

Approved: 3-17-98
Date

MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

The meeting was called to order by Chairperson David Corbin at 8:00 a.m. on March 12, 1998 in Room 254-E of the Capitol.

All members were present except:

Committee staff present: Raney Gilliland, Legislative Research Department
Lila McClafin, Committee Secretary

Conferees appearing before the committee:

Representative Joann Flowers
Senator Sandy Praeger
Cathy Tucker-Vogal, Water Resource Planner, Kansas Water Office
Clint Riley, Secretary, Kansas Department of Wildlife and Parks
Lance Burr, Friends of the Kaw, Lawrence, KS.
Dave Murphy, Kansas Canoe Association
Woody Moses, Kansas Aggregate Producers Association
Mike Calwell, President elect of the Kansas Canoe Association
Charles Benjamin, Legislative Coordinator, Kansas Natural Resource Council and The Kansas Chapter of Sierra Club
Jan Hamilton, Topeka, KS
David Miller, Attorney, North Topeka Drainage District
Paul Liechti, Kansas Biological Survey

Others attending: See attached list

HB 2925--Designating certain parts of the Kansas River where sand and gravel dredging are not allowed.

Chairperson Corbin opened the hearing on **HB 2925**. Representative Joann Flowers was called on to testify.

Representative Flowers spoke briefly in supported of the bill. She and other Representatives, a member of the aggregate industry, Friends of the Kaw, and a representative of the Sierra Club worked out the compromise designating the recreational use and the multi-use areas of the river. The bill was amended to address the concerns of the utilities, landowners and drainage districts. The bill before the Committee is a compromise, and it is a fragile compromise, so she hoped it would be consider carefully and favorably (Attachment 1).

Senator Sandy Praeger spoke in support of **HB 2925**.

Clint Riley, Kansas Department of Wildlife and Parks, said their Department is charged with the protection and development of outdoor recreational opportunities in Kansas, and the Kansas River, as one of the only navigable rivers in the state, is a unique recreational resource for Kansans. KDWP applauds the efforts that led to the compromise and support **HB 2925** as an important recognition of the Kansas River as a public resource for all our state's citizens. Attached to his testimony are guidelines regarding public river access development (Attachment 2).

Cathy Tucker-Vogal, Water Resource Planner, Kansas Water Office, supported the bill. The Kansas Water Office was a member of the Kansas River Study Team, charged by the 1996 Kansas Legislature to conduct a study of the economic impacts of recreation on the Kansas River. One of the recommendation that came from that study was to set aside a portion of the Kansas River for recreational purposes, and this bill would implement that recommendation. It would also allow for commercial and industrial activities as well. Attached to her testimony is a copy of the Kansas River Recreation Study Executive Summary (Attachment 3).

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, Room 254-E Statehouse, at 8:00 a.m. on March 12, 1998.

Lance Burr, President of Friends of the Kaw, explained that his organization is seeking to improve the health and vitality of the Kansas River. He said his organization does not support sand dredging. However, they support the passage of the bill because it would provide the first protection ever for yet undredged portions of the Kansas River (Attachment 4).

Dave Murphy, president, of the Kansas Canoe Association, express their support for the bill. He also, express concern for its shortcomings(Attachment 5).

Edward (Woody) R. Moses, Kansas River Sand Producers, said they have supported the bill in order to bring about a public policy debate on the issue of the proper use of our state's natural resources. He suggested four points for the committee to consider during deliberations. If the committee agreed with the concept of the bill, he thought it would severely limit future development (Attachment 6).

Mike Calwell, President elect of the Kansas Canoe Association and Vice-President of Friends of the Kaw, supported the bill. He said the three public access points being planned are all public areas or willing land owners. In closing, he said it is time for Kansas to do the right thing for their river and their people. It was time for every one to work together to protect and develop the river as a source of Pride in Kansas. (Attachment 7).

Charles M. Benjamin, Legislative Coordinator, Kansas Natural Resource Council and Kansas Chapter of Sierra Club, supported the bill. He said it represented a compromise, and he encourage the people who would used the river for human activities and those who do sand dredging, to treat the river kindly (Attachment 8).

Jan Hamilton, appeared as a citizen of the State of Kansas who enjoys canoeing. The passage of **HB 2925** would be a step toward preserving the river as a navigable river for people to enjoy and the economy benefit would be a by product (Attachment 9).

David Miller, Attorney, North Topeka Drainage District, expressed concern for safe and affordable levee maintenance if the bill was passed. He said they would like to have been a part of the team that worked out the compromise. He suggested an amendment to the bill, changing the word "or" to "and" in Section 3, on page 2, line 14 (Attachment 10).

Paul Liechti, Kansas Biological Survey, neither supports or opposes the bill but offered some information they thought would be helpful for the Committee to consider as they deliberate the bill (Attachment 11).

Representative Laura L. McClure was not able to be present, but she submitted written testimony supporting the bill. Her testimony states they worked to mold a delicate balance between landowners, canoers and sand dredgers so two sections of the Kansas River can be preserved. The study identified the Kansas River as a vital but underdeveloped recreational and economic resource for the State. She strongly urged that the Legislature set aside a portion, or portions, of the Kansas River for exclusive recreational use (Attachment 12).

Chairperson Corbin thanked all of the conferees for their interest in the bill. As there was not sufficient time for the remaining conferees to testify, Chairperson Corbin, said the hearing would be continued on Monday, March 16, 1998. He asked the conferees that had not been able to testified to return at that time.

Senator Biggs stated he would like to commend the groups who worked to develop **HB 2925**.

The next meeting is scheduled for March 13, 1998. The meeting adjourned at 9:00 a.m.

SENATE ENERGY & NATURAL RESOURCES
COMMITTEE GUEST LIST

DATE: March 12 1998

NAME	REPRESENTING
Patty Boyer	Friends of the Kaw
Lance Burr	Pres. Friends of the Kaw
Mike Howell	KCA & FOX
Dore Murphy ^{DAVID S. MURPHY}	Kansas Canoe Association
Lawrence L Brody	Kansas Geol. Survey
Rex Buchanan	Ks. Geological Survey
Dennis Baker	State Conservation Commission
ED SCHAUB	WESTERN RESOURCES
Howard Park	TRI CO. DRAINAGE DISTRICT
David G. Stedler	Tri Co. Drainage District
Rand Frank	Tri Co Orange Oil Channel
Jim Jancovich	KDOC & H
Jay Solomon	land owner
Alex Hill	land owner
Matthew Cai	Kaw Valley Airboaters
Terry Leatherman	KECT
William J Penny	Penny's Concrete, Inc.
Doug & Dicie	MissioReadyMix, Inc.
Wendy Matlammo	Ks aggregate Producers Assn.

STATE OF KANSAS



TOPEKA

HOUSE OF
REPRESENTATIVES

JOANN FLOWER
REPRESENTATIVE, 47TH DISTRICT
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COMMITTEE ASSIGNMENTS
CHAIR: AGRICULTURE
MEMBER: ENERGY & NATURAL RESOURCES
VICE-CHAIR: SELECT COMMITTEE ON DEVELOPMENTAL
DISABILITIES
GOVERNOR'S AGRICULTURAL
ADVISORY COMMITTEE — EX OFFICIO

March 12, 1998

Thank you Chairman Corbin and committee members for allowing me to speak briefly on HB#2925. You are probably aware the Kansas river forms the southern border of most of Jefferson County in my district. This is why I became involved with this legislation. I wanted to preserve a source of sand for the infrastructure of the area and at the same time consider the recreational uses of the river.

Representative Sloan, Representative McClure and I met with members of the aggregate industry, the Friends of the Kaw, and a representative of the Sierra Club. We worked out the compromise designating the recreational use and the multi-use areas of the river. Later we modified the proposed bill to address the concerns of the utilities, landowners, and drainage districts.

The end result was the bill you are considering today. It is a compromise--no one got everything they wanted, but everyone got some of what they wanted. It is a fragile compromise. I would hope you will consider it carefully and favorably.

Thank you.

A handwritten signature in cursive script that reads "Joann Flower". The signature is written in black ink and is positioned above the printed name.

Joann Flower

Senate Energy & Natural Resources

Attachment: 1

Date: 3-12-98

1/1



STATE OF KANSAS
DEPARTMENT OF WILDLIFE & PARKS

Office of the Secretary
900 SW Jackson, Suite 502
Topeka, KS 66612-1233
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House Bill No. 2925
Testimony

Presented to: Senate Committee on Energy and Natural Resources
Provided by: Kansas Department of Wildlife and Parks
Date: March 12, 1998

HB 2925 designates certain reaches of the Kansas River as multi-use reaches or as recreational use reaches. Although all of the river would continue to be open to the public, these designations would prohibit certain types of commercial or industrial activities in reaches designated solely for recreational use.

HB 2925 is the result of the efforts of several diverse parties, with widely varying interests, to reach a compromise regarding the future use of the Kansas River. The Department of Wildlife and Parks is charged with the protection and development of outdoor recreational opportunities in Kansas, and the Kansas River, as one of the only navigable rivers in our state, is a unique recreational resource for Kansans. Therefore, KDWP applauds the efforts that led to this compromise, and supports HB 2925 bill as an important recognition of the Kansas River as a public resource for all our state's citizens.

