

Approved: March 23, 2004 *Carl Dean Holmes*  
Date

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES.

The meeting was called to order by Vice-Chairman Carl Krehbiel at 9:08 a.m. on February 23, 2004 in Room 231-N of the Capitol.

All members were present except: Representative Eric Carter  
Representative Mary Compton  
Representative Nile Dillmore  
Representative Carl Holmes  
Representative Jim Ward

Committee staff present: Mary Galligan, Legislative Research  
Jo Cook, Administrative Assistant

Conferees appearing before the committee: Donna Johnson, Pinnacle Technology  
Pat Hughes, Tallgrass Ranchers  
Representative Peggy Long-Mast  
Pete Ferrell  
Roger Zimmerman  
Jennifer States, JW Windpower  
Martin Peck  
Trudy Aron, American Institute of Architects of Kansas  
Brad Beecher, Empire Electric  
Elizabeth Hendrix  
James Perkins  
Jay Barnes, Kansas Natural Resource Council  
Scott Schneider, Kansas Wind Coalition  
John Hund  
Rose Bacon  
Michael Stubbs  
Deborah Devine  
Larry Patton

Others attending: See Attached List

**HB 2799 - Moratorium on wind turbine development in the Flint Hills region**

Vice Chairman Krehbiel opened the informational hearing on **HB 2799**. He told the committee and others attending that, considering the number of people wishing to speak, each speaker would be limited to approximately 5 minutes so that everyone who wished to speak would be able to and to allow for questions.

Donna Johnson, President of Pinnacle Technology, Inc., addressed the committee on **HB 2799** (Attachment 1). Ms. Johnson told the committee that there were many developers looking at land in the Flint Hills, but only those with signed power purchase agreements will actually develop their projects. She also stated that there would be only about 150 to 200 turbines in the entire Flint Hill region.

Mr. Pat Hughes, representing the consortium Tallgrass Ranchers, shared a power point presentation (Attachment 2) addressing several aspects of **HB 2799**. Mr. Hughes explained why the Flint Hills are an important resource for tourism and maintaining a nationally recognized treasure. He also shared why the group believes wind turbines in the Flint Hills are inappropriate and what damage could be caused by their placement. Included with Mr. Hughes' testimony is a map delineating the ecoregions of Nebraska and Kansas.

Representative Peggy Long-Mast, sponsor of **HB 2799**, thanked the committee for their attention to the issue of wind energy (Attachment 3). Representative Long-Mast stated she was thankful for the opportunity to educate the committee on a significant issue that could effect both the economy and the beauty of the Flint Hills.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES, Room 231-N Statehouse, at 9:08 a.m. on February 23, 2004.

Pete Ferrell, Beaumont, Kansas, shared comments about wind energy (Attachment 4). Mr. Ferrell told the committee that his family had been on the same land since 1888 and had been using wind energy since 1940. He said that he had first been approached about a commercial wind farm on his ranch in 1994. He shared his beliefs on how the economics and ecology of wind energy will effect his family's future.

Roger Zimmerman, Alta Vista, Kansas, addressed the committee on HB 2799 (Attachment 5). Mr. Zimmerman told the committee that the bill is not fair to the land owner that wants to allow wind turbines on their property. He said that land owners do not need more regulations, laws and hardships placed on them. Mr. Zimmerman lives in Wabaunsee County, where there is currently a moratorium in place.

Jennifer States, Managing Director for J. W. Prairie Wind Power LLC, spoke on HB 2799 (Attachment 6). Ms. States said that there are many counties that have decided to enact zoning regulations and many are continuing to make decisions to deal with this issue. She told the committee that Kansas needs a progressive policy that works to move wind energy development forward. More proposals will delay the opportunities, making them more difficult and even impossible. Ms. States included in her testimony a 'Frequently Asked Questions About Wind Energy' flyer.

Martin Peck, Cambridge, Kansas, appeared on HB 2799 (Attachment 7). Mr. Peck told the committee that the bill was bad for the environment, bad for commerce, bad for the tax base, and bad for property rights.

Trudy Aron, Executive Director for the American Institute of Architects Kansas, testified on HB 2799 (Attachment 8). Ms. Aron stated that they believed it is shortsighted and irresponsible to ban wind turbine development in the state. She also said that renewable sources of energy will allow us to cut our increasing dependence on foreign and domestic fossil fuels.

Brad Beecher, Vice President of Energy Supply for the Empire District Electric Company, spoke about HB 2799 (Attachment 9). Mr. Beecher told the committee that they did not believe a moratorium on wind projects was in the best interest of Kansas consumers nor the best use of Kansas resources.

Ms. Elizabeth Hendrix, Elk County resident, told the committee she was opposed to the moratorium proposed in HB 2799 (Attachment 10). Ms. Hendrix said that wind turbine development in Elk County could mean substantial economic growth, higher paying jobs that would attract a younger, more educational workforce, and provide added income to agricultural producers.

James Perkins, Howard, Kansas, shared information about his family's farming and ranching operation (Attachment 11). He explained that they have leased over 5,000 acres for testing of potential wind turbine placement. Mr. Perkins stated that wind is one of our greatest renewable natural resources and those who want the towers should be allowed to take advantage of that potential.

Jay Barnes, Executive Director of the Kansas Natural Resource Council, testified on HB 2799 (Attachment 12). Mr. Barnes told the committee that the Council has recently passed a resolution called for statewide siting requirements for industrial wind farms that do not allow placement in certain areas of the state, including the Flint Hills. He stated that the resolution was presented to the Governor's Wind and Prairie Task Force.

Scott Schneider, appearing on behalf of the Kansas Wind Coalition, shared their concerns on HB 2799 (Attachment 13). Mr. Schneider told the committee that the Flint Hills are under no immediate threat of being overrun by wind energy projects and that opponents to wind energy are saying they are entitled to a wind turbine free view thereby asking for protection of what is called a 'viewscape.'

Several of the speakers responded to questions from the committee.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES, Room 231-N Statehouse, at 9:08 a.m. on February 23, 2004.

There being sufficient time, Vice Chairman Krehbiel opened the floor for additional speakers.

John Hund, Rose Bacon, and Michael Stubbs, all members of the Tallgrass Ranchers Coalition, addressed the committee. Additionally, Deborah Divine, on behalf of Kansas Scenic Byways Program, and Larry Patton spoke to the committee.

Vice Chairman Krehbiel closed the informational hearing on **HB 2799**.

The meeting adjourned at 10:56 a.m.

The next meeting will be Tuesday, February 24, 2004.

# HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: February 23, 2004

NAME	REPRESENTING
Mary Jo Huseman	Friends of the Smoky Hills
Jan Janzger	Ks Flint Hills Adventures LLC
John Lutherland	Tallgrass Ranchers
Jim Barson	Self
Lynda	Tallgrass Ranchers
Wayne Boll	Auenah of the Smoky Hills
John Boll	Friends of the Smoky Hills
Matthew Hartzman	Elk River Wind farm
Robert Gross	Mankers Creek Project
Harris D. Zimmerman	Mankers Creek Project
Roger W. Zimmerman	Mankers Creek Project
Jennifer States	Mankers Creek Project / JW Prairie Wind power
Colleen M. Anderson	Landowner Maria / Wabawsee Co's
Deborah Divine	Ks Scenic Byways Program
DONNA JOHNSON	Pinnacle Technology
Roger Badeker	Tallgrass Ranchers
Rose Z. Barson	Tallgrass Ranches / Protect the Flint Hills
John Hund	Tallgrass Ranchers
Andy Juley	Tallgrass Ranchers
Paul Hund	Tallgrass

# HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: February 23, 2004

NAME	REPRESENTING
Michael Stubbs	WB Co Resident Tallgrass Ranches
Brad Beecher	Empire District Electric
GEOFF COVENTRY	KANSAS WIND POWER
Millicia Porter	2 BCs, Resident R.P.I. Box 34 Alma, KS
S. George Terbovich	WB Co. / Alma, Kansas.
Steve Hamed	WB Co. / DOKICOTE
Shelley Waugh	WB. County, Eskridge
Pat B. Hahn	Tallgrass Ranches
James Collier	Manis Co Alta Vista KS
HARRY BOWEN	WB Co TALLGRASS RANCHES
George LeRoux	Flint Hills Prairie Bison Reserve Alta Vista KS
Pete Ferrell	Ferrell Ranch
Virgil Huseman	Huseman Ranch - Ellsworth, KS
Roger Wells	Prvail Unlimited Inc.
Stephen Donley	Stephen Donley Ranch
Martin J. Peck	Ferguson Ranch
Trudy ARON	Am Inst. of Architects
STEVE KEANEY	SWKIA
Pat Hendricks	Elk Co landowner
James R. Perkins	Elk Co Rancher

# HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: February 23, 2004

NAME	REPRESENTING
Starla Borg	Wab. Co Tallgrass Ranchers
John Borg - Landowner	Wab Co Tallgrass Rancher
GOTT SCHNEIDER	Kansas Wind Energy
Kathy Borg	Wab. Co. Tallgrass Rancher
Linda Ashburn	Wab. Co Tallgrass Rancher
Lauren Ashburn	" "
FERRY Dykstra	Tallgrass Ranchers
Elizabeth Seaton	Tallgrass "
Andy Budeker	" "
SUZAN BARNES	TALLGRASS RANCHERS / PROTECT THE FLINT HILLS

**Utilities Committee  
Kansas House of Representatives  
Testimony on HB 2799**

By  
Donna Johnson, President  
Pinnacle Technology Inc.  
619 East 8<sup>th</sup> Street, Suite D  
Lawrence KS 66044

Thank you Mr. Chairman and members of the committee for the opportunity to speak in opposition to HB 2799.

The level of acrimony that is occurring over wind turbines in the Flint Hills has escalated beyond comprehension. While I am in favor of wind energy, I am also an ecologist who does not believe in disturbing pristine land. However, I firmly believe that wind energy and the tall grass prairie can both exist in the region. But it will take both sides working together to find the best solution.

Wind turbines are not going to take over the Flint Hills. The best estimates that we can come up with to date are that maybe 300 MW of wind energy can be developed in the Flint Hills region before transmission becomes limited. Today, the turbines of almost all new wind farms are 1.5 or 2 MW. This means that only 150 – 200 turbines will be placed in the entire Flint Hill region. Yes, there are more developers looking and leasing land than this, however, only the first few with signed power purchase agreements will actually develop their projects.



The developers could not be leasing land without numerous landowners willing to have turbines installed on their property. Therefore, not everyone in the Flint Hills is opposed to the turbines. By placing a moratorium on development, you are restricting property owners from income to which they are entitled. This would be the same as placing a moratorium on leasing your land for oil and gas. The issue of wind farm development needs to be made by the local community. Some communities may decide that wind energy is not something that they want to see in their future, but others may embrace the idea. If you truly want to stop development in an area, buy the land under consideration and put it into a trust.

I hope that both sides can rationally discuss the topic in the Governor's Wind Prairie Task Force and come-up with recommendations. However, depriving local property owners, communities and counties of the right to make decisions on their own behalf begins to take away some of the rights which make this country so diversified and strong.

