W/ATTACHMENT

JOHN KERRY
MASSACHUSETTS

COMMITTEES
COMMERCE, SCIENCE, AND TRANSPORTATION
FINANCE
FOREIGN RELATIONS
SMALL BUSINESS

United States Senate

WASHINGTON, DC 20510-2102

1 Bowdoin Square
10th Floor
Boston, MA

May 16, 2012

The Honorable Deval Patrick
Massachusetts State House
Office of the Governor, Room 280
Boston, MA 02133

Dear Governor Patrick,

Please find enclosed correspondence from William J. Massaro regarding the former Medfield State Hospital. The correspondence describes concern that interested parties have raised regarding the Commonwealth of Massachusetts' Division of Capital Asset Management (DCAM), and its proposed remediation of hazardous waste at the site.

On April 12, 2012 DCAM and Weston & Sampson (W&S) released selected Phase IV Remediation Implementation Plan (RIP) for the Construction & Demolition Debris(C&D) Area. Mr. Massaro and other interested parties argue this plan is, essentially, the lower-cost and incomplete remediation first objected to by the Town of Medfield, The Charles River Watershed Association, The Trustees of Reservations, and Medfield residents' Public Involvement (PIP) group in July-August 2011. According to the correspondence, the Phase IV RIP proposes to remove less than 15% of the 75,000 tons of hazardous fill over 3.2 acres at depths of up to 12 feet during the more than 100 years' operation of the facility.

According to the corresponding documents, selected remediation will leave behind asbestos-contaminated material, high levels of lead and other metals, and coal/waste incineration ash, as a permanent toxic landfill under groundwater, in the Zone II of the Town's main well, within a potentially productive medium-yield aquifer, and within the 100-year flood plain of the Charles River.

It is my hope to be responsive to all inquiries and communications received by my office. Your consideration of the attached is therefore requested. I would appreciate you looking into this matter and sending your response to Meghan Leahy in my Boston office.

Thank you for your time, consideration and cooperation with this important matter.

Sincerely,

John F. Kerry
United States Senator

William J. Massaro
36 Evergreen Way
Medfield, MA 02052

8 May 2012

Senator John F. Kerry
One Bowdoin Square
10th Floor
Boston, MA 02114

Subject: Inappropriate and Inadequate Environmental Remediation-
Former Medfield State Hospital

Dear Senator Kerry,

In prior correspondence I have described the immediate concern that the Town of Medfield and other parties have with The Commonwealth of Massachusetts' Division of Capital Asset Management (DCAM), about its proposed remediation of hazardous waste at the former Medfield State Hospital. Specifically, I had addressed our objections to the low-cost, expediency-driven solution which will result in leaving an unlined hazardous materials landfill permanently in place alongside the Charles River.

On April 12, 2012 DCAM and Weston & Sampson (W&S), citing schedule urgency, permitting and contractor lead times, and the need to complete work during the coming low-water season, released their selected Phase IV Remediation Implementation Plan (RIP) for the Construction & Demolition Debris(C&D) Area.

This plan is, essentially, the lower-cost, expedient, incomplete remediation first objected to by the Town of Medfield, The Charles River Watershed Association, The Trustees of Reservations, and Medfield residents' Public Involvement (PIP) group in July-August 2011. In spite of continued, detailed comments and concerns by these same groups as to adequacy and appropriateness, this Phase IV RIP proposes to remove less than 15% of the 75,000 tons of hazardous fill deposited by the Commonwealth over 3.2 acres at depths of up to 12 feet during the more than 100 years' operation of the facility.

The selected remediation will leave behind more than 60,000 tons of asbestos-contaminated material, unacceptable levels of lead and other metals, and coal /waste incineration ash, as a permanent toxic landfill under groundwater, in the Zone II of the Town's main well, within a potentially productive medium-yield aquifer, and within the 100-year flood plain of the Charles River.

The proposed partial remediation threatens to permanently deprive the Town and its future residents of critical resources needed to recover from any diminished production or complete loss of primary Well #6, or to meet increased drinking water needs through new well installation anywhere in this area. This loss, as well as the financial burden it will impose on the Town and its taxpayers to develop alternative supply, is completely unacceptable.

