



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

Northeast Regional Office • 205B Lowell Street, Wilmington MA 01887 • 978-694-3200

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June 3, 2020

Town of Tewksbury
Town Hall
1009 Main Street
Tewksbury, MA 01876
Attention: Richard Montuori, Town Manager

Syncarpha Tewksbury, LLC
250 West 57th Street, Suite 701
New York, NY 10107
Attention: Carter McCann

RE: TEWKSBURY – Solid Waste Management
Sutton Brook Disposal Area (also known as Rocco Landfill)
South Street
FMF# 39800

BWP SW36 / Post-Closure Use – Major
Authorization Number: SW36-0000023

**Solar Power Generating Facility
Approval and Authorization to Construct**

Dear Mr. Montuori and Mr. McCann:

The Massachusetts Department of Environmental Protection, Northeast Regional Office, Bureau of Air and Waste, Solid Waste Management Section (MassDEP) has reviewed your application, category BWP SW36 *Post-Closure Use – Major*, Application Number: 19-SW36-000005-APP (the Application), for the post-closure use of the Sutton Brook Disposal Area located on South Street in Tewksbury, Massachusetts. The Application was prepared and submitted to MassDEP on behalf of the Town of Tewksbury (the Town) and Syncarpha Tewksbury, LLC of New York, New York (Syncarpha or the Developer) by Wood Massachusetts, Inc. of Chelmsford, Massachusetts (Wood).

This information is available in alternate format. Contact Michelle Waters-Ekanem, Director of Diversity/Civil Rights at 617-292-5751.

TTY# MassRelay Service 1-800-439-2370

MassDEP Website: www.mass.gov/dep

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The Application proposes the installation of a 3.0-megawatt alternating current (MW_{AC}) solar photovoltaic power generating facility and a 2.0-megawatt alternating current (MW_{AC}) battery storage system (PV Facility) at the Sutton Brook Disposal Area. The Application includes design plans for the solar array and battery storage system and an engineer's report describing and supporting the design of the facility.

In March 2020, Wood submitted to MassDEP additional information to support the Application in response to MassDEP comments dated September 6, 2019.

DISCUSSION

The Sutton Brook Disposal Area is located on approximately 100 acres of land to the east of South Street in the Town of Tewksbury (the Town). The area includes the Rocco Landfill (the Landfill), that is divided into two lobes: the Northern Lobe (approximately 30 acres) and Southern Lobe (approximately 10 acres) which are divided by Sutton Brook flowing between the lobes. The Landfill began accepting waste around 1957 and continued until 1988. The Sutton Brook Disposal Area (Site), including the Landfill, is listed on the National Priorities List (NPL) under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA, also known as Superfund). The Department has assigned MassDEP Release Tracking Number 3-0003893 to the Site. In February 2004, the United States Environmental Protection Agency (USEPA) and the Commonwealth of Massachusetts entered into an agreement with 27 potentially responsible parties, referred to as the Participating Settling Defendants (PSDs) to remediate the Site. The agreement is a judicial consent decree (Consent Decree), pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. § 9601 *et seq.*, and Chapter 21E, for the Sutton Brook Disposal Area Superfund Site, styled “United States of America and Commonwealth of Massachusetts v. Ausimont Industries, Inc., et al., United States District Court, District of Massachusetts,” Civil Action No. 1:09-cv-12169, December 22, 2009. The Town is one of the PSDs and owns the Landfill.

Capping of the Landfill was completed in 2015 and USEPA issued approval of the Completion of Construction Certification in a letter dated September 29, 2016. The landfill cap includes the following (described from the bottom to the top):

- Prepared 12-inch sand gas venting layer;
- Geosynthetic clay layer;
- 40-mil thick high-density polyethylene (HDPE) flexible membrane liner (FML) as the impervious layer over waste;
- 250-mil geonet composite drainage layer;
- 18-inch soil protective cover layer; and
- 6-inch topsoil layer.

