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The Legislative Coordinating Council, at its September 2, 1977 meeting appointed the Kansas-Missouri Boundary Committee and replaced a member of the Legislative Educational Planning Committee. Please update your interim committee listings as follows:

Kansas-Missouri Boundary Committee

Senators

Reilly, Chr.
Chandler
Mulich

Representatives

Love, Vice Chr.
Gordon
Henry

Proposal No.

44

Legislative Educational Planning Committee (1202 Commission)

Rep. Hohman replaced Rep. Brewster as a member.

RE: PROPOSAL NO. 44 - TRUE KANSAS MISSOURI
BOUNDARY ESTABLISHMENT

Background

In 1975, the responsibility for surveying and selling land in abandoned river channels was statutorily reassigned from the State Auditor, which was abolished, to the Secretary of State. The 1976 Legislature appropriated \$10,000 to the Secretary of State for the purpose of surveying an abandoned river channel in Northeast Kansas in an area known as the Gladden-French-Elwood Bottoms. Surveying of the channel, which was abandoned by avulsion in 1952, had never been done. Subsequently, the Secretary of State received bids for that survey which ranged from \$30,000 to \$85,000. As a result, the \$10,000 was lapsed.

During the 1977 Legislative Session \$30,000 was appropriated to the Secretary of State for the purpose of surveying the abandoned channel. In addition, 1977 Senate Resolution No. 1851 was adopted, which requested the Legislative Coordinating Council to establish the Select Committee on the Kansas Missouri Boundary. The resolution directed the Committee to "... meet and confer with appropriate officials and representatives of the State of Missouri, and study plans, procedures, and endeavors that might be followed in order that proper legislation may be drafted to determine the true boundary line between Kansas and Missouri." The Secretary of State was also restricted in the appropriation from spending the \$30,000 for a survey until the Select Committee had reached an agreement with Missouri officials.

The 1977 Missouri Legislature passed a similar resolution which appointed a special committee to meet with the Kansas Committee to resolve the boundary issue.

Committee Activities

The Select Committee met with the Missouri Committee at Rosecrans Airfield near St. Joseph, Missouri in October

to discuss the boundary dispute and hold a public hearing. At that meeting the Committees discussed a memo prepared by Kansas staff relating to the history of the boundary dispute. It was pointed out that the primary issue to be resolved was defining the term "the middle of the channel" so that a survey could be conducted.

The Missouri Committee expressed the opinion that the mid-point between the two high banks should be used. The Kansas Committee favored use of the thalweg, or deep-channel mark on the basis that the thalweg rule was used on all other points of the Kansas-Missouri River boundary. It was learned that in order to use the mid-point as the rule in this case, the Kansas-Missouri Compact would have to be amended by each state and then approved by the United States Congress.

The Committees toured the land in dispute. Testimony from farmers and landowners of the area was heard by the Committees. Several conferees said they preferred the use of the mid-point of the abandoned channel. A Kansas attorney testified that the ultimate issue to be resolved was the determination of a true boundary and not settlement of landowner disputes.

After the hearing the Committee met to further discuss the issue. The Missouri Committee said they preferred to use the mid-point and would be willing to amend the compact. The Kansas Committee indicated they wished to further study the issue.

The Committees met in November in Kansas City, Kansas to further discuss and resolve the dispute. At that meeting Missouri once again proposed using the mid-point for the survey. The Kansas Committee offered to use the mid-point for that channel if it would also be applied in the construction of the proposed U.S. Highway 36 bridge over the river. It was pointed out that such a division would cost Missouri an additional \$800,000 for construction of that bridge.

The Committees also discussed the issue of how the costs of the survey were to be paid. Both Committees felt

that \$30,000 was too low of an estimate for the survey. Missouri noted that they, unlike Kansas, had not appropriated any funds for conducting the survey. The Committees also discussed the possibility of having the U.S. Army Corps of Engineers do the surveying.

Committee Conclusions and
Recommendations

After considerable discussion the two Committees reached the following agreement.

