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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

**COPY**

DEVAL L. PATRICK  
Governor

IAN A. BOWLES  
Secretary

TIMOTHY P. MURRAY  
Lieutenant Governor

LAURIE BURT  
Commissioner

August 7, 2009

Mary Robinson  
383 Hixville Road  
North Dartmouth, MA 02747

RE: **DARTMOUTH--Solid Waste**  
  
Cecil Smith Landfill, Old Fall River Road  
Facility #39200  
**UNILATERAL ADMINISTRATIVE  
ORDER (#UAO-SE-09-4001)**

**THIS IS AN IMPORTANT NOTICE  
FAILURE TO TAKE ADEQUATE ACTION IN RESPONSE TO THIS NOTICE  
COULD RESULT IN SERIOUS LEGAL CONSEQUENCES**

Dear Ms. Robinson:

On July 17, 2009, Massachusetts Department of Environmental Protection ("MassDEP") inspectors visited the site of the closed Landfill off Old Fall River Road in North Dartmouth (the "Landfill"). While at the site, the MassDEP inspector observed the Landfill to be in Noncompliance with MassDEP Regulations. MassDEP's records indicate that you are the owner of this property.

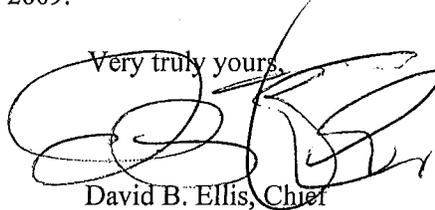
MassDEP has determined that you [the term "you" (as used in this letter) refers to the Party listed above] have violated and continue to violate certain applicable provisions of 310 CMR 19.000 regarding the Landfill. As a result of the observation made at the Landfill, the MassDEP is issuing this Unilateral Administrative Order ("UAO") designated as number (UAO-SE-09-4001) requiring certain activities be conducted at and around the Landfill to ensure public health and safety.

The UAO describes the acts of noncompliance as well as the actions that must be taken in order to achieve compliance with the applicable regulatory requirements as prescribed under M.G.L. c.111, §§ 150A and 150A1/2 and the Departments Solid Waste Management Regulations at 310 CMR 19.000.

The Department reserves its right to take additional enforcement measures against you based upon past, current and future violations. Additional enforcement measures may include referral of the matter to the Massachusetts Attorney General's office and/or the assessment of Administrative penalties under M.G.L. c.21, §5.

Attached is a Unilateral Administrative Order ("UAO") detailing the actions that need to be taken. The document should be self-explanatory.

Please direct any questions regarding this matter to MassDEP at the letterhead address, or telephone me at (508) 946-2833 or Colleen Ferguson at (508) 946 2809.

Very truly yours,  
  
David B. Ellis, Chief  
Solid Waste Management Section

E/CF/re

\dartmouth\Cecil Smith IfUAO - Landfill Mining.doc

Attachment

CERTIFIED MAIL #7008 1830 0001 0409 5736  
RETURN RECEIPT REQUESTED

cc: Wendy W. Henderson, RS, Director of Public Health  
[whenderson@town.dartmouth.ma.us](mailto:whenderson@town.dartmouth.ma.us)

DEP/SERO

ATTN: Laurel Carlson, DRD, BWP  
Dan d'Hedouville, Esq. OGC  
Deneen Simpson  
Theresa Barao  
Lee MacEachern  
Rich Gioiosa  
David Ellis

DEP-Boston

ATTN: J. Doucett

COMMONWEALTH OF MASSACHUSETTS  
 EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS  
 DEPARTMENT OF ENVIRONMENTAL PROTECTION

**COPY**

IN THE MATTER OF	)	RE: <b>DARTMOUTH- BWP/SW</b>
	)	Cecil Smith Landfill (inactive)
Mary Robinson	)	310 CMR 19.000
383 Hixville Road	)	<b>UNILATERAL ADMINISTRATIVE</b>
North Dartmouth, MA 02747	)	<b>ORDER</b>
	)	<b>FILE# UAO-SE-09-4001</b>

**I. THE PARTIES**

1. The Massachusetts Department of Environmental Protection ("MassDEP") is a duly constituted agency of the Commonwealth of Massachusetts, established pursuant to M.G.L. c.21A, §7. MassDEP maintains its principal offices at One Winter Street in Boston, Massachusetts and a regional office at 20 Riverside Drive in Lakeville, Massachusetts.
2. Mary Robinson ("Respondent") is an Individual with a mailing address of 383 Hixville Road, Dartmouth, Massachusetts. Respondent's mailing address for purposes of this Order is 383 Hixville Road, Dartmouth, Massachusetts. MassDEP's records indicate that Ms. Robinson is the owner of the land that the Landfill is on, located at 452 Old Fall River Road hereafter referred to as the Landfill/Site.

