



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

One Winter Street Boston, MA 02108 • 617-292-5500

Charles D. Baker
Governor

Karyn E. Polito
Lieutenant Governor

Kathleen A. Theoharides
Secretary

Martin Suuberg
Commissioner

Richard and Mary Woodger
355 Granby Road
Granville, MA 01304

April 17, 2020

Re: Rockwood Farms- Granville
Soil Reclamation Project
RTN 1-20551
Enforcement Document #00004764

Dear Mr. and Mrs. Woodger:

Enclosed is your copy of the final, signed Consent Order for the soil reclamation project at Rockwood Farms, 355 Granby Road in Granville, Massachusetts. An electronic copy of this document is being provided to your consultant, Lighthouse Environmental Management and Licensed Site Professional, Scott Parker. The Consent Order is effective as of the date of the Department's signature on the Order. Please be aware that the terms and conditions of the Consent Order are now in effect. You are reminded that the specific requirements of the Consent Order are set forth in Section III: Disposition and Order.

If you have any questions, please contact David Slowick at (413) 755-2246.

Sincerely,

Elizabeth M. Stinehart
Acting Deputy Regional Director
Bureau of Waste Site Cleanup

EMS/das/kmn
P: 1-20551 Granville ACO #00004764 final
Enclosure

c-cc: Granville:
Matthew Streeter, Town Administrator
Board of Health
Conservation Commission
Lighthouse Environmental Management- Pradeep Singh
Scott Parker- Parker Environmental

Denise Andler, DEP/WERO; Peter Czapienski, DEP/WERO

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

In the matter of:

**Richard C. Woodger, Mary S. Woodger
and Lighthouse Environmental
Management, LLC**

Enforcement Document Number:
00004764

Issuing Bureau: BWSC

Issuing Region/Office: WERO

Issuing Program: BWSC

Primary Program Cited: BWSC

FMF/Program ID#: 1-0020551

ADMINISTRATIVE CONSENT ORDER

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 Western Regional Office at 436 Dwight Street, Springfield, Massachusetts 01103.
2. Richard C. Woodger and Mary S. Woodger dba Rockwood Farm are Massachusetts residents with their principal place of business located at 355 Granby Road, Granville, Massachusetts 01034. The mailing address for the purpose of this Consent Order is 355 Granby Road, Granville, Massachusetts 01034.
3. Lighthouse Environmental Management, LLC is a Massachusetts limited liability company with its principal offices located at 184 Stone Street in Clinton, Massachusetts. Lighthouse’s mailing address for purpose of this consent Order is 184 Stone Street, Clinton, MA 01510.
4. Richard C. Woodger, Mary S. Woodger and Lighthouse Environmental Management, LLC 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-142O 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, the Solid Waste Management Regulations at 310 CMR 19.000, and the Site Assignment Regulations for Solid Waste Facilities at 310 CMR 16.00; M.G.L. c. 21E and the Massachusetts Contingency Plan (“MCP”) at 310 CMR 40.0000; and Section 277 of Chapter 165 of the Acts of 2014. MassDEP has authority under M.G.L. c. 21E,

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§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. 21A, §16 and the Administrative Penalty Regulations at 310 CMR 5.00 to assess civil administrative penalties to persons in noncompliance with the laws and regulations set forth above.

6. The placement, dumping, disposing or reuse of soil containing oil and hazardous material (“OHM”) 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.

7. MassDEP has authority under Section 277 of Chapter 165 of the Acts of 2014 to establish regulations, guidelines, standards or procedures for determining the suitability of soil used as fill material for the reclamation of quarries, sand pits and gravel pits. The regulations, standards or procedures shall ensure the reuse of soil poses no significant risk of harm to health, safety, public welfare or the environment considering the transport, filling operations and the foreseeable future use of the filled land.

8. 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 to the environment.

9. MassDEP has authority under M.G.L. c. 21E, §9 to order potentially responsible parties (“PRPs”) to conduct assessment, containment and removal actions, or to require the production or analysis of samples or records, consistent with the requirements of the MCP and as MassDEP reasonably deems necessary. Issuance of an order pursuant to §9 does not preclude MassDEP from recovering damages, costs, civil penalties, criminal fines and sanctions, injunctive relief, or any action authorized by M.G.L. c. 21E, §4.

