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

PROJECT NAME : Interstate Biodiesel Lenox Dale
PROJECT MUNICIPALITY : Lenox and Lee
PROJECT WATERSHED : Housatonic
EEA NUMBER : 14501
PROJECT PROPONENT : Interstate Biofuels
DATE NOTICED IN MONITOR : November 9, 2009

Pursuant to the Massachusetts Environmental Policy Act (MEPA) (G. L. c. 30, ss. 61-621) 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 and operation of a facility capable of producing 15 million gallons per year of biodiesel in the Towns of Lenox and Lee. The production facility will be located on the sites of the former Niagara and Centennial mills owned by Schweitzer-Mauduit along the Housatonic River. The project involves the rehabilitation of an abandoned mill building and other new construction, including a new rail siding connecting the facility to an adjacent Housatonic Rail line. The project proposes to redevelop 4.2 acres of impervious area on the 6.3 acre-site, which consists of two parcels of industrially zoned land. The project site is located within the recently designated Upper Housatonic River Area of Critical Environmental Concern (ACEC).

The proposed facility will process fats, oils, and greases into biodiesel via esterification utilizing closed loop processes that may produce trace or no emissions. The existing building at the Niagara Mill site will be converted to a biodiesel manufacturing process building. Liquid feedstock and methanol will be stored in a tank farm adjacent to the building and biodiesel will be stored in a second tank farm located within the footprint of the former Centennial Mill which was demolished in the early 1970s. Both tank farms will be enclosed within a secondary

containment system to prohibit the flow of storage materials. According to the Proponent, the facility will operate on liquid feedstock approved by the Department of Energy Resources (DOER). The Proponent also indicated that the biodiesel production process has been streamlined to exclude the first stage (purification) which will be conducted offsite.

The site of the proposed biodiesel production facility, two tank farms, material transmission lines, a renovated access road and truck turnaround, and future rail sidings are located entirely in Lenox with vehicular access from Mill Street. The majority of deliveries of feedstock and methanol to the site and biodiesel outbound from the site will be by tanker via the existing active rail service, with the possibility of some local truck deliveries of finished product. According to the Proponent, the proposed rail siding is an estimated 1,900 feet in length and will consist of a single track connection to the Housatonic Rail line. Supplemental information provided by the Proponent indicates that the exact number and lengths of siding remain to be determined.

The project's estimated water supply demand (20,000 gallons per day (GPD)) and wastewater flows (20,000 GPD) will be served by connection to an offsite well and municipal sewer respectively. The project also includes the replacement and extension of approximately 250 feet of sewer main located off-site. A portion of the site is within the 100-year floodplain (Bordering Land Subject to Flooding) and 100-foot wetland Buffer Zone and the entire site is within the 200-foot Riverfront Area. Following the MEPA Consultation Session, the Proponent revised the project to move all activities outside of the Town of Lee (except for the sewer extension) and most activities from the floodplain.

In response to the ENF, I have received several thoughtful comments concerning the proposed project and its potential environmental impacts. Some commenters have asked that additional review occur before the project is allowed to conclude its state permitting process due to the location of the site immediately adjacent to the Housatonic River and within the Upper Housatonic ACEC. These commenters highlight potential safety concerns associated with siting a biodiesel facility proximate to the Housatonic River and to a residential area.

Although I have carefully considered the comments received on this topic, by and large, they do not fall within the scope of MEPA jurisdiction, which is limited in this case to the subject matter of required state permits. The purpose of MEPA is to provide meaningful opportunities for public review of the potential environmental impacts of projects for which Agency Action is required, and to assist each Agency in using all feasible means to avoid and minimize, or mitigate Damage to the Environment to the maximum extent practicable. MEPA is not itself an approval process, nor is it a siting or zoning process. The Proponent has filed an ENF as required pursuant to 301 CMR 11.00, which assesses the potential environmental impacts of the proposed project and proposes mitigation measures. Although some details of the mitigation and monitoring plans have yet to be worked out, I am persuaded that the current ENF and supplemental information have adequately addressed these issues, and that the permitting agencies have sufficient authority to ensure that the project's impacts are appropriately minimized and mitigated. I also note that the proposed project represents the reuse of an existing industrial facility and that it has the potential to confer environmental benefits in its production of biofuels that will help reduce carbon emissions.