*HOUSE UTILITIES*

DATE: 2-23-04



ATTACHMENT 1

1

**I. Why the Flint Hills are an important resource.**

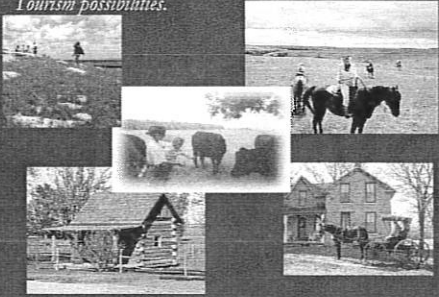
*Central to the character of Kansas.*

2

**I. Why the Flint Hills are an important resource.**

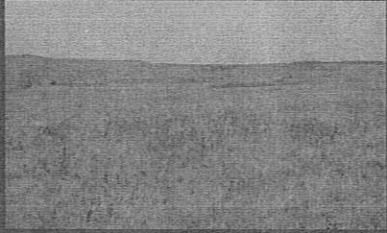
*Tourism possibilities.*



3

**I. Why the Flint Hills are an important resource.**


*Last of the tall grass prairie.*




4

**I. Why the Flint Hills are an important resource.**

*Nationally recognized treasure.*



5



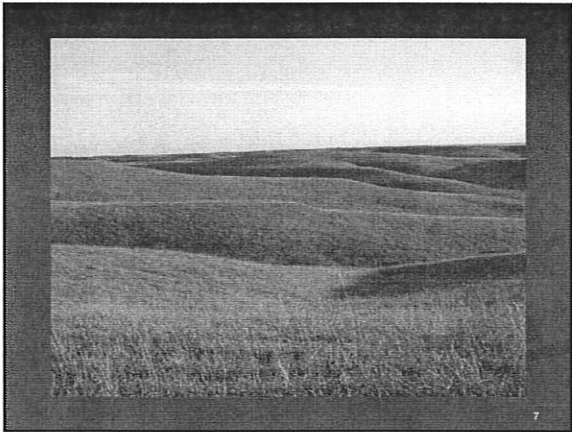
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HOUSE UTILITIES

DATE: 2-23-04

ATTACHMENT 2





7

## What do other people say about us?



*"This is the famous Flint Hills area of Kansas known for its stretch of rolling hills located in eastern Kansas. This prairie land is covered in a blanket of wildflowers and tall grasses. The flowers include sunflowers and coneflowers and the tall grass can reach as high as 8-feet. . . . The northern part of the drive offers views of many limestone outcroppings. Heading south the hills stretch out and broad views of expansive prairies will keep you fascinated."* [ScenicDrivesOnline.com](http://ScenicDrivesOnline.com)

8

## What do other people say about us?

*"There's just something about Kansas that makes me want to trade in my black platform cowboy shoes for a pair of well-worn cowboy boots. There's just something in the simplicity of the scenery and in the warm smiles of Kansans that make me want to pack up my belongings and head west. . . . I had no idea that the Flint Hills area in east-central Kansas even existed, much less how breathtakingly beautiful it is."* *American Woman*  
*Road & Travel*



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## What do other people say about us?

*"Although the height of the Hills here is not remarkable, never rising more than three hundred feet from base to crest, their length and breadth would make them noteworthy were it places outside the somewhat level horizon of eastern Kansas, but, were they forested, my English teacher would hardly know the was crossing them. Because they belong to the open world of grasses, they dominate if not the sky then surely the horizon with the symmetrical and flattened tops, their steep-sided slopes, and (at dawn and sunset) their shadows that can stretch unbrokenly and seemlessly for a prairie mile."*

*from William Least Heat Moon Prayr, Earth, page 13*



10

## What do other people say about us?

*Flint Hills have been featured in National Geographic  
 Flint Hills were the subject of a television documentary on PBS*



11

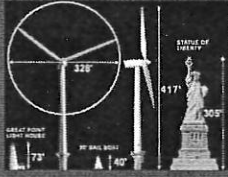
## II. Why placement of turbines in the Flint Hills is inappropriate.

*Wind turbine complexes industrialize agricultural areas*



12

## Wind Turbine Physical Characteristics



More than 375 feet tall  
Blade sweep in excess of 300 feet  
Strobe Lights  
Foundations 45x45' and 25' deep  
Weight in excess of 163 tons  
Noisy

13



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## II. Why placement of turbines in the Flint Hills is inappropriate.

*Industrial wind turbine complexes cause significant prairie destruction and have significant negative impacts.*



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## Construction destroys native prairie



16

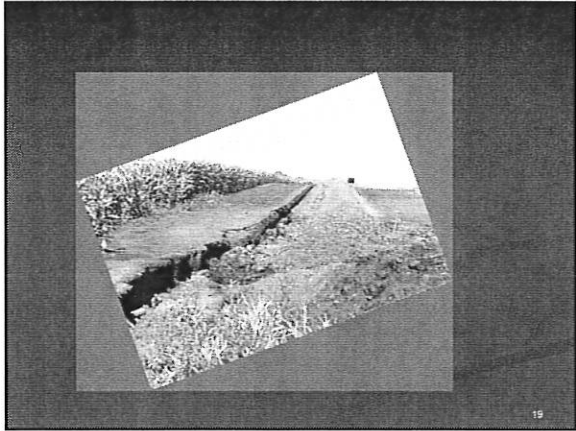
## Requires wide roads, trenching, blasting



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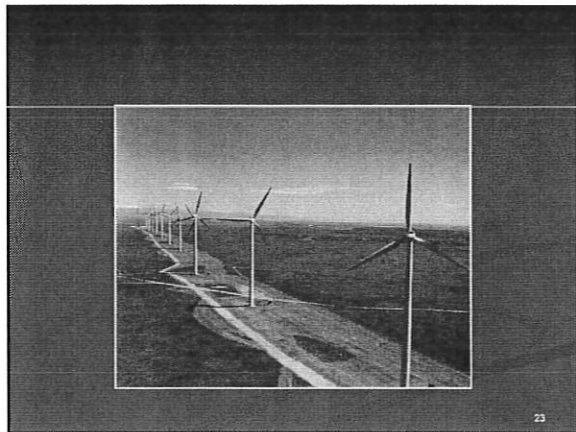
20

**Destruction and fragmentation is permanent**

21

**Leaves a criss-cross of roads**

22



23

**Proliferation of turbines is a real and growing threat.**

*At least 15 separate Flint Hills turbine projects are under discussion. (4,500-20,000 acres each)*

*Current grid could theoretically handle 1,000-2,000 turbines, depending on the size*

24

## Proliferation of turbines is a real and growing threat.

Potential Future federal RPS  
Must take a long-term view  
now.



25

## State intervention is required to preserve the Flint Hills region



26

## III. Who wants to protect the Flint Hills from industrial wind turbine developments?

Landowners, Ranchers,  
Neighbors



Tourism Interests

Conservationists



27

## Tallgrass Ranchers' Mission Statement

*"The Tallgrass Ranchers are dedicated to preserving the ranching heritage, the scenic beauty, the natural integrity, and the unique landscape of the tallgrass prairie in Kansas while respecting the property rights of others."*



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## Why are landowners, ranchers and neighbors concerned?

Devaluation of their land.

Agricultural Use Value  
+ Intrinsic Value  
= Market Value

*Intrinsic value is substantial and impacted by changes in the character of the area.*



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## Why are landowners, ranchers and neighbors concerned?

*Interference with their enjoyment of their own land. Visible for 25 miles.*

*In Michigan and Wisconsin wind turbine developers have reportedly purchased neighbors' homes because of noise complaints.*

*Eminent domain to connect to the power grid.*



30

## Why are tourism interests concerned?

Open prairie offers a unique destination, with tourism built around 19<sup>th</sup> century history and natural vistas.



31

## Why are tourism interests concerned?

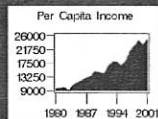
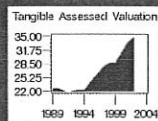
Significant investments and planning have already been made based on the natural character and history of the Flint Hills.



32

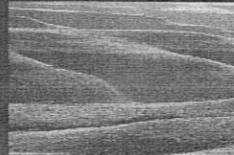
## Why are the tourism interests concerned?

- From 1993 to 1998 Flint Hills travel tourism grew in Butler County by 173%, in Morris County by 234%, in Chase County by 2,017%.
- Using a \$60/day average traveler expenditure, Kansas Scenic Byways Program estimates \$2.4 MILLION annual contribution from Tallgrass Prairie National Preserve alone.



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- Traveler expenditures in the 3 counties were \$33 MILLION in 1998.
- Cultural/heritage tourism is one of the favored tourism markets nearly doubling in importance from the 1980s to the 1990s.
- Nature based tourism is expected to grow 10-30% annually.
- We already see the loss of 12,000 acres of year of agricultural land in Kansas.



## Why are conservationists concerned?

Concerned conservationists include the Nature Conservancy, Kansas Natural Resource Council, Kansas Wildlife Federation, and Audubon of Kansas.

Their concerns include:

- Fragmentation of the prairie, destroying its ecosystem.
- Loss of unique natural habitat.
- Interference with Prairie Chicken nesting, and related hunting.



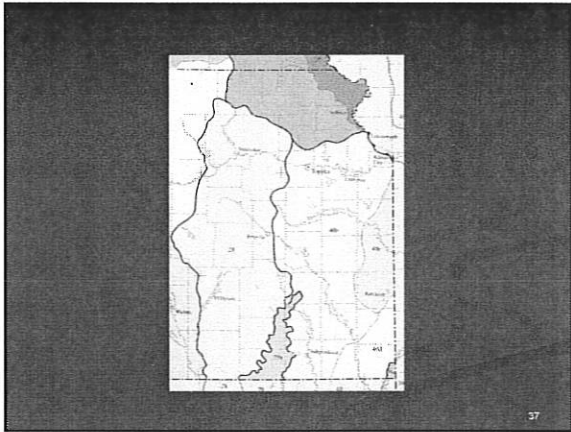
35

## Why is state-level action needed?

Flint Hills is not in the jurisdiction of any other single government entity.



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### Why is state-level action is needed?

*Counties are behind the curve—i.e., no zoning controls at all.*

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*In some counties, the guy with the bulldozer is on the planning commission.*

*In Butler County right after the 2000 primary a wind developer solicited a future county commissioner with an "option" deal giving him annual cash payments.*

*In another county, despite hours of hearings, an opponent has been allowed to speak for only 3 minutes.*

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### Issues with safety may be beyond the expertise of counties

*Common failures are caused by lightning strikes, storms and icing.*

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*"Wind speeds at current hub heights in the Midwest may be so great at times that they exceed the design margins for today's wind turbines." Renewable Energy World, September/October 2003.*

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2-7

*Other issues beyond local expertise:*

- Noise
- Ice-throw risk
- Radio-frequency/ transmission reception interference
- Necessary spacing/setbacks

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### Why is state-level action is needed?


**Flint Hills wind turbine developers' misdeeds:**

- Offering money to school boards if and only if they write a letter of recommendation.
- Offering \$1.75 Million to county government in exchange for a favorable zoning decision. A District Court Judge found the behavior "repugnant to due process."
- Selling unlicensed securities based on overblown promises of huge returns to unsophisticated investors.
- Pressuring the elderly to sign leases without talking to their children.
- Offering edited reports, deleting the pages and pages of cautionary matter.

44

### Why is state-level action is needed?


*Protection of the Flint Hills is of state-wide interest.*



45

### Why is state-level action is needed?

*Governor's Task Force cannot do the job alone or soon enough.*



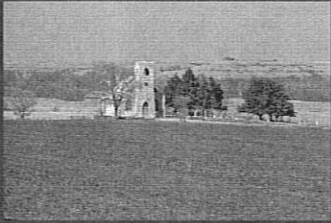
County Life magazine survey found industrial wind turbine complexes to be the #1 most hated eyesore in Great Britain

Washington Times 2/4/2004 "As wind farms grow, wind power is increasingly unpopular. Why? Wind farms are noisy, land-intensive and unsightly."

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### V. Priorities--value of wind energy does not outweigh value of the unique Flint Hills.

*Where the impacts are low, wind energy be worth pursuing, but its benefits do not outweigh its social costs in the Flint Hills.*



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### Wind energy is experimental and is driven by tax benefits, not its own free-market merits.

Wind turbine complexes are built only because:

- Federal Production Tax Credits.
- Accelerated depreciation tax benefit (60% in the first year).
- State property tax exemption.

Wind turbine complexes operate as tax shelters. Tax breaks and subsidies may far exceed income from sale of electricity, particularly in the early years of operation.

California found in the 1970s that when tax benefits were exhausted it was left with "wind turbine cemeteries"



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## Wind energy is land intensive; produces little electricity.

Depending on spacing, wind turbines are 30 to 200 times more acreage per megawatt than gas plants.

