



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

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December 4, 2015

Mr. Aidan Foley
Blue Wave Capital LLC
75 Arlington Street, Suite 500
Boston, MA 02116

RE: Revised Approval with Conditions
Application for: BWP SW 36 Post-Closure Use - Major
Ground Mounted Solar Photovoltaic (PV) Array
Transmittal #: X263935

AT: Former Rehoboth Landfill
Plain Street
Rehoboth, Massachusetts
Facility ID#: 39665 Regulated Object#: 172877

Dear Mr. Foley:

The Massachusetts Department of Environmental Protection, Solid Waste Management Section (the "MassDEP"), has completed its Administrative and Technical review of the referenced Post-Closure Use permit application (the "Application") for the Former Rehoboth Landfill (the "Landfill").

MassDEP has determined the Application and supplemental submittals are administratively and technically complete and hereby **Approves** the Post-Closure Use of the Landfill for a 2.49 megawatt ("MW") solar photovoltaic ("PV") array subject to conditions as specified herein.

MassDEP previously issued an Approval with Conditions for the Application on March 10, 2015. Conditions of that approval required the submittal of supplementary information. The required information has been submitted and based on its review of this information MassDEP is re-issuing its approval with revised conditions.

MassDEP acknowledges that Blue Wave Capital LLC, the original applicant, has or will be transferring the ownership and operation of the Rehoboth landfill PV Array to NRG Renew, LLC.

Any such transfer of ownership must be conducted in accordance with the provisions of 310 CMR 19.044, *Transfer of Permits*, using a BWP SW 49 application form.

I. SUBMITTALS:

The Application consists of the following:

- A. The permit transmittal and application forms for Post-Closure Use - Major (BWP SW 36), a narrative describing the proposed use, engineering calculations performed by Coneco Engineers and Scientists (the “Engineer”) and eight engineering drawings received by MassDEP on November 26, 2014.

- B. Supplemental Application information prepared by the Engineer, consisting of responses to MassDEP’s comments, received by MassDEP on January 23, 2015 and March 9, 2015.

The November 26, 2014, Application and design drawings are signed and stamped by Kevin E. McHugh, Massachusetts Registered Professional Civil Engineer No. 45196. Geotechnical drawings and calculations and drawings are stamped by John Culver Sink, Massachusetts Registered Professional Engineer No. 30097. One electrical drawing is stamped by David J. Colombo, Massachusetts Registered Professional Electrical Engineer No. 40426.

The Application included correspondence from the Rehoboth Town Administrator dated January 8, 2015, stating that the Town of Rehoboth entered into a 20 year lease agreement with Blue Wave Capital LLC allowing Blue Wave Capital to design, construct, operate and maintain a PV array facility at the Landfill.

Note: On March 10, 2015, MassDEP issued an Approval with Conditions regarding the Application. Conditions 2, 17 and 18 of that approval required submission of additional design information related to the electrical equipment and the equipment support pads.

- C. Supplemental Application information including revised project drawings in response to the Conditions of MassDEP’s March 10, 2015, Approval with Conditions, received by MassDEP on August 14, 2015.
- D. Supplemental Application information including 30 electrical drawings prepared by Conti Enterprises, Inc and 4 Gamechange Structural Drawings received on October 26, 2015.
- E. Supplemental Application information submitted by the Engineer via e-mail including an equipment pad drawing by Conti Enterprises, Inc, dated 11/03/2015.
- F. Supplemental Application information including 2 General Notes Drawings, 3 Construction Detail Drawings, one structural drawing and 31 Electrical Drawings by Conti Enterprises, Inc, received on November 17, 2015.

- G: Drawing clarification e-mail submitted by the Engineer on December 4, 2015.

II. APPLICATION REVIEW AND DECISION PROCESS:

The Application was submitted and reviewed pursuant to the provisions of 310 CMR 19.029(2): Applicable Permit Procedures and 310 CMR 19.033: *Permit Procedure for an Application for a Permit Modification or Other Approval*. According to these review procedures, MassDEP's decision regarding the proposed activities shall be either: a "Provisional Decision" pursuant to 310 CMR 19.033(4)(a); or a non-provisional decision pursuant to 310 CMR 19.033(4)(b). MassDEP has determined that non-provisional decision is appropriate for this Application.

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").

