

COMMONWEALTH OF MASSACHUSETTS

_____)	
IN THE MATTER OF)	BROWNFIELDS COVENANT
)	NOT TO SUE AGREEMENT
)	
FOXBOROUGH LAND PARTNERS, LLC)	DEP RTN 4-0792
REDEVELOPMENT OF EVELYN PORTER)	
ESTATE PROPERTY ON COCASSET STREET,)	
FOXBOROUGH, MASSACHUSETTS)	
_____)	

I. STATEMENT OF PURPOSE

A. This Brownfields Covenant Not to Sue Agreement (“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 Foxborough Land Partners, LLC (“Foxborough Land Partners”). Collectively, the OAG and Foxborough Land Partners 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 100 acre Evelyn Porter Estate property on Cocasset Street in Foxborough, Massachusetts into a residential development with protected open space (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 Foxborough, Massachusetts. The Parties agree that this Agreement, pursuant to G.L. c. 21E, §3A(j)(3), addresses potential claims by the Commonwealth as to Foxborough Land Partners and is predicated upon Foxborough Land Partners’ 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 under common law. This Agreement also addresses potential claims for natural resource damages. This Agreement does not, however, address liability arising under contract law.

D. The Parties agree that Foxborough Land Partners’ ability to conduct 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. Foxborough Land Partners’ failure to secure independent governmental approvals for the

proposed remediation shall not excuse Foxborough Land Partners 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 Foxborough, 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. Foxborough Land Partners is a limited liability corporation organized under the laws of the Commonwealth, with a principal mailing address of 26 Summer Street, Hingham, Massachusetts 02043. In accordance with this Agreement, Foxborough Land Partners shall undertake the Project as discussed in Section IV, Paragraph A, subparagraph 2, below.

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 those regulations. Terms not defined in the Brownfields Covenant Regulations, but defined under G.L. c. 21E or the MCP, shall have the meaning assigned to them under G.L. c. 21E 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 Project involves a tract of land of approximately 100 acres between East Belcher Street and Cocasset Street in Foxborough, Massachusetts currently owned by the Evelyn Porter Estate and formerly the site of the Bentley Porter Pumping and Disposal Company (the "Property"). The Property is more fully described on Exhibit A, attached and incorporated into this Agreement. Due to historic industrial activities, the Property is contaminated with Hazardous Materials.

D. The Department of Environmental Protection ("DEP") has received notices of the Releases of Oil and/or Hazardous Material at or from the Property, and has issued Release Tracking Number ("RTN") 4-0792 for these Releases. The areas where Oil and/or Hazardous Materials have come to be located as a result of the Release associated with RTN 4-0792 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 for the purposes of 940 CMR 23.08(1) in the Brownfields Covenant Regulations. The Site is more fully described on Exhibit B, which is attached and incorporated into this Agreement. Exhibit B describes in detail

the environmental conditions, including the nature and extent of contamination suspected to exist, at the Site. In the event that Foxborough Land Partners conducts additional site assessments or site investigations, any reports, studies or data resulting from those assessments or investigations that are submitted to DEP by Foxborough Land Partners shall be deemed to be incorporated into this Agreement as an addendum to Exhibit B.

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 FOXBOROUGH LAND PARTNERS

1. Foxborough Land Partners represents that:

- a. it is an Eligible Person;
- b. it is not at the time of execution of this Agreement a person with potential liability for the Site pursuant to G.L. c. 21E;
- c. 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, except as set forth below.
- d. its involvement with the Site has been limited to:
 - i. evaluating the Property for purposes of acquiring the Property;
 - ii. negotiating to acquire and acquiring the Property; and
 - iii. communicating with the Commonwealth and local authorities with respect to the design and planning of the Project and various permitting issues with respect to the Property.
- e. 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.
- f. 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. Foxborough Land Partners agrees to the following terms and conditions:

a. Foxborough Land Partners shall endeavor to acquire the Property and undertake the Project by developing the Property, in cooperation with the Town of Foxborough, into residential housing with protected open space. A copy of the map of the Property is attached as Exhibit C.