10. M.G.L. c. 21E, §5 sets out liability for the release or any threat of release of oil or hazardous material. This liability includes the owner or operator of a site from or at which there is a release or threat of release as well as any person who at the time of storage or disposal of any hazardous material owned or operated the site at or on which such hazardous material is stored or disposed of and from which there is a threat of release and any person who contracts to arrange for the transport, disposal, storage or treatment of hazardous material to or in a site from or at which there is a threat of a release.

11. Pursuant to M.G.L. c. 21E, §3, MassDEP promulgated the regulations found at 310 CMR 40.0000, commonly known as the Massachusetts Contingency Plan (“MCP”).

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12. 310 CMR 40.0032(3), known as the “similar soils” section of the MCP, states:

Soils containing oil or waste oil at concentrations less than an otherwise applicable Reportable Concentration and that are not otherwise a hazardous waste, and soils that contain one or more hazardous materials at concentrations less than an otherwise applicable Reportable Concentration and that are not a hazardous waste, may be transported from a disposal site without notice to or approval from the Department under the provisions of... [the MCP], provided that such soils:

- (a) are not disposed or reused at locations where the concentrations of oil or hazardous materials in the soil would be in excess of a release notification threshold applicable at the receiving site, as delineated in 310 CMR 40.0300 and 40.1600; and
- (b) are not disposed or reused at locations where existing concentrations of oil and/or hazardous material at the receiving site are significantly lower than the levels of those oil and/or hazardous materials present in the soil being disposed or reused.

13. 310 CMR 40.0006 contains the following definitions:

Contaminated soil means soil containing oil and/or hazardous material at concentrations equal to or greater than a release notification threshold established by 310 CMR 40.0300 and 40.1600.

Hazardous Material means material, including, but not limited to, any material in whatever form which, because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare or to the environment, when improperly stored, treated, transported, disposed of, used, or otherwise managed. ... The term shall also include, but is not limited to, material regulated as hazardous waste or recyclable material under 310 CMR 30.000.

No Significant Risk means a level of control of each identified substance of concern at a site or in the surrounding environment such that no such substance of concern shall present a significant risk of harm to health, safety, public welfare or the environment during any foreseeable period of time.

Oil means insoluble or partially soluble oils of any kind or origin or in any form, including, without limitation, crude or fuel oils, lube oil or sludge, asphalt, insoluble or partially insoluble derivatives of mineral, animal or vegetable oils and white oil.

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The term shall not include waste oil and shall not include those substances which are included in 42 U.S.C. §9601(14).

Reportable Concentration and RC each means the concentration of oil or hazardous material in soil or groundwater which requires notification to the Department under MGL c. 21E, §7 and/or 310 CMR 40.0360 through 310 CMR 40.0362.

14. On October 2, 2013, MassDEP issued the “Similar Soils Provision Guidance” (WSC#13-500 or “Similar Soils Policy.”) The Similar Soils Policy addresses the specific requirements of 310 CMR 40.0032(3) and the criteria by which a Licensed Site Professional 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 soil 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.

15. On September 4, 2014, MassDEP issued a revision to the “Similar Soils Provision Guidance” (WSC#-13-500 or “Similar Soils Policy”).

16. On August 28, 2015, MassDEP issued the “Interim Policy on the Re-Use of Soil for Large Reclamation Projects” (COMM-15-01 or “Reclamation Soil Policy”) pursuant to Section 277 of Chapter 165 of the Acts of 2014. The Reclamation Soil Policy describes MassDEP's intent to issue site-specific approvals, in the form of an Administrative Consent Order, to ensure the reuse of large volumes of soil for the reclamation of sand pits, gravel pits and quarries poses no significant risk of harm to health, safety, public welfare or the environment and would not create new releases or threats of releases of oil or hazardous materials.

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17. Richard C. Woodger and Mary S. Woodger dba Rockwood Farm are the current owners and operators of the property known as Rockwood Farm located at 355 Granby Road, Granville, Massachusetts 01034 ("Property"). The Property proposed for filling is identified as 0 Granby Road and is located east of Granby Road on the Town of Granville Assessors Map 22, Parcel 2. Richard C. Woodger and Mary S. Woodger own 0 Granby Road, by virtue of a deed recorded on June 18, 1992 at the Hampden County Registry of Deeds at Book 8083, Page 419.

18. Respondent Lighthouse Environmental Management, LLC is an operator at the Property and is a person who contracts to arrange for the transport, disposal, storage or treatment of soil and fill materials to the Property.

