

**COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

In the matter of:)
)
Randy E. Jordan, Brian H.)
Jordan)
)
and)
)
Lighthouse Environmental)
Management, LLC)

File No.: ACO-CE-15-9002-3R6W

**ADMINISTRATIVE CONSENT ORDER
AND
NOTICE OF NONCOMPLIANCE**

I. THE PARTIES

1. The Department of Environmental Protection ("Department" or "MassDEP") is a duly constituted agency of the Commonwealth of Massachusetts established pursuant to M.G.L. c. 21A, § 7. MassDEP maintains its principal office at One Winter Street, Boston, Massachusetts 02108, and its Central Regional Office at 8 New Bond Street, Worcester, Massachusetts 01606.
2. Randy E. Jordan resides at 51 Muschopauge Road, in Rutland, Massachusetts. Brian H. Jordan resides at 120 Bushy Lane, Rutland, Massachusetts. The mailing address for both Randy E. Jordan and Brian H. Jordan (referred to jointly herein as the "Jordans") for the purpose of this Consent Order is 51 Muschopauge Road, Rutland, MA 01543.
3. Lighthouse Environmental Management, LLC ("Lighthouse") is a Massachusetts limited liability company with its principal offices located at 184 Stone Street, in Clinton, Massachusetts. Lighthouse's mailing address for the purpose of this Consent Order is 184 Stone Street, Clinton, MA 01510.
4. The Jordans and Lighthouse are hereafter collectively referred to herein as "Respondents."

II. STATEMENT OF FACTS AND LAW

5. MassDEP is responsible for the implementation and enforcement of M.G.L. c. 111, §§ 142A-1420 and the associated Air Pollution Control Regulations at 310 CMR 6.00, 310 CMR 7.00,

and 310 CMR 8.00; M.G.L. c. 131, § 40 and the associated Wetlands Regulations at 310 CMR 10.00; M.G.L. c. 111, §§ 150A and 150A1/2 and the associated Solid Waste Management Regulations at 310 CMR 19.000 and Site Assignment Regulations for Solid Waste Facilities at 310 CMR 16.00; and M.G.L. c. 21E and the Massachusetts Contingency Plan ("MCP") at 310 CMR 40.0000. MassDEP has authority under M.G.L. c. 21E, § 6 to specify reasonable requirements to regulate activities which may cause, contribute to, or exacerbate a release of oil or hazardous materials, to prevent and control and to counter the effects of such releases. MassDEP also has authority under M.G.L. c. 111, § 2C to issue orders for violations of any statute or regulation MassDEP is authorized to enforce.

6. The Jordans own the real property located off East County Road in Rutland, Massachusetts (the "Property") by virtue of a deed recorded at the Worcester Registry of Deeds in book 39319, page 245.
7. Lighthouse is an operator at the Property, and has contracted to arrange for the transport, disposal, storage or treatment of soil and fill materials at the Property and at an adjacent parcel of land located off East County Road and Overlook Road in Rutland, Massachusetts that is owned by William Williams by virtue of a deed recorded at the Worcester Registry of Deeds in book 13187, page 253 ("Williams Property").
8. The following facts and allegations have led MassDEP to issue this Consent Order:
 - A. In September 2012, Respondents began importing and placing soil and fill materials at the Property in accordance with a "Soil Management Plan" dated September 24, 2012 and prepared for Overlook Farm by EnviroTrac Ltd. to level a newly cleared and graded portion of the Property to be used for com fields.
 - B. In the early spring of 2013, MassDEP received calls from several town boards in Rutland and from the Worcester Department of Public Works ("Worcester DPW") with concerns related to the quality of the clay-like soils that had been deposited on the Property and the potential for the soils to migrate through the wetlands to the downstream Quinapoxet Reservoir, which is part of public water supply systems.
 - C. During an inspection on June 14, 2013, MassDEP personnel observed sediment-laden runoff discharging from a breached sedimentation basin on the Williams Property that was collecting silt-laden runoff from the Property. The discharge caused turbidity and sedimentation to off-site wetlands and tributary streams that eventually flow into the Quinapoxet Reservoir. This discharge resulted in sedimentation of Bank in violation of the performance standards at 310 CMR 10.54 and sedimentation of Bordering Vegetated Wetlands in violation of the performance standards at 310 CMR 10.55.
 - D. On September 12, 2013, Mass-DEP issued a Notice of Noncompliance (NON) to Respondents for the violations described in paragraph 8.C above. The NON required Respondents to submit a "Comprehensive Erosion Control Plan" designed or approved

by a Professional Engineer by September 29, 2013. Respondents submitted the Comprehensive Erosion Control Plan prepared by EcoTec Inc.

