

13

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT
CIVIL ACTION NO. 23-2084A

COMMONWEALTH OF MASSACHUSETTS,

Plaintiff,

v.

IRON HORSE EQUESTRIAN, LLC; IRON HORSE
DRESSAGE, LLC; WENDY MCKELVY; AND FIELDS
& FOOTINGS, LLC,

Defendants.

**CONSENT JUDGMENT BETWEEN THE COMMONWEALTH OF MASSACHUSETTS
AND IRON HORSE EQUESTRIAN, LLC;
IRON HORSE DRESSAGE, LLC; and WENDY MCKELVY**

WHEREAS, Plaintiff, the Commonwealth of Massachusetts (“Commonwealth”), acting by and through the Attorney General and the Massachusetts Department of Environmental Protection (“DEP”), alleges in its Complaint, filed on September 15, 2023, *see* Dkt. No. 1, that Defendants, Iron Horse Equestrian, LLC, Iron Horse Dressage, LLC (together, “Iron Horse”), their manager Wendy McKelvy (together, “Iron Horse Defendants”), and their contractor Fields & Footings, LLC, have violated the Massachusetts Wetlands Protection Act, G.L. c. 131, § 40, and its implementing regulations at 310 C.M.R. §§ 10.00 *et seq.* and the Massachusetts Clean Waters Act, G.L. c. 21, §§ 26-35, and its implementing regulations at 314 C.M.R. §§ 9.00 *et seq.*, during the construction and continued use of a large outdoor training arena for horse dressage (“existing outdoor arena”) at Iron Horse’s property at 32 Nixon Road, Framingham, Massachusetts (“Site”); and

RECEIVED ENTERED ON DOCKET
Pursuant to the provisions of MASS. R. CIV. PROC.
AND NOTICE SENT TO PARTIES PURSUANT TO THE PRO-
VISIONS OF MASS. R. CIV. R. 77(c) AS FOLLOWS

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WHEREAS, on January 31, 2024, this Court entered a consent judgment resolving the Commonwealth's claims in the Complaint against Fields & Footings, LLC, *see* Dkt. No. 9; and

WHEREAS, the Complaint alleges that the Iron Horse Defendants caused, suffered, or allowed the filling and altering of Bordering Vegetated Wetlands, Banks, Land Under Water Bodies and Waterways, Riverfront Area, and Buffer Zone, protected resource areas, without obtaining required wetlands authorization from the Framingham Conservation Commission ("Commission") or DEP or a water quality certification from DEP and also failed to restore those protected resources, in continuous violation of the Wetlands Protection Act and Clean Waters Act, and their implementing regulations; and

WHEREAS, the Complaint seeks the assessment of civil penalties and injunctive relief, including removal of portions of the existing outdoor arena in wetland resource areas; and

WHEREAS, the Iron Horse Defendants deny the Commonwealth's allegations, except as provided in Paragraph 3 and 4 of the Complaint (Jurisdiction and Venue); and

WHEREAS, the Commonwealth and the Iron Horse Defendants (together, "Parties") have reached an agreement to resolve the Commonwealth's claims against the Iron Horse Defendants, including a release of liability against the Iron Horse Defendants and an agreement on the amount of a civil penalty and injunctive relief; and

WHEREAS, the Parties consent to the entry of this Consent Judgment without a trial on any issues and agree that the entry of this Consent Judgment is an appropriate means to resolve the Commonwealth's claims against the Iron Horse Defendants; and

WHEREAS, the Parties agree that the Iron Horse Defendants will remove portions of the existing outdoor arena and the fill associated with such portions, and reconfigure the arena in accordance with this Consent Judgment; and

WHEREAS, the Parties agree that the settlement of this matter has been negotiated in good faith and at arm's length, that implementation of this Consent Judgment will avoid prolonged and complicated litigation between Parties, and that this Consent Judgment is consistent with the goals of the Wetlands Protection Act and Clean Waters Act and their implementing regulations and is in the public interest.

