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April 24, 2020

CERTIFICATE OF THE SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS  
ON THE  
EXPANDED NOTICE OF PROJECT CHANGE

PROJECT NAME : Bourne Integrated Solid Waste Management Facility  
PROJECT MUNICIPALITY : Bourne  
PROJECT WATERSHED : Cape Cod  
EOEA NUMBER : 11333  
PROJECT PROPONENT : Town of Bourne  
DATE NOTICED IN MONITOR : February 26, 2020

Pursuant to the Massachusetts Environmental Policy Act (MEPA; M.G. L. c. 30, ss. 61-62I) and Section 11.10 of the MEPA regulations (301 CMR 11.00), I hereby determine that this project **requires** the preparation of a Supplemental Environmental Impact Report (EIR). The Town submitted an Expanded Notice of Project Change (NPC) with a request that I allow a Single Supplemental EIR to be submitted in lieu of the usual two-stage Draft and Final EIR process. While I hereby grant the Town's request to submit a Single Supplemental EIR in accordance with the Scope below, I expect that the Single Supplemental EIR will include a comprehensive response to the detailed comments from the Massachusetts Department of Environmental Protection (MassDEP) and remind the Town that I reserve the right to find the Single Supplemental EIR inadequate and require the Town to file a Second Supplemental EIR in accordance with 301 CMR 11.08(8)(d)(3).

The project was published in the Environmental Monitor on February 26, 2020. The Proponent requested an extended comment period which closed on February 10, 2020. The deadline for issuance of this Certificate was extended from April 17, 2020 pursuant to the Governor's Covid-19 Order No. 17: Order Suspending State Permitting Deadlines and Extending the Validity of State Permits.

Project Change Description

As described in the Expanded NPC, the project consists of the phased expansion (Phases 7, 8 and

9) of the Bourne Integrated Solid Waste Management Facility (ISWMF) project. Specifically, the Town of Bourne is proposing a vertical and horizontal landfill expansion and the relocation of the solid waste handling facility and other offices and facilities on the property. The three phase 25.0-acre expansion will provide a total of 5,175,000 cubic yards (cy) of disposal capacity which will extend the life of the landfill through 2040.

The horizontal expansion of the landfill (Phase 7 and 8) will require the development of new lined landfill cells in an area located south of Phase 6. These new cells will incorporate leachate collection and landfill gas management infrastructure. Phases 7 and 8 will provide approximately 3,920,000 cy of disposal capacity. The horizontal expansion will be located within a 25-acre parcel that is currently site assigned for solid waste handling and contains a residential recycling area, transfer station, office building, and other appurtenant structures. The development of Phases 7 and 8 will require the relocation of the transfer station and other structures to an adjacent 12-acre parcel which was acquired by the Town in 2016 and abuts the residential recycling center at the southern boundary of the site. The vertical expansion (Phase 9) is proposed over uncapped areas of the landfill and areas that have been capped with a final cover system. Phase 9 will increase the maximum height of the landfill by 40 feet (from 185 ft to 225 ft) and will provide approximately 1,255,000 cy of disposal capacity which could extend the life of the landfill up to four and a half years.

The Certificate on the Final Environmental Impact Report (FEIR), issued November 29, 1999, acknowledged that certain aspects of the landfill project, including future phases, were conceptual and required that the Town submit NPCs to the MEPA Office to address development of subsequent phases. This Expanded NPC provides an updated site development plan for the landfill and describes the development of Phase 7, Phase 8 and Phase 9 of the landfill expansion.

### Procedural History

Review of the Bourne ISWMF project was initiated with the submission of an Environmental Notification Form (ENF) in 1997. As described in the 1997 ENF, the ISWMF project entailed the development of a regional waste management facility within the Bourne Landfill located off MacArthur's Boulevard (Route 28). The project was intended to meet a regional need for the processing and disposal of construction and demolition (C&D) material, and Difficult-To-Manage (DTM) wastes on Cape Cod. The project included the capping and/or mining of previously landfilled areas, as well as the development of a number of new lined landfill phases for regional non-municipal solid waste. The average disposal rate was identified as 300 to 500 tons per day (tpd). The project was designed to accept a maximum of 825 tpd of waste materials at full build-out. As described in the ENF, approximately 400 tpd would be disposed of on-site, 250 tpd of C&D waste would be processed; 100 tpd would be recycled; 50 tpd would be composted; and 25 tpd would consist of diverted waste. The ENF was followed by a Draft and a Final EIR in 1998 and 1999 (respectively), both of which were determined to be adequate. The Certificate on the FEIR, issued November 29, 1999, acknowledged that certain aspects of the landfill project were conceptual and required that the Town submit Notices of Project Change (NPCs) to the MEPA Office to address development of subsequent phases.

NPC-1 was submitted in April 2003 and expanded the waste stream to include Municipal Solid Waste (MSW) and Municipal Combustor Ash (MCA), increased the quantity of MCA it received, and allowed it to be co-mingled with MSW for landfilling with the Facility. NPC-1 did not increase the

maximum permitted capacity (825 tpd) accepted for disposal, reuse, composting, and recycling. The Town committed to cease accepting unprocessed C&D material by January 1, 2004 in accordance with the Authorization to Operate (ATO) permit. The August 7, 2003 Certificate on NPC-1 determined that the potential impacts associated with the proposed project change did not warrant the preparation of an EIR.

On April 2, 2007, the MEPA Office determined that the Bourne ISWMF's temporary increase in capacity of 500 additional tpd of MSW (1,325 tpd total) qualified as an Emergency Action pursuant to the MEPA regulations. The additional MSW would be diverted from the SEMASS waste-to-energy facility in Rochester, MA which was damaged by a fire on March 31, 2007. A second NPC (NPC-2) was filed on April 17, 2007 under the Emergency Action provisions of the MEPA Regulations to address these actions and the Certificate issued on May 25, 2007 determined that the emergency action did not warrant the preparation of an EIR.

In December 2008, the Town submitted a third NPC (NPC-3) which included the phased construction of five landfill gas (LFG) reciprocating engine/electric generator sets with equipment to recover and convert LFG from the facility to electricity. The proposed energy facility was designed to generate up to 4.3 megawatts (MW) of electricity. The Certificate issued on January 23, 2009 determined that the potential impacts associated with NPC-3 did not warrant the preparation of an EIR.

In January 2016, the Town submitted a fourth NPC (NPC-4) which included an update on the Phase 1D landfill reclamation project and a final development plan for Phase 5 of the landfill. The NPC proposed a hybrid version of two scenarios that were considered in prior MEPA review. The February 5, 2016 Certificate on NPC-4 determined that the potential impacts associated with the proposed project change did not warrant the preparation of an EIR.

The Proponent submitted an Expanded NPC (NPC-5) in December 2017 for Phase 6 with a request that I allow a Single Supplemental EIR to be prepared in lieu of a Draft and Final Supplemental EIR. The Certificate issued on January 12, 2018 granted that request. Phase 6 was designed to support Phase 7 and Phase 8 (described in this Certificate). In May 2018, the Town submitted a Single Supplemental Single Supplemental EIR. The Certificate issued on June 26, 2018 determined that it adequately and properly complied with MEPA and its implementing regulations.

### Project Site

The Bourne ISWMF, located at 201 MacArthur Boulevard (Route 28), is comprised of a 74-acre site-assigned parcel which contains the landfill operations and facilities. In 2001, a 25-acre parcel immediately abutting the landfill to the south was purchased and has been used for recycling and transfer operations. The landfill contains lined and unlined waste disposal areas. Phases 1A, 1B, 1C, and 1D are unlined cells that comprise the oldest portion of the landfill. Phases 1A, 1B, and 1C are closed and capped. Phase 1D was part of a pilot landfill reclamation project with the Massachusetts Department of Environmental Protection (MassDEP) that removed the solid waste in this area in order to create additional landfill space. Phases 2 and Phase 3 are both lined and are closed and capped with leachate collection systems. Phase 4, an active landfill cell, is located in the area previously occupied by Phase 1D. Phase 5 consists of a vertical expansion proposed over Phases 1A, 1B, and 1C. MassDEP issued an Authorization to Construct (ATC) and ATO Permit in 2019 for Phase 6 which is currently

under construction.

