

Legacy Environment Group
Michael Hootstein, Principal Hydrogeologist
PO Box 158, Shutesbury, Massachusetts 01072
steinhoot@verizon.net

Protecting drinking water and human health for over 30 years

***August 23, 2022 Complaint Filed on behalf of the Lot 0-32 Remediation Oversight Group
for electronic RTN 1-21489 submission***

Saadi Motamedi, DEP Western Region Risk Reduction Section Chief
Saadi.Motamedi@mass.gov
Division of Waste Site Cleanup
MassDEP Western Regional Office (WERO)
436 Dwight Street, Springfield, MA 01103

***RE: Shutesbury violations (in fall 2021) of 310 CMR 27.00: UNDERGROUND
INJECTION CONTROL REGULATIONS at the town-owned 21E site (RTN 1-21489) at 66
Leverett Road and evidence of an “imminent hazard” at the site.***

Dear Mr. Motamedi,

On August 12, 2022, the Shutesbury Conservation Commission (SCC) issued an Enforcement Order against the Town of Shutesbury (digital copy of Order attached in separate file) for dredging, removing and filling protected wetland resources at the 66 Leverett Rd 21E site in August 2021, in violation of the *Massachusetts Wetlands Protection Act M.G.L. c. 131, §40*. In its “Enforcement Order Condition” #10 (last page), the Commission memorialized Shutesbury’s willful violations of 310 CMR 27.00: UNDERGROUND INJECTION CONTROL REGULATIONS at the town-owned 21E site at 66 Leverett Road:

“The complainants [Lot 0-32 Remediation Oversight Group] have alleged that the landowners failed to remove the floor drain of the three-car garage according to the Regulations contained in 310 CMR 27.00 (Underground Injection Control Regulations). The SCC defers to the Massachusetts Department of Environmental Protection for investigation of this matter. At present, the SCC does not have credible evidence of a point source discharge of pollutants into a Protected Resource Area. If credible evidence is produced at a future time that demonstrates that any activities resulted in a point source discharge of pollutants to a Protected Resource Area, the SCC shall review this evidence and consider further action.”

On behalf of the Lot 0-32 Remediation Oversight Group of which I am a member, we herein provide DEP “credible evidence of a point discharge of pollutants into a Protected Resource Area” that evidences a flagrant violation by the town of 310 CMR 27.00 Underground Injection Control Regulations. The attached 2012 Cold Springs Environmental digitized aerial photograph, “Figure 2 Site Layout” shows the location of the “FLOOR DRAIN LINE”, “Soil Samples at Pipe Discharge” and 1-inch diameter water well-point GP-3, found to be contaminated with 0.425 ug/l PCB on April 9, 2012 (water test analysis attached).

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As memorialized in the separately attached August 12, 2022 Conservation Commission Order (p. 2): “On June 12, 2022, the SCC conducted a site visit of the northern portion of the property where evidence of filling and grading in the area where the garage [and PCB-contaminated floor drain adjacent to GP-3] had been demolished was observed. An area was observed to the south of the garage area [adjacent to GP-2] where there was evidence of recent work having been done... At a July 28, 2022 SCC meeting, Town Administrator Rebecca Torres informed the SCC that she had authorized the Shutesbury Highway Department to bring in [fill]... to the garage location [and to remove the concrete floor, floor drain and pipe leaching fluids 35 feet to the east outside the demolished building] in violation of 310 CMR 27.00 and a DEP directive to obey 310 CMR 27.00.” (The attached two photographs I took in 2012 inside the then-existing garage evidences the floor drain cut into the cracked concrete floor, and some fluid flow, before it was removed.)

The attached 2012 Cold Springs Environmental digitized aerial photograph, “Figure 2 Site Layout” shows the location “to the south of the garage area where there was evidence of recent work having been done” just a few feet from the 1-inch diameter water well-point GP-3 found to be contaminated with 0.544 ug/l PCB (above the reportable level) on April 9, 2012 (water test analysis attached). This location is also where, according to the below quoted DEP official in 2012, “CSEC discovered a drum containing 9-10 gallons of waste oil in a large debris pile south of the on-site building.”

