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May 26, 2023

CERTIFICATE OF THE SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS
ON THE
ENVIRONMENTAL NOTIFICATION FORM

PROJECT NAME : Solar Star Tranquility LLC
PROJECT MUNICIPALITY : Nantucket
PROJECT WATERSHED : Islands
EEA NUMBER : 16693
PROJECT PROPONENT : Eric Stevens; Total Energies Renewables USA
DATE NOTICED IN MONITOR : April 26, 2023

Pursuant to the Massachusetts Environmental Policy Act (MEPA; M.G.L. c. 30, ss. 61-62L) and Section 11.06 of the MEPA regulations (301 CMR 11.00), I have reviewed the Environmental Notification Form (ENF) and hereby determine that this project **requires** the submission of a Draft Environmental Impact Report (DEIR).

Project Description

As described in the Environmental Notification Form (ENF), the project consists of the construction of a 3.8-megawatt (MW) alternating-current (AC) ground-mounted solar photovoltaic (PV) system in the Town of Nantucket (Town). The system will have a footprint of approximately 13.10 acres on a Town-owned parcel that totals 48 acres. In addition to the ground-mounted arrays, associated infrastructure to be constructed as part of the project includes gravel access roads, utility poles with overhead electrical connections, equipment (such as transformers) on concrete pads, and chain link fencing. The ENF states that water quality treatment will be provided for proposed impervious surfaces (equipment pads) as required. Site work will include clearing approximately 10.10 acres of land, and a minimal amount of grading for the installation of access roads, electrical infrastructure, and perimeter fencing. In a 1.65-acre "shade buffer" area, trees will be selectively cut outside the solar array to prevent shading on the

panels, with tree stumps and brush being retained in this area for ground cover. The project will include a one-time mitigation fee for impacts to rare species, as further discussed below.

As described in the ENF, the Town of Nantucket issued a Request for Proposal (RFP) in 2019 for the development of municipal solar projects at several locations, including properties owned by the Wannacomet Water Companies (WWC), an enterprise fund¹ of the Town of Nantucket that is administered by the Nantucket Water Commission. The Proponent was awarded a contract to develop a large ground-mounted array at the WWC property located at 1 Milestone Road (the project site). The ENF states that the Proponent and the Town of Nantucket executed agreements to construct the project in December 2020.

Project Site

The 48-acre project site includes the entirety of the Town-owned property, which is under the care and custody of WWC. Portions of the property will be leased to the Proponent by the Town for a duration of 25 years for the construction and operation of the project, pending extensions. The site is currently used as a public water system (PWS)² operated by the WWC, and contains an office building, parking area, cleared areas (including the municipal well field), access drives, and infrastructure necessary to operate and maintain the municipal wellfield that provides water supply for the island. The remainder of the site is undeveloped and wooded. There are existing driveways to the north, south, and east of the site. Milestone Road runs east to west just north of the site, and Old South Road abuts the site to the south and west.

The entirety of the site is classified as a Zone II Wellhead Protection Area and contains Zone I Wellhead Protection Areas as designated by the Massachusetts Department of Environmental Protection (MassDEP). Nearly all of the site, including all areas where site work will occur, is mapped as *Estimated and Priority Habitat of Rare Species* as delineated by the Natural Heritage and Endangered Species Program (NHESP) in the 15th Edition of the Massachusetts Natural Heritage Atlas. The project site is not located in an Area of Critical Environmental Concern (ACEC) and does not contain any structures listed in the State Register of Historic Places or the Massachusetts Historical Commission's (MHC) Inventory of Historic and Archaeological Assets of the Commonwealth.

The site is located within an Environmental Justice (EJ) community and within one mile of five additional EJ communities, all characterized by Minority criteria. There are no additional EJ communities within five miles of the site. As described below, the ENF identified the "Designated Geographic Area" (DGA, as defined in 301 CMR 11.02) for the project as 1 mile

¹ An enterprise fund establishes a separate accounting and financial reporting mechanism for a municipal service for which a fee is charged in exchange for goods or services (M.G.L. c. 44, §53F½). Enterprise funds are considered a best practice to promote and maintain long-term financial sustainability for water, sewer and stormwater activities.

² A Public Water System, as defined by the Massachusetts Drinking Water Regulations at 310 CMR 22.02, is "a system for the provision to the public of water for human consumption, through pipes or other constructed conveyances, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days of the year".

around EJ populations, included a review of potential impacts and benefits to the EJ populations within this DGA, and described public involvement efforts undertaken to date.

Environmental Impacts and Mitigation

Potential environmental impacts associated with the project include the alteration of 13.1 acres of undeveloped land (including 10.10 acres of tree clearing), all of which is mapped as Priority or Estimated Habitat for rare species. The project will also involve the creation of 0.7 acres of impervious surface, for a total of 2.5 acres on site, including existing development.

Measures to avoid, minimize, and mitigate project impacts include a one-time mitigation fee for impacts to rare species habitat, restoration of the site to high-quality rare species habitat at the end of the project's useful life, and the use of erosion and sedimentation controls during project construction. Additional mitigation measures should be described in the DEIR.

Jurisdiction and Permitting

This project is subject to MEPA review because it requires Agency Action and meets/exceeds the MEPA review threshold at 301 CMR 11.03(2)(b)(2): Greater than two acres of disturbance of designated priority habitat, as defined in 321 CMR 10.02, that results in a Take of a state-listed endangered or threatened species or species of special concern. While not identified in the ENF, and as discussed further below, the project may also exceed the MEPA review threshold at 301 CMR 11.03(1)(b)(3): Conversion of land held for natural resources purposes in accordance with the Amendments to the Constitution of the Commonwealth Article 97 to any purpose not in accordance with Article 97. The project is required to prepare an EIR under 301 CMR 11.06(7)(b) of the MEPA regulations because it is located within one mile of one or more EJ populations. The project requires a Conservation and Management Permit (CMP) from NHESP. Under MassDEP Policy #2011-1 (dated March 26, 2012), approval by MassDEP is required for any wind or solar energy project proposed within Zone I Wellhead Protection, and no supplier of water may sell, lease, assign, or otherwise dispose of, or change the use of, any lands used for water supply purposes without the prior written approval of MassDEP.

The project will require as Building Permit and Electrical Permit from the Town of Nantucket. Comments from MassDEP indicate that the project requires a National Pollutant Discharge Elimination System (NPDES) Construction General Permit (CGP) from the United States Environmental Protection Agency (EPA).

Because the project is not seeking Financial Assistance from an Agency, MEPA jurisdiction extends to those aspects of the project that are within the subject matter of required or potentially required Permits or within the area subject to a Land Transfer, and that are likely, directly or indirectly, to cause Damage to the Environment.

Review of the ENF

The ENF provided a description of existing and proposed conditions, preliminary project plans, and a copy of correspondence with NHESP, and identified measures to avoid, minimize

and mitigate environmental impacts. Consistent with the MEPA Interim Protocol on Climate Change Adaptation and Resiliency, the ENF contained an output report from the MA Climate Resilience Design Standards Tool prepared by the Resilient Massachusetts Action Team (RMAT) (the “MA Resilience Design Tool”),³ together with information on climate resilience strategies to be undertaken by the project.

I received numerous comments from residents of the Town expressing support for the project in light of the benefits associated with renewable energy generation, as well as several comments opposing the project due to impacts to the public water supply and rare species habitat.

Alternatives Analysis

The ENF included an alternatives analysis that appears to solely evaluate alternatives for mitigation to rare species habitat, as opposed to alternatives to the project design to meet the overall purpose and need for the project. As noted above, the project is proposed through an agreement with the Town, which issued an RFP seeking bids to construct a solar project on this property. Further information regarding alternatives to the project design should be included in the DEIR, as further discussed in the Scope below.

The ENF notes that the project is consistent with the “Beat the Peak!” Initiative created by the Town with the main goal of decreasing the summer energy load, specifically focusing on targeted projects that are designed to reduce energy use from 5-9pm during the summer season. The ENF states that the projects proposed as part of the initiative serve as a cost-effective alternative to the installation of a third undersea cable that, if implemented, would cost local ratepayers \$100-175 million and will seriously disrupt the sea life surrounding Nantucket, the land itself and the Town’s economy. Benefits associated with the project, as described in the ENF, include the generation of renewable energy, which is anticipated to offset 4,230 metric tons of greenhouse gas (GHG) emissions, and the generation of 46% of the Town’s annual kilowatt hour (kWh) consumption and 117 million kWh of clean energy over 20 years, improving local grid reliability and increasing the resiliency of the local electric supply.

Regarding mitigation for impacts rare species habitat, the ENF evaluated on-site mitigation, off-site mitigation, and partnerships with existing conservation organizations and the Massachusetts Department of Conservation and Recreation (DCR). As described in the ENF, the remaining acreage at the project site was evaluated for use as habitat mitigation but cannot be used because the land must remain available for the WWC to meet its primary mission to provide high-quality drinking water supply and services for the island. The ENF included a table of various Town-owned properties and properties available for purchase on Nantucket to provide land for mitigation, and identified the reason that the use of these properties was considered infeasible. Similarly, exploring partnerships with conservation organizations and DCR to create habitat on parcels owned by these entities did not result in the identification of suitable land available for conservation and management. As such, the Proponent is seeking to pay a one-time mitigation fee to NHESP, further discussed in the “Rare Species” section below.

³ https://resilientma.org/rmat_home/designstandards/

Environmental Justice

As noted above, the site is located within an EJ community and within one mile of five additional EJ communities, all characterized by Minority criteria. There are no additional EJ communities within five miles of the site. Within the census tracts containing the above EJ populations within 1 mile of the project site, Spanish was identified as language spoken by 5% or more of residents who also identify as not speaking English very well.

Effective January 1, 2022, all new projects in “Designated Geographic Areas” (“DGA,” as defined in 301 CMR 11.02, as amended) around EJ populations are subject to new requirements imposed by Chapter 8 of the Acts of 2021: An Act Creating a Next-Generation Roadmap for Massachusetts Climate Policy (the “Climate Roadmap Act”) and amended MEPA regulations at 301 CMR 11.00. Two related MEPA protocols – the MEPA Public Involvement Protocol for Environmental Justice Populations (the “MEPA EJ Public Involvement Protocol”) and MEPA Interim Protocol for Analysis of project Impacts on Environmental Justice Populations (the “MEPA Interim Protocol for Analysis of EJ Impacts”) – are also in effect for new projects filed on or after January 1, 2022. Under the new regulations and protocols, all projects located in a DGA around one or more EJ populations must take steps to enhance public involvement opportunities for EJ populations, and must submit analysis of impacts to such EJ populations in the form of an EIR.

The ENF indicates that the DGA for the project is one mile. The Proponent prepared an EJ Screening Form which was translated into Spanish and distributed to a list of community-based organizations (CBOs) and tribes/indigenous organizations (the “EJ Reference List”) provided by the MEPA Office, together with notice of the MEPA remote consultation session.⁴ An evening remote meeting was held to promote public involvement during the MEPA review process. Interpretation services were offered in Spanish upon request, but were not requested by anyone who attended the meeting. The ENF states that the Proponent has expanded inclusive outreach to specifically provide information to, and gather feedback from, EJ communities affected by the project, including by providing information in Spanish. The ENF describes public meetings associated with the Town’s municipal permit/approval processes, and states that the Proponent will work with the Town to host a community meeting at the Town Library (or another public venue) to present the details of the project and solicit feedback from the community. The ENF states that the EJ Reference List will be notified of this meeting via email, and that notice of the meeting will be posted in the Town of Nantucket newspaper in both English and Spanish. The ENF also notes that there is public website⁵ with Spanish translation which provides information about the project, and which will be updated with information on project timelines, project design, and construction schedule as it becomes available. The Proponent should continue robust outreach to EJ populations during the course of MEPA review, and report on the results of that outreach in the DEIR.

⁴ Because the project does not exceed mandatory EIR thresholds and is not seeking expedited review through a Single or “Rollover” EIR process, the proponent was not required to provide advance notification to the EJ Reference List prior to filing the ENF, in accordance with 301 CMR 11.05(4)(b).

⁵ Available here: <https://www.nantucket-ma.gov/2063/WWCO-Solar-Project>

The ENF notes that there are EJ populations adjacent to the site and describes project-related impacts as primarily limited to construction period disruptions. To minimize emission and noise, the ENF states that trucks and vehicles will not idle while parked or while waiting in the facility. Noise-generating activities will be conducted in accordance with any local and state requirements and are not anticipated to cause impacts to public health. The ENF states that the project will have no impact on the municipal water supply areas located within the boundaries of the site, as the solar array will be constructed with adequate setbacks from the PWS wells. The DEIR should provide a comprehensive analysis of project impacts on EJ populations in accordance with MEPA Interim Protocol for Analysis of EJ Impacts.

Article 97

The ENF included an “Article 97 Opinion Letter” which asserts that the property site is not protected under Article 97 of the amendments to the state constitution (“Article 97”); however, plans included in the ENF that depict environmental constraints on the site show the entirety of the site as mapped Article 97 Land. Comments submitted by the Nantucket Land Council and the Monomoy Civic Association argue that the parcel is subject to Article 97 provisions, and reference historic documents associated with the acquisition of the land that indicate it was purchased for the “protection of water supply” in addition to the distribution of public drinking water. As noted above, the land is publicly owned, and appears to be managed for water supply protection purposes. In turn, the Town will enter into a long-term lease with the Proponent for use of this land for solar development. Consistent with newly enacted St. 2022, c. 274, An Act Preserving Open Space in the Commonwealth (codified as M.G.L. c. 3, § 5A), the Proponent should consult the EEA land division (at plpa@mass.gov) prior to filing the DEIR to determine whether the site is protected as Article 97 Land and to confirm compliance with new M.G.L. c. 3, § 5A and the EEA Article 97 Policy, as further discussed in the Scope below.

Rare Species

The project will alter approximately 13.10 acres (including 10.10 acres of tree clearing and 1.65 acres of selective cutting) of Priority Habitat for six state-listed Lepidoptera species, as mapped in the 15th Edition of the MA Natural Heritage Atlas. As noted in comments from NHESP, the state-listed Lepidoptera species and their habitats are protected pursuant to the Massachusetts Endangered Species Act (MESA) and its implementing regulations (312 CMR 10.00). As identified in the ENF and in comments from NHESP, the project will result in a “Take” and will require a CMP pursuant to 321 CMR 10.23. The project is proposed to operate for a period of 25 years, at which time it will be decommissioned and the site restored to suitable, high-quality habitat for state-listed species to be impacted by the project. Several comments submitted on the project note concern with the project’s impacts to rare species, and with the possibility that mitigation funds could be used for projects that are not located on Nantucket. While the CMP has not yet been finalized, comments from NHESP state that the Proponent proposes to meet the long-term Net Benefit performance standards for issuance of a CMP by providing appropriate funding for habitat protection, habitat management, and or conservation research / planning to benefit these state-listed Lepidoptera species in Massachusetts. As the

MESA review process is ongoing, no alteration to the soil, surface, or vegetation associated with the proposed project shall occur until a final decision relative to the CMP.

