

STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Case No. 18-3449-PET

Petition of Salisbury AD 1, LLC for a certificate of public good, pursuant to 30 V.S.A. § 231, to own and operate a renewable natural gas facility in Salisbury, Vermont, and for <i>de minimis</i> regulation, and to address motions to transfer and amend the 30 V.S.A. § 248 CPG for the facility that was issued in Docket 8596	
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Order entered: 03/14/2019

ORDER APPROVING ISSUANCE OF AN AMENDED SECTION 248 CERTIFICATE OF PUBLIC GOOD

In this Order, the Vermont Public Utility Commission (“Commission”) adopts the following proposal for decision.

PROPOSAL FOR DECISION

I. INTRODUCTION

This case involves a petition filed by Salisbury AD 1, LLC (“Salisbury AD 1” or the “Petitioner”) with the Vermont Public Utility Commission (“Commission”) requesting an amendment to the certificate of public good (“CPG”) granted by the Commission under 30 V.S.A. § 248(j) in Docket 8596.¹ The CPG authorized construction and operation of a renewable natural gas facility at the Goodrich Farm on Shard Villa Road in Salisbury, Vermont.

The proposed amendment addresses changes to the proposed facility that result from a change in the company that will own and operate the facility (Salisbury AD 1), which include changes to the feedstock, equipment selection, the physical layout of the facilities, and associated operational changes (the proposed “Amended Project”). The original CPG was evaluated pursuant to Section 248(j). The proposed amendment was evaluated using the same procedures to ensure that the Section 248 criteria are met with the proposed changes.

In today’s Proposal for Decision, I recommend that the Commission conclude that, subject to conditions, the Amended Project is of limited size and scope, the Amended Project does not raise a significant issue with respect to the substantive criteria of 30 V.S.A. § 248, the

¹ The CPG in Docket 8596 was issued to Lincoln Renewable Natural Gas, LLC.

public interest is satisfied by the procedures authorized by 30 V.S.A. § 248(j), and the Amended Project will promote the general good of the State. Therefore, I recommend that the Commission grant the petition for an amended CPG, subject to the conditions set forth in this Order.

Evaluation of the Section 248 criteria in this Order pertain to changes from the as-approved project that have been proposed for the Amended Project. All other Commission findings remain as described in the Commission's final order for the as-approved project in Docket 8596.

II. PROCEDURAL HISTORY

On April 8, 2016, in Docket 8596, the Commission granted a CPG to Lincoln Renewable Natural Gas, LLC, authorizing the installation and operation of a renewable natural gas facility at the Goodrich Farm on Shard Villa Road in Salisbury, Vermont (the "as-approved project").

On October 4, 2018, Lincoln Renewable Natural Gas, LLC, and the Petitioner filed a motion to transfer the CPG to the Petitioner. The Petitioner also filed a Section 231 petition and request for *de minimis* regulation, and a motion to amend the Section 248 CPG.

On October 31, 2018, and November 7, 2018, comments were filed by the Vermont Agency of Natural Resources ("ANR") and the Vermont Department of Public Service ("Department"), respectively.

On November 9, 2018, Vermont Gas Systems, Inc. ("Vermont Gas") filed public comments stating that it has no objections to the Amended Project.

On November 20, 2018, I held a status conference and determined that the motion to amend the original Section 248 CPG would be evaluated under the procedures of Section 248(j).

On December 4, 2018, the Petitioner filed a list of adjoining landowners as required for Section 248(j) filings under Commission Rule 5.402(F).

On December 5, 2018, the Commission granted the Petitioner a Section 231 CPG, certain *de minimis* regulation, and granted the motion to transfer the Section 248 CPG from Lincoln Renewable Natural Gas, LLC, to the Petitioner.

Also on December 5, 2018, I issued a scheduling order for the Section 248 CPG amendment (the Amended Project).

On December 7, 2018, the Commission provided notice of the Amended Project to all entities specified in 30 V.S.A. § 248(a)(4)(C) and other interested persons. The notice stated that

any party wishing to submit comments as to whether the Amended Project raises a significant issue with respect to the substantive criteria of 30 V.S.A. § 248 should do so on or before January 4, 2019. A similar notice of the filing was posted on the Commission's website.

On December 12, 2018, the Petitioner filed supplemental testimony and exhibits in response to questions I raised at the prehearing conference. The filing included a stipulation between the Petitioner and the Vermont Division for Historic Preservation ("DHP") (exh. SAD1-18).

On December 27, 2018, the Vermont Agency of Agriculture, Food, and Markets ("AAFM") filed its notice of intervention in accordance with its statutory right under 30 V.S.A. 248(a)(4)(F)(ii).

On January 4, 2019, ANR, the Department, and AAFM filed comments on the Amended Project.

On January 22, 2019, I issued a revised scheduling order.

On January 23, 2019, the Petitioner filed documents generated during discovery at my request.

On February 6, 2019, and February 8, 2019, the Petitioner filed supplemental testimony and exhibits, including a stipulation among the Petitioner, ANR, and AAFM (the "ANR and AAFM Stipulation").

On February 13, 2019, the Department filed comments on the Petition and an exhibit consisting of the summary of an investigation made by an independent consultant regarding gas quality and safety.

On February 15, 2019, I directed the Petitioner to file an amended blasting plan.

On February 19, 2019, the Petitioner filed an amended blasting plan.

Also on February 19, 2019, the Department filed comments stating that it has no remaining concerns and does not request an evidentiary hearing.

No other comments on the petition were received by the Commission.

