

WYOMING, MONTANA,  
COLORADO, NEW MEXICO  
COUNTY COMMISSIONER  
MULTI STATE WIND MEETING  
2011 DENVER, CO

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# WY Legislative Overview on Wind



- 2009 – Phased out the renewable energy sales tax exemption. Sales and use tax exempted on wind equipment delivered to Wyoming by Dec. 31, 2011.
- Sales tax exemption expires Jan. 1, 2012.
- Legislature creates Wind Energy Task Force made up of Legislative Members, Industry Member and County Commissioner.

# WY Legislative Overview on Wind

- Two bills recommended by the Wind Energy Task Force.
- 1) Minimum Standards for Construction (Local Regulatory Powers) and 2) Changes to Industrial Siting Act.
  - \* Industrial Siting is the State Permitting process an industrial project that meets the jurisdictional threshold must go through prior to construction. This is a “super permitting process” overseen by an appointed board of 6 members know as the Industrial Siting Council. \*

# 2010 Legislative Action



- 2010 – Legislature passed County regulatory bill (HB 72) and amended Industrial Siting Act (SF 66). Significance of HB 72, County Commissioner must issue permit locally. Significance to ISA changes, 30 turbines or more are jurisdictional regardless of dollar amount.
- Legislature enacted Wind generation tax, \$1 per MWhr. Revenue split 60% to producing counties/40% State General Fund. \*WY only state with generation tax\*

# 2010 Legislative Action Continued



- Moratorium imposed statutorily on the use of eminent domain for construction of collector systems.
- Wind Energy Task Force continues and asked to review eminent domain issues for collector line systems.
- Wind Task Force report recommends prohibition on use of eminent domain by private businesses (which are not public utilities) for collector systems.

# 2010 Legislative Action Continued



- Bill Draft submitted for 2011 session. Bill puts forth the recommendations of the Wind Task Force on eminent domain for collector line systems. Very controversial issue.
- Wind Tax Policy: Revenue Committee took up issue of Taxation of Wind in response to the imposition of the wind generation tax. The \$1 per MW was thought of as a “place holder” until committee could review economics more in depth.

# 2010 Legislative Action Continued



- Revenue Committee holds a series of meetings, forms an informal subcommittee made up of Legislators, Industry members, local government.
- Committee's overarching question: How competitive is Wyoming under the current tax structure in the delivery of wind in comparison to other states?
- Revenue Committee examined, Property Tax, Sales Tax exemption issues, and Generation Tax.
- As of December 2010, Revenue Committee has no committee sponsored bill for consideration in the 2011 Legislative session. Status quo so far. This was the position taken by the Counties initially. Uncertainty is not good for development.

# 2010 Legislative Action Continued



- Joint Judiciary Committee examined issue of the severance of wind from the surface for separate sale.
- Committee bill recommends that wind remain a real property right and that it is not severable from the surface. However, surface owner can enter into long term wind lease.
- Bill reiterates that the mineral estate is the dominate estate.

# WRAP UP: What can a county do?

- BE Involved and educate others on the “local” issues.
- Commissioners testify to Legislature frequently on wind energy issues. Legislature appreciates hearing what is happening on “front line”.
- Be in close contact with the Governor’s office and State Agency Directors. Wind is a national, state and local issue. Everyone is talking about it!
- Form coalitions of counties with similar development issues. The wind producing counties came together and formed a task force through the WCCA and presented a bill draft to the Legislature on the minimum standards. Work together

# Contact Info for WCCA

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