

October 28, 2016

**BY ELECTRONIC MAIL**

Massachusetts Department of Energy Resources  
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Boston, MA 02114  
[DOER.SREC@state.ma.us](mailto:DOER.SREC@state.ma.us)

Re: CLF Comments on Next Generation Solar Incentive Straw Proposal

To Whom it May Concern:

Thank you for the opportunity to provide comments on the Massachusetts Department of Energy Resources' (DOER) Next Generation Solar Incentive Straw Proposal ("Straw Proposal") for the development of a new solar incentive pursuant to Chapter 75 of the Acts of 2016. This set of comments is our second; Conservation Law Foundation (CLF) submitted its first round of comments in this process on June 30, 2016 ("CLF June Comments").

CLF is a nonprofit environmental organization committed to conserving natural resources, protecting public health, and promoting thriving communities throughout New England. CLF has long supported the promotion of solar and other renewable development, the protection of farmland, and the viability of farming in Massachusetts and throughout New England.

As noted in our previous comments, solar development is currently viewed by many in the land conservation and agricultural communities as the number one rising threat to farmland in New England. With the Commonwealth's dual goals of substantial solar development and farmland protection, it is critical that moving forward we find a way to provide incentives for solar projects without jeopardizing the land base that supports agriculture in the Commonwealth. Indeed, increased renewable deployment and maintaining/increasing our farmland base are both critical to achieving our greenhouse gas reduction targets under the Commonwealth's Global Warming Solutions Act. G. L. c. 21N.

The focus of CLF's second set of comments is on the prohibition of projects on Prime Farmland Soils to qualify for the next incentive program, as proposed in the Straw Proposal. CLF supports limiting commercial solar projects on Prime Farmland Soils. In contrast, solar developments that serve only to support operations on the farm (non-commercial) should be eligible for the incentive without restriction.

For commercial projects, the consequences of the proposed Prime Farmland Soils prohibition, in combination with the many other lands where projects are prohibited from participation in the incentive program, are problematic for farmland as a whole. The “Prime Farmland Soils” category is one of several soil classifications established by the United States Department of Agriculture Natural Resources Conservation Service (NRCS), and it applies to what NRCS determines are the best soils for agriculture in the Commonwealth. NRCS’ secondary tier for agricultural soils is known as “Statewide Important Soils,” and a great deal of agriculture occurs in this category as well; much of it is quite suitable for cropland, hay, and pasture. Massachusetts agriculture is not limited to Prime Farmland Soils; much of it occurs on Statewide Important Soils and other soil classifications.

DOER’s Straw Proposal includes a long list of categories of land where commercial solar projects cannot qualify for the next incentive program.<sup>1</sup> In fact, the list is so extensive that there is very little land left in the Commonwealth that does qualify for commercial solar project incentives. The natural result of this decision is that commercial solar projects will be pushed onto the little remaining land that does qualify for the incentive, much of which is farmland on Statewide Important Soils and other soil classifications. We appreciate that DOER is making an effort to protect farmland by including Prime Farmland Soils in the list of prohibited lands in its Straw Proposal, but these unintended consequences must be better managed.

To remedy this problem, we recommend adding parameters for commercial solar development on Statewide Important Soils and other land currently in agricultural use (together, “non-Prime farmland”). The new incentive program should require that, to be eligible for incentives, commercial solar projects on non-Prime farmland support dual use (continued farming in addition to solar installation) along with the required use of best practices. Specifically, in order to avoid displacing agriculture, commercial solar facilities on these lands should be designed, installed, and be subject to mandatory decommissioning and restoration requirements that protect agricultural soils and accommodate the continued use of the land for agricultural purposes, both during and after the land is co-used for solar purposes.<sup>2</sup>

In addition, DOER should also require the approval of a conservation restriction (CR) or agricultural preservation restriction (APR) for commercial solar projects on agricultural land that

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<sup>1</sup> In addition to Prime Farmland Soils, the Straw Proposal would not allow commercial solar projects on the following lands to participate in the incentive program: MassDEP Wetlands; Prime Forest Land; BioMap2 Core Habitat and Critical Natural Landscape; Designated Priority Habitat of state-listed rare species; Permanently Protected Open Space; Land designated as “Forest Land” under Chapter 61; and Any Archaeological site listed in the State Register of Historic Places or Inventory of Historic and Archaeological Assets of the Commonwealth. DOER Solar Program Straw Proposal Presentation, Powerpoint Slide 10, September 23, 2016.

<sup>2</sup> As noted in our first set of comments, these best practices for solar on agricultural land should be developed by DOER in partnership with the Massachusetts Department of Agriculture. For suggestions on developing best practices, *see* CLF June Comments, page 2.

receive an incentive through this program. The CR or APR should be drafted to guarantee that, while solar of a determined scale is permitted, farmland soils must be protected during construction, operation, and decommissioning of the solar facility. The CR or APR should also guarantee that the land can be expected to be devoted to agricultural purposes at a level that satisfies the thresholds in G.L. c. 61A. And the CR or APR structure should allow for oversight to ensure that these terms are met over time. As noted in our June comments, this approach wisely relies on existing CR and APR structures and programs as a means of ensuring that commercial solar on agricultural land is allowed only in a manner that is tailored to a particular site and protects both agricultural soils and the ongoing agricultural land use itself.

We greatly appreciate that DOER is taking measures to protect Prime Farmland Soils from being developed for commercial solar projects. We now ask DOER to take a second look and further refine its proposal to ensure that its well-intentioned efforts do not have the unintended consequence of developing non-Prime farmland for commercial solar, as protecting that land from development is extremely important to the viability of farming in the Commonwealth.

Thank you for the opportunity to provide comments on this important program. CLF could be glad to discuss further if that would be helpful; I can be reached at 617-850-1763 or [jrushlow@clf.org](mailto:jrushlow@clf.org).

Sincerely,



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Director of Farm & Food  
Conservation Law Foundation

Cc: Secretary Matthew Beaton, EOEEA  
Commissioner John Lebeaux, MDAR