i. In determining the amount of land to be left as open space, Foxborough Land Partners shall first determine: (a) the areas of buildable land, based on technical feasibility and compliance with applicable federal, state and local planning, zoning, wetlands and waterways and other environmental and land use rules and regulations (collectively "Environmental and Land Use Laws"); and (b) the amount of development required for project feasibility. Based on these determinations, Foxborough Land Partners shall endeavor to develop a financially feasible Project, in compliance with applicable Environmental and Land Use Laws, that maximizes protection of the open space at the Property and retains no less than twelve (12) acres of land as open space.

ii. To the greatest extent possible, the project shall include: (a) protected open space next to abutting land owned by the Town of Foxborough for the purpose of maintaining a contiguous open space corridor for wildlife habitat between town land and the Property; (b) paths suitable for bicycling and walking; (c) maintenance of open connections to abutting open space for recreational use of on-Property and off-Property open space; and (d) stormwater infiltration systems to minimize run-off and erosion into wetlands.

iii. The open space shall be protected by deed restriction, including an Activity and Use Limitation, covenants and restrictions on the Project, or by other, similar mechanism.

b. With respect to contamination at the Property, Foxborough Land Partners shall either achieve or arrange for the achievement and maintenance of a Permanent Solution or Remedy Operation Status ("ROS") at the Property and the Site, to a standard consistent with residential use of the Property, in accordance with G.L. c. 21E and the MCP. Foxborough Land Partners shall cooperate fully with DEP. In the event that it is not technically feasible to achieve a Permanent Solution or ROS that is consistent with residential standards, or if changes in economic conditions cause the Project to change to a non-residential use, Foxborough Land Partners may propose an amendment to this Agreement. The Commonwealth shall approve such amendment if the OAG determines that the amended Project will achieve and maintain a Permanent Solution or ROS for the proposed use of the Property, the proposed use is consistent with the criteria specified in 940 CMR 23.03(1) for execution of a Brownfields Covenant Not to Sue Agreement and will create appropriate public benefits, as described in 940 CMR 23.03(2), and Affected Third Parties have had an appropriate opportunity to comment on and join this Agreement pursuant to 940 CMR 23.06(2) and (3) as it applies to the amended Project.

c. To cooperate fully includes, without limitation:

i. providing prompt and reasonable access to the Property to DEP 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 DEP 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 such Exposure or as otherwise required by G.L. c. 21E, the MCP, DEP or a Licensed Site Professional;

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 Property or 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.

B. COVENANT NOT TO SUE BY THE COMMONWEALTH

1. Covenant as to Foxborough Land Partners

Pursuant to G.L. c. 21E, §3A(j)(3), in consideration of the representations and commitments by Foxborough Land Partners set forth in Section IV, Paragraph A of this Agreement, and subject to Foxborough Land Partners' 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 Foxborough Land Partners pursuant to G.L. c. 21E for Response Action costs, contribution, property damage, natural resource damages and/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 that is fully described and delineated in the RAO Statement or ROS Submittal to be submitted to DEP with respect to the Site, so long as the Response Actions upon which the RAO Statement or ROS Submittal relies meet the Standard of Care in effect when the RAO Statement or ROS Submittal is submitted to DEP. The covenant as to Foxborough Land Partners in this paragraph shall vest on the effective date of this Agreement as defined in Section IV, Paragraph E, subparagraph 5. 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, assigns, lessees or licensees of Foxborough Land Partners' real property interests in the Property or any portion of the Property, or who are lessees or licensees of their successors and assigns (the "Subsequent Owners and/or Operators") pursuant to G.L. c. 21E, for Response Action costs, contribution, property damage, natural resource damages and/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 that is fully described and delineated in the RAO Statement or ROS Submittal to be submitted to DEP with respect to the Site, so long as the Response Actions upon which the RAO Statement or ROS Submittal relies meet the Standard of Care in effect when the RAO Statement or ROS Submittal 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 Foxborough Land Partners 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 Foxborough Land Partners 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 Release of Oil and/or Hazardous Material at, or from the Property that occurs after the date of execution of this Agreement;
- b. any Release of Oil and/or Hazardous Material which the City or any Subsequent Owner and/or Operator causes, contributes to, or causes to become worse;
- c. any Release of Oil and/or Hazardous Material at the Site that has not been discovered when an RAO Statement or ROS Submittal is submitted that would have been discovered if an assessment of the Site covered by or addressed in the RAO Statement or ROS Submittal been performed consistent with the Standard of Care in effect when the RAO Statement or ROS Submittal 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. 21E during Foxborough Land Partners' or a Subsequent Owner's and/or Operator's ownership or operation of the Property;
- e. any Release of Oil and/or Hazardous Material not expressly described in Section III, Paragraph D above; 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 not expressly described in Section IV, Paragraph B above. 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, the Commonwealth's covenants only shall not apply to such Subsequent Owner and/or Operator and this reservation shall not affect Foxborough Land Partners' liability protection.

