Gustin Solar

Harrisville Township

Exhibit F

Groundwater Response
Memorandum

June 12, 2026

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To: Planning Commission and Zoning Administrator:

From: Heather Prentice,
Director, Engineering and Environmental Compliance

RE: Zoning Ordinance Section 7.31.C.1(a)

Consumers Energy is requesting that the Planning Commission find that the groundwater monitoring requirements of Section 7.31.C.1(a) are satisfied by the Michigan Department of Environment Great Lakes and Energy (EGLE) program for spill prevention controls and countermeasures (SPCC). The SPCC program requires that we monitor for releases during the construction and operation of the proposed solar energy facility.

Section 7.31.C.1(a) establishes an environmental monitoring routine. The sequence of testing required (i.e., a baseline measurement, a post-construction measurement, and periodic measurements until restoration) is aimed at establishing baseline groundwater conditions, identifying any groundwater impacts associated with construction, tracking any groundwater impacts arising during the system's operation and, ostensibly, confirming that groundwater conditions have remain consistent with the baseline. In other words, the regulation uses groundwater testing as a metric for determining when a site has been restored following the discontinuation or abandonment of a commercial solar energy system. The SPCC program administered by EGLE requires routine inspections and cleanup if a release occurs. Both the SPCC program and Section 7.31.C.1(a) have the same intent which is to protect land and water in Michigan from releases.

Finding that Section 7.31.C.1 is satisfied by compliance with EGLE regulations is also consistent with Michigan law. Under Michigan law, a state regulation supersedes a local ordinance if there is a "direct conflict" with the state's statutory scheme, or if the state's statutory scheme "occupy[ies] the field of regulation which the municipality seeks to enter, to the exclusion of the ordinance, even where there is no direct conflict."[1] In this case, the state's statutory scheme to regulate groundwater quality is extensive and pervasive. Part 31 of Michigan's Natural Resources and Environmental Protection Act (NREPA)[2] establishes a comprehensive regulatory framework for the protection and management of the state's water resources, including groundwater.[3] It vests EGLE[4] with broad authority to "protect and conserve" those resources, including "control of the pollution of surface or underground waters of the state,"[5] and to establish water quality standards for all waters of the state.[6] Under Part 31, no person may discharge any substance into waters of the state without a permit issued by EGLE, and EGLE retains authority to impose conditions on such permits to

[1] People v. Llewellyn, 401 Mich. 314, 322 (1977).
[2] MCL 324.3101 et seq.
[3] ***See, e.g.***, MCL 324.3101(aa).
[4] Formerly known as Michigan's Department of Environmental Quality (DEQ).
[5] MCL 324.3103(1).
[6] MCL 324.3106; MCL 324.3103(2).

protect groundwater quality, including monitoring requirements, discharge limits, and compliance schedules.[7] Critically, Part 31 also authorizes EGLE to investigate potential groundwater contamination[8], and compel abatement where groundwater quality has been impaired.[9] Under Part 201 of NREPA,[10] which operates in concert with Part 31,[11] EGLE also establishes generic and site-specific cleanup criteria for groundwater,[12] specifies what analytical methods must be employed,[13] and determines whether remediation is necessary based on actual risk to public health and the environment.[14]

The Township's groundwater testing requirement falls squarely within this comprehensively regulated field. By requiring baseline, post-installation, and ongoing groundwater testing as a condition of zoning approval for commercial solar energy systems, the Section 7.31.C.1(a) establishes a local groundwater monitoring and protection regime. Whether the Township's purpose is to detect contamination, track changes in groundwater quality, or establish a restoration standard tied to groundwater conditions, each of these objectives is already addressed by Part 31. If groundwater contamination were to occur, EGLE — not the Township — would possess the authority to investigate, determine the nature and extent of contamination, and compel remediation. The Township lacks independent authority to establish its a parallel regime for these purposes.

For these reasons, Section 7.31.C.1(a) of Harrisville Township's Zoning Ordinance is superseded by Part 31 and Part 201 of NREPA. The Township's groundwater testing requirement, however, it is characterized, constitutes local regulation in a field that the Legislature has reserved to the State of Michigan through a comprehensive statutory and regulatory scheme. Thus, it is appropriate for the Planning Commission to find that Section 7.31.C.1(a) is satisfied by the Project's compliance with the applicable sections of Part 31 and Part 201 of NREPA.

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[7] MCL 324.3112(1), (3); MCL 324.3106.
[8] MCL 324.3103(1); MCL 324.3105.
[9] MCL 324.3109(6).
[10] MCL 324.20101 et seq.
[11] MCL 324.3109b; MCL 324.3109a(2)(a).
[12] MCL 324.20120a(1).
[13] ***See*** MCL 324.20101(1)(bbb).
[14] ***E.g.***, MCL 324.20114(1)(h).