

Approved 2-10-87  
Date

MINUTES OF THE SENATE COMMITTEE ON ENERGY & NATURAL RESOURCES

The meeting was called to order by Senator Merrill Werts at  
Chairperson

8:00 a.m./~~XX~~ on February 4, 1987 in room 123-S of the Capitol.

All members were present except:

Committee staff present:

Ramon Powers - Research  
Don Hayward - Revisor  
Nancy Jones - Secretary

Conferees appearing before the committee:

SB 94 - Concerning the Kansas Recreational River Act

Kerry Wedel outlined the purpose of this legislation which addresses public use of rivers and streams for on-stream recreational activities. The problem which exists for this type of activity is lack of established rule and regulation for landowners and recreation users. A conservative approach has been taken to suggest a management program consisting of three phases: the evaluation of streams and adjacent lands, designation of river reach areas and a management plan to accommodate public use. Implementation of a river reach area was detailed for the Committee. Recreation activity is proposed for on-stream use only and this program targets a limited number of streams. There is no fiscal note available at this time.

Russell Crites endorsed SB 94 as important to the economy of the state. He stated water is worth fighting over but hopefully only minor skirmishes will occur with any water issues.

Ken Brunson endorsed SB 94 as a reasonable common sense approach to broaden recreational activities. The process to develop the Recreational River Act was explained. (Attachments A & B).

Paul Grahovac expressed concern that Kansans have to leave the state to enjoy river recreation and the lakes and reservoirs are limited in what they provide. Streams and waterways offer a tremendous potential resource for recreational opportunities. Mr. Grahovac supports the plan of the Fish and Game Commission. (Attachment C).

Cathy Kruzic supports the concept of SB 94 stating additional recreational programs benefit tourism which is a rapidly growing industry for Kansas. This legislation is an opportunity to build the economic base and support is encouraged.

Dean Wilson outlined the process employed for establishing the Kansas Canoe Trail on public streams. SB 94 would provide this process on "private" streams. (Attachments D & E). Important factors of recreational river reach are the retention of the land by the owner and opportunity for input to develop the process. Benefits to be realized with this legislation are opportunities for income for landowners, and recreational dollars will remain in the state. (Attachment F).

Eulalia Lewis testified in support of SB 94 as retaining recreational monies in the state is important and urged passage of the bill.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ENERGY & NATURAL RESOURCES,  
 room 123-S, Statehouse, at 8:00 ~~am~~/p.m. on February 4, 1987

Lynn Burris stated over 10 million dollars have been put into the three major rivers in Kansas for development of recreational areas and conservation programs. This legislation will lend new direction to the program and the committee's support was urged.

Rich McKee requested members to note his written testimony in opposition to SB 94. Mr. McKee then relinquished his time to John Hund who spoke on behalf of all landowners and tenants in Wabaunsee County living on Mill Creek. Citizens are strongly opposed to this legislation which would inhibit normal agrarian uses of the land and waterways. Abuse of land, profanity directed toward landowners, frightening of livestock and careless use of firearms are problems already being faced. SB 94 will exacerbate these troublesome circumstances. The guidelines proposed are virtually unenforceable and liability is not addressed. Mr. Hund said landowners have allowed use of the streams by responsible citizens and have derived income from such arrangements. This income would be lost under SB 94.

Rich McKee testified that no other section of the State Water Plan drew as much criticism from the KLA membership as this proposal. It was noted that this proposal was rejected totally by a special committee on Energy and Natural Resources during the interim. (Attachment G).

Bill Fuller testified in opposition to SB 94 as being one of many proposals seen as a real threat against property owners in taking away landowner rights and increasing liability risks. Concerns were expressed regarding vandalism to equipment and crops, livestock watering disrupted and increased littering. The needs of normal agricultural operations are not addressed in the management plan. Examples of problematic issues were given. (Attachment H).

Howard Tice stated the Wheat Growers are strongly opposed to this proposal as an infringement on landowners privacy and right to ownership and could result in abuse to owners/tenants. Designation of additional streams for navigation is also opposed. The ability of the Fish & Game Commission to manage and police this program was questioned. Citizens need to assume responsibility to obtain permission for recreational activities from the landowners and arrange for access rather than passing legislation. (Attachment I).

Wilbur Leonard testified in opposition to SB 94 and supported statements of opposition already made. Mr. Leonard expressed concerns regarding the language in Sections 3 & 4 and lack of reference and inattention given the rights of riparian landowners. There is also no provision for compensation when necessary. (Attachment J).

Attention was directed to written testimony of Guy Ellis in support of SB 94. (Attachment K).

Meeting adjourned. The next meeting will be February 5, 1987.

# Guest List

2-4-87

Steve Hund	Papico land owner
Art Hund	Papico Land owner
Elmer J. Eick	R 2 ALMA-KANSAS-TENANT
Ray Greenland	Topeka, Kansas
Ed Reinert	KS L W V s
Eulalia M Lewis	Topeka, KS - Audubon Society
Barbara Rusk	Topeka, KS - Audubon Society
John O. Miller	KCSIC Topeka
John Blythe	Ks Farm Bureau Manhattan
Ken Kern	SCC Topeka
Bill Inlter	Manhattan Ks. Farm Bureau
Lynn Burris	St. Park Auth. Topeka
Cathy Young	Topeka KDOC
Don McClelland	Maple Hill - Land Owner.
Paulina Arnold	Maple Hill Land Owner.
Walter Leonard	Topeka Comm. Ks. Farm Org.
David Adams	Maple Hill Ks Land Owner
Judy Adams	Maple Hill Land Owner
Robert M. Hochman	Maple Hill lease operator
John Hund	Papico Former Stockman
Rich McKee	Kansas Livestock Assoc.
Fern Taylor	KPH Gas Service
Ken Catches	BMAC

KANSAS FISH AND GAME COMMISSION  
PERSPECTIVES ON STATE WATER PLAN/KANSAS RECREATIONAL RIVER ACT (SB 94)

Testimony presented to the  
SENATE ENERGY AND NATURAL RESOURCES COMMITTEE  
February 4, 1987

The Kansas Fish and Game Commission endorses Senate Bill 94. The bill strictly adheres to the River Recreation subsection of the State Water Plan. It provides for limited nonconsumptive use of the publicly owned water resources of the State. Public meetings held around the State in the last year on the Water Plan identified recreational use of water as a major priority by many Kansans.

This initiative provides a mechanism whereby a given stream section could be used for floating by citizens of the State, but only after careful evaluation, legislative approval, and the development of a river management plan. Entrance, exit, or portage of streams would only be allowed at designated points along rivers and only after consultation and agreements reached with affected landowners. Purchase of property or easements on a voluntary basis could be obtained to fulfill the need for such areas along a stream course.

The bill proposes limited and strict control upon public use of streams and represents the most cautious method of establishing some limited public use of our State's waterways.

Benefits of legislation:

The Recreational River Act provides for outdoor recreational experiences which Kansans could enjoy at home without having to travel to other State's and support their economies rather than our own. Additional public education about the state's natural resources would occur through close contact with the natural environment.

Agency actions for implementation:

The Kansas Fish and Game Commission is the agency requested via the State Water Plan to implement the River Recreation Program. Only after the development of a management plan would any river be opened for public access to its waters. This is a much more conservative approach than many states have taken which after review of public rights, etc. have opened all streams to public use. Each recreational river in Kansas would require legislative approval. The Kansas Fish and Game Commission has prepared a report on the implementation of such a program and the report is available upon request. The Kansas Fish and Game Commission currently administers a stream access program through federal funding. The project is currently piecemealed. Establishment of this legislation would give direction to the existing program and current staff and dollars could be used to implement the program. Should the program prove highly successful additional monies may be sought in the future. Registration of canoes and non-motorized boats would provide needed program funding.

Wueger  
(AS)  
2-4-87

RECREATIONAL RIVER PROGRAM  
SUBSECTION OF  
FISH, WILDLIFE AND RECREATION SECTION:  
KANSAS STATE WATER PLAN

Kansas Fish and Game Commission

August, 1986

(B)  
Ecc 2/24  
2-4-87

## INTRODUCTION

Streams and rivers of Kansas and their recreational use are important and substantial. Licensed angler surveys conducted by the Kansas Fish and Game Commission (KFGC) have indicated that about one-fourth of our state's anglers prefer stream fishing above pond, lake, or reservoir fishing. These surveys have shown that angling use of Kansas rivers and streams average about a million and half angler days per year (1 & 2). Riverine environments provide a multitude of recreational activities other than fishing. Some floating occurs on Kansas rivers each year but accurate estimates of the number of participants or the effort expended are not available. The existence and continual growth of the Kansas Canoe Association gives testimony to the potential popularity of floating in this state. This organization currently represents about 500 citizens through 200 paid memberships. While this group sponsors some out-of-state floating trips every year, there are numerous trips and activities devoted to Kansas waters. However, because of Kansas' fairly restrictive interpretation of stream ownership laws, the extent to which the public and organizations such as the Kansas Canoe Association can lawfully utilize our streams is very limited and questionable.

There are only three rivers in Kansas allowing unquestionable legal utilization by the public--the Missouri, Kansas, and Arkansas Rivers. Some floating occurs on the Missouri River and lower Arkansas River but the Kansas River offers the best overall access opportunities. This is primarily because several access sites exist along this river from Manhattan to Kansas City. In addition to a few private and city access areas, the KFGC currently has five access sites in operation on the Kansas River. For most other river reaches in Kansas, access and the public's ability to legally float them are severely limited. Several larger rivers, particularly in the eastern half of Kansas, would appear to lend themselves to development for floating recreation. While there is certainly an identified need to enhance the opportunity for this kind of recreation in Kansas, there is an equal need to maintain the integrity of private property protection for riparian landowners. The Recreational River Program is an initiative to provide some expanded recreational opportunities for Kansas citizens but yet regulate it so as to preserve private property rights and concerns.

## BACKGROUND

Efforts to designate certain Kansas rivers as scenic or recreational have not been extensive but have persisted through the last decade. There have been attempts at evaluating certain systems for their scenic attributes and recreational potentials. Most of this earlier work was under the direction of the Kansas Park and Resources Authority (KPRA). As part of the outdoor recreation planning conducted by that agency in the early seventies, a report was prepared detailing a methodology devised and applied to evaluating four river reaches (3). These included the Caney, Marais des Cygnes and Verdigris Rivers along with Lyon Creek in Dickinson and Geary Counties. This 1970 report emphasized the growing demand for outdoor recreational opportunities in Kansas and inherent needs to provide quality experiences for people who want to enjoy the State's natural water features. The river evaluation techniques developed in that effort were applied to a follow-up study of three rivers in southcentral Kansas in 1971 (4). These included the lower Arkansas River, the Ninnescah River and the Chikaskia River. While this latter effort did identify good potential for water recreation and scenic qualities for portions

of the rivers evaluated, no specific recommendations were given for designating any of these systems as part of a state scenic and/or recreational rivers program. However, it was recommended that the methodology be applied to other Kansas rivers and that a concentrated effort be initiated to develop alternatives for providing public recreational use of streams identified as high quality resources. In 1978, the KPRA prepared a plan for the public recreational development of the Little Arkansas River (5). This followed a special Governor's Task Force on Water recommendation that the state authorize the KPRA to enter into agreements with landowners for obtaining access to streams for recreation (6). The plan included proposed legislation for creating a recreational corridor along this stream and in addition a conservation easement program for assisting in the arrangement of voluntary agreements with landowners for access development projects and river protection measures. Subsequently, the companion legislation was presented but was never adopted by the Kansas Legislature.