Even then, turbines produce electricity only when wind is high enough, but not too high.

In a year, the two largest European wind complexes, with 159 turbines, produce less electricity than one conventional 2,000 megawatt station produces in 4 days.

In 2002 all 15,000 turbines in the US produced less electricity than a single large coal power plant.



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## Wind does not displace foreign energy sources.

Kansas produces electricity from natural gas, coal and nuclear power—not imported oil.

Oil is used only for “peaking plants” when demand is highest—<1%.

When demand is highest, wind is usually lowest.



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## United States has a glut of electricity capacity--no pressing need for increased capacity.

Wall Street Journal reported  
2/9/2004

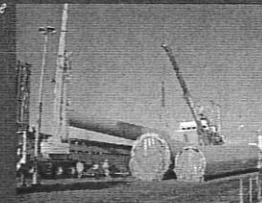
“Lured by the promise of deregulated utility markets in the early 1990s, the electric-power industry added far more generating plants than will be needed for years.”



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## Most of the economic benefits flow out of state.

Main expenditure is to purchase equipment—about 90% is supplied by overseas companies.



52

## Most of the economic benefits flow out of state.

Developers/operators are largely multi-national corporations, often based overseas.



53

## Most of the economic benefits flow out of state.

Revenues to landowner go to only a few, visual impact and tax exemption affect many more.

After initial construction very few jobs are involved.



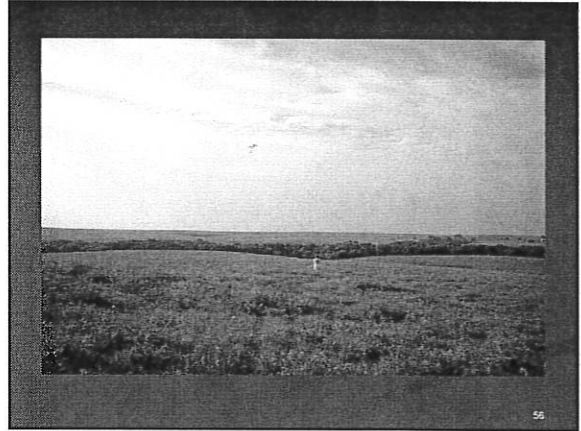
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### Utility scale wind turbine complexes

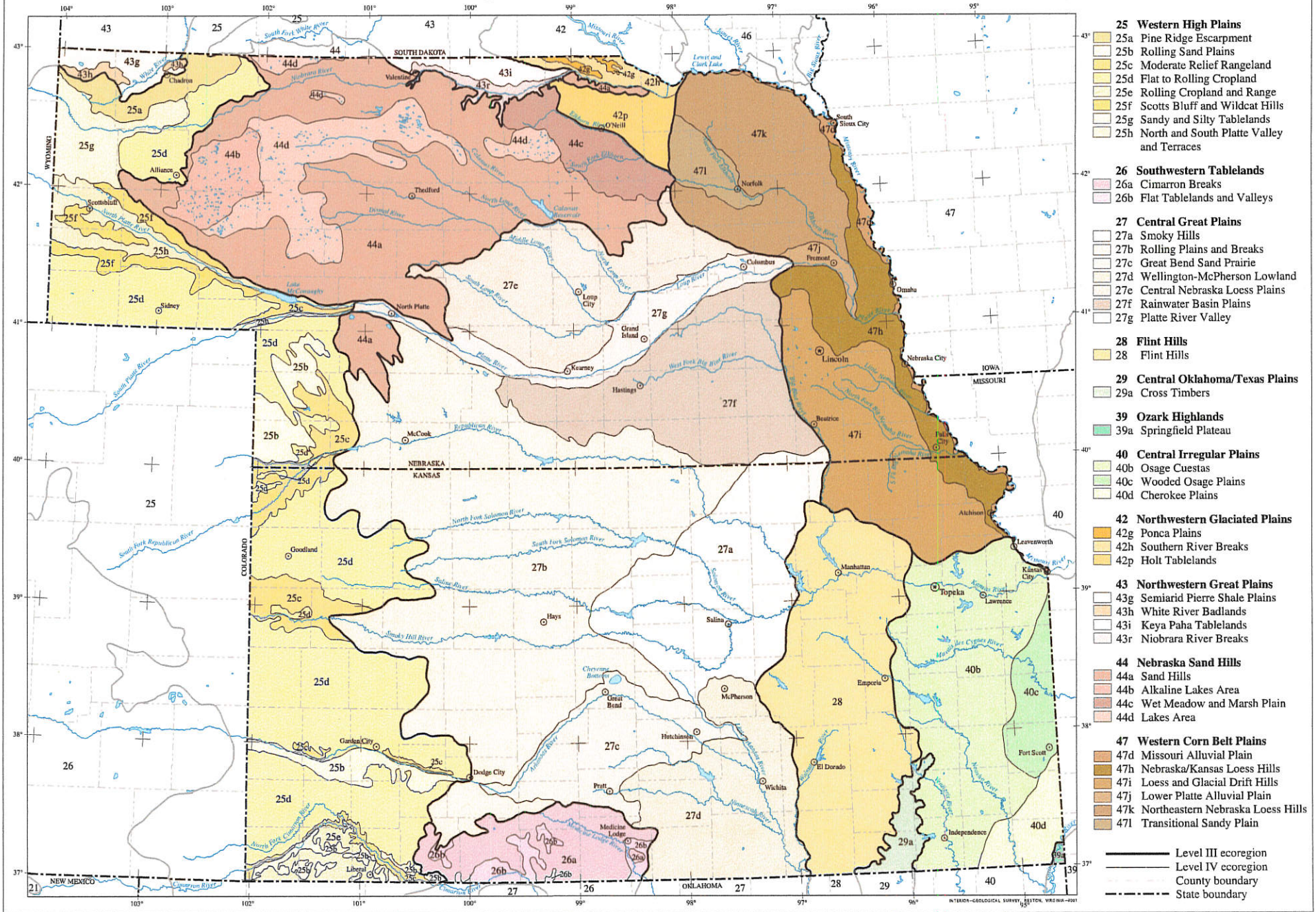
- *Are incompatible with the pastoral and cultural character of the Flint Hills region*
- *Will damage the tourism potential, scenic beauty and wildlife habitat of the Flint Hills region*
- *Will reduce the enjoyment of life and property values of neighboring landowners*
- *Will forever change the character of the Flint Hills from agricultural to industrial*

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# Ecoregions of Nebraska and Kansas





TOPEKA

HOUSE OF  
REPRESENTATIVES

PEGGY LONG-MAST  
REPRESENTATIVE, 76TH DISTRICT  
765 ROAD 110  
EMPORIA, KANSAS 66801  
(620) 343-2465

ROOM 446-N CAPITOL BLDG.  
TOPEKA, KS 66612  
(785) 296-7685

COMMITTEE ASSIGNMENTS  
VICE-CHAIR: HEALTH & HUMAN SERVICES  
MEMBER: UTILITIES  
JUDICIARY

TESTIMONY  
HOUSE UTILITIES COMMITTEE  
February 23, 2004  
HB 2722

I want to begin by thanking you Mr. Chairman and members of the committee for showing interest in the wind energy subject and being willing to become more informed about the possible effects of such activity in the Flint Hills of Kansas. As many of you know, I am a resident of the Flinthills and have grown to love that area as much as many who have been born and raised there. The Flinthills region has taken the interest of many people from around the state and the nation. Documentaries have been made about its unspoiled beauty and its rich native grasses. It is probably the only place in Kansas where you can find open range and the tall grass prairie land that has become famous.

I am thankful to be a member on this committee and to have learned about the possible benefits of wind energy last year. Now that I have gotten a chance to take a closer look at the issue as well as the opportunity to see a large grouping of wind turbines in California, I am thankful to have a chance to say that it would be good if we really get educated on the whole issue before thinking that they can create a significant enough effect on our economy as to justify the damage that they can do to such a beautiful area as the Flinthills.

With that, Mr. Chairman and members of the committee, I will be happy to step down and let you hear from those who have studied the issue and are far more educated than I am on it.

*HOUSE UTILITIES*

DATE: 2-23-04

ATTACHMENT 3

## COMMENTS ABOUT WIND ENERGY

- My name is Pete Ferrell. I live in Butler and Elk counties at 16218 SE Ferrell Road, Beaumont, Kansas: so does my 91-year-old mother, Isabelle. It is not a coincidence that our address bears our last name. My family has resided here since 1888 when my great grandfather founded our ranch. To say the least, we are not newcomers to the area and I do not wish to ever leave. I hope that my children will someday want to live here as well.
- Thank you for the time you are spending in public service. My father, Jack Ferrell, spent over 20 years in public service on local school boards, the Board of Trustees of the Butler County Community College, and working with the State Board of Education. I, too, spent time on the local Community College Board twelve years ago. I know public officials are faced with difficult and demanding issues. I applaud your willingness to hear all views. And I'm glad I live in a nation that encourages open debate.
- My family's interest in wind power goes back generations. Prior to being connected to the electric grid in the 1940's, our ranch headquarters was powered by a "Windjammer" (brand name) electrical turbine. It produced direct current power for lights and small appliances in the two ranch dwellings. Furthermore, I have read the diary entries of my grandfather in which he expresses his delight at the installation of water pumping windmills that enabled our ranch to survive the Dustbowl. *Harnessing the wind's energy is part of my family tradition.* The next chapter in this story involves wind farms.
- My first exposure to commercial wind farming occurred in **1989** during a visit to the Hawaiian Islands. The largest cattle ranch in the United States is on the big island of Hawaii. Curiously, the ranch I was visiting had large turbines on it. In this gorgeous island paradise, non-renewal sources of energy, like oil, are not available. They are also not acceptable because of their residues. Some other living being on the islands would be adversely affected. If all of us had an island mentality about the planet, we might see things differently.
- My perspective on wind resources was enlarged in **1994** when a Fortune 500 company approached me: they wanted me to consider allowing the installation of a commercial size wind farm on my ranch. My first reactions were similar to those expressed by the opposition to this type of project. I, too, was afraid of how it would look, how it might disrupt my ranching operation, and the overall impact it might have upon the landscape. Fortunately for me, the representatives of this company were patient and understanding of my concerns. They took the time and money to educate me on the reality of this endeavor. At their expense, they flew me to see existing windfarm sites in the US.
- In 1995, after a year of research and several thousand dollars of my own money in legal and consulting fees, I began working with Oxbow Power Corporation toward development of a commercial scale windfarm on the Ferrell Ranch. The Oxbow project was headed by Dr. Gary Johnson who took early retirement from a tenured position at Kansas State in electrical engineering to devote his life to the exploration of wind energy in Kansas. Dr. Johnson literally wrote the book on wind power: his text is used in many colleges and universities. Coincidentally, it was Dr. Johnson who published a study in November of 1984 that identified the area near Beaumont as a class 5 wind zone. In his 1996 annual report to officials at Oxbow, he confirmed that the site at the Ferrell Ranch had tremendous potential as a commercial wind farm. I gained a definitive and impressive evaluation of my resource. However, in spite of the attractiveness of the site and for reasons unrelated to its quality, Oxbow elected to terminate our lease.
- Between 1998 and 2001, I continued to collect wind speed data on my property. During that period, I either approached or was approached by seven different companies. I rejected the offers of six companies because of their unwillingness to negotiate about my concerns. The seventh company, Greenlight Energy, developer of the Elk River Windfarm, has been a breath

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of fresh air because of their capacity to answer all my questions about economics and ecology. I tell you this story so you'll understand that I have not reached my decision about wind energy without lengthy and thoughtful consideration. The planning behind my project has great depth to it: I am not part of some gold rush mentality, which has put fear in the minds of many people in the Flint Hills. I have been preparing for this testimony for nine years.

