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NYS Department of Agriculture and Markets – Agriculture Districts Law §305
Notice of Intent to Undertake an Action Within an Agricultural District

Instructions: The purpose of this form is to provide NYSERDA with the necessary information required to submit a Notice of Intent to the Department of Agriculture and Markets on behalf of the Project Sponsor. Please populate all fields in this template, as applicable, and return to NYSERDA, with a copy to commercial.industrialpv@nyserda.ny.gov. Please add additional documents if desired and include required maps and/or other figures as outlined below in the response sent to NYSERDA.

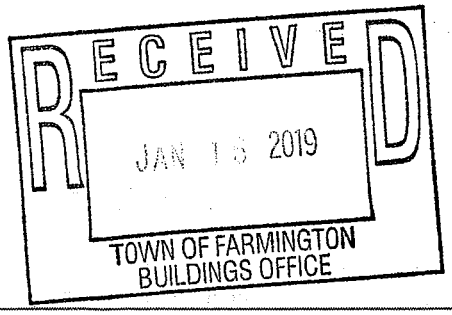
I. Project Description

Delaware River Solar ("**DRS**"), along with its affiliates NY Farmington I, LLC, NY Farmington II, LLC and NY Farmington III, LLC, each a "**Project Owner**" and collectively the "**Project Owners**") is developing three Community Solar Systems (each a "**Solar System**" and collectively the "**Solar Systems**") in the Town of Farmington, Ontario County. This study comprises the Notice of Intent ("**NOI**"), as per the New York State Agriculture and Markets ("**AGM**") Law: Agricultural Districts Law, Section 305. This NOI was submitted to the Town of Farmington Planning Board ("**Planning Board**") on January 14, 2019, so that the NOI may be included in the Planning Board's Site Plan and Special Use Permit review scheduled for January [ ], 2019.

The proposed site for the Solar Systems ("**Project Site**") would be site on approximately 30 acres of undeveloped land, of a 135.4 acre agricultural parcel, located at 466 Yellow Mills Road, north of New York State Thruway Route 90 and south west of the intersection of Yellow Mills Road and Fox Road, within the jurisdiction of the Town of Farmington.

The Solar Systems will have a total generation capacity of not more than 7.014 MW AC (2.338 MW AC per Solar System). The final generation capacity will be determined based on final system design as approved by DRS and RGE, as well as approvals of the Planning Board.

Energy generated from the Solar Systems will be distributed through the RGE electrical grid for daily use by RGE's customers and directly benefit customers enrolled in the Project Owner's "**Community Solar Program**". The objective of the "**Community Solar Program**" is to offer electricity at a discount to RGE rates. It is the goal of the Project Owner to afford the residences and businesses in the Town of Farmington the opportunity to enroll in the program prior to opening enrollment to additional locations. Energy from the Solar Systems will be able to power approximately 1,100 to 1,200 homes locally in Farmington and surrounding communities.



New York State Energy Research and Development Authority

Albany
17 Columbia Circle, Albany, NY 12203-6399
(P) 1-866-NYSERDA | (F) 518-862-1091
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Buffalo
726 Exchange Street
Suite 821
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14210-1484
(P) 716-842-1522
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New York City
1359 Broadway
19th Floor
New York, NY
10018-7842
(P) 212-971-5342
(F) 518-862-1091

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

II. Project Contact Information:

Project Name: NY Farmington I, NY Farmington II and NY Farmington III
Public Entity: NYS Energy and Research Development Authority
Developer: Delaware River Solar, LLC (and Project Owner affiliates)
Seller: TBD

Project Sponsor Information:
Name/Title: Peter Dolgos, Senior Vice President
Email: peter.dolgos@delawareriversolar.com
Phone Number: 646-998-6495 Fax Number: not applicable

Contact Information of other individuals authorized to respond to NYSDAM inquiries:
Name/Title: Daniel Compitello, Project Developer
Email: Daniel.compitello@delawareriversolar.com
Phone Number: 447-765-4271 Fax Number: not applicable

III. Description of the Proposed Action and its Agricultural Setting:

Project Address: 466 Yellow Mills Road, Farmington, NY 14522
Town/Village/City: Farmington County: Ontario
Agricultural District: Ontario County District 1 Total Acres Affected[1]: ~30
Total Farms Affected[2]: One (1) Total Acres of Affected Farms[3]: ~30
Anticipated date of commencement of proposed action[4]: September 2019

Please provide a detailed description of the proposed action below. Please also provide as part of your response package to NYSERDA a map showing the site of the proposed action. Please include the proposed solar array layout of the project. Please label or annotate the map with all affected landowners, including tax map numbers, surrounding land uses, and type(s) of agricultural production. Multiple maps may be submitted to fulfill this request.

