

Debra Witwer Cramer
201 W 2nd Street,
Mound Valley, Ks 67354
Proponent Testimony for SB353
SENATE UTILITIES COMMITTEE

Feb 3, 2022

Chair Senator Thompson and members of the committee, my name is Debra Cramer, a private citizen that has had previous occupations with county government in the State of Kansas, trained in areas of appraisal, data collection, mapping, which allows me to work with county documents and departments. I am, a graduate of Ozark Christian College, and currently involved in ministry.

I am a fifth generation Kansans, and I've have lived in Kansas most of my life, the last forty-four years in Mound Valley, a small town of fewer than 500 residents in southeast Kansas. I have a farm background and a love for my county and my state.

The State of Kansas has an opportunity to not only safeguard its citizens but to assist the counties through **SB 353**, and to aid the committee I'm providing a very detailed orientated testimony, believing it is necessary to show you what I have discovered from examining wind developers leases of individual landowners in Labette County so that you will pass this bill. I hope that you will read it and view the aerial pictures I had made.

Background information This is what took place in Labette County. I became involved in wind energy in the spring last year (2021) after Labette County Commissioners Lonnie Addis, Cole Prohel, and Brian Kinzie began holding town hall-style meetings to ask residents as to our thoughts on Wind Developers; *RWE Renewables (RWE)* proposed *Elm Creek-West Wind Generation Farm, as our city was in the footprint.*

After a few of these meetings, word through the grapevine was that **RWE** already had properties leased in close proximity to Mound Valley. This leasing would involve town leaders and their family members and I became concerned that inadequate setback protections for the city could exist if one should develop. Especially with two of the County Commissioners on the same page of wind development, as a wise attorney, taught in a Kansas courtroom, if the county and the wind energy are on the same page, the petitioners can be inadequately represented.

Needed to see if the grapevine talk was true, I went to the Register of Deeds office, and with an open record request (KORA) I asked for Record Management Report for **RWE** leases and from the report the RWE Memorandum lease and Easement can be identified, and leases can be obtained. An example is provided on the next page.

The provided documents, and pictures of leased properties were created using county documents, RWE Renewables leases in Labette County and State of Kansas aerial maps. My work was checked y a Certified Cartographer from the State of Kansas.

I have done all I can as a private citizen to provide you this information without any errors and I have done so for the sole purpose to make you aware this taking place in the state. I disclose to you that I am sharing documents with no intent to sell, in compliance with K.S.A. 45-220 (c); K.S.A. 45-230, but only to disclose what I have found, or others had brought to my attention.

RWE Memorandum of lease and Easement tAgreement

LEASE EXAMPLE

SIGNATURE PAGE

Date recorded
Deeds Office July 14,
2020

Book: X0127 Page: 345

Julie Becker, Labette County Register of Deeds

Receipt #: 44925 Recording Fee: \$174.00
Pages Recorded: 19 (John, Dale?)

Date Recorded: 7/14/2020 10:23:15 AM
(ELECTRONICALLY FILED)

DOCUMENT PREPARED BY:
Shirrie Garcia
RECORDING REQUESTED BY:
RWE Renewables Development, LLC

AND WHEN RECORDED MAIL TO:
RWE Renewables Development, LLC
701 Brazos St, Ste 1400
Austin, TX 78701
ATTN: Shirrie Garcia

THIS SPACE FOR RECORDER'S USE ONLY

Memorandum of Lease and Easement Agreement

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by Law
Shirrie Garcia

Elm Creek – West Wind Farm
Labette County Recording
Prepared by Shirrie Garcia

Return to Shirrie Garcia,
RWE Renewables Development, LLC
701 Brazos St, Suite 1400
Austin, Texas 78701

Date Signed
April 3, 2020

EXECUTED as of the date first set forth above.

OWNER:

By: _____
Name: _____ Winters

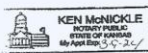
Address: _____
P.O. Box: _____
Mound V: _____

STATE OF Kansas §
COUNTY OF Labette §

This instrument was acknowledged before me on the 3 day of April, 2020, by David H. Winters a/k/a David Winters.

Ken McNickle
Notary Public, State of Kansas
[place seal directly below]

My Commission Expires: 3-9-21



Documents obtained through Kansas Open Records Request (KORA).