As part of the ongoing State Comprehensive Outdoor Recreation Plan, the KPRA issued a report called "Kansas Streams - A Special Study" in October, 1979 (7). This publication summarized past stream evaluation efforts in Kansas. The report also discussed a recommendation by the KPRA calling for the designation of the Kansas River as a "Recreational River" under criteria of the federal 1968 Wild and Scenic Rivers Act. Studies had indicated that no streams in Kansas would qualify as "Wild and Scenic" under the interpretation of the 1968 law. However, it was felt that the Kansas River did meet the qualifications necessary for "Recreational Status" and which if accepted would mean more intensive involvement and development of recreational potentials of this river by state and federal agencies. An effort was made in 1982 to have the U.S. Army Corps of Engineers incorporate an evaluation of the Kansas River as a national recreational river as part of the Kansas River and Tributaries Bank Stabilization Study being undertaken by that agency. Although some preliminary meetings and planning did occur for that purpose, the Corps of Engineers eventually deleted the recreational river portion of the study. There have been no additional efforts by state or federal agencies since then to revive this specific plan. These efforts represented the last and only attempts for gaining special recreation designations or programs for select Kansas streams. However, there have been some additional Kansas stream evaluations performed to categorize stream resources. As part of 208 Non-point Pollution studies in the mid-seventies, the KFGC and the Kansas Department of Health and Environment (KDHE) cooperated in evaluating Kansas rivers according to several criteria including such factors as fishing use and fisheries characteristics, water quality, riparian association, stream uniqueness and mitigation potentials. This effort was expanded and refined later with the publication of "Kansas Stream and River Fishery Resource Evaluation" by KFGC under a contract with the U.S. Fish and Wildlife Service (7). Ranking of most the larger streams and rivers of the state resulted in the segregation of these resources into five categories ranging from "Highest-valued fishery resource" to "Unsurveyed".

These later efforts were designed to mainly categorize streams qualitatively and did not include any specific recommendations for management or protection programs. In addition to these more formal stream recognition endeavors, there have been other actions or products designed to promote the appreciation and recreational use of Kansas rivers. In cooperation with KFGC and KPRA the Kansas Canoe Association has produced several brochures depicting

stream trails in Kansas. While they emphasize stream reaches for public waters, these guides also illustrate floatable reaches on some of the other Kansas streams where agreements have been obtained for public use rights or where some floating is known to occur. Other groups such as the Kansas River Parkway Association and the Kansas Audubon Council have been instrumental in promoting stream resource values and recreation in Kansas.

Most recently, the State Water Plan approved by the Kansas Water Authority (KWA), includes a subsection within the Fish, Wildlife, and Recreation Section that provides basic elements for creating and developing recreational rivers in Kansas (8). This section, River Recreation, was very sensitive to anticipated concerns of riparian landowners that may be affected. One option presented to resolve the public access/private property right conflict was to merely open all Kansas creeks, streams, and rivers to public access. This action would quell the never ending debate over true public rights to streams in the state. However, most streams in Kansas simply do not carry enough water on a permanent basis to lend themselves to floating. The other option which was recommended by the Kansas Water Authority is for the state to provide for limited instream public recreation on designated rivers. This option was presented as an effort to satisfy some of the demand for additional river recreation for streams that exhibit adequate potentials while addressing landowner concerns and private property rights. One concern expressed in the past which has hampered recreation development has been landowner liability. However, this potential problem has been minimized since the adoption of K.S.A. 58-3201 et. seq. (Appendix A) which limits landowner liability regarding public recreation activities on private property. The water plan further recommends that the state develop a management program for designating recreational rivers. Through the inter-agency and public coordination process of the water planning effort by the Kansas Water Office, five rivers were proposed for evaluation as recreational rivers. These include the Republican, Cottonwood, Fall, Caney, and Chikaskia Rivers.

The KFGC has been directed through the State Water Plan as the lead agency in carrying out provisions of the sub-section on river recreation. Legislation (SB No. 94) has been drafted creating a recreational river concept (Appendix B). The legislation specifies a river nomination process along with directives for the development of specific management plans for any stream designated as a recreational river by the Kansas Legislature.



## RECREATIONAL RIVER NOMINATION PROCESS

The 1986 Kansas Water Plan identified five rivers proposed for initial evaluation as to their potentials for being designated as recreational rivers (Figure 1). In the context of their inclusion in the River Recreation sub-section of the plan, these five systems would be eligible for first consideration under preliminary KFGC review (Figure 2). Additional rivers may be nominated for study as specified in the proposed legislation. It states "Any state or federal agency or any political sub-division of the state may nominate additional rivers or reaches of rivers of inclusion in the rivers system." Political sub-divisions would include the basin advisory committees established by the Kansas Water Office. Nominations shall be submitted to the Director of KFGC.

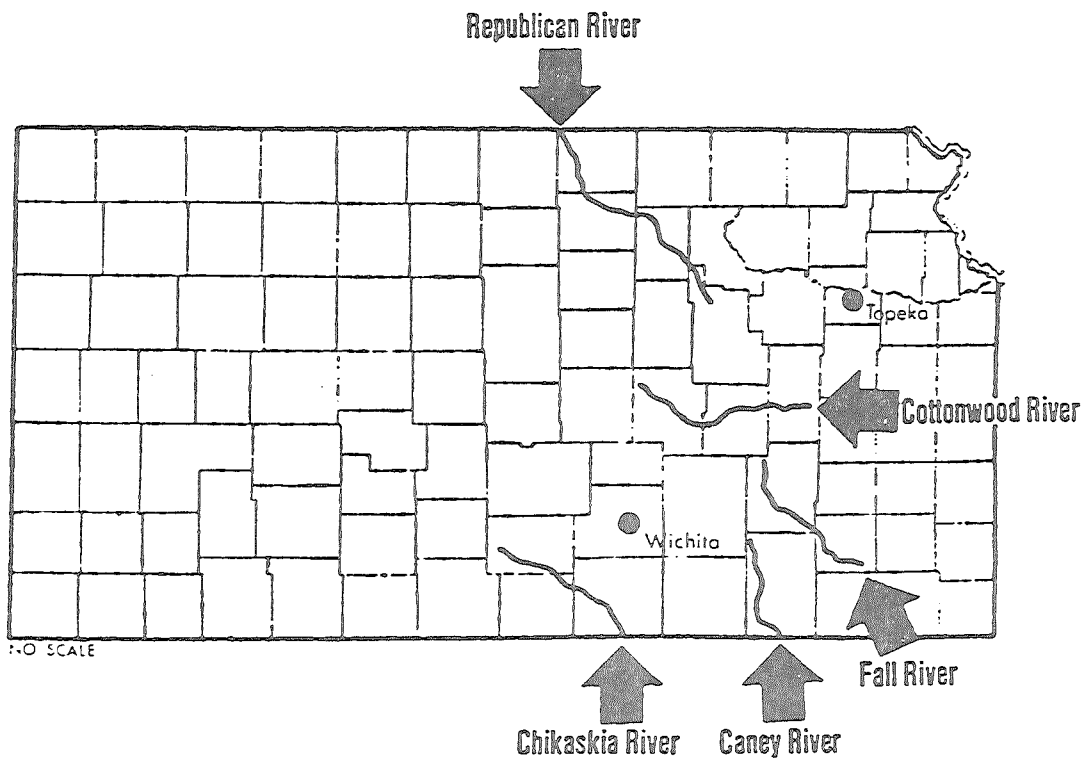
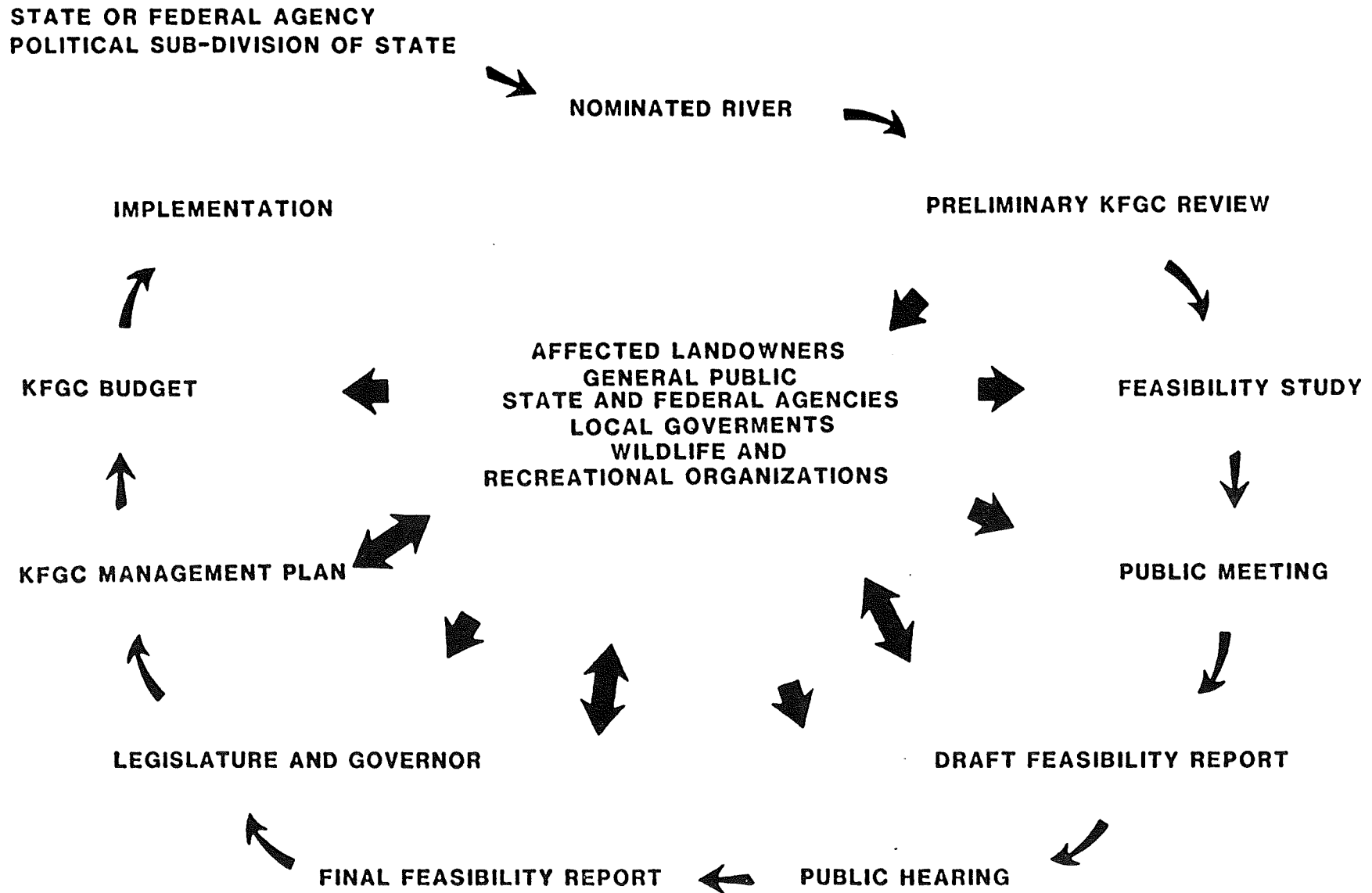


FIGURE 1: Proposed rivers as nominated for study from State Water Plan.

# RECREATIONAL RIVER PROCESS



Interior arrows denote opportunities for input and communication.

FIGURE 2  
How a stream becomes a recreational river.

## PRELIMINARY KFGC EVALUATION

Once nominated, a river or segment of river will be screened by the KFGC to determine its initial suitability for inclusion into this program. In determining this suitability, KFGC will consult with the Kansas Water Office, Kansas Department of Health & Environment, KPRA, and federal agencies such as U.S. Fish and Wildlife Service and the National Park Service. In addition, preliminary opinions will be sought from user interest groups such as the Kansas Canoe Association and the Kansas Trails Council. KFGC will review all available written information relative to any river evaluations, hydrological data, biological assessments, and any other pertinent reports in helping to determine suitability. There may be some nominated streams that exhibit obvious weaknesses and do not merit additional assessment. Such streams will be rejected through consultation with appropriate entities.

