

COMMONWEALTH OF MASSACHUSETTS

IN THE MATTER OF	)	BROWNFIELDS COVENANT
	)	NOT TO SUE AGREEMENT
NEW COVENANT PARTNERS IV, LLC	)	
	)	
REDEVELOPMENT OF	)	
9 HARBACK ROAD,	)	MassDEP RTNs: 2-11136
SUTTON, MASSACHUSETTS	)	2-12143
	)	2- 15941

I. STATEMENT OF PURPOSE

A. This Agreement is made and entered into by and between the Office of the Attorney General (the "OAG") on behalf of the Commonwealth of Massachusetts (the "Commonwealth"), New Covenant Partners IV, LLC ("NCP IV"). (Collectively, the OAG and NCP IV are referred to as the "Parties").

B. This Agreement is entered into pursuant to the Massachusetts Oil and Hazardous Material Release Prevention and Response Act, as amended and codified in Massachusetts General Laws Chapter 21E ("G.L. c. 21E"), and the OAG's Brownfields Covenant Not to Sue Agreement Regulations at 940 CMR 23.00 ("Brownfields Covenant Regulations"), with reference to the Massachusetts Contingency Plan, 310 CMR 40.0000 (the "MCP"). This Agreement relates to the remediation and redevelopment of the approximately 2 acre property at 9 Harback Road in Sutton, Massachusetts (the "Property") into a leasehold for a company which sells, distributes, installs and offers consultation services related to specialized products and services for the protection of outdoor athletic fields, arenas, and other sport, entertainment, or civic venues (the "Project").

C. The Parties intend to set forth in this Agreement their respective duties, obligations and understanding so that the Project can contribute to the physical and economic revitalization of an area of Sutton, Massachusetts. The Parties agree that this Agreement, pursuant to G.L. c. 21E, §3A(j)(3), addresses potential claims by the Commonwealth as to NCP IV and is predicated upon NCP IV's compliance with the terms and conditions of this Agreement. This Agreement also addresses potential claims brought by third parties for contribution, response action costs, or property damage pursuant to G.L. c. 21E, §§ 4 and 5 or for property damage claims under common law. This Agreement does not, however, address liability arising under contract law.

D. The Parties agree that NCP IV's ability to complete the Project may be contingent upon independent approval processes of other departments, agencies and instrumentalities of the federal, state and local governments. Nothing in this Agreement should be construed as an endorsement by the OAG of the proposed project for such approval processes. NCP IV's failure

to secure independent governmental approvals for the proposed remediation shall not excuse NCP IV from performance of any term or condition of this Agreement.

E. The Commonwealth believes that this Agreement is fair, consistent with G.L. c. 21E and in the public interest, and has entered into this Agreement as part of an effort to revitalize an area of Sutton, Massachusetts.

## II. THE PARTIES

A. The OAG is a duly constituted agency of the Commonwealth of Massachusetts charged with the legal representation of the Commonwealth and maintains offices at One Ashburton Place, Boston, Massachusetts 02108. Included within the OAG's authority is the authority to enter into Brownfields Covenant Not to Sue Agreements pursuant to G.L. c. 21E, §3A(j)(3).

B. New Covenant Partners IV LLC is a limited liability company organized under the laws of the Commonwealth with a principal place of business at 38 Silver Street, Auburn, Massachusetts.

## III. STATEMENT OF FACT AND LAW

A. The Commonwealth enters into this Agreement pursuant to its authority under G.L. c. 21E, §3A(j)(3) and the Brownfields Covenant Regulations.

B. Unless otherwise expressly provided, terms used in this Agreement which are defined in the Brownfields Covenant Regulations shall have the meaning assigned to them under such regulations. Terms not defined in the Brownfields Covenant Regulations, but defined under G.L. c. 21E and/or the MCP, shall have the meaning assigned to them under G.L. c. 21E and/or the MCP. Terms used in this agreement which are defined in the Brownfields Covenant Regulations, G.L. c. 21E, or the MCP are capitalized.

C. The Property is an approximately 2 acre parcel at 9 Harback Road in Sutton, Massachusetts. The Property was the site of the former Master Metals Industries, Inc. ("MMI") plant, a small-scale pewter and solder smelting facility, where it shaped pewter ingots and made solder wire, and which operated at the property from 1971 through 2012. Title to the Property is recorded in the Worcester South District Registry of Deeds at Book 5145, Page 29. A full description of the Property and a Property plan are attached as Exhibit A and incorporated into this Agreement. Due to historic industrial activities, the Property is contaminated with Oil and Hazardous Material.

D. There have been multiple releases of Oil and Hazardous Material at the Site as more particularly described below:

1. Release Tracking Number ("RTN") 2-11076 (2-hour notification) was issued on January 19, 1996 for a release of greater than 250 gallons of No. 2 fuel oil to the ground surface and surface water. MMI closed this RTN through submittal of Response Action Outcome ("RAO") Statement to DEP on August 19, 1996.

2. RTN 2-11136 was issued on February 27, 1996 for evidence of a release from a No. 2 fuel oil underground storage tank. Subsequent investigation identified additional reportable contamination, and this became the primary RTN for the Property. MMI submitted a Class C RAO Report for RTN 2-11136 to DEP on May 17, 2005. MMI submitted a more comprehensive Class C-2 RAO Statement to DEP on January 22, 2010. MMI also recently submitted a Temporary Solution Statement (in lieu of a revised Class C-2 RAO Statement) on September 12, 2014.

3. RTN 2-12143 was issued on March 13, 1998 for an Imminent Hazard condition due to elevated total lead concentration in surface soil and for chlorinated volatile organic compounds (“VOCs”) in groundwater above drinking water standards. MMI linked this to the primary RTN, 2-11136 on July 2, 1998.

4. RTN 2-12239 was issued on June 4, 1998 due to cadmium identified in a drinking water sample collected from 103 Worcester-Providence Turnpike. MMI retracted this notification on or about August 3, 1998.

5. RTN 2-15941 was issued on October 12, 2005 due to cadmium identified in a drinking water sample collected from 18 Harback Road, and tetrachloroethene identified in a drinking water sample collected from 99 Worcester-Providence Turnpike. MMI linked this to the primary RTN 2-11136 on November 8, 2006.

6. The Site is more fully described in Exhibit B, including the remedial actions already conducted thereon, which is attached and incorporated into this Agreement.

#### IV. COMMITMENTS AND OBLIGATIONS

In consideration of the representations made and promises exchanged by and between the Parties, each of them covenants and agrees to the terms and conditions which follow.

##### A. REPRESENTATIONS AND COMMITMENTS BY APPLICANT

1. NCP IV represents that:
  - a. it is an Eligible Person;
  - b. it is not now nor has it ever been previously affiliated with any person having potential liability for the Site pursuant to G.L. c. 21E;
  - c. its involvement with the Site has been limited to:
    - i. negotiating to purchase the Property;
    - ii. communicating with the Commonwealth and local authorities with respect to the Project and various permitting issues with respect to the Property; and
    - iii. conducting assessment actions at the Site, as

described in Exhibit B.

d. none of its activities has caused or contributed to the Release or Threat of Release of Oil and/or Hazardous Material at the Site under G.L. c. 21E and/or the MCP.

e. it is not at the time of execution of this Agreement subject to any outstanding administrative or judicial environmental enforcement action arising under any applicable federal, state, or local law or regulation.

2. NCP IV agrees to the following terms and conditions:

a. NCP IV shall tear down a portion of the existing structure on the Property and make improvements to the remaining portion of the structure and pave over the area where the demolished portion of the building stood, as depicted on Exhibit C. The building and Property will be leased to Field Protection Agency, Inc. and used for inside and outside storage.

b. NCP IV shall achieve a Permanent Solution as to all releases at the Site except for the release associated with the presence of cadmium in groundwater, as to which NCP IV shall achieve and maintain a Temporary Solution, and shall cooperate fully with MassDEP. If a Permanent Solution becomes feasible, NCP IV shall achieve a Permanent Solution.

c. To cooperate fully includes, without limitation:

i. providing prompt and reasonable access to the Property to MassDEP for any purpose consistent with G.L. c. 21E and the MCP, and to other persons intending to conduct Response Actions pursuant to G.L. c. 21E and the MCP;

ii. complying with the Release notification provisions established by G.L. c. 21E and the MCP;

iii. responding in a timely manner to any request made by the MassDEP or OAG to produce information as required pursuant to G.L. c. 21E;

iv. taking reasonable steps to prevent the Exposure of people to Oil and/or Hazardous Material, such as by fencing or otherwise preventing access to the Site if appropriate and/or necessary to prevent Exposure or as otherwise required by G.L. c. 21E, the MCP, MassDEP or a Licensed Site Professional acting on behalf of any of NCP IV;

v. taking reasonable steps to contain any further Release or Threat of Release of Oil and/or Hazardous Material from a structure or container at the Site, upon obtaining knowledge of a Release or Threat of Release of Oil and/or Hazardous Material; and

vi. conducting, or causing to be conducted, Response Actions at the Site in accordance with G.L. c. 21E, the Standard of Care defined in G.L. c. 21E, and the MCP.

d. After the achievement of a Temporary or Permanent Solution at the Site, NCP IV and/or their successors or assigns shall operate the Property consistent with any Activity and Use Limitation (“AUL”) recorded for the Site or the Property, as ultimately finalized in any required governmental permitting.

