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# UNIVERSITY OF ILLINOIS WIND TURBINE PROJECT

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### Turbines declared a nasty neighbour as secret buyout is revealed



Peter Rolfe, Sunday Herald Sun, 1-30-11 (New Zealand)

Noel Dean and other residents believe the Waubra wind farms have caused medical problems. Picture: Tony Gough Source: Herald Sun

### <u>VICTORIANS</u> who have endured health problems from a nearby wind farm have been gagged from talking in return for the sale of their land.

Spanish multinational energy company <u>Acciona has been quietly buying farms</u> adjacent to its site at Waubra, near Ballarat, as an increasing number of residents in the tight-knit community complain of the <u>ill-effects of living</u> near turbines.

Since the wind farm started operating in July 2009, about <u>11 houses in the area have been vacated by people complaining of noise problems.</u>

Acciona has bought at least another seven houses, the purchase of two of which appear to have been prompted by the new State Government's threat to shut down the farm unless noise and permit conditions were met.

Locals in the tiny town of 700, 35km northwest of Ballarat, say the <u>sales took place on the proviso landowners</u> would not talk about the price of the purchase or negative health effects they blame on the wind farm.

Residents who refuse to move have accused the company of trying to buy their way out of trouble.

Noel Deans moved from Waubra to Ballarat 18 months ago because he could no longer stand <u>headaches</u>, tinnitus and poor health he believes are caused by high-frequency vibrations from turbines.

"The word is they're buying everyone out and buying some of the other properties nearby just to hush them up," he said.

"They know that we can't fight them. We can't win.

"They make you suffer so that you just want to get out of there. They know that it gets to you emotionally and physically."

Mr Deans refuses to sell his property because he does not want future generations to suffer like his family. He only returns to the farm when he has to -- about once a fortnight -- and says every time he does he <u>gets head</u> pain within five minutes that takes up to 10 days to go away.

Doctors' certificates seen by the Sunday Herald Sun back his claims.

"Once (the vibrations) get inside the house it bounces off the walls and makes you feel sick," Mr Dean said. "If you're exposed to it outside it goes into your inner ear and affects your balance. It's put tinnitus in my ears which stops me sleeping."

He has met the company to discuss his concerns, but said they would only take statements, not answer his questions.

"I said 'I don't want you to buy me out. I want you to fix the problem'," he said. "It's hell on Earth living out there. That's what it is.

"And there's nothing we can do about it. It's a bloody terrible thing.

"It's knocked us around. We're in limbo. We've lost two years of our life and we don't know where it will end. I've put nearly 40 years into that place. It's prime property that I was going to pass down to my son. What am I going to do? I can't work there without being ill."

Former National Trust chairman Randall Bell, now president of Victorian Landscape Guardians, said wind farm companies had a reputation for pulling out their chequebooks to make a problem go away.

"What they do is make people sign gag agreements which dictate that they can't speak about the sales or their health," he said.

"It's a way of shutting people up."

Acciona generation director Brett Wickham said there was no proof wind farms affected people's health, and the plant, which employed about 70 people, was generally well accepted.

He said the most recent two houses bought by Acciona were purchased in September and October last year, when noise levels detected on the property were in breach of the company's planning permit.

And he said confidentiality contracts used by the company were "standard practice for the industry".

"Most of the landowners have actually sought confidentiality agreements as well," he said.

"They are what they are."

But Karl Stepnell, who moved his wife and three children out of Waubra after <u>sleepless nights</u>, <u>heart palpitations</u>, <u>ear pressure and nausea that began when the turbines started turning</u>, disagreed.

"They have bought a lot more houses than seven. There are empty houses all over the place," he said.

"We're all for green energy, but there have to be more conditions on what the wind companies can do."

Planning Minister Matthew Guy, who has the power to shut down the wind farm if it does not comply with its permit, said the Government was watching closely to ensure that wind farm operators played by the rules.

"If they are not complying with their planning permit, I would close it down," he said.

"Just as someone who doesn't comply with a building permit or doesn't pay a parking fine would be in trouble, so will they."

A Senate inquiry into the possible adverse impacts of wind farms will be held later this year.

Web link: <a href="http://www.heraldsun.com.au/news/victoria/turbines...">http://www.heraldsun.com.au/news/victoria/turbines...</a> (windaction)

The abandoned homes are set back twice the distance of many homes in the U.S. which average one-quarter mile (1,320 feet) setbacks from the turbines. These are 1.5 MW turbines setback one half mile (800 metres) from homes.

Kim Schertz POB 347, Hudson, IL 61748 309-726-1168 (532-4424) kdschertz@frontier.com

http://lifewithdekalbturbines.blogspot.com
www.AdamsCountyWind.com
www.informedfarmers.org
BetterPlan.SquareSpace.com
www.windturbinenoises.org
www.windfallthemovie.com
NoWindFarms.com
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NoWindFarms.com

### What a difference a year makes...

... Installations of wind energy by the end of 2010 stood at 1,634 megawatts, down 72 percent from 2009, and the lowest level since 2006.

