

STATEMENT

Director Victor N. Bird, Oklahoma Aeronautics Commission
House Interim Study 17-099
House Transportation Committee
Impact of Tall Structures within Military Training Airspace

October 10, 2017

From the important statements that we have heard today, it would seem that we may have a quandary on our hands that really can't be resolved without a winner and a loser. I unequivocally say **no** to that. We can enact a policy solution to solve this situation that is not an either/or proposition, but instead puts in place a process in which we can protect the military airspace that is critical to our air force bases and air national guard units fulfilling their mission of training and combat readiness, ensure a robust wind energy industry, and respect the rights of landowners. That is certainly what I and my commission want and I believe that is your objective, too.

I know that we can accomplish this because for the past seven years the Aeronautics Commission has worked very constructively with wind energy to protect the area around public-use airports and ensure aviation safety while at the same time doing this in a manner that did not impede the growth of wind energy so that OK wind energy is #3 in the country, soon to be #2.

Seven years ago, the Aeronautics Commission recommended legislation to you [the legislature] that provided OAC zoning authority at the state level to protect our public-use airports, but only the airport, including military airports, from incompatible, encroaching development that threatened aviation safety. That legislation came to be known as the Aircraft Pilot & Passenger Protection Act, or APPPA [HB 2919, 2010 Session]. There had been too many instances in which the Federal Aviation Administration (FAA) in exercising its authority to regulate airspace had simply been inadequate in protecting public-use airports and ensuring aviation safety, and local governments in exercising zoning authority to protect their airports had not filled this void.

In drafting APPPA, we sat down with wind energy, telecommunications, and other developers and worked very openly with them to come up with a process that was fair and **balanced**, serving to protect public-use airports and ensure aviation safety while at the same time ensuring continued development of wind energy facilities, telecommunications towers, and other development. The two are not mutually exclusive.

So, what's the record? Have we been able to accomplish these objectives? I would emphatically say that we have.

Of the applications for development that OAC has received since APPPA became effective in 2010, we have only denied 13% *and not one of those denials has ever been appealed to our full commission or district court.* Considering wind energy, alone, we have only denied 6% of those applications, and again, none of those have been appealed. No lawsuits have been brought against OAC for *taking* of property by a private landowner. Furthermore, as far as I know, no requests have been asked of you for amendments to APPPA because OAC had acted arbitrarily or slowly. Last session, wind energy did request and receive relief from the protection of private airports [SB 593, 2017 Session] that was not an OAC initiative and the repeal of that was not opposed by OAC.

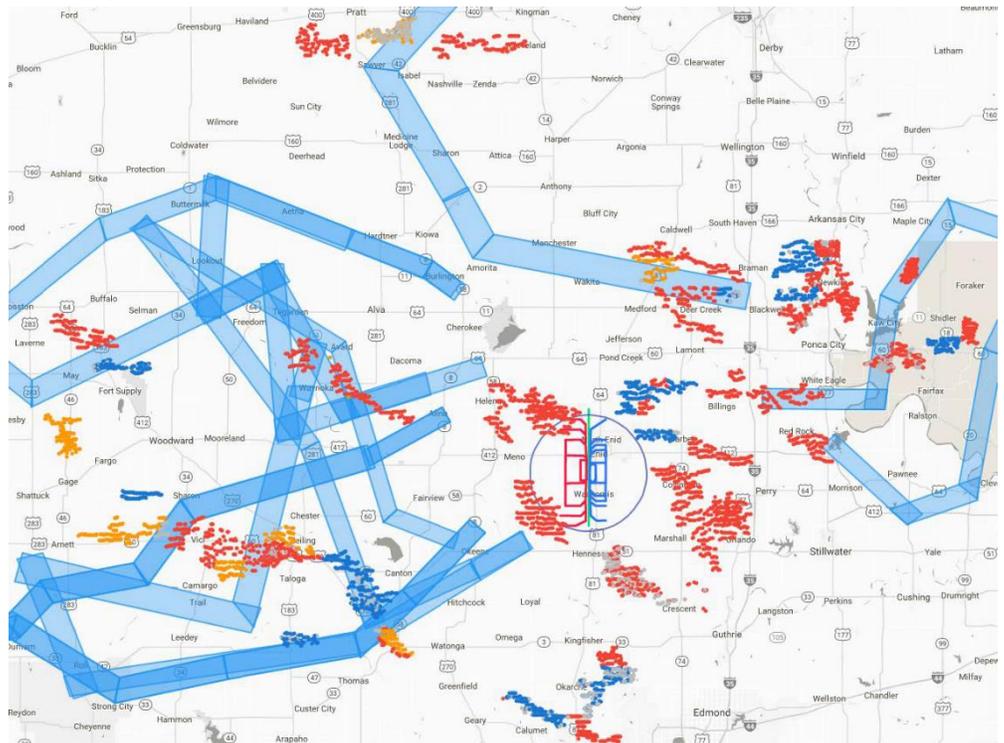
What does this say? Two things. One is obvious; our denials must be fairly well-grounded, while the other is not as obvious. In almost all instances that there is an issue that may result in our denial of an application, we engage in a conversation with the applicant to determine if there is an alternative site for the facility (wind turbine, cell tower, etc.) to be erected/constructed. In almost every case, this conversation, this negotiation, results in a solution acceptable to both parties. The key to this negotiated resolution is the fact that there is **balance**. Balance because the state through the Aeronautics Commission can deny the application.

That balance is missing in the scenario that we are focused upon today, the protection of military training airspace. Currently, there is only one government agency with siting authority in this MTA (military training airspace), the FAA. Since 2010, the FAA has never denied an application to construct/erect

a tall structure in this MTA (technically: found that a proposed construction was a hazard to air navigation). That all-important **balance** is missing.

