

**APPENDIX A: CORRESPONDENCE FROM AGENCIES
AND ELECTED OFFICIALS**

DEREK SCHMIDT

April 15, 2011

Bruce L. Yeager, NEPA Program Manager
Tennessee Valley Authority
400 West Summit Hill Drive, WT 11D
Knoxville, TN 37902-1499

Dear Mr. Yeager:

As former Kansas State Senator for the 15th District, which includes all of Elk County, I submit these comments in support of the revised draft environmental assessment (DEA) of the proposed Caney River Wind Energy Project in Elk County, Kansas.

I represented Elk County in the Senate for six years. During that time, I came to know the local community well. This project is welcome and eagerly desired in Elk County.

The proposed Caney River Wind Project would be the largest economic development project in the history of the county. It would go far toward helping the local government provide basic services to its citizens. In a county that, even in this second decade of the 21st Century, lacks running water over much of its land area and for many of its citizens, this is no small consideration.

To accommodate this project, considerable effort has gone into mitigation of any concerns about wildlife habitat. The proposed mitigation plan is extensive and will, I believe, result in a net overall improvement of habitat in the area. This project is beneficial both for the wildlife and for the people residing in the area.

For these reasons, I encourage your favorable review of this project.

Sincerely,

A handwritten signature in black ink that reads "Derek Schmidt". The signature is written in a cursive, slightly slanted style.

Derek Schmidt
Kansas State Senator 2001-2011
District 15

April 14, 2011

Mr. Bruce L. Yeager
NEPA Program Manager
Tennessee Valley Authority
400 W. Summit Hill Drive, WT 11D
Knoxville, TN 37902

Dear Mr. Yeager:

It is my pleasure, on behalf of the State of Kansas, to once again provide comments to the Draft Environmental Assessment prepared for the Caney River Wind Project. As I previously indicated, Secretary Robin Jennison and I are in full support of the Project and stand ready to assist with its implementation.

Since my last correspondence to you, we have continued working with all stakeholders to refine and enhance the Native Environment Conservation Plan (NECP) and to address both concerns and suggestions that have been raised through the process regarding any potential impact on the Flint Hills of Kansas by this Project or other wind projects proposed in the future. These efforts have been productive and have, in my and Secretary Jennison's opinion, resulted in a balanced approach that warrants a Finding Of No Significant Impact. With the commitments made in the NECP and other conservation efforts underway, I am most comfortable that we can accomplish our goal of harvesting renewable energy sources while at the same time being good stewards of our other natural resources.

Secretary Jennison and I look forward to working with you as the Project comes to fruition. In the meantime please feel free to contact either of us if you have questions or comments.

Sincerely,

A handwritten signature in black ink that reads "Sam Brownback". The signature is written in a cursive, flowing style.

Governor Sam Brownback

United States Department of the Interior



FISH AND WILDLIFE SERVICE
Kansas Ecological Services Field Office
2609 Anderson
Manhattan, Kansas 66502-2801

April 12, 2011

Bruce L. Yeager
NEPA Program Manager
Tennessee Valley Authority
400 West Summit Hill Drive (WT 11D)
Knoxville, TN 37902

RE: Draft Revised EA for the Caney River Wind Energy Project 64411-2011-CPA-0393

Dear Mr. Yeager;

This responds to your March 2011 request for comments on the Revised Draft Environmental Analysis (RDEA) for the Caney River Wind Energy Project. The revised draft expands discussions of the project's direct effects to tallgrass prairie in the Flint Hills region; the impacts of fragmenting tallgrass prairie habitat on nesting and migration of grassland birds; and cumulative effects; acknowledges the additional conservation and mitigation measures to which the project proponent has agreed, and clarifies the relationship between project impacts and conservation and mitigation measures.

With inclusion of this additional information and analyses, the RDEA satisfactorily addresses the deficiencies identified in my letters of November 4, 2010, and February 25, 2010, concerning project impacts to migratory birds. The expanded mitigation and conservation commitments, which increase the amount of prairie habitat to be protected, increase the amount of grassland habitat restoration to compensate for direct and indirect project impacts, and identify specific prairie habitat restoration targets based on project impact analyses, adequately mitigate the unavoidable impacts of the project. I do recommend that the 6,000 acres of prairie habitat restoration identified to offset unavoidable impacts (Table 3.17, page 3-107) be implemented fully off of the project site. This will ensure maximum use by migratory birds given that habitat suitability on the project site may be reduced because of turbine avoidance, turbine mortality, and increased nest predation caused by access roads.

The Service will continue to provide technical assistance to TVA and the project developer during implementation, monitoring, and evaluation of the mitigation and conservation measures. If you have comments or questions, please do not hesitate to contact me at 785-539-3474, ext. 105.

Sincerely,

Michael J. LeValley
Field Supervisor

cc: Secretary Jennison, KDWP
Asst. Secretary Sexson, KDWP

Name: John Black

Comments: We have reviewed the revised draft environmental assessment (DEA) of the proposed Caney River Wind Energy Project in Elk County, Kansas. It should be noted that the project is outside the protected Heart of the Flint Hills area, it is near existing transmission lines so no new transmission lines or right of way is needed, which results in less environmental disturbances, and no scenic byways, greater prairie chickens or other threatened or endangered species or habitats are impacted.

The mitigation plan includes 18,000 plus acres of conservation easement, plus 6,000 acres of degraded prairie that will be restored and environmental research funding.

The Rural Water District No. 2 board of directors would like to reiterate our earlier support for the project based on the jobs and economic development to the area.

We would ask that the TVA to proceed with a Finding of No Significant Impact.

Sincerley,
John Black
Board Member

Rural Water District No. 2, Elk County, Kansas

April 15, 2011

RE: ***ELK COUNTY WIND ENERGY PROJECT***

To Whom It May Concern:

I am writing on behalf of the Fredonia Area Chamber of Commerce. I would like to take this opportunity to reiterate that our area supports this project. The investment of more than \$500 million in Elk County will have a significant economic impact, not only on Elk County, but our region as a whole.

To my knowledge, this project is outside the protected Heart of the the Flint Hills and is not situated near any scenic byways, greater prairie chickens or other threatened or endangered species or their habitats. The site is near existing transmission lines so no new transmission lines or right of way is needed, which results in less environmental disturbances. It is also my understanding that the mitigation plan includes 18,000 plus acres of conservation easement, plus 6,000 acres of degraded prairie that will be restored and environmental funding.

For the benefit of Elk County and our region I would ask the TVA to proceed with this project through a Finding of No Significant Impact.

Sincerely,

Carey Spoon, Executive Director
Fredonia Economic Development
PO Box 449
Fredonia, KS 66736
620-378-3221

Name: Jeff King

Comments: I want to reiterate my full and enthusiastic support for the Caney River project. In my role as Kansas Senator for the 15th District, I am proud to represent all of Elk County and much of the surrounding area. I have never witnessed a project that has received as much support from local and regional residents as this one. Between the substantial upgrade to the conservation easements and the investment to be made in Elk County itself, Caney River will be a once-in-a-generation opportunity for Elk County.

In my job, I hold frequent meetings throughout the 9 counties I represent. Last week, I spent a day in every town in Elk County. Without exception, county residents were enthusiastic in their support for Caney River, anxious about the non-local efforts to defeat the project, and eager to share their first-hand account of the environmental status of the Elk County tallgrass prairie and the minimal impact that their experience shows this project will have on this important ecosystem. Although I am not an environmental expert, I have become an expert of sorts on Elk County during my work serving them in the Kansas Legislature. I know that if this project is rejected (or placed on a very slow track by any decision other than a Finding of No Significant Impact), it will irreparably harm a place, a people, and a way of life that many hold dear and that is worth protecting.

Name: Carl Holmes

Comments: My comments are made as a member of the Kansas Legislature. I also serve as Chairman of the Kansas House of Representatives Energy and Utilities Committee and the Kansas Electric Transmission Authority which have not taken an official position on the application because of the short time frame for the comment process. I have served in the Kansas Legislature for 27 years and have been involved with electric energy and environmental policy the entire 27 years including energy and environmental committee leadership for 25 years in the Kansas House of Representatives. This project is very important to the State of Kansas and to the United States as we move forward with our future electric policy.

This project is OUTSIDE the 'Heart of the Flint Hill' considered an environmental important area for environmental protection. Another renewable energy project is in the immediate area and transmission is available for the project. I have been on several Kansas Geological Survey tours to the area and the environmental considerations for wind development in this area were always discussed in detail by Kansas scientific experts. Their analysis is positive for wind development in this area. I am very supportive of the Caney River Wind Energy Project in Elk County, Kansas as proposed. I support the draft environmental assessment prepared by TVA to determine the environmental effects of this project.

Rep. Carl Dean Holmes

**ELK COUNTY COMMISSION
PO BOX 606
HOWARD, KS 67349
620-374-2490**

TO: Tennessee Valley Authority:

RE: Caney River Wind project – Elk County, Kansas

We thank TVA for the opportunity to reiterate our support for the Caney River project and to review the revised DEA. The revisions to the DEA, including the enhancements to the NECP, further bolster our belief that the project is truly a win win for our county and we urge TVA to proceed with a Finding of No Significant Impact. As the County Commissioners of our county and long-time residents, we personally know this location intimately giving us a uniquely qualified perspective when it comes to evaluating projects such as this.

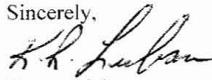
The area under lease by the Caney River Wind project is well outside the protected “Heart of the Flint Hills” area. Let us describe the land: It has been and is currently in active oil production as we have historically been, in addition to farming and ranching, an energy producing community, wind energy will compliment that heritage. Mother Nature has taken its toll on the land and its grass producing capacity over the years, because of the rough terrain with deep rugged canyons and huge rock boulders, trees have encroached on the native prairie, even though fire is used yearly to try and manage this encroachment. The NECP will help provide the resources we desperately need to clip trees and restore areas now covered with invasive trees back to prairie. Also of note, crossing this leased area is an existing transmission line, so no new transmission lines have to be built.

This area of approximately 16,000 acres is sparsely populated; in fact there are no homes in the leased area, and only two within a mile of its boundaries. By the census of 2010, Elk County only has 2,800 residents. The nearest highways are 6 miles south and 10 miles east, so no scenic byways are nearby. In addition, as the DEA indicates, poor habitat quality and 4 years of surveys indicate that Greater Prairie Chickens do not actively use the area, which is consistent with the local knowledge as we have not had any in our life time in this area. Plus, as the DEA states, the studies found no threatened or endangered species or habitats. Due to the limited physical footprint of the project which will be more than offset by the tree clipping efforts provided by the NECP, the cattle grazing practices can continue with even more acres of pasture than before.

As we stated in our prior letter, this project will have enormous positive economic impact on our county. As county commissioners, we are constantly dealing with higher cost to running the government with less income to do it with. The Payment in Lieu of Taxes agreement negotiated with Caney River of approximately \$1 million per year for 20 years is tremendous when considering that our current county government runs on just over \$2 million annually. Plus an increase in 15 plus full time jobs is significant to our community. In short, this project is an excellent example of one that successfully balances the environmental with economic benefits in a manner that truly is the ultimate win win situation.

This project has very broad support throughout the county, and as representatives of our fellow citizens, we once again urge TVA to move expeditiously toward a FONSI.

Sincerely,


Kenny Liebau
Commission Chairman Dist #3


Doug Ritz
Dist #1 Commissioner


Elizabeth Hendricks
Dist #2 Commissioner

Name: Peter Cohen (Wabaunsee County, Kansas planning commission)

Comments: I thank you for your considerations and this opportunity wherein I must simply re-state my position, as I described in more detail earlier, that any imposition of industrial scale wind turbines into the Flint Hills ecosystem, such as the Caney River proposal, results in the ruination of a unique and irreplaceable resource for scientific study and economic development, both at the national and local level.

Germany, to my reading, has ceased subsidizing land-based turbines as not being worth it. And the evil they would do to the Flint Hills would continue after them.

Name: Jennifer Brummel

Comments: I am writing this letter in support of the Caney River Wind Project. This project will generate needed revenue for our county, which will help with the growth of our county.

As the economic development director for one of the poorest counties in Kansas, when I received the news that the TVA had made a commitment to purchase the power from the Caney River Wind project I was ecstatic. This would be the tremendous boost we need to our local economy. This project has created hope for growth in our county that no other industry has provided.

Elk County is out of the protected Heart of the Flint Hills and do not receive the tourism benefits that other counties in the flints hills do. With the existing transmission lines, no new lines or right-of -way will be needed which will result in less environmental disturbances.

The mitigation plan includes 18,000 plus acres of conservation easement, plus 6,000 acres of degraded prairie be restored. Funding for environmental research will be provided. No scenic byways, greater prairie chickens or other threatened or endangered species or habitats are impacted.

Thank you for the opportunity for our community to make comments and give support for this project. We hope you will continue to proceed with this project with a finding of no significant impact.

Thank you for this opportunity,

Jennifer Brummel
Elk County Economic Development Director

United States Department of the Interior



FISH AND WILDLIFE SERVICE
Kansas Ecological Services Field Office
2609 Anderson
Manhattan, Kansas 66502-2801

February 25, 2011

Bruce L. Yeager
NEPA Program Manager
Tennessee Valley Authority
400 West Summit Hill Drive (WT 11D)
Knoxville, TN 37902

RE: Draft EA for the Caney River Wind Energy Project 64411-2011-CPA-0026

Dear Mr. Yeager;

This is a follow-up to our November 4, 2010 letter commenting on the draft Environmental Assessment (EA) for the Caney River Wind Energy Project. It is meant to clarify our original comments, especially our recommendation that the Tennessee Valley Authority consider developing an Environmental Impact Statement to address deficiencies in the draft EA. In a conference call and meeting with TVA and TradeWinds Energy on December 1, 2011, we stated our primary concerns were in the deficiencies in the EA. We further stated that although we originally recommended that an EIS be prepared, we believe TVA could remedy those deficiencies in a number of ways as discussed below.

The U.S. Fish and Wildlife Service (Service) has no regulatory authority regarding the project, including how TVA complies with and implements the National Environmental Policy Act (NEPA). Regarding NEPA, it is our policy to follow a three-step process in providing recommendations to other federal agencies concerning impacts to our trust fish and wildlife resources. This process includes avoiding the impact, minimizing the impact, and mitigating unavoidable impacts.

While we have consistently recommended that the project be sited in another location to avoid impacts to migratory birds, we recognize that significant capital investments have been made for the existing project location, and it may not be possible to relocate the project. We also recognize that the developer has decreased the size of the project, both in area and number of turbines, to minimize impacts. Finally, we acknowledge that significant progress has been made identifying mitigation for unavoidable impacts.

The deficiencies in the draft EA, as noted in our November 4, 2011 comment letter, concern impacts to migratory birds (effects on birds migrating through the Flint Hills and fragmentation of grassland habitat used for migration and nesting), the cumulative impacts of the project, and characterizations of the Service's coordination and input to the project. We believe it is TVA's decision on how best to address

these deficiencies and comply with NEPA, and so long as these deficiencies are remedied, an EIS, Supplemental EA, or Final EA is acceptable to the Service. TVA, as the lead Federal agency, is best positioned at this point to determine the best course of action based on its own NEPA policies and guidance.

We also recommend that the mitigation plan for the project, the "Native Environment Conservation Plan (NECP)," identify specific habitat restoration targets, both in acres and quality, and develop a monitoring plan to measure and evaluate the success of any mitigation implemented. While we cannot yet quantitatively determine whether the NECP will mitigate unavoidable impacts pending completion of the final NEPA analyses, we believe that with the additional mitigation commitments made by TradeWinds Energy, the NECP is sufficiently developed that an acceptable plan can be completed.

In summary, assuming that the deficiencies in the NEPA documents are resolved and TradeWinds submits their final NECP to include all of the mitigation elements the Service has discussed with them are included, the Service will no longer oppose the project. These elements include but are not limited to the 8,200-acre conservation easement at the Red Buffalo site, a 10,000-acre conservation easement in the Heart of the Flint Hills, i.e., the better quality native grasslands within the core/center of the Flint Hills, and approximately 3,000 acres of native grassland restoration in the Heart of the Flint Hills. This latter number will be refined through subsequent analysis. Issues yet to be determined include, but are not limited to, who will hold the easements, easement restrictions, what the management regime will be on the easement lands, monitoring and evaluation of habitat restoration, and long-term funding to maintain the easements for their intended purposes. These are issues that the Service will continue to work with TVA, TradeWinds and the State of Kansas to finalize as the project moves forward.

If you have comments or questions, please do not hesitate to contact me at 785-539-3474, ext. 105.

Sincerely,



Michael J. LeValley
Field Supervisor

cc: Secretary Jennison, KDWP
Asst. Secretary Sexson, KDWP
Michael Storch, Enel

Capitol Building
Room 241-South
Topeka, KS 66612



phone: 785-296-3232
fax: 785-369-8788
governor@ks.gov

Office of the Governor

Sam Brownback, Governor

Mr. Bruce L. Yeager, NEPA Program Manager
Tennessee Valley Authority
400 W. Summit Hill Drive, WT 11D
Knoxville, TN 37902

Re: Caney River Wind Energy Project

Dear Mr. Yeager:

I am writing today in regard to the Caney River Wind Energy Project to reaffirm that the State of Kansas is in full support of this initiative and stands ready to assist with its implementation. Given the recent change in Administration, I felt it prudent to personally convey this message of support and to follow up on the most recent correspondence you received from the Kansas Department of Wildlife and Parks dated November 23, 2010.

First, please know that I and Secretary Robin Jennison fully concur with the prior Administration's finding that an Environmental Impact Study ("EIS") is not necessary for the project.

Secondly, Secretary Jennison has reviewed the Native Environment Conservation Plan ("NECP") included in the Draft Environmental Assessment, including the proposed amendment to the NECP which provides resources to secure conservation easements on an additional 10,000 acres of tall grass prairie as recommended by then Secretary Mike Hayden, and finds this plan more than acceptable. Of particular note is that the plan involves a diverse and highly experienced team of experts interested in the preservation of our natural resources.

It is against this background that I encourage the Authority to move forward. However, please note it is my intent to expand the protected zone within the Flint Hills to prevent further wind energy development in this region and protect the remaining tallgrass prairie.

If you have any questions or we can provide additional information or assistance, please feel free to contact me, my Chief of Staff David Kensinger, or Secretary Robin Jennison.

Sincerely,

Governor Sam Brownback

cc: Secretary Robin Jennison
David Kensinger
Mike LeValley, USFWS

November 23, 2010

Mr. Bruce L. Yeager, NEPA Program Manager
Tennessee Valley Authority
400 West Summit Hill Drive, WT 11D
Knoxville, TN 37902-1499

RE: Caney River Wind Energy Project

Dear Mr. Yeager:

Today representatives from the Kansas Department of Wildlife and Parks (KDWP) and Tradewind Energy met to discuss the Caney River Wind Energy Project. KDWP appreciated the opportunity to discuss with Tradewind the concerns of the Department regarding the proposed project. I clarified with Tradewind that KDWP letter dated November 9, 2010 does not call for an Environmental Impact Statement (EIS) to be done on the project.

The concern of KDWP is that an adequate mitigation compensation plan be prepared to replace the damaged or lost natural resources caused by the Caney River Wind Energy Project. Prior to this time the proposals submitted by Tradewind have not been adequate. At today's meeting both KDWP and Tradewind agreed to work toward the development of a framework for a major conservation effort in the Flint Hills Legacy Conservation Area that would provide appropriate mitigation for the project by the placement of conservation easements on an additional 10,000 acres of tallgrass prairie.

Sincerely,



J. Michael Hayden, Secretary
Kansas Department of Wildlife and Parks

cc; Tradewind Energy

United States Department of the Interior



FISH AND WILDLIFE SERVICE
Kansas Ecological Services Field Office
2609 Anderson
Manhattan, Kansas 66502-2801

January 25, 2010

Mr. Matt Gilhousen
SVP, Project Development
TradeWind Energy, LLC
South Lake Technology Park
16105 West 113th Street
Suite 105
Lenexa, KS 66219

Dear Mr. Gilhousen:

Thank you for your December 14, 2009, letter which provided additional information concerning the proposed Caney River wind energy development project. Your letter requested that this office participate with TradeWind Energy in developing a Native Environment Conservation Plan (NECP) for the project. NECP components would include conservation easements, habitat restoration, wildlife research and public outreach.

I support the NECP concept and this office is willing to assist TradeWind Energy and other partners in its development and implementation. As we discussed, I believe it would be beneficial to meet in person to discuss the NECP including plan components, scheduling, and responsibilities of the parties in plan development. We would be happy to host a meeting sometime in February, 2010.

Please coordinate with Mr. Dan Mulhern of my staff (785-539-3474, ext. 109; email: Dan_Mulhern@fws.gov) to schedule a date and time for the meeting and prepare a meeting agenda. If you have any questions, please do not hesitate to contact me.

Sincerely,

Michael J. LeValley
Field Supervisor

cc: Keith Sexson, KDWP
Murray Laubhan, KDWP
Dan Mulhern, KFO/USFWS



South Lake Technology Park
16105 West 113th Street
Suite 105
Lenexa, KS. 66219
913-888-WIND (9463)
www.tradewindenergy.com

December 14, 2009

Mike LeValley
United States Fish & Wildlife Service
2609 Anderson Avenue
Manhattan, KS 66502-2801

RE: Caney River Wind Project, LLC

Dear Mike:

As I mentioned when we last spoke, I have been pushing the company philosophy towards one of early, frequent and open communication with State and Federal agencies in addition to other potential stakeholders regardless of any statutory requirement to do so. The idea being that even though we are not required in many cases to do so, by communicating and compromising we can head off many issues sooner rather than later, again leading to better outcomes for all. Industry, government agencies and NGOs historically have not worked well together which is unfortunate as I think we need to more now than ever. We have been actively working with TNC, KSU, Sierra Club, KDWP and PLJV on the whole of our portfolio with what I would say is generally positive outcomes that are based around compromise (e.g. sites have been abandoned, arrays modified, projects given thumbs up, requested additional field research conducted, mitigation plans developed etc.). Unfortunately there are organizations out there that we have tried to engage and communicate with however their lack of willingness to compromise has only lead to a lack of communication and no progress being made. Industry may be slower to change than some want however I think change is happening, at least it is here at my company, and will continue to happen so long the spirit of communication and trust continues. I truly appreciate you and your team's efforts and thank you again for your consideration of the following.

Moving on to the topic of concern, it is my view that the Caney River Project, when considered with the associated conservation plan, will lead to a NET POSITIVE impact to wildlife and society alike. I have tried to summarize my perspective on the key issues below.

Native Prairie – From the wildlife perspective the single most pressing issue of concern regarding the Caney River project is the presence of intact native prairie, Tallgrass Prairie (TGP) to be more specific. Of the ~20,000 acres under lease in the area of the project roughly 12,800 are necessary for the development of the project (1 square mile can conservatively house 10-12 MWs of wind capacity); the

remainder is essentially buffer ground which is not suitable for development. Of the 12,800 acres it is true that approximately 93% or 12,000 are intact TGP (~91% for the 20,000 acres under lease). It is also true that of the 12,000 acres of TGP required by the project, an estimated 100-150, will be lost due to the physical footprint of the project facilities ALL of which will be mitigated for on a minimum of a 1:1 ratio resulting in a net ZERO loss of actual TGP acres.

In an effort to understand the quality of the TGP within the project I focused our efforts on a key indicator species for the health of the TGP, the Greater Prairie Chicken (GPC). Three consecutive years of GPC Lek surveys turned up ZERO active Leks and not a single GPC. Best I can tell, the likely explanation for the lack of GPC falls on the existing land management practices implemented in the early 80s which include annual burning and a intensive stocking regime aka early intensive stocking, active oil and gas development, real estate development and in some cases lack of management all together (allowing cedar and other woody vegetation to take over) all of which combined nearly eliminate the habitat necessary for GPC to nest successfully in much of the TGP. As noted in 2002 by Kansas University researcher Mark Robbins (see Attached 1 - Mark B. Robbins, "Major Negative Impacts of Early Intensive Cattle Stocking on Tallgrass Prairies: The Case of the Greater Prairie-Chicken) and more recently Kansas State professor Dr. Robert Robel (see Attached 2 - Topeka Journal article dated July 6, 2008 and an Associated Press summary dated March 23, 2009) I am not alone in my thinking. Regardless of the reason for lack of GPC within the site I can say for a fact that the presence of wind turbines is not to blame. I also agree that it is plausible that one could improve the TGP habitat within the site such that it is suitably for GPC nesting by implementing alternative management practices such as patch burning however doing appears to be extremely difficult throughout the TGP due to the immediate negative financial impact on the ranch owners due to the fact that cattle gain less weight when they are not grazing on burned pastures. It is my opinion that if the current management practices do not change it is highly unlikely that the GPC population will recover and it is entirely plausible that within several decades, as has happened in north central Missouri, much of the TGP within the site could be lost altogether due to the encroachment of cedar and other woody vegetation and/or other forms of development that have historically been key threats to TGP and its native inhabitants.

If one was successful at correcting the land management practices within the site then the question becomes would the presence of wind turbines prevent the GPC from returning. Based solely on research focused around Lesser Prairie Chicken (LPC) the historical answer has been yes, the presence of wind turbines would prevent the GPC from returning due to their intolerance of tall structures and human activity. The truth is that very little is known about the impact of wind turbines on GPC and even less is known about the impact, if any, of wind turbines on the plethora of other species that make TGP their home which is why we are proposing, as part for the NECP, significant funding to help researchers answer this key question. I would say that it is clear that every lost acre of TGP negatively impacts all TGP species within that acre, in which case, preservation of thousands of acres of TGP with wind turbines could be a far better outcome than ZERO acres without them, regardless of the return of GPC to the site. The point to all of this being that through the implementation of the wind project and the Native Environment Conservation Plan (NECP) described below we can insure that the net loss of TGP due to the project is ZERO and that those acres would contain improved habitat over the current conditions for many, if not most, TGP species. Furthermore the NECP will fund the purchase of thousands of acres of conservation easements in the TGP that will be protected from early intensive stocking, real estate development, and woody encroachment creating what we would expect to be extremely high quality TGP for GPC and other native TGP species.

Threatened and Endangered Species – Based on our initial consultations with the agency it was brought to our attention that the American Burying Beetle (ABB) was a federally Endangered Species known to occur in Elk County that would require further study on site. The result of the lengthy study was negative indicating that NO impact to ABB is expected. The ABB report has been provided to the agency and concurrence was granted. The other key endangered species of concern in much of Kansas is the Whooping Crane. Based on the sites eastern longitude relative to the cranes migratory corridor NO impact is expected (see Attachment 3 - HOF & Enviro map).

Greater Prairie Chicken – As stated above, during the three years of preconstruction Lek surveys at Caney River not a single Lek or GPC was discovered (details of the Caney River GPC studies have been provided to the agency). Again it is my position that this is primarily due to early intensive stocking as I discussed above. On a related note and as you are already aware I was very involved in the development of the Smoky Hills projects in North Central Kansas. As a part of that effort I made it a priority to better understand the potential impact of wind turbines on GPC. To do so we conducted 3 years of pre and two years of post construction GPC Lek surveys and as the attached letter from Dr. Robel (Attachment 4 - June 4th 2009 Letter From Dr. Robel) indicates the total number of Leaks has remained stable over all 5 years of study (i.e. both pre and post construction), results or the research are inconclusive as to what the long term impact to the GPC population on the site will be and further study is suggested in order to fully understand the impact of the wind project on the GPC onsite population (see Attachment 5 - letter dated October 4th 2009 From Dr. Robel re: further study at Smoky Hills). I think the key take a ways here are (1) that early intensive stocking is not practiced at the Smoky Hills site which has promoted relatively solid GPC habitat and populations which is in stark contrast to Caney River where early intensive stocking is practiced and no GPC are present (2) counter to what I was told by some GPC 'experts' several years ago, the GPC have not yet disappeared from the Smoky Hills site due to the presence of the project and (3) research at Smoky and Caney must be expanded as it has the potential to greatly enhance what we DO know about this issue. It is also important to note that the likely source of funding for the expanded GPC research at Smoky Hills will come from the NECP.