In addition to capping the Landfill other remedial actions were taken and in aggregate constitute the Selected Remedy for the Superfund Site. The Selected Remedy consists of the following:

- Excavation of contaminated soils from area surrounding the Landfill and contaminated

- sediments from Sutton Brook above site specific cleanup levels;
- Consolidation of excavated soils, sediments, and debris into the Landfill;
- Construction of a multi-layer impermeable cap over the landfill lobes and a sediment cap over sediments in Sutton Brook;
- Construction of Sedimentation Basins for control of runoff;
- Interception of groundwater from the southern lobe (utilizing a Vertical Barrier);
- A combination of collection, conveyance and disposal and monitored natural attenuation for contaminated groundwater;
- Institutional Controls in a form of a Notice of Activity and Use Limitations (NAUL) that identifies consistent and inconsistent uses for the Site; and
- Long-term monitoring that utilizes Site monitoring wells.

As described in the Application, the proposed PV Facility will consist of approximately 10,458 PV modules. The PV modules will be located in three sections of the site: Array 1 is located in the former Garage Storage Area (approximately 3,078 modules), Array 2 is located on the Northern Lobe of the Landfill (approximately 3,798 modules) and Array 3 is located on the Southern Lobe of the Landfill (approximately 3,582 modules). The PV modules will be supported by galvanized steel and aluminum brackets mounted on precast concrete foundation ballasts. The ballast blocks will be utilized to stabilize the brackets and panels from sliding and uplift from wind. The system will be connected to the National Grid electric utility grid and includes an approximately 2.0-megawatt alternating current (MW_{AC}) battery storage system located off the landfill cap. Grounding plates and grounding conductors were installed on the landfill cap will be placed in the soil cover above the landfill cap membrane. A permanent access road will also be installed on top of the landfill cap to allow vehicle access to the solar arrays, inverter and transformer pad equipment for inspection and maintenance services.

The long term maintenance and monitoring of the Site and the Selected Remedy is required under the Consent Decree and is described in the following Site documents: Post-Construction Monitoring Plan (dated January 2017) and the Post Construction Field Sampling Plan (dated November 2016) and the Post Construction Quality Assurance Project Plan (dated November 2016). Each of these plans is on file with USEPA. The PSDs' obligation to perform these activities is independent of this permit and will continue to be performed by the PSDs notwithstanding approval of the proposed project. The design and layout of the proposed project will allow for this continued work at the Site.

The applicants will be required to perform additional monitoring and maintenance activities as stipulated in this permit and the Application.

The Town has entered into a ground lease agreement with Syncarpha for installation of the PV Facility.

DECISION

MassDEP has determined that the Application is administratively and technically complete and that, subject to the terms and conditions of this decision and permit, the proposed post-closure use complies with the applicable requirements of 310 CMR 19.000, the Massachusetts Solid

Waste Regulations (the Solid Waste Regulations). The Application demonstrates pursuant to 310 CMR 19.143(3) that the installation and operation of the solar PV Facility as proposed and approved by this decision:

- Will not result in a disturbance of the Landfill cap that could cause an adverse impact to public health, safety or the environment;
- Will not impair the integrity or functioning of the final cover, the components of the containment system, the landfill gas control system, the environmental monitoring systems, or any other component of the Selected Remedy; and
- Provides for the maintenance of the Landfill cap's storm water drainage facilities, basins, swales, and other erosion/sedimentation controls.

Therefore, in accordance with M.G.L. Chapter 111, § 150A and 310 CMR 19.143, MassDEP approves the Application and issues this Post-Closure Use Permit subject to the Developer's and the Town's compliance with 310 CMR 19.000 and the following conditions, imposed by MassDEP pursuant to 310 CMR 19.043(1) *Items Subject to Conditions* and 310 CMR 19.142(7) *Additional Measures*. This decision is a Post-Closure Use Permit pursuant to 310 CMR 19.143 *Post-Closure Use of Landfills*. Syncarpha and the Town are hereafter collectively referred to as the Permittee.

In issuing this decision, MassDEP is not approving any actions that would interfere with the Selected Remedy.

