



**Rembolt | Ludtke**

# Landowner Organization Issues Nebraska Wind Conference - 2010

Andy Pollock

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Rembolt | Ludtke LLP

# Key Issues for Landowners



- Organization
- Control
- Wind data
- Developer
- Buyer
- Transmission
- Interest & investment

# What kind of project?



- **Small Project (net-metering)**
  - 25kW or smaller
- **Mid-size Project (C-BED)**
  - Small power production facilities qualifying under federal law (80 mW or fewer)
  - Qualifying C-BED projects (1/3 revenues stay in Nebraska)
- **Large-scale project**
  - For sale to public power (approval process onerous)
  - Export (LB 1048 allows)

# When to organize? Or Why??



- To consider alternatives
  - No formal organization needed
- To negotiate collectively with a developer for evaluation purposes
  - May not need formal organization
- To contract to collect and analyze wind data
  - Probably need formal organization
- To establish ownership interests or negotiate collectively for lease agreements
  - Should strongly consider formal organization

# Education



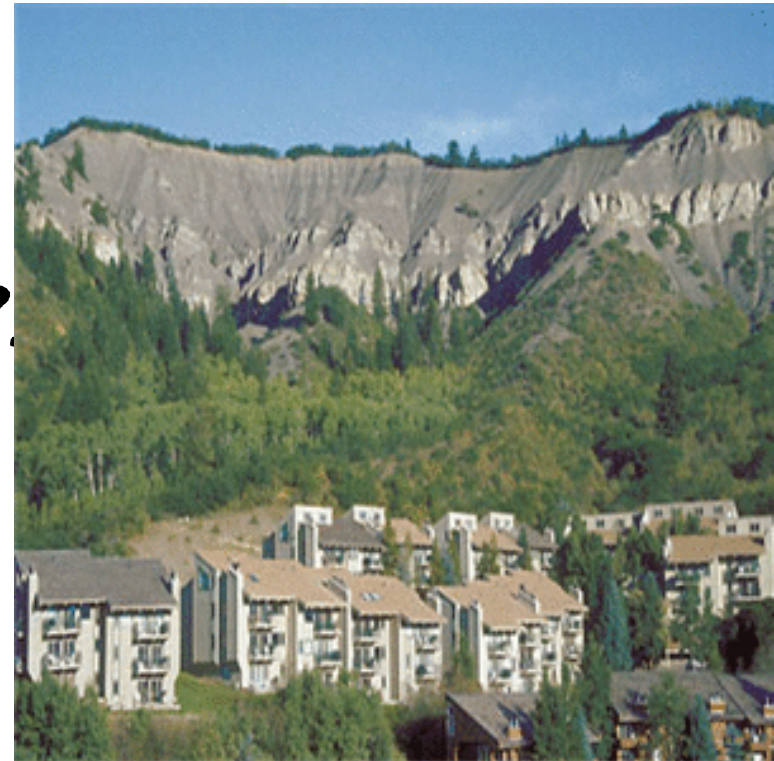
- **The law**
- **Your options**
  - Organization
  - Control
  - Wind data
  - Developers
  - Ownership and interest
- **The issues**
  - Finding a buyer
  - Transmission

# How to organize?



- Informal coalition
- Formal association
  - LLC
  - Corporation
  - Condominium

*SAY WHAT?!?*



# Who's in charge?



- Public Power?
- Developer?
- Owner?
- Local Landowner Association?
- Broader Local Group?

# Wind data: who owns it?



- **Public Power**
- **Developer**
  - Benefit: payments during evaluation period
  - Downsides:
    - Loss of control
    - Tied up land (up to 10 years)
    - Exclusive arrangement
    - In the end, what do you have to show for it
- **Landowner group**
  - Downside: cost
  - Benefits
    - Control
    - Options



# Finding the right developer



- **When they come to you**

- Length of lease evaluation period
- Payments
- Control of wind data
- Land use
- Restoration
- ETC....

- **When you look for them**

- Best options on all those issues

# Who will buy the energy?



- **Public power**
  - Public Power Districts
  - Municipalities
- **Export**
- ***Not*** Nebraska end users

# Is there transmission?



- NPPD
- Tri-State
- WAPA
- Export opportunities

# What is the landowner's interest?



- Lease of individual land, rent
- Ownership in project
  - Individual
  - Collective (many variations)
  - Opportunities of other local investment

# How to advance your interest?



- **Lease:** Seek expert advice (legal, economic, accounting) on the best lease arrangement
- **Lease:** collectively negotiate OR 'most favored nation clause'
- **Own or invest:** Organization of a local LLC, etc.
- **Own or invest:** Formation of a CDC (Community Development Corporation), utilizing a local bank as the anchor investor
- **A combination** of leasing and owning/investing

# Summary



- How, when do you organize?
- Who is in the driver's seat?
- What do you have at the end of the day?
- What expertise do you need to get there?



# Resources



- **Nebraska Energy Office**  
[www.neo.ne.gov/renew/wind.htm](http://www.neo.ne.gov/renew/wind.htm)
- **Nebraska Power Review Board**  
[www.powerreview.nebraska.gov](http://www.powerreview.nebraska.gov)
- **Nebraska Legislature**  
<http://nebraskalegislature.gov>
- **Nebraska Public Power District**  
[www.nppd.com](http://www.nppd.com)
- **Nebraska Energy Export Association**  
[www.nebraskaenergyexport.org](http://www.nebraskaenergyexport.org)
- **Nebraska Wind Investors Group**



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## Landowner Organization Issues

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