View Shed – I do not believe that view shed is an issue that FWS takes on however I thought it was worth providing you some information on our view shed analysis of the site (see Attachment 6 - ZVI analysis). My summary of the key view shed points are as follows: (1) the project is located within the primary view shed zone of the existing Elk River project (2) the site is roughly 100 feet lower in elevation than the high point of the Flint Hills so in the direction of the majority of the Flint Hills (which are west of the site) the view of the site is blocked until you are within ~3 miles of the nearest turbine and (3) the visual impact zone for the site falls outside of the Heart of the Flint Hills. It is also worth noting that the project is located on the opposite side of the county from that of the Flint Oak hunting facility (see Attachment 7), a primary economic driver of the community, in which case there is no significant view shed impact.

Heart of the Flint Hills – One of the primary selection criteria for the site was its proximity to the Heart of the Flint Hills. As the attached map shows (Attachment 3), the project is located substantially south of the HOF. In addition the map illustrates that development of wind projects in the western part of the state is not without its challenges. When working to site a project out west we run into issues such as whooping cranes, playa lakes, LPC, native prairie, pivot irrigation, lack of transmission just to mention a few, the point being that there are no locations that are 100% without impacts, the key is to try to mitigate them if at all possible. It is also very important to note that projects such as Caney River, in the eastern part of the

state, are designed to not only meet Kansas utilities needs but also those of other states to our east. Due to its eastern longitude on a robust transmission system the project will serve utilities that can NOT get renewable energy locally due to lack of wind resource i.e. the Caney project meets the renewable energy needs that other western Kansas projects can NOT thus the ability to locate the project further west is not a viable option to serve the demand.

New Transmission Lines – The project is sited on an existing Westar Energy 345 kV transmission line with ample capacity therefore no new point to point cross country transmission lines will be required to deliver power from the project. It is also worth noting that the project has a signed Interconnection Agreement with Westar Energy providing the necessary legal documentation granting the project the right to deliver power into the high voltage transmission system.

Oil & Gas – Roughly 25% of the site is home for an active oil and gas field (see Attachment 8 - Oil Field Map). The field is comprised of wells powered by single cylinder gas or electric motors and a network of roads, power lines, storage batteries and collection lines.

Air Quality/Pollution – As you and I would likely agree emissions from the burning of fossil fuels is a massive problem for wildlife and humans alike. The recent EPA announcement (see Attachment 9 - EPA press release dated December 7th 2009) stating that, “After a thorough examination of the scientific evidence and careful consideration of public comments, the U.S. Environmental Protection Agency (EPA) announced today that greenhouse gases (GHGs) threaten the public health and welfare of the American people. EPA also finds that GHG emissions from on-road vehicles contribute to that threat further supports this position.” is further evidence that emissions are a significant threat to humans and wildlife. I offer up that the following reductions in emissions can only be seen as a MATERIAL POSSITIVE of the Caney River project. Once constructed the Caney River project is expected to reduce ANNUAL atmospheric emissions as follows: 300,000 tons of carbon dioxide, 1,300 tons of sulfur dioxide, 640 tons of nitrogen oxides, and 12,000 pounds of mercury in one year.

Local Support - The Project enjoys strong support from landowners, the local community, and local and state representatives of Elk County (see Attachment 10 - letters of support from key members of the community).

Economic Development - There will be significant positive economic development impacts for southeast Kansas communities including over \$3 MM in annual payments to landowners and Elk County (see Attachment 11 - Elk County PILOT Agreement for details). TradeWind Energy, owner of the project is also a local company that employs roughly 60 people and numerous consultants in the Kansas City area. Lastly the \$8.5 MM in funding for the NECP will go to purchase conservation easement and fund research at the state universities both of which are significant forms of economic development.

Conservation/Mitigation - In an effort to mitigate for potential negative impacts of the project discussed above TradeWind is working in partnership with KDWP and in consultation with other experts such as Dr. Robert Robel to develop a Native Environment Conservation Plan (NECP) (see Attachment 12 - letter from To: KDWP and FROM: Secretary Hayden for more details). The NECP will include as the principle

components but is not limited to conservation easements (that WILL include modified grassland management practices), habitat restoration, wildlife research and public outreach. TradeWind has committed up to \$8.5 MM over ten years to fund the plan.

It is this plan, when coupled with the other positive attributes of the project, which brought me to the conclusion that the project will lead to a NET POSITIVE impact to wildlife and society alike. I am hopeful that when considering all the information provided in both prior consultations and this communication that the agency will arrive at a similar conclusion and will support our efforts to make the project a net positive by actively participating in the NECP development as a contributing partner.

Sincerely,

Matt Gilhousen

Matt Gilhousen
SVP, Project Development
TradeWind Energy, LLC
matt@tradewindenergy.com

Major Negative Impacts of Early Intensive Cattle Stocking on Tallgrass Prairies: The Case of the Greater Prairie-Chicken (*Tympanuchus cupido*)

Mark B. Robbins
A. Townsend Peterson
Natural History Museum
The University of Kansas
Lawrence, Kansas 66045

Miguel A. Ortega-Huerta
Department of Geography
and Applied Remote Sensing Program
The University of Kansas
Lawrence, Kansas 66045

Abstract

Human impacts on tallgrass prairies and their biota have been severe. Among recent impacts is the shift from mosaic or rotational burns in fall and spring to broadscale artificial burns annually in the spring, coupled with “early intensive cattle stocking.” We examine the effects of this relatively new management regime on the Greater Prairie-Chicken (*Tympanuchus cupido*). First, the rapidly decline of this species is documented—a broad range expansion at the end of the nineteenth century followed by a drastic range reduction over the course of the latter half of the twentieth century. The core of the species’s range has usually been considered to be the Flint Hills of eastern Kansas, yet this region has seen dramatic population declines during the past two decades. These declines are closely associated with different burning regimes: where spring burning regimes and associated early intensive cattle stocking are common, prairie-chickens are declining dramatically, whereas where spring burning is rare and/or rotated, populations are stable. We suggest that this relatively new management technique works to the great detriment of the Greater Prairie-Chicken—and indeed to that of an entire suite of species that depend on prairie vegetation that is not burned yearly.

INTRODUCTION

The tallgrass prairie is the most heavily impacted biome in North America, with less than 5 per cent of its presettlement extent remaining (Samson and Knopf 1994). Remaining tallgrass prairie is highly fragmented, with the largest contiguous unplowed section being the Flint Hills region of extreme northern Oklahoma and eastern Kansas (Reichman 1987, Knapp and Seastedt 1998). Because of their great extent, the Flint Hills have long been recognized as harboring the largest population of Greater Prairie-Chickens (Baker 1953, Johnsgard 1973, Westemeier and Gough 1999) and other species restricted to tallgrass prairie.

However, beginning in 1980 in northern Oklahoma (L. Holcombe, pers. comm.) and soon thereafter in Kansas—and especially in the past five years—the vast majority of the Flint Hills and adjacent areas have been managed under a fire and grazing regime called early intensive stocking (Smith and Owensby 1978, Launchbaugh et al. 1983). In contrast to the mosaic of burned and unburned areas that traditionally char-

acterized tallgrass prairie cattle ranching (burns every 2-3 years, with stocking and grazing from May to October), extensive portions of these regions are now burned annually in March and April, in preparation for the arrival of cattle from as far away as Mexico (*Lawrence Journal-World*, 27 May 2001). Arriving by truck between mid-March and mid-May, cattle feed on newly emerging grass as soon as 10 days post-burn and continue to graze these areas for 90-120 days (*Lawrence Journal-World*, 27 May 2001; Launchbaugh et al. 1983). This intense grazing regime uses roughly twice the stocking rate (Launchbaugh et al. 1983) and leaves much of the Flint Hills devoid of grass more than a few centimeters high until at least mid-July.

During the past four years, we have been stunned by the extent of this intense agribusiness practice in the Flint Hills and surrounding areas, so here we investigate what influence this phenomenon is having on the native biota. We focus on the Greater Prairie-Chicken (*Tympanuchus cupido*) and present a rangewide analysis of its distribution and population status. In order to investigate prairie-chicken population trends as they relate to fire regimes and grazing intensity, we attempted to correlate best available data on populations in the Flint Hills and adjacent areas with burned areas in 2000 as detected by three independent long-term remote-sensing operations.

THE GREATER PRAIRIE-CHICKEN

The Greater Prairie-Chicken ranks among three species that have seen the most catastrophic range contraction and population declines in North America (Fig. 1; Johnsgard 1973, Schroeder and Robb 1993). This species, likely numbering in the tens of millions in the late 1800s, once ranged from the Great Plains to the eastern seaboard (Johnsgard 1973, A.O.U. 1998). The easternmost population, known as the Heath Hen (*T. c. cupido*), was extinct by 1932 (A.O.U. 1998). The subspecies known as Attwater’s Prairie-Chicken, *T. c. attwateri*, formerly distributed along the Gulf coastal prairie from southwestern Louisiana to southern Texas, is now critically endangered, with a total of fewer than 60 individuals in two isolated populations in eastern Texas (Silvy et al. 1999).

The species began serious range contraction in the first few decades of the twentieth century, disappearing from Ohio and Indiana by the 1930s. In the succeeding 50 years, it disappeared from almost the entirety of the eastern sector of its original range, although stocking from Kansas and Nebraska populations maintains small, intensively managed populations in Illinois, Iowa, and most recently Missouri (Westemeier and Gough 1999). The continent-wide loss and fragmentation of native grasslands has been the primary cause for these declines (Johnsgard 1973). As of 1980, apparently viable populations remained only in Kansas, Nebraska, and sparsely in South and North Dakota, Minnesota, and possibly Missouri (Westemeier and Gough 1999). Numerous authors considering the distribution, abundance, and continuity of the species’s distribution have suggested that Kansas’s Flint Hills constitute a nucleus of the species’s distribution and would be critical to the species’s long-term survival (Svedarsky et al. 1999).

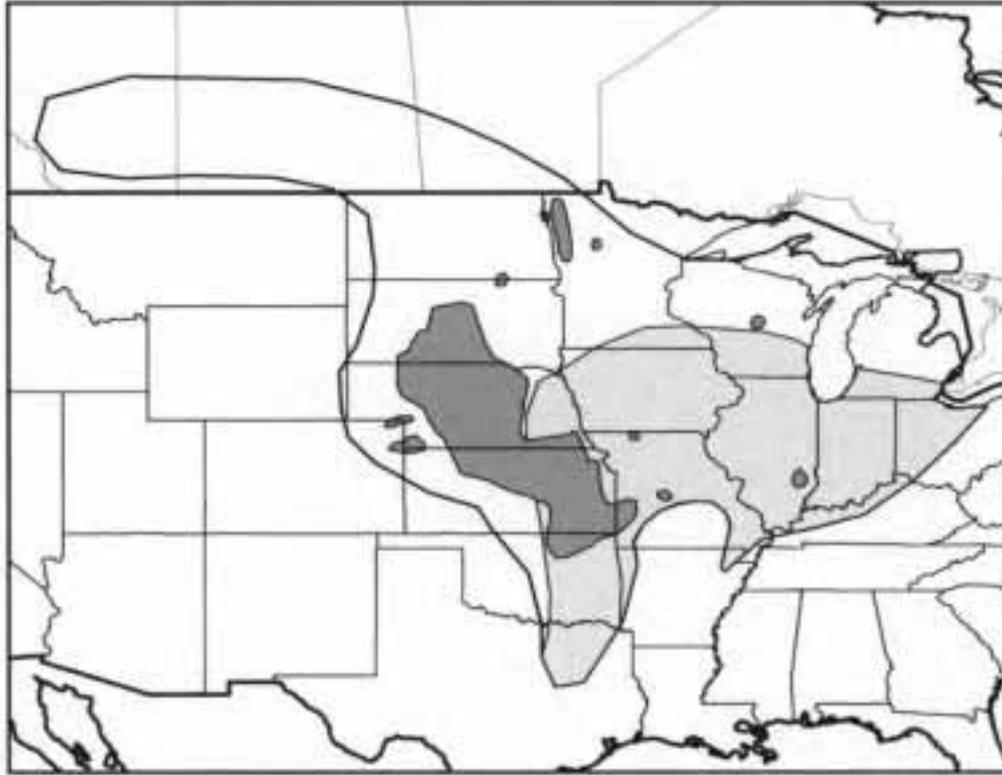


Figure 1. Greater Prairie-Chicken original (light gray shading), late nineteenth-century (black outline), and present distribution (dark gray shading), extracted from Westemeier and Gough (1999).

METHODS

Distributional data—Distributional data for Greater Prairie-Chickens that summarize the species's original range, its expanded distribution in the late nineteenth century, and its present, highly fragmented distribution were drawn from Westemeier and Gough (1999) and from natural history museum specimens (see Acknowledgments). We digitized this information in a GIS environment (using ArcView 3.2) and saved it in raster grid format for further analysis at a resolution of one km. We reduced the extent of the species's distribution to reflect current coverage by native tallgrass and mixed-grass prairies, based on the U.S. Geological Survey's world land use/land cover classification at one-km spatial resolution ("grassland" and "wooded grassland" cover types).

Burn detection.—We used three approaches to summarize the extent and spatial distribution of spring burning within the range of the species, using the year 2000 as an exemplar year. First, we downloaded the year 2000 results of the ATSR world fire atlas facility, which provides detection of nighttime fires for the entire world. However, because controlled burns on prairies are carried out mostly in daytime, this approach greatly underestimated frequency of fires in the region.

Second, we inspected Landsat7 Thematic Mapper images to identify recently burned areas. Here, the color composite scheme in the visible bands allows easy visual detection of burned areas as black smudges on the landscape (M. Jakubauskas, pers. comm.). These images were consulted, and crude digitizations developed, at the U.S. Geological Survey website. However, because images are available only every 16 days, and cloud cover in the spring is frequently sufficient to compromise image quality, we were able to evaluate spring 2000 burns only in the eastern portion of the Flint Hills region (1999 and 2001 provided even less areal and temporal coverage for cloud-free imagery).

To provide a more complete view of spring burns (in 2000), we

explored a second approach to detecting recently burned areas. Important assumptions of this approach are: first, in spring, that the general trend is of greening of the prairie landscape; and second, that burns and cloud cover are the principal factors that could reduce greenness. In satellite imagery, the normalized difference vegetation index (NDVI) presents an approximation of how green a landscape is: the proportion of photosynthetically absorbed radiation, calculated as $(ch2 - ch1) / (ch2 + ch1)$, where $ch2$ represents the 0.58-0.68 μ portion of the visible spectrum, and $ch1$ represents the 0.725-1.1 μ portion of the infrared spectrum. Hence, we used NDVI images (one-week composites) for March-April 2000 and performed the following manipulation in ArcView (version 3.2): (1) find grid squares in which NDVI in a given week is higher (greener) than in the following week; (2) find grid squares in which NDVI value in a given week is higher than in two weeks later. Given that cloud cover in the Great Plains rarely lasts more than a week in spring, (3) find grid cells in which both (1) and (2) are fulfilled. These grid cells are those that "browned down" in spring and remained browner for at least 10-14 days. We assumed that cloud cover is not a factor for such extended periods of time and that drying of soils and vegetation (which would cause a lower, or browner, NDVI value) owing to drought (not common in spring) or spring plowing is not a factor; however, these assumptions prevented our application of this approach outside of the Flint Hills region.

To validate our hypothesis, we used two approaches. First, we compared frequency of these long-term brown-downs (apparent burns) in the Flint Hills, where spring burns are frequent, with northern and eastern Douglas County, where spring burns are infrequent and of very small extent (ATP and MBR, pers. obs.). Second, we compared the distribution of fires and burns detected by the three independent methods (indeed three independent sensors) to evaluate spatial coincidence. Burn data

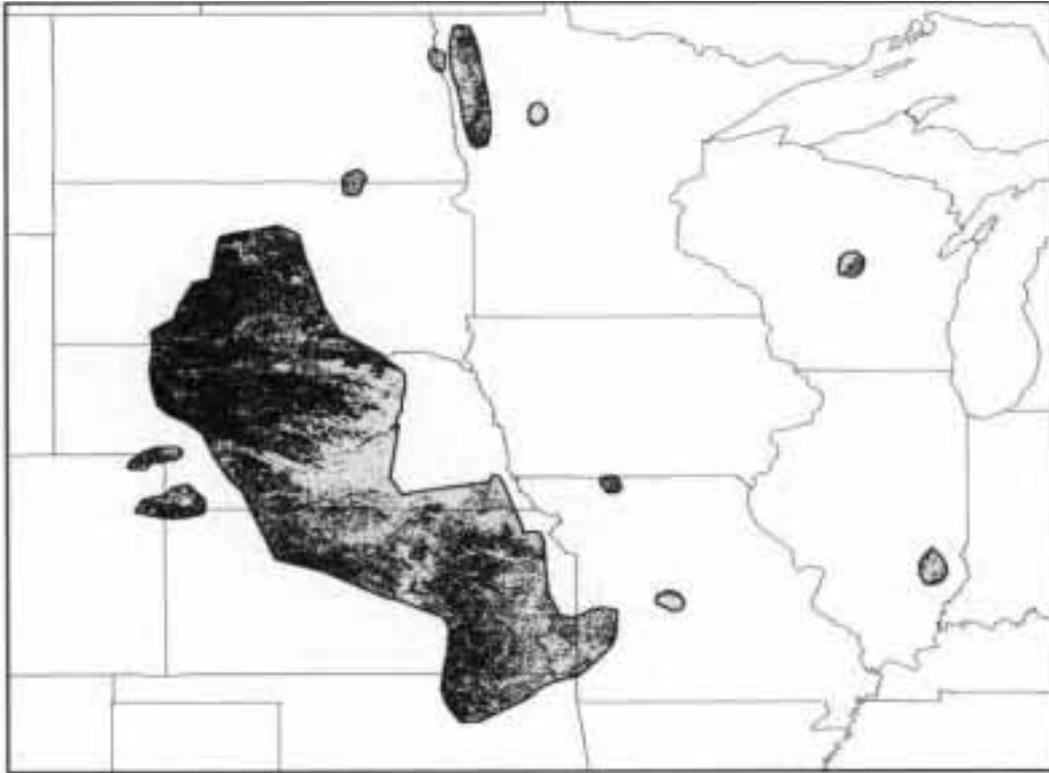


Figure 2. Greater Prairie-Chicken present range (Westemeier and Gough 1999), with the distribution of grassland and wooded grassland (in black) overlain to indicate probable true distribution in those areas.

were also evaluated qualitatively with our own observations of burned areas in the region.

Population trends.—Trend data for each state, as well as for regional and local populations of Greater Prairie-Chickens, were assembled from Svedarsky et al. (1999), supplemented with information provided by J. Taylor, D. McCrea, B. Sandercock, and D. Wiedenfeld. Trends for two regions in Nebraska and on a statewide basis for Kansas, Oklahoma, and South Dakota were assembled from lek data for which ≥ 8 years of data were available and are presented as three-year running averages for the period 1980-2000. Although data for South Dakota and Kansas are directly comparable (males/lek/square mile), data for Nebraska and Oklahoma were available only in other forms (as average number/lek and as population density index [number of males/lek \times number of leks/square mile], respectively); nonetheless, all of these indexes are intercorrelated, resulting in similar interpretations. While we are aware that these survey data do not translate directly into population density estimates—and are not directly comparable from state to state—we present the information available from each state to illustrate the likely population trends across the range of the species.

RESULTS

Prairie-chicken distribution.—Historical patterns of prairie-chicken distribution show a dynamic range for the species. Originally more southerly in its distribution in the Great Plains, it expanded greatly to the north and west at the end of the nineteenth century (Fig. 1). Its present distribution is now dramatically reduced to a few small patches in the eastern sector, and one larger swath in the central Great Plains, extending from Kansas and northern Oklahoma north to South Dakota (Fig. 1).

This “present” distribution, however, includes several land cover types not used by prairie-chickens, and so we reduced it to reflect the geo-

graphic distribution of tallgrass and mixed-grass prairie (Fig. 2). The species’s core range may be said to lie along the western fringe of its present range (South Dakota, Nebraska, Kansas): its actual and potential distribution elsewhere is reduced to small, isolated fragments.

Spring burning.—The three approaches to assessing spring burn frequency revealed similar geographic patterns: burns were concentrated in the Flint Hills region, from northernmost Oklahoma north to northern Kansas in the vicinity of Manhattan (Fig. 3). As predicted, the Flint Hills saw extensive fires and burning, whereas Douglas County did not. The actual fires detected (ATSR sensor data)—being nighttime fires in a region where controlled burns are done in no small part in the daytime (ATP and MBR, pers. obs.)—are clearly but a subset of the true number of fires in the region.

The LANDSAT7 imagery, where cloud-free imagery existed, showed a much broader pattern of burned areas. In the Flint Hills, upland areas (the actual prairies) were almost ubiquitously burned, but floodplains along rivercourses were seldom burned; these areas are largely cropland and obviously protected from the prescribed burns.

The apparent burned areas (three-week brown-downs) detected via AVHRR imagery coincided closely with areas detected via the LANDSAT7 imagery. These areas, although considerably more difficult to interpret directly as burned areas, appear to represent landscape features rather than cloud contamination, given close correlation with land cover: prairie vegetation browned down (= burned), whereas cultivated areas along watercourses did not (Fig. 4). Correlation with known fires (ATP and MBR, unpubl. data) is quite close, and indeed where LANDSAT7 imagery was available, coincidence of the two hypothesized burned areas was quite close.

In sum, much of the tallgrass prairie from northern Oklahoma north to northern Kansas is burned each spring. Our observations each year, as

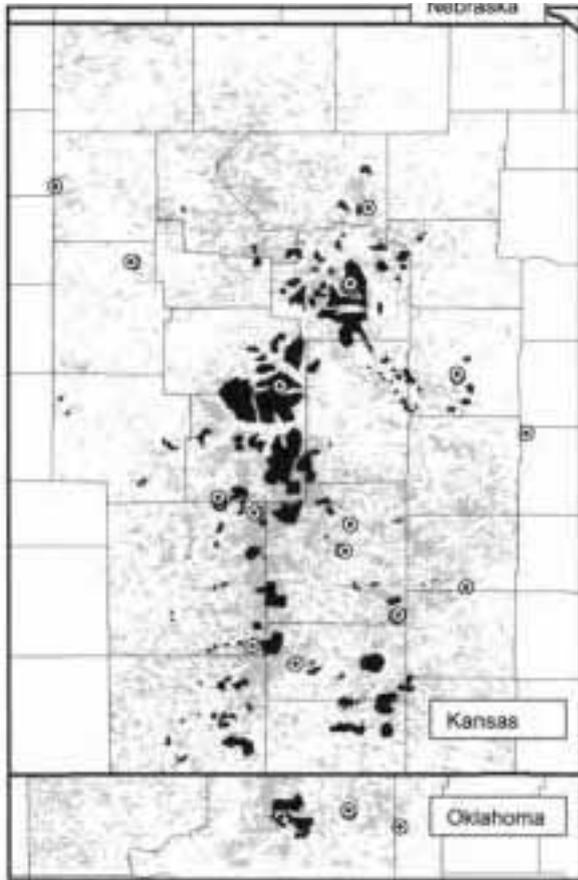


Figure 3. Fire occurrences between 15 March and 15 May 2000 in the Flint Hills region (few or no fires or burns were detected by the fire-detection sensor or by the LANDSAT7 imagery outside of this region). Nighttime fires detected via the World Fire Atlas are shown as dotted circles; burns apparent on the LANDSAT7 imagery are shown in black; and apparent burned areas detected by brown-down over consecutive weeks are shown in light gray.

well as more casual inspection of imagery from other years, confirm that the year 2000 was not unusual but rather is quite representative of burning patterns in recent years. None of the approaches we employed detected extensive spring fires or burns in Nebraska or South Dakota. Hence, the core of the range of the species is subjected to two diametrically opposed fire management schemes: spring fires dominate in Kansas, whereas spring fires are much less frequent, and typically entail rotational burning, in Nebraska (T. Labeledz, pers. comm.) and South Dakota (D. McCrea, pers. comm.).

Population trends.—Population trends differ markedly among regions (Fig. 4; presented as three-year running averages). Nebraska and South Dakota populations were increasing or are stable. Kansas and Oklahoma populations, however, declined precipitously since 1980: lek counts (both states) and hunting harvest data (Kansas) both indicated steady declines in populations. Causal interpretation of differences in population trends as resulting from differences in fire management schemes is of course not necessarily warranted; however, the association is clear.

DISCUSSION

The analyses above point to two important lessons: first, that the Greater Prairie-Chicken is undergoing a major decline in the core area of its distribution; and second, that fire management practices and intensive graz-

ing in this core area appear responsible for local declines and extirpations. The combination of fire and intense grazing has been demonstrated to have a major negative impact on forb growth and reproduction, and on populations of invertebrates and vertebrates (Zimmerman 1997, Kaufman and Kaufman 1997, Rohrbaugh et al. 1999). For example, Kaufman and Kaufman (1997) stated that “annual burning of rangelands, a common ranching practice in the Flint Hills, may be the factor that most affects small mammals of the tallgrass prairies of central North America [...] Our results of ungrazed tallgrass prairie on the Konza Prairie [in the Flint Hills] suggest that large-scale burning at an annual frequency will have a negative impact on many if not all small mammals.” This result is echoed for virtually the entire fauna and flora of this region.

Given that the Kansas prairies are the focus of a 4.9-billion dollar beef industry in Kansas (*Lawrence Journal-World*, 27 May 2001), and with the instigation of the early intensive stocking regime (Smith and Owensby 1978), the Greater Prairie-Chicken is experiencing serious population declines in this region. Applegate and Horak (1999) summarized Kansas population trends from two data sets for 1960-1996. Both data sets demonstrated steep population declines since the early 1980s, with the more reliable data set (booming ground censuses) indicating an overall decline of approximately 65% in the past 20 years. These population declines are also reflected in numbers of prairie-chickens taken annually by hunters in Kansas: from a mind-boggling 109,000 birds in 1982 to ca. 12,000 in 1998-1999 (Kansas Department of Wildlife and Parks).

The situation in Oklahoma mirrors that of Kansas, with significant declines since 1982 (Horton and Wolfe 1999). The two largest prairie-chicken populations in Oklahoma are at the southern terminus of the Flint Hills, where intensive early stocking was implemented in 1980 (L. Holcombe, pers. comm.). Horton and Wolfe (1999) and Applegate and Horak (1999) suggest that the intensive early stocking regime is the primary reason for the declines. In contrast, Nebraska and South Dakota, which harbor the largest populations outside of Kansas, have shown populations that are stable or increasing in the same period. Particularly revealing are the stable populations in southeast Nebraska just to the north of the Flint Hills (Johnsgard 2001). Although survey data for southeastern Nebraska are available for only the past seven years, their stability is clear (Taylor 2000, Johnsgard 2001, J. Taylor, pers. comm.): unlike Kansas’s Flint Hills and Osage Plains, southeastern Nebraska prairies are not subjected to annual spring burning and the early intensive stocking regime (T. Labeledz, pers. comm.).

The intensive grazing regime in Kansas is not limited to the Flint Hills but has also become standard practice in the Osage Plains of eastern Kansas. Just in the past 5-6 years, the remaining fragmented, tallgrass prairie in the Osage Plains has begun to be burned in spring annually (W. Brecheisen pers. comm., ATP and MBR, pers. obs.). Like the Flint Hills, we strongly suspect that prairie-chicken declines in this region (= “eastern cropland” and “blackjack” in Applegate and Horak 1999) are largely related to the annual spring burning and cattle stocking.

During observations in the past three years in the Flint Hills, we have found only two bird species (Common Nighthawk *Chordeiles minor*, and Upland Sandpiper *Bartramia longicauda*) that commonly utilize grasslands subjected to spring burning and intense early stocking. Even for these species, trampling by cattle may be an important source of nest mortality, as has been documented for Eastern Meadowlarks (*Sturnella magna*) in the Flint Hills of Oklahoma (Rohrbaugh et al. 1999).

