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May 22, 2020

CERTIFICATE OF THE SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS
ON THE
ENVIRONMENTAL NOTIFICATION FORM

PROJECT NAME	: Solar Array Project
PROJECT MUNICIPALITY	: Acushnet
PROJECT WATERSHED	: Buzzards Bay
EEA NUMBER	: 16188
PROJECT PROPONENT	: Sunrise of Wing Lane, LLC
DATE NOTICED IN MONITOR	: April 22, 2020

Pursuant to the Massachusetts Environmental Policy Act (MEPA; M.G. L. c. 30, ss. 61-62I) and Section 11.06 of the MEPA regulations (301 CMR 11.00), I hereby determine that this project **does not require** an Environmental Impact Report (EIR).

Project Description

As described in the Environmental Notification Form (ENF), the project consists of Phase II of a solar array development. The project includes the development of a 0.5 megawatt (MW) ground mounted solar array within an approximately 1.88-acre area at 0 Wing Lane and a 2.5 MW ground mounted solar within an approximately 9.98-acre area at 88 Wing Lane in Acushnet. Phase 1 of the project consisted of the development of a 3.93-acre, 0.65 MW solar array at 0 Wing Lane which was constructed in 2017. Because Phase 1 was determined to not result in a "Take" of a state-listed species, no Agency Actions were associated with that phase and no MEPA review was conducted. Cumulatively, Phase 1 and Phase 2 will now result in 11.29 acres of rare species habitat impacts, and require permitting from the Division of Fisheries and Wildlife (DFW)'s Natural Heritage and Endangered Species Program (NHESP). As mitigation, the project will place approximately 62 acres of forested upland and wetland

under an Executive Office of Energy and Environmental Affairs (EEA) - Division of Conservation Services (DCS) approved Conservation Restriction (CR).

Project Site

The 106.28-acre site consists of two adjacent parcels separated by Wing Lane including 0 Wing Lane which is a 19.93-acre parcel located on the east side of Wing Lane and 88 Wing Lane which is a 86.35 acre-parcel located on the east side of Wing Lane. A high-tension electrical transmission line easement runs perpendicular to Wing Lane on the western portion of the project site. The eastern portion of the project site consists of a 3.96-acre ground mounted solar array which was developed in 2017 (Phase 1) and abandoned agricultural fields and a barn associated with a dairy farm. As discussed below, the Phase II project is proposed on the western portion of the project site and is bisected by Wing Lane. Based on aerial imaging, it is estimated that the dairy farm ceased operation before 1995. The eastern portion of the project site consists of forested uplands and wetlands. Portions of the project site are mapped as *Estimated or Priority Habitat of Rare Species* as delineated by NHESP in the 14th Edition of the Massachusetts Natural Heritage Atlas.¹ Edition of the Massachusetts Natural Heritage Atlas.

Environmental Impacts and Mitigation

Environmental impacts associated with the project include the new alteration/clearing of 11.86¹ acres of land (15.81 acres total when taking into account impacts associated with Phase I) and the creation of 0.1 acres of new impervious surface (0.3 acres total). The project will result in the disturbance and/or fragmentation of 11.29 acres of rare species habitat.

Measures to avoid, minimize and mitigate damage to the environment include the implementation of a turtle protection plan and the placement of approximately 62 acres of priority habitat under a CR; installation of a stormwater collection pond and use of sedimentation and erosion controls during the construction period.

Jurisdiction and Permitting

This project is subject to MEPA review and preparation of an ENF pursuant to 301 CMR 11.03(2)(b)(2) because it involves greater than two acres of disturbance of designated priority habitat that results in a take of state-listed species. The project requires a Conservation and Management Permit from NHESP.

The project received a negative Determination of Applicability from the Acushnet Conservation Commission which was not appealed. The project requires a National Pollutant Discharge and Elimination System Permit from the U.S. Environmental Protection Agency (EPA).

The project is not receiving Financial Assistance from the Commonwealth. Therefore, MEPA jurisdiction for any future review would be limited to those aspects of the project that are within the subject matter of any required or potentially required Agency Actions and that may cause Damage to the Environment, as defined in the MEPA regulations.

