



**SMART Program Emergency Regulations
Borrego Public Hearing Testimony
May 22, 2020**

My name is Ilan Gutherz and I am Vice President of Policy and Strategy for Borrego Solar, one of the leading installers of solar and energy storage in the U.S.

Borrego has been investing in Massachusetts since 2007. Our Northeast Headquarters - home to nearly 150 employees - is located in Lowell, Massachusetts.

We appreciate that the DOER has proposed to expand the enormously successful SMART program. This is a critical step forward for the industry and for the state. Unfortunately, other elements of the proposed regulations would effectively defeat the purpose of the SMART program by making the most efficient form of solar -- ground-mounted solar -- all but impossible to build in the future.

Ground-mounted solar is a vital component of the Massachusetts clean energy economy. The industry is responsible for over half of all the deployed solar in the Commonwealth. In addition, 88% of the energy storage capacity developed under the SMART program has been paired with ground-mounted projects. It is difficult to imagine how the state could meet its new 2050 net zero emissions target -- or the DOER's Clean Peak program objectives -- without a thriving large-scale solar industry.

The most concerning aspects of the regulations are new provisions that will effectively prevent ground-mounted solar from being constructed in over 90% of the state. The regulations rely on GIS layers to determine "acceptable" lands for project siting and SMART qualification, effectively overriding stringent local zoning and permitting processes that are specifically designed to determine whether individual projects can be built in a way that balances environmental and community considerations.

These broad prohibitions were not part of the DOER's straw proposal last fall, and their adoption on an emergency basis--in the middle of an unprecedented crisis--without the opportunity for reasoned discussion or analysis sends an unfortunate message to companies like ours about the stability of the state's clean energy policies and the security that these companies can have when we invest our capital in Massachusetts.



Moreover, the BIOMAP layers identified in the regulations were never subject to a public stakeholder process that included industry, landowners, and other affected entities. The layers the BIOMAP process produced were never intended to be used to make site-specific decisions about individual land uses, to restrict how property owners could utilize their land, or to prohibit development altogether. Indeed, if the DOER adopts the regulations in their current form, it would be the first time in the history of the Commonwealth that any form of development, clean energy or otherwise, has been prohibited by reference to these layers.

Just as concerning, the emergency regulations double down on the “land use subtractor,” an arbitrary penalty for projects sited in rural areas. This subtractor would now be set at a level that far exceeds any reasonable estimate of the conservation value of the land on which projects are sited. The increase in this penalty compounds the problems created by the new blanket land use restrictions.

The collective impact of these two provisions is that the vast majority of ground-mounted solar developments will be ineligible to participate in the SMART program. In the absence of some other tariff or contracting mechanism to provide solar projects with long-term revenue certainty, no solar projects are likely to be financed in Massachusetts. This dynamic is not unique to solar: no clean energy project -- not Canadian hydro, not storage, and not onshore or offshore wind -- has been financed without access to a program or contract that provides long-term revenue certainty. In other words, banning ground-mounted solar projects from participating in the SMART program is tantamount to banning these projects from being constructed.

These unprecedented new restrictions will devastate Borrego’s business in Massachusetts. If implemented without changes, these rules will eliminate 80% of Borrego’s pipeline overnight, and severely challenge the economics of our remaining projects. We will be forced to abandon over 130 MW of solar projects in advanced stages of development--all of which were slated to be paired with energy storage. The cancellation of these projects will mean the state will lose out on an estimated 900 construction jobs; nearly \$500 million of private investment; and tens of millions more in lost lease and property tax revenues for rural landowners and towns.

We understand that DOER is in a challenging position, and that the Administration has received complaints from towns and individuals about the pace of solar development in their



communities. And we are 100% supportive of ensuring that solar development -- like all development -- is carried out in a way that is sustainable, respectful of local preferences and achieves conservation objectives.

We submit, however, that the new regulations do not appropriately balance the legitimate concerns for conserving our most precious lands with the urgent need to accelerate renewable energy to bend the curve in the fight against climate change - a fight to which the Baker Administration has fully and rightfully committed itself. Indeed, now is precisely the wrong time to decimate a job-creating industry that the state will need to meet its climate goals and to recover from the crisis we now face.

As a result, we request that DOER freeze implementation of the new restrictions and the increase to the land use subcontractor, and instead initiate a robust stakeholder dialogue to discuss the appropriate balance between the state's clean energy goals and land conservation.

We also request that DOER extend grandfathering provisions to any projects in the interconnection queue that should have received their interconnection services agreements by the date the Emergency Regulations were issued. This will avoid pulling the rug out from mature projects that, but for these regulations, could be shovel ready as soon as the state emerges from the crisis.

Borrego Solar strongly believes that we can appropriately balance the preservation of our most precious habitats with the acceleration of our low carbon future, and we are committed to continuing to work with you to find solutions that promote those two important goals. Thank you for the opportunity to provide testimony.