In contrast, tallgrass prairie and fallow pasture not burned for at least one year generally hold the full complement of tallgrass prairie bird species, including prairie-chickens and the severely declining Henslow’s Sparrow (*Ammodramus henslowii*) (Zimmerman 1988, 1997). Indeed, in the Kansas Breeding Bird Atlas, Henslow’s Sparrow was recorded in only

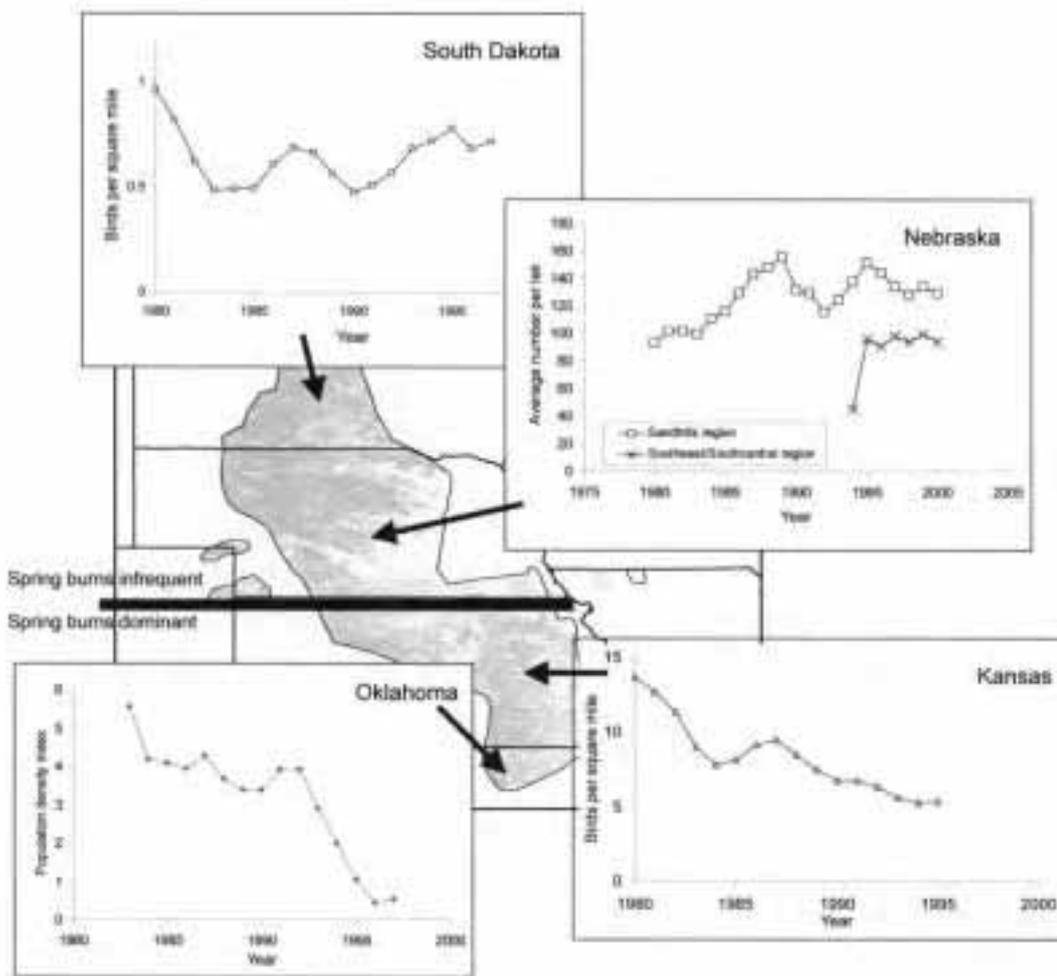


Figure 4. Population trends (presented as three-year running averages) in the core of the geographic distribution of the Greater Prairie-Chicken: stable or increasing populations are apparent in Nebraska (Taylor 2000; J. Taylor, pers. comm.) and South Dakota (Fredrickson et al. 1999), where spring burning is rare or absent; whereas precipitous declines are observed in Kansas (Applegate and Horak 1999) and Oklahoma (Horton and Wolfe 1999), where spring burning is dominant. See Results for explanation of data.

nine of 112 Flint Hills survey blocks (six of 74 priority blocks in the region), and its scarcity there was attributed to “grazing and burning practices” (Busby and Zimmerman 2001). Prior to major modifications to prairie ecosystems wrought by Euro-Americans, this species was undoubtedly widespread and abundant—if not ubiquitous—throughout the Flint Hills and the adjacent Osage Plains. Today, we estimate that less than 1% of the original range of Henslow’s Sparrow in these regions remains inhabited.

Moreover, an entire suite of birds, mammals, reptiles, and insects similarly thrive in prairie that is not burned yearly but that sees a variety of burn frequencies (Knapp and Seastedt 1998); these species, like the prairie-chickens, are becoming endangered regionally by the yearly burning regime. Not surprising, the three largest tracts of tallgrass prairie in the Flint Hills (Konza Prairie and Fort Riley Military Reservation, Kansas; and Tallgrass Prairie Preserve, Oklahoma) that are *not* subjected to the intensive early stocking regime harbor the largest populations of both the prairie-chicken and the sparrow (Zimmerman 1993, Cully and Michaels 2000, Reinking et al. 2000).

CONCLUSIONS AND RECOMMENDATIONS

Based on the trends and patterns documented herein, as well as on our observations of prairie species across the Flint Hills region in recent years, we and numerous colleagues involved with tallgrass prairie biotas are convinced that the spring burning regime with early intensive livestock grazing represent a serious threat to numerous elements of biodiversity. Greater Prairie-Chickens, as well as several other species (e.g., Henslow’s Sparrow), have suffered drastic reductions in distribution and population size in the state. This threat is of particular concern given that the Flint Hills region is considered to hold the core populations of these species—this situation thus constitutes a threat to the global survival of an entire suite of species.

In short, spring burning followed by early intensive stocking of cattle on an annual basis make the prairie all but uninhabitable for these species. This technique, combined with other problems (e.g., invasion of the prairies by *Sericea cuneata* [Fabaceae], resulting in spraying for control), could easily place the species in serious danger of regional extirpation or even extinction altogether. We concur with recommendations

Attachment 1 - Native Prairie

made by Applegate and Horak (1999) and Horton and Wolfe (1999) regarding burning regimes: reducing burn frequency, adjusting the seasonality of burning, and reducing grazing pressure constitute critical components of the strategy. In effect, for prairie to represent a viable habitat for these species, a mosaic of burn frequencies of 1-5 years is necessary (Knapp and Seastedt 1998). Hence, a system centered around rotational prescribed burning, combined with reduced grazing pressure, is highly recommended.

ACKNOWLEDGMENTS

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—Received 1 October 2001; accepted 5 December 2001.



Attachments:

March 23, 2009

Flint Hills losing bird varieties

| The Associated Press

TOPEKA | Kansas State University researchers say three grassland birds are disappearing from the Flint Hills.

Research by ecologist Kimberly With and her colleagues finds that the dickcissel, eastern meadowlark and grasshopper sparrow are experiencing severe population declines.

They say that's because extensive land management techniques, such as annual burning and widespread grazing, reduce cover for nests and make them more vulnerable to predators.

The Flint Hills is home to a half-billion-dollar cattle industry and is heavily managed for grazing and other uses.

Researchers found the three bird species weren't breeding successfully.

They estimate population declines of as much as 29 percent yearly during a two-year study that began in 2004.

Prairie chicken habitat being lost

Burning, grazing and 'human activity' threaten birds' future

Jan Biles

Published Sunday, July 06, 2008

The low, booming sounds produced by greater prairie chicken cocks accounts for the common reference to their leks as "booming grounds." ... On a quiet spring morning, these sounds can carry as much as two miles across the open prairie, serving as an audible beacon to prairie chicken hens. — Kansas Department of Wildlife and Parks Web site, www.kdwp.state.ks.us

MANHATTAN — Kansas State University biologist/researcher Robert Robel believes prairie chickens are an indicator of a tallgrass prairie's health. A large number of the birds — also known as prairie grouse — means the habitat is thriving.

Unfortunately, that's not what Robel's seeing in the Flint Hills.

"We're looking at a declining population of prairie grouse," he said. "It can't be turned around. I'm quite pessimistic about it."

Jim Pitman, small game coordinator for the Kansas Department of Wildlife and Parks, agrees with Robel that burning and grazing — measures that help preserve the grasses of the prairie — and "increased human activity" have destroyed a large portion of the natural habitat of greater prairie chickens.

"The population of prairie chickens is declining in the Flint Hills and further eastward because of burning and intensive stocking ... of livestock over the past 15 to 20 years," Pitman said. "They burn and then keep the grass short (through grazing). The first part of May is when prairie chickens start nesting and so there's not enough grass for protection."

Robel said the number of prairie chickens depends on nest success and chick survival. Prairie chickens nest only in the standing vegetation of the past year, which stands about 18 inches tall. Burning of the prairie in the spring destroys that old vegetation and the birds then have nowhere safe to nest.

"They will nest elsewhere, but then the nests are exposed to predators," said Robel, who has been studying prairie chickens since 1960.

Skunks, raccoons, coyotes, foxes and snakes like to invade the birds' nests, while hawks, foxes and coyotes feed on chicks that haven't learned to fly.

"Chick survival is almost nil," he said, citing research showing only 11 percent of prairie chickens live to the next season in southwest Kansas.

In the 1980s, before intensive burning and grazing, hunters harvested about 90,000 prairie chickens a year in Kansas. Today, that number has fallen to about 12,000.

"So the population has probably gone down 75 to 80 percent because the nesting habitat has been lost," he said.

Robel said burning and grazing won't be halted because of the impact of the cattle industry on the state's economy. In 2005, cattle in Kansas produced \$6.1 billion in receipts and 104 beef packers harvested 9.1 billion pounds of cattle from Kansas and surrounding states, according to the Beef Cattle Institute at K-State.

Additionally, cattle gain more weight and nutrients if they graze on a burned pasture.

"So it's an economic factor," he said.

Pitman said "urban sprawl" that fragments the rolling prairie with housing developments and infrastructure also has disrupted the natural habitat of prairie chickens.

"If the land is fragmented, it's no longer usable for chicks even though the vegetation may look the same," he said.

Robel said prairie chickens are sensitive to human activity and each needs about a thousand acres to survive.

"If you want to set aside land (to protect them), you would need 250,000 to a half-million acres," he said.

Environmentalists are concerned the building of wind farms will adversely affect the Flint Hills ecosystem. Robel said K-State has been collecting data on wind farms and their effect on the greater prairie chicken for two years.

"It's too preliminary to draw conclusions," he said, adding the \$960,000 study is expected to continue for another two years.

The study, he said, is looking at nest success, chick survival and adult survival at sites in north-central Kansas, the mid-section of the state and throughout the Flint Hills.

Robel said the prairie chicken population not only indicates the health of the prairie but also mimics what's happening with other grassland birds, such as plovers and dickcissels.

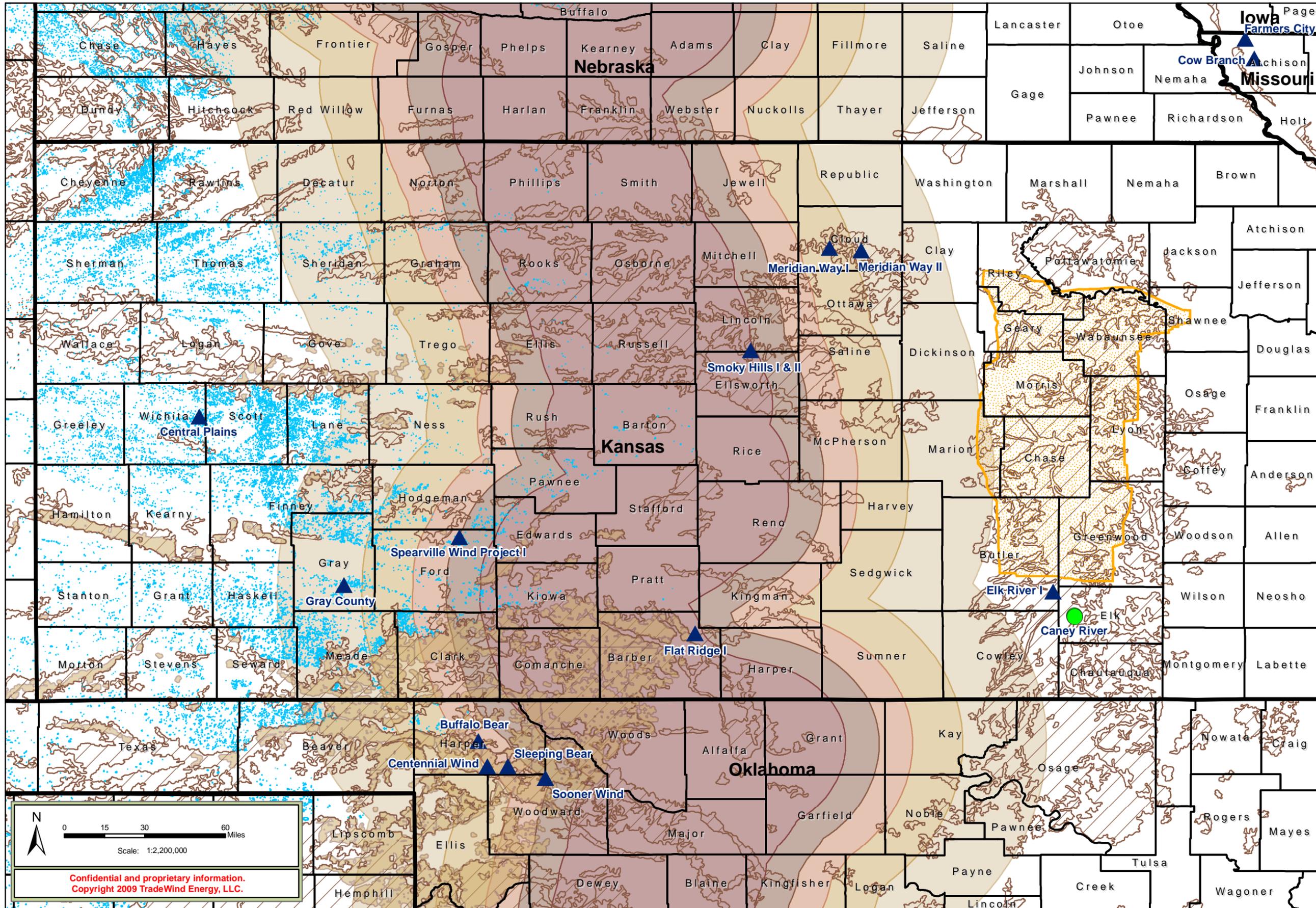
A study done from 1990 to 1995 compared nests on burned and unburned pasture south of Manhattan. The study found 27 grassland bird nests in the burned fields and 327 nests on the unburned land.

While concerned about the decreasing population of prairie chickens, Pitman believes efforts to change grazing and burning practices may turn that around.

"It's not yet an endangered species," he said.

Jan Biles can be reached at (785) 295-1292 or jan.biles@cjonline.com.

Kansas Wind Power Plants Environmental Concerns



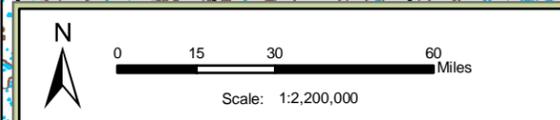
Map Data

- Caney River
- ▲ Operating Projects
- Heart of Flint Hills
- Lesser Prairie Chicken
- Playa Lakes
- TNC Untilled

Whooping Crane Corridors

% of Historical Observations

- 95.2%
- 90.0%
- 84.2%
- 80.1%
- 73.8%



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The following companies and organizations provided data that contributed to the production of this map.

- U.S. Geological Survey (USGS)
- Environmental Systems Research Institute (ESRI)
- U.S. Department of Agriculture (USDA)
- U.S. Federal Aviation Administration (FAA)
- WhiteStar Corporation
- Ventyx Inc.

24 June 2009

Matthew F. Gilhousen
TradeWind Energy, LLC
Southlake Technology Park
16105 West 113th Street, Suite 105
Lenexa, KS 66219



Division of Biology
116 Ackert Hall
Manhattan, KS 66506-4901
785-532-6615
Fax: 785-532-6653

Mr. Gilhousen,

Thank you for the telephone discussion on Monday, 22 June 2009. Sorry I classified 2007 data for Phase I as 'construction data'; my mistake since you are only addressing lek counts, not nesting and reproduction of GPCH. I corrected that error and added the 2005 data that was supplied, and took another look at the lek count data-set. Based on the data provided, it appears that the total number of active leks on the site over the five years has been fairly stable, except for a dip in the second pre-construction year (2005).

However, the more I work with the data-set the more uncomfortable I become with it. There appears to be far more year-to-year movements of GPCH leks than normal. I do not know if this is real, or is an artifact of how the data were collected. The activity on different leks varies through the 20 March to 20 April survey period, and daily during the morning hours. Lekking birds can shift locations during morning hours in response to disturbance and the presence of females. How consistent was data collection over the 5-year period? Was the same effort expended each year? Were the same individuals involved in the surveys each year and did they all receive adequate training?

In any event, the persistence of active leks summarized in Table 1 reflects a decrease in the number of active leks during the pre-construction and post-construction surveys when compared to the initial number counted in each year. To me, records of so many GPCH lekking at new locations across the 2005 to 2009 survey period reflects a lekking system in abnormal flux or under stress. Many of the new leks were not present at the same location the following year (12 of 16 for which following year data were available). And, only 4 of the 36 leks were recorded as being active during all years of the 5-year period. However, documenting shifts in lek locations, and the persistence of those leks, adds little to our understanding the dynamics of the GPCH population on the site. Learning the role of these leks in the reproductive phase of the GPCH life equation would be helpful.

To fully understand the impacts, or lack thereof, of the Smoky Hills Wind Farm on the GPCH population, one needs to obtain information on mortality and natality in the population plus assess immigration and emigration. Lek surveys are not designed to provide such information. Conducting annual lek surveys is a widely accepted technique used to track long-term trends in prairie grouse populations over expansive areas, even though the technique has not been validated for precision or accuracy.

Attachment 4 - Greater Prairie Chicken

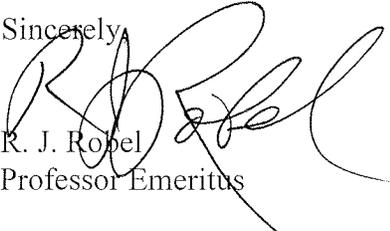
Matthew F. Gilhousen
24 June 2009
Page 2

As I have stated earlier, to understand the dynamics of the GPCH population in relation to the Smoky Hills Wind Farm, one needs to begin by addressing the following types of questions:

1. Are hen visitations and mating success equal on the active leks on the site similar to those activities on adjacent non-developed areas?
2. Are GPCH nesting and nest success on the site similar to that on adjacent non-developed areas?
3. Is the survival of juvenile and adult GPCH on the site the same as that on adjacent non-developed areas?
4. How do immigration and emigration factor into the dynamics of the GPCH population on the site?

Hopefully the above is of some help to you. If you are interested in pursuing the above, a visit to the site might be in order when mutually convenient.

Sincerely,


R. J. Robel
Professor Emeritus

Enclosure

Attachment 4 - Greater Prairie Chicken

Table 1. Review of persistence of active GPCH leks on the Smoky Hills Wind Farm site.

Phase I area

	Initial active leks located	Active leks at the same location in the following year(s)		Active leks at the same location in the post-construction years	
		<u>First year</u>	<u>Second year</u>	<u>2008</u>	<u>2009</u>
2005	7	4	5	4	4
2006	6	3	-	2	2
2007	10	-	-	4	3

Lekking activity recorded at new locations:

2006 = 2/6, 2007 = 4/10, 2008 = 1/5, 2009 = 1/5

Phase II area

				(Construction)	
2005	10	5	4	5	4
2006	5	4	-	3	3
2007	8	-	-	4	4

Lekking activity recorded at new locations:

2006 = 0/5, 2007 = 4/8, 2008 = 6/11, 2009 = 2/10

4 October 2009



Division of Biology

116 Ackert Hall
Manhattan, KS 66506-4901
785-532-6615
Fax: 785-532-6653

Matthew F. Gilhousen, Vice President
TradeWind Energy, LLC
Southlake Technology Park
16105 West 113th Street, Suite 105
Lenexa, KS 66219

Mr. Gilhousen,

As you know, I serve on the Secretary of the Interior's Federal Advisory Committee (FAC) charged with developing guidelines for the siting of wind energy facilities in the United States. The goal is to reduce negative impacts of wind farms on wildlife. Keith Sexson, the Assistant Secretary for Operations of the Kansas Department of Wildlife and Parks also serves on that FAC, representing the Association of State Fish & Game Agencies.

During a break in the FAC meeting at the U.S. Fish & Wildlife Service's headquarters in Arlington, Virginia last week, Keith and I were discussing the uncertainties surrounding the impacts of wind energy facilities on greater prairie-chickens in Kansas. I told him that you have been gathering lekking data on greater prairie-chickens at your Smoky Hills site for the last three or four years, but were lacking demographic information to assess impacts on the viability of the population. I told him that you had mentioned an interest in trying to gather such information in the future. Keith expressed an interest in cooperating in such an effort, and stated that the Kansas Department of Wildlife and Parks might be able to find matching funds to support that type of research. I told Keith that I would run the idea past you...thus the reason for this letter.

If you are interested in initiating such a study at the Smoky Hills site, it might be worthwhile for the three of us get together to discuss the opportunity further. I will be out of the country from 6 to 19 October and 9 to 27 November, but could meet sometime between those periods or in early December. I do not know what your schedule is like, or what kind of scheduling constraints might be facing Keith. In any event, why don't you give the matter some consideration and I will give you a call shortly after the 20th. At that time we can determine if the matter is worthy of further discussion.

Thank you for your attention.

Sincerely,



R. J. Robel
Professor Emeritus

Copy: Keith Sexson

Visual Impact

A detailed analysis has been performed to determine the visual impact of the Caney River Wind Project on the surrounding areas. This analysis was performed using the “Zones of Visual Impact” (ZVI) module in WindPRO, an industry-standard wind park design and assessment software. Inputs to the analysis include a digital elevation model and a detailed representation of the location and height of clusters of vegetation and buildings. Using these inputs, the ZVI module determines the number of wind turbines that are visible at least at hub height (80m) from any point five feet above ground level in space. This viewing height is a compromise between the average person’s eye height when standing and when riding in a vehicle. In determining the visual impact from any point in space, the ZVI module accounts for view blockage by trees, buildings, and terrain and conservatively assumes perfect atmospheric viewing conditions (i.e. no clouds, rain, smoke, fog, or haze). The program also includes a distance weighting algorithm to decrease the calculated visual impact with distance away from the project as the turbines become smaller on the horizon.

The first step in the analysis determines the existing visual impact in the region due to the existing Elk River Wind Project near Beaumont, KS. This analysis, shown in Figure 1, illustrates the zone of visual impact or the existing visual impact to the area, including the southern portion of the “Heart of the Flint Hills” and Hwy 400. The visual model is partially validated with an actual photo from the Caney River site (Photo 1) which shows that Elk River is visible from that location, although with only a minor visual impact, as calculated.

Figure 1. Visual Impact of the existing Elk River Wind Project

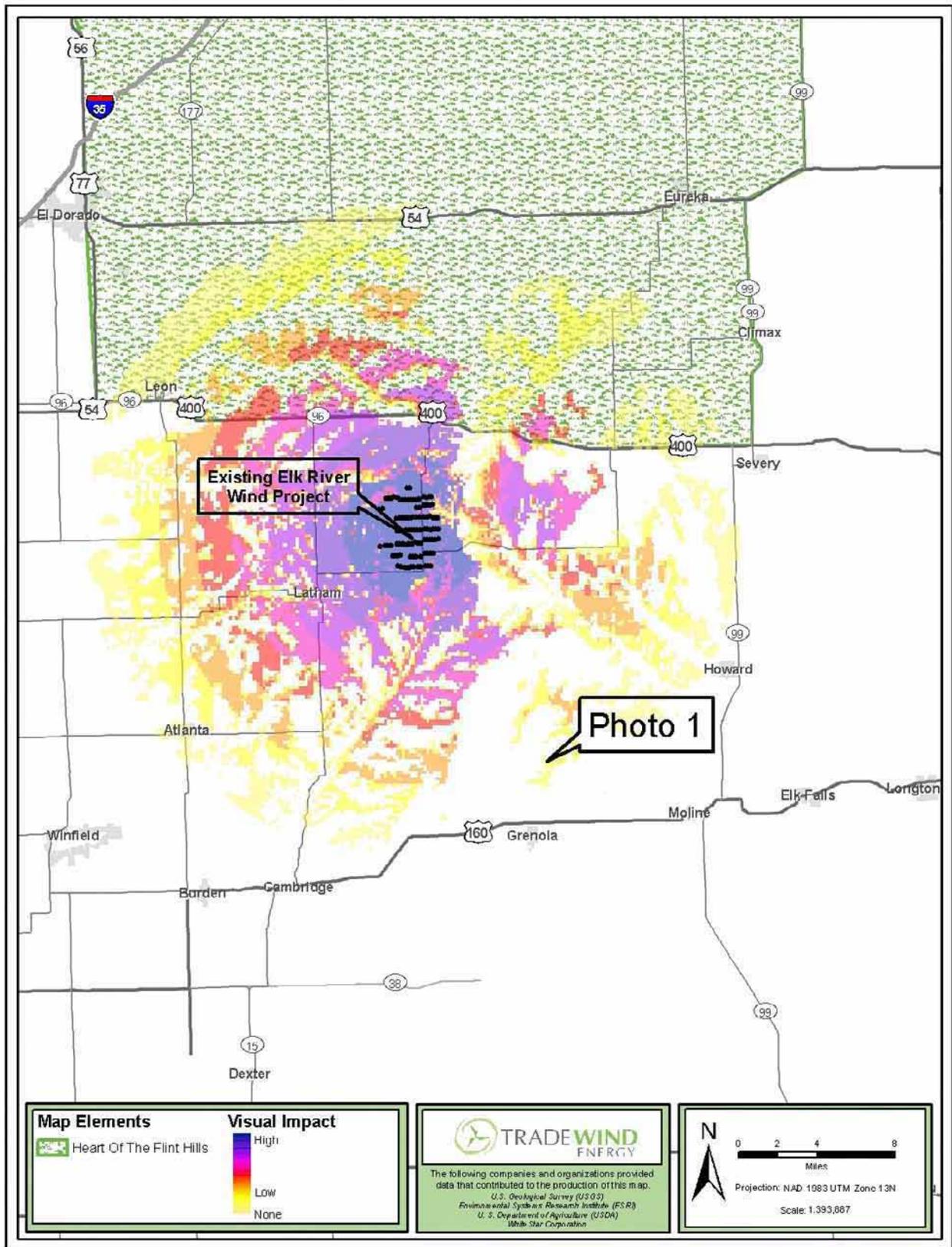


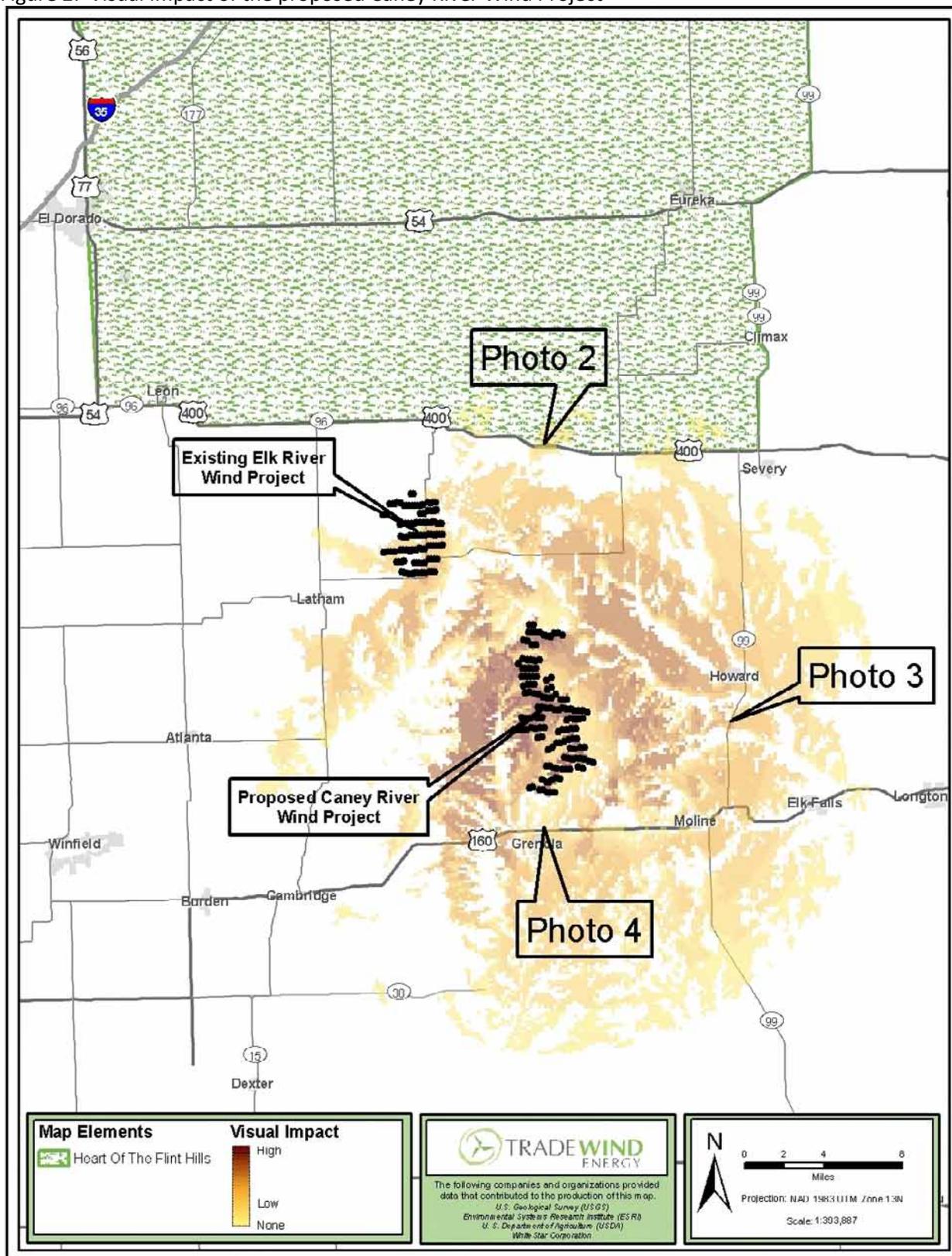
Photo 1. The Elk River Wind Project as viewed from the Caney River site



