



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

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December 30, 2019

Jonathan Mancini  
BWC Rams Horn Channel, LLC  
c/o BlueWave Capital, LLC  
137 Newbury Street, 4<sup>th</sup> Floor  
Boston, MA 02116

RE: BEVERLY – Solid Waste Management  
Brimbal Avenue Landfill  
Brimbal Avenue  
FMF# 39080

BWP SW45 / Any Facility-Presumptive Approval  
Application Number: 19-SW45-000043-APP  
Authorization Number: SW45-0000059

**Modification of Post-Closure Use Design**  
**Solar Power Generating Facility**  
**Conditional Approval**

Dear Mr. Mancini:

The Massachusetts Department of Environmental Protection, Northeast Regional Office, Bureau of Air and Waste, Solid Waste Management Section (MassDEP) has reviewed your application, category BWP SW45, *Any Facility – Presumptive Approval*, Application Number: 19-SW45-000043-APP (the Application) for modifications to the approved design of a solar development located at the closed Brimbal Avenue Landfill (the Landfill) located on Otis Road in Beverly, MA. The Application was prepared and submitted to MassDEP by BSC Group, Inc. (BSC) of Andover, MA on behalf of BWC Rams Horn Channel, LLC (BWC) of Boston, MA.

On October 3, 2018, MassDEP approved the design for the solar power generating facility (the PV Facility) located at the Landfill and issued a Post-Closure Use Permit for the project, Authorization Number: SW36-0000009 (the 2018 PCUP). The approved design included a

This information is available in alternate format. Contact Michelle Waters-Ekanem, Director of Diversity/Civil Rights at 617-292-5751.

TTY# MassRelay Service 1-800-439-2370

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proposed main access road to the solar development and to also connect the adjacent landlocked parcels (the Maestranzi parcels) located to the northeast of the Landfill.

As described in the current Application, BWC proposes to construct only a portion of the road to access the PV Facility. The remaining portion of the access road to the Maestranzi parcels will be constructed in the future. BWC also proposes to make minor adjustments to the panel/equipment layouts with the PV Facility. These minor changes do not affect the design of the previously approved stormwater system.

On December 12, 2019, BSC submitted supplemental information to support the Application, including additional information regarding proposed changes to the access road. The proposed modifications are further described in the Application, and the proposed access road and PV Facility layout are shown on a site plan included with the Application.

### **DECISION**

MassDEP has reviewed the Application pursuant to 310 CMR 19.000, the Solid Waste Management Regulations and approves the Application subject to BWC's compliance with the conditions of this decision imposed by MassDEP pursuant to 310 CMR 19.043(1), *Items Subject to Conditions*.

This decision is issued by MassDEP pursuant to M.G.L. Chapter 111, § 150A and the implementing regulations thereunder at 310 CMR 19.000, the Solid Waste Management Regulations. MassDEP has determined that the changes proposed in the Application are consistent with the design and intent of the approved 2018 PCUP design. This decision does not relieve BWC or any other person of the responsibility to comply with all applicable state, federal, and local laws and regulations. BWC is hereafter referred to as the Permittee.

This decision allows the Permittee to complete the PV Facility and related modifications as described in the Application and as approved by this decision. In issuing this decision, MassDEP is not authorizing the construction of any other modification of the Facility and is not authorizing any improvements or activity on abutting properties. Any additional activities or modifications not described in the Application, including modification of the access roadway design or establishing a right of way for installation of utilities to the adjacent landlocked parcels, may require notification of MassDEP, and the preparation and submittal of a separate application for permit modification.

