

COMMONWEALTH OF MASSACHUSETTS

IN THE MATTER OF)	BROWNFIELDS COVENANT
)	NOT TO SUE AGREEMENT
TRUCK STOP LAND, LLC)	
)	RTN – 1-11099
REDEVELOPMENT OF)	
92 STATE LINE ROAD)	
WEST STOCKBRIDGE, MA)	
)	
)	

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”), and Truck Stop Land, LLC (“Truck Stop Land”). Collectively, the OAG and Truck Stop Land 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 14.2-acre vacant, partially-paved parcel of property located at 92 State Line Road in West Stockbridge, Massachusetts (the “Property”) into an approximately 10-acre, 2.0 megawatt alternating current (“AC”) ground-mounted solar photovoltaic array (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 West Stockbridge, Massachusetts. The Parties agree that this Agreement, pursuant to G.L. c. 21E, §3A(j)(3), addresses potential claims by the Commonwealth as to Truck Stop Land and is predicated upon Truck Stop Land’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 Truck Stop Land’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. Truck Stop Land's failure to secure independent governmental approvals for the proposed remediation shall not excuse 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 West Stockbridge, 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. Truck Stop Land is a limited liability company organized under the laws of the Commonwealth of Massachusetts with a place of business in the Town of West Stockbridge, 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 that are defined in the Brownfields Covenant Regulations, G.L. c. 21E, or the MCP are capitalized.

C. The Property is an approximately 14.2-acre parcel along State Line Road in West Stockbridge, Massachusetts. The Property is the former site of the Berkshire Truck Plaza, with a restaurant and a truck refueling facility on the Property. The Property is currently vacant, and approximately 8 acres of the Property are paved. Title to the Property is recorded in the Berkshire County Registry of Deeds at Book 365, Page 294. A full description of the Property and a Property plan are attached as Exhibit A and incorporated into this Agreement. Due to the release of diesel fuel, gasoline, and/or fuel oil from underground storage tanks, fuel distribution lines, or overfilling the tanks at the Property, it is contaminated with Oil and/or Hazardous Material.

D. Release Tracking Numbers (“RTN”) 1-11099, 1-12550, 1-13031 and 1-11606 cover Releases of Oil and/or Hazardous Materials associated with the long-term operation of the Property as a truck refueling facility and the use of underground storage tanks to store the fuel. RTNs 1-12550, 1-13031, and 1-11606 are also associated with Releases due to the long term operation of the Property as a truck refueling facility, and were closed and linked to RTN 1-11099 under the tier classification process. RTN 1-11606 was closed via a Class A-1 RAO. The Releases and/or Threats of Release of Oil and/or Hazardous Materials, as those terms are defined at 310 CMR 40.0006, that have been assigned RTN 1-11099 constitute the “Covered Releases” for the purposes of this Agreement. The areas where Oil and Hazardous Materials have come to be located as a result of the Covered Releases constitute the “Site,” as that term is defined at 310 CMR 40.0006, for the purposes of this Agreement. The Site is also the “property addressed” by this Agreement as the term “property addressed” is used in 940 CMR 23.08(1) in the Brownfields Covenant Regulations. Due to the presence of gasoline in the groundwater, the prior owner of the Property achieved a Temporary Solution under G.L. c. 21E for RTN 1-11099. The Property is registered as a Public Water System as it was served by an on-site well, and there is no other public water available within 500 feet of the Site. The well is no longer in use. Truck Stop Land has agreed to maintain the existing Temporary Solution associated with RTN 1-11099 and/or any future Permanent Solution associated with the Releases covered by RTN 1-11099. The Site is more fully described on 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 TRUCK STOP LAND

1. Truck Stop Land 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; and
 - ii. communicating with the Commonwealth and local authorities with respect to the Project and various permitting issues with respect to the Property.

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. Truck Stop Land agrees to the following terms and conditions:

a. Truck Stop Land shall endeavor to acquire ownership or operation of the Property. If it becomes Owner or Operator, Truck Stop Land shall undertake the Project as described more fully below:

- The Project consists of an approximately 10-acre, 2.0 megawatt alternating current (“AC”) ground-mounted solar photovoltaic array, the approximate location of which is indicated on the Site Plan that is attached as Exhibit C and incorporated into this Agreement;
- The Project will produce enough clean energy to power approximately 500-700 residential homes and will provide valuable tax revenue to the Town of West Stockbridge. It may also provide valuable net metering credits, if available, to area towns, low income housing authorities, school districts, universities, or other public entities.

