



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

Northeast Regional Office • 205B Lowell Street, Wilmington MA 01887 • 978-694-3200

Charles D. Baker
Governor

Karyn E. Polito
Lieutenant Governor

Matthew A. Beaton
Secretary

Martin Suuberg
Commissioner

This is an electronic facsimile of a document on file with the Massachusetts Department of Environmental Protection

April 1, 2016

Michael Herbert
Town Manager
Town of Ashland
101 Main Street
Ashland, MA 01721

Re: Ashland – Solid Waste
Ashland Landfill
102 Howe Street
FMF# 39041
BWP/SW36/ Post-Closure Use – Solar Power Generating Facility
Approval and Authorization to Construct
Transmittal Number: X269445

Dear Mr. Herbert:

The Massachusetts Department of Environmental Protection, Northeast Regional Office, Bureau of Air and Waste, Solid Waste Management Section (MassDEP) has reviewed the application by the Town of Ashland (the “Town”) for the post-closure use of the Ashland Landfill located at 102 Howe Street, Ashland, Massachusetts (the “Landfill”). The application (BWPSW36, Post-Closure Use – Major, Transmittal Number X269445) was prepared on behalf of the Town by AMEC Massachusetts, Inc., Chelmsford, Massachusetts.

The application proposes the installation of a 0.907 megawatt (MW) solar photovoltaic power generating facility (“PV Facility”) on a 3.1 acre portion of the approximately 7 acre Landfill. Included with the application were design plans for the solar array and an engineer’s report describing and supporting the design of the facility.

The Town will enter into a lease and energy purchase arrangement with Ameresco, Inc. (d/b/a “Ashland Howe Street Solar LLC.” or the “Developer”) for the installation and operation of the PV Facility.

The proposed PV Facility will consist of approximately 2,926 solar modules. The solar modules will be supported by galvanized steel trays (ballast trays) and concrete foundation ballasts will be utilized to

stabilize the panels from sliding and wind uplift. The system will be connected to the Eversource electric utility grid.

The Developer will be responsible for the mowing and maintenance of the vegetative cover of the Landfill within the fenced area of the facility following installation of the PV Facility. Operation and maintenance of the Landfill and environmental monitoring of the site will continue to be performed by the Town pursuant to the Landfill's existing environmental monitoring plan.

MassDEP has determined that the application is administratively and technically complete and that, subject to the terms and conditions of this decision and permit, the proposed post-closure use complies with the applicable requirements of 310 CMR 19.000, the Massachusetts Solid Waste Regulations (the "Solid Waste Regulations"). The application demonstrates pursuant to 310 CMR 19.143(3) that the installation and operation of the solar PV facility as proposed and approved by this decision:

- Will not result in a disturbance of the Landfill cap that could cause an adverse impact to public health, safety or the environment;
- Will not impair the integrity or functioning of the final cover, the components of the containment system, the Landfill gas control system, and the environmental monitoring systems; and
- Provides for the maintenance of the Landfill cap's storm water drainage facilities, basins, swales, and other erosion/sedimentation controls.

Therefore, in accordance with M.G.L. Chapter 111, § 150A and 310 CMR 19.143, MassDEP approves the application and issues this Post-Closure Use Permit subject to the Town's compliance with 310 CMR 19.000 and the following conditions, imposed by MassDEP pursuant to 310 CMR 19.043(1) *Items Subject to Conditions* and 310 CMR 19.142(7) *Additional Measures*. This decision is a Post-Closure Use Permit pursuant to 310 CMR 19.143 *Post-Closure Use of Landfills*.

Permit Conditions

1. The Town and Developer shall comply with this permit and the requirements of 310 CMR 19.000, including, but not limited to, the requirements established at 310 CMR 19.043(5) *Standard Conditions*.
2. The Town and Developer shall assure persons conducting activities¹ at the PV Facility and Landfill are familiar with the applicable provisions of this permit and the approved plans, and that all work performed at the Landfill complies with 310 CMR 19.000 and the applicable requirements of this permit.
3. Pursuant to 310 CMR 19.043(5)(a) *Duty to Comply*, this decision does not relieve the Town and Developer, or others, from their obligations to comply with all other applicable federal and state laws and regulations including, but not limited to acquiring applicable permits and approvals, including local permits.

¹ Activities include, but are not limited to, the construction, installation, operation, and maintenance of the PV Facility and the Landfill.

