

Approved: 3-12-96  
Date

MINUTES OF THE SENATE COMMITTEE ON ENERGY & NATURAL RESOURCES.

The meeting was called to order by Chairperson Don Sallee at 8:00 a.m. on March 5, 1996 in Room 254-E- of the Capitol.

All members were present except:  
Senator Lawrence, Excused

Committee staff present: Raney Gilliland, Legislative Research Department  
Dennis Hodgins, Legislative Research Department  
Ardan Ensley, Revisor of Statutes  
Clarene Wilms, Committee Secretary

Conferees appearing before the committee:  
Howard Parr, Tri-County Drainage District  
William Craven, Sierra Club, Kansas Natural Resource Council  
Mike Calwell  
Lance Burr  
William Penney, Penney Contractors  
David Penny  
Jean Barbee, Barbee Associates  
Mark Maher  
Edward Moses, Kansas Aggregate Producers Association  
Written testimony only by Kansas Department of Transportation

Others attending: See attached list

**HB 2663--concerning rivers belonging to the state; concerning royalties for removal of certain materials from the beds of such rivers**

Howard Parr, Tri-County Drainage District, appeared before the committee and presented testimony stating that **HB 2663** causes a financial problem for the Kaw River Drainage District, North Topeka Drainage District and Tri-County Drainage District (Attachment 1). Mr. Parr told the Committee the Division of Water Resources specifically states that embankment maintenance is not levee maintenance. This limitation on the use of sand royalties for bank stabilization and soil conservation will prevent levee maintenance on the Kansas River. A second difficulty is that the bill would reduce amounts received by drainage districts and would fail to provide the previous amount of funding used for repair and maintenance of flood control structures which include levees along the Kansas River. Mr. Parr stated the drainage districts were not looking for additional funds but did need the same level as previously allocated.

William Craven, Sierra Club, Kansas Natural Resource Council, appeared in support of **HB 2663** stating the current system subsidizes dredgers by taking sand from a public resource at a low cost royalty and sell it for considerable profit (Attachment 2). Mr. Craven noted the intent of the bill was to leave the drainage districts with the same funds as previously received. Further testimony dealt with problems of monitoring totals of sand dredged from the river citing differences between reports to the Corps of Engineers and the Kansas Department of Revenue. Mr. Craven noted a better means of assessment is needed.

A member questioned whether the reporting dates were the same between state and federal reports with the reply that they did not coincide but this did not prevent looking at totals for a 4 to 5 year period.

Bill Penny, Penny's Concrete and Penny's Sand Company, appeared in a neutral position concerning **HB 2663** acknowledging the state is entitled to receive fair compensation. However, the increase in royalties makes it difficult to compete with Missouri River sand on which no royalty is levied by Missouri (Attachment 3). Mr. Penney told the Committee this would be yet another hidden tax with royalty fees being passed along to the tax payer.

Mr. Penny noted the Kansas River has undergone difficulty the past three years due to floods and high water. The banks in all areas are in very bad condition, therefore the drainage districts are in need of funds to repair this damage. He further offered the opinion that a tight accounting system is needed as well as funding to monitor the

## CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, ROOM 254-E-Statehouse, at 8:00 a.m. on March 5, 1996.

situation. Mr. Penny commented that over the past four years the Corps of Engineers has consistently lowered the tonnage of sand removed from the river. He also expressed the opinion that royalty funds should not be redistributed to other parts of the state.

Lance Burr, co-founder of Friends of the Kaw, told the Committee that the 8 cent royalty fee paid on sand is not a tax, that the sand belongs to the state of Kansas. He noted that pit owners pay much higher royalties, thereby placing them at a disadvantage when competing with people taking sand from the river at less cost. He stated that sand is an asset that is owned by everyone in the state. Mr. Burr expressed the opinion that 15 cents is artificially low, that to make it fair the royalty should be raised to between 50 cents and one dollar. He supported the using of royalties for audit purposes.

David Penny told Committee members that royalties had been 2 cents per ton until 1991. Since that time it has been increased but has always been split equally between the state general fund and the drainage districts. In 1995 it was changed to direct one-half to the state water fund and half to the drainage districts with governmental entities exempted from the tax. **House Bill 2663** would increase revenues to about five times previous collections. This bill would also drop funding for drainage districts from 50 percent to 10 percent. Ninety percent would now go to the State Water Fund, a maneuver to generate funds for the water fund. This will now be a pass through tax with all governmental entities now paying the tax. This makes the sand companies who dredge basically tax collectors with the state water fund using the funds for the rest of the state rather than sending funds to the drainage districts to maintain banks and levees.

