

MINUTES OF THE HOUSE VETERANS, MILITARY AND HOMELAND SECURITY COMMITTEE

The meeting was called to order by Chairman Don Myers at 1:30 p.m. on February 2, 2010, in Room 785 of the Docking State Office Building.

All members were present.

Committee staff present:

Art Griggs, Office of the Revisor of Statutes
 Doug Taylor, Office of the Revisor of Statutes
 Corey Carnahan, Kansas Legislative Research Department
 Lauren Douglass, Kansas Legislative Research Department
 Barbara Lewerenz, Committee Assistant

Conferees appearing before the Committee:

Representative Tom Hawk, District 67
 Representative Sharon Schwartz, District 106
 Representative Larry Powell, District 117
 Colonel John C. Dvoracek, Garrison Commander, HQ, Ft. Riley, Ks
 Colonel Dave Snodgrass (Retired), Asst. Secretary of the Army and KS Dept of Defense,
 Regional Office, Kansas City, Ks.
 Colonel Ron Langford, Commander of the 22nd Operations Group, McConnell AFB, Wichita, Ks.
 Colonel Wayne Green, Garrison Commander, Ft. Riley, Ks.
 John Armbrust, Executive Director of the Governor's Military Council
 Clancy Holeman, Riley Co. Counselor's Office, Manhattan, Ks.
 Michael Kearns, Board Chairman of Riley Co. Commissioners, Manhattan, Ks.
 Monty Wedel, Planning and Zoning Director of Riley Co., Manhattan, Ks.
 Randy Mettner, Executive Officer for Major General Tod Bunting
 the Adjutant General and Director of Homeland Security for Ks.
 Sandy Jacquot, Director of Law/Legal Counsel, League of Kansas Municipalities

Others attending:

See attached list.

Moved by Representative Goyle and seconded by Representative George for approval of minutes of the House Committee on Veterans, Military and Homeland Security, held January 28, 2010. Motion Carried.

Chairman Myers recognized Revisor, Doug Taylor, who briefed the Committee on **HB 2445 - Land uses adjacent to military installations.** Representative Goico commented that the bill primarily opens communication between communities and the military.

The Chairman opened the Hearing on **HB 2445.**

Representative Tom Hawk spoke as a proponent of the bill. (Attachment 1).
 Representative Sharon Schwartz chose to remain neutral on the bill. (Attachment 2)
 Colonel John C. Dvoracek spoke as a proponent of the bill. (Attachment 3)
 Colonel Dave Snodgrass (Retired), spoke as a proponent of the bill (Attachment 4)
 Colonel Ron Langford accompanied by Colonel Mike Foster, McConnell Air Force Base and
 Major Blackburn, Dept. Of the Air Force, Dallas, Texas spoke as proponents of the bill. (Attachment 5)
 Colonel Wayne Green spoke as a proponent of the bill. (Attachment 6)
 John Armbrust spoke as a proponent of the bill. (Attachment 7)
 Randy Mettner spoke as a proponent of the bill. (Attachment 8)
 Clancy Holeman spoke as a proponent of the bill. (Attachment 9)
 Michael Kearns spoke as a proponent of the bill. (Attachment 10)
 Monty Wedel spoke as a proponent of the bill. (Attachment 11)
 Sandy Jacquot spoke as a proponent of the bill. (Attachment 12)

CONTINUATION SHEET

Minutes of the House Veterans, Military and Homeland Security Committee at 1:30 p.m. on February 2, 2010, in Room 785 of the Docking State Office Building.

Written Only testimony supporting **HB-2445** was furnished by :

Norman E. Steen, Brigadier General, Kansas National Guard, Great Plains Joint Training Center, Salina, Ks. (Attachment 13)

Timothy F. Rogers, Executive Director of the Salina Airport Authority (Attachment 14)

Diane Avella, Mayor, Derby, Ks. (Attachment 15)

Bob Straw, Mayor, Manhattan, Ks. (Attachment 16)

Melissa Wangemann, General Counsel for the Kansas Association of Counties (Attachment 17)

The proponents of **HB-2445** stressed that a pro-active approach to creating positive relationships between local communities and military installations is the appropriate solution in dealing with any controversy that might occur. The economic impact of the military on adjacent communities is significant and positive relationships could be essential when dealing with future issues concerning the Defense Base Closure and Realignment Commission (BRAC).

Representative Larry Powell spoke in opposition of **HB-2445** (Attachment 18).

Written Only Testimony opposing **HB-2445** was furnished by:

Dan Byfield, American Stewards of Liberty, Taylor, Texas (Attachment 19)

Roy Dixon, Highlands Livestock Services, Garden City, Ks. (Attachment 20)

Luke Bell, Vice President of Governmental Affairs, Kansas Association of Realtors (Attachment 21)

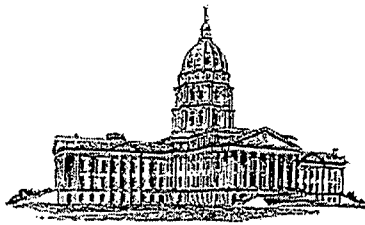
(Mr. Bell later changed his position on **HB-2445** to neutral.)

The opponents of the bill stressed their concerns regarding the rights of property owners.

The next meeting is scheduled for February 4, 2010. **HB-2445** will be worked.

The meeting was adjourned at 3:15 P. M.

Tom Hawk
REPRESENTATIVE, 67TH DISTRICT
STATE CAPITOL BUILDING
300 SW 10th Ave. (mail)
Docking State Office Building (office)
7th Floor—L10
TOPEKA, KANSAS 66612
(785) 296-7665
1-800-432-3924 Tom.Hawk@House.ks.gov
3115 HARAHEY RIDGE
MANHATTAN, KANSAS 66502
(785) 537-1225 tom@tomhawk.com



STATE OF KANSAS

TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS

MEMBER:

Tax (M-F, 9 AM, Docking 785)
Social Services Budget (M-T, 3:30 PM, D783)
State Employee Pay Plan Oversight

RANKING MINORITY:

Vision 2020 (M,W; 1:30 PM, D783)

Chairman Myers and Committee Members. It is an honor for me to testify before your committee in support of HB2445.

I have been involved the past two years in helping to strike a fair balance on the issue of military and local government communication on encroachment. The initial bills proposed tended to be more prescriptive and less permissive. My own county and its Board of County Commissioners have been leaders in trying to look for a compromise that stressed the issue of communication processes and not a prescriptive approach to avoiding encroachment around our military installations.

~~There have been several opportunities for many of us in the legislature to see what has happened in states where formalizing this "communication process" has not occurred. On an NCSL trip to San Antonio in September of 2008, several of us worked with Texas legislators and saw the problem of encroachment on Camp Bullis in their area.~~

Last year HB2169 was introduced and was shared with legislators representing state military and guard installations. It has some serious flaws that were addressed by a community group in Riley County. Through the work of the DoD, representatives of our military installations, the TAG, the Governor's Military Council's Executive Director, the Riley County Counselor and our Commissioners, along with the involvement of Representative Tafanelli and Representative Sloan, a win-win compromise was made. In a meeting on November 24, 2009 in the Capitol, many stakeholders were brought together to be sure we had agreement on the wording for this compromise bill.

As others will share in their testimony, we would be wise to formalize the process that is working well between our communities and our military

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Military and Homeland Security

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Attachment 1 (12)

currently. We do not know when personnel changes might tip the balance and result in some dire consequences for our state. While Kansas did very well in the most recent BRAC closures, it is clear that we must protect this critical asset for our state. Such legislation has been deemed a national priority and passing this bill will position us for continued success in Kansas.

Our military and the combined economic benefits derived provide our state with an output of \$7.7 B---that is 7% of our state GSP. The jobs impact statewide is 169,560. It is critical for us to embrace, protect and continue to develop this economic generator for our state economy.

As a member of the Governor's Military Council and a legislator whose district is adjacent to Ft. Riley, I stand in support of HB2445 and encourage the passage of this piece of legislation. Thank you Chairman Myers and Committee colleagues for your attention.

House Committee on Veterans
Military and Homeland Security

Date: 2/2/2010

Attachment 1 (2-2)

STATE OF KANSAS
HOUSE OF REPRESENTATIVES

SHARON J. SCHWARTZ
2051 20th Road
Washington, Kansas 66968
(785) 325-2568
sharon.schwartz@house.ks.gov



*State Representative
106th District
State Capitol, Room 161 West
Topeka, Kansas 66612
(785) 296-7637*

CHAIR
Local Government Committee
Select KPERs Committee

HB 2445

Testimony for the House Veterans, Military and Homeland Security

February 2, 2010

Chairman Meyer and Committee members:

I appear today as a neutral conferee on HB2445. My legislative district is the area that lies north of Fort Riley and includes the cities of Riley and Leonardville. The people in this area will be directly affected by the approval of this legislation. They have been involved with the negotiations with the "working group" through last spring and summer. I fully recognize that Fort Riley and the areas surrounding are vital to national security and the economic well being of the State of Kansas. I also know that it is important to promote communication and cooperation between the two entities and believe that this has happened in previous years **without** any formal document such as HB2445.

I have heard from constituents that have farm ground that lays adjacent to Fort Riley, been a farm for 6 generations and also appears on the historic register. These people understand that with the passage of HB2445 they as well their neighbors will be never be able to develop their land. The land described as "critical areas" is currently generating only ag property tax and is attractive and lucrative to developers and would be assessed in a different tax category if developed; consequently generating much more revenue for the County than if it were left as agricultural.

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Attachment 2 (1-2)

I question why the language that includes buffer areas and land contiguous to land already in the program is included as some of the current buffer land is over 10 miles from the base in Riley County and seems like it could mean that the buffer zone could be limitless.

I fully understand that HB2445 is a compromise developed by a working group and was introduced as a substitute for HB2169 which I did oppose. I would be pleased to respond to any questions you might have regarding HB2445.

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Attachment 2 (2-2)



DEPARTMENT OF THE ARMY
INSTALLATION MANAGEMENT COMMAND
HEADQUARTERS, UNITED STATES ARMY GARRISON, FORT RILEY
500 HUEBNER ROAD
FORT RILEY, KANSAS 66442-5000

February 2, 2010

Testimony Regarding House Bill 2445, before the House Veterans, Military and Homeland Security Committee

Offered by Colonel John Dvoracek, Deputy Garrison Commander (Transformation), U.S. Army Garrison, Fort Riley, Kansas

Chairman Myers and members of the Committee, I am Colonel John Dvoracek, the Deputy Garrison Commander for Transformation at Fort Riley and I want to thank you for the opportunity to testify today regarding House Bill 2445.

Fort Riley appreciates the committee's consideration of this bill. Military training, by its nature, will generate noise, dust and smoke that from time to time can become an annoyance to our neighboring communities. Conversely, certain developments of land near military installations have the potential to impede essential military activities within the boundaries of established military facilities. We believe that Fort Riley's neighbor-communities' consideration of the effects of the development of their lands near Fort Riley upon Fort Riley's mission plays a crucial role in sustaining Fort Riley's mission now and well into the future.

HB 2445, if enacted, would ensure the effective partnership of Fort Riley and its neighbors, which exists today, will continue. It would also codify requirements for local communities to inform Fort Riley of proposed development of lands near the installation that could potentially impact Fort Riley's operations, mirroring the obligation Fort Riley has to its neighboring communities in accordance with the National Environmental Policy Act. I would also like to point out that the partnership set forth in HB 2445 does not, however, infringe upon Fort Riley's neighbors' responsibility or authority to make final decisions regarding development of their lands. Rather, it only serves to ensure that Fort Riley and its neighbors, as part of any decision-making process, consider the corresponding impacts associated with such decision.

This bill will help secure the value of Fort Riley for preparing our nation's Army and other military services to defend our great nation long into the future. I will stand for questions at the appropriate time.

Thank you.

John Dvoracek
Colonel, United States Army

House Committee on Veterans
Military and Homeland Security

Date: 2/2/2010

Attachment 3



DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY OF THE ARMY
INSTALLATIONS AND ENVIRONMENT
CENTRAL REGION ENVIRONMENTAL & GOVERNMENT AFFAIRS
601 EAST 12TH STREET, SUITE 0417
KANSAS CITY, MO 64106-2896

Presented by:
Snodgrass

February 2, 2010

Re: House Bill 2445

The Honorable Don Myers
Chairperson, House Committee on Veterans, Military
and Homeland Security
Room 561-W
Kansas State Capitol
300 SW 10th Street
Topeka, KS 66612

Dear Chairman Myers,

I am writing to you in support of the proposed legislation contained in House Bill 2445 which is currently before the House Committee on Veterans, Military and Homeland Security. As the Department of Defense, Regional Environmental Coordinator for Standard Federal Region VII, which includes the State of Kansas, I appreciate the opportunity to voice my support for this important legislation.

The long term sustainability of military installations is generally tied to three factors: 1) their size and available space for evolving operational missions; 2) the effects of technology on military capabilities and tactics; and 3) external political, environmental and development pressures. State and local governments can significantly influence installation sustainability. H.B. 2445 unequivocally expresses the state's interest in supporting the best interests of its military assets, while establishing legal authority for the state and the military to work as partners to promote the long term viability of these vital facilities.