## B. COVENANT NOT TO SUE BY THE COMMONWEALTH

### 1. Covenant as to NCP IV

Pursuant to G.L. c. 21E, §3A(j)(3), in consideration of the representations and commitments by NCP IV set forth in Section IV, Paragraph A of this Agreement, and subject to NCP IV’s compliance with the terms and conditions of this Agreement and the Termination for Cause provisions described below in Section IV, Paragraph B, subparagraph 5, the Commonwealth covenants not to sue NCP IV, pursuant to G.L. c. 21E, for Response Action costs, contribution, property damage or injunctive relief, or for property damage under the common law, relating to a Release of Oil and/or Hazardous Material occurring prior to the execution of this Agreement (“Covered Releases”). This Agreement shall not affect any liability established by contract.

### 2. Subsequent Owners and/or Operators

The Commonwealth also covenants not to sue Eligible Persons who are successors and/or assigns of NCP IV’s ownership or operational interests in the Property or any portion of the Property, or who are lessees or licensees of NCP IV’s successors and assigns (the “Subsequent Owners and/or Operators”) pursuant to G.L. c. 21E for Response Action costs, contribution, property damage or injunctive relief, or for property damage under the common law relating to any Release of Oil and/or Hazardous Material occurring at the Site prior to the execution of this Agreement, so long as the Response Actions achieved meet the Standard of Care in effect when the Permanent Solution or Temporary Solution Statement is submitted to DEP. The liability relief available to Subsequent Owners and/or Operators shall be subject to the same terms and conditions as those that apply to NCP IV and the Subsequent Owner’s and/or Operator’s covenant not to sue the Commonwealth in Section IV, paragraph C, below.

### 3. Applicability of the Agreement

This Agreement shall be in effect unless and until the statutory protections available to NCP IV or Subsequent Owners and/or Operators pursuant to G.L. c. 21E, §5C are in effect. This Agreement is subject to the Termination for Cause provisions described below in Section IV, Paragraph B, subparagraph 5.

### 4. Reservations of Rights

The Commonwealth's covenants in this Agreement shall not apply to:

- a. any new Release of Oil and/or Hazardous Material at or from the Site that occurs after the date of execution of this Agreement;
- b. any Release of Oil and/or Hazardous Material which NCP IV causes, contributes to, or causes to become worse, but if the cause or contribution is that of a Subsequent Owner and/or Operator, such reservation shall affect the liability protection applicable only to such Subsequent Owner and/or Operator and shall not affect NCP IV's liability protection under this Agreement;
- c. any Release of Oil and/or Hazardous Material at the Site that has not been discovered when a Permanent Solution or Temporary Solution Statement is submitted to MassDEP that would have been discovered if an assessment of the Site covered by or addressed in the Permanent Solution Statement or Temporary Solution Statement had been performed consistent with the Standard of Care in effect when the Permanent Solution Statement or Temporary Solution Statement was submitted;
- d. any Release or Threat of Release of Oil and/or Hazardous Material from which there is a new Exposure that results from any action or failure to act pursuant to G.L. c. 21E by NCP IV or a Subsequent Owner and/or Operator during NCP IV's or a Subsequent Owner's and/or Operator's ownership or operation of the Property, but if the action or failure to act is that of a Subsequent Owner and/or Operator, such reservation shall affect the liability protection applicable only to such Subsequent Owner and/or Operator and shall not affect NCP IV's liability protection under this Agreement;
- e. any Release of Oil and/or Hazardous Material not expressly described as one of the Covered Releases; and
- f. any claims for damages for injury to, destruction of, or loss of natural resources.

5. Termination for Cause

a. If the OAG or MassDEP determines that NCP IV submitted materially false or misleading information as part of their Application to Enter into a Brownfields Covenant Not to Sue Agreement ("Application"), the OAG may terminate the liability protection offered by this Agreement in accordance with Subparagraph 5.c. below. A statement made by NCP IV regarding the anticipated benefits or impacts of the proposed Project will not be considered false or misleading for purposes of this Subparagraph if the statement was asserted in good faith at the time it was made.

b. In the event that the OAG or MassDEP determines that NCP IV has violated the terms and conditions of this Agreement, including but not limited to failure to cooperate in the maintenance of a Temporary or Permanent Solution at the Site in accordance with G.L. c. 21E and the MCP, or failure to cooperate in arranging a timely response to a Notice

of Audit Finding or any other notice requiring additional work to achieve and/or maintain a Temporary or Permanent Solution at the Site, the OAG may terminate the liability protection offered by this Agreement in accordance with Subparagraph 5.c., below.

c. In the event that the OAG or MassDEP determines that, despite NCP IV's cooperation, there has been a failure to arrange for the achievement and maintenance of a Temporary or Permanent Solution at the Site in accordance with G.L. c. 21E and the MCP, or a failure to arrange for a timely response to a Notice of Audit Finding or any other notice requiring additional work to achieve and/or maintain a Temporary or Permanent Solution at the Site, the OAG may terminate the liability protection offered by this Agreement in accordance with Subparagraph 5.f. Such termination would not affect the liability protection applicable to NCP IV up to and through the date of said failure.

d. In the event that the OAG or MassDEP determines that, despite NCP IV's cooperation and best efforts, it has failed to complete the Project as described herein, the OAG may terminate the liability protection offered by this Agreement in accordance with Subparagraph 5.f.

e. In the event that the OAG or MassDEP determines that a Subsequent Owner and/or Operator has violated the terms and conditions of this Agreement, including but not limited to failure to complete the Project, or failure to cooperate fully in the maintenance of a Temporary or Permanent Solution at the Site in accordance with G.L. c. 21E and the MCP, or failure to arrange for a timely response to a Notice of Audit Finding or any other notice requiring additional work to maintain a Temporary or Permanent Solution at the Site, the OAG may terminate the liability protection offered by this Agreement to said Subsequent Owner and/or Operator in accordance with Subparagraph 5.f. In the event that the liability protection is terminated solely because of a violation of one or more of the conditions set forth in 940 CMR 23.08(3)(a) through (d) by a Subsequent Owner and/or Operator, such termination shall affect the liability protection applicable only to such Subsequent Owner and/or Operator.

f. Before terminating the liability relief provided by this Agreement, the OAG will provide NCP IV or a Subsequent Owner and/or Operator with written notice of the proposed basis for, and a 60-day opportunity to comment on, the proposed termination. The notice from the OAG shall, if appropriate, provide a reasonable period of time for NCP IV or a Subsequent Owner and/or Operator to cure an ongoing violation in lieu of termination of the liability relief provided by this Agreement in the sole discretion of the OAG.

g. Termination of liability relief pursuant to this section shall not affect any defense that NCP IV or a Subsequent Owner and/or Operator might otherwise have pursuant to G.L. c. 21E.

**C. COVENANT NOT TO SUE BY NCP IV AND ANY SUBSEQUENT OWNER AND/OR OPERATOR**

1. In consideration of the Commonwealth's covenant not to sue in Section IV, Paragraph B, NCP IV covenants not to sue and not to assert any claims or causes of action

against the Commonwealth, including any department, agency, or instrumentality, and its authorized officers, employees, or representatives with respect to the following matters as they relate to the Site or this Agreement:

- a. any direct or indirect claims for reimbursement, recovery, injunctive relief, contribution or equitable share of response costs or for property damage pursuant to G.L. c. 21E in connection with any of the Covered Releases;
- b. any claims for “takings” under the Fifth Amendment to the United States Constitution, under the Massachusetts Constitution, or under G.L. c. 79 based on the argument that, with respect to a Covered Release, the requirements of G.L. c. 21E, the MCP, or the requirements of this Agreement constitute a taking;
- c. any claims for monetary damages arising out of response actions at the Site and/or the Property;
- d. any claims or causes of action for interference with contracts, business relations or economic advantage based upon the conduct of MassDEP pursuant to G.L. c. 21E prior to the date of this Agreement concerning the Covered Releases; or
- e. any claims for costs, attorneys fees, other fees or expenses incurred in connection with the Covered Releases.