No party has requested an evidentiary hearing or objected to the prefiled testimony and exhibits, and the Petitioner's filings have addressed the questions and concerns that I raised such that an evidentiary hearing is not required. Accordingly, the following prefiled testimony and exhibits and other information are admitted as if presented at a hearing: the Petitioner's

testimony and exhibits — Affidavit of Daniel Smith, Affidavits of Maria Sol Ucciani (“Ucciani”) dated 10/4/2018, Second Affidavit of Ucciani dated 12/12/2018, Third Affidavit of Ucciani dated 2/5/2019, Fourth Affidavit of Ucciani dated 2/8/2019, Affidavit of Lydia Lee (“Lee”) dated 12/12/2018, Second Affidavit of Lee dated 2/8/2018, Affidavit of Thomas Murray, and exhibits SAD1-1 (Rev.), SAD1-2 (Rev.), SAD1-3 (Rev.2), SAD1-4 through SAD1-25, and SAD1-26 (Rev.); the Department Comments dated 2/13/2019 and exhibit DPS-1; and the ANR and AAFM Stipulation.

III. SUMMARY OF COMMENTS

Department

The Department requested additional information in order to complete its review of the Amended Project under system stability and reliability and public health and safety. The Department requested more details on the natural gas components of the Amended Project, specifically the gas component design specifications, the operations and maintenance protocols, and gas quality control measures. The Department reviewed the Petitioner’s response and hired a consultant to evaluate the Amended Project in regard to safety of the gas equipment, pipeline, and meter and regulation station, and the quality of the gas output. Based on its review, the Department recommends that several conditions be included in any CPG issued for the Amended Project, which are discussed under the criteria for system stability and reliability and the public health, below.

ANR and AAFM

ANR and AAFM filed separate comment letters and signed a joint stipulation with the Petitioner that resolves each agency’s concerns. ANR had questions about water quality and stormwater issues because some Amended Project facilities will be in close proximity to wetlands and streams; questions about changes in air emissions and effects on air quality from the addition of a diesel generator; questions about waste management based on the addition of food processing waste as a feedstock; and questions about public health and safety related to the proposed digestate storage tanks.

AAFM had questions about how the change in feedstock would affect nutrient output, and how it would be handled, used, and/or disposed.

The ANR and AAFM Stipulation recommends a number of CPG conditions addressing these topics for construction, operation, and maintenance of the Amended Project. These are discussed under the air pollution, waste management, wetlands, streams, soil erosion, and public health and safety criteria, below.

DHP

The DHP Stipulation requires historic resource investigations to be conducted in areas of the Amended Project that were not previously surveyed. The DHP Stipulation contains conditions to be included in the CPG to address DHP's concerns, as discussed under the historic sites criterion, below.

Vermont Gas

In its public comments, Vermont Gas states that it supports the Amended Project, and that it intends to construct the gas pipeline facilities required to interconnect the Amended Project to the Vermont Gas distribution system substantially as presented in Docket 8596. Vermont Gas is working with the Petitioner to develop: (a) a Facilities Development Agreement that describes the terms and conditions, including financial obligations, under which Vermont Gas will construct the interconnection facilities for the Amended Project; (b) an Operating Agreement addressing Amended Project maintenance and balancing the renewable natural gas supply to Vermont Gas, for which Vermont Gas intends to file for Commission approval under 30 V.S.A. § 229; and (c) a Renewable Natural Gas Sales Agreement for the sale of 40,000 Mcf of renewable natural gas at a fixed price for twenty years. Vermont Gas also intends to enter into an agreement with Middlebury College for transport of the renewable natural gas purchased from the Amended Project; Vermont Gas will file that agreement with the Commission for approval under 30 V.S.A. § 229.

IV. FINDINGS

Based upon the Petition and the accompanying record in this proceeding, I have determined that this matter is ready for decision. Based on the evidence of record, I hereby report the following findings to the Commission in accordance with 30 V.S.A. § 8(c).

Description of the Amended Project

1. The Petitioner is an affiliate of Vanguard Renewables, and is a Vermont limited liability company with a principal business address of 20 Walnut Street, Suite 308, Wellesley, MA 02481. Ucciani Aff. at ¶ 6.
2. The Petitioner has modified some aspects of the as-approved project design to prepare the final Amended Project design. The modifications affect the physical location and layout of the Amended Project, equipment selection, and the material inputs and outputs. Ucciani Aff. at ¶ 47.
3. Modifications to the as-approved project include changes in the location and type of equipment and the materials handling and storage areas. Exhs. SAD1-1 (Rev.), SAD1-2 (Rev.), and SAD1-3 (Rev. 2).
4. The Amended Project equipment, storage, access, and materials handling areas will occupy approximately 8.6 acres at the Goodrich Farm site at 615 Shard Villa Road. Exh. SAD1-3 (Rev. 2).
5. The as-approved project would have used feedstock consisting of manure, feed waste, silage runoff, and crop residue from the Goodrich Farm and manure, corn silage, and other fuel source crops from neighboring farms. The Amended Project will use manure from the Goodrich Farm, and regionally sourced food processing waste to optimize methane output and health of the digester. Typical food residuals could include organic waste from commercial and institutional restaurants, markets, and kitchens, as well as dairy processing waste, brewery waste, oils and grease, and solid residuals from food processing facilities. Ucciani Aff. at ¶ 67; exhs. SAD1-1 (Rev.), SAD1-2 (Rev.), SAD1-4; and SAD1-7 at 2.
6. The Amended Project will use many of the same components as the as-approved project, including an anaerobic digester tank system that produces biogas, a gas upgrade and purification system that refines the biogas into finished renewable natural gas, a utility building, office/lab, separator building, manure tank, gas metering and regulation station, and a nutrient management building. The Amended Project will not use the pump house and compost pad that were included in the as-approved project. Ucciani Aff. at ¶¶ 49-50, 62-64; exh. SAD1-3 (Rev. 2).

7. The nutrient recovery system will produce liquid digestate and solid nutrient cake, both of which contain nutrients that can be exported from the farm or applied to fields at the Goodrich Farm in accordance with the farm's nutrient management plan. Ucciani Aff. at ¶ 68; exhs. SAD1-1 (Rev.), SAD1-2 (Rev.), SAD1-3 (Rev. 2), SAD1-4, and SAD1-6.

