

Devens Enterprise Commission
33 Andrews Parkway
Devens, MA 01434

June 30, 2009

Members of the Commission:

I am writing to you to recommend a course of action in the matter of Evergreen Solar's Noise Violation, filed May 26, 2009. I make this recommendation based on the following:

1. The Commission granted approval for the construction of the plant based on a set of plans and specifications submitted to the Commission by Evergreen Solar.

2. The approval was based on the assumption that the project would be constructed according to those plans and specifications.

It is not built according to the sound specification.

3. Included as part of the plans and specifications was a computer model of the effects of the equipment on the sound landscape. This model specifically stated the plant would "produce 1dB or less increase at the nearest receptors and is well below the nighttime criteria".

The plant is producing sound that is an order of magnitude greater than that predicted by the model.

4. According to the peer review of the DEC's sound consultant the model states that it is based on mitigation measures including silencers on the fans, silencers on internal combustion engines, and cooling tower noise reduction techniques. These "techniques" were not provided in the construction documents.

The plant was built without employing the mitigation measures called for by the model.

5. Evergreen Solar has placed a higher priority on meeting production orders than they have on the public welfare. They have attacked problems serially rather than simultaneously.

They have continually taken advantage of the process to avoid having to make the hard decisions that might hurt them economically in order to immediately obey the law and keep the public safe.

6.. They have continually shifted responsibility from one employee to the next. First Wayne Wirtanen, then Craig Core, Dave Ogle and Karl Stegerwald, now Brain Lavalley Phil ?, and Rudolpho Archibold. With each new face comes a honeymoon period as they get up to speed and a new action plan is introduced. Meanwhile the sound continues and the deadlines shift further into the future.

Evergreen Solar continues to obfuscate in an effort to have it appear that they are working diligently to solve the problem.

7. Evergreen's Construction Division made a gamble that it was better to ask for forgiveness then ask for permission when they omitted the sound mitigation measures from the plans and specifications. They shifted the responsibility from their own division and re-characterized it as an operations issue to be solved with budget and people. So Wayne Wirtanen, Craig Core and Dave Ogle have been fired and silenced with confidentiality agreements, and Karl Stegerwald is in China.

No one from Evergreen is here today to answer the question who decided to cut the sound mitigation measures and why.

8. Evergreen Solar cannot be taken at their word. Wayne Wirtanen says parts are ordered for the broken fan in a March 12 email, Craig Core says the work is done April 16th. Wayne Wirtanen says "the overall plan is still to conduct an evaluation/study" in his March 12 email, Craig Core says they have contracted Cavanaugh Tocci Associates as sound consultants in his April 15th letter and Brian Lavalley confirms they came on board around June 18th. If it takes 30 days to replace a broken part and 98 days to hire a consultant, how long can they drag out fixing the real problem. It took them just 10 months to build the entire phase I plant, and they expect us to believe it is going to take 7 months to put sound mitigation on a few pieces of equipment.

So far they have operated for 176 Days in violation of the by-law and 90 days flouting the complaint.

I recommend that the Commission find that Evergreen Solar is endangering the public welfare by operating its plant at a sound level that prevents the local community from sleeping. I further recommend that the commission instruct its building inspector to withhold issuing a Certificate of Occupancy, permanent or temporary, until the Commission has assurances that Evergreen Solar can operate without endangering the welfare of the public it is here to serve.

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