A member questioned what percentage of sand in Kansas is used on road construction and street construction as opposed to other construction. Mr. Penny stated the estimates run from 60 to 90 percent. The member also asked what percentage of sand came out of rivers and what percentage was purchased from private land owners with Mr. Penny replying that the majority came from the Kansas river while sand in western Kansas comes from pits. Costs paid by western Kansas pit owners runs from 10 to 40 cents per ton. The member made the point that cities in western Kansas have to buy water rights to obtain water. The member asked how Mr. Penny justified to other sand producers that he did not pay for river sand. He replied it was not a question of fairness, it was a question of whether you transferred funds from one governmental entity to another.

Jean Barbee, Barbee and Associates, told members her organization represented the drainage districts who had testified and referred the Committee to the chart contained in Mr. Parr's testimony. She noted there has been a misconception about the gross and tonnage of sand coming out of the river. She stated figures were obtained from the Corps of Engineers and also from the Department of Revenue in order to demonstrate how much the drainage districts were losing. The real point is, historically, how much sand has been dredged from the river. She noted the major reduction in sand removed from the river in the last three years and stated that contrary to popular belief there will not be more money.

Mark Maher told the Committee that looking at the past 5 year period, only 23 percent of the sand removed from the Kansas river was taxed. Mr. Maher showed graphs (not furnished to the committee) covering the past five years and noted that the five year average of sand removed from the Kansas river for use by governmental entities was 23 percent. He stated that neither the Corps of Engineers nor the Kansas Department of Revenue run any type of verification on reports from producers. Mr. Maher concluded that accurate reporting was needed and should be put in place.

Edward Moses, Kansas Aggregate Producers Association, told the Committee that until 4 to 5 years ago four million tons of sand was being taken from the Kansas river which provides valuable concrete and commercial sand. Fill and asphalt sand is now coming from outside of the state of Kansas, therefore there is a decrease in the amount of sand being removed from the river. He also noted one producer who has been paying 100 percent royalty on all sand. Mr. Moses stated support of audit maneuvers to obtain proper figures on sand dredged from the river.

Written testimony was provided by the Kansas Department of Transportation which noted that since only a small portion of sand purchased by them was produced from the Kansas and Missouri Rivers in northeast Kansas there would be minimal fiscal impact (Attachment 4). The testimony noted that should future actions extend increases to all locations where sand is produced the fiscal impact could be much more significant.

Senator Hardenburger, with a second by Senator Tillotson, moved approval of minutes for February 20, 20a, 21, 22, 22a, 23 and 26, 1996. The motion carried.

The meeting adjourned at 8:55 a.m.

The next meeting is scheduled for March 6, 1996.

**SENATE ENERGY & NATURAL RESOURCES  
COMMITTEE GUEST LIST**

DATE: March 5, 1996

NAME	REPRESENTING
Mark Mahan	Citizens For the Future of Jefferson County
Shirley Sicilian	KDOR
Dennis G. Hall	Tri County Drainage
HOWARD PAER	" " "
John White	" " "
Geard Pearl	" " "
Lauri French	" " "
David G. Stadler	" " "
Glenn D. Cogswell	No. Topeka Drainage District
Mary Shivers	KDOT
Andrew Lewis	Kaw River Drainage
Tony Meier	KAW RIVER DRAINAGE
Dale Sandberg	North Topeka Drain. Dist.
Mark Hanson	NTDD
Jan Barbee	Barbee & Associates
Eileen Larson	Friends of the Kaw
Tom Stiles	KWO
Mike Bohnhoff	Division of the Budget
GEORGE AUSTIN	Ks. DEPT. OF AG., DIV. OF W.R.



TESTIMONY

DATE: March 5, 1996  
TO: SENATE ENERGY COMMITTEE  
FROM: Drainage District Coalition of:  
Kaw River Drainage District  
North Topeka Drainage District  
Tri-County Drainage District  
RE: Sand royalties for drainage districts (HB-2663)

Mr. Chairman, members of the committee, my name is Howard Parr, a supervisor in the Tri-County Drainage District. I am from Rossville, Kansas. I am speaking for all of the above drainage districts.