b. If it becomes the Owner and/or Operator of the Property, Truck Stop Land shall maintain the existing Temporary Solution and/or any future Permanent Solution for the Releases covered under RTN 1-11099 at the Site in accordance with G.L. c. 21E, the Standard of Care defined in G.L. c. 21E, and the MCP. For so long as the Temporary Solution remains the remediation status at the Property, Truck Stop Land shall continue to comply with all requirements of G.L. c. 21E and the MCP, including the achievement of a Permanent Solution, as and when it becomes feasible pursuant to the G.L. c. 21E and the MCP, including, without limitation, 310 CMR 40.1050. In accordance with the MCP, the Site status must be monitored and a LSP must evaluate the feasibility of achieving a Permanent Solution every five (5) years after the submittal of a Temporary Solution. Monitoring for compliance with the MCP and any work conducted on the Site must be overseen by a Licensed Site Professional (“LSP”). Work associated with installation of the solar array and utilities may, if directed by the LSP, require submittal of a Remedial Abatement Measure (“RAM”) Plan, a soil management plan, additional assessment and/or review of existing data to evaluate any potential risk to workers or proposed infrastructure. Truck Stop Land shall cooperate fully with MassDEP for so long as it is the Owner and/or Operator of the Property.

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 LSP acting on behalf of Truck Stop Land;

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. Truck Stop Land shall ensure that the Property is operated consistently with any Activity and Use Limitation (“AUL”) recorded with respect thereto, for so long as it is the Owner and/or Operator of the Property.

e. Truck Stop Land shall provide a copy of this Agreement to any successors and assigns as well as to any lessees, sub-lessees, licensees and sub-licensees of Truck Stop Land’s interests in the Property.

B. COVENANT NOT TO SUE BY THE COMMONWEALTH

1. Covenant as to Truck Stop Land

Pursuant to G.L. c. 21E, §3A(j)(3), in consideration of the representations and commitments by Truck Stop Land set forth in Section IV, Paragraph A of this Agreement, and subject to Truck Stop Land’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 Truck Stop Land, pursuant to G.L. c. 21E, for Response Action costs, contribution, property damage, natural resource damages, or injunctive relief or for property damage under the common law, relating to Covered Releases, so long as the

Response Actions upon which the RAO Statement filed, or any Permanent Solution Statement to be filed, with respect to the Covered Releases meets the Standard of Care in effect when the RAO Statement, and if applicable, Permanent Solution Statement, was submitted to MassDEP. 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 first began ownership or operation of the Property subsequent to the effective date of this Agreement (“Subsequent Owners and/or Operators”) pursuant to G.L. c. 21E for Response Action costs, contribution, property damage, natural resource damages, or injunctive relief, or for property damage under the common law relating to the Covered Releases, so long as the existing Temporary Solution is maintained in accordance with the Standard of Care in effect when it was submitted to MassDEP and so long as the Response Actions upon which any future Permanent Solution Statement relies meet the Standard of Care in effect when the Permanent Solution Statement is submitted to MassDEP. The liability relief available to Subsequent Owners and/or Operators shall be subject to (a) the same terms and conditions as those that apply to Truck Stop Land and (b) 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 Truck Stop Land or Subsequent Owners and/or Operators pursuant to G.L. c. 21E, §5C are in effect, except that protections in this Agreement from claims for natural resource damages shall not be affected if the statutory protections available to Truck Stop Land and Subsequent Owners and/or Operators described in 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 Truck Stop Land 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 Truck Stop Land’s liability protection under this Agreement or that of any other Subsequent Owner and/or Operator;

c. any Release of Oil and/or Hazardous Material at the Site that has not been discovered when any past RAO Statement, future Permanent Solution Statement, or Temporary Solution Statement is submitted to MassDEP that would have been discovered if an assessment of the releases covered by or addressed in the RAO Statement, future Permanent Solution Statement, or Temporary Solution Statement had been performed consistent with the Standard of Care in effect when the such future Statement is 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 M.G.L. c. 21E by Truck Stop Land or a Subsequent Owner and/or Operator during Truck Stop Land'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 Truck Stop Land's liability protection under this Agreement or that of any other Subsequent Owner and/or Operator; and

f. any claims (i) for damages for injury to, destruction of, or loss of natural resources due to a Release of Oil and/or Hazardous Material occurring after the execution of this Agreement, (ii) for exacerbation of injury to, destruction of, or loss of natural resources occurring after the execution of this Agreement, where original injury, destruction or loss of natural resources was due to a Release of Oil and/or Hazardous Material occurring either before or after the execution of this Agreement, (iii) for the costs of any natural resource damage assessment relating to conditions first caused or exacerbated after the execution of this Agreement, and (iv) for damages for injury to, destruction of, or loss of natural resources due to a Release of Oil and/or Hazardous Material that is not a Covered Release. If, however, injury to, destruction of, or loss of natural resources, or the exacerbation of such conditions, is caused by a Subsequent Owner and/or Operator, this reservation shall affect the liability protection applicable only to such Subsequent Owner and/or Operator, and shall not affect the Truck Stop Land's liability protection.

e. any Release of Oil and/or Hazardous Material not expressly described as one of the Covered Releases.

