

City of Fall River Massachusetts
Office of the City Clerk

ALISON M. BOUCHARD
CITY CLERK

NOVEMBER 21, 2012
MEETINGS SCHEDULED FOR NEXT WEEK
TUESDAY, NOVEMBER 27, 2012

INÊS LEITE
ASSISTANT CITY CLERK

6:00 P.M. COMMITTEE ON FINANCE

1. Discussion w/ Financial Team re quarterly budget review
2. Transfers & Appropriations (See item #1 below)
3. Discussion w/ Asst. Corp. Counsel & City Administrator re retirees and enrollment in Medicare Part B (See item #2 below)

AGENDA

7:00 P.M. REGULAR MEETING OF THE CITY COUNCIL

PRIORITY MATTERS

PRIORITY COMMUNICATIONS

1. *Transfers & Appropriations (See item #2 in Finance)
2. *Asst. Corporation Counsel re retirees and enrollment in Medicare Part B (See item #3 in Finance)

COMMITTEE REPORTS – None

ORDINANCES - None

RESOLUTIONS - None

CITATIONS - None

ORDERS – HEARINGS FOR TONIGHT

Auto Repair Shop license:

3. Joseph P. Fournier III, 996 Walnut Street d/b/a JDR Vintage Automotive and Transmission located at 681 Brayton Avenue

Gasoline Storage Permit:

4. Quequechan Development, LLC to store 60,000 gals. of gasoline & diesel aboveground @ Brayton Avenue Extension at Jefferson Street

ORDERS – HEARINGS TO BE SCHEDULED - None

ORDERS – NO HEARING REQUIRED - None

ORDERS – MISCELLANEOUS

5. Police Chief's report on licenses
6. Auto Repair Shop license renewal
7. *Light Order

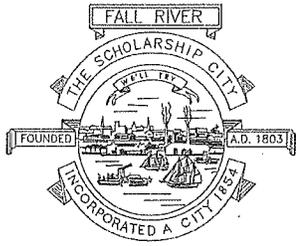
COMMUNICATIONS – INVITATIONS – PETITIONS

8. Planning Board Minutes – October 1, 2012
9. Planning Board Minutes – October 9, 2012

BULLETINS – NEWSLETTERS – NOTICES

10. *Mass. DEP re Fall River – BFI Landfill – Final Approval w/conditions
11. *New England Gas Co. – public hearing Dec. 5, 2012 @ 2:00 PM – One So. Station, 5th Fl., Boston

Alison M. Bouchard
City Clerk



WILLIAM A. FLANAGAN
Mayor

City of Fall River
Massachusetts
Office of the Mayor

RECEIVED

2012 NOV 20 P 4:48

CITY CLERK _____
FALL RIVER, MA

November 20, 2012

The Honorable City Council
City of Fall River
One Government Center
Fall River, MA 02722

Honorable Members of the Council:

I am placing before you for your consideration and approval the following items:

1. Financial Presentation – 1st Quarter Budget Review
2. Financial Transfer Request

Should you have any questions or concerns in regard to this matter, please do not hesitate to contact me.

Sincerely,

William A. Flanagan
Mayor



City of Fall River
Massachusetts
Office of the Mayor

RECEIVED

2012 NOV 20 P 4: 48

WILLIAM A. FLANAGAN

Mayor

November 20, 2012

CITY CLERK _____
FALL RIVER, MA

The Honorable City Council
City of Fall River
One Government Center
Fall River, MA 02722

Dear Honorable Council Members:

In accordance with the provisions of Chapter 44, Section 32 of the Massachusetts General Laws, I recommend the following appropriations and transfers to your Honorable Body.

1. \$29,337 That the sum of \$29,337 be, and the same is, hereby appropriated and transferred from **TAX LEVY**, to be credited to **REVOLVING FUND – COMMUNITY SERVICES DEMOLIATION**.
2. \$160,000 That the sum of \$160,000 be, and the same is, hereby transferred from **RESERVE FUND**, to be credited to **DEBT - SERVICE**.
3. \$10,000 That the sum of \$10,000 be, and the same is, hereby transferred from **RESERVE FUND**, to be credited to **CITY COUNCIL, EXPENSES**.
4. \$96,000 That the sum of \$96,000 be, and the same is, hereby transferred from **COMMUNITY MAINTENANCE**, to be credited to **OVERLAY RESERVE FUND**.
5. \$96,000 That the sum of \$96,000 be, and the same is, hereby appropriated and transferred from **OVERLAY RESERVE FUND**, to be credited to **OVERLAY ACCOUNT**

If you have any questions or concerns regarding this, please feel free to contact me.

Sincerely,

William A. Flanagan
Mayor

November 27, 2012
1

ORDERED:

That the sum of \$29,337 be, and the same is, hereby appropriated and transferred from **TAX LEVY**, to be credited to **REVOLVING FUND – COMMUNITY SERVICES DEMOLIATION**.

November 27, 2012
2

ORDERED:

That the sum of \$160,000 be, and the same is, hereby transferred from **RESERVE FUND**, to be credited to **DEBT - SERVICE**.

November 27, 2012
3

ORDERED:

That the sum of \$10,000 be, and the same is, hereby transferred from **RESERVE FUND**, to be credited to **CITY COUNCIL, EXPENSES**.

November 27, 2012
4

ORDERED:

That the sum of \$96,000 be, and the same is, hereby transferred from **COMMUNITY MAINTENANCE**, to be credited to **OVERLAY RESERVE FUND**.

November 27, 2012
5

ORDERED:

That the sum of \$96,000 be, and the same is, hereby appropriated and transferred from **OVERLAY RESERVE FUND**, to be credited to **OVERLAY ACCOUNT**.

