

**Testimony before the House Committee on Agriculture and Natural Resources  
Supporting HB2073 and Opposing portions of HB2051  
Thursday, February 7, 2013**

Please let me share with you the background behind HB2073 and my concerns about HB2051, both of which are assigned to the House Committee on Agriculture and Natural Resources.

HB2073 amends KSA 82a-301 to allow counties to perform routine stream maintenance without needing to get a permit. It also exempts agricultural crossings from the permitting requirement. Please **SUPPORT** HB2073.

HB2051 also makes several changes to KSA 82a-301. One of the changes eliminates the exemption for *"jetties or revetments for the purpose of stabilizing a caving bank"* (page 2 lines 12-14). Another change eliminates an alternative process of obtaining project approvals (page 3 line 28 thru page 4 line 12). Please **OPPOSE** these changes.

**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 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. Now, HB2051 seeks to remove the exemption for jetties and revetments. Interesting timing if you ask me. 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.

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House Agriculture & Natural  
Resources Committee  
Date 2-07-2013  
Attachment # 6

**From:** [bkupfersmi@aol.com](mailto:bkupfersmi@aol.com) [mailto:[bkupfersmi@aol.com](mailto:bkupfersmi@aol.com)]  
**Sent:** Wednesday, February 06, 2013 8:56 AM  
**To:** Ranzau, Richard L.  
**Subject:** Re: Stream Obstruction Bills - HB2073 and HB2051

richard please include this letter in youre testimony,in septmember of last year,i filled in a enbakement on my property that had been washed out,not knowing this was illegal to do without a permit,i received a harrasing letter in the mail,from the kansas department of agriculture informing me i had to remove the concrete i had put in the washed out enbankement,plus to remove a culvert and cattle crossing that had been there for at least 60 years,that was not stoping water flow,keep in mind this is a very small creek that runs through just my property,i was treated like a criminal over this,by doing what they told me to do,my cattle had no way to cross between my 2 pastures,this crossing was the only crossing on my property,while they were taking 3 months to approve a low water crossing and sending this permit to 7 different agencies,i feel this has been a huge deal over nothing,and a huge waste of my time and money and a huge waste of tax payer dollars,please support hb 2073,i feel that this ordeal has been a big infringement on my personal property rights.

thank you for youre time,

Brian Kupfersmith

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