5. Termination for Cause

a. If the OAG or MassDEP determines that Truck Stop Land submitted materially false or misleading information as part of its Application to Enter into a Brownfields Covenant Not to Sue Agreement, the OAG may terminate the liability protection offered by this Agreement in accordance with Subparagraph 5.c. below. A statement made by Truck Stop Land 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 Truck Stop Land has violated the terms and conditions of this Agreement, including but not limited to failing 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 failing 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. In the event that the OAG or MassDEP determines that, despite Truck Stop Land's cooperation, there has been a failure to arrange for the maintenance of the existing Temporary Solution or achievement and maintenance of a future Permanent Solution at the Site in accordance with G.L. c. 21E and the MCP, the OAG may terminate the liability protection offered by this Agreement in accordance with Subparagraph 5.c. In the event the liability protection is terminated solely because of a violation by a Subsequent Owner and/or Operator of one or more of the conditions set forth in Section IV.A.2.c.i through Section IV. A.2.c.vi of this Agreement, such termination shall affect the liability protection applicable only to the Subsequent Owner and/or Operator and shall not affect Truck Stop Land's liability protection or that of any other Subsequent Owner and/or Operator.

c. Before terminating the liability relief provided by this Agreement, the OAG will provide Truck Stop Land 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 Truck Stop Land 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.

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

C. COVENANT NOT TO SUE BY TRUCK STOP LAND AND ANY
SUBSEQUENT OWNER AND/OR OPERATOR

1. In consideration of the Commonwealth's covenants not to sue in Section IV, Paragraph B, Truck Stop Land 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 Chapter 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 Chapter 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 Truck Stop Land's covenants in this Paragraph C. In the event that, despite these covenants, 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 Paragraph 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

With regard to any Covered Releases, so long as the existing Temporary Solution is maintained in accordance with the Standard of Care in effect when it was submitted to MassDEP, and so long as the Response Actions upon which any future Permanent Solution relies meet the Standard of Care in effect when the Permanent Solution is submitted to MassDEP, Truck Stop Land 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 Truck Stop Land and/or any Subsequent Owner or Operator as owner or operator of the Property or the Site, provided, however that Truck Stop Land has satisfied the notification provisions of G.L. c. 21E, §3A(j)(3), and 940 CMR 23.04(2).

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 and when Truck Stop Land acquires title to the Property.

IT IS SO AGREED:

MAURA HEALEY
ATTORNEY GENERAL
OFFICE OF THE ATTORNEY GENERAL

By: Nancy E. Harper 7/26/14
Nancy E. Harper
Assistant Attorney General
Deputy Division Chief
Environmental Protection Division
Office of the Attorney General
One Ashburton Place
Boston, MA 02108

TRUCK STOP LAND, LLC

By: Donald Mayland

Name: Donald Mayland

Title: Manager

Date: July 21, 2016

In the matter of Truck Stop Land, LLC
Brownfields Covenant Not To Sue Agreement

As to protections for Truck Stop Land, LLC from claims for natural resource damages:

COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS

By:



Matthew Beaton
Secretary of Energy and Environmental Affairs

Date:

10/3/16

Exhibit A

Exhibit A

KNOW ALL MEN BY THESE PRESENTS
That SYMPHONY LAKES, INC., a Massachusetts Corporation, duly

organized by law and having its principal place of business in West
Stockbridge, Berkshire County, Massachusetts, for consideration paid, grant
to BERKSHIRE TRUCK PLAZA, INC., a Massachusetts Corporation, duly organized
by law, whose business and post office address is Route 102, West Stockbridge,
Berkshire County, Massachusetts, with WARRANTY COVENANTS, the land situated
in West Stockbridge, in said County and Commonwealth, bounded and described
as follows:

