



JANET T. MILLS  
GOVERNOR

STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION



MELANIE LOYZIM  
COMMISSIONER

**MEMORANDUM**

**TO:** Susan Lessard, Board Chair of the Board of Environmental Protection  
Margaret Bensinger, Assistant Attorney General

**FROM:** Mark Stebbins, Division Director, Field Services-Bureau of Land Resources  
Cameron Dufour, Biologist I, Bureau of Land Resources, CMRO

**SUBJECT:** ADMINISTRATIVE CONSENT AGREEMENT, Tower Solar Partners, LLC

**DATE:** February 1, 2024

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**Statute and Rule Reference:** *Site Location of Development Law*, 38 M.R.S § 483-A(2).  
*Protection and Improvement of Waters Law*, 38 M.R.S. § 361-A(7), and § 413.  
*Erosion and Sedimentation Control Law*, 38 M.R.S. § 420-C.

**Location:** The project is located on Kennebec River Road in the Town of Embden, Somerset County.

**Violator:** Tower Solar Partners, LLC

**Description:** On May 24, 2021, in Department Order #L-28928-PS-A-N/L-29828-TB-B-N (the "Department Order"), the Department approved the construction of a 5.0-megawatt solar energy development, occupying approximately 30.3 acres of land, pursuant to the *Site Location of Development Act* and the *Natural Resources Protection Act*. The Department Order was issued to Tower Solar Partners, LLC. The applicant also submitted a Notice of Intent (NOI #71481) to comply with the standards and requirements of the Maine Construction General Permit (W008157-5Y-A-N, effective July 21, 2006). NOI #71481 was accepted by the Department on December 16, 2020. On September 11, 2022, Department staff attended a pre-construction meeting with representatives from Tower Solar Partners, LLC, and its contractors. In the meeting, Department staff reviewed erosion control expectations and the importance of following all permit conditions and Department best practices.

On October 14, 2022, Department staff were notified by the Town of Emden Code Enforcement Officer (CEO) and a neighbor that turbid water (sediment-laden) was leaving the site boundaries and entering Alder Brook. Department staff received images from the CEO verifying

the complaint.  
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(207) 287-7688 FAX: (207) 287-7826

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1235 CENTRAL DRIVE, SKYWAY PARK  
PRESQUE ISLE, MAINE 04769  
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February 1, 2024

On October 18, 2022, Department staff visited the site and observed sediment- laden water entering neighboring properties as well as Alder Brook and the Kennebec River.. Approximately 30 acres of the site had been grubbed and graded without adequate stabilization measures and erosion controls were inadequately or improperly installed.

On October 19, 2022, Department staff received a complaint and photographs from the CEO that large amounts of sediment left the site and were tracked onto Kennebec River Road. Department staff contacted Tower Solar Partners, LLC, who confirmed that logging equipment leaving the site tracked sediment onto the road.

On October 26, 2022, Department staff received images from the CEO of sediment leaving the site and entering Alder Brook. Department staff contacted Henry Bonneau of Bonneau and Sons Excavation, who advised that a silt fence had failed, causing sediment to leave the site.

In response to the violations observed by Department staff, Tower Solar Partners, LLC submitted an updated Site-Specific Erosion and Sedimentation Control Plan dated December 5, 2022, and implemented a series of corrective measures, including hiring of 3<sup>rd</sup> party inspector, installing additional sediment basins, expanding ECM perimeter berms and stone check dams, and dedicating an E&S control crew to inspect and maintain the E&S controls.

As of November 27, 2023, and December 20, 2023, based on the third-party inspection reports and staff site visits, Tower Solar Partners, LLC has installed and maintained erosion and sedimentation controls and stabilized the site to the satisfaction of Department staff.

**Environmental Issues:** Erosion of soil material into aquatic resources can result in negative impacts to various flora and fauna that live in those resources. These impacts include smothering of fish eggs, clogging of gills of aquatic macroinvertebrates or fish, and smothering of aquatic plants. In addition, the soil material can carry other pollutants into these resources resulting in further impacts.

**Staff Recommendation:** The Department recommends acceptance of this Administrative Consent Agreement as proposed, stipulating a civil monetary penalty in the amount of one-hundred forty-eight thousand eight-hundred thirty-six dollars (\$148,836.00).

**Estimated Presentation Time:** 20 minutes.

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**Is the agreement subject to 30-day public comment pursuant to 38 M.R.S. § 347-A(6)?**

Yes  No

**POSTED FOR 30-DAY PUBLIC COMMENT:**

Enforcement Coordinator: RM

Posting Date: 12/4/2023 Expired: 1/4/2023.