



Commonwealth of Massachusetts  
Executive Office of Energy & Environmental Affairs

## Department of Environmental Protection

Central Regional Office • 8 New Bond Street, Worcester MA 01606 • 508-792-7650

Maura T. Healey  
Governor

Kimberley Driscoll  
Lieutenant Governor

Rebecca L. Tepper  
Secretary

Bonnie Heiple  
Commissioner

July 5, 2024

Archibald and Tamara Johnston  
24 Ball Hill Road  
Berlin, MA 01503

RE: Maplewood Farms  
24 Ball Hill Road  
Berlin, MA  
RTN 2-0020683  
Enforcement Doc. #00018032

### FIRST AMENDMENT TO ADMINISTRATIVE CONSENT ORDER (00005912)

Dear Mr. and Mrs. Johnston:

Enclosed, please find the First Amendment of Administrative Consent Order (ACO), Enforcement Document #00018032, executed between Archibald and Tamara Johnston and Lighthouse Environmental Management, LLC and the Massachusetts Department of Environmental Protection (MassDEP).

If you have any questions regarding this matter, please contact Matthew Carey at (617) 874-6587.

Sincerely,

Mark E. Baldi  
Deputy Regional Director  
Bureau of Waste Site Cleanup

MB/KWD  
Enclosure

cc: Database Entry [ C&E/ACO ]  
CERO Regional Enforcement Coordinator



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

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In the matter of: )  
 )  
**Archibald F. Johnston,** )  
**Tamara Z. Johnston,** )  
 )  
**and** )  
 )  
**Lighthouse Environmental** )  
**Management, LLC** )  
\_\_\_\_\_ )

Enf. Doc. No.: 00018032  
Issuing Bureau: BWSC  
Issuing Region/Office: CERO  
Issuing Program: BWSC  
Primary Program Cited: BWSC  
FMF/Program ID No.: 2-0020683

**FIRST AMENDMENT TO 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 100 Cambridge Street, Suite 900, Boston, MA 02114, and its Central Regional Office at 8 New Bond Street, Worcester, MA 01606.
2. Archibald F. Johnston and Tamara Z. Johnston are individuals who reside at 24 Ball Hill Road, Berlin, Massachusetts. The mailing address for both Archibald F. Johnston and Tamara Z. Johnston (referred to jointly herein as the "Johnstons") for the purpose of this Consent Order is 24 Ball Hill Road, Berlin, MA 01503.
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 Johnstons 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-142O and the 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 150A 1/2 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 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. On December 13, 2018, MassDEP executed an Administrative Consent Order, Enforcement Document Number 00005912, with Respondents. The Consent Order became effective on December 13, 2018.
7. The Consent Order was issued as a site-specific approval for the re-use of a large volume of soil to raise the existing grade of a portion of the property to support agricultural use at 24 Ball Hill Road, Berlin, Massachusetts (the "Facility").
8. The Consent Order is being amended to include provisions for erosion, sedimentation control, and groundwater monitoring at the reclamation site.

### III. DISPOSITION AND ORDER

For the reasons set forth above, MassDEP orders, and Respondents hereby agree to this First Amendment to the Consent Order as follows:

9. Paragraph 19 of the Consent Order is amended by adding new subparagraph 19.h., containing the following language:
  - h. Respondents submitted to MassDEP an Erosion and Sediment Control Plan on April 24, 2024. The Erosion and Sediment Control Plan details erosion and sediment control measures at the Facility, as well as monitoring and maintenance of all siltation fencing, temporary sediment basins, and unstable (i.e., unvegetated) areas for rilling and erosion daily and following rain events for maintenance or necessary modifications to erosion and sediment control measures, including additional temporary sediment basins.
10. Paragraph 22.A of the Consent Order is amended by adding new subparagraph 22.A.i, containing the following language:
  - i. Respondents shall initiate the installation of stabilization measures (seeding protected by erosion controls until vegetation is established, sodding, mulching,

erosion control blankets, hydromulch, gravel, etc.) immediately in any areas of exposed soil where construction activities have permanently ceased or will be temporarily inactive for 14 or more calendar days. Respondents shall complete the installation of stabilization measures as soon as practicable, but no later than 14 calendar days within ceasing construction activities or becoming temporarily inactive.

11. Paragraph 22.C of the Consent Order is amended by adding new subparagraphs 22.C.iii. and 22.C.iv, containing the following language:

- iii. Respondents shall submit, subject to MassDEP's approval, a modified Fill Management Plan (FMP) within 90 days of this executed amendment to the Administrative Consent Order. The modified FMP shall include all previously approved requirements, ACO requirements and amendments, and specifically include a detailed dust monitoring plan and a soil pile cover management plan.
- iv. Within 30 days of the effective date of this First Amendment of the Consent Order, Respondents shall submit a final Erosion and Sediment Control Plan to MassDEP for approval.

