



Commonwealth of Massachusetts  
Executive Office of Energy & Environmental Affairs

## Department of Environmental Protection

Southeast Regional Office • 20 Riverside Drive, Lakeville MA 02347 • 508-946-2700

DEVAL L. PATRICK  
Governor

RICHARD K. SULLIVAN JR.  
Secretary

KENNETH L. KIMMELL  
Commissioner

November 1, 2013

Sharon Lynn, Town Manager  
Town of Provincetown  
260 Commercial Street  
Provincetown, MA 02657

and

Mr. Jonathan Wienslaw  
Broadway Renewable Strategies, LLC.  
295 Freeport Street  
Dorchester, MA 02112-3592

RE: Approval with Conditions  
Application for: BWP SW 36 Post-Closure Use - Major  
0.153 Megawatt Solar Photovoltaic Array  
Transmittal No.: X256453

AT: Provincetown Landfill/Transfer Station  
90 Race Point Road  
Provincetown, Massachusetts  
Facility ID No.: 39651  
Landfill Regulated Object No.: 172863  
Transfer Station Regulated Object No.: 319156

Dear Ms. Lynn and Mr. Wienslaw:

The Massachusetts Department of Environmental Protection, Solid Waste Management Section (the "MassDEP"), has completed its review of the referenced Post-Closure Use permit application (the "Application") for the Town of Provincetown Sanitary Landfill (the "Landfill"). The Application was prepared and submitted on behalf of the Town of Provincetown (the "Town") and Broadway Renewable Strategies, LLC. of Dorchester, Massachusetts, ("BRS") by Lynnfield Engineering, Inc. ("LEI") of Danvers, Massachusetts (the "Engineer").

MassDEP has determined the Application is administratively and technically complete and hereby **Approves** the Post-Closure Use of the Landfill site for a 0.153 megawatt ("mW") solar photovoltaic ("PV") array, subject to conditions as specified herein.

## **I. SUBMITTALS:**

MassDEP has reviewed the Application pursuant to 310 CMR 19.000: *Solid Waste Regulations*, 310 CMR 19.143: *Post-Closure Use of Landfills* and MassDEP's *Landfill Technical Guidance Manual*, May 1997 (the "Manual"). The Application consists of the following:

- A. A bound document entitled "Application BWP SW36, Post Closure Use-Major, Town of Provincetown Sanitary Landfill, 90 Race Point Road, Provincetown, Massachusetts, Transmittal No. X256453", containing an application transmittal form, completed application forms, a narrative describing the proposed post closure use prepared by LEI, structural calculations performed by Schneider Structural Engineers, five engineering drawings and other related information, received by MassDEP on October 8, 2013.
- B. Supplemental Application information prepared by LEI, dated October 17, 2013, consisting of a LEI cover letter, responses to MassDEP's comments provided to LEI on October 11, 2013, and Drawing PV-3.
- C. Supplemental Application information prepared by LEI, dated October 21, 2013, and received by MassDEP on October 22, 2013, in response to MassDEP's comments e-mailed to LEI on October 18, 2013, including a bound document entitled "Supplemental Transmittal No. 1, Application BWP SW36, Post Closure Use-Major, Town of Provincetown Sanitary Landfill, 90 Race Point Road, Provincetown, Massachusetts, Transmittal No. X256453", containing an application transmittal form, completed application forms, a narrative describing the proposed post closure use prepared by LEI, structural calculations performed by Schneider Structural Engineers, revised Site Plan C-2, and other related information.

The Application and site plans bear the signature and seal of Richard Barthelmes, Massachusetts Registered Professional Engineer No. 33017. The structural calculations and drawings bear the signature and seal of Ronald H. Schneider, Massachusetts Professional Engineer No. 45127. The electrical drawings bear the signature and seal of Lawrence A. Farrer, Massachusetts Professional Engineer No. 30388.

## **II. SITE DESCRIPTION:**

The Town of Provincetown Landfill ("Landfill") is a closed and capped, unlined landfill located at 90 Race Point Road in Provincetown, Massachusetts. A solid waste transfer station currently operates on a 7.2 acre parcel of land located east of the Landfill that was site assigned by the Provincetown Board of Health on June 5, 1996. The transfer station has been in operation since 1994 and currently operates under an Authorization to Operate permit issued on March 13, 2000. The proposed PV array will be constructed adjacent to the Landfill on the transfer station land parcel.

