



CITY OF NEW BEDFORD
JONATHAN F. MITCHELL, MAYOR

April 5, 2017

LATE FILE

CITY CLERKS OFFICE
NEW BEDFORD, MA
2017 APR - 7 P 2:44
CITY CLERK

Council President Joseph P. Lopes
Members of the City Council
City Hall
New Bedford, MA 02740

RE: Activity and Use Limitation (AUL) for the Acquired Residential Properties (ARPs)
associated with the Parker Street Waste Site (PSWS) Release Tracking Number 4-15685

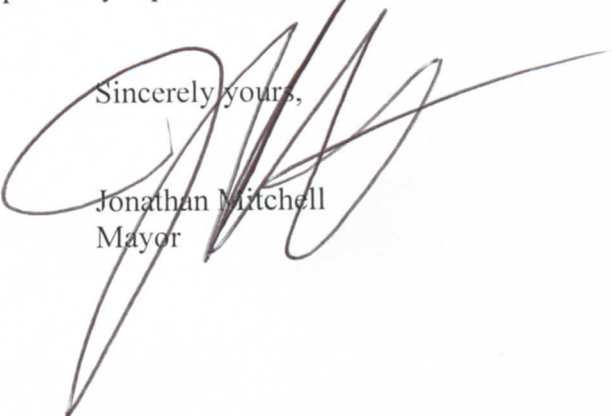
Dear Council President Lopes and Members of the City Council:

Enclosed, please find a proposed Order authorizing the Mayor to execute, on behalf of the City of New Bedford, an Activity and Use Limitation (AUL) for the Acquired Residential Properties (ARPs) associated with the Parker Street Waste Site (PSWS) Release Tracking Number 4-15685.

Based upon a Method 3 Risk Assessment performed by TRC, the City's Licensed Site Professional, it has been determined that with the restrictions limiting exposures to soil impacts identified at the ARPs, as set forth in the enclosed AUL, conditions at the ARPs pose "No Significant Risk" to health, safety, public welfare or the environment under current conditions or the proposed future use of the Site as a Dog Park and associated parking lot. The obligations set forth in the AUL must be undertaken and/or maintained at the property in order to maintain a condition of "No Significant Risk"

Since the AUL must be executed, recorded and properly filed prior to the submission of the Overall Phase II Site Assessment Report, required by April 17, 2017, I respectfully request that prompt attention be given to this matter.

Sincerely yours,


Jonathan Mitchell
Mayor

cc: Michele Paul



CITY OF NEW BEDFORD

IN CITY COUNCIL

April 12, 2017

31-729

ORDERED that, the Mayor is hereby authorized to execute, on behalf of the City of New Bedford, an Activities and Use Limitation (AUL) for the Acquired Residential Properties (ARPs) associated with the Parker Street Waste Site (PSWS) Release Tracking Number 4-15685, in substantially the same form as the attached draft. The Acquired Residential Properties are shown on a plan entitled "ACTIVITY AND USE LIMITATION PLAN OF LAND LOCATED ON HATHAWAY BOULEVARD, GREENWOOD STREET & RUGGLES STREET NEW BEDFORD, MASSACHUSETTS OWNED BY CITY OF NEW BEDFORD SEPTEMBER 12, 2016", prepared by Land Planning Inc. 1115 Main Street, Hanson, MA 02341. Said plan is to be record with the Bristol County' (S.D.) Registry of Deeds.

NOTICE OF ACTIVITY AND USE LIMITATION Acquired Residential Properties

**New Bedford, Massachusetts
Release Tracking Number (RTN) 4-15685**

Prepared for:

City of New Bedford
133 William Street
New Bedford, Massachusetts 02740

Prepared by:

TRC Environmental Corporation
Wannalancit Mills
650 Suffolk Street
Lowell, Massachusetts 01854
(978) 970-5600

_____ **2017**

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Form 1075

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Notification to Property Owner(s) 310 CMR 40.1074(1)(e)

AUL Notification 30-Day Waiver

FORM 1075

Note: Pursuant to 310 CMR 40.1074(5), upon transfer of any interest in or a right to use the property or a portion thereof that is subject to this Notice of Activity and Use Limitation, the Notice of Activity and Use Limitation shall be incorporated either in full or by reference into all future deeds, easements, mortgages, leases, licenses, occupancy agreements or any other instrument of transfer. Within 30 days of so incorporating the Notice of Activity and Use Limitation in a deed that is recorded or registered, a copy of such deed shall be submitted to the Department of Environmental Protection.

NOTICE OF ACTIVITY AND USE LIMITATION
M.G.L. c. 21E, § 6 and 310 CMR 40.0000

Disposal Site Name: Parker Street Waste Site
DEP Release Tracking No.(s): 4-15685

This Notice of Activity and Use Limitation ("Notice") is made as of this ____ day of _____, 2017, by the City of New Bedford, 133 Williams Street, New Bedford, Bristol County, Massachusetts, together with his/her/its/their successors and assigns (collectively "Owner").

W I T N E S S E T H:

WHEREAS, the City of New Bedford, are the owner(s) in fee simple of those certain parcel(s) of land located in New Bedford, Bristol County, Massachusetts with the buildings and improvements thereon, pursuant to deeds recorded with the Bristol Registry of Deeds in Book 9281, Page 343, Book 9185 Page 338, Book 9185 Page 139, Book 9186 Page 57, Book 9185 Page 217, and Book 9215, Page 149;

WHEREAS, said parcel(s) of land, which is more particularly bounded and described in Exhibit A, attached hereto and made a part hereof ("Property") is subject to this Notice of Activity and Use Limitation. The Property is shown on a plan recorded in the Bristol County Registry of Deeds in Plan Book _____, Plan _____;

WHEREAS, the Property comprises all of a disposal site as the result of a release(s) of oil and/or hazardous material. Exhibit B is a sketch plan showing the relationship of the Property subject to this Notice of Activity and Use Limitation to the boundaries of said disposal site existing within the limits of the Property and to the extent such boundaries have been established. Exhibit B is attached hereto and made a part hereof; and

WHEREAS, one or more response actions have been selected for the Parker Street Waste Site in accordance with M.G.L. c. 21E ("Chapter 21E") and the Massachusetts Contingency Plan, 310 CMR 40.0000 ("MCP"). Said response actions are based upon (a) the restriction of human access to and contact with oil and/or hazardous material in soil and/or (b) the restriction of certain activities occurring in, on, through, over or under the Property. A description of the basis for such restrictions, and the oil and/or hazardous material release event(s) or site history that resulted in the contaminated media subject to the Notice of Activity and Use Limitation is attached hereto as Exhibit C and made a part hereof;

NOW, THEREFORE, notice is hereby given that the activity and use limitations set forth in this Notice of Activity and Use Limitation are as follows:

1. Activities and Uses Consistent with Maintaining No Significant Risk Conditions. The following Activities and Uses are consistent with maintaining a Permanent Solution and a condition of No Significant Risk and, as such, may occur on the Property pursuant to 310 CMR 40.0000.