### Permits and Jurisdiction

The development of Phases 7, 8 and 9 is undergoing MEPA review and requires a NPC because it consists of a material change to the project prior to the taking of all Agency Actions. The project change exceeds the mandatory EIR threshold at 301 CMR 11.03 (1)(a)(2) because it will result in the creation of ten or more acres of impervious area. The project change also exceeds the Solid Waste ENF threshold at 301 CMR 11.03(9)(b)(1). Because it requires an EIR, the project change is subject to review in accordance with the MEPA Greenhouse Gas (GHG) Emissions Policy and Protocol (“GHG Policy”).

The proposed landfill expansion will require the following Permits from MassDEP: Site Suitability Report for a Major Modification of an Existing Site Assignment (BWP SW 38), Authorization to Construct (ATC) a Large Landfill Expansion (BWP SW 26), and Authorization to Operate (ATO) (BWP SW 10). Relocation of the transfer station to the 12-acre parcel will require the following Permits from MassDEP: Site Suitability Report for a New Site Assignment (BWP SW 01), ATC a Large Handling Facility (BWP SW 05), and ATO a Large Handling Facility (BWP SW 06). The project may also require a Conservation Management Permit (CMP) from the Division of Fisheries and Wildlife’s (DFW) Natural Heritage and Endangered Species Program (NHESP).

The project will require a Development of Regional Impact (DRI) Modification from the Cape Cod Commission (CCC), Site Assignment Approval from the Bourne Board of Health, and a National Pollutant Discharge Elimination System (NPDES) Construction General Permit from the U.S. Environmental protection Agency (EPA).

Because the project is not seeking Financial Assistance from the Commonwealth, MEPA jurisdiction extends to those aspects of the project that are within the subject matter of required, or potentially required, State Agency Actions and that may cause Damage to the Environment as defined in the MEPA regulations. The subject matter of the Site Assignment regulations is sufficiently broad to confer the equivalent of broad scope jurisdiction over the potential environmental impacts of the project. Therefore, MEPA jurisdiction is broad in scope and extends to all aspects of a project that are likely, directly or indirectly, to cause Damage to the Environment, as defined in the MEPA regulations.

### Environmental Impacts and Mitigation

According to the Expanded NPC, potential environmental impacts of the project change will include alteration of 38 acres of land (112 total acres) and creation of 16.23 acres of impervious area. Measures to avoid, minimize, and mitigate project impacts include: construction period Best Management Practices (BMPs), permanent protection of rare species habitat, dust control measures, erosion and sedimentation controls, leachate management, and measures to maximize LFG collection efficiency.

### Single EIR Request

The Expanded NPC included a request to file a Single Supplemental EIR and was subject to an extended comment period. Consistent with the criteria for granting a Single EIR, the NPC provided a

detailed project description, a baseline for evaluating environmental impacts and a comprehensive alternatives analysis. The Expanded NPC identified how the project is designed to achieve consistency with regulatory standards and measures to avoid, minimize and mitigate project impacts.

### Review of Expanded NPC

The Expanded NPC described the project, identified existing conditions, and described potential environmental impacts and mitigation measures. It provided a brief description of applicable statutory and regulatory standards and requirements, and described how the project will meet those standards. The Expanded NPC provided a list of required local, state, and federal permits and provided an update on the status of each of these actions.

Comments from MassDEP identify information that should be provided in the Single Supplemental EIR to ensure the facility design and operational measures will comply with solid waste regulations and applicable polices. Comments from the Cape Cod Commission (CCC) request the Town provide a discussion of the project relative to the pertinent goals and objectives from the Cape Cod Regional Policy Plan.

### *Alternative Analysis*

The Expanded NPC provided a limited alternative analysis that evaluated expanding the landfill with Phases 7-9 (the Preferred Alternative, as described herein) and a No-Build alternative which would close the landfill once Phase 6 has reached capacity. The Expanded NPC provided a series of plans and cross-section views for each alternative. The Expanded NPC indicated that the No-Build Alternative was dismissed as the existing landfill is approaching capacity and this alternative would not extend the life span of the facility. The Expanded NPC indicated that the Preferred Alternative was selected as it will provide flexibility for additional expansion of the landfill (Phases 7, 8 and 9).

### *Solid Waste*

The project will be regulated under MassDEP's Site Assignment Regulations for Solid Waste Facilities and Solid Waste Regulations. The Town will be required to modify its Site Assignment with the Board of Health prior to development of Phases 7, 8 or 9. The Expanded NPC included a narrative that addressed the project's consistency with the applicable regulatory approval criteria. I refer the Town to MassDEP's detailed comment letter which identifies additional information necessary to evaluate compliance with site suitability criteria. The Scope for the Single Supplemental EIR requires that the Town provide additional information that addresses the applicable Site Assignment and Solid Waste regulatory approval criteria to support MassDEP permitting.

As described in the Expanded NPC, Phases 7 and 8 will be constructed in progression southward from Phase 6 (which was previously described in the 2018 NPC-5). Phase 7 will be constructed over the southern slope of Phase 6 and Phase 8 will be constructed over the southern slope of Phase 7. The Expanded NPC indicated that Phase 7 and 8 will be located in areas that are currently used for site-assigned solid waste handling activities. Both phases would be constructed using a double composite lined landfill design with leak detection designed to meet regulatory requirements for liner construction. Phase 9 will be constructed over previously lined and filled areas of the landfill including Phases 2, 2A/3A, 3, 4, 5 and 6. I refer the Town to comments from MassDEP which request that the Town

schedule a pre-filing meeting to discuss the design of Phase 9 and the requirements of 310 CMR 19.110(5). The Expanded ENF indicated that Phase 9 will be constructed above portions of the landfill that will remain uncapped by installing a long-term intermediate cover in lieu of a final cover system. According to the Expanded NPC, this is intended to avoid the need to cap an area that will then be disturbed a few years later to provide the new capacity. I refer the Town to comments from MassDEP which request a schedule for capping and proposed specifications for the long-term intermediate cover system, including provisions for the collection of landfill gas.

Wastewater from the landfill, including leachate and condensate, will be collected via a groundwater protection system and conveyed to on-site storage tanks prior to being trucked off-site for disposal at a wastewater treatment facility. The Expanded NPC indicated the Town is evaluating the potential construction of an on-site leachate pre-treatment system or full treatment system. An update on this evaluation should be provided in the Single Supplemental EIR.

The Expanded NPC indicated that the project does not require an increase to the permitted tonnage the site can accept and therefore will not generate new traffic or impact traffic patterns. The Expanded NPC included a traffic assessment memorandum (dated August 31, 2017) which indicated that traffic generation has decreased since 2015 when the ash, delivered in large trailers, became the primary waste stream. I refer the Town to comments from MassDEP which requests additional information regarding the traffic study, including recent crash data.

#### *Land Alteration/Stormwater*

The new liner areas and area required for new structures and associated pavement will create 16.23 total acres of impervious area. According to the Expanded NPC, stormwater will be managed onsite through the use of diversion berms, swales, culverts, retention basins, and infiltration basins. The Expanded NPC did not identify stormwater infrastructure that may need to be relocated nor provide an additional description of the existing or proposed stormwater management infrastructure. This should be provided in the Single Supplemental EIR.

