STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Investigation pursuant to 30 V.S.A. §§ 30 and 209 into alleged violation of GSPP Gilman, LLC's CPG issued in Docket 8725 regarding limits of disturbance and clearing of acreage	)))))	Docket No. 18-0332-INV

STIPULATION

This Stipulation is by and among GSPP Gilman, LLC ("GSPP"), the Vermont Agency of Natural Resources ("ANR") and the Vermont Department of Public Service ("DPS"). GSPP, ANR and DPS are referred to together herein as the "Parties."

WHEREAS, the Public Service Board (now known as the Commission) issued a Certificate of Public Good on March 3, 2017 (the "CPG") authorizing the construction and operation of the 2.1 MW group net metering solar electric generation facility known as the Gilman Landfill Solar Project in Lunenburg, Vermont (the "Project"); and

WHEREAS, GSPP is the current holder of the Project CPG pursuant to Commission Order Re: Consent to Transfer of Certificate of Public Good, dated September 1, 2017; and

WHEREAS, in the last several months, GSPP has become aware of three (3) different inadvertent violations of the CPG related to site clearing/preparation activities including: (1) the clearing of 2.8 acres, more or less, outside the limits of disturbance (the "Initial Violation"); (2) the clearing of approximately 0.12 acres of vegetation within the Connecticut River riparian buffer zone established for the Project (the "Riparian Buffer Disturbance"); and (3) the clearing of approximately 0.29 acres of mature forest to the south of the closed landfill (the "Tree (Mature Forest) Clearing" and together with the Initial Violation and Riparian Buffer Disturbance, the "Violations").

WHEREAS, the Initial Violation was included in a Draft Administrative Citation dated June 8, 2018 prepared by DPS (the "Draft Citation").

WHEREAS, the Riparian Buffer Disturbance and Tree (Mature Forest) Clearing were reported to DPS and ANR by GSPP's attorney on June 25, 2018 after the issuance of the Draft Citation.

THEREFORE, in consideration of the above and the undertakings and covenants set forth below, the Stipulating Parties hereby agree as follows:

1. The Parties agree that all three Violations should be addressed in the revised Draft Citation filed by the Department concurrently with this Stipulation.

2. GSPP agrees to take the following actions as a full and complete response to address the violations (the "Penalties and Remedial Actions")

(a) Initial Violation- GSPP agrees to pay a penalty of Five Hundred and 00/100 Dollars ($500.00) and complete the remedial action plan as set forth in Exhibit A.

(b) Riparian Buffer Disturbance- GSPP agrees to pay a penalty of One Thousand Five Hundred and 00/100 ($1,500.00) and to i) demarcate the boundary of the riparian buffer with permanent markers (e.g., wooden stakes with warning signage) for the life of the Project; and ii) complete a remedial planting plan of the cleared area consisting of 0.12 acres. The remedial planting plan shall be subject to review and approval by ANR and shall be submitted to ANR for such review by August 17, 2018.

(c) Tree (Mature Forest) Clearing- GSPP agrees to pay a penalty of One Thousand Five Hundred and 00/100 ($1,500.00).

3. ANR and DPS acknowledge and agree that the Penalties and Remedial Actions, if completed, are a full, satisfactory and sufficient remedial action under 30 V.S.A. §§ 30 and 209 to address the Violations, and that, upon payment and completion of the Penalties and Remedial Action, ANR and DPS shall not seek to impose additional civil penalties for the Violation and shall consider the Violations to be adequately addressed.

4. Pursuant to 30 V.S.A. § 30(h)(2)(C)(ii), a revised draft Citation (the "Revised Draft Citation"), consistent with this Stipulation, is being filed by the Department concurrently with this Stipulation. The Parties request that the Commission approve this Stipulation and the Revised Draft Citation. The Parties agree that to the extent any testimony or evidence submitted in this proceeding differs from the provisions of this Stipulation, the provisions of the Stipulation shall control.

5. This Stipulation may be modified only upon mutual written agreement by the Parties and is subject to any necessary Commission approvals.

6. The Parties agree that this Stipulation shall not be construed by any party or tribunal as having precedential impact on any future proceeding involving the Parties, except as necessary to implement this Stipulation or to enforce an order of the Commission resulting from this Stipulation.

7. The Parties agree that, should the Commission fail to approve this Stipulation in all material aspects, the Parties' agreements set forth herein shall terminate and the Parties shall have the right to submit filings in this docket and the Parties' agreements in this Stipulation shall not be construed by any party or tribunal as having precedential impact on any testimony or positions that may be advanced in these proceedings.

