SCOPE OF WORK
PHASE II COMPREHENSIVE SITE ASSESSMENT
AMERICAN RECYCLING OF MASS., INC.
d/b/a JOHN C. TOMBARELLO & SONS
207 MARSTON STREET
LAWRENCE, MASSACHUSETTS
RTN #3-18126, #3-18431

by

Haley & Aldrich, Inc.
Boston, Massachusetts

for

Massachusetts Department of Environmental Protection
Wilmington, Massachusetts

on behalf of
American Recycling of Mass., Inc.
d/b/a John C. Tombarello & Sons
Lawrence, Massachusetts

File No. 12671-041
April 2001

HALEY & ALDRICH

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6 April 2001
File No. 12671-041

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Attention: Richard Chalpin

Subject: Scope of Work
Phase II Comprehensive Site Assessment
American Recycling of Mass., Inc.
d/b/a John C. Tombarello & Sons
207 Marston Street
Lawrence, Massachusetts
RTN #3-18126, #3-18431

Ladies and Gentlemen:

On behalf of our client, American Recycling of Mass., Inc. d/b/a John C. Tombarello & Sons (American), Haley & Aldrich, Inc. (Haley & Aldrich), is pleased to submit this Scope of Work (SOW) for a Phase II Comprehensive Site Assessment at the above-referenced site. An original Comprehensive Response Action Transmittal Form, BWSC-108, is enclosed and a copy of BWSC-108 is included in Appendix A of this document.

This SOW is being submitted in accordance with the terms of an Administrative Consent Order and Notice of Noncompliance ACOP-NE-00-9013-123 (ACOP), executed between American and the Massachusetts Department of Environmental Protection (DEP) on 14 February 2001. The SOW addresses relevant elements of ACOP Sections III.E.5 through 12 as related to Massachusetts General Laws (MGL) Chapter 21E and the Massachusetts Contingency Plan (MCP) 310 CMR 40.0000.

Please do not hesitate to contact us should you have any questions about this document.

Sincerely yours,
HALEY & ALDRICH, INC.

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1	Project Locus
2	Proposed Exploration Location Plan

I. INTRODUCTION

This Scope of Work (SOW) outlines field investigations to be conducted as part of a Phase II Comprehensive Site Assessment for the John C. Tombarello & Sons, Inc. scrap metal recycling facility, located at 207 Marston Street, Lawrence, Massachusetts (the site), identified by Massachusetts Department of Environmental Protection (DEP) Release Tracking Numbers (RTN) 3-18126 and 3-18431. These activities are being conducted by Haley & Aldrich, Inc. (Haley & Aldrich) of Boston, Massachusetts, on behalf of American Recycling of Mass., Inc., d/b/a John C. Tombarello & Sons, Lawrence, Massachusetts (American). Mr. Elliot I. Steinberg, Vice President, will serve as the Licensed Site Professional (LSP) for the project.

The SOW addresses requirements outlined in the Massachusetts Contingency Plan (MCP) 310 CMR 40.0000 (MCP) and the terms of an Administrative Consent Order and Notice of Noncompliance File No. ACOP-NE-00-9013-123 (ACOP), effective 14 February 2001. A copy of the ACOP is provided in Appendix B. This SOW presents the approach and objectives of the Phase II field investigations and supporting information required by 310 CMR 40.0834.

OBJECTIVES

In accordance with the requirements for a Phase II Comprehensive Site Assessment, and the terms of the ACOP, the objectives of the Phase II field investigations include the following:

- Assessment of the integrity and contents of the subsurface drainage pipe leading from the baler/press room to the GLSD sewer;
- Assessment of soil and groundwater along the downgradient length of the referenced GLSD drainage pipe, downgradient and adjacent to the baler/press room building, and beneath an adjacent metal scrap pile;
- Assessment of the source, extent, and migration pathways of contamination at the site.

The SOW described herein is proposed to achieve these objectives and/or provide a basis for guiding further investigations or response actions that may be required for MCP compliance.

