

MINUTES OF THE SENATE UTILITIES COMMITTEE

The meeting was called to order by Chairman Stan Clark at 9:30 a.m. on February 23, 2004 in Room 526-S of the Capitol.

All members were present except:
Senator Jay Emler- excused

Committee staff present:
Bruce Kinzie, Revisor of Statutes
Raney Gilliland, Legislative Research
Ann McMorris, Secretary

Conferees appearing before the committee:
Jacque Sundgren, Rosalia
Suzan Barnes, Grand Central Hotel, Cottonwood Falls
Simon McGee, Alma
Larry Patton, El Dorado
Terry D. Holdren, Kansas Farm Bureau
Pete Ferrell, Beaumont
Ron Gaches, Kansas Wind Coalition
Mike Palmer, Empire District Electric Co.
Elizabeth Hendrix, Elk Co. Commissioner
James Perkins, Elk Co. Commissioner
Colleen Anderson, Council Grove

Others attending:
See Attached List.

Chair Clark opened the hearing on:
SB 455 - Industrial Wind Turbine Development

Proponents:

Jacque Sundgren, Rancher, Rosalia ([Attachment 1](#))
Suzan Barnes, Grand Central Hotel, Cottonwood Falls ([Attachment 2](#))
Simon McGee, Rancher & Landowner, Alma ([Attachment 3](#))
Larry Patton, Rancher, El Dorado ([Attachment 4](#))

Written testimony from Dan Ward, Kansas Wildlife Federation ([Attachment 5](#))

Opponents:

Terry D. Holdren, Kansas Farm Bureau ([Attachment 6](#))
Pete Ferrell, Rancher, Beaumont ([Attachment 7](#))
Ron Gaches, Kansas Wind Coalition ([Attachment 8](#))
Mike Palmer, VP, Commercial Operations, Empire District Electric Company, Joplin, MO ([Attachment 9](#))
Elizabeth Hendricks, Elk County Landowner ([Attachment 10](#))
James Perkins, Howard, KS
Colleen Anderson, Landowner, Council Grove ([Attachment 11](#))

Written testimony from: Roger Zimmerman, Alta Vista ([Attachment 12](#))
Jennifer States, J.W. Prairie Wind Power LLC, Lawrence ([Attachment 13](#))
Wayne Hoffman, Orion Energy, Oakland CA ([Attachment 14](#))
Trudy Aron, Exec. Director, AIA Kansas, Topeka ([Attachment 15](#))
Matthew Hantzmon, Greenlight Energy, Charlottesville VA ([Attachment 16](#))
Rex Savage, Marion County, Florence ([Attachment 17](#))
Anne B. Wilson, Flint Hills Landowner ([Attachment 18](#))

CONTINUATION SHEET

MINUTES OF THE SENATE UTILITIES COMMITTEE at 9:30 a.m. on February 23, 2004 in Room 526-S of the Capitol.

Chairman opened for questions. Discussion on short term moratorium, how much oil well development in Kansas and how other states have legislated wind power.

Chair closed hearing on **SB 455**.

The next meeting of the Senate Utilities Committee is scheduled for February 24, 2004.

Adjournment.

Respectfully submitted,

Ann McMorris, Secretary

Attachments - 18

SENATE UTILITIES COMMITTEE GUEST LIST

DATE: February 23, 2004

Name	Representing
Whitney Damron	The Empire District Electric Co.
MIKE PALMER	THE EMPIRE DISTRICT ELECTRIC CO.
Randall Allen	Kansas Association of Counties
Joe Dick	KCKBP4
SUZAN BARNES	TALLGRASS RANCHERS / PROTECT THE FLINT HILLS
Lony R. Patten	Protect the Flint Hills / Tallgrass Ranchers
Jacquie Sundgren	Protect the Flint Hills / Tallgrass Ranchers
David Jouts	Protect the Flint Hills / Tallgrass Ranch
Robert E. Jouts	Protect the Flint Hills / Tallgrass Ranch
Simon McEwen	M7 Ranch / Tallgrass Ranchers / Protect the Flint Hills
ANNE GAGER	PROTECT THE FLINT HILLS / TALLGRASS RANCHERS
FRANK C. SABATINI	TALL GRASS RANCHERS
Greg Wingfield	WB Co. Resident
Nancy Waugh	PROTECT THE FLINT HILLS / TALL GRASS RANCHERS
Jim Hoy	Protect the Flint Hills / Tallgrass Ranchers
STEVE SUNDRGREN	PROTECT THE FLINT HILLS / TALLGRASS RANCHERS

SENATE UTILITIES COMMITTEE GUEST LIST

DATE: February 23, 2004

Name	Representing
Josh + Gwon Hoy	Protect the Flint Hills
Jamie Sundgren	Protect the Flint Hills / Tallgrass Ranchers
Jon Klataske	Association of Kansas / Tallgrass Ranchers
Mary Stackley	Protect the Flint Hills / Tallgrass Ranchers
Alan Stackley	Protect the Flint Hills / Tallgrass Ranchers
TERRY HOWREN	KS FARM BUREAU
Virgil Huseman	Friends of Smoky Hills - Ellsworth
Stephen Donley	" " "
Allen D. Bohner	" " "
Rob Freeman	Kansas Wind Power
Michael D. Ji	Kansas Farm Bureau
Kent Bacon	Tall Grass Ranchers

Subject: FW: SB 455 Presentation

Senate Bill 455

My family is the fourth generation entrusted to care for the family ranch located 10 miles south of Cassoday. Each generation has faced challenge's testing our management skills and our worthiness to carry on. Drought, storms, erosion control, weeds, brush, trees and stocking rates all require different approaches to maintain the prairies' healthy condition.

It bothers me greatly that by someone else's choice my livelihood is so threatened by the possible destruction of the fragile ecosystem of the Tallgrass Prairie. Placement of Wind Turbines in the Flint Hills will take away what we enjoy and share with others. It breaks my heart to thing that my grandchildren may not have the opportunity to sit and look for miles across the prairies or never see a group of prairie chickens burst from the grass as we drive through the pastures. Instead they may have to watch new transmission lines and roads stretch across our land without any protest rights due to eminent domain, or witness land values decrease because who would want to live by 462-foot turbines.

