

NOTICE REGARDING LANDOWNER RENEWABLE ENERGY & TRANSMISSION LEASE OPTIONS AND LEASES

It is not the role of government to give legal or financial advice or to interfere with the business relationships between individuals. That said, the Board of County Commissioners for Garrett County, Maryland believes it is important to share information that may be of assistance to the public when considering the use and development of property. This is one of those occasions.

There has been a significant uptick in the development of renewable energy projects nationwide and in Garrett County. If you are considering leasing land for a renewable energy project or have been approached to sign a letter of intent, an option, or a contract to lease your land for use as a solar or wind electric generating facility or electric transmission line expansion, we urge you to consult with an attorney and, as appropriate an accountant, before signing anything. These documents often reference and incorporate additional agreements, including an option agreement (their option to enter into the lease, not yours), a lease agreement, and an easement agreement (allowing them to access and use your property for evaluation, construction, operations, and maintenance) and may well present tax consequences for the property owners. Attached to this letter is a list of issues we suggest you share with your legal and accounting professionals for their review before you enter into any agreements to develop your property. We are making any recommendations to you or providing you with legal or accounting advice. We are simply sharing information so that you and your professional advisors can assist you in reviewing any proposals you may receive and advise you concerning your rights, risks and options in conjunction with any such proposal.

Garrett County has approximately 95,546 acres of land in farms, with a significant portion designated as prime farmland by the U.S. Department of Agriculture (USDA). Prime farmland is land that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops.

The Board of County Commissioners for Garrett County, Maryland supports the rights of a landowners in the use and development of their property. The County is, however, concerned that significant conversion of agricultural or conservation land to solar or wind facilities could threaten the viability of agriculture and the economic infrastructure supporting it. Garrett County's agricultural economy relies on a critical mass of farms and related businesses, including suppliers, markets, processors, and storage facilities. As agricultural land is removed from production, the demand for these services declines, potentially leading to closures and loss of local agricultural resources. This poses challenges not only for current farmers but also for future generations who might wish to maintain agricultural operations.

We encourage you to consider these impacts carefully before making a decision.

THE COUNTY COMMISSIONERS OF GARRETT COUNTY

ISSUES TO INVESTIGATE

BEFORE LEASING YOUR LAND FOR SOLAR, WIND OR TRANSMISSION LINES

1. Is the renewable energy company reputable? How many other solar or wind facilities has the company constructed? How many such facilities does it presently own? What is the average length of time the company actually retains title to a facility before it sells to a third party?
2. Whether you as lessor have the right to require the company to purchase a decommissioning bond payable to you as the lessor.
3. If there is an agricultural land conservation easement on your land, will entering into the lease violate the terms the easement? Will entering into the lease prevent you from entering into a **future** land conservation easement?
4. Will entering into the lease affect existing leases of your land (for example, sharecropping, hunting, residential, *etc.*)?
5. Will entering into the lease, and the possibility of the presence of BESS units on your property affect existing insurance coverage of your land?
6. Whether as the lessor of the land, you should require in writing that the solar or wind company obtain your written consent before the company can transfer or assign its interest in the lease.
7. Whether you as lessor will be required to grant any easements or rights-of-way over your remaining land to the solar, wind, or electric transmission company.
8. Whether your use of your own land will be limited, *e.g.*, will you be able to plant trees as wind blocks or construct farm buildings and bins on areas near the solar array, windmills or transmission lines?
9. Whether the lease provides for damage to the farm, from the construction and infrastructure, and if shared roads/ROWs will be repaired or replaced, especially the issues of tiling, fencing and ditches.
10. Whether the solar, wind, or transmission company is responsible for mowing, weed control, and maintenance of fencing, roads and ditches.
11. Who will pay the increased property taxes after the use of your land is changed from agricultural to commercial?
12. What is your income tax liability for the option fee and rent you will receive?