



Town of Hampden  
**Planning and Development Committee**  
Wednesday August 16, 2017, 6:00 pm  
Municipal Building Council Chambers  
**Agenda**

1. Approval of July 19, 2017 Minutes
2. Committee Applications: Penny Markowitz-Moses for Board of Appeals
3. Updates:
  - A. MRC/Fiberight
  - B. Staff Report
4. Old Business:
  - A. Conservation Easement for Colonial Heights Phase 3
5. New Business:
  - A. Landfill Post Closure Monitoring Report
  - B. Citizen's Climate Lobby – Proposed Resolution on climate change
6. Zoning Considerations/Discussion:
  - A. Recreational Marijuana
7. Citizens Initiatives
8. Public Comments
9. Committee Member Comments
10. Executive Session pursuant to 1 MRSA Sec. 405(6)(E) - to confer with the Town's legal counsel concerning the legal rights and duties of the Town
11. Adjourn



Town of Hampden  
**Planning and Development Committee**  
 Wednesday July 19, 2017, 6:00 pm  
 Municipal Building Council Chambers  
**Minutes - Draft**

Attending:

Committee/Council

Ivan McPike-Chair  
 Terry McAvoy  
 David Ryder  
 Dennis Marble  
 Mark Cormier  
 Steve Wilde

Staff

Angus Jennings, Town Manager  
 Chief Joe Rogers, Director of Public Safety  
 Myles Block, Code Enforcement Officer

Public

About 15 residents

Chairman McPike called the meeting to order at 6:00 pm.

1. Approval of May 17, 2017 Minutes – **Motion** to approve as submitted made by Mayor Ryder with second by Councilor Marble; carried 6/0/0.

Note, there was no P&D Committee meeting on July 5, 2017.

2. Committee Applications: Julie Johnston, for Alternate seat on the Board of Appeals. Myles Block stated Ms. Johnston has been on the Board of Appeals before.

**Motion** to refer Julie Johnston's application for a seat on the Board of Appeals to the Town Council made by Councilor Marble with second by Councilor Wilde; carried 6/0/0.

3. Updates:

- a. MRC/Fiberight: Manager Jennings reported that the Fiberight site has been cleared and the access road is about 55% complete. MRC is working on the surety and expects to submit it to the Town Manager soon. Fiberight expects to submit the building permit application soon; in preparation for that we've issued a temporary address on Coldbrook Road. MRC/Fiberight are working on the sewer connection; including getting the Industrial User Survey done. The bi-weekly call with DEP was informative; DEP seems to be pushing to ensure the wet end of the processing plant is constructed without gaps in construction timeframes. Work on obtaining financing is progressing, but to get to the final numbers the

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engineering for the building and equipment needs to be completed. There is an MRC Board meeting on July 26 in Orono, Manager Jennings plans to attend.

b. Staff Report:

- i. The Planning Board has referred two zoning amendments (regarding §5.3 and 7.2) to Town Council with recommendation “ought to pass.”
- ii. Tradewinds is expected to submit an application for a zoning map amendment to rezone the corner of Route 2302 and Coldbrook Road (across Coldbrook from Angler’s). Staff anticipates this to go to public hearing with the Planning Board in August. *[Editor’s Note: The application was submitted and then withdrawn on July 25, 2017.]*
- iii. The state’s shut down has delayed action on the Business Park TIF, but we are expecting to hear their decision any day now.
- iv. The packet includes a list of planning projects currently in the permitting process.

NOTE: Agenda items were taken out of order.

4. Old Business:

- a. Colonial Heights Phase 3, Conservation Easement. Continuation of the request for the town to accept the conservation easement on 12.33 acres of land within the proposed subdivision. The easement is a requirement of ME DEP for wetland mitigation for phases 2 and 3 of the housing development. Main points of the discussion were:
  - i. The Town does hold conservation easements on non-town owned land.
  - ii. The Town can ask the applicant if they would make a monetary contribution to help defray the costs associated with the responsibilities of being the holder on the conservation easement.
  - iii. Councilor McAvoy expressed concern that developers can more easily satisfy the requirements of DEP’s wetland regulations if the Town is going to be willing to hold conservation easements such as this one. That said, there is recognition that there are other avenues available to developers, and the Town has been trying to become more business friendly. Furthermore, the development will generate revenue for the town.

**Motion** by Councilor Marble to refer to Town Council the request for the Town to be the grantee (and holder) for the conservation easement on 12.33 acres along Reed’s Brook at the Colonial Heights Phase 3 subdivision off Constitution Ave.; seconded by Councilor McAvoy; motion carried 5/1/0 (Mayor Ryder opposed).

- b. Carmel Road North, Medical Marijuana Update. Manager Jennings read the July 19, 2017 memo from Jon Hunter to Ed Bearor regarding “municipal regulation of marijuana cultivation; state preemption” and the July 17, 2017 memo from Planner Karen Cullen regarding “medical marijuana concerns” into the record. Richard Mudd read a statement (attached) into the record. Discussion followed:
  - i. Limitation on location regarding proximity to schools is a state matter.

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- ii. Current rules do not permit cultivation collectives.
- iii. Abutters are concerned about amount of traffic at the site, the potential for devaluation of their properties, and whether there is anything anyone can do about the current situation given the current laws and rules.
- iv. Representative Haggan said he has spoken with the Committee Clerk and Senator Rosen; municipalities will have the right to regulate dispensaries. The state legislature committee working on marijuana has been working for 5 months and there is still a lot to accomplish, doubtful that they'll finish by the early 2018 timeline they had set.
- v. At this point the activity at the property on Carmel Road North is entirely outside the purview of the Town. The best avenue for residents to express concerns is the state; everything else is speculation.

5. New Business:

- a. Quarterly Report – Recreational Marijuana: Manager Jennings read the July 11, 2017 memo from Planner Cullen into the record. There were no questions.
- b. Good Neighbor Ordinance – Councilor Wilde said that based on recent discussions he thought it might be a good step to consider a “good neighbor” ordinance. There have been very few complaints that would be addressed by this type of ordinance, and those are related to construction; the town is hesitant to enact ordinances that would limit contractor hours. CEO Block said he’s got a template for a letter to use when issues arise that might be addressed in an ordinance. Councilor Wilde agreed that the town could proceed on a case by case basis with communications to property owners (rather than via ordinance) and that this proposal needs no further action at this time.

6. Zoning Considerations/Discussion: None.

7. Citizen Initiatives: None.

8. Public Comments: None.

9. Committee Member Comments: Discussion about Chamber of Commerce memberships; several councilors were in favor of this (McPike, Marble, and Wilde), one expressed opposition (McAvoy).

10. Adjournment: **Motion** to adjourn at 7:33 pm by Councilor McAvoy; seconded by Councilor Marble, carried 6/0/0.

*Respectfully submitted by  
Angus Jennings, Town Manager  
and Karen Cullen, Town Planner*

**DRAFT**

Hello my name is Richard Mudd. I'm a retired professional golfer turned businessman. I grew up on a US Naval Base in the Philippines, named Subic Bay Naval Base. My father served over 50 years in the military, 27 years as a Marine, retired as a MS and 25 years in the Navy working in finance for their exchange services. Our family retired in Pensacola, FL, and my father now rests at Pensacola Naval Base Veterans Cemetery. My mother, sister and her family now live in CT, and I have been living in Charleston, SC for the last 16 years. A few years ago I decided that it was time for me to stop chasing the dream of becoming a world class touring professional. At one time I was good enough to be considered a world-class bottom feeder on tour. Like a catfish... So, almost a year ago my friend and business partner Matthew Davidson, proposed a new dream that I could sink my teeth into. And that dream was Maine, and pioneering in an industry that is on the cusp of something monumental in the history of this country. My research suggested that Maine was leading the country in its Medical Marijuana Laws, and was poising itself to lead the country in its Recreational Laws. It was a risk worth taking and I hope this wonderful state and municipality will continue to lead the way and give me a chance to succeed in my newfound dream.

I am now the managing partner of the property at 1334 Carmel Road. Because former owner Jeremy Williams circulated a letter that contains misinformation and defamatory claims, I wanted to appear before you tonight to refute those claims and to present the reality of what my partner and I are doing, and will be doing in the future, at 1334 Carmel Road.

Mr. Williams made no complaints at all about Mr. Davidson and his wife's tenancy in the house on the property, either in writing or verbally. It was not until he discovered that they were both licensed medical marijuana growers that he turned negative towards them. Yet the Davidson's status as licensed caregivers is legal under Maine state law. They grow the amount of plants that they are permitted under state law and supply the number of patients that they are permitted under state law. Yet Mr. Williams decided, on the basis of their status, that he did not approve of their perfectly legal business and proceeded, at the time and in his recent letter, to create numerous fictitious issues with their tenancy.

Mr. Williams was very anxious to sell his property and if he had other possible buyers we did not know about it. Our major investor signed a purchase and sale agreement, and with the help of his attorney we put together the funding for purchase of the property, a cash sale with no mortgage, owner financing or the like. We paid \$ 367,000 for the property, and for Mr. Williams to now complain about us, is not only defamatory but could clearly have a negative impact on our business plans for the property. The fact that Mr. Williams has the right to regret that he failed to sell the property to someone in aviation does not mean that he has the right to try to destroy the business of those to whom he did sell.

I would like to present some information about our plans for 1334 Carmel Road.

As noted above, the Davidson's are medical marijuana caregivers, serving medical marijuana patients and they will continue to engage in this business for the foreseeable future. To my knowledge, there are currently no regulations in the Town that govern medical marijuana caregivers, and if there are, they must govern all caregivers, not just our business. A review by our attorney has concluded that the only marijuana businesses currently regulated by the Town of Hampden is a medical marijuana dispensary and/or cultivation space. Dispensary is a term of art in Maine, and refers to one of the eight large dispensaries that have been licensed by the state. None of those facilities are in Hampden and to my knowledge there is no cultivation space connected to a dispensary.

Our Plan is to continue to fine-tune our indoor operations with a quality before quantity approach. Growing top tier cannabis is not easy, and requires thoughtful care, and attention to detail. We are not experts, but we will continue to strive to grow the finest cannabis in the state of Maine. Cannabis farms are now being compared to vineyards, and I like that comparison. And one day if you will allow us, we would like to put seed in the ground and have sustainable outdoor grow operation. The non-profit group MOFGA (Maine Organic Farmers and Gardeners Association) based in Unity will be making a MOFGA certification available for caregivers utilizing sustainable practice that would set the standard for out door grows. We wish to follow their lead as we progress in the industry. These practices fit our low footprint, quality before quality approach. We have no desire to have an industrial machine in Hampden.

We also have also been creating a plan to cultivate a small sod farm specializing in Rye and Bent grass. My background in the golf industry fuels this non-cannabis farming venture. And if I can't sell it, I'll at least have a

nice driving range for us to use.

I would like to make a few comments regarding the Williams' letter and the submissions from neighbors on my business and information related to medical, and recreational marijuana production. First, the comment about security is very misleading. State law requires the security system. We do not anticipate security issues, however. Anecdotally, we know of very, very few caregivers who have ever had security issues, and there are over 3,000 caregivers in the state of Maine.

We will certainly follow the Hampden Zoning Ordinance and engage in the planning process when building new structures. The state has not yet created the state regulations, and nothing can, or will, be done regarding the operation of a commercial cannabis business until such time as the state and the regulatory agency draft and pass the regulations.

Under the Marijuana Legalization Act, passed last November, a municipality has the right to regulate commercial cannabis businesses, through zoning and business permitting. However, at this point in time it is premature to consider the comments submitted by Ms. Webster, since they all relate to a process that we have not even initiated. At this point, we are operating a Medical Marijuana Business, fully licensed by the State. If, according to the Town Zoning Ordinance, we are out of compliance with that Ordinance, I believe that we should have been notified of that issue, and allowed to bring our business into compliance. We were not and did not even know that our property, and our business, was discussed at the Town Planning and Development Committee a month ago. And, until a neighbor shared Mr. Williams' and Ms. Webster's submissions with us two days ago, we had no idea that we were on tonight's agenda.

I believe that we should have been so informed.

Pause

In conclusion, Thank You for the opportunity to address you tonight. It's not exactly how I wanted to shake hands with my community, but I am pleased that we can start that process. I wish I had been invited to do so sooner, as it might have avoided some rumor and innuendo. Or, maybe I should have had more courage to approach all of you sooner. We plan to be good neighbors and to hire all local workers at good wages. The scare tactic regarding migrant workers is inappropriate. Commercial cannabis businesses pay significantly more than minimum wage and train workers to work their way up the chains of authority. We have a commitment to hiring the unemployed and the underemployed, veterans and workers with disabilities. We are not a huge business, nor do we plan to become one. I hope that we can all work together towards common goals.