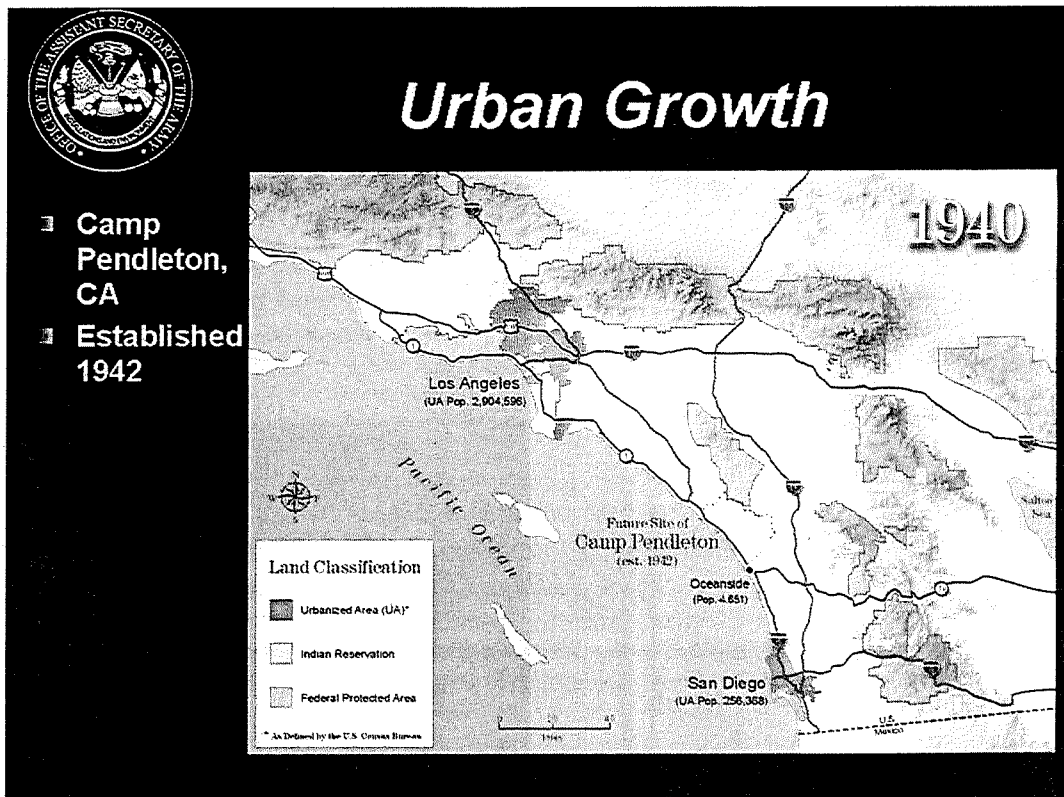
I welcome the opportunity to work with you and your committee on this and any future matter that may affect Defense installations and agencies in the state of Kansas. If you have any questions, please feel free to contact me by telephone at (816) 358-3445, or e-mail at stephen.c.scanlon@us.army.mil. I thank you for the opportunity to comment on House Bill 2445 and would appreciate it if you would share this letter with members of your committee.

Sincerely,

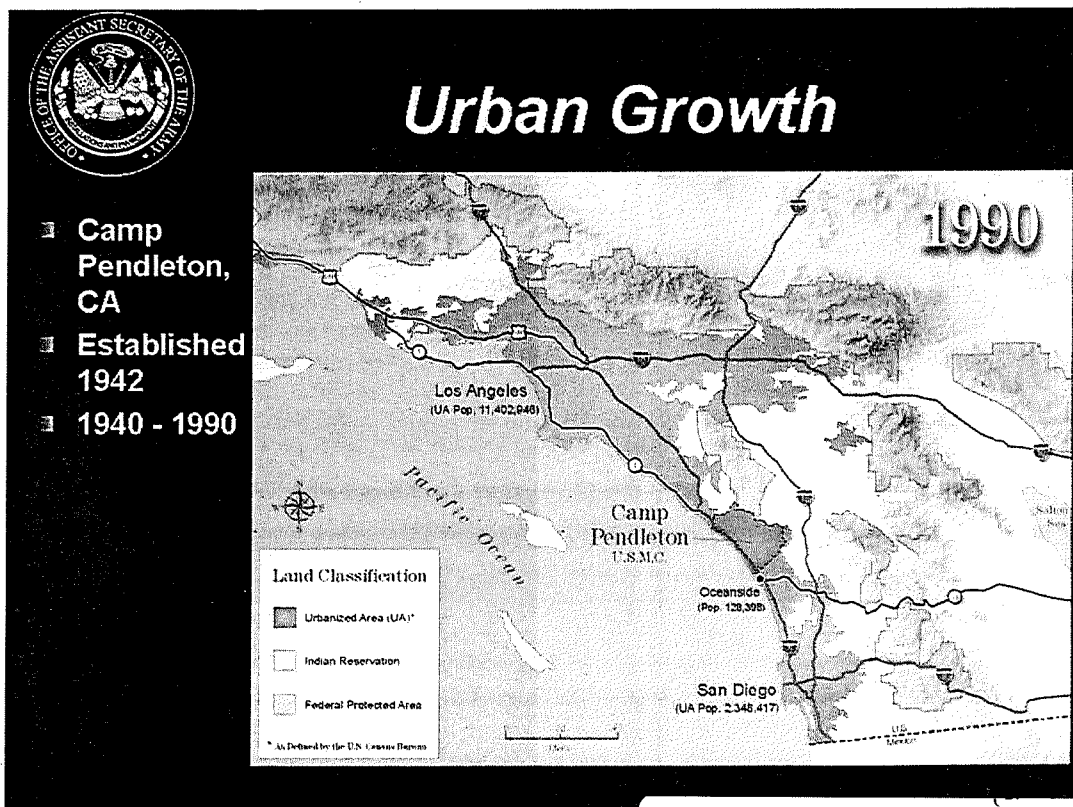
Stephen C. Scanlon
DoD Regional Environment

House Committee on Veterans
Military and Homeland Security

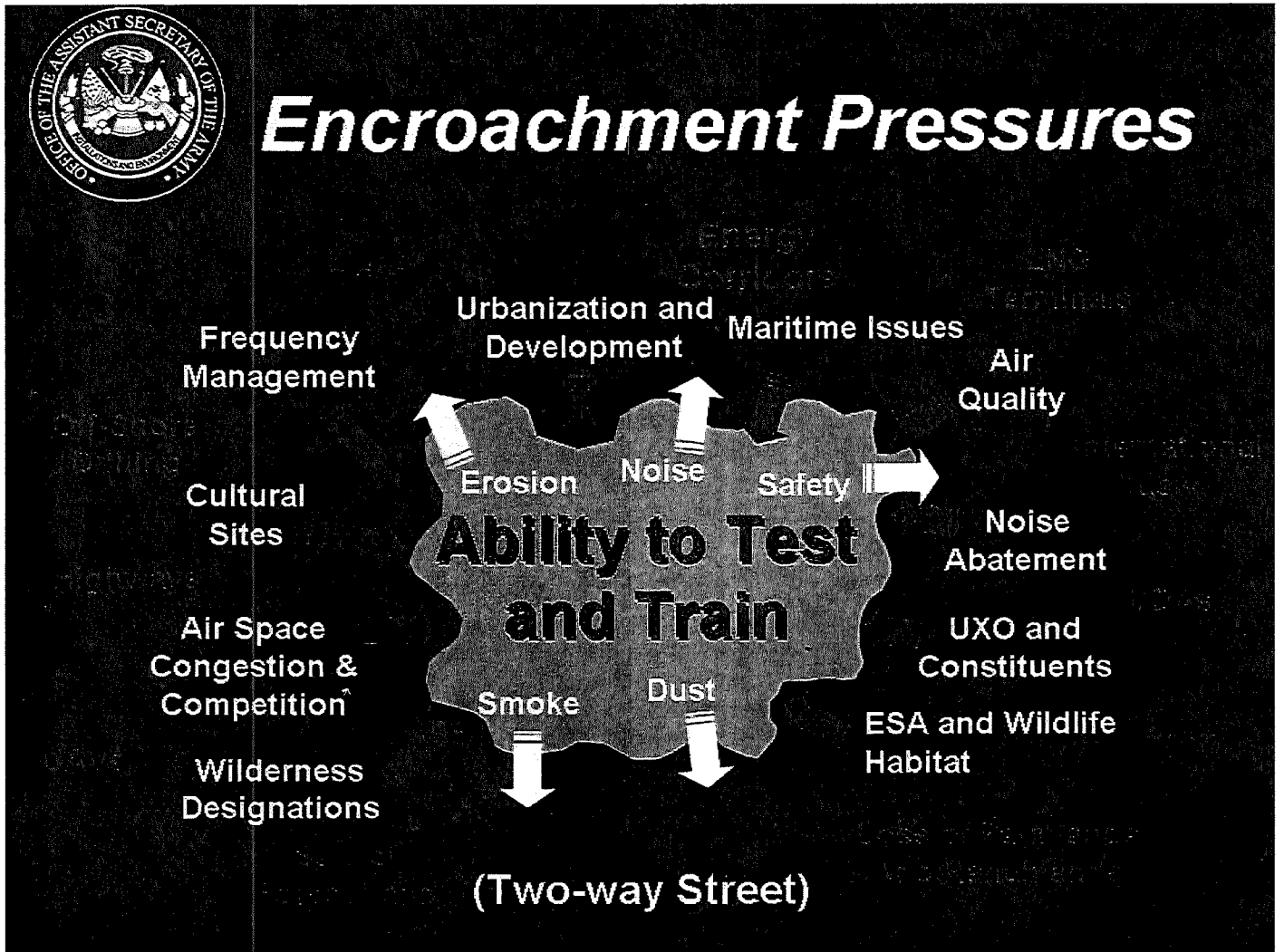
Date: 2/2/2010 (U-5)
Attachment 4



Slide 1



Slide 2



Slide 3


House Committee on Veterans
Military and Homeland Security
Date: 2/2/2010 (3-5)
Attachment 4



Slide 4



Slide 5



Internal Solutions

- Master Planning
- DOD Readiness and Environmental Protection Initiative (REPI) / Army Combatable Use Buffer (ACUB) Program
- Community coordination – Joint Land Use Study (JLUS)
- Army Operational Noise Management Program (ONMP)
- USN / USAF Air Installations Compatible Use Zones (AICUZ) program
- USN / USMC Range Air Installations Compatible Use Zones (RAICUZ) program
- Integrated Natural Resource Management Plan (INRMP)
- Base Realignment And Closure (BRAC)

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Partners

- Association of Defense Communities (ADC)
- Council of State Governments (CSG)
- Environmental Council of the States (ECOS)
- EPA Blue Skyways Collaborative
- International City / County Management Association
- Land Trust Alliance
- National Association of Counties (NACo)
- National Association of Regional Councils (NARC)
- National Association of Resource Conservation and Development Councils (NARC&DC)
- National Conference of State Legislatures (NCSL)
- National Governors Association (NGA)
- The Nature Conservancy
- U.S. Natural Resource and Conservation Service
- Western Governors' Association (WGA)
- Western Regional Partnership

House Committee on Veterans
Military and Homeland Security

Date: 2-2-2010 (5-5)

Attachment 4

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TESTIMONY OF COLONEL RON LANGFORD

BEFORE COMMITTEE ON VETERAN, MILITARY, AND HOMELAND SECURITY

HB 2445 (2010)

Introduction

Good afternoon Chairman Myers and committee members, I am Colonel Ron Langford, the Commander of the 22nd Operations Group, McConnell Air Force Base, Kansas. Today, you are considering whether to support legislation that could assist local communities and military installations throughout Kansas develop in a compatible manner. I have come here today to voice support for this encroachment legislation on behalf of the United States Air Force and McConnell Air Force Base, assuming that minor changes are made to address the Air Force's sovereign immunity concerns. The Air Force Regional Environmental Coordinator letter to the committee suggested modifications that would sufficiently resolve these concerns.

McConnell Air Force Base

I would like to start by briefly discussing McConnell Air Force Base. McConnell Air Force Base is part of Air Mobility Command (AMC) and is the home of the 22nd Air Refueling Wing. The 22nd Air Refueling Wing is the largest of only three supertanker KC-135 Stratotanker wings in the Air Force. Our primary mission is to provide the nations global reach by conducting air refueling and airlift when and where needed. The 22nd Air Refueling Wing is comprised of the 22nd Operations Group, 22nd Maintenance Group, 22nd Mission Support Group, and 22nd Medical Group.

I serve as the Commander of the 22nd Operations group. The 22nd Operations Group flies the wings KC-135R Stratotanker refueling and airlift operations in support of worldwide AMC, U.S. Transportation Command, Air Force, Department of Defense, and allied operations anywhere in the world. With its four flying squadrons and one operations support squadron, the group executes operations in support of strategic force projection and mobility, special operations, tactical air operations, and humanitarian assistance efforts. The 22nd Operations group operates 63 KC-135 Stratotankers that average 246 sorties and over 985 hours of flight time a month.

In addition, McConnell Air Force Base is home to the Kansas Air National Guard's 184th Intelligence Wing and Air Force Reserve 931st Air Refueling Group. In all, McConnell Air Force Base is home to 2,801 Active Duty members and their families as well as the workplace for another 2,527 reservists, guardsmen, and

civilian employees. McConnell Air Force Base's total economic impact on the local area is over \$400 Million dollars annually.

Discussion of Compatible Use

Increasingly McConnell Air Force Base, like many other military installations, has been confronted by threats of incompatible land use near our installation. Incompatible land uses around the military installation result in a situation often referred to as encroachment.