- 1) For the purpose of surveying the abandoned channel the thalweg line shall be used.
- 2) The U.S. Army Corps of Engineers shall conduct the boundary survey if it is possible to do so within a reasonable period of time.
- 3) If the U.S. Corps of Engineers cannot do the survey, Kansas shall pay for the costs of an independent survey.
- 4) The Missouri State Land Surveyor shall have the right to review and approve any survey.
- 5) Once the land is surveyed, the Kansas Secretary of State shall offer all landowners with Missouri property contiguous to the abandoned channel, the right of first refusal in the sale of land which would be located between the thalweg line and the patent lines, which was previously established by the Buchanan County Court and conveyed to such landowners.
- 6) Land offered to the persons as listed above shall be sold for an amount in proportion to the cost of such survey, less the owner's previous purchase price of the land and any direct costs of improvements made by those persons to such land.

The Missouri Committee agreed to introduce a resolution encompassing the items contained in the above agreement. The Kansas Committee recommended introduction of a resolution to encompass the first four items and a special bill for items five and six. Both Committees further agreed that once the land is surveyed, both legislatures would pass resolutions officially adopting the specific survey description. In addition, the Kansas Committee recommended that the \$130,000 appropriated to the Secretary of State with the proviso relating to Committee agreement with Missouri officials be lapsed in the emergency supplemental bill and that \$30,000 be appropriated in that bill without the proviso.

Respectfully submitted,

November 28, 1977

Sen. Edward F. Reilly,
Chairman
Special Committee on
Kansas-Missouri
Boundary

Sen. John E. Chandler
Sen. William Mulich

Rep. Francis Gordon
Rep. Bob Henry
Rep. Clarence Love

MEMORANDUM OF AGREEMENT

This Memorandum of Agreement entered into as of the 9th day of November, 1977, between the Kansas Select Committee on the Kansas-Missouri Boundary, first party, hereinafter referred to as the Kansas Committee, and the Missouri Select Committee on the Kansas-Missouri Boundary, second party, hereinafter referred to as the Missouri Committee:

WHEREAS, The states of Kansas and Missouri in 1949 did agree that the center of the channel of the Missouri River from the 40th parallel, north latitude, southward to the middle of the mouth of the Kansas (Kaw) River was to be the true and permanent boundary between the said states, subject only to changes which may occur by the natural processes of accretion and reliction, but not by avulsion, and the U.S. Congress in 1950 ratified this agreement; and

WHEREAS, In April, 1952, the channel of the Missouri River in the area known as the Gladden-French-Elwood Bottoms was abandoned by avulsion, and the Missouri River channel so abandoned never has been surveyed by anyone in authority to establish the true location of the boundary between the states of Kansas and Missouri as located within the abandoned channel; and

WHEREAS, The Kansas Senate by 1977 Senate Resolution No. 1851 requested the Kansas Legislative Coordinating Council to establish the Select Committee on the Kansas-Missouri Boundary and the Kansas Legislative Coordinating Council did so establish the Kansas Select Committee on the Kansas-Missouri Boundary consisting of Senator Edward F. Reilly, Jr., Senator John E. Chandler, Senator William Mulich, Representative Clarence C. Love, Representative Francis Gordon, and Representative Bob Henry; and

WHEREAS, The Missouri Legislature did establish a Missouri Select Committee on the Kansas-Missouri Boundary consisting of Senator Truman E. Wilson, Senator Phil Snowden, Senator Henry A. Panethiere, Representative Mark A.

Youngdahl, Representative Don Randall and Representative Don Silcott; and

WHEREAS, The Kansas Committee and the Missouri Committee have met and have conferred jointly with officials and representatives of both Kansas and Missouri and agreed in a joint meeting on November 9, 1977, upon a plan and procedure to determine the true boundary line between Kansas and Missouri in the area of the abandoned channel:

IT IS THEREFORE AGREED by the Kansas and the Missouri Committees as follows:

1. The thalweg line (the deep water line) of the abandoned channel of the Missouri River in the area known as the Gladden-French-Elwood Bottoms as established by a survey shall be the true boundary line between the states of Kansas and Missouri in the abandoned channel.

2. The U.S. Army Corps of Engineers shall be requested to conduct the boundary survey and, if the Corps agrees to conduct the boundary survey, to do so within a reasonable period of time.

3. If the U.S. Army Corps of Engineers declines to conduct the boundary survey or cannot do so within a reasonable period of time, the Secretary of State of Kansas shall proceed to cause said survey to be made according to law and to be paid for from appropriations therefore.