¹ The ENF form incorrectly identified 11.29 acres of total land alteration.

Review of the ENF

The ENF provided a description of existing and proposed conditions, preliminary project plans, and an alternatives analysis, and identified measures to avoid, minimize and mitigate environmental impacts.

Alternatives Analysis

The ENF included an alternatives analysis which described a No-Build Alternative, Eastern Array Alternative, a 10-Lot Residential Alternative and the Preferred Alternative as described below. The No-Build Alternative would leave the project site in its existing condition. This alternative would not achieve the project goal of developing a solar array and would not have the secondary benefit of placing 62 acres of land under a CR.

The Eastern Array Alternative would position the solar array on the eastern portion of the project away from Wing Lane and outside of the previously disturbed area containing the Phase 1 solar array. This alternative would require clearing approximately 12.5 acres of land and the construction of an access road through the site connecting it to Wing Lane. This alternative would result in the alteration of 2,500 sf of Bordering Vegetated Wetlands (BVW) and wetland buffer zone. This alternative would also create interconnection issues as the existing interconnection is located on the western portion of the site along Wing Lane which connects to a nearby substation. As described in the ENF, this alternative would result in a greater impact and fragmentation of undisturbed, forested areas, thus potentially resulting in a greater impact to rare species habitat.

The 10-Lot Residential Alternative would involve the development of 10 single family residential lots within the general location of the proposed solar array. This alternative would result in the alteration of 13 acres of land, creation of 0.6 acres of new impervious surface (0.8 acres total) and creation of 100 new average daily trips. As described by the Proponent, increased roadway use for a residential development will increase potential road mortality impacts to turtles. Additionally, the project site's close proximity to high tension power lines make it less desirable for a residential development.²

All build alternatives would require similar mitigation commitments in the form of conservation land. However, the Preferred Alternative concentrates the solar developments on the western portion of the project site near the roadway, existing solar array, and transmission line, all within previously disturbed areas; thus, it maximizes the amount of contiguous land that will be placed under a CR, of which 13.65 acres is mapped as rare species habitat.

Land Alteration

As described in the ENF, the development of the solar array will result in the new alteration of 11.86 acres of land. The proposed solar arrays will be located in previously disturbed areas associated with the abandoned dairy farm and meadows; therefore, significant tree clearing will not be required. Land alteration is associated with tree removal and grubbing, minor grading, construction of a stormwater collection pond, demolition of the existing barn and appurtenant structures, and the

² Additional information on the project alternatives were submitted to the MEPA office via e-mail on 05/18/2020.

construction of the solar array panel footings, gravel access roads, stormwater collection ponds, underground electric lines, electric utility poles, equipment pads/structures, energy storage systems, security fencing and earthen berms/screening measures. As noted, the project has considered multiple alternatives and chosen an alternative that minimizes land alteration by siting the project near already disturbed areas and transmission lines.

Rare Species

The Project site is mapped as Priority Habitat for the Eastern Box Turtle (*Terrapene carolina*), a species state-listed as “Special Concern.” This species and its habitats are protected pursuant to the Massachusetts Endangered Species Act (MGL c.131A) and its implementing regulations (MESA 321 CMR 10.00). DFW has determined that the Project, as proposed, will result in a Take (321CMR 10.18 (2)(b)) of Eastern Box Turtle due to the permanent loss and/or fragmentation of suitable habitat and interference with the feeding, breeding, over-wintering and migratory activities of this species.

As noted above, the project is considered Phase II of a solar development. Phase I of the solar development received a “No Take” determination from NHESP in 2016. However, the determination letter indicated that if a future project or activity were proposed on the project site, NHESP may consider the cumulative impacts of the project components when developing appropriate mitigation commitments. As described in NHESP’s comment letter, the Proponent intends to meet the performance standards of a CMP by implementing a DFW-approved turtle protection plan during construction; permanently protecting approximately 62 acres of open space and state-listed species habitat through a DCS approved CR; and implementing a DFW-approved vegetation management plan within shadow buffer areas to protect state-listed species after construction. The ENF also notes that the project will incorporate a six-inch gap at the bottom of the perimeter fences to allow turtle passage. As the MESA review process is ongoing, no alteration to the soil, surface, or vegetation associated with the proposed Project shall occur on the property until the NHESP has made a final decision relative to the CMP.

