

MINUTES OF THE HOUSE AGRICULTURE AND NATURAL RESOURCES COMMITTEE

The meeting was called to order by Chairman John Faber at 3:30 P.M. on February 13, 2007, in Room 423-S of the Capitol.

All members were present except:

Representative Powell - excused

Committee staff present:

Raney Gilliland, Kansas Legislative Research Department

Jason Thompson, Revisor of Statutes Office

Florence Deeter, Committee Assistant

Conferees appearing before the committee:

Dana Peterson, Kansas Association of Wheat Growers

Woody Moses, Managing Director, Kansas Aggregate Producers' Association, and Kansas Ready Mixed Concrete Association

Kip Spray, Vice-President, Venture Corporation

Dane Barclay, President Alsop Sand Company

Paul Graves, Assistant Chief Engineer, Division of Water Resources, Kansas Department of Agriculture

Joe Kejr, President, Kansas Association of Wheat Growers

Kenlon Johannes, CEO, Kansas Soybean Association

Duane Simpson, Vice-President of Government Affairs, Kansas Grain and Feed Association

Jere White, Kansas Corn Growers Association and Kansas Grain Sorghum Products Association

Others attending:

See attached list.

The Chairman advised members to consider the inundation map distributed from sub-committee Chairman Knox. He noted that landowners below a dam could experience undue hardship in the event of dam failure. He requested members to contact him with any questions or comments.

Dana Peterson, Kansas Association of Wheat Growers, brought information regarding a panel discussion of ethanol from wheat straw and biomass to be held next Tuesday, February 20, 2007, 7:00 - 9:00 p.m., at the Kansas History Center and Museum. She said that two companies will give presentations, one of which is considering locating in Kansas.

Hearing on HB 2353 - Regulation of unconsolidated fills and berms in floodplains.

Woody Moses, Managing Director, Kansas Aggregate Producers' Association, and Kansas Ready Mixed Concrete Association, speaking as a proponent of **HB 2353**, said the basis of the bill has to do with unconsolidated or temporary fills located in floodplains; it does not address permanent stockpiles that limit the flow of water (Attachment 1). He indicated that the proposal of the Division of Water Resources (DWR) to require permits for any temporary structure over one foot puts undue regulation on the sand, gravel and rock producers in the industry. Mr. Moses said the requirement of incorporating engineered plans for producers, whose stockpiles change daily, is egregious.

Kip Spray, Vice-President, Venture Corporation, a company which produces hot asphalt, spoke in favor of **HB 2353** (Attachment 2). He said that the corporation has routinely applied for a permit from the DWR for operations in Dundee, Kansas. Mr. Spray said that because of the different requirements between state and federal regulations, Venture has not been able to obtain a permit. He quoted the amount of money the company spent to be certified and then was informed of three additional requirements to be fulfilled before the application can be completed. Part of his testimony included pictures, a site development plan, an invoice of expenses incurred, and a letter from the Department of Agriculture requesting the need for additional information.

Dane Barclay, President, Alsop Sand Company, who is advocating a favorable passage of **HB 2353**, said that the sand stockpiles made by his company do not require having a permit according to the Federal Emergency

CONTINUATION SHEET

MINUTES OF THE House Agriculture and Natural Resources Committee at 3:30 P.M. on February 13, 2007, in Room 423-S of the Capitol.

Management Agency (Attachment 3). He said there has been no change in the requirement of a permit during the past thirty years of any stockpiles less than twelve inches in height. Mr. Barclay cited a letter received from the Division of Water Resources indicated that permits would now be required and that the cost of operating per site would be raised by \$ 15,000. Mr. Barclay indicated that amount of money per site would add a quarter of a million dollars in additional expense and the net gain would be negligible.

Paul Graves, Assistant Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, speaking as an opponent of **HB 2353**, said that the bill creates an exemption not intended within statute **K.S.A. 24-126** (Attachment 4). He said the chief engineer must take into consideration the impact of all proposed projects both upstream and downstream when ascertaining the possibility of destruction should a 100-year flood occur. Mr. Graves indicated that the bill is inconsistent with the levels of flood protection established by state and federal entities.

Eloise Tichenor, Zoning Administrator, Jefferson County, submitted written testimony opposing **SB 2353**. Included, with her testimony is a diagram showing the definition of a floodplain (Attachment 5).

The Chairman closed the hearing on **HB 2353**.

Hearing on HB 2391 - Amending grain commodity commission provisions concerning assessments and refunds.

Joe Kejr, President, Kansas Association of Wheat Growers, speaking as a proponent of **HB 2391**, asked the members to consider raising a wheat assessment from 10 mills to 20 mills per bushel of wheat (Attachment 6). He stated there has not been a significant change in the cap for many years and that doing so would allow Kansas Wheat to maintain a fund level by raising assessments when needed. Mr. Kejr cited the importance of developmental research and funding of biotechnology to keep abreast of the demand for wheat in both local and international markets. In a comparison study regarding assessment refunds, Mr. Kejr said that Kansas has the longest time period for a producer to obtain a refund. He requested support of **HB 2391**, which includes decreasing the time period for persons making request for a refund.

Kenlon Johannes, CEO, Kansas Soybean Association (KSA), speaking in support of **HB 2391**, said that the soybean checkoff proposed in this bill would only be affected if the national soybean checkoff is repealed or suspended (Attachment 7). He said that KSA supports the rate change from 20 mills per bushel to the current federal rate of one-half of one percent of the net market price. Mr. Johannes also expressed support for a 90 day time period for persons requesting a refund.

Duane Simpson, Vice-President of Government Affairs, Kansas Grain and Feed Association (KGFA), and Kansas Agribusiness Retailers Association (KARA), speaking as a proponent of **HB 2391**, said that KARA believes that wheat farmers should have the benefit of reduced costs in the production of herbicide resistant wheat (Attachment 8). Mr. Simpson also requested the inclusion of an amendment requesting the time allotment of a commissioner be established as a serving for a three-year term. He said that the Kansas Association of Ethanol Processors (KAEP), an association affiliated with KGFA and KARA, has representative interest in supporting the funding of research to make cellulosic ethanol a viable product.

Jere White, Kansas Corn Growers Association (KCGA) and Kansas Grain Sorghum Products Association (KGSPA), speaking as an opponent of **HB 2391**, said that changing the statutes pertinent to the mill levy and the reduction of the refund time limit is not in the interest of commodity commissions (Attachment 9). He said that a reduction in the time producers can request a refund could elicit limited results in future programs.

Doug Wilden, former board member, Kansas Wheat Commission, submitted written testimony in opposition to **HB 2391** (Attachment 10).

The Chairman closed the hearing on **HB 2391**.

The meeting was adjourned at 5:40 p.m. The next meeting is scheduled for February 14, 2007.

HOUSE AGRICULTURE COMMITTEE GUEST LIST

DATE: February 13, 2007

Jere White

KCGA - KGSF

NAME	REPRESENTING
Dean Sloskef	Kansas Wheat Commission
Mike Brown	Kansas Wheat Commission
CU Cotsonadis	KDA
Joe Key	KAWG
Paul Penner	KAWG
Wendy Mollums	KATA
Wendy Moses	KAPA
Kip Spray	KAPA / VENTURE Corp
BRAD HARRELSON	KFB
Matt Seberer	KVA
Paul Graves	KDA
Dane Peters	Ks Assoc of Wheat Growers
Rusti Zief	KS Assoc. of Wheat Trainers
Jeff Costen	KS Grain Sorghum Commission
Aaron Harries	KS Wheat
Lindy Falk	KS Wheat
Kevin Lichteig	KS Grain Sorghum Commission
Keaton Johannes	KS Soybean Association
Eric Wisner	KOA

Leslie Kaufman

Ks Coop Council

DANE BARCLAY

ALSOP SANDCO

Duane Simpson

KATA - KARA

Steve Adams - KDWP
Mike Beam
Ks Livestock Assn.

KRMCA

Kansas Ready Mixed
Concrete Association

KAPA

Kansas Aggregate
Producers' Association

TESTIMONY

Date: February 13, 2007

Before: The House Agriculture & Natural Resources Committee

By: Edward R. Moses, Managing Director
Kansas Aggregate Producers' Association
Kansas Ready Mixed Concrete Association

Regarding: HB 2353 – Regulation of unconsolidated fills and berms in floodplains

Good afternoon Mr. Chairman and Members of the Committee:

Thank you for the opportunity to appear before you today and provide our comments in support of HB 2353. My name is Woody Moses, Managing Director, of the Kansas Aggregate Producers' Association. The Kansas Aggregate Producers' Association is a trade association comprised of sand & gravel and rock producers located throughout Kansas. Comprised of approximately 250 members, our mission is to provide the 25-30 million tons of aggregate consumed by Kansans every year.

HB 2353, a bill introduced at our request, in its plain form requests a policy decision from this committee and this legislature regarding the proper method of regulating temporary stockpiles and berms located within the floodplain or floodway. Its genesis is the result of a policy change within the Kansas Division of Water Resources (DWR) with respect to the regulation of stockpiles and berms under K.S.A. 24-126, the Levee Law. Our first knowledge of which occurred in February of 2006 when one of our members was granted a routine hydraulic dredging permit with approval; conditioned on securing a structures permit under the levee law for our stockpiles and federally mandated Mine Safety and Health Administration safety berms. The first time, in the 77 year history of the levee law such a requirement has been demanded. Prior to this time, DWR has viewed temporary fills as exactly that "temporary" and has not required a "levee permit". In our discussions with the Division we have been unable to ascertain the logic behind or reason for such drastic policy change.

The Kansas Aggregate Producers' Association (KAPA) since becoming aware of this issue has thoroughly reviewed the matter with respect to its impact on our operations conducted in the floodplain and made attempts to comply with DWR's new policy. This attempt has included consultation with attorneys, FEMA, hydrologists and registered professional engineers to determine or identify any unintended consequences as a result of this new effort by the Kansas Division of Water Resources (DWR). Other proponents will be discussing their efforts in their testimony today.

REQUIREMENT FOR PROFESSIONALLY ENGINEERED PLANS IN THE FLOODWAY

Our operators are very concerned about the ability and practicability of any requirement to comply with engineered plans. It is well documented and commonly known that stockpiles are very temporary changing almost daily, with perhaps a few exceptions for specific projects, throughout the year. To apply for and receive a permit based upon static drawings may create a situation by which any operator would be in non-compliance the very next day. Should any complaint then arise it would be easy for regulators to declare the operation in non-compliance thus putting the operator into some form of legal jeopardy. We are very concerned about creating an unintended legal quagmire in this instance. In fact should this rule making proceed we may have to seek some form of statutory protection. Additionally, there would be considerable expense in providing engineered plans. For example, \$30,000 to engineer a 30,000 ton reserve would require an additional \$1 per ton. As 75% to 80% of all sand and gravel is sold to political subdivisions we are unsure if this is in the public interest. If these requirements are also imposed upon cities, counties and the Kansas Department of Transportation, it would also add to the cost of government.

NEED FOR PERMITTING ACTIVITY

While we understand the concern with regard to stockpiles and other temporary structures in the floodplain we are unsure that it necessary or even fiscally sound to require a structures permit. Taken to its full extent it is our understanding DWR is proposing to require a permit for all temporary structures with an average height of over one foot. Unless DWR proposes to engage in "selective enforcement" this implies that all grain stockpiles, hay bales, asphalt millings, county road material, city road material, railroad ties, auto salvage yards, etc. etc., located within the floodplain for more than sixty days will require a permit. Taken to its full extent, the costs involved would be staggering for all concerned including DWR. Has a fiscal note been prepared? Other questions also arise. For example, in the case of railroad ties, is another permit required when they are moved to a new location? What happens when the floodway map changes? Is another permit then required? Obviously if the flows have changed then the circumstances applying to the first permit have been altered and the first engineering analysis is no longer valid.

AUTHORITY ALREADY EXISTS

The construction of levees and fills has been governed by K.S.A. 24-126 since 1929. In the past, as the result of a complaint or routine inspection, DWR has visited many sand & gravel operations. In some cases, primarily dealing with overburden piles, operators have been

asked to secure a permit or remove the pile. And to our knowledge compliance has been achieved either by securing a permit to preserve topsoil and other useful materials or by removing the pile. In other words there is no question here if a stockpile, temporary berm, or overburden pile appears to have become permanent, sufficient options already exist to address the situation. In this manner DWR has administered the law fairly and efficiently for the last 77 years and to our knowledge with no negative results demanding a change in policy. Under the “Doctrine of Continuing Expectations” this regulatory scheme is working well and there is insufficient reason for change. Or “if it isn’t broke, don’t fix it”.

Additionally, at least with respect to the sand & gravel, the tools for monitoring our activity have never been greater. The mining industry is required under the Surface Mining Land Conservation and Reclamation Act (K.S.A. 49-601 et. seq.) to register all mines which are inspected annually according to reclamation plans which include site plans. Additionally, we are tracked by the Kansas Geological Survey and other public agencies. Also, there is plenty of satellite imagery available. Therefore finding our operations and determining if there is a problem should not be difficult. In the case of floodways we are already required to perform “no rise” certifications according to Federal Emergency Management Agency (FEMA) standards. This certification includes the complete operation, not just the safety berms and stockpiles.

