

Solar Projects: Farmer Guidance

Background

During the last several years, there has been an uptick in the number of companies investing in solar projects throughout Wisconsin. Many of these projects seek out farmers and landowners close to substations for proximity access to move power onto the grid.

Recently, WFBF members have inquired about issues regarding enrollment in these projects. The following document is not meant to be a typical issue backgrounder nor is it to offer legal advice, but instead provide some suggested questions and areas of inquiry that landowners should ask to start gathering information in order to make an informed decision about potential enrollment in a solar project.

Questions/Information to gather

- Terms of the contract
 - How many years and how is the rental payment calculated?
- •What happens if the solar company goes bankrupt?
 - Requirement of surety bonds in the contract to help guarantee decommissioning back to agriculture.
- How is the project decommissioned and in what state is the land left when the contract expires?
 - Is land returned to the exact state it was when initially put into solar panels, for example, are field roads, ditches, waterways, buffers, previous fencing, entrances/road access, pasture grasses if pastureland restored?)
- How will taxes change related to use-value assessment?
 - Who is responsible for paying taxes for land within the project area?
- Why do local municipalities like/support or oppose these projects?
- Enhanced tax base: more lucrative than use-value assessment taxation for county and local municipalities.
- Are there zoning changes needed and what provisions are in place to change zoning back to agriculture once the project is decommissioned?
- How long does project construction/deconstruction take?
- What are the construction considerations?
 - Road construction, road closure, water drainage issues, soil erosion, noise, traffic, material disposal, etc.?
- What type of barrier is put up around the solar project?
 - Fence, tree perimeter, other?
- What type of access does the landowner have when the land is enrolled in the project?
- Who is responsible for maintenance of the land around/within the solar project?
 - Mowing, planting, type of planting, invasive species, trees/shrubs.
- Are there any allowable agriculture uses during the term of the contract? For example, can sheep or some other small animal(s) range on the leased solar project property?
- What health concerns, if any, can be attributed to solar panels or the electric energy created?
- Any changes/details in the contract for catastrophic events?
 - For example,. tornado, straight-line winds or flooding.
 - What is the solar company's role, responsibility and timeline if or when an event happens?
- What about liability?
 - Who pays for the liability insurance? What are the required policy coverages?
 - Is the landowner listed as an addendum on the solar company's policy so that the solar company's insurance is the first line of defense?

- What happens with a transfer of ownership of contracted land?
 - Farm transition from one generation to the next?
 - If landowner chooses to retire and either sell the property to someone else or a family member?
 - If landowner passes away during the terms of the contract, what are the provisions within the contract for heirs/provisions of a trust/partnership?
- What are the setbacks a landowner should/must consider from agriculture and residential buildings for this project?

Implications to consider

- How does this contract/project fit in your future farm plan/transition?
- What are the unintended consequences if there is a local homestead nearby?
- What does this do to your relationship with neighbors?
- Access to land for manure application per nutrient management plan
- Access to rental land for livestock feed
- Relationship to rental land rates
- Access to rental land and potential long-term risks
- Will there be permanent changes to the landscape/farmland that might take place with the installation of solar panels?

Related Wisconsin Farm Bureau Policy

- Page 4, Line 24 – We support research and incentives to develop alternate sources of energy, and electrical generation within the state.
- Page 4, Line 27 – We support allowing third-party investors to develop alternate energy sources.
- Page 4, Line 34 – We support requiring wind and solar farms to make payments to cover municipal services.
- Page 5, Line 20 – We support a state and national energy policy which includes energy conservation, increased domestic production and marketing of renewable fuels and energy, including but not limited to ethanol, biodiesel, crop-based fuels, methane, water, wind and solar.
- Page 13, Line 32 – We reaffirm our belief in the rights of private property ownership, and in the ability of landowners to make wise land use decisions.

Recommendations

- Consult with a contract attorney who is familiar with solar contracts and landowner issues as soon as possible when engaging in plans for a solar project.
- Communicate with local municipality officials to ensure you understand ordinances and any other fees or requirements.