#### *Rare Species*

According to the Expanded NPC, portions of the project site are located within mapped habitat of the Eastern Box Turtle (*Terrapene carolina*), which is state-listed as a species of Special Concern. This species and its habitat are protected pursuant to the Massachusetts Endangered Species Act (MESA; MGL c.131A) and its implementing regulations (321 CMR 10.00). Comments from NHESP indicate that the project is anticipated to result in a Take and, therefore, will require a CMP pursuant to 321 CMR 10.23. Projects resulting in a Take of state-listed species may be permitted only if they meet the performance standards for a CMP. In order for a project to qualify for a CMP, the Town must demonstrate that the project has avoided, minimized and mitigated impacts to state-listed species consistent with the following performance standards: (a) adequately assess alternatives to both temporary and permanent impacts to the state-listed species, (b) demonstrate that an insignificant portion of the local population will be impacted, and (c) develop and agree to carry out a conservation and management plan that provides a long-term net benefit to the conservation of the state-listed species. The Expanded NPC indicated the Town intends to meet these performance standards by permanently protecting off-site land in the vicinity of the site as open space and state-listed species habitat. NHESP

anticipates that the project will provide a suitable long-term net benefit and meet the performance standards for issuance of a CMP.

### *Greenhouse Gas Emissions (GHG)*

The project is subject to the GHG Policy because it exceeds thresholds for a mandatory EIR. The Policy requires Proponents to quantify carbon dioxide (CO<sub>2</sub>) emissions and identify measures to avoid, minimize or mitigate such emissions. The Policy directs proponents to use applicable building codes to establish a project emissions baseline that is “code-compliant.” However, there is no building energy code equivalent that applies specifically to landfills or energy use models (such as eQUEST) designed to estimate the projected energy use of the landfill energy loads. Therefore, prior to the submittal of the Expanded NPC the Town had consulted with the MEPA Office and the Department of Energy Resources (DOER) in development of the GHG analysis. The Expanded NPC provided an overview of the measures the Proponent currently employs to avoid, minimize, and mitigation GHG emissions including: recycling, implementation of a LFG collection and flare system, improving collection efficiency (95% vs 75%), and use of Tier 4 emissions reduction equipment in all on-site heavy machinery. The Expanded NPC also provided an overview of additional measures to reduce GHG emissions which were pursued by the Town and ultimately determined to be financially or technically infeasible, including: LFG conversion to pipeline natural gas, microturbines fueled by LFG, LFG-to-energy facility, anaerobic digestion of organic materials and biogas-to-energy. I commend the Town for its ongoing commitment to GHG reduction and for continuing to evaluate and pursue options to reduce the impacts of LFG emissions.

The Town currently mitigates the emission of GHG through an extensive landfill gas collection system and thermal destruction system. A major reduction in the production of GHGs has been achieved by shifting the waste it accepts. Approximately 86 percent of its annual tonnage is in the form of municipal combustor ash (MCA) which does not produce gases. The Town’s 10-year contract to accept MCA from SEMASS will terminate at the end of 2021. The Town intends to extend the contract and to continue accepting up to 189,000 tpy of MCA and 30,000 tpy of biodegradable MSW from Bourne and Falmouth (Scenario 1). However, if the contract is not extended, the Town will return to accepting up to 219,000 tpy of biodegradable municipal solid waste (MSW) (Scenario 2). The Expanded NPC described both MSW/MCA contract scenarios, the decrease in LFG associated with each, the actual LFG collection system efficiency compared to industry standards, and the flare efficiency. It also quantified GHG emissions from direct (flaring and fugitive emissions) and indirect (flare and LFG collection motors) sources. The greenhouse gas evaluation of both scenarios reflect the reductions associated with aggressive measures to capture, collect and destroy landfill gas. The Expanded NPC identified the resulting CO<sub>2</sub> emissions that would be generated each year over a 20 year period (2021 through 2041) for each of the two scenarios. The GHG emissions associated with Scenario 1 would decline annually from 2021 to 2041 and would generate a total of 390,706 tons of GHG emissions over this period. The GHG emissions associated with Scenario 2 would increase annually from 2021 to 2036, and then decline annually to 2041. Scenario 2 would generate a total of 815,844 tons of GHG emissions over this period. The Town’s preferred scenario (Scenario 1), representing continued acceptance of MCA, would decrease GHG emissions by 425,138 total tons over the 40 year period (2021 through 2041) compared to Scenario 2. This represents an approximate 52 percent reduction in GHG emissions compared to Scenario 2.

According to the Expanded NPC, the Town is assessing the feasibility and potential development of the following projects which would provide additional reductions in GHG emissions:

- Recovering thermal energy (140 tpy);
- LFG-to-Energy (219,000 tpy);
- LFG Blower Powers with 40 horsepower motors (75 tpy); and
- Solar PV (6.2 MW) on final closed plateau of landfill and existing facility roof (3,714 tpy);
- Development of on-site leachate treatment (would eliminate 1,000 to 2,000 truck trips each year);
- Operation of an animal crematory that would use LFG as a fuel (and displace the use of natural gas from other sources);
- Additional thermal recovery of LFG from combustion to heat the maintenance building;
- Vertical axis wind turbines;
- Use of compressed natural gas for trucks; and,
- Regional composting.

### *Construction Period*

The Expanded NPC identifies construction period impacts including increases in construction related truck traffic, dust, noise, stormwater runoff, and construction waste. Mitigation measures identified in the Expanded NPC include implementation of a traffic control and construction management plan, dust suppression measures, and construction waste management and recycling.

All construction and demolition activities should be managed in accordance with applicable MassDEP's regulations regarding Air Pollution Control (310 CMR 7.01, 7.09-7.10), and Solid Waste Facilities (310 CMR 16.00 and 310 CMR 19.00, including the waste ban provision at 310 CMR 19.017). The project should include measures to reduce construction period impacts (e.g., noise, dust, odor, solid waste management) and emissions of air pollutants from equipment, including anti-idling measures in accordance with the Air Quality regulations (310 CMR 7.11). I encourage the Town to require that its contractors use construction equipment with engines manufactured to Tier 4 federal emission standards, or select project contractors that have installed retrofit emissions control devices or vehicles that use alternative fuels to reduce emissions of volatile organic compounds (VOCs), carbon monoxide (CO) and particulate matter (PM) from diesel-powered equipment. Off-road vehicles are required to use ultra-low sulfur diesel fuel (ULSD). If oil and/or hazardous materials are found during construction, the Proponent should notify MassDEP in accordance with the Massachusetts Contingency Plan (310 CMR 40.00). All construction activities should be undertaken in compliance with the conditions of all State and local permits. I encourage the Town to reuse or recycle construction and demolition (C&D) debris to the maximum extent.

### Conclusion

Based on review of the Expanded NPC, consultation with State Agencies and review of comment letters, I have determined that the Proponent may submit a Single Supplemental EIR. The Single Supplemental EIR should be prepared in accordance with the following Scope. The primary emphasis of this Scope is to demonstrate that the project's design and operational measures will comply with solid waste regulations and applicable polices and provide sufficient information for MassDEP to use in making their permitting decisions and associated Section 61 Findings.



## SCOPE

### General

The Single Supplemental EIR should follow Section 11.07 of the MEPA regulations for outline and content, as modified by this Scope.

### Project Description and Permitting

The Single Supplemental EIR should include a detailed description of the proposed project and describe any changes to the project since the filing of the Expanded NPC. The project description should identify individual components of the project and identify impacts associated with each component. The Single Supplemental EIR should include updated plans as necessary to reflect modifications to infrastructure design, access roadways, and mitigation. It should provide a revised description and analysis of applicable statutory and regulatory standards and requirements, and a description of how the project will meet those standards. The Single Supplemental EIR should include a list of required State permits or other State approvals and provide any relevant updates. The Single Supplemental EIR should include an update on the CCC review process and a discussion of the project's compliance with the pertinent goals and objectives from the Cape Cod Regional Policy Plan.