Candidates that exhibit good potentials for recreational development through this early screening will be placed into an advanced planning status for feasibility study. Most likely candidates for preliminary evaluation include those mentioned earlier from the previous studies conducted by KPRA along with streams identified in the National Rivers Inventory and the KFGC publication "Kansas Stream and River Fishery Resource Evaluation". This latter publication lists the following as "Highest-valued Fishery Resource":

<u>STREAM</u>	<u>COUNTY</u>
Beaver Creek	Cowley
Caney River	Chautauqua, Elk
Cedar Creek	Chase
Chikaskia River	Sumner
Deep Creek	Riley
East Branch Mill Creek	Wabaunsee
Fall River	Greenwood
Grouse Creek	Cowley
Illinois Creek	Wabaunsee
Lyon Creek	Geary & Dickinson
Marais des Cygnes River	Linn, Miami
Mill Creek	Wabaunsee
Neosho River	Cherokee

<u>STREAM</u>	<u>COUNTY</u>
Otter Creek	Cowley
Otter Creek	Greenwood
Saline River	Russell
Shoal Creek	Cherokee
Smoky Hill River	Ellsworth
S.F. Cottonwood River	Chase
Spring River	Cherokee
Walnut River	Cowley
West Branch Mill Creek	Wabaunsee

The National Rivers Inventory was issued in 1980 by the Heritage Conservation and Recreation Service, now contained within the National Park Service. The

purpose of the inventory was to document streams of national resource value whether from recreational potential or natural scenic qualities. From an extensive list of original proposals the final categorization for Kansas included the following reaches:

#### STREAMS

1. Kansas River -- I-635 to Delaware River
2. Caney River -- KS/OK Line to source
3. Cedar Creek -- Cottonwood River to Chase/Butler County line
4. Chikaskia River -- KS/OK Line to Highway 2 Northeast of Runnymede
5. Fall River -- Verdigris River to Fall River Lake
6. Grouse Creek -- Arkansas River to Cowley/Butler County line
7. Lyon Creek -- Smoky Hill River to RR Bridge south of Woodbine
8. Medicine (Lodge) River -- KS/OK Line to Gerlane
9. Mill Creek and West and East Branches -- Fall River Reservoir to State Highway 96 northwest of Blodgett
10. Shoal Creek -- Spring River to source
11. South Fork Cottonwood River -- Cottonwood River to Little Cedar Creek
12. Spring River -- Highway 96 to Highway 44
13. Arikaree River -- KS/NB Line to Alder Creek
14. Cimarron River -- Highway 23 east of Liberal, KS to CO/KS Line
15. Medicine (Lodge) River -- Gerlane to Belvidere
16. Saline River -- Wilson Lake to Fairport

Because of particular development opportunities or existing ownership and management status, other stream reaches may lend themselves well to consideration for nomination. Examples of these include rivers that may currently offer much public use although legal trespass rights to the public may be vague. Certain segments upstream from federal reservoir lands that are adjacent to and within boundaries of KFGC wildlife management areas may also merit consideration.

#### FEASIBILITY STUDY

Nominated rivers that are successful through the preliminary evaluation process will be eligible for specific assessment though a feasibility study for possible designation as a Recreational River by the Legislature. Timing and extent to which these rivers are assessed will be dependent on funding source and levels, the KFGC budgetary process, personnel assignments and commitments, and program priorities.

The major emphasis of the feasibility study will be the field assessment. The candidate reach of river will be surveyed by floating and pertinent information will be obtained for a number of stream variables and qualities. This evaluation will apply methodologies similar to the one developed by the KPRA described earlier. Physical criteria to be assessed shall include considerations for the floatability of the surveyed reach. Such elements as riffle development and size, mean depths at normal flows and channel obstructions will be evaluated. Scenic qualities such as bluffs, springs and scenic vistas will be noted along with associated wetland or other special riparian features. Existing and candidate access and campsite areas will be identified. Any features or characteristics that would degrade the quality of the reach such as bank or water pollution will also be included. Once the field survey is complete, ratings described for each resource criteria will be converted to numerical scores resulting in a total for the reach studied.

Figures depicting the river's course will be displayed on United States Geological Survey quadrangle maps with all appropriate points of interest illustrated or marked accordingly. This illustrative material will be presented in the feasibility report along with other pertinent data. In addition to the field survey, the feasibility report will include sections on area climate, physical features and measurements of the river reach, historical stream flow characteristics, topographical and geographical information of the surrounding drainage, general riparian association characteristics, associated river basin water or land development projects, existing public and private use estimates, fisheries quality and associated wildlife. In assessing a candidate river's floatability criteria, efforts will be made to apply computer modeling techniques such as those available from the U.S. Fish and Wildlife Service. These methods may be valuable in objectively assessing a stream's capabilities of supplying a dependable and adequate flow volume for floating recreation.

Riparian landowner rights and property ownership status will also be specifically addressed along with considerations for the impact of non-contact recreational use of the river and the existence of any relative local, state, or federal laws and ordinances concerning the river's recreational use.

The other major portion of the feasibility analysis will involve communication by KFGC to a number of other agencies and organizations in an attempt to gather opinions and information relative to the river evaluation effort. Agencies that will be contacted and may supply specific input include: Kansas Geological Survey, U.S. Geological Survey, U.S. Army Corps of Engineers, Kansas Water Office, U.S. Fish and Wildlife Service, Kansas Department of Health and Environment, Kansas State Historical Society, and KPRA. Informational requests from these agencies will include data on water quality, flow, water management implications, planning guidance and archeological and environmental impact assessments. Comments and assistance will also be sought from organizations such as the Kansas Canoe Association and Kansas Trails Council.

#### PUBLIC MEETING

During the feasibility analysis, a public meeting will be held to describe the preliminary proposal and elements of the project. This meeting will be held in the vicinity of the evaluated river in order to gain comments and concerns from all local interests and landowners. For this meeting, KFGC

will make available a conceptual design (Figure 3) for the recreational river including a map of the area detailing potential access sites, river features of interest, and boundaries of the project area. Other relative information such as the total numerical score from the field survey and specific values for evaluated criteria will be provided. All comments and concerns provided at the meeting will be noted and responded to as needed. The preliminary feasibility study will take into account this public input as it is modified in preparation of the Draft Feasibility Report.

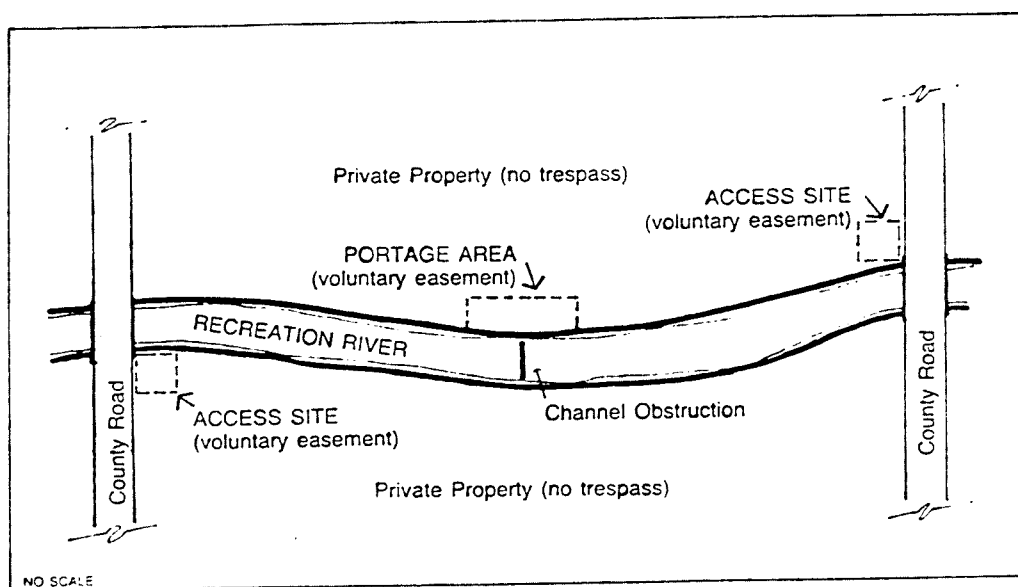


FIGURE 3  
A simplified and conceptual recreational river reach.

## DRAFT FEASIBILITY REPORT

The Draft Feasibility Report will incorporate background information on the candidate river including such subject material as its past biological, hydrological and economic importance along with descriptions of water development projects in its channel and watershed. Any prior survey data or reports will be presented as they may relate to this project. Other sections of the plan will include, but not be limited to, all elements previously identified in the feasibility study. Another portion of the Draft Feasibility Report will include a summary of the field assessment and rating for surveyed reaches. A map depicting the project area will illustrate all pertinent stream features identified by the field survey. The map will show boundaries and limits of the recreational river along with potential access development sites. Descriptions of each access site will include general remarks on levels of development and possible options for securement through landowner agreements or cooperation with governmental units.

All associated costs for developing and maintaining the candidate stream as a recreational river will be displayed and estimated to the best extent possible. These costs will include statements on manpower expenses, capital improvement items and land acquisition or leasing in the developmental phase. Accordingly, estimates will be supplied for early maintenance including manpower needs, access site requirements, and continuation of any lease and purchase agreements.

The final section of the Draft Feasibility Report will focus on a cost/benefit analysis based on the amount of funds necessary to develop the recreational river package and yearly amortized maintenance needs against the known and projected user days to be supplied.

## PUBLIC HEARING

As required by proposed legislation, the KFGC is to sponsor a formal public hearing concerning the candidate stream and its feasibility study if the Commission decides to recommend the river to the legislature. The Director will provide a published notice at least 10 days in advance of the hearing which will state the Commission's intent to recommend the nominated river for inclusion in the system. The notice will also contain a description of the river reach or reaches involved along with the specific date and location for the hearing. Following this hearing, KFGC will prepare a final Feasibility Report as per comments and recommended changes from hearing proceedings.

## LEGISLATIVE SUBMISSION

Once the Public Hearing has taken place, KFGC may submit the candidate river to the Kansas Legislature for its approval. The legislature may approve, modify, or reject each recommendation. If approved by the legislature and the Governor, the candidate river becomes a Recreational River to be incorporated into the state system. By virtue of this designation, the public will be granted rights for use of the river for noncontact water recreation. Noncontact recreation means floating on some form of water craft as opposed to swimming which does involve contact with the water and possible ingestion.

## MANAGEMENT PLAN

Once adopted by the legislature and Governor, a Recreational River must have a Management Plan before the Commission can initiate development. The Management Plan will consist of most of the sections existing in the Feasibility Report but will discuss specific areas to be developed and river use management in detail. In addition, this final plan will include all specified regulations that may be necessary in carrying out provisions of the proposed Recreational River Act or the legislation designating the river. The Management Plan will include, but not be limited to, sections dealing with the following: introduction and background, mapping and boundaries, products from any evaluations and rating systems employed, access site descriptions and facility development, provisions for appropriate signing and boundary designations, landowner and intergovernmental agreements, protection of the natural state and scenic qualities of the river, intergovernmental coordination and communication and scheduling of any construction projects.

In formulating this recreational river management plan, the design of access and use areas will be structured towards the establishment of both half-day and overnight use. Attempts will be made to establish these use areas at strategic increments along the river reach in order to facilitate both the short term user along with those who wish to stay a night or two on the river. Camping areas will probably be quite basic. Some river reaches may include sanitary toilets if the need dictates at high use points. At the minimum each recreational river reach will have improved access sites, portages and a parking area joined to an improved access road from a highway, secondary road, or a county road. As is the case for access sites, camping or portage areas developed will typically involve a voluntary agreement between the KFGC and the landowner. In some cases, KFGC may purchase land through voluntary arrangements with landowners.