Beginning at an iron pipe set in the northerly line of State Highway
Route 102, being the southeasterly corner of the premises herein described
and the southwesterly corner of other land of the grantors; thence north 31
degrees 35' 51" west along said other land, 855.67 feet to an iron pipe set
in the 1955 southerly location line of the Massachusetts Turnpike; thence
in said location line north 58 degrees 08' 41" west 130.28 feet to a
Massachusetts Highway bound; thence in said location line by a curve to the left
having a radius of 3395.00 feet, and a length of 781.49 feet, to an iron pipe
set in the easterly line of a drainage easement; thence in line of said
easement south 46 degrees 27' 43" west 17.00 feet to an iron pipe in line of
land of one Trembley; thence the following two courses along land of the said
Trembley south 7 degrees 30' 50" west 188.20 feet to an iron pipe, south 31-
degrees 35' 51" west 367.53 feet along an old fence to an iron pipe in said
northerly line of Route 102, said pipe being on course south 43 degrees 57'
55" east 4.11 feet from a Massachusetts Highway bound; thence south 43 degrees
57' 55" west in said northerly line, 860 feet to the point of beginning,
containing 14.2 acres and being a portion of the Pioneer Investment Corporation
to the grantors, dated April 9, 1963 and recorded in the Southern Berkshire
Registry of Deeds in Book 338, Page 398, and subject to first mortgage of record
to Lee Savings Bank, recorded in said Registry in Book 351, Page 166.

Reference is hereby made to "Plan of Land of SYMPHONY LAKES, INC.
to be conveyed to BERKSHIRE TRUCK PLAZA, INC., in West Stockbridge, Mass.,
Scale 1" = 100', November, 1968, Kelly and Granger, ENGINEERS, Great
Barrington," to be recorded simultaneously herewith. (Map Plan 446)
Southern Berkshire Registry of Deeds.

IN WITNESS WHEREOF, the said SYMPHONY LAKES, INC., has caused its
corporate seal to be hereto affixed and these presents to be signed, acknow-
ledged and delivered in its name and behalf by Arthur P. Gennari, its
President, herunto duly authorized this 17th day of
March, A.D. 1969,

SYMPHONY LAKES, INC.

By Arthur P. Gennari

BERKSHIRE
SOUTH



BOX 365 P.O. 205.
COMMONWEALTH OF MASSACHUSETTS

BENKSHIRE, SS.

FEBRUARY 17 1969.

Then personally appeared the above-named
Arthur P. Gennart, President and acknowledged the
foregoing instrument to be the free act and deed of said SYMPHONY LAKES,
INC., before me,

Andrew T. Campbell
Notary Public

My commission expires: 11/3/72

CERTIFICATE OF VOTE

I, ERNEST C. BALDASARRE, Clerk of SYMPHONY LAKES, INC., hereby
certify that the execution and delivery of the foregoing deed was
authorized at a meeting of the Board of Directors duly held on February
25, 1969, and that said authorization is in accordance with the by-laws of
the corporation.

WITNESS my hand and seal of the corporation this 25th
day of February, 1969.

Received: Southern Berkshire Registry of
Deeds March 18, 1969 at 12:17 p.m.

James J. Coniford
Register

Ernest C. Baldassarre
Ernest C. Baldassarre, Clerk

Exhibit B

Phase V Completion Report
and
Class C-1 Response Action Outcome Report
Berkshire Truck Plaza
92 State Line Road
West Stockbridge, Massachusetts

SECTION 1.0 INTRODUCTION

This Class C-1 Response Action Outcome (RAO) Report has been prepared by Maxymillian Technologies, Inc. (MT) on behalf of the Estate of H.G. Wilde (the Estate) for the property known as Berkshire Truck Plaza, 92 State Line Road, West Stockbridge, Massachusetts. The Estate has been named by the Massachusetts Department of Environmental Protection (MassDEP) as the Potential Responsible Party (PRP) for the Site. Mr. R. Carter N. Short, Consultant to the Executors, 1317 Dunlora Drive, Charlottesville, VA 22901 (telephone: (434) 970-1733) is the contact for the Estate.

This report supports the filing of a Class C-1 RAO as set forth in the Massachusetts Department of Environmental Protection (MassDEP) Bureau of Waste Site Cleanup, Massachusetts Contingency Plan (MCP) 310 CMR 40.0000. This report also serves as a Phase V Completion Report.

A Site Locus is provided as Figure 1. A Site Plan is provided as Figure 2. Figure 2 includes the disposal site limits subject to the RAO.