4. The Missouri State Land Surveyor shall have the right to review and approve any such survey made by a surveyor selected by the Secretary of State of Kansas.

5. The Kansas Committee will use its best efforts to cause the passage of legislation by the Kansas Legislature which will in part provide as follows: "In any case where any such land has been a part of the bed or channel of any navigable stream bordering on the state of Kansas and the survey establishes parts of such land lying between the Kansas bank of such stream at the high water mark and the center of the main channel of such stream to be the property of this state which has theretofore been occupied and

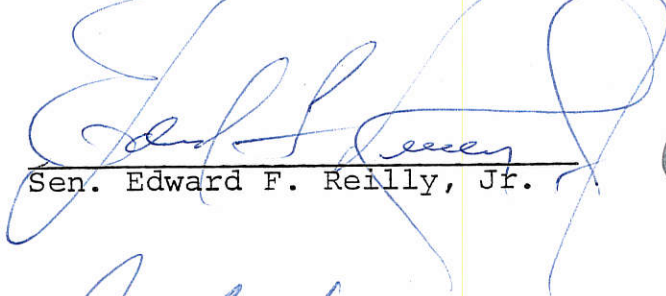
claimed by any person under any patent, conveyance or grant to such person from a bordering state or a political subdivision thereof, the secretary of state first shall offer such parts of such lands to such persons occupying and claiming the same as aforesaid at a price represented by the proportionate cost of such survey determined by applying the total cost of the survey to the total acreage of lands covered by said survey. Upon satisfactory proof made thereof, the secretary of state shall allow as a credit to such purchase price the actual cash paid for any such patent, conveyance or grant and the actual costs of any permanent improvements made to any such lands or parts thereof by the person occupying and claiming the same. Upon the refusal of any such offer to such person, the land may be sold by the secretary of state as herein provided." The Kansas Committee also will use its best efforts to cause a concurrent resolution to be passed by the Kansas Legislature in the proposed form as set out in Exhibit A attached hereto and made a part hereof the same as if set out herein in full, and to cause a resolution to be passed by the Kansas Legislature upon completion of the survey as provided in the last paragraph of said Exhibit A attached hereto.

6. The Missouri Committee will use its best efforts to cause legislation to be passed by the Missouri Legislature, if needed, to authorize and permit the Missouri State Land Surveyor to review and approve any such survey made by a surveyor selected by the Secretary of State of Kansas, and to cause a resolution to be passed by the Missouri Legislature in appropriate form as set forth in Exhibit A attached hereto and made a part hereof the same as if set out herein in full, and to further cause the Missouri Legislature to adopt the similar concurrent resolution upon the completion of the survey as set out in the last paragraph of Exhibit A attached hereto.

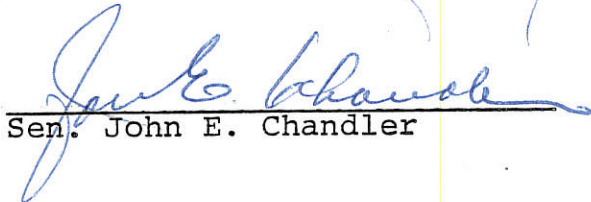
IN WITNESS WHEREOF, The Kansas Committee and the Missouri Committee have caused this agreement to be executed as

of the date first hereinbefore set forth.

Kansas Select Committee on the Kansas-Missouri Boundary


Sen. Edward F. Reilly, Jr.


Rep. Clarence C. Love

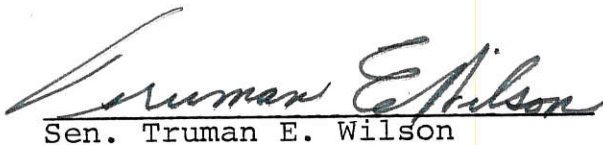

Sen. John E. Chandler


Rep. Francis Gordon


Sen. William Mulich


Rep. Bob Henry

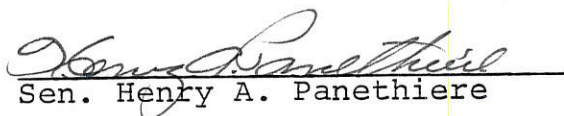
Missouri Select Committee on the Kansas-Missouri Boundary


Sen. Truman E. Wilson


Rep. Mark A. Youngdahl


Sen. Phil Snowden


Rep. Don Randall


Sen. Henry A. Panethiere


Rep. Don Silcott

CONCURRENT RESOLUTION NO. _____

By Select Committee on the Kansas-Missouri Boundary

Re Proposal No. 44

A CONCURRENT RESOLUTION setting forth certain terms of agreement between the Kansas and Missouri Select Committees on the Kansas-Missouri Boundary with respect to determining the true boundary line between Kansas and Missouri in the vicinity of the French Bottoms near St. Joseph, Missouri.

