

Approved: Carl Dean Holmes
Date 2/13/96

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

The meeting was called to order by Chairperson Carl Holmes at 3:35 p.m. on February 1, 1996, in Room 526-S of the Capitol.

All members were present except: Representative Vaughn Flora - Excused

Committee staff present: Raney Gilliland, Legislative Research Department
Dennis Hodgins, Legislative Research Department
Mary Torrence, Revisor of Statutes
Marcia Ayres, Committee Secretary

Conferees appearing before the committee: Lynn Hall, Veterans of Foreign Wars
Spencer Tomb, Kansas Wildlife Federation, Inc.
Darrell Montei, Department of Wildlife & Parks
Bill Fuller & Leslie Kaufman, Kansas Farm Bureau
Carolyn McGinn, Sedgwick County Farm Bureau NER Chair
Art Brown, Mid-America Lumbermens Association
Mike Beam, Kansas Livestock Association
Orville Cole, Attorney At Law, Garnett, Kansas
Bud Newell, Kansas Horse Council
Darrell Montei, Department of Wildlife & Parks
Bill Craven, Kansas Natural Resource Council & KS Sierra Club
Fred DeVictor, Lawrence Parks & Recreation Department
Bill Maasen, Johnson County Park & Recreation District
Don Seifert, City of Olathe
Terry Heidner, Kansas Department of Transportation
The Honorable Shari Weber, Representative, 68th District
Don Moler, League of Kansas Municipalities
Tom Schaefer, City of Lenexa
Ernie Mosher, City of Topeka

Others attending: See attached list

Hearing on HB 2718: Hunting and fishing by former residents on military leave or furlough

Lynn Hall. Mr. Hall testified on behalf of the Veterans of Foreign Wars of Kansas because they passed a resolution at their state convention in regard to **HB 2718** which they support. (Attachment #1)

Spencer Tomb. Mr. Tomb, vice president of the Kansas Wildlife Federation, testified in opposition to **HB 2718**. (Attachment #2)

Darrell Montei. Mr. Montei, of the Wildlife and Parks Department, opposed the creation of additional exemptions and requested that **HB 2718** not be passed. (Attachment #3)

Questions and discussion followed after which the hearing was closed.

Hearing on HB 2711: Conditions required to be met for operation of a recreational trail

Bill Fuller & Leslie Kaufman. Mr. Fuller and Ms. Kaufman, both of the Public Affairs Division for Kansas Farm Bureau, appeared in support of **HB 2711** and the conditions it places on all trail developers and operators, whether public or private. (Attachment #4)

Carolyn McGinn. Ms. McGinn, of the Sedgwick County Farm Bureau, relayed her concerns about the Ark Valley Rails to Trails project and requested thoughtful consideration of **HB 2711**. (Attachment #5)

Art Brown. Mr. Brown, representing the Lumber and Building Materials dealers in the State of Kansas, appeared as a proponent of **HB 2711**. (Attachment #6)

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES, Room 526-S Statehouse, at 3:30 p.m.. on February 1, 1996.

Mike Beam. Mr. Beam, Executive Secretary of the Cow-Calf/Stocker Division of the Kansas Livestock Association, testified in support of HB 2711. (Attachment #7)

Orville Cole. Mr. Cole, an attorney and landowner along the Prairie Spirit Rail Trail, opposes such trail and testified in support of HB 2711. (Attachment #8)

Bud Newell. Mr. Newell, president of the Kansas Horse Council, opposed the passage of HB 2711. (Attachment #9)

Darrell Montei. Mr. Montei and the Department of Wildlife and Parks opposed HB 2711 and requested the bill not be passed. (Attachment #10)

Bill Craven. Mr. Craven, representing both The Kansas Sierra Club and the Kansas Natural Resource Council, strongly opposed HB 2711. (Attachment #11)

Fred DeVictor. Mr. DeVictor, director of Parks and Recreation, City of Lawrence, and co-chair of the public policy committee for the Kansas Recreation and Park Association, testified in opposition to HB 2711. (Attachment #12)

Bill Maasen. Mr. Maasen, land acquisition specialist for the Johnson County Park and Recreation District, strongly opposed the passage of HB 2711. (Attachment #13)

Don Siefert. Mr. Siefert, management services director for the City of Olathe, asked the Committee to exclude urban trails from HB 2711. (Attachment #14)

Terry Heidner. Mr. Heidner, chief of transportation planning, Kansas Department of Transportation, expressed concerns about HB 2711. (Attachment #15)

The Honorable Shari Weber. Representative Weber of the 68th District shared her reservations about the components of HB 2711. (Attachment #16)

Don Moler. Mr. Moler, general counsel for the League of Kansas Municipalities, appeared in opposition to HB 2711. (Attachment #17)

Tom Schaefer. Mr. Schaefer, assistant to the city administrator for the City of Lenexa, asked that the Committee consider amending HB 2711 to delete three provisions relating to trails owned and operated by cities as part of their park systems. (Attachment #18)

Ernie Mosher. Mr. Mosher of the City of Topeka distributed written testimony from Curt Loupe, Superintendent of Parks for the City of Topeka. Mr. Loupe encouraged a negative outcome for HB 2711. (Attachment #19)

Questions followed after which the hearing was closed. The meeting adjourned at 5:25 p.m.

The next meeting is scheduled for February 5, 1996.

ENERGY AND NATURAL RESOURCES COMMITTEE
COMMITTEE GUEST LIST

DATE: February 1, 1996

NAME	REPRESENTING
Richard Larson	McPherson Co. Farm Bureau
David Schmidt	" " " "
TERRY SILVIUS	FRANKLIN Co. " "
Paul Schlenker	Harvey G. " "
Howard H. Woodbury	Franklin Co Farm Bureau
Bill Fuller	Ks. Farm Bureau
DAVE HOLTHAUS	Western Resources
Marty Vanier	KS Agricultural Alliance
Lew Jene Schneider	KS Livestock Assoc.
Terry Heidner	Kan. DOT
Leslie Kaufman	Kansas Farm Bureau
Clark H. Coan	Rail - to - Trail Coalition of KS
Ed	OK of People
Walter	Farm Bureau
Bob	Kansas Horse Council
Melissa Mills	Serenata Fabrics
BO McHENRY	Sedg Co FARM BUREAU
Michael Engeman	
LYNN HALL	VFW

ENERGY AND NATURAL RESOURCES COMMITTEE
 COMMITTEE GUEST LIST

DATE: February 1, 1996

NAME	REPRESENTING
Spencer Tomb	Ks. Wildlife Federation
Bill Lieber	Ks Farm Bureau
Ray Kennedy	Ks FARM BUREAU
CAROLYN MCGINN	SEDGWICK COUNTY FARM BUREAU
Gayle Ross	sedgwick County FARM BUREAU
Brenda Lorenz	Sedgwick Co. Farm Bureau
Irene Merrill	Sedgwick Co. Farm Bureau
Mike Bean	Ks. LUSTK. ASSN.
W. Dean Lorenz	Sedgwick Co. Farm Bureau
Karen Skilleman	Coffey Co. Farm Bureau
John Blankenship	Cowley Co. Farm Bureau
Cindy Wulf	Harvey Co. Farm Bureau
Edward Rowe	League of Women Voters/KS
DARRELL MONTEI	KDWP
Shari Weber	House #68 District
Kim Culler	League of KS Municip.
Don Miller	League of KS Municipalities
Patricia Southat	Kansas Trails Council
Bill Waters	KDOR - PVD

ENERGY AND NATURAL RESOURCES COMMITTEE
COMMITTEE GUEST LIST

DATE: February 1, 1996

NAME	REPRESENTING
Jim O'Trimble	Farm Bureau
Mike Brown	Brown & Brown, Inc.
Will Larson	KANSAS Contractors Assoc
Adi Tolken	"
Elwyn Stucky	Kansas Farm Bureau
Bill Lieber	Kansas Farm Bureau
Gary German	KFB
Doug Keestler	KFB
Marvin Smith	KFB
Art Brown	City of Lenexa
Tom Schacter	City of Lenexa, KS
Marita Hauser	Farm Bureau
Mike Swann	" "

Arvid Stuber

" "

Keith Badger

Fm BUREAU

Jimmy Dand

" "

Pat McHenry

"

ENERGY AND NATURAL RESOURCES COMMITTEE
COMMITTEE GUEST LIST

DATE: February 1, 1996

NAME	REPRESENTING
<i>William S. Lumbkin</i>	<i>Self</i>
<i>Cyrille J. Cole</i>	<i>Self</i>
<i>Bill Maassen</i>	<i>SELF</i>
LAURA KELLY	KS Recreation - Park Assn.
<i>Bill Maassen</i>	<i>Jo. Co. Park + Rec District</i>
FRED DeVICTOR	CITY OF LAWRENCE PARKS + RECREATION DEPT.
IDA ROBERTS	SELF Farm Bureau
<i>Bill Hawk</i>	<i>Farm Bureau</i>

VFW

DEPARTMENT OF KANSAS

Veterans of Foreign Wars

**HUNTING AND FISHING LICENSES
FOR ACTIVE DUTY MILITARY PERSONNEL
PROPONENT - HB2718**

Prior to the 1989 Kansas Legislature, State Statutes provided that a person who was on active duty with any branch of the armed forces of the United States and who was a resident of Kansas immediately prior to entry into the armed forces, while on military leave or furlough, could fish and hunt in this state and upon demand of any game warden, present their military leave or furlough papers and the game warden would accept their leave or furlough papers as adequate authority to hunt and fish in Kansas.

The 1989 Kansas Legislature repealed this provision and Kansans on active duty are now required to purchase hunting and fishing licenses while home on leave or furlough.

According to Department of Defense records, at the end of FY 94, Kansas has 11,593 of her citizens serving on active duty in the military who show Kansas as their home-of-record. This number includes 2,152 Air Force, 4,629 Army, 3,389 Navy and 1,423 Marines.

Kansas resident hunting and fishing licenses cost \$15.00 each. As a generous estimate, IF 100% of those Kansas Citizens on active duty came home on leave; and IF they came home on leave during hunting or fishing season; and IF 10% of them were inclined to go hunting or fishing; the enactment of this proposal would cost the State something less than \$18,000 annually. The key word here is "IF".

