

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND TOURISM

The meeting was called to order by Chairman Ben Vidricksen at 9:05 a.m. on February 24, 1997 in Room 313-S - The Old Supreme Court Room of the Capitol.

All members were present except:

Committee staff present: Hank Avila, Legislative Research Department
Emalene Correll, Legislative Research Department
Bruce Kinzie, Revisor of Statutes
Marian Holeman, Committee Secretary

Conferees appearing before the committee: Ed Alvis
Janice Hodgson
Gene Ramsey
Vicki Cummiskey
Bob Bregant
Dale Crawford
Katherine Dietirich
Dan Fogle
Charles Scoville
Tom Morgan
Orville J. Cole
William G. Toumberlin
Senator Robert Tyson

Others attending: See attached list

SB 278 DESIGNATING PRAIRIE SPIRIT RAIL TRAIL AS PART OF STATE PARK SYSTEM
SB 293 CONCERNING RAIL TRAIL MORATORIUM ON PHASE II

Ed Alvis, Park Superintendent, Department of Wildlife and Parks presented Secretary Williams arguments in support of **SB 278** and in opposition to **SB 293** (Attachment 1).

Janice L. Hodgson, Mayor, City of Garnett, advised that the Governing Body of her city unanimously supports completion of Phase II and inclusion of the Prairie Spirit Rail Trail in the state park system (Attachment 2). Ottawa Mayor Gene Ramsey and Ottawa Mayor Pro Tem Vicki Cummiskey both spoke in opposition to the one year moratorium in **SB 293** and added their support for **SB 278** (Attachments 3 and 4). Bob Bregant, President, Ottawa Area Chamber of Commerce, Board of Directors told of the positive economic development impact and increased tourism activities as a result of the rail trail and urged support of **SB 278** and opposition to **SB 293** (Attachment 5). Dale V. Crawford, President, Johnson County Bicycle Club added his groups support for passage of **SB 278** and opposition to **SB 293**. Mr. Crawford submitted a petition of 449 signatures in support of the Rail Trail and advised that the club has also contributed financial support in good faith to Ottawa for their funding match with the understanding the State would fulfill its intent to construct the trail (Attachment 6).

The next three conferees to appear in support of these bills are all adjacent landowners. Katherine M. Dieterich, Princeton, KS (Attachment 7); Dan Fogle, Jr., Ottawa, KS (Attachment 8). Charles Scoville, Ottawa and Osage County farm, both adjacent to the trail. The farm has been in his family for five generations and he ardently supports completion of the Rail Trail as scheduled and adding it to the state park system (no written testimony). Time available for proponents did not permit testimony by Joyce Martin, Garnett Friends group; Ruth Carey, Ottawa Friends Group; Cynthia Abbott, Kansas Audubon Council; Jean Barbee, TIAK; Fred DeVictor, Director of Parks and Recreation, City of Lawrence; William R. Maasen, Johnson County Park and Recreation District; and Dr. Charles Benjamin, Kansas Chapter of Sierra Club. All provided written testimony in favor of **SB 278** and in opposition to **SB 293** (Attachment 9). In addition numerous letters and e-mail messages containing the same message have been received (Attachment 10).

The following testimony was presented in opposition to the subject bills:

Tom Morgan, Morgan Research Group, Ltd., Garnett, KS who presented five points dispelling the economic myths of the Prairie Spirit Rail Trail (Attachment 11). Orville J. Cole, Attorney-at-Law, Garnett, KS, addressed the issue of railroad right-of-way ownership and requested delay until it is settled (Attachment 12). William G. Toumberlin, Princeton, KS, adjacent land owner spoke in opposition to the taking of farmland for recreation and included petitions with his testimony (Attachment 13).

Senator Robert Tyson advised that Representative Stanley Dreher who was scheduled to testify in opposition had a scheduling conflict which prevented his appearance before the committee in support of Senator Tyson's arguments. Senator Tyson recommend that, because of new developments in the court system and in congress, a moratorium is needed to permit time to address fundamental property rights. He further suggested development of a task force to work out the dilemma. Senator Tyson briefly touched on problems with the Landon Rail Trail in Topeka and indicated there were those present who wished to talk to the committee about it, but obviously would not have time to do so. He included abstracts and additional supporting materials with his written testimony (Attachment 14).

The Chair apologized, as time did not permit the following individual land owners to testify: Dale Anderson, Beth Sobba, and William A. Manners all of whom provided written testimony (Attachment 15) as well as Clyde Boots, Vince & Joan Hrenchir, Bob Haselwood, John Love and Gayle Warren.

The meeting adjourned at 10:15 a.m.

The next meeting is scheduled for February 25, 1997 in the regular committee meeting room.

SENATE TRANSPORTATION AND TOURISM
COMMITTEE GUEST LIST

DATE: FEBRUARY 24, 1997

NAME	REPRESENTING
W. A. MAWERS	SELF
Marvin Sobba	self + friends
Beth Sobba	self + friends ^{approx.} 2500
Linda W	Morgan Research Group
Thomas H. Morgan	Morgan Research Group
Glynn Cole	Landowner along Trail
Orville J. Cole	Landowner opposing trail
Lakane K. Cole	Landowner opposing trail
Jean (Mannery) Nesbitt	" " "
Antone Scheckel	Landowner " "
William A. Loumbardi	Permitton opposing trail
George A. Trombini	Self " "
Randall McDowell	Landowner Landowner
Jeff Hedges	Hedges Grain LLC
Jack Hubbin	Landowner opposing trail
Richard Suteland	Self + friends
Nathan Clark	Self
Lisa Meyer	KS Gov. Consulting
Al E. Anderson	Landowner Farmers Against Land Confiscation



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



TO: Senator Ben Vidricksen, 24th District

FROM: Steven A. Williams, ^{SW} Secretary of Wildlife and Parks

SUBJECT: Testimony on SB 293

DATE: February 24, 1997

Senate Bill No. 293 would halt development of phase II of the Prairie Spirit Rail Trail until April, 1998.

The Kansas Legislature passed a joint resolution in 1991 in support of trails in general and preserving historic rail corridors in particular. Subsequently, in 1992, the Department railbanked the 50.2 mile long right-of-way which is now known as the Prairie Spirit Rail Trail. Phase I was completed and opened to the public on March 30, 1996. A meeting was held in Ottawa on February 1, 1997 to receive public input on development of Phase II. The public and local communities along the trail now fully expect Phase II to be completed and opened this fall.

We understand opponents of the Prairie Spirit Trail have raised legal concerns about land ownership along and adjacent to the railbanked corridor. We have prepared a legal analysis that has been transmitted to Senator Tyson. This analysis indicates that the state has no legal obligation regarding claims of reversionary rights by adjacent landowners. This decision is affirmed by the U.S. Supreme Court. The KDWP has a deed to the property which was filed in each county in May, 1992. Also, HB 2711 was passed during last year's session, specifically to address landowner concerns.

Senate Bill No. 293 could cause the loss of \$107,729 already allocated to design work on Phase II, add to maintenance cost out of the SGF, delay the opportunity to capitalize on the promotional opportunities afforded state parks, and delay the realization of promised economic benefits to communities along the trail. Nearby state park staff and equipment could not be shared to assist with routine maintenance and special projects.

Design work is approximately 75% complete. Projected visitation for calendar 1998 would be reduced from 115,930 to 45,580. Projected trail pass sales for calendar 1998 would be reduced from \$22,470 to \$8,747.

The bill would stop the forward momentum of the project. Design fees could not be matched, and all of the \$808,000 ISTEPA grant funds could be lost if Phase II is not eventually developed. In addition, more than \$15,000 in private donations have been received for the development of Phase II, along with additional donations of materials and services. Delay could place these donations in jeopardy.

SENATE TRANSPORTATION & TOURISM
2/24/97
ATTACHMENT 1



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



TO: Senator Ben Vidricksen, 24th District

FROM: Steven A. Williams, ^{SAW} Secretary of Wildlife and Parks

SUBJECT: Testimony on SB 278

DATE: February 24, 1997

*OPPOSE
SB 278
SB 294*

Senate Bill No. 278 would amend K.S.A. 32-837 to include Prairie Spirit Rail Trail as part of the state park system, and repeal the existing section.

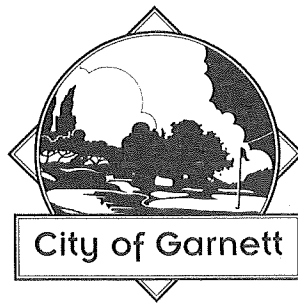
By including the Prairie Spirit Rail Trail within the park system, the trail may be supported out of the Park Fee Fund. This would minimize maintenance costs paid from the State General Fund, and allow nearby state park staff and equipment to be used for maintenance and special projects.

In addition Senate Bill No. 278 would enhance the opportunity for the trail to be a regionally popular attraction and would result in immediate economic benefits to local communities along the trail.

The Kansas Legislature passed a joint resolution in 1991 in support of trails in general and preserving historic rail corridors in particular. Subsequently, in 1992, the Department railbanked the 50.2 mile long right-of-way which is now known as the Prairie Spirit Rail Trail. Phase I was completed and opened to the public on March 30, 1996.

We understand opponents of the Prairie Spirit Trail have raised legal concerns about land ownership along and adjacent to the railbanked corridor. We have prepared a legal analysis that has been transmitted to Senator Tyson. This analysis indicates that the state has no legal obligation regarding claims of reversionary rights by adjacent landowners. This decision is affirmed by the U.S. Supreme Court. The KDWP has a deed to the property which was filed in each county in May, 1992. Also, HB 2711 was passed during last year's session, specifically to address landowner concerns. The right-of-way was inspected by KDHE for any environmental concerns before the KDWP accepted the donation of the trail.

Senate Bill No. 278 would help to ensure the future success of the Prairie Spirit Rail Trail, and would stimulate economic development activity along the trail corridor.



The Prairie Spirit Rail Trail between Richmond and Welda, with Garnett as the central point, is now completed and is providing visible economic development and tourism results for the City of Garnett. Users are experiencing a safe place to walk, ride and bike as they enjoy all that nature has to offer.

Lighting and landscaping of the trail within the City limits of Garnett has been completed. The Santa Fe Depot has been renovated and serves as a tourism/information center. These projects have brought our community together, allowing people to get involved in something new and exciting. We are also seeing joint partnerships grow between the City, State, School District and private industry as well. These partnerships save each entity money as we share facilities, equipment and manpower.

New businesses are locating in the downtown area, mainly because of their proximity to the trail. THIS IS ONLY THE BEGINNING!

The attached sheet entitled "If There was no Prairie Spirit this Wouldn't Have Been" lists 19 various activities that have been done because of the trail. I am also attaching a copy of trail visitation information as well as a copy of our most recent PRAIRIE SPIRIT EXPRESS Newsletter.

I have not received any negative comments from trail users, city residents or adjacent landowners concerning the trail operation. The Governing Body of the City of Garnett unanimously supports the completion of Phase II and encourages this committee to reject the two (2) bills proposed by Senator Tyson to place a one (1) year moratorium on construction of Phase II and a three (3) year moratorium on naming the Prairie Spirit Trail a state park.

This is the first major tourism project for this area in the State of Kansas. This is a project started by the State Department of Wildlife and Parks and the Kansas Department of Transportation. It needs to be seen to the end. Phase II has been approved and funded and it is very important that it be completed. We are a rural area doing everything we can to survive. Our particular area does not attract major industry. But the trail is attracting visitors from all over the State of Kansas and some neighboring states. They bring only good comments and "captured dollars".

I appreciate the time that you have given me to hear my comments. We invite you to visit our area and enjoy Kansas' first rail trail.

Janice L. Hodason

Janice L. Hodason, Mayor

SENATE TRANSPORTATION & TOURISM
2/24/97



If There Was No Prairie Spirit... This Wouldn't Have Been

- **63 members of Volkswalkers, a national walking club wouldn't have visited Anderson County on April 21, 1996.**
- **No one would have given out information on Anderson County at Square Fair, nor greeted the many runners who attended Lions Club 5K & 10K Run on May 11, 1996.**
- **Boy Scout Troops from Topeka, Prairie Village and Edwardsville, bringing more than 75 people, would not have ventured to Anderson County on May 17 & 18, 1996.**
- **Joint advertising by local businesses on ESPN and TNN, which aired outside Anderson County, promoting tourism wouldn't have happened. A special, "thanks" again to Burns Pharmacy, Emporium on the Square, Goodies Antiques, Old American Inn and TCI of Kansas, Inc.**
- **155 senior citizens and physically challenged persons would have missed the scenic tour of the trail by the golf cart caravan which was provided by the Harris family.**
- **80 people wouldn't have visited Anderson County on June 30th for the bike tour sponsored by the Ottawa Friends of the Prairie Spirit Trail.**
- **The 125 people who enjoyed a barbecue at the Santa Fe depot and a poker walk of downtown Garnett as part of the First Kansas Trails Conference wouldn't have come to Garnett on September 6, 1996.**

- **115-120 ghosts and goblins would have missed out on the fun and treats Halloween night at the Santa Fe depot.**
- **The City of Lights ceremony in Garnett on December 7, which featured luminaries on the Prairie Spirit Trail between the Anderson County Courthouse and the newly renovated Santa Fe Depot wouldn't have happened. More than 200 visitors toured the historic courthouse and walked the trail to see the depot. The event was sponsored by the Friends of the Prairie Spirit Rail Trail. The theme of the evening parade of lighted floats was, "A Prairie Spirit Christmas".**
- **What would the fate of the Santa Fe Depot in Garnett be? The depot opened in May and serves as a rest stop and picnic area for trail users, and is a tourist information center.**
- **Would there be an Anderson County Afghan? The afghan depicts historical places of interest in Anderson County. The Anderson County afghan is a project sponsored by the Friends of the Prairie Spirit Rail Trail with proceeds to fund trail projects. Over 200 have been sold.**
- **Retired Santa Fe engineer, Norman McCleary wouldn't be sharing his memories, historical information and memorabilia about life on the Santa Fe railroad at a special event sponsored by the Friends of the Prairie Spirit Rail Trail to be held on March 12, 1997 at the Anderson County Jr.-Sr. High School (7:00 p.m.).**
- **There wouldn't be a need for March for Parks, to be held April 18-22, 1997 in which daily activities will promote the assets of the Prairie Spirit Rail Trail and the city parks within the communities along the trail.**
- **Garnett, Kansas wouldn't have been nominated as a "Trail Town U.S.A."!**
- **Mid-Continent Council of Girls Scouts who will host a 4-day camp at Lake Garnett on June 12-15 with activities centered around the**

Prairie Spirit Trail wouldn't be happening. Eight scout leaders are currently organizing the camp which will bring 200-250 Girl Scouts to the area.

- **Free State Walkers, a national organization wouldn't be bringing an estimated 200 walkers for a special trail event on October 11, 1997.**
- **The 10 bluebird houses that were donated to the trail wouldn't be there. 10 more are scheduled along with volunteers to do nesting habit studies and report their information to Kansas Wildlife & Parks.**
- **The Prairie Spirit Express, a monthly newsletter about the Prairie Spirit Rail Trail wouldn't exist, which is currently sent to 170 people.**
- **The more than 22,000 visits to the Prairie Spirit Trail by trail users during the 1996 summer months would not have happened...**

BUT THEY DID!

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2:8

Visitation

Trail visitation is estimated monthly from visitor use information obtained from permit sales, information from trail users surveyed, and percentage of permit compliance obtained through trail permit checks and trail patron contacts.

Trail permit sales and visitation are different due to the free use of the trail within the city limits of Garnett by anyone and by those who are under 16 years of age not needing a permit for trail use at any location.

1996 Trail Use By Month

January	Unknown	May	2,200	September	3,830
February	Unknown	June	3,000	October	3,770
March	1,200	July	3,200	November	1,893
April	1,800	August	4,741	December	2,071
Total 1996 visitation				27,705	

Trail Demographics

A trail use fee policy was implemented in September of 1996, information gained is from September through December Sales. Self-pay permits are sold at the Richmond, Garnett, and Welda trailheads. Annual permits are sold in Garnett at the Chamber of Commerce office and at Garnett City Hall.

The following information is provided to address the two most asked questions about trail use and visitor information.

Question: Where do most trail users access the trail ?

Daily Permits sold at self-pay stations:

Garnett	78%
Richmond	13%
Welda	9%

Question: What percentage of trail users come from out of town?

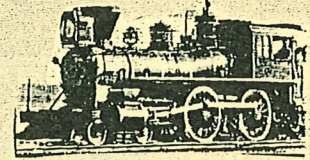
Permit Sold	Annual	Self-Pay
Anderson county residents	87%	4%
Other counties in Kansas	12%	90%
Out of state	1%	6%

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Prairie Spirit Express



TRAIL TALK - FEB. HAPPENINGS

Presentation on Phase II February 1 in Ottawa

The Kansas Department of Wildlife and Parks will be hosting an open house on Saturday, February 1, from 10:00 a.m. - 2:00 p.m. at the Municipal Auditorium, Third and Hickory Street, Ottawa. During the open house formal presentations will be held from 11:00 a.m. - noon and 1:00 - 2:00 p.m. Plans will be unveiled by the architects on the development of the second phase of the Prairie Spirit trail from Ottawa to Richmond.

The public is invited to attend these sessions. Information about planned facilities and unique features of the trail will be discussed. The expansion of the trail to Ottawa will lengthen the Prairie Spirit from its current 18 miles to 34 miles.

All Friends of the Prairie Spirit Rail Trail are encourage to show support by attending this very

important and educational meeting.

Welda Prairie Preserve Featured At Next Friends Meeting

Fred Fox of the Nature Conservancy will be the guest speaker at the February 12th Friends of the Prairie Spirit Rail Trail meeting. Mr. Fox will be sharing information on Mead's Milkweed, a federally endangered species. The Welda Prairie Preserve is one of the last known areas in Kansas where the Mead's Milkweed still thrives. The preserve located at Welda, Kansas is not far from the Prairie Spirit trail.

The regularly scheduled Friends meeting will be held at Town Hall Center, 125 West Fifth Avenue, Garnett, beginning at 7:00 p.m.

MS Walk-A-Thon Scheduled for April 12

A six-mile walk-a-thon to benefit the Multiple Sclerosis Foundation has been scheduled for Saturday, April 12. The course will includes walking through downtown Garnett, the North Lake Park and the Prairie Spirit trail.

Organizers of the event are Jack and Patti Rundle of Garnett.

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25



The Perfect Gift for Your Valentine...

Look no further, the Friends of the Prairie Spirit Rail Trail have the perfect gift suggestions for your special valentine.

Tell her you love her by giving her the Anderson County afghan! She can wrap up in this thick woven blanket which depicts historical landmarks in Anderson County. The Rose/Williamsburg blue/Natural (pastels) would be an excellent choice for this Valentine's Day. The afghan is available also in Hunter Green/Cranberry/Natural. The Anderson County afghan can be purchased at Garnett City Hall at a price of \$40.

Prairie Spirit T-shirts, sweatshirts and patches make great gifts as well.

T-shirt prices are:

Youth & Small: \$10 (Natural only)
 M-L-XL: \$12 (All colors)
 XXL: \$15 (All colors)

Sweatshirts:

M-L-XL: \$21 (All colors)
 XXL: \$23 (All colors)

Patches: \$5

T-shirts, sweatshirts and patches can be purchased at **Garnett City Hall, Garnett Area Chamber of Commerce, Burns Pharmacy, Old American Inn, Cornerstone Antiques and Emporium on the Square.** Proceeds from the sales of the afghans, shirts and patches help fund trail beautification projects.

To shop by mail, please send your name, address and description of items wanted (afghan colors, shirt size & colors, etc.) and check or money order to:

Friends of the Prairie Spirit Rail Trail
 P. O. Box 71
 Garnett, Kansas 66032-0071

Please include \$4 extra for each afghan, \$2.00 for each shirt ordered for postage.

Don't forget trail passes!! Annual trail permits can be purchased at the Garnett Area Chamber of Commerce office or at Garnett City Hall. An annual permit can be purchased as a gift, however, the social security number of the permit holder is required at the time of permit purchase.

The cost of the annual permit, which is valid through December 31, 1997, is \$10.50.

Daily passes are available at the trailheads in Richmond, Welda and Garnett for \$2.50.

A pass is required unless: (a) you are under the age of 16, or (b) you are using the portion of the trail inside the city limits of Garnett.

If you recently enjoyed a visit to the Prairie Spirit Trail, we would love to hear from you. Please write the Friends at:

Friends of the Prairie Spirit Rail Trail
 P. O. Box 71
 Garnett, Kansas 66032-0071

If you would allow us to print your letter in the local newspaper, please include writing a statement of consent with your letter. Thanks!

Economic Impact Study Underway

Don Erickson of the Kansas State University Economic Department and Cindy

[Handwritten signatures and scribbles]

Pauls, also of KSU who is working on her master's degree in economics, are currently conducting an economic impact study on the area surrounding the Prairie Spirit trail. Results from their study will be published in a future newsletter.

Trail Happenings

- February** 1 - Presentation of Phase II
11:00 a.m. - 2:00 p.m.,
Ottawa Municipal
Auditorium, Third &
Hickory
- 5 - Ottawa Chapter Friends
of the Prairie Spirit Rail
Trail, 7:00 p.m., Ottawa
Chamber of Commerce
office, 109 East 2nd
- 12 - Friends meeting, 7:00
p.m., Town Hall Center,
125 W. 5th, Garnett;
Guest speaker- Fred Fox,
Nature Conservancy
- March** 12 - "Life on the Santa Fe",
Guest speakers Norman
& Lorene McCleary,
Friends meeting, 7:00
p.m., ACJSHS auditorium
- March** 30 - Happy 1st Anniversary
Prairie Spirit Trail!



Let Us Recognize A Job Well Done

The **Mid-Continent Council of Girl Scouts** are planning a 4-day camp at the North Lake Park in Garnett with the majority of activities to be focused on the Prairie Spirit trail. Eight scout leaders met with

Trent McCown, trail manager, and **Joyce Martin**, president of the Friends, to organize the event to be held June 12-15, 1997.

Trent and other Kansas Wildlife and Parks personnel will be teaching classes on conservation and wildlife observation to the scouts.

A copy of a letter of support from **Senator Dick Bond** was given to the Friends group after **George Clasen** wrote to Mr. Bond asking for his endorsement on the trail.

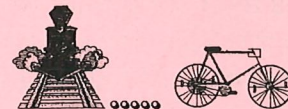
Applause is in order to everyone who has written letters to their congressmen, public officials and media in support of the trail. Keep those letters coming!!



*Become A Member Of The
Friends Today!*

Becoming a member of the Friends of the Prairie Spirit Rail Trail includes receiving this monthly newsletter for only \$5 a year. To join, send your name, address and \$5 to:

Friends of the Prairie Spirit Rail Trail
P O Box 71
Garnett, Kansas 66032-0071



TRAIL TALK WITH TRENT...

I would like to encourage everyone involved with the Prairie Spirit Trail to stop by the Ottawa Municipal Auditorium at Third and Hickory on February 1, 1997, between the hours of 10 a.m. and 2 p.m. Phase II information of the Prairie Spirit

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Trail will be presented by HNTB, the architects for Phase II, at 11 a.m. and 1 p.m. Not only will this be a good opportunity for receiving up-to-date information and purchasing a 1997 trail pass, your presence will help show trail support.

Numerous trail supporters have asked about the Prairie Spirit and state park status. Even though the trail is operated by the State, it has **not** yet been designated as a state park at this time. The Kansas Department of Wildlife and Parks will be proposing that the Prairie Spirit be designated a state park during the 1997 legislative session and everyone is encouraged to take part and let your representatives know your opinion. With the number of letters that have been generated by the two vocal trail opponents in the past, as the Prairie Spirit steps into the spotlight you know they will be keeping busy. If you support the trail but are not sure how to get involved, the Friends group has advised me that they would be happy to help point you in the right direction.

Unfortunately, some people only know what they read in the newspapers. The people who have seen the trail or used it know that it's a good idea, but there are a lot of people out there who still judge the trail by what they read.

Status as a state park would be very beneficial to the trail. It would allow the trail to operate out of funds raised through the sale of state park permits, commonly referred to as "Park Fee Funds", and allow an easier exchange of equipment and personnel from other state parks for projects. State park status would save the State money by eliminating the separate accounting procedures which currently must be undertaken for a state-operated trail which is not included in the state park

system. If the trail is listed as a state park, it would be included on numerous maps and in numerous publications and more people would find out about the benefits this area has to offer.

Sincerely,

Trent McCown
Manager, Prairie Spirit Trail

Did You Know...

10 more bluebird houses are to be built and placed along the trail by members of the Friends. Don't forget to look for them...

The next Ottawa Chapter of the Friends of the Prairie Spirit Rail Trail will be held on February 5th, 7:00 p.m., at the Ottawa Chamber of Commerce. If you live in Lawrence, K.C., Topeka, Garnett, etc., make a point to attend this meeting and show your support for the trail. The Friends in Ottawa would appreciate it...

If you are a train enthusiast, or just like to talk about "the good 'ole days", you won't want to miss the March 12th Friends meeting at the Anderson County Jr.-Sr. High School auditorium, beginning at 7:00 p.m. Retired Santa Fe engineer Norman McCleary and his wife will have train memorabilia on display, a quilt depicting Norman's travels by train, and an open question & answer discussion will be held...

Trail Manager Trent McCown and Economic Development Director Stacy Geringer are working on an official Prairie Spirit Trail brochure. A state matching grant in the amount of \$1,000 has been awarded for marketing

purposes. A.C.E.D. and the City of Garnett will be matching the award, thus providing a total of \$2,000 for the production of the brochure...

Now you can dial up current Prairie Spirit Trail information on the internet at **Prairiespirit@kanza.net**. Tell all your friends to "Surf for the trail"!

If you've read **TRAIL TALK WITH TRENT**, you know legislators will soon be discussing whether to make the Prairie Spirit a state park. Please take a minute and write your state senator and state representative, and ask that they approve legislation to make the trail a state park.

If you have addresses of cycling clubs or walking clubs that should be receiving this newsletter, please contact Joyce Martin, or send info. to:

**Friends of the Prairie Spirit Rail Trail
P. O. Box 71
Garnett, Kansas 66021-0071**

Win Taking Pictures Of The Trail!

Next time you head out for the trail, don't forget to bring your camera. The Rails-to-Trails Conservancy is giving away \$200 for first prize, \$150 for second and \$100 for third prize in its 8th annual photo contest.

Photos and slides entered in the contest must depict a rail-trail, a potential rail-trail or a view from a rail-trail. Entries will be judged based on photo quality, composition, artistry and message.

You may enter up to 5 black and white pictures (4 x 6 or larger) and up to 5 color slides. Color prints will not be accepted and all entries must be post-

marked by **June 1, 1997**. To enter, include the name, address and phone number of the photographer and the name of the trail. The Rails-to-Trails Conservancy retains all photos submitted and acquires the rights to use any or all photos submitted for educational or promotional purposes.

Send you entry to:

**Rails-to-Trails Conservancy
Attn.: Photo Contest
1400 16th Street, NW, Suite 300
Washington, D.C. 20036**

Kids Can Win A !

The Rails-to-Trails Conservancy is also holding a poster contest for children 12 years old or younger. Drawings of bikes, trails or trains must be submitted to RTC by **March 1, 1997** for a chance to win a girl's or boy's model 24-inch Roadmaster Trailblazer bike. Two winners will be contacted by April 1, 1997.

Entries must include the name and age of the artist, and specify which bike is preferred.

Send entries to:

**Rails-to-Trails Conservancy
Attn.: Poster Contest
1400 16th Street, NW, Suite 300
Washington, DC 20036**



"I see a great adventure in store for you on the *Prairie Spirit Trail...*"

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Garnett, KS 66032-0071

P.O. Box 71

Spirit

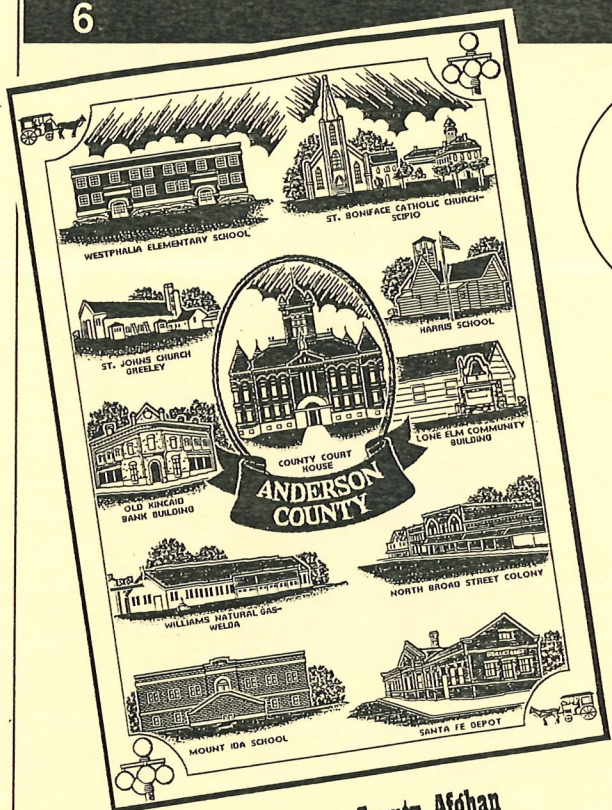
Prairie Rail-Trail

Friends of the

Prairie

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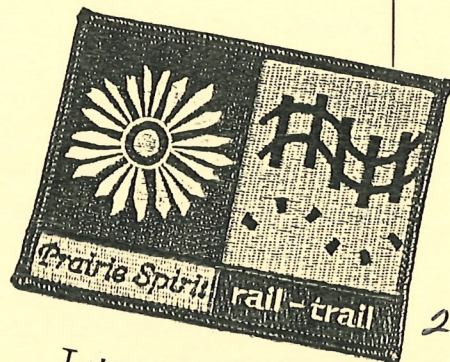
Prairie Spirit Express



Anderson County Afghan



T-shirt Logo



T-shirt & Patch Logo

2-11
~~2-7~~
~~2-10~~

See details inside on how to order...

**REMARKS BY MAYOR GENE RAMSEY
TO THE SENATE TRANSPORTATION AND TOURISM COMMITTEE
REGARDING SENATE BILL 293**

February 24, 1997

Chairman Vidricksen and members of the Committee, my name is Gene Ramsey and I am the Mayor of Ottawa and I am speaking to you today on behalf of the City Commission in opposition to Senate Bill 293 which would impose a one year moratorium on the construction of the Prairie Spirit Rail Trail segment from Ottawa to the existing northern trailhead between Ottawa and Garnett - a project the citizens of Ottawa have been eagerly awaiting since its inception.