### **CONDITIONS**

1. The Permittee 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 Permittee shall assure persons conducting activities at the Landfill are familiar with the applicable provisions of this permit and that all work performed at the Landfill complies with 310 CMR 19.000 and the applicable requirements of this permit.
3. The Permittee shall comply with the requirements of 310 CMR 40.0000, the Massachusetts Contingency Plan, including, but not limited to, Section 310 CMR 40.0114: Solid Waste Management Facilities.
4. All terms and conditions of the Landfill's approved plans, including, but not limited to, the 2018 Post-Closure Use Design, as approved, shall remain in full force and effect except as may be modified by this decision.
5. Written notice shall be provided to MassDEP on or before thirty (30) days prior to constructing the remaining portion of the main access road to the Maestranzi parcels, together with a description of any proposed modification of the access roadway design or establishment of a right of way for installation of utilities to the landlocked parcels.
6. Any additional activities or modifications not described in the Application, Application Number: 19-SW45-000043-APP, including modification of the access roadway design or establishment of a right of way for installation of utilities to the adjacent landlocked parcels, may require notification of MassDEP, and the preparation and submittal of a separate application for permit modification.
7. The Permittee shall comply with the notifications described in this decision and 310 CMR 19.043(5)(i), *Duty to Inform*. These notifications are in addition to, and shall not substitute for, any other notification(s) which are required pursuant to 310 CMR 40.0000, the Massachusetts Contingency Plan (the MCP), and 310 CMR 30.000, the Massachusetts Hazardous Waste Regulations or any other applicable state, federal, or local law or regulation.
  - a. The Permittee shall notify MassDEP and the Beverly Health Department within twenty-four (24) hours whenever possible, but in no case greater than within forty-eight (48) hours of the Permittee, the Engineer of Record or contractor(s), becoming aware of:
    - i. The occurrence of any conditions or events at the Facility that result in off-site nuisance conditions or a threat to the public health, safety, welfare or the environment;
    - ii. The details of any incidents that resulted in the response of emergency personnel (fire, police, MassDEP Emergency Response personnel, the Occupational Health and Safety Administration, etc.) to the Facility; and
    - iii. The receipt by the Permittee of any complaint of off-site nuisance conditions attributed to the project activities.

- b. This written notification shall be made by email simultaneously to the Solid Waste Section Chief, Deputy Regional Director of the Bureau of Air & Waste and the Department's assigned environmental engineer at MassDEP's Northeast Regional Office. Currently these individuals are as follows:

Mark Fairbrother, Solid Waste Section Chief

Email: [mark.fairbrother@mass.gov](mailto:mark.fairbrother@mass.gov)

Telephone: (978) 694-3298

Susan Ruch, Deputy Regional Director, Bureau of Air & Waste

Email: [susan.ruch@mass.gov](mailto:susan.ruch@mass.gov)

Telephone: (978) 694-3384

Richard Spieler, Environmental Engineer

Email: [richard.spieler@mass.gov](mailto:richard.spieler@mass.gov)

Telephone: (978) 694-3317

- c. This notice shall, at a minimum, include a description of the incident and/or complaint, the impact on the construction activities authorized by this decision, and a description of any corrective actions the Permittee has taken or intends to take to minimize the potential for a recurrence.
8. MassDEP reserves the right to rescind, suspend or modify this approval based upon a determination that the project causes the development of nuisance conditions, is not being operated safely or in accordance with this approval, or results in a threat to the public health, safety or the environment.

### **NOTICE OF RIGHT TO APPEAL**

BWC Rams Horn Channel, LLC, hereinafter referred to as the Applicant, 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 Applicant 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 Applicant to exercise the right provided in this section shall constitute a waiver of the Applicant'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 – 3<sup>rd</sup> Floor  
Boston, MA 02108

and

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 (978) 694-3317.

Sincerely,

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

Mark G. Fairbrother  
Section Chief  
Solid Waste Management

Richard J. Spieler  
Environmental Engineer  
Solid Waste Management

MGF/RJS/rjs

Enclosure: Communication for Non-English Speaking Parties

cc: Susan Ruch, Deputy Regional Director, MassDEP-NERO, Bureau of Air and Waste  
Email: [susan.ruch@state.ma.us](mailto:susan.ruch@state.ma.us)

Mayor Michael Cahill  
City of Beverly  
191 Cabot Street  
Beverly, MA 01915

Beverly Board of Health  
Senior Center  
90 Colon Street  
Beverly, MA 01915

John Maestranzi (Maestranzi Brothers)  
Email: [john@larchgroup.com](mailto:john@larchgroup.com)

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