That is a small price to pay for Kansas to say "thank-you" to OUR citizens who are in the service of our Country. These Kansans continue to pay taxes in our State during their active service, even though they may be serving in the far-reaches of the World. The provision to allow these Kansans to hunt or fish for free while they are HOME, should be reinstated.

Current statutes which permits individuals on leave or furlough to purchase residence licenses, etc., as if they were Kansas residents, is unnecessary because these individuals maintain their Kansas residency during their active duty under the provisions of the "Soldiers and Sailors Relief Act of 1941" and are, by definition, Kansas residents. Existing State statutes give them nothing that is not provided by Federal law.

If this proposal is passed, the cost to the State will be minimal, however, the gratitude of our service personnel and their families will be great. Kansas residents serving on active duty in the Army, Navy, Air Force, Coast Guard and Marines, are deserving of this special consideration.

Respectfully submitted: Lynn Hall, VFW State Headquarters 2-1-93

Lynn Hall
House Energy &
Natural Resources
Attachment 1

Kansas Wildlife Federation, Inc.

P.O. Box 5715
Topeka, Ks. 66605

Affiliate of National Wildlife Federation
913/266-6185

200 S.W. 30th
Suite 106
Topeka, Ks. 66611

FEBRUARY 1, 1996

TESTIMONY IN OPPOSITION TO HOUSE BILL 2718

MY NAME IS SPENCER TOMB AND I AM FROM MANHATTAN. I CURRENTLY SERVE AS VICE PRESIDENT OF THE KANSAS WILDLIFE FEDERATION AND CHAIR THE KWF CONSERVATION ISSUES AND ACTIONS COMMITTEE.

THE KANSAS WILDLIFE FEDERATION IS A BROAD BASED, STATE WIDE CONSERVATION AND EDUCATION ORGANIZATION DEDICATED TO THE CONSERVATION, PROTECTION AND SUSTAINABLE AND APPROPRIATE USES OF OUR NATURAL RESOURCES. WE ARE THE KANSAS AFFILIATE OF THE NATIONAL WILDLIFE FEDERATION.

WE OPPOSE HOUSE BILL 2718 BECAUSE IT GRANTS A FEE EXEMPTION THAT WOULD FURTHER ERODE THE FUNDING BASE OF THE WILDLIFE FEE FUND. KANSAS ANGLERS AND HUNTERS PAY SOME OF THE HIGHEST LICENSE AND PERMIT FEES IN THE UNITED STATES. THESE HIGH FEES ARE THE DIRECT RESULT OF LICENSE FEE EXEMPTIONS IN THE KANSAS FEE STRUCTURE. HUNTERS AND ANGLERS HAVE A LONG TRADITION OF BEING WILLING TO PAY FOR THE MANAGEMENT AND CONSERVATION OF OUR WILDLIFE AND FISHERIES RESOURCES. WE SEE HUNTING AND FISHING LICENSES AS "USER FEES" AND WE THINK THE POOL OF THOSE PAYING FOR THE PRIVILEGE OF HUNTING AND FISHING SHOULD BE EXPANDED TO INCLUDE ALL USERS.

THERE ARE ADDITIONAL HIDDEN COSTS OF GIVING ON LEAVE MILITARY A LICENSE FEE EXEMPTION THAT SHOULD BE CONSIDERED BY THIS COMMITTEE. THE KANSAS DEPARTMENT OF WILDLIFE AND PARKS (KDWP) RECEIVES FEDERAL AID FUNDS FROM EXCISE TAXES THAT WE PAY ON HUNTING AND FISHING EQUIPMENT. THESE FUNDS ARE RETURNED TO THE STATES BASED ON A COMPLEX FORMULA THAT INCLUDES THE NUMBER OF LICENSED HUNTERS AND ANGLERS. THEREFORE EACH LICENSE EXEMPTION COSTS THE UNCOLLECTED LICENSE FEE AND FEWER EXCISE TAX DOLLARS RETURNED TO THE STATE.

WE ASK THAT THIS BILL NOT BE PASSED AND THAT THIS COMMITTEE CONSIDER LOOKING AT WAYS TO REDUCE THE OTHER LICENSE FEE EXEMPTIONS.

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STATE OF KANSAS
DEPARTMENT OF WILDLIFE & PARKS

Office of the Secretary
900 SW Jackson, Suite 502
Topeka, KS 66612
913/296-2281 FAX 913/296-6953



H.B. 2718

Testimony Presented To: House Energy & Natural Resources Committee
Provided By: Kansas Department of Wildlife & Parks
February 1, 1996

H.B. 2718 establishes that any individual who was a resident of Kansas upon entry into the armed forces and who is on current leave or furlough from active duty would be exempt from the requirements to purchase a Kansas hunting or fishing license. The individual would be required to carry current military leave or furlough papers while hunting or fishing.

It is estimated that there are approximately 4,500 Kansas residents on active duty in the armed forces. License surveys estimate that 11% of the state's general population hunt and 17% fish. Utilizing this percentage on the resident Kansas military population results in a maximum number of 1,260 potential license buyers. The value of a hunting or fishing license is \$15 for a total licensing impact of \$18,900. Kansas additionally receives \$6.5 million annually in federal aid dollars which is apportioned back to Kansas using a formula based on the number of hunting or fishing licenses sold. With approximately 500,000 fishing and hunting licenses sold annually, this yields federal aid revenue of \$13 per license or a total license income of \$28. If the assumption is made that the total of 1,260 individuals will take advantage of the exemption for both hunting and fishing licenses, the total financial impact on the Department is a \$35,280 revenue loss.

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The Department anticipates difficulty in establishing proof of residency for issuance of licenses and in enforcement efforts. Although the amount of revenue loss to the Department is not large, it is appreciable. Funding for the Department's fish and wildlife management efforts are generated through a system based on user fees. Exemptions serve to erode that revenue base and places more financial responsibility on fewer people. The Department opposes the creation of additional exemptions and respectfully requests that H.B. 2718 not be passed.



PUBLIC POLICY STATEMENT

HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES

Re: H.B. 2711 - Establishes conditions on the operation of Recreational Trails

February 1, 1996
Topeka, Kansas

Presented by:
Bill Fuller, Associate Director
Leslie Kaufman, Assistant Director
Public Affairs Division
Kansas Farm Bureau

Chairman Holmes and members of the Committee, my name is Bill Fuller.

I am the Associate Director of the Public Affairs Division for Kansas Farm Bureau.

The 1995 Legislature, in approving an amendment to House Sub. for SB 385, directed the Kansas Department of Wildlife and Parks to meet certain conditions relating to the development and operation of their Prairie Spirit Trail in eastern Kansas. The agency was required to maintain joint boundary fences, control noxious weeds, preserve existing landowner easements, educate trail users, control litter and ban motorized vehicles along the trail. These provisions were intended to address some concerns of adjacent landowners.

Earlier in 1995, Governor Graves recommended the funds for the Prairie Spirit Trail be restricted by proviso requiring approval of the trail's development by County Commissions in all affected counties. Farm Bureau members applauded the actions of both the Legislature and the Governor.

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It is our understanding the KDWP did not object or experience serious problems with these conditions. In fact, a KDWP official reported to the Kansas Farm Bureau Natural and Environmental Resources Committee they were already implementing most of these provisos. We applaud the agency for their understanding of adjacent landowner concerns and their implementation of these "good neighbor" policies.

Kansas Farm Bureau members have a long-standing belief that private lands should remain in private hands. To that end, members have adopted policy that supports the reversion of railroad right-of-way to the adjoining landowner. Kansas Farm Bureau opposes the National Rails-to-Trails Act because it allows abandoned right-of-way to pass to an entity, other than the adjacent landowner, for the purpose of developing and operating a recreational trail.

Chairman Holmes and members of the Committee, I am Leslie Kaufman, Assistant Director of Public Affairs for Kansas Farm Bureau.

In 1976, Congress enacted the Railroad Revitalization Act which established the policy of railbanking. Under the railbanking system, railroad lines that would otherwise be abandoned may be held by a public or private entity for public use. Public use includes recreational use, such as hiking, biking, and equestrian trails. Congress further strengthened the railbanking policy by enacting the National Rails System Act, or Rails-to-Trails Act, in 1983.

In Kansas, the result is land that would have reverted back to the adjacent landowner, apart from these Acts, may be held by a public or private entity for interim use as a recreational trail.

Until such time as the Rails-to-Trails Act can be repealed, Kansas Farm Bureau supports imposing certain conditions, focused on protecting the rights of the adjacent landowner, upon any entity converting a railroad right-of-way into a recreational trail. Our policy focuses specifically on railroad right-of-way conversion. If HB 2711 does not limit the definition of right-of-way to railroad right-of-way, we support a clarifying amendment.

We appear today in support of HB 2711 and the conditions it places on all trail developers and operators, whether public or private. Like the bill, our policy advocates the imposition of several conditions, first applied to the Prairie Spirit Trail, to all trail developers and operators including: maintaining or constructing fences between the trail and adjoining landowners, controlling noxious weeds, providing access to easements, preventing trespassing through educating trail users and posting warning signs, controlling litter, maintaining the trail in a fire-retardant condition and restricting use of motorized vehicles along the trail to emergency vehicles and motorized wheelchairs.

KFB policy also supports the other conditions listed in HB 2711, not previously applied to rail-trail development in Kansas including: prohibiting hunting, trapping and fishing along the trail, requiring property tax or in lieu of property tax payments to continue being made, providing law enforcement along the trail, and pre-approval based on specific trail descriptions by both

municipal and county commissions affected. In short, we believe all the conditions contained in HB 2711 are necessary and valid measures which strive to protect the property interests of landowners without unduly burdening rail-trail development or operation.

We will respond to any questions you might have.

Thank you!

HOUSE
~~SENATE~~ COMMITTEE ON ENERGY AND NATURAL RESOURCES

RE: H.B. 2711 - CONCERNING ABANDONED RAILROAD TRAILS

February 1, 1996
Topeka, Kansas

Presented by:
Carolyn McGinn
Sedgwick County Farm Bureau
NER Chairman

Chairman Holmes and members of the Committee:

In the summer of 1994 I became involved with the "Rails to Trails" battle that effected Sedgwick, Harvey and Reno counties. I could share many stories and experiences with you about this event, but due to time constraints I will only emphasize what I consider to be most important.

