



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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Rebecca L. Tepper
Secretary

Bonnie Heiple
Commissioner

November 10, 2023

Mr. Vincent Barletta
TLA-Holbrook LLC
40 Shawmut Road
Canton, Massachusetts 02021

RE: ISSUANCE OF FINAL PERMIT AND RESPONSE TO COMMENTS

Application for: BWP SW 05
Application for New or Expanded Solid Waste Management Facility:
Authorization to Construct - Large Handling Facilities
Application No. 21-SW05-0001-APP
Authorization No. SW05-0000004

AT: TLA-Holbrook LLC Municipal Solid Waste Transfer Station
3 Phillips Road and 6 Phillips Road
Holbrook, Massachusetts 02343
Facility No. 558259

Dear Mr. Barletta:

The Massachusetts Department of Environmental Protection (“MassDEP”) has completed its review of the public comments submitted to MassDEP for the Authorization to Construct Application (the “Application”) Draft Permit Decision, issued on August 5, 2022, which proposed the approval of the construction of a large solid waste transfer station facility (“Facility” or “Transfer Station”) at 3 & 6 Phillips Road in Holbrook with a capacity of up to 1,000 tons per day of municipal solid waste (“MSW”). After consideration of all comments, MassDEP now issues a Final Decision on the Authorization to Construct Application for TLA-Holbrook, LLC (TLA-Holbrook), **approving construction of the Facility**. See the Final Permit Approval with Conditions.

This letter will outline the procedural history of the Application, discuss the Environmental Justice issues that are relevant to this Application, and respond to the Public Comments.

Procedural History of the Application

Site Assignment: On September 10, 2015, MassDEP issued a Negative Decision on Site Suitability based on its review of a TLA-Holbrook Site Suitability Application, BWP SW 01, Transmittal No. #X254488, citing insufficient information regarding six (6) criteria related to traffic and status of a nearby sensitive receptor. On April 25, 2017, TLA-Holbrook submitted a new Site Suitability Application, BWP SW 01, Transmittal No. # X273727, with a revised facility design. On August 11, 2017, MassDEP issued a Site Suitability Report to the Holbrook Board of Health with a positive determination based on its review of the April 25, 2017 Site Suitability Application, BWP SW 01, Transmittal No. #X273727.

On November 8, 2017, the Holbrook Board of Health granted Site Assignment for 14.85 acres of land upon which the proposed Transfer Station is to be constructed and on January 2, 2019, the Board of Health issued a Minor Modification to the Site Assignment for changes to the facility design. Both the Site Assignment and the Minor Modification were appealed, and the appeals were dismissed by Norfolk County Superior Court in 2020.

Authorization to Construct (ATC): The ATC Application was submitted on behalf of TLA-Holbrook LLC by Green Seal Environmental, LLC of Sagamore Beach, Massachusetts on August 13, 2021, and payment was completed on August 24, 2021. The complete Application was uploaded on October 19, 2021. MassDEP issued an Administrative Completeness Review letter on November 2, 2021. On April 4, 2022, MassDEP issued a Notice of Technical Deficiency and requested that the Applicant respond to technical comments. On May 27, 2022, the Applicant responded to MassDEP's Technical Deficiency. On August 5, 2022, MassDEP determined the Application was Technically Complete and issued a Draft Permit decision.

Environmental Justice Applicability

The proposed Facility is located within an Environmental Justice (“EJ”) community meeting the criteria for “minority” which is defined as a neighborhood where: either minorities make up 40 percent or more of the population or minorities make up 25 percent or more of the population and the annual median household income of the municipality in which the neighborhood is located does not exceed 150 percent of the statewide annual median household income. The area is identified as Block Group 4, Census Tract 4211, Norfolk County, Massachusetts.

There are also additional areas designated as EJ block groups within one mile of the proposed Facility in the Town of Holbrook, the Town of Randolph, and the Town of Avon. The Town of Holbrook is an Environmental Justice community meeting the criteria minority and income with 92.4% or 10,541 residents residing in an EJ block group.