CONDITIONS

1. The Permittee shall comply with this permit and the requirements of 310 CMR 19.000, including, but not limited to, the requirements established at 310 CMR 19.043(5) *Standard Conditions*.
2. Pursuant to 310 CMR 19.043(5)(a) *Duty to Comply*, this decision does not relieve the Permittee, or any other person, of the responsibility to comply with all other applicable federal and state laws and regulations including, but not limited to, acquiring applicable permits and approvals, including local permits. Nor does this decision relieve the Permittee, or any other person, of the responsibility to comply with any obligation established in the Consent Decree (or pursuant to the Consent Decree).
3. The Permittee shall ensure persons conducting activities¹ at the PV Facility and Landfill are familiar with the applicable provisions of this permit and the approved plans, and that all work performed at the Landfill complies with 310 CMR 19.000 and the applicable requirements of this permit. The Permittee shall also ensure persons conducting activities pursuant to this approval are aware of the applicable provisions of any Notice of Activity and Use Limitations established for the Town parcels, including the Activities and Uses

¹ Activities include, but are not limited to, the construction, installation, operation, and maintenance of the PV Facility and the Landfill.

Consistent with Maintaining the Selected Remedy Section, and the Activities and Uses
Inconsistent with Maintaining the Selected Remedy Section.

4. The Permittee shall maintain copies of this decision and permit, the Application, the health and safety plan, and documentation that site personnel have been trained pursuant to the health and safety plan at the site during construction of the PV Facility.

5. Required Submittals:

- a. Existing Stormwater System Evaluation: Prior to commencing construction pursuant to the Application and this permit, the Permittee shall perform an evaluation of the existing stormwater system to ensure the stormwater system is performing as previously designed and constructed. All corrective action items identified during this evaluation shall also be completed prior to commencing construction. Any required corrective actions shall be approved in accordance with Condition 24, below.
- b. Notification of Construction: Not less than seven (7) days prior to commencing construction pursuant to the application and this permit, the Permittee shall notify MassDEP, USEPA and the Tewksbury Board of Health in writing of the scheduled date of the commencement of construction at the site. In addition, the notification shall include:
 - i. The projected schedule for completion of the major construction milestones of the PV Facility.
 - ii. The name and contact information for the Engineer of Record for the project;
 - iii. The name and contact information of an on-site contact for the project;
 - iv. A health and safety plan² for MassDEP's files that includes, but is not limited to:
 - protocols for monitoring for landfill gas (methane, hydrogen sulfide, etc.) as needed;
 - protocols for modifying work practices if landfill gas is detected at levels of concern (action levels);
 - instruction and training of all personnel working on the Site regarding the potential health and safety hazards at the Landfill including, but not limited to those associated with landfill gas; and
 - instruction and training of all personnel in compliance with the conditions of this permit and how to perform authorized activities in a manner that is not hazardous to public health, safety, and the environment;
 - v. The National Pollutant Discharge Elimination System (NPDES) Notice of Intent and Stormwater Pollution Prevention Plan (SWPPP) for the project.

² The Health and Safety plan developed for the PV Facility shall reference applicable information from the current existing Health and Safety plan for the Site.

- vi. The Existing Stormwater System Evaluation Report required by Condition 5.a, above.
- c. PV Facility Financial Assurance: On or before thirty (30) days prior to completing PV Facility construction, the Permittee shall submit to MassDEP proof that an appropriate financial assurance mechanism (FAM) has been secured for the costs of decommissioning and site restoration activities, based on the alternating current (AC) production capacity of the PV Facility in the amount of \$70,000 per megawatt AC. This financial assurance obligation shall be met by using any of the approved methods authorized in 310 CMR 19.051: *Financial Assurance Requirements* and shall be in-place at least thirty (30) days prior to the start of PV Facility operation.
- d. Construction Certification Report: Prior to commencing operation of the PV Facility, and no more than ninety (90) days after the date of completion of the construction of the PV Facility, the Permittee shall submit to MassDEP, with a copy to US EPA, a construction certification report, that includes, but is not limited to:
 - i. As-built plans for the final as constructed PV Facility amended to incorporate all modifications and alterations, if any, made during construction;
 - ii. A narrative, prepared by the Engineer of Record that discusses in part, any modifications made to the design of the PV Facility;
 - iii. Certifications by the Permittee and the Engineer of Record pursuant to 310 CMR 19.011; and
 - iv. A Copy of the Notice of Landfill Operation as recorded with the Registry of Deeds, or if the land is Registered Land, with the registry section of the land court for the district in which it lies, complying with M.G.L. Chapter 111, § 150A and 310 CMR 19.141.
- e. Third-Party Inspections-PV Facility: The Permittee shall conduct third-party inspections and submit inspection reports to MassDEP (both BAW and BWSC), with a copy to US EPA and PSD, pursuant to Condition 26 listed below. See Condition 17, below, for current contact information for each party.
- f. PV Facility Decommissioning Plan: On or before thirty (30) days after the date the PV Facility ceases operation, the Permittee shall submit to MassDEP with a copy to USEPA an application pursuant to 310 CMR 4.00 and 310 CMR 19.000 for the decommissioning of the PV Facility and the restoration of the Landfill cap and appurtenances thereto. The applications for decommissioning shall follow the approval requirements of Condition 24, including submittal of a letter of approval from EPA upon request from MassDEP, listed below. The application shall include, but not be limited to, a narrative, plans and schedule for the

