

Talia Jalette

From: Eric Bibler <ebibler@gmail.com>
Sent: Tuesday, October 12, 2021 6:58 PM
To: James Lamphere; Talia Jalette
Subject: RIDEM Technical Deficiency Letter - Skunk Hill Wetlands Permit Application
Attachments: RI.gov_ DEM Wetlands Permit Application Search_21-0098 Skunk Hill.pdf; 2021.06.30 RIDEM Technical Deficiency Letter_Wetlands Application for Skunk Hill.pdf

Jim and Talia,

It has come to my attention that RIDEM has issued a Technical Deficiency Letter for a portion of the property (the Gordon properties) where the Skunk Hill applicant proposes to construct a utility scale solar energy installation. Please see a copy of the RIDEM letter and chronology of filings attached to this email.

To my knowledge, the applicant has not submitted anything to the RIDEM for the remaining property for reasons unknown.

Please note that the RIDEM deficiency letter details a number of very significant concerns, including fragmentation of the wetlands with the proposed placement of power poles and overhead wires, none of which appear to have been answered as of this date.

I believe that there may be additional wetland crossings and/or problematic issues not shown on the plans for this portion of the proposed project.

I am out of town until Thursday and unable to deliver printed copies of the RIDEM report to the planning office but I respectfully suggest that this information should be provided to members of the planning board for their consideration. If the planning office could make copies of the documents for the meeting packets, I would be happy to reimburse the town for the copying costs.

Thanks in advance for your help.

Eric Bibler
Woodville Road

DEM Wetlands Permit Application Search

DEM Wetland Application Search

DEM Wetland Application #21-0098

Applicant name

Organization name

Gordon Excavation & Hopkinton Land 1 LLC

Location

Arcadia Road Hopkinton

Plat/Lot

Plat 18 / Lot 8

Project information

Skunk Hill Road Solar - SOLAR FACILITY

Location description

Approximately 1400 feet west of Arcadia Road, approximately 2600 feet southwest of the intersection of Skunk Hill Road and Arcadia Road, Utility Pole No. NECO 57, Assessor's Plat 18, Lots 8, 13 & 14, Hopkinton, RI.

Historical information

Stormwater Review

June 30, 2021

Technical Deficiency Letter Sent

June 29, 2021

Application Review by Biologist

June 23, 2021

Application Review by Engineer

April 27, 2021

Supervisor for Assignment

April 12, 2021

Preliminary Determination Application

For more information, you may call the DEM at 222-4700 or visit the DEM offices to set up an appointment to review this file or check on file availability for review. Office hours are Monday through Friday 8:30 AM to 4:00 PM. See <http://www.dem.ri.gov/directions/foundry-offices.php> for directions.

Search criteria

Application #

Project name:

Owner/Organization name

Location/Street

City/Town --ALL-- ▼

Assessor's Plat/Map:

Application status: --ANY-- ▼

Applied in last 30 days:

Out to public notice:

Last updated 10-12-2021 05:42 PM



RHODE ISLAND DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
OFFICE OF WATER RESOURCES
235 Promenade Street
Providence, Rhode Island 02908

June 30, 2021

Hopkinton Land 1 LLC
c/o Frank Epps
260 West Exchange Street, Suite 102A
Providence, RI 02903

Re: Application No. 21-0098 in reference to the location below:

Approximately 1400 feet west of Arcadia Road, approximately 2600 feet southwest of the intersection of Skunk Hill Road and Arcadia Road, Utility Pole No. NECO 57, Assessor's Plat 18, Lots 8, 13 & 14, Hopkinton, RI.

Dear Mr. Epps:

Please be advised that the DEM's Freshwater Wetlands Program is unable to complete our review of your Application at the above-referenced site at this time. The enclosed review comments are intended to obtain additional information and specify what must be revised and/or provided so that we may continue to process your application. Please provide this information as soon as possible. If we do not receive this information within (1) one year of the date of this letter your application will be considered closed pursuant to the Rules and Regulations Governing the Administration and Enforcement of the Freshwater Wetlands Act, 250-RICR-150-15-1.

Thank you in advance for your anticipated cooperation in addressing the enclosed comments. Please reference the application number provided above in all communications regarding your application. If you have any questions, please call Claire Swift at (401) 222-6820, ext. 7418.