The land is more than a place for a bigger house or for profit making. This land truly is our life. It has been nurtured and respected, even in times when abusing it could have generated much greater income. We have always thought past the immediate good. What is best today may have to be bypassed for the betterment of tomorrow. This philosophy supports what has been, and always will be, our ongoing dream, that the farm and the art of farming and ranching will be passed to the next generation. Please think of the future of our Flint Hills, what they contain and what they represent. And please do not let us be the last generation to be blessed with their history and beauty.

Please send Senate Bill 455 on to the Senate for consideration.

Thank you,

Jacque Sundgren
Box 33
Rosalia, KS 67132
620-476-2476

Senate Utilities Committee
February 23, 2004
Attachment - 1-1

I am an owner of three businesses in Chase County, specifically Cottonwood Falls, that rely on tourism. I have The Grand Central Hotel, The Prairie Coffee Company and Conference Gallery, and The Prairie Drifter, providing sunset tours of the Flint Hills. I have been in the travel and hospitality business for 35 years, first as a travel agent concentrating on “outbound” travel and now as a hotel and restaurant owner relying on “inbound” travel. In addition, I grew up in the Flint Hills. When I started the Grand Central Hotel, there were some that thought it wouldn’t work. But I knew it would, primarily because of corporate demand for getting away from the chrome and glass meeting rooms in the cities. Not too long ago, travel was a luxury. Now, it is a given. People work hard and want to escape on the weekends to unknown places – places not like where they are from – places that don’t look like their neighborhoods. Weekend getaways are important. For many, The Flint Hills is the answer. We have become a destination, not just for Kansans but for people from all over the world.

Our transient guest tax provides over \$4000.00 annually for tourism and conventions. Our Prairie Art event, allowing artists access to private land for two weeks in the spring, brings in over \$5,000.00 annually for community enhancement. We have the honor of being the pilot scenic byway for Kansas. This simply means that KDOT picked the 45-mile corridor through Butler, Chase and Morris Counties as the #1 most scenic drive in Kansas. According to the Scenic Byway tourism economic impact figures, domestic travel expenditures grew 173% in Butler County, 234% in Morris County, and 2017% in Chase County, between 1993 and 1998. Statewide, the increase was only 117%. This is wholly due to the beauty of the area. In fact, the motto of The Flint Hills Scenic Byway is “See it like it is, leave it like it is.”

Obviously, tourism in The Flint Hills has had a direct economic impact on businesses. There are communities that have been involved in tourism for some time now – like Council Grove and El Dorado. There are communities that are new at it – like Cottonwood Falls, Strong City and Alma. Regardless, we are all directly involved in people fulfilling dreams. For many, their dream came from driving the turnpike from Wichita to Topeka and Kansas City, dreaming of riding a horse across those beautiful hills. For others, they dream of getting off the beaten path and watching our glorious sunsets. Through tourism, we fulfill these dreams. We remind them to listen to the quiet, gaining a little respite for their souls and offer an in-depth history of our Flint Hills. Some are tourists and some are adventurous travelers. Regardless, they love the Flint Hills. They tell us that they want the Flint Hills as they are today, as their last frontier close by. If we ruin these hills with wind turbines, there will be no reason for travelers to come here.

It is important that we recognize the importance of our scenic beauty to the economic well being of our communities through tourism opportunities. In general, we can and must do a lot by doing very little.

Suzan Barnes
Grand Central Hotel
1-620-273-6763
sbarnes@wwwebservice.net

Comments regarding SB 455
Submitted by Simon McGee
785-765-3877
smcgee3@mindspring.com

Good Morning, I am Simon McGee... a landowner and rancher in the south central part of Wabaunsee County where I operate a summer grazing outfit on about 4,200 acres of native tall grass prairie. I am very concerned about the rapid movement towards the industrialization of the Flint Hills with wind energy development – all without adequate time for decision makers to gather and thoroughly analyze all of the available information and experiences of other countries, regions, and communities that have faced this complex issue.

I ask you to please work this Bill and pass it on to the full Senate for consideration. The moratorium is necessary to protect the property rights and property values of all Flint Hills landowners from the irreversible negative impact of uncontrolled industrial wind energy development.

Like most of my neighbors, I do not want someone else telling me what I can or cannot do with my property. However, I know that this argument is valid only up to the point that what I choose to do infringes on someone else's property rights. And surely a bunch of 350 foot plus industrial towers looming nearby, with lights blinking 24/7, will infringe on my rights and those of my neighbors and the entire community. Legally and morally, we just can't do whatever we darn well please without any regard for our neighbors. So, as good folks consider this form of industrial development we should ask: "what about the property rights of the vast majority of people without wind turbines?"

In addition to our property rights, what about property values? If industrial wind development occurs in the Flint Hills, including that part of the region that is currently in hay meadow or tillable ground, I am gravely concerned that the market value of our agricultural property – our native tall grass ranchland – is going to decline. Good Flint Hills pastures are selling for \$600-800 and more per acre...but those of us that operate this land know that the use value is only about \$250...and that's in a good year. So where is that extra \$350-550 per acre -or more- of value coming from? What is this intangible value? For some it's hunting and fishing, for others its conservation opportunities. It's the landscape, the scenery and the uncluttered skylines; yes, it's the viewshed. It's the privilege to live in a clean, safe, quiet place. It's good neighbors, fresh air and solitude. It is tourism and the Flint Hills ranching heritage. This intangible value could be many different things...but whatever it is, it is clearly and definitely creating real value in our property...its literally money in the bank. If industrial wind energy development is allowed in the Flint Hills, what will happen to that portion of our property value that is derived from these intangible things? Will our land values revert to strictly use value...\$250/acre? What will my banker do if property values start to decline? The effect on my balance sheet would be devastating.