According to the Expanded NPC, the landfill is anticipated to play a leading role in responding to future emergency conditions on Cape Cod in order to ensure that the public health and the environment are protected. The Expanded NPC included a request that MEPA review be waived for such emergencies and defer to MassDEP for any technical oversight. Specifically, the Expanded NPC requests presumptive approval to operate any or all of its facilities 24 hours per day, with a total inbound tonnage not to exceed 1,500 tons in any 24 hour period, for a minimum of five consecutive days, or 120 hours. The Expanded NPC did not describe the anticipated future emergency conditions nor provide additional details on what may trigger the need for implementation of this scenario. If there is a specific future emergency scenario to which this request relates, this should be described in the Single Supplemental EIR. It should also identify any additional Permits or Agency Actions that may be required specific to the emergency. Lastly, I note the MEPA regulations currently include provisions that address review of emergency actions necessary to avoid or eliminate an imminent threat to environmental resources or quality or public health or safety (301 CMR 11.13).

### Solid Waste

Comments from MassDEP identify information required to demonstrate the project's consistency with the applicable Site Assignment and Solid Waste regulatory approval criteria. I hereby incorporate by reference the comment letter from MassDEP dated April 9, 2020, into the Scope for the Single Supplemental EIR. The Single Supplemental EIR should identify whether the Proponent intends to request a waiver of any Site Suitability Criteria identified at 310 CMR 16.40 and should include additional information and analysis to address the issues identified in MassDEP's comment letter.

The Single Supplemental EIR should include a description of the existing monitoring wells and leachate and landfill gas collection systems. It should provide plans and describe how leachate and

landfill gas will be collected and managed within Phase 7-9. The Single Supplemental EIR should identify any monitoring wells and leachate or gas collection infrastructure located within the footprint of the expansion that will need to be removed, modified, or relocated to accommodate the expansion. As noted above, the Town intends to keep a section of the landfill uncapped by installing a long-term intermediate cover system in lieu of a final cover system. In order to evaluate the adequacy of this plan, the Single Supplemental EIR should include a detailed capping sequence plan that includes a site plan and schedule for capping and proposed specifications for the long-term intermediate cover system including provisions for the collection of landfill gas.

The Single Supplemental EIR should develop and present the Preferred Alternative with both a Land Use Plan and a Water Resources Plan in accordance with the Site Assignment. The Single Supplemental EIR should include site plans depicting the proposed limits of site assignment and waste handling. The Single Supplemental EIR should also include site plans depicting the conceptual plan for the proposed landfill expansion areas and the proposed handling facility to demonstrate compliance with 310 CMR 16.40(4)(h) Size of Facility as requested by MassDEP. The Single Supplemental EIR should include a groundwater contour map in order to delineate where the nearest public drinking water supply or potential public water supply is located.

#### Land Alteration/Stormwater

The Single Supplemental EIR should include a graphic and narrative description of the impervious areas that will be created by the project and should review alternatives for minimizing new impervious surfaces associated with pavement. The Single Supplemental EIR should provide plans and a narrative that describes the existing and proposed stormwater management system. The plans should clearly identify stormwater infrastructure that will be eliminated, newly constructed, or modified. The Single Supplemental EIR should include additional information regarding construction sequencing that includes interim erosion controls and temporary stormwater structures (as applicable) to address the changing contours throughout the landfill.

#### Rare Species

The Single Supplemental EIR should analyze the impacts to Eastern Box Turtle and evaluate avoidance/mitigation strategies. It should provide an update on consultation with the NHESP and include additional details on how the project will provide a suitable long-term net benefit and meet the performance standards for issuance of a CMP. This should include information on the size (sf) and location of the land that will be permanently protected as open space and state-listed habitat. The Single Supplemental EIR should identify necessary project construction and post-construction conditions and commitments to avoid an adverse impact to resource area habitats of state-listed species located within and adjacent to the project areas.

#### Climate Change and GHG

Governor Baker's Executive Order 569: Establishing an Integrated Climate Change Strategy for the Commonwealth (EO 569; the Order) was issued on September 16, 2016. The Order recognizes the serious threat presented by climate change and directs agencies within the administration to develop and implement an integrated strategy that leverages state resources to combat climate change and prepare for

its impacts. The Order seeks to ensure that Massachusetts will meet greenhouse gas (GHG) emissions reduction limits established under the Global Warming Solution Act of 2008 (GWSA) and will work to prepare state government and cities and towns for the impacts of climate change. Review of these issues through the GHG Policy and requirements to analyze the effects of climate change through EIR review is an important part of this statewide strategy. These analyses inform State Agencies and proponents' understanding of a project's GHG emissions and its vulnerability to the effects of climate change.

### *Adaptation and Resiliency*

The Town is a participant in the Commonwealth's Municipal Vulnerability Preparedness (MVP) program. The MVP program is a community-driven process to define natural and climate-related hazards, identify existing and future vulnerabilities and strengths of infrastructure, environmental resources and vulnerable populations, and develop, prioritize and implement specific actions the Town can take to reduce risk and build resilience.

The Single should identify design features that could increase the resiliency of each of the proposed phases under future sea level conditions. The Town should consult the best available data on climate change predictions, including data available on the resilientMA.org website, to develop climate change scenarios for the project and identify potential adaptation measures for the appropriate design life of the project. EEA's Climate Change Adaptation Report (September 2011) and the Town's Climate Change Vulnerability Assessment (dated December, 2019) provide additional resources to assist in this analysis.

### *Greenhouse Gas Emissions*

If the Town's contract with SEMASS is not extended, the Town will return to accepting up to 219,000 tpy of biodegradable municipal solid waste (MSW) (Scenario 2). As noted above, this scenario results in significant more GHG emissions than Scenario 1 (primarily MCA). The Single Supplemental EIR should provide an update on the SEMASS contract situation. It should indicate which of the two scenarios is likely to occur (to the extent this is feasible). The Single Supplemental EIR should identify additional measures which will be implemented to reduce GHG emissions should Scenario 2 occur. The project includes the relocation of the solid waste handling facility and other offices and facilities on the property. The Town should consult with MEPA staff and representatives of DOER prior to filing the Single Supplemental EIR to discuss how to assess the GHG impacts of this new construction.

To ensure that all GHG emissions reduction measures adopted by the Proponent in the Preferred Alternative are actually constructed or performed by the Town, I require Proponents to provide a self-certification to the MEPA Office indicating that all of the required mitigation measures, or their equivalent, have been completed. The self-certification should be included in the draft Section 61 Findings.

### Construction

The Single Supplemental EIR should include information regarding construction sequencing that includes interim erosion controls and temporary stormwater structures (as applicable) to address the changing contours throughout the phased development of the landfill. The Single Supplemental EIR

should describe proposed construction management components including site preparation and staging, hazardous and solid waste management, and implementation of measures to control construction traffic, noise, and air quality impacts. The Town should commit to participating in MassDEP's Clean Air Construction initiative and include this as a mitigation measure in its Section 61 findings. The Single Supplemental EIR should also address how the project will comply with the Massachusetts Idling regulation at 310 CMR 7.11.

#### Mitigation Measures/Section 61 Findings

The Single Supplemental EIR should include a separate chapter summarizing proposed mitigation measures. This chapter should also include draft Section 61 Findings for each permit or other approval to be issued by State Agencies. The Single Supplemental EIR should contain clear commitments to implement these mitigation measures, estimate the individual costs of each proposed measure, identify the parties responsible for implementation, and a schedule for implementation. The Single Supplemental EIR should clearly indicate which mitigation measures will be constructed or implemented based upon project phasing to ensure that adequate measures are in place to mitigate impacts associated with each phase of the landfill expansion.

#### Response to Comments

The Single Supplemental EIR should contain a copy of this Certificate and a copy of each comment letter received. In order to ensure that the issues raised by commenters are addressed, the Single Supplemental EIR should include direct responses to comments to the extent that they are within MEPA jurisdiction. This directive is not intended to, and shall not be construed to, enlarge the Scope of the Single Supplemental EIR beyond what has been expressly identified in this certificate.

