

## Sarah Mitchell

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**From:** Ron Brand <rlbplans@gmail.com>  
**Sent:** Wednesday, April 24, 2019 10:32 AM  
**To:** jgraff@rileygraff.com; Jamie Kincaid; 'Mary Neale'; Janyce Feistel; 'Brabant, Lance'; 'John Robortella'; 'Adrian Bellis'; 'Ed Hemminger'; David Degear; Don Giroux - Highway / Parks Superintendent; 'Shauncy Maloy'; Robin MacDonald; Construction Inspector; Peter Ingalsbe; Dan Delpriore; Sarah Mitchell; Town Clerk; 'Timothy Delucia'; 'Cy Opett'; jeremy.marshall10@icloud.com; 'Thomas Yourch'; purdynh@gmail.com; 'Nate Bowerman'; 'Ron Herendeen'; 'michael casale'; 'Steve Holtz'  
**Subject:** Re: Delaware River Solar Three Separate Companies?

Jeff,

*Thank you for your prompt reply. Currently, there is one application for a singular interconnected Solar Photovoltaic System that is being proposed to be located on three separate proposed parcels located on the Smith farmland. We have been told by Delaware River Solar that there has to be three parcels involved to meet the maximum solar power being generated from each of the three sites for the Photovoltaic System project. We also understand that the three parcels of land are to continue to be owned by the current landowners, the Smiths; and that Delaware River Solar intends to lease all three (3) proposed parcels during the proposed life span of the project which is understood to be 20 years. Thank you for noting that one decommissioning agreement will be necessary and that this agreement is to be signed by all three entities plus the property owners.*

*Sarah Mitchell is now looking through the project files to see if a decommissioning agreement has been drafted. I will let everyone know what she finds.*

Ron

On 4/24/2019 9:43 AM, Jeff Graff wrote:

All -

Neither the regulations contained in section 165-65.3 (Solar Photovoltaic (PV) Systems) nor applicable definitions discuss or establish requirements or restrictions on the ownership of a Solar Photovoltaic System. With the limited information provided, I would say that, as a starting point, we need to establish what has been applied for. Is there one application for a singular, interconnected Solar Photovoltaic System across multiple parcels, regardless of ownership of the system, or are there three applications for three separate, unconnected systems where each of the three systems are on there own parcel (when such parcels just happen to be contiguous to each other)?

Section 165-65.3 H. (4) states in part, "The commercial solar PV system owner and/or owner of the land upon which the system is located shall be held responsible to physically remove all components of teh system within one year of abandonment." If the Town is dealing with one, interconnected system that happens to be owned by three separate entitites where abandonment of the "system" will require an analysis of the system on all three properties, it would seem that one decommissioning agreement would be required that is signed by all three entities plus the property owner(s). The decommissioning agreement should clearly lay out when and how the entire system, that has parts on three separate properties with each owned by one of three different entities, will be decommissioned and removed.

If the Town is dealing with three, unconnected systems, there should be three separate applications to the Town where three, separate decommissioning agreements are provided. The mere fact, if three separate systems are being proposed, that all three systems are contiguous to each other should not

change what type of review the Town would conduct if they were proposed to be located in vastly different areas of the Town on properties owned by different people where the systems would be owned by three different companies. If the applicant intends a future abandonment on parcel I to only require the decommissioning and removal of the system located on Parcel I, and not on Parcel II or Parcel III, we would then appear to be dealing with three, separate systems.

Jeff

Jeffrey D. Graff  
Riley & Graff, LLP  
26 East Main Street  
PO Box 604  
Clifton Springs, NY 14432  
315-462-3010  
315-462-5039 fax  
[jgraff@rileygraff.com](mailto:jgraff@rileygraff.com)

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-----Original Message-----

**From:** Ron Brand [<mailto:rlbplans@gmail.com>]

**Sent:** Tuesday, April 23, 2019 4:48 PM

**To:** Jamie Kincaid; Mary Neale; Janyce Feistel; Brabant, Lance; John Robortella; Adrian Bellis; Ed Hemminger; David Degear; Don Giroux; Shauncy Maloy; Robin McDonald; Construction Inspector; Ingalsbe, Peter; Daniel DelPriore; Sarah Mitchell; 'Michelle Finley'; Timothy Delucia; Cy Opett; [jeremy.marshall10@icloud.com](mailto:jeremy.marshall10@icloud.com); Thomas Yourch; [purdynh@gmail.com](mailto:purdynh@gmail.com); Jeff Graff; Nate Bowerman; Ron Herendeen; michael casale; Steve Holtz

**Subject:** Fwd: Delaware River Solar Three Separate Companies?

Attached are two letters recently received on the Delaware River Solar Project by both the Planning Board and Zoning Board of Appeals. Also attached is a copy of the draft meeting minutes from last night's Zoning Board of Appeals Meeting.

First, I bring to your attention Mr. Compitello's statement on page 6 which reads... "Mr. Compitello said that there is a requirement under the New York State Public Service Commission Law that transfers through to NYSEDA and RG&E requirements that each solar system must be sited on its own tax parcel. He said that the reasons for this are the association that each parcel has to have its own Limited Liability Corporation assigned to it for accounting and tax purposes required by the State. The said that the requirement to subdivide and the number of parcels are due to the number of solar systems that the company is proposing."

Second, I bring to your attention the April 9, 2019 letter From NYSEDA to Kathleen Tylutki, NYS Department of Agriculture and Markets which reads... "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 NYSEDA with

the Department for the Solar Projects:" This commitment is for three (3) separate solar projects.

The letter goes on to read... "3. Merging the parcels subdivided after decommissioning, back to their original state of pasture land."

The letter goes on to read... "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:" Clearly NYSERDA is acknowledging three (3) solar projects.

The letter goes on to read... "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;"

The Agreement is signed by Peter Dolgos, Senior Vice President, Delaware River Solar, LLC, a New York Limited Liability Company. It cites three separate LLCs but fails to identify any tax map accounts that the three LLCs are agreeing to. Is this a legal document? If it is, there are references to "Project" and "Projects." Which is it?

Does the Town need three decommissioning agreements, one for each of the three LLCs? Can one decommissioning plan be prepared that commits three separate LLCs to restore all three sites at the same time, or each one separately?

I do not know the answers to these questions and ask Jeff Graff to look into the legalities of this matter and advise the Town Planning Board.

Ron

----- Forwarded Message -----

**Subject:**Delaware River Solar Three Separate Companies

**Date:**Tue, 23 Apr 2019 15:53:09 -0400

**From:**John Robortella <[john.robortella@gmail.com](mailto:john.robortella@gmail.com)>

**To:**Brand, Ron <[rlbplans@gmail.com](mailto:rlbplans@gmail.com)>

Hi Ron,

The reference is in the second letter dated April 9th, first paragraph, to the three separate companies.

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John

