

Approved: 3-24-98
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 16, 1998 in Room 254-E of the Capitol.

All members were present except:

Committee staff present: Raney Gilliland, Legislative Research Department
Mary Ann Torrence, Revisor of Statutes
Lila McClafin, Committee Secretary

Conferees appearing before the committee:
Joe Hyde, Lawrence, KS
Alan Hill, Lawrence Paper Company, Lawrence, KS
Representative Laura McClure
Matthew Cain, Kaw Valley Airboaters, Association

Others attending: See attached list

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

Chairperson Corbin said the hearing would continued on **HB 2925**. He called on Joe Hyde.

Joe Hyde, Lawrence, Ks., said he was a long time Kansas River canoeist and he opposed the bill. He felt that unless the bill was modified so that it satisfies the safety needs of the boater group, it would create a public law that is irresponsible and dangerous (**Attachment 1**). He distributed maps of the Kansas River showing the multi-use and recreational use.

Alan Hill, President, The Lawrence Paper Company, Lawrence, KS opposed the bill. He owns property on the Kansas River between Lawrence and Tecumseh, and he thought the bill was another regulatory taking. He thought the Legislature should pass a bill that would compensate landowners for losses from regulatory takings such as this (**Attachment 2**).

Matthew D. Cain, Kaw Valley Airboaters Association, Eudora, KS opposed the bill. He did not think dredging was bad for the river or that it caused erosion of the river banks. He thought a much realer problem was pollution from city sewage plants and industry. He suggested rather than build more access ramps that the state should repair the four that are unusable at this time (**Attachment 3**)

Written testimony was distributed from:

John M. Ducey, Lawrence, KS, opposing the bill (**Attachment 4**).

Sam Segraves, Lawrence, KS, opposing the bill (**Attachment 5**)

Edward R. Moses, Managing Director, Kansas River Sand Producers Committee, written statement discussing some of the points made during the testimony given on **HB 2925** before the committee on March 12, 1998 (**Attachment 6**).

Representative Laura McClure said the bill was a compromise worked out by the parties involved. The bill was in response to the Kansas River Recreation Study. The study was carried out in compliance with SB 757, passed in 1996 by the Kansas Legislature. She urged the committee to pass the bill.

The hearing on **HB 2925** was closed.

Chairperson Corbin opened the committee discussion. A motion was made by Senator Morris to amend HB 2925 on page 2, change "or" to "and" after property add the word "directly", The motion was seconded by Senator Pugh. Committee discussion followed on the motion. The motion carried.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, Room 254-E Statehouse, at 8:00 a.m. on March 16, 1998.

Responding to a question, a representative from The Kansas Water Office said the legislation should have no impact on water quality in the Kansas River.

A motion was made by Senator Biggs to passed as amended **HB 2925**. The motion died for lack of a second.

Chairperson Corbin said the bill would lie for the present time. He announced hearings on **HB 2950** would be held on Wednesday and Thursday of this week.

The next meeting is scheduled for March 17, 1998.

The meeting adjourned at 8:45 a.m.

SENATE ENERGY & NATURAL RESOURCES
COMMITTEE GUEST LIST

DATE: March 16, 1998

NAME	REPRESENTING
Matthew & Cathy Cain	Kaw Valley Airboaters Assoc.
Laurel French	Tri County Drainage Dist. No. 1
David B. Stedler	Tri-County Drainage Dist.
Howard Parr	TRICOUNTY DRAINAGE DISTRICT.
Gerald T. Pearl	Tri county Drainage Dist.
Lawrence Brady	KS. Geological Survey
Gregory Ohlmacher	Ks. Geological Survey
ED SCHAUB	WESTERN RESOURCES
Paul Liechti	Ks. Biological Survey
Jim Janousek	Ks Dept of Commerce & Industry
Patty Beyer	Friends of the Kaw
Karla Caldwell	Friends of the Kaw
Lance Burr	Pres. Friends of the Kaw
Jay Hohmann	Land owner
Alex Hill	Land owner
Don Williams	Western Resources
Joann Flawn	House of Representatives
Harve Ann Brown	KS Govt consulting
Joe Hyle	SELF

Bill Penny

Penny's Concrete, Inc.

DATE: March 12, 1998

FROM: Joe Hyde
1605 W. 27th St.
Lawrence, KS 66046

TO: Senate Energy & Natural Resources Committee
Sen. David Corbin, Chairman
State Capitol Bldg.
Topeka, KS 66612

SUBJ: Opposing House Bill 2925,
(pending modification)

Dear Sen. Corbin and Honorable Senators of the Committee:

The fact that House Bill 2925 reached your committee shows evidence, I think, that the majority of Kansas citizens view the Kansas River as a valuable natural resource needing improved legal protection.

Despite its many problems, this long prairie stream is so blessed with wildlife and natural beauty that much of its 170 mile length is registered with the U.S. National Park Service for future inclusion in the federal Wild & Scenic Rivers program.

The river is coveted by many people, and for various reasons. HB2925 envisions segmenting it into alternating "use" zones, dividing it among two groups who fight over it the most - a cartel of sand and gravel dredgers who physically remove the riverbed and sell it for huge profits, and the outdoor recreation enthusiasts whose activities on the river have far less physical impact.

As much as anything, HB2925 is a piece of legislation introduced to end the political hostilities that have characterized the river dredging debate; this bill is an attempt by the Kansas legislature to arrange a peace between these two opposing sides.

My HB2925 Complaint:

Having left the House Energy & Natural Resources Committee in late February, HB2925 now arrives in this Committee's "port" for further inspection. I submit that

Senate Energy & Natural Resources

Attachment: 1

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reason it got out of the House committee is because the bill is sailing under false colors.

Supposedly intended to protect the Kansas River's best remaining undredged areas while giving both competing user groups equal "shares" of the river, HB2925 actually divides the river overwhelmingly in favor of dredgers. This wealthy minority group is to be given free rein by the state to conduct in-stream mining operations that will systematically degrade the aquatic and riparian environments in fully 2/3 of the Kansas River's total length.