NOW, THEREFORE, based on the Joint Motion of the Parties for Entry of this Consent Judgment, and before taking any testimony, without any admissions of liability, and without the adjudication of any issue of fact or law except as provided in Section I of this Consent Judgment (Jurisdiction and Venue), it is **ADJUDGED AND ORDERED**, as follows:

I. JURISDICTION AND VENUE

1. This Court has jurisdiction over the subject matter of this action, personal jurisdiction over the parties hereto, and authority to grant the relief requested, pursuant to G.L. c. 131, § 40; G.L. c. 121, §§ 42 and 46; G.L. c. 214, §§ 1 and 3(12); and G.L. c. 12, §§ 5 and 11D.
2. Venue lies in Suffolk County Court pursuant to G.L. c. 223, § 5.
3. The Complaint alleges facts, which, if proven, would constitute good and sufficient grounds for the relief set forth in this Consent Judgment.

II. PAYMENT PROVISIONS

4. Iron Horse and McKelvy will pay to the Commonwealth a civil penalty of one hundred and seventy-five thousand dollars (\$175,000.00) in the following manner:
 - a. **Within thirty (30) days** of entry of this Consent Judgment, Iron Horse and McKelvy shall pay to the Commonwealth twenty-seven thousand and five hundred dollars (\$27,500.00);

- b. **Within six (6) months** of entry of this Consent Judgment, Iron Horse and McKelvy shall pay to the Commonwealth twenty-seven thousand and five hundred dollars (\$27,500.00);
- c. **Within twenty-four (24) months** of entry of this Consent Judgment, Iron Horse and McKelvy shall pay to the Commonwealth twenty-seven thousand and five hundred dollars (\$27,500.00); and
- d. **Within thirty-six (36) months** of entry of this Consent Judgment, Iron Horse and McKelvy shall pay to the Commonwealth twenty-seven thousand and five hundred dollars (\$27,500.00).
- e. The balance of the civil penalties, being sixty-five thousand dollars (\$65,000.00) shall be suspended ("Suspended Penalty"). The Commonwealth shall waive the Suspended Penalty three (3) months following the date that the Commonwealth, in its sole discretion, determines that the Iron Horse Defendants have made the final payment under this Section and have complied with all of the requirements in Sections III and IV of this Consent Judgment (Supplemental Environmental Project and Injunctive Relief). If, at any time the Commonwealth determines that the Iron Horse Defendants have not complied with all of the terms of this Consent Judgment, then the Commonwealth shall notify the Iron Horse Defendants in writing of that determination. The Iron Horse Defendants shall pay the Suspended Penalty, as well as any remaining unpaid portion of the penalties and fund due under this Consent Judgment, to the Commonwealth **within thirty (30) days** of the date of the Commonwealth's written notification of noncompliance under this Paragraph, unless the Iron Horse Defendants timely invoke the provisions of

Section V (Dispute Resolution) of this Consent Judgment. If the Iron Horse Defendants request reconsideration pursuant to Section V (Dispute Resolution) and the Commonwealth's determination ultimately becomes final or is otherwise upheld in whole or in part, the Iron Horse Defendants shall pay the Suspended Penalty to the Commonwealth within **thirty (30) days** after the Commonwealth's determination is final or the court's decision is entered on the docket.

5. The Iron Horse Defendants shall make the above-described civil penalty payments by Electronic Funds Transfer ("EFT") to the Commonwealth of Massachusetts in accordance with current EFT procedures, using the following account information:

Commonwealth of Massachusetts, Office of the Attorney General

ABA#:

ACCOUNT#:

TIN:

and shall include the following in the payment information: "EPD, *Commonwealth v. Iron Horse Equestrian, LLC; Iron Horse Dressage, LLC; and Wendy McKelvy.*" Any payments received by the Commonwealth after 4:00 P.M. (Eastern Time) will be credited on the next business day. At the time of payment, Iron Horse and McKelvy shall notify the Commonwealth of payment by electronic mail as set forth below in this Consent Judgment's "Notices" section and shall include all of the payment information stated in this Paragraph in addition to the Taxpayer Identification Numbers of Iron Horse Equestrian, LLC, and Iron Horse Dressage, LLC, as well as the amount of the payment.

