



Agriculture and Markets

ANDREW M. CUOMO
Governor

RICHARD A. BALL
Commissioner

June 9, 2021

Timothy Reilly
Chairman of the Planning Board
Town of Glen
7 Erie Street
Glen, New York 12072

RE: Lead Agency Request for the Siting and Construction of a Solar Facility on Land Located Within a County Adopted, State Certified Agricultural District

Dear Mr. Reilly:

The Department does not object to the Town of Glen's Planning Board's request to act as lead agency pursuant to 6 NYCRR Part 617 of the Environmental Conservation Law. Based upon information provided, it appears that the proposed action, located at 835 Crossett Road in the Town of Glen, is located within a county-adopted, State-certified Agricultural District.

Section 305(4) of the Agriculture and Markets Law (AML) requires, in part, that any state agency, public benefit corporation or local government which intends to advance public funds for the construction of commercial facilities to serve non-farm structures must file a Notice of Intent with the Commissioner of Agriculture and Markets and the County Agricultural and Farmland Protection Board.

The Department considers non-residential solar arrays to be commercial facilities as defined in 1 NYCRR Part 371.2(4)(h)(i), (ii) and (iii). If the solar array is located within an Agricultural District **and** the sponsor receives funding from NYSERDA under the Clean Energy Standard or the NY-Sun Commercial and Industrial program, **and the award was made after August 1, 2018**; an AML §305(4) Notice of Intent must be prepared through NYSERDA and filed with the Department. Furthermore, the Notice process must be completed prior to the start of construction. The Notice must examine and address impacts to land, farm enterprises and agricultural resources within the Agricultural District and must demonstrate how such impacts will be avoided or minimized. The Town may wish to advise the project sponsor to contact NYSERDA in this regard.

If public funding for construction is not involved, or the project is not participating in either of the NYSERDA programs, or the project is not located on land within an agricultural district, the filing of a Notice of Intent is not required.

A cursory review of the current project site suggests that the proposed property is comprised of soils classified as Farmland of Statewide Importance, Prime Soils, Prime if Drained, and Not Prime Soils. Approximately 8 acres of the parcel is classified within Mineral Soil Group (MSG) 1-4. Prime Farmland soils, or soils within MSG 1-4, have the best combination of physical and chemical characteristics that enable them to be among the most productive and valuable agriculture soils in the State. Absent any drainage, the Department suggests that the project sponsor consider an

alternate layout, utilizing land west of the utility easement to mitigate the impacts to Prime Farmland, as these soils are best suited for food and fiber production. Further, the Town may ask the project sponsor, during its site plan review process, to locate alternative sites and alternative layouts that may reduce and/or eliminate impacts to these important agricultural resources. Information on the siting or solar installations can be found in the enclosed, "NY-Sun Fact Sheet on Protection of Farmland."

The Department would encourage the Town's Planning Board to consider obvious offsite impacts to agriculture and farm operations in the surrounding community. If the land is leased to a farmer for crop production, the Department recommends the Town talk with the farmer who leases the land. Approximately one third of the land in agricultural production is leased (3 million acres statewide). Supplanting an agricultural use with a commercial use may have cascading adverse impacts on agricultural and neighboring farm operations. The Planning Board should also take into consideration the Montgomery County Agricultural and Farmland Protection Plan.

The Department recommends that the Town of Glen's Planning Board consider impacts on farmland, and on the farm community as part of its SEQRA review process. The Planning Board may also request the project sponsor to adopt the Department's construction standards, which are enclosed. Finally, the Department recommends that the project sponsor contact the Town assessor to determine if the land receives an agricultural assessment. The assessor will determine if a conversion penalty should be imposed.

If you have any questions concerning the Notice of Intent process, please contact me at (518) 457-3186.

Sincerely,



Andy Steiner
Senior Environmental Analyst

Cc: NYSERDA
Martin Kelly, Montgomery County AFPB
John Thomas, Town of Glen, Supervisor