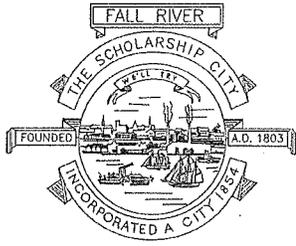
FY 13 Appropriation/Transfer Analysis

Line	Original/Revised Appropriation	Amount Transferred	New Appropriation
Community Services - Demolition (From Tax Levy)	\$ - \$	29,337 \$	29,337
Debt Service	11,527,193 \$	160,000 \$	11,687,193
City Council - Expenses	2,948 \$	10,000 \$	12,948
Reserves	200,000 \$	(170,000) \$	30,000
Overlay Reserve Fund	\$ - \$	96,000 \$	96,000
Community Maintenance Expenses	2,074,027 \$	(96,000) \$	1,978,027
Overlay Reserve Fund	\$ 96,000 \$	(96,000) \$	-
Overlay Account	\$ 1,022,000 \$	96,000 \$	1,118,000

I certify that there are sufficient funds available for these transfers.



 Krishan Gupta, City Auditor
 11/20/2012



City of Fall River
Massachusetts
Office of the Mayor

WILLIAM A. FLANAGAN
Mayor

SHAWN E. CADIME
City Administrator

MEMO

TO: William A. Flanagan, Mayor

FROM: Shawn E. Cadime, City Administrator

RE: Financial Transfers

DATE: November 20, 2012

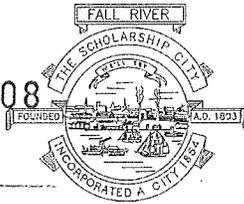
FINANCIAL TRANSFERS AND APPROPRIATIONS

1. The appropriation request of \$29,337 is to appropriate the additional capacity in the FY 13 Tax Levy into the Demolition Revolving Account.
2. The transfer request of \$160,000 for Debt Service is to cover debt service adjustments made after the refunding of bonds in FY 12. The monies will be transferred from the Reserve Fund.
3. The transfer request of \$10,000 for City Council, Expenses is create a budget line item for City Council Legal Opinions. The monies will be transferred from the Reserve Fund.
- 4-5. The transfer request of \$96,000 in the Overlay Account is to cover existing abatement expenses. These monies will be transferred from Community Maintenance, Expenses, which monies are available due to the over budgeting of the CSO line item.

2

City of Fall River
Office of the Corporation Counsel

RECEIVED



WILLIAM A. FLANAGAN
Mayor

2012 NOV 20 P 4: 08

GARY P. HOWAYECK
Assistant Corporation Counsel

ELIZABETH SOUSA
Corporation Counsel
CITY CLERK
FALL RIVER, MA

CHRISTY M. DIORIO
Assistant Corporation Counsel

November 20, 2012

Linda M. Pereira
Council President
One Government Center
Fall River, MA 02722

RE: WHETHER A RETIREE WITH DEPENDANTS IS REQUIRED TO ENROLL IN MEDICARE PART B

Dear Council President:

An insured retired member who is eligible for Medicare Part B and is enrolled in an active City Health Insurance Plan¹ is not mandated to enroll in Medicare Part B. However, failure to do so will result in consequences such as a reduction in the amount of benefits contributed by Blue Cross and Blue Shield.

Pursuant to Massachusetts General Laws Chapter 32B, §18A a retiree or spouse who has a dependent who is not enrolled or eligible to be enrolled in Medicare Part A at no cost **shall not** be required to transfer to a Medicare health plan² if a transfer requires the retiree or spouse to continue the existing family coverage for dependents in a plan other than a Medicare health plan offered by the governmental unit. Massachusetts General Laws Chapter 32B, §18A is focused on eligibility to stay in the active municipal group plan and does not implicate Medicare Part B.

If the Medicare-eligible member chooses not to enroll in Medicare Part B, that member may face significant consequences in how benefits are administered according to the rules

¹ Such as Network Blue, Blue Choice and Blue Care Elect.

² According to Medicare, a Medicare health plan is a plan offered by a private company that contracts with Medicare to provide Part A and Part B benefits to people with Medicare who enroll in the plan. A Medicare plan refers to any way other than Original Medicare that one can get their Medicare health. The City of Fall River's Medicare health plan is the Medex plan. Medex is the City's Medicare supplement plan administered by Blue Cross Blue Shield.

allowed by Medicare³ and what is reflected in the Blue Cross Blue Shield member plan. Blue Cross Blue Shield's standard subscriber plan states the following:

"When you are eligible for Medicare and Medicare is allowed by federal law to be the primary payor, the coverage provided by this health plan will be reduced by the amount of benefits allowed under Medicare for the same *covered services*. This reduction will be made whether or not you actually receive the benefits from Medicare." Blue Cross' Benefit description is attached hereto

As such, the Medicare-eligible member will have Blue Cross Blue Shield treating them as if they have Medicare Part B (whether they have it or not) and when Medicare Part B is allowed under federal law to be the primary payor this will have significant monetary ramifications concerning coverage. If the member is eligible for Medicare Part B and is not enrolled, the member's claims will be processed as if Medicare was the primary payor which will result in additional out of pocket costs for the member.

For example if Blue Cross and Blue Shield receives a claim for \$100 in covered services, and Medicare would have paid \$80, Blue Cross will provide benefits for \$20 and the member would be responsible for \$80.



Gary Howayeck
Assistant Corporation Counsel



Elizabeth Sousa
Corporation Counsel

cc: City Clerk

³ If you have Medicare and other health insurance or coverage, each type of coverage is called a "payer." When there's more than one payer, "coordination of benefits" rules decide which one pays first. The "primary payer" pays what it owes on your bills first, and then sends the rest to the "secondary payer" to pay. If you're retired and have Medicare and a group health plan (retiree) coverage generally, Medicare pays first for your health care bills and your group health plan coverage pays second. How a retiree group health plan coverage works depends on the terms of the specific plan. Medicare rules allow that a retiree coverage might not pay your medical costs during any period in which you were eligible for Medicare but didn't sign up for it. When you become eligible for Medicare, you may need to enroll in both Medicare Part A and Part B to get full benefits from your retiree coverage. This information is from Medicare.gov.

Part 7 – Other Party Liability (continued)

Medicare Program

When you are eligible for Medicare and Medicare is allowed by federal law to be the primary payor, the coverage provided by this health plan will be reduced by the amount of benefits allowed under Medicare for the same *covered services*. This reduction will be made whether or not you actually receive the benefits from Medicare.