What is encroachment? Encroachment is the cumulative result of any and all outside influences that inhibit normal military training, testing and operations. The simple answer is that encroachment is the growth of communities around an installation that interferes with the installation's ability to perform the mission. Encroachment has emerged in recent years as a major issue for the Department of Defense (DOD), as ever-increasing population growth continues near once remote and isolated military installations. The transformation of areas around military installations over the last 10-20 years has been truly dramatic.

It is also very important to understand that development can interfere with military functions in many ways other than just the size and location of buildings. Clearly building a high rise at the end of a runway is the simplest, clearest example of encroachment but there are many other forms of encroachment. Incompatible land uses involving electro-magnetic or radio transmissions can also cause interference with the frequency spectrum necessary for military communications and safe flight operations. Also, local development of landfills or waste water treatment facilities near runways or low level flight paths attract birds and significantly increase Bird Aircraft Strike Hazards (BASH). BASH incidents pose significant threats to aircraft safety. Encroachment often leads to the military modifying its activities to mitigate potential impacts; these modifications reduce the effectiveness of training and can inhibit mission effectiveness.

Today, we focus on community partnering and intergovernmental planning to achieve compatible land use and zoning to protect ever-evolving management needs. McConnell Air Force Base and our local communities benefited greatly over the last few years through strong partnering efforts. First, the City of Wichita and Sedgwick County created the Metropolitan Area Planning Department in order to better foster interaction and cooperation between McConnell and the local communities. When future planned developments are submitted, the base is contacted and allowed to provide comments related to potential encroachment threats. Based on our relationship with our local communities, McConnell AFB believes that our comments are strongly considered by the decision makers.

The Air Force also integrates these activities as appropriate with such programs as the Air Installations Compatible Use Zones (AICUZ) program and the Joint Land Use Study (JLUS) Program. In 1991, local governments adopted an Airport

Overlay District around McConnell Air Force Base. This district substantially adopted the findings of McConnell's AICUZ and further helped protect the base from encroachment.

Concurrently, the Air Force is also working with national organizations such as the National Conference of State Legislatures, the Council of State Governments, the National Association of Counties, the Environmental Council of States, and many other state and local organizations to encourage state legislation and policy development to enhance long-term sustainability of our military installations. The legislation before the committee is just that sort of legislation.

Conclusion

I would like to thank you for giving me an opportunity to address this legislation on behalf of the Air Force. By supporting this legislation, you can help improve the ability of the United States Air Force to carry out its national security mission and at the same time promote the health and safety of surrounding communities. Thank you for seriously considering this important legislation.



DEPARTMENT OF THE AIR FORCE
AIR FORCE CENTER FOR ENGINEERING AND THE ENVIRONMENT
REGIONAL ENVIRONMENTAL OFFICE
525 SOUTH GRIFFIN SUITE 505
DALLAS TEXAS 75202-5023

Presented by
Col Ron Langford 9 January 2010

Re: House Bill 2445

Honorable Don Myers
Chair, House Committee on Veterans, Military, and Homeland Security
Capitol Office
Room 561-W
Kansas State Capitol
300 S.W. 10th Street
Topeka, KS 66612

Dear Chairman Myers,

My name is Tom Manning and I am the Director of the Regional Environmental Office for Federal Region VI, located in Dallas, TX. My office is also responsible for Air Force installations in EPA Region VII, which as you know includes the State of Kansas. I am writing to express the position of the Department of the Air Force on the proposed legislation contained in House Bill 2445, which is currently scheduled for public hearing before the House Committee on Veterans, Military, and Homeland Security on Tuesday, 2 February 2010. I appreciate the opportunity to express the Air Force's general support of this important legislation as well as a few concerns we have with the language used in the legislation. Most of our concerns deal with the matter of federal rights and the federal government's relationship as a sovereign entity with individual states.

H.B. 2445 provides communities with the tools needed to work with military installations to address the problem of incompatible land uses that can lead to encroachment problems. What is encroachment? Officially, encroachment is the cumulative result of any and all outside influences that inhibit normal military training, testing, and operations. The simple answer is that encroachment is the growth of communities around bases that interferes with the bases' ability to perform their missions. Encroachment has emerged in recent years as a major issue for the United States Air Force (USAF) and the Department of Defense (DOD), as ever expanding development continues near once remote and isolated military installations. The transformation of areas around military bases over the last 10-20 years has been truly dramatic.

Today, the USAF and DOD focus on community partnering and intergovernmental planning to achieve compatible land use and zoning to protect ever-evolving mission requirements. We are integrating these efforts with such programs as the Air Installations Compatible Use Zones (AICUZ) program and the Joint Land Use Study (JLUS) program.

House Committee on Veterans
Military and Homeland Security
Date: 2/21/2010 (1-2)
Attachment 6

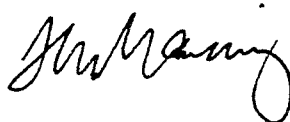
Concurrently, the DOD is also working with national organizations such as the National Conference of State Legislatures, the Council of State Governments, the National Association of Counties, the Environmental Council of States, and many other state and local organizations to encourage state legislation and policy development to enhance long-term sustainability of our military installations. H.B. 2445 is just the sort of legislation that helps ensure compatible land use near our facilities.

The Air Force, however, has concerns with some of the language used in H.B. 2445. Although we fully agree that frequent communication between military installations and their surrounding communities is desirable for all parties and should be encouraged, the Air Force is concerned that such a mandate could run afoul of Federal Laws, including the doctrine of sovereign immunity. Obviously military departments do not have the authority to waive sovereign immunity or ignore other Federal legal requirements. As such, we recommend that the word "shall" in § 2(b)(1) be replaced with "should" or modified by the phrase "; consistent with Federal laws and regulations;" or a similar phrase.

Additionally regarding the notion of federal sovereignty, we respectfully request a modification to § 2(b)(2)(C). We do not believe that a military commander's failure to respond to any type of notice mandated under state law can constitute his default approval of the terms of the notice (and by extension, the federal government's approval of such). It would be reasonable, however, to construe a military commander's silence to a given notice as an indication that he does not expressly disapprove of the terms of the notice. We therefore suggest that the final portion of § 2(b)(2)(C) be amended to read as follows: "Failure of an installation commander to respond after receiving notification under this subparagraph shall be deemed to indicate *that such commander does not object to...*" (amended portion in italic font)."

I welcome the opportunity to work with you and your Committee on this and any future matter that may affect DoD installations and agencies in the state of Kansas. If you have any questions, please feel free to contact me by telephone at (214) 767-4650 x 4669 or by e-mail at thomas.manning@brooks.af.mil. You may also contact my Regional Counsel, Major Michael Blackburn, at (214) 767-4650 x 4672 or via email at michael.blackburn@brooks.af.mil. I thank you for the opportunity to comment on H.B. 2445 and would appreciate it if you would share this letter with members of the committee.

Sincerely,



THOMAS M. MANNING

Director

Air Force Regional Environmental Coordinator, Region VII

House Committee on Veterans
Military and Homeland Security

Date: 21 21 2010
Attachment 6 (2-2)



Testimony in Favor of HB2445
To
Veterans, Military and Homeland Security Committee
February 2, 2010

Chairman Myers and Members of the Committee, I'm John Armbrust, Executive Director of the Governor's Council. Thank you for the opportunity to testify in support of HB2445.

The Governor's Military Council has not reviewed the detailed language in HB2445, but voted in its February 18, 2009 meeting to support the concept addressed in the bill.

HB2445 is revenue neutral, and if passed, will once again put the state of Kansas in the forefront of being a military-friendly state. As you may remember, we were extremely successful during the 2005 round of Base Realignment and Closure (BRAC), being the sixth largest growth state resulting from BRAC 2005 and BRAC 2005- related decisions. One of the major reasons for our success was our proactive approach to protecting and growing our installations.

Passage of HB2445 will continue our efforts to be proactive in protecting, maintaining and growing our military installations and thereby preparing for another round of BRAC or BRAC-like activity. The question in my mind is not if there will be another round of BRAC-like activity, but when this activity will take place.

When the next round of BRAC or BRAC-like activity occurs, it is already clear a major evaluation factor will be if an installation has current or potential encroachment issues, and whether or not the state in conjunction with the communities near that installation are taking actions to resolve such issues. HB2445 addresses this evaluation factor directly, and in a way that also protects the rights of local units of government and local land owners.

HB2445, in the final analysis, simply requires a local unit of government and an installation to discuss workarounds for potential encroachment issues prior to a final land use decision being made. Once these discussions have taken place, the local unit of government retains the right to make the final decision.

House Committee on Veterans
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Date: 2/2/2010 (1-3)
Attachment 7

Some may wonder why protecting our installations from encroachment is so important as to require state legislation. The answer to this question is to not only prepare for the next round of BRAC-like activity, but also to protect a major player in our state's economy. Attached is a summary of the results of a study recently conducted by Wichita State University. This study shows military activity in Kansas adds nearly \$8B per year to the state's GSP, directly and indirectly employs over 169,000 persons in Kansas and pays about \$6B per year in wages to people living in Kansas. Additionally, military activity generates about \$395M in taxes each year. I will be providing this Committee a more detailed summary of the study results at its meeting on February 11th.

Clearly military activity in Kansas is a major force in our state's economy, and HB2445 helps keep that economic force strong and viable – in a revenue neutral manner and in a way that protects the rights of local units of government and local land owners. As a result, I recommend you fully support HB2445.

Thank you again Chairman Myers and Committee Members for allowing me time to speak to you today in favor of passage of HB2445.

House Committee on Veterans
Military and Homeland Security

Date: 2-2-2010 (2-3)

Attachment 7



KANSAS

Governor's Military Council



Fiscal and Economic Impact of Military Activity in Kansas

Statewide Impact

The Governor's Military Council and Kansas, Inc. commissioned a study to analyze the economic impact of military activity within the state of Kansas. The Center for Economic Development and Business Research, W. Frank Barton School of Business, Wichita State University was awarded this project and provided the following analysis.

The objective was to determine the fiscal and economic impact from military employment, wages and contracts, as well as assess the impact to Kansas Gross State Product (GSP).

Military activity in the state of Kansas includes contracts awarded to companies in Kansas, and a portion of payments to retired individuals, and active duty, civilian, and reserve and National Guard personnel. As depicted in Table 1, the combined total impact to GSP (output) was at least \$7.7 billion, or 7 percent of Kansas GSP in 2006.

The military directly and indirectly supported nearly 170,000 jobs (9.4 percent of total employment) paying a total of \$5.7 billion in wages and earnings in 2006.

Output, employment and earnings create fiscal impacts, or tax revenues, to cities, counties and the state of Kansas. The total fiscal impacts from military activity to Kansas contributed \$49.9 million to city/county revenues, \$73.5 million to region (multiple counties) revenues and \$270.2 million to state revenues. Total tax revenue collections attributable to military activity was estimated to be \$393.6 million.

Regional Installation Impact

The study also calculated the fiscal and economic impact of Kansas military installations on their respective regions, including the 190th at Forbes Field, Fort Riley, Fort Leavenworth, McConnell Air Force Base and Smoky Hills Weapons Range. (Specific discrepancies that must be considered for comparisons between Table 1 and Table 2 are noted below)

Table 2. Summary of the Regional Impact of Kansas Military Installations**

Category	Forbes Field	Fort Leavenworth	Fort Riley	McConnell Air Force Base	Smoky Hills Air National Guard
Output	\$20.5 million	\$146.2 million	\$82.7 million	\$1.8 billion	\$4.6 million
Employment	13,930	28,930	58,490	27,640	1,719
Earnings	\$357.2 million	\$985 million	\$2.1 billion	\$1.0 billion	\$15.6 million
Tax/Fiscal Impact					
City/County	\$6.5 million	\$7.0 million	\$15.5 million	\$9.5 million	\$ 323,000
Region	\$6.6 million	\$7.9 million	\$12.6 million	\$11.2 million	\$ 795,200
State	\$13.8 million	\$37.0 million	\$115.0 million	\$53.9 million	\$ 990,200
Total Revenue	\$26.9 million	\$51.9 million	\$143.1 million	\$74.6 million	\$2.1 million

** Installation figures consist of 2008 employment data, 2007 retiree data and 2006 contract data. Economic regions include the five largest employee-contributing counties to the home county of each installation.

Comparisons of Table 1 and Table 2 – Table 1 captures the statewide impact of the military on Kansas. The regional data provided in Table 2 does not provide a complete summary of the data used to create Table 1, thus the summation of Table 2 data will not equal the figures provided in Table 1. This discrepancy is due to several factors, including 1) the regional data provided in Table 2 does not capture the additional military activity that may occur outside of their respective regions; 2) For analysis purposes, Table 1 includes 2006 employment figures, while Table 2 includes 2008 employment figures; and 3) Double installation regions.

Table 1. Summary of State Impact of Kansas Military Installations*

Category	State of Kansas
Output	\$7.7 billion
Employment	169,560
Earnings	\$5.7 billion
Tax/Fiscal Impact	
City/County	\$49.9 million
Region	\$73.5 million
State	\$270.2 million
Total Revenue	\$393.6 million

* State figures consist of 2006 employment data, 2007 retiree data and 2006 contract data.