*******THIS LETTER SHOULD NOT BE CONSTRUED AS A PERMIT TO ALTER WETLANDS OR AS ANY INDICATION THAT A PERMIT FOR THIS PROJECT WILL ULTIMATELY BE GRANTED.*******

Sincerely,

Nancy L. Freeman

Nancy L. Freeman, Principal Environmental Scientist
Office of Water Resources
Freshwater Wetlands Program
NLF/CVS/cvs

Enclosure: Technical review comments

cc: Neal Personcus, Office of Water Resources, Stormwater Program
Donald Gordan, Gordon Excavation, Inc.
Alan Benevides, PE, Woodard & Curran

**RHODE ISLAND DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
OFFICE OF WATER RESOURCES
FRESHWATER WETLANDS PROGRAM**

Technical Review Comments of Documents Received by RI DEM on April 12, 2021

APPLICANT: Gordon Excavation & Hopkinton Land 1 LLC
APPLICATION NO: 21-0098
DATE: June 29, 2021
BIOLOGIST: Claire Swift
ENGINEER: Joseph Camara

The following items must be addressed before review of your application can be completed:

BIOLOGIST REVIEW COMMENTS:

1. To avoid a determination of significant alteration for this project, RIDEM strongly suggests that the proposed overhead utility line crossing through swamp be relocated outside of freshwater wetlands. The swamp is forested in the location of this impact, with a dense overhead tree canopy and shrub understory that provides habitat for forest interior birds, which were identified in this location. Cutting of trees or limbs to allow placement and maintenance of the overhead utility lines will fragment this wetland and negatively impact the available wildlife habitat. Additionally, it appears alternatives exist, including routing the connection through upland to the west of wetland flags B26 through B37, or separating the two sections of the project and connecting the northern part of the project to utility poles on Skunk Hill Road.
2. **Sheet C-202:**
 - a. There is an Area Subject to Storm Flowage (ASSF) along the road frontage at Skunk Hill Road, flowing east parallel to the road and entering the A-series swamp approximately at flag A115. This ASSF must be shown clearly and labeled on the proposed site plans, along with any existing or proposed culverts or other impacts.
 - b. Site plans reference a landscape plan by Gifford for the restoration of 200-foot riverbank wetland where the berm is proposed, but a landscape plan was not submitted. Please show the proposed restoration notes on the site plan, including species proposed, height, spacing, and planting methods, or include the landscape plan in the revised submittal.
3. **On Sheet C-204**, relocate flags D18 20 feet west and D19 20 feet northwest. This results in very minor encroachment in perimeter wetland. This change in delineation must be corrected on revised site plans, and any encroachment must be shown on the site plan and avoided if possible.
4. **On Sheet 205 at the stream crossing:**
 - a. The limit of disturbance (LOD) stakes at the proposed stream crossing do not match that shown on the site plan and have been placed such that they show encroachment into the stream and further into the wetland. Please clarify this discrepancy and correct the site plans or LOD stakes on site as needed.
 - b. Wetland flag A64 is incorrect and must be relocated approximately 20 feet to the northeast.
 - c. There is a note on Sheet 205 referring to an area of wetland outside of the proposed LOD that states "temporarily disturbed wetland areas by construction to be restored". The LOD must be revised to enclose all work, including any unavoidable temporary construction related disturbance, and restoration planting notes must be included on the

site plan. **This comment also applies to the southern crossing as well, and anywhere else that may show work, even "temporary" work, outside of the LOD.**

