

Wildlife Groups Share Thoughts On Wind Energy With Legislators
By Colleen Schreiber

AUSTIN – In his first televised interview since winning the presidential election, President-elect Barack Obama told “60 Minutes” reporter Steve Kroft and the world that even with \$60 oil, energy independence is more important than ever.

“It's more important. It may be a little harder politically, but it's more important,” Obama said. “This has been our pattern. We go from shock to trance. You know, oil prices go up, gas prices at the pump go up; everybody goes into a flurry of activity. And then the prices go back down and suddenly we act like it's not important, and we start, you know filling up our SUVs again.

“And, as a consequence, we never make any progress. It's part of the addiction, all right. That has to be broken. Now is the time to break it.”

Wind energy is but one component of the renewable energy puzzle. Given that today Texas leads the nation in installed wind capacity with 5600 megawatts, all Texans have something to gain and perhaps something to lose if the growth of this industry is not handled appropriately. It is the latter that was the focus of a recent Capitol Wind and Wildlife Forum sponsored by Texas Wildlife Association in cooperation with Bat Conservation International.

The targeted audience was Texas legislators. The 81st regular session of the Texas legislature is set to convene on January 13, and wind energy will likely be on the long list of topics that will be discussed and debated. The forum brought together speakers with diverse opinions and perspectives to focus on issues related to critical wildlife resources and the rural heritage as it relates to wind energy.

Glenn Webb, an Abilene attorney who is often a keynote speaker at TWA's wind energy conferences, reminded listeners how Spindletop fundamentally changed the Texas economy and created untold wealth for private landowners.

“Today many people will say a wind turbine is Spindletop in a clean version,” Webb said. “I don't know whether it is or not, but I do believe this is the greatest issue facing the Texas legislature in a generation. The legislation that is crafted in this complex will have a tremendous consequence on Texas people, Texas property and Texas natural resources.”

Kirby Brown, executive vice president of the Texas Wildlife Association, addressed the issue of whether or not there is a need for regulation of the industry. In his opening comments he told listeners that TWA in general supports the renewable industry, including wind energy, as long as habitat and wildlife are addressed appropriately, that neighbors and communities are not harmed and that development does not require government funding, additional taxes or the use of eminent domain.

TWA, an organization whose 5000-some members own or control about 40 million acres in Texas and many of whom already benefit directly from the wind

energy industry, typically opposes more law and more regulation, Brown said. However, as it relates to the protection of wildlife and wildlife habitat, possible wind energy regulation is something that very much needs to be taken under advisement.

“We don’t yet understand the implications,” Brown told listeners. “What we do know is that there is an abundant lack of data in Texas on wildlife, and because there is relatively little Texas-based data we have no Texas-based solutions.”

He credited some of the ongoing research efforts initiated by the American Wind Energy Association and the American Wind Wildlife Institute, but he pointed out that for a state that is number one in wind energy capacity, Texas is still way behind the curve.

He also noted that for the data to mean anything, for it to be of scientific use, the collection process must be standardized. Brown also commented that long-term studies must be conducted. Additionally, the impacts from those long-term studies must be evaluated cumulatively to make a clear and fair determination of how or if wildlife populations and wildlife habitats are being impacted negatively.

“Large-scale habitat fragmentation related impacts are unknown,” he reiterated.

Brown also noted that though wind energy companies collect extensive site-specific data before a project even begins, most refuse to share their data with the scientific community.

“When you talk to these wind companies, they invoke the competitive nature of the industry in not sharing data and the use of confidentiality,” Brown told listeners. “The information on a particular tract of land remains confidential by contract, both with the wind company and with the landowner.”

While TWA fully supports the private rights of individuals, Brown said, all parties must find a way to work together to access and utilize the data being collected without jeopardizing such confidentiality agreements.

“I do think there will be a need for specific legislation that addresses this confidentiality provision,” Brown told listeners.