Under Age 65 with End Stage Renal Disease (ESRD)

If you are under age 65 and are eligible for Medicare only because of ESRD (permanent kidney failure), the benefits of this health plan will be provided before Medicare benefits. This is the case only during the first 30 months of your ESRD Medicare coverage. After 30 months, the benefits that are provided by this health plan will be reduced by the amount that Medicare allows for the same *covered services*.

Under Age 65 with Other Disability

If your *group* employs 100 or more employees and if you are under age 65 and you are eligible for Medicare only because of a disability other than ESRD, this health plan will provide benefits before Medicare benefits. This is the case **only** if you are the actively employed *subscriber* or the enrolled spouse or dependent of the actively employed *subscriber*. If you are an inactive employee or a retiree or the enrolled spouse or dependent of the inactive employee or retiree, the benefits that are provided by this health plan will be reduced by the amount that Medicare allows for the same *covered services*. (In some cases, this provision also applies to certain smaller groups. Your *plan sponsor* can tell you if it applies to your *group*.)

Age 65 or Older

If you are age 65 or older and are eligible for Medicare only because of age, this health plan will provide benefits before Medicare benefits as long as you have chosen this health plan as your primary payor. This can be the case only if you are an actively employed *subscriber* or the enrolled spouse of the actively employed *subscriber*. (If you are actively employed at the time you reach age 65 and become eligible for Medicare, you must choose between Medicare and this health plan as the primary payor of your health care benefits. For more help, contact your *plan sponsor*.)

Dual Medicare Eligibility

If you are eligible for Medicare because of ESRD and a disability or because of ESRD and you are age 65 or older, this health plan will provide benefits before Medicare benefits. This is the case during the first 30 months of your ESRD Medicare coverage only if the coverage under this health plan was primary when you became eligible for ESRD Medicare benefits. Then, for as long as you maintain dual Medicare eligibility, the benefits that are provided by this health plan will be reduced by the amount that Medicare allows for the same *covered services*. (This provision may not apply to you. To find out if it does, contact your *plan sponsor*.)

City of Fall River, *In City Council*

7

**The City Council hereby recommends that the Director of Public Works
conduct a lighting survey at the following location:**

**555 Snell Street
Pole # 28**

(Councilor Raymond A. Mitchell)

10



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

of

Department of Environmental Protection

Southeast Regional Office • 20 Riverside Drive, Lakeville MA 02347 • 508-946-2700

DEVAL L. PATRICK
Governor

TIMOTHY P. MURRAY
Lieutenant Governor

COPY

RICHARD K. SULLIVAN JR.
Secretary

KENNETH L. KIMMELL
Commissioner

November 13, 2012

Mr. Christopher October, Env. Manager
Browning-Ferris Industries, Inc. (MA)
1080 Airport Road
Fall River, Massachusetts 02720

RE: **FINAL APPROVAL WITH CONDITIONS**
Application for: BWP SW 43
South Side Expansion - Landfill Closure Certification
Transmittal # X239626

AT: BFI Fall River Landfill
1080 Airport Road
Fall River, MA 02720
Facility ID#: 132278, Regulated Object#: 172513

CITY CLERK
FALL RIVER, MA

2012 NOV 20 A 9:01

RECEIVED

Dear Mr. October:

The Massachusetts Department of Environmental Protection ("MassDEP") has completed its technical review of the Landfill Closure Certification Report, BWP SW43 permit application ("Application") listed above regarding final cover system over the South Side Expansion, of the Browning-Ferris Industries ("BFI") Fall River Landfill ("Landfill") and determined the application is technically complete. MassDEP hereby approves the Application subject to the conditions herein.

SUBMITTALS:

The following submittals represent the complete Application reviewed by the MassDEP under 310 CMR 19.000 *Solid Waste Management Facility Regulations*, 310 CMR 19.142(5) *Post Closure Requirements* and 310 CMR 19.143 *Post Closure Use of Landfills* and MassDEP's *Landfill Technical Guidance Manual, May 1997* (the "Manual").

An application package received by MassDEP on August 8, 2012, comprised of the following documents:

- o A transmittal form assigned Transmittal Number X239626, and a Permit application form BWP SW 43 Application for Determination of Landfill Closure.
- o A cover letter prepared by Sitec Environmental, Inc. ("SITEC"), dated August 7, 2012.
- o One bound report entitled "BFI Fall River Landfill, Fall River, MA; Construction Quality Assurance Report, South Side Expansion - Landfill Closure Completion, July 2012", containing a Narrative Report, a Construction Quality Assurance Report, and eight record drawings.
- o A letter of Certification, prepared by SITEC, affirms that the construction was completed under their general supervision and in general compliance with the approved plans and specifications, dated June 28, 2012.

PROJECT BACKGROUND:

The BFI Fall River Landfill ("BFI Landfill") is a privately owned and operated facility located in the northern portion of the Fall River Industrial Park in Fall River, Massachusetts. Browning-Ferris Industries, Inc. Massachusetts has owned and operated this facility since January 1986. The BFI Landfill is located at 1080 Airport Road, on a 204-acre parcel of land that was site assigned by the City of Fall River Health Department on February 24, 1982. Approximately 120 acres have been utilized for solid waste disposal operations. The South Side Expansion consists of a 14 acre "piggyback" expansion located on the southerly side-slope of the closed and capped Phase I and Phase II area of the BFI Landfill.

On May 28, 2009, MassDEP issued an Authorization to Construct permit (application transmittal No. X223503) for a 14 acre landfill expansion designed to overlie the south slope of existing capped landfill area. After completion of the liner construction, MassDEP issued an Authorization to Operate permit (application transmittal No. X230842) on November 18, 2009. Waste disposal operations began along the southerly perimeter of the Landfill and generally progressed in a northerly direction toward the higher elevations of the expansion until final grades were achieved. On April 13, 2011, MassDEP issued a Corrective Action Design permit (application transmittal No. X237336) for construction of a final cover system for the South Side Expansion Area.

The construction of the final cover system was completed in two phases. Construction of Phase 1, approximately 10.5 acres, commenced in May 2011 and was completed in September 2011. Construction of Phase 2, approximately 3.5 acres, commenced in October 2011 and was completed in January 2012.

