

Berkshire Regional Planning Commission Clearinghouse Review Report

December 10, 2009

SUBJECT: Interstate Biodiesel
EOEA#: 14501
LOCATION: #2 Mill Street, Lenox
ESTIMATED COST: \$30,000,000
REVIEW TYPE: ENF
PROPONENT: Interstate Biofuels
COMMENTS DUE: December 14, 2009

PROJECT DESCRIPTION:

Project Summary: Interstate Biofuels proposes to establish a biodiesel processing facility on the former Niagara and Centennial Mills site (closed by Schweitzer-Mauduit last year) in Lenox. The site is within the recently designated Upper Housatonic Area of Critical Environmental Concern which triggers a filing under MEPA. The Niagara Mill will be used for processing and there will be fuel storage tanks (both for raw product and for finished product) located outside the building. The Centennial Mill was demolished in the early 1970's and is the site of the finished product fuel storage tanks. The site plan presented in the ENF shows four railroad sidings which will be necessary as all raw materials and finished materials are expected to be shipped via rail. There is one truck turnaround to be constructed, replacing an existing gravel area. The site has been in industrial use for over a century and land alterations being made are relatively modest, the placement of the fuel storage tanks on previously built-upon areas, the addition of the railroad sidings, and the construction of the truck turnaround. The fuel storage tanks will all be surrounded by spill containment walls according to the site plan.

The site is almost entirely in the 200 foot Riverfront Area along the Housatonic River. The very southern end of the site, where development is limited to railroad siding construction, is in the Town of Lee, while the building and storage tanks and most of the railroad sidings are in the Town of Lenox. The regulated floodplain is typically the top of the bank of the river and there is no development proposed in that area, with the exception of railroad siding construction on the southern portion of the site where the slope to the river is less severe.

Necessary Permits and Further MEPA Review:

According to the ENF, the project will require Orders of Conditions under the Wetlands Protection Act from both the Lee and Lenox Conservation Commissions and potentially Superseding Orders of Conditions from DEP.

According to the ENF, a special permit and site plan approval will be needed from the Lenox Zoning Board of Appeals and potentially, due to flood plain impacts, from the Lee Zoning Board of Appeals as well.

The railroad siding construction in Lee, as shown in the site plans filed with the ENF, may require a variance from the Lee Zoning Board of Appeals as the Lee property is located in an RA zone and presumably a railroad siding to serve an industrial use would be considered an industrial use.

An air quality permit for either Limited Plan Approval or Non-Major Comprehensive Plan Approval will be required from DEP.

The project triggers no MEPA EIR thresholds and BRPC does not recommend that an EIR be required.

Berkshire Regional Planning Commission Clearinghouse Review Report

CONSIDERATIONS AND POTENTIAL ISSUES:

Land Disturbance: The Summary of Project Size & Environmental Impacts table (pg. 2) indicates no new land altered. There is a lack of information and a matter of considerable judgment regarding how the former Centennial Mill site, proposed for construction of finished product fuel storage tanks and railroad sidings, should be treated in that regard and whether that should be treated as land disturbance. Recent test pits and soil borings in much of the area show a considerable amount of building debris, under a very shallow layer of topsoil. Clearly the site was heavily disturbed but apparently has not been used since 1973 when the mill building was demolished. Regardless of how calculated, the land disturbance would not come close to meeting an EIR threshold. Similarly, the impervious area may not be appropriately calculated, depending on how various surfaces are interpreted to be pervious or impervious, but regardless, any additional area which should be calculated will not trigger an EIR threshold.

While the site is not being regulated under Chapter 21E as a brownfields site, the project proponent should consider the potential that any floodplain along the Housatonic River south of the GE site in Pittsfield may well be contaminated with PCBs from historic flooding. A Phase 1 brownfields site assessment was done by Tighe & Bond for the site in 2008 which indicated the need for some follow-up testing in the area of the former Centennial Mill. That information was provided in supplemental information dated November 18, 2009, and does not indicate that there is any petroleum contamination in that area. We can find no evidence that testing was done for hazardous substances and a few of the soil borings indicate some unknown level of ash in the 2-3" topsoil layer. If the proponent feels they may have any questions or concerns in this regard, the BRPC Brownfields Assessment Program may be of use in performing additional assessment work.