This morning I would like to focus the discussion on **economics, ecology, and individual responsibilities and rights.**

RE: Economics

1. The Kansas legislature has wisely exempted wind farm machinery from inclusion in the tax roles as a way of encouraging renewable energy development within the state. I applaud the foresighted legislators who see the long-term value of this resource. It will help stabilize our state's economy. It's already been suggested in the Wichita paper that the aircraft industry could easily retool to build turbines.
2. Jobs are scarce in rural Kansas. Did you know that seven to nine well-paid technical jobs are created for each 100 MW of energy produced. Even one new job in Beaumont, Kansas would be a significant increase.
3. Land values will be affected ... to the positive. Based on studies completed at operating wind sites elsewhere in the US, property values will increase. The royalties will run with the deed and increase the earning capacity of the parcels affected. The ability to earn money from agricultural activities is enhanced. You know, the wind blows even during a drought.
4. And last, but not least, my family, especially my children, will have a more secure future on the land my great grandfather homesteaded.

RE: Ecology

1. My ability to continue valuable grazing activities, which preserve the ecological integrity of this landscape, will not be impaired. *This is a core issue for me and I have not compromised my standards for this project.* If anything, the wind farm will make it easier for me to continue a family history of good stewardship. I hope to broaden my knowledge of rest-rotation grazing which has enabled me to survive in difficult economic times.
2. The Elk River project could make use of existing roads. This will limit the footprint of this project to less than 2% of the grazing land involved. Furthermore, I have personally witnessed the healing of this landscape after disruptions. In my life, I have seen ten miles of oil field pipeline extracted, four miles of phone cable installed, and I personally installed two miles of livestock water line. In all these cases, the range has fully recovered. If well managed, this landscape is very forgiving. The Elk River team has diligently studied and mapped the project site in order to understand and avoid any sensitive areas.
3. I would remind you that this form of energy is as sustainable as the wind itself. Comparisons to the sins of petroleum and uranium energy are unfounded. Those substances are buried deep underground for a good reason: they are toxic to us! Hopefully, we'll learn to leave them there. The wind, however, is not toxic and is available to us all.
4. 75% of the people in Butler County can see the burn-off tower at the El Dorado refinery out of their back door. Nobody complains about that. Yet when completed, less than 1% of the county's population will be able to see the Elk River Wind Farm from their homes. Fewer than 50 people live within a 75 square mile area surrounding my site. You'll have to intentionally travel to this site to see the windfarm. And when the turbines are installed you'll find that the sunlight will be just as bright, the grass just as green, the water just as clear and the cattle just as fat as any other place in the Flint Hills. Beauty truly is in the eyes of the beholder. I see wind turbines as elegant because of what they represent. What they represent means more to me than how they look. *They represent a cleaner future.*

RE: Landowner responsibilities and rights

1. I believe we earn rights by being responsible. I feel that it is incumbent upon every responsible landowner to become as informed as possible to make a well-reasoned decision about windfarming. This includes paying close attention to all details of a contract so as to limit the disruption of the existing natural productivity of that landscape. To fail to do so is outside the bounds of good stewardship. I feel I have truly performed due diligence on this matter. I'm obviously comfortable with Greenlight Energy: they passed my test, which, if you know me at all, is not easy.
2. My great grandfather is quoted as saying, "there's nothing prettier than a red steer grazing a green pasture .... until you start keeping the books on him." He knew, as I do, the precarious nature of ranching. Therefore, it has been my responsibility, if I wish to live here, to thoroughly examine all the options for making a living off this property. I've looked at oil, coal bed methane, and residential developments. These activities permanently consume valuable assets in one or two generations. They do not qualify as being sustainable. You see, **grass and wind are eternal**. Because these are sustainable activities, *I do believe it is within my rights to earn a living by carefully grazing this land AND by harnessing the wind that blows across it. If you choose to take these rights from me, what else will you take?*
3. Having said that, I understand that it is your responsibility to watch out for the welfare of all citizens of Kansas, not just mine. Do your duties include a national perspective? I believe Kansas could play a valuable role in the responsibility we all have to wean this country off non-renewal forms of energy. Our nation's dependence on foreign oil is at the root of much of the unrest in the world today.
4. Finally, I respectfully remind you that, in this case specifically, I am the citizen who will be most affected by your decision and by the wind farm itself. In stark contrast to many of wind energy's assailants, I actually live on my land, in the Flint Hills. I wish to continue living there. How do my rights compare to the rights of people who don't actually live there? If others say they own the view of my property, please ask them when they took it and what they intend to pay for it.

IN CONCLUSION

In Butler County, the planning board and the commissioners heard six months worth of comments from the public prior to approving the Elk River Windfarm. I watched those public meetings closely. What I observed is a normal response to change. It's called fear. In order to sway public opinion, those who oppose wind energy have successfully used this fear. I'm sure you, too, have seen this as part of a process we all go through. I hope you'll express the courage to look beyond the selfish motives of the detractors. I find it curious that although the Kennedys in Massachusetts say they support wind power, they complain about the possibility of seeing wind turbines five miles out in the bay from their expensive summer resorts. Does this sound familiar?

There are three men standing here with me today: my father, my grandfather, and my great grandfather. I have consulted their legacy and their record. They would support my decision on this matter. They each had to make difficult choices and changes in their respective times. I have to do the right thing in my time as they did in theirs. My ranch will be home to a state-of-the-art project that sets the highest standard for wind farming. I believe it is a project anyone can support in good conscience. Dr. Johnson once reminded me that our state is named after an Indian tribe, the Kansa, or Kaw. I think we are on the verge of discovering something these first Kansans knew about the real value of this place. Perhaps we, too, can become a "People of the South Wind".

Thank you for your time.

**Testimony before the Kansas House and Senate Utilities Committees  
Opposing SB 455 and HB 2799**

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Hello, I'm Roger Zimmerman and I would like to thank you for the opportunity to address you today concerning Senate Bill 455 and HB 2799 for which I'm opposed. These bills are by no means fair to the landowner that would want to allow wind turbines on their property.

I'm the 5<sup>th</sup> generation in my family to live and farm in south west part of Wabaunsee County. I have been farming for 25 years and strive to take care of the land, in addition, twice have receiving the Kansas Bankers Award for soil conservation. The majority of this land is farmland or was farmed at one time. It's not the picture of the rolling flint hills the Audubon of Kansas produced, but rather like wheat fields waving in the summer breeze, or rows of beans and milo crops following terraces around fields.

We've had three years of drought causing hardships for farmers, but the wind always blows I think the ability to harvest a continual crop of wind would add stability as well as success to this area. Also, is there a better crop than one that's renewable, and clean?

The economic development that would be generated in our rural community would be a win, win situation. For example I understand there could be five or more full time jobs for each 50-100 megawatts produced. Not to mention the income to landowners from lease payments that would find its way back into the community.

Yet there are groups out there that oppose wind turbines in Wabaunsee County and are supporting this bill in hope to kill wind energy in the eastern half of Kansas. I've questioned these people as to why they opposed wind turbines, and here are some of their responses. "Well, I only have five acres with my home and I won't get a wind turbine, so why should you benefit by having one." Then there are the people that say they just don't want to see wind turbines and they ruin the view. Well that's just their opinion, and if they don't want them on their land, it's as simple as you don't sign a lease with a wind developer. I as well as others would enjoy looking at them if they were on our land.

Then there are the CAVE people, Citizens Against Virtually Everything. I hope you see this bill for what it is and throw it out. This is a way for the opposition to kill wind development in the eastern half of Kansas. Wabaunsee County has been working on wind regulations for over a year, and has had a moratorium in place to not accept a permit for a wind turbine for 16 months. I have researched and collected as much information, I possible could, about wind turbines, and wind farms before considering them on my farm, and in my community. By visiting wind farms, talking to the landowners,

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neighbors, county appraisers, wind developers and manufactures of turbines in that area. It boils down to being a positive move in the rural community. So please, we don't need more regulations, laws, and hardships placed on landowners, for the placement for wind turbines. Do away with these bills. Thank you



**Testimony before the House Utilities Committee on HB 2799 and  
Senate Utilities Committee on SB 455  
Presented by Jennifer States, Managing Director  
J.W. Prairie Wind Power LLC  
3211 Clinton Parkway Court, Suite 2  
Lawrence, KS 66047  
February 23, 2004**

Mr. Chairman and members of the committee, thank you for the opportunity to speak on HB 2799. My name is Jennifer States, and I am the Managing Director of JW Prairie Windpower. I am also serving as a member of the Governor's Wind and Prairie Task Force.

Prairie Wind Power is a Kansas based LLC, with its headquarters in Lawrence. We are enthusiastically working to develop wind projects in Kansas, with our efforts focused on the Munkers Creek Wind Project in Morris and Wabaunsee Counties. This wind project is located in the region known as the Flint Hills; it will be sited primarily on farm lands that are not part of the intact Tallgrass Prairie ecosystem. We strive to develop economically and ecologically sound wind energy projects that benefits all parties involved.

I would like to comment on the bill under consideration today. A state imposed moratorium on wind development in the Flint Hills is not necessary and will hurt Kansas residents. The decision to allow wind development in certain areas is a local issue to be decided by the counties. The Governor's Task Force is charged to make recommendations to assist local communities, not legislative policy recommendations. The effects of a moratorium would hurt landowners in need of the opportunities presented by wind development.

There are many counties that have decided to enact zoning regulations. Other counties have written or are in the process of writing zoning regulations that specifically address wind energy. Still, other counties have reached the decision to not enact zoning. Counties are continuing to make decisions to deal with this issue in the way that best suits their county and their local needs.

For example, in Wabaunsee County, the Planning Commission has been working to amend their existing zoning regulations to specifically address wind energy. The Wabaunsee County Board of Commissioners implemented a moratorium beginning November 12, 2002. The Zoning Committee held a public hearing on the proposed amendments to the zoning regulations. They have held a public hearing on the proposed update to the Comprehensive Plan. The county has held numerous meetings of the Planning Commission and of the County Commissioners to discuss this issue. Written comments have been taken from the local community and other interested parties. Wabaunsee County has been working for a long time to implement policy that makes sense for their community. Now that they are near the time of completing this long process, the legislature is suggesting that they wait even longer. I suggest we let the counties do their job and finish the work that they have poured so much time and effort into.

The bill sites as a reason for a moratorium on wind energy development, the need for the legislature to consider the recommendations of the Governor's Task Force. The charge to the Task Force states the following:

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The SERCC Wind and Prairie Task Force is established to carry out the Governor's goal of assisting local communities in their decision-making processes relating to siting of wind-energy projects in the Flint Hills region and helping resolve potential conflicts between economic development and preservation of the Tallgrass Prairie.

The Task Force is charged to:

1. identify and analyze relationships between areas of tallgrass prairie most appropriate for preservation and areas most appropriate or desired for wind development;
2. recommend guidelines, principles, and best practices to be utilized at the local level to help site wind-energy projects;
3. recommend voluntary guidelines or model agreements for land leases for wind-energy development;
4. recommend voluntary local siting guidelines for wind-energy development;
5. develop tools that can be used in the decision-making process to site wind- energy projects;
6. identify policies or authorizations needed by local government to address multi-county or regional issues; and review efforts for land trusts and other mechanisms to preserve the prairie;
7. view efforts for land trusts and other mechanisms to preserve the prairie; and
8. consider that wind energy in the Flint Hills cannot be viewed in isolation--anything the Task Force recommends may have application and be of value to other areas of the state.  
*(added 2/2004; see Governor's message, January 23, 2004).*

The Task Force is charged to assist local communities in their decision making process. We are to make recommendations to be utilized at the local level. No where does the charge state anything about making legislative recommendations. The 8<sup>th</sup> point was added by the Governor so that we would consider what implications our recommendations may have on the state level, not that we need to make policy for the state as a whole. Joyce Allegrucci, the governor's chief of staff, recently confirmed that the 8<sup>th</sup> charge is simply a request that we consider our mission in the context of the larger impacts across the state.

