

Solar Land Lease Issues

Below is a list of issues developed in consultation with staff at the State Energy Office, the N.C. Solar Center and the N.C. Attorney General's office to help identify **some** issues landowners should investigate in considering a lease offered for land used for a solar farm (the list is not meant to be a comprehensive list of all issues). Landowners are strongly recommended to complete item #1 - get a land-lease lawyer.

1. It is highly recommended that you retain a lawyer with land lease experience to help you evaluate a lease. You can reach the NC Bar Association at 1-800-662-7660 and they can give you a list of lawyers in your area.
2. An option or feasibility period may be proposed by a developer while they are investigating whether a parcel of land is appropriate for a project – before they offer a long term lease. Some examples may be a fee of \$500 offered to reserve an option for a year to offer a lease. This is a due diligence period a developer will use to examine if the right conditions exist for a solar farm and possibly to secure agreements for the sale of power from the project.
3. Make sure conservation easement conditions or agricultural designation for tax purposes are consistent with the new lease. Taking land out of agricultural designation may result in additional taxes owed.
4. Evaluate any potential conflicts that the solar lease may have w/ any existing mortgage terms.
5. Make sure there is compensation for timber removal (if appropriate).
6. Make sure all conditions of a lease or options in advance of a lease are received in writing.
7. Have decommissioning (removal) terms for the solar equipment at end of lease so the land can be used for other purposes.
8. The developer should be responsible for managing storm water on the site. The installation of the arrays will impact storm water on the site and may require changes to storm water management or increase maintenance of storm water system (i.e. erosion control and keeping drainage ditches/pipes free flowing).
9. Make sure the lease identifies all work to be done and exact locations for equipment, also make sure there is proper notification of landowner in advance of any work to be done.
10. Take time to review lease documents before signing them.
11. It may be useful to check w/ neighbors to assess compensation rates being offered for land leases in your area.

Another resource that individuals as well as local governments may wish to consult is a document that the Solar Foundation prepared with funding from the U.S. Department of Energy as part of the Sunshot Program. It discusses a number of background requirements for solar farms as well as major elements of lease documents. You can find the document at the following link:

http://thesolarfoundation.org/sites/thesolarfoundation.org/files/TSF_Leasing%20Fact%20Sheet.pdf