In all of these water and dredging issues before you this year, we had hoped to remain neutral and not have to give you another issue to deal with. But HB-2663 causes a problem for us and we must ask you for help in two areas:

1) Limiting Use of Royalties

Our first concern with HB-2663 is the limitations on usage of sand royalties. The limitation to "embankment maintenance and soil conservation" will prevent us from maintaining our levees on the Kansas River. We have an opinion from the Division of Water Resources which specifically states that embankment maintenance is NOT levee maintenance. That opinion is attached to my testimony.

The primary purpose for which drainage districts were organized was, and is, construction, operation and maintenance of flood control improvements which are mainly levee systems. By scientific and legal definition, levees are normally not banks of a stream, because banks are at ground surface elevations, while levees are placed on and above ground surface elevations and often times quite some distance away from the banks of a stream. A drawing is attached to illustrate the difference between the two. The significance of this distinction between levees and banks becomes evident when limitations of the bank stabilization language in HB2663 is applied to use of sand royalty funds.

The other limiting language in HB-2663, "soil conservation", is without definition, but is to impact the use of sand royalties because drainage districts were not organized for the purpose of soil conservation. Whether they perform such function is subject to legal interpretation and probably dispute. Litigation is something which should not be encouraged because of the loss of time and expenses it causes.

If the language of the existing statute needs to be changed from "any lawful purpose", then we suggest language such as "maintenance and operation of flood control systems." This language, though narrower than existing law, would include our levee systems.

Senate Energy & Natural Res.  
March 5, 1996  
Attachment 1

2. Royalty distribution formula

Our second concern is the formula for division and distribution of the sand royalties. We are thankful for the Legislature's foresight in collecting the sand royalties and sending a portion of it back to local drainage districts where it was obtained. The Districts use these funds as part of their budgets to repair and maintain flood control structure, mainly levees, along the Kansas River. However, the fiscal impact of HB-2663 on drainage districts would appear to reduce the amounts received by them below that which we have received in the past. If that happens, then we will have to increase taxes to replace the lost revenue just to maintain our current budget needs. We do not believe it would be the intent of the Legislature for this to happen.

The Drainage Districts are not looking for a windfall, or any more than previously allocated, but we are asking that we receive no less.

Thank for your your time. I would be pleased to attempt to answer any questions.



**KANSAS STATE BOARD OF AGRICULTURE**

Phillip A. Fishburn, Secretary

**DIVISION OF WATER RESOURCES**

David L. Pope, Chief Engineer-Director  
901 S. Kansas Avenue, Second Floor  
Topeka, Kansas 66612-1283  
(913) 296-3717 Fax (913) 296-1176

April 22, 1994

Susana Valdovinos  
Assistant County Counselor  
Office of County Counselor  
Shawnee County Courthouse  
200 E. 7th St., Ste. 203  
Topeka, Kansas 66603-3933

SHAWNEE CO. COUNSELOR  
D.L.

APR 26 10 20 AM '94

RECEIVED

RE: Distribution of Sand Royalties to Tri-County  
Drainage District No. 1

Dear Ms. Valdovinos:

Without knowing from where the sand royalties came (other than the Kansas River, Shawnee County, Kansas), the Board of Shawnee County Commissioners will have difficulty in determining the specific dollar amounts to be divided among the various drainage districts in the county. However, the Secretary of State's office should be able to track the origin of the funds which you have received. This knowledge will be necessary in order for there to be compliance with the statute.

To clarify one point, the Division of Water Resources does not claim direct supervisory authority over K.S.A. 82a-309, 1993 Supp. Our sole direct involvement would be in approving, or not, the contracts, plans and specifications for the proposed improvements that are part of the actual cleaning and maintenance of the river bed if the money is sand royalties due the county. Our only other involvement would be in approving possible modifications to a drainage district's general plans. However, modifications to a general plan would be subject to the approval of the chief engineer regardless of the source of the money.

The information that follows is intended to be of assistance to you and should not replace an opinion from the Attorney General of Kansas and which you may still wish to seek. Nor is the Division of Water Resources advocating a position on behalf of or for any or all drainage districts or any other public entity involved in this process.