Two amendments were added to the bill to help ensure that increased recreational use of the Kansas River, if it occurs, would not negatively affect property owners along the river. One of these amendments directly relates to KDWP. Before constructing any public access, boating facility, ramps or docks within a drainage district along the Kansas River, the Secretary would be required to obtain written approval from either the drainage district or the owner of the land on which the public access facility would be constructed. KDWP does not intend to develop any access facilities without the approval of the landowner, and does not object to these amendments.

In addition, KDWP has prepared certain guidelines to help address other concerns that have been expressed regarding possible future development of public access sites along the Kansas River or other navigable rivers in Kansas. Although these guidelines are not substantively different from the process KDWP has always intended to undertake, should it have the opportunity to develop public access sites, we do believe it is important to provide the public with some assurance regarding site acquisition, opportunity for public comment, and public education efforts. That statement is attached to this testimony.

Senate Energy & Natural Resources

Attachment: 2

Date: 3-12-98 2/1



STATE OF KANSAS
DEPARTMENT OF WILDLIFE & PARKS

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PUBLIC RIVER ACCESS DEVELOPMENT

The Kansas Department of Wildlife and Parks (KDWP) establishes the following guidelines regarding the possibility of future development of public river access sites along the navigable, public rivers of Kansas (the Kansas River, the Arkansas River, and the Missouri River), especially concerning identification of possible sites and coordination with private landowner concerns.

Site Acquisition

To the extent necessary resources are made available, KDWP will work with voluntary landowners to develop public river access sites. Development is expected to occur primarily at sites currently in public ownership, where the responsibility for future maintenance of the public river access site is assumed by the local community. However, KDWP will also explore opportunities for development of public river access sites where a private landowner expresses an interest in such development and would voluntarily assume future maintenance responsibilities. In no instance will eminent domain be used to acquire property for the development of public access sites to the Kansas River or other navigable rivers of Kansas.

Preservation of Levees

Current statutory permitting provisions exist for review of potential effects of public river access site development. According to K.S.A. 82a-301, any construction, change, or addition to a dam or water obstruction must be submitted to the Division of Water Resources (DWR), within the Kansas Department of Agriculture, for review and approval. In addition, K.S.A. 24-126 requires the approval of the DWR for any construction or maintenance of any levee or other such improvement along a stream subject to floods. Development of a public river access site along the Kansas River by KDWP will be subject to these statutorily required reviews by an outside agency, which would include specific review of any construction that may affect a levee structure. In addition, construction of a public river access site may be subject to flood plain zone requirements or restrictions established by the city or county governing body, and approved by DWR, according to K.S.A. 12-766.

To provide further opportunity for review of any site development, any proposal for a public river access site within an established drainage district will be submitted to that drainage district at least 60 days in advance of submission of the proposal to DWR. This 60-day timeframe will constitute a public comment period, and if requested, KDWP will conduct a public hearing on the proposal within the 60-day period. Following submission of the proposal to DWR, the proposal will also be distributed to adjacent landowners and environmental review agencies, as part of DWR's requirements according to the Environment Coordination Act (K.S.A. 82a-325 *et seq.*).

Public Education Efforts

KDWP recognizes the need to respect private landowners along any public corridor, and the need to educate river users of the limits of the public right-of-way. Specific steps that KDWP intends to take to further these goals include:

- Development of educational brochure to accompany boat registration forms with information regarding: definition of "ordinary high water mark," indicating the beginning of private property; trespass and other criminal violations; and the need to respect both private and public property, regarding personal conduct, trash, etc.
- Distribution of such educational brochures at department offices and through river recreational organizations.
- Similar educational information posted at any public river access sites, along with signage clearly marking public property boundaries at these sites.



Steve Williams, Secretary
February 23, 1998

STATE OF KANSAS



Bill Graves, Governor

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Director

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MEMORANDUM

To: Senate Energy and Natural Resources Committee
From: Cathy Tucker-Vogel, Water Resource Planner
Subject: House Bill 2925
Date: March 12, 1998

Chairman Corbin, members of the committee, on behalf of the Kansas Water Office and the director, Al LeDoux, I appear before you today in support of House Bill 2925.

The Kansas Water Office was a member of the Kansas River Study Team, charged by the 1996 Kansas Legislature to conduct a study of the economic impacts of recreation on the Kansas River. The study team made six recommendations in the final report (Executive Summary attached) submitted to the 1998 Kansas Legislature. One of these was to set aside a portion or portions of the Kansas River for exclusive recreational use. House Bill 2925 implements this recommendation.

My office recognizes the many and often conflicting interests associated with the Kansas River. As a result, we support a recreational/multi-use concept of the River. House Bill 2925 is consistent with this concept. It would allow for segments of the Kansas River to be designated for exclusive recreation and conservation use, while in-river commercial and industrial activities as well as recreation would be allowed in other segments. This provides protection for areas that have not been impacted by commercial operations in the river, while at the same time leaves existing operations in place and allows for new operations in other segments. Furthermore, HB 2925 establishes a clear state policy regarding sand and gravel dredging activities on the Kansas River. The lack of such a state policy has delayed the permitting process for over 3 years. Identification of river segments where sand and gravel dredging operations can be permitted will help to avoid such delays in the future.

Senate Energy & Natural Resources

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March 12, 1998

In its February 4, 1998, report to this committee, the Kansas Geological Survey (KGS) concluded that from Kansas City to Lawrence the geologic setting favors in-river sand and gravel dredging, the stretch from Lawrence to Topeka is slightly more conducive to flood plain pit dredging, and the stretch from Topeka to Junction City is the most likely segment for successful flood plain pit operations. The segments identified for recreation and multi-use in HB 2925 are consistent with the Geological Survey's conclusions on commercial sand and gravel dredging in the Kansas River Valley.

The Kansas Water Office also understands the concerns raised by property owners and drainage districts along the Kansas River. The amendments in sections 2 and 3 of HB 2925 and the guidelines for river access development established by the Kansas Department of Wildlife and Parks will protect the interests of landowners and drainage districts along the river.

In closing, we urge this committee and the full Senate to approve HB 2925 so that a clear state policy will be established for activities on the Kansas River. I appreciate the opportunity to testify before you today and I would be glad answer any questions you might have.

KANSAS RIVER RECREATION STUDY

The Kansas River Recreation Study has been performed in compliance with legislation passed by the 1996 Kansas Legislature in Section 78 of Senate Bill 757. The legislature directed that the Kansas Department of Commerce & Housing; in conjunction with the Kansas Water Office, Kansas Geological Survey, Kansas Biological Survey and the Kansas Department of Wildlife and Parks; conduct a study of the development of recreational opportunities within the Kansas River.

The attached study reflects the base of information collected and considered by the study group. The recommendations and conclusions in the study are provided for consideration by responsible authority for their information, modification and or approval. The major components of the study were :

- Assessment of the direct economic impact of commercial use of resources associated with the Kansas River that impact recreational usage or which recreational usage would impact.
- Assessment of potential recreational uses of the river. This will include an assessment of the demand for such opportunities, the potential economic impact of such uses, their feasibility, and costs associated with developing and maintaining such opportunities.
- Identification of constituencies that may work in a cooperative manner with public and private entities to develop a framework for determining appropriate development and use of the resources associated with the Kansas River. This would include both recreational and commercial uses of the Kansas River.

Issues identified in the study were related to the development of recreational activities and the impact of commercial usage on resources on the river. The assessment of economic potential for river recreation and the degree of compatibility of recreational and commercial use of the river were also concerns of the study group.

Summary Of Data

Recreational Interest

The survey of recreational interest provided information on the type and relative level of interest in a wide variety of recreational activities. The top three categories of interest identified in the survey were Wildlife Observation, Canoeing and Bird Watching. Respondents to the survey also identified the segment of the river from Topeka to Lawrence as the highest use portion of the river.

Landowner Survey

A survey of persons owning property adjacent to the Kansas River was also performed during the study. The information provided by landowners was used to assess their attitudes and perceptions related to river recreation.

The major points identified in the survey were:

- Landowners are not predisposed to voluntarily provide access through their property. The survey did identify a number of landowners who would not reject such participation depending upon the circumstances of their participation.
- Landowners are concerned with potential problems that may occur if recreational use of the river increases. While increased access would result in increased usage, it may also have the effect of reducing problems of trespass and damage of property caused by persons attempting to use the river.

Economic Impact

The analysis of the economic potential of recreation on the Kansas River was focused on water related river recreation. Specifically the potential economic benefits of canoeing, and other non-powered boating activities was considered.

The impact of outdoor recreation in the state of Kansas is significant. As identified in the 1996 USFWS Study, 793,000 residents expended \$275,793,000 in 1996 on recreation. Kansas residents in the twenty-four counties participate in a wide variety of outdoor recreation in the state and in surrounding states. In 1996 it is estimated that 56,877 residents participated in canoeing, floating or rafting an average of 2 days. The resulting 113,754 Unit Days of participation result in \$2.8 million in direct expenditures. This \$2.8 million represents the market potential for river recreation in the region.