Although I am declining to require the preparation of an EIR because the project does not meet mandatory EIR thresholds and because the permitting agencies have indicated that any outstanding issues can be addressed during project permitting, the Proponent should continue to work closely with the state permitting agencies and project commenters to ensure that the impacts of the project are avoided, minimized and mitigated to the maximum extent feasible. Given the proximity of the proposed project to the Housatonic River and within an ACEC, I ask that the Proponent take any and all feasible measures to ensure that the sensitive environmental resources surrounding the project site are fully protected.

Jurisdiction and Permitting

The project is undergoing review pursuant to Sections 11.03(3)(b)(1)(f), 11.03(6)(b)(10) and 11.03(11)(b) of the MEPA regulations because it requires a State Agency Action and it involves the alteration of one-half or more acres of other wetlands (Riverfront Area), the construction of a new rail siding for the transportation of freight, and is located within a designated ACEC. The project will require: a Compliance Certification for the discharge of industrial wastewater, and an Air Quality Limited Plan Approval from the Massachusetts Department of Environmental Protection (MassDEP); potential Solid Waste permits including a Site Assignment and Facility Permit and a Beneficial Use Determination (BUD) from MassDEP; Tank Registrations with the Massachusetts Board of Fire Prevention; Orders of Conditions from the Lenox and Lee Conservation Commissions (and, on appeal only, a Superseding Order of Conditions from MassDEP); a National Pollutant Discharge Elimination System (NPDES) Construction General Permit (CGP) from the U.S. Environmental Protection Agency; a Sewer Connection Permit from the Town of Lee; a Special Permit and Site Plan Approval from the Town of Lenox.

The Proponent is not seeking financial assistance from the Commonwealth. Therefore, MEPA jurisdiction is limited to those aspects of the project that are within the subject matter of required or potentially required state Permits, and that are likely, directly or indirectly, to cause Damage to the Environment as defined in the MEPA regulations. In this case, MEPA jurisdiction is limited to wetlands, stormwater, air, and solid waste.

Wetlands

The project is subject to the Wetlands Protection Act (WPA) and must comply with its associated regulations (310 CMR 10.00). The Proponent is required to file Notices of Intent (NOI) with the Towns of Lenox and Lee Conservation Commissions and MassDEP detailing all impacts to wetland resource areas on the site before commencement of the project. The Proponent has indicated that it has filed a Request for Determination of Applicability (RDA) with the Town of Lenox Conservation Commission to confirm whether the proposed work will alter resource areas. MassDEP comments that all delineation of jurisdictional resource areas should be accomplished through flagging in the field, surveying, and presentation on a scaled site plan.

The entire site is within the 200-foot Riverfront Area of the Housatonic River, and subsequent to the refinement of the layout of the rail siding, only small portions of the truck turnaround and the Niagara Mill building still remain within the 100-year floodplain. Supplemental information stated that the project proposes a total of 2.2 acres of alteration to Riverfront Area - 0.5 acres outside of existing degraded Riverfront Area and 1.7 acres of impact within existing degraded Riverfront Area. Comments from the Department of Conservation and Recreation (DCR) note that if there are mitigation requirements from the WPA for compensatory flood storage and for impacts to Riverfront Area these should be complied with in full and detailed in the NOI submission. The Proponent should note comments from the Berkshire Regional Planning Commission (BRPC) regarding the possibility of shortening the proposed truck turnaround in the southern portion of the site to avoid or minimize floodplain impacts. As discussed elsewhere in this Certificate, the Proponent has committed to Riverfront Area enhancement by planting grass along the river.

In its comments, MassDEP requires the Proponent to file an NOI for any proposed mitigation to be performed within resource areas, including any mitigation proposed within the railroad right-of-way. I note MassDEP's comments that, at a minimum, the Housatonic Railroad should provide notice to the Conservation Commission and MassDEP prior to the undertaking of any work in resource areas where possible, avoid, minimize, and mitigate impacts to resource areas. I ask that the Proponent and Housatonic Railroad to coordinate work to ensure that any site work mitigation proposed within the railroad right-of-way is not lost or impacted during rail siding construction.

I refer the Proponent to the comments from MassDEP regarding the Historic Mill Complex provision for work in the Riverfront Area and review under the Redevelopment Standards of the WPA. The Proponent should determine which portions of the former Centennial Mill and its associated structures can qualify as an historic mill. I note that several commenters have questioned whether the proposed work in the area around the former Centennial Mill should be considered new development. I ask MassDEP and the Conservation Commissions to verify whether the proposed activities are in fact redevelopment within previously developed Riverfront Areas in accordance with 310 CMR 10.04 and 310 CMR 10.58(5).