1.1 Five Contiguous Properties:

- (i) Use for commercial and/or industrial uses, including but not limited to: banking and retail; business, professional, or governmental offices; manufacturing, automotive, or industrial uses; restaurants; municipal government facilities; public utilities facilities; and pedestrian and/or vehicle traffic and vehicle parking;
- (ii) Use for recreational uses including but not limited to parks, playgrounds, and entertainment facilities that do not cause and/or result in direct contact with, disturbance of, and/or relocation of the soil/fill located deeper than three feet below grade;
- (iii) Construction/excavation work, including emergency and/or normal repairs of existing utilities;
- (iv) Such other activities or uses which, in the Opinion of a Licensed Site Professional (LSP), licensed by the Commonwealth of Massachusetts Board of Registration of Hazardous Waste Site Cleanup Professionals, shall present no greater risk of harm to health, safety, public welfare or the environment than the activities and uses set forth in this Section; and
- (v) Such other activities and uses not identified in Section 2 below as being Activities and Uses Inconsistent with the AUL.

1.2 102 Greenwood Street:

- (i) Use for commercial and/or industrial uses, including but not limited to: banking and retail; business, professional, or governmental offices; manufacturing, automotive, or industrial uses; restaurants; municipal government facilities; public utilities facilities; and pedestrian and/or vehicle traffic and vehicle parking;
- (ii) Use for recreational uses including but not limited to parks, playgrounds, and entertainment facilities that do not cause and/or result in direct contact with, disturbance of, and/or relocation of the soil/fill located deeper than three feet below grade;
- (iii) Construction of occupied buildings provided a vapor intrusion evaluation is conducted or engineering controls used to mitigate the vapor intrusion pathway;
- (iv) Construction/excavation work, including emergency and/or normal repairs of existing utilities, provided worker protection measures are used should groundwater be encountered;
- (v) Such other activities or uses which, in the Opinion of a Licensed Site Professional (LSP), licensed by the Commonwealth of Massachusetts Board of Registration of Hazardous Waste Site Cleanup Professionals, shall present no greater risk of harm to health, safety, public welfare or the environment than the activities and uses set forth in this Section; and
- (vi) Such other activities and uses not identified in Section 2 below as being Activities and Uses Inconsistent with the AUL.

2. Activities and Uses Inconsistent with Maintaining No Significant Risk Conditions. The following Activities and Uses are inconsistent with maintaining a (select one) a Permanent Solution and a condition of No Significant Risk pursuant to 310 CMR 40.0000, and, as such, may not occur on the Property.

2.1 Five Contiguous Properties:

- (i) Single- and multi-family residential use;
- (ii) Gardening of agricultural crops for human consumption using Site soil;

- (iii) Relocation of any fill/soil from depths greater than 3 feet from the Site to another location without LSP review and approval; and
- (iv) Other private, public, commercial, industrial or construction activities or uses not permitted by Section 1 of this Notice that result in the direct contact with, or disturbance of, the soil/fill from depths greater than three feet from the PS-P Site without supervision of an LSP and the Massachusetts Contingency Plan (310 CMR 40.0000) of MCP.

2.2 102 Greenwood Street:

- (i) Single- and multi-family residential use;
- (ii) Gardening of agricultural crops for human consumption using Site soil;
- (iii) Construction worker contact with shallow groundwater, unless worker protection measures are used;
- (iv) Relocation of any fill/soil from depths greater than 3 feet from the Site to another location without LSP review and approval; and
- (v) Other private, public, commercial, industrial or construction activities or uses not permitted by Section 1 of this Notice that result in the direct contact with, or disturbance of, the soil/fill from depths greater than three feet from the PS-P Site without supervision of an LSP and the Massachusetts Contingency Plan (310 CMR 40.0000) of MCP.

3. Obligations and Conditions. The following obligations and/or conditions are necessary and shall be undertaken and/or maintained at the Property to maintain a Permanent Solution and a condition of No Significant Risk:

3.1 Five Contiguous Properties:

- (i) Maintain the physical integrity of the existing 3-foot soil exposure barrier;
- (ii) A Health and Safety Plan (HASP) must be prepared by a Certified Industrial Hygienist (CIH) or other qualified individual sufficiently trained in worker health and safety requirements and implemented prior to the commencement of any planned (non-emergency) activity that is likely to disturb soil/fill. Activities with the potential to disturb soil/fill should also be planned with an LSP. The HASP should specify the chemicals at the Site, the types of media present, the extent of impacts, the potential routes of exposure, the appropriate level of personal protective equipment, the type of monitoring required, worker safety monitoring, and hazard communication. Workers must be informed of the requirements of the HASP, and the plan must be available on-Site throughout the course of the project;
- (iii) Excavation/disturbance of soil/fill below three feet requires site-specific evaluation by an LSP, who will evaluate if such activity can proceed and maintain a condition of No Significant Risk; and
- (iv) No fill/soil is to be relocated from the Site to an off-site location without LSP review and approval.

3.2 102 Greenwood Street:

- (i) Maintain the physical integrity of the existing 3-foot soil exposure barrier;
- (ii) A Health and Safety Plan (HASP) must be prepared by a Certified Industrial Hygienist (CIH) or other qualified individual sufficiently trained in worker health and safety requirements and implemented prior to the commencement of any planned (non-emergency) activity that is likely to disturb soil/fill or expose shallow groundwater. Activities with the potential to disturb soil/fill or expose shallow groundwater should also be planned with an LSP. The HASP should specify the chemicals at the Site, the types of media present, the extent of impacts, the potential routes of exposure, the appropriate level of personal

protective equipment, the type of monitoring required, worker safety monitoring, and hazard communication. Workers must be informed of the requirements of the HASP, and the plan must be available on-Site throughout the course of the project;

- (iii) Excavation/disturbance of soil/fill below three feet requires site-specific evaluation by an LSP, who will evaluate if such activity can proceed and maintain a condition of No Significant Risk; and
- (iv) No fill/soil is to be relocated from the Site to an off-site location without LSP review and approval.

- 4. Proposed Changes in Activities and Uses. Any proposed changes in activities and uses at the Property which may result in higher levels of exposure to oil and/or hazardous material than currently exist shall be evaluated by a Licensed Site Professional who shall render an Opinion, in accordance with 310 CMR 40.1080, as to whether the proposed changes are inconsistent with maintaining a Permanent Solution and a condition of No Significant Risk. Any and all requirements set forth in the Opinion to meet the objective of this Notice shall be satisfied before any such activity or use is commenced.
- 5. Violation of a Permanent or Temporary Solution. The activities, uses and/or exposures upon which this Notice is based shall not change at any time to cause a significant risk of harm to health, safety, public welfare, or the environment or to create substantial hazards due to exposure to oil and/or hazardous material without the prior evaluation by a Licensed Site Professional in accordance with 310 CMR 40.1080, and without additional response actions, if necessary, to maintain a condition of No Significant Risk.

If the activities, uses, and/or exposures upon which this Notice is based change without the prior evaluation and additional response actions determined to be necessary by a Licensed Site Professional in accordance with 310 CMR 40.1080, the owner or operator of the Property subject to this Notice at the time that the activities, uses and/or exposures change, shall comply with the requirements set forth in 310 CMR 40.0020.

- 6. Incorporation Into Deeds, Mortgages, Leases, and Instruments of Transfer. This Notice shall be incorporated either in full or by reference into all future deeds, easements, mortgages, leases, licenses, occupancy agreements or any other instrument of transfer, whereby an interest in and/or a right to use the Property or a portion thereof is conveyed in accordance with 310 CMR 40.1074(5).