19. The following facts and allegations have led MassDEP to issue this Consent Order:

A. Importation of fill to the Property has occurred from 2012 to present under a prior Fill Management Plan overseen by the Respondents.

B. On or about May 24, 2018, the Respondents submitted to MassDEP an initial Fill Management Plan (FMP) for the Project. A revised FMP was submitted on December 18, 2019, and includes the following documents:

- Application letter describing the site, site history, soil conditions, site uses, the reason for submitting a fill reuse plan, and applicability relative to the Interim Policy on the Re-Use of Soil for Large Reclamation Projects (Policy # COMM -15-01), August 28, 2015;
- Locus map, base contour maps, and Figure 2: Site Plan (hereafter, the Grading Plan) denoting Property area to be filled;

The FMP is incorporated fully by reference and attached hereto as Attachment A. The FMP establishes the parameters of the Project activities; the criteria for the acceptance of soil at the Property; the protocols for monitoring and recording environmental conditions before, during, and after Site Reclamation Activities at the Property.

B. On May 20, 2019, MassDEP received a written letter of support for a Consent Order for the Project from the Town of Granville Office of the Selectboard, provided that the Town of Granville be afforded the opportunity to review a draft of the Consent Order prior to issuance.

C. MassDEP met with the Respondents on October 3, 2019 to review the FMP and to discuss the application of the Consent Order for the Project. MassDEP staff inspected the Property on the same date.

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D. The Respondents are proposing to import soil to the site (the "Project") for purposes of leveling a steeply sloped area in order to increase the usable footprint of the Property for farming-related operations. It is estimated that 500,000 cubic yards of soil will be required in the placement area to achieve this goal. Soil importation is expected to be performed over a 10-year period.

III. DISPOSITION AND ORDER

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

20. 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. The Respondents enter this Consent Order without admitting or denying the facts or allegations set forth herein. However, the Respondents agree not to contest such facts and allegations for purposes of the issuance or enforcement of this Consent Order.

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

22. Respondents are jointly and severally liable for performing the following actions (specifically, if one Respondent does not perform a specific action, the other Respondent must perform the action) in accordance with, and/or in addition to, any and all requirements of this consent Order and/or the FMP:

A. 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.

B. Respondents shall obtain all applicable local, state and federal permits or approvals that may be required by the Project.

C. Within 14 days of the effective date of this Consent Order, Respondents shall submit the name and contact information for the Third Party Inspector for MassDEP approval.

D. Respondents shall implement a Groundwater Monitoring Program ("GMP") at the Property to monitor the groundwater quality and assess potential changes to environmental conditions at the Property during and after the Project. The GMP shall provide for the following actions, at a minimum:

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- i. Within 30 days of the effective date of this Consent Order, Respondents shall install a minimum of (three (3)) permanent groundwater monitoring wells at the Property, at the approximate locations shown on Figure 2, Site Plan.
- ii. All groundwater monitoring wells shall be of standard construction using two-inch diameter PVC solid riser pipes and ten (10) to fifteen (15) feet of two-inch diameter 0.010 slot PVC well screens. All wells shall be screened to intercept the groundwater table.
- iii. Respondents shall perform initial baseline groundwater sampling from all the installed wells and the four private wells denoted on Figure 2, Site Plan within 30 days before or after the effective date of this Consent Order. Respondents shall conduct subsequent groundwater sampling from the monitoring wells and private wells annually between March 1 and May 15 throughout the duration of the project. Respondents shall conduct a final sampling event two years after the completion of the project. In the event that a well or wells are dry or produce insufficient water to complete the necessary analyses, a minimum of three subsequent visits will be made following the next significant precipitation events to attempt to obtain water from the monitoring well.
- iv. The groundwater samples collected from each of the monitoring wells and private wells shall be analyzed by a Massachusetts certified laboratory for the laboratory analyses specified in the FMP at Section 3.0. The reporting limits for all groundwater analytes must be below the applicable reportable concentrations for RCGW-1.
- v. Pursuant to Paragraph 22.W. ix. below, Respondents shall increase the groundwater and sampling frequency to tri-annual for the duration of the project when fifty percent (50%) or more of the loads quarantined by the Independent Third Party Inspector in any twelve-month period fail to meet any acceptance criteria and are rejected.
- vi. Boring logs, site plan with locations of installed monitoring wells, soil and groundwater sampling results and laboratory reports shall be included in the next quarterly status report submitted to the Department in accordance with this Consent Order.