- E. On March 31, 2014, MassDEP received an email from the Worcester DPW Reservoir Division with photographs showing siltation of wetlands at a location off-site, north of the previous event of June 14, 2013.
- F. During an inspection of the Property and the Williams Property on April 1, 2014, MassDEP personnel observed that one of the new basins (Settling Basin #1), constructed in response to the NON issued by MassDEP on September 29, 2013, was leaching turbid water through the basin wall and discharging it off site into wetlands. This basin collects water from the Property. The silt-laden discharge resulted in alteration/filling of approximately 700 square feet of Bordering Vegetated Wetlands in violation of the performance standards at 310 CMR 10.55(4).
- G. On June 25, 2014, the parties met to discuss the violations observed by MassDEP on April 1, 2014. Respondents agreed to submit to MassDEP a revised Surface Water Management Plan to reduce run-off from the Property to the Williams Property, with improved basin structure outlets.
- H. On September 9, 2014, Quinn Engineering Inc. submitted the revised Surface Water Management Plan to MassDEP on behalf of Respondents. MassDEP contacted Quinn Engineering on this same date and requested that additional details be included on the plan.
- I. On September 17, 2014, Quinn Engineering Inc. submitted a final revised Surface Water Management Plan to MassDEP on behalf of Respondents.
- J. On September 19, 2014, the parties met again to discuss the Surface Water Management Plan and construction sequences with timelines. MassDEP approved the Surface Water Management Plan at the meeting.
- K. On April 24, 2015, Lighthouse submitted to MassDEP a "Soil Re-Use Management Plan for Overlook Farms, Rutland, Massachusetts" ("SRMP") prepared by D'Amore Associates, Inc. The SRMP is attached to this Consent Order (Attachment A) and incorporated by reference. The SRMP establishes the criteria for acceptance of soil and other fill materials at the Property and the abutting Williams Property. Fill materials may include certain soils originating from sites where a release of oil or hazardous materials, as defined in 310 CMR 40.0006 ("OHM"), has or may have occurred.
- L. Respondents propose to conduct further filling and grading at the Property as shown on the "Estimated Phase 4 (Finished) Grading Plan" prepared by Quinn Engineering, Inc. dated August 28, 2014 and Revised March 2, 2015, (the "Grading Plan") included as Figure 4 in the SRMP (the "Project"). Neither the Project nor this Consent Order includes the abutting Williams Property.

- M. The placement, dumping, disposing or reuse of soil containing oil and hazardous material into the environment is a release as that term is defined in M.G.L. c. 21E § 2. Depending on the site-specific conditions and the nature of the OHM present in the soil, such releases may have significant adverse human health and environmental effects.

- N. MassDEP's "Similar Soils Provision Guidance, WSC#-13-500" dated September 4, 2014 (the "Similar Soils Policy") addresses the specific requirements of 310 CMR 40.0032(3) and the criteria by which a Licensed Site Professional ("LSP") may determine that soil may be moved without prior notice to or approval from the Department. The Similar Soils Policy is not applicable to the excavation and movement of soil from locations other than Disposal Sites as defined in M.G.L. c. 21E § 2, nor to the management of soils considered Remediation Wastes as defined in the MCP at 310 CMR 40.0006. Moreover, nothing in the Similar Soils Policy eliminates, supersedes or otherwise modifies any local, state or federal requirements that may also apply to the movement or management of soil, for this Project or other similar projects, including any local, state or federal permit or approvals that must be obtained before placing soil at a receiving location.

III. DISPOSITION AND ORDER

For the reasons set forth above, MassDEP hereby issues, and Respondents hereby consent to, this Order:

- 9. The parties have agreed to enter into this Consent Order because they agree that it is in their own interests, and in the public interest, to proceed promptly with the actions called for herein rather than to expend additional time and resources litigating the matters set forth above. Respondents enter into this Consent Order without admitting or denying the facts or allegations set forth herein. However, Respondents agree not to contest such facts and allegations for purposes of the issuance or enforcement of this Consent Order.

- 10. MassDEP's authority to issue this Consent Order is conferred by the statutes and regulations cited in Part II of this Consent Order.

