



The Commonwealth of Massachusetts
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August 9, 2021

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

PROJECT NAME : Snipatuit Road Solar
PROJECT MUNICIPALITY : Rochester
PROJECT WATERSHED : Taunton and Buzzards Bay
EEA NUMBER : 16404
PROJECT PROPONENT : Snipatuit Road Solar, LLC
DATE NOTICED IN MONITOR : July 9, 2021

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 the project includes the construction of a 4.0-megawatt (MW) alternating-current (AC)/4.6 MW direct-current (DC) ground-mounted solar photovoltaic (PV) system (a footprint of approximately 11 acres) with 3 MW of battery energy storage in the Town of Rochester (Town). The solar PV system will be located both on the northern portion of the site (0.8 MW DC) and the southern portion (3.8 MW DC). The project will utilize approximately 11,400 modules mounted on racks that will be supported by ground screws. At their highest point the modules will be approximately 8.8 feet. An electrical equipment area located in the northeast corner of the southern array will include the batteries and energy storage containers, transformers, switchgear, and metering system, all of which will be mounted on concrete pads. Access to the site will be provided by an existing 10-ft wide gravel driveway that extends off of Snipatuit Road approximately 2,600 linear feet (lf) into the site, which will be widened to 16-feet and lengthened to

extend around the perimeter of the site. Road improvements will also include upgrading an existing 18-inch metal culvert to a new timber span bridge crossing.

The project will require approximately 23 acres of land alteration, all of which is contained within Priority Habitat of Rare Species as designated by the Natural Heritage and Endangered Species Program (NHESP). A 7-foot-high chain link fence with a wildlife gap at ground-level will encompass the PV systems, with a total footprint of approximately 14 acres. Electric utilities are proposed to be placed underground until the point of interconnection on Snipatuit Road. The ENF indicates the project intends to participate in the Massachusetts Department of Energy Resources (DOER) Solar Massachusetts Renewable Target (SMART) program, and was developed in compliance with the applicable guidelines at the time of submitting an Interconnection Service Agreement (ISA) application to Eversource on September 20, 2018.¹ Approximately 42 acres will be set aside as protected open space through a Conservation Restriction (CR), which is being negotiated with the Natural Heritage and Endangered Species Program (NHESP) as discussed below. A 7,600 square-foot (sf) wetland replication area will also be constructed to mitigate impacts to wetlands associated with the widening of the access road and culvert replacement.

Segmentation

As outlined in the MEPA regulations at 301 CMR 11.01(2)(c), the entirety of a project, including separate phases or segments, must be considered in determining whether the project meets or exceeds any review thresholds, regardless of whether there is more than one Proponent. I must consider all circumstances as to whether various work or activities constitute “one Project,” including but not limited to whether the work or activities, taken together, comprise a common plan or independent undertakings; any time interval between the work or activities; and whether the environmental impacts caused by the work or activities are separable or cumulative. In addition to the project describe herein, two other solar projects affiliated with the Proponent, located in Rochester, are currently undergoing MEPA review – Featherbed Lane South Solar (EEA# 16406) and Braley Hill North Solar (EEA# 16407). The ENF states that ultimately these projects will be owned and operated by different entities and will undergo different construction schedules. According to the ENF, the only shared operational component among the three projects is a common interconnection point to the electric grid.

Each of the three solar projects proposes work in NHESP-mapped Priority Habitat for Rare Species, and mitigation is proposed both on- and off-site for each project and is detailed more specifically in the relevant sections of the respective ENFs. Comments from NHESP indicate that the cumulative impacts of these projects were reviewed under NHESP regulations; however, the Proponent, in coordination with NHESP, has identified mitigation land off-site for each project on land in common ownership by a third-party landowner, unaffiliated with each of the projects. Each of the three projects will have a separate CR on this commonly-owned land. Consistent with this approach and guidance provided by NHESP, the Proponent is filing three separate Conservation Management Permits (CMP),

¹ I note the SMART program guidelines regarding land use, siting, and project segmentation have been updated since the ISA application was submitted for the project. Under the [new siting guidelines](#), updated October 8, 2020, projects that are located in NHESP-designated Priority Habitat are not eligible for qualification under the SMART program unless they are designated as ‘Category 1’ projects. However, the Proponent has indicated that the project meets the exception provided in Section 2(b) of the updated guidelines, and therefore may follow the eligibility criteria outlined in the SMART program regulations at 225 CMR 20.05(5)(e)2 through 6. The ENF indicates the projects meet these criteria.

