



Commonwealth of Massachusetts  
Executive Office of Energy & Environmental Affairs

# Department of Environmental Protection

One Winter Street Boston, MA 02108 • 617-292-5500

DEVAL L. PATRICK  
Governor

MAEVE VALLELY BARTLETT  
Secretary

DAVID W. CASH  
Commissioner

## THE OFFICE OF APPEALS AND DISPUTE RESOLUTION

August 29, 2014

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In the Matter of  
Southbridge Recycling & Disposal Park, Inc.  
\_\_\_\_\_

**Docket No. 2014-017**  
DEP File No. UAO-CE-14-4001

## FINAL DECISION

The Petitioner Southbridge Recycling & Disposal Park, Inc. brought this appeal challenging a Unilateral Administrative Order (“UAO”) that the Central Regional Office (“CERO Office”) of the Massachusetts Department of Environmental Protection (“MassDEP” or “the Department”) issued to the Petitioner on May 9, 2014 for purported violations of Massachusetts statutes and regulations governing the operation of solid waste management facilities. See G.L. c. 111, §§ 150A and 150A1/2, and the Solid Waste Management Regulations at 310 CMR 16.00 and 19.00. The Department issued the UAO in connection with the Petitioner’s expansion of a solid waste landfill at 165 Barefoot Road in Southbridge,

Massachusetts (“the Facility”) that the Petitioner operates for the Town of Southbridge.

The UAO asserted that the Petitioner “has constructed and operates the Facility in phases,” and that “[i]n June 2000, MassDEP authorized [the Petitioner’s] 52-acre expansion of the Facility, identified as Phase 7,” which “is occurring in four phases.” UAO, ¶ 4. These phases include Phases 7.3 and 7.4 which the Department authorized on October 24, 2012 through an Authorization to Construct (“the 2012 ATC”). *Id.* The UAO asserted that the 2012 ATC required the Petitioner:

[to] implement and maintain Best Management Practices (BMPs) for erosion and sedimentation control to adequately handle stormwater runoff and protect surface water adjacent to the Facility, including but not limited to complying with MassDEP Storm Water Management Policy, the NPDES Storm Water Pollution Prevention Plan (“SPPP”) developed for the site, and any conditions or requirements issued by the Southbridge Conservation Commission.

*Id.* The UAO asserted that the Petitioner had failed to comply with these requirements by allowing five soil slide areas to develop in the “710 Plateau” area of the Facility, an area adjacent to wetlands protected by the Massachusetts Wetlands Protection Act (“MWPA”), G.L. c. 131, § 40, which caused significant erosion in the area. *Id.*, ¶¶ 5-8.

The UAO directed the Petitioner to take the following corrective actions.

First, ¶ 10.A of the UAO directed the Petitioner to take “immediate action to manage stormwater and protect wetland resource areas by implementing and maintaining [BMPs] for erosion and sedimentation at the 710 Plateau.” *Id.*, ¶ 10.A. Specifically, the UAO directed the Petitioner to “evaluate cutting back the slope at the 710 Plateau to a lesser grade, benching the slope, and installing additional stormwater control measures.” *Id.* “During repair and stabilization activities, [the Petitioner was to] prevent any alteration to [wetlands] areas . . .

protect[ed] [by] the [MWPA].” Id.

Second, ¶ 10.B of the UAO required the Petitioner to “submit daily written status reports via email to [specific MassDEP staff members] . . . describing actions taken to manage stormwater and to protect the wetlands at the 710 Plateau . . .” Id., ¶ 10.B.

Third, ¶ 10.C of the UAO required the Petitioner to submit to the Department, “[w]ithin ten (10) days of the date of [the UAO],” two permit applications:

- (1) “[a] BWP SW 45 Alternative Review Process for Certain Modifications of a Solid Waste Management Facility permit application concerning alterations that ha[d] already been made to the Facility in the area of the 710 Plateau”; and
- (2) “[a] BWP SW 22 Minor Modification of Existing Landfill permit application concerning necessary modifications to the 710 Plateau and a schedule for completing those repairs.”

Id., ¶ 10.C.