The Division of Water Resources is charged with a large and complex mission to administer water law throughout the state of Kansas. They should be concerned or focused on critical water issues such as the Kansas - Colorado water litigation, the Kansas – Nebraska water litigation and other acute water issues with respect to Southeast Kansas and the Ozark Aquifer. Is it really necessary to devote financial resources and time in an attempt to solve a problem that does not exist? In our opinion, we have demonstrated today, there is really no need for DWR to go and solve a problem that does not exist. We respectfully request you recommend HB 2353 favorable for passage. Thank you for the opportunity to appear before you today. I will answer any questions at the appropriate time.





U.S. Department of Labor
Mine Safety and Health Administration
Protecting Miners' Safety and Health Since 1978



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Title 30

Parts 1-199 Mineral Resources
Department of Labor
Mine Safety and Health Administration

Code of Federal Regulations

30 CFR § 46.11

Site-specific hazard awareness training.

(a) You must provide site-specific hazard awareness training before any person specified under this section to mine hazards.

(b) You must provide site-specific hazard awareness training, as appropriate, to any person who is not a defined by § 46.2 of this part but is present at a mine site, including:

- (1) Office or staff personnel;
- (2) Scientific workers;
- (3) Delivery workers;
- (4) Customers, including commercial over-the-road truck drivers;
- (5) Construction workers or employees of independent contractors who are not miners under § 46.2;
- (6) Maintenance or service workers who do not work at the mine site for frequent or extended periods;
- (7) Vendors or visitors.

(c) You must provide miners, such as drillers or blasters, who move from one mine to another mine while employed by the same production-operator or independent contractor with site-specific hazard awareness training at each mine.

(d) Site-specific hazard awareness training is information or instructions on the hazards a person could be exposed to while at the mine, as well as applicable emergency procedures. The training must address site-specific hazards and risks, such as unique geologic or environmental conditions, recognition and avoidance of hazards such as powered-haulage hazards, traffic patterns and control, and restricted areas; and warning and evacuation and emergency procedures, or other special safety procedures.

(e) You may provide site-specific hazard awareness training through the use of written hazard warnings, instruction, signs and posted warnings, walkaround training, or other appropriate means that alert persons to specific hazards at the mine.

(f) Site-specific hazard awareness training is not required for any person who is accompanied at all times by an experienced miner who is familiar with hazards specific to the mine site.

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From Permit Granted to Alsop Sand - 12/19/06

Approval No. LSA-0102

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APPROVAL CONDITIONS

1. This approval grants no water rights nor other property rights, nor does it authorize any injury to private property, invasion of private rights nor impairment of senior water rights, nor does it exempt the applicant from obtaining consent from appropriate federal, state or local government.
2. The work shall at all times be subject to supervision and inspection by representatives of the Division of Water Resources.
3. No changes in the work, maps, plans, profiles and specifications as approved shall be made except with the written consent of the Chief Engineer.
4. Any work authorized by this approval will be maintained in a condition satisfactory to the Chief Engineer and substantially in accordance with the approved plans.
5. The clearing of trees, brush, drift and other debris, in order to maintain the work substantially in accordance with the approved plans is hereby authorized, except that the removal of plantings made specifically for habitat or environmental mitigation is not authorized by this approval.
6. Any excess material deposited in the stream channel incidental to the construction and maintenance of the project authorized by this approval shall be removed and the channel restored to a condition satisfactory to the Chief Engineer and substantially in accordance with the approved plans.
7. All areas disturbed by construction or other exposed soil areas shall be seeded and maintained with a mixture of grass or other vegetation appropriate to the soils, climate and project in order to minimize erosion and protect the project integrity.
8. The work shall be considered completed when it is closed in accordance with the closure requirements of the State Conservation Commission or other appropriate state agency.
9. Within thirty (30) days after the completion of the closure, as required by the State Conservation Commission, the applicant shall file with the Division a statement that the closure has been properly completed.
10. The Chief Engineer reserves the right to require such changes in the maps, plans, profiles and specifications as may be considered necessary. The Chief Engineer further reserves the right to modify, suspend or revoke this approval at any time, should the applicant fail to comply with any of the conditions of this approval or regulations of the Division without sufficient cause or should such action be deemed necessary in the interest of public safety and welfare.
11. The clearing of riparian timber and vegetation shall be restricted to the minimum required to accomplish the work and not interfere with the beneficial use of the project.
12. No deleterious or toxic materials shall be introduced into the watercourse or reservoir by runoff, leaching or disposal during or in connection with the work authorized by this permit.
13. Any excess material deposited in the floodplain in areas not shown on the approved plans is prohibited without prior written approval of the Chief Engineer.
14. The project must meet the floodplain management requirements of the community.

Summary of Proposed Changes
For Material Storage Fill Applications

	Permanent Fill	Material Storage Fill
Fringe	In a floodway fringe all fills would be treated the same. We will develop a simplified application with limited plan requirements that will apply to both permanent and material storage fill projects.	
Floodway	<p>Plan requirements: Location map, detailed plan view with 2 feet contours, profiles of stream and fills, elevation view, benchmark, and map of land for which easements have been obtained.</p> <p>Specifications required.</p> <p>Plans must be prepared by professional engineer.</p> <p>Engineering analysis required according to KAR 5-45-14.</p>	<p>Proposed plan requirements: Location map, plan view to scale showing extent of proposed operation including stockpile areas and location of structures, elevation view at critical section, benchmark, and map of land ownership when easements have been obtained.</p> <p>Propose that specifications not be required.</p> <p>Plans must be prepared by professional engineer.</p> <p>Engineering analysis required according to KAR 5-45-14.</p>
Unmapped/ Unnumbered A Zone	<p>Plan requirements: Location map, detailed plan view with 2 feet contours, profiles of stream and fills, elevation view, benchmark, and map of land for which easements have been obtained.</p> <p>Specifications required.</p> <p>Plans may need to be prepared by professional engineer.</p> <p>Engineering analysis required unless it is clear that there isn't an unreasonable effect.</p>	<p>Proposed plan requirements: Location map, plan view sketch showing extent of proposed operation including stockpile areas and location of structures, elevation view at critical section, benchmark, and map of land ownership when easements have been obtained.</p> <p>Propose that specifications not be required.</p> <p>Propose that plans may be prepared by someone other than a professional engineer.</p> <p>Simplified engineering analysis by geometry.</p>

TESTIMONY

Date: Feb. 13, 2007

Before: The House Agriculture & Natural Resources Committee

By: Kip Spray, Vice-President
Venture Corporation

Regarding: HB 2353 – Unconsolidated Material Fills & Safety Berms

Good afternoon Mr. Chairman and Members of the Committee:

Thank you for the opportunity to appear before you today and provide our comments with respect to HB 2353. My name is Kip Spray, Vice-President of Venture Corporation, located in Great Bend, Kansas. Venture Corporation is primarily an asphalt company that produces Hot Mix Asphalt through out the State of Kansas and Oklahoma. I am appearing before you in support of HB 2353, a bill establishing policy regarding the proper regulation of stockpiles and safety berms in floodway & flood plains.

In February of 2006 Venture Corporation routinely applied to the State of Kansas Division of Water Resources for sand & gravel operation in Dundee, Kansas. One (1) year later we are still without a permit.

The Federal Mine and Safety Administration requires Venture Corporation or any other contractor to build "Berms" according to regulation 56.9300 (Sec. (b)). Berms or guardrails shall be at least mid-axle height of the largest self-propelled mobile equipment which usually travels the roadway. Because of this federal requirement Venture Corporation has been unable to obtain a State permit due to two (2) governmental agency regulations with different

requirements on berms. Federal requires minimum 3' berm, State requires maximum 1' berm. If our company would operate the sand pit with a one foot berm where people and equipment are working, then have an accident in that area, I can assure MSHA would put us out of business and fines would be assessed.

On August 15th, 2006, The Dept. of Agricultural Division of Water Resources held a meeting hoping to resolve this issue on berms knowing the industries concerns. I left that meeting under the impression DWR would come up with a solution to resolve this issue. To date this has not happened.

On approximately Nov. 10th, 2006, I received a letter from DWR stating that my term permit will continue to expire on December 31, 2006. However at this point I still did not know what I needed to do to resolve the berm issue, so I called DWR. This time I was directed to hire a Hydrologist and pursue a no rise in elevation certificate for the sand pit. This certificate tells DWR what our berms will do to rise in elevation of the waters should a 100 year flood occur.

I spent \$5,234.25 to get this certificate and indeed it indicated that our sand pit would not cause rise to the elevation.

Now in the letter dated Feb. 2, 2007 from DWR there are three (3) more items required before the application will be approved.

- 1)
 - a. General location map or aerial photograph showing the project site.
(It is included in the certificate)

- b. Flood plan & floodway limits
(Used FEMA 100 year elevations)
- c. Property lines with names and addresses of adjoining property owners.
(Given to DWR April 4, 2005)

2) A detailed plan view of the project site fully describing the extent of the fill
and showing the flood plan & floodway limits.
(Included in certificate)

3) At least one benchmark to which all elevations are referred, is to be shown on the
plans. Including location, description and elevation.
(Included in certificate)

This is what has happened to our company, I know there are many other sand and gravel
operations in the state that are in need of help with this issue, therefore I urge you to support
House Bill No. 2353

Thank you. I'll stand for questions.

2-4



2007 2 7



2-5

2007 2 7

of a single railcar, or in other locations on trains that expose persons to hazards from train movement.

(1) This paragraph does not apply to car droppers if they are secured with safety belts and lines which prevent them from falling off the work platform.

(2) Brakemen and trainmen are prohibited from riding between cars of moving trains, but may ride on the leading end of trains or other locations when necessary to perform their duties;

(f) To and from work areas in overcrowded mobile equipment;

(g) In mobile equipment with materials or equipment unless the items are secured or are small and can be carried safely by hand without creating a hazard to persons; or

(h) On conveyors unless the conveyors are designed to provide for their safe transportation.

§ 56.9201 Loading, hauling, and unloading of equipment or supplies.

Equipment and supplies shall be loaded, transported, and unloaded in a manner which does not create a hazard to persons from falling or shifting equipment or supplies.

§ 56.9202 Loading and hauling large rocks.

Large rocks shall be broken before loading if they could endanger persons or affect the stability of mobile equipment. Mobile equipment used for haulage of mined material shall be loaded to minimize spillage where a hazard to persons could be created.

SAFETY DEVICES, PROVISIONS, AND PROCEDURES FOR ROADWAYS, RAILROADS, AND LOADING AND DUMPING SITES

§ 56.9300 Berms or guardrails.

(a) Berms or guardrails shall be provided and maintained on the banks of roadways where a drop-off exists of sufficient grade or depth to cause a vehicle to overturn or endanger persons in equipment.

(b) Berms or guardrails shall be at least mid-axle height of the largest self-propelled mobile equipment which usually travels the roadway.

(c) Berms may have openings to the extent necessary for roadway drainage.

(d) Where elevated roadways are infrequently traveled and used only by service or maintenance vehicles, berms or guardrails are not required when all of the following are met:

(1) Locked gates are installed at the entrance points to the roadway.

(2) Signs are posted warning that the roadway is not bermed.

(3) Delineators are installed along the perimeter of the elevated roadway so that, for both directions of travel, the reflective surfaces of at least three delineators along each elevated shoulder are always visible to the driver and spaced at intervals sufficient to indicate the edges and attitude of the roadway.

(4) A maximum speed limit is posted and observed for the elevated unbermed portions of the roadway. Factors to consider when establishing the maximum speed limit shall include the width, slope and alignment of the road, the type of equipment using the road, the road material, and any hazardous conditions which may exist.

(5) Road surface traction is not impaired by weather conditions, such as sleet and snow, unless corrective measures are taken to improve traction.

(e) This standard is not applicable to rail beds.

[53 FR 32520, Aug. 25, 1988, as amended at 55 FR 37218, Sept. 7, 1990]

§ 56.9301 Dump site restraints.

Berms, bumper blocks, safety hooks, or similar impeding devices shall be provided at dumping locations where there is a hazard of overtravel or overturning.

§ 56.9302 Protection against moving or runaway railroad equipment.

Stopblocks, derail devices, or other devices that protect against moving or runaway rail equipment shall be installed wherever necessary to protect persons.

§ 56.9303 Construction of ramps and dumping facilities.

Ramps and dumping facilities shall be designed and constructed of materials capable of supporting the loads to which they will be subjected. The

ramps and dumping facilities shall provide width, clearance, and headroom to safely accommodate the mobile equipment using the facilities.

§ 56.9304 Unstable ground.

(a) Dumping locations shall be visually inspected prior to work commencing and as ground conditions warrant.

(b) Where there is evidence that the ground at a dumping location may fail to support the mobile equipment, loads shall be dumped a safe distance back from the edge of the unstable area of the bank.

§ 56.9305 Truck spotters.

(a) If truck spotters are used, they shall be in the clear while trucks are backing into dumping position or dumping.

