



February 6, 2004

Chairman Clark and members of the Committee:

I am Alan Cobb, representing the Tallgrass Ranchers, a group of over 250 landowners and ranchers organized to protect the Flint Hills and the Tallgrass Prairie.

I would like to provide an example of why Senate Bill 331 is needed. In the past two years in Butler County, several wind power developers have sought conditional use permits to construct utility scale wind turbine complexes on several thousand acres of tall grass prairie in the Flint Hills. Conditional use permits require review by a planning commission and approval by the county commission.

After the primary election in 2000, it was clear who would be elected as the new county commissioner in Butler County. He was a man whose family controlled substantial land holdings. When the primary was over, one of the wind developers with a proposed project in Butler County, who was aware this man was about to become a county commissioner, approached this future commissioner about using his land for wind development. After the commissioner was sworn into office, and in advance of the developer submitting an application for a conditional use permit which would require the commissioner's approval, the developer and the commissioner signed a lease option under which the commissioner received annual payments and the developer had the right to use the commissioner's property for a utility scale wind turbine complex. Because there was no law like Senate Bill 331, the terms of this lease option were not publicly known or discoverable.

Of course there is nothing wrong with a government official entering into a private contract with respect to his own land. However, there are important reasons why the terms of that contract should not remain secret. The day before the developer's proposal came before the County Commission, the Commissioner filed in the wrong office and in a file not available to the public, a Disclosure of Interest Statement, identifying his relationship with the developer, but substantially mischaracterizing it as something less than what we now know it was. He called it a "Lease of land for wind metering," when, in fact after we are able to review its terms we can see it was an option to allow the developer to build a utility scale wind turbine facility. Again, because Senate Bill 331 was not the law, the public could not know of the mischaracterization.

When the conditional use application submitted by the developer with whom he had a contract came up for a vote the next day, the commissioner made a procedural motion that prevented the defeat of the application. After a newspaper article later made the Commissioner's relationship with the developer public, the Commissioner made an oral statement recorded in the county commission minutes which again mischaracterized the lease option and made it seem less significant than it was. He said he was not pursuing the venture with the wind company when in fact the lease option provided that he would continue to receive payments and we now know he did continue to receive money from the developer even after saying he was not pursuing the venture. Again, the public could not know that at the time because nothing required the lease option to be filed of record.

Eventually the developer withdrew its application. But the commissioner continued to participate in two other decisions which could have (and one of which still may) set the precedent for allowing wind turbine complexes on land in the same area as his family land which he had granted the wind developer a right to use for a utility scale wind turbine complex. It was not until litigation over one of those decisions that the option agreement was finally obtained and the public could see exactly what the commissioner's personal financial interest in wind development was.

Unfortunately, this incident of questionable dealing is not unique. As a fledgling wind industry develops, we see a whole range of improper conduct. We see the president of one company offering the school board money if, and only if, it will agree to write a letter of support to the planning commission. We see at least three companies offering money (in one case almost \$2 million) if the county commissioner will decide cases in front of them in favor of the developer. We see wind development promoters in trouble for selling unregistered securities—telling potential investors that investments from \$500 to \$50,000 in wind turbines would generate as much as 24% returns per year from the generation and sale of electricity. Senate Bill 331 will not completely clean up the industry. Regulation may be necessary to do that. But I ask you to adopt Senate Bill 331 because good government is not compatible with secrecy. Senate Bill 331 aids the cause of good government.