



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

Western Regional Office • 436 Dwight Street, Springfield MA 01103 • 413-784-1100

Charles D. Baker
Governor

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Lieutenant Governor

Matthew A. Beaton
Secretary

Martin Suuberg
Commissioner

Christopher J. Ketchen, Town Manager
Town of Lenox
6 Walker Street
Lenox, MA 01240

RE: Lenox-DSWM- Landfill
Willow Creek Road
Post Closure Use – Solar Power
Permit Approval-REVISED
BWPSW36
Transmittal #X272373
SWM File #16-152-001, FMF #39419

Dear Mr. Ketchen:

The Massachusetts Department of Environmental Protection (the MassDEP) is issuing this permit to the Town of Lenox (“Town”, “Permittee” and “Applicant”) approving the post closure use of the Town’s Landfill (the “Landfill”) located at Willow Creek Road in Lenox, Massachusetts as a solar power farm (Solar Farm).

On August 12, 2016, MassDEP issued a Permit approving the post closure use of the Landfill as a solar farm. That Permit required submission of additional information prior to the commencement of construction.

On September 30, 2016, MassDEP received a Revised BWPSW36 Major Post Closure Use Permit Application, under transmittal # X272373 (the “Revised Application”). The Revised Application was prepared by AMEC Massachusetts, Inc. The Application includes:

- The Transmittal Form and Application Form.
- Full size prints of the design plans.
- Bound text.
- Discussion on the July 22, 2016 and July 28, 2016, MassDEP received emails from Robert J. Bukowski, responding to questions contained in emails from MassDEP dated July 1, 2016 and July 25, 2016. These emails are considered part of the record for this application.
- Attachment A-Equipment Pad Grounding Details;
- Attachment B-Updated O&M Plan;
- Attachment C-Project Schedule;

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MassDEP Website: www.mass.gov/dep

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- Attachment D- Project Contact List;
- Attachment E-AMEC's Health & Safety Plan;
- Attachment F-Wetland Order of Conditions;
- Attachment G-Civil Drawings;
- Attachment H-Updated Geotechnical Calculations;
- Attachment I-MassDEP Application and Transmittal Form;
- The Application bears your certification as the Lenox Town Manager;
- The Application and some of the Design Plans bear the seal and signature of Robert J. Bukowski, Massachusetts Registered Professional Civil Engineer # 41492; and
- Design plans sheets S-501 and S-502 bear the seal and signature of Douglas E. Tate, Massachusetts Registered Professional Civil Engineer # 40808.

On October 3, 2016, MassDEP received an email from Robert J. Bukowski responding to an October 3, 2016 email from MassDEP. The email clarified several items and proposed minor revisions to the Application.

Existing Facilities

The Landfill reportedly started operations as a burn dump in the early 1950's. On September 12, 1975, MassDEP approved operational plans for the Lenox Sanitary Landfill. It is estimated the landfill ceased operations in the early 1980's. Little information exists that document the closure of the landfill. It was estimated that the landfill is approximately 6.7 acres.

During June 1999, test pits were excavated to determine the thickness and type of materials used for the closure cap construction. A July 1999 assessment report prepared by Tighe & Bond compared the results to requirements of the 1971 Massachusetts Solid Waste Regulations which required a minimum of a 2 foot thick soil cap over the waste materials. The assessment identified that several test pits locations where less than 2 foot thickness of soil existed. The assessment indicated that additional soil cover was needed primarily "across the southern portion of the site to conform to the 1971 capping criteria."

The landfill cap has also been damaged by vehicle traffic resulting in ruts and depressions that collect surface water runoff and creates ponding. These areas also need to be regraded.

Additional test pits were excavated in 2014 to further define the thickness of the landfill's cover soils.

The landfill as delineated in the 1999 assessment is located on several properties as listed below (with the Town assessor's map and lot number). Some of properties are reportedly not presently owned by the Town.

1. Property owned by the Town of Lenox located east of Willow Creek Road (map 14, lot 3) approximately 4 acres;
2. Property owned by the Town of Lenox located west of Willow Creek Road (map 14, lot 2) approximately 12 acres;
3. Willow Creek Road-Approximate 50 foot wide strip of land running from Willow Creek

- Road to the northerly limit of the Town owned parcels. Documentation submitted indicates that a portion of the right of way was previously abandoned and is presently owned by the Town. Status of the remaining right of way is not clear;
4. Land to southwest owned by Leonard H. Peters Trust (map 14, lot 1) approximately 0.83 acres;
 5. Land to west owned by Leonard H. Peters (map 8, lot 96) approximately 48.7 acres;
 6. Land to the southeast formerly owned by Peter F. Borgins (map 9, lot 5) containing approximately 0.02 acres of landfill. This parcel is reportedly presently owned by Valley Mill Corporation; and
 7. Land to the east now or formerly owned by The Housatonic Railroad Company, Inc. containing approximately 0.11 acres of landfill. This parcel is presently owned by MassDOT.