which is the relevant Agency Action for each project. Based on these circumstances, I find that these projects, though sponsored by the same Proponent, appear severable and not part of a common plan. Specifically, each project appears to have independent utility from the others, as it will be permitted under a separate CMP and can proceed independently of the other two projects. Even if the three projects were combined for purposes of determining the relevant thresholds for MEPA review, the entirety of the land alteration is attributable to disturbance of Rare Species Habitat, and the Proponent has already disclosed efforts to mitigate these impacts in consultation with NHESP. At the request of the MEPA Office, all three projects were submitted concurrently for review, and underwent a common public comment period so as to provide an overview of cumulative impacts across all projects. Accordingly, I do not find that further review of these projects is warranted. Project Site

The 124-acre project is comprised predominantly of undeveloped land, located we of Snipatuit Road. The ENF indicates the site was previously used for timber harvesting, with the existing access road used historically by logging trucks. The northern parcels that are proposed to contain the ± 0.8 MW (DC) array also contain a single-family dwelling and an associated barn and lawn (located in the northeastern-most corner of the project site) which will not be altered as part of the project. The landowners of these structures/parcels (totaling 32.7 acres) are identified as Kevin J. and Cassandra A. Cassidy, while the landowners of the parcels in the southern portion of the project site, proposed to contain the 3.8 MW (DC) array, are identified as Lisa Holden, the Trustee of the Rochester Realty Trust (one parcel totaling 31 acres) and the Aquidneck Nominee Trust (three parcels totaling 57.5 acres). The site is bounded by residential development associated with Snipatuit Road to the east and predominantly undeveloped land to the north, south, and west. The western portion of the project site is classified as a Zone II Wellhead Protection Area, as designated by the Massachusetts Department of Environmental Protection (MassDEP). The ENF states the entire site is located within the Mattapoissett River Valley Water Supply Aquifer, and that the project has been reviewed by the Mattapoissett River Valley Watershed Supply Protection Advisory Committee (MRVWSPAC) and has been found to have no impact on the aquifer.

The Property is bisected by a perennial stream that continues off-site to the north and south, which is currently crossed by the existing access road. The project site contains several wetland resources areas associated with the stream, including Bordering Vegetated Wetlands (BVW), Bordering Land Subject to Flooding (BLSF), Bank, Land Under Water (LUW), and Riverfront Area. As noted above, the project site contains *Estimated and Priority Habitat of Rare Species* as delineated by NHESP in the 14th Edition of the Massachusetts Natural Heritage Atlas. A certified vernal pool (CVP) is located within the central wetland to the south of the existing access drive. Two additional CVP's are located on the west side of the Property. No work is proposed within the CVP's or their associated habitat. Tributaries to Great Quittacas Pond and wetlands bordering thereon are located within a half-mile of the project site; these waterbodies and the CVPs are considered Outstanding Resource Waters (ORW). The Mattapoisset River, also located within a half-mile of the project site, is considered an impaired water body. The project is not located in an Area of Critical Environmental Concern (ACEC). According to the ENF, the eastern portion of the site is listed in the Massachusetts Historical Commission's (MHC) Inventory of Historic and Archaeological Assets of the Commonwealth, however no work is proposed within this area.

Environmental Impacts and Mitigation

Potential environmental impacts associated with the project include approximately 23 acres of land alteration located in designated priority habitat, and the creation of approximately 1,263 sf of impervious surface. The project will also result in the alteration of 24 lf of Bank, 2,570 sf of BVW, 22 sf of LUW, and 9,800 sf of Riverfront Area.

Measures to avoid, minimize, and mitigate environmental impacts identified in the ENF include the placement of a CR on 42 acres of land, construction of a wetland replication area, stormwater improvements, and implementation of erosion and sedimentation controls (including silt fencing) during construction. The Proponent will also pay \$17,000 to the Town of Rochester Tree Mitigation Fund.

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 requires a State Agency Action and will require greater than two acres of disturbance of designated priority habitat, as defined in 321 CMR 10.02, that results in a take of a state-listed endangered or threatened species or species of special concern. The project requires a CMP from NHESP.

The project will require an Order of Conditions from the Rochester Conservation Commission (or in the case of an appeal, a Superseding Order of Conditions from MassDEP). The project will also require a Special Permit for the Use and a Special Permit for Work in the Groundwater Protection District from the Rochester Planning Board.