- 11. Respondents shall perform the following actions:
 - A. Effective immediately, Respondents shall take every measure to prevent further violations of the Wetlands Protection Act;

 - B. Respondents will immediately implement the Surface Water Management Plan as approved by MassDEP on September 19, 2014 including operation and maintenance of basins and conveyances described in the plan;

 - C. Within 30 days of the effective date of this Consent Order, all drainage structures depicted in the "Surface Water Management Plan" will be completed and operational;

- D. Effective immediately, and continuing for a period of one year from the effective date of this Consent Order, Respondents shall monitor and record turbidity for any rainfall event that results in a discharge of water at the final outlet of the basins to Wetland Resource Areas. Respondents will immediately report to MassDEP any visible turbidity discharging to Wetland Resource Areas.
- E. Upon the effective date of this Consent Order, Respondents shall perform any and all activities related to the Project in compliance with M.G. L. c.21E, the MCP the Similar Soils Policy, and all other applicable local, state and federal laws and regulations.
- F. Upon the effective date of this Consent Order, Respondents shall perform any and all activities related to the Project in compliance with the SRMP, as amended from time to time with the written consent of all parties.
- G. Respondents shall ensure that Project activities do not result in a Condition of Air Pollution with respect to dust, noise and odors pursuant to 310 CMR 7.01.
- H. Respondents shall install and maintain a minimum of three (3) groundwater monitoring wells and monitor the groundwater quality at these wells in accordance with the SRMP to assess potential changes to environmental conditions at the Property during and after the Project.
- I. Respondents shall not accept soil and fill materials that have not been adequately characterized pursuant to the SRMP prior to transport to the Property. Soil and fill materials shall be subject to a suite of required field screening methods and laboratory analyses, to demonstrate that chemical constituents in the soil are within the site-specific Soil Acceptance Criteria identified in the SRMP. Chemical characterization shall be completed by collection of soil samples and analysis by a Massachusetts state-certified laboratory. Averaging of concentrations shall not be allowed. The analytical suite with appropriate laboratory methods required for soil acceptance, and frequency of sampling requirements, are specified in the SRMP.
- J. Respondents shall ensure that soils and fill materials imported to the Property during the Project, with the exception of loads quarantined or rejected in accordance with the quality control measures in the SRMP, shall not be removed from the Property either during or at any time after completion of the Project.
- K. Respondents shall cease accepting soil from a sending site when any load from such site is rejected as a result of field screening; visual or olfactory Quality Assurance/Quality Control ("QA/QC") inspection by Respondents, as specified in Section 5.2 of the SRMP; or the QA/QC testing conducted by the Independent Third Party, as specified in paragraph 11.P below, until Respondents receive a written explanation and assurance from the sending site that no additional similar loads will be transported to the Property.

L. Respondents shall ensure that soil and fill materials quarantined for QA/QC testing by the Third Party Inspector are either accepted and reused, or rejected and removed from the Property, within thirty (30) days of deposition. Loads of soil or fill materials that are rejected as a result of field screening, or visual or olfactory QA/QC inspection by Respondents, shall be removed from the Property within 7 days of deposition. For each rejected load, Respondents shall collect the following information for reporting to MassDEP in the next Construction Status Report, as specified in paragraph 11.R. below:

1. the reasons the load was rejected;
- ii. the name and address of the hauler;
- iii. the license plate number of the truck/tractor;
- iv. the name and address of the generator; and
- v. the corrective actions taken by Respondents.

M. Respondents shall engage the services of a Licensed Site Professional ("Project LSP") to oversee the activities agreed to in this Consent Order. The Project LSP shall, at a minimum:

1. Continuously observe the work for compliance with the SRMP and provide recommendations for corrective actions to Respondents;
- ii. Review all Soil Profile Packages, as that term is used in the SRMP, and provide written recommendations for acceptance or denial to Respondents;
- iii. Conduct the on-site quality control procedures pursuant to the SRMP; and
- iv. Perform the periodic collection and analysis of groundwater samples pursuant to the SRMP. Any contractual relationship between Respondents and the Project LSP for work required hereunder shall require the Project LSP, as a condition of the contract, to implement work consistent with the provisions of this Consent Order.

N. Respondents shall comply with the following restrictions:

1. Soil and fill materials approved for use at the property shall contain no more than 5% Asphalt, Brick and Concrete ("ABC") material. Any such ABC material must measure less than 6 inches in any dimension.
- ii. No wood, metal, wire, plastic, textile, ceramic, ash, tires, pipe, potential asbestos-containing material, construction/demolition waste, or other debris shall be accepted.

