



February 26, 2010

## **WIND ENERGY UPDATE**

Four Saline County landowners testified at the LB1044 hearing last Wednesday in Lincoln. Dave Vavra, chairperson of the Saline County Wind Association, indicated the Association, as a whole, was in favor of the Nebraska Wind Export Bill LB1044 with the LB2010 amendment. He further explained certain issues remain for Nebraska landowners. Strong legislation in this area would need to include public power, private developer AND landowner concerns.

Last week I received a call from a landowner in Southeast Nebraska near Humboldt involved in a new wind energy project. A private developer will be selling wind power to Omaha Public Power District with construction starting this spring. It has now sunk in that he has signed a 30 year agreement without any strong, legal advice that affects he and his family. He signed a long-term wind energy contract because many of his neighbors had done this and he felt a very strong obligation to do so. Nebraska landowners need to hear this message. Never sign a wind energy contract without legal counsel, counsel from an experienced wind attorney.

In Saline County, to the tribute of the Landowners Association, they sought strong legal advice together as a group. And if you were a landowner that was not a part of that group, and you did not pay for legal advice, you should pay them because the Association did a huge favor on your behalf.

In the Saline County Wind Association testimony, Vavra reminded the Natural Resources committee that Nebraska landscapes are pristine and we are talking about changing that in a larger way, for only less than 5% of the gross revenues. A landowner agreement could be troublesome on the perspective of liability and decommissioning issues. He urged the committee to get some base language in state law to not leave Nebraska landowners with cleaning up the mess after the dance is over.

California is the poster child for states with renewable, clean energy. However, old solar panels litter the landscape and old lattice wind towers remain on the backs of landowners. It actually makes private developers look bad because of the constant negative advertisement so it is not in the private developers favor either.

There isn't any consistency with wind leases across Nebraska related to landowner liability. Landowners have to educate themselves on what liability and risks they are assuming with these contracts. It would be recommended that all landowners in Nebraska be listed on a general commercial liability policy that still is meaningful in money terms during the entire length of the contract.

At the hearing, a lot of emphasis was placed on public powers use of the spot market to sell energy generated from coal, nuclear and hydro power outside the state of Nebraska. This helps keep our electric rates low. There was an underlining concern of competition for that market if there was too much wind development in Nebraska with out-of-state wind energy contracts. NPPD reported 82 million dollars last year with out-of-state sales. While wind energy in



Nebraska has many positive attributes, there are a number of concerns that will continue and need to be addressed.

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