8. The as-approved project would have included construction of a three-phase electric distribution line to provide electricity from Green Mountain Power Corporation's existing distribution system to the site. The Amended Project will instead obtain power from combined heat and power equipment fueled with gas from the Vermont Gas system from the distribution line that is part of the Amended Project. Ucciani Aff. at ¶ 65; Ucciani Second Aff. at ¶ 21; exhs. SAD1-3 (Rev. 2) and SAD1-5 at 3.

9. The as-approved project would have used one gas-fired boiler and one gas-fired flare. The Amended Project will use two gas-fired boilers, one gas-fired flare, gas-fired combined heat and power equipment, and a diesel-fired backup generator to be operated if the combined heat and power equipment is offline. Exh. SAD1-5 at 2.

10. The Amended Project will require construction of two new 2.5-million-gallon nutrient storage tanks and will use five existing Goodrich Farm lagoons for storage of liquid digestate. Two of the lagoons are at the Amended Project site; two are located on Goodrich Farm property on Shard Villa Road to the north of the Amended Project site; and one is located on Middle Road northeast of the Amended Project site. Lee Aff. at ¶ 27; exhs. SAD1-3 (Rev. 2), SAD1-21.

11. Vermont Gas's involvement in the gas components of the Amended Project includes assisting the Petitioner with construction specifications, operational assistance and guidance, and periodic testing for the portion of the pipeline from the Amended Project's gas cleaning equipment to the metering and regulation station. Vermont Gas will also operate the metering and regulation station, install an odorant station, install and monitor gas quality testing equipment, provide a gas quality plan, and use the station to isolate the distribution system in the event the Amended Project discharges any out-of-specification gas. Ucciani Third Aff. at ¶ 12; Murray Aff. at ¶ 4; exh. SAD1-23.

12. The Amended Project does not require any modifications to the as-approved project's spur line to connect the Amended Project's metering and regulation station to Vermont

Gas's existing distribution line in Middlebury, Vermont. Ucciani Aff. at ¶ 53; Ucciani Second Aff. at ¶ 21.

13. The Amended Project will produce approximately 172,000 Mcf [thousand cubic feet] of renewable natural gas per year, compared to 130,000 Mcf per year for the as-approved Amended Project, an increase of 42,000 Mcf or approximately 24%. Ucciani Aff. at ¶ 69; exh. SAD1-5 at 2.

14. Like the as-approved project, the Amended Project will provide a portion of the renewable natural gas to Middlebury College. At the time the as-approved project was approved, the college would have used the renewable natural gas to replace use of Number 6 heating oil. However, as of 2017, the college has been burning natural gas from Vermont Gas's pipeline. Ucciani Aff. at ¶ 54; Ucciani Third Aff. at ¶ 9; exh. SAD1-5 at 2.

15. As with the as-approved project, the renewable natural gas not sold to Middlebury College will be sold to Vermont Gas through a purchase agreement. Exh. SAD1-5 at 3.

16. The Amended Project's sound levels at the nearest residence are estimated to be 33 dBA under normal operating conditions with the combined heat and power plant operating, and 38 dBA when the emergency generator is running. Ucciani Aff. at ¶¶ 125-126; exh. SAD1-10 at 4.

Orderly Development of the Region

[30 V.S.A. § 248(b)(1)]

17. The Amended Project will not unduly interfere with the orderly development of the region, with due consideration having been given to the recommendations of the municipal and regional planning commissions, the recommendations of the municipal legislative bodies, and the land conservation measures contained in the plan of any affected municipality. This finding is supported by finding 18, below.

18. The Amended Project will be the same type of project as the as-approved project, in the same location at the Goodrich Farm. As such, the Amended Project does not have the potential to unduly interfere with orderly development of the region. Ucciani Aff. at ¶ 71.

Discussion

The as-approved project was supported by the Salisbury Selectboard, the Salisbury Planning Commission, and the Addison County Regional Planning Commission. None of these entities filed comments on the Amended Project in response to the Section 248(j) notice.

Need for Present and Future Demand for Service

[30 V.S.A. § 248(b)(2)]

19. The Amended Project will meet the need for present and future demand for service which could not otherwise be provided in a more cost-effective manner through energy conservation programs and measures and energy efficiency and load management measures. This finding is supported by findings 20 and 21, below.

20. Middlebury College will purchase a portion of the Amended Project's renewable natural gas output. Exh. SAD1-5 at 2, 3.

21. VGS will purchase the remaining output to sell to its customers seeking renewable natural gas. Exh. SAD1-5 at 3.

Impact on System Stability and Reliability

[30 V.S.A. § 248(b)(3)]

22. The Amended Project will not have an adverse effect on system stability and reliability. This finding is supported by findings 23 through 25, below.

23. The Amended Project will not require any changes to the as-approved project's spur pipeline to connect to Vermont Gas's existing gas distribution system; the line will be constructed from the Amended Project site to Vermont Gas's Middlebury distribution line. Ucciani Aff. at ¶ 73.

24. The Petitioner, in conjunction with Vermont Gas, will ensure that the gas pipeline conforms with applicable industry and regulatory pipeline standards. Murray Aff.

25. The as-approved project included an electrical interconnection to supply 7,500 kWh of electricity to fuel the Amended Project. Instead, the Amended Project facilities will be fueled with natural gas from the VGS pipeline. Ucciani Aff. at ¶ 73.

Discussion

The as-approved project detailed the Vermont Gas spur distribution line to connect to Vermont Gas's existing distribution line in Middlebury, including that it would be designed, operated, and maintained by Vermont Gas in accordance with applicable codes and regulations (Docket 8596, Order of 4/8/2016 at ¶ 63). No changes to the spur distribution line are proposed for the Amended Project.