Owner hereby authorizes and consents to the filing and recordation and/or registration of this Notice, said Notice to become effective when executed under seal by the undersigned Licensed Site Professional, and recorded and/or registered with the appropriate Registry(ies) of Deeds and/or Land Registration Office(s).

In all other respects the terms of the Notice of Activity and Use Limitation remain unchanged.]

WITNESS the execution hereof under seal this _____ day of _____, 20____.

Mayor Jonathan F. Mitchell

COMMONWEALTH OF MASSACHUSETTS

Bristol, ss

_____, 2017

On this ____ day of _____, 2017, before me, the undersigned notary public, personally appeared Jonathan F. Mitchell, proved to me through satisfactory evidence of identification, which were _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that (he) (she) signed it voluntarily for its stated purpose.

as Mayor of the City of New Bedford

_____ (official signature and seal of notary)

Form 1075: continued

The undersigned Licensed Site Professional hereby certifies that in his Opinion this Notice of Activity and Use Limitation is consistent with a Permanent Solution and maintaining a condition of No Significant Risk.

Date: _____

David M. Sullivan
[LSP SEAL]

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss _____, 2017

On this ____ day of _____, 2017, before me, the undersigned notary public, personally appeared David M. Sullivan, proved to me through satisfactory evidence of identification, which were _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that (he) (she) signed it voluntarily for its stated purpose.

_____ (official signature and seal of notary)

Upon recording, return to:

City of New Bedford
133 William Street
New Bedford, MA 02740

EXHIBIT A

Legal Description of Property

LEGAL DESCRIPTION
Acquired Residential Properties
NEW BEDFORD, MASSACHUSETTS

Beginning at a point in the northerly sideline of Greenwood Street, said point being the southwesterly corner of the area herein described;

THENCE: N 07° 34' 04" W a distance of 90.00' to a point;

THENCE: S 82° 25' 56" W a distance of 90.00' to a point;

THENCE: N 07° 34' 04" W a distance of 90.00' to a point in the southerly side line of Ruggles Street to a point;

THENCE: N 82° 25' 56" E a distance of 255.00' along the southerly side line of Ruggles Street to a point;

THENCE: Southeasterly on a curve to the right, with a radius of 25.00', a length of 39.27' along the southerly side line of Ruggles Street to a point in the westerly sideline of Hathaway Boulevard;

THENCE: S 07° 34' 04" E a distance of 130.00' along the westerly side line of Hathaway Boulevard to a point in the northerly sideline of Greenwood Street;

THENCE: Southwesterly on a curve to the right, with a radius of 25.00', a length of 39.27' along the northerly side line of Greenwood Street to a point;

THENCE: S 82° 25' 56" W a distance of 165.00' along the northerly side line of Greenwood Street to the point of beginning.

Also a separate parcel described as:

Beginning at a point in the southerly sideline of Greenwood Street, said point being the northwesterly corner of the area herein described;

THENCE: N 82° 25' 56" E a distance of 65.00' to a point;

THENCE: Southeasterly on a curve to the right, with a radius of 25.00', a length of 39.27' along the southerly side line of Greenwood Street to a point in the westerly sideline of Hathaway Boulevard;

THENCE: S 07° 34' 04" E a distance of 65.00' along the westerly side line of Hathaway Boulevard to a point;

THENCE: S 82° 25' 56" W a distance of 90.00' to a point;

THENCE: N 07° 34' 04" W a distance of 90.00' to the point of beginning.

Said area contains a total of 49,998 +/- square feet and is shown as Site Boundary on a plan entitled: "Activity And Use Limitation Plan Of Land Located on Hathaway Boulevard, Greenwood Street & Ruggles Street New Bedford, Massachusetts" dated: September 12, 2016; Prepared by Land Planning, Inc.; to be recorded at the Bristol County Registry of Deeds Southern District.

EXHIBIT A-1

Legal Descriptions of AUL Portions of the Property

LEGAL DESCRIPTION
Five Contiguous Properties AUL Area
NEW BEDFORD, MASSACHUSETTS

Beginning at a point in the northerly sideline of Greenwood Street, said point being the southwesterly corner of the area herein described:

THENCE: N 07° 34' 04" W a distance of 90.00' to a point;

THENCE: S 82° 25' 56" W a distance of 90.00' to a point;

THENCE: N 07° 34' 04" W a distance of 90.00' to a point in the southerly side line of Ruggles Street to a point;

THENCE: N 82° 25' 56" E a distance of 255.00' along the southerly side line of Ruggles Street to a point;

THENCE: Southeasterly on a curve to the right, with a radius of 25.00', a length of 39.27' along the southerly side line of Ruggles Street to a point in the westerly sideline of Hathaway Boulevard;

THENCE: S 07° 34' 04" E a distance of 130.00' along the westerly side line of Hathaway Boulevard to a point in the northerly sideline of Greenwood Street;

THENCE: Southwesterly on a curve to the right, with a radius of 25.00', a length of 39.27' along the northerly side line of Greenwood Street to a point;

THENCE: S 82° 25' 56" W a distance of 165.00' along the northerly side line of Greenwood Street to the point of beginning.

Said area contains 42.032 +/- square feet and is shown as Five Contiguous Properties on a plan entitled: "Activity And Use Limitation Plan Of Land Located on Hathaway Boulevard, Greenwood Street & Ruggles Street New Bedford, Massachusetts" dated: September 12, 2016; Prepared by Land Planning, Inc.; to be recorded at the Bristol County Registry of Deeds Southern District.

LEGAL DESCRIPTION
102 Greenwood Street AUL Area
NEW BEDFORD, MASSACHUSETTS

Beginning at a point in the southerly sideline of Greenwood Street, said point being the northwesterly corner of the area herein described;

THENCE: N 82° 25' 56" E a distance of 65.00' to a point;

THENCE: Southeasterly on a curve to the right, with a radius of 25.00', a length of 39.27' along the southerly side line of Greenwood Street to a point in the westerly sideline of Hathaway Boulevard;

THENCE: S 07° 34' 04" E a distance of 65.00' along the westerly side line of Hathaway Boulevard to a point;

THENCE: S 82° 25' 56" W a distance of 90.00' to a point;

THENCE: N 07° 34' 04" W a distance of 90.00' to the point of beginning.

Said area contains 7,966 +/- square feet and is shown as 102 Greenwood Street on a plan entitled: "Activity And Use Limitation Plan Of Land Located on Hathaway Boulevard, Greenwood Street & Ruggles Street New Bedford, Massachusetts" dated: September 12, 2016; Prepared by Land Planning, Inc.; to be recorded at the Bristol County Registry of Deeds Southern District.

