

Approved: 5.2.08  
Date

MINUTES OF THE SENATE NATURAL RESOURCES COMMITTEE

The meeting was called to order by Chairman Carolyn McGinn at 8:30 a.m. on February 22, 2008 in Room 423-S of the Capitol.

All members were present except:  
David Wysong- excused

Committee staff present:  
Raney Gilliland, Kansas Legislative Research Department  
Jason Thompson, Revisor of Statutes  
Matt Todd, Revisor of Statutes  
Adrienne Halpin, Committee Assistant

Conferees appearing before the committee:  
Christopher Tymeson, Chief Legal Council, Kansas Department of Wildlife and Parks  
Joe Marney, Builders Choice Aggregates  
Clint Patty, Kansas Aggregate Producers Association  
Edward Moses, Kansas Aggregate Produces Association  
Jeffrey Wietharn, Kaw River Drainage District

Others attending:  
See attached list.

Vice Chairman Ostmeyer opened the meeting by introducing a balloon amendment for **SB 474** intended to clarify the existing language on lines 25 and 27 of page 1. Senator Francisco motioned to approve the amendments, seconded by Senator Wysong. The motion carried.

Senator Huelskamp motioned to add "prairie dogs" to the "moles and gophers" listed on line 35. Senator Pyle seconded the motion. Senator Francisco objected to the amendment stating that the change was a significant one and would be made without public notice. Senator Ostmeyer motioned to move the bill out of committee, seconded by Senator Huelskamp. The motion passed with all in favor excepting Senator Francisco.

Chair McGinn announced the continued hearing for **SB 606**, invasive species management act and aquaculture advisory council.

Chris Tymeson, Chief Council, Kansas Department of Wildlife and Parks (KDWP), spoke in support of **SB 606**. Mr. Tymeson stated that, though the bill needs significant technical cleanup and an identified funding source, the issue it presents is one that must be addressed. In establishing a comprehensive program, KDWP would require additional funding for the necessary additional staff. Mr. Tymeson stood for questions.

In the event of the bill requiring significant work, Senator Francisco asked if it was possible to proceed with sections 8 and 21 of the bill which discuss the establishment of an aquaculture advisory council. Chair McGinn suggested that the bill be blessed in order to continue working on it; Senators Ostmeyer and Taddiken agreed. The Committee concurred to have the bill blessed. Chair McGinn closed the hearing on SB 606.

Chair McGinn opened the hearing on **SB 598**, drainage district excavation limitations.

Raney Gilliland, Legislative Research, commenced the hearing stating that the bill addresses the regulatory power of governing bodies of drainage districts in Kansas, specifically dealing with excavation.

Joe Marney, Builders Choice Aggregates, Concrete Supply of Topeka, spoke in favor of the bill. (Attachment 1) Mr. Marney stated he represents his family's concrete plant in north-east Kansas which dredges its sand from the Kansas river. After searching for and locating a possible extraction source in the Kaw River Drainage District (KDD), Mr. Marney was told he needed a permit to excavate the site because of the KDD's regulatory authority as defined in Kansas Statute 24-132. Mr. Marney stated that this is a misinterpretation of the statute and requested that the Committee clarify the statute's intended meaning. Mr. Marney stood for questions.

## CONTINUATION SHEET

MINUTES OF THE Senate Natural Resources Committee at 8:30 a.m. on February 22, 2008 in Room 423-S of the Capitol.

Clint Patty, Frieden and Forbes Law Firm, testified on behalf of the Kansas Aggregate Producers Association in favor of the bill ([Attachment 2](#)). Mr. Patty stated that, when KS 24-132 was amended in 1995, the clear intent of the statute was to limit a drainage district's regulatory authority to within one thousand feet of flood control works. All other drainage districts, he stated, have interpreted this statute to have this meaning. He requested that the Committee clarify the intent of the statute. Mr. Patty stood for questions.

Edward Moses, Kansas Aggregate Produces Association, also spoke in support of **SB 598** ([Attachment 3](#)) stating that the present bill was not intended to solve a local dispute, but has a much larger impact. Mr. Moses stated that since 1992, only one new project has been issued a permit in Kansas—the Valencia Road pit—which has been limited to thirty tons per day. Mr. Moses stated that Shawnee County currently has only one sand and gravel producer, thereby creating a monopoly and causing displacement of extraction and sales through the state. Furthermore, he stated, there are currently five to six permit applications halted in litigation, a situation which sustains monopolies and doubles the price of sand. Mr. Moses stood for questions.

