



Public Works  
600 Scott Boulevard  
South Hutchinson, Kansas 67505  
620-694-2976

Road & Bridge • Planning & Zoning • Noxious Weed • Utilities

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**Date:** June 11, 2019

**To:** Reno County Board of County Commissioners

**From:** Russ Ewy, AICP, Baughman Company on behalf of the County

**Subject:** Case #2019-01 – Protest Petition Summary

**Who:** Owners: Various Property Owners  
Applicant: Pretty Prairie Wind, LLC

**What:** This is a conditional use permit request to establish a commercial wind energy conversion system (WECS).

**Why:** The parcels are currently zoned “AG” – Agricultural District. The applicant is requesting a conditional use permit to establish a commercial wind energy conversion system. All proposed land use activities other than agricultural and single-family residential require a conditional use permit.

Pretty Prairie Wind, LLC, on behalf of a collection of property owners, filed the above-referenced request for a conditional use permit to allow the development of a commercial wind energy conversion system. Per K.S.A. 12-757(f), property owners within the 1000-foot notification buffer of an application site may file petitions against a zoning application, which may influence how the governing body votes.

In this instance, the Reno County Planning Commission ultimately recommended denial of the application during its April 23, 2019 hearing. After the conclusion of the Planning Commission hearing, and before the statutory 14-day time limit, approximately 233 protest petitions were filed with the Reno County Clerk’s office and submitted to Planning staff for processing. Of these, 127 petitions were filed on property located within the 1000-foot notification buffer.

Subsequently, **114 petitions were determined to be valid** and counted toward the 20 percent threshold referenced in K.S.A. 12-757(f). The remaining 13 petitions were determined to be invalid, or questionable, and not included in the protest calculation.

After the staff’s analysis, these protest petitions represent **46 percent** of the land area required within the notification area. Therefore, any potential override of the Planning Commission’s recommendation will require a three-fourths supermajority vote of the Board of Reno County Commissioners, per K.S.A. 12-757(f). With a three-member commission, the Board must act unanimously for an override to be successful.

Tabulation of the petitions and the various calculations used to determine the final protest percentage are summarized below in Table 1, with a corresponding map of the protests shown on Exhibit A on page 3 of this report. As indicated on Exhibit A, all petitions submitted are shown in pink as “protesting properties” while those within 1,000 feet of the application area, and effecting the voting requirements, are dark red. Properties displayed in purple identify those petitions deemed insufficient to count toward the 20 percent threshold.

