Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

Southeast Regional Office • 20 Riverside Drive, Lakeville MA 02347 • 508-946-2700

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Commissioner

September 5, 2012

Mr. Richard Skidmore
Town of Aquinnah Board of Health
65 State Street
Aquinnah Massachusetts 02353

RE: Approval with Conditions
Application for: BWP SW 36 Post-Closure Use - Major
Solar Photovoltaic Array
Transmittal #: X241361

AT: Aquinnah Landfill
24 State Street
Aquinnah, Massachusetts
Facility ID#: 39294, Regulated Object#: 172537

Dear Mr. Skidmore:

The Massachusetts Department of Environmental Protection, Solid Waste Management Section (the "MassDEP"), has completed its Administrative and Technical review of the referenced Post-Closure Use permit application (the "Application") for the Aquinnah Landfill (the "Landfill"). The Application was prepared and submitted on behalf of the Town of Aquinnah (the "Town) by Wright-Pierce ("Engineer") of Topsham, Maine.

MassDEP has determined the Application is administratively and technically complete and hereby **Approves** the Post-Closure Use of the Landfill for a 48 kilowatt ("kW") solar photovoltaic ("PV") array subject to conditions as specified herein.

I. SUBMITTALS:

MassDEP has reviewed the Application pursuant to 310 CMR 19.000: *Solid Waste Regulations*, 310 CMR 19.143: *Post-Closure Use of Landfills* and MassDEP's *Landfill Technical Guidance Manual, May 1997* (the "Manual"). The Application consists of the following:

A. The permit transmittal form, application forms for Post-Closure Use - Major (BWP SW 36), narrative describing the proposed use, engineering calculations performed by KPFF Consulting Engineers, and engineering drawings in a bound document received by MassDEP on May 22, 2012.

B. Supplemental Application information prepared by Wright-Pierce, consisting of response to MassDEP's May 29, 2012, comments dated July 31, 2012, and received by MassDEP on May August 2, 2012, consisting of revised drawings and calculations by KPFF Consulting Engineers, and additional calculations by Wright Pierce.

C. Supplemental Application information prepared by Wright-Pierce, received via e-mail on August 13, 2012, consisting of revised calculations by Wright-Pierce.

D. Supplemental Application information prepared by Wright-Pierce, received via e-mail on August 21, 2012, consisting of a response to MassDEP's August 13, 2012 e-mail comments regarding array enclosure fencing.

E. Supplemental Application information prepared by Wright-Pierce, received via e-mail on August 28, 2012, consisting of a response to MassDEP's August 21, 2012 e-mail comments regarding electrical code requirements.

The Application is signed and stamped by William E. Brown, Wright-Pierce, Massachusetts Professional Engineer No. 32498. The solar array drawings and calculations bear the signature and seal of Arthur W. Johnson Massachusetts Professional Structural Engineer No. 30662. The electrical drawings bear the signature and seal of Jeffrey Ansley, Massachusetts Professional Electrical Engineer No. 49375.

II. POST-CLOSURE USE PROPOSAL SUMMARY:

The Town is the owner of the Landfill and has entered into a lease agreement with Vineyard Power Solar I, LLC to develop a 48 kilowatt (kW) solar photovoltaic installation on the Landfill. Hereinafter, Vineyard Power Solar I, LLC and the Town shall be referred to as the "Applicants". The Applicants and all construction and maintenance personnel associated with the Town's Landfill shall be referred to as the "Applicant's Contractors". The Applicants are proposing to construct and maintain a PV array on the capped Landfill, consisting of the following components:

- Approximately 20 cast-in-place foundations (ballast block pairs: 5'-0" x 4'-3" x 1'-6" each block) will be placed by removing the vegetative support layer, installing a minimum 4" thick level layer of sand above the existing geotextile, and placing the concrete blocks on the sand;
- Approximately 200 PV panels (Sunpower E19/240 Solar Panels) installed on approximately 10 support racks (HatiCon Solar) placed on cast-in-place concrete foundations;