Applicant Response: Please refer to attached Site Plan and Special Use Permit application materials.

Affected Landowners:
1. Name(s): Roger and Carol Smith, landowners
   Address: 466 Yellow Mills Road, Farmington, NY 14522
   Parcel Number(s): 010.000-01-037.11

IV. Agricultural Impact of the Proposed Action:

[1] Total number of acres in the agricultural district affected by the proposed action.
[2] Total number of farms within the district affected by the action.
[3] Total number of acres of land in farms within the district affected by the action.
[4] The commencement date is the first day the Seller starts any construction related activity and may include but is not limited to creating access road(s), digging underground trenches, starting land clearing, staging supplies and/or equipment, or installing solar panels.

Describe and assess all short-term and long-term effects associated with the proposed action, including an assessment of any agricultural impacts and any concerns expressed by farm landowners directly affected by the proposed action.

Notice of Intent Criteria:

(i) a detailed description of the proposed action and its agricultural setting;

This response was written in-line to **NYS Department of Agriculture and Markets – Agriculture Districts Law §305** part 4.a-b Notice of Intent criteria, and amended for this application format. Please refer to this statement, and the Site Plan and Special Permit application materials submitted with and made part of this Notice of Intent.

The subject parcel is located in the Ontario County Agricultural District 1, in the north east section of the Town of Farmington, approximately 5 miles south of the Town of Macedon Town Line, and Wayne County line. The parcel is owned by the Smith Family, who raise approximately 160 head of cattle and grow feedstock (typically hay) on the subject parcel, along with 2 donkeys and 17 chickens. The Smith's have owned and farmed this parcel for over 30 years, and are a multigenerational farming family. The homestead on the parcel is occupied by the younger Smith son and his family, who have updated the original farmstead home and tend to the livestock and farm operations. The Smith parents, Roger and Carol Smith, are owners of the parcel and live on Fox Road, approximately a quarter mile to the west of the Project Site. Roger Smith, the landowner, drives a local route for Upstate Dairy, and houses these delivery vehicles on the Fox Road property. In 2018 Approximately 69.2 acres of 466 Yellow Mills Road was used for grazing pasture, and 26.8 acres are used for growing hay. An adjoining and connecting 21.1 acre parcel to the west along Fox Road is also owned by the Smith's, and is used for grazing and hay as well. Most of the grazing pastures can be rotated for hay production as needed, and approximately 50 acres of both parcels are not pasture land or crop land due to wetland features.

According to the Ontario County Soil and Water Conservation Worksheet, attached to this Notice of Intent, topography and wetland features on the parcel are unique. These features have shaped the agricultural use of the land, and the location of the homestead. A large and tall drumlin with slopes greater than 5% rises from the south center of the parcel, extending approximately 1,070 feet into the center of the parcel, and stands 80 feet tall. This drumlin has been largely stripped of trees and is used as grazing pasture. 36.5 acres of wetlands and forest surround the south and west of the parcel.

The Smiths have worked with DRS since early 2017 on designing the Solar System to ensure both the cattle farm and the crop fields will continue to be viable once the Solar Systems are developed, and that the Solar Systems can be sited to complement the continued agricultural use of the remaining lands. The Solar System is designed to maximize continuous, unbroken pasture area, and have the least impacts on the hay fields. The Smith's approved of the site layout plan as having the least impact out of several alternative design iterations we considered with them before local Site Plan and Special Permit applications were filed with the Town of Farmington in July 2018. DRS will continue to work with the Smith's during construction and operations of the Solar System to ensure the farming operations are not adversely impacted. Please see letter of approval from the Smith's, attached as an appendix to this Notice of Intent.