2. Subsequent Owners and/or Operators shall be bound by NCP IV covenant in this Paragraph C. In the event that, despite this covenant, a Subsequent Owner and/or Operator asserts any claims or causes of action against the Commonwealth, including any department, agency, or instrumentality, and its authorized officers, employees, or representatives with respect to the claims listed in this Section C, such claims and/or causes of action shall have no effect on the rights, benefits, and protections secured under this Agreement for any other entity.

#### D. PROTECTION FROM THIRD PARTY CLAIMS

1. With regard to any Release of Oil and/or Hazardous Material occurring at the Site prior to the execution of this Agreement that is fully described and delineated in Permanent Solution Statements or Temporary Solution Statements submitted to MassDEP with respect to the Site, so long as the Response Actions upon which the Permanent Solution or Temporary Solution relies meets the Standard of Care in effect when the Permanent Solution Statement or Permanent Solution Statements are submitted to MassDEP, NCP IV and any Subsequent Owner or Operator are entitled to the protection G.L. c. 21E §3A(j)(3) provides from claims for contribution, cost recovery or equitable share brought by third parties pursuant to G.L. c. 21E, §§ 4 and/or 5, or third party claims brought for property damage claims under common law or G.L. c. 21E, §5, based solely on the status of NCP IV and/or any Subsequent Owner or Operator as owner or operator of the Property or the Site, provided, however that NCP IV has satisfied the notification provisions of G.L. c. 21E, §3A(j)(3), and 940 CMR 23.06(1).

E. GENERAL PROVISIONS

1. This Agreement may be modified only upon the written consent of all Parties.

2. If any court of competent jurisdiction finds any term or condition of this Agreement or its application to any person or circumstance unenforceable, the remainder of this Agreement shall not be affected and each remaining term and provision shall be valid and enforceable to the full extent permitted by law.

3. Each Party warrants and represents to the others that it has the authority to enter into this Agreement and to carry out its terms and conditions.

4. This Agreement may be fully executed by all Parties in one or more counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument.

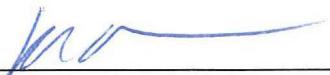
5. The terms of this Agreement shall be effective as of the date it is fully executed by all Parties.

IT IS SO AGREED:

OFFICE OF THE ATTORNEY GENERAL

By: Nancy E. Harper 5/4/15  
Nancy E. Harper  
Assistant Attorney General  
Deputy Division Chief  
Environmental Protection Division  
Office of the Attorney General  
One Ashburton Place  
Boston, MA 02108

NEW COVENANT PARTNERS IV

By:   
\_\_\_\_\_  
Michael P. Zorena, Manager  
Date:

# Exhibit A

Exhibit A

The Property is approximately 2 acres in size, located on the northwesterly side of Harback Road about 250 feet northeast of its intersection with Worcester-Providence Turnpike (State Route 146) and is more particularly described in that certain deed dated August 23, 1971 and recorded in the Worcester South District Registry of Deeds Book 5145, Page 29 and shown on that certain Site Plan of 9 Harback Road, Sutton Massachusetts, which are both attached hereto and incorporated herein by this reference.



6145

30

Then personally appeared the above-named.....Alphonse...D...Kawo-Ltdg.....

and acknowledged the foregoing instrument to be...his.....free act and deed, before me

*Lilwood N. Erskine, Jr.*  
Lilwood N. Erskine, Jr.  
Notary Public

My Commission expires..... May 20 ..... 1977

Recorded Aug. 23, 1971 at 11h. 48m. A. M.

■ END OF INSTRUMENT ■

CERTIFICATE OF ENTRY

WE HEREBY CERTIFY that on the 16th day of August, in the year one thousand nine hundred and seventy-one, we were present and saw/CHAIR-TOWN CO-OPERATIVE BANK,/present holder of a certain mortgage given by DONALD A. MEUNIER and SHIRLEY A. MEUNIER, to CHAIR-TOWN CO-OPERATIVE BANK, dated 12 January 1968 and recorded in Worcester District Registry of Deeds, Book 4824, Page 160, make an open, peaceable, and unopposed entry on the premises described in said mortgage, for the purpose, by him declared, of foreclosing said mortgage for breach of condition thereof,

*Ralph E. McGrath*  
*Otto Hakkinen*

COMMONWEALTH OF MASSACHUSETTS

Worcester, SS.

August 16, 1971.

Then personally appeared the above-named Ralph E. McGrath and Otto Hakkinen and made oath that the above certificate by them subscribed is true, before me,

*John F. Bohman*  
NOTARY PUBLIC  
John F. Bohman

My Commission Expires:

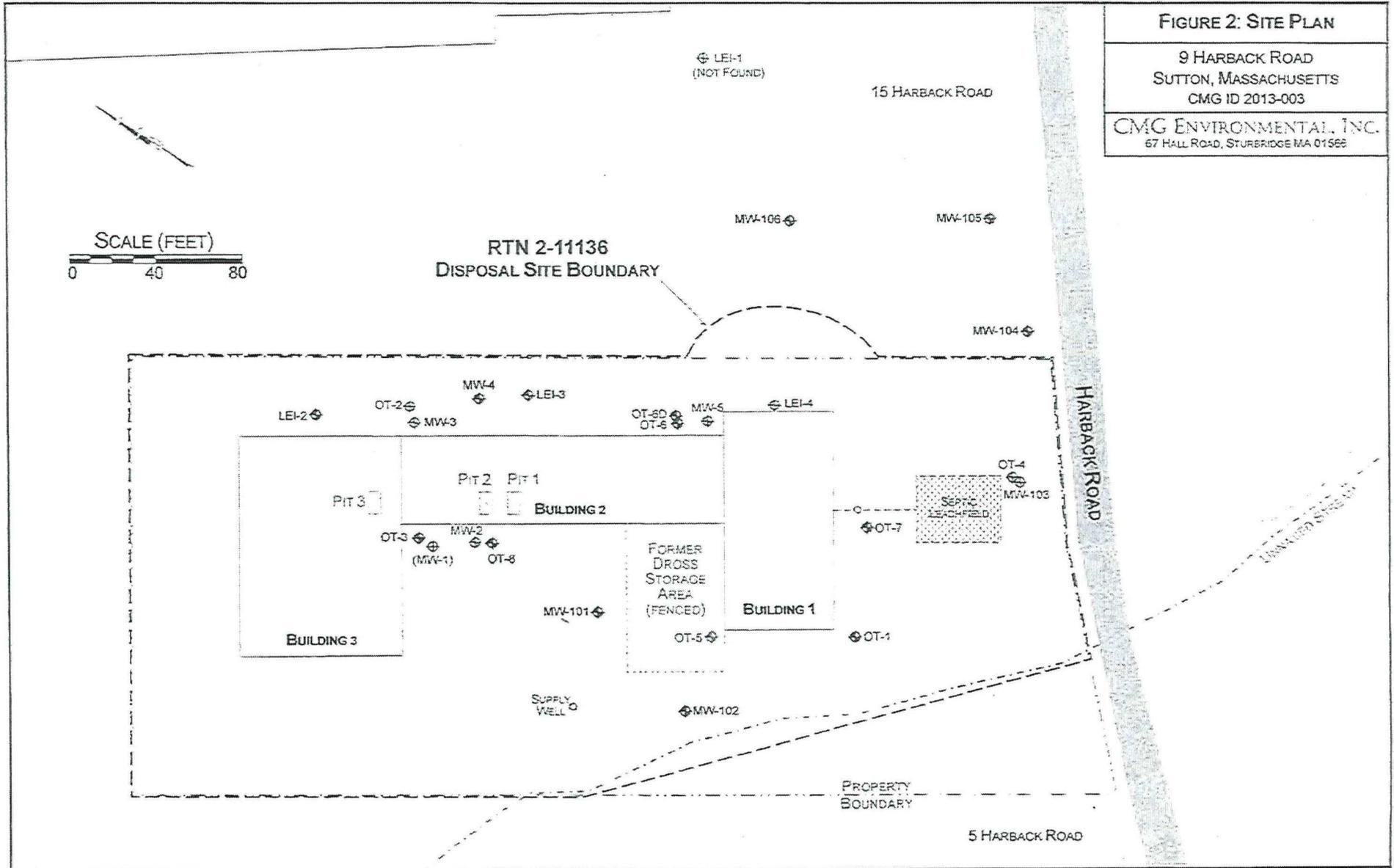
January 27, 1978

Recorded Aug. 23, 1971 at 11h. 46m. A. M.