Check One:  Initial Application  
 Reappointment Application

TOWN OF HAMPDEN  
APPLICATION FOR TOWN BOARDS AND COMMITTEES

NAME: MARKOWITZ-MOSES PENNY  
LAST FIRST MI

ADDRESS: 35 HIGHLAND RIDGE DR HAMPDEN  
STREET TOWN ZIP

MAILING ADDRESS (if different): \_\_\_\_\_

TELEPHONE: 207-862-0157 914-649-9269  
HOME WORK CALL

EMAIL: MPK4U@AOL.COM

OCCUPATION: RETIRED

BOARD OR COMMITTEE PREFERENCE:  
FIRST CHOICE: ZONING BOARD of APPEALS

SECOND CHOICE (OPTIONAL): \_\_\_\_\_

How would your experience, education and/or occupation be a benefit to this board or committee?  
VILLAGE TRUSTEE OSSINING NY 10 years | DEPUTY MAYOR 4 years |  
PLANNING BOARD MEMBER 7(6.8) YEARS

Are there any issues you feel this board or committee should address, or should continue to address?  
\_\_\_\_\_

3 YEAR

BOARD OF ASSESSMENT REVIEW  
PERSONNEL APPEALS BOARD  
LURA HOIT MEMORIAL POOL  
HARBOR COMMITTEE

DYER LIBRARY  
RECREATION COMMITTEE  
BOARD OF APPEALS  
HISTORIC PRESERVATION COMMISSION

5 YEAR  
PLANNING BOARD

AUG 09 2017

<b>FOR TOWN USE ONLY</b>		Date Application Received: _____
COUNCIL COMMITTEE ACTION: <u>P E D</u>	DATE: <u>8/16/17</u>	
COUNCIL ACTION: _____	DATE: _____	
<input type="checkbox"/> NEW APPT	<input type="checkbox"/> REAPPOINTMENT	DATE APPOINTMENT EXPIRES: _____

**MEMORANDUM**

TO: MRC Board of Directors  
FROM: Greg Louder, Executive Director  
Dan McKay, Esq., General Counsel  
George Aronson, Principal, CRMC  
RE: Revisions to the Master Waste Supply Agreement and Site Lease  
DATE: 20 July 2017

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The MRC is working with Fiberight to implement a revised strategy to have the Fiberight facility (the Facility) available to accept and process MSW by April 1, 2018. This memorandum describes two key aspects of the revised development strategy for achieving this goal and describes the revisions being negotiated to the Master Waste Supply Agreement and draft form of Site Lease to support Facility development and financing activities consistent with the strategy.

**The Revised Development Strategy**

Two key aspects of the revised development strategy are as follows:

1. Bifurcate the equipment installation process into two phases, with the first phase to be installed before April 1, 2018 and the second phase deferred until after April 1, 2018. There would be no gap between the phases; rather, the intent would be to proceed with the first phase without waiting for completion of preparation for the second phase, then proceed with the second phase as quickly as possible thereafter.
2. Bifurcate the financing process into two phases, with the first phase of equity financing to be closed on or about August 1, 2017, and the second phase of equity financing to be closed at the same time the bond financing is being closed, currently scheduled for October 2017.

The first phase of equipment installation will involve purchasing, installing, commissioning and operating MRF equipment to process and recover recycled materials from incoming MSW. Fiberight would construct the building shell before the winter, then use the time through the winter and early spring to focus on installation and commissioning of the MRF equipment, for which the design and equipment supply arrangements are already essentially complete. In this way, the Facility can be ready to accept and process MSW by April 1, 2018, although at a reduced diversion rate compared to full operation.

The second phase of equipment installation will involve purchasing, installing, commissioning and operating the remaining equipment to process the organic fraction of MSW into biomethane and other products and to recover cellulose. This second phase, which would increase the diversion rate, would not be completed until later in 2018.

The bifurcated installation process has been presented to and is being reviewed by the Maine DEP on an ongoing basis. Fiberight's commitments on schedule and ramp-up of diversion rates are documented in a draft Construction and Process Benchmark Schedule (the Schedule), draft version of which is provided as Exhibit A. Note that the Schedule is a living document being used for regulatory compliance that will be updated continually to reflect actual and anticipated progress on Facility development, construction and installation tasks. The status of the tasks shown on the Schedule will be addressed at the Board meeting.

The first phase of the financing process would have Fiberight's lead equity investor, Ultra Capital, close on a first "tranche" of investment on or about August 1, 2017. This first tranche of funds would be used to make the downpayment on the order of the pre-fabricated building for the Facility; complete site preparation (the site is already being cleared); install the building foundation; move forward with arrangements for the acquisition, manufacture and delivery of MRF equipment; and perform other development, procurement and construction tasks necessary to be ready to accept and process MSW as of April 1, 2018.

The second phase of the financing process would involve issuance of tax-exempt bonds through the Finance Authority of Maine (FAME) along with a second tranche of equity financing that, together, would provide sufficient funds to complete construction; commission, start-up and test the Facility; and support entry into commercial operation. Total funds committed would be on the order of \$60 million, of which \$35 million to \$45 million would be raised through the bond financing. Note that an experienced bond underwriter, Jeffries, LLC, has been retained to oversee the bond underwriting and placement process; a preliminary term sheet has been developed; and a project finance team that includes bond counsel and underwriters' counsel has been assembled and retained to begin work. The MRC staff have reviewed a detailed document (40 pages) addressing the term sheet and details of the bond financing, and are beginning to respond to inquiries from the project finance team. The document sets forth a detailed schedule that would close the bond financing and make funds available by October 2, 2017.

### **Revisions to the Master Waste Supply Agreement and Draft Site Lease**

Among the revisions to the Master Waste Supply Agreement and draft Site Lease that are being negotiated by the MRC and Fiberight to accommodate the revised development and financing strategy are the following:

- To facilitate financing, the Master Waste Supply Agreement would be amended and restated and assigned to a new entity, Coastal Resources of Maine, LLC (Coastal). Coastal is a special purpose entity owned by Fiberight and its equity investors. Coastal would also be the company that would sign the Site Lease. Note that this type of assignment had been anticipated in the drafting of both the Master Waste Supply Agreement (Section 8) and the Site Lease (Section 10). The documents are being amended to ensure all requirements for such assignment, including continuing obligations of Fiberight to provide technical and development support for Facility construction and operation.
- The following provisions are being negotiated to keep the Company, Fiberight and their investors focused on the absolute requirement to be available to accept MSW at the Facility as of April 1, 2018 (note that specific language on terms and conditions of each of the following is still being negotiated as of this writing):
  - Under a new Section 4.7 of the Master Waste Supply Agreement, the Company will be responsible for liquidated damages in the event that the Facility is not ready to accept Acceptable Waste from Joining Members on or before April 1, 2018, for reasons other than an event of Force Majeure or certain other events outside its reasonable control.
  - Section 4.7 of the Master Waste Supply Agreement would also require the Company to utilize reasonable commercial efforts to include in contracts with subcontractors specific

- requirements for liquidated damage provisions to penalize the subcontractor for late performance, and, where appropriate, would require posting of performance bonds.
- The Master Waste Supply Agreement would refer to the tasks and timeframes set forth in the Schedule provided to the Maine DEP as a factor in determining whether the Company has met or failed to meet its obligations.
- The following provisions are revised for consistency with the two-stage development approach:
  - Section 7.4 of the Site Lease, which addresses the Performance Test, would bifurcate the testing requirements into two phases: an Initial Performance Test on the MRF equipment and a Final Performance Test on the overall facility. Upon passage of the Initial Performance test, the Commercial Operations Date would occur on a provisional basis; however, the Commercial Operations Date would not occur irreversibly until the Final Performance Test. The MRC would retain termination rights in the event the Final Performance Test is not passed by January 1, 2020.
  - Section 4.6 of the Master Waste Supply Agreement clarifies that the Company would receive tip fees and would take responsibility for residuals transportation and disposal for all MSW it accepts directly as of April 1, 2018. To the extent MSW is diverted for direct delivery to the Crossroads Landfill, the MRC would manage collection of tip fees from Joining Members and payment of tip fees for Bridge Disposal on their behalf.
- To ensure that the dates in the agreements are consistent with the new schedule and approach:
  - The agreements require Financial Close (defined as closing of construction financing sufficient to authorize commencement by the Company of construction of the Facility) to occur by August 1, 2017.
  - The Site Lease will acknowledge that the Construction Access Date (the deadline for building the road to provide construction vehicles with access to the Facility site) has been achieved.
  - The Site Lease sets the Infrastructure Completion Date (the deadline for the MRC to provide the site with infrastructure for water supply, wastewater removal and electricity supply) at October 31, 2017
- To clarify Force Majeure and termination scenarios for consistency with the new schedule and approach:
  - The Site Lease contains a new Section 3.3 to clarify that the termination scenarios in which Force Majeure events outside of control of the parties have a material adverse impact on the project will also apply to the period after first tranche of equity and before second tranche of equity. Provisions are added to clarify the circumstances under which the MRC might purchase the building and all associated assets from the Company.
  - Section 3.3 also contains provisions to address events other than Force Majeure events outside of the control of the parties that might have a material adverse impact on the project, including extraordinary unforeseen changes in bond market conditions, changes in the terms and conditions of the bond financing that are not anticipated in the indicative term sheet provided by Jeffries, and unforeseen changes in project costs compared to projected baseline values that emerge in the time period between the closings of the first and second tranches of equity financing. For these events, the Company cannot terminate the agreements or the project until after it has (a) negotiated in good faith with the MRC for a period of at least thirty days to revise the terms of the agreements to allow the project to proceed on terms

acceptable to both parties; and/or (b) worked to identify an alternative source of financing or a purchaser of the Project assets that would allow the Project to proceed.

- To provide additional security to support the financing:
  - Section 20.1 of the Site Lease would have the MRC place \$3.0 million in escrow (which could stay at People's United Bank) as cash collateral to secure multiple obligations of the MRC under the agreements, including the obligations to purchase the building and assets in the event of an early termination for Force Majeure events or otherwise, and the obligation to make deficiency shortfall payments during the operating term in the event that the Delivery Commitment is not achieved. The Company would have a security interest in the escrow account.
  - Section 20.2 of the Site Lease would have the MRC provide a covenant to maintain a minimum balance of \$4.0 million in its Tip Fee Stabilization Funds or successor reserve funds that would be available to meet MRC obligations, but would remain under MRC control without any security interest of the Company.

Note that the definition of Force Majeure in the Master Waste Supply Agreement was amended to remove an explicit reference to invalidation of a flow control ordinance, which the MRC staff considers an improvement, and the language in Section 13 of the Master Waste Supply Agreement was edited to conform to this change. Otherwise, the language in the agreements related to invalidation of a flow control ordinance and the allocation of responsibility for Unacceptable Waste have not changed since the prior drafts of the agreements were presented to the Board.

At this point, the MRC staff is confident that reasonable agreement can be reached on the remaining language issues. A full update of the status of the negotiation of the agreements will be provided at the Board meeting.

**Fiberight Construction and Process Benchmark Schedule  
June 30, 2017**

Task	Responsible Party	Start	Finish	Diversion
Process Benchmarks and Associated Mass Balance and Schedule	Fiberight	On-going	Jun 26, 2017	N/A
Construction Ready-Plans for Clearing, Grubbing, Grading, and Excavations	CES		2016 (Within permit Applications)	N/A
Prepare Contract between Fiberight and Sargent	CES	Jun 26, 2017	Jun 30, 2017	N/A
Clearing, Grubbing, Grading, and Excavations Construction	Sargent	Jul 5, 2017	Sep 1, 2017	N/A
Foundation Plans (Construction-ready)	CES	Jun 26, 2017	Jul 24, 2017	N/A
Town Foundation Permit Application (if allowed) or Building Permit Application	CES	Jun 26, 2017	Jul 24, 2017	N/A
Town Review and Approval	Town	Jul 25, 2017		N/A
DEP Review and Approval	DEP	Jul 25, 2017		N/A
Foundation Construction	Sargent	Sep 1, 2017	Oct 15, 2017	N/A
Building Plans (Construction-ready - Structural, Electrical, Plumbing, HVAC, General arrangement)	Olympia Steel Buildings	On-going	Aug 15, 2017	N/A
Fire Marshal Permit Application (Shell permit??) and Building Permit Application (if foundation permit allowed separately)	CES	Jun 26, 2017	Aug 15, 2017	N/A
Town Review and Approval				N/A
Fire Marshal Review and Approval				N/A
Building Shell Construction	Rutherford Construction Corp.	Oct 15, 2017	Dec 15, 2017	N/A
Specification of Material Recovery Facility (MRF) Equipment	Fiberight/CP Manufacturing	On-going	Jun 26, 2017	N/A
DEP Review (60 days)	DEP			N/A
Install Material Recovery Facility (MRF) Equipment	CP Manufacturing	Nov 15, 2107	Apr 1, 2017	N/A
Specification/design of "wet" end process	AMEC FW	On-going	Dec 15, 2017	N/A

**Fiberight Construction and Process Benchmark Schedule  
June 30, 2017**

equipment (construction-ready plans)				
DEP Review (60 days)	DEP	Dec 18, 2017	Feb 18, 2018	N/A
Install "wet" end process equipment	AMEC FW	Apr 1, 2018	Oct 1, 2018	N/A
Process Benchmarks (p 25 MDEP License)				
Phase I (MRF): 1) Pre-commissioning phase 2) Commissioning phase 3) Start-up phase 4) Ramp-up stage	Fiberight	1) Mar 15, 2018 2) Apr 16, 2018 3) May 16, 2018 4) Jul 1, 2018	1) Apr 15, 2018 2) May 15, 2018 3) Jun 30, 2018 4) Aug 31, 2018	1) 0% 2) 0% 3) 5 - 15% 4) 25 - 30%
Phase II (Wet End): 1) Pre-commissioning phase 2) Commissioning phase 3) Start-up phase 4) Ramp-up stage	Fiberight	1) Sep 15, 2018 2) Oct 16, 2018 3) Nov 16, 2018 4) Jan 1, 2019	1) Oct 15, 2018 2) Nov 15, 2018 3) Dec 31, 2018 4) Mar 1, 2019	1) 25 - 30% 2) 25 - 30% 3) 30 - 50% 4) >50%

# MRC Interim Access Road and Partial Utility Construction Ph. II Progress Meeting #7

Minutes

JULY 10, 2017

3:00 PM

SARGENT FIELD OFFICE

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## ATTENDANCE:

Owner: Chip Reeves, Greg Louder

Contractor: Chris Lynch

Engineer: Nate Gustafson, Ames Quimby

Hampden: Sean Currier,

Hampden Water District: NA

Other: NA

## REVIEW PAYMENT APPLICATION:

-The June Pay App has been submitted, CES is reviewing

## SAFETY ISSUES:

-No safety issues noted

## PROGRESS TO DATE:

- Sargent has cleared Utility Corridor and the FR site.
- The water main has been installed and past the hydrostatic test last Friday.
- Graveling the right lane and approximately 75% of the subgrade is ready.