House Committee on Veterans
Military and Homeland Security

Date: 2-2-2010 (3-3)

Attachment 7

Testimony on House Bill 2445

To the House Veterans, Military and Homeland Security Committee

Randy Mettner
On behalf of Major General Tod Bunting
The Adjutant General of Kansas

Tuesday, February 2, 2010

Mr. Chairman and members of the Committee:

I am Randy Mettner, Executive Officer for Major General Tod Bunting the Adjutant General and Director of Homeland Security for Kansas. Thank you for allowing me to comment and speak in support of HB 2445 which in specific terms directs and encourages the communication between the local communities and military installations in Kansas. This will continue the goal of assuring the military community that Kansas supports them in both their mission and their state located installations.

The Bill requires that installations and communities have points of contact, make annual contact and that any community planning take into consideration the military mission. The military is required to discuss with the community changes to their missions and comment on community actions. However more detail will be given by others testifying in support of this legislation.

While there have not been many issues over the years that would be considered encroachment in the Kansas National Guard there have been some. This will help mitigate future difficulties. This is very important for Base Realignment and Closure (BRAC). If future follow-on missions, as a result of BRAC, affecting or changing force structure this legislation will go far in continuing to have Kansas as a "military friendly" state. The state and the armed Forces have much to offer each other considering the military is a \$13 billion industry.

Thank you for letting me provide General Bunting's views as well as my own. I will be glad to answer any questions the Committee may have.

House Committee on Veterans
Military and Homeland Security
Date: 2-2-2010 (2-2)
Attachment 8



COUNSELOR'S OFFICE

115 N. 4th Street, 1st Floor
Manhattan, Kansas 66502
Phone: 785-565-6844
Fax: 785-565-6847
Website: www.rileycountyks.gov
Email: adillon@rileycountyks.gov

February 2, 2010

The Honorable Don Myers, Chairman
House Committee on Veterans, Military, and Homeland Security
Docking Building, Rm. 785
Topeka, KS 66612

Re: H.B. 2445

Dear Chairman Myers and Members of the Committee:

On behalf of my client, the Board of Riley County Commissioners, I'd like to express my support of H.B. 2445.

This bill is a stellar example of what can happen when those local citizens and governmental entities affected by proposed legislation are given sufficient time to weigh in with their comments and concerns. H.B. 2445 is the end product of a national and regional effort by the military to address "encroachment" on military installations by surrounding residential, commercial and agricultural development.

H.B. 2445 is very different from the original legislation which spurred Riley County and its local private and public partners to develop an alternative bill. One of the essential terms of H.B. 2445 is Section 4, which is an explicit guarantee local citizens have the final say in all land development decisions relevant to property surrounding military bases:

"Notwithstanding any other provision of this act, the final decision on all planning, development, zoning and land use issues shall be made by each municipality adjacent to or surrounding a military installation."

The importance of leaving Section 4 in H.B. 2445, as written, cannot be overstated-it means any proposed interpretation of the remainder of the statute cannot defeat local civilian control of development decisions. As Riley County Commission Chairman Kearns has testified, H.B. 2445 resulted from 10 months of detailed discussion and negotiation among civilian and military interests, private citizens and local governmental bodies.

Like Chairman Kearns, I encourage this Committee to respect that local effort and act favorably upon H.B. 2445, without modifying its terms.

Sincerely,

Clancy Holeman
Riley County Counselor

cc: Michael B. Kearns, Chairman, Board of Riley County Commissioners
Karen McCulloh, Vice-Chair, Board of Riley County Commissioners
Alvan D. Johnson, Member, Board of Riley County Commissioners

House Committee on Veterans
Military and Homeland Security

Date: 2/2/2010

Attachment 9



BOARD OF COMMISSIONERS

115 N. 4th Street, 1st Floor
Manhattan, Kansas 66502
Phone: 785-565-6844
Fax: 785-565-6847
Email: adillon@rileycountyks.gov

February 2, 2010

The Honorable Don Myers, Chairman
House Committee on Veterans, Military, and Homeland Security
Docking Building, Rm. 785
Topeka, KS 66612

Re: H.B. 2445

Dear Chairman Myers and Members of the Committee:

I appreciate the opportunity to offer written testimony on behalf of the Riley County Commission in support of H.B. 2445.

This bill is the product of a truly collaborative effort between both military interests and civilian constituencies surrounding the Fort Riley military installation, located just outside Manhattan, Junction City, and Riley, Kansas. Our efforts on this bill began in February, 2009 when the Riley County Commission hosted a public meeting and appointed a 19-member local working group charged with developing a statute which would protect Fort Riley (and other Kansas military installations) from "encroachment" by civilian land uses surrounding these installations. Our county commission's goal was to produce a bill which would be satisfactory to both military and civilian stakeholders. We believe H.B. 2445 accomplishes just that. That local working group was composed of representatives of: Riley and Geary counties: Fort Riley; the Secretary of the Army; the cities of Manhattan, Junction City, Riley and Ogden; rural landowners and township representatives. It met in early March 2009 and produced a "consensus draft" of statutory language by March 27, 2009. That "consensus draft" was endorsed by representatives of the foregoing cities (with the exception of Ogden) and counties by April 2, 2009. Riley County placed that "consensus draft" on its website and discussed the "consensus draft" in its regular open public meetings many times throughout the spring, summer and fall of 2009.

Our "consensus draft" was also discussed at length with the Riley County legislative delegation and members of the public at our June, 2009 legislative conference. It was designated the lead item in our county's 2010 legislative platform.

In July and September, 2009 we presented our "consensus draft" to the legislative policy committee of the Kansas Association of Counties. The KAC membership was receptive to our proposed bill and later added a statement in its 2010 legislative platform in support.

In November, 2009 John Armbrust, of the Governor's Military Council, convened a meeting in Topeka with representatives of Riley County, the military and legislators Taffanelli and Hawk, to determine if additional revisions were necessary to move the "consensus draft" forward this legislative session. At that meeting changes to the document were offered by both the military and Riley County. Those November, 2009 changes to the "consensus draft" were thereafter approved by consensus by members of the local working group.

Throughout this process, Riley County's primary point of legislative contact on the bill was Riley County Representative Sharon Schwartz. As a matter of timing, H.B. 2445 was introduced by Representative Sharon Schwartz' bill, H.B. 2487, was introduced January 20, 2010. The two bills

House Committee on Veterans
Military and Homeland Security

Date: 2/2/2010 (1-2)

Attachment 10

differences, primarily grammatical. I can report the local working group supports by consensus H.B. 2445, well as H.B. 2487. Representative Schwartz has encouraged Riley County to support H.B. 2445 because hearings have already been scheduled. She believes it is important that a good bill be passed, that has the support of the local community affected. Riley County appreciates Representative Schwartz's leadership and guidance on this issue.

When the next BRAC occurs, it is absolutely critical those Kansas Counties with military installations demonstrate they have worked cooperatively with their military installations to address potential base "encroachment." The long path Riley County and its partners on this bill have taken over the past 10 months, which has produced HB. 2445, is proof of that local cooperation between civilian and military interests.

I encourage you to act favorably upon H.B. 2445 and pass it in its current form, out of respect for the tremendous effort we and our partners have expended in producing legislation which respects the long-term interests of the military, while safeguarding local control over land use and development surrounding military bases.

Thank you for your attention to this critical matter.

Sincerely,



Michael B. Kearns, Chairman
Board of Riley County Commissioners

cc: Riley County Commission:
Karen McCulloh, Vice Chair
Alvan D. Johnson, Member



PLANNING & DEVELOPMENT

Monty R.
Director
110 Courthouse Plaza
Manhattan, Kansas 66502-0109
Phone: 785-537-6332
Fax: 785-537-6331
E-mail: mwedel@rileycountvks.gov
Website: www.rileycountvks.gov/planning

February 2, 2010

The Honorable Don Myers, Chairman
House Committee on Veterans, Military, and Homeland Security
Docking Building, Rm. 785
Topeka, KS 66612

Re: H.B. 2445

Dear Chairman Myers and Members of the Committee:

As the Director of Planning & Development for Riley County and as a representative of the Kansas Association of County Planning & Zoning Officials, I am pleased to offer testimony in support of H.B. 2445.

The beauty of this bill is that it fosters a cooperative and collaborative environment in which local communities and military installations can mutually address encroachment issues without state control of private land use. It does this in part by requiring communities to communicate with military installations about encroachment issues in the critical areas of concern, share information on land use plans and regulations as they are being developed or changed, share information regarding development activity surrounding the installation, and notice citizens of potential conflicts with the military installation. Perhaps most importantly the bill fosters cooperation by requiring communities to:

- notify the military installation of critical development proposals that may effect the military mission; and
- consider and evaluate with each such development proposal a very specific set of factors to determine what impact the development may or may not have on the military mission.

These last two points are very critical in order to have a good, sound planning process for proper decision-making at the local level and I am pleased that the bill requires all affected communities to analyze and evaluate these same factors in all development situations. This provides for uniformity and consistency in the planning process for all affected communities and is a fair and equitable way of assuring a significant measure of cooperation and collaboration with neighboring military installations.

I therefore strongly urge passage of this consensus legislation without modification.

Sincerely,

Monty R. Wedel, Director
Riley County Planning & Development

cc: Michael B. Kearns, Chairman, Board of Riley County Commissioners
Karen McCulloh, Vice-Chair, Board of Riley County Commissioners
Alvan D. Johnson, Member, Board of Riley County Commissioners
Clancy Holeman, County Counselor

House Committee on Veterans
Military and Homeland Security
Date: 2/2/2010
Attachment 11



TO: House Veterans, Military, and Homeland Security Committee
FROM: Sandy Jacquot, Director of Law/ General Counsel
DATE: February 2, 2010
RE: Support for HB 2445

On behalf of the League of Kansas Municipalities, I want to thank the Committee for allowing us to testify in support of HB 2445. This bill does put in place additional notice requirements and mandates on cities when zoning in the vicinity adjacent to military installations, but LKM has checked with the cities affected by these requirements and they do not believe the additions will be problematic. Cities have been involved in the process and are informed regarding the changes. Thus, LKM supports the adoption of HB 2445.

House Committee on Veterans
Military and Homeland Security
Date: 2/2/2010
Attachment 12



DEPARTMENTS OF THE ARMY AND THE AIR FORCE
JOINT FORCES HEADQUARTERS/KANSAS
2800 SOUTHWEST TOPEKA BOULEVARD
TOPEKA, KANSAS 66611-1287

21 January 2010

Honorable Don Myers
Kansas State Capitol
300 SW 10th Avenue, Room 561-W
Topeka, KS 66612

Dear Representative Myers

I am writing to support HB 2445, an act relating to military installations and adjacent areas.

I have found that effective and open communication between the leadership of military installations and the leadership of local governments is a key element in ensuring cooperative and responsible growth in both sectors. As commander of the Great Plains Joint Training Center near Salina, our excellent relationships with the Salina Airport Authority, City of Salina, and Saline County have made it possible to bring new jobs, new construction, and new military transient students to Kansas. We recognize the value of working cooperatively to enhance our State and national security, and well as strengthen our economy.

This bill codifies important practices to improve two-way communication between the leadership of military installations and municipal governments, and will further improve our future opportunities for mutual growth to the benefit to those we serve.

I urge you and your committee to support this bill through final passage.

Respectfully,

A handwritten signature in black ink, appearing to read "Norman E. Steen", with a long horizontal line extending to the right.

NORMAN E. STEEN, BG, KSNG
Commander, Great Plains Joint Training Center

House Committee on Veterans
Military and Homeland Security

Date: 2/2/2010

Attachment 13

Testimony in Support of HB 2445

by

Timothy F. Rogers, A.A.E

Executive Director

Salina Airport Authority

Salina, Kansas

February 2, 2010

Chairperson Myers:

The Salina Airport Authority supports HB 2445. The bill is essential in protecting Kansas military installations from land use encroachment. The Airport Authority has worked in partnership with Saline County and the City of Salina to take steps locally to protect current and future operations at the Smoky Hill Weapons Range located in southwest Saline County. The range and the Great Plains Joint Training Center located at the Salina Airport Industrial Center support the State's four other military installations by providing much needed land and facilities for joint force training.

Saline County's 2008 Comprehensive Plan Update provides for the following, proactive local action to provide the Kansas military units with the best possible training venue for years to come.

Protecting the Smoky Hill Weapons Range (Range). The Smoky Hill Weapons Range, which is part of the Great Plains Joint Regional Training Center, has become an increasingly important facility for national security training. Increased activity at the Range has generated greater needs to protect the environs from encroachment by inappropriate development activity. Increased traffic generated by activities at the Range, much of it using heavy vehicles, has increased the need to upgrade key access roads.

Plan Recommendation: The Plan provides for coordinated review of development within five (5) miles of the Range and calls for coordinated funding to improve identified access roads leading to Range facilities.

Smoky Hill Weapons Range (R) Environs Land Use Policies

The Great Plains Joint Regional Training Center (GPJRTC) combines the assets of both the Kansas Air and Army National Guard under one umbrella to facilitate military and civilian joint operations training and combined air-land combat maneuvers and exercises.

The GPJRTC includes an Unmanned Aerial System (UAS) Center. Unmanned aircraft are currently used in a number of military roles, including surveillance, reconnaissance and attack. The GPJRTC also commands the Kansas Army Guard Training Institute, which offers a variety of skills training to active duty, Reserve and National Guard soldiers, including wartime skills. A pre-mobilization training and evaluation element is the newest addition to the GPJRTC's responsibility. In addition, the GPJRTC commands the Smoky Hill Weapons Range (Range), which is the largest and busiest range in the U.S. Air National Guard. It encompasses 36,000 acres and is located adjacent to one of the longest runways in the United States. The operating airspace over the Range connects to airspace over Fort Riley and North Central Kansas, which creates continuous airspace in which Army and U.S. Airforce aircraft train. And finally, the GPJRTC operates "Crisis City", a replica of a small town that will be able to imitate destruction by natural and/or man-made catastrophes. The new Crisis City will offer hands-on training to first responders; both military and civilian. Crisis City is located at the southeast edge of the Range.