I have attached a representation of the C&D Area and the extent and nature of the contamination showing what DCAM has proposed to remove and, more importantly, what will be left behind by the selected remediation. I believe that there are no circumstances today, where a waste incineration facility and a medical/hazardous waste landfill would be allowed to be emplaced, or allowed to remain in operation in such an environmentally sensitive area as this Charles River–adjacent C&D Area. The proposed land fill that DCAM/W&S is proposing to leave behind in perpetuity certainly would not.

On February 22, 2012 the Medfield Board of Selectmen issued the following statement to DCAM which formally stated long-raised Town and public objections to the selected remediation of the C&D Area and requests the Commonwealth recognize its responsibilities to fully remediate the C&D Area:

> "The Town of Medfield is opposed to any plan to cap rather than remove all of the contaminated material adjacent to the Charles River. The Town seeks unrestricted use (no Activity and Use Limitations) for the area and requests that the Commonwealth of Massachusetts remove all of the contaminated fill, construction and demolition waste, and medical and incineration waste, placed on the ground by the Commonwealth of Massachusetts, from the Zone II, maximize removal from the potentially productive aquifer and, to the degree feasible from the gasline easement"

Thank you for your continued interest and support in our efforts to achieve this cleanup.

Sincerely,

William J. Massaro

TOWN OF MEDFIELD

Office of

BOARD OF SELECTMEN

TOWN HOUSE, 459 MAIN STREET
MEDFIELD, MASSACHUSETTS 02052-0315

(508) 359-8505

MICHAEL J. SULLIVAN
Town Administrator

February 22, 2012

Ms. Carole Cornelison, Commissioner
Division of Capital Asset Management
One Ashburton Place, 15th Floor
Boston, MA 02108

RE: Town of Medfield Policy Statement
Medfield State Hospital Property

Dear Commissioner Cornelison,

On January 24, 2012 in order to facilitate DCAM's plan to begin field work on the Supplemental Massachusetts Contingency Plan (MCP) Phase II Comprehensive Site Assessment Scope of Work, the Public Involvement Plan (PIP) group submitted its comments and those of the Town's State Hospital Environmental Review Committee (SHERC) on the Draft Immediate Response Action (IRA) Plan Modification, Draft Clay Containment Release Abatement Measure (RAM) Completion Report and Class A-2 partial Response Action Outcome (RAO), and the Supplemental Phase II Report (December 2011).

These comments were in addition to those discussed in Technical Meetings on January 12, 2012 and January 19, 2012, and several of them had been expressed previously.

The Medfield Board of Selectmen is particularly concerned that: 1.) SHERC-requested investigations for the presence of additional contaminants of concern in the C&D Area (this area has been redefined by SHERC and the PIP group as an incineration/medical waste landfill) and in Charles River sediment and we are concerned that they may not be performed; and 2.) no evaluation of alternatives beyond the partial fill removal and capping currently favored by DCAM will be presented in the Phase III Remedial Action Plan report.

The C&D/MWL Area intersects the Town's principal water supply, prevents flood storage that originally existed, is in an area used for boating, fishing, hiking, and is clearly intended for ever-increasing public use in the future. A portion of this area is within the Zone II and the remaining portion is considered as a "potentially productive aquifer", which may be required for future water supply purposes but will not be permitted if the hazardous materials are left below the water table.

The Board of Selectmen, SHERC, the PIP group and the Charles River Watershed Association have all expressed concerns that the current DCAM-favored remediation plan has been put forth primarily in the interests of expediency and low cost. As a Town, we believe that the benefits of the area far outweigh the costs to perform the response actions to clean the area up, so that future generations can have the maximum benefits of the property. In this way, no portion of the developed property will be devalued by its proximity to an unlined hazardous materials landfill.