#### Circulation

The Proponent should circulate the Single Supplemental EIR to those parties who commented on the EENF, to any State Agencies from which the Proponent will seek permits or approvals, and to any parties specified in section 11.16 of the MEPA regulations. Per 301 CMR 11.16(5), the Proponent may circulate copies of the Single Supplemental EIR to commenters in CD-ROM format or by directing commenters to a project website address. However, the Proponent must make a reasonable number of hard copies available to accommodate those without convenient access to a computer and distribute these upon request on a first-come, first-served basis. The Proponent should send correspondence accompanying the CD-ROM or website address indicating that hard copies are available upon request, noting relevant comment deadlines, and appropriate addresses for submission of comments. The Single Supplemental EIR submitted to the MEPA office should include a digital copy of the complete document. A copy of the Single Supplemental EIR should be made available for review at the Bourne public library.<sup>1</sup>

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<sup>1</sup> Requirements for hard copy distribution or mailings will be suspended during the Commonwealth's COVID-19 response. Please consult the MEPA website for further details on interim procedures during this emergency period: <https://www.mass.gov/orgs/massachusetts-environmental-policy-act-office>.

April 10, 2020

Date



Kathleen A. Theoharides

Comments received:

- 4/09/2020 Natural Heritage and Endangered Species Program (NHESP)
- 4/10/2020 Cape Cod Commission (CCC)
- 4/10/2020 Massachusetts Department of Environmental Protection (MassDEP) – Southeast Regional Office (SERO)

KAT/ACC/acc



Commonwealth of Massachusetts  
Executive Office of Energy & Environmental Affairs

## Department of Environmental Protection

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Charles D. Baker  
Governor

Karyn E. Polito  
Lieutenant Governor

Kathleen A. Theoharides  
Secretary

Martin Suuberg  
Commissioner

April 9, 2020

Kathleen A. Theoharides  
Secretary of Environment and Energy  
Executive Office of Energy and  
Environmental Affairs  
ATTN: MEPA Office  
100 Cambridge Street, Suite 900  
Boston, MA 02114

RE: NPC Review. EOEEA 11333  
BOURNE. Bourne Integrated Solid Waste  
Management Facility at 201 MacArthur  
Boulevard

Dear Secretary Theoharides,

The Southeast Regional Office of the Department of Environmental Protection (MassDEP) has reviewed the Notice of Project Change (NPC) for the Bourne Integrated Solid Waste Management Facility at 201 MacArthur Boulevard, Bourne, Massachusetts (EOEEA 11333). The Project Proponent provides the following information for the Project:

The purpose of this ENPC, which in effect is acting as an Expanded Environmental Notification Form (EENF), is to provide a comprehensive view of the full build-out potential of the Bourne Landfill and associated facilities. As noted in the final Certificate for Phase 6 in June 2018, the Secretary stated that "... the Town will submit a NPC to address development of Phase 7 and 8. This subsequent NPC should provide an updated development plan for Phase 7, Phase 8, the residential recycling center and relocated offices. The NPC should provide a cumulative assessment of potential impacts and avoidance, minimization, and mitigation measures for Phase 7 and Phase 8. As stated previously subsequent phases may result in a "Take" of the Eastern Box Turtle and require a CMP from the NHESP."

The submittal of this ENPC is in accordance with that path, however this NPC is in an expanded form so that it can act, in effect, as an Expanded Environmental Notification Form (EENF) in preparation for a Single Supplemental Environmental Impact Report (SSEIR) which the Town is requesting and is the process utilized to review Phase 6. The proposed site development plan for horizontal and vertical expansions of the landfill into the 2040s with new landfill liners, will also require relocation of existing structures such as offices and transfer operations onto currently pervious land. Together, the new liner areas and the areas required for the new structures and associated pavement will result in an increase of more than ten acres of new impervious land and therefore the preparation of an EIR is required.

***Bureau of Water Resources Comments:***

Wetlands and Waterways Comments: As proposed, this Project does not affect wetlands or waterways protected resources and is therefore not subject to the Wetlands Protection Act.

Industrial Stormwater Permit. The Facility appears to be a subject to the U.S. Environmental Protection Agency (US EPA) National Pollutant Discharge Elimination System (NPDES) Multi-Sector General Permit (MSGP) for stormwater discharges from industrial activity as an activity under Sector L: Landfills and Land Application Sites. MassDEP reviewed the Notices of Intent (NOI) available for the 2015 MSGP in the EPA ECHO and E-enterprise databases and did not find an NOI for the Facility. More information on the MSGP may be found at:

[https://www.epa.gov/sites/production/files/2015-10/documents/sector\\_1\\_landfills.pdf](https://www.epa.gov/sites/production/files/2015-10/documents/sector_1_landfills.pdf)

Construction Stormwater Permit., The Project construction activities are scheduled to disturb 112 acres of land and therefore, may require a NPDES Stormwater Permit for Construction Activities. This permit is issued by the U.S. Environmental Protection Agency where the Proponent can access information regarding the NPDES Stormwater requirements and an application for the Construction General Permit at the EPA website: [https://www.epa.gov/sites/production/files/2017-07/documents/cgp\\_flow\\_chart\\_do\\_i\\_need\\_a\\_permit2.pdf](https://www.epa.gov/sites/production/files/2017-07/documents/cgp_flow_chart_do_i_need_a_permit2.pdf)

The Proponent should also determine if any of the following U.S. EPA NPDES permits are necessary prior to commencing Project construction:

Dewatering General Permit - <https://www.epa.gov/npdes-permits/dewatering-general-permit-dgp-massachusetts-new-hampshire>.

Remediation General Permit - <https://www.epa.gov/npdes-permits/remediation-general-permit-rgp-massachusetts-new-hampshire>.

Additional information regarding these permits may be found at:

<http://www.epa.gov/region1/npdes/stormwater/assets/pdfs/CGP-DGP-RGP-Flow-Chart.pdf>

***Bureau of Waste Site Cleanup Comments:***

NPC #11333 – Based upon the information provided, the Bureau of Waste Site Cleanup (BWSC) searched its databases for disposal sites and release notifications that have occurred at or might impact the proposed Project area. A disposal site is a location where there has been a release to the environment of oil and/or hazardous material that is regulated under M.G.L. c. 21E, and the Massachusetts Contingency Plan [MCP – 310 CMR 40.0000].

There are several listed MCP sites located within 1000-feet of the proposed Project area. The disposal sites have all been closed under the MCP, and no further response actions or reporting are required. Note that one of the closed disposal sites is located at the Bourne ISWM facility (Release Tracking Number 4-14181). It is unlikely that any of these closed sites will impact the proposed MEPA Project area.

There are no other listed MCP disposal sites located at or in the vicinity of the site that would appear to impact the proposed Project area. Interested parties may view a map showing the location of BWSC disposal sites using the MassGIS data viewer (Oliver) at:

[http://maps.massgis.state.ma.us/map\\_ol/oliver.php](http://maps.massgis.state.ma.us/map_ol/oliver.php) Under “Available Data Layers” select “Regulated Areas”, and then “DEP Tier Classified 21E Sites”. The compliance status and report

submittals for specific MCP disposal sites may be viewed using the BWSC Waste Sites/Reportable Release Lookup at: <https://eeaonline.eea.state.ma.us/portal#!/search/wastesite>

The Project Proponent is advised that if oil and/or hazardous material are identified during the implementation of this Project, notification pursuant to the Massachusetts Contingency Plan (310 CMR 40.0000) must be made to MassDEP, if necessary. A Licensed Site Professional (LSP) should be retained to determine if notification is required and, if need be, to render appropriate opinions. The LSP may evaluate whether risk reduction measures are necessary if contamination is present. The BWSC may be contacted for guidance if questions arise regarding cleanup.