Does HB2925 compensate for this by doing anything to improve public navigation safety and foster less-damaging sorts of development elsewhere along the river? No. If it becomes law, will HB2925 bring a swift increase in recreational use of the river that will bring dollars into small towns in the river's valley, so the people who live there can begin enjoying better prosperity by offering the public new river recreation-based retail sales and services? No.

In its present form, HB2925 is little more than a Commercial Dredgers Benefit Plan. It does almost nothing to help "Recreation". The bill fails completely in constructing conditions whereby Kansas can anytime soon begin enjoying the sustained, environmentally-friendly economic benefits that other states in the nation realize from riversport recreation.

HB2925's Tourism & Recreation Development Failings:

HB2925 offers very little that will attract wise investors experienced in river recreation development. After examining what HB2925 will let dredgers do to the river environment itself, most potential investors are certain to flee straightaway. The others will be very hesitant to commit financial resources. This will have the effect of suppressing the delivery of statewide economic "spin-off" benefits from Kansas River recreation that this bill supposedly promises.

What exactly makes the bill so bad?

To begin with, HB2925 has a fundamental and fatal flaw. It leads well-meaning Kansas legislators into believing that if outdoor enthusiasts can be pacified with a couple of Dredge Free River Zones, that this is sufficient commitment by the state to guarantee adequately safe conditions for the many thousands of citizens who (presumably) will start hurrying into northeast Kansas to take boating trips on the "new" Kansas River.

I know better than that, and so do many experienced river boaters.

The Kansas legislature has a 137-year history of suppressing public access on the state's rivers. Due entirely to our state's history of denying public access, most Kansas legislators today - even though most of them grew up near a river - are utterly ignorant about river boating. It is conceivable that the long public battle over sand dredging may have made these legislators reflect on their youth and long for "what might have been" if they'd been able to go boating freely on their own beautiful local rivers.

They might then realize that the long battle to end dredging was the only way to secure the Kansas River for future public recreation. This could convince some legislators to vote for HB2925 as it is first written - on the theory that if the state "spot softens" its hostile and parochial attitude toward public access that the dredging controversy will shut up and go away. The fact that HB2925 left the House Energy & Natural Resources Committee so quickly suggests that this line of thinking could be at work.

What the bill's proponents overlooked in all this, however, is that the primary mode of outdoor recreation transportation on the shallow Kansas River is self-propelled watercraft - particularly open canoes.

No Expert RECREATION Help In Writing HB2925

Incredibly, HB2925 was not written with input from long-time river canoeists, people who have extensive personal experience dealing with the river's unique tactical challenges, people who could accurately predict the disruptions, intimidations and life-threatening dangers that self-propelled boaters will face if an upstream invasion of "swarm dredging" occurs (such as can be seen today from DeSoto downstream to Kansas City, Kansas).

Since the bill's legal wording is absent any kind of mitigation consideration relevant to public navigation safety, HB2925 constitutes a menace to the public health. Specifically, the bill's technical inadequacies increase the threat on the river to the recreation group that most travels the river.

Reject Supporting Testimony by Friends of the Kaw and Kansas Canoe Association:

Speaking as a Kansas River canoeist, I do appreciate that many legislators are motivated now to improve the lot of

recreational boaters. Nevertheless, I feel that unless the bill gets modified so that it satisfies the safety needs of the boater group most representative of the river's recreational traffic, the legislature will create a public law that is irresponsible and dangerous.

It escapes me how its supporters can call HB2925 a bright new future for outdoor recreation in Kansas. In their haste to get this bill made law, they exhibit absolutely no common-sense appreciation of the many threats to boating safety intensified dredging will create. The bill's proponents are dumb to the fact that an upstream invasion of dredging operations - combined with the state of Kansas officially designating recreation zones that are intended to attract more boaters to the river - creates a situation that is inherently dangerous and requires prudent mitigation to ensure adequate public navigation safety.

Despite their outwardly legitimate credentials, the bill's two main recreational supporter groups - Friends of the Kaw and the Kansas Canoe Association - are headed by presidents who are kayak enthusiasts. Neither gentlemen regularly goes out boating, fishing, hunting, trapping or camping on the Kansas River in an open canoe, raft or rowboat. Their support of this bill convinces me that they are both ignorant or insensitive to the imminent threat that a sudden upstream invasion of sand dredges will bring to canoeists, rafters and rowboaters.

This Committee is free to trust the future of safe river navigation to these two men if you want. I don't, and I speak out against their support of this bill. And if I keep silent, another thing that will happen - aside from a decline in navigation safety - is that dredgers will leapfrog far upstream from where they are now and begin destroying an entire 19-mile section that is one of the very best on the river.

Protection of St. Marys/Maple Hill bridge-to-Wamego River Section:

I appeal to this Committee, indeed to all the legislators of Kansas: Use your best good judgment and do not become a party to ruining the splendid river section between the St. Marys/Maple Hill bridge and the city of Wamego. Please don't let that section be lost.

This river section is classic Kansas River: lightly developed (as seen from the river), a braided channel full of beautiful sandbars and islands of various sizes and shapes, full of resident and migratory wildlife, bordered by

deep riparian forests and surrounded by tall and inspiring Flint Hills bluff formations visible from the river.

Its destruction by the channel entrenchment and floodplain blight caused by commercial dredging activities would reduce the state's ability to maximize tourism and bring to local small town economies the gains that would result if this section were put in the West Recreation Zone.

Navigation Safety Issues Overlooked:

How can its supporters claim that HB2925 will let riversport recreation co-exist with commercial dredging? (NOTE: What the term "Multi-Use" means in HB2925 is that dredgers and boaters both have the right to conduct activities in the river sections carrying that official designation.)

Please inspect the bill.

Couched in its legal language, do you find any provisions for building an improved navigation safety infrastructure for the river to mitigate the impacts of more dredging? Do you find anything in the bill about installing this infrastructure prior to the bill being implemented as a state law, so that self-propelled boaters are given notification and the physical means to protect themselves from the mining equipment the bill will be putting across their paths?

