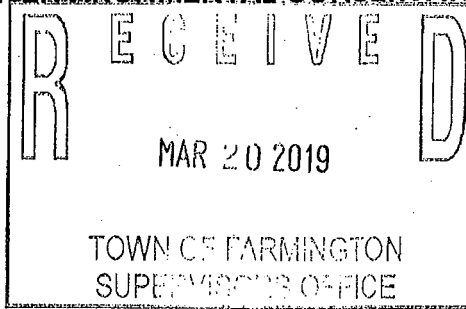


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NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Permits, Region 8
6274 East Avon-Lima Road, Avon, NY 14414-9516
P: (585) 226-5400 | F: (585) 226-2830
www.dec.ny.gov



February 28, 2019

Ronald Brand
Town of Farmington Planning Board
1000 County Road 8
Farmington, NY 14425

Re: Permit Jurisdiction / Resource Screening
Delaware Creek Solar LLC
Town of Farmington, Ontario County

Dear Mr. Brand,

The New York State Department of Environmental Conservation (the Department) has reviewed the Delaware Creek Solar LLC project which proposes to construct a new 7-megawatt photovoltaic system at 466 Yellow Mills Rd in the Town of Farmington. The system will be constructed on leased land and will be contained within a 30.4-acre fenced area on the property. Please find the following comments:

Stormwater General Permit - Construction

This project will need to be in compliance with the State Pollutant Discharge Elimination System (SPDES) General Permit for Stormwater Discharges from Construction Activities (GP-0-15-002). Construction activities that involve one acre or more of land disturbance must obtain SPDES stormwater permit coverage through either an individual permit or GP-0-15-002. To obtain authorization under GP-0-15-002 a Stormwater Pollution Prevention Plan (SWPPP) must be prepared in accordance with all applicable requirements of GP-0-15-002 and a completed Notice of Intent (NOI) form must be submitted to the Department. Please see the attached Memorandum, subject: Solar Panel Construction Stormwater Permitting/SWPPP Guidance, for stormwater information specific to solar projects.

Agricultural District

The project area is located within an agricultural district. Should any of the following apply to the project: acquisition of land, the advance of funds, or construction of a utility (for example) by a State agency, a public benefit corporation or a local unit of government, the funding agency is obligated to file a Notice of Intent. This notice must be filed with the Commissioner of the NYS Department of Agriculture and Markets (AM), pursuant to 1 NYCRR Part 371 for any work contemplated within an agricultural district. The NYS AM can be contacted by writing to: NYS Department of Agriculture and Markets, 307 Rice Hall, Cornell University, Ithaca NY 14853-5601. Please also note that projects involving a non-agricultural use subject to review under SEQR located wholly or partially within an agricultural district, would be classified as Type I actions if they exceed 25% of any Type I threshold listed the SEQR regulations (6 NYCRR Part 617.4(b)).

Thank you for the opportunity to review this project. Forms may be obtained on the DEC Website at: www.dec.ny.gov. If you have questions regarding the information provided in this letter, please don't hesitate to contact me at (585) 226-5320.

Sincerely,

A handwritten signature in black ink, appearing to read 'K. Carlson', with a long horizontal flourish extending to the right.

Kristine Carlson
Division of Environmental Permits

Enc. Solar Panel Construction Stormwater Permitting/SWPPP Guidance

Ecc: D. Matt, Schultz Associates
P. Dologos, Delaware River Solar

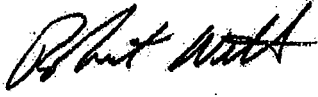
CLHS # 6821

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Water, Bureau of Water Permits
625 Broadway, Albany, New York 12233-3505
P: (518) 402-8111 F: (518) 402-9029
www.dec.ny.gov

MEMORANDUM

TO: Regional Water Engineers

FROM: Robert Wither, Chief, South Permit Section 

SUBJECT: Solar Panel Construction Stormwater Permitting/SWPPP Guidance

DATE: April 5, 2018

Issue

The Department is seeing an increase in the number of solar panel construction projects across New York State. This has resulted in an increase in the number of questions on Construction General Permit (CGP) and Stormwater Pollution Prevention Plan (SWPPP) requirements from design professionals because the current CGP (GP-0-15-002) does not include a specific reference to the SWPPP requirements for solar panel projects in Tables 1 and 2 of Appendix B. To address this issue, the Division of Water (DOW) has developed the following guidance on CGP/SWPPP requirements for the different types of solar panel projects.

