

Don't get shocked: What you need to know about solar arrays

by Katie Navarra

Have you been contacted by solar development companies interested in renting your land?

Several solar development companies are recruiting land in the Capital District and landowners in the region are receiving proposals. "One company has mailed a blanket of proposals to landowners, highlighting possible land to rent on a map. Interested people needed to sign and return in order to express interest and receive a contract form," said Sandy Buxton, with the Capital Area Agriculture and Horticulture Program.

The information included with the proposal spells out possible lease amounts and basic terms. "For example, \$1,500 an acre for 20 years for 20 acres of land," she explained.

Signing the proposal puts the landowner on the hook for the ability of the company to work with them for up to 24 months for possible project. The contracts are mere substantial documents and landowners are instructed to not share it with others and to sign and return in three to five days.

As soon as the proposals started arriving in the mail, the Capital Area Agriculture and Horticulture Program started receiving phone calls. In an effort to help landowners learn more about solar array development projects, the group hosted "Don't Get Shocked: Renting Land for Land-based Solar Arrays," workshop on April 21 at multiple sites around the Capital District.

"Our goal was to make sure our farmers and landowners had enough information about all of the issues related to the regulations so they could make an informed decision. Buxton added

ed, "as with all proposals, landowners need to research, or at least consider potential consequences to their property from undertaking such a project."

Finch for solar

Through the New York Sun initiative (ny-sun.ny.gov) Governor Cuomo has set aside \$1 billion to help offset the cost of establishing greater than 3 GW of solar installations by 2023.

Should you decide a proposal or contract makes sense for your land, your town or municipality may not be ready for a solar array. "The municipality might not have zoning in place," Hamlin pointed out.

She is cautioning municipalities to establish moratoria on solar array development projects. "Moratorias prevent rushed development, inefficient or ill-conceived growth and can prevent hasty decisions that might result in disadvantages to landowners and the public," she explained.

Moratoriums are designed to be short in duration and should include progressive work. "Six months is a good time frame. It can always be renewed," Hamlin said.

Even if your municipality has zoning, permitting and siting processes in place, the surrounding infrastructure may not be ready to handle the energy output from solar arrays. "If the utility interconnectedness can't handle the export from a solar array on your property, it is expensive for the upgrades and may not make the project feasible," said Maureen Leddy, of NYSER-DA's NY Sun program.

Effects on ag assessments

While a lease of \$1,000 to \$1,500 an acre for 20+ years seems like an attractive figure, landowners need account for potential tax consequences.

New York State Ag & Markets considers the installation of a solar array on farmland that is currently under an Ag Assessment as a conversion. That ag assessment will be reviewed and since the land would no longer be used for production agriculture, a penalty can be assessed to the land owner.

"Ag value assessments on average, result in a 32 percent savings for farms across the state," said Robert Somers, Ph.D. Manager, Farmland Protection Unit, Department of Ag & Markets.

Converted land that loses an ag assessment for other tax exemptions. "There are property tax exemptions (Section 487 of Real Property Tax Law) that can be used for 15 years. However, Town, County and school districts can opt out of the exemption, making their taxes full value. And, even if the exemption is in place, special district taxes, such as fire, water and lighting, will be charged at the new assessment," Buxton noted.

While 92 percent of the municipalities currently offer exemptions for solar arrays, not all do and others may choose not to in the future. The website, www.tax.ny.gov lists the schools and municipalities that have chosen to opt out of solar tax exemptions.

Not only are tax exemptions in play, but so too are changes in real property taxes. "Improvements to property may mean that your tax evaluation goes up," noted Catherine Hamlin, of the Department of State's Land Use Training Division.

Legal considerations

The final workshop speaker local attorney Fiona Farrell, Saratoga Springs, provided some surprising information for many participants as she reviewed issues that can occur in some land-leasing contracts. Her advice for anyone considering entering into such a contract was to proceed with cau-

tion, to have a thorough review of any contract and to work with a company willing to negotiate and address a landowner's concerns when a contract is being drawn up.

If a representative verbally agrees to specific conditions, but if those specifics are not written into the contract, then the developer does not have to honor those conditions.

Before signing any contract, it may be in your best interest to consult with an attorney. In the contract, Farrell has seen, there are loopholes that strongly favor the developer. "Some of the loopholes are the size of a hula hoop. Others are large enough to drive a combine through," she cautioned.

Countless unknowns remain with solar arrays. Many basic contracts start with a 20 year term and allow for four possible renewals of five years each totaling an additional 20 years. Add in the nearly two years for development and that is a 42-year commitment on your land and a lot can change between now and then. "What if the government decides to take over solar arrays for "public good." You could lose your land," she said.

The developer will likely push back on requests to change the terminology in the contract, but this is your opportunity to negotiate and address any concerns you have.

Learn more

There is still much to learn and consider about development leases for solar arrays. The Capital Area Agriculture and Horticulture Program has prepared detailed information and posted recordings from the April 21 workshop. To hear the full presentations and view handouts, visit http://bit.ly/NYS_Rural_Solar. Additional resources are also available on the Capital Area Agriculture and Horticulture Program site: <http://blogs.cornell.edu/capitalareagandhortprogram>.