II. SITE DESCRIPTION AND REGULATORY BACKGROUND

2.01 Site Location and Description

The background information provided in this report was obtained from an Environmental Site Assessment performed by W. Z. Baumgartner & Associates, Inc. (Baumgartner), dated 21 August 1998. The site is located at 207 Marston Street in Lawrence, Massachusetts. Marston Street forms the western boundary of the site, and residential homes along Hofmann Avenue form the northern border of the site. Residential homes are also located across both Marston Street and Hofmann Avenue. The eastern site border abuts Route 495, and the Merrimack River is located approximately 400 ft. east of the property boundary, across the Route 495 alignment. A Sons of Italy Lodge with soccer field abuts the southern border of the site. The subject site is located in an area zoned "I-3 Limited Industrial District," suitable for medium intensity industrial uses. A project locus is provided as Figure 1. Figure 2 illustrates site features.

The site is comprised of two tracts purchased in 1941 and 1967, and total approximately 11.1 acres in a roughly rectangular configuration. The first tract, purchased in 1941, became the northern half of the site where a metal recycling operation currently exists. The second tract became the southern half of the site and was purchased in 1967 from the City of Lawrence, which was reportedly used as the community landfill, and prior to 1935, was owned by a soap manufacturer. An approximately 4.0-acre rectangular parcel abutting the southwest corner of the site is currently owned and occupied by Essex Waste Paper Co., Inc., a paper recycling transfer station. This property was formerly leased from Tombarello, but is not included in this Phase II SOW.

The site currently operates as a metal recycling facility and scrap metal handling yard. The property is occupied by several buildings, including a 3,000 sq. ft. office/scalehouse, a 3,000 sq. ft. single family dwelling, a 24,000 sq. ft. metal shop/garage, an 11,000 sq. ft. furnace building, a 750 sq. ft. press/baler building, a 2,500 sq. ft. small shear building and a 6,500 sq. ft. large shear building. Numerous smaller sheds and outbuildings related to the scrap metal handling operations are also present on the property. Operations performed at the site include sorting, cutting, shearing, segregation, stockpiling, baling, management and sales of scrap metal materials.

Large soil berms are present along the eastern and southern property boundaries. American believes that the berms were constructed from shallow soils at the property in conjunction with earthwork for Route 495 during the 1960s. Soil materials intermixed with metal are also currently stockpiled against the berm at the southeast portion of the site. American personnel reported that these "shear residue" materials, which are to be processed to remove non-ferrous metals, contain fill materials that are intermixed with the scrap metal upon delivery to the facility, and soils that are scraped from beneath the front of the shear machinery during loading operations.

Overhead and subsurface utilities are present at the subject site, including telephone and electric service, storm drains, gas, and water lines. A large sanitary sewer easement bisects

the site in an west/east direction, along the alignment of the former Cardiff Street, and is under the jurisdiction of the Greater Lawrence Sanitary District (GLSD). It is understood the overall direction of sanitary/stormwater flow is to the east, ultimately beneath Route 495. Reported flooding and back-ups from the municipal sewer may have impacted the site. Flooding has been observed by Haley & Aldrich emanating from a manhole cover in Marston Street; American reports that this manhole cover had been welded shut by the City in an effort to address recurring flooding after heavy rains. American also believes the flooding may be due in part to an undersized pipe at the downstream (east) end of the site where the sewer extends beneath Route 495.

2.02 Regulatory Background

On 20 July 1998, a Response Action Outcome (RAO) report for RTN 3-16817 was filed with the DEP by Sprague Energy following the excavation of contaminated soil from a release of heat transfer oil on 19 May 1998 (see Figure 2). The results of confirmatory soil sampling following remedial removal actions indicated the presence of residual contamination in soils on the 207 Marston Street property. In a letter and Request for Information (RFI), dated 2 December 1998, DEP indicated that the residual contamination may have been attributable to other historic releases of oil and hazardous materials, and not exclusively to the release of heat transfer oil.

