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CC-254

Form 1075

NOTICE OF ACTIVITY AND USE LIMITATION

M.G.L. c. 21E, § 6 and 310 CMR 40.0000

Disposal Site Name: Chestnut Hill Pump Station
2436 Beacon Street
Brighton, Massachusetts

DEP Release Tracking No.: #3-11703

Paul R. Tierney
REGISTER OF DEEDS

2000 SEP 12 PM 3: 24

SUFFOLK REGISTRY OF DEEDS
REC'D ENT'D EXAM ATTEST

Property Street Address: Chestnut Hill Pump Station 2436 Beacon Street, Brighton, MA

This Notice of Activity and Use Limitation ("Notice") is made as of this 12th day of September, 2000, by the Commonwealth of Massachusetts, by and through its Division of Capital Asset Management and Maintenance ("DCAM"), One Ashburton Place, Boston, Massachusetts, for use by the Massachusetts Water Resources Authority ("MWRA"), 100 First Avenue, Charlestown Navy Yard, Boston, Massachusetts, together with its successors and assigns ("Owner").

WITNESSETH:

WHEREAS, the Commonwealth of Massachusetts is the owner in fee simple of that certain parcel of land located in Brighton, Suffolk County, Massachusetts, with the buildings and improvements thereon, pursuant to deeds recorded with the Suffolk County Registry of Deeds in: Book 2459, Page 580; Book 2613, Page 326; and Book 6019, Page 89;

WHEREAS, said parcel 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. The Property is shown on a plan entitled "Plan of Chestnut Hill Pumping Station Plan of Property in Boston (Brighton), Massachusetts", Plan A Property Plan, dated October 22, 1999, recorded with the Suffolk Country Registry of Deeds in Plan Book 25344, Plan End;
Page

WHEREAS, a portion of the Property ("Portion of the Property") is subject to this Notice. The Portion of the Property is more particularly bounded and described in Exhibit A-1, attached hereto and made a part hereof. The Portion of the Property is shown on a plan entitled "Plan of Chestnut Hill Pumping Station, Plan B Site Subject to Activity and Use Limitation (AUL)", dated December 22, October 25, 1999, recorded with the Suffolk Country Registry of Deeds in Plan Book 25344, Plan End;
Page

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WHEREAS, the Portion of the Property comprises all of disposal site 3-11703 as the result of a release of oil and/or hazardous material. Exhibit B is a sketch plan showing the relationship of the Portion of the Property subject to this Notice 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 Disposal 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 groundwater and/or (b) the restriction of certain activities occurring in, on, through, over or under the Portion of the Property. The basis for such restrictions is set forth in an Activity and Use Limitation Opinion ("AUL Opinion"), dated 9/6/00, which 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 said AUL Opinion are as follows:

1. Activities and Uses Consistent with the AUL Opinion.

The AUL Opinion provides that a condition of No Significant Risk to health, safety, public welfare or the environment exists for any foreseeable period of time (pursuant to 310 CMR 40.0000) so long as any of the following activities and uses occur on the Portion of the Property:

(i) Commercial, industrial or cultural or higher education institution activities. Other uses may include, but not be limited to, landscaping and routine maintenance of landscaped areas, vehicular traffic and parking, which do not cause and/or result in direct contact with, a disturbance and/or relocation of petroleum-contaminated soil located at a depth more than 3 feet below the surface grade;

(ii) Construction of buildings provided they are "slab on grade" type structures without any floors or spaces, such as a basement, extending to a depth more than 3 feet below surface grade and are constructed with a vapor barrier in accordance with the Obligations and Conditions section below;

(iii) Any activity associated with underground utility or construction work, including, but not limited to, excavation, which is likely to cause and/or result in direct contact with, a disturbance

and/or relocation of petroleum-contaminated soil at a depth more than 3 feet below the surface grade, provided that the activities are conducted in accordance with a Soil Management Plan and a Health and Safety Plan prepared and implemented in accordance with the Obligations and Conditions section below prior to the commencement of the activity;

(iv) Pedestrian traffic, walkways, greenbelts and controlled access are also permitted in accordance with the Obligations and Conditions discussed below;

(v) Activities and uses which are not identified by this Opinion as being inconsistent with maintaining a condition of No Significant Risk; and

(vi) Such other activities or uses which, in the Opinion of a Licensed Site Professional ("LSP"), shall present no greater risk of harm to health, safety, public welfare or the environment than the activities and uses set forth in this paragraph.

2. Activities and Uses Inconsistent with the AUL Opinion.

Activities and uses which are inconsistent with the objectives of this Notice, and which, if implemented at the Portion of the Property, may result in a significant risk of harm to health, safety, public welfare or the environment or in a substantial hazard, are as follows:

(i) Use of the portion of the property as a residence, school (with the exception of higher education), daycare center, nursery, active recreational area (such as a park or athletic field), and/or any other use at which a child's presence is likely;

(ii) Any cultivation of food crops, such as vegetables or fruit trees, for human or animal consumption;

(iii) Any activity associated with underground utility or construction work, including, but not limited to, excavation, which is likely to cause and/or result in direct contact with, a disturbance and/or relocation of petroleum-contaminated soil located at a depth more than 3 feet below the surface, without prior development and implementation of a Soil Management Plan and a Health and Safety Plan in accordance with the Obligations and Conditions section below; and

(iv) Relocation of petroleum-contaminated soil currently at a depth more than 3 feet below the surface grade to a shallower depth, unless such activity is first evaluated by a LSP who renders an Opinion which states that such relocation is consistent with maintaining a condition of No Significant Risk.

