



Massachusetts Department of Environmental Protection  
Bureau of Waste Site Cleanup

BWSC113

ACTIVITY & USE LIMITATION (AUL) TRANSMITTAL FORM

Release Tracking Number

Pursuant to 310 CMR 40.1056 & 40.1070 - 40.1084 (Subpart J)

3 - 601

A. DISPOSAL SITE LOCATION:

1. Disposal Site Name: Former Jet-Line/Geochem

2. Street Address: 263 Howard Street

3. City/Town: Lowell

4. ZIP Code: 01852-0000

☒ 5. Check here if a Tier Classification Submittal has been provided to DEP for this disposal site.

☐ a. Tier 1A ☐ b. Tier 1B ☐ c. Tier 1C ☒ d. Tier 2

6. If a Tier I Permit has been issued, provide Permit Number: \_\_\_\_\_

B. THIS FORM IS BEING USED TO: (check one)

☒ 1. Submit a certified copy of a Notice of Activity and Use Limitation, pursuant to 310 CMR 40.1074.

☐ 2. Submit an Evaluation of Changes in Land Uses/Activities and/or Site Conditions after a Response Action Outcome Statement has been filed pursuant to 310 CMR 40.1080.

☐ 3. Submit a certified copy of an Amended Notice of Activity and Use Limitation, pursuant to 310 CMR 40.1081

☐ 4. Submit a certified copy of a Partial Termination of a Notice of Activity and Use Limitation, pursuant to 310 CMR 40.1083(3).

☐ 5. Submit a certified copy of a Termination of a Notice of Activity and Use Limitation, pursuant to 310 CMR 40.1083(1)(d).

☐ 6. Submit a certified copy of a Grant of Environmental Restriction, pursuant to 310 CMR 40.1071.

☐ 7. Submit a certified copy of an Amendment of a Grant of Environmental Restriction, pursuant to 310 CMR 40.1081(3).

☐ 8. Submit a certified copy of a Partial Release of a Grant of Environmental Restriction, pursuant to 310 CMR 40.1083(2).

☐ 9. Submit a certified copy of a Release of a Grant of Environmental Restriction, pursuant to 310 CMR 40.1083(1)(c).

☐ 10. Submit a certified copy of a Confirmatory Activity and Use Limitation, pursuant to 310 CMR 40.1085(4).

11. Provide Additional RTNs:

☐ a. Check here if this AUL Submittal covers additional Release Tracking Numbers (RTNs).

b. Provide the additional Release Tracking Number(s) covered by this AUL Submittal.

☐ - ☐

☐ - ☐

ROCK  
FACILITY Jones Environmental  
ID. THOMAS 047075734  
FILE NO. R-12  
OWNER #103847



RDMS DocID

103847

(All sections of this transmittal form must be filled out unless otherwise noted above.  
BWSC113A is required for all submittals listed above)



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C. AUL INFORMATION:

1. Document (per Section B) Recording and/or Registration Information:

a. Name of Registry of Deeds and/or Land Registration Office: Middlesex County - North District

b. Book and Page Number and/or Document Number: Book 19844/ Page 56

c. Date of recording and/or registration: 02/24/2006  
mm/dd/yyyy

2. Is the address of the property subject to AUL different from the disposal site address listed above?

☒ a. No ☐ b. Yes If yes, then fill out address section below.

3. Street Address: \_\_\_\_\_

4. City/Town: \_\_\_\_\_ 5. ZIP Code: \_\_\_\_\_

D. PERSON SUBMITTING AUL TRANSMITTAL FORM:

1. Check all that apply: ☐ a. change in contact name ☐ b. change of address ☐ c. change in the person undertaking response actions

2. Name of Organization: Jones Environmental Services (Northeast), Inc.

3. Contact First Name: Jim 4. Last Name: Green

5. Street: 263 Howard Street 6. Title: President, CEO & CFO

7. City/Town: Lowell 8. State: MA 9. ZIP Code: 01852-0000

10. Telephone: (978) 453-7772 11. Ext.: \_\_\_\_\_ 12. FAX: \_\_\_\_\_

13. Is the person described in this section the owner of the property?

☒ a. Yes ☐ b. No, If checked then Section G must be filled out by at least one owner.

☐ c. Check here if providing names and addresses of any additional owners in an attachment.

E. RELATIONSHIP TO DISPOSAL SITE OF PERSON SUBMITTING AUL TRANSMITTAL FORM: (check one)

☒ 1. RP or PRP ☒ a. Owner ☐ b. Operator ☐ c. Generator ☐ d. Transporter

☐ e. Other RP or PRP Specify: \_\_\_\_\_

☐ 2. Fiduciary, Secured Lender or Municipality with Exempt Status (as defined by M.G.L. c. 21E, s. 2)

☐ 3. Agency or Public Utility on a Right of Way (as defined by M.G.L. c. 21E, s. 5(j))

☐ 4. Any Other Person Submitting AUL Specify: \_\_\_\_\_



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**3** - **601**

**F. REQUIRED ATTACHMENT AND SUBMITTALS:**

- ☒ 1. Check here to certify that notice of the proposed Activity and Use Limitation (AUL) was given to all record-interest holders, if any, in accordance with 310 CMR 40.1074(1)(e), via certified mail.
- ☐ a. Check here if there were no record interest holders.      b. Date of certified mailing: 12/13/2005  
mm/dd/yyyy
- ☒ c. Check here to certify that names and addresses of all record holders notified is attached.
- ☒ 2. Check here to certify that within 30 days of recording and/or registering the AUL, including amending, releasing or terminating the AUL, a copy of the AUL was/will be provided to the Chief Municipal Officer, the Board of Health, the Zoning Official, and the Building Code Enforcement Official in the community(ies) where the property subject to such Activity and Use Limitation is located.
- ☒ 3. Check here to certify that within 30 days of recording and/or registering the AUL, including amending, releasing or terminating the AUL, a Legal Notice was/will be published in a newspaper with circulation in the community(ies) where the property subject to the AUL is located.
- ☒ 4. Check here to certify that within 7 days of publishing a Legal Notice in a newspaper with circulation in the community(ies) where the property subject to the AUL is located, a copy of the notice was/will be submitted to DEP.
- ☒ 5. Check here to certify that within 30 days of recording and/or registering the AUL, including amending, releasing or terminating the AUL, a certified copy of the AUL, including the LSP Opinion containing the material facts, data, and other information, will be submitted to DEP.
- ☐ 6. Check here if any non-updatable information provided on this form is incorrect, e.g. Site Address/Location Aid. Send corrections to the DEP Regional Office.
- ☐ 7. If an Evaluation of Changes in Land Uses/Activities and/or Site Conditions after a Response Action Outcome Statement is being submitted, check here to certify that the LSP Opinion containing the material facts, data, and other information is attached.