With industrial wind developments could come eminent domain to force the installation of above and/or below ground transmission lines across our property...even if we don't want them. The project being promoted in Butler County would require 18 miles of interconnection lines to get to the transmission grid...much of that across property owned by folks who aren't a part of the project. The Munkers Creek project proposed in Wabaunsee and Morris Counties has been leased up in a checkerboard pattern...with no way to connect the project without either persuading unwilling landowners or by using eminent domain.

If industrial wind energy development is allowed to occur in the Flint Hills, what about the property rights of the overwhelming majority of us that, whether by choice or by location, will not receive payment for the industrial transformation of our agricultural lands? Not only will we not benefit ...our property will be devalued, our taxes and electricity rates will increase and, for those of us who's property stands between an industrial wind development and the electrical transmission grid, we will be exposed to the added insult of having eminent domain used to take away even more of our property rights in order to enable the development and destruction of the Flint Hills. Our ability to fully enjoy our lives and our property will be forever impaired and we risk losing our connection with our great ranching heritage.

So, please, listen to the comments today and then work this Bill and pass it on to the full Senate for consideration...our property rights and our property values depend on it! Ranchers throughout the Flint Hills are counting on you.

Senate Utilities Committee
February 23, 2004
Attachment 3-1

From: "Larry & Vicki Patton" <protecttheflinthills@wheatstate.com>
To: <annm@senate.state.ks.us>
Date: 2/20/04 7:48PM
Subject: Comments on SB 455

Comments on Senate Bill 455

My family first became stewards of the Flint Hills Tallgrass Prairie in 1868 when my great, great granddad brought his family to Chase County from what was then the lush prairie of southwest Indiana. I am the 5th generation to have the privilege of owning, managing, and preserving native grassland in Kansas.

Most Kansans appreciate the unique, timeless beauty of the Flint Hills and understand the importance of protecting this endangered ecosystem. Reasonable people know there is something very wrong about "industrializing" the last significant expanse of Tallgrass Prairie in America. The more people learn about the prospect of constructing industrial wind energy complexes in the Flint Hills, the more concerned they become. Even wind energy development corporations acknowledge their turbines have a certain amount of negative impact, yet they continue to search for ways to justify their pursuit of profit at our expense. What angers many people is that our government is helping in this pursuit through tax credits, tax shelters, and tax exemptions; and these tax incentives don't discriminate between areas of special beauty and heritage, as opposed to industrial zones.

Industrial wind facilities only benefit a few landowners -- at the expense of neighboring landowners and the general public. Because only a few landowners receive any dollars, these facilities are not a meaningful help to the agricultural and ranching community at large.

We have other routes to help preserve both the land and the rancher. Conservation easements, securing federal dollars for grassland reserve programs, and tourism are some examples underway. These things can move us where we need to go, together, as a community.

But communities across the nation find that when large industrial turbines are forced on them, unity begins to erode. People are not forgiving when it comes to the significant alteration of their once-scenic environment. They are not forgiving when the value of real estate is reduced. They are not forgiving when they realize that an out-of-state or foreign corporation has exploited and divided their community. And they will not be forgiving when their rich cultural heritage is stolen by government financed (via tax shelters) destruction of the prairie. Sadly, it's difficult for communities to ever again achieve unity when the cause of disharmony (turbines) looms on the horizon as a constant reminder of what has been lost.

I am a champion of "landowner rights." But all of us who own pristine Flint Hills land have rights -- not just those who decide to cash in on short term profits at the prairie's expense. As landowners we should be able to protect the value of our property, to maintain our scenic landscapes, to retain our agricultural heritage, to protect our unique ecosystem from being industrialized by hundreds of wind turbines.

Most people acknowledge there are places that should not be subjected to industrialization. The Flint Hills is one of those places. When developers suddenly appeared on the scene we were not prepared to deal with the challenges the industry brought with it. The people of Kansas may not know what the perfect solution to siting wind turbines is, but we do know that allowing them everywhere makes no sense. This is a state-wide issue, and the state needs time to plan a reasonable approach to siting wind energy plants. What that solution will be.... we don't need to agree on today. Please declare a moratorium and allow time for the state to make wise decisions on the preservation of our prairie landscape.

Please don't let this opportunity pass. The Flint Hills may not have another chance. Send Senate Bill

Senate Utilities Committee
February 23, 2004
Attachment - 4-1

455 on to the full senate for consideration.

Larry R. Patton

5694 N.W. 50th

El Dorado, Kansas 67042

620-752-3455

4-2

Testimony in Support of SB 455
Prepared for the Senate Utilities Committee

February 23, 2004

My name is Dan Ward, and I'm the Executive Director of the Kansas Wildlife Federation. KWF is a 53-year old organization dedicated to the wise use, conservation, appreciation, and the restoration of our state's wildlife and natural environment. We approach this mission primarily from the perspective of hunting and fishing, which are important traditions in Kansas.

As I mentioned in a previous appearance before you, KWF has taken an interest in the issue of commercial wind energy in Kansas for a number of reasons that we feel have been under publicized. The next generation of wind turbines will have propellers that reach over 400 feet up in the air. When a hundred of these machines are sited along bird migration routes, they have an immense and well-documented impact on ducks, geese, hawks, songbirds, and other birds. California's experience with raptor deaths in the Altamont Pass is just one instructive example in this regard.

Both the Greater and the Lesser Prairie-chicken, birds that are emblematic of the Great Plains, are unable to nest in the shadows of these machines. That means that even if the projects are located on the edge of prairie-chicken habitat, there is still a fragmentation effect.

One commercial scale project could prevent breeding in a 25-square mile area. Imagine taking a giant cookie-cutter five and half miles wide and scooping out sections out of the Flint Hills. It doesn't take too many circles this size before the habitat is extensively fragmented.

It would be easy to characterize this bill as being "anti-wind power." That would be inaccurate. This bill does not affect wind power projects in most of Kansas. Rather than think of this bill as being "anti-wind" I would ask you to think of it as being "pro Flint Hills."