All access areas will be marked with a standardized sign that provides details of the recreational river boundaries along with all pertinent regulations concerning its use. To the best extent possible, a "pack it in and pack it out" trash policy will be observed. This policy has been successful at a number of state fishing lakes and other management areas of KFGC and would be a beneficial aspect of the recreational river maintenance.

Close cooperation with organized user groups and other agencies will be an integral part of the Management Plan preparation. Concerns and suggestions from these interests will be valued and incorporated into the final plan to the best extent possible. Again, organizations such as Kansas Canoe Association and Kansas Trails Council will be vital to this effort. Agencies that will play a key role in advising and working with KFGC include Kansas Water Office, KPRA and U.S. Fish and Wildlife Service. Other governmental groups that will be solicited for comments and input into the development of the Management Plan include basin advisory committees of Kansas Water Office, local flood plan management organizations including levee districts and county conservation districts. KFGC will give just consideration to input from private or public organizations who wish to express views on any aspect of recreational river management. Just as importantly, KFGC will value comments and concerns raised at public meetings and hearings and by individuals who provided comments. The Kansas State Historical Society will be provided a copy of the Management Plan also in order to insure that all considerations for potential or existing archaeological and historical sites have been addressed.



As required by proposed legislation, all undocumented vessels utilizing a designated recreational river will be required to be registered and numbered according to K.S.A. 82a-803, and amendments thereto. Since motorized boats and sailboats are currently registered, this will extend the registration to canoes and other small manpowered boats that may be used on the designated recreational river.

#### AGENCY FUNDING AND ADMINISTRATION

All recreational river planning will be incorporated into the KFGC strategic and operational planning process. The stream program in the agency's Strategic Plan identifies problems associated with stream protection and management along with strategies to address these elements. Operational planning of KFGC embodies the project budgeting that may include new endeavors along with ongoing activities such as maintenance and administration of agency facilities and lands. Any existing projects or new proposals must meet the criteria of being identified in the agency's Strategic Plan before being accepted in the Operational Plan.

KFGC is currently applying federal aid funds to help support the development and maintenance of stream access sites in Kansas. Commonly referred to as Wallop/Breaux Expansion Funds, this money is derived from excise taxes on certain fishing equipment and supplies. While this funding source may be applied to any river in the state, emphasis will be placed on its application to facilities required for operation of any recreational river.

## REFERENCES

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2. Hartmann, Robert F., Fishing In Kansas: A Survey of 1982 Resident Licensed Anglers, Kansas Fish and Game Commission, February, 1984.
3. Nighswonger, James J., A Methodology for Inventorying and Evaluating the Scenic Quality and Related Recreational Value of Kansas Streams, Kansas Planning for Development Report No. 32, March 1970.
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5. Kansas Park and Resources Authority, River Plan, Little Arkansas River, January 1978.
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9. Kansas Water Office, Kansas Water Plan, Fish, Wildlife and Recreation Section, Sub-section: River Recreation, January, 1986.

58-3201

## PERSONAL AND REAL PROPERTY

Article 32.—LAND AND WATER  
RECREATIONAL AREAS

Law Review and Bar Journal References.

Survey of Kansas Law on real and personal property  
1965-1969, 18 K.L.R. 127, 158 (1970).

**58-3201.** Limiting liability of property owners to persons entering premises for recreational purposes. The purpose of this act is to encourage owners of land to make land and water areas available to the public for recreational purposes by limiting their liability toward persons entering thereon for such purposes.

History: L. 1965, ch. 559, § 1; July 1.

**58-3202.** Same; definitions. As used in this act: (a) "Land" means land, roads, water, watercourses, private ways and buildings, structures, and machinery or equipment when attached to the realty.

(b) "Owner" means the possessor of a fee interest, a tenant, lessee, occupant or person in control of the premises.

(c) "Recreational purpose" includes, but is not limited to, any of the following, or any combination thereof: Hunting, fishing, swimming, boating, camping, picnicking, hiking, pleasure driving, nature study, water skiing, winter sports, and viewing or enjoying historical, archaeological, scenic, or scientific sites.

(d) "Charge" means the admission price or fee asked in return for invitation or permission to enter or go upon the land.

History: L. 1965, ch. 559, § 2; July 1.

**58-3203.** Same; care of premises; duty of landowner. Except as specifically recognized by or provided in K.S.A. 58-3206, an owner of land owes no duty of care to keep the premises safe for entry or use by others for recreational purposes, or to give any warning of a dangerous condition, use, structure, or activity on such premises to persons entering for such purposes.

History: L. 1965, ch. 559, § 3; July 1.

**58-3204.** Same; invitee or permittee without charge; responsibility. Except as specifically recognized by or provided in K.S.A. 58-3206, an owner of land who either directly or indirectly invites or permits without charge any person to use such property for recreational purposes does not thereby: (a) Extend any assurance that the premises are safe for any purpose.

(b) Confer upon such person the legal

status of an invitee or licensee to whom a duty of care is owed.

(c) Assume responsibility for or incur liability for any injury to person or property caused by an act of omission of such persons.

History: L. 1965, ch. 559, § 4; July 1.

**58-3205.** Same; application to lands leased to state or subdivision. Unless otherwise agreed in writing, the provisions of K.S.A. 58-3203 and 58-3204 shall be deemed applicable to the duties and liability of an owner of land leased to the state or any subdivision thereof for recreational purposes.

History: L. 1965, ch. 559, § 5; July 1.

**58-3206.** Same; nonapplication of act to certain liabilities. Nothing in this act limits in any way any liability which otherwise exists: (a) For willful or malicious failure to guard or warn against a dangerous condition, use, structure, or activity.

(b) For injury suffered in any case where the owner of land charges the person or persons who enter or go on the land for the recreational use thereof, except that in the case of land leased to the state or a subdivision thereof, any consideration received by the owner for such lease shall not be deemed a charge within the meaning of this section.

History: L. 1965, ch. 559, § 6; July 1.

**58-3207.** Same; construction of act as to certain liabilities and obligations. Nothing in this act shall be construed to: (a) Create a duty of care or ground of liability for injury to persons or property.

(b) Relieve any person using the land of another for recreational purposes from any obligation which such person may have in the absence of this act to exercise care in his or her use of such land and in his or her activities thereon, or from the legal consequences of failure to employ such care.

History: L. 1965, ch. 559, § 7; July 1.

## SENATE BILL No. 94

By Committee on Energy and Natural Resources

1-28

---

0016 AN ACT concerning water; enacting the Kansas recreational  
0017 river act.

0018 *Be it enacted by the Legislature of the State of Kansas:*

0019 Section 1. This act shall be known and may be cited as the  
0020 Kansas recreational river act.

0021 Sec. 2. As used in this act, unless the context clearly requires  
0022 a different meaning:

0023 (a) "Commission" means the state fish and game commis-  
0024 sion;

0025 (b) "component river" means a river or named tributary in-  
0026 cluded in the Kansas recreational river system;

0027 (c) "noncontact river recreation" means the public use of a  
0028 recreational river by means of a vessel as defined in subsection  
0029 (a) of K.S.A. 82a-802, and amendments thereto;

0030 (d) "recreational river" means a stream or section of a stream  
0031 designated by the legislature as a recreational river;

0032 (e) "riparian area" means the vegetative community and the  
0033 land thereunder adjacent to the riverbeds, which are predom-  
0034 antly influenced by their association with water;

0035 (f) "rivers system" means the Kansas recreational rivers sys-  
0036 tem as created by this act.

0037 Sec. 3. It is hereby declared to be the policy of the state of  
0038 Kansas that selected rivers within this state possessing out-  
0039 standing fish and wildlife, recreational, geologic or scenic values  
0040 may be designated recreational rivers and the public shall be  
0041 permitted to enjoy and use such rivers through noncontact river  
0042 recreation.

0043 Sec. 4. (a) Any state or federal agency or any political sub-  
0044 division of the state may nominate additional rivers or reaches of

0045 rivers for inclusion in the rivers system. A nomination shall be  
0046 submitted to the director of the commission.

0047 (b) The commission shall determine whether the nominated  
0048 river is suitable for study.

0049 (c) If the commission determines the nominated river is  
0050 suitable for study it shall initiate a detailed study of such river in  
0051 consultation with the Kansas water office, the Kansas department  
0052 of health and environment, and the Kansas park and resources  
0053 authority.

0054 (d) The commission's study shall consider the following cri-  
0055 teria:

0056 (1) The river's scenic and recreational value;

0057 (2) riparian landowner's rights;

0058 (3) existing public and private use of the nominated river;

0059 (4) the impact of any anticipated noncontact recreational use  
0060 and associated development costs, if any;

0061 (5) existing and applicable municipal and county ordinances  
0062 and resolutions or state or federal laws and regulations governing  
0063 the use of the nominated river and adjacent or riparian areas;

0064 (6) public interest in the inclusion of the nominated river in  
0065 the rivers system; and

0066 (7) any other considerations the commission deems appro-  
0067 priate.

0068 (e) The commission may not recommend to the legislature a  
0069 river for inclusion in the rivers system unless the director has  
0070 published at least 10 days prior to the date of the hearing a notice  
0071 in the Kansas register stating:

0072 (1) The commission's intent to recommend the nominated  
0073 river for inclusion in the Kansas recreational rivers system;

0074 (2) a description of the river or portion thereof to be recom-  
0075 mended for inclusion in the system; and

0076 (3) the date and location of a public hearing to be held to  
0077 consider the commission's proposed recommendation.

0078 Sec. 5. The commission shall submit its recommendation of  
0079 a river to be included in the rivers system to the legislature. The  
0080 legislature may approve, modify or reject each recommendation.

0081 Sec. 6. (a) It shall be the responsibility of the commission to

0082 carry out the provisions of this act, and it shall utilize all author-  
0083 ity vested in it by the laws of this state to carry out such  
0084 responsibility with the exception that the commission shall not  
0085 utilize the power of eminent domain to carry out such provisions  
0086 unless specific authorization and appropriation is made therefor  
0087 by the legislature.

0088 (b) In carrying out the purposes of this act, the commission  
0089 may enter into agreements with federal agencies, other states,  
0090 agencies of the state of Kansas or any other state, political  
0091 subdivisions of this state or with private persons for administra-  
0092 tion and management of any designated recreational river.

0093 (c) The commission shall adopt any rules and regulations  
0094 deemed necessary to implement and administer the provisions  
0095 of this act.

0096 Sec. 7. In cooperation with affected state and federal agen-  
0097 cies and political subdivisions of the state, the commission shall  
0098 prepare and implement a recreational river management plan for  
0099 each component river and its riparian areas. The purpose of such  
0100 plan is to coordinate the management activities of local, state and  
0101 federal entities as they affect a component river. The plan shall  
0102 consider the following:

0103 (a) Provisions for public river access facilities and portage  
0104 areas;

0105 (b) protection of scenic quality of the associated riparian  
0106 area;

0107 (c) coordination and cooperation of all affected local, state  
0108 and federal entities and agencies thereof; and

0109 (d) protection of the natural or existing state of the river to the  
0110 extent possible.

0111 Sec. 8. Every undocumented vessel upon a recreational  
0112 river as defined in this act shall be numbered in accordance with  
0113 K.S.A. 82a-803, and amendments thereto.

0114 Sec. 9. This act shall take effect and be in force from and  
0115 after its publication in the statute book.

RIVER RECREATION LEGISLATION--SENATE BILL 94

February 4, 1987

Written summary of testimony of Paul T Grahovac of Prairie Village

Kansas has a beautiful outdoors but many people don't realize it and don't have the opportunities to enjoy it.

As a result, much recreation revenue is spent elsewhere that could be spent here.

The lakes and reservoirs help the problem but they are limited.

The streams and rivers of the state offer a tremendous recreation possibility.

Excellent legislation has been proposed and is supported by numerous state agencies and private groups.

The river recreation legislation deserves your strong support.

