Leasing for Wind Energy

Farmland Leases: Tales, Types, and Trends
Federal Reserve Bank of Chicago
November 27, 2012

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Disclaimer

• The information provided in this program is not legal advice and is for informational purposes only. Please seek the advice of your own counsel.
Drivers for Wind Power Development

- Renewable Portfolio Standards
- Energy Independence
- Cost of Other Energy Sources
- Environmental Regulations
- Production Tax Credit
- Transmission System
- Technology Advancements
Wind Development Challenges

- "Unsightly" wind turbines
- Noise/flicker
- Infrastructure issues
- Birds/bats
- Other economic development
The remaining states use data from the 1987 "Wind Energy Atlas of the United States".

Wind Power Classification

<table>
<thead>
<tr>
<th>Wind Power Class</th>
<th>Resource Potential</th>
<th>Wind Power Density at 50 m W/m²</th>
<th>Wind Speed at 50 m m/s</th>
<th>Wind Speed at 50 m mph</th>
</tr>
</thead>
<tbody>
<tr>
<td>Marginal</td>
<td>200 - 300</td>
<td>5.6 - 6.4</td>
<td>12.5 - 14.3</td>
<td></td>
</tr>
<tr>
<td>Fair</td>
<td>300 - 400</td>
<td>6.4 - 7.0</td>
<td>14.3 - 16.7</td>
<td></td>
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<tr>
<td>Good</td>
<td>400 - 500</td>
<td>7.0 - 7.5</td>
<td>16.7 - 16.8</td>
<td></td>
</tr>
<tr>
<td>Excellent</td>
<td>500 - 600</td>
<td>7.5 - 8.0</td>
<td>16.8 - 17.9</td>
<td></td>
</tr>
<tr>
<td>Outstanding</td>
<td>600 - 800</td>
<td>8.0 - 8.8</td>
<td>17.9 - 19.7</td>
<td></td>
</tr>
<tr>
<td>Superb</td>
<td>800 - 1600</td>
<td>8.8 - 11.1</td>
<td>19.7 - 24.8</td>
<td></td>
</tr>
</tbody>
</table>

Wind speeds are based on a Weibull k value of 2.0

U.S. Department of Energy National Renewable Energy Laboratory

Source: POWERmap, powermap.platts.com, ©2007 Platts, a division of the McGraw-Hill Companies
Wind Energy Facts

- 51,630 MW Total US Capacity - June 2012
- 10,400,000 MW US Onshore Wind Resource Potential
- 6,816 MW Installed Capacity 2011

Source: AWEA
Top 5 States with Wind Power Capacity Installed, through Q1 2012:

<table>
<thead>
<tr>
<th>Rank</th>
<th>State</th>
<th>Capacity (MW)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Texas</td>
<td>10,929</td>
</tr>
<tr>
<td>2</td>
<td>California</td>
<td>4,570</td>
</tr>
<tr>
<td>3</td>
<td>Iowa</td>
<td>4,436</td>
</tr>
<tr>
<td>4</td>
<td>Oregon</td>
<td>3,153</td>
</tr>
<tr>
<td>5</td>
<td>Illinois</td>
<td>3,055</td>
</tr>
</tbody>
</table>

Source: AWEA
The Leasing Agent?
What You May Be Asked to Sign

- Option Agreement for Lease
- Lease Agreement
- Option Agreement for Easement
- Land Lease and Easement Agreement
- Cooperation Agreement
IMPORTANT POINTS

• Shorter is not better
• Legal counsel needed
Easement

An interest in land owned by someone else that entitles the party to a specific, limited use of the property

Parties have relatively equal access

Lease

A contract for exclusive possession of land for a period of time for specified compensation

Ownership maintained but control limited
Types of Easements

Private easements
- Benefit the parties of the agreement
- Voluntary

Utility easements (Public)
- Have power of eminent domain
- Wind projects generally not “utilities”
Use of Leases and Easements

• **Lease**
  - Limited Time Frame
  - Exclusive Use

• **Easement**
  - Specific Purpose
  - Concurrent Use
Contract Conditions

- Scope/Terms of use
- Location/Footprint
- Depth/Height
- Damage mitigation
- Duration
- Fencing/Livestock
- Indemnity/Hold harmless
- Termination/Decommissioning
- Recording/Release
- Aerial Applications
Monetary Considerations

- Easements vs. Leases
- Some different considerations
- More flexibility for easement
- Both based on knowledge and negotiating ability of landowner
Compensation

- Land value
- Burden on the land
- Duration
- Associated damages (Tenant vs Landlord)
- Future sale of property
- Sentimental value
- Value of use
- Property tax impacts
Compensation

Varies based on:
- Turbine size
- Wind resource
- Price of energy

Most Favored Nation Clause
- Everyone gets the same deal
Compensation Packages

**Fixed Payments**
- Set and stable source of income
- Use an escalator

**Royalty**
- More risk but more reward?

**Combination**
- Best of both worlds?
Thank You

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