In July 2018, DRS submitted Site Plan and Special Permit applications to the Town of Farmington. To date, this review has proceeded through the local Project Review Committee, the Ontario County Planning Board, and the local Planning and Zoning Boards. To continue with the design as proposed, an Area Variance has been sought from the Zoning Board of Appeals, which will reduce the internal setbacks between the 3 Solar Systems, from between 320 feet to 340 feet between each system, to 40

feet between each system. Please refer to Site Plan Comparison Map Sk-1, which shows the reduction in setbacks between each system.

This setback variance has the effect of consolidating each Solar System closer together, increasing the setbacks from Yellow Mills Road and Fox Road, and leaving more uninterrupted, and contiguous grazing and crop fields for the Smith farm, as well as adding more setback space from public roads and adjoining properties to minimize views of the Solar Systems. A 30 foot wide path has been designed to cross through the Solar System between Systems 2 and 3, which will allow cattle and farm equipment to traverse the parcel from the barn on the east side of the parcel to pasture land on the west and south sides of the parcel. All areas outside of the fence of the Solar System will continue to be used for cattle grazing and hay production, and will be available for other farm activities.

The area inside the perimeter fence of the Solar System is approximately 29.9 acres. There will be 9.4 acres of panels within this 29.9-acres – 3.12 acres of panels per system. Panels will be mounted in arrays above the ground on a steel racking structure supported by posts driven into the ground. The panels will be approximately 3' above the ground at the lowest point and approximately 10' at the highest point, allowing for ample sunlight for vegetation to grow under the modules. No concrete is used in the steel post support structure, thus facilitating system removal and return of the land to its original state when that option can be exercised. A 20'x30' (CHECK SIZE) concrete pad will support the inverter and transformer equipment for each Solar System. Underground electrical wiring will connect the solar arrays together and to the inverters and transformers, at depths of no less than 36 inches, that meet the Agriculture and Markets siting guidelines. Interconnection poles will be set along the access road so that above ground wiring can meet the RG&E above ground 3-Phase utility line on Fox Road. The access road is designed along a high point outside the existing grazing pasture along Fox Road. The access road will continue into the site, and end 320 feet south of Fox Road at the gate entrance, minimizing access road coverage of pastureland to the greatest extend practicable.

DRS herds sheep on several solar farms in New York State, and is considering this agricultural use for the Project Site. Sheep would herd inside the fence of the Solar System, and would be housed in a separate barn to be proposed for construction after the Solar System has been built. Sheep help maintain the ground cover inside the Solar System, minimizing the need for mowing, and add to the agricultural production of the land.

(ii) the agricultural impact of the proposed action including short-term and long-term effects;

Short term impacts on agriculture by the proposed action are expected to occur during construction, and at decommissioning of the Solar System. Long term impacts are expected to occur over the operations of the Solar System.

Short term impacts include temporary realignment of the pasture fields and field fences to accommodate the construction area of the Solar Systems.DRS has worked with the Smith family to develop a construction plan such that the impact on livestock is mitigated. Construction is anticipated to occur over 3 to 5 months and decommissioning is anticipated to occur over 30 days. Please see the Construction Phasing Plan and Decommissioning Plan, respectively, for detailed information on these timelines. These timelines are in accordance with the Department of Agriculture and Markets "Guidelines for Agricultural Mitigation for Solar Energy Projects", and will be monitored by an Environmental Monitor. Guidance on selecting an Environmental Monitor is welcome from the Division of Agriculture and Markets, and the Town of Farmington.

Long term impacts of the Solar System are minimal to current farming operations but substantial to the Smith family. The cattle grazing land remaining after the Solar Systems are built will not affect the Smith's ability to continue to graze their existing 160 head of cattle, so any loss of grazing land does not have a material impact. The additional income the Smith family will receive for the lease of the land for the Solar Systems will allow them to better support the farm, their family business and protect against economic challenges. In addition, as indicated above, DRS is considering the herding of sheep within the Project Site to continue some agricultural use of the affected land.

V. Adverse Agricultural Effects which cannot be avoided should the proposed action be implemented:

Describe any adverse agricultural effects which cannot be avoided should the proposed action be implemented.

While the adverse impacts described above are minimal in nature, should the action move forward they will not be totally avoided, but will be limited. The Solar Systems will displace some grazing area, however, the remaining grazing area will be more than enough land to serve the animals now present on the parcel, and any reduction in grazing area will not result in any reduction in the aggregate number of livestock actually grazing. All livestock now grazing the land are planned to remain even after the Solar Systems are built. As a result, said impact will not be material.