The Records Management Report can be obtained in any county in the state by requesting the developer.

RWE Memorandum of lease and Easement tAgreement

LEASE EXAMPLE

LEGAL DESCRIPTION

Date recorded
Deeds Office July 14,
2020

Book: X0127 Page: 345

Julie Becker, Labette County Register of Deeds

Receipt #: 44925 Recording Fee: \$174.00
Pages Recorded: 19 (John, Dale?)

Date Recorded: 7/14/2020 10:23:15 AM
(ELECTRONICALLY FILED)

DOCUMENT PREPARED BY:
Shirrie Garcia
RECORDING REQUESTED BY:
RWE Renewables Development, LLC

AND WHEN RECORDED MAIL TO:
RWE Renewables Development, LLC
701 Brazos St, Ste 1400
Austin, TX 78701
ATTN: Shirrie Garcia

THIS SPACE FOR RECORDER'S USE ONLY

Memorandum of Lease and Easement Agreement

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by Law
Shirrie Garcia

Elm Creek – West Wind Farm
Labette County Recording
Prepared by Shirrie Garcia

Return to Shirrie Garcia,
RWE Renewables Development, LLC
701 Brazos St, Suite 1400
Austin, Texas 78701

property near
Mound Valley

much thereof as is used for public highway or road, Labette County more or less.

Tract 7:

All that part of the Northeast quarter of section 3, township 33, range 18 east of the 6th P.M., being South of the right-of-way of the St. Louis & Francisco Railroad, with the following exceptions: Beginning at a stake on the East line of said Section 3, 13 chains and 97 links north of the Northeast corner thereof, thence North 78 deg 30' West 3 chains and 11 links, thence North 15 deg East, 4 chains 83 links, to the Southwest corner of the Center line, thence South 87 deg East, 2 chains 78 30 links to place of beginning; also except commencing at a point 20 feet west of the East line and 469 feet South of the Northeast corner of said section, thence running West 160 feet, thence South 150 feet, thence East 160 feet, thence north 150 feet to place of beginning. Also except commencing at the intersection of the center line of main tract of St. Louis-San Francisco Railway Co. with the North line of section 3, aforesaid, thence Easterly measured a long said center line of main tract 728 feet, thence Southerly at right angles to said center line of main tract, 50 feet to a point of present southerly right-of-way line of Railway Company for point of beginning, thence continuing Southerly on last described course 100 feet, thence Easterly at right angles 200 feet, thence Southerly at right angles 100 feet to a point on said present southerly right-of-way line, thence Westerly 200 feet to the point of beginning, also except beginning at a point 33.88 feet West of the Southeast corner of the Northeast 1/4 of Section 3, which is the intersection of the West county road right-of-way and the East-West centerline of said Section 3, thence North 11 deg 30' East parallel to the East line of said Section 3 a distance of 673.52 feet to a point on the West right-of-way line of the county road and 660 feet North of the South line of Northeast 1/4 of said section 3, thence West parallel to the South line of the Northeast 1/4 distance of 330 feet, thence South 11 deg 30' West a distance of 673.52 feet to a point on the South line of the Northeast 1/4 of said Section 3, thence East 330 feet to point of beginning. All except so much thereof as is used for public highway or road, Labette County, Kansas containing 159 acres, more less.