III. SITE DESCRIPTION & INVESTIGATIONS:

The unlined, capped Landfill is located off of Plain and Martin Streets. The Landfill site is comprised of a single parcel that consists of +/- 20.87 acres and is situated east of Plain Street and north of Martin Street. The subject PV array site is a leased area of approximately 18.3 acres.

The Landfill site was former gravel pit which was later used as a landfill from 1974 to 1995 and closed in 1996. The Town operates a municipal solid waste transfer station for Rehoboth resident use located at the west end of the Landfill, partially above the Landfill final cover system. A security fence will be installed between the transfer station and the PV array.

The final cover system was constructed in 1996 and consisted of the following component

- 12 inches of gas venting layer sand with minimum hydraulic conductivity of 1×10^{-4} cm/sec; overlain by
- a 40 mil high density polyethylene (HDPE) flexible membrane barrier layer; overlain by
- a geocomposite (geonet with non-woven fabric on each side) drainage layer; overlain by
- a 12 inch sand drainage with a minimum hydraulic conductivity of 1×10^{-1} cm/sec; overlain by
- a 6 inch soil vegetative support layer with a maximum hydraulic conductivity of 5×10^{-4} cm/sec; overlain by
- a 6 inch topsoil (loam), vegetative growth layer.

IV. POST-CLOSURE USE SOLAR ARRAY PROPOSAL SUMMARY:

The Town of Rehoboth ("Town") is the owner of the Landfill and entered into a lease agreement with Blue Wave Capital to develop a 2.49 MW solar photovoltaic ("PV") array installation on the Landfill. Hereinafter, Blue Wave Capital shall be referred to as the "Applicant". The Applicant and all construction and maintenance personnel associated with the solar photovoltaic

installation on the Landfill shall be referred to as the "Applicant's Contractors". MassDEP acknowledges that Blue Wave Capital LLC, the original applicant, has or will be transferring the ownership and operation of the Rehoboth landfill PV Array to NRG Renew, LLC.

PV Array Design:

The PV array proposed to be constructed on the capped Landfill consists of the following components: *(revised from March 10, 2015 approval)*

- Approximately 7,668 – 320-watt solar modules located above the Landfill final cover system;
- one inverters (1670 kW) located off the Landfill final cover system;
- one transformer with switchgear located off the Landfill final cover system;
- new utility poles located off the Landfill final cover system;
- a new access road above the Landfill final cover system for post construction PV array maintenance; and
- a security fence.

The ground mounted PV array is to be constructed on areas of the Landfill with a maximum slope of 13 percent. The PV array will utilize RECOM “Amur Leopard” PV modules (78 inches by 39 inches). The modules will be laid out in strings 2 modules high and 9 modules long (module layout 2x9) and be with oriented east-west rows and with the modules facing south.

Modules will be mounted on a GameChange Racking, LLC ground racking system, which utilizes galvanized steel posts, aluminum mounting rails, and 1132 pour-in-place tubs. Each tub is filled with concrete after installing and adjusting the racking system and prior to installation of the modules. There will be no penetration of the Landfill final cover system. All concrete will be pumped from concrete trucks located off the Landfill final cover system.

The racking system will hold the panels at a fixed tilt of 20 degrees from horizontal. The racks will be placed to avoid interference with access roads, the passive landfill gas collection extraction vents and all storm water control features. The existing elevation and grade of the Landfill will not be altered. A ten foot separation will be maintained between the existing Landfill passive gas vents and the modules and pad mounted electrical equipment.

All electrical wiring will be installed in 12 inch wide or 24 inch wide cable trays, as required, mounted above grade in all areas above the Landfill final cover system. Wiring will transition to PVC schedule 80 underground conduit outside the limits of the Landfill final cover system.

Three reinforced concrete equipment pads will be constructed outside the limits of the Landfill final cover system at the southwest side of the Landfill. One pad will support one transformer and one inverter. The second pad will support the switchgear, and a third pad will support an air core reactor. No grounding rods will penetrate the Landfill final cover system.

New utility poles will be installed outside the limits of the landfill final cover system to facilitate connection of the PV array to the power grid. There will be no penetration of the Landfill final cover system.

As a condition of this permit, all electrical work will be designed in accordance with the most recent versions of the Massachusetts Electrical Code and electrical permits will be secured from the local building official.

Bearing Capacity, Settlement, and Stability:

The Application included a geotechnical evaluation for the installation of the array and supporting structures.