An Environmental Site Assessment report was prepared by Baumgartner in August 1998 in conjunction with the purchase of the property by American. The information contained in the RAO and August 1998 environmental assessment report indicated that concentrations of oil and hazardous materials (OHMs) exceeding MCP Reportable Conditions were present on the property.

The DEP issued a Notice of Responsibility (NOR) & Interim Deadline letter to the former operator and current site owner of the property on 31 March 1999, and assigned RTN 3-18126. The NOR requested that the former operator (Tombarello Recycling, Inc.) and then-current site owner (American Recycling, Inc.) prepare an Immediate Response Action (IRA) Plan to further assess environmental conditions documented in two earlier site assessment reports prepared for the property.

The Baumgartner Environmental Site Assessment identified PCBs levels of 10.6 mg/kg (combined concentration of Aroclor 1248 and 1260) and 59 mg/kg (Aroclor 1260) in two near-surface soil samples located in the vicinity of the large shear (SS-8) and the small shear (SB-3), respectively. These conditions were interpreted by DEP to constitute a potential Imminent Hazard Condition as referenced in the NOR. The NOR required that the IRA Plan include an Imminent Hazard (IH) Evaluation to assess the presence of detected PCBs at concentrations greater than 10 parts-per -million (ppm) in potentially accessible soils located with 500 ft. of residential properties. Elevated levels of petroleum hydrocarbons, polynuclear aromatic hydrocarbons (PAHs) and lead were also detected at Baumgartner soil sampling locations.

Higgins Environmental Associates, Inc. (HEA), filed a Release Notification Form (RNF) for RTN 3-18126, and an IRA Plan on behalf of the potentially responsible parties on 21 April

1999. The IRA Plan included the removal of an additional soil stockpile associated with the heat transfer oil release 3-16817, the collection and analysis of surficial soil samples, and the resampling and analysis of groundwater from existing monitoring wells for use in conducting an Imminent Hazard Evaluation. Subsequent Immediate Response Action (IRA) assessment activities by HEA detected petroleum hydrocarbons, PCBs, PAHs and metals in soils at concentrations which exceeded applicable MCP RCS-1 Reportable Concentrations (RCs). In particular, HEA detected 57 mg/kg and 92 mg/kg PCBs (Aroclor 1260) in two samples at the northeast site corner (SB6-SS1 and SB6-N1, respectively). The 28 July 1999 HEA IRA Status Report summarized these results. Identified Imminent Hazard Conditions were addressed by HEA through erection of a barbed-wire perimeter fence to limit site access by children.

DEP observed oily sludge on the baler/press room floor on 21 June 1999 and issued a field NOR with RTN 3-18431. DEP analyses indicated that the sludge contained PCBs, petroleum hydrocarbons, metals and volatile organic compounds (VOCs). HEA submitted an RAO for RTN 3-18431 as a threat of release condition on 26 August 1999. It was noted that the detected PCB (Aroclor 1242) was different from those detected elsewhere at the site. American believes the oily sludge originated from sewer backups through the floor drain in the bailer room, which is supported by the recent flooding observed by Haley & Aldrich at the site on 22 March 2001. Nonetheless, DEP has alleged that these PCBs were discharged from the baler room to the municipal sewer. The ACOP requires retraction of the RTN 3-18431 RAO and evaluation of the sewer as a potential migration pathway.

Prior to the ACOP, Haley & Aldrich prepared a Tier Classification and NRS Scoresheet for RTN 3-18126 that was submitted to DEP on 7 April 2000. Based upon available data and information provided in that submittal, the site was classified as a Tier II disposal site. In conjunction with the RAO retraction, the ACOP requires that RTN 3-18431 be linked with the Tier Classification of RTN 3-18126 and that some aspects related to the ecological score be rechecked. These issues include whether a NHESP Wetlands Habitat on the east side of Route 495 is within 500 ft. of the disposal site, and if other wetlands are located within 100 ft. of the disposal site.

At this time, based on information available to Haley & Aldrich, the MCP disposal site is considered to be the 207 Marston Street property as shown on the site plan (Figure 2). The horizontal and vertical extent of the disposal site, as defined by the MCP, will be further evaluated as part of the Phase II Comprehensive Site Assessment activities.

