



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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November 9, 2016

Alan J. Benson
Town Administrator
Town of Boxford
7A Spofford Road
Boxford, MA 01921

Kenneth Rubin
Spofford Road Solar 1, LLC.
21 Madbury Road
Durham, NH 03824

Re: BOXFORD – Solid Waste Management
Boxford Landfill
7 Spofford Road
FMF# 39104

BWP SW36 / Post-Closure Use – Solar Power Generating Facility
Transmittal Number: X272525

Approval and Authorization to Construct

Dear Mr. Benson and Mr. Rubin:

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 SW36 *Post-Closure Use – Major*, Transmittal Number: X272525 (the “Application”), for the post-closure use of the Boxford Landfill located at 7 Spofford Road in Boxford, Massachusetts (the “Landfill”). The Application was prepared and submitted to MassDEP on behalf of the Town of Boxford (the “Town”) and Spofford Road Solar 1, LLC (“SRS”) by Tighe & Bond, Inc. of Westfield, Massachusetts (“Tighe & Bond”).

The Application proposes the installation of a 0.912-megawatt (MW) solar photovoltaic power generating facility (the “PV Facility”) on a 3.2-acre portion of the site referred to as the “Northern Landfill.” Included with the Application are design plans for the solar array and an engineer’s report describing and supporting the design of the facility.

This information is available in alternate format. Call the MassDEP Diversity Office at 617-556-1139. TTY# MassRelay Service 1-800-439-2370
MassDEP Website: www.mass.gov/dep

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The Landfill is owned by the Town and was operated as a municipal solid waste landfill by the Town from approximately 1978 to 1998. Pursuant to plans for the closure of the Landfill approved by MassDEP on April 27, 1999 (Transmittal Number: W001268), the cap on the Landfill was constructed between June and November 1999. The cap consists of a 40-mil textured high-density polyethylene flexible membrane liner (“FML”) as the impervious layer over waste, overlain by a 12-inch thick sand drainage layer and an 8-inch thick vegetative support layer.

On April 30, 2015, MassDEP issued a Post-Closure-Use Permit (the “April 2015 Permit”) to the Town and Borrego Solar Systems, Inc. (“Borrego”) authorizing the installation of a 1.1-megawatt (MW) PV Facility at the Landfill, Transmittal Number: X263159. The project was not completed at that time. On June 23, 2016, the Lease Agreement for the Solar Facility was amended by the Town and Borrego to assign the Lease Agreement from Borrego to SRS.

On October 21, 2016, MassDEP received an application, category BWP SW49 *Certification for Transfer of a Permit*, Transmittal Number: X272652 (the “Certification”), regarding transfer of the April 2015 Permit. The Certification was prepared and submitted to MassDEP on behalf of the Town and SRS by Tighe & Bond. An updated Certification was submitted to MassDEP on November 7, 2016. The Certification identifies an effective date of June 14, 2016 for transfer of the April 2015 Permit from Borrego (the “Transferor”) to SRS (the “Transferee”). The Town remains a co-permittee on the April 2015 Permit.

In the current Application, received by MassDEP on October 24, 2016, SRS has proposed to modify the project from the design approved by the April 2015 Permit decision. As proposed, the PV Facility will consist of approximately 2,646 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 National Grid electric utility grid. Supplemental information regarding the Application was received on November 4, 2016.

On October 31, 2016, MassDEP issued an approval to SRS and the Town (Transmittal Number: X272670) to perform an exploratory test pit program at the Landfill for the purpose of locating the edge of the Landfill cap on the east side of the Landfill. The information obtained from the investigation will ensure that the Landfill cap is not disturbed during construction of the underground utilities associated with the proposed PV Facility.

Ongoing maintenance and monitoring of the Landfill will continue. SRS will be responsible for the mowing and maintenance of the vegetative cover of the Landfill within the solar arrays. Maintenance of the remainder of the Landfill and routine environmental monitoring of the site will continue to be performed by the Town pursuant to the Landfill’s existing post-closure monitoring plan, approved by MassDEP on September 5, 2012. The design and layout of the solar modules will allow for the continued environmental monitoring at the site.

Additional details on the proposed project can be found in the Application and the Fact Sheet attached hereto as Attachment 1.

DECISION

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 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 and SRS’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*. Pursuant to 310 CMR 19.043(5)(a) *Duty to Comply*, this decision does not relieve the Town, SRS, or any other person, of the responsibility 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. The Town and SRS are hereafter collectively referred to as the “Permittee.”