On May 8, 2012, Eva Tor, DEP Deputy Regional Director Bureau of Waste Site Cleanup assured me the “floor drain... will be closed in accordance with MassDEP’s Underground Injection Control program” (digital copy of letter attached in separate file):

“Proposed Library Site, 66 Leverett Road, RTN 1-18707: Alan Weiss of CSEC, the Town’s LSP conducting the assessment of the property, and Rebecca Torres, the Town Administrator, contacted MassDEP on January 6, 2012 to report the information discovered about the property to date. During initial assessment of the property, CSEC discovered a drum containing 9-10 gallons of waste oil in a large debris pile south of the on-site building. The town retained Oil Recovery Corporation of West Springfield, MA to overpack and properly dispose of the drum... CSEC also discussed other potential areas of concern at the property including a floor drain which will be closed in accordance with MassDEP’s Underground Injection Control program with supporting soil sampling and a scrap/auto parts area for which CSEC is proposing additional soil sampling. CSEC indicated it was proposing additional groundwater sampling at the site.. CSEC advised MassDEP that two USTs (gasoline and fuel oil) were removed from the site.”

By failing to comply with CSEC LSP Weiss’s and DEP Deputy Director Torr’s 2012 directive requiring Shutesbury to close the PCB-contaminated garage floor drain in

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accordance with MassDEP's Underground Injection Control program, Shutesbury acted with deliberate indifference to violate 310 CMR 27.00: UNDERGROUND INJECTION CONTROL REGULATIONS.

“The purpose of 310 CMR 27.00 is to protect underground sources of drinking water by regulating the underground injection of hazardous wastes, fluids used for extraction of minerals, oil, and energy and any other fluids having potential to contaminate groundwater as required by the Federal Safe Drinking Water Act, 42 U.S.C. §§ 300h through 300h-8.”

In accordance with 27.02: Definitions, the drain in the former 3-bay automotive/racecar garage is a “Motor Vehicle Waste Disposal Well”, “a well that receives or has received fluids from vehicular repair or maintenance activities, such as an auto body repair shop, automotive repair shop, new and used car dealerships, specialty repair shop (*e.g.*, transmission and muffler repair shops), or any facility that does vehicular repair work.”

Shutesbury’s well evidenced injection of automotive repair and maintenance fluids (PCBs) into the now demolished floor drain is a violation of the regulations under 27.04: Prohibited Activities (3): “No person shall inject or cause to be injected any fluid into or through a registered Class V well, a) where that injection may cause or allow the movement of fluid containing any pollutant into underground sources of drinking water and the presence of that pollutant causes or is likely to cause a violation of 310 CMR 22.00: Drinking Water; (b) where that injection may impair the use of ground water as an actual or potential source of potable water; or (c) which in the opinion of the Department adversely affects or may adversely affect the health of persons”; and (6) “No person shall construct, install, operate or maintain a motor vehicle waste disposal well in the Commonwealth”; and (7) The existence of any of the following wells is prohibited and the owner of such well shall properly close it in accordance with 310 CMR 27.10 and 27.12: (a) a Class V injection well that is either receiving an underground injection for which it is not registered, or which has the potential to receive such an injection because it is not properly secured and maintained.”

The attached “Evidence of an Imminent Well Water Public Health Hazard” map shows the locations of 4 wells (several of which have been reported to be contaminated with PFAS), 120-350 feet downgradient to the east of two known PCB release locations (GP-2 and GP-3) where 6 people have died due to possible chronic exposure to PCB, PFAS and/or other toxic OHM automotive garage contaminants.

Thus, an “Imminent Hazard” under 21E exists at the site proving an additional violation of the Underground Injection Control Regulations 27.06: Protection, “(1) No person shall conduct an activity that is prohibited by 310 CMR 27.00 or that will endanger an aquifer or portion of an aquifer that meets the definition of an underground source of drinking water.”

