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Ms. Kaitlin Kelly
Department of Energy
Resources 100
Cambridge Street,
Suite 1020
Boston, MA 02114

May 25, 2016

Dear Ms. Kelly,

Please accept these comments regarding **225 CMR 14. RENEWABLE ENERGY PORTFOLIO STANDARD - CLASS I REGULATIONS** as they pertain to **Solar Carve-Out II emergency regulations**.

We are residents of Shutesbury, MA. We consider ourselves to be environmentalists and fully supportive of green energy development. We are also, however, very concerned about appropriate land use, wetlands protection, and historic preservation in our community.

Recently, a commercial solar developer submitted an application for a 6 MW commercial project to be sited on a forested tract owned by W.D. Cowls, Inc. Our experience with this project illustrates some of the problems with the current DOER policy for SRECs. The Shutesbury development was only commercially viable because of the loophole in the Solar Carve-out II guidelines that gives the developer Market Sector A (preferred status) even though it will be cutting 30 acres of forest land, contrary to DOER guidance. The developer is doing so by promising to sell the energy to an as-yet-unnamed housing authority.

As a result of this policy, a large landowner and out-of-state solar developer have initiated a project that has been flawed from the onset. The property selected for the project is bounded on all sides by large wetlands with steep slopes. Even with many design revisions, siting on this fragile ecological and geological niche is a bad idea. The project is a significant risk for erosion events and releases into wetlands should significant storm events hit the area. More importantly, recent investigations have discovered that this property contains a number of stone structures and earthen mounds that are believed now to be of Native American origin (ceremonial structures and possible burial sites, respectively).

While the town Planning Board is attempting to condition the Special Permit for this project in order to deal with these issues, the presumptive right of the landowner to develop its property has great sway under these conditions. If the project had not qualified for priority SREC status, is unlikely that this particular site would have even been considered. While federally funded projects would prohibit this kind of development without a thorough assessment, there are no protections for privately funded projects such as this one—unless there is a change to the SREC Program.

Protecting forests, wetlands, and Native American ceremonial landscape features should be policy priorities for this program.

I am writing to urge a revision of the SREC Market Sector Factors (Sector A and Managed Growth Market Sector) so that it more fully supports the DOER's December 2014 guidance solar zoning and solar development. That policy strongly articulated the need to prioritize solar development on post-industrial sites and to avoid, at all costs, solar development on forest and farm lands. This policy position is also strongly advocated on a national level and is articulated in the EPA's guidance on solar development.

The suggested changes are important since much of the open land in the Commonwealth is either on farm or forest land. If this loophole is not closed, development will continue to undermine DOER preferences by allowing developers to make vague promises of supporting low and moderate income housing with no acknowledgement of the actual siting of these developments.

Our requested changes to the emergency regulations for Solar Carve-out II

We ask that changes be made to Section (9) Special Provisions for a Solar Carve-out II Renewable Generation Unit, Section (I) SREC Factor, Item 2 which defines the various Market Sectors (see page 33 of the online document).

1. Requested Change: Section D. regarding SREC II, which defines the Managed Growth Market Sector, be changed to codify DOER protection of Native cultural landscapes. In particular, I would ask that DOER add a specific prohibition as follows:

“Generation units sited on parcels with known or suspected Native American ceremonial stone landscapes or burial sites, as identified by state or federally recognized tribes, are prohibited from receiving SREC II credits.”

2. Requested Change: Section a., defining Market Sector A

In the Shutesbury situation, the vague promise of providing generation for an unnamed municipal housing authority enables the project to be considered Market Sector A (preferred status) even though it will be cutting 30 acres of forest land, contrary to DOER guidance.

Preferred Change: Eliminate reference to “Low or moderate income housing

generation unit” from the Market Sector A category.

Fallback Change: If the low or moderate income category must remain, I would ask that the housing generation units be required to be located in the municipality where the project is based. This requirement would not only help direct generated power to an in-town municipal affordable housing thereby bringing actual benefit to the municipality but it will eliminate questionable projects that promise vague future generation for unnamed affordable housing only to receive the highest rating and despite any damage to farm or forest land.

3. Requested Change: Section d., defining Managed Growth Market Sector This will codify DOER preferences to protect farm and forest land.

Preferred Change: Explicitly add to the Managed Growth Market Sector a statement that identifies non-supported siting practices to include “Generation units sited on active/potential farm land or forest land that changes the primary state (or use) of more than 10 acres of the land”.

Thank you for your consideration of these changes.

We can be reached at miriam.defant@gmail.com or phone 413-374-1568.

Sincerely,

Miriam DeFant and Robert Kibler