



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

Apr 24, 2025

Katie Jester
Solar Energy Consultant
Sunrise Solar
6408 Church Hill Road
Chestertown, MD 21620

**RE: Delaware Coastal Management Program — Federal Consistency Determination
Concurrence for USDA Bibi Buksh Farm LLC Solar (2025.0020)**

Dear Katie Jester,

The Delaware Department of Natural Resources and Environmental Control (DNREC) Coastal Management Program (DCMP) has completed its review of the above referenced project. This letter is in response to the federal consistency determination dated February 25, 2025, and received on February 26, 2025.

PROPOSED ACTION

The applicant proposes to utilize U.S. Department of Agriculture (USDA) Rural Development funds for the construction of 281 ground mounted solar panels, 355 feet of buried cable, and a new meter at 794 Pearsons Corner Road in Hartly, Kent County, Delaware. The solar panels will be organized into two arrays occupying approximately 0.185 acres.

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, a public notice of this proposed action was published in English in the Daily State News and The News Journal on March 23, 2025. The public notice was also posted in English, Spanish, and Haitian Creole on the DNREC public notices website on March 23, 2025. The public was given 20 days from publication to comment on this notice. No public comments were received.

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 Fish and Wildlife
DNREC, Division of Watershed Stewardship

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.

The following Delaware air quality regulations may apply: Particulate Emissions from Construction and Materials Handling (7 DE Admin. Code 1106), Open Burning (7 DE Admin. Code 1113), and Emission Standards for Hazardous Air Pollutants (7 DE Admin. Code 1121).

The Division of Fish and Wildlife (DFW) notes that forested wetlands on this property could support an array of plants and animals, most notably wetland dependent species such as amphibians. To reduce impacts to these species, DFW recommends the following:

- Avoid disturbance to and filling of isolated wetlands.

- Maintain an upland buffer of at least 100 ft along wetlands.

DFW also recommends the following facility 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 **300 feet** 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.
- All lighting should be of minimum necessary brightness consistent with operation safety and security. 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. 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. It is recommended to use 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.
- If any planting should occur, DFW recommends planting native pollinator plants.
- Grass cutting should not occur from **April 1st to July 31st** to reduce impacts to nesting birds and other wildlife species that utilize meadows and grasslands for breeding habitat.

According to the Division of Watershed Stewardship, a Sediment and Stormwater Plan approval is required prior to beginning any land disturbing activity for disturbances that exceed 5,000 square feet. The applicant will coordinate with the Kent Conservation District for plan submittal requirements.

CONCURRENCE

Based on its review and pursuant to 15 CFR 930, the DCMP concurs that the USDA Bibi Buksh Farm LLC 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 (Apr 24, 2025 12:29 EDT)
Jesse Hayden, Administrator
Delaware Coastal Management Program

JH/sz

cc: File FC 2025.0020
Tina Merrill, DAQ
Faith Garcia, DFW
Elaine Webb, DWS
Jared Adkins, KCD