

# Landowner Associations, Issues, & Rights

## What Do Landowners Want To Know?

John Hansen, President  
Nebraska Farmers Union

# Updated List Of Wind Developers In Nebraska...

- Horizon Energy-recently acquired by Energias de Portugal, Lisboa, Portugal from Goldman Sachs
- Orion Energy-London England-acquired by BP Alternative Energy, a subsidiary of British Petroleum in December of 2006
- Edison International-Irvine, California
- Midwest Wind Energy-Chicago, Illinois
- Third Planet Windpower-Bad Axe, Michigan
- Invenergy-Chicago, Illinois
- NE Green Power/Gold Pact Power-San Francisco, California
- Duke Energy Generation Services-Raleigh, North Carolina
- Infinity Wind Power-Santa Barbara, California
- Juhl Wind -Woodstock, MN
- Juwi Wind US Corp.-Cleveland, Ohio
- Generation Energy, INC-Leesburg, Virginia
- Trade Wind Energy-Lenexa, Kansas (World headquarters in Italy)
- Electric Wind, LLC-McCook Lake, South Dakota
- Hilliard Energy-Midland, Texas
- Renewable Energy Systems Ameritus, Inc-Hurtfordshire, England
- Windrow Energies-Omaha, Nebraska
- AirStream Energy-Scottsdale, Arizona
- Own Energy-Brooklyn, New York
- Pegasus Power-Plano, Texas



# NWWG & NEFU Outreach Activities

## Spur More Landowner Questions

- NWWG & NEFU sponsored 65 wind information meetings in 2008 in every part of the state, and **Over 75 in 2009!**
- Landowners asked new & more complicated questions this year as many areas requested follow-up meetings
- Information on Landowner Wind Farm Associations (LWA's) development & structure was of interest to many landowners across the state
- Meetings were in response to local bankers, county agents, RC&Ds, educational institutions, farm or commodity organizations, landowner attorneys, or the general public
- Nebraska Farmers Union continued to be a resource center for landowners wanting additional information about all facets of wind energy development

# Landowners Continue To Struggle With Wind Process...

- The wind development process in Nebraska on wind development is unclear, varies from area to area, and continues to change. Landowners continue to try to make sense of this mysterious and hard to track process.
- Landowners commonly ask how to get a utility's attention to develop wind.
- Landowners struggle to understand the differences in their wind development options.
  - C-BED vs Traditional Wind Development
- Nebraska is a unique state in that it is the only 100% public power state in the nation. Wind development processes used in private sector states are not necessarily always appropriate in Nebraska.
- There are confusing legal issues relative to private sector development in Nebraska.

# Landowners Continue Struggle With Confusing Wind Contracts...

- NEFU fields calls weekly from landowners about some aspect of wind development rights and easements.
- Too many landowners sign easements without professional advice that was specifically hired to represent their interests. They tend to take the word of others.
- Too often, rural residents take the word of the salesman rather than consult an attorney. Rural residents tend to trust folks they like.
- When landowners do seek legal advice, it is often difficult to find experienced legal advice, or knowledgeable business advice. This is a new area of legal and economic opportunity so expert state experience is limited.
- If your lawyer does have experience with wind contracts and easements, which side of the buy/sell equation did they work for?
- Wind easements and development contracts are usually tied to the land, not just the current landowner.

# Common Easement Issues Raised By Landowners

- Extended Easements, Payments Amounts
  - 40+ years, one time payment
- Indemnification
  - Liability shift to landowners
- Decommissioning Issues
- Hard to understand payment structure of contracts, easements, and options
- How can you track the history and performance of wind companies? Who will still be around in a few years?
- Is the developer really a wind developer, or are they a wind scalper that tries to control your wind rights and then re-sell them to another wind development company at a profit?

# Formation of Landowner Wind Farm Associations

- 2009 saw the formation of LWA's around the state
- LWA's are created by area landowners who share an interest in identifying boundaries of land suitable for commercial-scale wind development.
- After the boundaries are established, landowners work together to explore wind development potential, models, and to market their wind resources in the most beneficial way.

# Why form an LWA?

- Prevents non productive 'Checkerboarding Effect' that 'Checkmates' wind development for everyone
- Facilitates Community Communication
  - Non-disclosure agreements can prevent information sharing, and can pit neighbor against neighbor
- Community maintains control of its destiny
- Raises necessary money for lawyers, studies, etc.
- Allows the community the necessary time to become properly informed about their wind options
- Makes area more marketable when organized
- Reduces the possibility that landowners get locked into one sided and unfair wind easement contracts



# County Zoning

- Many planning & zoning commissions, county boards, local officials, landowners have been working on implementing zoning for small & large scale wind development.
- NPPD has assisted many counties with the process and already zoned counties are helping new counties.

# We Sure Could Use...

- More Nebraska attorneys experienced in wind related legal issues.
- More information and educational outreach for landowners.
- A more clearly identified role for traditional C-BED projects in state wind development
- Public power utilities could prioritize C-BED projects to maximize rural development benefits.
- A more clearly identified state wind development process for all kinds of wind.

# What Do We Stress?

- While wind development provides an enormous new economic opportunity for landowners, it is tied to an ever changing wind information process that requires landowners to make the commitment of time and resources it deserves
- There are no quick and easy answers to complicated, multi-faceted and far reaching public policy challenges
- Landowners must work to stay informed and engaged in the wind development process if they are to maximize the opportunities before them

# Nebraska Farmers Union

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