3. Obligations and Conditions Set Forth in the AUL Opinion.

If applicable, obligations and/or conditions to be undertaken and/or maintained at the Portion of the Property to maintain a condition of No Significant Risk as set forth in the AUL Opinion shall include the following:

(i) A Soil Management Plan must be prepared by a LSP prior to the commencement of any activity which is likely to cause and/or result in direct contact with, a disturbance and/or relocation of petroleum-contaminated soil located at a depth more than 3 feet below the surface grade. The Soil Management Plan should describe appropriate soil management, characterization, storage, transport and disposal procedures in accordance with the provisions of the MCP cited at 310 CMR 40.0030 et seq. The Soil Management Plan should also describe access restrictions to the Portion of the Property during the duration of said activity. Workers who may come in contact with the petroleum-contaminated soil should be appropriately trained on the requirements of the soil Management Plan, and the Soil Management Plan must remain available on-site throughout the course of the project;

(ii) A Health and Safety Plan must be prepared and implemented prior to the commencement of any activity which is likely to cause and/or result in direct contact with, a disturbance and/or relocation of petroleum-contaminated soil at a depth more than 3 feet below the surface grade. The Health and Safety Plan should be prepared by a Certified Industrial Hygienist or other qualified individual appropriately trained in worker health and safety procedures and requirements. Workers who may come in contact with the petroleum-contaminated soil should be appropriately trained on the requirements of the Health and Safety Plan, and the Health and Safety Plan must remain available on-site throughout the course of the project;

(iii) The petroleum-contaminated soil at a depth more than 3 feet below the surface grade must remain at that depth and may not be relocated to a shallower depth, unless such activity is first

evaluated by a LSP who renders an Opinion which states that such activity poses no greater risk of harm to health, safety, public welfare, or the environment and ensures that a condition of No Significant Risk is maintained;

(iv) Any enclosed structures to be constructed in this area shall have an underslab vapor barrier constructed of an impermeable liner and a gravel bed vented through the foundation wall;

(v) Walkways and parkways shall be either asphalt or concrete. Any unpaved pedestrian walkway shall be underlain with a wear surface such as brick or stone; and

(vi) Any greenbelt area shall maintain a minimum of three feet of clean topsoil.

4. Proposed Changes in Activities and Uses.

Any proposed changes in activities and uses at the Portion of the Property which may result in higher levels of exposure to oil and/or hazardous material than currently exist shall be evaluated by a LSP who shall render an Opinion, in accordance with 310 CMR 40.1080 *et seq.*, as to whether the proposed changes will present a significant risk of harm to health, safety, public welfare or the environment. 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 Response Action Outcome.

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 LSP in accordance with 310 CMR 40.1080 *et seq.*, and without additional response actions, if necessary, to achieve or maintain a condition of No Significant Risk or to eliminate substantial hazards.

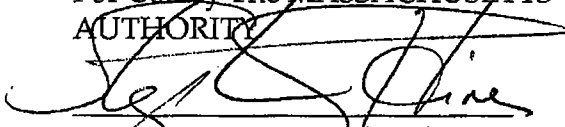
If the activities, uses, and/or exposures upon which this Notice is based change without the prior evaluation and additional response actions determined to be necessary by a LSP in accordance with 310 CMR 40.1080 *et seq.*, the owner or operator of the Portion of the Property subject to this Notice at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

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.

Owner hereby authorizes and consents to the filing and recordation of this Notice, said Notice to become effective when executed under seal by the undersigned LSP, and recorded at the Suffolk County Registry of Deeds.

WITNESS the execution hereof under seal this 21st day of August, 2000.

Owner: COMMONWEALTH OF MASSACHUSETTS
DIVISION OF CAPITAL ASSET MANAGEMENT AND
MAINTENANCE,
For Use By The MASSACHUSETTS WATER RESOURCES
AUTHORITY

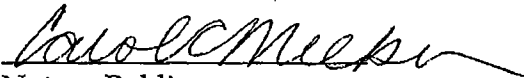
By: 
Stephen J. Hines
Deputy Commissioner, DCAM

COMMONWEALTH OF MASSACHUSETTS

Suffolk ss

August 21, 2000

Then personally appeared the above-named STEPHEN J. HINES and acknowledged the foregoing instrument to be ~~his~~^{his} free act and deed before me,

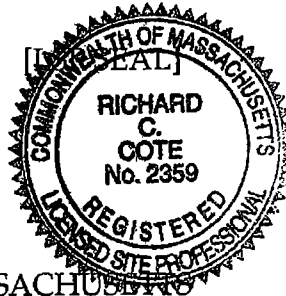

Notary Public:
My Commission Expires: March 11, 2005

25344 294

The undersigned LSP hereby certifies that he executed the aforesaid Activity and Use Limitation Opinion attached hereto as Exhibit C and made a part hereof and that in his Opinion this Notice of Activity and Use Limitation is consistent with the terms set forth in said Activity and Use Limitation Opinion.