We need progressive policy for Kansas that works to move wind energy development forward. Not more proposals that will delay the opportunities, make them more difficult, or even impossible. The moratorium on wind energy development reaches far beyond the Flint Hills and the several months proposed. While the neighboring states build wind projects and continue to pass policy that encourages wind development, we have not realized a project here in over two years. This moratorium, as well as other similar proposals in the legislature right now, could result in the loss of future projects in Kansas, and the economic benefits that would be enjoyed by our rural communities.

The effect of these negative policies goes beyond wind developers and utility companies. The people it truly affects are the farmers who are hoping to realize projects on their farms. Our landowners have been eagerly awaiting the progression of this project. I am contacted on a weekly basis by even more farmers who want projects on their land. For many of our folks, the income they will receive from these projects is essential for their survival. The additional income will help them keep their farms and pass them onto their children, pay their medical bills, and hopefully retire before they die. It will allow them the additional income they need in order to continue to live off the land they way they have for generations. Will you look them in the eye and tell them they cannot have a project on their farm?

We want, more than anything, to be able to stay in Kansas and develop projects here. But the negative legislative proposals and lack of political support for wind development is making this process very difficult. A few of our farmers were able to take time out of their busy schedules to come comment today on SB 455, and hopefully this bill as well. There are so many more landowners that could not come and speak to their representatives about how they want to see wind development occur in Kansas, for themselves and their communities. Remember that the farmers and rural residents of our counties are often soft spoken and humble. Please do not let their voices be lost amongst the vocal opposition.

You have been hearing a lot lately from those opposed to wind development. There have been many negative statements made about wind energy that are base on emotion and mistruths, not the facts. I've enclosed a fact sheet of frequently asked questions about wind energy. It was developed in an attempt to clear up the realities on wind. Please take the time to read over the statistics and information presented in the attached document. I would like to mention a few highlights from that sheet.

- Noise: The sound level at 250 meters is similar to that of a refrigerator. Most of the sound produced by the turbine is masked by the wind.
- Ice throw: If ice builds up on blades, the blades turn slowly until the ice is shed, falling to the base of the turbine.
- Bird kill: Although birds do infrequently collide with turbines, wind energy poses less of a threat to birds than many other commonplace structures. Studies have found that collisions with turbines results in an average of 1-2 bird deaths or less per turbine per year.
- Property values: Wind projects do not have a negative impact on property values. Studies have shown that property values within the view shed of wind developments do not suffer. In fact it was shown that for the great majority of projects studied, the property values in the view shed actually increase faster than values in comparable regions.

There are many more facts about wind energy that I'd be happy to share with you given more time. I ask that you please consider the facts before making any judgments regarding this issue.

There are many rural economic benefits of Wind Energy Development to Kansas counties. Kansas's rural communities are in need of new development opportunities to improve the local economy. Wind energy is one such opportunity. New jobs and economic activity are created directly from building, operating, and maintaining wind facilities. Also there are indirect benefits for local businesses supplying goods and services to support those activities. Continuing the commitment to develop wind power in Kansas through policy incentives will help spur development and expansion of the wind energy economy. Wind power can be an important source of rural economic development.

- Wind energy can serve as an addition crop for farmers. Landowners can receive lease and royalty payments for the placement of turbines on their property. An analysis by the Union of Concerned Scientists found that farmers could increase the return on their land by 30 to 100 percent by leasing it for wind turbines while continuing to farm. Another

study found that adding 10,000 MW of wind capacity nationally would generate \$17 million per year in land-use easement payments to the owners of the land on which the wind farms are situated. Only 1 to 2 acres is used for each turbine, including access roads, and the farmer can plow or ranch right up to the base of the turbine.

- Wind energy can provide additional economic activity for the local community. For the Gray County wind farm, several businesses have benefited directly from the project. The local welding, hardware, lumber and convenience stores; as well as the rental, hotel, and restaurant industries; have all experienced increased business due to the development of the wind farm. According to Wayne Markel, owner of Montezuma Lumber and Hardware, "I think this is a tremendous boost to the whole community, not only from the construction phase, but the lease revenue will provide cash in the sagging farm economy." He credits wind farm construction with about 10 percent of his monthly sales during the peak construction months. (The Legend, "Montezuma's Windfall", Shirley Buller, Winter 2002)
- For employment, wind farms provide at least one full year of construction and engineering jobs. The ongoing operation and maintenance jobs are high skill, long-term jobs that draw from local labor sources. Wind energy provides a new industry that can diversify the rural economy and increase community opportunities. During the construction phase of the Gray County wind farm, Montezuma Welding and Manufacturing Inc. was one of the many businesses that was able to provide supplies and services. In Nebraska, a wind developer needed guide wires for the two turbines built in Springview. The product generated by Daniel's Manufacturing in Ainsworth, NE earned them a contract with the turbine manufacturer to develop more cable for turbines throughout the US.
- Counties will receive payments in lieu of taxes from the wind developers. FPL Energy built the first large scale wind farm in Gray County, Kansas. They established the precedent for other developers to follow when it comes to payments in lieu of taxes. They are paying \$305,000 a year to Gray County to use at their discretion. Future wind project developments are utilizing this standard as a model for county payments.
- There is also the potential of tourism development due to the turbines. There is currently a great deal of interest and support for wind energy throughout the US, and tourists come to view the turbines and find out more about wind energy. There is already evidence of the strong tourism interest in wind energy in Kansas. At the Wind Energy Conference held in Lawrence last fall, Andy Stanton from the Dodge City Tourism Office reported that of the 9,000 visitors to sign in at the nearby museum (Stauth), 1,300 came to see the Montezuma wind farm.
- Wind is a new energy source that is homegrown and can never be depleted. It is renewable, produces no pollutants, and is a welcome addition to rural communities. Wind energy can improve the economic competitiveness of a region by enabling it to avoid additional costly environmental controls needed for other industries. Wind development can diversify the energy mix of Kansas, and the nation, helping to stabilize

long-term energy prices. Supplementing our nation's energy mix with a local energy source can help alleviate our country's reliance on fossil fuels.

In summary, developing our nation's untapped renewable resources will create thousands of new, high wage jobs and stimulate billions of investment dollars especially in rural communities. It will also diversify and enhance the reliability of our energy supply, reduce our dependence on imported fuels, and protect the environment. The issue of wind energy in the Flint Hills is being discussed on the local level, where the counties are making the decisions that are best for their local communities. The Task Force is charged with providing recommendations to aid local communities in making their decisions. A state imposed moratorium on wind development in the Flint Hills is not in the best interest of Kansas residents. Don't let the winds of opportunity blow on by for Kansas.

Thank you for your time and consideration.

Jennifer States

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# Frequently Asked Questions About Wind Energy



## Appearance:

“In North Carolina, a study to determine public attitudes towards wind energy was recently conducted. The study found that 77.1% of the participants who had seen first hand a utility scale turbine said that they liked its appearance. Studies from numerous US states and other countries report that a majority of people think wind turbines are graceful, elegant structures. Many people find turbines to be interesting features in the landscape, enhancing the vista overall. In the UK, the British Wind Energy Association notes that wind farms are popular tourist attractions, with thousands of people each year flocking to visit attractions.”

**Source:** Wind Working Group. [www.wind.appstate.edu](http://www.wind.appstate.edu)

## Risk:

- “No member of the public has ever been injured or killed by a wind turbine.
- Any injuries or deaths that have occurred have been to construction or operation & maintenance staff who failed to observe manufacturers’ and operators’ instructions.
- The risk of being hit by turbines, turbine parts, or ice fragments, within a distance of 210 m, is 1:10,000,000, comparable to the chance of being hit by lightning.”

**Source:** Irish Energy Information Center, Renewable Energy Information Office.  
[www.alphawind.dk/sider/General\\_information/Factsheets/Total%20Impact.pdf](http://www.alphawind.dk/sider/General_information/Factsheets/Total%20Impact.pdf)

## Hazardous Material and Emissions:

“Unlike most other generation technologies, wind turbines do not use combustion to generate electricity, and hence don't produce air emissions. The only potentially toxic or hazardous materials are relatively small amounts of lubricating oils and hydraulic and insulating fluids. Therefore, contamination of surface or ground water or soils is highly unlikely.”

**Source:** US Department of the Interior. <http://windeis.anl.gov/guide/concern/index.cfm>

## Telecommunications:

“TV/Radio Interference; In the past, older turbines with metal blades caused television interference in areas near the turbine. Interference from modern turbines is unlikely because many components formerly made of metal are now made from composites.”

**Source:** United Nations Environment Programme.  
[www.unep.or.kr/highlight/energy/wind/win\\_intro.htm](http://www.unep.or.kr/highlight/energy/wind/win_intro.htm)

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**Noise:**

“Noise was an issue with some early wind turbine designs, but it has been largely eliminated as a problem through improved engineering and through appropriate use of setbacks from nearby residences...A small amount of noise is generated by the mechanical components of the turbine. To put this into perspective, a wind turbine 250 meters from a residence is no noisier than a kitchen refrigerator.”

**Source:** American Wind Energy Association. [www.awea.org/faq/noisefaq.html](http://www.awea.org/faq/noisefaq.html)

**Ice:**

“While ice buildup on blades is an occasional problem for wind turbines, flying ice is not. When ice builds up on the blades, they turn very slowly (at only several revolutions per minute) until the ice is shed. This is because the airfoil has been compromised by the ice, and the blades are unable to pick up any speed... Realistically, this situation is no more dangerous than being near a tree covered with ice. In fact, because the weight of ice often causes branches to break, ice-laden trees are actually more dangerous than iced wind turbine blades. Unlike trees, towers are specifically designed to withstand heavy ice loads.”

**Source:** Sagrillo Power & Light Co., [www.awea.org/faq/sagrillo/ms\\_zoning4.html](http://www.awea.org/faq/sagrillo/ms_zoning4.html)

**Tourism:**

“Large turbines have been found more often to be a positive influence on tourism. The British Wind Energy Association notes that wind farms in the UK are popular tourist attractions, with thousands of people each year flocking to visit them... A Scottish survey found that nine out of ten tourists visiting some of Scotland's top beauty spots say the presence of wind farms makes no difference to the enjoyment of their holiday, and twice as many people would return to an area because of the presence of a wind farm than would stay away.”

**Source:** Wind Energy Working Group. [www.wind.appstate.edu](http://www.wind.appstate.edu)

**Water Use:**

“Water can be a significant issue in energy production, particularly in areas where water is scarce, as conventional power plants use large amounts of water for the condensing portion of the thermodynamic cycle. For coal plants, water is also used to clean and process fuel...Small amounts of water are used to clean wind turbine rotor blades in arid climates (where rainfall does not keep the blades clean)...Wind therefore uses 1/600 as much water per unit of electricity produced as does nuclear, and approximately 1/500 as much as coal.”

**Source:** American Wind Energy Association. [www.awea.org/faq/water.html](http://www.awea.org/faq/water.html)

## **Birds:**

“Although birds do infrequently collide with turbines, wind energy poses less of a threat to birds than many other commonplace structures. In fact, the National Audubon Society has stated that it *supports* the development and use of wind power. Fewer than 8 bird deaths per turbine, per year have been recorded during a two-year study at the Tennessee Valley Authority’s Buffalo Mountain site. Other studies that have taken place in New York, Oregon, Vermont, Colorado, Wyoming, Minnesota, and California, have found that collisions with turbines results in an average of 1-2 bird deaths or less per turbine per year. For comparison, each year at least 60 million birds die in collisions with vehicles; at least 98 million in collisions with buildings and windows; and at least 4 million in collisions with communication towers. ...The ordinary American housecat poses a much greater threat to birds than wind turbines. Housecats are estimated to kill between 100 - 200 million birds each year compared to the 33,000 birds that die from collision with turbines.”

**Source:** Environmental Defense.

[www.environmentaldefense.org/documents/2881\\_MythsWindEnergy.pdf](http://www.environmentaldefense.org/documents/2881_MythsWindEnergy.pdf)

## **Shadow Flicker:**

“Shadow flicker occurs under a special set of conditions when the sun passes behind the hub of a wind turbine and casts a shadow over neighbouring properties. When the blades rotate, shadows pass over the same point causing an effect called 'shadow flicker'. Shadow flicker effects occur in various situations: travelling by road through a tunnel or under overhanging trees (dappled shadow effects), or standing within the shadowed area of wind turbine blades.

