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March 21, 2008

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DRAFT RECORD OF DECISION

PROJECT NAME : Haverhill Municipal Landfill Capping Project  
PROJECT MUNICIPALITY : Old Groveland Road - Haverhill  
PROJECT WATERSHED : Merrimack River  
EOEA NUMBER : 12626  
PROJECT PROPONENT : City of Haverhill/Aggregate Industries  
DATE NOTICED IN MONITOR : February 20, 2008

Pursuant to the Massachusetts Environmental Policy Act (MEPA) (G.L.c.30, ss. 61-62H) and Section 11.11 of the MEPA regulations (301 CMR 11.00), I have reviewed this project and propose to grant a second Phase I Waiver (as defined below), allowing the Phase IA Soils Project to proceed to the state permitting agencies prior to completion of the Environmental Impact Report (EIR) for the entire project.

Project Description

The Notice of Project Change (NPC) consists of the delivery and placement of 311,000 cubic yards of grading and shaping material on the above landfill's southern mound. The proponents have identified this project change as the Phase IA Soils Project. This project would eliminate the previously proposed Phase II project that would have involved the relocation of the electrical transmission lines, the relocation of the sewer force main, and the delivery of 650,000 cubic yards of grading and shaping material. It would provide a net reduction in the amount of grading and shaping material delivered to the project site. Phase III remains unchanged. In Phase IA, the soils will be placed in the same area as the Phase I soils. The proposed maximum height of the landfill will increase from 134 feet to 142 feet above mean sea level (MSL). Phase IA is anticipated to begin in July of 2008 and end by July of 2010.

To alleviate concerns expressed by Groveland officials and residents, the proponents are also proposing to establish a secondary truck route through Groveland from I-95 truck route. The proposed secondary truck route is from I-95 along Route 133 to Route 97 (in Georgetown/Groveland) to Main Street to the landfill. Because this portion of Main Street allows only one-way traffic, the return trip would be from the landfill to Main Street to Gardner Street to Route

97 to Route 133 to I-95. This secondary route will only be available between the hours of 9:00 am and 3:00 pm to avoid rush hour traffic at the Route 97/Main Street intersection. During these hours, truck traffic along the I-95 truck route will be split as evenly as possible between the I-95 Primary and the I-95 Secondary Routes, depending upon traffic. The on-site Clerk-of-the-Works at the landfill will manage the routing of truck traffic.

### Project History

The Environmental Notification Form for this project was submitted in October of 2001. The project is comprised of the final closure of the landfill in accordance with an Administrative Consent Order (ACO) between the City of Haverhill and Aggregate Industries and the Department of Environmental Protection (MassDEP). The landfill contains a northern mound (about 20 acres) and a southern mound (about 35 acres) that is separated by an electric utility easement and sewer line. The proponent needs to conduct significant regrading and stabilization of a slope along the Merrimack River, to bring in fill and to construct a cap in accordance with MassDEP and U.S. Environmental Protection Agency (EPA) standards, and to possibly install a gas collection and flare system. The proponent is proposing to regrade the 68-acre site to a flat plateau for the construction of recreational fields. Access to the site will be provided at the Aggregate Industries driveway onto Old Groveland Road.

The project will be divided into three phases. Phase I would include the acceptance, testing, and placing of 300,000 cubic yards of historic fill soils from construction projects to reach interim closure grades in the southern mound area. In order to receive these soils in accordance with MassDEP policies and regulations, appropriate stormwater management provisions, including the construction of the stormwater detention basins, would be completed. In Phase II, the proponent would relocate the power lines and sewer main that pass through the site, and it would accept additional fill (up to 600,000 cubic yards) to fill in the valley between the mounds to allow for site grading for recreational fields. Phase III involves excavating previously deposited trash from the banks of the Merrimack River and Johnson's Creek around the northern mound area, placing the excavated material within the landfill, possibly installing a gas collection and flare system, installing the final capping liner, and constructing the recreational fields and proposed parking areas to final grades.

The project categorically required the preparation of an EIR. The proponent requested a Phase I Waiver in its Environmental Notification Form to allow the first phase of the project to proceed to the state permitting agencies prior to the completion of the EIR. On November 30, 2001, the Secretary issued a Certificate on the ENF requiring an EIR. The Phase I Waiver also allowed for an emergency investigation to evaluate the potential presence of drums at the landfill, to test for groundwater quality, to delineate the extent of waste, and to shape and grade about 15 acres of upland area at the landfill prior to completion of the Comprehensive Landfill

Site Assessment (CSA). On January 31, 2002, a Final Record of Decision (FROD) was issued by the MEPA Office granting this Phase I Waiver. The proponents proposed an additional truck route for soil delivery during Phase I from I-95 in January 2005. The proposed alternate truck route would utilize I-95 to Route 133 to Route 97 to Salem Street to Washington Street to Main Street to the landfill access road. The proponents would be allowed to utilize this truck route for up to 120 truck trips (60 round trips) per day. This NPC was approved on March 11, 2005. On January 10, 2008, the proponents were allowed to increase the amount of fill soils on the landfill's southern mound from approximately 300,000 to 329,000 cubic yards of fill material, which was part of the Phase I Soils Project to cap and close the landfill.

### Categorical Inclusion

The project is included for the preparation of a mandatory EIR pursuant to Section 11.03 (3)(a)(1)(b) of the MEPA regulations because it alters 10 or more acres of wetlands. The Certificate with the Scope for the EIR was issued on November 30, 2001.