Next, the visual impact of the proposed Caney River Wind Project is evaluated. This analysis, shown in Figure 2, illustrates that

- The wind project will not be visible from virtually any location in the “Heart of the Flint Hills”
- The wind project will not be visible from virtually all locations on Hwy 400
- The wind project will be only minimally visible from Hwy 99
- The wind project will be minimally visible from Hwy 160 due to significant tree and terrain blockage
- Neither Hwy 400, Hwy 99, nor Hwy 160 are designated as Scenic Byways, so there are no visual impacts to Scenic Byways from the proposed project
- The wind project will not be visible from the west further than 3 miles away due to the presence of a higher-elevation ridge
- The wind project will not be visible from the towns nearest to the project (Grenola, Moline, Howard, Severy, Piedmont, Latham, Beaumont, Cambridge, and Elk Falls), or any towns more distant from the project
- Where the visual impact is projected to be highest (e.g. on the project and on the ridge to the west), there are no occupied residences or public roads to be impacted

Figure 2. Visual Impact of the proposed Caney River Wind Project



Attachment 6 - View Shed

The ZVI model is further validated with photomontages of the proposed Caney River site. A photomontage is a digital rendering of a proposed wind project in a pre-construction photo. Here, three representative photomontages have been performed

Photo 2: from Hwy 400 looking south

Photo 3: from Hwy 99 south of Howard looking west

Photo 4: from Hwy 160 looking north

Photo 2 shows that from one of the few locations on Hwy 400 where the wind park may be visible, the visual impact is very low. In fact on many days due to clouds, haze, rain, or smoke, the wind park will likely not be visible. Photo 3 shows the typical visual impact that can be expected from the locations on Hwy 99 where the project is visible. Though the turbines are distant, the number of visible turbines attributes to a moderate visual impact from this location. Finally, Photo 4 shows the view of the project from the closest possible vantage point on a paved road, Hwy 160 due south of the project. In this image, though the turbines are relatively close to the observer, the vast majority of the wind turbines in the project are not visible since the view is blocked by the project ridge itself. This results in a low visual impact from this location.

For comparison, the visual impact of both Elk River and Caney River Wind Projects are overlaid in Figure 3. This figure underscores the conclusion that the proposed Caney River Wind Project will have far less of a visual impact on local paved roads and highways and the Heart of the Flint Hills than the existing Elk River Wind Project.

For aviation safety, either white paint or white lights are required for daytime wind turbine operation. The utilization of white paint for the proposed wind turbines at Caney River will reduce the visual impact of the project. The visual impact will be further minimized by utilizing red lights with slow synchronized flash on 35% of the turbines to comply with FAA marking guidelines.

The conclusion from this analysis is that the proposed Caney River Wind Project will have **minimal visual impact** on the surrounding area, especially from populated areas and local paved roads and highways and **will have virtually no visual impact on the "Heart of the Flint Hills"**.

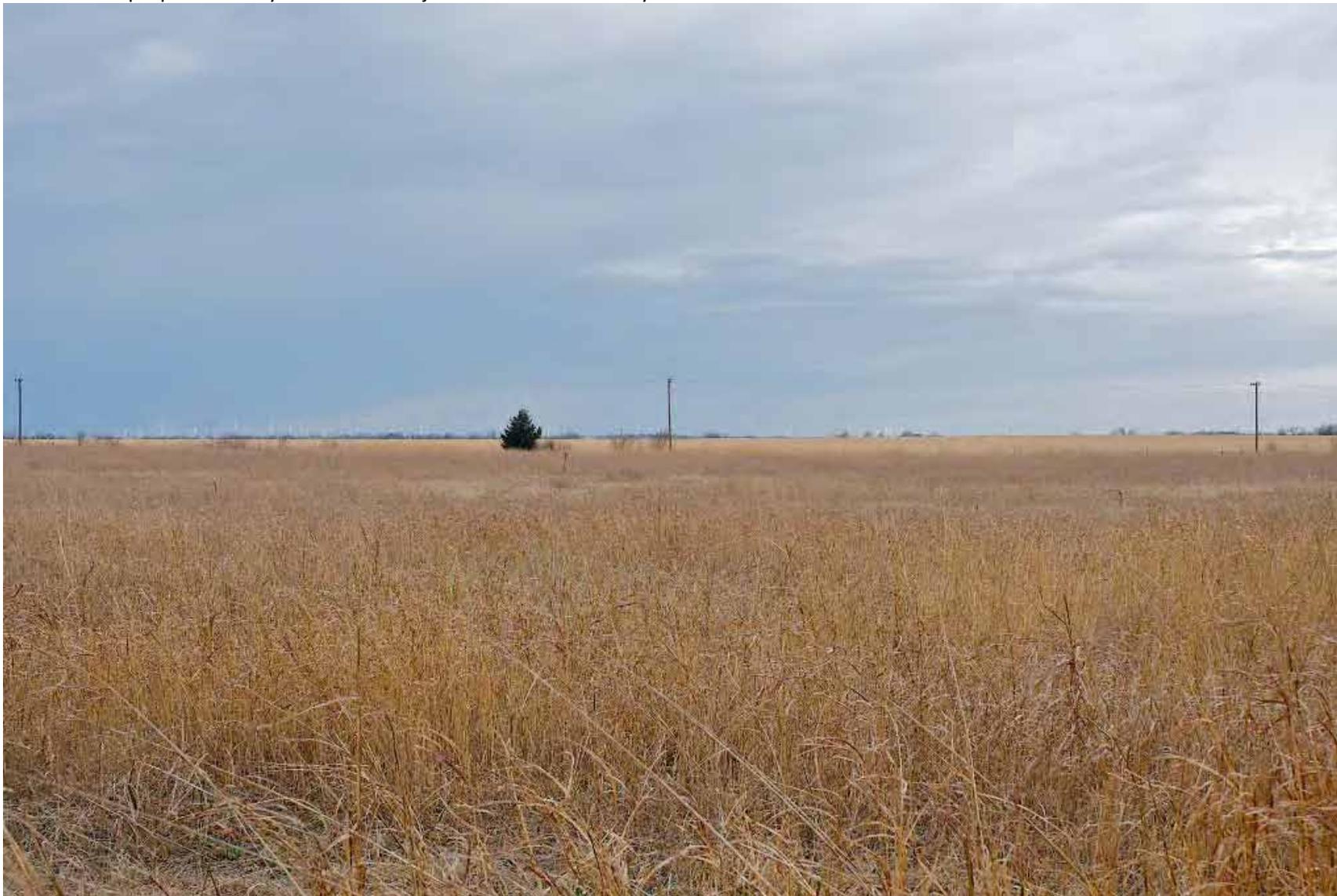
Attachment 6 - View Shed

Photo 2. The proposed Caney River Wind Project as viewed from Hwy 400



Attachment 6 - View Shed

Photo 3. The proposed Caney River Wind Project as viewed from Hwy 99 south of Howard

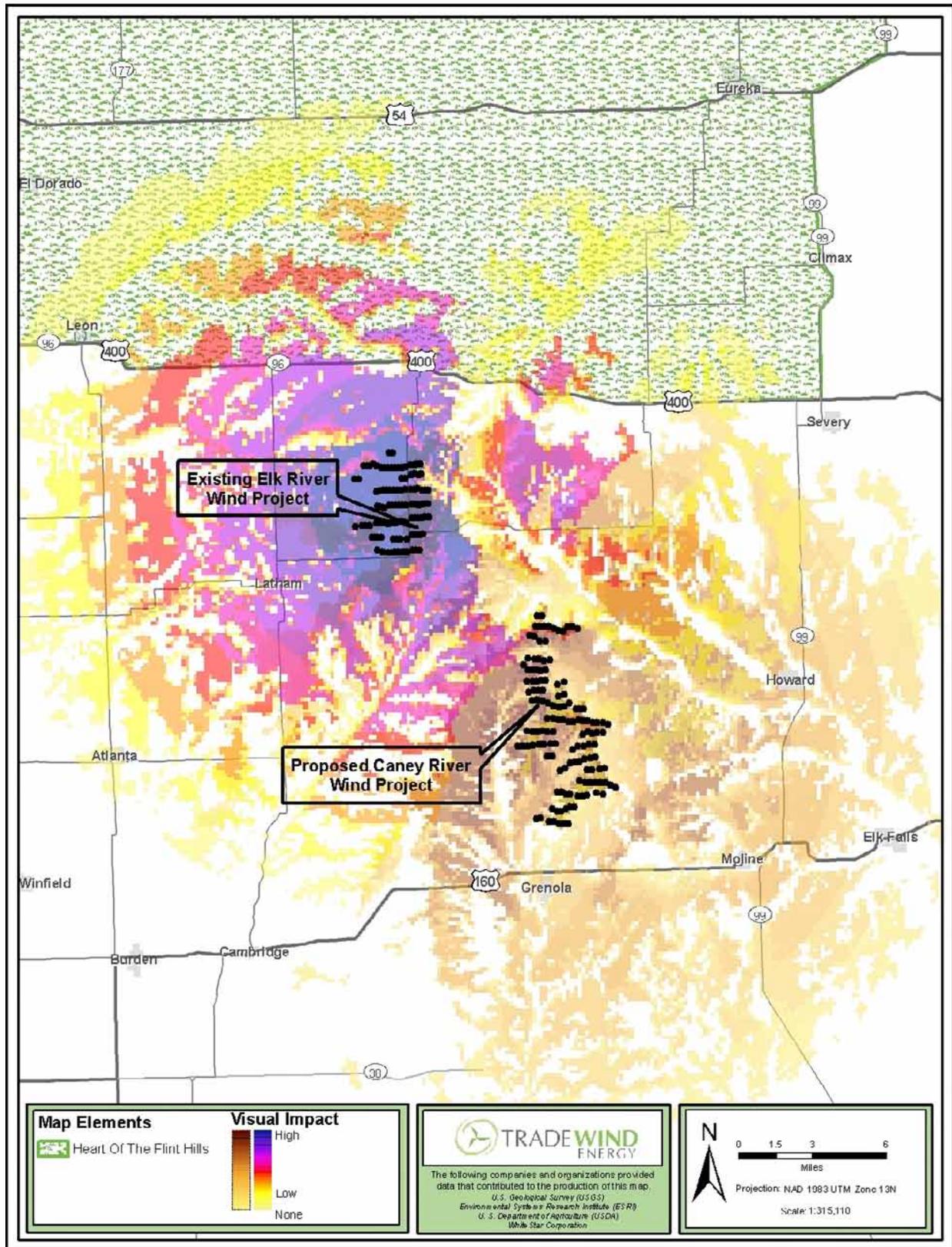


Attachment 6 - View Shed

Photo 4. The proposed Caney River Wind Project as viewed from Hwy 160



Figure 3. Total Visual Impact of the Elk River and Caney River Wind Projects



Analysis of the Visual Impact of the Elk River and Caney River Wind Projects on the Flint Oak Hunting Resort

*Dr. Kevin Walter, Director of Meteorology, TradeWind Energy
April 8, 2009*

Objective: To objectively determine the visual impact of the Proposed Caney River Wind Project on the Flint Oak Hunting Resort

Analysis Method: This analysis was performed using the “Zones of Visual Impact” (ZVI) module in WindPRO, an industry-standard wind park design and assessment software. Inputs to the analysis include a digital elevation model and a detailed representation of the location and height of clusters of vegetation and buildings. Using these inputs, the ZVI module determines the number of wind turbines that are visible at least at hub height (80m) from any point five feet above ground level in space. This viewing height is a compromise between the average person’s eye height when standing and when riding in a vehicle. In determining the visual impact from any point in space, the ZVI module accounts for view blockage by trees, buildings, and terrain and conservatively assumes perfect atmospheric viewing conditions (i.e. no clouds, rain, smoke, fog, or haze). The program is capable of including a distance weighting algorithm to decrease the calculated visual impact with distance away from the project as the turbines become smaller on the horizon, however that algorithm is not used in this analysis. *Since this algorithm is not used, the visual impact calculated here is not tempered by distance, and the results appear to be the same magnitude as would be calculated only several miles from either wind project, which is of course a drastic overestimation of the impact in the case of either wind project given that the property is greater than 19 miles from either project.*

The ZVI analysis is created at 50m horizontal resolution for the area believed to fully encompass the Flint Oak Hunting Resort based on descriptions from the Flint Oak website and from hi-resolution aerial imagery.

Results: First, the ZVI module is used to calculate the visual impact that the Proposed Caney River Wind Project would have on the property. The results, shown in **Figure 1**, indicate that the wind park will be mostly invisible from the Flint Oak property with the single exception of the extreme southeastern boundary of the property, where a high treeless ridge will likely have a partial view of the wind project.

Next, the ZVI module is used to calculate the visual impact of the existing Elk River Wind Project on the property. This analysis is performed as a comparative baseline so that the Caney River results can be interpreted with respect to the visual impact that already exists on the property. These results, shown in **Figure 2**, indicate a much more prominent visual impact from the Elk River project. Here, some portion of the Elk River project can be seen from two high open hills in the center of the property. Additionally, a large fraction of the Elk River Wind Project can be seen from the high open ridge in the northeastern portion of the property.

The Elk River Wind Project is 25 miles from the Flint Oak Hunting Resort, while the Caney River Wind Project is 19 miles away. Logic would hold that the closer wind project would have a greater visual impact than the project farther away. This is not the case in this instance due to the presence of an elevated terrain feature directly southwest of the Flint Oak property, which effectively blocks the view of the proposed Caney River Wind Project from the property. Conversely, the view to the west-northwest of the property is through the Indian Creek drainage meaning there is no such adjacent terrain feature to block the view of the Elk River Wind Project from high vantage points on the property. This is illustrated in the terrain profiles of **Figure 3**.

Figure 1. Expected visual Impact of the Proposed Caney River Wind Project on the Flint Oak Hunting Resort Property.

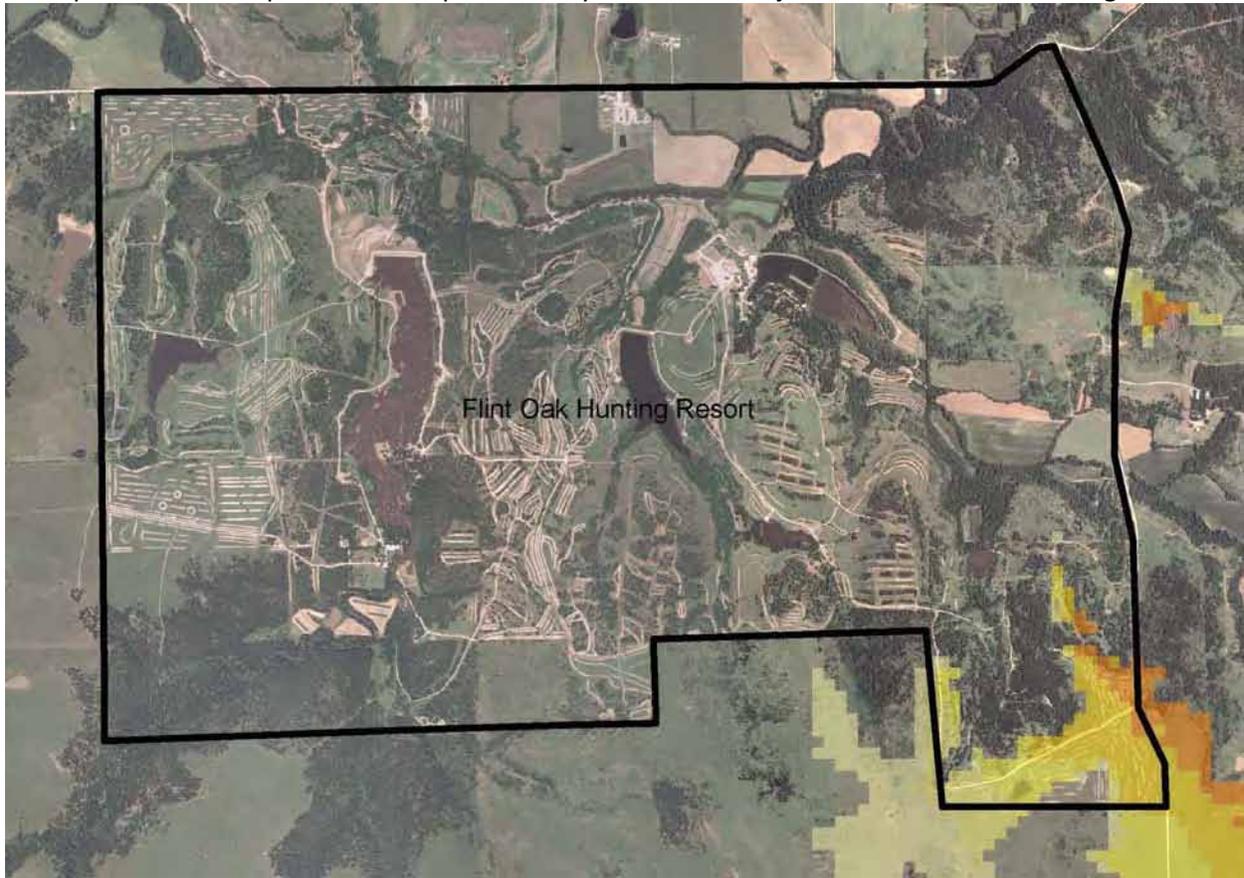


Figure 2. Calculated visual Impact of the existing Elk River Wind Project on the Flint Oak Hunting Resort Property.

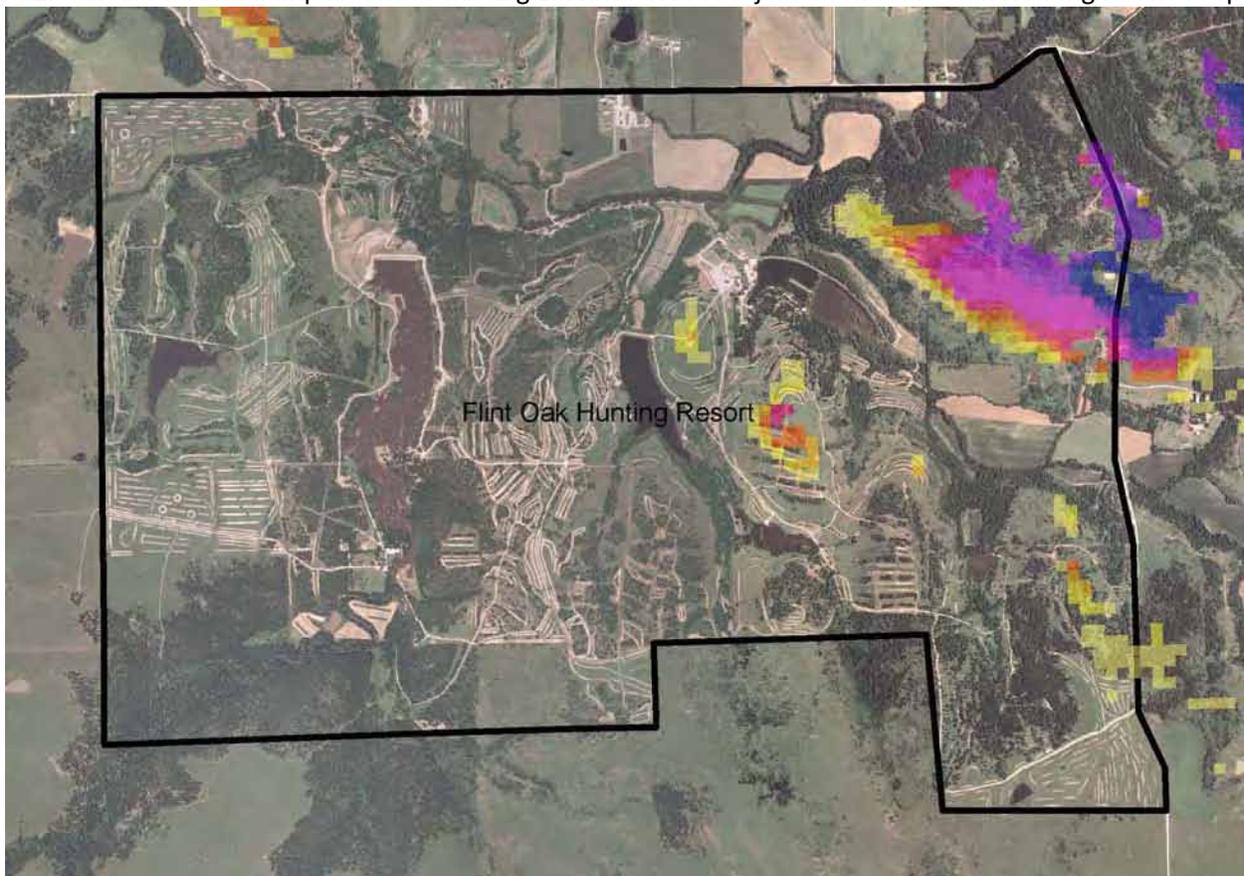
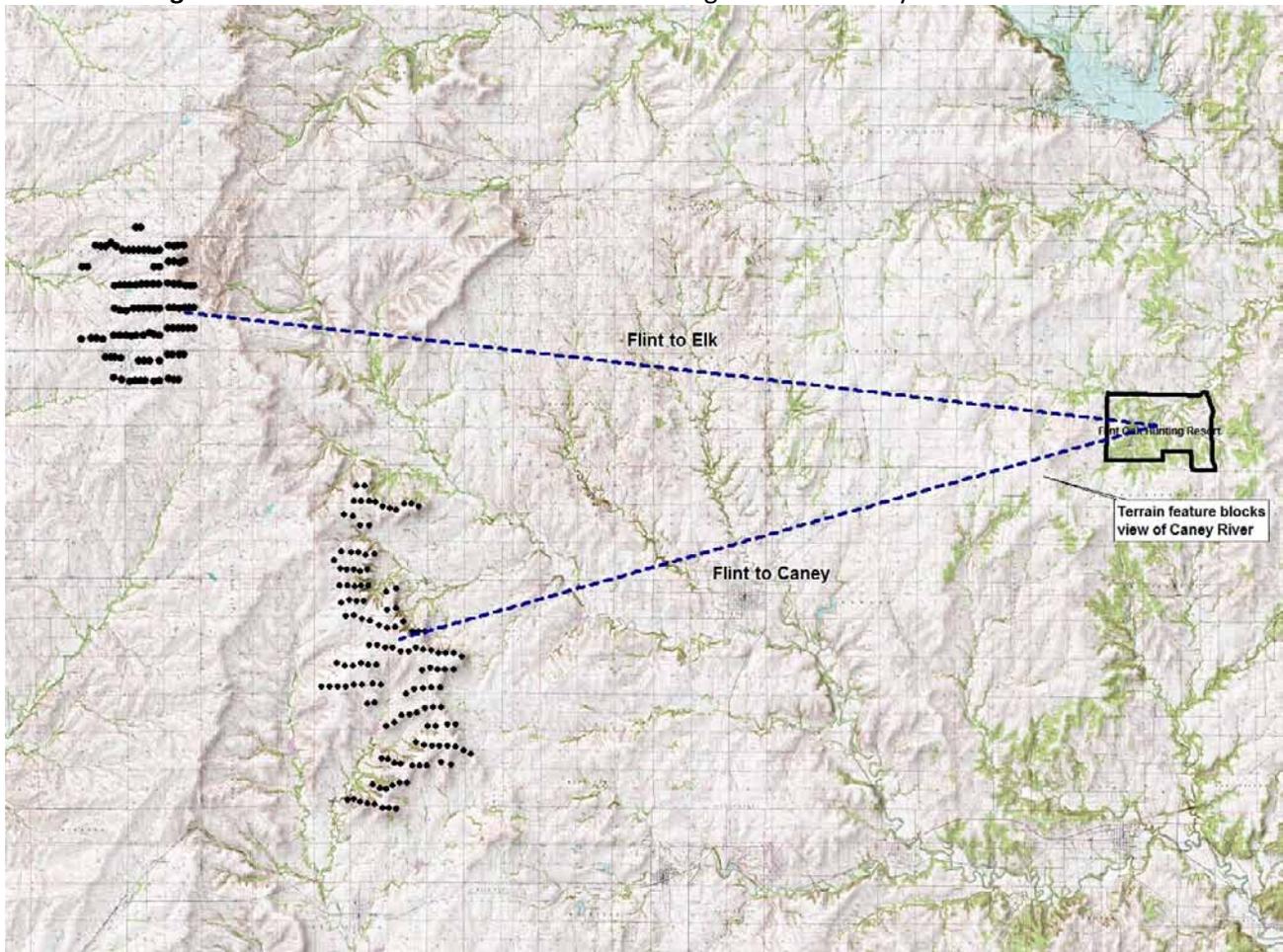
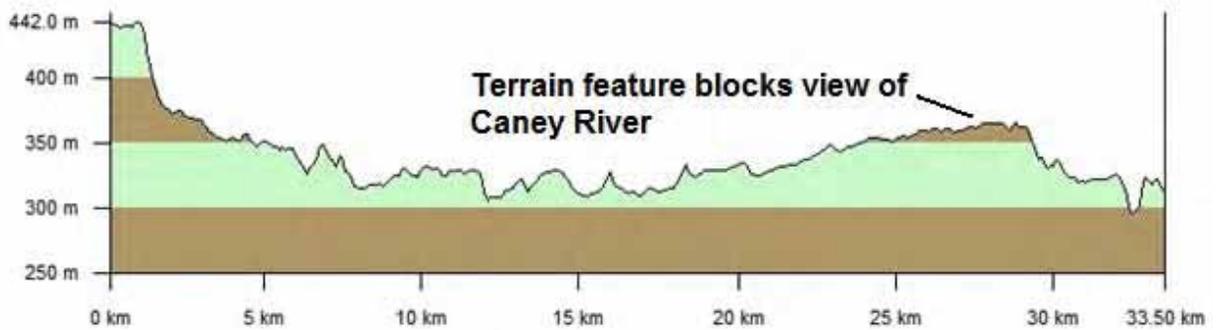