**Table 1: Protest Calculations**

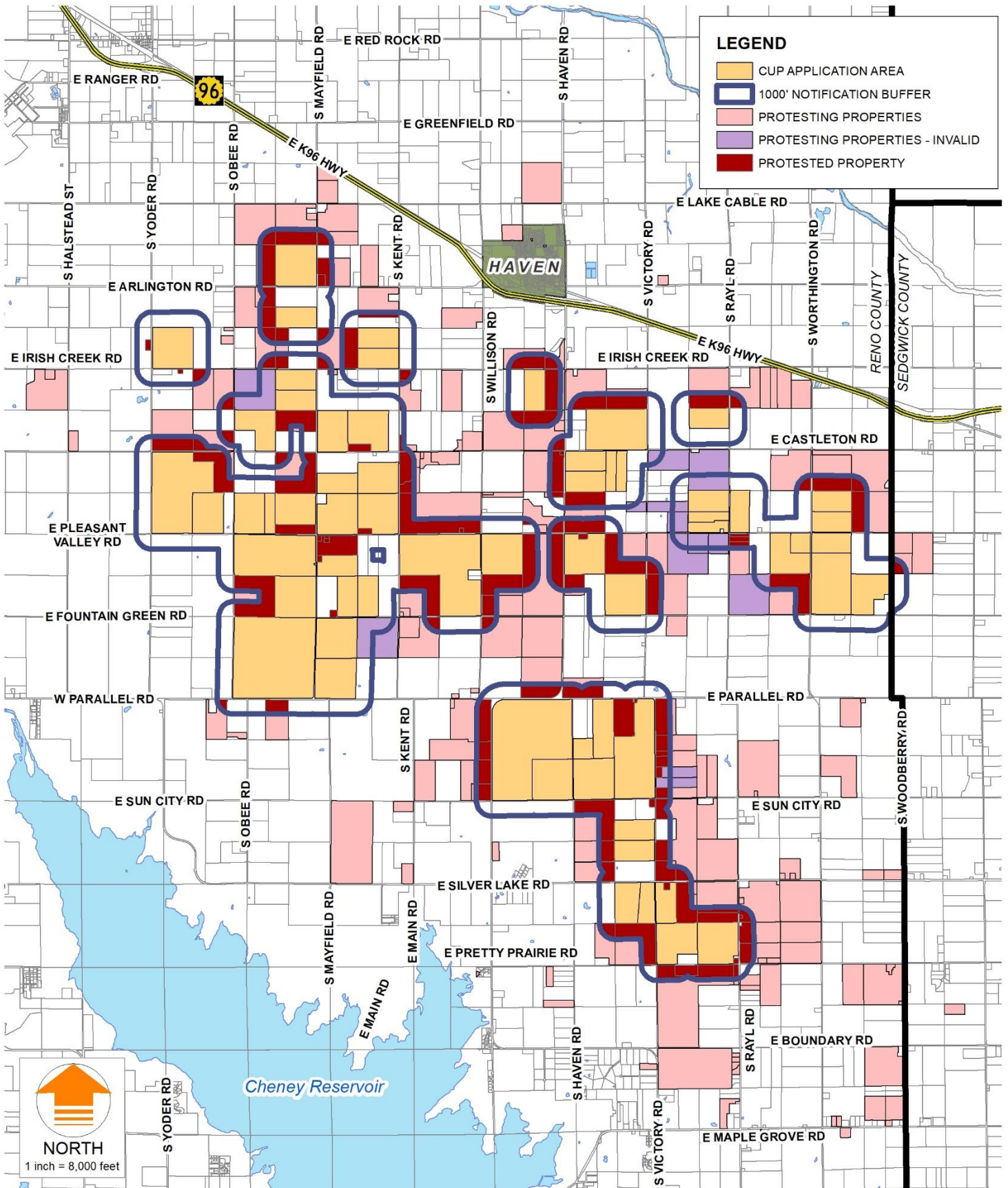
	<b>Area (Square Feet)</b>
1000-Foot Notification Buffer:	771,996,875
Application Area:	(375,491,481)
Road Right-Of-Way:	(21,215,298)
<b>Net Protest Area:</b>	<b>375,290,096</b>
20-Percent Threshold:	75,058,019
Protested Property within Buffer:	172,478,587
<b>Protest Percentage within Buffer:</b>	<b>46.0%</b>

While establishing the validity of these petitions, County staff and I met on several occasions to discuss the various challenges to the methodology used in this determination. Following these discussions, and in consultation with the County Counselor, my basis to determine the validity of the petitions began with the assumption authorized persons signed them, either on their behalf or in their capacity on behalf of a trust or limited liability corporation. The validated protest forms submitted provide the necessary information on ownership, legal description or parcel identification number, signature(s), as well as the date and time of filing with the Reno County Clerk’s office.

Of those petitions determined questionable or invalid, it was my opinion they lacked either a recognizable signature or a failure to state in what capacity the protestors were signing. It may be argued these failed petitions are valid; however, our position is to be as conservative as practical. The net impact of these excluded properties is a reduction of the protest percentage by 4.9 percent.

It is my opinion this determination was conducted using standard practices for such calculations and similar procedures as employed by other jurisdictions within the state. The areas referenced above utilized Reno County’s Geographic Information System data, information from the applicants, and verified with AutoCAD area calculations.