An active landfill gas extraction system was constructed in stages during operation of the south side expansion. On March 29, 2010, MassDEP issued an approval (application transmittal No. X230851) for the first stage of landfill gas system installation within the active South Side Expansion Area. The first stage was completed in November 2010 in order to minimize fugitive landfill gas emissions from areas where final landfill elevations had been achieved on the lower slopes of the South Side Expansion. On March 9, 2011, MassDEP issued an approval (application transmittal No. X237180) for the second and third stage of landfill gas system installation. The second stage was completed in March 2011, and the third and final stage of the landfill gas system was completed in October 2011 in conjunction with construction of the final

cover system. A construction certification report for the South Side Expansion was submitted to the MassDEP on August 8, 2012, and is the subject of this Application.

FINAL COVER SYSTEM DESCRIPTION:

The Final Cover System on the South Side Expansion area was designed in compliance with 310 CMR 19.112 *Landfill Final Cover Systems*, and CMR 19.140 *Landfill Closure Requirements* of the Solid Waste Management Regulations. The final cover system has a landfill gas management system, a geomembrane low permeability barrier and numerous stormwater run-off control devices designed to maintain the integrity of the final cover.

The final cover system design for the South Side Expansion Area includes the following components:

- o A suitably prepared landfill surface beneath the final cover system; overlain by
- o A gas venting layer consisting of a minimum of six (6) inches of sand with a maximum particle size of 3/8 inch and a minimum saturated hydraulic conductivity of 1×10^{-3} cm/sec; overlain by
- o A low permeability layer consisting of a forty (40) mil high-density polyethylene ("HDPE") textured geomembrane; overlain by
- o A drainage layer consisting of a minimum of nine (9) inches of sand with a maximum particle size of 3/8 inch and a minimum saturated hydraulic conductivity of 1×10^{-2} cm/sec; overlain by
- o A vegetative support layer consisting of a minimum of twelve (12) inches of soil with a maximum saturated hydraulic conductivity of 1×10^{-4} cm/sec, capable of supporting vegetative growth on the final cover and, with a minimum organic content of 3%.

Storm Water Control System: The storm water control system included the construction of earthen stormwater diversion berms and a stone-lined stormwater let-down channel. Additionally, subdrain piping consisting of 4-inch diameter, corrugated, perforated pipe were installed at 80-foot intervals within the sand drainage layer above the geomembrane cap and along the toe of slope. This subdrain piping provides for the discharge of rainwater that percolates through the vegetative support layer and into the sand drainage layer. Stormwater then flows to the existing stormwater basin that received the stormwater flow from this area prior to constructing the South Side Expansion.

Active Gas Collection and Control System: An active landfill gas extraction system was constructed in three stages during operation of the south side expansion.

The first stage was completed in November 2010 and included the following components:

- o The connection of leachate collection pipe clean-out risers at the easterly, westerly and southerly perimeter of the expansion to the landfill gas collection system;
- o The installation of horizontal collection trenches along the southeasterly slopes;
- o The installation of header piping within the cell;
- o The extension of header piping outside the cell so that connections could be made to the existing extraction system network located at the perimeter.

The second stage was completed in March 2011 and included the following components:

- o Installation of three horizontal collectors;
- o Connection of four existing leachate cleanout risers to the gas extraction system;
- o Installation of segments of a new 6-inch diameter HDPE header line to create a loop system to enhance landfill gas extraction efficiency;
- o Installation of four vertical gas extraction wells.

The third and final stage of the landfill gas system was completed in October 2011 and included the following components:

- o Completion of the 6-inch header pipe installation through the mid portion of the South Side Expansion Area;
- o Connection of the final leachate cleanout riser to the landfill gas extraction system;
- o Installation of five additional vertical gas extraction wells.

APPROVAL AND CONDITIONS:

MassDEP has reviewed the information in the Application in accordance with the requirements of 310 CMR 19.140, "Landfill Closure Requirements" and in accordance with the MassDEP's guidance document entitled "Landfill Technical Guidance Manual" (the "Guidance Manual"), revised May, 1997. Based on this review, MassDEP has determined that the referenced Application meets the pertinent criteria for a landfill closure pursuant to 310 CMR 19.000

In accordance with authority granted pursuant to Massachusetts general laws ("M.G.L.") chapter 111, section 150A, MassDEP hereby approves the certification of construction of the South Side Expansion Area, of the BFI Fall River Landfill final cover system, as shown on the as-built drawings, subject to the following conditions:

1. The BFI Landfill shall be operated and maintained in accordance with the requirements of 310 CMR 16.00 and 19.000, the facility Authorization to Operate permit, and the facility Operations and Maintenance Plan.
2. Pursuant to 310 CMR 19.130(15)(e)(3), BFI shall maintain the final cover system to prevent erosion and to ensure the integrity of the final cover system.
3. Pursuant to 310 CMR 19.142, BFI shall maintain, care for and monitor the closed areas of the Landfill.
4. Pursuant to 310 CMR 19.043(5)(i) "Duty to Inform" and 19.133(1)(c) "Maintenance of Environmental Control and Monitoring Systems", BFI must notify MassDEP of any damage to the final cover system, stormwater control system, and/or environmental monitoring system.
5. Pursuant to 310 CMR 19.130(15)(e)(1), BFI is required to periodically begin to apply final cover based on various circumstances specified within the regulations. BFI shall submit an appropriate cap construction application for MassDEP approval prior to commencing cap

construction in Landfill areas not covered by previous permits.

6. MassDEP reserves the right to require additional assessment or action as deemed necessary in order to protect and maintain the environment free from objectionable nuisances, dangers and/or threats to public health.

PERMIT LIMITATIONS:

The issuance of this conditional approval is limited to certification of closure of the South Side Expansion Area, as shown on the submitted plans, and does not relieve BFI from the responsibility to comply with all other regulatory or permitting requirements. MassDEP reserves the right to require additional assessment or action, as deemed necessary to protect and maintain the environment free from nuisance conditions, dangers or threats to public health, safety or the environment.