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 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. Prior to commencing construction pursuant to the Application and this permit, the Permittee 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;

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

- 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.
4. The Permittee shall not commence construction of the PV Facility until it has provided the plans and notification to MassDEP and the Town of Boxford Board of Health pursuant to Condition 3 above.
5. 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.
6. The Permittee 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.
7. The Permittee shall maintain a minimum ten (10) foot radius buffer between the closest edge of the solar array and existing gas venting structures.
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. Electrical, grounding system components, security fence posts, and other solar project components shall not penetrate the FML.
11. 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 Permittee 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 FML.
12. In the event that damage to the FML occurs or is observed, the Permittee 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.

13. Any and all damage to the FML shall be promptly repaired. The FML shall be restored to the conditions as specified within the approved closure/post-closure plans. All work to repair damaged FML shall be completed and conducted under the supervision of the Engineer of Record who shall have sufficient qualified staff on-site to provide field supervision and quality assurance/quality control for all cap repair activities. Any and all cap repairs shall be shown on the as-built plans and discussed in the construction certification report required by Condition 18 of this decision.
14. Prior to construction of the PV Facility, any suspect settlement areas on the Landfill project area shall be surveyed to determine the lowest spot. The surrounding area should be surveyed to find the “relief point” defined as the lowest surrounding area where ponded water would flow off the Landfill cap. The elevation difference is defined as the “pond value”. Minor settlement shall be defined as less than 12 inch pond values. 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 and submitted and submitted as part of the construction certification report required by Condition 18 of this decision.

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 Applicant may either:

- a. 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
- b. 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.

Areas of minor settlement may be repaired as routine maintenance, provided the Permittee reports the settlement to MassDEP and states the intention to perform repairs, and provides to MassDEP the final survey results and a summary letter report within 60 days of completing the repairs. Any proposal to conduct major settlement repair must be submitted to MassDEP together with an application, category BWP SW25 *Corrective Action Design*, which shall include, without limitation, detailed information of the proposed repair.

15. The Permittee 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.
16. 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.

17. The Permittee shall cause to be recorded with the Registry of Deeds, or if the land is Registered Land, with the registry section of the land court for the district in which it lies, a Record Notice of Landfill Operation complying with M.G.L. Chapter 111, § 150A and 310 CMR 19.141. The Notice shall include the Facility Master File Facility Number as part of identification of the MassDEP file for the Landfill.
18. 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 Permittee 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;
 - c. Certifications by the Town, SRS, and the Engineer of Record pursuant to 310 CMR 19.011; and
 - d. A copy of the Notice of Landfill Operation, pursuant to 310 CMR 19.141, as recorded in the registry of deeds or in the registry section of the land court for the district wherein the Landfill lies in accordance with M.G.L. c. 111, sec 150A.
19. On or before thirty (30) days after the date the PV Facility ceases operation, the Permittee 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
20. 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.
21. 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 Permittee 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 Permittee elects to close the facility, the Permittee shall submit an application for the decommissioning of the PV Facility and the restoration of the Landfill cap and appurtenances thereto pursuant to paragraph 18, above.
22. The Permittee shall not deviate from this permit and the approved design plans. The Permittee 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 Permittee 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

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

Permittee shall submit such application to the MassDEP in accordance with the schedule specified by MassDEP.

23. 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.
24. The Town shall coordinate with SRS to submit one combined comprehensive Third-Party Inspection Report for the entire Landfill as set forth in this decision. Pursuant to 310 CMR 19.142(6), inspections shall be conducted by a Third-Party Inspector registered with MassDEP, pursuant to 310 CMR 19.018.
 - a. During the first year after completion of construction of the PV Facility, the Permittee shall ensure that inspections of the Landfill and final cover system are conducted on a quarterly basis. Quarterly inspection reports shall be submitted to MassDEP within fourteen (14) days of the inspection date. The landfill cover inspection report shall include, without limitation, all location(s) where landfill cover requires repair, the method(s) of repair, and the timeline to implement the repair(s).
 - b. Following the first year of operation of the PV Facility, and if no problems have been documented, the Permittee shall ensure that inspections of the Landfill are conducted on an annual basis and a report shall be submitted to MassDEP in accordance with the requirements of 310 CMR 19.018.

NOTICE OF RIGHT TO APPEAL

The Town of Boxford (“Town”) and Spofford Road Solar 1, LLC (“SRS”) are 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 and SRS 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 and SRS to exercise the right provided in this section shall constitute a waiver of the Town’s and SRS’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

Attachment: Application Review Fact Sheet (Attachment 1)
Enclosure: Fact Sheet and Communication for Non-English Speaking Parties

Cc: Susan Ruch, Deputy Regional Director, NERO, Bureau of Air and Waste

Brian S. Huntley
Tighe & Bond, Inc.
Email: bshuntley@tighebond.com

Boxford Board of Health
Town of Boxford
7A Spofford Road
Boxford, MA 01921