The project requires a National Pollutant Discharge Elimination System (NPDES) Construction General Permit (CGP) from the United States Environmental Protection Agency (EPA). The project will require review by MHC acting as the State Historic Preservation Officer (SHPO) pursuant to Section 106 of the National Historic Preservation Act of 1966, as amended (36 CFR 800).

The project is not receiving Financial Assistance from the Commonwealth. Therefore, MEPA jurisdiction for any future reviews 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.

Review of the ENF

The ENF provided a description of existing and proposed conditions, preliminary project plans, correspondence from NHESP and MRVWSPAC, findings from an evaluation of the site by a licensed forester, and identified measures to avoid, minimize and mitigate environmental impacts. The Proponent provided additional information to the MEPA Office regarding the AC-rating of the project, battery storage, acreage of the fenced area, and modules on July 30 and August 3, 2021. For purposes of clarity, all supplemental materials are referred to herein as the "ENF" unless otherwise referenced.

Alternatives Analysis

The ENF evaluated several alternatives based on their ability to meet the project purpose of constructing a community solar project, while minimizing environmental impacts. The project evaluated a Solar Array Only on the Southern Parcels Alternative (Alternative 1); Solar Array Continuation between Northern and Southern Parcels Alternative (Alternative 2); Maintain the Existing Access Road Alternative (Alternative 3); Site Relocation (Alternative 4); and the Preferred Alternative (Alternative 5).

Alternative 1 would involve limiting the development of the arrays to only the southern parcel, or the 3.8 MW array. According to the ENF, due to the extensive wetlands within this area, and the limited access to the site, developing on the southern parcels alone was not feasible. The ENF states the northern parcels contain the historic access road and are therefore required to be included in the project site to maintain access. The ENF further states the array in the northern portion of the site is as small as economically feasible. Alternative 2 would locate the solar array across the internal lot line between the northern and southern parcels in order to reduce the overall limit of work and fragmentation of turtle habitat. According to the ENF, the Rochester Planning Board required the portions of the array on each parcel comprising the Property to be separated in accordance with zoning setbacks, as the parcels are under separate ownership. Therefore, this Alternative was not considered viable.

Alternative 3 would have a similar layout and size of arrays as the Preferred Alternative, but would leave the access path through parcels in its existing condition (as opposed to widening the path, as proposed in the Preferred Alternative). This Alternative would avoid impacts to Riverfront Area, BVW, Bank, and LUW, and was proposed in the original design of the project. The ENF states the Rochester Planning Board and Fire Department required the expansion of the existing access road to be 16-feet wide (20-ft clear) and therefore, this Alternative was dismissed. Alternative 4 would involve siting the project on a different property within the Town to avoid impacts to priority habitat. According to the ENF, several properties within the Town were investigated for site suitability, however the Proponent was unable to obtain consent from the relevant landowners, and so this Alternative was dismissed. The ENF states the Preferred Alternative (described herein) is a reduced build that avoids impacts to environmental resources to the maximum extent feasible while still meeting project goals.

Rare Species

The project will alter approximately 23 acres of mapped Eastern Box Turtle (*Terrapene carolina*) Priority Habitat, as mapped in the 14th Edition of the MA Natural Heritage Atlas. The Eastern Box Turtle is a state-listed species of Special Concern; the species and its habitat are protected pursuant to the Massachusetts Endangered Species Act (MESA) and its implementing regulations (312 CMR 10.00). As identified in the ENF and in comments from NHESP, the project will result in a “Take” and will require a CMP pursuant to 321 CMR 10.23. The Proponent has initiated consultation with NHESP to identify means to avoid, minimize, and mitigate impacts to the Eastern Box Turtle. According to the ENF, the Proponent proposes to meet the long-term Net Benefit performance standards for issuance of a CMP by permanently protecting ±42 acres of the project site through a CR; implementing an Operation and Maintenance Plan as well as construction period measures, including wildlife biologist oversight; and implementing a turtle protection plan; among other conditions.