The following policies are intended to protect operations at the Smoky Hill Weapons Range by discouraging activities adjacent to the Range that would negatively impact Center operations. These policies do not apply to development within the Range itself.

House Committee on Veterans
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Policy R.1 Restrict the conversion of agricultural land to more intense uses within one (1) mile of the Range. Encourage open space or clear areas within key safety areas adjacent to the Range to facilitate protection of the Range and reduce safety risk exposure to people on the ground and in the air.

Policy R.2 Notify and provide an opportunity for Kansas National Guard officials to comment on any proposed development applications received within five (5) miles of the Range.

Policy R.3 Allow transfer of development rights for any properties located within the Range's 5-mile notification area.

Policy R.4 Cooperate with the Kansas National Guard, National Guard Bureau and U.S. Department of Defense to make improvements to roads providing access to the Range and to facilitate access while protecting County road investments.

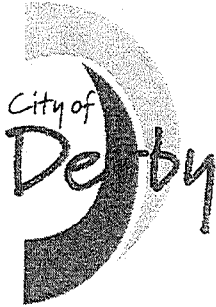
Policy R.5 Evaluate all proposed amendments to this Plan, the County Capital Improvements Plan, and any interlocal agreements with regard to possible increases in incompatible land uses or the potential for incompatible development adjacent to the Range. When such amendments may result in incompatibilities, the County will seek alternatives in order to protect Range operations.

HB 2445 is compatible with action already taken by Saline County in partnership with the City of Salina and Salina Airport Authority. Support for HB 2445 by your committee will lead to similar cooperation among other local units of government and the military that benefits the entire State of Kansas. The bill is revenue neutral and does not require state funding. Most importantly the bill allows local units of government to make all final land use, planning, development and zoning decisions after taking into account the needs of the military installation.

Respectfully submitted,

Timothy F. Rogers, A.A.E.

Timothy F. Rogers, A.A.E.
Salina Airport Authority
Executive Director
(782) 827-3914 Work
(785) 342-1199 Mobile
trogers@salair.org
3237 Arnold Ave.
Salina, KS 67401
United States of America
<http://www.salair.org>



January 26, 2010

Representative Don Myers, Chair
House Committee on Veterans, Military & Homeland Security
State Capitol 561-W
Topeka KS 66612

Re: HB 2445 concerning land use; relating to military installations and adjacent areas

Dear Chairman Myers and Committee Members:

Thank you for this opportunity to address the committee in support of HB 2445.

While the City of Derby has enjoyed a high quality, open relationship with our neighbor to the north, McConnell Air Force Base, we understand the apparent need of some communities in the state to gain clarity about protocols regarding growth and development near military installations. In reviewing HB 2445, it was easy to see that some effort has been put into improving this bill over last year's version. That effort is much appreciated.

We also understand that having such protocols in place may prevent miscommunications and may provide an important indicator of our state's support of all its military installations, should another federal effort regarding base closure or realignment occur in the future.

While HB 2445 would require the City of Derby to engage in additional notifications and other procedures, we believe we could manage such a commitment for the good of the state as a whole, given the economic and other benefits of McConnell and the other military installations.

Thank you for your consideration of HB 2445.

Highest regards,

A handwritten signature in black ink that reads "Dion P. Avello". The signature is written in a cursive, flowing style.

Dion P. Avello
Mayor

DPA:kbs

611 N. Mulberry · Derby, Ks 67037-3533 · 316/788-3132 · Fax 316/788-6067
Homepage: www.derbyweb.com E

House Committee on Veterans
Military and Homeland Security

Date: 2/2/2010

Attachment 15

House Committee on Veterans, Military, and Homeland Security

Hearing on House Bill 2445

Tuesday, February 2, 2010

Written Testimony of Bob Strawn

Mayor, City of Manhattan, Kansas

Chairperson Myers, Vice-chairperson Goico and Honorable Members of the House Veterans, Military, and Homeland Security Committee:

Please accept my written testimony in support of HB 2445 concerning land use adjacent to military installations. The City of Manhattan is fortunate to be a neighbor to the U. S. Army Installation Fort Riley. Fort Riley plays a critical role in our national homeland security mission, but is also a major economic engine for the Flint Hills region and the entire State of Kansas. We at the City pride ourselves on having a strong, collaborative relationship with our partners on post and frequently share information and resources on a variety of issues including housing, recreation, child care, and workforce development.

We understand that protection from development encroachment around the installation is important for the Department of Defense to achieve its mission at Fort Riley. HB 2445 formalizes protocols for the military and local communities to share information and achieve mutual goals for land use. Many of its mandated practices are already in place between the City of Manhattan and Fort Riley. HB 2445 represents the consensus of a working group of military representatives and local officials, and it addresses the concerns that were raised in the last session about a similar piece of legislation, HB 2169. The City of Manhattan supports this legislation because it reinforces our cooperative relationship with Fort Riley and the importance of joint land use planning. Thank you for

House Committee on Veterans
Military and Homeland Security

Date: 2/2/2010

Attachment 16



TESTIMONY TO THE HOUSE VETERANS, MILITARY AND HOMELAND SECURITY
ON HB 2445
FEBRUARY 2, 2010

Mr. Chairman and Members of the Committee:

I am Melissa Wangemann, General Counsel for the Kansas Association of Counties. I appear today in support of HB 2445.

This legislation was introduced during the 2009 session. Counties were concerned about some provisions in the 2009 bill that affected counties' ability to regulate local land use. Riley County led the discussions on the legislation with other local governments and the military in an attempt to find compromise. HB 2445 reflects a compromised agreement between all parties with an interest in this matter.

KAC supports this bill as a balanced approach amongst all the parties. We believe it addresses the concerns raised by the military without infringing on local governments planning and zoning abilities.

I would be happy to stand for questions.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Melissa A. Wangemann".

Melissa A. Wangemann
General Counsel and Director of Legislative Services

aseement

TAKING LIBERTY

Outline Thumbnails Search

1. Conservation Easements

2. Easements Come in All Sizes

Conservation Easements

In a conservation easement, the federal or state government, or a NGO land trusts buys all rights to development for typically 1/3 to 1/2 the cost of an outright purchase. All future increases in land value for development is lost to the original owner—

forever

articulate POWERED PRESENTATION

SLIDE 1 OF 10 | PAUSED | 00:19 / 00:20

NOTES

House Committee on Veterans
 Military and Homeland Security
 Date: 2/2/2010 (1-15)
 Attachment 18

asegment EXIT

TAKING LIBERTY

Outline
Thumbnails
Search

Conservation Easements

A conservation easement is a legal agreement between a landowner and a land conservation organization or government agency. The easement restricts some uses of the land in order to protect its natural, historical, or scientific value.

Easements

1. Conservation Easements

Easements Come in All Sizes

A conservation easement is a legal agreement between a landowner and a land conservation organization or government agency. The easement restricts some uses of the land in order to protect its natural, historical, or scientific value.

2. Easements Come in All Sizes

Taking Liberty

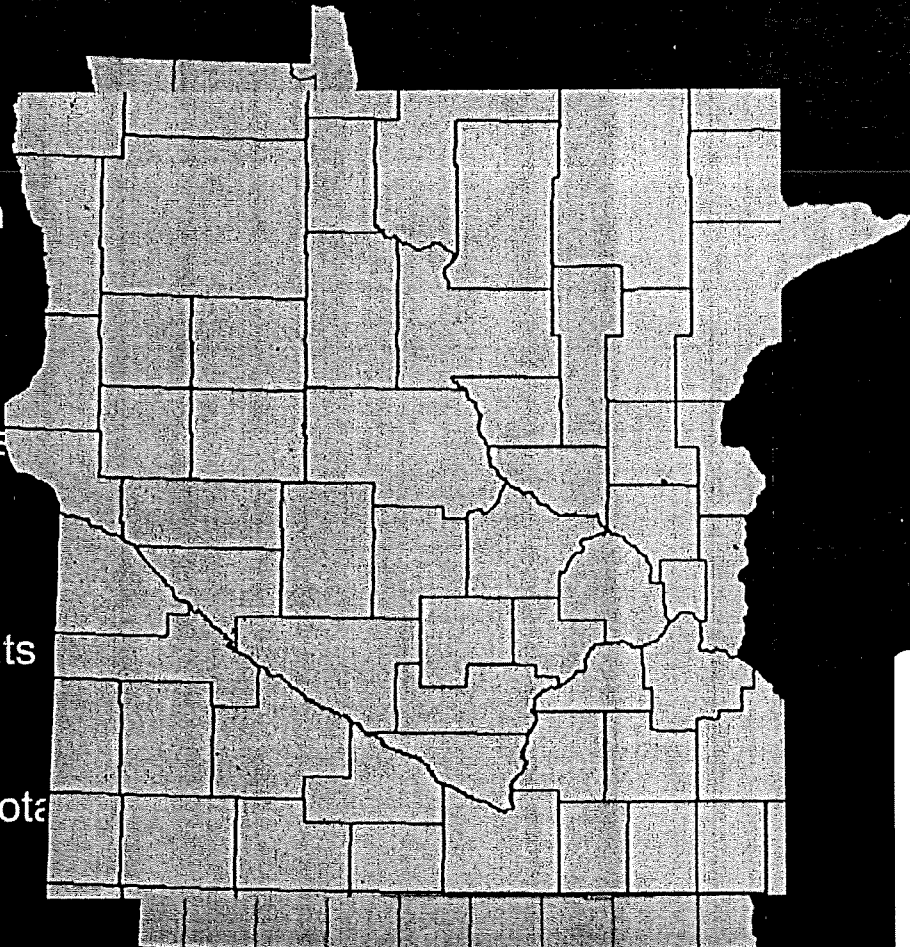
A conservation easement is a legal agreement between a landowner and a land conservation organization or government agency. The easement restricts some uses of the land in order to protect its natural, historical, or scientific value.

Easements Come in All Sizes

Individual conservation easements come in all sizes

Hundreds of thousands of acres in Maine.

More typically, conservation easements are hundreds or thousands of acres as exemplified by Minnesota



articulate
POWERED PRESENTATION

SLIDE 2 OF 10 | PAUSED | 00:13 / 00:14

NOTES


House Committee on Veterans
 Military and Homeland Security
 Date: 2-2-2010 (2-15)
 Attachment 18

easement **EXIT**

TAKING LIBERTY

Outline | **Thumbnails** | **Search**

1. Overview of Easement Regions



2. Easements Come in All Sizes

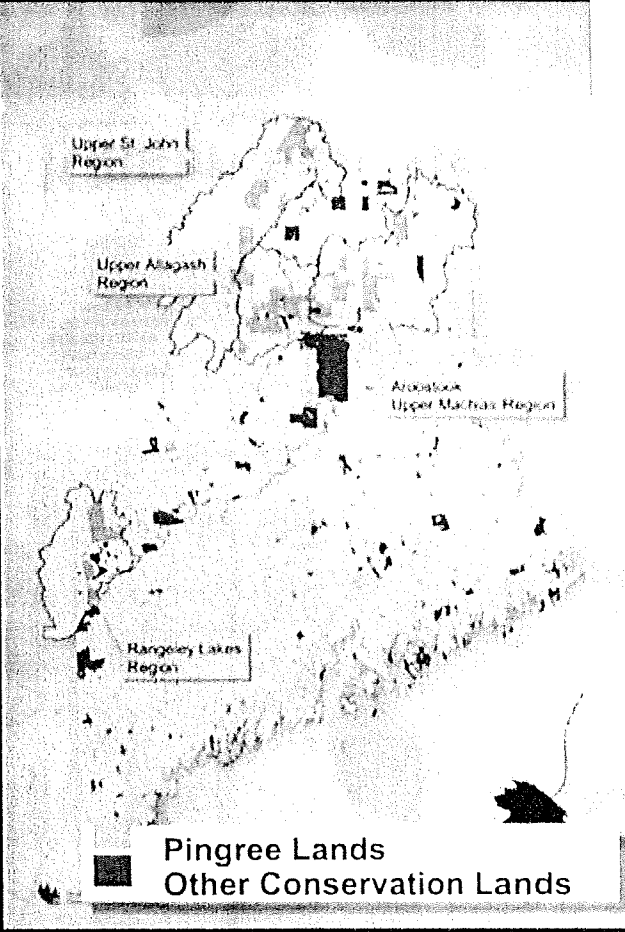
3. Strangling Land Use Laws Make Easements Attractive

4. Easements Undervalue Property

Strangling Land Use Laws Make Easements Attractive

Many landowners consider conservation easements as a source of revenue that has been lost because of onerous and often unneeded environmental regulations have made it increasingly difficult to make a living off of the land.

**PINGREE FOREST PARTNERSHIP
OVERVIEW OF EASEMENT REGIONS**



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POWERED PRESENTATION

SLIDE 3 OF 10 | PAUSED | 00:01 / 00:32

NOTES

House Committee on Veterans
 Military and Homeland Security
 Date: 2-2-2010 (3-15)
 Attachment 18

easement

EXIT

TAKING LIBERTY

Easements Undervalue Property

Outline Thumbnails Search

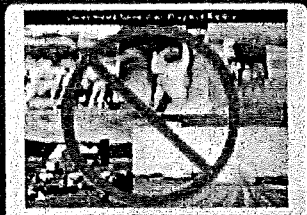
1. The National Flood Insurance Program is a federal program that provides flood insurance to property owners in participating communities. The program is a major source of flood insurance for many property owners.