In terms of research, he cited three priority locales – the Texas Gulf Coast, the Panhandle and the hill country. The Gulf Coast is critically important because of the extensive migratory corridors and migratory populations of waterfowl, neotropical birds, raptors and upland shore birds. In the Panhandle the biggest concern is the impact that wind energy infrastructure might have on the lesser prairie chicken population and its habitat.

“We don’t know why populations of the lesser prairie chicken are declining, but we get good indications from other data associated with greater prairie chickens that they may avoid vertical structures, including transmission lines and wind turbines,” Brown told listeners. “If that is the case, we can

expect a change to the threat level on lesser prairie chickens in Texas, and if the U.S. Fish and Wildlife Service declares the lesser prairie chicken to be an endangered species, all landowners in the Texas Panhandle are going to be impacted as well as most industries.”

In the hill country it is the migratory bat populations and the many bat nursery colonies that cause the greatest concern.

“There are simply places that are going to need to be avoided until we understand this better.”

Another concern of TWA members is the impact that wind turbines have on viewscapes and ultimately land values. In areas where row crops are predominant, wind turbines do not seem to negatively impact land value. However, on native rangeland where recreation and aesthetics are the driving force behind the land value, there does seem to be a negative impact. In this case the use of paired appraisals for land value determination, he noted, is a problem.

“What we’re seeing is when that viewshed is diminished by the presence of wind turbines, then the neighbor’s land value goes down,” Brown told listeners.

Do those neighboring landowners then need to be somehow protected? That is perhaps one of the questions that the Texas legislature may have to address in the upcoming legislative session, he said.

Brown also stressed the need for a standardized contract for landowners to at least have a starting point from which to work when negotiating wind energy deals. He added, however, that even a standardized contract is no substitute for an attorney. Bonding and remediation, he added, must also be part of any wind contract. Not only that, long-term guaranteed remediation bonding should be something that stays with the project to the end, Brown insisted.

He also stressed the critical economic importance of hunting and the hunting heritage to the state of Texas, and wind energy companies, he said, must take this into consideration. Instead of eliminating hunting, wind companies need to work with landowners to come to an agreement on where it can occur, when it can occur and how it can occur.

“We’ve seen a turn-around in the last couple of years, and some companies have taken significant first steps with respect to hunting and wind lease arrangements,” Brown admitted. “The problem is we’re not seeing it across the board. That makes us nervous. If we have 20 percent non-participants, we’re in trouble.”

Brown also pointed to the extensive infrastructure that accompanies wind energy development. Because of that, he said, TWA and its members are concerned about the potential misuse of eminent domain as the need to build more and more substations and transmission lines increases.

“We’re very much a property rights organization and we have a very, very low tolerance for the misuse of eminent domain,”

Brown stressed. "There are a lot of ways for planning to safeguard what goes on, but there is no one watching that right now. That's a concern."

And while there is no doubt that wind companies have done an incredible job of putting new dollars into many rural communities, TWA is concerned about the practice of local tax abatement practices and how that affects rural communities long-term on issues like local property taxes, and statewide school funding mandates.

"Those are questions that we have yet to get good answers for," Brown commented. "Should we be encouraging development that can't stand on its own?"

Brown concluded by reiterating the organization's stance on wind energy. Specifically, that they favor reasonable wind regulation, transparency in contracting to protect private landowners and siting specifications that protect natural resources, property rights and promote the most reasonable and prudent industry standards.

"We want to encourage development of 'model' wind farms which implement setbacks on boundaries to reduce impacts to neighboring viewsheds, that address and openly participate in research on the impacts on wildlife and habitat in order to reduce the overall footprint and cumulative impact of fragmentation caused by wind energy."

A panel of representatives from various state organizations followed up with more thoughts and perspectives. Carter Smith, executive director of the Texas Parks and Wildlife Department, started off by reminding listeners that wind energy is a "very topical natural resource issue, one that has far-reaching implications for the fish and wildlife and natural lands and water of this state."

The department, he said, does not have a position on wind energy development, just as it does not have a position on solar energy, geothermal, nuclear, oil and gas energy, etc.