As you may be aware, the City of Ottawa is a financial partner with the State in the development of the Prairie Spirit Trail in that the City has committed approximately \$40,000 in local funds to upgrade the surface of the trail within the City limits.

The City has also committed an additional \$100,000 in City monies to totally reconstruct and expand an existing bike and hike trail in an abutting 30 acre City park as well as expanded amenities to the trail itself such as decorative lighting, parking, signage and other typical park improvements. The City is also considering further enhancements in a 6 block area of the trail where the original trailbed has been replaced by a paved street.

In closing, the City of Ottawa does not see any valid reason for the second phase of the Prairie Spirit Trail in Ottawa to be delayed at this point in time and would request your vote to be against Senate Bill 293. Thank you for your consideration of our position.

**REMARKS BY MAYOR PRO TEM VICKI CUMMISKEY
TO THE SENATE TRANSPORTATION AND TOURISM COMMITTEE
REGARDING SENATE BILL 293**

February 24, 1997

Chairman Vidricksen and members of the Transportation and Tourism Committee, my name is Vicki Cummiskey and I am the Mayor pro tem of Ottawa. I am speaking to you today on behalf of the City Commission in opposition to Senate Bill 293, which would impose a one year moratorium on the construction of the Prairie Spirit Rail Trail segment from Richmond to Ottawa.

The City of Ottawa is in the midst of an unprecedented growth period in which demands for infrastructure requirements and quality of life amenities are at an all time high. The Prairie Spirit Rail Trail in Ottawa represents one part of a multi-faceted effort by the City Commission to upgrade and expand the City's recreational opportunities for residents and visitors alike. In particular we are targeting expanded activities for our youth.

Given the fact that Ottawa is the northern trailhead, coupled with the City's location on I-35 and proximity to Topeka, Kansas City and Lawrence, significant potential for future economic development in a variety of tourism related areas clearly exists.

To be perfectly honest with you, I am somewhat surprised that we are here before you today due to the fact that legislation addressing the concerns of the abutting property owners of the Prairie Spirit Trail was passed last year. As a result of this legislation, the project moved forward and is scheduled to be completely designed by the end of March with bids to be let shortly thereafter.

The City also has been actively involved with the project engineers in the design phase for that portion of the trail within the City of Ottawa. We believe this project to be on track for this year, and, on behalf of the City Commission of Ottawa, we urge your negative vote on Senate Bill 293.

Thank you.

SENATE TRANSPORTATION & TOURISM
2/24/97
ATTACHMENT 4

4-1

Testimony Before the Senate Transportation & Tourism Committee
Testimony in Opposition to Senate Bill 293

Robert Bregant, President of the Ottawa Area Chamber of Commerce, Board of Directors

Mr. Chairman and members of the committee, good morning. My name is Robert Bregant. I am appearing this morning on behalf of the Ottawa Area Chamber of Commerce.

We have seen the impact Phase I of the Prairie Spirit Rail-Trail has had on businesses and the downtown area in Garnett. They have seen the addition of a new upscale restaurant, renovation and new ownership of a local motel, plus the opening of a Bed & Breakfast.

Our downtown area has also gone through some recent changes. Our Hallmark store moved to a new strip mall on the south end of town, near the interstate, leaving a vacant building. Other businesses are eyeing the opportunity to move to a second proposed strip mall on the south end of town. At the same time several new businesses have started in our historic downtown area, a Mexican Restaurant is moving into a downtown building right now; Internet Solutions and a new pet store have moved into the two building spaces vacated by Hallmark; Pizza Time has moved from its location on the south end of Ottawa to a storefront in the downtown area. We would like to continue to see this type of growth in our downtown area and we feel the Prairie Spirit would provide an economic boost to our businesses.

The Prairie Spirit Rail-Trail would run within one block of the downtown area and would intersect with the Flint Hills Nature Trail, being developed by the Kansas Horseman Foundation. The trail would provide a link to our community and visitors to the trail would have easy access to our downtown businesses and the historic shopping area.

Rail-trails have proven to be wonderful drawing cards for tourists and recreation enthusiasts. It is important to our new tourism program. The Franklin County Historical Society has received a grant and will begin renovating the Old Depot Museum, this summer. They will become the trail head for the Prairie Spirit.

Rocheport, Missouri, a community of about 270 people, along the Katy Trail, was headed for tough economic times before the trail was developed. In one case an unemployed couple turned their soda stand into a restaurant/bike repair and rental store. Rocheport had struggled for years to raise money for street repairs and maintenance. A year after implementing a 1.5 cent sales tax they had \$22,000 in their coffers for street repairs. Rocheport now has several antique stores, a large bed and breakfast and several restaurants.

Wildlife & Parks has estimated there could be 135,000 users per year on the Prairie Spirit or an average of 370 per day. Even if Ottawa could draw less than a third of those people the impact would be significant. According to a marketing survey published by the Institute for Public Policy and Business Research at the University of Kansas, in 1990, one-hundred new tourists per day could generate \$1,120,000 in retail sales and help support seven more retail outlets.

SENATE TRANSPORTATION & TOURISM
2/24/97
ATTACHMENT 5

5-1

It is with this in mind, on behalf of the Ottawa Chamber of Commerce, I offer these words of opposition to Senate Bill 293 and any consideration to place a moratorium on construction of the second phase of the Prairie Spirit Rail-Trail.

February 24, 1997

Senate Transportation & Tourism Committee
State Capitol
Topeka, KS 66612

Regarding: Senate Bill 278, Designating the Prairie Spirit Rail Trail as a state park.

On behalf of the Johnson County, Kaw Valley (Topeka), Lawrence, Leavenworth, and OZ (Wichita) Bicycle Clubs, thank you for the opportunity to appear before this Committee in support of Senate Bill 278. As president of the Johnson County Bicycle Club, I have been asked to speak on behalf of the approximately 1,000 members of these five Kansas bicycle clubs.

The public demand for accessible trails, such as rail-trails, is evidenced by their continued use throughout the country in urban and rural areas, alike. Several years ago the Wildlife and Parks Department began the Prairie Spirit Rail Trail to respond to that demand and to provide a greater diversity of recreational opportunity for Kansans and its tourists. I submit an excerpt from the Rails-to-Trails Conservancy's, "Sampler of America's Rail-Trails", illustrating 40 rail-trails in Iowa, to demonstrate what other regional states have accomplished.

Our combined memberships support the state park designation, as we are representative of the Kansas tourists that will be attracted to this facility. By its state park designation, it will receive greater visibility in magazines, maps and other tourism related literature from around the country, thus attracting more out of state tourists. This increased exposure will provide greater revenues for the state park system through user fees and, more importantly, greater economic development for the surrounding region. As one of the primary user groups of the Prairie Spirit Rail Trail, we want our user fees kept within the state park system, just as hunter's fees promote game management and camper's and boater's fees support their facilities in the state parks.

In 1993, the state park system was devastated by the floods of that year due to the fact that the vast majority of the system was located on flood control reservoirs. As such, recreational

opportunities within Kansas were severely restricted for several years as repairs had to be phased due to budgetary constraints. The Department of Wildlife & Parks has known for many years it has needed to diversify its recreational base. It has never been allowed the opportunity by the State Legislature due to pressures applied to the Legislature by special interest groups intent on keeping Kansas as one of the lowest ranked states in the country for acreage for public recreation. The Prairie Spirit Rail Trail will help remedy this shortfall by providing an alternative to our states traditionally, water-activity based state park system.

Kansas has not been known historically as a state friendly to bicycling. Recent efforts on the part of the Departments of Transportation and of Wildlife and Parks have begun to reverse that image. In response, our members began efforts to promote bicycling within Kansas. I have enclosed a promotional brochure for the 1997 Kansas Survival Series involving five premiere bicycling events, one organized by each of our clubs. Last year bicyclists from over 15 states and as far away as New York, California, Texas and Minnesota came to Kansas to participate. Communities along the Prairie Spirit Rail Trail could successfully promote and hold similar events, showcasing the trail, if the entire 50 mile route and its ancillary facilities are completed.

Thank you for allowing me the opportunity to participate in the deliberations on Senate Bill 278. The Johnson County, Kaw Valley, Lawrence, Leavenworth and OZ Bicycle Clubs of Kansas ask for your support of tourism and the Prairie Spirit Rail Trail by supporting Senate Bill 278 and giving the Prairie Spirit Rail Trail the state park designation it deserves.

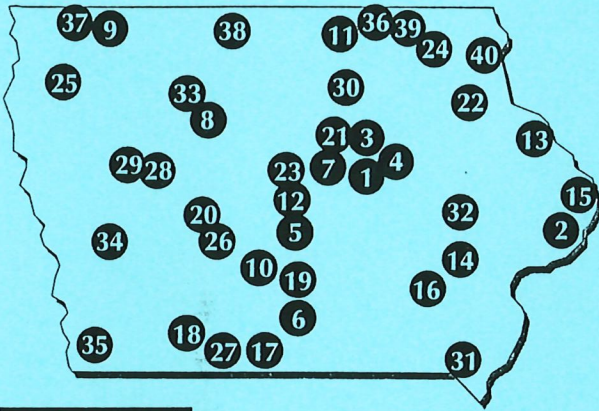
Sincerely,

Dale V. Crawford
President, Johnson County Bicycle Club

xc: Friends of the Prairie Spirit, Ottawa Chapter
(without attachments)
Kaw Valley Bicycle Club
Lawrence Bicycle Club
Leavenworth Bicycle Club
OZ Bicycle Club

SAMPLE OF AMERICA'S RAIL-TRAILS

IOWA



Rail-Trails

- 1 Benton Preserve Trail
- 2 Brookfield Wildlife Refuge Trail
- 3 Cedar Prairie Trail
- 4 Cedar Valley Nature Trail
- 5 Chichaqua Valley Trail
- 6 Cinder Path
- 7 Comet Trail
- 8 Fort Dodge Nature Trail
- 9 Great Lakes Spine Trail
- 10 Great Western Trail
- 11 Harry Cook Nature Trail
- 12 Heart of Iowa Nature Trail
- 13 Heritage Trail
- 14 Hoover Nature Trail
- 15 Jackson County Trail
- 16 Kewash Nature Trail
- 17 Little River Nature Trail
- 18 Maple Leaf Pathway
- 19 McVay Trail
- 20 Perry to Rippey Trail
- 21 Pioneer Trail
- 22 Pony Hollow Trail
- 23 Praeri Rail Trail
- 24 Prairie Farmer Recreational Trail
- 25 Puddle Jumper Trail
- 26 Raccoon River Valley Trail
- 27 Ringgold Trailway
- 28 Russell White Nature Trail
- 29 Sauk Trail
- 30 Shell Rock River Trail
- 31 Shimek Forest Trail
- 32 Solon—Lake Macbride Recreation Trail

IOWA

- 33 Three Rivers Trail
- 34 Upper Nish Habitat Trail
- 35 Wabash Trace Nature Trail
- 36 Wapsi—Great Western Trail
- 37 Winkel Memorial Trail
- 38 Winnebago River Trail
- 39 Winneshiek County Trail
- 40 Yellow River Forest Trail



Heritage Trail/Lynn Schreiber

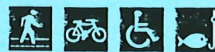
13 Heritage Trail


Endpoints: Dubuque to Dyersville

Location: Dubuque County

Length: 27 miles (will be 30 miles when completed)

Surface: Crushed limestone



 on certain sections

Contacts:

Robert Walton or Carol Freund
Dubuque County Conservation Board
13768 Swiss Valley Road
Peosta, IA 52068
(319) 556-6745

February 24, 1997

Senate Transportation & Tourism Committee
State Capitol
Topeka, KS 66612

Regarding: Senate Bill 293, Placing a Moratorium on Phase II of the Prairie Spirit Rail Trail.

On behalf of the Johnson County, Kaw Valley(Topeka), Lawrence, Leavenworth, and OZ(Wichita) Bicycle Clubs, thank you for the opportunity to appear before this Committee in opposition of Senate Bill 293. As president of the Johnson County Bicycle Club, I have been asked to represent the approximately 1,000 members of these five Kansas bicycle clubs.

In order for the Prairie Spirit Rail Trail to realize its full economic benefit to the surrounding region, the entire trail must be constructed. A longer trail allows bicyclist from Kansas and other states to plan overnight excursions, generating greater tourism revenue. Currently our members and other bicyclists must travel to Missouri, Iowa or farther to enjoy the opportunities rail-trails provide. As an example, the Overland Park Leisure Services Department, with the Johnson County Bicycle Club's assistance, is planning a multiple day excursion this June to the KATY Trail in Missouri. It would be great if these Kansans, as well as out of state bicyclists, could experience the same opportunities in Kansas, rather than having to go out of state. They would if there were facilities, such as a completed 50 mile long, Prairie Spirit Rail Trail to visit.

During the Spring of 1996, the Johnson County Bicycle Club gathered a petition of support in the Kansas City area for the Prairie Spirit Rail Trail. The petition of 449 signatures was presented to the Franklin County Commissioners to encourage their endorsement of the trail. I submit that petition to this Committee. The Johnson County Bicycle Club and its members have also contributed approximately \$800 to the Ottawa Friends of the Prairie Spirit Rail Trail for their funding match as a further demonstration of our support. This money was donated in good faith with the understanding that the State of Kansas would fulfill its intentions to construct the trail.

We ask this Committee to allow the Prairie Spirit Rail Trail to be completed on schedule. To delay or forgo the project at this juncture would seriously dampen the credibility of the state of Kansas and Department of Wildlife and Park and its ability to provide legitimate recreational facilities for its citizens.

Thank you for allowing me the opportunity to participate in the deliberations on Senate Bill 293. The Johnson County, Kaw Valley, Lawrence, Leavenworth and OZ Bicycle Clubs of Kansas ask for your support of tourism, family-oriented recreation and the Prairie Spirit Rail Trail by opposing Senate Bill 293 and allowing the project to proceed on schedule.

Sincerely,

Dale V. Crawford
President, Johnson County Bicycle Club

xc: Friends of the Prairie Spirit, Ottawa Chapter
(without attachments)
Kaw Valley Bicycle Club
Lawrence Bicycle Club
Leavenworth Bicycle Club
OZ Bicycle Club

6-5

A PETITION OF SUPPORT FOR THE PRAIRIE SPIRIT RAIL TRAIL

A 50 mile rail trail project from Iola to Ottawa, Kansas

We, the undersigned, support the concept of and the construction of the Prairie Spirit Rail Trail. As part of a growing population of bicyclist, we are well documented for our appreciation, support and respect of the outdoors and rail trail projects which make various areas of our country safer and more enjoyable for bicyclists and all Americans to enjoy. We strongly encourage the Franklin County Commissioners to approve the funding for and construction of their portion of the Prairie Spirit Rail Trail project from Ottawa south to its northern terminus near the Franklin County line. We look forward to the day when we may come to Ottawa, Garnett and Iola to ride, hike and enjoy the Prairie Spirit Rail Trail.

Name	Address	City/State
Bill Glenn	6911 W. 66th	Overland Park KS
Bob Clements	8540 Euclid Ave KC MO	KC Mo 64132
Trevor Littel	7 E. 29 th St	KC Mo. 64108
Michael Goodwin	1732 NE Misty St	Lee's Summit Mo 64086
GARY PAUL	2390 W. 15 th Circle	Stawley KS
ROB McVILLER	8728 GRANDE PAS	K.C. MO 64114
Susanne Clements	10319 Belinder	Leawood, KS. 66206
John Rofahl	2808 E 129 th Terr	Franklin, Mo
ANDY EBERSOLE	6405 BALTIMORE	Kansas City, MO 64113
Brian Gumb	6614 LORAIN Dr	Murrieta KS 66203.
Sean Kane	7404 MAIN St	K.C. MO 64114
MICHAEL MATHISON	8209 ENGLISH	LEAWOOD KS 66206
ROBERT VIRNIG	707 W 10TH #610	KC MO 64105
Richard Fruss	7620 W 63rd #109	Overland Park KS 66202
Woy Leachy	7520 Rainbow	PV KS 66208
Holly McCoy	451 W. 67 th Ter	KC Mo 64113

**A PETITION OF SUPPORT FOR THE
PRAIRIE SPIRIT RAIL TRAIL
(Continued)**

Name	Address	City/State
Shawn Moran	13213 Craig	Grandview, MO 64070
Mama Gifford	6010 OAK	KCMO 64113
John Carroll	6010 OAK	KCMO 64113
Paul Roberts	15227 Sherwood	SMKS 66224
Ginny Beall	3308 W. 68 th St.	Merriam Hills, KS 66208
Mill P. Carter	8207 Summit	K.C. MO. 64114
Mary Klenda	6705 Fairlane	KC, MO 64134
Lull D.G.	816 Huntington Rd	KC Mo 64113
John T. Sight	10016 Howe Dr.	Leawood KS 66204
Kelly Pawelski Jones	1505 Lowe	Columbia, MO 65203
CHRIS TURNER	9137 Holmes	KCMO 64131

**A PETITION OF SUPPORT FOR THE
PRAIRIE SPIRIT RAIL TRAIL**

A 50 mile rail trail project from Iola to Ottawa, Kansas

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Name	Address	City/State
Mark Thomas	13440 Smoke Trail	Lenexa KS 66215
MIKE DOLD	4409 FRANCIS	KCKS 66103
MICHAELA FZELCO	8025 HULLER LEXENA	KS 66215
Robert Buehn	9010 Blues Tacket	Ks 66215
DOUG NORN	4407 JARBOE	KC MO 64111
Yenya Dunning	4402 W. 89th St	Lenexa, KS 66215
[Signature]	5025 W. 56th ST.	ROGLAND PARK KS 66205
Michael K. Corb	1917 W. 47th Terrace	Shawnee Mission KS 66205
Michael K. Murey	950 Leah Circle	Lenexa KS 66215
Ronald H. Fisher	8270 PARK	DeSoto KS 66018
Gregg L. Rupp	7024 Gillette	Shawnee, KS 66216
Kyle Kirchner	14520 W. 94th	Lenexa, KS 66215
Lee Zimmerman	8832 Gallery	Lenexa, KS 66215
Sharon Cloud	10475 Deerfield	Blatte, KS 66001
[Signature]	724 W. 46th ST.	K.C. MO 64112
ANDREW "Doc" WILLIAMS	13121 RICHLAND AVE #10	BONNER SPRINGS 66012

A PETITION OF SUPPORT FOR THE PRAIRIE SPIRIT RAIL TRAIL

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Name	Address	City/State
Thomas Cochran	2709 62nd St Lawrence, KS	Lawrence, KS 66048
Jim Whittaker	2434 W 4th St CY	Lawrence, KS 66047
Pete Hester	8746 Park	Lenexa, KS 66215
Sarah Gibson	21 S. 14 th	KC KS 66102
Cheryl Braunlich	1847 Oakland	K.C. Ks. 66102
Carolynn Braunlich	16 South 14th	Kc Ks -
Keith Philpott	13236 W 8th	Lenexa, KS
Paul Drake	6024 Alhambra	Fairway KS 66205
MIKE LITTLE	13000 E 150 HWY	KC MO 64149
R.L. Smith	6920 N Brookway	SHAWNEE KS. 66226
James Anderson	10204 Kesler	O.P. KS 66212
Elizabeth Janssen	5235 Maple	Mission, Ks. 66202
J.P.H.	505 N STEVENSON	OLATHE KS 66001
Becky Little	5507 Canterbury	Fairway, KS 66205
J.P.H.	5507 Canterbury	FAIRWAY, KS 66205
KEN WECHE	15308 Woodson Ln.	Overland Park, KS. 66223. 6-9

A PETITION OF SUPPORT FOR THE PRAIRIE SPIRIT RAIL TRAIL

We, the undersigned, support the concept of and the construction of the Prairie Spirit Rail Trail. As part of a growing population of bicyclist, we are well documented for our appreciation, support and respect of the outdoors and rail trail projects which make various areas of our country safer and more enjoyable for bicyclists and all Americans to enjoy. We strongly encourage the Franklin County Commissioners to approve the funding for and construction of their portion of the Prairie Spirit Rail Trail project from Ottawa south to its northern terminus near the Franklin County line. We look forward to the day when we may come to Ottawa, Garnett and Iola to ride, hike and enjoy the Prairie Spirit Rail Trail.

Name	Address	City/State
Michael J. O'Neil	6914 Gladstone Ave	Shawnee KS 66218
ALAN RICHARDSON	PO BOX 2274	SHAWNEE MO 66201
Jim Dault	10617 W 143 RD TERRACE	Olathe KS 66062
KIM ROWLEN	12119 SLATER	OP KS 66213
Dan Call	6665 W 87	OP KS 66212
KRANTZ, Sarah	4010 Homestead	P.V. KS 66208
Smalley, Dave	4010 Homestead	P.V. KS 66208
Margaretta Blackburne	12002 West 49th ST	Shawnee, KS 66216
DOUG BEISEL	3014 W. 83RD ST	LEAWOOD, KS 66206
Scott Goddard	15015 W. 106 ST	Olathe, KS 66062
Andy Gharavi	6927 Eby	Merriam, KS 66204
W. CAMUS	8180 FARLE Y	OP. KS 66212
Brian Hammond	9209 Kessler	OP KS 66212
Mary Ann Hammond	9209 Kessler	O.P. KS 66212
Richard Ahn	6925 Long	Shawnee KS 66216
Paul Jeffers	RT1 Box 56B Kingsville, MD 64061	
Dale Crawford	1421 Willow	Olathe, KS

A PETITION OF SUPPORT FOR THE PRAIRIE SPIRIT RAIL TRAIL

A 50 mile rail trail project from Iola to Ottawa, Kansas

We, the undersigned, support the concept of and the construction of the Prairie Spirit Rail Trail. As part of a growing population of bicyclist, we are well documented for our appreciation, support and respect of the outdoors and rail trail projects which make various areas of our country safer and more enjoyable for bicyclists and all Americans to enjoy. We strongly encourage the Franklin County Commissioners to approve the funding for and construction of their portion of the Prairie Spirit Rail Trail project from Ottawa south to its northern terminus near the Franklin County line. We look forward to the day when we may come to Ottawa, Garnett and Iola to ride, hike and enjoy the Prairie Spirit Rail Trail.

Name	Address	City/State
Jack Tapp	15407 W 81 ST	Lawrence, KS
David Deen	4925 MISSION RD	WESTWOOD, KS
Suzanne Adams	5321 W. 72nd St	Prairie Village, KS
Paul Budetti	5605 W. 90 Terrace	Overland Park, KS
John Stone	9570 W. 86th	Overland Park, KS
Lynette	6925 Woodson	OP, KS
Ralph Hays	14610 W 175	Olathe KS
John E. D.	15805 W 131	OLATHE KS
Terry M. Jody	10616 W 48	SHAWNEE, KS
Mark Hall Dunlap	9324 Goodland	OP KS
Glenda Dietz	8566 W. 108th Place	OP, KS
DAVID CONTAG	9834 HARRISON CIRCLE	KC. MO.
Dean Palos	808 Missouri	Lawrence, KS
Lantheing	5222 W. 77th Terr.	Prairie Village, KS
Kim Spensen	5520 K. 69th St.	Overland Park, KS
Sam L. Papil	12811 S. SUMMIT	OLATHE, KS

**A PETITION OF SUPPORT FOR THE
PRAIRIE SPIRIT RAIL TRAIL
(Continued)**

Name	Address	City/State
Steve Drey	4926 Dixie Ave	K. C. KS
Cray Patterson	13753 W 121st St	OLATHE KS
Karna Patterson	13753 W. 121st St.	OLATHE, KS
Mike Johnson	4744 Bond St	Shawnee KS
Darlene Arnett	11901 W 100 Ter	Lenexa KS
Robert W. Arnett	11901 W 100 Ter	Lenexa KS
Nancy Johnson	4744 Bond St	Shawnee, KS
Joseph Johnson	8002 W. 151 St.	O.P., KS
John Johnson	9616 Glenwood Dr	OT, KS
John Wilhelms	19921 W. 150 Ter	OLATHE, KS
Wayne Byrne	5354 W. 100 Ter	Overland Park KS
Linda Sims	9212 Switzer	O.P. KS
Dixie Johnson	8932 Twilight Ln	LENEXA, KS
Kathleen Vincent Dewart	116617 W. 143rd Ter	OLATHE, KS
FRAN RICHARDSON	Box 2274	Shawnee, Missouri KS

**A PETITION OF SUPPORT FOR THE
PRAIRIE SPIRIT RAIL TRAIL
(Continued)**

Name	Address	City/State
Bob Carter	10310 W 70 th Ext.	Shawnee KS.
Alii Humphrey	12915 Long St.	O.P. KS 66213
Joe McKee	13006 W. 102 nd St	Lenexa, KS 66215
Donna Zalding	16311 Briarwood Ct	Olathe KS 66062
Mark Zalding	16311 Briarwood Ct.	Olathe KS 66062
Phil Blum	12408 Flint	O.P. KS 66213
Maureen Hall	2614 Clark Richmond	KS 66210
Elb Chiny	11701 Martin	O.P. 66210
Chet Davis	3728 Cobblestone	Topeka 66610
Mary G. Hart	11616 Larch	O.P. 66210
Diane Ochs	8114 Mason	Lenexa KS 66214
Bob Dorn	11433 S. PARKWOOD	Olathe KS 66061
Farrell Schaff	2337 Murphy Dr. #6	Lawrence KS 66046
Scott Mc Culp	1201 Cooper	OLATHE 66061
James D Byrd	7821 W 115th	OVERLAND PK. 66701
Nathalie Castelluccio	4429 W. 52 nd Terr.	Overland Park KS 66205
Shanna Butcher	9303 W. 84 th Terr	O.P. KS 66212
Tom Blumett	121 # 706 WATERPKWY	TC MO 64112
SS Brown	8700 W. 76 TERRACE	OVERLAND PARK, KS 66204-2321
Duane Douglas	1305 Lecurus Dr	Olathe KS 66061

**A PETITION OF SUPPORT FOR THE
PRAIRIE SPIRIT RAIL TRAIL
(Continued)**

Name	Address	City/State
Shara Biehnaupt	19280 Edgerton Rd	Edgerton, KS. 66021
Connie Morgan	13015 Long	O. P. Co. 66213
Neil Morgan	13015 Long	OP, KS 66213
Doug Peterson	13314 W 103 rd Terr	Leawards, 66215
John	" "	" "
Lisa Fontaine	Rt 3	Jola KS 66749
Dana Fontaine	Rt #3	Jola KS 66749
Mike Ludwig	Raytown mo.	
Kevin Cross	St. Jo. MO.	
Brian Carson	St Jo mo.	
Toy Wilson	OP, KS	
Dan Deaton	624 W 413 rd Terr	KCMO 64111
David Swainwood	9347 2030 E. Gillespie	Clarke KS 66062
Bill Sweeney	14060 Mastin St	Overland Park, KS 66221
Cary V. Hummel	14041 Knox	Overland Park, KS 66221
SEYD GREGORY	3507 W. 48 th St	Roverland Park, KS 66205
Kirk G. Jones	130 Warner #7	Bonnet Springs KS 66012
Stacy Rollins	15343 Madril Ln Overland	Bonnet Springs KS
Timothy Zmelly	168 Ewith Way	BECTON, MO 64012.
Wayne Gregory	3507 W. 48 th St.	Shawnee Mission KS 66205

6-15

**A PETITION OF SUPPORT FOR THE
PRAIRIE SPIRIT RAIL TRAIL
(Continued)**

Name	Address	City/State
Elizabeth Tracy	4450 Sarboe #3	K.C. Mo. 64111
Roberta Kuechh	10332 Conser Apt 1A	OP, KS 66212
Ken R Murray	13400 W. 60 th 13400	Shawnee, KS 66216
Bruce + Peggy Johnson	13166 England	OP KS 66213
Roberta Van Horn Kelce Van Horn	10237 Reeder	O.P., Ks 66214
Glenna Van Horn Glenn Van Horn	10237 Reeder	O.P. Ks 66214
Tom Jackson	9809 W 110 th Apt 10	O.P. KS 66260
Lonell Grayfield	4920 Grandview	Meridian KS.
Wanda + Rob Dvorak	9119 W 131 st Pl	OP KS 66213
Jan + Mike Hansen	11014 W 95	Niangua, KS 67561
J. ALAN P. K. LEE	5220 W. 157 th PL	O.P. KS 66221
Kay Secker	4326 Northern #1134	KC, MO 64133
Phil S Kennedy	421 W. 87 th St #17	KC. MO 64114
Flora Morris	15132 W. 147 st .	Olathe, KS 66062
Lorvy Meyer	2815 W B	Des Moines, IA 50318
Scott Schlessman	1220 E SHERIDAN BRIDGE	OLATHE KS 66062
Tom Stout	2013 Cherokee Place	Olathe, KS 66062
John Crater	13328 W 109 th Terr	Lenexa KS 66210
Karen Appleby	10605 Ballantine	OP, KS 66214
Shea Bolin	7820 Noland	Lenexa KS 66215

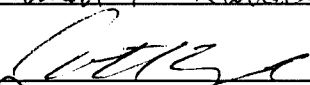
**A PETITION OF SUPPORT FOR THE
PRAIRIE SPIRIT RAIL TRAIL
(Continued)**

Name	Address	City/State
Dan Plura Ballu	11936 W 119 th #241	OJ PK KS
David J. Agnew	3525 SE 35	TOPEKA KS
Cale / Sack	8808 W 132 nd Pl	OP KS 66213
Matthew A Sack	8808 W 132 nd Pl	OPKS 66213
Frederick A Heiden	136 S LANN	KCMO 64173
Steve Katz	12452 GRANADA	Lawwood KS 66209
Ralph Hartwell	8901 W. 115	OP KS 66210
Sharon Mayer	1450 N. Lucy Montgomery	Olathe, KS 66044
Sitt	13923 ASH	O.P. / KS
Sh Hall	15512 Foster	OP / KS
Tim Trinkel	9145 Switzer	OP / KS
Gundwarth	14406 Chalet	Olathe 66062
Ben Leitner	16113 W 125 th PL Olathe	Olathe/ks
Mike Nemecek	9429 Reeder St Op. ks	
Bob Ades	18025 W. 182 nd Olathe	Olathe/ks

**A PETITION OF SUPPORT FOR THE
PRAIRIE SPIRIT RAIL TRAIL**

A 50 mile rail trail project from Iola to Ottawa, Kansas

We, the undersigned, support the concept of and the construction of the Prairie Spirit Rail Trail. As part of a growing population of bicyclist, we are well documented for our appreciation, support and respect of the outdoors and rail trail projects which make various areas of our country safer and more enjoyable for bicyclists and all Americans to enjoy. We strongly encourage the Franklin County Commissioners to approve the funding for and construction of their portion of the Prairie Spirit Rail Trail project from Ottawa south to its northern terminus near the Franklin County line. We look forward to the day when we may come to Ottawa, Garnett and Iola to ride, hike and enjoy the Prairie Spirit Rail Trail.

