



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

Kathleen A. Theoharides
Secretary

Martin Suuberg
Commissioner

October 30, 2020

Joseph Domelowicz, Jr.
Town Manager
Town of Hamilton
577 Bay Road
Hamilton, MA 01936

RE: HAMILTON – Solid Waste Management
Hamilton Landfill
Chebacco Road
FMF #39326

BWP SW36 / Solar Power Generating Facility
Transmittal Number: X276425

Extension of Post-Closure Use Permit

Dear Mr. Domelowicz:

The Massachusetts Department of Environmental Protection, Northeast Regional Office, Bureau of Air & Waste, Solid Waste Management Section (MassDEP) has received your request to extend the Post-Closure Use Permit issued by MassDEP on July 12, 2018¹ (the 2018 Permit) regarding the Hamilton Landfill located on Chebacco Road in Hamilton, Massachusetts (the Landfill). The 2018 Permit approved installation of a solar photovoltaic power generating facility (the PV Facility) on a 3.1-acre portion of the Landfill. The 2018 Permit established an expiration date for the approved post-closure use of December 31, 2038 (Condition 17).

As discussed in your letter dated October 19, 2020, the Town of Hamilton (the Town) has entered into a Power Purchase Agreement (PPA) with Chebacco Road Solar, LLC (the Developer) for the installation and operation of the PV Facility. The 20-year PPA begins on commencement of the operation of the PV Facility. You further explained that the PV Facility is expected to begin operation by the end of 2020 due to delays associated with installation of the utility poles for interconnection of the PV Facility to the electric grid. The Town is also requesting an additional year be included in the extension to allow for further assessment of either continued operation of the system or decommissioning at the end of the PPA agreement. As a result, the Town requests an extension of the 2018 Permit to December 31, 2042.

¹ Transmittal Number: X276425

DECISION

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. In the event this approval conflicts with all or parts of other prior plans or approvals issued pursuant to Chapter 111, § 150A, the terms and conditions of this approval shall supersede the conflicting provisions of the prior approvals. This approval does not convey property rights of any sort or any exclusive privilege. This decision does not relieve the Town, or any other person, of the responsibility to comply with all other applicable federal, state and local statutes, regulations and requirements.

MassDEP hereby extends the Post-Closure Use Permit issued on July 12, 2018 for the PV Facility at the Hamilton Landfill through **December 31, 2042**. All conditions of the 2018 Permit remain in full force and effect, except as specifically modified below. This decision shall be appended to, and retained as part of, the 2018 Permit for the project.

Condition 17 of the 2018 Permit shall be replaced in its entirety with the following:

17. The permit is effective on the date signed by MassDEP below. This permit shall expire on December 31, 2042, 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 shall submit to MassDEP on or before June 30, 2042 either an application to renew the permit or notice of its intent to close the PV Facility. In the event the Town elects to close the facility, the Town shall submit an application for the decommissioning of the PV Facility and the restoration of the Landfill cap and appurtenances thereto pursuant to Condition 4, above.

NOTICE OF RIGHT TO APPEAL

The Town of Hamilton (the Town) is hereby notified that it may within twenty-one (21) days file a request that this decision 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 Department's receipt of the request. Such a request shall reopen the administrative record, and the Department 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, 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. c. 111, s. 150A, and M.G.L. c. 30A, not later than thirty (30) days following the receipt 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 Department of their intention to commence such action. Said notice of intention shall include the Department 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 Department and the Regional Director for the regional office which processed the application. The appropriate addresses to which to send such notices are:

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

and

Eric Worrall
Regional Director
Department of Environmental Protection
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.

If you have any questions regarding this matter, 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

10/30/2020

cc: Hamilton Board of Health
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