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2014 00022614

Bk: 28252 Pg: 1 Page: 1 of 22

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**Form 1075**

**NOTICE OF ACTIVITY AND USE LIMITATION**

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

Disposal Site Name: Centennial Island Apartments, 756 Lawrence Street, Lowell, MA  
DEP Release Tracking No.: 3-31616

This Notice of Activity and Use Limitation ("Notice") is made as of this 17<sup>th</sup> day of June, 2014, by Related Stirling Bay, LLC, c/o Related Affordable, 60 Columbus Circle, New York, New York 10023, together with his/her/its/their successors and assigns (collectively "Owner").

**W I T N E S S E T H:**

WHEREAS, Related Stirling Bay, LLC, is the owner in fee simple of those certain parcels of land located in Lowell, Middlesex County, Massachusetts with the buildings and improvements thereon, pursuant to a deed recorded with the Middlesex Registry of Deeds, Northern District in Book 19960, Page 76;

WHEREAS, said parcels of land, which are more particularly bounded and described in Exhibit A, attached hereto and made a part hereof ("Property") subject to this Notice of Activity and Use Limitation. The Property is shown on two plans recorded in the Middlesex Registry of Deeds, Northern District, Plan Book 123, Plan 31, and Plan Book 137, Plan 89, and on Land Court Plan Nos. 20284A and 20284B;

WHEREAS, three non-contiguous portions of the Property ("Portions of the Property") are subject to this Notice of Activity and Use Limitation. The Portions of the Property are more particularly bounded and described in Exhibit A-1, attached hereto and made a part hereof. The Portions of the Property are shown on a plan recorded with the Middlesex Registry of Deeds, Northern District in Plan Book 237, Plan 143, and on the sketch plans attached hereto and filed herewith as Exhibits A-2, A-3 and A-4;

WHEREAS, the Portions of the Property comprise 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 relationships of the Portions 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 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 (b) the restriction of certain activities occurring in, on, through, over or under the Portions of the Property. The basis for such restrictions is set forth in an Activity and Use Limitation Opinion ("AUL Opinion"), dated June 19, 2014, (which is attached hereto as Exhibit C and made a part hereof);

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 Portions of the Property:

- (i) Any activities and uses of the Portions of the Property; provided that direct contact with the contaminated soil remains restricted through the use and maintenance of a dermal barrier including either: one (1) foot of clean soil above a geotextile marker layer in landscaped areas; eight (8) inches of ½ inch minus angular gravel above a geotextile marker layer; asphalt pavement; or concrete pavement;
- (ii) Landscaping and grounds keeping activities, including but not limited to planting of trees and shrubs, installation of irrigation systems, installation of lawns, grassy areas, signs and fence posts, maintenance of landscaping such as annual planting of plants and plant bulbs and cutting and raking grassy areas, and maintenance and resurfacing of asphalt paved or concrete areas within the Portions of the Property. These activities must not extend beyond the bottom of the dermal barrier except for driven fence posts;
- (iii) Excavation associated with emergency utility repair work, one day or less in duration, provided such work is conducted in accordance with the soil management procedures provided in the MCP at 310 CMR 40.0030 and concludes with prompt repair/replacement of the clean soil covers, as described above in Paragraph 2(i);
- (iv) Subsurface utility or construction work, including but not limited to excavation, which will penetrate below the dermal barrier, provided that such activities are conducted with the oversight of a LSP in accordance with the Obligations and Conditions of the AUL, the soil management procedures of the MCP at 310 CMR 40.0030, and all applicable worker health and safety practices pursuant to 310 CMR 40.0018;
- (v) Such other activities or 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 and uses set forth in this Paragraph; and
- (vi) Such other activities and uses not identified as being Activities and Uses Inconsistent with the AUL.

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 Portions 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) Disturbing the dermal barrier in the Portions of the Property, except for those activities identified as a Permitted Activity and;
- (ii) Any subsurface utility or construction work, including but not limited to excavation, or other activities, which will penetrate below the dermal barrier at the Portions of the Property, without the oversight of an LSP and prior development and implementation of a Soil Management Plan (SMP) and a Health and Safety Plan (HASP) as outlined in the next section. Emergency utility repair work, no more than one day in duration, is exempted from this restriction.

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) The dermal barriers within the Portions of the Property must be maintained to effectively prevent exposure(s) to underlying contaminated hot spot soils through direct contact, ingestion and/or inhalation.
- (ii) A Soil Management Plan (SMP) must be prepared by an LSP and implemented prior to the commencement of any construction or utility work or other activities that may disturb subsurface soil below the dermal barrier at the Portions of the Property. Emergency utility repair work less than one day in duration is exempted from this requirement. The SMP should describe appropriate soil excavation, handling, storage, re-use, transport, and disposal procedures and include a description of any engineering controls and/or air monitoring procedures necessary to ensure that workers and receptors in the vicinity are not affected by fugitive dust or particulates. On-site workers must be informed of the requirements of the SMP, and the plan must be available on-site throughout the course of the project; and
- (iii) A Health and Safety Plan (HASP) must be prepared by a Certified Industrial Hygienist or other qualified individual sufficiently trained in worker health and safety requirements and implemented prior to the commencement of any construction or utility work or other activities that may disturb subsurface soil below the clean soil covers at the Portions of the Property. Emergency utility repair work less than one day in duration and landscaping and grounds keeping activities are exempted from this requirement. The HASP should clearly describe the location of the contaminated soil and specifically identify the types of personal protective equipment, monitoring devices, and/or engineering controls necessary to ensure that workers are not exposed to the contaminants in the soil through dermal contact, ingestion, and/or the inhalation of particulate dusts. Workers who may come into contact with the contaminated soil within the limits of the Portions of the Property (which are equivalent to the limits of the AUL) must be informed of the location of the contamination and all requirements of the HASP. The plan must be made available on-site through the course of the project; and

(iv) Excavated soil generated by any subsurface intrusive activity below the clean soil covers must be managed in accordance with the Remediation Waste Management provisions of the MCP at 310 CMR 40.0030.

