

November 14, 2019

Mark R. Reich
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Hon. Jonathan F. Mitchell
Mayor of New Bedford
New Bedford City Hall
133 William Street
New Bedford, MA 02740

Re: Parallel Products – Notice of Intent

Dear Mayor Mitchell:

As you are aware, KP Law is serving as Special Counsel for the City of New Bedford, through the Mayor's Office, with respect to the Parallel Products of New England proposal to establish a glass/solid waste/biosolids processing facility on Duchaine Boulevard in the New Bedford Business Park.

As part of its project proposal, Parallel Products has filed a Notice of Intent and associated documents with the City's Conservation Commission with respect to its intention to construct a rail sidetrack from the existing rail line on its property to the existing glass processing facility, as well as an open box culvert stream crossing, wetland crossing, bunker buildings for glass recycling, photovoltaic canopies, stormwater improvements, and necessary site grading and utilities. We have undertaken a review of these materials, utilizing an environmental consultant, and forward the following comments for consideration by the Conservation Commission as it undertakes its review of the Notice of Intent:

1. The alternative analysis for the crossing and wetland fill is limited. The preferred alternative from a wetland perspective would be a bridge span of the wetlands and not a three- or four-sided box culvert, and certainly not a retaining wall built through the wetlands. The submission from Parallel Products briefly touches upon the preferred alternative (bridge span) by only saying that the alternative would cause more disturbance. Our consultant did not observe that calculation anywhere and couldn't determine how abutments built in the upland with the only wetland impact being driven piles would be a greater disturbance than what was selected. The LEC (applicant's consultant) document actually later states the opposite and that the bridge span will create less bordering vegetated wetland (BVW) impact but was not selected due to cost. It is recommended that other alternatives be shown. Although economics do play a role in alternative selection, it is not the final determination in the selection process, and the applicant would need to show how the increase in cost could not be achieved.
2. The alternative analysis only speaks to method of spanning, not orientation of layout. There are possibly other layout alternatives that would cause less of an impact to the wetlands. As an example, if the crossing were to occur at the existing stockpile area in the southwest

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- corner then less wetlands would be impacted. The applicant should consider alternate layouts.
3. No geotechnical borings were supplied to determine if the roadway would function as designed. These borings should be supplied and reviewed by a geotechnical engineer to ensure the roadway will not fail and cause more impacts to the resource area.
 4. There is no narrative explaining the MA Stream Crossing standards and how their proposed method meets those standards for a "NEW CROSSING." The LEC document speaks to it, but the narrative should take each item from the standard and apply it to the crossing.
 5. Greater than 50 linear feet of bank impact requires a habitat evaluation; none was provided. Although LEC states that the project is exempt from this evaluation, it can be argued that due to the greater than 5,000 SF of wetland resource area and greater than 50 linear feet of bank disturbance that an evaluation should be required.
 6. Because the wetland crossings will isolate areas of BVW by essentially building a wall with culverts, it is appropriate to ask the applicant to conduct an evaluation on impacts created to the wetland areas south of the crossing.
 7. There was no information on the sizing of those culverts and why they were selected. This is of utmost importance, especially considering the site is within a Zone X of the floodplain. As we are experiencing increased precipitation rates it will be important to ensure that the wetlands throughout the site drain as they do under existing conditions.
 8. Impacts exceed 5,000 square feet (SF) of wetland and waterway (4,936 SF BVW + 504 SF land under water (LUW)) and will likely require a 401 Water Quality Certification (WQC) with the Department of Environmental Protection (DEP) and a Preconstruction Notification Form (PCN) with the Army Corps of Engineers (ACOE).

It is the expectation of our environmental consultant that the Conservation Commission's peer reviewer would address three major areas of concern:

1. confirmation of wetland delineation line,
2. whether the project meets the stream crossing standards, and
3. confirmation of stormwater report details.

I hope that these comments are useful and recommend that these comments be provided to the Conservation Commission as it undertakes consideration of the Notice of Intent. These are significant technical issues which should be carefully reviewed before any Order of Conditions is issued.



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Please contact me if any additional assistance is required.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Mark R. Reich".

Mark R. Reich

MRR/cqm
704326/NBED/0041