Land Alteration

The project will alter approximately 23 acres of land that is currently undeveloped and forested. While the project site is currently forested, the ENF indicates the project site was previously logged. The ENF included an evaluation of 24 acres of forestland within the project site, where the arrays are proposed to be located and the land cleared. According to this evaluation, the area contains white pine with associated red oak, red maple, black oak, beech, white oak, black birch, yellow birch, holly, and scattered hemlock. The forest health and vigor are characterized as fair to good; timber quality is characterized as fair to good among white pines, poor among most hardwoods due to the presence of beach bark disease, and fair among oaks. Plot data was processed using US Forest Service NED-3 software and timber values were derived from University of Massachusetts (UMass) Cooperative Extension Southern New England Stumpage Reports for 2019 and adjusted based on site conditions. The total estimated standing timber value of the area proposed to be cleared is \$16,595. As stated in the ENF, the Proponent will contribute \$17,000 to the Town of Rochester Tree Mitigation Fund. This contribution will be used for the planting of street trees throughout the Town. The ENF indicates the number of trees to be removed has been minimized to the maximum extent feasible while preventing shading on the arrays. The ENF additionally states the CR will protect forest land of higher quality than the forest land on which the Project is proposed.

Wetlands

The project will alter 24 lf of Bank (20 lf permanent / 4 lf temporary); 2,570 sf of BVW (2,500 sf permanent / 70 sf temporary); 22 sf of LUW (temporary), and 9,800 sf of Riverfront Area (6,700 sf permanent / 3,100 sf temporary). The ENF indicates all impacts to wetland resources are associated with the widening of the existing access road and replacement of the existing 18-inch culvert with the proposed timber span bridge, in accordance with the Massachusetts River and Stream Crossing Standards and the Wetlands Protection Act (WPA). According to the ENF, erosions and sedimentation controls will be installed prior to construction, and all temporarily impacted wetland resources areas will be restored to pre-construction conditions. The Rochester Conservation Commission will review the project for its consistency with the WPA, the Wetland Regulations (310 CMR 10.00), and associated performance standards, including the Stormwater Management Standards (SMS). To mitigate permanent impacts to BVW, the project proposed the construction of a 7,600-sf wetland replication area in the eastern portion of the site, south of the access road. Comments from MassDEP additionally state 43 lf of Bank and 180 sf of Land Under Water Bodies and Waterways will be restored following removal of the culvert.

Archeological Resources

As stated above, the project site contains known archeological sites listed in MHC's Inventory, although the ENF indicates no work is proposed in this area. The project will undergo review by MHC in accordance with Section 106 Review pursuant to the National Historic Preservation Act (36 CFR 800). Comments from MHC request that intensive (locational) archeological surveys be conducted within archaeologically sensitive portions of the project area to ascertain if the project will affect any significant historic or archaeological resources. The archeological surveys are required to be conducted under a State Archaeologists permit (950 CMR 70). The results of the surveys will be used in

consultation to avoid, minimize, or mitigate adverse effects to identified significant historic and archaeological resources. I refer the Proponent to comments from MHC for more information.

Construction

All construction 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 refer the Proponent to comments from MassDEP for more information on measures required during project construction to minimize damage to the environment.

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 State Agencies, I have determined that an EIR is not required.

August 9, 2021

Date



Kathleen A. Theoharides

Comments received:

07/20/2021	Massachusetts Division of Fisheries and Wildlife (MassWildlife), Natural Heritage and Endangered Species Program (NHESP)
07/26/2021	Massachusetts Department of Environmental Protection (MassDEP), Southeast Regional Office (SERO)
07/27/2021	Massachusetts Historical Commission (MHC)

KAT/ELM/elm



DIVISION OF FISHERIES & WILDLIFE

1 Rabbit Hill Road, Westborough, MA 01581
p: (508) 389-6300 | f: (508) 389-7890
MASS.GOV/MASSWILDLIFE

July 20, 2021

Kathleen Theoharides, Secretary
Executive Office of Energy and Environmental Affairs
Attention: MEPA Office
Eva Murray, EEA No. 16404
100 Cambridge St.
Boston, Massachusetts 02114

Project Name: Snipatuit Road Solar
Proponent: Snipatuit Road Solar, LLC
Location: 0 Snipatuit Road
Document Reviewed: Environmental Notification Form
EEA No.: 16404
NHESP No.: 18-38137

Dear Secretary Theoharides:

The Natural Heritage & Endangered Species Program of the Massachusetts Division of Fisheries & Wildlife (the "Division") has received and reviewed the *Environmental Notification Form* (ENF) and the supplemental information distributed by MEPA for the proposed SNIPATUIT ROAD SOLAR (the Project) and would like to offer the following comments regarding state-listed species and their habitats.