K.S.A. 82a-309, 1993 Supp., is in essence a two part statute. After meeting the requirement that the sand be from a state-owned river, then if the area from which the sand is "harvested" is

SHAWNEE CO. COUNSELOR TEL:913-291-4196

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within a drainage district, those sand royalties are divided on the following basis:

2/3 of the proceeds go to the district from which the sand was taken.

1/3 of the proceeds are then split between the remaining districts who have frontage on the Kansas River in accordance with the amount of frontage they possess.

In Shawnee County, there are 24 approved applications for sand plants. However, there are only four active operations or sites. Those in N. Topeka Drainage District include Kansas/Sand Concrete, Inc., with two sites and Victory Sand/Gravel, Inc., with one site. Therefore, N. Topeka Drainage District would receive 2/3 of the proceeds from the Kansas/Sand Concrete, and Victory Sand/Gravel, Inc., sites. Also, N. Topeka Drainage District's area covers both sides of the river and the river bed so the river clearly extends into or through the drainage district and the sand products are from within their territory.

Based on the information we have in our Water Structures Section, both Tri-County Drainage District and Kaw River Drainage District each have an estimated ten miles of bank line. Therefore, it appears they would share equally in the 1/3 of the proceeds listed above. Silver Lake Drainage District, for example, does not have any frontage on the Kansas River and would not qualify for this money.

The fourth known active site belongs to Meier's Ready Mix, Inc., which is adjacent to Kaw River Drainage District. The "land" portion of Meier's is certainly within the district's boundaries. Since Kaw River Drainage District does not apparently extend beyond the river bank into the bed of the river from where the sand products are taken, it is our opinion that the proceeds from this sand plant operation are an exception to the above formula. I would note, for your benefit, that the statute does contemplate the river extending "into or through any drainage district". There may be an argument by Kaw River Drainage District that their District extends "into" the Meier's Ready Mix, Inc., site. Based on our information, the water structures section would not agree that Kaw River Drainage District extends "into" the bed of the Kansas River but rather stops at the bank.

For purposes of the formula, if it is determined that the area from which the sand products are taken is within the Kaw River Drainage District, then Kaw River Drainage District would receive 2/3 of the proceeds. From the remaining 1/3 of the proceeds, the proportions would be split according to river mileage. North Topeka Drainage District would qualify for approximately 87 miles of river frontage (they have river frontage on both sides of the

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river) and again, Tri-County Drainage District would receive its proportion based on its estimated 10 miles of river frontage.

There are no specific restrictions on how the drainage districts may use the money on those funds which are received from sand plants which are operated within a drainage district other than complying or modifying their general plans in accordance with state laws, rules and regulations.

A minor point which may be of interest to you is that past practice was for the Secretary of State's Office to remit the proceeds directly to the drainage districts.

The second half of the statute contemplates the Secretary of State's office transferring funds to counties based on their proportion to the mileage of the river bank in the county. Basically, this portion of the statute envisions all sand royalties from sand plants operating outside of drainage districts being split between counties on a per river frontage mile basis. If the moneys currently in the county's possession were allotted to the county on this basis, then the county may use this money for very limited purposes.

The County may use these funds for actual cleaning and maintenance of the river. This would include properly placed revetments, dredging of sand, jetties and other bank maintenance or cleaning work. It would not included rebuilding levees.

If a levee were now the river bank, then the county could consider that the current river bank and do whatever properly placed revetments or jetties were appropriate to stabilize and maintain the bank. They could not rebuild the levee at that site as that is beyond the scope of "actual cleaning and maintenance" of the river.

The county would also be required to "submit all contracts, plans, and specifications for the proposed improvements to, and receive the approval of, the chief engineer of the division of water resources" prior to the expenditures of any of the funds.

The drainage districts do not have a right to the moneys dispersed in the second half of the statute. However, it may be more cost effective for the county to contract with the drainage districts who have either river frontage or river frontage and bed to do the cleaning and maintenance than for the county to do it. Should you decide to contract with drainage districts to do the work, the restrictions cited in the paragraph just immediately above would still apply to this work. There is nothing within the statute that would bar Shawnee County from contracting with only one district so long as the work done complied with the

SHAWNEE CO. COUNSELOR TEL:913-291-4196

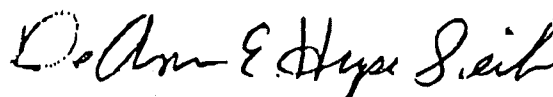
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restrictions contained in the statute.