**G. CERTIFICATION OF OWNER OF PROPERTY, IF NOT PERSON SUBMITTING AUL TRANSMITTAL FORM:**

1. I, \_\_\_\_\_, attest under the pains and penalties of perjury that I am the owner of said property(ies), subject to the AUL

2. \_\_\_\_\_ 3. Date: \_\_\_\_\_  
Signature mm/dd/yyyy

4. Name of Organization: \_\_\_\_\_

5. Contact First Name: \_\_\_\_\_ 6. Last Name: \_\_\_\_\_

7. Street: \_\_\_\_\_ 8. Title: \_\_\_\_\_

9. City/Town: \_\_\_\_\_ 10. State: \_\_\_\_\_ 11. ZIP Code: \_\_\_\_\_

12. Telephone: \_\_\_\_\_ 13. Ext.: \_\_\_\_\_ 14. FAX: \_\_\_\_\_



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H. CERTIFICATION OF PERSON MAKING SUBMITTAL:

I, Jim Green, attest under the pains and penalties of perjury (i) that I have personally examined and am familiar with the information contained in this submittal, including any and all documents accompanying this transmittal form, (ii) that, based on my inquiry of those individuals immediately responsible for obtaining the information, the material information contained in this submittal is, to the best of my knowledge and belief, true, accurate and complete, and (iii) that I am fully authorized to make this attestation on behalf of the entity legally responsible for this submittal. I/the person or entity on whose behalf this submittal is made am/is aware that there are significant penalties, including, but not limited to, possible fines and imprisonment, for willfully submitting false, inaccurate, or incomplete information.

Pursuant to 310 CMR 40.1074 (1)(f), I also hereby certify under penalties of perjury, that either I (if person submitting the AUL Transmittal Form is the property owner), or

Jones Environmental Services (Northeast), Inc.

2. Name of Property Owner

am/is identified on the Notice of AUL as the owner of the property subject to the AUL, owned such property on the date that the AUL was recorded and /or registered

3. By: \_\_\_\_\_

Signature

4. Title: CEO & President

5. For: Jones Environmental Services (Northeast), Inc.

(Name of person or entity recorded in Section D)

6. Date: 2/15/06  
mm/dd/yyyy

☐ 7. Check here if the address of the person providing certification is different from address recorded in Section D.

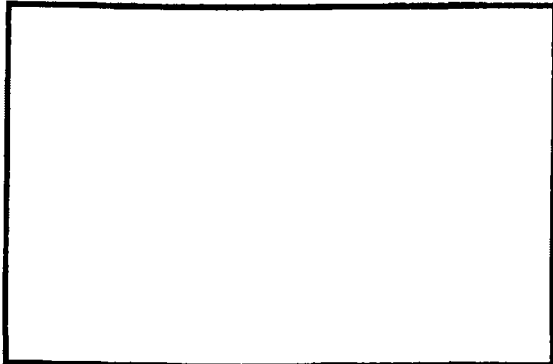
8. Street: \_\_\_\_\_

9. City/Town: \_\_\_\_\_ 10. State: \_\_\_\_\_ 11. ZIP Code: \_\_\_\_\_

12. Telephone: \_\_\_\_\_ 13. Ext.: \_\_\_\_\_ 14. FAX: \_\_\_\_\_

YOU ARE SUBJECT TO AN ANNUAL COMPLIANCE ASSURANCE FEE OF UP TO \$10,000 PER BILLABLE YEAR FOR THIS DISPOSAL SITE. YOU MUST LEGIBLY COMPLETE ALL RELEVANT SECTIONS OF THIS FORM OR DEP MAY RETURN THE DOCUMENT AS INCOMPLETE. IF YOU SUBMIT AN INCOMPLETE FORM, YOU MAY BE PENALIZED FOR MISSING A REQUIRED DEADLINE.

Date Stamp (DEP USE ONLY:)



BWSC-113

Release Tracking  
Number

3

0601

---

**F. 1. C.      Name and Address of Record Holder Notified**

Mortgagee Notified by Certified Mail on December 13, 2005:

Lowell Properties, LLC  
615 Tarklin Hill Road  
New Bedford, MA 02745  
Attn: Kirk Franklin

## Form 1075

## NOTICE OF ACTIVITY AND USE LIMITATION

M.G.L. c. 21E, § 6 and 310 CMR 40.0000

Disposal Site Name: Former Jet-Line/Geochem  
 DEP Release Tracking No.(s): 3000601



2006 00010193  
 Bk: 19844 Pg: 58 Page: 1 of 32  
 Recorded: 02/24/2006 03:28 PM

This Notice of Activity and Use Limitation ("Notice") is made as of this 10th day of February, 2006, by Jones Environmental Services (Northeast), Inc., a Massachusetts Corporation having a principal place of business at of 263 Howard Street, Lowell, Massachusetts 01852, together with its successors and assigns (collectively "Owner").

## WITNESSETH:

WHEREAS, Jones Environmental Services (Northeast), Inc., is the owner in fee simple of that certain parcel of land located in Lowell, Middlesex County, Massachusetts with the buildings and improvements thereon, pursuant to a deed recorded with the Middlesex County Registry of Deeds in Book 3256, Page 312;

WHEREAS, said parcel of land, which is more particularly bounded and described in Exhibit A, attached hereto and made a part hereof ("Property") is subject to this Notice of Activity and Use Limitation. The Property is shown on a plan recorded in the Middlesex County Registry of Deeds in Plan Book 95, Plan 146;

WHEREAS, a portion of the Property ("Portion of the Property") is subject to this Notice of Activity and Use Limitation. The Portion of the Property is more particularly bounded and described in Exhibit A-1, attached hereto and made a part hereof. The Portion of the Property is shown as the "A.U.L Area" on a plan recorded with the Middlesex County Registry of Deeds in Plan Book 220, Plan 105;

WHEREAS, the Portion of the Property comprises part of a disposal site as the result of a release of oil and/or hazardous material. Exhibit B is a sketch plan showing the relationship of the Portion of the Property subject to this Notice of Activity and Use Limitation to the boundaries of said disposal site existing within the limits of the Property and to the extent such boundaries have been established. Exhibit B is attached hereto and made a part hereof; and

WHEREAS, one or more response actions have been selected for Portion of the Disposal Site in accordance with M.G.L. c. 21E ("Chapter 21E") and the Massachusetts Contingency Plan, 310 CMR 40.0000 ("MCP"). Said response actions are based upon (a) the restriction of human access to and contact with oil and/or hazardous material in soil and/or groundwater and/or (b) the restriction of certain activities occurring in, on, through, over or under the Portion of the Property. The basis for such restrictions is set forth in an Activity and Use Limitation Opinion ("AUL Opinion"), dated February 10, 2006, (which is attached hereto as Exhibit C and made a part hereof);

Property Address: 263 Howard St., Lowell

Box 15

- NOW, THEREFORE, notice is hereby given that the activity and use limitations set forth in said AUL Opinion are as follows:

1. Activities and Uses Consistent with the AUL Opinion. The AUL Opinion provides that a condition of No Significant Risk to health, safety, public welfare or the environment exists for any foreseeable period of time (pursuant to 310 CMR 40.0000) so long as any of the following activities and uses occur on the Portion of the Property:

- (i) Commercial and/or industrial use of the on-site building, provided that the passive vents installed in the crawl space below Building 1 are maintained and the interior layout and use remain the same;
- (ii) Excavation associated with emergency or short term (three months or less) underground utility and/or construction work, provided it is conducted in accordance with a Soil Management Plan and a Health and Safety Plan;
- (iii) Activities which are not identified by this Notice as being inconsistent with maintaining a condition of No Significant Risk; and
- (iv) Such other activities and uses which, in the Opinion of an LSP, shall present no greater risk of harm to health, safety, public welfare, or the environment than the activities set forth in this paragraph.