## ANTICIPATED WORK:

- Force main will start tomorrow (7/11).
- Subbase and base gravel will continue to be installed.
- Filterra unit structures will be ready in a couple of weeks and will be installed.

## STATUS OF OVERALL SCHEDULE:

-Sargent is on or slightly ahead of schedule.

## SUBMITTAL STATUS:

- Curb
- Air Release Structures
- Pump Station Mechanical

## FIELD OBSERVATIONS, ISSUES ETC.:

- Ames indicated the work was satisfactory.
- A couple items for Sargent to fix include valve box on Coldbrook Road, and insulation on water service at approx. Sta. 44+60.

CHANGE ORDER STATUS:

-Change Order #6 for the replacement of the MDOT underdrain along Coldbrook Road (signed at the meeting).

MISCELLANEOUS ISSUES:

-It was discussed the need for 3 test pits along the sewer main trench between SMH #5 and #6 to verify trench condition. There was also a roadway geotextile overlap in this area that was uncovered and the correct overlap was confirmed.

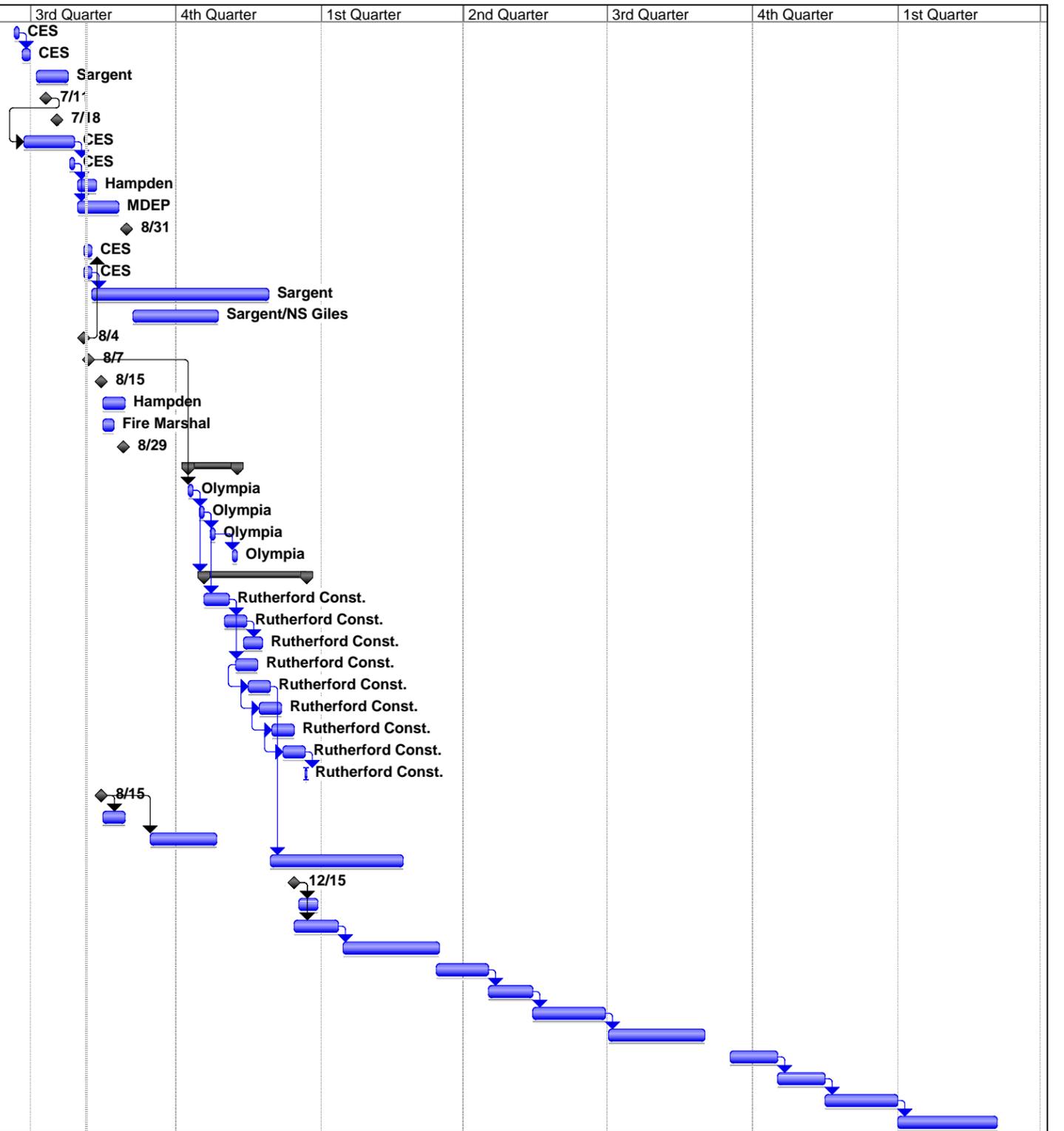
-Discussed the water main trench along Coldbrook Road. The MDOT has indicated that they would prefer to hold off on paving the trench to verify no settlement issues. The Town is planning to overlay Lindsey Way and Emerson Drive and want to coordinate with Sargent. Town will be using Wellman Paving and Sargent believes that Wellman will be performing their pavement. Sargent estimates that they will be ready to pave the Access Road in mid-August and wants to pave the utility trench at the same time. Town is ok with waiting until mid-August to perform their overlay to coordinate with Sargent. CES will talk to MDOT regarding intended schedule, and Sargent and the Town will coordinate paving operations.

NEXT MEETING:

-The next progress meeting will be held at 3PM on August 14<sup>th</sup>, 2017 at the Field Office.

Requests to revise these minutes may be submitted by e-mail to [ngustafson@ces-maine.com](mailto:ngustafson@ces-maine.com)

ID	Task Name	Duration	Start	Finish	2nd Quarter	3rd Quarter	4th Quarter	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	1st Quarter
1	Construction Ready Plans for Clearing, Grubbing, Grading and Excavations	3 days	Wed 6/21/17	Fri 6/23/17								
2	Prepare Contract between Fiberight and Sargent	5 days	Mon 6/26/17	Fri 6/30/17								
3	Clearing Grubbing and Erosion & Sedimentation Control	14 days	Wed 7/5/17	Mon 7/24/17								
4	Issue Final Reaction Loads for Building	0 days	Tue 7/11/17	Tue 7/11/17								
5	Issue Building Sealed Approval Drawings	0 days	Tue 7/18/17	Tue 7/18/17								
6	Foundation and Building Shell Plans - IFC Level	24 days	Tue 6/27/17	Fri 7/28/17								
7	Town Foundation Permit Application (Building Permit Application)	3 days	Wed 7/26/17	Fri 7/28/17								
8	Town Review and Approval	10 days	Mon 7/31/17	Fri 8/11/17								
9	Dep Review and Approval of Foundation and Building Shell Plans	20 days	Mon 7/31/17	Fri 8/25/17								
10	Final Financial Documents (Commitment Letter or Term Sheets)	0 days	Thu 8/31/17	Thu 8/31/17								
11	Prepare Site Work Contract (Fiberight and Sargent)	3 days	Fri 8/4/17	Tue 8/8/17								
12	Prepare Foundation Contract (Fiberight and NS Giles)	3 days	Fri 8/4/17	Tue 8/8/17								
13	Begin Site Work	80 days	Wed 8/9/17	Tue 11/28/17								
14	Foundation Construction	40 days	Mon 9/4/17	Fri 10/27/17								
15	Remaining Building Plans - IFC Level	0 days	Fri 8/4/17	Fri 8/4/17								
16	Building Production Deposit	0 days	Mon 8/7/17	Mon 8/7/17								
17	Submittal to Fire Marshal	0 days	Tue 8/15/17	Tue 8/15/17								
18	Town Review and Approval	10 days	Wed 8/16/17	Tue 8/29/17								
19	Fire Marshal Review (Approval Not Required for Industrial Occupancies)	5 days	Wed 8/16/17	Tue 8/22/17								
20	Submit Updated Site Plan to Town of Hampden and MDEP	0 days	Tue 8/29/17	Tue 8/29/17								
21	<b>Building Delivery</b>	<b>23 days</b>	<b>Mon 10/9/17</b>	<b>Wed 11/8/17</b>								
22	Delivery Building Side Wall Columns and Frames	3 days	Mon 10/9/17	Wed 10/11/17								
23	Delivery Secondary Framing/Girts and Purlins	3 days	Mon 10/16/17	Wed 10/18/17								
24	Delivery Wall Panels/Trims and Insulation	3 days	Mon 10/23/17	Wed 10/25/17								
25	Delivery Roof Panels/Trims and Insulation	3 days	Mon 11/6/17	Wed 11/8/17								
26	<b>Building Shell Construction</b>	<b>47 days</b>	<b>Thu 10/19/17</b>	<b>Fri 12/22/17</b>								
27	Completion 25% of Side Wall Columns and Rafters	12 days	Thu 10/19/17	Fri 11/3/17								
28	Completion 50% of Side Wall Columns and Rafters	10 days	Wed 11/1/17	Tue 11/14/17								
29	Completion 100% of Side Wall Columns, Interior Columns and Rafters	10 days	Mon 11/13/17	Fri 11/24/17								
30	Completion of 25% of Wall Insulation and Panels	10 days	Wed 11/8/17	Tue 11/21/17								
31	Completion of 50% of Wall Insulation and Panels	10 days	Thu 11/16/17	Wed 11/29/17								
32	Completion of 100% of Wall Insulation and Panels	10 days	Thu 11/23/17	Wed 12/6/17								
33	Completion of 25% of Roof Insulation and Roof Panels	10 days	Fri 12/1/17	Thu 12/14/17								
34	Completion of 75% of Roof Insulation and Roof Panels	10 days	Fri 12/8/17	Thu 12/21/17								
35	Completion of Trims, Walk Through and Clean-up	1 day	Fri 12/22/17	Fri 12/22/17								
36	Specification of Materials Recovery Facility (MRF) Equipment and Foundations	0 days	Tue 8/15/17	Tue 8/15/17								
37	Town of Hampden Review	10 days	Wed 8/16/17	Tue 8/29/17								
38	DEP Review Complete Building Plans and MRF Equipment	30 days	Fri 9/15/17	Thu 10/26/17								
39	Install MRF Equipment	60 days	Thu 11/30/17	Wed 2/21/18								
40	Specification/Design of "Wet End" Process Equipment and Foundations	0 days	Fri 12/15/17	Fri 12/15/17								
41	Town of Hampden Review	10 days	Mon 12/18/17	Fri 12/29/17								
42	DEP Review of "Wet End" Process Equipment	20 days	Fri 12/15/17	Thu 1/11/18								
43	Install "Wet End" Process Equipment	45 days	Mon 1/15/18	Fri 3/16/18								
44	MRF Pre-commissioning	23 days	Thu 3/15/18	Mon 4/16/18								
45	MRF Commissioning	20 days	Tue 4/17/18	Mon 5/14/18								
46	MRF Start-up	34 days	Tue 5/15/18	Fri 6/29/18								
47	MRF Ramp-up	45 days	Mon 7/2/18	Fri 8/31/18								
48	Wet End Pre-Commissioning	22 days	Mon 9/17/18	Tue 10/16/18								
49	Wet End Commissioning	22 days	Wed 10/17/18	Thu 11/15/18								
50	Wet End Start-up	32 days	Fri 11/16/18	Mon 12/31/18								
51	Wet End Ramp-up	45 days	Tue 1/1/19	Mon 3/4/19								



