# CORY TOMCZYK

STATE SENATOR • 29TH SENATE DISTRICT


## Testimony – SB 468

Senate Committee on Agriculture and Tourism
Wednesday, January 10, 2024

Members of the Committee on Agriculture and Tourism,

Thank you for hearing SB 468 today.

As all of you know, it is impossible to drive from one end of our state to the other without seeing what only ten years ago was pristine farmland, now is dominated by large scale industrial use renewable facilities.

Landowners might make the choice to lease or sell this land because they are looking to reduce the total area they have to farm, want to diversify their income streams, or want to ensure that their property is generating revenue for their children who may not have an interest in carrying on their family's farming heritage. That is their right to do so. However, many of these same plots of land currently receive Farmland Preservation tax credits, a program meant to preserve our state's proud agricultural heritage, for their entire acreage, not just the portion used for agricultural usage.

If you told any resident of the 29th Senate District that Farmland Preservation tax credits were being awarded for land used for utility generation, they'd say you were out of your mind.

However, state agencies have interpreted the Farmland Preservation tax credit to do exactly that; awarding tax credits to all land zoned under a Farmland Preservation agreement as long as the agricultural use exceeds 50% of the acreage. That means that if 74 acres of a 150 acre plot is used for renewable generation with the other 76 dedicated to agricultural use, then all 150 acres can still qualify for farmland preservation tax credits.

SB 468 corrects this issue, clarifying state statute to provide that credits are paid for land used for agricultural use not large scale utility generation. This legislation still retains the ability for an individual to have a solar facility on their property for accessory use law and still allows for them to lease out land for utility generation.

It is critical that Wisconsin protect its proud farming heritage and responsibly monitor its tax credit programs by ensuring that farmland preservation credits are being paid out for their intended purpose, preserving farmland for future generations.


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ELLEN SCHUTT
STATE REPRESENTATIVE • 31ST ASSEMBLY DISTRICT

# Testimony in Support of Senate Bill 468

*Senate Committee on Agriculture and Tourism*

January 10, 2024

Thank you Chairwoman Ballweg and committee members for hearing Senate Bill 468 today. I began working on this bill after being contacted by numerous constituents who were concerned with large solar energy facilities being built on precious farmland. This bill addresses a loophole in current law that allows for someone to receive the farmland preservation tax credit despite completely changing the land to build solar energy facilities on it. This bill prohibits a person from claiming the farmland preservation tax credit if a person has commercial use solar on the land.

After discussions with state and local officials, it was determined that a loophole exists in current law that allows for someone to claim the farmland preservation tax credit even after building a solar facility on part of their land. For example, if someone owns 1,000 acres in the farmland preservation program, and builds a solar energy facility on 500 acres of that, the person will still receive 100% of the farmland preservation tax credit. This is wrong.

The farmland preservation program was created in the 1977 budget act to provide property tax relief to farmers and encourage local governments to develop farmland preservation policies. The land use requirement provisions of the program are to ensure that these tax credits are being paid only for farmland that local governments believe is important to preserve for agricultural use.

In recent years, we have seen a substantial increase in the installation of solar panels on agricultural land in the state of Wisconsin. Installation of large solar panel systems permanently damage the land by removing invaluable top soil that may never be returned in our lifetime. In many cases, the topsoil is removed, to even out the soil to install solar panels, and in other cases, gravel is brought in to build the energy generating facility. All of this harms the land and can be detrimental to the future viability of growing anything on it.

Because renewable energy generating facilities are often sited under permitted or conditionally permitted uses within farmland preservation zoning districts, it is possible that a landowner could site a portion of their farm with solar panels and still be eligible to claim the farmland preservation tax credit. As long as 50% of the land remains devoted to agriculture, a landowner can still qualify for the tax credit for 100% of the land.

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As solar energy facilities are taking some of the best farmland, many are concerned about the future of agriculture, and where our food will be grown. My district, Rock and Walworth Counties, has some of the most fertile farmland in Wisconsin. In fact, both are among the top 10 counties in Wisconsin for corn grain production. In soybean production, Rock County is 2nd and Walworth County is 13th. Sadly however, when combined, they make up 11% of the total agricultural land in Wisconsin being diverted to non-agricultural uses.

Between 1950 and 2000, agricultural acreage in Wisconsin declined by about one-third, from approximately 24 million acres to 16 million acres. As of 2021, the U.S. Department of Agriculture's National Agricultural Statistics Service estimates that number has further dropped to 14.2 million farmland acres in Wisconsin.

