



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

Central Regional Office • 8 New Bond Street, Worcester MA 01606 • 508-792-7650

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Martin Suuberg
Commissioner

BWP SW 11 Landfill Major Modification Post Closure Use

Shirley Landfill, Leominster Road
Ground Mounted Solar PV Facility

Permit Issuance Date: September 6, 2016

Names of Permittees: Town of Shirley ("Town" or "Permittee")
7 Keady Way
Shirley, MA 01464

SL MA Solar, LLC ("Permittee" or "Applicant")
102 Greenwich Ave., 3rd Floor
Greenwich, CT 06830

Name of Facility: Shirley Landfill ("Facility" or "Landfill")
Facility Address: 160 Leominster Road
Shirley, Massachusetts 01464

MassDEP Region: Central Regional Office (CERO), Worcester ("MassDEP" or
"Department")
Solid Waste Management Program

Permit Number: X270977 (Transmittal No.)

Facility Number: 172927

MassDEP Classification: CLF

I. FACILITY DESCRIPTION AND OUTSTANDING APPROVAL STATUS

A. Facility

1. Landfill Owner: Town of Shirley
7 Keady Way
Shirley, MA 01464

2. Solar Array Operator: SL MA Solar, LLC
102 Greenwich Ave., 3rd Floor
Greenwich, CT 06830
3. Description: The Landfill occupies approximately 10.5 acres of site assigned area within a 47 acre parcel of land in Shirley, Massachusetts. The Landfill was capped in two stages and has been closed since November 1999. Phases I & II of the Landfill, which were capped in 1992, encompass approximately 6.3 acres. Phase III of the Landfill, which was capped in 1999, encompasses approximately 4.2 acres.

The proposed solar array, including photovoltaic modules and ballast-rack systems, will encompass approximately 3 acres of the capped Landfill.

B. Title of Approved Plans/Permits Affecting Proposed Operation.

1. Facility Approvals

Town of Shirley, MA, Shirley Sanitary Landfill, Partial Closure QA/QC,
Phases 1 & 2, November 1992
Prepared by: Weston & Sampson Engineers, Inc., Michael J. Scipione, P.E.
Received by MassDEP-CERO: November 13, 1992

MassDEP “Shirley Partial Closure of Municipal Sanitary Landfill –
Leominster Road, Letter of Compliance” Phases 1 & 2
Issued by MassDEP: March 11, 1996

Town of Shirley, MA, Construction Certification Report, Phase 3 Closure of the
Shirley Sanitary Landfill, June 2000
Prepared by: Weston & Sampson Engineers, Inc., Michael J. Scipione, P.E.
Received by MassDEP-CERO: June 14, 2000

BWP SW 36 Post Closure Use Permit – Ground Mounted Solar PV Facility
Permit No.: X264311
Issued by MassDEP: March 20, 2015

BWP SW 49 Certification for Transfer of Permit
Transmittal No.: X268816
Permit No. X264311
Issued by MassDEP: February 10, 2016

2. Phase III Closure Work Plans/Approvals

(For the purposes of this Permit, the terms “Phases I & II” and “Phases 1 & 2” are used interchangeably, and the terms “Phase III” and “Phase 3” are used interchangeably.)

The plans listed below in this section are collectively identified in this permit as the “Phase III Closure Work Plan”:

Shirley Landfill, Leominster Road, Landfill Solar Array Project, Permit No. X264311, BWP SW 36, Major Post-Closure Use Permit, Phase III Landfill Cap Soil Work Plan, June 1, 2016
Approved by MassDEP- CERO: June 13, 2016

Shirley Landfill, Leominster Road, Landfill Solar Array Project, Permit No. X264311, BWP SW 36, Major Post-Closure Use Permit, Phase III Landfill Cap Soil Work Plan Modification, June 22, 2016
Approved by MassDEP- CERO: June 24, 2016

Shirley Landfill, Leominster Road, Landfill Solar Array Project, Permit No. X264311, BWP SW 36, Major Post-Closure Use Permit, Landfill Settlement Report/ Gas Vent Boot Repair Plan, June 13, 2016
Approved by MassDEP- CERO: June 27, 2016

