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April 12, 2019

DRAFT RECORD OF DECISION

PROJECT NAME : Parallel Products of New England
PROJECT MUNICIPALITY : New Bedford
PROJECT WATERSHED : Buzzards Bay
EEA NUMBER : 15990
PROJECT PROPONENT : Parallel Products of New England, LLC
DATE NOTICED IN MONITOR : February 20, 2019

Pursuant to the Massachusetts Environmental Policy Act (MEPA, M.G.L.c.30, ss. 61-62I) and Section 11.11 of the MEPA regulations (301 CMR 11.00), I have reviewed the Expanded Environmental Notification Form (EENF) and hereby **propose to grant** a Phase 1 Waiver that will allow the first phase of development, as described in the EENF, to proceed to permitting prior to completion of the Draft EIR (DEIR) and Final EIR (FEIR) for the remaining development.

Project Description

As described in the ENF, the project includes the phased construction of a glass recycling/processing facility; a solid waste handling and processing facility that will accept 1,500 tons per day (tpd) of municipal solid waste (MSW) and construction & demolition (C&D) waste; and a biosolids drying facility that will accept 50 dry tpd of biosolids.

Phase 1 includes construction of a glass recycling/processing facility within a 27,500-square foot (sf) building, construction of a railroad (RR) sidetrack from the main RR line to the glass processing facility, and installation of a 1.9 megawatt (MW) solar photovoltaic (PV) array. The glass recycling/processing facility will recycle glass collected through the Massachusetts bottle deposit

system. Glass processing will include crushing, sizing and separation of the glass by color. Processed glass will be stored in bunkers until it is loaded into rail cars or trucks to shipment for bottle manufacturers. Phase 1 is proposed to meet an immediate regional need for glass processing in the region by providing an alternative market for glass that would otherwise be disposed.

Phase 2 includes construction of the MSW and C&D transfer station and the biosolids drying facility and extension of the RR sidetrack to service these facilities. Phase 2 will construct a 50,000-sf waste handling building which will be connected to an existing 103,000-sf building. The larger building will house processing equipment which will remove waste ban items and separate out recyclable materials. It also includes construction of a stand-alone 30,000-sf building to house the biosolids processing equipment. Biosolids processing will consist of drying the biosolids to reduce the volume and tonnage of the material prior to off-site disposal. Shipment of all outbound material will primarily occur via rail car.

Project Site

The 71-acre project site is located within the New Bedford Industrial Park at 100 Duchaine Boulevard in New Bedford. The site is generally bounded by industrial properties and Samuel Barnet Boulevard to the north, Phillips Road to the east, undeveloped land to the south, and a rail line and the Acushnet Cedar Swamp State Reservation to the west. The site was previously developed by the Polaroid Corporation and contains access roads, parking areas, stormwater management infrastructure and numerous buildings. The Proponent purchased the site in 2016 and has relocated a portion of its processing and recycling operations from 969 Shawmut Avenue to the project site. The site also contains 1.5 MW of solar PV mounted on a series of carport canopies. Access to the site is provided from Duchaine Boulevard, via an internal one-way loop roadway surrounding the proposed facility. The site has adequate area to support truck movement and access and is easily accessible from Route 140 (Alfred M Bessette Memorial Highway) via Braley Road or Phillips Road.

Wetland resource areas in the vicinity of the project include Bank, Bordering Vegetated Wetlands (BVW), Land under Water (LUW), and Riverfront Area. The project site is not located in Priority and/or Estimated Habitat as mapped by the Division of Fisheries and Wildlife's (DFW) Natural Heritage and Endangered Species Program (NHESP) or an Area of Critical Environmental Concern (ACEC). The site does not contain any structures listed in the State Register of Historic Places or the Massachusetts Historical Commission's (MHC) Inventory of Historic and Archaeological Assets of the Commonwealth.

Environmental Impacts and Mitigation

According to the EENF, potential environmental impacts of Phase 1 include alteration of 4.6 acres of land, creation of 21,780 sf of impervious area, generation of 108 new average daily trips (adt), consumption of 150 gallons per day (gpd) of potable water, and generation of 150 gpd of wastewater. Phase 1 will impact BVW (4,087 sf), Bank (36 linear feet (lf), and Riverfront Area (900 sf).

The following commitments are proposed to avoid, minimize and mitigate environmental impacts associated with Phase 1 including: limiting all glass processing to an enclosed building; designing the RR crossing to reduce impacts to BVW and RFA; wetland replication; constructing the

project on a previously altered site; use of rail to ship glass off-site; construction period erosion and sedimentation control measures; and generating renewable energy with solar PV systems.