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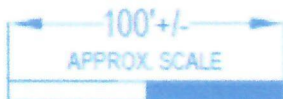
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An abundance of evidence provided herein also proves Shutesbury is in violation of 27.10: Well Closure “(1) Compliance with M.G.L. c. 21E, CERCLA or RCRA. Each person performing a remedial activity as part of an injection well closure shall perform such activity in accordance with the provisions of M.G.L. c. 21E, 310 CMR 40.0000: Massachusetts Contingency Plan... (2) Minimum Closure Requirements. The owner and operator of a Class IV or Class V well shall properly close the well upon the termination of the use of the well for the type of Class IV or Class V injection for which it was permitted or registered. At a minimum, the owner and operator shall undertake the following activities: (a) eliminate well or injection: 1. the well shall be physically removed or plugged to permanently prevent the vertical movement of water within the well; all physical hazards at the ground surface associated with the well's construction or location shall be eliminated; and all inlets into the drainage system leading to the well shall be permanently sealed; (b) assess all soil, gravel, sludge, liquids or other materials adjacent to the injection well and all components of the drainage system leading to the injection well; (c) remove and dispose of any contaminated soil, gravel, sludge, liquids or other materials adjacent to the injection well and all contaminated components of the drainage system leading to the injection well in accordance with all federal, state, and local requirements; (d) except as provided in 310 CMR 27.10(2)(e):... within 30 days of completion of the closure of a Class IV or Class V aquifer remediation well authorized by 310 CMR 27.05(1), submit to the Department documentation of closure on a form provided by the Department for such purpose; and (f) prior to sealing each floor drain, submit to the Department a completed *Form WSI, Notice of Plumbing Inspector Approval to Seal Floor Drain*.”

In conclusion, the evidence provided herein shows the existence of an “Imminent Hazard” at the site pursuant to 21E and numerous violations of 310 CMR 27.00: Underground Injection Control Regulations, especially pursuant to 27.06: Protection: “(1) No person shall conduct an activity that is prohibited by 310 CMR 27.00 or that will endanger an aquifer or portion of an aquifer that meets the definition of an underground source of drinking water.”

Respectfully submitted,

/s/ Michael Hootstein
Michael Hootstein
Legacy Environmental Group
Principal Hydrogeologist



GEOPROBE 1" PVC MONITORING WELL

Cold Spring Environmental Consultants Inc.
 FIGURE 2: SITE LAYOUT, 66 LEVERETT ROAD
 PROPOSED LIBRARY SITE, SHUTESBURY, MA

DATE: 12.30.2011	DRAWN BY: AW	REVISED: 04.25.2012
SCALE: -		DRAWING NUMBER: # 110-3360-0427

Sample Identification

GP-3
SB46900-02

Client Project #
3360-0427

Matrix
Ground Water

Collection Date/Time
09-Apr-12 11:45

Received
10-Apr-12

CAS No.	Analyte(s)	Result	Flag	Units	*RDL	MDL	Dilution	Method Ref.	Prepared	Analyzed	Analyst	Batch	Cert.
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Semivolatile Organic Compounds by GC

Polychlorinated Biphenyls

Prepared by method SW846 3510C

12674-11-2	Aroclor-1016	< 0.227		µg/l	0.227	0.00977	1	SW846 8082A	11-Apr-12	16-Apr-12	IMR	1208168	
11104-28-2	Aroclor-1221	< 0.227		µg/l	0.227	0.0163	1	"	"	"	"	"	"
11141-16-5	Aroclor-1232	< 0.227		µg/l	0.227	0.0152	1	"	"	"	"	"	"
53469-21-9	Aroclor-1242	0.425		µg/l	0.227	0.00830	1	"	"	"	"	"	"
12672-29-6	Aroclor-1248	< 0.227		µg/l	0.227	0.0128	1	"	"	"	"	"	"
11097-69-1	Aroclor-1254	< 0.227		µg/l	0.227	0.0113	1	"	"	"	"	"	"
11096-82-5	Aroclor-1260	< 0.227		µg/l	0.227	0.00659	1	"	"	"	"	"	"
37324-23-5	Aroclor-1262	< 0.227		µg/l	0.227	0.00989	1	"	"	"	"	"	"
11100-14-4	Aroclor-1268	< 0.227		µg/l	0.227	0.0108	1	"	"	"	"	"	"