"What we do have a position on is the conservation of our fish and wildlife resources," Smith said, "and we are charged with ensuring they are well protected and they are well stewarded for future generations. We take that charge very, very seriously."

It is because of that charge that the department is "always looking through that lens" when evaluating the impacts on a landscape and the natural resources.

He summarized the department's key roles and priorities with respect to the wind energy issue as three-fold: heightened research, additional work on siting guidelines and recommendations, and education and outreach with all participants.

Research, he said, is critically important.

“While wind energy development is still very much in the formative stages, it is accelerating at a rate that is far outpacing our research initiatives,” he stressed. “I think it is very critical that all of us, particularly this agency, expedite efforts in that area.”

Such research, he added, must address landscape level impacts, population level impacts, and the cumulative impacts on the state’s fish and wildlife resources. He mentioned two key research studies underway in partnership with wind industry and private landowners and universities in two of the hotspots in the state. A project in the Panhandle is looking at impacts on lesser prairie chickens and associated wildlife in the grassland systems in the High Plains. Another project is focused on neotropical migrant bird use along the Laguna Madre on the Gulf Coast.

With respect to voluntary guidelines, TPWD initiated a multi-stakeholder process about a year and a half ago. However, he said, the parties involved “did not get over the goal line. Ultimately, it failed. Some of that was due to the process and some was due to philosophy and some was due to personalities,” he told listeners.

What is available from the department is a set of statewide recommendations on best practices for wind industry development meant to be shared not only with wind energy companies but also private landowners to use in the planning process. The best practices were put together with input from the wind energy side as well as parties on the non-government conservation side. He admitted that there are some drawbacks to not having a document that everyone has agreed to and signed off on.

“It is what it is, given the political realities right now,” he commented.

The department is working on refining the guidelines to make them more eco-region specific, and more relative to specific issues that wind energy developers will confront whether developing in the High Plains, the Gulf Coast or the Rolling Plains.

Finally, with respect to education and outreach, the agency’s own private lands advisory committee charged the agency with “thinking much more deeply about the operation and management of those wind farms,” Smith said. “Perhaps we need to look at what a Lone Star Land Steward (award winner) would look like who was a wind developer.”

Dr. Andy Kasner, representing Audubon Texas, told listeners that the group’s position on wind energy is generally very positive. Like other panelists, however, he pointed out that Texas is behind in terms of evaluating the potential damages or risks to wildlife.

“Our basic issue with respect to wind is site-specific,” Kasner noted. “It boils down to whether or not a particular location is an appropriate site for wind farm development relative to risk to wildlife or plants.”

He reminded listeners again of the significance of the Gulf Coast with respect to migratory birds, and in so doing stressed by example the need to locate new wind farms wisely.

“We are sitting on one of the biggest migratory flyaways in North America, and our Texas coastline represents a very important migratory stopover for many of those species,” Kasner said. “It’s not a good place to put wind turbines.”

He stressed the need for a rigorous site by site evaluation before wind farms are put on the ground. That evaluation must include scientifically and adequate monitoring pre-construction. Just as important is the follow-up monitoring using what he called “rigorous methodology” to look at such things as mortality rates and displacement of other wildlife to make sure that the risk assessment done beforehand matches up with what is actually happening after the turbines are in place. Additionally, he said, such studies must be done in an appropriate duration.

“We all know mortalities occur. No one is trying to shut down wind,” Kasner reiterated. “Our goal is to learn together to make sure that we do wind development in the best possible way in Texas.”

The one final point he made with respect to research is that the results of such studies must be transparent.

“There is a lot of work done on the ground that is never shared. We need to make that process transparent and make sure that we can evaluate the decisions made on the ground and learn how to include those decisions in the future with good science.”

With respect to whether or not the wind industry needs to be regulated, Kasner said Audubon Texas does not have a position. He pointed out that some companies are already doing a good job of holding themselves to a high standard, and some “wildcatters” do not.

“If we put regulations on the ground and if we don’t do it carefully, we’re going to raise the standard for those wildcatter companies but lower the standard for the big companies that are already doing it right,” he pointed out. “We don’t want that to happen ... we need to make sure that the standards are high for everyone.”