***Bureau of Air and Waste Comments:***

***Air Quality.*** Construction and operation activities shall not cause or contribute to a condition of air pollution due to dust, odor or noise. To determine the appropriate requirements please refer to:

310 CMR 7.09 Dust, Odor, Construction, and Demolition

310 CMR 7.10 Noise

***Construction-Related Measures***

MassDEP requests that all non-road diesel equipment rated 50 horsepower or greater meet EPA's Tier 4 emission limits, which are the most stringent emission standards currently available for off-road engines. If a piece of equipment is not available in the Tier 4 configuration, then the Proponent should use construction equipment that has been retrofitted with appropriate emissions reduction equipment. Emission reduction equipment includes EPA-verified, CARB-verified, or MassDEP-approved diesel oxidation catalysts (DOCs) or Diesel Particulate Filters (DPFs). The Proponent should maintain a list of the engines, their emission tiers, and, if applicable, the best available control technology installed on each piece of equipment on file for Departmental review.

***Massachusetts Idling Regulation***

The NPC reports that the Project Proponent proposes simply to "minimize idling." MassDEP reminds the Proponent that unnecessary idling (i.e., in excess of five minutes), with limited exception, is not permitted during the construction and operations phase of the Project (Section 7.11 of 310 CMR 7.00). With regard to construction period activity, typical methods of reducing idling include driver training, periodic inspections by site supervisors, and posting signage. In addition, to ensure compliance with this regulation once the Project is occupied, MassDEP requests that the Proponent install permanent signs limiting idling to five minutes or less on-site.

***Spills Prevention.*** A spills contingency plan addressing prevention and management of potential releases of oil and/or hazardous materials from pre- and post-construction activities should be presented to workers at the site and enforced. The plan should include but not be limited to, refueling of machinery, storage of fuels, and potential on-site activity releases.

***Solid Waste Management.*** MassDEP Solid Waste staff (Solid Waste) has reviewed the NPC for the Town of Bourne Integrated Solid Waste Management Facility in Bourne ("Project" or "Site" or "facility") EEA No. 11333.

***NPC Project Information:***

*The Town of Bourne Department of Integrated Solid Waste Management (ISWM or Proponent or Town) is proposing a vertical and horizontal landfill expansion and the relocation of the solid waste handling facility and other offices and facilities on the property. The proposed vertical expansion, designated as Phase 9, involves placing waste vertically over previously landfilled areas*



including Phase 2, 2A/3A, 3, 4, 5, and 6. Phase 9 would increase the maximum height of the landfill from elevation 185-ft MSL to elevation 220-ft MSL and would provide approximately 1,255,000 cubic yards of additional air space. The proposed horizontal expansion, designated as Phase 7 and Phase 8, involves the development of new landfill cells in an area located south of the existing Phase 6 landfill, within the 25-acre parcel that is currently site-assigned for solid waste handling. The Phase 7 and Phase 8 expansions would provide approximately 3,920,000 cubic yards of additional airspace. The development of Phase 7 and Phase 8 requires the relocation of the existing solid waste handling facility and other offices and facilities currently located on the 25-acre parcel. The Town has acquired a 12-acre parcel of undeveloped land, located south of the existing facility, and is proposing to use the land to develop a solid waste transfer station, residential recycling area, and other facilities.

1. The following Solid Waste permits are required for the proposed landfill expansion Project:
  - a. A Site Suitability Report for a Major Modification of an Existing Site Assignment (**BWP SW 38**) for the Phase 7 and Phase 8 horizontal expansion and the Phase 9 vertical expansion.

It should be noted that Page 20 of the ENPC states that the Phase 9 vertical expansion will not require a site assignment modification since it is within previously site assigned areas. MassDEP has reviewed the requirements of the 310 CMR 16.00 Site Assignment Regulations and determined that the Phase 9 vertical expansion requires a major modification to site assignment. The following criteria should be addressed for Phase 9: 16.40(4)(b) *Traffic and Access to the Site*; 16.40(4)(f) *Potential Air Quality Impacts*; 16.40(4)(g) *Potential for the Creation of Nuisances*; 16.40(4)(h) *Size of facility*; 16.40(4)(i) *Areas Previously Used for Solid Waste Disposal*; 16.40(4)(k) *Consideration of Other Sources of Contamination or Pollution*; and 16.40(5) *Promotion of Integrated Solid Waste Management*.

- b. The landfill expansion will also require the following permits from MassDEP's solid waste management section: Authorization to Construct a Large Landfill Expansion (**BMP SW 26**) and Authorization to Operate (**BWP SW 10**).
2. The following Solid Waste permits are required for the proposed solid waste transfer station:
  - a. A Site Suitability Report for a New Site Assignment (**BWP SW 01**);
  - b. Authorization to Construct a Large Handling Facility (**BWP SW 05**); and
  - c. Authorization to Operate a Large Handling Facility (**BWP SW 06**).
3. MassDEP would like to note that site assignment permits, described in comments 1.a and 2.a above, are unlike all other MassDEP solid waste permits, in that MassDEP does not make the decision whether to site assign or not site assign a property. MassDEP only reviews a Site Suitability Report Application and determines whether a parcel of land meets specific criteria for use as the site for a solid waste management facility. If the site meets all siting criteria, MassDEP issues a Site Suitability Report to the local Board of Health with a positive determination. If the site does not meet all siting criteria, MassDEP issues a Site Suitability Report to the local Board of Health with a negative determination. However, ultimately the local Board of Health will decide whether to approve or deny a Site Assignment for a proposed facility.

4. MassDEP has reviewed the draft site suitability criteria information submitted within the ENPC. It should be noted that additional information will be required for the formal site suitability application, including but not limited to, additional evaluation for each suitability criteria and all applicable engineering design plans. MassDEP requires a pre-application meeting to discuss comments received from the public on the ENPC and to ensure the facility design and operational measures will comply with solid waste regulations and applicable policies with an emphasis on odor, noise, and traffic mitigation.
5. Page 13 of the NPC discusses the Town's current contract with SEMASS which requires the Bourne Landfill to accept and dispose of combustion ash from SEMASS at a rate of up to 189,000 tons per year. The ENPC details two scenarios upon the conclusion of the contract with SEMASS which occurs at the end of 2021. In "Scenario 1", the Town would extend the contract with SEMASS which would result in the facility accepting mostly combustion ash and an additional 30,000 tons per year of biodegradable waste (i.e. MSW). In "Scenario 2", the Town would utilize its 219,000 tons per year of disposal capacity entirely for MSW. The Town should evaluate both scenarios in the application for Site Suitability Report for a Major Modification for the landfill expansion since siting criteria may be affected by the rate of MSW acceptance including, but not limited to, 16.40(4)(b) *Traffic and Access to the Site*; 16.40(4)(f) *Potential Air Quality Impacts*; and 16.40(4)(g) *Potential for the Creation of Nuisances*.
6. The Proponent will be required to prepare a Land Use Plan and Water Resources Plan in accordance with Section I.H of the site suitability application form. The Proponent should also prepare a site plan depicting the proposed limits of site assignment and waste handling. The Proponent should also prepare site plans depicting the conceptual plan for the proposed landfill expansion areas and the proposed handling facility to demonstrate compliance with 310 CMR 16.40(4)(h) *Size of Facility*. MassDEP recommends the Proponent submit the plans in the subsequent MEPA filing.
7. The Proponent should state whether or not any waivers of the site suitability criteria are being requested under provisions of 310 CMR 16.40(6).
8. Page 8 of the NPC describes the Town's plan to keep sections of the landfill uncapped by installing a long-term intermediate cover system in lieu of a final cover system. In order to evaluate the adequacy of this plan, the Proponent should submit to MassDEP a detailed capping sequence plan that includes a site plan and schedule for capping and proposed specifications for the long-term intermediate cover system including provisions for the collection of landfill gas for MassDEP approval pursuant to 310 CMR 19.130(15)(e)1.
9. The proposed Phase 9 vertical expansion includes the placement of waste over areas of fill that have been capped with a final cover system and areas that are uncapped. The Proponent should schedule a pre-application meeting with MassDEP to discuss the design of Phase 9 and the requirements of 310 CMR 19.110(5) *Vertical Expansions over Existing Fill*.
10. Page 21 of the NPC addresses criteria 16.40(3)(a)4 and states "the nearest public drinking water supply well is about 0.55 miles south and cross-gradient (not downgradient) to the 25-acre parcel. The Facility is not upgradient of an existing or potential public water supply." MassDEP recommends that the Proponent submit a groundwater contour map in the subsequent MEPA filing.