Name	Address	City/State
Edwin Alexander	8518 Riggs OP	Kansas
	1219 W. 69th St	KCMO
Dept H Bart	814 S. Esplanade	Leavenworth KS
Vaughn Support	909 Pawnee Park	KS
Kelly Sturgeon	10512 W. 57 Terr.	Shawnee, KS. 66203

Turner

A PETITION OF SUPPORT FOR THE PRAIRIE SPIRIT RAIL TRAIL

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Name	Address	City/State
Charles P. Rubin III	8909 SANTA FE DR	Overland Park, KS
Jim Inoue	132 N. Chambers	Olathe, KS
Charles P. Rubin IV	4630 Craig	Overland Park, KS
Alan Allen	5915 W 74 ST	Overland Park, KS
Chad Sauer	7021 Russell	O.P.
[Signature]	^{Bx} 336 Lamar Miss	
[Signature]	9012 ELM HURST	OVERLAND, KS
Tom Turner	6906 Stearns	Shawnee KS
B.L.G. Math	10216 W 80th STREET	Overland Park, KS
Raleigh Taemby	10145 SW JORDAN RD	Wakarusa KS 66452
[Signature]	1111 N. 1700 RD	Lawrence KS 66049
Cynthia Ann Hottel	8604 Webster	O.P. KS 66204
Wesley [Signature]	5848 Arlington	KC MO 64133
Cherie Moberg	4141 Wyoming	KC MO 66111
Jessie Buratto	9304 W. 83rd	O.P., KS. 66204
Dennis M. Mack	7600 Lowell	O.P. KS. 66204

**A PETITION OF SUPPORT FOR THE
PRAIRIE SPIRIT RAIL TRAIL
(Continued)**

Name	Address	City/State
Tim S Hovey	12264 W 123 rd St	Leawood, KS
Bin Bogard	18609 S. 32 nd St	K.C., KS.
Leslie Powell	1632 Sleggy Hollow	Olathe, KS.
Ann Carter	10710 Indiana	KC MO
Rich Zimm	2224 Clark	Parsons, KS.
KENN OPPERMAN	10222 HASKINS	LEN KS
Linda Campbell-Laman	10208 Longwood Ave.	KC, KS 66109
Paul C. Spahr	1605 W. Wabash	Olathe, KS 66061
Chris J. [unclear]	4403 W 77 th Terrace	PV, KS 66208
Wayne R. Rupp	316 S. 11 th St	Leavenworth KS
Don [unclear]	10710 W 91 st Terr ^{OPKS}	OP. KS 66214
Jan Drake	6712 Woodward ^{OPKS}	66204
Chris [unclear]	C-4 Cornish Sq.	Lawrence 66049 KS.
Matt Drees	1815 N. Smith #325	Lawrence 66045
Steve Smyth	9206 W. 72 nd St #104	MERRIAM, KS 66204
Joe Holmes	7631 Pawnee	Prairie Village KS 66208
Stephen Szanty	11724 W. 68 th Terr	Shawnee KS 66203.
CRAIG CLARD	8415 Swarner	Lenexa, KS 66245
[unclear]	2805 Kessler Ln	OP KS
Ted Troll	6822 Fontana	P.V., KS.

**A PETITION OF SUPPORT FOR THE
PRAIRIE SPIRIT RAIL TRAIL
(Continued)**

Name	Address	City/State
Chris Johnson	8522 Schweigert Rd	Lenexa / KS
SHAWN BAYOUTH	947 PINEVIEW	OLATHE KS.
JACKIE BAYOUTH	947 PINEVIEW	OLATHE, KS.
Mike Nemecek	9429 Reeder	Overland Park KS
ROGER OSWALD	2928 S. 28TH	KC, K / KS
Ronald R. Frederick	8820 Antioch	Overland Park, KS
Choo Lee	10326 Conser	Overland Park
Donald E Inbody	8413 Riggs	overland Park
Christine Shields	7218 Goodman	Overland Park.
Jeff Hargaves	14520 W 83rd	Lenexa, KS
KARL DOLLMANN	1809 Stratford Rd	Olathe KS 66062
Marco Herrera	221 N. 33 RD ST	Kansas City, KS.
Allen Troyer	6833 Wedd	MERRIAM, KS
Allen Troyer	6833 Wedd	MERRIAM, KS
Arthur L. Lumber	PO Box 1504	Lawrence
Cornelia E Newfeld	7102 Mastin	Merriam, Kansas 66203
Connie Reuser	7102 Mastin	Merriam K, 66203
Mark Rump	13142 W 88th #123	Lenexa, KS 66215
Christine Reuser	6923 Woodside	Overland Park, KS 66207
Sherry Gray	132 S. Fremont	KC KS 66101

**A PETITION OF SUPPORT FOR THE
PRAIRIE SPIRIT RAIL TRAIL
(Continued)**

Name	Address	City/State
Kevin May	132 S. Tremont	KC KS 66101
Ben Hales		O.P. KS 66216
David Hays	6719 W 126 CT	O.P. 66209
David Longford	2709 Tenny Terr	Rantoul, KS 66208
Kenneth Pacheco	10903 W 72 ST	SHAWNEE, K 66203
John Bacon	9323 BlueSackeT	O.P., KS 66314
Phil Nelson	7945 Maple	P.V. KS 66208
Howard Vaughn	12807 MCGEE	KC MO 64145
STEVE STRECKER	4938 Holly	KL MO 64112
JASON GILK	2376 W 57 ST	SHAWNEE KS 66203
Kerrie Critco	11148 W. 72nd Terr #20	Shawnee, KS 66204
Diane O'Neill	8770 Hillside Dr	Lenexa, KS 66221
Chris Lindsey	9218 W. 72nd #103 1910 SA	Merriam KS 66204
Anna Turner	13103 Kessler	OPKS 66213
Wynne Turner	13103 Kessler	O.P. KS. 66213
J.E. Shovalter	5413 Newton	O.P. KS 66202
De Annin	4220 Lichtenauer	Lenexa, KS
Fred Swenson	PO Box 1936	SM KS
Willie Bolton	8824 N. Tulipwood	KE MO 64552-518
Adam Capron	5440 Horton	Mission KS 66207

**A PETITION OF SUPPORT FOR THE
PRAIRIE SPIRIT RAIL TRAIL
(Continued)**

Name	Address	City/State
Shelley Davidson	3210 W. 71 st Terr	P.V. KS
Alan Hullman	13218 91 st St.	Lenexa
Steven Lee	8446 Craig	OP KS
ES POIT	RT1, 123E MARCELINE MO 64658	
Eileen Bradford	4713 N Black Swan	Shawnee KS
Robert BRADFORD	4713 N BLACK SWAIN	SHAWNEE KS
Jim Willard	7913 W 85th St	Overland Park KS
Dorcy Matthews	10216 W 80 th St, Apt 319	Cleveland Park KS
CHARLAD. BATEZ	12410 92 nd Pl.	OVERLAND PARK, KS
Teresa Setman	1301 Apache Ct.	Olathe KS
Chad Setman	1301 Apache Ct	Olathe KS
Scott Henrichs	14812 W 117 th St	Olathe KS
Mauro Dorn	8809 Lowell	Overland Park, KS
Lisa Miller	2100 W 56 th	Mission Hills KS
Robert Johnson	460 W. 11 th St	K.C. MO
Stuart Spear	Stuart Spear 5112 Rosewood Dr	SM, KS
Dr. Vankul	2919 Orville Ave. K.C. KS 66102	K.C. KS
Dr. Vankul	"	"
Joe R. Vankul	11005 Playaz Parkville MO 64152	Parkville MO 64152
James L. Allen	10208 Resler	O.P. KS 66212

A PETITION OF SUPPORT FOR THE PRAIRIE SPIRIT RAIL TRAIL

A 50 mile rail trail project from Iola to Ottawa, Kansas

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Name	Address	City/State
TIM LEE	16851 W 67 th Terr #377	Shawnee KS
Austin Mindeljah	345 Insley	Bonner Springs KS
COURTNEY CLENNAN	9804 ACUFF LN	LENEXA, KS
DARREL L OCHS	8114 HAUSER	LEWESIDE, KS
Tim Trice	9145 SWINER OP KS	Overland KS
BRIAN BURKHARD	3540 RAINBOW BLVD. 305	KC, KS
Cory J. Zisk	10328 W. 92 nd Terr.	Overland Park, KS
Mark Whittaker	7732 BIRAZ	OV. KS
Tom Williams	7411 BOSTON	P.H. KS
Craig Pru	6626 152 nd ST	O.P. KS
James Bergstedt	31940 W. 97 th Terrace	Desoto, KS
Liz Meigsburg	931 W. 99 th Terr.	O.P. KS
Michael Russell	5409 Woodland	Shawnee KS
OT Hackhaus	5409 Woodland	Shawnee KS
Roy C Zehring	9419 Bluejacket	O.P. KS.
Mike Haffner	216 Arthur	Bonner Springs K.S

6-24

**A PETITION OF SUPPORT FOR THE
PRAIRIE SPIRIT RAIL TRAIL
(Continued)**

Name	Address	City/State
<i>John Price</i>	<i>9212 Switzer</i>	<i>Overland Park, KS</i>
<i>Gary Price</i>	<i>10703 W 108 Terr</i>	<i>Overland Park, KS</i>
<i>Jeanette Price</i>	<i>10703 W. 108 Terr.</i>	<i>O. P. K. S</i>

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Name	Address	City/State
Andres Paradelo	10210 HOWE DRIVE <small>LEAWOOD KS 66106</small>	LEAWOOD, KS 66206
FRANK JAKOFCICH	911 PACIFIC 1ST FUR R	KCMO 64105
ARIEL MENDEZ	12311 STATELINE RD.	K. C. MO 64145
Luaid Harris	11800 Armitage	K.C., MO 64134
Patricia LaMartina	11800 Armitage	K.C., MO 64134
nancy Emley Emley	5582 NW Crooked Rd.	Barleville MO 64152
DAVID PEMBERTON	10425 Womall KCMO 64114	
MARK KOLAR	13345 Kimberl Cir OTTAWA KS 66061	
Thad Whalen	9300 W. 175th Olathe MO 66062	
Paul Atzenweiler	7122 Walnut KCMO 64114	KC, MO 64114
Philip Wilson	8100 Lowell DVERLAND PARK, KS. 66204	
Michael Magliano	8127 Westgate Lenora KS 66215	
Bill Black	5244 W. 128th Terr Leawood, KS. 66109	
P. Scott Foster	607 LESLIE DR. TOWER MO. 64055	KC. MO 64055
Spencer Day	40PE Santa Fe Trail	KCMO 64145
Bruce Day	409E Santa Fe Trail	KCMO 64145

**A PETITION OF SUPPORT FOR THE
PRAIRIE SPIRIT RAIL TRAIL
(Continued)**

Name	Address	City/State
Reid Day	409 E. Santa Fe T.	Kansas city
Schwinn Bicycle ^{Bicycle Shop - REP}	1690 38th ST	Boulder - Co
Alan Cardozo	10407 Mastin	OP KS 66212
Jeff Jennings	11424 W 106 th ST	OP KS 66214
John Lewis (MEMANUS)	302 E 70 th ST 1000	KC MO 64113
Brian Schmidt	21215 S. School Rd	Peculiar MO 64078
JOHN WAPPEN	1054 TOM O'SHULTER DR.	K.C. MO 64145
James M. Reed	12900 St Andrew Rd	KC MO 64145
Al Lee	13099 Mohawk	Leadwood
Dave DeKroft ^{GARY FISHER BICYCLES}	11307 W 65 th #102	SPAWNER KS 66203
Sam Baugh	212 N. Water	CLINTON, MO. 64735
Carl Schulz	4419 W 71 TERR	PRairieville, KS 66208
L. Leroy Pugh	2711 W 75 PL.	Prairie Vill. MO 66208
Stannon Dorley	14018 FOX	Overland Park, KS 66221
JACK BERTMAN	14654 S. EAZUS HWY	CLATHE KS 66062
Jim Danisz	14803 GRANADA	LEAWOOD KS 66224
Joey Daniel	14808 Granada	Leadwood KS 66224
ERASMO PADILLA	509 W. 46 TH ST. Apt. 9	KS. CITY, MO 64112
Ramon Padilla	509 W 46 st Apt 9	KS. C. MO. 64112
DAVE SHISHIM	8004 JUNIPER PT	P.V. KS 66208

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Name	Address	City/State
Brenda Pedersen	1819 S. Stagecoach Dr	Olathe, KS 66062
Carol Polun	1819 STAGECOACH DR	OLATHE, KS 66062
Dana Feggestoff	31940 W. 97 th Terr	DeSoto KS 66018
Steve Erickson	2701 W. 103rd St.	Lenexa, KS 66208
Stephen C. Best	6806 ANTIOCH RD #226	Merriam KS 66204
SCOTT CONFER	230 EDGEWOOD	WEAUSVILLE KS 66092
Floyd Ross	505 N. Clinton St.	Olathe, KS 66061
Stuart J. Buchler	29010 W 119 th	OLATHE KS 66061
Robert O'Neill	8770 Hillside Dr	Lenexa KS 66227
Kevin Tarling	8467 Carter	O.P. K.S 66212
Red Z. Est	8412 ROBINSON	O.P. KS 66212
Richard S. Yang	7620 W. 63 rd ST.	O.P. KS. 66202
DALE MEADOWS	5300 W 58 th	Roeland Park, KS 66205
William Shell	7111 Halsey St	Shawnee KS 66216
David Dermin	11715 Chestnut	Olathe Ksn 66061
Bob Szymula	9216 Wedd	O.P. KS 66212 6-28

**A PETITION OF SUPPORT FOR THE
PRAIRIE SPIRIT RAIL TRAIL
(Continued)**

Name	Address	City/State
Jim Hofmann	2600 W 135	Leawood/Kan
John Tubbert	13001 Mohawk LN	LEAWOOD / KS.
MIKE GIMMARRO	11509 CAMPBELL	S. KC, MO
Suzanne Hastings	115 N Raymore Mo	64083
Kathleen Lowell	200 Huntington	Kansas City Mo 64113
Peter Nuyon	13012 Delmar	Leawood KS
Steve King	904 CARNOUSTIE DR	KI MO
Dr. Gillespie	80 E. MICHIGAN	Calesburg MI
Kolette Kober	22373 Penner Rd.	Spring Hill, KS 66083
Randy Kuttel	27760 MISSION RD	Louisburg, KS, 66053
7/11/11	16272 45 TH MICHIGAN	BLOOMINGDALE, MI
Matt Lindsay	10904 Wicth-off off	Overland Park, KS 66214

A PETITION OF SUPPORT FOR THE PRAIRIE SPIRIT RAIL TRAIL (Continued)

Name	Address	City/State
JOHN GAMBER	807 W. 25 th APT. C	LAWRENCE, K.S. 66046
Ray J. McKinley	8330 Connell	Overland Park KS 66212
WVA WITMA	5626 Wyan. Circle	KI MO
Keith D. Cohen	8505 Juniper Lane	PV KS 66207
Wilbur Schramm	8702 W. 64 th PL	MERRIAM 66202
Samuel E. Galkem	4440 Pennsylvania	KCMO
R Brian Hall	1400 NW 43 rd St	K C MO 64116
Bill Bannman	452 NW 41 st	KC MO. 64116
John West	23167 Hospital Dr Spring Hill KS	Spring Hill KS 64083
Reith Busby	9905 E 90 th Terr	KC, MO 64138
Mark Scribner	8809 Lowell	Overland Park KS 66212
Roberta Dierks	12405 Catalina	LEAWOOD KS 66209
1 Dan Hean	2731 SW Gainsford	Topeka, KS 66614
Marian Russo	815 S. Grant	Platte KS 66060
Don Tz	12727 S Hazen	Overland Park KS 66202
Rebecca Ward	8039 Darnell	Lenexa, KS 66215
Maileys Duggan	Box 591	Pleasanton, KS.
David Deines	107 W 51 st Apt 2W	KCMO 64112
Karl Schulte	5100 Foxridge Drive APT 1923	Mission KS 66202
Ken Chymer	5112 Rock Creek Lane Mission KS	Mission KS 66205

A PETITION OF SUPPORT FOR THE PRAIRIE SPIRIT RAIL TRAIL (Continued)

Name	Address	City/State
SUE CHIPMAN	512 ROCK CREEK W	MISSION, KS 66205
TOM SKAGGS	8906 W 75TH	PARNIEVILLE MO
Charleen Mankameyer	6519 Parkhill	Shawnee Ks 66216
Robert A. Pitts	9513 W 93 rd St	O.P. Ks 66212
Mike Barnett	1132 Ella Kc	KCKS 66612
Tom Bennett	6215 Lakewood	Kc 66104
James Jepsen	10210 W 48 th St	WEEKIHAM, MO
Gary Mullinger	4420 W 97 th ST	Overland Park Ks
Conzelius E. Newfeld	7102 Mastin	Merriam, Kansas 66203
Cindy Hicks	16217 W 125 th Ct	Olathe Ks 66062
Mark D. Hite	16217 W 125 th Ct	Olathe, Ks 66062
Ronald R. Ford	11507 Hansen	O.P. Ks 66210
Kalen Nelson	400 E Red Bridge	Kc Mo 64131
Marian Dan Stuhl	34 FLORENTINA	PC MO 64079
Delorah Watson	3837 NW 82 nd St	Kc Mo 64151
Tony H. Sengert	1501 E. 153 rd St.	OLATHE, Ks. 66062
Joe R. Nothman	1112 Johnston	OLATHE Ks. 66060
Diane Beckec	11962 PENN	K.C. Mo. 64145
John Zeman	7817 W. 60 th St	Merriam, Ks.
Brian Hammond	9209 Kessler	Overland Park Ks.

A PETITION OF SUPPORT FOR THE PRAIRIE SPIRIT RAIL TRAIL (Continued)

Name	Address	City/State
Kent Lang	504 S. GRAND	SEDALIA MO
Craig Kenworthy	5102 burner Ln	Merriam, KS
Alan Dillingham	7035 Broadmoor	Overland Park, KS
Timmy	15407 W 81 ST	Lenexa, KS
Yang Plummer	12653 W 82 nd TER	LENEXA KS
Julie L. Koon	12525 Fairway	Leawood, KS 66209
Charles Sheets	8206 MONROVIA	LENEXA, KS 66215
Phil Loh	9260 Roschill #6	Lenexa, KS 66215
Jim Hamner	8820 Bell Rd	Lenexa KS 66219
Susan de Courcy	6423 Acuff Shawnee	→ KS
Marty de Courcy	6423 Acuff	Shawnee, KS
Pat L Smith	5635 Greenwood	Shawnee KS
Liz Boyer-Deide	12088 E Frontier Drive	Olathe KS
Matt T Ben	9710 W 83 Terrace	O.P., KS
Bob Malkames	8220 Barth	Lenexa, Ks
Tan Kirby	1816 Arkansas	Lawrence, KS
Craig Towerman By Tan	4241 W 131st Terr	Lenexa KS 66209
Phil Mueser	960 Leuk Circle	Primo/NU. 84011
Harold Zick	8025 Hallett St	LENEXA KS 66215
Mary Sue Rose	14915 W 84th St	Lenexa KS 66215

**A PETITION OF SUPPORT FOR THE
PRAIRIE SPIRIT RAIL TRAIL
(Continued)**

Name	Address	City/State
John Briscoe	242 S Ferec	KC, KS,
TERRY KERSHNER	14318 W. 89TH ST	LENEXA KS
MARC GRIFFIN	5648 Oakview	Shawnee KS
STEVE SINGER	16026 W 153 rd Terr	Olathe KS
LARRY GOLDMAN	2409 W. 104 Terr	Lenexa KS

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Name	Address	City/State
JIM NEAL	4106 12th St KCMO	K C MO 64131
KARL KRUGLER	9646 BEUMER	LEAWOOD KS 66206
DOUGLAS BOTTORFF	2615 MARTHA TRUMAN RD	KC MO. 64137
BILITAFI	5737 GRAND	KC MO 64113
DAVID HUBAN	5957 N. Polk	LC MO 64151
Rick McElhany	2300 N.E. 73rd	Gladstone MO 64118
Daniel Hall	24 E. 70th St	KCMO 64113
Tim Pickell	4100 Brookridge Rd.	Fairway, KS 66205
Brian Anderson	9209 Herder	Overland Park, KS
Amber Belt	2399 S Hospital Dr.	Paola, KS 66071
John Pate	5817 CHARLOTTE	K.C. MO 64110
W. G. Anderson	11529 Campbell	KC MO 64137
JEREMY SCOTT MALLIN	5546 GARFIELD	K.C. MO 64130
Julie Guemmer	1029 W Gregory	LC MO 64114
Laurie Komoski	7126 Baltimore KCMO	64114
Charlie Parrish	1009 W 70	KCMO 64113

6-34

**A PETITION OF SUPPORT FOR THE
PRAIRIE SPIRIT RAIL TRAIL
(Continued)**

Name	Address	City/State
Karla Solomon	316 Northwood Lane	Lawrence KS 66044
Linda Knoch	14521 W60th	Shawnee KS 66202

A PETITION OF SUPPORT FOR THE
PRAIRIE SPIRIT RAIL TRAIL
(Continued)

Name	Address	City/State
Helen Bayley	4316 Warwick Blvd	KC MO 64111
Robert Brown	647 E. 61st St.	KCMO 64110
Jon Vlik	647 E. 61st	KCMO 64110
Bob Ford	12511 W. 74th St	Shrewmoe
Ron Giersch	603 E. 73 Terrace	KC MO 64131
DAVE Stittin	8004 Juniper	PV KS 66208
DAVID Hutson	5957 N. Pock	KC MO 64151

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Name	Address	City/State
Tom Barlow	2716 W. 56	Prairie Village KS 66208
John Hart	11616 Bremen	Overland Park, KS 66210-2730
Fris Lewis	12565 W. Foxridge Dr.	Mission, KS 66202
Glen Kolman	6010 W. 76th Pl. PRAIRIE VILLAGE KS	PRAIRIE VILLAGE KANSAS
LEE FOSTER	8716 BANNERMAN TERR K.C. MO 64134	K.C. MO 64134
Scott W. Johnson	P.O. Box 763 Richmond, Mo. 64085	Richmond, Mo.
Suzanne Twigg	174 SWEETEN AVE	BELTON MO
Paula M. Quinn	174 SWEETEN AVE	BELTON MO
Grant Minton	18212 E. 24th Ter	Independence, MO
Gary S. Wessse	12264 W 123rd St	Leawood, KS
Ann Cannon	15690 W. 141st Terrace	OLATHE, KS
Edward C. Schroeder	13113 MEADOW	LEAWOOD, KS
Barbara Kingsbury	11111 W. 120 Terr.	O.P. KS. 66213
Bobby Copeland	14918 S. Asaph Dr.	Olathe, KS 66062
Kevin Noel	1106 9th	Rolla Mo 65401
Walter P. Hutto	13736 W. 8th St.	Lenexa, KS

**A PETITION OF SUPPORT FOR THE
PRAIRIE SPIRIT RAIL TRAIL
(Continued)**

Name	Address	City/State
Clifford Middleton	4408 W. 6TH	Prairie Village, KS

February 24, 1997

Senate Transportation & Tourism Committee
State Capitol
Topeka, KS 66612

Regarding: Senate Bill 294, Delaying State Park Designation of the Prairie Spirit Rail Trail.

On behalf of the Johnson County, Kaw Valley(Topeka), Lawrence, Leavenworth, and OZ(Wichita) Bicycle Clubs, thank you for the opportunity to appear before this Committee in opposition to Senate Bill 294. As president of the Johnson County Bicycle Club, I have been asked to represent the approximately 1,000 members of these five Kansas bicycle clubs.

As of 1996, there were over 750 rail-trails (Source: Rails-to-Trails Conservancy) providing recreation opportunities to bicyclists, walkers, equestrians and many other outdoor enthusiasts. The state of Kansas, as usual when it comes to recreation, has been embarrassingly slow to grasp the validity of utilizing these irreplaceable resources. Kansas now has the opportunity to prove to its citizens, as well as the country, that it is ready to protect this man-made resource for future generations to use and enjoy. That statement can best be made by designating the Prairie Spirit Rail Trail, the states first sizable rail-trail as a state park, now. Not in the year 2000

To delay designation of the Prairie Spirit Rail Trail would only continue the problem bicyclists and hikers in Kansas currently face, a lack of regional facilities for multiple day events. Our clubs currently are planning numerous trips to other states to pursue our recreation and enjoy the safety and beauty rail-trails offer. As proof I submit the 1997 Schedule of Upcoming Special Events for the Leavenworth Bicycle Club in 1997. Four excursions to the KATY Trail in Missouri have been asterisked. This illustrates the desire of Kansas bicyclists to travel to utilize rail-trails and the lack of facilities of within Kansas. The sooner the Prairie Spirit Rail Trail is completed, the sooner bicyclist and hikers will plan their excursion in Kansas.

To delay designation will only allow those that do not have the foresight or are unwilling to see the positive impacts that such a facility can provide, the time to continue their costly, time

consuming maneuvers to keep Kansas near the bottom of the list in providing recreational opportunities for its citizens. We have never recommended disregarding the concerns of those opposed to this or any issue. That is why I testified last year before this Committee and recommended compromise solutions to the rail-trails bill that were incorporated into the Rails-Trails Bill in 1996. It is now time to get on with what is best for the state of Kansas and build the Prairie Spirit Rail Trail.

The Wildlife & Parks Department has done an outstanding job on Phase I. The quality of all aspects of the trail are as good as any I have seen in my travels and better than most. It is truly a facility worthy of the state park designation.

Thank you for allowing me the opportunity to participate in the deliberations on Senate Bill 294. The Johnson County, Kaw Valley, Lawrence, Leavenworth and OZ Bicycle Clubs of Kansas ask for your support of tourism, family-oriented recreation, the Prairie Spirit Rail Trail and the state park system by opposing Senate Bill 294, thus allowing its deserved and immediate designation as a state park.

Sincerely,

Dale V. Crawford
President, Johnson County Bicycle Club

xc: Friends of the Prairie Spirit, Ottawa Chapter
(without attachments)
Kaw Valley Bicycle Club
Lawrence Bicycle Club
Leavenworth Bicycle Club
OZ Bicycle Club

6-40
~~6-38~~

Buffalo Tales

The Leavenworth Bicycle Club is a Club Affiliate of the League of American Bicyclists

Officers and Chairpersons for 1997:

President: Joel Buck - 682-7449
 Vice-Pres: Dick Brown - 682-5606
 Vice-Pres: Thom Cochran - 682-7366
 Sec: Jim Lever - 758-1004
 Treas: Gregg Scircle - 682-8918
 League Contact: Gregg Scircle - 682-8918
 Buffalo Bill Rides: Committee POC : Joel Buck - 682-7449

Monthly Meetings:

Monday, February 17, 7:00 PM - Monthly Meeting - First Presbyterian Church, Fourth and Walnut Streets. Topic: Planning and Development of Hiking and Biking Trails at Havens Park, Bart Kreutzer from Kreutzer Bicycle Shop, moderator. How can the club and its members implement and maintain trails at the park. Members are encouraged to visit the developed trails in the hills west of Leavenworth High School before the meeting. Also discussion of late winter and early spring events to include Progressive Dinner Ride, Nuts and Bolt Clinic, Katy Trail Ride, and Rope 'Em Ride in Hays.

Monday, March 17, 7:00 PM - Monthly Meeting - First Presbyterian Church, Fourth and Walnut Streets. Topic: Basic Roadside Repairs, not just changing your flat tire, bring your questions and bring your bike. Presented by Joel Buck and Brendan Sheehan from Santa Fe Trails Bicycle Shop. Also spring and early summer activities to include Reach Out America Ride, Katy Trail Ride, Rope 'Em Ride in Hays, and Biking Across Kansas.

We would like to welcome these new and renewed club members: Baron and Susan Powell, Thurman Oliver, Rick, Sharon Cunningham and family, Dick, Mary, and Patrick Brown, Janet Dye and family, Ron, Kathy, Brett, Adam Kenton, Dave and Robin Goebel and family, Tad and Tama Brzustowicz, Dave Ferris, Thomas Clark, Carol Mullen, Gary A. McGregor, Thom and Inge Cochran, Gregg and Cindy Scircle.

Overnight camping trip to **Indian Cave State Park in Nebraska**. Saturday and Sunday February 15 and 16. Drive to park on Saturday morning. Camp and hike at Park. Return late Sunday afternoon. Must call Gregg if you plan to attend. Group camping equipment and car pool arrangements need to be finalized prior to weekend. We can borrow some equipment for those who would like to attend. Trip is rain or shine. Be prepared for cold weather. Leader: Gregg Scircle - 682-8918.

12th Annual Progressive Dinner Ride, Sunday, February 23. Ride or Car Pool. Meet at the South Parking lot at Leavenworth High School at 1:00 PM. The dinner will be held regardless of the weather. If it is too cold, snowy, rainy members will car pool from house to house. We have five stops lined up. Members can drop in and out as needed but tell us so we can inform our hosts. Please call Gregg Scircle - 682-8918 by Friday, February 2, if you plan to attend as we have to tell our host how many to expect. Please remember to RSVP. Bring the family.

Nuts and Bolts Repair Clinic, Sunday, March 16, 1:00 PM to 5:00 PM. Lower garage at Biringers, 601 Shawnee Street. Bring rags and any special tools. There will be knowledgeable members to help with those large and small tune-up and repair projects. Refreshments, some tools, and solvents provided. Plan to get your bike(s) ready for the spring riding season.

A new **Buffalo Bill Century Committee** is forming to coordinate this years event. Call Joel Buck - 682-7449 to volunteer to join the committee or help during the ride.

A **KATY Trail Ride** is tentatively set for the weekend of April 12 and 13. This can be either a camping trip or a Bed and Breakfast trip, your choice. Trip will start in New Franklin, MO as it has a campground and two Bed and Breakfast inns. More information at the February and March meetings.

