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

February 25, 2016

David Moreira
Waste Management Disposal Services of Massachusetts
4 Liberty Lane
Hampton, New Hampshire 03842

and

Francis X. McMahon
Southern Sky Renewable Energy County Street, LLC.
40 Court Street Suite 1150
Boston, MA 02108

RE: Approval with Conditions
Application for: BWP SW 36 Post-Closure Use - Major
Ground Mounted Solar Photovoltaic (PV) Array
Transmittal #: X269493

AT: Berkley Landfill
54 County Street
Berkley, Massachusetts
Facility ID #: 39070 Regulated Object #: 172235

Dear Mr. Moreira and Mr. McMahon:

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 Berkley Landfill (the "Landfill") located at 54 County Street in Berkley, Massachusetts. .

MassDEP has determined the Application and supplemental submittals are administratively and technically complete and hereby **Approves** the Post-Closure Use of the Landfill for a 3.6 megawatt AC solar photovoltaic ("PV") array, constructed in two phases, subject to conditions as specified herein.

I. SUBMITTALS:

The Application consists of two bound volumes prepared by GZA Environmental, Inc. ("GZA"). The Application was signed on behalf of the Waste Management Disposal Services of Massachusetts by David Moreira, Senior District Manager, by Francis X. McMahon for Southern Sky Renewable Energy County Street, LLC, and by Thomas E. Billups Massachusetts Registered Professional Civil Engineer No. 32836.

A supplemental submittal consisting of structural and stability calculations performed by RBI Solar was submitted via e-mail on February 25, 2016, and signed and stamped by Mohamed A. Aly, Massachusetts Registered Structural Engineer No. 50028.

II. APPLICATION REVIEW AND DECISION PROCESS:

The Application was submitted and reviewed pursuant to the provisions of 310 CMR 19.029(2): Applicable Permit Procedures and 310 CMR 19.033: *Permit Procedure for an Application for a Permit Modification or Other Approval*. According to these review procedures, MassDEP's decision regarding the proposed activities shall be either: a "Provisional Decision" pursuant to 310 CMR 19.033(4)(a); or a non-provisional decision pursuant to 310 CMR 19.033(4)(b). MassDEP has determined that non-provisional decision is appropriate for this Application.

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").

III. SITE DESCRIPTION:

The Landfill operated on a land parcel encompassing approximately 23 acres of which approximately 19 acres were used for solid waste disposal and closed with a final cover system.

The Landfill was in operation from 1973 until 1979. Prior to 1973, the Landfill site was an abandoned sand and gravel pit. During its operation, it accepted residential, commercial and industrial solid waste. The Landfill was closed and covered in 1980 with sandy, silty soil. An additional two feet of cover material was added in 1984. Rust Environmental and Infrastructure, Inc. prepared an Interim Measure Plan for the Closure of the Berkley Landfill in April 1993. The interim plan proposed installing an engineered cap consisting of a 40 mil geosynthetic liner, a geosynthetic geonet drainage layer, and two feet of cover soil and vegetative cover. The Interim Measure Plan was approved by MassDEP in a letter dated July 13, 1993. The additional capping was completed in 1994.

In December 2015, GZA hand excavated ten test pits of the landfill final cover soils. GZA reported that the generalized profile of the Landfill cap consists of a layer of topsoil underlain by sand drainage material, with the topsoil layer ranging from approximately 4 to 9 inches in thickness. The sand drainage layer ranged from 9 to 18 inches in thickness. Each test pit exploration extended to the top of the geocomposite drainage layer. Tabulated GZA test pit data indicates that the minimum combined soil thickness at any test pit location was 16 inches.

IV. POST-CLOSURE USE SOLAR ARRAY PROPOSAL SUMMARY:

Waste Management Disposal Services of Massachusetts ("Waste Management") is the owner of the Landfill and submitted a February 11, 2015, correspondence stating that that have entered into an agreement the with Southern Sky Renewable Energy County Street, LLC., ("SSRE") Hereinafter, Waste Management and SSRE shall be referred to as the "Applicants". The Applicants and all construction and maintenance personnel associated with the solar photovoltaic installation on the Landfill shall be referred to as the "Applicants' Contractors".