The Project site is mapped as *Priority Habitat* for the Eastern Box Turtle (*Terrapene carolina*), state-listed as Special Concern according to the *Massachusetts Natural Heritage Atlas* (14th Edition). 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). A Fact Sheet for this species can be found on our website, www.mass.gov/nhesp.

As proposed, the Project will involve the construction of a ± 4.6 MW solar array and future development lots with associated access drive, grading, and stormwater management resulting in ± 28 acres of disturbance to upland forested habitat on a ± 124 acre site. The site is comprised of upland and riparian forests.

The Division has determined (see letter dated April 26, 2021, attached) that the Project will result in a Take of Eastern Box Turtle (321 CMR 10.18) through the loss of suitable habitat and interference with the feeding, sheltering, migrating, and overwintering behaviors of this species. Projects resulting in a Take of state-listed species may only be permitted if they meet the performance standards for issuance of a MESA Conservation & Management Permit (CMP; 321 CMR 10.23). The CMP application 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.

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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; and (b) permanently protecting ± 42 acres of suitable habitat through an Executive Office of Energy and Environmental Affairs-Division of Conservation Services approved Conservation Restriction. The Division anticipates that a suitable long-term net benefit can be achieved as detailed above and that the Project should be able to meet the performance standards of a CMP.

This project is part of a multi-array solar development in Rochester that includes two additional arrays: a 2.5MW solar array on 16 acres of a 24 acre property located at 0 Featherbed Lane, Rochester (Map 46, Parcel 24; Featherbed Lane South Solar Array); and a 9.5MW solar array on 48 acres of a 72 acre property located at 0 Braley Hill Road, Rochester (Map 48, Parcels 32 & 36; Braley Hill North Solar Array). This project also includes a 5 acre limited development footprint at 0 Featherbed Lane, Rochester (Map 46, Parcel 24) and a 2 acre limited development footprint at 0 Snipatuit Road, Rochester (Map 46 & 47, Parcels 1, 4, 9, 9A, 26, & 27). The Division is considering impacts resulting from all three solar arrays and future development projects cumulatively as part of one larger project, consistent with our anti-segmentation provisions (321 CMR 10.16).

The Division will not render a final decision regarding the CMP until the MEPA review process and its associated public comment period is complete, and until all required 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 Project shall occur on the property until the Division has made a final decision relative to the CMP, unless otherwise approved in writing by the Division.

If you have any questions about this letter, please contact Rebekah Zimmerer, Endangered Species Review Biologist, at (508) 389-6354 or rebekah.zimmerer@mass.gov. We appreciate the opportunity to comment on this project.

Sincerely,



Everose Schlüter, Ph.D.
Assistant Director

cc: Town of Rochester Select Board
Town of Rochester Planning Board
Town of Rochester Conservation Commission
Eric Las, Beals and Thomas
Sarah Sterns, Beals and Thomas

Encl: Division Determination letter dated April 26, 2021



MASSWILDLIFE

DIVISION OF FISHERIES & WILDLIFE

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April 26, 2021

Snipatuit Road Solar, LLC
PO Box 1320
Portsmouth, NH 03801

Lisa Holden, Trustee
Rochester Realty Trust and Aquidneck Nominee Trust et al.
67 Neck Road
PO Box 388
Rochester, MA 02770

Kevin J. and Casandra A. Cassidy
529 Snipatuit Road
Rochester, MA 02770

RE: Applicant: Snipatuit Road Solar, LLC
 Project Location: 0 Snipatuit Road, Rochester (Map 46 & 47, Parcel 26, 27 & 1, 4, 9, 9A)
 Project Description: Construction of a 4.8MW solar array and associated infrastructure
 NHESP File No.: **18-38137**

Dear Applicant:

The Natural Heritage & Endangered Species Program of the Massachusetts Division of Fisheries & Wildlife (the "Division") received the MESA Project Review Checklist, plans entitled "Snipatuit Road Solar" (last revised February 26, 2020; prepared by Beals and Thomas, Inc.; the "Project Plans") and other required materials for review pursuant to the Massachusetts Endangered Species Act (MESA) (MGL. c. 131A) and its implementing regulations (321 CMR 10.00).

The MESA is administered by the Division and prohibits the Take of state-listed species. The Take of state-listed species 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).

The Division has determined that this project, as currently proposed, will occur **within the mapped Priority Habitat** of the Eastern Box Turtle (*Terrapene carolina*), a species state-listed as Special Concern. State-listed species and their habitats are protected in accordance with the MESA. Fact Sheets for state-listed species can be found at www.mass.gov/nhesp.

