



# Solar Contract Basics

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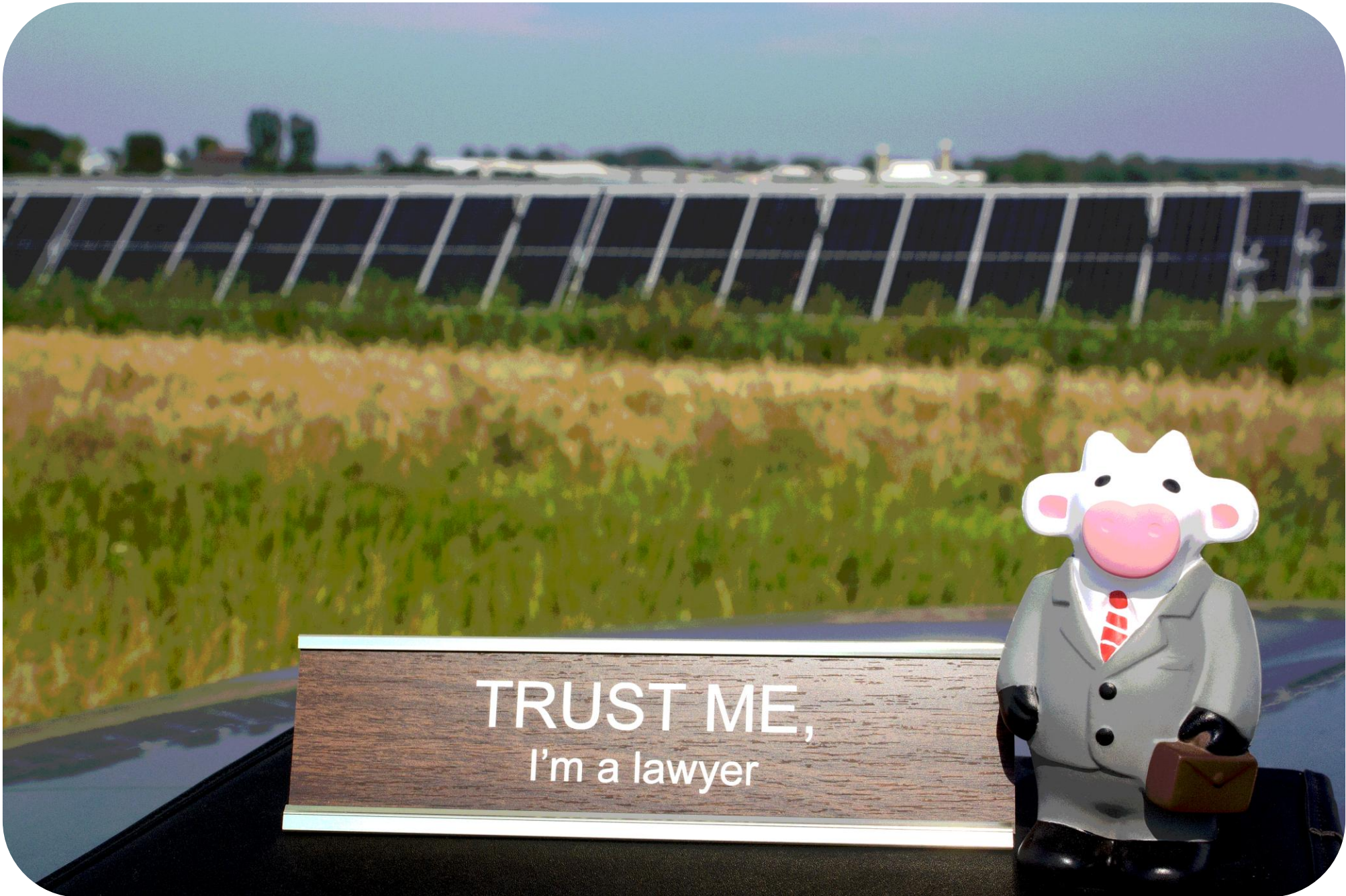
# Disclaimer

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This presentation is for educational purposes only. It will provide general information and a general understanding of the law, **not** specific legal advice.

There is no attorney-client relationship between you and the presenter or you and the University. This response should not be used as a substitute for competent legal advice from a licensed professional attorney in your state.