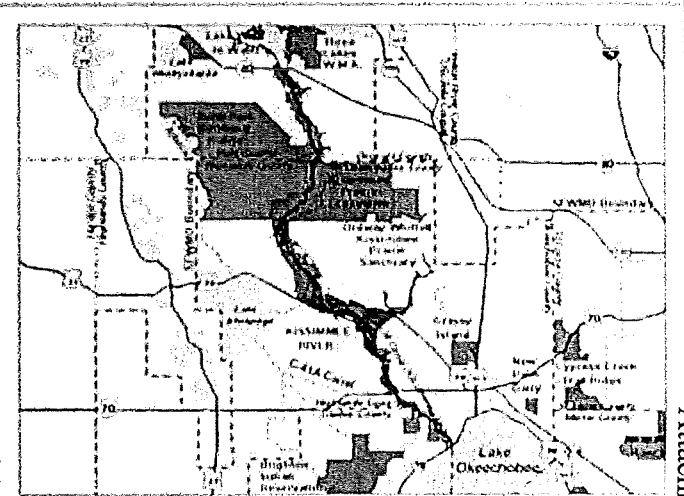
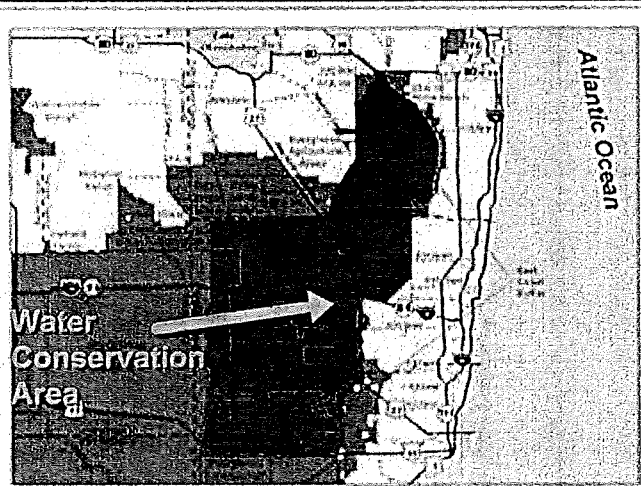
3. Strangling Land Use Laws Make Easements Attractive



4. Easements Undervalue Property



5. Landowners Lose their Property Rights



- Major Roads
- District Boundary
- County Lines
- SFWMD Canals
- SOR Lands Acquired
- Potential Acquisition Areas
- 2001 SOR Project Additions
- Other SOR Project Areas
- Other Conservation Lands
- Water Bodies



- Major Roads
- District Boundary
- County Lines
- SFWMD Canals
- SOR Lands Acquired
- Potential Acquisition Areas
- 2001 SOR Project Additions
- Other SOR Project Areas
- Other Conservation Lands
- Water Bodies



Water Conservation Areas

Kissimmee River (Lower Basin)

House Committee on Veterans
Military and Homeland Security
Date: 2-2-2010 (4:15)
Attachment 18

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SLIDE 4 OF 10

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00:51 / 00:54



NOTES



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TAKING LIBERTY

Landowners Lose their Property Rights

Outline | **Thumbnails** | **Search**

4. Easements Undervalue Property

5. Landowners Lose their Property Rights

6. Abuse of Conservation Easements

House Committee on Veterans
Military and Homeland Security
Date: 2-2-2010 (S-15)
Attachment 18

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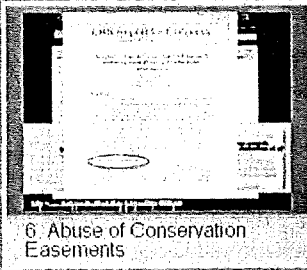
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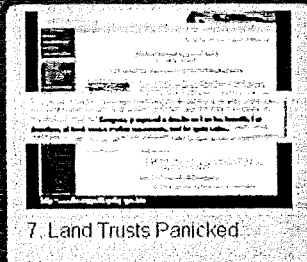
Outline
Thumbnails
Search



5. Landowners Lose their Property Rights



6. Abuse of Conservation Easements



7. Land Trusts Panicked

Order Code RS22213
July 29, 2005

CRS Report for Congress

Received through the CRS Web

Summary of Joint Committee on Taxation's Staff Proposals Relating to Charitable Contributions

Erika Lunder
Legislative Attorney
American Law Division

Summary

This report summarizes several proposals by the staff of the Joint Committee on Taxation dealing with charitable contributions that have received significant attention. The proposals would affect the treatment of contributions of conservation and facade easements, clothing and household items, and appreciated property. Legislation that incorporates these proposals has not yet been introduced. This report will be updated.

In January 2005, the Joint Committee on Taxation released a report that addresses ways to improve compliance with the tax laws and reform certain tax expenditures.¹ The report was written at the request of Senators Grassley and Baucus, but the proposals are suggestions by the Joint Committee's staff and were not approved by the Senators or their staffs. Three of the proposals would impose additional limitations on certain types of charitable contributions. No legislation has been introduced that incorporates these proposals. They are discussed below.

Conservation Easements

One proposal would impose additional limitations on the ability to claim a deduction for charitable contributions that are in the form of conservation easements.² Under current law, donors may claim a deduction for a qualifying charitable contribution of an interest in real property that is exclusively for conservation purposes.³ Conservation purposes are:

<http://www.independentsector.org/programs/gr/CRS.pdf>

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SLIDE 6 OF 10 | PAUSED | 00:21 / 00:28

NOTES

House Committee on Veterans
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Date: 8-2-2010 (6:15)
Attachment 18

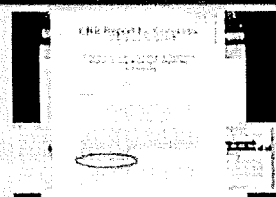
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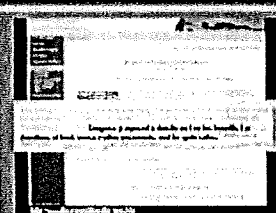
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5 Landowners Lose their Property Rights



6 Abuse of Conservation Easements



7 Land Trusts Panicked

Land Trust Alliance

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Public Policy:

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Protect Private Conservation A Call to Action!

Action Center Home | Background | Successes and Accomplishments

Congressional Action Center

Tax incentives for conservation - which help landowners to make donations of land and easements - are **essential** to land trusts. But conservationists cannot take these tax incentives for granted!

The Senate Finance Committee is working on an extensive re-write of the rules for conservation donations. In addition, last January, the Joint Committee on Taxation (JCT) of the **Congress proposed a drastic cut on tax benefits for donations of land, conservation easements, and bargain sales.** *Learn more.*

Tools for Action

Know the Facts!

- [Learn more](#) about current threats to conservation tax incentives
- Sign up for [Land Trust Advocates](#) to receive updates on this and other federal policy issues affecting land trusts

Write Your Senators and Representatives

- [Sample letter template](#) - read this sample and be sure to add a personal touch!

<http://www.lta.org/publicpolicy/ppc.htm>

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SLIDE 7 OF 10

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00:18 / 00:10



NOTES



House Committee on Veterans
Military and Homeland Security

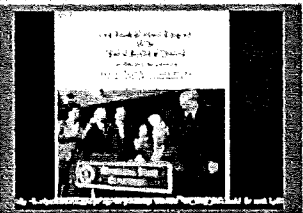
Date: 2-2-2010 (7-15)
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7. Land Trusts Panicked



8. Enter Rick Santorum



9. The Pension Protection Act of 2006



H. R. 4

One Hundred Ninth Congress
of the
United States of America

AT THE SECOND SESSION

*Began and held at the City of Washington on Tuesday,
the third day of January, two thousand and six*

An Act

To provide economic security for all Americans, and for other purposes

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. ~~SHORT TITLE AND TABLE OF CONTENTS.~~

(a) SHORT TITLE.—This Act may be cited as the “Pension Protection Act of 2006”.

~~(b) TABLE OF CONTENTS.~~—The table of contents for this Act (other than so much of title XIV as follows section 1401) is as follows:

Sec. 1. Short title and table of contents.

TITLE I—REFORM OF FUNDING RULES FOR SINGLE-EMPLOYER DEFINED BENEFIT PENSION PLANS

Subtitle A—Amendments to Employee Retirement Income Security Act of 1974

Sec. 101. Minimum funding standards.

Sec. 102. Funding rules for single-employer defined benefit pension plans.

Sec. 103. Benefit limitations under single-employer plans.

Sec. 104. Special rules for multiple employer plans of certain cooperatives.

Sec. 105. Temporary relief for certain PEOC settlement plans.

Sec. 106. Special rules for plans of certain government contractors.

Sec. 107. Technical and conforming amendments.

Subtitle B—Amendments to Internal Revenue Code of 1986

Sec. 111. Minimum funding standards.

Sec. 112. Funding rules for single-employer defined benefit pension plans.

Sec. 113. Benefit limitations under single-employer plans.

Sec. 114. Technical and conforming amendments.

Sec. 115. Modification of transition rule to pension funding requirements.

http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109_cong_bills&docid=f:h4enr.txt.pdf

articulate POWERED PRESENTATION

SLIDE 8 OF 10 PAUSED 00:39 / 04:43

NOTES

House Committee on Veterans
 Military and Homeland Security
 Date: 2-2-2016
 Attachment 18 (8-15)

easeement EXIT

TAKING LIBERTY

Outline Thumbnails Search

7 Land Trusts Panicked

8 Enter Rick Santorum

9 The Pension Protection Act of 2006

Increases the deduction from 30 percent to 50 percent of a donors income

Extends the 5 year carryover period to 15 years

Some donors can deduct up to 100 percent of their income if they qualify.

articulate POWERED PRESENTATION

SLIDE 9 OF 10 PAUSE 00:23 / 00:44

NOTES

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The Property's Title is Muddied

TAKING LIBERTY

Outline Thumbsails Search

8. Enter Rick Santorum

9. The Pension Protection Act of 2006

10. The Property's Title is Muddied

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SLIDE 10 OF 10 PAUSED 00:50 / 00:51

NOTES

TO SAVE THE STARS: *The McIvor Ranch Story*

BY DUSTI SCOVEL

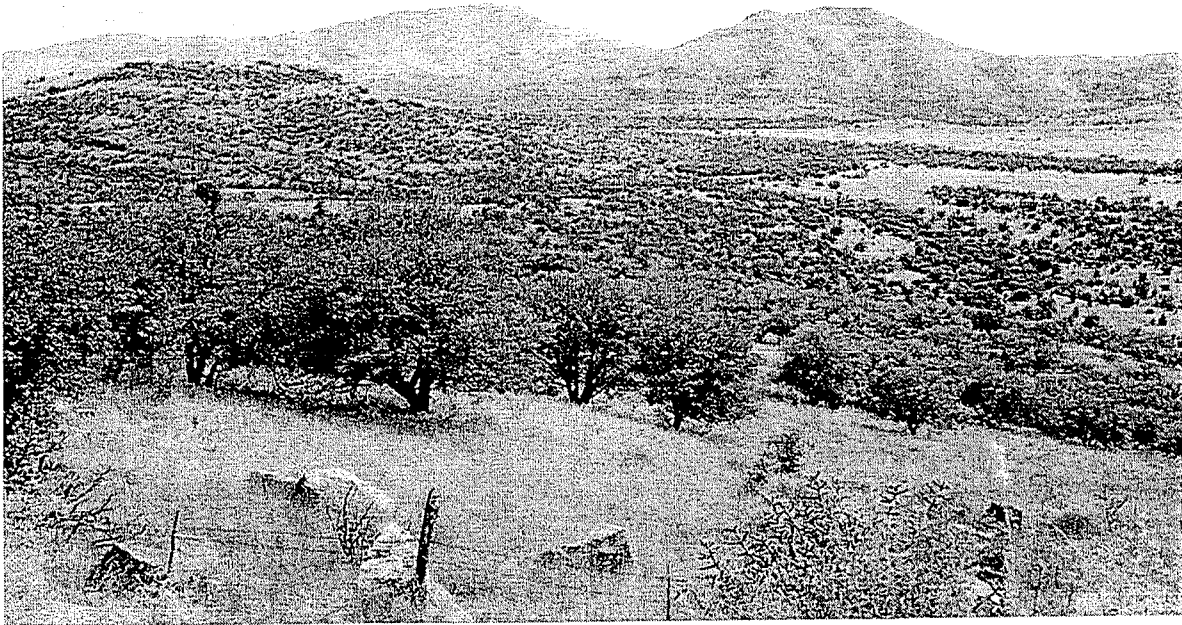


photo courtesy the McIvor Family

The U-Up-U-Down Ranch in the Davis Mountains of West Texas

20
Julie McIvor was varnishing a door to one of the rooms of the old ranch house on the morning I called. She was expecting my call but because we've discussed this issue before, she thought she could keep painting while we talked.

"Okay, Julie," I said. "Let's say I know a rancher who is considering doing a deal with the Nature Conservancy for a conservation easement on his land because he really needs the cash or he really needs the tax break. And, well, what they're proposing sounds pretty perfect. He'll get some cash up front, his taxes will be easier to swallow and his land will be protected from predator developers. In fact, it sounds pretty perfect. How would you tell him to approach the issue?"