Construction Period Impacts

All construction and demolition activities should be managed in accordance with applicable MassDEP’s regulations regarding Air Pollution Control (310 CMR 7.01, 7.09-7.10), and Solid Waste Facilities (310 CMR 16.00 and 310 CMR 19.00, including the waste ban provision at 310 CMR 19.017). The project should include measures to reduce construction period impacts (e.g., noise, dust, odor, solid waste management) and emissions of air pollutants from equipment, including anti-idling measures in accordance with the Air Quality regulations (310 CMR 7.11). I encourage the Proponent to require that its contractors use construction equipment with engines manufactured to Tier 4 federal emission standards, or select project contractors that have installed retrofit emissions control devices or vehicles that use alternative fuels to reduce emissions of volatile organic compounds (VOCs), carbon monoxide (CO) and particulate matter (PM) from diesel-powered equipment. Off-road vehicles are required to use ultra-low sulfur diesel fuel (ULSD). If oil and/or hazardous materials are found during construction, the Proponent should notify MassDEP in accordance with the Massachusetts Contingency Plan (310 CMR 40.00). All construction activities should be undertaken in compliance with the conditions of all State and local permits. I encourage the Proponent to reuse or recycle construction and demolition (C&D) debris to the maximum extent.

Conclusion

The ENF has adequately described and analyzed the project and its alternatives, and assessed its potential environmental impacts and mitigation measures. Based on review of the ENF and comments received on it, and in consultation with NHESP, I have determined that an EIR is not required.

May 22, 2020
Date



Kathleen A. Theoharides

Comments received:

05/11/2020	Natural Heritage and Endangered Species Program (NHESP)
05/11/2020	Massachusetts Department of Environmental Protection (MassDEP)

KAT/EFF/eff



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May 11, 2020

Kathleen A. Theoharides
Secretary of Environment and Energy
Executive Office of Energy and
Environmental Affairs
100 Cambridge Street, Suite 900
ATTN: MEPA Office
Boston, MA 02114

RE: ENF Review. EOEEA 16188---
ACHUSNET. Solar Array at 0 & 88 Wing
Lane

Dear Secretary Theoharides,

The Southeast Regional Office of the Department of Environmental Protection (MassDEP) has reviewed the Environmental Notification Form (EENF) for the Solar Array at 0 & 88 Wing Lane, Acushnet, Massachusetts (EOEEA #16188). The Project Proponent provides the following information for the Project:

The proposed project will impact approximately 11.29 acres. The existing condition of the impact area is comprised of a former agricultural field /meadow adjacent to wooded wetland and upland areas.

The majority of the project area consists of previously disturbed agricultural land. Total land disturbance within this envelope is 11.29 Acres of which is already disturbed to some degree. Work within the project area includes tree removal and grubbing, minor grading, and the construction of the solar array including but not limited to panel footings, access roads, stormwater collection ponds, underground electric lines, electric utility poles, equipment pads/structures, energy storage systems, security fencing and earthen berms/screening measures.

The proposed 88 Wing Lane solar project includes a fifty (50) foot no disturbance buffer from the wetland delineation line and a second fifty (50) foot buffer with only the stormwater wetland pond located in the buffer area (see Stormwater Management Section on p.6). All work related to the construction of the solar array will occur outside the 100-foot buffer zone of the wetlands. In addition, only minimal grading associated with the stormwater pond and adjusting rack elevations will be involved in the construction of the solar array. Please note that the 88 Wing Lane project was issued a Negative Determination for an RDA from the Acushnet Conservation Commission on March 18, 2019.

As per a wetland review of the proposed 0 Wing Lane solar project completed by Wendell Wetland Services on December 10, 2019, the solar array, electrical equipment, and associated infrastructure will all be installed

well outside the 100-foot buffer to any wetlands on or near the 0 Wing Lane property, as there were no wetlands encountered on or in vicinity of the 0 Wing Lane project site.