Project: Fiberight Hampden Maine Cor  
Date: Sat 8/5/17

Task		Progress		Summary		External Tasks		Deadline	
Split		Milestone		Project Summary		External Milestone			

**Project List - Planning**

Project Name	Location	What it is	Size <sup>1</sup>	PB Action/Date	Type
Fiberight	off Coldbrook	solid waste processing	153,800 sq ft	Approved	Site Plan
Hannibal Hamlin Place	Main Road N	expansion	2,800 sq ft	Approved	Site Plan
Pine Tree Food Equipment	Nadine's Way	new building/business	3,600 sq ft	Approved	Site Plan
Dennis Paper	Mecaw Rd	expansion	27,237 sq ft	Approved	Site Plan
Colonial Heights	off Constitution	phase 3 of subdivision (final plan)	11 new lots	Approved	Subdivision
Carver	Ballfield Rd	conversion of single family to two family	1 new unit	Approved	Conditional Use
Sky Villa	646 Main Road N	conversion of interior to 10 short term rehab beds	3,172 sq ft	Approved	Conditional Use
Brickle	326 Main Road N	conversion of single family to two family	1 new unit	Approved	Conditional Use
Southeast Development Co	Route 202/Coldbrook Rd	zoning map amendment; Resid A to Comm. Service	16 acres	Withdrawn	Zoning Map Amendmemt
Hamlin's Marina	Marina Road	new boat storage building	10,000 sq ft	13-Sep	Site Plan

<sup>1</sup>. Size refers to square footage of building (new or addition), number of new building lots, number of new units, or acreage.



Town of Hampden  
Land & Building Services

Memorandum

To: Planning & Development Committee  
 From: Karen M. Cullen, AICP, Town Planner *KMC*  
 Date: July 17, 2017  
 RE: Colonial Heights Phase 3 Conservation Easement

This item was before the P&D at the June 21 meeting; the committee requested additional research be done to determine the amount of staff resources that would be required to hold the easement. Councilor McAvoy had expressed concern that the Town is enabling developers to develop marginal land that would otherwise be undevelopable.

To the first concern, staff has reviewed the conservation easement language and believes the annual resources will be minimal – at most it would involve a site visit to see the property which would take no more than four hours. With the snowmobile trail running through the easement area, communication between the snowmobile club and staff could eliminate the need for a site visit. Specific tasks for which the Town will be responsible include:

- Review and approval of applications for maintenance activities including such things as removal of dead trees, pruning, removal of invasive species, planting vegetation to enhance wildlife habitat, grading and landscaping as required by DEP and the Town, maintaining the snowmobile trail and structures, building paths, and allowing motorized vehicles on the property for maintenance work purposes.
- Perform site visits as needed to determine compliance with the conservation easement.
- Notify the Grantor of any breach of the terms of the easement and perform follow-up work to ensure any damage is repaired.

It should be noted that the Grantor (Cushing Family Corp) has the primary responsibility for the enforcement of the easement, the Grantee (Town) has secondary responsibility, and the DEP has third party responsibility – meaning if both the Cushing Family Corp and the Town fail to enforce the terms of the easement, DEP can step in to enforce it.

The second concern may be true conceptually, but in reality if the Town decides not to hold such easements, the developers would still have the option to use this mechanism to develop properties where there will be wetland impacts; they just have to find other entities to hold the conservation easement. It should be noted that this requirement from DEP is based on the larger Colonial Heights development, not just this phase with eleven new lots.

## CONSERVATION EASEMENT

### RECITALS

BY THIS INDENTURE, made this \_\_\_\_\_, day of \_\_\_\_\_ 2017, by **The Cushing Family Corp** (hereinafter referred to as the "Grantor" which word, where the context requires, includes the plural and shall, unless the context clearly indicates otherwise, include the Grantor's executors, administrators, legal representatives, devisees, heirs, successors, assigns, lessees, tenants and other occupiers and users) with address of PO Box 211, Hampden, Maine, is the owner in fee simple of certain real property located in the Town of Hampden, County of Penobscot, (hereinafter "Property") more particularly bounded and described in deed recorded in the Penobscot County Registry of Deeds in Book 11966, Page 60.

and;

WHEREAS, the Grantor intends to grant a Conservation Easement over a portion of the Property more particularly bounded and described as follows:

*[See Attachment A]*

(hereinafter "Easement Area"); and

WHEREAS, the **Town of Hampden**, a municipality, having a principal place of business at (address), Maine (hereinafter referred to "Grantee" which word shall include all successors, assigns, agents and designees) has determined that it would be in the public interest to retain, maintain, and preserve that portion of the Property designated as the Easement Area as open space, in its natural state; and

WHEREAS, Grantor is willing, in consideration of the need to preserve the natural, scenic, aesthetic and special character of the property, desires to conserve and protect the property as a natural habitat for birds, wildlife, plants and similar ecosystems, the Grantor hereby grants in perpetuity to the Grantee, a conservation easement (hereinafter "Easement") on the Property; and

WHEREAS, MRSA Title 33, §477 permits the creation of a conservation easement; and

WHEREAS, the Grantee agrees, by accepting this grant, to honor the intention of the Grantor as stated herein, and to preserve and protect in perpetuity the conservation values of the Property;

WHEREAS the State of Maine by and through its Department of Environmental Protection (MDEP), (hereinafter referred to as the "Third Party") will receive Third Party Rights of Enforcement under this Easement

NOW THEREFORE, be it known that **The Cushing Family Corp**, does hereby grant, release and dedicate to the **Town of Hampden** a conservation easement in perpetuity over the Easement Area.

1. PURPOSE

The Easement is hereby granted exclusively for the following conservation purposes:

- a. To have the Property remain in its present natural and open condition in order for it to fulfill its present historic, scenic, vegetative, wildlife and/or hydrological functions.

2. USE LIMITATIONS

Grantor intends that this Easement will confine the use of the Easement Area in perpetuity to such activities as are consistent with the purposes of this Easement. Except for the activities authorized by the foregoing easements, any activity on or use of the Easement Area inconsistent with the purposes of this Easement is prohibited. The following limitations shall apply:

- a. The Easement Area shall not be subdivided and none of the individual tracts, which together comprise the Easement Area, shall be conveyed separately from one another.
- b. The Easement Area shall be maintained in perpetuity as open space without there being conducted thereon any industrial, commercial, agricultural or forestry activities. Agricultural and forestry shall include animal husbandry, floricultural, horticultural activities, the production of plant and animal products for domestic or commercial purposes, the growing, stocking, cutting and sale of forest trees of any size capable of producing timber or other forest products and the processing and sale of products produced on the property (e.g., maple syrup), except when associated with exempted activities.
- c. No structures, improvements or alterations, including but not limited to, a dwelling, any portion of a subsurface wastewater treatment and disposal system, mobile home, utility tower, or wireless communication facility shall be constructed, placed or introduced onto the Easement Area. The existing snowmobile trail structures including bridges crossing Reeds Brook are allowed to remain and be reconstructed as necessary to provide for trail use.
- d. No removal, filling, or other disturbances of soil nor any changes in the topography, surface or subsurface water systems, wetlands or natural habitats shall be allowed.
- e. No mining, quarrying, excavation or removal of rocks, minerals, gravel, sand, topsoil or other similar materials shall be allowed on the Easement Area.
- f. The placement of signs, billboards or other advertising materials or structures of any kind is prohibited. Signs required for perimeter marking, trail directions and education are permitted.

- g. There shall be no use of pesticides, poisons, biocides or fertilizers, draining of wetlands, burning of marshland or disturbances or changes in the natural habitat of the premises.
- h. There shall be no manipulation or alteration of the natural watercourses, lakeshores, marshes or other water bodies, nor shall any uses of or activities upon the property be permitted which could be detrimental to water purity or to any vegetative, wildlife or hydrological function.
- i. There shall be no operation of vehicles, snowmobiles, dune buggies, motorcycles, mini-bikes, go-cars, all-terrain vehicles, or any other type of motorized vehicle upon the property. However, the use of snowmobiles on the existing snowmobile trail is permitted to continue, provided that the trail is inspected annually and maintained in a stable condition. Failure by the local snowmobile club to make required inspections and maintenance will result in suspension of use by the Grantee or Gantor.
- j. There shall be no storage or placement of equipment, natural or man-made materials or substances upon the premises.
- k. There shall be no dumping, burning, release, burial, injection, or disposal of any type of material on the Easement Area.
- l. Any other disturbances of the property are prohibited except for those activities explicitly authorized by the Compensatory Mitigation Plan for Permit No. NAE-2010-2114 issued by the Department of the Army, New England District, Army Corps of Engineers dated January 17, 2012 and referenced under Section 4. Reserved Rights.

3. EXCEPTIONS

The Grantor may, but is not obligated to enter upon the Property to conduct the following activities after written application and approval from the Grantee and any other local or state agencies for which approval is required. The Grantee is not obligated to undertake any of the described activities.

- a. Removal of debris, dead trees, or brush for the purpose of promoting safety and aesthetic quality. Materials may be left on site if utilized for habitat management.
- b. Pruning and thinning live trees and brush for the purpose of promoting safety, aesthetic quality, fire control, wildlife habitat and to manage & remove invasive species.
- c. Planting of trees, shrubs, or other vegetation for the purpose of promoting wildlife or aesthetic quality.
- d. Grading and landscaping at the direction and approval of the Grantee and MDEP.
- e. Maintain, repair and replace the snowmobile trail and structures.

- f. Construct paths not greater than 10' wide to provide for passive recreation and enjoyment of the conservation lands. The path shall be located with approval of the Grantee and MDEP and shall not exceed 10% of the land area.
- g. Motorized vehicles shall be permitted on the path and for exempted maintenance activities provided they do not damage the soil surface or quality of the protected area and only with approval of the Grantee and MDEP. Emergency, rescue, fire control and damage restoration vehicles may access any portion of the property, if required.

4. RESERVED RIGHTS

It is expressly understood and agreed that this Easement does not grant or convey to members of the general public any rights of ownership, entry or use of the Property. This Easement is created solely for the protection of the Property and Grantor reserves the ownership of the fee simple estate and all rights appertaining thereto, including without limitation the right to exclude others and to use the Property for all purposes consistent with this Easement.

5. COMPLIANCE INSPECTION

The Grantor expressly authorizes the Grantee, its duly authorized designee or agent to enter upon the lands subject to this Easement for the purpose of determining compliance with the terms and conditions contained within this document.

6. MARKING OF PROPERTY

The perimeter of the Property shall at all times be plainly marked by permanent signs or by an equivalent, permanent marking system designating the area a protected area.

7. PROPERTY TRANSFERS

Grantor shall include the following notice on all deeds, mortgages, plats, or any other legal instrument used to convey any interest in the Property. Failure to comply with this paragraph does not impair the validity or enforceability of this Easement:

NOTICE: This Property is Subject To a Conservation Easement recorded in the Penobscot County Registry of Deeds in Book \_\_\_\_\_, Page \_\_\_\_\_.

The Grantor shall provide a 60-day advance notification to the Grantee, MDEP and the Army Corps of Engineers pursuant to permit no. NAE-2010-2114, before any action is taken to void or modify this instrument, including transfer of title, or establishment of any other legal claims.

8. BENEFITS AND BURDENS

The burden of the Easement conveyed hereby shall run with the Property and shall be enforceable against all future owners and tenants in perpetuity. The benefits of said Easement shall not be appurtenant to any particular parcel of land but shall be in gross and assignable or transferable to another qualified organization, which organization has

among its purposes the conservation and preservation of the land and water areas and agrees to and is capable of enforcing the conservation purposes of this Easement. Any such assignee or transferee shall have like power of assignment or transfer.

9. NOTICES

All notices, requests and other communication required or permitted to be given under this Easement shall be in writing and shall be delivered in hand or via Certified Mail, return receipt requested, to the appropriate address set forth in this Easement or at such other address as the Grantor or Grantee may hereafter designate by notice given in accordance herewith. Notice shall be deemed to have been given when so delivered or mailed.

Said Grantor further covenants and agrees to provide a copy of the Conservation Easement by means of a notice by Certified Mail, return receipt requested, to the last known address of any person or entity who hereafter shall have any possessory interest in the subject property, including but not limited to any tenants, successors, or assigns. Failure of said Grantor to provide such notice shall not constitute any waiver of the Grantee's rights herein.

