

“Getting the Best Wind Agreement...a seminar for landowners”
Southeast Clean Energy Resource Team (CERT) Meeting
in Partnership with the Southern Minnesota Initiative Foundation,
Southwest Initiative Foundation and Alliant Energy

June 25, 2008
Serviceman’s Club, Blooming Prairie, MN

Meeting Purpose: To educate the audience on wind rights and development choices, on how to ensure you get a fair agreement, on your options, about where to access resources for advice, and on some sense of the “big picture” and why this is an opportunity.

Welcome – Tim Penny, SMIF President

- Initiative Foundations created during farm crisis to spur rural development – now collaborating on the Rural Energy Development Initiative as another tool to spur rural economic development
- Renewable Energy Standard provides a catalyst for more renewable energy, particularly wind energy development
- Multiple ways of doing project development: major corporate development or community-based energy. Both bring new renewable resources on-line, both help bring dollars into the local community; community-owned wind provides an additional mechanism for money to stay local.

Presentations from our first two presenters can be found @ <http://www.cleanenergyresourceteams.org/publications/regional-presentations#windforums>. These presentations provide all of the nitty-gritty details and thus, the notes here are simply a summary and document responses to additional questions fielded by our presenters and panelists.

Wind Energy Options for Farmers & Rural Landowners: Risks and Rewards – Melissa Peterson, Windustry

- What makes a good project?
 - o Wind speeds
 - o Proximity and access to power grid
 - o Cost of capital/financing structure
 - o Market for power
- Options
 - o lease land: lower risk and responsibility, lower reward (both corporate and community-owned projects require land leases)
 - o join in a cooperative ownership/investment pool/partnership: intermediate risk and reward
 - o individual ownership (be it a school, tribal governments, private individual): higher risk and responsibility, higher potential reward
- Leasing your land to a developer is probably the most common way that landowners participate in a wind project; there are few standards however about length of term of lease (20 years to 100 years), compensation (often range from \$3,000-5,000 per acre + royalty payments), etc. You will want to consider who it is that you’re leasing to, for what length of time, and consider the various provisions included in the lease, from non-disclosure agreements to decommissioning provisions.
- Good questions to ask include:
 - o How much of my land will be tied up and for how long?

- How much will I be paid and how will I receive payments?
- Are the proposed payments adequate now and will they be adequate in the future?
- How will a wind project impact my other land uses?
- Have I considered all of my other options and is this the best one for me?
- Farmers Legal Action Group: “The Law of Wind” is another good resource
- Minnesota Supportive Community-Wind Policy Framework – production incentive for small wind (which has since expired but has been supplanted by C-BED) – led to 80% of community-owned wind in state; CA & TX have the most wind development in the US, but MN & IA are leaders in community ownership, have knowledge and expertise
- Community owned projects provide the same benefits of larger wind development while also facilitating greater stimulation of local economies, increased local energy independence, increased competition in energy markets & garnering greater acceptance of wind power
- Case studies:
 - Lamar, Colorado: piggy back model - community get to own a share of a larger project (maybe 100 MW project with 10 MW of local ownership) – timing is everything, must be involved in early discussions. Community projects benefits from the scale of the overall project (for ordering turbines, O&M contracts, etc.)
 - Trimont: got better lease payment goes had done more footprint work up front
 - MinWind – 200+ local investors, 11 turbines
 - Minnesota “flip” model – Dan Moore partnership with John Deere
- C-BED – ownership must have 51% of total financial benefits flow to “qualifying owners” or other local entities over the 20 year life span – see legislation listed below (in panel discussion) for who is a qualifying owner
- Available resources from Windustry:
 - Community Wind Toolbox: <http://www.windustry.org/CommunityWindToolbox>
 - Leases overview: <http://www.windustry.org/leases>
 - Lease/Easements: <http://www.windustry.org/sites/windustry.org/files/LandEMain.pdf>

Community Wind and Rural Energy Development Initiative – Cheryl Glaeser, SWIF

- Major difference between corporate wind development vs community wind development?
 - Options for ownership
 - Local economic development – 4 times the economic impact for community-based project
 - Often more local construction with community-based wind
 - Options for business start ups and expansions. Wind manufacturing, wind repair shops
 - Options for dispersed generation – use lower voltage transmission to connect into grid.
- REDI (Rural Energy Development Initiative) intended for community-owned wind projects that will sell their electricity to a utility (not farm/home scale)
 - An Energy Assistance Program to help get community wind projects going
 - Partners – George Crocker, Paul Blackburn
 - Goal: maximize rural economic development, build capacity, expertise and leadership around the state
 - Outreach and public education (no fees)
 - Technical assistance with formation of energy project development entities – “hand holding” but really capacity building
 - Low interest rate revolving loans – for at least 12 projects selected via a competitive application process
 - Ways that REDI can help organize groups – can be city/county/landowners/neighbors, etc.
 - Fact Sheet: <http://www.swmnfoundation.org/documents/REDIFactSheet3-o8.pdf>