The Town of Medfield is opposed to any plan to cap rather than remove all of the contaminated material adjacent to the Charles River. The Town seeks unrestricted use (no Activity and Use Limitations) for the area and requests that the Commonwealth of Massachusetts remove all of the contaminated fill, construction and demolition waste, and medical and incineration waste, placed on the ground by the Commonwealth of Massachusetts, from the Zone II, maximize removal from the potentially productive aquifer and, to the degree feasible, from the gas line easement.

Sincerely,

Ann B. Thompson

Osler L. Peterson
Ann B. Thompson
Mark Fisher

Charles River Watershed Association

By Fax and Mail

May 2, 2012

Allen Wiggin
Division of Capital Asset Management
One Ashburton Place, 15th Floor
Boston, MA 02108

Re: Former Medfield State Hospital, Medfield, MA Draft Phase IV – C&D Area Remedy Implementation Plan

Dear Mr. Wiggin:

The Division of Capital Asset Management (DCAM) presented its ***Draft Phase IV – C&D Area Remedy Implementation Plan*** to the Medfield PIP Group on April 12, 2012. The Charles River Watershed Association (CRWA) submits the following comments on the Phase IV C&D Area RIP for the above-referenced project.

MCP Process:

At the outset we'd like to express our frustration with the MCP public process. CRWA submitted lengthy (and we think you'll agree, thoughtful) comments on the Phase II and III reports. Therefore, we were extremely discouraged that DCAM issued the Draft Phase IV remedial action plan three business days after the Phase II/Phase III comment period deadline, only two business days after CRWA's Phase II/III comments were submitted, and well before the Town was able to submit its comments.[1] This is at odds with DCAM's goal of increased transparency, and its solicitation of stakeholder input. CRWA appreciates the scheduled stakeholder meetings and more open dialogue which has taken place over the last few months. However, given the timing of the Draft Phase IV and comments by staff that the project cannot be materially changed because it has already been bid and awarded, it is hard to believe that public input is being seriously considered. Nor is it possible given this timing that the Draft Phase III comments have been considered and incorporated into a Final Phase III, which should form the basis of a Phase IV remedy selection. We are left with a sense of futility about the time we have devoted to the public process.

While we think the mediation DCAM has offered the town could be productive in selecting an acceptable alternative for all parties involved, this mediation has yet to be scheduled. Yet

[1] CRWA submitted its comments on April 5, 2012, one day after the deadline, with the agreement of Sandra Duran, DCAM Project Manager.

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DCAM is apparently proceeding with permitting for its preferred alternative, casting doubt on whether the mediation will in fact be truly useful.

Additionally, after listing past stakeholder concerns on page 1-5 of the Draft Phase IV, DCAM states that "each of these concerns has been methodically incorporated into the design of the remedial actions for the C&D area." While CRWA appreciates that some of these concerns have been incorporated, such as "minimizing armoring of the river bank"[2] and "removing contaminated sediment from the Charles River," others at most are "acknowledged," rather than "methodically incorporated." "Reducing residual contamination to background levels by completely removing the HFA debris" should be revisited and the cost re-determined now that it is clear that the Spectra Energy will not approve moving the gas pipeline. Removing debris from within the Zone II and below the water table, which scored comparably to DCAM's preferred alternative and was the second least expensive alternative, should also be given serious consideration. Both of these alternatives provide numerous benefits—flood plain and bank restoration, elimination of the partial cap and its expensive future maintenance, elimination of exposure pathways, and increased public confidence in the remediation.

Pursuant to 310 CMR 40.0810(1), outlining the General Provisions for Comprehensive Response Actions, "Comprehensive Response Actions shall be performed in ***sequential*** phases." Additionally, under 40.0810(3), "each phase of the Comprehensive Response Actions shall ***build on the results of previous work***." (emphasis added). This process can hardly be said to be sequential, or built upon the results of previous work, if a Draft Phase IV is being released before Phase II and Phase III reports are finalized and submitted.