**II. STATEMENT OF FACTS AND LAW**

3. MassDEP is responsible for the implementation and enforcement of M.G.L. c.111, §150A and §150A 1/2, and the Site Assignment Regulations for Solid Waste Facilities at 310 CMR 16.00, and the Solid Waste Regulations at 310 CMR 19.000, as promulgated thereunder. MassDEP is authorized to issue this Order pursuant to 310 CMR 19.081.
4. The Landfill/Site consists of approximately sixty (60) acres of land located off of Old Fall River Road in Dartmouth, Massachusetts. According to MassDEP records, the Landfill/Site, accepted construction and demolition waste, from about 1954 until 1974.

5. On July 17, 2009 in response to a complaint that there was illegal activity occurring, inspectors visited the site. Inspectors observed that the Landfill/Site had been disturbed in some places with recyclable metal material taken out (truck full of metal beside the disturbed area) and then remaining waste replaced. In another area, there was an excavator adjacent to an open pit and another pile of metal. Inspectors also observed ash and partially burned material where it appeared that open burning had occurred.
6. On July 17, 2009, inspectors from MassDEP went to the Landfill and observed noncompliance with the following regulations:
  - a. Pursuant to 310 CMR 19.142(5)(a), "Post-closure Requirements: During the post closure period the operator shall perform the following activities on any closed portion of the facility: (a) take corrective actions to remediate and/or mitigate conditions that would compromise the integrity and purpose for the final cover". The integrity of the final cover has been comprised at the Landfill. In some areas of the landfill, the final cover is completely removed and waste exposed.
  - b. Pursuant to 310 CMR 19.130 (32), "Disruption of Landfilled Areas. (a) No person shall excavate, disrupt or remove deposited material from either an active, inactive or closed landfill without prior written approval from the department." A portion of the Landfill has been excavated into and solid waste materials have been exposed.
  - c. Pursuant to 310 CMR 7.07 (5) "Notwithstanding the provisions of 310 CMR 7.07(3), no person shall cause, suffer, allow or permit open burning at any refuse disposal facility other than an incinerator as described in M.G.L. c. 111, § 150A."

### III. DISPOSITION

For the reasons set forth in Section II above, and pursuant to the authority granted to MassDEP by 310 CMR 19.000, MassDEP hereby issues this Order against the Respondent as the "Owner" of the Landfill/Site.

7. This Order identifies specific actions that must be undertaken in order to achieve and maintain compliance with applicable requirements concerning the assessment, closure/capping of the Landfill.
8. The terms and conditions of this Order will take effect on the Effective Date of the UAO.

9. The Effective Date of the Order will be the date of signature and issuance by MassDEP.
10. Compliance with this UAO shall constitute full and final resolution of the issues of noncompliance as described herein, but shall not preclude or hinder MassDEP from pursuing additional or other enforcement actions regarding additional or future violations of applicable laws, regulations or requirements as they relate to the subject matter which are not described in this UAO, or for additional enforcement actions caused subsequent to or as a result of the UAO, or for violation of this UAO.
11. Nothing in this UAO shall be construed as, or operate as, barring, diminishing, adjudicating, or in any way affecting any legal or equitable right of MassDEP to issue any future Enforcement Action with respect to the subject matter covered by this UAO, or in any way affecting any other claim, action, suit, cause of action, or demand which MassDEP may initiate.
12. The activities conducted pursuant to this UAO are subject to approval by MassDEP and shall comply with all other applicable federal, state and local laws. Any non-compliance with the requirements and provisions of applicable federal, state and local laws, regulations and approvals which delays the achievement of any performance deadline set by this UAO shall constitute a violation of this UAO.
13. This UAO shall apply to and be binding upon Mary Robinson as the "Owner" of the Site/Landfill and their respective successors, heirs and assigns. No change in property ownership or tenancy will alter in any way the responsibility of the Owner under this UAO. A signed copy of this UAO shall be provided to any successor, heir or assign.
14. Mary Robinson as the Owner of the Site/Landfill shall not violate this UAO and shall not allow her successors, heirs, agents, or contractors to violate this UAO.
15. MassDEP is not aware of any industry conditions or pending legislative or regulatory changes that would affect the applicability of this UAO.