Given the potential for increased storms and flooding due to the effects of climate change, the Proponent should consider incorporating protective measures in the project design that allow for potential changes in floodplain elevation over the life of the project. As indicated in comments from DCR, the Proponent should consider whether an adaptive flood management plan would be appropriate for this site. During the review and permitting of this and other projects in vulnerable resources areas, I ask that MassDEP and the Conservation Commissions consider the impacts that global climate change may have on the proposed project and evaluate whether there are strategies for adapting to climate change that could be incorporated into the project. The recommendations of the Climate Change Adaptation Advisory Committee may be informative in this regard. This Committee was created under the Global Warming Solutions Act of 2008 to advise the Executive Office of Energy and Environmental Affairs on strategies the state may pursue to address the impacts of climate change on the Commonwealth, and its report to the Legislature should be available in early 2010.

Stormwater

Although the ENF stated that the project would comply with the MassDEP Stormwater Standards to the maximum extent practicable, it did not provide information on the project's stormwater management system or the use of Best Management Practices (BMPs). Subsequently, the Proponent indicated their commitment to implement certain stormwater BMPs including deep-sump catch basins with oil/water separators, and roadside swales. In addition, the Proponent envisions reducing the width of the existing roadway to facilitate the planting of grass along the Riverfront Area, and placing either a curb or berm along the roadway to retain stormwater and prevent its migration towards the river. According to the ENF, potential spills and leaks will be contained by a secondary containment system (diked) associated with the two tank farms and spill pans located where material will be pumped from rail cars to storage tanks will direct spills into the tank farm secondary containment system.

More detailed information on the project's stormwater impacts, stormwater management plan, and proposed mitigation must be clarified during the Notice of Intent (NOI) review process. MassDEP encourages the Proponent to manage stormwater onsite by the use of BMPs that do not create a point source discharge.

Along with several commenters, I strongly encourage the Proponent to evaluate opportunities for incorporating sustainable design alternatives including Low Impact Development (LID) techniques in the project's site design and stormwater management plans. I also encourage the Proponent to consider alternatives that propose the reduction of impervious area on the project site such as the use of porous pavement and the inclusion of BMPs that enhance infiltration of rainwater into the soil. If it is not already a condition of the Stormwater Pollution Prevention Plan (SWPPP) that will be required in connection with the NPDES CGP, I also encourage the Proponent to prepare and implement a long-term Operation and Maintenance Plan (O&M Plan) for the site's stormwater management system, including protocols for snow removal and storage. Finally, I refer the Proponent to the comments from DCR and Berkshire Environmental Action Team (BEAT) regarding potential additional measures the Proponent may wish to incorporate in its stormwater management plans.

Air Quality

Air emissions will occur from two general processes: 1) the biodiesel production process, and 2) a boiler for producing process steam required by the biodiesel production process. The biodiesel facility will be powered using existing electricity available onsite. At peak capacity, the biodiesel facility will require 3-5 bar gauge pressure of steam and 1 megawatt (MW) of electricity. The biodiesel production process will emit methanol, a volatile organic compound (VOC) as well as a hazardous air pollutant (HAP). According to the Proponent, the systems for collection and control of emissions are extensive and are capable of the automatic detection of any and all leaks, including methanol. In the event that the automatic alarm was not heeded, the system would proceed into automatic shut down. All process tanks will have a nitrogen blanket which prevents liquids from vaporizing into the atmosphere, prevents atmospheric air from entering the tanks, and reduces the ignition potential. Vapors from storage or normal tank "breathing" pass through a refrigerated condenser, which condenses the vapor and returns the

condensed liquid methanol to the tank. Any vapor not captured by the condenser is collected by the vent header and sent to a wet scrubber for recapture.

According to the supplemental information provided for the ENF, without the use of any emissions control systems, the biodiesel processing facility would emit a maximum rate of methanol of 828 tons per year (tpy). After the use of a refrigerated vent condenser followed by a wet scrubber control system, the rate is estimated at 4.4 tpy. Furthermore, if a flared system were to be introduced into the process the rate would be reduced to approximately 0.44 tpy, however the Proponent does not anticipate that a flared system will be required. In addition, unreacted methanol will be recovered and reused in a closed loop system.