EW 944  
(C)  
2-4-87

TESTIMONY PRESENTED TO THE  
SENATE ENERGY AND NATURAL RESOURCES COMMITTEE

ON SENATE BILL NO. 94

BY  
DEAN WILSON  
FEBRUARY 4, 1987

I am a member of the Sierra Club, Topeka Audubon Society's Board of Directors and a member of their Conservation Issues Committee, Kansas Wildlife Federation's Conservation Issues Committee, National Wildlife Federation, Kansas Canoe Association (past president, past chairman of legislative committee, past trails committee chairman, past member of Board of Directors), American Canoe Association, American Rivers Conservation Council, Kansas Natural Resource Council, and Riley County Fish & Game Association.

I am speaking on behalf of the Kansas Canoe Association in support of SB 94. I have followed this part of the Kansas Water Plan for the past 2 years -- from the public meetings, formal hearings, and the Kansas Water Authority's final meetings.

I would like to share with you the process we have used to date on a limited basis on canoe trails on streams on public lands:

- decide which river stretch to inventory
- float section of river taking notes of access sites, scenery, wildlife, etc.
- tabulate field data
- organize into a trail guide to have it printed.

At times we must start on private lands to get to public lands. In this case, we will visit with the landowner and obtain their permission to use the access. We will list their name and telephone number (if he wishes) to have the floater contact the landowner when using this access. The reason for contacting the landowner is usually needed because the access sites are not developed and have limited parking. Many parking areas are access roads to fields, etc. and instructions are needed so not to block these "parking" areas. I have not heard of any problems with landowners on our trail guides that we have produced. These trail guides are done with our voluntary and limited resources.

SB 94 would perform this process on "private" streams.

The Kansas Canoe Association hopes that with all the public input into this legislation, that you vote with the public. Having received all the information on this bill during your committee hearings, when the bill is voted to the full Senate, we hope you will educate your fellow Senators as to what this bill is and is not and what this could mean for our future Kansas generations.

Dean W. Wilson  
3508 SE Highland Ave.  
Topeka, Kansas 66605  
913-266-6591  
Kansas Canoe Association

*EW*

2-4-87



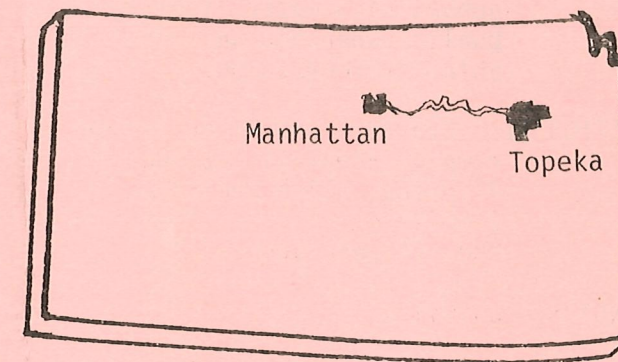
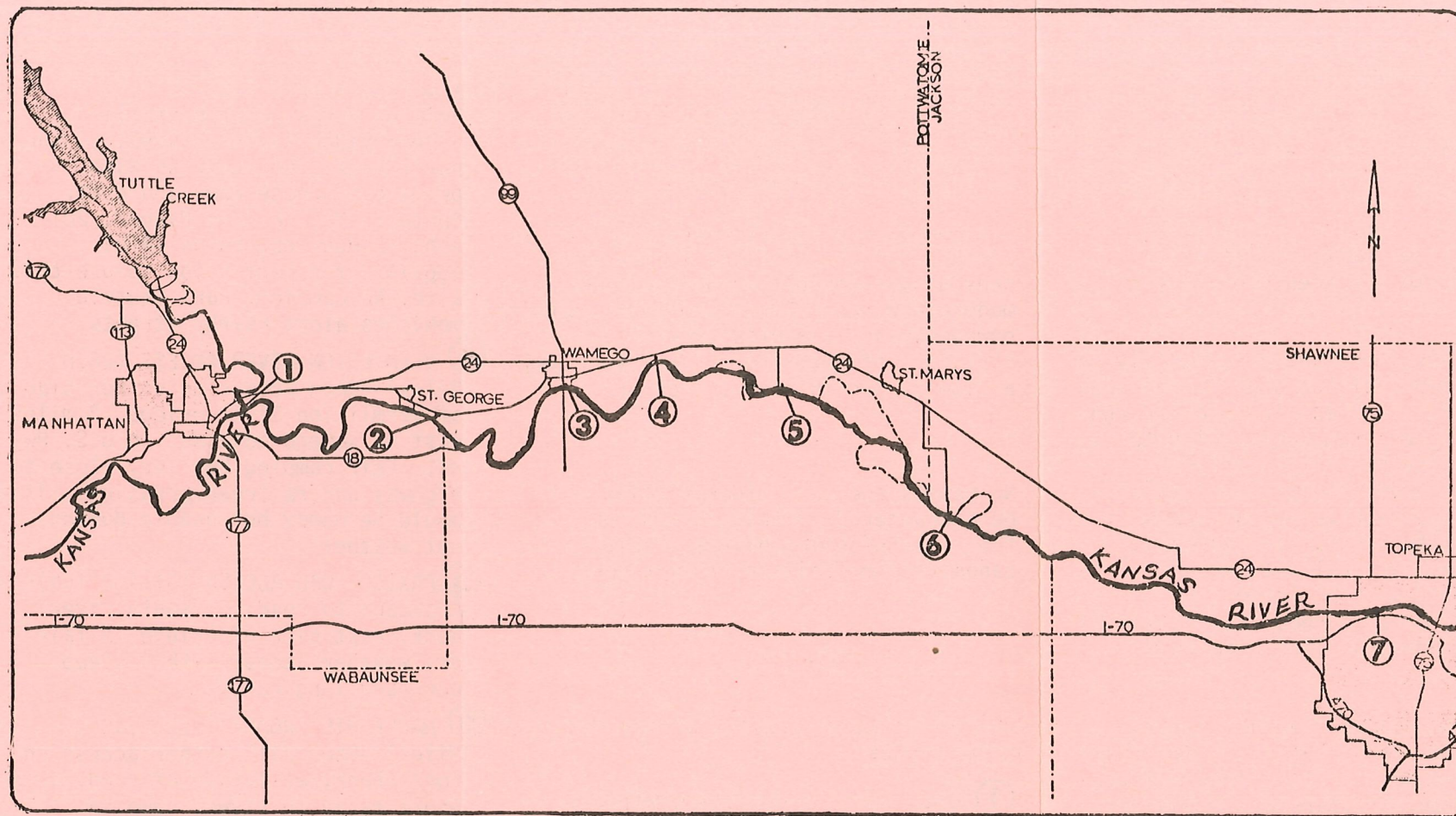
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# Kansas Canoe Trail

## KANSAS RIVER

### Section 2

KAW RIVER ACCESS RAMP NEAR  
HIGHWAY 24 EAST OF MANHATTAN  
TO THE TOPEKA ACCESS



GUIDE AND MAP PREPARED BY  
KANSAS CANOE ASSOCIATION  
BOX 2885, WICHITA, KS. 67201

IN COOPERATION WITH  
KANSAS PARK & RESOURCES AUTHORITY  
P.O. BOX 977, TOPEKA, KS. 66601

KANSAS RIVER  
SECTION II

LOCATION: Riley, Pottawatomie,  
Wabaunsee, Shawnee Counties

TOPO MAPS: 7.5 Minute Series  
Manhattan  
St. George  
Wamego  
Belvue  
St. Marys  
Maple Hill  
Willard  
Silver Lake  
Topeka

PUBLIC LANDS: The Kansas is a public  
(navigable) river. The water  
surface, streambed and  
adjacent banks to the average  
annual high water line are in  
public ownership and avail-  
able for recreation.

SECTION II: Start: Kaw River access  
ramp adjacent to U.S. Hwy  
24 bridge (Fish and Game  
Commission)  
End: Topeka access

LENGTH: 59 Miles

TIME: 20 to 30 hours (paddling time)

DIFFICULTY: Class I

WATER CONDITIONS: See description in  
text.

CAMPGROUNDS: No developed campgrounds  
exist along the river or at  
access points. The best  
camping is on sandbars  
adjacent to the river in  
locations protected from the  
wind.

POINTS OF INTEREST: See description  
in text.

This section of the Kansas "Kaw" River  
separates the Flint Hills along the  
south edge of the river valley from  
the Glaciated Region on the north.  
Pleasant views of the Flint Hills  
contribute to the scenic quality of  
the area.

The "Kaw" is important historically in  
the settlement of the area. From 1854  
until 1866 steamboats traveled up and  
down the river from Kansas City to  
Junction City carrying settlers,  
household goods, flour, corn, wheat  
and hides. The river front towns of  
Junction City, Manhattan, Topeka,  
Lawrence and several smaller  
communities, some no longer in  
existence, were founded and settled by  
adventuresome travelers heading west  
by river boat.

The stream meanders through  
agricultural lands between banks lined  
with cottonwood, willow, corn and milo.  
Large, clean, sandbars are common at  
normal river levels and offer ideal  
sites for camping, exploring, sunbath-  
ing and picnicking. Songbirds, water  
fowl (in season) and small game animals  
are abundant while coyote, deer,  
beaver, muskrat and other riparian  
mammals may be observed. Bald eagles  
over-winter on this section of river.

River levels are best for canoeing when  
upstream reservoirs have moderate out-  
flows. Ideal water occurred when this  
section was inventoried with outflows  
of 4,000 cu. ft. per second at  
Tuttle Creek and 1,200 cu. ft. per  
second at Milford Lakes. Low river  
levels will result in a shallow  
"braided" stream and a lot of wading  
and dragging. Check with U.S. Army  
Corps of Engineers offices at Tuttle  
Creek, phone (913) 539-8511 and Milford  
Lake, phone (913) 238-5714 regarding  
outflows prior to your trip.

A canoeist can easily make 2 to 3 miles  
per hour at the outflows listed above  
providing enjoyable canoeing--even in  
moderate winds. Strong southerly winds,  
however, can be a problem on open  
stretches of the river. Pack your gear  
as low as possible in the canoe.

No rapids and only minor riffles will  
be encountered in this section of  
the river offering easy and safe  
canoeing for families or beginners.

ACCESS INFORMATION

Good river access exists at several  
road bridges:

① KAW RIVER ACCESS (0.0 Miles)--  
Public boat ramp and parking adjacent  
to U.S. Hwy 24 1½ miles east of  
Manhattan. Kansas River junction 0.4  
miles downstream. Fish and Game  
Commission and City of Manhattan  
maintained access. Fair campsite  
but sandbars just downstream are  
better.

② ST. GEORGE ACCESS (11.8 Miles)--  
Poor access east of St. George 1.2  
miles where river runs adjacent to  
road. Room for one or two cars to  
park on roadside. A tough carry up  
steep bank, across railroad track  
and road ditch. Access is commonly  
used but is best for emergency use  
only.

③ WAMEGO ACCESS (20.8 Miles)--  
Private access just east of the  
river bridge (state Hwy 99) on the  
north bank. Good access with  
private concrete ramp and dock.  
Contact: Mr. Kenneth Dinger, 201  
Ash, Wamego, Ks, phone (913)  
456-7413 for permission to use this  
site. No camping. Park shuttle  
vehicles along nearby streets.

④ VERMILLION RIVER ACCESS (26.0  
Miles)--Good access on either side  
of Vermillion River bridge, 3 miles  
east of Wamego adjacent to U.S. Hwy  
24. Fair camping but very close to  
highway and railroad crossing. Site  
would be muddy but usable during  
wet weather.

⑤ PAXICO ROAD ACCESS (31.4 Miles)--  
Adjacent to road, on south river  
bank, east side of bridge. A fair  
dry weather access with a steep  
bank and long carry.

