



The Commonwealth of Massachusetts

Executive Office of Environmental Affairs

251 Causeway Street, Suite 900

Boston, MA 02114-2119

MITT ROMNEY
GOVERNOR

KERRY HEALEY
LIEUTENANT GOVERNOR

ELLEN ROY HERZFELDER
SECRETARY

Tel. (617) 626-1000
Fax (617) 626-1181
<http://www.mass.gov/envir>

June 30, 2003

DRAFT RECORD OF DECISION

PROJECT NAME : Notch Road Landfill
PROJECT MUNICIPALITY : Adams
PROJECT WATERSHED : Hoosic
EOEA NUMBER : 13030
PROJECT PROPONENT : Specialty Minerals Inc.
DATE NOTICED IN MONITOR : May 24, 2003

Pursuant to the Massachusetts Environmental Policy Act (G. L. c. 30, ss. 61-62H) and Section 11.06 of the MEPA regulations (301 CMR 11.00), I have reviewed this project and **propose to grant a waiver from the mandatory requirement to prepare an Environmental Impact Report (EIR).**

Project Description

As described in the Environmental Notification Form (ENF), the project consists of the siting of a landfill on Specialty Management Inc's property for the management of co-products produced during limestone quarrying and processing (pond solids and fluosolids (FS) dust). The facility currently uses two permitted areas, the Dollar Farm and Power Line areas, for onsite disposal of this material, both of which are reaching capacity. The area proposed for the Notch Road landfill is approximately 15 acres and the proponent has indicated that it will be permitted, constructed and operated in accordance with DEP regulations for solid waste facilities. The quantity of waste to be disposed is approximately 325 tons per day (tpd).

The facility will be used solely for SMI's operations and the co-products it produces.

Jurisdiction

The project is undergoing MEPA review and requires the preparation of a mandatory EIR pursuant to Section 11.03 (3)(9)(a) because it requires a state permit and will result in an expansion in capacity of 150 or more tpd for storage, treatment, processing, combustion or disposal of solid waste. The project requires a Site Suitability, Landfill Facility Plan, Authorization to Construct, and Authorization to Operate permits from the Department of Environmental Protection (DEP).

Because the proponent is not seeking financial assistance from the Commonwealth for the project, MEPA jurisdiction extends to those aspects of the project that may cause significant Damage to the Environment and that are within the subject matter of required or potentially required state permits.

Waiver Request

As noted above, this project is subject to a mandatory EIR. The proponent has requested a waiver of this requirement in accordance with Section 11.11 of the MEPA regulations. Consistent with this request, the ENF was subject to an extended comment period pursuant to Section 11.06 (8) of the MEPA regulations and extended an additional two weeks at the request of the proponent. The waiver request was discussed at a site visit held on Thursday, June 5, 2003.

Criteria for Waiver

The MEPA Regulations (301 CMR 11.11) provide that a waiver may be granted upon a finding that strict compliance with the regulations will result in an undue hardship and will not serve to minimize or avoid damage to the environment. This finding shall be based on one or more of the following circumstances: 1) the project is likely to cause no damage to the environment, and 2) ample and unconstrained infrastructure facilities and services exist to support the project.

Findings

Based upon the record before me and after consultation with relevant state agencies, I find that:

- 1) The impacts of the project are likely to be insignificant. The proponent has examined alternatives to reduce impacts to abutters and the environment.
- 2) The waste that will be disposed in this facility is essentially the same as the raw material quarried at the site. The primary difference between the limestone in place and the waste is particle size. Furthermore, this waste stream is not subject to the constraints on disposal capacity imposed by the DEP Beyond 2000 Solid Waste Master Plan.
- 3) The state permitting process can adequately address remaining environmental issues and will provide another opportunity for public review of the proposed project.
- 4) The company will continue implementing dust control measures to avoid and minimize impacts consistent with its Fugitive Dust Abatement Plan. Measures include watering down material piles to suppress dust, watering roads during dry conditions to minimize dust caused by truck trips, and using haul trucks with retrofitted tailgates designed to minimize dust during dumping of co-products.
- 5) Water quality testing and monitoring do not indicate any degradation of ground or surface waters by the presence of existing landfills and/or management practices. The design and practices associated with the proposed landfill are identical (with the exception of location) to the existing.
- 6) Existing stormwater infrastructure and/or management plans are in place to manage the stormwater runoff created by the facility in accordance with DEP Stormwater Management guidelines. DEP will review the need for additional stormwater controls, based on proposed changes to topography, during the permitting process.
- 7) SMI shall coordinate with the Department of Environmental Management (DEM) to ensure that proposed closure plans sufficiently integrate the mine into the surrounding landscape and topography.

Based on these findings, it is my judgment that the waiver request has merit and meets the tests established in 301 CMR 11.11 (3). Therefore, I propose to grant the waiver request. This Draft Record of Decision shall be published in the next issue of the Environmental Monitor for a fourteen-day comment period, after which I shall reconsider, modify, or confirm the waiver.

June 30, 2003

Date

Ellen Roy Herzfelder

Comments received:

06/23/03 Department of Environmental Protection WERO
06/11/03 Berkshire Regional Planning Council
06/04/03 David Krutiak

ERH/CDB/cdb