Charles River Sediment:

CRWA remains concerned with the inconsistent description of the volume of contamination to be removed, and how the lateral extent of the contamination will be verified. Additionally, we have concerns and many questions about the proposed dredging itself. For instance, after dredging, the excavated area "will then be stabilized with angular stone fill." (page ix). However, details in Appendix F (page 352023-4) contradict this: "the contractor shall backfill the dredge area with clean backfill material having a ***gradation similar*** to that of the material removed." (emphasis added). The sediment to be dredged is predominantly sand, muck and silt; large, angular stone fill does not constitute a "similar" material. In any event, we oppose placing fill in the dredged area after excavation.

There are also discrepancies as to the amount of contaminated sediment slated to be removed during dredging. "The contaminated sediment will be removed by mechanical excavation (estimated to be 30-45 cubic yards) and disposed of at an off-site facility." (Page ix) However, on page 3-2, the amount of sediment to be removed is estimated at "45-60 cubic yards." Additionally, in previous reports (Phase II and Phase III) the vertical extent of dredging was described as only the top foot of sediment. Impacted sediment and the extent of dredging is then described as 1-2 feet in Figure-7 of the Phase IV and "within the top 2 feet" on page 3-2. We request that the true extent of contamination to be removed be consistently and accurately

[2] In CRWA's Phase II/Phase III comments, we raise the question of whether a partial liner and any bank armoring is necessary if more fill in the C&D area is removed and the area restored.

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defined. Since reports have described a clear delineation of contaminated sediments from the clay layer beneath, we oppose over-dredging.

The dredging plan calls for a clamshell type enclosed excavator, stating that when compared to hydraulic dredging, this method of "mechanical excavation is projected to result in less turbidity." (page ix). There is nothing to support this and in fact, CRWA disagrees with this statement, because in our experience and based on conversations with a number of experts, mechanical dredging, if done in the wet, will produce more turbidity and potentially spread the contamination downstream.[3] Also, if "reaching the clay layer will act as an additional benchmark to confirm that the impacted sediment layer has been removed" vertically (page 4-9), we question how the lateral benchmark will be ascertained. In Appendix F (page 352023-3), DCAM states that "the contractor shall not dredge outside the dredge area as indicated on the contract drawings." Confirmatory sampling is necessary and yet no course of action is proposed if it is discovered that the contamination is more extensive laterally than originally thought.

If mechanical dredging from the bank is chosen, the excavation of contaminated sediment should take place in the dry, and will require a cofferdam, or similar structure to temporarily exclude the river water from the work area.[4] Otherwise the release/threat of release of hazardous material is high. Silt curtains and booms by themselves are inadequate given this particular situation.

From the Construction Sequence section on page xi, a ledge for the machinery for in-river dredging will need to be created. There is also the risk that the machinery will break down the bank further spreading contaminated bank fill into the river. No detail is provided about dewatering, or a staging area, or whether the truck transporting the sediment will be placed on the C&D dump.

CRWA does, however, agree with and support the use of a rock vane for riverbank stabilization. Rock vanes area an established river restoration technique, and the inclusion of one in this design should serve to redirect the main flow away from the bank, allowing the biostabilized bank vegetation to establish. However, one concern with the rock vane is with navigation and boating safety. This is already a narrow stretch of the river, and a rock vane will further reduce the passable width. Because during much of the year, water levels will be just above the top of the rock vane, which is designed to sit just at low water, we are concerned that this barely submerged vane may become a hazard for boaters.

C&D Dump:

CRWA has commented extensively on DCAM's proposed remedy and our belief that much more of the fill should be removed and the area restored. Rather than repeat them here, we refer you to our previous comment letters.

"The selected remedy for the HFA involves removal and off-site disposal of fill from the bank of the Charles River and adjacent wetlands, and covering of the remaining fill." (page viii). This

[3] See, CRWA's earlier comments from the Phase II and Phase III drafts, dated 4/5/12.
[4] See, CRWA's 4/5/12 comment letter in response to Phase II and Phase III.