The PV array area is generally bound northerly by the Provincetown Transfer Station and undeveloped woodlands of the Cape Cod National Seashore, southerly and westerly by the Landfill, the Cape Cod National Seashore, and State Highway Route 6, and easterly by woodlands of the Cape Cod National Seashore, and commercial property along Race Point Road.

### **III. POST-CLOSURE USE PROPOSAL SUMMARY:**

The Town is the owner of the Landfill and transfer station and has entered into an agreement with BRS to develop a 0.153 mW solar photovoltaic ("PV") array installation on the transfer station property adjacent to the Landfill. Hereinafter, BRS and the Town shall be referred to as the "Applicants". BRS and all construction and maintenance personnel associated with the project shall be referred to as the "Applicant's Contractors". The Applicants are proposing to construct and maintain a PV array consisting of the following components, which will be constructed outside the limits of the Landfill final cover system:

- Approximately 528 PV modules (Suntech STP290-24/VD 290w) installed on Schletter ground mounted structures (driven posts);
- Electrical equipment concrete pads, which will hold electrical equipment, including an two inverters;
- One 100 kW inverter and one 35 kW inverter (Advanced Energy);
- Electrical connections between the photovoltaic panel racks and the electrical equipment pad by conduits installed below ground;
- Overhead wires mounted on new utility poles leading to a pad mounted transformer located at an existing shed at the transfer station.

The solar array will utilize PV modules mounted on Schletter Ground Mount Structures which incorporate vertical posts driven approximately 60 inches below grade to support the PV array racking system. The PV array will use polycrystalline PV modules laid out in panels, 2 modules high and 11 modules wide (panel layout 2 x 11). The modules and the associated racking will be approximately 30 inches above grade in the front and 109 inches in the rear. The rows of PV panels will be oriented east-west and the racking system will hold the panels at a fixed tilt of 30 degrees from horizontal. MassDEP is requiring that the Applicants verify the limits of waste and Landfill final cover system prior to installation of the PV array racking system (**refer to condition #7**).

Array grounding details are provided on drawing PV-3, submitted on October 18, 2013. Individual support racks will be bonded together using a #8 bare copper conductor. Each raceway will contain an equipment grounding conductor connected to all non current carrying equipment. Three-quarter inch by 10 foot copper clad grounding rods will be installed vertically at the concrete transformer support pads located outside the limits of the Landfill final cover system and at the base of the pole at the point of common coupling. No electrical/grounding equipment will penetrate the HDPE flexible membrane layer or compromise the integrity of the adjacent final cover system (**refer to conditions # 11 and #12**).

Underground conduit will run from the PV arrays to the pad mounted electrical equipment. All subsurface utility conduit proposed for the project must be designed for a subsurface environment with the potential for elevated concentrations of methane (i.e. methane concentration in soil should be assumed to be above the Lower Explosive Limit ("LEL")). The Applicants are required to submit a final design plan prior to installation of subsurface conduits (**refer to condition #12**).

Reinforced concrete pads will be located outside the limits of the Landfill final cover system to support the inverters. A new utility pole will be installed adjacent to the inverter pad to support electrical cutouts. Power will run from this pole along overhead wires across three additional new utility poles and then to a pad mounted transformer, meter and disconnect switch located adjacent to an existing service shed at the transfer station.

The Application included a Construction Control Affidavit for Electrical Work signed and sealed by the electrical engineer, Lawrence A. Farrer, certifying that the electrical installation will be designed and installed in compliance with the applicable provisions of the Massachusetts Electrical Code. Upon completion of the project, a Final Report will be submitted to the Applicants by the electrical engineer. A copy of the report must be submitted to MassDEP (**refer to condition #6**).

Geotechnical Analysis: The Application included a geotechnical evaluation for the installation of the PV array and supporting structures performed by Schneider Structural Engineers (“SSE”). SSE evaluated the proposed racking system design based on the strength of the racking system components and results of field tests performed by Terracon Consultants, Inc., consisting of on-site pull out and lateral load testing of the proposed support posts.