6. The Iron Horse Defendants shall be required to pay to the Commonwealth, for any period of non-payment after the payment obligation becomes due, interest on the entire

amount due at the rate of twelve percent (12%) per annum pursuant to G.L. c. 231, § 6B, computed monthly, and shall pay all expenses, including attorneys' fees and costs, associated with collecting any unpaid amount and interest.

III. SUPPLEMENTAL ENVIRONMENTAL PROJECT

7. In order to secure significant environmental benefits, protection, and improvements in the Framingham community above and beyond regulatory compliance, the Iron Horse Defendants shall pay to OARS, Inc. the sum of twenty-five thousand dollars (\$25,000) to fund a supplemental environmental project(s) ("SEP") to benefit water quality and wetland resource areas in the Sudbury Valley Watershed, including through water quality monitoring.

8. Payments should be made within sixty (60) days of entry of this Consent Judgment by wire transfer referencing this action to the following account:

OARS, Inc.
ABA#: [REDACTED]
ACCOUNT#: [REDACTED]
TIN: [REDACTED]
Reference: c/o OARS, *Commonwealth v. Iron Horse Equestrian, LLC, et al.* – Payment

Evidence of payment to OARS shall be contemporaneously provided by the Iron Horse Defendants to the Commonwealth pursuant to Section IX (Notices).

9. The Iron Horse Defendants hereby certify that their contribution to the SEP is not required under any other state, local, or federal law or regulation, order, consent decree, or permit, and the SEP is not to be implemented as a consequence of another agreement to which the Iron Horse Defendants are parties.

10. Any public statement, oral or written, made by or on behalf of the Iron Horse Defendants making reference to the SEP shall include the following language: "This Project was undertaken in connection with the settlement of an enforcement action, *Commonwealth v. Iron*

Horse Equestrian, et al. (Suffolk Superior Court), by the Commonwealth alleging violations of the Commonwealth's Wetlands Protection Act and Clean Waters Act." This requirement does not apply to the statements made by Iron Horse Equestrian, LLC, Iron Horse Dressage, LLC, or their employees, agents, or contractors, and/or Wendy McKelvy during internal meetings not attended by members of the public or subsequently broadcast to the public.

IV. INJUNCTIVE RELIEF

11. For the purposes of this Section, all words defined in the Massachusetts Wetlands Protection Act, G.L. c. 131, § 40, and its implementing regulations at 310 C.M.R. §§ 10.00 *et seq.* and the Massachusetts Clean Waters Act, G.L. c. 21, §§ 26-35, and its implementing regulations at 314 C.M.R. §§ 9.00 *et seq.*, shall have the meanings ascribed to them in those laws and regulations unless otherwise stated.

12. The Iron Horse Defendants shall restore and replicate altered wetland resource areas at the Site ("the restoration and replication implementation work") and reconfigure the outdoor riding ring in accordance with Paragraphs 20-30 of this Consent Judgment, below; the narrative plan entitled "EcoTec Restoration Plan," May 6, 2024, attached hereto as Exhibit A; the graphic plan entitled "Proposed Removal and Restoration Plan, Iron Horse Equestrian, LLC," dated July 30, 2024, prepared by Goddard Consulting, attached hereto as Exhibit B; the more specific and detailed ten (10) page "Locus Plan" prepared by MetroWest Engineering, Inc., dated June 24, 2024, revised through August 2, 2024, attached hereto as Exhibit C; and the "Riparian Buffer Plan" prepared by MetroWest Engineering, Inc., dated July 1, 2024, and revised through July 25, 2024, attached hereto as Exhibit D, all incorporated herein by reference (together, the "Plan"), or a Revised Plan, in both narrative and graphic form, approved by DEP and the Framingham Conservation Commission pursuant to this Consent Judgment. The Plan can

be revised by written agreement by the Parties or otherwise provided for in this Consent Judgment and shall be referenced as the Revised Plan. In the event there is a conflict between the provisions of this Consent Judgment and any of its Exhibits, the terms of the Consent Judgment shall control.