4. Proposed Changes in Activities and Uses. Any proposed changes in activities and uses at the Portions 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 11<sup>th</sup> day of June, 2014.

Related Stirling Bay, L.L.C.  
c/o Related Affordable

By: 

Name: Mark E. Carbone

Title: Vice President

~~COMMONWEALTH OF MASSACHUSETTS~~

STATE OF NEW YORK  
COUNTY OF NEW YORK  
SS

June 17, 2014

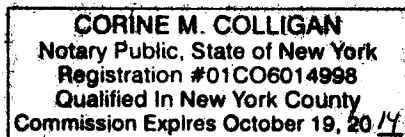
On this 17<sup>th</sup> day of June, 2014, before me, the undersigned notary public, personally appeared Mark G. Carbone (name of document signer), proved to me through satisfactory evidence of identification, which were personally known to me, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that (he) (~~she~~) signed it voluntarily for its stated purpose.

as Vice President for Related Stirling, a Delaware Limited Liability  
Co., LLC Company

Corine M. Colligan (official signature and seal of notary)

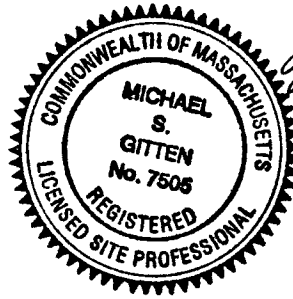
Print Name:

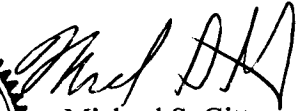
My Commission Expires:



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: June 17, 2014



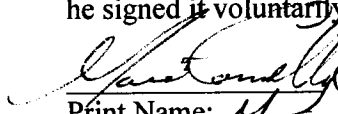
  
Michael S. Gitten  
LSP SEAL

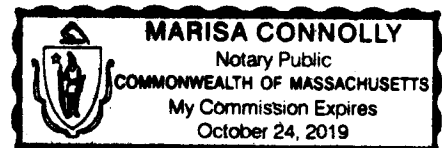
COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss

June 17, 2014

On this 17<sup>th</sup> day of June, 2014, before me, the undersigned notary public, personally appeared Michael S. Gitten, proved to me through satisfactory evidence of identification, which were Massachusetts Drivers License, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

 (official signature and seal of notary)  
Print Name: Marisa Connolly  
My Commission Expires: 10-24-2019



Upon recording, return to:

Related Stirling Bay LLC  
c/o Related Affordable  
60 Columbus Circle  
New York, New York 10023

**EXHIBIT "A"**

**Parcels 1 and 3:**

**That certain parcel of land situate in Lowell, Middlesex County, Commonwealth of Massachusetts, bounded and described as follows:**

<b>Northerly</b>	<b>by the southerly line of Sherman Street, ninety-three and 32/100 (93.32) feet; and by land now or formerly of the Wamesit Power Company, about eighty-three and 88/100 (83.88) feet;</b>
<b>Easterly</b>	<b>by Concord River;</b>
<b>Southeasterly</b>	<b>about twenty-one (21) feet,</b>
<b>Northeasterly</b>	<b>thirty-five and 60/100 (35.60) feet,</b>
<b>Easterly</b>	<b>eighty-six and 82/100 (86.82) feet,</b>
<b>Southeasterly</b>	<b>nine and 10/100 (9.10) feet,</b>
<b>Southwesterly</b>	<b>one hundred and 24/100 (100.24) feet;</b>
<b>Easterly</b>	<b>fourteen and 95/100 (14.95) feet,</b>
<b>Southerly</b>	<b>ninety-nine and 85/100 (99.85) feet,</b>
<b>Westerly</b>	<b>fifty (50) feet, and</b>
<b>Southerly</b>	<b>forty (40) feet, by land now or formerly of said Wamesit Power Company; and</b>
<b>Westerly</b>	<b>by land and Canal of said Wamesit Power Company, three hundred two and 52/100 (302.52) feet.</b>

**All of said boundaries, except the water line, are determined by the Land Court to be located as shown on plan 20284-A, drawn by Joseph Selwyn, Civil Engineer, dated November 19, 1946 and Lot 1 on subdivision plan 20284-B, drawn by Brooks, Jordan and Graves, Surveyors, dated March 25, 1958, as approved by the Court, filed in the Land Registration Office, copies of portions of which are filed with Certificates of Title 7448 and 13142.**

**Parcel 4:**

The land in Lowell, Middlesex County, Commonwealth of Massachusetts, situated on the easterly side of Lawrence Street, containing 15,492 square feet of land and being shown as Lot 4 on plan of land entitled "Plan of Land in Lowell, Mass." dated September 30, 1976, Dana F. Perkins & Sons, Inc., C. E.'s., recorded with Middlesex North District Registry of Deeds, Book of Plans 123, Plan 31, bounded as follows:

Westerly by said Lawrence Street ninety-five and 20/100 (95.20) feet;

Northerly by Sherman Street one hundred fifty-four and 02/100 (154.02) feet;

Easterly by land of White & Hodges Inc. ninety-nine and 92/100 (99.92) feet; and

Southerly by land of Wamesit Power Co. thirty-seven and 29/100 (37.29) feet, thirty-three and 99/100 (33.99) feet, twenty-seven and 88/100 (27.88) feet and fifty-four and 87/100 (54.87) feet;

be said contents and any or all of said measurements more or less and however otherwise said premises may be measured, bounded or described.