(b) Spotters shall use signal lights to direct trucks where visibility is limited.

(c) When a truck operator cannot clearly recognize the spotter's signals, the truck shall be stopped.

§ 56.9306 Warning devices for restricted clearances.

Where restricted clearance creates a hazard to persons on mobile equipment, warning devices shall be installed in advance of the restricted area and the restricted area shall be conspicuously marked.

§ 56.9307 Design, installation, and maintenance of railroads.

Roadbeds and all elements of the railroad tracks shall be designed, installed, and maintained to provide safe operation consistent with the speed and type of haulage used.

§ 56.9308 Switch throws.

Switch throws shall be installed to provide clearance to protect switchmen from contact with moving trains.

§ 56.9309 Chute design.

Chute-loading installations shall be designed to provide a safe location for persons pulling chutes.

§ 56.9310 Chute hazards.

(a) Prior to chute-pulling, persons who could be affected by the draw or

otherwise exposed to danger shall be warned and given time to clear the hazardous area.

(b) Persons attempting to free chuhangups shall be experienced and familiar with the task, know the hazards involved, and use the proper tools free material.

(c) When broken rock or material dumped into an empty chute, the chute shall be equipped with a guard or persons shall be isolated from the hazard of flying rock or material.

§ 56.9311 Anchoring stationary sizer devices.

Grizzlies and other stationary sizer devices shall be securely anchored.

§ 56.9312 Working around drawholes.

Unless platforms or safety lines are used, persons shall not position themselves over drawholes if there is danger that broken rock or material may be withdrawn or bridged.

§ 56.9313 Roadway maintenance.

Water, debris, or spilled material on roadways which creates hazards to the operation of mobile equipment shall be removed.

§ 56.9314 Trimming stockpile and muckpile faces.

Stockpile and muckpile faces shall be trimmed to prevent hazards to persons.

§ 56.9315 Dust control.

Dust shall be controlled at muckpiles, material transfer points, crushers, and on haulage roads where hazards to persons would be created as a result of impaired visibility.

§ 56.9316 Notifying the equipment operator.

When an operator of self-propelled mobile equipment is present, person shall notify the equipment operator before getting on or off that equipment.

§ 56.9317 Suspended loads.

Persons shall not work or pass under the buckets or booms of loaders in operation.

2-6

NO RISE CERTIFICATION

And

SITE DEVELOPMENT PLAN

For

Venture Corporation.
P.O. Box 1486
Great Bend, KS 67530
Office 785 243 4249

Prepared by

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December 14, 2006

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NO RISE CERTIFICATION
And
SITE DEVELOPMENT PLAN

1. INTRODUCTION

1.1 Venture Corporation has acquired a tract of land, 22.6364 acres adjacent to their present sand pit operation in that part of the Northeast Quarter of Section, Township 20 South, Range 14 West, in Barton county Kansas, lying south of U.S. 56. The south boundary is curved following just outside the farmers center pivot. The boundary survey is attached to this report. This property is accessible from U. S. Highway 56. The location is shown on Figure 1, the U. S. Geological Survey topographic map of the area.

1.2 The proposed use of the property is for the mining of sand and gravel aggregate for use in asphalt, concrete, and other uses in the general vicinity of Barton County and surrounding area. The prior land use was agricultural. Figure No. 2 is an aerial photograph of the property and surrounding area. Development exists to the east of the property.

2.0 FLOOD HAZARD

2.1 The property area is situated in the 100-year flood plain of the Arkansas River as shown on the FIRM Flood Insurance Map for the National Flood Insurance Program, prepared by the Federal Emergency Management Agency.

2.2 The Arkansas River channel lies to the south of the property nearly one (1) mile. The property is protected from direct flow across the property by an old black-top road that existed many years ago and was abandoned when the bridge across the Arkansas River washed out in a flood. The replacement road was built along the east line of Section 16 and raised to above the 100-year flood elevation. The property is protected from direct flood flow across the property from a general southwest to northeast direction. Flood water does back in to the property from the south when the Arkansas River floods. A review of the 1983 flood aerial photos of the property confirmed that the road along the up-gradient side of the property was not covered with water although flood water existed on both sides of the road. U.S. Hwy 56 along the north side with a railroad track between the

highway and the Venture property is raised sufficiently to generally prevent water flow to the north. The highway along the east side of Section 16 was also visible in the aerial photos.

2.3 The Federal Emergency Management Agency (FEMA) maps of the 100-Year flood hazard were reviewed for the area. The 100-year water level surface elevation across the middle portion of the property is approximately 1892 feet above mean sea level as shown in Figure 3 (Zone AE). The FEMA maps corner at Section 16 and are of different scale requiring the flood elevations to be transferred to a topographic map.

2.4 The Hydrologic Engineering Center for the Corps of Engineers model HEC-2 was used to analyze the effect of any restriction in the flood profile that may be induced by the stock piles of material placed on the site. No stockpiles of sand will be placed on the newly acquired property to the east of the existing property.

2.5 The input requirements are to establish river stations along the Arkansas River and define the cross-section at each station. Four (4) stations were selected for the analysis.

2.5.1 The downstream station was selected following the 1888 flood profile elevation. This section was assigned station 3,000 feet.

2.5.2 The second station was selected following highway 38 and the bridge opening across the Arkansas River.

2.5.3 The third station was selected beginning near the northwest corner of the existing Venture property and proceeding perpendicular to the Arkansas River below the old bridge location.

2.5.4 The fourth station followed the road along the west boundary of the Venture property and the old highway road to the bend the perpendicular to the Arkansas River. The road has some slope and becomes submerged near the bend in the old road. The extension of the old road partially parallel to the flow of the river tends to divert flood flow to the river channel.

3.0 SITE PLAN DEVELOPMENT

3.1 The site plan development is to mine the property to within 50 feet of the new property boundary from the existing property owned by Venture Corporation. The aggregate material mined will be piped back to the existing property for processing and stock piling.

3.2 No direct access will be available to the new property. Access will be through the existing property only.

4.0 MINING OPERATION

4.1 No permanent structures will be constructed in the flood way of the newly acquired property. No new structures will be placed on the present property.

4.2 Material removed as part of the sand and gravel mining operation will be stockpiled on the existing property. The stock piles shall be separated so that storm water will not be trapped behind the stock piles.

4.3 All mining operation will be no closer than 50 feet of the property lines. Upon completion of mining operations, the side slope of the excavations will be restored to a 4H/1V slope, in compliance with the Division of Water Resources, Kansas Department of Agriculture regulations.

5.0 FLOOD PROFILE ANALYSIS

5.1 The flood profile analysis was made using sub-critical flow starting with the downstream station assigned station No. 3,000 (feet). This station was along the 1888 ft MSL elevation as shown on the FEMA maps for the area. The flood flow rate was determined from the Barton County flood records as 43,500 c.f.s.

5.2 Flood cross-sections were generated for each of the four cross sections from both the 7 ½ minute topographic maps and from field measurements. The resulting cross-sections are given in Tables 2 thru 5.

5.3 The analysis of the data for the given flood flow rate showed that since the stock piles of materials are protected from direct flood flow and are

only in the flood water storage area between raised roads, no rise in the flood water profile was observed from the HEC-2 model calculations.

Table 1: HEC-2 Model Calculations and Results

Venture Property Flood Profile Analysis				
River Stations Feet	Ark. R. Flow ft ³ /s	FEMA W. S. Elev. ft msl	Calc. Water Elevation feet msl	Obstructed Water Elev. feet msl
3,000	43,500	1888.0	1888.0	1888.0
6,000	43,500	1890.6	1890.0	1890.0
7,400	43,500	1892.0	1891.5	1891.5
8,800	43,500	1894.0	1892.4	1892.4

6.0 NO RISE CERTIFICATION

6.1 It is hereby certified that the sand and gravel mining operation proposed for the newly acquired property and the existing property of Venture Corporation, lying in the NE ¼ of the NW ¼ and the newly acquired property lying in the NW ¼ of the NE ¼ of Section 16, Township 20 South, Range 14 West, in Barton County, KS, will not cause any rise to flood flows associated with the Arkansas River for the 1% chance of occurrence (100-year storm event).

Respectfully submitted,



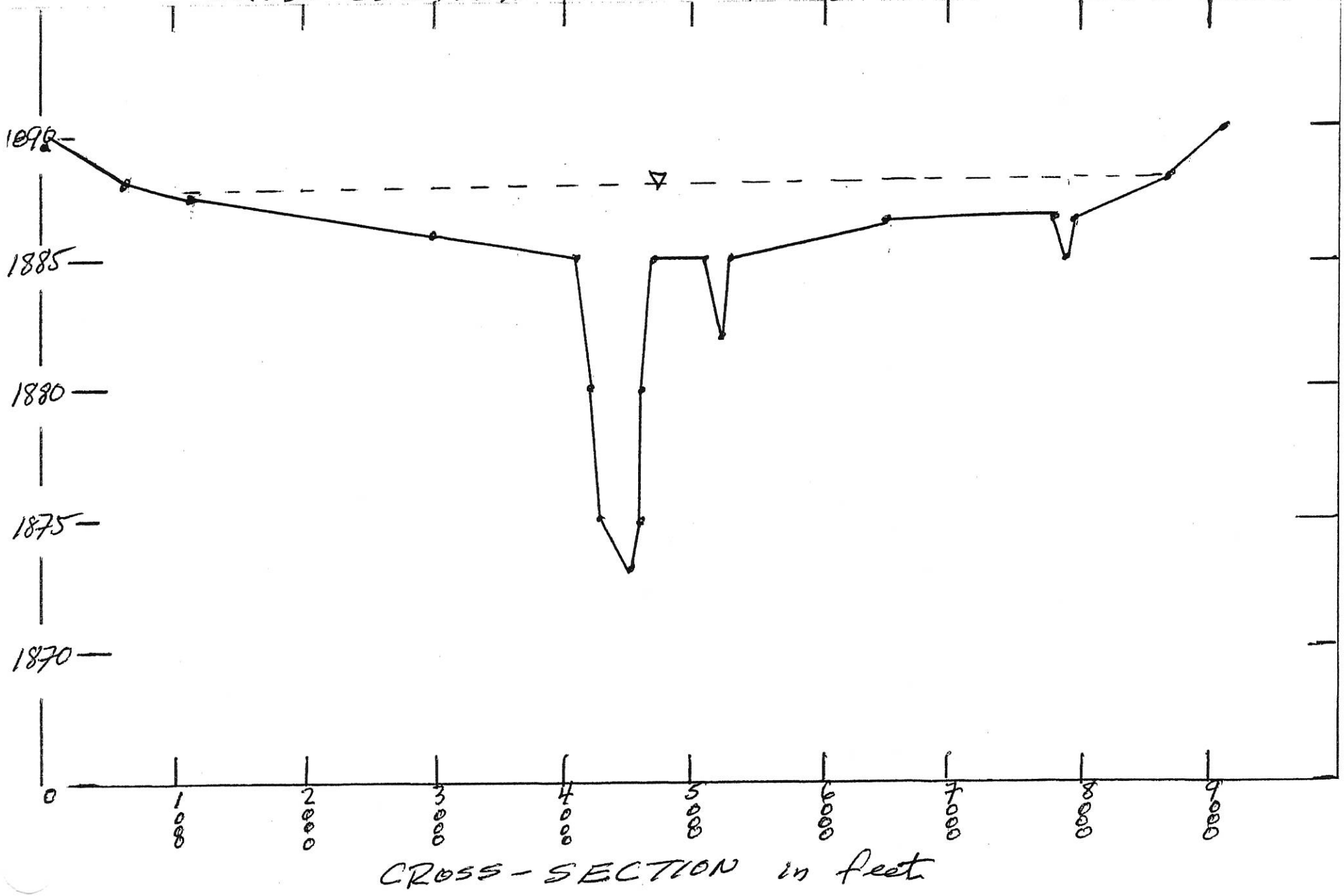
Carl E. Nuzman, P.E., P.Hg.
Consulting Engineer/Hydrologist

Table 2: Cross-Section at River Station 3000

CROSS SECTION AT RIVER STATION
3000

Station Width feet	Elevation w/o obst. feet msl	
0	1890.0	
300	1888.0	
1100	1887.5	
3000	1886.0	
4100	1885.0	left bank
4200	1880.0	
4250	1875.0	
4500	1873.0	
4550	1875.0	
4600	1880.0	
4700	1885.0	rt. Bank
5100	1885.0	
5200	1882.0	
5300	1885.0	
6500	1886.5	
7800	1886.5	
7850	1885.0	
7900	1886.5	
8700	1888.0	
9100	1890.0	