Jeffrey Wietharn, Coffman, DeFries, and Northern Law Firm, testified in opposition to the bill on behalf of the Kaw River Drainage District ([Attachment 4](#)). Mr. DeFries stated that, if the original statute is clear, then there is no need for additional language. He added that it was important to also discuss the environmental impact of excavations in drainage districts including the involvement of seepage, levee systems, and berms. Mr. Wietharn stated that the current litigation has been pending since September of 2006 and will most likely have a hearing the summer of 2008. He requested that the Committee allow the courts to settle the matter. Mr. Wietharn stood for questions.

Written testimony was provided by:

Lawrence Brennan, Kaw Valley Drainage District ([Attachment 5](#))  
Stephen Dailey, Fairfax Drainage District ([Attachment 6](#))

Chair McGinn stated that the hearing could be continued at a later date.

The meeting adjourned at 9:30 am.

# SENATE NATURAL RESOURCES COMMITTEE

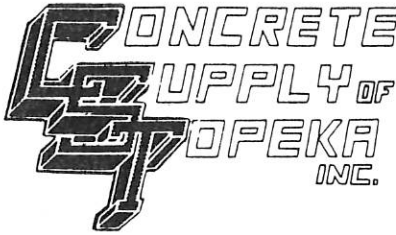
2008 Session

Guest Roster—Please Sign and Pass On

February 22<sup>nd</sup>, 2008  
(Date)

Erik Wisner KWA	
Matt Scherer	
Scott Heidner	Kaw River Drainage District
Andrew Lewis	Kaw River Drainage District
Tony Meier	KAW RIVER DRAINAGE DISTRICT
Jeff Wiesham	" " "
Clint Patty	Frieden: Forbes for KAPA
Philip Strubh	Landplan Engineering
Stephen Wein	Attorney Stephen P. Wein, P.C.
Joe Marrey	Concrete Supply
Colson Meadows	KAPA
Narry Burman	Kaw Valley Drainage Dist Wyanottle County
JAMES L. JENKINS	KVDD WY. Co.
Steve Dailey	Fairfax Drainage District WY Co.
Chris Tymean	KDWP
Jasper G. Guel	KDWP
Steve Adams	KDWP
Phil Janning	Sen. 26
SEAN MURPHY	CAPITOL STRATEGIES
Melba Ann Smith	KDWA
Mike Beam	KS. Livestock Assn.
Wendy Miller	KAPA

**Please use black ink only!!**



## TESTIMONY

Date: February 22, 2008

By: Joe Marney, Builders Choice Aggregates

Regarding: Senate Bill 598, An act concerning drainage and levees; relating to excavation by drainage districts

Before: The Senate Committee on Natural Resources

Good morning Madame Chair and Members of the Committee:

Thank you for the opportunity to speak with you today. I am Joe Marney, Vice President of Concrete Supply of Topeka. My family operates several concrete plants in NE Kansas. For nearly 25 years the sand we used in the production of concrete came from a dredge operation in the Kansas River. Roughly five years ago, we were advised that the permits from the Corps of Engineers for the sand dredging operations on the river would not be reissued due to river degradation. Since then, four sand plants on the river that produced 900,000 tons a year have closed and the number of producers open to the public in Shawnee County has gone from three to one.

Therefore, I began searching to find the best place to start an inland pit extraction operation. This took over three years to locate. Since all of the sand in our region is in the river or the floodplain, it is no surprise that the land I was able to get zoned by the county and permitted by the Division of Water Resources (DWR) was in a drainage district.

After 10 months, I had completed all of the necessary engineering and secured all of the zoning and permitting approvals needed to begin construction on the facility. It was at that time the Kaw River Drainage District (KRDD) filed for an injunction because we had not secured an excavation permit from them.

Everyone I consulted including county counsel, engineers at DWR, county commissioners and private attorneys told me the statute that gives some authority to the drainage district to issue a permit for excavations does not apply to my location. However, this one drainage district has delayed this project by arguing that this statute does give them authority.