There are no such provisions. And that is because the people who formulated this bill don't have a clue about river boating safety needs. That, or else they are willing to let innocent people - novice canoeists especially - suffer loss of property and be intimidated and even killed by dredges just to get their bill passed. That kind of ignorance or cynicism in a matter so serious must not be tolerated by professional lawmakers.

Navigation History - A Sand Dredge's Threat To Boats:

Our state has a rich cultural history of recreational boating on the Kansas River that reaches back to well before statehood. Over the last 50 years especially, however, that history has been marked by a rapid decline and almost total disappearance of recreational boating wherever commercial in-stream dredging operations have appeared.

Why? Because when a boat has its forward progress halted by striking or getting hung up on a stationary, steel cable-secured, cross-channel dredging device, that boat will swing

around broadside and river water flowing from astern will pin the boat against some part of the dredge (sand pipe/pontoon bridge, siphoning barge or mooring cable). Then the river water that now is flowing rapidly under its hull rolls the boat on its long axis and the boat capsizes. This swamps the boat, dumping its equipment and its passengers all into the water.

To deliberately go boating downstream an area of the river where dredges operate was simply too great a risk for those earlier self-propelled boaters to take. And nothing has changed: most self-propelled boaters still consider dredges too great a danger to risk an encounter with one. So they stay away from those parts of the river where dredging is going on.

(A noteworthy exception is a small boating group that calls itself the Kansas Airboaters Association. Owners of these horrendously loud, "Everglades-style" shallow-draft boats pilot these craft up and down the river under engine power past moored dredges. Because airboats can travel across slick grass and thin layers of mud after a falling river, in many instances airboats can be piloted past dredges when passage to other kinds of boats is impossible or too dangerous.

I would also point out that some KAA members are professional fossil hunters who regularly travel the Kansas River everywhere below Lawrence collecting old animal bones and selling them to collectors for money. Dredging all through the river's lower region is physically removing the riverbed' sand, which is progressively lowering the riverbed's elevation (which steadily exposes fresh batches of high-dollar-value fossils deposited during earlier geological periods?).

Without dredging degrading the streambed, these airboaters would be hard pressed to find many valuable fossils, and would not make as much money as they do now. The Kansas Airboater Association's public support of commercial dredging and its claim that dredging does not interfere with safe navigation is a *quid pro quo* political announcement reflecting *mutual financial interests*.)

I therefore oppose HB2925. By institutionalizing the introduction and operation of in-stream dredging devices on 2/3 of the Kansas River's length, the bill does not help recreational boating, it actually aids in the psychological intimidation of the public and assists in the progressive and permanent elimination of the most common kind of lawful boating done on the river.

The bill's two highest-profile recreation group supporters, the presidents of Friends of the Kaw and the Kansas Canoe Association, want me to support HB2925. They want HB2925 to become a new state law fast. That's because their thinking is half-fast.

The State of Kansas Exposed To Federal Court Lawsuits:

If HB2925 becomes law, the very first floodplain landowner bright enough to figure out what hit him is going to sue the state of Kansas in U.S. District Court. A federal jury will get to hear how Kansas state officials let a dredger open an in-stream mining site a few miles downriver of the family farm. Then the jury will hear how the operations in that site lowered the riverbed, which generated head cutting erosion of the riverbed that escaped upstream beyond of the mining site's upriver boundary and began undercutting a lot of "out site" riverbanks...which caused the landowner's soil to topple into the river, where the river then washed all of it away downstream into the mining site waiting below, which allowed the dredger in question to commit the erosion theft of valuable floodplain property containing millions worth of saleable sand and gravel aggregates previously held in the poor man's stable floodplain farm.

The judge slams down the gavel and Presto! Kansas taxpayers begin paying damages to the victimized landowner, since it was the state of Kansas that authorized the mining site to open even though Kansas Dept. of Health & Environment officials were in full possession of the facts that prove head cutting erosion's damaging and predictable upstream-moving impacts.

Likewise, HB2925 will also let a U.S District Court judge make ordinary Kansans responsible for paying the cost of settling wrongful death lawsuits filed by the survivors of every citizen killed after colliding with a moored commercial dredge that this bill sanctions.

Indeed, unless HB2925 is swiftly modified to correct its many inequities and dangerous inadequacies before it is sent to the full legislature, Kansas taxpayers might soon be paying to mitigate all sorts of commercial dredging impacts that *they themselves did not introduce on the river* - profound impacts that will simultaneously harm the stream environment long-term while worsening public navigation safety in 2/3 of the river's total length.

If It Don't Fly, Modify:

I am not, however, asking the Senate Energy & Natural Resources Committee to kill HB2925. I believe the bill has some good intentions and is salvageable.

I therefore offer the Committee a practical plan to modify the bill into a much safer and more equitable form that will let it benefit the state in better fashion. I am in no way happy to be assisting in dividing up the Kansas River. This wonderful stream is not my property to divide up; it belongs

to all Kansans, not just me. It is owned and will be used by all future generations of Kansas, not just my own descendants.

If the recommended modifications I offer are put in its official language, at least House Bill 2925 can leave this Senate committee and be debated openly by the Kansas legislature as a fairer and more responsible public law.

Modified House Bill 2925

A Before & After Comparison

As Written: Creates a legal situation where Kansas taxpayers will be paying to mitigate most, if not all, of the negative impacts caused by commercial dredging.

Modified: Creates a new state account into which is placed the pre-paid annual mineral extraction taxes that dredgers normally would pay the state of Kansas following mining operations at each dredging site. The amount of the tax each dredging company would pre-pay the state annually is easily computed by multiplying the current per-ton sand extraction tax by the total sand tonnage removed annually (per the limit placed on each mining site by the Army Corps of Engineers). This fund is to be placed under the control of the Kansas Dept. of Wildlife & Parks (KDWP) and the funds used only for the land purchase, construction and maintenance of new state-owned public boating accesses made necessary by the Kansas River being segmented into "use" zones.

As Written: Puts into the West Multi-Use Zone (where dredging will be authorized) the river section extending from the St. Marys/Maple Hill bridge west upriver to a point 2 river miles below the K-99 Highway bridge at Wamego.