The Massachusetts Executive Office of Energy and Environmental Affairs (EEA), through its Environmental Justice Policy, has directed all EEA agencies to develop an inclusive public participation program for key agency actions that potentially affect designated EJ populations. To meet this directive, MassDEP has developed procedures to enhance community engagement and opportunities for meaningful public involvement of potentially affected EJ populations in specific

agency actions (e.g., permitting decisions). MassDEP's procedures require that MassDEP staff develop a Public Involvement Plan (PIP) for key agency actions that may affect EJ populations including for site suitability report applications (BWP SW 01 and BWP SW 38). A PIP is not required for an ATC permit application.

MassDEP's solid waste regulations include public notice/public comment procedures that require the following for an ATC application:

- MassDEP must prepare a draft decision. Each draft decision must be accompanied by a fact sheet. MassDEP must send a copy of the draft decision and the accompanying fact sheet to the applicant, the local board of health, any abutting board of health, if any, and on written request, to any other person.
- After a draft decision is issued, an applicant is required to publish a notice in a daily or weekly newspaper of general circulation in the locality affected by the facility and notify all abutters, the local board of health, and any abutting board of health of any municipality within ½ mile of the proposed facility.
- After the public notice requirements are met, there is a 30-day public comment period. During the public comment period, any interested person may submit written comments on the draft decision to MassDEP.

Although a PIP is not required for an ATC permit application, due to the proposed Facility being located within an EJ community and knowledge that there has been substantial public interest in the project, MassDEP decided to develop a public participation program that is consistent with the requirements of a PIP and complies with EEA's EJ Policy. MassDEP completed the following, beyond the public notice / public comment requirements, in order to engage the community and promote participation throughout the ATC review process:

- Information and guidance on how to participate in the permitting process:

MassDEP issued six (6) outreach emails to approximately seventy (70) individuals and groups who previously submitted comments to MassDEP regarding TLA-Holbrook to keep the public informed on the project status and to provide information on how to review the application and opportunities for public comment. MassDEP sent informational emails at each critical step in the permitting process including:

- After MassDEP received an application;
- After MassDEP completed a Technical Review and issued a Deficiency Letter/Request For Information;
- When TLA-Holbrook submitted supplemental information in response MassDEP's to Deficiency Letter/Request For Information;
- After MassDEP completed a second Technical Review and issued a Draft Permit, MassDEP provided an electronic copy of the Draft Permit.
- When the 30-day public comment period commenced on August 26, 2022; and
- When MassDEP extended the public comment period an additional 30 days through October 26, 2022

- Translation of Materials:

- MassDEP recommended that TLA-Holbrook translate the public notice into Vietnamese, Haitian Creole, Spanish, Portuguese and Mandarin and publish public notice in available foreign language newspapers circulated in these communities to residents in the Towns of Randolph and Holbrook. MassDEP acknowledges that the TLA-Holbrook did follow MassDEP's recommendation.
- MassDEP translated other key public engagement documents as mentioned below.

- A Community-Specific Approach:

MassDEP sought input from the Town of Holbrook Board of Health regarding local EJ community organizations; interested members of the EJ population; community-specific media outlets; identifying applicable languages for translation; identifying locations in the community where information can be posted to better reach EJ populations; and/or any other recommendations that the Board may have to enhance public participation of the EJ community. The Town of Holbrook provided MassDEP with a list of locations (i.e., churches, apartment buildings, community centers, etc.) for use as local information repositories.

- Local information repositories:

MassDEP sent two (2) separate letters to each location recommended by the Board of Health.

- The first letter included key information on the project and the public comment period. Additionally, the letter included copies of the Public Notice (translated into English, Vietnamese, Haitian Creole, Spanish, Portuguese and Mandarin) and included a request for the notice to be posted in a high traffic area so that the information is accessible to the impacted community.
- MassDEP sent a second letter to each local repository recommended by the Board of Health when the public comment period was extended. This letter was translated into English, Vietnamese, Haitian Creole, Spanish, Portuguese and Mandarin.