2. Activities and Uses Inconsistent with the AUL Opinion. Activities and uses which are inconsistent with the objectives of this Notice of Activity and Use Limitation, and which, if implemented at the Portion of the Property, may result in a significant risk of harm to health, safety, public welfare or the environment or in a substantial hazard, are as follows:

- (i) Use of the Site as agricultural, institutional (with a residential or child care component), recreational or as a playground or other similar use where a child is likely to be present or other use which was not considered within the risk characterization and demonstrated to pose No Significant Risk of harm to human health, safety, public welfare, and the environment; and
- (ii) Significant alterations or changes in use of spaces in the existing buildings or construction of other buildings on-site without the installation of a passive venting system and vapor barrier and/or performance of indoor air monitoring which adequately demonstrates that VOCs are not migrating into the buildings at unacceptable levels.

3. Obligations and Conditions Set Forth in the AUL Opinion. If applicable, obligations and/or conditions to be undertaken and/or maintained at the Portion of the Property to maintain a condition of No Significant Risk as set forth in the AUL Opinion shall include the following:

- (i) Maintenance and quarterly inspections of the passive vents installed in the crawl space below Building 1 to minimize vapor migration into the building;
- (ii) Performance of groundwater monitoring, indoor air monitoring, and/or soil gas sampling for any future building constructed at the site to determine whether impacts associated with the disposal site may pose a potential risk of exposure to building occupants;
- (iii) Performance of response actions in accordance with the Massachusetts Contingency Plan, should conditions and/or environmental monitoring conducted pursuant to the Obligation set forth above indicate that VOCs associated with the disposal site are migrating into the buildings; and
- (iv) A Soil Management Plan and Health and Safety Plan must be prepared and implemented prior to the commencement of any subsurface activities which may disturb OHM impacted soil at the Site.

4. Proposed Changes in Activities and Uses. Any proposed changes in activities and uses at the Portion of the Property which may result in higher levels of exposure to oil and/or hazardous material than currently exist shall be evaluated by an LSP who shall render an Opinion, in accordance with 310 CMR 40.1080 *et seq.*, as to whether the proposed changes will present a significant risk of harm to health, safety, public welfare or the environment. Any and all requirements set forth in the Opinion to meet the objective of this Notice shall be satisfied before any such activity or use is commenced.

5. Violation of a Response Action Outcome. The activities, uses and/or exposures upon which this Notice is based shall not change at any time to cause a significant risk of harm to health, safety, public welfare, or the environment or to create substantial hazards due to exposure to oil and/or hazardous material without the prior evaluation by an LSP in accordance with 310 CMR 40.1080 *et seq.*, and without additional response actions, if necessary, to achieve or maintain a condition of No Significant Risk or to eliminate substantial hazards.

If the activities, uses, and/or exposures upon which this Notice is based change without the prior evaluation and additional response actions determined to be necessary by an LSP in accordance with 310 CMR 40.1080 *et seq.*, the owner or operator of the Portion of the Property subject to this Notice at the time that the activities, uses and/or exposures change, shall comply with the requirements set forth in 310 CMR 40.0020.

6. Incorporation Into Deeds, Mortgages, Leases, and Instruments of Transfer. This Notice shall be incorporated either in full or by reference into all future deeds, easements, mortgages, leases, licenses, occupancy agreements or any other instrument of transfer, whereby an interest in and/or a right to use the Property or a portion thereof is conveyed.

Owner hereby authorizes and consents to the filing and recordation and/or registration of this Notice, said Notice to become effective when executed under seal by the undersigned LSP, and recorded and/or registered with the appropriate Registry(ies) of Deeds and/or Land Registration Office(s).




WITNESS the execution hereof under seal this 10th day of February, 2006.

Jones Environmental Services (Northeast), Inc.

  
Owner

By: Mr. Jim Green

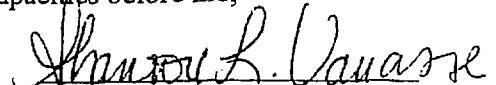
Its: CEO & President  
and Chief Financial Officer

COMMONWEALTH OF MASSACHUSETTS 

Plymouth, ss

February 10, 2006

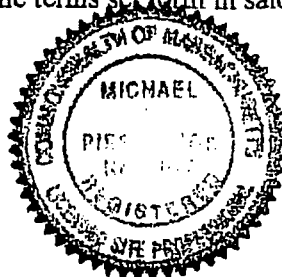
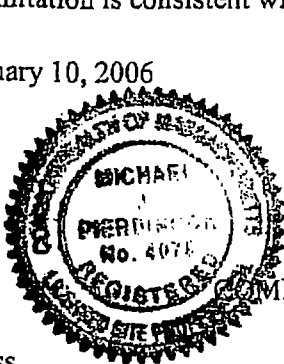
Then personally appeared the above-named Jim Green and acknowledged the foregoing instrument to be his free act and deed in his aforesaid respective capacities before me,


  
Notary Public:

My Commission Expires: 5/21/2010

The undersigned LSP hereby certifies that he executed the aforesaid Activity and Use Limitation Opinion attached hereto as Exhibit C and made a part hereof and that in his Opinion this Notice of Activity and Use Limitation is consistent with the terms set forth in said Activity and Use Limitation Opinion.

Date: February 10, 2006



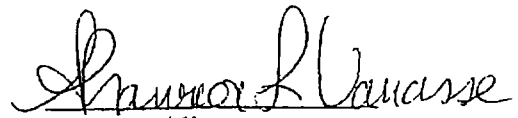
  
Michael J. Pierdinock  
LSP No. 4068  
LSP SEAL:

COMMONWEALTH OF MASSACHUSETTS

Plymouth, ss

February 10, 2006

Then personally appeared the above named Michael J. Pierdinock and acknowledged the foregoing instrument to be his free act and deed before me,

  
Notary Public:

My Commission Expires: 5/21/2010

Upon recording, return to:

Mr. Jim Green

Jones Environmental Services (Northeast), Inc.