12. Paragraphs 22.D.i., iii., v., vi., vii. of the Consent Order are hereby amended by replacing said paragraphs, in their entirety, as follows:

- 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:
  - i. Within 45 days of the effective date of this First Amendment to Administrative Consent Order, Respondents shall install two (2) overburden groundwater monitoring wells at the Property, to be located hydrogeologically cross gradient to the northeast and southwest of the final planned graded fill area. Respondents shall submit to MassDEP proposed locations and depths of the two overburden groundwater monitoring wells, subject to MassDEP approval prior to installation.
  - iii. Respondents shall replace all monitoring wells, if destroyed, within 60 days.
  - v. Respondents shall collect drinking water samples from the two potable water supply wells at 24 Ball Hill Road and the potable water supply well at 32 Ball Hill Road annually for the laboratory analyses specified in the FMP at Section 3.2. Sampling shall be conducted in April. The reporting limits for all analytes must be below the applicable reportable concentrations for RCGW-1.
  - vi. Respondents shall perform groundwater sampling from all the newly installed wells referenced in Paragraph D.i above within 60 days of the effective date of this First

Amendment of the Consent Order. Respondents shall conduct subsequent sampling of groundwater from all monitoring wells twice annually in April and October, throughout the duration of the project. Respondents shall conduct a final sampling event a minimum of three (3) years after the completion of the project or as deemed required as part of one or more IRA activities following a notification to MassDEP for any 2-hour or 72-hour reporting condition at the Property. 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. A significant precipitation event shall be defined as any storm where greater than 1 inch of rain is predicted within a 24-hour period or following intense precipitation where ½ inch is observed within a 2-hour period.

- vii. The groundwater samples collected from each of the monitoring wells shall be analyzed by a Massachusetts certified laboratory for the laboratory analyses specified in the FMP at Section 3.1 and for per- and polyfluoroalkyl substances (PFAS) using EPA Method 537.1. The reporting limits for all groundwater analytes must be below the applicable reportable concentrations for RCGW-1. Respondents shall provide notification to MassDEP in accordance with 310 CMR 40.0313(3) and 310 CMR 40.0313(4) and conduct the required Immediate Response Actions to assess for a condition of Substantial Release Migration (SRM) and evaluate the presence of any Critical Exposure Pathways (CEPs) related to PFAS detections at the Facility.

13. Paragraphs 22.U., 22.U.i., 22.U.iv.; and 22.U.v., and 22.U.v.f. of the Consent Order are hereby amended by replacing said paragraphs, in their entirety, as follows:

- U. Independent Third Party Inspections: Respondents shall engage the services of a qualified, independent individual (the "Independent Third Party") to perform inspections of the Property for compliance with the requirements of this Consent Order including, but not limited to, the FMP 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. In addition, Respondent shall engage the services of a qualified independent individual as the Erosion and Sediment Control Third Party for compliance with the requirements of this Consent Order including, but not limited to, the FMP, Erosion and Sediment Control Plan, and the Grading Plan. The Erosion and Sediment Control Third Party must hold certification as a Certified Professional in Erosion and Sediment Control ("CPESC"), a Certified Erosion, Sediment and Stormwater Inspector ("CESSWI"), or a Professional Wetlands Scientist ("PWS"). The Independent Third Party and Erosion and Sediment Control Third Party must conduct inspections according to the schedule set forth in Paragraph 22.U.i for compliance with the requirements of this Consent Order including, but not limited to, the FMP, the Erosion & Sediment Control Plan, and the Grading Plan.

- i. The Independent Third Party inspections shall be unannounced and randomly timed during normal operating hours and conducted at a minimum, twice monthly. The Erosion and Sediment Control Third Party inspections shall be conducted at the following frequency, at a minimum:
  - a. Before any storm where greater than 1 inch of rain is predicted within a 24-hour period.
  - b. Before and within 24 hours after any storm where greater than 1 inch of rain is observed within a 24-hour period or following intense precipitation where  $\frac{1}{2}$  inch is observed within a 2-hour period
- iv. The Independent Third Party and the Erosion and Sediment Control Third Party shall have the authority to immediately stop work on the Project and shall notify MassDEP and the local conservation commission upon observing any violation of the Wetlands Protection Act.
- v. The Independent Third Party shall prepare an inspection report documenting the findings for each inspection by both the Independent Third Party and Erosion and Sediment Control Third Party 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 2-20683. Each inspection report shall include, but not be limited to:
  - f) Specific recommendations and timelines for repairs, replacement or changes to erosion and sediment control measures at the Property, and/or on any properties impacted by erosion and/or sedimentation originating from the Property. The Third Party inspection report shall include documentation of inspections, repairs, recommendations and timelines following rain events as referenced by the Erosion and Sediment Control Plan submitted to MassDEP. Such rain events are, at a minimum, defined as any storm where greater than 1 inch of rain is predicted within a 24-hour period or following intense precipitation where  $\frac{1}{2}$  inch is observed within a 2-hour period.