*Senate Natural Resources  
February 22, 2008  
Attachment 1*

We are not asking you to change any laws. We are simply asking you to clarify that the Legislature never intended to give drainage districts authority outside the 1000' limits for excavation permits. With this clarification, no other districts can hold up other critically needed projects with a similar misinterpretation of this statute. It has now been 15 months since the KRDD filed a suit against us and it appears that we still have several months, if not years, of litigation in front of us just to clarify the scope of their permitting power.

With the continuing closure of river dredging operations certain in the future and the necessity of sand in our economy, sand operations in the floodplain will definitely continue to face this issue. Without clarification of what we perceive as the original intent of this statute, these extremely long legal battles will continue. With them, higher cost for raw materials will follow. These costs will be passed on to the citizens of Kansas that are already paying the legal fees the KRDD is amassing. Without clarification this scenario will most likely repeat endlessly by all drainage districts. I kindly ask that you as a Legislature clarify what was intended of this statute and not leave it up to Courts.

Thank you for your time and attention, I would be happy to respond to any questions at the appropriate time.

LAW OFFICES OF  
**FRIEDEN & FORBES**  
A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

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\*ALSO ADMITTED IN MISSOURI

**TESTIMONY**

By  
**CLINT PATTY**

Before the  
**SENATE COMMITTEE ON NATURAL RESOURCES**  
**Regarding SB 598**

**February 22, 2008**

Chair McGinn, members of the committee, my name is Clint Patty. I am an attorney with the law firm of Frieden and Forbes in Topeka, Kansas, and am here representing my client, the Kansas Aggregate Producers Association (the "Association") both as counsel and a member of the Association. I have been asked to provide testimony to support the clarification of existing law provided by SB 598.

When K.S.A. 24-132 was amended in 1995 to provide drainage districts with the authority to regulate excavations within flood plains consistent with K.S.A. 19-3309, the clear Legislative intent was to limit regulatory authority within a 1000 feet of flood control works. Since the 1995 amendments, the Corps of Engineers, Kansas Division of Water Resources and all other drainage districts except one have properly interpreted the 1995 amendment to limit the regulatory authority to a 1000 feet from a flood control works. This is consistent with the statutory reference to K.S.A. 19-3309, stating "[n]o excavation shall be made or commenced within one thousand (1,000) feet landward or riverward of the center line of any portion of a flood control works constructed under the provisions of chapter 19, article 33 of the Kansas Statutes Annotated without first obtaining a permit."

The state is now faced with one drainage district that has chosen to ignore both the plain language and the clear legislative intent behind the 1995 amendment to K.S.A. 24-132. By exceeding the reach of K.S.A. 24-132, the Kaw River Drainage District puts at risk all future area excavation projects. Although a lawsuit is pending in this matter, this legislation is needed to provide regulatory certainty to businesses that want to conduct excavation projects in this district, and to prevent future harm caused by Kaw River Drainage District's regulatory abuse.

In closing, the Association urges passage of SB 598 to clarify the existing law, and maintain consistency with the Legislative intent behind the 1995 amendment. Thank you once again for allowing me the opportunity to provide my client's position on this important matter.

*Senator Natural Resources*  
*February 22, 2008*  
*Attachment 2*



# KAPA

Kansas Aggregate  
Producers' Association

## TESTIMONY

Edward R. Moses  
Managing Director

Date: February 22, 2008

Before: The Senate Natural Resources Committee

By: Edward R. Moses, Managing Director  
Kansas Aggregate Producers Association

Regarding: SB 598, an act concerning drainage and levee; relating to excavation by drainage districts

Good morning Madam Chair and Members of the Committee:

Thank you for the opportunity to appear before you today and provide our comments in support of SB 598. My name is Edward Moses, Managing Director, of the Kansas Aggregate Producer's Association. The Kansas Aggregate Producer's 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 35-40 million tons of aggregate consumed by Kansans annually.

While at first glance, it may appear we are attempting to resolve a local dispute, it is not. As the Managing Director of the Kansas Aggregate Producers Association for the past 22 years, I have been involved in numerous zoning, conditional use permits, and regulatory efforts to authorize the appropriate development of natural resources. The issue becomes more acute when the negative impacts to the public at large are weighed. For these reasons, we have requested your consideration of the measure before you today.