E. Upon the effective date of this Consent Order, Respondents shall perform any and all activities related to the Project in compliance with the FMP, as amended from time to time with the written consent of all parties. Any failure to adhere to the FMP, except the terms of the FMP that are modified by this Consent Order, shall be a violation of this Consent Order.

F. 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. Upon notification by MassDEP through the issuance of a Notice of Noncompliance that the Project activities create a Condition

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of Air Pollution, Respondents shall immediately cease all Project activities until nuisance conditions are resolved to the satisfaction of MassDEP.

G. Respondents shall not accept soil and fill materials that have not been adequately characterized pursuant to the FMP prior to transport onto the Property. To be considered adequately characterized, 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 FMP. 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 FMP.

H. Respondents shall not accept soil and fill materials that exceed or are inconsistent with the Acceptance Criteria as defined in the approved FMP.

I. Respondents shall not accept soil and/or fill materials with a pH value less than 5.00 or greater than 9.00. The pH of slurry spoils/soil mix must be tested after the mixing occurs, and at a rate of one (1) test per fifty (50) cubic yards.

J. The Acceptance Criteria for certain volatile organic compounds, semi-volatile organic compounds, herbicides, pesticides and metals in soils and fill materials to be placed in the Project are listed in a summary table in the FMP. Soils and fill materials containing any volatile organic compound, semi-volatile organic compound, herbicide, pesticide or metal that is not listed in the summary table of the FMP at a concentration below ten (10) percent of the applicable RCS-1 Reportable Concentration may be considered for acceptance by Respondents on a case by case basis.

K. Conductivity testing is required for soil and fill materials which may be expected to contain elevated sodium chloride, including street sweepings, any naturally deposited marine soils and Boston Blue Clay, and may otherwise be limited or excluded based on site history.

L. 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 FMP, shall not be removed from the Property either during or at any time after completion of the Project.

M. Respondents shall cease accepting soil from a sending site immediately upon obtaining knowledge of any of the following:

- i. that any load from the sending site failed to meet any visual, olfactory or field screening criteria specified in the FMP;

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- ii. that the results of any field or laboratory analysis of soil samples from any load from a sending site failed to meet one or more Acceptance Criteria; or
- iii. that any load from the sending site failed to meet the restrictions listed in Paragraph 22.R below.
- iv. if the sending site has more than one active profile, Respondents may continue to accept soil and fill materials from the soil represented by the other profiles for the sending site.

N. After ceasing to accept soil pursuant to Paragraph 22.M, Respondents may resume accepting soil from a sending site upon either:

- i. receiving a written explanation and assurance from the sending site owner, or authorized representative of the sending site owner with proof of authority, that no additional similar loads will be transported to the Property; or
- ii. receiving supplemental analytical results that demonstrate that the soil meets all Acceptance Criteria.

O. Respondents shall implement the following corrective actions when the results of field or laboratory analysis of soil samples from any load fails to meet one or more Acceptance Criteria:

- i. Respondents shall increase the frequency of inspections by the Independent Third Party Inspector, including sampling, to two inspections per month until the sampling results demonstrate that the soil meets all Acceptance Criteria for three consecutive sample events. Respondents may then resume the monthly schedule.
- ii. Respondents may limit the sampling conducted under Paragraph 22.O.i. to loads from the sending site that delivered the load that failed to meet the Acceptance Criteria and to the analytes that exceeded the Acceptance Criteria in that load. The Independent Third Party may coordinate the additional inspections required under Paragraph 22.O.i. with the Operator for the limited purpose of timing inspections and load sampling during the arrival of loads from the sending site that shipped the failed load. Normal monthly inspections during this time period would follow the normal scheduling requirements of this Consent Order.
- iii. Respondents shall cease accepting any further soil from any sending site immediately upon obtaining knowledge that the results of any field or laboratory analysis of soil samples from any three loads from a sending site failed to meet one or more Acceptance Criteria.

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P. 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 forty five (45) 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 seven (7) days of deposition. Soil and fill materials that are rejected and removed for any reason must be transported from the Property using a completed Material Shipping Record or, when appropriate, a completed Bill of Lading prepared by either the Generator's or Respondents' Licensed Site Professional. For each rejected load, Respondents shall collect the following information for reporting to MassDEP in the next Construction Status Report, as specified in Paragraph 22.W.vii. below:

- i. 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;
- v. the corrective actions taken by the Respondents pursuant to Paragraph 22.O. of this Consent Order; and
- vi. a complete copy of the Material Shipping Record or Bill of Lading used to transport the rejected load from the Property.

