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Patrick, Woodcock, Commissioner
Massachusetts Department of Energy Resources
100 Cambridge Street, #1020
Boston, MA 02114

Subject: Proposed SMART regulations

Commissioner Woodcock:

As my town and others in Western Massachusetts work together on clean energy planning, I urge you to rethink some of your proposed revisions to CMR 20.00, the Smart “Emergency Regulations.” Clearly there has been an attempt to correct some of the environmental problems created by deficiencies in the original regulations. Unfortunately, from my perspective of over 40 years working in the public and private sectors to protect the natural resources of the Commonwealth, I believe your revised regulations will continue to permit damage to the environment even as you seek to increase renewable energy stock to mitigate the climate crisis caused by dependence upon fossil fuels.

As a past member of the Water Supply Protection Trust, a past President of MACC, a 35 year Board member of the Kestrel Land Trust combined with service in other non-profit organizations, and as a long-serving public official in my town, I offer these comments in hopes that some of the suggestions can be incorporated into this iteration of the SMART regulations.

Scientific studies and projections indicate that the loss of forest resources results in less carbon sequestration. As we fight the effects of climate change, it follows that using forest land for solar installation makes little objective sense. Trees simply do not grow fast enough to mitigate the damage done by removing them and waiting for regrowth twenty or more years hence. Nor does it serve us well to use existing farmland for solar output just when the need for local food sources becomes obvious in the face of the Covid 19 pandemic.

Simply put, your revisions do not go far enough to either incentivize solar in appropriate locations or to discourage solar installations in open spaces. Sadly, the overall effect is to protect short term profits over environmental protection. If DOER is serious about protecting the natural environment while incentivizing cleaner energy, these regulations miss the mark.

My main focus are the following three issues:

1. **Eversource Capacity Block combination.** The most egregious decision made in the revisions is the combining of Eversource’s East and West capacity blocks. Failure to more strongly incentivize solar development in the eastern part of the state puts western Mass farms and forests at risk and undermines

their resource values—providing clean air, water, soil, and carbon sequestration. The portion of *Section 20.05 “Tariff Based Incentive Program for Solar Photovoltaic Generation Units section (3) (e) combining Eversource Energy Capacity Blocks,”* should be eliminated or at least modified to encourage solar development in the Eastern blocks where nearly all of the original capacity block remains unused. Failure to rethink this decision will result in damage to large sections of the remaining forest land in the Commonwealth. Intact habitat and wildlife corridors, vital natural resource services, as well as scenic values, and any adjacent protected lands are put at risk.

2. Insufficient incentives for brownfield placement. The inclusion and expansion of ineligible land use criteria is a clear improvement. However, without increasing incentives for locating large projects on industrial sites, vast parking lots and buildings, the attempt to avoid or mitigate the past deficiencies is compromised. As I understand it, the majority of large projects—77% as of 2018 in the Pioneer Valley—were built on undeveloped land and often with tragic consequences. And yet, despite the damage already done, these regulations do not directly address erosion and flooding and the abundance of brownfield sites which should be the strongly preferred alternatives, so the pattern of forest destruction will continue largely unabated. The use of forest land should be cost prohibitive in a state as densely developed as ours. Therefore, make the greenfield subtractors much higher so that they are truly meaningful and put a limit on the slopes, deforestation and permissible size, and require MEPA quality evaluations before permitting any new solar with a footprint larger than two acres or 500 kw.

3. Problems with public entity projects. Including permanently protected Article 97 open space in an ineligible category is an excellent improvement as is the inclusion as ineligible restricted conservation, agricultural or watershed land. However, the many loopholes should be rethought and/or removed because they will tend to undermine the environmentally corrective steps.

Developers have been given strong incentives to pursue Public Entity projects which will in many instances impact smaller communities negatively. These more rural communities are generally less prepared to deal with larger scale corporate tactics and haven’t the staff or financial resources to manage the decision making process or even plan adequately in advance. Unless the BioMap2 land use restrictions are maintained along with restrictions on application deadlines and other environmental safeguards, corporate profits are favored too heavily. Rather, brownfield development should be more strongly incentivized over forest and farm land siting in *all* cases rather than making these projects easier to accomplish. Furthermore, wetlands have already been decimated in the Commonwealth. Allowing additional degradation with permission from local conservation commissions who may in fact be understaffed as well as pressured to accede to a push for energy and income is unconscionable.

Additional thoughts for improvement. Please consider the following concepts which may require legislative action or additional work beyond the scope of the current revisions:

- Institute a payment to landowners who maintain the values of contiguous forest by keeping them intact, whether publicly or privately held. This would be an incentive to less disruptive and environmentally or visually damaging placement of solar arrays.

- Incentivize the creation of engineering solutions to decrease the costs for using brownfield sites. A competition among companies and/or educational institutions might assist in generating new ideas.
- Acknowledge that solar development currently includes the use of hazardous substances, and require a bond or develop a fund to be held by the state for decommissioning. Pollution resulting from deterioration, maintenance or battery storage as well as proper recycling or removal should not fall to the community to remediate.
- Require a long term enforceable monitoring plan paid for by the utility or developer/owner of the solar array that covers installation as well as operation and removal.
- Adjust or revise the state building code to ensure that all new structures are capable of building mounted solar installations and that existing structures can receive benefits when improved for solar siting.

Summary. If the intent of the revisions is to better protect the natural environment while incentivizing cleaner energy, particularly in Western Massachusetts, these regulations fall short. It could hardly be more obvious that the Commonwealth has an abundance of mall and other vast parking lots, roof tops and brownfields—all far better targets for solar development than farms and forests. The regulations favor corporate profits too heavily and do not incentivize brownfield over forest and farm land siting heavily enough.

While less expensive for the developer in the short run, in the longer term the damage permitted under these regulations is unsustainable. The tendency of the regulatory agencies to settle upon one size fits all solutions is misguided. Rather, the individual contributions of regions and communities should be acknowledged and supported. Those contributions are not necessarily suitable for monetization, but PILOT payments or purchase of restrictions could help to maintain our forest continuity. I've seen the "balancing the interests" approach when it comes to environmental regulation continue to leave completely *unbalanced* effects in its wake. The environment continues to lose because the pressure is always heavy on the side of commerce and development, leaving weakened environmental systems nearly every time.

Here there is an opportunity to actually be smart. Look at the problems from the planet's point of view and recognize that it will survive, but the world we know will not if we continue to protect the economic system at the expense of natural systems. Massachusetts should be a leader in promoting renewable energy in the right places and with the best possible environmental safeguards.

Sincerely,

Judith S. Eiseman

cc Senator Jo Comerford, Representative Mindy Domb