We introduced Senate Amendment 1 to Senate Bill 468 to address the concerns regarding implementation from the Department of Agriculture, Trade and Consumer Protection that were raised at the assembly hearing in November.

This bill will ensure that those who are receiving the farmland preservation tax credit, are truly farming the land and preserving its soil and quality for generations to come.

Thank you for your consideration of Senate Bill 468. I am happy to answer any questions you may have.

I am Scott Fleming, a Certified Crop Advisor and Technical Service Provider from Johnstown, Wisconsin. I am testifying in support of Senate Bill 468, relating to eligibility for Farmland Preservation Tax Credits.

Simply stated, I have the credentials necessary to write Nutrient Management Plans (NMPs) on a state and federal level. I have been writing plans since 2005. At this time, I write about 50 nutrient management plans covering approximately 7000 acres of land. As part of the planning process, a list of landowners and their corresponding farmland acreage is submitted to the county or counties. This submission along with a small fee and additional form makes each of these landowners eligible for the Farmland Preservation tax credit.

As stated by the Wisconsin Department of Agriculture, Trade, and Consumer Protection (DATCP) the goals of Farmland Preservation are to promote agricultural growth, restrict non-agricultural uses, and limit potential land use conflicts. By converting land from agricultural crop production into a solar power generation facility, all of the main tenets of Farmland Preservation are broken.

By now, we have all seen solar power facilities being built. We have seen the first steps of creating a solar facility are hauling in heavy earth moving equipment and installing silt fence. Hills are then cut down and valleys are filled to ensure a flatter surface. The goal of this land forming is to reduce the amount of shading taking place within the solar field. While this may increase the productivity of a solar field, the soil's agricultural productivity is no longer present. All of this earth moving activity leads to disturbed soil that is no longer the fertile soil it once was. Most sources state that it can take up to 500 years to form one inch of topsoil. We can't expect the modified soil to recover in several lifetimes.

The next concern when it comes to calling a solar powerplant farmland lies in its ability for resuming agricultural production. It is often argued that these facilities are only semi-permanent. They reach the end of their useful lifespan and are then deconstructed for normal crop farming to resume. While possible, it does not seem very probable that all of this copper, steel, and glass will be removed for land to go back into production. While it is not my area of expertise, the challenges of removing a solar facility and reverting back to agricultural

production seem daunting to say the least. I am, however, an expert in soils and agronomy. Any natural healing of the soil that took place during solar production will be negated by the heavy traffic of the deconstruction activity.

The facilities in the 11th and 15th district that I am most familiar with also have some wet areas. As a farmer, drainage in excess of what was present prior to December 23rd, 1983 may not take place. This is commonly known as the "Swampbuster" Act. An interesting component of this act is that if you have ANY Swampbusted land, the grower is no longer eligible for ANY United States Department of Agriculture (USDA) program. However, solar power plants are allowed to install drainage systems in excess of what a farmer may install. The federal government has deemed solar production as a "greater good" for the environment in relation to additional tile and surface drainage. It is still up for legal debate on if this land would be eligible to go back into agricultural production if the solar power facility is removed.

Finally, all farmers participating in an NMP must meet soil loss target numbers. Each soil type in the state has a tolerable soil loss number. Farmers must modify crop rotations and tillage to ensure they do not exceed these tolerable soil loss numbers. When solar panels are installed, what was once a permeable soil surface is now covered with impervious photovoltaic panels. Each panel concentrates the rainfall hitting its surface into a sheet of water flowing off the downslope edge of the panel. A great analogy would be a house without gutters. When the roof concentrates all the rainwater and it flows off in sheets you are left with a strip of mud on the ground. Now imagine a former farm field covered with thousands of solar panels. Each of these panels concentrates rainfall as it slowly makes thousands of mud strips below the panels. An emerging area of study is the accelerated runoff and erosion caused by this concentration of rainfall.

I will be the first to agree that reducing our dependance on fossil fuels is not a bad thing. But placing a solar facility on farmland is not preserving farmland for the future. It is repurposing rural lands from agricultural use to power generation. Nothing more, nothing less. Therefore; these lands should not be eligible for Farmland PRESERVATION tax credits.