Jurisdiction and Permitting

The project is undergoing MEPA review and requires the preparation of a mandatory EIR pursuant to Sections 11.03(5)(a)(6) and 11.03(9)(a) of the MEPA regulations because it requires State Agency Actions and will result in: New Capacity for storage, treatment, processing, combustion or disposal of 150 or more wet tpd of sewage sludge and New Capacity of 150 or more tpd for storage, treatment, processing, or disposal of solid waste (respectively). Because it requires an EIR, the project is subject to review in accordance with the MEPA Greenhouse Gas (GHG) Emissions Policy and Protocol. The project is also subject to the Executive Office of Energy and Environmental Affairs' Environmental Justice (EJ) Policy.

The Proponent consulted with MassDEP and the MEPA Office regarding the enhanced outreach requirements of the EJ Policy. The Proponent published Spanish and Portuguese language versions of the MEPA Public Notice in *El Planeta* and the *Portuguese Times* (respectively) in addition to the *New Bedford Times*. The Proponent also notified the following organizations of the project and MEPA scoping session and provided them with a copy of the EENF: Coalition for Social Justice, Alternatives for Community & Environment, Hands Across the River Coalition, and Old Bedford Village. These were identified as EJ leaders based on consultation with MassDEP. The comment period was extended for two-weeks at the Proponent's request to provide additional time to review and comment on the EENF. The comment period commenced on February 20, 2019 and concluded on April 5, 2019. I accepted all late comments as allowed in accordance with 301 CMR 11.06(3). A MEPA site visit and scoping session was held on March 7, 2019. Spanish and Portuguese translation services were provided at the MEPA scoping session.

Phase 1 of the project will receive Financial Assistance from the Massachusetts Department of Transportation (MassDOT) Industrial Rail Access Program (IRAP) in the amount of \$500,000. Phase 1 will require an Order of Conditions from the New Bedford Conservation Commission (or in the case of an appeal, a Superseding Order of Conditions from MassDEP) and a new or amended Site Plan Approval from the New Bedford Planning Board.

Because the Proponent is seeking Financial Assistance, MEPA jurisdiction is broad in scope and extends to all aspects of the project that may cause Damage to the Environment, as defined in the MEPA regulations.

Phase 1 Waiver Request

The Proponent submitted an EENF in support of its request for a Phase 1 Waiver. Consistent with this request, the EENF was subject to an extended 30-day public comment period. At the Proponent's request, the comment period was extended for an additional two-weeks and closed on April 12, 2019.

Standards for All Waivers

The MEPA regulations at 301 CMR 11.11(1) state that I may waive any provision or requirement in 301 CMR 11.00 not specifically required by MEPA and may impose appropriate and relevant conditions or restrictions, provided that I find that strict compliance with the provision or requirement would:

- (a) result in an undue hardship for the Proponent, unless based on delay in compliance by the Proponent; and
- (b) not serve to avoid or minimize Damage to the Environment.

Determinations for a Phase 1 Waiver

The MEPA regulations at 301 CMR 11.11(4) state that, in the case of a partial waiver of a mandatory EIR review threshold that will allow the proponent to proceed with Phase 1 of the project prior to preparing an EIR, I shall base the finding required in accordance with 301 CMR 11.11(1)(b) on a determination that:

- (a) the potential environmental impacts of Phase 1, taken alone, are insignificant;
- (b) ample and unconstrained infrastructure facilities and services exist to support Phase 1;
- (c) the project is severable, such that Phase 1 does not require the implementation of any other future phase of the project or restrict the means by which potential environmental impacts from any other phase of the project may be avoided, minimized or mitigated; and
- (d) the agency action on Phase 1 will contain terms such as a condition or restriction, so as to ensure due compliance with MEPA and 301 CMR 11.00 prior to commencement of any other phase of the project.

Findings

Based upon the information provided during MEPA review, consultation with State Agencies, and review of public comments, I find that the Waiver Request has merit and that the Proponent has demonstrated that Phase 1 meets the standards for all waivers at 301 CMR 11.11(1).

The EENF provided sufficient information regarding potential impacts for the purpose of MEPA review, it demonstrated that environmental impacts associated with Phase 1 are not significant and it identified measures to avoid, minimize, and mitigate potential impacts.

As noted in the EENF and confirmed by MassDEP, there are limited outlets for recycling container glass within the Commonwealth and New England since the last glass bottle production facility in the region closed in 2018. This has resulted in increased shipping distances to bottle production facilities, which combined with a nationwide trucking shortage, has increased costs for recycling programs. Phase 1 will provide a new outlet for processing of glass bottles and will facilitate reliable and economical shipment of the glass to recycling markets and bottle manufacturers via rail car. Comments from MassDEP confirm that Phase 1 will enhance glass processing in the region by offering alternative markets for those collecting and diverting container glass from landfills. Phase 1 includes

construction of a building and installation of solar PV within previously altered and impervious areas and extension of a RR line using funds from MassDOT's IRAP grant program.

I have received numerous comment letters that identify concerns regarding the project and public outreach. During the MEPA review period, the Proponent agreed to hold a public meeting which will provide the community with an additional opportunity to learn about and comment on the project. The Proponent intends to schedule this meeting prior to the close of the comment period on the DROD (May 8). If the meeting is delayed, the comment period on the DROD will be extended such that it will not close before the public meeting is held. This will provide an opportunity for the community to comment on the DROD based on information learned at the meeting.