Shadow flicker within houses occurs if a wind turbine is close enough to and of a specific orientation with, a nearby house. It will not happen where there is vegetation or other obstructions between the turbines and the house...

The maximum potential flicker frequency from the E66 turbine is 1.1 flickers per second. This is outside of the frequency which could cause health problems, established by the Health and Safety Executive at 2.5-40 flickers per second (<http://www.hse.gov.uk/lau/lacs/51-1.htm>).”

**Source:** Ecotricity. [http://www.ecotricity.co.uk/code/popup\\_faq\\_9.html](http://www.ecotricity.co.uk/code/popup_faq_9.html)

## **Property Values:**

“The statistical analysis of all property sales in the view shed and the comparable community done for this Report provides no evidence that wind development has harmed property values within the view shed... Although there is some variation in the three Cases studied, the results point to the same conclusion: the statistical evidence does not support a contention that property values within the view shed of wind developments suffer or perform poorer than in a comparable region.”

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**Source:** Renewable Energy Policy Project, The Effect of Wind Development on Local Property Values, Published May 2003,  
[http://solstice.crest.org/articles/static/1/binaries/wind\\_online\\_final.pdf](http://solstice.crest.org/articles/static/1/binaries/wind_online_final.pdf),

“Installing a wind turbine may increase the property value because turbines produce long term income. Most land-lease agreements have provisions stating that the wind developer will cover any increase in the landowner’s property tax.”

**Source:** Jay Haley, P.E.. [www.eere.energy.gov/WindPoweringAmerica.ag\\_outreach.html](http://www.eere.energy.gov/WindPoweringAmerica.ag_outreach.html)

There is a provision in JW Prairie Windpower’s lease agreements that state “Developer shall pay any increase in the real property taxes on Easement Properties that is directly attributable to the installation of Wind Farm Improvements or to a reclassification of the Easement Properties or any part thereof because of creations of this agreement.”

### **Rural Economic Benefit**

“For every megawatt (MW) of wind energy produced, \$1 million in economic development is generated. This includes revenue from planning, construction, etc... Supplemental income: It is estimated that the income to a landowner from a single utility-scale turbine is approximately \$2000 per year. For a 250-acre farm with income from wind at \$55 per acre, this translates into an annual income from wind leases of \$14,000, with no more than 2-3 acres removed from production. Jobs: Wind energy resources bring needed jobs to rural communities and bolster farm incomes against bad weather. Worldwide, wind and solar industries are likely to be one of the main sources of new manufacturing jobs in the 21st century. Every MW of installed wind capacity creates about 60 person years of employment and 15-19 jobs. Therefore a typical 50 MW wind farm creates 3000 person years of employment.”

**Source:** American Wind Energy Association. <http://windenergyaction.org/facts/>

“Large wind turbines use only about a quarter acre of land, including access roads, so farmers can continue to plant crops and graze livestock right up to the base of the turbines.”

**Source:** Farming the Wind, Union of Concerned Scientists,  
[www.ucsusa.org/publication.cfm?publicationID=92](http://www.ucsusa.org/publication.cfm?publicationID=92)

### **Turbine Lifecycle/Replacement:**

“The life span of a wind turbine is about 20 years, and occasionally up to 30 years. At this stage, the turbines can either be replaced or removed. Thus, wind farms will not have a permanent impact on the environment. Turbines can be removed as quickly as they are erected (about one per day). The foundations, site tracks, and underground cabling can be removed and the site reinstated, but it is generally recommended that foundations are simply covered over, and that tracks and cabling be allowed to remain. The scrap value of the turbines will generally cover a proportion of the cost of decommissioning.”

**Source:** Irish Energy Information Centere, Renewable Energy Information Office.  
[www.alphawind.dk/sider/General\\_information/Factsheets/Total%20Impact.pdf](http://www.alphawind.dk/sider/General_information/Factsheets/Total%20Impact.pdf)

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Testimony of Martin J. Peck  
House Utilities Committee, February 23, 2004  
HB 2799

My name is Martin Peck, and I am an owner of the Ferguson Ranch near Cambridge, Kansas. The ranch comprises approximately 17,000 acres in Cowley and Elk Counties and has been in my family for more than 100 years. I'm here because of HB 2799.

This is a bad bill.<sup>1</sup> It is bad for the environment, bad for commerce, bad for the tax base, and bad for property rights.

Let's start with commerce and tax base. Landowners who permit the construction of wind turbines on their land are entitled to be compensated in any amount that they are able to negotiate. A common rule of thumb is that a landowner can expect about \$2,000.00 per turbine per year,<sup>2</sup> but I can tell you that a landowner can negotiate for an amount substantially larger than that. The potential projects on the Ferguson Ranch could be anywhere from 50 megawatts to maybe eventually even up to approximately 400<sup>3</sup> megawatts. Assuming 1.5 megawatts per turbine, that is anywhere from 33 turbines to 266 turbines, and, at the "standard" rate of \$2,000.00 per year, a landowner like us could expect anywhere from \$66,000 per year to \$532,000.00 per year.<sup>4</sup>

From that, the State can expect—at a minimum—an increase in income taxes paid, and, depending upon other questionable pending legislation,<sup>5</sup> an increase in property taxes to be paid as well. What we don't spend on taxes, we can be expected to spend on goods and services, which obviously will benefit the people we do business with. Further, the turbines themselves cost about a million dollars a piece,<sup>6</sup> and they will have to be installed by someone who will have no choice but do it in Kansas, using Kansas concrete and other Kansas building materials, and presumably some Kansas workers. Furthermore, the turbines will have to be maintained, requiring the employment

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1. Although not as bad as SB 455.
  2. Mike Sloan of Virtus Energy Research Associates, on Talk of the Nation/Science Friday, National Public Radio, June 20, 2003, Analysis: Wind power.
  3. This upper bound was one person's opinion having visited the site and reviewed the topographical maps, but without having the benefit of any site-specific meteorological information gathered at the ranch.
  4. The land neighboring ours is owned by Norris Cooper and Les Cooper and has been leased for the installation of a wind facility. Les expects that the turbines on his land will generate him \$200,000 per year. We have no way of verifying that because we haven't seen his contract.
  5. The proposals to eliminate the property-tax exemption for wind power seem to assume that the world has changed since those were passed and that we no longer need to generate clean, renewable energy or reduce our dependence upon imported energy. That assumption is wrong.
  6. This is the number used by all of the representatives of all wind power companies with which I have dealt. See also Mike Sloan of Virtus Energy Research Associates, on Talk of the Nation/Science Friday, National Public Radio, June 20, 2003, Analysis: Wind power.

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DATE: 2-23-04

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of Kansas workers.

And the Ferguson Ranch is not alone: Wind power in Kansas could be big business. Kansas has the third most wind power potential in the United States, and the second most per square mile,<sup>7</sup> and the Flint Hills constitute some of the greatest potential in the State.<sup>8</sup> The bill before you, and related proposed legislation, seeks to deprive Kansas landowners, and Kansas, of a potential of millions upon millions of dollars of income.

Next, consider the environment. Wind power offers the state and the nation a way to produce clean, sustainable, and renewable power in substantial quantities. A 1.5 megawatt turbine can be expected to power approximately 300 houses.<sup>9</sup> Every megawatt hour of power produced by wind instead of coal prevents 342 kg (753.3 lb.) of carbon dioxide from getting into atmosphere. A megawatt hour generated by wind instead of natural gas eliminates 205 kg (451.2 lb.).<sup>10</sup> At the 50 - 400 megawatt capacity of the Ferguson Ranch, that would eliminate, as the result of one Kansas project,<sup>11</sup> 197,625,000 - 1,581,004,000 pounds of atmospheric carbon dioxide as against electricity generated by natural gas and 329,945,400 - 2,639,563,200 pounds as against electricity generated by coal.

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7. See American Wind Energy Association <http://www.awea.org/projects/kansas.html> updated January 12, 2004 (last visited February 22, 2004). The average output of wind power in Kansas is estimated at 121,900 mW.

8. See attached map from the Department of Energy's Renewable Resource Data Center.

9. Talk of the Nation/Science Friday, National Public Radio, June 20, 2003, Analysis: Wind power.

10. These are calculated from information obtained from <http://www.windpower.org/en/core.htm>, which is sponsored by the Danish Wind Energy Association. They say they are the "probably the best wind power site on the web" and they may be right. The relevant information provided is that the generation of a gigajoule of energy from coal puts 95 kg of carbon dioxide into the atmosphere and that the same number for methane is 56.9 kilograms. The conversion from gigajoules to kilowatt hours is

$$\text{kWh (kilowatt hour)} = 3,600,015.013 \text{ Joules.}$$

The calculations above used a rounded number of 3,600,000 Joules (see <http://www.windpower.org/en/stat/unitsene.htm>). Further a megawatt hour = 1000 kilowatt hours. A handy way of checking the math is a conversion calculator that can be found at [http://www.abraxasenergy.com/conversion\\_calculator.php](http://www.abraxasenergy.com/conversion_calculator.php) that will translate various units of measure automatically. Double checking the math using that calculator, I took 438,000 megawatts, translated that into gigajoules (1,576,806.576) multiplied that by 56.9 kg/GJ for natural gas, and multiplied that by 2.204 to translate into pounds, and turned up 197,743,527 lbs of eliminated carbon dioxide by 50 mW of electrical generation by wind replacing natural gas.

11. The annual megawatt production capacity for an installation containing 50 megawatts be calculated as follows:

$$\begin{aligned} \text{Annual output} &= \text{rated capacity} \times 24 \text{ hours / day} \times 365 \text{ days / year} \\ &= \text{rated capacity} \times 8760 \text{ hours / year} \\ &= 50 \text{ mW} \times 8760 \text{ hours / year} \\ &= 438,000 \text{ mWh/year.} \end{aligned}$$

Of course, an installation of 400 megawatts is eight times greater.

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Given that global warming as the result of accumulating greenhouse gases is an issue with which both our generation and the next will be confronted throughout the world, it is irresponsible to fail to do our part to try to reduce the creation of these gases.<sup>12</sup>

With respect to effects on wildlife, remember that it is already illegal to kill endangered or threatened species. We don't need an additional layer of state legislation on top of that federal legislation. I can tell you that every wind developer I've talked to is very aware of their responsibilities to wildlife.

Lastly, I want to address the attack on property rights that is represented by this bill. I and my relatives own this ranch, and we want to augment our ranching income, which can be unsteady, by using it, in part, as a wind farm. Proponents of the bill before the committee, and what appears to me to be related legislation to impose as much red tape as possible (SB 455) and to eliminate tax incentives to develop wind power, seek to impose a variety of delays and restrictions upon us, with what seems to me to be the obvious intent of permanently preventing the installation of wind power on our ranch. Their motivation is primarily, I suppose, an aesthetic one: They don't think they will like the way these turbines will look, and I guess that's a matter of opinion. What I don't find in these bills, however, is a proposal to pay for the loss caused by what amounts to a taking of private land for what amounts to a public use. No—opponents of renewable power want to tell me what to do with my land because they don't like how they think it will look, and they don't want to pay for the privilege, and that's just wrong.