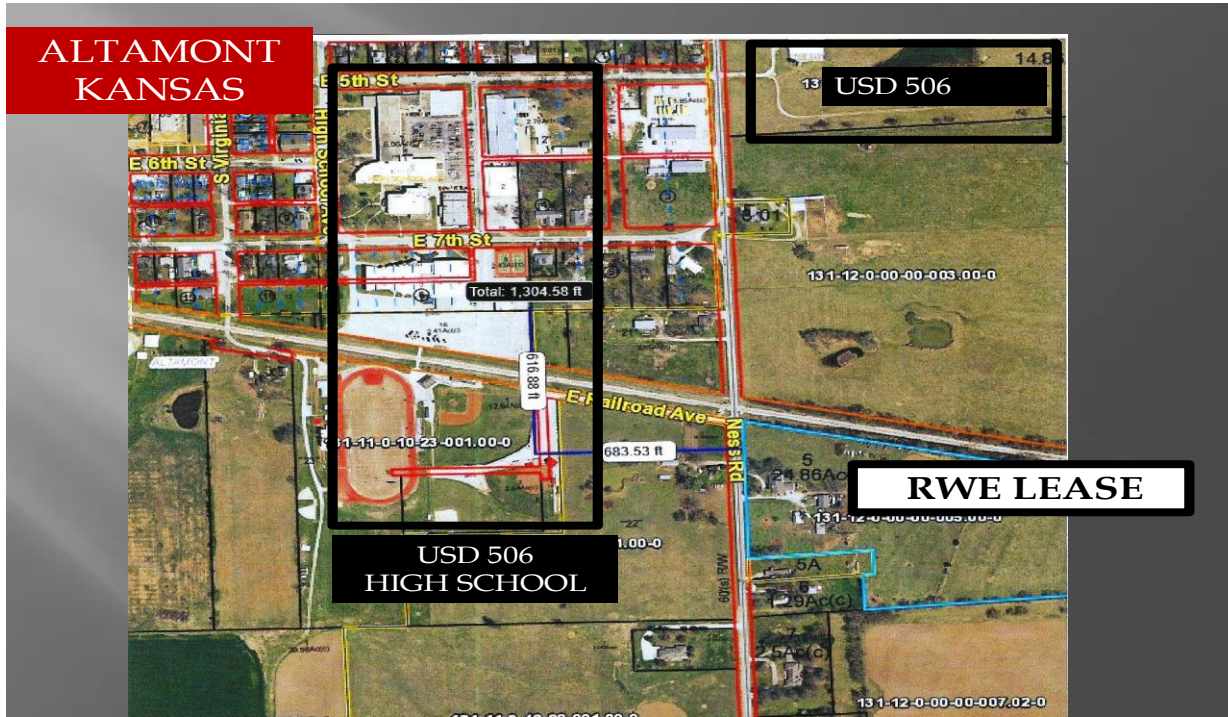
Tract 8:

Commencing at the Northeast corner of the South Half of the Southeast Quarter of Section 3, Township 33 South, Range 18 East of the 6th P.M., thence N09°32'28" E along the East line of the SE 1/4, a distance of 159.19 feet to the Northeast corner of a tract of land described in Book 204, Page 448 for the Point of Beginning, thence N 82°45'45" W, along the North line of said tract, a distance of 162.20 feet, thence N03°52'51" E, a distance of 402.62 feet, thence N 60°49'25" E, a distance of 73.38 feet, thence S 87°45'53" W, a distance of 145.01 feet to the East line of the SE 1/4 of Section 3, thence S 09°27'18" W, along said East line a distance of 458.51 feet to the point of beginning; also commencing at the Northeast corner of the South 1/2 of the Southeast Quarter of Section 3, Township 33 South, Range 18 East of the 6th P.M., thence N09°27'18" E along the East line of the SE 1/4, a distance of 159.19 feet to the Northeast corner of a tract of land described in Book 204, Page 448, thence N 82°45'45" W, along the North line of said tract, a distance of 162.20 feet for the Point of Beginning, thence continuing along said North line S2°45'45" W a distance of 295.96 feet, thence N 07°13'27" E, a distance of 191.37 feet, thence S 81°48'29" E, a distance of 322.34 feet, thence S 04°28'34" W, a distance 69.78 feet, thence S 84°43'06" E, a

Documents obtained through Kansas Open Records Request (KORA).

With 18,000 acres leased without any notification to non-leasing landowners with the aid of others decided to map the leases using legals from leases. **Seeing the locations of leases;** I became concerned about turbines being erected in certain areas as the mapping showed leases bordering the city limits of three of our un-zoned cities, in close proximity to two of the USD 506 schools and on two sides of the Altamont City Lake. As well as leasing outside of the footprint areas. So I created the following pictures, to share as visuals.

Due to **NO state regulations** wind developers get by with 'courtesy' leasing



This is a 'courteous' lease, meaning it is located outside of RWE proposed footprint of development.

Three sides of the **K-State Research Center** at the Mound Valley location, have **RWE** leases in close proximity, as close as across the road.

