

LANDOWNER WIND ASSOCIATIONS: A Cooperative Model for Large Industrial Energy Development

If America is to address its pressing energy and climate concerns and to reach the 20 percent wind power goal set by the U.S. Department of Energy, we need to streamline wind farm and transmission projects. The landowner wind association (LWA) is a new cooperative development model that can create better projects more quickly. The LWA model offers benefits to developers as well as landowners. Large-scale developments take less time with cooperation from committed landowners.

Currently, about two dozen landowner groups in Wyoming, Colorado, and New Mexico are marketing 2 million acres of wind resources. These landowner groups are signing agreements with large-scale developers, drafting local wind siting regulations conducive to wind development, and advocating for new transmission lines to take their energy to market. By taking an active, cooperative role in the development of their wind resources, they are maximizing the benefits to their communities, making their resources more attractive to developers, and poised to reap the economic benefits of farming a renewable energy resource.

COOPERATIVE WIND DEVELOPMENT

Conventional approaches to industrial development face many hurdles when they are brought to rural communities and landowners.

Developers without ties to the local community are met with suspicion and understandably, because they represent interests outside the community. At wind energy workshops hosted by rural organizations throughout the wind corridor on the Great Plains, common local concerns include the worry that developers are untrustworthy speculators willing to pit neighbors against each other for their own gain. Community members are concerned that their lack of knowledge gives the

developer unfair advantages during negotiations. Landowners burned by predatory industrial contracts are put off by non-disclosure clauses. These are all legitimate concerns, but they can be addressed if the landowners and the community take the initiative and drive the negotiations.

Negotiating individually with developers has other risks that benefit no one. As landowners are “picked off” one at a time, the result may be a checkerboard of wind leases with competing developers. This reduces the appeal of the project for the developers and their financial backers while usually reducing the return to the landowner.

The first step toward rural empowerment is forming landowner associations to pool resources. As a cooperative, the landowners can address controversy and division in the community with the credibility of fellow residents. As a group, landowners can assess the value of their bundled wind resource. As members of the community, they have an incentive to negotiate tangible benefits to the community itself. They can seek out expertise to help them make informed decisions, and they can negotiate with developers from a position of strength.

In 2007, landowners in southeastern Wyoming recognized the benefits of working together as a single entity. They created landowner wind associations to pool their resources and interests and give their local communities a stake in the development process. This cooperative model fostered community involvement, trust, and acceptance.

The LWA model provides advantages for the developer as well as the landowner and the community. Ken Gray, a project developer for Babcock & Brown who has worked with the LWAs in Wyoming, says that an LWA “provides efficiency in working with a group in a good wind area. The collective bargaining aspect is good for both sides – we don’t have to knock on 50 doors and then negotiate separately with each landowner.”

Gray would like to see the LWAs provide “more science behind the footprint” for creating association boundaries and assessing wind potential. The better the LWA has reviewed available scientific data on their site (such as anemometer wind data and high-level wind analysis studies), the more attractive their resources will be to developers. With their combined resources, the LWA can provide helpful information to the developer about the wind quality, terrain, and local issues from the start, so that the developer is not running the risk of speculative contracting. The LWA’s research allows the development team to assess the merits of the project and any



risks or challenges more realistically and effectively. And by taking a proactive role from the beginning, the landowners signal to the developer that the project will be a partnership.

The LWA gives the chosen developer a trusted local presence in the community that will have to live with the project once it is done. The LWA also can advocate for transmission needs and other necessary infrastructure for the project.

CREATING A LANDOWNER WIND ASSOCIATION

When landowners want to create an LWA, the first step is identifying land suitable for commercial wind development. The ideal is a large, continuous area, of course. The initial group can reach out to all landowners in the area to generate broader interest and create a more suitable tract. Their objectives are to create an operating group, build community support, formalize the group as a limited liability company, and approach developers to market their wind resources.

Before drawing up any legal documents, the group would be wise to learn more about wind energy and collect additional information about their land. They can host meetings with technical, legal, and financial experts, inviting potential association members. Your local Farmers Union chapter can help with this step.

Meantime, the group should begin creating an operating agreement. A good operating agreement is a contract. It spells out important details of the organization's structure, purpose, and goals.

THE OPERATING AGREEMENT

The operating agreement stipulates such things as membership rules, how the organization is governed, how land is enrolled, assessments and liabilities, and the duration of the agreement. Typically the agreement is binding for 2-3 years, during which time the members agree not to negotiate independently with wind developers. A nominal enrollment fee of \$.10/acre provides the group with working capital to hire professional expertise as needed.

The agreement also spells out the process for accepting a developer's proposal and then terminating the agreement. The agreements created thus far among 23 associations have been relatively short and simple. The agreements state that their primary purpose is to use collective bargaining strategies to develop and market the group's wind resources.