# EXHIBIT A – PROTESTED AREAS



## EXHIBIT B – PROTESTED PROPERTIES

#	KSPID IDENTIFIER	AREA IN BUFFER (SQUARE FEET)	PROTESTORS	PROTEST CLASS
1	078293060000005000	2,453,426	ACHILLES, KEVIN R & TERESA K	1
2	078296230000003010	31,268	ADKINS, DOUGLASS S & SHAWNA K	1
3	078295220000001000	3,526,471	AGRARIAN CONCEPTS, INC	1
4	0782841800000007010	350,591	BARTHOLOMEW, JEFF RAY & ANN	1
5	0782852200000008000	1,309,967	BAUMAN, FAM TRUST & BELTZ, ROBERT D	3
6	0782882700000002000	1,237,175	BAUMAN, FAM TRUST & BELTZ, ROBERT D	3
7	0782882700000003000	712,374	BAUMAN, FAM TRUST & BELTZ, ROBERT D	3
8	0782893200000004000	2,234,288	BAUMAN, JANICE K & BELTZ, ROBERT D BAUMAN FAM TRUST	1
9	0782842000000010000	71,139	BAYS, DAVID L & VICTORIA F	1
10	0782920300000005000	274,441	BELTZ, JANET L	1
11	0782773600000001000	3,633,968	BELTZ, ROBERT D	3
12	0782872600000004000	768,108	BELTZ, ROBERT D	3
13	0782920300000006000	374,666	BELTZ, ROBERT D	3
14	0782920300000007000	599,268	BELTZ, ROBERT D	3
15	0782920900000006000	1,145,531	BERGKAMP, BYRON & DOROTHY TRUST	1
16	0782761400000002000	4,230,516	BLOCKER FARMS, LLC & GUSTAFSON, MARY KATHRYN	3
17	0782841900000005000	6,361,150	BLOCKER, NELLIE M REV TRUST & HAROLD W RES TRUST	1
18	0782710100000006000	1,348,587	BMJ FARM OF HAVEN	1
19	0782710200000001030	2,633,426	BMJ FARM OF HAVEN	1
20	0782711100000003000	1,310,220	BOGNER, DONALD L REV TRUST & DAVID J & DUANE J REV TRUST	1
21	0782751500000002000	745,170	BOGNER, DONALD L REV TRUST & DAVID J & DUANE J REV TRUST	1
22	0782882700000005000	2,469,662	BOGNER, DONALD L REV TRUST & DAVID J & DUANE J REV TRUST	1
23	0782882800000004000	1,268,172	BOGNER, DONALD L REV TRUST & DAVID J & DUANE J REV TRUST	1
24	0782892900000003000	2,923,642	BOGNER, DONALD L REV TRUST & DAVID J & DUANE J REV TRUST	1
25	0782920300000004010	937,494	BOGNER, DONALD L REV TRUST & DAVID J & DUANE J REV TRUST	1
26	0782920300000004020	420,491	BOGNER, DONALD L REV TRUST & DAVID J & DUANE J REV TRUST	1
27	0782920300000008000	618,481	BOGNER, DONALD L REV TRUST & DAVID J & DUANE J REV TRUST	1
28	0782893000000002000	4,221,201	BOGNER, DONALD L REV TRUST & DUANE J REV TRUST	1
29	0782920900000003000	4,094,062	BOGNER, DONALD L REV TRUST & DUANE J REV TRUST	1
30	0782920900000004000	1,340,793	BOGNER, DONALD L REV TRUST & DUANE J REV TRUST	1
31	0782751500000001000	722,177	BOGNER, DONALD L REV TRUST & DUANE J REV TRUST & DAVID J & MARSHA G	1
32	0782893100000002000	711,442	BOGNER, DONALD L REV TRUST & DUANE J REV TRUST & DAVID J & MARSHA G	1
33	0782893200000002000	682,447	BOGNER, DONALD L REV TRUST & DUANE J REV TRUST & DAVID J & MARSHA G	1
34	0782920300000003000	2,178,969	BOGNER, DONALD L REV TRUST & DUANE J REV TRUST & DAVID J & MARSHA G	1
35	0782862400000006000	2,628,368	BOGNER, PAUL J REVOC TRUST	1
36	0782711200000001000	894,462	BONTRAGER, VERNON H TRUST & ARLENE K TRUST	1
37	0782710100000007000	353,039	BONTRAGER, WENDELL A & E MARIE	1
38	0782752200000001000	3,686,201	BRAUER, MILTON E & C JANICE REV TRUST	1
39	0782762300000001000	4,731,548	BRAUER, MILTON E & C JANICE REV TRUST	1
40	0782841700000001000	2,627,109	BROWN, MICHAEL L & VICKI	1
41	0782951500000004000	198,565	BULLINGER, BLAKE RANDAL & CARLY	1
42	0782830800000008000	1,991,963	CLARK, JANE ANN	1
43	0782951500000008000	104,952	CLUPNY, ALAN E & EVELYN A LIV TRUST	1
44	0782842000000009020	863,519	COKELEY TRUST	1
45	0782841900000005010	81,338	COLEMAN, GARY TRUST & SANDRA TRUST	1
46	0782851500000001000	2,568,334	CRANMER HOLDINGS LLC	1
47	0782711100000006000	1,658,647	DENICOLA, JOHN & DEBRA S	1
48	0782930600000006000	1,075,002	GORGES, JENNIFER L & DAVID	1
49	0782951500000001000	962,091	HAGEMAN, MARY LOU R & CLARENCE W & EWERTZ, KATHY	1
50	0782951500000009000	1,648,507	HAGEMAN, MARY LOU R & CLARENCE W & EWERTZ, KATHY	1
51	0782710200000002000	783,445	HEADINGS WELDON & ANNA J	1
52	0782952200000002000	970,874	HERMES, PEGGY A & JOHNNY B	1
53	0782930600000004010	990,707	HOWARD, ALAN & JOYCE	1
54	0782930600000004000	1,415,386	HOWARD, ALAN & JOYCE	1
55	0782920900000001000	189,959	HUFFMAN, MARVIN V & CAROLYN Y	1
56	0782841800000005020	234,520	HUSTON, DON R TRUST & HUSTON, JESSIE M TRUST	1