10. BREACH OF EASEMENT

- a. If a breach of this Easement, or conduct by anyone inconsistent with this easement, comes to the attention of the Grantee, it shall notify the Grantor, in writing, of such breach of conduct, delivered in hand or by Certified Mail, return receipt requested.
- b. The Grantor shall, within thirty (30) calendar days after receipt of such notice or after otherwise learning of such breach or conduct, undertake those actions, including restoration, which are reasonably calculated to cure swiftly said breach, or to terminate said conduct, and to repair any damage. The Grantor shall promptly notify the Grantee of its actions taken under this section.
- c. If the Grantors fails to take such proper action under this preceding paragraph, the Grantee may, as appropriate to the purposes of this deed, undertake any actions that are reasonably necessary to cure such breach or to repair any damage in the Grantor's name or to terminate such conduct. The cost thereof, including the Grantee's expenses, court costs and legal fees, shall be paid by the Grantor.

- d. If the Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate damages to the property, or to prevent action or potential action which is determined to be inconsistent with the stated purposes of this Easement, the Grantee may pursue any remedy it deems appropriate to correct such breach, without prior notice to the Grantor or without waiting for the period provided to cure to expire.
- e. The Grantee and the Grantor reserve the right, separately or collectively, to pursue all legal remedies against any third party responsible for any actions detrimental to the conservation purposes of this Easement.
- f. No delay or omission by Grantee in the exercise of any right or remedy upon any breach by the Grantor shall impair Grantee's rights or remedies or be construed as waiver.

11. SEVERABILITY

If any provision of this Easement, or the application thereof to any person or circumstances, is found to be invalid by a court of competent jurisdiction, by confirmation of an arbitration award or otherwise, the remainder of the provisions of this Easement or the application of such provisions to persons or circumstances other than those to which it is found to be invalid, as the case may be, shall not be affected thereby.

12. MERGER

The Grantor and Grantee agree that it is their express intent that the provisions of the Easement set forth herein are to last in perpetuity, and that to that end no purchase or transfer of the underlying fee interest in the Property by or to the Grantee or any successor or assignee shall be deemed to eliminate the Easement, or any portion thereof, granted under the doctrine of "merger" or any other legal doctrine.

13. CONDEMNATION

- a. Whenever all or any part of the Easement Area is taken in exercise of eminent domain by a public, corporate, or other authority so as to abrogate in whole or in part the Easement conveyed hereby, the Grantor and the Grantee shall thereupon act jointly to recover the full damages from such taking, with all incidental or direct damages and expenses incurred by them thereby to be paid out of the damages recovered.
- b. The balance of the land damages recovered (including, for the purposes of this subsection, proceeds from any lawful sale, in lieu of condemnation, of the Property unencumbered by the restrictions hereunder) shall be divided between the Grantor and Grantee in proportion to the fair market value of their respective interests in that part of the Property condemned on the date of execution of this Easement. For this purpose, the Grantee's interest shall be the amount by which the fair market value of the Property immediately prior to the execution of this Easement is reduced by the use limitations imposed hereby. The values of the Grantor's and Grantee's interest

shall be determined by an appraisal prepared by a qualified appraiser at the time of condemnation.

- c. The Grantee shall use its share of the proceeds in a manner consistent with the conservation of land and natural resources.

GRANTOR hereby affirms that it is the sole owner of the property in fee simple and has the right to enter into this Conservation Easement and to grant and convey the Easement. The property is free and clear of all liens and encumbrances, including but not limited to any mortgage not subordinated to this Easement.

THE GRANTEE, by accepting and recording this Easement, agrees, except as otherwise provided in this easement, to be bound by and to observe and enforce the provisions hereof and assumes the rights and responsibilities herein granted to and incumbent upon the Grantee, all in the furtherance of the conservation purposes for which this Easement is delivered.

THE GRANTOR hereby grants to the **Maine Department of Environmental Protection**, Third Party, the same inspection and compliance rights as are granted to the Grantee under this easement. However the Parties hereto intend that the Grantor shall be primarily responsible for the enforcement of this easement, that the Grantee shall be secondarily responsible for the enforcement of this easement and that the Third Party will assume such responsibility only if the Grantor and/or Grantee shall fail to enforce it. If the Third Party shall determine that the Grantor and Grantee are failing in such enforcement, the Third Party may give notice of such failure to the Grantee and the Grantor, and if such failure is not corrected within a reasonable time thereafter, the Third Party may exercise, in its own name and for its own account, all the rights of compliance granted the Grantee under this Easement. The Third Party shall also have reasonable access to any and all records of the Grantee relevant to the Protected Property. Grantee shall not be responsible for any expenses, court costs or legal fees incurred by the Third Party.

**IN WITNESS WHEREOF, The Cushing Family Corp** has caused this instrument to be signed in its corporate name by Andre E. Cushing III, its President, hereunto duly authorized, this \_\_\_\_ day of \_\_\_\_\_, 2017.

WITNESS:

THE CUSHING FAMILY CORP

\_\_\_\_\_

By: \_\_\_\_\_  
Andre E. Cushing III  
Its President  
Hereunto Duly Authorized

STATE OF MAINE  
PENOBSCOT, ss.  
    , 2013

Then personally appeared the above-named Andre E. Cushing III and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said corporation.

Before me,

\_\_\_\_\_  
Name:  
Notary Public/Attorney-at-Law

The above and foregoing Conservation Easement was authorized to be accepted by the (Receiving Party), Grantee as aforesaid, and the said Grantee does hereby accept the foregoing Conservation Easement, by and through \_\_\_\_\_, its \_\_\_\_\_, hereunto duly authorized, this \_\_\_\_ day of \_\_\_\_\_, 2017,

(Receiving Party)

By: \_\_\_\_\_  
(Name)  
Its (title)  
Hereunto Duly Authorized

STATE OF MAINE  
PENOBSCOT, ss.  
    , 2013

Then personally appeared the above-named (Name) and acknowledged the foregoing instrument to be her free act and deed in her said capacity and the free act and deed of said (Receiving Party).

Before me,

\_\_\_\_\_  
Name:  
Notary Public/Attorney-at-Law

**THIRD PARTY ENFORCER ACCEPTANCE**

The third party rights of enforcement granted under the above and foregoing Conservation Easement, pursuant to Title 33 M.R.S.A Section 476 et seq., were authorized to be accepted by the State of Maine Department of Environmental Protection by Mark Bergeron, its Director of the Bureau of Land Resources, hereunto duly authorized and the said Michael Kuhns does hereby accept the foregoing Conservation Easement this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

By: \_\_\_\_\_  
Its: Director, Bureau of Land Resources

# **EXHIBIT A**

## **LEGAL DESCRIPTION**

### **CONSERVATION EASEMENT PARCEL**

### **COLONIAL HEIGHTS SUBDIVISION, PHASE 3**

### **HAMPDEN, MAINE**

A certain lot or parcel of land located southwesterly of Constitution Avenue in the Town of Hampden, County of Penobscot, State of Maine and being more particularly described as follows:

Beginning at the southeasterly corner Lot 68 as depicted on a plan entitled "Subdivision Plan of Colonial Heights: Phase 3" said plan is to be recorded at the Penobscot County Registry of Deeds;

Thence N 89° 41' 46" W by and along the southerly line of said Lot 68, 70 and 72 as depicted on a plan entitled "Subdivision Plan of Colonial Heights: Phase 3" said plan is to be recorded at the Penobscot County Registry of Deeds, a distance of 350.3 feet to a point on the southerly line of said Lot 72;

Thence S 63° 45' 16" W, a distance of 149.75 feet to an angle point;

Thence S 53° 27' 08" W, a distance of 109.67 feet to an angle point;

Thence S 68° 32' 46" W, a distance of 29.69 feet to an angle point;

Then S 35° 03' 31" W, a distance of 43.00 feet to an angle point;

Thence S 85° 05' 28" W, a distance of 46.12 feet to an angle point;

Then S 35° 01' 40" W, a distance of 67.30 feet to an angle point;

Thence N 87° 32' 35" W, a distance of 110.87 feet to an angle point;

Thence S 24° 40' 05" W, a distance of 17.85 feet to an angle point;

Thence S 60° 25' 53" W, a distance of 118.47 feet to an angle point;

Thence S 43° 51' 41" W, a distance of 99.27 feet to an angle point;

Thence S 16° 25' 54" W, a distance of 31.05 feet to an angle point;

Thence S 65° 50' 55" W, a distance of 49.75 feet to an angle point;

Thence S 52° 25' 53" W, a distance of 54.06 feet to an angle point;

Thence S 26° 33' 54" W, a distance of 50.78 feet to an angle point;

Thence S 77° 38' 43" W, a distance of 10.58 feet, more or less, to a point on the easterly line of land now or formerly of Stanley Smith as described in a deed recorded at the Penobscot County Registry of Deeds in Volume 2381, Page 36;

Thence S 15° 47' 49" E by and along the easterly boundary of land of said Stanley Smith as described in the aforementioned deed, a distance of 163.25 feet, more or less, to a point on the northerly line of land now or formerly of John Daniel and Carla Lafayette as described in a deed recorded at the Penobscot County Registry of Deeds in Volume 6251, Page 79;

Thence S 89° 23' 19" E by and along the northerly of land of said Lafayette as described in the aforementioned deed, a distance of 766.97 feet to an angle point in the line of land of said Lafayette;

Thence N 2° 23' 19" W by and along the westerly of land of said Lafayette as described in the aforementioned deed, a distance of 203.94 feet to an angle point in the line of land of said Lafayette;

Thence S 80° 23' 19" E by and along the northerly of land of said Lafayette as described in the aforementioned deed, a distance of 330.00 feet to the southwesterly corner of land now or formerly of the Town of Hampden as described in a deed recorded at the Penobscot County Registry of Deeds in Volume 5785, Page 263;

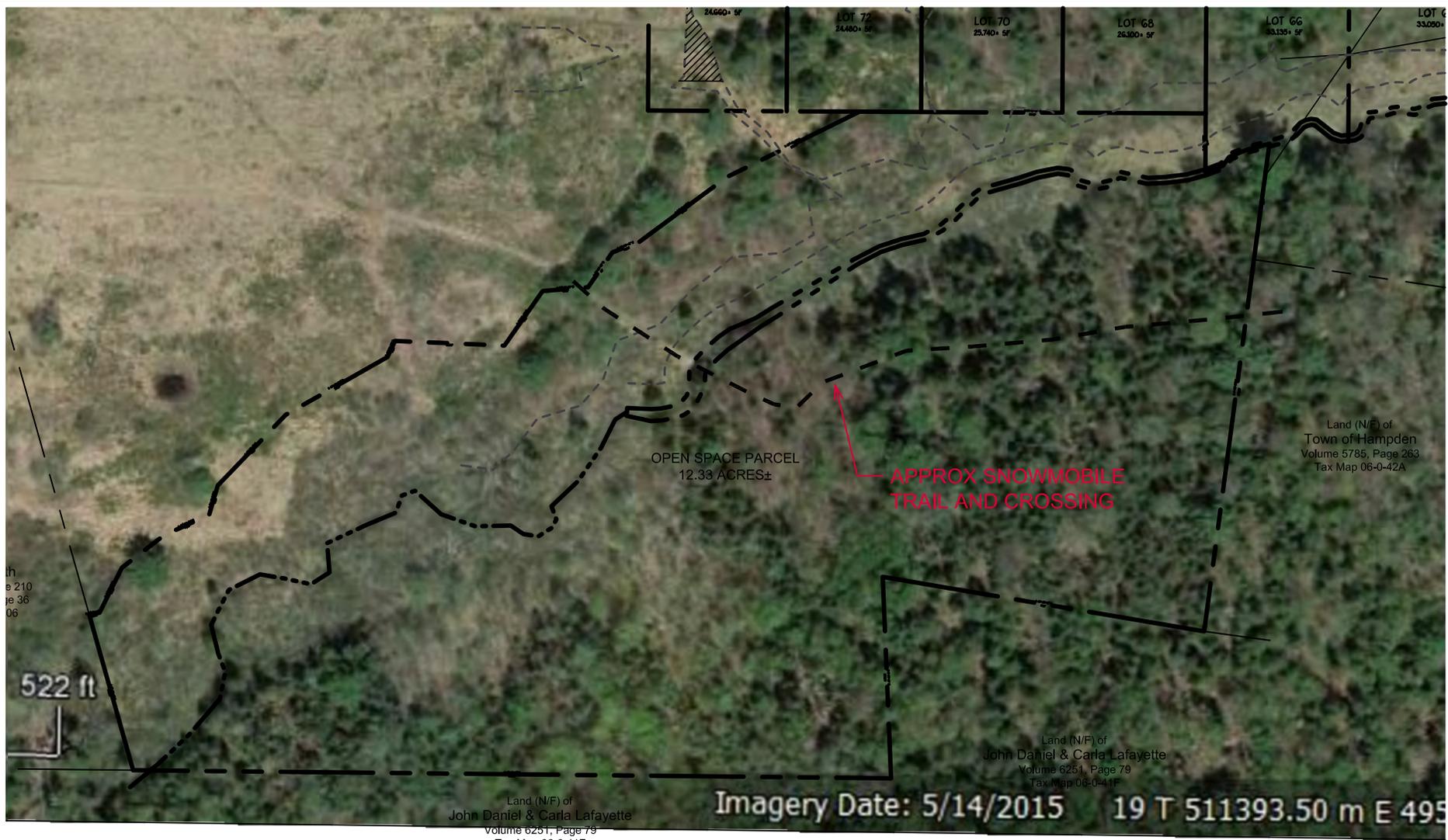
Thence N 7° 36' 50" E by and along the westerly line of land of the said Town of Hampden as described in the aforementioned deed, a distance of 379.32 feet to the southwesterly corner of other land of the Town of Hampden as described in a deed recorded at the Penobscot County Registry of Deeds in Volume 10254, Page 7;

Thence continuing on the same course, N 7° 36' 50" E by and along the westerly line of land of the said Town of Hampden as described in the aforementioned deed, a distance of 118 feet, more or less, to the thread of Reeds Brook, so called;

Thence running in a southwesterly direction by and along the thread of said Reeds Brook, a distance of 73 feet, more or less, to a point defined by the intersection of the thread of Reeds Brook with the westerly line of Lot 66;

Thence N 0° 18' 14" E by and along the westerly line of said Lot 66, a distance of 60 feet, more or less, to the point of beginning.

