



The Commonwealth of Massachusetts
Executive Office of Energy and Environmental Affairs
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October 20, 2017

CERTIFICATE OF THE SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS
ON THE
ENVIRONMENTAL NOTIFICATION FORM

PROJECT NAME : Ayer Landfill Solar Project
PROJECT MUNICIPALITY : Ayer
PROJECT WATERSHED : Nashua River
EEA NUMBER : 15760
PROJECT PROPONENT : Citizens Energy Corporation
DATE NOTICED IN MONITOR : September 20, 2017

Pursuant to the Massachusetts Environmental Policy Act (MEPA; M.G. L. c. 30, ss. 61-62I) and Section 11.06 of the MEPA regulations (301 CMR 11.00), I hereby determine that this project **does not require** the preparation of an Environmental Impact Report (EIR).

Project Description

As described in the Environmental Notification Form (ENF), the project consists of the construction of a 750-kilowatt (kW) alternating current (AC) solar photovoltaic (PV) array on a portion of the former Ayer Landfill. The Proponent will enter into a long-term lease with the Town of Ayer to allow for the construction, operation, and maintenance of the PV facility. The solar array and system components will occupy approximately six acres on top of the landfill cap and will be enclosed by a fence. The project will require selective tree trimming. System components will include solar panels, racking systems, wiring and connections, power inverters, and service and metering equipment. The solar panels will be arranged in rows extending in an east-west direction and will be supported by a ballast-mounted racking system at a south-facing angle. The array will have inter-row spacing to allow vehicle access for routine maintenance. Although the final point of interconnection has not been determined, the requisite three-phase transmission is located within Groton-Harvard Road and National Grid will provide the design parameters. To access the solar array for construction and maintenance, the

project will use the existing access drive off Groton-Harvard Road. Construction is anticipated to last ten weeks.

Project Site

The 12.95-acre project site is the former Ayer Landfill located at 0 Groton-Harvard Road. It is owned by the Town of Ayer. The landfill operated from approximately 1955 to 1989 and was closed and capped in 2006. Current uses on-site include a solid waste transfer station that handles approximately 1,500 tons of waste annually and processes the Town's recycling materials. The northern portion of the site is located within a transmission line easement (New England Power Company). A small portion of a much larger wetland system is located in the northeastern, north, and northwestern portions of the site. Adjacent land uses include power transmission lines and undeveloped wetlands. The entire site is located within the Petapawag Area of Critical Environmental Concern (ACEC). The majority of the site is also mapped as *Estimated and Priority Habitat* as identified by the Division of Fisheries and Wildlife (DFW)'s Natural Heritage and Endangered Species Program's (NHESP).

Environmental Impacts and Mitigation

Potential environmental impacts associated with the project include alteration of 4.9 acres of land and creation of 0.2 acres of impervious area for a site total of 2.2 acres. The project will not result in any direct impacts to wetland resource areas. Measures to avoid, minimize and mitigate impacts include avoiding alteration within wetland resource areas; reuse of an altered site; and use of erosion and sedimentation control best management practices (BMPs) during construction.

Permits and Jurisdiction

The project is undergoing MEPA review pursuant to 310 CMR Section 11.03(11)(b) of the MEPA regulations because it requires a State Agency Action and includes work within a designated ACEC. The project will require a Landfill Post-Closure Use Permit (BWP SW 36) from the Massachusetts Department of Environmental Protection (MassDEP). It requires review by NHESP pursuant to the Massachusetts Endangered Species Act (MESA).¹

The project may also require a National Pollutant Discharge Elimination System (NPDES) Construction General Permit from the U.S. Environmental Protection Agency (EPA).

Because the Proponent is not seeking Financial Assistance from the Commonwealth for the project, MEPA jurisdiction extends to those aspects of the project that are within the subject matter of required or potentially required State Agency Actions and that may cause Damage to the Environment as defined in the MEPA regulations. In this case, MEPA jurisdiction extends to land, solid waste, and rare species.

¹ Comments from NHESP indicate that it determined that the project will not result in a prohibited "take" of State-listed species.

Review of the ENF

The ENF describes the existing conditions within the project area and the proposed project and its programmatic and physical elements. It includes existing and proposed conditions plans and identifies environmental resources and proposed temporary and permanent impacts. The ENF discussed how the project is consistent with local planning documents.

The ENF does not include an evaluation of alternative sites for the project. The Town of Ayer solicited bids for development of a solar PV array at the proposed site location. The ENF does not describe the No-Build Alternative which would leave the closed landfill in its current state. The existing site zoning is residential; the landfill and transfer station appear to be pre-existing non-conforming uses. It is unlikely that a residential project would be proposed on-site because of potential methane emissions, settlement issues, and lack of desirability. The Town and Proponent concluded that that a passive solar array would maximize the use of the site and minimize environmental impacts.