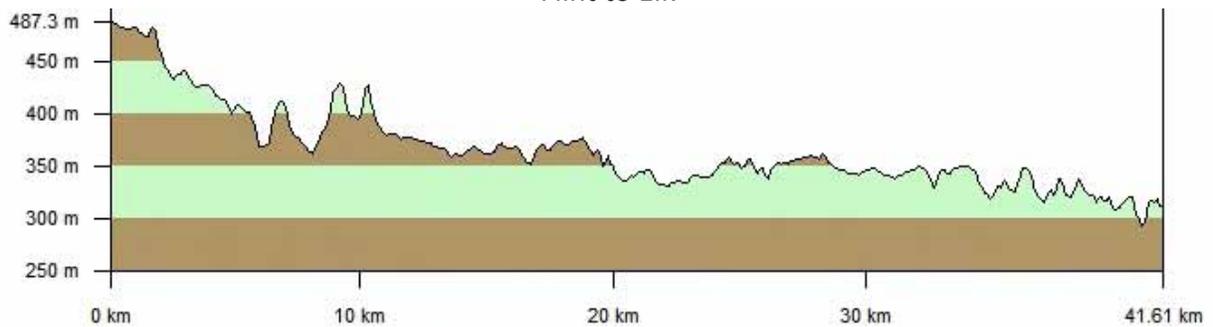
Figure 3. Terrain Profiles from Flint Oak Hunting Resort to Caney River and Elk River



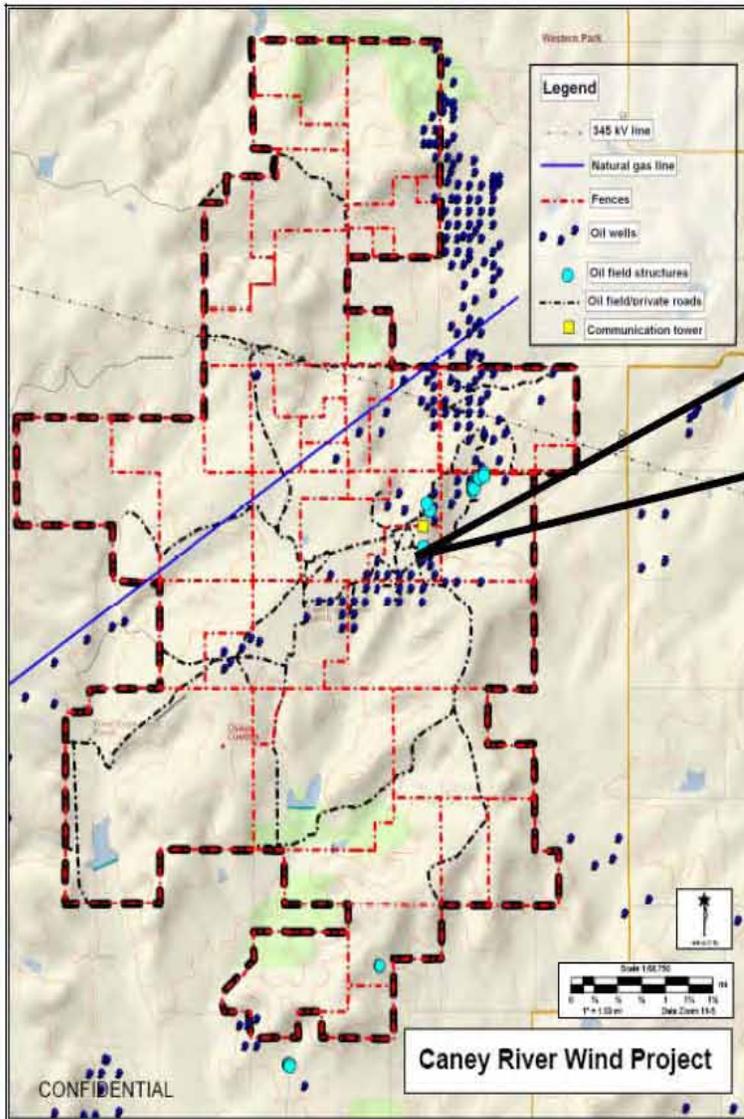
Flint to Caney



Flint to Elk



Attachment 8 - Oil & Gas



EPA: Greenhouse Gases Threaten Public Health and the Environment / Science overwhelmingly shows greenhouse gas concentrations at unprecedented levels due to human activity

Release date: 12/07/2009

Contact Information: Cathy Milbourn, Milbourn.cathy@epa.gov, 202-564-7849, 202-564-4355;
En español: Lina Younes, younes.lina@epa.gov, 202-564-9924, 202-564-4355

EPA: Greenhouse Gases Threaten Public Health and the Environment

Science overwhelmingly shows greenhouse gas concentrations at unprecedented levels due to human activity

WASHINGTON – After a thorough examination of the scientific evidence and careful consideration of public comments, the U.S. Environmental Protection Agency (EPA) announced today that greenhouse gases (GHGs) threaten the public health and welfare of the American people. EPA also finds that GHG emissions from on-road vehicles contribute to that threat.

GHGs are the primary driver of climate change, which can lead to hotter, longer heat waves that threaten the health of the sick, poor or elderly; increases in ground-level ozone pollution linked to asthma and other respiratory illnesses; as well as other threats to the health and welfare of Americans.

“These long-overdue findings cement 2009’s place in history as the year when the United States Government began addressing the challenge of greenhouse-gas pollution and seizing the opportunity of clean-energy reform,” said EPA Administrator Lisa P. Jackson. “Business leaders, security experts, government officials, concerned citizens and the United States Supreme Court have called for enduring, pragmatic solutions to reduce the greenhouse gas pollution that is causing climate change. This continues our work towards clean energy reform that will cut GHGs and reduce the dependence on foreign oil that threatens our national security and our economy.”

EPA’s final findings respond to the 2007 U.S. Supreme Court decision that GHGs fit within the Clean Air Act definition of air pollutants. The findings do not in and of themselves impose any emission reduction requirements but rather allow EPA to finalize the GHG standards proposed earlier this year for new light-duty vehicles as part

of the joint rulemaking with the Department of Transportation.

On-road vehicles contribute more than 23 percent of total U.S. GHG emissions. EPA's proposed GHG standards for light-duty vehicles, a subset of on-road vehicles, would reduce GHG emissions by nearly 950 million metric tons and conserve 1.8 billion barrels of oil over the lifetime of model year 2012-2016 vehicles.

EPA's endangerment finding covers emissions of six key greenhouse gases – carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons and sulfur hexafluoride – that have been the subject of scrutiny and intense analysis for decades by scientists in the United States and around the world.

Scientific consensus shows that as a result of human activities, GHG concentrations in the atmosphere are at record high levels and data shows that the Earth has been warming over the past 100 years, with the steepest increase in warming in recent decades. The evidence of human-induced climate change goes beyond observed increases in average surface temperatures; it includes melting ice in the Arctic, melting glaciers around the world, increasing ocean temperatures, rising sea levels, acidification of the oceans due to excess carbon dioxide, changing precipitation patterns, and changing patterns of ecosystems and wildlife.

President Obama and Administrator Jackson have publicly stated that they support a legislative solution to the problem of climate change and Congress' efforts to pass comprehensive climate legislation. However, climate change is threatening public health and welfare, and it is critical that EPA fulfill its obligation to respond to the 2007 U.S. Supreme Court ruling that determined that greenhouse gases fit within the Clean Air Act definition of air pollutants.

EPA issued the proposed findings in April 2009 and held a 60-day public comment period. The agency received more than 380,000 comments, which were carefully reviewed and considered during the development of the final findings.

**ELK COUNTY COMMISSION
PO BOX 606
HOWARD, KS 67349
620-374-2490**

To Whom It May Concern:

RE: Caney River Wind project – Elk County
TradeWind Energy, LLC – Developer

It is with great excitement and anticipation that we write this letter. We have been dealing with TradeWind Energy for the last several years and have developed a great working relationship.

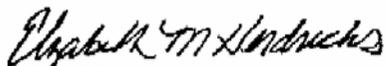
Elk County has a very small population – around 3200 people and our county government is primarily funded by property taxes, mostly off of the agricultural land. Our valuation has continued to decline, while our costs of doing business keeps escalating. For the 2009 budget year, we had to raise our people's taxes by 26 mil just to keep things operating the same, without any additional services. In Elk County, one mil only raises \$21,000 and our total operating budget is just over \$2.5 million dollars.

The PILOT (payment in lieu of taxes) that TradeWind has agreed to give the county is very significant. If this project is finalized, the county will receive \$4500 per MW or anywhere from \$450,000-900,000 for the next 20 years starting in 2010 with an annual increase of 2% and renewable after 20 years. As you can see, this is a significant amount of money for us to either lower our current taxes and/or implement programs and infrastructure we have not been able to do. For example, one such infrastructure that we haven't been able to fund is the new Elk County Rural Water District #2. We could potential use this PILOT money to fund this project which would in turn provide water to the northern half of our county. With water, people would be able to build new homes and live in our county.

Another exciting part of this project is the job potential for our county. During construction phase, this project anticipates employing over 200 people. Then after that, for the life of the project, Caney River will employ around 15 people. These again are large and significant numbers for our small county. Another arm of this economic development is of course the revenue going to the local landowners whose land has been leased. TradeWind has done a remarkable job working with all the local people, from landowners to us at the county level.

We are very pleased to have the opportunity to work with TradeWind Energy for the betterment of our county.

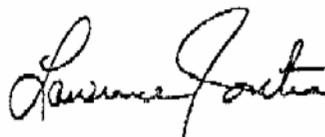
Sincerely,



Elizabeth M. Hendricks
Commission Chairman Dist #2



Kenny Liebau
Dist #3 Commissioner



Lawrence Jontra
Dist #1 Commissioner

Attachment 10 - Local Support



West Elk

U.S.D. 282

PO Box 607 Howard, Kansas 67349 (620) 374-2113 Fax (620) 374-2414

November 10, 2009

To Whom It May Concern:

I am writing this letter in support of the "wind farm" being explored in Elk County. This project will generate needed revenue for our county, which will make it possible for us to improve and expand the services available to our citizens.

Elk County is one of the poorest counties in the state of Kansas, and we are located in a rural setting. My school district is the largest employer in Elk County. The state has designated our county a "frontier" county, which means that we have very few residents per square mile. Our residents are primarily persons who ranch, work for the public schools, or are retired. The burden of providing needed county services falls mainly on our property owners. The tax revenues generated by this venture would provide much needed funds for our county.

Our county has formed several alliances to increase economic development. Many of our residents have voiced approval for "green" initiatives that would lessen the environmental "carbon" footprint. The wind farm would be a tremendous boost to the morale of our citizens, while promoting an environmentally friendly enterprise. We desperately need your approval to move this project forward.

Please consider endorsing this initiative. I would be happy to visit with any of your representatives at your convenience.

Sincerely,

Corey Reese
Superintendent, West Elk USD#282

Elk County Farm Bureau Association
135 S. Wabash St. P.O. Box 768 Howard, KS 67349
(620) 374-2321



April 14, 2009

To Whom It May Concern:

The Elk County Farm Bureau Association strongly supports and advocates for farmers and ranchers, both for the dedicated stewardship they practice in their day-to-day operations and their efforts to sustain and grow our rural communities. Their livelihoods are dependent on these small towns and also on a healthy environment, and to this cause, our Farm Bureau leadership supports the development of clean, renewable sources of energy.

Our board of directors believes the Trade Winds-Caney River wind farm project currently under development in Elk County will be of great benefit to local farmers and ranchers. We are pleased that relatively little acreage will be used for this wind farm, and that the landowners will be able to continue using the ground for agricultural purposes. We also believe the PILOT funds will enable the small towns in our county to maintain and improve quality of life for its citizens.

We welcome the Trade Winds-Caney River wind farm project, and appreciate the consideration given to the current and future needs of Elk County farmers and ranchers.

Sincerely,

A handwritten signature in black ink that reads "John Black". The signature is written in a cursive, flowing style.

John Black, President

And board members

Elk County Farm Bureau Association

Attachment 10 - Local Support

City of Howard
P.O. Box 335
Howard, Kansas 67349
620-374-2202

April 7, 2009

To Whom It May Concern:

This letter is in support for the Caney River Wind Project. The Mayor and Howard City Council are excited about the possibilities this will bring to Howard and Elk County.

This is a positive project and will bring capital into our community.

Sincerely,

Richard P. Clark

The Howard City Council

Attachment 10 - Local Support



Howard State Bank
 P.O. Box 428 / Howard, KS 67349
 (620) 374-2127 / Fax (620) 374-2129



Branches

Bank of Moline
 P.O. Box 308 - Moline, KS 67353
 (620)647-3263 / Fax (620) 647-3417

Bank of Sedan
 P.O. Box 99 / Sedan, KS 67361
 (620)725-3181 / Fax (620) 725-3189

Bank of Cedar Vale
 P.O. Box 188 / Cedar Vale, KS 67024
 (620)758-2272 / Fax (620) 758-2216

November 9, 2009

Richard L. Fish
 President

*Re: Caney River Energy Project
 TradeWind Energy Developers*

To Whom It May Concern:

Elk County, Kansas is standing on the threshold of a golden economic opportunity. We have an opportunity to capitalize on one of our most stable geographic natural resources in the form of wind driven electrical generation.

The citizens of Elk County are asking for no form of handout or concession from an energy distributor. Elk County, even though sparsely populated, is not a community that is resting on its laurels waiting for some miracle to save it. Elk County is a positive thinking community whose citizens have created a strong infrastructure designed to "Strengthen the entire Elk community by strengthening each of the smaller Elk communities".

Within the past eighteen months, Elk County has taken on a new and exhilarating sense of community achievement. The proposed PILOT funding associated with the Caney River Project could be used to create both current and future community betterment and lifestyle enhancements.

As wind generated electricity is currently on the cutting edge of development across the Midwestern United States, the early participants have the opportunity to become the leaders within the industry.

All citizens of Elk County, many of whom are existing customers and employees of public utilities, respectfully request that electrical distributors give full consideration to a due diligence review of an agreement to purchase electrical energy produced by the Caney River Energy Project.

Thank You in advance for your consideration.

Sincerely,
 Richard L. Fish,

Attachment 10 - Local Support

***Howard Rotary Club
PO Box 488
Howard, KS 67349***

April 6, 2009

To Whom It May Concern:

The Rotary Club of Howard supports the Caney River Wind project 100%. We are all business owners, either current or past, and know the importance of a project of this size. Seldom does an opportunity like the Tradewind's Caney River project become available to a very rural, elderly population. We are excited about the endless possibilities that our county can now make happen with this large sum of money. Not only through the PILOT sum that Tradewinds has negotiated with our county, but also with the additional 20 jobs created full-time from this project. For us, in rural Kansas, 20 jobs is liking getting a factory for other communities. Our club would like to see this project happen and are willing to help in whatever way needed. We have really good people in our community, who work really hard and with this project, it could give us the boost we need. Thank you so much.

Sincerely,



Howard Rotary Club
Ian Denton, President

Attachment 10 - Local Support

**Elk County Rural Water District # 2
P.O. Box 184, Howard Kansas 67349**

March 30, 2009

To Whom It May Concern,

This letter is written in support of the wind energy systems to be constructed in Elk County.

The Elk County Rural Water District #2 is in the process of obtaining funding to develop a water system for the northern part of the county not currently being served by other systems. As part of the rural economic development plan for the county it is critical that we have potable water for existing homes as well as potential new homes.

The economic impact of the wind farms will be a valuable asset to the future development of the county. The directors of RWD#2 are in support of the wind projects in Elk County.

Sincerely,



Shelby Perkins
Secretary

Ron Dellinger	Jack Russell	Shelby Perkins	Herb Harrison	Terry Countryman	John Black	Jeff Oakes
Chairman	V-Chair	Sec-treas	member	member	member	member
374-2430	658-4999	374-2084	374-2602	658-4929	374-3041	658-4401



FREDONIA
ECONOMIC DEVELOPMENT CORPORATION

P.O. Box 449 • FREDONIA, KANSAS 66736 • (620) 378-3221

Building on Great Traditions

April 7, 2009

TradeWind Energy, LLC.
Southlake Technology Park
16105 West 113th Street, Suite 105
Lenexa, Kansas 66219

RE: *ELK COUNTY WIND ENERGY PROJECT*

To Whom It May Concern:

I am writing on behalf of Fredonia Economic Development. It was reported in the April 6th issue of the Wilson County Citizen that your company is preparing to invest more than \$500 million in Elk County, to produce "one of the largest wind energy projects...in eastern Kansas". Because you have been working on the project for over five years, I am confident that you are well on your way to construction. Fredonia is located on Highway 400 about 40 miles from Howard and could possibly serve as a valuable resource for your project.

Whether it be introducing you to potential area suppliers, construction companies or scheduling a job fair; we are very interested in visiting with you about how we can help.

Questions or comments regarding this issue should be directed to the contact information below.

Thank you in advance for your time. We look forward to having the opportunity to visit with you soon.

Sincerely,

Yvonne Hull, Executive Director
Fredonia Economic Development
PO Box 449
Fredonia, KS 66736
620-378-3221

PAYMENT IN LIEU OF TAXES AGREEMENT

This Payment in Lieu of Taxes (“**PILOT**”) Agreement (the “**Agreement**”) is made effective as of the 31ST day of December 2008, by and between Caney River Wind Project, LLC, a Kansas limited liability company (“**Caney River**”), and The Board of County Commissioners of Elk County, Kansas (“**County**”) (collectively referred to as the “**Parties**”).

RECITALS AND PURPOSE

WHEREAS, the County, pursuant to K.S.A. 19-101 *et. seq.* (the “**Home Rule Authority**”) and such other relevant statutory provisions, has the authority to promote the general and economic welfare of the County, to encourage private development in order to enhance the local tax base and the creation of employment opportunities, and to enter into contractual agreements with landowners and private parties to achieve those purposes; and

WHEREAS, the County is desirous of promoting the economic development of the County and the development of additional electrical power capacity and renewable energy sources within the County and State of Kansas; and

WHEREAS, Caney River has been and will continue to develop and construct a wind power project on certain real property located in Elk County, Kansas with a projected total size of approximately 200 megawatts (“**MWs**”) of installed capacity (“the **Project**”). The total size of the Project may be subject to change at the sole discretion of Caney River; and

WHEREAS, the Project will be located on privately owned rural farmland within the general area set forth on the site plan attached as **Exhibit A**; and

WHEREAS, the Project may be constructed in multiple phases over a period of years; and

WHEREAS, the first phase of the Project (“**Phase I**”) will be capable of providing up to 150 MWs of nameplate electric power capacity (out of the anticipated 200 MWs of the total Project), and Phase I is contemplated to be sufficient to provide power to approximately 45,000 Kansas homes; and

WHEREAS, it is anticipated that the first phase of the Project will be constructed in 2010, and that it will consist of approximately 100 wind turbine generators, as well as meteorological towers, a project substation, electric collection lines, access roads, temporary construction areas, an operations and maintenance facility, and other infrastructure and facilities necessary for the construction and operation of a wind project; and

WHEREAS, it is anticipated that the full Project will be completed in future phases of construction (“**Future Phases**”), potentially commencing construction as early as 2011; and

WHEREAS, the development and construction, over an extended period, of a phased project of this size, complexity, and level of capital investment will only be undertaken in a stable regulatory environment; and

WHEREAS, as of the date of this Agreement, the County has not enacted planning, zoning, or subdivision ordinances, resolutions or regulations, pursuant to K.S.A. 12-741 or any other state statute or Home Rule Authority (collectively “**County Zoning Regulations**”), that prohibit, limit, provide standards for, or burden the development, construction, or operation of the Project; and

WHEREAS, as of the date of this Agreement, the County has not enacted any other ordinances, resolutions, regulations, or policies (collectively “**County Laws**”) that would prohibit, limit, provide standards for, or burden the development, construction, or operation of the Project; and

WHEREAS, Caney River will undertake the Project if the County agrees that the County Zoning Regulations and County Laws will remain unchanged with respect to the Project during the development, construction, and operation of the Project; and

WHEREAS, the County is willing to enter into this Agreement as an inducement to Caney River (i) to undertake the development and construction of the Project, (ii) make payments in lieu of taxes (“**PILOT payments**”) to the County and easement payments to private landowners, (iii) create jobs, and (iv) provide significant positive economic impacts to the local community.

NOW, THEREFORE, in consideration of the foregoing recitals which are incorporated by reference herein, and in consideration of the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt of and sufficiency of which are hereby acknowledged by Caney River and the County, Caney River and the County agree as follows:

1. Payments in Lieu of Taxes

Notwithstanding that K.S.A. 79-201 exempts wind energy and other renewable resource facilities from *ad valorem* taxation, Caney River agrees to voluntarily make PILOT payments to County. Such PILOT payments shall be paid by Caney River to the County, and the County may direct such payments to any general County fund or such specific fund or funds as may be established by the County from time to time, and the County shall be under no obligation to distribute such payments in the same manner as taxes are distributed; provided, however, that the County hereby acknowledges and agrees that (i) it is intended that this Agreement and the PILOT payments contemplated

hereunder to be made by Caney River constitute the only agreement relating to PILOT payments or similar payments that Caney River will enter into and for the benefit of Elk County or any government and quasi-government entities within Elk County, including such entities as school districts and hospitals, that would otherwise be entitled to tax revenues received by the County (“**County Entities**”), and (ii) it is the County’s intent to distribute the PILOT payments hereunder to such County Entities as the County determines may be in the best interests of the County.

Such PILOT payments shall be made by Caney River to the County for each phase of the Project as follows:

- a. The first PILOT payment (the “**Initial Payment**”) shall be made during the year in which the applicable phase of the Project is completed and has commenced commercial operation (projected to be 2010), due and payable on or before December 31 of such calendar year, and shall be in the amount of \$4,500.00 multiplied by the gross nameplate capacity as measured in megawatts actually installed as of the close of that particular calendar year in the applicable phase of the Project.
- b. For each of the succeeding nineteen (19) full calendar years in which the applicable phase of the Project is operational, PILOT payments in the corresponding amount set forth in the payment schedule attached hereto as **Exhibit B** shall be multiplied by the applicable phase of the Project’s gross nameplate capacity as measured in megawatts actually installed as of the close of that particular calendar year.
- c. After the twentieth (20th) PILOT payment for a particular phase of the Project, Caney River and the County will renegotiate and readjust the amount of such PILOT payment applicable to such phase of the Project to be an amount that is the then fair market value for PILOT payments based on comparable PILOT payments being made at similar-sized wind electricity generation projects located in the State of Kansas (“**Renegotiated Payment**”). On or before December 31 of the twentieth (20th) full calendar year after the completion of the applicable phase of the Project, the PILOT payments for the applicable phase of the Project shall be in the amount of the Renegotiated Payment, which payments shall continue through the remaining operational life of the Project.

It is also agreed between the Parties, that Caney River, or its successors and assigns, will also make PILOT payments for Future Phases of the Project to the County, and such PILOT payments will be in the amounts described above in subsections (a), (b) and (c), based on installed MWs completed for each additional phase, commencing, for each additional phase, when such additional phase is completed and has commenced commercial operation.

2. County Zoning Regulations and County Laws

The County shall not enact County Zoning Regulations or County Laws that prohibit, limit, provide standards for, or burden the development, construction, or

operation of the Project in any way, including all phases of the Project, and including, without limitation, any such County Zoning Regulations or County Laws applicable to or requiring building permits for construction of wind turbine generators, meteorological towers, substations, electronic collection lines, access roads, temporary construction areas, operations and maintenance facilities, and other infrastructures relating to the Project. To the extent the County enacts any such County Zoning Regulations or County Laws, any and all such County Zoning Regulations or County Laws shall specifically exempt the Project from compliance therewith in the project area as referenced in **Exhibit A** attached hereto and incorporated by reference.

3. Road Repair

See Road Maintenance Agreement incorporated herein by reference.

4. Mutual Communication and Cooperation

Caney River and the County agree to communicate and cooperate in good faith concerning the Project construction and operation. To the extent any appropriate state or federal authority issues rules or regulations applicable to the Project that have the effect of requiring specific measures to safeguard the Project from domestic sabotage or terrorist attack, such as increased security patrols, Caney River agrees to assume responsibility for responding and implementing any required measures. Costs of the County to provide extraordinary law enforcement patrol, if required and personnel is available for said service, will be promptly reimbursed by Caney River, not to exceed thirty (30) days.

5. Event of Default

An "Event of Default" shall occur upon failure by either party to observe and perform any material covenant, condition or agreement required of such party under this Agreement for a period of sixty (60) days after written notice of such default has been given to the defaulting party by the non-defaulting party during which time such default is neither cured by the defaulting party nor waived in writing by the non-defaulting party, provided that, the defaulting party shall not have been in default if the failure stated in the notice cannot be corrected within said sixty (60) day period and the corrective action is instituted within the sixty (60) day period and diligently pursued to completion.

6. Remedies on Default

- a. Whenever any Event of Default by Caney River shall have occurred and be continuing, the County may terminate this Agreement and retain all past PILOT payments made to the County.
- b. Whenever any Event of Default by County shall have occurred, Caney River may take any one or more of the following remedial steps: (i) be

relieved of all obligations hereunder to make future PILOT payments; and
(ii) have available to it all remedies at law and in equity.

7. Assignment

Caney River may assign or partially assign its rights, obligations and interests pursuant to this Agreement without the County's consent upon written notice to the County. To the extent Caney River assigns or partially assigns the rights, obligations and interests of this Agreement as they relate to one or more Future Phases, the County agrees to look solely to (i) the owner of Phase I with respect to the payment of Phase I PILOT payments, and shall release the owner of any Future Phases from any and all liability with respect to the Phase I PILOT payments, and (ii) any owner of any of the Future Phases with respect to the PILOT payments for the applicable Future Phases, and shall release the owner of Phase I from any and all liability with respect to the PILOT payments for the Future Phases. To the extent of an occurrence and continuance of a default caused by the owner of any one phase under the PILOT Agreement, the County acknowledges and agrees that the County shall have the right to partially exercise its remedies under the PILOT Agreement with respect only to that phase of the Project under which a default has occurred and is continuing, and the non-defaulting phase or phases and the respective developer or developers thereof shall not be subject to any such remedies and the PILOT Agreement with respect to such non-defaulting phases shall remain in full force and effect.

8. Notices

All notices permitted or required by this Agreement shall be given in writing and shall be considered given upon receipt if hand delivered to the party or person intended, or upon facsimile transmission to the fax numbers set forth herein, or after deposit with a nationally recognized overnight commercial courier service, air bill prepaid, or after deposit in the United States mail, postage prepaid, by certified mail, return receipt requested, addressed by name and address to the party as follows:

To Caney River:

Caney River Wind Project, LLC
C/o TradeWind Energy, LLC
Attn: Rob H. Freeman
16105 West 113th Street, Suite 105
Lenexa, Kansas 66219
(913) 322-7415 telephone
(913) 888-0390 facsimile

To Elk County:

Elk County Commission
Attn: Elk County Clerk
P.O. Box 606
Howard, Ks.
67349

The Parties acknowledge that Elk County meets in regular session on a bi-weekly basis and any time sensitive requests shall be sent to the Elk County Clerk.