5. Termination for Cause

a. If the OAG or DEP determines that Foxborough Land Partners 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 Foxborough Land Partners 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 DEP determines that Foxborough Land Partners or a Subsequent Owner and/or Operator has violated the terms and conditions of this Agreement, including but not limited to, failure to pursue development of the Project, failure to arrange for the achievement and maintenance of a Permanent Solution or ROS 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 such other Notice requiring additional work to achieve and/or maintain a Permanent Solution or ROS 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 liability protection is terminated solely because of the actions or inactions of a Subsequent Owner and/or Operator, including without limitation a violation of one or more of the conditions set forth in 940 CMR 23.08(3)(a) through (d), such termination shall affect the liability protection applicable only to such Subsequent Owner and/or Operator.

c. Before terminating the liability relief provided by this Agreement, the OAG will provide Foxborough Land Partners or a Subsequent Owner and/or Operator, as appropriate, 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 Foxborough Land Partners 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 Foxborough Land Partners or a Subsequent Owner and/or Operator might otherwise have pursuant to G.L. c. 21E.

C. COVENANT NOT TO SUE BY FOXBOROUGH LAND PARTNERS AND ANY SUBSEQUENT OWNER AND/OR OPERATOR

1. In consideration of the Commonwealth's covenants not to sue in Section IV, Paragraph B, Foxborough Land Partners 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 Site or this Agreement, including, but not limited to:

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;

b. any claims for "takings" under the Fifth Amendment to the United States Constitution, under the Massachusetts Constitution, or under G.L. c. 79;

c. any claims arising out of Response Actions at the Site and/or the Property, including claims based on DEP's selection of Response Actions, oversight of Response Actions, or approval of plans for those activities;

d. any claims or causes of action for interference with contracts, business relations or economic advantage; or

e. any claims for costs, attorneys fees, other fees or expenses incurred.

2. Subsequent Owners and/or Operators shall be bound by Foxborough Land Partners' covenants in this Paragraph C. In the event that, despite these covenants, any Subsequent Owner and/or Operator of the Property 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 Site or this Agreement, including without limitation any or all of the claims listed in this Paragraph C, such claims and/or causes of actions shall have no effect on the rights, benefits, and protections Foxborough Land Partners and its assigns, subsidiaries, affiliates, parents, and successors in interest have secured under this Agreement.

D. PROTECTION FROM THIRD PARTY CLAIMS

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 the RAO Statement or ROS Submittal submitted to DEP with respect to the Site, so long as the Response Actions upon which the RAO Statement or ROS Submittal relies meet the Standard of Care in effect when the RAO Statement or ROS Submittal is submitted to DEP, Foxborough Land Partners 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 Foxborough Land Partners and/or any Subsequent Owner or Operator as owner or operator of the Property and/or the Site, provided, however, that:

1. Foxborough Land Partners has satisfied the notification provisions of G.L. c. 21E, §3A(j)(3), and 940 CMR 23.06(1); and

2. the OAG has provided Affected Third Parties an appropriate opportunity to join this Agreement pursuant to 940 CMR 23.06(2) and (3).

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.