#	KSPID IDENTIFIER	AREA IN BUFFER (SQUARE FEET)	PROTESTORS	PROTEST CLASS
57	0782711100000002000	1,168,922	JDJ FARMS, INC	1
58	0782761400000005000	3,279,031	KDKS FOCUS, LLC	1
59	0782842000000001000	67,446	KELLER, JEFFREY D & PATRICIA F	1
60	0782772500000004020	64,671	KRELL, JUNE LEA	1
61	0782841900000004000	1,730,072	LANNING, ROY D & LOIS I REV TRUST	1
62	0782772500000009000	210,358	LAUGHLIN, NICHOLE M	1
63	0782762400000007000	331,982	LONG, TROY D	1
64	0782761300000005000	85,921	MACARTHUR, BUELL A & JULIE K	1
65	0782882700000001000	1,202,237	MOORE, JOHN RICHARD & MYRNA F & EDGINGTON, GLENDA RUTH	3
66	0782872600000003000	247,932	MOORE, MICHAEL K & DORN C	1
67	0782872600000003010	428,751	MOORE, MICHAEL K & DORN C	1
68	0782872600000003020	510,286	MOORE, MICHAEL K & DORN C	1
69	0782841700000005000	773,348	OEHLERT, GARY H & CHERRY K	1
70	0782862300000001000	687,526	ORANGE ACRES LLC	1
71	0782921000000005000	3,072,139	ORANGE ACRES LLC	1
72	0782921000000006000	1,544,679	ORANGE ACRES LLC	1
73	0782951500000002000	2,803,127	ORANGE ACRES LLC	1
74	0782951600000004010	783,324	ORANGE ACRES LLC	1
75	0782951600000005000	4,133,813	ORANGE ACRES LLC	1
76	0782961400000008000	1,170,702	PANEY, SYLVESTER C LIV TRUST	1
77	0782961400000007000	1,208,465	PANEY, SYLVESTER C LIV TRUST & PANEY, DELORES C	1
78	0782711100000005000	1,476,693	POPP, LAURA	1
79	0782761300000008000	693,305	RETTIG, HOWARD WAYNE & SUE ANN	1
80	0782710200000003010	2,634,896	ROEDER, JOHN F JR & YVONNE M	1
81	0782710100000002000	30,733	ROYER, WILLIAM L TRUST & LETA L TRUST	1
82	0782710100000004000	695,378	ROYER, WILLIAM L TRUST & LETA L TRUST	1
83	0782892900000004000	1,220,647	ROYER, WILLIAM L TRUST & LETA L TRUST	1
84	0782711200000005000	3,999,339	SCHEELE FARM LLC	1
85	0782852100000008000	175,602	SCHLICKAU, LUCILLE B	3
86	0782852200000006000	691,456	SCHLICKAU, LUCILLE B	3
87	0782951500000002010	151,960	SCHMIDT, JEFFREY J & RACHEL J	1
88	0782961400000003000	661,620	SCHMIDT, JOHN G TRUST	1
89	0782862400000001000	788,215	SCHMIDT, LLOYD H LIV TRUST & ROSALIE M LIV TRUST	1
90	0782862400000003000	2,519,130	SCHMIDT, LLOYD H LIV TRUST & ROSALIE M LIV TRUST	1
91	0782861400000006000	716,106	SCHMIDT, MARK A	1
92	0782961400000005000	41,341	SCHMIDT, MARY L REV TRUST	1
93	0782720900000004030	225,271	SCHMUTZ, ROBERT & ANGEL	1
94	0782841900000004010	671,861	SCHOENHALS, KEVIN J & NIKKI J LIV TRUST	1
95	0782830800000009000	632,681	SCOBEE, WILLIS G & MARY E	1
96	0782952200000001010	293,138	SIMON, THEODORE J & SANDRA C	1
97	0783010200000002000	1,344,044	SMITH, LYN R TRUST	1
98	0782842000000009010	306,900	SPENCER, WADE RANDALL (f/k/a VOGT, JOHN C & KAREN L)	1
99	0782841700000006000	2,766,119	THALMANN LAND COMPANY, LLC	1
100	0782852100000005000	5,026,326	THALMANN LAND COMPANY, LLC	1
101	0782892900000001000	6,511,918	THALMANN LAND COMPANY, LLC	1
102	0782841700000006010	9,555	THALMANN, LYNN & STEPHANIE LIV TRUST	1
103	0782772500000006000	132,637	THETFORD, JACOB & ADRIENNE	1
104	0782762300000005000	1,622,241	TOLIN, JANE A TRUST & KRELL, JUNE LEA REV TRUST	1
105	0782772500000004010	80,700	TOLIN, JANE A TRUST & KRELL, JUNE LEA REV TRUST	1
106	0782772500000004000	3,104,889	TOLIN, JANE A TRUST & KRELL, JUNE LEA REV TRUST	1
107	0782772500000005000	113,959	TOLIN, RICKY L & JANE A	1
108	0782852200000003000	687,580	TONN, ALLISON RHEANN & AMANDA ROCHELLE & ANDREW BRADEN & RANDALL M I	3
109	0782842000000002000	2,316,897	TONN, LAVERA M LIV TRUST	1
110	0782851600000007000	2,603,627	TONN, LAVERA M LIV TRUST	1
111	0782852200000001000	2,623,681	TONN, RANDALL M	3
112	0782920300000004000	530,651	WAGNER, CHARLES G LIV TRUST & JACKIE LIV TRUST	1
113	0782883300000005000	2,295,659	WALSTEN, RICHARD J & GARY D	1
114	0782772600000002000	5,870,481	WEBER, KATELYN B & RICK J	1
115	SGCO 0262281	702,106	WENINGER, GREG AND MICHELLE	1