It is proposed that the portions of the land owned by Leonard H. Peters Trust and Leonard H. Peters that contain the landfill and an approximately 100 foot wide buffer will be purchased by the Town of Lenox. The Borgins and railroad properties contain smaller areas of landfilled waste. The Town will need to obtain access to these areas to adequately address the remainder of the Landfill.

Summary of Proposal

An Environmental Notification Form for the proposed Solar Farm was submitted pursuant to the Massachusetts Environmental Policy Act ("MEPA") on June 14, 2016. On July 22, 2016, the Secretary of the Office of Energy and Environmental Affairs issued an "Environmental Notification Certificate" The Certificate stated: "I hereby determine that this project **does not require** the preparation of an Environmental Impact Report (EIR)."

The application proposes the construction and maintenance of a 748.80 kilowatt (MW) DC photovoltaic solar farm on approximately 3 acres of the capped landfill, as follows:

- Trees and brush located on the landfill cap will be cut, stumps will be ground and wood chips will be removed.
- Additional soils and topsoil will be added to provide a minimum of 2 foot thickness of soil cap above the waste with appropriate grade.
- The solar array will be placed on the flatter top portion of the Landfill, with the solar panels facing south;
- Cast in place concrete ballast blocks will be placed on a dense graded crush stone leveling pad on top of the landfill cap.
- Solar panel modules, mounted on a rack system and attached to concrete ballast blocks will be placed on approximately 3 acres of the landfill's cap;
- An AC combiner panel and transformer will be mounted on a concrete pad located on the landfill cap;
- String inverters will be installed on concrete pads located on the Landfill cap;
- Electrical cables will be installed in cable trays supported by precast concrete blocks installed above the landfill cap;
- A six to seven -foot tall, chain-link fence will be installed around the entire perimeter of the solar farm and will be located within the limits of the existing Landfill cap. The fence will be placed on precast concrete ballast blocks and no excavation is proposed into the

landfill's cap for the installation of the fence;

- Locking gates will be provided at the access road entrance to the Landfill;
- The solar array will be grounded as required by electrical code; and
- Geotechnical and loading calculations (Attachment H) are provided showing the potential ground pressure on the cover from the weight of the ballasts, racks, panels, as well as snow and wind loads.

This Permit also requires the establishment of an environmental monitoring program for the Landfill.

MassDEP DETERMINATIONS

Personnel of MassDEP have reviewed the Post-Closure Use permit application for the Landfill in accordance with MGL c. 111 s. 150A, MGL c. 30A, 310 CMR 19.000, and MassDEP's publication Landfill Technical Guidance Manual (the LAC), revised in May, 1997. MassDEP has determined that the application is approved in accordance with MGL c. 111, s. 150A, MGL c. 30A and the regulations promulgated thereunder, subject to the conditions outlined below.

REGULATORY AUTHORITY

This document is a permit issued pursuant to Massachusetts General Laws Chapter 111, Section 150A and the regulations promulgated thereunder at 310 CMR 19.000, subject to the conditions set forth at 310 CMR 19.043(5). This permit is subject to the standard conditions of 310 CMR 19.000 and the conditions presented herein. This permit does not convey property rights of any sort or any exclusive privilege.

A. GENERAL PERMIT CONDITIONS

1. This Permit approves the construction of the Solar Farm as proposed in the Revised Application received by MassDEP on September 30, 2016. The previous Permit issued on August 12, 2016 is succeeded and replaced by this Permit.
2. The Town of Lenox (the "Town"), Leonard H. Peters Trust, Leonard H. Peters, Valley Mill Corporation and MassDOT are owners of properties that contain the Landfill, and therefore have certain obligations pursuant to 310 CMR 19.000.
3. Lenox Willow Creek Solar, LLC, a wholly owned subsidiary of Ameresco, Inc., is the Owner and Operator of the Solar Farm, for this post-closure use permit, for the construction and operation of the Solar Farm on the landfill, and is responsible to comply with the conditions of this permit, as an Owner and the Operator as defined by 310 CMR 19.000.
4. The Town of Lenox is the Applicant and Permittee for this Post-Closure Use Permit and is also the Owner and Operator of the landfill as defined by 310 CMR 19.000. The Town is responsible for continued maintenance and environmental monitoring of the landfill in

accordance with the requirements of 310 CMR 19.000 and this Permit.