decommissioning of the PV Facility and the restoration of the Landfill's cap and appurtenances.³

6. The Permittee shall not commence construction of the PV Facility until it has performed the Existing Stormwater Evaluation pursuant to Condition 5.a and the Permittee has provided notification to MassDEP, US EPA and the Tewksbury Board of Health pursuant to Condition 5.b, above.
7. All construction work shall be completed and conducted under the supervision of an independent Massachusetts Registered Professional Engineer (Engineer of Record) who shall have sufficient qualified staff on-site to provide field supervision and quality assurance/quality control for all construction activities. Prior to commencing construction, the Engineer of Record shall familiarize him or herself with the Selected Remedy, including a review of relevant as-built plans.
8. The Permittee and the Engineer of Record are responsible to ensure that all necessary precautions are taken to protect the health and safety of workers and the general public during the construction and operation of the PV Facility and during its decommissioning.
9. Prior to construction of the PV Facility, any suspect settlement areas on the Landfill project area shall be surveyed to determine the lowest spot. The surrounding area should be surveyed to find the "relief point" defined as the lowest surrounding area where ponded water would flow off the Landfill cap. The elevation difference is defined as the "pond value." Minor settlement shall be defined as less than 12-inch pond values. 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.

Areas of minor settlement may be repaired as routine maintenance, provided the Permittee reports the settlement to MassDEP and USEPA and states the intention to perform repairs, and provides the final survey results and a summary letter report as part of the construction certification report pursuant to Condition 5.

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 Permittee may either:

- a. Strip off the final cover soils and geonet composite drainage layer above the impervious layer, inspect and repair the impervious layer if/as necessary, place low permeability soil as necessary to promote runoff, replace final cover soils; or
- b. 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

³ Appurtenances include, but are not limited to storm water controls, landfill gas control structures, landfill gas and groundwater monitoring wells.

liner (GCL), or low permeability soil layer that ties into the existing low permeability layer at the identified perimeter. Place new geonet composite drainage layer, soil protective cover and topsoil layer over the new cap area.

Any proposal to conduct major settlement repair must be submitted to MassDEP and USEPA for approval in accordance with Condition 24, which shall include, without limitation, detailed information of the proposed repair. The repairs, once approved, shall be completed prior to PV installation. Following the repair of the major settlement, the Permittee shall submit a summary report and final survey results to MassDEP and USEPA.

All repairs shall meet original design specifications of the Selected Remedy.

10. Vehicles operating on the Landfill cap shall only be operated and parked on designated access roads, except for low-pressure construction equipment, which may operate off the access roads. All operators of vehicles entering the capped area of the Landfill shall, prior to their arrival, be instructed by the Engineer of Record or his/her designee and/or contractor of the requirements of this decision and permit, to avoid damage to the Landfill cap and appurtenances thereto.
11. Only low ground pressure construction equipment (with ground pressures of less than 7 PSI) may operate on the Landfill cap off of the access road, and only in accordance with the conditions of this decision. Prior to use of any specific equipment off the access road on the cap, the Engineer shall document that the equipment, fully loaded, will have a ground pressure of less than 7 PSI.
12. The Permittee shall maintain a minimum ten (10) foot radius buffer between the closest edge of all solar equipment and all existing landfill gas venting structures.
13. Electrical grounding system components, security fence posts, and other solar project components shall not penetrate the FML.
14. Installation of underground conduit shall include properly installed and filled explosion proof seal-off(s) at each location the conduit daylight(s).
15. All disturbance of the Landfill shall be limited to the proposed excavations and installations as depicted and described in the Application and this permit. The Permittee and any contractors performing work at the Landfill shall without delay notify the Engineer of Record or his/her on-site representative upon encountering or damaging the FML component of the landfill cap.

