March 31, 2021

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

Via Email: MEPA-regs@mass.gov

Re: **MEPA Regulatory Review (301 CMR 11.00) and Draft MEPA Interim Protocols on Climate Change Adaptation and Resiliency and on Environmental Justice Outreach**

Dear Secretary Theoharides:

On behalf of Mass Audubon, Appalachian Mountain Club, Massachusetts Association of Conservation Commissions, Massachusetts Land Trust Coalition and The Nature Conservancy in Massachusetts, the following comments are submitted on the regulatory review and update process for the Massachusetts Environmental Policy Act (MEPA) regulations (301 CMR 11.00) and two Draft MEPA Interim Protocols, one on Climate Change Adaptation and Resiliency, and the second on Environmental Justice Outreach. We applaud the Commonwealth's leadership in taking action to address climate change and incorporate equity and environmental justice provisions into the administration of this key law, and offer suggestions for updating the regulations and further refinement of the final protocols. These comments focus in particular on the roles of land in both climate mitigation and resilience, and the importance of advancing equity and environmental justice across all projects and initiatives.

The announcement of this review effort indicates that it is being undertaken pursuant to Governor Baker's Executive Order 569, *Establishing an Integrated Climate Change Strategy for the Commonwealth.* We recommend that the review be broader, and ensure that the MEPA process update will achieve full compliance of all state agency actions (projects, financing, and permits) across all programs and initiatives, pursuant to all applicable laws and associated implementation plans including but not limited to the *Global Warming Solutions Act* and its implementation through the *Clean Energy and Climate Plan* (CECP)**;** the Environmental Bond of 2018 (notably but not exclusively the *Statewide Hazard Mitigation and Climate Adaptation Plan* and Resilient Massachusetts Action Team (RMAT) Climate Resilience Design Standards and Guidelines**);** and the *Next Generation An Act Creating a Next-Generation Roadmap for Massachusetts Climate Policy* (Chapter 8 of the Acts of 2021).

Land – Climate Mitigation, Adaptation and Resiliency

Both the CECP and the Next Generation Roadmap bill recognize the important roles that land play in addressing the challenges of climate change. Forests, farmlands, wetlands, along with urban trees and parks, sequester and store carbon. Maintaining and even increasing the capacity of land to serve this function is a vital component of our pathway to achieving Net Zero carbon emissions by 2050. Extensive efforts are underway to protect land from development, including substantial expenditures by federal, state and local governments, nonprofit land trusts, and individuals. The Commonwealth also has several innovative initiatives underway to support improved stewardship and restoration of land and water resources, with associated climate and other benefits (e.g. Division of Ecological Restoration Wetlands Restoration programs, Department of Conservation and Recreation Forest Stewardship and Gateway Cities tree planting programs, Coastal Zone Management Coastal Resilience program, and new initiatives under the Resilient Lands Initiative and the Healthy Soils Action Plan). However, all of these efforts to protect and restore land will not be sufficient to reach the goal of No Net Loss of carbon storage and other ecosystem services provided by natural and working lands, if we continue to lose more land to development than is protected or restored. The Next Generation Roadmap bill requires the Commonwealth to undertake a baseline assessment of natural and working lands, and develop a plan for protecting these lands. The MEPA regulations should be revised to align with this new requirement.

MEPA has jurisdiction over all state agency actions affecting the environment, including projects directly undertaken by the Commonwealth, or for private projects that receive state funding or permits. The revisions to the MEPA regulations and protocols should be crafted to more fully capture and address the role of all state programs and actions in avoiding, minimizing and mitigating losses of land and its capacity to provide climate mitigation and resilience. The RMAT standards and the associated MEPA protocol, while important, are only one aspect of the overall role of the state in supporting climate resilience.