8. Any disputes arising under this Stipulation shall be resolved by the Commission under Vermont law.

Dated: Burlington, Vermont
July 27, 2018

GSPP GILMAN, LLC

By: Timothy M. Eustace, Its Attorney

VERMONT AGENCY OF NATURAL RESOURCES

By: Donald J. Einhorn, Its Attorney

VERMONT DEPARTMENT OF PUBLIC SERVICE

By: Geoffrey Commons, Its Attorney

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<1348425v1/JOP>

SE GROUP

MEMORANDUM

131 Church Street Suite 300 Burlington, VT 05401
Office: 802.862.0098 | www.segroup.com

TO: Hal Cohen, VT DPS
FROM: Mark Kane
CC:
DATE: April 16, 2018
RE: Gilman Landfill Solar – PUC Docket

BACKGROUND

In 2016, SE Group was retained by the Vermont Department of Public Service (DPS) to provide aesthetic consulting services related to the development of a new solar electric facility at the Gilman Landfill property in Gilman, Vermont. During SE Group's review of the Petitioner's Certificate of Public Good and as presented in a memorandum to the DPS on July 6, 2016, SE Group ultimately concluded that, based on a site visit and review of the Petitioners proposed mitigation measures, the project would not create an adverse impact with respect to the scenic resources.

SITE REVIEW

In 2018, SE Group was re-engaged by DPS to help in its evaluation of a violation of the approved CPG. Based on materials provided by the Petitioner through their aesthetics consultant, Ben Oxender, in the establishment of the site for the development of the solar array, contractors working on behalf of the Petitioner cleared areas that had been indicated to remain.

During my initial review, it was the areas along River Road, to the west of the Project site, where the Project would be the most visible. Visibility from Baptist Church Road, also to the west of the Project site was also noted. In my memorandum from 2016, I noted that I had "*no additional recommendations for mitigation that we [I] feel would be reasonable. The narrow areas of potential visibility are generally inconsequential and attempts through landscaping to address them would not likely afford much benefit or value*".

The largest of the areas inadvertently cleared was along the Project sites frontage with River Road. At about 2.3 acres, this area ("Cleared Area A"), was composed of mostly successional shrubs with some inclusions of small trees and conifers. These natural planting did contribute to the screening of the Project from River Road and a few residential properties that separate the Project site from the roadway.

Two smaller areas of inadvertent clearing were disclosed by Petitioner; one to the north of the proposed array ("Cleared Area B") and a very small area to the east ("Cleared Area C"). These cleared areas are about 0.52 acres and 0.04 acres respectively. A plan, prepared by the Petitioner, showing these areas is included on the following page.