### Access to Natural Resources

Faced with diminishing natural resources economic development in Kansas, Shawnee County and Topeka is threatened due to little or no access to natural resources such as sand and limestone. As these materials are critical to support the construction and maintenance of both public and private infrastructure, it is good public policy to provide appropriately permitted access for their development. For example it has been estimated that approximately 70-80% of our products are consumed by state and local government. In conjunction with this need is the undisputable fact that resources are located where nature put them, and unlike a farm or factory cannot be moved to suit the whims of individuals.

*Senate Natural Resources*  
*February 22, 2008*  
*Attachment 3*

Almost 50% of all Kansas live in the 10 counties adjacent to the Kansas River. In the last ten years, sand and gravel production has fallen from 9 million to 4 million tons annually. Only one new sand and gravel operation has been opened since 1992 and its production is not available to the public. During the last three years, production of sand and rock in Shawnee County has fallen by approximately 900,000 tons per year and there is only **one** producer in the county. Consequent to the creation of this monopoly, the price of sand has risen during the same period from \$3.75 to \$6.50 per ton.

Why does this have a statewide impact? In a process known in our industry as ‘market distortion’ or ‘market displacement’ in order to balance the supply producers will be forced to import sand from as far away as Sedgwick/Reno county areas where sand sells for \$3.00 per ton and not Kansas City where sand sells for \$7.50. Thus:

- Increasing prices in those areas and the cost of construction.
- Increasing the rate of reserve depletion in those areas triggering the need to open sand operations earlier than anticipated.
- Increasing fuel consumption and CO2 emissions as a result of transportation.

Several attempts have been made by various producers to replace these sources. However, all of these proposals have been faced with stiff opposition from small self-interested minorities. In the Kansas River valley only one out of five applications has received approval since 1992.

#### *Competent authority already exists*

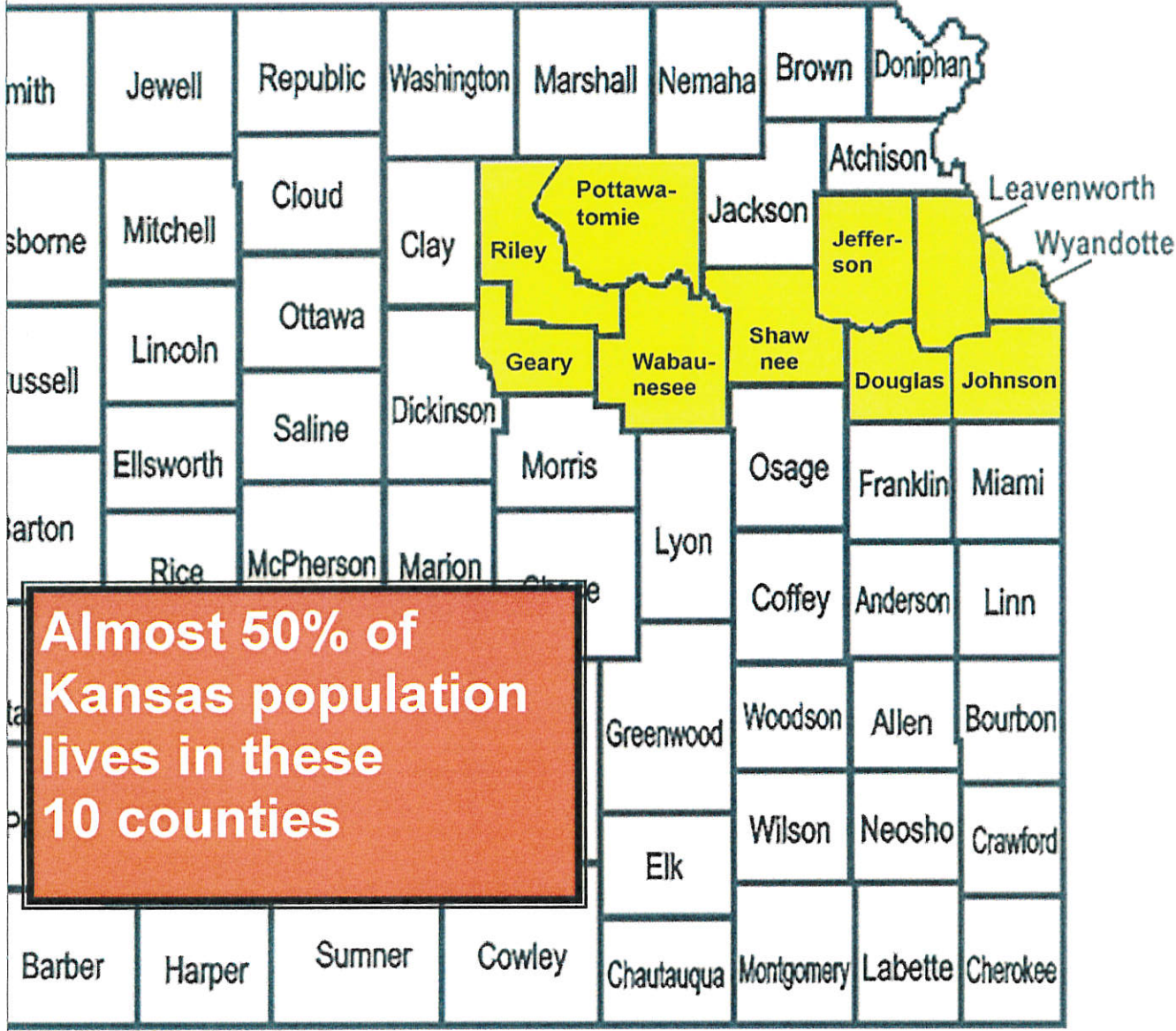
Opponents to this measure have alleged they need the authority to regulate excavations within the boundaries of their jurisdiction. In our opinion as a matter of state policy they do not. The sand and gravel industry is already one of the most regulated industries in the nation. It is no different in Kansas where public policy, **as approved by this** Legislature has established a comprehensive regulatory framework with respect to sand and gravel operations. For your review we have attached a document illustrating the steps necessary for approval. We submit that competent authority, acting on behalf of all Kansans already exists; and it is necessary to clarify that authority by recommending SB598 favorably for passage.