FIGURE 2: SITE PLAN

9 HARBACK ROAD  
SUTTON, MASSACHUSETTS  
CMG ID 2013-003

CMG ENVIRONMENTAL, INC.  
67 HALL ROAD, STURBRIDGE MA 01566



# Exhibit B

## Exhibit B

# CMG ENVIRONMENTAL, INC.

---

January 9, 2014

Mr. Michael Zorena  
38 Silver Street  
Auburn, MA 01501

**Re: Property Redevelopment Proposal  
9 Harback Road, Sutton MA  
CMG ID 2013-003**

Dear Mr. Zorena:

CMG Environmental, Inc. (CMG) prepared this proposal to address redevelopment of the former Master Metals Industries, Inc. (MMI) property located at 9 Harback Road in Sutton, Massachusetts (the Site). We understand you are in negotiations with The Estate of Aharon Hersh to acquire this property and intend to redevelop the Site for use as a storage facility.

### PROPERTY BUILDINGS

Three conjoined buildings currently exist at the Site:

- MMI constructed the most southerly building in 1971. This is a 5,000-square foot, single-story building of concrete-block construction with 18' walls, a flat roof, and a brick façade. It has a partial mezzanine level comprising 1,100 square feet of storage space. CMG refers to this structure as 'Building 1.'
- MMI constructed (or had moved to the Site location) a Quonset hut circa 1974. This is a 5,600-square foot, single-story building with curved corrugated metal walls/roof. CMG refers to this structure as 'Building 2.'
- MMI constructed the most northerly building circa 1987. This is a 7,500-square foot, single-story building of metal-frame construction with 25' insulated sheet metal walls and a slightly pitched roof. CMG refers to this structure as 'Building 3.'

This proposal discusses removal of all oil and/or hazardous materials (OHM) and other contents from the Site buildings. CMG anticipates demolition of Building 1 and Building 2 (which partially collapsed due to snow load in early 2011) but leaving the concrete floor slabs of these buildings in place. We anticipate industrial hygiene cleaning of Building 3, which is to remain at the Site.

### REMAINING ENVIRONMENTAL ISSUES

The Massachusetts Department of Environmental Protection (DEP) issued four release tracking numbers (RTNs) to the Site over the years: RTNs 2-11076 in January 1996, 2-11136 in February 1996, 2-12143 in March 1998, and 2-15941 in October 2005. Peterson Oil Service closed out RTN 2-11076 through submittal of a Class A-2 Response Action Outcome (RAO) Statement in August 1996. MMI linked 2-12143 to primary RTN 2-11136 in July 1998 and 2-15941 in November 2006. RTNs 2-11136 and 2-15941 currently remain open.

---

67 HALL ROAD  
STURBRIDGE, MA 01566  
PHONE (774) 241-0901  
FAX (774) 241-0906

560 SOUTH MAIN STREET  
NEW BRITAIN, CT 06051  
PHONE (866) 304-7625  
FAX (860) 223-5454

RTN 2-11136 and linked RTN 2-12143 pertain to soil contamination identified west and south of the Site buildings. Much of this contamination is from high lead concentrations, but elevated levels of arsenic, chromium, zinc, and petroleum may also warrant further soil remediation.

RTN 2-15941 pertains to elevated cadmium concentrations detected in groundwater near Building 1. This is of concern because soluble cadmium levels in groundwater at this portion of the Site exceed drinking water standards and several private drinking water supply wells exist within 500' of the property.

#### SCOPE OF WORK

CMG proposes to conduct, supervise, or coordinate the following tasks:

1. Removal of OHM from Site buildings
2. Removal of other building contents
3. Asbestos abatement
4. Building 3 industrial cleaning
5. Buildings 1 & 2 demolition
6. Soil assessment & remediation
7. Drainage work
8. Paving
9. Ongoing groundwater monitoring
10. Environmental documentation & reporting
11. Pending items mandated by DEP audit

#### TASK 1: OHM REMOVAL

CMG conducted a detailed inventory of OHM located within the Site buildings on March 18-19, 2013, as detailed in our previous letter report to you dated April 2, 2013. We propose to consolidate like materials to the extent practical, lab-pack small quantity containers, and arrange for recycling or proper disposal of all such identified OHM.

There are three concrete-lined pits located in Buildings 2 & 3 that currently contain oil or oily water and sludge. CMG will arrange for collection and proper disposal of these liquids and clean these pits out.

#### TASK 2: REMOVAL OF OTHER BUILDING CONTENTS

Buildings 1 & 2 currently contain a substantial amount of stained glass packed in wooden shipping crates. Building 2 contains several large pieces of equipment for rolling metal bar stock and drawing wire. Building 3 contains a large hand-built smelter furnace. All three buildings contain various small equipment, apparatus, and trash.

CMG proposes to sweep and vacuum dust from all items prior to removal from Site buildings since our testing has determined this dust contains high levels of lead. We will have asbestos removed from the smelter in Building 3 (see Task 3 below) prior to dismantling it for recycling as scrap metal. CMG will remove stained glass and other recyclable items from Buildings 1 & 2 after cleaning off as much dust as practical. CMG will temporarily stockpile the outdoors, and place all other items from Building 3 into roll-off dumpsters and arrange for their proper disposal (we expect to leave trash and other non-recyclable items in Buildings 1 & 2 and dispose of them as demolition debris). If the stained glass is owned by others, CMG will load it onto their trucks for shipment off-Site; otherwise we will sell or recycle this glass.

#### TASK 3: ASBESTOS

The Town of Sutton will require a pre-demolition survey for asbestos-containing building materials (ACBM) before issuing a demolition permit. CMG will retain a licensed contractor to prepare this pre-demolition survey for Buildings 1 & 2, and also conduct the necessary asbestos abatement. We will also have this contractor properly abate asbestos from the hand-built smelter furnace currently located in Building 3. Asbestos abatement may involve sealing the building to maintain negative pressure, wetting down identified ACBM, removing the ACBM and properly sealing it in plastic bags, and properly disposing of the removed ACBM at a licensed facility.

#### TASK 4: INDUSTRIAL CLEANING

CMG will establish dust clearance levels and arrange for cleaning of Building 3 to remove lead-contaminated dust. We will then conduct sufficient wipe testing to demonstrate achieving these clearance levels. CMG will also arrange for proper disposal of collected dust and lead-contaminated cleaning materials.

#### TASK 5: BUILDING DEMOLITION

After Buildings 1 & 2 are emptied out and properly abated for asbestos, CMG will coordinate obtaining demolition permits and conducting the actual demolition. We will arrange for proper disposal of building materials; it is possible that portions of Building 1 may be recyclable as brick and concrete rubble, and portions of Building 2 (the Quonset hut) may be recyclable as scrap metal.

CMG will have safety railings or similar barriers installed on the elevated front (southeasterly) portion of the Building 1 foundation, which will remain as a loading dock. We will also have the pit structures in Buildings 2 & 3 filled in with compacted rubble and additional concrete poured to obtain a level surface.

#### TASK 6: SOIL ASSESSMENT & REMEDIATION

Site soil contains widespread total lead contamination and four isolated locations with elevated concentrations of arsenic, chromium, zinc, and/or petroleum hydrocarbons. DEP has set forth a Method 1 risk characterization standard of 300 mg/Kg for lead in soil (regardless of property use). CMG calculates the average concentration of lead in soils currently remaining at the Site is 560 mg/Kg, based on data collected between 1995 and 2004.

The simplest way for the Site to achieve regulatory closure with regards to soil contamination issues would be to excavate and remove sufficient soil from the Site so that the average concentration of lead in soils remaining at the Site is less than 300 mg/Kg. However this would entail removal of several hundred cubic yards of soil and render the entire redevelopment project financially infeasible. CMG anticipates that it will only be necessary to remove 'hot spots' of elevated lead, arsenic, and petroleum hydrocarbon contamination by excavating contaminated soil from the most-impacted areas.

CMG proposes collecting sufficient soil samples for disposal characterization analyses. This will involve collecting shallow soil samples from approximately 15 locations across the Site, with deeper samples collected at 5 of these locations. CMG will submit soil samples for one or more of the following analyses:

- Total arsenic, cadmium, chromium, lead, mercury & zinc
- TCLP extraction and analysis of leachable metals
- Hexavalent chromium

- Extractable petroleum hydrocarbons (EPH)
- Polychlorinated biphenyls (PCBs)
- Volatile organic compounds (VOCs) via EPA Method 8260B
- Sulfide and cyanide reactivity
- pH (corrosivity)
- Flashpoint

CMG will prepare the necessary Bill of Lading (BOL) or uniform hazardous waste manifest documentation for such disposal. Please note that we will need your signature as 'generator' on these documents.

#### TASK 7: DRAINAGE WORK

CMG will contract Title V testing of the existing septic system (currently connected to Building 1). Provided this passes inspection, we will arrange for installation of a bathroom in Building 3 and have this bathroom connected to the existing septic system.