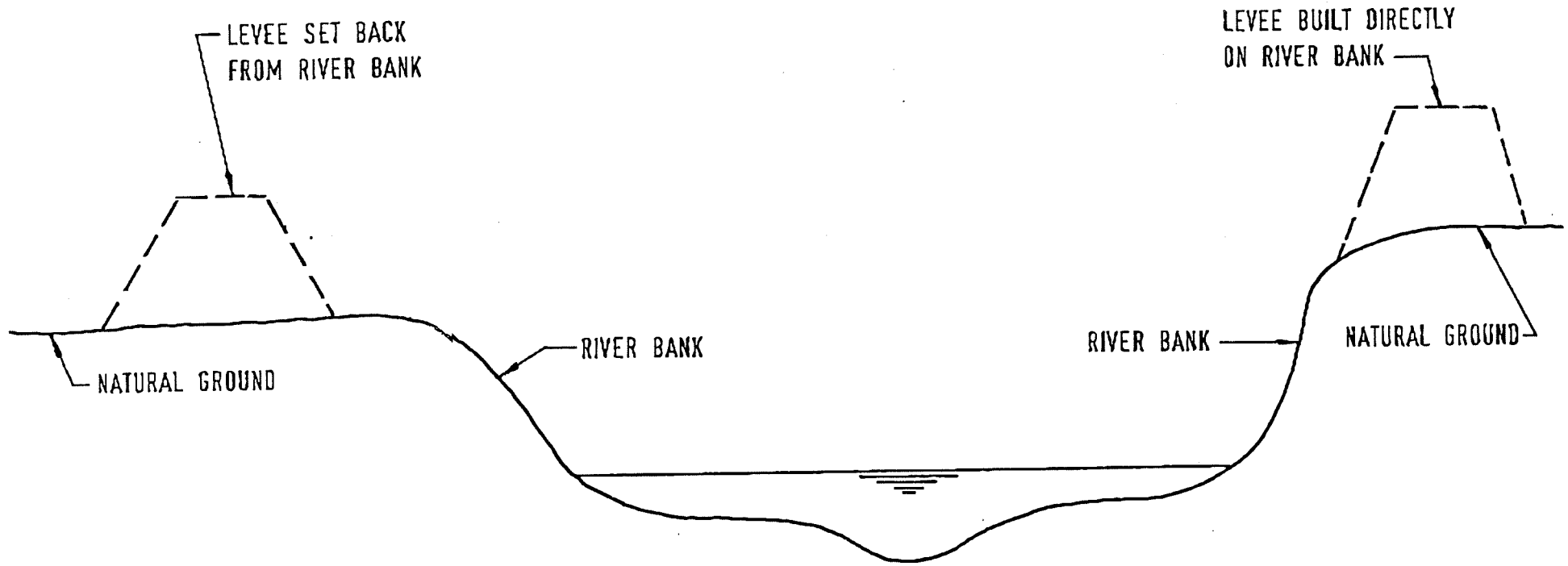
I hope this information is of some use to you and answers some of the questions contained in your letter of March 15, 1994. Please call if we can be of further service to the county. If you have any technical questions, please contact George Austin, Water Structures Section Head, at (913) 296-2933.

Sincerely,



DeAnn E. Hupe Seib  
Asst. Legal Counsel

cc: Dennis Hall, Attorney  
George Austin



TYPICAL RIVER SECTION

NOT TO SCALE

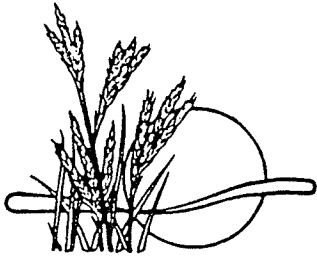
**WM** WHITE, MARTHA  
A ASSOCIATES, INC.  
ENGINEERING  
CONSULTANTS

1000 F.W. WYCKE BLVD  
TOMBALA, ALABAMA 36892-1628  
PH (205) 333-3000 FAX (205) 333-3000

KANSAS RIVER SAND

	TONNAGE			TONNAGE		
	DREDGED	X .15 / ton	@ 10%	TAXED	X .08/ton	@ 50%
1991	2,995,262	449,289	44,928	1,963,761	157,100	78,550
1992	2,855,898	428,384	42,838	2,109,289	168,743	84,371
1993	2,916,094	437,414	43,741	2,253,800	180,304	90,152
1994	2,697,723	40,465	40,465	2,489,500	199,160	99,580
1995				2,112,488	168,999	84,499
	Figures from			Figures from		
	Corps of Eng.			Dept. of Revenue		