Shirley Landfill, Leominster Road, Landfill Solar Array Project, Permit No. X264311, BWP SW 36, Major Post-Closure Use Permit, Phase III Cap Spot Filling Work Plan - Revised, July 12, 2016
Approved by MassDEP- CERO: July 18, 2016

Shirley Landfill, Leominster Road, Landfill Solar Array Project, Permit No. X264311, BWP SW 36, Major Post-Closure Use Permit, Phase III Cap Thickness Testing - Geomembrane Repair Plan, July 12, 2016
Approved by MassDEP- CERO: July 18, 2016

Shirley Landfill, Leominster Road, Landfill Solar Array Project, Permit No. X264311, BWP SW 36, Major Post-Closure Use Permit, Phase 3 Cap Thickness Assessment-Filing Plan , August 15, 2016
Approved by MassDEP- CERO: August 19, 2016

C. Permit Application Information for BWP SW 11 Landfills – Major Modification

1. Applicant:

SL MA Solar, LLC
102 Greenwich Ave., 3rd Floor

Greenwich, CT 06830

A BWP SW 49 Certification for Transfer of Permit No. X264311 from NextSun Energy, LLC to SL MA Solar, LLC was submitted on January 19, 2016 and acknowledged by MassDEP on February 10, 2016.

SL MA Solar, LLC submitted the BWP SW 11 Major Modification application on May 23, 2016.

2. Transmittal Number: X270977 (Permit No.)
3. Start Date of Application: June 2, 2016
4. Consulting Registered Professional Engineer:

TRC Corporation
650 Suffolk Street
Lowell, MA 01854
Contact: Robert Jackson, P.E.
Tel.: 978-970-5600

5. Title of Plans & Reports, Submission and Date of Receipt at MassDEP-CERO:

BWP SW 11, Landfills – Major Modification Permit Application
“Modifications to the Post-Closure Use Permit X264311, Solar Project, Shirley Landfill”
Transmittal Number: X270977
Prepared by: TRC Corporation
Dated: May 20, 2016
Received by MassDEP-CERO: May 23, 2016

Supplemental Information:
Response to Administrative Deficiency Notice
Dated: July 11, 2016
Submitted by: TRC Corporation
Received by MassDEP-CERO: July 13, 2016

Revised “Civil Plan Set - Solar Project”
Response to July 27, 2016 MassDEP Additional Information Request
Revised: August 23, 2016
Prepared by: TRC Corporation
Received by MassDEP-CERO: August 26, 2016

6. Project Description:

The post-closure use permit modification application proposes the installation and operation of a 1.4 Megawatt (MW) DC rated ground mounted solar photovoltaic (PV) array (“Landfill Array”) on the capped Landfill owned by the Town of Shirley. The proposed modified array design reduces the footprint of the array by eliminating the portion of the project anticipated to be constructed on the top of the Phase III capped area of the Landfill. The new array will also have a reduced capacity as compared to that authorized under the original post-closure use permit, Permit No. X264311 (approximately 1.4 MW DC as compared to 1.9 MW DC). The solar panels will encompass most of Phases I & II and encroach upon the eastern side slope area of the Phase III capped Landfill.

The proposed modifications to the approved design are anticipated to improve the construction and operation of the Solar PV Facility. The proposed modifications entail changes in the number of PV modules installed and the rated output, changes to the approved ballast system and solar panel racking system, changes to the location of inverters and transformers constructed at the site, relocation of temporary landfill construction staging areas, and utility pole adjustments to simplify the solar project connections to the utility grid.

The Application proposes to construct and maintain the Landfill Array, which will consist of the following components:

- Approximately 4,284 photovoltaic modules on panels supported by continuous supporting racks on pre-cast concrete ballast blocks installed above the existing surface of the capped Landfill cover system. The surface-mounted ballast blocks will not penetrate the Landfill cover system;
- Tray mounted, above ground cable and transmission line conductors from the panels/array to the inverters which will not impact the Landfill cap;
- Two central inverters, to be located on concrete pads on the Phase III toe of slope in the vicinity of the project entrance gate, and approximately midway on the eastern side of the Phase I & II Landfill cap, including associated transformer and interconnect equipment. No excavation on the Landfill shall exceed twelve (12) inches below grade or be allowed to penetrate the low permeability layer of the Landfill without prior approval as noted in Plan C-4 of the application;

