on the effective date of this order shall continue to be effective and shall be deemed to be rules and regulations, orders and directives of the animal health division of the Kansas department of agriculture until revised, amended, revoked or nullified pursuant to law, by the secretary of agriculture.

(d) Before any proposed rules and regulations of the animal health commissioner of the division of animal health of the department of agriculture are submitted to the secretary of administration or the attorney general pursuant to K.S.A. 77-420, and amendments thereto:

(1) The animal health commissioner shall submit such rules and regulations to the animal health board; and

(2) the animal health board shall review and make recommendations to the animal health commissioner and the secretary of agriculture regarding such proposed rules and regulations.

Sec. 11. (a) The Kansas animal health board, created by K.S.A. 74-4001, and amendments thereto, is hereby continued in existence within the animal health division of the department of agriculture with respect to powers, duties and functions of the Kansas animal health department that are transferred under this order. Persons who are members of the Kansas animal health board on the effective date of this order shall continue to

hold such offices under the conditions and limitations provided under K.S.A. 74-4001, and amendments thereto.

(b) The Kansas pet animal advisory board, created by K.S.A. 47-1725, and amendments thereto, is hereby continued in existence within the animal health division of the department of agriculture with respect to powers, duties and functions of the Kansas animal health department that are transferred under this order. Persons who are members of the Kansas pet animal advisory board on the effective date of this order shall continue to hold such offices under the conditions and limitations provided under K.S.A. 47-1725, and amendments thereto.

Sec. 12. The Kansas department of agriculture shall succeed to all property, property rights and records of the Kansas animal health department and the livestock commissioner of the Kansas animal health department.

Sec. 13. (a) On the effective date of this order, the balances of all funds or accounts thereof appropriated or reappropriated for the Kansas animal health department are hereby transferred within the state treasury to the Kansas department of agriculture and shall be used only for the purpose for which the appropriation was originally made.

(b) Subject to acts of the legislature, all fees and grant funds dedicated to animal health programs shall remain dedicated to animal health programs on and after the effective date of this order.

Sec. 14. (a) (1) The secretary of agriculture in consultation with the animal health commissioner shall determine such employees as are necessary to enable the secretary to carry out the duties of the animal health division. The livestock commissioner of the animal health department shall become the animal health commissioner of the animal health division of the Kansas department of agriculture on the effective date of this order. All other officers and employees of the Kansas animal health department who, immediately prior to such date, were engaged in the performance of powers, duties and functions for the Kansas animal health department and who are, in the opinion of the secretary of agriculture in consultation with the animal health commissioner, necessary to perform the powers, duties and functions of the Kansas animal health department that are transferred under this order, shall become officers and employees of the department of agriculture and are hereby transferred to the Kansas department of agriculture on the effective date of this order.

(2) All classified employees transferred under this subsection (a) shall retain their status as classified employees. Thereafter, the secretary of agriculture may convert vacant classified positions to positions in the unclassified service under the Kansas civil service act.

(b) Officers and employees of the Kansas animal health department transferred under this order shall retain all retirement benefits and leave balances and rights that had accrued or vested prior to the date of transfer. The service of each such officer and employee so transferred shall be deemed to have been continuous. Any subsequent transfers, layoffs or abolition of classified service positions under the Kansas civil service act shall be made in accordance with the civil service laws and any rules and regulations adopted thereunder. Nothing in this order shall affect the classified status of any transferred person employed by the Kansas animal health department prior to the date of transfer.

(c) Liability for accrued compensation or salaries of each officer and employee who is transferred from the Kansas animal health department to the Kansas department of agriculture under this order shall be assumed and paid by the Kansas department of agriculture on the effective date of this order.

Sec. 15. (a) On the effective date of this order, the division of conservation is hereby established within the Kansas department of agriculture. The division of conservation shall be a continuation of the state conservation commission and the executive director of conservation shall be a continuation of the executive director of the state conservation commission. The division shall be administered under the supervision of the secretary of agriculture by the executive director of the division of conservation, who shall be the chief administrative officer of the division. The executive director of the division of conservation shall be jointly

appointed by the secretary of agriculture and the state conservation commission and shall serve at the pleasure of the secretary and the state conservation commission. The executive director of the division of conservation shall be in the unclassified service under the Kansas civil service act and shall receive an annual salary fixed by the secretary of agriculture, with the approval of the governor.

(b) All of the powers, duties and functions of the existing state conservation commission and the existing executive director of the state conservation commission are hereby transferred to and imposed upon the conservation division of the Kansas department of agriculture and the executive director of the conservation division, respectively.