Public Water Supply

As noted above, the site is currently used as a PWS operated by the WWC, and a significant portion of the site is mapped as a Zone I Wellhead Protection Area associated with the municipal wellfield. Comments submitted on the project note concern with the project's potential to impact the public water supplies present on-site. The ENF states that the project will have no impact on the public water supply, and that there will be no loss of groundwater recharge associated with the project as stormwater will continue to be infiltrated on-site. As stated in the ENF and in comments from MassDEP, the Proponent must file form BRP-2011-1 relating to the construction of a solar energy project on land protected for public water supply purposes. This form, as established in MassDEP Policy #2011-1 (dated March 26, 2012), is required for any wind or solar energy project proposed within Zone I Wellhead Protection Area (although the ENF indicates the project will not impact these areas on site) to ensure that the project complies with the requirements of the Massachusetts Drinking Water Regulations.⁶ No supplier of water may sell, lease, assign, or otherwise dispose of, or change the use of, any lands used for water supply purposes without the prior written approval of MassDEP. The Proponent must submit adequate information through form BRP-2011-1 and any subsequent review by MassDEP to demonstrate that the project will have no significant adverse impact upon the water supplier's present and future ability to provide continuous adequate service to consumers under routine and emergency operating conditions.

Climate Change Adaptation and Resiliency

Effective October 1, 2021, all MEPA projects are required to submit an output report from the MA Resilience Design Tool to assess the climate risks of the project. Based on the output report attached to the ENF, the project has a "High" exposure rating for extreme precipitation (urban flooding) and extreme precipitation (riverine flooding). The project also has a "Moderate" exposure rating for extreme heat. While some areas in the central/northwest corner of the 48-acre site are mapped as Flood Zone X (area of minimal flood hazard) as delineated on Federal Emergency Management Agency (FEMA) map 25019C0089G (effective date June 9, 2014), the project is located on the northeastern and southeastern corners of the site, which are not within a mapped floodplain. Based on the 25-year useful life (the length of the initial lease) and the self-assessed criticality of the array, the MA Resilience Design Tool recommends a planning horizon of 2050 and a return period associated with a 10-year (10% chance) storm event when designing the array for the extreme precipitation parameter. As noted above, the project will create 0.7 acres of impervious surface. The ENF states that water quality measures will be implemented to treat runoff associated with the new impervious surface, but does not identify specific stormwater infrastructure to be constructed as part of the project. The ENF states that the existing topography and soils allow stormwater runoff to be infiltrated on-site, and that no increase to off-site peak discharge rates or loss of groundwater recharge is anticipated.

⁶ MassDEP Policy #2011-1 can be found here: https://www.mass.gov/files/documents/2016/08/ua/1101_1.pdf

Additional information regarding stormwater infrastructure should be provided in the DEIR, as described in the Scope below.

Greenhouse Gas (GHG) Emissions

In accordance with the MEPA Interim Protocol for Analysis of EJ Impacts, a GHG analysis was not required because the project is anticipated to generate less than 2,000 tons per year (tpy) of GHG emissions associated with conditioned building spaces.

Construction Period

The ENF indicates that project construction is expected to commence in 2023 and conclude in 2024. All construction activities should be managed in accordance with applicable MassDEP's regulations regarding Air Pollution Control (310 CMR 7.01, 7.09-7.10), and Solid Waste Facilities (310 CMR 16.00 and 310 CMR 19.00, including the waste ban provision at 310 CMR 19.017). The project should include measures to reduce construction period impacts (e.g., noise, dust, odor, solid waste management) and emissions of air pollutants from equipment, including anti-idling measures in accordance with the Air Quality regulations (310 CMR 7.11). I encourage the Proponent to require that its contractors use construction equipment with engines manufactured to Tier 4 federal emission standards, or select project contractors that have installed retrofit emissions control devices or vehicles that use alternative fuels to reduce emissions of volatile organic compounds (VOCs), carbon monoxide (CO) and particulate matter (PM) from diesel-powered equipment. Off-road vehicles are required to use ultra-low sulfur diesel fuel (ULSD). If oil and/or hazardous materials are found during construction, the Proponent should notify MassDEP in accordance with the Massachusetts Contingency Plan (310 CMR 40.00). All construction activities should be undertaken in compliance with the conditions of all State and local permits.

SCOPE

General

The DEIR should follow Section 11.07 of the MEPA regulations for outline and content and provide the information and analyses required in this Scope. It should clearly demonstrate that the Proponent has sought to avoid, minimize and mitigate Damage to the Environment to the maximum extent practicable.

Project Description and Permitting

The DEIR should identify any changes to the project since the filing of the ENF. It should identify and describe state, federal and local permitting and review requirements associated with the project and provide an update on the status of each of these pending actions. The DEIR should include a description and analysis of applicable statutory and regulatory standards and requirements, and a discussion of the project's consistency with those standards. It

should address the NPDES permitting requirements associated with the project, as noted in comments from MassDEP.

The DEIR should include detailed site plans for existing and post-development conditions at a legible scale. Plans should clearly identify buildings, interior and exterior public areas, impervious areas, and stormwater and utility infrastructure. The DEIR should provide detailed plans, sections, and elevations to accurately depict existing and proposed conditions, including proposed above- and below-ground structures, on- and-off-site open space, and resiliency and other mitigation measures.

The information and analyses identified in this Scope should be addressed within the main body of the DEIR and not in appendices. In general, appendices should be used only to provide raw data, such as drainage calculations, traffic counts, capacity analyses and energy modelling, that is otherwise adequately summarized with text, tables and figures within the main body of the DEIR. Information provided in appendices should be indexed with page numbers and separated by tabs, or, if provided in electronic format, include links to individual sections. Any references in the DEIR to materials provided in an appendix should include specific page numbers to facilitate review.

The ENF states that water quality treatment will be provided for proposed impervious surfaces; the DEIR should describe what water quality treatment measures will consist of. As described in the ENF, access to the array will be provided by new and existing access roads. The DEIR should describe the length and area of the new access roads and clarify whether any improvements will be made to the existing access roads that will be utilized for the project. It should clarify whether the 0.7 acres of impervious surface creation noted in the ENF includes the access roads proposed to be constructed. The DEIR should clarify whether any work will be located within Zone I Wellhead Protection Areas, including any areas that are anticipated to be temporarily impacted during project construction.

The DEIR should clarify whether the Proponent intends to participate/enroll the project in the Massachusetts Department of Energy Resources (DOER) Solar Massachusetts Renewable Target (SMART) program, and identify the direct-current (DC) rating of the project. If so, the DEIR should clarify how the project intends to satisfy revised land use siting criteria set forth in 225 CMR 20.05(5)(e).

The Proponent is directed to consult with the EEA land division (at plpa@mass.gov) to determine whether the project site is protected by Article 97 provisions. In the event the site is considered to be Article 97 Land, the DEIR should include a detailed discussion that addresses the project's compliance with the EEA Article 97 Land Disposition Policy (Article 97 Policy) and newly enacted M.G.L. c. 3, § 5A. Among other items, M.G.L. c. 3, § 5A requires an alternatives analysis to demonstrate that all other options to avoid or minimize the Article 97 disposition or change in use have been explored and that no feasible or substantially equivalent alternative exists.

Alternatives Analysis

The ENF indicates that the project as presented in the ENF is a result of a public process undertaken with the Town since the awarding of the project to the Proponent, including revisions based on public feedback. The DEIR should discuss previously considered alternatives, such as alternative layouts and sizes of the array, and battery storage. The DEIR should clearly describe the purpose and need for the project, and discuss why solar generation was chosen as the preferred alternative over other non-solar alternatives for meeting the project's purpose and need. The DEIR should describe the environmental impacts associated with the dismissed alternatives as compared to the Preferred Alternative and the reasoning behind their dismissal. If the reason for dismissal is cost, the DEIR should provide a clear comparison of those costs with those of the Preferred Alternative. In addition, the relative benefits of each alternative should be discussed, including their effectiveness in reducing peak energy loads and GHG emissions.

Given that the entirety of the chosen project site will have rare species and potentially Article 97 impacts, the DEIR should discuss the process undertaken by the Town to select the project site and other WWRC properties as the preferred location(s) for siting solar development. The alternatives analysis related to Article 97 Land should contain the content required under new M.G.L. c. 3, § 5A. The DEIR should include a detailed description of other sites that were evaluated for solar energy projects by the Town (including and in particular sites that are not subject to Article 97 provisions and do not contain mapped rare species habitat) and what considerations were used to evaluate these sites for selection. The DEIR should continue to carry and evaluate a No Build Alternative until other less impactful alternatives are fully disclosed and justification provided for their dismissal.

Environmental Justice

The DEIR should include a separate section on "Environmental Justice" that describes a public involvement plan to meaningfully engage EJ populations located within the DGA in decision-making for the project. It should contain a full description of measures the Proponent intends to undertake to promote public involvement by such EJ populations during the remainder of the MEPA review process including a discussion of any of the best practices listed in the MEPA EJ Public Involvement Protocol that will be employed. It should describe any outreach that will be conducted as part of local review processes. The DEIR should include an update on any outreach conducted since the filing of the ENF and a description of any changes made to the project (including mitigation measures) in response to this outreach. The DEIR, or a summary thereof, should be distributed to the "EJ Reference List," with any updates to the list provided by the MEPA Office upon request. The Proponent is also directed to continue to provide translation services in Spanish as part of future outreach. The Proponent should hold at least one public meeting prior to filing the DEIR, and should clearly demonstrate that notice of the meeting was widely disseminated with appropriate translations to the identified EJ populations.

The DEIR should include a baseline assessment of any existing "unfair or inequitable Environmental Burden and related public health consequences" impacting EJ Populations in accordance with 301 CMR 11.07(6)(n)1. and the MEPA Interim Protocol for Analysis of EJ Impacts. The DEIR should also include an analysis of the project's impacts to determine whether

the project may result in disproportionate adverse effects, or increase the risks of climate change, on the identified EJ population, in accordance with 301 CMR 11.07(6)(n)2. and the MEPA Interim Protocol for Analysis of EJ Impacts.

The DEIR should assess the number of diesel-generated vehicle trips and routes of travel that would result from the project including during the construction period, and identify whether these routes will travel through EJ populations within the DGA. The DEIR should confirm that traffic impacts will be sufficiently mitigated to avoid impacts to EJ populations, and should supplement climate resiliency analysis as described below to ensure that the resiliency of the project is adequate to protect potential future residents, including those in EJ populations, of the project. The DEIR should discuss the impact of 10+ acres of tree clearing on the surrounding EJ populations, and describe all measures taken to avoid or minimize such clearing. The DEIR should discuss whether tree replantings or other mitigation measures were considered to preserve any shading and cooling effects that may be provided to surrounding residents under current conditions. The DEIR should discuss the extent to which the impacted rare species habitat is used for recreation or passive outdoor space for area residents, and if so, whether the loss of such opportunities could have disproportionate adverse effects on the surrounding EJ populations. Consistent with M.G.L. c. 3, § 5A(b)(1), to the extent the Proponent seeks to provide funding in lieu of replacement land, or a combination of funding and replacement land or an interest in land, for any potential Article 97 land disposition, the DEIR should clearly demonstrate that the proposed disposition will have no adverse impacts on EJ populations.

Public Health

The DEIR should include a separate section on “Public Health,” and discuss any known or reasonably foreseeable public health consequences that may result from the environmental impacts of the project. Particular focus should be given to any impacts that may materially exacerbate “vulnerable health EJ criteria,” in accordance with the MEPA Interim Protocol for Analysis of EJ Impacts. In addition, other publicly available data, including through the DPH EJ Tool, should be surveyed to assess the public health conditions in the immediate vicinity of the project site, in accordance with 301 CMR 11.07(6)(g)10. Any project impacts that could materially exacerbate such conditions should be analyzed. To the extent any required Permits for the project contain performance standards intended to protect public health, the DEIR should contain specific discussion of such standards and how the project intends to meet or exceed them. The DEIR should discuss the public health consequences of any loss of recreational/open space opportunities that may result from the project.

Rare Species

The DEIR should discuss what mechanism will be used to ensure that the monetary payment is used to benefit the identified rare species, and whether on-site or off-site benefits are anticipated to be provided. The DEIR should provide more information regarding the possible extension of the life of the project beyond the 25-year lease referenced in the ENF, and how this would affect mitigation for impacts to rare species. It should clarify whether funding for decommissioning, including the restoration of the site to suitable, high-quality habitat for state-listed species to be impacted by the project, will be set aside prior to the project being brought

online. The DEIR should provide an update on any coordination with NHESP since the filing of the ENF, and identify any changes in impacts to Priority Habitat or mitigation for these impacts. It should confirm the acreage of total alteration (including tree cutting in the “shade buffer” area) within mapped Priority Habitat.

Climate Change Adaptation

The DEIR should address the MA Resilience Design Tool recommendations. Specifically, the DEIR should identify whether a stormwater system will be constructed as part of the project to treat runoff from the proposed impervious surfaces, and if so, what precipitation data was used to inform the design of the stormwater system and what storm (including maximum 24-hour total precipitation depth) the system is designed to attenuate. It should identify the maximum lifespan of the project if there is a possibility to extend the 25-year lease identified in the ENF. The DEIR should discuss the potential for riverine flooding risks under future climate conditions, and may use values available in the MA Resilience Design Tool (such as “riverine peak flood elevation”) as a resource.

Mitigation and Draft Section 61 Findings

The DEIR should include a separate chapter summarizing all proposed mitigation measures including construction-period measures. This chapter should also include a comprehensive list of all commitments made by the Proponent to avoid, minimize and mitigate the environmental and related public health impacts of the project, and should include a separate section outlining mitigation commitments relative to EJ populations. The filing should contain clear commitments to implement these mitigation measures, estimate the individual costs of each proposed measure, identify the parties responsible for implementation, and contain a schedule for implementation. The list of commitments should be provided in a tabular format organized by subject matter (traffic, water/wastewater, environmental justice, etc.) and identify the Agency Action or Permit associated with each category of impact. Draft Section 61 Findings should be separately included for each Agency Action to be taken on the project. The filing should clearly indicate which mitigation measures will be constructed or implemented based upon project phasing to ensure that adequate measures are in place to mitigate impacts associated with each development phase.

Responses to Comments

The DEIR should contain a copy of this Certificate and a copy of each comment letter received. In order to ensure that the issues raised by commenters are addressed, the DEIR should include direct responses to comments to the extent that they are within MEPA jurisdiction. This directive is not intended, and shall not be construed, to enlarge the scope of the DEIR beyond what has been expressly identified in this certificate.