Other than as expressly permitted in this approval, the Permittee shall not conduct any activity which would interfere with the implementation, effectiveness, integrity, operation, or maintenance of the Selected Remedy, including, but not limited to, caps, cover(s) or other ground covering (including within the streambed of Sutton Brook) features of response actions conducted to implement the Selected Remedy; systems to

collect, contain, divert (including the vertical barrier), treat, and discharge groundwater; and systems and studies to monitor implementation of the Selected Remedy, and to provide long-term environmental monitoring of on-site groundwater, soils, surface water and sediments. Reference is made to the As-Built Records, on file at the USEPA Record Center located at Five Post Office Square, Boston, Massachusetts, which provide information about the locations and engineering details components of the Selected Remedy.

16. If the landfill cap or any component of the Selected Remedy is damaged, the Permittee shall notify MassDEP, USEPA and the PSDs without delay and in no case later than the close of business of the next business day after it becomes aware of any incident or such damage. This notification shall be made in accordance with the requirements of Condition 17, below. This notification requirement is in addition to any other notification requirements required by statute or regulation including, but not limited to, 310 CMR 19.000 and 310 CMR 40.0000.
17. The Permittee shall comply with the notifications described in this decision and 310 CMR 19.043(5)(i), *Duty to Inform*. These notifications are in addition to, and shall not substitute for, any other notification(s) which are required pursuant to 310 CMR 40.0000, the Massachusetts Contingency Plan (the MCP); 310 CMR 30.000, the Massachusetts Hazardous Waste Regulations; the Consent Decree; or any other applicable state, federal, or local law or regulation.
 - a. The Permittee shall notify MassDEP, USEPA, the Tewksbury BOH and the PSDs within twenty-four (24) hours whenever possible, but in no case greater than within forty-eight (48) hours of the Permittee, the Engineer of Record or contractor(s), becoming aware of:
 - i. The occurrence of any conditions or events that result in damage to the landfill cap or any component of the Selected Remedy, off-site nuisance conditions or a threat to the public health, safety, welfare or the environment;
 - ii. The details of any incidents that resulted in the response of emergency personnel (fire, police, MassDEP Emergency Response personnel, the Occupational Health and Safety Administration, etc.) to the Facility; and
 - iii. The receipt by the Permittee of any complaint of off-site nuisance conditions attributed to the PV Facility construction.
 - b. This written notification shall be made to MassDEP, with a simultaneous copy to U.S. EPA, as follows:

Mark Fairbrother, MassDEP-NERO Solid Waste Section Chief (BAW)
Email: mark.fairbrother@mass.gov

Dorothy Allen, MassDEP-Boston (BWSC)
Email: dorothy.t.allen@mass.gov

Kimberly White, U.S. Environmental Protection Agency - Region I
Email: white.kimberly@epa.gov