Consistency with Local and Regional Plans: The Lenox Master Plan (2000) specifically calls for revitalizing the industrial area in Lenoxdale, which would include the Niagara Mill facility. This project would seem to clearly align with that strategy. The Lee Master Plan (2000) calls for maintaining "a renewable supply of local jobs; preferably skilled, higher-paying manufacturing, technology or office opportunities" and the future land use map indicates this specific property is most appropriate for industrial use.

The Regional Plan for the Berkshires (2001) clearly calls for maintaining a diverse employment base, including manufacturing, and specifically calls for appropriate reuse of sites, such as the Niagara Mill property. With appropriate sensitivity to the possibilities to actually improve site conditions, this project would appear to be consistent with the Regional Plan.

Rare Species: A letter from the Natural Heritage and Endangered Species program, as well as a Preliminary Ecological Characterization prepared by a consulting firm, is included in the ENF, indicating that there are no rare and endangered species on the site.

Wetlands and Wetland/Aquatic Habitat : Due to work in the 200 foot Riverfront area, this project will require an Order of Conditions from both the Lenox and Lee Conservation Commissions and a potential DEP Superseding Order of Conditions. There is no disturbance of any bordering vegetated wetlands, land under water, or bank. There is work in Bordering Land Subject to Flooding since much of the site is within the 100 year floodplain.

There is a proposed truck turnaround which replaces an existing gravel area which appears to serve as a turnaround. There is a proposed riverfront mitigation area for the proposed turnaround located primarily in the existing gravel area. It appears that the truck turnaround might be shortened, reducing some of the impact on Riverfront area.

The ENF and site plans do not indicate the level of wetlands (Riverfront) impact from the railroad spurs which will be constructed to serve the project. This is a notable deficiency. Regardless, the additional area would not appear to trigger a MEPA EIR threshold for wetlands impact.

Berkshire Regional Planning Commission Clearinghouse Review Report

The ENF indicates that there may be impacts on areas subject to flooding within the 100-year flood zone due to the proposed railroad siding but there is no compensatory storage identified in the ENF. Both the Lee and Lenox Zoning Bylaws require special permits, which typically require compensatory storage, for encroachments in the 100-year flood zone. In a telephone conversation with the proponent's engineer, he indicated that they were meeting with the Housatonic Railroad in the coming week to better determine the amount and location of siding needed to serve this plant.

It is unclear, due to the previously developed nature of the site, almost in its entirety, to what extent DEP will require improvements in the existing stormwater management system. In the ENF, the proponent indicates that the stormwater management standards will be met to the maximum extent practicable and goes on to indicate that the configuration of the property does not lend itself to substantial improvements in the stormwater system. It would appear that there may be relatively modest stormwater improvements which could be incorporated in the areas of the sidings, the restored riverfront area, and in scattered small locations around the site that will be impacted by construction. It should be noted that, according to the MA Stormwater Management Policy, if it is not practicable to meet all the Standards, new (retrofitted or expanded) stormwater management systems must be designed to improve existing conditions. In addition, this project should be subject to Stormwater Standard 5 as an area with higher potential pollutant loads and would be required to use of specific stormwater management BMPs.

At the BRPC Clearinghouse Review Committee meeting on December 7, issues were raised regarding the potential for spills of the feedstock, the methanol, or the finished product within the railroad siding area. Appropriate stormwater management measures should be included which contain spills on the site, given the proximity of the river. A spill prevention plan should be in place and implemented on a continuous basis.