Solid Waste

Through permitting, the Proponent must demonstrate that the project design, operation, and maintenance will not compromise the integrity of the landfill cap. The Proponent submitted a Major Post-Closure Use Permit application (BWP SW 36) to MassDEP on September 14, 2017 in accordance with solid waste regulations (310 CMR 19.00). The project will be constructed with a non-penetrating, ballasted foundation system that is designed to protect the landfill cap. MassDEP comments indicate that the Permit will contain specific conditions and provisions for protecting the cap and cover system of the closed landfill. The ENF acknowledges that the Permit will require establishment and maintenance of a Financial Assurance Mechanism (FAM) for the decommissioning of the project and restoration of the landfill cap consistent with regulatory requirements. MassDEP comments indicate that the Proponent responded to requests for additional information regarding the FAM on September 27, 2017. The Proponent proposes to provide, on an annual basis, a renewable commercial letter of credit and the Proponent indicates that this approach is acceptable to the Town of Ayer. The Proponent should provide documentation of the Town's support for the FAM during the permitting process. The Proponent indicates that the project will not affect the operations of the transfer station or require associated changes to the MassDEP permit.

Area of Critical Environmental Concern

The entire project site is located within an ACEC. The limit of work includes approximately 5.9 acres. The project will create 10,574 sf of impervious area associated with the construction of concrete pads and ballast block foundations. The ENF indicates the project will not result in any direct impacts to wetland resource areas. Limited tree trimming is proposed to minimize shading impacts. The project is expected to comply with the MassDEP Stormwater Management Regulations. Post-development stormwater runoff conditions will be similar to pre-development conditions; the project is not expected to increase stormwater runoff/discharge to the ACEC. No changes are proposed to the existing stormwater management system which includes a retention basin located to the west of the landfill along Groton Harvard Road. Stormwater BMPs must be implemented during the construction period to reduce potential erosion and sedimentation and limit impacts to wetland resource areas outside the limit of

work. I expect that a spills contingency plan will be developed to address prevention and management of potential releases of oil and/or hazardous materials.

Construction Period

The project must comply with the Solid Waste and Air Pollution Control regulations, pursuant to M.G.L. c.40, s.54. All construction activities should be undertaken in compliance with the conditions of all State and local permits. Erosion and sedimentation control measures should be implemented, inspected, and maintained throughout the construction period, and repairs to these measures should be made in a timely and effective fashion. I encourage the Proponent to use contractors that have installed after-engine emissions controls that are EPA-certified, or their equivalent, on all of the off-road diesel vehicles/equipment. The ENF indicates that equipment will not be left idling when not in use. Off-road vehicles are required to use ultra-low sulfur diesel fuel (ULSD).

Conclusion

The ENF has sufficiently defined the nature and general elements of the project for the purposes of MEPA review and demonstrated that the project's environmental impacts will be avoided, minimized and/or mitigated to the extent practicable. Based on the information in the ENF and after consultation with State Agencies, I find that no further MEPA review is required at this time. Remaining issues can be addressed through the local, state and federal permitting and review processes.



October 20, 2017
Date

Matthew A. Beaton

Comments Received:

- 10/05/2017 Massachusetts Natural Heritage and Endangered Species Program (NHESP)
- 10/11/2017 Massachusetts Department of Environmental Protection (MassDEP) –
Central Regional Office (CERO)

MAB/PPP/ppp



MASSWILDLIFE

DIVISION OF
FISHERIES & WILDLIFE

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Jack Buckley, *Director*

June 16, 2017

Emily Mann
Citizens Energy
88 Black Falcon Avenue, Suite 342
Boston MA 02210

RE: Project Location: Ayer Landfill, 0 Groton Harvard Road
Project Description: Ayer East Solar Array
NHESP File No.: 17-36809

Dear Applicant:

Thank you for submitting the MESA Project Review Checklist, site plans (dated 5/10/2017) and other required materials to the Natural Heritage and Endangered Species Program of the MA Division of Fisheries & Wildlife (the "Division") for review pursuant to the Massachusetts Endangered Species Act (MESA) (MGL c.131A) and its implementing regulations (321 CMR 10.00).

Based on a review of the information that was provided and the information that is currently contained in our database, the Division has determined that this project, as currently proposed, **will not result in a prohibited Take** of state-listed rare species. This determination is a final decision of the Division of Fisheries & Wildlife pursuant to 321 CMR 10.18. Any changes to the proposed project or any additional work beyond that shown on the site plans may require an additional filing with the Division pursuant to the MESA. This project may be subject to further review if no physical work is commenced within five years from the date of issuance of this determination, or if there is a change to the project.

Please note that this determination addresses only the matter of state-listed species and their habitats. If you have any questions regarding this letter please contact Emily Holt, Endangered Species Review Assistant, at (508) 389-6385.

Sincerely,

A handwritten signature in black ink that reads "Thomas W. French".