MASSWILDLIFE

The project, as currently proposed, includes the construction of a 4.8MW DC ground-mounted solar array with associated perimeter road, electrical and battery storage equipment, underground utilities, grading, stormwater management systems and fencing on ± 28 acres of a ± 42 acre property, as shown on the Project Plans.

Based on a review of the information that was provided and the information that is currently contained in our database, the Division has determined that this project, as currently proposed, **will result in a Take (321 CMR 10.18 (2)(b))** of the Eastern Box Turtle due to the permanent loss and fragmentation of suitable habitats and interference with the breeding, feeding, resting, migratory, and over-wintering activities of this species.

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.

Projects resulting in a Take of two (2) or more acres within Priority Habitat must file an Environmental Notification Form with the Massachusetts Environmental Policy Act ("MEPA") Office and complete all MEPA actions prior to completing the MESA permitting process, per 301 CMR 11.03 (2)(b).

This determination is a final decision of the Division of Fisheries and Wildlife pursuant to 321 CMR 10.18. Any person aggrieved by this decision shall have the right to an adjudicatory hearing at the Division pursuant to M.G.L. c. 30A, § 11 in accordance with the procedures for informal hearings set forth in 801 CMR 1.02 and 1.03. Any notice of claim for an adjudicatory hearing shall be made in writing, accompanied by a filing fee in the amount of \$500.00 and the information specified in 321 CMR 10.25 (3). The notice of claim shall be sent to the Division's Director, Mark S. Tisa, by certified mail, hand delivered or postmarked within twenty-one (21) days of the date of the Division's determination.

Pursuant to the anti-segmentation provisions of the MESA (321 CMR 10.16), projects shall not be segmented or phased to evade or defer the review requirements of MESA. We note that the Applicant has made the Division aware that this project is part of a multi-array solar development in Rochester that includes two additional arrays: a 2.5MW solar array on 16 acres of a 24 acre property located at 0 Featherbed Lane, Rochester (Map 46, Parcel 24; Featherbed Lane South Solar Array); and a 9.5MW solar array on 48 acres of a 72 acre property located at 0 Braley Hill Road, Rochester (Map 48, Parcels 32 & 36; Braley Hill North Solar Array). The Division will consider the impacts of this project along with the impacts of any other proposed projects that are part of the same common plan or scheme.

No soil or vegetation disturbance, work, clearing, grading or other activities related to the subject filing shall be conducted anywhere on the project site until the MESA permitting process is complete. If you have any questions regarding this letter, please contact Rebekah Zimmerer, Endangered Species Review Biologist, at rebekah.zimmerer@mass.gov or (508) 389-6354.

Sincerely,

A handwritten signature in black ink, reading "Everose Schlüter". The script is cursive and fluid, with the first name "Everose" and last name "Schlüter" clearly legible.

Everose Schlüter, Ph.D.
Assistant Director

cc: Rochester Conservation Commission
 Sarah Sterns, Beals and Thomas, Inc.



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

Southeast Regional Office • 20 Riverside Drive, Lakeville MA 02347 • 508-946-2700

Charles D. Baker
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Lieutenant Governor

Kathleen A. Theoharides
Secretary

Martin Suuberg
Commissioner

July 26, 2021

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 16404 Snipatuit
Road Solar at 0 Snipatuit Road

Dear Secretary Theoharides,

The Southeast Regional Office of the Department of Environmental Protection (MassDEP) has reviewed the Environmental Notification Form (ENF) for the Snipatuit Road Solar at 0 Snipatuit Road, Rochester, Massachusetts (EOEEA # 16404). The Project Proponent provides the following information for the Project.

The Project consists of a proposed ± 4.8 MW DC ground-mounted solar photovoltaic array, an access road, security fencing, and associated stormwater management and grading on an approximately 120- acre parcel located at 0 Snipatuit Road in Rochester, Massachusetts (the Property). The construction of the array includes the installation of racking and solar panels, transformer/inverter pads, timber bridge stream crossing, perimeter security fence with wildlife gap, and interconnection to the electrical grid. Electric utilities are proposed to be underground until the point of interconnection on Snipatuit Road.