The Applicants have proposed to develop a 3.6 MW DC solar photovoltaic ("PV") array installation on approximately 12 acres of the Landfill.

PV Array Design:
The solar arrays will consist of approximately 11,300 photovoltaic modules and five approximately 400-square foot concrete pads for inverters and transformers. Panels of approximately 20 square feet will be configured in abutting groups (sub arrays) of approximately 60 to 70 panels. The inverter/transformer pad will be located near the entrance on the southern side of the Landfill site.

The Applicants submitted a preliminary racking plan. A final racking plan will be submitted after finalization of the PV system design.

Energy will be collected via electrical conduit to a load center and transformer, and inverter. The resulting power will then be transmitted into the Taunton Municipal Lighting Plant distribution level network located on County Street. It is anticipated that this system will be located at the southwest corner of the Site, but the final location(s) will be at the discretion of the Taunton Municipal Lighting Plant.

The PV panels will be supported by galvanized posts that are connected to a concrete foundation/ballast system over a crushed stone strip leveling base. The panel arrays will be angled to face south at an approximately 15° inclination from horizontal. The proposed foundations will consist of precast concrete ballast blocks bearing on approximately 3-inches of ¾-inch crushed stone directly on the topsoil cap supporting an attached racking system. The panel arrays will be separated by approximately three feet to accommodate access for maintenance, and a 10-foot buffer will be maintained around landfill vents.

The foundations for the solar array will consist of discontinuous concrete ballast blocks that cover 12± acres of the solar array project area. Each module will be connected to ballast blocks. As designed by RBI Solar, the dimensions for north row exterior array blocks will be 3.3 feet by 8.5-feet in plan and 1.5-feet tall. For interior arrays, the ballast blocks will be either 2.2-feet by 8.5-feet in plan and 1.5-feet tall. The dimensions for north row exterior array blocks will be 2.0 feet by 8.5-feet in plan and 1.5-feet tall.

No excavation is planned into the existing topsoil and grassed cap; crushed stone bedding placed over filter fabric will serve as the foundation and support for the panel racking system.

The transformer/inverter pad and one new utility pole will be constructed to the northwest, beyond the Landfill final cover system. As a precaution against potential gas migration below the transformer and inverter pad, a 20mm LDPE geomembrane liner will be placed directly on the ground surface. A 3-inch sand cushion layer will be placed over the geomembrane followed by approximately 12-inches of ¾-inch crushed stone. The pad will consist of a 12-inch reinforced concrete slab bearing directly on the crushed stone layer.

As a condition of this permit, details of all electrical work must be submitted to MassDEP and must be designed in accordance with the most recent versions of the Massachusetts Electrical Code. All electrical permits must be secured from the local building official. (refer to Condition #2)

Bearing Capacity and Settlement:
Structural calculations for the proposed PV array module and racking system design performed by RBI Solar were submitted to GZA have not been completed to date and, accordingly, GZA utilized the structural calculations from a recent similar PV array project in its geotechnical evaluation including bearing and settlement calculations. GZA will modify the submitted calculations as necessary upon receipt of the final PV module and racking system design.

The analysis of the foundations for the PV array that will bear directly on the final cover system 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.
- The solar array will not cause adverse landfill settlement.

Puncture analyses of the HDPE cap membrane were performed by GZA to assess whether the addition of the solar array ballast blocks will cause a puncture failure/damage of the high density polyethylene ("HDPE") geomembrane liner. GZA concluded that the HDPE membrane liner will not be punctured under the anticipated loading.

Stability:
Stability calculations for sliding, tipping and uplift were prepared RBI Solar and indicated that the proposed ballast is adequate to ensure stability of the PV array.

Landfill Access:
The Applicants have not proposed to construct any new permanent access roads. The PV array area of the Landfill will be covered with a filter fabric placed directly on top of the Landfill final cover soils and overlain by 3-inches of ¾-inch crushed stone. If necessary, a temporary road consisting of mats or woven fabric and a layer of gravel or 3/4-inch crushed stone will be placed to facilitate equipment mobilization and protection of the final cover system.

