

Wind Energy Endorsements and Minerals - ALTA 36 Series

This presentation covers topics that are relevant to the title insurance industry with respect to insuring wind energy projects and issuing the ALTA 36 Series Endorsements. We will discuss the unique title issues associated with insuring wind energy projects, with an emphasis on minerals and surface rights.

What To Do when a Title Commitment is Ordered on Land to Be Used for Wind Energy Project:

- Beginning Stage

- Going Forward Stage:
 - Identify Coverage to be issued in the end– Anticipate Extended Coverage and Energy Endorsement coverage, including mineral coverage.

 - Many legal description changes, commitment revisions and proforma policy revisions

Why Energy Project can be Challenging

- Size of the project site

- Change in the use of the land

- Varied real property interests

- Endorsement coverage requested

Common Title Issues

- Access

- Zoning

- Subordination of existing encumbrances

- Mechanics' lien coverage

- Gaps

- Mineral ownership and rights of mineral holders
 - Identify mineral ownership

 - Search of the title plant and general index for recorded documents

 - Mineral Guarantee

ALTA 36 Series Endorsements

- Energy Facility Treated as an Integrated Project

- Valuation of the Title for an Integrated Project

- Special Determination of Loss for an Energy Project

- Encroachment Coverage

- Zoning Coverage

- Oil, Gas and Mineral Coverage - Surface and Subsurface; Existing and Future Improvements.
 - Split estate and mineral reservations

 - Mineral estate surface Rights

 - Subsurface interests

 - Accommodation Doctrine