

What Landowners Should Know

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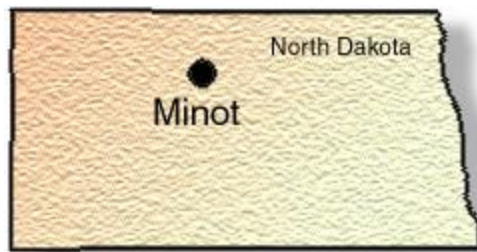
Photo Courtesy of Robert Gough

Basin Electric Power Project in the Dakotas

Although he didn't know it at the time, Larry Widdel's future in the world of wind energy development was secured years ago when his family bought some farmland near Minot, North Dakota. Widdel remembers hauling piles of rocks off the acreage, clearing it for the family's cattle.

"It was the poorest land we owned," Widdel laughed. "My uncle said, 'Boy, this is awful. We don't own mineral rights. We don't own anything but the air above it.' Who would have guessed that the air above our land might be worth money someday?" No one could have predicted that Widdel's rocky land, which has an outstanding wind resource and small hills that are perfect for siting wind turbines, would someday feature two 1.5-megawatt wind turbines. Thanks to Basin Electric Power Cooperative, Widdel and his family have joined the ranks of rural landowners who are leasing their land and cultivating the cash crop of the future: electricity from the wind. And Widdel couldn't be happier about it. "We're very lucky that we were chosen," he said. At a time when economic predictions for the family farm are anything but rosy, wind energy is a bright spot on the horizon. Rural landowners like Widdel who lease their land to wind developers typically receive about 2 percent – 4 percent of the gross annual turbine revenue — or \$2,000 to \$4,000 for each turbine — which can help compensate for a downturn in commodity prices. Annual farm income can be increased by \$70 an acre. But as with any business venture, rural landowners interested in leasing their land should do their homework. **Lease Agreements** Wind developers must take several preliminary steps before they can install turbines. First, they need to measure the wind resource on the site they've selected and assess its proximity to transmission lines. Next, they need to line up capital and commitment from energy buyers. Finally, they must complete any required environmental analyses and zoning and permitting processes.

Some wind developers will offer a landowner a "good faith" contract, which allows the developer to control the site while these preliminary steps are taken. Under this contract, the landowner may not enter into contracts with other wind developers. At the end of the time period outlined in the contract (usually 1 to 5 years), the developer must decide whether to install turbines or give up interest in the land.



Minot, North Dakota is where Larry Widdel leases his land to Basin Electric Power Cooperative for wind power generation.

If all goes well in the preliminary steps, the wind developer and landowner negotiate a lease. The arrangement is similar to a lease used to reserve mineral rights. The landowner assumes no financial responsibility for the project. The wind developer may offer the landowner a single up-front payment, a fixed annual payment, a share of the revenues from a wind project, or a combination of these payment methods. The rate of return for the landowner is proportional to the level of risk assumed.

The first option, a single up-front payment, may sound attractive. Even if the wind turbines fail to produce as expected, the landowner receives the guaranteed payment. But if the turbines produce more electricity than expected, the landowner won't receive extra compensation. Also, the value of wind is expected to increase over time, in which case this payment arrangement would be a disadvantage.

Landowners should also know that any future sale of the property is likely to be complicated by this arrangement. Up-front payments are structured so that the developer receives a perpetual lease to the wind resource rights on the property. The landowner should consult with a tax adviser about the possible consequences of receiving one large payment.

The second option, a fixed annual payment, is less risky for the landowner, and it may have less impact on the landowner's income taxes. But it may also result in a smaller share of the revenue. Still, some landowners prefer the relative security of an annual payment.

Basing the lease on a share of revenues is the third option. The compensation will vary according to the output of the turbines. This is probably the best option for a landowner who wants to ensure future compensation for increases in the value of wind power.