F. REQUESTS TO JOIN THE AGREEMENT

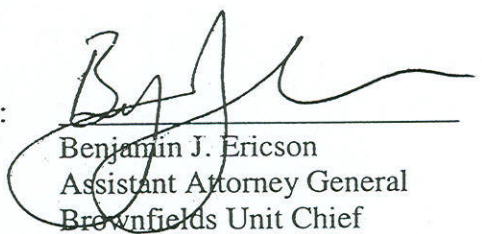
The OAG received requests to join the Agreement from the following residents of Foxborough: Ann Alibrandi; David J. and Lynne S. Burns; Roger E. and June E. Cardin; Richard and Debbie Conti; Paula Couroupacis; Agnes E. Curran; William G. Ferry; Joan Gallivan; Richard and Marie Huyler; Leonard J. Jodice; George F. and Rosamond C. Leonard; Christopher J. and Kathleen D. Lowey; Joan M. McGowan; Carol M. and Robert J. O'Toole; Vincent Riccio; Liam Scanlan; James and Jane Shea; Cecilia Sullivan; and Rich Touzos. The OAG, after a public meeting held on March 1, 2006 and upon consideration of the factors in 940 CMR 23.06, has rejected these requests.


In the matter of Foxborough Land Partners, LLC Redevelopment, Cocasset Street, Foxborough
Brownfields Covenant Not To Sue Agreement

IT IS SO AGREED:

OFFICE OF THE ATTORNEY GENERAL

FOXBOROUGH LAND PARTNERS, LLC

By: 
Benjamin J. Ericson
Assistant Attorney General
Brownfields Unit Chief
Office of the Attorney General
One Ashburton Place
Boston, MA 02108

By: 
Name (printed): Justin Thomas
Title: Manager
Date: 7/9/06

Date: 6/13/06

In the matter of Foxborough Land Partners, LLC Redevelopment, Cocasset Street, Foxborough
Brownfields Covenant Not To Sue Agreement

EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS

By: Stephen R. Prichard
Stephen R. Prichard
Secretary
Executive Office of Environmental Affairs
Commonwealth of Massachusetts

Date: 6/13/06

Attorney Robert H. Shaer,
Rudolph Friedmann LLP
RE: Cocassett Street and Belcher Road, Foxborough
Our File No. 28780

Exhibit "A"

Assessors Parcel 3486

The land in Foxborough, Norfolk County, Massachusetts, situated on Belcher Road, bounded and described as follows:

WESTERLY by Belcher Road, 1000.34 feet;
NORTHERLY by land of Samuel E. and Mary L. Brown, 376 feet;
NORTHEASTERLY by land now or formerly of Wilbur and land now or formerly of Kay, 1000 feet;
and
SOUTHEASTERLY by land now or formerly of DeVaux, 751.11 feet.

Assessors Parcel 3175

The land in the easterly part of Foxborough, east of Belcher Farm (so-called) bounded as follows:

SOUTHEASTERLY by land of Tyler Morse, about sixty-nine rods;
SOUTHWESTERLY by land of Henry Hodges about fifty-nine and one-half rods;
NORTHWEST by land of Asel Dean and Fisher Sumner about sixty-nine rods; and
NORTHEAST by land of said Sumner about fifty-six rods and fourteen links.

Containing about twenty-five acres and five rods of land.

Assessors Parcels 2856 and 2855

A certain tract of land situated in said Foxborough containing sixty three acres and twenty three and one half square rods, more or less bounded and described as follows, viz:

Commencing at a corner of land formerly of W.A. Thompson and formerly of W. F. Sumner,

THENCE running N 14 ½ ° W 149 rods and 18 links on said Thompson land to a corner;

Attorney Robert H. Shaer,
Rudolph Friedmann LLP
RE: Cocasset Street and Belcher Road, Foxborough
Our File No. 28780

THENCE N 71° 55' E 5 rods and 15 links and N 27 ¼ ° W 15 rods and 15 ½ links, and N 65° E to the west line of the road, the last three courses by said Thompson land;