Once the question becomes "how can I be for the Flint Hills?" the reasons why we should limit and regulate industrial wind energy are obvious. It would not only destroy the integrity of the prairie, it would harm the people who live and work there.

A few examples:

- Eminent domain will be used to force easements through adjoining properties for the purpose of access roads and connections to the main power transmission lines.
- Tourism businesses that depend on the unique nature of the Flint Hills will suffer.

Senate Utilities Committee
February 23, 2004
Attachment 5-1

- Neighboring property owners will have to put up with strobe lights and noise that will never stop.

We should never lightly or hastily put limits on a way that a man or a woman can earn his living or pay the mortgage. However, we do so as a society when actions threaten the well-being of those around us. As an extreme example, I cannot tear my house down and put up a paint factory. The various zoning and permitting laws rightly would not allow it. Similarly, this body is justified in regulating how wind energy providers impact the lives of Kansans who call the Flint Hills home.

I've been accused of exaggeration when I say this, but I don't see the hyperbole – the Flint Hills are a piece of American history. Once they are gone, there will be no landscape to show Americans what was here to greet our ancestors as they came west to start a new life. Tearing them apart for the purposes of industrial development makes as little sense as flooding Gettysburg under a dam or putting a factory on top of Mount Vernon.

If you missed Pat Hughes' extraordinary presentation before this committee, I would urge you to ask him to email you a copy. Mr. Hughes touched on a lot of very valuable points. The one that I want to make sure and reiterate is that saving one of our state's greatest treasures is up to you. There is no other body that can step in and make the regional difference that's needed here.

Increasingly, the people of the Flint Hills are saying no to the concept of "wind farms," recognizing that the reality is much, much different than the sales pitch. I hope you can give them the support they're looking for by taking quick action to get SB 455 out of your committee.

Kansas Farm Bureau
PUBLIC POLICY STATEMENT

SENATE UTILITIES COMMITTEE

Re: SB 455—The Industrial Wind Turbine Act

February 23, 2004
Topeka, Kansas

Presented by:
Terry D. Holdren
Associate State Director—KFB Governmental Relations

Chairman Clark and members of the Senate Utilities Committee, thank you for the opportunity to appear today. I am Terry Holdren and I serve as Associate State Director—Governmental Relations for Kansas Farm Bureau (KFB). As you know Kansas Farm Bureau, (KFB) is the state's largest general farm organization representing more than 40,000 farm and ranch families through our 105 county Farm Bureau Associations.

We come before you today in opposition to SB 455. This legislation, would prohibit development of wind farms in undisturbed natural areas of the flint hills region, and would only allow development of wind farms after a lengthy permit process and a showing by the developer that the proposal would have zero impact on the area surrounding the farm. In essence, this bill will close down the Flint Hills to wind development.

Kansas ranks high in wind velocity—3rd in the nation in total wind potential behind North Dakota and Texas. Those three states have the potential to supply enough energy to meet the needs of all of the lower 48 states. Kansas Farm Bureau, through its yearlong policy development process, has adopted language, which supports the development of wind

as a renewable energy resource. A resource, which could play a significant role in revitalizing the Kansas economy. It is imperative that we recruit appropriate agencies, and interested parties to study this source of renewable energy and develop a plan, with incentives, to encourage wind generation in Kansas.

To contribute to the discussion and development of a plan to address this issue, Mike Irvin, Director of the KFB Legal Foundation, currently serves on the Governor's Prairie Wind Energy Task Force. We believe that this group—through study and discussion of the concerns and interests of all Kansans will produce a well-reasoned plan for the development of this resource in Kansas.

We share the concern of many in protecting the natural resources and historic and scenic value that exists in the Flint Hills, the Smoky Hills, and many other regions across the state. Success in protecting those resources is dependent upon partnering and cooperation involving government agencies, agriculture, homeowners, and natural resource and environmental interests. All of these groups must come to the table to increase public awareness and encourage appropriate action.

Ultimately this legislation will eliminate the possibility of wind development within the Flint Hills. As you know, KFB has long and vigorously supported landowners rights. Given that history and our belief that those who own and operate land should have the responsibility for land use and development; we believe that government should not halt development nor limit the size of any business.

Finally, we believe that local governments are the appropriate place for this debate to occur. Our members understand the need for cultural development and the protection of our resources. We have long encouraged them to become involved in planning and development of zoning ordinances to prevent undesirable land use patterns. These activities are best addressed at the local level.

If the committee feels it must act at this time, we would encourage consideration of alternatives to perpetual bans on any development of wind resources in the area—possibly an interim study of the issue, which would allow the legislature to better understand the impacts of this proposal. Likewise, this would provide time for discussion of the issue and possible action on the local level to address concerns there.

KFB stands ready to participate in the discussion and development of this valuable resource. Thank you.

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

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.

Senate Utilities Committee
Regarding SB 455: The Industrial Wind Turbine Development Act
Testimony of the Kansas Wind Coalition
Presented by Ron Gaches
Gaches, Braden, Barbee & Associates
Monday, February 24, 2004

Thank you Chairman Clark 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.

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.

8-3

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.

8-4



TO: Senator Stan Clark, Chair
Members of the Senate Committee on Utilities

FROM: Mike Palmer
Vice President of Commercial Operations

RE: Senate Bill 455 – An Act Related to Wind Energy

DATE: February 23, 2004

Good morning Mr. Chairman and Members of the Senate Committee on Utilities. My name is Mike Palmer and I am Vice President of Commercial Operations 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 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.