5. The Permittee, Operator(s), Contractor(s) and subcontractors shall install the solar panels and appurtenances and modify the landfill only in accordance with the Application, except as modified by this permit or otherwise approved by the MassDEP in writing.
6. Not later than fourteen (14) days prior to the start of the installation of the solar array, the Permittee shall submit the final electrical design plans signed and sealed by a Massachusetts Registered professional Engineer.
7. Construction may commence in accordance with the proposed schedule. Within seven (7) days of a change in schedule, the Permittee shall submit a revised schedule for the project to MassDEP.
8. Prior to the start of construction, the Permittee shall submit to MassDEP a revised/updated list of proposed project key personnel and their contact information. Within seven (7) days prior to a change in project personnel, the Permittee shall submit a revised list of project personnel and their contact information.
9. Prior to the start of construction, the Permittee shall submit a hard copy of the response contained in the referenced October 3, 2016 emails and copies of the proposed revised plans.
10. The Permittee, Owner(s), Operator(s) and their Contractor(s) and subcontractors are responsible to ensure that all necessary precautions are taken to protect the health and safety of workers and the general public during both construction and maintenance of the Solar Farm
11. The Town is proposing to take ownership of a portion of the land owned by the Leonard H. Peters Trust, and Leonard H. Peters. At a minimum the ownership limits shall include all of the landfill limits located on each property and shall extend a minimum of 100 feet beyond the footprint of the landfill. Not later than April 1, 2017, the Town shall submit to MassDEP documentation of either: (1) the transfer of the Peters property to the Town; (2) an agreement(s) to such transfer; or, (3) an agreement(s) that allows the Town and/or its agents access to the Peters' property for closure, monitoring and maintenance. The agreement(s) shall also include an adequate buffer area beyond the limits of the waste.
12. Prior to any permanent restriction to the use of the existing Willow Creek Road right of way ("ROW"), the Permittee shall submit documentation that the Permittee has a legal right to use the ROW and that the installation of the solar panels and appurtenances within the ROW does not obstruct or prevent any legal use of the ROW by others. The Permittee may proceed with the clearing, grubbing, and addition of soils required for the repair and maintenance of the Landfill's cap prior to this submittal.
13. A portion of the landfill is located on properties owned by Valley Mill Corporation and MassDOT. Not later than April 1, 2017, documentation shall be submitted to MassDEP that legal agreements have been obtained that allows the Town and/or the Permittee to access to

these portions of the landfill for closure, monitoring, and maintenance. The agreements shall also include an adequate buffer area beyond the limits of the waste. In lieu of an agreement, the transfer of the portion of the properties and an adequate buffer area would be acceptable to MassDEP.

14. Not later than April 1, 2017, a “Record Notice of Landfill Operation”, in accordance with 310 CMR 19.141, shall be recorded referencing all of the properties containing landfill materials and proof of recording shall be submitted to MassDEP.
15. On July 28, 2016, the Lenox Conservation Commission issued an Order of Conditions. A copy of the Commission’s approval or determination shall be submitted to the undersigned prior to commencement of the construction.
16. In areas where the solar farm restricts access to other areas of the landfill property for future maintenance, permanent access shall be designed and constructed to allow for future access, maintenance and monitoring of the Landfill. Gates and access roads shall be installed to allow the future use of the access location(s).
17. A Quality Assurance/Quality Control (QA/QC) program shall be implemented during construction. The responsibilities described in the *Landfill Technical Guidance Manual - Revised May 1997* (“LAC Manual”), pp. 2-1 to 2-3 are hereby incorporated by reference into this permit.
18. Construction Oversight:
 - a. A third-party, independent Massachusetts-registered professional engineer knowledgeable in landfill design and construction (the “Construction Engineer”) shall supervise the overall construction of the Solar Farm and Landfill repairs. The Construction Engineer and/or a qualified QA/QC officer shall be present at the site at all times during construction of the landfill repairs, road, fence installation, and installation of the electrical equipment, ballast blocks, and rack/panel installation, and when any construction equipment is operating on the landfill cap. The QA/QC officer shall work under the direct supervision of the Construction Engineer.
 - b. The Construction Engineer's duties shall include, but not be limited to; oversee installation and construction of the components of the Landfill repair and the Solar Farm as outlined above; oversee quality assurance/quality control (QA/QC) testing and verify all data generated through the testing program; document all construction and QA/QC activities; and submit monthly construction progress reports to the MassDEP and the Town, which shall summarize the work performed during the month.
 - c. The Construction Engineer shall inspect the site at least once per week during periods of construction when daily oversight is unnecessary. The Construction Engineer may contact MassDEP for guidance if the need for daily engineering oversight is unclear in a given circumstance.
 - d. The Construction Engineer shall have sufficient staff onsite to provide quality assurance/quality control (QA/QC) oversight for all construction work at the site, and