Date: 9/6/00


Richard Cote




COMMONWEALTH OF MASSACHUSETTS

J. J. J. J., ss

9/6, 2000

Then personally appeared the above named Richard Cote and acknowledged the foregoing instrument to be his free act and deed before me,


Notary Public. 2/9/01
My Commission Expires:

Upon recording, return to:

Commonwealth of Massachusetts
Division of Capital Asset Management
One Ashburton Place
Boston, Massachusetts 02108
Attn: Carol C. Meeker, Esq.

EXHIBIT A

Description of Parcel of Land Containing Area Subject to AUL

A certain parcel of land situated at 2436 Beacon Street in the City of Boston, Suffolk County, Massachusetts, shown on a plan entitled "Plan of Chestnut Hill Pumping Station Plan of Property in Boston (Brighton), Massachusetts" dated October 25, 1999, Scale 1" = ¹⁰⁰80', prepared by Massachusetts Water Resources Authority Engineering and Construction Department Design Information System Center, and recorded with the Suffolk County Registry of Deeds in ~~Plan~~ ^{25344, Plan} Book ~~End~~ ^{Page}, and being more particularly bounded and described as follows:

BEGINNING	at the southeasterly corner of the parcel at an angle point in the land now or formerly of the Massachusetts Bay Transportation Authority; and thence running
S50°25'00"W	by land now or formerly of the Massachusetts Bay Transportation Authority, twenty-four and 95/100 (24.95) feet; thence turning and running
N69°17'50"W	by the land now or formerly of the N. Mahfuz Trust No.1, one hundred four feet and 77/100 (104.77) feet; thence turning and running
N75°38'50"W	by the land now or formerly of the N. Mahfuz Trust No.1, and land now or formerly of Andrew and Neala Melcer, one hundred ninety and 83/100 (190.83) feet, to a point in the easterly line of Beacon Street; thence continuing
NORTHERLY	on a curve to the left having a radius of four hundred fifty (450.00) feet, a length of one hundred forty-eight (148.0) feet, to the easterly side line of Beacon Street; thence turning and running
S46°50'00"E	along the easterly side line of Beacon Street, fifteen and 99/100 (15.99) feet; thence turning and running

- N56°15'30"E along the easterly side line of Beacon Street, three hundred twenty-two and 91/100 (322.91) feet; thence continuing
- NORTHERLY on a curve to the left having a radius of eight hundred sixty-four (864.00) feet, a length of five hundred seventy-five and 50/100 (575.50) feet, to the easterly side line of Beacon Street; thence turning and running
- N18°05'39"E along the easterly side line of Beacon Street, three hundred ninety (390.00) feet to a point in land now or formerly of the City of Boston; thence turning and running
- S51°02'01"E by the land now or formerly of the City of Boston, two hundred thirty-five and 02/100 (235.02) feet; thence turning and running
- N38°26'26"E by the land now or formerly of the City of Boston, eighty (80.00) feet; thence turning and running
- S51°02'01"E by the land now or formerly of the City of Boston, two hundred fifty (250.00) feet, to a point in the westerly line of the land now or formerly of the National Amusements, Inc.; thence turning and running
- S45°34'23° by the land now or formerly of the National Amusements, Inc., eighty and 53/100 (80.53) feet, thence turning and running
- S51°02'01"E by the land now or formerly of the National Amusements, Inc., seventeen and 98/100 (17.98) feet, to a point in the westerly line of land of now or formerly Massachusetts Bay Transportation Authority thence turning and running
- S53°11'03"W by land now or formerly of the Massachusetts Bay Transportation Authority, one hundred fifty (150.00) feet; thence turning and running

- S50°25'00"W by land now or formerly of the Massachusetts Bay Transportation Authority, one hundred seventy-eight and 3/100 (178.03) feet; thence turning and running
- S39°35'00"E by land now or formerly of the Massachusetts Bay Transportation Authority, twenty-five (25.00) feet; thence turning and running
- S50°25'00"W by land now or formerly of the Massachusetts Bay Transportation Authority, nine hundred nineteen and 85/100 (919.85) feet; thence turning and running
- S46°50'00"W by land now or formerly of the Massachusetts Bay Transportation Authority, fifteen and 12/100 (15.12) feet to the point of beginning, containing 7.86 acres, more or less, according to said plan.

EXHIBIT A - 1

Description of Area Subject to AUL

That certain portion of a parcel of land, said parcel of land being situated at 2436 Beacon Street in the City of Boston, Suffolk County, Massachusetts, shown on the aforementioned plan recorded with Suffolk County Registry of Deeds in Plan Book 25344 Page End, said portion being shown as the "AUL Area" on said plan, and being more particularly bounded and described as follows:

BEGINNING	at the southeasterly corner of the parcel, which point is N50°25'00"E from an angle point by land now or formerly of the Massachusetts Bay Transportation Authority, two hundred two and 11/100 (202.11) feet; thence turning and running
N40°03'13"	seventeen and 16/100 feet to the Granite Foundation of the High Service Pumping Station; thence turning and running
N50°52'37"E	along the exterior wall of the High Service Pumping Station, thirty and 60/100 feet; thence turning and running
N39°07'23"W	along the exterior wall of the High Service Pumping Station, seventeen and 10/100 (17.10) feet; thence turning and running
N50°52'37"E	along the exterior wall of the High Service Pumping Station, eighteen and 9/100 (18.09) feet; thence turning and running
S39°07'23"E	along the exterior wall of the High Service Pumping Station, seventeen and 10/100 (17.10) feet; thence turning and running
N50°52'37"E	along the exterior wall of the High Service Pumping Station, sixty-three and 34/100 (63.34) feet to a point in the granite foundation of the High Service Pumping Station; thence turning and running
S39°58'37"E	to land now or formerly of the Massachusetts Bay Transportation Authority, sixteen and 26/100 (16.26) feet; thence turning and running
S50°25'00"W	by land now or formerly of the Massachusetts Bay Transportation Authority, one hundred twelve (112.00) feet to the point of the beginning, containing 2,178 square feet of land, more or less, according to said plan.

