



STATE OF KANSAS

Office of the Attorney General

1st Floor, State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

Curt T. Schneider
Attorney General

February 6, 1976

ATTORNEY GENERAL OPINION NO. 76- 45

Ms. Vivian Erickson
Register of Deeds
Cloud County Courthouse
Concordia, Kansas 66901

Re: Navigable Rivers--Riparian Ownership--Republican River

Synopsis: The Republican River is a non-navigable river. It is the law of this state that owners of land riparian to non-navigable streams or rivers own the bank and bed of such streams or rivers to the center thereof.

* * *

Dear Ms. Erickson:

You have requested an opinion from this office inquiring as to the extent of riparian land ownership along the Republican River. Specifically you ask whether a land owner holding title to property adjacent to the Republican owns only to the bank or to the center of the river including the bank and bed thereunder.

Our research reveals that the Congress of the United States has never declared the Republican river in Kansas to be navigable. Neither has this state's legislature or supreme court ever accorded navigable status to the Republican. Absent such specific legislative or judicial determination we must conclude that the Republican river for the purposes of ascertaining riparian land ownership rights is a non-navigable river.

It has long been the law of this state that the property rights of landowners riparian to non-navigable streams and rivers extend to the thread of the stream. *Wood v. Fowler*, 26 Kan. 682, 40 Am. R. 330

Ms. Vivian Erickson
Page Two
February 6, 1976

(1882); *Webb v. The Board of County Commissioners*, 124 Kan. 38, 257 Pac. 996 (1927). In the case of *Kregar v. Fogarty* the Kansas Supreme Court concluded unequivocally:

"Under the common law of this state the title of a riparian owner upon unnavigable waters extends to the thread of the stream." 78 Kan. 541, 549, 96 Pac. 845 (1908).

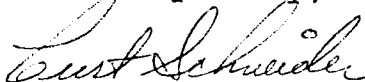
The court in a later case stated:

"The term 'private waters' is ordinarily used to designate nonnavigable waters. The title to the beds of nonnavigable rivers is in the riparian owners and not in the state." (Syl. ¶ 1.) *Piazzek v. Drainage District*, 119 Kan. 119, 237 Pac. 1059 (1925).

See also, *Railroad Company v. Schurmeir*, 74 U.S. 272, 287; 19 L. Ed. 74 (1868).

The above referenced cases represent the current status of the law relative to riparian land ownership along non-navigable waters in this state. Accordingly, it is the opinion of this office that riparian landowners along the Republican river running through this state hold title to the center of said river which includes therefore the banks and bed thereunder.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS:JPS:kj