RIGHT TO APPEAL:

This approval has been issued pursuant to M.G.L. Chapter 111, Section 150A, and 310 CMR 19.037: Review Procedures for Permit Modifications, Permit Renewals and Other Approvals, of the "Solid Waste Management Regulations". Pursuant to 310 CMR 19.037(5), any person aggrieved by the issuance of this determination may file an appeal for judicial review of said decision in accordance with the provisions of M.G.L. c. 111, § 150A and M.G.L. c. 30A not later than 30 days following the receipt of the final permit. The standing of a person to file an appeal and the procedures for filing such appeal shall be governed by the provisions of M.G.L. c. 30A. Unless the person requesting an appeal requests and is granted a stay of the terms and conditions of the permit by a court of competent jurisdiction, the permit decision shall remain effective or become effective at the conclusion of the 30 day period.

Notice of Appeal: Any aggrieved person intending to appeal a grant or denial of a permit to the Superior Court shall first provide notice of intention to commence such action. Said notices of intention shall include the Department file number (X239626) and shall identify with particularity the issues and reason why it is believed the permit decision was not proper. Such notice shall be provided to the Office of General Counsel of the Department and the Regional Director for the regional office, which processed the permit application at least five days prior to the filing of an appeal.

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

Philip Weinberg, Regional Director
Department of Environmental Protection
20 Riverside Drive
Lakeville, MA 02347

No allegation shall be made in any judicial appeal of a permit decision unless the matter complained of was raised at the appropriate point in the administrative review procedures established in 310 CMR 19.000, provided that a matter may be raised upon a showing that it is material and that it was not reasonably possible with due diligence to have been raised during

such procedures or that matter sought to be raised is of critical importance to the environmental impact of the permitted activity.

Please contact me at (508) 946-2847 or Maria A. June at (508) 946-2767 if you have any questions. In all written responses please reference Transmittal # X239626.

Very Truly Yours,



Mark Dakers, Chief
Acting Solid Waste Management Section

D/MJ/

\\mjune\Fall River\BFI\BFI - Certs\Fall River - south side expansion closure cert.docx

fc: William A. Flanagan, Mayor
City of Fall River, City Hall
One Government Center
Fall River, MA 02772
Fax. No. (508) 324-2626

Fall River City Council
City of Fall River, City Hall
One Government Center
Fall River, MA 02772
Fax. No. (508) 324-2626

cc: Representative David Sullivan
David.Sullivan@mahouse.gov

Fall River Board of Health
dcabral@fallriverma.org

Mike Quatromoni, SITEC Environmental, Inc.
mquatromoni@sitec-engineering.com

DEP-Boston
ATTN: J. Doucett
P. Emond

DEP-Lakeville
ATTN: D. Connick
L. Black
M. Pinaud



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

DEVAL L. PATRICK
Governor

TIMOTHY P. MURRAY
Lieutenant Governor

COPY

RICHARD K. SULLIVAN JR.
Secretary

KENNETH L. KIMMELL
Commissioner

November 13, 2012

Mr. Christopher October, Env. Manager
Browning-Ferris Industries, Inc. (MA)
1080 Airport Road
Fall River, Massachusetts 02720

RE: FINAL APPROVAL WITH CONDITIONS

Application for: BWP SW 43
Phase III - Landfill Closure Certification
Transmittal # X235165

AT: BFI Fall River Landfill
1080 Airport Road
Fall River, MA 02720
Facility ID#: 132278, Regulated Object#: 172513

CITY CLERK
FALL RIVER, MA

2012 NOV. 20 A 9:02

RECEIVED

Dear Mr. October:

The Massachusetts Department of Environmental Protection ("MassDEP") has completed its technical review of the Landfill Closure Certification Report, BWP SW43 permit application ("Application") listed above regarding final cover system over Phase III, of the Browning-Ferris Industries ("BFI") Fall River Landfill ("Landfill") and determined the application is technically complete. MassDEP hereby approves the Application subject to the conditions herein.

SUBMITTALS:

The following submittals represent the complete Application reviewed by the MassDEP under 310 CMR 19.000 *Solid Waste Management Facility Regulations*, 310 CMR 19.142(5) *Post Closure Requirements* and 310 CMR 19.143 *Post Closure Use of Landfills* and MassDEP's *Landfill Technical Guidance Manual, May 1997* (the "Manual").

An application package received by MassDEP on December 8, 2010, comprised of the following documents:

- o Three bound reports, including Technical Specifications and seven (7) design drawings, entitled "BFI Fall River Landfill, Fall River, MA; Construction Quality Assurance Report, Volume 1 (Volume 2, Volume 3 respectively); final Closure System, Phase III Landfill Area - Cells A, B and C; September 2010".
- o Two bound reports, including Technical Specifications and four (4) design drawings, entitled "BFI Fall River Landfill, Fall River, MA; Construction Quality Assurance Report, Volume 1 (Volume 2 respectively); final Closure System, Phase III Cell D Landfill; September 2010".
- o A transmittal form assigned Transmittal Number X235165, and a Permit application form BWP SW 43 Application for Determination of Landfill Closure.
- o A cover letter prepared by Sitec Environmental, Inc. ("SITEC"), dated October 14, 2010.
- o A letter of Certification, prepared by SITEC, affirms that the construction was completed under their general supervision and in general compliance with the approved plans and specifications, dated October 14, 2010.
- o Supplemental submittal, including revised Destructive Test Reports, Destructive Test Logs, Geomembrane Repair Logs, and one revised As-Built Panel Layout Plan, received by MassDEP on October 19, 2012.

PROJECT BACKGROUND:

The BFI Fall River Landfill is located at 1080 Airport Road, Fall River, Massachusetts on a 204-acre parcel of land that was site assigned by the City of Fall River Health Department on February 24, 1982. The Landfill is owned and operated by BFI. Approximately 120 acres have been utilized for solid waste disposal operations. Prior owners/operators include the City of Fall River, which operated the Landfill between the 1930s and 1981 and Fall River Landfill, Inc., which operated the Landfill between 1981 and 1986. BFI has operated the Landfill since 1986. In 1994, BFI initiated the permitting process for a lateral expansion of landfilling operations at the Landfill to the area known as Phase III. The entire Phase III Landfill Area is comprised of 64 acres of Site Assigned land located along the northeasterly portion of the property, and subdivided into sub cells A, B, C and D.