This figure does not include multiplier effects on employment and income that are generated by the direct expenditures and reflects only the current participation rates in the region. Increases in participation, due to better access to the river, would cause a proportional increase in direct and indirect spending and economic impacts. If improved access raised local participation rates to the national average of 7%, the total direct impacts would be approximately \$3.4.

Study Conclusions

The information reviewed by the committee in the process of the study has led to the following conclusions.

- The Kansas River is an underdeveloped and underutilized state recreational resource. As one of three navigable rivers in Kansas, the Kansas River represents a unique recreational resource. The state of Kansas has no other stream recreation resource of this type.
- The majority of recreationists and land owners do not want a highly developed, and costly, infrastructure developed for recreation on the Kansas River.
- The primary need identified by recreationists are access for non-motorized boating activities such as canoeing, kayaking, floating, rafting, etc., and continuous segments of the river that are free of commercial operations that take place in the river.
- Landowner concerns about negative effects of increased recreation on the river are tied to issues related to access. Increased access may cause fewer problems related to trespass, parking, and conformations with persons using the river.
- Economic benefits that may result from the development of the river as a recreational resource are not insignificant. Several smaller communities, such as St. George and Lecompton, are actively supporting the development of river access in their communities as a tourism development activity.
- Concern about the river itself is a major issue. Landowners have identified water quality, pollution in the river, bank stabilization; dredging impacts and the fluctuation of river levels as related concerns. The U.S. Army Corps of Engineers (USACE) has also instituted a regulatory plan that has placed limits on dredging operations while continuing their study of the effects of dredging on streambed degradation in the lower Kansas River.

Recommendations

The study team, upon review of the information presented in the study and the conclusions that emerged from discussion of this information, have identified several recommendations that are presented to the legislature for action.

- 1. The committee recommends that recreational use of the Kansas River not be limited to specific sections or reaches of the river. The entire Kansas River shall be open for recreational usage.*
- 2. The committee recommends that the Kansas River Access Plan developed by the Kansas Department of Wildlife and Parks be implemented by the state. The access plan, which identifies access points for future development on the Kansas River, is a minimum level for access development. Reassessment of the status of the river and needs related to river access shall be undertaken by KDWP on a regular basis and further development evaluated based on the guidelines of the Kansas River Recreation Sub-Section of the Kansas Water Plan, and incorporated into the Kansas River Access Plan as required.*
- 3. The majority of the committee recommends that, as part of application for any future permits for structures in the Kansas River, or for commercial use of state resources associated with the Kansas River, a "Recreation Compatibility Plan" must be submitted to the Chief Engineer, Kansas Division of Water Resources, and approved by KDWP.*
- 4. The committee recommends that the management and development of recreational use of the Kansas River be provided by the Kansas Department of Wildlife and Parks.*
- 5. The committee recommends that KDWP investigate the availability of public and private property owners who would volunteer to participate in a "Fishing Access" program to provide access to the Kansas River.*
- 6. The committee recommends multi-use, including both recreational and commercial usage, of the Kansas River. The committee strongly urges the legislature to set aside a portion, or portions, of the Kansas River for exclusive recreational use. This recommendation would exclude commercial use of the river, specifically in-river sand and gravel dredging operations, in segments established as recreational areas.*

Summary

Of the recommendations presented here, there are certainly many variations that could be put into place. The adoption of these recommendations is strongly urged by the committee. The sixth and final recommendation that the legislature identify a specific segment, or segments, of the Kansas River that would be set-aside as recreational and conservation areas is crucial to the development of the Kansas River as a recreational resource. This recommendation provides for the optimum conditions to develop contiguous recreational opportunity on segments of the river not currently impacted by commercial activities. It also provides for the maintenance of current commercial operations on the river.

Testimony by Lance W. Burr before the
Senate Energy and Natural Resources Committee
March 12, 1998

Chairperson Corbin and members of the Senate Energy and Natural Resources Committee. My name is Lance W. Burr and I have lived near the Kansas River North of Lawrence for thirty-one (31) years. I am President of Friends of the Kaw. We are a non-profit all volunteer organization seeking to improve the health and vitality of the Kansas River. Thank you for conducting this hearing concerning House Bill 2925.

During the past 6 years our goal has been:

1. To remove commercial sand dredging from the Kansas River to prevent further degradation of this beautiful Kansas resource;
2. To encourage the mining of sand from off-river pit sites;
3. To provide access to the Kansas River for Kansans and recreational tourists;
4. To encourage the improvement of the quality of water in the Kansas River; and
5. To protect those remaining stretches of the Kansas River that have not been damaged by sand dredging.

We have taken this action because:

1. The lower 52 miles of the Kansas River have been irreparably damaged by in-river sand dredging. This was the conclusion of the U.S. Army Corps of Engineers in their Environmental Impact Statement prepared in the 1980's.

"Problem Identification"

"Riverbed degradation (in the Kansas River) is the direct or primary adverse impact resulting from commercial dredging activities. Riverbed degradation creates an unstable river channel which results in secondary impacts such as bank erosion, channel widening, lowering of water surface elevations in the river channel, lowering of water table elevations adjacent to the river, alteration of aquatic and terrestrial habitat, and a reduction in the structural integrity of manmade structures."

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(See Final Regulatory Report and Environmental Impact Statement of the U.S. Corps of Engineers, January 1990, p. 19.)

Following the completion of the Environmental Impact Statement, the Corps concluded that all in-river sand dredging should cease because of the damage it has caused. The Corps said:

"Based on these findings, Kansas City District departed from its earlier tentative position to allow future limited dredging activities to occur on the Kansas River by proposing that all future dredging activities on the river should be terminated." (Emphasis added).

Also, the Corps felt there were adequate available sand deposits in the off-river flood plain to meet the needs of Kansas. Indeed, that is what the Corps' experts said.

"Paragraph 3 - The 1986 Burns and McDonnell flood plain sand and gravel report concludes that materials suitable for sustaining pit mining operations are generally available in the lower Kansas River's flood plain. (Although the Burns and McDonnell report does not address sand deposits in the flood plain upstream of Bowersock Dam, Kansas City District is aware that pit mining operations exist upstream of the dam, and therefore, assumes that suitable materials are generally available within the upper river's flood plain.)

Paragraph 4 - The 1986 Booker report concludes that commercial dredging operations currently working on the Kansas River could relocate to pits in the river's flood plain with minimal impact to the producer companies or to consumers." (Emphasis added).

Please note that the Kansas Geological Surveys has "identified (74) potentially profitable pit-dredging locations (off-river) in the Kansas River flood plain. See Executive Summary P.iii of The Kansas River Corridor-It's Geologic Setting, Land Use, Economic Geology and Hydrology Open-file report 98-2 of January 1998.

Also note that in the Lawrence area, there is a 78 acre track for sale in the flood plain with enough sand to supply Lawrence's needs for 31 years.

After facing intense pressure from the sand dredging industry the Corps reversed its position, and allowed in-river dredging at lower levels of extraction.

Members of Friends of the Kaw know the river by paddling its waters and camping on its sand beaches. We are also familiar with numerous scientific studies of our river. Here are our conclusions:

1. Dredging eliminates sandbars used for recreation.
2. Wildlife suffers when sandbars used for feeding and nesting are removed.
3. Sand and sandbars filter the water and are a natural cleanser.
4. Dredging causes riverbanks to cave-in, destroying wildlife habitat and riparian forests. This activity robs farmers of crop land through accelerated erosion.
5. Dredging pumps hundreds of thousands of tons of sediment into suspension each year, soil which contains unsafe toxins that must be treated at great expense. Dredging kicks-up dormant sediments that must be removed to provide drinking water at greater costs.
6. Dredging causes destruction of aquatic habitat which affects the food chain of predators. (See comments to the House Environment Committee regarding the Kansas River Recreation Study submitted by the Kansas Biological Survey dated February 5, 1998.)
7. The cables, booms, and barges used by dredgers create an unsafe hazard to recreation users and cut-off free flowing navigation at certain times during their operation.
8. The Kansas Geological Survey has just identified 74, potentially profitable pit-dredging locations which are off-river (See my written statement for details).
9. There are only three rivers that may be used by Kansas citizens. (All other rivers are privately owned.)
 - a) The Arkansas-It has a dry river bed through most of Kansas.
 - b) The Missouri-It is not recreation friendly for families.
 - c) The Kansas-This is really our only river available for use by Kansas citizens and over a-third of it is presently subject to intense dredging by approximately eighteen dredges.
10. Kansans spend millions of river tourism dollars out-of-state. A recreation friendly river could bring some of those millions back home.

11. It is nearly impossible to find suitable access points on the river. Between Lawrence and Topeka there is no access.
12. The greatest population of the state lies within the Kansas River Valley and this makes it the single most valuable recreational asset in the State.

Our conclusion is that once sand dredges are removed from the river and into pit sites, and once adequate access points are provided, the Kansas economy will begin to see an unprecedented influx of millions of tourist dollars from a resource that will be available for hundreds of years to come.