The "Ark Valley Rails to Trails" project was first introduced on the county government level by a few special interest groups. This thirty six mile diagonal rail track was located in the heart of prime agricultural land, much of it irrigated. After town meetings were held and a great deal of concern was raised about safety and expense of the trail, the three county commissions voted against the trail project. Later the same groups that asked the county to pursue the project asked the City of Wichita to become involved. The City of Wichita is located approximately fifteen miles southeast of the trail. Despite the 98.5% opposition from the adjacent landowners and many taxpayers, the City of Wichita ignored the concerns of those effected and voted to continue.

Since recreational trails take a great deal of tax dollars to develop, I feel adamant that the city and county governing bodies should both be in favor of the project. In our situation once the City of Wichita decided to pursue this project the landowners were left behind without representation.

My second point has to do with the entity that pursues the trail. They should be required to continue paying the tax that was previously paid by the rail road. It is my understanding that if a governing body such as the City of Wichita were to pursue this trail, they would be exempt from property taxes. Small towns along the trail would suffer financially.

The final point I would like to make refers back to my opening statement about governing bodies agreeing and jurisdiction representation. In our situation concerns about fire safety, crime prevention and litter control would be in the hands of the counties that voted against the trail. These counties

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would have been forced to pay for these services regardless of their opposition to the trail.

I appreciate this opportunity to relay my concerns and your thoughtful consideration of House Bill #2711.



MID-AMERICA LUMBERMENS ASSOCIATION

TESTIMONY FOR THE HOUSE ENERGY AND NATURAL RESOURCES COMMITTEE

FEBRUARY 1, 1996

House Bill # 2711

Mr. Chairman , members of the Committee, my name is Art Brown. I represent the Lumber and Building Material dealers in the State of Kansas. I come before you today as a proponent of House Bill #2711.

The first question that may come into your mind is why do lumber dealers care about recreational trails? Quite simply, rail cars were the method of choice for the transportation of lumber to our members for many years. Many of the early lumber yards were built close to a rail siding, or had a rail line actually pass directly through their place of business. Now that many of those rail lines are abanded, or future plans call for abandonment, the resulting use of such land is of great significance to us.

I wish to give a real life example of why we feel this bill is needed. Attached to my testimony is a memorandum from the Chief Council of the Kansas Dept. of Transportation (K.D.O.T.) . As noted in the memorandum, they are the “ proud owners of a rails-to-trails project.” It should be noted that not one adjacent private property owner was notified that K.D.O.T. had acquired this land for the purpose of a recreational trail, even though in some cases, the abandonment ran directly through some existing businesses.

The date on the memo is 1991. Notice that the recreational trail is adjacent to the current Hwy. K-42, which is being widened, basically down the length of this trail. Up until the Spring of 1995, many parts of this trail

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were never sprayed for weeds, gave no indication with signage that this was a recreational trail, and absolutely no maintenance or litter control was provided and the type of security fencing as provided for in Item (4) of Section 3 of the bill (lines 25-28) was not installed along the trail until last spring (1995).

This certainly does not help adjacent private property owners with their fire insurance rates, or the added exposure to liability insurance.

You will notice in my attachment that there is a letter from Counsel from the Sante Fe Railroad, agreeing to a \$30,000.00 purchase price to K.D.O.T. for this trail. Nothing wrong here. Totally legit. Do not mean to imply otherwise. However, it has become very obvious that there was no intention to develop this into a recreational trail, rather, this became a very cheap way to acquire the land that would later become 2 lanes of an expanded State Highway. As you notice here, we are talking about approximately 12 miles of trail. This trail will never become nor was it ever intended to become a recreational trail. The point here is that many of the property owners watched for 4 years as this trail became more and more of an eyesore, until construction began on Hwy. 42. Now that this is occurring, fencing on one side only is being installed on this trail, as I noted earlier in my testimony.

The biggest provision we see lacking in this bill, is a time limit to execute the items listed under Section 2. We grant you that in lines 17 and 18 on page 2 of the bill, references are made to an estimated time to complete the project. What is a reasonable estimated time? Is 4 years reasonable? Should the adjacent private property owners wait that long for these provisions to be implemented?

We honestly do not belive the intent of rails -to- trails is to be a sort " land grab" by State agencies to defer costs of purchasing right-of way for expansion of highways. We feel this bill would certainly be a great tool in preventing such a scenario from developing in the future.

I want to say at this point, the CONCEPT of rails-to-trails, is one that is hard not to support. We do support that CONCEPT. People hiking, riding their bikes, horses, or whatever. We love the great outdoors as much as the next guy. What this bill address is that such a concept has a price. Who is responsible for the oversight of these trails?

We think the Governor and the Legislature had it right in 1995 when they put much of the needed criteria for the Praire Spirit trail being developed from Ottawa to Iola into this bill. As we understand this bill, this picks up where the Prairie Spirit trail leaves off. Meaning that any future recreational trails have no compliance requirments such as the Prairie Spirit trail. This bill addresses that concern. I may be opening myself up to some critisism, but looking over the language of this bill , we feel the intent of the bill is a matter of common sense.

At some point, the oversight of the I.C.C. in regard to these recreational trails will diminish. State Law will dictate the transfer of title to abondoned rights-of way. With that as a scenario, States are correct in putting into Statute requirements for the oversight and safety for usage of recreational trails. Who better to provide this then the entitie(s) who want it. Given that any government entity would have to receive appropriations for such a trail, it becomes a matter of priority on how the funds are allocated. To this end, with the current mood on spending from this Legislature and this Governor, we wish them well, and so be it. If they want this trail, they should also

have the responsibility that goes with it. That, as we see it, is simply common sense.

With the exception of the time frame concern I expressed earlier in my testimony, we see no changes that need to be made to this bill, and are hopeful that the committee sees the wisdom and common sense in this measure and votes it favorably out of committee.

I thank you for the opportunity to visit with you today on this matter and stand for any questions or comments you may have.

Kansas Department of Transportation

OFFICE OF CHIEF COUNSEL

MEMORANDUM TO: Fred Terry
Right of Way

FROM: John W. Strahan ^{J.W.S.}
First Assistant Attorney

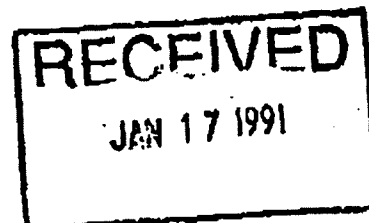
DATE: January 15, 1991

RE: Rails-to-Trails
K-42

This memorandum will follow up on our conversation of today with Mr. Gatewood. We have finalized the agreement for K-42. We are now the proud owners of a rails-to-trails project.

Please find enclosed a copy of the agreement for your official files.

cc: Jim Bush
Mike Lackey
Joseph Krahn
Doug Wright



LAW OFFICES OF
CURFMAN, HARRIS, BORNIGER, ROSE & WELTZ

SUITE 200 FIRST NATIONAL BANK BUILDING

108 W. DOUGLAS AVENUE

WICHITA, KANSAS 67202-3391

(316) 263-9111

FAX (316) 263-1840

January 11, 1991

OF COUNSEL

ROTH A. GATSWOOD
P.O. BOX 4055
TOPEKA, KS 66604-0055
(316) 267-0266
FAX (316) 267-0910

LAWRENCE E. CURFMAN
CHARLES W. HARRIS
THOMAS B. BORNIGER
RONALD B. ROSE
KENNETH L. WELTZ
STEVEN J. RUFF
CHRIS A. KRIBER

OF COUNSEL

ADAM B. INNES
DAVID H. MORSE

Mr. John W. Strahan
Office of Chief Counsel
Kansas Department of Transportation
7th Floor
Docking State Office Building
Topeka, Kansas 66612-1568

Dear Mr. Strahan:

Re: Interim Trail Use/Santa Fe Wichita District

Pursuant to authority granted by the Interstate Commerce Commission, Santa Fe and Kansas Department of Transportation have entered into an Agreement for Interim Trail Use/Rail Banking of Santa Fe's operating right-of-way on its Wichita District from Milepost 212.4 near Wichita Junction to Milepost 224.1 at Clonmel, Sedgwick County, Kansas. As consideration for this Agreement, the Kansas Department of Transportation has paid to Santa Fe the sum of \$30,000.00.

You have advised that you anticipate litigation which may be initiated by adjacent property owners asserting claims to portions of the right-of-way for which abandonment has been authorized by order of the Interstate Commerce Commission. It is Santa Fe's considered opinion that the actions and orders heretofore taken by the Interstate Commerce Commission properly invest Santa Fe with authority to enter into a Interim Trail Use/Rail Banking Agreement with the Kansas Department of Transportation.

However, in the event that it is finally determined by a court of competent jurisdiction that the actions and orders of the Interstate Commerce Commission are without legal effect and that adjacent landowners' claims of reversionary interest are superior to the rights and interests of the Kansas Department of Transportation granted under the Agreement for Interim Trail Use/Rail Banking, Santa Fe agrees to return to the Kansas Department of Transportation the sum of \$30,000.00 without interest which has been paid by said Department as consideration for this Agreement. You have advised that in such an event, the Department will release Santa Fe from its obligations under the Interim Trail Use/Rail Banking and execute any documents required to reverse the transaction.

Mr. John W. Strahan

- 2 -

January 11, 1991

You have indicated that the Kansas Department of Transportation through its Office of Chief Counsel will diligently and faithfully use its best efforts to defend against any claims challenging the validity of the Agreement, whether such claims are asserted against the Department or against Santa Fe, and Santa Fe agrees to fully cooperate with the Department at all stages of the defense of such claims.

Sincerely,



ROTH A. GATEWOOD
Counsel for The Atchison,
Topeka and Santa Fe Rwy. Co.

RAG:kmm

cc: Mr. John Bezzant
Mr. R. E. Weicher



*A Century of Service
1894-1994*

Testimony

presented by

Mike Beam

Executive Secretary, Cow-Calf/Stocker Division

regarding

House Bill 2711 - Recreational Trails

before the

House Energy and Natural Resources Committee

February 1, 1996

Kansas Livestock Association (KLA) members from several areas of the state, have voiced concern and frustration with the governmental process for authorizing recreational trails along abandoned railroad right-of-ways. We believe House Bill 2711 is a positive step the 1996 Kansas Legislature can take in addressing some of our concerns.

At issue is the practice of "railbanking" which is the term describing the use of abandoned railroad corridors as hiking and biking trails for use by the public.

