

8 September 2011

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Mass DEP-Central Regional Office  
627 Main Street  
Worcester, MA 01608

Attention: Bureau of Resource Protection-Wetlands

Re: Request for Superseding Order MassDEP File #: 214-0580, Former Medfield State Hospital,  
45 Hospital Road, Medfield MA 02052

To Whom It May Concern:

As a signer and designated spokesperson for the Medfield, MA resident group identified on the attached petition, I am writing to request that MassDEP review the Order of Conditions (MassDEP File# 214-0580) issued by the Medfield Conservation Commissioners on August 26, 2011, and that Mass DEP then issue a Superseding Order.

The "ten-resident" group believes that the Commissioners, by relying on insufficient and/or inaccurate representations submitted by DCAM in support of their NOI and by the Commissioners' subsequent dismissal of information provided orally and in writing by concerned residents at the hearings, approved work under the Order of Conditions that will harm the Charles River, the river bed, river bank, and river-front area for the interests protected under the Wetlands Protection Act and the regulations.

Specifically, the work does not meet the performance standards for resource areas and DCAM did not provide current, accurate or complete information about: 1.) the nature of release for which capping of in-river sediment was proposed; 2.) the reason for selection of temporary capping (Aquablok) as the in-river remediation; 3.) the intended permanent nature of the remedial actions proposed and their significant impacts on flood control, wildlife habitat, fisheries, water supply, groundwater, water quality, and for the prevention of storm damage; and 4.) alternatives of less impact to resource areas.

#### 1.) Nature and Urgency of the Purported Release

Reports of oily sheen observed around sediment samples were presented in the NOI as evidence of a recent release/migration, but were instead, as acknowledged by DCAM at the hearings, caused by sampling activity disturbance. DCAM further stated that the reported oil sheen was only observed in the sample trays, not in surface water.

The NOI DCAM statement that impacted sediment existed within the top 6-12 inches of the sediment was not supported by relevant sampling logs which revealed that oil was found below sediment depths of 11-12 inches.

The Commissioners, in issuing the Order of Conditions did not evaluate this information and data which supported public comments that oily contamination in the river at the C&D area was decades old, was almost certainly, as reported in eye-witness account, the result of overland runoff into the river at this location from a spill at the Power Plant in 1978, and was not the result of an immediate or threatened migration into the river.

## 2.) Selection of Temporary Cap (Aquablok) and Subsequent Removal

a.) Under the NOI plan DCAM proposed to cap an 800 square foot area of sediment before the end of this season's low-water period because this "remedial measure is considered to be a preferred alternative to dredging the site." The Commissioners were advised by concerned residents, that at several public meetings DCAM had stated that capping was selected, not because it was the preferred solution or because of any lesser degree of disturbance to the river, but solely because its shorter US Army Corps of Engineers approval process made it the only solution which could be emplaced during this season's low-water period.

In spite of discussions during NOI hearings and acknowledgement by DCAM that contaminated sediment in the river may well extend over a larger area than the IRA's proposed temporary 800 square feet, estimates as to the relative level of ecological risk reduction from temporarily capping what may be only a portion of the contaminated sediment while leaving additional areas uncapped were not provided. Despite their statements about the need for "additional assessments", DCAM did not propose any new sample locations, or if new samples had already been taken, did not provide any results.

The Commissioners did not take into consideration public arguments that the effort and costs of installing and then removing the temporary Aquablok to achieve, at best minimal mitigation of an unproven release migration, would be better utilized in determining the full extent of sediment contamination and risk to the environment and then removing it in a single-stage operation.

b.) The Commissioners were apprised of public concerns that the costs for 8 months' monitoring/inspection of this temporary cap required to ensure its continued integrity, and the costs for its removal next year with potential additional river disturbance, could not be offset by any demonstrable benefit, particularly in light of (a.) above. In response to the Commissioners' proposed imposition of "periodic event-driven monitoring to ensure continuing correct placement and integrity of the temporary Aquablok capping", particularly during high water conditions in this 8-month period, DCAM replied that "...even if there is damage to the cap, it cannot be repaired during this period".

The Commissioners should not have approved implementation of DCAM's unjustifiably urgent, needlessly expensive and potentially harmful in-river effort until completion of the final, comprehensive identification of the nature and extent of sediment contamination and additional, more comprehensive alternatives for a permanent solution were provided for public review and comment.