Transportation: The ENF indicates that traffic generated from the site previously was 35 vehicles per day and that is what will be generated in the future. There is no documentation regarding how the future trip generation was arrived at, however we cannot conceive that the use of this site, as long as all product is moved in and out by rail, will trigger traffic concerns and certainly will not trip any EIR transportation threshold. At both the public meeting in Lenox and at the BRPC Clearinghouse Review Committee meeting, some concerns were raised about potential spills due to Housatonic Railroad operations off the site. This is not necessarily something which is germane to MEPA jurisdiction.

Air Quality: The original ENF indicated that the project will not trip any air quality review threshold or require an air quality permit. Supplemental information sent on November 18th updates that information and indicates that a Limited Plan Approval or Non-Major Comprehensive Plan Approval, as determined by DEP, will be necessary. At the site visit held on December 4, 2009, the proponent explained that the system will be a closed system with scrubbers and that methane will be recycled in the capped smokestack and reused. Although the proposed project consists of a packaged plant with air quality controls in place, the DEP review is triggered by the proposed use as if there are no controls in place.

BRPC does not have the requisite knowledge of air quality permitting and issues to comment upon this information and would rely on DEP, through its Air Quality Permitting process, to regulate this use appropriately.

Noise: There are residences in fairly close proximity to the site, both across Mill Street in Lee and on the opposite side of the river in Lenoxdale and noise from industrial operations is a legitimate concern. The ENF indicates that noise levels will increase by less than one decibel over background ambient noise. This very minor increase in noise should not have a discernable impact on the neighbors.

Safety and Emergency Response: At both the public meeting in Lenox and at the BRPC Clearinghouse Review Committee meeting, some concerns were raised about potential safety issues which appear to

Berkshire Regional Planning Commission Clearinghouse Review Report

primarily involve the use of methanol. The applicant has indicated that they have met with the Lenox Fire Chief which is appropriate and a good first step. We believe it would be prudent to involve both the Lenox and Lee Fire Departments and other emergency responders in developing an Emergency Response Plan for potential incidents at the plant.

COMMENTS AND RECOMMENDATIONS:

BRPC is supportive of finding new uses for the vacant historic mills throughout the region which provide employment and this project replaces jobs which were lost during the recent closure of the paper mills in Lee and Lenox. The project clearly does not trigger any MEPA EIR review threshold and therefore we do not recommend that an EIR be required.

We do offer the following comments for consideration either in the Secretary's Certificate or in the local permitting processes, as appropriate:

1. The land disturbance and impervious areas calculations do not appear to most appropriately indicate the additional areas being impacted by the proposed redevelopment of the site. It appears that probably all of the southern section (the area around the long-demolished Centennial Mill site) should probably be considered newly disturbed land, and the calculations should include the construction of the railroad sidings. The various fuel storage tanks and their required secondary containment areas, and possibly the railroad sidings, would seem to logically be considered impervious areas as well.
2. The proposed truck turn-around would appear to be somewhat unnecessarily long and impacts could be lessened by shorting it.
3. The possibility that any disturbance in the floodplain may encounter PCB's resulting from the GE plant in Pittsfield should be considered.
4. The wetlands impacts (bordering land subject to flooding and riverfront area) do not appear to include those created by the proposed railroad sidings.
5. The need for compensatory storage for all encroachments in the floodplain, including the fuel storage tank area within the secondary containment area and the railroad sidings, should be carefully reviewed.
6. The possibility of further improving the storm drainage system to reduce stormwater impacts from the site under the redevelopment standards should be carefully reviewed during the wetlands permitting process. It is not clear whether all of the proposed work appropriately should be considered redevelopment and thus only has to comply with the Massachusetts Stormwater Standards to the maximum extent practicable or whether some should fully comply.
7. Appropriate stormwater management measures should be included which contain spills on the site and which include the railroad sidings, given the proximity of the river. A spill prevention plan should be in place and implemented on a continuous basis.
8. The proponent should involve both the Lenox and Lee Fire Department and other emergency responders in developing an Emergency Response Plan for potential incidents at the plant.

The Berkshire Regional Planning Commission approved these comments at their December 10, 2009 meeting.