

Construction Stormwater Enforcement: Commonwealth of Massachusetts and Solar Array Developer Enter into Consent Decree



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The Commonwealth of Massachusetts, acting through the Office of the Attorney General of Massachusetts, and Dynamic Energy Solutions, LLC, (“Dynamic”) entered into a February 1st Consent Decree (“CD”) addressing alleged violations of the:

- Federal Clean Water Act
- Massachusetts Wetlands Protection Act
- Massachusetts Clean Waters Act

The CD provides that Dynamic is the lessee, developer, project proponent and general contractor in an 18.5 acre commercial solar array (“Array”) in Williamsburg, Massachusetts.

The Array is also stated to include the use of, and improvements to, an access road that connects along with the planned installation of a utility connection.

The Massachusetts Attorney General alleged in a previously filed Complaint that certain Dynamic activities related to the construction of the Array resulted in excessive sediment discharges to the West Branch of Mill River and Rogers Brook and their associated tributaries and wetlands resource areas. Such activities are alleged to have violated the previously referenced federal and state statutes and their implementing regulations.

The Massachusetts Attorney General had filed a Complaint against Dynamic in the United States District Court, District of Massachusetts, on April 28th, 2020.

The CD provides that Dynamic has taken certain steps to prevent further discharges of sediment-laden stormwater to resource areas. In addition, Dynamic is stated to have agreed to restore and/or mitigate for certain resource areas impacted by its activities. Such restorations costs are stated to exceed \$530,000.

The previously referenced activities, along with implementation of the measures set forth in Dynamic’s Stormwater Pollution Prevention Plan for the Array, are stated by Dynamic to enable it to comply with the requirements of the previously referenced federal and state statutes.

Dynamic is stated to have transferred ownership of the Array and all assets associated with it to a third party. Regardless, Dynamic has agreed to retain responsibility for compliance with the CD.

Dynamic is also stated to have agreed to place a parcel of 24 acres near the West Branch Mill River into conservation. Such placement is estimated to cost \$210,000. In addition, the company will pay \$215,000 to fund the acquisition of land by a trust to benefit water quality in the Mill River.

A penalty of \$100,000 will be paid to the Massachusetts' General Fund along with \$80,000 to the Massachusetts Attorney General's Office for attorney fees and costs.

A copy of the CD can be downloaded [here](#).