



STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY
LAND USE PLANNING COMMISSION
22 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0022

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For: Three Rivers Solar Power, LLC (SLC-12)
T16 MD BPP, Hancock County

Certification of Allowed Use

November 25, 2019

Dear Maria:

On November 14, 2019, the Department submitted to the Land Use Planning Commission (Commission) a Request for Certification for the Three Rivers Solar Power Project. The proposed Project is located within the unorganized township of T16 MD BPP in Hancock County. The Request for Certification asks the Commission to determine (a) if the Project is an allowed use within the subdistricts in which it is proposed; and (b) the date on which the certification component of the Site Law application is accepted as complete for processing. The Request for Certification also asks for certification of compliance with Commission standards not reviewed by the DEP, which will be addressed separately. The Commission accepted the Request for Certification as complete for processing on November 21, 2019.

Proposal and subdistricts proposed for development

Three Rivers Solar Power, LLC proposes to construct a 100-megawatt grid-scale solar energy generation facility ("Project") in a 696-acre Commercial Industrial Development Subdistrict (D-CI) that is located within a 1,115-acre project parcel. The D-CI Subdistrict to be affected by the Project was established under Zoning Petition ZP 772, effective August 23, 2018. The acreage rezoned as D-CI Subdistrict under ZP 772 did not include areas of prime farmland soils. The West Branch of the Narraguagus River abuts the west side of the 1,115-acre Project parcel, Colson Branch abuts the south side, and Mahanon Brook abuts the north side. The Project would not be located within 500 feet of a Management Class 2 lake or within 250 feet of a Management Class 4 lake.

- Within the D-CI Subdistrict, the proposed Project would consist of six areas of solar panels over 465 acres; four acres containing two fenced-in 115-kilovolt (kV) substations with two power houses and a parking area; and 34.5-kV underground collector lines and 35 photovoltaic inverters between the solar panels. An existing 115 kV transmission line that transects the D-CI Subdistrict will transmit the power generated by the facility to the New England power grid. The proposed Project has been laid out to avoid impact to three



Shoreland Protection Subdistricts (P-SL2) bordering streams, and four Wetland Protection Subdistricts (P-WL) that were located within the 696-acre area now zoned as D-CI Subdistrict.

- An existing, privately-owned land management/agricultural road network within the D-CI Subdistrict and the abutting M-GN Subdistrict will be used as Project roads; no new roads or road improvements are proposed. There are approximately 10 miles of existing roads within the Project area, of which 3.3 miles will not be needed and will be revegetated. The 75-00-0 Road, which transects the Project area, is a privately-owned road used by the public for access between Deblois to the east and Eastbrook to the west and will remain open for public use. All other Project roads will be gated.
- Within the abutting General Management Subdistrict (M-GN) along the north side of the proposed Project, a 2.5-acre temporary staging area to be used during construction for equipment and parking will be located in an existing area cleared within the last five years for blueberry production. No grading or filling of this area is proposed. After construction, this area will be allowed to revegetate.

Review criteria

The following statutory provision is relevant to the determination of whether the Project is an allowed use in the subdistricts in which it is proposed to be located:

12 M.R.S.A. § 685-B,(1-A),(B-1). "...a permit from the commission is not required for a development of state or regional significance that may substantially affect the environment as defined in Title 38, section 482, subsection 2. A project meeting that definition is reviewed under Title 38, section 489-A-1...The Department of Environmental Protection must receive certification from the commission that the proposed development is an allowed use within the subdistrict or subdistricts for which it is proposed...before issuing a permit."