The Phase III, Cell A, B and C Landfill Area are contiguous cells that were developed over the past several years and make up one landfill mound, and consists of approximately 26.5 acres. The Phase III, Cell D Landfill Area, is a standalone cell located on the northeasterly portion of the property, approximately six hundred (600) feet to the north of the Phase III, Cell A, B and C Landfill Area, and consists of approximately 4.85 acres of lined landfill area.

A Corrective Action Design ("CAD") permit approval (transmittal # W140025) for the Phase III, Cell A, was issued on August 22, 2007. A CAD permit approval (transmittal # W213699) for the Phase III, Cell B East, was issued on April 11, 2008. An Administrative Consent Order (ACOP-SE-08-9011-274AG), was issued on October 14, 2008, stating that: BFI shall complete final cover construction for a minimum of twelve (12) acres of the Phase III, A, B and C landfill by

December 31, 2008; and, "work towards" completing final cover construction beyond the twelve (12) acres, on remaining portions of the Phase III landfill area by December 31, 2008.

A Major Modification permit approval (transmittal # X228113) for the Phase III Landfill was issued on June 10, 2009. A Corrective Action Design ("CAD") permit approval (transmittal # X229855) for the Phase III, Cell D, was issued on September 23, 2009. A construction certification report for the Phase III was submitted to the MassDEP in December 8, 2010 and is the subject of this Application.

PROJECT DESCRIPTION:

Cell A, 3.5 Acres – 2007 Construction

Partial closure of the Phase III, Cell A Landfill Area commenced in November 2007 and was completed in January 2008. Work was permitted under the CAD Approval for the Partial Landfill Capping, Phase III, Alternate Cell A, issued by MassDEP on August 22, 2007. The final closure area of Cell A is located on the northerly and easterly side slopes of the Phase III Landfill Area and totals approximately 3.5 acres.

Cell B, 8.25 Acres – 2008 / 2009 Construction

Partial closure of the Phase III, Cell B Landfill Area commenced in September 2008. Work was permitted under the CAD Approval for the Partial Landfill Capping, Phase III, Cell B-East, issued by MassDEP on April 11, 2008. The final closure area of Cell B-East is located on the southerly side slope of the Phase III Landfill Area and totals approximately 4.0 acres. An Administrative Consent Order, (ACOP-SE-08-9011-274AG), was issued by MassDEP on October 14, 2008; and final closure construction was extended to the westerly side slope of the Phase III Landfill Area. The area of final closure construction of the Phase III, Cell B totals approximately 8.25 acres and was completed in January 2009. Restoration of final cover materials and repairs of geomembrane cap was completed in April 2009.

Cell C, 9.0 Acres – 2008 / 2009 Construction

Final closure of the Phase III, Cell C Landfill Area commenced in November 2008 and was completed in February 2009. Work was conducted under the ACOP-SE-08-9011-274AG. The final closure area of Cell C is located on the northerly and westerly side slopes of the Phase III Landfill Area and totals approximately 9.0 acres. Restoration of final cover materials and repairs of geomembrane cap was completed in April 2009.

Final Closure, 8.0 Acres – 2009 Construction

Final closure of the Phase III Landfill Area commenced in April 2009 and was completed in June 2009. Work was conducted under the ACOP-SE-08-9011-274AG. The final closure area of Phase III is located on the upper elevations of the Phase III Landfill Area and totals approximately 8.0 acres.

Cell D, 4.85 Acres – 2009/2010 Construction

Final closure of the Phase III, Cell D Landfill Area was completed in two separate construction periods. The first construction period commenced in October 2009 and was completed in December 2009, consists of the northerly, westerly and southerly sideslopes of Cell D Landfill and totals approximately 2.4 acres. The second construction period commenced in May 2010 and

was completed in July 2010, consists of the easterly sideslope of Cell D Landfill, and of the top of Cell D Landfill and totals approximately 2.5 acres.

FINAL COVER SYSTEM DESCRIPTION:

The Final Cover System on the Phase III, Cell A, B, C and D Landfill Area, was designed in compliance with 310 CMR 19.112 *Landfill Final Cover Systems*, and CMR 19.140 *Landfill Closure Requirements* of the Solid Waste Management Regulations. The final cover system have a landfill gas management system, a geomembrane barrier and numerous stormwater run-off control devices designed to maintain the integrity of the final cover.

The final closure system for Cell A, B, C & D consists of the following components for each construction phase of landfill closure:

- A suitably prepared landfill surface beneath the final cover system; overlain by
- A gas venting layer consisting of a minimum of six (6) inches of sand with a maximum particle size of 3/8 inch and a minimum saturated hydraulic conductivity of 1×10^{-3} cm/sec; overlain by
- A low permeability layer consisting of a forty (40) mil high-density polyethylene ("HDPE") textured geomembrane cap; overlain by
- A drainage layer consisting of a minimum of nine (9) inches of sand with a maximum particle size of 3/8 inch and a minimum saturated hydraulic conductivity of 1×10^{-2} cm/sec; overlain by
- A vegetative support layer consisting of a minimum of twelve (12) inches of soil with a minimum saturated hydraulic conductivity of 1×10^{-4} cm/sec, capable of supporting vegetative growth on the final cover and, with a minimum organic content of 4%.

Storm Water Control System: The storm water management system for Phase III, Cell A, B, C and D Landfill Area was designed to control the 100-year, 24-hour rainfall event in and around the lined areas. All Landfill areas were graded to a minimum five (5) percent slope and a maximum slope of one (1) foot vertical rise to three (3) foot horizontal run prior to construction of the final cover system. Surface stormwater runoff controls were implemented to maintain the integrity of the final cover and prevent ponding of water on the areas of final cover. The storm water control system includes earthen diversion berms, perimeter swales, side slope letdown channels and storm water basins. Erosion control blankets were installed within the troughs and along the outside slopes of the stormwater diversion berms and throughout the entire slope area. Perimeter drainage swales were constructed along the bottom of the sideslopes of the Landfill to convey storm water runoff to the detention basins. The detention basins have been constructed with a flow-controlling outlet that will attenuate stormwater runoff rates and provide for additional sediment removal for water quality improvement.