And it's not like I don't have to look at and deal with a whole bunch of stuff that isn't exactly beautiful: Grain elevators, water towers, cell phone towers, hog farms, feed lots, oil refineries, interstate highways, rail roads, and all sorts of other things that I tolerate because I understand that they are necessary for commerce to function. I tolerate them because I like steaks and bacon; I like having a cell phone that works and running water in my house. I expect that the folks who oppose wind farms want the power to come on when they flip a switch, but don't want power generation facilities that might alter their skyline.<sup>13</sup>

Now it might be said that this is just a moratorium, and so I shouldn't be concerned. I have two answers to that: First, it is a component of a collection

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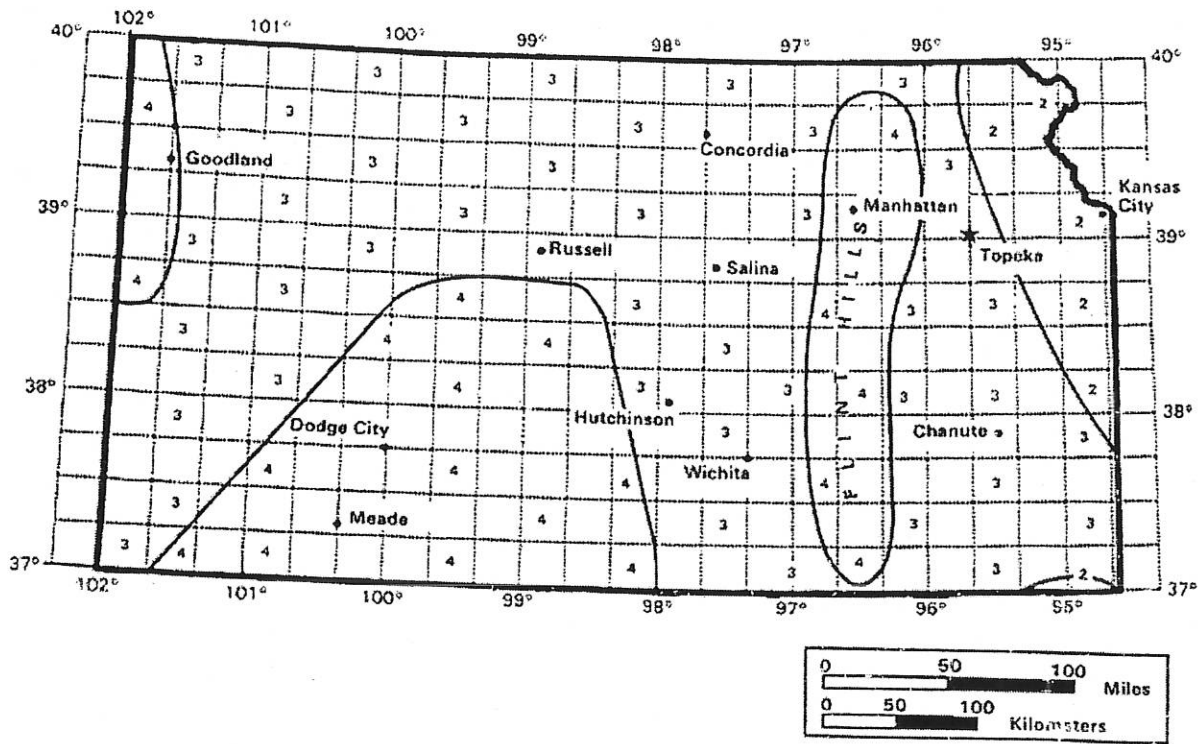
12. I cannot claim to be an expert on global warming. However, my understanding of the present science is that the increased quantity of greenhouse gas in the atmosphere is nearly certain to cause an increase in the global average temperature. There is, as I understand it, significant ongoing debate regarding how much increase is likely and at what rate. Whatever the future holds, however, decreases in greenhouse gases are nearly universally considered to be good policy.

13. And really, this committee and the entire legislature needs to generally reject NIMBYism as a reason for placement or non-placement of facilities. NIMBYs dramatically complicate not just the placement of utilities but all sorts of other things that society needs like jails, youth centers, and landfills, which everybody insists on having but on having somewhere else.

of bills designed to prevent wind development and needs to be viewed in that context. Second, even if it were the only component to pass, it will create uncertainty for more than a year. Every one of you knows that uncertainty is bad for business: it increases delays and costs, scares investors, and complicates planning.

In sum, this bill is bad for the Flint Hills, bad for Kansas, bad for the United States, and bad for the World. I urge you to kill it in this committee.

I appreciate the committee's time.



Wind Energy Resource Atlas of the United States from the Renewable Resource Data Center (RReDC). The RReDC is supported by the National Center for Photovoltaics (NCPV) and managed by the Department of Energy's Office of Energy Efficiency and Renewable Energy.

<http://rredc.nrel.gov/wind/pubs/atlas/maps/chap3/3-42m.html>

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Overland Park

*President Elect*

Mark Franzen, AIA

Overland Park

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Jan Burgess, AIA

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Wichita

Jason Van Hecke, AIA

Wichita

Kyle Wedel, AIAS

Manhattan

*Executive Director*

Trudy Aron, Hon. AIA, CAE

aron@aiaks.org

TO: Representative Holmes and Members of House  
Utilities Committee

FROM: Trudy Aron, Executive Director

RE: **OPPOSITION FOR HB 2799**

Good morning, Representative Holmes and members of the Committee. I am Trudy Aron, executive director, of the American Institute of Architects in Kansas (AIA Kansas.) We appreciate the opportunity to discuss our opposition of HB 2799.

AIA Kansas is a statewide association of architects and intern architects. Most of our 700 members work in over 100 private practice architectural firms designing a variety of project types for both public and private clients including justice facilities, schools, hospitals and other health facilities, industrial buildings, offices, recreational facilities, housing, and much more. The rest of our members work in industry, government and education where many manage the facilities of their employers and hire private practice firms to design new buildings and to renovate or remodel existing buildings.

First let me unequivocally state that we believe the Flint Hills are a beautiful part of our state and represent a valuable historical, cultural, and economic region. However, we believe commercial wind generation can be compatible with these values.

We believe it is shortsighted and irresponsible to ban wind turbine development in our state. Wind is something Kansas has in abundance and it represents a clean, non-polluting, and sustainable source of electricity. It, along with other renewable sources of energy, will allow us to cut our increasing dependence on foreign and domestic fossil fuels.

Furthermore, we do not believe that the presence of wind turbines harms the Flint Hills. As seen in Europe and other US states, these tall, stately turbines resemble slow moving sculpture and are beautiful in their own right.

AIA Kansas urges you to oppose HB2799 and not only defeat this moratorium but support this industry that makes so much sense to us. Thank you.



TO: Representative Carl Holmes, Chair  
Members of the House Committee on Utilities

FROM: Brad Beecher  
Vice President of Energy Supply

RE: House Bill 2799 – An Act Related to Wind Energy

DATE: February 23, 2004

Good morning Mr. Chairman and Members of the House Committee on Utilities. My name is Brad Beecher and I am Vice President of Energy Supply for The Empire District Electric Company based in Joplin Missouri, a Kansas corporation.

Thank you Mr. Chairman, and members of the committee, for the opportunity to speak today.

Empire is an investor-owned utility company serving approximately (156,000) customers in southeast Kansas, southwest Missouri, northeast Oklahoma and northwest Arkansas. Empire has approximately 10,000 customers in southeast Kansas.

Empire has a responsibility to develop a reliable, economical, and environmentally sound power supply to serve our customers. In the past, that has meant a mix of fossil fuels, such as coal and natural gas, as well as hydroelectric generation. Today, with technological advances and the Federal Production Tax Credit (PTC), wind energy is a viable alternative for our customers and the citizens of Kansas.

We do not feel a moratorium on wind projects is in the best interest of Kansas consumers nor Kansas resources. A two-year moratorium will be at odds with a renewed PTC in federal legislation because the PTC opens the window of credit while a moratorium closes the window of construction. In essence, this moratorium would make Kansas wind projects an uneconomical energy alternative.

Upon renewal of the PTC, it is Empire's intention to pursue wind projects in Kansas, including projects in the Flint Hills region that are in proximity to transmission capable of delivering energy to our system. We are currently negotiating with a goal



of procuring about 10% of our energy, or about 500,000 MWh's per year, from a Kansas project.

The demand for energy for our customers and the region continues to increase. Empire has a large purchased power contract that soon expires, plus aging coal-fired generation that we plan to replace in order to continue to fulfill our obligation to serve. Wind energy is planned to be a part of the way we fulfill our obligation to provide energy to our customers. Empire also believes additional coal generation is needed and we continue to investigate those options.

Being an electric utility, one of our main concerns has been and will always be keeping our customers' rates competitive and stable. Wind energy has the potential to add some stability to the volatile natural gas market, which in turn provides security to energy consumers across the state. Wind energy also is less of a strain on other commodities, such as water. A 600-megawatt coal plant requires as much as six to seven thousand gallons of water a minute to operate.

Kansas has an opportunity to be a leader in green energy generation for the Midwest. Along with the environmental benefits from installing a zero emission power source, wind generation will also allow Kansas to be proactive regarding federally mandated renewable energy requirements. Not only would Kansans be able to avoid paying a premium for electricity generated in other parts of the country, but they would also be able to reap the environmental benefits of that energy here at home.

The winds of Kansas are a natural resource and have the ability to ensure Kansas is a net exporter of energy instead of being dependent on other states for wind power.

For these reasons we ask this committee not to pass this legislation nor impose a moratorium on wind project construction.

Thank you for your time, and I will be happy to answer any questions.

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**HOUSE UTILITY COMMITTEE TESTIMONY**  
**ON**  
**House Bill No. 2799**  
**(OPPOSED)**

Liz Hendricks – Native Elk County Landowner, Elk County Commissioner, Real Estate Agent, Cattle Rancher (Disclaimer – not here representing the County Commission)

- Opposed to moratorium on Flint Hills region wind turbine development.
- Each county has the right to decide for themselves

For us in Elk County, wind turbine development could mean:

- substantial economic growth with creation of 10 -15 full time jobs in a county with population around 3000
- higher paying jobs with employees averaging \$30,000 with our current average at around \$19,000
- attracting a younger, more educated workforce to a very aging and poverty-stricken county.
- \$200,000 yearly voluntary contribution to county would equal about 10% of our 2003 ad valorem tax. Total county budget around \$3.2 million
- added income to agricultural producers who currently pay 16-20% of their gross income to property tax.

*HOUSE UTILITIES*

DATE: 2-23-04

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My name is James R. Perkins

I am a lifetime resident of rural Howard, Elk Co., Kansas.

My two sons, grandson, and I operate a 31,000 acre farming and ranching operation in Elk, Greenwood, and Chautauqua counties.

My grandson is the 6<sup>th</sup> generation of our family to farm and ranch in this area.

We are highly aware of the need for continuous management and care of our lands, our most valuable natural resource.

We were the first ranch in Elk County to start holist managed grazing twenty years ago.

Our farming operation of corn, milo and soybeans are all planted no-till to keep a continuous cover on our soil.

Twenty years ago we stopped using anhydrous ammonium as fertilizer because it kills the soil's micro organisms, such as earth worms.

When trying to make a living selling commodity based products that you have very little control over price, as we do in agriculture, we naturally look to other sources of income for our lands.

1. We have a hunting, fishing and wildlife photo program on our ranches. One of the main problems is that we cannot get enough out of state deer permits from the Kansas Wildlife and Parks to fill our hunting requirements. This program, especially deer hunting, is a big income boost in the season to our small town cafes and bed and breakfast.
2. Oil and gas leasing.
3. Coal bed methane gas leasing. We have nearly 100% of our land leased to this program.
4. Wind power.  
We recently leased 5,100 acres of our high elevation land in Elk County to do a test for potential wind turbines.

I have personally seen these wind towers in the historic recreational lake district of North England, Western Kansas and in the panhandle of Texas. I find them to be quiet, clean and well cared for.

To get to our proposed wind tower site in the western part of Elk County, you would have to drive 8-10 miles on gravel and mud roads, then across private property to get to the site.

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Wind is one of our greatest renewable natural resources in Kansas. It is clean, safe and almost always there. So why should we who want the towers on our ranches, not be allowed to take advantage of it's potential?

Why is a wind turbine different than oil wells, radio and phone towers, roads and turnpikes?

Most of our electricity today is being generated with fossil fuel.

We are all aware that the large Hugoton gas field is nearly depleted. The Eastern Kansas Coal Bed methane gas is small in comparison.

Why not use as much wind power as possible and save our rapidly depleting fossil fuel as a backup?