- d. Please address the necessity of chain link fencing at the stream crossing, described in a note on this sheet, which may act as a barrier to the travel corridor along the stream channel.
5. **Also on Sheet C-205**, there is an ASSF shown on the site plan from wetland flag F13. This was not observed on site, but please indicate whether it is present in this area, and if so, how it will be addressed.
6. **On Sheets C-205 and C-207**, The LOD staking does not seem to follow the site plan. The LOD must be restaked along the D-series swamp edge at least near D44 through D54. A narrow, cut footpath might be required for access and for visibility to fully assess potential impacts because of the density of the vegetation. Please also clarify the meaning of "LOD POL" marked on some LOD flags in the same area that also did not seem to be following the proposed LOD.
7. **On Sheet C-208**, the stream is closer to the edge than shown on the site plan at flags J49, J50, and J51. This results in additional encroachment (approximately 5 to 25 feet) into the 100-foot riverbank wetland in this area when the riverbank wetland is corrected. This encroachment must be shown on the site plan and avoided if possible.
8. **On Sheet C-209 at the river crossing:**
 - a. Flags H103 and H102 do not line up correctly on the site plan when compared to the locations of these flags on site. On site they are in a straight line relative to the existing road. The site plans show them at a 45-degree angle. The onsite flagging appears to accurately represent the wetland edge.
 - b. One LOD flag is tied to same tree as wetland flag H103, but on plans the LOD is 15 feet from this wetland flag (this may be related to Item (a) above).
 - c. Also, the LOD to the west of the proposed crossing on the site plan is staked on the eastern bank of the river on site (stake no. 1647), which would result in encroachment in the river. It is not clear if other LOD stakes are correct, similar to the northern crossing.
 - d. Please correct these errors on site and/or on the site plan to allow an accurate assessment of impacts by this Program.
9. **Additionally, with regard to both wetland crossings**, please add details and cross-sections that are specific to each crossing to the revised site plans, including showing wetland edge flags on the cross-section details. The method of construction of these bridges must also be described and a realistic limit of disturbance must be shown.
10. **Additionally on Sheet C-209**, but not related to the crossing, impacts to 200-foot riverbank wetland for the placement of the access road as it continues north from the southern river crossing are not addressed in the narrative submitted with your application. To avoid a determination of significant alteration, please avoid or minimize this impact substantially, and justify the necessity for any unavoidable impact in writing, per Rule 250-RICR-150-15-1.9(B)(1)(d).
11. **Also on Sheet C-209**, the stream measures closer to the LOD than shown on the site plan in the vicinity of wetland flag H80. Measurements taken from the stream edge near flag H79 (not currently shown on the site plan) upslope along the dirt road to the nearest LOD flag (no. 2183) measured only 85 feet. However, the site plan shows the LOD outside of the 100-foot riverbank wetland in this location. Please show wetland flag H79 on the site plan, along with the location of the stream as it crosses the existing dirt road, and the associated 100-foot riverbank wetland. Avoid or minimize any encroachment into riverbank wetland and justify any unavoidable impacts in writing.
12. The final definitive point of electrical interconnection must be shown on the site plan. Only an "anticipated" connection to Pole 57 is shown on Arcadia Road, which is not sufficient for approval. It must be clear to this Program that approval of this project will not result in additional wetland impacts off site for the interconnection. If additional off-site poles and overhead wires or trenching are proposed that require vegetative clearing in Freshwater Wetlands for the

interconnection route to the regional grid (i.e. they do not meet the Exempt Activities per the Rules), they also need to be shown on the plan. Interconnection must be depicted from the solar array to the point on the grid where the current load can be accommodated by the grid. This may be as close as the nearest electric lines or as far as the nearest substation.

13. Please ensure the placement of the solar panels is such that they will not be shaded. Allow enough space between the solar panels and the limit of disturbance to prevent any shading that might require future cutting of trees in wetland areas beyond the limit of disturbance, per the Freshwater Wetlands Program and Stormwater Construction Permitting Ground-Mounted Solar Array Guidance. Any such cutting of trees beyond the limit of disturbance would require additional permitting with no guarantee of approval.
14. To reduce the size of the site plan set, unnecessary plan sheets that depict only soils mapping should be removed from the revised plan sets. These sheets are only for review and are not for approval.
15. **Any encroachment into wetland that cannot be avoided must be clearly justified in writing in an Avoidance and Minimization narrative, also to include a clear description of all attempts to minimize the impact and a discussion of alternatives, per Rule 250-RICR-150-15-1.9(B)(1)(d).**

ENGINEER REVIEW COMMENTS:

- 1) According to the Freshwater Wetlands Program and Stormwater Construction Permitting Ground-Mounted Solar Array Guidance the designer must provide treatment of the minimum Water Quality Volume according to Minimum Standard 3 (Water Quality) of the Stormwater Rules (0.2" over the entire proposed disturbed area). This treatment should include the use of an infiltrating stormwater practice to provide recharge. This requirement may be waived if the site is considered "ideal" by meeting the following criteria for greater than 80% of the site:
 - Flat to gentle slopes are present (<8 %);
 - Solar panel drip edges align with elevation contour lines (i.e. drip edges are not perpendicular (± 15 degrees) with the elevation contour lines);
 - There is adequate spacing between panels that is approximately equal to panel width and;
 - There is no proposed use of fertilizer, pesticides, or herbicides, apart from a specified limited amount of fertilizer to establish the initial vegetative cover.
- 2) Please resubmit the pre-development and post-development watershed drawings on 24" by 36" sheets. Please ensure that the post-development watershed drawing is revised to clearly show the locations of the drainage areas that discharge to the stormwater practices that are shown on the site plans (i.e. dry swales). The engineer will also need to clearly show the location of the flow path that was used to calculate the time of concentration for each of the drainage areas that are shown on the pre-development and post-development watershed drawings.
- 3) Sheet 17 of the site plans indicates that an impermeable liner shall be provided if groundwater is encountered within 3 feet of the bottom of the swale. Please provide an adequate number of new test pits to accurately determine the seasonal high groundwater tables under the dry swales that are shown on the site plans. The designer must also calculate the separation distance between the top of the filtering system and the elevation of the seasonal high groundwater table. Please note that the bottom of the filtering system shall be located at or above the seasonal high groundwater table.
- 4) According to section 8.25 of the Stormwater Management Design and Installation Rules, the depth of the bioretention system may be reduced to 12 inches on a case-by-case basis as demonstrated by the designer that 30 inches is not feasible, such as sites with high groundwater or shallow depth to bedrock or clay soils. If the depth of the bioretention soil is less than 30 inches, then for each of the proposed dry swales the engineer must provide a technical justification that will be reviewed by the RIDEM. Please ensure that the dry swales will meet the

design requirements that are provided in section 8.25 of the Stormwater Management Design and Installation Rules. Please note that section 8.25(D)(5) provides requirements for modifying the bioretention soils. The engineer must also clearly demonstrate that the minimum water quality value of 0.2 watershed inches (i.e. 0.2 inches over the entire site area) can be stored within the proposed water quality practices. Per section 8.25(D)(2) of the stormwater rules dry swales shall not have more than a 12-inch deep average surface ponding depth.

- 5) On the site plans please provide a detail for the stone trenches.
- 6) Upon review of the site plans the RIDEM noticed that stone surfaces are proposed between and/or beneath the solar panels. According to the Freshwater Wetlands Program and Stormwater Construction Permitting Ground-Mounted Solar Array Guidance the designer must demonstrate that the required water quality volume associated with the impervious areas of the solar panels will be infiltrated within the stone areas. Please be aware that section 8.21 of the Stormwater Management Design and Installation Rules provides design requirements for infiltration practices.
- 7) Please determine whether or not the proposed bridge abutments will result in any displacement of floodplain of adjacent river/streams.
- 8) Please provide an approximate floodplain analysis to determine the 100-year floodplain of adjacent streams.
- 9) Please determine whether or not the design will result in any increases in peak wetland water levels upstream of the proposed bridges which is on adjacent upstream property. Please address any potential for impacts on adjacent upstream properties from the new bridges that are shown on the site plans.
- 10) Please address what areas of adjacent wetlands will need to be temporarily disturbed in association with the construction activities to construct the bridges.
- 11) On the site plans please provide limits of excavation and limits of disturbance for the bridges.
- 12) Solar arrays shall not be placed in the vicinity of public and private wells and their associated protective radii. The applicant needs to consult with the Rhode Island Department of Health to determine whether or not the proposed solar development meets the required setbacks from public and private wells.
- 13) On the detention basin details please provide the water elevations during the 1.2 inch, 1-year, 10-year and 100-year storm events. Please provide the elevations of the seasonal high groundwater tables on the detention basin details.
- 14) According to the Freshwater Wetlands Program and Stormwater Construction Permitting Ground-Mounted Solar Array Guidance, a minimum coverage of 6 inches of loam is required when a solar project is proposing grass or meadow as ground cover. Please revise the site plans.
- 15) Please update the operation and maintenance plan to include drawings (8.5" x 11" or 11" x 17") depicting the locations of the BMPs.

CONCLUDING COMMENTS:

1. To minimize waste of paper, please submit only **three (3)** sets of revised site plans and **two (2)** copies of revised documents.
2. In order to facilitate the review of future revisions to your project, please address each of the above items in writing (**2 copies please**).
3. If you have any questions regarding this letter or the processing of your application, or with respect to any of the above-noted biological review comments, please contact Claire Swift at 401-222-6820, extension 77418.
4. If you have any questions with respect to the above engineering review comments, please contact Joseph Camara, PE at 222-4700 ext. 77640.

Thank you for your anticipated cooperation in this matter.