11. Page 21 of the NPC discusses criteria 16.40(3)(a)5 which addresses discharges from the facility. MassDEP recommends the Proponent discuss the status of the Landfill's compliance with U.S. EPA NPDES Industrial Stormwater Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity (MSGP), Sector L, Landfills and Land Application Sites.
12. Page 22 of the NPC discusses criteria 16.40(3)(a)6 which addresses areas of waste deposition over the recharge area of a Sole Source Aquifer. The ENPC states "All previously identified water supply wells have been replaced with connections to the public water supply system." Mass DEP recommends the Proponent discuss when the most recent private well analysis in the vicinity of the Landfill was conducted. In addition, the ENPC states "The Bourne Water District has stated in a letter that it does not have, nor will it seek to locate future drinking water sources downgradient of the Landfill." The Proponent should include the letter from the Bourne Water District. The ENPC also states "The Bourne Water District public water supply system is capable of meeting the municipality's project needs." The Proponent should include a statement from the Bourne Water District.
13. Page 22 of the NPC discusses criteria 16.40(3)(a)10 which addresses areas of waste deposition within a Potentially Productive Aquifer. The Proponent must provide additional analysis, based on hydrogeological studies, to demonstrate that the Phase 7 and Phase 8 expansion will meet the requirements of 16.40(3)(a)10.b.
14. Page 24 of the NPC discusses criteria 16.40(3)(a)12 which addresses maximum high groundwater for the proposed landfill expansion. Similarly, page 27 of the ENPC discusses criteria 16.40(3)(d)7 which addresses maximum high groundwater for the proposed solid waste handling facility. The Proponent should provide a site plan depicting the locations of all groundwater monitoring wells. The Proponent should discuss the groundwater monitoring wells within the proposed Phase 7 and Phase 8 expansion areas and within the 12-acre parcel and discuss the facility's protocol for determining groundwater elevation (e.g. frequency of measurements).
15. Page 29 of the NPC discusses criteria 16.40(4)(b) which addresses traffic and access to the site. The ENPC states "Site access, volume and regional impacts of traffic coming and going from the Bourne ISWM were thoroughly analyzed during the EIR/DRI Joint review process with MEPA and CCC." MassDEP has comments on the assumption that the previously conducted traffic study can demonstrate suitability with criteria 16.40(4)(b). The Proponent should include the traffic study and discuss why the assumptions, analysis, and conclusions of the traffic study are still valid. In addition, the Proponent should include a discussion of recent crash data.

#### Asbestos Comment

16. Demolition and Asbestos Containing Waste Material:  
The proposed Project includes the demolition of structures which may contain asbestos. The Project Proponent is advised that demolition activity must comply with both Solid Waste and Air Quality Control regulations. Please note that MassDEP promulgated revised Asbestos Regulations (310 CMR 7.15) that became effective on June 20, 2014. The new regulations contain requirements to conduct a pre-demolition/renovation asbestos survey by a licensed asbestos inspector and post abatement visual inspections by a licensed asbestos Project monitor. The

Massachusetts Department of Labor and Work Force Development, Division of Labor Standards (DLS) is the agency responsible for licensing and regulating all asbestos abatement contractors, designers, Project monitors, inspectors and analytical laboratories in the state of Massachusetts.

In accordance with the revised Asbestos Regulations at 310 CMR 7.15(4), any owner or operator of a facility or facility component that contains suspect asbestos containing material (ACM) shall, prior to conducting any demolition or renovation, employ a DLS licensed asbestos inspector to thoroughly inspect the facility or facility component, to identify the presence, location and quantity of any ACM or suspect ACM and to prepare a written asbestos survey report. As part of the asbestos survey, samples must be taken of all suspect asbestos containing building materials and sent to a DLS certified laboratory for analysis, using USEPA approved analytical methods.

If ACM is identified in the asbestos survey, the Proponent must hire a DLS licensed asbestos abatement contractor to remove and dispose of any asbestos containing material(s) from the facility or facility component in accordance with 310 CMR 7.15, prior to conducting any demolition or renovation activities. The removal and handling of asbestos from the facility or facility components must adhere to the Specific Asbestos Abatement Work Practice Standards required at 310 CMR 7.15(7). The Proponent and asbestos contractor will be responsible for submitting an *Asbestos Notification Form ANF-001* to MassDEP at least ten (10) working days prior to beginning any removal of the asbestos containing materials as specified at 310 CMR 7.15(6).

The Proponent shall ensure that all asbestos containing waste material from any asbestos abatement activity is properly stored and disposed of at a landfill approved to accept such material in accordance with 310 CMR 7.15 (17). The Solid Waste Regulations at 310 CMR 19.061(3) lists the requirements for any solid waste facility handling or disposing of asbestos waste. Pursuant to 310 CMR 19.061(3) (b) 1, no asbestos containing material; including VAT, asphaltic-asbestos felts or shingles; may be disposed at a solid waste combustion facility.

If you have any questions regarding the Solid Waste Management Program or Asbestos Program comments above, please contact Mark Dakers at (508) 946-2847 or Cynthia Baran at (508) 946-2887.

### ***Climate Change Comments***

Climate Change – Greenhouse Gas Emissions. Pursuant to the Global Warming Solutions Act of 2008 (GWSA) (Chapter 298 of the Acts of 2008) and the Commonwealth's Clean Energy and Climate Plan the Commonwealth has established economy-wide greenhouse gas (GHG) emission reduction limits for Massachusetts that will achieve reductions of 25 percent below statewide 1990 GHG emission levels by 2020 and 80 percent below statewide 1990 GHG emission levels by 2050. Furthermore, Section 7 of the GWSA amended Section 61 of Chapter 30 of the Massachusetts General Laws by inserting, "in considering and issuing permits, licenses and other administrative approvals and decisions, the respective agency, department, board, commission or authority shall also consider reasonably foreseeable climate change impacts, including additional greenhouse gas emissions, and effects, such as predicted sea level rise."

The Proponent should consider potential GHG impacts (e.g., energy demand, use of renewable energy sources, transportation modes, etc.) of its Project in the context of furthering the Commonwealth's goals and recommended GHG mitigation policies in the *Clean Energy and Climate Plan for 2020*. Additional information on the Commonwealth's efforts to reduce GHG emissions can be found at: <http://www.mass.gov/eea/air-water-climate-change/climate-change/massachusetts-global-warming-solutions-act/>.

***Proposed s.61 Findings***

The "Certificate of the Secretary of Energy and Environmental Affairs on the Notice of Project Change" may indicate that this Project requires further MEPA review and the preparation of an Environmental Impact Report. Pursuant to MEPA Regulations 301 CMR 11.12(5)(d), the Proponent will prepare Proposed Section 61 Findings to be included in the EIR in a separate chapter updating and summarizing proposed mitigation measures. In accordance with 301 CMR 11.07(6)(k), this chapter should also include separate updated draft Section 61 Findings for each State agency that will issue permits for the Project. The draft Section 61 Findings should contain clear commitments to implement mitigation measures, estimate the individual costs of each proposed measure, identify the parties responsible for implementation, and contain a schedule for implementation.

***Other Comments/Guidance***

The MassDEP Southeast Regional Office appreciates the opportunity to comment on this NPC. If you have any questions regarding these comments, please contact George Zoto at (508) 946-2820.

