

ISSUING GUIDELINES

ALTA Endorsement: 36.5-06 (Energy Project - Covenants, Conditions and Restrictions - Land under Development)

Explanation:

This endorsement is one of a series of endorsements designed specifically for energy projects (e.g., wind farms, solar farms, traditional electricity generating facilities, etc.). Such projects may include fee parcels, leaseholds, and/or easements.

ALTA Endorsements 36.4-06 and 36.5-06 are similar. ALTA Endorsement 36.4-06 is modeled on and provides coverage similar to ALTA Endorsement 9.8-06 (Covenants, Conditions and Restrictions – Land under Development – Owner’s Policy). ALTA Endorsement 36.5-06 is modeled on and provides coverage similar to ALTA Endorsement 9.7-06 (Restrictions, Encroachments, Minerals – Land under Development – Loan Policy), except for encroachments.

ALTA Endorsement 36.4-06 is designed to be issued with a 2006 ALTA Owner’s Policy. ALTA Endorsement 36.5-06 is designed to be issued with a 2006 ALTA Loan Policy.

This endorsement contains an expansive definition of “Electricity Facility” that includes an existing electricity generating facility and an electricity generating facility under construction or to be built on the land in locations according to defined “Plans” depicting the project. This endorsement also contains a definition of existing and future “Severable Improvements” linked to the definition of Electricity Facility and the Plans.

The endorsement insures against: (a) violations of covenants by any existing or future Electricity Facility or Severable Improvement, (b) enforced removal of any existing or future Electricity Facility or Severable Improvement as a result of a violation of an existing platted building setback line, and (c) notices of violations of covenants relating to environmental protection, unless an exception in Schedule B identifies the violation or notice of violation, as applicable.

Underwriting Requirements:

1. The project must involve an electricity generating facility (e.g., wind farms, solar farms, traditional electricity generating facilities, etc.). The electricity facility can be existing or to be built or under construction.

2. This endorsement is designed primarily for a policy insuring an energy project under construction or to be built. However, it can be used for an existing, completed energy project with appropriate modification to the definitions of Electricity Facility and Severable Improvement, and deletion of the references to the Plans.
3. If the project is to be built or under construction, obtain and retain a set of the plans for the project (survey, site and elevation plans or other depictions or drawings prepared by an architect or engineer), and such plans must be referenced in the endorsement. If the project is completed or existing, and no construction is contemplated, you may waive the requirement of the plans, and modify the endorsement to delete the reference to the Plans.
4. Obtain a current, accurate survey, which shows the location of: (a) all existing improvements and all proposed improvements, based upon the Plans defined in the endorsement, (b) all existing and proposed setback lines.
5. Verify that the existing and planned electrical facility and severable improvements do not materially violate any existing enforceable covenants. Except to all violations of covenants in Schedule B.
6. Verify that the existing and planned electrical facility and severable improvements do not violate a building setback line shown on a plat of subdivision recorded in the real property records (the "Public Records"). Except to all encroachments over building setback lines in Schedule B.
7. If a notice of violation of a covenant relating to environmental protection has been recorded in the real property records (the "Public Records"), except to it in Schedule B.
8. If you date down the policy, require a new survey showing the location of all improvements.

Issuing guideline applies to the following Endorsement(s):

ALTA 36.5-06 Energy Project - Covenants, Conditions and Restrictions - Land under Development –
2006 ALTA Loan Policy