**SENATE UTILITY COMMITTEE TESTIMONY
ON
SB 455
(OPPOSED)**

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

- Kansas Corporation Commission **should** require permits for all wind turbine development in Kansas, **not just Flint Hill Region** (Sec 2)
- Permit requirements **should not** include landowners within 2 miles of development (6)
- Permit requirements **should not** involve land uses within 2 miles of development (10)
- Permit requirements **should not** have to identify impact on farmland (11)
- Permit requirements **should not** have to identify the dependency on tax credits or other government subsidies. (12)
- Commission **should not** have to hold public hearings (Sec 3 c)
- Commission **should** publish permit request but **should not** have to publish public hearing notice (Sec 3 d)
- Commission **should not** have to appoint an attorney (Sec 3 e)
- Applicant **should not** have to establish evidence of the necessity of the proposed development. (Sec 3f)

SENATE UTILITIES COMMITTEE
SENATE BILL 455
FEBRUARY 23, 2004

Distinguished Senator Stan Clark-

It is my understanding that you are about to deal with a very important bill. That bill is designated SB#455 and includes issues that will deal directly with the proposed windfarm near our home. While we may or may not benefit from this project, I feel it is very important to develop this resource. It is non-polluting, is renewable and we feel desirable to other energy sources. We happen to have a prime chance to capitalize as the conditions appear favorable for a required sustained wind flow plus the site is close enough to users to make it a good business investment.

Those opposed have sited that other governments have decreased the money for such ventures. That is so in Germany because the cost is coming down. Remember how much hand held calculators cost when they first came out? Now they are give away as advertisements or cost only a few dollars. Success of this project is essential to future developments and eventual lower cost per unit of energy.

The proposed site lies entirely outside the area that is regarded as "prairie Flint Hills" so that vegetation will not be disturbed. We ventured to Montazuma and failed to see the objection due to noise or vision. I regard them as engineering marvels. We saw them in Scandinavia, Michigan, and almost missed seeing them as we didn't expect to see them. The California towers are being taken down to be replaced by the newer models that are increasingly more efficient. People in the Flint Hills just south of Council Grove and north of Council Grove have farmed around the great power lines that traverse the terrain for almost 50 years. Those living and farming with these power lines now may have a chance to get something out of the deal other than an inconvenience. S#455 is poised to make the difference.

The portion of the bill that requires a permit for each tower should not be necessary. This language is so restrictive that it prohibits any project from happening in the Flint Hills. I would liken this restriction to the idea of opening a womans' clothing store in an overweight popuation and being told that only size 5 can be sold.

I spoke to former Senator Jerry Karr about the make up of the governors task force. The agricultural land holders were listed as "ranchers". We are not a ranch situation as are many others in Morris County. The farming area north of 56 highway and west of Council Grove are more farm land than ranch. While respecting those who do have good stands of Bluestem and do have managed ranches, I feel that our voice is not being heard because of the Task Force structure. The bill, as I understand the language, is throwing up road blocks to areas that want the project to go forward. My parents are proud to be classified as having a "Century Farm" by the Kansas Farm Bureau. Some of our farm has been in the my husband's family farming practices for over 100 years, so we know about "staying on the farm. Don't let the vocal ranchers with strong resources speak over farmers who have lived on the land for generations and would need the income to survive. We view the project income as a "year-round crop".

Our forefathers (and mothers) had the pioneering spirit to try new and different solutions to old problems. If this bill is passed on, I feel that a very important economic opportunity for Kansas will be lost or prolonged unnecessarily.

I would like very much to discuss this with you on Monday the 23rd, but find that our "off farm" jobs will not let either of us attend. We will be watching the outcome of your senate activities and hope that the goal of economic development for our state and rural residents and positive progress for the future of Kansas is important to you. Colleen Anderson, Council Grove, Kansas

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

Roger W. Zimmerman
32762 North Rock Creek Road
Alta Vista, Ks. 66834
785-499-5341
hrfarms@tctelco.net

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 5th 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, 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 cites 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:

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 8th 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 8th 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.

13-4

- 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

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

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

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

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

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

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

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

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

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

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.”

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,

“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

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/>

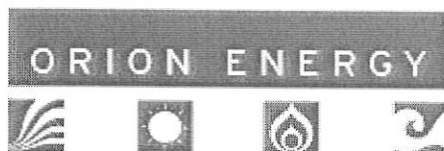
“Large wind turbines use only about a quarter acre of land, including access roads, so farmers can continue to plant crops and graze livestock right up to the base of the turbines.”

Source: Farming the Wind, Union of Concerned Scientists,
www.ucsusa.org/publication.cfm?publicationID=92

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



1611 Telegraph Ave. Suite 1515
Oakland, CA 94612
510-763-8083

Feb. 20, 2004

Senator Stan Clark, Chairman
Senate Utilities Committee
Kansas State Senate
Topeka, Kansas

SUBJECT: COMMENTS ON SB 455

Dear Senator Clark and Committee Members,

Please consider these comments in your deliberations on SB 455 and on whether to send the bill out to the full Senate for consideration.

Orion Energy would like to first identify itself as a small entrepreneurial company which has been extremely active and successful in developing and completing projects in the United States, having been directly responsible for over 20% of all installed wind generation in the country in 2003. In this near record year of over 1600 Megawatts of installation, about 300 MW is attributable to Orion, a company with less than a dozen staff members.

We emphasize this because many of the issues addressed in SB 455 that might be passed over by a number of in-state developers who have not had the direct experience of seeing projects through development, construction, and into operation phases, are of major concern to us.

There are a number of reasons why this legislation is both untimely and unnecessary. It is untimely and unnecessary because almost all of the counties being affected by potential wind energy development are proving to be equal to the task of developing their own local guidelines, and have available to them a number of very well thought out regulations that have evolved from the experience of other states and localities in the past

Senate Utilities Committee
February 23, 2004
Attachment - 14-1

twenty years. Local government, which has ample authority to instill their own moratoriums (such as has been done in Riley County) until they have a reasonable set of guidelines upon which a highly intelligent and publicly protective decision can be made. We have been very active in providing the county we are working in with the most up to date regulations on a variety of issues from both the United States and Europe, where scrutiny is typically greater than in the U.S.

An important economic reason for the untimely nature of this legislation is the position of Kansas vis-à-vis surrounding states in the expansion of wind energy. Active development is now underway in Colorado, Oklahoma, Nebraska, and Iowa, and continued delay of project in Kansas can only weaken the states competitiveness. Moreover, a very likely effect of this legislation is that developers will simply walk away from Kansas and do business elsewhere, notwithstanding the existing tax benefits in the state. If this is the NIMBY's intent of this law, and it get passed in a form anywhere near its present form, they will succeed.