K-State Research Experiment Station - Mound Valley, Kansas



The research at this station is valuable to our state and the world, provide it regulatory setback protection in distance as RWE Renewable has leases in close proximity.

K-State Experiment Station Mound Valley, Kansas

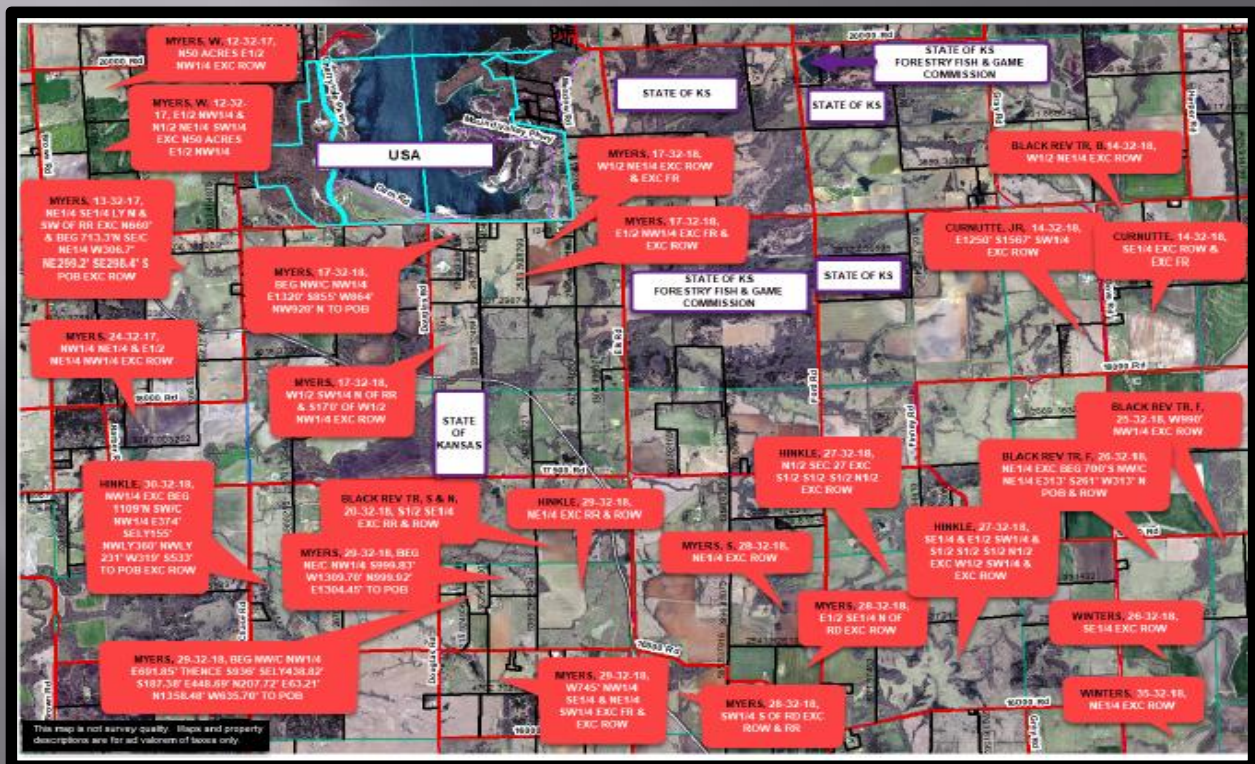


City of
Mound
Valley

The Corps of Engineers Big Hill Lake has RWE leased properties in close distance, as close as across the road from the Mound Valley campsite. Numerous leases are within 3-mile proximity to the Kansas Fish and Game state owned properties. The following statement is the Kansas Department of Wildlife, Parks and Tourism Position Statement on Wind Energy and Wildlife Issues in Kansas. "That projects should adhere to the **Siting Guidelines for Windpower Projects in Kansas**, produced by the **Kansas Renewable Energy Working Group**³, or the **U.S. Fish and Wildlife Service's Land Based Wind Energy Guidelines**⁴. 6) That the Department manages public wildlife areas to **optimize habitat for native wildlife species— especially game species and migratory birds. This work tends to concentrate wildlife in those areas. To avoid adverse impacts to those species and the users of the wildlife areas, the Department recommends that turbines not be sited within three (3) miles of a KDWPT-managed property.**

The properties identified by a **red tabs** are RWE Renewables leased properties, there are so many leases in the three mile area of the **Kansas Department of wildlife fish and game managed areas** that I could not get them marked on this map as it distorted it.