4. Not less than seven (7) days prior to commencing construction pursuant to the application and this permit, the Town shall notify MassDEP in writing of the scheduled date of the commencement of construction at the site. In addition, the notification shall include:
 - a. The projected schedule for completion of the major construction milestones of the PV Facility;
 - b. The name and contact information of an on-site contact for the construction;
 - c. A health and safety plan for MassDEP's files that includes, but is not limited to:
 - i. protocols for monitoring for landfill gas (methane, hydrogen sulfide, etc.) as needed;
 - ii. protocols for modifying work practices if landfill gas is detected at levels of concern (action levels);
 - iii. instruction and training of all personnel working on the site regarding the potential health and safety hazards at the Landfill including, but not limited to those associated with landfill gas;
 - iv. instruction and training of all personnel in compliance with the conditions of this permit and how to perform authorized activities in a manner that is not hazardous to public health, safety, and the environment: and
 - d. The National Pollutant Discharge Elimination System (NPDES) Notice of Intent and Stormwater Pollution Prevention Plan (SWPPP) for the project.
5. The Town and Developer shall not commence construction of the PV Facility until it has provided the plans and notification to MassDEP and the Town of Ashland Board of Health pursuant to Condition 4 above.
6. All construction work shall be completed and conducted under the supervision of an independent Massachusetts Registered Professional Engineer ("Engineer of Record") who shall have sufficient qualified staff on-site to provide field supervision and quality assurance/quality control for all construction activities.
7. The Town and Developer, and the Engineer of Record, are responsible to ensure that all necessary precautions are taken to protect the health and safety of workers and the general public during the construction and operation of the PV Facility and during its decommissioning.
8. Vehicles operating on the Landfill cap shall only be operated and parked on designated access roads, except for low-pressure construction equipment, which may operate off the access roads. All operators of vehicles entering the capped area of the Landfill shall, prior to their arrival, be instructed by the Engineer of Record or his/her designee and/or contractor of the requirements of this decision and permit, to avoid damage to the Landfill cap and appurtenances thereto.
9. Only low ground pressure construction equipment (with ground pressures of less than 7 PSI) may operate on the Landfill cap off of the access road, and only in accordance with the conditions of this decision. Prior to use of any specific equipment off the access road on the cap, the Engineer shall document that the equipment, fully loaded, will have a ground pressure of less than 7 PSI.
10. All disturbance of the Landfill shall be limited to the proposed excavations and installations as depicted and described in the application and the approved plans and this permit. The Developer and any other contractors performing work at the Landfill shall without delay notify the Engineer of Record or his/her on-site representative upon encountering or damaging the Landfill cap.

11. If the Landfill cap is damaged, the Town shall notify MassDEP without delay and in no case later than the close of business of the next business day after it becomes aware of any incident or such damage. This notification requirement is in addition to any other notification requirements required by statute or regulation including, but not limited to, 310 CMR 19.000 and 310 CMR 40.0000.
12. Excess topsoil generated by the installation of the PV Facility shall be utilized within the construction of the landscaped berm along Howe Street or taken off site for proper disposal or reuse according to applicable regulations or policies.
13. Prior to the installation of the PV Facility, the Town shall perform a test pit program along Howe Street to document the edge of the Landfill cap. The test pits shall be conducted under the supervision of an independent Massachusetts Registered Professional Engineer (“Engineer of Record”). The final location of the Landfill cap shall be shown on the as-built drawings as required by paragraph 19, below.
14. Based on the location of the Landfill cap, the final locations of the three utility poles to be installed as part of this project will be adjusted, if possible, to be located off the Landfill cap. All poles located on the Landfill shall be installed in accordance with the approved detail. The utility pole installation shall be conducted under the supervision of an independent Massachusetts Registered Professional Engineer (“Engineer of Record”).
15. The proposed landscaped berm located along Howe Street will be partially constructed with the reuse of Town generated street sweepings (“Highway Excess Materials”). The use of street sweepings shall be in compliance with MassDEP Policy #BWP-94-092: Reuse & Disposal of Street Sweepings.
16. The Town and Developer shall maintain copies of this decision and permit, the application, the health and safety plan, and documentation that site personnel have been trained pursuant to the health and safety plan at the site during construction of the PV Facility.
17. Pursuant to 310 CMR 19.043 *Standard Conditions*, MassDEP and its agents and employees shall have the right to inspect the Landfill, any equipment, structure or land located thereon, to take samples, to perform tests, and have access to and photocopy records, and to otherwise monitor compliance with this permit and all environmental laws and regulations administered by MassDEP.
18. Notice of the Landfill located on this site, including this decision, shall be recorded in the applicable Registry of Deeds and/or the Registry Section of the Land, as appropriate, pursuant to the requirements of M.G.L. Chapter 111, § 150A and 310 CMR 19.141.
19. Prior to commencing operation of the PV Facility, and in no event on or before ninety (90) days after the date of completion of the construction of the PV Facility, the Town and Developer shall submit for review and approval by MassDEP a construction certification report, as an application category BWP SW45 *Alternative Review Process*, that includes, but is not limited to:
 - a. As-built plans for the final as constructed PV Facility amended to incorporate all modifications and alterations, if any, made during construction;