Q. The activities agreed to in this Consent Order shall be conducted under the overall supervision of a Licensed Site Professional ("LSP") or Qualified Environmental Professional ("QEP") to provide oversight of the work described in the FMP. LSP means a hazardous waste site cleanup professional, as defined in M.G.L. 21A, § 19, holding a valid license issued by the Board of Registration of Hazardous Waste Site Cleanup Professionals pursuant to M.G.L. 21A, §§ 19 through 19J. QEP means an individual who: is knowledgeable about the procedures and methods for characterizing wastes and contaminated media; is familiar with Massachusetts and Federal regulations applicable to the management of such materials; performs or oversees the management of Contaminated Soils as an integral part of his or her professional duties; and is professionally licensed or certified in a discipline related to environmental assessment (i.e., engineering, geology, soil science or environmental science) by a state or recognized professional organization. The QEP/LSP shall, at a minimum:

- i. Continuously monitor the work for compliance with the FMP and provide

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recommendations for corrective actions to Respondents;

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

R. Respondents shall comply with the following restrictions:

- i. Soil and fill materials approved and brought onto the Property for use at the Project shall contain no more than 5% Asphalt, Brick and Concrete ("ABC") material. Any such ABC material must be free of paints and coatings and measure less than 6 inches in any dimension. To the extent feasible, Respondents shall remove any fugitive ABC material that is greater than 6 inches in any dimension and arrange for processing of that material at a facility with a valid Recycling, Composting or Conversion permit as issued by MassDEP. Recovered ABC material shall be removed from the Property weekly.
- ii. Soil and fill materials approved and brought onto the Property for use at the Project may contain only incidental, randomly dispersed, de minimis quantities not to exceed 5%, of ash and/or Solid Waste (e.g. Municipal Solid Waste and/or Construction and Demolition Waste) as defined in 310 CMR 16.00 and 310 CMR 19.000 with the exception of bentonite or other slurry material meeting the requirements of Paragraph 22.R.iii of this Consent Order.
- iii. Soil mixed with bentonite or other slurry material must contain less than 1% (one percent) by volume of bentonite or other slurry material. The pH of slurry spoils/soil mix must be tested after the mixing occurs, and at a rate of one (1) test per fifty (50) cubic yards.
- iv. The acceptance of Remediation Waste, as defined at 310 CMR 40.0006, is prohibited.
- v. Soils shall not contain any free-draining liquids. Soils may contain naturally deposited silts and clay with minor amounts of naturally occurring organic material and moisture

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levels that would be expected to evaporate quickly while it is being worked and spread rather than move through the soil to groundwater. Soil containing free liquid is subject to rejection upon arrival and inspection. Any material delivered in a tanker or vacuum-equipped truck is prohibited.

- vi. Respondents shall not accept more than de minimis volumes, not to exceed 5% (five percent by volume, of blasted, pulverized or excavated ledge or bedrock, with appropriate characterization as described in the FMP.

S. Respondents shall have an authorized representative on-site on a full time basis to observe off-loading of trucks. The authorized representative shall perform visual inspections of the soil and fill materials in each incoming load to ensure compliance with visual, olfactory and screening criteria in the FMP and the restrictions listed in Paragraph 22.R. above.

T. Respondents shall identify patterns of overweight trucks and implement the following corrective actions:

- i. Respondents shall issue a warning to the truck driver for the driver's first overweight load;
- ii. Respondents shall delay off-loading for one hour for any driver who delivers an overweight load after receiving a warning;
- iii. Respondents shall delay off-loading for two hours for any driver who delivers a second overweight load after receiving a warning; and
- iv. Respondents shall not accept further loads from any driver who delivers a third overweight load after receiving a warning.