CMG will also obtain the necessary permits from the Town of Sutton for the proposed Site redevelopment. We anticipate this will involve grading to facilitate stormwater infiltration rather than direct runoff to the unnamed stream that traverses the southwesterly portion of the Site. CMG will supervise any such grading, which will require Licensed Site Professional oversight due to residual contamination remaining at the Site.

#### TASK 8: PAVING

CMG will coordinate grading and paving activities to obtain a level surface suitable for semi-trailer traffic at the Site (including single-pass turnaround). At this juncture we believe that high-grade compacted asphalt grindings will provide the best combination of permeability, durability, and economy for the final paved surface.

Building demolition activities will leave the concrete slabs of Buildings 1 & 2 in place, along with most of the existing pavement southeasterly of Building 1. CMG expects to incorporate these surfaces into the overall Site pavement with minor patching.

#### TASK 9: ONGOING GROUNDWATER MONITORING

CMG has been collecting groundwater samples annually from existing monitoring wells OT-5 (February) and LEI-4 & MW-5 (May) in accordance with the Operation, Maintenance, and Monitoring (OMM) plan we provided to DEP in January 2010. CMG anticipates continuing this ongoing groundwater monitoring until dissolved cadmium levels naturally attenuate sufficiently to allow closure of RTN 2-15491 with DEP.

#### TASK 10: ENVIRONMENTAL DOCUMENTATION & REPORTING

As noted under Task 6 above, CMG anticipates that proper disposal of contaminated soil ("remediation waste") from the Site will require us to prepare BOL documentation, which will also require your certification on eDEP.

DEP regulations require submittal of semi-annual OMM Reports every six months. CMG is currently preparing the next such OMM Report, due for submittal on or about January 22, 2014. We propose to prepare subsequent OMM Reports on your behalf for submittal via eDEP on the schedule of January and July of each year. Please note that this will require you to register with eDEP for online submittal purposes. DEP regulations also require submittal of a "Periodic

Review” report every five years after achieving a Class C-2 RAO; the first such report will be due January 22, 2015.

CMG anticipates that it will be necessary to impose a Notice of Activity and Use Limitation (AUL) on the property in order to achieve a Response Action Outcome (RAO) for RTN 2-11136. We foresee that restricted Site activities would include a prohibition on residential, recreational, or agricultural use of the property (which is not allowed by current zoning anyway), along with a requirement to maintain paving and buildings in a condition to prevent direct contact with residual soil contamination. CMG will prepare AUL documentation to this end, which requires the property owner’s notarized signature and recording with the Worcester South District Registry of Deeds.

When soil remediation is complete and an AUL imposed on the Site, CMG will prepare a Class A-3 RAO Statement to close out the RTN 2-11136 soil issues with DEP. We expect that this will be a partial RAO due to the remaining cadmium contamination in Site groundwater (DEP has no regulatory mechanism to ‘un-link’ RTN 2-15941 from primary RTN 2-11136).

#### TASK 11: DEP AUDIT ITEMS

In 2013 DEP initiated an audit of response actions conducted by MMI and The Estate of Aharon Hersh to address RTNs 2-11136 & 2-15941. CMG met with Ms. Amy Sullivan of DEP at the Site on October 31, 2013. At that time Ms. Sullivan informed us that DEP expects to require additional sampling of private drinking water supplies within 500’ of the Site, and also additional groundwater testing. CMG plans to accommodate DEP’s requests once they issue a final Notice of Audit Findings. This will require submittal of a Post-Audit Completion Statement via eDEP in addition to drinking water and groundwater sampling.

#### ESTIMATED COSTS & SCHEDULE

CMG proposes to conduct this project on a time and materials (T&M) basis. We have prepared the attached spreadsheet to itemize estimated low and high costs for each of the tasks outlined above. It is CMG’s experience that the actual cost for some tasks will run to the high end of the estimated range and others will fall in the lower end of the range; the overall project cost generally falls in the middle of the estimated cost range, but we cannot guarantee this will always be the case. As CMG discussed with you previously, we expect the actual cost of the tasks itemized above will total between \$340,000 and \$450,000.

CMG requests a retainer of \$10,000 to commence work on this project. We anticipate invoicing you on a monthly basis (or upon completion of task milestones if appropriate) for the duration of redevelopment.

CMG anticipates being able to complete tasks on the following schedule:

- Removal of OHM from Site buildings (Task 1), pre-demolition asbestos survey (part of Task 3), and establishing dust clearance levels (part of Task 4) within one month of authorization;
- Removal of other building contents (Task 2), asbestos abatement (Task 3), Building 3 cleaning & dust clearance (Task 4), and contaminated soil assessment (part of Task 6) within two months of authorization;
- Ongoing groundwater monitoring (Task 9) on the current schedule of sampling in February and May of each year;

- Demolition of Buildings 1 & 2 (Task 5) within four months of authorization, so long as the Town of Sutton provides timely approvals;
- Soil remediation (Task 6) and drainage work (Task 7) completed within two months of building demolition (pending timely approvals);
- Paving (Task 8) and imposition of an AUL (part of Task 10) within three months of building demolition;
- Response to DEP audit (Task 11) within two months of DEP issuing their final Notice of Audit Findings; and
- Environmental documentation & reporting (Task 10) as required throughout the redevelopment process, with the expectation of submitting the Class A-3 RAO-P within four months of building demolition, which will close out environmental issues with DEP (apart from ongoing groundwater monitoring).

#### LIMITATIONS

CMG will prepare environmental reports on behalf of Mr. Michael Zorena, his successors and assigns in connection with assessment and remediation of on-Site environmental conditions. We do not authorize use of these reports by others for any reason, except with our prior written consent. CMG will also prepare municipal applications on behalf of Mr. Zorena, his successors and assigns as warranted throughout the course of Site redevelopment.

CMG will base the conclusions of our reports, in part, on information provided by you, your agents, and by third parties (including state and local officials). You have authorized us to rely upon this information in conducting this investigation, and CMG assumes no further responsibility for the veracity or completeness of such information. Information derived from CMG's visual observation of the Site describes conditions at the time of the inspection, and may not be representative of past or future conditions.

The client acknowledges that DEP notification may be required if identified contamination originates from an on-Site source. CMG does not assume reporting obligations that are lawfully the responsibility of the client and/or Site owner. Under certain circumstances, environmental conditions may warrant or demand DEP reporting, and CMG's Licensed Site Professional (LSP) must notify DEP within two or 72 hours (depending on the severity of the reportable condition) if the client chooses not to report.

ACCEPTANCE

This letter, referred to as "the Proposal," describes our proposed consultant services. We have attached our standard Terms & Conditions to the proposal, which together constitute "the Agreement." If the terms of this Agreement are acceptable to you, please sign below and return signed page to our office (email or fax preferred) along with the retainer fee.

Name: \_\_\_\_\_  
(Signature)

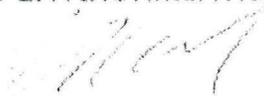
Name: \_\_\_\_\_  
(Printed)

Title: \_\_\_\_\_

Date: \_\_\_\_\_

We at CMG look forward to continuing to work with you on this project. As always, please contact me at 774-241-0901 (office) or 508-320-0421 (cell) if you have any questions or if CMG can be of any further assistance to you.

Sincerely,  
CMG ENVIRONMENTAL, INC.



Benson R. Gould, LSP, LEP  
Principal

Attachment: Estimated Project Costs spreadsheet  
Terms & Conditions

CMG Environmental, Inc. (CMG) prepared this Post-Audit Completion Statement (PACS) for the former Master Metals Industries, Inc. (MMI) property located at 9 Harback Road in Sutton, Massachusetts (the Property).

The Massachusetts Department of Environmental Protection (DEP) has issued several release tracking numbers (RTNs) to the Property over the years. Three of these currently remain open (primary RTN 2-11136 and linked RTNs 2-12143 & 2-15941). DEP conducted a comprehensive audit of response actions for these three RTNs beginning in October in 2013 and issued "Notice of Audit Findings and Notice of Noncompliance" NON-CE-14-3A016 to The Estate of Aharon Hersh (The Estate, successor to MMI) on March 17, 2014. This Notice required that by September 13, 2014 The Estate either:

- A. Submit a revised RAO Statement "that addresses the violations identified and complies with the requirements of the MCP," or
- B. Retract the Class C-2 RAO Statement and submit a Tier Classification submittal (and a Tier I Permit application if applicable).

CMG prepared a Temporary Solution (TS) Statement for RTN 2-11136 dated September 10, 2014 in lieu of a "revised RAO Statement" (since the 4/25/14 MCP revisions eliminated the terms "Response Action Outcome" & "RAO"), which The Estate is concurrently submitting via eDEP. CMG presumes that persons interested in this PACS will also have access to this document, and where possible we cite section numbers of the TS Report rather than reprinting the same information herein.