#### *Is Kansas To Be Held Hostage?*

We respectfully submit it was never the intention of the Legislature to allow three board members of the Kansas River Drainage District, elected by 24 votes each, to dictate public policy to 2.7 million Kansans. This project needs to proceed in order to protect the public. Quoting the words of John Stuart Mill or Dr. Spock, does not the “needs of the many outweigh the needs of the few”?

Thank you for your time and attention. I will be happy to respond to any questions at the appropriate time.





# MATRIX OF KANSAS AGGREGATE REGULATION

## National

United States Army Corps of Engineers

- 401 Permit
- 404 Permit
- 410 Permit

United States Department of Labor

- Mine Safety & Health Administration
- River Dredging
- Occupational Safety & Health Administration
- Bureau of Wage Standards

United States Department of Homeland Security

- Bureau Alcohol Tobacco & Firearms
- U.S. Coast Guard (Adjacent to Navigable Rivers)
- Federal Emergency Management Administration

Environmental Protection Agency

- Storm Water Regulations
- Process Water Regulations
- Spill Prevention
- Air Quality Regulations
- Wetlands

United States Department of Interior

- U.S. Geological Survey
- Bureau of Mines
- Bureau of Reclamation

Federal Communication Commission

United States Department of Agriculture

- Soil Conservation Service

United States Department of Transportation

- Hazardous Materials
- Explosives Transportation

Federal Bureau of Investigation

## State

Kansas Department of Health & Environment

- Water Quality Regulations
- Air Regulations
- Solid Waste Regulations

Kansas Department of Agriculture

- Division of Water Resources
- Agrilme Sales
- Division of Weights & Measures

Kansas Geological Survey

State Fire Marshall

- Blasting Certification
- Blasting Notification

State Emergency Response Commission

- Blasting Permits

Kansas Corporation Commission

- Motor Carrier Safety Regulations
- Mandatory Drug Testing

State Conservation Commission

- State Watersheds
- Reclamation Plans
- Mining

## Regional

Groundwater Management Districts

Watershed Districts

Regional Planning Commissions

## Local

- Zoning Boards
- Planning Commissions
- Emergency Preparedness Jurisdictions
- Fire Departments
- County Commissions
- City Governments