The above described lot or parcel of land contains 12.33 acres, more or less, and is a portion of the premises described in a deed from Walter Laqualia et al to The Cushing Family Corporation, dated October 30, 2009 and recorded at the Penobscot County Registry of Deeds in Volume 11966, Page 60.



CONSERVATION LAND PLAN  
 COLONIAL HEIGHTS: PHASE 3

CONSTITUTION AVE; HAMPDEN, MAINE

FOR:  
 CUSHING FAMILY CORP  
 PO BOX 211; HAMPDEN, ME 04444



12 JUN 17



ENGINEERING & DEVELOPMENT CONSULTING  
 PO BOX 282, HAMPDEN, MAINE 04444  
 207-862-4700



Angus Jennings <townmanager@hampdenmaine.gov>

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## Pine Tree Landfill Review

1 message

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**Drumlin Environmental** <info@drumlinllc.com>  
To: Angus Jennings <townmanager@hampdenmaine.gov>  
Cc: Steve Rabasca <srabasca@soilmetrics.com>

Mon, Aug 7, 2017 at 1:42 PM

Hi Angus,

Attached is an update memo on the PTL water quality and geotechnical data for your review. In general, there continues to be slow improvement, although there are several areas where the trend is the reverse.

Based on information in the 2016 Annual Report and our conversations with the MDEP technical staff, we have some questions about the performance and monitoring of the leachate re-circulation system (described in the memo) and will plan to contact Casella to discuss and learn more.

Over the past few months Bill Lippincott has send e-mails to the Town with several questions. The update memorandum addresses these questions, but for clarification purposes, I've also responded below.

A) Bill noted that the concentrations in off-site wells MW-196 and MW-917 are or have been elevated, which his correct. However, he mistakenly identifies these as "residential wells". These wells are slightly off of the PTL property, and so have the same cleanup targets as residential wells, but are only used for monitoring purposes. These wells are an important component of the monitoring network and provide information about conditions between the landfill and actual residential wells to the east.

With respect to arsenic concentrations, they have generally decreased in comparison to concentrations measured in 2014 and 2015, which is favorable.

B) Bill noted that there are still increasing trends in certain wells after 7 years of corrective action. While we have not recommended that additional corrective actions be undertaken yet, the memorandum does indicate that this may be necessary in the future if increasing trends continue and/or if decreasing trends are too slow to achieve the criteria in the 30-year post-closure period.

C) Bill asked what actions Casella is taking to address the liner failures identified in 2016. As note above, we plan to contact Casella to review these incidents and assess the response.

Please feel free to call or e-mail if you or others have any questions.

Regards,  
Matt

*Matthew D. Reynolds, P.E., C.G.*  
Drumlin Environmental, LLC  
(207) 771-5546



Angus Jennings <townmanager@hampdenmaine.gov>

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## Post-Closure Monitoring - PTL

1 message

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Bill Lippincott <wj13@tds.net>  
To: Angus Jennings <townmanager@hampdenmaine.gov>  
Cc: Matthew Reynolds <info@drumlinllc.com>

Mon, Aug 14, 2017 at 11:31 AM

Hi Angus and Matt,

I've looked over the latest PTL memo and will make a few comments in another email.

Regarding Matt's comment in his introductory letter that I refer to wells MW-196 [?] and MW-917 as "residential wells," I'm don't see where I've ever done that. In my emails of 12/27/16, 3/27/17 and 6/19/17 to Angus, I identify wells MW-916 and MW-917 as test wells, by which I mean monitoring wells.

My concern is their proximity, looking at the map on the last page of the report, to residential wells DW103 and DW04-109 and how increasing groundwater contamination shown in those two monitoring wells might eventually reach the residential wells, DW103 which was showing high values for arsenic, and whether more aggressive remediation should be taken to prevent further contamination.

Looking at the August 2017 update p. 5, bullet point 4, it does appear that some trends have improved, but monitoring wells MW-917 and MW-916 still show high values for some criteria:

"At the off-site residential well DW-103, groundwater equals the MCL and/or MEG for arsenic and exceeds these criteria for sodium. At off-site monitoring well MW- 916 the MCL and MEG for arsenic was equaled in April 2017. At off-site monitoring well MW-917 groundwater exceeded the arsenic MCL/MEG during the 2016 and April 2017 sampling events. Secondary drinking water criteria of iron and manganese are also exceeded at MW-916 and MW-917"

Here's what I wrote in the 3/27/17 email, which is taken from the 12/17/16 email. Perhaps I should have labeled the wells in the citation I quote from page 5 which starts with residential well DW-103 and then goes to monitoring wells MW-916 and MW-917, but the actual citation doesn't identify them that way, and I had already made that distinction.

**From:** Bill Lippincott <wj13@tds.net>

**Date:** March 27, 2017 at 12:12:46 PM EDT  
**To:** Angus Jennings <townmanager@hampdenmaine.gov>  
**Subject:** Post-Closure Monitoring - PTL

Hi Angus,

....I also wanted to share my concern about two residential wells, which I noticed last year:

From my comments on Drumlin presentation, in 2016 and their Pine Tree Landfill –Post-Closure Monitoring Review & Update - from an email I sent December 27 2016, page 2:

After the presentation I looked at the map on the last page of the report, and was struck by the location of test wells **MW-916(G)** and **MW-917(G)** to residential wells **DW-103** and **DW04-109**.

From page 5 of the report:

**Groundwater exceeds several MCL and/or MEG values for arsenic and sodium at off-site monitoring location DW-103.....**  
**However, at MW-916 arsenic exceeded the MCL or MEG value in all 2014 and the July and October 2015 sampling events. At MW-917,**

**arsenic exceeded the MCL or MEG at 7 of 7 events. Secondary drinking water criteria of iron and manganese are also exceeded at MW-916 and MW-917.**

In the past, the same two tests wells were exceedingly high for methane:

**"Prior to 2010, methane concentrations in MW-916 and MW-917 exceeded 5,000 ug/L (p. 5)**

[State/Federal standards: Dissolved Methane must be below 700 ug/L]

It appears the PTL has greatly reduced the methane contamination, but these two residential wells are still very vulnerable to arsenic contamination, which travels more slowly as Matt explained at the presentation. The methods to remove methane seem to be effective, but not so for arsenic in this area.

**Could we have the consultants assess what appears to be a serious threat for those residential wells.**

**And if so, should remediation efforts be increased in this area of high arsenic contamination, to address already appears to be a serious situation?**





Angus Jennings <townmanager@hampdenmaine.gov>

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## Pine Tree Landfill Review

1 message

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Bill Lippincott <wj13@tds.net>

Mon, Aug 14, 2017 at 11:51 AM

To: Angus Jennings <townmanager@hampdenmaine.gov>

Angus,

Thanks for the report. Some comments.

### P. 4. Water quality

Looking at the table, out of 22 wells, 6 show no trend, 7 show an increasing trend and 9 show a downward trend.

Comparing this table to the table in November 16, 2016 report, 3 wells that were showing no trend are now down, which is good, but two other wells that had shown a downward trend are now showing no trend, and one additional well, P-919B is showing an upward trend: on last year's table, 6 wells showed an upward trend; this year 7 wells show an upward trend (+ the 2 that went from downward to no trend).

Reading the report, it appears that some areas of the landfill are slowly improving, which is good news, but improvement is very gradual, and in areas south and southwest of the landfill, current remediation efforts have not been effective; groundwater continues to show increasing concentration trends, according to the report.

### Geotechnical Monitoring. P.7-8

PTL concluded that three failures in the landfill cover were caused by the lechate recirculating system, two of them tears in the liner, with potential for more failures in the future:

"These incidents highlight the potential for the remaining 2 recirculation trenches to clog and for recirculated leachate to flow into the cover system to unintended areas of the landfill. Build-up of leachate within the cover system could limit the effectiveness of gas collection and might create cover stability issues."

In light of this, I have concerns as to whether recirculating lechate is a safe policy for the long term integrity of the liner system.

I think our consultants conclusion on this matter makes sense:

"In light of this, we will contact PTL to review the status of the recirculation system, understand current operational practices and determine whether additional monitoring is being conducted or is appropriate to prevent a re-occurrence of this condition."

These are my initial thoughts; I will not be able to attend the meeting on the 16th, but wanted to share these comments.

Thanks for sharing the draft report

Bill

On Aug 9, 2017, at 3:49 PM, Angus Jennings <townmanager@hampdenmaine.gov> wrote:

Bill,

The draft report is attached, along with the transmittal email below. I completed my review earlier today and provided comments to Matt. An updated report will be included in the P&D meeting packet for 8/16, which will be posted to the Town website by close of business Monday.

Thanks,  
Angus

----- Forwarded message -----

From: **Drumlin Environmental** <info@drumlinllc.com>

	<p><u>Drumlin Environmental, LLC</u> Hydrogeologic and Engineering Consultants</p> <p><b>Soil Metrics, LLC</b></p>	
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## MEMORANDUM

**To:** Angus West & Hampden Town Council  
**From:** Matt Reynolds & Steve Rabasca  
**Date:** August 7, 2017  
**Subject:** Pine Tree Landfill –Post-Closure Monitoring Review & Update

This memorandum has been prepared to provide the Town with an overview of 2016 and April 2017 monitoring data and associated corrective actions and post-closure conditions at the Pine Tree Landfill (PTL). The review is based on data provided in the 2016 Annual Report, and the May 2017 memoranda prepared by Richard Heath of the Maine Department of Environmental Protection (MDEP).

Our memorandum dated November 21, 2016 provided the Town with a general overview of conditions associated with the landfill since closure in 2010. This memorandum provides an update on 2016 operations and data, but the reader is referred to the November 2016 memorandum for additional information about historical conditions, closure status, etc.

Figure 1-1 from Attachment C of the 2016 Annual Report (prepared by Sevee & Maher Engineers) is attached to this memorandum for reference and shows the configuration of the landfill and location of the monitoring points and other site features. Consistent with previous update memoranda, this update does not include detailed graphs and figures, however, we would be glad to prepare these if it would assist the Town and/or address specific questions.

### **I. Landfill Closure Status**

In accordance with the October 2006 Schedule of Compliance agreed to by the Maine Department of Environmental Protection (MDEP) and the Town of Hampden, PTL completed closure of the landfill in 2010. Since that time, monitoring of water quality, gas, settlement, etc. has continued in accordance with the Environmental Monitoring Plan (EMP) for the site. In 2016 several adjustments were made to the sampling frequency and parameters as discussed in Section IV of the November 2016 memorandum and summarized in Table 1 of this memorandum.

Landfill gas containing methane has also been collected and used to fuel the Landfill Gas to Energy (GTE) facility constructed in 2007. Additionally, some of the leachate collected by the leachate collection system and groundwater extracted from wells at the

perimeter of the landfill is being recirculated into the landfill with the approval of the MDEP.

## II. Corrective Action Summary

Prior to closure, corrective actions systems were implemented to control and/or mitigate impacts to groundwater and surface water include the following.

- Gas collection systems were installed in the Conventional Landfill and Secure Landfills to collect a portion of the landfill gas generated by decomposition of waste. Both gas collection systems are connected to the GTE plant.
- The Secure landfill liner system functions as a cover for the Conventional Landfill and the cover system for the Secure Landfills was completed in 2010;
- The perimeter drain (PDPS) borders the west, south and east sides of the Conventional Landfill and intercepts some shallow groundwater;
- Six groundwater extraction wells have been installed near the edge of the landfill (shown on Figure 1-1). Wells EW-2R and EW-3R are located adjacent to the southeast corner of the landfill. Wells EW-5R, EW-6R, EW-101 and EW-102 are located adjacent to the northeast corner of the landfill. The gallons of leachate and groundwater extracted by these wells and drain during 2013 to 2016 are summarized below.