DEP lists nine specific deficiencies in response actions conducted for RTNs 2-11136, 2-12143 & 2-15941 as paragraphs (a) through (i) of NON-CE-14-3A016. This PACS quotes each of these paragraphs in turn, followed by an explanation of how The Estate has addressed them.

**PARAGRAPH (a): MACHINE PITS**

- a. The Class C-2 RAO, received by MassDEP on January 22, 2010, states that Contaminants of Concern (COCs) in site soil are limited to lead, cadmium, zinc, chromium and Extractable Petroleum Hydrocarbons (EPH). Soil samples collected in November 2001 from the "machine pit" area revealed Tetrachloroethene (PCE) at a concentration of 33.8 mg/kg and trichloroethene (TCE) at 299.6 mg/kg. These samples were collected from beneath "Pit 2" at a depth of 9-10' by Lessard Environmental. The 2001 soil samples from "Pit 1" revealed PCE at 10.7 mg/kg and TCE at 0.86 mg/kg at a depth of 9-15'. According to the Phase II Report submitted in December 2002, soil samples collected from "Pit-2" in 1997 revealed 15.8 mg/kg of PCE and 380.1 mg/kg of TCE, both reportedly collected at a depth of 6" below grade. Chlorinated volatile organic compounds (CVOCs), including TCE and PCE, must be considered site COCs in soil for purposes of risk characterization, in accordance with 310 CMR 40.0904(3).

Although an in-situ remediation program was conducted in the pit area by Corporate Environmental Advisors, Inc. (CEA) in April 2004, it was not proven to be successful. Table I of the January 2010 Class C-2 RAO, "Soil Data for Soil Remaining at the Site," indicates that the soil in the machine pit area (Pit-1, Pit-2, and Pit-3) has been removed, and is not included in soil Exposure Point Concentrations

(EPCs). No other documentation of soil removal or remediation in the area of the machine pits has been provided to MassDEP. Post-excavation confirmatory soil samples do not appear to have been collected. No soil borings or groundwater monitoring wells have been installed beneath the site buildings and machine pits to assess the nature and extent of contamination, as required by 310 CMR 40.0904(2). If residual concentrations of site COCs remain in soil in the machine pit areas then conservative EPCs have not been calculated, in violation of 310 CMR 40.0924(1). In addition, limited groundwater data downgradient of the pits make it difficult to determine if the soil in "Pit 2" may be acting as a continuing source of groundwater contamination.

RESPONSE:

CMG and The Estate agree with DEP that the set of contaminants of concern in soil at the Property should include the chlorinated VOCs TCE and PCE. To that end, Section 2.1 of the TS Report includes TCE and PCE as "contaminants detected in soil remaining at the Property" and subsection 2.1.1 provides a detailed discussion of chlorinated VOC testing in soil. Section 4.4 of the TS Report presents the Substantial Hazard evaluation CMG conducted [as appropriate for a Temporary Solution pursuant to 310 CMR 40.1050(1)] and subsection 4.4.1 discusses how CMG addressed TCE and PCE in soil in our Substantial Hazard evaluation.

CMG and The Estate also agree with DEP that the soil sampled by Lessard Pit-1 and Pit-2 still remains at the Property. CMG has removed the cross-hatching over these samples in Table 1 of the TS Report (Soil Quality Data), and we have included these samples in Table 1A (Soil Remaining at Property).

Lessard Environmental, Inc. (Lessard) initially reported the results from their November 30, 2001 sampling of the three machine pits within Property Buildings 2 & 3 in the Immediate Response Action Status Report #5 they prepared for MMI dated February 9, 2002. This report indicates that Lessard collected soil samples for field screening at depths ranging from 0 to 28 inches "within the pits." CMG interprets this to mean depth below the bottom surface of the machine pits (presumably poured concrete, but not definitively stated in any of the numerous reports we have reviewed for the Property). On March 18, 2013 CMG measured the depth of the machine pit in Building 3 (Pit 3) as approximately 6'. We were unable to measure the depth of machine pits in Building 2 at that time (due to the collapsed Quonset hut structure and presence of rolling mills) but these pits appear to be of similar construction. Therefore CMG presumes the 9-15" soil sample Lessard collected under Pit 1 was from a depth of approximately 6½-7' below grade, and the 9-10" sample under Pit 2 was from about 6-7' below grade. Therefore CMG considers this soil to be category S-3 for the purposes of risk characterization (see Section 4.3.2 of the TS Report).

CMG concurs with DEP that machine pit remediation efforts Corporate Environmental Advisors, Inc. (CEA) conducted in April 2004 were not confirmed through follow-up soil sampling. However we note that the reported depths to groundwater gauged in adjacent monitoring wells OT-8, LEI-3, MW-2, and MW-4 have ranged from 5.92-8.07' below grade, which suggests that Lessard collected the Pit-1 and Pit-2 soil samples from below the seasonal high water table elevation. Therefore one would expect that groundwater concentrations of TCE and PCE in down-gradient wells LEI-3 and MW-4 would be strongly influenced by their concentration in soil in the interval that Lessard sampled. Well LEI-3 (located hydraulically downgradient of Pit 1 and Pit 2) exhibited a 94% reduction in chlorinated VOC concentrations in April 2004 as compared

to previous (March 2003) sampling (see Table 2 and Chart G of the TS Report); CEA sampled well MW-4 only once (on 10/5/05), when it exhibited only 1.5 µg/L of TCE. CMG interprets this as indication that CEA's remediation efforts were reasonably successful.

CMG conducted Substantial Hazard evaluation of S-2 soils because these are the only soils that current or reasonably foreseeable human receptors would be exposed to. We believe it is not appropriate to use measured concentrations of TCE and PCE in the Pit-1 and Pit-2 samples (which are category S-3 due to depth and inaccessible location beneath Property Building 2) for this Substantial Hazard evaluation. Nonetheless, CMG believes that risk characterization should consider the possibility that some category S-2 soil at the Property might exhibit TCE or PCE. Therefore we conservatively incorporated an estimated EPC value equivalent to the average laboratory reporting limit for these VOCs in the 9 samples of category S-2 soil tested for VOCs (none of which exhibited any TCE or PCE identifications) in our Substantial Hazard evaluation for the construction worker scenario (see Section 4.4.1 and Table 8A of the TS Report).

PARAGRAPH (b): ARITHMETIC VS. GEOMETRIC MEAN

- b. Lead concentrations remaining in site soil range from 1.83 milligrams per kilogram (mg/kg) to 4,330 mg/kg. The 2010 RAO concludes that the appropriate measure of the average concentration of total lead at the Site is the geometric mean rather than the arithmetic mean. According to MassDEP's Office of Research and Standards (ORS) the average concentration (arithmetic mean) is the best way to estimate the average concentration contacted by a receptor at the exposure point over time, and that the geometric mean is likely to underestimate the average concentration contacted over time. Based on this determination, it is MassDEP's position that the use of a geometric mean to calculate an EPC of lead in soil is not a conservative estimate of the concentration contacted by a receptor over time, in violation of 310 CMR 40.0926(3)(b).

RESPONSE:

CMG and The Estate agree with DEP that use of the geometric mean concentration as an EPC value is not sufficiently conservative for risk characterization purposes. Therefore CMG used the arithmetic mean averages as EPC values in our Substantial Hazard evaluation of soil exposure (see Section 4.3.5 and Tables 2A, 8A & 8B of the TS Report).

CMG still maintains that the data for total lead and cadmium in Property soils are log-normally distributed, so the geometric mean concentration provides a much better measure of central tendency for these data sets than does the arithmetic mean (see Sections 2.1.3 & 2.1.4, Tables 1C & 1D, and Charts A through D of the TS Report).

PARAGRAPH (c): ARSENIC IN SOIL

- c. The RAO Statement states that arsenic is not considered a Contaminant of Concern, based on it being "consistently present and naturally occurring." However, it is possible that arsenic was used during on-site operations, as arsenic was commonly used to alloy with lead. Table I-A of the RAO, "Data for Soil Remaining at Site," indicates that arsenic was detected in all locations where lead, cadmium, and chromium were also detected. Although the EPC for arsenic in soil approaches the S-1/GW-1 Method 1 Risk Characterization Standard of 20 mg/kg, the only soil sample ("Background Lessard") collected outside of the release areas where other COCs

were not detected found arsenic at a concentration of 6.91 mg/kg. Additional sampling for arsenic outside of the smelting waste release areas is needed to further eliminate arsenic from consideration as a COC within the release areas. Although the EPC for arsenic in soil remaining at the site is 20.5 mg/kg, only slightly above the S-1/GW-1 concentration of 20 mg/kg (background is also 20 mg/kg), arsenic should be included as a site COC, or more conclusively shown or technically justified to be background. Therefore, background concentrations of arsenic have not been established at the site, as required by 310 CMR 40.0904(3).