As we all welcomed the new year, wind proponents were quietly looking back and wondering how the breathtaking momentum coming into 2010 could turn to a mere whimper twelve months later.

You may recall that 2009 saw the largest increase in installed wind energy in the United States — 10,000 megawatts — bringing the total installed to just under 35,000 megawatts. Wind led the pack for three years straight as the fastest growing source of new electricity generating capacity. The 'green revolution' was underway, green jobs were all the rage, and renewable energy advocates felt their view of an America run on wind and renewables was more real than fantasy. The rapid expansion came about despite a stubborn global recession and some believed wind development might be immune to debt pressures other industries were reeling from. With the Obama administration committed to national polices that would spur further wind development, 2010 was expected to bring even greater expansion.

In December 2009 American Wind Energy Association's CEO, Denise Bode, was spilling over with confidence when she boasted "We're shovel ready, ready to rock and roll, and we can get to 20 percent [of US energy generation] easy, clearly by 2030."

As lead cheerleader for the wind industry, Ms. Bode's enthusiasm is understandable, but there comes a point when reality quiets even the most enthusiastic voices.

By June 2010, the industry was reporting that only 539 megawatts of new wind was installed, one-fifth the capacity added in the same period of 2009 (2,800 MW). By December, total installations of wind energy stood at 1,634 megawatts, down 72 percent from 2009, and the lowest level since 2006.

AWEA's latest press release omitted this number altogether and only proffered simplistic reasons for the decline ranging from Congress' failure to adopt long-term energy policies to coordinated anti-wind campaigns funded by the fossil fuel industry and led by the Wall Street Journal editorial page. But the factors contributing to wind's spectacular fall are much more complex as we address below.

### Reality factor #1: The Copenhagen and Cancun non-events

With the Kyoto Protocol set to expire in 2012, the wind industry looked to the Copenhagen Climate Conference (December 2009) for a strong agreement that would commit the U.S. and the rest of the world to shifting away from fossil fuels and establishing a clear mandate for renewable energy. But the Conference was tainted by emails leaked from the University of East Anglia's Climate Research Unit that raised doubts as to the veracity of existing global warming data. Little was achieved in Copenhagen beyond assurances that participating countries would meet again. By the time the Cancun meetings convened in December 2010, expectations were purposely set low. World leaders again delayed the task of extending the Kyoto pact which created uncertainty in the global carbon markets and frightened investors about the future of renewables. This was one of the reasons for China's Huaneng Renewables Corp. yanking its \$1.28 billion initial public offering.

### Reality factor #2: Wind's high cost

AWEA attributed the explosive growth in 2009 to the American Reinvestment and Recovery Act (ARRA) and the Section 1603 investment tax credit (ITC). Under this new subsidy, developers could recover up to 30 percent of their capital costs from the government as direct cash outlays.

Projects that otherwise made no economic sense became viable with Section 1603 grant money. In other cases, applications were pushed up in order to take advantage of the grants before the program expire at the end of 2010. While the new subsidy helped move wind projects already in the 2008/2009 development pipeline, the drop in new wind capacity in 2010 proved how limited the benefit was.

What really stopped wind in its tracks were low power prices brought on by a contacting economy and surplus natural gas supplies.

With natural gas selling at record lows and supplies expected to be abundant through this decade, developers were under pressure from investors to secure power purchase agreements with utilities. Most power-purchase agreements we've reviewed lock in the purchase price of wind for 15+ years at 2-3 times more than the wholesale price of traditional sources of generation. While above-market purchase agreements may have a stabilizing effect on energy prices for wind, they do so at an excessive price to ratepayers. Utilities were resistant to contract for higher-priced renewables unless required, or incented, by State law.

Come 2010, states were also unwilling to burden consumers with higher rates particularly during difficult economic times. Last June, Kentucky's Public Service Commission disapproved a power purchase agreement signed between Kentucky Power Company and FPL Illinois Wind, LLC involving a 20-year agreement to acquire 100 megawatts produced by FPL's Lee-DeKalb Wind Energy. The Commission cited two reasons for denying approval: 1) Cost - the 4.3 cent per kilowatt hour price was too expensive and 2) Supply - the state already had a sufficient supply of electric generation. Kentucky does not have a renewable energy standard thus no renewables obligation to satisfy. If Kentucky had such a mandate, the Commission may have had little choice but to approve agreement and the price would likely have been at/near double the 4.3 cents.

It's no surprise why the wind industry is anxious for the federal government to adopt a national renewable standard. Such a policy would create a set-aside power market that pays a premium for wind energy regardless of need and eliminates competition from lower-cost, more reliable fuel options.

Looking to <u>offshore wind</u> development will not ease the cost question. In 2010 we learned the true cost of offshore wind development thanks to deliberations in Massachusetts and Rhode Island involving the power purchase agreements for Cape Wind and Deepwater Wind respectively. Both agreements were approved representing the <u>most expensive electricity in the country at 18.7 cents per kilowatt hour</u> (Cape Wind) and <u>24.4 cents a kilowatt hour</u> (Deepwater Wind). As expected, both approvals were immediately appealed.