- A PV array electrical equipment shed will be constructed on the existing concrete pad (located within the limits of waste) and will contain inverters and thermostatically controlled power ventilator. The shed will have an exterior utility disconnect, main service panel, Net Meter, and weather head. The shed will be connected by aerial service to the existing utility pole behind the attendant's shed;
- The photovoltaic panel racks will be connected to the electrical equipment shed by aboveground electrical cables, strung on the support racks and also by underground electrical conduits; and
- The existing utility pole behind the attendant's shed will be connected by aerial service to a new pole mounted NSTAR transformer located along State Road.

The ground mounted PV array is to be constructed on areas of the Landfill with a maximum slope of 9.1% (approximately 5.5 degrees). The proposed solar array will encompass approximately 0.3 acres of the Landfill. The solar array will utilize PV modules (2.62-foot by 5.12-foot) mounted on framed racks attached to cast-in-place concrete foundations. The PV array will use monocrystalline PV modules laid out in panels, 2 modules high and 10 modules long (panel layout 2 x 10), mounted on racks of 20 modules each. The rack foundations will consist of two, side by side, 5’-0”" x 4’-3” x 1’-6" cast-in-place concrete ballast blocks, each with one post to support the rack. Each panel support rack or assembly will utilize a fully ballasted mounting system with no penetrations of the low permeability layer of the final cover system. The modules and the associated racking will be approximately 8’-3” in height in the rear and 3’-0” in the front. The rows of solar panels will be oriented east-west with approximately 16 feet between each row (north-south measurement).

The support racks will hold the panels at a fixed tilt of 30 degrees from horizontal. The ballast blocks, access roads and electrical equipment pad will increase the total impervious area on the Landfill by approximately 2.8 percent. The racks will be placed to avoid interference with access roads, the passive landfill gas collection vents and all storm water control features. The existing elevation and grade of the Landfill will not be altered. The proposed design will impact limited portions of the vegetative layer of the final cover system. The impacts result from rack ballasts installations and below grade cable installations.

The Applicants propose to use sand overlying the existing geotextile fabric as fill beneath each ballast, to provide a planar surface for the ballast, at a maximum slope of 5.5 degrees (9.1 percent) from horizontal.

The photovoltaic module electrical wiring will be mounted above grade on the support racks. Fencing will be placed along the front and back of the PV array supports to prevent access to array wiring. Electrical lines to the two end PV array modules outside the fenced areas will be installed in armored cables designed to meet electrical codes. Tools will be required to remove armored cables and access conductors.

Electrical connections between the four panels and the electrical equipment shed are to be trenched and contained with underground electrical conduits. To prevent the possibility of landfill gas entering or migrating along the underground electrical conduits, seals will be installed in all conduits entering or rising from the ground surface adjacent to the ballasts or to

the existing concrete slab for the electrical equipment shed. All photovoltaic rack assemblies and above-ground wiring will be kept at least 10 feet from any landfill gas vents. Medium voltage cable conduits will run in accordance with local inspector and National Electrical Code (NEC) code (refer to condition **#2 and #15**).

Electrical conduits will be placed below grade within the vegetative support layer above the existing geotextile that separates the vegetative support layer from the drainage sand below. Electrical conduits will also run below grade in areas off the Landfill cap adjacent to the paved areas of the transfer station area of the Landfill and under the gravel access road leading to the transfer station. The Applicant's have proposed placing plastic marker tape 5 inches below grade in the off-cap areas of the conduit trenches. As a condition of this permit, marker tape is also required to be placed above the on-Landfill underground conduits. (refer to **condition #15**)

Bearing Capacity, Settlement, and Stability: The Application included a geotechnical evaluation for the installation of the array and supporting structures.