Impervious surfaces on-site are limited to concrete equipment pads proposed to the west of the array. Areas of minor grading in and beyond the array are necessary for stormwater conveyance and infiltration. The proposed stormwater management system has been designed to mitigate runoff rates and volumes in accordance with Town of Rochester regulations and Massachusetts Department of Environmental Protection (MassDEP) Standards. Please refer to and the Stormwater Management Section below that discusses compliance with the MassDEP Stormwater Management Standards.

The Project will limit the amount of earthwork and grading to the extent practical with a goal of generally balancing earth cut and fill volumes. The Project is not anticipated to result in earth removal from the site. Upon completion of grading activities, the array area will be revegetated with appropriate seed mixes that may include pollinator-friendly planting zones upon completion of construction. The Project has been designed to limit site disturbance by incorporating zones of selective clearing beyond the proposed perimeter fence.

Bureau of Water Resources Comments:

Wetlands. DEP SERO Wetlands Program notes that the Project Proponent has filed a Notice of Intent with the Rochester Conservation Commission and this office on August 13, 2020 (SE 272-0597). The project was submitted first as a Notice of Intent and later as a limited project under 310 CMR 10.53(t) for the improvement and repair of existing access roads to renewable energy project sites. The public hearing was closed by the Rochester Conservation Commission on July 20, 2021 and an Order of Conditions has not been issued for the project.

The Project will result in 4 linear feet of temporary alteration and 20 linear feet of permanent alteration to Bank (310 CMR 10.54), 70 square feet of temporary alteration and 2,500 square feet of permanent alteration to Bordering Vegetated Wetlands (BVW)(310 CMR 10.55), 22 square feet of temporary alteration to Land under Water Bodies and Waterways (310 CMR 10.56), and 3,100 square feet of temporary alteration and 6,700 square feet of permanent alteration to Riverfront Area (310 CMR 10.58). A portion of the property is mapped Priority Habitat of Rare Species and Estimated Habitat of Rare Wildlife and the project proponent is coordinating with NHESP on a Conservation Management Plan. Three certified vernal pools are located on the subject property and no work is proposed in the vernal pools.

Approximately 7,600 square feet of BVW replication is proposed as mitigation and 43 linear feet of Bank and 180 square feet of Land under Water Bodies and Waterways will be restored once the existing culvert is removed.

The Conservation Commission is still reviewing the Project and the Department will evaluate any Order of Conditions issued for the Project.

Waterways. No Chapter 91 comments for this ENF because there are no Chapter 91 jurisdictional areas on this site.

Stormwater Management/National Pollutants Discharge Elimination System (NPDES) Permit. The Project construction activities are scheduled to disturb more than an acre 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 by completing and submitting a Notice of Intent (NOI) to EPA via the [Stormwater Discharges from Construction Activities | National Pollutant Discharge Elimination System \(NPDES\) | US EPA.](#)

The Proponent is advised to consult with David Gray at gray.david@epa.gov, 617-918-1577 for any of its questions regarding EPA's NPDES stormwater permitting requirements.

Bureau of Waste Site Cleanup Comments

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

The Proponent states that its “efforts will be advanced during the selection of contractors to participate in the Diesel Retrofit Program and use ultra-low sulfur diesel (ULSD) fuel during construction. The Proponent acknowledges the “Diesel Engine Retrofits in Construction Industry: A How to Guide”, published by the MassDEP in January 2008 and the associated program. The intention is to comply to the extent practicable with the Diesel Retrofit Program for construction vehicles through the use of oxidation catalysts or diesel particulate filters, and to meet Tier 3 or Tier 4 emissions standards for non-road construction equipment if possible.

The Proponent is advised that 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 Proponent reports: “The Proponent commits to comply with the Massachusetts Idling Regulation (310 CMR 7.11). The regulation prohibits motor vehicles from idling their engines more than five minutes unless the idling is necessary to service the vehicle or to operate engine assisted power equipment or other associated power.”

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 contingency plan should include but not be limited to, refueling of machinery, storage of fuels, and potential on-site activity releases. Solar arrays with on-site electrical storage often have a specialized emergency response plan due to the hazardous materials used and the potential for fire and explosion. That plan should be provided to local emergency management officials and training should be offered regarding responses involving these materials.

Solid Waste Management. The Proponent reports: “Solid waste generated during construction is anticipated to be limited to natural wood and/or cardboard from equipment packaging. The Proponent typically re-purposes or recycles these materials.”

Solid Waste Comments:

1. *Tree Removal/Land Clearing:* 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>.