As a rule, the operating agreement *does not* bind the landowner to the lease terms negotiated between the LWA and the chosen developer; landowners retain their sovereignty in the cooperative. Upon completion of the LWA's negotiations with the chosen developer, each member has the option to sign individual lease agreements for their own land. Because landowners benefit from collective bargaining, they are unlikely to renegotiate on their own. (Appendix A is a sample operating agreement.)

Once the operating agreement is complete, the group files

with the state as an LLC, and they are ready to begin the next step, requesting proposals from developers.

Before putting together the terms for developer proposals, the group may want to hire some of technical expertise. An evaluation of wind energy potential includes four major components:

1. Wind energy resources
2. Transmission access and capacity
3. Market for wind energy
4. Environmental impacts and other location factors

The group should also investigate landowner and community support. Are there other landowners pursuing wind development contracts? Are there community groups resistant to wind energy development? These questions can be explored with community meetings.

THE REQUEST FOR PROPOSAL

With the site and its wind potential documented, the group is ready to write a request for proposal. This document will be given to potential developers to guide them in creating development proposals for the group to review. It spells out the association's plans and requirements and offers the developer a chance to propose an agreement for meeting those goals. An effective RFP offers the developer a marketing plan and feasibility study prepared by the association and satisfies the expectations of the landowners regarding fees and payments.

The RFP should provide a map of the area to be developed, the group's documented research findings, the criteria for reviewing proposals, and specifics on the kind of payments the groups expects. It enumerates payments expected by the group, including a lease fee for the period between signing the lease and energy production; a percentage of gross revenue after the wind turbines are producing energy; sharing of environmental incentives, and payments for siting energy structures on private property. (Appendix B is a sample request for proposal.)

The RFP requires the developer to document experience developing similar projects, to describe the wind technology to be used, and describe their marketing plan for the energy. It asks for estimates of the total cost of the project, costs per delivered MW/hours, terms and conditions for profit sharing, and development timetables. It specifies deadlines for submitting proposals.

Just as cooperation and collective bargaining are the key to getting a good deal, a well-researched RFP is the key to



attracting developers. It tells the developer that the group is serious about their interest. Grant Stumbough, wind energy expert with the USDA, says, "Associations always get more interest if they provide credible wind data in the RFP. The Wyoming Anemometer Loan Program has been instrumental in providing associations with wind data, which is a great bargaining chip in negotiating with wind developers."

Planning and preparation pay off in many ways. The landowner association's pooled resources can hire technical expertise both for the wind resource research and to prepare the RFP. Knowledgeable landowners can provide credible allies to the developer when it comes time to approach the local community for permits.

SELECTING A DEVELOPER

Once the proposals have been submitted, the group begins the review process and selects a developer, and then the individual landowners, armed with a thorough description of the risks and benefits of proceeding, negotiate individual contracts with the chosen developer.

LWAs are a cooperative innovation that is bringing rural communities together to advance wind energy. With an LWA, landowner is not simply a passive partner, nor do they take on the burden of turbine ownership. LWAs allow landowners to be proactive in the development process. They can capitalize

LOCATING A WIND DEVELOPER

To locate wind developers in your area, contact your local Farmers Union or the Renewable Energy Development team at Rocky Mountain Farmers Union (rmfu.org).

You can also get names from your state governor's energy office or the Internet. Your RFP should go to three or four dozen developers to ensure that you get enough responses to allow you to pick, choose, and negotiate.

on their wind resources through a collaborative effort that is mindful of local interests and concerns. Developers see direct benefits from the large tracts of land they can choose from for turbine sitings; from the strong local support of the community, and from the time saved by landowner development of wind assessment data, environmental issues, and local wind siting regulations.



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TRANSMISSION

CORRIDORS AND LWAs

Often, the developers ability to fund a wind energy project depends upon being able to deliver the energy to market, and delivery means added transmission corridors. A big hurdle to developing renewable energy is the development of ways to deliver the energy to places that need it, such as urban and industrial centers. The development of transmission corridors is another way for landowners to work cooperatively. The federal stimulus package contains funds intended to support this sort of project.

Cooperative, collective bargaining will help rural communities and landowners avoid some of the pitfalls of traditional development. The development of transmission for the Peetz wind farm in northeastern Colorado is typical of the traditional approach.



Developers built a transmission corridor from the Peetz Table Wind Energy Center to a substation near Brush, Colorado, where the new lines connect to the grid. The Peetz wind farm includes 267 wind turbines, generating 400 MW and connected to a transmission line running over private property owned by a multitude of people. The transmission corridor to Brush is 70 miles long and the development impacted 60 landowners, who received a one-time payment of \$3.00 per linear foot of line crossing their property. In other words, that

\$3.00 payment gave the developer a permanent right of way for what may be a value-producing transmission line for 100 years.

Landowners and rural communities are recognizing that they have a vested interest in continuous payment for continuous use, with royalties rather than one-time payments. What is emerging is an approach similar to the landowner wind association model, what could be called a landowner transmission association.