Active Gas Collection and Control System: The existing landfill gas control system is located at the south side of Phase I and includes a power plant facility and two enclosed flare systems. The power plant facility consists of two 975 kW Waukesha 7042 GLD engine/generator packages and one 5,000 kW Taurus 60 Solar turbine and is utilized as the primary landfill gas control device. The flare system includes two Callidus enclosed flares, two Lansom blowers, two control racks, and associated landfill gas control piping and electric control equipment and is used as the

backup control device when the power plant facility is offline or operating at reduced capacity. The Phase III landfill gas control system was installed in phases over the life of the active landfill area. The initial phase was installed in 2006. The overall Phase III Cells A, B and C design included twenty-six (26) vertical extraction wells and fifteen (15) gas system connections to the primary leachate collection system cleanouts, and horizontal collectors. The Phase III, Cell D gas control system design included an extension of a twelve (12) inch HDPE landfill gas collection header pipe and a two (2) inch air line from Cell C to Cell D. The header pipe and air line was extended, along the easterly side of the access road at a minimum slope of 5%, to the new condensate sump and pump station located at the southeast corner of Cell D.

APPROVAL AND CONDITIONS:

MassDEP has reviewed the information in the Application in accordance with the requirements of 310 CMR 19.140, "Landfill Closure Requirements" and in accordance with the MassDEP's guidance document entitled "Landfill Technical Guidance Manual" (the "Guidance Manual"), revised May, 1997. Based on this review, MassDEP has determined that the referenced Application meets the pertinent criteria for a landfill closure pursuant to 310 CMR 19.000

In accordance with authority granted pursuant to Massachusetts general laws ("M.G.L.") chapter 111, section 150A, MassDEP hereby approves the certification of construction of Phase III, of the the BFI Fall River Landfill final cover system, as shown on the as-built drawings, subject to the following conditions:

1. The BFI Landfill shall be operated and maintained in accordance with the requirements of 310 CMR 16.00 and 19.000, the facility Authorization to Operate permit, and the facility Operations and Maintenance Plan.
2. Pursuant to 310 CMR 19.130(15)(e)(3), BFI shall maintain the final cover system to prevent erosion and to ensure the integrity of the final cover system.
3. Pursuant to 310 CMR 19.142, BFI shall maintain, care for and monitor the closed areas of the Landfill.
4. Pursuant to 310 CMR 19.043(5)(i) "Duty to Inform" and 19.133(1)(c) "Maintenance of Environmental Control and Monitoring Systems", BFI must notify MassDEP of any damage to the final cover system, stormwater control system, and/or environmental monitoring system.
5. Pursuant to 310 CMR 19.130(15)(e)(1), BFI is required to periodically begin to apply final cover based on various circumstances specified within the regulations. BFI shall submit an appropriate cap construction application for MassDEP approval prior to commencing cap construction in Landfill areas not covered by previous permits.
6. MassDEP reserves the right to require additional assessment or action as deemed necessary in order to protect and maintain the environment free from objectionable nuisances, dangers and/or threats to public health.

PERMIT LIMITATIONS:

The issuance of this conditional approval is limited to certification of closure of the Phase III, Cell A, B, C & D area, as shown on the submitted plans, and does not relieve BFI from the responsibility to comply with all other regulatory or permitting requirements. MassDEP reserves the right to require additional assessment or action, as deemed necessary to protect and maintain the environment free from nuisance conditions, dangers or threats to public health, safety or the environment.

RIGHT TO APPEAL:

This approval has been issued pursuant to M.G.L. Chapter 111, Section 150A, and 310 CMR 19.037: Review Procedures for Permit Modifications, Permit Renewals and Other Approvals, of the "Solid Waste Management Regulations". Pursuant to 310 CMR 19.037(5), any person aggrieved by the issuance of this determination may file an appeal for judicial review of said decision in accordance with the provisions of M.G.L. c. 111, § 150A and M.G.L. c. 30A not later than 30 days following the receipt of the final permit. The standing of a person to file an appeal and the procedures for filing such appeal shall be governed by the provisions of M.G.L. c. 30A. Unless the person requesting an appeal requests and is granted a stay of the terms and conditions of the permit by a court of competent jurisdiction, the permit decision shall remain effective or become effective at the conclusion of the 30 day period.

Notice of Appeal: Any aggrieved person intending to appeal a grant or denial of a permit to the Superior Court shall first provide notice of intention to commence such action. Said notices of intention shall include the Department file number (X235165) and shall identify with particularity the issues and reason why it is believed the permit decision was not proper. Such notice shall be provided to the Office of General Counsel of the Department and the Regional Director for the regional office, which processed the permit application at least five days prior to the filing of an appeal.

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

Philip Weinberg, Regional Director
Department of Environmental Protection
20 Riverside Drive
Lakeville, MA 02347

No allegation shall be made in any judicial appeal of a permit decision unless the matter complained of was raised at the appropriate point in the administrative review procedures established in 310 CMR 19.000, provided that a matter may be raised upon a showing that it is material and that it was not reasonably possible with due diligence to have been raised during such procedures or that matter sought to be raised is of critical importance to the environmental impact of the permitted activity.

Please contact me at (508) 946-2847 or Maria A. June at (508) 946-2767 if you have any questions. In all written responses please reference Transmittal # X235165.

Very Truly Yours,



Mark Dakers, Chief
Acting Solid Waste Management Section

D/MJ/

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fo: William A. Flanagan, Mayor
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Fall River, MA 02772
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Fall River City Council
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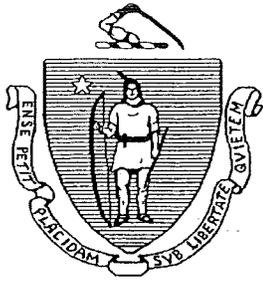
ec: Representative David Sullivan
David.Sullivan@mahouse.gov

Fall River Board of Health
dcabral@fallriverma.org

Mike Quatromoni, SITEC Environmental, Inc.
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DEP-Boston
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P. Emond

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M. Pinaud



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The Commonwealth of Massachusetts

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DEPARTMENT OF PUBLIC UTILITIES

CITY CLERK
FALL RIVER, MA

NOTICE OF FILING AND PUBLIC HEARING

D.P.U. 12-106

November 6, 2012

Petition of New England Gas Company, pursuant to G.L. c. 25, § 21, for approval by the Department of Public Utilities of its Three-Year Energy Efficiency Plan for 2013 through 2015.