CROSS-SECTION @ River Station 3000 ELEV 1888

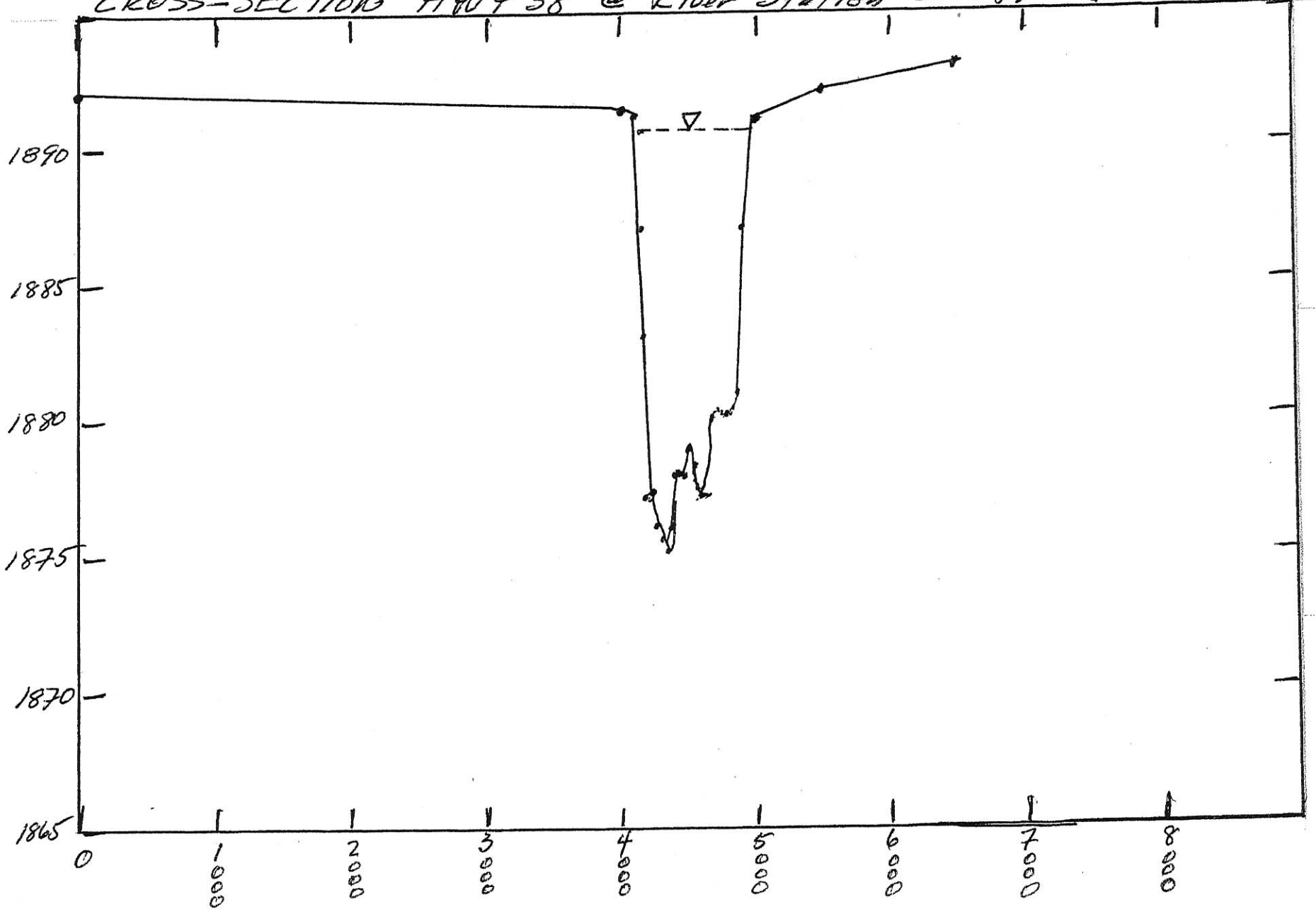


CROSS-SECTION in feet

Table 3: Cross-Section at River Station 6000
 CROSS SECTION AT RIVER STATION
 6000

Station Width feet	Elevation w/o obst. feet msl	
0	1892.0	
4000	1891.2	
4100	1891.0	left bank
4124	1887.0	
4148	1883.0	
4172	1877.0	
4196	1877.0	
4220	1877.5	
4244	1876.0	
4268	1875.5	
4292	1875.1	
4316	1876.1	
4340	1878.0	
4364	1878.0	
4388	1877.7	
4412	1878.2	
4436	1877.8	
4460	1878.5	
4484	1879.0	
4508	1878.5	
4532	1878.4	
4556	1877.8	
4580	1877.0	
4604	1877.5	
4628	1878.6	
4652	1879.1	
4676	1879.8	
4700	1880.3	
4724	1881.0	
4748	1880.5	
4772	1880.3	
4796	1880.0	
4820	1879.8	
4844	1881.0	
4868	1887.0	
4994	1891.0	rt. Bank
5000	1892.0	
5500	1893.0	
6500	1894.0	

CROSS-SECTION HWY 38 @ River Station 6000 ft ELEV 1890.6 ft

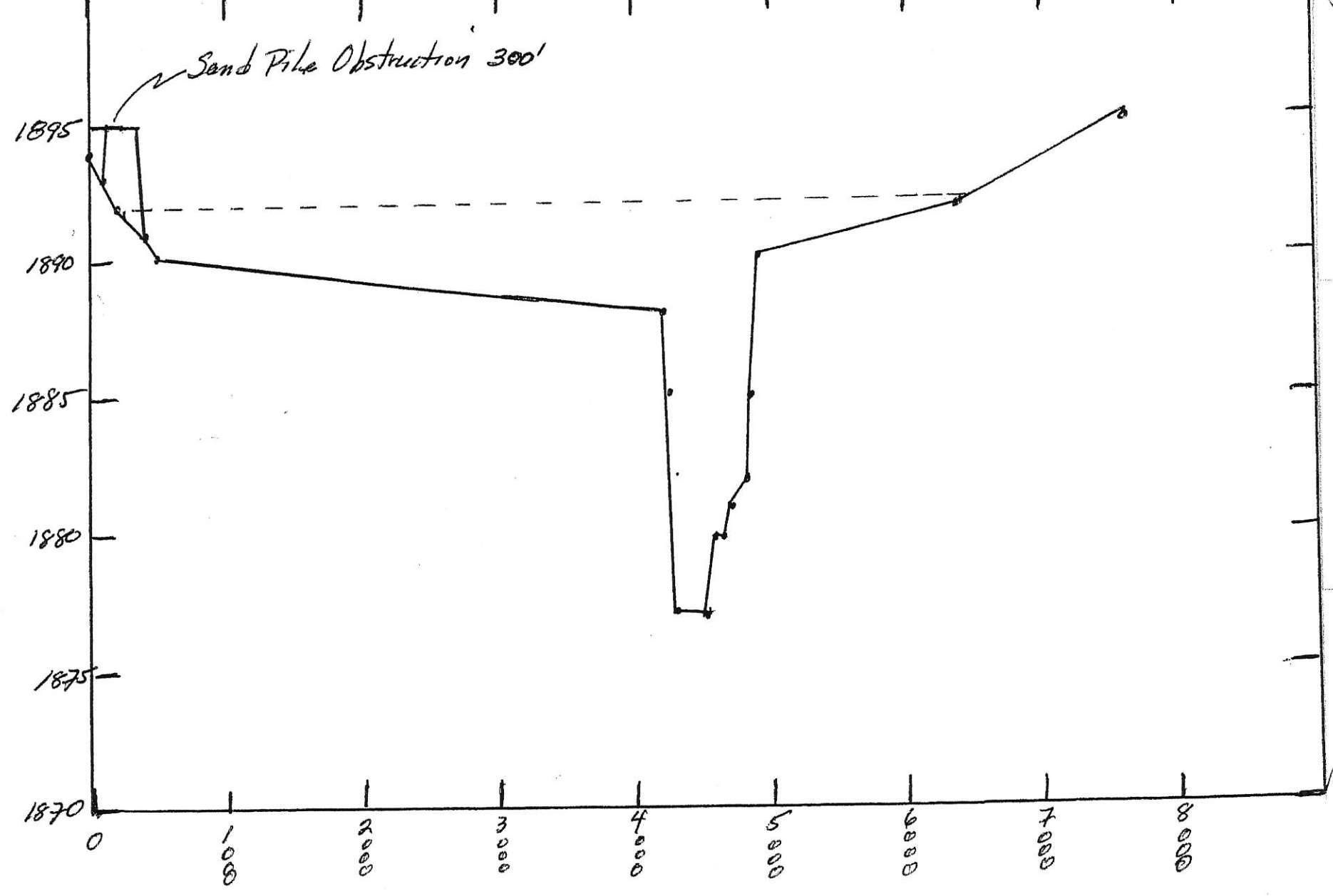


Cross-Section Width in Feet

Table 4: Cross-Section at River Station 7400
 CROSS SECTION AT RIVER STATION
 7400

Station	Elevation	Elevation	
Width	w/o obst.	with obst.	
feet	feet msl	feet msl	
0	1894	1894	
100	1893	1895	
200	1892	1895	
400	1891	1895	
500	1890	1890	
4200	1888	1888	left bank
4250	1885	1885	
4300	1877	1877	
4500	1877	1877	
4550	1880	1880	
4650	1880	1880	
4700	1881	1881	
4800	1882	1882	
4850	1885	1885	
4900	1890	1890	rt. Bank
6400	1892	1892	
7600	1895	1895	

CROSS-SECTION @ River Station 7400 feet W.S. Elev 1892



Cross-Section Width in feet

Table 5: Cross-Section at River Station 8800

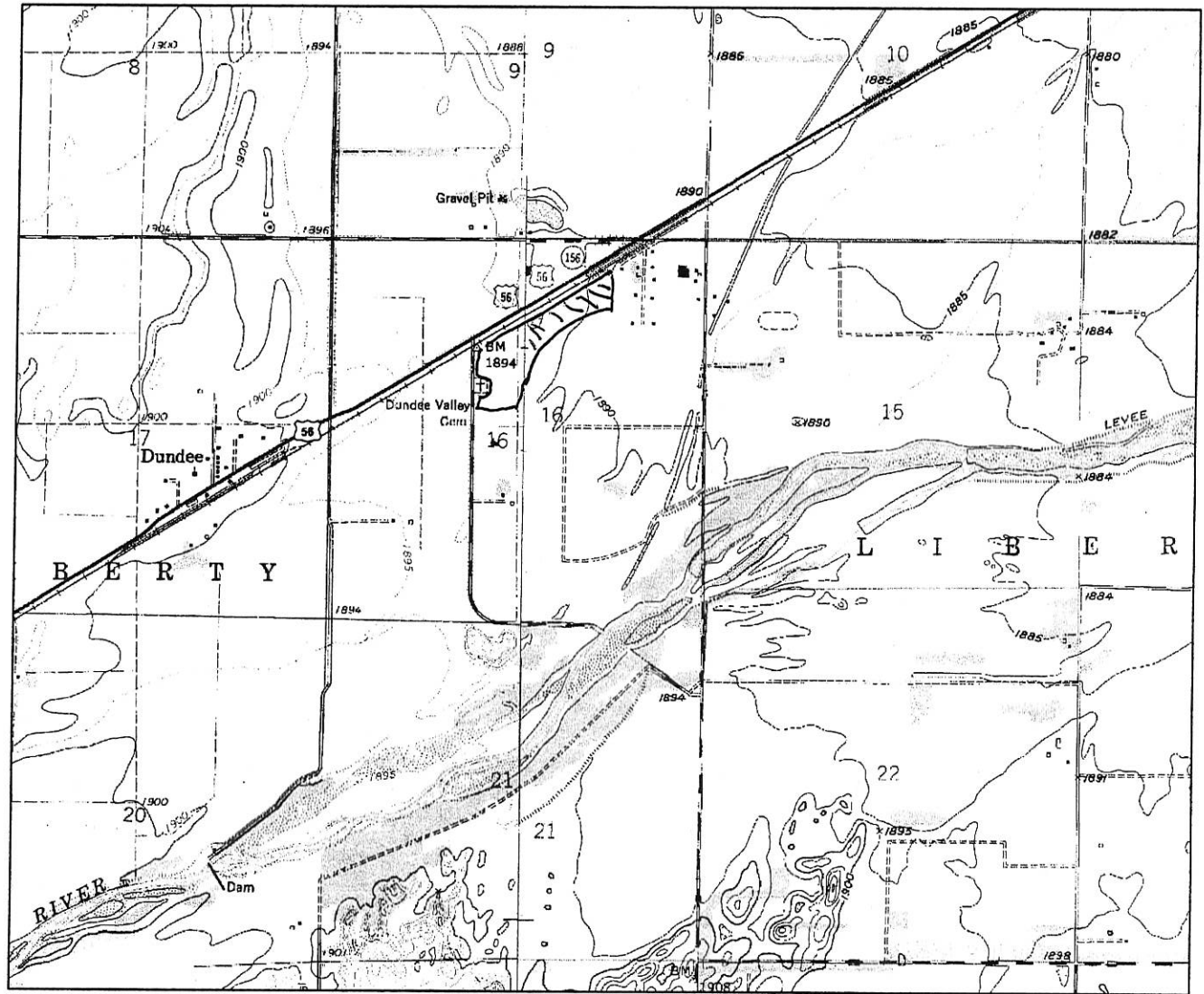
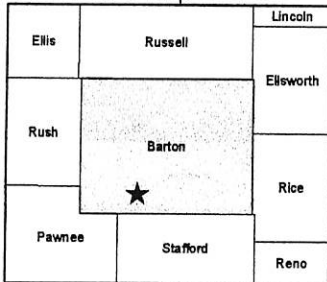
CROSS SECTION AT RIVER STATION 8800