Conservation scientist Ed Arnett, representing Bat Conservation International, echoed what other panelists said with respect to supporting the development of alternative energy.

“BCI is clearly in support of developing alternative energy resources. No question about that. It’s not if; it’s how,” Arnett told listeners.

That said the organization has some concerns about the cumulative impacts of wind energy development, particularly as it relates to bird and bat mortality. Specific to birds, it is the passerines, the songbirds, which are the

most common wind collision fatality. He attributed that largely to the fact that they are the most abundant.

The limited documented research to date, Arnett said, indicates that in general the fatality rate of songbirds is about three birds per megawatt installed or about 40,000 or so annually. However, based on projected future installed capacity, that figure is projected to approach a million. Fatalities, he noted, are typically highest during spring and fall migration, though the number varies as well with weather and other behavioral factors.

He noted, too, that expanding developments into areas where there are high densities of birds, such as along coastal areas, and increasing the turbine height may increase passerine fatalities in the future.

With the exception of Altamont Pass in California, the site of one of the oldest wind energy projects in the nation, raptor mortality due to wind turbines is typically minimal, yet it is raptor losses that get the most attention, Arnett said. Limited research indicates that annual raptor losses amount to about half a bird per megawatt. At Altamont Pass, however, on average 1100 raptors are estimated to be killed annually at this particular facility.

“It also appears that raptor fatalities appear to be greater at sites where older turbines are found, which may contribute to some of the fatalities at Altamont. It is, however, also a very high-use site in terms of raptors.”

Mitigating bird fatalities, Arnett stressed, begins with proper siting and avoiding developing in high risk sites in the first place. He also noted that some adjustments in the micrositing process may be a mitigating option for raptors, as research suggests that moving turbines away from escarpments reduces raptor mortality.

There is also continuing research and development on deterring and alerting devices, but Arnett said such efforts have produced mixed results.

The impact of wind energy development on the bat population is just as critical as it is to the bird population. Not only are bats critical to the biological diversity of the ecosystem, they also play a critical role in protecting crops and reducing the use of pesticides, which ultimately amounts to savings of big dollars and cents. A research project conducted in 2007 indicated that Mexican free-tail bats contributed an estimated average annual savings of \$741,000 to the cotton industry in just eight counties in South Central Texas, Arnett said.

Additionally, in places like Austin, bat viewing has become a multi-million-dollar economic investment.

Limited research, Arnett said, indicates that bat fatalities appear to be highest in the eastern U.S. Much higher than expected fatalities are also reported in open prairie habitats in Alberta, Canada, and mixed agriculture forest lands in New York State, but there is a dearth of information on the Southwest. Though bat fatalities are heavily skewed toward tree-roosting bats,

there have been a large number of pregnant Mexican free-tail bat fatalities at a few sites as well.

As with birds, the highest fatalities appear to coincide with migration patterns during mid-summer and fall. Research also indicates that bats are perhaps attracted to turbines as possible nesting sites.

Arnett stressed again that mitigating starts with proper site selection and the avoidance of high-risk areas such as the hill country, which is known to have high concentrations of bats. Once turbines are erected and running, there are minimal options. However, curtailment of operation during high-risk periods such as peak migration and possible deterrent and alerting devices are being studied and considered.

As with other panelists, Arnett pointed out the need for long-term research projects that incorporate consistent, precise sampling methods. Adequate funding for such research, he said, is also critically important.

Arnett also reiterated the need for transparency and information sharing by all parties involved in wind energy development.

“We have a huge dearth of information,” Arnett commented. “Currently, decisions are being made daily that are largely based on unreliable knowledge. We absolutely have to accelerate the research activity to develop a solid scientific basis for decision-making.”

Education and information exchange among all parties is critical, Arnett said, and he concluded by reminding listeners that there is no free lunch.

“We know the development of renewable energy is a critical component of our future energy policy and national security, but there will always be some level of impact. We need to strive to get it right and minimize those impacts and understand the issues before we dive in and make decisions.”

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