The Application included an analysis of the foundations for the PV array that will bear directly on the final cover system and has considered the dead load, snow load and wind loading. The results of the geotechnical evaluation are as follows;

- The modules, ballasts, and footings do not exceed loading criteria for the Landfill.
- The solar array will not cause adverse landfill settlement.

The anticipated maximum loading scenario (ballasts, racking system, modules and snow) on the Landfill surface will result in a maximum bearing pressure of 200 pounds per square foot (psf) (approximately 1.4 psi). Settlement analysis performed for the ballasts bearing on the final cover estimated the settlement as 1.5 inches.

A sliding stability evaluation was performed for the ballasts. A minimum safety factor of greater than 3.5 was calculated and deemed to be acceptable.

Access Road:

There are no existing access roads on the Landfill. One new access road will be constructed to service light weight (<10,000 pounds) post-construction maintenance vehicles. The access road will be constructed to be 15 feet wide and consist of a geotextile placed above the existing final cover system and overlain with a minimum of 8 inches of MassDOT M1.03.0 Type C compacted gravel borrow. Prior to road construction, hand dug test pits will be excavated on 100 foot intervals to verify that the existing final cover system soils are consistent with the previously approved Landfill closure plans and the assumed depths carried in the road design calculations. As a condition of this permit, the proposed 8 inch minimum gravel layer must be supplemented with additional soil, if necessary, to achieve the assumed depths in the design calculations.

As a condition of this permit, during construction of the PV array, low ground pressure vehicles (<7psi) will be permitted to travel over the Landfill final cover surface and throughout all stages of construction, the landfill cap must continually be monitored for any signs of damage or stress. A final inspection of the Landfill surface must also be performed at the conclusion of the PV array construction project and any areas of concern will be repaired.

Storm Water:

The potential stormwater impacts of the placement of solar panels over the landfill final cover system were evaluated using HydroCAD modeling of the pre-development and post-development runoff conditions for the 2-year, 10-year, 25-year, and 100-year storm event. The Engineer concluded that the PV array will result in little impact due to the minimal change in post construction runoff.

Site Security: An existing security fence surrounds the existing Landfill including the transfer station area. A new 6 foot high chain link security fence will be installed between the PV array and the transfer station to prevent unauthorized access to the PV array. In areas where the fence will be installed above the Landfill final cover system, the fence will be mounted on a ballast system consisting of angle iron and concrete blocks with no penetration of the landfill final cover system.

Post Closure and Post-Closure Use Operations and Maintenance: There are no proposed changes to the post closure operation and maintenance plan for the area to be maintained by the Town of and not used for the PV array

As a condition of this permit, MassDEP is requiring that, during the first year of operation of the PV array, inspections of the Landfill final cover system be performed on a monthly basis and thereafter quarterly, at a minimum. MassDEP is also requiring that inspections include the condition of the security fencing.

Health and Safety:

As conditions of this permit, MassDEP is requiring that a Solar Array Construction Period Health and Safety Plan and a Post Closure Operations and Maintenance Health and Safety Plan be submitted and that personnel training be provided for employees who access the solar array areas of the Landfill.

Decommissioning Plan: The lease agreement between the Town and Blue Wave Capitol includes operation of the PV array for 20 years including a detailed list of the activities required upon cessation of the PV array operation.

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 Rehoboth Landfill for a 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 Landfill as detailed in the Application and does not relieve the Applicant 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. This approval does not relieve the Town, as the owner of the Landfill, from its responsibility to comply with all post closure monitoring and maintenance requirements for the entire Landfill. 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.

2. Regulatory Compliance: The Town, Applicant, Engineer and Applicant's 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), 2011 Edition, Article 690-"Solar Photovoltaic (PV) Systems", as amended .
3. Inspection and Repair of Settlement Areas: Prior to construction of the PV array, any suspect settlement areas on the Landfill project area shall be surveyed to determine the lowest spot. The surrounding area should be then surveyed to find the "relief point" defined as the lowest surrounding area where ponded water would flow off the cap. The elevation difference is defined as the "pond value". Minor settlement shall be defined as less than a 12 inch pond value. 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 with the pond value. Any future settlement should be recorded cumulatively. If/when the total settlement reaches 12-inches, the area will be considered to have suffered "major settlement" as defined below and appropriate repairs to eliminate ponding shall be performed.

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 Town or Applicant may either:

1. 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
2. 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.

Any proposal to repair minor settlement may be done as routine maintenance, provided that the Applicant's report the settlement to MassDEP and state their intent to perform repairs and provides MassDEP with final survey results and a summary write up.