Furthermore, the morass of state bureaucracies and state regulations that would be necessary to oversee and implement SB 455 would be extremely costly, and would most negatively even the opposition from those communities that would have to frequently travel long distances to the capital to participate in a state regulated process.

Perhaps our most relevant question for those who are supporting this legislation is why is the most clean, and most cost competitive form of energy available in the world today, (when accounting for the environmental effects of fossil fuel including natural gas) suddenly being held to standards, often far above those that were and are even still being applied to the use of polluting and global warming causing fossil fuel facilities?

SPECIFIC SB 455 COMMENTS:

1. In general the legislation appears to be a somewhat disguised legal attempt to prohibit or indefinitely delay wind energy development in Kansas. Specifically to that point, two provisions will almost certainly have that effect whether intended or not. Having worked for 30 years in the environmental regulatory and planning field in California, where project approvals frequently take two years or more, the legislation proposed in SB 455 is more complicated and likely to produce more tort actions than the California Environmental Quality Act and NEPA combined. For example, Sections 3b(7) calling for meeting the standards of NEPA, is both unnecessary, and would invite never ending appeals, delays, and lawsuits whether the case had merit or not, because many, many projects across the United States, some I have been involved in have been unreasonably killed by simple legal delays lasting up to 5 years.
2. The provision in Section 3(c) that the KCC be allowed up to six months to set a public hearing on a completed application is hardly reasonable or fair to an applicant that has spent months of up front work working with local and state agencies to work out issues before the fact.
3. The provision in Section 3(e) that the KCC be responsible for appoint an attorney to represent local landowners, is an obvious invitation to lawsuits, and virtually

assures that every project proposed will be delayed by appeals by a few disgruntled area residents who did not share in the revenues from the project, or have an exaggerated image of what the project will be. Such fears, have been proven to be frequent, and usually misplaced, especially when a good set of zoning guidelines is in place.

4. Perhaps the most egregious use of the proposed legislation to prevent, delay or to discredit worthy projects is the provision in Section 3(f) where the burden of proof is on the applicant to prove the necessity of the proposed project. While this may on the surface appear to be a meritorious provision, to engage in this debate among the array of economic, and environmental factors and given the complexity of weighing wind against all existing generation types, as well as the complex issues of transmission, one quickly sees a potential quagmire. The vague provision that there be no visual effect on any cultural resource preservation area is such an uncertain requirement as to openly invite opponents lawsuits, and the requirement that no more than 25% of surrounding landowners oppose the project is at best a strange provision which raises the question of what ever happened to one person-one vote democracy?
5. Yet another invitation to governmental agency obfuscation is embodied in Section 5 where no less than four state agencies in addition to the KCC are invited to draft their own regulations regarding the location of wind generation facilities.

One final caution related to the protection of the Flint Hills. Certainly Orion Energy is interested in protecting the Flint Hills, and does not dispute that significant expanses of the more intact areas are worthy of protection. We would ask, however, how the most probable alternative, which is now playing out in various Flint Hill communities, that of expanding urbanite use of ranchettes for second homes, protect the area. In fact, will not wind generation combined with good local regulations that decide where and how they should be built, best protect ranching which beneficially grazes and burns the tallgrass prairie, perhaps best protector of the prairie? How will the tallgrass prairie fare when 40 acre landowners who do not graze large mammals, and cannot effectively burn pastures become prevelant there? How will this type of development prevent cedar and brush growth that now engulfs hillsides and valleys and has much more negative effect than wind turbines placed at a typical density of half dozen per square mile. And finally, who will buy up this land and protect it in this time of great budget stress at the local, state, and federal level?

In conclusion, we respectfully recommend that this legislation to be allowed to die a quite death and the work of dealing with wind development be left to local government and the guidance that may be provided by the ongoing Governor's "Wind and Prairie Task Force." We thank you for this opportunity to comment.

Sincerely Yours,

Wayne Hoffman: Development Director

14-3

February 23, 2004



TO: Representative Emler and Members of Senate
Utilities Committee

FROM: Trudy Aron, Executive Director

RE: **OPPOSITION FOR SB 455**

President
Rich Bartholomew, AIA
Overland Park

President Elect
Mark Franzen, AIA
Overland Park

Secretary
Jan Burgess, AIA
Wichita

Treasurer
Michael Seiwert, AIA
Wichita

Directors
Tracy Anderson, AIA
Manhattan
Richard Blackburn, AIA
Topeka
Joy Coleman, AIA
Lawrence
Douglas R. Cook, AIA
Olathe
Timothy J. Dudte, AIA
Wichita
Robert D. Fincham, AIA
Topeka

John Gaunt, FAIA
Lawrence
Jane Huesemann, AIA
Lawrence

J. Jones, Associate AIA
Manhattan
Michael G. Mayo, AIA
Manhattan

Rick McCafferty
Wichita

Tom Milavec, AIAS
Manhattan

Courtney Miller, AIAS
Lawrence

Bobbi Pearson, Assoc, AIA
Emporia

C. Stan Peterson, AIA
Topeka

Jennifer Rygg, Assoc, AIA
Wichita

Jason Van Hecke, AIA
Wichita

Kyle Wedel, AIAS
Manhattan

Good morning, Senator Emler and members of the Committee. I am Trudy Aron, executive director, of the American Institute of Architects in Kansas (AIA Kansas.) I have provided written testimony to the committee as I am testifying on a similar bill in the House this morning.

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 make wind turbine development in our state so difficult that it is tantamount to banning it. 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 landscape. 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 SB455 and not only defeat these crippling requirements but support this industry that makes so much sense to us. Thank you.