1.1 SITE DESCRIPTION

1.1.1 General Information

The subject property is located at 92 State Line Road in West Stockbridge, Massachusetts. Figure 1 illustrates the property with approximate map bearings of $42^{\circ} - 20' - 27''$ N and $73^{\circ} - 23' - 49''$ W. The property is identified by the Town of West Stockbridge Assessor's records as Map 10, Parcel 0411 and encompasses a total of approximately 14.40 acres. The property is bordered by wetlands and the Massachusetts Turnpike to the north, Route 102 to the south, an undeveloped rural property to the east and wetlands and a residential property to the west.

The Site, currently vacant, functioned as a truck stop restaurant/motel from 1969 to 1999. Figure 2 illustrates the former buildings and their locations on-site. The buildings were demolished in 2006.

A MassDEP Numerical Ranking System (NRS) Site Scoring Map (Figure 3) depicts information contained in the Massachusetts Geographic Information System (MASS GIS). A review of the Site Scoring Map illustrates that the subject property is located within an IWPA. A freshwater wetlands area is located within a ½ mile radius of the subject property to the north and west.

1.1.2 Underground Storage Tanks

Past uses have included diesel and gasoline fueling services. Gasoline pumps were once located along Route 102 on the southern portion of the property. No underground fuel storage tanks (USTs) remain on-site. Former fueling facilities are illustrated on Figure 2.

The following information concerning the former USTs was provided during conversations with the West Stockbridge Fire Chief and site representatives:

Four (4) 10,000-gallon underground gasoline storage tanks were removed on October 16, 1995. These tanks were installed in 1970.

Six (6) 10,000-gallon underground diesel fuel storage tanks were removed in September of 1998. These tanks were installed in 1970.

One (1) 8,000-gallon underground diesel fuel storage tank was removed in September of 1998. This was used for emergency generator use. The installation date of this tank is unknown.

One (1) 10,000-gallon underground #2 fuel oil storage tank was removed in September of 1998. This tank was installed in 1970.

One (1) 4,000-gallon underground diesel fuel storage tank was removed in August of 1999. The age of the tank is unknown, but is assumed to have been installed in the early 1970s.

Three (3) 10,000-gallon aboveground #2 fuel oil storage tanks were removed in January of 2000. These tanks initially held diesel fuel and were used to supply the pump islands which were located in front of the maintenance garage area. These tanks were converted to #2 fuel oil storage at some time in the past for a fuel oil distribution operation and utilized up until December 1998. The tanks were installed in 1969.

1.2 RELEASE HISTORY

Multiple releases have been reported at the Site as summarized below. Each is addressed by this RAO submittal.

1.2.1 Gasoline Release RTN 1-11099

On October 16, 1995, Maxymillian Technologies, Inc. (MT) began UST removal and systems upgrade activities at BTP. Removal activities included the excavation and

disposal of 4-10,000 gallon gasoline USTs (Figure 2), associated piping and dispensers. On October 18, 1995, a release was observed during removal and MassDEP was notified. Ultimately, 227.7 cubic yards of contaminated soils were excavated and disposed.

1.2.2 Diesel Fuel Release RTN 1-12550

Between August 31 and September 11, 1998, MT removed seven diesel fuel USTs. A release was identified and reported on August 31, 1998 during removal of the first of the seven underground storage tanks (USTs). One soil sample was collected at the bottom of the tank grave, at approximately 11 feet below grade, and was Jar Headspace screened using a Thermal Environmental Organic Vapor Meter (OVM)/Data Logger, Model 580B, outfitted with a 10.6 eV lamp. The instrument registered a value of greater than 100 parts per million by volume (ppmv) of total organic vapor. Ultimately, 622.2 cubic yards of contaminated soils were excavated and disposed.

1.2.3 Gasoline Release RTN 1-13031

On July 21, 1999, during site investigations, MT's drilling crew encountered and cracked a gasoline supply line in the area of the maintenance building fuel islands. MassDEP was notified of the resulting release on July 21, 1999 at 9:03 a.m. It was estimated that more than 10-gallons of gasoline were released to the surrounding paved surface and to the subsurface soils.

SECTION 2.0 SUMMARY OF PRIOR RESPONSE ACTIONS

Summaries of key prior report submittals, documented in MT's August 2001 combined Phase II, Phase III, Phase IV, RAM Completion report, are provided below.

2.1 PHASE II SUMMARY

The Phase II portion of the August 2001 report documented:

- soil boring installations to define the horizontal and vertical extent of soil contamination
- monitoring well installations to define the extent of ground water contamination
- quarterly ground water sampling of the monitoring wells and on-site water supply well
- quarterly surface water sampling
- neighboring water supply well sampling

This work is summarized below. It should be noted that the summary provided below does not represent the substantially improved, post remediation conditions discussed in Section 3.0.