13. **Within fifteen (15) days** of the entry of this Consent Judgment, the Iron Horse Defendants shall submit to DEP, for review and approval, with a copy to the Attorney General, the names, titles, and contact information of the environmental consultation team members that the Iron Horse Defendants propose to perform and/or oversee the restoration, replication, and monitoring of wetland resource areas at the Site under the Plan or Revised Plan. The environmental consultation team should consist of qualified environmental professionals, including a Wetland Scientist, a Registered Professional Land Surveyor, and a Registered Professional Engineer.

14. **Within fifteen (15) days** of the entry of this Consent Judgment, the Iron Horse Defendants shall submit to DEP, with a copy to the Attorney General, the names, titles, and contact information for the contractor(s) that the Iron Horse Defendants propose to perform the restoration and replication work and arena reconfiguration at the Site under the Plan or Revised Plan.

15. **Within thirty (30) days** of the entry of this Consent Judgment, the Iron Horse Defendants shall submit to DEP, for review and approval, with a copy to the Attorney General, a construction management plan ("CMP") for performing the restoration and replication work and arena reconfiguration at the Site under the Plan or Revised Plan. The CMP shall include a narrative and plan view of the Site describing and depicting project phasing, construction

schedule, equipment staging, and material stockpile areas, including preparation of such areas, and erosion/sedimentation controls.

16. **Within fifteen (15) days** of the entry of this Consent Judgment, the Iron Horse Defendants shall submit the Plan to the Framingham Conservation Commission for review and approval under applicable Town bylaws including its enforcement authority.

17. If the Framingham Conservation Commission approves the Plan, on or before September 10, 2024, then **within fifteen (15) days** of the Framingham Conservation Commission's approval of the Plan, the Iron Horse Defendants shall begin to implement the Plan in accordance with the terms and timelines set forth therein so that restoration and replication implementation work under the Plan shall be completed by **October 15, 2024**, weather permitting.

18. If the Framingham Conservation Commission, under the applicable Town bylaws pursuant to the Wetlands Protection Act, disapproves the Plan or approves the Plan with conditions that modify the Plan, then **within thirty (30) days** of the Framingham Conservation Commission's denial, the Iron Horse Defendants shall submit to DEP and to the Framingham Conservation Commission, for review and approval, with a copy to the Attorney General, a revised written and graphic plan and schedule for restoring, replicating, and monitoring altered wetland resources at the Site (the "Revised Plan") that makes the revisions identified by the Framingham Conservation Commission. Said Revised Plan shall be prepared, signed, and stamped by a Massachusetts Registered Professional Engineer, with any mapping and surveying prepared, signed and stamped by a Massachusetts Registered Professional Land Surveyor on the environmental consultation team, and shall comply with the Wetlands Protection Act, and its implementing regulations, and the Clean Waters Act, and its implementing regulations.

19. If DEP, under the Wetlands Protection Act and its implementing regulations, and the Framingham Conservation Commission, under the applicable Town wetland bylaws, approves the Revised Plan, then **within fifteen (15) days** of the later of the final approvals, the Iron Horse Defendants shall begin to implement the Revised Plan in accordance with the terms and timelines set forth therein.

20. If DEP, under the Wetlands Protection Act and its implementing regulations, or the Framingham Conservation Commission, under the applicable Town wetland bylaws, notifies the Iron Horse Defendants of further necessary revisions to the Revised Plan, the Iron Horse Defendants shall, **within fifteen (15) days** of receiving DEP or the Framingham Conservation Commission's comments, submit to DEP and the Framingham Conservation Commission a further revised Plan that addresses the basis for the necessary revisions cited by the DEP or the Framingham Conservation Commission.

21. Restoration and replication implementation work under the Plan or any Revised Plan shall be completed by **May 31, 2025**.