2.03 Site Groundwater Classification

The site is generally flat, with ground surface elevations ranging from approximately El. 30 to El. 40, 1929 National Geodetic Vertical Datum (NGVD). Previous information indicates groundwater flow is to the east, towards the Merrimack River, which is located to the east of Route 495.

Available information indicated that the site was originally considered to be classified as groundwater category GW-1 due to its proximity to an Interim Wellhead Protection (IWP) area. However, a letter provided from DEP, dated 4 March 1999, indicates that the two

public water supply wells in North Andover for which the IWP had been established have been formally abandoned, and therefore the DEP has indicated that these wells are no longer authorized withdrawal points and will not be protected as public water sources under DEP programs.

A DEP MASS Geographical Information System (GIS) site scoring map (dated 28 March 2000) obtained for site as part of the tier classification confirmed that the IWP zone has been removed. The Mass GIS map indicates approximately one-half of the American property (principally the eastern portion) is underlain by a medium yield aquifer. This aquifer, however, is identified as a Non-Potential Drinking Water Source Area (NPDWSA) due to the urbanized setting, and, accordingly, groundwater beneath the site is therefore classified as RCGW-2. Soil on the site is classified as RCS-1 due to the presence of residential properties within 500 ft.

2.04 Site Geology

Depth to groundwater, as previously measured in monitoring wells on the property, ranged from approximately 5 to 11 ft. below ground surface, with depth increasing from west to east. HEA completed a groundwater elevation survey of monitoring wells on the property, and reported that shallow groundwater flow is in an easterly direction toward the Merrimack River.

A review of test boring logs prepared for an HEA report indicates that soils at the site consist of brown very fine to fine sands and silts with lesser proportions of gravel. According to the USGS Surficial Geology Map for the Lawrence Quadrangle (GQ-107), the surficial geology of the site is mapped as artificial fill overlying river-terrace and flood plan deposits, consisting primarily of well-sorted fine sands and silts. At the time of the geologic mapping (1951-1952), artificial fill was apparent primarily on the southern portion of the site, possibly overlying irregular deposits of swamp (organic) material. This fill material may represent the extent, at that time, of the former City of Lawrence municipal landfill. Later site developments (including construction of the subject site facility buildings) have altered and modified the upper portion of the flood plain and terrace deposits. Bedrock outcrops were not mapped within the vicinity of the site.

2.05 List of Previous Documents

The following list of previous reports and sources of information reviewed in the preparation of this Phase II SOW. Haley & Aldrich previously prepared a Phase I Requirement/Tier Classification report (dated 31 March 2000) for the subject site, and concluded that the information contained therein and in the documents listed below, satisfied the requirements of an MCP Phase I - Initial Site Investigation as listed at 310 CMR 40.0483, and were sufficient to complete a Tier Classification for RTN 3-18126.

Copies of documents listed below have been previously submitted to DEP and are currently on file at the DEP Northeast Regional Office:

1. "Response Action Outcome - RTN 3-16817," prepared by New England Disposal Technologies for Sprague Energy, dated 17 July 1998 (heat transfer oil release).

2. "Environmental Site Assessment - John C. Tombarello & Sons, Inc., Lawrence, Massachusetts," prepared by W.Z. Baumgartner & Associates, Inc., dated August 1998.

3. "Immediate Response Action Plan - RTN 3-18126," prepared by Higgins Environmental Associates, Inc., dated 21 April 1999.

4. "Modified Immediate Response Action Plan - RTN 3-18126," prepared by Higgins Environmental Associates, Inc., dated 1 June 1999.

5. "Immediate Response Action Status Report - RTN 3-18126," prepared by Higgins Environmental Associates, Inc., dated 28 July 1999.

6. "Response Action Outcome Statement Supporting Information, Threat of Release Condition Baler/Press Building," RTN 3-18431, prepared by Higgins Environmental Associates, Inc., dated 24 August 1999.