Bureau of Water Resources Comments

Wetlands. The proposed project involves the construction of two separate solar array fields as part of Phase 2 for this development. Approximately 11.29 acres of land will be used for this project, a portion of which would occur within the buffer zone to bordering vegetated wetland.

The subject site is within rare and endangered species habitat, which has been identified by the Natural Heritage Program as Eastern Box Turtle habitat. The applicant is working with the Natural Heritage Program in order to obtain a Conservation Plan.

A Notice of Intent application must be filed with the Acushnet Conservation Commission for any work within the buffer zone to bordering vegetated wetland. All applicable stormwater standards must be met in accordance with the Wetland Regulations. A Final Order of Conditions must be obtained prior to any work commencing on this project.

If any of the proposed upland solar arrays fall within the 100-foot buffer zone to jurisdictional wetlands, the applicant should then address compliance with the Massachusetts Stormwater Standards in any Notice of Intent filing under the Wetlands Protection Act.

Construction Stormwater Permit. The Project construction activities are scheduled to disturb 11.29 acres of land and therefore, may require a NPDES Stormwater Permit for Construction Activities. The Proponent can access information regarding the NPDES Stormwater requirements and an application for the Construction General Permit at the EPA website:

https://www.epa.gov/sites/production/files/2017-07/documents/cgp_flow_chart_do_i_need_a_permit2.pdf

Bureau of Waste Site Cleanup Comments:

ENF #16188 – Based upon the information provided, the Bureau of Waste Site Cleanup (BWSC) searched its databases for disposal sites and release notifications that have occurred at or might impact the proposed project area. A disposal site is a location where there has been a release to the environment of oil and/or hazardous material that is regulated under M.G.L. c. 21E, and the Massachusetts Contingency Plan [MCP – 310 CMR 40.0000].

There are no listed MCP disposal sites located at or in the vicinity of the site that would appear to impact the proposed project area. Interested parties may view a map showing the location of BWSC disposal sites using the MassGIS data viewer (Oliver) at:

http://maps.massgis.state.ma.us/map_ol/oliver.php Under “Available Data Layers” select “Regulated Areas”, and then “DEP Tier Classified 21E Sites”. MCP reports and the compliance status of specific disposal sites may be viewed using the BWSC Waste Sites/Reportable Release Lookup at: <https://eeaonline.eea.state.ma.us/portal#!/search/wastesite>

The Project Proponent is advised that if oil and/or hazardous material are identified during the implementation of this project, notification pursuant to the Massachusetts Contingency Plan (310 CMR 40.0000) must be made to MassDEP, if necessary. A Licensed Site Professional (LSP) should be retained to determine if notification is required and, if need be, to render appropriate opinions. The LSP may evaluate whether risk reduction measures are necessary if contamination is present. The BWSC may be contacted for guidance if questions arise regarding cleanup.

Bureau of Air and Waste (BAW) Comments:

Air Quality. Construction and operation activities shall not cause or contribute to a condition of air pollution due to dust, odor or noise. To determine the appropriate requirements please refer to:

310 CMR 7.09 Dust, Odor, Construction, and Demolition

310 CMR 7.10 Noise

Construction-Related Measures

MassDEP requests that all non-road diesel equipment rated 50 horsepower or greater meet EPA's Tier 4 emission limits, which are the most stringent emission standards currently available for off-road engines. If a piece of equipment is not available in the Tier 4 configuration, then the Proponent should use construction equipment that has been retrofitted with appropriate emissions reduction equipment. Emission reduction equipment includes EPA-verified, CARB-verified, or MassDEP-approved diesel oxidation catalysts (DOCs) or Diesel Particulate Filters (DPFs). The Proponent should maintain a list of the engines, their emission tiers, and, if applicable, the best available control technology installed on each piece of equipment on file for Departmental review.