The Grand Opening of the Santa Fe Trails Bicycle Shop is Saturday, February 1, 1997. Stop buy the shop and say hello and welcome to Leavenworth's newest bicycle shop. Shop is open from 9:00 AM to 6 PM. Good Luck to Brendan and Joann Sheehan.

Perhaps you have wondered where the **Adopt A Highway Cleanups** have gone. We are not allowed to do cleanups until the construction along our stretch of Metropolitan is complete. As soon as the construction is finished we will have our required three cleanups per year. The club is signed up for one more year in the program so look for those dates to return sometime later this year.

Club Jerseys for sale: \$45 each. Various sizes and two zipper lengths. Call Gregg - 682-8918 to purchase yours. Lots of jerseys on hand in many sizes. Show you club colors or replace the old jersey you have worn out.

The club is now online. We are using America Online. The e-mail address is LvnBicycle@aol.com. Gregg's e-mail address is JG Scircle@aol.com. Contact the club or Gregg at the above address. Let Joel, Dick or Gregg know if you have a e-mail address.

We have a few copies of Steve Katz's updated Second Edition of the **Cycling Guide to Kansas City**. Joel Buck and Gregg Scircle helped create a section of rides around the Leavenworth area. We have 22 local rides in the book. Price is \$12.95. Call Gregg - 682-8918 to get your copy.

Check out the club truing stand or repair stand. They can be checked out for short periods. Call Gregg - 682-8918.

Ride leaders are need for the April - May Ride Schedule. Contact Gregg Scircle - 682-8918 to volunteer. If you need training or information we can schedule a Ride Leaders Class.

UPCOMING EVENTS

Feb	15-16	Indian Cave Camping Trip	
Feb	23	Progressive Dinner Ride	
March	16	Nuts and Bolts Repair Clinic	
* April	12-13	KATY Trail Weekend (camping or B&B)	*
May	3-4	Rope 'Em Ride - Hays 913-625-3257	
May	18	Reach Out America Ride (Tentative date)	
May	18	Wicked Wind 100 (KSS) OZ Bicycle Club	
June	7-14	Biking Across Kansas (BAK)	
June	22	Capitol Classic (KSS) Kaw Valley Club	
June	29	Amelia Earhart Ride - Atchison	
* July	3-7	KATY Trail Ride (4 days) 185 miles	*
July	13	Lizard Under the Skillet (KSS) Lawrence	
Aug	10	Baldwin City Blast (KSS) Johnson County	
* Aug 30 - Sep 1		KATY Trail Weekend (camping or B&B)	*
Aug	21	Buffalo Bill Century (KSS) Leavenworth	
Oct	11-12	Octoginta (KSS Jersey Pickup) Lawrence	
* Oct	18-19	Katy Trail B&B Weekend (opt. camping)	*

(KSS = Kansas Survival Series)

6.41

639

Proponent For The Prairie Spirit Rail Trail

1. I am not pleased with the condition of how the railroad was left when it was dismantled.
2. I'm concerned about noxious weeds as it is now. Trent McCowen, Trail Manager, assures me that will be no problem when the Trail goes through.
3. I'm in sympathy with city residents who do not have access to the wide open spaces. We should share; those of us who have been fortunate to have lived in the country. My family has always permitted fishing at our ponds----with the stipulation that no litter is left. No problems, to date.
4. Have no desire to seek remedy in the Court of Federal Claims. It would take a fortune to convert our six acres back to Agricultural use.
5. In this day and age of urging families to become closer, what better way than being together in our beautiful great out of doors. The adults could point out numerous things of interest to the children.
6. Some are concerned about litter being left on the trail. We have that problem now, along the roadsides, and no one is patrolling it. I have confidence in the Trail Manager that he will keep the trail under **control**.

KATHERINE M. DIETERICH
2675 Hamilton Road
Princeton, KS 66078-9065

7-1

Dan Fogle, jr
612 E. 15th
Ottawa, KS 66067
Telephone 913-242-4244
Cell Phone 913-241-0912
February 24, 1997

Re: SB 293

Senators,

Five years ago this Labor day, Walker Hendrex and I were bicycling on old US-50 between Williamsburg and Ottawa. Even though it was a nice day and I was riding tight on the shoulder as a car approached from behind, he rear-ended me at an estimated speed of 60 mph. My bicycle and I were thrown over the top of the car. There were no cars from the opposite direction and I had checked my mirror, but the driver apparently swerved at the last minute.

While I was recuperating, I became interested in the rail-trail from Ottawa to Iola. My children and grand children need a safe place to bike, hike and jog.

I personally have donated over \$3000.00 and my company has donated \$1000.00 plus 10,000 ton of crushed material for the surface of the trail worth at least \$19,000.00. The money is all in place or pledged and the engineering almost complete. The contract is expected to be done this year if this bill is not passed. This was funded and finalized in the last session. Nothing can be accomplished by a three year moratorium except the opposition hopes some of the funding will disappear and effectively kill the project.

With the recent rail-banking of the line from Osawatomie to Herrington by the Horse Counsel, an east-west trail is almost certain. This could be a part of the first coast to coast trail in the U.S. The Franklin County portion of the Prairie Spirit will tie Anderson County with this east-west trail at Ottawa, making funding now even more imperative.

Much of the radical opposition to the Franklin County section has come from a handful of people from Anderson County even though their section of the trail is complete and in use. They dominated the original hearings. When I chaired a Chamber Legislative Coffee in Ottawa to discuss a number of current issues, the Anderson County radical opposition showed up trying and mostly succeeding in turning the meeting into a rail-trail debate, refusing to give up the floor at times. They load the Ottawa Herald with negative "Letters to the Editor".

There are over 10,000 miles of rail-bank lines in the U.S. with more being added each year. The U.S. Supreme Court ruling has held up repeatedly on this issue except for a few technicalities. The issue before us is not property rights but will the trail add recreation and tourism opportunities not only for Franklin County but the State of Kansas. I believe the answer is an overwhelming yes and hope you agree by defeating this bill.

Thank You,

Dan Fogle jr.

8-1
SENATE TRANSPORTATION & TOURISM
2/24/97
ATTACHMENT 8



Friends of the Prairie Spirit Rail Trail



P. O. Box 71, Garnett, Kansas 66032-0071

Walk it, hike it, bike it, love it -- What am I talking about? The Prairie Spirit Rail Trail. As President of the Garnett Chapter of the Friends of the Prairie Spirit, I can only attest to the facts as I know them. No speculation, no what if, or no we can only hope.

Many exciting things are happening in our area because of the Trail. Out-of-town trail visitors realize an added plus when they find an interesting antique shop, business or eating place and come back to the area with their friends and family. The Prairie Spirit has allowed them to discover our beautiful parks and campgrounds.

As an avid trail user, it is most gratifying for me to see all the people who use the trail on a regular basis. It is not unusual to see a large number of people walking, running or biking the trail on a warm Sunday afternoon. Great friendships are being made with new visitors to the area. We love receiving all the great comments about the cleanliness and safety of the trail, landscaping and lighting projects and the tourism/reststop area at the newly renovated Santa Fe Depot.

If you want to enjoy all that nature has to offer, including bluebird houses and habitats, the Meads Milkweed preserve at Welda, native wildflowers and the rural quiet and calmness that abounds along the trail, please come visit us.

We are very proud of the completed portion of the Prairie Spirit Trail and look forward to the completion of Phase II from Richmond to Ottawa. On behalf of the 170 members of the Friends' group, we urge this committee to vote no on the two (2) bills introduced by Senator Tyson.

REMEMBER - walk it, hike it, bike it, love it -- The Prairie Spirit Rail Trail.

Joyce E. Martin

9-1

SENATE TRANSPORTATION & TOURISM
2/24/97
ATTACHMENT 9

Testimony Before the Senate Transportation & Tourism Committee
Ruth Carey, President-Friends of the Prairie Spirit-Ottawa Chapter
2/24/97

Mr. Chairman and members of the committee, my name is Ruth Carey, I am President of the Friends of the Prairie Spirit-Ottawa Chapter. Our group has worked hard to support the Kansas Department of Wildlife & Parks and their efforts to development the Prairie Spirit Rail-Trail between Richmond and Ottawa. We have raised over \$15,000 dollars through individual contributions of \$25 to \$200 dollars, an auction and other grassroots fund-raising projects.

I am not here today to discuss the issues of railbanking and the laws. I am here to speak to you as a mother, a grandmother and trail user.

The Prairie Spirit Rail-Trail provides one of the greatest opportunities for the residents of Ottawa, Franklin County, the state of Kansas and neighboring states, to play together in a safe environment that they are able to financially afford. We have had several people injured on bicycles in our town. It is safe to say several of these accidents would not have happened if the trail had been operable.

It is very dangerous for our grandchildren, our neighbors' children, and in fact for me, to compete for a small space of roadway with motorists.

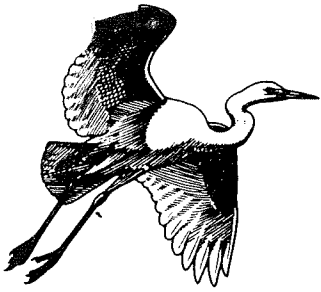
Even the most experienced and safety minded bicylists are at risk on the shoulders of our roadways today. This point was brought home for me recently when I learned of a deadly accident that occured in Clay County, Florida, on the day after Christmas. A man in a pickup track struck six cyclists riding along the shoulder of a state highway. The bicyclists were riding single file, on the paved shoulder. Two people were killed and four were seriously injured. One of those killed was a woman, who served as the Chief Bicycle Safety Trainer for the Florida Department of Transportation.

After seeing the development plans for the Prairie Spirit Rail-Trail, I can see our children, grandchildren and neighbors riding safely along the trail, and across the Marais Des Cynges River Bridge. Children will be able to use the trail to get to and from the city swimming pool across the trail bridge.

This is a much more peaceful scene than the thoughts I have of attempting to cross the current highway bridge, competing with speeding traffic, and risking the threat of receiving a citation from a police officer for riding across the bridge.

As a mother and a grandmother, I want to say our families need opportunities, like this offered by the Prairie Spirit, to recreate and play together in a safe environment.

It is with this in mind that I ask you to vote against Senate Bill 293.



Kansas Audubon Council

February 24, 1997
Senate Transportation and Tourism Committee
Testimony on SB 278

Thank you for this opportunity to appear before you today in support of SB 278. My name is Cynthia Abbott, and I am here on behalf of the Kansas Audubon Council and the approximately 5000 members throughout the state of Kansas.

In this time of vociferous public demands for fiscal efficiency on the part of government, SB 278 seems designed to please. On one hand we have a public rail trail, in essence a linear park, and on the other hand we have a state agency, the Kansas Department of Wildlife and Parks, with staff and equipment designed to maintain parks. Currently, however, we have a problem in that the public rail trail is not officially designated as a park, and therefore the Department's park staff and equipment cannot be used for its operation and maintenance without creating financial legal problems.

Rather than maintaining the expense of separate staff and equipment to operate the Prairie Spirit Rail Trail, the members of the Kansas Audubon Council, as taxpayers of the state of Kansas, feel that existing park staff and equipment should be used to operate and maintain this facility as much as possible. Funds to operate it should also come from the Park Fee Fund, as well as from the State General Fund. To allow these fiscally responsible actions to occur, it is necessary to designate the Prairie Spirit Rail Trail as a state park. Please do so by voting in support of SB 278.



Travel
Industry
Association of
Kansas

Jayhawk Tower
700 S.W. Jackson St., Suite 702
Topeka, Kansas 66603-3758
913 /233-9465 FAX 913 /357-6629

DATE: February 22, 1997
TO: SENATE TRANSPORTATION & TOURISM COMMITTEE
FROM: Jean Barbee, Executive Director
RE: Prairie Spirit Rail Trail as a part of the State Park System (SB-278)

Mr. Chairman and members of the committee, my name is Jean Barbee. I am the Executive Director of the Travel Industry Association of Kansas (TIAK). The legislative goals of TIAK are to support public policy which will:

- **Insure adequate public access to natural resources which provide recreational opportunities**
- **Sustain historical preservation**
- **Create an environment conducive to tourism business**
- **Provide for the promotion and marketing of tourism activities, attractions, events and businesses**
- **Assure the adequate servicing of the tourist**
- **Encourage efficiency in state government through partnerships**

TIAK supports SB-278.

Although TIAK has supported railbanking for several years, this bill is not about the pros and cons of railbanking. The issue of railbanking has already been determined by Congress and upheld by the U. S. Supreme Court. It would seem to be sound judgment, and good public policy on your part, to maintain state control over the trail by making it a state park.

9-5



MIKE WILDGEN, CITY MANAGER

City of Lawrence KANSAS

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

CITY COMMISSION
MAYOR
JOHN NALBANDIAN
COMMISSIONERS
BONNIE S. AUGUSTINE
JOLENE ANDERSEN
ALLEN LEVINE
BOB MOODY

S.B. 293 PRAIRIE SPIRIT RAIL TRAIL February 24, 1997

I'm Fred DeVictor, Director of Parks and Recreation, City of Lawrence, and serve as co-chair of the public policy committee for the Kansas Recreation and Park Association, a 725 member professional organization, which represents 240 recreation agencies in Kansas.

We oppose S.B.293 and 294 and support designating the Prairie Spirit Trail as part of the state parks system. The KRPA 1997 Legislative Platform recognizes "the significant ways in which trails and greenways benefit our state and local communities by increasing tourism, encouraging economic development, decreasing traffic congestion, providing safe travel routes to schools and parks for children and providing inexpensive, readily accessible opportunities for wellness activities and family recreation."

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. Lawrence opened the first operational rail-trail in Kansas in March, 1991. We maintain this one-mile trail plus miles of other trails in our parks and public areas.

Our regular maintenance includes mowing, pruning low-hanging branches, trash pick-up and keeping fences in place. We initially had some opposition from adjacent landowners but have proved there are not the vandalism problems or litter problems landowners thought would occur. We have very few complaints about our rail-trail. Most trail users are good neighbors.

The Prairie Spirit Trail will be an asset to the State of Kansas. We encourage you to oppose S.B. 293 and 294 and support making the Prairie Spirit Trail a part of the state park system as proposed in S.B. 278. Thank you.

Sincerely,

Fred DeVictor, CLP
Director
Parks and Recreation Department

FD/my

9-6



KANSAS RECREATION AND PARK ASSOCIATION

PRESIDENT Anne Freeze CLP, Director
Shawnee County Parks and Recreation
3137 SE 29th St
Topeka KS 66605
913-267-1156

PRESIDENT-ELECT Stevens Friend CLP, Director
Burlington Recreation Commission
1110 Shea
Burlington KS 66839
316-364-8484

PAST PRESIDENT Paul Keller CLP, Director
Great Bend Recreation Commission
PO Box 353
Great Bend KS 67530
316-793-3755

SECRETARY Mary Jane Perry, Aquatics Director
Overland Park Leisure Services
6300 W 87th St
Overland Park KS 66212
913-895-6355

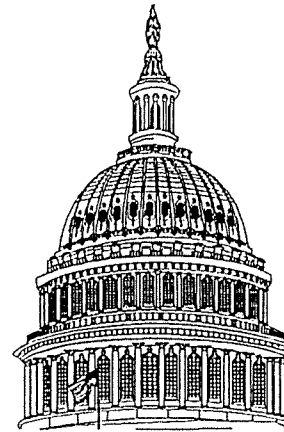
TREASURER Scott Schoon CLP, Director
Winfield Recreation Commission
700 Gary St Ste B
Winfield KS 67156
316-221-2160

MEMBER AT LARGE Gayle Parker CLP, Director
El Dorado Recreation Department
PO Box 792
El Dorado KS 67042
316-321-9100

MEMBER AT LARGE Gary Scott CLP, Director
Liberal Parks and Recreation
PO Box 2199
Liberal KS 67905
316-626-0133

LEGISLATIVE COMMITTEE
Fred DeVictor CLP, Director
Lawrence Parks and Recreation
PO Box 708
Lawrence KS 66044
913-832-3450

ADMINISTRATION Laura Kelly, Executive Director
Kansas Recreation and Park Assn
700 SW Jackson St Ste 705
Topeka KS 66603
913-235-6533PH 913-235-6655 FX



1997 Legislative Platform

KANSAS RECREATION AND PARK ASSOCIATION

a non-profit organization formed in 1948

"to unite and empower park and recreation professionals and citizen advocates in their efforts to ensure the public access to quality facilities and services in an environmentally responsible manner"

Parks and recreation benefits

the citizens of Kansas by promoting opportunities for *individual* expression and growth, for common *community* experience, for *economic* expansion, and for preservation of the *environment*.



ACQUISITION AND DEVELOPMENT OF PARKS AND RECREATION FACILITIES

KRPA recognizes the continuing need and demand by Kansans for open space, parks and recreation facilities. These needs exist in urban areas where residential and commercial expansion threaten the availability of greenspace for play, relaxation and community events; and in rural settings where deteriorating or nonexistent swimming pools, community centers and parks diminish the quality of life making it difficult to retain or attract new residents and businesses.

KRPA supports the creation of a new, long term source of state funding for land acquisition and facility development.

KRPA supports the merger of the Federal Land and Water Conservation Fund and the Urban Park and Recovery Program to create a federal Recreation Resource Trust Fund to ensure a long term, predictable source of federal funds to be shared equitably between local, state and federal agencies.

TRAILS, GREENWAYS AND USE OF ABANDONED RAILROAD RIGHT OF WAYS

KRPA recognizes the significant ways in which trails and greenways benefit our state and local communities by increasing tourism, encouraging economic development, decreasing traffic congestion, providing safe travel routes to schools and parks for children and providing inexpensive, readily accessible opportunities for wellness activities and family recreation.

KRPA strongly supports rails to trails projects throughout the state and opposes any legislation that discourages the development of such projects.

KRPA supports the use of Economic Development Initiative (EDIF) Funds for trails and greenways acquisition, development and maintenance.

KRPA supports the amendment of KSA 32-837 to designate the Prairie Spirit Trail as a state park.

KRPA supports full appropriation of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) to fund bicycle and pedestrian trails, scenic byways and highway beautification.

ADA COMPLIANCE

KRPA recognizes the importance of accessibility for all citizens and promotes participation in parks and recreation services at all levels in compliance the Americans with Disabilities Act.

KRPA supports additional federal funds to assist park and recreation agencies in meeting ADA mandates.



CRIME PREVENTION AND YOUTH SERVICES

KRPA recognizes the role of public parks and recreation agencies in providing positive alternatives to criminal activities for our youth. Further, KRPA recognizes that productive recreational activities can be provided for youth at a cost far less than that of incarceration.

KRPA supports the recognition of public parks and recreation agencies as eligible to access state and federal crime prevention funds.

ENVIRONMENT

KRPA recognizes the vital importance of clean water, clean air and the preservation of wildlife habitat to the quality of life for all Kansans.

KRPA supports the current rights of private property owners as provided for in the US Constitution. KRPA believes that contested valuations should be determined in the court system.

KRPA opposes property rights legislation which imposes undue administrative burdens and expenses on federal, state and local agencies or undermines the agencies' responsibility to plan and act in the best interest of the general public.

ACCESS TO LAND FOR RECREATIONAL USE

KRPA recognizes that Kansas has the lowest percentage of publicly-owned lands in the nation (3%).

KRPA supports legislation that encourages the use of private lands for public purposes, particularly expanded recreational opportunities including hiking, cycling, canoeing, hunting and fishing; and that provides protection to private property owners from undue civil liability.

UNFUNDED MANDATES AND REDUCTION OF FUNDING LEVELS

KRPA recognizes the need, from time to time, for the state and federal government to impose mandates upon local units of government.

KRPA opposes the passage of these mandates that are not accompanied by state and/or federal funds to cover the costs of implementation.

KRPA opposes any legislation that reduces existing revenue sources to state and local park and recreation agencies without consideration for replacement funding to continue impacted services.



TESTIMONY

to

KANSAS SENATE
TRANSPORTATION AND TOURISM COMMITTEE

by

William R. Maasen, Land Acquisition Specialist
Johnson County Park and Recreation District
February 24, 1997

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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PARK & RECREATION
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Gary L. Haller

SENATE BILL NO.293

Honorable Chairperson Vidrickson and Committee Members:

Thank you for the opportunity to appear before you today with regard to Senate Bill 293. I am Bill Maasen, Land Acquisition Specialist for Johnson County Park and Recreation District, responsible for acquiring land and overseeing development of the Streamway Park System in our County. The Streamway Park System is a voter-approved initiative to fund the construction, operation, and maintenance of multi-use trail system, similar to the Prairie Spirit Rail Trail

I have been asked to speak in opposition to Senate Bill 293 because of our agency's involvement in multi-use trails and due to the agency's support for the continued development of the Prairie Spirit Rail Trail.

The citizens of Johnson County appreciate, demand, and utilize trails of this nature. There are seven agencies or cities within the County constructing trail facilities to meet the demand. They include Overland Park, Leawood, Olathe, Shawnee, Lenexa, Gardner, and the Park and Recreation District. Currently, there are approximately 60 miles of multi-use trails in the County maintained by these organizations. The District spends approximately \$120,000 per year in maintenance costs for the 20 miles of facilities under our control. I have brought and handed out to each of you, for your reference, a copy of the "Trail Guide," a map of Johnson County showing all of these facilities.

Visitations to the 20 miles of trail operated by the Johnson County Park and Recreation District reached a record 576,000 individuals in 1996. The popularity of these facilities has increased at an annual rate of 13 percent since 1989 when the first two-mile trail was opened to the public. The type of users we see are families on bicycles, roller blades, walkers, joggers, and others. The District secures these facilities with gates at all access locations and restrict use to daytime only. The gates are opened and closed at sunrise and sunset. Police security is provided by the District's Park Ranger staff either on foot or on bicycle in coordination with municipal police departments where the trail facility is built. These facilities are safe for the users and adjacent landowners and, to date, no major incidents of crime have occurred at District facilities.



Development of Phase II of the Prairie Spirit Rail Trail is important to Johnson County Park and Recreation District and the citizens of the County because it will provide convenient access to the trail in Ottawa near I-35. One of the goals of our organization is to someday provide a bicycle trail or bicycle route connection from Johnson County to the proposed Prairie Spirit Trail.

The Johnson County Park and Recreation District supports the Kansas Department of Wildlife and Parks in its effort to build this trail and to provide a unique environment for the citizens of Johnson County, the State of Kansas, and surrounding states to see the beauty of eastern Kansas from this facility. Every year, an additional obstacle is created to delay this exciting project, and we encourage this committee to not pass this legislation and to allow the Department to proceed with the design and construction of Phase II.

Thank you for the opportunity to present the position of the Johnson County Park and Recreation District with regard to Senate Bill 293.



**SHAWNEE MISSION
PARK OFFICES**

7900 Renner Road
Shawnee Mission, KS
66219-9723

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

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PARK & RECREATION
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TESTIMONY

to

**KANSAS SENATE
TRANSPORTATION AND TOURISM COMMITTEE**

by

**William R. Maasen, Land Acquisition Specialist
Johnson County Park and Recreation District
February 24, 1997**

SENATE BILL NO.294

Honorable Chairperson Vidrickson and Committee Members:

Thank you for the opportunity to appear before you today with regard to Senate Bill 294. I am Bill Maasen, Land Acquisition Specialist for Johnson County Park and Recreation District, responsible for acquiring land and overseeing development of the Streamway Park System in our County. The Streamway Park System is a voter-approved initiative to fund the construction, operation, and maintenance of multi-use trail system, similar to the Prairie Spirit Rail Trail.

I have been asked to speak in opposition to Senate Bill 294 because of our agency's involvement in multi-use trails and due to the agency's support of the Prairie Spirit Rail Trail becoming a state park.

As iterated in the testimony provided regarding Senate Bill 293, the Johnson County Park and Recreation District and Johnson County communities are big suppliers of recreation trails for our citizens. The demand grows at an amazing rate annually and facilities are being added every year. The Johnson County Park and Recreation District supports the Prairie Spirit Rail Trail being designated a state park to place on an equal footing with other state-owned and operated facilities. The bill as presented is short-sighted and an attempt to simply delay the project further.

This facility has been and will continue to be utilized by our citizens and the expansion into Ottawa will make it even more useable due to its proximity to I-35. The Johnson County Park and Recreation District recommends this law be voted down by committee and the state park designation be granted to the Prairie Spirit Rail Trail.

Thank you for the opportunity to present the position of the Johnson County Park and Recreation District with regard to Senate Bill 294.

Testimony of Charles Benjamin, Ph.D., J.D.
Legislative Coordinator
Kansas Natural Resource Council
Kansas Chapter of Sierra Club

Before the Kansas Senate
Committee on Transportation and Tourism
Regarding S.B. 293 and S.B. 278

February 24, 1997

Thank you for the opportunity to testify in opposition to S.B. 293 that would place a moratorium on further development of the Prairie Spirit Trail and in favor of S.B. 278 that would place the Prairie Spirit Trail in the State park system.

At the time the bill to place a moratorium on further development of the Prairie Spirit Trail was introduced, there were two major arguments made by its proponents. The first was that there were court decisions that might make the state liable for reimbursing landowners for the property used by the state in creating this trail. The second argument was that there was legislation being considered by Congress that would amend the National Trail System Act. I would like to address both issues in turn.

The law that applies in Kansas is both Section 8(d) of the National Trail System Act Amendments, passed by Congress in 1983, that created a process called "Rail Banking," the 1990 U.S. Supreme Court decision in Preseault v. ICC, and the 1995 U.S. Court of Appeals case in Preseault v. United States. The U.S. Supreme Court upheld the Constitutionality of rail banking in Preseault v. ICC. In Preseault v. United States, the U.S. Court of Appeals again upheld the Constitutionality of rail banking. In the 1995 Preseault case, widely used by trail opponents, the Court found that in the specific instance of the Preseault case, a "taking" had occurred and the Presaults could take their case the Court of Federal claims for possible compensation. Other key points of this case decided by the Court:

- All corridors presently railbanked would remain railbanked. The Preseault decision was about compensation, not about the legitimacy of the railbanking itself.
- The Court found that responsibility for compensation lies with the U.S. government, not the trail manager, in this case the railroad or state of Vermont.
- The decision sent the case back to the Court of Federal Claims to determine the amount of compensation, if any, the Preseaults are entitled to.
- The decision focused narrowly on Vermont law, and was therefore limited to railbanked corridors in Vermont.
- The decision does not affect rail corridors in which the railroad held fee simple titles, rather than a railroad easement, to the property.
- Adjacent property owners who allege a taking of private property as a result of railbanking can only seek remedy in the Court of Federal Claims, they cannot have property returned to them, nor can they demand that the trail be closed or dismantled.

Unless the proponents of this bill have some other information to the contrary, the two Preseault cases are current law in Kansas.

The second argument is that Congress is considering legislation to amend the Rail Banking amendments to the National Trail System Act and therefore Kansas should put the Prairie Spirit Trail on hold. The fact is that Congress considers hundreds of bills every year, very few of which actually get through both houses of Congress and are signed by the President. As Kansas legislators I am sure you can appreciate that the process of passing legislation is long and arduous and you would not be wise to advise your constituents to count on legislation that may or may not be passed in the statehouse. Similarly, Kansas should not put its plans on hold for the Prairie Spirit Trail simply because of speculation about what Congress may or may not do.

The Prairie Spirit Trail, 50 miles in length, is one of three major rail banked corridors in Kansas. The others being the Flint Hills Nature Trail, 150 miles in length and the Landon Trail, 37 miles in length. The Prairie Spirit Trail is considered by Governor Graves and the Department of Wildlife and Parks to be a pilot project for trail construction and needs in Kansas. The first state operated "rail trail" in Kansas, it is being used to test public and political support of trails in Kansas. If the Prairies Spirit Trail is a success, there may be more additions in the future. If it is not a success, the development of trails in the state of Kansas will probably end.

The idea of S.B. 278 is to place the Prairie Spirit Trail into the state park system for several good reasons, all having to do with greater governmental efficiency and saving taxpayer money. If the Prairie Spirit Trail were designated a state park at least three things would happen:

- The trail could be operated jointly out of the Park Fee Fund and the State General Fund, lessening dependence on the latter.
- Nearby state park staff and equipment could be shared to assist with routine maintenance and special projects, lessening future personnel and equipment needs for the trail.
- The trail could be included on maps, in travel directories and other promotional mediums available to state parks, increasing the market of potential users.

The long range impact of S.B. 278 would be to increase the degree to which the trail could be self supporting in operations and maintenance costs. These outcomes have the added benefit of improving the economic climate of the communities along the trail.

Let's not abort this experiment prematurely based upon bad legal analysis and speculation about what might or might not happen in Washington, D.C. Instead, we should let the people of Kansas decided for themselves whether they want the Prairie Spirit Trail and other kinds of trails in Kansas.

Thank you for your time and attention.

9-13



THE CLINIC PHARMACY

1418 S. Main St., Suite No. 6

Ottawa, Kansas 66067-3543

(913) 242-3547

February 14, 1997

Senator Vidrickson:

I am requesting your support to oppose Sen. Tyson's bill to delay the Prairie Spirit Trail in Franklin County.

It is my understanding that if it is delayed, funds to help construct the trail would be lost as well as an opportunity for economic development in our County.

Sincerely,

Ed Burdette

1117 S. Maple

Ottawa, KS 66067

2/15/1997

Dear Ben,

Please bring
Senator Lysons bill, the
~~bill~~ moratorium of a year
on the Prairie Spirit Rail
Trail, Phase II.

The money is there this
year - the start up date
is April 1997 - completion date
is July 1997. (This is several years
of work of the local people.)

(They tell me being in the
Legislature is not as rewarding
as it used to be.)

Keep up the good work,

Rep. ~~Wally~~ Nichols

(A former colleague.)



League of
Kansas
Municipalities

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

February 18, 1997

Chairman Ben E. Vidrickson
Senate Transportation and Tourism Committee
300 S.W. 10th Ave. Room 143-N
Topeka, KS 66612-1504

Re: SB 278 & SB 293

Dear Chairman Vidrickson:

I understand that your committee will hold hearings next week concerning rails to trails projects. In order to provide background information in this area, I am enclosing a copy of a presentation that I made before the City Attorneys Association of Kansas last fall.

At our annual convention in October, members of the League of Kansas Municipalities adopted the following policy statement on rails to trails:

Rails to trails projects can be used to preserve existing transportation corridors, promote local tourism, and provide recreational activities for Kansans. The legislature should not impose restrictions on rails to trails projects that are operated by cities or exist within city limits. Cities should have the authority to establish requirements for rails to trails projects that are operated by cities or exist within city limits. While we recognize the importance of working with adjacent land owners to ensure safety along the trails, cities should make the final determination about the rules that govern such projects.