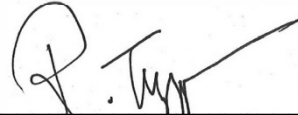
Circulation

The Proponent should circulate the DEIR to each Person or Agency who previously commented on the ENF, each Agency from which the Project will seek Permits, Land Transfers

or Financial Assistance, and to any other Agency or Person identified in the Scope. The Proponent may circulate copies of the DEIR to commenters other than Agencies in a digital format (e.g., CD-ROM, USB drive) or post to an online website. However, the Proponent should make available a reasonable number of hard copies to accommodate those without convenient access to a computer to be distributed upon request on a first come, first served basis. A copy of the DEIR should be made available for review in the Nantucket Public Library.

May 26, 2023

Date



Rebecca L. Tepper

Comments received:

05/12/2023 Meg & Matt Dwyer
 05/12/2023 Mary Longacre
 05/15/2023 Andy Buccino
 05/15/2023 Alyssa Corry
 05/15/2023 Robert King, Jr.
 05/15/2023 Claire McElwain
 05/15/2023 Ian Golding
 05/15/2023 Jamie Foster (*Boys and Girls Club??*)
 05/15/2023 James Thomas
 05/15/2023 Jack Weinhold
 05/15/2023 Posie Constable
 05/15/2023 Steven Leinbach
 05/15/2023 Tim Carruthers
 05/15/2023 Virna Gonzalez
 05/15/2023 Joanna Roche, Maria Mitchell Association
 05/15/2023 Margaret Layton
 05/15/2023 Reverend Tamara Grenier
 05/15/2023 JohnCarl McGrady
 05/16/2023 Bradley Henke
 05/16/2023 Monomoy Civic Association
 05/16/2023 Mark & Barbara White
 05/16/2023 Karen Alence
 05/16/2023 Natural Heritage and Endangered Species Program (NHESP)
 05/16/2023 Cary Hazlegrove
 05/16/2023 Tobias Glidden
 05/16/2023 Alan O'Connor
 05/16/2023 Nantucket Land Council
 05/17/2023 Massachusetts Department of Environmental Protection (MassDEP), Southeast
 05/17/2023 Robert Orlandi

RLT/ELV/elv



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DIVISION OF FISHERIES & WILDLIFE

1 Rabbit Hill Road, Westborough, MA 01581

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[MASS.GOV/MASSWILDLIFE](https://www.mass.gov/masswildlife)

May 16, 2023

Rebecca Tepper, Secretary
Executive Office of Energy and Environmental Affairs
Attention: MEPA Office
Eva Vaughan, EEA No. 16693
100 Cambridge St.
Boston, Massachusetts 02114

Project Name: Solar Star Tranquility LLC
Proponent: TotalEnergies Renewables USA
Location: 1 Milestone Road, Nantucket
Document Reviewed: Environmental Notification Form
EEA No.: 16693
NHESP No.: 23-1143 (formerly NHESP No. 20-39392)

Dear Secretary Tepper:

The Natural Heritage & Endangered Species Program of the Massachusetts Division of Fisheries & Wildlife (the "Division") has reviewed the Environmental Notification Form (the "ENF") for the proposed Solar Star Tranquility LLC Project (the "Project") and would like to offer the following comments regarding state-listed species and their habitats.

According to the Massachusetts Natural Heritage Atlas (15th Edition), portions of the Project site are mapped as Priority Habitat for six state-listed Lepidoptera species. These species and their habitats are protected pursuant to the Massachusetts Endangered Species Act (MGL c.131A) and its implementing regulations (MESA; 321 CMR 10.00). All projects or activities proposed within Priority Habitat, which are not otherwise exempt pursuant to 321 CMR 10.14, require prior review through a direct filing with the Division for compliance with the MESA Regulations (321 CMR 10.18).

The MESA is administered by the Division and prohibits the Take of state-listed species, which is defined as "in reference to animals...harm...kill...disrupt the nesting, breeding, feeding or migratory activity...and in reference to plants...collect, pick, kill, transplant, cut or process...Disruption of nesting, breeding, feeding, or migratory activity may result from, but is not limited to, the modification, degradation, or destruction of Habitat" of state-listed species (321 CMR 10.02).

The Project, as proposed and described in the ENF, includes the construction of a 3.8-megawatt ground-mounted solar array and associated site work on a ±48-acre property. The Project has a proposed lifespan of twenty-five (25) years, at which time it will be decommissioned and the site restored to suitable, high-quality habitat for state-listed species to be impacted by the Project. The Division determined (letter dated December 29, 2020) that the Project, as proposed, **will result in a Take (321 CMR 10.18 (2)(b)) of state-listed Lepidoptera species** due to the harming or killing of individuals, the

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loss and fragmentation of suitable habitat, and interference with the feeding, breeding, over-wintering and migratory activities of these species.

Projects resulting in a Take of state-listed species may only be permitted if they meet the performance standards for a Conservation and Management Permit (CMP; 321 CMR 10.23). In order for a project to qualify for a CMP, the applicant must demonstrate that the project has avoided, minimized and mitigated impacts to state-listed species consistent with the following performance standards: (a) adequately assess alternatives to both temporary and permanent impacts to the state-listed species, (b) demonstrate that an insignificant portion of the local population will be impacted, and (c) develop and agree to carry out a conservation and management plan that provides a long-term net benefit to the conservation of the state-listed species.

Although the exact details of the long-term net benefit required under a CMP have not yet been finalized, the Proponent has worked cooperatively with the Division to address impacts to state-listed species. Based on information provided in the ENF, information previously submitted to the Division, and ongoing consultations with the Proponent, it is our understanding that the Proponent intends to meet the performance standards of a CMP by providing appropriate funding for habitat protection, habitat management, and or conservation research / planning to benefit these state-listed Lepidoptera species in Massachusetts. The Division anticipates that a suitable long-term net benefit can be achieved through conservation funding, and that the Project should be able to meet the performance standards of a CMP.

The Division will not render a final decision until the MEPA review process and its associated public comment period is complete, and until all required CMP application materials have been submitted to the Division. As the MESA review process is ongoing, no alteration to the soil, surface, or vegetation associated with the proposed Project shall occur until the Division has made a final decision relative to the CMP.

If you have any questions about this letter, please contact Jesse Leddick, Chief of Regulatory Review, at jesse.leddick@mass.gov or 508-389-6386. We appreciate the opportunity to comment on the Project.

Sincerely,



Everose Schlüter, Ph.D.
Assistant Director

Cc: Eric Matthews Stevens, Total Energies Renewables USA
Lauren Sinatra, Town of Nantucket
Isabel Mohammadi-Hall, TRC



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

Southeast Regional Office • 20 Riverside Drive, Lakeville MA 02347 • 508-946-2700

Maura T. Healey
Governor

Kimberley Driscoll
Lieutenant Governor

Rebecca L. Tepper
Secretary

Bonnie Heiple
Commissioner

May 16, 2023

Rebecca L. Tepper
Secretary of Energy and Environment
Executive Office of Energy and
Environmental Affairs
100 Cambridge Street, Suite 900
ATTN: MEPA Office
Boston, MA 02114

RE: ENF Review. EOEEA 16693
NANTUCKET Solar Star Tranquility LLC
at 1 Milestone Road

Dear Secretary Tepper,

The Southeast Regional Office of the Department of Environmental Protection (MassDEP) has reviewed the Environmental Notification Form (ENF) for the Solar Star Tranquility LLC at 1 Milestone Road, Nantucket, Massachusetts (EOEEA #16693). The Project Proponent provides the following information for the Project:

TotalEnergies Renewables USA (TotalEnergies or the "Applicant") is developing a 3.8-megawatt (MW) ground-mounted photovoltaic (PV) solar array (the Project) at 1 Milestone Road in Nantucket, Massachusetts (the Site). The Project will occupy approximately 13.10± acres on a Town-owned property that is 48.0 acres in total. The current use of the Site is a municipal Public Water Supply (PWS) facility operated by the Wannacomet Water Company. The parcel is owned by the Town of Nantucket, under the care and custody of the Wannacomet Water Company, an enterprise fund of the Town of Nantucket that is administered by the Nantucket Water Commission. The solar PV array will be constructed with adequate setbacks from the PWS wells and access to the array will be by new and existing access roads located at the Site.

The Site contains an office building, parking area, wooded areas, cleared areas (including the municipal well field), access drives, and infrastructure necessary to operate and maintain the municipal wellfield that provides water supply for the Island. There are existing driveways to the north, south, and east of the Site. Milestone Road runs east to west just north of the Site, and Old South Road abuts the Site to the south and west.

The Project will include the installation of ground-mounted racks along with the associated infrastructure which includes gravel access roads, utility poles with overhead electrical connections, ground mounted equipment, concrete pads, and chain link fencing. Each rack will be supported by several driven post, screw, or beam foundations. The existing topography and soils allow stormwater runoff to be infiltrated on-site. Therefore, no increase to off-site peak discharge rates or loss of groundwater recharge is anticipated. Water quality treatment will be provided for proposed impervious surfaces (e.g., equipment pads) as required. A

This information is available in alternate format. Contact Glynis Bugg at 617-348-4040.

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MassDEP Website: www.mass.gov/dep

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construction period Storm Water Pollution Prevention Plan (SWPPP) and long-term Operations & Maintenance (O&M) plan will be prepared.

The proposed work will include limited site work including the necessary clearing and grubbing, however existing topography will be largely maintained. A minimal amount of grading will be performed for the installation of access roads, electrical infrastructure, and perimeter fencing. Trees will be selectively cut outside the solar array to prevent shading of the panels, retaining tree stumps and brush on the ground cover (shade buffer area). The 1.65± acres of shade buffer will be managed as appropriate, high-quality habitat for the life of the array. Tree removal will be compatible with this since the impacted species are primarily associated with scrub oak and blueberry species. Additional cleared areas outside the arrays and grubbed areas between the solar arrays will be maintained with a topsoil cover and seeded with a pollinator meadow seed mix.

Existing topography will be maintained and existing stormwater catchments at the Site are not going to be significantly altered. Erosion and sedimentation controls, including straw wattles, will be installed during construction throughout the limit of disturbance, approximately parallel to existing contours to prevent channelization of stormwater runoff.

Bureau of Water Resources (BRW) Comments

Wetlands and Waterways. As proposed, this Project does not affect wetlands or waterways protected resources and is therefore not subject to the Wetlands Protection Act or M.G.L. c, 91.

NPDES Construction General Stormwater Permit. The Project Proponent is silent on its NPDES Stormwater Permit for Construction Permit requirements because its construction activities are scheduled to disturb more than an acre of land. The Project Proponent can access information regarding the NPDES Stormwater requirements and an application for the Construction General Permit by completing and submitting a Notice of Intent (NOI) to EPA via the [Stormwater Discharges from Construction Activities | National Pollutant Discharge Elimination System \(NPDES\) | US EPA.](#)

The Proponent is advised to consult with Sania Kamran (Kamran.Sania@epa.gov, 617- 918-1522) for questions regarding EPA's NPDES Construction General Permit requirements.

In addition, the Proponent is reminded that local Planning Boards (and/or other local authorities) may require stormwater controls beyond that of the Wetlands protection Act. These controls are usually created to keep stormwater onsite so as not to create nuisance conditions offsite.

Drinking Water. The Project Proponent reports, and the Department acknowledges that: “the Project is located in a Zone I area which is the primary protection area around a PWS. In accordance, Guideline BRP 2011-1 located at <https://www.mass.gov/doc/pwss-and-windsolar-energy-projects-guidance/download> requires the filing with the Massachusetts Department of Environmental Protection MassDEP for approval for wind and solar energy projects on lands owned or controlled held by public water systems for drinking water purposes. Additionally, 310 CMR 22.21(1) and 22.21(3)(b) requires activities in the Zone I to be limited to those directly related to the provision of public drinking water or that will have no significant adverse impact on water quality. TotalEnergies is working closely with the Wannacomet Water Company to prepare the information required for the submittal.

The Project Proponent further states: The Project will have no impact on the municipal public water supply (PWS) located within the boundaries of the site. There will be no water use

throughout construction. The existing topography and soils allow stormwater runoff to be infiltrated on-site. Therefore, no increase to off-site peak discharge rates or loss of groundwater recharge is anticipated. Water quality treatment will be provided for proposed impervious surfaces (e.g., equipment pads) as required. A construction period SWPPP and long-term O&M plan will be prepared.”

Mass/DEP Comment: The Department concurs with the identified requirements that the Project Proponent has outlined in the ENF. The Drinking Water Program awaits the Project Proponent’s submittal of MassDEP form BRP-2011-1 located at <https://www.mass.gov/doc/pwss-and-windsolar-energy-projects-guidance/download>.

Bureau of Waste Site (BWSC) Cleanup Comments

Based upon the information provided, the Bureau of Waste Site Cleanup (BWSC) searched its databases for disposal sites and release notifications that have occurred at or might impact the proposed project area. A disposal site is a location where there has been a release to the environment of oil and/or hazardous material that is regulated under M.G.L. c. 21E, and the Massachusetts Contingency Plan [MCP – 310 CMR 40.0000].

There are no listed MCP disposal sites located at or in the vicinity of the site that would appear to impact the proposed project area. Interested parties may view a map showing the location of BWSC disposal sites using the MassGIS data viewer at [MassMapper](#). Under the Available Data Layers listed on the right sidebar, select “Regulated Areas”, and then “DEP Tier Classified 21E Sites”. MCP reports and the compliance status of specific disposal sites may be viewed using the BWSC Waste Sites/Reportable Release Lookup at: <https://ceaonline.cea.state.ma.us/portal#!/search/wastesite>

The Project Proponent is advised that if oil and/or hazardous material are identified during the implementation of this project, notification pursuant to the Massachusetts Contingency Plan (310 CMR 40.0000) must be made to MassDEP, if necessary. A Licensed Site Professional (LSP) should be retained to determine if notification is required and, if need be, to render appropriate opinions. The LSP may evaluate whether risk reduction measures are necessary if contamination is present. The BWSC may be contacted for guidance if questions arise regarding cleanup.

Spills Prevention and Control. A spills contingency plan addressing prevention and management of potential releases of oil and/or hazardous materials from pre- and post-construction activities should be presented to workers at the site and enforced. The plan should include but not be limited to, refueling of machinery, storage of fuels, and potential on-site activity releases.