Massachusetts Idling Regulation

The ENF reports that the Project Proponent proposes simply to "minimize idling." MassDEP reminds the Proponent that unnecessary idling (*i.e.*, in excess of five minutes), with limited exception, is not permitted during the construction and operations phase of the Project (Section 7.11 of 310 CMR 7.00). With regard to construction period activity, typical methods of reducing idling include driver training, periodic inspections by site supervisors, and posting signage. In addition, to ensure compliance with this regulation once the Project is occupied, MassDEP requests that the Proponent install permanent signs limiting idling to five minutes or less on-site.

Spills Prevention. A spills contingency plan addressing prevention and management of potential releases of oil and/or hazardous materials from pre- and post-construction activities should be presented to workers at the site and enforced. The plan should include but not be limited to, refueling of machinery, storage of fuels, and potential on-site activity releases.

Solid Waste Management. MassDEP Solid Waste staff have reviewed the Environmental Notification Form ("ENF") for the Solar Array project in Acushnet ("Project" or "Site"), EEA No. 16188, and offers the following comments regarding solid waste permitting pursuant to Massachusetts Solid Waste Regulations 310 CMR 16.00: *Site Assignment Regulations For Solid Waste Facilities*, 310 CMR 19.000: *Solid Waste Management*, and Asbestos Regulations 310 CMR 7.15.

Solid Waste/Asbestos Comments:

1. *Handling of Clean Wood:* The project will require the handling of clean wood associated with tree removal. As defined in 310 CMR 16.02, clean wood means "discarded material consisting of trees, stumps and brush, including but limited to sawdust, chips, shavings, bark, and new or used lumber"...etc. Clean wood does not include wood from commingled construction and demolition waste, engineered wood products, and wood containing or likely to contain asbestos, chemical preservatives, or paints, stains or other coatings, or adhesives. The proponent should be aware that wood is not allowed to be buried or disposed of at the Site pursuant to 310 CMR 16.00 & 310 CMR 19.000 unless otherwise approved by MassDEP. Clean wood may be handled in accordance with 310 CMR 16.03(2)(c)7 which allows for the on-site processing (*i.e.*, chipping) of wood for use at the Site (*i.e.*, use as landscaping material) and/or the wood to be transported to a permitted facility (*i.e.*, wood waste reclamation facility) or other facility that is permitted to accept and process wood.

2. *Compliance with Waste Ban Regulations:* Waste materials discovered during construction that are determined to be solid waste (e.g., construction and demolition waste) and/or recyclable material (e.g., metal, asphalt, brick, and concrete) shall be disposed, recycled, and/or otherwise handled in accordance with the Solid Waste Regulations including 310 CMR 19.017: *Waste Bans*. Waste Ban regulations prohibit the disposal, transfer for disposal, or contracting for disposal of certain hazardous, recyclable, or compostable items at solid waste facilities in Massachusetts, including, but not limited to, metal, wood, asphalt pavement, brick, concrete, and clean gypsum wallboard. The goals of the waste bans are to: promote reuse, waste reduction, or recycling; reduce the adverse impacts of solid waste management on the environment; conserve capacity at existing solid waste disposal facilities; minimize the need for construction of new solid waste disposal facilities; and support the recycling industry by ensuring that large volumes of material are available on a consistent basis. Further guidance can be found at: <https://www.mass.gov/guides/massdep-waste-disposal-bans>.
3. *Demolition and Asbestos Containing Waste Material:* The proposed Project includes the demolition of structures which may contain asbestos. The Project Proponent is advised that demolition activity must comply with both Solid Waste and Air Quality Control regulations. Please note that MassDEP promulgated revised Asbestos Regulations (310 CMR 7.15) that became effective on June 20, 2014. The new regulations contain requirements to conduct a pre-demolition/renovation asbestos survey by a licensed asbestos inspector and post abatement visual inspections by a licensed asbestos Project monitor. The Massachusetts Department of Labor and Work Force Development, Division of Labor Standards (DLS) is the agency responsible for licensing and regulating all asbestos abatement contractors, designers, Project monitors, inspectors and analytical laboratories in the state of Massachusetts.