When railroads were built, they acquired right-of-way property by several methods. Some of the land was deeded to the railroad, but in a majority of cases, railroads were granted an easement across private property for use as a rail corridor. Many landowners adjacent to railroads have deeds which honor the easement and state the land is to revert to the landowner if and when a railroad ceases to exist.

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In 1986, the Kansas Legislature passed legislation (K.S.A. 66-525) specifying abandoned railroad right-of-way property is to be transferred back to adjoining property owners. This issue was addressed because the rail industry was in the process of abandoning many rail corridors in Kansas and other areas of the country. Other states passed similar legislation, and the federal government (Interstate Commerce Commission) also honored these "reversionary interests".

In 1983, Congress amended the National Trails System Act to make it possible for state/local governments and private organizations to convert railroad right-of-ways to recreational trails. This is accomplished by giving the Interstate Commerce Commission (ICC) authority to suspend an abandonment proceeding if the railroad and a sponsoring trail group reach agreement to use the right-of-way corridor as a trail. **This law has virtually circumvented the reversionary property interests of thousands of landowners across America!**

Once ICC honors a request for negotiating a trail, they give the railroad and trail sponsor 180 days to reach agreement. ICC may also extend this period, **and does frequently!** It's not uncommon for ICC to grant three or more 180 day extensions dragging out the abandonment for years.

Any ICC ruling authorizing a trail states it's for "interim trail use", which gives the railroad the option to later reactivate the corridor for rail transportation. The ICC ruling also requires the trail user to assume any legal liability (unless the user is immune from liability) and accept full responsibility for management of the right-of-way and payment of taxes assessed against the property.

According to the National Park Service (NPS), there are about 600 "Rails to Trails" projects in the United States, which cover approximately 7,000 miles. There are about 600 additional projects pending. Several pending projects are located in Kansas and I'll summarize these projects later in my testimony.

Congress has also established a funding mechanism for these recreational trails. The Intermodal Surface Transportation Efficiency Act (ISTEA) targets a portion of fuel tax revenue for "alternative transportation" projects. This money is sent to states and administrated by state transportation departments for projects that may include pedestrian or biking trails. Kansas has received approximately \$5 million annually. To be eligible for these funds, the trail must be sponsored by a public entity (i.e. Wildlife and Parks) who provides 20% of the funds needed to develop the project.

What is the extent of Rails to Trails projects in Kansas? I'll share with you what I've picked up in my conversations with the Kansas Department of Transportation and ICC.

I've been told of two small projects within the city limits of Coffeyville and Leavenworth. However, there are several more extensive projects which were proposed in the past or are currently pending:

⇒**Prairie Spirit Trail** - This 50 mile trail from Ottawa to Iola is the only state operated trail to date. The 1994 and 1995 legislatures appropriated \$350,000 of Economic Development Incentive Fund (EDIF) monies to be used by the Kansas Department of Wildlife and Parks to develop two phases of the trail. These dollars were used to match \$1.9 million dollars of ISTEA funds.

⇒**Burlington line near Wichita** - Last year, the city of Wichita proposed the development of a 36 mile stretch between Valley Center and Medora on a Burlington rail line. Previously, the county commissions of Sedgwick, Harvey and Reno rejected an invitation to sponsor this trail. It became a very contentious issue and it appears the advocates of this plan have discontinued this initiative.

⇒**Topeka to Parnell** - T and P Railway Inc. (T & P) filed for an abandonment of a 41 mile stretch of rail corridor between Topeka and Parnell. This line runs through Shawnee, Jefferson, and Atchison counties. T & P reached an agreement with American Trails Association, Inc. to develop a recreational trail along this line. Landowners along this line have filed legal action to challenge the ICC ruling. They contend the rail line is abandoned and the property should be deeded back to adjoining landowners.

⇒**Harper to Anthony** - The Central Kansas Railroad has agreed to negotiate with Jennings and Company on a nine mile recreational trail between Harper and Anthony. ICC gave both parties 180 days from November 27, 1995 to work out an agreement in lieu of abandoning the rail line.

⇒**Herington to Osawatomie** - It's been reported the Rails-to-Trails Conservancy (RTC) has reached an agreement to take over the 130 mile Missouri Pacific line between Herington and Osawatomie and Lomax to Overbrook. It appears RTC has accepted responsibility for this right-of-way. At this time, it's unknown by adjoining landowners how they will maintain the land until it's developed as a trail.

How does this bill, HB 2711, address our concerns with the management and development of recreational trails on railroad right-of-ways?

The legislation establishes criteria for such trails in Kansas. Many of its provisions are consistent with a recently passed Indiana law.

The bill defines a "responsible party" as anyone who is responsible for developing, operating, or maintaining a recreational trail. In section 2, the bill lists the duties of a responsible party. Section 3 requires the responsible party to prepare a project plan with specific information, submit a plan to county commissions for their approval, and install/maintain a legal fence as required by the current fence law. The responsible party, if not a governmental entity, must file a bond with the county clerk in a sufficient amount to cover its responsibility as outlined in the bill.

Another important aspect of HB 2711 is the liability issue in Section 4. This provides some protection to adjoining landowners, but does not totally exempt them under instances of gross negligence and willful or wanton misconduct.

HB 2711 does not address the reversionary property rights problem so adamantly expressed by our members. We hope Congress will address this issue. If this committee has any suggestions for addressing this unfairness, we welcome such opportunity.

This legislation does not resolve the frustrating process which allows a trail group to delay indefinitely the development of a trail once ICC authorizes a trail agreement. Perhaps we should craft safeguards to disallow a trail group to drag out a proposal until someone (i.e. state or federal government) comes forth with the resources.

This bill does lay out the ground rules in Kansas and provides some landowner/public safety guidelines for rails to trails. It may need work to establish an enforcement mechanism. As I said in the beginning, it's a positive step and we respectfully ask this committee for your favorable consideration.

ORVILLE J. COLE

ATTORNEY AT LAW
P.O. Box 351
GARNETT, KS 66032
(913) 448-3477

February 1, 1996

COMMENTS OF ORVILLE J. COLE, A LANDOWNER ALONG THE PRAIRIE SPIRIT RAIL TRAIL, OPPOSING SUCH TRAIL AS AN ILLEGAL CONFISCATION OF PRIVATE PROPERTY RIGHTS BUT SUPPORTING HB 2711 AS LONG AS SUCH CONFISCATION CONTINUES.

1. The whole concept of confiscating private property pursuant to the federal rail-bank and rail-trail statutes, in violation of landowner's constitutional rights, is under attack both in the courts and in Congress.

2. Landowner's along the trail have had their land taken by federal and state entities without any notice, proceeding or compensation.

3 Back taxes owed now to Anderson county, with penalties and interest, amount to approximately \$90,000.00. As part of the agreement between Kansas Dept. of Wildlife and Parks and the ICC KDWP agreed to pay all taxes owed on the trail. They have failed to do so even though they are spending millions of tax dollars to develop the trail.

4. The attitude of agents of KDWP and their few supporters towards landowners along the trail has been one of "Gotcha." There has been no attempt to work with the landowners. They have been treated with arrogance and contempt.

5. If we, as landowners, have to live with this illegal confiscation of our private property, we do support HB 2711, which we believe will reign in the arrogance of KDWP in their dealings with the landowners. It further spells out the rights and obligations of the parties involved. It will at least make a bad situation better than it is now.

Respectfully,


Orville J. Cole

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TO: Committee Members of Energy & Natural Resources
House of Representatives, State of Kansas

The Kansas Horse Council opposes the passage of House Bill 2711, an act concerning recreational trails, placing certain conditions on the operation of such trails, and strongly believes this is an attempt to stop and hinder the formation and utilization of trail opportunities.

As a proponent of clear areas to ride horses and promote open space for recreational activities for the citizens of our state, the KHC would like to draw your attention to a few facts:

1. Kansas is last in the nation in the development of recreational trails. Our contiguous sister states -- Missouri has 4 trails and 157 miles, Iowa promotes 37 trails with 430 miles, Nebraska currently is developing the Cowboy Trail which crosses the state east to west and will become a multi-use trail.
2. In Kansas there is a continual and steady decline of quality areas available for multi-use non-motorized recreation -- hikers, bikers and equestrian. Part of this is due to the reduced funds of Wildlife and Parks. Less than 1 1/2% of our total land is available for some recreational adventure.
3. Kansas is last in the nation to utilize abandoned rail lines and Rails-to-Trails opportunities. In many states the entities are revenue producing and pay their own way. The opportunities allow us to convert useless waste land into revenue producing lifelines to our rural communities and unmeasurable opportunities for safe, outdoor recreational venues for the citizens of this great state.

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In 1994 there was a great concern about the demise of Kansas Rural Communities. I requested you help in the passage of a Livestock Limited Liability Bill. I reminded you that horses were the second largest livestock industry in the state. I stated it was an untapped, unknown industry because of the restrictions that liability exposure created and the horse industry was not represented by a permanent organization. This bill helped not only horse owners, but the 4-H youngsters who were experiencing difficulty showing livestock and dealing with frivolous law suits. Today the Livestock Limited Liability bill is allowing some communities to experience growth by involving horse-drawn carriages, covered wagons and trail rides, and promoting these experiences to the touring public who want to relive a part of our history.

Governor Graves, in his State of the State message, indicated one of his goals was to approve a package of flexible and creative economic development incentives. House Bill 2711 does not fall within the scope of this goal. On the contrary, it prevents and severely hinders the development of any opportunity to drive the economy of Rural Kansas through Trail and recreational development.

I remember, too vividly, on my many trips west to the ski slopes, mile after mile of uninterrupted solitude with no opportunity to experience any of our rich heritage except a sign along I-70 promoting the Worlds largest groundhog.

Today our people are realizing that there are opportunities to receive tourist dollars and these dollars add to our economy the same as any other dollar produced by any other business. Our goal should be proactive -- people are going to come, land usage will change, and we must work together in a win/win community to stop the decay and promote an infrastructure which



allows trail development, business opportunities in every rural town which a trail accesses. These include bed 'n breakfasts, bike rental shops, restaurants, livery stables and other entities which will capture dollars from trail users visiting our state.

An opportunity exists to place a trail across this great nation. This trail can cross Kansas, Nebraska or Oklahoma. It is our, the citizens of Kansas, responsibility to capitalize on this venture. We can be proactive and through private funding develop a lifeline through this state, not around this state.