### Reality factor #3: The Great Transmission Debate

Generous state and federal subsidies are skewing the power market such that on-shore wind energy facilities can afford to be located in remote areas despite locational price penalties meant to discourage remote siting. As a result, rather than working to keep deployment of transmission to a minimum, renewable energy facilities are fueling the race to build thousands of miles of new transmission capacity where none was needed before. Wind-related power line construction is now proposed nationwide with costs forecasted well into the tens of billions of dollars. Texas, alone, has approve five-billion dollars to finance transmission to deliver West Texas wind to eastern parts of the state. New England is forecasting between \$10 and \$25 billion (depending on the plan) to deliver in-region wind to population centers around Boston and Southern Connecticut.

Wind development has already bumped into significant transmission constraints in Texas, the Pacific Northwest and New York. And the battles over siting and cost allocations are already raging in every region of the country including New England, California, Maryland, Texas and Montana.

The cumulative cost and scale of transmission development is far from understood by most regulators especially in areas of the country that have yet to deal with actual applications before them. Commissioner Jeff Davis of the Missouri Public Service Commission -- a state that is facing extensive transmission build out for wind -- published a piece in Transmission and Distribution Magazine that should be required reading for anyone looking at transmission in their State.

### Reality factor #4: Aesthetics, the environment and quality of life

Opposition to wind energy proposals intensified in the last few years. By 2010 wind developers who approached communities felt the effects of the growing backlash. People who raised concerns about property values, health effects, the adverse impacts to wildlife etc. were responding to years of being marginalized and dismissed as NIMBY ("not in my backyard"). The clash over whether to produce 'nonpolluting domestic energy' or protect our communities and the natural environment was more frequently seen as a false choice borne out of a pie-in-the-sky belief that wind (and solar) could reliably power a substantial segment of this country.

The degradation these enormous sprawling industrial complexes brought to our cultural and visual resources was better understood in 2010 than even two years before as more turbines were pushed through the approval process. Our colleagues in Texas describe West Texas as an alien landscape where one can drive for miles and miles (and miles) and see nothing but wind turbines. The nighttime experience is even more surreal with the blinking red lights.

Many of our readers know about the <u>turbine noise problems</u> in Maine (Mars Hill, Vinalhaven), Illinois (DeKalb County), Wisconsin (Fond du Lac County) and so many other communities across the U.S., Canada, and worldwide. In Oregon, Caithness Energy is not so quietly buying out landowners who worry their homes will become uninhabitable once the giant Shepherd's Flat project goes online. Despite efforts by the industry to discount and discredit Drs. Nina Pierpont and Michael Nissenbaum, their research has been found credible by many.

The impact of turbines on wildlife is also taking a toll on wind development even as the industry resists acknowledging a problem. Last summer, the U.S. Bureau of Land Management (BLM) suspended indefinitely the issuing of wind permits on public land over concerns the turbines would slaughter protected golden eagles.

In a civil suit filed in the District Court of Maryland, the judge found that the Beech Ridge wind energy facility (West Virginia) was in violation of the Endangered Species Act involving the listed Indiana Bat and ordered the developer cease construction on additional turbines until an incidental take permit could be issued. Direct testimony by the developer's own expert predicted more than 135,000 bats would be killed by the turbines, through a combination of direct impacts with the turbine blades and barotrauma. The settlement agreement filed with the court included a condition that the developer permanently abandon thirty-one turbines nearest the Indiana bat hibernacula (about 25% of the overall project). A second civil law suit raising similar issues was just filed against another project in neighboring Maryland.

Aesthetics and cultural concerns also pose an issue for wind. In December, a federal judge granted the request of the Quechan Indian tribe for a temporary restraining order halting construction on the first massive desert solar project authorized on public lands. If built, the project would be one of the largest solar power facilities in the world. The Court ruled that the BLM failed to adequately consult with the tribe regarding 459 cultural resources in the area. This order will have a chilling impact of other renewable energy proposals including wind development.

There are other stories we are tracking that cover conflicts between turbine development and military readiness and air navigation that will likely place more pressure on the industry in the next year.

### Looking forward

Six years ago, wind energy development was a boutique industry and the impacts of its development isolated. As a percentage of overall generation -- 1.5% -- wind is still a boutique industry. Surprisingly, it took just 36,700 megawatts of installed wind capacity to hit up against significant barriers to entry. And grand, yet untested, goals of supplying up to 20% of the U.S. power market will continue to raise concerns around cost and impacts.

The "hurry up and get it done" mentality behind the renewables push in the United States coupled with the billions in taxpayer money made available to anyone who showed up has left no time for communities, businesses, or governments to consider the conflicts and consequences of their actions. And the wind industry has not helped its image by wrapping itself in the green cloak while doing little to address the harm the turbines cause.

In an editorial from a few years ago, we asked how many towers needed to be erected, how many view sheds and natural/cultural resources marred, how many dollars squandered and how many lives tainted by poor decisions before the process slowed to a point where we could evaluate the consequences.

Perhaps 2010 is a signal that we've reached that point -- or at least we hope so.



### WIND ENERGY SCREWS:

Taxpayers

84% of the \$1.05 billion handed out by the US government (stimulus) since September 1 has gone to foreign companies.

