



COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF ENERGY & ENVIRONMENTAL AFFAIRS  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
NORTHEAST REGIONAL OFFICE  
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**BENEFICIAL USE DETERMINATION -- BWP SW 13**  
**Use of Concrete Rubble as Fill**  
**Newton North High School**  
**360 Lowell Avenue**  
**Newton, Massachusetts**

Date of Issuance: **July 16, 2007**

**FMF # 337250**  
**File # W134524**

**I. IDENTIFICATION:**

Applicant Name: City of Newton  
Mailing Address: 52 Elliot Street  
Newton, MA 02459

Name of Facility: Newton North High School  
Source: Address: 360 Lowell Avenue  
Newton, MA 02459

Point of Use: on-site

**II. BENEFICIAL USE DETERMINATION and CONDITIONAL APPROVAL**

The proponent, the City of Newton, proposes to utilize crushed concrete (ABC) rubble, as fill for site grading at Newton North High School, 360 Lowell Avenue, Newton, Massachusetts. The area is being regarded as part of the construction of new buildings for the school.

The estimated volume of coated ABC rubble to be generated and utilized on-site is 3,300 cubic yards.

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The source of the ABC rubble subject to this Beneficial Use determination is from demolition of an existing stadium at the site.

The ABC rubble consists of paint coated crushed concrete. Asbestos has either previously been removed from the structures or will be removed prior to demolition.

The application was reviewed in accordance with section 19.060, "Beneficial Use of Solid Wastes", of 310 CMR 19.000, "Solid Waste Management Facility Regulations." MassDEP has determined this application complies with the requirements for the Beneficial Use of Solid Waste as established therein.

MassDEP hereby authorizes the crushed ABC rubble to be used as general fill, as proposed, subject to the conditions listed below.

### **III. GENERAL PERMIT CONDITIONS**

1. A determination of beneficial use means the material is NOT classified as a solid waste **ONLY** when used in accordance with the requirements of this determination. The material shall not be handled or utilized in a manner that will result in the material becoming a solid waste.
2. The beneficial use of this material shall be in compliance with other applicable state and federal laws and regulations.
3. MassDEP reserves the right to rescind, suspend or modify this permit by the imposition of additional conditions based upon a situation of significant odor, nuisance, or a determination of actual, or threat of, adverse impacts from the use of this material, as maybe necessary pursuant to law or regulation, or as is otherwise necessary to protect the public health, safety, and the environment.

### **IV. SPECIFIC PERMIT CONDITIONS**

1. The City of Newton, must notify the Department of any changes in the specifications of the material as described in the permit application.
2. This permit is for the one time use of ABC rubble from the stadium only.
3. The ABC rubble must be free of paper, plastic, drywall, or other solid waste residue, including roofing material.

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4. ABC material forming the “press box” area of the stadium shall not be included in the reuse of ABC rubble. Such rubble shall be separated from the material to be used pursuant to this BUD and shall be disposed of off site at an appropriately licensed facility.
5. Metal contained within concrete shall be removed and properly disposed or recycled.
6. Within landscaped areas (i.e. areas not under the foundation of a building) the crushed coated ABC rubble shall be covered by a minimum of two (2) feet of clean material (soil, uncoated ABC, etc.).
7. Any required crushing of ABC rubble shall be conducted in compliance with the applicable provisions of 310 CMR 7.00 Air Pollution Control Regulations, in particular the requirements of 310 CMR 7.09. Crushing and use of the ABC rubble shall be conducted in a manner so as prevent dust, odors and/or other nuisance conditions or otherwise result in any unpermitted discharge.

## **V. RIGHT OF APPEAL**

The City of Newton (the “City”) is hereby notified that it may within twenty-one (21) days file a request that this decision be deemed a provisional decision under 310 CMR 19.037(4)(b), by submitting a written statement of the basis on which the City, believes it is aggrieved, together with any supporting materials. Upon timely filing of such a request, the decision shall be deemed a provisional decision with an effective date twenty-one (21) days after the Department's receipt of the request. Such a request shall reopen the administrative record, and the Department may rescind, supplement, modify, or reaffirm its decision. Failure by the City, to exercise the right provided in this section shall constitute a waiver of the City’s right to appeal.

**Appeal** - Any person aggrieved by the issuance or denial of the permit, except as provided for under 310 CMR 19.037(4)(b), may file an appeal for judicial review of said decision in accordance with the provisions of M.G.L. c. 111, § 150A and 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 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.

**Beneficial Use Determination  
Newton North High School, Use of Concrete Rubble as Fill**

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Massachusetts Department of Environmental Protection  
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Boston, MA 02108

Regional Director  
Massachusetts Department of Environmental Protection  
Metropolitan Boston/Northeast Regional Office  
205B Lowell Street  
Wilmington, MA 01887

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 these regulations, 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.

*This final document copy is being provided to you electronically by the  
Department of Environmental Protection. A signed copy of this document  
is on file at the DEP office listed on the letterhead.*

**DCA**

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David C. Adams  
Environmental Engineer  
Solid Waste Management

**JAC**

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John A. Carrigan  
Section Chief  
Solid Waste Management

**7/16/07**

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Date