- Inclusive Participation:

- The application and all other documents are available online (this is typical of all MassDEP solid waste permits);
- MassDEP extended the public comment period by an additional 30 days through October 26, 2022;
- MassDEP provided paper copies upon request;
- MassDEP accepted public comments in a variety of ways including an online portal, email, and U.S. mail (this is typical of all MassDEP solid waste permits).

Environmental Justice: Site Suitability: As part of the ATC review process, MassDEP revisited how environmental justice was previously addressed during site assignment and whether it complied with the current Executive Office of Energy and Environmental Affairs (EEA) EJ Policy. The project completed Massachusetts Environment Policy Act (MEPA) review in 2013 under the 2002 EJ Policy and completed the site suitability process in 2017 under the 2017 EJ Policy.

The following was completed during Site Suitability in 2017:

- Public Notice was posted in English and Spanish in four local newspapers (the *Holbrook Sun*, *Canton Journal*, *Randolph Herald* and *Stoughton Journal*);
- MassDEP created a webpage for information on the project. The website contained a project overview; the current status of the project; all relevant documents; and listed the MassDEP contact for TLA-Holbrook. The website contained a “Select Language” feature that translated the webpage into languages other than English (approximately 36 languages in total).
- MassDEP provided a copy of MassDEP’s “Report on Suitability” to stakeholders identified by nearby Towns including community groups, news outlets, and alternative media.

The enhanced outreach conducted during MassDEP’s site suitability review, meets the requirements of the current EEA EJ Policy and MassDEP’s internal procedures that are in place today.

MassDEP’s Response to Comments and Final Decision

The Draft Permit public notice was published in English, Vietnamese, Haitian Creole, and Mandarin in the Patriot Ledger on August 23, 2022. The notice was published in Spanish in El Planeta on August 19, 2022, and in Portuguese in the Portuguese Times on August 17, 2022. On August 24, 2022, the Applicant provided MassDEP with documentation that public notice was properly and sufficiently given. Accordingly, the thirty (30) day public comment period began on August 25, 2022.

MassDEP received two (2) written requests to extend the Public Comment period an additional 30 days until October 26, 2022, from the Town of Holbrook Board of Health and from a resident, to allow additional time for interested parties to provide comments. In light of the extension requests and the substantial public interest, in accordance with 310 CMR 19.032(4)(c), MassDEP extended the Public Comment period an additional 30 days through October 26, 2022. On September 20, 2022, MassDEP notified the Applicant and the towns of Holbrook, Randolph, and Avon in writing of the extended public comment period. MassDEP also sent an email dated September 15, 2022, to an outreach list that consisted of residents and state/local officials that previously submitted comments to MassDEP regarding TLA-Holbrook and/or persons who had expressed interest in the project notifying parties of the extended public comment period.

The extended public comment period closed on October 26, 2022.

MassDEP received written comments via U.S. Mail, email, and the ePLACE Public Access Portal. MassDEP received a total of ninety-four (94) written comments from interested parties including state officials, local officials and private citizens. MassDEP reviewed these comments and provided copies of all comment correspondence received during the public comment period to the Applicant. On October 28, 2022, MassDEP requested that the Applicant provide a formal response to the public comments. On November 28, 2022, the Applicant submitted responses to the public comments.

Copies of all public comments received by MassDEP and a copy of the Applicant's response to the public comments are available on the EEA ePlace Public Access Portal at:

<https://eeaonline.eea.state.ma.us/EEA/PublicApp/>.

MassDEP reviewed and considered all public comments and the Applicant's response to comments. After a careful consideration of all comments received, MassDEP is issuing a Final Decision on the Application approving construction of the Facility.