Station	Elevation	
Width	w/o obst.	
feet	feet msl	
0	1894	
2200	1893	
3500	1892.5	
4100	1892	
4200	1888	left bank
4700	1887	
4900	1890	
5000	1886	
5100	1883	
5200	1881	
5400	1881	
5500	1883	
5550	1885	rt. Bank
5600	1890	
7100	1891	
8800	1895	

Figure 1 TOPOGRAPHIC MAP

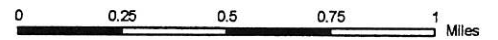
VENTURE PROJECT BARTON COUNTY, KS

Site Location Map



Township 20 South

Range 14 West



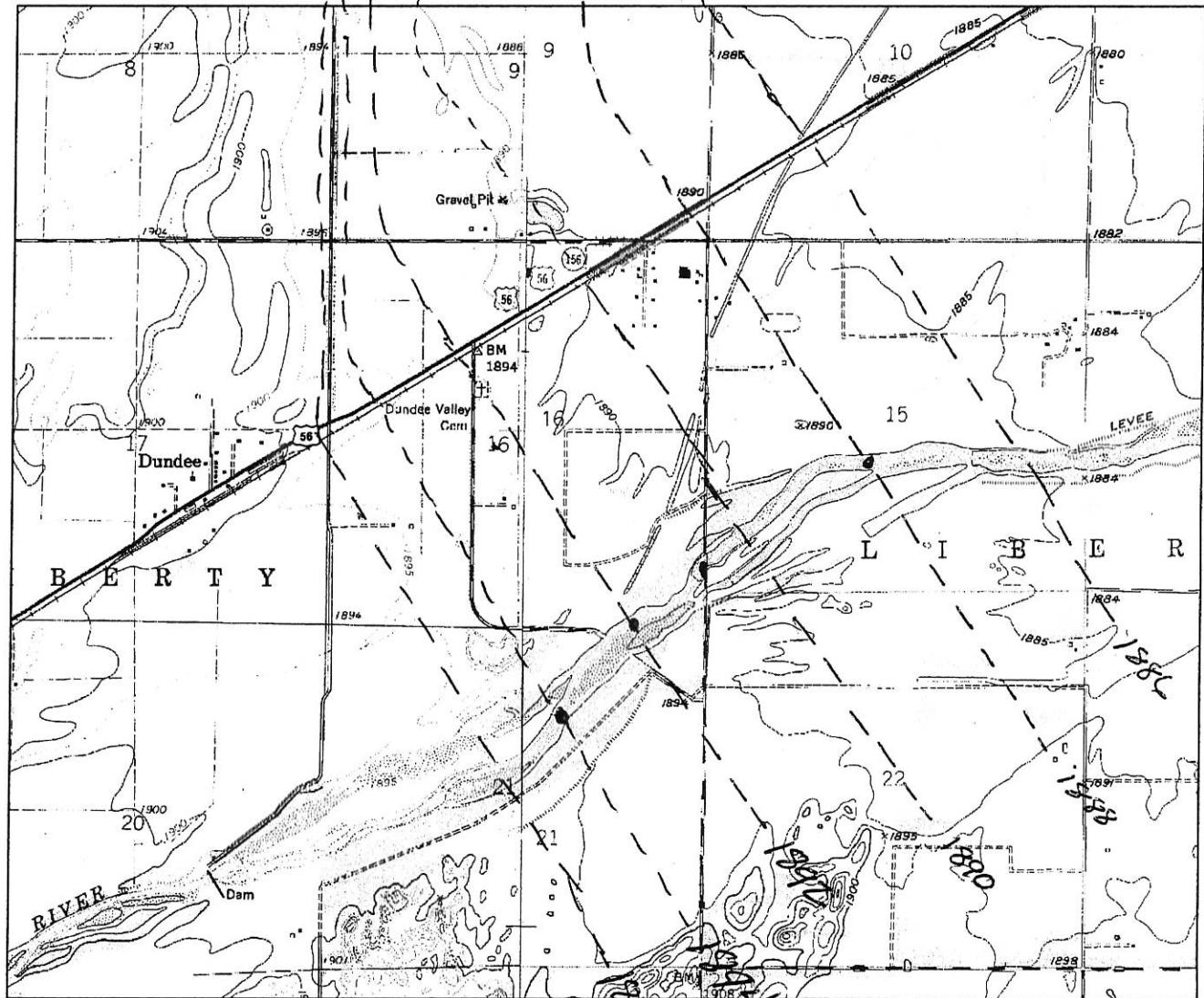
Scale 1:18,000

Figure 3 TOPOGRAPHIC MAP

VENTURE PROJECT BARTON COUNTY, KS

FEMA 100-YEAR FLOOD ELEVATIONS

1894
1891
1892
1890
8881
9881



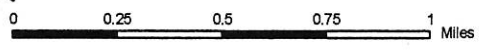
Site Location Map

Ellis	Russell	Lincoln
		Ellsworth
Rush	Barton	Rice
	★	Reno
Pawnee	Stafford	



Township 20 South

Range 14 West



Scale 1:18,000

Prepared by Kari Sever
 Horizon Business Enterprises, LLC
 December 13, 2006

2-24

Figure 2 AERIAL PHOTOGRAPH

VENTURE PROJECT BARTON COUNTY, KS

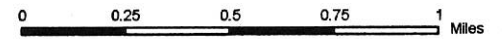
Site Location Map

Ellis	Russell	Lincoln
Rush	Barton	Ellsworth
Pawnee	Stafford	Rice
		Reno



Township 20 South

Range 14 West



Scale 1:18,000

Prepared by Kari Sever
Horizon Business Enterprises, LLC
December 13, 2006

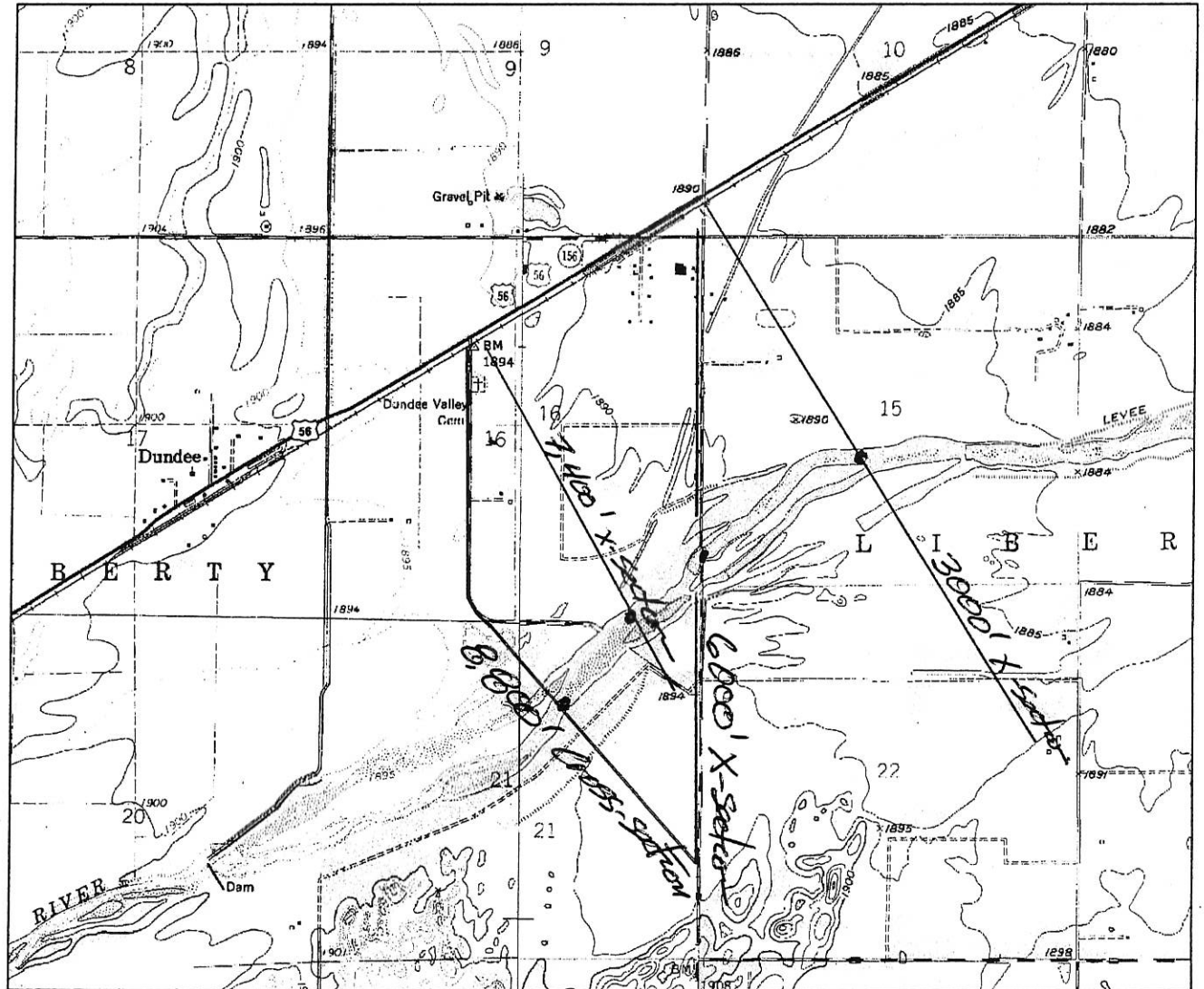
Figure 4 TOPOGRAPHIC MAP

VENTURE PROJECT BARTON COUNTY, KS

SELECTED CROSS- SECTIONS

Site Location Map

Ellis	Russell	Lincoln
		Ellsworth
Rush	Barton	Rice
	★	Reno
Pawnee	Stafford	



Range 14 West



Scale 1:18,000

1004

DEC 28 2006

CARL E. NUZMAN, P.E., P.Hg.
CONSULTING ENGINEER/HYDROLOGIST
3314 NW HUXMAN ROAD
SILVER LAKE, KS 66539-9243
Phone 785 582 4054, Fax 785 582 4155
Email: cyjnzmn@swbell.net

ORIGINAL
INVOICE

Kip Spray
Venture Corporation
P. O. Box 1486
Great Bend, KS 67530

December 27, 2006
P.O. - Verbal
Invoice No. VEN 01

Pursuant to the verbal contract agreement for professional services, which has been rendered for the period, Nov 15 to Dec. 18, 2006 with a detailed summary of the project hours and expenses incurred are attached to this invoice.

1. PROFESSIONAL SERVICES

Nov 15 Inspection of the site and discussion of work	5.0 Hrs
Nov 18 Obtain and review application of HECF-RAS software program	3.0 Hrs
Nov 20 KS Geological Survey maps of project area	3.0 Hrs
Nov 22 Work with HEC-RAS program software unsuccessful	2.0 Hrs
Nov 23 Obtained HEC-2 Software program for flood profile work	4.0 Hrs
Dec 08 Field Data collection work at site	12.0 Hrs
Dec 14 Computer profile and Report of Findings for the Project	10.0 Hrs
Dec 15 Complete Report of Findings and hand deliver to DWR	<u>6.0 Hrs</u>
Total Hours	45.0 Hrs

2. REIMBURSABLE EXPENSES


Acquisition of HEC-2 Soft ware and Computer expense	\$ 332.50
Quad State Services, Inc field data collection	297.70
Mileage to G.B., field travel & return, 415 @ \$0.45/mile	186.75
Horizon Soils, LLC Preparation of Figures 1 & 2 for report	<u>142.30</u>
Total Expense	\$ 959.25

3. SUMMARY

Professional Services of 45.0 Hours @ \$ 95.00/Hr.	\$ 4,275.00
Reimbursable expenses - Total	959.25
TOTAL DUE THIS INVOICE	\$ 5,234.25

100.870 (9890)

Respectfully Submitted,


Carl E. Nuzman

Terms of payment, due 15 days from date of Invoice.

Remit to:

Carl E. Nuzman
3314 NW Huxman Road
Silver Lake, KS 66539

band pit

12/29/06
Ch #93457

Job#	_____	Wk./Div	_____
Repair Acct.#	_____		_____
Equipment #	_____		_____
Cost	_____		_____
Spent by Pymt	_____		_____

FEB 06 2007

KANSAS

DEPARTMENT OF AGRICULTURE
ADRIAN J. POLANSKY, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

February 2, 2007

Venture Corporation
Attn: Orville Spray
PO Box 1486
Great Bend, KS 67530

Re: Additional Information Needed
Floodway & Floodway Fringe Fill
Arkansas River; Barton County
WSN: LBT-0037; ECA: 2006582

Dear Mr. Spray:

A review of your application for approval of plans for a floodplain fill disclosed the need for the following additional information:

1. A general location map or aerial photograph showing the project site, the floodplain and floodway limits, and property lines with names and addresses of adjoining property owners.
2. A detailed plan view of the project site fully describing the extent of the fill and showing the floodplain and floodway limits.
3. At least one permanent benchmark, to which all elevations are referred, is to be shown on the plans, including location, description, and elevation.