7. "Phase I Requirements/Tier Classification, 207 Marston Street, Lawrence, Massachusetts, RTN: 3-18126," prepared by Haley & Aldrich, Inc., dated 31 March 2000.

III. PHASE II - COMPREHENSIVE SITE ASSESSMENT OBJECTIVES

3.01 General

The work scope described below has been developed to obtain the information and data needed to support a Phase II Comprehensive Site Assessment (Phase II) in accordance with the requirements of the ACOP and the MCP at 310 CMR 40.0830. According to 310 CMR 40.0833, the purpose of a Phase II is to collect, develop, and evaluate sufficient information to support conclusions and LSP opinions regarding:

- the source, nature, extent and potential impacts of releases of oil and/or hazardous material;
- the risk of harm posed by the disposal site to health, safety, public welfare and the environment; and
- the need to conduct remedial actions at the disposal site.

Based on our review of the previous evaluations, the existing analytical data, and our understanding of the MCP, Haley & Aldrich proposes to conduct additional field investigations at the site to address MCP Phase II requirements. The MCP at 310 CMR 40.0835 specifies that a Phase II Comprehensive Site Assessment Report provide the following information to adequately characterize the disposal site consistent with the Response Action Performance Standards at 310 CMR 40.0191:

- Disposal Site Name, Location and Locus Map
- Disposal Site History
- Site Hydrogeologic Characteristics
- Environmental Fate and Transport of Oil and/or Hazardous Materials
- Nature and Extent of Contamination
- Exposure Assessment
- Risk Characterization
- Conclusions

The previous Baumgartner Environmental Site Assessment and HEA assessment activities do not provide adequate data to evaluate these Phase II objectives and therefore additional field investigations are required. The proposed Phase II field investigations will focus on characterization of possible additional source areas of contamination and potential Immediate Response Actions (IRA) conditions as per ACOP Section III.E.12.

3.02 Conceptual Understanding/MCP Issues

The following presents our current conceptual understanding of MCP issues based on information and findings summarized from previous reports. These issues form a basis for the proposed Phase II SOW.

A. Shallow Soil Quality/PCBs

The Baumgartner Environmental Site Assessment identified total PCB levels of 10.6 mg/kg (combined concentration of Aroclor 1248 and 1260) and 59 mg/kg (Aroclor 1260) in two near-surface soil samples located in the vicinity of the large shear (SS-8) and the small shear (SB-3), respectively. Subsequent IRA assessment activities by HEA detected 57 mg/kg and 92 mg/kg PCBs (Aroclor 1260) in two samples at the northeast site corner (SB6-SS1 and SB6-N1). Elevated levels of petroleum hydrocarbons, PAHs and lead were also detected at Baumgartner soil sampling locations. Based on the historical use of the property for metal recycling dating back to the early 1940s, it is possible that other source areas of elevated petroleum, PAHs, metals and PCBs may exist.

B. Baler/Press Room Release

DEP analyses indicated that sludge identified on the baler/press room floor contained PCBs, petroleum hydrocarbons, metals and VOCs. It was noted that the detected PCB (Aroclor 1242) was different from those detected elsewhere at the site. American believes the oily sludge originated from sewer backups through the floor drain in the bailer room, which is supported by the recent flooding observed by Haley & Aldrich at the site on 22 March 2001. DEP has alleged that these PCBs were discharged from the baler room to the municipal sewer and required evaluation of the sewer as a potential migration pathway.

C. Municipal Sewer

Flooding and back-ups from the municipal sewer may have impacted the site. Flooding has been observed by Haley & Aldrich emanating from a manhole cover in Marston Street, to the west of the subject property. American reports that this manhole cover had been welded shut by the City in an effort to address recurring flooding after heavy rains. American also believes the flooding may be due in part to an undersized pipe at the downstream (east) end of the site where the sewer extends beneath Route 495. The ACOP requires an assessment of the contents of the drainage pipe leading from the baler/press room to the GLSD sewer.