Thomas W. French, Ph.D.
Assistant Director

cc: Max Lamson, Kennedy/Jenks
Mark Wetzel, Town of Ayer

MASSWILDLIFE

Patel, Purvi (EEA)

From: Paulson, David (FWE)
Sent: Thursday, October 05, 2017 8:59 AM
To: Holt, Emily (FWE); Patel, Purvi (EEA)
Subject: Ayer Landfill Solar Project (15760/17-36809)
Attachments: Ayer_17-36809.pdf

Executive Office of Environmental Affairs
Attention: MEPA Office
Purvi Patel, EEA No. 15760
100 Cambridge St. Suite 900
Boston, Massachusetts 02114

Project Name: Ayer Landfill Solar Project
Proponent: Citizens Energy Corporation
Location: 0 Groton-Harvard Road
Document Reviewed: Environmental Notification Form
EEA No.: 15760
NHESP No: 17-36809

Dear Secretary Beaton:

The Natural Heritage & Endangered Species Program of the Massachusetts Division of Fisheries & Wildlife (the "Division") has reviewed the Environmental Notification Form (ENF) for the proposed "*Ayer Landfill Solar Project*" and would like to offer the following comments regarding state-listed rare species and their habitats.

On June 16, 2017, The Division issued a "No Take" Determination for the above referenced project pursuant to MESA. Attached is the determination letter for your review and reference.

We appreciate the opportunity to comment on this project. If you have any questions about this letter, please contact David Paulson, Endangered Species Review Biologist, at (508) 389-6366 or david.paulson@state.ma.us.

David Paulson
Senior Endangered Species Review Biologist
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Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

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Charles D. Baker
Governor

Karyn E. Polito
Lieutenant Governor

Matthew A. Beaton
Secretary

Martin Suuberg
Commissioner

October 11, 2017

Secretary Matthew A. Beaton
Executive Office of Environmental Affairs
100 Cambridge Street, 9th Floor
Boston, MA 02114

Attention: MEPA Unit – Purvi Patel

Re: Environmental Notification Form (ENF)
Ayer Landfill Solar Project
Ayer
EEA #15760

Dear Secretary Beaton,

The Massachusetts Department of Environmental Protection's ("MassDEP") Central Regional Office has reviewed the ENF for the proposed Ayer Landfill Solar Project in Ayer (the "Project"). The Citizens Energy Corporation of Boston (the "Proponent") is proposing to install a 750 kilowatt (kW) AC solar photovoltaic (PV) array on the top of the closed municipal Ayer Landfill cap. The property is owned by the Town of Ayer and is being leased for the use of this Project. The Project site is partially located within Natural Heritage & Endangered Species Program (NHESP) Priority and Estimated Habitat for Rare Species/Wildlife. Significant impacts to this habitat are not anticipated and the Massachusetts Division of Fisheries and Wildlife has determined that this Project will not result in a take of a state-listed rare species. The Project will alter 4.9 acres of land and create 0.2 acres of impervious area. The Project will be designed and constructed in accordance to the MassDEP Post-Closure Use permitting regulations (310 CMR 19.143).

This Project is under MEPA review because it meets or exceeds the following review threshold:

- 11.03(11)(b) - Any Project within a designated ACEC, unless the Project consists solely of one single family dwelling.

According to the ENF, the Project will require a MassDEP BWP SW 36 Major Post Closure Use Permit.

MassDEP offers the following comments:

Wetlands

All work associated with the Ayer Landfill Solar Project will be located outside the 100-foot Buffer Zone, therefore the Project will not require review, including review of the stormwater management system, by the Ayer Conservation Commission and/or the MassDEP Wetlands Program. The ENF states that the Project's post-development runoff will be similar to pre-develop runoff, existing on-site stormwater management systems will manage the runoff, and the Proponent is not constructing any new stormwater discharges. The Proponent anticipates that the Project will comply with the Massachusetts Stormwater Standards.

Solid Waste

As noted in the ENF, the Project site includes an existing solid waste management facility (transfer station) that accepts an average of four tons per day of solid waste. The Proponent does not address whether construction of the Project will affect operations of the transfer station, or require any changes to a MassDEP permit for that activity.

On September 14, 2017, the Proponent submitted a BWP SW 36 Major Post Closure Use Permit application for the Project to MassDEP. In conjunction with the subject review and permitting, the MassDEP BWP SW 36 Post Closure Use Major Permit will contain, among other conditions, specific conditions and provisions for protecting the cap and cover system of the closed landfill. As the Proponent notes, the permit will require establishment and maintenance of a Financial Assurance Mechanism (FAM) for the decommissioning of the Project and restoration of the landfill cap to MassDEP standards. On September 20, 2017, MassDEP issued a letter requesting additional information about the FAM for decommissioning costs. The Proponent responded on September 27th that it has proposed an annually renewable commercial letter of credit acceptable to the Town of Ayer as owner of the landfill. MassDEP notes that documentation of the agreement of the Town of Ayer to the form of the FAM should be submitted during the permit review period, and that the form of the FAM is subject to MassDEP's approval.

MassDEP appreciates the opportunity to comment on the Project. If you have any questions regarding these comments, please do not hesitate to contact Stella Tamul, Central Regional Office MEPA Coordinator, at (508) 767-2763.

Very truly yours,



Mary Jude Pigsley
Regional Director

cc: Commissioner's Office, MassDEP