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Date: (Filing No. S-)

ENVIRONMENT AND NATURAL RESOURCES

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**STATE OF MAINE
SENATE
130TH LEGISLATURE
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT “ ” to S.P. 113, L.D. 802, “An Act To Ensure Decommissioning of Solar Energy Developments”

Amend the bill in section 1 in c. 34-D in §3491 by striking out all of subsection 1 (page 1, lines 8 to 15 in L.D.) and inserting the following:

'1. Decommissioning. "Decommissioning" means the physical removal of all components of a solar energy development, including but not limited to solar panels and associated anchoring systems and foundations to a depth of at least 24 inches or to the depth of bedrock, whichever is less, and other structures, buildings, roads, fences, cables, electrical components or associated facilities and foundations to a depth of at least 24 inches or to the depth of bedrock, whichever is less, to the extent the components of the development are not otherwise in or proposed to be placed in productive use or otherwise authorized to remain in place by the environmental permitting entity.

For any portion of a solar energy development located on land classified as farmland any time within 5 years preceding the start of construction of the development, "decommissioning" means the physical removal of all such components of the development to a depth of at least 48 inches or to the depth of bedrock, whichever is less, to the extent such components are not otherwise in or proposed to be placed in productive use or otherwise authorized to remain in place by the environmental permitting entity.

"Decommissioning" includes the grading to postconstruction grade and revegetation of all earth disturbed during construction and decommissioning, except for areas already restored.'

Amend the bill in section 1 in c. 34-D by striking out all of §3494 (page 2, lines 7 to 22 in L.D.) and inserting the following:

§3494. Decommissioning plan

A decommissioning plan must:

1. Decommissioning. Provide for the decommissioning of a solar energy development. For any portion of the development located on land classified as farmland

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1 any time within 5 years preceding the start of construction of the development, the plan
2 must provide for the restoration of that farmland upon decommissioning sufficient to
3 support resumption of farming or agricultural activities;

4 **2. Grading and revegetation of earth.** Provide for the grading and revegetation of
5 all earth disturbed during construction and decommissioning, except for areas already
6 restored; and

7 **3. Financial capacity.** Include demonstration of current and future financial capacity,
8 which must be unaffected by the owner's or operator's future financial condition, to fully
9 fund decommissioning in accordance with an approved decommissioning plan under this
10 chapter.'

11 Amend the bill in section 1 in c. 34-D in §3495 by striking out all of subsection 3 (page
12 2, lines 33 and 34 in L.D.) and inserting the following:

13 **'3. Update.** The plan requires the financial assurance be updated 15 years after
14 approval of the plan and no less frequently than every 5 years thereafter. Updates to
15 financial assurance required under this subsection must be submitted to the environmental
16 permitting entity on or before December 31st of the year in which such updates are
17 required.'

18 Amend the bill in section 1 in c. 34-D by inserting after §3495 the following:

19 **'§3496. Administration and enforcement; rulemaking**

20 The Department of Environmental Protection shall administer and enforce this chapter
21 with respect to the decommissioning of solar energy developments for which it is the
22 environmental permitting entity, subject to the same powers and authorities granted to it
23 pursuant to Title 38, chapter 2, including but not limited to the adoption of rules and the
24 establishment of reasonable fees. The Maine Land Use Planning Commission shall
25 administer and enforce this chapter with respect to the decommissioning of solar energy
26 developments for which it is the environmental permitting entity, subject to the same
27 powers and authorities granted to it pursuant to Title 12, chapter 206-A, including but not
28 limited to the adoption of rules and the establishment of reasonable fees.

29 Rules adopted by the Department of Environmental Protection or by the Maine Land
30 Use Planning Commission pursuant to this section are routine technical rules as defined in
31 Title 5, chapter 375, subchapter 2-A.'

32 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
33 number to read consecutively.

34 **SUMMARY**

35 This amendment makes the following changes to the bill.

36 1. It amends the definition of "decommissioning" under the bill to provide that the
37 components of a solar energy development, which also include fences under the
38 amendment, need not be physically removed to a depth of 24 inches if the depth to bedrock
39 is less than 24 inches. In such cases, those components need only be removed to the depth
40 of bedrock. The amendment also amends the definition of "decommissioning" to allow for
41 the authorization of certain components of a solar energy development to remain in place

1 during decommissioning and to clarify that the required grading during decommissioning
2 is to a postconstruction grade.

3 2. It amends the financial assurance requirements to provide that financial assurance
4 must be updated 15 years after the approval of a decommissioning plan and at least every
5 5 years thereafter. The bill requires financial assurance to be updated every 5 years.

6 3. It clarifies the administrative, enforcement and rule-making authorities of the
7 Department of Environmental Protection and the Maine Land Use Planning Commission
8 with respect to the decommissioning of solar energy developments.