"US Wind Turbines: Blame the Europeans-Or Blame Shortcomings on Policy" Financial News 10-3-09

### American Workers

For every green job created, 2.2 were lost in industries harmed by higher electricity costs. (Spain)

"Where Do The Jobs 60? Debate Continues Over Who Benefits from Wind Farm Projects" St Joseph NewsPress 2-28-10

### Electric Rate Customers

The fact that every single...US taxpayer and ratepayer is footing the bill that enables the wind industry to exist, gives all of us the right, and the obligation...to speak out against this giant swindle.

"Spokeswoman Discounts Opinions Of Perry Residents" Batavia Daily News 9-18-09

### The Environment

Renewable Energy is not a free lunch. It is an unprecedented assault on the American landscape.

Lamar Alexander, Senate Environment/Public Works Committee, "Energy Sprawl and the Green Economy" Wall St. Journal 9-17-09

### Two Ways Industrial Wind development Can Affect Rural Counties and Individual Landowners

Industrial wind energy companies are very often based in foreign countries. Leases
last for decades, and are very restrictive regarding any future building on or
development of the land. This affects not only individual landowners, but also rural
communities.

Most wind leases contain 'confidentiality clauses' which legally restrict landowners from discussing issues with others once the lease is signed. Because of this, many issues are not well known, including the possibility that a lien could be placed on the farm without the landowner's consent, or that "farmers with wind generators may lose the option of aerial application of farm protection products, seed, fertilizers, etc. on their farm ground. Possibly more significant is that their neighbor farmers, who have no wind generator(s) and consequently no income from them, stand to lose that option as well." (from the Illinois Agricultural Aviation Association website)

Here are some websites where you can learn more:

http://www.calt.iastate.edu website for Iowa State University Center for Agricultural Law and Taxation (see article entitled: Wind Energy Production: Legal Issues and Related Liability Concerns for Landowners)

http://windenergyleases.blogspot.com (information from independent wind lease expert)

<u>www.flaginc.org/topics/pubs/wind</u> (a nonprofit law firm supporting farmers)

<u>www.agaviation.com</u> (Illinois Agricultural Aviation Association website)

2) How can industrial wind development affect your family, your neighbors, and your community? The development is so new, that most county zoning is not well prepared to protect residents. Illinois Farm Bureau's Farm Week newspaper recently stated "As with any major new project of such scope, there are issues to consider. Are units of local government prepared to properly address and enforce complex and sometimes controversial issues that need to be spelled out in a wind ordinance?"

For a look at what life is like near wind turbines read the August edition of the *Prairie Farmer* magazine, or see:

http://lifewithdekalbturbines.blogspot.com

### Wind Energy 101: From A Landowner's Perspective

114 wind farms planned in IL (17 existing, 6 being built, 11 permitted, 58 proposed, 22 contemplated)

Met towers are 196 feet tall. The FAA requires lighting at 200' so they put them in at 196'. Will you be allowed to farm around the guide wires or will you lose crop production?

Construction Routes – there are two different routes, one for heavy construction, one for employee traffic. Construction projects have been accelerated from one year down to as little as six months. (what are the implications for road congestion, all night construction disturbances, etc.)

Turning lanes into the farm field require an additional sixty feet. Top soil pushed aside then returned will not produce at same rate as undisturbed soil and may require additional fertilizer.

Significant soil compaction occurs from "terrifically heavy" construction equipment (100 ton crane) Support vehicles & pickup trucks can cause as much compaction and tile damage as the large cranes do.

One wind farm began construction in late August-September and mowed down all of the corn before it could be combined – there is no compensation if it is not stated so in the lease.

Drainage tiles are damaged when cut by trenching equipment and then crushed by heavy equipment. Will repairs be done by an ag drainage specialist, or a local plumber with no ag experience?

"It's going to change your farming practices," including limiting equipment size.

There are serious limitations with aerial application and very likely increased costs if you can get it sprayed at all. It affects the properties adjacent to your field as well.

The landowner is providing a power plant site for this company to generate power. You are providing access to the fuel (wind). Leases require leasing of the entire farm, not just the location of the turbines.

A Mechanic's lien can be placed on your entire property if the developer fails to pay the contractors. This can force a Sheriff's sale of the entire property. (Liens were placed on farms in New York)

Leases can last for 50 years with two ten-year renewals controlled entirely by the developer.

The wind company has the right to early termination so you may not get all of the expected benefits.

The landowner has no say in the turbine location on his property unless it is specified in contract.

Leases include the right to repower or relocate turbines on your property any time during life of lease (this means new construction, additional sites of disturbance and heavy equipment damage)

A maintenance clause allows developers to bring back the cranes any time during the life of the project (will tiles be re-crushed and crop reduction due to compaction occur repeatedly?)

Newer leases favor a royalty-based approach where payments are based on the average production of the entire project – this involves more risk for the landowner.

Parent companies do not sign leases – they form LLC's for specific projects which are thinly capitalized. This is not a positive factor in the landowner's favor (there are no assets to take care of future costs).

