

February 2011

The ABCs of CRP: It Pays to Watch Your Ps and Qs

A couple of years ago, wind developers could overlook the Conservation Reserve Program (CRP) with little consequence. Those days are gone. The Farm Service Agency (FSA) set a precedent in 2010 when they stopped construction on a wind project due to a CRP contract violation.

Under CRP contracts, the federal government pays landowners to keep land in perennial vegetation for 10 to 15 years. In 2008, an Iowa wind project placed turbine access roads on CRP fields without contacting the FSA. The FSA later recognized the breach of contract and asked landowners to reimburse the federal government for past payments plus interest.

Two years later, a wind developer in Minnesota was not so lucky. The FSA stopped the construction contractor for burying electrical cables in a CRP field. The FSA has often waived oversight on buried electrical cables in CRP fields if asked in advance. For CRP violations, it can be easier to get permission than forgiveness.

Early coordination regarding CRP lands can eliminate the costs of construction delays later. Unfortunately, the 2008 Farm Bill began prohibiting disclosure of data on CRP lands without landowner consent due to privacy concerns. Smart developers responded in 2009 by including consent language in land lease documents. With written releases from landowners, consultants can obtain digital CRP mapping from the FSA. This approach ensures that project developers have current data. Staying current is important. CRP lands can change every year as old contracts expire and new lands are enrolled.



Once the impacts of roads, turbine pads, and collection systems on CRP lands are assessed, maps can be submitted to the FSA on behalf of landowners. The approval process varies by FSA office, but it typically involves terminating CRP contracts for impact areas and reimbursing the FSA for past CRP payments. Some FSA offices will want to confirm impact areas with digital mapping. Others will want the local FSA committee to review and approve impacts. Many offices do not require reimbursement until construction is complete.

The FSA typically requires reimbursement only for turbine pad and access road impacts. In some cases, reimbursement may also be necessary for temporary disturbances like collection cables and crane paths. During the avian nesting season (about May 1 to July 15), the FSA may consider any disturbance of CRP land to be a contract violation.

Most projects proceed to construction when the required CRP reimbursement is understood by the FSA, the landowner, and the developer. The reimbursement for road and turbine footprints may be as little as \$100/contract year for each acre of CRP impact. It's a small price to pay for positive community relations and timely progress during construction.



For more information, please contact

Jay Wittstock
Branch Office Manager, St. Cloud
jay.wittstock@westwoodps.com
320-229-2325

Solutions
for *your* **Success**