As described in the Application and as a condition of this permit, during construction of the PV array, low ground pressure vehicles (<7psi) will be permitted to travel over the Landfill final cover surface. Throughout all stages of construction, the Landfill final cover system must continually be monitored for any signs of damage or stress. A final inspection of the Landfill surface must also be performed at the conclusion of the PV array construction project and any areas of concern must be repaired.

Morse Engineering Co. Inc. drawing 3 of 3 designates an area in the southwest as the "Existing Access to Top of Landfill". The Applicants have not indicated that an access road will be constructed in this location. As a Condition of this permit, the Applicants are required to

evaluate the existing side slope area and design an appropriate access road for construction equipment access. (Refer to Condition #2)

Storm Water:
The Landfill's stormwater control system consists of rock-lined drainage swales, a perimeter swale lined with grass cover and/or rip rap erosion protection, and a detention basin.

The potential stormwater impacts of the placement of solar panels over the landfill final cover system were evaluated using HydroCAD modeling of the pre-development and post-development runoff conditions for the 2-year, 10-year, 25-year, and 100-year storm events. The Engineer concluded that, because peak discharge rates do not increase for any storm event included in the analysis, the existing swales and other conveyance measures are considered to be adequate and no upgrades are necessary.

Site Security: An existing security fence surrounds the existing Landfill final cover area. The existing fence will be repaired if/as necessary and will be maintained to prevent unauthorized access.

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 Waste Management and not used for the PV array.

As a condition of this permit, 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. MassDEP is also requiring that inspections include the condition of the security fencing. (refer to Condition #17)

Health and Safety:
As stated in the Application, as a condition of this permit, MassDEP is requiring that a Solar Array Construction Period Health and Safety Plan and a Post Closure Operations and Maintenance Health and Safety Plan be submitted and that personnel training be provided for employees who access the solar array areas of the Landfill. (Refer to Condition 9)

Decommissioning Plan and Financial Assurance Mechanism: As Condtions of this permit, the Applicants are required to submit to MassDEP for review and approval a detailed decommissioning and site restoration plan and a decomissioning cost estimate and establish a Financial Assurance Mechanism in order that sufficient funds are available to properly decommission the solar PV array system and all of its appurtenant structures and features, and to properly restore the Landfill/Site to its original condition. (Refer to Conditions 20 and 21)

Massachusetts Endangered Species Act: The Applicants submitted a Request for Determination of Applicability to the Massachusetts Division of Fisheries and Wildlife, Natural Heritage and Endangered Species Program ("NHESP"). The NHESP determined that the project as proposed will not result in a prohibited "take" of state-listed rare species.

V. PERMIT DECISION WITH CONDITIONS:

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 Berkley Landfill for a Solar Photovoltaic Array subject to the conditions identified herein.

1. Permit Limitations: The issuance of this approval is limited to the proposed Solar Photovoltaic Array at the 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 Waste Management, 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. Pre-Construction submittals: Prior to construction, the Applicants shall submit the following to MassDEP for its review and approval at least 60 days prior to commencing construction activities, unless otherwise approved by MassDEP:

   a) The Applicants have not indicated that an access road will be constructed in the Landfill southwest corner designated as the "Existing Access to Top of Landfill" on the Morse Engineering Co. Inc. drawing 3 of 3. The Applicants shall evaluate this existing side slope area and design an appropriate access road for construction equipment access for MassDEP review and approval.

   b) A final PV array layout plan with an accompanying statement that the engineering assumptions made in the Application, or as revised in the supplemental submittal, are consistent with the final PV array layout.

   c) Electrical drawings indicating the general layout and details of all PV modules, electrical conduits, conduit supports, electrical equipment, equipment pads, utility poles, etc. All drawings must be stamped by a Massachusetts Registered Electrical Engineer.

   d) A narrative describing the final electrical design, including manufacturer's catalog cuts of major electrical components: panel, inverters, and transformers.

   e) Final geotechnical calculations with an accompanying narrative based on the revision made pursuant to the final PV array, racking and ballast design.