Lower Silver Lake Sand Pit  
Permit Schedule  
2006,607

3.6

Agency	Permit or Application	Required		Applied For		Obtained		Notes
		Yes	No	Yes	No	Yes	No	
Shawnee Co. Planning Dept.	Conditional Use Permit (CUP)	x		x		x		The Planning Commission will approve or disapprove CUP.
	Floodplain Development Permit	x		x			x	A permit will be required for the scalehouse, scales, processing plant, and berms. Approval anticipated after DWR Floodplain Fill Permit obtained
Shawnee Co. Health Agency	Septic Permit	x			x		x	Should be obtained before construction begins. A variance will be required from County Commission since site is located within 100-year floodplain.
	Water Well Permit	x			x		x	Should be obtained before construction begins.
U.S. Corps of Engineers	Section 404 Permit		x	x			x	The permit was applied for, but a wetlands assessment was performed and the site was determined to contain no jurisdictional "Waters of the U.S."
Kansas Dept, of Agriculture - DWR	Notice of Intent to Open or Expand a Sand or Gravel Pit	x			x			The application has been filed.
	Application of Approval to Change the Place of Use, The Point of Diversion or the Use Made of the Water Under an Existing Water Right	x			x		x	The application has been filed.
	Application of Approval to of Plans for Construction or Maintenance of Levees or Floodplain Fills	x		x			x	The application has be applied for, DWR is reviewing plans for floodplain fill.
Kansas Dept. of Health and Environment	Construction Stormwater General NPDES Permit for Construction Related Activities	x			x	x		SWPPP has been approved. Permit has been obtained.
	NPDES Permit for Stormwater Discharges Associated with Industrial Activities		x		x		x	The permit has been applied for. Approval is pending.
	Water Well Permit		x		x		x	A permit will not be required because the water well will not be used to provide drinking water.
	Septic Permit		x		x		x	A permit will not be required because the septic system will only accommodate domestic wastes.
Kansas State Conservation Commission	Air and Radiation		x		x		x	A permit will not be required for air contaminatino of particulate emmissions.
	Mine Registry	x			x			The application has been filed. Fee must be paid prior to construction operations.
	Mining Permit	x			x		x	The application has been filed. Fee must be paid prior to construction operations.
	Reclamation Bond	x			x		x	The bonding must submitted prior to construction operations.
	Blasting Permit		x		x		x	No Blasting will occur on-site.

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**COFFMAN, DeFRIES & NOTHERN**

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AUSTIN NOTHERN, J.D., LL.M.  
SUSAN KREHBIEL WILLIAM, J.D.  
JEFFREY A. WIETHARN, J.D.\*  
LANCE A. WEEKS, J.D., LL.M.\*

BARNEY J. HEENEY, JR., LL.M. (RET.)  
J. R. GROFF, J.D. (RET.)  
HAROLD R. SCHROEDER, J.D. (1986)  
LEONARD H. AXE, S.J.D. (1975)

\*ALSO ADMITTED IN MISSOURI

M E M O R A N D U M

TO: Senate Natural Resources Committee  
FROM: Jeffrey A. Wietharn  
DATE: February 21, 2008  
SUBJECT: Senate Bill 598

Madam Chairwoman and members of the Committee, thank you for allowing me to appear before you today. I do so in my capacity as an attorney representing the Kaw River Drainage District. The Kaw River Drainage District is located along the north bank of the Kansas River, stretching from near downtown Topeka to a point south of Silver Lake. I am testifying against the amendment to K.S.A. 24-132 contained in Senate Bill 598.

As you know, the Bill seeks to limit the authority of drainage districts' governing bodies to regulate excavations within their districts. The Bill appears to incorporate language similar to that found in K.S.A. 19-3309.

Please understand that a case currently pending before the Kansas Court of Appeals is relevant to this Senate Bill. That case is Kaw River Drainage District v. Lindstrom et al., Case No. 07-98775-A. The case was originally filed in September 2006 in Shawnee County District Court. That Court found that the "1000 feet" language of K.S.A. 19-3309 modifies the broader language found in K.S.A. 24-132(d). We respectfully disagree, and my client appealed to the Court of Appeals. The matter has been fully briefed, and we anticipate that it will be set for oral arguments in the near future.

If the Shawnee County District Court's decision is ultimately affirmed, the litigation may make this legislation unnecessary. I respectfully request that you let the litigation run its course.

I also ask that you reject Senate Bill 598 because it will result in bad public policy. Although I am not an engineer, in the context of the litigation I have tried to educate myself about the issues. My understanding is that excavations within a drainage district can facilitate underseepage and undermine the levy system.