# Objectives

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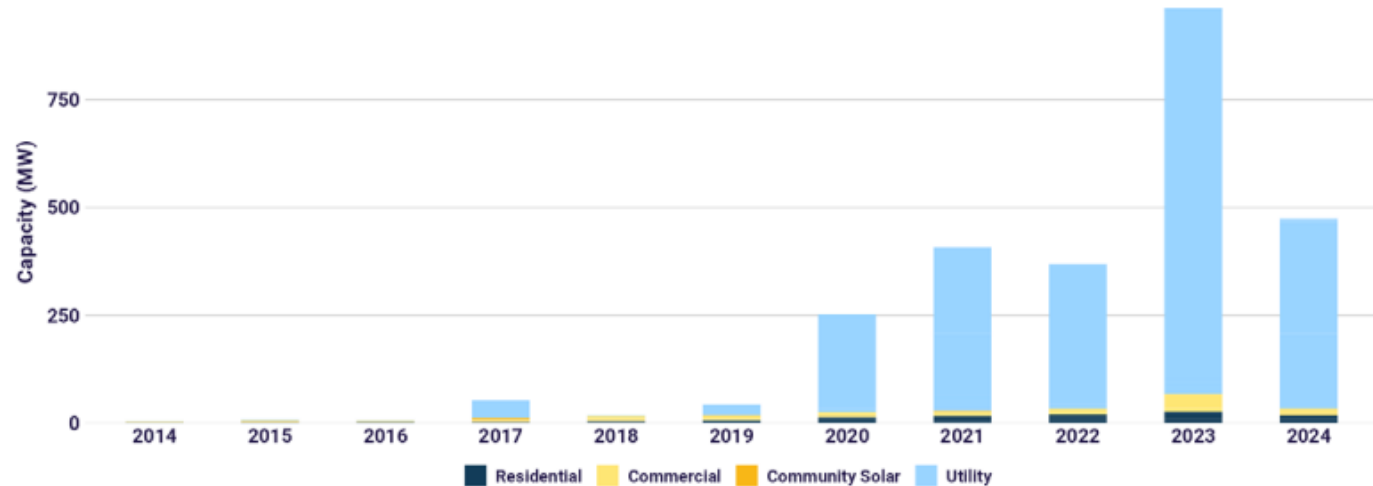
1. Participants can identify legal risks in solar contracts from the landowner's perspective.
2. Participants can identify common legal tools and strategies for mitigating those legal risks for their farms and families.



# The Situation: Rapid Clean Energy Transformation

- Wisconsin law prioritizes electric generation in the state based on renewable energy resources, including ...solar....
- Solar installed in Wisconsin (Solar Energy Industries Association - December 2024):
  - 2,609.85 MW installed @ 5 acres/MW = ~13,049.25 acres
  - Growth project over next 5 years – 4,587.90 MW

Wisconsin Annual Solar Installations





# What Developers Seek

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- Long term land written lease agreements
- Free of trees, buildings and other obstructions to sunlight
- Land located near roads and power transmission facilities
  - Three-phase hubs
  - Power substations
  - Proximity impacts lease values
- Communities where there is little or no political opposition





# Landowner Considerations Before Contracting

- Leases offered by solar developers to rural landowners are written by solar developer's attorneys
  - Tend to favor developer more than the landowner
  - To extent possible, risk is shifted away from developer to landowner
    - De-commissioning
- Agreements are often long and relatively complicated
  - Ensure you consult with knowledgeable legal counsel
- Before entering into negotiations with a solar developer, think about:
  - Short and long-term uses of farmland?
  - What impact will a lease have on farming operations?
  - Is there land that could be leased that would impact farming operations less?
- Learn about key agreement provisions prior to negotiating
- Go into a negotiation process with your eyes open!



# Agreement Term, Termination, & Confidentiality

- Typical operating term is 15-20 years
  - Often include renewal periods
    - Automatic unless prior notice?
    - Must all parties agree up front?
  - May agreement be terminated before it expires?
  - Who is responsible for solar array when lease ends?
    - Is there remaining value for the landowner?
    - Who pays for de-commissioning?
    - What happens if solar developer sells the business or goes bankrupt?
    - Is insurance or a bond required by local government?
    - Should an escrow account be established for land restoration?
- Is there a confidentiality clause?
  - Who and how does it apply?
  - Are there penalties for violations?