263 Howard Street

Lowell, Massachusetts 01852

**EXHIBIT A****Legal Description of Parcel of Land**

A certain parcel of land in the City of Lowell, Middlesex County, Massachusetts, shown on a plan entitled "New York, New Haven and Hartford Railroad Office of Engineer – Real Estate Land in Lowell, Mass. To be conveyed to D.T. Sullivan Company, Inc., Scale 1"=40', July 1961" bounded and described as follows:

Beginning at the southerly corner of the herein described premises in the easterly side line of the State Highway Layout No. 4953 dated June 7, 1960, recorded with said Deeds, Book 1479, Page 12, on June 16, 1960, and in the division line of land now or formerly of said railroad and land now or formerly of H.A. Brewer; and

Thence northwesterly, bounding southwesterly on said State Highway, in a curve to the right having a radius of 1300 feet, 164.20 feet to a point;

Thence northwesterly, bounding southwesterly on said State Highway and tangent to said last described line, 89.85 feet to a point;

Thence northeasterly, bounding northwesterly on said State Highway in a line making an interior angle of  $84^{\circ} 26' 57''$  with said last described course, 54.00 feet to a point;

Thence northwesterly, bounding southwesterly on said State Highway, in a line making an exterior angle of  $84^{\circ} 26' 57''$  with said last described course, 36.69 feet to Howard Street;

Thence northeasterly, bounding northwesterly on said Howard Street, 72.44 feet more or less to a point; and

Thence southwesterly, bounding southeasterly on land now or formerly of H.A. Brewer, 240.89 feet, more or less to the point of beginning.

Containing 30,248 square feet more or less, or however otherwise said premises may be bounded and described, and be all or any of said measurements or distances more or less.

It is noted that the directional arrow which appears upon the plan referred to and delineated as a northerly arrow, appears to face in a northeasterly direction as compared to other plans on record.

**EXHIBIT A-1**

**Legal Description of Area Subject to AUL**

A.U.L. Area shown on a plan entitled "Plan of Land in Lowell, MA., Scale 1"=30', February 1, 2006" bounded and described as follows:

Beginning at the most Northerly corner of the South side of Howard Street.

Thence S 31 45'17" E a distance of 72.44 feet along Howard Street;

Thence S 26 38'13" W a distance of 115.43 feet to a point;

Thence N 83 40'48" W a distance of 221.90 feet to the High Water Mark;

Thence N 49 18'30" E a distance of 83.84 feet to a point;

Thence N 57 05'00" E a distance of 81.50 feet to a point;

Thence N 48 49'00" E a distance of 73.15 feet, last three courses along the High Water Mark;

Thence S 31 45'17" E a distance of 34.12 feet to a point;

Thence N 52 41'40" E a distance of 36.69 feet to the point of beginning.

Said Lot contains an area of 25,383 square feet more or less.

**EXHIBIT B**

**Sketch Plan Land Subject to AUL**



**EXHIBIT C**

**Activity and Use Limitation Opinion**

# **ACTIVITY AND USE LIMITATION OPINION**

Former Jet-Line/Geochem  
263 Howard Street  
Lowell, Massachusetts

Release Tracking Number 3-00601

**February 10, 2006**

Prepared for:

Jones Environmental Services (Northeast), Inc.  
263 Howard Street  
Lowell, Massachusetts 01852

Prepared by:

Lightship Engineering, LLC  
36 Cordage Park Circle, Suite 312  
Plymouth, Massachusetts 02360

## TABLE OF CONTENTS

1.0	<u>INTRODUCTION</u> .....	1-1
2.0	<u>SITE HISTORY</u> .....	2-1
2.1	RTN ADDRESSED BY THIS AUL OPINION .....	2-2
2.2	REASON FOR A NOTICE OF ACTIVITY AND USE LIMITATION .....	2-2
3.0	<u>AUL OPINION METES AND BOUNDS DESCRIPTION</u> .....	3-1
3.1	SITE ADDRESS .....	3-1
3.2	METES AND BOUNDS DESCRIPTION OF THE DISPOSAL SITE .....	3-1
3.3	METES AND BOUNDS DESCRIPTION OF THE PORTION OF THE DISPOSAL SITE ADDRESSED BY THIS AUL OPINION .....	3-2
4.0	<u>PERMITTED SITE ACTIVITIES AND USES</u> .....	4-1
5.0	<u>OBLIGATIONS AND CONDITIONS FOR PERMITTED ACTIVITIES</u> .....	5-1
6.0	<u>PROHIBITED OR LIMITED SITE ACTIVITIES AND USES</u> .....	6-1
7.0	<u>AGREEMENT TO REFERENCE NOTICE OF AUL</u> .....	7-1
8.0	<u>PROCEDURES FOR CHANGING PERMITTED SITE ACTIVITIES AND USES</u> .....	8-1



## LIST OF APPENDICES

### APPENDIX A      FIGURES

Figure 1-1      Site Locus Map  
Figure 1-2      Disposal Site Map

### APPENDIX B      ACTIVITY AND USE LIMITATION OPINION FORMS

## 1.0 INTRODUCTION

Pursuant to 310 CMR 40.1074, this Activity and Use Limitation ("AUL") Opinion has been prepared, on behalf of Jones Environmental Services (Northeast), Inc. ("JES"), in connection with the disposal site located at 263 Howard Street in Lowell, Massachusetts (the "Site"). A Site Locust Map and a Disposal Site Map are attached as Figures 1-1 and 1-2, Appendix A, respectively. For the purpose of the AUL Opinion, the disposal site is defined by the 263 Howard Street property boundaries and the AUL Area is defined as the upland portion of the disposal site bounded by the approximate high water mark of River Meadows Brook to the northwest.

## 2.0 SITE HISTORY

The Site and surrounding area has been developed for industrial use since at least 1879. Prior to 1976 the Site was utilized as a railroad yard, boiler maintenance and repair facility, and metal recycling facility. Since 1976 the Site has been utilized as a Resource Conservation and Recovery Act ("RCRA") treatment, storage and disposal facility ("TSDF") operating under an Interim Hazardous Waste Facility (Part B) License. The Site is presently utilized for the treatment and temporary storage of hazardous waste prior to off-site disposal.

There are two interconnected single-story buildings located on the east side of the Site. The eastern portion of the building (identified as "Building 1" on Figure 1-2, Appendix A) is a wood-framed structure with a wood floor and underlying crawl space constructed in 1976 for use as offices, a laboratory and bermed hazardous waste storage areas. The western portion of the building (identified as "Building 2" on Figure 1-2, Appendix A) is a concrete block structure with a concrete slab on-grade foundation constructed in 1979 for use as bermed hazardous waste storage area. In the mid 1990's the two buildings were connected via a passageway. A concrete loading dock is located on the northwest corner of Building 2. An outside storage area used to store plastics and empty containers is located in an unpaved area north of Building 1. The western portion of the Site is asphalt paved and is used to store empty trailers and drums. This area was reported to have been unpaved prior to 1988. The Site is bounded by River Meadow Brook to the northwest with the Lowell Connector beyond. Howard Street abuts the Site to the northeast. Across Howard Street to the northeast and east is a power plant. Tanner Streets abuts the Site to the southeast with a boiler works and machine shop beyond. The Silresin Chemical Corporation, Federal Superfund site is located approximately 1,000 feet southwest of the Site.