**Green Site Design for Adaptation and Resilience**: Per the draft adaptation and resilience protocol, information is required to be submitted on increases in impervious cover, and there is a question on the checklist about whether trees will be removed. Planning for minimizing the impacts of land alterations from infrastructure and development projects needs to be much more comprehensive. An assessment of existing conditions should identify forests, productive farmland, wetlands, mature urban/suburban trees and naturally vegetated areas, and other features contributing to carbon storage; shading and cooling; filtration and infiltration of water; prevention of flooding and erosion, and other important functions. Existing degraded areas should also be identified, including pavement and other impervious areas such as compacted urban soils lacking vegetative cover. Projects should then use green design principles to avoid and minimize impacts to the natural features and restore the land's capacity wherever feasible. Natural and constructed green infrastructure should be incorporated as much as feasible. Landscaping should retain and replace native trees, shrubs and perennials as much as possible and avoid and minimize the need for artificial irrigation and chemical-based landscaping maintenance. These aspects of site information and project planning should be built into the ENF and EIR thresholds and submission requirements at a level of detail appropriate to the site and project scope. Application of green site design practices such as the Sustainable SITES Initiative (http://www.sustainablesites.org/) standards should be strongly encouraged.

These considerations should be applied across the board to all projects involving a state agency action including:

- **State projects** such as transportation infrastructure construction or reconstruction, and state-owned buildings and facilities;
- **State financing** including programs like the Department of Energy Resource (DOER) Solar Massachusetts Renewable Target Program (SMART). Financing should be aligned as much as feasible with protection of existing natural and working lands and incentivizing solar projects within development sites such as on buildings and parking lots. A statewide plan, with public input, should be developed to optimize alignment of this program with the dual goals of incentivizing rapid deployment of solar energy and protection of natural and working lands.

Another example is school building construction and reconstruction funding, which should prefer re-use of existing school properties or other already altered lands and include green spaces for students within every school property. A review of all state funding programs supporting development projects should be conducted and the MEPA regulations refined to ensure that these financial incentives are appropriately captured for environmental review. MEPA documentation should track the amounts of forest, farmland, wetlands, parks, and urban mature trees that are lost in association with specific state agency funding programs, and should make this information public on its portal for transparency. Where impacts are extensive, such as the solar program (7,700 acres altered through 2019, nearly half of which was forest[i]), MEPA should consider a programmatic review process with the applicable agency.

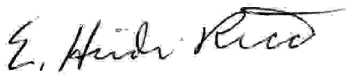
- **State permit programs** should be reviewed for opportunities to improve alignment with the Commonwealth's goals for the role of land in climate response. This may include strengthening some provisions to better protect existing natural functions as well as improving the ability for permit programs to support pro-active restoration projects. Restoration projects are often innovative and may present permitting challenges, especially for wetland restoration projects involving multiple resource areas and permits. The MEPA process should be designed to assist such projects in navigating the review process by helping to coordinate where multiple agency permits and other actions are required. Where patterns of either impacts to important resources or impediments to restoration projects are identified, programmatic improvements should be pursued by the applicable agency.

**Equity and Environmental Justice**

The inclusion of Environmental Justice definitions and standards in the Next Generation Roadmap climate bill is a critical milestone toward adoption of systematic changes that are necessary to address the unequal burdens Environmental Justice communities have faced historically, and continue to experience. We must comprehensively realign our energy, development, economic, health, education, housing, public access, and other systems to address these inequities and to ensure that the rights of all communities to clean, healthy, thriving environments are fulfilled. The new law includes specific changes to the MEPA statute that must be addressed through regulatory revisions. The proposed interim protocol is a step in the right direction, but much more needs to be done. All of the considerations regarding the effects of development, redevelopment, and restoration projects mentioned above are amplified in the context of environmental justice communities where there is an even greater imperative to improve conditions over pre-construction status, and to bring our energy systems and economy into alignment with our natural systems and the roles they play in supporting people.

We appreciate the opportunity to comment, and look forward to participating further in the MEPA regulatory review process as it moves forward.

Sincerely,



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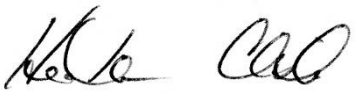

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[i] Clark University has mapped all of the large-scale solar projects built through 2019 in MA (https://taoshiqi.users.earthengine.app/view/solarpanelsbytowns) and RI (https://maxenger.github.io/solar/Storymap.html). The RI website describes the methodology. The two websites will be merged into one fully functional site with capability to analyze the data later in 2021. A summary of findings is available here: https://masscptc.org/training/webinar-2021/e-workshop-21.html#solarsite.