2.1.1 Soil Borings

Soil boring investigations were conducted between 1995 and 1999 and included 139 borings (Figure 4). The borings ranged in depth from 8 to 16 feet below ground surface. Fill materials were encountered from 0.0 to 12.0 feet below ground surface and were described as reddish/brown coarse to fine sand and gravel (depths including 0-4 feet) and grey/brown fine sand and silt (depths including 4-12 feet). Organic soils were encountered at depths ranging from 8-14 feet below ground surface at several soil boring locations. The Site is located in a former wetland area, portions of which may have been used as a borrow pit prior to development. The organic material most likely represent the original wetland soils.

Representative soil samples were collected from the borings for visual description and jar headspace screening. Representative samples were also retained for Volatile Petroleum Hydrocarbon (VPH) / Extractable Petroleum Hydrocarbon (EPH) analysis.

Laboratory results were used to delineate the extent of soil contamination on-site. The historic horizontal extent of soil contamination (i.e. those concentrations exceeding reportable concentrations for S-1 soils) is illustrated herein on Figure 5. Soil contamination was identified within the upper 12-feet of soil depth. An evaluation of current and historic petroleum hydrocarbon results is provided in Section 3.1.

2.1.2 Ground Water Monitoring Wells

Ground water monitoring wells were installed to delineate the extent of ground water contamination. Figure 6 illustrates the monitoring well locations and calculated ground water flow direction at the time of the Phase II Report. It is likely that ground water flow in the vicinity of the Site is controlled by several nearby surface water bodies including a brook located on the northwestern portion of the property, a well developed wetland located southwest of the Site (across Route 102) and three small ponds located east of the Site. As indicated on Figure 6, ground water flow is towards the north. The depth to ground water is typically 5 to 7 feet below grade. During wet periods, ground water may be found as little as 1.5 feet below grade and up to 10 feet below grade during dry periods.

MT instituted a quarterly ground water sampling program in an effort to track contaminant concentrations and trends. The ground water contaminant plumes as of 2001 are illustrated on Figure 7. A current, post remediation evaluation of ground water results and data trends is provided in Section 3.2.

2.1.3 Surface Water

Surface water samples BTP-1 through BTP-4 were collected from Baldwin Brook, which borders the Site to the south and west. Upstream surface water concentrations were elevated relative to concentrations reported from samples downgradient of the release area. Therefore, MT concluded that surface water quality is not adversely impacted by Site ground water.

2.1.4 Water Supply Well Data

Between June 1999 and August 2001, ten rounds of water samples were collected from the then operating on-site water supply well. The samples were collected from the closest spigot to the source and prior to treatment (i.e. Culligan water softener unit). The water samples were submitted for VPH/EPH analysis and analysis according to EPA Test Methods 524.2 and 525.2.

Maximum detections of hydrocarbons in the on-site water supply well, through August 2001, are provided in the Summary Table below. As indicated, concentrations were below GW-1 ground water standards. The well has not been in service since the site buildings were demolished in 2006 and there are no plans to operate the well. More current supply well data are discussed in Section 3.2.

**Summary of On-Site Water Supply – Phase II Results
(1999 - 2001)**

**Berkshire Truck Plaza
92 State Line Road
West Stockbridge, Massachusetts**

Compound	Maximum Exposure Point Concentration	Current GW - 1 Standard
MTBE	1.15	70
Naphthalene	2.56	140
VPH Fractions		
C5 – C8 Aliphatics	10.4	300
C9 - C12 Aliphatics	61.4	700
C9 - C10 Aromatics	61.4	200
EPH Fractions		
C9 – C18 Aliphatics	112	700
C19 - C36 Aliphatics	162	14,000
C11 - C22 Aromatics	89.4	200

Laboratory Results presented in micrograms per liter, parts per billion (ppb)

On February 4, 1999, MT sampled the off-site private water supply well located at 98 Albany Road. This well is located approximately 500 feet west of the 2001 ground water plume depicted on Figure 7. No other private wells are known to be located within 500 feet of the plume. As indicated in the Summary Table below, no compounds were detected above GW-1 standards. Further access to sample the well was denied by the owner.