The Site is dual regulated by the United States Environmental Protection Agency ("EPA") RCRA Corrective Action Program and by the Massachusetts Department of Environmental Protection ("DEP"), Massachusetts Contingency Plan ("MCP") 310 CMR 40.0000. The Site was first listed by the DEP on January 15, 1990 as a Location To Be Investigated.

Volatile organic compounds ("VOC") were first detected in soil, groundwater and surface water samples collected at the Site in 1984. Since 1984 numerous response actions have been conducted to identify and remediate the on-site source(s) of VOC. An MCP Phase I Limited Site Investigation Report ("Phase I") and Tier II Classification were submitted for the Site in 1999. As set forth in the Phase I, the compounds of concern identified at the Site consist primarily of TCE and PCE and their degradation products, 1,1,1-DCA, toluene and other select VOCs. The primary source appeared to be the former sump located near the southeast corner of Building 2. In 1986 approximately 26 drums of liquid and three drums of sediment/soil were recovered from the sump and transported off-Site for disposal. According to the Phase II Report, the sump was

closed in accordance with DEP requirements and monitoring well MW-4 was installed to monitor groundwater conditions in the source area.

An MCP Phase II Comprehensive Site Assessment Report ("Phase II") and Method 3 Risk Characterization were submitted for the Site in 2001. The Method 3 Risk Characterization concluded that a level of *No Significant Risk* ("NSR") to human health exists at the Site with the assumptions that the property continues to be used for commercial or industrial purposes and that the passive vents installed in the crawl space below Building 1 remain in place. As set forth in the Method 3 Risk Characterization, a level of NSR had not been achieved with respect to public welfare and the environment as a result of the concentrations of OHM that exceeded DEP Upper Concentration Limits ("UCLs") in groundwater at monitoring well MW-4.

In June 2002, MCP Phase III Identification, Evaluation and Selection of Comprehensive Remedial Action ("Phase III") and Phase IV Implementation of Selected Remedial Alternative ("Phase IV") reports. The Phase III report identified soil vapor extraction and air sparging ("SVE/AS") as the recommended remedial action alternative to remediate groundwater in the vicinity of well MW-4 located in the former sump source area. In accordance with the Phase IV, an SVE/AS remediation system was installed and operated at the Site for approximately 18 months between April 2003 and October 2004. Quarterly groundwater samples were collected during operation of the SVE/AS system and post-remediation. The results confirm that VOC concentrations in groundwater have been reduced to below UCLs.

## **2.1 RTN ADDRESSED BY THIS AUL OPINION**

This AUL Opinion addresses the RTN for the Site as set forth below:

- RTN 3-00601 (First Listed by DEP on January 15, 1990).

## **2.2 REASON FOR A NOTICE OF ACTIVITY AND USE LIMITATION**

A Method 3 Risk Characterization was prepared to support a Response Action Outcome for the Site. Although the concentration of VOC measured in groundwater near the building exceed their respective Method 1, GW-2 Groundwater Standards, indoor air samples collected from the Site demonstrated that the passive vents installed in the crawl space have prevented significant VOC vapors from entering the building. In addition, VOC measured in soil exceed their respective Method 1, S-2/GW-2 Soil Standards, however, the Method 3 Risk Characterization demonstrated that the concentration of VOC detected in soil at the Site does not

pose risk to human health, public safety, welfare or the environment provided that the use of the property remains commercial/industrial.

In order to maintain a level of NSR, implementation of the AUL is necessary to ensure that the property continues to be used for commercial/industrial purposes and that the passive vents installed in the crawl space below Building 1 be maintained.

### **3.0 AUL OPINION METES AND BOUNDS DESCRIPTION**

Pursuant to 310 CMR 40.1074(2)(a)1 and 2, the Site address and metes and bounds description of the parcel of land that comprises the disposal site and AUL area are set forth below.

#### **3.1 SITE ADDRESS**

Jones Environmental Services (Northeast), LLC  
263 Howard Street  
Lowell, Massachusetts 01852

#### **3.2 METES AND BOUNDS DESCRIPTION OF THE DISPOSAL SITE**

A certain parcel of land in the City of Lowell, Middlesex County, Massachusetts, shown on a plan entitled "New York, New Haven and Hartford Railroad Office of Engineer – Real Estate Land in Lowell, Mass. To be conveyed to D.T. Sullivan Company, Inc., Scale 1"=40', July 1961" bounded and described as follows:

Beginning at the southerly corner of the herein described premises in the easterly side line of the State Highway Layout No. 4953 dated June 7, 1960, recorded with said Deeds, Book 1479, Page 12, on June 16, 1960, and in the division line of land now or formerly of said railroad and land now or formerly of H.A. Brewer; and

Thence northwesterly, bounding southwesterly on said State Highway, in a curve to the right having a radius of 1300 feet, 164.20 feet to a point;

Thence northwesterly, bounding southwesterly on said State Highway and tangent to said last described line, 89.85 feet to a point;

Thence northeasterly, bounding northwesterly on said State Highway in a line making an interior angle of  $84^{\circ} 26' 57''$  with said last described course, 54.00 feet to a point;

Thence northwesterly, bounding southwesterly on said State Highway, in a line making an exterior angle of  $84^{\circ} 26' 57''$  with said last described course, 36.69 feet to Howard Street;

Thence northeasterly, bounding northwesterly on said Howard Street, 72.44 feet more or less to a point; and

Thence southwesterly, bounding southeasterly on land now or formerly of H.A. Brewer, 240.89 feet, more or less to the point of beginning.

Containing 30,248 square feet more or less, or however otherwise said premises may be bounded and described, and be all or any of said measurements or distances more or less.

It is noted that the directional arrow, which appears upon the plan referred to and delineated as a northerly arrow, appears to face in a northeasterly direction as compared to other plans on record.

### **3.3 METES AND BOUNDS DESCRIPTION OF THE PORTION OF THE DISPOSAL SITE ADDRESSED BY THIS AUL OPINION**

A.U.L. Area shown on a plan entitled "Plan of Land in Lowell, MA., Scale 1"=30', February 1, 2006" bounded and described as follows:

Beginning at the most Northerly corner of the South side of Howard Street.

Thence S 31 45'17" E a distance of 72.44 feet along Howard Street;

Thence S 26 38'13" W a distance of 115.43 feet to a point;

Thence N 83 40'48" W a distance of 221.90 feet to the High Water Mark;

Thence N 49 18'30" E a distance of 83.84 feet to a point;

Thence N 57 05'00" E a distance of 81.50 feet to a point;

Thence N 48 49'00" E a distance of 73.15 feet, last three courses along the High Water Mark;

Thence S 31 45'17" E a distance of 34.12 feet to a point;

Thence N 52 41'40" E a distance of 36.69 feet to the point of beginning.

Said Lot contains an area of 25,383 square feet more or less.

The approximate extent of the disposal site and AUL area are indicated on Figure 1-2, Appendix A.

#### **4.0 PERMITTED SITE ACTIVITIES AND USES**

Pursuant to 310 CMR 40.1074(1)(b)(3), a description of disposal site activities and uses permitted at the disposal site are set forth below.