Bonnie Heiple, Wilmer Hale (PSDs)
Email: bonnie.heiple@wilmerhale.com

James R. Campbell, Engineering Management, Inc. (PSDs)
Email: jrc@e-emi.com

- c. If email is not available, the notification may be made by telephone to the Solid Waste Section Chief at (978) 694-3298. Such notification by telephone shall be followed up by a certified letter within seven (7) days.
 - d. This notice shall, at a minimum, include a description of the incident and/or complaint, the impact on the construction activities authorized by this decision, and a description of any corrective actions the Permittee has taken or intends to take to minimize the potential for a recurrence.
18. Any and all damage to the landfill cap shall be promptly repaired. The landfill cap shall be restored to the conditions as specified within the Selected Remedy as-built plans. A landfill cap repair plan must be submitted to MassDEP and USEPA for approval in accordance with Condition 24, which shall include, without limitations, detailed information of the proposed repair. All work to repair damaged FML shall be completed and conducted under the supervision of the Engineer of Record who shall have sufficient qualified staff on-site to provide field supervision and quality assurance/quality control for all cap repair activities. Any and all cap repairs shall be shown on the as-built plans and discussed in the construction certification report required by Condition 5 of this decision.
19. Excess topsoil generated by the installation of the PV Facility shall be taken off site for proper disposal or reuse according to applicable regulations, policies, statutes and laws.
20. Pursuant to 310 CMR 19.043 *Standard Conditions*, MassDEP and its agents and employees shall have the right to inspect the Landfill, any equipment, structure or land located thereon, to take samples, to perform tests, and have access to and photocopy records, and to otherwise monitor compliance with this permit and all environmental laws and regulations administered by MassDEP.
21. Notice of the Landfill located on this site, including this decision, shall be recorded with the Registry of Deeds, or if the land is Registered Land, with the registry section of the land court for the district in which it lies, complying with M.G.L. Chapter 111, § 150A and 310 CMR 19.141. The Notice shall include the Facility Master File Facility Number (FMF# 39800) as part of identification of the MassDEP file for the Landfill.
22. MassDEP reserves the right to amend, modify, suspend or revoke this permit pursuant to 310 CMR 19.036 *Department's Modification, Suspension, or Revocation of a Permit*. This does not limit or restrict MassDEP from implementing any other applicable

authority at the Landfill including, but not limited to authority pursuant to 310 CMR 40.0000.

23. This permit is effective on the date signed by MassDEP below, except as provided by the Notice of Appeal Rights below and 310 CMR 19.033(4)(b). This permit shall expire on December 31, 2040, provided that MassDEP may amend the term of the permit in accordance with a modification pursuant to 310 CMR 19.033 or 310 CMR 19.034. The Permittee shall submit to MassDEP, with a copy to USEPA and the PSDs, on or before June 30, 2040 either an application to renew the permit or notice of its intent to close the PV Facility. Wherein the Permittee elects to close the facility, the Permittee shall submit an application for the decommissioning of the PV Facility and the restoration of the Landfill cap and appurtenances thereto pursuant to Condition 5, above.
24. The Permittee shall not deviate from this permit and the approved design plans. The Permittee shall notify MassDEP prior to any modification(s) of the design and of any significant changes in the project schedule. MassDEP may, at its sole discretion, require the Permittee to submit an application to MassDEP for review and approval for any modification/alteration to the design. In the event that MassDEP determines that a permit application is required for a modification, the Permittee shall submit such application to the MassDEP in accordance with the schedule specified by MassDEP. Permittee shall provide a letter of approval from USEPA for any such proposed modifications or schedule changes prior to issuance of MassDEP approval, upon request from MassDEP.
25. The Permittee shall establish, obtain and continuously maintain a Financial Assurance Mechanism (FAM) for the PV Facility in accordance with 310 CMR 19.051 and as set forth in Condition 5 of this decision, in order that sufficient funds are available to properly decommission the solar PV array system, and all of its appurtenant structures and features, and to properly restore the Landfill in accordance with the Selected Remedy.
26. During the first year after completion of construction of the PV Facility, the Permittee shall ensure that inspections of the Landfill final cover system in the areas potentially impacted by the PV Facility construction are conducted on a quarterly basis. Pursuant to 310 CMR 19.142(6), inspections shall be conducted by a Third-Party Inspector registered with MassDEP, pursuant to 310 CMR 19.018. Quarterly third-party inspection reports shall be submitted to MassDEP (both BAW and BWSC), USEPA and PSDs within thirty (30) days of the date of each inspection. Following the first year of operation of the PV Facility, after the submittal of four quarterly third-party inspection reports, and if no problems have been documented, third-party inspections of the Landfill in the PV Facility area shall be performed and reported in accordance with the frequency requirements of the existing Operation and Maintenance Plan dated December 2016 and any subsequent revisions.
27. No transfer of this permit shall be permitted except in accordance with the requirements of 310 CMR 19.044, and notification to USEPA.