The Department recommends CPG conditions related to the quality of the gas to be output to Vermont Gas's existing gas distribution system. These include specifications for the pipeline between the Amended Project's gas cleaning equipment and the metering and regulation station; a requirement that the Petitioner, in conjunction with Vermont Gas, prepare and implement a quality control program for installation and operation of the pipeline; and a requirement that the Petitioner file a quality assurance plan prior to interconnecting the facility that identifies the fuel substrates in use and potential gas contaminants. The Department contends that the conditions are necessary to ensure that the Amended Project will not have an adverse effect on system stability and reliability, and the Petitioner has no objection to the conditions. Therefore, I recommend that the Commission include the conditions in the CPG.

Economic Benefit to the State

[30 V.S.A. § 248(b)(4)]

26. The Amended Project will result in an economic benefit to the State and its residents. This finding is supported by findings 27 and 28, below.

27. Like the as-approved project, the Amended Project will have economic benefits associated with local production of renewable natural gas that will be provided to Middlebury College and Vermont Gas customers. As with the as-approved project, there will be economic benefits from the employment of construction workers. Ucciani Aff. at ¶ 74.

28. The as-approved project proposed to use manure from a number of community dairy farms as feedstock for the system. The Amended Project will use manure from the Goodrich Farm as a feedstock, along with regionally sourced food processing waste. Ucciani Aff. at ¶ 67; exhs. SAD1-4 and SAD1-7 at 2.

Discussion

The as-approved project described economic benefits to neighboring farms that would contribute manure as feedstock for the system and receive by-product bedding and cash payments in return (Docket 8596, Order of 4/8/2016 at ¶ 67). The Amended Project will use manure from the Goodrich Farm, eliminating the economic benefit to neighboring farms. However, the Amended Project will provide economic benefits to in-state suppliers of some of the alternative feedstocks for the Amended Project, including food processing and brewing waste.

**Aesthetics, Historic Sites, Air and Water Purity, the Natural Environment,
the Use of Natural Resources, and Public Health and Safety**
[30 V.S.A. § 248(b)(5)]

29. Subject to the conditions described below, the Amended Project will not have an undue adverse effect on aesthetics, historic sites, air and water purity, the natural environment, the use of natural resources, or public health and safety, with due consideration having been given to the criteria specified in 10 V.S.A. §§ 1424a(d) and 6086(a)(1) through (8) and (9)(K), primary agricultural soils, and greenhouse gas impacts. This finding is supported by findings 30 through 100, below.

Outstanding Resource Waters
[10 V.S.A. § 1424a; 30 V.S.A. § 248(b)(8)]

30. The Amended Project will not affect any outstanding resource waters as defined by 10 V.S.A. § 1424a(d) because there are no outstanding resource waters in or near the Amended Project area. Ucciani Aff. at ¶ 151; exh. SAD1-6 at 2.

Air Pollution and Greenhouse Gas Impacts
[30 V.S.A. § 248(b)(5); 10 V.S.A. § 6086(a)(1)]

31. The Amended Project will not result in undue air pollution or greenhouse gas emissions. This finding is supported by findings 32 through 35, below.

32. The Amended Project will produce approximately 22% more renewable natural gas than the as-approved project. Ucciani Aff. at ¶ 82; exh. SAD1-5 at 3.

33. Through increased renewable gas production, use of a combined heat and power system, and use of a backup diesel generator, the Amended Project will produce more emissions than the as-approved project. Exh. SAD1-5 at 3.

34. The Amended Project's equipment will be equipped with emissions controls and will be required to meet stringent state and federal air pollutant emissions limits. Exh. SAD1-5 at 4.

35. The Amended Project requires an air quality permit from the Vermont Department of Environmental Conservation ("DEC") Air Quality and Climate Division, and will include equipment to control odor and hydrogen sulfide emissions. Ucciani Aff. at ¶ 87-88; exh. SAD1-5 at 2.

Discussion

The ANR and AAFM Stipulation recommends a CPG condition requiring that the Petitioner obtain a construction and operating air permit, as described in finding 35, above. The Petitioner has no objection to the condition. Therefore, I recommend that the Commission include the condition in the CPG.

The air quality evaluation for the as-approved project relied in part on the fact that renewable natural gas generated by the Amended Project would be replacing the use of No. 6 fuel oil at Middlebury College. According to the Petitioner's testimony, Middlebury College has been using natural gas for heating as of 2017 (Ucciani Third Aff. at ¶ 9). However, based on the conclusions of the air quality assessment and the need for the Petitioner to obtain an air quality permit, I recommend that the Commission conclude that the Amended Project will not result in undue air pollution.

Water Pollution

[10 V.S.A. § 6086(a)(1)]

36. The Amended Project will not result in undue water pollution. This finding is supported by findings 37 through 72, below.

Headwaters

[10 V.S.A. § 6086(a)(1)(A)]

37. The Amended Project is not in a headwaters area. Ucciani Aff. at ¶ 96; exh. SAD1-6 at 3.

Waste Disposal

[10 V.S.A. § 6086(a)(1)(B)]

38. The Amended Project will meet all applicable health and DEC regulations regarding the disposal of wastes and will not involve the injection of waste materials or any harmful or toxic substances into groundwater or wells. This finding is supported by findings 39 through 48, below.

39. The Amended Project will result in more than one acre of impervious surface and will require an operational stormwater permit. Ucciani Aff. at ¶ 101; exh. SAD1-8 at 3-4.

40. The Amended Project will require a Solid Waste Certification for an anaerobic waste digester that accepts food waste. Ucciani Aff. at ¶ 103; Lee Aff. at ¶ 16; exh. SAD1-8 at 2; exh. SAD1-20.

41. Digestate will be treated with a nutrient recovery system that will produce a solid nutrient cake. Ucciani Aff. at ¶ 94, 100; exh. SAD1-8 at 2; Lee Aff. at ¶ 11.

42. Liquid digestate and nutrient cake will be applied to farm fields as fertilizer by the Goodrich Farm in accordance with its Nutrient Management Plan and Large Farm Operating Permit to prevent water quality effects from excess nutrient loading. Ucciani Aff. ¶ 94; exh. SAD1-7 at 1, 6.