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Additionally, soil must be free of municipal solid waste and any material subject to a MassDEP waste ban.

- m. The acceptance of Remediation Waste, as defined at 310 CMR 40.0006, is prohibited.
- O. Respondents shall obtain all applicable local, state and federal permits or approvals that may be required by the Project.
- P. Independent Third Party Inspections: Respondents shall engage the services of a qualified, independent individual (the "Independent Third Party") to perform monthly inspections of the Property for compliance with the requirements of this Consent Order including, but not limited to, the SRMP, Surface Water Management Plan and Grading Plan. The Independent Third Party must hold certification as a Massachusetts Registered Professional Engineer or as an LSP, and must be approved, in writing, by MassDEP. Respondents shall be responsible for the timely performance of the activities required of the Independent Third Party in this Consent Order.
 - i. The Independent Third Party inspections shall be unannounced and randomly timed during normal operating hours.
- 11. During each inspection, the Independent Third Party shall, at a minimum:
 - a) Observe the practices involved in the receipt and/or placement of soil and fill materials at the Property, to the extent that such activities are occurring;
 - b) Inspect the soil and fill materials that are being unloaded and/or placed during the inspection, if any, and inspect all areas of the Property where soil and fill materials have been placed since the previous inspection;
 - c) Collect grab soil samples from a minimum of 1 load of soil being delivered to the Property (if any arrive during the inspection) and submit the collected samples to a Massachusetts certified laboratory for the soil profile analyses specified in the SMP for QA/QC purposes. Respondents shall stockpile this load in a designated quarantine area pending the results of the analyses and provide the Third Party Inspector a copy of the Material Shipping Record or Bill of Lading for the load;
 - d) Collect a minimum of 6 spot elevation measurements within the filled areas of the Property with respect to established benchmarks; and,
 - e) Inspect all erosion control measures including but not limited to, silt fence, hay bales, temporary basins and swales.

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- iii. The Independent Third Party shall have the authority to immediately stop work on the Project and notify MassDEP and the local conservation commission upon observing any violation of the Wetlands Protection Act.

- 1v. The Independent Third Party shall prepare an inspection report documenting the findings for each inspection and shall submit such report to Respondents and MassDEP on or before the 15th of each month. Each inspection report shall include, but not be limited to:
 - a) Observations of practices that are not compliant with the SMP and/or Consent Order;
 - b) Observations of solid or hazardous waste, stained soils, odors and sheens;
 - c) The results of the QA/QC testing of the soil samples collected during the inspection, including, but not limited to the following, providing that the QA/QC results for a given inspection may be submitted in the next monthly report if not available for submittal with the inspection report:
 - 1. A copy of the Material Shipping Record or Bill of Lading for the load of soil that was sampled during the inspection, if any;
 - 2. The analytical results in a tabular format comparing the results to the applicable RCS-1 Reportable Concentrations and Acceptance Criteria identified in the SMP;
 - 3. A clear statement regarding whether any of the analytical results equal or exceed any applicable Reportable Concentration or Acceptance Criteria; and
 - 4. The laboratory analytical reports and chain of custody documents;
 - d) Observations of airborne dust and dust control measures employed;
 - e) A plan showing spot elevation measurements and locations using the Grading Plan as a base plan, and a statement regarding whether the measured elevations comply with the Grading Plan;
 - f) Specific recommendations for repairs, replacement or changes to erosion control measures at the Property; and
 - g) Status updates of the actions taken by Respondents to implement the recommendations made in prior inspection reports, if any.

Q. Respondents shall submit to MassDEP each quarter a status report ("Construction Status Report") on the status of the Project. The initial Construction Status Report shall be submitted within thirty (30) days of the issuance of this Consent Order but not later than 7 days before the date Respondents start construction at the Property. The initial Construction Status Report shall include, without limitation:

1. The projected schedule for the project, including, but not limited to:
 - a) Commencement of construction,
 - b) Major construction milestones, and
 - c) Completion of construction;
- ii. The name and contact information for an on-call Property contact; and
- iii. The results of the pre-construction groundwater monitoring, including boring logs and well construction reports for all of the monitoring wells, well elevations, groundwater gauging measurements, tabulated analytical results and laboratory analysis reports with chains of custody.