Your difficult task is passing legislation and laws of the people, for the people and by the people. This is our land, our children's land and our grandchildren's legacy. We must form a friendly coalition to resolve this issue and bring it to fruition. House Bill 2711 does not meet any of the above criteria -- it is not a bill of, by, or for the people. For every person who stands against the Trail issues, there are 1,000 plus who want a Trail System.

In closing, I want to thank you for your attention and your commitment to protect our great state. Today, change must occur and the only entity in our life which will not change is change. I would suggest we implement a pro-active stature and massage this inevitable change into a pleasant, rewarding, economically beneficial experience.

Sincerely,

Bud Newell - President, Kansas Horse Council



STATE OF KANSAS
DEPARTMENT OF WILDLIFE & PARKS

Office of the Secretary
900 SW Jackson, Suite 502
Topeka, KS 66612
913/296-2281 FAX 913/296-6953



H.B. 2711

Testimony Presented To: House Energy & Natural Resources Committee

Provided By: Kansas Department of Wildlife & Parks

February 1, 1996

H.B. 2711 defines a "recreational trail" as a trail or path that includes a right-of-way along any part of its length and used for bicycling, exercising, hiking, running, riding in or on a nonmotorized vehicle of any kind, riding on any animal, walking or any other recreational or educational purpose. It defines a "responsible party" as any person, for-profit entity, not-for-profit entity or governmental entity that is responsible for developing, operating or maintaining a recreational trail. Further, it establishes requirements for the development and operation of a recreational trail and affixes those requirements upon the responsible party.

Among the requirements established are noxious weed control, recognition of existing easements, education and signs regarding trespass, and litter control. These are standard issues that the Department addresses during the management of any lands.

The requirement to maintain trails in a fire-retardant condition may need clarification. Public safety and property protection regarding fire are two items which receive close attention by the Department and are evident in vegetative management plans for trails. The majority of trails operated by the Department are not intended for motorized vehicle use, but there are certain exceptions. H.B. 2711 identifies motorized wheelchairs and emergency vehicles. Omitted are operational and maintenance vehicles including law enforcement, and vehicle access for other official governmental purposes.

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A prohibition against hunting, fishing and trapping is established on recreational trails. On rail-trails, hunting and trapping are activities which normally would not occur; however, there is no reason why fishing should be prohibited. Fishing from bridge crossings and abutments within the corridor is an activity which is compatible with rail-trails.

The Department opposes the requirement to pay taxes on rail-trails at the same rate as was paid by the railroads. If taxes are required, they should be based on the proper classification of the lands. This would amount to approximately \$3,000 per year.

Preparation of project plans for various properties is a standard procedure within the Department. H.B. 2711 requires such a plan before commencing development or operation of a recreational trail. Further, the bill requires majority approval of the plan from any county or city within which a trail is located. This may effectively prohibit the establishment of any rail-trail or segment thereof. The provision is of particular concern as it may also apply to annual operational plans.

H.B. 2711 requires the construction and maintenance of a legal fence (K.S.A. 29-105) along the recreational trail. In the case of the Prairie Spirit Rail-Trail, this involves approximately 100 miles of boundary. About 60% is currently fenced, but not all may be barbed wire of at least 3 strands. Unless livestock or other special needs are present on specific stretches, the Department does not believe the time and expense required to construct and maintain an additional 40 miles of fence is warranted nor is the requirement to replace any functional existing fence not meeting the provisions of K.S.A. 29-105.

The provisions of H.B. 2711 run counter to long established state policies of providing and enhancing recreational opportunities for the citizens of the state of Kansas and to the businesses which thrive on those recreational activities. The Department opposes H.B. 2711 and respectfully requests the bill not be passed.



Kansas Natural Resource Council

P.O. Box 2635
Topeka, KS 66601-2635

Officers
President

Bill Ward, Lawrence

Vice President

Joan Vibert, Ottawa

Secretary

Ann Fell, Winfield

Treasurer

Art Thompson, Topeka

William J. Craven,
Legislative Coordinator

935 S. Kansas Ave.
Suite 200

Topeka, KS 66612

913-232-1555

Fax: 913-232-2232

Testimony of Bill Craven Kansas Natural Resource Council and Kansas Sierra Club

H.B. 2711
House Energy and Natural Resources Committee
Feb. 1, 1996

Thank you for the opportunity to appear on this bill. The Kansas Sierra Club and the Kansas Natural Resource Council strongly oppose this bill. The intent of the bill seems to be to impose such onerous requirements on developers of recreational trails so as effectively to make such projects impossible.

In many respects, the bill lacks common sense and sweeps much too broadly. Here are some examples:

(1) Lines 28-29 require developers to remove or spray noxious weeds along a trail. Adherence to the law regarding noxious weeds is not the problem. The bill wouldn't suffer if the word "spraying" is deleted.

(2) Lines 30-31 require developers to "provide for the use and accessibility of existing easements and access licenses" along the trail. I am unaware that those with easement rights are hindered by trail development. I am uncertain as to what an "access license" is. Lines 25 and 26 on page two require developers to install fencing. I'm wondering how the proponents expect developers to provide both for the accessibility of existing easements while mandating the requirement of building a fence.

(3) I have no objection that signs be posted regarding trespassing or litter control. I also have no objection to designating trails for nonmotorized vehicles except for emergency vehicles and motorized wheelchairs.

(4) I don't have a clue as to how developers are supposed to maintain a trail in a "fire retardant" condition as lines 38-39 require. Does this mean that the tiny pieces of public lands devoted to these trails must be paved? And if so, I wonder if the proponents would prefer asphalt or concrete? Is the idea that a grassfire would sweep across the prairie and burn the land on either side of the trail and somehow leave the trail itself unscathed? Does this provision mean that these trails can't be lined with plants or trees or other vegetation or travel through wooded areas? This provision borders on the ridiculous.

(5) Lines 42 and 43 seek to prohibit hunting, fishing, and trapping from trails. While I personally have no objection to the hunting and trapping provision, I can well imagine a trail which borders a public lake or some other water body. It seems overly punitive to prohibit lawful fishermen from fishing there.

(6) Lines 1-5 on page two are particularly objectionable. Asking local units of government or other trail developers to pay property taxes on public trails is a startling proposal considering that other park properties aren't taxed. The obvious intent is to erect financial obstacles to the construction of these trails.

(7) Line 6 on page two requires trail developers to provide for law enforcement. If this means trail developers have to hire private security

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guards, that proposal is just plain silly. If it means that the trails shall be open to routine law enforcement patrols, I have no problem with that. If it means that developers have to actively encourage such patrols, then there is a problem. So far as I am aware, no other statute requires an entity to encourage that type of law enforcement activity.

(8) Lines 7-9 on page two require developers to grant easements to adjacent property owners to permit such owners to cross the trail and to obtain access to the use of the adjacent property. This is in addition to the provision on page 1, line 30, regarding the accessibility of existing easements. I don't think this provision (on page two) is necessary. I am unaware of a trail developer who would preclude such access simply on the basis of common courtesy. Easements are created either by purchase or by condemnation. I think it is inappropriate to mandate the grant of an easement on property from one landowner.

(9) Lines 10-12 on page 2 contain numerous provisions. Of course, I agree that trail developers should maintain the trail. However, I am doubtful that township, county, or state highway departments would want non-profit groups maintaining bridges, culverts, roadway intersections, or crossings. I am highly skeptical that trail developers should be granted authority to maintain signs more appropriately left to transportation departments. Also, I have no idea what a "warranted traffic signal" is, as that term is used in line 12.

(10) Section three contains requirements for planning a trail project. The mistaken assumption seems to be that trail developers don't already undertake such planning. It should not be anybody's business who funds a trail project as line 17 on page two requires.

(11) Paragraph 4 of Section 3 contains the fencing requirement. Considering that most rails-to-trails projects are on property which already divides various uses of property, it is likely that fences already exist in many of the areas eligible for this kind of development. Does this section mean that developers are liable for the costs of installing or repairing existing fences? If fencing is appropriate, why shouldn't that cost be shared with adjacent landowners? And as I pointed out earlier, I am curious how adjacent landowners might get through the fence in order to cross the trail if their land happens to be on both sides of the trail? I'm surprised the bill doesn't call for developers to install gates.

(12) Lines 28-36 on page two are purely punitive. Requiring non-governmental developers to pay a bond to cover the costs of trail development, fencing, and property taxes can only be called punitive.

(13) I haven't had time to check on Section 4, and this comment is more of a question. If this changes the standard of liability, then special consideration should be given to the wisdom of that language.

Thank you for the opportunity to testify.



City of Lawrence KANSAS

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ALLEN LEVINE

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CITY OFFICES 6 EAST 6th
BOX 708 66044-0708 913-832-3000
TDD 913-832-3205
FAX 913-832-3405

H.B. 2711 OPERATION OF RECREATIONAL TRAILS February 1, 1996

I'm Fred DeVictor, Director of Parks and Recreation, City of Lawrence, and serve as co-chair of the public policy committee for our Kansas Recreation and Park Association, a 720 member organization, which represents 150 recreation agencies in Kansas.

Trails are becoming more and more popular as recreation facilities in Kansas and nationwide. Trail activities include walking, jogging, hiking, bicycling, equestrians and nature study and generally improve physical and mental well-being of people. Trails in Kansas are mostly free for anyone to use.

Development of more trails is a high priority for many communities. The City of Lawrence has been strongly encouraged by our citizens to build more trails and H.B. 2711 will make it most difficult for any of us to develop and operate trails for recreational and educational purposes.

Trails provide a major positive economic impact in our community. Thousands of people come to our city to participate in organized runs, walks, mountain bike races and road races held on many of these trails. These visitors spend dollars in our community. Multiply these dollars in the many communities in Kansas that do the same thing as we do and the economic impact is enormous. For example, it's projected that the Prairie Spirit Rail-Trail, a 50 mile trail from Ottawa to Iola, when completed in 1998 will have 135,000 visitors annually, who will spend \$9.21 each visit. That's well over \$1.2 million that will be spent in those communities from that one trail alone.

Lawrence has the first operational rail-trail in Kansas and we maintain this trail plus miles of trails in our parks and public areas. We work with adjacent landowners to reduce problems with trails - most trail users are good neighbors. We operate and maintain trails and parks well. This legislation will effectively kill our ability to provide these types of recreation opportunities for our public. This legislation doesn't even deserve to come out of your committee. Please don't hinder our ability to meet recreational needs of our communities. Thank you.