Bureau of Air and Waste (BAW) Comments

Air Quality. Construction and operation activities shall not cause or contribute to a condition of air pollution due to dust, odor or noise. To determine the appropriate requirements please refer to:

- 310 CMR 7.09 Dust, Odor, Construction, and Demolition
- 310 CMR 7.10 Noise

Construction-Related Measures

MassDEP requests that all non-road diesel equipment rated 50 horsepower or greater meet EPA’s Tier 4 emission limits, which are the most stringent emission standards currently available for off-road engines. If a piece of equipment is not available in the Tier 4 configuration, then the Proponent should use construction equipment that has been retrofitted with appropriate emissions reduction equipment. Emission reduction equipment includes EPA-verified, CARB-verified, or MassDEP-

approved diesel oxidation catalysts (DOCs) or Diesel Particulate Filters (DPFs). The Proponent should maintain a list of the engines, their emission tiers, and, if applicable, the best available control technology installed on each piece of equipment on file for Departmental review.

Massachusetts Idling Regulation

The Project Proponent reports: “Operators of construction equipment will be instructed not to idle when parked on site or while such equipment is not actively being used.”

MassDEP Response: MassDEP reminds the Proponent that unnecessary idling (*i.e.*, in excess of five minutes), with limited exception, is not permitted during the construction and operations phase of the Project (Section 7.11 of [310 CMR 7.00](#)). With regard to construction period activity, typical methods of reducing idling include driver training, periodic inspections by site supervisors, and posting signage. In addition, to ensure compliance with this regulation once the Project is underway, MassDEP recommends that the Proponent install signs limiting idling to five minutes or less on-site.

Solid Waste Management. The Project Proponent reports: “The Solar Star Tranquility LLC Project will not generate solid waste from demolition, though will generate some waste during the construction as a result of component packaging, and this material will be recycled if possible and disposed of at an approved disposal site.”

The ENF indicates that land clearing, and construction activities will be performed as part of the Project that will generate solid waste and recyclable material.

Solid Waste Comments:

1. Compliance with Waste Ban Regulations: Waste materials discovered during construction that are determined to be solid waste (e.g., construction and demolition waste) and/or recyclable material (e.g., metal, asphalt, brick, and concrete) shall be disposed, recycled, and/or otherwise handled in accordance with the Solid Waste Regulations including 310 CMR 19.017: Waste Bans. Waste Ban regulations prohibit the disposal, transfer for disposal, or contracting for disposal of certain hazardous, recyclable, or compostable items at solid waste facilities in Massachusetts, including, but not limited to, metal, wood, asphalt pavement, brick, concrete, and clean gypsum wallboard. The goals of the waste bans are to: promote reuse, waste reduction, or recycling; reduce the adverse impacts of solid waste management on the environment; conserve capacity at existing solid waste disposal facilities; minimize the need for construction of new solid waste disposal facilities; and support the recycling industry by ensuring that large volumes of material are available on a consistent basis. Further guidance can be found at: <https://www.mass.gov/guides/massdep-waste-disposal-bans>

The ENF states that no on-site segregation of construction waste is proposed. MassDEP recommends the Proponent consider source separation or separating different recyclable materials at the job site. Source separation may lead to higher recycling rates and lower recycling costs. Further guidance can be found at: <https://recyclingworksma.com/construction-demolitionmaterials-guidance/>

For more information on how to prevent banned materials from entering the waste stream the Proponent should contact the RecyclingWorks in Massachusetts program at (888) 254-5525 or via email at info@recyclingworksma.com. RecyclingWorks in Massachusetts also provides a website that includes a searchable database of recycling service providers, available at

<http://www.recyclingworksma.com>.

2. Clean Wood: The Project will require the handling of clean wood associated with tree removal. As defined in 310 CMR 16.02, clean wood means “discarded material consisting of trees, stumps and brush, including but limited to sawdust, chips, shavings, bark, and new or used lumber” ...etc. Clean wood does not include wood from commingled construction and demolition waste, engineered wood products, and wood containing or likely to contain asbestos, chemical preservatives, or paints, stains or other coatings, or adhesives. The Proponent should be aware that wood is not allowed to be buried or disposed of at the Site pursuant to 310 CMR 16.00 & 310 CMR 19.000 unless otherwise approved by MassDEP. Clean wood may be handled in accordance with 310 CMR 16.03(2)(c)7 which allows for the on-site processing (i.e., chipping) of wood for use at the Site (i.e., use as landscaping material) and/or the wood to be transported to a permitted facility (i.e., wood waste reclamation facility) or other facility that is permitted to accept and process wood.

If you have any questions regarding the Solid Waste Management Program comments above, please contact Elza Bystrom at Elza.Bystrom@mass.gov or Mark Dakers at Mark.Daker@mass.gov.

Proposed s.61 Findings

The “Certificate of the Secretary of Energy and Environmental Affairs on the Environmental Notification Form” may indicate that this Project requires further MEPA review and the preparation of an Environmental Impact Report. Pursuant to MEPA Regulations 301 CMR 11.12(5)(d), the Proponent will prepare Proposed Section 61 Findings to be included in the EIR in a separate chapter updating and summarizing proposed mitigation measures. In accordance with 301 CMR 11.07(6)(k), this chapter should also include separate updated draft Section 61 Findings for each State agency that will issue permits for the Project. The draft Section 61 Findings should contain clear commitments to implement mitigation measures, estimate the individual costs of each proposed measure, identify the parties responsible for implementation, and contain a schedule for implementation.

Other Comments/Guidance

The MassDEP Southeast Regional Office appreciates the opportunity to comment on this EENF. If you have any questions regarding these comments, please contact George Zoto at George.Zoto@mass.gov or Jonathan Hobill at Jonathan.Hobill@mass.gov.

Very truly yours,



Jonathan E. Hobill,
Regional Engineer,
Bureau of Water Resources

JH/GZ

Cc: DEP/SERO

ATTN: Millie Garcia-Serrano, Regional Director

Gerard Martin Deputy Regional Director, BWR
John Handrahan, Deputy Regional Director, BWSC
Seth Pickering, Deputy Regional Director, BAW
Jennifer Viveiros, Deputy Regional Director, ADMIN
Greg DeCesare, Acting Chief, Wetlands and Waterways, BWR
Brendan Mullaney, Waterways
James McLaughlin, Chief, Drinking Water, BWR
Michelle Regon, Drinking Water, BWR
Mark Dakers, Chief, Solid Waste, BAW
Elza Bystrom, Solid Waste, BAW
Angela Gallagher, Site Management, BWSC
Jennifer Wharff, Site Management, BWSC

Vaughan, Eva (EEA)

From: Meg & Matt Dwyer <dwyermm@gmail.com>
Sent: Friday, May 12, 2023 5:47 PM
To: Vaughan, Eva (EEA)
Subject: Nantucket Solar

Follow Up Flag: Follow up
Flag Status: Flagged

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Dear Ms. Vaughn-

This project has received very little public exposure and discussion. The little publicity and deliberation it has received was largely the result of a few Nantucket citizens probing and making suggestions for mitigating the project's adverse impact.

While we support sensible sustainable energy, including solar, we believe it would be a tragic mistake and set an incredibly destructive precedent to allow the Nantucket proponents to replace destroyed Nantucket habits in a mainland location(s). That approach is what is being proposed.

I would also like to know whether the Commonwealth can require guarantees to be in place from a strong credit entity covering the cost of removing/replacing/recycling the array at the end of its useful life.

Finally, we highly recommend Oliver Stone's latest movie. "Nuclear Now" makes the compelling case that reviving USA nuclear is our best hope for averting the cataclysmic climate crisis:



'Nuclear Now' Review: Oliver Stone Makes the Case for Power Plants
[nytimes.com](https://www.nytimes.com)

Regards,
Meg and Matt Dwyer
Nantucket

Vaughan, Eva (EEA)

From: ml@marylongacre.com
Sent: Friday, May 12, 2023 11:52 PM
To: Vaughan, Eva (EEA)
Subject: RE: Nantucket Solar Farm

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ps- I feel the project is entirely appropriate and poses no conflict with the historic character of Nantucket.

Mary Longacre
202-415-7843 cell

From: ml@marylongacre.com <ml@marylongacre.com>
Sent: Friday, May 12, 2023 6:02 PM
To: 'eva.vaughan@state.ma.us' <eva.vaughan@state.ma.us>
Subject: Nantucket Solar Farm

I'm excited about and in complete support of the proposed solar farm at 1 Milestone Road!

I think it's an excellent use for the site and compatible with the surroundings.

Local clean-energy generation is a priority need for Nantucket as we consider the impact of climate change and sea level rise.

The cost savings from project will also help the Town's budget and taxpayers.

Mary Longacre
202-415-7843 cell

Vaughan, Eva (EEA)

From: Andy Buccino <AndyB@stephensandcoinc.com>
Sent: Monday, May 15, 2023 9:49 AM
To: Vaughan, Eva (EEA)
Subject: Wannacomet Water Company Solar Project

Follow Up Flag: Follow up
Flag Status: Completed

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Dear Ms Vaughan

I am writing as an independent energy consultant on Nantucket.

This note is to encourage the approval of the Wannacomet Water Company Solar Project.

As a Home Energy Rater living on Nantucket, I recognize this type of installation greatly improves the island's resiliency, while staying sensitive to Environmental concerns and long term impacts
My only reservation is that it isn't large enough!

Please help our community grow its energy independence and further our energy goals, while maintaining our natural environment.

Kind regards,
Andy Buccino



STEPHENS & COMPANY, INC.

ANDY BUCCINO | Manager of The Energy Division

HERS Rater #2223008 | Passive House US+Rater #2912

NEHERS Board | Embodied Carbon Chair | RESNET Emerging Leadership Council

O: 508-325-5736 | C: 508-280-6542

61 Old South Road PMB 119, Nantucket MA 02554

Vaughan, Eva (EEA)

From: Alyssa Corry <alyssa@twigperkins.com>
Sent: Monday, May 15, 2023 2:39 PM
To: Vaughan, Eva (EEA)
Subject: Nantucket Solar Farm Project at 1 Milestone

Follow Up Flag: Follow up
Flag Status: Completed

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Dear Ms. Vaughan,

I am a huge proponent of solar energy, as I recently installed solar arrays on both my home and business here on Nantucket, and bought an electric car. With the threat of climate change growing, solar energy is the future for all people, especially on the island of Nantucket. I strongly voice my support of this proposal, and I urge you to approve this project.

Sincerely,

Alyssa Corry
General Manager
Twig Perkins Inc.

p: [508-228-3050](tel:508-228-3050)
f: [508-228-3059](tel:508-228-3059)
www.TwigPerkins.com



Vaughan, Eva (EEA)

From: Bobby King <bobbyking7@gmail.com>
Sent: Monday, May 15, 2023 11:06 AM
To: Vaughan, Eva (EEA)
Subject: Support for Town of Nantucket Solar Farm

Follow Up Flag: Follow up
Flag Status: Flagged

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Dear Eva,

As a ninth-generation Nantucketer, I email to voice my strong support for the Town of Nantucket's efforts to develop a solar farm on the island. The island's electric demand is surging at an alarming rate. According to National Grid, Nantucket's peak load is growing 5-times the statewide average due to unprecedented growth. Unless the island can significantly reduce its demand and supplement imported power supply in the next few years, local ratepayers will be burdened with the cost of an environmentally-disruptive third submarine delivery cable from the mainland, with an estimated price tag of \$200 Million to Nantucket's ~13,000 ratepayers, alone.

The Town has diligently explored alternative sites for meaningful solar projects over the last decade, encountering numerous challenges along the way. However, the public has repeatedly (and unanimously) supported the Town's solar ambitions through multiple Annual Town Meeting articles.

I trust the Town's conclusion that the 1 Milestone Rd. Property is the best—and only—site available in the near and foreseeable future to construct an impactful solar energy generating facility on Nantucket. If not here, then where? And when?

I am also disappointed in the Land Council's questionable claims of opposition, which do not represent the sentiment of our community. The site already serves an industrial purpose (which will not be impacted), will be screened with existing and native vegetation, and is centrally located to provide optimal power load relief where it is needed most.

The island requires this clean power source now, for its own resiliency and sustainable energy future. It must move forward and with urgency.

Thank you,

Robert W. King, Jr.
23 Allens Lane
Nantucket, MA 02554

Vaughan, Eva (EEA)

From: Claire McElwain <claire@acksmart.com>
Sent: Monday, May 15, 2023 9:56 AM
To: Vaughan, Eva (EEA)
Subject: 1 Milestone Solar Project

Follow Up Flag: Follow up
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Good morning Ms Vaughan,

My name is Claire, I am a year-round resident of Nantucket Island. I am writing to you today on behalf of the 1 Milestone Road solar project vehemently advocating in support of the project. In a place that sees the effects of climate change so directly, threatening our very long-term existence, we must do everything we can to support renewable energy.

Please be on the right side of history and bring this to fruition so that we might enjoy our island, and our planet really, for generations to come.

Best,
Claire McElwain

Vaughan, Eva (EEA)

From: Ian Golding <almac1@comcast.net>
Sent: Monday, May 15, 2023 12:25 PM
To: Vaughan, Eva (EEA)
Subject: re. Nantucket Solar Farm Project

Follow Up Flag: Follow up
Flag Status: Completed

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Dear Ms. Vaughan,

As a resident and registered voter of Nantucket for over forty years, I would like to express my strong support for this project.

Thank you for your consideration in this matter.

Sincerely,

Ian Golding
31 Hussey St.
Nantucket MA 02554

508.325.0562

Vaughan, Eva (EEA)

From: Jamie Foster <jamie@nantucketboysandgirlsclub.org>
Sent: Monday, May 15, 2023 9:21 AM
To: Vaughan, Eva (EEA)
Subject: 1 Milestone

Follow Up Flag: Follow up
Flag Status: Completed

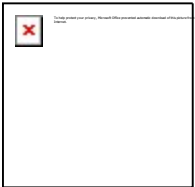
CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Eva,
We support this amazing project!

Best,
Jamie

--

Jamie Foster
Chief Executive Officer
jamie@nantucketbgc.org
508-228-0158



Vaughan, Eva (EEA)

From: JohnCarl McGrady <johncarlsmcgrady@gmail.com>
Sent: Monday, May 15, 2023 11:05 PM
To: Vaughan, Eva (EEA)
Cc: Lauren Sinatra
Subject: Support for Solar Farm on Nantucket

Follow Up Flag: Follow up
Flag Status: Completed

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Hello Eva,

I am writing to express my support for the proposed solar array at 1 Milestone Road on Nantucket. I am a college student who has lived on Nantucket my whole life and am a strong advocate for renewable energy.

This project would generate cheap, clean local energy and offset a significant amount of greenhouse gas emissions. It will offer enormous environmental upsides with almost no drawbacks. I know you believe in environmentalism, so you certainly understand how important this is.

The project, however, is especially important for Nantucket. We are facing a bigger energy crisis than most communities. If we do not make major cuts to the amount of energy we are importing from the mainland, we will soon be forced to lay a third undersea cable connecting us to the Cape, a project that could cost \$200 million. We simply can't afford that. Therefore, this array must be built.