9. Severability of Provisions

Except as set forth below, if any of the terms or conditions contained herein shall be declared to be invalid or unenforceable by a court of competent jurisdiction, then the remaining provisions and conditions of this Agreement shall not be affected and shall remain in full force and effect and shall be valid and enforceable to the full extent permitted by law, except that as to any such provisions or conditions declared invalid and unenforceable the Parties agree to negotiate in good faith a comparable substitute provision.

10. Captions

The captions in this Agreement are inserted only as a matter of convenience and for reference and in no way define or limit the scope or intent of the various provisions, terms or conditions of this Agreement.

11. Binding Effect

The provisions of this Agreement shall be binding upon, and inure to the benefit of, the Parties hereto and their respective heirs, personal representatives, successors and permitted assigns.

12. Modification

This Agreement may be modified or amended only by written instrument signed by both Parties.

13. Governing Law

This Agreement shall be governed in accordance with the laws of the State of Kansas.

14. No Commitment to Construct Project

Nothing contained in this Agreement shall be construed to obligate Caney River to commence or complete construction of the Project. The determination to commence, complete or abandon all or part of the Project shall be in the sole and absolute discretion of Caney River.

If Caney River should decide to not pursue the project, Caney River will be obligated to provide written notice to the County and the Parties agree that the contract herein shall terminate by agreement.

15. Repeal or Amendment of K.S.A. 79-201; Reduction of PILOT Payments

In the event K.S.A. 79-201 is repealed or amended in a manner that results in an obligation of Caney River or any owner of any of the Future Phases to make ad valorem property tax payments to the County in a particular calendar year, the PILOT payments hereunder in such calendar year shall be reduced by an amount equal to the amount of ad valorem property tax payments so made or to be made by Caney River or any owner of any of the Future Phases to the County with respect to such calendar year.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed as of the date first written above.

THE COMPANY:

CANEY RIVER WIND PROJECT, LLC

By: TradeWind Energy, LLC, Member

By: Rob H. Freeman
Rob H. Freeman, Manager

THE COUNTY:

The Board of County Commissioners of Elk County, Kansas

Jim McDonald
Name: Jim McDonald

Lawrence Fortna
Name: Lawrence Fortna

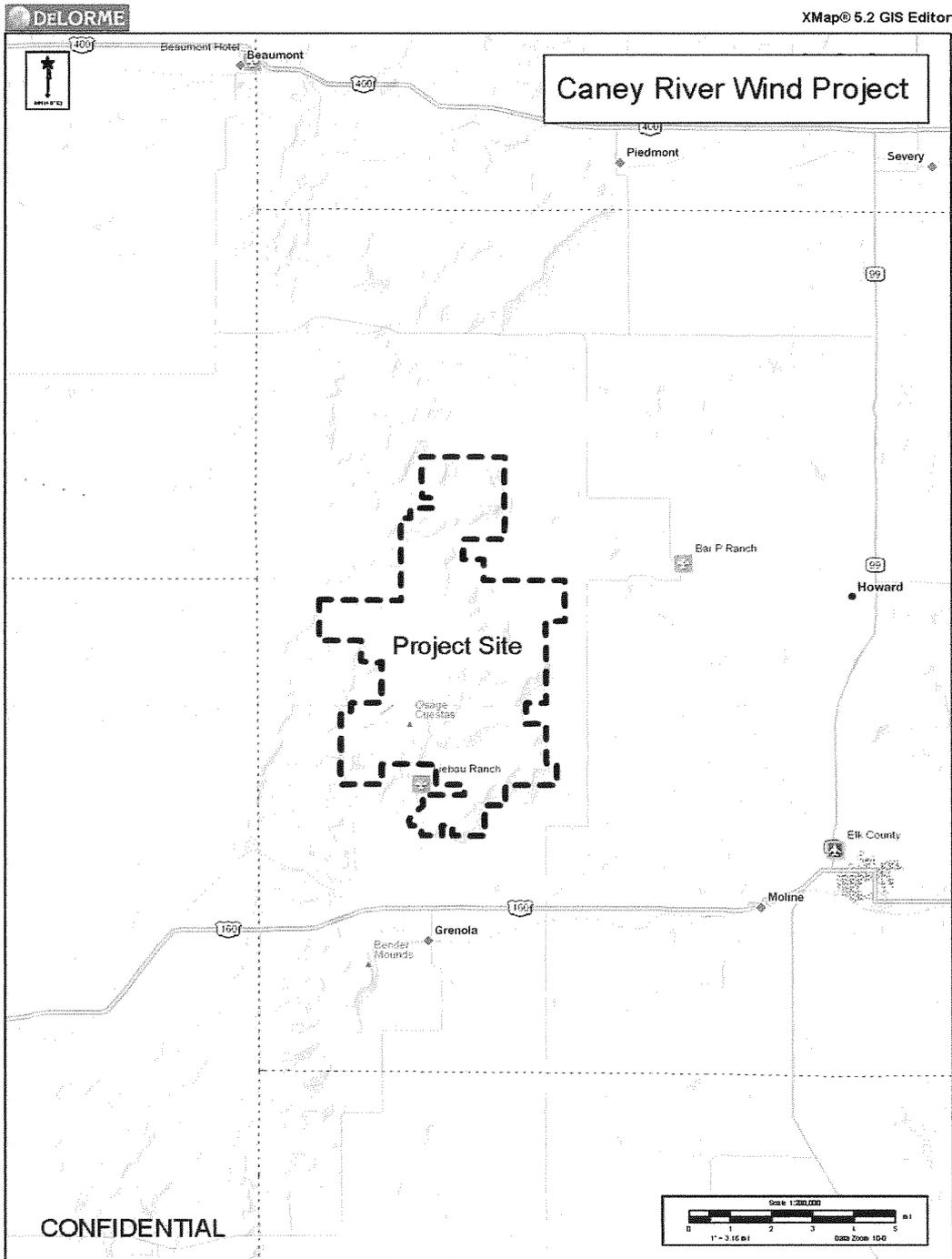
Elizabeth M. Hendricks
Name: Elizabeth M. Hendricks

ATTEST:

Donna K. Kaminski
Name: Donna K. Kaminski
County Clerk

EXHIBIT "A"

SITE PLAN



Data use subject to license.
© DeLorme, XMap® 5.2 GIS Editor
www.delorme.com

EXHIBIT "B"
PAYMENT SCHEDULE

Full Calendar Year after Commercial Operation	Payment Amount per Megawatt Installed
Initial Payment	\$4,500.00
1	\$4,590.00
2	\$4,681.80
3	\$4,775.44
4	\$4,870.95
5	\$4,968.36
6	\$5,067.73
7	\$5,169.09
8	\$5,272.47
9	\$5,377.92
10	\$5,485.48
11	\$5,595.18
12	\$5,707.09
13	\$5,821.23
14	\$5,937.65
15	\$6,056.41
16	\$6,177.54
17	\$6,301.09
18	\$6,427.11
19	\$6,555.65



Eric Johnson
Kansas Department of Wildlife and Parks
512 SE 25th Avenue
Pratt, KS 67124

RE: Native Environment Conservation Plan

Dear Eric:

As we have discussed, TradeWind Energy is committed to help balance the preservation of Kansas' natural resources and the responsible development of Kansas' renewable energy. We are writing to you concerning the commitment of TradeWind Energy's wholly-owned subsidiary, Caney River Wind Project, LLC ("Caney River") to work with the Kansas Department of Wildlife and Parks ("KDWP") in developing a Native Environment Conservation Plan ("NECP") for Caney River's wind project site in Elk County, Kansas (the "Project"). As part of this commitment, Caney River anticipates contributing up to \$8.5 million over a 10 year period to fund the NECP. Caney River looks forward to working with the KDWP in developing the plan for use of the funds to accomplish many worthy objectives and doing the following:

1. Research to Study the Effects of Wind Development on Wildlife Habitat. The NECP may consist of various research aspects including wildlife research as well as conservation and restoration strategies.

2. Strategies to Preserve and to Enhance the Native Kansas Environment. The NECP will develop conservation and preservation strategies for both wildlife and vegetation preservation, potentially including conservation easements, habitat preservation and restoration.

Final plan funding and the timing of contributions will be approved by Caney River and implemented in connection with construction of the Project.

We are extremely excited to work with you in developing this plan. We are hopeful that TradeWind's commitment through Caney River will help fund one of the state's largest conservation efforts and provide research funding to allow KDWP access to both matching grants and additional funding efforts. TradeWind and Caney River are committed to the preservation of Kansas natural resources while at the same time unlocking Kansas' renewable energy resources.

We look forward to your comments and to working with you in the development of this Native Environment Conservation Plan.

Sincerely,



Matt Gilhousen
VP Development



Kathleen Sebelius, Governor
J. Michael Hayden, Secretary

www.kdwp.state.ks.us

April 17, 2009

Matt Gilhousen, VP Development
Tradewind Energy
South Lake Technology Park
16105 West 113th Street, Suite 105
Lenexa, KS 66129

RE: Native Environment Conservation Plan

Dear Matt:

The Kansas Department of Wildlife and Parks (Department) appreciates that TradeWind Energy (TradeWind) is attempting to develop wind energy in a responsible manner. We also recognize that no statute or regulation requires consultation with the Department, which further illustrates TradeWind's commitment to avoid negative impacts to the natural resources of the state. As part of this commitment, your letter received on April 16, 2009 indicates that the Caney River Wind Project, LLC (Caney River), a wholly-owned subsidiary of TradeWind, proposes contributing up to \$8.5 million to fund a Native Environment Conservation Plan (NECP).

After careful consideration of this proposal, I am writing to inform you that the Department will cooperate with TradeWind to develop a conservation plan. In arriving at this decision, we relied on recommendations from staff that have visited the site and pre-construction survey information contracted by TradeWind. The Department also consulted various conservation partners and reviewed the wind siting guidance developed by the Department and the Kansas Renewable Energy Working Group. These documents are available on the Department website at <http://www.kdwp.state.ks.us/news/KDWP-Info/About-KDWP/Department-Position-on-Issues>.

Ultimately, the Department considered its statutory obligation to protect and conserve the natural resources of the state in relation to the environmental and societal benefits of clean energy and determined that the Caney River project would be feasible if developed properly. As part of this determination, the Department acknowledges the site is located outside of the moratorium area designated by Governor Sebelius and pre-construction surveys indicate threats to federal- and state-listed threatened and endangered species appear to be negligible. However, we remain concerned that the project will result in both the loss and fragmentation of tallgrass prairie in the Flint Hills, the largest remaining tract of tallgrass prairie in North America. Further, the vegetation assessment contracted by TradeWind indicates that much of the area supports grasses and forbs characteristic of the tallgrass prairie. The Department considers this to be important because restoring the structure of degraded, but floristically intact grasslands for wildlife is more reliable and economical than converting cropland or non-native pasture to tallgrass prairie. Consideration of these factors is recommended in the siting guidance referenced above. In addition, the U.S. Fish and Wildlife Service review of Caney River also mentions concerns regarding fragmentation and the potential wildlife value of the proposed site if current management practices were altered. Therefore, the Department feels strongly that these concerns must be adequately addressed in the plan.

The Department looks forward to working with TradeWind to develop a plan that adequately addresses the environmental impacts of Caney River. As we progress toward developing this plan,

Attachment 12 - Conservation/Mitigation

the Department requests that TradeWind and the Department coordinate and jointly approve all promotional materials. In addition, the Department would like to offer the following comments and recommendations for consideration relative to plan content.

First, achieving conservation goals requires flexibility. Landowners differ in their willingness to participate in various conservation activities. As a result, restricting the area where activities can be conducted or restricting the types of activities that can be implemented would constrain the ability of the Department to achieve maximum conservation benefits. To alleviate such problems, the Department recommends developing a plan that (1) permits latitude in determining the location and type of lands that will be used to supplement habitat lost at Caney River, (2) allows the use of fee title acquisition in addition to conservation easements to secure land, and (3) authorizes implementation of both experimental and traditional restoration and management strategies.

Second, research and monitoring are essential to improving conservation success. Information pertaining to the affects of wind development on wildlife and wildlife habitat is increasing, due in part to funding provided by the wind industry. However, much remains to be learned, including potential impacts related to habitat fragmentation and avoidance behavior. In addition, the wildlife profession continues to conduct research and monitoring activities necessary to improve the efficacy of restoration and management strategies. The plan that is developed for Caney River should recognize the broad spectrum of research and monitoring activities that would benefit both the wind industry and natural resource agencies.

Third, implementing conservation activities is costly. The Department respects TradeWind's proposed offer of up to \$8.5 million to help preserve natural resources. We also appreciate that you would allow the Department to use these funds as leverage for other grants. However, costs associated with land management for wildlife are long-term and can be substantial. In addition to acquisition, successful wildlife management often requires initial improvements in infrastructure, vegetation restoration, and annual management to sustain habitat values. To address this concern, I have requested that Department staff estimate the costs associated with various purchase and restoration options. The purpose of this request is to facilitate discussions between us regarding the amount of funding necessary to ensure the resulting plan can be fully implemented. We will provide these costs, as well as supporting information, for general discussion as plan development progresses.

Finally, it will be important to seek comment from the U.S. Fish and Wildlife Service as well as other resource experts during the planning process to ensure that all resource concerns are addressed.

I look forward to your comments and to the development of a plan that will serve as a model for responsible energy development that ensures the long-term viability of natural resources.

Sincerely,



J. Michael Hayden, Secretary
Kansas Department of Wildlife and Parks

Cc: Keith Sexson, Assistant Secretary for Operations
Murray Laubhan, KDWP Environmental Services Section



United States Department of the Interior



FISH AND WILDLIFE SERVICE

Kansas Ecological Services Field Office
2609 Anderson Avenue
Manhattan, Kansas 66502-2801

August 11, 2009

Todd McCabe
Environmental Scientist
Burns & McDonnell
9400 Ward Parkway
Kansas City, MO 64114-3319

RE: Caney River Wind Energy Project; Elk County, KS

64411-2009-FA-0408

Dear Mr. McCabe:

This responds to your July 15, 2009 letter providing additional information regarding the proposed Caney River wind project in Elk County, Kansas. As per our earlier review, because of the survey work conducted by The Watershed Institute at this site, it is the Service's conclusion that the proposed activity is not likely to adversely affect any federally-listed threatened or endangered species. However, as indicated to you previously, the vegetation at this project location causes significant concerns for the overall habitat impacts of the project, and the Service does not recommend proceeding at this site with such a development.

For this and any other development projects that may be proposed, I recommend you consult information found at www.kars.ku.edu/maps/windresourceplanner/ to assist in the planning and mitigating of project effects.

Thank you for this opportunity to provide further input on this proposal. Please contact Dan Mulhern (785-539-3474, ext. 109 or dan_mulhern@fws.gov) of this office if you have additional comments or questions.

Sincerely,

Michael J. LeValley
Field Supervisor



United States Department of the Interior



FISH AND WILDLIFE SERVICE

Kansas Ecological Services Field Office
2609 Anderson Avenue
Manhattan, Kansas 66502-2801

April 15, 2009

Todd McCabe
Environmental Scientist
Burns & McDonnell
9400 Ward Parkway
Kansas City, MO 64114-3319

RE: Caney River Wind Energy Project; Elk County, KS

64411-2009-FA-0408

Dear Mr. McCabe:

This is in response to your February 18, 2009 letter requesting Fish and Wildlife Service review of a proposed commercial wind farm in Elk County, Kansas. The project site consists of 19,800 acres of primarily tallgrass prairie located north of Grenola and west of Howard. The finished site could hold as many as 133 wind turbines, each exceeding 380 feet in height, as well as access roads, electrical collection facilities, and overhead powerlines. The following comments are provided for your consideration. Please be aware that we coordinate our review of wind power projects with the Kansas Department of Wildlife and Parks and other entities with appropriate expertise, such as the Kansas Biological Survey and The Nature Conservancy.

Based on the negative survey results conducted by The Watershed Institute for the endangered American burying beetle, I concur that this project is not likely to result in adverse impacts to any federally-listed or proposed species. Therefore, further consultation pursuant to section 7 of the Endangered Species Act is not necessary. Similarly, no candidate species should be affected.

Because the primary vegetation on this site is tallgrass prairie, this project raises significant concerns for habitat fragmentation. Surveys you conducted for the greater prairie-chicken in 2007 and 2008 did not locate any leks or individual birds, and you have attributed this to land management of the properties, which does not favor prairie-chicken habitat. However, such a large block of prairie is still valuable wildlife habitat, and with land management changes could be increased in value for still more species. Although the Service is supportive of alternative energy generation, it is our position to not encourage development in large blocks of intact native landscapes.

I acknowledge that you and others have been conducting other wildlife and resource studies to help determine the overall extent of any potential impacts that could result from construction and operation of a wind farm at this location. I recommend you consult the resource information found at www.fws.gov/habitatconservation/wind.html for measures to attempt to avoid and minimize impacts to wildlife, including migratory birds and bats.

Under the Migratory Bird Treaty Act, construction activities that could result in the taking of migratory birds, eggs, young, and/or active nests should be avoided. Bird nests may be encountered in prairies, wetlands, stream and woodland habitats, as well as on bridges and other structures. While the provisions of MBTA are applicable year-round, most migratory bird nesting activity in Kansas occurs April 1 to July 15. Keep in mind that some migratory birds are known to nest outside these dates, so a field assessment may be necessary. If the project appears likely to impact habitat which is being used by nesting birds, I recommend a survey to determine the presence of active nests. Our office should be contacted immediately for further guidance if a survey identifies the existence of one or more active bird nests that you believe cannot be avoided temporally or spatially by the planned activities.

If the ultimate siting decisions result in impacts to native habitats, mitigation for habitat losses should be incorporated into the project design and included in initial project funding. The Service, Kansas Department of Wildlife and Parks and other resource experts should be included in this planning process. If turbines are sited on already-disturbed lands, mitigation may be accomplished with minimal effort and expense.

Thank you for this opportunity to provide input on this proposal. Please contact Dan Mulhern (785-539-3474, ext. 109 or dan_mulhern@fws.gov) of this office if you have additional comments or questions.

Sincerely,



Michael J. LeValley
Field Supervisor

October 20, 2009

Mr. Todd McCabe
Environmental Scientist
Burns and McDonnell
9400 Ward Parkway
Kansas City, Missouri 64114-3319
mmccabe@burnsmcd.com

Ref: D5.0302
Elk
Track: 20090060-2

RE: Environmental Review of Minor Layout Revisions of Proposed Caney River Wind Energy Facility in Western Elk County, Kansas

Dear Mr. McCabe:

We have reviewed the additional habitat assessment of the Caney River Wind Facility in western Elk County, Kansas. The project was reviewed for potential impacts on crucial wildlife habitats, current state-listed threatened and endangered species and species in need of conservation, and public recreation areas for which this agency has some administrative authority.

We conclude that these changes will not substantially alter the project, therefore our previous comments in our letter dated May 5, 2009 remain valid.

Thank you for the opportunity to provide additional comments. If you have any questions or concerns, please contact me at (620)-672-0798 or ericj@wp.state.ks.us.

Sincerely,



Eric R. Johnson, Ecologist
Environmental Services Section

cc: LeValley, USFWS

May 05, 2009

Mr. Todd McCabe
Environmental Scientist
Burns and McDonnell
9400 Ward Parkway
Kansas City, Missouri 64114-3319
mmccabe@burnsmcd.com

Ref: D5.0302
Elk
Track: 20090060

RE: Environmental Review of Proposed Caney River Wind Energy Facility in Western Elk County, Kansas

Dear Mr. McCabe:

We have reviewed the Threatened and Endangered Species Evaluation, Vegetation Assessment, and additional survey reports that were submitted regarding a proposed 200 MW wind energy facility covering approx. 19,800 acres in western Elk County, Kansas. The project was reviewed for potential impacts on crucial wildlife habitats, current state-listed threatened and endangered species and species in need of conservation, and public recreation areas for which this agency has some administrative authority.

Based on the biological studies performed, we concur that this project is unlikely to negatively affect the state and federally-listed American Burying Beetle *Nicrophorous americanus*; therefore no Action Permit will be required. Additionally, we note that no Greater Prairie Chickens, *Tympanuchus cupido* were documented within the project survey area based on two years of data. We also note that the area is routinely burned and heavily grazed with respect to wildlife requirements and there are several anthropogenic disturbances (well heads, tank batteries, roads) already in place. To minimize additional grassland impacts, we suggest that the proposed facility use existing roads to the maximum extent possible.

Based on our phone conversation today, bridges S-1, S-2, and S-3 will likely be repaired or replaced and these structures are currently concrete span structures. We suggest that these structures be repaired or replaced in-kind with some form of span structure and that culverts or reinforced concrete blocks be avoided due to aquatic passage issues.

Overall, we have no statutory objections to this project as proposed; however, we remain extremely concerned about the additive impacts of this facility in addition to existing infrastructure and grassland management. At minimum, we suggest that all permanent native grass removal due to road construction be mitigated and attempts be made in cooperation with the landowners to reduce grazing pressure and reduce burning frequency within the project area.

Thank you for the opportunity to provide these comments and recommendations. If you have any questions or concerns, please contact me at (620)-672-0798 or ericj@wp.state.ks.us.

Sincerely,

A handwritten signature in black ink that reads "Eric R. Johnson". The signature is written in a cursive style with a large, stylized "E" and "J".

cc: LeValley, USFWS
Pitman, KDWP

Eric R. Johnson, Ecologist
Environmental Services Section

PRATT OPERATIONS OFFICE
512 SE 25th Ave., Pratt, KS 67124-8174
(620) 672-5911 • Fax: (620) 672-6020

April 17, 2009

Matt Gilhousen, VP Development
Tradewind Energy
South Lake Technology Park
16105 West 113th Street, Suite 105
Lenexa, KS 66129

RE: Native Environment Conservation Plan

Dear Matt:

The Kansas Department of Wildlife and Parks (Department) appreciates that TradeWind Energy (TradeWind) is attempting to develop wind energy in a responsible manner. We also recognize that no statute or regulation requires consultation with the Department, which further illustrates TradeWind's commitment to avoid negative impacts to the natural resources of the state. As part of this commitment, your letter received on April 16, 2009 indicates that the Caney River Wind Project, LLC (Caney River), a wholly-owned subsidiary of TradeWind, proposes contributing up to \$8.5 million to fund a Native Environment Conservation Plan (NECP).

After careful consideration of this proposal, I am writing to inform you that the Department will cooperate with TradeWind to develop a conservation plan. In arriving at this decision, we relied on recommendations from staff that have visited the site and pre-construction survey information contracted by TradeWind. The Department also consulted various conservation partners and reviewed the wind siting guidance developed by the Department and the Kansas Renewable Energy Working Group. These documents are available on the Department website at <http://www.kdwp.state.ks.us/news/KDWP-Info/About-KDWP/Department-Position-on-Issues>.

Ultimately, the Department considered its statutory obligation to protect and conserve the natural resources of the state in relation to the environmental and societal benefits of clean energy and determined that the Caney River project would be feasible if developed properly. As part of this determination, the Department acknowledges the site is located outside of the moratorium area designated by Governor Sebelius and pre-construction surveys indicate threats to federal- and state-listed threatened and endangered species appear to be negligible. However, we remain concerned that the project will result in both the loss and fragmentation of tallgrass prairie in the Flint Hills, the largest remaining tract of tallgrass prairie in North America. Further, the vegetation assessment contracted by TradeWind indicates that much of the area supports grasses and forbs characteristic of the tallgrass prairie. The Department considers this to be important because restoring the structure of degraded, but floristically intact grasslands for wildlife is more reliable and economical than converting cropland or non-native pasture to tallgrass prairie. Consideration of these factors is recommended in the siting guidance referenced above. In addition, the U.S. Fish and Wildlife Service review of Caney River also mentions concerns regarding fragmentation and the potential wildlife value of the proposed site if current management practices were altered. Therefore, the Department feels strongly that these concerns must be adequately addressed in the plan.

The Department looks forward to working with TradeWind to develop a plan that adequately addresses the environmental impacts of Caney River. As we progress toward developing this plan,

the Department requests that TradeWind and the Department coordinate and jointly approve all promotional materials. In addition, the Department would like to offer the following comments and recommendations for consideration relative to plan content.

First, achieving conservation goals requires flexibility. Landowners differ in their willingness to participate in various conservation activities. As a result, restricting the area where activities can be conducted or restricting the types of activities that can be implemented would constrain the ability of the Department to achieve maximum conservation benefits. To alleviate such problems, the Department recommends developing a plan that (1) permits latitude in determining the location and type of lands that will be used to supplement habitat lost at Caney River, (2) allows the use of fee title acquisition in addition to conservation easements to secure land, and (3) authorizes implementation of both experimental and traditional restoration and management strategies.

Second, research and monitoring are essential to improving conservation success. Information pertaining to the affects of wind development on wildlife and wildlife habitat is increasing, due in part to funding provided by the wind industry. However, much remains to be learned, including potential impacts related to habitat fragmentation and avoidance behavior. In addition, the wildlife profession continues to conduct research and monitoring activities necessary to improve the efficacy of restoration and management strategies. The plan that is developed for Caney River should recognize the broad spectrum of research and monitoring activities that would benefit both the wind industry and natural resource agencies.

Third, implementing conservation activities is costly. The Department respects TradeWind's proposed offer of up to \$8.5 million to help preserve natural resources. We also appreciate that you would allow the Department to use these funds as leverage for other grants. However, costs associated with land management for wildlife are long-term and can be substantial. In addition to acquisition, successful wildlife management often requires initial improvements in infrastructure, vegetation restoration, and annual management to sustain habitat values. To address this concern, I have requested that Department staff estimate the costs associated with various purchase and restoration options. The purpose of this request is to facilitate discussions between us regarding the amount of funding necessary to ensure the resulting plan can be fully implemented. We will provide these costs, as well as supporting information, for general discussion as plan development progresses.

Finally, it will be important to seek comment from the U.S. Fish and Wildlife Service as well as other resource experts during the planning process to ensure that all resource concerns are addressed.

I look forward to your comments and to the development of a plan that will serve as a model for responsible energy development that ensures the long-term viability of natural resources.

Sincerely,

A handwritten signature in black ink that reads "J Michael Hayden". The signature is written in a cursive, flowing style.

J. Michael Hayden, Secretary
Kansas Department of Wildlife and Parks

Cc: Keith Sexson, Assistant Secretary for Operations
Murray Laubhan, KDWP Environmental Services Section

STATE OF KANSAS



TOPEKA

HOUSE OF
REPRESENTATIVES

JEFF KING

REPRESENTATIVE, 12TH DISTRICT

DISTRICT OFFICE: 113 S. 8TH ST. BOX 1211
INDEPENDENCE, KANSAS 67301
(620) 714-1881

TOPEKA OFFICE: STATE CAPITOL BUILDING
TOPEKA, KANSAS 66612
(785) 296-7699
1-800-432-3924

COMMITTEE ASSIGNMENTS

VICE CHAIR: TAXATION
MEMBER: TRANSPORTATION
JUDICIARY

February 5, 2010

Paul M. Bachmuth
Director, Business Development
TradeWind Energy, LLC
16105 W. 113th Street Suite 105
Lenexa, KS 66219

Re: Caney River Wind Project – Elk County

To Whom it May Concern:

I am writing this letter in strong support of TradeWind Energy's Caney River Wind Project, located in Elk County. To me, this project represents the best of all possible worlds. As a Kansas state representative for Montgomery, Elk, and Chautauqua counties, economic development and tax relief are two of my most important issues to address.

The Caney River Wind Project helps both concerns. It will provide a short-term economic boost through local construction hiring and an increase in business for local merchants. It will also boost long-term economic prospects in Elk County through permanent jobs and increased revenue for local landowners.