Sincerely,

Fred DeVictor, CLP
Director
Parks and Recreation Department

FD/my

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Attachment 12





TESTIMONY
to
KANSAS HOUSE OF REPRESENTATIVES
ENERGY AND NATURAL RESOURCES COMMITTEE

by
William R. Maasen, Land Acquisition Specialist
Johnson County Park and Recreation District
February 1, 1996

**Shawnee Mission
Park Offices**

7900 Renner Road
Shawnee Mission, KS
66219-9723

Voice (913) 438-7275
TDD (913) 831-3342
Fax (913) 492-7275

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HOUSE BILL NO. 2711

Honorable Chairperson Holmes and Committee Members:

Thank you for the opportunity to appear before you today regarding House Bill No. 2711. I am Bill Maasen, Land Acquisition Specialist for the Johnson County Park and Recreation District, responsible for acquiring land and overseeing development of the Streamway Park System, a system of recreation trails currently being constructed throughout our county.

House Bill 2711, though well intended, creates areas of concern, increased work, and expense for agencies that build recreation trails, city councils, and county commissions.

The Park and Recreation District is interested and concerned about this bill and the burdens it will create on our agency and others like us that are involved in the development of recreation trails throughout the State of Kansas. Currently, there are over 20 miles of recreation trails under District jurisdiction and an additional 40 plus miles in Johnson County operated and maintained by municipalities such as Overland Park, Lenexa, Leawood, Shawnee, Olathe, Merriam, and DeSoto. All of these and others have trails that meet the definition of recreation trails as spelled out in the bill. I have brought each of you and others who are interested copies of our "Trail Guide," a map of Johnson County showing the existing and proposed trails to be built in the next few years.

Without doubt, these trails enhance the quality of life in Johnson County and make it a better place to live, work, and raise a family. In 1995, over 450,000 visitations were recorded at District trail facilities.

Section 2 of HB 2711 includes provisions for many of the services currently provided along District recreation trails, with a few exceptions. Specifically, the District allows fishing along its trails where the property or

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HOUSE BILL NO 2711

TESTIMONY BY JOHNSON COUNTY PARK AND RECREATION DISTRICT
TO KANSAS HOUSE OF REPRESENTATIVE
ENERGY AND NATURAL RESOURCES COMMITTEE
Page No. 2

waters are owned by the District (g). The District is a tax-exempt agency and this bill will rescind this right for properties along recreation trails (h). It is impossible to calculate the impact of this clause but, without doubt, represents double taxation with additional cost to the taxpayer of thousands of dollars annually.

Section 3 will decrease the District's ability to construct more trails in the future because of increased costs associated with compliance with House Bill 2711. In 1996, the District's Streamway Park System budget will be providing funding for over eight miles of recreation trails in Overland Park, Olathe, and Lenexa. The fencing requirements in this bill would create a need for over 16 miles of fence at a minimum cost of \$4 per lineal foot representing a cost to the taxpayer of over \$337,000. A blanket requirement to build fence does not translate well in many cases. The District normally purchases property to the center-line of the adjacent stream where it is impossible to construct fence.

The bill will also require the Park and Recreation District and cities in our county to present trail plans to the Board of County Commissioners for its approval. This will create extra work and paper shuffling that are extraneous and costly for city and county staff. The BOCC has no jurisdiction over these matters and has more important issues to deal with on a daily basis.

The District, Kansas Department of Transportation, and the Mid-America Regional Council are in the process of completing bicycle transportation plans for the metropolitan area, and the recreation trails throughout the region are a large component of these plans.

We can see no reason for the burdensome and costly constraints this bill would put on governmental agencies, let alone the tremendous cost to the taxpayer. Therefore, we strongly oppose the passage of House Bill 2711, which would become an excessive hindrance for future expansion of State and local trail systems in Kansas.

Thank you for the opportunity to present the position of Johnson County Park and Recreation District with regard to House Bill 2711.



MEMORANDUM

TO: Members of the House Energy and Natural Resources Committee

FROM: Donald R. Seifert, Management Services Director *DRS*

SUBJECT: House Bill 2711; Restrictions on Operation of Recreational Trails

DATE: February 1, 1996

On behalf of the city of Olathe, thank you for the opportunity to appear today to express concerns about this bill which would mandate various operating requirements for recreational trails. I appear today as a representative of a city that has for some time been cooperating with the Johnson County Parks and Recreation District to extend its streamway corridor trail system throughout Olathe for use by our citizens. This system principally utilizes floodplain areas of natural stream corridors that pass through our community.

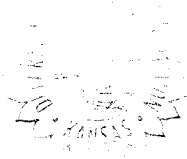
Currently, approximately two miles of the county trail system are open within the city of Olathe. Ultimately, our master plan envisions approximately a 65 mile system. The streamway corridor trails are a heavily used component of our area's park and recreation system. They comprise an important part of the quality of life enjoyed by Olathe and Johnson County citizens. Resident surveys report a high level of satisfaction with the current trail system and a desire for additional facilities. Our city imposes a small excise fee on new development to generate funds to buy this type of park land. Every tract of land in the Olathe portion of the system has been acquired through donation, subdivision dedication, or purchase.

It is unclear to us if this bill is directed at problems that have occurred on urban recreational trails. We are unaware of any serious management or operational complaints. However, the bill's language appears to apply to every type of trail in the state that is not part of a road or highway. HB 2711 would put in statutory form a long list of required management practices for trail operators. Some of these are relatively benign and are in place today. Other provisions appear to be quite onerous and completely unsuitable for an urban trail system.

We are particularly concerned about provisions in the bill requiring continued payment of property taxes and erection of fencing. The tax provision contradicts all sense of reason and existing law concerning the use of land by governmental entities for public purposes. The fencing provision is equally offensive. We estimate the cost of fencing our planned trail system would approach \$3 million, and thwart its use by the citizens it is intended to serve.

Thank you again for the opportunity to comment. We ask the Committee to exclude urban trails from this bill.

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Attachment 14*



KANSAS DEPARTMENT OF TRANSPORTATION

E. Dean Carlson
Secretary of Transportation

Docking State Office Building
Topeka 66612-1568
(913) 296-3566
TTY (913) 296-3585
FAX (913) 296-1095

Bill Graves
Governor of Kansas

**TESTIMONY BEFORE THE
HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES
REGARDING HOUSE BILL 2711**

February 1, 1996

Mr. Chairman and Members of the Committee:

I appreciate the opportunity to appear before you today to testify regarding House Bill 2711. This bill proposes to place certain conditions on the development and operation of recreational trails.

The Kansas Department of Transportation (KDOT) has a limited but important role in recreational trail development in the State. KDOT administers the Transportation Enhancements (TE) program that is part of the federal aid highway program. Funding from this program is available for several types of nontraditional transportation projects including facilities for bicycles and pedestrians. This has become a very popular program. Since first awarding TE funds in 1992, KDOT has approved projects with total costs of approximately \$36.5 million. Of this amount, \$17.8 million has been for construction or improvements of bicycle and pedestrian facilities that are often off-road trails or paths.

KDOT has several concerns about the legislation. First, it appears that the legislation is too broad in scope. The definition of a recreational trail may include many sidewalks and paths along public rights of way, which may not be the intention of the legislation. In addition, the legislation would create burdensome regulations that would discourage the future development of Transportation Enhancement projects that have been very popular. Also, it is not clear what responsibilities this legislation would impose on responsible parties for existing recreational trail facilities.

Regarding the specific sections of the legislation, KDOT is concerned about the requirement in Sec. 2 (h). This section would require the responsible party to pay ad valorem taxes on the recreational trail at the same rate as before acquisition of the property. The Department questions whether it is appropriate for a governmental entity to pay taxes to another governmental entity, as this legislation would require if the responsible party is a state agency or local government. Further, while KDOT is not the authority on such issues, if the property in question is abandoned railroad property there may be several complications in determining a tax rate to apply to these properties.

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Sec. 2 (i) which requires the responsible party to provide for law enforcement along the trail is troubling. While the Kansas Highway Patrol provides enforcement within the State, local law enforcement also have responsibilities in their jurisdictions. It is not clear if the legislation would require additional enforcement resources beyond the regular staff of the Kansas Highway Patrol or that of local law enforcement including county sheriffs on State or local sponsored projects. KDOT does not believe that it is necessary to provide additional law enforcement officials dedicated exclusively to a recreational trail.

Sec. 3 (a) (2) and (3) would require the responsible party to obtain project approval from each county and city along the recreational trail. This legislation may conflict with the National Trails System Act by imposing additional requirements beyond those required by the federal act. One objective of the federal legislation is to preserve existing rail corridors for transportation and this requirement appears to hinder that function.

Sec. 3 (a) (4) which makes fencing mandatory throughout the length of the trail is excessive and would drive up the costs of these projects considerably. KDOT would want fencing between its total or limited access facilities and an adjacent trail but does not believe that such fencing is needed between all roads and all trails. The requirement for fencing throughout would detract from the visual aesthetics of a trail. Further, the reference to a legal fence used in the legislation appears to require barbed wire. Any reference to fencing should be changed to K.S.A. 29-101 et seq., which would allow woven wire and other types of fencing where appropriate.

Thank you for the opportunity to provide input regarding this legislation.

THE KANSAS HOUSE

REPRESENTATIVE, 68TH DISTRICT
CENTRAL & SE DICKINSON, MORRIS &
NORTHERN LYON COUNTIES

OFFICE: STATE CAPITOL—426-S
TOPEKA, KANSAS 66612
(913) 296-7639

HOME ADDRESS: 934 UNION ROAD
HERINGTON, KANSAS 67449
(913) 258-3526



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Representative Shari Weber

Testimony for House Energy & Natural Resources Committee
Re: H.B. #2711 Hearing: February 1, 1996

Thank you for the opportunity to appear before the Committee today. I am anxious to share with you some reservations that I have about the components of HB#2711 and its ramifications for the citizens of Kansas.

In the 68th district we currently have a railroad corridor that is being abandoned by the Missouri Pacific. The total line stretches from Osawatomie to Herington and encompasses over 100 miles of historic rail corridor. A proposed "rails to trails" project on the abandoned corridor has brought concern from people on both sides of the issue. That is, those who want to keep the corridor open for a hiking and biking trail and those adjacent landowners who would like to have the property in the corridor revert back to the adjacent landowner.