U. 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 FMP and the 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.
- ii. During each inspection, the Independent Third Party shall, at a minimum:

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- 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 one 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 typical soil profile analyses specified in the FMP. Respondents shall stockpile this load in a designated quarantine area pending the results of the analyses and provide the Independent Third Party a full copy of the Material Shipping Record or Bill of Lading for the load. If no loads arrive during the inspection, the sampling may be omitted for that month, or postponed to another date that month. A minimum of two samples shall be collected per calendar quarter during the active operation of the Project. The reporting limits for all soil analytes for samples collected by the Independent Third Party must be below the applicable reportable concentrations for RCS-1 or RCS-2 depending on which area of the Project the soil is to be placed.
 - d) Collect one or more grab soil samples from the quarantined load and screen the sample(s) with a photoionization detector to measure total volatile organic compounds using the jar headspace method. The Independent Third Party shall compare the screening results with the approved acceptance criterion and notify Respondents immediately if the measured headspace value exceeds the criterion.
 - e) Collect a minimum of six (6) spot elevation measurements within the filled areas of the Property with respect to established benchmarks; and,
 - f) Inspect all erosion control measures including but not limited to, silt fence, hay bales, storm water basins, spreaders and swales.
- iii. The Independent Third Party shall notify Respondents of the results of the lab analyses of any soil samples within one business day of receiving the laboratory analytical report.
 - iv. 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(s) of the Wetlands Protection Act.

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- v. 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. The Independent Third Party shall submit the inspection report, including all appendices and attachments, to MassDEP electronically using eDEP Transmittal Form BWSC 126, Section B (2), or equivalent, under Release Tracking Number 1-20551. Each inspection report shall include, but not be limited to:
 - a) Observations of practices that are not compliant with the FMP and/or this 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 items below, and 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 full 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 screening and analytical results in a tabular format comparing the results to the applicable RCS-1 or RCS-2 Reportable Concentrations and Acceptance Criteria identified in the FMP;
 - 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 measure 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 for the actions taken by Respondents to implement recommendations made in prior inspection reports, if any.

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V. On a quarterly basis, Respondents shall electronically submit to MassDEP (via eDEP) 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:

- i. 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 of monitoring wells and private wells, including boring logs and well construction reports for all the monitoring wells, well elevations, groundwater gauging measurements, tabulated analytical results and laboratory analysis reports with chains of custody.

W. 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 or terminated. Respondents shall submit Construction Status Reports, including all appendices and attachments, to MassDEP using eDEP Transmittal Form BWSC 126, Section B (2), or equivalent, under Release Tracking Number 1-20551. 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, and cumulative tons of material from each source;
- ii. Copies of all Letters of Approval and Soil Submittal Application Packages, including analytical data and tables, for soil and fill materials accepted during the prior three-month period;
- iii. Major activities Respondents anticipate performing during the next 3-month reporting period;

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- iv. Any changes to the project schedule, the Independent Third Party, the Project QEP/LSP, and the on-call contact information;
- v. Actions Respondents have taken or a schedule for actions Respondents intend to take in response to recommendations for corrective actions made by the Independent Third Party, if any;
- vi. Actions taken in response to the QA/QC results reported by the Independent Third Party, if any;
- vii. 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 reason(s) 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; copies of any written explanations and assurances or supplemental analytical results from the sending site owners received by Respondents pursuant to Paragraph 22.N; and complete copies of the Material Shipping Records and Bills of Lading used to transport the rejected loads from the Property.
- viii. A summary table showing the cumulative number of rejected loads from each sending site that had one or more loads rejected during the duration of the shipments from the sending site, and a description of any corrective actions taken by Respondents pursuant to Paragraph 22.O. of this Consent Order;
- ix. A summary table showing the number of loads that were quarantined by the Independent Third Party Inspector during the previous twelve (12) month period and the number of loads that failed to meet any acceptance criteria and were rejected. Respondents shall increase the groundwater sampling frequency to tri-annual for the duration of the project when fifty percent (50%) or more of the loads quarantined by the Independent Third Party in any twelve-month period failed to meet any acceptance criteria and were rejected; and
- x. A summary of the number of overweight trucks from each sending site and corrective actions taken by Respondents pursuant to Paragraph 22.U. of this Consent Order.
- xi. The results of any groundwater monitoring conducted during the reporting period.
- xii. The Construction Status Report shall be signed by the Project QEP/LSP and shall include the following certification signed by the Respondents:

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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 upon 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.

X. Respondents shall maintain slopes to be no steeper than 3:1 horizontal to vertical during and post-construction, except where steeper slopes are shown on the Grading Plan. Respondents shall employ additional erosion control (e.g. blankets, rip-rap) in order to ensure stabilization of and revegetation of steeper slopes within the Project area.