Landowners are exploring this model as a way to gain the same benefits that LWAs are seeing: better projects, better contracts, and a more timely delivery of energy to market. Landowners would receive payments related to the amount of kilowatt hours transmitted over the lines on an annual basis. As production increases, the local revenue will increase for the landowners who own the corridor.



Cedar Creek Wind Farm east of Grover, Colo., with 274 turbines producing 300 MW, enough energy for 90,000 homes.
Photo by Bill Midcap

A SUCCESSFUL LWA

The Slater Wind Energy Association, LLC, consists of 45 landowners with 28,000 windy acres southeast of Wheatland, Wyo., some of the most valuable wind resources in the nation. The area, located roughly on I-25 between Cheyenne and Casper, has a wind energy capacity factor of 40% or more.

The chairman of the Slater Wind Energy Association is Gregor Goertz, an organic wheat farmer and cattle rancher. When the area began attracting the attention of wind energy developers, Goertz decided it was time to work with his neighbors to explore the opportunity, and soon the LWA was born.

When they researched the potential of the site, with the help of Southeastern Wyoming RC&D Coordinator Grant Stumbough, the

group envisioned a project of up to 500 MW of capacity, with roughly 300 turbines sited on 28,000 acres.

After distributing their request for proposals in August 2007 to about 50 developers, they received 18 responses. They reviewed eight complete proposals before they signed an agreement with a well-known wind developer.

The Slater LWA worked with the Platte County Commissioners to shape wind energy siting regulations in early 2008, easing the way for their project and providing the developer with local support.

Once the details are finalized, the winning developer may pay the landowners more than \$2 million during the development and construction phase, and then between \$6,000 and \$19,000 per year for each

320 acres (depending on placement of turbines) of the landowner's property.

With current technology, only 3-5 turbines can be sited on 320 acres, each machine encumbering a few acres for siting and easements. The landowners continue to use 80-90% of their land for grazing, haying, or crops, the community reaps the economic benefits of the project, and the United States moves a few more steps away from dependence on foreign oil and fossil fuels.



LEGISLATION TO SUPPORT LANDOWNER WIND ASSOCIATIONS

To ensure the success of landowner wind associations and renewable energy, legislative support is needed on the federal and state level. The first policy need for LWAs is legislation that creates a market for wind power.

Without the development of markets there will be no opportunity for LWAs to capture their wind for energy and return significant dollars to their local economies. Three types of policy are important for market development:

- renewable energy standards
- regulations that require utilities to consider local benefits when siting new power sources
- incentives such as production tax credits and clean renewable energy bonds

After market policies are in place, four additional policy ingredients are needed for the success of LWAs: (1) support for technical wind resource measurement; (2) outreach programs providing education on the economics of wind development and technical assistance to landowners and communities; (3) a supportive process for conducting environmental impact studies; (4) transmission policies to increase transmission from remote rural areas.

SPECIFIC LEGISLATIVE RECOMMENDATIONS

Support for Technical Wind Resource Measurement

Landowners are deterred from taking an active role in wind energy research by the cost and scarcity of necessary technical tools

- Wind anemometer loan programs
- Government-funded wind measurement and assessment
- USDA value-added producer grant programs to provide funds for landowners wishing to conduct wind feasibility studies
- USDA Rural Energy for America Program to provide funds for wind energy development feasibility studies

Wind Economic and Market Driver Awareness

Landowners seldom have the technical and economic knowledge needed to negotiate on a level playing field with wind developers.

- Rural outreach programs that provide information on the economics and market drivers of a good commercial-scale wind project
- Rural outreach programs offering technical assistance with wind development projects to landowners and communities

Support for Assessing Environmental Impacts

Current environmental law requires location factors analysis that is prohibitively expensive for individual landowners.

- State and federal procedures for expediting environment impact studies
- Lower costs for community-originated environmental impact studies
- Increased government support for location analysis

Transmission Policies

The essential key to wind development is an overhaul of transmission policy to create a new, robust grid to deliver energy where it is needed.

- Geographic identification of renewable energy development zones with public information about the development potential and constraints that apply to each zone
- Establishment of renewable energy transmission corridors with information about capacity requirements and constraints for each corridor
- Establishment of transmission development authorities to finance lines dedicated to renewable energy projects, with landowner representation on the authorities
- Creation of an investment tax credit for projects that develop renewable energy transmission lines
- Expansion of the role of the USDA's Rural Utility Service, to include financing renewable energy transmission
- Provision for utilities to finance and build transmission to renewable energy development zones in advance of energy production development
- Provision for utilities to place a service benefit charge on customers to fund transmission improvements that are needed for future renewable energy development
- Funded studies of distribution lines and substations to assess rural electric association and municipal utility systems' readiness for increased transmission
- Annual federal or state tax credit for landowners with renewable energy transmission lines on their property
- Models for transmission development that compensate landowners on a continuing basis for participating in transmission corridors and infrastructure, through royalties rather than one-time payments



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