Very truly yours,

 SETH PICKERING

FOR David Johnston  
Deputy Regional Director  
Bureau of Water Resources

DJ/GZ

Cc: DEP/SERO

ATTN: Millie Garcia-Serrano, Regional Director  
Gerard Martin, Deputy Regional Director, BWSC  
Seth Pickering, Deputy Regional Director, BAW  
Jennifer Viveiros, Deputy Regional Director, ADMIN  
Jonathan Hobbil, Regional Engineer, BWR  
Dan Gilmore, Wetlands and Waterways, BWR  
Mark Dakers, Solid Waste, BAW  
Alison Cochrane, Solid Waste, BAW  
Allen Hemberger, Site Management, BWSC



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April 9, 2020

Kathleen A. Theoharides, Secretary  
Executive Office of Environmental Affairs  
Attention: MEPA Office  
Anne Canaday, EEA No. 11333  
100 Cambridge Street  
Boston, Massachusetts 02114

*Project Name:* Bourne Integrated Solid Waste Management Facility  
*Proponent:* Town of Bourne, Dept. of Integrated Solid Waste Management (ISWM)  
*Location:* 201 MacArthur Boulevard, Bourne, MA  
*Project Description:* Landfill Expansion – Phases 7, 8 and 9  
*Document Reviewed:* Expanded Notice of Project Change  
*EEA File Number:* 11333  
*NHESP Tracking No.:* 17-36534

Dear Secretary Theoharides:

The Natural Heritage & Endangered Species Program of the Massachusetts Division of Fisheries & Wildlife (the Division) has reviewed the *Expanded Notice of Project Change* (ENPC) for the Town of Bourne ISWM's proposed Phase 7, 8 and 9 Landfill Expansion Project and would like to offer the following comments regarding state-listed species and their habitats.

According to the information provided in the ENPC, portions of the Project site are mapped as Priority Habitat for the Eastern Box Turtle (*Terrapene carolina*), a species state-listed as Special Concern according to the *Massachusetts Natural Heritage Atlas* (14<sup>th</sup> Edition). This species and its habitats are protected pursuant to the Massachusetts Endangered Species Act (MGL c.131A) and its implementing regulations (MESA; 321 CMR 10.00). A Fact Sheet for this species can be found on our website, [www.mass.gov/nhesp](http://www.mass.gov/nhesp).

All projects or activities proposed within Priority Habitat, which are not otherwise exempt pursuant to 321 CMR 10.14, require review through a direct filing with the Division for compliance with the MESA (321 CMR 10.18). The Division determined (letter dated February 5, 2020) that Phases 7, 8 and 9 of the Project, as currently proposed, appear to be exempt from MESA review pursuant to 321 CMR 10.14.

As noted in the Division's previous comments (dated June 19, 2018) on the Supplemental Single Environmental Impact Report, future development of the proposed Future Handling Area and proposed effluent connection projects will require a direct filing with the Division for compliance with the MESA. This includes any work within the "Limit of Box Turtle Habitat" shown on the site plans entitled "Conceptual Site Buildout Plan Through Phase 9 To Elevation 225" (ENPC, Attachment 3). The Proponent has initiated pre-filing consultations with the Division to discuss conceptual development plans associated with the Future Handling Area. In advance of a formal MESA filing, the Division anticipates –

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based on ongoing consultations with the Proponent and information submitted to date – that future development of the Future Handling Area, as proposed, will likely result in a Take (321 CMR 10.18 (2)(b)) of the Eastern Box Turtle.

Projects resulting in a Take of state-listed species may only be permitted if they meet the performance standards for a Conservation and Management Permit (CMP; 321 CMR 10.23). In order for a project to qualify for a CMP, the applicant must demonstrate that the project has avoided, minimized and mitigated impacts to state-listed species consistent with the following performance standards: (a) adequately assess alternatives to both temporary and permanent impacts to the state-listed species; (b) demonstrate that an insignificant portion of the local population will be impacted; and (c) develop and agree to carry out a conservation and management plan that provides a long-term net benefit to the conservation of the state-listed species.

The Proponent has continued to proactively consult with the Division on a pre-filing basis to avoid, minimize and mitigate impacts to state-listed species and their habitats associated with potential development of the Future Handling Area. Based on ongoing consultations and information submitted to date, we understand that the Proponent intends to meet the performance standards of a CMP by permanently protecting off-site land in the vicinity of the site as open space and state-listed species habitat. Although the exact details of the long-term net benefit required under a CMP have not yet been finalized, the Division anticipates that a suitable long-term net benefit can be achieved through the protection of suitable, high quality off-site habitat and that the Project should be able to meet the performance standards of a CMP.

The Division will not render a final decision regarding the Future Handling Area until the MEPA review process and its associated comment period is complete, and until all required MESA filing materials are submitted to the Division. No work associated with the Future Handling Area or proposed effluent connection projects shall occur on the property until the MESA review process is complete.

If you have any questions about this letter, please contact Jesse Leddick, Chief of Regulatory Review, at (508) 389-6386 or [jesse.leddick@mass.gov](mailto:jesse.leddick@mass.gov). We appreciate the opportunity to comment on this project.

Sincerely,



**Everose Schlüter**, Ph.D.  
Assistant Director

cc: Daniel T. Barrett, Town of Bourne ISWM Department  
Phil Goddard, Town of Bourne ISWM Department  
Town of Bourne Board of Selectmen  
Town of Bourne Conservation Commission  
Town of Bourne Planning Department  
DEP Southeast Regional Office  
Amy Ball, Horsley Witten Group, Inc.

March 30, 2020

Secretary Kathleen Theoharides  
Executive Office of Energy and Environmental Affairs (EEA)  
Attn: MEPA Office  
Anne Canaday, EEA No. 11333  
100 Cambridge Street, Suite 900  
Boston, MA 02114

Dear Secretary Theoharides:

The Division of Marine Fisheries (MA DMF) has reviewed the Notice of Project Change (NPC) for the Town of Bourne's Integrated Solid Waste Management Facility. The project was reviewed with respect to potential impacts to marine fisheries resources and habitat.

Based on the information provided, MA DMF has no recommendation for sequencing, timing, or methods that would avoid or minimize impact at this time.

Questions regarding this review may be directed to John Logan in our New Bedford office at (508) 742-9722.

---

John Logan, Ph.D.  
MA Division of Marine Fisheries  
836 South Rodney French Boulevard  
New Bedford, MA 02744  
(508) 742-9722  
<http://www.mass.gov/eea/agencies/dfg/dmf/>  
[https://www.researchgate.net/profile/John\\_Logan](https://www.researchgate.net/profile/John_Logan)  
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**Via Email**

April 10, 2020

Kathleen A. Theoharides, Secretary of Energy and Environmental Affairs  
Executive Office of Energy and Environmental Affairs  
Attn: MEPA Office, Eva Anne Canaday, MEPA Analyst  
100 Cambridge Street, Suite 900, Boston, MA 02114

Re: Expanded Notice of Project Change — EEA No. 11333  
Bourne Integrated Solid Waste Management Facility- Future Development

Dear Secretary Theoharides:

Commission staff believe the ENPC sufficiently details the scope of the Town's proposed future phases 7, 8 & 9 for the Facility and support the Town's request for, and the Secretary's allowance of, a Supplemental Single EIR (SSEIR). The Cape Cod Commission reserves further substantive comment on the proposal for later stages of the MEPA review. Ultimately, after MEPA review concludes, the Cape Cod Commission will undertake Development of Regional Impact review of the proposed future phases. Staff suggests that it may benefit MEPA review and ultimately better facilitate the Cape Cod Commission's review if the Town were to include in the EIR, among other things, discussion of the proposal relative to the pertinent goals and objectives from the Cape Cod Regional Policy Plan.

Thank you for the opportunity to comment on the above-referenced ENPC. Commission staff are available to discuss any questions you might have about these comments.

Sincerely,

Kristy Senatori  
Executive Director

Cc: Project File  
Phil Goddard, Bourne ISWM Department, via email  
Bourne Cape Cod Commission Representative via email  
Cape Cod Commission Chair via email  
Cape Cod Commission Committee on Planning and Regulation Chair via email