The changes to the Draft Permit are described below in accordance with 310 CMR 19.032(6)(c). The analyses and/or explanation underlying these changes are explained in *italics* below each change.

1. **Final Permit, Page 2, Section II: Application Review, Decision Process, and Draft Permit:** MassDEP revised this section to provide an update to the permitting process since the issuance of the Draft Permit.
Standard Department language (self-explanatory)
2. **Final Permit, Page 8, Paragraph 6:** MassDEP added this paragraph to the Final Permit to clarifying that in issuing this Final Permit, MassDEP is **not** issuing an authorization to operate the Facility.
Standard clarification (self-explanatory)
3. **Final Permit, Page 8, Section V, Condition 1: Notification:** MassDEP modified this condition to include additional notification requirements. The Applicant must notify MassDEP, the Town of Randolph Board of Health, and the Town of Holbrook Board of Health prior to commencing construction and provide a construction schedule, and the name and contact information for the Engineer of Record and for an on-site project representative. The Applicant must also provide the National Pollutant Discharge Elimination System (NPDES) Notice of Intent and the Stormwater Pollution Prevention Plan (SWPPP) for the project, if applicable.
MassDEP revised Condition 1 in response to a comment from the Town of Randolph, to ensure that the Town of Randolph and the Town of Holbrook are properly notified prior to construction. MassDEP included additional provisions to ensure the Town(s) can stay informed throughout the construction process.

4. **Final Permit, Page 9, Condition 4.d: Pre-Construction Submittals:** MassDEP revised this condition to include a valid Wetlands Order of Conditions. MassDEP revised the formatting of this condition for clarity.
Standard clarification (self-explanatory)
5. **Final Permit, Page 9, Condition 5: Nuisance Conditions:** MassDEP revised this condition to include conditions of air pollution pursuant to 310 CMR 7.00. MassDEP included a statement that MassDEP reserves the right to require additional equipment and/or measures to prevent or control nuisance conditions and/or conditions of air pollution.
MassDEP revised Condition 5 in response to comments that expressed concerns about the project because of air pollution, to explicitly state that construction of the Facility must comply with 310 CMR 7.00 Air Pollution Control. Pursuant to 310 CMR 7.00, TLA-Holbrook must implement measures to prevent or alleviate dust, noise, and odor nuisance conditions, which may occur during construction. For example, TLA-Holbrook must ensure any construction equipment is operated in a manner to suppress sound and ensure the equipment is fitted and accommodated with enclosures or other measures to suppress sound, as allowed. Failure to prevent or alleviate dust, noise, and odor nuisance conditions, which causes or contributes to a condition of air pollution, may constitute a violation of the Final Permit and 310 CMR 7.00.
6. **Final Permit, Page 9, Condition 6: Stormwater Management during Construction:** MassDEP added this condition to the Final Permit requiring the Applicant to implement all measures necessary to control and manage stormwater at the project site during construction.
MassDEP added this condition in response to comments that expressed concerns about stormwater run-off from the project and impacts to the Cochato River, to explicitly state that TLA-Holbrook must implement all measures necessary to control and manage stormwater at the project site during construction and evaluate and maintain stormwater controls throughout the construction project.
7. **Final Permit, Page 10, Condition 7: Local, State, and Federal Requirements:** MassDEP revised this condition to include 310 CMR 7.00: Air Pollution Control.
(Same explanation as #4 above)
8. **Final Permit, Page 10, Condition 10: Permit Limitations:** MassDEP revised this condition to clarify that in issuing this Final Permit, MassDEP is not issuing an authorization to operate the Facility.
Standard clarification (self-explanatory)
9. **Final Permit, Page 10, Condition 11: Authorization to Operate:** MassDEP revised this condition to specify that the ATO Application shall comply with the requirements of 310 CMR 19.000, including the information required by 310 CMR 19.030.
Standard clarification (self-explanatory)

- 10. Final Permit, Page 10, Condition 11: Authorization to Operate:** MassDEP modified this condition to require that the ATO Application include proposed truck routes for all trucks delivering solid waste materials to the Facility and/or shipping material from the Facility and information on how the Facility intends to enforce the truck routes.