Executive Director
Trudy Aron, Hon. AIA, CAE
aron@aiaks.org

700 SW Jackson, Suite 209
Topeka, KS 66603-3757
Telephone: 785-357-5308 or 800-444-9853
Facsimile: 785-357-6450
Email: info@aiaks.org

Senate Utilities Committee
February 23, 2004
Attachment - 15-1

Testimony

Before the Senate Utilities Committee

Topeka, Kansas

On SB-455 - Industrial Wind Development Act

The Honorable Stan Clark, Chairman

February 23, 2004

Given by:

Matthew W. Hantzmon, Managing Director

Greenlight Energy, Inc.

Charlottesville, VA

Introduction

Chairman Clark and members of the committee, thank you for the opportunity to present this testimony in opposition of Senate Bill 455.

My name is Matthew Hantzmon. I am Managing Director of Greenlight Energy, an energy development company focused on wind energy projects. Greenlight has over a dozen active projects in 7 states. Collectively our management team has developed over 5,000 MW of energy projects. We have been actively developing projects in Kansas for 3 years and hope to bring clean, renewable wind energy to Kansas that will benefit local communities, the state, and the region. Greenlight is currently developing the Elk River Windfarm, located in Butler County.

Greenlight was founded with this goal of bringing environmentally beneficial renewable energy to the country. We take our charter seriously and believe all aspects of a project's impact on the environment must be considered as it relates to all stakeholders, including landowners, neighbors, local community and regional interests.

I want to take this opportunity to present current information about windfarms and windfarm development. Because wind generating technology has progressed rapidly over the last 20 years, many representations about windfarms make reference to obsolete technology that was installed over the last 2 decades.

Modern windfarm technology represents an exponential improvement in energy production and cost efficiency while addressing real concerns about first-generation equipment safety and environmental impacts. As compared to a typical turbine installed 20 years ago, a modern 1.5 MW GE turbine might produce 50 times more electricity over a year at a tenth of the cost.

Energy Production

A windfarm comprising 100 modern wind turbines can produce up to 575 gigawatt hours of electricity per year. That is enough to power for approximately 45,000 Kansas households. With two to three occupants per household, this is practically enough to satisfy the energy needs of the 122,000 residents of Topeka and more than enough to satisfy the needs of Manhattan and Hutchinson combined.

Windfarm Size

A typical windfarm will only use about one to two percent of the total land leased, thus a 100 turbine windfarm will use between 100 and 200 acres of land, leaving the remaining land for its current use. In context, the total land that encompasses the Tallgrass Prairie Ecosystem as defined by the Nature Conservancy, is 7,459,840 acres. As a percentage of the total untilled area of the Flint Hills, a 100 turbine windfarm would represent approximately one-tenth of one percent for the total site or two-two thousandths of one percent for the utilized area.

To even further minimize the impact of the windfarm, Elk River intends to utilize pre-existing oil and gas roads as well as other public and private roads for up to 70% of the total roads needed for the windfarm. This is probably the case with most of the windfarms sited in areas that have prior and on-going oil and gas development.

Emissions Offsets

A key attribute of wind energy production is that it does not produce any emissions or utilize any water in its generation. We all enjoy the ability to flip on a switch and have light immediately, although we don't necessarily recognize the environmental implications of that luxury. The same 100 turbine windfarm discussed in the previous examples will offset hundreds of millions of pounds of environmentally harmful emissions annually. This includes 550,000,000 pounds of carbon dioxide (equivalent to the annual emissions of 55,000 average automobiles), 2,800,000 pounds of sulfur dioxide, and 1,800,000 pounds of nitrogen oxides (SO₂ and NO_x both contribute to asthma in children and acid rain). Over 20 years of windfarm operation this amounts to over 11 billion pounds of emission offsets.

Noise

A common misperception regarding windfarms is that they are noisy. It has been suggested that the noise of a wind turbine can be equated to a helicopter or is similar to a motocross track. These observations are completely distorted. Noise was an issue with some early wind turbine designs, but it has been largely eliminated through significant design improvements and the use of fewer, more efficient turbines. The Elk River Windfarm intends to further reduce potential sound through the use of generous setbacks from site boundaries. The result is that at one half of a mile or more, a windfarm is inaudible to the human ear. At a range of 1,000 feet the windfarm will be as loud as the average household

refrigerator. By comparison, the typical oil pumping equipment that is quite common in the Flint Hills produces 4 to 5 times as much noise as a windfarm.

Land Values

The effect of a windfarm on adjacent property values is a valid concern for communities where a windfarm is developed. A recently released, comprehensive study of modern, large wind farms in the United States has found no evidence of negative impacts on property values. In a majority of cases, properties that had a view of wind turbines appreciated in real estate value more quickly than nearby properties that did not have a view of the wind turbines, according to the study. This was a government-funded study, not industry funded. The study titled, "The Effect of Wind Development on Local Property Values", prepared by the Renewable Energy Policy Project (REPP), examined 25,000 real estate transactions within five miles of ten of the larger wind farms built in the United States between 1998 and 2001.

Economic Development

Wind energy's positive economic development impact on rural communities can be significant. Using the same 100 turbine example, the total economic impact on the local economy over 20 years will be in excess of \$45 million. This includes approximately 175 jobs during the construction phase, utilizing local contractors and labor. It also includes 15 to 20 full-time jobs for operations and maintenance once the facility is built. These are long-term well paying jobs that will remain throughout the life of the project.

Valuable Addition to Utilities' Generation Mix

Wind energy is an important product for regional utilities. With recent gas price volatility and escalation, utilities recognize that wind can be a less expensive source of electricity than gas fired generation, allowing utilities to minimize price increases to customers. Wind energy is also attractive because it can offer long-term fixed price contracts that bring price stability to their generating mix.

There is no expectation that wind will become the dominant source of electricity for regional utilities, but it is already recognized as an important element of their generating mix and one that will allow long-term price stability for customers.

Appropriate Siting

Valid concerns regarding the siting of windfarms in the Flint Hills can be addressed with reasonable prudence on behalf of developers as well as the

establishment of best-practice guidelines like those drafted by the Kansas Renewable Energy Working Group, approved in February, 2003.

