

Watershed Land Trust

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TO: Senate Committee on Agriculture

FROM: Mike Stevenson, Watershed Land Trust, Inc. President

RE: Testimony in opposition of HB 2061

Good morning Chairman Love and members of the committee. My name is Mike Stevenson, President of the Watershed Land Trust, Inc.

HB 2061 directly affects the "private sector" of land trusts by granting conservation easement powers and other powers to a state agency supported by state tax dollars..., which is not good for the local economy, not good for local businesses, and not good for Kansas.

Our sister organization, The Watershed Institute (TWI), is an interdisciplinary team with experience and expertise in resource assessments, monitoring, habitat assessments, stream enhancement and restoration design, streambank stabilization and construction, wetland design and construction, and water law. TWI is the largest contractor for the KDA/DOC for streambank work and has been for the last 10 years. In East Central Kansas, on the Cottonwood and the Neosho TWI has designed somewhere around 45 streambank projects for the DOC and the Kansas Water Office over the past few years all relating to John Redmond. TWI and WLT are collectively and respectively major players and collaborators with the State when it comes to water recourses and we do it all on a non-profit basis. TWI is the technical side that does the design work. WLT is the Land Trust that holds easements specifically on mitigation projects and runs the ILF program for the entire state of Kansas.

It is that experience that brought the Corps of Engineers to TWI/WLT and asked TWI/WLT to be the vendor for the In Lieu Fee Program for the State of Kansas trading wetland and stream credits to facilitate 404 permitting under the Clean Water Act. We have helped facilitate economic development from border to border for Kansas for entities such as Koch Ind., Sam's Club, Academy Sports, KU School of Medicine, KDOT, Fort Hays State Univ., City of Wichita, Enbridge Pipeline, BNSF RR, Douglas County, Johnson County, New Market Square, Hunt Midwest, Wichita Armed Forces Readiness Center, Union Pacific RR, City of Horton Mission Lake Dredge Project, WaterOne, Unified Govt. of Wyandotte County, Pawnee Watershed District (Horse Thief Reservoir), City of Lawrence, City of Topeka, as well as others.

The Watershed Districts already have Taxing Authority and already get special treatment. Now they come before you and ask for additional tax relief by adding additional governmental powers to the DOC and special treatment that all of those businesses, municipalities, and entities mentioned above do not receive. Is that fair representation?

Also the WLT presented to the State Association of Kansas Watersheds (SAKW) last 1/22/14 with a 24 point collaboration proposal. This collaboration effectively would create jobs in each Watershed District as well as reduce cost of mitigation while continuing to facilitate watershed dam permitting. Note that the Watershed Districts are under the umbrella of the KDA and the DOC. Any additional taxing powers granted to the government or the watershed districts at the cost of taxpayers and the cost of Kansas Jobs is detrimental to Kansas and should be given great scrutiny. Instead of working as a collaboration, the SAKW chose to come to the state legislature and ask for special treatment at the expense of the Kansas Taxpayer and at the expense of Kansas Jobs.

This legislation flies in the face of the State's Economic Development Strategic Plan adopted by the Governor's Council of Economic Advisors and Executive Order 11-23. For that reason alone, it should fail.

The WLT is still trying to work with the Watershed Districts and think we are the viable option instead of State Tax Subsidies, which in effect is what HB 2061 would cause to happen. HB 2061 would put WLT and other private industry on an unequal playing field with State Government as a mitigation provider for the building of watershed dams. The language in HB 2061 is overly vague, ambiguous, broad, arbitrary and capricious. This gives the DOC potentially far reaching powers to do things within the Federal Authority of the Clean Water Act far beyond the mere holding of conservation easements which the DOC testimony leads one to believe it is asking for, and no State agency is qualified to hold conservation easements. The KDWP&T is the prime example with the over 100 conservation easements it holds from the FSA farm foreclosure easements. The State has never seen the land, never enforced the terms, has no idea where the easements are, and has no expertise to provide them stewardship. In fact, the State refuses to even disclose where they are.

Briefly here are some of the impacts:

- (1) The DOC and KDA have minimal experience providing compensatory mitigation required by federal regulation (no projects to date since 2008 Final Mitigation Rule?)
- (2) Compensatory mitigation requires site maintenance through perpetuity in accordance with strict standards. Does this best serve the interests of all Kansans having a state agency monitor and maintain this?
- (3) The "quantity" of mitigation in Kansas is determined, in part, by the Kansas Stream Mitigation Guidance (KSMG), and no "benefit" is given when lakes are created. Why not change KSMG and require much less mitigation for DOC lake projects that provide persistent aquatic habitat? That would require less credits to purchase from the ILF program the WLT administers.
- (4) Compensatory mitigation is a component of the nationwide ecosystem credit market overseen by the USACE/USEPA. This market is projected to exceed \$5,000,000,000 per year by 2020 and create tens of thousands of jobs. Why would DOC/KDA want to interfere with an emerging marketplace in the state of Kansas?
- (5) Holders of conservation easement provide specified police powers to enforce such easements. Is KDA prepared to exercise such powers against citizens?

Please vote NO on HB 2061.