22. In implementing any Plan or Revised Plan prepared pursuant to Paragraphs 12, 18, or 20, the Iron Horse Defendants shall restore all wetland resource areas and their functions on the Site, including:

- a. Removal of all fill material and/or soil from the altered wetland resource areas as required, replacement with wetland soil including on-site topsoil removed in connection with the installation of the existing outdoor arena or in connection with the reconfigured outdoor arena, as necessary to establish appropriate planting substrate and hydrology, and revegetation with a sufficient variety and location of plantings of wetland plant species

appropriate to the Bordering Vegetated Wetland, Land Under a Waterway, Riverfront Area, Bank, or Buffer Zone with a goal of establishing functional wetland resource areas, including the establishment of stable vegetated Buffer Zone to all wetland resource areas with no/restricted-cut/mow zones. All replacement wetland soil shall conform with Section VI (“Topsoil Placement Specifications”) of the narrative Plan attached hereto as Exhibit A;

- b. Stabilization and erosion control measures, both interim and permanent, necessary to prevent erosion or sedimentation to existing and restored wetland resource areas;
- c. A wetland resource area restoration and replication schedule that shall require all restoration and replication implementation work to be completed by May 31, 2025, under the Revised Plan, and by the soonest feasible date if an additional revised Plan is required under Paragraph 20;
- d. A requirement that during all wetland resource area restoration and replication activities, including the excavation, placement of soils, and grading and planting phases, the Iron Horse Defendants shall have a Wetland Scientist provide DEP, with a copy to the Framingham Conservation Commission, with a weekly written status report summarizing all activities, outlining the current status of the plan implementation, and evaluating whether additional measures need to be taken to ensure that the wetland resource areas will become established and function properly, in accordance with the timelines set forth herein. Thereafter, status reports shall be submitted to DEP, with a copy to the Framingham Conservation Commission, as follows: for the first full

growing season after restoration construction is completed pursuant to the approved Plan or Revised Plan on **May 31st and October 31st of that monitoring year** and for the next four (4) full growing seasons on **October 31st of each monitoring year**, in order to ensure the goals of the Plan or Revised Plan are met. The written status reports shall include, at a minimum:

- i. photographic stations for “before” and “after” photographic documentation;
- ii. clear and comprehensive descriptions of site conditions and functional restoration conditions, including hydrology, hydric soil development and stability, and plant growth and vigor (including vegetation intended to stabilize Buffer Zone); and
- iii. any maintenance, including replanting, that has been performed.

23. The reporting obligations in Paragraph 22 shall continue until such time as DEP issues a Return to Compliance letter which certifies that the wetland resource areas are functioning, in accordance with Paragraph 27 of this Consent Judgment.

24. **Within thirty (30) days of entry of this Consent Judgment**, the Iron Horse Defendants also shall establish a managed vegetated riparian buffer to provide natural area along portions of Baiting Brook on the Site to provide additional filtration and improve water quality, including in the vicinity of the equestrian paddocks, as depicted in the plan attached hereto as Exhibit D (“Riparian Buffer Plan”). This vegetated riparian buffer shall be managed according to the specifications for mowing contained in the notes on the Riparian Buffer Plan.

25. **Within thirty (30) days** of completion of the work outlined in the Plan or approved Revised Plan and the Riparian Buffer Plan, the Iron Horse Defendants shall submit a

report from the Wetland Scientist to DEP and the Framingham Conservation Commission, with a copy to the Attorney General, certifying that the wetlands restoration and replication, construction and planting work has been completed in accordance with the approved Plan or approved Revised Plan and with the Riparian Buffer Plan. The report shall include as-built topographic plan of the Site that: clearly shows all areas of existing and restored and replicated wetland resource areas and stabilized Buffer Zone, all hydrologic conveyance structures, and the final as-built arena; and is signed and stamped by a Massachusetts Registered Engineer with any mapping and surveying prepared, signed and stamped by a Massachusetts Registered Professional Land Surveyor.

26. If functional restoration and replication of all wetland resource areas has not been achieved **within the five (5) year period** of the monitoring requirement, *see* Paragraph 22(d) of this Consent Judgment, the Iron Horse Defendants shall conduct additional restoration and replication activities and monitoring, as directed by DEP, until functional restoration and replication of all wetland resources has been achieved.