The intense interest (both pro and con) in this proposed public use land, prompts me to identify for you several sections of this bill that offend me. As one who lives on an angus cattle farm, has sons who are fifth generation farmers and has an abandoned railroad corridor within our farm property - I would express to you how difficult some of the provisions of this legislation would be in actuality.

(HB# 2711, pg.2 - line 1) For example, to continue to pay ad valorem taxes on the recreational trail at the same rate as before acquisition of the property for such trail or make payments in lieu of taxes on any portion of the recreational trail that is exempt from ad valorem taxes in an amount equal to the amount of taxes that would be required if the trail were not exempt, is hardly economically feasible for either an organization funding a trail project or for an adjacent landowner who could utilize the land in a for profit manner. The railroads have for years paid taxes based on the revenue that the railway generated - not on an assessed value of the land within the corridor. The corridor would simply not generate the same amount of dollars that the railroad generated, whether used for a trail or for agricultural use. This proposed tax concept

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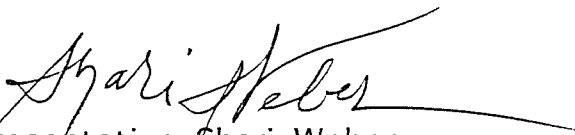
does not meet the reasonable test.

(HB#2711, pg. 2 - line 4) Installing and maintaining, at the responsible party's expense a legal fence as defined by K.S.A. 29-105 and amendments thereto, between the abandoned corridor and the adjacent property owners' property is not in line with the widely accepted practice of K.S.A. 29-301 where the owners of adjoining lands shall keep up and maintain in good repair all partition fences between them in equal shares, so long as both parties continue to occupy or improve such lands, unless otherwise agreed. Equally sharing the expense of placement and maintenance of an appropriate fence line is much more of a level playing field for all parties involved. Again, please apply the reasonable test.

(HB#2711, pg. 2 - lines 28-34) Provide a bond payable to the county in an amount sufficient to fully cover: 1) the cost of developing and maintaining the trail (corridor) within the county; 2) the cost of installing and maintaining fencing between the trail (corridor) and adjacent property within the county; and 3) one year's ad valorem taxes on the trail (corridor) within the county or payments in lieu of taxes. I find this example particularly inequitable, because I can't think of any other entity or situation that warrants the pre-payment of property taxes, much less the inclusion of up-front monies for land development, maintenance, and boundary fencing. The only example that comes to my mind is perhaps the prepayment of assessed tax on liquor for licensed distributors. Liquor is a highly regulated commodity unlike the abandoned railroad corridor land development that might occur in Dickinson, Morris and Lyon counties or the recreational trails that exist in Kansas, today.

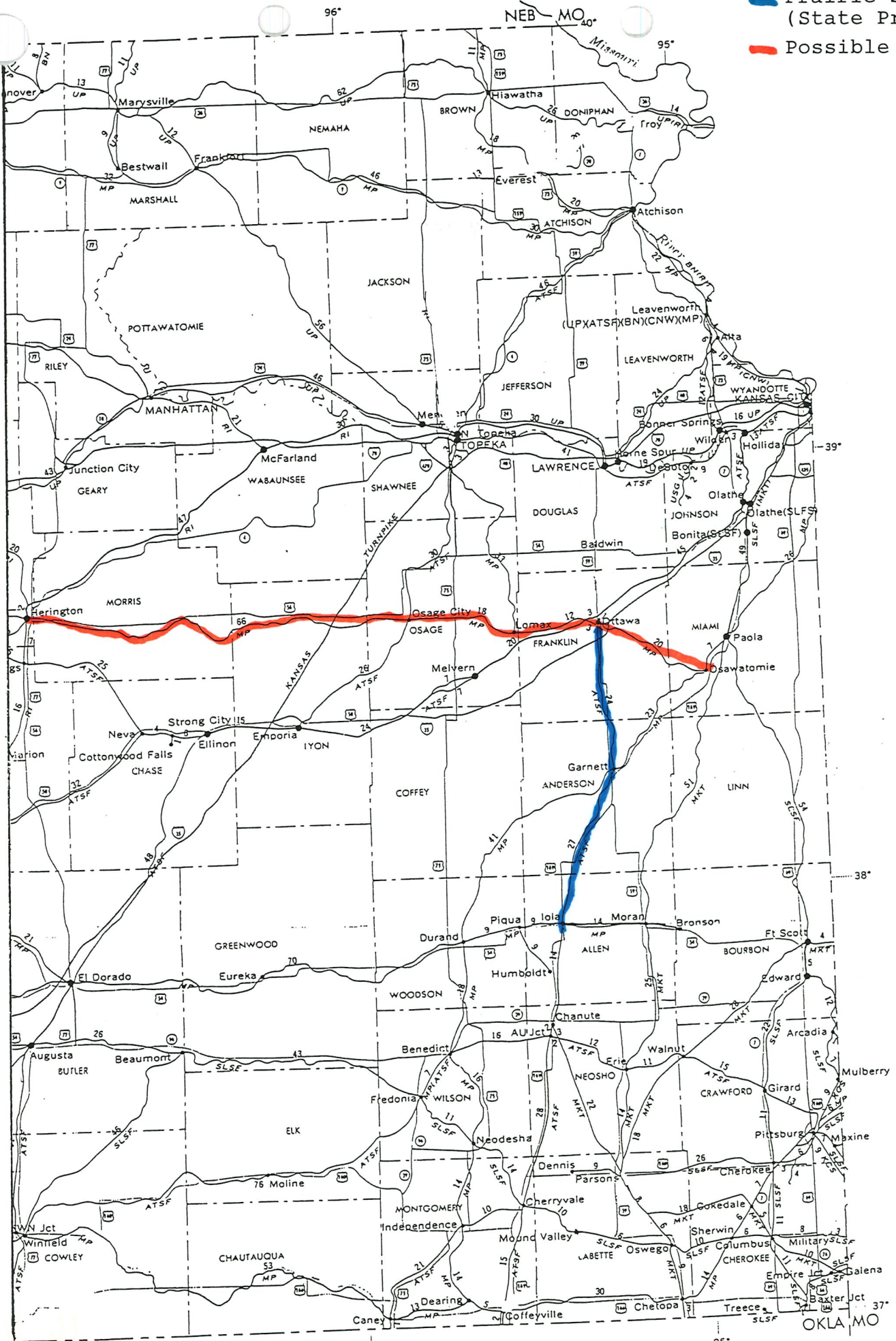
I have cited for the committee just a few examples of the inequitable, unreasonable, and unprecedented restrictions that might be placed on both current and future recreational trails in Kansas. I trust the wisdom of the committee to apply the "reasonable test" to all the components of this bill and to acknowledge the far reaching detrimental ramifications of HB#2711 for all the recreational trails in Kansas.

I thank you for your time and am available to answer questions.



Representative Shari Weber
68th District

— Prairie Spirit
(State Project)
— Possible Rail



Farmland News



Published by Farmland Industries Vol. 61 No. 2 February 1993



Popularity of Rails-to-Trails grows as once wary farmers see positive impacts

Bill Horine, from Nevada, Iowa, took a "hike" this summer to see first hand the effects of turning railroad rights of way into hiking trails. This is his story.

If there ever was an idea that caught the fancy of the public it was the Rails-to-Trails concept. In simple terms, this is the conversion of abandoned railroad rights of way into linear parks with hard surfaced trails in place of rails.

The public can enjoy these trails for hiking, biking, walking and horseback riding.

These right of way parks became popular almost overnight. They pass through land containing flowers and grasses that have nearly disappeared with the settling of our country.

And they are ideal nesting locations for birds and other wildlife.

When the railroads were built, the companies chose the shortest and flattest routes from one town to another. The grades were minimal. Consequently, these converted railroad beds provide ideal walking and biking areas for family use. They are also popular with senior citizens and handicapped persons who cannot handle rough trails.

To give an idea how this "Rails-to-Trails" concept has caught on, consider that the first two trails of this type were opened in the Midwest during the mid-1960s. By 1985 there were about 100 trails in use. As of September 1992, there were 514 Rail-Trails in use from coast to coast with a total mileage exceeding 6,400 miles. The Midwest leads the nation in numbers of trails and mileage.

The railroads in the early days acquired land in a number of ways. Sometimes the land was purchased outright. Other times, easements were granted with a number of options available should the line be abandoned. In some localities the state or federal government owned the land traversed by the railroad. The many different owners along any one stretch of right of way made acquiring the land for recreational use by a state, local or private entity very difficult.

Adjoining landowners had concerns about recreational trails being established on old rail

lines. Farmers worried about hikers stealing livestock or vandalizing crops.

Rick and Diana Spence, who farm on the edge of LaPorte City, Iowa, expressed their concerns. "The abandoned rail line that formerly linked Waterloo and Cedar Rapids passed right through our farm, close to our buildings.

"When we first heard about the plans for the trail we were less than enthusiastic. We attended the meetings and tried to get laws passed and lawsuits initiated to stop what we felt was a real menace to our well-being," Rick said. "We headed up a group of farmers and took the issue to court. We fought it for about a year and finally decided it wasn't worth it and that we should negotiate.

"In retrospect, it's funny, cause now I think this trail is the greatest thing going. None of the

"In retrospect, I think this trail is the greatest thing going."

— Rick Spence
Farmer

fears we had have come to pass. There are perhaps 15,000 people using the Cedar Valley Nature Trail every year. Many of them access the trail through our farm."

Rick operates a fertilizer business and says that the trail riders always stop and ask permission to go to the trail.

"We have formed many friendships with the trail users, and hear from them throughout the year and at Christmas," Rick said.

Mrs. Michael Andorff and her husband live along the 52-mile Cedar Valley Nature Trail and had the same concerns as their neighbors. They, too, are now enthusiastic about the trail.

"We finally decided it wasn't such a bad thing after all. Many of those living along the trail use it," she said.

"We live two miles out of Brandon (Iowa), and I never would let our kids ride their bikes to town along the gravel road in front of our place. They now use the trail to bike to town and I have no worries about traffic."

Mrs. Andorff was also able to

cash in on the economic value of the trail. "I have operated a Bed and Breakfast for nearly five years. It just seems to grow, and now we sometimes have four different couples staying on weekends," she said.