A condition of No Significant Risk to health, safety, public welfare or the environment exists for any foreseeable period of time so long as any of the following activities and uses occur within the AUL Area:

- 1) Commercial and/or industrial use of the on-site building, provided that the passive vents installed in the crawl space below Building 1 are maintained and the interior layout and use remain the same;
- 2) Excavation associated with emergency or short term (three months or less) underground utility and/or construction work, provided it is conducted in accordance with a Soil Management Plan and a Health and Safety Plan;
- 3) Activities which are not identified by this Notice as being inconsistent with maintaining a condition of No Significant Risk; and
- 4) Such other activities and uses which, in the Opinion of an LSP, shall present no greater risk of harm to health, safety, public welfare, or the environment than the activities set forth in this paragraph.



## **5.0 OBLIGATIONS AND CONDITIONS FOR PERMITTED ACTIVITIES**

Pursuant to 310 CMR 40.1074(1)(b)(4), a description of obligations and/or conditions for conducting permitted disposal site activities to meet the objectives of the AUL Opinion and maintain a level of NSR are set forth below.

- 1) Maintenance and quarterly inspections of the passive vents installed in the crawl space below Building 1 to minimize vapor migration into the building;
- 2) Performance of groundwater monitoring, indoor air monitoring, and/or soil gas sampling for any future building constructed at the site to determine whether impacts associated with the disposal site may pose a potential risk of exposure to building occupants;
- 3) Performance of response actions in accordance with the Massachusetts Contingency Plan, should conditions and/or environmental monitoring conducted pursuant to the Obligation set forth above indicate that VOCs associated with the disposal site are migrating into the buildings; and
- 4) A Soil Management Plan and Health and Safety Plan must be prepared and implemented prior to the commencement of any subsurface activities, which may disturb OHM impacted soil at the Site.

## **6.0 PROHIBITED OR LIMITED SITE ACTIVITIES AND USES**

Pursuant to 310 CMR 40.1074(1)(b)(2), a description of disposal site activities and uses which are inconsistent with the objectives of this AUL Opinion and, if implemented, may result in a significant risk of harm to human health, safety, public welfare or the environment, is set forth below.

- 1) Use of the Site as agricultural, institutional (with a residential or child care component), recreational or as a playground or other similar use where a child is likely to be present or other use which was not considered within the risk characterization and demonstrated to pose No Significant Risk of harm to human health, safety, public welfare, and the environment; and
- 2) Significant alterations or changes in use of spaces in the existing buildings or construction of other buildings on-site without the installation of a passive venting system and vapor barrier and/or performance of indoor air monitoring which adequately demonstrates that VOCs are not migrating into the buildings at unacceptable levels.

**7.0 AGREEMENT TO REFERENCE NOTICE OF AUL**

Pursuant to 310 CMR 40.1074(2)(g), JES agrees to reference this AUL in all deeds, easements, mortgages, leases, licenses, occupancy agreements or any other instruments which convey an interest in and/or a right to use the portions of the Site subject to the AUL pursuant to the Response Action Outcome ("RAO") Statement.

## **8.0 PROCEDURES FOR CHANGING PERMITTED SITE ACTIVITIES AND USES**

Pursuant to 310 CMR 40.1074(2)(h), a description of procedures to be followed to ensure that changes in permitted activities and/or uses continue to meet the objectives of the AUL is set forth below.

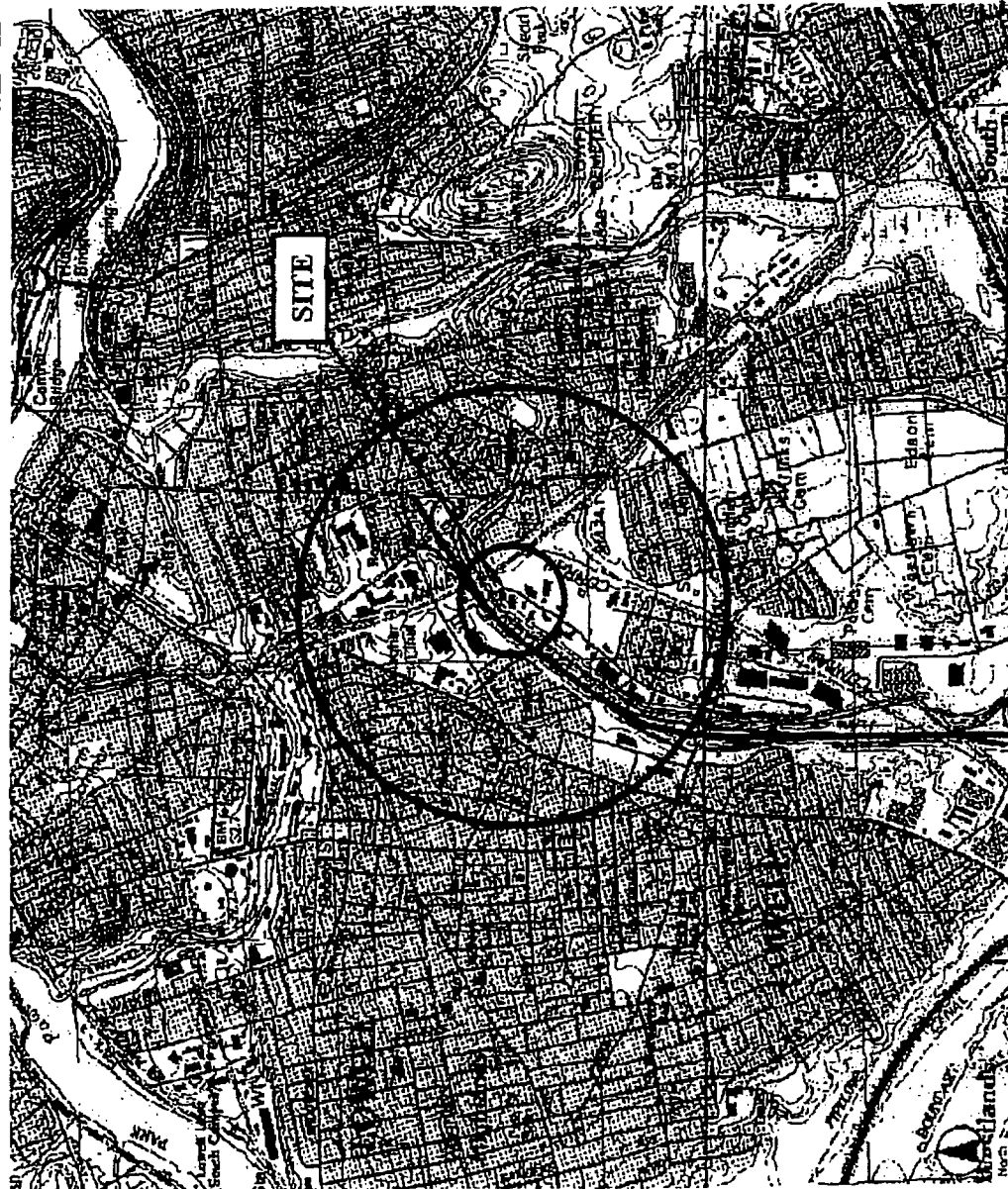
1. Any proposed changes in activities and/or uses within the boundaries of the disposal site addressed by this AUL Opinion, which may result in higher levels of exposure to oil and/or hazardous material than currently exist, will be evaluated by an LSP. The LSP will render an Opinion, consistent with 310 CMR 40.1080, as to whether the proposed changes will result in a significant risk of harm to human health, safety, public welfare or the environment. Any and all requirements set forth above to meet the objective of the AUL will be satisfied before any proposed changes in activity and/or use are initiated.