**Summary of Off-Site Water Supply - 98 Albany Road
(February 1999)**

**Berkshire Truck Plaza
92 State Line Road
West Stockbridge, Massachusetts**

Compound	Maximum Exposure Point Concentration	Current GW - 1 Standard
Xylene	1.18	10,000
VPH Fractions		
C5 – C8 Aliphatics	3.50	300
C9 - C12 Aliphatics	1.05	700
C9 - C10 Aromatics	15.5	200
EPH Fractions		
C9 – C18 Aliphatics	45	700
C19 - C36 Aliphatics	162	14,000
C11 - C22 Aromatics	121	200

Laboratory Results presented in micrograms per liter, parts per billion (ppb)

2.1.5 Risk Characterization Summary

MT retained the services of Environmental Sciences Group (ESG) to complete a Risk Characterization (RC) to evaluate potential health risks from exposures to soil and/or hazardous materials (OHM) detected in the on-site soils and ground water. The conclusions are summarized below:

- The Site does not represent a significant risk of harm to public safety, public welfare, or the environment.
- The Site does not represent a significant risk of harm to human health under current land and water supply uses. However, under potential future use of new water supplies in the ground water plume area, the Site may present a risk of harm to human receptors via domestic use of contaminated ground water.
- An AUL may be required for the Berkshire Truck Plaza site to restrict current and future land use to non-residential.

2.2 SUMMARY OF RELEASE ABATEMENT MEASURES

In March 2000, MT submitted a Release Abatement Measure (RAM) Plan to reduce on-site ground water contaminant concentrations. The RAM Plan entailed a combination of in-situ chemical oxidation treatment and ground water pumping and treatment.

2.2.1 In-Situ Chemical Oxidation

In-situ injections of a chemical oxidant (hydrogen peroxide) were conducted within the areas illustrated on Figure 8. A total of six injections were performed between May, 2000 and August 2002. Collectively, 33,000 gallons of 9 percent solution of hydrogen peroxide was injected, as documented in RAM Status reports.

2.2.2 Ground Water Extraction and Treatment System

On May 31, 2000, MT initiated ground water pump and treat system operations. Operations continued until shut down of the system in June 2010. Figure 9 illustrates the locations of recovery wells of the interconnected downgradient discharge distribution galleries and trench. Treatment process steps included:

- 1) Rosedale Filters;
- 2) Liquid phase carbon;
- 3) An air stripper; and
- 4) Air treatment through vapor phase carbon.

Treated water was pumped to a discharge system consisting of three pre-cast leaching chambers inter-connected with perforated piping. A total of 127,129,930 gallons of contaminated ground water were pumped, treated to concentrations below applicable standards and discharged.