The biodiesel manufacturing process is subject to 310 CMR 7.02 and will require an Air Quality Limited Plan Approval from MassDEP. The Proponent should submit the following requisite information as part of the Limited Plan Approval Application:

- propose how the project will minimize air quality impacts to the maximum extent from all air contaminant emission points of the project by complying with MassDEP's Best Available Control Technology (BACT) requirements;
- include as part of the BACT analysis, a comparison of a flare control system versus a refrigerated vent condenser/wet scrubber controlled system;
- identify and quantify the VOC and HAP emissions, and any other air contaminant, from each air contaminant emission point in the biodiesel manufacturing process such as, but not limited to, the chemical (methanol) storage tanks, the biodiesel storage tanks, the transfer of methanol from rail cars to storage tanks, the loadout of biodiesel to railcars as well as fugitive emissions from equipment leaks;
- include a detailed and complete description of the biodiesel manufacturing process; and
- any other information required by 310 CMR 7.02.

The Proponent should refer to MassDEP's comments regarding potential air approval/permit requirements (Air Pollution Control Regulations, 310 CMR 7.00) for boilers, incinerators, stationary turbines, reciprocating engines, emergency generator sets and other internal combustion engines (e.g. those associated with power generation units) that may or may not be applicable to this project.

Solid Waste

According to the Proponent, test borings were conducted on the former Centennial Mill site and have indicated that the demolition debris is predominantly concrete, bricks and mortar. The Proponent anticipates crushing and reusing the debris onsite to form portions of the foundation for the finished product storage tanks. According to comments from MassDEP, the onsite crushing and reuse of these materials must comply with the exemption at 310 CMR 16.05(3)(e) including the submission of a 30-day notification form to MassDEP and the local Board of Health prior to the commencement of the crushing activity. In the event the exemption is not met or the demolition debris is not left undisturbed, the Proponent will be required to obtain a site assignment and facility permit for the crushing activity and a Beneficial Use

Determination (BUD) for reuse of the crushed material. The Proponent should consult with MassDEP on regulations and permitting for the reuse or disposal of any solid waste.

Other Issues

The entire site is 6.3 acres and is comprised of two parcels. The project is proposed on the larger parcel which is 5.5 acres and is located along the eastern bank of the Housatonic River. Directly across the river is the smaller of the two parcels (0.8 acres) which is currently undeveloped and littered with household solid waste. According to the Proponent, this parcel will remain undeveloped and may be placed under a Conservation Restriction (CR). I strongly encourage the Proponent to commit to placing a CR on this 0.8-acre parcel to ensure its permanent protection as part of the mitigation plans for this project.

According to MassDEP, water for the proposed project will be supplied by an existing well owned and operated by Schweitzer-Mauduit and located offsite that is currently regulated under its own Water Management Act (WMA) registration and permit. As outlined in the ENF, the project is expected to require approximately 20,000 GPD of water. I refer the Proponent to MassDEP's comments regarding the transfer of the WMA permit. The Proponent has indicated that they do not plan now or at a future date to withdraw water from the Housatonic River for process operations.

The project proposes to discharge approximately 20,000 GPD of industrial wastewater to the Town of Lee Wastewater Treatment Facility (WWTF). The Proponent will be required to submit a Compliance Certification for the discharge of industrial wastewater to MassDEP for a industrial/sanitary wastewater connection less than 25,000 GPD, within 60 days after commencement of discharging wastewater. The Compliance Certification must be submitted to MassDEP every five years.

According to the Proponent, the Town of Lee has indicated that there is sufficient capacity in the existing municipal system to accommodate wastewater flows from the project. However the Town of Lee WWTF has requested additional information to satisfy concerns regarding the elevated concentrations of Biochemical Oxygen Demand (BOD) in the effluent and may require the pretreatment of the effluent prior to disposal at the WWTF. If water consumption or wastewater generation increases as a result of project activities, or if the Proponent is required to find an alternate location for disposal of the wastewater, a Notice of Project Change (NPC) may be required. In that event, the Proponent should consult with the MEPA Office to determine whether an additional filing would be required.