**Parcels 2, 6 and 7:**

The land in Lowell, County of Middlesex, Commonwealth of Massachusetts, being shown as PARCELS 2, 6, and 7 on a plan of land entitled, "Plan of Land in Lowell, Mass., North Middlesex County for Stirling - Bay Group", said plan dated November 23, 1981 recorded with said Registry of Deeds in Plan Book 137, Page 89, bounded and described as follows:

Said PARCEL 2 is on the Easterly side of Lawrence Street, bounded and described according to said plan as follows:

**WESTERLY:** by Lawrence Street three hundred eight and 15/100 (308.15) feet;

**NORTHERLY:** in four courses by Parcel 4, fifty-four and 87/100 (54.87) feet, twenty-seven and 88/100 (27.88) feet, thirty-three and 99/100 (33.99) feet and thirty-seven and 29/100 (37.29) feet;



**EASTERLY:** by Parcel 1 one hundred eighty-one and 35/100 (181.35) feet;

**NORTHEASTERLY:** by Parcel 1 twenty-two and 36/100 (22.36) feet;

**NORTHERLY:** by Parcel 1 forty (40) feet;

**EASTERLY:** by Parcel 1 and land now or formerly of Wamesit Power Co., fifty-nine and 71/100 (59.71) feet; and

**SOUTHEASTERLY:** in two courses by land now or formerly of Wamesit Power Co., one hundred twenty and 28/100 (120.28) feet and ninety-two and 01/100 (92.01) feet.

Said **PARCEL 6** is at the Easterly end of Centennial Lane (formerly Sherman Street) bounded and described according to said plan as follows:

**SOUTHWESTERLY:** by Parcel 5 ninety-five (95) feet;

**NORTHEASTERLY:** by land now or formerly of Joseph Talbot fifty-one and 93/100 (51.93) feet;

**NORTHEASTERLY:** by the Concord River one hundred twenty-seven and 31/100 (127.31) feet;

**SOUTHEASTERLY:** by Parcel 1 thirty-three and 60/100 (33.60) feet; and

**SOUTHWESTERLY:** by Centennial Lane fifty-one and 42/100 (51.42) feet.

Said **PARCEL 7** is Centennial Lane (formerly Sherman Street) and is bounded and described as follows:

**WESTERLY:** by Lawrence Street forty and 34/100 (40.34) feet;

**NORTHWESTERLY:** by Parcel 5 two hundred nine and 82/100 (209.82) feet;

**NORTHEASTERLY:** by Parcel 6 fifty-one and 42/100 (51.42) feet; and

**SOUTHEASTERLY:** by Parcels 1, 3, and 4 two hundred forty-seven and 34/100 (247.34) feet.

**Parcel 5:**

**The land in Lowell, Middlesex County, Commonwealth of Massachusetts, situated on the Northeasterly Side of Lawrence Street, with the buildings thereon now supposed to be numbered 568 on said street, and on the Northwesternly side of a short street shown as Sherman Street on a plan entitled, "Plan of Land in Lowell, Mass. belonging to American Bolt Company" dated April, 1909, Smith and Brooks, C.E.'s, recorded with Middlesex North District Registry of Deeds, Book of Plans 26, Plan 21, and thus bounded:**

- SOUTHWESTERLY:** by Lawrence Street sixty-six and 65/100 (66.65) feet;
- NORTHERLY:** by land which was conveyed to Donald G. Lambert by deed dated October 25, 1943, recorded with said Registry of Deeds, Book 999, Page 544, one hundred fifteen (115) feet;
- WESTERLY:** by said Lambert land forty-one and 75/100 (41.75) feet;
- NORTHERLY:** by land formerly of H. Hunter Olney forty-four and 81/100 (44.81) feet;
- NORTHEASTERLY:** by a line parallel with and distant 31.9 feet southwesterly from the high water mark of Concord River ninety-five (95) feet more or less, and
- SOUTHEASTERLY:** by said Sherman Street two hundred nineteen and 55/100 (219.55) feet.

**Containing 12,949 square feet; be said contents and any or all of said measurements more or less and however otherwise said premises may be measured, bounded and described.**

**All of said parcels are shown as Parcels 1 through 7 inclusive on the plan recorded with the Middlesex North District Registry of Deeds in Plan Book 137, Page 89.**

**Exhibit A-1**  
**Activity and Use Limitation Area-1 – Registered Land**

A certain parcel of land situated off the easterly side of Lawrence Street in the City of Lowell, County of Middlesex and Commonwealth of Massachusetts, bounded and described as follows:

Beginning at a point on the westerly line of Lot 1 as shown on Land Court Plan No. 20284-B, which is located S 02° 10' 00" W as measured along the westerly side of Lot 1 a distance of 26.63 feet from the northwesterly corner of said Lot 1;

Thence, S 87° 44' 15" E a distance of 2.18 feet to the building on said Lot 1;

Thence, S 02° 15' 45" W by said building 68.84 feet;

Thence, N 89° 20' 31" W a distance of 2.07 feet to the westerly line of said Lot 1;

Thence, N 02° 10' 00" E by the westerly line of said Lot 1 a distance of 68.90 feet to the point of beginning. Said parcel contains 146 square feet.