This statement makes it clear that cities have a strong interest in preserving and promoting rails to trails projects in Kansas.

I hope that you will find the information in the enclosed paper to be helpful during your discussions of this issue. Please do not hesitate to contact me if I can provide any further information on this subject.

Sincerely,

Kimberly A. Gulley
Assistant General Counsel

enclosure

103

Recreational Options: The Legal Challenges Facing Rails to Trails Projects

Presented to
The City Attorneys Association of Kansas
October 25, 1996
Atchison, Kansas

by

Kimberly A. Gulley
Assistant General Counsel
League of Kansas Municipalities

Rails to Trails Projects in Kansas

I. What are Rail-Trails?

The phenomenon known as rails-to-trails was created by the National Trails System Act, 16 U.S.C. § 1241 *et seq.* Through a process called "railbanking," railroad corridors are converted into trails which are operated by state and local entities as well as private organizations.

A. *Purpose of the Act*

Congress specified three purposes for allowing interim trail uses on corridors formerly operated by railroads:

- Preserve the corridor for future reactivation of rail service;
- Protect rail transportation corridors; and
- Encourage energy efficient transportation use.

16 U.S.C. § 1247(d). The intent was clearly to discourage the actual legal "abandonment" of rail corridors and encourage the use of this unique land in a way in which benefits state and local communities. Congress acknowledged that these corridors may be needed in the future to provide rail or other surface transportation. Once the railroad has legally "abandoned" the line and title passes to the adjacent landowners, there is little hope of recreating the corridor for future transportation needs.

Further, rails-to-trails is part of the National Trail Systems Act which was designed to "provide for the ever-increasing outdoor recreation needs of an expanding population and in order to promote the preservation of, public access to, travel within, and enjoyment and appreciation of the open-air, outdoor areas and historic resources of the Nation...." 16 U.S.C. §1241(a). Our local communities certainly have an interest in providing outdoor recreation for their citizens as well as preserving natural and historic resources.

B. *Railbanking Procedure*

Rails to trails projects are established along rail lines that are no longer in operation. In order for a rail corridor to be railbanked, there is a voluntary agreement between the railroad company which owns the land and an agency interested in developing a trail. The two parties petition the Surface Transportation Board (STB - formerly the Interstate Commerce Commission) for permission to allow an "interim trail use." The agreement usually specifies: the amount of compensation, if any, to be paid to the railroad; the railroad's responsibility for removing tracks, etc.; the time frame for the completion of the project.

The remaining part of the process involves a legal fiction. While the railroad has literally pulled up stakes and no longer participates in the operation of the corridor when a rail-trail has been established, the corridor has not been legally "abandoned." Rather than an abandonment, the Act refers to an "interim" trail use. 16 U.S.C. §1247(d). The STB maintains jurisdiction over the corridor during the interim trail use. This means that if at any time the STB determines that it is in the best interest of the country to return the corridor to railroad or other transportation use, it may do so.

A railroad must petition the STB for permission to abandon a rail line. 49 U.S.C. § 10903(a). In the event that an abandonment is allowed, state law governs the disposition of the property. Under Kansas law, property must be deeded to the owner of property servient to the railroad right-of-way within 180 days. K.S.A. 66-525(b). The Kansas Attorney General's Office has opined that an interim trail use allowed under the National Trails System Act is not an abandonment, and therefore, state law concerning the property disposition is not applicable to a rail-trail. Attorney General Opinion No. 95-4.

II. Legal Challenges

Rails to trails projects have faced both political and legal challenges. Most of the political opposition to these projects comes from those individuals or groups who would like to see the property that is no longer being used by the railroad returned to the adjacent landowners. The legal challenges to rails to trails projects have focused on the constitutionality of the National Trails System Act.

A. Takings Clause - Fifth Amendment

“...nor shall private property be taken for public use, without just compensation.”
U.S. Const, Amend. V

Some have challenged rails-to-trails projects as takings of private property without just compensation in violation of the Fifth Amendment to the U.S. Constitution. This argument is based on the theory that if the trail use would not have been allowed, the STB would have permitted the land to be abandoned and the property would have been deeded back to the adjacent property owners. Clearly, there is an issue as to whether one who has merely the possibility of ownership in private property is due just compensation under the Fifth Amendment. After all, the rail-trail is not the only thing standing between the adjacent landowner and ownership of the property. The STB must exercise its discretionary authority to grant the abandonment by the railroad before the property is transferred to the adjacent property owner.

At least one circuit has declared that interim trail use pursuant to the National Trails System Act is not a Fifth Amendment taking. *Glosemeyer v. Missouri-Kansas-Texas Railroad*, 879 F.2d 316 (8th Cir. 1989). While it is impossible to know how courts will handle this issue in the future, it is difficult to understand how a takings claim based upon the mere possibility of future ownership could be upheld. To date, the Supreme Court has heard only one rails-to-trails case.

In *Presault v. Interstate Commerce Commission*, the Supreme Court did not specifically determine whether the Act created a taking. Rather, the Court held that because the Tucker Act remedy was available for the property owners to make such takings claim, there was no need to determine whether a taking occurred. *Presault v. Interstate Commerce Commission*, 494 U.S. 1, 110 S.Ct. 914 (1990). The Court opined that as long as a mechanism for providing just compensation was available, there could be no Fifth Amendment taking. *Id.*

B. Commerce Clause

“The Congress shall have Power...To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes....” U.S. Const. Art 1., § 8, cl. 3.

As with many acts of Congress, the National Trails System Act has been challenged on the basis that Congress exceeded the bounds of its authority under the Commerce Clause. However, the Supreme Court found a rational basis for the Act holding that the congressional objectives to promote travel, preserve natural and historic resources, and preserve railroad rights-of-ways for future reactivation were reasonable. *Presault*, 494 U.S. at 18-19, 110 S.Ct. at 925.

Although the Court has settled the issue of whether Congress had the authority to establish interim trail usage on railroad rights-of-ways, the issue of whether states are preempted from regulating these trails has yet to be determined. In the area of public highways, the Supreme Court recognized the power of states to regulate the use of the highways. *Bibb v. Navajo Freight Lines, Inc.*, 359 U.S. 529 (1959). However, the Court also made it clear that in some cases such regulation may become so burdensome as to unconstitutionally interfere with interstate commerce. *Id.*

With respect to railroad transportation, the Court has prohibited state legislation that burdened or discriminated against interstate commerce. *Southern Pacific Co. v. Arizona*, 325 U.S. 761 (1945). As noted above, in a rail-trail situation the STB maintains jurisdiction over the corridor during the interim trail use. Under this analysis, one can make the argument that any state regulation which imposes significant burdens or impedes the development of rail-trails is an unconstitutional interference with interstate commerce.

C. Kansas - Sub H.B. 2711

Despite the outcries from the trail enthusiasts that the proposed legislation was unconstitutional, the 1996 Kansas Legislature imposed significant requirements on rails-to-trails projects. L. 1996, ch. 223 and ch. 252 (attached).

Operators of Existing and Future Rail-Trails Must:

- Eradicate noxious weeds
- Preserve existing easements, utility facilities and access licenses
- Provide trail-user education regarding trespassing laws and safety
- Provide for litter control
- Practice fire safety
- Designate the trail for nonmotorized vehicle use

- Prohibit hunting or trapping
- Provide law enforcement
- Grant easements to adjacent property owners to cross the trail

In addition, Sub. H.B. 2711 contains a fencing requirement that is a bit difficult to interpret. L. 1996, ch. 223, sec. 2(a)(10). If there is currently any fencing between the trail and the adjacent property owner, the trail operator is responsible for the maintenance of that fence. If the property owner installs any fencing between the trail and the adjacent property, the trail operator is responsible for the maintenance of the fence. If the adjacent property has fencing on the remaining three sides, the trail operator must install a corresponding fence between the trail and the adjacent property. Finally, if the adjacent property owner so requests, the trail operator must pay one-half of the cost of installing fencing between the trail and the adjacent property owner.

If the trail operator is not a governmental entity, they must file a bond with the county clerk to ensure the performance of weed control, litter control, fire safety, fencing and sign requirements. For portions of the trail within city limits, the governing body of the city may waive or supplement these requirements. L. 1996, ch. 223, sec.2(e).

Operators of Future Rail-Trails Must:

- Give written notice to each adjacent property owner
- Prepare a project plan with itemized costs and maps of the trail
- Submit the plan to the county commission and/or city governing body where the trail is to be located
- Complete the trail within two years times the number of counties in which the trail is located

III. Recreational Trail Options for Cities

A. Rail-Trail Uses

The Rails to Trails Conservancy works to promote and protect the development of rails to trails projects in the United States. They envision:

“A vast network of trails across the nation connecting city centers to rural landscapes and countless communities to each other...linking neighborhoods to workplaces and congested areas to open spaces...serving both transportation needs and the demand for close-to-home recreation.”

Whether this vision will become a reality remains to be seen. However, rails-to-trails projects have provided recreational opportunities for:

- bicyclists
- walkers
- runners
- in-line skaters
- people with disabilities
- cross-country skiers
- equestrians; and
- outdoor enthusiasts of all kinds

Local governments have gotten involved for two main reasons. First, there is a growing demand by the citizens of our communities for local government to provide valuable recreational opportunities. Second, many localities have realized that rails-to-trails projects can be an efficient means of promoting tourism by highlighting the natural and historic resources of the area.

B. Status of Current Rail-Trails in Kansas

The Rails to Trails Conservancy reports the following information on the status of rails to trails projects in Kansas.

Trails Currently Open and in Use (20.9 miles)

Prairie Spirit	18.0 miles	Richmond to Welda is operating at the present time, with a planned expansion to result in a trail extending from lola to Ottawa for a total of 53 miles.
Whistlestop Park	1.8 miles	Elkhart
Lawrence Rail Trail	1.1 miles	Lawrence

There are 21 projects at various stages of the railbanking process. When completed, these projects will equal a total of 455 miles. A few of the more notable projects are as follows:

Lindsborg to McPherson

Herington to Osawatomie (Flint Hills Nature Trail)

Lomax to Overbrook

Topeka to Overbrook (Landon Trail)

The Lawrence Rail Trail and Whistlestop Park in Elkhart are operated by the cities. The Prairie Spirit Trail is being operated by the Kansas Horse Foundation.

Mary Hall
2614 Clark Rd.
Richmond, Kansas 66080

February 18, 1997

Ben Vidrickson
State Capital, Room 143-N
Topeka, Ks. 66612

Dear Mr. Vidrickson,

This letter is about my concern of the Prairie Spirit Trail in Franklin County. There are so many advantages to having the trail in our area, to which listed below are my views:

Economic development: The whole county (and state) will benefit.
Tourism: Bringing others to our businesses.
Recreation: A place for everyone to walk or ride their bikes.
County Residents: A safe place off of county roads, or busy roads to walk or ride their bikes.
Health Reasons: A place to exercise with no fear of having vehicles dust you or run over you. (The opponents of the trail must go to malls or somewhere, or maybe don't walk or ride a bike.)
Future Use: Look into the future at mass transit. The corridor will be kept open for future use.
Beauty of our land: Kansas is a beautiful place with wildlife and scenery to be enjoyed.

There are many states with State Parks and this would give a plus to our state of Kansas.

As a supporter of the "Prairie Spirit Trail" I wish we could "get on with it". The money is there, the decision will be hanging around for years if we don't go forward now.

Finally, I would like to tell you that in a contest to name the trail, my entry "Prairie Spirit" was chosen. And to come up with that name, I thought of the special people that live in Kansas and from our ancestors to now, we have a toughness that other states do not have. We have prairie spirit. Please use your influence in going forward with the Prairie Spirit Trail and thank you for your consideration.

Sincerely,


Mary Hall

From: Sen Ben Vidricksen (2/19/97)
To: Marian Holeman

[1]SB 293

2/19/97 3:06 PM

forwarded mail

Date: 2/19/97 3:10 PM
From: Bob Bregant
Dear Senator Vidrickson:

The purpose of this letter is to make you aware that the Ottawa Area Chamber of Commerce opposes SB 293 that has been introduced by Senator Robert Tyson that would place a moratorium on the development of Phase II of the Prairie Spirit Rail Trail from Ottawa to Garnett. This bill would effectively kill this project that so many of our members have spent a great deal of time developing.

As you know, Ottawa would not only become a trail head for the northern part of the Spirit Trail, but would be at the intersection with the Flint Hills Nature Trail that will stretch from Herrington to Osawatomie. These projects will provide a rare opportunity to dramatically increase the amount of tourists who visit Ottawa and Franklin County.

Wildlife & Parks estimated there could be 135,000 users per year on the Prairie Spirit Trail or an average of 370 per day. Even if Ottawa could draw less than a third of those people, the impact would be significant. According to a marketing survey, published by the Institute for Public Policy and Research at the University of Kansas in 1990, 100 new tourists per day could generate \$1,120,000 in retail sales and help support seven more retail outlets.

Many of the issues that opponents to the trail raise were debated last year, resulting in legislation to protect adjacent land owners. The Board of Directors recognizes the importance of protecting land owners; however, there is little evidence of problems resulting from trail users. This current effort to kill the project represents an effort by a small minority of residents to end a project that will benefit a great many Kansas residents.

If adjacent landowners feel they should be compensated for the land, they may seek remedy in the Federal Claims Court. If they want the land because the railroad is gone, they should carefully read the federal "railbanking" law and Kansas Attorney General Opinion Number 94-4 which demonstrates how the federal law supersedes the state law in regard to disposition of abandoned railroad rights-of-way.

We ask for your full support in the development of tourism in Franklin County and Ottawa by voting against any legislation that would place a moratorium on construction of Phase II of the Prairie Spirit Trail.

Sincerely,

Robert E. Bregant, Jr.
President
Ottawa Area Chamber of Commerce

RFC-822 Header:

RECEIVED: from IS.OTT.NET by mail.ksleg.state.ks.us ; 19 FEB 97 15:10:33 UT
Received: from is.ott.net ([206.104.176.197]) by is.ott.net (8.6.12/8.6.9) with
SMTP id PAA22274 for <sen ben vidricksen@mail.ksleg.state.ks.us>; Wed, 19 Feb
1997 15:08:33 -0600

Received: by is.ott.net with Microsoft Mail

10-13

From: Sen Ben Vidricksen (2/19/97)
To: Marian Holeman

[1]Prairie Spirit Rail-Trail

2/19/97 9:56 AM

forwarded mail

Date: 2/19/97 10:08 AM
From: Air Technologies, Inc.

February 18, 1997

Senator Ben Vidrickson
State Capital
Room 143-N
Topeka, KS 66612
Via E-Mail:
sen_ben_vidricksen@mail.ksleg.state.ks.us

Dear Senator Vidrickson,

We strongly urge your committee to vote against the moratorium on the Prairie Spirit Rail-Trail program as proposed by Senator Robert Tyson. His opposition to the program is supported by a small vocal minority and does not represent the voters of his district. Residents and tourists can enjoy the outdoors while biking, walking, or strolling with children without worrying about cars or trucks. The Trail would also bring tourists to the area with the associated economic benefits.

We, own a business, Air Technologies, Inc., employing 30 people who overwhelming support the program. Our property is adjacent to the railroad right of way and we would welcome the completion of the Rail-Trail program without hesitation.

Very truly yours,

Keith P. Gutreuter
Sharen P. Gutreuter
Air Technologies, Inc.
205 W. 17th Street
Ottawa, KS 66067
(913) 242-1811
E-Mail: ati@ott.net

RFC-822 Header:

RECEIVED: from IS.OTT.NET by mail.ksleg.state.ks.us ; 19 FEB 97 10:07:56 UT
Received: from port12.ott.net (port12.ott.net [206.104.176.112]) by is.ott.net (8.6.12/8.6.9) with SMTP id KAA19096 for

10-14

From: Sen Ben Vidricksen (2/21/97)
To: Marian Holeman

[1]Opponent of SB 293

2/21/97 9:39 AM

forwarded mail

Date: 2/21/97 12:04 PM
From: Murray McGee
Senator Vidricksen,

As a strong supporter of "Tourism" in Kansas and a parent, I am asking you to vote against SB 293.

I have wanted to introduce myself in a much different manner, but time and circumstances have not allowed me that convenience. My name is Murray McGee, I am the new Director of the Franklin County Convention & Tourism Bureau in Ottawa. I have been a long time supporter of Tourism in Kansas, even before I took my first job in this industry, nearly 2 1/2 years ago.

I guess you could consider me a bureaucrat, since I work for the City of Ottawa and Franklin county. But, as a parent and a resident of Kansas, I would like just a moment of your time to address an important issue.....SAFETY. I will not address the legal issues. You will hear them debated enough on Monday.

I moved to Ottawa a year ago, in part because of the plans for the Prairie Spirit Rail-Trail to run through this city. I have two children. My daughter is 11 and my son is 8. They both "love" to ride their bicycles. Unfortunately, we live on the edge of town on Wilson Street. Our street is marked with double yellow lines. Cars speed by our house at 40 to 50 miles per hour. Because of the danger involved in crossing the street, this summer, we only allowed our children to ride on the sidewalk in front of our house. That's one block, up and down the sidewalk. After several months, the children really started to complain. My wife and I agreed to allow our children to cross Wilson and ride along Hemlock Street. One day, our son, who has had two operations on his eyes, was riding across Wilson and came within inches of being struck by a car driving 40-50 miles per hour. Luckily the driver was young and had good reflexes.

Our children don't ride their bikes now. With another summer approaching my wife and I are agonizing over what we will do this summer. We had planned to take our children to ride on the trail near Garnett and eventually in Ottawa, where we won't have to worry about the threat of speeding traffic.

Even the most experience bicyclists can be killed by motorists. Case in point..On the day after Christmas (1996) in Clay County, Florida, a man in a pickup truck ran over six bicyclists riding, single file, on the paved shoulder of a state roadway. Two people were killed and four were seriously injured. They were very safe bicyclists. In fact, one woman killed was 31 year old Margaret Raynal, Chief Bicycle Safety Trainer for the Florida Department of Transportation's, Traffic and Bicycle Safety Education Program. She taught teachers and police officers how to help children ride their bicycles safely.

We need safe areas, such as the Prairie Spirit Rail-Trail, to enjoy bicycling and provide a safe our for our children to enjoy the outdoors. Please take this into consideration, when you cast your vote on this proposal for a moratorium on construction of the Prairie Spirit-Phase II.

Sincerely,

Murray McGee
Tourism Director
Franklin County Convention & Tourism Bureau
<http://www.ukans.edu/~hisite/franklin/tourism>

10-15-

From: Sen Ben Vidricksen (2/19/97)

To: Marian Holeman

[1]SB278,SB293,SB294

2/20/97 2:15 AM

forwarded mail

Date: 2/19/97 8:18 PM

From: Jeffrey Page

To all members of the Kansas Senate Transportation and Tourism Committee,

I am writing to voice my opposition to SB293 which imposes a moratorium on the Phase II development of the Prairie Spirit Rail Trail until April 1998. I have used the PSRT and support its full and speedy development as one of the most positive actions the Kansas legislature has ever taken to promote Kansas tourism.

I am also strongly supporting SB278 and opposing SB294. Whereas the State of Kansas is the virtual laughing stock of the country as a tourist destination, it should be painfully obvious to the committee that we need to keep pace with Missouri and a host of other states who are building and expanding these linear parkway systems. The short sighted efforts of state legislators and other Kansans to damage or destroy the PSRT project deserve to go down in ignominious defeat.

Sincerely,

Jeffrey K. Page

9673 Wedd

Overland Park, KS 66212

RFC-822 Header:

RECEIVED: from MTIGWC04.WORLDDNET.ATT.NET by mail.ksleg.state.ks.us ; 19 FEB 97
20:18:21 UT

Received: from LOCALNAME ([207.146.209.183]) by mtigwc04.worldnet.att.net
(post.office MTA v2.0 0613) with SMTP id AAA12838;
Thu, 20 Feb 1997 02:15:26 +0000

X-Sender: JEFFPAGE@postoffice.worldnet.att.net

X-Mailer: Windows Eudora Light Version 1.5.2

Mime-Version: 1.0

Content-Type: text/plain; charset="us-ascii"

To: sen_ben_vidricksen@mail.ksleg.state.ks.us,
sen_nick_jordan@mail.ksleg.state.ks.us,
sen_mark_gilstrap@mail.ksleg.state.ks.us,
sen_greta_goodwin@mail.ksleg.state.ks.us,
sen_nancey_harrington@mail.ksleg.state.ks.us,
sen_tim_kuelskamp@mail.ksleg.state.ks.us,
sen_jerry_karr@mail.ksleg.state.ks.us,
sen_larry_salmans@mail.ksleg.state.ks.us,
sen_robert_tyson@mail.ksleg.state.ks.us

From: Jeffrey Page <JEFFPAGE@worldnet.att.net>

Subject: SB278,SB293,SB294

Date: Thu, 20 Feb 1997 02:15:26 +0000

Message-ID: <19970220021521.AAA12838@LOCALNAME>

From: Sen Ben Vidricksen (2/19/97)
To: Marian Holeman

[1]Support the Prairie Spirit Trail

2/19/97 9:10 PM

forwarded mail

Date: 2/19/97 8:26 PM

From: billco

Just a quick note to say I SUPPORT SB 278 AND OPPOSE SB293 & 294.

I was at the Garnett dedication of the Prairie Spirit Trail a year ago, rode my bicycle in a 1995 Prairie Spirit Trail fund raiser and many times on the trail itself, and am a strong supporter of the Rails to Trails process.

I have ridden the KATY Trail in Missouri many times as well as the Raccoon River Trail near Des Moines, Iowa, and it never fails that I meet nice people from all over the Midwest. People from other states make special trips specifically to ride these trails, and Kansas should benefit from this movement too. These are families wanting to take their children on a safe bike ride or walk/run together, without traffic, retired couples, and us city folks who actually like to breathe some fresh air now and then.

Thanks for your consideration.

Dr. Bill Crawford
Overland Park, KS
billcod@juno.com
(913)495-2034 (voice mail)

RFC-822 Header:

RECEIVED: from M5.BOSTON.JUNO.COM by mail.ksleg.state.ks.us ; 19 FEB 97 20:25:28
UT

Received: (from billcod@juno.com) by m5.boston.juno.com (queuemail)

id VZU24562; Wed, 19 Feb 1997 21:10:49 EST

To: sen_ben_vidricksen@mail.ksleg.state.ks.us

Subject: Support the Prairie Spirit Trail

Message-ID: <19970219.200832.9102.17.billcod@juno.com>

X-Mailer: Juno 1.15

X-Juno-Line-Breaks: 0-1,5,13-18

From: billcod@juno.com

Date: Wed, 19 Feb 1997 21:10:49 EST

=====

From: Sen Ben Vidricksen (2/21/97)
To: Marian Holeman

[1]FWD>Fwd: Legislation

2/21/97 3:13 PM

forwarded mail

Date: 2/21/97 4:49 PM
From: Dave Larson

Date: 2/21/1997 2:18 PM
From: GJACKM

Forwarded message:

Subj: Legislation
Date: 97-02-21 15:00:03 EST
From: GJACKM
To: bpallen@ink.org,tpresta@ink.org
To: rep-david-adkins@mail.ksleg.state.ks.us
To: ralldrit@ink.org,cbeggs@ink.org
To: rep-les-donovan@mail.ksleg.state.ks.us
To: rep-david-huff@mail.ksleg.state.ks.us
To: blarkin@ink.org,mroneal@ink.org
To: rep-peggy-palmer@mail.ksleg.state.ks.us
To: rep-jeff-peterson@mail.ksleg.state.ks.us
To: rep-ethel-peterson@mail.ksleg.state.ks.us
To: rep-eber-phelps@mail.ksleg.state.ks.us
To: jshriver@arkcity.com
To: rep-dixie-toelkes@mail.ksleg.state.ks.us
To: jwempe@ink.org

Dear Representative

I want to register my support for Senate Bill 278 which designates the Prairie Spirit Rail Trail as a state park. I am opposed to Senate Bill 293, Senate Bill 294 and House Bill 2324.

Thank you for your consideration.

G. Jack Mccausland
11918 West 82nd Terrace
Lenexa, KS 66215

RFC-822 Header:

RECEIVED: from INK.INK.ORG by mail.ksleg.state.ks.us ; 21 FEB 97 14:16:15 UT
Received: from emout07.mx.aol.com by ink.ink.org id aa19952; 21 Feb 97 14:12
CST

Received: (from root@localhost)
by emout07.mail.aol.com (8.7.6/8.7.3/AOL-2.0.0)
id PAA13653;
Fri, 21 Feb 1997 15:13:28 -0500 (EST)

Date: Fri, 21 Feb 1997 15:13:28 -0500 (EST)

From: GJACKM@aol.com

Message-ID: <970221151316_650477966@emout07.mail.aol.com>

To: tpresta@ink.org, sen-ben-vidricksen@mail.ksleg.state.ks.us,
sen-nick-jordon@mail.ksleg.state.ks.us,
sen-mark-gilstrap@mail.ksleg.state.ks.us,
sen-greta-goodwin@mail.ksleg.state.ks.us,
sen-nancy-harrington@mail.ksleg.state.ks.us,
sen-tim-kuelskamp@mail.ksleg.state.ks.us,

10-18

Garnett Publishing, Inc.

Publishers of The Anderson County Review and The Eastern Kansas Senior Star

February 21, 1997

To: **Senator Ben Vidrickson**

re: **Prairie Spirit Rail Trail Moratorium bills**

Dear Senator,

Pursuant to Monday's committee vote on moratorium legislation regarding the **Prairie Spirit Rail Trail's acceptance as a Kansas state park**, I would urge you to vote down the moratorium bills.

1) The Prairie Spirit Trail will have a major economic impact on Eastern Kansas through its tourism development potential. Kansas needs to maximize this potential by promoting it in league with other state parks.

2) Though supporters of the trail moratorium bills argue the restrictions are warranted due to property rights issues, **please be advised that these issues have, in fact, been resolved.** The United States Supreme Court upheld the federal rail banking law in 1990 which allows for setting aside abandoned rail beds. Also, the only federal appeals court ruling to date on property rights and rail trails required plaintiffs to make the case to the Federal Claims Court, and **exempted the state** from liability regarding the trail.

3) Both the Kansas Senate and House have engaged in lengthy debates in the past several years regarding the Prairie Spirit. The Legislature has already approved partial funding to match **millions of dollars in federal grants that will go elsewhere if Kansas does not use them.** It's time for Kansas to take full advantage of the Prairie Spirit opportunity.

I hope you will see the benefit for Kansas in defeating the moratorium bills.

Sincerely,



Dane Hicks, Publisher
The Anderson County Review

112 W. Sixth Street
P.O. Box 409
Garnett, Ks. 66032
(913) 448-3121
FAX (913) 448-6253

10-19

From: Sen Ben Vidricksen (2/24/97)
To: Marian Holeman

[1]Prairie Spirit 2/24/97 2:19 PM

forwarded mail

Date: 2/24/97 2:26 PM
From: Murray McGee
Senator Vidricksen,

I think the opponents of SB 293 & 294 did a good job of stating their case this morning at the committee hearing. There were just a couple of items mentioned by the bill supporters, I would like to address.

Mr. Cole, continues to point to KSA 66-525 but if you read Attorney General's Opinion 94-4 you will see this issue has already been addressed.

The "Economist" for the supporters of SB 293 & 294 also said, he would dissagree with the Mayor of Garnett. He said, the trail has "not" helped the local economy. The trail officially opened last August and if you look at the kansas Department of Revenue Sales Tax Collection Report.....collections for Anderson County were up 8.88 % from July 1996 through December 1996 compared to the same time period in 1995.

Now addressing the issue of trail passes. The Trail opened in August but the passes didn't go on sale for another month or two. I don't think there has been adequate time, in seasonal weather, to judge the sale of trail passes. G

Give this trial a try.

Thank you,

Murray McGee
Tourism Director
Franklin County Convention & Tourism Bureau
<http://www.ukans.edu/~hisite/franklin/tourism>

RFC-822 Header:
RECEIVED: from ARTHUR.COMPUTER-SERVICES.COM by mail.ksleg.state.ks.us ; 24 FEB 97 14:25:53 UT
Received: from pm6_14.computer-services.com (pm6_14.computer-services.com [206.101.232.152]) by arthur.computer-services.com (8.7.4/8.7.1) with SMTP id 0AA01935 for <sen_ben_vidricksen@mail.ksleg.state.ks.us>; Mon, 24 Feb 1997 14:19:24 -0600
Date: Mon, 24 Feb 1997 14:19:24 -0600
Message-Id: <1.5.4.16.19970224142040.2737de30@computer-services.com>
X-Sender: tourism@computer-services.com
X-Mailer: Windows Eudora Light Version 1.5.4 (16)
Mime-Version: 1.0
Content-Type: text/plain; charset="us-ascii"
To: sen_ben_vidricksen@mail.ksleg.state.ks.us
From: Murray McGee <tourism@computer-services.com>
Subject: Prairie Spirit

From: Sen Ben Vidricksen (2/24/97)
To: Marian Holeman

[1]SB 278

2/24/97 5:56 PM

forwarded mail

Date: 2/24/97 5:56 PM

From: Jane.Rockhoi

This is to voice my strong support for legislation that will designate the Prairie Spirit Rail Trail as a state park. Kansas needs this bike path option and the increased revenue, benefits to local businesses it brings to towns associated with the trail. Kansas NEEDS more tourism opportunities. This is a low-cost, environmentally safe, healthful option that will benefit all concerned. To miss this opportunity would be yet another travesty of the legislative process.

RFC-822 Header:

RECEIVED: from RELAY5.UU.NET by mail.ksleg.state.ks.us ; 24 FEB 97 17:56:31 UT

Received: from uucp5.UU.NET by relay5.UU.NET with SMTP

(peer crosschecked as: uucp5.UU.NET [192.48.96.36])

id 0Qceip01816; Mon, 24 Feb 1997 18:54:21 -0500 (EST)

Received: from jocoks.UUCP by uucp5.UU.NET with UUCP/RMAIL

; Mon, 24 Feb 1997 18:54:21 -0500

Received: by jocoks.jocoks.com (Smail3.1.28.1 #3)

id m0vz2zL-0001YhC; Mon, 24 Feb 97 10:10 CST

Message-Id: <m0vz2zL-0001YhC@jocoks.jocoks.com>

Date: Monday, 24 February 1997 10:16am ET

To: sen_ben_vidricksen@mail.ksleg.state.ks.us,

sen_nick_jordon@mail.ksleg.state.ks.us,

sen_mark_gilstrap@mail.ksleg.state.ks.us

From: Jane.Rockhold@jocoks.com

Subject: SB 278
=====

10-21

DISPELLING THE ECONOMIC MYTHS OF THE PRAIRIE SPIRIT RAIL TRAIL

By Thomas H. Morgan

February 24, 1997

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**MER MORGAN
RESEARCH**

Morgan Research Group, LTD.