R. After submittal of the initial Construction Status Report, Respondents shall submit each subsequent quarterly Construction Status Report on or before the 15th day of the month following each three-month reporting period until the Project is completed. Each such Quarterly Construction Status Report shall include, without limitation:

- i. A summary of the filling activities conducted at the Property during the prior 3-month reporting period, including a tabulated list of source locations, tons of material from each source location since the last report, cumulative tons of material from each source;
- ii. Major activities Respondents anticipate performing during the next 3-month reporting period;
- iii. Any changes to the project schedule, the Independent Third Party, the Project LSP, and the on-call contact information;
- iv. Actions Respondents have taken or a schedule for actions Respondent intends to take in response to recommendations for corrective actions made by the Independent Third Party, if any;
- v. Actions taken in response to the QA/QC results reported by the Independent Third Party Inspector, if any;

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- vi. A summary of the loads rejected as a result of visual or olfactory QA/QC inspection by Respondents, or the QA/QC testing conducted by the Independent Third Party, including but not limited to: the reasons the load was rejected, the name and address of the hauler, the license plate number of the truck/tractor, the name and address of the generator, and the corrective actions taken by Respondents; and
- vii. The results of any groundwater monitoring conducted during the reporting period.
- viii. The Construction Status Report shall be signed by the Project LSP and shall include the following certification signed by Respondents:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate and complete. I am aware that there are significant penalties both civil and criminal for submitting false information.

- S. Respondents shall maintain all slopes to be no steeper than 3:1 horizontal to vertical during and post-construction.
- T. Respondents shall not exceed the maximum elevations shown in the Grading Plan.
- U. The final stabilization of the top of the fill shall be by planting of crops or other vegetative cover on 2 feet of topsoil overlaying 2 feet of granular fill (fine sandy loam or coarser).
- V. Respondents shall notify MassDEP, in writing, if Respondents intend to terminate the Project before achieving the maximum finish grading shown in the Grading Plan. Respondents' failure to perform Project-related filling activities for any contiguous 6-month period shall be deemed by MassDEP to be Respondents' termination of the Project.
- W. Respondents shall perform the following closure activities upon achieving the proposed fill subgrade elevations, or upon Respondents' termination of the Project before achieving the proposed fill subgrade elevations:
 - 1. Within 60 days of achieving the proposed fill subgrade elevations or terminating the Project, Respondents shall address all outstanding recommendations made by the Project LSP and/or Independent Third Party;

- ii. Within 90 days of achieving the approved fill subgrade elevations or terminating the Project, Respondents shall stabilize all slopes by applying suitable materials and establishing a vegetative cover or other cover specified in the Grading Plan;
 - m. Within 180 days of achieving the approved fill subgrade elevations or terminating the Project, Respondents shall submit to MassDEP an As-Built Plan prepared and stamped by a Massachusetts Registered Land Surveyor or Professional Engineer. The As-Built Plan shall show the final elevations at the Property and any permanent stormwater management features; and
 - iv. Respondents shall continue monitoring the groundwater in accordance with the SRMP.
- X. Respondents shall maintain records of all soil accepted at the Property, including but not limited to Generator applications, Soil Submittal Packages, soil profiles, Project LSP Recommendations and Acceptance/Approval documents, for a minimum of 7 years after the completion of the work. Any and all records, including records in electronic and paper form, shall be made available to MassDEP for inspection and reproduction upon request.
12. MassDEP reserves the right to require Respondents to take any and all actions necessary to ensure that the activities conducted at the Property do not cause any nuisance conditions including, but not limited to, dust, noise, odor or wetlands impacts.
13. MassDEP reserves the right to require Respondents to take any and all corrective actions recommended by the Project LSP and/or the Independent Third Party within a reasonable time. Respondents' failure to complete such corrective actions shall be considered a violation of this Consent Order.
14. For the purposes of this Consent Order, the Project will commence upon the execution of this Consent Order by MassDEP. Soil and fill materials placed, dumped, disposed or reused at the Property prior to execution are not included in the Project.
15. Unless submitted via eDEP or except as otherwise provided herein, all notices, submittals and other communications required by this Consent Order shall be directed to:

Mary Jude Pigsley, Acting Regional Director
MassDEP Central Regional Office
8 New Bond Street
Worcester, MA 01606

Such notices, submittals and other communications shall be considered delivered by Respondents upon receipt by MassDEP.