MassDEP revised Condition 11 in response to a comment from the Town of Randolph, to ensure that the ATO Application includes proposed truck routes. The Town of Randolph stated the Final Permit should require TLA-Holbrook confer with the Town on truck routes and require the truck routes are reviewed and approved by Randolph's Town Manager. MassDEP will require the ATO Application include a 30-day public comment period to ensure the Town of Randolph has an opportunity to review and comment on the proposed truck routes. Further, MassDEP recommends that TLA-Holbrook discuss the proposed truck routes with the Town of Holbrook and the Town of Randolph prior to submitting an ATO Application to MassDEP.

- 11. Final Permit, Page 11, Condition 13: Deed Notice:** MassDEP added this condition to the Final Permit as a reminder that pursuant to 310 CMR 19.041(6) and in accordance with M.G.L. c. 111, § 150A, the Applicant shall record a notice of the authorization to construct permit in the registry of deeds or, if the site is registered land, in the registry section of the land court for the district wherein the land lies.

Standard clarification (self-explanatory)

After a thorough review of the Application and a careful consideration of public comments, MassDEP determined that the Application contains adequate information to satisfy the applicable requirements of 310 CMR 19.000, including but not limited to, 310 CMR 19.038 (2)(a) and (2)(b), and to show the Facility can be designed and built, to not cause air, land and water pollution, or nuisance conditions. MassDEP may conduct periodic inspections throughout the construction process.

Other Comments:

MassDEP reviewed and considered all public comments. Although MassDEP is not responding to each individual comment, MassDEP would like to acknowledge and respond to certain comments, as presented below:

Facility Operations: Most commenters expressed concerns about the project due to the potential for noise, air quality impacts, vermin (rats), odor, and other issues regarding facility operations. At this stage in the permitting process, MassDEP reviews facility operations to ensure the Facility will be constructed in a manner that can comply with MassDEP's operational requirements. For example, MassDEP reviews the design of the misting system, ensures the ventilation system is designed with filters, etc. Please see **Attachment B: Solid Waste Transfer Station: Summary of Permitting Process** which may be helpful to put the ATC in context relative to the overall permitting scheme for a large transfer station.

TLA-Holbrook is required to submit an BWP SW 06 "Authorization to Operate" ("ATO") permit application for MassDEP review and approval prior to operation. MassDEP's regulations do not

require a public comment period at the ATO stage. However, given the number of comments and concerns raised, **MassDEP commits to requiring a 30-day public notice / public comment period as part of the ATO review process.**

MassDEP acknowledges the concerns raised by the public and notes these issues will be addressed again and in more detail during the Authorization to Operate (“ATO”) permitting process. If nuisance conditions are created **during construction** of the Facility, you can report such conditions to MassDEP’s Solid Waste Hotline at (508) 946-2828 or the Southeast Regional Office of MA DEP at (508) 946-2700.

Environmental Justice: During the public comment period for the Application, many commenters highlighted the environmental burden placed on EJ populations including residents in nearby sections of Holbrook and Randolph associated with the cumulative impacts of traffic congestion, the Baird & McGuire Superfund Site, and PFAS in the drinking water supply. Please see the section above titled “**Environmental Justice Applicability**” for information on MassDEP’s efforts to enhance public participation opportunities throughout the ATC permitting process.

Traffic and Access: Most commenters expressed concerns about the project because of traffic impacts and existing congestion on Union Street. MassDEP acknowledges the commenters concerns and any future ATO permit will include a condition that limits the amount of waste trucks that can access the Facility per day. Traffic was thoroughly addressed at Site Assignment and the ATC Application included an updated Traffic Impact and Access Study dated April 18, 2019 which included new traffic count taken in 2019, an expanded study area, and an updated analysis based on 2019 data. Additionally, the Site Assignment requires that TLA-Holbrook implement a three-year traffic monitoring program beginning six months after the start of operations.

