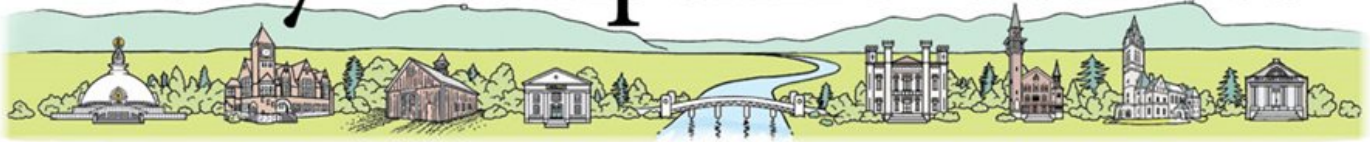


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AG sues solar array developer over environmental damage in Williamsburg



This sedimentation of wetlands near the West Branch Mill River in Williamsburg is the subject of a lawsuit by the state attorney general's office against Dynamic Energy Solutions, LLC, a company that received approval to build a solar array off Briar Hill Road. Massachusetts Department of Environmental Protection

This Muddy discharge from a pipe a state attorney general's office again: Briar Hill Road. Massachusetts Dep



By [SCOTT MERZBACH \(/byline?byline=By SCOTT MERZBACH\)](#)

Staff Writer

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WILLIAMSBURG — Attorney General Maura Healey filed a lawsuit Tuesday against a Pennsylvania developer alleging “irreparable harm” caused by polluting of the West Branch Mill River and damage to more than two acres of protected wetlands.

The lawsuit filed in U.S. District Court against Dynamic Energy Solutions LLC alleges the company violated federal and state water protection laws during the 2018 construction of a 4-megawatt, 17,000-panel solar energy project at a former sand and gravel pit at 103 Briar Hill Road.



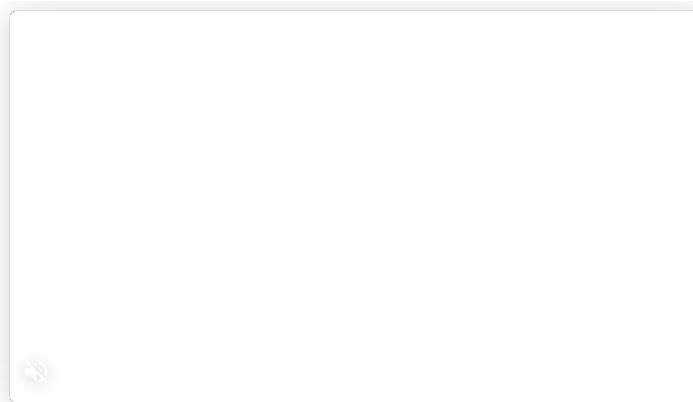
“This careless disregard of federal and state requirements to control stormwater pollution caused irreparable harm to the Western Branch Mill River and nearby wetlands,” Healey said in a statement. “Solar developers who are helping to build our clean energy economy must follow all legal requirements.”

The lawsuit is seeking both civil penalties and a permanent injunction mandating that Dynamic Energy Solutions restore the damaged wetlands and other resource areas.

Tony Orr, a senior vice president for legal affairs at Dynamic Energy Solutions, wrote in an email that the company engineers and builds every solar project to comply with all applicable laws.

“We have a strong track record of preserving and protecting the natural environment around our project sites,” Orr wrote. “We have been working closely with the Massachusetts Department of Environmental Protection and Attorney General’s Office with respect to this site, and will continue to do so.”

According to the lawsuit, the construction of the solar array on an 18.5-acre section of a 370-acre property, owned by Hull Forestlands Limited Partnership and spanning both Williamsburg and Goshen, led to altering 97,000 square feet of protected wetlands and more than 41,000 feet of riverfront area, covering the bottom of the river with the equivalent of more than an acre of sediment pollution.



Without legally required stormwater controls, the lawsuit contends, the work caused “sediment-laden stormwater to be discharged in extreme amounts from the site, eroding the hillside, scouring out perennial and intermittent streams, uprooting trees, destroying streambeds, filling in wetlands with sediment and causing the river to become brown and turbid.”