#### IV. ORDER

16. The Respondent shall implement the following actions:
  - A. Immediately cease excavation activities into the Landfill, the Respondent shall stop any digging at the site and cover any exposed materials with six (6) inches of clean soil. Reclaimed

landfill material is not suitable for cover material.

- B. **Immediately implement a Site Safety Plan**, the Respondent shall take all necessary action/precautions to ensure public health and safety on the Landfill, this includes, but is not limited to, notifying workers of the hazards associated with the solid waste and landfill gas.
- C. **Within Thirty (30) Days of the Issuance of the UAO, Submit to the MassDEP a Remedial Action Plan**, the Respondent shall hire a qualified professional engineer registered in Massachusetts experienced in solid waste management and design to assess the current conditions at the Landfill and submit for MassDEP approval and review a plan and schedule to clean up and recap the exposed areas.

## V. ADDITIONAL PROVISIONS

17. MassDEP shall have the power to extend or waive any deadline, time period, term, or condition contained herein as MassDEP, in its sole discretion, may deem fit, provided, however, that no extension or waiver will be effective which contravenes any provision of any applicable statute or regulation.
18. This UAO shall apply to and bind the Respondent, their officers, employees, agents, successors and assigns. The Respondent shall not violate this UAO, nor suffer or allow its employees, agents, or contractors to violate this UAO.
19. Nothing in this UAO shall be construed as, or operate as, barring, diminishing, adjudicating, or in any way affecting any legal or equitable right of MassDEP to issue any future enforcement action with respect to the subject matter covered by this UAO, or in any way affecting any other claim, action, or demand which MassDEP may have with respect thereto.
20. Nothing in this UAO shall be construed as, or operate as, barring, diminishing, adjudicating, or in any way affecting MassDEP's rights pursuant to any other statute nor the proponent's obligation to comply with the requirements of that same statute.
21. Except where otherwise specified, each submittal required by this Order shall be made to:

Massachusetts Department of Environmental Protection  
Southeast Regional Office  
20 Riverside Drive  
Lakeville, Massachusetts 02347  
ATTN: David Ellis

## VI. APPEAL RIGHTS

22. You have a right to appeal this UAO. To appeal the UAO, a written notice of claim shall be filed within 21 days of the date of service of this Order in accordance with 310 CMR 19.081 and 310 CMR 1.00.
23. Any request for an adjudicatory hearing on this UAO shall clearly and concisely state the basis for the request subject to and in compliance with the applicable provisions of 310 CMR 1.00.
24. Any request for a hearing must be sent with payment of the applicable Appeal Filing Fee of one hundred dollars (\$100.00) pursuant to 310 CMR 4.06. Payment must be by certified check, cashier's check, or money order payable to the Commonwealth of Massachusetts, Department of Environmental Protection. The nine-digit File Number on the first page of this enforcement document (**#UAO-SE-09-4001**) should be clearly printed on the face of the certified check, cashier's check or money order. Failure to do so could delay the crediting of your payment and thereby jeopardize your request for appeal. Send your request for a hearing and the filing fee to MassDEP as follows:

HEARING REQUEST:

Docket Clerk  
Office of Administrative Appeals  
Massachusetts Department of Environmental Protection  
1 Winter Street, 3<sup>rd</sup> floor  
Boston, MA 02108

FILING FEE:

Massachusetts Department of Environmental Protection  
Commonwealth Master Lockbox  
P.O. Box 4062  
Boston, MA 02211-4062

25. Your hearing request will be dismissed if the filing fee is not paid, unless you are exempt or granted a waiver from the fee. Cities, towns, municipal housing authorities and other municipal authorities are exempt from the filing fee requirement. MassDEP may waive the filing fee for any person who demonstrates that paying the fee will create an undue financial hardship. To seek a waiver, you must

file with your request for a hearing a statement of the facts supporting your claim of financial hardship.

26. If you do not file a timely appeal, this Order will remain in effect.

**VIII. EFFECTIVE DATE**

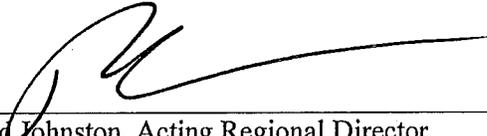
35. The Order is hereby issued and effective on the date signed by the MassDEP.

**MASSACHUSETTS DEPARTMENT OF ENVIRONMENTAL PROTECTION**

DATE:

8-7-09

BY:

  
\_\_\_\_\_  
David Johnston, Acting Regional Director