EXHIBIT B

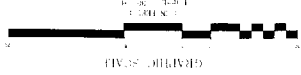
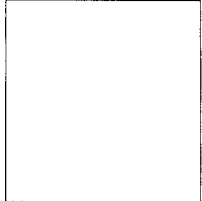
Sketch Plan Showing AUL Area

HANSON 1119 MAIN STREET 02341 (781) 294-4144
LAND PLANNING, INC.
 100 STATE STREET, SUITE 200
 BOSTON, MASSACHUSETTS 02109
 TEL: (617) 552-1100 FAX: (617) 552-1101
 WWW.HANSONLANDPLANNING.COM

**ACTIVITY AND USE LIMITATION
 PLAN OF LAND**
 LOCATED ON
**HATHAWAY BOULEVARD,
 GREENWOOD STREET & RUGGLES STREET**
NEW BEDFORD, MASSACHUSETTS
 CITY OF NEW BEDFORD
 SEPTEMBER 12, 2016

GENERAL NOTES:
 1. THE ACTIVITY AND USE LIMITATION PLAN IS A PRELIMINARY PLAN AND IS SUBJECT TO THE REVIEW AND APPROVAL OF THE CITY OF NEW BEDFORD PLANNING BOARD AND THE CITY OF NEW BEDFORD BOARD OF SELECTMEN.
 2. THE ACTIVITY AND USE LIMITATION PLAN IS BASED ON THE INFORMATION PROVIDED BY THE CLIENT AND THE CLIENT'S REPRESENTATIVES.
 3. THE ACTIVITY AND USE LIMITATION PLAN IS NOT A GUARANTEE OF THE ACCURACY OF THE INFORMATION PROVIDED BY THE CLIENT AND THE CLIENT'S REPRESENTATIVES.
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 5. THE ACTIVITY AND USE LIMITATION PLAN IS NOT A GUARANTEE OF THE ACCURACY OF THE INFORMATION PROVIDED BY ANY OTHER SOURCE.
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LEGEND

- PUBLIC STREET
- - - - - SITE BOUNDARY
- - - - - AREA OF ACTIVITY AND USE LIMITATION

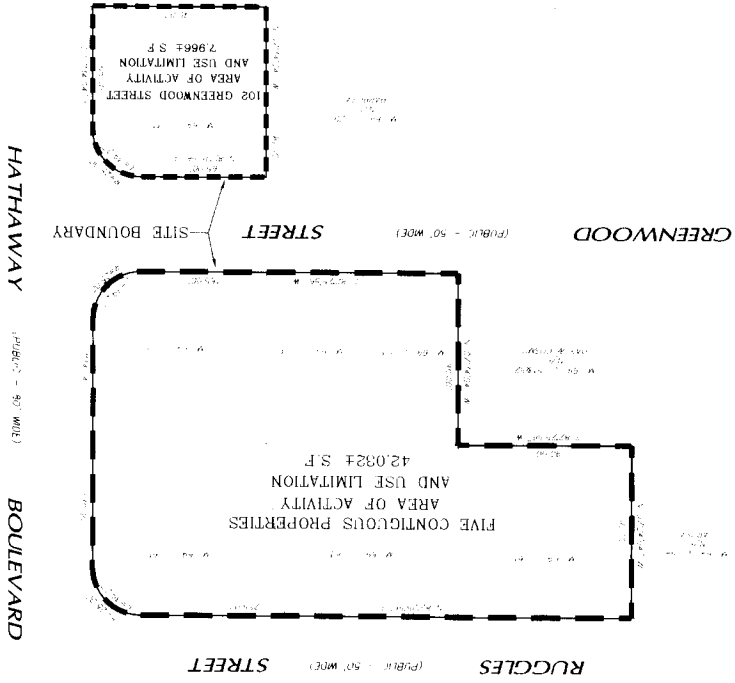


EXHIBIT C

Activity and Use Limitation Opinion

Activity and Use Limitation Opinion Acquired Residential Properties, RTN 4-15685

Introduction

In accordance with the requirements of 310 CMR 40.1074, this Activity and Use Limitation (AUL) Opinion has been prepared for the parcel of land located at 101, 102, and 111 Greenwood Street, and 98, 108, and 118 Ruggles Street, Bristol County, New Bedford, Massachusetts (the Property), and owned by the City of New Bedford, 133 William Street, Bristol County, New Bedford, Massachusetts. As of the date of this Activity and Use Limitation Opinion, the Property is the location of six undeveloped properties, which is anticipated to be developed as a dog park (Five Contiguous Properties), and parking for a dog park (102 Greenwood Street).

This property is owned by:

The City of New Bedford
133 William Street
New Bedford, Massachusetts 02740
Contact: Mayor Jonathan F. Mitchell
(508) 979-1410

The purpose of this AUL Opinion is to support a Partial Permanent Solution (PSS-P). ***This AUL applies to the Acquired Residential Properties (hereinafter the Site).***

Site Description

The Site consists of an approximately 1.3-acre area including properties located at 101, 102, and 111 Greenwood Street, and 98, 108, and 118 Ruggles Street which are identified by the City of New Bedford Assessor as the following parcels: map 69 block 31, 69 block 53, map 69 block 55, map 69 block 61, map 69 block 63, map 69 block 65, referred to as the Acquired Residential Properties, and located on the eastern end of Greenwood and Ruggles Streets near or at the intersection of Hathaway Boulevard in New Bedford, Massachusetts. The Site is bordered to the north by the Nemasket Street Lots, to the east by the NBHS campus, to the south by a church and residential properties, and to the west by residential properties.

Historically the Site consisted of open space, which was variously filled sometime prior to development as housing. The Site was then developed as occupied single family dwellings. The dwellings were demolished and the concrete foundations were disposed of. The Site was surrounded by a fence following demolition of the buildings.

The Site is currently undeveloped and is relatively level with a gentle slope up to the west on some lots.

Site History

Based on review of historical United States Geological Survey topographic maps from 1888 to 1994, the Site was previously the location of a wetland area. Historical aerial photographs

indicate the Site was subject to land disturbance (correlated with disposal activities) between approximately the 1930s and early 1970s.

The chemical profile of fill materials found at some locations of the Site are similar to those of industrial landfills, indicating that the fill material is associated with dumping from industrial sources. New Bedford High School (NBHS), located to the east of the Site, was constructed between 1970 and 1972. Soils displaced for construction of the high school building's foundation were reportedly transported across Hathaway Boulevard to what was then vacant land (the present-day location of the Keith Middle School [KMS]). During an environmental investigation of the KMS property as a possible location for a middle school in 2000, concentrations of polychlorinated biphenyl (PCB) Aroclors were detected above regulatory reporting criteria, which led to a reporting condition to MassDEP. MassDEP assigned RTN 4-15685.

Following the detection of PCBs at KMS, additional investigations of the surrounding area (NBHS, Walsh Field, the Nemasket Street Lots and the Site) were initiated by the BETA Group, Incorporated (BETA) on behalf of the City in connection with a conditional approval issued by the EPA (PCB Risk-Based Cleanup and Disposal Approval, McCoy Field [New Keith Middle School], New Bedford, MA, USEPA August 24, 2005).

Environmental Investigations

The following includes a summary of environmental investigations. A detailed description of investigative activities was included in the *Phase II Comprehensive Site Assessment* (Phase II Report) report prepared by TRC for the Site which was submitted to MassDEP by the City in January 2012.

Previous subsurface environmental investigations at the Site were conducted by BETA between December 2005 and June 2006 to evaluate the presence of soil impacts. Soil samples collected by BETA were analyzed for PCBs, Resource Conservation and Recovery Act (RCRA) 8 metals (arsenic, barium, cadmium, chromium, lead, mercury, selenium, and silver), semivolatile organic compounds (SVOCs), polycyclic aromatic hydrocarbons (PAHs), volatile organic compounds (VOCs), and total petroleum hydrocarbons (TPH).