EXHIBIT B

Sketch Plan of Disposal Site

The Notice of Activities and Use Limitations encompasses the entire disposal site existing within the limits of the Property

FOR REGISTRY USE ONLY

ACTIVITY AND USE LIMITATION DESCRIPTION

AN AREA LOCATED WITHIN A CERTAIN PARCEL OF LAND LOCATED AT 2438 BEACON STREET, BOSTON (BRIGHTON), MASSACHUSETTS, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEASTERLY CORNER OF THE PARCEL, WHICH POINT IS N 90-25-00 E 202.11' FROM AN ANGLE POINT AT LAND OF THE MASSACHUSETTS BAY TRANSPORTATION AUTHORITY; THENCE

N 40-03-13 W 17.18 FEET TO THE GRANITE FOUNDATION OF THE HIGH SERVICE PUMPING STATION; THENCE

N 50-52-37 E 30.80 FEET TO A POINT; THENCE

N 39-07-23 W 17.10 FEET TO A POINT; THENCE

N 50-52-37 E 18.08 FEET TO A POINT; THENCE

S 39-07-23 E 17.10 FEET TO A POINT; THENCE

N 50-52-37 E 63.34 FEET TO A POINT IN THE GRANITE FOUNDATION OF THE HIGH SERVICE PUMPING STATION, THE PRECEDING FIVE COURSES BEING ALONG THE EXTERIOR WALL OF THE HIGH SERVICE PUMPING STATION; THENCE

S 39-08-37 E 18.28 FEET TO LAND NOW OR FORMERLY OF THE MASSACHUSETTS BAY TRANSPORTATION AUTHORITY; THENCE

S 50-25-00 W 112.00 FEET BY LAND NOW OR FORMERLY OF THE MASSACHUSETTS BAY TRANSPORTATION AUTHORITY TO THE POINT OF BEGINNING.

THE ABOVE AREA CONTAINS 2178 S.F. MORE OR LESS.

BOUNDARY DESCRIPTION

A CERTAIN PARCEL OF LAND LOCATED AT 2438 BEACON STREET IN THE CITY OF BOSTON, SUFFOLK COUNTY, MASSACHUSETTS, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEASTERLY CORNER OF THE PARCEL, AT AN ANGLE POINT IN LAND OF THE MASSACHUSETTS BAY TRANSPORTATION AUTHORITY; THENCE

SOUTH 50-25-00 WEST BY LAND OF THE MASSACHUSETTS BAY TRANSPORTATION AUTHORITY 24.86 FEET TO A POINT; THENCE

NORTH 89-17-30 WEST 104.77 FEET BY LAND OF THE N. MAHFUZ TRUST NO.1 TO A POINT; THENCE

NORTH 75-38-50 WEST 180.83 FEET BY LAND OF THE N. MAHFUZ TRUST NO.1 AND LAND OF ANDREW AND NEALA MELCER TO A POINT IN THE EASTERLY LINE OF BEACON STREET; THENCE

NORTHERLY ON A CURVE TO THE LEFT HAVING A RADIUS OF 450.00 A LENGTH OF 148.0 FEET TO A POINT; THENCE

SOUTH 46-50-00 EAST 15.89 FEET TO A POINT; THENCE

NORTH 56-15-30 EAST 322.81 FEET TO A POINT; THENCE

NORTHERLY ON A CURVE TO THE LEFT HAVING A RADIUS OF 684.00 FEET A DISTANCE OF 578.50 FEET TO A POINT; THENCE

NORTH 18-02-28 EAST 300.00 FEET TO A POINT IN LAND OF THE CITY OF BOSTON, THE PRECEDING FIVE COURSES BEING BY THE EASTERLY LINE OF BEACON STREET; THENCE

SOUTH 51-02-01 EAST 236.02 FEET TO A POINT; THENCE

NORTH 38-28-28 EAST 80.00 FEET TO A POINT; THENCE

SOUTH 51-02-01 EAST 250.00 FEET TO A POINT IN THE WESTERLY LINE OF LAND OF NATIONAL AMUSEMENTS, INC.; THENCE SOUTH 43-34-23 WEST 80.83 FEET TO A POINT; THENCE

SOUTH 51-02-01 EAST 17.98 FEET TO A POINT IN THE WESTERLY LINE OF LAND OF THE MASSACHUSETTS BAY TRANSPORTATION AUTHORITY; THENCE