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will require "an Activity and Use Limitation (AUL) [to] be implemented, prohibiting the use of the Site for residential or agricultural purposes..." (page ix). However, both here, and on page 1-3, no details are provided beyond "placing an AUL on the HFA." Although "permitted and non-permitted activities and land uses" seem to be contemplated (see page 4-2), no explanation is provided. Legal responsibility for AUL enforcement[5] is not discussed, although care will transfer to DCR in the future under the legislation. Similarly, the entity responsible for future O&M is not discussed, or which agency will be required to fund this. Certainly, if DCR is to be responsible, a dedicated fund should be established and DCAM should fully fund this and commit to additional funding should it be necessary.

According to DCAM, "the implementation of the AUL allows contaminated soil to remain in place, because the exposure pathways to human and environmental receptors would be controlled." (page 6-1). CRWA has repeatedly expressed concern that the "donut hole" portion of the cap does not provide a suitable cover for the contaminated fill below.[6] DCAM presumes that 3-ft of topsoil will eliminate exposure for both "burrowing animals and humans." However, topsoil does not provide a significant barrier for wildlife, especially burrowing animals. A fallen tree can also expose deeper soils through its upended roots.

We also point out the inconsistent reasons given for leaving the "donut hole" area open, and its questionable suitability as a cap. On page 4-1, the consultant states that the donut hole will "allow for tree planting/growth and will eliminate the need for significant drainage and storm water management infrastructure." In the Phase III report, the function of the open donut hole was not discussed, although multiple purposes of the liner were expounded at page 6-3 of the Phase III. At a meeting with DCAM on March 14, 2012, DCAM stated that the purpose of the open donut hole was to keep the asbestos fibers remaining in the capped fill area moist. A clear explanation should be provided for the remaining open area in the cap.

While on page 4-4, DCAM mentions that a 40 mil HDPE FML/soil cover cap is "industry standard as an environmental cover system" and it "has been used around the world to safely cover/contain impacted material and prevent direct exposure to contaminants, we wonder how many of these examples were unlined at the bottom, and with a "donut hole" at the top.

Finally, we disagree with the amount of fill to be removed from the HFA, and the potential reuse of concrete fill material. On page 1-3, the cubic yards to be removed is measured at approximately "7,0000" cubic yards. Should this read "7,000" or "70,000"? The entirety of this fill is designated to be disposed off-site (page 1-3). There is no mention in this overview of reusing/crushing concrete material. However "large uncoated segregated concrete, masonry, and stone debris will be stockpiled on-Site and crushed to size 3-inch minus for re-use as cover material." See, page 4-6/7. We would hope that DCAM will treat excavated fill material as we have been repeatedly assured it would be: completely removed and disposed of at an off-Site facility.

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[5] "Security personnel" is mentioned in Appendix F, page 2. A long-term security employee would add considerably to the O&M costs of this project, and would be unnecessary if all contamination was removed, obviating the need for an AUL.

[6] See CRWA's previous comments on Phase II and Phase III dated 4/5/12.

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According to DCAM, "the contaminated fill material within the Zone II is not an ongoing source of impact to groundwater. Removing it entirely, therefore, would have no appreciable environmental or other benefit." (page xii) CRWA strongly disagrees with both of these statements. In response to the first, CRWA has commented before on the issue of potential groundwater contamination.[7] As for the second issue, we disagree that removing additional contaminated fill material within the Zone II would have no appreciable environmental or other benefit. Benefits would include: elimination future risk, elimination operation and maintenance of the liner and cap, elimination potential for further ground water contamination and/or contaminate migration, and elimination of the need for continued environmental monitoring.

Environmental Protection and Monitoring:

DCAM states that "storm water that collects on Site will be collected, filtered through a 5-micron particulate filter and discharged through straw bales or sedimentation bags to an upland area at the top of the C&D Disposal Area." (Page 4-10). More detail should be provided on this -- how will stormwater be collected? What assemblage of contaminants of concern is the filter designed to remove? Where in the upland area will this stormwater be discharged?

The plan calls for turbidity levels to be monitoring daily, with an engineer slated to do daily inspections "directly downstream of the river operations to observe for the presence of suspended sediment, debris and/or sheen, and assess the condition of the turbidity curtain(s) and oil absorbent boom" (page 4-13). Actual sampling should be conducted daily throughout the work day in addition to visual inspections.