Any proposal to do major settlement repair must be submitted within a Corrective Action Design (BWP SW 25) permit application, since disruption of the final cover system will take place and repair details must be submitted and approved.

4. Notification of Construction: The Applicant shall notify MassDEP, Southeast regional office solid waste section chief, in writing (e-mail is acceptable) when the post-closure use construction commences and is completed.
5. Certification Report: Within ninety (90) days of completing the installation of the solar photovoltaic array, MassDEP shall be provided with a certification report for MassDEP's records. 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. The report shall be signed and stamped by a Massachusetts-registered professional engineer and 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. Should the Applicant desire a formal review and written approval of the certification report, the Applicant must submit a formal BWP SW 43, landfill Closure Completion application.
6. 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 on the Landfill cap and appurtenances shall be flagged for visibility, and protective barriers shall be placed around such structures, as needed, to prevent damage by vehicles accessing the area.
7. Health and Safety: The Applicant, 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 Solar Array Construction Period Health and Safety Plan shall be developed and submitted to MassDEP (for its files) prior to the beginning of any construction work. The Solar Array Construction Period Health and Safety Plan shall include as a minimum;

- 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.

A site specific Post Closure Operations and Maintenance Health and Safety Plan for the post-closure use period, shall be developed and submitted to MassDEP (for its files) prior to the beginning of any construction work. The Post Closure Operations and Maintenance Health and Safety Plan shall include as a minimum;

- 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 maintenance activities at the Landfill regarding hazards associated with the landfill gas and the PV array, including electrical hazards.
8. Personnel Training: The Applicant, Engineers and Applicant's Contractors shall instruct all construction and maintenance personnel regarding the potential hazards associated with landfill gas and shall give on-the-job training involving in any activity authorized by this permit. Such instruction and on-the-job training shall teach personnel how to comply with the conditions of the permit to carry out the authorized activity in a manner that is not hazardous to public health, safety, welfare or the environment.
9. 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 (508) 946-2850 within two (2) hours of the exceedance as per 310 CMR 40.0321(1) (a) of the regulations.
10. Vehicles Operating on the Landfill Final Cover System: Vehicles operating on the any access road located above the final cover system shall be limited to the following ground pressures based on soil thickness above the geomembrane liner:
- | | |
|----------------------|-------------|
| Soil < 24 inches | no vehicles |
| Soil >= 24 inches | <10 psi |
| Soil 24 to 36 inches | <20 psi |
| Soil >36 inches | >20 psi |

Vehicles operating on the Landfill final cover system shall be low-pressure construction equipment, with ground pressures of **7 psi** or less.

Construction equipment operating off the access road shall limit turning on the vegetative support layer as much as possible. If MassDEP determines the use of any equipment is creating the potential for damage to the final cover system, the usage of such equipment shall immediately cease upon notification by MassDEP. All operators of the vehicles entering the

final cover system area shall be clearly instructed by the on-site engineer and/or the contractor of the requirements of this permit prior to arrival, to avoid damage to the Landfill final cover system components.

A list of equipment used on the Landfill, the Landfill area accessed by the vehicle, and the pressure rating of each vehicle shall be indicated in the certification report.

11. Permanent and Temporary Roads: Equipment shall not access the final cover system from permanent and temporary roads where the transition will result in excessive pressure and wear on the Landfill vegetative service. The on-site engineer may allow the construction of temporary ramps as necessary.
12. Integrity of the Final Cover System: All disturbances of the Landfill shall be limited to the proposed excavations and installations as depicted and described within the Application and approved plans. Excavations shall be limited to the topsoil layer. No excavations shall penetrate the sand drainage layer without written approval by MassDEP. The Engineer and Applicant's Contractors shall ensure that vehicles operating on the Landfill surface do not compromise the integrity of the Landfill final cover system.
13. Construction Precautions: All excavations and construction shall be supervised by a Massachusetts Registered Professional Engineer engaged by the Engineer. All necessary precautions shall be taken to protect the Landfill storm water control system, environmental monitoring network and the Landfill gas vents and other on site structures. All operators of vehicles entering the construction 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. The on-site engineer shall observe the extent of each excavation performed on the Landfill capping system. If any damage occurs to any Landfill components, the Engineer shall notify MassDEP within 24 hours and provide a written plan with a schedule for repairs.
14. Equipment Pad Design: The Equipment Pad with Geomembrane Liner drawing SK-01 by Conti Enterprises LLC shall be revised to include a protective layer of sand or appropriate geotextile between the geomembrane and the underlying soil and a second layer of sand or appropriate geotextile between the geomembrane and the overlying soils.
15. Array Setbacks: The Applicant shall maintain a minimum 10 foot radius buffer between the closest edge of the PV array modules and all Landfill gas vents and a 10 foot radius buffer between the pad mounted electrical equipment and all Landfill gas vents.
16. Enclosures and Combustible Gas Alarms: There shall be no penetrations (utility, conduits or other) at the base of the inverter foundation (the transformer and switchgear pad have conduits that enter the pad above grade). Any enclosures that allow human entry shall have a landfill gas monitor that is fully operational at all times. The monitor shall be calibrated to a methane standard; have an audible and a lighted beacon. At a minimum, the alarm shall be set to sound when the concentration of explosive gases exceeds 10% of the Lower Explosive Limit (LEL).