108 East Fifth Avenue, P.O. Box 425, Garnett, Kansas 66032 • (913) 448-6910 • Fax (913) 448-6920

SENATE TRANSPORTATION & TOURISM
2/24/97
ATTACHMENT 11

11-1



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MORGAN RESEARCH GROUP, LTD.

Thomas H. Morgan is President and Chief Economist of Morgan Research Group, Ltd., which he founded in 1986.

Morgan Research Group is an economic and business research and consulting firm as well as an Internet publishing and marketing company. Morgan Research Group has a reputation for accurate forecasts, innovative research, and profitable advice. Morgan Research Group focuses its attention on the agriculture and allied industries. The firm also maintains extensive data in these areas as well as a global network of information.

In recent years, Morgan Research Group has taken the lead in applying modern communication technology to helping agribusinesses become more profitable through reducing costs, improving efficiencies and expanding markets.

Morgan Research Group's websites and web clients have become popular sites on the Internet with visitors from over 30 countries and from private individuals to Fortune 500 companies as well as various governments.

As a result, Morgan Research Group is in demand for speaking and consulting on the use of Information Age technologies.

Morgan Research Group has serviced clients internationally including producers, packers, processors, retailers, food service providers, exporters, importers, renders, hide processors and tanners.

Morgan Research Group offers regular reports with specific price forecasts customized to various segments of the livestock, meat and allied industries. To better service the diverse needs of its clients Morgan Research specializes in providing in-depth customized research reports in an expedient manner to help support businesses in today's dynamic environment.

Morgan Research Group, Ltd. is known for their informative presentations and unique perspectives. They are in demand as authors, speakers, and instructors. They have written for or been cited in a number of business publications including: *Business Week*, *The Wall Street Journal*, the Associated Press, Cable Network News (CNN), the *New York Times*, the *Farm Journal*, *Beef Today*, *Hogs Today*, *Dairy Today*, *Leather Manufacturing*, *Meat and Poultry*, and *Meat Processing* magazine. Mr. Morgan authors the column "Morgan on Meats" on *FarmDayta*, the column "Forage Analysis" in *Feedstuffs* and is a regular on *WIBW Radio's Ag Issues Forum*.

Mr. Morgan has also addressed a number of trade associations including the American Meat Institute, the U.S. Meat Export Federation, the U.S. Hides, Skins and Leather Association, the Leather Industries of America, the American Leather Chemists Association, National-American Wholesale Grocers' Association, the National Grocers Association and Certified Angus Beef.

Prior to founding Morgan Research Group, Morgan was senior livestock economist at Heinold Commodities, Inc. He also has a graduate degree in Agricultural Economics from Kansas State University.

Dispelling the Economic Myths of the Prairie Spirit Rail Trail

Thomas H. Morgan
President
Morgan Research Group, Ltd.
Garnett, Kansas
February 24, 1997

In the last four years there have been an incredible number of claims made as to the economic impact of the Prairie Spirit Rail Trail. However, when proponents are confronted about these claims they are quick to deny that they are the source of these claims or produce any professional economic analysis to support the claims.

As a professional consulting economist, I was hoping to find some professional economic analysis on which to base my position on the Prairie Spirit Rail Trail. My inquiries produced no professional analysis, just *ad hominem* arguments and unsubstantiated claims.

The dubiousness of their claims has been pointed out before. Dudley Feuerborn, Anderson County Commissioner testified before a Kansas Legislative committee three years ago pointing out the lack of economic benefit. (See Appendix A). In his comments he called for more facts.

“From the perspective of Anderson County government the Rail Trail poses some significant financial risks and dubious financial returns.

“As yet, county government has not received any impact study from the proponents of the trail. Consequently, the environmental, societal and economical impacts are in question. It would be wise that such study be completed and analyzed by interested parties before any more tax dollars are spent.”

This author presented in print (FarmDayta, March 16, 1994 and Anderson County Economist, May, 1994) and in person (Annual Meeting of the Lyon-Coffey Electric Cooperative, Inc. on April 7, 1994) information on “Making Good Economic Choices.” (See Appendix B). In discussing the evaluation of public economic development projects this author said,

“These goals can be quantified, and therefore managed and predicted.

“For example, business plans can be developed and analyzed.

Economic development plans can be developed and analyzed. These plans should be critically analyzed before public time and public resources are committed. Kansas State University has developed a computer program that communities can also use to evaluate the potential impact of these proposals.

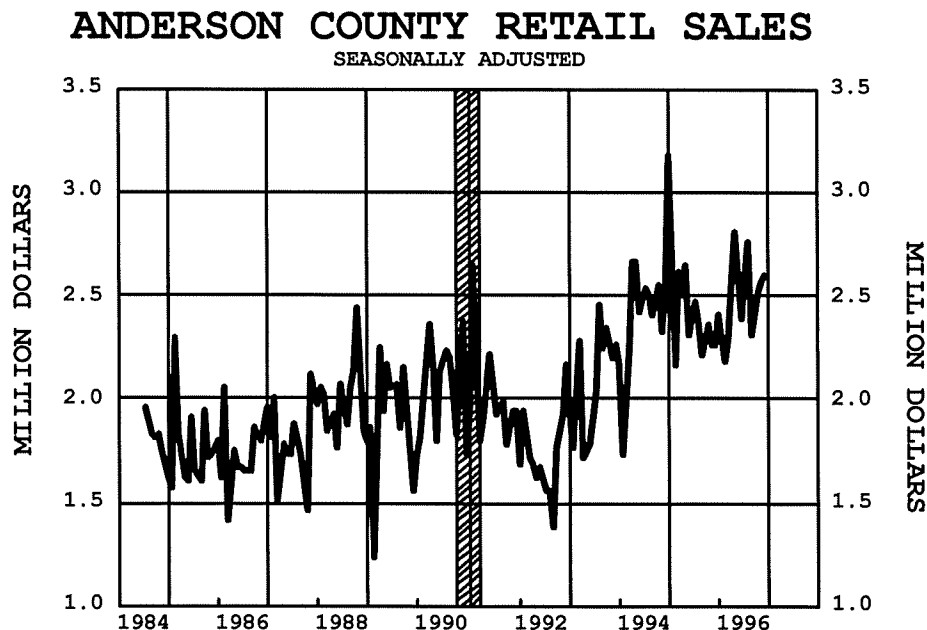
“Those in favor of a project should be required to do an economic impact study. This study should contain among other things a projected cash flow and an internal rate of return forecast.”

In spite of the concern of local politicians, businessmen and other professionals, the proponents of the trail did not produce any analysis showing a net economic or net social benefit for the trail. However, they were quick to spread myths, misinformation, misleading statements and factual inaccuracies in their desperate propaganda for the Prairie Spirit Rail Trail.

Since there is no professional analysis to critically examine and debate, I will quickly dispel some of the economic myths spread by the proponents of the Prairie Spirit Rail Trail.

Myth I. The economy of Garnett, Anderson County and Eastern Kansas will collapse without the Prairie Spirit Rail Trail.

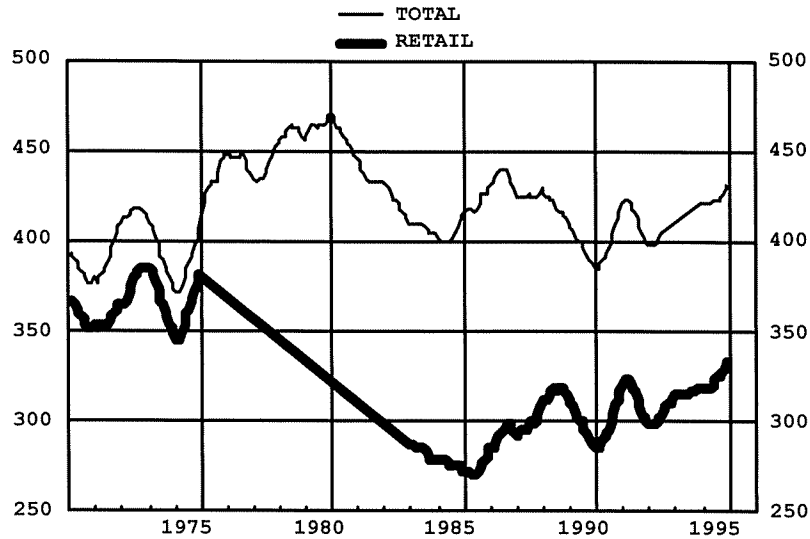
- A. Retail Sales bottomed in 1992 following the national recession in 1990/1991. Retail sales in Anderson County were trending upward long before the trail opened. These retail sales are driven by other more fundamental and more important forces. As can be seen below retail sales are quite volatile on a monthly basis. Consequently, caution should be used in making any month-to-month comparison.



Note: Shaded areas represent periods of economic recessions

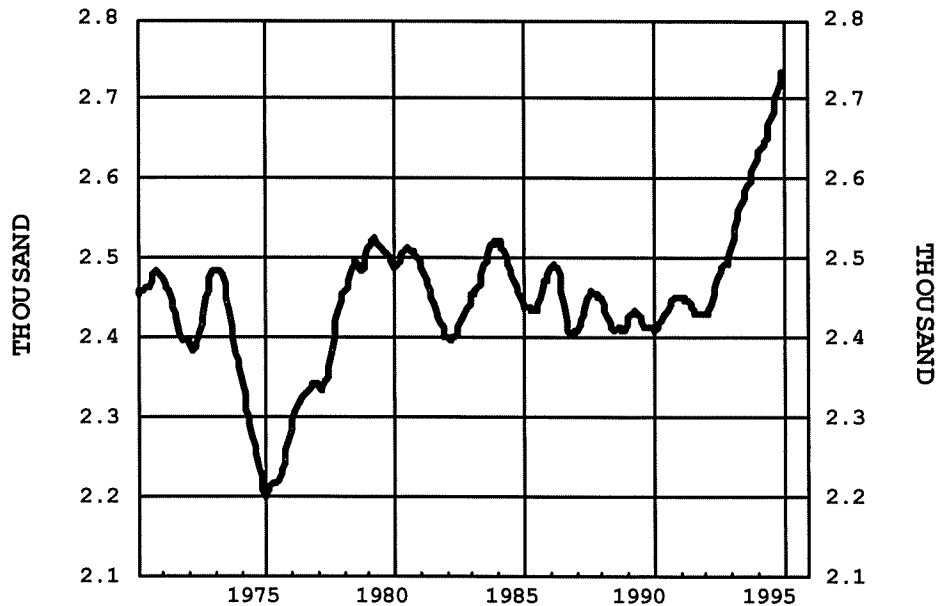
- B. The employment in the retail trade sector in Anderson County bottomed in 1986 and has increased by about 25 percent before the trail was opened (retail data for 1976 - 1983 unavailable). It is quite apparent that a set of factors is at work in Anderson County's economy other than the Prairie Spirit Rail Trail.

ANDERSON COUNTY EMPLOYED IN TRADE
12 MONTH MOVING AVERAGE



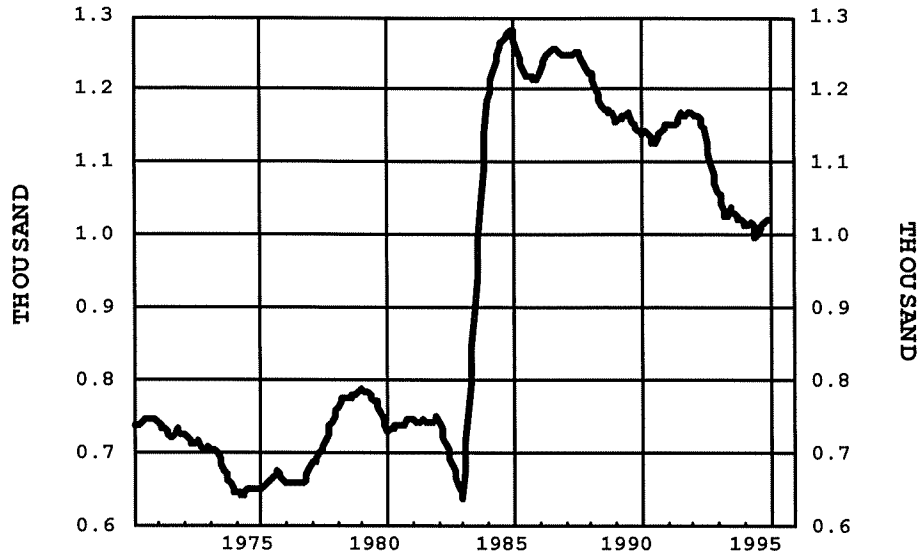
C. The retail trade is only one sector that has experienced an increase in jobs in Anderson County. Most likely, it is the growth in the other sectors that is producing the growth in the retail trade. The number of jobs in Anderson County increased by about 15 percent well before the trail opened. (Data on 1996 is still unavailable.)

ANDERSON COUNTY JOBS
12 MONTH MOVING AVERAGE



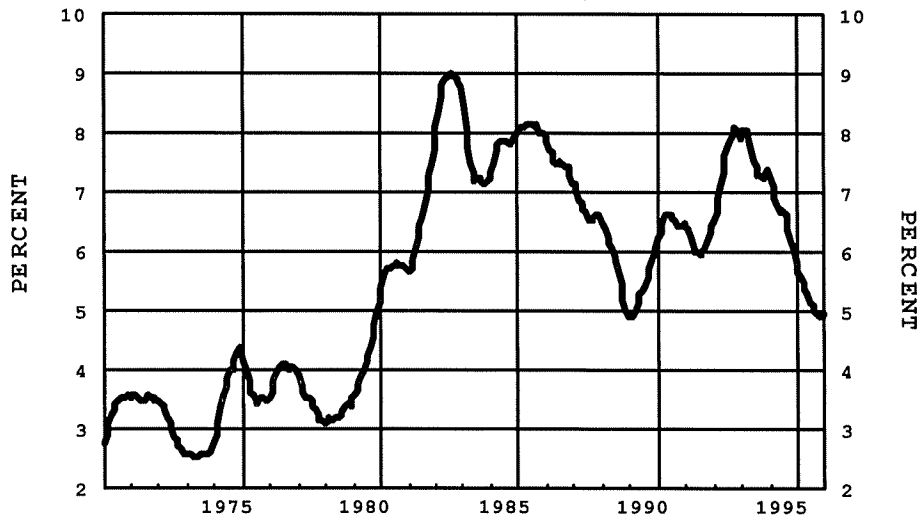
The local economy has been growing such that the number of residents having to commute out of the county for work has declined over the last decade.

ANDERSON COUNTY NET COMMUTE OUT
12 MONTH MOVING AVERAGE



The unemployment rate in Anderson County is the lowest in 16 years.

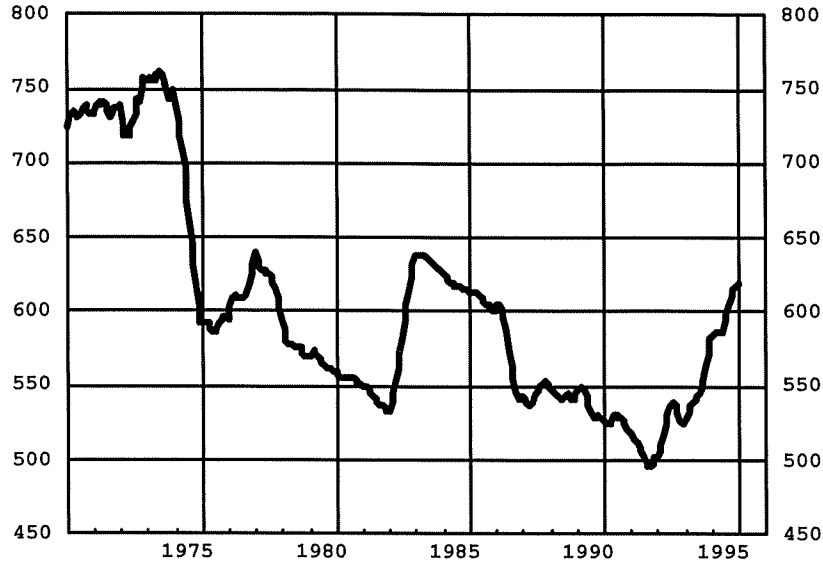
ANDERSON COUNTY UNEMPLOYMENT RATE
12 MONTH MOVING AVERAGE



Anderson County's largest industry, farming has seen a 25 percent increase in jobs during 1993, 1994 and 1995 (data for 1996 is still unavailable). The number of jobs in farming in 1995 reached the highest level since 1984, over a decade ago. The growth of the farm

economy is expected to continue. The Hudson Institute calls the next one to two decades **the greatest opportunity in farming history.**

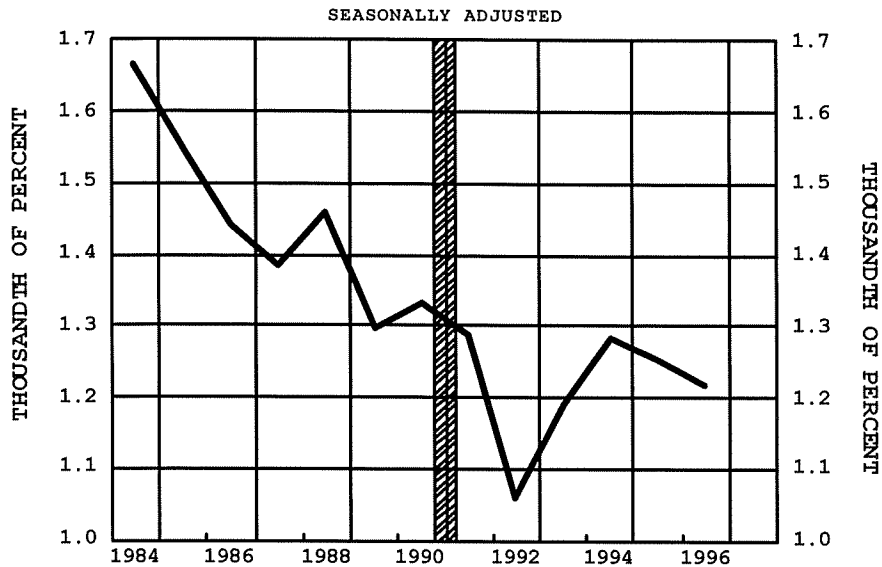
ANDERSON COUNTY EMPLOYED IN FARMING
12 MONTH MOVING AVERAGE



Myth II. The Opening of the Prairie Spirit Rail Trail in late March 1996 has had a significant net economic benefit on Anderson County.

- A. Retail sales growth in Anderson County is no better than that of the whole nation. In fact, Anderson County's share of the total retail sales in the U.S. actually declined in 1996 to below that of 1994 and 1995, putting it at the third lowest in 13 years. Is it possible that the trail supporters have so angered the farmers of Anderson County that they are making a larger portion of their purchases outside the county?

ANDERSON COUNTY % U.S. RETAIL SALES



Note: Shaded areas represent periods of economic recessions

- B. Any significant economic benefit of the Trail will be due to trail users from outside the community. These outsiders' usage can be measured by the permits sold. If they are unwilling to spend two dollars for the tremendous experience of seeing the prairie mole cricket and rare milk weed, then it is unlikely that they will be willing to purchase other items from local merchants. There have been 177 daily permits and 158 annual permits sold for \$1,440 in the first five months of permit sales. (This is 67 permits per month and \$288). If we assume that the annual permit holders use the trail three times, then there would be a total of 651 trail uses (130 / month). If we use the unsubstantiated trail proponent estimate of per user spending of \$10, then there was \$6,510 in revenue taken in by Anderson County merchants (\$1,302). This generated \$65.10 (\$13.02 / month) in sales tax to cover any additional costs the trail might impose on the county (such as law enforcement). This would generate \$318.99 in state sales taxes (\$63.80 / month) to cover the states expenses connected with the trail. If the items purchased had a gross margin of 20 percent then \$1,302 (\$260.40 / month) was generated in gross profit to merchants of the county. Is this worth the cost?
- C. Garnett's downtown business district has not been revitalized as a result of the Trail's opening. The Mayor of Garnett wants you to believe that the Trail has turned downtown Garnett into a fully renovated shopping oasis, not so.



According to TrailBlazer (October-December 1996) magazine, "Downtown Garnett, Kan. hasn't seen anything like it for 45 years. The old Pennsylvania Hotel, built in 1883, is reopening for the first time since 1950 as the Prairie Spirit Hotel to serve travelers on the new Prairie Spirit Rail Trail."



As can be seen from these pictures Trail supporters are prone to exaggeration similar to the Jon Lovitz character on Saturday Night Live, Tommy Flanagan of Pathological Liars Anonymous.



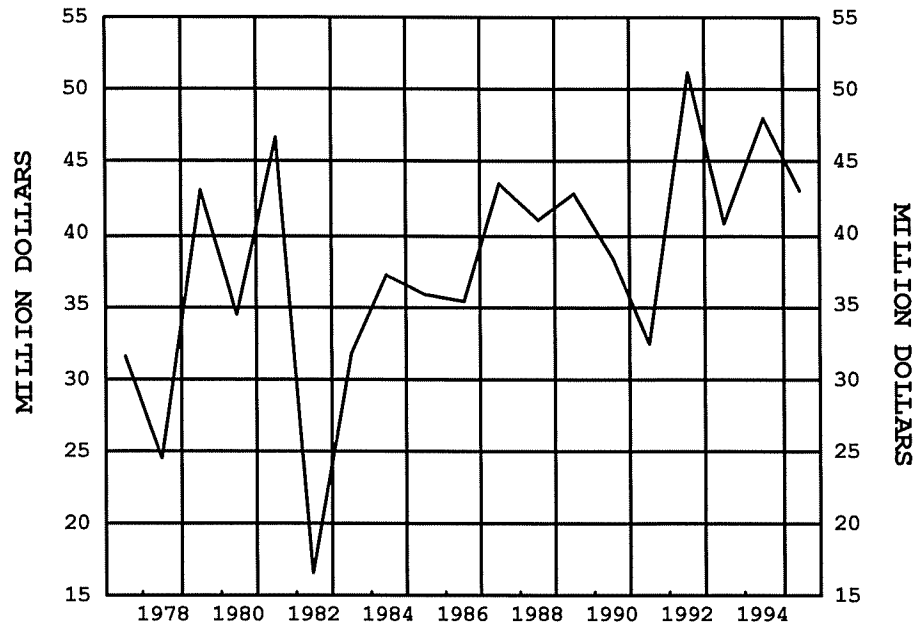
D. Costs

1. Trail manager salary, benefits, training, vehicles, trail maintenance, trail repair, fencing
2. Losses due to theft and vandalism.
3. Loss of business to Garnett merchants as upset farmers change their purchasing patterns to avoid doing business with supporters of the trail.
4. The loss of good will and community spirit as residents' rights are violated and land is stolen.
5. The loss of entrepreneurial spirit as the government violates private property rights, a key ingredient to a capitalistic system.

Myth III. The Kansas Department of Wildlife and Parks (KDWP) is concerned with the economic well being of Anderson County / Eastern Kansas.

- A. Agricultural production adds about \$45 million worth of wealth to Anderson County each year. In 1996, it was most likely over \$50 million.

VALUE OF AGRICULTURAL PRODUCTION



In addition, these farmers and landowners bring to the county another several million in government transfer payments.

B. This \$50 million economic impact would likely be 10 to 15 percent larger if KDWP managed wildlife inventories better.

1. According to Morgan Research Group's informal survey, there is a 15 percent loss in agricultural production due to excessive inventories of wildlife.
2. Kansas Farm Bureau viewed this problem so significant that its members spent an hour at their last annual meeting discussing a policy to request reimbursement from KDWP.
3. A ten percent loss in 1996 would have cost Anderson county about \$5 million. This is many times greater than even the most optimistic estimates for the Prairie Spirit Rail Trail.

C. KDWP promised the residents of Garnett that the trail would connect the city's two lakes. This would provide a safe route for children to travel from one lake to another. However, they never bothered to check with the Union Pacific to see if UP would allow them to cross their tracks. Instead they started construction only to find out what our researchers discovered by simply calling the UP legal department. The UP does not grant permission to cross their tracks with a hiking and biking trail. Due to KDWP's poor planning and willingness to promise anything in order to get support, youthful users of the trail will encounter a very dangerous situation at the point that the trail reaches the UP tracks.

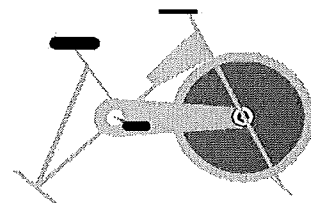


This dangerous, ill thought out situation illustrates KDWP's lack of regard for the well being of the citizens of Anderson county. To put trail users at this kind of risk is ill advised. It also demonstrates their poor planning and rush to build it no matter what the cost in dollars or human life.

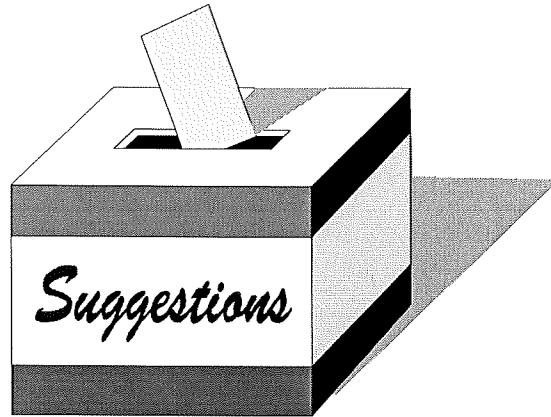
Conclusion

As you can see the proponents of the Prairie Spirit Rail Trail have blown much smoke on to the stage of this debate, but once this smoke is cleared we find there is no fire.

The proponents attempt to present an economic argument for this trail is much like a stationary bicyclist. A lot of activity and some huffin' and puffin', but it goes nowhere.



This professional consulting economist recommends a moratorium on the expansion and promotion of this potential boondoggle until reputable professional economists can prepare competent analysis of the potential costs and benefits of the Prairie Spirit Rail Trail. To do otherwise is to squander precious tax money during fiscally tight times.



Appendix A

Statement of Anderson County Commissioner Dudley Feurborn 1994

From the perspective of Anderson County government the Rail Trail poses some significant financial risks and dubious financial returns.

As yet, county government has not received any impact study from the proponents of the trail. Consequently, the environmental, societal and economical impacts are in question. It would be wise that such study be completed and analyzed by interested parties before any more tax dollars are spent.

However, it is hard to imagine the potential risks Anderson County government faces due to this trail. Since the trail will be an attractive nuisance increased staffing in the sheriff's department may be necessary.

Increased resources may be necessary for emergency medical transport and emergency staffing at the county hospital.

Road construction may be necessary so that the sheriff's department will be able to patrol areas around the trail.

Anderson County may need to provide additional services for which there may be no additional tax revenues generated. That could mean a tax increase for the current property owners. If so the tax burden would fall primarily on those outside Garnett, since 81 percent of taxable property is outside the city limits of Garnett.

Therefore, the meager resources of rural Anderson County may go to fund a playground for others.

Appendix B



Morgan Research Group, LTD.

108 East Fifth Avenue, P.O. Box 425, Garnett, Kansas 66032 • (913) 448-6910 • Fax (913) 448-6920

Making Good Economic Choices

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By Thomas H. Morgan
President

March 16, 1994

Have you wondered what everyone means by economic development? Why is it so controversial, and why do we seek it?

I am a professional economist and sometimes I wonder what everyone is talking about!

This confusion is unnecessary. Economics is a science that has been around for quite sometime. This topic is well researched. The knowledge and understanding already exists.

For Anderson County, I believe that economic development should mean sustainable, socially acceptable economic growth.

Anderson County needs economic growth. The economy in Anderson County has not kept up with that of the nation. For the local economy to grow, Anderson County needs highly profitable businesses with positive cash flows.

The combination of large profits and positive cash flow allows the businesses to survive in the short run and grow in the long term. These conditions combine to meet the goal of growth and sustainability. This has been lacking in many of the previous economic development ventures.

These goals can be quantified, therefore managed and predicted.

For example, business plans can be developed and analyzed. Economic development plans can be developed and analyzed. These plans should be critically analyzed before public time and public resources are committed to a project

Those in favor of a project should be required to do an economic impact study. This study should contain among other things a projected cash flow and an internal rate of return forecast.

The cash flow projection should be positive after a reasonable start-up period. The threshold internal rate of return should be at least 20 percent and maybe as high as 30 percent for riskier ventures.

With specific criterion and accountability, meaningful economic development can occur.

In addition to these financial criterion, a project should be evaluated on the basis its social acceptability. Does this project fit the community? Does it violate local moral, ethical or religious views? Does it have unacceptable environmental impacts?

Does it raise concerns among the citizenry that have yet to be addressed in a satisfactory manner?

To attempt a project that has broad based opposition reduces its chances for success. And if the controversial project is successful, is it worth the community strife?

Lastly, economic development should be left to the private sector as much as possible. Public officials should act as cheerleaders, coaches and facilitators.

They should not attempt to jump in front of every project that comes along in attempt to take credit. These self-promotional activities contribute to good projects being lost and marginal projects being won.

Both the public and private sector should create an atmosphere where the entrepreneurs of the community will create successful businesses.

Public officials should be good stewards of the public funds they disperse. They should keep tax rates as low as possible so as to keep the community competitive and attractive to business.

Taxpayers should provide the necessary infrastructure so that resident business will prosper and other business will want to locate here. This includes roads, recreation facilities, schools, communication facilities, and more.

Additionally, I believe that economic development in Anderson County should be broad based and consistent with the industries already present. It should pursue enterprises that leverage existing businesses and resources.

Economic development in Anderson County should lead to a better standard of living for its residents. Not only is there a need for more jobs, but also jobs that pay a higher wage.

Finally, it should pursue businesses that will provide jobs for our present work force, and also for the future work force. Employment for those young men and women who are still in Anderson County's excellent schools and the state's universities. This will allow all of us to stay closer to our families and friends.

In spite of the worsened economic situation in area rural communities, I believe that economic growth is a realistic, attainable goal for rural communities. Provided, this community uses economic science and sound business practices in making private and public choices.

