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Title insurance and real estate's renewable energy sector

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As a quick primer, there are basically two forms of title insurance policies which are owner policies and loan policies.

An owner's title insurance policy can insure either ownership of land and improvements on the land or a lease interest in the land and improvements. In the case of a wind farm, the wind farm improvements include the towers, collection line easements and roads.

A lender's title insurance policy insures the priority position and enforceability of the lien of a mortgage placed upon the property.

Both owner and loan forms of title insurance are thus applicable to the renewable energy sector. The leasehold owner's policy insures the right of possession for a fixed number of years of the land upon which the wind tower improvements are located.

The fee simple owner's policy generally insures the ownership interest of the parcel of land upon which the project's power sub-station is located. The power substation collects, through underground cables leading to it from each wind tower, the electricity generated by all turbines located atop the wind towers. This electricity is then stepped up in voltage to allow transmission through generation tie lines ("gen-ties") that connect to the utility power purchaser. Many developers must build their own transmission lines "gen-ties" which can extend 200 miles or more in order to get the electricity generated by the wind farm to a regional or municipal utility company which then brings the electricity to the local consumer market. The ownership and easement rights through which land these extensive transmission lines "gen-ties" pass are also the subject of title insurance.

Once a wind farm developer is ready to obtain project financing to build a wind farm or obtain financing after the wind farm has been built, the developer seeks what is called a Power Purchase Agreement(PPA) from a municipal, regional or cooperative electric utility. The PPA is an agreement by an electric utility company to purchase, for a fixed number of years, the electricity generated by the wind farm. Title insurers issue loan policies in regard to these financings that can range from several million to several hundred million dollars.

Wind Farms are located all around the country with Texas, California and Iowa being leading states for production of electricity through use of wind farms.

Wind farm leases and easements can cover acres and acres of real estate. It would not be unusual for a title insurer to search thousands of acres owned by hundreds of land owners in order to produce a title commitment for a title policy on a wind farm.

Insuring title to wind farms and solar farms, to a lesser extent, are very labor intensive projects and require underwriting expertise.

There is generally a long waiting time between commencing search work until issuance of a final owner's or loan policy . A lease or extensive easement must be agreed upon and signed off by the developer and the many property owners whose property is to comprise the wind farm.

Many times a developer will use a "land man" to initially visit the farmers and/or ranchers that own the property upon which the wind farm is sought to be located to explain how a wind farm operates and negotiate the terms of an individual lease or easement. As a broad yardstick, a farmer can expect to earn several thousand dollars per each individual wind tower constructed on their property. There are many factors involved in pricing, but generally a farmer may earn approximately \$3,000 or more per megawatt generated by each tower on his/her property. The turbines atop today's wind towers can produce 1 1/2 to 2 1/2 megawatts depending upon the manufacturer.

Developers have learned to develop their wind farms so as not to interfere much with the farmer's ability to farm. The wind farm tower bases are not large and farmers can farm right up to these bases. The towers themselves are lined up in straight rows and the rows are often lined up at 90° angles to each other. Crop planting and harvesting machinery thus have straight runs to plant and harvest.

Other accommodations to farmers and ranchers are sometimes necessary to compensate them in situations where wind towers are located, with the farmer's permission, close to their farm or ranch houses.

As the industry and technology continue to develop, property owners increasingly favor working with wind farm developers to allow the development of wind farms in their towns and farms.

The wind farm industry is thus very active. National Title Insurers with strong balance sheets, very good searching abilities throughout the country, as well as a developed expertise in underwriting wind farm ownership and lending are part of the successful equation in the development of this growing renewable energy industry in the U.S.

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