⑥ MAPLE HILL ROAD ACCESS (40.3  
Miles)--Good all weather access on  
north bank, west side of road.  
Short carry to river, camping  
possible but not ideal. 6 to 10 car  
capacity. Best access west of  
Topeka for long one day or short 2-  
day trip with an overnight camp  
on the river.

⑦ TOPEKA ACCESS (59.2 Miles)-- Good  
access from township road 1.2 miles  
east of U.S. 75 (bypass) bridge.

TESTIMONY PRESENTED TO THE  
SENATE ENERGY AND NATURAL RESOURCES COMMITTEE

ON SENATE BILL NO. 94

BY

DEAN WILSON  
FEBRUARY 4, 1987

I am a member of the Sierra Club, Topeka Audubon Society's Board of Directors and a member of their Conservation Issues Committee, Kansas Wildlife Federation's Conservation Issues Committee, National Wildlife Federation, Kansas Canoe Association (past president, past chairman of legislative committee, past trails committee chairman, past member of Board of Directors), American Canoe Association, American Rivers Conservation Council, Kansas Natural Resource Council, and Riley County Fish & Game Association.

I am speaking on behalf of the Kansas Wildlife Federation. I have followed this part of the Kansas Water Plan for the past 2 years -- from the public meetings, formal hearings, and the Kansas Water Authority's final meetings.

The motto of the Kansas Wildlife Federation is "Sportsman-Landowner United". We feel that this legislation emphasizes this.

Conceptual Recreational River Reach

You will note that this in no way takes land from the landowner. The access sites are voluntary easements. The streambanks along the stretch of recreational river still remains the landowners.

Recreational River Process

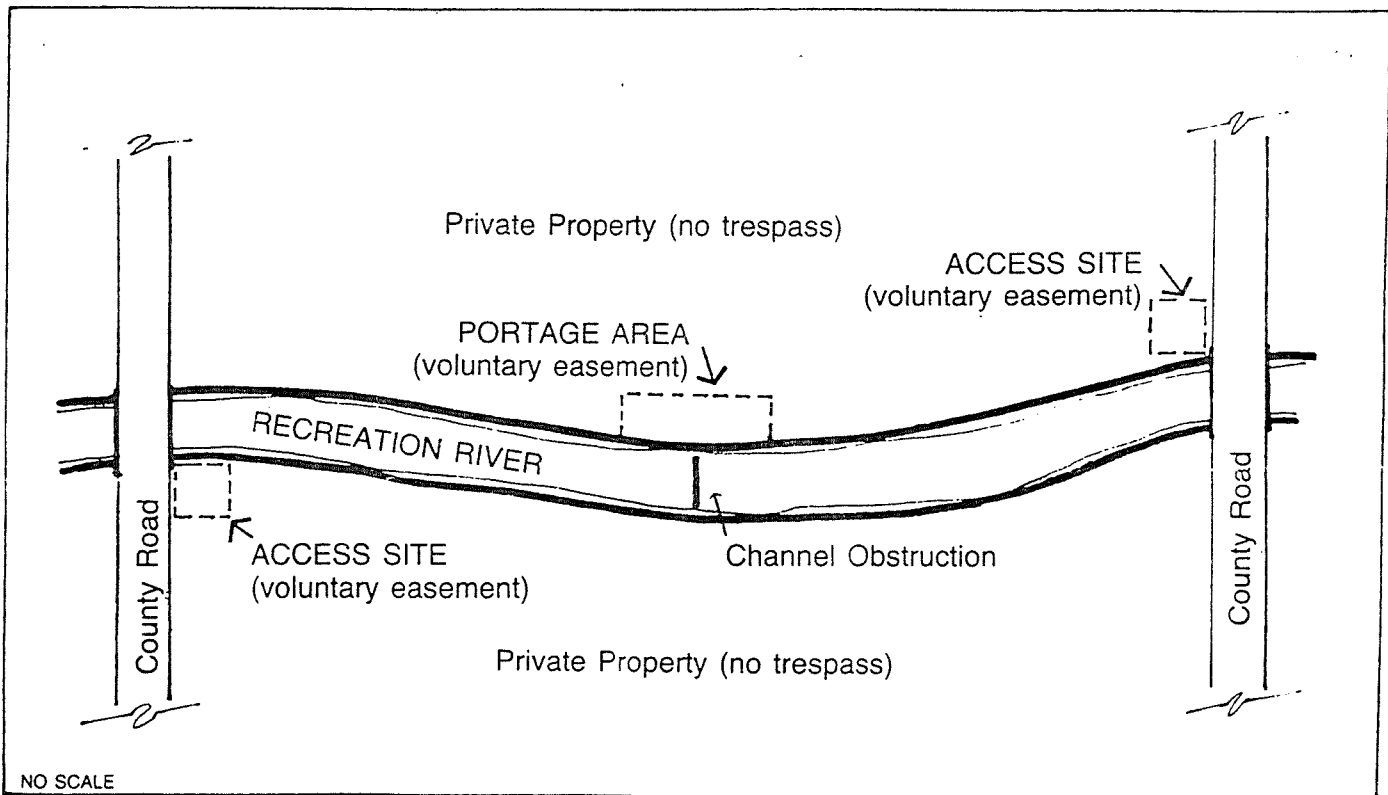
You will note the multi-point input that the landowner and the public has to this process. We feel that this is extremely important.

The Kansas Wildlife Federation hopes that with all the public input into this legislation, that you vote with the public. Having received all the information on this bill during your committee hearings, when the bill is voted to the full Senate, I hope you will educate your fellow Senators as to what this bill is and is not and what this could mean for our Future Kansas generations.

Dean W. Wilson  
3509 SE Highland Ave.  
Topeka, Kansas 66605  
913-266-6591  
Kansas Wildlife Federation  
Conservation Issues Committee

(E)  
2-4-87  
energy

# Conceptual Recreation River Reach



# RECREATIONAL RIVER PROCESS

STATE OR FEDERAL AGENCY  
POLITICAL SUB-DIVISION OF STATE

NOMINATED RIVER

PRELIMINARY KFGC REVIEW

IMPLEMENTATION

AFFECTED LANDOWNERS  
GENERAL PUBLIC  
STATE AND FEDERAL AGENCIES  
LOCAL GOVERNMENTS  
WILDLIFE AND  
RECREATIONAL ORGANIZATIONS

FEASIBILITY STUDY

KFGC BUDGET

PUBLIC MEETING

KFGC MANAGEMENT PLAN

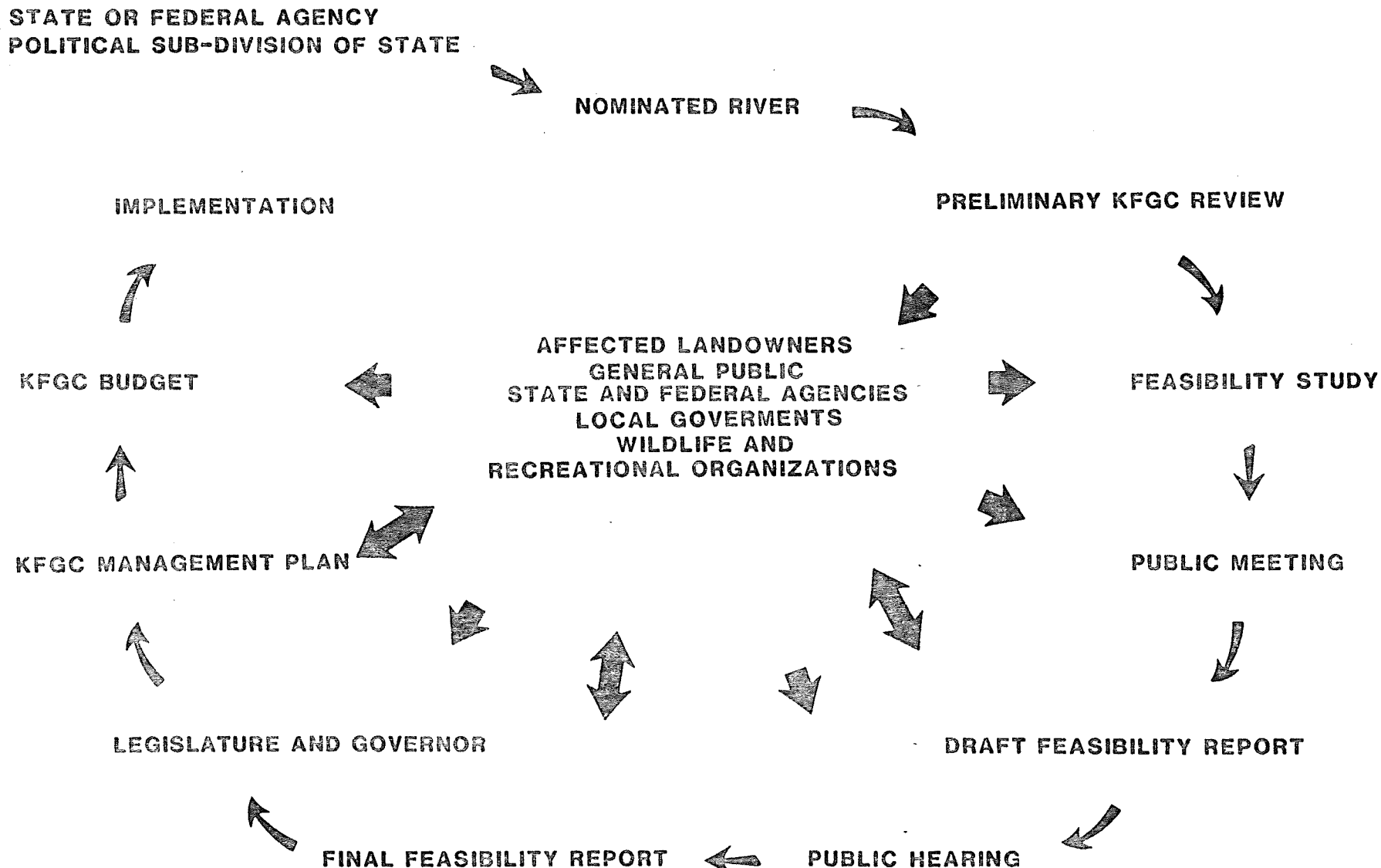
DRAFT FEASIBILITY REPORT

LEGISLATURE AND GOVERNOR

FINAL FEASIBILITY REPORT

PUBLIC HEARING

Interior arrows denote opportunities for input and communication.



KANSAS WILDLIFE FEDERATION

RESOLUTION 1985-2

1986 FISH, WILDLIFE AND RECREATION SECTION  
OF THE KANSAS STATE WATER PLAN

WHEREAS, some of the most important environmental actions ever to occur in Kansas relevant to protecting and maintaining our fish and wildlife habitat resource base is currently being reviewed; and

WHEREAS, the 1985 Kansas State Water Plan has no sections dealing with fish, wildlife, and recreation; and

WHEREAS, without public support from Kansas sportsmen, the fish, wildlife, and recreation section will not be included in 1986 state water planning; and

WHEREAS, five subsections of the fish and wildlife section, 1) environmental coordination, 2) riparian protection, 3) wetlands protection, 4) stream recovery, and 5) stream recreation are very significant and represent a once in a lifetime chance to strengthen protection and propagation of fish and wildlife resources from an environmental perspective; and

WHEREAS, the subsection Environmental Protection would create protection of critical habitats for fish and wildlife, such as fish spawning areas, denning habitats, woodlands, etc., and would ensure compensatory actions if habitat losses occur, and, further, it would prevent reductions in fish and wildlife populations from ill-planned development; and

WHEREAS, the subsection Riparian Protection would create fish and wildlife habitat protection by a combination of regulations and a voluntary program and, the ensurance of the future of wildlife populations, such as deer, turkey, furbearers, and many songbirds, is heavily dependent on riparian areas, and soil losses will be prevented as well as water quality deterioration from sedimentation, nutrient loading, and pesticide introduction, and, further, siltation will also be reduced in downstream reservoirs, thereby increasing reservoir longevity; and

WHEREAS, the subsection Wetlands Protection would create dependable wetlands for shorebirds and waterfowl during migration and for nesting, and additional public benefits would accrue from water table recharge and flood prevention; and

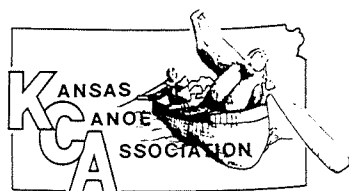
WHEREAS, the subsection Stream Recovery would increase fish and wildlife habitat and ensure surface flow, which may make water supplies for downstream municipalities more reliable; and

WHEREAS, the subsection Stream Recreation would benefit stream resources, both water and fisheries, which are currently held and owned by the public, and these resources could be more fully utilized;

NOW, THEREFORE, BE IT RESOLVED, that the **Kansas Wildlife Federation, Inc.**, in annual meeting assembled on October 19-20, 1985, in Wichita, Kansas, supports the implementation of the new fish, wildlife, and recreational section into the 1986 State Water Plan.