43. The Petitioner prepared a Digestate Management Plan addressing the Amended Project's nutrient recovery, liquid nutrient management, and nutrient cake storage to ensure no adverse effects from disposition of nutrients from the Amended Project. Lee Aff. at ¶ 10-12; exh. SAD1-22.

44. The Digestate Management Plan specifies that excess nutrient cake will be marketed for beneficial uses or disposed of at a certified waste management facility. Lee Aff. at ¶ 10-12; exh. SAD1-22.

45. The Petitioner will prepare a site-specific Spill Prevention and Control Plan, and the liquid digestate tanks will be inspected and maintained in accordance with the manufacturer's

operation and maintenance manual. Ucciani Second Aff. at ¶ 7; Ucciani Third Aff. at 8; exh. SAD1-12.

46. The backup generator fuel tank will have a containment system and alarms. The containment system will be designed to capture the entire volume of used oil from the combined heat and power building. Ucciani Aff. at ¶ 102; exh. SAD1-8 at 2.

47. A blasting plan for construction of the Amended Project will be prepared in conformance with the draft blasting plan, ANR's blasting guidance, and ANR's best management practices for blasting. Exh. SAD1-26 (Rev.) and ANR and AAFM Stipulation at ¶ 10.

48. The Amended Project will include a composting toilet for employees. The wastewater system and potable water supply permit obtained for the as-approved project will be amended for the Amended Project. Ucciani Aff. at ¶ 99; Ucciani Third Aff. at ¶ 7; exh. SAD1-8 at 2.

Discussion

The ANR and AAFM Stipulation recommends a number of CPG conditions related to waste and nutrient management. The recommended conditions include requirements to obtain Solid Waste Certification, an individual construction stormwater permit, an operational stormwater permit, a multi-sector stormwater general permit for digester operation, and an insignificant waste management event approval for disposal of debris. The recommended conditions also include adherence to the blasting plan and ANR blasting guidance described in finding 47, above; specifications for construction of the nutrient storage tanks and for securing their outlet valves; adherence to and maintenance of the Spill Prevention and Control Plan; and development of agreements with one or more spill response and cleanup contractors.

In regard to the nutrients to be generated by the Amended Project, the ANR and AAFM Stipulation recommends CPG conditions to prevent use or disposal of the liquid digestate or nutrient cake that could result in adverse water quality effects, including employment of a site-specific technical service provider to monitor and manage feedstocks, digester output, and nutrient recovery, and to implement the digestate management plan.

The Petitioner has no objections to the recommended conditions. Therefore, I recommend that the Commission include them as conditions in the CPG.

Water Conservation

[10 V.S.A. §§ 6086(a)(1)(C)]

49. The Amended Project will not have an undue adverse effect on water conservation. This finding is supported by findings 50 through 53, below.

50. The as-approved project was designed with a gas upgrade plant and hydrogen sulfide removal equipment that would have required approximately 1,200 gallons of water per day. The Amended Project's gas upgrader will require up to 400 gallons per day of water. Therefore, the Amended Project will use less water than the as-approved project. Lee Aff. at ¶ 34.

51. Total water needs for the Amended Project will be up to 500 gallons per day, which includes process water for the gas upgrader, truck washing, and water use in the laboratory. Therefore, water needs of the Amended Project are less than for the as-approved project. Ucciani Aff. at ¶ 105; exh. SAD1-8 at 4.

52. Water needs will be supplied with an on-site well to be installed for the Amended Project. Ucciani Aff. at ¶ 106; exh. SAD1-8 at 4.

53. The Amended Project requires an amendment to the Wastewater System and Potable Water Supply Permit obtained for the as-approved project. Ucciani Aff. at ¶ 99, 107; Ucciani Third Aff. at ¶ 7; exh. SAD1-8 at 2, 4.

Floodways

[10 V.S.A. § 6086(a)(1)(D)]

54. The Amended Project will not restrict or divert the flow of flood waters, significantly increase the peak discharge of a river or stream within or downstream from the Amended Project, or endanger the health, safety, or welfare of the public or of riparian owners during flooding. This finding is supported by finding 55, below.

55. The reconfigured facilities at the Goodrich Farm do not encroach on any floodways or floodway fringe. Ucciani Aff. at ¶ 109; exh. SAD1-6 at 3-4.

Streams

[10 V.S.A. § 6086(a)(1)(E)]

56. The Amended Project will maintain the natural condition of all streams and will not endanger the health, safety, or welfare of the public or adjoining landowners because no work is required or proposed in any streams. This finding is supported by findings 57 through 60, below.

57. Impacts on streams from the Amended Project's proposed gas interconnection line remain unchanged from the as-approved project. Ucciani Aff. at ¶ 109; exh. SAD1-6 at 3-4.

58. There are three unnamed tributaries to Otter Creek in the vicinity of the Amended Project site. One is located west of any Amended Project-related disturbance. The two streams located in the Amended Project area do not have continuous flow and are associated with Class II wetlands on the site (see wetlands criterion, below). Exh. SAD1-6 at 4.

59. The Amended Project has been designed to avoid impacts on streams to the extent possible. Stream impacts are limited to the following impacts on one of the two intermittent streams in the Amended Project area: buffer encroachment within an existing farm road for the manure pipeline, and impacts to the stream and its buffer when replacing the existing culvert and widening the existing farm road for the pipeline to convey liquid digestate to the nutrient storage tanks. Ucciani Aff. at ¶ 110; exh. SAD1-6 at 4-5.

60. The pipeline conveying liquid digestate to the nutrient tanks will be designed and constructed in accordance with DEC's wastewater force main standards to reduce any risk of a release. Lee Aff. at ¶ 22; exh. SAD1-3 (Rev. 2); exh. SAD1-20.

Discussion

The streams at the Amended Project site are associated with Class II wetlands. The ANR and AAFM Stipulation recommends a number of CPG conditions pertaining to waste disposal and wetlands that will reduce the potential for adverse impacts to the streams. The conditions are discussed under the waste disposal criterion, above, and the wetlands criterion, below.