Reference has been made to the DoD siting clearinghouse. The extent of the clearinghouse' authority is to file an objection with the FAA, which is in control of the airspace. No matter what you have heard or may perceive, the DoD does not have the authority to stop a proposed development even if it were a threat to national security. It can only file an objection with the FAA. And, if a proposed development seriously compromised the ability of one of our bases to fulfill its training and readiness mission, the DoD cannot even object due to an interpretation of previous administrations. The authority of the clearinghouse will not change even if the amendments offered by Senator Inhofe and Congressman Russell concerning this become law in the NDAA. And, depending upon the administration, the ability of the clearinghouse to even object to a proposed development that would have such an impact can be severely impeded as was the case with the last administration. Again, the balance is missing.

It is said that a picture is worth a thousand words. The same thing can be said for a map. On the screen now is a map showing the military training routes assigned to Vance air force base, and the military traffic pattern around Vance Air Force Base.



Look at this for a moment. The utility of parts of these MTR's has already been lost to Vance because of existing wind turbines.

Turbines that are under construction and proposed will, no doubt, seriously degrade other parts of these MTRs, and even the military traffic pattern around the base. This same scenario unfortunately plays out on a similar scale with respect to the MTRs assigned to Altus AFB. The balance is missing.

Looks pretty egregious. Maybe even bad faith. I don't see it that way. It is our job as a state, our responsibility to protect these valuable assets. This was the same scenario when we sat down with many industries in 2010 and wrote APPPA. It was also similar to the situation in 2014 when again we worked with wind in a very constructive and respectful fashion to develop an effective system of marking anemometer (wind evaluation) towers in order to prevent tragic collisions of low-level flight (agriculture sprayers) with these towers. In both these instances we worked with the wind energy industry to pass responsible legislation that served aviation safety while at the same time allowing the continued robust development of wind energy in our state.

So, what is at stake? I would like to share something with you, a date. April 15, 1953. That is the last time that the United States of America lost a ground soldier from an enemy air attack. You may think that's impossible given the wars and conflicts that our nation has been involved in since then. But, it's a fact. It's a fact because we enjoy absolute air superiority by the world's greatest air force that allows us to provide an absolute defense shield for our ground soldiers from enemy air attack. No doubt, this is in large part due to the finest combat pilots in the world, many of whom have been trained at Vance, Altus, Tinker, and the 137th and 138th Air National Guard units. *It is a matter of national security.*

Recently, we unveiled the results of an economic impact study of our aviation and aerospace industry in Oklahoma. The overall economic impact was \$43.7 billion. Of the three sectors making up this industry, the largest was military aviation at \$19.3 billion (even larger if you included the air national guard units at Will Rogers and Tulsa international that were included in the on-airport economic activity). Vance and Altus were about a billion each. Tinker was \$17.1 billion. Vance and Altus are the biggest employers in their parts of the state. Tinker is the largest single-site employer in the state. *It is about our economy.*

It is worth noting that this study estimated that Air National Guard Units at Will Rogers World Airport and Tulsa International are responsible for an estimated \$91.5 million in annual economic activity. The annual economic impacts for the Oklahoma Army Air Guard, shown in the table below, are for units not based at one of the 109 study airports. Impacts from the Oklahoma Army Air Guard shown below are in addition to the military tenant impacts previously estimated for the study airports.

ECONOMIC IMPACT OF MILITARY AVIATION IN OKLAHOMA

	TOTAL EMPLOYMENT	TOTAL ANNUAL PAYROLL	TOTAL ANNUAL SPENDING	TOTAL ANNUAL ECONOMIC ACTIVITY
OKLAHOMA ARMY AIR GUARD	557	\$21.3M	\$11.2 M	\$32.5 M
VANCE AFB	6,310	\$301 M	\$624 M	\$925 M
TINKER AFB	56,901	\$3.9 B	\$13.2 B	\$17.1 B
ALTUS AFB	8,881	\$470 M	\$767 M	\$1.24 B

*TOTALS MAY NOT SUM BECAUSE OF ROUNDING.



Loss of Vance or Altus in any BRAC round would be devastating to not only those regions but to the entire state, and a BRAC is coming. Like our men in uniform, we must always be proactive and vigilant in the protection of our military installations. Adequate airspace and the ability to protect it is one of the key factors in any BRAC assessment. We already know that we were penalized in our effort to bed down a group of f-35s at the 138th fighter wing at Tulsa because of airspace issues. The ready access to adequate airspace and our ability to protect it has been a hallmark and asset in Oklahoma. We must preserve that. We have never lost one of our military installations due to BRAC. We must keep it that way.

Also at stake is energy independence. I am all for all kinds of energy. Energy independence is, no doubt, also a matter of national security. Having a regulatory environment that says we're open for business to all forms of energy

and continues to promote a robust wind energy industry is good for our state and country.

This is not easy. There are competing interests in this situation. A quandary? Perhaps. But, not one that we cannot solve. Interests that are competing can also be compatible. Senate Bill 477 (2017 Session) has been narrowly written to provide that balance that is currently missing and protect this critical military airspace in a responsible and reasonable manner that will not impede a robust wind energy industry or unlawfully violate the rights of landowners. APPPA has worked admirably for seven years balancing the interests of protecting public-use airports and ensuring aviation safety with the development of wind energy, telecommunications, and other industries. SB 477 just extends OAC's jurisdiction to protect military airspace. The record would indicate that there is no basis to expect a different outcome than the one I have apprised you of today.

INTERIM STUDY AUDIO PLAYBACK: <https://www.okhouse.gov/Video/Default.aspx> > *New Records > Transportation [Room 206] 9:04 AM -2:51 PM Tue, Oct 10, 2017*