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Renewable Energy Policy Series: The Effect of Renewable Energy Projects on Current Agricultural Use Value (CAUV)

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Introduction

Advanced energy development can be a vital component of economic development sustainability strategies for rural communities. Ever increasing demand for energy, the need to decrease dependency on fossil fuels, and governmental policy are driving the development of renewable energy projects. For example, in August 2007, Ohio Senate Bill 221 (SB 221) was signed into law, which set in motion a series of events that promote the development of major utility scale renewable energy projects in Ohio. Key initiatives outlined in SB 221 include alternative energy portfolio standards, energy efficiency standards, solar ready schools, and greenhouse gas emission reporting requirements (Romich, 2010). The focus of this fact sheet is on major electric utility renewable energy projects and the implications they have on Current Agricultural Use Value (CAUV) programs in Ohio.

What is Major Electric Utility Renewable Energy Project?

The alternative energy portfolio standards out-

lined in SB 221 require that 25% of all kilowatt-hours produced by an investor-owned electric distribution utility company such as AEP Ohio, Duke Energy Ohio, Dayton Power and Light Company, and First Energy must be generated from alternative energy resources by the year 2025.

There is a distinct difference between major electric utility generation and self-generation. An electric utility is an electric company that has a certified territory and is engaged in the for-profit business of supplying a non-competitive and/or a competitive retail electric service to consumers in Ohio. Alternatively, *self-generation* is defined as “an entity in Ohio that owns or hosts on its premises an electric generation facility that produces electricity primarily for the owner’s consumption” (Law Writer Ohio Laws and Rules, 2008). Self-generation projects are typically projects with an aggregate engineered capacity of 250 kW or less, and generally take up very little land, while major electric utility generation projects have an aggregate engineered capacity greater than 250 kW and occupy larger amounts of land (Law Writer Ohio Laws and Rules, 2005).

As a result of this policy, electrical utilities and renewable energy developers are seeking large tracts of land to site major utility scale renewable energy projects. In many cases, developers are seeking the most cost effective location, targeting sparsely populated rural areas with largely undeveloped tracts of agricultural ground. When considering renewable energy development, it is vital that landowners understand all the ancillary impacts associated with the change in land use from agricultural to renewable energy generation.

Current Agricultural Use Value (CAUV)

Current Agricultural Use Value (CAUV) is a differential real estate tax assessment program that allows owners of farmland the opportunity to have their parcels taxed according to the land value in agriculture, rather than full market value. To qualify for CAUV assessment, a landowner must devote the parcel exclusively to agricultural use. The parcel must be 10 acres or more and have been in agricultural use for the last three years. A smaller tract may be included in this program if the tract produced an average income of \$2,500 or more from sales of agricultural products during the previous years or if there is an expected gross income of that amount. If a parcel of land does not meet one of these criteria, it loses its eligibility for CAUV tax treatment.

If land is converted from agricultural production to a use inconsistent with the CAUV criteria, the Ohio Constitution permits the recoupment of taxes by levying a charge on the affected land in an amount equal to the tax savings during the three tax years immediately prior to the year in which the conversion occurs.

Renewable Energy Impacts on Agricultural Property

The implementation of renewable energy projects could cause farmland to lose its CAUV tax classification on a portion of the lands. However, the impacts will vary depending on the type and size of the project. The construction or installation of a renewable energy facility on a portion of land devoted exclusively to agricultural use shall not cause the remaining portion of the land to be regarded as a conversion of land use as long as the remaining portion continues to be devoted

exclusively to agricultural use (Law Writer Ohio Laws and Rules, 2010). Furthermore, the CAUV recoupment charge under Ohio Revised Code Section 5713.34 shall not be assessed if the land conversion is the result of the construction or installation of an energy facility, as long as the remaining portion of the land continues to be devoted exclusively to agricultural use (Law Writer Ohio Laws and Rules, 2010).

According to a report by the National Renewable Energy Laboratory, wind projects require roughly 1.25 permeate acres of land for each wind turbine to support the structure footprint and future maintenance of the structure (National Renewable Energy Laboratory, 2009). This represents the amount of land that would be permanently removed from a CAUV program. The Ohio Revised Code Section 5727.01 defines an energy facility as “one or more interconnected wind turbines, solar panels, or other tangible personal property used to generate electricity from an energy resource owned by the same person, including interconnection equipment, devices, and related apparatus connected to such tangible personal property.” Assuming the project met the criteria of an energy facility, there would be no recoupment charge assessed. Figure 1 illustrates the CAUV implications to a 100-acre farm developed with a wind project.

Unlike wind turbines, solar projects consume large amounts of land that can no longer be farmed after the project is completed. Even though this land might someday be returned to agriculture production, the transition back to farmland will likely not be for 20 years or more. Therefore, the conversion from farmland to a solar energy facility is considered semi-permanent and would trigger the loss of CAUV taxation status. The land will then be taxed at full market value until it returns to an agricultural land use. However, assuming it is an energy facility, as defined in Ohio Revised Code Section 5727.01, there would be no recoupment charge assessed. See Figure 1 to relate the difference in CAUV implications to a 100-acre wind project compared to the impacts to the establishment of a 100-acre solar project.

Figure 1. Renewable Energy Project Impact on Property Tax Evaluation				
	Land in CAUV		Tax Valuation ¹	
	Before	After	Before	After
Wind Energy Project²	100%	82.62%	\$870	\$1,136
Solar Project	100%	0%	\$870	\$2,550
¹ Based on average Wyandot County, Ohio, land valuations enrolled in CAUV. Contact your local auditor for valuation figures for land in proposed energy project.				
² Based on 13 turbines per 100 acres with 1.25 acres converted per turbine.				

Conclusion

As a result of existing assets and resources, rural communities and landowners have a unique opportunity to capitalize on economic development projects presented by renewable energy generation. Project developers are actively seeking rural locations in Ohio with large tracts of land available for development of projects such as wind energy turbines and solar energy fields.

When structuring land acquisition deals, renewable energy projects can be proposed in the form of a long-term lease agreement or an outright purchase agreement. Regardless of the land acquisition type, it is advantageous to specify in the agreement terms which party is responsible for any agricultural tax recoupment payments that might be triggered by the change in land use.

Although participating in these opportunities can provide substantial personal returns and community benefits, landowners need to exercise diligence in

calculating the cost-benefit analysis for their land. Landowners are encouraged to discuss these issues with their county auditors to determine the exact tax liabilities that would result from the construction of renewable energy projects.

Further Reading

Bowen-Ellzey, N. (2011). *Wind Energy Development as an Economic Development Strategy for Rural Areas*. Retrieved August 10, 2011, from OhioLine: <http://ohioline.osu.edu/cd-fact/pdf/11-cmd-849.pdf>

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