SOUTH 53-11-03 WEST 180.00 FEET TO A POINT; THENCE

SOUTH 50-25-00 WEST 178.83 FEET TO A POINT; THENCE

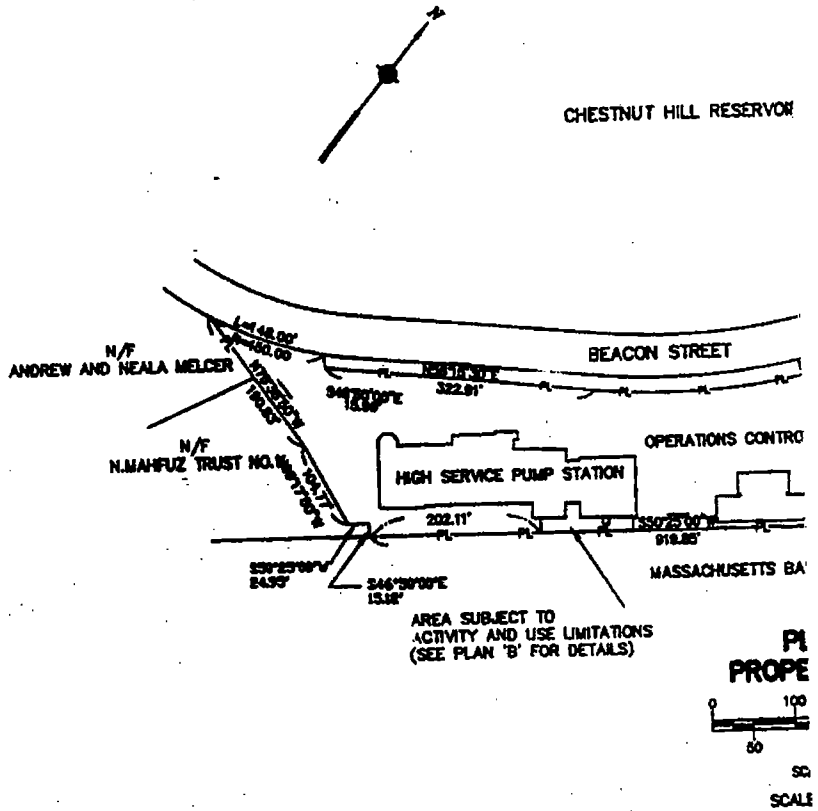
SOUTH 39-35-00 EAST 25.00 FEET TO A POINT; THENCE

SOUTH 50-25-00 WEST 918.85 FEET TO A POINT; THENCE

SOUTH 46-50-00 WEST 18.12 FEET TO THE POINT OF BEGINNING, THE PRECEDING FIVE COURSES BEING BY LAND OF THE MASSACHUSETTS BAY TRANSPORTATION AUTHORITY.

CONTAINING 7.84 ACRES MORE OR LESS.

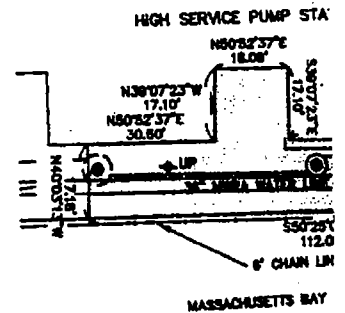
I CERTIFY THAT THIS PLAN WAS PREPARED IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE REGISTERS OF DEEDS OF THE COMMONWEALTH OF MASSACHUSETTS.



NOTE

THE SHADED PORTION COMPRISES ALL OF THE DISPOSAL SITE EXISTING WITHIN THE LIMITS OF THE PROPERTY AND THE PORTION OF THE PROPERTY SUBJECT TO THE AUL

SITE SUBJECT TO ACTIVITY

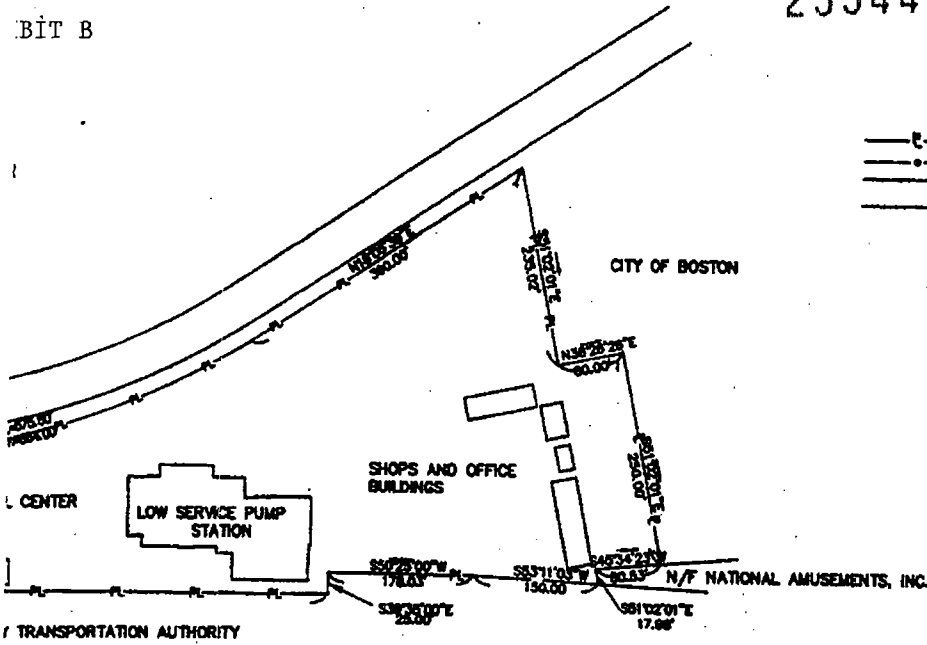
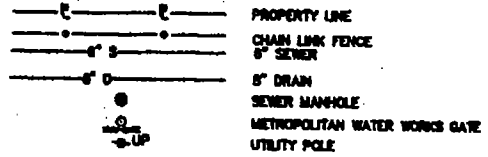