**Exhibit A-1**  
**Activity and Use Limitation Area-1 – Recorded Land**

A certain parcel of land situated off the easterly side of Lawrence Street in the City of Lowell, County of Middlesex and Commonwealth of Massachusetts, bounded and described as follows:

Commencing at a the point of intersection of the easterly sideline of Lawrence Street and the southerly sideline of Sherman Street as shown on the plan recorded in the Middlesex County Registry of Deeds in Plan Book 123 Plan 31 and also as shown on the plan recorded in Plan Book 137 Plan 89;

Thence, S 02° 06' 20" W by Lawrence Street 61.38 feet;

Thence, N 89° 47' 28" E a distance of 68.08 feet to the point of beginning of the herein described parcel;

Thence, N 89° 47' 28" E a distance of 62.50 feet;

Thence, N 10° 53' 58" E a distance of 50.00 feet;

Thence, S 87° 44' 15" E a distance of 14.58 feet to the westerly line of Lot 1 as shown on Land Court Plan No. 20284-B, which is the easterly side of Lot 4 on Plan Book 123 Plan 31 and is the easterly side of Parcel 4 on Plan Book 137 Plan 89;

Thence, S 02° 10' 00" W by said Lot 1 a distance of 68.90 feet;

Thence, N 89° 20' 31" W a distance of 26.93 feet;

Thence, N 81° 28' 42" W a distance of 16.45 feet;

Thence, N 74° 30' 06" W a distance of 42.50 feet;

Thence, N 02° 15' 45" E a distance of 6.00 feet to the point of beginning. Said parcel contains 2,235 square feet.

**Exhibit A-1**  
**Activity and Use Limitation Area-2 – Registered Land**

A certain parcel of land situated off the easterly side of Lawrence Street in the City of Lowell, County of Middlesex and Commonwealth of Massachusetts, bounded and described as follows:

Beginning at a point on the westerly sideline of the land now or formerly of Centennial Island Hydroelectric Company at the easternmost corner of the parcel shown on Land Court Plan No. 20284-A;

Thence, S 17° 44' 45" W by said Centennial Island Hydroelectric Company 36.09 feet;

Thence, N 55° 38' 10" W in part by the building on said parcel 11.70 feet;

Thence, N 35° 13' 41" E by said building 33.66 feet;

Thence, N 55° 06' 06" W by said building 30.28 feet to the corner of said building;

Thence, N 34° 56' 44" E a distance of 14.71 feet to the land of said Centennial Island Hydroelectric Company;

Thence, S 31° 13' 45" E by the land of said Centennial Island Hydroelectric Company 34.04 feet to the point of beginning. Said parcel contains 460 square feet.

**Exhibit A-1**  
**Activity and Use Limitation Area-1 – Registered Land**

A certain parcel of land situated off the easterly side of Lawrence Street in the City of Lowell, County of Middlesex and Commonwealth of Massachusetts, bounded and described as follows:

Beginning at a point on the northerly sideline of the land now or formerly of Centennial Island Hydroelectric Company, which point is located S 87° 54' 00" E a distance of 99.85 feet from the southwest corner of the parcel shown on Land Court Plan No. 20284-A;

Thence, N 87° 54' 00" W by said land of Centennial Island Hydroelectric Company 30.65 feet;

Thence, N 35° 10' 50" E in part by the building on said parcel 45.67 feet;

Thence, N 54° 15' 52" W by said building 8.11 feet;

Thence, N 35° 12' 07" E by said building 10.00 feet;

Thence, S 54° 47' 53" E by said building 80.71 feet;

Thence, S 27° 26' 02" W a distance of 5.77 feet;

Thence, S 88° 46' 38" W a distance of 8.45 feet to the land of said Centennial Island Hydroelectric Company;

Thence, N 72° 36' 15" W by said land 51.51 feet;

Thence, S 02° 06' 00" W by said land 14.95 feet to the point of beginning. Said parcel contains 1,997 square feet.

Lawrence St.

STONE BOUND  
W/ DH (HELD)

41.75'

N02°06'20"E 167.07'



BEARINGS BASED ON "ALTA/ACSM LAND  
TITLE SURVEY, 576 LAWRENCE STREET,  
LOWELL, MA MADE FOR SMITH ROBERTS  
NATIONAL CORPORATION" DATED DEC. 13,  
2012, REVISED FEBRUARY 13, 2013 BY  
OWEN HASKELL, INC.

WOOD RAIL FENCE

68.08'

S89°47'28"W

N02°15'45"E 6.00'

S89°47'28"W

62.50'

N74°30'06"W

42.50'

N81°28'42"W

16.45'

N89°20'31"W

29.00'

26.93'

ACTIVITY & USE LIMITATION  
AREA 1

N10°53'58"E

50.00'

2,235 S.F.

S87°44'15"E

14.58'

16.76'

26.63'

S02°15'45"W 68.84'

2.07'

2.18'

146 S.F.

MEADOW RIVER BROOK

Centennial Lane  
(AKA SHERMAN STREET)