Modified: Puts this 19-mile Wild & Scenic River-quality section into the West Recreation Zone (where dredging will be banned), thus shielding this section from the profound morphological and environmental degradations it would suffer from commercial in-stream mining operations, thereby giving state protection to this section's excellent aquatic and riparian habitats.

As Written: Divides the Kansas River into two Multi-Use Zones and two Recreation Zones. Added together, the two Multi-Use Zones total 110 river miles (r.m. 0-57 + r.m. 72-125). Added together, the two Recreation Zones total 60 river miles (r.m. 57-72 + r.m. 125-170). Multi-Use gets 65% of the river, Recreation gets 35%.

Modified: Multi-Use gets a two-zone total of 86 river miles* and Recreation gets a two-zone total of 84 river

miles. Multi-Use gets the mathematical majority of the river (50.5%) to Recreation's 49.5% However, Recreation Zones get every mile of the Wild & Scenic River-quality sections of the Kansas River.

- (*) 86 miles of Multi-Use contingent on the West Multi-Use Zone border beginning at r.m. 72** and extending upstream to r.m. 106 (the St. Marys/Maple Hill bridge)
- (**) r.m. 72 downstream border of West Multi-Use Zone contingent on the state of Kansas demolishing the existing Seward Ave. public boating access in east Topeka, then building a new developed state access at a site no farther than 1 river mile downstream of r.m. 72 The cost of demolishing the Seward Ave. access to be paid entirely by Penny's Concrete, Inc., a Lawrence dredging company; the cost of building the new state access immediately below r.m. 72 to be paid by either Penny's Concrete alone (if no other new dredges go into the West M/U Zone) or using the fund holding the pre-paid mineral extraction taxes of all dredging companies going into the West Multi-Use Zone with new mining sites (including any company that "site shifts" the present border of an existing mining site currently open in that Zone).

As Written: Contains no provisions for building new state-owned "escape and entry" boating accesses that "bookend" the West Multi-Use Zone, accesses that maximize the safe boatable length of the two Recreation Zones and enhance navigation safety throughout the upper 110 miles of the river.

Modified: Guarantees that before the state of Kansas authorizes and new dredging operation (or "site shifting" of existing dredging sites) in Multi-Use Zones;

- 1) Construction and installation of a comprehensive river navigation warning system that encompasses the entire length of the Kansas River, to inform boaters at state access points and on the river surface of all existing low head dams and existing or newly-installed in-stream industrial hazards.
- 2) Construction of 2 new state-owned public boating accesses that "bookend" the West Multi-Use Zone, said accesses built and maintained by the Kansas Dept. of Wildlife & Parks at the commercial

dredging industry's expense.

- 3) Construction and/or installation of new accesses and river navigation warning system completed PRIOR to the state of Kansas allowing new in-stream mining equipment to be layed in, on, across or into the river channel anywhere inside either Multi-Use Zone
- 4) That PRIOR to authorizing new mining operations in the Multi-Use Zones (or authorizing "site shifting" of any existing sites) that all new state-owned public accesses and the new navigation warning system pass an operational readiness inspection conducted by the Kansas Dept. of Wildlife and Parks and the U.S. Coast Guard.

House Bill 2925

Modification Specifications

(To GUARANTEE that the following Public Works be accomplished PRIOR to the Kansas Dept. of Health & Environment [acting under the authority granted it by HB2925] issues any NEW Commercial Dredging Permits or allows the "site shifting" of Existing Dredging Operations in either MULTI-USE ZONE)

- 1) Demolish the existing state-owned Seward Ave. boating access in east Topeka, to prevent its future use in the interest of public safety.

(All demolition costs to be paid by Penny's Concrete, Inc., a dredging company presently seeking a permit to mine the river channel for sand at a 1.5 mile-long site located just downriver of the Seward Ave. access [the mining operation will place dredging tackle across the natural navigation route boaters will take, and the mining site itself lays between the Seward Ave. access and the upstream border of the Center Recreation Zone (r.m. 72)].

Demolition of the Seward Ave. access is imperative for safety reasons. Seward is located within the proposed West Multi-Use Zone, sitting only 5 miles above the starting point of the Center Recreation Zone.

The Penny's Concrete dredge, located out of sight around the bend just below this access, will be operating dredging tackle will into the river channel, which will persistently threaten all boaters who use the Seward Ave. access as a way of getting to the Center Recreation Zone just downstream.

- 2) Build two new state-owned public boating accesses that "bookend" the West Multi-Use Zone. These accesses are to be sited no farther away than 1 river mile outside the borders of the West Multi-Use Zone, so as to maximize the safe boatable length of the two adjacent Recreation Zones.

Both new accesses must have improved entry roads, hard surface parking lots and maneuvering areas, and concrete boat ramps. Both accesses must be comparable in design and construction quality to the existing Kansas River Access on the Blue River at Manhattan, and the Kansas River Access at Riverfront Park in North Lawrence.

- 3) The City of Topeka builds a developed canoe portage trail

at the Topeka Waterworks Dam. Absolutely necessary to let downriver boaters entering Topeka from the west make a safe escape from the river to avoid getting swept over this lethal lowhead dam. This Canoe Portage Trail would be in use today if the city of Topeka had not reneged on a legal requirement to build it (and if state and federal regulatory agencies had not turned their heads and let Topeka get away with it). The original legal agreement that ordered Topeka to build the Portage Trail was meant to mitigate the loss of free navigation that was taking place through the site where the Waterworks Dam now sits.

(All costs for building the Topeka Waterworks Weir Canoe Portage Trail to be paid by the city of Topeka.)

4) **Installation of a comprehensive river-length Navigation Warning System**

ON-RIVER SIGNAGE

A. **Install upstream-facing high-visibility signs on both river banks at points no farther than 1 river mile above the new "bookend" public accesses for the West Multi-Use Zone.** These signs will warn downriver boaters approaching the West Recreation Zone that a Multi-Use Zone of in-stream industrial hazards lays ahead, giving those boaters the tactical option of exiting the river before entering the West Multi-Use Zone.