Wisconsin Farm Bureau FEDERATION

# Testimony on 2023 Senate Bill 468

Senate Committee on Agriculture
January 10, 2024

Thank you Chair Ballweg and Committee Members for the opportunity to testify on 2023 Senate Bill 468. This legislation is relatively straightforward in its function. The bill disallows individuals from claiming a Farmland Preservation tax credit for any part of their qualifying acres on which a solar energy generation facility is located and is not an integral part of or incidental to an agricultural use. The Wisconsin Farm Bureau strongly supports policies which keeps Wisconsin farmland in agricultural production. We applaud the authors of this legislation for identifying this loophole within the Farmland Preservation tax credit program and acting swiftly to bring Senate Bill 468 forward.

As clarified by Legislative Council in an August 2023 informational memo, there are several circumstances that exist under Wisconsin Law in which a landowner can claim a farmland preservation tax credit for land that has been converted into a solar energy generation facility. In short, someone would be claiming a tax credit from the state for preserving farmland, that isn't being preserved.

The eligibility of a solar energy generation facility for agricultural tax credits depends on a handful of factors. For members who may not be as familiar with Farmland Preservation qualification, there are a couple of different pathways enter into the program. If the land in question is subject to a Farmland Preservation agreement between the landowner and the Department of Agriculture, Trade and Consumer Protection (DATCP), solar energy development would require early termination of the agreement and make the owner generally ineligible for tax credits on that acreage. However, if solar development occurs on land covered by Farmland Preservation zoning, eligibility for tax credits then depends on the percentage of qualifying acres that have been used for solar development as part of the larger farm. Because of the construction of state law, if a solar energy facility covers less than 50 percent of an agricultural landowner's acreage within an FP zoning district, they may still be eligible for tax credits. However, if more than 50 percent of the acreage is developed for solar energy, only the remaining agricultural acres would qualify for tax credits.

Senate Bill 468 rightly closes this loophole and upholds the integrity of the Farmland Preservation program towards its intended use, to preserve farmland in Wisconsin.

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FOR IMMEDIATE RELEASE:
Contact: Alesha Guenther, aaguenther@michaelbeststrategies.com
November 27, 2023

## In Case You Missed It, "Solar projects a boon for farmers, communities and Wisconsin"

*Local Government Leader Showcases benefits of Renewable Energy Development for Municipal Governments*

Madison, Wis. – In case you missed it, the former chairman of the Wood County Board of Supervisors, Douglas Machon, showcased the benefits of renewable energy development to municipal government in a guest column in The Cap Times.

Machon's column highlights how renewable energy development provides municipalities with regular payments, allowing them to invest in their priorities—like investing in infrastructure or cutting local taxes.

Read the whole column here for find excerpts below:

**Solar projects a boon for farmers, communities and Wisconsin**
Douglas Machon
The Cap Times

*Municipal governments across Wisconsin know a thing or two about tight budgets and stretching the dollar. While people across the state face the blunt end of economic uncertainty and inflation, our rural communities are in a unique position to propel themselves and their economies forward.*

*In the town of Saratoga, Alliant Energy's Wood County Solar Project has been generating clean energy since December 2022. With this new installation, the town and county will receive regular payments from the state, benefiting the entire community.*

...

*In rural communities, solar projects can provide farmers and landowners options to grow their businesses and diversify their income, while protecting their private property rights.*

*Agriculture and farming are vital industries and pillars of Wisconsin's culture and economic success. However, the state has lost nearly 15,000 farms over the last 23 years. Many hard-*

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*working farm families are already operating on razor-thin profit margins and are looking for new solutions. Solar farms can be one way of addressing this problem by letting farmers grow their businesses as stewards of their land. To top it all off, solar is as functional year-round as a drought-proof cash crop.*

...

*In the end, solar isn't just good for the bottom lines of farmers, it's good for the community and good for Wisconsin. That's something we should all be able to agree on.*