In accordance with the revised Asbestos Regulations at 310 CMR 7.15(4), any owner or operator of a facility or facility component that contains suspect asbestos containing material (ACM) shall, prior to conducting any demolition or renovation, employ a DLS licensed asbestos inspector to thoroughly inspect the facility or facility component, to identify the presence, location and quantity of any ACM or suspect ACM and to prepare a written asbestos survey report. As part of the asbestos survey, samples must be taken of all suspect asbestos containing building materials and sent to a DLS certified laboratory for analysis, using USEPA approved analytical methods.

If ACM is identified in the asbestos survey, the Proponent must hire a DLS licensed asbestos abatement contractor to remove and dispose of any asbestos containing material(s) from the facility or facility component in accordance with 310 CMR 7.15, prior to conducting any demolition or renovation activities. The removal and handling of asbestos from the facility or facility components must adhere to the Specific Asbestos Abatement Work Practice Standards required at 310 CMR 7.15(7). The Proponent and asbestos contractor will be responsible for submitting an *Asbestos Notification Form ANF-001* to MassDEP at least ten (10) working days prior to beginning any removal of the asbestos containing materials as specified at 310 CMR 7.15(6).

The Proponent shall ensure that all asbestos containing waste material from any asbestos abatement activity is properly stored and disposed of at a landfill approved to accept such material in accordance with 310 CMR 7.15 (17). The Solid Waste Regulations at 310 CMR 19.061(3) lists the requirements for any solid waste facility handling or disposing of asbestos waste. Pursuant to 310 CMR 19.061(3) (b) 1, no asbestos containing material; including VAT, asphaltic-asbestos felts or shingles; may be disposed at a solid waste combustion facility.

If you have any questions regarding the Solid Waste Management Program comments above, please contact Mark Dakers at (508) 946-2847 or Cynthia Baran at (508) 946-2887.

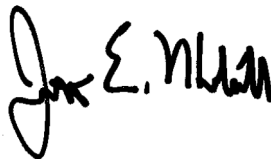
Proposed s.61 Findings

The “Certificate of the Secretary of Energy and Environmental Affairs on the Environmental Notification Form” may indicate that this Project requires further MEPA review and the preparation of an Environmental Impact Report. Pursuant to MEPA Regulations 301 CMR 11.12(5)(d), the Proponent will prepare Proposed Section 61 Findings to be included in the EIR in a separate chapter updating and summarizing proposed mitigation measures. In accordance with 301 CMR 11.07(6)(k), this chapter should also include separate updated draft Section 61 Findings for each State agency that will issue permits for the Project. The draft Section 61 Findings should contain clear commitments to implement mitigation measures, estimate the individual costs of each proposed measure, identify the parties responsible for implementation, and contain a schedule for implementation.

Other Comments/Guidance

The MassDEP Southeast Regional Office appreciates the opportunity to comment on this ENF. If you have any questions regarding these comments, please contact George Zoto at (508) 946-2820.

Very truly yours,



Jonathan E. Hobill,
Regional Engineer,
Bureau of Water Resources

JH/GZ

Cc: DEP/SERO

ATTN: Millie Garcia-Serrano, Regional Director

David Johnston, Deputy Regional Director, BWR

Gerard Martin, Deputy Regional Director, BWSC

Seth Pickering, Deputy Regional Director, BAW

Jennifer Viveiros, Deputy Regional Director, ADMIN

Gary Makuch, Wetlands and Waterways, BWR

Carlos Fragata, Wetlands and Waterways, BWR

Mark Dakers, Solid Waste, BAW

Alison Cochrane, Solid Waste, BAW

Allen Hemberger, Site Management, BWSC



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May 11 2020

Kathleen Theoharides, Secretary
Executive Office of Energy and Environmental Affairs
Attention: MEPA Office
Erin Flaherty, EEA No. 16188
100 Cambridge St.
Boston, Massachusetts 02114

Project Name: Solar Array Project (Phase 2)
Proponent: Sunrise on Wing Lane, LLC
Location: 0 & 88 Wing Lane, Acushnet, MA
Document Reviewed: Environmental Notification Form
EEA No.: 16188
NHESP No.: 11-30273

Dear Secretary Theoharides:

The Natural Heritage & Endangered Species Program of the Massachusetts Division of Fisheries & Wildlife (the "Division") has reviewed the Environmental Notification Form ("ENF") for the proposed "Solar Array Project (Phase 2)" (the Phase 2 Project) and would like to offer the following comments regarding state-listed species and their habitats.