Downriver, east of Topeka, similar upstream-facing signs will give downriver boaters using the West Multi-Use Zone the option of exiting the river before entering the Center Recreation Zone.

All signs must give the location of the "exit and entry" access involved, and direct boaters toward the appropriate right or left riverbank where the state access can be found.

B. **Install upstream-facing high-visibility signs on both river banks at points no farther than 1 river mile upstream of the Topeka Waterworks Dam,** to warn downriver boaters in the West Multi-Use Zone of this dam's presence AND directing them to the safe "escape" point at the new Topeka Waterworks Canoe Portage Trail takeout.

(Sign construction and installation costs to be paid by the City of Topeka.)

C. Install upstream and downstream facing high-visibility warning signs on both river banks at points no more than 1 river mile above and below each new and existing commercial dredging site on the Kansas River. These signs will warn approaching downriver and upriver boaters of the imminent encounter with in-stream mining equipment (hydraulic siphon barge, sand pipe/pontoon bridge, nearly invisible steel mooring cables).

[Sign construction and installation costs paid by the company that owns the dredging site involved.]

D. Install upstream facing high-visibility signs on both river banks at points no more than 1 river mile upstream of the Tecumseh Kansas Power & Light Company Deflection Weir, to warn downriver boaters in the West Multi-Use Zone of the presence of this potentially lethal, barely submerged, cross-channel lowhead dam.

(Construction and installation costs of the Tecumseh KP&L Deflection Weir signs to be paid for by the Kansas Power & Light Company.)

E. Install upstream facing high-visibility signs on both river banks at points no more than 1 river mile upstream of the existing state boating access at Riverfront Park in North Lawrence, to direct downriver boaters in the Center Recreation Zone toward this access so they can avoid the lethal Bowersock Dam located only 1 mile downriver of Riverfront Park.

(Construction and installation costs of the left bank's sign [on north bank] to be paid for by the City of Lawrence. C&I costs for right bank [south bank] sign to be paid using KDWP general funds and/or Kansas Water Office statewide water recreation development funds.)

F. Install upstream facing high-visibility signs on both river banks at points no more than 1 river mile upstream of the Johnson County Waterworks Dam (the stone dam located just downriver of the Interstate 435 bridge over the Kansas River at Edwardsville) to warn downriver boaters in the East Multi-Use Zone of the presence of this lethal lowhead dam.

OFF-CHANNEL

A. Near the boat ramp at every new and existing state-owned public access, install large warning signs that:

- 1. Prominently display the location of all lowhead dams on the Kansas River.**
- 2. Prominently display a typical overhead view of an extended cross-channel sand dredge with text accurately detailing the most common trapping, snagging, spilling and capsizing risks boats face at sand dredges, so that recreational boaters choosing to enter a Multi-Use Zone can better conceptualize the boat handling tactics they must use should they elect to pass an operating sand dredge.**
(Sign construction and installation costs to be paid using appropriate funds from Kansas Water Office and/or Kansas Dept. of Wildlife & Parks.)
- 3. Describe for recreational boaters the state-approved natural boundary limit within the Kansas River's channel where the public is allowed to be, to reduce the incidence of deliberate or accidental trespass by river users onto privately-owned property that borders the Kansas River.**

All of the above Kansas River Navigation Safety Infrastructure public works must, upon completion, pass an operational readiness inspection conducted by the Kansas Dept. of Wildlife & Parks and the U.S. Coast Guard PRIOR to the Kansas Dept. of Health & Environment issuing any new in-stream mining permits (or authorizing the "site shifting" of existing dredging sites) inside the Multi-Use Zones.

House Bill 2925
MODIFICATION RECOMMENDATION
Summary

I wish to state for the record that I am a canoeist who has boated more than 2,000 miles on the Kansas River during the last 10 years. The Kaw is my very favorite river in the United States. The wildlife that can be seen on the river is far in excess of anything I've ever witnessed on any of the other rivers I've canoed. Canoeists from around the country have told me the same thing.

I've canoed the Kansas River to hunt ducks and geese, to catch channel catfish, I've camped overnight on the river's many sandbars and islands over a hundred times, I've shot roll after roll of film on the river when I was an outdoor sports columnist with the Lawrence Journal-World newspaper, I have given safety lectures to help young people learn some of the unique boat handling strategies and tactics needed for boating this river safely.

Dredgers have lately been trying to move their operations farther and farther upstream out of the Kansas City/DeSoto area, because they have degraded the riverbed there so badly that nowadays they can't remove enough sand quickly enough to satisfy the construction market demand *their own mining activities created*. Some dredgers are perfectly willing - no, eager - to see the Kansas River ecosystem destroyed if doing that results in their maintaining or bettering their financial positions among other sand mining competitors.

I have been strongly resisting the upstream migration of new commercial dredging sites in the Topeka/Perry/Lawrence/Eudora region for over 4 years. I am prepared to fight all new dredging operations on the river anywhere, site-by-site if necessary, if the Kansas legislature proves itself unable or unwilling to secure an equitable peace.

HB2925 does not offer an equitable peace to river recreationists. The bill as first written virtually guarantees that the Kansas legislature will suffer a continuation of the bitter political battles that have characterized this controversy from the very beginning.

I see no particular need for either side in this controversy to end up being seen as the winner and the other the loser, one side considered "good" and the other "bad". HB2925 in spirit is intended as a peace-making document. But

concealed in its subtle message is a profound warning to both sides: Each now has a far greater responsibility to safeguard the river environment and respect the full property rights and privacy rights of landowners along the river.

So why should dredgers be denied the honor that will come to them if they help save every one of the Kansas River's finest sections? Don't they have the right to receive that honor as much as boaters and environmentalists do?

Not only that, but dredgers for years have been asserting that their mining operations help the economies of small Kansas towns in the river valley. OK, now they can prove it, by having Wildlife & Parks use their pre-paid mineral extraction taxes to build and maintain absolutely necessary public accesses, and helping build a life-saving river navigation warning system that together will lead to a springing up of recreation-based retail sales and related services in many small towns in the river valley.