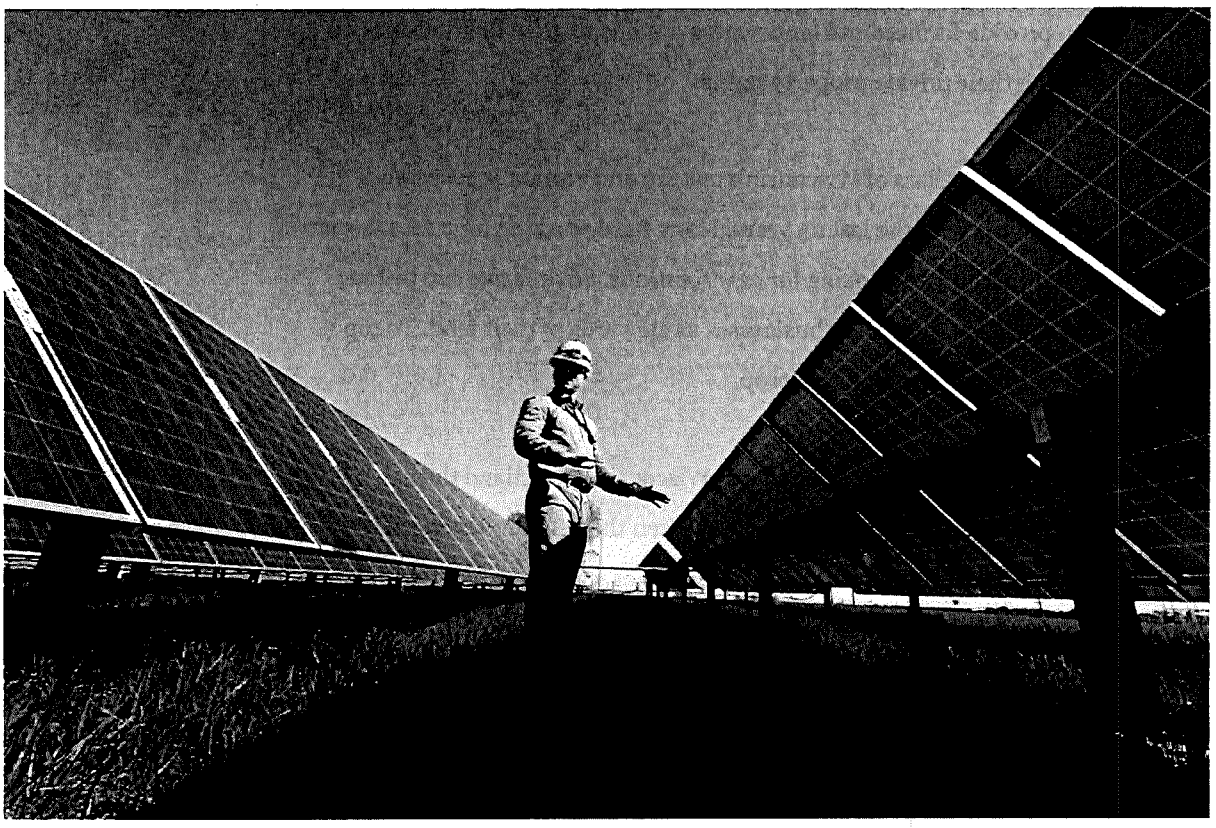
Read the whole column here.

*Powering Wisconsin is a member-led coalition aimed at advancing renewable energy solutions that move Wisconsin toward increased sustainability while spurring economic development and protecting private property rights. PoweringWisconsin.org*

https://captimes.com/opinion/guest-columns/opinion-solar-projects-a-boon-for-farmers-communities-and-wisconsin/article_0e4bd06a-83d9-11ee-80e0-9f7f060e6e6f.html

# Opinion | Solar projects a boon for farmers, communities and Wisconsin

**By Douglas Machon | guest column**
Nov 20, 2023



*In this 2019 photo, Tim Robertson, former operations manager for Alliant Energy's Riverside and West Riverside natural gas operations, is pictured in a 2-megawatt solar farm that supplies auxiliary power for the Riverside plant.*

JOHN HART, STATE JOURNAL

Municipal governments across Wisconsin know a thing or two about tight budgets and stretching the dollar. While people across the state face the blunt end of economic uncertainty and inflation, our rural communities are in a unique position to propel themselves and their economies forward.

In the town of Saratoga, Alliant Energy's Wood County Solar Project has been generating clean energy since December 2022. With this new installation, the town and county will receive regular payments from the state, benefiting the entire community.

Projects like this one allow municipalities to improve their infrastructure and give back to their communities. The developers of the project have been a reliable partner, working with the community on several initiatives, including preparing students at Mid-State Technical College for the workforce, funding

the local food pantry, supporting a local music festival and working with snowmobile riders to reroute trails during the development stage. This case study on the collaboration between government and businesses serves as an example for other municipalities weighing their decision on whether to permit similar renewable infrastructure.

In rural communities, solar projects can provide farmers and landowners options to grow their businesses and diversify their income, while protecting their private property rights.

Agriculture and farming are vital industries and pillars of Wisconsin's culture and economic success. However, the state has lost nearly 15,000 farms over the last 23 years. Many hard-working farm families are already operating on razor-thin profit margins and are looking for new solutions. Solar farms can be one way of addressing this problem by letting farmers grow their businesses as stewards of their land. To top it all off, solar is as functional year-round as a drought-proof cash crop.