During that time, BETA advanced 164 soil borings throughout the Site. Soil samples were collected and submitted for laboratory analyses as follows: 312 samples for PCBs; 72 samples for RCRA 8 metals; 72 samples for SVOCs or PAHs; 47 samples for dibenzofuran; 78 samples for TPH diesel range organics; and 29 samples for TPH gasoline range organics. BETA identified Site chemicals of concern as PCBs, RCRA 8 Metals, and SVOCs.

Additional investigative soil testing was conducted in June 2008 and December 2010 to address data gaps. PCB congener and chlorinated dioxin/furan investigative sampling was also performed in June 2011.

Borings conducted at the Site by TRC were advanced and typically samples were collected until native overburden was encountered unless refusal was encountered first. Where native material was submitted for laboratory analysis, two samples of native material were sometimes collected

in borings selected to characterize the native horizon. The lower native sample was retained for analysis contingent upon the results of the upper native horizon analysis in an attempt to delineate the vertical extent of soil impacts, if present. The contingent native material was not analyzed if the native material interval above it was found to be below cleanup criteria based on laboratory analysis or as directed by the TRC Licensed Site Professional (LSP). Certain borings focused on delineation of chemicals surrounding a particular data point and included sampling in the 0 to 3 foot depth interval only.

Some of the environmental investigations were conducted at the Site using a backhoe or excavator to dig test pits in February, April, and July of 2009, and December 2010. Test pit backhoe services and equipment were provided by the City of New Bedford Department of Public Infrastructure (DPI), and performed under TRC field supervision. The soil was removed in approximately one-foot flights, and temporarily stockpiled on polyethylene sheeting for observation, until native material was encountered. Samples were taken of the soil and were visually examined in the field for evidence of impacts and field screened using the MassDEP jar headspace methodology and a PID. Samples were collected from some of the test pits at various depths to delineate the extent of soil impacts.

In June 2011, soil investigative sampling was conducted for polychlorinated dibenzo-p-dioxins (PCDDs), polychlorinated dibenzofurans (PCDFs) and dioxin-like PCBs (collectively referred to as dioxin and dioxin-like compounds). A total of twenty-nine samples were collected from fourteen sample locations and analyzed for dioxins by SW-846 Method 8290A and PCB congeners by SW-846 Method 1668A by Cape Fear Analytical of Wilmington, North Carolina. At each sample location, samples were taken of the top one foot soil interval, and the one to three foot soil interval.

Groundwater monitoring wells MW-34, MW-35, and MW-36 were installed at the Site on December 8, 14, and 16, 2010. Three groundwater monitoring wells (MW-43, MW-44, and MW-45) were installed at the 102 Greenwood Street portion of the Site on September 19, 2013. Two new monitoring wells (MW-46 and MW-47) were installed at the 101 and 102 Greenwood Street properties on May 20, 2015. Monitoring well MW-46 was installed in the approximate center of the PCB Remediation Waste excavation area at 102 Greenwood Street and MW-47 was installed in the approximate center of the PCB Remediation Waste excavation area 101 Greenwood Street. Figure 2 shows the locations of the monitoring wells.

Groundwater samples were collected on January 11, 2001 from groundwater monitoring wells MW-34, MW-35, and MW-36 and submitted to Contest Analytical Laboratory in East Longmeadow, Massachusetts (Con-Test) for laboratory analysis of PAHs, PCBs, and both total and dissolved MCP Metals to evaluate the potential for groundwater impacts from identified Site soil chemicals of concern.

Groundwater samples were collected on September 27, 2013 from groundwater monitoring wells MW-34, MW-44, and MW-45 and submitted to Con-Test for laboratory analysis of PCBs, VOCs, SVOCs, and total and dissolved MCP metals.

Groundwater samples were collected on May 27 and 28, 2015 from groundwater monitoring wells MW-34, MW-43, MW-44, MW-45, MW-46, and MW-47 and submitted to Contest for

laboratory analysis of VOCs, SVOCs, PCBs, and both total and dissolved MCP Metals.

Groundwater samples were collected on August 31, 2015 and September 1, 2015 from groundwater monitoring wells MW-34, MW-43, MW-44, MW-45, MW-46, and MW-47 and submitted to Contest for laboratory analysis of VOCs, SVOCs, PCBs, and both total and dissolved MCP Metals. Groundwater monitoring wells MW-46 and MW-47 were also submitted for laboratory analysis of dissolved PCBs.

Nature of Site Conditions

The Site is underlain by topsoil and up to approximately 9 feet of anthropogenic fill material that includes sandy material with ash. In places, the ash fill includes broken glass, porcelain, brick fragments, rubber, slag, coal, cinders, fabric, plastic, concrete, asphalt, paper, leather and/or metallic fragments. Location of the top and bottom of fill material is varied throughout the Acquired Residential Property portion of the Site, ranging from approximately 0.5 to 5.0 feet and 3.0 to 10.5 feet below ground surface, respectively. Fill thickness across the Site ranges from approximately 0.6 feet to 9 feet. Anthropogenic fill materials are underlain by approximately 0.15 to 3.4 feet of native dark brown organic peat material, mixed with silt and clay in places from the wetland that predates the development of the area. Native soils below or in the absence of the organic peat layer are characterized by tan to gray fine to coarse sands with trace gravel and/or silty sand in places.

Groundwater at the Site flows to the southeast direction at a gradient of about 5×10^{-3} ft/ft as measured on January 20, 2011, and about 6×10^{-3} ft/ft as measured on June 24, 2011. The groundwater aquifer is unconfined and is present about 10 to 14 feet below ground surface. The unconfined aquifer is composed of ash fill, organic peat, and/or glacial outwash sediments (listed from the ground surface down, as typically observed). The aquifer thickness is not known. It is expected to extend down to the underlying bedrock. This aquifer is not potentially productive.

Based on literature values, the peat layer is expected to exhibit low hydraulic conductivity, on the range of 10^{-6} to 10^{-3} centimeters per second (cm/sec) while glacial outwash deposits having relatively less fine material could exhibit a hydraulic conductivity range of 10^{-3} to 15 cm/sec (Fetter, 1980). The hydraulic conductivity of the ash fill material is more difficult to estimate, since the material is heterogeneous in its nature and typical approximate ranges are not found in the available technical references; however, a study of the hydraulic conductivity of ash-sand mixtures indicates that the hydraulic conductivity of the ash fill could be as low as approximately 4.4×10^{-5} cm/sec (Pathan et al., 2003) with higher hydraulic conductivities (10^{-1} cm/sec; Fetter, 1980) a possibility depending on the relative amounts of sand and ash. Since the deposition is fairly loose, based on observations made during boring advancement, the hydraulic conductivity of the fill material is estimated to be high relative to the underlying peat layer.

The City of New Bedford receives an average of 50.81 inches of precipitation annually (www.fedstats.gov). There are no surface water bodies on the Site.

Environmental site investigations were performed to characterize the nature and extent of impacts at the Site. In general, the horizontal and vertical extent of PAHs, VOCs, metals, and PCBs in soil at the Site is generally consistent with the presence of fill-related material.

The analytical results for the groundwater samples did not indicate the detection of any MCP metals, mercury, and SVOCs at concentrations exceeding their MCP Method 1 groundwater standards for the GW-3 category for all monitoring wells.