- b. A narrative, prepared by the Engineer of Record that discusses in part, any modifications made to the design of the PV Facility; and
 - c. Certifications by the Town and the Engineer of Record pursuant to 310 CMR 19.011.
 - d. Copy of Notice of Landfill Operation as recorded in the Registry of Deeds and/or Registry Section.
20. On or before thirty (30) days after the date the PV Facility ceases operation, the Town and Developer shall submit to MassDEP an application pursuant to 310 CMR 4.00 and 310 CMR 19.000 for the decommissioning of the PV Facility and the restoration of the Landfill cap and appurtenances thereto. The application shall include, but not be limited to, a narrative, plans and schedule for the decommissioning of the PV Facility and the restoration of the Landfill's cap and appurtenances.²
21. MassDEP reserves the right to amend, modify, suspend or revoke this permit pursuant to 310 CMR 19.036 *Department's Modification, Suspension, or Revocation of a Permit*. This does not limit or restrict MassDEP from implementing any other applicable authority at the Landfill including, but not limited to authority pursuant to 310 CMR 40.0000.
22. This permit is effective on the date signed by MassDEP below, except as provided by the Notice of Appeal Rights below and 310 CMR 19.033(4) (b). This permit shall expire on December 31, 2036, provided that MassDEP may amend the term of the permit in accordance with a modification pursuant to 310 CMR 19.033 or 310 CMR 19.034. The Town and Developer shall submit to MassDEP on or before June 30, 2036 either an application to renew the permit or notice of its intent to close the PV Facility. Wherein the Town and the Developer elects to close the facility, the Town and the Developer shall submit an application for the decommissioning of the PV Facility and the restoration of the Landfill cap and appurtenances thereto pursuant to paragraph 20, above.
23. The Town and Developer shall not deviate from this permit and the approved design plans. The Town shall notify MassDEP prior to any modification(s) of the design and of any significant changes in the project schedule. MassDEP may, at its sole discretion, require the Town to submit an application to MassDEP for review and approval for any modification/alteration to the design. In the event that MassDEP determines that a permit application is required for a modification, the Town shall submit such application to the MassDEP in accordance with the schedule specified by MassDEP.
24. No transfer of this permit shall be permitted except in accordance with the requirements of 310 CMR 19.044. If at any time, the permittee for this project does not include a municipal entity, the permittee shall provide to MassDEP a financial assurance mechanism, in accordance with 310 CMR 19.051, for the costs of decommissioning and site restoration activities.
25. The Town shall continue to perform post-closure activities at the Landfill pursuant to 310 CMR 19.142 *Landfill Post-closure Requirements* including, but not limited to, maintenance of the Landfill's cap to prevent growth of vegetation with root systems that could be detrimental to the cap, and to prevent erosion of the cap.

² Appurtenances include, but are not limited to storm water controls, landfill gas control structures, landfill gas and groundwater monitoring wells.

NOTICE OF RIGHT TO APPEAL

The Town of Ashland (the “Town”) is hereby notified that it may within twenty-one (21) days of the date of issuance file a request that this decision and permit be deemed a provisional decision under 310 CMR 19.033(4)(b), by submitting a written statement of the basis on which the Town believes it is aggrieved, together with any supporting materials. Upon timely filing of such a request, the decision shall be deemed a provisional decision with an effective date twenty-one (21) days after the MassDEP’s receipt of the request. Such a request shall reopen the administrative record, and the MassDEP may rescind, supplement, modify, or reaffirm its decision. Failure by the Town to exercise the right provided in this section shall constitute a waiver of the Town’s right to appeal.

Appeal. Any person aggrieved by the issuance of this decision may file an appeal for judicial review of said decision in accordance with the provisions of M.G.L. c. 111, s. 150A, and M.G.L. c. 30A, not later than thirty (30) days following the date of issuance of the final decision. The standing of a person to file an appeal and the procedures for filing such 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 decision by a court of competent jurisdiction, the decision shall remain effective.

Notice of Action. Any aggrieved person intending to appeal this decision to the Superior Court shall first provide notice to the MassDEP of their intention to commence such action. Said notice of intention shall include the MassDEP’s file number and shall identify with particularity the issues and reasons why it is believed the 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 application at least five (5) days prior to the filing of an appeal. The appropriate addresses to which to send such notices are:

General Counsel
Massachusetts Department of Environmental Protection
One Winter Street – 3rd Floor
Boston, MA 02108

Eric Worrall, Regional Director
Massachusetts Department of Environmental Protection
Northeast Regional Office
205B Lowell Street
Wilmington, MA 01887

No allegation shall be made in any judicial appeal of this decision unless the matter complained of was raised at the appropriate point in the administrative review procedures established in those regulations, 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.

Should you have any questions relative to this approval, please contact Richard Spieler at phone number 978-694-3317.

Sincerely,

Sincerely,

This final document copy is being provided to you electronically by the Massachusetts Department of Environmental Protection. A signed copy of this document is on file at the DEP office listed on the letterhead.

Richard J. Spieler
Environmental Engineer
Solid Waste Management

Mark G. Fairbrother
Section Chief
Solid Waste Management

MGF/RJS/rjs
Enclosure: Fact Sheet and Communication for Non-English Speaking Parties

Cc:

Robert Bukowski, PE
AMEC Massachusetts, Inc.
Rob.bukowski@amecfw.com

Ameresco, Inc.
11 Spleen Street
Framingham, MA 01701

Ashland Board of Health
Town of Ashland
101 Main Street
Ashland, MA 01721