# APPENDIX A

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## Site Figures

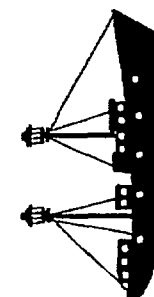
- |            |                   |
|------------|-------------------|
| Figure 1-1 | Site Locus Map    |
| Figure 1-2 | Disposal Site Map |



Radii:

500 Foot Radius

1/2 Mile Radius



**LIGHTSHIP**

**ENGINEERING**

ENVIRONMENTAL & LAND-USE CONSULTANTS  
36 CORDELL PARK DRIVE, SUITE 312, PLYMOUTH, MA 01969

FIGURE 1-1

Site Locus Map

263 Howard Street, Lowell, MA

PREPARED FOR

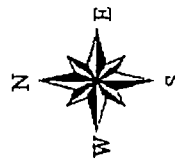
Jones Environmental Services (Northeast), Inc.

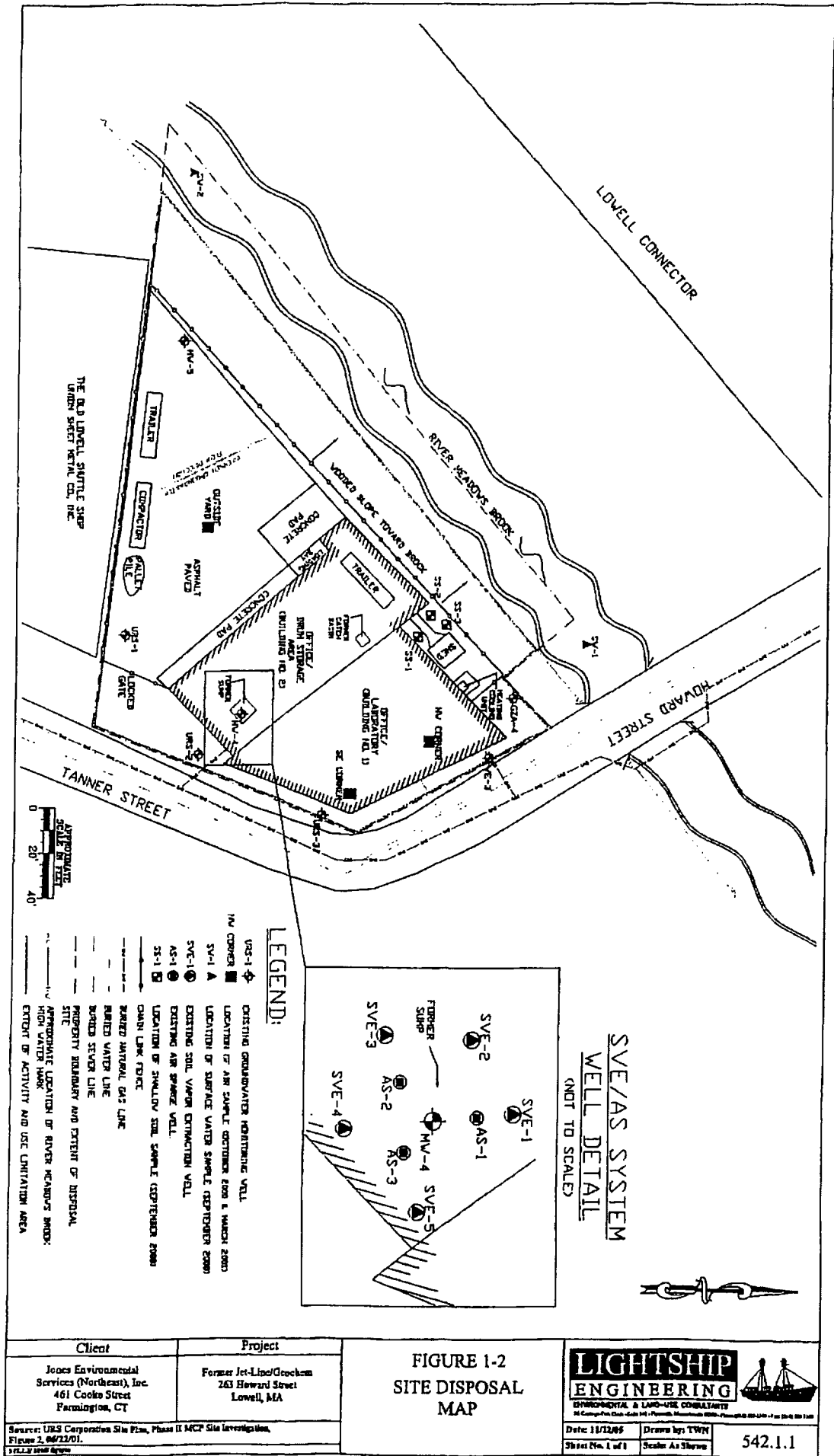
Scale:

As Shown

SOURCE:

MassGIS Online  
DataViewer





## **APPENDIX B**

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Activity and Use Limitation Opinion Forms





Massachusetts Department of Environmental Protection  
Bureau of Waste Site Cleanup

BWSC113A

**ACTIVITY & USE LIMITATION (AUL) OPINION FORM**

Pursuant to 310 CMR 40.1056 & 40.1070 - 40.1084 (Subpart J)

Release Tracking Number

3 - 601

**A. DISPOSAL SITE LOCATION:**

1. Disposal Site Name: Former Jet-Line/Geochem

2. Street Address: 263 Howard Street

3. City/Town: Lowell

4. ZIP Code: 01852-0000

**B. THIS FORM IS BEING USED TO:** (check one)

- ☒ 1. Provide the LSP Opinion for a **Notice of Activity and Use Limitation**, pursuant to 310 CMR 40.1074.
- ☐ 2. Provide the LSP Opinion for an **Evaluation of Changes in Land Uses/Activities and/or Site Conditions after a Response Action Outcome Statement**, pursuant to 310 CMR 40.1080. Include BWSC113A as an attachment to BWSC113. Section A and C do not need to be completed.
- ☐ 3. Provide the LSP Opinion for an **Amended Notice of Activity and Use Limitation**, pursuant to 310 CMR 40.1081(4).
- ☐ 4. Provide the LSP Opinion for a **Partial Termination of a Notice of Activity and Use Limitation**, pursuant to 310 CMR 40.1083(3).
- ☐ 5. Provide the LSP Opinion for a **Termination of a Notice of Activity and Use Limitation**, pursuant to 310 CMR 40.1083(1)(d).
- ☐ 6. Provide the LSP Opinion for a **Grant of Environmental Restriction**, pursuant to 310 CMR 40.1071.
- ☐ 7. Provide the LSP Opinion for an **Amendment of a Grant of Environmental Restriction**, pursuant to 310 CMR 40.1081(3).
- ☐ 8. Provide the LSP Opinion for a **Partial Release of a Grant of Environmental Restriction**, pursuant to 310 CMR 40.1083(2).
- ☐ 9. Provide the LSP Opinion for a **Release of a Grant of Environmental Restriction**, pursuant to 310 CMR 40.1083(1)(c).
- ☐ 10. Provide the LSP Opinion for a **Confirmatory Activity and Use Limitation**, pursuant to 310 CMR 40.1085(4).