- shall submit monthly construction progress reports to MassDEP summarizing the work performed during the month.
- e. Within 60 days following the completion of construction, the Construction Engineer shall submit a completion report, signed and stamped by a Massachusetts-Registered P.E., either certifying that the work was completed in accordance with the approved plans and specifications and the conditions of this permit or detailing any and all deviations from this approval.
 - f. MassDEP reserves the right to require greater or more frequent oversight by the Construction Engineer than specified herein if it believes such increased oversight is necessary to protect the landfill cover or appurtenances, public health, safety, or the environment.
19. The Construction Engineer's monthly construction report shall include at a minimum the following:
- a. Updated schedule;
 - b. Copies of daily field inspection reports;
 - c. Summary of any and all deviations from compliance with requirements approved or set forth in this Permit or subsequent MassDEP approvals;
 - d. Any actions taken to correct such deviations, as required by MassDEP or recommended by the Engineer;
 - e. Proposed schedules to correct identified problems;
 - f. Review of quality assurance/quality control (QA/QC) testing data generated, and documentation for construction and QA/QC activities;
 - g. The construction report shall be signed, sealed and certified by the Engineer in accordance with 310 CMR 19.011 (1&2); and
 - h. The Engineer shall submit one copy of the monthly report to the MassDEP and one copy to the Town no later than seven (7) days following the end of the previous month.
20. All trees and brush located within the Town owned portions of the Landfill shall be cut and the stumps shall be ground or removed. Wood chips shall also be removed prior to filling to achieve the final cover thickness.
21. Trees on the side slope to the east, where the slope exceeds 10 percent, may be cut and stumps may remain to minimize disruption of side slopes.
22. Low spots, voids and areas identified as having less than the required 2 foot thick soil cap shall be filled to provide a minimum thickness of two (2) feet of soil above the waste. Localized high locations shall be reviewed in the field with MassDEP personnel prior to any cutting or leveling of the high spots.
23. Regrading shall result in positive drainage with no low spots or ponding. Where possible minimum slopes shall be 5% but in no case shall slopes be less than 2%.
24. Disturbance of the Landfill cap beyond the removal of vegetation, and the addition of fill as approved above shall be limited to the installations on top of the vegetative support layer of the cap, i.e. - no excavations or other penetrations shall be performed into the landfill cap without

separate written approval from the MassDEP.

- a. All concrete blocks placed on the cap shall be placed on top of, or above, the vegetative support layer of the cap, unless otherwise approved by the MassDEP in writing.
 - b. Excavation approved by this Permit is limited to excavation required for the removal of existing trees, brush and stumps.
 - c. All disturbed areas including, root/stump removal areas and regraded areas shall be capped with a minimum of an 18 inch thickness of silty or clayey soils. The total thickness of the existing and additional soil shall be greater than 18 inch thick (not including the six inch thick vegetative support layer).
 - d. All disturbed areas, except for within limits of roadway, shall be covered with a minimum of a six-inch thick layer of soils capable of supporting a suitable vegetative growth.
 - e. All disturbed areas, except for within limits of roadway, shall be seeded and suitable vegetation shall be established and maintained.
 - f. Survey and control stakes shall not be driven into the Landfill cap.
 - g. Erosion control devices within the limits of the cap shall not be installed using stakes. Anchor trench excavation for erosion control devices shall not exceed 6 inch deep.
 - h. Staples less than 6 inches total length may be used to hold erosion control devices
25. Not later than June 1, 2017, vegetation on the landfill's cap shall be established and an inspection shall be performed by a qualified professional to determine if the vegetation is acceptable. If the vegetation is not acceptable or is not adequate to control erosion and protect the landfill cap, the landfill shall be reseeded, fertilized and mulched as required to establish a satisfactory vegetative cover. The landfill shall then be inspected monthly, until such time that the qualified profession certifies that the vegetation has been established and is acceptable and MassDEP agrees with the opinion.
26. Prior to the start of any construction on the landfill cap, the Town shall submit to MassDEP a written protocol for the use of equipment on the cap, including load restriction on the access road(s), and a restriction on the use of outriggers or stabilizers unless specifically approved by MassDEP.
27. All necessary precautions shall be taken to ensure that the proposed construction and maintenance work associated with the Solar Farm shall not in any way damage the landfill cap.
- a. Herbicides may not be used to control vegetation at the site by any party.
 - b. All test pits shall be witnessed by the Construction Engineer or their QA/QC officer.
 - c. If waste is exposed or if any damage occurs to any of the landfill components, the Contractor shall notify MassDEP immediately (within 24 hours maximum), a written plan for repair shall be submitted to MassDEP within 48 hours, and any repair work shall be completed on the schedule determined by MassDEP.
28. MassDEP specifically reserves the right to restrict or prohibit heavy vehicular loads from operating on the landfill cap or roadways, either as a weight restriction or a usage restriction, should inspections or other information reveal the potential for damage to the cap from heavy vehicle loads. MassDEP also specifically reserves the right to impose, at any time deemed necessary by MassDEP, additional requirements for construction on the cap, should construction activities pose a danger to the integrity of the landfill cap or appurtenances.

