



Commonwealth of Massachusetts  
Executive Office of Energy & Environmental Affairs

## Department of Environmental Protection

Western Regional Office • 436 Dwight Street, Springfield MA 01103 • 413-784-1100

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February 1, 2022

Rebecca Torres, Town Administrator  
Town of Shutesbury  
1 Cooleyville Road  
Shutesbury, MA 01072

Re: Shutesbury  
Lot O-32, B9  
66 Leverett Road  
RTN 1-21489  
Release of Petroleum

NOTICE OF RESPONSIBILITY  
M.G.L. c. 21E, 310 CMR 40.0000

Dear Ms. Torres:

Thank you for submitting the Release Notification Form or “RNF” received on January 28, 2022 for the subject property (the site). The RNF indicates that soil at the site is contaminated with volatile petroleum hydrocarbons (VPH) at concentrations exceeding the applicable S-1 reportable concentration (S-1/RC). In light of this information, the Department would like to make you aware of your rights and responsibilities under the Massachusetts Oil and Hazardous Material Release Prevention and Response Act, M.G.L. c. 21E, and the Massachusetts Contingency Plan (MCP), 310 CMR 40.0000.

The information contained in your submittal indicates that the above-referenced property has been subject to a release of petroleum in excess of the applicable reportable quantity or reportable concentration. Based on this information, the Department has reason to believe that the property, or portions thereof, is a disposal site which requires a Response Action. The cleanup of disposal sites is governed by M.G.L. c. 21E and the MCP.

The information contained in your submittal also indicates that you (as used in this Notice, “you” refers to the Town of Shutesbury) are a party with potential liability for response action costs and damages under M.G.L. c. 21E, § 5. The attached summary is intended to provide you with information about liability under Chapter 21E to assist you in deciding what actions to take in response to this notice.

You should be aware that you may have claims against third parties for damages, including claims for contribution or reimbursement for the costs of cleanup. Such claims do not exist indefinitely but are governed by laws which establish the time allowed for bringing litigation. The Department encourages you to take any action necessary to protect any such claims you may have against third parties.

This information is available in alternate format. Contact Michelle Waters-Ekanem, Director of Diversity/Civil Rights at 617-292-5751.  
TTY# MassRelay Service 1-800-439-2370  
MassDEP Website: [www.mass.gov/dep](http://www.mass.gov/dep)

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### **ACTIONS UNDERTAKEN TO DATE AT THE SITE**

The Release Notification Form (RNF) and supporting information indicate that soil at the site is contaminated with the VPH fraction C5-9C8 Aliphatic Hydrocarbons at concentrations at or above the applicable S-1/RC. The supporting information included a “Limited Site Assessment” letter report dated October 5, 2021 and completed on your behalf by O’Reilly, Talbot & Okun Associates, Inc. (OTO). As indicated in this report, the site was formerly operated by the US Air Force/Department of Defense. Historic operation of an underground storage tank (UST) formerly located on-site or other operations by the Department of Defense are a likely source of contamination at the site. As you have discussed with Anthony Kurpaska of my staff, the US Army Corps of Engineers has removed an UST at the site and associated contaminated soil in 1994.

### **NECESSARY RESPONSE ACTIONS AND APPLICABLE DEADLINES**

No disposal site will be deemed to have had all the necessary and required response actions taken for it unless and until all substantial hazards presented by the release and/or threat of release have been eliminated and a level of no significant risk exists or has been achieved in compliance with M.G.L. c. 21E and the MCP.

The MCP requires persons undertaking response actions at a disposal site to submit to the Department a Permanent Solution or Temporary Solution Statement prepared by a Licensed Site Professional upon determining that a level of no significant risk already exists or has been achieved at the disposal site.

Unless otherwise provided by the Department, responsible parties have one year from the initial date which notice of a release or threat of release is provided to the Department pursuant to 310 CMR 40.0300 or from the date the Department issues a Notice of Responsibility, whichever occurs earlier, to file with the Department one of the following submittals: (1) a completed Tier Classification Submittal; or (2) a Permanent Solution or Temporary Solution Statement; or (3) a Downgradient Property Status Submittal. The deadline for these submittals for this disposal site is **January 28, 2023**.

In addition, the MCP requires responsible parties and any other person undertaking Response Actions at a disposal site to perform Immediate Response Actions in response to sudden releases, Imminent Hazards and Conditions of Substantial Release Migration. Such persons must continue to evaluate the need for Immediate Response Actions and notify the Department immediately if such a need exists.

### **PROCEDURES TO FOLLOW TO UNDERTAKE RESPONSE ACTIONS**

The Department encourages parties having liability under M.G.L. c. 21E to take prompt action in response to releases, to lower cleanup costs, and to avoid the imposition of or reduce the amount of annual compliance assurance fees payable under 310 CMR 4.00 (e.g., no annual compliance assurance fee is due for Permanent or Temporary Solution Statements submitted to the Department within **120 days** of the initial date of release notification).

You must employ or engage an LSP to manage, supervise or actually perform all Response Actions which you intend to undertake at this disposal site. You may obtain a list of the names and addresses of LSPs by contacting the Board of Registration of Hazardous Waste Site Cleanup Professionals by telephone at (617) 556-1091 or via the following internet link: <https://eeaonline.eea.state.ma.us/portal#!/search/lsp>.

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All submittals for this release that require an LSP Opinion must be submitted through e-DEP, MassDEP's electronic document and form submittal repository. For more information on electronic submittal of forms and reports, please visit MassDEP's website, <http://www.mass.gov/eea/agencies/massdep/service/online/edep-online-filing.html>.

If you have any questions relative to this notice, you should contact Anthony Kurpaska at (413) 755-2236 or write to the letterhead address. All future communications regarding this release must reference the Release Tracking Number (RTN) contained in the subject block of this letter.

Sincerely,



Elizabeth M. Stinehart  
Deputy Regional Director  
Bureau of Waste Site Cleanup

AFK:EMS  
/:1-21489-Shutesbury-120-day NOR

Enclosure – Summary of Liability

e-cc: Shutesbury:  
Board of Selectmen  
Board of Health

Denise Andler, DEP WERO  
Sabrina Moreau, OTO  
Gary Morin, US Army Corps of Engineers