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# Kansas Natural Resource Council

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Topeka, KS 66601-2635

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Vice President

Joan Vibert, Ottawa

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Ann Fell, Winfield

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## Testimony of Bill Craven Kansas Natural Resource Council and Kansas Sierra Club H.B. 2663

Senate Energy and Natural Resources Committee  
March 5, 1996

Thank you for the opportunity to testify as a proponent of this bill. This bill originated in the 1995 interim hearings which studied several issues pertaining to the Kansas River. As the committee is aware, there are also other bills pertaining to the Kansas River now pending.

The considerations behind this bill are straightforward: (1) The proposal to increase the royalty for sand taken from the Kansas River from 8 to 15 cents/ton is based on the fact that the 8¢ figure--set in 1991--is long overdue to be raised, (2) is lower than what sand companies pay as royalties for sand obtained on land owned by private landowners, and (3) is far too low to serve as an incentive to dredging companies to make arrangements in the private sector rather than exploit a resource owned by the people. To make the point crystal clear, my view is that the current system subsidizes dredgers to take sand from a public resource they obtain for 8¢/ton and sell it in the neighborhood of \$4/ton. I support the bill, but I'm not convinced that the increase is sufficient to create the necessary incentive to move the dredgers off the river and into the private sector.

The second part of the bill deals with sharing the proceeds of the royalties with drainage districts. The intent of this section is to leave the drainage districts with the same budget they got previously. There is a problem with this section. The problem is that the existing language would short the districts. Given that no agency of state or federal government can--or will--identify how much sand is taken from the river, a better solution might be to give each districts an amount each year equal to a rolling average of what they received the prior three years, or a formula similar to that.

Another part of this section ends the exemption of sand royalties obtained from the river and used in public works projects. As you know, KDOT does not oppose this provision, since it would have a negligible impact on its budget. The thinking of the interim committee, and now the House, is that this provision is an equalizer. Public works projects in other parts of the state which obtain sand from somewhere other than the Kansas River have to pay royalties to landowners.

The net result of this bill is that additional moneys will be generated for the general fund over and above what is subtracted by agencies for expenses and what is paid to

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Attachment 2



drainage districts. I understand that agreement has been reached to spend this money on pollution cleanups for which the state is liable.

The remainder of my testimony details the problems in monitoring how much sand comes from the river. Solving this problem will be easier if all sand which comes from the river is reported.

The problem facing the Corps of Engineers and the Department of Revenue is that neither verifies the production totals submitted by the dredging companies. That causes several problems, not the least of which is whether the Corps' regulatory plan which governs the maximum amount of sand which can be mined from a given stretch of the river is being honored.

Approximately 77 percent of the sand has been reported to the Corps to be subject to the royalty. Logically, therefore, 23 percent was sold for public works projects exempt from the royalty assessment.

If that is true than a separate problem is posed by the frequent testimony of the sand industry representatives who have repeatedly said that 75-80% (or even more) of the sand which is produced is consumed by public works projects. Were that true, than 25 percent of the total would be subject to the royalty assessment. As I just said, what is reported is the inverse of this, specifically that 25 percent is exempt.

If the dredgers are accurately reporting to KDOR, then they are not accurately reporting to the Corps. They report roughly 2 million tons a year to the state as subject to the royalty, and they report roughly 2.75 million tons per year to the Corps as the total which is extracted. If you believe the KDOR reports, and the 75/25 ratio, then the total amount of sand produced in the Kansas River should have ranged from 7.5 -9.2 million tons per year. That is far in excess of what is reported. There are only two conclusions: Either the dredgers are misreporting the facts to one or both agencies, or else someone has grossly exaggerated the amount of sand used for public works projects. I am not here to impugn anyone's motives, but I am here to point out the problem. In the last 24 months, the reports to KDOR show that only 15% of production went to public works projects.

Some of these remarks also support other Kansas River bills now pending before the Legislature. There is a real need to stop and take stock of what we are doing to the Kansas River, and to give our state agencies, the legislature, and the public time to assess what has happened to this important natural resource and what is in stock for in the future. It is important to point how that this bill has yet another benefit: KDOR, which routinely uses money from specialized sources of revenue to administer the law, could expect greater resources which it could use to improve compliance and to ensure the accuracy of the numbers reported to it.