For the foregoing reasons, Friends of the Kaw does not and has never supported sand dredging in the Kansas River. However, we do support the passage of HB 2925. If enacted into law it would provide the first protection ever for yet undredged portion of the Kansas River. We have agreed with the sand dredging industry that neither they or Friends of the Kaw will try to amend or defeat this Bill. Thank you for your favorable consideration of HB 2925.

Kansas Canoe Association

March 12, 1998

Honorable Senators

My name is Dave Murphy. I am president of the Kansas Canoe Association. I am here to express our support for this bill, and at the same time express our sorrow for its shortcomings.

After twenty year of struggle the Kansas Canoe Association and the people of this state have an historic opportunity to protect at least some sections of one of the great rivers of Kansas. Although we see this bill as a success, we are sick to our hearts that we could not protect more of the river.

There is no body of surface water more important to this state than the Kansas River. It is our namesake and has been the launching ground for not just our own Kaw Valley, but for most of the western frontier. It has sustained us and will continue to do so into the unforeseeable future if we protect it.

Let me tell you a short story:

You and your family live on a nice little river. Your family settled here a hundred years ago. Now you have several neighbors that also live along this nice river. You and your family swim, fish, boat and drink from the pond. So do your neighbors. You and your family and most of the neighbors love the river. It is the reason you live there. In fact, if the river had not been there, the community itself could never have been developed.

One day you look out the window and one of your neighbors is taking the sand and gravel from your beach. When you ask him to stop, he says that it is the cheapest sand in the area and it would cost him 5 cents more per ton to have to dig the sand out of his own back yard. He says the river belongs to everyone in the community so the sand belongs to everyone. And he informs you that he's taking his part from your beachfront.

Now you find out that he has an unlimited number of customers down the street who also want this cheaper sand, and he is selling your sand at a tremendous profit. He will take sand until he is force to stop.

You can see fish already starting to die as the clear water is churned into muddy soup. Near the dredge site parts of your back yard begins to fall into the water. Mud has spread everywhere that the water touches. Your family cannot swim, boat, fish or drink the water. The banks are now too steep to approach the water's edge.

As it turns out, this beautiful and beloved river is the Kansas River. It is that "nice little river" for millions of Kansans. Our communities would never have been built if not for the Kansas River.

From the office of David S. Murphy, P. O. Box 328, Shawnee Mission.

Senate Energy & Natural Resources

Attachment: 5

Date: 3-12-98 5/1

Our water is polluted, our beaches are ruined and our swimming and fishing holes are nearly unusable in many areas.

If this were a lake or a pond all of the communities along the shore would share somewhat equally in the destruction of their habitat, the loss of their own beaches, the turbidity and pollution of their water. On a river, all this goes on down stream. The rest of Kansas may think the idea of flushing toilets in order to provide Kansas City drinking water is funny, but it isn't to us in Kansas City. Sand dredges are like giant toilets. They re-suspend effluent, pesticides and other particulate matter into our drinking water, our swimming water, our boating water and fishing water. The resulting mud damages our beaches and destroys wildlife habitat. The deeper channels caused by dredging causes head-cutting, loss of riparian vegetation and destruction of the shallow breeding grounds required by native aquatic species. When you flush the toilet on a river it doesn't just go away. Rather, it all becomes someone else's problem.

Because someone can point to a dirtier, more polluted river in some other state does not make the Kansas River any cleaner or any safer for my family and their families to come. Nor does it provide any less justification for my anger that the state government has allowed profiteers to ruin or remove the beach we use, kill the fish we enjoy and foul our drinking water.

This is the little ~~pond~~^{RIVER} to millions of Kansans yet, historically, the state has promoted its systematic deterioration by looking the other way. I hope you will put that to an end.

All around the world governments have set aside land and waterways for future generations. We are glad that something is finally being done in Kansas. It is not enough, but it is a step in the right direction. You should be proud that you have the opportunity to be a part of this great undertaking.

I said earlier that we had sorrow for the shortcomings of this bill. Although we support this bill and we grieve for every beach, every braided channel lost to sand dredging. Claims will be made that this was a compromise bill, yet all of the terms of this bill were dictated by the sand industry. The Kansas Canoe Association and Friends of the Kaw were simply told these are the river miles we want. We were told "agree to these terms and conditions as written or nothing will be protected". That was a sickening choice and it was disheartening to know that we did not have enough political power to change it. But know this, we are giving up nothing. We concede nothing to an industry that would systematically destroy our rivers. With or without this bill, sand dredging is wrong. In time, this will become more clear. Their days on our rivers will come to an end.

With regards to the sand dredging industry, there should be no whining about the dangers of sand shortages. They have gotten every inch of sand they have asked for. We on the other hand felt a need to protect what we could now, and work on the rest later. With this bill the sand dredging industry has claimed more river miles than they have every dredged in the past, and far more than they need. Yet a line has been drawn and for that we see hope.

We've heard opposition to this bill from landowners and levy managers. The landowners and levy managers are similar to the family who lived by the ^{RIVER} pond, except with one big exception. They knew that this was a public river from the beginning. Nobody has switched the rules on them. This bill has nothing to do with littering, recreational vehicles on levies or illegal hunting. This bill is only about protecting two sections of the river from further damage by the sand dredging industry. It is about maintaining the status quo for these two pieces of the river. The Kansas River belongs to all of the people of this state, not just the landowners. We understand their concerns, but these concerns are no greater, no worse, no different than those felt by every other person in this state. Landowners have no more (or less) right to protection from these concerns than the rest of us.

The landowners along the river and their families before them purchased those pieces of land knowing that the Kansas River was a public, navigable river. They knew that everyone has an equal right to its water and its shores the day they moved in. The landowners knew (and know now) that every person who use the river is responsible for acting in a legal manner. I goes without saying that those who do not conduct themselves accordingly are subject to the same laws and punishment as any other citizen in any other part of the state. Nothing about this bill changes any of that. Viewed from an historic point of view, opposition to this bill on the grounds that it violates landowner rights is only one more attempt to keep the resources of this river under private control.

This bill does not promote R.V. traffic, trespass, illegal dumping, illegal shooting, illegal hunting, illegal fishing, illegal trapping, or any other illegal act. It doesn't even promote boating or provide additional access points. These concerns are independent of this bill. Illegal acts are by definition already illegal and punishable by law. We all oppose them. End of story. This bill prohibits dredging on two sections of the Kansas River. That is all this bill is about, nothing else.

The entire sand dredging industry has agreed to this, they even wrote the mileage markers themselves. Other than our own disappointment that we could not protect more of the river, there is ^{no} rational reason to oppose this bill.

So I respectfully ask you to support this bill as it is written.

Dave Murphy, President, Kansas Canoe Association

KAPA

Kansas Aggregate
Producers' Association

Edward R. Moses
Managing Director

Testimony

By
The Kansas River Sand Producers

Before the

Energy & Natural Resources Committee

Regarding HB # 2925 - Kansas River Dredging
March 12, 1998

Good morning, Mr. Chairman and members of the committee. Thank you for the opportunity to come before you today with our comments on HB 2925. My name is Edward R. Moses and I am appearing on the behalf of the Kansas River Sand Producers.

The Kansas River Sand Producers (KRSP), a committee of the Kansas Aggregate Producers' Association (KAPA) is comprised of Kaw Valley Sand & Gravel, Holliday Sand & Gravel, Penny's Sand, Kaw Sand Company, Builders Sand Co., Victory Sand & Gravel, Meier's Ready Mix, Inc. and Kansas Sand & Concrete, Inc. All of these dredgers or their predecessors have been conducting sand and gravel dredging operations on the Kansas River since pre-territorial days when materials were extracted to provide surfacing for the Santa Fe and Oregon Trails. Over the years, it has provided a source of economical building materials, utilized by all Kansans. Kansas River sand is needed to make public roads safe from icy roads, fiberglass manufacture, and for the manufacture of computer chips and laser equipment in Johnson and Wyandotte counties. Given this long-term contribution, any measure to severely limit commercial dredging on the Kansas River would be tragic.

The river has been studied abundantly by the U.S. Army Corps of Engineers, the Kansas Geological Survey and other federal agencies. Results show that the Kansas River is the predominant source of sand and gravel for northeastern Kansas. Kansas River dredging produces some of the best quality and most cost-effective sand in the United States. Population trends show that a long-term demand for both sand and gravel and crushed stone aggregates will continue.

Senate Energy & Natural Resources

Attachment: 4

Date: 3-12-98

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Demographic projections suggest that by the year 2025, nearly half of the Kansas population will reside in the 10 counties adjacent to the Kansas River. Each year, the value of sand and gravel produced in Kansas exceeds \$80 million – a major contribution to the state’s economy. You, as stewards of the public trust, need to make sure there are adequate long-term supplies to meet future demands along the Kansas River Corridor.

Unfortunately, the ability to provide this valuable material has been diminished in recent years. The U.S. Army Corps of Engineers has limited the amount of sand to be extracted from the Kansas River in the lower reach from four million tons annually in 1990 to less than two million tons annually. The inability to get sand to the current market has already lead to an approximate 50% increase in sand prices in the Johnson and Wyandotte County markets. As pit operations in the Kansas River floodplain are economically, physically, or environmental impossible, sand will have to be imported from a greater distance at a higher expense. A further increase in the price of sand will have an unfavorable impact on the Northeast Kansas community and make businesses and employment in those areas noncompetitive with surrounding areas of the Midwest. The letters attached to this testimony evidence concern for this supply.