Assessment of the Project as an Allowed Use in the Subdistricts in Which Development is Proposed

Based on the materials submitted by Three Rivers Solar Power, LLC, the Commission, through its staff, determines that:

1. **Solar energy generation facility.** The proposed solar energy generation facility is a use allowed with a permit in a D-CI Subdistrict. In accordance with Section 10.21,A,3,c(16) of the Commission's Chapter 10 rules, a "solar energy generation facility not located on soils recognized by the U.S. Department of Agriculture as prime farmland soils... may be allowed in a D-CI Subdistrict upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-B, and subject to the applicable requirements set forth in Sub-Chapter III." The proposed Project would not be located on prime farmland soils. Additionally, in accordance with Section 10.21,A,3 of the Commission's Chapter 10 rules, the project would not be located within 500 feet of a Management Class 2 lake or within 250 feet of a Management Class 4 lake.
2. **Project roadways in D-CI Subdistrict and M-GN Subdistrict.** The existing land management/agricultural privately-owned road network previously established for timber harvesting and blueberry cultivation located within the D-CI Subdistrict and the surrounding M-GN Subdistrict may be used for Project roads, as well as continuing to be co-used for agricultural management. Roads, including the use of the existing road network for the Project, are a use allowed in a D-CI Subdistrict and a M-GN Subdistrict.

With regard to the section of the Project road network that is located in the M-GN Subdistrict, in accordance with Section 10.22,A,3,b(14) of the Commission's Chapter 10 rules, "Level A and B road projects...shall be allowed without a permit from the Commission within M-GN subdistricts subject to the applicable requirements set forth in Sub-Chapter III." Additionally, in accordance with Section 10.22,A,3,c(3) of the Commission's Chapter 10 rules, "other structures, uses, or services which the Commission determines are consistent with the purposes of this subdistrict and of the Comprehensive Land Use Plan and are not detrimental to the resources or uses they protect, and are of similar type, scale and intensity as other allowed uses... may be allowed within M-GN subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S. §685-B, and subject to the applicable requirements set forth in Sub-Chapter III."

3. **Temporary staging area in an M-GN Subdistrict.** An approximately 2.5-acre temporary staging area will be located within the M-GN Subdistrict that abuts the north side of the D-CI Subdistrict during construction for parking and equipment storage. This area was cleared in preparation for blueberry production within the last five years and will be allowed to revegetate after construction. The use of the existing cleared area in the M-GN Subdistrict for the purpose of providing a temporary staging area during construction is a use allowed with a permit in an M-GN Subdistrict.

In accordance with Section 10.22,A,3,c(25) of the Commission's Chapter 10 rules, "truck and equipment storage...may be allowed within M-GN subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S. §685-B, and subject to the applicable requirements set forth in Sub-Chapter III." Additionally, in accordance with Section 10.22,A,3,c(30) of the Commission's Chapter 10 rules, "other structures, uses, or services which the Commission determines are consistent with the purposes of this subdistrict and of the Comprehensive Land Use Plan and are not detrimental to the resources or uses they protect, and are of similar type, scale and intensity as other allowed uses... may be allowed within M-GN subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S. §685-B, and subject to the applicable requirements set forth in Sub-Chapter III."

4. **Co-use of Project area for agricultural management activities.** The proposed co-use of the Project area for blueberry production is an allowed use in a D-CI Subdistrict. In accordance with Section 10.21,A,3,b(2) of the Commission's Chapter 10 rules, "agricultural management activities"... "shall be allowed without a permit from the Commission within D-CI subdistricts subject to the applicable requirements set forth in Sub-Chapter III."

Therefore, the Commission certifies to the DEP that the Project is an allowed use in the subdistricts in which it is proposed.

Please note that this certification is not a final agency action and pertains only to the staff's determination of the use proposed by Three Rivers Solar Power, LLC. The Commission will conduct a further review of the Request for Certification, including all application and administrative record materials, to determine whether to certify to the DEP that the Project meets the land use standards established by the Commission that are not considered in the DEP's permit review.

If you have any questions or would like to further discuss this matter, please contact Marcia Spencer Famous at the Augusta office by email (Marcia.Spencer-Famous@maine.gov) or at (207) 287-4933.

Sincerely,



Jean Flannery
Permitting and Compliance Manager
Maine Land Use Planning Commission

cc: Marcia Spencer-Famous, Land Use Planning Commission
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