Shorelines

[10 V.S.A. § 6086(a)(1)(F)]

61. The Amended Project facilities at the Goodrich Farm are not located on a shoreline. Ucciani Aff. at ¶ 111; exh. SAD1-6 at 5.

Wetlands

[10 V.S.A. § 6086(a)(1)(G)]

62. The Amended Project will not have an undue adverse effect on wetlands. This finding is supported by findings 63 through 66, below.

63. Two Class II wetlands have been delineated on the Amended Project site. Ucciani Aff. at ¶ 112; exh. SAD1-6 at 4-5.

64. Construction of the Amended Project will require temporary impacts to Class II wetland buffer zones for trenching to install a manure transfer pipe along the existing access road and to replace the existing culvert under the access road to the nutrient storage tanks. Exh. SAD1-3 (Rev. 2) and SAD1-20.

65. Widening the existing access road to the nutrient storage tanks will require fill in the Class II wetland and the intermittent stream channel. Lee Aff. at ¶ 19; exhs. SAD1-3 (Rev. 2) and SAD1-20.

66. Grading for the Amended Project's vehicle access area and stormwater controls will require disturbance in the Class II wetland and the 50-foot wetland buffer. Lee Aff. at ¶ 19; exhs. SAD1-3 (Rev. 2) and SAD1-20.

Discussion

The ANR and AAFM Stipulation recommends CPG conditions to avoid undue adverse effects on wetlands. The recommended conditions would require the Petitioner to obtain an ANR wetlands permit, to mark wetland and wetland buffer boundaries prior to site preparation or construction activities, and to coordinate with ANR regarding an updated wetlands assessment prior to conducting any decommissioning activities. The Petitioner has no objections to the recommended conditions. Therefore, I recommend that the Commission include the conditions in the CPG.

Sufficiency of Water and Burden on Existing Water Supply

[10 V.S.A. §§ 6086(a)(2) and (3)]

67. There is sufficient water available for the reasonably foreseeable needs of the Amended Project, and the Amended Project will not cause an unreasonable burden on an existing water supply. This finding is supported by findings 50 through 53 under the water

conservation criterion, above, which describe water requirements of the Amended Project and how they will be met by installing a new groundwater well.

Discussion

The ANR and AAFM Stipulation recommends a CPG condition that requires the Petitioner to obtain an amended Wastewater System and Potable Water Supply Permit to confirm that there is sufficient water for Amended Project needs and that use of the proposed water supply well will not cause an unreasonable burden on water supply. The Petitioner has no objection to the condition. Therefore, I recommend that the Commission include the condition in the CPG.

Soil Erosion

[10 V.S.A. § 6086(a)(4)]

68. The Amended Project will not cause unreasonable soil erosion or reduce the capacity of the land to hold water so that a dangerous or unhealthy condition may result. This finding is supported by findings 69 through 72, below.

69. The Amended Project will disturb approximately 8.6 acres and will require a construction-phase stormwater permit. Ucciani Aff. at ¶ 93; Ucciani Third Aff. at ¶ 7; Lee Aff. at ¶ 24; exhs. SAD1-5 at 1, SAD1-8 at 3-4, and SAD1-20.

70. Construction of the hydrolyzer and the digester tanks will likely require blasting. Lee Aff. at ¶ 30.

71. The Petitioner will prepare and implement a blasting plan for the Amended Project that conforms to the requirements in its draft blasting plan. Lee Second Aff. at ¶ 6; exh. SAD1-26 (Rev.).

72. Any blasting for the Amended Project will be performed in accordance with the blasting plan, ANR's Blasting Plan Guidance Document, and ANR's Best Management Practices for Blasting to Avoid Environmental Contamination. Lee Second Aff. at ¶ 6; exh. SAD1-26 (Rev.).

Discussion

The ANR and AAFM Stipulation recommends a CPG condition requiring that the Petitioner obtain and comply with an individual construction stormwater permit to prevent unreasonable soil erosion during construction. The Petitioner has no objection to the CPG condition. Therefore, I recommend that the Commission include it as a condition in the CPG.

The Petitioner has provided a draft blasting plan that will be used to develop a final blasting plan for the Amended Project once a blasting contractor is selected. I recommend that the Commission include a condition in the CPG that the Petitioner be required to file a final blasting plan for review and for approval by the Commission prior to commencement of any blasting activities at the site.

Transportation

[10 V.S.A. § 6086(a)(5)]

73. The Amended Project will not cause unreasonable congestion or unsafe conditions with respect to the use of highways, waterways, railways, airports, airways, or other means of transportation, existing or proposed. This finding is supported by findings 74 and 75, below.

74. Amended Project-related truck traffic on area roads includes construction traffic and operational traffic. Operational traffic will include trucks bringing food waste to the site, trucks taking nutrient cake from the Amended Project site for beneficial use or disposal, and truck transport of liquid digestate from the Amended Project site. Ucciani Fourth Aff. at ¶ 6.

75. The as-approved project would have resulted in 20 truck deliveries per day. The proposed modifications will result in a decrease in Amended Project-related traffic on area roads. While truck traffic will vary by season, the Amended Project will result in an average of 11 truck deliveries per day, which is less than required for the as-approved project. Ucciani Fourth Aff. at ¶ 6; exhs. SAD1-1 (Rev.) and SAD1-2 (Rev.).

Educational Services

[10 V.S.A. § 6086(a)(6)]

76. Like the as-approved project, the Amended Project will not place an unreasonable burden on the ability of a municipality to provide educational services because the Amended Project will not require or affect educational services. Ucciani Aff. at ¶ 144.

Municipal Services
[10 V.S.A. § 6086(a)(7)]

77. The Amended Project will not place an unreasonable burden on the ability of the affected municipality to provide municipal or government services. This finding is supported by findings 78 and 79, below.