I HEREBY CERTIFY THAT THE PROPERTY LINES SHOWN ON THIS PLAN ARE DIVIDING EXISTING OWNERSHIP AND THAT THE LINES OF THE STREETS AND WAYS ARE THOSE OF PUBLIC OR PRIVATE STREETS OR WAYS ALREADY ESTABLISHED OR NEW LINES FOR DIVISION OF EXISTING OWNERSHIP OR FOR NEW WAYS AT

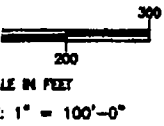
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LEGEND



AN A
RTY PLAN



NOTE

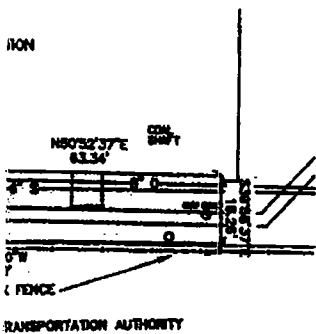
- MERIDIAN BASED ON PLAN TITLED COMMONWEALTH OF MASSACHUSETTS, METROPOLITAN WATER BOARD, PLAN OF LAND OF BOSTON & ALBANY RAILROAD IN BOSTON AND BROOKLINE, MASS. NEAR CHESTNUT HILL RESERVOIR, OCT 31, 1899 ACCESSION NUMBER 81895.
- BOUNDARY INFORMATION WAS COMPILED FROM PLANS AND DEEDS OF RECORD.

DEED REFERENCES

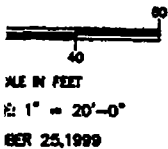
- METROPOLITAN WATER BOARD TAKING #21 BOOK 2458 PAGE 580 SUFFOLK COUNTY REGISTRY OF DEEDS
- METROPOLITAN WATER BOARD TAKING #48 BOOK 2813 PAGE 328 SUFFOLK COUNTY REGISTRY OF DEEDS
- CITY OF BOSTON TO METROPOLITAN DISTRICT COMMISSION BOOK 6018 PAGE 88 SUFFOLK COUNTY REGISTRY OF DEEDS
- NABHA MAHFUZ, TRUSTEE OF THE N. MAHFUZ TRUST NO. 1 BOOK 15882 PAGE 328 SUFFOLK COUNTY REGISTRY OF DEEDS
- ANDREW AND NEALA MELZER BOOK 17022 PAGE 153 SUFFOLK COUNTY REGISTRY OF DEEDS
- NATIONAL AMUSEMENTS, INC. LAND COURT CERTIFICATE NO. 73218

PLAN REFERENCES

- COMMONWEALTH OF MASSACHUSETTS, METROPOLITAN WATER WORKS, CHESTNUT HILL RESERVOIR LAND PLAN, DATED 1899, ACCESSION NUMBER 0168
- COMMONWEALTH OF MASSACHUSETTS, METROPOLITAN WATER BOARD, PLAN OF LAND OF BOSTON & ALBANY RAILROAD IN BOSTON AND BROOKLINE, MASS. NEAR CHESTNUT HILL RESERVOIR, OCT. 31, 1899, ACCESSION NUMBER 81895
- COMMONWEALTH OF MASSACHUSETTS, METROPOLITAN DISTRICT COMMISSION, PARKS DIVISION, PLAN OF LAND TO BE TRANSFERRED BETWEEN THE CITY OF BOSTON AND THE COM. OF MASS., APRIL 21, 1942, ACCESSION NUMBER 25600-VT
- PLAN OF LAND IN CHESTNUT HILL, DATED JUNE 23, 1925, HENRY C. MILDRAH, REAL ESTATE ENGINEER, BOOK 4072 PAGE 328 SUFFOLK COUNTY REGISTRY OF DEEDS
- LAND COURT PLAN NO. 17170A



LAN B
TY AND USE LIMITATIONS(AUL)



I CERTIFY THAT THIS PLAN AND SURVEY WERE PERFORMED IN ACCORDANCE WITH THE PROCEDURAL AND TECHNICAL STANDARDS FOR THE PRACTICE OF LAND SURVEYING IN THE COMMONWEALTH OF MASSACHUSETTS.

JOHN R. LONGRAN PLS 29873 DATE

DRAWN BY: JRL
CHECKED BY: JRL

MASSACHUSETTS WATER RESOURCES AUTHORITY	
CHESTNUT HILL HIGH SERVICE PUMP STATION	
PLAN OF PROPERTY AND SITE SUBJECT TO ACTIVITY AND USE LIMITATIONS	
ACCESSION NO. : 002213	JOB NUMBER : J0638
PREPARED BY : ENGINEERING AND CONSTRUCTION DEPARTMENT DESIGN INFORMATION SYSTEMS CENTER	
DRAWING NO. LS-1	SCALE FACTOR 1 1 of 1