2.3 SUMMARY OF PHASE III

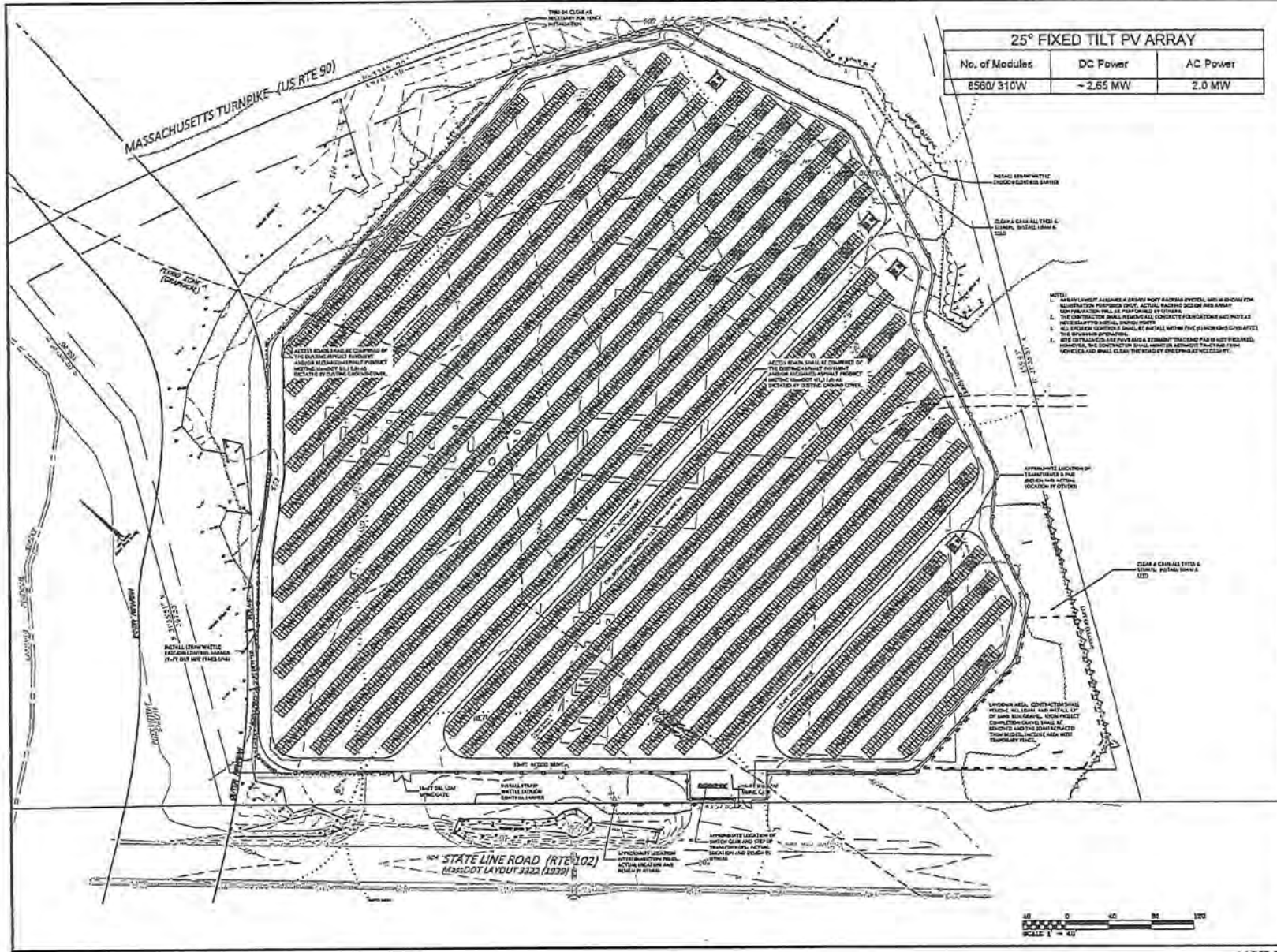
The Phase III – Identification, Evaluation and Selection of Comprehensive Remedial Action Alternatives Report was prepared in accordance with the requirements set forth in 310 CMR 40.0850 of the Massachusetts Contingency Plan (MCP). MT conducted an initial screening evaluation as part of the RAM activities and selected in-situ oxidation and ground water pumping and treatment as the most suited alternative to remediate the site.

2.4 SUMMARY OF PHASE IV

The Phase IV Remedial Implementation Plan was completed in accordance with Section 40.0870 of the Massachusetts Contingency Plan (MCP). The Remedial Implementation Plan is the March 2000 RAM Plan summarized in Section 2.2 above.

Exhibit C

EXHIBIT C



25° FIXED TILT PV ARRAY		
No. of Modules	DC Power	AC Power
8560/ 310W	~2.65 MW	2.0 MW

NOTES:
 1. METAL FRAME ASSUMES A GRAVITY RIGID FRAME SYSTEM WITH A GRAVITY RIGID SUPPORT SYSTEM. ACTUAL RAISED ACCESS AND FRAME CONSTRUCTION SHALL BE PROVIDED BY OTHERS.
 2. THE CONTRACTOR SHALL VERIFY ALL CONDUIT REGULATIONS AND NOTES ARE MET TO ALL APPLICABLE STANDARDS.
 3. ALL ELECTRICAL WORK SHALL BE INSTALLED WITHIN THE CONDUIT SYSTEM AFTER THE STRUCTURE IS COMPLETE.
 4. THE CONTRACTOR SHALL VERIFY ALL ELECTRICAL WORK IS INSTALLED AS SHOWN ON THE DRAWINGS AND SHALL VERIFY ALL ELECTRICAL WORK IS INSTALLED AS SHOWN ON THE DRAWINGS AND SHALL VERIFY ALL ELECTRICAL WORK IS INSTALLED AS SHOWN ON THE DRAWINGS.



PROJECT INFORMATION
 PROJECT NO. 1118/115
 PROJECT NAME: TRUCK STOP SOLAR IN WEST STOCKBRIDGE, MA
 CLIENT: CIVILTECH, INC.
 DATE: 11/18/15

CivilTech, Inc.
 1118/115/115
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 1118/115/115
 1118/115/115

PROJECT TITLE:
 SOLAR DEVELOPMENT PLAN
 TRUCK STOP SOLAR IN WEST STOCKBRIDGE, MA

SHEET TITLE:
 SITE PLAN

Date:	11/18/15
Scale:	1"=40'
Drawn by:	DDC
Checked by:	DDC
File #:	1118/115



DATE: 11/18/15
 SHEET S-1

NOT FOR CONSTRUCTION