Scenario 1

The DOW considers solar panel projects designed and constructed in accordance with the following criteria to be a "Land clearing and grading for the purposes of creating vegetated open space (i.e. recreational parks, lawns, meadows, fields)" type project as listed in Table 1, Appendix B of the CGP. Therefore, the SWPPP for this type of project will typically just need to address erosion and sediment controls.

1. Solar panels are constructed on post or rack systems and elevated off the ground surface,
2. The panels are spaced apart so that rain water can flow off the down gradient side of the panel and continue as sheet flow across the ground surface*,
3. For solar panels constructed on slopes, the individual rows of solar panels are generally installed along the contour so rain water sheet flows down slope*,
4. The ground surface below the panels consist of a well-established vegetative cover (see "Final Stabilization" definition in Appendix A of the CGP),
5. The project does not include the construction of any traditional impervious areas (i.e. buildings, substation pads, gravel access roads or parking areas, etc.),
6. Construction of the solar panels will not alter the hydrology from pre-to post development conditions (see Appendix A of the CGP, for definition of "Alter the hydrology..."). Note: The design professional shall perform the necessary site assessment/hydrology analysis to make this determination.



Department of
Environmental
Conservation

*Refer to Maryland's "Stormwater Design Guidance- Solar Panel Installations" attached for guidance on panel installation.

**See notes below for additional criteria.

Scenario 2

If the design and construction of the solar panels meets all the criteria above, except for item 6, the project will fall under the "*All other construction activities that include the construction or reconstruction of impervious area or alter the hydrology from pre-to post development conditions, and are not listed in Table 1*" project type as listed in Table 2, Appendix B of the CGP. Therefore, the SWPPP for this type of project must address post-construction stormwater practices designed in accordance with the sizing criteria in Chapter 4 of the NYS Stormwater Management Design Manual, dated January 2015 (Note: Chapter 10 for projects in NYC EOH Watershed). The Water Quality Volume (WQv)/Runoff Reduction Volume (RRv) sizing criteria can be addressed by designing and constructing the solar panels in accordance with the criteria in items 1 – 4 above, however, the quantity control sizing criteria (Cpv, Qp and Qf) from Chapter 4 (or 10) of the Design Manual must still be addressed, unless one of the waiver criteria from Chapter 4 can be applied. **See notes below for additional criteria.

**** Notes**

- **Item 1:** For solar panel projects where the panels are mounted directly to the ground (i.e. no space below panel to allow for infiltration of runoff), the SWPPP must address post-construction stormwater management controls designed in accordance with the sizing criteria in Chapter 4 of the NYS Stormwater Management Design Manual, dated January 2015 (Note: Chapter 10 for projects in NYC EOH Watershed).

- **Item 5:** For solar panel projects that include the construction of traditional impervious areas (i.e. buildings, substation pads, gravel access roads or parking areas, etc.), the SWPPP must address post-construction stormwater management controls for those areas of the project. This applies to both Scenario 1 and 2 above.

cc: Carol Lamb-Lafay, BWP
Dave Gasper, BWP



Stormwater Design Guidance – Solar Panel Installations

Revisions to Maryland's stormwater management regulations in 2010 require that environmental site design (ESD) be used to the maximum extent practicable (MEP) to mimic natural hydrology, reduce runoff to reflect forested wooded conditions, and minimize the impact of land development on water resources. This applies to any residential, commercial, industrial, or institutional development where more than 5,000 square feet of land area is disturbed. Consequently, stormwater management must be addressed even when permeable features like solar panel installations exceed 5,000 square feet of land disturbance.

Depending on local soil conditions and proposed imperviousness, the amount of rainfall that stormwater requirements are based on varies from 1.0 to 2.6 inches. However, addressing stormwater management does not mean that structural or micro-scale practices must be constructed to capture and treat large volumes of runoff. Using nonstructural techniques like disconnecting impervious cover reduces runoff by promoting overland filtering and infiltration. Commonly used with smaller or narrower impervious areas like driveways or open roads, the Disconnection of Non-Rooftop Runoff technique (see pp. 5.61 to 5.65 of the **2000 Maryland Stormwater Design Manual**¹) is a low cost alternative for treating runoff in situations like rows of solar panels.