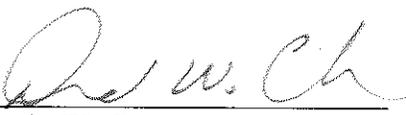
In filing this appeal, the Petitioner denied the UAO’s allegations and requested that the UAO be vacated contending that “it did not violate the applicable regulations or permit requirements . . .” Petitioner’s Notice of Claim for Adjudicatory Appeal, and Request for Adjudicatory Hearing (“Petitioner’s Appeal Notice”), at p. 1.

Under 310 CMR 1.01(11)(d)(1) the parties to an appeal “may voluntarily dismiss the appeal by filing a stipulation of dismissal signed by all parties.” Recently, the Petitioner and the Department jointly filed a Stipulation of Dismissal of Adjudicatory Appeal (“Stipulation”) requesting that I issue a Final Decision approving the Stipulation and dismissing this appeal for the following reasons:

1. the Petitioner acknowledges the appropriateness of the measures in ¶¶ 10.A, 10.B., and 10.C of the UAO that the Department required the Petitioner to undertake (Stipulation, ¶ 16);
2. the Department acknowledges that the measures required in

- ¶ 10.A of the UAO had been in process prior to the issuance of the UAO (Stipulation, ¶ 17);
3. the Department acknowledges that the measures required in ¶ 10.B of the UAO have been satisfactorily implemented by the Petitioner (Stipulation, ¶ 18);
  4. the Petitioner will continue to fulfill the requirements of ¶ 10.B of the UAO until such time as the Department acknowledges satisfactory completion of the work to stabilize the 710 Plateau (Stipulation, ¶ 19);
  5. the Department acknowledges that the measures required in ¶ 10.C of the UAO had been in process prior to the issuance of the UAO, specifically the two required permits applications were timely submitted and the Department has issued both permits (Stipulation, ¶ 20);
  6. the Department will not seek to assess or impose any administrative or civil penalties on the Petitioner for any alleged past violations described in the UAO (Stipulation, ¶ 21);
  7. the Department acknowledges that there have been no violations of the UAO between the date it was issued and the execution of the Stipulation (Stipulation, ¶ 22); and
  8. upon my approval of the Stipulation, the Petitioner and the Department waive whatever rights they have to further administrative review before the Department as well as any appeal to court regarding the UAO (Stipulation, ¶ 23).

I have reviewed the Stipulation and approve it because it is reasonable and consistent with the regulatory requirements for solid waste management facilities as set forth in G.L. c. 111, §§ 150A and 150A1/2, and the Solid Waste Management Regulations at 310 CMR 16.00 and 19.00. Accordingly, I issue this Final Decision approving the Stipulation and dismissing this appeal.

  
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David W. Cash  
Commissioner

**SERVICE LIST**

In the Matter of  
Southbridge Recycling & Disposal Park, Inc.

**Docket No. 2014-017**  
DEP File No. UAO-CE-14-4001

**Representative**

**Party**

Roy P. Giarrusso, Esq.  
Edward C. Cooley, Esq.  
Curtis A. Connors, Esq.  
Giarrusso, Norton, Cooley, &  
McGlone, P.C.  
308 Victory Road  
Quincy, MA 02171  
**e-mail:** rgiarrusso@gncm.net  
          ecooley@gncm.net  
          cconnors@gncm.net

Petitioner Southbridge Recycling &  
Disposal Park, Inc.

Michael Dingle, Deputy General Counsel    DEPARTMENT  
for Litigation  
MassDEP/Office of General Counsel  
One Winter Street  
Boston, MA 02108  
**e-mail:** Mike.Dingle@state.ma.us

cc:  
Mary Jude Pigsley, Chief Regional  
Counsel  
MassDEP/Office of General Counsel  
627 Main Street  
Worcester, MA 01887  
**e-mail:** MaryJude.Pigsley@state.ma.us

John Kronopolus,  
Deputy Regional Director  
Bureau of Waste Prevention  
MassDEP – Central Regional Office  
627 Main Street  
Worcester, MA 01887  
**e-mail:** John.Kronopolus@state.ma.us  
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James A. McQuade, Section Chief  
Solid Waste Management Program  
Bureau of Waste Prevention  
MassDEP – Central Regional Office  
627 Main Street  
Worcester, MA 01887  
**e-mail:** James.McQuade@state.ma.us

Leslie DeFillipis, Paralegal  
MassDEP/Office of General Counsel