Please submit the requested information by March 5, 2007. Meanwhile, the review process for your application will be suspended until the information is received. If I can answer questions or provide other assistance, please contact me at (620) 234-5311.

Sincerely,



John R. Roth, PE
Water Structures Engineer

pc: Carl E. Nuzman, P.E., P.Hg.

Division of Water Resources Stafford Field Office M. Bruce Falk, Water Commissioner
105 North Main Street, Drawer F, Stafford, KS 67578-0357
Voice (620) 234-5311 Fax (620) 234-6900

2-27

Alsop Sand Co. Inc.

105 Industrial Road

Concordia, Kansas 66901

Voice 785-243-4249 Fax 785-243-4255

February 12, 2007

Good afternoon I am Dane Barclay, President of Alsop Sand Company.

Alsop Sand Company produces sand in narrow river valleys in north central Kansas. We operate in the Republican River Valley at Scandia, Concordia and Clay Center, in the Smoky Hill River Valley at Abilene and Salina and in the Saline River Valley at Salina.

In July 2006 we received our Saline County Conditional use permit for our "Webster Site", located in the Saline River Valley north of Salina. The terms of that permit required us to either get additional permits from state and federal agencies or a letter stating we did not need a permit.

During my first contact with the Division of Water Resources (DWR) on this issue I was told that our situation did not require a permit." No permit required" has been the answer for the past thirty years. I asked for a letter stating that no permit was required. When the letter arrived it said that no permit was required as long as our sand stockpiles did not exceed twelve inches in height. I called the agency representative that wrote the letter and asked why he told me one thing on the phone and the letter had a totally different message? He answered that DWR had decided to change how they treated sand producers in river valleys and since they had not decided what the new policy was I would be in limbo until they did.

The Division of Water Resources decided to implement new Floodplain Policy without writing the rules first.

According to FEMA sand stockpiles do not constitute fill and do not require a permit. DWR now says that sand stockpiles do constitute fill and do require permits. I was required to apply to stockpile sand on the same form that you would apply to build a permanent flood control levee. Four different kinds of levees were the only choices on the form.

Once we have processed and cleaned the sand we pile it for future use. It is these sand stockpiles that DWR has decided to regulate. We will fill up a stockpile, then load it out and fill it up again as many as a dozen times during a year. I realize that few among you are experienced in sand production, but I bet most of you have built sandcastles at the beach. When the tide came in did the sandcastles hold back the water? Sand producers live in fear that our stockpiles will wash away in the next flood. It was never the intent of the original law to regulate sand stockpiles. And it does not make sense now.

The intent of a levee is to effect flood water. And regulating levees makes sense, but to waste the amount of money involved to regulate something that has never been a problem, that will wash away like the sandcastles in current, that was never intended to be regulated when the original law was passed, defines logic and is financially irresponsible. Along with my written testimony are pictures of our Scandia and Concordia sites. No one who understands the business and has visited

HS AGRICULTURE AND NATURAL
RESOURCES COMMITTEE

2-13-2007

ATTACHMENT 3

honestly say that they justify this expense. You look at the pictures, do these stockpiles look like levees or do you believe they would effect flood water like a levee.

The U.S. Department of Labor Mine Safety and Health Administration require that we build safety berms to prevent equipment from driving into a drop off and overturning. These berms are uncompacted 4 foot high dirt ridges, with narrow holes through them every 100 feet. This is another area DWR seeks to regulate. No qualified engineer will look you in the eye and tell you that a 4 foot loose dirt ridge with holes through it every 100 foot will have any effect on flood water.

As someone that has worked knee deep in flood water more times than I would like to admit, these berms will wash away in minutes, when exposed to current. No regulation is needed.

After six months I finally received the permits I needed. But getting straight answers is difficult when the agencies are making up the rules as they go along. I lost countless hours dealing with conflicting instructions, using forms designed for another purpose, raised our operating costs significantly and all that to get a permit that accomplishes nothing.

We were able to reduce costs somewhat by using existing engineering profiles off the Ohio Street Saline River Bridge currently under construction and the I-70 Saline River Bridge built during the last major reconstruction project.

Even with the savings of using preexisting engineering, DWR still raised the cost of producing sand in Saline County by \$15,000.00, with absolutely no net gain. We did not alter our original plans in anyway. The end result is the same as if we were not regulated.

DWR is implementing this policy retroactively and applying it to long established sites as well as new sites.

DWR raised our costs conservatively by \$15,000.00 on a 29 acre site. Two of the three cross sections that were required we attained from preexisting engineering. We have sites with 115 acres, 160 acres and one with 350 acres. If it costs \$15,000.00 to permit a 29 acre site what will a 160 acre site cost?

If we were to use the conservative \$15,000.00 figure per site, multiply that by our 8 sites in north central Kansas, add in competitors sites at Hanover, Clifton, Salina, two at Junction City, three at Manhattan the very conservative cost is \$240,000.00. Roughly a quarter of a million dollars additional expense to the taxpayers in north central Kansas and accomplishes absolutely nothing.

This quarter of a million dollars in waste only covers the part of the state that I work in. An area roughly equivalent to the KDOT second district. There are six KDOT districts, so \$250,000.00 times five more KDOT Districts equals a ball park figure of one and a quarter million dollars of waste just to start with. This would not cover all operations in the future.

I live in a county where 70% of the bridges are substandard and need to be replaced. To see this kind of funding wasted when we cannot maintain the roads and bridges we all depend upon is not reasonable or responsible.

This is another case of bureaucracy for its own sake. There is no net gain by implementing this current policy.

The United States Geological Service has topographical maps available for every square mile in Kansas. It is fiscally irresponsible for DWR to raise costs to every taxpayer in the state by requiring us to profile all of our sand production sites when the USGS has already mapped the entire state.

Our government must understand that this policy raises costs to our industry. Those costs are passed directly or indirectly to the taxpayers.

We deal with many governmental requirements, some are frustrating, but because they accomplish something and they make sense. These stockpile permits only raise costs with no net gain.

Within DWR there is no appeals process. They are traffic cop, judge and jury. Once they have made up their collective minds no amount of new information will sway them.

You are the only appeals option open to us.

I would urge you to vote for HB 2353 and eliminate this waste.

Sincerely,

Dane Q. Barclay

CONCORDIA SAND PLANT + STOCKPILES



SCANDIA SAND PLANT + STOCK PILES



**Testimony on HB 2353, Amending K.S.A. 24-126
to
the House Committee on Agriculture and Natural Resources**

**by Paul Graves
Assistant Chief Engineer
Kansas Department of Agriculture's Division of Water Resources**

February 13, 2007

Good afternoon, Chairman Faber and members of the committee. I am Paul Graves, assistant chief engineer of the Kansas Department of Agriculture's division of water resources. I am here to testify in opposition to House Bill 2353.

House Bill 2353 would amend K.S.A. 24-126 to exempt unconsolidated material storage stockpiles and safety berms from approval requirements that exist for projects that control or change a stream's flood waters. Stockpiles and safety berms are created during aggregate mining, as well as during roadway construction and maintenance, for construction and demolition landfills, and other similar projects.

We oppose this bill because it creates an exemption without regard to the impact that will have on the statute's intent. Currently, the chief engineer approves projects when an examination of the plans and supporting documents show it is feasible and it will not adversely impact public interest. The chief engineer considers public interest by examining a project's impact on a 100-year flood both upstream and downstream of the project. The chief engineer also looks at the combined impact of the proposed project with any other existing and proposed projects upstream and downstream with regard to a 100-year flood.

Some of the stockpiles and safety berms that would be exempted are of considerable size. We believe there is a serious fairness issue when a landowner must have approval for a relatively small fill, such as a building pad, while a relatively large, unconsolidated fill that could have a much greater impact on flooding is exempt from the statute's review process. It also makes it difficult for the chief engineer to evaluate the cumulative impact of all fills on flood flows when certain fills are exempt.

When taken individually, the impact of fills in floodplains can be small. However, their cumulative impact can result in increased flood damage to property above and below the area of the fills. More importantly, higher flood waters can result in an increased risk of injury and loss of life in affected areas.

Protecting life and property from flood damage are the primary intent of this statute. A related program is the National Flood Insurance Program administered by FEMA and regulated

by local municipalities. The National Flood Insurance Program relies on flood-hazard maps and local floodplain management regulations to help avoid flood damage by keeping structures and obstructions out of the floodplain to the extent that is possible. It also makes flood insurance available to those in harm's way to expedite recovery after flooding. Exempting stockpiles and berms from state regulation will weaken flood prevention efforts and make it more difficult for local floodplain administrators to do their work. Over time it is likely that unregulated stockpiles will contribute to flood damage and loss of life in areas that are at risk for flooding. Regardless of whether this bill passes, unconsolidated material storage stockpiles or safety berms will not be exempt from local floodplain management regulations.

In 2006 we started working with representatives of the aggregate industry and other stakeholders to develop regulations that would ease the regulatory burden on entities that seek to place stockpiles in the floodplain. We believe it is vital that we evaluate the potential flood impacts of stockpiles and berms. However, we also recognize that some criteria for fixed structures may not suitably apply to stockpiles and berms. We remain open to discussing regulatory requirements with the aggregate industry and other stakeholders so that we may achieve a mutually agreeable outcome.

One concern expressed by the aggregate industry is their perception that we are singling out their members for regulation, but we can find no legitimate basis for that assertion. In calendar year 2006, we approved 122 applications for fills in floodplains. One of those applications was for stockpiles and berms associated with aggregate production. Currently we have 86 applications pending for projects involving floodplain fill, one of which is for stockpiles and three of which are for construction and demolition landfills. Most of the applications are for private development, transportation-related projects and infrastructure improvements that must be located in a floodplain.

We oppose House Bill 2353 because it is contrary to the intent of the statute, it is unfair to other regulated entities, it is inconsistent with flood-prevention efforts at the federal and local levels, and it would increase the risk of loss of life and property damage in flood-prone areas.

Thank you for the opportunity to appear before you today. I will answer questions at the appropriate time.

Jefferson County Planning & Zoning Department

P O Box 628
Oskaloosa, KS 66066

Moise Tichenor - Zoning Administrator
Fax # (785) 863-3325

Toll Free 1-877-278-4118
Phone # (785) 863-2241

February 13, 2007

Chairman John Faber
House Agriculture and Natural Resources Committee
State Capitol, Room 426-S
300 W. 10th Street
Topeka, KS 66612

Dear Chairman Faber:

I am the local Floodplain Administrator for the unincorporated area of Jefferson County. As such, I am charged with the responsibility of reviewing proposals for any development in the Special Flood Hazard Area [100 year floodplain]. Development is defined as, "any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials." **This is a tremendous responsibility.**

Many local floodplain officials such as myself, rely on the expertise of the state's engineers and their review process to help analyze the impact of proposed "development" such as fill or berm construction in our floodplains. Most counties are rural in nature, have limited funds available for staffing and do not have full time engineers employed. Local officials look to this review process by the State as the first step in evaluating whether or not a proposal for fill will cause an adverse impact in the special flood hazard area. It is my opinion as a local permitting official that if the State is removed from this review process, it will eliminate a vital link in analyzing the impact of proposed development in our States floodplains.

Additionally, if the State no longer has any jurisdictional review for proposals for "fill" or "levee or other such improvements" as addressed in House Bill No. 2353, those wanting to place unconsolidated material storage stockpiles or safety berms, may not understand that a local floodplain development permit is required. Thus, un-permitted fill may be placed in our floodplains without the local communities knowledge. The un-permitted fill in time of flooding could have a devastating impact.

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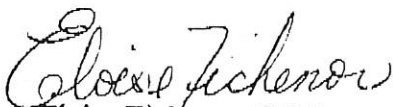
Having recently experienced the dramatic and devastating flood event in Northeast Kansas on October 2, 2005, the damage could have been much more severe if the current review processes were not in place.

As government officials, we should strive to make decisions that work toward the promotion of enhancing public health, safety and general welfare.

I would raise the question of why we would want to remove a vital link in that process. Who will be the benefactor?

Thank you for your time.