I am very opposed to both House Bill 2799 and Senate Bill 455 as they seem to be trying very hard to take away our individual rights to use our lands to it's highest and best use.

If the Flint Hills alone need to be protected, why do we allow roads, turnpikes, radio and phone towers, high voltage electric lines, oil and gas wells and pipelines to cross and change the scenic beauty?

My Last Concern:

In January 2002, my wife and I were without electricity for 9 ½ days in our home, due to an ice storm. I can assure you that I do not want to be out of electricity again. I hope you don't either.

Thank you.

11-2

## Kansas Natural Resource Council

Testimony Before  
House Utilities Committee  
February 23, 2004

**Re: HB 2799** An act imposing a moratorium on Flint Hills Region wind turbine development.

Chairman Holmes, Members of the Committee,

I am Jay Barnes, Executive Director of Kansas Natural Resource Council. I am here today to testify in support of the moratorium this bill would impose.

KNRC's Board of Directors recently passed a resolution calling for the enactment of statewide siting requirements for industrial wind farms that disallow their placement in the remaining prime prairie habitats of Kansas and that ensure comprehensive impact assessment, with adequate opportunity for public input, regardless of where they are proposed. The goals of that resolution bring me to support for this moratorium.

Our call was adopted for several important reasons :

- because the Flint Hills region contains the world's largest share of remaining tallgrass prairie, the only place where such habitat is in landscape proportions;
- because the region comprises a unique and fragile ecosystem of native flora and fauna;
- because the Flint Hills have significant wind resources which have substantial economic value and can contribute significantly to a renewable energy base for the nation;
- because the Flint Hills also have substantial social and economic value for uses other than wind energy harvesting,
- because all of these uses have potential for significant environmental impact on the prairie eco-region, and
- because there are other areas of the state that raise similar questions to a greater or lesser degree.

Our resolution has been presented to the Governor's Wind and Prairie Task Force which is currently charged with conducting a public process to develop recommendations that will assist local communities in siting decisions and in resolving issues between economic development and preservation. That Task Force report is due in May, 2004, and KNRC hopes that it will provide the environmental protections we feel are necessary to pursue industry development properly in the state .

Three recent reports contain essential reference to the issues of developing the wind energy industry in Kansas.

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DATE: 2-23-04

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The first report, the Kansas Energy Plan 2004 notes deficiencies in current planning and the need for a comprehensive state plan for energy.

“Energy planning in Kansas is presently carried out in a piecemeal approach driven by exigencies and individual initiatives among State Energy Resource Council members and stakeholders. As yet there is no comprehensive integrated plan to achieve the goals outlined in the Executive Order creating the State Energy Council. One of SERC tasks in 20043 will be to carry out a discussion of what Kansas needs for effective energy policy and planning.”

The second report, that of turbine siting guidelines from the Kansas Renewable Energy Working Group, a large stakeholder group working with the Corporation Commission in 2002, is the result of a good deal of effort to come to meaningful consensus.

The final document, the recent report of the Kansas Natural Resource Legacy Alliance, discusses the need to strengthen communications and interaction among the many interests at stake in natural resource policy and management issues in the state. The report is very specific that land use is a major issue and there is a great need to improve management to enhance land productivity and environmental benefits. Kansas is seeing, the report observes, increasing conversion of landscapes to other uses without proper planning or consideration of environmental impacts.

The information, guidance, and advice provided to us in these reports is intended to support the safe and deliberated development of the wind energy industry in the state without destroying our landscape while we do it. The Governor’s Task force has these reports before it. At the simplest level, this moratorium will provide the time the Task Force needs to consider that advice.

I have written that the Flint Hills are not just a study in geology and geography, they are part of the heart and soul of this state. The Governor is more eloquent in her charge to the Wind and Prairie Task force. The Flint Hills, she wrote, are “true treasure of national and international proportion and as Kansans we are stewards of this treasure.”

I submit that the stewardship the Governor cites is on the table in this room this morning. Without your vote for this bill and your support in getting it to her desk for signature, there is no viable vehicle on the horizon to support the most careful of local officials, no brake to apply to unbridled development, no way to stop possibly irreversible impact on ecosystems and landscapes across the state as the wind energy industry develops.

Your affirmative vote however will insure that an open and inclusive process of coming to consensus over guidelines will have time to play itself out, a process that will insure we have opportunity for careful consideration of advice we have been given, and opportunity for careful attention to the values and priorities that define Kansas as well as the economic opportunities that are before us.

12-2

**House Utilities Committee  
Opposing HB 2799  
Testimony of the Kansas Wind Coalition  
Presented by Scott Schneider  
Gaches, Braden, Barbee & Associates  
Monday, February 24, 2004**

Thank you Mr. Chairman and members of the Committee for this opportunity to appear on behalf of the Kansas Wind Coalition and express our concerns about the passage of SB 455 or a moratorium on wind development in Kansas. For the purpose of today's discussion, I'd like to cover the following points:

First: Why a moratorium on wind development is not needed at this time and would not be in the best interest of the State.

Second: Why Kansas public policy in support of wind development should be consistent with other Kansas natural resources.

Third: Why wind development should be a vital part of Kansas' future.

A two-year moratorium on wind development at this time will all but ensure that Kansas misses out on the economic opportunity associated with wind energy. Kansas should not impose a moratorium on wind development. Not for the Flint Hills or the entire state.

The Wind and Prairie Task Force of the State Energy Resources Coordinating Council is already charged with developing policies for use by counties in assessing potential wind development projects.

The Flint Hills are under no immediate threat of being overrun by wind energy projects. There are a number of projects being discussed, I've heard of perhaps a half dozen spread over the thousands of square miles of the Flint Hills, but the marketplace for wind energy, electric transmission constraints, and competition from more wind friendly states will prevent many of them from ever being built.

Moreover, the Flint Hills development issue is being fought over grounds that don't warrant state intervention. With all the attention that wind development has received in the past several months it would be very hard to argue that landowners no longer have access to adequate legal representation. Attorneys have surrounded this issue.

More importantly, opponents to wind energy are arguing they are entitled to a wind turbine free view. They are asking for protection of what's called a "viewscape."

You won't find protection of viewscape in our statute books. But it's being talked about like it's an inalienable property right. What it really is is a legal device to take away another person's property rights.

*HOUSE UTILITIES*  
DATE: 2-23-04  
ATTACHMENT 13

Pete Ferrell owns property in Butler County. His property rights extend to the minerals below and the air above. But there are limits to his rights. He can produce the minerals under the surface of his land, but not the minerals under the surface of his neighbor's land. He can buy the mineral rights that belong to his neighbor if both parties are in agreement. As to his rights above the surface, he has the legal right to construct on his land whatever structure is compatible with the county's zoning. Beyond that, the notion of a legal right to a viewscape ends at your own property line. If Mr. Ferrell's neighbor hasn't paid for a viewscape, it's not his.

There are a very few exceptions to the general rule about viewscape. For example, the State of Kansas has limited the height of development around the Statehouse. But that doesn't prevent a private landowner from constructing a building that everyone else considers unsightly, even ugly. Even across the street from the Statehouse.

Beauty is in the eye of the beholder. And the legal rights to a viewscape are held by the landowner on whose land the item is constructed.

Proponents of SB 455 and various moratorium proposals would leave you to believe that wind energy is benefiting from unique and unjustified development incentives. Actually, compared to the incentives in place for other natural resource production in Kansas, wind power is being treated similarly

Consider first oil and gas production. We currently impose property taxes and severance taxes on oil and gas production. But when these industries were in their infancy such taxes didn't exist.

In fact, we produced oil and gas in Kansas for nearly a century before we imposed a severance tax in the early 80's. Even today we provide low volume oil wells exemptions to the severance tax. And we offer additional tax credits and exemptions to the oil and gas industry.

We have gone so far as to create a public policy against waste of our mineral resources. In fact, I read with interest in this month's KIOGA newsletter that Murfin Drilling is receiving part of a \$4.4 million federal grant for an enhanced oil recovery project. Oil and gas development, just like wind energy development, is driven by government subsidies and incentives. We do so because we want to encourage the development of the resource and because royalty and production ownership has become an important source of income for many Kansans.

Consider also the indirect cost to the State of oil and gas production. Production of fossil fuels negatively impacts the environment. There are oil spills. There are gas leaks. There is damage to the environment and the habitat of birds, fish and other game. There is contamination of ground water. In January of 2001 there were two deaths in Hutchinson associated with the storage of natural gas.



No one disputes these problems. Landowners and production companies, their neighbors and the State of Kansas have learned to deal with these problems. We have the Oil and Gas Conservation Division and numerous departments of KDHE dedicated to dealing with these problems. There are costs associated with the development of fossil fuels and we accept them because of the benefits.

When opponents to wind energy raise environmental concerns as cause for not wanting development in the Flint Hills in makes me pause. Most of the environmental issues associated with oil and gas production are present in the Flint Hills. There are spills to clean up, surface water and underground water to protect, and abandoned wells to plug. I don't hear anyone calling for a moratorium on oil and gas development in the Flint Hills. Nor should we.

Let's look also at production agriculture, the most important natural resource industry in our state.

In Kansas, farm machinery and equipment is 100% property tax exempt for the life of the property. Livestock inventories are also 100% property tax exempt. Exactly the exemption provided wind energy by this legislature just a few years ago.

Agriculture tax exemptions also play a direct role in state energy policy. The market viability of ethanol and bio-diesel products is directly benefited by the tax-exempt status of the agricultural inputs. And preferential motor fuels tax rates at the federal and state level allow these products to be price competitive in the marketplace.

Within federal and state policy there are numerous incentives and protections that are all designed to encourage and maintain a strong agriculture base in our state. All of those policies are well intended and the Wind Coalition has no objection to them.

They are also very similar in intent to the property tax exemption for wind energy. And, if you accept that wind development will always occur on some kind of farming or ranching land, the exemption for wind power encourages lease income for farming and ranching families. Without the Kansas incentives for wind energy, wind development will occur in other states and the lease income for Kansas families will be lost. In that respect, the property tax exemption for wind energy brings additional income to rural Kansas.

Now that wind energy is being discussed in the Flint Hills we are wringing our hands over the prairie chicken population. Like many of you, I grew up in Kansas hunting prairie chicken, pheasant, quail and dove with my dad. I think everyone agrees that increases in production agriculture, including grazing of the Flint Hills, and oil and gas production, have impacted bird habitat. But I don't see us eliminating the tax abatements available to production agriculture or ordering an agriculture moratorium in order to promote hunting or agri-tourism.

The attractiveness of wind energy as a vital component of our national and state energy policy is without dispute. Wind power is the most environmentally friendly source of electricity generation available today. It is so attractive as an alternative to other energy sources that the federal government has created a tax credit to promote its use. The wind energy tax credit has universal support and will be renewed this year with passage of the Energy Bill currently before Congress.

The generation of electricity by wind is safe, environmentally friendly, renewable and, with incentives and tax abatements, is becoming the fastest growing source of energy in the United States

In addition, wind generation creates jobs. The development of wind generation sites creates hundreds of high-paying construction jobs in the short run and many well paying professional and support jobs in the long run.

There is within Kansas already a significant number of wind industry jobs. Developers, engineers, energy consultants, as well as the support staff at the FPL site outside of Montezuma.

Then there is the income for landowners. Wind development doesn't just occur. It is the product of market demand, consumer support, public policy encouragement, and negotiations with private landowners for the right to construct wind projects on their land.

Terms of wind leases are confidential between the developer and landowner, but it is not uncommon for each wind tower to generate substantial annual lease income to the landowner. In Kansas, as in other Midwest states, this is very attractive supplementary income for farming and ranching families.

We encourage the committee to give these issues a full hearing and then take the action that is most appropriate. Continue the tax abatement in support of wind energy. Provide input into the work of the Wind and Prairie Task Force. And protect the private property rights of those Kansas who see opportunity and a pollution free energy future in wind development.

Thank you for consideration of our comments.