When non-rooftop disconnection is used to treat runoff, the following factors should be considered:

- The vegetated area receiving runoff must be equal to or greater in length than the disconnected surface (e.g., width of the row of solar panels)
- Runoff must sheet flow onto and across vegetated areas to maintain the disconnection
- Disconnections should be located on gradual slopes ($\leq 5\%$) to maintain sheetflow. Level spreaders, terraces, or berms may be used to maintain sheetflow conditions if the average slope is steeper than 5%. However, installations on slopes greater than 10% will require an engineered plan that ensures adequate treatment and the safe and non-erosive conveyance of runoff to the property line or downstream stormwater management practice.
- Disconnecting impervious surfaces works best in undisturbed soils. To minimize disturbance and compaction, construction vehicles and equipment should avoid areas used for disconnection during installation of the solar panels.
- Groundcover vegetation must be maintained in good condition in those areas receiving disconnected runoff. Typically this maintenance is no different than other lawn or landscaped areas. However, areas receiving runoff should be protected (e.g., planting shrubs or trees along the perimeter) from future compaction.

Depending on the layout and number of panels installed, the disconnection of non-rooftop runoff technique may address some or all of the stormwater management requirements for an individual project. Where the imperviousness is high or there is other infrastructure (e.g., access roads, transformers), additional runoff may need to be treated. In these situations, other ESD techniques or micro-scale practices may be needed to provide stormwater management for these features.

Example 1 – Using Non-Rooftop Disconnection Where the Average Slope $\leq 5\%$

Several rows of solar panels will be installed in an existing meadow. The soils within the meadow are hydrologic soil group (HSG) B and the average slope does not exceed 5%. Each row of panels is 10 feet wide and the distance between rows is 20 feet. The rows of solar panels will be installed according to Figure 1 below. In this scenario, the disconnection length is the same as the distance between rows (20 feet) and is greater than the width of each row (10 feet). Therefore, each row of panels is adequately disconnected and the runoff from 1.0 inch of rainfall is treated.

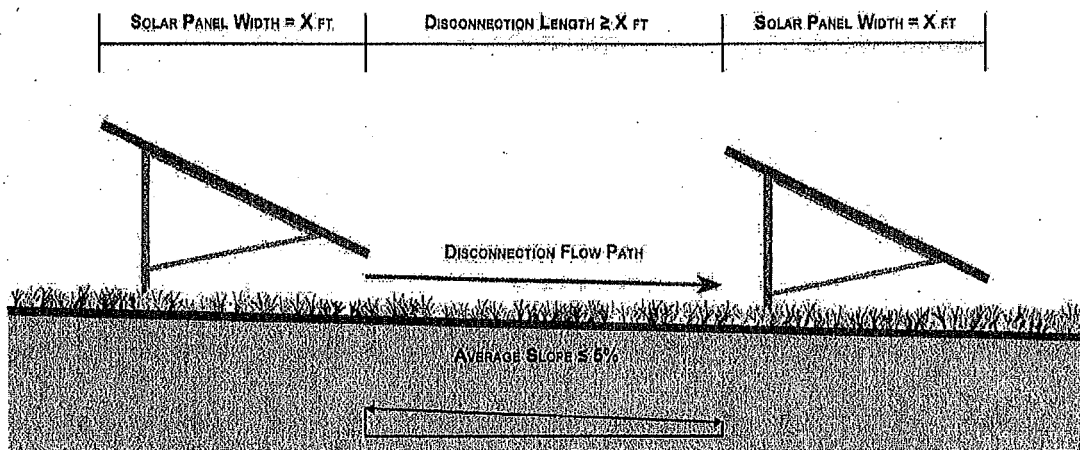


Figure 1. Typical Installation - Slope $\leq 5\%$

Example 2 – Using Non-Rooftop Disconnection Where the Average Slope $\geq 5\%$ but $\leq 10\%$

Several rows of solar panels will be installed in an existing meadow. The soils within the meadow are hydrologic soil group (HSG) B and the average slope is greater than 5% but less than 10%. Each row of panels is 10 feet wide and the distance between rows is 20 feet. The rows of solar panels will be installed as shown in Figure 2 below. The disconnection length is the same as the distance between rows (20 feet) and is greater than the width of each row (10 feet). However, in this example, a level spreader (typically 1 to 2-foot wide and 1 foot deep) has been located at the drip edge of each row of panels to dissipate energy and maintain sheetflow.