D. Shear Residue/Berm Material Quality

Soil materials intermixed with metal are currently stockpiled against the berm at the southeast portion of the site. American personnel reported that these "shear residue" materials, which are to be processed to remove non-ferrous metals, contain fill materials that are intermixed with the scrap metal upon delivery to the facility and soils that are scraped from beneath the front of the shear during loading operations. Analytical data on these shear residue stockpiles were not available.

The overall nature of the berms extending along the south and east property limits is also unknown. American believes that the berms were constructed from shallow soils at the property in conjunction with earthwork for Route 495 during the 1960s. Baumgartner concluded, "it is reasonable to assume" that the berm materials could be shipped to a local landfill. DEP Field Inspection Notes from their 17 February 1999 site visit also commented on observations of "wastes indicative of landfill materials sticking out from the surface of the

(southern) berm." The southern portion of the site was utilized as a municipal landfill prior to 1935 as reported in the Baumgartner assessment. A 50- to 100-ft. long portion of the berm and/or shallow fill materials from the abutting Essex paper recycling facility (formerly part of Tombarello property) were reportedly transported to the Fitchburg landfill. However, documentation/ analytical data for these materials were not available.

E. Deep Aquifer

The DEP site scoring map obtained as part of the Tier Classification (RTN 3-18126) by Haley & Aldrich identified a medium yield aquifer (i.e., relatively pervious granular soils), which underlies the site vicinity, although this aquifer is not classified as a potential drinking water source due to the urbanized setting.

The generalized soil profile indicated by Baumgartner/HEA boring logs typically consisted of 4 to 8 ft. of surficial miscellaneous fill materials overlying silts and silty fine sands to depths of exploration at 10 to 17 ft. Deeper fill to 17 ft. was also reported in HEA boring log SB7/MW7 in the southeastern portion of the property. Groundwater levels measured in monitoring wells ranged from approximately 5 to 11 ft. with depth apparently increasing from west to east.

Monitoring wells installed by Baumgartner/HEA typically terminated in the finer-grained silty soils at relatively shallow depths of 10 to 16 ft. Therefore, these monitoring wells appear to have terminated above the pervious granular soils and the potential presence of groundwater contamination in the deeper aquifer is unknown.

F. Abandoned UST

Evidence of an abandoned 500-gallon underground waste oil storage tank (UST) was observed by DEP adjacent to the baler/press building. The existence of this tank was later confirmed through excavations performed by American. Removal of the UST will be required in accordance with 527 CMR 9.00 and the DEP Underground Storage Tank Closure Assessment Manual, DEP Policy #WSC-402-96. The Baumgartner Environmental Site Assessment had reported that no underground storage tanks existed on the property.

IV. PHASE II SCOPE OF WORK

4.01 General

The Phase II Comprehensive Site Assessment field work will be structured as a phased characterization approach, initially utilizing a grid of surficial soil sampling combined with field screening. Based on field screening results, a secondary phase of subsurface exploration and laboratory analyses is planned. Proposed field investigations are depicted on Figure 2.

This systematic approach recognizes the possibility that source areas of contamination may have occurred at random locations given the long-term use of the property for storage, dismantling, shearing, cutting, crushing, baling and transport of scrap from manufactured items and machinery; the inherent use and maintenance of heavy construction and hydraulic equipment; and that a majority of the site is unpaved.

The phased characterization approach allows for periodic evaluation of site information and data, allows for modification to the working conceptual site model of contaminant release(s) and impacts, and addresses the need for periodic review of the site data in support of Imminent Hazard evaluations. Accordingly, the proposed field program detailed below may be modified to accommodate site-specific conditions and findings by using the information gained, to refine the location and objective for future sampling and chemical analyses.