RECORDED  
PLAN 137/89

RECORDED  
LAND

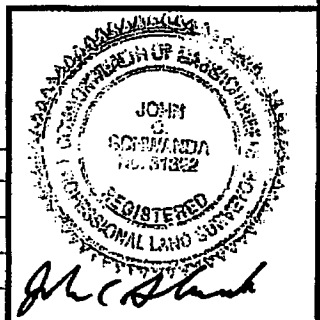
REGISTERED  
LAND

LAND COURT PLAN 20284B

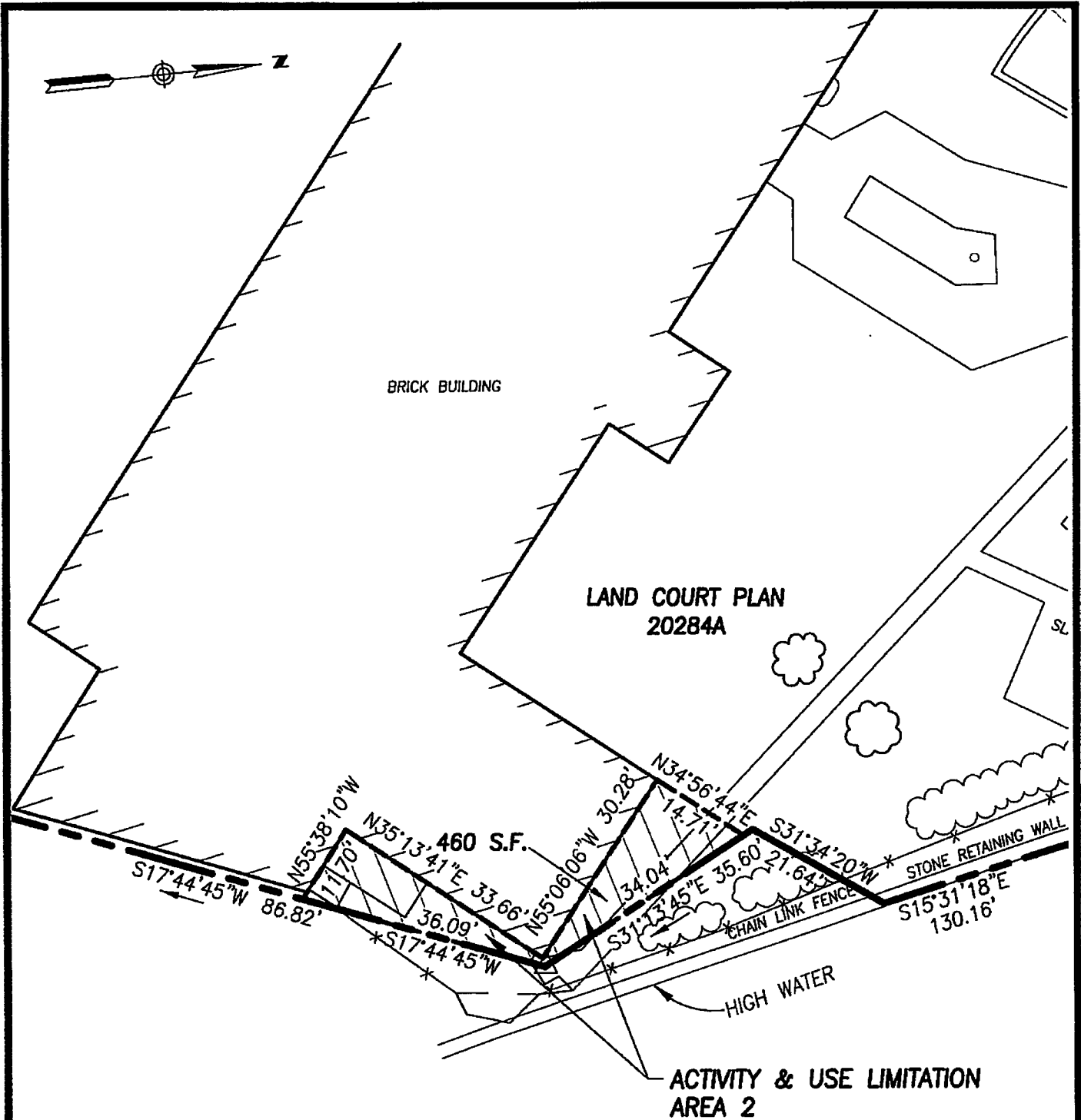
OWEN HASKELL, INC.  
PROFESSIONAL LAND SURVEYORS  
390 U.S. ROUTE ONE, UNIT 10  
FALMOUTH, MAINE 04105  
TEL. (207) 774-0424

EXHIBIT A-2  
576 LAWRENCE STREET  
LOWELL, MASSACHUSETTS  
MADE FOR  
CARDNO ATC

DRWN BY: JCS  
SCALE: 1" = 20'  
JOB NO. 2014-084 L-MA  
DATE: JUNE 11, 2014  
REVISION:



JOHN C. SCHWANDA, RLS #31322

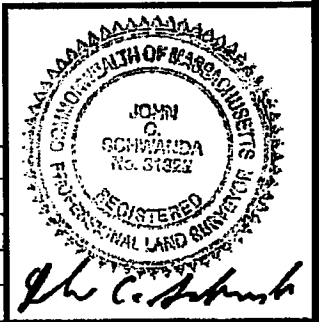


BEARINGS BASED ON "ALTA/ACSM LAND TITLE SURVEY, 576 LAWRENCE STREET, LOWELL, MA MADE FOR SMITH ROBERTS NATIONAL CORPORATION" DATED DEC. 13, 2012, REVISED FEBRUARY 13, 2013 BY OWEN HASKELL, INC.

**OWEN HASKELL, INC.**  
PROFESSIONAL LAND SURVEYORS  
390 U.S. ROUTE ONE, UNIT 10  
FALMOUTH, MAINE 04105  
TEL. (207) 774-0424

**EXHIBIT A-3**  
576 LAWRENCE STREET  
LOWELL, MASSACHUSETTS  
MADE FOR  
CARDNO ATC

DRWN BY: JCS  
SCALE: 1" = 20'  
JOB NO. 2014-064 L-MA  
DATE: JUNE 11, 2014  
REVISION:



JOHN C. SCHWANDA, RLS #31322





BEARINGS BASED ON "ALTA/ACSM  
LAND TITLE SURVEY, 576 LAWRENCE  
STREET, LOWELL, MA MADE FOR  
SMITH ROBERTS NATIONAL  
CORPORATION" DATED DEC. 13, 2012,  
REVISED FEBRUARY 13, 2013 BY  
OWEN HASKELL, INC.