Discussion

To meet State and local stormwater management requirements, ESD must be used to the MEP to reduce runoff to reflect forested conditions. While all reasonable options for implementing ESD must be investigated, minimally, the runoff from 1-inch of rainfall must be treated. In each of the examples above, there may be additional opportunities to implement ESD techniques or practices and reduce runoff that should be explored. However, simply disconnecting the runoff from the solar panel arrays captures and treats the runoff from 1.0 inch of rainfall. Where imperviousness is low and soil conditions less optimal (e.g., HSG C or D), this may be sufficient to completely address stormwater management requirements. In more dense applications or in sandy soils, additional stormwater management may be required.

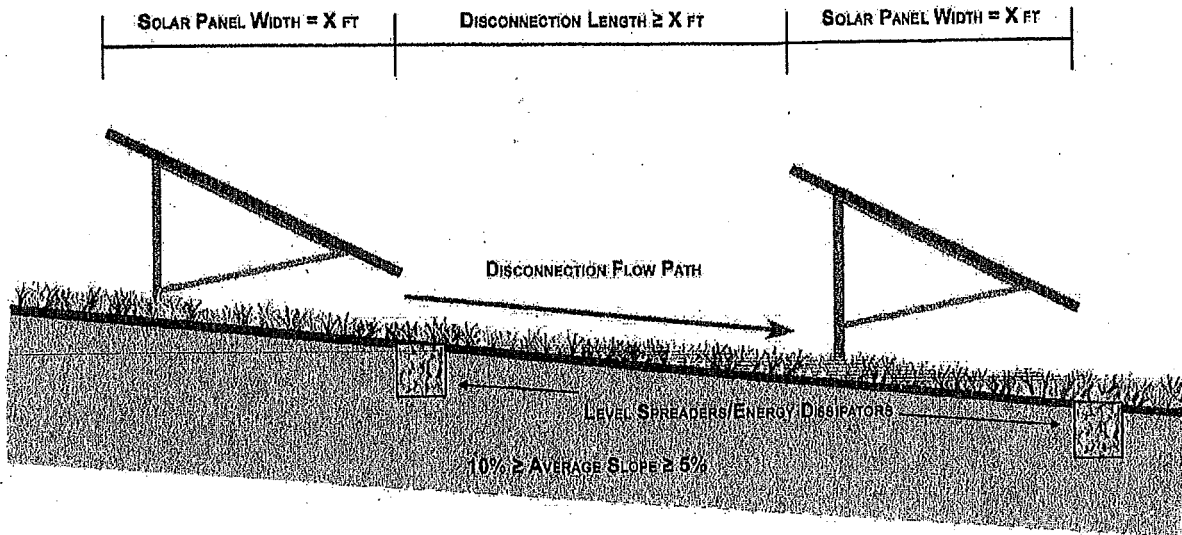


Figure 2. Typical Installation – Slope $\geq 5\%$ but $\leq 10\%$

Conclusion

The primary purpose of Maryland's stormwater management program is to mimic natural hydrologic runoff characteristics and minimize the impact of land development on water resources. Any land development project that exceeds 5,000 square feet of disturbance, including solar panel projects, must address stormwater management. However, for solar panels, stormwater management may be provided in a cost-effective manner by disconnecting each row of panels and directing runoff over the vegetated areas between the individual rows.

Resources

2000 Maryland Stormwater Design Manual, Volumes I and II, MDE, October 2000
http://www.mde.state.md.us/programs/Water/StormwaterManagementProgram/MarylandStormwaterDesignManual/Pages/Programs/WaterPrograms/SedimentandStormwater/stormwater_design/Index.aspx