27. Upon DEP's determination that the wetland resource areas have been fully established and are functioning in accordance with the Plan or approved Revised Plan and the Riparian Buffer Plan, and that the Iron Horse Defendants have met all of their other obligations under the terms of the Consent Judgment including reconfiguration of the arena in accordance with the Plan or approved Revised Plan, DEP shall issue a Return to Compliance Letter which certifies that the restoration and replication work in the wetland resource areas has been completed, that the vegetated riparian buffer on Baiting Brook is being managed in compliance with this Order, and the wetland resource areas are functioning properly. Issuance of a Return to Compliance Letter by DEP shall terminate the Iron Horse Defendants' obligations to restore and

replicate the wetland resource areas pursuant to this Consent Judgment. The Iron Horse Defendants, or the successor in title, may at their option, record the Return to Compliance Letter in the Registry of Deeds to provide record notice that the provisions of the Consent Judgment have been met.

28. Implementation of the Plan or approved Revised Plan and all work associated with restoring and replicating wetland resource areas at the Site shall comply with the Wetlands Protection Act and its implementing regulations.

29. All work under the Plan or approved Revised Plan shall be conducted in compliance with all applicable state, federal, and local laws, Town by-laws, and DEP regulations.

30. Except as authorized and required by this Consent Judgment, the Iron Horse Defendants shall not remove, fill, dredge, or alter any areas subject to protection under the Wetlands Protection Act or the Clean Waters Act without complying with those Acts and their implementing regulations.

31. All reports and other written information that Section IV (Injunctive Relief) of this Consent Judgment requires the Iron Horse Defendants to send to either DEP or the Attorney General or both shall contain the following certification:

I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments to it, and that this document and its attachments were prepared either by me personally or under my direction or supervision in a manner designed to ensure that qualified and knowledgeable personnel properly gathered and presented the information contained therein. I further certify, based on personal knowledge or on my inquiry of those individuals immediately responsible for obtaining the information, that the information has been represented to be true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing and willful submission of a materially false statement.

32. The Iron Horse Defendants shall ensure that each certified statement is signed by each individual Defendant and a responsible corporate officer, such as a president, vice-president, secretary, treasurer, or manager responsible for environmental policy-making, decision-making, and compliance with environmental laws and regulations at the Site and having the authority to make management decisions that govern the operation of the Site and directing and authorizing actions to ensure the Site is in compliance with environmental laws and regulations.

33. Any information provided by the Iron Horse Defendants pursuant to this Consent Judgment may be used by the Commonwealth in any proceeding to enforce the provisions of this Consent Judgment.

V. DISPUTE RESOLUTION

34. Unless otherwise provided in this Consent Judgment, the Dispute Resolution procedures in this Section shall be the exclusive mechanism to resolve disputes arising under or with respect to this Consent Judgment. These procedures, however, shall not apply to actions by the Commonwealth or DEP to enforce obligations of the Iron Horse Defendants that have not been disputed in accordance with this Section. In the event that the Iron Horse Defendants utilize the procedures in this Section for a dispute arising under Section III (Payment Provisions), then all references to DEP in this Section shall include the Commonwealth.

35. If the Iron Horse Defendants disagree with a written determination of DEP that the Iron Horse Defendants have failed to comply with one or more terms of this Consent Judgment, then the Iron Horse Defendants may, within thirty (30) days of the date of DEP's determination, request reconsideration of the determination by submitting to DEP, with a copy to the Office of the Attorney General, any particular information or material it believes demonstrates that DEP's determination was erroneous. The Iron Horse Defendants' failure to submit a request for

reconsideration within the period specified in this Paragraph shall constitute a waiver of the Iron Horse Defendants' ability to seek reconsideration and, in that case, DEP's determination shall be final and unreviewable. If, after consideration of a timely request for reconsideration, DEP decides to affirm, in whole or in part, DEP's original determination, then DEP shall notify the Iron Horse Defendants of its determination on reconsideration.