Thank you,

JohnCarl

--

JohnCarl McGrady
774-236-0773
Williams '25
he/him

Vaughan, Eva (EEA)

From: Joanna Roche <jroche@mariamitchell.org>
Sent: Monday, May 15, 2023 4:23 PM
To: Vaughan, Eva (EEA)
Cc: Lauren Sinatra
Subject: Support for Nantucket Wannacomet Water Company Solar Project

Follow Up Flag: Follow up
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Dear Eva –

On behalf of the Maria Mitchell Association, I am writing to support the Town of Nantucket and Wannacomet Water Company as they seek to bring this transformative, local renewable energy project to fruition. This project will support the town's 'Beat the peak' initiative and help to offset the demand during the summer months. The solar panels represent clean energy with little impact to the environment, the viewshed, or the night sky.

We endorse this project and applaud the efforts of the town and this partnership.

Sincerely,

Joanna

Joanna Roche | Executive Director

Maria Mitchell Association



www.mariamitchell.org

508.228.9198

Vaughan, Eva (EEA)

From: James Thomas <jimthomas2.nj@verizon.net>
Sent: Monday, May 15, 2023 3:10 PM
To: Vaughan, Eva (EEA)
Subject: Solar plans

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I have had solar on my house in Nantucket for many year and it works real well. I also have on my home in NJ. This is something that Nantucket should have been doing for years. Another good site might be out at the dump.

Jim

James Thomas
230 Thomas Road
Mendham, NJ 07945
973-543-6752 (h)
973-214-6056 (c)

Vaughan, Eva (EEA)

From: Jack Weinhold <jackweinhold@gmail.com>
Sent: Monday, May 15, 2023 1:00 PM
To: Vaughan, Eva (EEA)
Subject: Nantucket Solar Farm

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Ms. Vaughan -

Please hear my full support for the proposed Solar Farm on the water company site. I have been looking forward to this day since the 90s. Thanks for your help in making this a reality.

Jack Weinhold

--

Jack Weinhold
508-228-5242

Vaughan, Eva (EEA)

From: margaret layton <margaretlayton@mac.com>
Sent: Monday, May 15, 2023 4:32 PM
To: Vaughan, Eva (EEA)
Subject: I support this

Follow Up Flag: Follow up
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Will our water costs go down because of the project?

Vaughan, Eva (EEA)

From: Posie Constable <posie@sustainablenantucket.org>
Sent: Monday, May 15, 2023 10:56 AM
To: Vaughan, Eva (EEA)
Subject: Solar farm at 1 Milestone Road on Nantucket

Follow Up Flag: Follow up
Flag Status: Flagged

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Ms. Vaughn,

I am writing in support of the proposed 3.8 megawatt solar project at Wannacommet Water property on Nantucket. This project would be a huge win for the island that is currently entirely reliant upon two underground sea cables that provide our electrical needs. With the growth of development on the island, we need an independent source of power, particularly in the summer months where the island endures peak load from summer businesses and summer residents. To be built on a parcel of land that can also provide for wildlife mitigation strategies while serving the year round community, we can scarcely do without this and I hope we can find parcels where even more solar can be installed.

As a homeowner with a solar array and battery backup, as well as a business manager of a small farm with three solar arrays, I have seen firsthand the benefits of solar and hope to see this project approved and put under construction as soon as possible.

I am available for further comments should you wish.

Regards,

Posie Constable

--

Posie Constable
Managing Director
Sustainable Nantucket

(cell) 646.483.7787

Vaughan, Eva (EEA)

From: Steven Leinbach <polpis@mindspring.com>
Sent: Monday, May 15, 2023 7:41 AM
To: Vaughan, Eva (EEA)
Subject: Nantucket Solar Farm 1 Milestone Rd. comment

Follow Up Flag: Follow up
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Dear miss Vaughan,

I would like start out by stating that I am a firm believer in solar energy.

However this project is in the wrong location.

Below are issues I have with this project as proposed at the Wannacomet Water Company property at 1 Milestone Rd.

- I oppose any industrial type project no matter what mitigation is being claimed directly above the sole source aquafer that supplies our Island.
- I oppose clear cutting critical habitat at that site that cannot be replicated anywhere on island and the project developer, Total Energy, being allowed to write a check to Natural Heritage as acceptable mitigation. It sets a very bad precedent for other for profit developers to follow.
- That property has article 97 protection and when signed over to the Town of Nantucket was only done so with the restriction that the land be preserved forever wild.
- The Town of Nantucket has NOT exercised due diligence in exploring alternate sites such as rooftops of municipal buildings and on permanently capped landfill cells, nor have they come up with an overall renewable energy policy for the town.

I believe that before forever wild critical habitat is clear cut that the Town of Nantucket needs to do more work to find proper locations on Island for any renewable energy projects.

This is my formal objection to this project.

Respectfully,
Steven Leinbach
52 Monomoy Rd. Nantucket MA 02554
polpis@mindspring.com
508-325-1922 cell



Virus-free. www.avast.com

Vaughan, Eva (EEA)

From: Tim Carruthers <tim@acksmart.com>
Sent: Monday, May 15, 2023 9:37 AM
To: Vaughan, Eva (EEA)
Subject: Support for Solar Farm at 1 Milestone Rd

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Eva,

I am 100% in support of this much needed project!

Best regards,

Tim.

Tim Carruthers
Director of Operations
ACK Smart Energy
781-325-6128

Vaughan, Eva (EEA)

From: Tamara Grenier <tamgren@gmail.com>
Sent: Monday, May 15, 2023 7:05 PM
To: Vaughan, Eva (EEA)
Subject: Nantucket Solar Farm

Follow Up Flag: Follow up
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Dear Ms Vaughan:

I am writing to voice support for the proposed solar farm project at 1 Milestone Rd. on Nantucket. With Nantucket's infrastructure so limited to begin with, and considering the ever-increasing demand on the electric grid, solar is an intelligent option for the island and probably the most effective alternative energy source available.

Solar is inexpensive compared to other sources and requires little to no maintenance. I had a residential ground mount solar array that paid for itself in less than 8 years and never required any form of maintenance. There is no threat to birds or aircraft as in wind power. A productive solar farm could potentially save the island from another costly underground electric cable from the mainland.

I sincerely hope you will give full consideration to this project.

Respectfully,

Tamara Grenier

Rev. Tamara Tomasini Grenier

"The essence of the beautiful is unity in variety" Felix Mendelssohn

"We are here to awaken from the illusion of separateness" Thich Nhat Hanh

tamaragrenier.com

Vaughan, Eva (EEA)

From: Virna Gonzalez <vgonzalez@remainnantucket.org>
Sent: Monday, May 15, 2023 10:13 AM
To: Vaughan, Eva (EEA)
Cc: Sinatra, Lauren
Subject: Support for solar energy on Nantucket

Follow Up Flag: Follow up
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Good morning Eva,

Speaking as a homeowner and long-time environmental supporter for over 20 years on Nantucket, solar energy is an incredibly impactful way to make a difference in lowering our carbon footprint.

Within the island, population spikes and limited energy resources are pressing.

We are so far behind in sustainability solutions and at a critical turning point. Every effort matters. The fear of projects like these not being able to be effective given the alarming trajectories and rapid climate shifts is a plausible reality to consider.

We must do all we can to turn the dial back and forge toward a viable, sustainable future.

You have my support for the proposed Solar Farm on 1 Milestone Road.

Wishing this project well~

Virna Gonzalez
19 Wappossett Circle
Nantucket, MA

--

Virna Gonzalez (*Veer-nah*)

Project and Marketing Manager

remainnantucket.org

nantucketfootprints.org

Direct: 508-901-4143

Office: 508-901-4140

Cell: 917-494-0187

PO Box 359

Nantucket, MA 02554

Vaughan, Eva (EEA)

From: Alan OConnor <alan@86hpr.com>
Sent: Tuesday, May 16, 2023 1:44 PM
To: Vaughan, Eva (EEA)
Subject: Support of solar farm in Nantucket

Follow Up Flag: Follow up
Flag Status: Flagged

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Hi Eva,

I am writing in support of the proposed solar project at 1 Milestone Rd in Nantucket. I strongly believe that this project will be a great benefit to the community and the environment.

As we all know, solar energy is a clean and renewable source of energy that helps reduce our dependence on fossil fuels. The proposed project will generate clean energy and reduce greenhouse gas emissions, which will contribute to the fight against climate change.

Additionally, the solar project may create local jobs during the construction phase and provide ongoing revenue to the town. This revenue can be used to support important community services and infrastructure.

I understand that there may be concerns about the visual impact of the solar panels, however I believe that the benefits of this project far outweigh any potential drawbacks and the panels will be positioned in a way that obscures or minimizes their visibility.

In conclusion, I urge you to support the proposed solar project at 1 Milestone Rd in Nantucket. This project will help create a more sustainable future for our community and provide tangible benefits to the town.

Thank you for your consideration.

Sincerely,

Alan

Vaughan, Eva (EEA)

From: Barbara and Mark White <mnbwhite@gmail.com>
Sent: Tuesday, May 16, 2023 9:18 AM
To: Vaughan, Eva (EEA)
Subject: Solar Project, Nantucket

Follow Up Flag: Follow up
Flag Status: Completed

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Dear Ms. Vaughan,

Please put your support behind the Nantucket Solar Project. We are the proud owners of the first roof-top installation of solar panels on the island. Since then, we have been pleased to see other buildings install solar panels. While positive, these are not enough if we want to avoid having a third underwater cable built. Nantucket should be a shining example of renewable energy.

Thank you.

--

Mark and Barbara White

“We can either have democracy in this country or we can have great wealth concentrated in the hands of a few, but we can’t have both.”

*-LOUIS BRANDEIS
U.S. SUPREME COURT JUSTICE (1856-1941)*

Vaughan, Eva (EEA)

From: Brad Henke <bradhenke2018@gmail.com>
Sent: Tuesday, May 16, 2023 12:38 AM
To: Vaughan, Eva (EEA)
Subject: Solar Farm Project

Follow Up Flag: Follow up
Flag Status: Completed

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Yes, I am in favor of the Solar Farm Project, so much so that I would like to put one on my property @ 14 Oak Hollow Lane, Map 114, Parcel 56;
However there is a restriction on 6 acres of my 7 acre property that the Land Council holds. It states all I can do is lightly trim and hunt.
I will call them tomorrow .
Thank you.
Bradley M. Henke

Vaughan, Eva (EEA)

From: Cary Hazlegrove <cary@hazlegrove.com>
Sent: Tuesday, May 16, 2023 10:58 AM
To: Vaughan, Eva (EEA)
Subject: I support Nantucket Solar Farm

Follow Up Flag: Follow up
Flag Status: Completed

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Dear Eva,
I have had solar on my house for 5 years.
Installing solar is the most important decision as a homeowner, I have made.
The possibility of a Nantucket municipal solar farm absolutely needs to happen, so I am writing in support of this important clean energy possibility.
Thank you,
Cary Hazlegrove

--

CARY HAZLEGROVE | PHOTOGRAPHY

www.hazlegrove.com
www.greyladygallery.com
www.nantucketstock.com

(508) 878-3885

Vaughan, Eva (EEA)

From: Karen Alence <karen@cotuitsolar.com>
Sent: Tuesday, May 16, 2023 9:51 AM
To: Vaughan, Eva (EEA)
Cc: Lauren Sinatra; Cotuit Solar
Subject: Solar Support

Follow Up Flag: Follow up
Flag Status: Flagged

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Greetings Ms. Vaughan,

I am writing you to express my wholehearted support for the solar farm project at 1 Milestone Road Nantucket. I see only positive attributes for this project - no negatives. The island desperately needs to generate as much as possible of its own energy via sustainable sources. This project will greatly contribute to this goal. It is aesthetically pleasing with low profile as well so I can see no reason why there would be any objection to it.

Karen

--

Karen Alence
Cotuit Solar
P.O. Box 2939
65 Somerset Road
Nantucket, MA 02584
(508)-228-3205
(802)-324-3482 (cell)
www.cotuitsolar.com

Monomoy Civic Association
PO Box 3289
Nantucket, MA 02584

May 15, 2023

Secretary Rebecca Tepper
Executive Office of Energy and Environmental Affairs
MEPA Office
100 Cambridge St., Suite 900
Boston, MA 02114

Re: EEA# 16693. Filing of Environmental Notification Form (ENF) for the Solar Star Tranquility LLC Project at 1 Milestone Road in Nantucket, Massachusetts

Dear Secretary Tepper.

I am writing on behalf of the Monomoy Civic Association to voice our strong opposition to the planned environmental mitigation request by TotalEnergies Renewables USA (“Total”) at 1 Milestone Road in Nantucket, MA. The Monomoy Civic Association is a homeowner association representing more than 80 homes in the Monomoy Community. The Monomoy community abuts the planned project at 1 Milestone Road.

We support responsibly built solar projects but question important aspects of this specific project.

This land is protected open space under Article 97 of the Massachusetts Constitution. The Town of Nantucket and Total have taken the position that the referenced property is not protected under Article 97. However, this is a convenient twisting of the facts to support the development of this land. 1 Milestone Road is mapped as Article 97 protected land. A legal opinion supporting this conclusion is attached.

There are numerous misrepresentations by Total and the Town of Nantucket regarding this project and renewable energy development on Nantucket. Key points are noted below.

1. **Alternative renewable site development.** Unlike the island of Martha’s Vineyard, Nantucket has made no effort to develop rooftop solar on the numerous municipal buildings on the island. The island landfill includes significant available land that could be used to develop a similarly sized solar installation. The Town has made only modest efforts to encourage solar development on commercial and residential buildings. As a result, there is virtually no solar use on commercial buildings on Nantucket and there has been only modest deployment of solar power on residential buildings.
2. **Endangered Species.** The ENF omits Northern Long Eared Bat (NLEB) habitat that is located at 1 Milestone Road. The NLEB has recently been redesignated as a federally endangered species and Nantucket is or will be habitat for that federally protected species.
3. **Irreparable harm.** Total proposes clear cutting more than 10 acres of wooded land that supports endangered species and bird habitat. If this land is clear cut, the harm to these species and our community will be irreparable.

4. **Precedent.** We oppose the Town of Nantucket and Total setting the precedent that it is acceptable to destroy endangered species habitat on Nantucket and address that loss of habitat with financial remuneration to off-island environment remediation. If this exception is made for the Town municipal project, it will clear the way for unfettered environmental damage to the pristine Nantucket ecosystem.
5. **Community Education.** The Town of Nantucket has done everything possible to minimize the education of the public about the issues associated with the planned solar development at 1 Milestone Road. Our organization has requested that the Town educate island residents about the pros and cons of the planned development. The Town has resisted these requests. Their efforts have been limited to discussing the project at poorly attended Town administrative meetings. They only agreed to setbacks and visual screening in response to pressure from our organization. If island residents were aware of the plan to destroy an endangered species habitat, they would be strongly opposed.