THENCE by said road to corner of land formerly of Chester F. Morse and formerly of Turner Sumner;

THENCE S 27° E 128 rods 8 links on said Morse land to a corner;

THENCE S 77° W 2 rods 21 links and S 9° 5' E 9 rods 9 links the last two courses by land formerly of W. A. Thompson aforesaid;

THENCE S 88 2/3° E by said Thompson land 22 rods 6 links to the centre of the river;

THENCE by the river and S 2° E 16 rods and 14 links, and S 11° W 2 rods 21 links, and S 19° W 4 rods 10 links to a red oak; and S 43 ¾ ° W 17 rods 4 links to end of a wall in "old Winslow line" so called the last four courses by land supposed to belong to the later Tyler Morse;

THENCE S about 59 ½ ° W 55 rods and 13 links;

THENCE N about 29 ½ ° W 56 rods 8 links, the last two courses by land now or formerly of the Heirs of one Winslow;

THENCE northeasterly by land formerly of said Thompson to the first mentioned corner.

Being the land described in two plans one plan of "Asahel Deans land" set off to him out of the farm of William Sumner deceased drawn on a scale of 20 rods to an inch by John Selee Surveyor, October 27, 1851, and the other "Plan of land belonging to W.F. Sumner and A. Dean projected on scale of 10 rods per inch, Warren Bird Surveyor August 19 1842".

Also a tract of land with the buildings thereon situated on the northerly side of Cocasset street in said Foxborough containing one acre more or less formerly a part of homestead of William Sumner, who died about 1832, and is bounded beginning at the southeast corner of granted premises on said Cocasset street and land formerly of Calvin Sumner;

THENCE running northeasterly by land formerly of said Calvin Sumner and an old wall to a corner;

THENCE running about southeasterly by land of heirs of Calvin Sumner, now or formerly, and an old wall to Cocasset street;

THENCE by the line of said street, westerly to first mentioned corner.

EXHIBIT B

Evelyn Porter Property, Foxboro, MA

Summary of Environmental Work

The Evelyn Porter Estate (the "Site") consists of approximately 100 acres of wooded land with some wetlands, small ponds and the Rumford River along part of the east boundary. The Site was used for agriculture purposes prior to 1938. From 1938 to 1988 the Site was used as a domestic wastewater sludge disposal area by the Bentley F. Porter Pumping and Disposal Company. The waste transported to the Site was primarily from domestic sources; however, it also included some industrial waste. Some areas of the Site contained bermed waste lagoons that were used for sludge disposal. The main area consisted of two settling lagoons and six open-sand filter beds. The site investigations have not detected any impact to natural resources at or around the Site. Operations at the Site ceased in the late 1980's. By that time the property owners were deceased and their estate had insufficient assets to address the contamination.

A significant amount of environmental investigation and remediation has already been conducted at the Site. Analyses of soils and groundwater conducted at the Site between 1989 and 1999 showed the highest concentrations of soil contaminants were in the TP-13 area, the location of two lagoons in the southwest section of the Site. The contaminants were primarily semi-volatile organic compounds (SVOCs), petroleum and some metals. The most significant groundwater contamination was due to volatile organic compounds (VOCs) from the sand filter bed area in the center of the Site. In 1996 arsenic and cadmium were detected in the top six inches of soil in the TP-13A area. The Evelyn Porter Estate had a fence constructed around this area to prevent access and exposure to the contaminants. In December 2000, soils containing tetrachlorodibenzo-dioxin (TCDD) were detected primarily at area TP-13. As a result of this discovery, in 2002 the Massachusetts Department of Environmental Protection requested that the US Environmental Protection Agency ("EPA") assist with a removal action.

In 2002 and 2003 under the management of the US EPA, the highest concentrations of contaminants in the TP-13 area were excavated and removed. A temporary cap system was then constructed over this area. The work was documented in the "Removal Program After Action Report" by Weston Solutions, Inc. dated December 2003. No further remedial action has been conducted at the Site.

EXHIBIT C

Map of Property

Applicant:
Faxonrough Land Partners LLC