29. If MassDEP determines that the use of equipment is creating the potential for damage to, or is damaging, the landfill cap, the usage of such equipment shall cease immediately upon discovery or upon notification by MassDEP, and alternative work practices for operation of equipment off the cap in the affected area(s) shall be instituted.
30. The proposed location and design of any additional roadways (those not proposed in the application) shall be submitted to MassDEP for review and approval, prior to construction of the modification. If a proposed roadway will divert surface runoff, the need for additional culverts and upslope stabilization shall be evaluated and installed as required.
31. The construction staging area(s) where equipment and materials will be unloaded or stored shall be located off of the Landfill unless the location is approved by MassDEP prior to use.
 - a. A written request shall be submitted to MassDEP for approval that details the location of the staging area.
 - b. Staging on the existing or proposed roadways is acceptable.
 - c. At a minimum, staging areas where equipment other than light displacement will be operated shall be prepared in accordance with Detail 3 on Plan Sheet C-501 of the Application unless otherwise approved by MassDEP.
32. Clean, crushed asphalt, brick and concrete (ABC rubble) may be used for leveling beneath ballast blocks. The maximum size of the crushed ABC shall not exceed 1.5 inches in its maximum dimension and shall meet the gradation requirements specified for dense graded crush stone included in the submitted specifications.
33. Compaction of the leveling materials or clean ABC must not damage the landfill cap, and shall not be compacted more than 6 inches into the vegetative support layer.
34. Coated (painted or stained) ABC rubble shall **not** be used in the Solar Farm construction.
35. The proposed Solar Farm array shall be fully fenced. In accordance with 310 CMR 19.130 (23) the Town shall provide sufficient fencing and other barriers to prevent access to the facility except at designated points of entry and all points of entry shall be equipped with locking gates that are secured when the operator is not onsite. The fence shall be constructed and in place prior to the operation of the solar farm. Fence post shall not be placed directly into soil within 10 feet horizontally of the landfill cap and shall be supported with concrete footings.
36. Excavations on the landfill cap shall be limited to:
 - a. Test pits only when witnessed by the Construction Engineer or their QA/QC officer;
 - b. Anchor trench excavation for erosion control devices shall not exceed 6 inch depth and 6 inch width;
 - c. No other penetrations shall be performed into the landfill cap without separate written approval from MassDEP;
 - d. All equipment, conduits, supports, pads and concrete blocks placed on the cap shall be placed on top of, or above, the vegetative support layer or road surface of the cap, unless

- otherwise approved by the MassDEP in writing;
- e. Survey and control stakes shall not be driven into the landfill cap unless the total length of the stake is one foot less than the thickness of the soils above the waste;
 - f. Erosion control devices within the limits of the cap shall not be installed using stakes; and
 - g. Staples used for erosion control devices shall be less than 6 inches in depth.
37. All grounding of the solar array shall be performed in accordance with the applicable portions of the NEC and state/local electrical codes. Grounding and electrical equipment shall not penetrate the Landfill cap, unless specifically approved by MassDEP.
38. The Town, Owners and Operators and their contractor(s) are responsible to ensure that the proposed work complies with all applicable local, state and federal electrical codes and permits, including the National Electrical Code (NEC), 2014 Edition and revisions, Article 690 –“Solar Photovoltaic (PV) Systems”. MassDEP notes that Article 690.31(a) – “Wiring Systems” of the NEC states that “Where PV source output circuits operating at maximum system voltage greater than 30 volts are installed in readily accessible locations, circuit conductors shall be installed in a raceway”. The Town and their contractor(s) are also responsible to ensure that the proposed work complies with all other applicable local, state and federal regulations.
39. The Owners, Operators and Contractors are responsible to ensure that the inverter, transformer and other electrical equipment boxes will not accumulate landfill gas within the boxes during the construction and operation of the Solar Farm. Any landfill gas levels exceeding 10% of the Lower Explosive Limit (% LEL) within any electrical equipment box shall trigger the requirements of 310 CMR 19.132(5)(g), for notification and action. The requirements for the electrical equipment area include the following:
- a. The design of any transformers, inverters, and any other electrical cabinets/equipment shall not allow the entry of landfill gas, and in the event that gas does enter, the equipment shall be designed to prevent the ignition of the gas;
 - b. Electrical lines, trays and conduits shall not extend down into the vegetative support layer of the cap;
 - c. The electrical equipment boxes and equipment shall meet all electrical code requirements; and
 - d. No additional or other equipment may be installed on the surface of the landfill or in proximity of the landfill (i.e. equipment not specifically identified in the application), unless documentation and specifications for such equipment prior to construction are submitted to MassDEP for review and approval.

B. OPERATIONS, MAINTENANCE AND ENVIRONMENTAL MONITORING

40. The following conditions apply to the minimum required maintenance of the Landfill:
- a. The Landfill surface within the solar farm and Town owned portions of the Landfill shall be mowed at least once per year.