Year	Northeast (EW-5R, -6R, -101, -102)	South (EW-2R, -3R)	PDPS	Total (gallons)
2013	2,687,000	1,121,000	3,721,000	7,529,000
2014	1,857,000	506,000	3,802,000	6,165,000
2015	3,112,039	781,344	3,356,269	7,249,652
2016	2,328,767	475,324	2,705,609	5,509,700

According to the Annual Report, the lower extraction volume in 2016 was due primarily to mechanical issues which included plugged and/or frozen discharge lines that required time to repair.

- PTL also collects gas migrating away from the landfill in collection wells located west and south of the landfill. This external landfill gas (LFG) collection system consists of 6 gas collection wells and a passive gas collection trench. The gas extracted from the collection wells (shown in Figure 1-1) during 2013 to 2016 is summarized below.

Year	PTGW08-1 (MMSCF/Tons)	PTGW08-11 (MMSCF/Tons)	PTGW08-12 (MMSCF/Tons)	PTGW08-13 (MMSCF/Tons)
2013	20.8/218	2.0/17	0.5/2	0.6/4
2014	19.7/220	2.6/22	0.1/0.3	0.4/6
2015	19.2/200	2.5/19	2.1/10	1.7/8
2016	13.9/144	2.8/18	1.1/2.6	0.1/0.2

- Notes: 1. MMSCF = Million Standard Cubic Feet. Tons = Tons of Methane Extracted  
 2. Estimate of Tons is Based on Volume Extracted and Percent Methane  
 3. No Gas Was Extracted from PTGW08-3, -9 during 2013to 2016 Due to Low Gas & Methane

In 2015 and 2016 gas extraction was increased (compared to 2013 & 2014) at PTGW08-12. This has generally resulted in lower dissolved methane concentrations in downgradient monitoring wells located southwest of the landfill (e.g., MW-03-802A, -802B, -803B).

### **III. Water Quality Target Criteria**

The MDEP Closure Order identified 5 specific criteria for determining “successful corrective action” at PTL under the MDEP Solid Waste Regulations. These criteria incorporate the state Maximum Exposure Guideline (MEG) values and the federal Maximum Contaminant Level (MCL) and Ambient Water Quality Criteria (AWQC) values.

These criteria are as follows.

- Groundwater Quality on PTL Property:
  - Specific Conductance must be less than 500 umhos/cm
  
- Groundwater Quality off of PTL Property:
  - Groundwater must be below the applicable MCLs and MEGs;
  - Specific Conductance must be less than 400 umhos/cm
  - Dissolved Methane must be below 700 ug/L
  
- Surface Water Quality:
  - Surface water quality must meet the federal AWQC and Maine water quality classification established in 38 MRSA Section 465 and 465-B.

These criteria must be met at the PTL monitoring locations during the 30 year post-closure period in order for the MDEP to determine that corrective actions have been successful. The 30-year post-closure period began in 2010, so it is premature to expect that monitoring locations will meet these criteria currently. However, tracking data against these criteria allows PTL, the MDEP and the Town to judge whether the existing corrective actions will be sufficient to meet these criteria over time, or whether supplemental corrective actions may be necessary in the future.

### **IV. Water Quality Overview**

In accordance with the Post-Closure Environmental Monitoring Plan, water quality is monitored two (formerly three) times each year at a network of sampling locations around PTL. These monitoring points are located in different regions around the landfill and include groundwater monitoring wells, residential wells and surface water, as summarized in Table 1.

Discussion of Water Quality Monitoring. As noted in Table 1, the majority of monitoring locations have improved (i.e., a downward trend) since 2008, although the improvements have generally been gradual.

**Table 1**  
**PTL 2014 to 2016 & April 2017 Water Quality Monitoring Summary**

Monitoring Pt	2011-2015 Analysis <sup>1</sup> (Frequency/yr)	2016-2020 Analysis <sup>1</sup> (Frequency/yr)	Specific Cond. Range <sup>2</sup> (umhos/cm)	Predominant Trend Since 2008 <sup>3</sup>
<b>South/Southeast</b>				
<b>200*</b>	F, L (3)	F, L (2)	362 - 691	Down
641	F, L (3), M (2)	F, L (2), M (1)	822 - 1368	Down
<b>MW-906B*</b>	F, L (3), M (2)	F, L (2)	382 - 513	Down
MW02-801A	F, L (3), M (2)	F, L (2), M (1)	2537 - 3530	Down
MW02-801B	F (3)	F (2)	2097 - 3700	Down
MW03-802A	F, L (3), M (2)	F, L (2), M (1)	470 - 837	Down
MW03-802B	F (3), M (1)	F (2), M (1)	1077 - 1587	Up
MW03-803A	F (3), M (1)	F (2), M (1)	1264 - 1691	Up
MW-03-803B	F, L (3), M (2)	F, L (2), M (1)	1157 - 1497	Up
<b>West &amp; North</b>				
MW03-804A	F (3)	F (2)	682 - 1070	None**
P-914A	F, L (3)	F, L (2)	683 - 850	Up Since 2014
P-914B	F (3)	F (2)	589 - 776	Up Since 2014
516B-B	F, L (3)	F, L (2)	981 - 1141	Up Since 2014
<b>Northeast &amp; East</b>				
MW98-601A	F (2)	F (2)	2158 - 2880	None
MW96-601B	F (2)	F (2)	1176 - 1730	None
<b>MW01-602B*</b>	F (2)	F (2)	259 - 660	None Since 2012
MW97-123	F, L (3)	F, L (2)	780 - 1414	Down
509A	F (3)	F (2)	841 - 1234	None
509B	F, L (3), M (2)	F, L (2)	827 - 1249	Up
P-911B	F (3)	F (2)	768 - 959	Down
916	F, L (3), M (2)	F, L (2), M (1)	257 - 883	None
917	F, L (3), M (2)	F, L (2), M (1)	354 - 1007	Down
<b>Residential</b>				
<b>DW04-109*</b>	F (3), L (1), M (3)	F (2), L (1), M (2)	215 - 793	
DW-103	F (3), L (1), M (3)	F (2), L (1), M (2)	409 - 482	
<b>Surface Water</b>				
SW-A	F, L (3)	F, L (2)	86 - 180	
SW-C	F, L (3)	F, L (2)	66 - 200	
SW-D	F, L (3)	F, L (2)	197 - 890	
SW-E	F, L (3)	F, L (2)	241 - 914	

Notes: 1. Analyses: F=Field Parameters, L=Laboratory Parameters, M= Methane

2. SC Range Reflects Data from 2014, 2015, 2016 & April 2017

3. Wells in **BOLD\*** are close to or below Corrective Action Criteria for Specific Conductance.

4. Values in **RED** Represent a New Low or High Concentration measured in October 2016 or April 2017

5. \*\* = Increase in October 2016 Specific Conductance, But Decreased in April 2017

### Comparison of Recent (2014 to April 2017) Data to the Target Criteria

- Prior to 2013, all on-site groundwater was above the 500 umhos/cm criteria. Since 2014 several wells have begun to approach or meet the 500 umhos/cm criteria.
  - MW-906B has had specific conductance below 500 since July 2014.
  - MW-200 groundwater was below the 500 umhos/cm target criteria for 6 of the 9 sampling events since April 2014.
  - MW01-602B was below 500 umhos/cm for 5 of 7 sampling events since April 2014.
- MW-916, which is an off-site well with a target criteria of 400 umhos/cm, was below this concentration for 3 of 9 events since 2014.
- Groundwater at off-site well DW04-109 was below the 400 umhos/cm target criteria during the 6 sampling rounds in since April 2015.
- At the off-site residential well DW-103, groundwater equals the MCL and/or MEG for arsenic and exceeds these criteria for sodium. At off-site monitoring well MW-916 the MCL and MEG for arsenic was equaled in April 2017. At off-site monitoring well MW-917 groundwater exceeded the arsenic MCL/MEG during the 2016 and April 2017 sampling events. Secondary drinking water criteria of iron and manganese are also exceeded at MW-916 and MW-917.
- Residential well DW-103 has been below the 700 ug/L methane off-site target criterion since April 2014. Well DW04-109 has been below this criterion since September of 2014. Off-site monitoring wells MW-917 and MW-917 were both below the methane criterion in October 2016.
- Surface water meets the applicable classification criteria and AWQC standards.

### Discussion of Data Trends

As reflected in Table 1, there has been an improving trend in specific conductance and related cations and anions in many of the locations included in the monitoring network at the PTL site. This improving trend has generally been gradual and at many locations, the specific conductance remains significantly above the target criteria of 500 umhos/cm.

The area where there has been the most pronounced upward trend has been to the south-southwest of landfill in wells MW03-802B and MW03-803A & B. During 2012, PTL began operation of 2 gas extraction wells PTGW08-12 and -13 in the vicinity of the 802 and 803 wells. In response to the gas extraction, the methane concentrations in these wells have decreased, particularly since 2015, when an effort was made to extract landfill gas on a more consistent basis. However the decrease in methane concentration in these wells has not resulted in a significant decrease in specific conductance. In June 2016, PTL discovered leachate leaking from a cover defect onto soils in this area. This condition was repaired promptly and PTL has suggested that this leachate leakage may

have contributed to the rising trend observed in the MW-03-802 and -803 wells. As shown in Table 1, new high conductivity values were measured in these wells in October 2016 or April 2017, after the repairs were complete. However, it may be too soon to observe improvements and future sampling data in 2017 and 2018 should provide better insight in the possible role of the leachate leak in this area.

#### Discussion of Arsenic in Groundwater.

During 2014 and 2015, data from the PTL monitoring program showed increasing arsenic concentrations at on-site monitoring locations. During 2014, PTL conducted supplemental sampling at off-site residential wells. The June 2014 arsenic concentrations were below the detection limit at all off-site wells except DW-103, where the concentration was 0.012 mg/L, slightly above the MCL and MEG concentrations for arsenic of 0.010 mg/L. Arsenic was detected at concentrations below the MCL & MEG at the PTL office well and the well at the Gas to Energy plant. After reviewing the data, the MDEP concluded that the arsenic sampling program “did not suggest widespread impact of the closed landfill on water quality of the surrounding residential wells included in the investigation”.

In 2015 the MDEP requested and PTL agreed to include the historically sampled residential wells in the three rounds of sampling planned for 2015. Wells identified as DW-103 and DW04-109 (east), DW-104 (south) and DW-105 (west) were sampled and analyzed for arsenic in April, July and October 2015. Arsenic concentrations were generally below the MCL/MEG in these wells in 2015 except at DW-103 where the concentration was in the 0.014 to 0.019 mg/L range.

In 2016 arsenic was sampled at DW04-109 and DW-103 in October and was below the detection limit and 0.010 mg/L (equal to the MCL/MEG), respectively.

Arsenic was analyzed in 12 on-site and 2 off-site monitoring wells in October 2016 and in April 2017. These samples had lower arsenic concentrations compared to April 2016 in all locations except for a small increase in MW-916, where arsenic was 0.008 mg/L in April 2016 and 0.010 mg/L in April 2017. While 8 of the on-site monitoring wells and 2 of the off-site monitoring wells sampled in April 2017 had arsenic concentrations above the MCL/MEG, the data no longer suggest an increasing trend in arsenic concentration.

#### **V. Geotechnical Monitoring**

The geotechnical monitoring program for the landfill is summarized in a report prepared by Dr. Richard Wardwell, PE, who has been involved with the geotechnical monitoring at that site for many years. The observational approach is utilized in the monitoring, based primarily on topographic surveying of the surface and surveying of multiple survey monuments that were embedded in the surface of the landfill cover system. The primary purposes of the geotechnical monitoring are to assess if the internal waste mass and foundation soils are stable, and to assess if the cover system is performing as-designed.

Internal and Waste Mass Stability: The internal and waste mass stability is assessed by an evaluation of the horizontal and vertical deformation of four displacement monuments at the toe of the landfill along the east side. The horizontal and vertical movements measured do not indicate that there are any detrimental large-scale movements occurring that would be indicative of large-scale waste-mass or foundation soil movements. There is a significant amount of scatter in the horizontal deflection data, but the overall trends indicate that the foundation soils and waste mass are not undergoing detrimental horizontal displacements. The vertical displacement at these four displacement monuments has leveled off since December 2014.

Cover System Monitoring: The performance of the cover system is also assessed using survey measurements of embedded displacement monitors. Several monuments are installed in each phase of the closure, and horizontal and vertical deflections have been made at least quarterly since those phases were closed. The report includes the plots of horizontal and vertical deformation.