I hear rustling noises in the background as the lid snaps

sharply back onto the paint can, the varnishing brush goes down and Julie's discourse begins - with a flat but emphatic "don't do it!" Clearly, Julie is not going to be varnishing a door during this conversation.

Julie McIvor and her husband, Scott, have a lot to say about conservation easements and rightly so. For more than a decade, the McIvors have lived under the thumb of the Nature Conservancy (TNC), thanks to a conservation easement Scott's dad, Don, gave the behemoth non-profit in 1996. When Don McIvor died in 2005, he died knowing that the legacy he so longed to leave his children had been nothing more than a land deal, another major coup for TNC in their mission to take over and control private property.

"DON MCIVOR THOUGHT HE WAS DOING A GOOD THING WHEN HE GAVE THE NATURE CONSERVANCY A CONSERVATION EASEMENT ON HIS WEST TEXAS RANCH. BY THE TIME HE REALIZED HE'D JUST GIVEN AWAY THE FAMILY HERITAGE"

The History

Don McIvor thought he was doing a good thing – in fact, the right thing. When his mother, Violet McIvor, died in the early 90's, Don and his sisters inherited the family's 40,000 acre ranch situated in the lush high country of west Texas, the Davis Mountains. The ranch, known as the U Up and U Down, had been in the McIvor family for well over a century. Like most cattle operations, no one was getting rich on the U Up and U Down, but it was a decent living and the quality of life was worth it.

Prior to Violet's death, property values for ranches in the Davis Mountains had skyrocketed. Because no family trust had been set up, Don and his sisters found themselves holding an enormous estate tax bill. The sisters, who lived elsewhere, were ready to sell out. But Don, who lived on the ranch wanted to keep what he could of the ranch to pass on to his son.

The McIvors have a long history in this predominately ranching community. Their cattle ranch had been around for over a century and in 1932, Violet McIvor donated land to the University of Texas for the world renowned McDonald Observatory, a project the McIvors continue to take great pride and interest in although very few people are aware of the McIvor's gift.

The Observatory became a major attraction for the Davis Mountains and brought thousands of visitors to the unique "sky islands." The dense forests, spectacular canyons and sweeping mountain views soon became the new place to live for claustrophobic city dwellers and Don worried that if development continued at the current pace, the "dark skies" required for the Observatory would be lost.

He would sell a major chunk of land to get the money to pay the taxes and keep what he could for Scott and his family. But the stars would be saved.

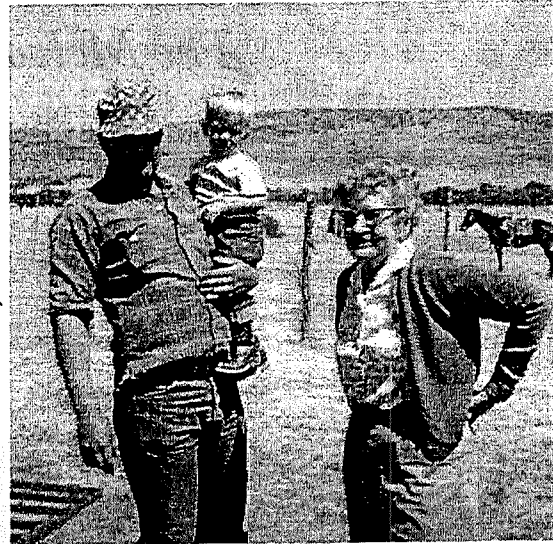


photo courtesy the McIvor Family

Don and Violet Locke McIvor and their son Scott

Selling the Ranch - The Nature Conservancy

Don knew a little about The Nature Conservancy but undoubtedly, he didn't know enough. In the 70's and 80's he had received several awards for his conservation efforts but times had changed and TNC was no longer the "two man office out of Austin" as Don would say.

Today, The Nature Conservancy is a multi-billion dollar organization with tentacles that stretch around the globe, casing out and taking control of vast pieces of land, either through arranged purchases or conservation easements. That land is then "held in trust for the public," which makes the property vulnerable to a whole host of

Spring Works at the U-Up-U-Down ranch early 1900s

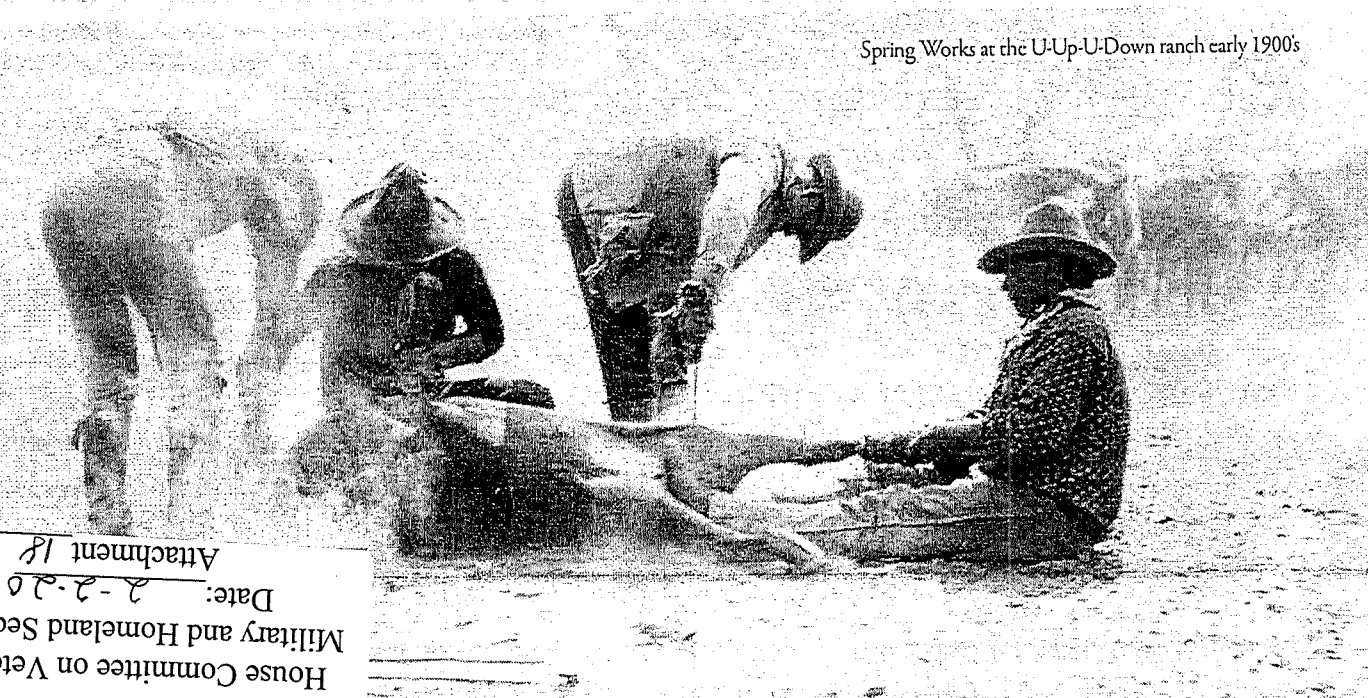


photo courtesy the McIvor Family

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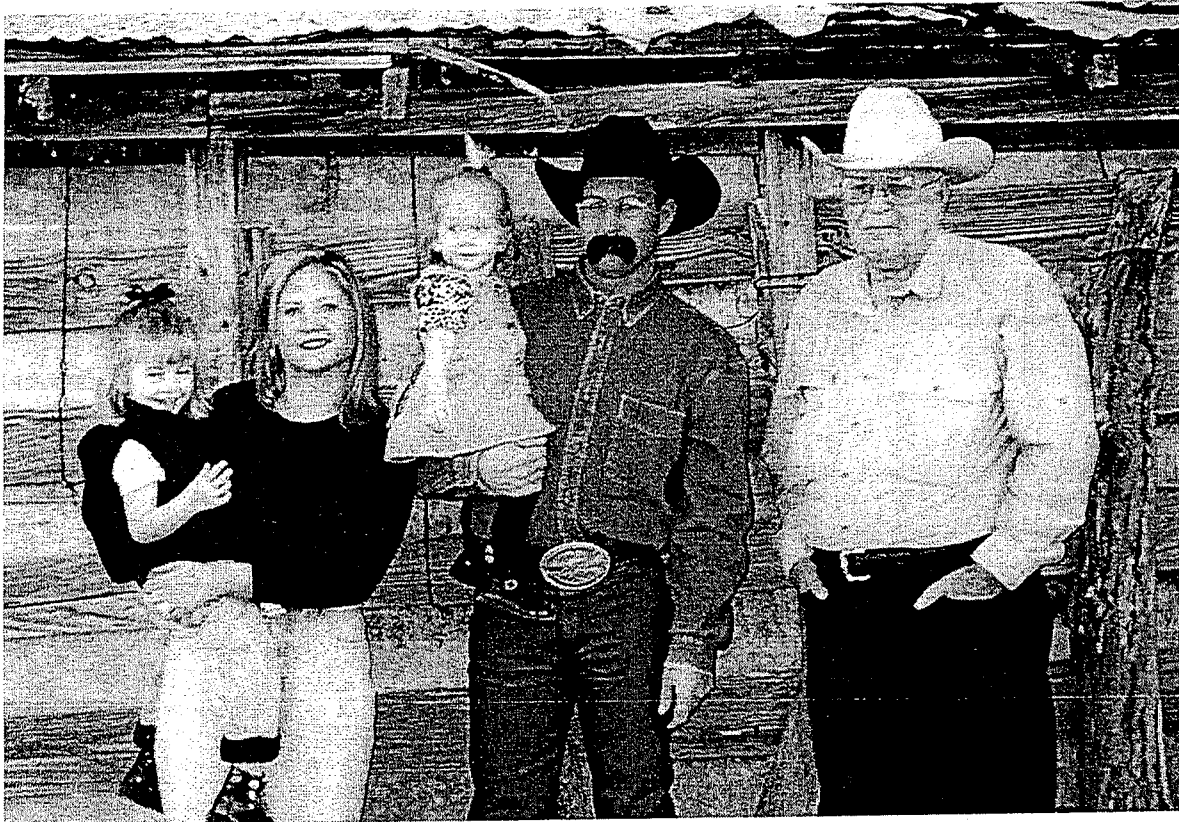


Photo courtesy the McIvor Family

(Left to right) Julie McIvor holding daughter Locke Ann, Scott McIvor holding daughter Mac and Don McIvor. Christmas 2000 on the ranch.

adverse possibilities down the road including eminent domain and mitigation.

Don did not want to sell the land to developers looking to build sprawling subdivisions or resorts nor would he sell to a government agency wanting to turn the ranch into a public park and he knew TNC was interested in land like his so that was his first call.

He was put through to James King, the Conservancy's state director of land acquisitions at the time. Don was encouraged to learn that King was just as interested in preserving the rambling vistas of the Davis Mountains as he was. Before long, the two had become fast friends.

"What Don didn't know," says Julie, "is the whole friendship deal is a lot more than what it seems. The Conservancy does major research in each area where they have an interest, listing all the major organizations and individuals, called Stakeholders, who might have an influence, good or bad, on their 'project' there. The list is extensive and includes all ranges of community groups, public and private, political and religious. They keep a tally sheet where they

document everything they know and what they don't know about these Stakeholders. It's all very well orchestrated to help them gain the trust and confidence of the landowners they're negotiating with or hoping to negotiate with. They want to be your friend."

Don McIvor was easy prey. He needed the cash from the sale of his land and King was putting a deal together to buy it. Plus, according to King, Don was going to be a hero of sorts, leaving a legacy of astounding proportions to future generations. Why, he would be known as the "Father of Conservation."

As Julie says, *"who would hear that and not want it?"* And Don did want it. His family had been ranching in these mountains for over a hundred years and they loved this land and the community.

Eventually, King presented a plan to purchase 32,000 acres of the McIvor Ranch. Nearly 18,000 acres of the ranch would become a nature preserve and to pay for the deal, the other 14,000 acres would be sold to six private buyers. Interestingly, one of the buyers was a distant cousin to King and another was a major TNC donor.

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was sold with a conservation easement already in place, reassurance to Don that a hefty portion of his ranch would forever remain in its natural state.

That's not exactly what happened. Each of the new landowner's Conservation Easements were custom designed to suit the owners. All the parcels now have custom built homes on them and one in particular has a home, a barn, a workshop and an 18,000 sq. ft. indoor riding arena. The parcel purchased by one of TNC's major donors has all sorts of potential. It allows for the building of a main house, a manager's house, an artist's cottage, tennis courts, a swimming pool and a barn. Ironically, when Don decided to build a home on his land, he was met with staunch resistance from TNC and had to get special permission to proceed – but more on that later.

Once the sale was complete, Don was left with the ranch headquarters and 6,500 acres. All was good. By selling the land, he had made enough money to pay the estate taxes, preserved the dark skies for the Observatory and kept a decent sized place to hand down to Scott and Julie and their two girls.

However, TNC wasn't done yet. James King had another idea. If Don would donate a Conservation Easement on his remaining 6,500 acres back to the Conservancy, it would soften the capital gains tax burden from the sale of the larger part of the ranch. It was only a one time tax break but it sounded good to Don – and he trusted King. Surely he wouldn't advise him to do anything that would adversely encumber his remaining home place. After all, King had said the McIvors could continue to live and work the ranch just like they had been. What did he have to lose?

