February 26th, 2025

Committee: Senate - Education, Energy and the Environment; House - Economic Matters
Testimony on: SB931/HB1036 "Renewable Energy Certainty Act"
Hearing Date: February 26, 2025

Dear Chairman Feldman and Committee Members,

American Farmland Trust (AFT) is a national nonprofit organization committed to saving the land that sustains us by protecting farmland, promoting sound farming practices and keeping farmers on the land. One of the strategies to achieve this mission in 2025 is to advance Smart Solar development to maximize the benefits to rural economies and farm viability and minimize the conversion of high-quality farmland out of production in order to get renewable projects built.

Solar energy development is taking place in the context of a continuing national trend of farmland loss. In AFT's 2019 Farms Under Threat the State of the States report, AFT found that between 2001 and 2016, 11 million acres nationally were lost or threatened by high- and low-density residential development. In Maryland, 102,700 acres of agricultural land were developed or compromised by residential and commercial development from 2001-2016. Nearly 58,500 of those acres were Nationally Significant – land best suited for intensive food and crop production. If recent trends continue, 178,200 acres of Maryland's farmland will be paved over, fragmented, or converted to uses that jeopardize agriculture -- 54% of Maryland's conversion is projected to occur on the state's best land.

Solar is a cost-competitive form of domestic energy production that is being developed to decarbonize the electric grid—and much of it is also being sited on farmland. Modeling done by AFT through its *Farms Under Threat: 2040* analysis, projects that without policy intervention 83% of new solar development nationally will take place on agricultural land, with almost half on our most productive land for producing food and other crops. Most of this new solar development is concentrated in rural communities with favorable siting characteristics—flat, open, and sunny land with grid interconnection near energy demand—some of which already face high rates of farmland conversion to urban and residential development. And much of this new solar development will be large utility-scale projects.

This solar growth can provide important financial benefits in the form of long-term leases for landowners and tax revenue for rural municipalities, which can contribute to farm profitability. But it is also raising concerns about the conversion of limited high-quality farmland out of production, displacement of farmer-renters outcompeted by solar developers, and the impacts to the local farm economy from large-scale conversion of productive farmland in host communities for 25-40 years or more. Farms are anchor businesses in rural communities, not only providing food, fuel, and fiber but also supporting an ecosystem of services and businesses such as feed and seed dealers, equipment purveyors, and veterinarians. In short, supporting farm viability and keeping land in production to continue this local economic activity is critical to enhancing rural vitality as solar development expands in Maryland.

American Farmland Trust has developed four Smart Solar Principles that are designed to help ensure that solar development strengthens farm viability and rural vitality to get projects built. These principles are:

- Prioritize siting on the built environment and contaminated (*e.g.,* landfills, brownfields) and marginal land;
- Safeguard the ability to use land put into solar for farming by protecting soil health, especially during high disturbance times of construction and decommissioning;
- Expand development of agrivoltaics projects which integrate agricultural production into solar arrays; and
- Promote farm viability and equity by ensuring farmer engagement and shared benefits.

AFT reviews proposed renewable energy policies to analyze both how well they adhere to these principles and achieve AFT's Smart Solar goals, and also in light of its experience with policy work in other states. Through these lenses, AFT has a several comments for the legislature and other stakeholders to consider as it reviews SB931/HB1036:

- **More work can be done to incorporate Smart Solar Principles and ensure permitted projects support farm viability.** No matter where permitting jurisdiction is housed, Smart Solar Principles should be fully incorporated into these policies to achieve the goals of maximizing benefit for farm communities while

minimizing harms. According to an internal GIS analysis, only 25% of the land in Maryland that is within 3 miles of transmission and under 7% slope is classified as USDA Prime soils. Nearly a third of the 75% that is left is farmland. While Maryland SB931 does incorporate some standards to protect topsoils during construction, it does not contain policies, like mitigation fees, that could steer siting away from high-quality farmland towards more marginal farmland, nor does it advance or incentivize agrivoltaic projects that keep high quality farmland that *is* converted to solar in agricultural production. Finally, while there are welcome protections for topsoil written into the current draft, the standards are not yet comprehensive enough to safeguard the ability to farm the land that is put into solar now or in the future. In short, more can be done to strengthen the bill's adherence to AFT's Smart Solar principles.

- **Much of the proposed policy conflicts with current home rule and minimizes local control and benefits.** The legislation proposes re-housing permitting for all projects 2MW and above with the state, preempts local policymaking that is more restrictive than the standards detailed in the bill, and limited the ability to collect local taxes on renewable facilities. Two megawatts in size translates to projects that are as small as ten acres in size—which comfortably would fall within the jurisdiction of a single municipality. In AFT's experience, states that have re-housed some permitting authority with the state have done so only in the case of larger projects that cross jurisdictional boundaries—for example, in 2019, the state of New York created a new state agency to permit renewable projects that are 20-25MW or above. While this was still perceived as a taking of power that was granted to municipalities (triggering legal action), the state was judicious in only giving itself authority for projects that crossed the boundaries of many municipalities.
- **Height standards, as written, would limit agrivoltaic development.** Some of the standards written in the bill may be so detailed as to have unintended consequences. For instance, the standard limiting arrays to 20 feet in height have no exception for agrivoltaic projects, which are sometimes designed to be vaulted higher in the air to allow farm machinery to pass underneath. This bright line would have an unintended consequence of limiting the ability to develop certain types of farm-friendly agrivoltaic projects.

While AFT acknowledges the need for clean energy, we believe that well-designed and sound strategies must be developed to incentivize many of the underlying issues this bill is attempting to address. **AFT recommends taking the time to re-draft the current legislation with a wider array of stakeholders rather than passing the bill as written**. AFT is at the ready to assist in helping to incorporate its Smart Solar principles into this or other proposed legislation to increase farm viability and keep land in production as the state works to decarbonize its grid.

Sincerely,

Eric Bronson
Sr. Smart Solar Specialist, Mid-Atlantic Region

Samantha Levy
Sr. Policy Manager for Conservation and Energy