In light of the regional benefits and limited impacts associated with Phase 1, strict compliance with the requirement to prepare a Mandatory EIR for the project prior to Phase 1 would result in undue hardship and would delay the regional benefits to the glass recycling market identified in MassDEP's comment letter. The Proponent will redevelop a previously altered site within an industrial park, which has adequate vehicular access and is easily accessible from Route 140 (Alfred M Bessette Memorial Highway). In addition, the Proponent has committed to implement adequate measures to avoid, minimize, and mitigate Phase 1 impacts. Comments from MassDEP and MassDOT indicate support for the Waiver. I find that strict compliance with the requirement to submit an EIR prior to completion of Phase 1 of the project would result in an undue hardship and would not serve to avoid or minimize Damage to the Environment.

In accordance with 301 CMR 11.11(4), the latter finding is based on my determination that:

1. The potential environmental impacts of Phase 1, taken alone, are insignificant.

Potential impacts associated with Phase 1 do not exceed ENF thresholds. The majority of development is located within previously altered and impervious areas. Potential environmental impacts of Phase 1 are primarily associated with construction of the RR side track which will alter wetland resource areas. The New Bedford Conservation Commission will review Phase 1 to determine its consistency with the Wetlands Protection Act (WPA), the Wetlands Regulations (310 CMR 10.00), and associated performance standards, including the Stormwater Management Standards (SMS). The Proponent will provide wetland replication and design the crossing to comply with MassDEP's Stream Crossing Standards.

2. Ample and unconstrained infrastructure facilities and services exist to support Phase 1.

The site provides infrastructure necessary to support Phase 1, including access roads, water and sewer, and electricity. Phase 1 will construct a RR extension to facilitate shipment of outbound material via rail car. Existing roadway infrastructure can accommodate traffic generation associated with the project. Based on the foregoing, I find that ample and unconstrained infrastructure exists to support Phase 1.

3. The project is severable, such that Phase 1 does not require the implementation of any other future phase of the project or restrict the means by which potential environmental impacts from any other phase of the project may be avoided, minimized or mitigated.

The Phase 1 project can function independently without the remaining development. Phase 1 does not require the implementation of remaining development phases or restrict the means by which potential environmental impacts from remaining development may be avoided, minimized, or mitigated.

4. The Agency Action(s) on Phase 1 will contain terms such as a condition or restriction, so as to ensure due compliance with MEPA and 301 CMR 11.00 prior to commencement of any other phase of the project.

The Proponent is seeking Financial Assistance from MassDOT for Phase 1. I hereby direct MassDOT to include a condition in their funding agreement that requires compliance with MEPA and 301 CMR 11.00 prior to commencement of Phase 2. Based on the foregoing, I find that Phase 1 of the project can commence prior to the completion of the MEPA review process.

Given the foregoing, and subject to the conditions included herein, I find that a requirement to complete MEPA review prior to Phase 1 is not necessary to demonstrate that it will avoid, minimize, and mitigate potential Damage to the Environment to the maximum extent practicable, and that a requirement to do so would therefore cause undue hardship and would not serve to minimize Damage to the Environment.

Conclusion

Based on these findings, I have determined that this waiver request has merit, and am issuing this DROD, which will be published in the next edition of the Environmental Monitor on April 24, 2019 in accordance with 301 CMR 11.15(2), which begins the public comment period. The public comment period will last for 14 days and will end on May 8, 2019 unless an extension is necessary to accommodate the public meeting. Based on written comments received concerning the DROD, I shall issue a Final Record of Decision (FROD) or a Scope within seven days after the close of the public comment period, in accordance with 301 CMR 11.15(16).

April 12, 2019

Date

Matthew A. Beaton

Comments received:

Form letters beginning "I am strongly opposed to the..." (1,013 received)

Form letters beginning "I strongly support the..." (two received)

03/08/2019 Tracy Wallace (1 of 2)

03/18/2019 Robert Ladino

03/22/2019 Massachusetts Department of Environmental Protection (MassDEP) (1 of 2)

03/26/2019 Roger Cabral

03/26/2019 Cheryl Souza

03/27/2019 Marlene Pollock

03/27/2019 Tracy Wallace (2 of 2)
03/27/2019 Wendy Graca
03/28/2019 Claire B.W. Miller, Toxics Action Center
03/29/2019 Massachusetts Department of Transportation (MassDOT)
03/29/2019 Jonathan F. Mitchell, Mayor, City of New Bedford
03/29/2019 Department of Energy Resources (DOER)
03/29/2019 Vincent Carolan
03/31/2019 Claudia Ostiguy
04/02/2019 Ron Cabral
04/02/2019 Carol Strupczewski
04/05/2019 MassDEP (2 of 2)

MAB/PRC/prc