(E)  
Mary  
2-4-87

RETURN TO:



Jim Nighswonger  
2319 Terry Way  
Manhattan, KS 66502

February 2, 1987

Honorable Senator Merrill Wertz  
Kansas Senate  
State Capitol Building  
Topeka, Kansas 66612

Testimony Re: Senate Bill No. 94 -- Recreational Rivers Act  
by the Kansas Canoe Association

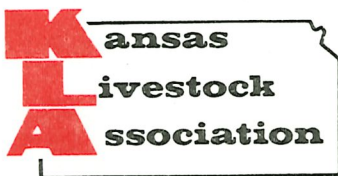
The Kansas Canoe Association supports and urges passage of Senate Bill No. 94 to establish a system of recreational rivers in the State of Kansas.

Our organization supports this measure for a number of reasons:

- a) The Act will encourage the recreational use and enjoyment of a few of the state's best waterways by small craft while respecting riparian landowner rights.
- b) Rural riparian landowners will realize new opportunities for income from stream access fees, canoe liveries, providing shuttle services, and commercial campground operation.
- c) Tourism will benefit as additional waterways will be added to the canoe trails now promoted by our tourism industry. New recreational related dollars will be generated and kept in-state.
- d) Resident river users will spend more of their recreational dollars in Kansas rather than in Missouri, Arkansas, Nebraska, and Oklahoma as now occurs.
- e) The opening of a few of the state's best waterways to limited public use should be more compatible to riparian landowner objectives than opening all rivers to public use as has occurred in our adjacent states of Missouri, Oklahoma, Nebraska and Arkansas.

Respectfully submitted to the Senate Committee on Energy and Natural Resources,  
Wednesday, February 4, 1987,

Jim Nighswonger  
Member of the Board of Directors



2044 Fillmore • Topeka, Kansas 66604 • Telephone: 913/232-9358  
Owns and Publishes The Kansas STOCKMAN magazine and KLA News & Market Report newsletter.

STATEMENT  
OF THE  
KANSAS LIVESTOCK ASSOCIATION  
TO THE  
COMMITTEE  
ON ENERGY AND NATURAL RESOURCES  
SENATOR MERRILL WERTS, CHAIRMAN  
SENATOR BEN VIDRICKSEN, VICE CHAIRMAN  
WITH RESPECT TO SB 94  
RECREATIONAL RIVER ACT  
PRESENTED BY  
RICH MCKEE  
EXECUTIVE SECRETARY, FEEDLOT DIVISION  
FEBRUARY 4, 1987

Mr. Chairman and members of the committee, I am Rich McKee. I am here representing the Kansas Livestock Association. KLA represents a broad range of over 9,000 livestock producers who reside in virtually every geographic corner of the state. Many of our members are landowners. In reviewing this proposed legislation, our members took a position to oppose this bill. No other section of the State Water Plan drew as much criticism from our membership as this proposal.

Energy  
(G)  
2-4-87



Trespassing onto the private property of our members is a serious problem. Many well meaning people, who may or may not have permission to enter private property, leave gates open, scare livestock through fences, start uncontrollable range fires and damage natural resources. Too often, all that is left behind by many who trespass on the private land of our members are ruts from 4-wheel drive toys, empty beer cans and other assorted trash. This is especially true for those KLA members who find themselves adjacent to "public areas".

Senate Bill 94 is an open invitation to trouble for our members. In essence it will encourage trespassing and create a huge question of liability. Who would be held liable for accidents to those people making non-consumptive use of any given body of water? The State, landowner, county, or who?

Less than five months ago this particular proposal was reviewed by the Special Committee on Energy and Natural Resources. After a careful and intensive study this interim committee, which a number of you served on, rejected the proposal.

Mr. Chairman and members of the committee, KLA membership is proud as punch of their property and they enjoy sharing it with others. All our members ask of those who wish to use our property is to ask permission. Those without permission are usually the ones who litter, destroy property, leave gates open and create other problems. By simply asking permission, most members of the public are welcome with open arms. If passed, this legislation would open the door to nothing but trouble for our members. Not only is this bill detrimental to the land and water, but also an erosion of this country's most precious commodity ... the right of private ownership.

Thank you.



# PUBLIC POLICY STATEMENT

SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES

RE: S.B. 94 - Creating the Kansas Recreational River Act

February 4, 1987  
Topeka, Kansas

Presented by:  
Bill R. Fuller, Assistant Director  
Public Affairs Division  
Kansas Farm Bureau

Mr. Chairman and Members of the Committee:

My name is Bill Fuller. I am the Assistant Director of the Public Affairs Division for Kansas Farm Bureau. I am speaking on behalf of the farmers and ranchers who are members of the 105 county Farm Bureaus. We appreciate this opportunity to express concern about expanding access to Kansas streams and rivers. We are testifying in opposition to S.B. 94 which creates the Kansas Recreational River Act.

The voting delegates at the last Annual Meeting of Kansas Farm Bureau adopted a number of policy positions on natural resources and water issues. Included was this policy statement:

## Landowners' Rights

Landowners' rights must be safeguarded and protected. Equitable payment must be made for any land, in any "taking," or "partial taking" by eminent domain power. We believe eminent domain procedures should include development of an agricultural impact statement, complete with public hearing, appeal, and a determination of compensation for disruption of normal farming practices.

Pipeline companies, and electric, telephone and water utilities, should be required to preserve and replace top soil, repair terraces, and reseed those portions of native grass pastures disturbed during construction of underground facility projects.

We believe safeguards should be developed for landowners to protect against costs involved in bringing an abstract up-to-date when these costs are the result of transactions generated or incurred by a gas or oil company or railroad.

Some groups have proposed that the public be given free public access to private property adjacent to river and stream beds. We strongly oppose any such proposal and likewise oppose the addition of any rivers or streams in the category of "navigable" streams.

We oppose legislation or regulations designed to give any person or governmental agency authority for access to private property for inspection or investigation without permission from the property owner or operator.

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Mr. Chairman and Members of the Committee: Last week we appeared before this Committee and asked you to reject S.B. 41 ... which designated additional minimum streamflows. We lost and that is water under the bridge at this point. As you recall, we did not testify on a host of other water and environmental bills debated last week ... although private property owners have some concerns on the implementation policies and long-term ramifications of some of these legislative proposals. The point is, to be against "babbling brooks," "floating down a scenic river" or "abundant fish and wildlife" is similar to being against "motherhood and apple pie." However, many of these "worthy" proposals accumulate into very real threats against private property owners when it comes to taking away landowner rights and increasing liability risks.

Let me point out some concerns and questions by farmers and ranchers if we provide more access to Kansas streams and rivers:

1. Irrigation pumps become more accessible to vandalism which can result in thousands of dollars of damage to the equipment and/or crops.
2. Livestock watering can be disrupted.
3. Littering of cans, plastic containers, etc. will increase ... both in the stream and along the banks.
4. What is the liability to the property owner when a person is injured or killed while on a sandbar, on the stream bank or decides to hike back into the farmer's land?
5. How will "the management plans for the river and riparian areas" (lines 0097 to 0099) relate to the needs and practices of normal agricultural activities ... and the riparian plan entered into by the farmer and the Soil Conservation Commission?

6. How will the private landowner be protected and compensated for the public access to the streams?
7. "Vessel" as defined in subsection (a) of K.S.A. 82a-802: "means any water craft designed to be propelled by machinery, oars, paddles or wind action upon a sail for navigation on the water." Does this include air boats, speed boats, jet skis, ducks, etc. which will disrupt wildlife, livestock watering and create noise pollution?

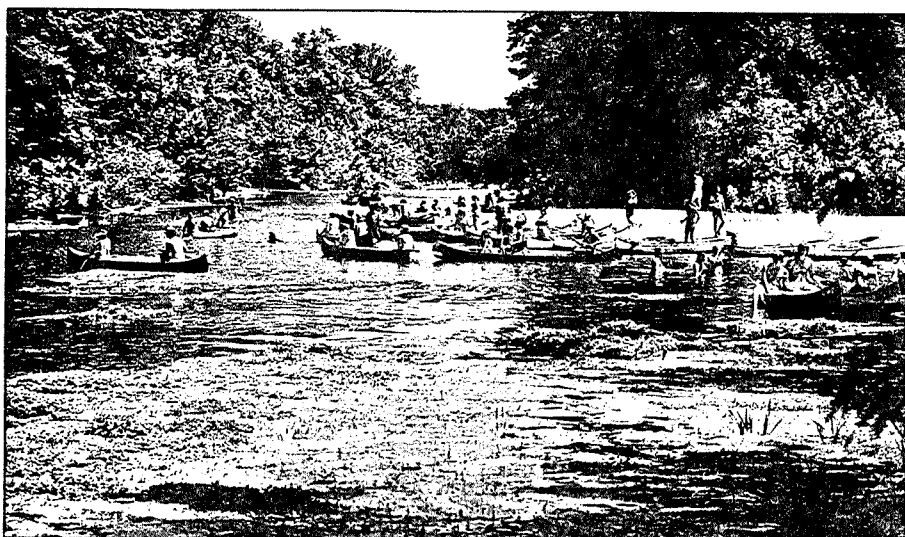
In closing I must repeat that KFB policy opposes expanding access to streams and rivers with so little regard to private landowner rights. We respectfully ask you to vote NO on S.B. 94.

Thank you for this opportunity to express our concerns. I will attempt to answer any questions you may have.

# THE DRIFT

## Floater Etiquette

BY STEVE KOHLER



Photograph by Spence Turner.

**Y**ou could have used Frank to cut one-inch plate steel, that's how hot he was. But in his defense, I'll say that it took him all day to get that angry. A morning that had begun with a promise evolved into an afternoon of vows and an evening of oaths.

Heading down to the put-in early, all had been in order. Frank and his wife were getting a good jump on the day; the canoe hadn't squirmed on its racks over their heads; fifteen miles of smallmouth fishing lay ahead. At an earlier crossing, the river water had looked as if it were pumped out of a dream.

On the gravel bar sat, by actual count, 27 aluminum canoes, each with blasts of day-glo orange paint on its stems. The lone outdoorsman, all full of himself and clad in camouflage shorts and a Gurkha hat, was ineffective at controlling the mob that stumbled around him. What he aimed to do was instruct his charges in the use of a throw line. What they wanted to do was grab one another and squeal. He was 20 years

older and 100 pounds heavier than any one of them. But they got their way. It was a question of numbers.

All Frank cared about was getting on the water as far ahead of the fleet as possible. He could see their radios; there was no need to hear them. Floaters who hold their paddles like baseball bats had always worried Frank. And he had always questioned the seriousness of outdoorspeople whose only gear was an apparently endless supply of garbage bags. A friend with the National Park Service once told Frank that his attitude made him an elitist, that the rivers belong to everybody, and that if he wanted to pretend that floating was relaxing and refreshing, he'd better go canoeing after dark in January.