From Junction City downriver to the St. Marys/Maple Hill bridge, 64 unbroken miles of river can begin offering long-range canoe trippers a week-long cruise through a river region of inspiring solitude and remarkable natural beauty. It is here especially, in the West Recreation Zone, that the best canoeists in the United States will be drawn. These are the kind of tourists who pride themselves in using low-impact canoe camping methods, who make it a point to respect the private property rights of landowners and the rights of wildlife.

I want a House Bill that recognizes the reality of river boating on the Kansas River, recognizes its great popularity, its legitimacy and recognizes the great positive social value of riversport recreation. I want a bill that the legislature can use as a springboard to codifying sensible regulations that will place reasonable controls on the behavior and activities of Kansas River recreation users.

I want the Kansas River to finally, *finally* begin competing with the Midwest's best recreational streams - Nebraska's Niobrara River, the Ozark's National Scenic Riverways, Oklahoma's Illinois River, Arkansas' Buffalo National River and all the many excellent others. HB2925 has the potential to improve our state's recreation standing throughout the nation so dramatically that public boating on the Kansas River would soar in popularity and deliver a broad-spectrum economic gain that will benefit the entire state almost immediately.

The two Recreation Zones that HB2925 envisions must not issue from the legislature stillborn. They have got to hit the ground running at full speed. But for this to happen the Kansas River must first be outfitted with the proper devices needed to ensure safe public navigation.

There is indeed a bright future here for Kansas, but HB2925 only hints at it, only tantalizes us with it. Why be so shy?

I submit we should modify the bill RIGHT NOW. There is no longer any need for the legislature to waste time searching about for constructive ways to take credit for stimulating the Kansas River's recreation development payoff.

I oppose HB2925 because in its present form the bill is just another loser standing in a long line of empty promises.

Time to switch lines. And this time I want the Kansas legislature to deliver the goods.

Thank you for taking the time to consider my concerns.

Respectfully,



Joe Hyde
Lawrence, Kansas

March 5, 1998

State Senators
Energy & Natural Resources Committee Members
C/O Statehouse
Topeka, Ks. 66612

Dear State Senator,

On Thursday, March 12, 1998 the Committee on Energy and Natural Resources will have a meeting on H.B. 2925 (Kansas River Use).

I am a property owner on the Kansas River in the defined area, the 20 mile stretch between Lawrence and Tecumseh.

I know that H.B. 2925 is another regulatory taking. The property owners affected by this regulation should be compensated for their losses. This taking is being pushed by Lance Burt and his environmental group. They do not want to pay for their takings.

Today it is sand dredging, yesterday it was wetlands, tomorrow it will be whatever suits their fancy. Over a twenty year period they will considerably devalue many people's private property particularly mine and we owners will never be compensated for this nor will our property taxes ever be lowered because of these takings.

Before H.B. 2925 becomes law, we should pass a law that compensates landowners for losses from regulatory takings such as this. In this way, at least landowners can be partially compensated for their lost value.

I would like to testify on this matter at your committee meeting.

Sincerely,

Alan M. Hill
President
The Lawrence Paper Company
Lawrence, Kansas

cc. Terry Leatherman

AMH/lmo

Senate Energy & Natural Resources

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Date: 3-16-98 2/2



Kaw Valley Airboaters Association
1434 Ash Court
Eudora, Kansas 66025

TESTIMONY BY
MATTHEW D. CAIN
BEFORE THE
ENERGY AND NATURAL RESOURCES COMMITTEE
REGARDING HB # 2925-KANSAS RIVER DREDGING
MARCH 16, 1998

GOOD MORNING, MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE. THANK YOU FOR THE OPPORTUNITY TO SPEAK BEFORE YOU TODAY. MY NAME IS MATTHEW CAIN PRESIDENT, KAW VALLEY AIRBOATERS ASSOCIATION AND A FOURTH GENERATION OF FAMILY MEMBERS TO BE RAISED ON AND AROUND THE KANSAS RIVER.

I AM VERY CONCERNED BY THE RECENT ATTEMPTS BY CANOERS AND ENVIRONMENTALIST 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 INFLUENCE 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.

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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.

IN CLOSING I WOULD LIKE TO ADDRESS THE GOVERNORS DECISION TO SET
ASIDE \$132,000.00 FOR THE CONSTRUCTION OF RIVER ACCESS RAMPS.
IN LANCE BURR'S TESTIMONY FROM LAST WEEK HE STATED, (AND I
QUOTE) " IT IS NEARLY IMPOSSIBLE TO FIND SUITABLE ACCESS POINTS
ON THE RIVER. BETWEEN LAWRENCE AND TOPEKA THERE IS NO ACCESS."
WHEN IN FACT, WE HAVE RAMPS AT LAWRENCE AND TECUMSEH. AT THE
PRESENT TIME WE HAVE SEVEN RAMPS IN WHICH FOUR ARE UNUSABLE.
WHY NOT USE THIS MONEY FOR THEIR REPAIR?.

I WANT TO LEAVE YOU WITH ONE LAST QUESTION TO PONDER--SINCE THE
EARLY 1900'S WE HAVE ALL COEXISTED ON THE RIVER, BE IT BOATING,
CANOEING, DREDGING--WHY CAN'T WE CONTINUE TO DO SO?

204 Deerfield Lane
Lawrence, Kansas 66049
March 8, 1998

To: The Senate Committee on Energy & Natural Resources,
Senator Dave Corbin, Chairman, and Senators Morris, Huelskamp, Pugh, Schraad, Tyson,
Biggs, Goodwin and Karr:

I am a member of the Board of Directors of the Kansas Canoe Association, and until last week, I was an active member of the Board of Directors of the Friends of the Kaw. I am a very frequent boater on the Kansas River, and I write to point out my objections and concerns regarding the present version of H.B. 2925.

I'm not exactly sure how it happened, but the recreational users of the river really got the short and dirty end of the stick in this so-called compromise bill. The initial request by the aggregate industry was for the entire lower Kaw below Lawrence, and also the stretch from river mile 72 (an isolated spot between Tecumseh and Perry) all the way up to river mile 125 at Wamego.