Renewable energy systems, like solar farms, are giving communities in Wisconsin's heartland the opportunity to boost their budgets and provide taxpayers relief at a time when they desperately need it. Solar power has far-reaching benefits that especially support rural communities, creating jobs, driving innovation and strengthening our economy. It ultimately puts Wisconsin in a position to be a key player in moving the Midwest's energy ecosystem forward.

With conservation at the top of mind for many across the state, it's important to note that Wisconsin's Land and Water Conservation Board has declared no real threats from solar projects to the ecosystem from any potential water runoff or pollution. In communities where land is leased, as the project's timeline comes to an end, the soil is healed and ready to continue producing for generations to come. Temporarily using land for energy production can help rejuvenate the soil for future use.

In the end, solar isn't just good for the bottom lines of farmers, it's good for the community and good for Wisconsin. That's something we should all be able to agree on.

*Douglas Machon is former chairman of the Wood County Board of Supervisors.*

*Share your opinion on this topic by sending a letter to the editor to tctvoice@madison.com. Include your full name, hometown and phone number. Your name and town will be published. The phone number is for verification purposes only. Please keep your letter to 250 words or less.*

# Storage

Strong storage infrastructure can bring down energy costs by increasing grid efficiency and improving reliability and flexibility.The sun doesn't shine and the wind doesn't move 24 hours a day. But, the sun is always shining and the wind is always moving – somewhere. Low-cost renewable energy production ebbs and flows, but a diverse electric grid coupled with investments in energy storage ensures reliability and resilience for generations to come.

Powering Wisconsin supports competitive and reliable energy storage systems across the Midwest. Our advocacy is based on the vast range of benefits energy storage provides. It can integrate resources, reduce negative environmental impacts, save customers money, and increase the reliability and resilience of the grid. Battery storage is economic today and ready to address many of the challenges our grid faces – now and into the future.

## FACTS ON RENEWABLES

**Renewable Energy Creates Clean Jobs in Wisconsin**

- Clean energy jobs now outnumber fossil fuel jobs in the United States, and more jobs are being created right here in the Midwest.

**Renewable Energy is Compatible with Traditional Farming in Wisconsin**

- Temporarily using land for energy production can help rejuvenate the soil for future farming use.
- The use of ground-cover crops that attract bees and butterflies is common in solar farms and has been shown to help improve yields of nearby crops.

**Renewable Energy is Clean, Affordable, and Reliable**

- Solar prices have decreased 40% in the last five years, making it one of the cheapest renewable energy sources on the market.

# Wind

The most cost efficient source of renewable energy, wind power moves the Midwest toward a renewable energy future. Drought resistant and reliable, wind leads the way toward a clean energy future – while generating revenue for communities and landowners.

Wind is the largest renewable energy source on the grid, and more cost-effective than current coal plants and competitive with existing natural gas. With the wind at our backs, we work to inform and improve public understanding of wind energy.

Powering Wisconsin knows the future of energy is in the wind. We provide reliable, credible, factual information for lawmakers, landowners, and the general public about the benefits of renewable energy and advocate to amplify wind energy's positive legacy in the Midwest.

**VISIT POWERINGWISCONSIN.COM FOR MORE INFORMATION**

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# RENEWABLE ENERGY SOLUTIONS ARE MOVING WISCONSIN FORWARD

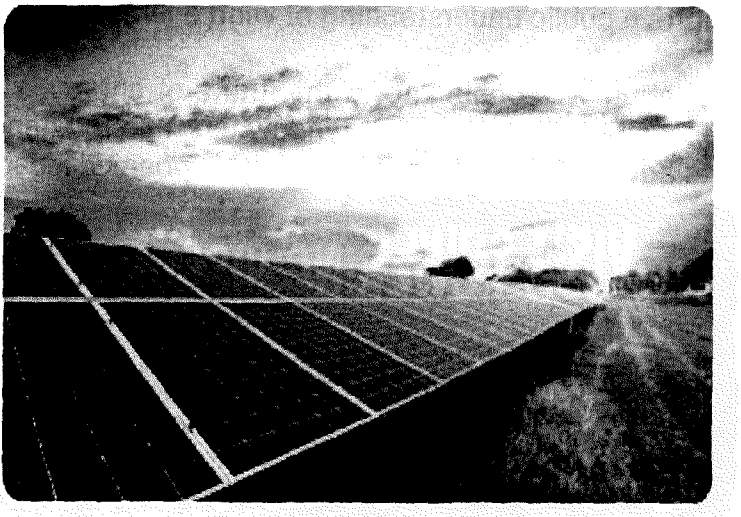
Powering Wisconsin is a member-led coalition aimed at advancing renewable energy solutions that move Wisconsin toward increased sustainability while **spurring economic development and protecting private property rights.**

## Solar

One solution is clear as day: solar power creates jobs, drives innovation, and strengthens our economy as a key player in moving the Midwest toward a renewable energy future. Drought resistant.