- Interest Form: <http://www.swmnfoundation.org/documents/REDIInterestForm.pdf>
- Dispersed Generation Study – statewide study of locating “sweet spots”, transmission system to look at impacts of 600 MW injected starting at lower voltage lines. 10-40 MW size range, needs 35% wind capacity factor. Started with 2300 substations, short list of 42 sites. Found limiting factor: Dorsey Sub in Manitoba, Canada. SE MN greatest capacity for CBED/dispersed generation @ 300 MW – connect at lower voltages
 - See an overview of the study here: <http://www.swmnfoundation.org/renewableenergydevelopmentinitiative.html>
 - Complete study is available here: <http://www.state.mn.us/portal/mn/jsp/content.do?contentid=536916459&contenttype=EDITORIAL&agency=Commerce>
 - Did it consider the MISO queue? Yes, but not at all sites and some subs (sweet spots) may already be spoken for.

Panel Discussion: *above listed presenters and George Crocker, Executive Director, North American Water Office; Phil Schouweiler, Director of Community Relations, Nature Energies; Craig Byram, attorney, law firm of Hoversten, Johnson, Beckmann & Hovey; Dave Brunsvold, project development manager, Wind Capital Group; and Rich Huelskamp, organizer with Southern Minnesota Initiative Foundation for REDI*

- C-BED? – is a “tariff” that allows a power purchase agreement to be front loaded thereby receiving higher payments in the first ten years (during the debt service period) and lower payments for the later ten years
 - see official legislation here: https://www.revisor.leg.state.mn.us/bin/getpub.php?pubtype=STAT_CHAP_SEC&year=current§ion=216b.1612&image.x=7&image.y=6
 - for an overview, calculator, etc., see: www.c-bed.org
- Land in Brewster, live in St. Charles. I’d like to do wind on my land in St. Charles; how do I organize as an outsider? LOOK TO REDI!
- Land leasers/tenant farmers – how are they compensated?
 - if you rent land, tenant will have less land to farm; must include this in calculation of compensation
 - contract will also need to include provisions for crop losses from soil compaction and other activities during both pre-development and development
 - many developers like to have the land leasers listed on the wind lease agreement
 - Access roads is a potential issue and tenants may want to discuss how this will affect farming practices
- Difference between lease and an easement?
 - Easement – appears to be an interest in land rather than to simply “occupy” land
 - Leases are more defined
 - Don’t have much experience with land changing hands after wind added since this is a relatively young industry, but any transfer of ownership would show two income streams on the land
 - Lease part of deed/title? No- it just says it exists.
 - At end of lease there’s a requirement for document that stipulates the lease is done/over. Comes from mineral rights where an easement would persist because it was never officially terminated.
- Contract Provisions to consider:
 - Decommissioning: it should be included; Nature Energies, for example, establishes a fund for each turbine to be controlled by county, within 18 months of turbine operating termination must have turbine removed and restored down to depth of 48 inches

- Land taxes: rural to commercial. If increases property taxes, company should pay. Tax based on electricity generates.
- Inflation – projects are indexing for inflation. Tied to CPI.
- Sunset clause – applicable for the development period and typically last for 2-7 years; some developers are now getting extensions for this clause because of issues getting MISO studies, getting turbines, etc. – most common clause is 5 years with a 2 or 1 year extension
- Wind rights – when installing turbines or a wind farm there are “non-participating landowners” who don’t have a turbine on their own land, but also won’t be able to develop their own wind resource if they’re too close to your turbines – Set backs are 5 rotor diameters in direction of prevailing wind (1500ft) + 3 rotor diameter on other axes. This contracts are typically for less money than if you have a turbine on your land
- What affects wind resource on-site? wind breaks, structures – should not have within 1000 feet of turbine; this will affect what one can build/plant on land
- MISO? Midwest Independent System Operator – requires studies for transmission; was designed to evaluate large central station power projects; it’s a clunky process for more dispersed wind projects. The Midwest ISO initiated a “Queue Reform Proposal” to address these issues on June 26th. See details here:
<http://www.midwestmarket.org/page/Recent+News+Details?newsID=215>
- Generator in city limits? Not typically; likely need a variance. Some possibilities are a Sky Stream turbine or other “net metering” type machines that are 40 kW or smaller