The analytical results for the groundwater samples did not indicate the detection of any VOCs at concentrations exceeding their MCP Method 1 groundwater standards for the GW-2 and GW-3 categories for all monitoring wells.

The analytical results for the groundwater samples did not indicate the detection of PCBs at concentrations exceeding the MCP Method 1 groundwater standard for the GW-3 category in all monitoring wells. Total PCBs exceeded the MCP Method 1 GW-2 groundwater standard (5 micrograms per liter [$\mu\text{g/L}$]) in the samples collected from well MW-46 (8.6 $\mu\text{g/L}$ in May 2015 and 9.7 $\mu\text{g/L}$ in September 2015). However, the analytical results for dissolved PCBs at MW-46 during those sampling events did not indicate the presence of PCBs above the MCP Method 1 GW-2 standard. The detection of PCBs in groundwater monitoring well MW-46 is most likely attributable to the PCBs being adsorbed to, or contained in, particulates in the groundwater sample given that PCBs were undetected in the dissolved PCBs sample. No other analytes were detected above MCP GW-2 or GW-3 criteria.

Conceptual Site Model

The following presents a summary of the Conceptual Site Model (CSM). The Site was the location of a wetland area prior to activity associated with the PSWS. Based on review of historical aerial photographs, the Site was subject to land disturbance correlated with disposal activities between the 1930s and early 1970s. The chemical profile of fill materials found at some locations of the Site are similar to those of industrial landfills indicating that the fill material is associated with dumping from industrial sources intermixed or containing material classifiable as historic fill under the MCP. Although the majority of the Site was impacted by Disposal Site-related fill material (e.g., presence of ashy fill material, chemical impacts consistent with other portions of the Disposal Site, etc.), a segment of the 118 Ruggles Street portion of the Site (i.e., southwest corner abutting the 128 Ruggles Street and 119 Greenwood Street properties) does not exhibit evidence of Disposal Site-related impacts.

The Site fill contains common urban and industrial fill materials (primarily ash mixed with glass, metal, plastics, and other debris). Chemicals of concern identified in Site soils are consistent with those attributable to industrial fill (PCBs, metals [antimony, arsenic, barium, beryllium, cadmium, chromium, lead, mercury, nickel, selenium, silver, vanadium, and zinc], Extractable Petroleum Hydrocarbons [EPH] and target PAHs, Volatile Petroleum Hydrocarbons [VPH] and various target compounds, VOCs [dichlorodifluoromethane, 4-methyl-2-pentanone, cis-1,2-dichloroethene, p-isopropyltoluene, trichloroethene, benzene, ethylbenzene, toluene, xylenes, tetrachloroethene, and 1,1,2-trichloroethane] and dioxin-like compounds) and historic fill (e.g., coal, coal ash, wood ash and vehicle emission related PAHs, lead, and metals associated with coal).

In groundwater at the Site, PCBs were detected in an isolated area in groundwater monitoring well MW-46, which is located in the center of the remedial PCB excavation area in EP-2. The

analytical results for dissolved PCBs at MW-46 did not indicate the presence of PCBs above the MCP Method 1 GW-2 standard. The detection of PCBs in groundwater monitoring well MW-46 is most likely attributable to the PCBs being adsorbed to, or contained in, particulates in the groundwater sample given that PCBs were undetected in the dissolved sample.

Site investigations completed by TRC and others were consistent with the above summarized CSM and detected chemicals of concern.

Summary of Remedy

To bring the PS-P Site remedial activities to closure, the potential risks associated with Site soils were mitigated by remediation activities performed as a Release Abatement Measure (RAM). Over 1,800 cubic yards of impacted soil were removed as part of the RAM activities to achieve the PSS-P. A Method 3 risk characterization was used to characterize human health risk, which determined that a Condition of No Significant Risk has been achieved for the top three feet of soil in unpaved areas.

Reason for Activity and Use Limitation

TRC performed a Method 3 Risk Characterization to evaluate the potential risk posed by conditions at the Site. The Risk Characterization concluded that the Site poses No Significant Risk to health, safety, public welfare, or the environment for current Site use as a dog park, assuming the three foot cap of clean cover material remains intact. In addition, a Condition of No Significant Risk exists for construction workers at EP-1 and emergency utility workers at both exposure points, as well as for future commercial use of EP-1 and EP-2, even if the soil cap is disturbed. However, soil EPCs for lead, total PCBs and/or mercury are associated with HIs greater than 1 and/or ELCRs greater than 1×10^{-5} for future Site use conditions (i.e., park and residential use). As a result, a Condition of No Significant Risk does not exist for potential soil impacts at the Site under uncapped recreational and residential use scenarios. Therefore, in order to ensure that such exposures do not occur and that a condition of No Significant Risk be maintained for future activities and uses, an AUL is required to restrict certain activities and uses of the Property.

Barriers to Exposure

Following the removal action, a three-foot soil cap was placed across the majority of the Site as an exposure barrier. Only exposed impacted surface soil remains in the vicinity of three mature trees.

The Five Contiguous Properties is being developed as a dog park, and 102 Greenwood Street is being developed as parking for the dog park. Intact fences are currently present surrounding the Site. Once the dog park is operational, access to Five Contiguous Properties will be limited to dog park users who have received an electronic key card from the City. Access to the parking lot for the dog park at 102 Greenwood Street will not be limited.

Activities and Uses Consistent with the AUL Opinion

Five Contiguous Properties:

- (i) Use for commercial and/or industrial uses, including but not limited to: banking and retail; business, professional, or governmental offices; manufacturing, automotive, or industrial uses; restaurants; municipal government facilities; public utilities facilities; and pedestrian and/or vehicle traffic and vehicle parking;
- (ii) Use for recreational uses including but not limited to parks, playgrounds, and entertainment facilities that do not cause and/or result in direct contact with, disturbance of, and/or relocation of the soil/fill located deeper than three feet below grade;
- (iii) Construction/excavation work, including emergency and/or normal repairs of existing utilities;
- (iv) Such other activities or uses which, in the Opinion of a Licensed Site Professional (LSP), licensed by the Commonwealth of Massachusetts Board of Registration of Hazardous Waste Site Cleanup Professionals, shall present no greater risk of harm to health, safety, public welfare or the environment than the activities and uses set forth in this Section; and
- (v) Such other activities and uses not identified in Section 2 below as being Activities and Uses Inconsistent with the AUL.

102 Greenwood Street:

- (i) Use for commercial and/or industrial uses, including but not limited to: banking and retail; business, professional, or governmental offices; manufacturing, automotive, or industrial uses; restaurants; municipal government facilities; public utilities facilities; and pedestrian and/or vehicle traffic and vehicle parking;
- (ii) Use for recreational uses including but not limited to parks, playgrounds, and entertainment facilities that do not cause and/or result in direct contact with, disturbance of, and/or relocation of the soil/fill located deeper than three feet below grade;
- (iii) Construction of occupied buildings provided a vapor intrusion evaluation is conducted or engineering controls used to mitigate the vapor intrusion pathway;
- (iv) Construction/excavation work, including emergency and/or normal repairs of existing utilities, provided worker protection measures are used should groundwater be encountered;
- (v) Such other activities or uses which, in the Opinion of a Licensed Site Professional (LSP), licensed by the Commonwealth of Massachusetts Board of Registration of Hazardous Waste Site Cleanup Professionals, shall present no greater risk of harm to health, safety, public welfare or the environment than the activities and uses set forth in this Section; and
- (vi) Such other activities and uses not identified in Section 2 below as being Activities and Uses Inconsistent with the AUL.