By a unanimous vote on February 8th, the Board of Directors of the Friends of the Kaw voted to oppose this request, saying that a Multi-use zone (i.e., one which would be dominated by dredging) should not extend below the Seward access in east Topeka unless the dredgers were willing to provide for the construction and maintenance of an additional safe access below the their proposed new dredging zone at r.m. 72. Further, the F.O.K. Board's vote instructed those who were to negotiate with the aggregate producers and House committee members, that we would not consent to any legislation authorizing dredging activity above the St. Mary's bridge at approximately river mile 106.

These boundaries would have preserved half of the river, leaving its most isolated and inaccessible and scenic stretches for recreation, for wildlife, and for future generations of Kansans to enjoy. The remainder, in the more accessible multi-use zones were designated for dredging. This arrangement had the appearance of an equitable division among the competing interests. In fact, it would have provided even more Multi-use dredging territory than the initial five-agency recreational study draft would have allowed. But, somehow, those equitable boundaries weren't enough for the aggregate producers, who stand to profit greatly from the un-mined sand and additional farm bank erosion and stream degradation they will create in what is now a beautiful stretch of the river between St. Mary's bridge and the city of Wamego.

Your committee would be doing a great thing for the river, and for the present and future citizens of Kansas, if they modified this bill to incorporate the more equitable boundaries between Recreational and Multi-use zones as outlined above. I would hope that the committee would also take to heart the increased need for additional accesses to enable novice canoeists and families to avoid the increased barriers and hazards to navigation and safety created by industrial dredges in the Multi-use zones. It would seem only fair that the aggregate producers

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should provide for the lion's share of such accesses, since they are the one's producing the hazards, and making a private profit from the degradation of the State's public river.

The present bill is less than equitable, and it is not only the recreational users, but the citizens of Kansas and the communities along the river who are getting by far the poorest end of the deal. The considerable economic benefits forecast by the five agency recreational study will be significantly curtailed if some of the most beautiful stretches of the river are designated for industrial dredging.

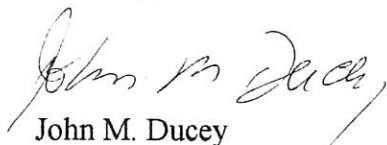
I'm not sure how it came to pass that the Friends of the Kaw came out in favor of this bill in its present form. As of this date, no meeting has been held by either the KCA nor by the FOK board of directors to reconsider their Feb 8th unanimous opposition to dredging above river mile 106. As a result I have resigned from the Board of the Friends of the Kaw. In my opinion, the considerable grass roots support that organization has enjoyed in the past would still be reluctant to give two thirds of the river up to the kind of safety hazards, industrial blight, and erosion that the dredging industry will produce. The present bill is not a compromise between recreationists and dredgers; the dredgers have been given *everything* they asked for.

I am pleased of course that the legislature is seems ready to hear and act on a bill that would attempt to protect and preserve some of the nicer sections of the Kansas river. I fervently wish that a majority of Kansas legislators would come to have the kind of vision and commercial savvy that has made possible the huge economic development of river recreation in other states.

When I think of what a benefit a recreational corridor along the entire Kansas river would be to this state, it pains me to see it used a sewer and dumping ground and labeled as one of the nation's most polluted waterways. It hurts to see it chopped up into sections, and two thirds of it handed over to commercial dredging, especially when there is such an abundance of sand in the valley which can be profitably taken *without* destroying the river's beauty and recreational potential. Without that kind of vision and savvy, I must reluctantly conclude that all that Kansas can hope for, is that a couple of small segments of the river will be preserved. I just wish those segments could add up to half of it.

Thank you for your thoughtful attention to my concerns.

Sincerely,


John M. Ducey

Date: March 15, 1998
To: Members of the Senate Energy & Natural Resources Committee,
Lawrence *Journal-World*, Topeka *Capital-Journal*
From: Sam Seagraves
Re: HB2925: Snow Job

While last week's snowstorm was paralyzing northeast Kansas, a snow job of another kind was emanating from the State Capitol. Local legislators, Friends of the Kaw officers, and dredging industry reps joined forces in an attempt to white out the truth with a blizzard of misinformation surrounding HB2925, the river recreation bill.

For residents of the Kaw Valley who care about the river, here's what the much ballyhooed river recreation bill really means.

HB2925 has been mistakenly represented as protecting – and setting aside solely for recreation – river mile (rm) segments 51.8 to 72 and 125 to 170. While the bill does prohibit in-stream dredging in these sections, it does *not* prohibit hog farms, power plants, waste treatment plants, or any other form of industrial encroachment. The bill was specifically written this way to protect the interests of industry, *not* of environmentalists.

A closer look at the river miles allegedly protected reveals that the dredging industry had voluntarily moved off miles 125 to 170 several years ago because it was more feasible to mine sand from pits in the flood plain. The self-proclaimed “river warriors” of Friends of the Kaw would have us believe that they alone saved these miles from imminent demise at the hands of the dredgers. This is simply untrue. As for the 51.8 to 72 mile section, the U.S. Army Corps of Engineers had already declared in 1996 that miles 51.8 to 66 were off limits to dredging.

This leaves a six-mile (rm 66 to 72) section of the river that is newly protected from dredging. Unfortunately, the only access to river mile 72 is the East Topeka boat ramp, located at rm 76.5. So why not extend the no dredging zone to this access? Because area legislators and Friends of the Kaw felt it was of paramount importance to help a local dredging company expand their sand empire into the river between miles 72 and 76.5.

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Not only is there no way to access the river at rm 72, there is no public access at miles 170 or 125, either. As a matter of fact, the only public accesses to these so-called recreational sections of the river are at rm 145 on the Blue River at Manhattan and at Riverfront Park in Lawrence at rm 53.3. This means that canoeists who put in the river at Manhattan could not legally get off the river until Topeka or Lawrence, a distance of 70 to 90 miles. This is a 4- to 7-day trip for most canoeists – hardly a fun-filled, “recreational” afternoon on the Kansas River.