## 3. Approved "Temporary" River-Adjacent C&D Area Proposal Is Permanent

We believe that the Order of Conditions relied on incomplete/inaccurate DCAM statements that:

a.) the steep disposal area slopes directly adjacent to the Charles River pose a continuing, current contamination hazard to the river; b.) urgent remediation of this condition was required this low-water season; c.) a "substantial" amount of waste would be removed; and d.) the proposed riverside remediation was not permanent.

a.) As described in (1.) above, contamination in the C&D riverside and adjacent areas is decades old and, we believe that no current data was presented at the NOI hearing that showed any active migration into the river. (Excluding the reported CVOC plume originating in the upper campus laundry area and possibly from a second source in the Power Plant Area, the extent of which will supposedly be addressed in the Final Phase II CSA Report; and the remediation of which, DEP has advised, shall not be impeded by any C&D area efforts.)

b.) We believe that DCAM's partial removal of asbestos containing material, installation of riprap, and partial capping of the C & D Area was not designed to address an imminent hazard, but rather as a means to expeditiously implement a unilaterally developed, non-negotiable, lowest cost solution. DCAM did not provide the Commission sufficient current data or sufficient time, because of their unsubstantiated claim of a substantial release migration and low-water deadline, for an adequate review.

c.) The total volume of contaminated fill had been defined as early as 2003 as "a minimum of 2.2 acres" and "approximately 27,800 cubic yards". In the NOI submission DCAM redefined the C&D area at 3.2 acres, but did not provide an estimate of additional fill above the previous estimate as a result of this additional area. The planned removal of only 7,000 cubic yards is hardly substantial and the Commission has approved leaving behind the majority of contaminated material, much of it under the groundwater in this Zone II and Potentially Productive Aquifer as a long term threat to the river, wetland resources, and Medfield's nearby principal Town Well # 6.

d.) Although the Order of Conditions stipulates that it does not confer the right for any work to effect a permanent solution, the Commission, by approving the NOI plan for the adjacent riverside has done precisely that. Approximately 200 feet of riprap has been approved to secure a flexible membrane liner in place. DCAM, in discussions at the NOI hearing stated that once emplaced this riprap will *not* be removed. We believe this will harm the interests protected under the Wetlands Act. DCAM also stated that once the membrane liner has been installed and clean capping has been applied, no additional contaminated soil/material will be removed. The Commission, in contradiction of its stated intent has approved and sanctioned the permanent solution for the C&D Area.

#### 4. Failure to Adequately Address Alternatives of Lesser Impact

Because the Commission relied on DCAM's statements that urgent remediation was required this low-water season and that the proposed riverside remediation was not permanent, "the Commission did not consider alternatives that would require removal of more waste, greater restoration of riverfront area currently covered by waste, and additional protection of ground water traversing the area from higher ground or entering from the center of the unlined area in the middle of the site".

We believe that the permanent solution approved by the Order of Conditions fails to protect the interests under the Wetlands protection Act and that as a result, the C&D Area will remain in perpetuity as a threat to the environment at this sensitive riverside location.

8 September 2011

W. Massaro

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For the reasons summarized above, the residents of Medfield identified on the attached petition request that MassDEP review the Order of Conditions (MassDEP File# 214-0580) issued by the Medfield Conservation Commissioners on August 26, 2011, and that Mass DEP then issue a Superseding Order.

Yours truly,



William J. Massaro  
36 Evergreen Way  
Medfield, MA 02052  
508-359-4474  
[wmassaro@comcast.net](mailto:wmassaro@comcast.net)

Enclosures: Medfield Residents' Petition for Superseding Order MassDep File# 214-0580  
Copy of Request for Departmental Action Fee Transmittal Form  
Copy of Money Order for \$200.00 Payable to Commonwealth of Massachusetts

CC (via certified mail):

Ms. Leslee Willits, Medfield Conservation Commission  
Mr. John O'Donnell, Mass Division of Capital Asset Management

# Appeal of Medfield ConComm 8/26/11 Order of Conditions

2.182

To: Massachusetts Department of Environmental Protection-Central Regional Office, Worcester MA

We the undersigned residents of Medfield Massachusetts, having identified William J. Massaro as our group representative, hereby request a Superseding Order to the Medfield Conservation Commission Order of Conditions issued on August 26, 2011 (MassDEP File # 214-0580) which granted approval of a project at the former Medfield State Hospital, 45 Hospital Road, Medfield MA, for the temporary capping of contaminated sediment within the Charles River and for the partial removal of contaminated material along the adjacent banks:

	Signature	Address	E-mail Address	Telephone
1.	William J. Massaro	36 EVERGREEN WAY MEDFIELD, MA	wmassaro@comcast.net	508-359-4474
2.	Lorraine Cress	44 Evergreen Way, Medfield, MA	katecress@yahoo.com	508 359 5611
3.	Barbara Day	28 Evergreen Way, Medfield, MA	JMDAY4@GMAIL.COM	508-359-5331
4.	Joe Lippert	15 Springville St Medfield MA	jsmith@verizon.net	508-359-2554
5.	Leo Murphy	40 Evergreen Way, Medfield, MA	clark5@comcast.net	508-359-1707
6.	John P. DeSilva	34 Evergreen Way, Medfield, MA	mark.samuels@gmail.com	617-320-3525
7.	Robert P. DeSilva	13 Lawrence Circle Medfield	Feedback@comcast.net	508-359-5413
8.	John T. Hickey	17 Hospital Road Medfield	johnny666@icloud.com	508-359-2876
9.	Rory and Bin	13 Stony Brook Rd Medfield	rtdobrien@verizon.net	508-359-2382
10.	Beverly Allen	31 Longmeadow Rd Medfield	wendupcarlson@yahoo.com	508-359-5586
11.	Jim	28 Evergreen Way	joe405@gmail.com	508-359-5531
12.	Mary Callahan	28 Evergreen Way Medfield	Danrygicall@comcast.net	508-359-1876
13.	Rita Kagan	40 Evergreen Way Medfield	evica-burner@comcast.net	508-359-1707
14.	Tim Hall	34 Evergreen Way Medfield	debra.carbarnes@gmail.com	781 956 2901

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**Massachusetts Department of Environmental Protection**  
**Bureau of Resource Protection - Wetlands**  
**Request for Departmental Action Fee**  
**Transmittal Form**

DEP File Number:

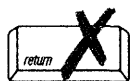
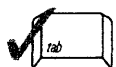
214-0580

Provided by DEP

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

**A. Request Information**

**Important:**  
When filling  
out forms on  
the computer,  
use only the  
tab key to  
move your  
cursor - do  
not use the  
return key.



1. Person or party making request (if appropriate, name the citizen group's representative):

William J. Massaro (Citizen Group Representative)

Name

36 Evergreen Way

Mailing Address

Medfield

City/Town

508-359-4474

Phone Number

MA

State

02052

Zip Code

N/A

Fax Number (if applicable)

Project Location

45 Hospital Road

Mailing Address

Medfield

City/Town

MA

State

02052

Zip Code

2. Applicant (as shown on Notice of Intent (Form 3), Abbreviated Notice of Resource Area Delineation (Form 4A); or Request for Determination of Applicability (Form 1)):

John O'Donnell Commonwealth of Massachusetts Division of Capital Asset Management

Name

One Ashburton Place, 15<sup>th</sup> Floor

Mailing Address

Boston

City/Town

617-727-4030 x207

Phone Number

MA

State

02108

Zip Code

617-727-4043

Fax Number (if applicable)

3. DEP File Number:

214-0580

**B. Instructions**

1. When the Departmental action request is for (check one):

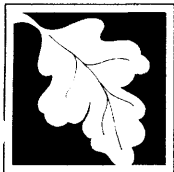
☒ Superseding Order of Conditions

☐ Superseding Determination of Applicability

☐ Superseding Order of Resource Area Delineation

Send this form and check or money order for \$100.00 (single family house projects) or \$200 (all other projects), payable to the *Commonwealth of Massachusetts* to:

Department of Environmental Protection  
Box 4062  
Boston, MA 02211



**Massachusetts Department of Environmental Protection**  
Bureau of Resource Protection - Wetlands  
**Request for Departmental Action Fee**  
**Transmittal Form**

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

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DEP File Number:

214-0580

Provided by DEP

**B. Instructions (cont.)**

2. On a separate sheet attached to this form, state clearly and concisely the objections to the Determination or Order which is being appealed. To the extent that the Determination or Order is based on a municipal bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.
3. Send a **copy** of this form and a **copy** of the check or money order with the Request for a Superseding Determination or Order by certified mail or hand delivery to the appropriate DEP Regional Office.
4. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.



**Bank of America** **Personal Money Order**No. **2244854**

VOID AFTER 90 DAYS

MEDFORD BANKING CENTER

38-1/1140  
NTX

SEPTEMBER 07, 2011

Date

Pay To The  
Order OfCommonwealth of Massachusetts

\*\*TWO HUNDRED DOLLARS AND 00 CENTS\*\*

\$ \*\*200.00\*\*

Not Valid Over \$1000

Bank of America is not liable for lost or stolen Money Orders. For your protection  
against loss or theft, sign and complete this Money Order as soon as possible.

0084640 00004 002244854

Bank of America, N.A.  
San Antonio, Texas

Signature Of Purchaser (Drawer)

William J. Massaro

Name Of Purchaser (Drawer)

36 EVERGREEN WAY MEDFORD, MA 02052

Address

City, State, Zip

⑈ 2244854 ⑈ ⑆ 114000019 ⑆ 001641005362 ⑈

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