Activities and Uses Inconsistent with the AUL Opinion

Five Contiguous Properties:

- (i) Single- and multi-family residential use;
- (ii) Gardening of agricultural crops for human consumption using Site soil;
- (iii) Relocation of any fill/soil from depths greater than 3 feet from the Site to another location without LSP review and approval; and
- (iv) Other private, public, commercial, industrial or construction activities or uses not permitted by Section 1 of this Notice that result in the direct contact with, or disturbance of, the soil/fill from depths greater than three feet from the PS-P Site without supervision of an LSP and the Massachusetts Contingency Plan (310 CMR 40.0000) of MCP.
- (v) .

102 Greenwood Street:

- (i) Single- and multi-family residential use;
- (ii) Gardening of agricultural crops for human consumption using Site soil;
- (iii) Construction worker contact with shallow groundwater, unless worker protection measures are used;
- (iv) Relocation of any fill/soil from depths greater than 3 feet from the Site to another location without LSP review and approval; and
- (v) Other private, public, commercial, industrial or construction activities or uses not permitted by Section 1 of this Notice that result in the direct contact with, or disturbance of, the soil/fill from depths greater than three feet from the PS-P Site without supervision of an LSP and the Massachusetts Contingency Plan (310 CMR 40.0000) of MCP.

Obligations and Conditions

Five Contiguous Properties:

- (i) Maintain the physical integrity of the existing 3-foot soil exposure barrier;
- (ii) A Health and Safety Plan (HASP) must be prepared by a Certified Industrial Hygienist (CIH) or other qualified individual sufficiently trained in worker health and safety requirements and implemented prior to the commencement of any planned (non-emergency) activity that is likely to disturb soil/fill. Activities with the potential to disturb soil/fill should also be planned with an

LSP. The HASP should specify the chemicals at the Site, the types of media present, the extent of impacts, the potential routes of exposure, the appropriate level of personal protective equipment, the type of monitoring required, worker safety monitoring, and hazard communication. Workers must be informed of the requirements of the HASP, and the plan must be available on-Site throughout the course of the project;

- (iii) Excavation/disturbance of soil/fill below three feet requires site-specific evaluation by an LSP, who will evaluate if such activity can proceed and maintain a condition of No Significant Risk; and
- (iv) No fill/soil is to be relocated from the Site to an off-site location without LSP review and approval.

102 Greenwood Street:

- (i) Maintain the physical integrity of the existing 3-foot soil exposure barrier;
- (ii) A Health and Safety Plan (HASP) must be prepared by a Certified Industrial Hygienist (CIH) or other qualified individual sufficiently trained in worker health and safety requirements and implemented prior to the commencement of any planned (non-emergency) activity that is likely to disturb soil/fill or expose shallow groundwater. Activities with the potential to disturb soil/fill or expose shallow groundwater should also be planned with an LSP. The HASP should specify the chemicals at the Site, the types of media present, the extent of impacts, the potential routes of exposure, the appropriate level of personal protective equipment, the type of monitoring required, worker safety monitoring, and hazard communication. Workers must be informed of the requirements of the HASP, and the plan must be available on-Site throughout the course of the project;
- (iii) Excavation/disturbance of soil/fill below three feet requires site-specific evaluation by an LSP, who will evaluate if such activity can proceed and maintain a condition of No Significant Risk; and
- (iv) No fill/soil is to be relocated from the Site to an off-site location without LSP review and approval.

Agreement to Reference Notice of AUL

In accordance with 310 CMR 40.1074(2)(h), the City of New Bedford and its successors and assigns agree to reference the AUL in all deeds, easements, mortgages, leases, licenses, occupancy agreements, or any other agreements which convey an interest in and/or a right to use the property subject to the AUL.

Procedures for Changing Permitted Site Activities and Uses

In accordance with 310 CMR 40.1074(2)(i), a description of the procedures to be followed to ensure that changes in permitted activities and/or uses meet the objectives of the AUL is provided below:

Any proposed changes in activities and/or uses within the AUL boundaries that may result in higher levels of exposure to oil and/or hazardous material than currently exist must be evaluated by an LSP. The LSP will render an Opinion, consistent with 310 CMR 40.1080, as to whether the proposed changes will result in a significant risk of harm to human health, safety, public welfare, or the environment. Any and all requirements set forth above to meet the objective of the AUL will be satisfied before any proposed changes in activity and/or use are initiated.

Prepared by:

TRC Environmental Corporation

David M. Sullivan, LSP
Licensed Site Professional No. 1488
Date: _____

EXHIBIT D

Documentation of Signatory Authority

DOCUMENTATION OF SIGNATORY AUTHORITY

I, Jonathon F. Mitchell, do hereby certify that I am the Mayor of the City of New Bedford, and the Chairman of the School Committee for the City of New Bedford, a duly elected School Committee for the City of New Bedford, having a principal office at 455 County Street, New Bedford, Massachusetts, and that I have been duly authorized and am presently serving in that capacity in accordance with the laws of the Commonwealth of Massachusetts and the rules and regulations of the New Bedford School Committee.

Mayor / Chairman

THE COMMONWEALTH OF MASSACHUSETTS

_____, SS

On this ___ day of _____, 2017 before me, the undersigned notary public, personally appeared John F. Mitchell, proved to me through satisfactory evidence of identification, which was photographic identification with a signature issued by a federal or state governmental agency, oath or affirmation of a credible witness, personal knowledge of the undersigned, to be the person whose name is signed on the preceding or attached documents in my presence.

(Official seal)

_____, Notary Public
My Commission Expires:

Notification to Property Owner(s)

310 CMR 40.1074(1)(e)



Wannalancit Mills
650 Suffolk Street
Lowell, MA 01854

978.970.5600 PHONE
978.453.1995 FAX

www.TRCSolutions.com

_____, 2017

Certified Mail, Return Receipt Requested

Mayor Jonathan F. Mitchell
City of New Bedford
133 William Street
New Bedford, Massachusetts 02740

**Re: Activity and Use Limitation (AUL) Notification
Acquired Residential Properties
New Bedford, Massachusetts
RTN 4-15685**

Dear Mayor Mitchell:

The purpose of this letter is to inform you that a Notice of Activity and Use Limitation (AUL) will be placed on the property at New Bedford in New Bedford, Massachusetts (New Bedford High School). The Acquired Residential Properties is part of the Site being managed under RTN 4-15685. The Massachusetts Contingency Plan (MCP) regulations (310 CMR 40.1074(1)(e)) require notification to all current holders of any record interest in the property subject to the proposed AUL. It is our understanding that other than the City of New Bedford, there are no other record interest holders on the property.

The soil impacts at the New Bedford High School Site include metals, polyaromatic hydrocarbons (PAHs), polychlorinated biphenyls (PCBs) and dioxin. Remedial response actions consisting soil excavations and exposure barriers designed to achieve exposure point concentrations (EPCs) acceptable for current and foreseeable future uses in the top three feet of soil were conducted at the Site.