36. DEP's determination on reconsideration shall be final unless the Iron Horse Defendants seek judicial review of the dispute by filing with the Court and serving on the Commonwealth, in accordance with Section IX (Notices and Submissions), a motion in this case requesting judicial resolution of the dispute within fourteen (14) days of receipt of DEP's determination on reconsideration. In an action for judicial review under this Section, the Iron Horse Defendants shall bear the burden of demonstrating that DEP's determination on reconsideration was arbitrary and capricious or otherwise not in accordance with law. The Iron Horse Defendants' motion and supporting memorandum shall not raise any new issues or be based on new facts or information that the Iron Horse Defendants did not specifically present previously to DEP during the dispute resolution process described in this Section V.

VI. ENTRY AUTHORITY

37. DEP shall have the right to enter the Site at all reasonable times for the purposes of conducting any activity related to enforcement of the terms of this Consent Judgment or for inspections and monitoring compliance with any applicable laws or regulations. Notwithstanding any provision of this Consent Judgment, DEP retains all its access authorities and rights under applicable state and federal law.

VII. RELEASE AND RESERVATION OF RIGHTS

38. Upon full compliance with the above Paragraphs 4-33 of this Consent Judgment, this Consent Judgment shall resolve the Iron Horse Defendants' liability (and the liability of their managers, directors, officers, supervisors, employees, agents, servants, attorneys-in-fact, successors, and assigns) to the Commonwealth for the specific legal claims alleged in the Complaint, and the Iron Horse Defendants and their managers, directors, officers, supervisors, employees, agents, servants, attorneys-in-fact, successors, and assigns shall be released from any and all claims for the violations specifically pleaded in the Complaint.

39. Except as otherwise provided herein, nothing in this Consent Judgment:

- a. Shall be deemed to excuse any non-compliance by the Iron Horse Defendants or any of their affiliates, agents, employees, servants, successors, and assigns with any law or regulations not asserted in the Complaint or any claims not conditionally released pursuant to the above Paragraph 38 of this Consent Judgment;
- b. Shall in any way bar any future actions by the Commonwealth against the Iron Horse Defendants based upon any claims or allegations not asserted in the Complaint or any claims not conditionally released pursuant to the above Paragraph 38 of this Consent Judgment;
- c. Shall be construed to bar, diminish, adjudicate, or in any way affect any legal or equitable rights the Commonwealth may have to take additional administrative or legal action against the Iron Horse Defendants with respect to future violations of the laws or regulations of the Commonwealth or any violations that have not been revealed to the Commonwealth;

- d. Shall be construed to create any right, in or grant any cause of action to, any person not a party to this Consent Judgment; or
- e. Shall preclude a future separate or ancillary action by the Commonwealth against the Iron Horse Defendants to enforce this Consent Judgment.

VIII. ENFORCEMENT AND MISCELLANEOUS PROVISIONS

40. The Parties waive the entry of findings of fact and conclusions of law pursuant to Rule 52 of the Massachusetts Rules of Civil Procedure.

41. The Parties will not challenge or appeal the entry of the Consent Judgment or this Court's jurisdiction to enter and enforce the Consent Judgment.

42. Upon approval and entry of this Consent Judgment by the Court, this Consent Judgment shall constitute a Final Judgment of the Court.

43. This Court shall retain jurisdiction to enforce this Consent Judgment following entry of Final Judgment.

44. In addition to any relief specifically provided for in this Consent Judgment, the Iron Horse Defendants understand and agree that violations of this Consent Judgment are subject to and may be punishable by a contempt proceeding being initiated against them.

45. This Consent Judgment shall apply to and bind the Iron Horse Defendants and any person or entity acting by, for, or through the Iron Horse Defendants, including their managers, directors, officers, supervisors, employees, agents, servants, attorneys-in-fact, successors, and assigns, and those persons in active concert or participation with the Iron Horse Defendants who receive notice of this Consent Judgment. No change in ownership or relocation of any of the Iron Horse Defendants will alter in any way the responsibilities of the Iron Horse Defendants under this Consent Judgment.