- Conduits between the inverter stations and interconnection points buried a minimum of twelve (12) inches below grade to meet the National Electric Code for safety. No excavation for the burial of conduits on the Landfill shall exceed twelve (12) inches below grade or be allowed to penetrate the low permeability layer of the Landfill without prior approval as noted in Plan C-4 of the application;
- Construction of two temporary construction staging areas on the landfill cover system located on the Phase III toe of slope in the vicinity of the project entrance gate and the adjacent Phase III area to the east as indicated on the modification application revised Civil Plan Set including the Construction Detail Drawing on Plan C-7;
- An existing on-Landfill access road along the east side of the Landfill to the northern end, which may need improvement. The construction and location of any temporary roads that may be necessary on the Landfill for the installation of the Landfill Array shall be subject to prior approval as noted in Plan C-4 of the modification application; and
- A perimeter fence installed along the outside edge of the Landfill cap that will provide site security.

This post-closure use permit modification authorizes the installation and maintenance of the proposed Landfill Array on the capped Landfill and appurtenances thereto.

II. PERMIT APPLICATION REVIEW AND APPROVAL

This application for a major modification of the Shirley Landfill BWP SW 36 Solar Permit (Permit No. X264311) complies with the application requirements set forth at 310 CMR 19.033: Permit Procedure for an Application for a Permit Modification or Other Approval and was reviewed in accordance with 310 CMR 19.038: Review Criteria for a New or Expanded Facility Permit or Permit Modification, 310 CMR 19.143: Post-closure Use of Landfills, and MassDEP's Landfill Technical Guidance Manual (May 1997). Based on the information presented in the plans and reports referenced in Section I. C. 5. above, MassDEP approves the Applicant's request for a major modification permit at the Shirley Landfill.

This document is a Permit, issued pursuant to M.G.L. c. 111, Section 150A, and 310 CMR 19.000 et seq., the "Solid Waste Management Facility Regulations," and it is subject to the conditions set forth below.

III. GENERAL PERMIT CONDITIONS

- A. **Compliance with Plans** - The Permittees shall conduct operations in accordance with approved plans, reports, and other submissions described in Section I.C. above, except as may be modified by the conditions set forth in Section IV. No material changes in the design or activities described in the approved documents shall be performed without prior written Department approval.
- B. **Compliance with Other Laws and Regulations** - The construction, operation, maintenance and closure of this Facility shall be performed in compliance with other applicable local, state and federal laws, regulations, and bylaws.
- C. **Standard Conditions** - The Permittees shall maintain the Facility in accordance with the conditions set forth at 310 CMR 19.007-19.011 and 19.043(5).
- D. **Joint Liability** - This Permit is issued subject to the conditions of joint liability of the Facility owner and operator in accordance with 310 CMR 19.043(3).
- E. **Right of Access** - MassDEP and its agents and employees shall have the right to enter upon the Facility site at all reasonable times and without notice, to inspect the Facility and any equipment, structure or land located thereon, take samples, recover materials or discharges, have access to and copy records, to perform tests and to otherwise monitor compliance with this approval, or any and all permits relative to the operation of the Facility, 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 state laws and regulations, as well as any permits or other agreements between the Permittee and MassDEP.
- F. **Transfer** - No transfer of this Permit shall be permitted except in accordance with the requirements of 310 CMR 19.044.
- G. **Permit Modification** - The Department reserves the right to rescind, suspend or modify this Permit by the imposition of additional conditions based upon a determination of actual or the threat of adverse impacts from the construction, operation, maintenance or closure of the Facility.
- H. **Other MassDEP Permits or Approvals** - In the event this Permit conflicts with all or parts of prior plan approvals or permits issued pursuant to Chapter 111, Section 150A, the terms and conditions of this Permit shall supersede the conflicting provisions of the prior permits and/or approvals. This Permit does not convey property rights of any sort or any exclusive privilege.

