



Agriculture and Markets

KATHY HOCHUL
Governor

RICHARD A. BALL
Commissioner

April 22, 2022

Candace Rossi, Program Manager
NY Sun-NYSERDA
17 Columbia Circle
Albany, NY 12203

Re: Notice of Intent to Undertake an Action within an Agricultural District, Borrego Solar Systems, 2621 State Highway 5S, Glen Solar Project in the Town of Glen, Montgomery County Agricultural District No. 3

Dear Ms. Rossi:

Pursuant to Agriculture and Markets Law (AML) §305(4), the Department of Agriculture and Markets has completed its review of the Notice of Intent (NOI) submitted by the New York State Energy Research and Development Authority (NYSERDA) for the advance of public funds for the construction of a 5.0 mW solar array facility, located in the Town of Glen and within Montgomery County Agricultural District No. 3.

The Final Notice of Intent was sent to the Commissioner of Environmental Conservation (DEC), the Advisory Council on Agriculture (ACA) and the Montgomery County Agricultural and Farmland Protection Board (AFPB) for their review of the proposed action. The ACA, DEC, and AFPB did not submit any comments. The Department received a statement from the Town of Glen's Planning Board explaining reasons underlying its special permit approval for the proposed project.

Based on all relevant information before me, I have determined that the proposed action would not have an unreasonably adverse effect on the continuing viability of farm enterprises within the district or State environmental plans, policies and objectives. This determination is due, in part, to NYSERDA's NOI filing, including the Project Company's commitment to adhere to the Department's *Guidelines for Solar Energy Projects - Construction Mitigation for Agricultural Lands* (10/18/19), in its entirety, and its commitment to return the affected parcel to its current condition once the project is decommissioned. This determination is also due to NYSERDA's commitment, as represented by its NOI filing, to require that the Project Company comply with the agreed upon mitigation.

Please be advised that in order to complete its filing obligations under §305(4), NYSERDA must certify to me at least ten days prior to advancing the funds to construct the solar arrays, that it has made an explicit finding that the requirements of §305(4) have been met, and to the maximum extent practicable, adverse agricultural impacts revealed in the Notice of Intent process will be minimized or avoided. The certification shall set forth the reasons in support of the finding and is more fully set forth in AML §305(4)(f).

Sincerely,

A handwritten signature in black ink, appearing to read "Richard A. Ball". The signature is fluid and cursive, with the first name "Richard" being more prominent.

Richard A. Ball
Commissioner

cc: Bryan Ellis, NYS Department of Environmental Conservation
ACA Members
Martin Kelly, Chairman, Montgomery County AFPB
Hon. Timothy Reilly, Supervisor, Town of Glen
Steve Long, Borrego Solar Systems

File: AP 22/011-NOI