For these reasons we request that the Massachusetts Environmental Policy Act (MEPA) Office ensure that these issues are fully addressed during the ENF and Environmental Impact Report review process. This project should not be allowed to proceed as proposed for the reasons stated above.

We are available for further discussion of this request.

Sincerely

A handwritten signature in black ink that reads "Ken Roman" with "MCA" written in smaller letters below the name.

Kenneth Roman

President

Monomoy Civic Association

Cc. Eva Vaughan
Environmental Analyst
Massachusetts Environmental Policy Act (MEPA) Office

Attachment: Pierce Atwood letter Re. Proposed Wyer's Valley Solar Project

Daniel J. Bailey, III

100 Summer Street
22nd Floor
Boston, MA 02110

617.488.8165 voice
617.824.2020 fax
dbailey@pierceatwood.com
www.pierceatwood.com

Admitted in: MA

VIA FEDERAL EXPRESS

March 16, 2021

Nantucket Select Board
16 Broad Street
Nantucket, MA 02554

RE: Proposed Wyer's Valley Solar Project

Dear Members of the Board:

We have reviewed the opinion letter from your counsel, Vicki Marsh, dated February 22, 2021 (the "Opinion"). In the Opinion, Ms. Marsh concludes that the property owned by the Town of Nantucket (the "Town"), through the Board of Water Commissioners, located at 1 Milestone Road (the "Property") is not subject to Article 97 of the Amendments of the Massachusetts Constitution ("Article 97"). We strongly disagree with Ms. Marsh's conclusion. The cases on which she relies do not involve a Town Meeting vote – as exists in this matter -- to maintain lands "in their natural state for the protection of the water supply." That condition of the 1987 Town Meeting vote ("1987 Vote") plainly triggers Article 97 protection for the Property.

We also want to point out that the solar project will have to comply with the requirements of Section 139.12.B(2)(q) of the Zoning Bylaw, which provides that a system for artificial recharge of 95% of annual precipitation be provided when more than 15% of a lot in the Public Wellhead Recharge Zoning District is rendered impervious.

Article 97

The Opinion relies heavily on analysis of Mahajan v. Department of Environmental Protection, 464 Mass. 604, (2013), Mirkovic v. Guercio, (2017) 4681972 (Land Court 2017), and to a lesser extent Smith v. City of Westfield, 478 Mass. 49 (2017). Each of these cases is readily distinguished.

Mahajan addressed redevelopment of blighted land in downtown Boston, and was thus a very different scenario than this case. In Mahajan, the Boston Redevelopment Authority (“BRA”) acquired land through eminent domain in connection with an urban renewal project. The goal of the urban renewal project was “to stimulate and to facilitate development efforts in the area, by eliminating those severe conditions of blight, deterioration, obsolescence, traffic congestion and incompatible land uses which hinder private investment in new development.” Mahajan at 607. While the Massachusetts Supreme Judicial Court (“SJC”) acknowledged that certain aspects of an urban renewal plan may accomplish goals similar to those outlined in Article 97, the overarching purpose for which the land was taken was distinct from Article 97 purposes. Mahajan at 615. Indeed, as someone personally familiar with the deteriorated condition of the Boston waterfront in the 1960s and 1970s, and the hugely successful condition of that area today, the commercial redevelopment of the waterfront is what has facilitated the public access and amenities that are now available.

By contrast, the 1987 Vote authorized the acquisition of existing water company improvements and the preservation of water company land for the protection of the Nantucket water supply. There was no redevelopment contemplated by the 1987 Vote. Paragraph 5 of the 1987 Vote states specifically that the lands acquired by the Town “shall be maintained in their natural state for the protection of water supply.” Protection of the water supply was a central tenet of the 1987 Vote, unlike the general redevelopment purpose served by the BRA taking in Mahajan.

Similarly, in Mirkovic the Land Court considered whether a property that had been acquired for “purposes of protection of water resources and other compatible purposes including conservation and recreation...” was protected by Article 97. The Land Court concluded that while protection of water resources was an Article 97 protected purpose, the very language of the deed anticipated other non-Article 97 uses and, therefore, did not invoke the protections of Article 97. That is not the case here. The 1987 Vote expressly states that the “Property be maintained in its **natural state** for the protection of the water supply.” This is the critical distinction – the deed in Mirkovic did not mandate that the property be kept in a natural state, while the 1987 Vote plainly does require that the Property be maintained in its natural state.

The Town has all but acknowledged this. In 2011, while seeking authority from the citizens of Nantucket to pursue a solar power project, the Town explicitly asked for the authority to “file a home rule petition to authorize the new use pursuant to Article 97 of the Amendments to the Massachusetts Constitution...” This intent, evidenced in the 1987 Vote, reaffirmed in 2011, and supported by over 30 years of conservation, is notably different from the facts of Mahajan and Mirkovic.

We also note that Mirkovic is a trial court decision and as such is not binding precedent. In our view that decision relied improperly on an analysis of the uses allowed on the affected property under the municipal zoning bylaw. Such an analysis is misplaced. A town cannot subvert Article 97 protections simply by changing permissible uses of the protected land at a

town meeting. This would completely emasculate the Massachusetts Constitutional protections embodied in Article 97. Instead, protection of land would depend entirely on the changing composition of town leadership and its pro-development or pro-preservation proclivities.

Smith v. Westfield is of little relevance here. At most, it represents the breadth of Article 97 protection. Westfield confirmed what the SJC had suggested in Mahajan -- that even where a deed or town meeting vote by which a property was acquired is silent as to the purpose of the acquisition, Article 97 protection can be conferred by a long period of a use protected by Article 97. Of course, when the Property in question here was acquired, the 1987 Vote expressly stated that the Property was to be maintained in its natural state. The Town has never sought Legislative permission to alter the Property's status and may not do so unless it obtains that permission.

Zoning Requirements

The proposed solar project will be located in the Public Wellhead Recharge Zoning Overlay District. Section 139.12.B(2)(q) of the Zoning Bylaw prohibits all land uses that render impervious more than 15% of any lot, unless an artificial recharge system is provided:

139.12.B(2)(q): All land uses, buildings, and accessory structures, that result in rendering impervious more than 15% or 2,500 square feet of any lot, whichever is greater, unless a system for artificial recharge of 95% of annual precipitation is provided that will not result in the degradation of groundwater quality. The Planning Board may require that an applicant provide evidence of groundwater protection which may include a demonstrated history of treatment effectiveness of the proposed design/treatment technology, and it may require monitoring of on-site, pre- and post-development groundwater quality for potential pollutants.

For nonresidential uses, recharge shall be by open stormwater infiltration basins or similar system covered with natural vegetation, and subsurface infiltration shall be used only where other methods are infeasible. For all nonresidential uses, all such basins and subsurface infiltration structures shall be preceded by pretreatment best management practices to facilitate removal of contamination. Any and all recharge areas shall be permanently maintained in full working order by the owner.

It is our understanding that the solar project will cover approximately 10 of the 50 acres at the Property. Accordingly, the project will render 20% of the Property impervious (not counting any part of the Property that is already impervious), and will therefore need to comply with the requirements of Zoning Bylaw Section 139.12.B(2)(q).

Conclusion

For the foregoing reasons it remains our opinion that 1987 Vote established that the Wyers Valley land is subject to Article 97 protection. In addition, the solar project will need to comply with the stormwater recharge requirements of Zoning Bylaw Section 139.12.B(2)(q). We look forward to working with you to ensure that the Weyer's Valley property is appropriately protected going forward.

Sincerely yours,

Daniel J. Bailey

Daniel J. Bailey

DJB/smg

cc: Vicki Marsh, Esq.
Everose Schluter, Mass. Natural Heritage and Endangered Species Program
Emily Molden



Nantucket Land Council

Nantucket's Environmental Advocate

Six Ash Lane, PO Box 502, Nantucket, MA 02554
508.228.2818 | www.nantucketlandcouncil.org

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Communications Manager

May 16, 2023

Secretary Rebecca Tepper
Executive Office of Energy and Environmental Affairs
MEPA Office
100 Cambridge St., Suite 900
Boston, MA 02114

**Re: EEA #16693 Environmental Notification Form
Eva Vaughan - Environmental Analyst
Solar Star Tranquility LLC - Nantucket Massachusetts**

Dear Secretary Tepper,

The mission of the Nantucket Land Council (NLC), a non-profit organization established in 1974, is to protect and preserve the fragile natural resources of Nantucket for the sustainability of the environment and the health of our community. On behalf of its thousands of members, donors and volunteers who reside on Nantucket, NLC submits the following comments regarding the Environmental Notification Form (ENF) filing by Solar Star Tranquility LLC and appearing in the Environmental Monitor on April 26, 2023. The Nantucket Land Council is generally very supportive of the Town of Nantucket's pursuit of alternative energy including solar power production on Nantucket. The NLC is very concerned, however, about a number of additional environmental interests impacted by the Solar Star Tranquility LLC Project that have not been addressed. These concerns must be addressed in order to satisfy the mission of the Massachusetts Environmental Policy Act (MEPA) Office and review process.

CONVERSION OF ARTICLE 97 LAND

The parcel of land at 1 Milestone Road where the Solar Star Tranquility LLC Project is proposed was acquired by the Town of Nantucket for natural resources purposes in accordance with Article 97. In the Environmental Notification Form application under Land Section (D), the project proponent indicates that this is not the case. Based on our review, however, it is clear that this property was acquired to be held in its natural state for the protection of Nantucket's public drinking water supply. Please refer to the legal opinion of Dennis A. Murphy, Esq dated May 16, 2023 attached hereto. The conversion of this Article 97 land must be addressed by the MEPA review process.



RARE SPECIES HABITAT

The location of the proposed solar installation is mapped as state-listed species Priority Habitat. As provided in the ENF filing, it has been determined by the Natural Heritage and Endangered Species Program (NHESP) that the proposed project will result in a “Take” of six state-listed lepidoptera species. These species are all restricted in Massachusetts based on their habitat, primarily occurring only in the coastal plain and pine-scrub barrens of Southeastern MA, the Cape and/or islands of Martha’s Vineyard and Nantucket. The *Heterocampa varia*, Sandplain Heterocampa, presently occurs only on the islands of Martha’s Vineyard and Nantucket. The Massachusetts Endangered Species Act (MESA) regulations stipulate under 321 CMR 10.24(1) that a Conservation Management Permit may only be issued for the “Take” of these species provided that the “Take” will be mitigated to provide a long-term Net Benefit to the species.

We are extremely concerned about and strongly opposed to the “off-site conservation funding” mitigation as described in the application. This type of payment in-lieu of physical habitat mitigation is a new practice for Nantucket and sets a very damaging precedent for rare species and overall biodiversity interests for the island. This type of policy makes it incredibly difficult to ensure that mitigation will appropriately offset the “Take”. What is even more concerning is the suggestion that a majority of this funding may be used for species habitat improvement off-island.

Nantucket island hosts unique ecology, habitat and species. It is home to some of the highest quality and most extensive early successional upland habitats in the state, including Pitch Pine-Scrub Oak barrens. These habitats in turn host a suite of rare species specifically adapted to Nantucket’s unique conditions. Mitigation for impacts to this habitat and these species must occur on Nantucket. Otherwise, there will be no real mitigation for the loss of habitat on this Island.

Calculation of Mitigation Funding

MESA regulations specifically outline the calculation of area habitat mitigation ratios under 321 CMR 10.24 (7)(1) required to meet the long-term net benefit criteria, based on the status of the species. While the regulations reserve the right to allow for an alternative approach, there is no clear direction for the calculation of a payment in-lieu of habitat mitigation. The ENF describes a requirement for 20.5 acres of actual habitat mitigation as calculated under MESA. A proposed payment of \$246,034 in-lieu of 20.5 acres of habitat mitigation is nowhere near comparable. Any policy or system used to calculate an in-lieu fee payment option should be fully transparent if it is to replace the clear acreage ratio requirements of physical land protection as described in the MESA regulations. This must also take into account the land values of the impacted habitat to ensure equitable mitigation costs for a payment in-lieu of land protection. Because this land is also protected under Article 97 and the no net loss principle is codified in the Public Land Preservation Act, G.L. c. 3, s. 5A, a low-ball payment in lieu that fails to provide an equivalent habitat would be unlawful.

Alternative Partnership Options for Mitigation

The ENF materials describe efforts to find alternative partnerships with other island or state entities to fulfill the mitigation requirements. While discussions may have taken place around alternative mitigation sites on Town of Nantucket and Nantucket Land Bank parcels, based on personal communications and contrary to the application, the Nantucket Conservation Foundation did not participate in such discussions regarding their own properties. It is important for the MEPA process to identify whether additional efforts can be made to establish physical habitat mitigation on Nantucket.

The property owned by the Massachusetts Department of Conservation and Recreation (DCR) at 5 and 24 Milestone Road provides an incredible opportunity for fulfilling on island mitigation requirements for this project as well as achieving many other management goals for DCR. This option should not be dismissed without clear explanation. This important alternative and opportunity should be further explored through the MEPA review process. All alternatives must be considered.

Northern Long Eared Bats

The Northern Long Eared Bat (NLEB) is listed as an endangered species in Massachusetts. In the time since the issuance of the NHESP determination letter dated December 29, 2020, the NLEB has also been up-listed to Federal endangered status as a result of its decimation from the fungal disease, White Nose Syndrome. Nantucket island serves as a critical refuge for this species with very little evidence of the disease, and Pitch Pine-Scrub Oak forests are now known to be one of the most important vegetation communities for NLEB on Nantucket. We know that NLEBs are using these areas extensively for breeding and roosting. The Nantucket Conservation Foundation has detected NLEB within 1 mile of this site in similar Pitch Pine-Scrub Oak habitat off of Milestone Road. This site is not currently mapped as Priority Habitat for NLEB because a survey for the species has not been conducted. The NHESP has the authority to require a site survey to determine whether it should, in fact, be mapped. While the USFWS is finalizing new regulations for NLEB, they have provided interim guidance for activities in NLEB habitat, including a process for determining the likelihood of a “Take” of NLEB and a process for seeking an Incidental Take Permit. The project proponent should be required to conduct site surveys for NLEB prior to any tree clearing and should be required to apply for an Incidental Take Permit if their presence is confirmed.

End of Lease Conditions

It is unclear whether there is a precedent for managing end-of lease habitat impacts, but the unknown future of the site beyond the 25-year lease period raises the following questions and concerns. If the site is to be restored following the lease, when would the restoration plan be submitted for approval and when would site restoration be required to begin? What would be the deadline for determining whether the lease period or any other use would extend the duration of habitat loss at the site? Would the original “Take” determination be carried forward 25 years for future mitigation or would new and existing island conditions and rare species status be taken into account?