Taxes of approximately \$20,000 per (2 MW) turbine are the responsibility of the landowner if the company defaults. If the landowner doesn't pay, it can force a tax sale.

\$100,000+ cost of decommissioning is responsibility of the landowner if there are insufficient funds in the bond required by the County or the LLC. Many developers do not begin paying into a decommissioning fund until the 12-15<sup>th</sup> year of the project. If project dissolves before that time, there are no funds. \$100,000 is based on taking down many turbines at once. Decommissioning of one turbine would be much higher.

# Wind Farms and Aerial Application

Advancing Wind Power in Illinois Conterence 2009 Illinois Windworking Group (Panel Session 7-16-09)

Rick Rend Kindle Appicultual Aviation Association Prosident 217-234-9439 or Reedity@ad.com

- 33 years of Aerial Application Experience
- \* Owner/Operator of Reed's Fly-On Farming
- \* Three Air Tractor 502 Aircraft (loaded weight four tons each)
- \* Spend of Application 150 mph while using GPS equipment
- \* Cockpit That's What I Call My Office"
- \* 29 sensi application businesses
- \* 50 aup snes
- STARSON IN
- \* 300 pilots licensed in Illinois (increased from 100 in 2-3 years)
- \* 7 Multion acres of Illinois cropland sprayed in last 2 years
- . The United Nations reports that one billion go to bed hungry each night
- 20% of U.S. lend has achieved maximum productivity
- "Wind Turbines and Aircraft are not Compatible"
- Turning off the turbines to spray does not solve the problem.
   If doesn't matter if the blades are rotating or not.
- Hazards of MET (Meleorological Tosting) Towers
- "By the Time you see it, you are within three seconds of hitting it."
- \* Motto, "Ferry above Five (500 feet) to Stay Alive" but you also have to be able to see the met, towers
- \* Over 200 mot towers in Illinois
- \* Two years ago a friend was killed hiting a met tower
- " Aerial applicators have pleaded with wind developers to mark the towers and provide met tower locations for a database
- \* Eco Energy has initiated discussion about marking met towers
- "I've flown over portions of wind farms that I will not take a loaded plane in. It's not safe,"
- "It's time to see the bigger picture and look past the dollar signs."

 Each ag pilot makes own decision on how much buffer to leave between his sircraft and a wind turbine. He is pilot-in-command

- Offended when professional pilots ero called "Those crazy crapduaters"
- "Has logged 15,000 nows in air
- "Has flown 33 years accident-free
- \* Equivalent to 21 months of in the air
- "The very good at what I do."
- Some pilots now implement extra charges for flying near wind turbines
   it's a fact that the surcharges will become standard.
- The challenge is to maintain officiency Costs \$8/minute to run a turbino sincraft
- . Why can't you just turn them off?
- "Still have 400-500 foot tall abstacles in field
- "Still have 1/4 mile of turbulence downward
- "Still have lurbulence moving the product around
- \* Still have to turn to got out of the hald
- Would need all wind turbines within 1/2 mile turned off
- "Turning them on and off would only work if you turned them off in June and back on in September."
- Why can't you just spray with a holicopter instead?
- \* Only five helicapters operating in the state
- . They have to keep moving like a fixed wing allicraft does
- \* They fly slower, are loss efficient, and cover less acreage Helicopters spray at 60 mph, Aircraft at 150 mph
- Are there any fields in wind farms that have been sprayed? "Yos, I've seen pictures from Elisworth. Subertz Aerial Service sprays in it where they can."
- "Twin Groves Wind Farm near Elisworth looks like God dropped a handful
  of jacks. A healthy percentage of it can never be sprayed by air again."
  (Incer pattern improves the possibility of treating a field)
- -"I'm spraying in a four ton aircraft at 150 mph. Most of my pull-up is around 200 feet. The tailor the turbines, the bigger the problem. I have to circle, to get above the turbines to complete my paperwork on the field I just sprayed. I have to reset my GPS. The increased cost is due to more than just fuel."
- An untreated field with Asian Rust can experience 80% crop tose
- Couldn't more holicopters be brought in?
- "I would imagine they would double or triple their application rates if they were being brought in just to spray in a heatile environment" (within a wind farm)
- . "I am your 911." You only come to me because a ground rig can't get it done."
- What are the charactenstics of a field where you can spray?
  "A lack of wind turbines"

### Wind Farms and Aerial Application

Advancing Wind Power In Illinois Conference 2009 Illinois Windworking Group (Panel Session 7-16-09)

### Jean Payne, IFCA President

- 300+ planes/operators licensed and registered in IL in 2009 by the Illinois Department of Agriculture
- 26,700,00 acres of crop production
  - \* 88% in corn, beans, wheat
  - \* Field crops valued at \$12.8 billion in 2007
- The aerial application industry has grown due to new science and products that improve plant health later in the growing season
- Fungicides developed five years ago to combat
   Asian Soybean Rust have increased yields
  - \* U of I studies show 18-19 bushel per acre increase in corn production with fungicides applied aerially
  - \* Perdue cites a 3-5 bushel increase in soybean production due to aerial application and increased income due to it
- 700 Ag Retailers in Illinois
- Landowners need to clearly understand that aerial application within a wind farm will be limited even under the best circumstances
- Need for Increased Production on Less Acreage
  - \* Population will increase from 6.5-9 billion by 2050
  - \* Climate change concerns will challenge our ability to clear additional lands for growing food
  - \* Corn production has increased 75% in 15 years
  - \* Existing land will have increased pressure on it to become more productive
- Aerial Application is a vital tool in protecting and enhancing crop production

