

# SWKROA

*SOUTHWEST KANSAS ROYALTY OWNERS ASSOCIATION*

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Testimony before the Senate Committee on Utilities  
**HB 2141** – an act relating to instruments conveying interests in wind or solar resources

March 9, 2011

Chairman Apple and Members of the Committee:

My name is Erick Nordling. I would like to submit written testimony on behalf of SWKROA in regard to HB 2141, as amended by the House Committee. I am from Hugoton and serve as the Executive Secretary of SWKROA. I also am an attorney with the law firm of Kramer, Nordling, and Nordling, LLC. In my law practice, and as Secretary for the Association, I regularly advise mineral and royalty interest owners, as well as surface owners and farm tenants, with regard to issues relating to access to their lands for oil and gas operations and from damages resulting from such access and use of the land for oil and gas operations. In my practice, I have also reviewed a number of wind lease agreements for several wind farm projects. I have prepared deeds severing and reserving the (undeveloped) wind rights for owners who sold their surface rights. However, we haven't had much experience on the development of solar rights.

We provided written remarks on this Bill to the House Committee on Energy and Utilities. At that time we commented that we weren't sure of the need for this legislation. And, although the House amended the bill, we are still uncertain what problem this Bill is designed to 'solve.' So, if it's not 'broken,' why fix it.

It is unclear if subsection (b), as amended, (beginning at line 30), would limit a farm tenant from using a solar panel to operate a fence charger, or an oil and gas lessee from having a solar panel to provide power for remote telemetry would be prohibited from using such solar devices. Or, whether a farm tenant who installs a windmill to pump water for livestock would be prohibited from doing so under this bill.

We would respectfully suggest that Section 1(a)(3) of the bill be revised as follows: "all terms or conditions under which the lease or easement is granted or may be terminated, ~~except that if the instrument is recorded under K.S.A. 58-2221, and amendments thereto, any compensation received by the owner of the real property may be excluded;~~ and". K.S.A. 58-2221 should also be amended to require wind and solar leases or easements, as well as oil and gas leases to be filed of record with the local Register of Deeds.

While the development of wind and solar resources in Kansas is still in its infancy, the right to own, lease and transfer such rights is not a new concept. When such resources are initially developed, the same person generally owns the ‘whole bundle of sticks,’ meaning that the owner owns the land, and all that is in, under, or above the land, including oil and gas, wind, as well as the surface rights. As ‘value’ is discovered and developed from the exploitation of such oil, gas, water, wind or solar rights, it is fairly commonplace for such interests to be carved away from or severed from the surface estate by deed or by probate transfers.

Thank you, for your consideration of our remarks.

Respectfully submitted,

Erick E. Nordling  
Executive Secretary, SWKROA