Surrogate recoveries:

10386-84-2	4,4-DB-Octafluorobiphenyl (Sr)	45			30-150 %			"	"	"	"	"	"
10386-84-2	4,4-DB-Octafluorobiphenyl (Sr) [2C]	54			30-150 %			"	"	"	"	"	"
2051-24-3	Decachlorobiphenyl (Sr)	39			30-150 %			"	"	"	"	"	"
2051-24-3	Decachlorobiphenyl (Sr) [2C]	57			30-150 %			"	"	"	"	"	"

This laboratory report is not valid without an authorized signature on the cover page.

Sample Identification

GP-2

SB46900-01

Client Project #

3360-0427

Matrix

Ground Water

Collection Date/Time

09-Apr-12 11:30

Received

10-Apr-12

<i>CAS No.</i>	<i>Analyte(s)</i>	<i>Result</i>	<i>Flag</i>	<i>Units</i>	<i>*RDL</i>	<i>MDL</i>	<i>Dilution</i>	<i>Method Ref.</i>	<i>Prepared</i>	<i>Analyzed</i>	<i>Analyst</i>	<i>Batch</i>	<i>Cert.</i>
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Semivolatile Organic Compounds by GCPolychlorinated BiphenylsPrepared by method SW846 3510C

12674-11-2	Aroclor-1016	< 0.238		µg/l	0.238	0.0102	1	SW846 8082A	11-Apr-12	16-Apr-12	IMR	1208168	
11104-28-2	Aroclor-1221	< 0.238		µg/l	0.238	0.0170	1	"	"	"	"	"	"
11141-16-5	Aroclor-1232	< 0.238		µg/l	0.238	0.0160	1	"	"	"	"	"	"
53469-21-9	Aroclor-1242	0.544		µg/l	0.238	0.00869	1	"	"	"	"	"	"
12672-29-6	Aroclor-1248	< 0.238		µg/l	0.238	0.0135	1	"	"	"	"	"	"
11097-69-1	Aroclor-1254	< 0.238		µg/l	0.238	0.0118	1	"	"	"	"	"	"
11096-82-5	Aroclor-1260	< 0.238		µg/l	0.238	0.00690	1	"	"	"	"	"	"
37324-23-5	Aroclor-1262	< 0.238		µg/l	0.238	0.0104	1	"	"	"	"	"	"
11100-14-4	Aroclor-1268	< 0.238		µg/l	0.238	0.0113	1	"	"	"	"	"	"

Surrogate recoveries:

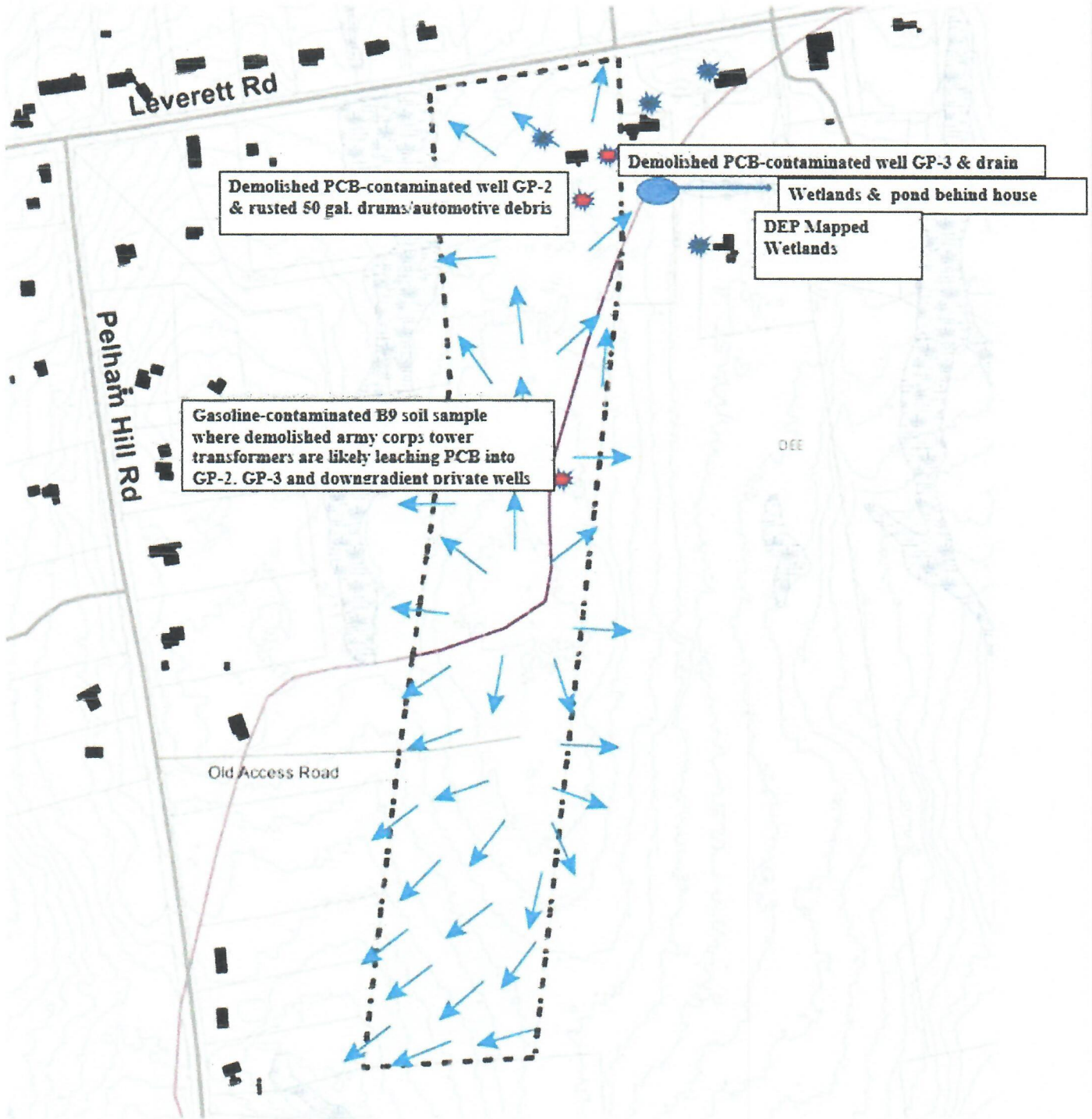
10386-84-2	4,4-DB-Octafluorobiphenyl (Sr)	54			30-150 %			"	"	"	"	"	"
10386-84-2	4,4-DB-Octafluorobiphenyl (Sr) [2C]	69			30-150 %			"	"	"	"	"	"
2051-24-3	Decachlorobiphenyl (Sr)	38			30-150 %			"	"	"	"	"	"
2051-24-3	Decachlorobiphenyl (Sr) [2C]	49			30-150 %			"	"	"	"	"	"

This laboratory report is not valid without an authorized signature on the cover page.







EVIDENCE OF AN IMMINENT WELL WATER PUBLIC HEALTH HAZARD DOWNGRADIENT TO 66 LEVERETT ROAD



-  Wetland
-  Watershed Ridge
-  Drainage



-  2 confirmed and 1 suspected PCB in shallow groundwater hotspots
-  Locations of 4 potentially PCB contaminated private wells that provided water to 6 Shutesbury residents who died before reaching old age