Although DCAM states at page 4-5, that "confirmation sampling will be performed in the C&D Area to ensure that a condition of NSR exists for the Site at the completion of remedial actions," this appears to be spotty post-construction, and very minimal in the long term. Most importantly, visual observations for petroleum (CRS) and asbestos (HFA) (page 4-6), are inadequate. Only one toxicity test is proposed in the CRS Area (page 4-5). Toxicity tests along the edge of the excavated area should be performed to ensure contaminants were not missed; a single sampling in the center of the dredged area will be inadequate to ensure this. Lastly, it appears that sampling for PCEs is missing entirely from the monitoring plan shown in the table on page 4-6. While long-term ground water monitoring for PCEs is mentioned on page 3 of Appendix G, the time span for this monitoring is not described.

Please feel free to call us if you have any questions at 781-788-0007.

Sincerely,

Elise Leduc

Elise Leduc
Rita Barron Fellow

[7] See CRWA's previous comments on Phase II and Phase III dated 4/5/12.

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By Email:

CC: Carole Cornelison, Commissioner, DCAM
John O'Donnell, DCAM
Medfield Board of Selectmen
Martin Suuberg, DEP CERO
Mary Gardner, DEP CERO
Mark Baldi, DEP CERO
John Thompson, SHERC Chairman
Andrea Stiller, Medfield LSP
Mike Francis, TTOR
Russ Hopping, TTOR
Bill Massaro, PIP member
John Harney, PIP member

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17 Maplewood Road
Medfield MA 02052

April 19, 2012

Mr. Allen Wiggin
Division of Capital Asset Management
The Commonwealth of Massachusetts
One Ashburton Place, 15th Floor
Boston, MA 02108

Re: Phase III Remedial Action Plan

Dear Mr. Wiggin:

This correspondence is in response to DCAM's "selected remedy" for the Charles River abatement and toxic landfill remediation at the former Medfield State Hospital. Initially, I concur with and support the Charles River Watershed's recommendation relative to work in the Charles River. The CRWA approach is clearly less threatening to the river than is that suggested by Weston and Sampson.

DCAM's plan, when self-serving characterizations and assertions are stripped away, is to leave most of the "C & D" hazardous waste on site. That decision represents gross irresponsibility and will, if pursued and effected, constitute a moral indictment of the current Administration. How can citizens respect a government that places them at risk and passes on grave additional risk, as well as costs, to future generations?

More than three years ago Medfield was categorically assured that a fully clean site would result from DCAM's efforts. The Division now proposes a far different outcome.

Public health, safety and environmental concerns have been clearly and repeatedly detailed in numerous meetings and in earlier correspondence. The considerations referenced included a zone two aquifer, a potential well site, ground water pollution and pervasive ongoing risks from carcinogenic material. DCAM, patently driven by perceived budgetary constraints, now attempts to implement an objectively indefensible plan.

It is not yet too late for the Commonwealth to recognize that full remediation is compellingly in the public's interest. The area is particularly sensitive. It is proximate to a flood storage sector, on an aquifer, neighbors an essential town well, abuts property to be redeveloped and is near a Medfield neighborhood and Dover/Sherborn schools. Full removal of toxic material is definitively the only responsible way to proceed. If DCAM invincibly continues on the path it has thus far adopted it will evoke extended, unrelenting and heightened public opposition. I earnestly urge a reevaluation of the Commonwealth's plan for its Medfield property.

Sincerely,

John T. Harney

John T. Harney

cc:
Honorable Deval L. Patrick
Secretary Jay Gonzalez
Secretary Richard K. Sullivan, Executive Office of Energy and Environmental Affairs
Commissioner Kenneth Kimmel, Department of Environmental Protection
Commissioner Carole Cornelison, Division of Capital Asset Management
Ms. Purvi Patel, Executive Office of Energy and Environmental Affairs
Ms. Margaret Van Deusen, Charles River Watershed Association
Congressman Stephen F. Lynch
Senator James Timilty
Representative Denise Garlick
Representative Daniel B. Winslow
U.S. Army Corps of Engineers