Y. Respondents shall not exceed the maximum elevations shown in the Grading Plan.

Z. The final stabilization of the top of the fill shall be by planting of vegetative cover on a minimum of six (6) inches of topsoil overlaying thirty (30) inches of granular fill (fine sandy loam or coarser), as proposed in the FMP.

AA. 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 six-month period shall be deemed by MassDEP to be the Respondents' termination of the Project.

BB. 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:

- i. Within 60 days of achieving the proposed fill subgrade elevations or terminating the Project, Respondent shall address all outstanding recommendations made by the Project QEP/LSP and/or Independent Third Party Inspector.
- 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;
- iii. 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 storm water management features; and

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- iv. Respondents shall continue monitoring the groundwater in accordance with the FMP.

CC. Respondents shall maintain records of all soil accepted at the Property, including but not limited to Generator applications, Soil Submittal Packages, soil profiles, Project QEP/LSP Recommendations and Acceptance/Approval documents, for a minimum of seven (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.

DD. Respondents may submit written requests for minor modifications to the FMP to MassDEP for review and approval. MassDEP may approve minor modifications, at its sole discretion and in writing, without revising this Consent Order. This does not negate any obligations for Respondents to obtain any required approvals from other parties, including the Town of Granville for such modifications.

23. 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 regulatory violations and/or nuisance conditions, including, but not limited to, dust, noise, odor, or wetlands impacts.

24. MassDEP reserves the right to require Respondents to take any and all corrective actions recommended by the Project LSP/QEP 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.

25. 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, or reused at the Property prior to execution of this Consent Order are not included in the Project.

26. 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:

Elizabeth M. Stinehart, Acting Deputy Regional Director
Bureau of Waste Site Cleanup
MassDEP Western Regional office
436 Dwight Street
Springfield, Massachusetts 01103

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

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27. 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 intend 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.

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28. 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.

29. 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.

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

31. 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.

32. 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.

33. 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.

34. 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.

35. 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.

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36. 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.

37. Respondents shall be jointly and severally liable to pay stipulated civil administrative penalties to the Commonwealth in accordance with the following schedule if Respondents violates 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 corrects 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.

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38. 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.

39. To the extent authorized by the current owner(s), 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 its access authorities and rights under applicable state and federal law.

40. This Consent Order may be executed in one or more counterpart originals, all of which when executed shall constitute a single Consent Order.

41. The undersigned certify that they are full 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.

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

SPECIAL INSTRUCTIONS:

Your two **signed copies of the Administrative Consent Orders (ACO)** must be delivered, for execution (signature) by MassDEP, to the following address:

Elizabeth M. Stinehart, Acting Deputy Regional Director
Bureau of Waste Site Cleanup
Massachusetts Department of Environmental Protection
436 Dwight Street, Springfield, Massachusetts 01103

MassDEP will return **one signed copy** of the ACO to you after MassDEP has signed, provided you have followed the above instructions.

In the Matter of:
Richard C. Woodger and Mary S. Woodger dba Rockwood Farm
Lighthouse Environmental Management LLC
ACO# 00004764
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Consented To:

RICHARD C. WOODGER AND MARY S. WOODGER dba ROCKWOOD FARMS

By: 

Richard C. Woodger
355 Granby Road
Granville, MA 01034

Social Security Number (on file)

Date: 3/30/20

By: 

Mary S. Woodger
355 Granby Road
Granville, MA 01034

Social Security Number (on file)

Date: 3/30/20

LIGHTHOUSE ENVIRONMENTAL MANAGEMENT, LLC

By: 

Kevin Francis Gervais, Operations Manager
184 Stone Street
Clinton, MA 01510
Federal Employer Identification No. 45-3739525

Date: 3/30/20

Issued By:

DEPARTMENT OF ENVIRONMENTAL PROTECTION

By: 

Michael Gorski, Regional Director
MassDEP Western Regional Office
436 Dwight Street,
Springfield, MA 01103

Date: 4/17/20

In the Matter of:
Richard C. Woodger and Mary S. Woodger dba Rockwood Farm
Lighthouse Environmental Management LLC
ACO# 00004764
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Attachment A

Rockwood Farm
Fill Management and Site Preparation Plan
0 Granby Road
Map 22, Parcel 2
Granville, MA

DEPT. OF ENV. PROTECTION
Rec'd

APR - 3 2020

WERO