

Wind Energy



Stanley J. Duran

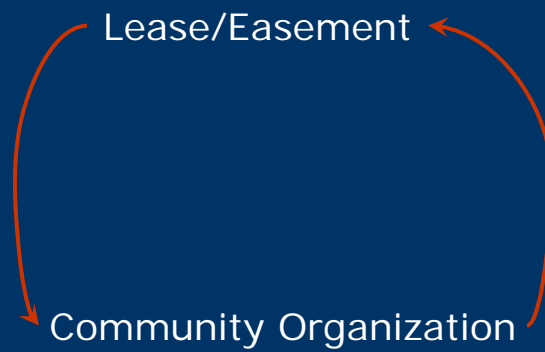


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Today's Presentation



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Preliminary Concerns

- Know your developer
- Understand the lease terms
- Can a landowner be an investor?
- Obtain professional advice

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Types of Contracts

1. Lease
 - Contract for possession and profits of land for a certain period of time
2. Easement
 - A right of use over the property of another
 - No obstruction to the free flow of wind
3. Option
 - A right, which acts as a continuing offer, give for consideration, to purchase or lease property at an agreed-upon price and terms, within a specified time

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Critical Lease Terms

1. Term
 - Development period
 - Operating period
2. Payment structure
 - Development period
 - Meteorological tower
 - Turbine installation
 - Operating fees/royalties
 - Escalation clause

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Critical Lease Terms (cont.)

3. Restrictions on landowner
4. Pooling concept
5. Termination
 - Developer—on 30 days' notice
 - Landowner—more restrictive and subject to cure periods

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Critical Lease Terms (cont.)

6. Assignment

- Developer has open-ended rights
- Lease runs with land as a landmark
- If contract is silent, it is assigned

7. Taxes

- Developer pays increase in taxes over farming/grazing

8. Tax credits

- Developer can restructure lease in case of lost tax credits

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Critical Lease Terms (cont.)

9. Crop damage

10. Governmental requirements

11. Insurance

12. Indemnity

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Early-Stage Activities

1. Evaluation of wind resources for proposed site
2. Preliminary analysis of interconnection and transmission issues
3. Evaluation of site-control requirements
4. Initial analysis of environmental permitting and other governmental approvals

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Next Steps

1. Preliminary discussions with possible purchasers (typically electric utilities)
2. Analysis of project design and evaluation of turbines
3. Identification of development team participants, (engineering contractors, permitting experts, professional advisors)

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Potential Development Roadblocks

1. Poor wind resources
2. Project site incomplete
3. No transmission
4. No turbines (or no warranty)
5. Permitting studies
6. Lawsuits
7. No financing (construction or permanent)

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How Landowners Can Benefit

1. T.E.A.M. (together everyone achieves more)
2. Landowners band together to form project development groups
3. Groups then develop project themselves or hire developer
4. Retain more of economic benefit

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Difficulties for Landowners

1. Development is time-consuming
2. Hiring developer is expensive
3. Prospective buyers like to work with known quantities

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C-BED Projects

1. C-BED rules enacted in 2005
2. Intended to benefit local owners
3. "Qualified owners" must receive significant portion of project's financial benefit

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Where to Get More Information

1. "Farmers' Guide to Wind Energy"
2. AWEA website (www.awea.com)
3. CBED groups