The Application included an analysis of the foundations for the PV array that will bear directly on the final cover system and has considered the dead load, snow load and wind loading. The results of the geotechnical evaluation are as follows:

- The modules, ballasts, and footings do not exceed loading criteria for the Landfill; and
- The solar array will not cause adverse landfill settlement.

Settlement analysis was also performed for the ballasts bearing on the low permeability layer of the final cover system. The result of these calculations estimated the settlement as 3.3 inches.

A sliding stability evaluation was performed for the ballasts located on landfill areas with a 9.5% (5.5 degree) slope. A safety factor of 8 was calculated and deemed to be acceptable.

Storm Water: The Engineer determined that the impervious area for the post-closure use amounts to approximately 2.8% of the affected catchment area. The Engineer stated the stormwater management system features appear to be adequately sized to handle the proposed solar array system.

Post Closure and Post-Closure Use Operations and Maintenance: There are no proposed changes to the post closure operation and maintenance plan for the area to be maintained by the Town of Aquinnah and not used for the PV array. The Applicants are proposing to develop a Health and Safety Plan and personnel training for Town employees who will be accessing the equipment shed and work around the PV array (**refer to condition #8**). Additionally, MassDEP is requiring a Health and Safety Plan for the construction of the PV array (**refer to condition #7**).

The post-closure use operation and maintenance plan for the post-closure use area used for the PV array will continue on the same interval as they were performed prior to the PV system installation. Therefore the area will be mowed at least once annually. The post closure and post-closure use cover system inspections include at a minimum:

- evaluating site soil conditions;
- site erosion (including any erosion associated with lower edge runoff from each panel array);
- drainage;
- site vegetation, and
- security fencing.

Additionally, MassDEP is requiring that during the first year of operation of the PV array inspections of the Landfill final cover system be performed on a monthly basis and thereafter quarterly, at a minimum (**refer to condition #16**).

Site Security: The Applicants are not proposing to fence in the entire PV array area. Permanent fencing will be placed on the front and back of each array. Removable fencing will be placed on each end or each array. Electrical lines to the two end PV arrays modules outside the fenced areas will be installed in armored cables. Tools are required to remove the armored cables and access conductors.

Access to the site on specific days is allowed for disposal of solid waste by residents at the transfer station area. During these times the Board of Health has an attendant on site to oversee operations and restrict residents from accessing the solar array. Signs will be posted on each array warning of the electrical danger (**refer to condition #17**).

Decommissioning Plan: The current lease agreement, between the Town and Vineyard Power Solar I, LLC. includes a Decommissioning Assurance Clause which requires adequate financial assurance to fully cover the cost of decommissioning the system and restoring the premises.

III. SITE DESCRIPTION:

The Aquinnah Landfill is located on a 6.3 acre parcel of Town-owned land (the "Site"). The closed Landfill occupies approximately 1.3 acres. The Landfill operations began in the mid 1960's for the acceptance of municipal solid waste and ceased in 1993. The Landfill was capped in 1999. The Landfill is abutted by to the north by State Road, to the south by a wetland, to the west by a wetland and a forested undeveloped residential parcel, and to the east by a stream and a stream and a wetland on a forested, developed residential parcel. Groundwater flow is southerly toward the abutting wetlands.

Existing Final Cover System Design: On November 24, 1998, MassDEP approved closure plans for the Landfill. A closure certification report for the Landfill was submitted on April 27, 1999. Two final cover subsystem designs were constructed. An alternative design was used on an area to be used for a solid waste transfer station area, and a standard final cover system was constructed on the remainder of the landfill.

The standard vegetative final cover system encompasses approximately 0.88 acres and included the following components from bottom to top:

- a 6" gas venting layer above the subgrade;

- a 40-mil textured high-density polyethylene (HDPE) material for the low permeability layer;
- a 12-inch sand drainage layer;
- a geotextile; and
- and a 6-inch overlying vegetative support layer.