#	KSPID IDENTIFIER	AREA IN BUFFER (SQUARE FEET)	PROTESTORS	PROTEST CLASS
116	0782751500000003010	2,436,541	WESTFAHL, MARGARET L TRUST	1
117	0782751500000004000	80,919	WESTFAHL, MARGARET L TRUST	1
118	0782751500000006000	1,682,295	WESTFAHL, MARGARET L TRUST	1
119	0782851600000002000	2,118,421	WESTFAHL, MARIE REV TRUST	1
120	0782920400000001010	48,142	WEVE, ROBERT A & EVIE J	1
121	0782841800000006000	478,670	WHITNEY, MARY E	1
122	0782882800000003000	206,513	WILLIAMS, DARYL L & PATRICIA E	1
123	0783020300000002010	370,082	WORSTER, KELSEY MEARS (f/k/a RENTAL SALES REMODELING LLC)	1
124	0782872600000005000	4,070,330	WRAY, MARY JEAN BOGNER & ACHILLIES, TERESA K & KEVIN R & BOGNER, DAVID J E	1
125	0782882700000004000	716,401	WRAY, MARY JEAN BOGNER & ACHILLIES, TERESA K & KEVIN R & BOGNER, DAVID J E	1
126	0782882800000001000	4,262,512	WRAY, MARY JEAN BOGNER & ACHILLIES, TERESA K & KEVIN R & BOGNER, DAVID J E	1
127	0782920400000002000	3,180,966	WRAY, MARY JEAN BOGNER & ACHILLIES, TERESA K & KEVIN R & BOGNER, DAVID J E	1
<b>TOTAL AREA</b>				
<b>OF VALID PETITIONS:</b>		<b>172,478,587</b>		

NOTE: PROTEST CLASS "1" REPRESENTS THOSE PROPERTIES COUNTED TOWARD THE 20 PERCENT THRESHOLD, WHILE PROTEST CLASS "3" REPRESENTS THOSE PROPERTIES EXCLUDED.