3. Enclosures and Combustible Gas Alarms: Any enclosures that that allow human entry shall have a landfill gas monitor that is fully operational at all times. 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).

4. Regulatory Compliance: The Applicants, Engineer and Applicants' 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", as amended.

5. 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" as defined below 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.

6. Notification of Construction: The Applicants shall notify MassDEP, Southeast Regional Office solid waste section chief, in writing (e-mail is acceptable) when the post-closure use construction commences and again when construction is completed.

7. Certification Report: Within ninety (90) days of completing the installation of the solar photovoltaic array, MassDEP shall be provided with a certification report for MassDEP's records. 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. The report shall include a project narrative, as-built drawings depicting all pertinent site features and photographs representative of the construction processes and completed work. A list of equipment used on the Landfill, the Landfill area accessed by the vehicle, and the pressure rating of each vehicle shall be indicated in the certification report. Should the Applicants desire a formal review and written approval of the certification report, the Applicants must submit a formal BWP SW 43, Landfill Closure Completion permit application.

8. Preconstruction Work: Prior to commencement of construction activities, all Landfill gas vents, Landfill soil-gas monitoring wells, groundwater monitoring wells and other existing above ground structures on the Landfill cap 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.

9. Health and Safety: The Applicants, Engineers and Applicants' 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 site specific Solar Array Construction Period Health and Safety Plan shall be developed and submitted to MassDEP (for its files) prior to the beginning of any construction work. The Solar Array Construction Period Health and Safety Plan shall include as a minimum;
   - protocols for monitoring of landfill gas as needed,
   - protocols for modifying work practices if landfill gas is detected at levels deemed unsuitable, and
   - training for all workers including the Applicants workers conducting construction activities at the Landfill regarding hazards associated with the landfill gas and the PV array, including electrical hazards.

A site specific Post Closure Operations and Maintenance Health and Safety Plan for the post-closure use period, shall be developed and submitted to MassDEP (for its files) prior to the beginning of any construction work. The Post Closure Operations and Maintenance Health and Safety Plan shall include as a minimum;

- protocols for monitoring of landfill gas as needed,
- protocols for modifying work practices if landfill gas is detected at levels deemed unsuitable, and
- training for all workers including the Applicants workers conducting maintenance activities at the Landfill regarding hazards associated with the landfill gas and the PV array, including electrical hazards.

10. Personnel Training: The Applicants, Engineers and Applicants' Contractors shall instruct all construction and maintenance 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.

11. 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 or operator shall:

    1. *take immediate action to protect human health and safety;*
    2. *notify the Department's Regional Office that covers the municipality in which the facility is located within two hours of the findings; and*
    3. *undertake the actions specified under 310 CMR 19.150, Landfill Assessment Requirements 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, Waste Management notify MassDEP's Bureau of Waste Site Cleanup-Emergency Response Section (508) 946-2850 within two (2) hours of the exceedance as per 310 CMR 40.0321(1) (a) of the regulations.

12. Vehicles Operating on the Landfill Final Cover System: The Applicants have not proposed to construct permanent or temporary access roads.

    Vehicles operating on the Landfill final cover system shall be low-pressure construction equipment, with fully loaded ground pressures of **7 psi** or less. Site specific engineering calculation must be submitted prior to operation of any equipment with a bearing pressure of greater than 20 psi on the access roads above the Landfill final cover system.

Construction equipment shall limit turning on the vegetative support layer as much as possible. If MassDEP determines the use of any equipment is creating the potential for damage to the final cover system, 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 equipment used on the Landfill, the Landfill area accessed by the vehicle, and the pressure rating of each vehicle shall be indicated in the certification report.

13. Permanent and Temporary Roads: 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 allow the construction of temporary ramps as necessary.

14. 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 sand drainage layer without written approval by MassDEP. The Applicants, Engineer and Applicants' Contractors shall ensure that vehicles operating on the Landfill surface do not compromise the integrity of the Landfill final cover system.