IV. SPECIFIC PERMIT CONDITIONS

- A. **Criteria for Post-Closure Use** - This approval for post-closure use of the Shirley Landfill shall be accomplished such that the Permittees ensure that no activity associated with the Facility, or with the Landfill Array and appurtenances thereto as described in the Application, shall in any way alter the integrity of the Landfill cover system or any of the site environmental monitoring systems located on the site assigned land off of Leominster Road in Shirley, Massachusetts.
- B. **Other Post-Closure Use** - The Permittees shall not use the Landfill for any post-closure activity other than that approved by this permit without submittal and Department approval of a Post-Closure Use Permit Application in accordance with 310 CMR 19.143: Post-Closure Use of Landfills.
- C. **Inspection and Repair of Settlement Areas** - Prior to constructing the Landfill Array, the Permittees shall survey any suspect settlement areas on the Landfill to determine the lowest spot. The Permittees shall then survey the surrounding area to find the “relief point” defined as the lowest surrounding area where ponded water would flow out. The elevation difference is defined as the “pond value”. For purposes of this permit, minor settlement shall be defined as a pond value of less than 12 inches. Prior to constructing the Landfill Array, the Permittees shall correct any area that has undergone minor settlement by the placement of additional vegetative support soil to promote runoff and shall reseed the area. The Permittees shall survey any area repaired and mark the location on a plan with the pond value. Any future settlement shall be recorded cumulatively. If/when the total settlement reaches 12 inches the area will be considered to have suffered major settlement and the Permittees must undertake appropriate repairs to eliminate ponding. Any minor settlement repair may be done as routine maintenance, provided that the owner and/or operator reports the settlement to MassDEP and states its intent to perform repairs, and provides MassDEP with final survey (as-built) results and a summary write-up.

Major settlement is defined as a pond value of greater than 12 inches. When this occurs, the Permittees must repair the final cover system subject to MassDEP approval to prevent surface water ponding. The Permittees must submit any proposal to remedy a major settlement repair within a Corrective Action Design (BWP SW 25) permit application since disruption of the final Landfill cover system will take place and repair details must be submitted to and approved by MassDEP.

The Permittees shall provide for continued monitoring for potential differential settlement due to the Landfill Array during Facility operations along with established provisions for addressing and adjusting for such settlement within the Landfill cover system and/or the Landfill Array system.

- D. Phase III Landfill Closure Completion** – In June 2000, on behalf of the Town of Shirley, Weston & Sampson submitted to MassDEP a Construction Certification Report for the Phase 3 Closure of the Shirley Sanitary Landfill (“Phase 3 Construction Certification Report”). MassDEP has not yet certified Phase 3 of the Landfill as closed. MassDEP is reviewing additional information regarding the construction of the Phase 3 portion of the Landfill cap/ cover system before it can confirm the closure completion of Phase 3 of the Landfill.

To provide MassDEP with the required information, the Applicant has implemented, as noted in Section I.B.2. above, an approved “Phase III Closure Work Plan” for the Phase III section of the Landfill. This Work Plan provided a suitable testing and filling plan for the Phase III section to confirm that the Phase III Landfill cap is in conformance with the criteria established in the June 2000 Phase 3 Construction Certification Report and the Department’s Landfill Closure Requirements at 310 CMR 19.140.

Within 30 days of completion of the “Phase III Closure Work Plan”, the Applicant shall submit to MassDEP a final summary report and plans of the Phase III Landfill testing and filling project and Phase III Closure Work Plan so that MassDEP can verify the condition of the Phase III Landfill final cover system and determine whether the requirements of the Landfill Closure Requirements at 310 CMR 19.140 are met for the Phase III section of the Landfill.

No construction, structure, appurtenance and /or encroachment is allowed on the Phase III Landfill area until MassDEP has made a written determination that the Landfill Closure Requirements at 310 CMR 19.140(6) have been met. For purposes of determining compliance with 310 CMR 19.140(6), the Department acknowledges that on October 14, 2015, the Town of Shirley recorded in the Middlesex South Registry of Deeds, in Book 66236, Page 56, a Notice of Landfill Operation for the Facility, in compliance with 310 CMR 19.141.

- E. Additional Inspections and Monitoring** - During the first year of operation of the Landfill Array, the Permittees shall perform inspections of the Landfill and the Landfill cover system beneath the Landfill Array on a monthly basis and also following major storm events. After the first year of the Landfill Array’s operation, these additional inspections may be incorporated into the existing Landfill inspection and monitoring program subject to MassDEP approval. In accordance with 310 CMR 19.018 and 310 CMR 19.142(6), the inspections shall be performed by a Third-Party Inspector who is registered with the Department. The Permittees shall ensure that the inspection reports are submitted to James McQuade, Section Chief, MassDEP-CERO within fourteen (14) days of the inspection.

