

To: Senate Committee on Natural Resources

From: Richard Ranzau, Sedgwick County Commissioner

Date: March 14, 2013

Re: **SUB HB2051**

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Chairman Powell and committee members thank you for the opportunity to provide testimony in **SUPPORT of SUB HB2051**.

This bill combines HB2051 and HB2073. HB2073 was the bill we (Sedgwick County) supported to give counties the ability to do stream maintenance without the need for a permit under the Stream Obstruction statute. It also contained language to exempt agricultural crossings from permitting requirements. We worked with DWR and DOA to combine the two bills and we think we have come to a good bill that we all support.

Our changes with respect to county maintenance are found on page 7 in Sections 5 and 6. DWR and DOA agreed to all of these changes and we are very happy with these sections.

With respect to our language to exempt agricultural crossings, DWR and DOA did not like our proposed changes. They suggested the language found on page 2-3. We feel this is a good compromise.

Also, HB2051 originally proposed to remove the exemption for jetties and revetments. We opposed this and ultimately we agreed to remove jetties but retain the revetment exemption.

Bottom line, please **SUPPORT** this bill. It will not solve all of our permitting problems and but it will help significantly.

**Background:** Sedgwick County has been doing routine stream maintenance throughout the county for decades. We do this maintenance to help decrease local flooding during periods of heavy rainfall. We have never previously needed a permit for this activity. That all changed in August/September 2011 when we were notified by DWR that we had to stop maintenance we were doing in Dry Creek and get a permit before continuing. This permitting process ultimately took over 1 year to complete and involved at least 7 different state agencies and 3 federal agencies (EPA, Army Corp, and Dept of Interior).

Before we could obtain the permit, the Army Corp of Engineers "*required mediation for loss of riparian zone*" and the Kansas Department of Wildlife and Parks mandated mitigation for the "*loss of habitat for the Eastern Spotted Skunk*", even though there was not any actual loss of riparian zone or habitat. We have before and after photos of various projects (available upon request) that clearly demonstrate that our activities do not create any permanent loss of

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habitat or riparian zone. Nevertheless, we found ourselves in the position of needing to find a solution for a problem that did not actually exist. Our options were an In-Lieu-Fee of \$376,000 or setting aside 4.4 acres for "mitigation" purposes. Ultimately, we decided to set aside the land.

Additionally, in September 2012 a constituent of mine was ordered to stop work on an intermittent stream that runs through his pasture. This stream only has water in it when it rains and it has a cattle crossing that has been in existence for at least 50 years. Over time, the west bank of the crossing had become unstable and was deteriorating. So, he began the process of creating a "*revetment for the purpose of stabilizing a caving bank*" which is clearly permitted by KSA 82a-301. Incredibly, DWR ordered him to remove both the revetment and the cattle crossing. He was forced to pay \$200 for a permit before he could create another cattle crossing. The action taken by DWR was completely unnecessary and, in the case of the revetment, clearly a violation of state law. HB2051 originally sought to remove the exemption for jetties and revetments. Also, DWR has said that the feds exempt agricultural crossings from their permitting requirements. It seems that it would be reasonable for State of Kansas to do the same.