17. Post-closure Use Operation and Maintenance Plan: During the first year of operation of the PV array, inspections of the Landfill final cover system shall be performed on a monthly basis. Monthly inspection reports shall be submitted to MassDEP within fourteen (14) days of completion. Following the first year of operation of the PV array, inspections of the Landfill shall be performed on a quarterly basis and shall be submitted to MassDEP within fourteen (14) days of completion. Pursuant to 310 CMR 19.018 inspections shall be conducted by a MassDEP listed solid waste professional. The Applicant, Engineer and Applicant's Contractors shall monitor the effectiveness of the site security system and the storm water management system which should include; swales, structures and any and all conveyance systems. MassDEP shall be consulted prior to any deviation from the approved storm water design. MassDEP may require a permit modification application for significant design modifications. Any erosion problems, settlement problems, security or other issues observed at the Landfill shall be reported to MassDEP and repaired immediately.
18. 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. The Town must continually monitor and evaluate the potential for unauthorized access and institute all appropriate measures to prevent unauthorized access during the closure and post-closure period.
19. Transfer – No transfer of this permit shall be permitted except in accordance with the requirements of 310 CMR 19.044. The form established by MassDEP for permit transfers is the BWP SW 49 application form. If at any time, the Applicant for this project does not include a municipal entity, the Applicant shall (or *MassDEP will require the Applicant to*) provide to MassDEP a financial assurance mechanism, in accordance with 310 CMR 19.051, for the costs of decommissioning and site restoration activities.
20. Decommissioning Plan – If the proposed Landfill Solar Photovoltaic Array project is abandoned, during or after completion of construction, the Applicant shall submit to MassDEP for review and prior approval a detailed decommissioning and site restoration plan, which includes, at a minimum: dismantling and removal of all panels and supporting equipment, transformers, overhead cables, foundations and buildings; and restoration of the roads to restore the Landfill to substantially the same physical condition that existed prior to post-closure use construction.
21. 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.
22. 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 solar array compromises the integrity of the final cover system and/or results in a threat to public health, safety or the environment.

This approval pertains only to the Solid Waste Management aspects of the proposal 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 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 19.033(4)(b), if the Applicant is aggrieved by MassDEP's decision to issue this decision, it 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 Applicant believes it is aggrieved, together with any supporting materials. Upon timely filing of such a request, the decision shall be deemed a provisional decision with an effective date twenty-one 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 decision on the effective date. Failure by the Applicant to exercise the right provided in 310 CMR 19.033(4)(b) shall constitute waiver of the Applicant's right to appeal.

RIGHT TO APPEAL

Right to Appeal: This approval has been issued pursuant to M.G.L. Chapter 111, Section 150A, and 310 CMR 19.033: Permit Procedure for an Application for a Permit Modification or Other Approval, of the "Solid Waste Management Regulations". Pursuant to 310 CMR 19.033(5), 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 decision in accordance with the provisions of M.G.L. Chapter 111, Section 150A and M.G.L. Chapter 30A no later than thirty days 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 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 be effective in accordance with the terms of 310 CMR 19.033(3).

Notice of Appeal: 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 MassDEP Transmittal No. X263935 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 MassDEP and the Regional Director for the regional office which processed the permit application, if applicable at least five days prior to filing of an appeal. The appropriate addresses to send such notices are:

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

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

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 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,

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 Dakers, Chief
Solid Waste Management Section

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