46. The Commonwealth, acting through the Attorney General or DEP, may in its unreviewable discretion extend any deadline in this Consent Judgment, as it determines is appropriate.

47. Except as provided in Paragraph 46, above, the terms of this Consent Judgment may be modified only by a subsequent written agreement signed by the Parties. Where the modification constitutes a material change to any term of this Consent Judgment, it shall be effective only by written approval of the Parties and the approval of the Court. Where the modification is related to the course of work outlined in Section IV (Injunctive Relief), the Commonwealth, acting through the Attorney General or DEP, shall in its unreviewable discretion determine whether the modification is material. The Commonwealth's decision to extend a deadline in this Consent Judgment shall not constitute a material change for purposes of this Paragraph.

48. If this Court should decline to approve the Consent Judgment on any ground except one related to form, this Consent Judgment is voidable at the option of either party within fourteen (14) days of this Court's decision, and the terms of the Consent Judgment may not be used as evidence in any litigation between Parties. If, for any reason, this Court should determine that substantive modifications to the Consent Judgment are necessary, the Parties shall enter into good faith negotiations to discuss the modifications and this Consent Judgment shall be void unless the Parties agree otherwise in writing within fourteen (14) days of this Court's modification.

IX. NOTICES

49. Unless otherwise specified in this Consent Judgment, notices and submissions required by this Consent Judgment shall be made in writing by both electronic mail and first-

class mail to the following addresses or to such other place or to the attention of such other individual as a Party may from time to time designate by written notice to the other Party to this

Consent Judgment:

For the AGO

Turner Smith, Deputy Bureau Chief
Tracy Triplett
Assistant Attorneys General
Energy and Environment Bureau
Office of the Attorney General
One Ashburton Place, 18th Floor
Boston, MA 02108
turner.smith@mass.gov
tracy.triplett@mass.gov

For DEP

Heidi M. Zisch, Chief Regional Counsel
Elizabeth Sabounjian, Wetlands & Waterways
Program
Department of Environmental Protection
Northeast Region
150 Presidential Way, Suite 300
Woburn, MA 01801
heidi.zisch@mass.gov
elizabeth.sabounjian@mass.gov

For the Iron Horse Defendants

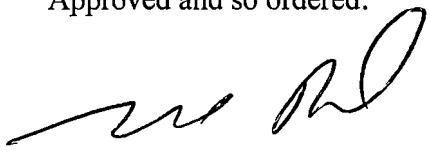
Wendy McKelvy, Manager
Iron Horse Equestrian, LLC and Iron Horse
Dressage, LLC
10 Cherry Brook Road
Weston, MA 02493

With a copy to:

Richard A. Nysten, Jr., Esq.
Lynch, DeSimone & Nysten, LLP
10 Post Office Square, Suite 970N
Boston, MA 02109

JUDGMENT is hereby entered in accordance with the foregoing, this 2 day of OCTOBER,
2024.

Approved and so ordered:



Justice, Superior Court

10-2-24

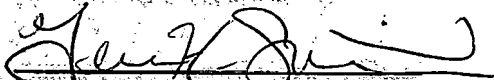
Date

Stipulated and agreed:

COMMONWEALTH OF
MASSACHUSETTS

By its Attorneys,

ANDREA JOY CAMPBELL
ATTORNEY GENERAL



Turner Smith, BBO # 684750
Deputy Bureau Chief
Tracy Triplett, BBO # 651729
Assistant Attorneys General
Energy & Environment Bureau
Office of the Attorney General
One Ashburton Place, 18th Floor
Boston, MA 02108
(617) 963-2782
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turner.smith@mass.gov
tracy.triplett@mass.gov

Dated: August 14, 2024

IRON HORSE EQUESTRIAN, LLC;
IRON HORSE DRESSAGE, LLC; and
WENDY MCKELVY

By their Attorney,



Richard A. Nylen, Jr., BBO # 175280
Lynch, DeSimone & Nylen, LLP
10 Post Office Square, Suite 970N
Boston, MA 02109
(617) 348-4500, ext. 231
rnylen@ldnllp.com

Dated:

8/14/24

Exhibit A