Lately, we have been faced with another threat to our continued ability to provide this needed material. This threat has been in the form of canoeists and others who seek to ban dredging from the river in order to establish exclusive canoeing preserves subsidized through the higher prices paid for sand and gravel by all one million Kansans residing in the Kansas River Corridor. This despite the fact that not one shred of evidence exists to suggest that dredging and recreational pursuits are incompatible. Given the economic impact to the residents of Northeast Kansas, it appears insensitive for a few hundred recreational interests to be unable to share the river. And these elitists, unlike members of private clubs, are proposing we, the citizens of Kansas, pay their dues!

If approved, HB 2925 would establish multi-use segments in which river dredging operations could be conducted. The multi-use segments as established in the bill, would allow for a potential of, three and only three new permits by the U.S. Army Corps of Engineers. If all three permits were approved, they would bring production up to 2.75 million tons annually, still 1.5 million tons short of the annual production prior to the imposition of the Corps’ regulatory plan. In the recreational segments, no dredging would be allowed. The Kansas River Sand Producers have supported HB 2925 in order to bring about a public policy debate on the issue of the proper use of our state’s natural resources. Our philosophical position is that our state’s resources (such as our water) can and should be shared.

In your deliberations on HB 2925, we ask this committee to consider the following issues:

- Should the Kansas Legislature establish exclusive recreational zones on the Kansas River?
- What will the impacts to landowners be?
- Will the benefits accrued from the promotion of recreation outweigh the higher prices for aggregates paid by many Kansans? and,
- Overall, is it good public policy?

If you agree that recreation has a higher priority, HB 2925 can be approved without fear of damaging our industry. The compromise embodied in this bill will protect our already reduced industry. However, it will severely limit future development.

We thank you for your time and attention. I will be happy to respond to any questions you may have at this time.



Associated General Contractors of Kansas, Inc.

P.O. Box 5253 • Topeka, Kansas 66605-0253 • 200 West 33rd • Topeka, Kansas 66611
Telephone 913-266-4015 • Fax 913-266-2561

December 30, 1997

Mr. Gary Sherrer, Secretary
Kansas Department of Commerce and Housing
700 SW Harrison
Topeka, KS 66603

Re: Kansas River Recreation Study

Dear Secretary Sherrer,

On behalf of the Associated General Contractors of Kansas I wish to express our concern about the possibility of removing the ability to obtain any new sand dredging permits on the Kansas river. It is my understanding that this is part of a proposed recommendation to the Kansas Legislature from the Department of Commerce.

While we appreciate the concerns of those who think they are affected by dredging, we would suggest that there be an effort to strike a balance between the interest of industry and the interested citizens of this area. Therefore, we respectfully request that there be some changes in the proposed recommendation which would provide the granting of dredging permits for future use of this natural resource for our industry and providing the most economical delivery of construction services for the citizens of northeast Kansas.

Respectfully,

Dan Foltz, Vice President
Associated General Contractors of Kansas

DF/rf

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Topeka Home Builders Association

1505 SW Fairlawn, Topeka, KS 66604-2411

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www.thba.com • e-mail thba@cjnetworks.com

December 29, 1998

Mr. Gary Sherrer, Secretary
Kansas Department of Commerce and Housing
700 SW Harrison
Topeka, KS 66603

RE: Kansas River Preservation Study

Dear Mr. Secretary:

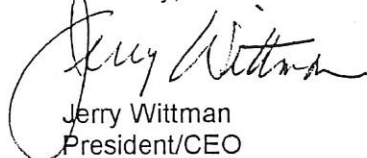
Members of the Topeka Home Builders Association have grave concerns with respect to the Kansas River Recreation Study being coordinated by your agency. Specifically, we are concerned with the agency's proposed recommendation to prohibit any new sand dredging plants along the complete length of the Kansas River for the purpose of developing river recreation.

Our industry is very dependent upon a steady and stable supply of raw materials including sand for the economical conduct of our operations. Since the implementation of the Corps regulatory plan in 1990, the price of concrete sand has doubled in this area. We have also seen increases in ancillary products such as concrete and asphalt. We are fearful that if new sources of sand are not developed in the upper areas of the river, our costs will skyrocket. For example, the cost of concrete sand went from \$3.50 per ton to \$12.50 during the 1993 flood when sand had to be imported from the Wichita area. Obviously these increases directly impact the cost of housing.

While we agree the recreational development of our natural resource is important, it should not be done on an exclusive basis. There appears to be no compelling reason, data or science that suggest river recreation and dredging are incompatible. Equally, it seems nonsensical to set aside all of the river for the recreational enjoyment of 400-600 canoeists while over 1 million Kansans must pay the price in higher building costs. For the reason stated above, we urge you to amend the recommendation to allow some new dredging development. Surely there is some justification in weighing the interest of home affordability for millions of Kansas against the exclusive desires of a few hundred.

Thank you for your time and consideration of our viewpoint on this important issue.

Sincerely,



Jerry Wittman
President/CEO



Lawrence Home Builders Association

P. O. Box 3490
 Lawrence, Kansas 66046
 (913) 832-9492
 fax (913) 832-9494

January 22, 1998

Lieutenant Governor Gary Sherrer
 2nd Floor
 State Capitol Building
 Topeka, KS 66612-1501

Dear Lieutenant Governor Sherrer:

The Lawrence Home Builders Association is concerned about the potential dredging ban on a segment of the Kansas River for the sole purpose of recreation. We understand the Kansas River Recreation Study, recently completed by five state agencies, has rejected this exclusive proposal. The LHBA supports the Study's conclusion on this particular issue.

The ability to identify and mine raw materials used in aggregate has an immediate impact on the construction industry. It is crucial to have this important raw material at a reasonable location to be considered economically accessible. If the demand for additional sand increased above what is currently produced by existing dredgers, then alternative sources would have to be located from outside the potential 'banned' river stretch. Importing sand would drive up costs on all construction projects -- both private and public.

It is in all our best interests to acquire raw materials in a manner which does not compromise or exhaust the environment. River dredging is currently regulated by local, state, and federal agencies. We see no compelling reason why recreation interests and dredging can't peacefully co-exist on the Kansas River.

Sincerely,

Neal Ezell
 President

NE:bf



6/6

BY:

1-12-98 ; 5:41PM ;

KAPA/KRMCA ; #

→
K& Aggregate Producers



**Home Builders
Association**
of Greater Kansas City



600 EAST 103rd STREET • KANSAS CITY, MO 64131-4300 • PHONE (816) 942-8800 • FAX (816) 942-8367

January 12, 1998

Mr. Gary Sherrer
Secretary
Kansas Department of Commerce & Housing
700 SW Harrison
Topeka, KS 66603

Re: Kansas River Recreation Study

Dear Mr. Secretary:

On behalf of the Home Builders Association of Greater Kansas City, I'm writing to make you aware of our concerns regarding the Kansas River Recreation Study, which is being coordinated by your agency.

Specifically, we're concerned because the proposal would set aside major segments of the Kansas River for the exclusive development of recreation. It appears this recommendation, and the U.S. Army Corps of Engineers Kansas River Regulatory Plan, would prohibit any new sand dredging permits along the complete length of the Kansas River.

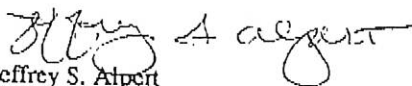
Our industry depends upon a steady and stable supply of raw materials, including sand, so we can develop in as cost-effective manner as possible. Since the implementation of the Corps regulatory plan in 1990, the price of concrete sand has doubled in this area. We have also seen increases in ancillary products such as concrete and asphalt. We fear that if new sources of sand are not developed in the upper areas of the river, our costs will skyrocket. For example, the cost of concrete sand went from \$3.50 per ton to \$12.50 per ton during the 1993 flood when sand had to be imported from the Wichita area.

We agree the recreational development of our natural resources is important, but it should not be done on an exclusive basis. To our knowledge, there appears to be no compelling reason, data or science that suggests river recreation and dredging are incompatible. Equally, it seems nonsensical to set aside all of the river for the recreational enjoyment of 400-600 canoeists while over 1 million Kansans must pay the price in higher building costs.

We urge you to amend the recommendation to allow some new dredging development, weighing the interest of thousands of Kansans against the exclusive desires of a few hundred.

Thank you for your consideration. Please feel free to contact me or Julie Sutter, director of governmental affairs, if you have questions or need additional information about our position.

Sincerely,


Jeffrey S. Alpert
President

6/7



Kaw Valley Airboaters Association
1434 Ash Court
Eudora, Kansas 66025

TO: EDWARD R. MOSES

I AM VERY CONCERNED BY THE RECENT ATTEMPTS BY A LOCAL "SHIRT-TAIL-WANNA-BE" ENVIRONMENTALIST GROUP TO LIMIT OR EVEN STOP DREDGING ON THE KANSAS RIVER. THEY WANT US TO BELIEVE THEY HAVE OUR BEST INTERESTS AT HEART; IN TRUTH, THERE IS A VERY SMALL GROUP OF THEM TRYING TO MANIPULATE A LESS-THAN-KNOWLEDGEABLE PUBLIC INTO BELIEVING DREDGING IS BAD FOR THE KANSAS RIVER.

