



Agriculture and Markets

ANDREW M. CUOMO
Governor

RICHARD A. BALL
Commissioner

April 12, 2019

Max Joel, Program Manager
NY Sun-NYSERDA
17 Columbia Circle
Albany, NY 12203

Dear Mr. Joel:

Pursuant to Agriculture and Markets Law (AML) §305(4), the Department of Agriculture and Markets has completed its review of the Notice of Intent submitted by the New York State Energy and Research Development Authority (NYSERDA), for the advance of public funds for the construction of a 7 Mega Watt Solar Photovoltaic System, located in the Town of Farmington, within Ontario County Agricultural District No 1.

The Final Notice of Intent was sent to the Commissioner of Environmental Conservation (DEC), the Advisory Council on Agriculture (ACA) and the Ontario County Agricultural and Farmland Protection Board (AFPB) for their review of the proposed action. The DEC did not submit any comments. The ACA commented that it has no objection provided that the parcels which are subdivided for the projects are merged to their pre-construction state at the time the system is decommissioned. The AFPB submitted comments which have been forwarded to NYSERDA for their consideration.

Based on all relevant information before me, I have determined that the proposed action would not have an unreasonably adverse effect on the continuing viability of farm enterprises within the district or State environmental plans, policies and objectives. This determination is due, in part, to NYSERDA's commitment to the mitigation outlined in its letter dated April 9, 2019 (attached), provided that, if NYSERDA or the involved Project Companies determine the standards found in the Department's *Guidelines for Agricultural Mitigation for Solar Energy Projects* cannot be met, the Department will be contacted for acceptable alternatives.

Please be advised that in order to complete its filing obligations under §305(4), NYSERDA must certify to me at least ten days prior to advancing the funds to construct the solar photovoltaic arrays, that it has made an explicit finding that the requirements of §305(4) have been met, and to the maximum extent practicable, adverse agricultural impacts revealed in the Notice of Intent process will be minimized or avoided. The certification shall set forth the reasons in support of the finding as is more fully set forth in AML §305(4)(f).

Mr. Max Joel, Program Manager
NY Sun-NYSERDA
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Sincerely,

A handwritten signature in black ink, appearing to read "Richard A. Ball". The signature is fluid and cursive, with the first name being the most prominent.

Richard A. Ball
Commissioner

cc: McCrea Burnham, NYS Department of Environmental Conservation
ACA Members
Fred Lightfoote, Chair, Ontario County AFPB
Ron Brand, Director of Planning and Development, Town of Farmington
Peter Dolgos, Senior Vice President, Delaware River Solar

File: AP 19/008-NOI



NYSERDA

ANDREW M. CUOMO
Governor

RICHARD L. KAUFFMAN
Chair

ALICIA BARTON
President and CEO

April 9, 2019

Kathleen Tylutki
NYS Department of Agriculture and Markets
10B Airline Drive
Albany, NY 12235

SENT VIA ELECTRONIC MAIL

Re: Delaware River Solar, LLC, and its affiliates, proposed solar projects on Yellow Mills Road in the Town of Farmington (the "Solar Projects")

Dear Ms. Tylutki:

On April 2, 2019, you proposed the following mitigation measures that would be acceptable to the Department of Agriculture and Markets (the "Department") for NY Farmington I, LLC, NY Farmington II, LLC, and NY Farmington III, LLC (collectively, the "Project Companies") proposed by the Developer, Delaware River Solar, LLC, in the Notice of Intent filed by NYSERDA with the Department for the Solar Projects:

1. Following the Department's *Guidelines for Agricultural Mitigation for Solar Energy Projects*.
2. Continued grazing of cattle on the designated grazing areas of the parcel.
3. Merging the parcels subdivided after decommissioning, back to their original state of pasture land.
4. A 30-foot-wide path to accommodate farm equipment and cattle to traverse the parcel from the barn on the east side of the parcel to the pasture on the west and south sides of the parcel.
5. Pending the Zoning Board of Appeals approval, the variance requested by the Developer would also serve as acceptable mitigation. The variance would reduce the footprint of the project on the project site, allowing for the grazing operation to fully maximize the contiguous grazing area.

NYSERDA is in support of the intent of the mitigation measures and accepts the mitigation measures with slight modifications set forth below, to be maintained until decommissioning of the Solar Projects:

New York State Energy Research and Development Authority

Albany
17 Columbia Circle, Albany, NY 12203-6399
(P) 1-966-NYSERDA | (F) 518-862-1091
nysesda.ny.gov | info@nysesda.ny.gov

Buffalo
725 Exchange Street
Suite 821
Buffalo, NY
14210-1484
(P) 716-842-1522
(F) 716-842-0156

New York City
1359 Broadway
19th Floor
New York, NY
10018-7842
(P) 212-571-5342
(F) 512-862-4091

West Valley Site
Management Program
9030-B Route 219
West Valley, NY
14171-9500
(P) 716-942-9960
(F) 716-942-9961

1. To the maximum extent possible, the Project Companies will follow the Department's *Guidelines for Agricultural Mitigation for Solar Energy Projects (Rev. 4/19/2018)*. If for any reason the *Guidelines* cannot be met, the Department should be contacted for acceptable alternative;
2. The Project Companies will ensure the landowner has access to the designated grazing areas of the landowner's parcels to allow for the landowner's continued grazing of cattle;
3. The Project Companies will enter into a decommissioning agreement with the Town of Farmington that will include the removal of the Solar Project and the restoration of the project site to a state similar to its pre-construction condition of pasture land. The Project Companies shall, after decommissioning and to the maximum extent possible, assist the landowner in merging the subdivided parcels into a single parcel;
4. The Project Companies will ensure construction of a 30-foot-wide path to accommodate farm equipment and cattle to traverse the parcel from the barn on the east side of the Solar Project to the pasture on the west and south sides of the Solar Project;
5. The Project Companies have requested a variance that would serve as additional acceptable mitigation. The variance would reduce the footprint of the Solar Project on the project site, allowing for the grazing operation to fully maximize the contiguous grazing area. The variance is pending the Town of Farmington Zoning Board of Appeals approval.

Through this instrument, the Project Companies agree to implement the modified mitigation measures upon acceptance by the Department.

Sincerely,

By: \Max Joel

Name: Max Joel

Title: NY-Sun Program Manager

Date: 4/9/19

NY Farmington I, LLC, a New York Limited Liability Company
by: Delaware River Solar, LLC, a New York Limited Liability Company

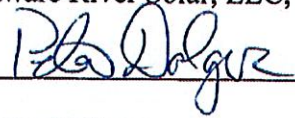
By: Peter Dolgos

Name: Peter Dolgos

Title: Senior Vice President

Date: April 9, 2019

NY Farmington II, LLC, a New York Limited Liability Company
by: Delaware River Solar, LLC, a New York Limited Liability Company

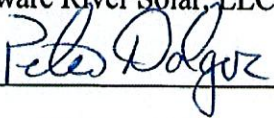
By: 

Name: Peter Dolgos

Title: Senior Vice President

Date: April 9, 2019

NY Farmington III, LLC, a New York Limited Liability Company
by: Delaware River Solar, LLC, a New York Limited Liability Company

By: 

Name: Peter Dolgos

Title: Senior Vice President

Date: April 9, 2019