### Jurisdiction

The project will require Initial Site Assessment, a Comprehensive Site Assessment, a Corrective Action Alternatives Analysis, a Post-Closure Use Permit, a Corrective Actions Design, a Sewer Relocation Permit, a Chapter 91 Waterways License for armoring and dredging work, and a Section 401 Water Quality Certificate from MassDEP. The project must comply with the U.S. Environmental Protection Agency's National Pollution Discharge Elimination System (NPDES) General Permit for stormwater discharges. It will need a Programmatic General Permit from the U.S. Army Corps of Engineers. Orders of Conditions will be required from the Haverhill Conservation Commission (HCC) for work within resource areas and buffer zones. The proponent will seek project approval from the HCC as a limited project. The project site has been identified as a potential Priority Habitat by the Natural Heritage and Endangered Species Program (NHESP). Because the proponent may be seeking funding from the Commonwealth, MEPA jurisdiction extends to all aspects of the project that may have significant environmental impacts.

### Waiver Request

On February 15, 2008, the proponent requested that I grant a Phase I Waiver to allow Phase IA Soils Project to proceed in advance of completion of the EIR. The waiver request was submitted with the NPC. The NPC provided an Expanded ENF level of detail such that the MEPA Office could accept and consider the waiver request. As proposed, Phase IA consists of accepting, testing, and placing 311,000 cubic yards of historic fill soil to reach interim closure grades.

### Criteria for a Phase I Waiver

Section 11.11 of the MEPA Regulations provides that the Secretary may waive any provision or requirement of 301 CMR 11.00 not specifically required by MEPA, and may impose appropriate and relevant conditions or restrictions, provided that the Secretary finds that strict compliance with the provision or requirement would: a) result in undue hardship to the proponent, unless based on delay in compliance by the proponent; and b) not serve to minimize or avoid damage to the environment.

In the case of a partial waiver of a mandatory EIR review threshold that would allow the proponent to proceed to Phase I of the project prior to preparing an EIR, this finding shall be based on one or more of the following circumstances: 1) the potential environmental impacts of Phase I are insignificant; 2) ample and unconstrained infrastructure and services exist to support Phase I; 3) the project is severable, such that Phase I does not require the implementation of any other future phases; and 4) the agency action on Phase I will contain conditions that ensure due compliance with MEPA.

### Findings

Based upon the information submitted by the proponents and after consultation with the relevant state agencies, I find that:

1. The potential traffic impacts of the project for Phase IA are insignificant. According to the proponents, the project is estimated to generate approximately 240 truck trips per day (worst case scenario). The related traffic would occur between 7:00 am and 7:00 pm on weekdays. The proponents have developed two truck routes, identified as the Route I-495 Truck Route and the Route I-95 Truck Route. The I-95 Truck Route will be split into a primary (I-95 to Route 133 to Route 97 to Salem Street to Washington Street to Main Street to the landfill) and a secondary truck route to address concerns from Groveland. The proposed secondary route is from I-95 along Route 133 to Route 97 (in Georgetown/Groveland) to Main Street to the landfill. Because this portion of Main Street allows only one-way traffic, the return trip will be from the landfill to Main Street to Gardner Street to Route 97 to Route 133 to I-95. This secondary route will only be available between the hours of 9:00 am and 3:00 pm to avoid peak hour traffic at the Route 97/Main Street intersection. During these hours, truck traffic will be split evenly by the Clerk-of-the-Works at the landfill between the I-95 Primary and I-95 Secondary Routes depending on traffic.
2. The Groveland Highway Department will install a four-way beacon and four-way stop signs at the intersection of Washington/Salem Streets.

3. The Phase IA area is limited to 35 acres of the landfill. It will not affect any wetland resource areas. The project will be confined to work within the buffer zone along the western edge and northwest corner of the southern mound. The proponents will implement a 25-foot buffer zone in which fill soils cannot be placed near the wetlands in Phase IA.
4. The proponents will construct drainage swales with check dams along the wetland edge to prevent sedimentation during Phase IA. They will also provide erosion control barriers. The proponents will ensure that all drainage and sedimentation measures will be consistent with the Stormwater Pollution Prevention Plan (SWPPP) and be approved by the Haverhill Conservation Commission. They will submit a Soil Management Plan for Phase IA, a revised SWPPP, and additional information related to erosion and sedimentation controls.
5. Ample and unconstrained infrastructure exists. An access road to the site through Aggregate Industries exists.
6. All construction vehicles shall comply with DEP's Clean Air Construction Initiative.
7. The proponents will provide the snow plowing of Groveland sidewalks along the truck routes to improve child safety.
8. The proponents have provided an updated Time Schedule for all the remaining components of the landfill closure process
9. The project is severable. Phase IA does not require the implementation of any other future phase of the project or restrict the means, by which potential environmental impacts from any other phase of the project may be avoided, minimized or mitigated.
10. MassDEP has sufficient permitting authority to ensure due compliance with MEPA Regulations prior to the commencement of any other phases.

Based on these findings, it is my judgment that the waiver request has merit and meets the tests established in Section 11.11. Therefore, I propose to grant the Phase I waiver requested for the Phase IA Soils Project, subject to the above findings. This DROD shall be published in the next issue of the *Environmental Monitor* for a fourteen-day comment period, after which I shall reconsider, modify, or confirm the waiver.

March 21, 2008

Date

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Ian A. Bowles

Comments received:

MassWildlife, 3/10/08

CDM, 3/14/08

CDM, 3/19/08

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IAB/WTG