The alternative paved landfill cap encompasses approximately 0.5 acres in the area of the transfer station and consists of:

- six inches (6") of subgrade material, overlain by;
- a six inch (6") sand gas venting layer, overlain by;
- a forty (40) mil high density polyethylene (HDPE) liner; overlain by;
- a twelve inch (12") sand drainage layer, overlain by;
- a nine inch (9") layer of recycled asphalt product (RAP), overlain by; and
- 4 inches (4") of asphalt pavement.

Post-Closure Environmental Monitoring: Post-closure environmental monitoring (groundwater and soil-gas monitoring) is currently conducted by the Town. The Town has not proposed any changes to the post-closure environmental monitoring plan based on the proposed post-closure use.

IV. PERMIT DECISION:

MassDEP, having determined the information in the Application is satisfactory and in accordance with its authority granted pursuant to M.G.L. c.111, s. 150A, and 310 CMR 19.000, hereby **APPROVES** the Post-Closure Use of the Aquinnah Landfill for a Solar Photovoltaic Array subject to the conditions identified herein.

V. GENERAL PERMIT CONDITIONS:

1. Permit Limitations: The issuance of this approval is limited to the proposed Solar Photovoltaic Array at the Aquinnah Landfill as detailed in the Application and does not relieve the Applicants from the responsibility to comply with all other regulatory or permitting requirements. Post-Closure Use construction shall proceed in complete compliance with the approved plans, MassDEP's regulations and requirements, the Manual or as required by this Approval. This approval does not relieve the Town, as the owner of the Landfill, from its responsibility to comply with all post closure monitoring and maintenance requirements for the entire Landfill. There shall be no deviation from this Approval without prior consent from MassDEP. MassDEP shall be consulted prior to any deviation from the approved design. MassDEP may require a permit modification application for significant design modifications.

2. Regulatory Compliance: The Applicants, Engineers and Applicant's Contractors shall fully comply with all applicable local, state and federal laws, regulations and policies, by-laws, ordinances and agreements. This includes but is not limited to, 310 CMR 19.142: *Post-Closure Requirements*, 310 CMR 19.143: *Post-Closure Use of Landfills*, and 310 CMR 19.043: *Standard Conditions*. Applicable federal regulations include, but are not limited to,

29 CFR Part 1910, OSHA standards governing employee health and safety in the workplace and all applicable local, state and federal electrical codes and permits, including National Electrical Code (NEC), 2011 Edition, Article 690-"Solar Photovoltaic (PV) Systems".

3. Inspection and Repair of Settlement Areas: Prior to construction of the PV array, any suspect settlement areas on the Landfill project area shall be surveyed to determine the lowest spot. The surrounding area should be then surveyed to find the "relief point" defined as the lowest surrounding area where ponded water would flow off the cap. The elevation difference is defined as the "pond value". Minor settlement shall be defined as less than a 12 inch pond value. Any Landfill project area that has undergone minor settlement shall be corrected by the placement of additional vegetative support soil to promote runoff and the area shall be reseeded. Any area repaired should be surveyed and the location marked on a plan with the pond value. Any future settlement should be recorded cumulatively. If/when the total settlement reaches 12-inches, the area will be considered to have suffered major settlement and appropriate repairs to eliminate ponding shall be performed.

   Major settlement is defined as a pond value of 12 inches or more. When this occurs, the final cover system must be repaired to prevent water from ponding above the low permeability layer. The Applicants may either:

   1. Strip off the final cover soils above the low permeability layer, inspect and repair the low permeability layer if/as necessary, place low permeability soil as necessary to promote runoff, replace final cover soils; or

   2. Expose the low permeability soil or geomembrane in a trench around the perimeter of the settled area. Fill the area with soil to form slopes promoting runoff. Cap the area with a new low permeability membrane, geosynthetic clay liner (GCL), or low permeability soil layer that ties into the existing low permeability layer at the identified perimeter. Place new drainage sand and vegetative support material over the new cap area.