Some hay field cropping will be reduced. However, given the racking and post structure of the Solar Systems, except for the inverters pads (representing 716 square feet), there will be no permanent construction. As a result, the Solar Systems will be able to be removed, and should the Smiths wish to use the land in any farming capacity in the future, they would be able to do so. Of note, as a requirement of the permitting process, we will be executing a decommissioning plan with the Town of Farmington, that includes decommissioning security, that will ensure that when the Solar Systems are removed there is a plan and the resources to do so.

Also of note is that despite the fact that the parcel is comprised of 63 percent prime farmland soils ideal for cropping, the Smiths have largely declined to crop the lands, save for the limited hay cropping. Thus, the installation of the Solar Systems will not have any impact on active cropping of soils ideal for the same as such lands generally have not been cropped nor have there been any plans to do so. Instead, the Solar Systems will largely impact grazing, but, again, not in a material way since the lands will still completely serve the grazing needs of all animals now on the land even after the development of the solar facility. As a result, any potential adverse impacts are quite limited.

VI. Alternatives to the Proposed Action:

a. Describe any alternatives to the proposed action, and reasons why the project site was selected as the preferred site for the proposed action.

Several alternative parcels, layouts, and configurations were considered in the design of the Solar Systems, and are detailed in the Site Plan and Special Use Permit review record by the Planning Board. A review of site selection criteria for solar systems is included in this response, along with data on soils quality of the parcel using the Ontario County Soils and Water Conservation District Worksheet, in order to better describe factors that limit and dictate possible alternatives for these particular solar energy systems.

DRS identified the project parcel at 466 Yellow Mills Road through a diligent search of available land in the Town of Farmington and neighboring towns.

Three main factors determined why this parcel was selected over others:

1. The landowner was willing to lease the land.
2. There is excellent Interconnection feasibility to the RG&E existing utility lines.
3. The Town of Farmington adopted land use laws to regulate and allow solar on this land.

DRS also uses other site selection criteria, not limited to:

1. Land that is relatively flat and without wetlands or water features, topography and other geologic and ecologic features that solar cannot be developed on.
2. Interconnection costs at the site location that are not prohibitive to the project;

DRS understands the concern over developing the Solar Systems on agricultural land. Most suitable land, however, community solar projects are generally located in mostly rural areas, and agricultural areas are often where this potential land exists. DRS works diligently to make sure we create the least impacts on agricultural areas as possible. Our site plan is designed to retain the existing farm operations, in addition to providing space for sheep grazing within the system, a new agricultural use possible on the property.

Community Solar is a type of Distributed Generation (DG) permitted in New York State, and refers to solar farms, wind farms, and other renewable energy sources. DG systems can only distribute power locally, and the power is not carried to other regions via transmission lines. Most site selection criteria for DG systems are based on utility interconnection standards that must be met to conform to local utility infrastructure standards. The primary siting consideration for DG systems is proximity to good utility infrastructure with interconnection hosting capacity. Hosting capacity is the ability of infrastructure to receive and distribute a source of generated power. The 3-phase powerline that the Yellow Mills Road Community Solar system will connect to runs along Fox Road. Throughout the Town, parcels adjoining these utility lines are most preferred by renewable energy developers and RG&E. Interconnections further away from existing lines are more cost prohibitive, more difficult to maintain, or are not possible to make connections to.

According to the Town's Farmland Protection Plan, the Town of Farmington is approximately 77.9% agricultural land, and so, there are few if any alternatives to using agricultural land for DG systems. However, most of Farmington's agricultural lands do not have Interconnection feasibility (i.e. not close enough or adjoining to existing power lines that can receive DG connections); consequently the Town of Farmington is not at risk of converting large parts of agricultural areas (Agricultural District 1) to solar development. Furthermore, interconnection hosting capacity along the particular power line that the Solar Systems will connect to will be filled once the Solar Systems are built, ensuring no further DG development can occur, unless RG&E makes substantial upgrades to host more capacity.