14. Paragraph 22.W. of the Consent Order is hereby amended by replacing said paragraph 22.W.v. in its entirety, as follows:

- 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. 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 2-20683. Each such Quarterly Construction Status Report shall include, without limitation:

- v. 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. Respondents must document any recommendations for each of the corrective actions made by the Third Party and either act on the corrective actions as recommended, or document in the following Construction in Status Report any actions Respondents intend to take for each recommendation or provide technical justification that action is not warranted or required;

15. Paragraph 22.W. of the Consent Order is hereby amended by adding new subparagraph 22.W.xiii, as follows:

- xiii. Provide and tabulate documentation for each predicted and measured precipitation event including daily precipitation forecasts and total precipitation as well as associated inspections, observations, and corrective action taken or necessary as a result of any precipitation event according to the Erosion and Sediment Control Plan;

16. Paragraph 22.Z. of the Consent Order is hereby amended by replacing said paragraph, in its entirety, as follows:

- Z. The final stabilization of the top of fill shall be by planting of vegetative cover on a minimum of six (6) inches of topsoil overlaying 2 feet of granular fill (fine sandy loam or coarser). Respondents shall initiate the installation of stabilization measures (seeding protected by erosion controls until vegetation is established, sodding, mulching, erosion control blankets, hydromulch, gravel, etc.) immediately in any areas of exposed soil where construction activities have permanently ceased or will be temporarily inactive for 14 or more calendar days. Respondents shall complete the installation of stabilization measures as soon as practicable, but no later than 14 calendar days.

17. Paragraph 22.BB of the Consent Order is hereby amended by replacing paragraph 22.BB.i, in its entirety, as follows:

- i. Within 60 days of achieving the approved fill subgrade elevations or terminating the Project, Respondents shall submit a Stormwater Report to MassDEP demonstrating that all work completed under the Project complies fully with the Massachusetts Stormwater Standards. The Stormwater Report shall propose measures that the Respondent will implement within 60 days, if the Project does not meet all or some of the Massachusetts Stormwater Standards.

18. The parties have agreed to enter into this First Amendment to the 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 First Amendment to the 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 First Amendment to the Consent Order.

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

20. This First Amendment to the Consent Order shall be incorporated into the Consent Order and is effective and enforceable pursuant to the terms of the Consent Order.

21. Except as explicitly revised by this Amendment, the terms and conditions of the Consent Order, including any previous amendments thereto, shall remain and continue in full force and effect.

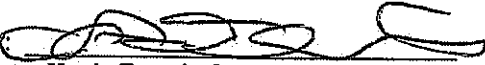
22. This First Amendment to the Consent Order shall be deemed effective as of the date on which MassDEP signs this Amendment.

[ NO FURTHER TEXT APPEARS ON THIS PAGE ]

23. The undersigned represent that they have the authority to sign this First Amendment to the Consent Order and to legally bind the party on whose behalf they are signing.

**Consented To:**


**LIGHTHOUSE ENVIRONMENTAL MANAGEMENT, LLC**

By:   
Kevin Francis Gervais, Manager  
184 Stone Street, Clinton, MA 01510

Federal Employer Identification No.: 95-3734525

Date: 6-27-24

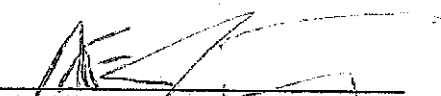
**TAMARA Z. JOHNSTON**

By:   
Tamara Z. Johnston  
24 Ball Hill Road, Berlin, MA 01503

Social Security Number (on file)

Date: 6.27.24

**ARCHIBALD F. JOHNSTON**

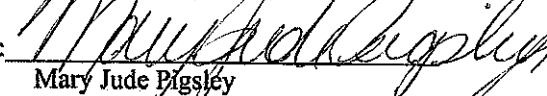
By:   
Archibald F. Johnston  
24 Ball Hill Road, Berlin, MA 01503

Social Security Number (on file)

Date: 6.27.24

**Issued By:**

**MASSACHUSETTS DEPARTMENT OF ENVIRONMENTAL PROTECTION**

By:   
Mary Jude Pigsley  
MassDEP Central Regional Office  
8 New Bond Street  
Worcester, MA 01606

Date: 7/3/24