   Any proposal to repair minor settlement may be done as routine maintenance, provided that the Applicants report the settlement to MassDEP and state their intent to perform repairs and provides MassDEP with final survey results and a summary write up.

   Any proposal to do major settlement repair must be submitted within a Corrective Action Design (BWP SW 25) permit application since disruption of the final cover system will take place and repair details must be submitted and approved.

4. Notification of Construction: The Applicants shall notify MassDEP in writing (e-mail is acceptable) when the post-closure use construction commences and is completed.

5. Certification Report: Within ninety (90) days of completing the installation of solar photovoltaic array, MassDEP shall be provided with a certification report. All construction work shall be completed under the supervision of a Massachusetts Registered Professional Engineer who shall have sufficient staff on-site to provide quality assurance/quality control

(QA/QC) oversight for all construction work at the Landfill. The report shall be signed and stamped by a Massachusetts-registered Professional Engineer and include, at a minimum, written certification from the supervising engineer that the project was performed in accordance with MassDEP regulations, requirements and the approved Post-Closure Use permit application. At a minimum, the report shall include as-built drawings depicting all pertinent site features.

6. Preconstruction Work: Prior to commencement of construction activities, all landfill gas vents, soil-gas monitoring wells, groundwater monitoring wells and other existing above ground structures on the final cover system and appurtenances shall be flagged for visibility, and protective barriers shall be placed around such structures, as needed, to prevent damage by vehicles accessing the area.

7. Health and Safety - Construction: The Applicants, Engineers and Applicant's Contractors are responsible to ensure all necessary precautions are taken to protect the health and safety of workers and the general public during both the construction phase and during the operation and maintenance phase of the post-closure use.

   A copy of the site specific Health and Safety Plan for the Post-Closure Use CONSTRUCTION shall be submitted to MassDEP (for its files) prior to the beginning of any construction work. The Health and Safety Plan shall include as a minimum:

   - protocols for monitoring of landfill gas as needed; and
   - protocols for modifying work practices if landfill gas is detected at levels deemed unsuitable.

   The Applicants, Engineers and Applicant's Contractors shall instruct all personnel regarding the potential hazards associated with landfill gas and shall give on-the-job training involving in any activity authorized by this permit. Such instruction and on-the-job training shall teach personnel how to comply with the conditions of the permit to carry out the authorized activity in a manner that is not hazardous to public health, safety, welfare or the environment.

8. Health and Safety Plan - Operations: Prior to operating the PV array a copy of the Health and Safety Plan for Town employees who will be accessing the electrical equipment shed and working around the PV array shall be submitted for MassDEP's files.

9. Landfill Gas Notification Requirements:

   a. As specified in solid waste management regulations at 310 CMR 19.132 (4) (g),

      "When, at any time, the concentration of explosive gases exceeds 10% of the lower explosive limit (LEL) in any building, structure, or underground utility conduits, excluding gas control, gas recovery and leachate collection system components, the owner/operator shall:

      1. *Take immediate action to protect human health and safety;*

2. Notify the Department within two hours of the findings; and
3. undertake the actions specified under 310 CMR 19.150, Landfill Assessment and 310 CMR 19.151: Corrective Action, as required by the Department."

b. If at any time monitoring detects the presence of any combustible gases at or in excess of 10% of the lower explosive limit at any location within a building or within any utility conduits on site or off-site, the Town shall notify MassDEP's Bureau of Waste Site Cleanup-Emergency Response Section (508) 946-2714 within two (2) hours of the exceedance as per 310 CMR 40.0321(1) (a) of the regulations.