According to supplemental information provided by the Proponent, the project will include two distinct tank farms. The first tank farm will be located in the southern portion of the site and will house the three 200,000 gallon ASTs which will store the finished biodiesel. The second tank farm will be adjacent to the rehabilitated mill building and in the location of existing fuel tanks which are proposed to be removed. This second tank farm will house three 200,000 gallon ASTs storing feedstock and one 50,000 gallon AST storing methanol. Zinc acetate, a catalyst used in the production of biodiesel will be stored within the process building. Under M. G. L. c. 148, s. 37, all ASTs of more than 10,000 gallons capacity must be permitted by the State

Fire Marshal before the tank is constructed, maintained or used. The Proponent must comply with the Office of the State Fire Marshal Regulations at 502 CMR 5.00 (officially adopted on 12/24/99), which deal with the permit requirements and annual inspection of ASTs of more than 10,000 gallons capacity.

I note the concern of several commenters and encourage the Proponent to be aware of the potential presence of polychlorinated biphenyl (PCB) contamination within the floodplain of the Housatonic River resulting from past releases from the General Electric (GE) plant upstream in Pittsfield. While the project site is not presently listed on the MassDEP Bureau of Waste Site Cleanup (BWSC) database, the Proponent is advised that, if oil and/or hazardous material is identified during the implementation of this project, notification pursuant to the Massachusetts Contingency Plan (310 CMR 40.0000) must be made to MassDEP, if necessary. I also refer the Proponent to detailed comments from MassDEP regarding the cleanup of oil and/or hazardous material encountered during construction and demolition activities.

In addition, MassDEP comments that a spills contingency plan addressing potential releases of oil and/or hazardous materials from pre- and post-construction activities, including but not limited to, refueling of machinery, storage of fuels, and potential future onsite releases, should be enforced and presented to workers at the site.

Comments from the Massachusetts Board of Underwater Archaeological Resources (the Board) indicate that the project is unlikely to adversely impact submerged cultural resources. However, it is possible that there are submerged cultural resources in the project area. If heretofore-unknown submerged cultural resources are encountered during the course of the project, the Proponent should take steps to limit adverse effects and notify the Board, as well as other appropriate agencies, in accordance with the Board's *Policy Guidance for the Discovery of Unanticipated Archaeological Resources* (updated 9/28/06).

The project must comply with the MassDEP's Solid Waste and Air Quality Control regulations during construction. The project includes demolition and reconstruction, which will generate a significant amount of construction and demolition (C&D) waste. The Proponent should consult with MassDEP for appropriate standards and guidelines for managing construction waste. I also strongly encourage the Proponent to utilize BMPs during the construction period. The Proponent should evaluate construction period impacts, including erosion and sedimentation, air quality and solid waste disposal, and strive to minimize construction impacts (including but not limited to transient traffic, noise, vibration, and dust). The Proponent should prepare an erosion and sedimentation control plan, as part of the SWPPP, in accordance with the NPDES CGP and any conditions outlined by the Towns of Lenox and Lee.

Additionally, I encourage the Proponent to mitigate the construction period impacts of diesel emissions to the maximum extent feasible. This mitigation may be achieved through participation in the MassDEP Diesel Retrofit Program. The Proponent should work with MassDEP staff to implement construction-period diesel emission mitigation, which could include the installation of after-engine emission controls such as diesel oxidation catalysts (DOCs) or diesel particulate filters (DPFs). Finally, I strongly encourage that construction


equipment operate on ultra low sulfur diesel (ULSD) fuel, which will be required for off-road engines in 2010.

Conclusion

I have determined that the ENF and supplemental information have sufficiently defined the nature and general elements of the project and proposed measures to avoid and mitigate environmental impacts. I am satisfied that any remaining issues can be adequately addressed during the state and local permitting and review process. The proposed project, as described in the ENF and supplemental information, requires no further review under MEPA.

January 8,2009

Date


For Ian A. Bowles

Comments received:

12/11/2009	Berkshire Regional Planning Commission
12/15/2009	Mass Audubon
12/15/2009	Massachusetts Department of Environmental Protection – WERO
12/16/2009	Massachusetts Board of Underwater Archaeological Resources
12/22/2009	George Jordan, (14 letters, dated from November 19 to December 18,2009)
12/28/2009	Housatonic Valley Association
12/28/2009	Housatonic River Initiative
12/29/2009	Mark W. Siegars, Attorney representing ten citizens
12/30/2009	Department of Conservation and Recreation – ACEC Program
12/30/2009	Deidre Consolati
01/04/2010	Berkshire Environmental Action Team
01/06/2010	Interstate Biodiesel

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