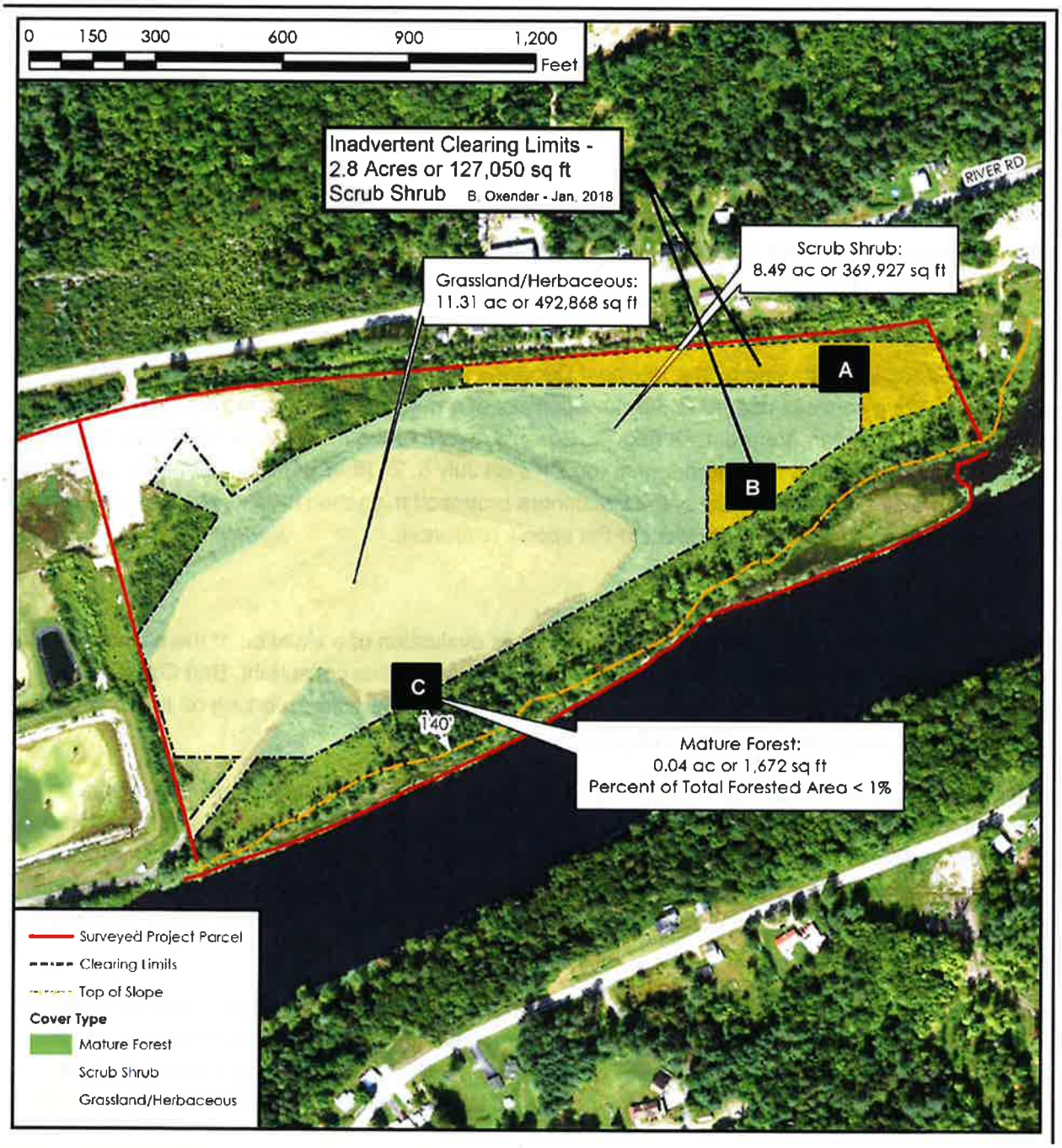

Figure 1 - Inadvertent Clearing Areas - Gilman Landfill Solar

On March 20, 2018, I attended a site visit with Hal Cohen and Ben Oxender to review the areas where the clearing was completed and consider the proposed landscape mitigation measures that the Petitioner has offered to address the situation. Representative photographs from this visit are provided below:

Figure 2- View looking North-East towards River Road from the Gilman Landfill Solar Site. Cleared Area A is in the foreground

Figure 3- Figure 1- View looking North towards River Road from the Gilman Landfill Solar Site. Cleared Area B is in the foreground

In evaluating the potential impact of these clearing areas on my original conclusions, I make a distinction between each of them. The impact of the clearing from Clearing Area B and Clearing Area C are not consequential relative to the concerns I had expressed in 2016. Clearing Area B does little to intervene between the Project site and offsite vantage points to the west. Clearing Area C is nominal in size. Clearing Area A, however, is more substantial to the screening of the Project. Its absence introduces more exposure of the Project from vantage points along River Road and nearby residential properties.

PROPOSED MITIGATION

In recognition of this issue, the Petitioner's aesthetics expert has proposed to install a series of coniferous plantings. The proposed layout and arrangement are provided below.

Figure 4- Landscape planting plan proposed by Petitioner

Overall the Petitioner is proposing 77 natural/field dug coniferous trees including Red Pine, White Pine, Black Spruce, Balsam Fir, and American Arborvitae. Installed heights for the trees range from 4 to 6 feet. As natural/field dug plant materials, they will typically be less full, but all represent species that can acclimate well to the setting.

The proposed landscape mitigation plan suggests installing the materials in somewhat random/naturalized pattern in both Cleared Area A and Cleared Area B. The Petitioner is also proposing to install along the Project fence line a green privacy material to assist in the screening of the Project.

RECOMMENDATIONS

In general, I believe the Petitioners' proposed approach to mitigate the impacts from the inadvertent clearing are appropriate and will help ameliorate the impacts that have resulted. The quantities and species proposed are reasonable given the setting and situation.

I would recommend the following additional steps or changes to the proposed mitigation to help assure that it has the greatest possible benefit:

1. Limit the installation of all proposed plantings to Cleared Area A, where I believe it will be most effective in addressing offsite visual impacts.

2. Install the proposed plantings in a more strategic fashion; focusing on areas where the adjacent natural vegetation is particularly thin or where the inadvertent clearing has increased visibility of the Project site from River Road and/or adjacent residential properties.

3. Allow areas where the inadvertent clearing has occurred to grow up naturally.

4. Avoid any future disturbance in these areas except for required periodic maintenance of the proposed mitigation plantings.

5. Require that, following the installation of the mitigation plantings, the site be reviewed by DPS to confirm adherence to the plan.

6. Impose a requirement that, for a three-year period following the installation of the plantings, a vegetation monitoring plan be prepared, whereby the Petitioner would provide written and photographic documentation and attest to the continued health and effectiveness of the installed mitigation plantings.

With these measures, I believe the impact of the inadvertent clearing can be rectified and no adverse impact on the scenic resources of the area will result.