The Awakening

Don's first clue came a little over a year later when he decided to build a home at the base of Blue Mountain, a local landmark that was part of Don's remaining 6,500 acres. Soon after construction began, Don heard from his old friend, James King, now in a new position as program director for The Nature Conservancy in Fort Davis. It seems Don's Conservation Easement didn't allow for any additional buildings on this part of his property.

Don was confused. Had giving the easement to TNC transferred total control of the land to them as well? Don soon realized it had. In fact, the easement made him merely a tenant with TNC as a landlord. Though eventually the Conservancy granted Don an amendment to the easement and allowed his house to go up, the bitter taste of reality was there to stay.

The Fine Print

In the ten years since his dad unknowingly handed over control of his ranch to The Nature Conservancy through a conservation easement, Scott and his wife Julie have spent many sleepless nights worrying about the future of their ranch. While Don did have legal counsel when he signed the easement, the long term ramifications were never clearly explained. By the time the family got a clear understanding of what the documents meant, it was too late to do anything about it.

"What people don't realize," Julie says, "is that these easements and their restrictions are in perpetuity – that means forever. We really need to plant wheat in one of our fields but because the field was being rested and not in use when the easement was signed, we can never use it for anything. That's hard. Knowing we could improve our production significantly if we were able to use our land. But we can't. If the restrictions and control had been made clear, the easement would never have been signed."

"People have to consider what they're leaving their future generations. Don't leave them with restrictions and constraints that you didn't have to live with. No one can predict what will happen in a year, ten years or fifty years. The market changes, business models change, everything changes and just like you had to roll with the punches and make it work, they will need the freedom to do the same."

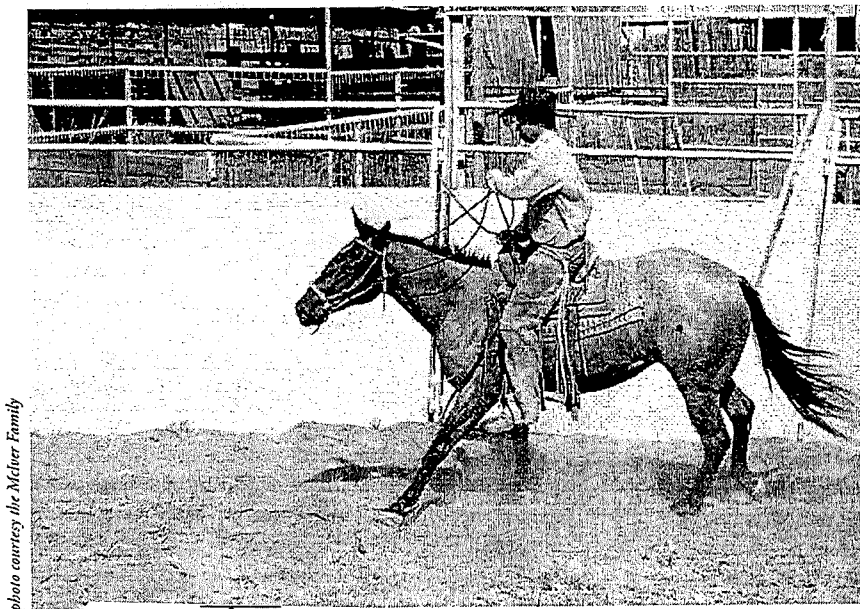


Photo courtesy the McIvor Family

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Military and Homeland Security
Date: 2-2-2010
Attachment 18 (14-15)

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PEOPLE HAVE TO CONSIDER WHAT THEY'RE LEAVING THEIR FUTURE GENERATIONS. DON'T LEAVE THEM WITH RESTRICTIONS AND CONSTRAINTS THAT YOU DIDN'T HAVE TO LIVE WITH. NO ONE CAN PREDICT WHAT WILL HAPPEN IN A YEAR, TEN YEARS OR FIFTY YEARS.

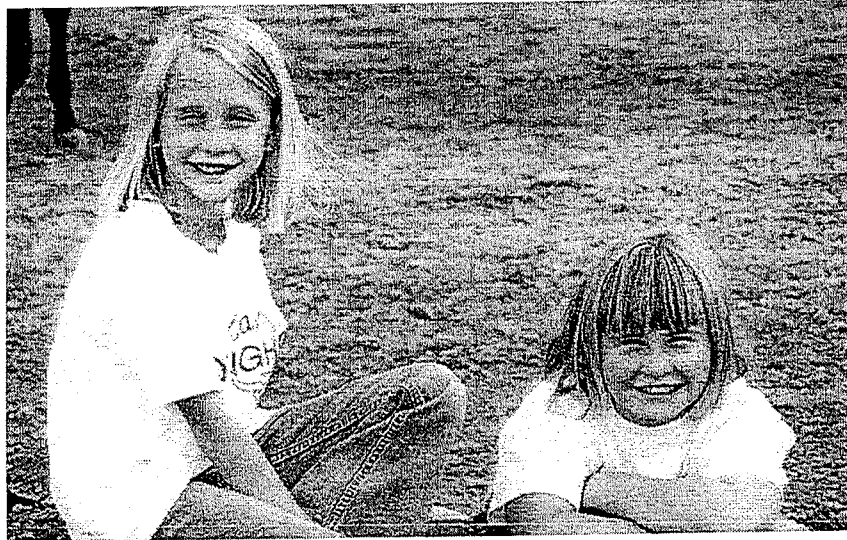


photo courtesy the McIvor Family

Locke Ann McIvor, left, and her sister Mac, photographed on the family ranch, September 2007

The McIvor's advice to anyone considering signing a conservation easement:

1. Get good legal advice from a property rights attorney. Do the research and find an attorney (preferably talk to several), who understands Conservation Easements and their long term effects. Call your state bar association for listings of attorneys who specialize in private property rights. If you belong to a property rights organization, ask them for recommendations or contact and join a property rights group. They can provide a wealth of information about these kinds of issues.
2. Talk to other people in similar situations (if you're a cattle rancher, try to find other cattle ranchers) who have done a Conservation Easement and are living with it. The more you can talk to, the clearer you'll be about what to expect. Don't rely strictly on contacts provided by the Land Trust you're working with. Ask around and find some landowners on your own so you will have more objective input.
3. Consider the implications of perpetuity. Whatever constraints the Conservation Easement places on your property remains in place for all of time. Really think about the long term effects of those constraints and the impact they will have on you and your heirs.
4. Consider this. When you give an easement on your property, it becomes public land held in trust by the Land Trust you grant the easement to. While it doesn't immediately give the public access to your land, it has become a public land. And it will remain on a list of public lands forever.

24



Dusti Scovel writes from her home ranch in Texas. She has written about ranching and rangeland issues for Range magazine and Stewards of the West. To learn more visit her website at

House Committee on Veterans
Military and Homeland Security

Date: 5-2-2010
Attachment 18 (5-15)

AMERICAN STEWARDS

of Liberty

February 2, 2010

The Honorable Don Myers, Chairman
Veterans, Military and Homeland Security
Statehouse, Room 561-W
Topeka, Kansas 66612

Re: House Bill 2445 – In Opposition

Dear Chairman Myers,

Thank you for the opportunity to register our concerns and opposition to HB 2445.

The video presentation you are showing today called *Taking Liberty* was produced by my organization American Land Foundation. We are a non-profit private property rights organization formed in 1994 by the Farm Credit Bank of Texas. *Taking Liberty* shows how our nation is destroying our liberty by taking private property through government edicts and environmental programs, such as what will occur here.

We support our military and the men and women who protect our nation and our freedoms, but HB 2445 is nothing short of an encroachment upon the freedoms and private property ownership of the people whom our military has sworn to protect and defend.

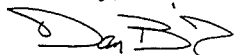
For several years, we in Texas have also fought against the type of land use controls attempted by this legislation. Please understand, the “areas” defined in this bill are nothing more than ways the government or a non-governmental organization (NGO) can control growth, development, and private property, which will do nothing but destroy property values and stifle economic growth surrounding these military bases. Why today would anyone wish to destroy the economic well being of a community?

The “critical areas” HB 2445 wishes to legislate prove to me that this bill is an attempt to control land use thereby destroying the property values of those landowners who are unfortunate to own next to a military facility. Our government, at one point in time, took the original land for the base in question. NGO’s and military bases would have you believe that the cities are encroaching on them and that is why this legislation is needed. In fact, it is the military that wishes to encroach on the cities and stifle growth.

This bill, in actuality, is a way for NGO’s to use federal and state laws to further their agenda using conservation easements and habitat conservation plans, a way for developers to build new homes through mitigation, military facilities to expand, and cities to pass new zoning laws using “smart growth” policies. The only ones not benefiting from this bill are the landowners who surround these bases. Sec. 2, (b)(2)(J) on page 3 will totally destroy the value of any property having to disclose such language.

I implore you not to pass this bill in any form. Page 4 contains the only two paragraphs that make any sense – Sec. 2 (c) and Section 4. Nothing prevents cities and the military today from entering into any agreements and all final decisions should rest with each municipality adjacent to each military installation. The government nor any NGO should have the ability to force anything upon its citizens.

Sincerely,



Dan Byfield, CEO

House Committee on Veterans
Military and Homeland Security

Date: 2/2/2010

Attachment 19

Highlands Livestock Service

Roy E. Dixon

1916 Labrador Blvd. #2

Garden City, Kansas 67846

Cellular: (785) 694-3247 Fax: (620) 260-9370

E-Mail: roy.dixon@sbcglobal.net

Livestock Nutrition/Formulated Rations/Feed/Livestock and Operations Management

02 February 2010

Good Afternoon

I am Roy Dixon, Highlands Livestock Service. My family has ranched and farmed in the states of Kansas and Colorado.

As owner of Highlands Livestock Services, I consult throughout the States and overseas.

In the past several years, helping producers get financed or refinanced, a major stumbling block has been with ground commented to conservation easement programs and/or Nature Conservancy.

Such has caused a drop in Land Values, problems in financing and/or sale of such ground commented to such programs. Thus impacting land values of neighbors to such commented ground.

Also; in addition, programs with the Nature Conservancy, has caused land value decline for neighbors such as "their" unrealistic approach to such animals as the prairie dogs, which have destroy thousands upon thousands of acres throughout the country.

Many programs with Conservation Easement and Nature Conservancy will devalue properties throughout the nation.

We, in agriculture, suffer enough hardships. I firmly stand against all such programs in the State of Kansas and this Nation.

Had I been informed earlier than this morning, I would be in Topeka today giving testimony.

Highlands Livestock Service

Roy E. Dixon

1916 Labrador Blvd. #2

Garden City, Kansas 67846

Cellular: (785) 694-3247 Fax: (620) 260-9370

E-Mail: roy.dixon@sbcglobal.net

Livestock Nutrition/Formulated Rations/Feed/Livestock and Operations Management

Please take time to consider the full economic impact upon grass roots agriculture.

Thank you, Roy E. Dixon



Luke Bell
Vice President of Governmental Affairs
3644 SW Burlingame Rd.
Topeka, KS 66611
785-267-3610 Ext. 2133 (Office)
785-633-6649 (Cell)
Email: lbell@kansasrealtor.com

To: House Veterans, Military and Homeland Security Committee

Date: February 2, 2010

Subject: **HB 2445** -- Imposing Numerous Restrictions on Land Use Near Military Installations

Chairman Myers and members of the House Veterans, Military and Homeland Security Committee, thank you for the opportunity to appear in front of you today on behalf of the Kansas Association of REALTORS® in opposition to the language in Section 2(b)(2)(H) of **HB 2445**. Through the comments expressed herein, it is our hope to provide additional legal and public policy context to the discussion on this issue.

KAR has faithfully represented the interests of the nearly 9,000 real estate professionals and over 700,000 homeowners in Kansas for the last 90 years. In conjunction with other organizations involved in the housing industry, the association seeks to increase housing opportunities in this state by increasing the availability of affordable and adequate housing for Kansas families.

Section 2(b)(2)(H) on page 3 of **HB 2445** would require a city or county surrounding a military installation to “consider the adoption of a mandatory disclosure requirement for any property within any agreed upon critical area of a state area of interest, which would inform a buyer of the potential for impact from noise, smoke, dust, light, electromagnetic interference and aircraft safety zones on the landowner produced by normal military options.”

In our opinion, the mandatory disclosure requirements created by this section would unnecessarily duplicate and cause potentially harmful confusion with the existing Seller’s Property Disclosure Statements that have been adopted and are currently in use by the various REALTOR® associations in Kansas. Under existing state case law, a seller is already required to disclose any of these items to the buyer if they constitute a “material defect” on the property and the current forms provide them with a clear opportunity to do so.

Furthermore, cities and counties do not need any additional statutory authority to adopt additional disclosure requirements for real estate transactions that occur within their respective jurisdictions. If a particular city or county chooses to adopt a new disclosure requirement to cover these situations, they already have that authority notwithstanding the language in Section 2(b)(2)(H).

However, we believe the language in Section 2(b)(2)(H) could be construed to require cities and counties to adopt a mandatory disclosure requirement regarding these issues. In closing, we believe that this would cause unnecessary duplication and confusion with existing disclosure requirements and that such decisions should be left up to the complete discretion of local governments.

For all the foregoing reasons, we would urge the members of the House Veterans, Military and Homeland Security Committee to strongly oppose the language in Section 2(b)(2)(H) of **HB 2445** as it is currently written. Once again, thank you for the opportunity to provide comments

House Committee on Veterans
Military and Homeland Security
Date: 2/21/2010
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