



Renewable Energy

Lippes Mathias' attorneys and professionals have extensive experience advising on real estate, permitting, environmental, and land use matters associated with the development of renewable energy projects. We represent owners and developers, tax equity investors, lenders, property owners, municipalities, and construction firms throughout the United States on the due diligence, transactional, and development aspects of solar, wind, and geothermal energy projects, including pre-transaction/auction due diligence; establishing and negotiating site control; lease and purchase negotiations; title and survey work; developing entitlement strategies and securing federal, state and local permits/approvals; reviewing construction agreements; advising on insurance issues; and providing legal opinions on the sufficiency of permitting.

TEAM LEADER



IAN A. SHAVITZ
Partner | Team Leader -
Environment & Energy

Our team regularly draws upon other firm attorneys in key areas such as energy and environment, land use, real estate, and insurance recovery to advise our clients. Because of our wide range of service offerings and competitive rates, we often collaborate with finance and commercial/transactional attorney teams at larger law firms to serve as special real estate, permitting, and environmental counsel on renewable energy transactions and financings.

Our areas of focus include:

DUE DILIGENCE

We regularly advise on real estate, environmental, and permitting due diligence in connection with the purchase, sale, and financing of renewable energy projects, where we identify the potential risks, liabilities, costs, and site control issues that are central to determining how and whether to proceed with a transaction.

- **Permitting.** Our permitting diligence identifies and confirms the status and legal sufficiency of permits and approvals required for the development and operation of renewable energy projects, including land use/zoning, FAA hazard determinations, cultural and historic properties, and impacts to natural and biological resources (wetlands, waterways, and protected species and habitat).
- **Real Estate.** Our real estate diligence focuses on all facets of real estate matters, including comprehensive

review and analysis of site control agreements (e.g., option agreements, leases, and easements) and title documents (e.g., title commitments, title policies, title encumbrances, and surveys). We identify issues of concern and advise as to appropriate resolutions.

- **Environmental.** Our environmental diligence process examines on-site conditions, including the potential presence of hazardous materials and other contaminants that could result in liability, remediation obligations, or development limitations. Our team includes an environmental engineer that previously served for over 30 years as a head of New York State's environmental contamination program, who regularly advises companies on necessary levels of environmental due diligence, the appropriate scope of environmental site assessments, and determining the risks, costs, and obligations associated with developing a renewable project at a contaminated site.

REAL ESTATE

Our real estate attorneys have a wealth of experience in real estate and title matters at a national level and routinely handle energy-based transactions of all sizes. We frequently work with third parties, including title companies and surveyors, to review and assess title matters and address relevant transactional requirements. We evaluate possible issues concerning site control agreements and frame practical solutions within the transaction context.

PERMITS AND APPROVALS

Our environment and project development attorneys have decades of experience advising on strategies for securing permits for a wide range of small- and large-scale infrastructure development projects, including utility-scale and commercial and industrial solar, wind energy, transmission lines, and battery storage. We regularly advise on securing permits and approvals under and complying with the Endangered Species Act (ESA), National Environmental Policy Act (NEPA), Bald and Golden Eagle Protection Act (BGEPA), Migratory Bird Treaty Act (MBTA), Clean Water Act (CWA), Federal Aviation Administration obstruction/hazard clearances, and National Historic Preservation Act (NHPA), as well as similar state and local laws, among others.

TRANSACTION SUPPORT

Our attorneys advise and assist on the real estate, environmental, and permitting aspects of associated transactions, which includes reviewing, revising, and negotiating relevant provisions of asset purchase, membership interest, and financing agreements.

We review, draft, and negotiate site control agreements (e.g., leases, easements, and crossing agreements), identify and negotiate potential solutions for transactional issues, and review title and title encumbrances for possible issues. In addition, we coordinate title and survey matters and work with third parties to finalize title commitments, title policies, and surveys.

ENVIRONMENTAL RISKS AND CONTAMINATION

Renewable energy projects often require large tracts of land where site conditions could include hazardous materials contamination. We work with our clients to identify, assess, and address potential risks and liabilities associated with such environmental contaminants, based upon our experience with the federal and state laws and regulations that govern the investigation, evaluation, and remediation of pollutants in the environment. Lippes Mathias' engineers (who previously served as state regulators) support our recommendations with technical and practical guidance on liability issues, cleanup requirements, regulatory reporting obligations, and implementing cost-effective strategies to remediating properties to required standards for renewable energy development.

INSURANCE

We assist our clients in navigating the complex risk allocation and insurance needs of renewable energy projects. We partner with our clients and their insurance brokers to design and place insurance programs, including

controlled and project-specific programs, to efficiently and effectively address project needs. We also have extensive experience reviewing, negotiating, and drafting risk transfer and insurance terms and conditions in upstream and downstream contracts and pursuing insurance recoveries for builders risk, construction equipment, and other losses incurred during the development and construction of renewable energy projects.

RENEWABLE ENERGY ON TRIBAL LANDS

We regularly work with tribal clients (and private developers seeking to partner with tribes) to develop renewable energy projects on tribal lands. Our attorneys have decades of experience representing and advising clients on tribal land development matters, which has provided our team with the additional expertise necessary to negotiate the complexities of renewable energy projects on tribal lands. We have also advised on and drafted HEARTH Act regulations to allow our tribal clients to lease their lands for renewable energy purposes without the need for Secretary of the Interior approvals.