EXHIBIT C

Activity and Use Limitation Opinion

In accordance with the requirements of 310 CMR 40.1074, this Activity and Use Limitation ("AUL") Opinion ("Opinion") has been prepared to support a Notice of Activity and Use Limitation Notice ("Notice") for a portion of a parcel of land located at 2436 Beacon Street, Brighton, Suffolk County, Massachusetts, owned by the Commonwealth of Massachusetts, through its Division of Capital Asset Management ("DCAM"), One Ashburton Place, Boston, Massachusetts, on behalf of the Massachusetts Water Resources Authority ("MWRA"), 100 First Avenue, Charlestown Navy Yard, Boston, Massachusetts. As of the date of this Opinion, the property is zoned for recreation and is used as a drinking water pumping station, currently under the care and control of the MWRA. There are presently several buildings on the Chestnut Hill Pump Station property: the High Service Pump Station, the Low Service Building, the Operations & Control Center, Meter Monitoring Offices, Long Shed (also referred to as the Pipe Yard), Foreman's Office, Crew Building and the Store Room; landscaped areas; and a paved parking lot and driveway. None of these buildings or other structures mentioned are located on the portion of the property that is subject to this AUL.

Site History

The property has been owned by the Commonwealth of Massachusetts and the public entities and operated as a drinking water pumping station for over 100 years. Several underground storage tanks ("USTs") were maintained at the property for both fuel distribution and building heating all of which have now been removed or abandoned in-place, and replaced with aboveground storage tanks.

Two USTs contained in an underground concrete vault at the rear of the High Service Pump Station were abandoned in-place in accordance with the applicable legal requirements. In a June 1994 site investigation conducted in the area of the abandoned tanks, elevated levels of oil contamination were encountered and reported to the Department of Environmental Protection ("DEP"). An Immediate Response Action ("IRA") was performed to remove the most highly contaminated soils, recover any floating product and define the limits of the soil and groundwater contamination.

About 90 cubic yards of contaminated soil were excavated from the site to a depth of four, and in some cases five, feet. This depth was selected as a cutoff point since it contained the most highly contaminated soils, and avoided

disturbance or accidental destruction of the 36-inch, cast iron, high-pressure water main, 6-inch sewer line and 8-inch drain line which cross the site.

The remaining soil contamination included residual contamination at the depth of the excavation and beneath the two abandoned-in-place USTs. Samples from monitoring wells revealed an average TPH concentration below the tanks of about 36,000 mg/kg, which exceeds the allowable Upper Concentration Limits ("UCL") of 10,000 mg/kg.

A Phase III, Identification and Evaluation of Response Action Alternatives, was conducted for the site to identify remedial options for addressing the remaining contamination. It was concluded that any additional excavation of the soils was technically infeasible, because of the risk it would pose to human health and public safety by undermining the structure of the High Service Pump Station building, the high-pressure water main, the sewer and adjacent MBTA railroad tracks. A temporary solution was therefore selected which included groundwater monitoring to confirm that contamination was not migrating off-site. A Class C Response Action Outcome (RAO) was filed in October 1995.

Per the October 31, 1997 revisions to the Massachusetts Contingency Plan ("MCP"), additional soil and groundwater samples were taken at the site and analyzed in accordance with the new VPH/EPH testing procedures. The results showed that EPH, VPH and PAH contamination levels at the site were below the UCLs in all samples, except at one soil sample taken below the USTs at a depth of 16 feet and another soil sample taken next to the High Service Pump Station building also at a depth of 16 feet. In those samples, the compound benzo(a)anthracene exceeded the UCL of 100 mg/kg. Contamination consisting of residual EPH and VPH levels, but at below UCL concentrations, exists between four and fifteen feet of depth at the site.

The horizontal extent of the contamination is depicted on the Sketch Plan of the Disposal Site, Exhibit B of the AUL filing, as the portion of the property subject to and contained within the AUL. The vertical extent of contamination and remaining concentrations extend to a depth of at least 16 feet. The extent of contamination and remaining concentrations are presented in more detail in the Release Abatement Measure (RAM) Completion Statement Report dated June 1999. A copy of this report is on file at the DEP, Northeast Regional Office.

Reason for Activity and Use Limitation

A Method 3 Risk Assessment was conducted to characterize the risk posed by the levels of benzo(a)anthracene remaining on the site. The risk characterization concluded that the potential for exposure to human receptors at the site is

extremely limited due to the fencing around the site that is six feet tall and passable only through a single locked gate; and that the top four feet of soil on the site is clean fill that was added after the excavation conducted under the IRA. The one concern identified was the risk posed by exposure to contaminated soils that might be present at depths below 4 feet, e.g., to a utility worker repairing the sewer or water main on the site.

Therefore, the Method 3 Risk Assessment concluded that a level of No Significant Risk under current and/or future use could be achieved at the site based on: (a) the previous removal of the top four to five feet of contaminated soil, which was replaced with clean backfill; (b) the filling and grading of the tank area which was completed as a Release Abatement Measure ("RAM"); and (c) implementation of an AUL on the site to maintain a level of No Significant Risk by ensuring the restriction of certain activities and uses which could result in exposure to the benzo(a)anthracene-contaminated soil located at depths below four feet from the surface.

The RAM, which included grouting and closing the groundwater wells on site and adding flowable fill (i.e., a grout mixture) to bring the tank area to grade, was completed in August 1999. Sampling done at that time indicated that the average level of contamination now met the Method 1 S-3 Risk Assessment Criteria, with the exception of benzo(a)anthracene, but exceeded the MCP Method 1 S-1 soil standards, which define allowable levels for unrestricted use..

