

ISSUING GUIDELINES

ALTA Endorsement: 36.3-06 (Energy Project - Leasehold - Loan)

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.

This endorsement includes coverage for insured leasehold estates and/or easement interests utilized to create rights in the land for some or all of the project improvements.

ALTA 36-06, 36.1-06, 36.2-06 and 36.3-06 are similar. These endorsements are modeled on and combine components of ALTA Endorsement 13-06 (Leasehold – Owner’s) and ALTA 13.1-06 (Leasehold – Loan) and ALTA 31-06 (Severable Improvements).

ALTA 36-06 and ALTA 36.1-06 are designed for policies that insure an easement or an easement and a lease. ALTA 36-06 is designed for an Owner’s Policy; ALTA 36-06 is designed for a Loan Policy. Such policies may also insure fee simple interests.

ALTA 36.2-06 and ALTA 36.3-06 are designed for policies that insure a lease, but not an easement. ALTA 36.2-06 is designed for an Owner’s Policy; ALTA 36.3-06 is designed for a Loan Policy. Such policies may also insure fee simple interests.

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 definitions of Electricity Facility and the Plans.

The endorsement provides that, in the event of an eviction, the calculation of loss shall include the diminution in value of the Insured’s interest in any existing or future Severable Improvements.

This endorsement contains a definition of “Constituent Parcel.” The endorsement provides that, in the event of an eviction caused by a covered matter affecting any Constituent Parcel, the

computation of loss or damage resulting from the eviction shall include loss or damage to the integrated project.

This endorsement provides that the Insured Claimant shall have the right to have the Electricity Facility and the Leasehold Estate and/or Easement Estate (as applicable) valued either as a whole or separately.

This endorsement also tailors the provisions of the “Additional items of loss covered by this endorsement” section to energy projects. For example, it includes the reasonable cost of disassembling, removing, relocating and reassembling any Severable Improvement.

Similar to the Leasehold Endorsements, this endorsement adds a new exclusion clarifying that it excludes costs of remediation resulting from environmental damage or contamination.

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. If you issue ALTA 36-06 (Owner’s) or 36.1-06 (Loan), an easement must be insured on Schedule A. A lease and/or a fee may also be insured on Schedule A.
5. If you issue ALTA 36.2-06 (Owner’s) or 36.3-06 (Loan), a lease must be insured on Schedule A. A fee may also be insured on Schedule A. An easement should not be insured on Schedule A.

The following table may assist in determining the suitability of these endorsements:

FORM #	POLICY TYPE	SCHEDULE A MUST CONTAIN	SCHEDULE A MAY CONTAIN	SCHEDULE A SHOULD NOT CONTAIN
36-06	Owner's	Easement	Lease and/or Fee	NA
36.1-06	Loan	Easement	Lease and/or Fee	NA
36.2-06	Owner's	Lease	Fee	Easement
36.3-06	Loan	Lease	Fee	Easement

If this endorsement is issued, it should not be necessary to also issue an ALTA 13-06 (Leasehold – Owner's) or 13.1-06 (Leasehold – Loan) Endorsement or ALTA 31-06 (Severable Improvements). However, you may do so if requested by the customer.

Issuing guideline applies to the following Endorsement(s):

ALTA 36.3-06 Energy Project - Leasehold - Loan - 2006 ALTA Loan or Owner's Policy