FORMER LOCATION OF WAMESIT CANAL  
(DRY-NOT IN USE)

STONE RETAINING WALL

STACK

BRICK BUILDING

LAND COURT PLAN  
20284A

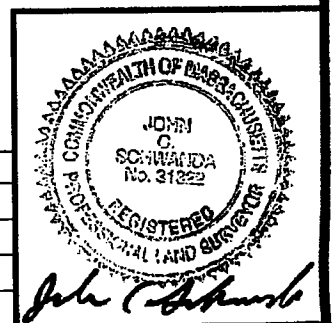
ACTIVITY & USE  
LIMITATION  
AREA 3

BRICK BUILDING

OWEN HASKELL, INC.  
PROFESSIONAL LAND SURVEYORS  
390 U.S. ROUTE ONE, UNIT 10  
FALMOUTH, MAINE 04105  
TEL. (207) 774-0424

EXHIBIT A-4  
576 LAWRENCE STREET  
LOWELL, MASSACHUSETTS  
MADE FOR  
CARDNO ATC

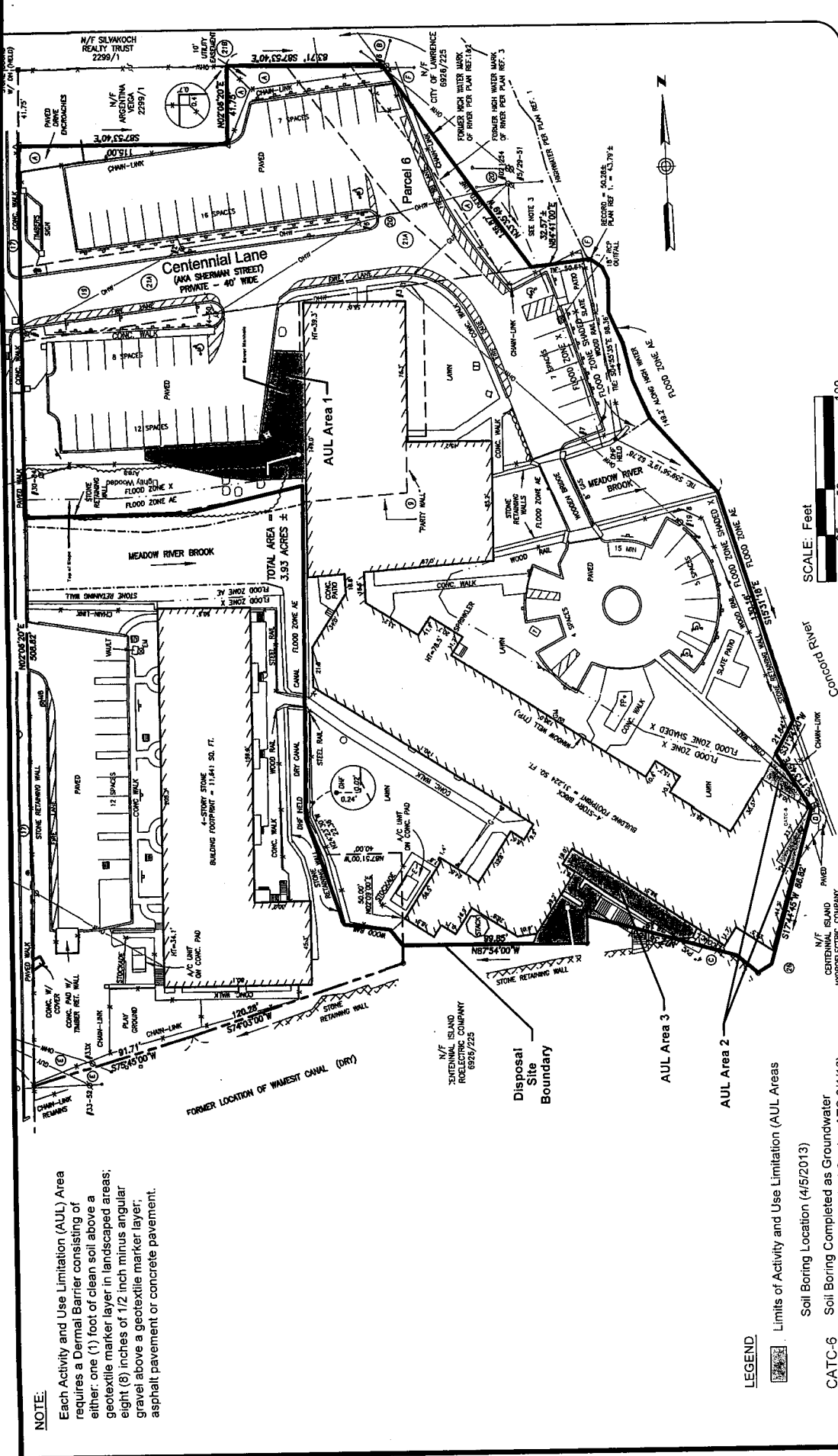
DRWN BY: JCS  
SCALE: 1" = 20'  
JOB NO. 2014-064 L-MA  
DATE: JUNE 11, 2014  
REVISION:



JOHN C. SCHWANDA, RLS #31322

NOTE:

Each Activity and Use Limitation (AUL) Area requires a Dermal Barrier consisting of either: one (1) foot of clean soil above a geotextile marker layer in landscaped areas; eight (8) inches of 1/2 inch minus angular gravel above a geotextile marker layer, asphalt pavement or concrete pavement.



