December 23, 2016

Re: **Next Solar Incentive Program and Straw Proposal**

Dear Commissioner Judson,

Mass Audubon, The Trustees, and The Nature Conservancy thank the Executive Office of Energy and Environmental Affairs (EEA) and the Department of Energy Resources (DOER) for convening the solar stakeholder process and for including a sub-group on land use and siting. We appreciate that EEA has recognized that an unintended consequence of the current incentive structure has been conversion of important natural areas and resources, and therefore the incentive program should be revised. We respectfully urge you to continue to develop an incentive program which achieves the Commonwealth's dual and interrelated goals of protecting the environment and increasing the supply of clean, renewable energy. We appreciate that land use siting is complex, and support an ongoing process to develop more detailed siting guidelines to be required under the forthcoming regulations.

We support EEA's efforts to define and set strong environmental standards for the Commonwealth's programs that provide incentives for solar projects, as it does for the eligibility requirements for certain hydropower and utility-scale biomass through the renewable portfolio standard (RPS).

The Commonwealth currently provides recommended guidelines for 'as-of-right' zoning for solar in Green Communities, encourages good siting practices through the Community Compact program, and has provided siting guidance through its model solar by-law. However, these guidelines do not sufficiently avoid or minimize the impacts of the conversion of important natural areas for ground mounted solar arrays, as it is still often easier and less expensive to site solar on greenfields or natural areas. Further, these existing policies and guidelines do not sufficiently identify and avoid conflicts with environmental and natural resource policies and priorities.

Our organizations strongly support the shifting of incentives to brownfields, rooftops, and other areas not identified by the state as important to conservation. Solar Renewable Energy Credits are the main driver of a strong solar economy in Massachusetts; these incentives level the playing field for what was previously a cost-prohibitive but clean, green source of energy, and environmental advocates have long fought for strong federal and state programs to support the solar industry. However, in order to fulfill their green promise, solar arrays must be appropriately sited to avoid harm to our natural resources. The elimination of solar incentives for certain land use types is the most efficient way to ensure that the financial incentives offered by the state do not work in conflict with state investments and policies regarding land protection, wildlife, forestry, and agriculture.

We also note Governor Baker's recent Executive Order 569 on climate change, which directs EEA to ensure that 'policies and strategies for ensuring that adaptation and resiliency efforts complement efforts to reduce greenhouse gas emissions.' Limiting incentives for certain land use types as described below recognizes the significant climate change mitigation and adaptation capacity of natural and working lands.

Recommendations

- Soil protection standards, to be developed in a guidelines working group, shall be a requirement of all projects.
- There is a need for better project spatial data and the next iteration of incentives is an opportunity to collect that data. Applications should include specific GIS based information to allow the state to collect and analyze spatial data for projects. An example of a state application that requires this type of data can be found in the MESA Review Filing Checklist[1].
- Incentives should be **not** be available for projects on current or former public land protected for conservation, recreation or water supply (known as Article 97 land), including instances where not explicitly noted in the deed.
    - Solar incentives **may** be allowed on permanently protected open spaces where already allowed, or ancillary to the power needs of a structure where no habitat conversion is required, for example on a rooftop or impermeable surface where the solar panel(s) provide less than 125 percent of the on-site load.
- Incentives should not be offered for historical or archaeological Sites listed on the National/State Register of Historic Places.
- Incentives should **not** be available for solar development in wetland resource or buffer areas. Reduced incentives may be offered where a Wetlands Protection Act permit is required in wetland resources areas as mapped under the DEP wetlands mapping layer.

    The state Wetlands Regulations are a compromise between development and protection of wetlands. Permits often allow some negative impacts, so the fact that a project is permitted does not mean wetlands are not affected, nor is it sufficient to ensure no net-loss of wetlands, buffer areas, riverfront areas and floodplains.
- Incentives should **not** be offered for conversions of land from active forestry or agricultural use except where permitted as ancillary to on-site needs and where minimum alteration is required.
    - The state commissioned and financed 'Massachusetts Local Food Action Plan' recommends preventing loss of existing farmland and permanently protecting

[1] http://www.mass.gov/eea/docs/dfg/nhesp/regulatory-review/mesa-proj-review-check-elect.pdf

farmland to meet the Commonwealth's need for local, healthy food of the over the coming century.

- Executive Order 193 orders all state agencies to "to seek to mitigate against the conversion of state-owned agricultural land and adopt the policies herewith: 1. State funds and federal grants administered by the state shall not be used to encourage the conversion of agricultural land to other uses when feasible alternatives are available."

- Endangered Species Habitat and BioMap2
    - Planning regulations, policies and incentives, grant or other funding programs under the purview of EEA should rely on the best scientific evidence available, such as the data and recommendations provided by Biomap2.
    - Large ground mounted solar projects can represent significant disruption of wildlife corridors and habitat in areas of high ecological value as defined by Biomap2, which represents the most up-to-date scientific analysis of the Commonwealth's natural lands. Core Habitat and Critical Natural Landscape delineate areas of high ecological integrity habitat and connectivity; Biomap2 recommends no development for Core Habitat and limited activity, such as timber harvesting in Critical Natural Landscape.
    - We recommend that the importance of these areas be identified in regulation and further refined in guidelines.

Thank you for considering our comments on the importance of protecting open space and important natural areas for climate mitigation and adaptation, habitat protection and public and economic health. Massachusetts was the first state in the nation to combine energy and environmental agencies under one Cabinet secretary, and as such is empowered to utilize its collective resources to harmonize all interrelated policies, funding programs and regulations of the Commonwealth. It is imperative that the Commonwealth develop incentives which encourage renewable energy in locations that do not conflict with those important goals.

Thank you again for your consideration. We look forward to the continued conversation.

Sincerely,

Karen Heymann, Mass Audubon

Jennifer Ryan, The Trustees

Steve Long, The Nature Conservancy