In the past, as train traffic ceased, many of the small towns along the way started to "die." The pedestrian and bike traffic on these new converted trails has given many of the "off the beaten path" towns a new lease on life.

Take for example the Root River Trail, recently developed by the State of Minnesota. This scenic area in southeast Minnesota has long been one of the state's best kept secrets. The trail extends from Fountain to Rushford, a distance of 35 miles. The trail occupies the 100-foot right of way of the old Southern Minnesota Railroad and parallels the winding Root River as it flows past soaring limestone bluffs and through hardwood forests. The five small towns along the way have experienced a resurgence not unlike when the railroad first came through the valley.

Steve Speer, who operates a bar and grill in Fountain, says, "The trail has had a definite impact on my restaurant sales. Anywhere from 50 to 150 people stop by on an average weekend throughout the summer."

Dick Lee, mayor of Peterson, Minn., says, "Business has been excellent in my gift shop in the short while I have been open. Our little town of 250 people has come back to life.

"Old buildings are being reconstructed and the local bed and breakfast business has been excellent. These things would never have happened had it not been for the Trail."

Lee adds, "Several ice cream parlors and sandwich shops have come in. The trail users seem very appreciative of what we have for them. They like to pause and just enjoy the scenery. We have also built picnic shelters along the trail for the hikers."

He adds, "Trail users keep the trail clean and do not leave garbage along the way."

Don Wielander, banker in Fountain, had these comments, "In the last couple of years I expect we average at least one inquiry a month from people in the Twin Cities wondering about purchasing property and the possibility of obtaining loans in this area.

"People have just recently become aware of what we have down here," Wielander said. "There are several new homes going up as well as weekend retreats. The trail brought the people here and made them aware of the scenic beauty of southeast Minnesota."

These same sentiments are being expressed by people living in the small towns along the re-



This view is from the bluffs above the Katy Trail State Park along the Missouri was the former road bed of the Missouri-Kansas-Texas (MKT) Railroad, better

cently opened Great Western Trail, running from Des Moines to Martensdale, Iowa, and the towns along the KATY trail in central Missouri, which follows the Missouri River from Marthasville, near St. Louis, past the scenic bluffs in central Missouri near Jefferson City to Franklin. This trail will eventually be extended to Sedalia in west central Missouri.

Following is a list of rail trails in Farmland's trade territory: Wisconsin, 39 trails covering 752 miles; Minnesota, 22 trails - 486 miles; North Dakota, one trail -

17 miles; South Dakota, one trail - 104 miles; Wyoming, one trail - 22 miles; Colorado, 13 trails - 76 miles; Idaho, four trails - 64 miles; Nebraska, four trails - 50 miles; Iowa, 37 trails - 545 miles; Illinois, 29 trails - 324 miles; Missouri, four trails - 210 miles; Kansas, one trail - one mile; Oklahoma, three trails - 12 miles and Texas, three trails - 27 miles.

For information on the trails, contact Rails-to-Trails Conservancy, 1400 16th Street, N.W., Suite 300, Department 292, Washington, D.C. 20036.



**League of
Kansas
Municipalities**

**Legal Department
300 S.W. 8th
Topeka, Kansas 66603
Phone: (913) 354-9565/ Fax: (913) 354-4186**

To: House Energy and Natural Resources Committee

From: Don Moler, General Counsel

Re: Opposition to HB 2711

Date: February 1, 1996

First I would like to thank the committee for allowing the League to appear today in opposition to HB 2711. Specifically, HB 2711 would establish numerous requirements for creation and maintenance of a recreational trail. The requirements are so numerous and onerous that the net effect of HB 2711 is to prohibit the establishment of any new recreational trails in the State of Kansas. It also appears to require the abandonment of those trails currently in use in the State. Essentially the League takes issue with most of the requirements of HB 2711, but for the sake of focusing the issues we will highlight for the committee the following four concerns: (1) the approval of the county should not be required before a city could authorize the creation of a recreational trail; (2) public recreational areas are not currently subject to the property tax and we would strongly object to the provision requiring taxes to be paid on recreational trails or any other publicly owned recreational area; (3) requiring fencing the length of the trail effectively makes them cost prohibitive; and (4) the attempt to preempt local authority in yet another area of the law is unwarranted and unnecessary.

The League cannot conceive of an area less needing the intervention of the state government. Local recreational facilities have been handled locally since Kansas became a state, and it is interesting to the League that this type of intervention and preemption would be necessary at this time. This is clearly a local issue which should be handled **exclusively** at the local level. Ultimately, we believe HB 2711 to be a very bad idea and a very poor public policy choice.

We would suggest that the Kansas legislature make a positive choice and forget about the policy direction contained in HB 2711. We would further urge the committee not to fix something that isn't broken. Thank you for allowing the League to appear today on this issue.

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**TESTIMONY TO HOUSE ENERGY AND
NATURAL RESOURCES COMMITTEE**

RE: HOUSE BILL 2711

**CITY OF LENEXA, KANSAS
TOM SCHAEFER, ASSISTANT TO THE CITY ADMINISTRATOR**

FEBRUARY 1, 1996

Mr. Chairman and Members of the Committee:

My name is Tom Schaefer and I am the Assistant to the City Administrator for the City of Lenexa, Kansas. Lenexa is a growing community of almost 37,000 residents encompassing about 29 square miles in Johnson County, Kansas.

The City of Lenexa opposes House Bill 2711 in its current form because of some serious reservations we have about several elements of the bill. I am here today to express these concerns to you. The City of Lenexa is especially interested in this proposed bill because we have a very active Parks and Recreation Department that provides a full range of Parks and Recreation activities for our residents year round including nature trails, walking paths and bikeways. These trails are very popular with our residents of all ages and are often cited as one of the key amenities in the City that enhances the quality of life enjoyed by our residents. For this reason the Lenexa City Council has for a number of years had an active policy to acquire undeveloped property for new park land in order to preserve green space in advance of commercial and residential development. Recreational trails of all types are planned as key elements of these new parks located in the western half of Lenexa.

From our reading and research of the bill it appears that the intent of the legislation is to put in place a set of regulations governing the operation of recreational trails generally and trails located along former railroad rights-of-way in particular. Lenexa's existing trails are located wholly within city owned park land. Future trails are similarly planned to be located within city parks with some running along active railway lines. We have no plans to develop any recreational trails along abandoned railroad rights-of-way.

If the intent of the bill is to enact some reasonable regulations to protect the public and adjacent property owners we have no particular argument with that concept, but we do have concerns about the onerous nature of a few aspects of this bill. First, we are concerned about the language in Section 2(h) that specifies that the responsible party will

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continue to pay ad valorem taxes on the trail property at the same rate as before the acquisition or make payments in lieu of taxes. Since the City's trails are located within city owned park land we believe this imposes an unnecessary tax burden on our residents who have already supported the purchase of the park property with their property taxes.

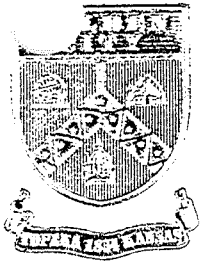
Second, Section 3 (a)(2) appears to require that the responsible party, the city in this case, has to submit project plans for recreational trails to the county commission for approval. In the context of home rule we see no plausible reason for cities to have to submit plans for city park development to county commissions for approval.

Third, Section 3(a)(4) would require the City to install fencing between the trail and adjacent land owners. Again we suggest that what is done in a city park should be up to the City Council to determine and that in planning for trails if concerns are expressed by property owners arrangements for fences, etc. can and should be negotiated during the planning process. We don't like the idea of fencing our parks as it will have the affect of keeping people out. In the event park users misuse private property near our trails actions can be taken to correct that, but for the state to require fences would add needless capital costs and ongoing maintenance expenses to support an undesirable and unattractive obstruction. Depending on the extent of the City's trail system this requirement could pose an economic hardship on the City and act as a disincentive to develop any more trails for public use.

On behalf of the City Council I ask that you consider amending the bill to delete the three provisions I have mentioned as they would relate to trails owned and operated by cities as part of their park systems.

Thank you for your time and attention this afternoon. I'll try to answer any questions you may have.

file: HB2711



CITY OF TOPEKA

Harry "Butch" Felker, Mayor
215 E. 7th Street Room 352
Topeka, Kansas 66603
Phone 913-295-3895
Fax Number 913-295-3850

TO: Members of House Energy and Natural Resources Committee
FROM: Curt Loupe, Superintendent of Parks, City of Topeka
DATE: February 1, 1996
RE: **HB 2711; Mandating state standards on public and private recreational trails**

The City of Topeka provides many trails within its park and recreation system including nature, hiking, biking, and walking trails. Our staff designed Cedarcrest's walking and nature trails, and in our recently completed strategic plan survey, found that walking trails were one of the most frequently requested amenities to be added to the park system in the future.

HB 2711 adds government bureaucracy with its requirements of project review by both County Commission and City Councils. Any plan for development of a trail would require project approval and budget authorization by the appropriate level of local government, thus this is a redundant requirement. What we heard in our strategic plan interviews is what the state is hearing from constituents; give us less government intervention and bureaucracy.

This bill is written with numerous faults including poor definitions, unclear meanings, disincentives to economic development by private parties, and conflicts with local laws regarding fencing requirements. As an example, barbed wire is not a legal or effective fencing material in an urban environment and many cities across the state, including Topeka, ban its use within corporate boundaries. We would certainly not use it around recreation facilities like playgrounds and parks.

Finally, the required payment of ad valorem taxes or Payments in Lieu of Taxes will increase the cost of government to taxpayers, while hampering private economic development that can help spread the tax burden and provide needed jobs and community growth. Raising taxes to pay taxes is not good government.

Topeka currently maintains 5.25 miles of paved pedestrian/bicycle trails and over 3 miles of unpaved nature trails. The acreage involved exceeds 15 acres. We're working to expand citizen access to walking/biking trails via a 3 mile abandoned rail corridor which adds another 16 acres of property to the system. The burden for taxes would be felt by taxpayers and taxpayers who are already sensitive to taxation. If you're going to do this, consider exemption of all publicly owned trails, otherwise, HB 2711 will increase costs for providing walking trails to citizens of Topeka and Shawnee County, as well as communities across the state looking to provide low impact, environmental-friendly, recreation trails.

Thank you for the opportunity to provide this input and to encourage a negative outcome for HB 2711.

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