- b. Herbicides may not be used to control vegetation
 - c. The condition of the fence and access gates shall be inspected at least once a month. Any damage to the fence or gates shall be repaired within 48 hours of discovery.
 - d. The condition of the sideslope between the Landfill and the railroad track shall be inspected at least once per month.
 - e. Any erosion problems, settlement problems, or other issues observed on the Landfill cap (inside or outside of the limits of the Solar Farm) or on the sideslope shall be reported to MassDEP, stabilized immediately and repaired within 30 days of discovery.
41. Following completion of the installation, inspections of the Solar Farm shall be performed on a quarterly basis by a qualified, independent registered third-party inspector in accordance with 310 CMR 19.018. After one year of quarterly inspections, the Permittee may petition MassDEP in writing to reduce the frequency of inspections. The following conditions shall apply:
- a. The entire landfill cap, sideslope between the Landfill and the railroad, access roads and fences shall be walked and any problems with the landfill cap, erosion, unusual or excessive settlement, stressed vegetation, damage to landfill gas monitoring wells, vents, and other appurtenances, and any other problems with the landfill cap shall be identified.
 - b. Preparation and submittal of an inspection report summarizing the inspection in accordance with 310 CMR 19.018.
 - c. Identification of any problems with security/access controls such as damaged gates and/or fences, as well as any evidence that unauthorized access to the solar array area that may have occurred.
 - d. Any damage to the Landfill or landfill appurtenances.
 - e. A description of actions taken to correct any problems.
 - f. A signed and certified copy (prepared on MassDEP standard Inspection Form) of the Inspection Report shall be submitted to MassDEP and to the Board of Health within 30 days of the date of the inspection.
42. Future Environmental Monitoring of the Landfill will be required. Prior to the start of the installation of the solar array, a plan shall be prepared by the Town, and submitted to MassDEP for review and approval for the proposed long term environmental monitoring of the Landfill. Environmental monitoring shall include as a minimum:
- a. Three downgradient and one upgradient monitoring wells. The three (3) downgradient wells shall be clusters and include a shallow and deep well.
 - b. Upgradient and downgradient surface water sampling of the river.
 - c. Upstream and downstream sampling of the brook reportedly located south of the landfill.
 - d. Upgradient and downgradient sampling of the “eastern landfill drainage ditch”.
 - e. Upstream and downstream in Woods Pond.
 - f. Sampling of any private water supply wells located within 1500 feet of the landfill limits.
 - g. Sampling of any leachate seeps.
 - h. The Town shall implement monitoring program as approved or required by MassDEP.
43. Not later than September 30, 2017, the Town shall have prepared and shall submit to MassDEP an expanded Initial Site Assessment in accordance with 310 CMR 19.150. This Report shall include data from a minimum of one round of environmental monitoring from the monitoring

wells, surface water locations and the leachate seeps.

44. The Permittee and Owners shall perform the following activities for all areas of the landfill required by 310 CMR 19.142 (5), Landfill Post-Closure Requirements, of the Solid Waste Management Facility Regulations which reads in part:
- “(a) take corrective actions to remediate and/or mitigate conditions that would compromise the integrity and purpose for the final cover;*
 - (b) maintain the integrity of the liner system and the final cover system; ...*
 - (d) monitor and maintain the environmental monitoring systems for surface water, ground water and air quality;*
 - (e) maintain access roads; ...*
 - (g) protect and maintain surveyed benchmarks; and*
 - (h) have the landfill inspected by a third-party consulting Massachusetts Registered Professional engineer, or other qualified professional approved by the Department, experienced in solid waste management, in accordance with the post-closure plan.”*
45. The landfill shall not be used for any post-closure activity without prior written approval from MassDEP. The Permittee shall comply with the post-closure use requirements set forth at 310 CMR 19.143 (1) - (4), which are hereby incorporated into this Permit by reference.
46. An annual post-closure report for the Landfill shall be submitted, as required by 310 CMR 19.142 (6) Reporting Requirements, not later than February 15th of each year.
47. If the Permittee, Owner, Operators or their Contractor(s) modify the design and intend to use different solar panels, panel racks, ladder racks, or electrical equipment other than that detailed in the application, the Permittee shall notify MassDEP and provide documentation that the alternative equipment does not increase calculated ground pressures or decrease calculated Factors of Safety for solar array stability. MassDEP will then make a determination of whether a new Permit Application is required.

C. SUBMITTALS

48. Submittals required by this Permit include but are not limited to the following:
- a. Final electrical design plans as required by condition 6 of this Permit.
 - b. Construction schedule revisions as required by condition 7. of this Permit;
 - c. Revisions to the project personnel list and their contact information and changes in accordance with condition 8 of this Permit;
 - d. Certification of surface vegetation in accordance with condition 25 of this permit.
 - e. Wheel loading protocol in accordance with conditions 26. of this Permit;
 - f. Documentation of property transfer in accordance with condition 11. of this Permit.
 - g. Documentation of access agreements in accordance with condition 13. of this Permit.
 - h. The Construction Engineer’s monthly construction report required by condition 19. of this Permit;
 - i. Construction Certification Report in accordance with condition 18e of this Permit and 310 CMR 19.107;

- j. Proof of filing of Record Notice in accordance with condition 14. Of this Permit.
- k. Maintenance/erosion/settlement notification in accordance with condition 40. of this Permit;
- l. Quarterly Landfill/Solar Farm inspection reports in accordance with 310 CMR 19.018 and condition 41. of this Permit;
- m. Notification of change in owner or operator in accordance with conditions 52 and 53 of this Permit;
- n. Environmental monitoring, in accordance with condition 42. of this Permit;
- o. Annual Post Closure report in accordance with condition 46. of this Permit; and
- p. Initial Site Assessment in accordance with condition 43. of this Permit.