10. Vehicles Operating on the Non-Pavement Landfill Final Cover System: Vehicles operating on the Landfill final cover system shall only operate on the designated permanent and temporary access roads, except for low-pressure construction equipment (with ground pressures of **7 psi** or less) in accordance with the remaining conditions of this permit. Low-pressure construction equipment operating off the access road shall limit turning on the vegetative support layer as much as possible. If MassDEP determines the use of excavation equipment is creating the potential for damage to the FML, the usage of such equipment shall immediately cease upon notification by MassDEP. All operators of the vehicles entering the final cover system area shall be clearly instructed by the on-site engineer and/or the contractor of the requirements of this permit prior to arrival, to avoid damage to the Landfill final cover system components. A list of low ground pressure equipment used and the pressure rating of each vehicle shall be indicated in the certification report required in Condition #5.

11. Permanent and Temporary Roads and Low Ground Pressure Equipment: Low ground pressure equipment shall not access the final cover system from permanent and temporary roads where the transition will result in excessive pressure and wear on the Landfill vegetative service. The on-site engineer may construct ramps as necessary.

12. Integrity of the Final Cover System: All disturbances of the Landfill shall be limited to the proposed excavations and installations as depicted and described within the Application and approved plans. Excavations shall be limited to the topsoil layer. No excavations shall penetrate the existing geotextile above the sand drainage layer or the HDPE flexible membrane layer without written approval by MassDEP. The Engineer and Applicant's Contractors shall ensure that vehicles operating on the Landfill surface do not compromise the integrity of the Landfill final cover system.

13. Construction Precautions: All excavations and construction shall be supervised by a Massachusetts Registered Professional Engineer. All necessary precautions shall be taken to protect the Landfill storm water control system, environmental monitoring network and the Landfill gas vents and other on site structures. All operators of vehicles entering the area should be clearly instructed by the on-site engineer and/or the Applicant's Contractor of the permit requirements to avoid damage to the Landfill components. The on-site engineer shall observe the extent of each excavation performed on the Landfill capping system. Stakes shall not be used for construction of concrete forms or for securing hay bales and silt fences within the limits of the final cover system. If any damage occurs to any Landfill components, the

Applicant's Engineer shall notify MassDEP within 24 hours and provide a written plan with a schedule for repairs.

14. Enclosures and Combustible Gas Alarms: There shall be no penetrations (utility, conduits or other) through the base of the concrete slab for the electrical equipment shed. The electrical equipment shed shall have a landfill gas monitor that is fully operational at all times in accordance with 310 CMR 19.142(4). The monitor shall be calibrated to a methane standard; have an audible and a lighted beacon. At a minimum, the alarm shall be set to sound when the concentration of explosive gases exceeds 10% of the Lower Explosive Limit (LEL).

15. Electrical Equipment Shed and Subsurface Utility Trenches: The Applicant, Engineers and Applicant's Contractors are responsible to ensure that utilities/structures will not accumulate landfill gas during construction and operation. All utility trenches shall be designed so they do not act as a conduit for landfill soil-gas migration. All subsurface wiring shall be located within conduits that are sealed including but not limited to the electrical pull box. All underground conduit trenches, including the on-Landfill conduit trenches, shall be marked with plastic marker tape 5 inches below grade.

16. Post-closure Use Operation and Maintenance Plan: During the first year of operation of the PV array, inspections of the Landfill final cover system shall be performed on a monthly basis. Monthly inspection reports shall be submitted to MassDEP within fourteen (14) days of completion. Following the first year of operation of the PV array, inspections of the Landfill shall be performed on a quarterly basis and shall be submitted to MassDEP within fourteen (14) days of completion. Pursuant to 310 CMR 19.142(6) inspections shall be conducted by a third-party consulting Massachusetts Registered Professional Engineer, or other qualified solid waste professional. The Applicants, Engineers and Applicant's Contractors shall monitor the effectiveness of the storm water management system which should include; swales, structures and any and all conveyance systems. MassDEP shall be consulted prior to any deviation from the approved storm water design. MassDEP may require a permit modification application for significant design modifications. Any erosion problems, settlement problems, security or other issues observed at the Landfill shall be reported to MassDEP and repaired immediately.