Respectfully,



Eloise Tichenor, CFM
Jefferson County Zoning Administrator
Jefferson County Floodplain Manager

Definition of a Floodplain

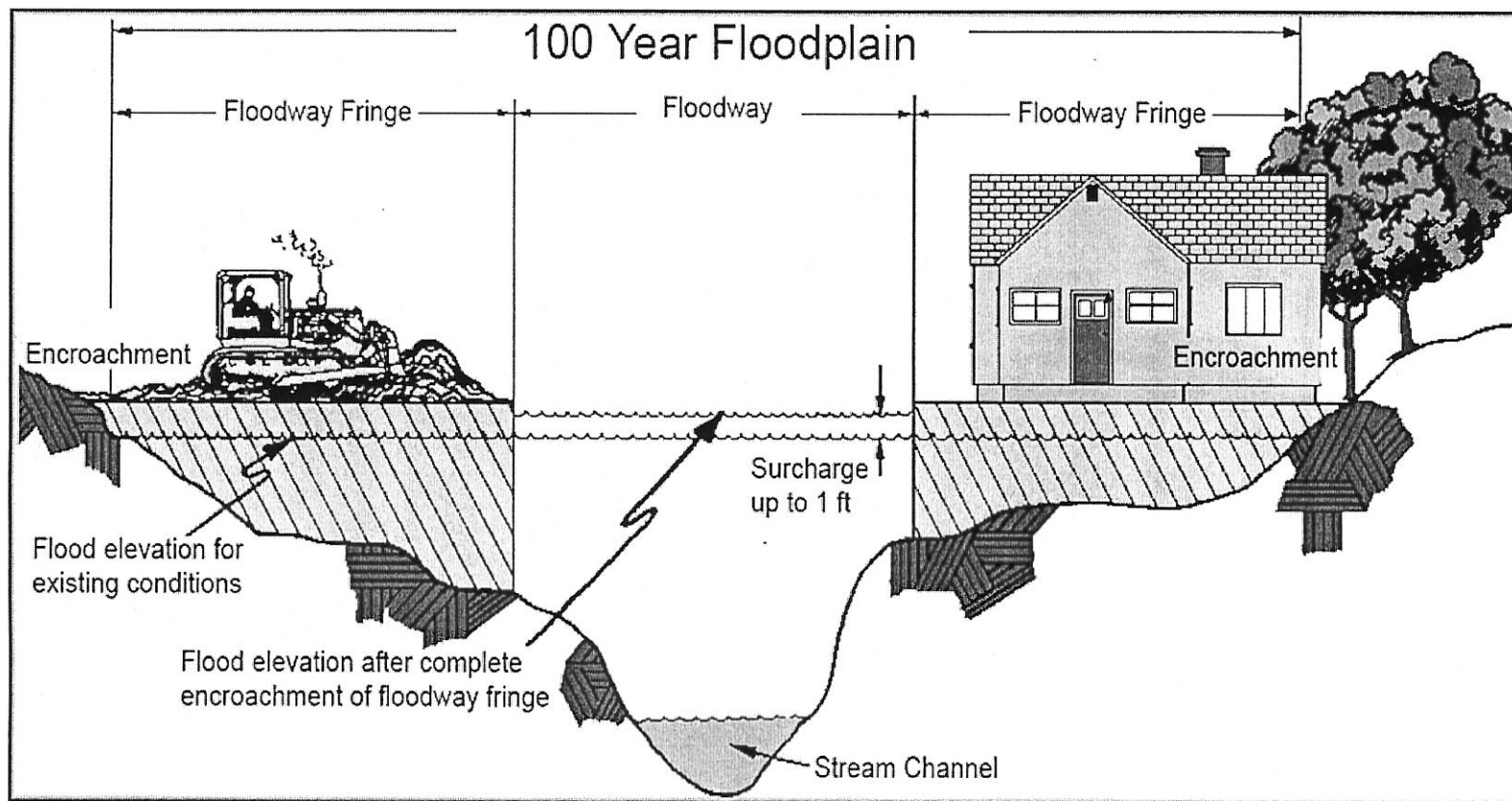


Image courtesy of FEMA

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KANSAS ASSOCIATION OF WHEAT GROWERS

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Testimony on HR # 2391
Presented to House Agriculture and Natural Resources Committee
Tuesday, February 13, 2007
By Joe Kejr, President of the Kansas Association of Wheat Growers

Chairman Faber, and members of the committee, I am Joe Kejr, a Farmer from Brookville and the current president of the Kansas Association of Wheat Growers. I am here today to support HR 2391 which makes several changes to the authorizing legislation for the Kansas commodity commissions including: raising the cap on the wheat assessment to 20 mills and decreasing the time allowance to request an assessment refund.

Kansas continues to be the leading wheat-growing state in the country. Back in 1952 the Kansas Association for Wheat Growers was formed with the insight of needing a voice for the Wheat Producer. In just five more years the Kansas Wheat Commission was established, with the challenge for promotion and market development through research, education and information. Then in 2000 the privatizing of the commissions brought another significant change that gave producers a vote to pick their representative from districts with accountability, and the ability to respond quickly to the ever-changing challenges that are affecting the wheat producers of Kansas. However, with the current competitive environment in agriculture, our title of the nation's breadbasket is in danger of being lost due. The ability to meet our domestic demand while expanding foreign markets is dependent on a safe and reliable source of quality wheat.

Two recent major accomplishments within our wheat industry is the adoption of a cooperative agreement between KAWG and the Kansas Wheat Commission (KWC), and our first ever Kansas Wheat Strategic Plan titled **Profitability through Innovation**. The objectives set aside under the plan include the areas of new product development initiatives, membership and leadership development, consumer enhancement initiatives, marketing and sales initiatives and state and federal legislation and it is our intent to accomplish these objectives that brings us here today in support of amending our authorizing legislation.

Innovation is a critical component of what is needed to keep wheat a profitable component of Kansas agriculture. This plan recognizes a number of challenges faced by the industry and also outlines a new action plan of how to overcome these challenges. This will happen IF and only if sufficient resources are available. Currently, those resources are not available. As wheat acres have declined so has the reserves of the Wheat Commission. The Kansas Wheat Commission has made a long-term commitment to the producers of Kansas to make sure that these challenges are addressed and the wheat industry remains viable in the state.

Two dire challenges that I would like to highlight are research development and biotechnology. Nearly all of the resources for R&D in wheat are being invested by public entities. This is a stark contrast to other grains such as corn and soybeans where the private sector pays the bill. As you know, sources of public funds are declining at a staggering rate. Since 2001, Kansas State University has experienced a loss of 15 - 20% in state and federal support, just in wheat research. For the past few years, wheat producers have been asked to fill in this gap. This struggle for funding is making it harder and harder to keep young, aspiring scientists interested in wheat. We are losing our resources drastically. Success with wheat R&D depends on sufficient resources.

A recent study evaluated the wheat-breeding program at Kansas State University, the sources of funding and its return to producers. The cost of running this program is \$4.8 million and returns an economic value of \$89 million to Kansas. It is hard to argue with these results.

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In addition to traditional wheat breeding methods, biotechnology holds great promise. Advances have been made in areas such as herbicide tolerance, insect and disease resistance, and drought tolerance just to name a few. While there are many Biotech activities currently occurring around the world, our wheat industry has only tapped the surface of what needs to be done in this area. Our strategic plan addresses this challenge and outlines steps to take to “gain some ground” for wheat. Again, success depends on sufficient resources.

Comparatively to other domestic commodity promotion programs, our wheat industry spends much less than dairy, beef, soybeans and even catfish on collective promotion efforts. While the wheat industry collects and spends less than \$1 million each year on promotion, Dairy spends \$200 million; Beef - \$25 million; Pork - \$28 million; and Catfish spends \$3.5 million. How can we sit back and let catfish promote its industry more than wheat? It is certainly true that our wheat industry promotional efforts do a lot with a little, but there is more to do to build consumer acceptance and demand.

This brings us to the changes we support in the commodity law. Together, as Kansas Wheat, we support raising the maximum assessment authorized to be collected on Kansas wheat from 10-20 mills per bushel. If the legislative authority is approved, all Kansas wheat producers will be fully informed and have ample opportunity to provide input on the need for such an increase, before any decision is made by the Commission to collect a higher amount.

However, as we have seen over the past 20 years, wheat acres and production are trending downward. In order to stand by our commitments to bring wheat into this century and increase the profitability of Kansas wheat producers, we must stick to the plan we have developed. This means dependable funding for research and development and promotion even in lean harvest years. This means implementing a campaign for urban wheat consumers around the world. This means commercializing new products from wheat. Setting the mill levy authority to 20 mills allows Kansas Wheat to maintain the needed level of funding by raising the assessment if and only if needed.

The last time the wheat assessment authority was changed in statute was 1982. At this time, the authority was raised from 3 to 10 mills. In 1988, after an intensive process of producer input, the wheat commission voted to raise the levy to 7 mills. Then 8 years later, in 1996, the levy was raised to the current level of 10 mills. Reflecting on this history it is noteworthy to mention that it has been 25 years since our assessment authority was changed. Think just for a moment about the many changes that have occurred at home and around the world during this time. Our wheat industry must change as well. We are here today because we want to make a statute change that will result in extraordinary change for the Kansas wheat producer, a change that will last.

The second amendment we are seeking is a reducing the maximum allowable days for a refund to 90 days. We believe this move will prove to be time saving and cost effective for implementation of delivering this refund to producers and to the first purchasers who collect the assessment. Changing the time allowed for refunds to 90 days will allow for a quicker time of processing refunds. In marketing year 2006, 33% of wheat refund dollars were requested past 90 days after the point of sale. Producers will still have ample time to complete the process after selling their wheat.

When comparing Kansas to the other 19 states with assessment authority, our state has the longest window for a producer to request his/her refund. The limit in other states ranges from 30 to 120 days. Five states currently do not allow refunds; two states limit the time to 30 days and the remaining 12 states allow for either 60 or 90 days. Surrounding states Colorado and Oklahoma have 30 and 120-day limits, respectively. Nebraska is one of the states with no refund provision.

These are challenging, yet exciting times for the Kansas wheat industry. There is tremendous opportunity to make advancements in research and development and domestic and international markets for Kansas wheat to continue to expand and evolve. The industry must also evolve to keep up with these changing times.

We believe the recommended changes to the authorizing legislation for the Kansas commodity commissions will be lasting and will ensure Kansas producers maintain our title as breadbasket of the nation and the world. Thank you for your time. I would be happy to stand for any questions at the appropriate time.

Kansas Soybean Association
February 13, 2007
Testimony on HB 2391

Chairman Faber and members of the Kansas House Agriculture & Natural Resources Committee, my name is Kenlon Johannes; I am the CEO of the Kansas Soybean Association (KSA). I am here to speak in favor of the soybean related section changes indicated in HB 2391. We feel there are only two changes proposed that would effect the soybean checkoff and they would only affect us if the national soybean checkoff is repealed or suspended.

The soybean checkoff in Kansas, unlike the Wheat, Corn, Grain Sorghum and Sunflower Commissions, is part of a national soybean checkoff program (public law 101-624). The Kansas Soybean Commission (KSC) has been designated as the Qualified State Soybean Board for the state of Kansas by the United Soybean Board (USB), the national soybean checkoff board authorized by the United States Department of Agriculture (USDA) under federal legislation approved by Congress and as enacted by the Kansas legislature. (K.S.A. 2-3011)

Under the national checkoff legislation, the soybean commission collects one-half of one percent of the net market price of a soybean sale of a producer. These funds are collected by the first purchasers in the state of Kansas. KSC is required to send one-half of the funds collected to the USB for national and international projects.

While the national soybean checkoff is in effect, the state checkoff collection is suspended. (K.S.A. 2-3007 [d]) While we do not see a change in the status of the national checkoff, KSA felt that if the state checkoff laws were going to be modified, we would like to have our state rate changed from a maximum of 20 mills (2 cents) per bushel to the current federal rate of one-half (0.5) of one (1) percent of the net market price. Should the national soybean checkoff be suspended or repealed, Kansas first purchasers would not have to alter their computer programs to go back to the old per bushel rate saving time, expense and confusion. In this instance, all the funds would remain in control of Kansas soybean producers. KSA has consulted with the Kansas Soybean Commission and they support this rate change provision.

On August 29, 1995, USDA announced the results of a July 26, 1995 poll of soybean producers indicating producers did not want to hold a referendum to decide if national soybean checkoff refunds should continue. As a result of that poll, soybean producers were not entitled to checkoff refunds on soybeans sold after October 1, 1995. With that in mind, the change in the length of the time allowed for producers to submit forms for a refund of their state commodity checkoff does not currently affect the soybean checkoff. Once again, however, if the national checkoff is stopped, soybean checkoff refunds would be reinstated in Kansas. The statute change allowing a producer 90 days to ask for a refund seems like a reasonable amount of time for the producer to do so. We can understand that any longer period of time could be cumbersome and costly for the farmers and staff administering the funds.

Thank you,

Kenlon Johannes
Kansas Soybean Association Office
2930 SW Wanamaker Drive
Topeka, KS 66614-4116
785-271-1030

Kansas Grain & Feed Association
Kansas Agribusiness Retailers Association

Joint Statement in Support of House Bill 2391
House Agriculture and Natural Resources Committee

John Faber, Chair
February 12, 2007



Thank you Mr. Chairman and members of the Committee; I am Duane Simpson, Vice President of Government Affairs for the Kansas Grain and Feed Association (KGFA) and the Kansas Agribusiness Retailers Association (KARA).

KGFA is a voluntary state association with a membership encompassing the entire spectrum of the grain receiving, storage, processing and shipping industry in the state of Kansas. KGFA's membership includes over 950 Kansas business locations and represents 99% of the commercially licensed grain storage in the state.

