



Scenic native prairie landscape protected, in part, with a conservation easement in the Flint Hills.

# Audubon Advocacy is Cause for Celebration

----both for defeating threats to the natural world and achieving lasting improvement in conservation and increased public awareness

PW Editorial Committee, photos by Ron Klataske

Audubon of Kansas has played a major role in conservation and advocacy for the environment for many years. While still a regional office of the National Audubon Society, Audubon in Kansas spearheaded the establishment of the **Tallgrass Prairie National Preserve** beginning in October 1986. This year is the twentieth since Congressional passage of legislation creating this unit of the National Park System, as well as the 100<sup>th</sup> anniversary of the National Park Service. At the premiere screening of Dave Kendall's "Tallgrass Prairie National Preserve: A Flint Hills Love Story," friends expressed their thanks for Audubon's role in making this dream a reality.

Audubon's presence in Kansas, Nebraska and surrounding states is reflected in many ways in the landscape. A second new unit of the National Park System was developed in Nebraska. In 1991, after eleven years of dedicated effort led by Audubon in partnership with landowners and a wonderful network of Nebraskans, congressional approval of the **Niobrara National Scenic River** was finally achieved.

Audubon of Kansas (AOK) became an independent state Audubon organization in 1998 when National Audubon closed all the regional offices, and left many states without any staff presence. All of AOK's funding and leadership comes from the

central Great Plains and friends beyond. We haven't missed a step in our advocacy as we also strive to build our capacity.

Protection of the ecological values of the **Quivira National Wildlife Refuge** is a high priority for Audubon of Kansas. The Refuge is a "Wetland of International Importance," as designated under an international treaty signed in and became a part of the "Western Hemisphere Shorebird Reserve Network" in 1994. As many as 500,000 shorebirds depend on the refuge every year.

Our in-depth comments on the 2013 Draft Comprehensive Conservation Plan substantially helped guide the U.S. Fish and Wildlife Service to a final plan for the 22,135-acre refuge that we can all applaud. In May 2016 we mobilized the public and filed comments to the Kansas Division of Water Resources (DWR) concerning the refuge's senior water right that has been adversely depleted by DWR's issuance of permits for hundreds of additional groundwater irrigation wells with junior water rights. A DWR review found that the refuge's water supply "has been regularly and substantially impacted by junior groundwater pumping." Over the 34 years reviewed, shortages of greater than 3,000 acre-feet occurred in 18 of those years. Impairment of the refuge's water right

has become increasingly frequent and severe, resulting in the cumulative lowering of groundwater levels and instream flows in the Rattlesnake Creek Basin. AOK will continue to work on behalf of sound ecological values and recognition of Quivira's senior water right.

Most rural residents who cherish wildlife conserve habitat privately, like the family near Newton who recently wrote AOK indicating that, "we keep a portion of our little spot out here as wild as we can and really enjoy all the creatures which come to visit — or stay! We sincerely appreciate the work of Audubon of Kansas, which is tremendously important (especially now when public policy and actions often seem to be set against conservation work of any kind)." Facilitating such private conservation efforts, AOK often responds to individual requests for information on where and what to plant for local habitat enhancement projects.

However, governmental programs do have landscape-scale impacts—positive and negative—on land-use decisions and wildlife populations on private land. Foremost among those programs are the Conservation Reserve Program (CRP) and the Environmental Quality Incentive Program (EQIP). Because of the potential for wildlife, AOK actively promotes positive practices in accord with these programs. The CRP, included first as a farm bill title in 1985, has been the most beneficial program in recent history. Special practices are designed to enhance habitat for Lesser Prairie-Chickens and other wildlife. However, Congress has diminished CRP authorization from 39 million acres to 24 million acres nationally, and it is of paramount importance that the conservation community work to reverse the downward trend in the next farm bill. Kansas has lost 1.7 million acres of CRP in the past ten years.

Likewise, we consistently argue against practices and expenditures that degrade ecological resources. We have been particularly concerned about federal expenditures to subsidize broadcast-herbicide spraying of prairies under the guise of EQIP "brush management" for rangeland health. We remain equally alarmed by fifty years of USDA subsidized bulldozing of native trees, shrubs and grasses in cultivated landscapes to convert natural draws to brome-grass

waterways. That practice has been a major factor in the decline of upland game birds.

AOK's Executive Director, Ron Klataske, serves on the USDA State Technical Committee where funding allocations and specs are debated. He has seen several hundred thousand dollars annually available for wildlife habitat go unused for that purpose, only to be then diverted to other uses. KDWPT Secretary Robin Jennison has refused to allow USDA to fund habitat protection for Black-footed Ferrets in Kansas, even though this program is used and is welcomed by ranch landowners in eastern Colorado. Such actions and inaction raise the question whether benign neglect of imperiled species is official state policy in Kansas.

If there has been any rationale for ignoring the diverse suite of imperiled species associated with prairie dog colonies, it has been at least in part due to the Kansas Senate Natural Resources Committee's hostility to protection of threatened and endangered species. Larry Powell, R-Garden City, chairman of the committee, has pushed several legislative measures in recent years to try to block any U.S. Fish and Wildlife Service conservation initiatives to protect the federally-listed endangered Black-footed Ferret and the imperiled Lesser

Conservation advocacy--and education--are both vital to protecting the natural world today, making certain it will be sufficiently intact or able to be restored in the future. These photos are of the Audubon of Kansas booth at the annual Mother Earth News Fair in Topeka.



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Prairie-Chicken. He also led several legislative efforts in three successive sessions to eviscerate the Kansas Nongame and Endangered Species Conservation Act of 1975.