16. For purposes of M.G.L. c. 21A, § 16 and 310 CMR 5.00, this Consent Order shall also serve as a Notice of Noncompliance for Respondents' noncompliance with the requirements cited in Part II above. MassDEP hereby determines, and Respondents hereby agree, that the deadlines set forth above constitute reasonable periods of time for Respondents to take the actions described.

17. Force Majeure

- A. MassDEP agrees to extend the time for performance of any requirement of this Consent Order if MassDEP determines that such failure to perform is caused by a Force Majeure event. The failure to perform a requirement of this Consent Order shall be considered to have been caused by a Force Majeure event if the following criteria are met: (1) an event delays performance of a requirement of this Consent Order beyond the deadline established herein; (2) such event is beyond the control and without the fault of Respondents and Respondents' employees, agents, consultants, and contractors; and (3) such delay could not have been prevented, avoided or minimized by the exercise of due care by Respondents or Respondents' employees, agents, consultants, and contractors.
- B. Financial inability and unanticipated or increased costs and expenses associated with the performance of any requirement of this Consent Order shall not be considered a Force Majeure Event.
- C. If any event occurs that delays or may delay the performance of any requirement of this Consent Order, Respondents shall immediately, but in no event later than 5 days after obtaining knowledge of such event, notify MassDEP in writing of such event. The notice shall describe in detail: (i) the reason for and the anticipated length of the delay or potential delay; (ii) the measures taken and to be taken to prevent, avoid, or minimize the delay or potential delay; and (iii) the timetable for taking such measures. If Respondents intends to attribute such delay or potential delay to a Force Majeure event, such notice shall also include the rationale for attributing such delay or potential delay to a Force Majeure event and shall include all available documentation supporting a claim of Force Majeure for the event. Failure to comply with the notice requirements set forth herein shall constitute a waiver of Respondents' right to request an extension based on the event.
- D. If MassDEP determines that Respondents' failure to perform a requirement of this Consent Order is caused by a Force Majeure event, and Respondents otherwise comply with the notice provisions set forth in paragraph C above, MassDEP agrees to extend in writing the time for performance of such requirement. The duration of this extension shall be equal to the period of time the failure to perform is caused by the Force Majeure event. No extension shall be provided for any period of time that Respondents' failure to perform could have been prevented, avoided or minimized by the exercise of due care. No penalties shall become due for Respondents' failure to perform a requirement of this Consent Order during the extension of the time for performance resulting from a Force Majeure event.

- E. A delay in the performance of a requirement of this Consent Order caused by a Force Majeure event shall not, of itself, extend the time for performance of any other requirement of this Consent Order.

18. Actions required by this Consent Order shall be taken in accordance with all applicable federal, state, and local laws, regulations and approvals. This Consent Order shall not be construed as, nor operate as, relieving Respondents or any other person of the necessity of complying with all applicable federal, state, and local laws, regulations and approvals.

19. Respondents understand, and hereby waive, their right to an adjudicatory hearing before MassDEP on, and judicial review of, the issuance and terms of this Consent Order and to notice of any such rights of review. This waiver does not extend to any other order issued by the MassDEP.

20. This Consent Order may be modified only by written agreement of the parties hereto.

21. MassDEP hereby determines, and Respondents hereby agree, that any deadlines set forth in this Consent Order constitute reasonable periods of time for Respondents to take the actions described.

22. The provisions of this Consent Order are severable, and if any provision of this Consent Order or the application thereof is held invalid, such invalidity shall not affect the validity of other provisions of this Consent Order, or the application of such other provisions, which can be given effect without the invalid provision or application, provided however, that MassDEP shall have the discretion to void this Consent Order in the event of any such invalidity.

23. Nothing in this Consent Order shall be construed or operate as barring, diminishing, adjudicating or in any way affecting (i) any legal or equitable right of MassDEP to issue any additional order or to seek any other relief with respect to the subject matter covered by this Consent Order, or (ii) any legal or equitable right of MassDEP to pursue any other claim, action, suit, cause of action, or demand which MassDEP may have with respect to the subject matter covered by this Consent Order, including, without limitation, any action to: (a) enforce this Consent Order in an administrative or judicial proceeding; (b) recover costs incurred by MassDEP in connection with response actions conducted at the Site; and (c) recover damages for injury to and for destruction or loss of natural resources pursuant to M.G.L. c. 21E, § 5 or 42 U.S.C. 9601, et seq.