### Iowa State University Center for Agricultural Law and Taxation

Wind Energy Production: Legal Issues and Related Liability Concerns for Landowners in Iowa and Across the Nation 2321 N. Loop Drive, Ste 200 Ames, Iowa 50010

Updated January 22, 2009 by Roger McEowen

www.calt.iastate.edu

### Liability Concerns- When Will Civil Damages Be Awarded to a Landowner?

(Pg. 4)

There are several legal liability issues that may arise from the construction, maintenance, and energy production from wind turbines on agricultural land. Typically, a landowner is required to enter into written contractual agreements before a wind turbine is constructed on the land. It is important to keep in mind that tort liability may be assessed in cases where harm results as a result of a party's negligence with respect to the construction or maintenance of wind turbines. A rural landowner must be careful to specify in any contract that he is not liable for the negligence of others with respect to wind turbines. A farmer may further protect himself from negligence liability by taking reasonable care in the operation of the wind turbines and having liability insurance in place to cover all unexpected claims. Generally, if a farmer is not in charge of the maintenance or operation of the wind turbine, he will be held to a lower standard of care. This does not mean, however, that a farmer or landowner will be immune from liability in a negligence suit.

Nuisance is another common tort in the realm of wind energy production, where a wind farm may interfere with another person's use or enjoyment of his or her property. To be held liable for a private nuisance, the interference must be substantial and unreasonable. It is very rare that a private nuisance claim holds leads to a finding of damages. A public nuisance is an "unreasonable interference with a right that is common to the general public", meaning that it interferes with "public health, safety, comfort, or convenience or is illegal."

Valuation Issues (pg. 5)

The placement of wind turbines on farmland will impact valuation for federal estate tax purposes upon the owner's death. For federal estate tax purposes, the key valuation date is as of the date of the decedent's death. Thus, a long-term wind energy agreement signed shortly before death likely has little impact on the date of death value of the property included in the decedent's estate. Because the agreement will have an initial development/prospecting phase that runs for several years before the primary phase of the easement, there remains uncertainty (as of the date of death) if death occurs within the prospecting phase as to whether wind generation will *ever* occur on the premises. Thus, there should be no valuation enhancement.

However, if death occurs after turbines have been installed and have become operational, IRS could argue for a valuation enhancement. But, there may be offsetting factors. At the present time, anecdotal data indicates that wind turbines have a depressing effect on nearby land values and are a drag on the ag real estate market. Most recent anecdotal data from Illinois indicates that assessed value on farmland is dropping approximately 22-30 percent on farmland that is near land where wind turbines have been placed. Also, the increased risk of getting sued for nuisance has a dampening effect on value.

Likewise, the annual payments, to an extent, are replacement income for the property rights that have been given up in getting the turbines in the first place. Many of the agreements are quite restrictive in terms of potential development of the property, farming activities, placement of buildings, etc. A willing buyer would take all of those factors into consideration when determining what price to pay for the property (IRS test).

Thus, to arrive at the proper valuation of an existing contract, the present value of the contract would have to be discounted in order to derive a value for the stream of payments. That result could then be offset by the factors mentioned above.

At the present time, IRS has not issued any guidance on the matter.

### J. Dennis Hastert 759 John St., Ste. A Yorkville, Illinois 60560 630.553.3628

It has been brought to my attention that large wind-energy developments are being planned in Bureau, Lee, and Warren counties. I am aware of developments already in place in eastern Lee County and DeKalb County in northern Illinois.

During my tenure as Speaker of the U.S. House of Representatives, the House passed through energy bills each designed to use the extensive oil, natural gas, and coal resources that are located here in the United States and to do this with very little government subsidy and/or tax credits. My feeling was that if we unbridled the free-enterprise system, American capital would be used to develop American energy. These resources could and would be developed and used in an environmental friendly way while creating American jobs, and meeting America's energy needs.

As the political tables were turned, Washington under the leadership of President Obama and a Democratic Congress changed America's energy dependence from use of American resources to a reliance on what are called renewable energy resources. They basically shut down any new coal and/or nuclear energy development and instead insisted on solar and wind energy. Wind and solar today furnish less than 2% of our energy needs. Neither are cost effective when they stand by themselves, but must have government subsidies and tax credits to make them economically feasible. These costs are born by American taxpayers and energy users. In addition these solar and wind programs are not feasible unless they have an electric grid system to carry electricity to densely populated areas or user centers.

Wind energy developed in the windy prairie states or solar developed in the desert are generally located a long distance from dense user areas, hence they tend to be non-economic. The

U.S. government, under the direction of President Obama and the Democrat Congress that

mandated all energy companies had to produce at least 15% of their energy from renewable sources.