For residents of the Kaw Valley who love their river, this recreation bill smells worse than the tons of untreated sewage dumped into the Kansas River every year by the city of Topeka with the blessings of our legislators. Phew!

Sam Segraves
520 Louisiana Street
Lawrence, KS 66044-2231
785/843-1350
e-mail: madfinch@sunflower.com

KANSAS AGGREGATE PRODUCERS ASSOCIATION

800 SW Jackson - # 1408 ♦ Topeka, Kansas 66612 ♦ 785-235-1188 FAX 785-235-2544

To: Senate Energy & Natural Resources Committee

From: Edward R. Moses, Managing Director
Kansas River Sand Producers Committee

Date: March 13, 1998

Re: Testimony on HB 2925 – March 12, 1998

May it please the committee, the Kansas River Sand Producers would like to take the opportunity to discuss some of the points made during the testimony given on HB 2925 before this committee on March 12, 1998:

1. **Preservation of River Segments** - The assertion was made by some groups that it was necessary to pass this bill in order to preserve the upper reaches of the river where dredging has not occurred. Since pre-territorial days, dredging has occurred at one time or another on most of the river. In those days, relatively small operators dredged the river to meet local demand of river communities for sand and gravel. To assert that passage of HB 2925 would protect the Kansas River from dredging thus leaving the Kansas River in its pristine state is patently false. This also ignores all the other commercial activity that is allowed to continue under this bill.
2. **Destruction of Sandbars** – It was asserted that river dredging destroys sandbars and therefore makes the river less enjoyable by canoeists and others. The fact is the creation of sandbars makes in-river dredging on the Kansas possible. So if all of these sandbars were destroyed, why are the dredges still there? Sandbars are created when the banks of the river erode and cause sand and silt to fall into the main channel. The sand is then born by the current to the dredges where a small portion is harvested. Sandbars continually form along the whole 174 mile length of the river and rarely remain in the their same shape and size for more than 24 to 48 hours.
3. **Wildlife Destruction** – It was heavily implied by conferees that sand dredge operations are detrimental to and inhibit the natural creation of wildlife in the areas in which they operate. Once again, this is patently untrue. As a matter of fact, there is a nesting pair of American bald eagles at every dredge site, save one. It appears to us that these eagles are more adaptable to their environment than those who purport to be environmentalists.

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4. **Bank Cave-in** – It was implied in testimony before this committee that dredges are the cause of bank cave-in. Once again, this is simply untrue. Bank cave-in is caused by the phenomenon known as “wild meander” where the Kansas River, being a sand bottomed river, changes course frequently and irreversibly. Under the U.S. Army Corps of Engineers regulatory plan, dredges are required to maintain a certain distance from the banks to ensure that no possible harm can be created by the actual dredging operation.
5. **Sediment Disturbance** - Environmentalists asserted that dredging stirs up silt and other material on the bottom of the river, which then creates a hazardous situation. This phenomenon known as “turbidity” has been studied by the U.S. Army Corps of Engineers it has been determined that over 75% of sediment disturbance has ceased by the time sediment travels less than 800 feet down river from the dredge. In the same study, it was also determined that the dredges did not stir up or create any more problems with toxins or atrazines as a result of their operations.
6. **Aquatic Habitat** – It was implied by more than one conferee that river dredging disturbs the aquatic habitat within the Kansas River. We will concede that aquatic habitat is disturbed, however, such disturbance could have either positive or negative effects. In the U.S. Forestry and Fishery studies performed on the Kansas River as part of the U.S. Army Corps of Engineers regulatory plan, it was determined that river dredging actually added to the diversity of the aquatic life in the Kansas River. It was further asserted in the conclusions of this study, that such diversity might improve the overall aquatic environment in the Kansas River. Many biologists have asserted that the loss of bio-diversity is an environmental threat.
7. **Safety Issues** – It was asserted by some conferees that dredges cause safety problems because cables and pipes are stretched across the river. The cables are actually tied to one side of the bank and do not, at any time, totally cross the river neither do the booms and/or transport pipes. Dredgers are required to adhere to both the U.S. Army Corps of Engineer and U.S. Coast Guard regulations regarding safety, which allows for passage by canoeists and other watercraft on the either side of the dredge. In addition, we have researched our operating logs required by the U.S. Coast Guard and we have not been able to find a single documented accident in which any boat, canoe or other vessel has ever had with a dredge in the Kansas River.
8. **Public Access** - It was asserted by many conferees that, since the Kansas River was a public river the public should have access to it. Are not dredgers also the public? In effect, it appears to us that HB 2925 actually establishes recreational preserves for canoeists and wish to prevent others who wish to enjoy both the natural and economic resources of the Kansas River from doing so.

9. **Tourism** - It was implied by several conferees that, if recreational areas are set aside, many millions of dollars will fall into this state as a result of tourist activities. The Kansas River Recreational Study identified a **maximum** potential of \$2.7 million annually could be the result of Kansas River recreation. The actual amount of activity is probably much lower. We invite you to compare this to the dredging activity. One dredge alone would yield well over \$1 million annually in economic activity and additionally provide the state with a royalty of approximately \$45,000 per year per dredge. If properly planned, the State of Kansas could encourage both dredging and recreational development and reap economic benefits from both.
10. **High Land Owner Negatives** – One item that was not brought out during testimony was the section of the landowners survey on providing access and the **high initial negatives** that all land owners seem to possess on having any type of recreational activity developed. We believe some of the conferees that have given testimony on behalf of land owners are merely the tip of the iceberg in this area.
11. **Bed Degradation** – Opponents charged that the dredgers were allowed to degrade the riverbed by two feet. Contrary to what was implied the US Army Corps of Engineers has set a limit of two feet of degradation in any five-year period. This means is that if any section of the river drops more than two feet below its natural average, dredging must be stopped and the riverbed must be allowed to aggragate, or build itself up. It should also be noted that the natural degradation in the Kansas River is approximately one foot every ten years. What the Corps is trying to achieve by the regulatory plan is to ensure this natural amount of degradation takes place.