78. The Amended Project does not create any new municipal services impacts compared to the as-approved project. As with the as-approved project, the Petitioner will restore any road surfaces affected by construction and will employ measures to control traffic during construction. Ucciani Aff. at ¶ 145.

79. The Amended Project has been incorporated into the Town of Salisbury's Solid Waste Management Implementation Plan in accordance with DEC rules. Ucciani Aff. at ¶ 145; exh. SAD1-24.

Aesthetics, Historic Sites, and Rare and Irreplaceable Natural Areas
[10 V.S.A. § 6086(a)(8)]

80. The Amended Project will not have an undue adverse impact on aesthetics or on the scenic or natural beauty of the area, nor will the Amended Project have an undue adverse effect on historic sites or rare and irreplaceable natural areas. This finding is supported by findings 81 through 86, below.

Aesthetics

81. The Amended Project has been designed to be integrated into the existing farm building complex and will use colors and materials that are consistent with the immediate surroundings. Ucciani Aff. at ¶ 121; exh. SAD1-9 at 2.

82. Amended Project features that differ from the as-approved project include the combined heat and power facility, which will be located behind existing silage bunkers; a utility building and office/lab space; the anaerobic digester tanks, which will have a height 20 feet above ground surface and will be located at the farthest location from nearby roads at a ground surface that is approximately 10 feet below the road elevation; and the nutrient digestate tanks, which will be approximately 30 feet high and will resemble manure slurry tanks used on dairy farms. The biogas upgrader stack will be 20 feet high and will be adjacent to an existing building that is over 25 feet high. Exh. SAD1-9 at 2.

83. As with the as-approved project, there will be limited visibility of the Amended Project from publicly accessible locations along Route 7 and from approximately 750 feet of West Salisbury Road. Such views of the Amended Project will be limited due to the distance to the Amended Project site and intervening farm structures and vegetation. Ucciani Aff. at ¶ 122; exh. SAD1-9 at 2-3.

84. With the proposed modifications from the as-approved project, the Amended Project will not result in an undue adverse impact on aesthetics. Ucciani Aff. at ¶ 123; exh. SAD1-9 at 3.

Historic Sites

85. Like the as-approved project, the Amended Project will not have an undue adverse effect on historic sites. The DHP Stipulation addresses historic resources in areas of the Amended Project site that are deemed sensitive for archaeological impacts. Exh. SAD1-18.

Discussion

The DHP Stipulation recommends CPG conditions that require the Petitioner to complete historic surveys in previously unsurveyed portions of the Amended Project area that are deemed sensitive for historic resources. DHP contends that the conditions are necessary to avoid undue adverse effects on historic sites, and the Petitioner has no objection to the conditions. Therefore, I recommend that the Commission include them as conditions of the CPG.

Rare and Irreplaceable Natural Areas

86. The Amended Project will not have an undue adverse effect on rare and irreplaceable natural areas because there are no rare and irreplaceable natural areas within the Amended Project area. Ucciani Aff. at ¶ 136; exh. SAD1-6 at 7-8.

Necessary Wildlife Habitat and Endangered Species

[10 V.S.A. § 6086(a)(8)(A)]

87. The Amended Project will not have an undue adverse effect on any endangered species or critical wildlife habitat. This finding is supported by findings 88 through 90, below.

88. The Amended Project site does not contain sensitive environmental habitats or species. Ucciani Aff. at ¶ 137; exh. SAD1-6 at 8-9.

89. The Amended Project will require 1.73 acres of tree clearing, which is less than 1% of the available forest within a 1-mile radius of the Amended Project. Clearing will not impact trees that provide bat roosting habitat located west of the Amended Project site. Ucciani Aff. at ¶ 138; Lee Second Aff. at ¶ 7; exhs. SAD1-6 at 7-8, 12.

90. As with the as-approved project, there are no necessary wildlife habitat areas in the vicinity of the Amended Project. Ucciani Aff. at ¶ 139; exh. SAD1-6 at 10.

Development Affecting Public Investments

[10 V.S.A. § 6086(a)(9)(K)]

91. The Amended Project will not unnecessarily or unreasonably endanger any public or quasi-public investment in a facility, service, or lands, or materially jeopardize or interfere with the function, efficiency, or safety of, or the public's use or enjoyment of, or access to any such facility, service, or lands. This finding is supported by finding 92, below.

92. As with the as-approved project, public investments in the vicinity of the Amended Project are limited to public roads, which will experience Amended Project-related traffic for construction and operation. As discussed under the transportation criterion, above, the Amended Project will result in a decrease in truck traffic for operation compared to the as-approved project. Ucciani Aff. at ¶ 148; Ucciani Fourth Aff.; exhs. SAD1-1 (Rev.) and SAD1-2 (Rev.).

Public Health and Safety

[30 V.S.A. § 248(b)(5)]

93. The Amended Project will not have any undue adverse effects on the health, safety, and welfare of the public. This finding is supported by findings 94 through 96, below.

94. The Petitioner, in conjunction with Vermont Gas, will construct and operate the gas pipeline in a manner that conforms with applicable industry and regulatory standards. Murray Aff.

95. The technology vendor for the Amended Project is CH Four Biogas, a design and consulting firm experienced in anaerobic digestion technology. Ucciani Aff. at ¶ 77.

96. The design, construction, and testing of the nutrient pipeline will be performed in accordance with DEC standards for wastewater force mains. Lee Aff. at ¶ 17; exhs. SAD1-20, SAD1-3 (Rev.2), and SAD1-12.

Discussion

The Department recommends CPG conditions pertaining to the design, testing, operations, and maintenance of the gas pipeline that are described under the system stability and reliability criterion, above. The Department contends that these CPG conditions are necessary to prevent an undue adverse effect of the Amended Project on public health, safety, and welfare. The Petitioner does not object to the conditions. Therefore, I recommend that the Commission include them as conditions in the CPG.