LEGEND



Limits of Activity and Use Limitation (AUL) Areas

Soil Boring Location (4/5/2013)

Soil Boring Completed as Groundwater

Monitoring Well (installed Cardno ATC 2/1/13)

Exhibit B  
Sketch Plan

576 Lawrence Street,  
Lowell, Massachusetts 01852  
Base Plan From: Alla Land Title Survey, 576 Lawrence Street, Owen Haskell,  
INC. Sheet 1 of 2, 1/28/13, Field Book 1114



**Cardno  
ATC**

Shaping the Future  
600 West Cummings Park, Suite 5450  
Woburn, Massachusetts 01801-8550  
Tel: (781) 932-9400 Fax: (781) 932-6211

FIGURE NUMBER:  
Exhibit B

PROJECT NUMBER:  
060.09622.0007

SCALE:  
See Graphic Scale

DATE: 6/10/14

DRAWN BY: JTH

CHECKED BY: AH

**EXHIBIT C**  
**ACTIVITY AND USE LIMITATION OPINION**

**Centennial Island Apartments**  
**756 Lawrence Street**  
**Lowell, Massachusetts**  
**Release Tracking Number (RTN): 3-31616**

In accordance with the requirements of 310 CMR 40.1074, this Activity and Use Limitation (AUL) Opinion has been prepared for three non-contiguous portions of the property owned by the Related Stirling Bay LLC, a Delaware limited liability company, c/o the Related Companies, Inc. (the "Portions of the Property"). The Portions of the Property include approximately 0.1 acres of land and are located at 756 Lawrence Street, Lowell, Middlesex County, Massachusetts. The Portions of the Property include walkways and landscaped areas associated with a residential apartment complex.

This AUL Opinion was prepared in accordance with 310 CMR 40.1074(1) of the Massachusetts Contingency Plan (MCP, June 26, 2009) and the Massachusetts Department of Environmental Protection (MassDEP) document, "Guidance on Implementing Activity and Use Limitations", May 1999, and Draft December 2010.

This AUL Opinion provides the following information:

- Background information;
- Applicability of the AUL to achieve/maintain a condition of "No Significant Risk";
- Permitted activities and uses for the Property;
- Restricted activities and uses for the Property; and
- Obligations and conditions necessary to meet the objectives of the Notice of AUL.

**Background Information**

The Portions of the Property occupy approximately 0.1 acres of the overall approximately 7.96 acres Centennial Island Apartments property. As of the date of this AUL Opinion, the Portions of the Property are residential in nature and are occupied by a concrete walkway, paved surfaces and landscaping associated with the apartment complex.

Cardno ATC completed soil and groundwater investigations in an iterative fashion from January 31, 2013 through August 6, 2013. Petroleum and other compounds detected in soil were encountered at concentrations representing a MCP 120-Day Reportable Condition. The available data shows no impact to groundwater. On June 27, 2013, the property owner and Potentially Responsible Party (PRP), Related Stirling Bay, LLC notified the MassDEP. MassDEP subsequently assigned Release Tracking Number (RTN) 3-31616.

A preliminary Method 3 Risk Characterization was completed and determined that soil in three areas summarized below represented hot spots of contamination and could represent a Significant Risk to human health based upon a 30-year exposure period. This was primarily driven by polycyclic aromatic hydrocarbons (PAH) and to a lesser extent metals, most significantly arsenic and Extractable Petroleum Hydrocarbons (EPH). The Risk Characterization concluded that if direct contact with hot spot soils was controlled there would be No Significant Risk to human health or the environment.

On April 17, 2014, Cardno ATC submitted a Release Abatement Measure (RAM) Plan to MassDEP for removing existing impacted surficial soils, improving existing soil or gravel dermal barriers and constructing new dermal barriers to control contact with soil within the three hot spots. Between April 21 and May 1, 2014 RAM activities were completed as summarized below:

**AUL Area 1 - Eastern/SB-11 Parking Lot AREA** – To control contact with soils that contain elevated EPHs, PAHs, lead and arsenic, a dermal barrier was constructed. This area totals approximately 2,381 square feet. The top one (1) foot of soil was excavated for off-site management. Geotextile filter fabric and “do not dig” tape was placed over the excavated area to act as a visual marker. The excavated area was backfilled with approximately 4-inches of loam over 8-inches of clean sand/gravel/mulch. The surface was completed with landscaping.

**AUL Area 2 - Southeast Corner of Property/CATC-6/8 Area** – To control contact with soils that contain elevated EPHs and PAHs, a combination of constructing a new soil dermal barrier and repairing existing asphalt and concrete sidewalks was performed. This area totals approximately 460 square feet. In an approximately 200 square foot area, the top one (1) foot of soil was excavated for off-site management, and geotextile filter fabric and “do not dig” tape placed over the excavated area to act as a visual marker. The excavated area was backfilled with approximately 4-inches of loam over 8-inches of clean sand/gravel. The restored surface was landscaped with grass or mulch. The existing asphalt pavement was repaired using asphalt patch materials and concrete sidewalk was inspected to ensure they act as a barrier to direct contact with underlying soils.

**AUL Area 3 Southern /SB-12 Area** – To control contact with soils that contain elevated levels of PAHs and arsenic, a combination of constructing a new gravel dermal barrier and repairing existing gravel cover was performed. This area totals approximately 1,997 square feet. The top 2- to 4-inches of soil was excavated for offsite management over an approximately 550 square foot area to provide a sound surface for the placement of a new gravel layer. The remaining 1,000 square feet which had an existing gravel cover was cleared of any debris and leaves. Geotextile filter fabric and “do not dig” tape was placed over the entire area to act as a visual marker. The entire area was finished so that a minimum of 8-inches of ½-inch minus angular gravel is present.