15. Construction Precautions: All excavations and construction shall be supervised by a Massachusetts Registered Professional Engineer engaged by the 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 construction area should be clearly instructed by the on-site engineer and/or the Applicants' 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. If any damage occurs to any Landfill components, the Engineer shall notify MassDEP within 24 hours and provide a written plan with a schedule for repairs.

16. Array Setbacks: The Applicant shall maintain a minimum 10 foot radius buffer between the closest edge of the PV array modules and all Landfill gas vents and a 10 foot radius buffer between the pad mounted electrical equipment and all Landfill gas vents.

17. 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. The Applicants, Engineer and Applicants' Contractors shall monitor the effectiveness of the site security system and 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.

18. Site Security: Pursuant to 310 CMR 19.130(23) Waste Management is required to provide sufficient fences or other barriers to prevent unauthorized access to the Landfill. Waste Management 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.

19. Transfer: No transfer of this permit shall be permitted except in accordance with the requirements of 310 CMR 19.044. The form established by MassDEP for permit transfers is the BWP SW 49 application form. Any time, the Applicants for this project do not include a municipal entity, the Applicants shall (or *MassDEP will require the Applicants to*) provide to MassDEP a financial assurance mechanism, in accordance with 310 CMR 19.051, for the costs of decommissioning and site restoration activities.

20. Decommissioning Plan Financial Assurance Estimate: Within thirty (30) days of the issuance of this permit Approval with Conditions, the Applicants shall submit to MassDEP for review and approval a detailed decommissioning and site restoration plan and cost estimate, which includes, 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 Landfill to substantially the same physical condition that existed prior to post-closure use construction.

21. Financial Assurance Mechanism: Pursuant to the provisions of 310 CMR 19.051, the Applicants shall establish a Financial Assurance Mechanism ("FAM") in order that sufficient funds are available to properly decommission the solar PV array system, and all of its appurtenant structures and features, and to properly restore the Landfill to its original condition The FAM shall be based on the MassDEP approved cost estimate and shall be "in-place" at least thirty (30) days prior to the start of construction.

22. 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.

23. 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. MassDEP reserves the right to modify and re-issue this permit based on the site specific calculations to be performed for this Landfill.

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.

VI. REVIEW OF DECISION

Pursuant to 310 CMR 19.033(4)(b), if the Applicants are aggrieved by MassDEP's decision to issue this decision, they may within twenty-one days of the date of issuance file a written request that the decision be deemed provisional, and a written statement of the basis on which the Applicants believe they are 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 days after MassDEP's receipt of the request. Such a request shall reopen the administrative record, and MassDEP may rescind, supplement, modify, or reaffirm its decision. If MassDEP reaffirms its decision, the decision shall become final decision on the effective date. Failure by the Applicants to exercise the right provided in 310 CMR 19.033(4)(b) shall constitute waiver of the Applicants' right to appeal.

VII. RIGHT TO APPEAL

Right to Appeal: This approval has been issued pursuant to M.G.L. Chapter 111, Section 150A, and 310 CMR 19.033: Permit Procedure for an Application for a Permit Modification or Other Approval, of the "*Solid Waste Management Regulations*". Pursuant to 310 CMR 19.033(5), any person aggrieved by the final permit decision, except as provided for under 310 CMR 19.033(4)(b), may file an appeal for judicial review of said decision in accordance with the provisions of M.G.L. Chapter 111, Section 150A and M.G.L. Chapter 30A no later than thirty days of issuance of the final permit decision to the Applicant. 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 be effective in accordance with the terms of 310 CMR 19.033(3).

Notice of Appeal: Any aggrieved person intending to appeal a final permit decision to the Superior Court shall first provide notice of intention to commence such action. Said notices of intention shall include MassDEP Transmittal No. X269493 and shall identify with particularity the issues and reason why it is believed the final permit decision was not proper. Such notice shall be provided to the Office of General Counsel of MassDEP and the Regional Director for the regional office which processed the permit application, if applicable at least five days prior to filing of an appeal. The appropriate addresses to send such notices are:

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

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

No allegation shall be made in any judicial appeal of a final 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 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, Chief
Solid Waste Management Section
Bureau of Air and Waste

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