In _____ 2017, a Partial Permanent Solution will be submitted on behalf of the City of New Bedford for the Acquired Residential Properties. The Permanent Solution uses an AUL placed on the property to limit exposure to soil/fill and limit certain types of activities (e.g., residential use).

TRC's risk characterization concluded that the top 3 feet of soil, and deeper soil horizons must be managed consistent with the AUL prepared for the Site

Subsequent to implementation of the AUL at Acquired Residential Properties, the following are *permitted* activities.

Five Contiguous Parcels

- (i) Use for commercial and/or industrial uses, including but not limited to: banking and retail; business, professional, or governmental offices; manufacturing, automotive, or industrial uses; restaurants; municipal government facilities; public utilities facilities; and pedestrian and/or vehicle traffic and vehicle parking;
- (ii) Use for recreational uses including but not limited to parks, playgrounds, and entertainment facilities that do not cause and/or result in direct contact with, disturbance of, and/or relocation of the soil/fill located deeper than three feet below grade;
- (iii) Construction/excavation work, including emergency and/or normal repairs of existing utilities;
- (iv) Such other activities or uses which, in the Opinion of a Licensed Site Professional (LSP), licensed by the Commonwealth of Massachusetts Board of Registration of Hazardous Waste Site Cleanup Professionals, shall present no greater risk of harm to health, safety, public welfare or the environment than the activities and uses set forth in this Section; and
- (v) Such other activities and uses not identified in Section 2 below as being Activities and Uses Inconsistent with the AUL.

102 Greenwood Parcel

- (i) Use for commercial and/or industrial uses, including but not limited to: banking and retail; business, professional, or governmental offices; manufacturing, automotive, or industrial uses; restaurants; municipal government facilities; public utilities facilities; and pedestrian and/or vehicle traffic and vehicle parking;
- (ii) Use for recreational uses including but not limited to parks, playgrounds, and entertainment facilities that do not cause and/or result in direct contact with, disturbance of, and/or relocation of the soil/fill located deeper than three feet below grade;
- (iii) Construction of occupied buildings provided a vapor intrusion evaluation is conducted or engineering controls used to mitigate the vapor intrusion pathway;
- (iv) Construction/excavation work, including emergency and/or normal repairs of existing utilities, provided worker protection measures are used should groundwater be encountered;
- (v) Such other activities or uses which, in the Opinion of a Licensed Site Professional (LSP), licensed by the Commonwealth of Massachusetts Board of Registration of Hazardous Waste Site Cleanup Professionals, shall present no greater risk of harm to health, safety, public welfare or the environment

than the activities and uses set forth in this Section; and
Subsequent to implementation of the AUL at Walsh Field, the following are ***prohibited*** activities.

Five Contiguous Parcels

- (i) Single- and multi-family residential use;
- (ii) Gardening of agricultural crops for human consumption using Site soil;
- (iii) Relocation of any fill/soil from depths greater than 3 feet from the Site to another location without LSP review and approval; and
- (iv) Other private, public, commercial, industrial or construction activities or uses not permitted by Section 1 of this Notice that result in the direct contact with, or disturbance of, the soil/fill from depths greater than three feet from the PS-P Site without supervision of an LSP and the Massachusetts Contingency Plan (310 CMR 40.0000) of MCP.

102 Greenwood Parcel

- (i) Single- and multi-family residential use;
- (ii) Gardening of agricultural crops for human consumption using Site soil;
- (iii) Construction worker contact with shallow groundwater, unless worker protection measures are used;
- (iv) Relocation of any fill/soil from depths greater than 3 feet from the Site to another location without LSP review and approval; and
- (v) Other private, public, commercial, industrial or construction activities or uses not permitted by Section 1 of this Notice that result in the direct contact with, or disturbance of, the soil/fill from depths greater than three feet from the PS-P Site without supervision of an LSP and the Massachusetts Contingency Plan (310 CMR 40.0000) of MCP.

The following outlines ***obligations and conditions*** under the AUL.

Five Contiguous Parcels

- (i) Maintain the physical integrity of the existing 3-foot soil exposure barrier;
- (ii) A Health and Safety Plan (HASP) must be prepared by a Certified Industrial Hygienist (CIH) or other qualified individual sufficiently trained in worker health and safety requirements and implemented prior to the commencement

of any planned (non-emergency) activity that is likely to disturb soil/fill. Activities with the potential to disturb soil/fill should also be planned with an LSP. The HASP should specify the chemicals at the Site, the types of media present, the extent of impacts, the potential routes of exposure, the appropriate level of personal protective equipment, the type of monitoring required, worker safety monitoring, and hazard communication. Workers must be informed of the requirements of the HASP, and the plan must be available on-Site throughout the course of the project;

- (iii) Excavation/disturbance of soil/fill below three feet requires site-specific evaluation by an LSP, who will evaluate if such activity can proceed and maintain a condition of No Significant Risk; and
- (iv) No fill/soil is to be relocated from the Site to an off-site location without LSP review and approval..

102 Greenwood Parcel

- (i) Maintain the physical integrity of the existing 3-foot soil exposure barrier:
- (ii) A Health and Safety Plan (HASP) must be prepared by a Certified Industrial Hygienist (CIH) or other qualified individual sufficiently trained in worker health and safety requirements and implemented prior to the commencement of any planned (non-emergency) activity that is likely to disturb soil/fill or expose shallow groundwater. Activities with the potential to disturb soil/fill or expose shallow groundwater should also be planned with an LSP. The HASP should specify the chemicals at the Site, the types of media present, the extent of impacts, the potential routes of exposure, the appropriate level of personal protective equipment, the type of monitoring required, worker safety monitoring, and hazard communication. Workers must be informed of the requirements of the HASP, and the plan must be available on-Site throughout the course of the project;
- (iii) Excavation/disturbance of soil/fill below three feet requires site-specific evaluation by an LSP, who will evaluate if such activity can proceed and maintain a condition of No Significant Risk; and
- (iv) No fill/soil is to be relocated from the Site to an off-site location without LSP review and approval.

Action Required by the Property Owner

MCP regulations require a 30-day notification of the anticipated AUL restrictions to be sent to the current holders of record interest, prior to recording the AUL restrictions on the deed.

However, the MCP also allows a waiver of the 30-day waiting period, providing the party receiving the notification provides a written waiver of the 30-day waiting period. The AUL will be recorded on the property, on or before, _____2017

Please sign and return the attached AUL Notification Waiver Form to my attention. If you have any questions concerning this AUL notification, please contact TRC at (978) 656-3565. Thank you.

Sincerely,

TRC Environmental Corporation

David M. Sullivan, LSP
Senior Project Manager

AUL 30-Day Notification Waiver

AUL 30-DAY NOTIFICATION WAIVER

I, _____, acknowledge that on _____, the City of New Bedford, Massachusetts received a notice that an Activity and Use Limitation (AUL) will be placed on the following properties:

Acquired Residential Properties
New Bedford, Massachusetts

As allowed by Massachusetts Contingency Plan (MCP) regulations (310 CMR 40.1074(1)(e) and 310 CMR 40.1074(f)), this waiver is granted to TRC Environmental Corporation, by the owner, the City of New Bedford, allowing less than 30 days for the AUL waiting period.

Signature

Date

Name (Printed)

Title