Unfortunately for the northern Illinois area we are one of the few "wind producing" areas that are

close enough to an existing electric grid also close to large metropolitan "dense user" areas.

Florida Power and Light, BP and many other large energy producers are scrambling to build

wind farms close to the greater Chicago grid because they are being forced to meet the 15%

production level in only a few years.

The unintended consequences of this latest big government forced mandate are many. Are

these projects economically feasible or will they ever be? What are the potential health hazards and

what set back provisions should be in place? What siting provisions have been passed? Upon the

ultimate decommissioning of these projects, will the cost of removal and reclaiming of the land fall

on whose shoulders? The landowners? The counties that sited the projects? Who? And finally how

long of a productive life is guaranteed by wind farm developers? What's the possibility of an

economic change or a shift in public policy and these projects are abandoned or the renewable energy

standards are proven to be impracticable and/or uneconomic?

These questions need to be answered by responsible siting authorities across Illinois.

Dennis Hastert

Speaker, U.S. House of Representatives, retired

Dennis Hostert

### Like Chinese water torture

January 19, 2010 in Caledonian Record - NH

There has been much discussion lately about industrial wind power on Vermont's mountains. The Lempster, N.H., turbine site is often used as an example of a typical wind tower site, especially after Green Mountain Power's Dec. 5 bus trip for Lowell residents.

I am a Vermont resident, but I have an insider's perspective of the Lempster site. I own two pieces of land on Lempster Mountain, one of which has been in my family for over 70 years.

There are <u>12 turbines</u> in Lempster, but because they are artfully sited on a mountain with a wide top, most of them appear to be tucked into the terrain instead of strung along a steep ridge in an intimidating line, like marching metal monsters from War of the Worlds. Because of how they are sited and the rolling terrain, it is difficult to see more than a handful of these towers from most viewsheds in Lempster.

I was in Lempster on Dec. 5 when Lowell area residents were visiting the site. During the entire time I was there, the <u>blades of the turbines were most likely free-wheeling</u> (not generating electricity) in the gentle breeze. <u>When a turbine is free-wheeling it hardly makes any noise</u>, and the blade tips are only barely bent backwards, such as was the case that day. I recently read a comment from one of the Dec. 5 bus riders, <u>expounding on how quiet wind turbines are</u>, based on what he heard that day.

Oh ... I wish it were true.

When turbine blades are spinning in an average decent wind, the tips of these blades are moving at about 180 miles per hour and are bent back severely because of resistance to the wind. This resistance to the wind, plus the high speed of the tips, causes turbulence, which creates noise. The noise sounds like that of a stiff wind when one stands only a couple hundred yards away from the towers. But when one stands at a spot ½-mile to over 2 miles away, the sound is a low, dull, penetrating, throbbing series of never-ending pressure waves - hour after hour, day and night, sometimes for days on end, like Chinese water torture.

The Lempster turbines have been operating for about a year now. While I was hunting there this year, I noticed that I didn't need a compass to orient myself in the deep, dark woods **2½ miles away** so long as the turbines were throbbing.

On Dec. 5, I talked to two people who work for the town of Lempster. They told me that <u>people</u> are grieving their taxes because of noise. They also told me that the wind company has turned from being Mr. Friend before the project to being Mr. Foe now. The company is contesting the town's assertion that the company's massively heavy machinery caused road damage.

Will Vermont learn from the experiences of others? Not if people don't have the facts. I submitted this piece to the Burlington Free Press two times and they never even contacted me.

Web link: Justin Lindholm" (Windaction)

### Turbine complaints focus on noise

1-23-10 by Laura Horihan in The Post-Bulletin - MN

The most common complaint from neighbors or prospective neighbors of wind turbines seems to be the noise. "My biggest concern is the noise," said Goodhue resident Rick Conrad said. "I don't mind looking at them, but I worry that if I'm out in my yard I will be hearing these things."

Conrad owns 80 acres, works in town and rents his farm land to a neighboring farmer. "I'm not against wind energy at all," Conrad said. "I'm for alternative energies, but it doesn't need to be done with industrial turbines. I think we should be looking at solar facilities."

When Conrad was offered a wind lease, he chose not to sign because he didn't want to "give up rights" to his property. Several residents in Goodhue County formed a group called Goodhue Wind Truth in reaction to proposed wind farms near Goodhue.

Conrad said <u>developers have told people the wind turbines will sound similar to refrigerator,</u> <u>but Conrad describes the sound as a "modulated power hum</u>." "When you live out in the country, you live there because you want to get away from noise. You expect it to be quiet," Conrad said.

All three complaints filed to the Minnesota Public Utilities Commission about wind turbines statewide concerned noise, said Tricia DeBleeckere, an energy facility planner for the Public Utilities Commission.

In two of the cases, mechanical gears needed to be repaired, DeBleeckere said. The third complaint also involved noise, but the state found that the turbine was compliant with the state standards, she said.

State noise requirements vary depending on the time of day and the location of the turbine, but DeBleeckere said <u>most developments are held to a 50-decibel standard at a maximum,</u>

<u>DeBleeckere said. Rural Harmony resident Brian Huggenvik believes the PUC should consider putting limits on low frequency sound emitted by wind turbines.</u>

Huggenvik's property borders the proposed 200-megawatt EcoEnergy wind farm west of Harmony.