Storm Water: LEI stated that the post mounted racking system will not increase the impervious area. LEI evaluate the suitability of the existing storm water management system for the proposed post-closure and concluded that the project is not anticipated to have any impact on the capacity of the stormwater management system at the site.

Post Closure and Post-Closure Use Operations and Maintenance: In accordance with a Landfill Post Closure Operations and Maintenance Plan dated October 1994, the Town performs post closure monitoring of the Landfill. Currently, Environmental Partners Group monitors a soil-gas monitoring network consisting of nine subsurface gas monitoring wells (SG-1 through SG-9) on a quarterly basis, on behalf of the Town. The Town is to continue to perform all post closure Landfill maintenance and environmental monitoring (groundwater, surface water and soil-gas monitoring). The Applicants’ proposed no changes to the post closure monitoring plan.

Historical soil-gas monitoring has revealed routine subsurface landfill gas level exceedances of 25% of the Lower-Explosive-Limit (“LEL”) at the monitoring location designated as SG-7, located on the southwest corner of the transfer station and east of the Landfill limits of waste and final cover system. The extent of migration has been established using monitoring location SG-2, located at the Landfill’s eastern property line, the current point-of-compliance. Historical soil-gas monitoring at SG-7 has revealed that landfill gas migration has not reached the Landfill/Transfer station property line at that location.

LEI stated that there are no gas probes or groundwater monitoring wells in the lease area. Due to the close proximity of the proposed PV array system to the area of historical landfill gas migration detected at SG-7, MassDEP is requiring that additional soil-gas monitoring wells be installed and monitored on a quarter basis (**refer to condition #4**).

A Health and Safety Plan (“Plan”) was prepared for the project by LEI, to assist in the protection of personnel during the PV array installation, operation, and maintenance. LEI states that the Plan is intended to comply with the requirements of the Occupational Safety and Health Administration (“OSHA”) regulations 29 CFR sub-section 1910.120(b)(1) and 29 CFR 1926.651. MassDEP is requiring that this plan be evaluated for the site specific conditions and implemented during construction and operation of the PV array (**refer to condition #8**).

Site Security: PV array security will be provided by a new 6’-0” high chain link fence installed around the PV array and electrical equipment. LEI stated that the fence will be installed after installation of the PV array but that electrical energization of the system will not take place until such time as the security fence is in place (**refer to condition #13**).

Decommissioning Plan: BRS has a Lease and Energy Services Agreement with Cape and Vineyard Electrical Cooperative, Inc. (“CVEC”), which is the entity purchasing power for the project. The agreement allows for operation of the solar array for up to 20 years. BRS can renew the lease or decommission and remove all components of the PV array from the Landfill/Transfer Station including solar panels, mounting substrates, system foundations, wiring and connections, power inverters, servicing metering equipment, and the utility connection. The Landfill/Transfer Station will be left in similar condition to pre-installation in compliance with applicable regulations and permits in effect (**refer to condition # 14**).

#### **IV. PERMIT DECISION:**

MassDEP, having determined the information in the Application is satisfactory and in accordance with its authority granted pursuant to M.G.L. c.111, s. 150A, and 310 CMR 19.000, hereby **APPROVES** the Post-Closure Use of the Provincetown Landfill site for the proposed Solar Photovoltaic Array subject to the conditions identified herein.

#### **V. GENERAL PERMIT CONDITIONS:**

- 1) Permit Limitations: The issuance of this approval is limited to the proposed solar photovoltaic array at the Provincetown Landfill as detailed in the Application and does not relieve the Applicants from the responsibility to comply with all other regulatory or permitting requirements. Post-Closure Use construction shall proceed in complete compliance with the approved plans, MassDEP's regulations and requirements, the Manual or as required by this Approval. There shall be no deviation from this Approval without prior consent from MassDEP. MassDEP shall be consulted prior to any deviation from the approved design. MassDEP may require a permit modification application for significant design modifications. Construction shall incorporate all the recommendations of the design engineers.
- 2) Regulatory Compliance: The Applicants, Engineers and Applicants' Contractors shall fully comply with all applicable local, state and federal laws, regulations and policies, by-laws, ordinances and agreements. This includes but is not limited to, 310 CMR 19.142: *Post-Closure Requirements*, 310 CMR 19.143: *Post-Closure Use of Landfills*, and 310 CMR 19.043: *Standard Conditions*. Applicable federal regulations include, but are not limited to, 29 CFR Part 1910, OSHA standards governing employee health and safety in the workplace

and all applicable local, state and federal electrical codes and permits, including National Electrical Code (NEC).