RWE RENEWABLES leased properties in range of KANSAS DEPARTMENT OF WILDLIFE AND PARKS and Corps of Engineers BIG HILL LAKE areas LABETTE COUNTY



The **USA** in white outline in blue represents the **Corps of Engineers Big Hill Lake**, and the other properties marked in white are owned by The State of Kansas, fish and game.

What is dangerous about RWE RENEWABLES wind developers leasing in these areas is what can happen when commissioners are on the same page as wind developers? Residents of the county can be inadequately represented and have unfair and unsafe regulations passed to protect them!

Recalled County Commissioners BRIAN KINZIE ensured the citizens of our county “*I feel like if it (implying wind energy) was unsafe ... the state... would be putting more regulation **and tell us what setback should be. “and that not happening”!***

Statement from Parson Sun News, article Kinzie seeks to save his commission seat. Nov 23, 2022

According to Labette County Neighbors United, information from a KORA document reveal that 14 times from **Jan through April 30** Commissioner Kinzie had phone conversations with RWE. *The document can be provided upon request.*

Commissioners Brian Kinzie and Cole Prohel, also on the same page with wind developers **RWE**, had a **KOMA violation**, from a phone conversation, that took place around **April 27, 2021**, and **RWE** was mentioned according to the letter received back from the AG’s office. Three days later on **April 30th** Commissioner Cole Prohel, introduced the following setbacks, and it was passed with the support of Commissioner Brian Kinzie.

Labette County Resolution #2021-31-L (DOCUMENT COPY PROVIDED)

1. Setbacks

a. 1.1 times height of turbine or 500 feet from public roads and non-participating property lines.

b. 1,600 feet from non-participating residences

c. Follow federal guideline for water and wildlife habitat

d. 1 mile from in-locate towns within Labette County. The document can be provided.

Mound Valley city leaders, with the mayor on the same page of wind energy (as he stated that he had three businesses could profit from the development), and family members of the mayor on the council and all related to other family members with **RWE leases**, and rest of the city council reluctant to they chose **NOT TO ADOPT** setback distances through zoning. Therefore all of Mound Valley City setback distances were based on the county.

None of the three cities that RWE leased on their city borders passed zoning, neither did any of those cities hold town-style meeting to hear from their residents.

Bartlett Kansas is an un-incorporated town in Labette County where a **USD 506** Grade School is located and the school yard is the distance of a 30' alley from the city limits. The resolution passed in 2021 gave the school 1630 feet from turbines locations.

BARTLETT USD 506 GRADE SCHOOL



According to setback Bartlett school property would have 1630 feet protection from TURBINE location

School property is located 30' to the City Limits outlined Highlighted in yellow!



City of Bartlett received setback protection of only 1600 feet from turbine as it is an unincorporated city