On November 2, 2012, New England Gas Company ("Company"), filed with the Department of Public Utilities ("Department") a petition for approval of a three-year energy efficiency plan, covering calendar years 2013 through 2015 ("Three-Year Plan"). The Company filed its Three-Year Plan pursuant to An Act Relative to Green Communities, Acts of 2008, c. 169, § 11 ("Green Communities Act"), and Investigation by the Department of Public Utilities on its own Motion into Updating its Energy Efficiency Guidelines Consistent with An Act Relative to Green Communities, D.P.U. 08-50 (2008); D.P.U. 08-50-A (2009); D.P.U. 08-50-B (2009); D.P.U. 08-50-C (2011); D.P.U. 08-50-D (October 19, 2012). The Department has docketed this matter as D.P.U. 12-106.

The Green Communities Act requires the Commonwealth's electric and gas distribution companies, and municipal aggregators with certified efficiency plans ("Program Administrators") to develop energy efficiency plans that provide for the acquisition of all available energy efficiency and demand reduction resources that are cost-effective or less expensive than supply. G.L. c. 25, § 21. To accomplish this goal, Program Administrators are required to develop three-year energy efficiency plans, in consultation with the Energy Efficiency Advisory Council ("Council"), and submit such plans to the Department. G.L. c. 25, § 21. Once a plan is submitted, the Green Communities Act requires the Department to: (1) consider the plan; (2) provide an opportunity for interested persons to be heard in a public hearing; and (3) within 90 days after the submission of the plan, issue a decision on the plan that ensures that all energy efficiency and demand reduction resources that are cost-effective or less expensive than supply have been identified and captured by the Program Administrator. G.L. c. 25, § 21.

The Company's proposed Three-Year Plan includes energy efficiency programs for residential, low-income, and commercial and industrial customers. The Plan also includes the Company's Residential Conservation Service (RCS) filing. The Company's proposed budget for the three-year period is \$9,872,423 (\$3,142,289 in 2013, \$3,328,981 in 2014, and \$3,401,154 in 2015) and includes a performance incentive.

If the Company's Three-Year Plan is approved as proposed, the Company states that its proposed rates will have the following effects:

- A typical residential heating customer (R-3) using 122 therms per month could experience a monthly peak bill increase of \$3.53 or 2.04 percent in 2013; \$0.39 or 0.22 percent in 2014; and a decrease of (\$0.07) or (0.04) percent in 2015.
- A typical residential low-income (R-4) customer using 110 therms per month could experience a monthly peak bill increase of \$2.40 or 2.03 percent in 2013; \$0.26 or 0.22 percent in 2014; and a decrease of (\$0.05) or (0.04) percent in 2015; and
- Bill impacts for commercial and industrial customers will vary. These customers should contact the Company for specific bill impact information.

Customers who participate in energy efficiency programs may experience a monthly bill decrease over the duration of the Three-Year Plan. For specific bill impacts, please contact the Company as indicated below.

Copies of the Three-Year Plan are on file at the Department's offices, One South Station - 5th Floor, Boston, Massachusetts 02110 for public viewing during business hours and on the Department's website at <http://www.mass.gov/dpu>. A copy is also on file for public view at the office of New England Gas Company, 45 North Main Street, Fall River, Massachusetts 02720. Any person desiring further information regarding the Three-Year Plan should contact counsel for the Company, Emmett Lyne, Esq., at (617) 556-3885. Any person desiring further information regarding this notice should contact Jonathan Goldberg or Jennifer Turnbull-Houde, Hearing Officers, Department of Public Utilities, at (617) 305-3500.

The Department will conduct a public hearing to receive comments on the proposed Three-Year Plan. The hearing will take place on **December 5, 2012, 2:00 p.m.** at the Department's offices, One South Station - 5th Floor, Boston, Massachusetts 02110. Any person who desires to comment may do so at the time and place noted above or submit written comments to the Department not later than the close of business (5:00 p.m.) on **December 5, 2012.**

Any person who participated in the Council process or whose interests were represented by a member of the Council, and who desires to participate in the evidentiary phase of this proceeding must file a written petition for leave to intervene with the Department not later than the close of business on **Monday, November 5, 2012.** Any person who did not participate in the Council process or whose interests were not represented by a member of the Council, and who desires to participate in the evidentiary phase of this proceeding must file a written petition for leave to intervene with the Department not later than the close of business on **Friday, November 16, 2012.** A petition for leave to intervene must satisfy the timing and substantive requirements of 220 C.M.R. § 1.03. Receipt by the Department, not mailing, constitutes filing and determines whether a petition has been timely filed. A petition filed late may be disallowed as untimely, unless good cause is shown for waiver under 220 C.M.R. § 1.01(4). To be allowed, a petition under 220 C.M.R. § 1.03(1) must satisfy the standing requirements of G.L. c. 30A, § 10. All responses to petitions to intervene must be filed by the close of business of the second business day after the petition to intervene was filed.

An original and one (1) copy of all written comments or petitions to intervene must be filed with Mark D. Marini, Secretary, Department of Public Utilities, One South

Station - 5th Floor, Boston, Massachusetts 02110, not later than the close of business on the dates noted above. One copy of all written comments or petitions to intervene should also be sent to the Company's attorney, Emmett E. Lyne, Esq., Rich May, 176 Federal Street, Boston, Massachusetts 02110-2223, and by email, elyne@richmaylaw.com.

All documents should also be submitted to the Department in electronic format using one of the following methods: (1) by e-mail attachment to dpu.efiling@state.ma.us, and the hearing officers jonathan.goldberg@state.ma.us and jennifer.turnbull@state.ma.us or (2) on a CD-ROM. The text of the e-mail or CD-ROM must specify: (1) the docket number of the proceeding D.P.U. 12-106; (2) the name of the person or company submitting the filing; and (3) a brief descriptive title of the document. The electronic filing should also include the name, title, and telephone number of a person to contact in the event of questions about the filing. All documents submitted in electronic format will be posted on the Department's website: <http://www.mass.gov/dpu>.