

# Memo

**Devens  
Enterprise  
Commission**

Date: September 11, 2009  
To: Devens Enterprise Commission  
Cc: General Public  
From: Neil Angus, Environmental Planner  
RE: Evergreen Noise Resolution Status

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Attached is a copy of the notification protocol that the DEC has requested Evergreen. In an effort to keep this an open and informed process, this protocol was requested to be put in place to provide the DEC and neighboring property owners with advance notice of any temporary elevated sound levels that may originate from Evergreen as a result of the noise mitigation efforts currently underway as part of the July 14, 2009 Evergreen Noise Violation Resolution, as well as any interim construction and operational modifications that may be planned between now and October 31, 2009.

The DEC continues to monitor Evergreen's progress in accordance with the Resolution, as is Evergreen's noise consultant. As Evergreen has yet to demonstrate sustained compliance with the nighttime noise limits as per condition#1 of the Resolution, they are continuing to implement noise attenuation measures (details of which should be outlined in Evergreen's latest weekly update that will be posted to the website upon receipt by the DEC). The DEC noise consultant is currently reviewing, along with the neighbors noise consultant, a revised measurement protocol proposed by Evergreen's noise consultant that would help more accurately measure the actual contribution of the Evergreen facility to the total noise levels at the R1 location.

Any additional questions and/or concerns may be directed to Peter Lowitt or Neil Angus at 978-772-8831 or [peterlowitt@devensec.com](mailto:peterlowitt@devensec.com) or [neilangus@devensec.com](mailto:neilangus@devensec.com).

## **Deliberate Noise Notification Protocol**

### **Purpose**

To provide a temporary notification protocol for Evergreen Solar to alert the DEC and the neighbors of any deliberate noises generated at Evergreen Solar's Devens manufacturing facility and property that are expected to exceed the noise limits established in the DEC regulations, while Evergreen Solar seeks to achieve compliance with the DEC Evergreen Noise Violation Resolution dated 7-14-09 (the "Resolution"). Evergreen Solar shall identify any such noises and notify the neighbors and the DEC of any such noises before they occur in accordance with this protocol. This protocol does not modify any of the requirements of the Resolution, the DEC's regulations or any other applicable law or regulation, including penalties that may apply for failure to comply with applicable noise limits.

### **Applicable Noises Requiring Notifications**

This notification protocol applies to any deliberate noises generated at the Evergreen Solar facility and property that are expected to or might cause facility noise to exceed the limits for facility noise established by the Resolution (i.e., 43 dBA during the daytime hours or 38 dBA during the nighttime hours (as daytime and nighttime are defined in the DEC's regulations) at the R1 location) ("Deliberate Noises").

Applicable noises for which Evergreen Solar shall provide notification include, but are not limited to: purging of gas storage tanks, construction on the grounds or facility, and delivery of oxygen prior to the installation of the ground mounted pump for oxygen deliveries, worst case scenario testing activities as per condition #9 of the Resolution, and the most recent noise measurement protocol requirements. Evergreen Solar will use commercially reasonable efforts to predict applicable noises for which notifications are required under this protocol.

### **Responsible Party and Timing**

Evergreen shall provide the above-required notification to the following people by email at least 24 hours in advance of any Deliberate Noise. Notices shall be provided only on business days (not weekends or holidays). For example, a Deliberate Noise planned for a Monday shall be disclosed no later than the preceding Friday.

### **Parties to be Notified and Method of Notice**

The following parties shall be notified by email at the email address opposite each party's name:

- Neil Angus [NAngus@Massdevelopment.com](mailto:NAngus@Massdevelopment.com)
- Peter Lowitt [MDFAPLowitt@Massdevelopment.com](mailto:MDFAPLowitt@Massdevelopment.com)
- Jay Wallace [Jay@dunrovenfarm.com](mailto:Jay@dunrovenfarm.com)
- Laura McGovern [laura@dunrovenfarm.com](mailto:laura@dunrovenfarm.com)
- Janice Perry [Perryhorselady@yahoo.com](mailto:Perryhorselady@yahoo.com)
- Bill Carroll [wcarroll@baystate.edu](mailto:wcarroll@baystate.edu)
- Berwind Brothers LLC [post@lawson.weitzen.com](mailto:post@lawson.weitzen.com)

Copies shall be sent by email to:

- Carl Stegerwald
- Richard Feldt
- Michael El-Hillow
- Scott Friends
- Christian Ehrbar

### **Details to be Covered in Each Notification**

The following details shall be covered in each notification made per this protocol:

- The time the Deliberate Noise is scheduled to occur
- Purpose and duration of the event
- Expected nature of the Deliberate Noise that will be generated
- Any sound mitigation measures that will be put in place to reduce the Deliberate Noise level generated by the activity

### **Post-Event Notification**

Shortly after the Deliberate Noise generating activity is complete, a second notice will be sent by email to all of the aforementioned parties noting that the activity has been completed.

### **Timing of Noises**

In scheduling activities that will generate applicable Deliberate Noises, Evergreen Solar will use reasonable efforts to restrict these activities to weekday daytime hours.

### **Unexpected or Accidental Noises**

Should Evergreen Solar become aware of any noise that occurs which Evergreen Solar was unable to predict, within 24 hours of such an occurrence, Evergreen Solar shall notify all aforementioned parties indicating:

- The time the noise occurred
- The cause and duration of the noise
- The nature of the noise
- Any remedial action taken in light of the noise

### **Duration**

Nothing in this protocol shall provide Evergreen Solar the right to exceed DEC Noise Regulations on a continuous basis. This protocol shall only be applicable to the Facility up to October 31, 2009, when Evergreen Solar operations are required to be in full compliance with DEC Rules and Regulations as per the Resolution.