#### **Reason for Activity and Use Limitation**

A Method 3 risk characterization was performed using all available soil and groundwater data which has documented that there is No Significant Risk to human health, public welfare, safety, and the environment due to the presence of metals, petroleum hydrocarbons and polycyclic aromatic hydrocarbons in the historical fill soils at the Property, under current and reasonably foreseeable site uses, with the implementation of an AUL.

The Method 3 conclusion of No Significant Risk relies on an AUL to restrict certain activities at the Property, to limit direct contact with hot spot soils. This use restriction will eliminate the potential future presence (and exposure to impacted soil) of the human receptor groups associated with these uses. In addition, the AUL obligates that subsurface construction/utility work be conducted following certain soil management and health and safety requirements, which will prevent exposures to construction/utility workers conducting these activities and result in a condition of No Significant Risk for construction/utility workers.

The AUL only applies to the three hot spot areas leading to the AUL on Portions of the Property described above.

Permitted activities and uses, restricted activities and uses, and obligations and conditions imposed on the owner of the Portion of the Property are described below.

**Permitted Activities and Uses**

- (i) Any activities and uses of the Portions of the Property; provided that direct contact with the contaminated soil remains restricted through the use and maintenance of the dermal barriers including either: one (1) foot of clean soil above a geotextile marker layer in landscaped areas; eight (8) inches of ½ inch minus angular gravel above a geotextile marker layer; asphalt pavement or concrete pavement;
- (ii) Landscaping and grounds keeping activities, including but not limited to planting of trees and shrubs, installation of irrigation systems, installation of lawns, grassy areas, signs and fence posts, maintenance of landscaping such as annual planting of plants and plant bulbs and cutting and raking grassy areas, and maintenance and resurfacing of asphalt paved or concrete areas within the Portion of the Property. These activities must not penetrate the bottom of the dermal barriers, except for driven posts;
- (iii) Excavation associated with emergency utility repair work, one day or less in duration, provided such work is conducted in accordance with the soil management procedures provided in the MCP at 310 CMR 40.0030 and concludes with prompt repair/replacement of the dermal barriers, as described above in Paragraph 2(i);
- (iv) Subsurface utility or construction work, including but not limited to excavation, which will penetrate below the dermal barrier, provided that such activities are conducted with the oversight of a LSP in accordance with the Obligations and Conditions of the AUL, the soil management procedures of the MCP at 310 CMR 40.0030, and all applicable worker health and safety practices pursuant to 310 CMR 40.0018;
- (v) Such other activities or 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 and uses set forth in this Paragraph; and
- (vi) Such other activities and uses not identified as being Activities and Uses Inconsistent with the AUL.

**Activities and Uses Inconsistent with the AUL**

- (i) Disturbing the dermal barriers in the Portions of the Property, except for those activities identified as a Permitted Activity and;
- (ii) Any subsurface utility or construction work, including but not limited to excavation, or other activities, which will penetrate below the dermal barriers at the Portions of the Property, without the oversight of an LSP and prior development and implementation of a Soil Management Plan (SMP) and a Health and Safety Plan (HASp) as outlined in the next section. Emergency utility repair work, no more than one day in duration, is exempted from this restriction.

### **Obligations and Conditions**

- (i) The dermal barriers within the Portions of the Property must be maintained to effectively prevent exposure(s) to underlying contaminated hot spot soils through direct contact, ingestion and/or inhalation.
- (ii) A Soil Management Plan (SMP) must be prepared by an LSP and implemented prior to the commencement of any construction or utility work or other activities that may disturb subsurface soil below the dermal barriers at the Portions of the Property. Emergency utility repair work less than one day in duration is exempted from this requirement. The SMP should describe appropriate soil excavation, handling, storage, re-use, transport, and disposal procedures and include a description of any engineering controls and/or air monitoring procedures necessary to ensure that workers and receptors in the vicinity are not affected by fugitive dust or particulates. On-site workers must be informed of the requirements of the SMP, and the plan must be available on-site throughout the course of the project; and
- (iii) A Health and Safety Plan (HASP) must be prepared by a Certified Industrial Hygienist or other qualified individual sufficiently trained in worker health and safety requirements and implemented prior to the commencement of any construction or utility work or other activities that may disturb soil below the dermal barriers at the Portions of the Property. Emergency utility repair work less than one day in duration and landscaping and grounds keeping activities are exempted from this requirement. The HASP should clearly describe the location of the contaminated soil and specifically identify the types of personal protective equipment, monitoring devices, and/or engineering controls necessary to ensure that workers are not exposed to the contaminants in the soil through dermal contact, ingestion, and/or the inhalation of particulate dusts. Workers who may come into contact with the contaminated soil within the limits of the Portions of the Property (which are equivalent to the limits of the AUL) must be informed of the location of the contamination and all requirements of the HASP. The plan must be made available on-site throughout the course of the project; and
- (iv) Excavated soil generated by any subsurface intrusive activity below the dermal barriers must be managed in accordance with the Remediation Waste Management provisions of the MCP at 310 CMR 40.0030.

### **Summary and Conclusions**

This AUL Opinion has been prepared to support the implementation of a Notice and Activity and Use Limitation for Release Tracking Number 3-31616. Based on the results of the site specific Method 3 Risk Characterization completed as part of the Class A-3 Response Action Outcome Statement, an AUL is being implemented to maintain a level of No Significant Risk to human health.

Licensed Site Professional (LSP): Michael S. Gitten

Michael S. Gitten