This AUL is designed to make the public aware of the conditions on this limited portion of the Chestnut Hill Pump Station property, especially during any construction activities, and to limit this area's uses such that a level of No Significant Risk is maintained for the future.

Permitted Uses and Activities

Site activities and permitted uses include, but are not limited to, the following:

- (i) Commercial, industrial or cultural or higher education institution activities. Other uses may include, but not be limited to, landscaping and routine maintenance of landscaped areas, vehicular traffic and parking, which do not cause and/or result in direct contact with, a disturbance and/or relocation of petroleum-contaminated soil located at a depth more than 3 feet below the surface grade;
- (ii) Construction of buildings provided they are "slab on grade" type structures without any floors or spaces, such as a basement, extending to a depth more than 3 feet below surface grade and are

constructed with a vapor barrier in accordance with the Obligations and Conditions section below;

(iii) Any activity associated with underground utility or construction work, including, but not limited to, excavation, which is likely to cause and/or result in direct contact with, a disturbance and/or relocation of petroleum-contaminated soil at a depth more than 3 feet below the surface grade, provided that the activities are conducted in accordance with a Soil Management Plan and a Health and Safety Plan prepared and implemented in accordance with the Obligations and Conditions section below prior to the commencement of the activity;

(iv) Pedestrian traffic, walkways, greenbelts and controlled access are also permitted in accordance with the Obligations and Conditions discussed below;

(v) Activities and uses which are not identified by this Opinion as being inconsistent with maintaining a condition of No Significant Risk; and

(vi) Such other activities or uses which, in the Opinion of a Licensed Site Professional ("LSP"), shall present no greater risk of harm to health, safety, public welfare or the environment than the activities and uses set forth in this paragraph.

Restricted Site Uses and Activities

Activities and uses which are inconsistent with the objectives of this Notice of Activity and Use Limitation, and which, if implemented at the Portion of the Property, may result in a significant risk of harm to health, safety, public welfare or the environment or in a substantial hazard, are as follows:

(i) Use of the portion of the property as a residence, school (with the exception of higher education), daycare center, nursery, active recreational area (such as a park or athletic field), and/or any other use at which a child's presence is likely;

(ii) Any cultivation of food crops, such as vegetables or fruit trees, for human or animal consumption;

(iii) Any activity associated with underground utility or construction work, including, but not limited to, excavation, which

is likely to cause and/or result in direct contact with, a disturbance and/or relocation of petroleum-contaminated soil located at a depth more than 3 feet below the surface, without prior development and implementation of a Soil Management Plan and a Health and Safety Plan in accordance with the Obligations and Conditions section below; and

(iv) Relocation of petroleum-contaminated soil currently at a depth more than 3 feet below the surface grade to a shallower depth, unless such activity is first evaluated by a LSP who renders an Opinion which states that such relocation is consistent with maintaining a condition of No Significant Risk.

Obligations and Conditions

If applicable, obligations and/or conditions to be undertaken and/or maintained at the Portion of the Property to maintain a condition of No Significant Risk as set forth in the AUL Opinion shall include the following:

(i) A Soil Management Plan must be prepared by a LSP prior to the commencement of any activity which is likely to cause and/or result in direct contact with, a disturbance and/or relocation of petroleum-contaminated soil located at a depth more than 3 feet below the surface grade. The Soil Management Plan should describe appropriate soil management, characterization, storage, transport and disposal procedures in accordance with the provisions of the MCP cited at 310 CMR 40.0030 et seq. The Soil Management Plan should also describe access restrictions to the Portion of the Property during the duration of said activity. Workers who may come in contact with the petroleum-contaminated soil should be appropriately trained on the requirements of the soil Management Plan, and the Soil Management Plan must remain available on-site throughout the course of the project;

(ii) A Health and Safety Plan must be prepared and implemented prior to the commencement of any activity which is likely to cause and/or result in direct contact with, a disturbance and/or relocation of petroleum-contaminated soil at a depth more than 3 feet below the surface grade. The Health and Safety Plan should be prepared by a Certified Industrial Hygienist or other qualified individual appropriately trained in worker health and safety procedures and requirements. Workers who may come in contact

with the petroleum-contaminated soil should be appropriately trained on the requirements of the Health and Safety Plan, and the Health and Safety Plan must remain available on-site throughout the course of the project;

(iii) The petroleum-contaminated soil at a depth more than 3 feet below the surface grade must remain at that depth and may not be relocated to a shallower depth, unless such activity is first evaluated by a LSP who renders an Opinion which states that such activity poses no greater risk of harm to health, safety, public welfare, or the environment and ensures that a condition of No Significant Risk is maintained;

iv) Any enclosed structures to be constructed in this area shall have an underslab vapor barrier constructed of an impermeable liner and a gravel bed vented through the foundation wall;

(v) Walkways and parkways shall be either asphalt or concrete. Any unpaved pedestrian walkway shall be underlain with a wear surface such as brick or stone; and

(vi) Any greenbelt area shall maintain a minimum of three feet of clean topsoil.

LSP: 

Richard Cote, License Site Professional #2359
Manager of Remedial Engineering
Comprehensive Environmental Inc.
450 Washington Street, Suite 100
Dedham, MA 02026

Date: 9/6/00



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