

Winds of change

New laws encourage wind farm development while protecting Oklahoma landowners

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By **Cole Marshall**

In the September 2010 issue of AgLINC, Jeff Todd wrote that “wind farms have been sweeping the plains.” Indeed, wind farms are gaining a greater presence in Oklahoma where the topography, demographics and abundance of wind make Oklahoma a prime target for wind energy developers to set up shop. The presence of the wind industry in Oklahoma is only expected to grow, as Governor Fallin has recently traveled to California with a group of Oklahoma business leaders to the American Wind Energy Association’s annual tradeshow and convention to promote Oklahoma as a great place for the wind industry to do business.



Not surprisingly, the Oklahoma legislature has recently enacted a number of statutes that relate to the development of wind farms in Oklahoma. Most notably is the Oklahoma Wind Energy Development Act (the “Development Act”) which became effective on January 1, 2011. Among other things, the Development Act imposes minimum decommissioning requirements for wind developments, requires wind developers to provide documentation for landowners to understand and verify the amount of the payments made to the landowner, and requires the wind developer to carry liability insurance with the landowner identified as an additional insured party. Most recently, on May 10, 2011,



Governor Fallin signed into law a new statutory restriction prohibiting the use of eminent domain for the siting or building of wind turbines on private property. Previously, there was no such statutory restriction preventing wind developers from attempting to utilize eminent domain to acquire land for the purpose of developing a wind farm. With this new statute landowners are ensured that they have the right to decide whether their land should be the site for wind turbines, which provide economic benefit but also significantly burden the land.

As the wind industry continues to grow in Oklahoma, more landowners will be contacted by prospective wind developers about leasing their land for a wind farm. With these new laws now in effect, it is important that landowners become familiar with the complexities of wind energy development and engage counsel experienced in such issues so their rights are adequately protected when entering into any negotiations for such developments.

LINKS

- [Cole Marshall's Bio](#)
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- [McAfee & Taft's Agriculture and Equine Industry Group](#)

Oklahoma City Tenth Floor • Two Leadership Square 211 N. Robinson • Oklahoma City, OK 73102-7103
(405) 235-9621 office • (405) 235-0439 fax
Tulsa 1717 S. Boulder Suite 900 • Tulsa, OK 74119 (918) 587-0000 office • (918) 599-9317 fax