# Signing Bonus and Attorneys Fees

- Some solar leases include a signing bonus upon execution
  - Be aware if there is a time limit for the bonus
  - Undue time pressure could be a sign it's time to consider a different solar developer
- Some solar developers offer to pay the reasonable cost of an attorney for a landowner
  - Offsets financial disincentive for the landowner
  - Make sure you can choose the (competent) attorney of your choice





# Lease Location Considerations

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- Think about potential farm uses in advance of negotiation
  - What is the best farmland now; what will be needed in the future?
  - Is there less productive farmland available?
    - Solar developers want land
      - Closest to roads and transmission facilities
      - Away from sky obstructions
  - How will construction impact farming operations?
  - What local regulations might apply (e.g. setbacks)?
  - Will use of farmland and/or farm roads be restricted?
  - Will neighbors be impacted?
  - May the leased land be used by landowners for another purpose?
- Are there local restrictions on lot sizes for building?



# Property Tax Considerations

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- Who pays the property taxes?
  - Solar developer if solar energy system is classified as a utility
    - 100 megawatts dividing line
    - Payment based on gross operating revenues from prior year
  - Landowner if not defined as a utility
    - Payment based on assessor's market value
- Use tax considerations
  - Land beneath solar array may lose favorable use tax benefit
  - No clear direction yet from WI Department of Revenue
  - Local assessor practices vary
  - Is there another eligible agricultural use possible?
    - Sheep and goat grazing research



# Common Community Concerns

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- Local Government
  - How does this fit into comprehensive plans and zoning?
  - Owners of solar farms >50MW contribute \$2,333/MW to the county and \$1,667/MW to the township where the project is located (under current calc).
- “Good Neighbor Agreement”
  - Vegetation, set-backs, monetary benefits possible
- Environmental
  - Consider how fencing may impact wildlife



# Eminent Domain

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- Legal scholars don't believe there is clear eminent domain authority for solar projects.
- Unlike long, linear projects like interstate highways, electric transmission lines, and interstate pipelines which require numerous contiguous parcels, they argue that land assembly for solar is not always a major barrier.



# Farmland Preservation

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- If land is enrolled, contact DATCP to see if land is eligible to be leased



## Contact

General program questions:

(608) 224-4611

Zoning questions:

(608) 224-4630

Renewable energy questions:

(608) 224-4621

Email:

[DATCPWorkingLands@wi.gov](mailto:DATCPWorkingLands@wi.gov)



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**Disclaimer:** The views expressed herein do not necessarily represent the views of the U.S. Department of Energy or the United States Government.

# Solar Fact Sheet

- Developed by UW-Madison Division of Extension
- Key Fact Sheet sections:
  - Solar in Wisconsin
  - Exploring a Solar Proposal
  - Negotiating a Solar Lease
  - Frequently Asked Questions
  - Property Tax Case Study (\*including case study of current sites\*)
  - Conclusions and Reminders



# Solar Fact Sheet

- Developed by UW-Madison Division of Extension
- Landowner due diligence is important before signing a lease agreement
- The “Conversation with Solar Developers” Companion Worksheet focuses on obtaining key information about the proposed lease agreement
  - Records key agreement terms and information
  - Benefits legal counsel during their review and will likely save on legal time and costs
  - Ensures important oral commitments are included in the written agreement
  - Will help identify issues that require more information and possible negotiation



## Conversations with Solar Developers

### A COMPANION WORKSHEET

*for Are You Thinking about Leasing Your Farmland for Solar Development?  
A Guide for Leasing Land for Solar Development*

In legal contexts, “due diligence” may be used to refer to the investigation and analysis of a proposed deal. Due diligence is crucial when considering any business arrangement. By thoroughly investigating the promises made during negotiations, farmers can protect their interests by identifying areas of risk and ensuring any verbal promises align with the final written contract.

**Instructions:** Use this guide during your conversation with a solar developer to aid you in asking questions and documenting your understanding of the company’s response. Later, a copy of the completed worksheet can be shared with your attorney as a ‘term sheet’ of sorts to help the attorney ensure that the written lease accurately reflects your understanding of the company’s verbal commitments.

Landowner Name: \_\_\_\_\_

Solar Representative: \_\_\_\_\_

Solar Rep Phone Number: \_\_\_\_\_

Solar Rep E-mail Address: \_\_\_\_\_

Date of Conversation: \_\_\_\_\_

#### About the Solar Development Company

1. What is the name of the solar development company that will be on the contract?
2. What is the name of the parent company who will actually handle the solar development?
3. Has this company done other projects before? How many? Where? What size?





# Accessing Additional Resources



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