RESPONSE:

Statistical analysis that CMG conducted on the set of total arsenic data in Property soils is equivocal as to whether these data are normally or log-normally distributed (see Section 2.1.5, Table 1E, and Charts E & F of the TS Report). CMG interprets this to indicate there are both naturally-occurring and anthropogenic sources of total arsenic at the Property. We believe that 17 mg/Kg, the average total arsenic concentration in soil remaining at the Property omitting the apparent data outlier (Lessard sample SS-13 [1-2']), is a reasonable estimate of background total arsenic levels. However, CMG does not have sufficient data to unequivocally demonstrate this, and it is possible that the true background level for arsenic in Property soils may be as low as 5.5 mg/Kg (see Section 4.2.1 of the TS Report).

CMG included arsenic as a contaminant of concern, and did not attempt to subtract out any background level from our calculated EPC of total arsenic for risk characterization purposes. We conservatively calculated an average S-2 soil EPC of 20.7 mg/Kg (including the apparent data outlier) and used this value in our Substantial Evaluation for soil exposure (see Tables 2A, 8A & 8B of the TS Report).

PARAGRAPH (d): EXTENT OF CHLORINATED VOCs

- d. TCE and PCE trends in select groundwater monitoring wells have fluctuated significantly from initial detections in 1998 through 2003, with PCE ranging from <1.0 to 35 ug/L and TCE ranging from 3.8 to 420 ug/L in MW LEI-3, located directly downgradient of the former pit area. PCE concentrations in MW OT-6D have ranged from <1.0 ug/L to 10.5 ug/L. TCE concentrations have ranged from <1.0 ug/L to 191 ug/L. Monitoring wells MW-104, MW-105, and MW-106, located hydraulically downgradient of MW LEI-3 were only sampled once, in May 2008. Shallow groundwater monitoring wells located hydraulically downgradient of the chlorinated solvent-impacted area have not been sampled to adequately characterize the effects of seasonal variation on groundwater contaminant concentrations and determine a conservative Exposure Point Concentration for a GW-1 drinking water area, as required by 310 CMR 926(3)(a)(3).

RESPONSE:

Prior to the DEP audit, CMG's conceptual site model (CSM) for chlorinated VOCs in Property groundwater was that the obvious diminishing trend in chlorinated solvent contamination measured in groundwater samples from the Property was due to CEA's remediation efforts in April 2004, along with natural attenuation due to biodegradation and dispersion. We collected groundwater samples from select monitoring wells for chlorinated VOC analysis in all four quarters of 2010, and the results of this testing agreed well with this CSM (which is why CMG ceased groundwater monitoring for VOCs in November 2010).

CMG and The Estate agree that DEP presents a good alternative CSM of chlorinated VOC contamination, namely that the plume of chlorinated VOC contamination has migrated past the monitoring wells that CMG has sampled in 2010 (OT-2, OT-3, OT-6D & LEI-3). [Incidentally, this alternative CSM also implies that residual chlorinated solvent contamination beneath the Property Building 2 machine pits no longer constitutes a significant ongoing contaminant source.] Therefore CMG collected groundwater samples for chlorinated VOC analysis in May, August, and September 2014 from monitoring wells OT-6D, LEI-3, and MW-103 at the Property and downgradient wells MW-104, MW-105, and MW-106 on the northeast-abutting 15 Harback Road property. We also made a concerted effort to locate former downgradient monitoring well LEI-1 at 15 Harback Road, but could not find it and presume this well destroyed.

Unfortunately it appears that DEP's alternative CSM is correct, as the recent groundwater analyses documented a TCE concentration of 5.3 µg/L in well LEI-3 in May 2014 (slightly above its 5 µg/L GW-1 standard) and PCE concentrations of up to 31.2 µg/L in downgradient wells MW-105, and MW-106 (significantly above its 5 µg/L GW-1 standard). This finding demonstrates the need for additional downgradient assessment, but recent drinking water analyses confirm there is no current Substantial Hazard from TCE or PCE (see Sections 4.4.2 & 5.2.6 and Table 3 of the TS Report).

PARAGRAPH (e): CADMIUM IN SURFACE WATER

- e. Sampling of groundwater monitoring well OT-5, located approximately 50' from the on-site stream, revealed cadmium exceeding Method 1, GW-1 and GW-3 standards. The surface water was not sampled for cadmium, or any other site COC, with the exception of lead. The nature and extent of contamination in site surface water may not be defined per 310 CMR 40.0904(2)(c)(1).

RESPONSE:

CMG and The Estate agree with DEP that additional assessment of surface water is warranted at the Property. On August 22, 2014 CMG was prepared to collect surface water samples from the unnamed intermittent brook that traverses the Property for total cadmium, total lead, and hardness analyses but the brook was dry at that time. We were able to collect sediment samples from three locations in the brook streambed for total cadmium, chromium, and lead analysis (see Section 2.4.1, Figure 2, and Table 4 of the TS Report). Total cadmium was higher in the most downstream sediment sample location (though still below sediment benchmark screening criteria), which suggests the possibility that Property cadmium contamination has impacted this intermittent stream. CMG opines that surface water sampling for total cadmium would be prudent when there is water in this intermittent brook to sample.

PARAGRAPH (f): SEDIMENT SAMPLING

- f. Historic sediment sampling detected lead and EPH in sediment from the on-site intermittent stream. Concentrations of lead appear to be higher in the upstream and downstream sampling locations (Lessard samples 11-2001). Sediment sampling in December 1997 identifies lead exceeding benchmark levels in upstream and downstream sediment, and concludes that this lead is naturally occurring. However, no other metals were analyzed. The Nature and Extent of impact to site sediment may not be defined per 310 CMR 40.0904(2)(c), given the identification of cadmium and chromium as other contaminants of concern at the site.

RESPONSE:

CMG collected sediment samples from three locations in the dry streambed of the unnamed intermittent brook that traverses the Property on August 22, 2014 (see response to paragraph (e) above). This testing included analysis for total cadmium, chromium, and lead, along with EPH and total organic carbon (see Section 2.4.1 and Table 4 of the TS Report). Testing documented elevated lead concentrations in all three sediment samples, with the highest concentration in the most upstream sample (collected at the Property boundary). CMG does not believe the elevated lead concentrations to be naturally occurring. However, we conclude that the source of EPH, cadmium, chromium, and lead contamination in sediment samples is upstream of the Property and therefore not attributable to RTNs 2-11136, 2-12143, or 2-15941 (see Section 4.4.4 of the TS Report).

PARAGRAPH (g): BEDROCK AQUIFER

- g. The 2010 Class C-2 RAO does not consider drinking water wells in the area as receptors of site contamination. Although overburden groundwater has been determined to flow in a generally easterly direction across the site, the depth and construction of private wells in the area have not been determined. Bedrock assessment, including fracture trace analysis, pump tests, or borehole logging has not been conducted to further characterize the bedrock aquifer and hydraulic conductivity of the potable water supply to the site groundwater. Therefore, the private drinking water wells within 500 feet are considered to be potential exposure points that have not been adequately assessed for purposes of risk characterization to demonstrate that a condition of No Substantial Hazard exists as required for Class C RAO by 310 CMR 40.1050; and to continually assess and evaluate for a condition requiring an Immediate Response Action as per 310 CMR 40.0411(7); and to ultimately demonstrate that groundwater Exposure Point Concentrations (EPCs) everywhere within 500 feet of potable wells meet applicable GW-I Method I Risk Characterization standards to demonstrate a Condition of No Significant Risk to achieve a Permanent Solution for the site.

RESPONSE:

CMG and The Estate reiterate that based on the available data, we do not consider private drinking water supply wells at or near the Property to be current exposure points for contamination attributable to RTNs 2-11136, 2-12143, or 2-15941. However we agree with DEP that private drinking water supply wells within 500' of disposal site boundaries each constitute a potential exposure point.

CMG inquired at the Sutton Board of Health office regarding available documentation of private drinking water supply wells in the Property vicinity in 2009 while researching available information for our January 2010 Class C-2 RAO Report for RTN 2-11136. A Board of Health representative informed us at that time that the Town of Sutton does not have records documenting depth or construction of the private supply wells in question. Fracture trace analysis, pump testing, and borehole logging are beyond the means of The Estate, and CMG opines such testing is not warranted.

CMG collected drinking water samples from 6, 14, 15, 16 & 18 Harback Road on August 15, 2014 for total cadmium analysis to evaluate potential exposure of human receptors and assess for potential IRA conditions relative to RTN 2-15941. This testing did not identify any total

cadmium above laboratory reporting limits in the drinking water samples (see Section 2.3 and Table 3 of the TS Report).