BARTLETT COOP ELEVATOR

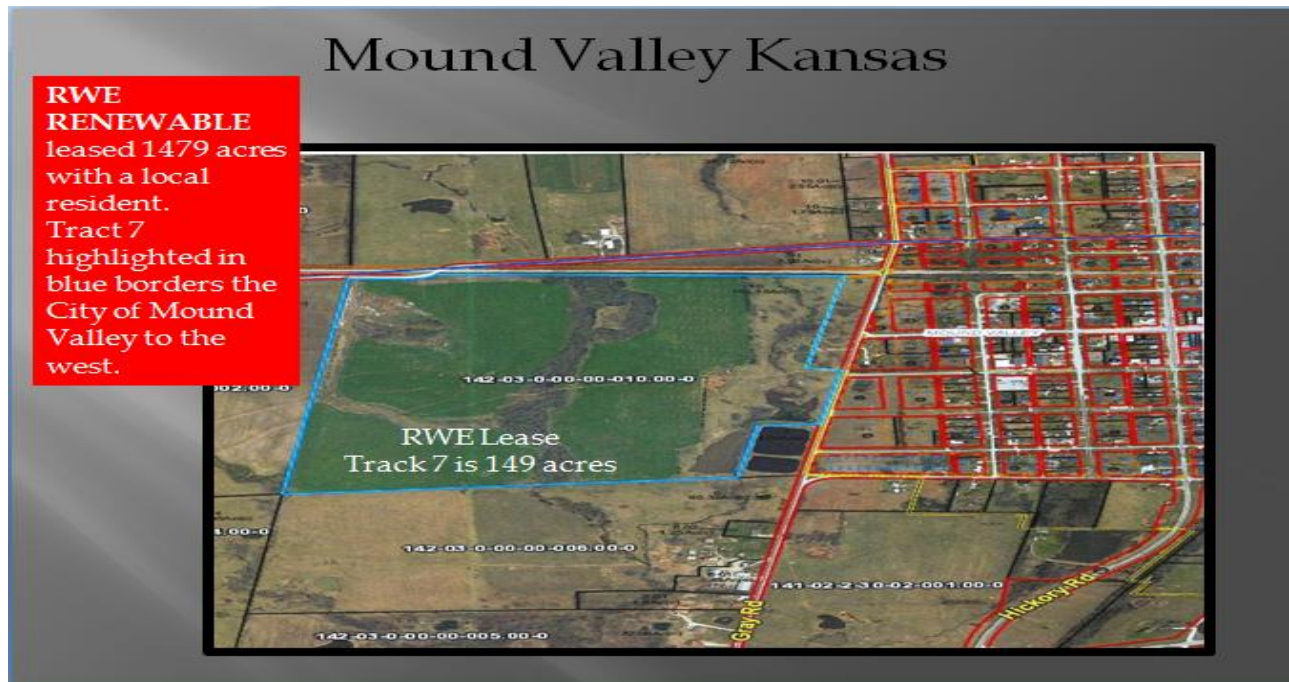
AERIAL VIEW CITY OF BARTLETT

Grain elevators are a friend to the rural community, protect them with safe setback distance!



Without laws to stop leasing before regulatory setback for turbine locations wind developers are permitted to lease in areas they should never be turbines set to operate.

Mound Valley – Wind Developers **RWE RENEWABLES** leased 1,479 acres with a local resident. Track 7 outlined in blue is a 159-acre track, bordering the city on the west about half of the length, and as close as **875 feet** (more or less) from the Mound Valley grade school at one point.



Tract seven enlarged below to show how close it is to the city and our grade school.



Months later, under pressure Commissioner Cole Prohel out of the blue asked to resend his resolution and just as fast as setbacks were put into law, they were removed! So today with over 21,000 acres leased we have NO setback protections for turbines.

And the next resolution concerning setback distances, may give the incorporated cities 5280 feet, and it may not. It may provide the unincorporated cities and the rural residents 1600 feet, and it may not, and it might provide K-State, Kansas fish and game, and lakes, and state highways in leased areas 500 feet – but it may not!

From what has taken place in Labette County we know we can't leave certain areas unprotected from setback distances as wind energy cannot be trusted to lease in areas.

Our safety, the safety of school children, the safety of those driving down a state highway, or enjoying themselves at the Kansas Fish and Game lands, or at state parks, and lakes across the state are in your hands, as you have before you a Senate Bill that will provide that protection of safety as. **There is more than enough research and evidence brought to your attention to support the recommended setback in this bill.**

In Closing; the State of Kansas has an opportunity to assist the counties through Senate Bill 353 and provide setback regulations that are equitable and fair statewide, that consider citizens' safety and health above all!

I know that consideration for home rule is important so I hope that you will remember to let home rule, rule where it can, but because home rule may be inequitable to the citizens due to the influence of wind energy as we have witnessed in Labette County establishing state-mandated setback distances would keep what happened here from ever taking place again throughout the state.

It is not wise leaving decisions of this magnitude solely to county commissioners and leaders of small cities, where everyone knows everybody but very little about wind energy to adopt and place safe regulations to protect the citizens.

Absolutely it would be unfair not only for Labette County and other counties but also to our state if the **Utilities Committee** does not aggressively defend or look into these matters.

Debra Witwer Cramer
Mound Valley, Ks 67354