THEY CLAIM DREDGING CAUSES EROSION OF THE RIVER BANKS AND AFFECTS THE WILDLIFE IN THE AREA. IN TRUTH, EROSION IS CAUSED BY THE COMBINATION OF MOTHER NATURE AND A DISASTROUS FLOOD PROGRAM, COMPLIMENTS OF THE CORP OF ENGINEER, (PER U.S. CONGRESS) WHO BY GROSSLY MISMANAGING THE FLOWS OF WATER FROM RESERVOIRS CAUSES MORE AND MORE DAMAGE. WHEN THE WATER LEVEL RISES, THE BANKS ERODE FROM THE RIVER TRYING TO RETAKE WHAT WAS ONCE RIVERBED. IN MOST CASES DREDGING IN STRATEGIC LOCATIONS WILL REDIRECT A RIVER BACK TO ITS ORIGINAL CHANNEL AND STOP EROSION OF FARM LAND AND WOODED AREAS IN THE PROCESS.

WE HAVE TO ASK OURSELVES: WHAT DO THESE ENVIRONMENTALISTS REALLY WANT FROM THE KANSAS RIVER--SOME SORT OF A SANCTUARY OR PRESERVE THAT THEY CAN CONTROL? IF SO, A DREDGE IN THE MIDDLE OF THAT WOULD NOT FIT INTO THEIR FANTASY PLAY GROUND. WE HAVE TO BE CAREFUL NOT TO LET A GROUP WITH SELFISH GOALS TAKE CONTROL OF A NATURAL RESOURCE THAT BELONGS TO US ALL.

INSTEAD OF BATTLING DREDGERS, WE NEED TO LOOK AT THE REAL PROBLEMS SUCH AS POLLUTION FROM CITY SEWAGE PLANTS AND INDUSTRY, THAT ARE ONLY TOO EAGER TO POLLUTE OUR RIVERS. THE BOTTOM LINE IS WE CAN ALL EXIST ON THE RIVER WHETHER IT BE BOATING, BIRDWATCHING, OR TAPPING ITS RESOURCES TO BUILD OUR HOMES AND HIGHWAYS. PLEASE TAKE THE TIME TO LEARN THE TRUTH ABOUT THE KANSAS RIVER FROM THOSE WHO HAVE SPENT THEIR LIVES ON IT. BE CAREFUL OF THOSE WHO READ SOME STUDY AND BECOME A RIVER AUTHORITY OVERNIGHT.

LAST OF ALL, DON'T BE TOO QUICK TO JUDGE AND TAKE THE DREDGES OFF THE RIVER. THERE ARE SOME STATE LEGISLATORS AND SENATORS WHO HAVE DONE JUST THAT AND IS CLEAR THEY ARE ACTING ON THE BEHALF OF SPECIAL INTEREST ENVIRONMENTAL GROUPS RATHER THAN FOR ALL KANSAS CITIZENS.

Matthew D. Cain, President

March 12, 1998

To: Senate Committee on Environment
Kansas State Capitol Building - Topeka KS

Honorable Senators

My name is Mike Calwell. I am a proponent of HB 2925. I live in Countryside Kansas. I am President and owner of a National Corporate Search Firm called MichaelMerrill-KC. I SERVE the agricultural industry. I am President elect of the Kansas Canoe Association and Vice-President of Friends of the Kaw.

I would like to address one of the most difficult questions that we deal with in this bill., that of LANDOWNER CONCERNS. First let me say that this bill is aimed at setting aside safe zones for recreation only. Only 65 of the 172 Kansas River miles will be "protected" from the damage and hazards of sand dredges.

LANDOWNERS: This bill does not discuss public access points along those 65 miles. We know that the land owners are concerned about two things.....

1. Access roads and ramps are going to be forced upon them.

Ans: This is just not true. There are only 3 access points being planned at this time and they are all public areas or willing land owners. There is no plan to confiscate land. Only willing land owners will be solicited.

2. Providing access to "THEIR" River will attract trash, & trespassers.

Ans: First, it is not their personal river. This River belongs to all the people of Kansas. Second. If access ramps are provided, they will serve as control points that will allow the public to get on & off the river without crossing private property. This will significantly reduce the threat of trespassing on their land. Littering, trespassing and other illegal acts are already addressed in current law.

The FIVE AGENCY RECREATION STUDY COMMITTEE uncovered these interesting facts in their landowners survey in 1997.....

Of the respondents that answered all the access questions, 90 land owners were either neutral or strongly agreeable to their participation in access development. According to the study there is a pool of landowners that is very willing to work with the state or counties to develop access thru their land.

Finally, I would like to remind this committee that our neighboring states have taken serious action to preserve many of their rivers for recreation. One good example is Nebraska's Niobrara River. The economic revenue figures faxed to the study committee in 1997 from the Interior Department of National Park Service for the Niobrara National Scenic River in O'neil Nebraska reported \$1,774,000 in 1991 and an estimated increase to \$5.4 million in 1997. When a river is protected it gives both recreation and revenues back to its people.

It is time that we in Kansas do the right thing for our river and our people. Lets all work together to protect and develop our beautiful river as a source of Pride in Kansas.

Please pass HB 2925.

Mike C Senate Energy & Natural Resources

Attachment: 7

Date: 3-12-98

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Testimony on H.B. 2925 - Concerning the Kansas River
March 12, 1998
Before the Senate Energy and Natural Resources Committee

Charles M. Benjamin, Ph.D., J.D.
Attorney at Law
Legislative Coordinator
Kansas Natural Resource Council
Kansas Chapter of Sierra Club
935 S. Kansas Ave., Suite 200
Topeka, KS 66612

I come to you today in support of H.B. 2925.

I know the importance of availability and cost of materials for the repair and improvement of roads and other infrastructure. For 16 years I, along with two other Harvey County Commissioners, was responsible for maintaining and improving approximately 185 miles of asphalt and 70 miles of sand and gravel roads. In addition, I was also responsible for the repair and replacement of hundreds of bridges of various sizes, some which bear my name emblazoned on a bronze plaque. The point is that I realize the importance to our communities and to our state of readily available and affordable materials for the improvement of roads, bridges and other infrastructure.

Because I took this job a little over a year ago I missed the rancorous debate about whether or not to do a river recreation study. I think the legislature took the right course in setting up the Kansas River Recreation Study Committee and, from what I observed, the members of the committee took their charge seriously and did a thorough job of analyzing all aspects of recreation on the Kansas River.

The debate on this issue has focused primarily on the trade-off between river recreation and sand and gravel dredging and I think all of us understand both points of view. However, as the representative of environmental organizations, I was struck by the February 5 testimony given to the House Environment Committee by scientists from the Kansas Biological Survey. I have attached a copy of their testimony and would like to briefly summarize that testimony for you here. The biologists pointed out that approximately 75% of the biological diversity of the Kansas River is supported by a mosaic of habitats consisting of mud flats, sand bars, point bars, gravel bars, riffles, and shallow water areas associated with these physical features. They say that biological diversity is proportionally highest in these areas in that they provide habitats for at least 100 or more species of aquatic and semi-aquatic invertebrates, and feeding, nesting and resting sites for a variety of birds, mammals, reptiles and amphibians that can number in the dozens of species. The fish community, according to these biologists, uses shallow water habitats as spawning areas, nesting grounds, and refuge. The other 25% of the species in the Kansas River live in deep water or open-channel habitats.

Senate Energy & Natural Resources

Attachment: 8

Date: 3-12-98

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The biologists say that "the long term effect of mining sand and gravel from the lower reaches of the Kansas River has been the creation of a greater expanse of deep water habitat and less, species rich, shallow water habitats." They also point out that the effects of new Corps of Engineer regulations allowing a 2-foot lowering of the stream bed elevation through a five mile stretch of the river will not be known for "a decade or more." The biologists warn that "lowering the stream bed by 2 feet over a five mile stretch of the river could affect the mosaic of sand bars and shallow habitats in the vicinity of dredging operations in segments of the river that are currently in equilibrium or only slightly and slowly degrading."

This bill is rightfully a compromise between those who want to use the Kansas River for sand and gravel dredging and those who want to use it for recreation. I suggest to you that it is also a compromise between humans and the various species who depend on these shallow mud flats, sand bars and other areas of the river for their survival. It is also a compromise between those of us living today with future generations of Kansans. Unfortunately, neither the species dependent upon the river nor future Kansans could take part in the bargaining that led to this compromise.

Last year two momentous events happened to me. I became a grandparent - something I wish upon all of you, and I was struck with life threatening cancer - something I wish upon no one. These two events reminded me that we are here only temporarily. If we are lucky we will leave others to follow in our footsteps and we have an obligation to leave them a world in at least as good a shape as we found it. I urge you in the Senate Energy and Natural Resources Committee to continue to monitor the impacts of all human activities on the Kansas River and to protect the river for those who follow us. To those of you intending to use the river for recreation or sand dredging, I only ask that you treat the river kindly.