CMG verbally notified DEP of a potential new IRA condition on August 29, 2014 upon identifying a PCE concentration above 5 µg/L in downgradient monitoring well MW-106. Mr. Robert Dunne of the DEP Central Region Emergency Response Branch took our call, and after consultation with other DEP staff responded back that this was not a new IRA condition and thus did not warrant issuance of a new RTN. CMG collected additional drinking water samples from 9, 14, 15, and 16 Harback Road on September 2, 2014 for analysis of VOCs via EPA Method 524.2 to ascertain whether there was any exposure to human receptors (we also collected additional groundwater samples on that date to better delineate this new finding). Laboratory analysis did not identify any VOCs in these drinking water samples attributable to RTNs 2-11136 or 2-12143. CMG concludes that this is sufficient evidence that elevated TCE levels in groundwater at wells MW-105 and MW-106 does not constitute an actual Substantial Hazard to human receptors pursuant to 310 CMR 40.0956(1)(c) [see Section 4.4.2 of the TS Report].

CMG and The Estate believe that additional assessment is warranted to define the downgradient extent of the chlorinated VOC plume in groundwater, and also that testing of additional private drinking water supplies within 500' is warranted. There has not been sufficient time to conduct this additional assessment to date, but The Estate (or the future Property owner) intends to do so as soon as practical (see Section 5.2.6 and Figure 9 of the TS Report).

#### PARAGRAPH (h): MONITORED NATURAL ATTENUATION

- h. According to the 2010 Class C-2 RAO, the plan to achieve a Permanent Solution at the site includes ongoing groundwater monitoring for chlorinated volatile organic carbons (CVOCs). The selected remedial alternative for cadmium in site groundwater includes Monitored Natural Attenuation (MNA) through dispersion. The Class C-2 RAO states that the US EPA definition of MNA: "reliance on natural attenuation processes (within the context of a carefully controlled and monitored site cleanup approach) to achieve site-specific remediation objectives within a time frame that is reasonable compared to that offered by other more active methods" will be followed. MNA parameters, such as dissolved oxygen, pH, temperature, oxidation-reduction potential (ORP), dissolved organic carbon, dissolved iron or sulfate, etc. have not been monitored, as recommended by USEPA guidance (see *Monitored Natural Attenuation of Inorganic Contaminants in Groundwater*, Vol. 1 and 2, October 2007, EPA/J6001R-071139 & 140), to demonstrate that MNA is occurring primarily as a destructive and/or detoxifying processes such as adsorption and precipitation, to minimize long-term management of groundwater contamination in accordance with the Response Action Performance Standard (RAPS), in accordance with 310 CMR 40.0191(2)(a), (b) and (3)(a). Dispersion of groundwater contamination, by itself, is not considered to meet the requirements of RAPS, as per 310 CMR40.0191(3)(c).

#### RESPONSE:

[Slight clarification: CMG notes that the EPA definition of MNA quoted in paragraph (h) above does not appear in the 2010 Class C-2 RAO Report for RTN 2-11136. However, CMG does provide this definition verbatim in our January 2013 Post-RAO OMM Report #6 and subsequent OMM reports.]

Section 4.4 of the Class C-2 RAO Report presents MMI's 'Plan to Achieve a Permanent Solution' and subsection 4.4.2 details this plan with regards to groundwater concerns. This plan stated that "MMI will monitor natural attenuation of chlorinated VOCs" and "CMG opines that natural attenuation (through dispersion) will eventually reduce dissolved cadmium concentrations below MIRC standards." This plan nowhere obligates MMI to test for the MNA parameters that DEP cites. Nonetheless, CMG and The Estate concur that evaluation of such parameters could serve to better quantify natural attenuation.

CMG routinely screens low-flow groundwater samples for pH, temperature, and conductivity (see Section 3.2.2 of the TS Report), although we have not included this information with OMM reports for RTN 2-11136. The following table summarizes available field screening reading data from March 2010 through September 2014.

FIELD SCREENING READINGS

DATE	WELL ID	PH	TEMPERATURE	CONDUCTIVITY
3/1/10	OT-2	6.03 S.U.	8.0 °C	267 µS
	OT-3	6.25 S.U.	5.1 °C	27.9 µS
	OT-5	5.35 S.U.	4.2 °C	583 µS
	LEI-3	6.06 S.U.	6.8 °C	148 µS
5/21/10	OT-3	6.79 S.U.	13.7 °C	47 µS
	MW-5	6.55 S.U.	13.4 °C	168 µS
11/18/10	LEI-4	6.37 S.U.	14.1 °C	185 µS
	OT-3	6.14S.U.	12.6 °C	33.7 µS
	OT-6D	6.24 S.U.	14.1 °C	145 µS
2/17/11	OT-5	5.38 S.U.	4.7 °C	1,244 µS
5/26/11	MW-5	5.61 S.U.	11.9 °C	391 µS
11/16/11	LEI-4	7.77 S.U.	15.1 °C	455 µS
2/15/12	OT-5	6.10 S.U.	6.2 °C	295 µS
5/17/12	LEI-4	5.90 S.U.	11.2 °C	494 µS
	MW-5	5.66 S.U.	11.9 °C	342 µS
2/22/13	OT-5	4.56 S.U.	2.6 °C	0 µS
5/28/14	LEI-3	6.12 S.U.	8.2 °C	225 µS
	LEI-4	6.18 S.U.	8.6 °C	507 µS
	OT-1	6.12 S.U.	13.9 °C	363 µS
	OT-5	5.94 S.U.	9.0 °C	394 µS
	OT-7	6.25 S.U.	9.4 °C	401 µS
	MW-5	6.06 S.U.	8.3 °C	520 µS
	MW-104	6.25 S.U.	8.9 °C	402 µS
	MW-105	6.21 S.U.	8.7 °C	435 µS
	MW-106	6.16 S.U.	11.6 °C	199 µS
8/22/14	OT-6D	6.58 S.U.	15.8 °C	56.3 µS
	MW-106	6.56 S.U.	17.0 °C	33.0 µS
9/2/14	MW-103	6.02 S.U.	19.2 °C	17.7 µS
	MW-104	6.00 S.U.	16.3 °C	21.2 µS
	MW-105	6.10 S.U.	15.7 °C	22.8 µS
	MW-106	6.11 S.U.	20.1 °C	23.8 µS

CMG opines that these field-screening data do not provide any significant information pertinent to MNA of either chlorinated VOCs or soluble cadmium.

CMG also screened groundwater samples collected on August 22, 2014 for dissolved oxygen (0.35 mg/L at OT-6D and 0.32 mg/L at MW-106) and oxidation-reduction potential (-23 mV at OT-6D and +61 mV at MW-106). These data indicate reducing conditions at well OT-6D (preferable for microbial dechlorination of TCE and PCE) and oxidizing conditions at MW-106.

PARAGRAPH (i): MONITORING WELL LEI-1

- i. Monitoring well LEI-1, which is the most downgradient monitoring well (located on the northeasterly abutting property (15 Harback Road) revealed TCE at 3.2 ug/L in March 2003. This well was not sampled again. Based on this data, MW LEI-1 being located at the leading edge of the plume, and the TCE in MW LEI-1 approaching the applicable OW-1 Method 1 Risk Characterization Standards of 5 ug/L, the monitoring well LEI-1 should be monitored periodically to demonstrate that the plume is not expanding or increasing in concentration to show that the source is controlled to the extent feasible, in violation of 310 CMR 40.1003(5)(B).

RESPONSE:

As noted in our response to paragraph (d) above, CMG searched for former downgradient monitoring well LEI-1 on May 28, 2014 but could not find it, and presumes it destroyed. (We used a magnetometer for this search, focusing on the area within 25' of where previous mapping located this well.) CMG had also searched for this well in May 2010 without success.

Therefore CMG collected groundwater samples from monitoring wells MW-105 and MW-106 to assess downgradient chlorinated VOC concentrations. As noted above, these wells exhibit the highest identified current PCE concentrations at or near the Property. Therefore CMG and The Estate conclude that further assessment of downgradient groundwater quality is warranted (see Section 5.2.6 of the TS Report). This should take the form of additional downgradient monitoring well(s). CMG believes it may be most cost-effective to conduct a passive soil gas survey to map chlorinated VOC contours to select the best location(s) for such additional wells.

# **Exhibit C**



**FIGURE 2: SITE PLAN**

9 HARBACK ROAD  
SUTTON, MASSACHUSETTS  
CMG ID 2013-003

CMG ENVIRONMENTAL, INC.  
67 HALL ROAD, STURBRIDGE MA 01566

