



STATE OF DELAWARE

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

DIVISION OF CLIMATE, COASTAL AND ENERGY

STATE STREET COMMONS

100 W. WATER STREET, SUITE 7B

DOVER, DELAWARE 19904

**COASTAL
PROGRAMS**

PHONE
(302) 739-9283

Jan 30, 2025

Charles Benton
SWCA Environmental Consultants
113 Edinburgh South Drive
Cary, NC 27511

**RE: Delaware Coastal Management Program — Federal Consistency Determination
Concurrence for Delaware Avenue Solar Project (FC 2025.0008)**

Dear Charles Benton,

The Delaware Department of Natural Resources and Environmental Control (DNREC) Coastal Management Program (DCMP) has completed its review of the above referenced project, received by this office on December 4, 2024.

PROPOSED ACTION

Aligned Solar Partners 6 (ASP6) proposes to utilize loan financing from U.S. Department of Agriculture (USDA) Rural Development's Rural Utilities Service, through the Electric Infrastructure Loan & Loan Guarantee Program, to own and operate a solar photovoltaic (PV) project in Delaware. The Delaware Avenue Solar Project is a proposed 5,324 kWdc ground mount solar PV generation facility occupying approximately 15 acres within an 18-acre parcel and includes 9,179 solar modules. The project site is located at 251 Delaware Ave, Harrington, Kent County, Delaware. The project is expected to deliver its renewable electricity generation to various ratepayers of the Delmarva Power & Light Company utility pursuant to Delaware's Community Solar program. The project would include solar arrays, fencing, equipment pads, an underground transmission line, and a gravel access road.

FEDERAL CONSISTENCY UNDER THE COASTAL ZONE MANAGEMENT ACT

Pursuant to the Coastal Zone Management Act (CZMA) of 1972, as amended, each federal agency activity within or outside the coastal zone that can have reasonably foreseeable effects on any land or water use or natural resource of the coastal zone shall be carried out in a manner which is consistent to the maximum extent practicable with the enforceable policies of approved state management programs. The National Oceanic and Atmospheric Administration (NOAA) is required to review and

approve a proposed state management program for it to become effective. Under the CZMA implementing regulations, Federal Consistency with Approved Coastal Management Programs (15 CFR 930), subpart C, federal agencies are advised to provide state agencies with a consistency determination at the earliest practicable time in the planning or reassessment of an activity, and also before the federal agency reaches a significant point of decision-making in its review process. The term “consistent to the maximum extent practicable” in 15 CFR 930.32 means fully consistent with the enforceable policies of a management program unless full consistency is prohibited by existing law applicable to the federal agency.

PUBLIC PARTICIPATION

In accordance with 15 CFR §930.42, the public was invited to participate in the review of the Delaware Avenue Solar Project. Public notice of this proposed action was published in the Delaware State News, The News Journal, and DNREC public notices list service, and posted at the Harrington Library, on January 5, 2025. The public was given 20 days to comment on this notice. No public comments were received in response to this notice.

FEDERAL CONSISTENCY ANALYSIS

The DNREC DCMP coordinates the review of consistency determinations with agencies administering the enforceable and advisory policies of the program. The proposed activity is to be implemented in a manner consistent with the enforceable policies of the DCMP under Section 5.0 of the DCMP Federal Consistency Policy and Procedures document. The following agencies participated in this review:

DNREC, Division of Air Quality
DNREC, Division of Climate, Coastal, and Energy – Energy Section
DNREC, Division of Fish and Wildlife
DNREC, Division of Watershed Stewardship
Department of State, State Historic Preservation Office

Please be advised that the Division of Air Quality (DAQ) recommends that retrofitted on road and non-road diesel engines be used to reduce emissions associated with the project construction. This includes equipment that is used on-site, as well as equipment that is used to transport materials to and from the site. DAQ also recommends the use of dust suppressants and measures to prevent the transport of dust off-site from material stockpile, material movement, and use of unpaved roads.

Please note that the following Delaware air quality regulations may apply: Particulate Emissions from Construction and Materials Handling (7 DE Admin. Code 1106) and Excessive Idling of Heavy-Duty Vehicles (7 DE Admin. Code 1145).

The Division of Fish and Wildlife (DFW) recommends maintaining an upland buffer of at least 100 ft along rivers, streams and wetlands, and recommends the following infrastructure considerations to reduce potential impacts to wildlife:

- To prevent entangling and killing small wildlife, install biodegradable, natural fiber, non-plastic, wildlife-friendly sediment and erosion control devices prior to any land clearing.
- Avoid construction and staging, including servicing and fueling of equipment, within 150 meters of aquatic and riparian habitats. Ensure all sediments and other pollutants are contained within the boundaries of the work area. Disturbed areas that are contributing sediment to surface waters as a result of project activities should be promptly re-vegetated to maintain water quality.
- Power lines pose a risk to many species of birds from death by collision and electrocution. Site projects in close proximity to substations or other points of tie-in to the existing energy grid to reduce the construction of new power lines. If additional overhead transmission lines will be installed, measures to minimize impacts to birds should be implemented. These measures can include increasing line visibility, insulating wires to cover exposed connections, and increasing the distance between wires so no contact with ground or other energized wire can be made. Burying transmission lines between facilities and substations will further reduce risks.
- Solar panels should be at least 2-3 feet above the ground to ensure options for habitat management and lessen impacts from tractors and other maintenance equipment.
- Artificial lighting can have negative impacts to wildlife, including changing behavior and land use, disorienting wildlife, and potential increases in risk of mortality. Lights should be installed such that lamps and reflectors have cut-off shields and use down-lighting, so the direct lighting does not illuminate the nighttime sky and is not visible from beyond the project site. All lighting should be of minimum necessary brightness consistent with operation safety and security. Use lights with automatic controls such as timers, photo-sensors, or motion detectors.
- Security fencing should be designed with open fencing or with small openings for small mammals and game birds to move under or through the fenced area. We recommend using 3-4 strand smooth fencing (commonly known as deer fence) without barbed wire. Fencing should be 8-10 feet high to ensure deer to not attempt to jump the fence and risk entanglement injuries. If deer become entrapped, having gates on multiple sides of the fenced perimeter can allow for easier egress. Also consider how fencing may unintentionally alter larger wildlife travel corridors or redirect wildlife onto roadways and avoid such designs.

Also be advised that according to the Division of Watershed Stewardship, the project must be reviewed by the Kent Conservation District (KCD), the delegated agency of the Sediment and Stormwater Program for this location.

CONCURRENCE

Based on its review and pursuant to 15 CFR 930, the DCMP concurs that the Delaware Avenue Solar Project as proposed is consistent to the maximum extent practicable.

Pursuant to 15 CFR 930.46, USDA shall notify the DCMP of any proposed modifications to activities after receiving a decision from the DCMP. Modifications will be subject to supplemental federal

consistency review if effects to any coastal use or resource will be substantially different than originally described.

Please be advised that this federal consistency review does not negate the need for other authorizations that may be required.

Thank you for the opportunity to evaluate this federal activity. If you have any questions, please contact me or Stephanie Zmina of my staff at (302) 739-9283.

Sincerely,



[Jesse Hayden \(Jan 30, 2025 14:37 EST\)](#)

Jesse Hayden, Administrator
Delaware Coastal Management Program

JH/sz

cc: File FC 2024.0062
Tina Merrill, DAQ
Matthew Young, DFW
Elaine Webb, DWS
Jared Adkins, KCD
Hannah Lewis, SHPO
Suzanne Kopich, USDA
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Katia Garrigoux Vargas, Aligned Climate Capital