D. STANDARD CONDITIONS

- 49. If construction of the solar panel installation has not been completed within three years of the date of issuance of this Permit, this Permit shall expire. The Permittee may apply to the MassDEP for an extension of the Permit at any time prior to its expiration.
- 50. This post-closure use permit shall be valid for a period of thirty (30) years from the date of this permit, provided that MassDEP may amend the term of the permit in accordance with an approved modification pursuant to either 310 CMR 19.032 or 19.033.
- 51. If the Operator intends to operate the Solar Farm after the expiration of this permit, the Permittee is required to submit a request for a renewal of the permit at least 90 days prior to the expiration of the permit.
- 52. If the Permittee intends to transfer this permit to any other entity, the requirements at 310 CMR 19.044, Transfer of Permits, shall be satisfactorily completed. The notification shall be submitted on an application form for a BWPSW49 Permit Transfer Certification with transmittal form and the applicable filing fee. Prior to a change in the Owner or Operator of the Solar Farm, MassDEP must be notified and approve a Permit Application for a Post Closure Use-Minor BWP-SW 37.
- 53. Not later than seven (7) days prior to a change in the Owner and/or Operator of the Solar Farm, MassDEP shall be notified in writing of the change. The notification shall include contact information for the new Owner/Operator.
- 54. If the Permittee or Operator discontinues operation of the Solar Farm, the Permittee and the Operator are responsible to perform decommissioning activities as outlined in the permit application, including removal of the solar array equipment, ballasts, and associated leveling pads.
- 55. This permit is issued subject to the conditions of joint liability of the Permittee, the Owner(s), and the Operator(s) in accordance with 310 CMR 19.043(3).
- 56. The Permittee, Owner(s), Operator(s) their contractors and subcontractors and the

Construction Engineer shall be considered Operators with respect to the construction of the Solar Farm and compliance with plans and specifications. The Permittee shall also be considered an operator during the operational life and decommissioning of the Solar Farm. As such, MassDEP may take enforcement action against the Permittee, Owners, Operators or the Construction Engineer, consistent with its authority under applicable Massachusetts law and regulation, for any failure to construct the Solar Farm in accordance with approved plans and specifications of which the Permittee or the Engineer were, or should have been, aware. 310 CMR 19.006, defines "Operator" as:

"Operator means any person who has care, charge or control of a facility subject to 310 CMR 19.000, including without limitation, an agent, lessee of the owner or an independent contractor."

57. The Permittee, the Owners, the Operators, the Contractor(s), and subcontractors shall comply with 310 CMR 19.015 Compliance, which states:

"No person shall construct, modify, operate or maintain a facility except in compliance with a site assignment, permit or plan approved by the board of health or the Department, as applicable, and any authorizations issued by the Department and all conditions included in a permit, approval or authorization for said facility."

58. The Applicant in this permit application seeks no variances from any applicable regulations.

59. This approval pertains only to the Solid Waste Management aspects of the proposal and does not negate the responsibilities of the Permittee, Owners, Operators or Contractors 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 owners, operators or otherwise legally responsible parties from any other applicable laws, statutes or regulations now or in the future.

60. The Permittee, Owners, Operators and Contractors shall comply with the Environmental Notification Form (ENF) Certificate issued on July 22, 2016.

61. MassDEP and its agents and employees shall have the right to enter upon the Landfill at all reasonable times, 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. This right of entry and inspection shall be in addition to MassDEP's access authorities and rights under applicable federal and states laws and regulations, as well as any permits or other agreements between the Permittee and MassDEP.

62. MassDEP reserves the right to require additional or increased monitoring or maintenance activities in the event that the post-closure use is or may be having a detrimental effect on the landfill cap or appurtenances. MassDEP reserves all rights to suspend, modify or rescind this permit, should the conditions of this permit not be met, should the Solar Farm create nuisance conditions or threats to public health, safety or the environment, or should MassDEP otherwise determine that continued post-closure use is negatively impacting the landfill cap or appurtenances.