The ANR and AAFM Stipulation recommends a CPG condition regarding the engineering design of the effluent storage tanks and a number of CPG conditions pertaining to waste management to ensure that the Amended Project will not have undue adverse impacts on public health and safety. The Petitioner has no objection to the conditions. Therefore, I recommend that the Commission include them as conditions in the CPG.

Primary Agricultural Soils

[30 V.S.A. § 248(b)(5)]

97. The Amended Project will not have any undue adverse effects on primary agricultural soils. This finding is supported by findings 98 through 100, below.

98. All soils in the Amended Project area are primary agricultural soils. Exh. SAD1-6 at 9-10.

99. The as-approved project would have disturbed approximately 45,555 square feet of primary agricultural soils. The Amended Project will result in 32,400 square feet of permanent impacts to primary agricultural soils, less than the as-approved project. Ucciani Aff. at ¶ 84; exh. SAD1-8 at 9-10.

100. Permanent impacts to primary agricultural soils are primarily in farm headquarters areas that are not anticipated to be used for crop production. For any temporary impacts to primary agricultural soils that are determined necessary based on the final erosion prevention and sediment control plans for the Amended Project, the Petitioner will conduct pre- and post-construction bulk density soil testing if necessary and restore any compacted areas of primary agricultural soils. Ucciani Aff. at ¶ 85; exh. SAD1-8 at 10.

Consistency With Company's Least Cost Integrated Plan

[30 V.S.A. § 248(b)(6)]

101. The Commission has not required non-utilities to have a least-cost integrated resource plan. Therefore, this criterion is inapplicable for the Petitioner.

102. The Amended Project will not be materially different than the as-approved project with regard to Vermont Gas's least-cost planning. The gas distribution line component of the Amended Project remains unchanged from the as-approved project, and the Petitioner will compensate Vermont Gas for a portion of the installation cost. Ucciani Aff. at ¶ 149.

Waste-to-Energy Facility

[30 V.S.A. § 248(b)(9)]

103. The Amended Project has been included in the Town of Salisbury Solid Waste Implementation Plan, which is a solid waste management plan adopted pursuant to 24 V.S.A. § 2202a, in conformance with Section 248(b)(9)(A). Ucciani Aff. at ¶ 154; Ucciani Third Aff. at ¶ 15; exh. SAD1-24.

104. The Amended Project will not receive 1,000 tons or more per year of waste from a municipality or district that owns an operating facility that already beneficially uses a portion of the waste, in conformance with Section 248(b)(9)(B). Ucciani Aff. at ¶ 155.

Existing or Planned Transmission Facilities

[30 V.S.A. § 248(b)(10)]

105. The Amended Project does not create any new impacts as compared with the as-approved project with regard to transmission facilities. The Amended Project design eliminates the need for an electric distribution interconnection, and the gas distribution interconnection component of the Amended Project remains unchanged from the as-approved project. Ucciani Aff. at ¶ 157.

Woody Biomass Facilities

[30 V.S.A. § 248(b)(11)]

106. The Amended Project will not produce electric energy using woody biomass; therefore, this criterion is not applicable.

V. CONCLUSION

Based upon the findings above and subject to the conditions set forth herein, I recommend that the Commission conclude that the Amended Project will be of limited size and scope, that the Petition does not raise a significant issue with respect to the substantive criteria of 30 V.S.A. § 248, that the public interest is satisfied by the procedures authorized by 30 V.S.A. § 248(j), and that the Amended Project will promote the general good of the State.

This Proposal for Decision has not been circulated to the parties pursuant to 3 V.S.A. § 811 because it is not adverse to any party.



Monica Stillman
Hearing Officer

VI. ORDER

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED by the Public Utility Commission (“Commission”) of the State of Vermont that:

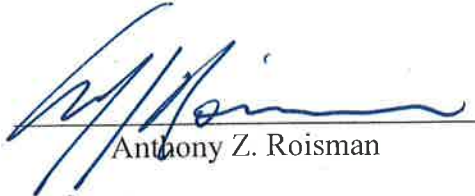
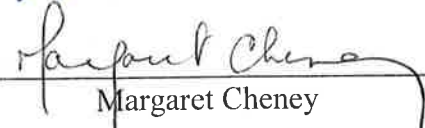
1. The findings, conclusions, and recommendations of the Hearing Officer are hereby adopted. All findings proposed by parties that were not adopted in this Order are expressly rejected.

2. In accordance with the evidence and plans submitted in this proceeding, the proposed amendments to the certificate of public good (“CPG”) granted by the Commission in Docket 8596 for construction and operation of a renewable natural gas facility, to be owned and operated by Salisbury AD 1, LLC (the “Petitioner”) at Shard Villa Road in Salisbury, Vermont (the “Amended Project”), will promote the general good of the State of Vermont pursuant to 30 V.S.A. § 248, and an amended certificate of public good to that effect shall be issued in this matter.

3. Operation and maintenance of the Amended Project shall be in accordance with the plans and evidence submitted in this proceeding. Any material deviation from these plans or substantial change to the Amended Project must be approved by the Commission. Failure to obtain advance approval from the Commission for a material deviation from the approved plans or substantial change to the Amended Project may result in the assessment of a penalty pursuant to 30 V.S.A. §§ 30 and 247.

4. As a condition of this Order, the Petitioner shall comply with all terms and conditions set out in the Amended CPG issued in conjunction with this Order, which includes all relevant conditions from the original CPG.

Dated at Montpelier, Vermont, this 14th day of March, 2019.

	)	PUBLIC UTILITY
Anthony Z. Roisman	)	
)	)	
	)	COMMISSION
Margaret Cheney	)	
)	)	
	)	OF VERMONT
Sarah Hofmann	)	
)	)	

OFFICE OF THE CLERK

Filed: March 14, 2019

Attest: 
Clerk of the Commission

Notice to Readers: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Commission (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: puc.clerk@vermont.gov)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Commission within 30 days. Appeal will not stay the effect of this Order, absent further order by this Commission or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Commission within 28 days of the date of this decision and Order.

PUC Case No. 18-3449-PET - SERVICE LIST

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