



State of New Jersey

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TO: Scott Hunter
BPU-Clean Energy Program

FROM: Erin Hill *Erin Hill*
Energy and Sustainability

SUBJECT: Solar Act-Subsection (t) Application for Certification
Price's Landfill

DATE: January 14, 2016

The New Jersey Department of Environmental Protection (NJDEP or Department) has reviewed the Subsection (t). application submitted to the New Jersey Board of Public Utilities (BPU) on November 12th, 2015, by Radiant Energy LLC (Applicant), for the Price's Landfill located in Egg Harbor Township and Pleasantville, New Jersey. The owner of the landfill property is AGA Partnership. The issue presented to NJDEP is whether the proposed solar electric power generation facility project is located on a "properly closed sanitary landfill facility."

I. "Properly Closed Sanitary Landfill Facility"

N.J.S.A. 48:3-51 defines "properly closed sanitary landfill" as:

[A] sanitary landfill facility, or a portion of a sanitary landfill facility, for which performance is complete with respect to all activities associated with the design, installation, purchase, or construction of all measures, structures, or equipment required by the Department of Environmental Protection, pursuant to law, in order to prevent, minimize, or monitor pollution or health hazards resulting from a sanitary landfill facility subsequent to the termination of operations at any portion thereof, including, but not necessarily limited to, the placement of earthen or vegetative cover, and the installation of methane gas vents or monitors and leachate monitoring wells or collection systems at the site of any sanitary landfill facility.

Site Background

Price's Landfill is a 26-acre Superfund site located in the City of Pleasantville and in Egg Harbor Township, Atlantic County, New Jersey. The Applicant is seeking certification for a project located on 21 acres of the site. From 1969 to 1976, the site operated as a solid waste landfill, accepting industrial chemicals, sewage, greases and oil. It is estimated that over 9 million gallons of chemical waste was disposed of at the landfill. Studies conducted by the United States Environmental Protection Agency (EPA) and NJDEP in 1979 and 1980 identified contamination of heavy metals and Volatile Organic Compounds at the site and in the groundwater.

In 1982, EPA placed Price's Landfill on the National Priorities List as a Superfund site and NJDEP began a Remedial Investigation and Feasibility Study (RI/FS) to determine the extent of the contamination and evaluate cleanup alternatives. EPA issued a Record of Decision (ROD) with NJDEP in 1983 that required relocation of the Atlantic City Well Field and replacement of private potable wells with public water supplies. After the RI/FS was completed in 1985, the EPA issued a second ROD in 1986 that required remediation actions and construction of a landfill cap and groundwater extraction and treatment systems. As stated in the 2015 Remedial Action Report for Price's Landfill, the entire landfill was capped and groundwater treatment systems were put in place in 2014 in accordance with the ROD.

NJDEP and EPA conducted a joint inspection of the landfill cap in 2015 and determined that the landfill cap is complete, operational and functional. Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C.A. §§9601-9675, NJDEP is required to assure future operation and maintenance (O&M) of the remedy so that the cap remains protective of human health and the environment. O&M at Price's Landfill is expected to commence on June 1, 2016.

Determination

Upon review of the application, the NJDEP has determined that the 21 acres requested for Subsection (t). certification herein, also known as Price's Landfill, constitutes a "properly closed sanitary landfill facility" as defined by the Solar Act.

II. Additional Considerations

The solar installation will constitute the construction of improvements on a closed landfill. Accordingly, the property owner will need to obtain an Approval from the NJDEP Division of Solid and Hazardous Waste, as well as any permits identified by the Department, prior to construction of the solar electric generation facility. The Approval for construction of improvements on the closed landfill needs to address impacts on the environmental controls in place at the site, which may include, but are not limited to, the protection/ re-establishment of the final cap/cover, leachate collection, gas collection and storm water collection systems, settlement, slope stability, and control of erosion, and on-going maintenance and monitoring during the post-closure period.

Additionally, in 1988, NJDEP, EPA, and AGA Partnership, among other parties, entered into a judicial consent decree to settle federal and state cost recovery and other civil claims related to

public health and the environment.¹ As a result of that consent decree and requirements under CERCLA, NJDEP will operate and maintain the remedy at Price's Landfill beginning on June 1, 2016. However, if the Applicant's proposed project is conditionally certified pursuant to Subsection (t) and the Applicant moves forward with the project, operation and maintenance of the remedy will need to be accounted for by the property owner, due to the change in use and occupation of the closed landfill, to ensure that the remedy continues to be protective of the public health and safety.

Please contact me at Erin.Hill@dep.nj.gov or at 609-633-1120 if you need additional information or have questions regarding our review.

Documents/Items Cited

Price's Landfill Application Package
Public Utilities N.J.S.A. 48:3-51
1983 EPA Record of Decision (ROD 1983)
1985 Remedial Investigation/ Feasibility Study (RI/FS 1985)
1986 EPA Record of Decision (ROD 1986)
1985 EPA Remedial Action Report (RAR 2015)

¹ Additionally, for the Board's information, NJDEP has been unable to verify if the property owner fulfilled its payment obligations under the 1988 judicial consent decree. Please note that NJDEP or EPA may take separate cost recovery and/or enforcement actions against AGA Partnership in the event AGA Partnership has failed to satisfy its obligations under the judicial consent decree.