63. Compliance with submissions required pursuant to this approval shall be determined by the date of receipt by MassDEP or by the postmarked date, whichever is earlier.
64. All verbal notifications shall be followed by written notification within 48 hours of discovery.
65. All submittals to MassDEP shall be certified in accordance with 310 CMR 19.011 Certification and Engineer's Supervision which requires:

(1) Signatories and General Certification. Any application for a permit, authorization to construct, authorization to operate, permit modification, and any determination, certification, report and any other document submitted to the Department pursuant to 310 CMR 19.000, shall be signed by the appropriate responsible official. Any person required by 310 CMR 19.000 or any order or other enforcement document issued by the Department, to submit any document to the Department shall identify himself or herself by name, profession, and relationship to the applicant and legal interest in the facility, and make the following statements:

I, [name of responsible official], attest under the pains and penalties of perjury that:

- (a) I have personally examined and am familiar with the information contained in this submittal, including any and all documents accompanying this certification statement;*
- (b) based on my inquiry of those persons responsible for obtaining the information, the information contained in this submittal is, to the best of my knowledge, true, accurate, and complete;*
- (c) I am fully authorized to bind the entity required to submit these documents and to make this attestation on behalf of such entity; and*
- (d) I am aware that there are significant penalties, including, but not limited to, possible administrative and civil penalties for submitting false, inaccurate, or incomplete information and possible fines and imprisonment for knowingly submitting false, inaccurate, or incomplete information; and*
- (e) (for a responsible official submitting a third-party inspection report pursuant to 310 CMR 19.018(8)(b)1.) The facility [name of facility] provided any information required by 310 CMR 19.018 and requested by the third-party inspector in a timely fashion and any employee or contractor of [name of facility] did not unduly influence the third-party inspector; and*
- (f) (for a responsible official submitting a transfer station certification pursuant to 19.035(4)):*
 - 1. I have accurately stated whether the transfer station is in compliance with its permit and all other applicable requirements in 310 CMR 16.00: Site Assignment Regulations for Solid Waste Facilities and 19.000 including, but not limited to, 310 CMR 19.043;*
 - 2. I have accurately identified any and all violations of 310 CMR 16.00: Site Assignment Regulations for Solid Waste Facilities or 19.000 or the terms and conditions of any permits or other approvals issued thereunder by the Department;*
 - 3. If the transfer station is not in compliance, I have stated what the owner and operator will do to return the transfer station to compliance and the date by which*

compliance will be achieved; and,

4. Plans and procedures to maintain compliance are in place at the transfer station and will be maintained even if processes or operating procedures are changed.

(2) Engineering Supervision. 310 CMR 19.011(2) does not apply to any documents submitted to the Department pursuant to 310 CMR 19.018. All papers pertaining to design, construction, operation, maintenance, or engineering of a site or a facility shall be completed under the supervision of a Massachusetts registered professional engineer knowledgeable in solid waste facility design, construction and operation and shall bear the seal, signature and discipline of said engineer. The soils, geology, air modeling, air monitoring and groundwater sections of an application or monitoring report shall be completed by competent professionals experienced in the fields of soil science and soil engineering, geology, air modeling, air monitoring and groundwater, respectively, under the supervision of a Massachusetts registered professional engineer. All mapping and surveying shall be completed by a registered surveyor.

66. Unless otherwise directed herein, all submissions required pursuant to this permit shall be sent to:

Section Chief, Solid Waste Management
Department of Environmental Protection
436 Dwight Street
Springfield, MA 01103

This Permit is being issued as a Final Permit. Pursuant to 310 CMR 19.033(5):

(a) Appeal. 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 permit decision in accordance with the provisions of M.G.L. c. 111, § 150A and M.G.L. c. 30A no later than 30 days following the date 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 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 final permit decision by a court of competent jurisdiction, the final permit decision shall be effective in accordance with 310 CMR 19.033(3).

(b) Notice of Action. 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 the Department file number 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 the Department and the Regional Director for the regional office which processed the permit application, if applicable, at least five days prior to the filing of an appeal.

(c) 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 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.

The MassDEP File Number for this Permit is 16-152-001C. The appropriate addresses to which to send such notices are:

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

Michael J. Gorski
Regional Director
Department of Environmental Protection
436 Dwight Street
Springfield, MA 01103

If you have any questions about this matter, please contact Charles Clines of this office at 413-755-2120.

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.

Daniel Hall
Section Chief, Solid Waste Management

DH/CAC/cac
1521modsolar.0816

Certified Mail 7016 0340 0000 4822 5330, Return Receipt

cc: Lindsay Carol, Trustee, Leonard H. Peters Trust, PO Box 74, Lenox, MA 01240
Leonard H. Peters, c/o Jacklyn Peters, 79 S. Fifth Street, Bethpage, NY 11714
The Housatonic Railroad Company, Inc., PO Box 1146, Canaan, CT 06018
Tim Doherty, Director of Rail Programs & Transit Division, MassDOT, 10 Park Plaza,
Suite 4160, Boston, MA 02116
Valley Mill Corporation, c/o Steven Garrity, 95 Marble Street, PO box 388,
Lee, MA 01238
Board of Health, Town of Lenox, 6 Walker Street, Lenox, MA 01240
Lenox Willow Creek Solar, LLC, 111 Speen ST., Suite 410,
Framingham, MA 01701
Robert J. Bukowski, PE, AMEC Massachusetts, Inc., 271 Mill Road,
Chelmsford, MA 01824