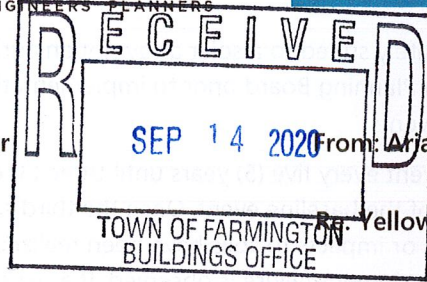




To: Delaware River Solar

Date: 09/11/2020



From: Ariadna Cheremeteff, Environmental Discipline Lead

By: Yellow Mills, Farmington, New York Site

## Delaware River Solar Yellow Mills Proposed Solar Site

### Response to Special Use Permit Conditions of Approval

After review of the draft Town of Farmington Planning Board Resolution to Delaware River Solar Special Use Permit Conditions of Approval (PB #1006-18) Bergmann offers the following statement, comments, and questions in regard to Condition 7 (beginning on page 39):

1. Why is the sampling methodology based on Cornell University's soil testing guidelines? Assuming this is referring to Cornell's Comprehensive Assessment of Soil Health Soil Sampling Protocols 7-1-16? (see attachment as reference). This methodology is accurate for agricultural properties presuming this property will be returned back to agricultural use once the solar array is decommissioned.
2. Further in the condition (red font pg. 41) 6 New York Code Rules and Regulations (NYCRR) Part 375, Subpart 375-6 Table 375-6.8(a) is arbitrarily referenced. This regulatory reference is for Environmental Remediation Program Sites, which this property is not involved with or under a NYSDEC consent order for. Additionally, Table 375-6.8(a) Unrestricted Use Soil Cleanup Objectives are the most stringent levels for cleanup of soils. This site, as a proposed Solar Array, can be considered at Restricted-Residential or even Industrial/Commercial levels if the site was in an Environmental Remediation Program, which it is not. Bergmann's recommendation is to remove any reference to 6 NYCRR Part 375 as this site is not an environmental remediation site or in an environmental remediation program.
3. Page 40 indicates that samples are to be collected at a depth between 1-2", this is inconsistent with the Cornell Sampling protocol referenced which requires 6" depth x 2" width for collection of soil samples. Bergmann recommends a more concise and simplified sampling protocol or agreed upon depths of the surface soil samples.
4. "Additional potentially harmful chemicals or metals identified in materials used in the manufacturing of solar panels..." this statement is arbitrary and can include a range of chemicals, however, that are not harmful or toxic when encased within a solar panel. Bergmann recommends either defining these chemicals or removing this sentence. Running a full suite of contaminants that could potentially be identified as part of the solar manufacturing process is cost prohibitive. Additionally, reference to "equipment used or stored on site" does not identify any associated chemicals or hazards. The only equipment stored on site would be the electrical panel box, which is typically a prefabricated protective box with the equipment internally stored on a concrete slab. There is no potential for significant adverse impacts to the environment from this equipment, therefore, Bergmann recommends removal of this sentence.
5. Bergmann recommends that a baseline sampling event be performed for the metals identified in the beginning of Condition 7 page 40 (arsenic, barium, cadmium, chromium [hexavalent and trivalent], lead, mercury, selenium, silver, and zinc). Bergmann suggests preparation of a simplified sampling protocol





similar to Cornell's, however, more appropriately suited to a solar array not an agricultural field. This protocol will be reviewed by the Farmington Planning Board prior to implementation and will be utilized for the baseline and subsequent sampling events.

6. Bergmann recommends one (1) sampling event every five (5) years until three (3) consecutive sampling events have results consistent (within 15%) of the baseline event. Once the third sampling event post baseline has indicated that minimal changes or impacts to soils have been realized the sampling program will be terminated unless a panel break or equipment failure is observed. If a panel break has occurred, sampling would be conducted immediately and would resume for every five (5) years. Upon decommissioning one (1) final sampling event will be implemented for record. It is noted that the Town of Farmington does not require other commercial/industrial or even residential developments to implement such sampling protocols during or after construction. This protocol does not include provision for any off-site contaminant migration or contamination from accidental, criminal, or negligent activities not associated with the solar array or its retaining party.
7. A Toxicity Characteristic Leaching Procedure (TCLP) analysis was previously conducted and submitted to the Planning Board for the solar panels proposed to be used on the project site, which concluded definitively that these panels would not leach harmful chemicals or heavy metals into the soils. Proposed condition 7 does not include any provision for if off-site contamination or if contamination caused by an accident or criminal act adversely impacts the soils of the project site. The threat of revocation of the special permit due to potential contamination that has the potential to be caused by others not under the control of the applicant presents an undue and arbitrary burden on the applicant. Further, precedent indicates that more intense commercial and industrial uses are being approved throughout the Town of Farmington that do not require this exhaustive soil testing before, during or after construction. As such, this condition is being arbitrarily and capriciously applied solely to Delaware River Solar for this project, and as such, should be stricken from the approval resolution.

**ATTACHMENT**