ADVANCED MARKET CONCEPTS

6075 Flush Rd., St. George, KS 66535

February 21, 1997

Tom Morgan
Morgan Research

Dear Tom:

I wanted to sent you this note in order to make a couple of points regarding the entire Rails to Trails Issue in the State of Kansas. Feel free to consider this when developing your testimony.

The primary point regarding this issue is deep rooted in Economics of Property Rights. Property rights are not a political issue, but a fundamental to the development of a prosperous economy. Studying the history of the land that is being used for Rails to Trails, it is quickly determined that Rails to Trails should be considered a "takings" and then evaluated from that perspective.

Property "takings" is purely an economic issue and that is why the Rails to Trails should come under close economic scrutiny.

Proponents will tout these trails as an economic "shot in the arm" for the region in which they are contained. I certainly question this assumption and feel that more in-depth study is required to accurately reflect the economic impact.

Most proponents of rails to trails have not considered the following:

The decrease in the value of the asset (land) in which the trail is adjacent.

The large amount of public capital that is utilized for a small number of people.

What personal utility is being maximized with public capital?

Is there any data to indicate that there is a significant multiplier effect in the communities that have opened these trails?

Tom, these are a few thoughts in a short amount of time. I certainly feel that sufficient analysis has not been done to satisfy the public takings of private land, which is what I feel is the fundamental issue.

Darrell Holaday
Advanced Market Concepts

ORVILLE J. COLE

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

January 31, 1997

To Governor Graves & Members Of The Kansas Legislature:

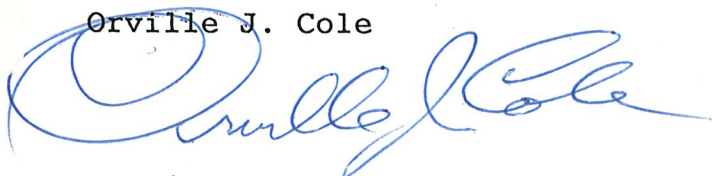
Who owns the railroad right-of-ways? This question is the subject of much confusion, particularly among rail-trail supporters. Yet, the law in Kansas is very clear. The present owner of the land from which the right-of-way was originally carved is the sole owner. The railroad, regardless of how it originally acquired the right-of-way, owns nothing except the privilege of maintaining its track across land owned by someone else.

Our Kansas Supreme Court has ruled on this issue numerous times. The following is a statement from its ruling in the case of Harvest Queen Mill & Elevator Co. v. Sanders, 189 Kan. 536. "We have held that when land is devoted to railroad purposes it is immaterial whether the railway company acquired it by virtue of an easement, by condemnation, right-of-way deed, or other conveyance. If or when it ceases to be used for railway purposes, the land concerned returns to its prior status as an integral part of the freehold to which it belonged prior to its subjection to use for railway purposes. This court has uniformly held that railroads do not own fee titles to narrow strips taken as right-of-way, regardless of whether they are taken by condemnation or right-of-way deed."

Our Kansas statutory law contained in KSA 66-525(f) reads as follows: "Any conveyance by any railroad company of any actual or purported right, title or interest in property acquired in strips for right-of-way to any party other than the owner of the servient estate shall be null and void,...."

So, where does this leave the rail-trails? The railroads have nothing to convey once they cease operations. The quit-claim deeds they have executed purporting to convey some interest are void under Kansas law. Our Federal Congress has attempted to delay reversion to the landowners by passing the rail-bank act. Courts have held that these right-of-ways can be moth-balled: but, if they become recreational trails, landowners 5th amendment rights are violated and they must be paid for their land and damages.

Until this chaotic mess is unraveled, our state legislature should block the spending of further tax dollars, which along with the millions already spent may all go down the drain.



**Statement of Orville J.
Cole, Attorney At Law,
Supporting Moratoriums on Further
Development of the Prairie Spirit
rail-trail and its inclusion into the
Kansas State Park System.**

*Confiscation of Land in Violation of
Constitutional Rights.*

- I am Orville J. Cole from Garnett, Kansas, where I practiced law for 40 years. I own an interest in land which is being confiscated for the Prairie Spirit rail-trail. I oppose the development of this trail for the reason that it violates my private property rights, as protected by the 5th amendment to the United States Constitution, and that it squanders millions of tax dollars to provide recreation for a few hikers and bicycle riders, depriving landowners of their right to privacy and keeping Farms permanently divided.

How Railroads Acquired Right-of-Ways.

- When railroad right-of-ways were Originally acquired between

Atawata and Iola, Kansas, around 1870, eastern Kansas was already settled, so the right-of-ways were acquired from private landowners by either buying the right-of-way and obtaining a deed or by condemning the right-of-way for railroad purposes.

Kansas Law on Right-of-Way Reversion when Railroad Abandons Use of Right-of-Way.

- The law in Kansas for 100 years has been that regardless of how the railroad obtained its right-of-way, the railroad had nothing but an easement for railway operation. This terminated when the railroad ceased to operate and the right-of-way reverted to the land from which it was originally taken (189 Kan. 536). The legislature of this state went even further to protect the landowner, passing KSA 65-525 (f). This law provided that a deed from a railroad conveying any part of the right-of-way to anyone but the owner of the land from which the right-of-way was originally taken is VOID. It has long been the declared public policy of this State that strips of land, usually 100' wide, across the countryside will not be allowed to be deeded to outsiders.

Rail-Bank Act.

- In the 1970's, when railroads started abandoning many branch lines, our United States Congress passed the rail-bank act. This was a fiction which held that technically the railroad was not officially abandoned even though the ties and rails were removed. The stated justification for this was that if we got into war the railroads might have to be rebuilt for defense purposes.

The practical effect of this legislation was to let the railroads walk away from billions of dollars in clean-up costs and to shift this burden to the taxpayer. The railroads were even excused from complying with environmental regulations after 100 years of pollution.

Rail-Trail Act.

- In 1983, Congress passed the Rail-Trail Act. It was one paragraph among hundreds of others, never debated, and only a few understood the far-reaching implications of it. The result has been one of the biggest land grabs in history, the squandering of millions of taxpayer dollars paid as gasoline and diesel-fuel tax (ISTEA), and the denial of landowner's constitutional rights under the 5th Amendment. Without any notice, landowners in Kansas found the federal government had confiscated their private property, aided and abetted by two Kansas governors and two sessions of the Kansas legislature.

Constitutional Issues in First and Second Preseault Cases.

- The supporters of rail-trails claim the United States Supreme Court in the first Preseault case has legitimized this legalized thievery of private property rights. This litigation has been going on for 11 years and is not yet settled. The first Preseault case that went to the Supreme Court held that Congress had the power under the commerce clause of the Constitution to rail-bank or moth-ball abandoned railroad right-of-ways and that

Compensation might be payable under the "Tucker Act." Landowner compensation was not determined in this first case. In the second Preseault case in a decision by the United States Court of Appeals, one step under the Supreme Court, that Court holds that while Congress can mothball the right-of-ways for future use for railroad purposes, it cannot change the use of right-of-ways taken for railroads into bicycle and recreation trails without paying the landowners for the land taken. This change of purpose is construed to be a taking of private property for a public use and must be paid for under the 5th Amendment.

Which Government Pays the Landowner for the Land Taken?

- In the second Preseault case the State of Vermont, as a rail-trail manager, argued that compensation to landowners must come from the federal government. The federal government argued that compensation to the landowners should be paid by the State of Vermont, (in our case the Kansas Department of Wildlife & Parks). The Court held that the primary responsibility was with the federal government. If this ruling stands an appeal to the Supreme Court, then each landowner would have to hire lawyers in Washington, D.C. to file their claims in the Federal Court of Claims. Few could stand this expense so the practical effect is government confiscation of private land in violation of a constitutionally guaranteed right. I refuse to believe that members of this legislature will knowingly condone or participate in an act this unjust to the citizens they represent.

Reconsideration by Congress of Rail-Trail Confiscation.

- **Outrage across the nation by property rights groups and landowners against this confiscation of private property is causing Congress to hold hearings to reconsider the rail-bank and rail-trail acts. Hearings that started last fall will begin again this April. Numerous court challenges are working their way towards the Supreme Court. At this time no one knows what the final outcome of the congressional hearings or court challenges will be, or who will get stuck with the bill. The cost will be great. Nationwide over 3,100 miles of rail-trails have been programmed involving over 63,000 private property owners.**

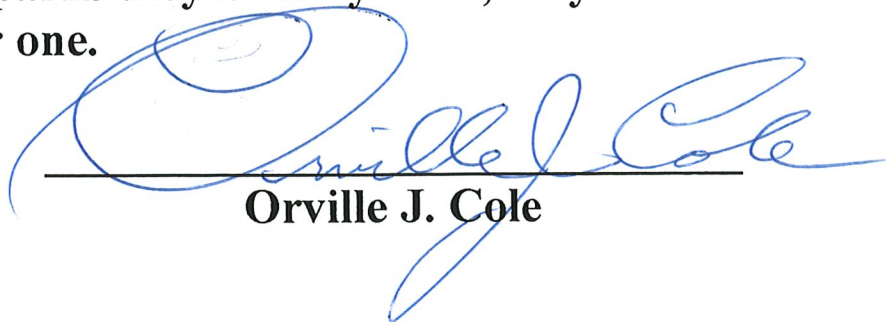
Present Status of Prairie Spirit rail-trail.

- **Over two million tax dollars have already been spent on a trail that the state has no title to and will never have unless the State either condemns the land or makes a deal with each landowner. Estimated cost of policing the trail is \$8,000 per month. Estimated income to the trail from permits sold is \$400 per month. Taxpayers make up the difference. While the federal government may postpone the land reversion to the landowners, it cannot create title and vest it in the State. Kansas Department of Wildlife and Parks has a quit claim deed from a railroad, which under Kansas law had nothing to convey. The deed is declared VOID by Kansas law. Even if the courts finally determine that the federal government is responsible to pay the landowners, this will require a huge appropriation by Congress. I see no mood in Congress to**

Consider huge expenditures to pay for bicycle trails and until someone pays, the State and its agent, Wildlife and Parks, are trespassers on private property.

**Sound Judgment Requires a Moratorium Until
These Matters Are Resolved.**

- This whole rail-trail scheme needs to be put on the back burner until some very serious issues are determined. The lure of federal funds should not override the sound judgment and fairness of our legislators and governor. Both private property rights and constitutional rights are involved and these issues are not going to be settled overnight. Until these issues are settled there should be no further expenditure of tax dollars or violation of private property rights, by any level of government.
- Including a rail-trail in the State Park System, when the State has no title to it, further complicates an already confused situation. The only purpose at this stage is to get the State so committed to the trail, if it is included as a park, that the state will have to eventually condemn the entire 50 miles to protect its investment. Wildlife and Parks has had great difficulty keeping it's finances straight and because of misapplication of federal funds has cost Kansas Taxpayers an estimated 6 million dollars. If they can't manage the parks they already have, they should not be burdened with another one.



Orville J. Cole

Merry Christmas **TAXPAYERS**

Thank you for generously paying your taxes
to provide \$84,000.00 per mile for our
rail trail.



Ready To Hit The Trail

(Would you want this bunch in your backyard?)

**TRAILGATE FOOTSIE &
BICYCLE CLUB**

12.8

Abandoned Rail Road Right of Way

In Franklin County Kansas

Proposed

Prairie Spirit Trail

First Tax Expense \$83,000 Per Mile

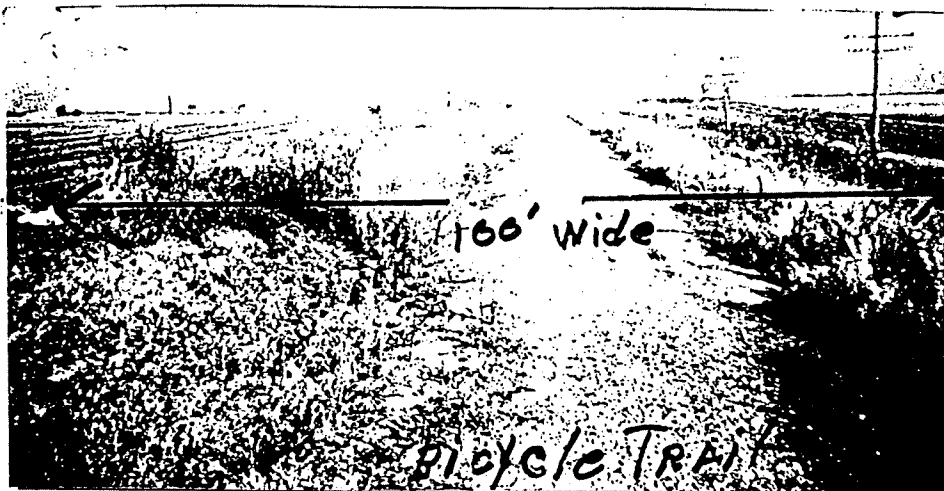
For A Total of 13 Miles From

Ottawa, Kansas To Richmond, Kansas

At A Cost of \$1,079,000 Tax Dollars

Also Cost of Maintaining This Bicycle Trail

Be It a Thousand Years...



Railroad right-of-way
(Prairie Spirit Rail-Trail)

STATEMENT OF WILLIAM G. TOUMBERLIN IN OPPOSITION TO FURTHER
DEVELOPMENT OF THE PRAIRIE SPIRIT RAIL-TRAIL OR THE INCLUSION
OF THE TRAIL IN THE KANSAS PARKS SYSTEM, BEFORE THE SENATE
TRANSPORTATION AND TOURISM COMMITTEE, MONDAY, FEBRUARY 24, 1997.

My name is William G. Toumberlin. I live on a farm in Franklin
County along the rail-trail. I feel that even though after
petitions containing over 2500 signatures opposing the rail-trail
in Anderson county were presented the legislature went ahead with
this trail in violation of their private property rights.

And I feel that the farmers in Franklin county will be treated
the same way unless we can convince someone that taking of
farmland for recreation is wrong.

Respectfully,

William G. Toumberlin

William G. Toumberlin
1252 Hwy. #59
Princeton, Kansas 66078

2

DEED

Mary Johnson,

to

Leavenworth, Lawrence
and Galveston
Railroad Company
and their
successors.

Dated July 16, 1869
Recorded January 27, 1870
Book "M" page 251
Consideration \$193.00

Conveys the right of way and the land necessary therefor not exceeding 100 feet in width, where the said Railroad is now located through the N.E. 1/4 of Sec. 23, Twp. 18, Rng. 19, Franklin County, Kansas. Said right of way over the land therefor being by me conveyed to said Railroad Company for the purpose of said road only and to revert to the grantor their heirs and assigns in the event of said line of road not being located on said lands.

Ack. July 16, 1869 before J.C. Richmond, Justice of the Peace, (Seal) Franklin County, Kansas.

The undersigned hereby certifies that this is a true and exact copy of the ABSTRACTED Deed recorded in Book "M" at page 251, in the office of the Register of Deeds of Franklin County, Kansas.

Dated at Ottawa, Kansas, this 7th day of April, 1995.

Haley Abstract & Title Co, Inc.

E. C. Haley
Abstracter

March 29, 1995

We, the undersigned, landowners along the old Santa Fe railroad right-of-way between Ottawa and Richmond, Kansas, claim our reversionary rights in said right-of-way. We do not recognize any claim of the Kansas Department of Wildlife and Parks to such right-of-way. Our position concerning our private property is the same as that expressed by Orville J. Cole in the attached copy of a letter written by him on March 27, 1995.

Name

Address

Dennis Woolman 2526 Hwy 59.

Melrose Fowl 352 Missouri Terrace

Charles J. Canady 2570 John Brown

Jessie Lantz 2649 Ellis Street Princeton, Ks

Robert Lantz 2706 Doug Rd Princeton, Ks.

Thomas J. Canady 519 King St Princeton, Kans.

Gold Kelle 2332 Highway 59 Ottawa, Kansas

Thomas Kraft 2610 Kingman road Ottawa, Kans.

Ken Claehart 1723 Hwy 59 Princeton, Ks 66078

Melvin Stockard 1066 Missouri Rd Princeton, Ks 66078

Ambror Scheckel 2211 Allen Terr Richmond, Ks 66080

Carl Sobba R1 B48 Gaenett, Ks 66032

Chrysdale 2180 Hwy 59 Ottawa, Ks 66067

William George Lumberlin 1252 Hwy 59 Princeton, Kans

May 16, 1995

3

"The Abandoned Santa Fe Railroad Right-Of-Way Through Princeton, Kansas

Our Position Concerning This Property;

We, the undersigned, governing body of Princeton, Kansas claim our reversionary rights as elected officials, do object to a State Linear Park dividing our home town in half. Our position is the same as that expressed by Orville J. Cole in the attached copy of a letter written by him on March 27, 1995. If by what is called, Rail Bank "is law" then so be it, but we must object to a Linear Park through our city limits.

Name

Address

Position

The vote to sign this petition, by Princeton City Council, passed 3-2.

L. B. Gorton Mayor

6-5-95



TOPEKA

KANSAS SENATE

ROBERT TYSON

SENATOR, TWELFTH DISTRICT

Home Address: ROUTE 1, BOX 229

PARKER, KANSAS 66072

(913) 898-6035

Office: STATE CAPITOL BUILDING—143-N

TOPEKA, KANSAS 66612-1504

(913) 296-7380

1-800-432-3924

COUNTIES
ANDERSON, BOURBON,
FRANKLIN, LINN & MIAMI

COMMITTEE ASSIGNMENTS

MEMBER: AGRICULTURE
ENERGY AND NATURAL RESOURCES
TRANSPORTATION AND TOURISM
JOINT COMMITTEE ON PENSIONS,
INVESTMENTS & BENEFITS

Testimony of
Robert Tyson, Senator
Before the Senate Transportation and Tourism Committee
RE: SB 278 & SB 294

Chairman Videricksen and Members of the Committee:

Thank you for the opportunity to appear before you today to testify in opposition to SB 278 (and in support of SB 294 if it is being heard today).

As you know Senate Bill 278 would place the Prairie Spirit Rail Trail into our state park system. This is not appropriate as we need time to sort out the new developments happening in our court system and in congress.

Concerning railroad right-of-ways, the historic prospective is that acquiring easements are not giving title to land. The landowners along the railroad gave the railroads easements across their land with the written understanding that the land would be returned to them when the tracks were removed (see the attached easements). This revisionary interest was not easily obtained; however our forefathers considered property rights as a fundamental constitutional right.

Over the last 100 years Kansas law, through the courts, have upheld this historic right and landowners along the trail have anticipated that these strips will be returned to them eventually. The landowner has been able to control the public use of the railroad right-of-way as it is private property.

Rail banking prevents this land from reverting back to the landowner. And we, the Kansas legislature, are considering - with this bill - transferring title to land we do not own to our government for a park. This action suspends our Kansas law. The Kansas landowners' expectations of their property rights are lost forever.

We must not let this happen. By imposing a moratorium on the Prairie Spirit Rail Trail becoming a state park allows us to address fundamental property rights by allowing us time to develop an avenue to do so. Full consideration could be given to minimize the adverse effects of the trails upon adjacent landowners or users. Multiple use plans could be required for each trail to ensure a balance between recreation and landowners' rights. If the land cannot be obtained through donations, easements or exchanges, Wildlife and Parks could authorize expenditures of state moneys for the parcels. This could be done by a board or commission within Wildlife and Parks.

Whatever the solution, we cannot allow the landowners' constitutional rights to be violated.

In Consideration of the sum of One hundred & Ninety Three dollars in hand paid the receipt whereof is hereby acknowledged I do hereby grant bargain sell and convey unto the Leavenworth Lawrence & Galveston Railroad Company and to their successors the right of way and the land necessary therefor not exceeding One Hundred feet in width where the said Leavenworth Lawrence & Galveston Railroad now is located through the following described lands to wit

The North East-quarter (N.E. 4) of Section twenty three (S. 23) Township Eighteen (T. 18) Range Nineteen (R. 19) Situated in the County of Franklin State of Kansas, said right of way and the land therefor being by me conveyed to said Railroad Company for the purpose of said road only and to revert to the grantor their heirs and assigns in the event of said line of Road not being located on said lands

In Witness Whereof The said Mary Johnson has hereunto set her hand and seal this 16th day of July A.D. 1869.

(68 cent-stamp.)

Mary Johnson 

State of Kansas }
Franklin County } ss

Before me J. C. Richmond a Justice of the Peace in and for said County of Franklin State of Kansas, On this 16th day of July A.D. 1869, personally came Mary Johnson to me well known to be the identical person whose name is affixed to the foregoing conveyance as grantor, and acknowledged the same to be her own voluntary act and deed.

In Testimony Whereof I have hereunto subscribed my name and affixed my seal on the day and year last above written

J. C. Richmond
J. P.

Recorded January 27th 1870
at 3rd P.M.

W. H. Sheldon
Reg of deeds -

The undersigned hereby certifies that this is a true and exact copy of the original Deed recorded in Book "M" at page 251, in the office of the Register of Deeds of Franklin County, Kansas.

Dated at Ottawa, Kansas, this 7th day of April, 1995

Haley Abstract & Title Co, Inc.


Abstracter

DEED

Mary Johnson,

to

Leavenworth, Lawrence
and Galveston
Railroad Company
and their
successors.

Dated July 16, 1869
Recorded January 27, 1870
Book "M" page 251
Consideration \$193.00

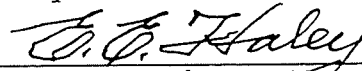
Conveys the right of way and the land necessary therefor not exceeding 100 feet in width, where the said Railroad is now located through the N.E.1/4 of Sec. 23, Twp. 18, Rng. 19, Franklin County, Kansas. Said right of way over the land therefor being by me conveyed to said Railroad Company for the purpose of said road only and to revert to the grantor their heirs and assigns in the event of said line of road not being located on said lands.

Ack. July 16, 1869 before J.C. Richmond,
Justice of the Peace, (Seal) Franklin
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Haley Abstract & Title Co, Inc.



Abstracter

"But where there is an implied restriction, as is often the case in regard to the right of way, or the like, of a railroad company, the grant does not ordinarily vest a fee in the company, but vests such an estate, usually an easement, as is requisite to effect the purpose for which the property is required.

"The fact that the deed contains covenants of warranty, or that the right acquired is designated as a fee, is not necessarily controlling. . . ."

Although the railroad used a general warranty deed containing covenants of warranty, the court *held*:

" . . . the deed and those things to which we may look in its interpretation plainly show that the strip was sold on the one part, and purchased on the other, as and for a right of way for a railroad. This use, being within the contemplation of the parties, is to be considered as an element in the contract, and limits the interest that the railroad acquired. It took the strip for a specific purpose, and could hold it so long as it was devoted to that purpose. Whether the right of way purchased should be designated as an easement or as a qualified or determinable fee may not be very important. A right of way, although commonly designated as an easement, is an interest in land of a special and exclusive nature, and of a high character.

"Whatever its name, the interest was taken for use as a right of way, it was limited to that use, and must revert when the use is abandoned."

Able and industrious counsel for plaintiffs have reviewed cases from foreign jurisdictions relative to conveyance of fee simple absolute and fee simple determinable title and assert that the public policy of this state as adopted in *Abercrombie v. Simmons*, supra, is not in accord with the decisions of other states, that the *Abercrombie* case was incorrectly decided under the applicable statutes and judicial decisions, that it should now be disapproved and overruled insofar as it holds that regardless of the language and form of the deed, a railroad cannot take a fee simple absolute or a fee simple determinable title in land that is to be used for right-of-way purposes, and that this court should now hold that a railroad may acquire by grant or deed a fee simple absolute or a fee simple determinable estate in land purchased for right-of-way purposes.

In the instant case the 1887 deed and those things to which we may look in its interpretation plainly show that the strips were sold by the grantor and purchased by the grantee railway company as and for a right-of-way for a railroad. This use being within the contemplation of the parties, it is to be considered as an element in the contract and limits the interest that the railroad acquired, *i. e.*, an easement for railroad purposes.

We have held that when land is devoted to railroad purposes

14-5

it is immaterial whether the railway company acquired it by virtue of an easement, by condemnation, right-of-way deed, or other conveyance. If or when it ceases to be used for railway purposes, the land concerned returns to its prior status as an integral part of the freehold to which it belonged prior to its subjection to use for railway purposes. (*Federal Farm Mortgage Corp. v. Smith*, 149 Kan. 789, 792, 89 P. 2d 838.) This court has uniformly held that railroads do not own fee titles to narrow strips taken as right-of-way, regardless of whether they are taken by condemnation or right-of-way deed. The rule is in conformity with this state's long-standing public policy and gives full effect to the intent of the parties who execute right-of-way deeds rather than going through lengthy and expensive condemnation proceedings. (*Abercrombie v. Simmons*, supra; *Bowers v. Atchison, T. & S. F. Rly. Co.*, 119 Kan. 202, 237 Pac. 913, 42 A. L. R. 228; *Disney v. Long*, 90 Kan. 309, 313, 133 Pac. 572.)

In *Midland Valley R. Co. v. Corn*, 21 F. 2d 96, 98, it was held that land acquired by a railroad company, whether by purchase or compulsory proceedings, shall be held and used for such grant only and where it was conveyed for right-of-way purposes it was limited to that use. The railroad, of course, is entitled to the exclusive use of the right-of-way while it is used for railroad purposes, but any right not inconsistent with the easement remains in the abutting owner. It must therefore be inferred that the legislature did not intend to confer upon the railroad the power to acquire title to any greater interest in land either by condemnation or by deed than was necessary for right-of-way purposes.

Generally a railroad company in acquiring land for railroad right-of-way, whether it be by grant or condemnation proceedings, is held to take not the fee, but only a special interest therein, usually termed an "easement," which special interest or title is taken for railroad purposes, that is, public purposes, so that the railroad has no right to take from such right-of-way any underlying minerals and appropriate them to its own use or convey them to others. Where a railroad merely acquires an easement of way the title to the underlying minerals found or existing within the limits of the right-of-way and below the grade of the road remain in the owner of the fee who might mine for them so long as he does not interfere with the operation of the railroad nor imperil the surface support. (*Harvey v. Railroad Co.*, 111 Kan. 371, 372, 373, 207 Pac. 761; *Railroad Co. v. Schmuck*, 69 Kan. 272, 76 Pac. 836; *Abercrombie v. Sim-*

of-way and provides the notice of such abandonment required by this subsection shall incur no civil or criminal liability for failure to notify any person who claims, or may claim, ownership of property servient to the abandoned right-of-way, nor shall such grantee or assignee incur any civil or criminal liability for notifying any person who has no legal claim to ownership of property servient to the abandoned right-of-way. The notice required by this subsection shall not create any legal right, be construed as a warranty or guarantee, nor shall such notice impair or cloud any lawful claim, right, title or interest of any person.

(f) Any conveyance by any railroad company of any actual or purported right, title or interest in property acquired in strips for right-of-way to any party other than the owner of the servient estate shall be null and void, unless such conveyance is made with a manifestation of intent that the railroad company's successor shall maintain railroad operations on such right-of-way, and the railroad owns marketable title for such purpose.

(g) As used in this section, "railroad company" has the meaning of such term as defined in K.S.A. 66-180, and amendments thereto.

History: L. 1986, ch. 247, § 1; L. 1987, ch. 258, § 1; July 1.

Article 6.—HOURS OF LABOR

66-601. Hours of labor of employees. It shall be unlawful for any corporation or receiver operating a line of railroad in whole or in part in the state of Kansas, for any officer, agent or representative of such corporation or receiver, to require or permit any conductor, engineer, fireman, brakeman, train dispatcher, telegraph operator or any trainman who has worked in his respective capacity for sixteen consecutive hours, to continue on duty or perform any work for such railroad until he has had at least eight hours' rest: *Provided*, That this act shall not apply in case of washouts, wrecks, or unavoidable blockades, nor shall it be construed to prevent the crew of a train which contains livestock or perishable freight in carload lots from running to the next division point after the expiration of the time limit provided for in this act: *Provided further*, That this section shall not apply to employees of sleeping-car companies, baggagemen, and express messengers.

History: L. 1905, ch. 342, § 1; L. 1907, ch. 280, § 1; May 27; R.S. 1923, 66-601.

Research and Practice Aids:

Labor Relations \Leftrightarrow 1368, 1381.

C.J.S. Master and Servant § 15.

66-602. Penalty for violations; complaint; investigations. Any corporation or receiver operating a line of railroad in whole or in part in this state who shall knowingly violate any provisions of this act shall be liable to the state of Kansas for a penalty of not less than one hundred dollars nor more than two hundred dollars for each offense, and such penalties shall be recovered and suits thereof shall be brought in the name of the state of Kansas in a court of competent jurisdiction in any county in the state into or through which any such railroad may run, by the attorney general or under his direction, or by the prosecuting attorney of the proper county through or into or out of which trains may be operated by said company; and upon complaint being made to the state corporation commission it is hereby authorized to investigate such complaint, and shall be empowered to examine the train sheets, registers, and dispatchers' reports, and to hear such other evidence as may be offered by officers or employees of such railroad company, to determine whether such complaint is well founded; and if the complaint appears to be well founded, it shall be the duty of said state corporation commission to file a complaint before the county attorney of the proper county through which said company may operate.

History: L. 1905, ch. 342, § 2; L. 1907, ch. 280, § 2; May 27; R.S. 1923, 66-602.

Article 7.—RAILROAD AND MOTOR CARRIER PASSES

Cross References to Related Sections:

Free transportation, see, also, 66-145, 66-152.

RAILROAD PASSES

66-701. Passes or free transportation. It shall be unlawful for any railroad company to issue, give, or offer to issue or give, any free pass, ticket or transportation, in any form, to passengers, for use upon its lines within this state, except to its officers and directors and employees and their families; the officers, directors and employees of other railroads and their families; the employees of express, telegraph, telephone and sleeping-car companies and their families; a representative from each of the labor organizations of employees of the railway companies; railway employees incapacitated by reason of disease or injury incurred



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



Memorandum

To: Senator Robert Tyson, State Capitol, Room #143-N

From: Amelia McIntyre, Legal Counsel

Re: Impact on Prairie Spirit Rail Trail by Preseault v. U.S., Federal Circuit's en banc decisions in Nos. 93-5067 & 5068, decided November 5, 1996

Date: January 31, 1997

It is our understanding that you are urging introduction of a bill that would implement a moratorium for development of the 15.3 - mile second phase of the Prairie Spirit Rail Trail (Richmond to Ottawa). The trail segment is intended to tie into the 18.5 mile first phase of the trail from Richmond - through Garnett - to Welda. We wanted to provide you some background and information on the implications of the recent U.S. Court of Appeals for the Federal Circuit's Preseault decision for state operated rail trails railbanked under orders of the federal Surface Transportation Board (STB) applying section 8(d) of the Trails Act, 16 U.S.C. § 1247 (d). In the event that the proposed moratorium is prompted in part by the Preseault decision, we wanted to provide you our understanding of the impact of such decision. We believe that information may provide some clarification of the legal principles reasonably drawn from such series of decisions.