The Caney River Wind Project will also provide much-needed tax relief for Elk County. It will provide PILOTs (payments in-lieu of taxes) exceeding \$1 million annually to local governments. For one of the poorest counties in the state, this money is vital to maintaining basic services while lowering taxes to more affordable levels for Elk County residents.

I welcome TradeWind Energy as a partner for the betterment of Elk County and southeast Kansas. I hope that you as well will support their innovative project as a beacon of hope for rural Kansas.

Sincerely,

A handwritten signature in blue ink that reads "Jeff King". The signature is written in a cursive, flowing style.

Jeff King
Representative, 12th District of Kansas

**ELK COUNTY COMMISSION
PO BOX 606
HOWARD, KS 67349
620-374-2490**

To Whom It May Concern:

RE: Caney River Wind project – Elk County
TradeWind Energy, LLC – Developer

It is with great excitement and anticipation that we write this letter. We have been dealing with TradeWind Energy for the last several years and have developed a great working relationship.

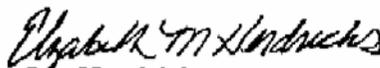
Elk County has a very small population – around 3200 people and our county government is primarily funded by property taxes, mostly off of the agricultural land. Our valuation has continued to decline, while our costs of doing business keeps escalating. For the 2009 budget year, we had to raise our people's taxes by 26 mil just to keep things operating the same, without any additional services. In Elk County, one mil only raises \$21,000 and our total operating budget is just over \$2.5 million dollars.

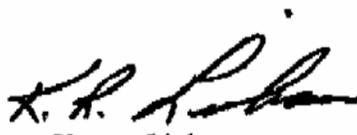
The PILOT (payment in lieu of taxes) that TradeWind has agreed to give the county is very significant. If this project is finalized, the county will receive \$4500 per MW or anywhere from \$450,000-900,000 for the next 20 years starting in 2010 with an annual increase of 2% and renewable after 20 years. As you can see, this is a significant amount of money for us to either lower our current taxes and/or implement programs and infrastructure we have not been able to do. For example, one such infrastructure that we haven't been able to fund is the new Elk County Rural Water District #2. We could potential use this PILOT money to fund this project which would in turn provide water to the northern half of our county. With water, people would be able to build new homes and live in our county.

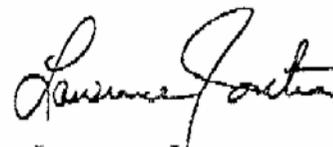
Another exciting part of this project is the job potential for our county. During construction phase, this project anticipates employing over 200 people. Then after that, for the life of the project, Caney River will employ around 15 people. These again are large and significant numbers for our small county. Another arm of this economic development is of course the revenue going to the local landowners whose land has been leased. TradeWind has done a remarkable job working with all the local people, from landowners to us at the county level.

We are very pleased to have the opportunity to work with TradeWind Energy for the betterment of our county.

Sincerely,


Elizabeth M. Hendricks
Commission Chairman Dist #2


Kenny Liebau
Dist #3 Commissioner


Lawrence Jontra
Dist #1 Commissioner



West Elk

U.S.D. 282

PO Box 607 Howard, Kansas 67349 (620) 374-2113 Fax (620) 374-2414

November 10, 2009

To Whom It May Concern:

I am writing this letter in support of the "wind farm" being explored in Elk County. This project will generate needed revenue for our county, which will make it possible for us to improve and expand the services available to our citizens.

Elk County is one of the poorest counties in the state of Kansas, and we are located in a rural setting. My school district is the largest employer in Elk County. The state has designated our county a "frontier" county, which means that we have very few residents per square mile. Our residents are primarily persons who ranch, work for the public schools, or are retired. The burden of providing needed county services falls mainly on our property owners. The tax revenues generated by this venture would provide much needed funds for our county.

Our county has formed several alliances to increase economic development. Many of our residents have voiced approval for "green" initiatives that would lessen the environmental "carbon" footprint. The wind farm would be a tremendous boost to the morale of our citizens, while promoting an environmentally friendly enterprise. We desperately need your approval to move this project forward.

Please consider endorsing this initiative. I would be happy to visit with any of your representatives at your convenience.

Sincerely,

Corey Reese
Superintendent, West Elk USD#282

City of Howard
P.O. Box 335
Howard, Kansas 67349
620-374-2202

April 7, 2009

To Whom It May Concern:

This letter is in support for the Caney River Wind Project. The Mayor and Howard City Council are excited about the possibilities this will bring to Howard and Elk County.

This is a positive project and will bring capital into our community.

Sincerely,

Richard P. Clark

The Howard City Council

***Howard Rotary Club
PO Box 488
Howard, KS 67349***

April 6, 2009

To Whom It May Concern:

The Rotary Club of Howard supports the Caney River Wind project 100%. We are all business owners, either current or past, and know the importance of a project of this size. Seldom does an opportunity like the Tradewind's Caney River project become available to a very rural, elderly population. We are excited about the endless possibilities that our county can now make happen with this large sum of money. Not only through the PILOT sum that Tradewinds has negotiated with our county, but also with the additional 20 jobs created full-time from this project. For us, in rural Kansas, 20 jobs is liking getting a factory for other communities. Our club would like to see this project happen and are willing to help in whatever way needed. We have really good people in our community, who work really hard and with this project, it could give us the boost we need. Thank you so much.

Sincerely,



Howard Rotary Club
Ian Denton, President

Elk County Rural Water District # 2
P.O. Box 184, Howard Kansas 67349

March 30, 2009

To Whom It May Concern,

This letter is written in support of the wind energy systems to be constructed in Elk County.

The Elk County Rural Water District #2 is in the process of obtaining funding to develop a water system for the northern part of the county not currently being served by other systems. As part of the rural economic development plan for the county it is critical that we have potable water for existing homes as well as potential new homes.

The economic impact of the wind farms will be a valuable asset to the future development of the county. The directors of RWD#2 are in support of the wind projects in Elk County.

Sincerely,



Shelby Perkins
Secretary

Ron Dellinger	Jack Russell	Shelby Perkins	Herb Harrison	Terry Countryman	John Black	Jeff Oakes
Chairman	V-Chair	Sec-treas	member	member	member	member
374-2430	658-4999	374-2084	374-2602	658-4929	374-3041	658-4401



FREDONIA ECONOMIC DEVELOPMENT CORPORATION

P.O. Box 449 • FREDONIA, KANSAS 66736 • (620) 378-3221

Building on Great Traditions

April 7, 2009

TradeWind Energy, LLC.
Southlake Technology Park
16105 West 113th Street, Suite 105
Lenexa, Kansas 66219

RE: *ELK COUNTY WIND ENERGY PROJECT*

To Whom It May Concern:

I am writing on behalf of Fredonia Economic Development. It was reported in the April 6th issue of the Wilson County Citizen that your company is preparing to invest more than \$500 million in Elk County, to produce "one of the largest wind energy projects...in eastern Kansas". Because you have been working on the project for over five years, I am confident that you are well on your way to construction. Fredonia is located on Highway 400 about 40 miles from Howard and could possibly serve as a valuable resource for your project.

Whether it be introducing you to potential area suppliers, construction companies or scheduling a job fair; we are very interested in visiting with you about how we can help.

Questions or comments regarding this issue should be directed to the contact information below.

Thank you in advance for your time. We look forward to having the opportunity to visit with you soon.

Sincerely,

Yvonne Hull, Executive Director
Fredonia Economic Development
PO Box 449
Fredonia, KS 66736
620-378-3221

From June 30, 2008

Caney River Wind Project

Matt Gilhousen of Tradewind Energy presented a very informational report on the Caney River Wind Project which their company is planning to build in the western edge of Elk County. Gilhousen said there would be 130 turbines, 200 mega watts on 12,000 plus acres and operable in late 2009 or early 2010. Gilhousen said they would be sending a Payment in Lieu of Taxes agreement to Marla Foster Ware within the next 60 days. Gilhousen also said there would be a Road Maintenance Agreement with the County for the maintenance and improvements necessary for the project on the 3 or 4 miles of county road involved. An escrow account will be set up in a local bank that the County will have access to if Tradewind fails to meet their obligations to the County where the roads are concerned. Gilhousen said 100 mega watt projects usually pay several hundred thousands of dollars per year PILOT to the county where the project is located. Gilhousen advised the County to check on PILOT payments that other counties are receiving and gave names of several counties to contact.

County Attorney Marla Foster Ware left the meeting at 2:30.

Chairman McDonald declared a 5-minute recess at 2:35. Meeting resumed at 2:40.

Jail Meal Charge

Sheriff Doug Hanks requested a raise in payment for preparation of the meals served to inmates in the jail. Hanks said the \$4 currently being paid was not covering the cost of the meal preparation. Commissioner Hendricks made the motion to approve raising the meal charge to \$5. Commissioner McDonald seconded the motion and it carried.

State of Kansas
County of Elk
Donna Kaminski
I hereby certify that the above is a true and correct copy of the minutes as the same appear on my office books and records.
In testimony whereof, I have hereunto signed my hand and seal on this 2nd day of February, 2010.
Donna Kaminski

911 Equipment

Sheriff Doug Hanks reported the new 911 equipment is in and will be installed soon.

Vacation Leave

Commissioner McDonald made the motion to allow the use of vacation time in 1 hour increments instead of the mandatory 4 hours. Commissioner Hendricks seconded the motion and it carried.

Register of Deeds

Register of Deeds Neva Walter requested the purchase of 6 new range books from Lockwood at the cost of \$2,306.00 paid out of her Technology Fund. Commissioner Hendricks made the motion to approve the purchase. Commissioner McDonald seconded the motion and it carried.

Road and Bridge

Sharon Wagner, Road & Bridge Secretary, had the 2009 LEPP Grant for the Commissioners approval and signatures. Commissioner Hendricks made the motion to approve the grant application. Commissioner Jontra seconded the motion and it carried.

Wagner had a quote from M & W Fabrication for the cattle guards for the Redinger Road project. Wagner reported Harshman Construction would be raising the price of road rock from \$5.95 to \$6.30. The cost to haul rock to stabilize the bank on the River Road would be \$4 a ton. Repair of the River Road that was damaged by the flood was discussed.

County Attorney Marla Foster Ware returned to the meeting at 2:50.

Lions Recycling Payment

Commissioner Hendricks said she had been asked by Knut Schaad to raise the payment to the Lions Club for gathering recyclables from \$40 to \$60 per month. Commissioner McDonald made the motion to raise the payment to \$60. Commissioner Jontra seconded the motion and it carried.

Emergency Preparedness

Emergency Preparedness Director Byrdee Miller said she had received a copy of a letter saying the County is officially in the National Floodplain Insurance Program. An article for the newspaper was enclosed saying that people in the county can now buy flood insurance.

Miller gave the commissioners some material to read before the July 8th mitigation meeting. At the meeting Miller said they will be discussing the LEPC (Local Emergency Planning Committee) which the county is required to have.

Executive Session

Commissioner Jontra made the motion to go into an Executive Session for 15 minutes.

From Aug 11, 2008

Register of Deeds Report

Stephanie Portenier gave the report of activity for the Register of Deeds office for the month of July. The Office handled 54 instruments for a total deposit of \$1,588.80.

Emergency Preparedness Report

Byrdee Miller has been working on getting Federal money to help fix up River Road and some other damages. She has put an article in the paper regarding Presidential Declaration DR-1776 regarding reporting of weather related damages for county, towns, townships, schools, etc. Miller has two quotes being gathered for the airport grant.

Road & Bridge Report

Acting Road Supervisor Sharon Wagner gave the Road Department report. Wagner was instructed to send out a reminder notice to the Road Department employees regarding the County Handbook Policy on comp time.

Warrants

Commissioner Hendricks made the motion to approve the August 11th warrants in the amount of \$178,453.72 and Commissioner McDonald seconded the motion. Motion carried.

Payment in Lieu of Taxes

Marla Ware said the proposal regarding the wind farm has been reviewed and sent back for minor corrections.

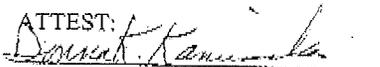
Public Works Position

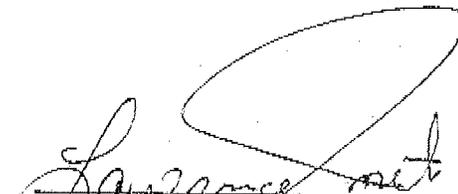
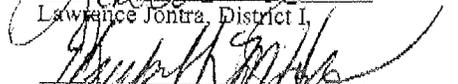
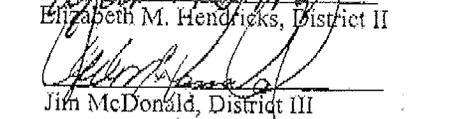
The Commissioners will interview two applicants for the Public Works Supervisor position at their next meeting on August 25th.

Adjournment

Commissioner McDonald adjourned the meeting at 3:05 P.M.

ATTEST:


Donna K. Kaminska, County Clerk


Lawrence Jontra, District I

Elizabeth M. Hendricks, District II

Jim McDonald, District III

CERTIFICATE

State of Kansas
County of Elk

I, Donna Kaminska, the county clerk of this county of Elk, Kansas, hereby certify that the above and foregoing is a true and correct copy of MINUTES as the same appear to my office.
In testimony whereof, I have hereunto signed my name and affixed the seal of said office this 2nd day of Feb. 2010
Donna Kaminska
County Clerk

From Aug 25, 2008

Caney River Wind Project

County Attorney Marla Foster Ware discussed documents she had received from the attorney for the Caney River Wind Project. Ware said she had issues with some of the verbiage in the road maintenance agreement. Ware wanted to be clear on just what the County would have to do as far as roads were concerned.

Road & Bridge Report

Acting Road Supervisor Sharon Wagner gave the Road Department report. Wagner said she had placed a help wanted ad for District 3 on SKT channel 2 and in the Flint Hills Express. Wagner said they were working on the culverts on Grain Road and should be on Road 5A by Wednesday. Wagner again brought up the subject of comp time for one of the road employees. Steve Berry had accumulated comp time during flooding to use as vacation time with the approval of Dick Scott the former Public Works Director. The issue was discussed by the Commissioners at a previous meeting, but was re-visited today.

Comp Time Motion

Commissioner McDonald made the motion to allow Steve Berry to use comp time for vacation time. Commissioner Jontra seconded the motion and it carried. Commissioner Hendricks was opposed to the motion.

Motion Rescinded

After some discussion and comments by Department Heads and Elected Officials, the Commissioners rescinded their previous motion concerning Steve Berry's comp time. Berry will have to use his sick time for his time off. Employees are to use comp time in the pay period earned.

Wagner Overtime

Acting Public Works Director Sharon Wagner asked the Commissioners about over-time for herself while she was driving FEMA employees around and working in the office. The Commissioners told Wagner to turn in whatever was necessary.

Vacation Approved

Maintenance Supervisor Bob Barrow requested vacation leave approval because of the Labor Day holiday and Holiday Pay. To receive Holiday Pay, the employee must work the day before and the day after the holiday in order to receive Holiday Pay. The Commissioners approved Barrow's vacation with paid holiday.

Warrants

Commissioner McDonald made the motion to approve the August 25th warrants in the amount of \$27,427.16 and Commissioner Jontra seconded the motion. Motion carried.

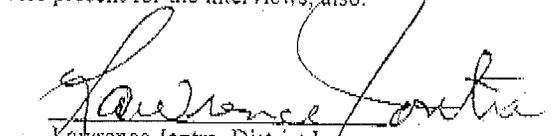
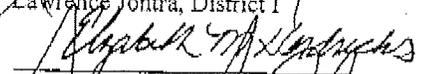
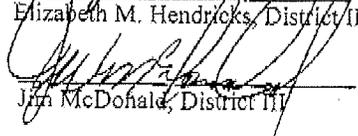
Chairman McDonald declared a 10-minute recess at 3:40 and re-opened the meeting at 3:50.

Adjournment

With no further business to come before the Commissioners, McDonald adjourned the meeting at 3:50 p.m. to begin interviewing Public works applicants Ernest Lackey and Ed Redinger. Acting Road Supervisor Sharon Wagner and Emergency Preparedness Director Byrdee Miller were present for the interviews, also.

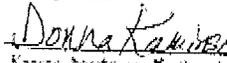
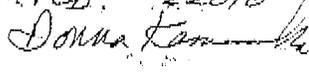
ATTEST:

Donna K. Kaminska, County Clerk


Lawrence Jontra, District I

Elizabeth M. Hendricks, District II

Jim McDonald, District III

CERTIFICATE

State of Kansas
County of Elk

 the county clerk of the county of Elk, Kansas, hereby certifies that the above and foregoing is a true and correct copy of minutes as the same appears in my office.
In testimony whereof, I have hereunto signed my name and affixed the seal of said county this 24 day of Feb., 2008


From Sept. 8, 2008

Solid Waste Committee Appointment

Bill Pickett has agreed to be on the Solid Waste Committee for District 1. Commissioner McDonald is to ask Bob Koehn and Commissioner Jontra is to ask Alan Moore if they are interested in being on the committee.

Public Works Supervisor Hired

Commissioner McDonald moved and Commissioner Hendricks seconded the motion to hire Earnest Lackey as Public Works Supervisor effective September 2, 2008. Motion carried.

Weed Bush Hog Bids

Billy Bunyard presented the bids he has received for the purchase of a bush hog for the Weed Department. Commissioner McDonald moved and Commissioners Hendricks seconded the motion to purchase a 10 foot Bush Hog from R & P Supply. Motion carried

Road Department Report

Public Works Supervisor Earnest Lackey reported the move truck has metal in the oil so will have to be dealt with sometime in the future. Right now it is still running. Also, the old dump truck at Longton needs to be replaced. Commissioners discussed options for replacement with Lackey.

Solid Waste

Jon Arbuckle of County-Wide Refuse spoke with the Commissioners about the cost of fuel. He said all other trash companies that he has checked with are charging a monthly fuel surcharge. He needs some way to recoup his fuel cost if it should make a dramatic increase. A semi-annual fuel adjustment was discussed. The Commissioners would like to extend his contract five years if the cities will sign a interlocal agreement to participate with the County. Marla Ware is to write a current agreement and mail it out.

Executive Session

Commissioner McDonald moved to go into executive session at 2:05 for a period of ten minutes to discuss non-elected personnel with Earnest Lackey in attendance. Commissioner Jontra seconded the motion.

No Executive Action

The regular meeting resumed at 2:10 with no action taken.

Register of Deeds Report

Register of Deeds Neva Walter gave the report of activity for her office for the month of August. The Office handled 68 instruments for a total deposit of \$1,523.87.

Road Expenditures

Sharon Wagner gave the road expenditure report for the month of August. She said it looked optimistic on receiving more FEMA money for the roads. Sharon is to check out the Harrison Bridge to make sure it is completed according to specifications.

Appraiser Report

Karen Spencer is training a new staff person at Chautauqua County and requested permission for them to ride with Kenny on some days to learn what he does. The Commissioners gave their okay.

Elk River Festival

Maintenance Supervisor Barrow suggested having a County person at the Courthouse during the festival. County Clerk Donna Kaminska said she would be present.

Emergency Management Report

Emergency Manager Byrdee Miller said she has received a EMPG Grant for \$7,000 to be used on salaries and/or car expenses when working on resource management.

Caney River Wind Project

Attorney Ware presented a Payment in Lieu of Taxes Agreement and a Road Maintenance Agreement to the Commissioners for review. She suggested the Commissioners set up a time to negotiate the PILOT with Caney River Wind Project, LLC. The Commissioners set October 14th at 1:30 for this meeting.

Budget & Resolution

The Commissioners signed the 2009 approved budget. Commissioner Hendricks moved and Commissioner McDonald seconded the motion to approve Resolution 08-10 regarding an increase in taxes.

Warrants Approval

Donna Kaminska
Feb 2010
Donna Kaminska
County of Chautauqua
Clerk of Court
In testimony whereof I have hereunto set my hand and the seal of said County at Longton, N.C. this 14th day of February 2010.

FROM NOV. 10, 2008

Caney River Wind Project

Matt Gilhousen of Tradewind Energy was present to discuss the Caney River Wind Project. Gilhousen said construction of the proposed windfarm will begin before September of 2009 and should be completed approximately 9 months after that. The windfarm should consist of 100-133 turbines with a maximum of 200 mega watt output. The meeting with the Commissioners was to discuss the Payment in Lieu of Taxes (PILOT) payment the County will receive from the project. Gilhousen said the County could expect the first PILOT payment in 2010. Gilhousen said the County needed to decide how the revenue from the PILOT payments would be divided. Gilhousen was present today to try to reach an agreement on how much the County would be paid per mega watt of electricity generated by the windfarm. No agreement was reached. Also discussed was the need for a road maintenance agreement and establishing an escrow account for road maintenance. County Commissioner Elizabeth Hendricks apologized to Gilhousen for not being more prepared for today's meeting and said more research would be done by the next meeting. Commissioners Hendricks and Jontra will converse with Gilhousen via telephone during the November 24th meeting. Chairman McDonald will not be present at the meeting.

Commissioner McDonald left the meeting at 2:15 and Commissioner Hendricks took over as Chair.

Road Report

Earnest Lackey submitted expenditure reports for the month of October. Lackey reported purchasing a move truck with less miles for less money than previously approved. Lackey said no progress had been made on either the River Road or the Green Ranch road projects. Lackey reported Road 5A was progressing. Nothing has been done on the Redinger Road to date. Discussion was had about a D5 dozer with 1500 hours on it. The Commissioners asked Lackey to get bids on a new one.

Warrants

Commissioner Jontra made the motion to approve the November 10th warrants in the amount of \$94,623.24. Commissioner Hendricks seconded the motion and it carried.

Adjournment

Acting Chairman Hendricks adjourned the meeting at 2:45 p.m.

ATTEST:

Donna K. Kaminska, County Clerk

Lawrence Jontra
Lawrence Jontra, District I

Elizabeth M. Hendricks
Elizabeth Hendricks, District II

Not Available
Jim McDonald, District III

State of Kansas
County of Elk

CERTIFICATE

Donna Kaminska the county clerk of the county of Elk,
Kansas, hereby certify that the above and foregoing is a true and correct
copy of ~~minutes~~ at the same appears in my office.
In testimony whereof, I have hereunto signed my name and affixed
the seal of said office this *10th* day of *Feb.* 2010
Donna Kaminska

Maintenance
Presentation of Claims
Old Business
Tax Sale
Maintenance List Progress
Trash Contract
Windfarm PILOT

From Nov. 24, 2008

New Business
1:00 p.m. --- Call to Order, Public Forum
1:15 p.m. ---
1:30 p.m. --- Abatement, Cereal Malt License, Trash Contract
1:45 p.m. ---

State of Kansas
County of Elk

Donna Kaminska, County Clerk of the County of Elk,
Kansas, hereby certifies that the above and foregoing is a true and correct
copy of Minutes as the same appears to my office.

In testimony whereof, I have hereunto signed my name and affixed
the seal of said city this 24th day of Feb, 2010

Donna Kaminska
Signature

(8571)

Other
Adjournment

Commissioners Present:
Lawrence Jontra, District I
Elizabeth Hendricks, District II

Others:
Neva Walter, Register of Deeds
Ken Mitchell, EMS Director
Deanna Jones, Treasurer
Jim Criger, Rural Fire
Byrdce Miller, Emer. Prep.
Doug Hanks, Sheriff
Earnest Lackey, road
Tony Young, Foley Tractor
Foley Tractor Representative

Donna Kaminska, County Clerk

Call to Order

Commissioner Elizabeth Hendricks called the meeting to order at 1:00 p.m. in the Commissioners room of the Courthouse. Commissioners Jontra and Hendricks and County Clerk Donna Kaminska were present. Chairman Jim McDonald and County Attorney Marla Foster Ware were absent.

Minutes Approval

Commissioner Jontra made the motion to approve the minutes of the November 10th Regular Meeting. Commissioner Hendricks seconded the motion and it carried.

Public Forum

No one was present to speak during the Public Forum.

Road & Bridge Report

Earnest Lackey reported trees had been removed so the fence could be moved on Road 12. Lackey said more paper work from the River Road project had been passed on to attorney. Lackey reported 2 more bridges needed repaired or replaced and told the sites. Lackey said no bids were received from local cement contractors for the 2 projects coming up, so he had gone to another source. Lackey had information on trucks to share. Lackey said all of the FEMA money had been received.

Dozer Bids

Bids on new D4 and D5 Dozers were opened from Berry Tractor, Foley Equipment & Murphy Tractor. After the bids were opened and questions answered, Road Supervisor Lackey said he would like to wait until Berry Tractor brought a Komatsu for demonstration, before a decision was made.

Wind farm Conversation

At 1:40 a conversation via telephone was held with Matt Gilhousen of Trade Wind Energy. Commissioner Hendricks asked for \$5,000 per mega watt starting with year of completion through year 10 for the proposed Caney River Wind farm. Gilhousen asked if Elk County had contacted other counties with wind farms to see what amount they were getting and for how many years. Hendricks had some gathered some information. Hendricks and Gilhousen are to share information with one another and another conversation is scheduled for December 8th at 2:30.

Executive Session

Commissioner Hendricks made the motion to go into a 10-minute Executive Session at 2:13 to discuss non-elected personnel with Earnest Lackey present. Commissioner Jontra seconded the motion and it carried.

After a 5-minute recess the regular meeting resumed at 2:28.

From Dec 8, 2008

Road & Bridge Report

Earnest Lackey gave the Road Department expenditure report for November. He also updated Commissioner McDonald on a Komatsu bulldozer he would like to purchase. He said they ordered pipe for Road 12 and the papers dealing with the River Road transaction are back with the Attorney for some minor revisions.

Executive Session

Commissioner McDonald moved and Commissioner Jontra seconded the motion to go into executive session with Byrdee Miller to discuss non-elected personnel for 5 minutes at 1:55 p.m.

Executive Action

It has been decided Emergency Preparedness Director Byrdee Miller will work 5 days a week instead of 4 beginning at the first of the year.

Solid Waste Contract

Moline, Howard and Grenola have signed interlocal agreements designating the County as the contracting agent on behalf of the cities for waste collection and disposal. Commissioner Jontra moved and Commissioner McDonald seconded the motion to extend the trash contract with County-Wide Refuse for five more years. Motion carried. The cost would be \$14.00 per resident.

Dozer Bids

Public Works Supervisor Earnest Lackey presented dozer bids from Berry Tractor, Murphy Tractor and Foley/Cat. Commissioner McDonald moved and Commissioner Jontra seconded the motion to accept the bid from Berry Tractor for a Komatsu D37EX-22 at a bid of \$84,900. Motion carried (2-0)

Abatement 08-17

Commissioner McDonald moved and Commissioner Jontra seconded the motion to approve Abatement 08-17. Motion carried.

Fall River Management, LLC

Commissioner Jontra moved and Commissioner McDonald seconded the motion to allow Flint Oak to continue their private club license. Motion carried (2-0).

Cereal Malt Beverage License

P&J's license renewal was signed by the commissioners.

Quarry Road Reimbursement

A reimbursement was received in the amount of \$85.89 from the State of Kansas.

Minutes Approval

Commissioner Hendricks made the motion to approve the minutes of the November 24th Regular Meeting. Commissioner Jontra seconded the motion and it carried.

Trade Wind Energy

At 2:45 p.m., the Commissioners participated in a conference call with Matt Gilhousen of Trade Wind Energy Co. Gilhousen is to finalize a contract and get it to County Attorney Ware for review.

End of Year Meeting

The next Commissioner meeting will be December 31st at 8 a.m.

Warrants Approval

Commissioner McDonald moved and Commissioner Jontra seconded the motion to approve the warrants in the amount of \$144,708.64.

Executive Session

County Clerk Donna Kaminska requested an executive session to discuss non-elected personnel. Commissioner McDonald moved and Commissioner Jontra seconded the motion to go into executive session for 5 minutes beginning at 3:05 p.m..