- The horizontal deformation plots for all phases do not indicate any trends that would be indicative of large scale movements that would be detrimental to the cover system integrity. The data are scattered, and some general downslope creep is evident but this is expected given the overall large deformation of the waste mass due to secondary settlement.
- The vertical displacement plots all indicate that the rate settlement is diminishing with time. This is also expected especially since waste loading has stopped and the landfill is now covered. These vertical displacement plots are also used to calculate strain that has likely occurred in the liner. Excessive strain could result in a rupture of the primary geomembrane liner, therefore these periodic assessments of liner strain are important to demonstrate that the movements that are occurring are within those originally predicted during the design phase. The strain calculations are summarized in a table and indicate that the likely strain incurred to date is well within the allowable strain for this type of membrane. The current rate of strain is also extrapolated over the 30-year closure period and those extrapolations are also well within the allowable strain for the liner.

Leachate Recirculation System: During 2016 there were three incidences of leachate seeping through the cover system. In investigating the seeps, PTL concluded that they were caused by the leachate recirculation system. The three incidents are summarized as follows:

Seep1: Seep 1 was located on the southeast corner of the landfill and associated with a loose clamp on a cleanout boot. The loose clamp created a void that allowed a path for leachate to seep from under the cover system.

Seep 2: Seep 2 was located on the east side of the landfill between the external soil gas extraction wells PTGW8-12 and PTGW8-13. The leachate seepage occurred through a two foot long tear in the liner system at this location.

Seep 3: Seep three was located on the east side of the landfill across the access road towards the top of the landfill. The seepage occurred through another tear in the liner, located beneath the riprap lined drainage swale.

It appears that the root cause of the seepage was associated with the recirculation system. PTL tested each of the four leachate recirculation trenches by pumping clean water into the trenches. Shortly after introducing this water into trenches LRT-1 and LRT-4 leakage was observed through the same seeps. The tears in the liner were then repaired and PTL has discontinued the use of LRT-1 and LRT-4 for the foreseeable future.

These seeps indicate that the two trenches LRT-1 and LRT-4 are likely plugged due to either biological growth, chemical precipitation or particulate accumulation, or a combination of the three. The leachate introduced into these trenches indicates that the trenches are clogged, and the fluid partially or fully flowed along a path of least resistance which, according to the Maine DEP staff, was into the gas collection layer between the clay layer and the LLHDPE layer of the cover system. Once the leachate hit these defects in the cover system, the leachate had a path to exit, rather than travel into the leachate collection system.

These incidents highlight the potential for the remaining 2 recirculation trenches to clog and for recirculated leachate to flow into the cover system to unintended areas of the landfill. Build-up of leachate within the cover system could limit the effectiveness of gas collection and might create cover stability issues. In light of this, we will contact PTL to review the status of the recirculation system, understand current operational practices and determine whether additional monitoring is being conducted or is appropriate to prevent a re-occurrence of this condition.

## **VI. Closing**

Overall, the water quality monitoring data from PTL reflected in the 2016 Annual Report and April 2017 water quality data indicate that there continues to be gradual improvement at many monitoring locations. At this time PTL is in the 7<sup>th</sup> year of the 30 year post-closure monitoring period and is not required to meet the target criteria. Yet there are several on-site locations that are close to or meet the corrective action criteria. Additionally, the trend of increasing arsenic concentrations appears to have abated and lower concentrations have been measured in most wells recently. While this is positive, there is still evidence of significant landfill impact at many on-site monitoring wells. Groundwater in several wells south and southwest of the landfill continue to exhibit increasing concentration trends, despite the cover repair conducted in this area in June 2016.

Continued operation of the corrective action systems (groundwater extraction and external gas extraction) are necessary to maintain and extend the improvement observed to date. If the trend of increasing conductivity in the MW03-802 and MW03-803 wells on the south side of the landfill continues, it may also be appropriate for PTL to consider additional corrective actions in this area in the future.

The geotechnical monitoring at the landfill indicates that the cover system is performing as designed, and that there are no indications of large-scale waste mass foundation instabilities. We will contact PTL to gather additional information about the performance of the leachate recirculation and update the Town on our findings.

We hope that the information summarized in this memorandum is helpful to the Town. If there are any questions or a more detailed review would be appropriate, please give me a call at your convenience.

Figure 1-1

# Endorsing a national carbon fee and dividend policy

Below is a Draft resolution that the Portland Chapter of Citizens Climate Lobby urges the Portland City Council to adopt. The resolution advocates for a national, revenue-neutral carbon fee-and-dividend system (CF&D).

This measure would place a predictable, steadily rising price on carbon, with all fees collected minus administrative costs returned to American households as a monthly energy dividend.

For the US, it would represent an important first step toward climate mitigation that is compatible with existing cap-and-trade systems like **New England's Regional Greenhouse Gas Initiative (RGGI)** and other clean-energy incentives, and similar to measures being adopted by other nations and subnational regions around the world.

In just 20 years, studies show, such a carbon-fee-and-dividend system could reduce carbon emissions to 50% of 1990 levels while adding 2.8 million jobs to the American economy.

Additionally and predictably, with a revenue neutral carbon fee and dividend:

- The increasing price on carbon will send a clear market signal that will unleash entrepreneurs and investors in a new clean-energy economy.
- With all of the revenue returned to households on an equal basis, two thirds of households will break even or receive more in dividends than they would pay in higher living expenses. Maine households will benefit more than the national average because working class families fare better than the wealthy with equal rebates.
- A border adjustment will discourage domestic businesses from relocating where they can emit more carbon dioxide and encourage other nations to adopt an equivalent price on carbon.

We residents of Portland are seeking this City Council resolution to prompt our members of Congress to understand the broad backing this sort of measure has now. Our U.S. Rep. Chellie Pingree has specifically asked us to get endorsements within her 1<sup>st</sup> Congressional District.

Click here for answers to frequently asked questions.

# Portland City Council Resolution (proposed)

*(adapted from the City Council of Philadelphia's endorsement)*

*([Click here](#) to see other endorsements.)*

WHEREAS, The City Council of Portland, Maine, is committed to fighting climate change and to protecting city residents from the effects of climate change and air pollution; and

**WHEREAS, Climate change poses serious threats to Portland's** economy, public health, and environment; and

WHEREAS, There is scientific consensus regarding the reality of climate change and the connection between human activity, especially the combustion of fossil fuels that create greenhouse gases, and warming of the planet;

WHEREAS, As a result of climate change, the Northeast is experiencing warming temperatures, heavier downpours, and increased rainfall; and

WHEREAS, Carbon pollution in our atmosphere increases asthma and premature deaths in our region; and

WHEREAS, Sea level rise, increasingly heavy downpours and storm surges **threaten the city's coastal assets and annual high tides are** already flooding **Portland's low-**lying streets and wharves; and

WHEREAS, Water temperatures in Casco Bay are rising faster than in almost any other part of any ocean on the planet driving food fish and lobsters northward and into deeper waters; and

WHEREAS, Increasing unpredictability of temperatures and frost is damaging our region's agriculture, damaging livelihoods and the regional economy, and threatening our food supply; and

WHEREAS, Congress has the responsibility to act swiftly and effectively on the issue of climate change; and

WHEREAS, Legislation addressing climate change should not economically burden Portland or its residents; and

WHEREAS, Carbon Fee and Dividend as put forth by the Citizens Climate Lobby would greatly help fight climate change, would help protect Portland and its residents from the effects of climate change, and would be a net economic boost to Portland and our region;

NOW, THEREFORE, BE IT RESOLVED, THAT THE Portland City Council and Mayor call on the United States Congress to address climate change by adopting as one important measure among others a Carbon Fee and Dividend as a sound, effective policy.

Passed and Adopted this XX day of XXX, 2017.



Town of Hampden  
Land & Building Services

## Memorandum

To: Planning & Development Committee  
From: Karen M. Cullen, AICP, Town Planner *KMC*  
Date: August 14, 2017  
RE: Retail (Recreational) Marijuana Amendments

As directed by the Town Manager in accordance with the Resolution adopted on April 18, 2017 by Town Council regarding the legalization of recreational marijuana, the following amendments to Section 7.2, Definitions, of the Zoning Ordinance are proposed. The purpose of these amendments is to effectively prohibit retail sales of marijuana and social clubs for marijuana. Modifications to a number of existing definitions are proposed to be clear about how retail marijuana businesses should be interpreted – e.g. neither retail marijuana sales nor social clubs are to be considered as home businesses or customary home occupations.

These amendments are the first phase of the expected zoning amendments dealing with retail marijuana; the second phase will deal with regulating the other three use categories – cultivation, testing, and product manufacture. Those will not be drafted until late 2017 or early 2018, since we are waiting for more information from the state on how their rules will handle the industry and what municipalities will be able to do for local regulation.

## TOWN OF HAMPDEN

The Town of Hampden Hereby Ordains  
Proposed Amendments to the Zoning Ordinance

Deletions are ~~Strikethrough~~ Additions are Underlined

**Amend §7.2 Definitions**

**Agriculture:** The production, keeping or maintenance of plants and/or animals including but not limited to: forages and sod crops, grains and seed crops; dairy animals and dairy products; poultry products; livestock; fruits and vegetables; and other plants. Agricultural uses shall include wholesaling, retailing and processing of agricultural products which are customary and accessory to an agricultural use. Agriculture does not include forest management, commercial nurseries, ~~and timber harvesting activities, or commercial cultivation of marijuana.~~ (Amended: 12-18-95)

**Customary Rural Businesses:** Shall be limited to the following uses: Retail Sales & Service; products produced on-site such as art work, pottery, quilts, needle work, baked goods and wooden furniture, antiques, farm & logging supply, feed and grain store, tack shop, grocery and convenience store, hunting & fishing supplies, taxidermy, sporting and camping equipment, Places of Assembly; diners and roadside cafes where no drive thru service is provided (not to exceed 30 seats), bed & breakfast inns (not to exceed 10 guest rooms). Retail marijuana stores, social clubs, cultivation, processing, or testing establishments shall not be categorized as Customary Rural Businesses. (Amended: 12-2-96)

**Drug store or Pharmacy:** An establishment engaged in the retail sales of prescription drugs, non-prescription medicines, medical equipment or supplies, with or without other consumer products for sale, but not including the sale of marijuana or products containing marijuana.

**Home occupation:** ~~The subordinate use of a dwelling unit or structure accessory to a dwelling unit for gainful employment involving the manufacture, provision or sale of goods and/or services. See Use of Residence for Business Purposes.~~

**Medical marijuana:** ~~Marijuana shall have the definition set forth in Title 17-A M.R.S.A. Section 1101(1) and the State of Maine Rules Governing the Maine Medical Use of Marijuana Program (10-144 CMR Chapter 122, Section 1.15), as the same may be amended from time to time. (Amended 03-07-11) The leaves, stems, flowers and seeds of all species of the plant genus cannabis, whether growing or not; but shall not include the resin extracted from any part of such plant and every compound, manufacture, salt, derivative, mixture or preparation from such resin including hashish and further, shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture or preparation of such mature stalks, fiber, oil or cake or the sterilized seed of such plant which is incapable of germination. [17-A MRSA Section 1101.1 – medical marijuana laws]~~

**Retail marijuana:** All parts of the plant of the genus Cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or its resin including cannabis concentrate. "Retail marijuana" does not include industrial hemp, fiber produced from the stalks, oil, cake made from the seeds of the plant,

sterilized seed of the plant that is incapable of germination or any ingredient combined with cannabis to prepare topical or oral administrations, food, drink or any other product. [17 MRSA Section 4224.5 – marijuana legalization act]

Retail marijuana social club: An entity licensed to sell retail marijuana and retail marijuana products to consumers for consumption on the licensed premises. [17 MRSA Section 4224.39 – marijuana legalization act]

Retail marijuana store: An entity licensed to purchase retail marijuana from a retail marijuana cultivation facility and to purchase retail marijuana products from a retail marijuana products manufacturing facility and to sell retail marijuana and retail marijuana products to consumers. [17 MRSA Section 4224.40 – marijuana legalization act]

Retail sales: The sale or rental of merchandise to the general public. Retail sales shall be limited to merchandise typically kept in stock on the premises. Retail sales shall allow accessory service unless prohibited elsewhere in this Ordinance. Retail sales shall not include the sale of marijuana or any product for human consumption that includes marijuana or any derivative of marijuana.

Service business: Any business or establishment which provides a service for hire by others, conducted through the application of some specialized knowledge, training, skill or talent, or through the employ of physical exertion or other effort in the performance of some special action or work. A service business shall include any establishment engaged in the fields of finance, insurance or real estate and any establishment providing professional, personal, or business services; a service business shall not include automobile service, outdoor recreation, manufacturing use, ~~or~~ a hotel or motel, or cultivation, harvesting, processing, testing or sales of marijuana, but may include rooming houses, boarding homes, tourist homes, and bed and breakfast establishments with six (6) or fewer rooms.

Use of Residence for Business Purposes: The subordinate use of a dwelling unit or structure accessory to a dwelling unit for gainful employment involving the manufacture, provision or sale of goods and/or services, with the exception that neither retail marijuana sales nor marijuana social clubs shall be operated under these provisions. There are three categories of such use, which are defined in §4.10 of this ordinance: home business, customary home occupation, and home based contractor. (Added 4-18-17)