The MESA is administered by the Division and prohibits the Take of state-listed species, which is defined as "in reference to animals...harm...kill...disrupt the nesting, breeding, feeding or migratory activity...and in reference to plants...collect, pick, kill, transplant, cut or process...Disruption of nesting, breeding, feeding, or migratory activity may result from, but is not limited to, the modification, degradation, or destruction of Habitat" of state-listed species (321 CMR 10.02).

Portions of the Project site are mapped as *Priority Habitat* for Eastern Box Turtle (*Terrapene carolina*), a species state-listed as "Special Concern" according to the *Massachusetts Natural Heritage Atlas* (14th Edition). This species and their habitats are protected pursuant to the Massachusetts Endangered Species Act (MGL c.131A) and its implementing regulations (MESA; 321 CMR 10.00). A Fact Sheet for this species can be found on our website, www.mass.gov/nhesp.

The Project, as currently proposed, includes the construction of a .5MW solar array, a 2.5MW solar array with shadow management areas, and associated site work resulting in in ±11.29 acres of impacts to suitable early-successional habitat for Eastern Box Turtle. The Proponent has engaged the Division in consultations to discuss the impacts associated with the proposed Project. The Proponent has been actively working with the Division to avoid and minimize impacts of the Project on state-listed species and their habitats, focusing on project reconfiguration. Although a formal MESA determination has not yet been issued, the Division anticipates – based on previously submitted information and ongoing

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consultations with the Proponent – that the Project, as proposed, will likely result in a Take (321 CMR 10.18 (2)(b)) of the Eastern Box Turtle.

Projects resulting in a Take of state-listed species may only be permitted if they meet the performance standards for a Conservation and Management Permit (CMP; 321 CMR 10.23). In order for a project to qualify for a CMP, the applicant must demonstrate that the project has avoided, minimized and mitigated impacts to state-listed species consistent with the following performance standards: (a) adequately assess alternatives to both temporary and permanent impacts to the state-listed species, (b) demonstrate that an insignificant portion of the local population will be impacted, and (c) develop and agree to carry out a conservation and management plan that provides a long-term net benefit to the conservation of the state-listed species.

Although the exact details of the long-term Net Benefit required under a CMP have not yet been finalized, the Proponent has worked cooperatively with the Division to address impacts to state-listed species. Based on information provided in the ENF, information previously submitted to the Division, and ongoing consultations with the Proponent, it is our understanding that the Proponent intends to meet the performance standards of a CMP by: (a) implementing a Division-approved rare-species protection plan during construction; (b) permanently protecting ±62 acres of the property as open space and state-listed species habitat through an Executive Office of Energy and Environmental Affairs - Division of Conservation Services approved Conservation Restriction; and (c) implementing a Division-approved vegetation management plan within shadow buffer areas to protect state-listed species after construction. The Division anticipates that a suitable long-term Net Benefit can be achieved through on-site habitat protection and that the Project should be able to meet the performance standards of a CMP.

The Division will not render a final decision until the MEPA review process and its associated public comment period is complete, and until all required CMP application materials have been submitted to the Division. As the MESA review process is ongoing, no alteration to the soil, surface, or vegetation associated with the proposed Project shall occur on the property until the Division has made a final decision relative to the CMP. If you have any questions about this letter, please contact Lauren Glorioso, Endangered Species Review Biologist, at lauren.glorioso@state.ma.us or 508-389-6361. We appreciate the opportunity to comment on the Project.

Sincerely,



Everose Schlüter, Ph.D.
Assistant Director

cc: Dan Well s, Goddard Consulting
Town of Acushnet Board of Selectmen
Town of Acushnet Planning Board
Town of Acushnet Conservation Commission