

Central Kansas Conservancy
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TESTIMONY IN OPPOSITION TO

House Bill 2062

My name is Michele Cullen I am from McPherson, KS. I am the President of the Central Kansas Conservancy, a Kansas non-profit trail organization responsible for 45 miles of railbanked right of way in McPherson and Marion counties.

We are working to complete a 12-mile section between McPherson and Lindsborg, the Meadowlark Trail which was railbanked in 1996. Six and one-half miles are complete and open to the public. We also have the Sunflower Santa Fe trail which is 33 miles in length stretching from just east of McPherson to Marion.

Work continues but not without controversy and litigation. Trail volunteers have been continually harassed and threatened. Contractors doing work on the trail have been threatened with litigation by two adjacent property owners. Gunshots have repeatedly been fired in the direction of volunteers and law enforcement has been involved multiple times. Despite property surveys and multiple court decisions affirming CKC's right to develop this trail, and court orders to remove all barricades, these two adjacent property owners on multiple occasions continue to block trail access with equipment, illegal fences and threaten volunteers with gunfire. Contempt of court proceedings against the property owners are underway as we speak.

As a result of repeated court losses, we believe the change requested in HB 2062 to the Kansas Recreational Trails Act is an attempt by these trail opponents to improve their chances in court of stopping this trail development.

A recent article in the McPherson News Ledger about Rep. Les Mason, highlighted rural communities' concerns about dwindling populations. Larger cities have more amenities to attract young families and people are more willing to commute to work. Things like parks and trails are an excellent way to attract and retain young families.

The support in our community has significantly grown over the last 6 years. We used to have trail work days where we hoped two to three volunteers would participate. Now we have 15 to 25 invest their time and efforts. This shows the support for the project and the community's willingness to give their personal time and money to make sure this trail is completed.

We have had conversations with Mid-Kansas Co-op to educate our trail users with signage pertaining to the crops they may be passing and the purpose of the grain elevator they see while using the trail.

We have high school and college students on the trail working towards their required community service hours. We have an on-going relationship with McPherson Community Diversified Services. They bring their clients on the trail to experience nature as they help with minor chores that fit their skill capabilities.

For the past five years we have had a fundraising race on the trail. This event attracts many out of town competitors. They come to our community using our hotels, restaurants and shops. A person in town was picked to participate in a major television commercial for Chantix. Part of the commercial was filmed on the trail, because this is where she exercised while on her mission to stop smoking.

I sometimes will get out there at about 6:00 am in the morning for a bike ride and I see this sweet couple. They must be in their late 70's possibly early 80's. They told me they walk the first mile every day, taking a minute to stop and sit at the bench we call the sunrise bench. They could walk anywhere in town, but they choose the trail.

My concern is, if this act is rewritten as it has been presented, it will create more difficulties for organizations such as ours to build trails. The creation of more difficulties will not be good for the people or the economy of Kansas.

Litigation and recent incidents on the Meadowlark Trail

June 1, 2018:

Judge Marilyn Wilder ruled:

- CKC does have the right to develop the trail and Mr. & Mrs. Sides were to remove all barricades by June 10th so trail development could continue.
- The Sides were to have a survey completed at their expense by June 30, 2018 if they felt one was necessary.
- Defendants were not to interfere with the development of the trail.

June 30, 2018:

- Sides filed an appeal of the Judge's order

July 7th

- Volunteers began working to clear the old, unmaintained fence row in order to be able to install a new fence that Sides had requested.
- Gunshots were fired on the Presnell's property to intimidate workers. When bullets ricocheted over the heads of volunteers the Sheriff's department was called.
- The defendants were present and threatened volunteers with law suits when they won their appeal.

On August 11, 2018:

- Clinton and Kimbra Sides placed themselves unreasonably close to trail volunteers trying to intimidate and harass them. This was very dangerous due to the fact volunteers were using chain saws to cut down trees. Clinton went as far as to jump under a branch that was in the process of being cut to stage it falling on him.
- Mr. Sides threaten to sue volunteers personally after he won the appeal. He also threatened to sue another volunteer personally and the bank of which he is the President.

On September 7, 2018

- An accounting company from McPherson chose trail work for their community service project.
- At approximately 10:15 that morning volunteers were on the bridge which would have been visible from the Sides home. Four to five shots were fired in an attempt to intimidate volunteers.

September 8th:

- Approximately 10:15 am guns shots were heard being fired from the pasture on the east side of the trail, west of Sides home. Volunteers on the right of way then heard bullets going over their heads hitting the trees and leaves in their area. The Sherriff was called, and it was determined that Levi Sides, son of Clinton and Kimbra Sides was shooting the gun.

On September 11, 2018:

- A letter was sent from Mr. and Mrs. Sides lawyer to the contractor with whom we had contracted to prep the trail surface and apply limestone screenings indicating that if they won the appeal, they would sue him for damages. The same letter was sent to a contractor who was donating his equipment and time helping us on the trail. In the same time frame the same letter was sent to our fencing contractor.

August early September 2018:

- The same contractor was installing a culvert at the entrance to the trail at Pioneer road. This is a section of trail adjacent to Tracy and Darla Presnell's property. Mr. Presnell blocked their equipment with a vehicle making it very difficult for the technician to complete the project.

Mid-October 2018:

- CKC filed a Contempt of Court case against Mr. and Mrs. Sides.
- Case continues Feb. 11, 2019.

January 14, 2019:

- Mr. Sides attorney ask to have the case dismissed.

January 23, 2019

- Judge Wilder sent notification through letter that the Court is simply overruling the Motion to Dismiss based on the affidavit by Michele Cullen and the evidence presented.
- Mr. Presnell has blocked access to approximately one quarter mile of right of way that is adjacent to his property. He has parked a vehicle across the right of way about ¼ mile into the trail south of Pioneer Road and a tractor at the entrance of the trail along with a barbwire fence with a sign stating No Trespassing.
- Mr. Presnell has filed a suit against CKC over the development of this stretch of the Right of Way. He is representing himself and CKC has just filed arguments with the court. We are waiting on a court date for this case.

March 19, 2019:

- Mr. and Mrs. Sides appeal will be heard on March 19th, 2019.