- 3) Notification of Construction: The Applicants shall notify MassDEP in writing (e-mail is acceptable) when the post-closure use construction commences and again when construction work is completed.
- 4) New Soil Gas Probe Requirements: The Applicants shall install and monitor two new soil-gas monitoring wells in the vicinity of the proposed PV array prior to installation of the underground cable conduits. One soil-gas monitoring well shall be installed between existing soil gas monitoring well SP-7 and the PV array. The second soil gas monitoring well must be installed between the limit of the Landfill final cover system south of the proposed PV array, as shown on Drawing C-2, and the proposed PV array.

The soil-gas monitoring wells shall be installed in accordance with MassDEP's Landfill Technical Guidance Manual and designated as SP-8 and SP-9. A well construction diagram and proposed location plan shall be submitted to MassDEP prior to installation. SGP-8 and SP-9 shall be considered components of the soil-gas monitoring network upon installation and must be monitored on a quarterly basis.

Should SP-8 or SP-9 indicate the presence of landfill gas at a level greater than 25% of the Lower Explosive Limit ("LEL"), the Applicants shall notify MassDEP within 24 hours. MassDEP may require the installation of additional soil gas monitoring wells to determine the extent of subsurface landfill gas migration or corrective actions (**refer to condition 5**).

5) Landfill Gas Notification Requirements:

- a. As specified in solid waste management regulations at 310 CMR 19.132 (4) (g),

*"When, at any time, the concentration of explosive gases exceeds 10% of the lower explosive limit (LEL) in any building, structure, or underground utility conduits, excluding gas control, gas recovery and leachate collection system components, the owner/operator shall:*

- 1. Take immediate action to protect human health and safety;*
- 2. Notify the Department within two hours of the findings; and*
- 3. Undertake the actions specified under 310 CMR 19.150, Landfill Assessment and 310 CMR 19.151: Corrective Action, as required by the Department."*

- b. If at any time monitoring detects the presence of any combustible gases at or in excess of 10% of the lower explosive limit at any location within a building or within any utility conduits on site or off-site, the Town shall notify MassDEP's Bureau of Waste Site Cleanup-Emergency Response Section via MEMA (888-304-1133 within two (2) hours of the exceedance as per 310 CMR 40.0321(1) (a) of the regulations.
- c. As specified in the Solid Waste Management regulations at 310 CMR 19.132(4)(h):

*(h) Except in buildings, structures and underground utility conduits for which 310 CMR 19.132(4)(g) applies, when at any time the concentration of the explosive gasses exceeds 25% of the lower explosive limit (LEL) at the property boundary or beyond, excluding gas control, gas recovery or leachate collection system components, the owner/operator shall:*

- 1. take immediate action to protect human health and safety;*
- 2. notify the Department within **twenty-four (24) hours** of the finding; and*
- 3. undertake the actions specified under 310 CMR 19.150, Landfill Assessment and Corrective Action, as required by the Department.*

6) Certification Report: Within ninety (90) days of completing the installation of the PV array, MassDEP shall be provided with a certification report. All construction work shall be completed under the supervision of a Massachusetts Registered Professional Engineer who shall have sufficient staff on-site to provide quality assurance/quality control (QA/QC) oversight for all construction work at the Landfill/Transfer Station. The report shall include, at a minimum, written certification from the supervising engineer that the project was performed in accordance with MassDEP regulations, requirements and the approved Post-closure Use permit application. The report shall include as-built drawings depicting all pertinent site features, the four soil gas probes in the vicinity of the PV array, and the extent of the "solar array area". The Certification Report shall include a copy of the Final Report prepared by the electrical engineer.

7) Preconstruction Work: Prior to commencement of construction activities, all Landfill gas vents, Landfill soil-gas monitoring wells, groundwater monitoring wells and other existing above ground structures and appurtenances in the vicinity of the PV array shall be flagged for visibility, and protective barriers shall be placed around such structures, as needed, to prevent damage by vehicles accessing the area.