*Senate Natural Resources  
February 22, 2008  
Attachment 4*

Memorandum to Senate Natural Resources Committee  
February 21, 2008  
Page 2

Additionally, excavation operations, particularly if accompanied by berms, may have the effect of reducing a district's surface area and/or divert flood waters further inland. Therefore, each excavation project must be evaluated so as to minimize the risk of flooding and damage.

Granted, as in our case, excavators may not always agree with the decision of a governing body. However, as we have seen, there is a remedy in District Court. The remedy is not to impose an arbitrary limit on the governing body's authority, which limitation does not take into account the unique nature of the district or the proposed excavation project.

For these reasons I ask that you reject Senate Bill 598. Madame Chair and Committee, thank you for the opportunity to appear before you today, and I will stand for questions at the appropriate time.



**THE KAW VALLEY DRAINAGE DISTRICT**  
**WYANDOTTE COUNTY, KANSAS**

*FLOOD CONTROL ON THE KANSAS RIVER*

**719 OSAGE AVENUE**  
**KANSAS CITY, KANSAS 66105**  
**913-342-2382**  
**FAX 913-342-2380**

DIRECTORS  
JAMES L. JENKINS  
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DAVID R. MORALES

M. WARREN McCAMISH, JR., ATTORNEY  
LAWRENCE J. BRENNAN, ADMINISTRATOR

February 19, 2008

The Honorable Senator Carolyn McGinn  
Chair, Senate Natural Resources Committee


RE: Senate Bill 598

The Kaw Valley Drainage District opposes the adoption of SB 598.

The current KSA 24-132, which is proposed to be amended by SB 598, gives certain drainage districts authority to regulate excavations within the boundaries of the district. SB 598 proposes to restrict that authority to within 1000 feet either way of flood control works.

Our District has had occasion to regulate excavations beyond the 1000 foot proposed limit, and we know that we will need to exercise that authority in the future, as our District encompasses some 5,000 acres, 16 miles of urban levees, 15 pumping stations, numerous flood control structures, and many miles of sanitary and storm sewers.

Sincerely,

  
Lawrence J. Brennan  
Kaw Valley Drainage District

*Senate Natural Resources*  
*February 22, 2008*  
*Attachment 5*

**FAIRFAX DRAINAGE DISTRICT OF  
WYANDOTTE COUNTY, KANSAS**

**1620 Fairfax Trafficway  
Kansas City, Kansas 66115-1408  
(913) 321-2260  
FAX (913) 321-1129**

February 20, 2008

Honorable Senator Carolyn McGinn  
Chair, Senate Natural Resources Committee

Subject: Senate Bill 598

The Fairfax Drainage District (FDD) Board of Directors wishes to formally express its opposition to SB 598 which proposes to amend existing law KSA 24-132.

The language which is proposed in SB 598 eliminates the needed regulatory authority of drainage districts as pertains to excavations greater than or equal to 1,000 ft. landward or riverward of flood control works within their boundaries. The FDD believes this change in regulatory authority will compromise the ability of drainage districts to carry out its sole function, flood protection for its constituents.

Specifically, some drainage districts have several miles of interior storm sewers within their jurisdictions (both inside and outside 1,000 ft. of their flood control works) which collect and deliver water through junction boxes, interceptors, gatewells &/or pumping stations. Their construction, modifications, repair and maintenance, together with that of other below ground utilities (such as high pressure gas mains, electrical ducts, forced water & sanitary mains, fiber optic transmission lines, etc. ), which often traverse storm sewer structures, all require oversight by the drainage district when excavations are envisioned to reduce the risk of interior flooding associated with unregulated excavations.

Similarly, excavations for structures located riverward (both inside and outside 1,000 ft. of flood control works) must also be overseen by drainage districts due to potential below ground as well as above ground impacts on the flood control works which, if ignored, could increase the risk of flooding of the protected area during periods of elevated river conditions.

Therefore, in an effort not to compromise the flood protection function of drainage districts, the FDD believes it is imperative that regulatory authority of drainage districts for excavations within all areas of its boundaries, both on the landside and river side of the flood control works, continue to be prudently safeguarded by maintaining the language of the existing statute.

Respectfully yours,

*Stephen P. Dailey*

Stephen P. Dailey, P.E.  
General Manager

*Senate Natural Resources  
February 22, 2008  
Attachment 6*