

May 26, 2009

Certified Mail Return Receipt 7006 0100 0003 8524 9249

Evergreen Solar
112 Barnum Road
Devens, MA 01434

Attention: Craig Core, Facility Manager

RE: Notice of Violation – continued non-compliance with 974 CMR 4.05

Dear Mr. Core:

As a follow-up to the April 1, 2009 noise violation, the Devens Enterprise Commission has conducted additional noise monitoring of your facility. The DEC recognizes your April 30, 2009 letter and the interim steps you have taken to reduce noise levels from your facility, however the follow-up investigations by the DEC's noise consultant concluded that although the "Pure Tone" condition of air pollution noted in the original noise violation letter issued by the DEC on April 1, 2009 appears to have been addressed, your facility remains in violation of 974 CMR 4.05 – the DEC's Industrial Performance Standard for noise.

Specifically, 974 CMR 4.05(3)(a) states that no party owning, leasing, or otherwise controlling a facility within Devens shall be allowed to produce a broadband sound pressure level which exceeds an existing background sound pressure level by 5 dBA as measured at any residential property line. The background sound level pressure for this area is 33 dBA as per the spectral data in the CH2MHill August 2007 Report entitled "Noise Assessment, Evergreen Solar, Inc. new 75 MW PV Mfg Plant, Devens, MA." As the follow-up monitoring report (copy attached) indicates, noise levels continuously exceed this 5 dBA increase over 33 dBA. These monitored noise levels also exceed nighttime noise limits of 45 dBA as per 974 CMR 4.05(3)(b). These additional long-term measurements by the DEC's noise consultant have indicated that, although there are background noises from additional activities within the Barnum Road area, the principle source of noise that is creating the exceedence is the operations at the Evergreen Solar facility.

During the May 7, 2009 DEC meeting, Evergreen reviewed the steps they have taken to reduce noise levels at their facility. One such measure was an agreement to schedule all argon gas deliveries between 8AM and 4PM. Since that date, this has not been the case and argon gas deliveries continue to occur outside this period. As you are aware, gas deliveries are one of the significant sources of noise from your facility that violates 974 CMR 4.05(3). In addition, during a May 20, 2009 visit to your facility, door alarms were sounding on the rear of your facility. Your April 30, 2009 letter indicated that you had shut of these door alarms. Failure to live up to your commitments to the DEC, results in the need for the DEC to request you to expedite actions to reduce noise levels. The gas deliveries are one such area in which Evergreen can take immediate steps to reduce noise levels from the facility. Please provide an analysis of your proposed short term solutions from the chart in your April 30, 2009 letter for this issue. The DEC hereby requests you install the necessary sound attenuation equipment immediately to temporarily address the gas delivery noise violations until a long-term solution is implemented.

DEC Staff and noise consultants have conducted repeated visits to the abutting residential properties and your facility to conduct the necessary analysis to confirm that your operations continue to exceed the noise limits and standards contained within the Industrial Performance Standards 974 CMR 4.05(3)(a) and (b). As per 974 CMR 4.05(2) (b), the DEC has made a finding that emergency nuisance conditions exist. In light of this finding, the DEC requests you

take all necessary measures to bring your facility into compliance with 974 CMR 4.05(a) and (b) to ensure expeditious resolution of this violation within 30 days of receipt of this notice.

Failure to bring your facility into full compliance with 974 CMR 4.05(3) within this timeframe will result in the levying of fines until the violation is corrected, in accordance with 974 CMR 1.14. In addition, as the facility is currently operating under a temporary Certificate of Occupancy, the DEC will not issue the permanent Certificate of Occupancy until this violation is corrected. We trust this will not be the case and appreciate your continued co-operation and expeditious resolution of these violations.

Sincerely,

Peter C. Lowitt, AICP
Devens Land Use Administrator

Cc: DEP
Complainants
Harvard BOH
Ayer BOH