NOTICE OF RIGHT TO APPEAL

The Town of Tewksbury and Syncarpha Tewksbury, LLC (hereinafter collectively referred to as the Permittee) are hereby notified that it may within twenty-one (21) days of the date of issuance file a request that this decision and permit be deemed a provisional decision under 310 CMR 19.033(4)(b), by submitting a written statement of the basis on which the Permittee believes it is aggrieved, together with any supporting materials. Upon timely filing of such a request, the decision shall be deemed a provisional decision with an effective date twenty-one (21) days after the MassDEP's receipt of the request. Such a request shall reopen the administrative record, and the MassDEP may rescind, supplement, modify, or reaffirm its decision. Failure by the Permittee to exercise the right provided in this section shall constitute a waiver of the Permittee's right to appeal.

Appeal. Any person aggrieved by the issuance of this decision may file an appeal for judicial review of said decision in accordance with the provisions of M.G.L. c. 111, s. 150A, and M.G.L. c. 30A, not later than thirty (30) days following the date of issuance of the final decision. The standing of a person to file an appeal and the procedures for filing such appeal shall be governed by the provisions of M.G.L. c. 30A. Unless the person requesting an appeal requests and is granted a stay of the terms and conditions of the decision by a court of competent jurisdiction, the decision shall remain effective.

Notice of Action. Any aggrieved person intending to appeal this decision to the Superior Court shall first provide notice to the MassDEP of their intention to commence such action. Said notice of intention shall include the MassDEP's file number and shall identify with particularity the issues and reasons why it is believed the decision was not proper. Such notice shall be provided to the Office of General Counsel of the MassDEP and the Regional Director for the regional office which processed the application at least five (5) days prior to the filing of an appeal. The appropriate addresses to which to send such notices are:

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

and

Eric Worrall, Regional Director
Massachusetts Department of Environmental Protection
Northeast Regional Office
205B Lowell Street
Wilmington, MA 01887

No allegation shall be made in any judicial appeal of this decision unless the matter complained of was raised at the appropriate point in the administrative review procedures established in those regulations, provided that a matter may be raised upon a showing that it is material and that it was not reasonably possible with due diligence to have been raised during such procedures or that

matter sought to be raised is of critical importance to the environmental impact of the permitted activity.

Notwithstanding the foregoing, pursuant to the Governor's Executive Order Suspending State Permitting Deadlines and Extending the Validity of State Permits, COVID-19 Order NO. 17, any person aggrieved by this decision, whose right to appeal such decision would expire during the state of the emergency (which the Governor declared on March 10, 2020) absent the filing of an appeal, shall have until 45 days following the termination of the state of emergency to file an appeal.

This appeal deadline of 45 days following the termination of the state of emergency is based upon the Governor's COVID-19 Order No. 17 in effect at the time this decision was issued. Please check mass.gov frequently for updates, executive orders, court orders and other orders and guidance associated with the COVID-19 State of Emergency to determine if the rights and deadlines to appeal this decision have been modified.

Should you have any questions relative to this approval, please contact Richard Spieler at (978) 694-3317.

Sincerely,

This final document copy is being provided to you electronically by the
Department of Environmental Protection. A signed copy of this document
is on file at the DEP office listed on the letterhead.

Mark G. Fairbrother
Section Chief
Solid Waste Management
MGF/RJS/rjs

Richard J. Spieler
Environmental Engineer
Solid Waste Management

Enclosure: Communication for Non-English Speaking Parties

cc: Tewksbury Board of Health
Town Hall
1009 Main Street
Tewksbury, MA 01876

Kimberly White (U.S. Environmental Protection Agency - Region I)
Email: white.kimberly@epa.gov

Bonnie Heiple (Wilmer Hale)
Email: bonnie.heiple@wilmerhale.com

James R. Campbell (Engineering Management, Inc.)
Email: jrc@e-emi.com

Robert Bukowski (Wood, Inc.)
Email: rob.bukowski@woodplc.com

Dorothy Allen, MassDEP-Boston/BWSC

Jeanne Argento, MassDEP-NERO/OGC