Environmentally friendly. Solar is the cash crop that doesn't fail. A reliable source of natural energy, solar is a vast resource that can supply a significant portion of the Midwest's electricity needs.

Powering Wisconsin understands the importance of a diversified energy grid, and supports a robust solar market as a bright light in our future's renewable energy portfolio.



Powering Wisconsin shines a light on solar energy in Wisconsin by working through issues like land use, decommissioning, and siting standards for utility-scale solar projects. And we work with members and within MISO to advocate for common-sense policies – all to bring solar's cost savings and additional benefits to life.

## Property Rights

**A landowner has the right to make decisions about how their land is used.**

Renewables...

- Help diversify income portfolios.
- Are harvested all year long.
- Are drought-proof, high-yield land outputs that can produce for decades at a time without expensive inputs like fertilizers, pesticides, and irrigation.

**American Clean Power Estimates**

**WI Farmers, Ranchers, & Landowners Receive**

# $2.7 Million

**in annual land-lease payments from solar**

| Crop | Production Value per 5,000 Acres | Harvested Acreage Actual |
|---|---|---|
| Cranberries | $40,136,700 | 20,600 |
| Potatoes | $27,950,000 | 69,000 |
| Cucumbers | $13,910,000 | 6,600 |
| Solar | $5,402,369 | 5,000* |
| Sweet Corn | $5,049,000 | 57,500 |
| Corn | $4,680,000 | 3,950,000 |
| Beans | $4,496,500 | 60,100 |
| Soybeans | $3,492,500 | 2,100,000 |
| Peas | $3,458,000 | 27,100 |
| Wheat | $2,343,750 | 290,000 |
| Hay | $2,288,000 | 1,230,000 |
| Rye | $1,404,250 | 270,000 |
| Oats | $1,212,100 | 175,000 |
| Barley | $1,192,500 | 15,000 |

*Approximate

## Current Solar Crop Values in Wisconsin

**Wisconsin has 560 MW[2] of solar, occupying approximately 5,000 acres of land.**

- In 2021, WI solar projects generated over 93,000 MWh of electricity.[7]
- At a value of $58.08 per MWh,[8] Wisconsin's existing solar footprint has an annual production value of nearly $5.5 million.

## Sources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# Wisconsin Solar and Agriculture

## Solar and Prime Farmland

Wisconsin is home to about 14.3 million acres of farmland, about 6.2 million acres of which are considered "prime."[1]

- Wind and solar are compatible and profitable ways farmers can grow their business as the stewards of their own land.
- Limiting use of prime farmland is unnecessary, and doing so infringes upon private property rights. All possible sites should be evaluated to best serve the community, the environment and our clean energy needs.

## prime·farm·land

NOUN

Land that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and is available for these uses.

## For Perspective...

There are 1,882 MW of solar under construction and in advanced development across Wisconsin,[2] requiring approximately 16,000 acres of land. If every solar farm were sited on prime farmland, only 0.25% of Wisconsin's prime farmland would be used.

**Wisconsin Prime Farmland** [1]

**Prime Farmland**

**Land used for solar in the pipeline**

## Solar Land Use

Land used for solar remains versatile, coexisting with a variety of conservation efforts.

- An average of between 7 and 10 acres of land are required to produce one megawatt (MW) of electricity from solar energy.[3]
- Some community garden and utility-scale solar projects pair beehives with pollinator-friendly native plants and flowers in and around the project area.
- Pollinator-friendly solar can recharge groundwater and reduce soil erosion, at the same time increasing yield of pollinator-dependent crops, such as soybeans.[4][5]

## Agrivoltaics: A Value-Added Farmer Friendly Solution

Combining traditional farming and solar technology is called agrivoltaics.

Agrivoltaics have a wide range of benefits for farmers, both immediate and long-term. Altogether, conservation and vegetation plans amidst renewables lead to healthier soil, improved water storage and filtration, sequestration of carbon, erosion reduction, habitat preservation and lower local energy costs.[6]