24. Nothing in this Consent Order shall be construed or operate as barring, diminishing, adjudicating or in any way affecting MassDEP's authority to: (a) perform response actions at the Site or (b) require Respondents to conduct response actions at the Site or take other actions beyond those required by this Consent Order in order to comply with all applicable laws and regulations including, without limitation, M.G.L. c. 21E and the MCP.

25. This Consent Order shall not be construed or operate as barring, diminishing, adjudicating, or in any way affecting, any legal or equitable right of MassDEP or Respondents with respect to any subject matter not covered by this Consent Order.

26. This Consent Order shall be binding upon Respondents and upon Respondents' heirs, successors and assigns. Respondents shall not violate this Consent Order and shall not allow or suffer Respondents' members, managers, employees, agents, contractors or consultants to violate this Consent Order. Until Respondents have fully complied with this Consent Order, Respondents shall provide a copy of this Consent Order to each successor or assignee at such time that any succession or assignment occurs.

27. Respondents shall pay stipulated civil administrative penalties to the Commonwealth in accordance with the following schedule if Respondents violate any provision of this Consent Order:

For each day, or portion thereof, of each violation, Respondents shall pay stipulated civil administrative penalties in the following amounts:

<u>Period of Violation</u>	<u>Penalty per day</u>
1st through 15th days	\$250.00 per day;
16th through 30th days	\$500.00 per day;
31st day and thereafter	\$1,000.00 per day.

Stipulated civil administrative penalties shall begin to accrue on the day a violation occurs and shall continue to accrue until the day Respondents correct the violation or completes performance, whichever is applicable. Stipulated civil administrative penalties shall accrue regardless of whether MassDEP has notified Respondents of a violation or act of noncompliance. All stipulated civil administrative penalties accruing under this Consent Order shall be paid within thirty (30) days of the date MassDEP issues Respondents a written demand for payment. If simultaneous violations occur, separate penalties shall accrue for separate violations of this Consent Order. The payment of stipulated civil administrative penalties shall not alter in any way Respondents' obligation to complete performance as required by this Consent Order. MassDEP reserves its right to elect to pursue alternative remedies and alternative civil and criminal penalties which may be available by reason of Respondents' failure to comply with the requirements of this Consent Order. In the event MassDEP collects alternative civil administrative penalties, Respondents shall not be required to pay stipulated civil administrative penalties pursuant to this Consent Order for the same violations.

Respondents reserve whatever rights they may have to contest MassDEP's determination that Respondents failed to comply with the Consent Order and/or to contest the accuracy of MassDEP's calculation of the amount of the stipulated civil administrative penalty. Upon exhaustion of such rights, if any, Respondents agree to assent to the entry of a court judgment if such court judgment is necessary to execute a claim for stipulated penalties under this Consent Order.

28. Failure on the part of MassDEP to complain of any action or inaction on the part of Respondents shall not constitute a waiver by MassDEP of any of its rights under this Consent Order. Further, no waiver by MassDEP of any provision of this Consent Order shall be construed as a waiver of any other provision of this Consent Order.

29. Respondents agree to provide MassDEP, and MassDEP's employees, representatives and contractors, access at all reasonable times to the Property for purposes of conducting any activity related to its oversight of this Consent Order. Notwithstanding any provision of this Consent Order, MassDEP retains all of its access authorities and rights under applicable state and federal law.

30. The undersigned certify that they are fully authorized to enter into the terms and conditions of this Consent Order and to legally bind the party on whose behalf they are signing this Consent Order.

31. This Consent Order shall become effective on the date that it is executed by MassDEP.

Consented To:

LIGHTHOUSE ENVIRONMENTAL MANAGEMENT, LLC

By:



7/24/15

~~Kevin Francis Gerzais, manager~~

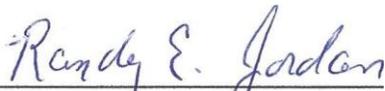
184 Stone Street, Clinton, MA 01510

Federal Employer Identification No.: *1S-373 "Y 5; z. 5*

Date:

RANDY E. JORDAN

By:



194/r"5

51 Muschopauge Road, Rutland, MA 01543

Social Security Number (on file- please fill out attached page for SS#)

Date:

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BRIAN H. JORDAN

By: _____

Brian Jordan
120 Bushy Lane, Rutland, MA 01543

8/24/15

Social Security Number (on file- please fill out attached page for SS#)

Date:

Issued By:

DEPARTMENT OF ENVIRONMENTAL PROTECTION

By: _____

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8/5/15