- F. Vehicles Operating on the Landfill Final Cover System -** Vehicles operating on the Landfill final cover system shall only operate on the existing gravel access drive, except for low ground pressure construction equipment in accordance with the conditions of this Permit. Low-pressure construction equipment operating off the existing gravel access drive shall limit turning on the vegetative support layer as much as possible. If MassDEP determines that the use of excavation equipment is creating the potential for damage to the Landfill 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 regarding the requirements of this Permit prior to arrival, to avoid damage to the Landfill final cover system components. A list of low ground pressure equipment used and the pressure rating of each vehicle shall be included in the certification report required by Specific Permit Condition IV.L.
- G. Permanent and Temporary Roads and Low Ground Pressure Equipment -** The Permittees shall ensure that low ground pressure equipment shall not access the Landfill 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 construct ramps as necessary to accommodate the low ground pressure equipment.
- H. Integrity of the Final Cover System -** The Permittees shall limit all disturbances of the Landfill to the proposed installations on top of the vegetative cover of the capped Landfill that are described in the Application. No significant excavations or other penetrations shall be performed into the final cover system during construction or during operation and maintenance of the Landfill Array without prior MassDEP approval. The Permittees shall ensure that vehicles operating on the Landfill do not damage or compromise the Landfill final cover system integrity and that there are no penetrations of any kind of the Landfill final cover system.
- I. Construction Precautions -**
1. The Permittees shall take all necessary precautions to ensure that the proposed construction and maintenance work associated with the Landfill Array does not damage the environmental monitoring network at the Landfill. Prior to the commencement of construction activities, the Permittees shall ensure that environmental monitoring locations are flagged for visibility and protective barriers are placed around such structures, as needed, to prevent damage by vehicles accessing the area. If any damage occurs to the environmental monitoring network components, the Permittees or their contractor(s) shall notify James McQuade, Section Chief, MassDEP - CERO at 508 767-2759 within 24 hours and provide a written plan for repairs, including a schedule.

2. The Permittees shall take all necessary precautions to protect the Landfill storm water control system, including but not limited to swales, structures, and any and all conveyance systems. If any damage occurs to the storm water control system, the Permittees or their contractor(s) shall notify James McQuade, Section Chief, MassDEP - CERO at 508 767-2759 within 24 hours and provide a written plan for repairs, including a schedule.

3. This Permit requires that any inverter/ transformer pad or appurtenances must be designed so as not to create a potential fire safety hazard. Potential design features may include but are not limited to the installation of fully sealed conduits, explosion proof connections, and fittings. The Permittees shall also ensure that utility trenches are designed so they do not act as a conduit for landfill gas migration.

4. All excavations and construction 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 associated with the project. The Permittees shall report any erosion problems, settlement problems, security or other issues observed at the Landfill to James McQuade, Section Chief, MassDEP-CERO at 508 767-2759 and repair them immediately.

- J. Array Setbacks** - The Permittees shall maintain a minimum ten (10) foot radius buffer between the closest edge of the Landfill Array and all landfill gas vents and stormwater drains.
- K. Notification of Construction** - The Applicant shall notify James McQuade, Section Chief, MassDEP - CERO in writing when the post-closure use construction authorized by this permit commences and is completed.
- L. Certification Report** - Within ninety (90) days of completing the installation of the Landfill Array, the Permittees shall provide James McQuade, Section Chief, MassDEP - CERO 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 associated with the project. The certification 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, applicable requirements and this Permit. The certification report shall include as-built drawings depicting all pertinent site features and the extent of the Facility, Landfill Array and appurtenances thereto.
- M. Personnel Training** - The Permittees and their contractor(s) shall instruct all Landfill Array 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 this Permit to carry out the authorized activity in a manner that is not hazardous to public health, safety, welfare or the environment. Training shall be provided to workers conducting monitoring and maintenance activities for the Landfill regarding potential hazards associated with the Landfill Array, including but not limited to electrical hazards.

