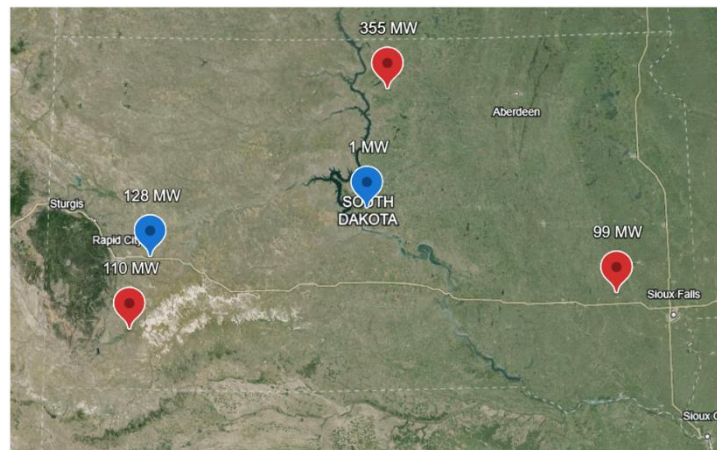


Solar Development and Regulation

ISSUE: The discussion as to South Dakota Farm Bureau’s policy position on solar development and regulation.

OVERVIEW: Solar energy development is increasing in South Dakota. Currently, South Dakota has multiple solar farms throughout the state. The map below shows solar farms that are either proposed, in development, or operational. A key provision for solar development involves the South Dakota Public Utilities Commission (PUC). The PUC’s role in solar development involves regulation. For utilities within the PUC’s jurisdiction, the PUC regulates generator interconnection practices and the price that solar generators get paid for excess generation. The PUC also has siting authority for solar farms with a capacity of 100 megawatts (MW) or more. For reference, 1 MW of solar can power approximately 125 South Dakota homes.



CONSIDERATIONS:

Appropriate solar regulation regarding the size of the solar facility: Solar farms with 100 or more megawatts are regulated by the PUC. Within this quasi-judicial body, a docket is created, and a hearing takes place for intervenors to present their case for or against the project. Solar farms below 100 MW are not regulated by the PUC. Instead, local governments can regulate through conditional use permits, zoning ordinances, etc.

A major discussion in solar development is decommissioning. Because very little regulation exists for decommissioning a solar farm below 100 megawatts, it is up to landowners to require it in their contracts or for the local government to become engaged. This prompts the discussion of whether the 100 MW threshold is sufficient and relevant in today’s world. Additionally, there are large variations across South Dakota’s 48-zoned counties on what regulations exist for solar development.

Assessment of solar farms for property tax purposes:

Questions have arisen due to disparities across South Dakota counties on how to tax the land underneath the solar panels. The actual solar panels are taxed according to a kilowatt-hour basis, while the land underneath could be considered either agricultural or other property. If

the land is kept as agricultural, the assessed value and general school fund levy are lower than owner-occupied and other properties.

According to South Dakota law, land assessed as agricultural property for property tax purposes is required to have the following:

- The land's principal use is devoted to the raising and harvesting of crops or timber or fruit trees, the rearing, feeding, and management of farm livestock, poultry, fish, or nursery stock, the production of bees and apiary products, or horticulture, all for intended profit. Agricultural land also includes woodland, wasteland, and pastureland, but only if the land is held and operated in conjunction with agricultural land and is under the same ownership. State law also defines principal use as, “primary use to which the land is devoted. This definition is intended to reference the primary and predominant use of the land as opposed to a mere secondary and incidental use.”

In addition, to be classified as agricultural land for tax purposes, the land must meet one of the following criteria:

1. In three of the previous five years, an annual gross income of at least two thousand five hundred dollars is derived from the pursuit of agriculture from the land, excluding transactions between family members.
2. Subject to the board of county commissioners increasing the minimum acre requirements, the land consists of at least twenty acres or is part of a management unit of not less than eighty acres. The board of county commissioners may not increase the minimum acre requirements of this subdivision to an amount greater than one hundred sixty acres.

Federal Incentives: In recent years, federal incentives have spurred the growth of solar development. As of May 2024, the United States has officially exceeded five million solar installations. This milestone comes eight years after the U.S. reached one million installations in 2016 — a milestone that took 40 years to achieve following the first grid-connected solar installation in 1973. Additionally, according to data released by the Solar Energy Industries Association, over half of all U.S. solar installations have come online since the start of 2020, and over 25% have come online since the Inflation Reduction Act became law.

SDFB POLICY:

We support:

- The development of renewable energies and by-products.
- The use of a renewable energy standard to be applied to the growth in energy consumption.
- Research into the feasibility of alternative energy production in South Dakota.
- Research to find better methods to transmit and store electricity produced by wind energy.
- All forms of energy, including coal. (Clay/Union 2015)

- South Dakota maintaining a diverse and reliable electrical energy generation portfolio to ensure energy stability and resiliency at an affordable cost. (Walworth/Edmunds 2023)
- Counties adopting a comprehensive plan that sets guidelines as to where energy generation can take place within the county. (Walworth/Edmunds 2023)
- The ability by a company who can utilize eminent domain prior to being granted a permit by the Public Utilities Commission to survey; however, the surveying process should include increasing applicant/landowner communication, clarifying landowner compensation, specifying when and where a survey may be conducted, and the amount of time the survey will require. (SDFB Board of Directors 2023)
- The assessed valuation of ag land that reflects the land's ability to produce under natural conditions and should be adjusted on an annual basis.

We oppose:

- The condemnation/eminent domain of land for any purpose other than highways and such public utilities that benefit the majority of the public. Eminent domain should not be abused for public recreational facilities or private economic development.
- Any real estate tax reduction on land under easement.

AFBF Policy:

See Attached Document

DISCUSSION:

- Should South Dakota Farm Bureau engage in discussions surrounding the development of solar energy? If so, what measures can be implemented to protect landowner rights and build positive relationships between developers and local communities?
- Should South Dakota implement uniform decommissioning standards for all solar farms, regardless of size?
- Is the current 100 MW threshold for PUC regulation appropriate? Wind energy is at 100 MW; however, the land footprint for wind energy can be close to one-tenth that of solar. Should the state regulate based on land footprint or energy output?
- How should land under solar panels be assessed for property tax purposes?
- Should policy be crafted to address the increase in federal solar incentives? Do these incentives skew the free market in terms of land availability and competition? If so, what should the American Farm Bureau Federation advocate for to avoid this issue?