These issues resulted in violations of the federal Clean Water Act, the Massachusetts Wetlands Protection Act and the Massachusetts Clean Waters Act, according to allegations in the lawsuit. In addition, the company allegedly failed to comply with an enforcement order issued by the state Department of Environmental Protection for stabilizing the site, stormwater controls and restoration of damaged resources.

The lawsuit states that the U.S. Environmental Protection Agency has identified sediment pollution as the most significant way in which water quality in streams and rivers is degraded. Both the West Branch Mill River and Rogers Brook are designated by the state as “coldwater fish resources,” important habitats for the northern spring salamander, and a dragonfly species known as the ocellated darner. The alleged damage has harmed the food chain by destroying habitat and killing smaller organisms on which larger ones depend, including reducing the fish population, according to the lawsuit.

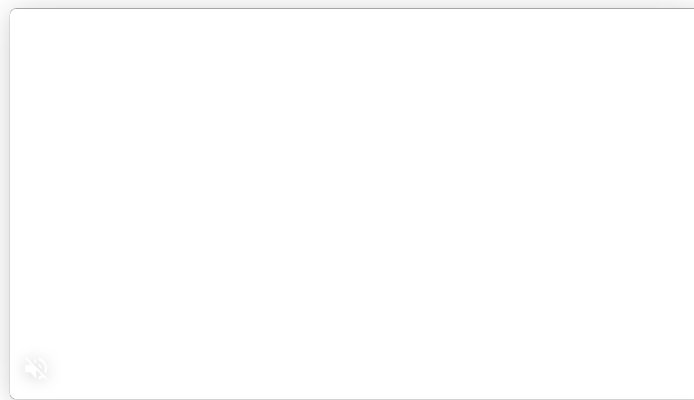
‘Serious ecological accident’

Marcianna Caplis, chairwoman of Williamsburg’s Conservation Commission, declined to comment on the matter citing the litigation. But Caplis said that in October 2018, in the course of a standard site visit to check on erosion controls being used by Dynamic Energy Solutions, members of the commission discovered the situation and immediately notified the region’s DEP staff.

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In a newsletter to the community the following spring, the commission wrote that “a serious ecological accident” had occurred in which the developer “literally lost control of the ground, and some tons of sediment escaped from the site, smothered about two acres of beautiful healthy wetlands, and ran into Nichols Brook and the West Branch Mill River. This is the worst pollution event the current Conservation Commission has seen.”

The Springfield office of the state DEP investigated the case before referring the matter to Healey’s office for further enforcement.



“We look forward to a resolution of this case that results in restoration of all natural resources affected,” DEP Regional Director Michael Gorski said in a statement.

DEP spokesman Edmund Coletta said Wednesday that Dynamic Energy Solutions has already completed some interim measures.

“There’s still quite a bit more work that needs to be done,” Coletta said.

The solar project had been reviewed and approved in late 2017 by Williamsburg’s Planning Board and Zoning Board of Appeals.

The Gazette reported at the time that John Perry, director of project development for Dynamic Energy Solutions, told town officials that the soil was good for avoiding runoff and that no trees would have to be cut to make way for the photovoltaic arrays. Those would be ground-mounted without concrete footings, and three transformers would be placed on concrete pads.

By August 2018, though, according to Williamsburg Conservation Commission meeting minutes, the area for the solar project needed to be graded and an engineering plan using a terraced approach was proposed, with the developer acknowledging the need for ongoing maintenance until the site was fully vegetated. The

commission asked that erosion controls be installed at the south end of the site and that a stormwater pollution prevention plan be filed.

In January 2019, after the damage had occurred, abutter Emily Cohen presented the commission with observations and photos of the problems, aware that the DEP was in the midst of developing a remediation plan, even though she told the commission it was insufficient.

“She said the gullies get larger after each rainstorm, and are up to 20 feet deep and filling with fallen trees,” the commission’s meeting minutes state. “Sediments are filling adjacent wetlands, and a large drain pipe is directing sediment onto her property.”

Scott Merzbach can be reached at smerzbach@gazettenet.com.



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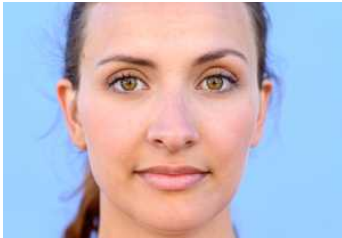
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