TESTIMONY

by  
Bill Penny  
Penny's Concrete & Penny's Sand Company

Before the

SENATE ENERGY AND RESOURCES COMMITTEE

Regarding HB #2663 - Sand Royalties  
March 5, 1996

Good morning Mister Chairman and members of the committee. Thank you for the opportunity to come before you today with our comments on House Bill #2663 concerning a proposed increase on sand royalties. My name is Bill Penny and I am the president of Penny's Concrete and owner of Penny's Sand Company. Penny's Concrete is a Shawnee Mission based firm which manufactures and distributes concrete products throughout the Johnson and Wyandotte county area. Penny's Concrete relies totally on Kansas River sand processed by Kaw Sand Company as a source of base aggregate for our products. Consequently, passage of HB2663 as drafted will have a tremendous effect on our ability to provide our customers and consumers in the Johnson and Wyandotte county areas with a high quality/low cost product.

While we believe the State is entitled to receive fair compensation for sand and gravel products taken from the Kansas River, the increase of the royalty creates an even greater competitive disadvantage for businesses relying totally on Kansas River sand when compared to businesses able to use Missouri River sand on which no royalty is levied by the State of Missouri. By increasing the royalty from \$.08 per ton to \$.15 per ton (an 88% increase), the effect of this bill will be to pass a construction tax in Johnson and Wyandotte counties while increasing a competitive advantage for concrete producers utilizing Missouri River sand. We believe the economic viability of Kansas based companies providing employment in Kansas should be given due consideration by this committee. Especially as it appears the amount of revenue available from the Kansas river will be limited in years to come.

should you decide an increase in the royalty is appropriate we would then ask you to consider a phase in of this tax in the following manner:

FY 1997	\$.02 increase to	\$.10
FY 1998	\$.02 increase to	\$.12
FY 1999	\$.02 increase to	\$.14
FY 2000	\$.02 increase to	\$.15

If an increase in the royalty is needed, the adoption of a graduated scale would minimize the shock to our markets. Also, a

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graduated scale would allow us to honor our current quotes on future material supply contracts to our customers.

Turning to another subject, we would encourage the committee to carefully review the source of the sand revenues and insure they are spent in a consistent manner. Traditionally, the Sand Royalty act has dedicated the application of funds to river improvement projects however in recent years this traditional approach has been undermined.

Finally, we would also encourage this committee to carefully consider the manner and amount in which these funds are distributed to the drainage districts. In recent years and in HB2663 it appears their share is being diminished. Once again, as this money is used by the districts to enhance flood and channel control in the river, we think their opportunities to receive increased revenues for these purposes should not be impaired.

Thank you for your time and attention today.





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

WRITTEN TESTIMONY PROVIDED TO THE  
SENATE ENERGY AND NATURAL RESOURCES COMMITTEE  
Regarding H.B. 2663  
Eliminating the Public Entity Royalty Exemption  
on River Sand

March 5, 1996

Mr. Chairman and Committee Members:

The Kansas Department of Transportation interprets the provisions of H.B. 2663, as it affects sand production, to be limited to sand produced directly from a river. As such, we believe that only sand produced from the Kansas and Missouri Rivers in Northeast Kansas will be affected. Since only a small portion of the sand purchased by the Kansas Department of Transportation is believed to be affected, the fiscal impact of H.B. 2663 on the Department is considered to be minimal. If, however, future actions should extend these increases to all locations where sand is produced, the fiscal impact could be much more significant for the Kansas Department of Transportation.

The Kansas Department of Transportation contracts for the purchase of hot mixed asphalt and concrete products that contain

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Attachment 4

river sand. The Department also purchases a minor amount of river sand for use as snow and ice control aggregates and as maintenance repair aggregates.

Figures provided by the Kansas Aggregate Producers Association were used to assess the fiscal impact of H.B. 2663 on the Kansas Department of Transportation. Total production of river sand is estimated to be 2.25 million tons. About seventy percent of that production is provided for public use. About half of that seventy percent is used by the Kansas Department of Transportation. These estimates yield an increase in annual costs of \$ 118,125 for the Department.

( 2,250,000 tons X 0.7 X 0.5 X \$0.15 per ton)