We also wanted to make sure you know about an open house to review plans for phase two development of the Prairie Spirit Rail-Trail, which is anticipated to be funded by the Department of Wildlife and Parks, Friends of the Prairie Spirit Rail-Trail, and the Federal ISTEA program administered by the Kansas Department of Transportation. Wildlife and Parks will host the meeting, to be conducted by HNTB Corporation, architects for the project, from 10 a.m. to 2 p.m., Saturday, February 1 at the Municipal Auditorium, 3rd and Hickory in Ottawa. Formal presentations will be given at 11 a.m. and 1 p.m. Ideas shared by participants will help to improve and define the future of this project. Except for the formal presentations, the open house will be an informal public workshop in which participants can learn about rail-trail facilities currently available in the area, review the existing Prairie Spirit Rail-Trail and phase two, learn about trail features, and make comments to help refine the final stages of the project.

Due to the possibility of a moratorium, we anticipate a broader range of questions, however, the goal of the meeting is to have comments on the architectural plans. We will endeavor to conduct the meeting so that intended goal remains the focus of such meeting.

14-8

Background

Under section 8 (d), a line is “railbanked” rather than “abandoned.” While railbanked, it is preserved intact for future possible rail use, may be used in the interim as a trail, remains under federal transportation jurisdiction, and may not be treated as abandoned for purposes of any state or local law. Claimants under reversionary-type interests (based upon easements) cannot enjoy the surface estate during the railbanking period, and it is on that basis that claims have been raised that the federal statute “takes” certain such forms of property.

In Preseault v. ICC, 110 S.Ct. 914 (1990), the U.S. Supreme Court unanimously determined that section 8 (d) of the Trails Act, 16 U.S.C. § 1247(d), was within the power of Congress and was not an unconstitutional taking. The Court’s rationale was that if there were a “taking” of a reversionary interest, the holder of fee simple, subjected to a railroad easement, could file a claim under the Tucker Act in the United States Court of Federal Claims and, if a taking were determined, receive damages against the United States.

Subsequently, the Preseaults duly filed a claim in U.S. Court of Federal Claims. The Preseaults named both the State of Vermont and the United States as defendants. The State of Vermont argued there could be no “taking” because, under State law, rail easements were interchangeable with other forms of transportation easements, and trails were merely a form of pedestrian/bicycle transportation easement. Also, Vermont had adopted a state statute in 1982 authorizing railbanking to preserve corridors. The United States argued (among other things) that since 1920, when the federal government received rail abandonment jurisdiction, owners of reversionary interest were on notice that they would not enjoy the surface estate until the federal government completely removed the federal transportation interest in the corridor, which might never occur regardless when current rail use ceased. The United States argued that since no person acquiring a reversionary interest after 1920 could have a reasonable expectation to receive the property merely upon cessation of rail use, and since the Preseaults acquired in the 1980’s, there was no taking. The U.S. Court of Federal Claims rejected Vermont’s position, and adopted the United States position.

The Preseaults appealed to the U.S. Court of Appeals for the Federal Circuit. In a split (2/1) panel decision, the majority took the position that the federal transportation interest implemented by section 8(d) was so strong that there was no taking, and did not reach the state law issues.

The U.S. Court of Appeals then took the case en banc. There are nine judges considering the issues discussed in the en banc opinions. Multiple opinions make up the decision, two of which are very lengthy. Four judges concurred in a lengthy plurality opinion. The plurality held there was a taking. Two concurred in the result, and three dissented in an extensive opinion.

The plurality opinion held that the court must look exclusively at state law, and if the federal regulation postponed a reversion which would have occurred at state law, the plurality held there was a taking for which compensation was due from the federal government. The plurality also held that there was a reversion based upon Vermont law. The plurality held that the

taking was by the United States, not by the State of Vermont, so that the United States owed the compensation.

The concurrence basically held that "nature trails" cannot be considered transportation, and thus rejected the notion that they are somehow within the scope of a railroad easement. This opinion is arguably narrower than suggesting that all federal railbanking regulation, as to easements, is a taking.

The dissent argued that there was no taking under Vermont law, or federal law, and that if there was a taking, it was by Vermont, which, after all, had passed a statute in 1982 authorizing railbanking under state law.

The Justice Department has not yet petitioned for further review, and the time period to file a petition has been extended from February 5, 1997, to March 5, 1997. The federal Surface Transportation Board, the client agency in such matter, is urging the Justice Department to file an appeal.

Implications

From the point of view of state and local governments, the U.S. Court of Appeals decision does not change matters from where they previously stood. Railbanking under section 8(d) remains perfectly lawful. If there is a taking, the adjacent property owner, whose property is subject to a railroad easement, can pursue compensation by filing a claim under the Tucker Act against the United States. * Further, the decision focuses, rather narrowly, on Vermont law. Other states' laws would have to be contrasted with Vermont law before significant reliance is placed on the decision to predict the outcome of a similar case in other states. The decision does not affect rail corridors in which the railroad held fee simple title, rather than merely an easement, to the property. Portions of the Prairie Spirit Rail Trail, are held in fee simple. Adjacent property owners who allege a taking of private property - as a result of railbanking - based upon the series of decisions making up the Preseault litigation (up to this point in time, pending the outcome of a further appeal, if any) would be better served by seeking a remedy in the U.S. Court of Federal Claims, rather than asserting the invalidity of the railbanking. Adjacent property owners, whose property is subjected to a railroad easement, should not expect to be successful in legal proceedings relying upon the recent Preseault decision to have the surface interest of the easement area returned to them, or to have the trail closed.

* Cases such as Dave v. RTC, 79 F. 3d 942 (9th Cir. 1996), also indicate that compensation claims do not lie against state or local agencies or groups invoking section 8(d) of the Trails Act.

cc: Secretary Steve Williams
Ed Alvis, Region 5 Parks Supervisor
Jamie Clover Adams, Governor's Legislative Liaison

TO: SENATOR R. TYSON

2-3-97

SUBJECT: PERMITS FOR PRARIE SPIRIT RAIL TRAIL AND DEED TO PROPERTY

1. PERMITS

- * Trail opened March 1st, '96
- * KDWP began requiring permits August 1st, '96

AMOUNT OF PERMITS SOLD:

* ANNUAL PERMITS

137 - Anderson Co. - 87%
19 - KS Residents - 12%
2 - Out of State - 1%

* DAILY PERMITS (Self Pay Stations)

7 - Anderson Co. - 4%
163 - Ks Residents - 90%
11 - Out of State - 6%

NOTE: Permits are not required for people 16 and under. According to Dick Carter with KDWP, there are many school kids that use these trails. Also, trails within the city limits require no permit. Therefore he feels these figures may not accurately reflect actual usage of the trails.

2. DEED TO PROPERTY

According to KDWP Attorney Amelia McIntyre -

43% of Prarie Spirit Rail Trail is fee simple and Congress has (initial railroad) deed
57% of Prarie Spirit Rail Trail needs deed by deed examination to know who owns deed.

NOTE: KDWP Attorney Amelia McIntyre said these percentages were frequently used in the Friends of Prarie Spirit Rail Trail Communication as factual figures, but she doesn't know their source. She is currently working to find out the source and make sure it is accurate.

14-11

Amy

**PSRT Phase II
Schedule**

January 2, 1997

March 31, 1997

Complete plans and specifications

Late April '97

Open Bids

Mid June '97

Begin Construction

October '97

Open trail for public use

PRAIRIE SPIRIT RAILS TO TRAILS DEVELOPMENT

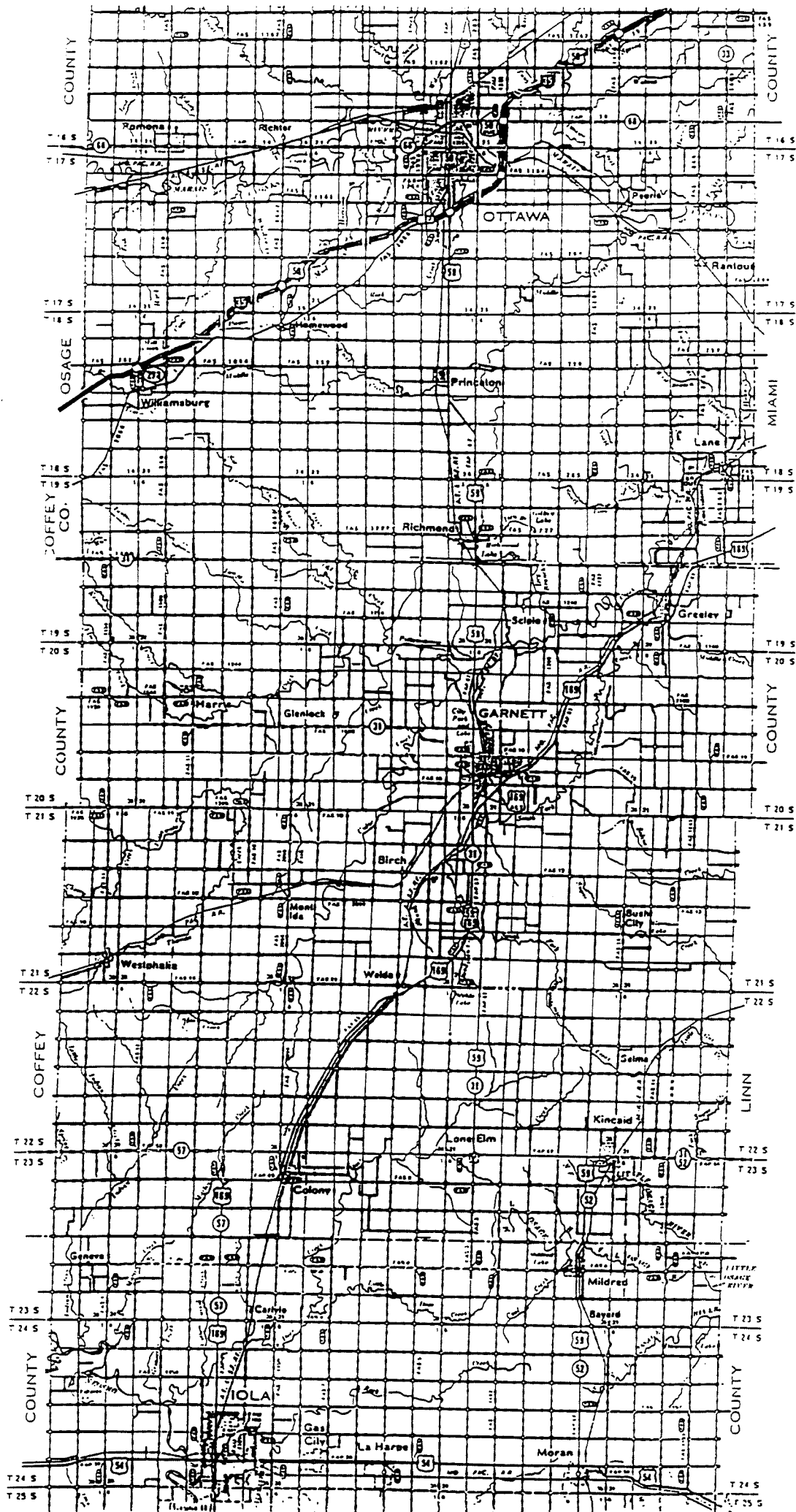
19-Nov-96

FY	APPROVED	ACTUAL	FUNDING SOURCE
1995	200,000	146,322	EDIF
	75,000	0	Private Sources
	1,101,000	0	Fed. ISTEА Funds
1996	75,000	0	State General Fund
	75,000	53,678	EDIF
	27,000	84,270	Private Sources
	808,000	1,083,686	Fed. ISTEА Funds
1997	0	75,000	State General Fund
	0	75,000	EDIF
	0	17,730	Private Sources
	0	825,314	Fed. ISTEА Funds
TOTALS	2,361,000	2,361,000	

Total Approved Funding:	Percent of Total
75,000	3.2% State General Fund
275,000	11.6% EDIF
102,000	4.3% Private Sources
1,909,000	80.9% Fed. ISTEА Funds
TOTALS	2,361,000

Estimated Total Cost for Stages:

First Stage	1,376,000
Second Stage	985,000
Third Stage	885,000
Total	3,246,000
LOTUS\Psrtsum	



50.2
miles total
Length

- ② Ottawa to Richmond 15 h
- ① Richmond to Welda 18 h
- ③ Welda to Iola 17 h

0

1414

Joseph W. Lytle
RR 2, Box 117
Garnett, Ks 66032
February 20, 1997

Senator Robert Tyson
State Capital Rm 143-N
Topeka, KS 66612

Dear Bob,

We feel your stand against the Rail-Trail is a step in the right direction. The minimum that should be done is the land owners should get paid.

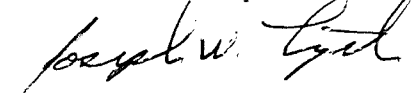
Two points to consider:

1) First, preserving a rail bed from Ottawa to Iola is another dirty joke the Federal Government pulled on us. If there is a national emergency or a need to build railroads, there is no chance it would be put back on this bed. With new bridge building tech-knowledge and all the manmade obstacles (city expansion, interstate highways & etc) a new, more direct route would be far quicker and cheaper. If they had kept the whole rail bed from Atchison, Topeka to Santa Fe, it would only had a very slim chance. The only place it would work is through big cities or very rough terrain because then it would have been the only practical route. Once again, the big town legislators failed to consider the little guy in Kansas with their mandates.

2) Our particular piece of property was taken against the landowners wishes by eminent domain. One of the concessions the land owner received in writing (legally registered at Register of Deeds) was if it ever ceased to be operated as a railroad, the adjacent landowners would get the land back. It stands to reason, this concession had to be worth fighting for back then. If one puts that on compound interest from then to today one can't say that part of the contract is worth nothing.

Bob, I know you will take time to read this and I know you are a very busy man. For those reasons, a reply is not necessary.

God be with you,



Joseph W. Lytle
Anderson Co. Republican Chairman

Feb. 10, 1997
3441 SE 77th St.
Berryton, Kansas 66409

Senator Robert Tyson
300 SW 10th St.
Room 143 N.
Topeka, Kansas 66612-1504

Re: For Moratorium on Trails

Dear Senator,

I read an article in *The Ottawa Herald* about some bills being introduced for a moratorium on rail-banked trails, and there should be one. People who live in cities need trails, however I don't think they understand what it is like to live out in the country and put up with all the nuisances trails cause.

The Missouri Pacific stopped running in Shawnee County in 1984, and later the property was railbanked. Part of the track was retained near Berryton for an excursion train to Topeka. People wanted to build a station, do lots of BIG things that never materialized.

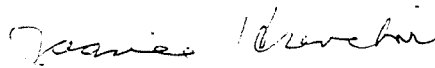
Now, the tracks have been removed, no excursion train will run, and the trail fans seem to think they can take 10 feet and leave the rest to nature. As a result of the trails we have the following:

- * Trash all along the former track, including old tires, beer cans, furniture, etc.
- * Some thieves stole a vehicle, ran it off the old trestle bridge, and required the sheriff to come investigate. A deerhunter spotted the wreckage.
- * No stewardship of the land. All the weed seeds blow into our wheat fields.
- * Traffic by vehicles all hours of the night on the former railbeds, waking us and all the dogs in the neighborhood.

Whom do we contact that assumes liability for accidents, trash removal, etc. Do they have insurance policies on file?

I'm enclosing some pictures I took in October of 1994. The area is still the same southeast of Berryton, so if anyone wants to see first hand, all they have to do is enter from 77th and Croco Road.

Sincerely,

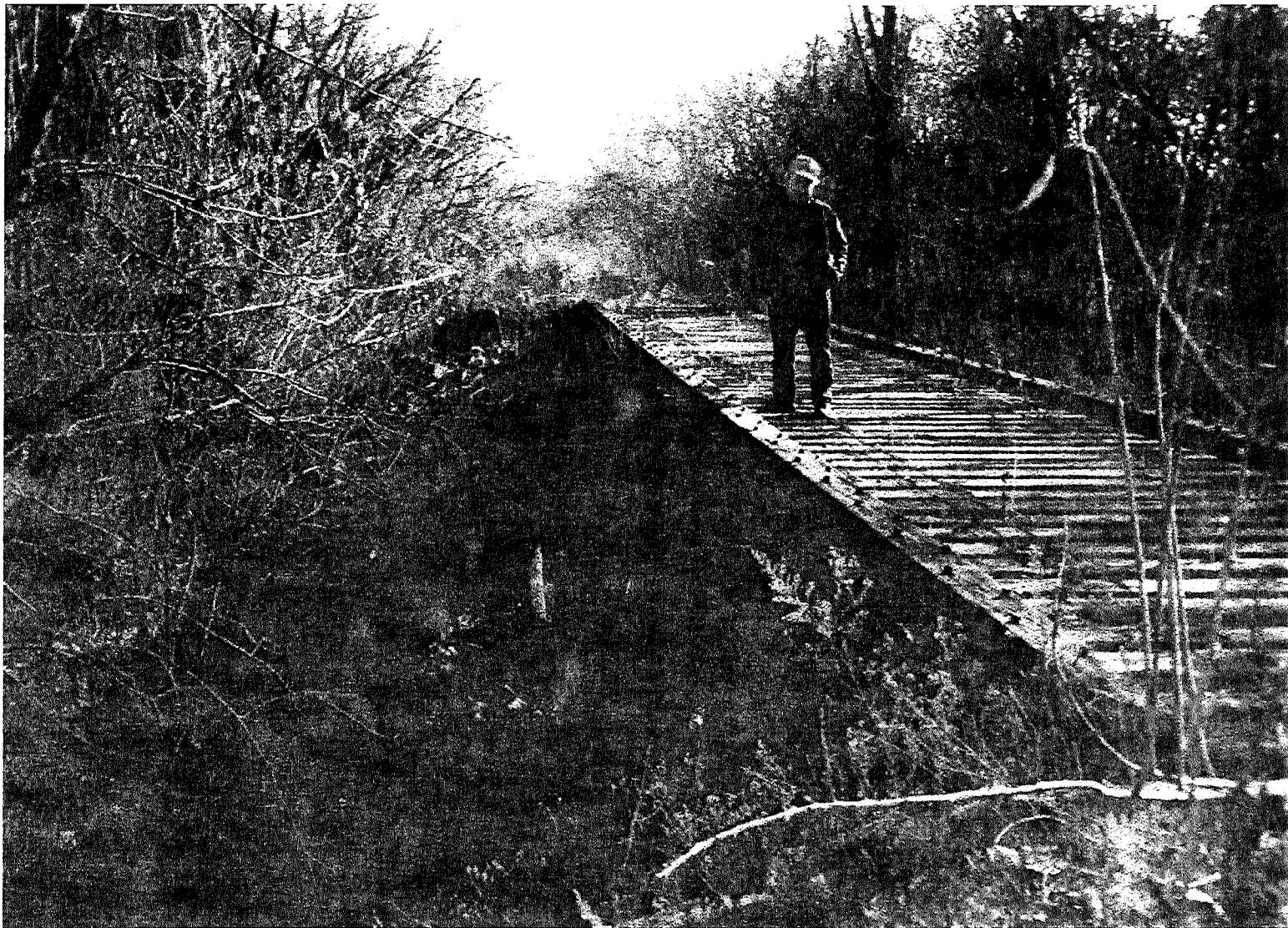


Mrs. Joanie Hrenchir

CC: Rep. Bill Feuerborn
Rep. Ralph Tanner

14-16

Trestle on the trail south of Berryton (former Missouri Pacific line) from which a vehicle was dumped by thieves who stole it. Picture taken Oct. 1994.



Trash dumped along the rail line southeast of Berryton. Oct. 1994. .



14-18

Trash dumped along the rail line southeast of Berryton. Oct. 1994. .



Furniture, TV's and old appliances dumped along the rail line southeast of Berryton. Oct. 1994.



Beer cans, old tarp, plastic tub, household appliances dumped along the rail line southeast of Berryton. Oct. 1994. .



RAILS-TO-TRAILS COALITION OF KANSAS, INC.
P.O. BOX 442-043
Lawrence, KS 66044

November 11, 1995

Bryan and Krista Seidl
7701 SE Croco Rd.
Topeka, KS 66409

Dear Mr. & Mrs. Seidl:

We would like to introduce ourselves as your "neighbors". Our organization, a non-profit Kansas corporation, owns and manages the Landon Trail which is adjacent to your property. Our quitclaim deed was filed with the Register of Deeds in January, 1990. The former Missouri Pacific Railroad corridor was railbanked under the National Trails Act, as amended, in May 1989. Under railbanking the existing transportation easements on the right-of-way are retained and the corridor remains under the jurisdiction of the Interstate Commerce Commission. The corridor is 100 feet wide (50 feet from the center of the former railroad bed) adjacent to your property.

Experience has shown that rail-trails make good neighbors. In fact studies show that property values actually increase for land adjacent to rail-trails. Most families want access to recreational trails so they can walk or bicycle in relative safety. Studies also show that the fears of initial opponents just don't materialize and many come to support rail-trails and use them. There are now more than 700 rail-trails in 48 states, including three in Kansas (plus 16 rails-to-trails projects underway).

What are our plans for the Landon Trail? The Kansas Dept. of Wildlife and Parks has said that after their pilot rail-trail project (Prairie Spirit Trail between Ottawa and Iola) is completed and evaluated, they will re-examine the possibility of assuming custodianship over the Landon Trail. At some point a public agency will roll limestone chip onto the rock ballast, plank

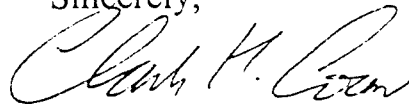
14-22

the bridges, and install vehicular barriers at road crossings. Meanwhile it is open to the public for hiking and mountain biking.

A recent survey of the trail revealed that certain activities have been taking place within the 100-foot trail corridor adjacent to your property. We therefore formally advise all responsible parties to cease and desist from undertaking any such activities without the express written consent of RTCK. These activities include, but are not limited to, cutting or planting trees, mowing weeds/grass, dumping any materials, or removing any rock ballast, railroad ties, topsoil, trees, etc. If such activities continue, we will be forced to take further action.

To report a problem or to obtain written permission to undertake a project, contact our authorized agent, Mike Adams (232-6453), or write us at P.O. Box 442-043, Lawrence, KS 66044. We really do want to be your good neighbor and will investigate all complaints and fully consider all reasonable requests.

Sincerely,

A handwritten signature in cursive script, appearing to read "Clark H. Coan".

Clark H. Coan, Co-chair

Dear Senator Vidricksen,

Across America, people are focusing on a major Constitutional issue: The right to control the use of their land and property. Eastern property owners are worried when their land is considered 'historic.' The U.S. Corps of Engineers is forcing Farmers to abandon the use of their land because of 'Wetlands' programs. Western landowners are threatened by enforcement of the 'Endangered Species Act.' Rail-trail schemes intend to confiscate every abandoned railway corridor in America for 'public playgrounds.'

One example of the 'public playground' scam has already hit Kansas, the 'Prairie Spirit' rail-trail. Landowners along this rail-trail feel their property rights under the 5th Amendment to the Constitution have been systematically and intentionally violated. Kansas law and the U.S. Constitution set specific rules for confiscation of private property. Rail-trails split properties, raise serious liability questions, deny the landowners their right to privacy, encourage trespass, and interfere with their peaceful existence.

Kansas legislators can, if they so choose, halt the cancerous spread of land confiscation for 'publicly-financed playgrounds.' The aggression of the Kansas Department of Wildlife and Parks, and the 'rails-to-trails conservancy' must be stopped. The KDWP often refers to the RTC like as it were a government agency. In reality the rails-to-trails conservancy is a "non profit" lobby group based in Washington D.C. They, with the aid of the ISTEPA squander millions of your gas tax dollars to build bicycle trails. To them rail-trails is one more step towards an end: governmental control of all private property.

There is a growing trend to return to, and maintain private property rights. It is a movement back to the fundamental Constitutional protection from excessive government control. Landowners feel the government has no right to tell them what to do with their land. Contracts, deeds, and easements give them the right to do as they wish with their property. They contend that the government has no right to regulate these holdings. When government regulations are used to serve a 'public interest' their 5th Amendment rights are violated.

A number of environmentalists label the private property movement as an effort to obstruct their efforts. They do not want the enforcement of existing rights. They want to redefine rights via government control of the land. No matter how these land rights issues are defined, the legal ability to exclude others and control private property use is the issue. Will the existing rights be purchased, as property rights advocates argue they should be, or will they simply be taken, as many environmental and rail-trail activists want?

The 105th Congress is very much aware of 'rail-trail' problems and is discovering serious flaws in the federal 'railbanking' law. The repeal of this unjust confiscation-enabling act would be one step toward rectification of the 'rail-trail' question. Landowner relief must be addressed.

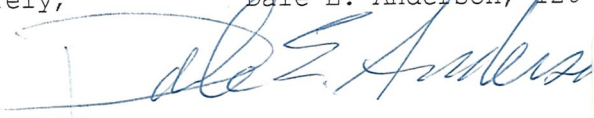
Kansas legislators should enact the moratoriums that have now been introduced to committee in both the House and Senate. Along with a moratorium on further rail-trail construction, there is also a moratorium proposed to delay the trail from entering the State Park System under Kansas Wildlife and Parks.

Wildlife and Parks should be thoroughly investigated. The KDWP's record of fund 'mismanagement' has already cost taxpayers in excess of \$6,000,000. These are more than petty 'oversights'. Kansas legislators should tell this agency 'enough is enough', and demand it justify it's actions to them and Kansas taxpayers.

The confiscation of land for use as 'rail-trails', or any other public use of private property, must be duly compensated. The 5th Amendment is America's property rights 'wall'. This wall must be maintained. If this wall falls, America's basic economic foundation and individual rights will be under the rubble. (I am an abutting landowner on the P.S. rail-trail opposing the trail)

Sincerely,

Dale E. Anderson, 120 S. Elm, Garnett, KS 66032 913-448-5832



SENATE TRANSPORTATION & TOURISM
2/24/97
ATTACHMENT 15

15-1

Why Do Land Rights Matter?

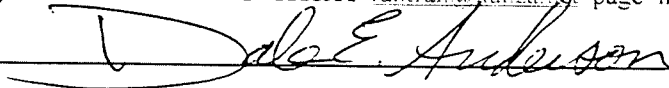
**"Nor shall Private Property be Taken for Public use
without Just Compensation"**

Fifth Amendment, U.S. Constitution

- My name is Dale E. Anderson from Garnett Kansas. I am an abutting landowner along the "Prairie Spirit" rail-trail. I feel my property rights under the 5th Amendment to the Constitution have been violated. The rail-trail splits my mothers land, and mine, into 2 separate real estates. Also the invading Kansas Department of Wildlife and Parks, and the 'Friends of the Prairie Spirit rail-trail' has revoked our right to privacy. Kansas has the opportunity to halt this cancerous spread of property confiscation before it strangles the land like in some other states. We must act now to make certain that landowner rights are protected under the law.

- All across America, people are focusing on a major Constitutional issue: Their right to control the use of their land and property. Eastern property owners are worried when their land is considered 'historic'. The Corps of Engineers is forcing Farmers to abandon the use of their land because of 'Wetlands' programs. Landowners in the West are threatened by enforcement of the Endangered Species Act. Kansas must act now.

DALE E. ANDERSON 120 South Elm, Garnett, KS 66032
Ph. (913)-448-5832 e-mail railtrail@kanza.net page=<http://www.kanza.net/~railtrail>



My name is Beth Sobba and our family owns a 144 acre farm that the Prairie Spirit Rail Trail cuts in half. We and two of our children have homes on the farm.

We believed that after the railroad's use ended, the land would return to the land owners.

We have many concerns about the trail. Some of our personal concerns are:

-----unsupervised children playing along the trail.

They were there last year. We live approximately one mile from Richmond's city limits.

-----activity within the tunnel

The south end of the tunnel is along our land and near our pond.

-----the welfare and safety of our cattle

Last year, a trail user opened a seldom-used east gate of our pasture. We discovered the cows gone at dusk, we searched in the night, found all but one, left them in a neighbor's lot until morning and drove them back up the trail the next day.

-----users crossing our fences

One of the two ponds adjacent to the trail is more than twenty feet deep. Cows and a bull graze in the pasture along the trail.

----- fairness, truth and dignity in dealing with the trail manager

Mr. McCown has verbally abused, has been rude to and has publicly insulted members of our family.

We have lived on this farm 36 years. We invested our lives, our money and our hopes and dreams for acreage that provided us with privacy, peace, serenity and all that rural living is.

We chose to live in the country, away from people and the stress and strife of town living. We like living on 144 acres, where we have privacy, where we are the responsible people and where we are the good stewards of God's land.

Please return the land to its rightful owners. Give us back our right to privacy and, please, do not let the Prairie Spirit Rail Trail become a ^{State} National Park.

Thank You,

STATEMENT OF WILLIAM A. MANNERS BEFORE THE SENATE TRANSPORTATION
AND TOURISM COMMITTEE ON PRAIRIE SPIRIT RAIL-TRAIL.

Dear Senators:

24 February 1997

My sister and I are here today to protest the TAKING of our farm land in violation of our 5th Amendment rights under the U.S. Constitution, and the laws of the state of Kansas that you elected officials have sworn to uphold.

Our 360 acre working farm is $1\frac{1}{2}$ miles south of Garnett and the Prairie Spirit Rail Trail cuts our farm in half. There is approximately $\frac{1}{2}$ mile of trail through our farm and I can view $\frac{1}{4}$ mile of the trail out our kitchen window. I live in the farm house my great grandfather built well over 100 years ago, long before the railroad came through. The trail is about 100 yards from the house and does not average one person a day and that's fine with me, but it's sure a gross waste of tax payers money. Don't we have a better use for our tax money?

Wild Life and Parks claim they patrol the trail every day. They must have a stealth machine, that leaves no tracks in the snow.

When I was a kid in school and studied the U.S. Constitution, I learned under the 5th Amendment, that no one could take my land without just compensation. I thought that was pretty neat. Since then, I have learned that Kansas also has a similar statutory law. The right-of-way through our property was for railroad purpose only.

William A. Manners
RR# 2, Box 115
Garnett, Kansas 66032

PH # (913) 448-6387

William A. Manners