KARA's membership includes over 700 agribusiness firms that are primarily retail facilities that supply fertilizers, crop protection chemicals, seed, petroleum products and agronomic expertise to Kansas farmers. KARA's membership base also includes ag-chemical and equipment manufacturing firms, distribution firms and various other businesses associated with the retail crop production industry. On behalf of these organizations, I am testifying in support of HB 2391.

The membership of these organizations support this bill for different reasons. I'll begin with KARA. KARA has long opposed legislation that would question the political viability of biotech wheat. We believe that wheat farmers should benefit from the reduced input costs associated with herbicide resistant wheat and from other biotech qualities just like corn and soybean farmers benefit today.

Unfortunately, the politics of biotech wheat in Kansas and other states has led most private research to abandon wheat. The Kansas Wheat Commission's desire to use some of the proceeds from the increased check-off to fund biotech research will not only lead to advances from that research, it might have the eventual effect of bringing the private sector back to wheat research.

The KGFA, on the other hand, supports this bill for a different reason entirely. Our members have long been the dues collector for the commodity commissions. Ever since the first check-off came into existence, our members have provided the service, free of charge, to the state and the various commodity commissions. We do it because we believe that the improved marketing performed by the commissions makes it easier for our members to actually sell the grain they have purchased from the farmers. It is a partnership that is working, and it is one that can be improved. In Wisconsin for example, first purchasers have a seat on the commodity commissions. U.S. Wheat also has a position for first purchasers. We believe that this is a good policy that should be done in Kansas as well. While grain elevators are the primary first purchasers, we are not the only ones. Flour and feed mills, feedlots, ethanol and biodiesel plants all qualify as first purchasers. KGFA believes that each of the commodity commissions should include one appointed commissioner who is a first purchaser. This commissioner would be appointed by the commission, and serve a normal three-year term.

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this commissioner and other commissioners is that this new commissioner would represent first purchasers and would be elected by the other elected commissioners. Each of the commissions have the authority to appoint at-large commissioners, not all of them do so. This new position would not remove anyone from the commission or take away a farmer position. It will simply give input to the commissions from the person they select that represents the industry that buys their product.

Specifically, we recommend that this committee amend KSA 2-3002 to include a new subsection (b) that states:

(b) Each commission will have one member appointed by the commission to represent first purchasers as defined in K.S.A. 2-3001b to serve a three-year term. The initial term for each appointed commissioner shall begin on April 1, 2008.

The committee would also have to renumber the sections following subsection (b) and also the references to subsection (b) in subsection (a) would have to be changed.

I would also like to note that we represent a third association with an interest in this bill. The Kansas Association of Ethanol Processors represents the ethanol plants in the state. Although the bill does not explicitly say that the new check-off dollars would go to cellulosic research, it was noted during the Wheat Commission's report that one of their goals would include such research. KAEP supports funding research to make cellulosic ethanol economically viable and to the extent this bill will help that cause, KAEP supports it.

Thank you for the opportunity to address the committee on this bill. I urge the committee to support HB 2391 with the proposed amendment. I will stand for questions at the appropriate time.



**Testimony of Jere White on House Bill 2391
House Agriculture and Natural Resources Committee
Feb. 13, 2007**

The Kansas Corn Growers Association and Kansas Grain Sorghum Producers Association appear before this committee today to stand in opposition to H.B. 2391. Our two organizations are supportive of all Kansas Commodity Commissions and their missions. Our opposition to this bill is grounded in concerns over what the bill proposes to do and also in what other proposals might be added that may be adverse to the all of our commodity commissions. There are times when the opening of these statutes might be necessary. We do not think that time is now. In fact we believe that next session, such a time may manifest itself due to the implementation of a National Sorghum Check-Off.

And while the Kansas Corn Commission is not an entity that can or should lobby, I believe it is important to point out that corn commissioners are opposed to opening this law, changing its assessment rate of five mills or reducing the refund time limit.

In regards to the proposed changes in assessment authority, our associations do not have a particular position on the change proposed for wheat. However, we think growers in general might question the need for an assessment authority increase of 100% when year end carryover balances have averaged over 3 million dollars during the past 8 years and the FY-06 carryover balance exceeded the average. And the fact that wheat is seeking an increase in assessment, while at the same time pursuing a new building at KSU, warrants careful consideration.

The proposed grain sorghum assessment authority increase of about 400% is troubling for several reasons. First, early last fall, the Kansas Grain Sorghum Commission asked the

Kansas Grain Sorghum Producers Association to consider seeking an increase in the assessment rate from the current 5 mills to 10 mills or one cent per bushel, a 100% increase. There was no interest in the Board to do so. At our Annual Meeting in November, there was no attempt to place this issue in front of our members by Commissioners in attendance, after it was clear to them that no such recommendation would be coming from the Board. Instead, the Commission chose to seek a much larger increase through the efforts of Kansas Wheat. This decision was finalized by both groups on January 19th in Manhattan. This bill hardly seems to be the result of a well thought out process that has been vetted through all of the channels available to our organizations. And yes, there is some level of interest in the Sorghum Commission in the proposed KSU Building.

There is a proposal at USDA for a National Sorghum Check-Off that has been endorsed by both the Kansas Grain Sorghum Commission and Association. The proposed assessment rate to USDA is the same proposed in this bill for grain sorghum, but that might change before the rule is promulgated by USDA. In recent times, there have been changes made between the original requests and the final orders to reflect issues raised during the USDA public comment period on the proposed regulation implementing the national checkoff. This occurred most recently with sheep and blueberries. The key difference is that a national rate would be assessed on all sorghum produced in the United States and is structured to maximize research dollars into a national research initiative, much of which will take place at KSU. There is no doubt that such a pool of funds is needed. However, to subject first purchasers to the potential of multiple changes to their system in what could be less than a year, is an unwarranted burden that should be avoided.

The proposed soybean related change is simply an attempt to utilize an open statute to codify their existing rate of assessment under their national program. We have no issue with this other than our issue with opening the statute up at this time.

We also oppose the reduction in the time that producers can request a refund, should they make that choice. It is easy for some to suggest that changes in assessment rates don't matter because those that choose not to support the program can easily get a refund. Reducing the window of opportunity for refunds is just one way of poking a stick at the farmers who already are not supporting the programs. We have dealt with the issues of a twelve month right of refund since the beginning of our respective checkoff programs. This is not an administrative burden issue. It is a raise the hoop a little higher and see if they will still jump through it issue, and should be dismissed as a bad idea. The right of a quick friendly refund under our state checkoff has been a cornerstone of our programs finding support from this body for many decades and needs to be maintained if we are to expect that support in the future. Make no mistake about it, most refunders view these programs as a tax, although the supporters might beg to differ. 100-400% assessment increases while reducing the opportunity for refund might very well result in a backlash against all programs, and we are concerned.

And finally, we don't like the fact that we find ourselves at odds with others in the Kansas commodity family on this issue. But we firmly believe that a well prepared seedbed and proper timing are paramount to long term success in this business. We look forward to coming back unified at such time, but for now, we respectfully ask that you reject H.B. 2391.

Thank you.

Doug Wildin & Associates

Ranch Brokers



John C. Wildin
Associate Broker

1 North Main, Suite 517 • Hutchinson, KS 67501
(620) 662-0411 (24 Hours) Fax: (620) 662-2521

TESTIMONY OF DOUG WILDIN REGARDING HB 2391, A PROPOSAL TO INCREASE THE WHEAT TAX MILL LEVY, PRESENTED TO THE KANSAS HOUSE OF REPRESENTATIVES AG & NATURAL RESOURCES COMMITTEE
Feb. 13, 2007

Thank you Chairman Faber and your Committee for allowing me to present a number of good reasons for the Legislature NOT TO APPROVE a WHEAT TAX INCREASE.

My name is Doug Wildin. I sell large farms and ranches for a living and farm for a hobby – hobby farming was not my intent (and still is not!) when I started farming but when a business sells what it produces below the actual cost of production, that business is more accurately described as a hobby rather than a business.

As a member of the Kansas Wheat Commission from Oct. 29, 1992 until June 30, 1995, it became very evident to me that until the Kansas Wheat Commission demonstrates that they will do a much more effective job of using current wheat tax funds in a manner which will substantially improve wheat prices, they should not be given an increase in funding.

For example, a major portion of Kansas wheat tax funds go to the US Wheat Associates which they are supposed to use to increase wheat export sales into the world market. But WHAT BENEFIT is it to wheat producers for US Wheat Associates to spend millions of wheat tax dollars selling US wheat BELOW the COST of production prices, and use up our water and soil fertility to grow that wheat?

And while the stated intent of the USWA is to increase wheat exports, in the 10 year period from 1983 to 1992, the US SHARE of the world wheat market DROPPED 20%, yet the funding for USWA during that 10 year period more than DOUBLED, and the SALARIES of the 19 employees in USWA's Washington office INCREASED 40% in just the last 5 years of the drop in export sales! (verification attached)

But USWA has a way of convincing Kansas Wheat Commission members to continue that ridiculous funding: Nov. 1993, one KWC member was given a 19 day, all expense paid first class trip to Asia. Then 3 months later, another KWC member was given a 17 day, all expense paid first class trip to Latin America, EACH OF WHICH was hosted by the USWA. What do you supposed USWA let KWC board members see they didn't want them to see? But they must have had a fun time using the wheat tax from fellow farmers and going to good shows, eating in exotic restaurants, etc. because they voted after they returned to keep full funding for USWA, in spite of the poor performance of USWA.

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And I recently heard a member of the KWC state he was not producing wheat below his cost of production. He was deceiving himself as well as everyone else because he was obviously using land costs, equipment costs, fuel costs, etc. of 10 or 20 years ago because you CANNOT use TODAY'S land, equipment, fuel costs, etc. and accurately say you are breaking even, much less making a profit!

With the PURCHASING POWER of a bushel of wheat being nearly the lowest it's been in history, there simply is NO WAY a young farmer can start from a scratch and make a go of farming. So who is going to do the farming 20 or 30 years down the road? Do you want to have to depend on highly unstable imports of grain?

Since farmers have absolutely nothing to say about the prices they receive for what they produce and with the ever increasing gap between the prices they receive and the prices they have to pay to farm, they MUST have a way to PRICE what they produce. It's way past time for KWC to step up and make a genuine, diligent effort to help farmers come up with a method to obtain higher wheat prices rather than go crawling to Washington with endless begging for another subsidy.

Clear back in Aug. 9, 1992, the KWC passed a motion directing K-State to "expedite and aggressively pursue the development of a pricing system for wheat and other farm commodities to replace the 100-plus-year-old pricing system which obviously is not working properly". But nearly 15 years later, K-State has not presented a plan nor have we heard of any effort by KWC in all those years to push K-State to develop a pricing system, using the sophisticated computer systems & electronic equipment we have today.

In 1984, W. W. Graber, the first KWC Administrator from 1957-1963, proposed a logical and fair two-price system for wheat consumed in the US to be priced at 90% of parity. And that was at a time when the cost/price squeeze was not nearly as severe as it is today. Furthermore, a two-price system would eliminate the need for price supports.

Diligent support and promotion of a two-price system by the KWC is another way KWC could be investing Kansas wheat tax funds to genuinely demonstrate wise use of wheat tax funds. And surely no one feels that an increase in the price of only 10 cents per loaf would be a problem for consumers.

There are also a number of ways KWC could demonstrate wise use of funds: for example, last year there was drought in several wheat producing nations and a little-publicized report stated that world wheat supplies were at a 20-year low. But we never heard one word from KWC as to what those supplies actually were. If the report was true, KWC should have expressed major concern over the fact that wheat only reached about \$5.00 per bushel – but, we never heard one word out of them!

And rather than spending millions trying to export wheat at bargain-basement prices, another logical use for KWC wheat tax funds would be to make every effort to increase US consumption since the US is the most dependable and wealthy nation in the world, If the US consumption of wheat was increased by only one pound per year (or one loaf) that would give producers a market for 5 million bushels of wheat!

While some may say increasing the wheat tax won't amount to many dollars per producer, the issue is why provide additional taxes to fund an organization that is not using current taxes to the highest and best use.

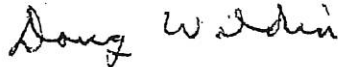
I've called for my tax refunds since being on the KWC as refunds are the most effective way for producers to convey the message to KWC that they are not using wheat tax funds for the maximum benefit and effectiveness for wheat producers.

Recently the Kansas of Wheat Growers moved in with the Kansas Wheat Commission (which was not the original intent of the wheat check-off and should be illegal). It's ridiculous for KWC share wheat tax funds with KAWG because one wheat official told me KAWG had done such a poor job of representing wheat farmers that they had less than 600 paid members out of approximately 20,000 Kansas wheat producers.

Another prime example of KWC failing to give proper consideration to all Kansas wheat producers is the fact that while this hearing is relative to an issue that will affect all Kansas wheat farmers, notice of this hearing has not been in even one farm publication that I read! Evidently KWC doesn't want this committee to hear from wheat producers who feel the KWC is not making the highest and best use of the Kansas wheat tax.

Thank you for your time. If you have any questions I will try to answer them.

Doug Wildin



Ph. 620/669-7092