- N. Health and Safety** - The Permittees and their contractor(s) are responsible for ensuring that all necessary precautions are taken to protect the health and safety of workers and the general public during construction, operation, and maintenance of the Landfill Array.
- O. Proposed Inverter/Transformer Pad and Interconnection Equipment** - The Permittees shall ensure that a copy of the final design for the transformer pad and any other electrical and protective switchgear (interconnection equipment) for the Landfill Array project is submitted to James McQuade, Section Chief, MassDEP – CERO within 15 days of construction. The Permittees and their contractor(s) are responsible to ensure that utilities/structures will not accumulate landfill gas during construction and operation of the Landfill Array.
- P. Electrical Design Plans** - The Permittees shall submit electrical design plans stamped by a Registered Massachusetts Electrical Engineer to James McQuade, Section Chief, MassDEP - CERO within 15 days of construction. The electrical design, including the grounding design, shall meet applicable National Electrical Code (NEC) and local electrical code requirements including but not limited to Article 690 – “Solar Photovoltaic (PV) Systems” of the NEC (2011 Edition). If any grounding rods are installed as part of the grounding system, the rods shall not be driven through the Landfill final cover system.
- Q. Landfill Gas Notification Requirements -**
1. As specified in solid waste management regulations at 310 CMR 19.132 (5) (g): Gas Monitoring.
- When, at any time, the concentration of explosive gases exceeds 10% of the lower explosive limit (LEL) in any building, structure, or underground utility conduit at the Facility, excluding gas control, gas recovery and leachate collection system components, the Permittees shall:
- a) take immediate action to protect human health and safety;
 - b) notify the Department’s Solid Waste Section Chief, James McQuade at 508-767-2759 within two hours of the finding; and

c) undertake the actions specified under 310 CMR 19.150: Landfill Assessment Requirements and 310 CMR 19.151: Corrective Action Requirements as required by the Department.

2. Pursuant to 310 CMR 40.0321(1)(a), if at any time, monitoring detects the presence of any combustible gases at or in excess of 10% of the LEL at any location within a building or within any utility conduits at the Facility, the owner/operator shall notify the local fire department and MassDEP's Bureau of Waste Site Cleanup-Emergency Response Section at 888-304-1133 within two (2) hours of the exceedance.

- R. Stormwater Management** - Stormwater shall be managed in a manner to prevent erosion and flooding both on-site and off-site. Any modifications to the existing stormwater controls shall require prior MassDEP approval.
- S. Post-Closure Environmental Monitoring** - The Permittees shall maintain the existing and/or any future environmental control or monitoring systems in accordance with 310 CMR 19.133: Maintenance of Environmental Control and Monitoring Systems.
- T. Site Security** - The Permittees are required to provide sufficient fences or other barriers to prevent unauthorized access to the Landfill. The owner/operator must continually monitor and evaluate the potential for unauthorized access to the Landfill and institute all appropriate measures to prevent unauthorized access during the post-closure period.
- U. Decommissioning Plan** - If the proposed Landfill 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.
- V. Other Requirements** - The Permittees and their contractor(s) are responsible to ensure that the proposed work complies with all applicable local, state and federal codes, requirements, regulations and permits.

V. RIGHT OF APPEAL

- A. Review of Decision** - Pursuant to 310 CMR 19.033(4)(b), if an Applicant is aggrieved by MassDEP's decision to issue this Permit, it may within twenty-one (21) days of the date of issuance of MassDEP's permit decision file a written request, with the appropriate regional office of MassDEP, that the permit decision

be deemed a provisional decision, 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 permit decision shall be deemed a provisional decision. Such a request shall reopen the administrative record, and MassDEP shall issue a final permit decision after the end of the comment period.

Failure by an applicant to exercise the right provided in 310 CMR 19.033(4)(b) shall constitute a waiver of the applicant's right to appeal.

- B. Right to 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 not later than thirty (30) days following the date of issuance of the final permit decision to the Applicant. 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).
- C. 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 file number (Transmittal No. X270977) 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 that processed the permit application at least five (5) days prior to the filing of an appeal.

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

and

Mary Jude Pigsley, Regional Director
Department of Environmental Protection
8 New Bond Street
Worcester, MA 01606

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.

James A. McQuade
Section Chief
Solid Waste Management Program