Sec. 16. (a) The conservation division of the department of agriculture shall be the successor in every way to the powers, duties and functions of the state conservation commission and the executive director of the state conservation commission in which the same were vested prior to the effective date of this order. Every act performed in the exercise of such powers, duties and functions by or under the authority of the secretary of agriculture shall be deemed to have the same force and effect as if performed by the state conservation commission and the executive director of the state conservation commission in which such powers, duties and functions were vested prior to the effective date of this order.

(b) Whenever the state conservation commission or the executive director of the state conservation commission, or words of like effect, are referred to or designated by a statute, contract, memorandum of understanding, plan, grant, waiver or other document, such reference or designation shall be deemed to apply to the conservation division within the department of agriculture or the executive director of the conservation division under the secretary of agriculture.

(c) All rules and regulations, orders and directives of the state conservation commission or the executive director of the state conservation commission that are in effect on the effective date of this order shall continue to be effective and shall be deemed to be rules and regulations, orders and directives of the conservation division of the Kansas department of agriculture until revised, amended, revoked or nullified pursuant to law by the secretary of agriculture.

Sec. 17. The state conservation commission established by K.S.A. 2-1904, and amendments thereto, is hereby continued in existence within the conservation division within the department of agriculture with respect to the powers, duties and functions of the state conservation commission that are transferred under this order. Persons who are members of the board shall continue to hold such offices under the conditions and limitations in effect on the effective date of this order.

Sec. 18. The Kansas department of agriculture shall succeed to all property, property rights and records of the state conservation commission and the executive director of the state conservation commission.

Sec. 19. (a) On the effective date of this order, the balances of all funds or accounts thereof appropriated or reappropriated for the state conservation commission are hereby transferred within the state treasury to the Kansas department of agriculture and shall be used only for the purpose for which the appropriation was originally made.

(b) Subject to acts of the legislature, all fees and grant funds dedicated to conservation programs shall remain dedicated to conservation programs on and after the effective date of this order.

Sec. 20. (a) (1) The executive director of the conservation commission shall become the executive director of the conservation division of the Kansas department of agriculture on the effective date of this order. All other officers and employees of the state conservation commission who, immediately prior to such date, were engaged in the performance of powers, duties and functions for the state conservation commission and who are, in the opinion of the secretary of agriculture in consultation with the executive director, necessary to perform the powers, duties and functions of the state conservation commission that are transferred under this order, shall become officers and employees of the department of agriculture and are hereby transferred to the

Kansas department of agriculture on the effective date of this order.

(2) The secretary of agriculture in consultation with the executive director shall determine such officers and employees as are necessary to enable the secretary to carry out the duties of the division of conservation.

(3) All classified employees transferred under this subsection (a) shall retain their status as classified employees. Thereafter, the secretary of agriculture may convert vacant classified positions to positions in the unclassified service under the Kansas civil service act.

(b) Officers and employees of the state conservation commission transferred by this order shall retain all retirement benefits and leave balances and rights that had accrued or vested prior to the date of transfer. The service of each such officer and employee so transferred shall be deemed to have been continuous. Any subsequent transfers, layoffs or abolition of classified service positions under the Kansas civil service act shall be made in accordance with the civil service laws and any rules and regulations adopted thereunder. Nothing in this order shall affect the classified status of any transferred person employed by the state conservation commission prior to the date of transfer.

(c) Liability for accrued compensation or salaries of each officer and employee who is transferred to the Kansas department of agriculture under this order shall be assumed and paid by the Kansas department of agriculture on the effective date of this order.

Sec. 21. (a) No suit, action, or other proceeding, judicial or administrative, that is lawfully commenced or that could have been lawfully commenced, by or against any state agency or program mentioned in this order, or by or against any officer of the state in such officer's official capacity or in relation to the discharge of such officer's official duties, shall abate by reason of the governmental reorganization effected under the provisions of this order. The court may allow any such suit, action or other proceeding to be maintained by or against the successor of any such state agency or any officer affected.

(b) No criminal action that is commenced or that could have been commenced by the state shall abate by the taking effect of this order.

Sec. 22. Except as otherwise provided by this order, all of the provisions of this order shall take effect and have the force of general law on July 1, 2011, unless disapproved by either house of the Kansas legislature as provided by subsection (c) of section 6 of article 1 of the constitution of Kansas, and unless so disapproved, this order is to be published as and with the acts of the legislature and the statutes of this state.

DONE AT The Capitol in Topeka
Under the Great Seal of the
State of Kansas this 7th day
of February 2011.

BY THE GOVERNOR:

Sam Brownback

Dated: _____

Secretary of State of Kansas

Asst. Secretary of State of Kansas