CONSTRUCTION PROTOCOLS AND SITE DISTURBANCE

The site of the proposed solar installation at 1 Milestone Road is located in a Zone 1 area which is the primary protection area around Nantucket's public water supply. The ENF noted the requirement to file with Massachusetts Department of Environmental Protection (MassDEP) as a result. The ENF describes minimal impacts from stormwater associated with impervious surfaces and provides that a construction period Stormwater Pollution Prevention Plan (SWPPP) and long-term Operations and Maintenance (O&M) plan will be prepared at a later date. Any form of construction including the clear cutting and grubbing of 13 acres and the installation of the proposed solar panels will require the use of significant equipment and machinery. There must be clear construction protocols in place to ensure that all risks associated with the use of this equipment in such close proximity to our public water supply are minimized as much as possible. Any future maintenance of the site must also be subject to strict protocols which should be documented and available for public review. These protocols must also include a Decommissioning Plan which should be reviewed as part of the MEPA review process to ensure that appropriate plans are in place to facilitate the restoration of the site at the end of the proposed 25 year lease.

ALTERNATIVES ANALYSIS

As discussed during the online MEPA Consultation Session for this project, it is incumbent upon the project proponent to provide detailed information for an alternatives analysis. This analysis is important not only for mitigation options to offset negative impacts, but also for overall site selection. The Town of Nantucket has not undertaken the process of developing a comprehensive island wide energy management plan. A series of locations have been considered by the contracted solar company TotalEnergies (SunPower) for this project, but the Town must conduct a more comprehensive assessment and evaluation of all sites for overall feasibility for a broader spectrum of potential projects. Identifying the most cost effective location for a particular project is very different from evaluating the island for the best use of space and resources balancing associated negative impacts and costs to other environmental interests. The MEPA review process must evaluate the larger alternatives analysis for Nantucket which has not been sufficiently completed.

CONCLUSION

Per the MEPA regulations, 301 CMR 11.01 1.b, *“the Secretary's decision that a review document is adequate or that there has been other due compliance with MEPA and 301 CMR 11.00 means that the Proponent has adequately described and analyzed the Project and its alternatives, and assessed its potential environmental impacts and mitigation measures.”* We understand that this project will require a mandatory Draft Environmental Impact Report (DEIR) and Environmental Impact Report (EIR). As proposed, this project does not address critical elements that stand to negatively impact Nantucket's environmental resources

including land protected under Article 97 of the Massachusetts Constitution, and the loss of important Priority Habitat without sufficient mitigation. We ask that the Secretary ensure these issues are properly addressed. Otherwise, this project should not be permitted to proceed.

Thank you for your time, and for this opportunity to comment.

Sincerely,

A handwritten signature in blue ink that reads "Emily Molden". The signature is written in a cursive style with a light blue background behind the text.

Emily Molden
Executive Director

Enclosure



May 16, 2023

**BY EMAIL: MEPA@mass.gov;
eva.vaughan@state.ma.us@mass.gov**

Eva Vaughan, Environmental Analyst
Massachusetts Environmental Policy Act Office
100 Cambridge Street, 9th Floor
Boston, MA 02114

Re: ENF for Solar Star Tranquility LLC, Nantucket MA, EEA# 16693

Dear Ms. Vaughan:

Please accept this public comment on behalf of Nantucket Land Council, from its attorney, to EEA's Land Use Team to ensure compliance with Article 97.

Article 97 of the Amendments to the Massachusetts Constitution bestows upon the people of the Commonwealth the right to clean water and the protection of other natural resources. Mass. Constitution, Art. XCVII. Public land acquired or designated for a particular purpose cannot be put to another use (even another public purpose) without complying with the procedural requirements of Article 97. Article 97 provides the most sacrosanct protection of land available under the law. Just as important as the substantive protections of Article 97 are the procedural protections: who gets to decide what use public lands may serve. The ENF sidesteps this important procedural requirement that would thwart the process enshrined in Article 97.

Because we all collectively own public land, Article 97 requires a two-thirds vote of our elected representatives in the Legislature to change the use for which such land was acquired, designated or taken. Article 97 stems from the prior public use doctrine, which holds that public land devoted to a particular public purpose cannot be diverted to another purpose without explicit authorization. That authorization must come from the people of the Commonwealth, through their elected representatives in the Legislature, as well as other required local approvals.

A review of the history of the property leaves no doubt it remains subject to Article 97. By Notice of Taking dated January 28, 1960, the Wannacomet Water Company took the property by eminent domain for the purpose of "collecting, conducting and distributing water among the Inhabitants of the Town of Nantucket." (1/28/60 Notice of Taking, Bk 119 Pg 442) In 1987 Town Meeting authorized the transfer of all assets of the water company to the Town, including the "restriction that any lands so transferred shall be maintained in their natural state for the protection of water supply and as a service area for water purposes for the benefit of the inhabitants of Nantucket." (3/31/88 deed, Bk 296 Pg 200) When the deed was recorded to effectuate that transfer, the 1987 warrant article from Town Meeting was recorded alongside it as an integral part of the record title. In 2011 Town Meeting approved the lease of the property for a

solar array, subject to a home rule petition to authorize the new use pursuant to Article 97, as necessary. Copies of the 1960 Takings Order, 1988 Deed and 2011 warrant are attached.

The artful distinction drawn by Town Counsel misreads the record title and caselaw interpreting Article 97. (2/22/21 Ltr. from Attorney Marsh, ENF Appx. B) Her analysis omits reference to the 1960 taking for the purpose of “collecting, conducting and distributing” water to the island of Nantucket. And it ignores the 1987 warrant article attached to the deed, which reiterates this purpose (“protection of water supply” and “service area for water purposes”). That deed states unequivocally the “restriction” approved by Town Meeting that the lands transferred “shall be maintained in their natural state”. There is no ambiguity in those pellucid terms.

In the Mahajan case, the SJC determined that an urban renewal plan with fifteen different objectives, only one of which was to establish “public ways, parks and plazas”, did not confer Article 97 protection because that plan was not directed at a singular public purpose. Mahajan v. DEP, 464 Mass. 604, 617 (2013) Because the overarching purpose of the revitalization plan was to eliminate urban blight, and open space was merely incidental, Article 97 was not implicated.

Here, by contrast, the original 1960 taking and 1988 deed both reference water supply and protection as a singular public purpose from the outset. The 1960 taking was to collect and distribute water to the inhabitant of Nantucket. The 1988 deed was to protect the water supply and provide a service area for water purposes. These are consistent purposes that fall within the core protection of Article 97, and stand in stark contrast with Mahajan where multiple, inconsistent purposes did not and were merely incidental to the main objective. Because the property remains protected by Article 97 to be kept forever in its “natural state”, acres of priority habitat cannot be cut and diverted for solar use without approval from the Legislature.

This commonsense interpretation finds further support in the EOEA Article 97 Land Disposition Policy, which states explicitly that the strictures of Article 97 apply to the lease of land contemplated by the ENF:

[A]s a general rule, EOEA and its agencies shall not sell, transfer, lease . . . any right or interest of the Commonwealth in and to Article 97 land. . . . An Article 97 land disposition is defined as . . . any change in use . . . whether by deed, easement, lease or any other instrument”. (2/19/98 EOEA Art. 97 Land Disposition Policy, emphasis added)

In order to gain approval for disposition of Article 97 land, “exceptional circumstances” must exist, including:

1. All other options to avoid Article 97 disposition have been explored and no feasible and substantially equivalent alternatives exist;
2. The disposition would not destroy or threaten a unique or significant resource such as habitat; and
3. As part of the disposition, real estate of equal or greater value must be protected.

This last no-net-loss criterion was recently codified in the Public Lands Preservation Act, G.L. c. 3, § 5A (“PLPA”). The ENF does not offer any basis for finding exceptional circumstances. That not only fails to justify the disposition under the EOEPA Policy, but it is also unlawful under the PLPA. Without circumventing Article 97, the ENF would also require approval from the Nantucket Conservation Commission, municipal Park Commission, and Town Meeting, as well as from the Legislature. Allowing the ENF to evade these mandatory local reviews would undermine the longstanding EOEPA Land Disposition Policy.

Finally, it bears noting that applicant’s own project plans submitted with the ENF label the entire project site as “Article 97 Land” shown in a pink hatched area. (Apr. 2023 Figure 3 plan) Thank you in advance for your consideration of these comments.

Very truly yours,

/s/ Dennis A. Murphy

Dennis A. Murphy

Encl.

cc. Dan Bailey, Esq.
Vicky Marsh, Esq.

BOOK 119 PAGE 442

ROY E. SANGUINETTI
COUNSELLOR-AT-LAW
61 MAIN ST.
NANTUCKET ISLAND, MASS.

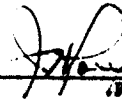
Register of Deeds
Nantucket County
Nantucket, Massachusetts

Notice is hereby given that on January 28, 1960, Wannacomet Water Company, in accordance with the General Laws and its Charter, has taken the following described parcel of land adjoining other property of the Wannacomet Water Company for the purposes of collecting, conducting and distributing water among the Inhabitants of the Town of Nantucket. Said land is shown as Lot A on Plan dated December 26, 1957, bounded and described as follows:

NORTHERLY: by Milestone Road, about three hundred fifty-eight (358) feet;
EASTERLY: by land known as the State Forest and by land of owners unknown, about sixteen hundred eighty-three (1,683) feet;
SOUTHERLY: by a way, about three hundred fifty-one (351) feet; and
WESTERLY: by other land of the Wannacomet Water Company, about fourteen hundred sixty-six and 7/10 (1,466.7) feet.

WANNACOMET WATER COMPANY

by:



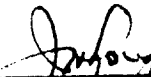
President

At a meeting of the Board of Directors of the Wannacomet Water Company held on January 28, 1960, it was voted to take by eminent domain the following described parcel of real estate adjoining other property of the Company on Old South Road, Nantucket, as shown on Plan dated December 26, 1957, and on which Plan the lot taken is shown as "A". Said lot is bounded on said Plan as follows:

NORTHERLY: by Milestone Road, about three hundred fifty-eight (358) feet;
EASTERLY: by land known as the State Forest and by land of owners unknown, about sixteen hundred eighty-three (1,683) feet;
SOUTHERLY: by a way, about three hundred fifty-one (351) feet; and
WESTERLY: by other land of the Wannacomet Water Company, about fourteen hundred sixty-six and 7/10 (1,466.7) feet.

WANNACOMET WATER COMPANY

by:

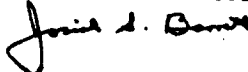


President
3 11 20 P.M.

FEBRUARY 9, 1960

ATTEST:

Received and Entered



Register

WANNACOMET WATER COMPANY

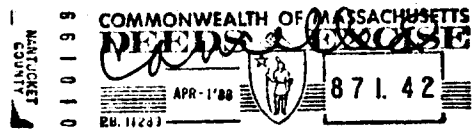
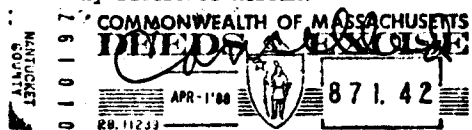
a corporation duly established under the laws of the Commonwealth of Massachusetts and having its usual place of business at One Milestone Road, Nantucket, of \$1,910,800.00 Nantucket County, Massachusetts, for consideration paid, grants to the TOWN OF NANTUCKET, acting by and through its BOARD OF WATER COMMISSIONERS of Town and County Building, Nantucket, Massachusetts with quitclaim covenants

Prop. address 1 Milestone Rd

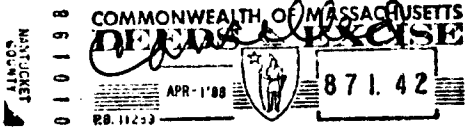
the land in Nantucket County, with the buildings and structures thereon, described as follows:

(Description and ex

See description attached hereto as Exhibit "A" and incorporated by reference herein.



NANTUCKET LAND BANK FEE form with fields for Paid, Exempt, and certification date 3-31-88.



The Grantor, for itself, and its successors and assigns, hereby represents and warrants that it acquired and now holds good title to the land described as Parcel Two on Exhibit "A", in full compliance with the requirements of its Charter (Chapter 27 of the Acts of the Massachusetts Legislature of 1880) and the General Laws.

In witness whereof, the said WANNACOMET WATER COMPANY has caused its corporate seal to be hereto affixed and these presents to be signed, acknowledged and delivered in its name and behalf by George W. Johnstone its President hereto duly authorized, this 31st day of March in the year one thousand nine hundred and eighty-eight Signed and sealed in presence of

Signature of R.P. Gage, Secretary and signature of George W. Johnstone, Its President

The Commonwealth of Massachusetts ss. NANTUCKET, March 31 19 88

Then personally appeared the above named George W. Johnstone, as President of Wannacomet Water Company and acknowledged the foregoing instrument to be the free act and deed of the Wannacomet Water Company and his free act and deed,

Notary Public section with signature of Thomas G. Tully and commission expiration date 12/1 1989

EXHIBIT "A"DescriptionParcel One:

All that certain parcel of land situate in Nantucket in the County of Nantucket and Commonwealth of Massachusetts, bounded and described as follows:

Southwesterly by the Old Siasconset Road fourteen hundred twenty-nine and 8/10 (1,429.80) feet and by Orange Street six hundred and fifty-six (656) feet;

Northerly by the Milestone Road two thousand (2,000) feet; and

Southeasterly by land of owner or owners unknown fourteen hundred sixty-six and 7/10 (1,466.70) feet.

All of said boundaries are determined by the Court to be located as shown on a plan drawn by William F. Codd, Surveyor, dated December 1921, as modified and approved by the Court, filed in the Land Registration Office as Plan No. 9071A.

For our title see Certificate of Title No. 1135 dated February 1, 1923.

Parcel Two:

All that certain parcel of land situate in Nantucket in the County of Nantucket and Commonwealth of Massachusetts, bounded and described as follows:

Northerly by Milestone Road, about three hundred fifty-eight (358) feet;

Easterly by land known as the State Forest and by land of owners unknown about sixteen hundred eighty-three (1,683) feet;

Southerly by a way, about three hundred fifty-one (351) feet; and

Westerly by other land of the Wannacommet Water Company, about fourteen hundred sixty-six and 7/10 (1,466.70) feet.

Being the same premises taken by Wannacommet Water Company by Notice dated January 28, 1960, recorded with Nantucket County Registry of Deeds in Book 119, Page 442.