Thank you for the opportunity to testify before you.

HAMILTON, PETERSON & KEESHAN

ATTORNEYS AT LAW

JAN HAMILTON
JOHN C. PETERSON
ROBERT E. KEESHAN
ANTHONY D. CLUM
LEON B. GRAVES

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10200 STATE LINE
SUITE 230
LEAWOOD, KS 66206-2375
TELECOPIER (913) 381-6965
(913) 381-6876

March 12, 1998

Kansas Senate Committee on Environment
Hearing on HB 2925
Room 254-E
State Capitol Building
Topeka, KS

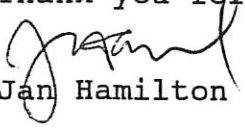
I am Jan Hamilton. Although my occupation is that of an attorney in Topeka I am appearing before you as a citizen of the State of Kansas who has enjoyed its many virtues which include canoeing. I have canoed many times on the Kansas River on many different sections of it and have enjoyed its beauty and wildlife. On the last trip I took down the river between Topeka and Lawrence one of my children and I saw a buck deer from a distance of about 15 feet, numerous beaver, a badger, turtles, water snakes and more varieties of crane than I could count. In addition, the beauty of the wilderness on both sides of the river at spots are without rival anywhere in the nation.

By preserving 65 miles of the Kansas River, you are protecting a piece of history. You are taking what is hopefully the first step to preserve and protect at least a part of our river. To my knowledge Kansas has no protected waterways. Are we to squander all of our natural resources for the almighty dollar or are there not compromises which will allow the businessmen to make money, the economy to flourish and the environment to be protected. It is certainly possible that with a protected river that there will be side benefits to our economy. Canoe liveries and sporting goods stores benefit from increased utilization of these facilities, to name a few.

The greatest and surest benefit of HB 2925 is the education and appreciation that will be gained by those who are now able to use the river. More people will learn about the river and the same thing will happen here as has happened in other states that have taken steps to preserve their rivers. The people of this great state will begin to appreciate the river as the great treasure it is instead of being thought of as a receptacle for sewage which it is not.

Please pass HB 2925 so that the Kansas River, our "namesake river" can be one which the people of this great state can once again be proud.

Thank you for your time and attention to this matter.


Jan Hamilton

Senate Energy & Natural Resources

Attachment: 9

Date: 3-12-98

9/1

TESTIMONY

DATE: March 12, 1998

TO: SENATE COMMITTEE ON ENERGY & NATURAL RESOURCES

FROM: David Miller, Attorney
North Topeka Drainage District

RE: Kansas River Reach (HB-2925)

Mr. Chairman and members of the committee, my name is David Miller. I am an attorney representing the North Topeka Drainage District. I am presenting testimony today on behalf of the North Topeka, Kaw and Tri-County Drainage Districts.

- Each drainage district spends from \$40,000 to \$100,000 per year maintaining levees along the Kansas River. Damage to these levees would not only be expensive but dangerous to the property and populations in the vicinity.
- Two bills were considered by the House as a result of the Kansas River Recreation Study. As introduced, we were concerned that if passed, safe and affordable levee maintenance could be jeopardized.
- HB-2925 establishes the designation of certain segments of the river for certain purposes. This is the first in a series of actions recommended by the study that could cause problems for drainage districts and landowners.
- HB-2925 designates the river miles covered by Kaw River Drainage District, North Topeka Drainage District and Tri-County Drainage District as a "multi-use reach". This "multi-use reach" is, however, between designated "recreational use reaches". It is logical to believe that the public may choose to pass through a multi-use reach, between recreational reaches.
- It may be difficult for the public to differentiate between the areas, and between public and private land. This could mean a potential for recreationalists to depart the river and state property onto levees and private property for picnicking and such.

Senate Energy & Natural Resources

Attachment: 10

Date: 3-12-98

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- After the designation of areas, the next plan of action is to develop access points along the river. (See attached access point plan.) Again, more access to the river will logically mean more people and the potential for trespassing on private land.
- In response to these concerns, the House added two amendments. One restates existing trespassing laws. The other causes the Secretary of Wildlife and Parks to obtain permission from the landowner or drainage district before building ramps or docks at the river.
- We are appreciative of these amendments. We believe there is some argument, however, for changing the word "or" to "and" in Section 3, on page 2, line 14. There are some instances where the State is actually the owner of easement property that is adjacent to a drainage district. In those instances, the drainage districts would appreciate the opportunity to approve or disapprove the placement of access point construction.

Thank you for the opportunity to present this information. If we may answer any questions, we would be pleased to do so.

Comments Provided To:
Senate Energy and Natural Resources Committee

Regarding the Kansas River Recreation Study
and HB 2925

Submitted by:
Kansas Biological Survey
March 12, 1998

Senator Corbin, members of the Committee, my name is Paul Liechti. I am the Assistant Director of the Kansas Biological Survey and served as the Survey's representative on Kansas River Recreation Study team. I would like to thank you for the opportunity to speak before the committee.

The Biological Survey neither supports or opposes HB 2925 but we would like to offer information concerning some aspects of the biological qualities of the Kansas River for the Committee's consideration as you deliberate on the Bill.

As background, like the Geological Survey, the Kansas Biological Survey (KBS) is a research and service unit of the University of Kansas and a non-regulatory agency of the State. Over the last 100-plus years of cataloging and studying the plants, animals and natural communities of Kansas, we have learned much about the State's biological resources; not only where things are found but also how the flora, fauna, and ecology of the State has changed over time. There is little doubt that, except for infrequent natural catastrophes, that the most dramatic changes that have occurred in the biological resources of Kansas have been the result of our own actions; making the responsibility of managing our natural resources increasingly complex.

The biological diversity of the Kansas River and health of the river system is directly related to the physical diversity and quality of habitats available. Much of the river still retains good physical and biological features along with other natural and aesthetic qualities. These physical and biological features are represented by a mosaic of mud flats, sand bars, point bars,

gravel bars, riffles, and shallow water areas associated with these physical features. Biological production is proportionally highest in these areas in that they provide habitats for at least 100 or more species of aquatic and semi-aquatic invertebrates, and feeding, nesting and resting sites for a variety of birds, mammals, reptiles and amphibians that can number in the dozens of species, depending on the season. The fish community uses shallow water habitats as spawning areas, nesting grounds, and refuge. Approximately 75% of the biological diversity of the river is supported by this mosaic of habitats with the other 25% of the species living in deep water or open-channel habitats.

Unfortunately, the long-term effect of mining sand and gravel from the lower reaches of the Kansas River has been the creation of a greater expanse of deep water habitat and less, species rich, shallow water habitats. The Corps of Engineers has implemented revised dredging regulations to minimize potential negative impacts on the river channel, but the regulations still allow for a 2-foot lowering in stream bed elevation through a five mile stretch of the river. The effects of the new regulations will not be known for a decade or more; nevertheless, artificially lowering the stream bed by 2 feet over a five mile stretch of the river could affect the mosaic of sand bars and shallow water habitats in the vicinity of dredging operations in segments of the river that are currently in equilibrium or only slightly and slowly degrading. Therefore, minimizing artificial changes in the physical character of the river will help conserve the river's natural integrity.

I would like to thank the committee for the opportunity to provide these comments, and I will try to answer any questions the Committee may have.

LAURA L. McCLURE
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TOPEKA

HOUSE OF
REPRESENTATIVES

BILL NUMBER - HB 2925

SPONSOR (S) - Environment Committee

COMMITTEE RECOMMENDATIONS: Be passed favorably as amended

UPDATED SUMMARY OF BILL: The Kansas River Recreation Study was conducted by the Kansas Department of Commerce and Housing, in conjunction with the Kansas Water Office, Kansas Geological Survey, Kansas Biological Survey and the Kansas Department of Wildlife and Parks. The study was carried out in compliance with SB 757, passed in 1996 by the Kansas Legislature.

The study identified the Kansas River as a vital but underdeveloped recreational and economic resource for the State of Kansas. **The Kansas River Study Committee strongly urged the legislature to set aside a portion, or portions, of the Kansas River for exclusive recreational use.**

PEANUT AND POLITICAL RAMIFICATIONS: We have worked to mold a delicate balance between landowners, canoers and sand dredgers so two sections of the Kansas River can be preserved.

There will be no new permits for sand dredgers in the "recreational use" reaches of the Kansas River and sand dredgers will continue to work in the multi-use sections. The guidelines for access development should address the concerns of the drainage districts and land owners. We also sited current statutes that apply to trespass, and other issues associated with trespass. There are no new crimes created.

Public water supplies, wastewater and stormwater outfalls, electric utilities, flood control and drainage works, bridges or buried transmission lines and pipelines are not affected in the sections designated as "recreational".

PROPONENTS:

Lance Burr, Friends of the Kaw
Charles Benjamin, KS Natural Resource Council
and Sierra Club- Kansas Chapter
Dave Murphy, KS Canoe Association
Edward Moses, KS aggregate Producers

OPPONENTS PRIOR TO: Floor Amendment
and Public river access development guidelines

Opposed because of future access issues
Howard Parr, Landowner, Rossville KS
Lair French, Landowner, Rossville, KS
David Miller, Attorney, N. Topeka Drainage District
Representative Greg Packer

Comments made by Clint Riley, Wildlife and Parks

Sec. Williams, Cathy Tucker-Vogel (with Water Office), Reps. Sloan, Flower, Freeborn and McClure met to work out guidelines for river access development.

