

Revised Initial Recommended License Conditions
PSC Case No. 9463 MD Solar 2, LLC - Ripley Road Solar Project

13. Tier II Stream Protection – The Project is located within the watershed of the designated high quality Tier II stream segment of Mill Run 3 Charles Co. All reports, documentation or notifications required under this condition shall be sent to PPRP and to MDE's Environmental Assessment and Standards Program at: Maryland Department of the Environment, Environmental Assessment and Standards Program, c/o Angel Valdez, 1800 Washington Boulevard, Suite 420, Baltimore, Maryland, 21230.
- a. MD Solar 2 shall implement applicable practices identified in the MDE document, *Enhanced Best Management Practices for Tier II Waters*.
 - b. No permanent impacts shall occur within 100 feet of perennial or intermittent stream resources on the Project site within the Tier II watershed of Mill Run 3 in Charles County.
 - i. The buffer shall be measured from the centerline when a stream width is less than 10-feet and from the top of bank when a stream width is equal to or greater than 10 feet.
 - ii. If MD Solar 2 demonstrates that a 100-foot buffer is not feasible for a certain stream segment, an average 100-foot buffer with a minimum distance of no less than 75 feet may be approved by MDE.
 - iii. MD Solar 2 shall provide an exhibit that delineates the 100-foot buffer for each stream segment and the final proposed buffer. The exhibit shall highlight areas of buffer gains and buffer losses. This information shall be accompanied by a tabular summary, which identifies the average buffer width achieved for each segment.
 - iv. Except as provided in subsection v. below, the approved Tier II stream buffers shall be placed into conservation easement, and delineated on final construction plans.
 - v. MD Solar 2 shall make a good faith effort to place, or facilitate in placing, into a conservation easement each approved Tier II stream buffer located within any leased parcel. Notwithstanding the above, MD Solar 2 shall take no action that will result in any permanent impact within the approved buffer.
 - c. Forest conservation and restoration mitigation measures shall be prioritized within the impacted Tier II watershed of Mill Run 3 Charles County.
 - i. Thirty days prior to construction, MD Solar 2 shall prepare, and submit to PPRP and MDE, a forest restoration plan that evaluates

- alternatives to avoid, minimize, or mitigate forest clearing within the Tier II watershed.
- ii. For any net forest acres lost, forest restoration (reforestation and afforestation) shall be considered at 1:1.
 - iii. If MD Solar 2 demonstrates that forest restoration is not feasible, then MD Solar 2 shall develop a plan to mitigate lost forest acres. The plan may include, but is not limited to, the following mitigation activities: enhancing stream buffers, increasing watershed forest cover, retrofitting stormwater facilities, or reducing impervious cover.
- d. MD Solar 2 shall have certified persons conduct Maryland Biological Stream Survey (MBSS) monitoring consisting of one benthic and one fish sample, prior to construction, 1 year and 5 years post-construction, immediately downstream of the Project location.
- i. All monitoring protocols and analysis methods shall follow the MBSS Round Four Sampling Manual analysis methods described in the DNR document *New Biological Indicators to Better Assess the Conditions of Maryland Streams*, and meet guidelines provided in the MDE document, *MDE Requirements for Use of In-Situ Biological Stream Data*.
 - ii. MD Solar 2 shall provide notification to MDE and PPRP if construction schedule does not allow for baseline MBSS monitoring during approved sampling periods established in the Sampling Manual.
 - iii. MD Solar 2 shall provide for review to MDE a biological monitoring plan, no later than 60 days prior monitoring. If directed by MDE, MD Solar 2 shall update the monitoring plan to meet all data quality guidelines.
 - iv. A minimum of 30 days prior to conducting MBSS monitoring, MD Solar 2 shall obtain a Scientific Collections Permit/License from the DNR Wildlife and Heritage Service.
 - v. MD Solar 2 shall prepare a report that provides monitoring results, including copies of raw data and field sheets, and submit the reporting electronic and hardcopy formats to PPRP and to MDE by January 30 following the monitoring event.
 - vi. If MDE or PPRP determines that MBSS monitoring was conducted without a proper plan, or monitoring data does not meet quality guidelines, or monitoring was conducted by uncertified persons, MD Solar 2 shall repeat the monitoring for that station the following sample season.

- e. MD Solar 2 shall implement the mitigation plan developed in condition 13c (iii). The Tier II segment of Mill Run 3 Charles Co has no remaining assimilative capacity (AC) based on recent DNR MBSS data (collected in 2015-2017). No assimilative capacity remaining means that after taking natural variability into account, the stream is degraded below Tier II standards. Further negative impacts (e.g. forest cover loss) should be avoided or mitigated. If impacts cannot be mitigated fully, MD Solar 2 shall provide to the MDE and PPRP a report demonstrating the social and economic needs for the project and justifying the lowering of water quality within the Tier II watershed. The report shall include a detailed description of the alternatives analysis process used to determine the avoidance and mitigation practices, including reforestation or conservation within the Mill Run watershed; justification for impacts when 1:1 in-kind mitigation cannot be met; as well as information regarding the social and economic need for the project.