As a parcel of land, 466 Yellow Mills Road met all the site selection criteria listed above to begin exploring its development potential in early 2017. After the land was found, DRS approached the landowners of the parcel, to determine if they were interested. Other landowners in the area were also approached, but were not interested. Upon signing a lease with the Smiths, DRS then initiated the Interconnection feasibility studies with RG&E in August 2017; landowner authorization is required to conduct this study.

Interconnection studies determined the capacity of the Solar Systems to b e built. DRS entered into an Interconnection Agreement with RG&E in March 2018, which secured the development potential for three separate 2.338 MW Community Solar systems in the RG&E DG Interconnection Queue. Throughout this time, the Town of Farmington studied, wrote and adopted its Solar Law through an open public engagement process, incorporating the AGM Siting Guidelines as Special Use Permit criteria. This gave DRS the confidence to proceed with this development, and make 100 percent deposit payments on the Interconnection Agreement, signaling to RG&E that when the projects obtain Zoning approval and building permits, DRS will commit to building the three Community Solar systems outlined in the Interconnection Agreements. Interconnection Agreements are static to the parcel, and the Point of Interconnection determined to be most suitable by RG&E. This means that they cannot be transferred to any other parcel without being cancelled entirely, and restarting the Interconnection process. Since there are no other parcels available for development along this power line, the Smith Farm location is the most suitable DG site available in this area of Farmington.

Alternative designs of the Solar Systems on the parcel are thus the leading alternatives to consider. Alternative layouts were considered in the design of the Solar Systems to maximize the Smith's farm operations, and the Solar System capacity, and are detailed in the Site Plan and Special Use Permit review by the Farmington Planning Board. The Town of Farmington Planning Board requires consultation with the Ontario County Soils and Water Conservation District, to summarize impacts of the proposed action on Prime Farmland. This analysis is also helpful in comparing the alternative layouts that DRS considered with the Smiths. The Farmington Farmland Protection Soil Type Map, dated May 2014, indicates that the town is comprised of 47.4% Prime Farmland, 12.9% Farmland of Statewide Importance and 17.6% of Prime Farmland if Drained. These variations of Prime Farmland encompass 77.9% of the town. The subject parcel contains a total of 135.4 acres of which 84.5 acres are considered a variation of Prime Farmland (62%). Of the 50.9 acres of Non Prime Farmland located on the project parcel, 32.9 acres are located within setbacks required by the Town Zoning Code and wetland areas; 1.6 acres are wooded with slopes less than 5%, 0.7 acres are in areas that will be encumbered by the shadow cast by the wetland trees; and 12.7 acres are located on north facing slopes over 5%. This leaves approximately 3.0 acres of non-Prime Farmland available for construction (2.2%). 0.4 acres are located between the wetlands and the west property line, 1.0 acres are located on the steep slope in a 100' strip of non wooded area, 1.5 acres are located at the northern edge of the drumlin and the remaining acreage is adjacent to wetland #3. The proposed project impacts 28.3 acres of Prime Farmland and 1.6 acres of Non-Prime Farmland.

To better understand this analysis of soils, please refer Appendix II - Ontario County Soils and Water Conservation District – Prime Soils Report, and Prime Soils Maps 1 through 4, prepared by Schultz Associates. These maps explain the soils locations on the parcel, with overlays of non-developable area such as required Zoning setbacks, wetlands, steep slopes, and shaded areas, along with the proposed layout of the Solar Systems. Comparing the Prime Soils Maps to the Site Plan Comparison Map SK-1, shows that the "Setback Variance" layout that DRS is seeking consolidates the Solar System, and minimizes the impact across the Smith's farming land to the greatest extent of any alternative layout.

There are two lesser alternatives to the Site Plan Review and Special Use Permit applications before the Town of Farmington Planning Board that can be considered:

1. **<u>The System without a Variance Alternative – More Land is Required</u>** – The Town of Farmington Solar Law includes provisions that require each solar energy system to have setbacks from roads and adjoining parcels. Each system must be sited on its own tax parcel, according to New York State Public Service Commission and the Rochester Gas & Electric utility siting requirements. These requirements, when matched with the Town's zoning laws, create a condition where the three Solar Systems would need to have setbacks of between 320 feet to 340 feet between them, creating a wider layout of systems sited across more area of the grazing fields. By avoiding this alternative, and obtaining a Variance to reduce internal setbacks, the systems can be sited in a condensed pattern resembling one larger continuous system, reducing the area needed on the parcel, and creating more contiguous pasture and hay fields that are better suited to the landowners farming operations. The No Variance design option, however, is a viable layout that would meet Town Code. This alternative could be proposed if the Variances are not granted, however, this would not be the most suitable layout for the Smith Farm to preserve their farming operations and maximize their use of agricultural land.