MassDEP received several comments regarding the condition of Water Street, Phillips Road, and Mear Road in Holbrook, Massachusetts. Several commenters noted that Phillips Road and Water Street are not adequately paved and stated the industrial park roads lack signage, pavement markings, and sidewalks. Several commenters noted the presence of a residential home on Water Street. One commenter noted that there are “cars parked on both sides of the road, including on the corner and parked illegally” and the commenter further explained that this affects line of sight at the corner (i.e., in the area of 48 Water Street). Phillips Road and a portion of Water Street are adjacent to paved areas, and as the Applicant noted in the revised Traffic Study included in the ATC Application as Attachment 11, “north of Mear Road, the pavement edge along the west side of Phillips Road is delineated mostly by a row of utility poles”. Further, the Applicant noted that Phillips Road “is approximately 22 feet wide with no pavement markings”, that “no sidewalks exist”, and that “neither Phillips Road nor Mear Road have a posted speed limit”.

MassDEP acknowledges the concerns raised by the commenters. MassDEP encourages TLA-Holbrook to work with the Town of Holbrook, as the owner of the industrial park roads, to address the issues raised by commenters including road markings and signage for Phillips Road and Water Street (not including what has been proposed for the site entrance at Phillips Road and Mear Road). Further, the ATO application should address how TLA-Holbrook will minimize truck traffic

impacts to the residents of 48 Water Street (e.g., educate drivers on location of residents, prohibit queuing on Phillips Road, etc.).

Annual Review: MassDEP received one comment stating that MassDEP should require any ATC permit be conditioned upon annual review to include the Town of Randolph. MassDEP determines compliance with an ATC permit through inspections, both Department inspections and third-party inspections, and through a review of as-built drawings and other construction quality assurance/quality control information. For an ATO permit, MassDEP typically includes a 5 year or 10-year renewal requirement.

1 Phillips Road: MassDEP received one comment arguing that public notice was not sufficient because 1 Phillips Road should be considered part of the Facility (due to the presence of the employee parking area, a portion of the site entrance, and the rail switches) and therefore should have been listed in the site address of record included in the public notice. MassDEP disagrees that the project components located at 1 Phillips Road are part of the Facility and therefore must be located on site assigned land. MassDEP previously determined that the employee parking area, a portion of the site entrance, and the rail switches do not need to be located on site assigned land. Because 1 Phillips Road is not assigned, and does not need to be, MassDEP disagrees that public notice was not sufficient.

MassDEP thoroughly reviewed the Application and carefully considered all public comments. The extensive time and effort invested in this process have produced a Final Permit consistent with MassDEP's solid waste regulations.

Please see the attached Final Permit. Should there be any questions, please contact MassDEP at the letterhead address or telephone me at (857) 207-0754 / Mark.Dakers@mass.gov or Alison Cochrane at (617) 694-3441 / Alison.Cochrane@mass.gov. Any correspondence regarding this matter should reference Authorization No. SW05-0000004.

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

D/AC

Attachments

Attachment A: Final Permit Approval with Conditions

Attachment B: Permitting Process Summary

ec: Town of Holbrook
Board of Health - BJayne@holbrookmassachusetts.us

Town Administrator - pmorin@holbrookmassachusetts.us
knynam@holbrookmassachusetts.us

Board of Selectmen, Chair - kgoldrick@holbrookmassachusetts.us

Town of Randolph

Town Manager - bhoward@randolph-ma.gov

Board of Health - gcody@randolph-ma.gov

Town of Avon

Board of Selectmen, Chairperson - ebeckerman@avon-ma.gov

Town Administrator - jbeder@avon-ma.gov

Board of Health - kwaldron@avon-ma.gov

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DEP-SERO

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M. Dakers