Siting in remote areas away from housing and commonly used roadways will reduce the visual impact of the windfarms. Additionally, utilizing sites that have already been developed through oil and gas exploration and heavy agricultural use will limit the impact on previously undisturbed grasslands. By way of example, the Elk River Windfarm will be able to utilize over 28 miles of existing oil, gas, and other roads. It will also be able to utilize existing tank battery sites for the staging of construction materials.

The overriding goal of all parties should be establishing a proper balance between conservation, preservation and prudent development.

Conclusion

Thank you for your time. I hope the perspective of developers like Greenlight can help in your deliberations.

-----Original Message-----

From: Rex [<mailto:rcjr1980@wwwebservice.net>]

Sent: Sunday, February 22, 2004 5:30 PM

To: SCLARK@ink.org

Cc: Stan Clark

Subject: Opposition to wind farm moratorium in Marion County

Sirs:

It has come to my attention that the issue of a "temporary" moratorium on windfarm development anywhere within the Flinthills is to be heard tomorrow, in a last ditch effort to supplant good local governance with a broad brush ban from the State level.

We here in Marion County have invested thousands of man hours and tens of thousands of dollars in updating first our strategic plan, then our planning and zoning regulations regarding this and other potentially controversial land uses. A very specific set of guidelines is now in place to guide our planning and zoning committee should a wind farm application be made. Unlike any other county of which I am aware, we have a full mile notification and protest zone surrounding any property which is up for a zoning or usage change. In short, if the neighbors don't want it, it is almost impossible to site something requiring a change in zoning status in Marion County.

As a rancher/landowner, and the owner of a small oil and gas production company, I am always looking for new ways to increase revenues without damaging the long term value and utility of my property. Over the last couple of years I have spent many hours and dollars investigating the potential for wind energy development in those parts of the County where the necessary zoning changes might be possible. That investigation is ongoing, and I can assure you all of the controversy in other counties and Topeka is monitored by developers. When Topeka hiccups, my project gets kicked in the teeth. While I certainly agree that windfarms should not be indiscriminately sited in the Flinthills, or anywhere else, I do not believe it is in the State's best interest to totally drive this industry elsewhere. We need the revenue, jobs, and energy here.

It is both common sense, and long standing legal and political precedent that land use decisions be made at the most local level of government with jurisdiction. This provides the opportunity for all parties to be heard in the decision making process, after all, we have to look across the fence at each other for the rest of our lives. If some of our neighboring counties have not prepared themselves to intelligently handle land use decisions, I am sorry, but please do not punish Marion County for others failures We have done our homework after some very hard lessons on not being prepared.

A one year moratorium will chill development for many more years to come as the investment money all flows to other states where the governmental incentives are higher and transmission is more readily available. PLEASE, if you must bow to pressure for some sort of moratorium to protect the ill prepared, AMEND MARION COUNTY OUT OF THE BILL. It is both rewarding bad governance and patently unfair to punish us when we have gone to the trouble to prepare for dealing with this issue at the local level. Please do not insert the State of Kansas further into our property rights when it is not absolutely necessary.

I would ask that you share this message with your fellow committee members who may not have received it.

Thank you for your time and efforts.

Sincerely,

Rex Savage
Florence, KS

17-2

Stan Clark

From: Anne B. Wilson [tallgrss@kansas.net]
Sent: Sunday, February 15, 2004 5:43 PM
To: 'Sen. Susan Wagle'; 'Sen. Bob Lyon'; 'Sen. Janis Lee'; 'Sen. Jay Emler'; 'Sen. Jim Barone'; 'Sen. Karin Bownlee'; 'Sen. Mark Taddiken'; 'Sen. Robert Tyson'; 'Sen. Stan Clark'
Subject: Support moratorium on industrial wind development in Flint Hills

I am writing to urge you to please take up and support the bill for a moratorium on industrial wind development in the Flint Hills. Over fifteen industrial scale wind utility plants are being planned in the Flint Hills right now, and will proceed as quickly as possible unless you take action to stop them at least until the Governor's new Task Force on wind siting has considered this complex problem.

I am a Flint Hills rancher who is quite concerned about the significant damage these utility plants will cause in our region, with very little benefit to only a few. I initially was enthusiastic about wind power in our area, but as I have researched and read over the last three years, I am increasingly convinced wind development will be neither a viable solution to global warming (since utility plants have to keep running anyway as wind power is only intermittent), nor an economic benefit to our area since it involves widespread destruction of the prairie surface and will destroy the considerable economic value of our spectacular scenery. Unfortunately, only state and federal tax subsidies make wind economically viable, and in our wartime economy, can we afford this?

In addition, there is not adequate protection to counties for road damage during construction, to landowners for destruction of their surface, and to neighbors and surrounding communities for significant losses of land value, which are being documented in other areas of the U.S. Furthermore, once these mammoth turbines are installed along the ridgetops, with all their connecting roads and trenched electric lines, utilities will then have power to condemn easements for construction of additional power lines across the hills—even more prairie torn and broken and more poles sticking up in the sky, across the land of people who never even agreed to it. The Flint Hills will be forever scarred and fragmented, and for what? Just a handful of jobs and payments to a few landowners, while rural neighborhoods and communities are economically and spiritually devastated by the loss of an irreplaceable treasure.

You have a chance to do something about this.

Other states and nations that have these developments in environmentally significant areas have also suffered negative impact, for example in Great Britain where wind power is increasingly unpopular because it is noisy, unsightly and land-intensive. There as in eastern Kansas, the most favorable locations for wind plants are areas with particularly beautiful views. Loss of tourism value and complaints of local residents are resulting in an epidemic of litigation. In any event, you certainly don't solve one environmental problem by creating another.

Even Wes Jackson of the Land Institute in Salina, who is an outspoken major proponent of alternative energy, believes the Flint Hills, an endangered ecosystem, is not the right place for industrial wind development. Generations from now will thank you for having the foresight to protect this sensitive, rare area, the last 3% in North America, from industrialization.

Senate Utilities Committee
February 23, 2004
Attachment - 18-1