17. Site Security: Pursuant to 310 CMR 19.130(23) the Town is required to provide sufficient fences or other barriers to prevent unauthorized access to the Landfill. The Town must continually monitor and evaluate the potential for unauthorized access and institute all appropriate measures to prevent unauthorized access during the closure and post-closure period.

18. Decommissioning Plan: If the proposed project is abandoned, during or after completion of construction, the Applicant shall submit a decommissioning plan. The decommissioning and site restoration plan should include, at a minimum; dismantling and removal of all panels and supporting equipment, transformers, overhead cables, foundations and buildings and restoration of the roads to restore the site to substantially the same physical condition that existed prior to post-closure use construction.

19. Entries and Inspections: In accordance with *310 CMR 19.043: Standard Conditions*, MassDEP and its agents and employees shall have the right to inspect the Landfill and any equipment, structure or land located thereon, take samples, recover materials or discharges, have access to and photocopy records, to perform tests and to otherwise monitor compliance with this permit and all environmental laws and regulations.

20. Reservation of Rights: MassDEP reserves the right to require additional assessment or action, as deemed necessary to protect and maintain an environment free from objectionable nuisance conditions, dangers or threats to public health, safety and the environment. MassDEP reserves all rights to suspend, modify or rescind this permit if it determines the solar array compromises the integrity of the final cover system and/or results in a threat to public health, safety or the environment.

    This approval pertains only to the Solid Waste Management aspects of the proposal does not negate the responsibility of the owners or operators to comply with any other local, state or federal laws, statutes and regulations or enforcement actions, including orders issued by another agency now or in the future. Nor does this approval limit the liability of the owners or otherwise legally responsible parties from any other applicable laws, statutes or regulations now or in the future.

RIGHT OF APPEAL

Right to Appeal – This approval has been issued pursuant to M.G.L. Chapter 111, Section 150A, and 310 CMR 19.037: Review Procedures for Permit Modifications, Permit Renewals and other Approvals, of the "Solid Waste Management Regulations". Pursuant to 310 CMR 19.037(5), any person aggrieved by the issuance of this determination may file an appeal for judicial review of said decision in accordance with the provisions of M.G.L. c. 111, § 150A and M.G.L. c. 30A not later than thirty (30) days following receipt of the final permit. The standing of a person to file an appeal and the procedures for filing such an appeal shall be governed by the provisions of M.G.L. c. 30A. Unless the person requesting an appeal requests and is granted a stay of the terms and conditions of the permit by a court of competent jurisdiction, the permit decision shall remain effective or become effective at the conclusion of the thirty (30) day period.

Notice of Appeal - Any aggrieved person intending to appeal a grant of a permit to the Superior Court shall first provide notice of intention to commence such action. Said notice of intention shall include the MassDEP transmittal number X241361 and shall identify with particularity the issues and reason why it is believed the permit decision was not proper. Such notice shall be provided to the Office of General Counsel of the MassDEP and the Regional Director for the regional office which processed the permit application at least five days prior to the filing of an appeal.

Office of General Counsel
Department of Environmental Protection
One Winter Street
Boston, MA 02108

Martin Suuberg, Acting Regional Director
Department of Environmental Protection
20 Riverside Drive
Lakeville, MA 02347

No allegation shall be made in any judicial appeal of a permit decision unless the matter complained of was raised at the appropriate point in the administrative review procedures established in 310 CMR 19.000, provided that a matter may be raised upon a showing that it is material and that it was not reasonably possible with due diligence to have been raised during such procedures or that matter sought to be raised is of critical importance to the environmental impact of the permitted activity.

Please direct any questions regarding this matter to me at (508) 946-2847 or Dan Connick (508) 946-2884 or write to the letterhead address.

Very truly yours,

Mark Dakers, Acting Chief
Solid Waste Management Section

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cc: Board of Health
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Aquinnah, MA 02535

Martha's Vineyard Resource Recovery District
P.O. Box 2067
Edgartown, MA 02539

Conservation Commission
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