(Unless otherwise noted above, all sections of this form (BWSC113A) must be completely filled out, printed, stamped, signed with black ink and attached as an exhibit to the AUL Document to be recorded and/or registered with the Registry of Deeds and/or Land Registration Office.)

**C. AUL INFORMATION:**

1. Is the address of the property subject to AUL different from the disposal site address listed above?

☒ a. No ☐ b. Yes If yes, then fill out address section below.

2. Street Address: \_\_\_\_\_

3. City/Town: \_\_\_\_\_

4. ZIP Code: \_\_\_\_\_



Massachusetts Department of Environmental Protection  
Bureau of Waste Site Cleanup

BWSC113A

ACTIVITY & USE LIMITATION (AUL) OPINION FORM

Pursuant to 310 CMR 40.1056 & 40.1070 - 40.1084 (Subpart J)

Release Tracking Number

3 - 601

D. LSP SIGNATURE AND STAMP:

I attest under the pains and penalties of perjury that I have personally examined and am familiar with this transmittal form, including any and all documents accompanying this submittal. In my professional opinion and judgment based upon application of (i) the standard of care in 309 CMR 4.02(1), (ii) the applicable provisions of 309 CMR 4.02(2) and (3), and 309 CMR 4.03(2), and (iii) the provisions of 309 CMR 4.03(3), to the best of my knowledge, information and belief,

> if Section B indicates that a **Notice of Activity and Use Limitation** is being registered and/or recorded, the Activity and Use Limitation that is the subject of this submittal (i) is being provided in accordance with the applicable provisions of M.G.L. c. 21E and 310 CMR 40.0000 and (ii) complies with 310 CMR 40.1074;

> if Section B indicates that an **Evaluation of Changes in Land Uses/Activities and/or Site Conditions after a Response Action Outcome Statement** is being submitted, this evaluation was developed in accordance with the applicable provisions of M.G.L. c. 21E and 310 CMR 40.0000 and (ii) complies with 310 CMR 40.1080;

> if Section B indicates that an **Amended Notice of Activity and Use Limitation or Amendment to a Grant of Environmental Restriction** is being registered and/or recorded, the Activity and Use Limitation that is the subject of this submittal (i) is being provided in accordance with the applicable provisions of M.G.L. c. 21E and 310 CMR 40.0000 and (ii) complies with 40.1081;

> if Section B indicates that a **Termination or a Partial Termination of a Notice of Activity and Use Limitation, or a Release or Partial Release of a Grant of Environmental Restriction** is being registered and/or recorded, the Activity and Use Limitation that is the subject of this submittal (i) is being provided in accordance with the applicable provisions of M.G.L. c. 21E and 310 CMR 40.0000 and (ii) complies with 310 CMR 40.1083;

> if Section B indicates that a **Grant of Environmental Restriction** is being registered and/or recorded, the Activity and Use Limitation that is the subject of this submittal (i) is being provided in accordance with the applicable provisions of M.G.L. c. 21E and 310 CMR 40.0000 and (ii) complies with 310 CMR 40.1071;


> if Section B indicates that a **Confirmatory Activity and Use Limitation** is being registered and/or recorded, the Activity and Use Limitation that is the subject of this submittal (i) is being provided in accordance with the applicable provisions of M.G.L. c. 21E and 310 CMR 40.0000 and (ii) complies with 310 CMR 40.1085(4);

I am aware that significant penalties may result, including, but not limited to, possible fines and imprisonment, if I submit information which I know to be false, inaccurate or materially incomplete.

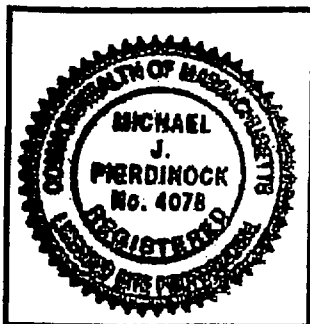
1. LSP #: 4078

2. First Name: Michael J. 3. Last Name: Pierdinock

4. Telephone: (508) 830-3344 5. Ext.: 110 6. FAX: (508) 830-3360

7. Signature:  8. Date: 2/10/06  
mm/dd/yyyy

9. LSP Stamp:



**EXHIBIT D**

**Activity and Use Limitation Opinion Form (BWSC-113A)**



Massachusetts Department of Environmental Protection  
Bureau of Waste Site Cleanup

BWSC113A

ACTIVITY & USE LIMITATION (AUL) OPINION FORM

Pursuant to 310 CMR 40.1056 & 40.1070 - 40.1084 (Subpart J)

Release Tracking Number

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Massachusetts Department of Environmental Protection  
Bureau of Waste Site Cleanup

BWSC113A

ACTIVITY & USE LIMITATION (AUL) OPINION FORM

Release Tracking Number

Pursuant to 310 CMR 40.1056 & 40.1070 - 40.1084 (Subpart J)

3 - 601

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> if Section B indicates that a **Notice of Activity and Use Limitation** is being registered and/or recorded, the Activity and Use Limitation that is the subject of this submittal (i) is being provided in accordance with the applicable provisions of M.G.L. c. 21E and 310 CMR 40.0000 and (ii) complies with 310 CMR 40.1074;

> if Section B indicates that an **Evaluation of Changes in Land Uses/Activities and/or Site Conditions after a Response Action Outcome Statement** is being submitted, this evaluation was developed in accordance with the applicable provisions of M.G.L. c. 21E and 310 CMR 40.0000 and (ii) complies with 310 CMR 40.1080;

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> if Section B indicates that a **Grant of Environmental Restriction** is being registered and/or recorded, the Activity and Use Limitation that is the subject of this submittal (i) is being provided in accordance with the applicable provisions of M.G.L. c. 21E and 310 CMR 40.0000 and (ii) complies with 310 CMR 40.1071;

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1. LSP #: 4078

2. First Name: Michael J.

3. Last Name: Pierdinock

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5. Ext.: 110

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7. Signature:

8. Date: 2/10/06  
mm/dd/yyyy

9. LSP Stamp:

