

Testimony before House Agriculture Committee
HB 2531 County Road ROW authority
Written-only testimony in support
Steven Cox

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Mr. Chairman & members of the House Agriculture Committee:

I am a farmer in the Almena Valley area near Long Island, Kansas. Our operations are in both Phillips and Norton counties. My grandfather started farming there in the early 1900s and there are two generations behind me also making their living in agriculture.

Over the more than sixty years that I have been deeply involved in the family's farming operations, profits became smaller, and it became necessary both to farm more land and to raise livestock in more specialized and intensive ways. Although it would have been nice to have land that was all contiguous as we grew the size of the farm, you can only purchase what is offered for sale. Also, some type of farming operations, like raising hogs, require separation distances between facilities that depend on each other, like the farrowing barns and the finishing barns. As a result, farms now commonly consist of several non-contiguous parcels that we are trying to operate as single farming operation.

We have faced another reality in northwest Kansas. Not all the land has good water and water rights. Sometimes what would otherwise be the most productive land has the least groundwater. Some land has water, but not quite enough to run a pivot and so the water can't be used efficiently.

To connect our separated facilities to natural gas, distribute water for livestock and irrigation, and transport animal-waste fertilizer to the fields that needed it, we began using buried pipelines in 1971. Since our farm parcels weren't contiguous, I asked the county for permission to bury the pipes in the county road rights-of-way. The county gave that permission—for natural gas lines, for effluent lines, for irrigation-water lines, for stock-water lines. It was never a very formal process, although in Norton County even the county counselor was involved. Neither the counties nor we knew of any reason at the time to question whether the county had the power to give us that permission.

Because we installed those pipelines—now about five miles of pipelines in total—we could build farming operations over the last several decades that would not have been possible otherwise and that are not sustainable without the ability to cheaply transport water and fertilizer from where it is to where it is needed. The pipelines have allowed us triple grain production from the same land. They have reduced the cost of production to allow us to stay competitive. They have allowed us to build a system of interdependent swine barns. They have allowed us to double the efficiency with which

we use groundwater. We can now use water first for livestock and then use it again when we pipe the effluent to both irrigate and fertilize the farm fields. In fact, our KDHE permits depend on our use of the pipelines to do exactly this. On tracts where the water was insufficient to run a center pivot, we can now supplement the water that's there so that we can use a pivot and irrigate more efficiently. I do not overstate the case when I say that these pipelines have been essential to my agricultural operations, which at times have directly employed over 50 people in the community.

I support HB 2531 because the continued ability to maintain and operate those pipelines is in serious doubt. We have become aware that the Legislature never actually gave the counties the power to permit the use of county road rights of way for agricultural pipelines, although it has given express permission for other types of users of use the road rights of way, including for pipelines. There is no good reason why private mills and irrigation companies, for example, should have been given the right to lay pipelines in county road rights of way but farmers not. But we now know that the Legislature never passed a statute to give farmers those same rights. As a result, another local farmer was recently successfully sued and could be forced to remove his pipelines. I do not want to have to fight this out in the courts. That's not good for any of us. We need to have the predictability and stability that only having a statute can provide.