I've attached a copy of the guidelines, signed by Sec. Williams on 2-23-98 and the floor amendment.

FISCAL NOTE: None

PREPARED BY: Laura McClure

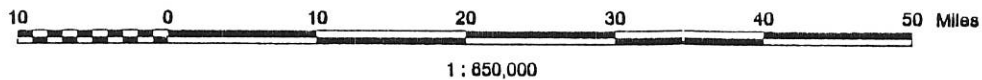
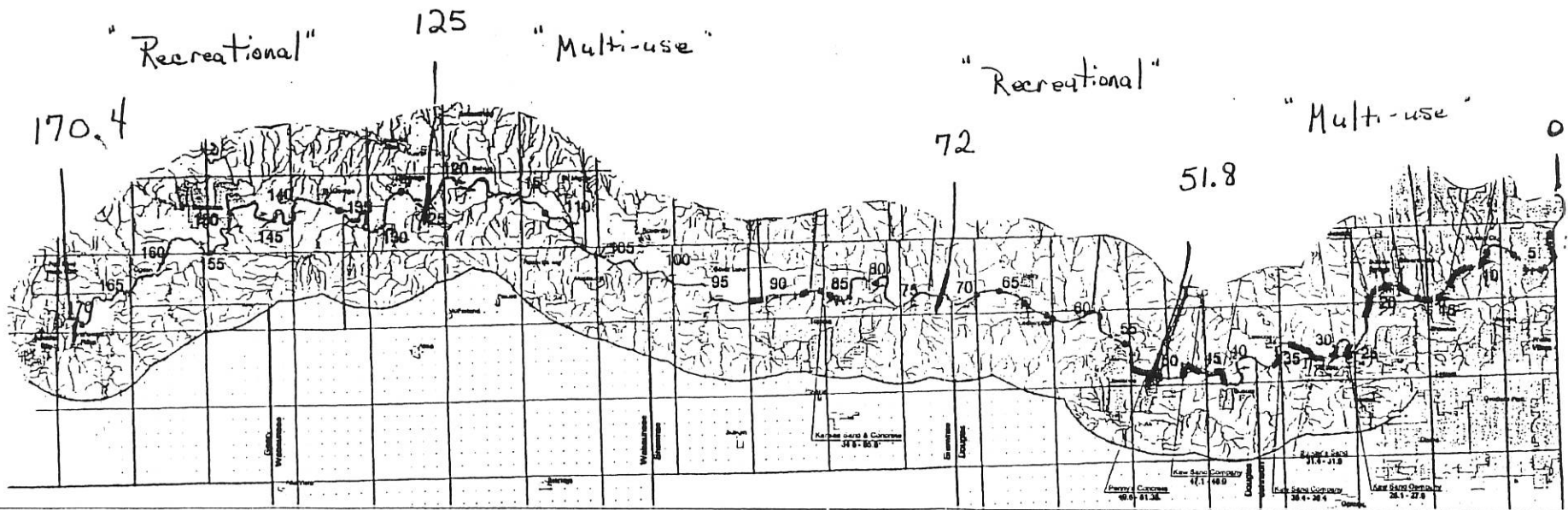
DATE: 2-24-98

COMMITTEE: Environ

Senate Energy & Natural Resources

Attachment: 12
3-12-98 12/1

Kansas River

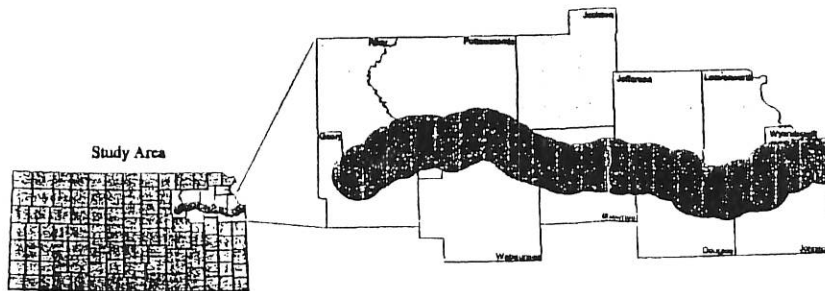


Primary Features:

- Streams and Rivers
- No Dredging Zone
- Sand Permit
- Withdrawn/Denied Permit Applications
- Pipeline Crossing
- River Mile Marker

Base Map Features:

- County Boundaries
- City boundaries
- Township boundaries
- Section corner points



Citation Information:

Base map information (County boundaries, City Boundaries, Township boundaries, Section Corner Points, and Hydrography) were obtained from the State of Kansas Data Access and Support Center (DASC) at the Kansas Geological Survey (KGS)

Permits, Restricted Areas, and River Mile Markers were extracted from other cartographic sources and digitized for use on the Kansas River Study

Projection Information:

Lambert Conformal Conic (Clarke 1866)
 Central Meridian 98 15 00
 Reference Latitude 38 00 00
 Standard Parallel 1 33 00 00
 Standard Parallel 2 45 00 00

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STATE OF KANSAS
DEPARTMENT OF WILDLIFE & PARKS

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



PUBLIC RIVER ACCESS DEVELOPMENT

The Kansas Department of Wildlife and Parks (KDWP) establishes the following guidelines regarding the possibility of future development of public river access sites along the navigable, public rivers of Kansas (the Kansas River, the Arkansas River, and the Missouri River), especially concerning identification of possible sites and coordination with private landowner concerns.

Site Acquisition

To the extent necessary resources are made available, KDWP will work with voluntary landowners to develop public river access sites. Development is expected to occur primarily at sites currently in public ownership, where the responsibility for future maintenance of the public river access site is assumed by the local community. However, KDWP will also explore opportunities for development of public river access sites where a private landowner expresses an interest in such development and would voluntarily assume future maintenance responsibilities. In no instance will eminent domain be used to acquire property for the development of public access sites to the Kansas River or other navigable rivers of Kansas.

Preservation of Levees

Current statutory permitting provisions exist for review of potential effects of public river access site development. According to K.S.A. 82a-301, any construction, change, or addition to a dam or water obstruction must be submitted to the Division of Water Resources (DWR), within the Kansas Department of Agriculture, for review and approval. In addition, K.S.A. 24-126 requires the approval of the DWR for any construction or maintenance of any levee or other such improvement along a stream subject to floods. Development of a public river access site along the Kansas River by KDWP will be subject to these statutorily required reviews by an outside agency, which would include specific review of any construction that may affect a levee structure. In addition, construction of a public river access site may be subject to flood plain zone requirements or restrictions established by the city or county governing body, and approved by DWR, according to K.S.A. 12-766.

To provide further opportunity for review of any site development, any proposal for a public river access site within an established drainage district will be submitted to that drainage district at least 60 days in advance of submission of the proposal to DWR. This 60-day timeframe will constitute a public comment period, and if requested, KDWP will conduct a public hearing on the proposal within the 60-day period. Following submission of the proposal to DWR, the proposal will also be distributed to adjacent landowners and environmental review agencies, as part of DWR's requirements according to the Environment Coordination Act (K.S.A. 82a-325 *et seq.*).

Public Education Efforts

KDWP recognizes the need to respect private landowners along any public corridor, and the need to educate river users of the limits of the public right-of-way. Specific steps that KDWP intends to take to further these goals include:

- Development of educational brochure to accompany boat registration forms with information regarding: definition of "ordinary high water mark," indicating the beginning of private property; trespass and other criminal violations; and the need to respect both private and public property, regarding personal conduct, trash, etc.
- Distribution of such educational brochures at department offices and through river recreational organizations.
- Similar educational information posted at any public river access sites, along with signage clearly marking public property boundaries at these sites.



Steve Williams, Secretary
February 23, 1998

HB 2925—Am. by HCW

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1 **Sec. 2. Any person who commits any of the following along the**
2 **Kansas river shall be subject to prosecution: Criminal trespass as**
3 **defined by K.S.A. 21-3721 and amendments thereto; littering, as**
4 **defined by K.S.A. 21-3722 and amendments thereto; injury to a**
5 **domestic animal, as defined by K.S.A. 21-3727 and amendments**
6 **thereto; criminal hunting, as defined by K.S.A. 21-3728 and**
7 **amendments thereto; obstructing, injuring, damaging or destroy-**
8 **ing property in violation of K.S.A. 24-636 and amendments**
9 **thereto; or any other violation of law.**

10 **[Sec. 3. Before causing any public access, boating facilities,**
11 **ramps or docks to be built on the Kansas river within or adjacent**
12 **to any drainage district bounding the Kansas river, the secretary**
13 **of wildlife and parks shall obtain written approval of the proposed**
14 **project from such district or from the owner of the property af-**
15 **ected by the location of such public access, boating facilities,**
16 **ramps or docks.]**

17 **Sec. 23 [4]. This act shall take effect and be in force from and after**
18 **its publication in the statute book.**