Application Drawing C-2 indicates the approximate limits of the Landfill final cover system. Prior to driving the posts for the PV array racking system, the Applicants must dig test pits on the south and east side of the array area to demonstrate that the PV array and security fence are outside the limits of the Landfill final cover system and any waste that may have remained uncapped outside the limits of the Landfill final cover system.

8) Health and Safety: The Applicants, Engineers and Applicant's Contractors are responsible to ensure all necessary precautions are taken to protect the health and safety of workers and the general public during both the construction phase and during the operation and maintenance phase of the post-closure use.

A site specific Health and Safety Plan was submitted in the Application. The Applicants shall review the plan to ensure it adequately addresses the following:

Construction phase:

- protocols for monitoring of landfill gas as needed,

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

Operations phase:

- protocols for monitoring of landfill gas as needed,
- protocols for modifying work practices if landfill gas is detected at levels deemed unsuitable,
- training for all workers including town workers conducting maintenance activities at the Landfill regarding hazards associated with the landfill gas and the PV array, including electrical hazards, and
- the plan shall specifically address work related to maintenance of vegetation beneath the array and in the stormwater swales located in the array area.

- 9) Personnel Training: The Applicants and the Applicants' Contractors shall instruct all construction and maintenance personnel regarding the potential hazards associated with landfill gas and shall instruct or give on-the-job training to all personnel involved in any activity authorized by this permit. Such instruction or on-the-job training shall teach personnel how to comply with the conditions of the permit and carry out the authorized activity in a manner that is not hazardous to public health, safety, welfare or the environment. PV array construction and operation and maintenance shall not include any excavations or penetrations of the Landfill final cover system.
- 10) Construction Precautions: All excavations and construction shall be supervised by a Massachusetts Registered Professional Engineer who shall have sufficient staff on-site to provide oversight for all construction work. All necessary precautions shall be taken to protect the Landfill storm water control system, environmental monitoring network, gas vents, and other on site structures. All operators of vehicles entering the area should be clearly instructed by the on-site engineer and/or the Applicant's Contractor of the permit requirements to avoid damage to the Landfill components. If any damage occurs to any Landfill components, the Applicant's Engineer shall notify MassDEP within 24 hours and provide a written plan with a schedule for repairs. The Applicant, Engineers and Applicant's Contractors are responsible to ensure that utilities/structures will not accumulate landfill gas during construction and operation.
- 11) Integrity of the Final Cover System: No disturbances of the Landfill were depicted or described within the Application and approved plans. No excavations shall penetrate the vegetative support layer, sand drainage layer, the low permeability soil layer, or the flexible membrane layer without written approval by MassDEP.
- 12) Proposed Conduit/ Inverter/Transformer Pad and Interconnection Equipment: All underground conduits shall be designed and installed as gas-tight, given the potential for landfill gas in the soils. **Prior to installation of subsurface conduits**, the Applicants shall submit final design plans for the conduit installation for MassDEP and written approval. If



the Applicants or Applicant's Contractors propose to change the electrical equipment a copy of the final design for the inverter/transformer pad and any other electrical pads and protective switchgear (interconnection equipment) proposed on-site shall be submitted to MassDEP for review and approval. The Applicant, Engineers and Applicant's Contractors are responsible to ensure that utilities/structures will not accumulate landfill gas during construction and operation. There shall be no penetrations (utility, conduits or other) at the base of any concrete pads or foundations which lead to equipment mounted directly on the pad.

- 13) Site Security: Pursuant to 310 CMR 19.130(23) the Town is required to provide sufficient fences or other barriers to prevent unauthorized access to the Landfill. In addition, the Applicants and Applicant's Contractors must continually monitor and evaluate the potential for unauthorized access to the PV Array area and institute all appropriate measures to prevent unauthorized access during construction and operation of the PV Array. During annual transfer station inspections, the PV array shall be inspected from the security fence line and the condition of the PC array system reported in the Transfer Station inspection reports.
- 14) Decommissioning Plan: If the proposed project is abandoned, during or after completion of construction, the Applicants shall submit a decommissioning plan. The decommissioning and site restoration plan should include dismantling and removal of all panels and supporting equipment, transformers, overhead cables, foundations and buildings and restoration of the roads to restore the Site to substantially the same physical condition that existed prior to Post-Closure Use construction. Disturbed earth shall be graded and seeded.
- 15) Entries and Inspections: In accordance with *310 CMR 19.043: Standard Conditions*, MassDEP and its agents and employees shall have the right to inspect the Landfill and any equipment, structure or land located thereon, take samples, recover materials or discharges, have access to and photocopy records, to perform tests and to otherwise monitor compliance with this permit and all environmental laws and regulations.
- 16) Reservation of Rights: MassDEP reserves the right to require additional assessment or action, as deemed necessary to protect and maintain an environment free from objectionable nuisance conditions, dangers or threats to public health, safety and the environment. MassDEP reserves all rights to suspend, modify or rescind this permit if it determines the PV array results in a threat to public health, safety or the environment.