Proposed s.61 Findings

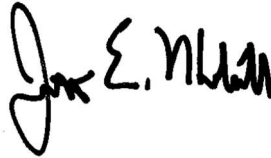
The “Certificate of the Secretary of Energy and Environmental Affairs on the Environmental Notification Form” may indicate that this Project requires further MEPA review and the preparation of an Environmental Impact Report. Pursuant to MEPA Regulations 301 CMR 11.12(5)(d), the Proponent will prepare 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

Gerard Martin, Acting Deputy Regional Director, BWR
John Handrahan, Acting Deputy Regional Director, BWSC
Seth Pickering, Deputy Regional Director, BAW
Jennifer Viveiros, Deputy Regional Director, ADMIN
Daniel Gilmore, Chief, Wetlands and Waterways, BWR
Gary Makuch, Wetlands and Waterways, BWR
Cally Harper, Wetlands and Waterways, BWR
Carlos Fragata, Wetlands and Waterways, BWR
Mark Dakers, Solid Waste, BAW
Elza Bystrom, Solid Waste, BAW
Allen Hemberger, Site Management, BWSC

Murray



The Commonwealth of Massachusetts
William Francis Galvin, Secretary of the Commonwealth
Massachusetts Historical Commission

July 27, 2021

Secretary Kathleen A. Theoharides
Executive Office of Energy & Environmental Affairs
Attn: Eva Murray, MEPA Unit
100 Cambridge Street, Suite 900
Boston, MA 02114

RE: Snipatuit Road Solar, 0 Snipatuit Road, Rochester, MA. MHC #RC.64502. **EEA#16404.**
Featherbed Lane South Solar, 0 Featherbed Lane, Rochester, MA. MHC #RC.69903. **EEA #16406.**
Braley Hill North Solar, 0 Braley Hill Road, Rochester, MA. MHC #RC.69902. **EEA #14607.**

Dear Secretary Theoharides:

Staff of the Massachusetts Historical Commission (MHC) have reviewed the Environmental Notification Forms (ENFs) for the three projects referenced above. The proposed projects include construction of ground-mounted solar arrays in Rochester.

The three solar projects are proposed by the same proponent and are located in proximity to each other within similar environments in Rochester. The projects require permitting by state and federal agencies, including the US Army Corps of Engineers. MHC will review the projects under Section 106 of the National Historic Preservation Act of 1966, as amended (36 CFR 800).

Review of the Inventory of Historic and Archaeological Assets of the Commonwealth indicates that the project impact areas are immediately adjacent to the Snipatuit (MHC #ROC.E) and North Rochester (ROC.D) historical areas, and in proximity to several ancient Native American archaeological sites (19-PL-200, 19-PL-959).

Undisturbed portions of the project impact areas are archaeologically sensitive. The archaeological sensitivity of the project areas are principally defined by environmental setting, which includes well-drained soils located in proximity to recorded archaeological sites, and the wetlands and water resources of Logging Swamp, Ashley Brook, and Snipatuit Pond, favorable for ancient and historic period land use and occupation.

The MHC requests that intensive (locational) archaeological surveys (950 CMR 70) be conducted within archaeologically sensitive portions of the three project impact areas. The archaeological surveys are required to be conducted under a State Archaeologists permit (950 CMR 70) by a professional archaeological consulting firm retained by the project proponent. The goal of the investigations are to ascertain if the projects will affect any significant historic or archaeological resources. The results of the surveys will be used in consultation in order to avoid, minimize, or mitigate adverse effects to identified significant historic and archaeological resources.

220 Morrissey Boulevard, Boston, Massachusetts 02125

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www.sec.state.ma.us/mhc

These comments are offered to assist in compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (36 CFR 800), M.G.L c. 9, ss. 26-27C (950 CMR 70-71), and MEPA (301 CMR 11). If you have questions, please contact Jonathan K. Patton at this office.

Sincerely,



Brona Simon
State Historic Preservation Officer
Executive Director
State Archaeologist
Massachusetts Historical Commission

xc: Joe Harrison, SunRaise Investments c/o Snipatuit Road Solar, LLC;
Braley Hill North Solar, LLC; Featherbed Lane South Solar, LLC
Paul M. Maniccia, USACOE-New England District
Bettina Washington, Wampanoag Tribe of Gay Head (Aquinnah)
David Weeden, Mashpee Wampanoag Tribe
Rochester Historical Commission
Eric J. Las, Beals and Thomas, Inc.