Threats to the 1975 Act kept popping up like “moles” in the Whack-A-Mole arcade game. The 2016 bill (introduced as Senate Bill 384) was initially on a fast track in the Senate Natural Resources Committee. Given little notice for a hearing, Audubon of Kansas was one of just two organizations that testified in person against the measure. As AOK members and others were made aware of the bill and contacted members of the committee, several senators expressed concerns. When chairman Powell did not have the votes to pass the bill out of committee in its introduced form, he asked three members of the committee to work with Chris Tymeson, legal counsel for KDWPT, on a substitute version. They addressed our major problems with the bill, and some of the Kansas Livestock Association’s (KLA) concerns with KDWPT’s administration of the Act. The vast majority of the damaging language that the KLA lobbyist pushed for in SB 384 was struck out of the substitute version, and the most destructive elements of the Act were averted.

However, what followed illustrates the need for persistent vigilance and involvement on the part of conservation activists like AOK. Aaron Popelka, a lobbyist with the Kansas Livestock Association, and Senator Powell added a provision exempting “registrations and certifications” that might otherwise require regulatory review. They were unwilling to give any examples to KDWPT of what would be exempted. On that basis we

continued to oppose the bill. It hasn’t been utilized yet, and there is still uncertainty, but the consensus now is that it was designed to exempt certifications of water appropriations and pesticide registrations from review.

Since it was too late for the modified bill to run the normal course of proposed legislation, chairman Powell added it to a previously passed House Bill, HB 2547, using that bill, which originally named a Bison herd in Crawford County in honor of former State Representative Bob Grant, as a shell to advance the attempt to weaken the Kansas Nongame and Endangered Species Conservation Act. House members objected. It was then moved into House Bill 2156 (originally a bill dealing with groundwater management). The conference committee removed groundwater language and placed it in SB 337 (another bill dealing with the Division of Water Resources). That, in turn, created a “shell” out of HB 2156 and revisions to the Nongame and Endangered Species Conservation Act were included there—having never been considered in committee or on the floor by members of the Kansas House of Representatives. It was approved by the legislature as HB 2156 – with deletion of the original language that was most destructive to the Act, acceptable changes made with KDWPT concurrence, and the exemption for “certifications and registrations.”

This type of chicanery in the legislative process, especially in the closing hours of legislative sessions, keeps constituents from knowing what is occurring and from assigning responsibility. However, because of the strong showing that

AOK and the conservation community mounted to protect the overall integrity of the Act, it will likely remain intact without additional threats from the legislature in the near future.

In early February, following up on an earlier assault in 2014, Senator Powell struck again. Senate Bill 425 would have essentially eliminated permanent conservation easements. It sought to limit easements to not exceed the duration of the lifetime of the grantor, and proposed to make all such easements subject to approval of County Commissioners—government curtailment of private property rights that would have made conservation easements meaningless. AOK immediately alerted everyone in the conservation community, and was credited by an outdoor writer with having been the Paul Revere in that assault. Despite efforts to diminish public testimony by stringing out hearings over three dates and cancellation of proposed times for hearings, a huge preponderance of oral and written statements against the measure was presented by a united conservation community. Only three proponents spoke for the bill. Many AOK members wrote asking members of the committee to table this destructive bill. Senate Bill 425 was not reported out of the Senate Natural Resources Committee and did not pass.

Senator Powell and a majority of the sixteen senators who voted for his previous bill designed to bar perpetual conservation easements, Senate Bill 323 in 2014, will not be returning to the capitol for the 2017 legislative session. Senator Powell and several others were defeated in the August 2 primary, and two did not run again.

AOK advocacy involves manifold tireless efforts beyond lobbying and testifying before the legislature and governmental committees concerned with agriculture and the environment. Ron Klataske and AOK trustees have represented AOK at many meetings during the past year, including:

- Participating in the Eleventh Annual Dialog on Sustainability: “Paris Agreement on Climate Change and U.S. Clean Power Plan,” Saturday, July 23, 2016
- Participating in the Conservation Reserve Program-focused meeting of the Kansas Technical Committee -June 20, 2016—regarding establishment of habitat for the Lesser Prairie-Chicken
- Cooperating with the Tallgrass Legacy Alliance through workshops and public education to publicize and advocate controls on the spread of invasive species such as old world bluestems and *Sericea lespedeza* in roadsides and pastures
- Sponsoring “Silent Spring 2016: Threats to Birds, Bees, and Other Wildlife” a conference in Lawrence, April 9, 2016, concerned especially with the threat to pollinators posed by widespread use of neonicotinoids

- Suggesting agenda items and presenting AOK positions to the Kansas Nongame Wildlife Advisory Council Meeting March 1 concerning: Black-tailed Prairie Dog management and conservation plans; the Black-footed Ferret Landowner Incentive Program for the 2017 EQIP program year; further protection for at-risk Ferruginous Hawks; placing further limitations on the trapping of River Otters in some zones within the state; publicizing the penalties for shooting hawks, owls, and eagles; and updating the Wildlife Diversity Plan
- Continued efforts in cooperation with Friends of the Niobrara to protect the outstanding values of the Niobrara National Scenic River corridor

In addition, AOK contributes to the Kansas Rural Center’s Legislative & Policy Watch Weekly Updates during the periods when the Legislature is in session, through which Policy Analyst Paul Johnson keeps constituent organizations abreast of legislative initiatives that would affect the health of Kansas’ land and people.



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Undeterred by controversy or the absence of other organizations in the trenches on some occasions, AOK is working for wildlife in every forum possible. AOK eagerly joins landowners and others who strive to protect prairie landscapes and ecological values, and partners with other organizations to push agencies to change operational paradigms.