This approval pertains only to the Solid Waste Management aspects of the proposal and does not negate the responsibility of the owners or operators to comply with any other local, state or federal laws, statutes and regulations or enforcement actions, including orders issued by another agency now or in the future. Nor does this approval limit the liability of the Applicants, owners or otherwise legally responsible parties from any other applicable laws, statutes or regulations now or in the future.

### **Review of Decision**

Pursuant to 310 CMR 19.037(4)(b), if the Applicants are aggrieved by MassDEP's decision to issue this Permit, they may, within twenty-one days of the date of issuance, file a written request that the decision be deemed provisional and a written statement of the basis on which the

Applicants believe they are aggrieved, together with any supporting materials. Upon timely filing of such a request, the decision shall be deemed a provisional decision with an effective date twenty-one days after MassDEP's receipt of the request. Such a request shall reopen the administrative record, and MassDEP may rescind, supplement, modify, or reaffirm its decision. If MassDEP reaffirms its decision, the decision shall become final on the effective date. Failure by the Applicants to exercise the right provided in 310 CMR 19.037(4)(b) shall constitute waiver of the Applicants' right to appeal.

## **RIGHT OF APPEAL**

**Right to Appeal** – This approval has been issued pursuant to M.G.L. Chapter 111, Section 150A, and 310 CMR 19.037: Review Procedures for Permit Modifications, Permit Renewals and other Approvals, of the “Solid Waste Management Regulations”. Pursuant to 310 CMR 19.037(5), any person aggrieved by the issuance of this determination may file an appeal for judicial review of said decision in accordance with the provisions of M.G.L. c. 111, § 150A and M.G.L. c. 30A not later than thirty (30) days following receipt of the final permit. The standing of a person to file an appeal and the procedures for filing such an appeal shall be governed by the provisions of M.G.L. c. 30A. Unless the person requesting an appeal requests and is granted a stay of the terms and conditions of the permit by a court of competent jurisdiction, the permit decision shall remain effective or become effective at the conclusion of the thirty (30) day period.

**Notice of Appeal** - Any aggrieved person intending to appeal a grant of a permit to the Superior Court shall first provide notice of intention to commence such action. Said notice of intention shall include the MassDEP transmittal number X256453 and shall identify with particularity the issues and reason why it is believed the permit 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 permit application at least five days prior to the filing of an appeal.

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

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

No allegation shall be made in any judicial appeal of a 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.

Please direct any questions regarding this matter to me at (508) 946-2847 or Dan Connick (508) 946-2884 or write to the letterhead address.

Very truly yours,

Mark Dakers, Chief  
Solid Waste Management Section

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cc: Provincetown Health Department  
[bcarlson@provincetown-ma.gov](mailto:bcarlson@provincetown-ma.gov)

Provincetown Building Commissioner  
[rbraun@provincetown-ma.gov](mailto:rbraun@provincetown-ma.gov)  
[ahoward@provincetown-ma.gov](mailto:ahoward@provincetown-ma.gov)

Lynnfield Engineering, Inc  
[rbarthelmes@lynnfieldeng.com](mailto:rbarthelmes@lynnfieldeng.com)

Environmental Partners Group  
[mnw@envpartners.com](mailto:mnw@envpartners.com)

DOER, Seth Pickering  
[Seth.Pickering@state.ma.us](mailto:Seth.Pickering@state.ma.us)

DEP-Boston  
ATTN: J. Doucett  
S. Weinstein  
T. Potter

DEP- SERO  
M. Pinuad  
L. Black  
J. Viveiros