

Solar Developer Settles Massachusetts Enforcement Action

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(By **Ben Clapp**)



A recently settled enforcement action against a solar project developer in Massachusetts underscores the importance of adhering to appropriate stormwater pollution prevention protocols when siting, designing and constructing a project. The Commonwealth of Massachusetts sued the project developer under state and federal environmental laws, alleging that they had constructed a solar array on a hillside parcel without designing or implementing the required stormwater controls. Specifically, the Commonwealth alleged that the developer never properly analyzed the potential for harm from stormwater discharges resulting from construction of the solar array, failed to install necessary

stormwater controls prior to conducting site clearing and grading activities, applied for a General Stormwater Permit for construction activities (Permit) without having first prepared a Stormwater Pollution Prevention Plan (SWPPP), and ultimately failed to comply with requirements of the Permit and SWPPP that are designed to prevent stormwater pollution. As a result, the Commonwealth claimed, there was an extensive discharge of sediment-laden stormwater over several months into a downgradient river that adversely affected the river's water quality, and also eroded the hillside, scoured out perennial and intermittent streams, uprooted trees, destroyed streambeds, and filled in wetlands with sediment. The developer has agreed to pay more than \$1 million to settle the claim, which includes the cost of restoring impacted natural resources, compensatory mitigation costs, the Commonwealth's legal fees, and a \$100,000 civil penalty.

The case is an important reminder that renewables projects face the same environmental compliance obligations as any other large-scale infrastructure project, and that such projects, while considered "green," are not immune from environmental enforcement actions. While renewables projects are often scrutinized for potential impacts to protected species, a greater risk of liability may lie in a project's failure to comply with more "run of the mill" permitting and compliance requirements. For more information on this case, please click [here](#).

Tags: [enforcement action](#), [solar](#), [stormwater](#), [Stormwater Pollution Prevention Plan](#), [SWPPP](#)

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