Executive Action

Commissioner Hendricks moved and Commissioner McDonald seconded the motion to move Debbie Clattenburg's supervision from the Janitorial Department to the County Clerk's Department. Her salary will still be paid out of the Maintenance Fund. Motion carried (2-0)

Donna Kaminska
County Clerk
2008
I hereby certify that the above is a true and correct copy of the minutes of the County of Lincoln Board of Commissioners meeting held on December 8, 2008.
Donna Kaminska
2008

From Dec 31, 2008

State of Kansas
County of Elk

Douglas Kanick

Trash Charges

Commissioner Jontra made the motion to raise the charge for trash service to the cities of Grenola to \$15.00 per customer payable to the County. Commissioner McDonald seconded the motion and it carried. The cities will have to add on the 50 cent surcharge and pass that along to their customers. The raise was necessitated by the increase in charges by Jon and Adam Arbuckle owners of County Wide Refuse for trash hauling. The County recently approved a 5-year contract with County Wide Refuse.

Letter of Support

Commissioner Jontra made the motion to sign a letter supporting Four County Mental Health Center's application for a handicap accessible van and operating assistance to provide services in Elk County. Commissioner McDonald seconded the motion and it carried. The application was to the Kansas Department of Transportation.

Abatement 08-18 & Abatements 08-20 thru 08-29

Commissioner Hendricks moved and Commissioner McDonald seconded the motion to approve Abatement 08-18 and Abatements 08-20 thru 08-29. Motion carried. The majority of the Abatements were for underground gas storage that has been exempted from taxes by the BOTAs.

Coalition

Anderson County Commissioner Dudley Feurborn was present to visit with the Commissioners about Elk County joining with 12 other counties to form a Coalition and engage Pinegar, Smith & Associates of Topeka to lobby the Kansas Legislature concerning ad valorem taxation of natural gas storage that may come before the Legislature and government agencies or bodies in Kansas. Eighteen counties (including Elk) have underground natural gas storage and have lost much needed revenue because of passed legislation. Feurborn said 12 counties have to join the coalition and agree to pay \$8,340 in 4 payments of \$2,085 before Pinegar, Smith & Associates would begin the lobbying effort. County Treasurer Deanna Jones and Appraiser Karen Spencer both supported the County joining the Coalition. Commissioner Hendricks made the motion to join the coalition and pay the first installment of \$2,085. Commissioner Jontra seconded the motion and it carried.

Trade Wind Energy

At 9:15 a.m., the Commissioners participated in a conference call with Matt Gilhousen of Trade Wind Energy Co. Gilhousen had emailed Payment in Lieu of Taxes and Road Maintenance Agreements and for the Commissioners to review and sign. The PILOT Agreement was for \$4,500 per mega watt for 20 years with a 2% yearly increase. Commissioner Hendricks made the motion to approve both the PILOT and Road Maintenance Agreements. Commissioner McDonald seconded the motion and it carried. The tele conference ended at 9:29 and both documents were signed by the Commissioners.

EMS Report

EMS Director Kenneth Mitchell submitted the December report for EMS. Collections for the month totaled \$9,817.84 bringing the total collections for 2008 to \$130,647.95. Mitchell said a new employee had been hired and 3 people will be taking EMT classes at Eureka..

Maintenance Report

Maintenance Supervisor Bob Barrow reported a problem with the boiler in the jail. Commissioner McDonald made the motion for Barrow to fix the problem without delay. Commissioner Hendricks seconded the motion and it carried.

Emergency Preparedness Report

Byrdee Miller reported the Emergency Operations Plan had been approved by the State and the Adjutant General had approved the appointees she had submitted for the Elk County LEPC.

Tanker Spill

Sheriff Doug Hanks complimented Emergency Preparedness Director Byrdee Miller and Road Supervisor Ernest Lackey on their handling of a recent tanker spill south of Howard.

Road & Bridge Report

Road Department Head Earnest Lackey said there would be a \$3,500 bill for upgrading the new move truck. Lackey said he should have numbers on the Green Ranch project soon. Lackey said the new dozer is here and he would like to rent a belly dump trailer before actually purchasing one. County Attorney Marla Foster Ware said River Road needs surveying before an easement can be obtained. Lackey will contact a surveyor.

Warrants Approval

Commissioner Hendricks moved and Commissioner McDonald seconded the motion to approve the December 31st

From Feb. 23, 2009

Bids were for Case, Volvo and Caterpillar back hoes. Commissioner Hendricks made the motion to approve the bid from Foley for two Caterpillars at the cost of \$71,300.00 and trading in three old back hoes. Commissioner Liebau seconded the motion and it carried.

Rural Fire

Doug Ritz requested the County put gravel at the city lake where the tanker backs in to get water. Commissioner Hendricks suggested he coordinate with the City of Howard.

Emergency Preparedness

Brydee Miller reported the annual storm spotters' presentation will be on March 3rd. She also said a Continuanace of Operations (COOP) course will be offered at Winfield April 3rd.

Economic/Youth Development

Laura Fry gave the commissioners a copy of the Strategic Plan which is almost completed. She said the plan is required to qualify for an Enterprise Zone. She said we need to have business incentives included in our plan. This could be in the form of tax abatements for new businesses on a sliding scale for five years. She has requested information from other counties on their resolutions and criteria a business has to meet to qualify. The commissioners were in favor of sliding scale tax abatements and requested Laura come up with a plan.

Historical Society

The courthouse has made it through the first round to be put on the National Register of Historical Places and now has to be approved by the National Parks Service.

April 4th is the end-of-the-year QUAD meeting at the High School.

Appraiser Report

The change in value notices have been sent out. Twelve new houses were built in the County and three new doublewides were put in. There are also three new commercial buildings.

Rural Fire Tanker

Neva Walter inquired about the Rural Fire Tanker Truck to be sold. Jim Criger would like at least \$1,000 for the 1976 GMC truck. The sale will be March 14, 2009 at 12:30 p.m. at the Howard Fair Grounds. The Sheriff will also offer for sale a 1994 Crown Vic. Commissioner Jontra moved and Commissioner Hendricks seconded the motion to sell the 1976 Rural Fire Tanker Truck and the 1994 Crown Vic. Motion carried 3-0.

Executive Session at 2:15

Commissioner Hendricks moved and Commissioner Liebau seconded the motion for executive session with Marla Ware for Attorney/Client Privilege with Earnest Lackey in attendance for 10 minutes following a five minute break. Motion carried.

The regular meeting resumed at 2:30 with no executive action taken.

Trade Wind Energy Meeting

Commissioner Hendricks announced that the top executives of Trade Wind Energy will be in the back room of Poplar Pizza from 2:00-4:00 p.m. March 10th and would welcome anyone from the County. They will be finalizing their proposal.

Kansas Department of Transportation

Wayne Gudmonson from KDOT spoke regarding the American Recovery and Reinvestment Act which gave KDOT \$32,000,000. District 4 will get between \$4,000,000 and \$5,000,000. If the County has any projects they would like to see completed, the paperwork has to be in by 5:00 March 13th. The County can apply for as many projects as they like. There is no guarantee that any will be picked by the KDOT committee. Whatever projects are selected will have to be obligated by December 2009.

The following road projects will be applied for: Flint Oak Road, River Road, Moline and Longton Cemetery roads, the Green Ranch road and three bridges.

Donna Karinska
County Clerk of the County of Elberta, Kansas, hereby certifies that the above and foregoing is a true and correct copy of the Minutes.
In testimony whereof, I have hereunto set my hand and affixed the seal of said County at Winfield, Kansas, this 2nd day of Feb. 2010.
Donna Karinska

From May 26, 2009

Abatement 08-54

Commissioner Hendricks made the motion to approve Abatement 08-54. Commissioner Liebau seconded the motion and it carried.

Tradewind/Westar

Commissioner Hendricks reported visiting with Matt Gilhousen of Tradewind Energy and learning that Westar would not be purchasing energy from Tradewind because of perceived environmental issues. Hendricks said she had learned one issue was not having a Decommissioning Agreement in place and another was a group wanting the County to place a moratorium on wind projects east of Kansas Highway 99. County Attorney Marla Foster Ware had informed Hendricks that since Elk County is not zoned, that could not legally be done. Hendricks had obtained a generic Decommissioning Agreement from Gilhousen and will have the County Attorney review it before the next Commissioner meeting.

June 8th Agenda

The Commissioners instructed the County Clerk to place reviewing the Flint Oak tax exemption and the Decommissioning Agreement with Caney River Wind Project, LLC on the agenda for the next meeting.

Fence Viewing

Commissioners Hendricks and Liebau did a fence viewing on the Helen Balentine property after the May 11th meeting. County Attorney Ware is to send a letter to the adjacent landowner informing them of the decision of the viewing.

Waiver of Consent & Minutes

Commissioner Hendricks made the motion to approve a Waiver of Consent and the minutes of the Special Meeting with Westar Energy held in Topeka on April 30, 2009. Commissioner Liebau seconded the motion and it carried.

Audit

The 2008 County Audit has been completed by Schlotterbeck and Burns and filed with the State.

13th Judicial District

County Clerk Kaminska shared information from Chief Judge John E. Sanders concerning attorney fees for criminal defense. Sanders sent the information because it is nearing budget time.

Warrants Approval

Commissioner Jontra moved and Commissioner Liebau seconded the motion to approve the May 26th warrants in the amount of \$8,857.32. Motion carried.

Micro-loan Grant Program

Commissioner Hendricks asked Economic Development Director Laura Fry to publish something about the Micro-loan Grant Program that the County has available for business owners.

Adjournment

The meeting adjourned at 2:00 p.m.

ATTEST:

Donna Kaminska, County Clerk

Lawrence Jontra, District I

Elizabeth Hendricks, District II

K. R. Liebau, District III

State of Kansas
County of Elk
Donna Kaminska
County Clerk of the County of Elk
copy of Minutes
JMA Feb 2010
Donna Kaminska

(1)

Regular Meeting
Elk County Commissioners
August 10th, 2009

Approved Minutes of August 10th, 2009

Call to Order 1:00 p.m.

Minutes Approval

(A) Regular Meeting July 27th

Public Forum

Reports

Road and Bridge
Emergency Preparedness
Ambulance
Register of Deeds
Maintenance
Economic Development

Presentation of Claims

Old Business

Courthouse projects
Auto-Deposit
Telephone Service
Decommissioning Agreement

New Business

1:00 p.m. --- Call to Order, Public Forum
1:10 p.m. --- Budget Draft #4
1:15 p.m. ---
1:30 p.m. --- Rick & Linda South, Complaint
1:45 p.m. --- Bridge culvert evaluations letter, County Attorney
2:00 p.m. --- Policy Handbook, harassment officers, enforcing non-smoking policy, employee random drug testing
2:30 p.m. --- Abatement 08-61

Other

Adjournment

Commissioners Present:

Lawrence Jontra, District I
Elizabeth Hendricks, District II
K.R. Liebau, District III

Donna Kaminska, County Clerk
Marla Foster Ware, County Attorney

Others:

Nova Walter, Register of Deeds
Kenneth Mitchell, EMS
Kandy Dowell, Health
Deanna Jones, Treasurer
Byrdee Miller-Marcic, Emerg. Prep.
Herb Harrison
Rick South
Sarah South

Earnie Lackey, Road
J.P. Logan, Maintenance
Doug Hanks, Sheriff
Laura Fry, Econ/Youth
Karen Spencer Appraiser
Jim Lane
Linda South

Call to Order

Commissioner Elizabeth Hendricks called the meeting to order at 1:05 p.m. in the Commissioners Room of the Courthouse. Commissioners Jontra, Hendricks and Liebau, County Attorney Marla Foster Ware and County Clerk Donna Kaminska were present.

Minutes

Commissioner Hendricks made the motion to approve the minutes of the July 27th Regular Meeting with two corrections. Commissioner Jontra seconded the motion and it carried.

Public Forum

No one was present to speak during the Public Forum.

Budget Draft #4

Commissioner Hendricks explained the reason for Budget Draft #4 saying the budget preparer had found it necessary to change the Health Department budget to meet the State requirement for grant purposes and also discovered the possibility of a \$47,000 shortfall in the County General Fund before the end of the year. Hendricks reported \$50,000 had been moved out of Courthouse Capital Improvements expenditures so as to not end with a negative balance in the 2009 budget. Commissioner Liebau made the motion to approve Budget Draft #4 for publication and Commissioner Jontra seconded the motion. Motion carried. The Public Hearing for the 2010 County Budget will be August 31st at 1:10 P.M. in the Commissioners room of the Courthouse. The Commissioners advised all offices within the County General Fund to watch their spending for the remainder of 2009.

Ambulance Report

EMS Director Kenneth Mitchell submitted the monthly report for the EMS Department. Collections for July totaled \$13,423.83, bringing the total collected for the year to \$86,359.51.

2

Delinquent Taxes

County Treasurer Deanna Jones reported Delinquent taxes were being paid because of the letters sent out by County Attorney Marla Foster Ware notifying property owners of preparations being made for another County Tax Sale. Jones said those collections would help with the projected shortfall in the County General Fund at the end of 2009.

Courthouse Projects

Maintenance Supervisor J.P. Logan reported receiving a note from SCKEDD Representative Mike West saying all of the preliminary paperwork is done for the Heritage Trust Fund Grant for renovation of the Courthouse. The next step will be to prepare a request for proposal to hire a Construction Inspector. West is busy working on the RWD #2 grant and will not be ready to do much on the Courthouse grant until early September. The completion date for the project is July 2010, but Economic Development Director Laura Fry said 6-month extensions can be asked for. Logan said the floors in the basement were nearing completion.

Register of Deeds

Register of Deeds Neva Walter submitted the report of activity for her office for the month of July. The office handled 43 instruments for a total deposit of \$5,058.34.

Homeland Security Representative

Emergency Preparedness Director Byrdee Miller-Marcic had a letter for the Commissioners to approve and sign reappointing her as Elk County's Representative to SEK Regional Homeland Security Council. Commissioner Hendricks made the necessary motion and Commissioner Liebau seconded it. Motion carried.

Bring Your Own Lawn Chair

Economic Development Director Laura Fry requested permission to allow the "Bring Your Own Lawn Chair" event on the Courthouse lawn on Saturday September the 5th. Fry also asked that the Courthouse be open so people could look inside. Fry said the event is sponsored by The Kansas Sampler. Commissioner Liebau made the motion to allow the event as requested. Commissioner Jontra seconded the motion and it carried.

Website

Fry also said she had been recruiting people in the County to maintain a website that the Kansas Sampler was setting up with money they received from a grant. Fry said she has volunteers from Howard, Elk Falls, Moline and Longton and would be going to Grenola this week to seek volunteers from there. The volunteers have to attend a class and afterward will be responsible for keeping information about their community updated.

Quad Dues

Fry will be visiting with some of the Chambers of Commerce to see if they would make a donation towards the Quad dues and will visit with SKT, also.

Appraiser Office Complaint

Rick and Linda South were present to complain about the Appraiser office.

Executive Session

Commissioner Liebau made the motion to go into a 15-minute Executive Session at 1:22 to discuss non-elected personnel with Rick, Linda and Sarah South and County Attorney Marla Foster Ware present. Commissioner Jontra seconded the motion and it carried.

Regular meeting resumed at 1:29 with no action taken.

Recycling

Herb Harrison and Jim Lane were present to request purchasing 2 cardboard storage sheds from Sears for approximately \$200 each. The sheds are for residents or businesses to put cardboard in between pick up days. Commissioner Liebau made the motion to allow the purchases payable out of Equipment Reserve and Commissioner Hendricks seconded the motion. Motion carried.

Weed 2009 Budget

Weed Supervisor Billy Bunyard requested amending the Noxious Weed 2009 budget by \$6,000. Commissioner Hendricks made the motion to allow amending the budget. Commissioner Liebau seconded the motion and it carried.

Road and Bridge

Road Department Head Earnie Lackey submitted Road Department expenditure reports for the month of July. Lackey reported spending all day Friday with FEMA Representatives evaluating damages from the ice and flooding in March and April.

Appraiser

Appraiser Karen Spencer reported receiving a contract back from R&S Digital for the Soil and Ag Conversion her office is doing. Commissioner Jontra made the motion to approve the contract with R&S Digital for \$26,000. Commissioner Hendricks seconded the motion and it carried.

Bridge Culvert Evaluations

County Attorney Marla Foster Ware discussed a letter she had received from Cook, Platt & Strobel Engineers, P.A. disclosing the services CFS would provide for 24 structures in Elk County for the Caney River Wind Farm

3

Project. Commissioner Hendricks made the motion to sign the bridge culvert evaluation letter. Commissioner Liebau seconded the motion and it carried.

Policy Handbook Updates

Policy Handbook updates suggested by the handbook committee were reviewed.
Updates included:

- 1) Naming Daniel Ferguson as alternate Harassment Officer.
- 2) Enforcing the non-smoking policy already in effect or not.
- 3) Reserving the right to do random Drug testing if the need arises.
- 4) Cell phones for work related use only, cell phones on vibrate during work hours and limiting personal phone calls.

The Commissioners asked the County Clerk to email all of the updates to all department heads before the next meeting, when the updates will be voted on.

Abatement 08-61

Commissioner Hendricks made the motion to approve Abatement 08-61 and Commissioner Liebau seconded it. Motion carried.

RWD #2 Grant

County Clerk Kaminska had papers dealing with the \$198,000 CBDG Grant the RWD #2 had received for the Commissioners to approve and for Chairman Hendricks signature. Commissioner Liebau made the motion to approve Chairman Hendricks signing the Determination of Level of Review and Grant Agreement No. 09-PF-925 between the Department of Commerce and Elk County. Commissioner Jontra seconded the motion and it carried.

Letter of Support

Commissioner Hendricks made the motion to sign a letter of support for US Cellular in applying for a grant of stimulus funds through the Broadband Initiatives Program. Commissioner Liebau seconded the motion and it carried.

KAC Voting Delegates

Naming of KAC voting delegates was tabled again.

Warrants Approval

Commissioner Jontra moved and Commissioner Hendricks seconded the motion to approve the August 10th warrants in the amount of \$132,396.80. Motion carried.

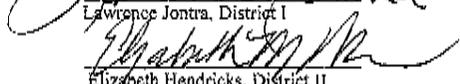
Adjournment

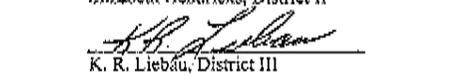
The meeting adjourned at 3:40 p.m.

ATTEST:


Donna Kaminska, County Clerk


Lawrence Jontra, District I


Elizabeth Hendricks, District II

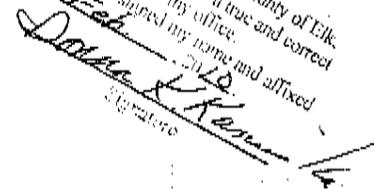

K. R. Liebau, District III

State of Kansas
County of Elk

CERTIFICATE

I, Donna Kaminska the county clerk of the county of Elk, Kansas, hereby certify that the above and foregoing is a true and correct copy of minutes as the same appears in my office.

In testimony whereof, I have hereunto signed my name and affixed the seal of said city this 16th day of Feb 2010.


Donna Kaminska
Clerk

Elk County Commissioners
Regular Meeting
July 26, 2010

Approved Minutes of July 26, 2010

1:00 P.M. – Review Correspondence

Call to Order

Minutes Approval

June 26, 2010 Regular Meeting

July 12, 2010 Regular Meeting

Reports

Road & Bridge

Register of Deeds

Ambulance

Emergency Preparedness

Econ Dev/Youth Dev

Maintenance

Old Business

Jail Heating System

Courthouse Roof Progress

Energy Grant

Uniforms

New Business

1:00 P.M. — Call Meeting to Order

1:05 P.M. — Public Forum,

1:10 P.M. — Budget, Harley Schlotterbeck

1:15 P.M. ---

1:30 P.M. — Tradewind Energy, Windfarm Progress

1:45 P.M. — Ron Dellinger, Easement RWD #2

2:00 P.M. —

2:15 P.M. —

2:30 P.M. —

2:45 P.M. —

3:00 P.M. —

Other

Adjournment

Commissioners Present:

Lawrence Jontra, District I

K.R. Liebau, District III

Elizabeth Hendricks, District II

Donna Kaminska, Co. Clerk

Marla Foster Ware, Co. Attorney

Other:

Jim Criger, Rural Fire

Byrdee Miller-Marcic, Emer Prep

Dan Ferguson, Dep. Sheriff

Kandy Dowell, Health Nurse

Karen Spencer, Appraiser

Neva Walter, Register of Deeds

J.P. Logan, Maintenance

Jennifer Brummel, Econ/Youth Dev

Harley Schlotterbeck

Earnie Lackey, Road

Deanna Jones, Treasurer

Kenneth Mitchell, EMS

William Bischof

Herb Harrison

Billie Harrison

Charles Brown

Gus Jones

Commissioner Jontra called the meeting to order at 1:10 p.m. in the Commissioners' Room of the Courthouse.

Commissioners Jontra, Hendricks and Liebau, County Attorney Marla Foster Ware and County Clerk Donna Kaminska were present.

Minutes Approval

Commissioner Hendricks made motion to approve the June 28th minutes with 2 corrections. Commissioner Jontra seconded the motion and it carried. Commissioner Liebau was absent on June 28th.

Commissioner Liebau made the motion to approve the minutes of the July 12th meeting with one corrected typing error. Commissioner Jontra seconded the motion and it carried. Commissioner Hendricks was absent on July 12th.

Public Forum

Billie Harrison reported she had not seen a road grader on her road in the last couple of months and wanted to know who supervised the spraying of weeds.

Uniforms

Charles Brown returned to continue with the request to allow the Road Department to rent uniforms, payment for which would be deducted from their paychecks. Brown reviewed the costs with the Commissioners. The cost will be \$6.75 to \$8.00 per week depending on clothing selected. The Commissioners asked Road Department Head Earnie Lackey if the Road Department would be able to pay some of the uniform cost. Lackey said they could pay the full amount. After some discussion, Commissioner Hendricks made the motion to allow \$6.75 per week for Road employee uniforms. Commissioner Liebau seconded the motion and it carried. If any employee wants the \$8.00 uniform they have to pay the difference.

RWD #2 Easements

Ron Dellinger representing RWD #2 requested an easement for RWD #2 north of Howard on Road 15. Commissioner Hendricks made the motion to approve the easement request and Commissioner Liebau seconded it. Motion carried. Dellinger said a complete list of all easements requested will be given to the County when RWD #2 Phase 1 is completed. Dellinger thanked everyone for the help in getting RWD #2.

Trade Wind Energy Tele-Conference

Matt Gilhousen could not be present, so he requested a teleconference call with the Commissioners. The teleconference began at 1:35 with Gilhousen giving a progress report on the Caney River Wind Project. Gilhousen said they would not be any official announcement made today, but that they wanted to walk through the Road Maintenance Agreement with the Commissioners during the teleconference. Gilhousen said they would be going off of Highway 99 into Howard and straight west using Limestone to Road 9, then west on Killdeer 2 miles to project. There is also a northbound stretch on Road 7 up 2 miles then west on Mule to Road 6 that would be used. Gilhousen said there are a couple of low water crossings that will needed upgraded. Gilhousen said most of the road work will be done by a civil contractor. Gilhousen said their plans are to meet on site with Earnie Lackey and Cook, Flatt & Stroble Engineers within the next 2 weeks and review the plans for the road work. Gilhousen said they will give the County a video of the roads in the pre-construction state to the County so they could compare the before and after. Gilhousen said all of the improvements will be at Trade Wind Energy's expense and that they would wrap up road improvement to Road Department Head Lackey's approval within 1 month of completion of the project. Gilhousen said in the event of emergency or hazardous conditions, the County could repair a road and they will be fully reimbursed for expense out of the \$200,000 Escrow Account that will be set up with the Howard State Bank. Gilhousen said he would forward paperwork for Escrow Account to County Attorney Marla Ware for her review. Gilhousen said the Caney River Project should be in full blown construction by early 2011.

The teleconference ended at 2:30.

Road and Bridge

Earnie Lackey reported they will finish 1 mile on Limestone today and will go back to FEMA work after that.

Lackey said they had used 1700 ton of rock in July.

Lackey reported hiring new Road employee.

Weed

Earnie Lackey reported hiring part-time Weed employee.

Lackey said some chemicals were not effective this year, neither along the County roads or at his own farm. Lackey said spray was killing tops only.

Loan Paperwork

Jennifer Brummel had the draft of the Lease Purchase Agreement form the Bank of Longton for the loan of \$320,000 for the Courthouse Roof and the 360 Energy Grant.

Tax Credit Processing Fee

Jennifer Brummel had a request from the Kansas State Historical Society for the \$900 processing fee for the State Tax Credit Application.

Commissioner Hendricks made the motion to pay the \$900 for the processing fee out of the Capital Improvement Fund. Commissioner Liebau seconded the motion and it carried.

Rock Wall and Movie

Jennifer Brummel requested \$800 out of Special Parks and Recreation to have the Rock Climbing Wall at the Elk River Festival in Howard and \$295 for a license to show a movie at the Longton Fair on August 5th. Commissioner Hendricks made the motion to approve the request. Commissioner Jontra seconded the motion and it carried.

CDBG Grant for Health Facility

Brummel said she hadn't heard anything yet from the Department of Commerce on the CDBG grant request for the proposed Health Facility.

Day Camp

Brummel reported Day Camp is over for 2010. Brummel missed the last 2 days due to illness.

Emergency Preparedness

Byrdee Miller-Marcic gave the Commissioners the Agenda for the local LEPC/Fire Meeting on August 12th. Miller-Marcic also reported receiving notice of credit from ADT.

Miller-Marcic said she had submitted road assessments to KEMA for the period of July 4th-14th.

Grant Money

Brydee Miller-Marcic requested using \$700 left in a State Grant to purchase a projector and speakers. Commissioner Hendricks made the motion to approve the purchase and Commissioner Liebau seconded it. Motion carried.

WalMart Card

Ken Mitchell said the winner of the \$50 WalMart Gift card had been nice enough to return it to the EMS to be raffled again.

KAC Voting Delegates

County Clerk Kaminska asked if anyone from the County would be attending KAC in Overland Park November 14-16. No one was going to attend at the present time, so no Voting Delegates were named.

Executive Session

Commissioner Jontra made the motion to go into Executive Session at 3:07 for 10 minutes to discuss non-elected personnel with County Health Nurse Kandy Dowell present. Commissioner Liebau seconded the motion and it carried.

Regular meeting resumed at 3:17 with the following action.

Employee Dismissal

Chairman Jontra reported 1 employee had refused to take the Mandatory Drug Test approved by the Commissioners at the May 24, 2010 Meeting and would therefore be dismissed from employment with the County. Commissioner Liebau made the motion to dismiss the employee and Commissioner Hendricks seconded the motion. Motion carried.

Help Wanted Ad

The Commissioners advised Logan and County Clerk Donna Kaminska to an ad in the local paper for a full-time or part-time custodian and see what happens.

Vacation Pay Request

County Clerk Donna Kaminska reported Debbie Clattenburg would like her Vacation Pay and last day of work pay with this month's paycheck. The Commissioners denied the request.

Maintenance

J.P. Logan had a list of items that were found in his maintenance room that he had taken to the Museum or that he would like to have removed by someone. The Commissioners advised Logan to notify everyone that they had a week to claim the items or he would remove them.

2011 Budget Draft #1

Harley Schlotterbeck presented Draft #1 of the 2011 County Budget for review. The Commissioners reviewed the budget draft, made cuts and asked Schlotterbeck to make the changes and prepare Draft #2 for their consideration.

Warrants

Commissioner Hendricks moved and Commissioner Liebau seconded the motion to approve the July 29th warrants in the amount of \$41, 657.12. Motion carried.

2011 Budget Draft #2

Commissioner Hendricks made the motion to approve Draft #2 of the 2011 Elk County Budget for publication with the Budget Hearing on August 30th at 1:15 P.M. Commissioner Liebau seconded the motion and it carried.

Adjournment

Commissioner Jontra adjourned the meeting at 4:55 p.m.

ATTEST:

Donna K. Kaminska, County Clerk

Lawrence Jontra, District I, Chairman

Elizabeth M. Hendricks, District II

K.R. Liebau, District III