2. **<u>The No Action Alternative</u>** – If the systems were not built, 1,000 to 1,200 homes in the Town and surrounding communities would not have access to clean, renewable solar energy. The Town, County and School District would not see an increase in the tax revenue from this development, and the Smith's would not see an increase in income from their land. Several jobs would not be created to support this and other solar farms, and local spending would not result from this development or its operations. The Smith Farm would continue to be at risk for economic feasibility without the income from the Solar System.

b. Briefly describe any irreversible and irretrievable commitments of agricultural resources which would be involved in the proposed action should it be implemented. Include descriptions of any decommissioning plans and/or other plans to return the project site to agricultural use following the conclusion of the proposed action's lifespan.

It is assumed the definition of "commitments of agricultural resources" refers to 1) the Smith's commitment to farm their land and run their family business, and 2) the potential of the land to serve as active farmland. It is also assumed that this criteria refers to any ***adverse*** irreversible and irretrievable commitments.

Regarding assumption 1, the Smith's commitment to farm the land: The Smith's approve of the system design, and feel there is no irreversible commitment of their agricultural resources. In fact, the Smiths believe the income derived from the Solar Systems will increase their commitment to farm their land, and grow and expand their business. Please see Appendix II – Landowner Approval Letter. There are no irretrievable commitments of their agricultural resources, because the solar farm is planned to be a semi-permanent use on the land that was designed to accommodate the farm, and after decommissioning, it will be returned to the Smith's as pasture land, therefore creating no permanent adverse irreversible or irretrievable commitments.

Regarding assumption 2, the potential of the land to serve as active farmland, there are no irreversible or irretrievable commitments created by the proposed action. The systems are designed to allow the current farming operations to continue during construction and operations. At decommissioning, the land will be returned to the condition as it exists today, as a fully contiguous cattle farm. Please refer to Notice of Intent Criteria i, and the Construction Phasing Plan, and Decommissioning Plan. In addition, both the system design, and the land lease between DRS and the landowner, ensure that any owner of this farm could continue to operate it as a farm. In

addition, the possible use of sheep to maintain the ground cover within the Solar System vegetation does in part continue the agricultural use of the land occupied by the Solar Systems. In the least, this land will essentially be fallowed over the lifetime of the Solar Systems.

VII. Mitigation measures proposed:

a. Describe any mitigation measures proposed to minimize the adverse impact of the proposed action on the continuing viability of a farm enterprise or enterprises within the district. Indicate if the proposed action will follow NYSDAM's Guidelines for Agricultural Mitigation for Solar Energy Projects and describe specifically which guidelines are incorporated.

Please refer to the Site Plan and Decommissioning Plan for greater detail on adherence to Agriculture and Market Siting Guidelines. These plans incorporate and state on them AGM siting guidelines as mitigations to preserve the farming operations on the Smith Farm. Notably as a result, all grazing animals will be retained on the farm, and simply relocated on the same parcel. A fence path in between project areas will allow animals to traverse to different grazing areas. The decommissioning bond and plan will allow removal of the semi-permanent system, reverting the land back to pasture land. Variances of setbacks between the systems will consolidate the project to maximize contiguous grazing area. The cropping soils will not be materially impacted by development since no permanent foundations will be built, except pads for the few inverters which account for 0.01% of parcel, which can be removed at decommissioning. Finally, revenue from project will help to ensure continued economic viability of remainder of the farm.

b. Describe any aspects of the proposed action which would encourage non-farm development, where applicable and appropriate, including any local zoning restrictions which apply to the area.

The proposed action does not encourage non-farm development.

Attachments:
Appendix I Ontario County Soils and Water Conservation District–Soils Worksheet
Appendix II Landowner approval letter
Appendix III Yellow Mills Road Solar – Site Plan Review, Special Use Permit and Area Variance application materials

When this form is completed, the Project Sponsor must provide his/her signature prior to submitting the form to NYSERDA.

_____ _____
Project Sponsor (Seller) Date