

BRAUN & GRESHAM

ATTORNEYS AT LAW

SUCCESS STORIES

TRANSMISSION LINE ROUTING

Preserving the Prairie

“HOPEFULLY WE DON’T GET INTO ANOTHER SITUATION LIKE THIS,” MORGAN SAID. “BUT IF WE DO, WE WILL CALL PATRICK IMMEDIATELY. WE’RE THAT HAPPY.”

“I used to come out here as a little girl and work cattle with my father,” says Morgan O’Connor, a former attorney who now co-runs her family’s agricultural and oil-and-gas operations. The O’Connors own 1 million acres, including 500,000 acres that represent the largest remaining tract of coastal tallgrass prairie in the world.

Texas used to support 65 million acres of these marshy grasslands. However, thanks to urban development, cross fencing, and lack of land management practices such as invasive plant treatments and prescribed burns, that number has dwindled to a mere 650,000 acres.

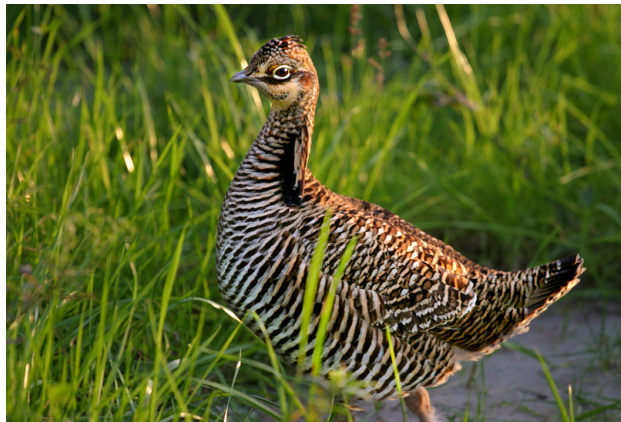
Morgan’s great-great grandfather, Thomas O’Connor, acquired the prairie in the mid-1800s for fighting in the Battle of San Jacinto, which secured Texas’ independence from Mexico. His descendants have, as Morgan puts it, “invested great time, talent and treasure into keeping it pristine” ever since.

“Many don’t see the beauty or grandeur of the prairie, but my family has always had a special affinity for it,” she says, explaining the peace

of stepping out into that “great expanse of nothingness,” feeling the wind, and watching colors bleed into the grasses at sunset. “The prairie is so sacred to us.”

In 2001, the O’Connors developed conservation partnerships with Texas Parks and Wildlife (TPWD), the Nature Conservancy, and the United States Fish and Wildlife Service (USFWS) to strengthen populations of threatened native species like the endangered Attwater’s prairie chicken.

Each summer, USFWS biologists raise chicks in on-site hutches. Once the birds reach a certain age and become acclimated to the habitat, biologists fit them with radio collars and release them, returning frequently to track them.



“We’ve actually started to see them in the wild now,” says Morgan, parking her suburban before Live Oak Lake, a shallow prairie lake that serves as a flyway and near-constant water source for resident wildlife and livestock. “We spot plenty of other birds too. Sometimes really rare species like Bald Eagles and American Pelicans.”

S U C C E S S S T O R I E S

She shields her eyes from the afternoon sun to look out at the variety of waterfowl floating between reeds. “See, isn’t this wonderful?” she exclaims as a Sandhill crane takes flight, displaying its five to six-foot wingspan. “We have to protect this. We just have to.”

A LOSING BATTLE

Twenty years ago, the O’Connors received late notification that AEP Texas, an energy giant, would be building a powerful 345-kV transmission line between Victoria and Corpus Christi. AEP’s preferred route would slice through the western section of the O’Connors’ prairie, causing significant habitat fragmentation for native wildlife.

Morgan and her family quickly hired an attorney, filed interventions and submitted direct testimonies. But despite their best efforts, they were not able to convince AEP and the Public Utility Commission of Texas (PUC) that their prairie was worth protecting.

Heartbroken, the O’Connors settled into a routine of dealing with the 345-kV line’s encroaching silhouette and its consequences. “It goes over some of our metal gates and we regularly get shocked,” says Morgan. “They will tell you it’s impossible, but you can feel that static electricity.”

THE WINNING STRATEGY

In mid-2014, the O’Connors received more devastating news. AEP planned to construct a second line in their area and the preferred routes would again cut across their land. AEP argued this smaller 138-kV line would parallel the existing 345-kV line, so it would very minimally impact the prairie.

Morgan called Patrick Reznik at the recommendation of a friend. Patrick quickly accepted the case, filed interventions and traveled to Victoria to strategize with his new client — the Coastal Prairie Alliance.

“Starting off, the cards were stacked against them,” says Reznik, explaining that the PUC tries to affect the fewest number of habitable structures while keeping costs low. “Anyone who owns large amounts of property or who already has a line is at a significant disadvantage because it’s easy for the utility experts to justify taking just a little bit more.”

“We had confidence in Patrick from the first time we met with him,” Morgan says. “He laid it all out for us — how and why the decisions are made, what our chances were, what the budget would be and what he needed from us. We felt very supported and informed throughout the entire process.”

Patrick explained that merely protesting a route is usually not enough to save a client’s property. “The PUC can lawfully take your land and they’ve heard all of the arguments before, even endangered wildlife arguments,” he says. “They care about numbers, so you have to make the numbers work in your favor.”

To accomplish that, they would form the Coastal Prairie Alliance with conservation partners and other affected landowners, pool resources and leverage an expanded network of influence.

The Alliance members developed strong written testimonies explaining why their natural resources, preservation efforts, and way of life would be negatively impacted by the line.

The Alliance hired their own routing and land use experts to design viable alternative routes. With help from TPWD, USFWS, and the Nature Conservancy biologists, as well as by Michael Morrison of Texas A&M University, the Alliance would prove why their created routes were superior.

“Patrick drove out here multiple times to meet with our experts and landowners who would be affected to get them to agree,” Morgan says. “He’s just that type of person, and it worked.”

In fact, Patrick and the Coastal Prairie Alliance built such a strong case that the PUC accepted their proposed route after only 15 minutes of testimony.

“Patrick got the judges to understand that you cannot conserve the prairie chicken in a piecemeal manner and that there were clearly viable alternative routes,” says Morrison.

“We have a lot of property and we already have a line on us,” Morgan adds. “That makes us a prime target, so if we didn’t fight for the prairie, we were going to lose it. Hopefully, we won’t get into another situation like this, but if we do, we will call Patrick immediately. We’re that happy.”