WHEREAS, The states of Kansas and Missouri in 1949 did agree that the center of the channel of the Missouri River from the 40th parallel, north latitude, southward to the middle of the mouth of the Kansas (Kaw) River was to be the true and permanent boundary between the said states, subject only to changes which may occur by the natural processes of accretion, and reliction, but not by avulsion, and the U.S. Congress in 1950 ratified this agreement; and

WHEREAS, In April, 1952, the channel of the Missouri River in the area known as the Gladden-French-Elwood Bottoms was abandoned by avulsion; and

WHEREAS, In both Kansas and Missouri the fee title to abandoned channels of navigable streams is in the state, with Missouri delegating to counties the authority to plat and convey such abandoned channels and Kansas vesting fee title in drainage districts under certain conditions; and

WHEREAS, The Missouri River channel abandoned in 1952 by avulsion has never been surveyed by anyone in authority to establish the true location of the boundary between the states; and

WHEREAS, At various times since 1965, Buchanan County, Missouri and its grantee have conveyed certain parcels of land to the owners of land in Missouri contiguous to the abandoned channel which are thought by the purchasers thereof to extend to

a point commonly described as "the mid-point between the high water banks" or the "patent line" established for the St. Joseph Levee District, and the purchasers have been occupying and claiming such tracts as so conveyed to them; and

WHEREAS, The respective select committees of Kansas and Missouri have met and conferred jointly with officials and representatives of both Kansas and Missouri and have agreed upon a plan and procedure to determine the true boundary line between Kansas and Missouri: Now, therefore,

Be it resolved by the _____ of the State of Kansas, the _____ concurring therein: That the thalweg line (the deep water line) of the abandoned channel of the Missouri River as established by a survey shall be the true boundary line between Kansas and Missouri.

Be it further resolved: That the U. S. Army Corps of Engineers shall be requested to conduct the boundary survey and, if the Corps agrees to conduct the boundary survey, to do so within a reasonable period of time.

Be it further resolved: That if the U. S. Corps of Engineers declines to conduct the boundary survey, or can not do so within a reasonable period of time, the secretary of state of Kansas shall proceed to cause said survey to be made according to law and to be paid for from appropriations therefor.

Be it further resolved: That the Missouri state land surveyor shall have the right to review and approve any such survey made by a surveyor selected by the secretary of state of Kansas.

Be it further resolved: That the legislatures of Missouri and Kansas shall adopt similar concurrent resolutions affirming and ratifying such boundary survey as the true boundary line between Kansas and Missouri upon the completion of the survey and its review and approval by the Missouri state land surveyor if such review and approval is appropriate as aforesaid.



MARK A. YOUNGDAHL
REPRESENTATIVE, DISTRICT 9
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COMMITTEES:
VICE CHAIRMAN CIVIL AND CRIMINAL JUSTICE
JUDICIARY
CONSUMER PROTECTION

**MISSOURI
HOUSE OF REPRESENTATIVES
JEFFERSON CITY 65101**

December 13, 1977

TO: Members of the Kansas Select Committee
on the Kansas-Missouri Boundary

Paragraph six of the Memorandum of Agreement mandates that the Missouri Committee use its best efforts to cause a resolution to be passed by the Missouri Legislature in appropriate form as set forth in the attached Exhibit A.

It is the understanding and intention of the members of the Missouri Committee that the words "in appropriate form" includes all of the provisions of the Memorandum of Agreement for the purpose of the Missouri resolution.

A handwritten signature in black ink, appearing to read "Mark A. Youngdahl".

MARK A. YOUNGDAHL
State Representative
District #9
Chairman of Missouri
Select Committee

MAY/sdd