86550401

COMMONWEALTH OF MASSACHUSETTS



Joanne M. Holdgate
 Madeleine S. Farrow
 TOWN CLERK

OFFICE OF THE

TOWN CLERK

Nantucket..... July 8 19 87

TO WHOM IT MAY CONCERN:

I, Joanne M. Holdgate, Town Clerk for the Town of Nantucket, certify that at a Special Town Meeting held in Nantucket on July 7, 1987, it was voted to adopt ARTICLE I, ACQUISITION OF WATER COMPANY, as amended and recommended by the Finance Committee. Amendments and recommendation were as follows:

- (a) Section 2: second line: insert after the word laws: "to authorize the Board of Selectmen"
- third line: insert after the word purchase:
"or gift"
- fourth line: delete "by takings through exercise of the power of eminent domain" and replace with:
"to institute the eminent domain proceedings for any part or all"
- (b) Section 3: first line: delete "such amounts as may be required" and replace with "up to, but not exceeding the sum of six million two hundred thousand dollars (\$6,200,000.)"
- second line: insert after the words provisions of:
"Chapter 436 of the Acts of 1963 and/or"
- fifth line: correct typographical error: resonable
to reasonable.
- (c) Section 4: Delete. Replace with the following: "Whereas, under the provisions of section 8, Chapter 307 of the Acts of 1925 as amended by Chapter 436 of the Acts of 1963, the currently existing Board of Water Commissioners are to be the Water Commissioners responsible for the maintenance, management, operation and protection of the assets, now or formerly of the Wannacomet Water Company, in addition to presently held assets, now therefore,
- (a) the representatives of the town in the General Court

Town of Nantucket SPECIAL TOWN MEETING, July 7, 1987
Amendments Adopted: Article 1, Acquisition of Water Company (continued)

shall be instructed to file appropriate legislation amending Chapter 307 of the Acts of 1925 as amended by Chapter 436 of the Acts of 1963 to provide separate Boards of Water Commissioners for the water services in the Village of Siasconset and for the water services which may be acquired pursuant to this Article.

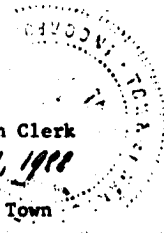
- (b) There shall be established independent operating financial accounts of the Board(s) of Water Commissioners as (an) Enterprise Fund(s) in accordance with Chapter 306 of the Acts of 1986 with appropriate allocation of revenues and expenses between those having to do with public water supply in the Village of Siasconset and those having to do with public water supply elsewhere in the Town of Nantucket.

I certify that a quorum was present and voting when ARTICLE I was adopted as amended and recommended, the vote being YES: 307, NO: 12.

Very truly yours,

Joanne M. Holdgate
Joanne M. Holdgate, Town Clerk

March 31, 1988



NOTE: If there is any question as to substantiveness, please contact Town Counsel Paul R. DeRensis, telephone (617) 482-6300.

Attachments: Certified copy of Article 65 as it appeared in the Warrant.
Certified copies of Opening, Closing and Return of Service of Warrant.

SPECIAL TOWN MEETING

July 7, 1987

Article 1
ACQUISITION OF WATER COMPANY

To see if the Town will vote as follows:

(1) to accept Chapter 436 of the Acts of 1963 entitled "An Act to authorize the Town of Nantucket to supply itself and its inhabitants with water";

(2) Pursuant to such Chapter 436 of the Acts of 1963 and pursuant to Chapter 40 Section 38 of General laws, to acquire by purchase or if deemed necessary by the Board of Selectmen by takings through exercise of the power of eminent domain, all the assets presently or formerly held by Wannacomet Water Company as described in the Annual Report of such Water Company to the Massachusetts Department of Public Utilities for the year ending December 31, 1986, including but not limited to land and structures thereon adjoining Washing Pond and Maxcy's Pond (both off Cliff Road within the Town of Nantucket), and Wyer's Valley (off Milestone Road), all easements, rights of way, pumps, equipment, supplies, plans, engineering studies, records, distribution system, standpipes, and other related appurtenances, and to assume certain liabilities of such Water Company, including prebilled charges, extension deposits and customer advances, and work in progress, as may be determined by the Board of Selectmen;

(3) to authorize the Town to borrow such amounts as may be required, pursuant the provisions of Chapter 44 of the General Laws, to accomplish the foregoing with the provision that no part of the cost of such acquisition or the debt service thereon (other than usual and resonable hydrant charges and the amounts set forth in Section 6 hereof) shall be charged to the general funds of the Town, all in accordance with the laws of the Commonwealth;

(4) to reorganize pursuant to Chapter 436 of the Acts of 1963 the currently existing Siasconset Board of Water Com-

*True Copy: Attest
Jeanne M. Hallgate
Town Clerk
March 31, 1988*

Article #1 continued on next page.

missioners created by Chapter 307 of the Acts of 1925 as the Town of Nantucket Board of Water Commissioners responsible for the maintenance, management, operation and protection of the Town's water supply and to designate the operating financial accounts of the reorganized Board of Water Commissioners as an "enterprise fund" in accordance with Chapter 306 of the Acts of 1986;

(5) To authorize the Board of Selectmen to transfer certain portions of land so acquired by this Article to the Commonwealth of Massachusetts and/or the Nantucket Islands Land Bank and/or other appropriate parties as designated by the Board, for such reasonable consideration as the Board may determine, with the provision and restrictions that any lands so transferred shall be maintained in their natural state for the protection of the water supply and as a service area for water purposes all for the benefit of the inhabitants of Nantucket, and for purposes incident thereto;

(6) to appropriate a sum of money as may be necessary to effectuate the foregoing, including funds for administrative, accounting, legal, scientific, water quality, testing, and engineering services;

(7) and otherwise to authorize the Board of Selectmen to enter into contracts, to expend such sums as may be necessary, and to take such action as may be necessary or advisable to provide the people of Nantucket with pure drinking water in accordance with the foregoing Article.
(Board of Selectmen)

WE RECOMMEND this Article with the following deletion/insertion par (6) - delete "...a sum of money as may be necessary" and insert "...the sum of \$100,000 from Stabilization Fund....".

We are in general agreement with the purposes of Article 1, subject to an amendment which will be proposed at Town Meeting.

VOTED: adopted as amended, as amended, as recommended by the Finance Committee. YES: 307 NO: 12

JWH

COMMONWEALTH OF MASSACHUSETTS
TOWN OF NANTUCKET
ACCEPTANCE OF DEED

The Town of Nantucket, acting by and through the under-
signed, being all of the duly elected and serving members of
its Board of Selectmen do hereby accept the deed attached hereto.

This acceptance is made to effectuate our vote to acquire
the assets of Wannacomet Water Company dated 3/31/88.

TOWN OF NANTUCKET
BOARD OF SELECTMEN

[Signature]
Nancy J. Serrano
Charles J. Gardner
Harry E. Church
J. J. [Signature]

COMMONWEALTH OF MASSACHUSETTS

Nantucket County, ss.

March 31, 1988

Then personally appeared the above-named Roger Cabot,
Nancy J. Serrano, Charles J. Gardner, Harry E. Church,
John McLaughlin as they constitute all of the
Nantucket Board of Selectmen, and acknowledged the foregoing
instrument to be their free act and deed, before me,

Patricia R. Church
Notary Public
My commission expires:
12/12/1994

27d:wanna.cer

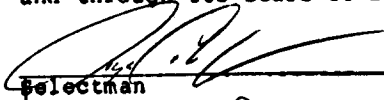
To: PRD


TOWN OF NANTUCKET
CERTIFICATE

The undersigned certify that they are the duly elected and acting members of the Board of Selectmen of the Town of Nantucket and further certify that all the representations and warranties of Town of Nantucket in its Asset Purchase Agreement dated November 10, 1987 by and between the Wannacomet Water Company and the Town of Nantucket, are true as of the date hereof, as though each of the representations and warranties had been made on the date hereof.

Executed this 31st day of March 1988.


TOWN OF NANTUCKET, acting by and through its Board of Selectmen



Selectman


Selectman


Selectman


Selectman


Selectman

NANTUCKET COUNTY
Received and Entered
APR 1 1988 3:43 P.M.
Attest  Register

TOWN OF NANTUCKET 2011 Annual Town Meeting



Monday, April 4, 2011
6:00 pm
Nantucket High School

(Board of Selectmen)

FINANCE COMMITTEE MOTION: Moved that the care, custody, management and control of a portion of the Town-owned property, known as the Surfside Wastewater Treatment Facility, Assessor Map 87, Parcel 135 under the jurisdiction of the Board of Selectmen and held for wastewater treatment purposes, be transferred to the Board of Selectmen to be held for wastewater treatment purposes and for the purpose of leasing the property, and further that the Board of Selectmen is hereby authorized to enter into a lease of said property and to execute a power purchase agreement each for a term of up to twenty-five (25) years, subject to the provisions of Chapter 30B of the Massachusetts General Laws or other applicable statutes, for the purposes of the development of a solar array, on terms deemed by the Board of Selectmen to be satisfactory and in the Town's best interests; all as shown on a map entitled "2011 Annual Town Meeting Warrant Article 96" dated January 2011.

ARTICLE 97

(Long-term Lease Authorization: Wannacomet)

To see if the Town will vote to transfer the care, custody, management and control of a portion of the Town-owned property described herein under the jurisdiction of the Nantucket Water Commission and held for their current purposes to the Nantucket Water Commission to be held for their current purposes and for the purpose of leasing the property, and to authorize the Nantucket Water Commission to enter into a lease of said parcels and to execute a power purchase agreement each for a term of up to twenty-five (25) years, a portion of the town-owned property described as follows: Parcel One (1) known as Wyer's Valley and as shown on Assessor Map 54, Parcels 45 and 46 and Parcel Two (2) known as North Pasture and shown on Assessor Map 54, Parcel 94.1, and subject to the provisions of Chapter 30B of the Massachusetts General Laws, for the purposes of the development of a solar array, on terms deemed by the Board of Selectmen to be satisfactory and in the Town's best interests and to further authorize the Board of Selectmen to file a home rule petition to authorize the new use pursuant to Article 97 of the Amendments to the Massachusetts Constitution, if necessary.

All as shown on a map entitled "2011 Annual Town Meeting Warrant Article 97" dated January 2011 and filed herewith at the Office of the Town Clerk.

Or to take any other action related thereto.

(Board of Selectmen for Nantucket Water Commission)

FINANCE COMMITTEE MOTION: Moved that the care, custody, management and control of a portion of the Town-owned property described herein under the jurisdiction of the Nantucket Water Commission and held for its current purposes to the Nantucket Water Commission to be held for its current purposes and for the purpose of leasing the property, and to authorize the Nantucket Water Commission to enter into a lease of said parcels and to execute a power purchase agreement each for a term of up to twenty-five (25) years, a portion of the town-owned property described as follows: Parcel One (1) known as Wyer's Valley and as shown on Assessor Map 54, Parcels 45 and 46 and Parcel Two (2) known as North Pasture and shown on Assessor Map 54, Parcel 94.1,

and subject to the provisions of Chapter 30B of the Massachusetts General Laws, for the purposes of the development of a solar array, on terms deemed by the Board of Selectmen to be satisfactory and in the Town's best interests and to further authorize the Board of Selectmen to file a home rule petition to authorize the new use pursuant to Article 97 of the Amendments to the Massachusetts Constitution, if necessary; all as shown on a map entitled "2011 Annual Town Meeting Warrant Article 97" dated January 2011.

ARTICLE 98

(Real Estate Acquisition: "Paper" Streets in Surfside)

To see if the Town will vote to authorize the Board of Selectmen to acquire by purchase, gift or eminent domain the fee or lesser interests in all or any portion of thirty-four (34) unconstructed rights of way in the Surfside area of Nantucket and identified below, together with any public and private rights of passage, for public ways and/or general municipal purposes:

- Plum, Poplar and Holly Streets between the northern sideline of Pochick Avenue and the southern sideline of Mequash Avenue (f.k.a. or a.k.a. Sechacha Avenue; excluding any portion of Masaquet Avenue (f.k.a. or a.k.a. Wauwinet Avenue));
- Laurel, School and Myrtle Streets between the northeastern sideline of Surfside Road and the southern sideline of Maclean Street;
- Miacomet, Monomoy and Massasoit Avenues between the centerline of Irving and Hawthorne Streets;
- Masquetuck and Dunham Streets between the northern sideline of Pochick Avenue and the southern sideline of Boulevard;
- Dunham Street and Irving Street: between the northern sideline of Nobadeer Avenue and the southern sideline of Weweeder Avenue;
- Irving Street and Hawthorne Street: between the northern sideline of Massasoit Avenue and the southern sideline of Miacomet Avenue (excluding any portion of Monomoy Avenue);
- Holly Street between the northern sideline of Nonantum Avenue to the southern sideline of Pochick Avenue (excluding any portion of Weweeder and Nobadeer Avenues);
- Maclean Street between the eastern sideline of Fairgrounds Road and the eastern sideline of Myrtle Street;
- Mequash Avenue (f.k.a. Sechacha Avenue) between the western sideline of Pequot Street (formerly or also known as Orange Street) and the eastern sideline of Naushon Way (f.k.a. Cherry Street);
- Pochick Avenue between the eastern sideline of Naushon Way (f.k.a. Cherry Street) to the western sideline of Masquetuck Street (excluding any portion or Pequot and Woodbine Streets);
- Masaquet Avenue (f.k.a. Wauwinet Avenue) between the eastern sideline of Pequot Avenue (formerly or also known as Orange Street) and the western sideline of Masquetuck Street and the terminus of a turning tee and the eastern sideline of Atlantic Avenue;

Vaughan, Eva (EEA)

From: Tobias Glidden <integrity11@gmail.com>
Sent: Tuesday, May 16, 2023 12:41 PM
To: Vaughan, Eva (EEA)
Subject: Solar Farm project proposed at 1 Milestone Rd

Follow Up Flag: Follow up
Flag Status: Completed

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Dear Eva,

I want to write to you in support of the Solar project a 1 Milestone. As a former member of the Nantucket Select Board I wanted to give a little context for the project. Currently Nantucket's electrical consumption rises by roughly 7% per year. With this in mind we may need a third electrical cable that will result in 30 miles of hydraulic drilling that will have an environmental impact far greater than what is proposed at the 1 Milestone site. One of the great thing about locating solar at the 1 Milestone site is it is already mostly cleared and going on into the future the site will forever be protected since it has a solar array on it. Nantucket has also done a fantastic job protecting land compared to other communities in Massachusetts so this project seems very balanced. We need to protect the environment and build renewables at the same time the1 Milestone project is a balanced approach to meeting the states goal of 100% renewable electricity by 2030!

Thank you kindly,
Tobias

--

Tobias Glidden
PO Box 403
Nantucket MA, 02554
508-901-1785
integrity11@gmail.com

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Vaughan, Eva (EEA)

From: Robert Orlandi <roborlandi623@gmail.com>
Sent: Wednesday, May 17, 2023 9:58 PM
To: Vaughan, Eva (EEA)
Subject: Support

Follow Up Flag: Follow up
Flag Status: Flagged

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

ACKSmart installed a 11kW solar flat plate collector set at our house about five years ago. We paid back all capital costs in 4.5 years and have thoroughly enjoyed our passive system. Your set will work on Nantucket and will make money for our town and it clearly is the way to go.