A leasing arrangement may include a combination of these payment options. For example, a landowner may request a fixed payment per acre along with a share of the revenue from each turbine.

Easements are another factor to consider in a leasing agreement with a wind developer. Although a wind turbine has a small "footprint," which allows the landowner to continue normal farming and ranching operations on the land surrounding the turbine, developers also need access to the turbines and transmission lines for maintenance and repair. When developers from Cielo Wind Power approached Louis Woodward, a rancher in Girvin, Texas, he was concerned about the impacts such access would have on



vegetation and the safety of his livestock.

Cielo Wind

Power approached Louis Woodward, a rancher in Girvin, Texas about leasing his land to build wind turbines. “Nobody likes a bunch of vehicles running over their property,” Woodward said. “We don’t get much rain out here, and needless to say, without rain, we don’t get much vegetation.” Woodward finally signed a lease agreement after the developers agreed to install underground transmission lines and follow his recommendations when reseeding grass. Cielo also agreed to pay for any injuries to his livestock. Today, Woodward has 242 turbines on his property. Landowners should discuss all easement issues with their attorneys and the developers prior to signing a lease agreement. More Factors to Consider While leases, taxes and easements are major concerns, there are other factors to consider as well:

- **Heavy industrial equipment is used to erect wind turbines. New roads may be needed, transmission equipment may have to be installed, and equipment must be maintained. This can result in local jobs that benefit the local economy. In general, local communities have responded favorably to wind development projects.**
- **Landowners should review their insurance policies before signing any contract. If a policy’s coverage would be affected by wind development on the land, a landowner can negotiate with the developer and add provisions to the contract to compensate.**
- **Landowners should discuss taxes with the developer and with an attorney. Determine who will pay the property taxes, whether the developer will pay for increases in property tax caused by improvements (usually this is the case), and who will pay taxes on the sale of electricity. Discuss whether one party will pay taxes owed by the other party if non-payment would result in a lien or foreclosure on the property.**
- **Wind turbines may be sited on Conservation Reserve Program and grassland easements. Some restrictions do apply.**
- **Landowners should not feel pressured by developers to enter into a leasing arrangement. Developers should be willing to answer questions, and landowners should investigate a developer’s history. Remember the old adage, “If it sounds too good to be true, it probably is.”**

One final word of advice: Landowners who install wind turbines on their land should expect a lot of attention. When Widdel goes to town, his neighbors are curious. “The first

two or three months, the only thing people wanted to talk to me about was wind. They didn't even ask me how I was," he said. "They just wanted to know about my wind power." The U.S. Department of Energy contributed to this article. On the Web For more information on wind energy and its benefits to a rural community, including information on wind energy provisions in the 2002 Farm Bill, please visit the Wind Powering America Web site at Windpowering America.

Learn More about Wind Development on Your Land These organizations and resources are recommended if you need additional information on wind power development issues:

- **Windustry** This organization partners with the Institute for Agriculture and Trade Policy to promote wind education and outreach. The organization's web site at www.windustry.org features a section called Wind Farmers Network of America. You can also find out more about easements at Windustry.org Opportunities. If you don't have Internet access, write to Windustry, 2105 First Avenue South, Minneapolis, MN 55404; or call 800-946-3640.



- **American Wind Energy Association** The American Wind Energy Association offers a fact sheet entitled "Wind Energy for Your Farm or Rural Land." It is available online at Factsheets Windy Landowners. You can also access a list of developers at AWEA Directory of Developers. Write to The American Wind Energy Association at 122 C



Street NW, Suite 380, Washington, DC 20001; or call 202-383-2500.

- **American Corn Growers' Foundation** Learn more about the Foundation's Wealth from the Wind program at <http://www.acga.org>. Write to the foundation at P.O. Box 18157, Washington, DC 20036; or call 202-835-0330.
- **Wind Energy Resource Atlas** To find out whether you have a strong wind resource in your area, visit Wind Energy Resource Atlas.