Frank pleaded guilty as charged. But he argued that he didn't see why everyone couldn't get along on the river. If only people would be considerate of others. If only everyone would remember that he is just one person. Then everybody could use the water without interfering with the en-

joyment of other folks.

By ten o'clock, Frank'd had a few nice fish on, and the water had swept away his depression. So he was primed to be dropped off another peak of euphoria when a fat kid no more than twelve years old plummeted past his ear and into the pool Frank was fishing. The kid's knees were drawn up into a cannonball position; he'd launched himself from the bluff above in silence. The wall of water he displaced splashed into the canoe. When he bobbed to the surface like a sunburned cork, the kid's only question was, "Catchin' any?"

Given more to action than to words, Frank was moving to test the value of his six-pound monofilament as a noose material when his wife saved the fat kid's neck with a near-perfect bow sweep that moved the canoe just out of deadly range.

By shipping their rods and weaving between the tube-borne members of the kid's spread out family, Frank and his wife arrived at their lunch gravel bar unescorted. Small rocks, a gentle slope, shade, and a spring creek sneaking into the river from up a blue hollow made the place an Ozark idyll. There, they unrolled foam pads for comfort and opened their cooler for refreshment. Before their mustard was spread, aluminum could be heard upstream. By the time their bread was bitten, a swarm of floaters was beaching on either side of Frank's boat.

"Nice spot you got here," said one, "mind if we join you?" But the question came too late. A half-dozen coolers and enough grub to feed the county had already been unloaded. As they finished off their cans of beer, the visiting

paddlers tossed them in the direction of the battered Grumans. Some landed with a clang; others splashed. "Ah, wilderness," Frank said to his wife.

"How much did that canoe cost?" someone wanted to know. "What's it made of? Is that better than aluminum? Is that paddle broken; how come it's bent like that?"

Frank and his wife answered in monosyllables, tried to remain separate without being rude. They'd come looking for solitude, not a panel discussion. They wolfed their lunch; they paddled off.

Afternoon brought an encounter with a flotilla of tubers who had ignored the time and the terrain, passing their scheduled take-out point. They didn't know what to do, so they asked for advice. Frank suggested that they button-hole one of the lower river's many jet boaters and beg a ride upstream. He advised them to flag down their ride from the safety of the bank, however.

He wanted to do something immediately effective when he came upon three guys pounding away on a poor, wild creature he could no longer identify, and again when a boatful of floaters stopped shooting turtles only long enough for his canoe to pass by. But the odds were wrong. He swallowed his resentment and decided to settle for a report to the authorities.

By stroking hard and by steaming past the springs, caves, and fishy-looking holes they otherwise would have visited, Frank and his wife managed to put miles between themselves and the floating city of the Ozarks. They spent the late afternoon linked in aerobic exercise to the spruce of their paddles. And the evening's gravel bar was a welcome vision.

Camp was pitched, the fire was lit, and the sun-warmed gravel was beginning to release its heat into Frank's stiff shoulder muscles when a crazed war whoop speared the gathering mist. Heavy drums

were being struck. From the sound of it, scalps were being taken.

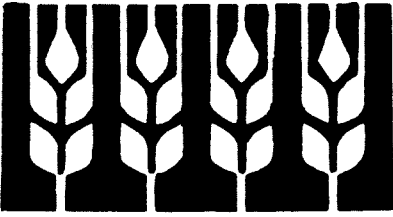
Frank waited. Finally, around the upstream bend came the yellors. They pounded on the gunwales of their boats with metal-handled paddles. They chanted in cadence, re-enacting roles first seen in "F Troop." As they approached, the lead paddler edged close to Frank's position. He hollered over, "This the campground? Pull 'em in here, men."

That was the limit. The hordes had gone to Frank's well once too often. He splashed out into the stream, paddle in hand, slashing the air and muttering incoherencies. Serious damage was on his mind. But his wife collared him from behind. She gently asked the canoeists to move along. She sat Frank down in the chilly water and cooled him off. She talked to him of smallmouth bass coaxed from black pools at that time of evening. She reminded him of mist-wrapped nights when

the nearest civilization seemed many miles away. Slowly, she brought him back to composure. Tragedy was averted.

I found them sitting there in the river. As I paddled near, they rose, dripping, from the stream and got out of the channel to make way for my canoe. Very considerate folks. (11)

**KANSAS ASSOCIATION  
OF WHEAT GROWERS**



TESTIMONY

Senate Bill -- 94

Senate Committee on Energy and Natural Resources

Senator Merrill Werts, Chairman

Wednesday, February 4, 1987

Submitted by Howard W. Tice, Executive Director

On behalf of the members of the Kansas Association of Wheat Growers, I appreciate this opportunity to present testimony in opposition to Senate Bill 94.

The key elements of our opposition to this bill are property rights and liability.

One of the most cherished rights in our country is the right to own property. Our predecessors fought and died for that right. Our concern is that efforts to provide more recreation to people who choose to live in large metropolitan areas may easily be achieved at the expense of those who choose to live on farms.

Under Kansas law, ownership of the land along the waterways of our state does not stop at the water line, except for federally designated navigable streams. All other property lines extend to the middle of the tributary. Along with ownership, comes the burden of liability. If someone is injured, or drowns while floating down a waterway, there are no safeguards in this bill for adjacent landowners. If the accident is caused by a slightly submerged obstruction, it is easy to perceive a family filing suit against the land owner for failing to remove all obstacles.

The same concern applies when a canoeist has to leave the stream and carry his craft across private property to get around shallow areas or impassable stretches of water.

Concerning property rights, let me first quote our policy resolution.

Whereas legislative efforts have been made to open public corridors along certain Kansas rivers and streams and their tributaries to the public, and whereas this would be an infringement on the land owners privacy and right to ownership, and whereas this could result in abuses to land owners and tenants, we oppose any legislation which would grant public access across privately owned land, to rivers and streams in Kansas. We are opposed to any additional streams being designated by law as navigable streams.

Although the bill makes token reference to riparian land owners rights, the concern for abuse is very real for any farmer who has suffered abuse from hunters and hikers who live in the city, and have no respect for property ownership in the country.

We believe that responsible canoeists, like responsible hunters, can obtain proper permission from area farmers to gain access to rivers and streams that flow across their property. This should include a safe place to park and enter the water, and a place to leave vehicles at the end of the float trip, as well as permission for portage and/or picnicing along the route.

We fully understand that the bill does not seek to open access to rivers and streams across private property; however, there are those in our society that will read that into the law, even if it is spelled out that they must enter the stream from public right of way. We do not feel that current enforcement of trespass laws is sufficient to handle the increase of abuse this bill would cause.

The simplest way to state our view of this proposal is this: If people want to float their canoes on rivers and streams that are not declared navigable streams already, let them take the effort to obtain permission from adjacent landowners, and arrange for proper access.

*Energy*  
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2-4-87

Committee of . . .

# Kansas Farm Organizations

February 4, 1987

Wilbur G. Leonard  
Legislative Agent  
109 West 9th Street  
Suite 304  
Topeka, Kansas 66612  
(913) 234-9016

TESTIMONY IN OPPOSITION  
TO SENATE BILL 94

Mr. Chairman and Members of the Committee:

I am Wilbur Leonard, appearing on behalf of the Committee of Farm Organizations and its 23 member agricultural organizations. We appreciate the opportunity to voice our unanimous opposition to the passage of Senate Bill 94.

As I understand the provisions of this bill the state fish and game commission would be authorized, in the name of public policy, to select certain rivers to be designated as recreational rivers for use by the public for noncontact river recreation.

This system of recreational rivers could be further expanded by accepting nominations from any state or federal agency or any political subdivision. While this section contains a hearing procedure there do not appear to be any guidelines for establishing the original set of recreational rivers.

While the additional rivers or segments thereof would be subject to legislative approval or rejection I fail to see any provision for legislative oversight with respect to the original recreational river system established by section 3 of the act.

The full force and authority of the commission would be mobilized to carry out the program, except the power of eminent domain, unless specific authority therefor is granted by the legislature.

While there is the further mandate that a recreational river management plan be developed, there is not one word in that charge with respect to the rights of the abutting landowners. In fact, there is only

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one reference in this entire bill to the rights of the people most directly affected by it, three words in line 57.

From statehood the ownership and use of non-navigable streams has reposed in the persons who owned the adjacent land. This bill apparently would take a portion of those ownership rights and without provision for any compensation or without any provision for due process. What happened to those constitutional guarantees?

I appear before you this morning on behalf of many very concerned farmers and ranchers. Within the confines of their properties could be opened up numerous public waterways, available to anyone who could paddle a canoe or other type of boat. This could result in indiscriminate littering and pollution of the streams and adjacent areas. There could also be a noise factor, disturbing to both the inhabitants and their livestock.

While many of the users would probably be considerate and the type of persons who the landowners would grant the privilege of using the streams, the landowners would have no reasonable means of determining who would be entering their property.

This would also create the threat of liability and the possible exposure to expensive litigation, which fears have been voiced by other conferees and which we also share.

We respectfully request that the Committee, when it considers this measure, recommend that it be not passed.

COMMITTEE OF KANSAS FARM ORGANIZATIONS:

ASSOCIATED MILK PRODUCERS  
KANSAS AGRI-WOMEN  
KANSAS ASSOCIATION OF SOIL CONSERVATION DISTRICTS  
KANSAS ASSOCIATION OF WHEAT GROWERS  
KANSAS COOPERATIVE COUNCIL  
KANSAS CORN GROWERS ASSOCIATION  
KANSAS ELECTRIC COOPERATIVES  
KANSAS ETHANOL ASSOCIATION  
KANSAS FARM BUREAU  
KANSAS FERTILIZER & CHEMICAL INSTITUTE, INC.  
KANSAS GRAIN & FEED DEALERS ASSOCIATION  
KANSAS LIVESTOCK ASSOCIATION  
KANSAS LIVESTOCK MARKETING ASSOCIATION  
KANSAS MEAT PROCESSORS ASSOCIATION  
KANSAS PORK PRODUCERS COUNCIL  
KANSAS RURAL WATER DISTRICT ASSOCIATION  
KANSAS SEED DEALERS ASSOCIATION  
KANSAS SHEEP ASSOCIATION  
KANSAS SOYBEAN ASSOCIATION  
KANSAS STATE GRANGE  
MID-AMERICA DAIRYMEN  
KANSAS VETERINARY MEDICAL ASSOCIATION  
KANSAS WATER WELL ASSOCIATION

February 3, 1987

The Honorable Senator Werts  
The State Senate  
Topeka, Kansas 66612

RE: Committee on Energy and Natural Resources

Dear Mr. Werts:

I would like to submit written comment on Senate Bill No. 94, the Kansas recreational river act. Following is my statement:

To be direct, I am supportative of the act. I am a resident of Kansas and my heritage is in Kansas, at least for the last 100 plus years. I am not a fly by night transient, therefore I have a lot of loyalty with the best interest for my state.

I believe this act would develop an existing resource that would be beneficial to all Kansans. The act proposes to manage the resource in an equitable manner for all of the people of the state. This comes at a time when it is most needed to assist in the development of our economy. The use of our streams could generate monies for adjacent enterprising landowners (farmers) as well as enhance the state's coffers. Recreation is an area of the state's economy that has virtually untouched possibilities for development. The fear of people misusing our streams could be better monitored because we would now have a responsible agency to assist in wise management. This agency could reflect the wishes of riparian landowners, stream recreationists, etc. with proper representation. This act will allow for an informed and manageable development of streams in our state.

Thank you for your support of this bill.

Sincerely,



Guy Ellis  
1339 N.W. Glick Rd.  
Topeka, KS 66615  
(913) 478-9551

*Guy Ellis*  
(KS)  
2-4-87