A study called "Public Health Impacts of Wind Turbines" prepared by the Minnesota Department of Health Environmental Division has concluded that low-frequency noise from turbines does affect some people.

According to the study, common complaints have been annoyance, sleeplessness and headaches. The study said most available evidence suggests that reported health effects are related to audible low frequency noise and complaints appear to rise with increasing outside noise levels above 35 decibels.

The study found that low frequency noise from a wind turbine generally is not easily perceived beyond one half mile and that shadow flicker isn't an issue at most distances over three-fourths of a mile for most turbines.

Huggenvik has attended several public hearings in both the Harmony area and the Twin Cities regarding the project. "Our claim is that the setbacks just aren't enough," Huggenvik said. "We think a 2,000-foot setback, similar to what has been adopted in Wisconsin, would mitigate almost all the problems with flicker and sound."

He's also concerned that the wind farm could be unstable because it will be constructed in an area littered with sink holes. He plans to ask for an environmental review of the project during an upcoming hearing. "We're not out to stop the project," Huggenvik said. "We just want to make sure it's safe."

Web link: http://www.postbulletin.com/newsmanager/templates/localnews\_story.asp?z=28&a=435210" (WINDACTION)



### WIND ENERGY SCREWS:

Taxpayers

84% of the \$1.05 billion handed out by the US government (stimulus) since September 1 has gone to foreign companies.

"US Wind Turbines: Blame the Europeans-Or Blame Shortcomings on Policy" Financial News 10-3-09

### American Workers

For every green job created, 2.2 were lost in industries harmed by higher electricity costs. (Spain)

"Where Do The Jobs 60? Debate Continues Over Who Benefits from Wind Farm Projects" St Joseph NewsPress 2-28-10

### Electric Rate Customers

The fact that every single...US taxpayer and ratepayer is footing the bill that enables the wind industry to exist, gives all of us the right, and the obligation...to speak out against this giant swindle.

"Spokeswoman Discounts Opinions Of Perry Residents" Batavia Daily News 9-18-09

### The Environment

Renewable Energy is not a free lunch.

It is an unprecedented assault on the American landscape.

Lamar Alexander, Senate Environment/Public Works Committee, "Energy Sprawl and the Green Economy" Wall St. Journal 9-17-09

of frequently increasing fuel prices.

Wind power in inexhaustible and renewable, in contrast to fossil fuels, and it is clean. Wind power does not contribute to acid rain, smog, global warming, or mercury contamination. It does not release dangerous particles into the air.

Wind energy is safe. Although the risk exists for industrial accidents in the construction of a wind turbine, the same can be said about the construction of any facility. The risk that the public will be harmed by a wind-power facility is nearly zero. With nuclear power the risk of catastrophe is ever present, and with fossil fuel plants, the danger from fire and explosions is high. There has been only one case of a person's being killed by a wind turbine: A skydiver sailed off course and fell into the rotating blades of a turbine.

Wind power has many uses. Small turbines can power schools, businesses, campuses, homes, farms, and ranches. They can be used in remote locations for telecommunications, ice making, and water pumping, eliminating the need for remote communities to run smoky and noisy diesel-powered generators. Turbines could benefit native communities in small, poorer nations.

Wind power provides jobs. Every megawatt of wind power provides about 4.8 job-years of employment. Wind power also provides exports. It is estimated that by the mid-2010s, 75,000 megawatts of new wind power will be installed worldwide at a cost of \$75 billion. Countries with the industrial capacity to build wind turbines, could capture a share of that growing market, providing employment for thousands of people.

Wind power does not have the hidden costs of other energy sources. Hidden costs are those that society has to pay but that are not reflected in the price of the resource. Such costs include transportation and storage with their risk of causing polluting accidents, air and water pollution, and the health effects of pollution.

### The Cons

Wind turbines can be noisy. Engineers are working on ways to quiet the noise. The best method has been to reduce the thickness of the trailing edges of blades. Noise also has been reduced by placing turbines in an upwind rather than a downwind position. The wind hits the blades first, then the tower, rather than the other way around, eliminating the thumping sound that downwind designs make as the blade passes the wind shadow cast by the tower.

Wind turbine blades can cause shadow flicker as the blades rotate in the path of the sun's rays. The flickering of light and dark can be a minor annoyance for local residents when the sun is low in the sky. Most turbines are set back far enough away from homes and businesses so that shadow flicker is not a concern.

Wind farms require a fair amount of land, about 24 hectares (60 acres) per megawatt. However, the turbines themselves plus service roads occupy only about 1 hectare (3 acres) of the 24 hectares. Land is difficult to find near cities. One solution to this problem is to place wind turbines in shallow waters offshore where possible.

Wind turbines are visible, contributing to visual or horizon pollution. Placing some wind turbines offshore can help lessen this problem. Some people consider wind turbines sleek and attractive, embodying a forward-looking concern for the environment. Wind turbines are no more visible than ski