4.02 Proposed Site Investigations

In summary, the proposed site investigations and field program are as follows, and described in detail in the following subsections:

- Field reconnaissance and sampling of site storm drains/sewer sediment
- Evaluation of baler/press room area, including removal of abandoned 500-gal. UST
- Grid sampling and field screening of shallow soils
- Subsurface explorations at selected locations
- Test pit excavations-berm area and residue stockpiles
- Deep aquifer monitoring wells
- Groundwater sampling

A. Field Reconnaissance of Site Storm Drains/Sewers

In response to ACOP Sections III.8. (a) and (e), a field reconnaissance is proposed to observe and record conditions and contents of on-site storm drains and sewers at accessible catch basins and manhole openings will be conducted. The purpose of the field reconnaissance is to evaluate these subsurface utility features as potential contaminant migration pathways. Available site survey plans indicate approximately 15 catch basins and manhole openings on the property and on Marston Street adjacent to the property (see Figure 2). Survey information of the drains may be provided by a civil engineer (retained separately by American). Record depths to invert and bottom of utility structures, if available, to allow

comparison of groundwater levels as part of an evaluation of these utilities as potential contaminant migration pathways.

Sediment samples will be collected for chemical analyses at selected storm drain/sewer manhole locations with the objective to evaluate potential incremental contributions from on-site discharges by characterizing upstream conditions (from Marston Street) and downstream locations within the site. Sampling locations of particular interest include: upstream Marston Street manholes; the receiving manhole from the baler/press room drainage pipe; and the downstream end of the sewer adjacent to Route 495 where pipe diameter flow restrictions are suspected.

Planned chemical analyses for sediments include chlorinated VOCs by EPA Method 8010 (via sample preservation Method 5035), PCBs by EPA Method 8082, RCRA metals, and Massachusetts DEP volatile petroleum hydrocarbon (VPH) and extractable petroleum hydrocarbon (EPH) methodology, including VOC and PAH target compounds.

B. Evaluation of Baler/Press Room Area

In response to ACOP Sections III.8. (a) to (c), the Phase II field program will involve an exploration and chemical testing program to assess soil and groundwater quality in the vicinity and downgradient of the baler/press room and drainage pipe leading from the baler/press room to the GLSD sewer. During ACOP negotiation meetings with DEP, it was discussed that the integrity of the drain line and potential releases from the drain line would be evaluated through a series of small-diameter GeoProbe explorations in the surrounding pipe backfill/bedding material.

The proposed field exploration program to address these ACOP baler/press room requirements includes:

- **Removal of the abandoned 500-gallon waste oil UST:** Arrange for, monitor and document decommissioning and removal of the abandoned 500-gallon fuel oil UST adjacent to the north side of the baler/press building by a tank removal contractor in accordance with 527 CMR 9.00 (see Figure 2). The contractor will be responsible for obtaining a tank removal permit from the local fire department, evacuation of tank contents and cleaning the tank interior, off-site disposal of waste liquids under manifest, excavation and removal of the tank, and decommissioning of tank piping. Groundwater in nearby well MW2 was reported at a depth of approximately 7 ft. with slow recharge during sampling; therefore dewatering is not planned during tank removal excavations.

  Haley & Aldrich will monitor tank removal excavations, prepare field logs, and collect confirmatory soil samples from the bottom and four walls of the excavation in accordance with DEP Policy #WSC-402-96. Confirmatory soil samples will be submitted to a chemical laboratory for chlorinated VOCs, VPH/EPH, RCRA metals and PCB analyses. Soil samples will also be screened for VOCs using a portable photoionization detector (PID) and headspace techniques to monitor for potential IRA

conditions (PID readings greater than 100 ppmv) relative to 310 CMR 40.0313(2). The decommissioned tank will be left on-site for recycling by American.

- **Test pits:** One day of test pits in the vicinity of the baler/press building are proposed to observe conditions adjacent to and underlying the exterior foundation walls to evaluate possible contaminant migration from beneath the building, and to characterize the nature of fill materials surrounding the baler building where releases were reported in the vicinity of scrap metal piles and the oil/water separators.

  Haley & Aldrich will arrange for and monitor test pit explorations by an excavation contractor. Test pits are planned to depths of 8 to 10 ft. adjacent to the western and eastern (downgradient) foundation walls of the baler/press building to evaluate soil conditions and potential contaminant migration from anticipated pervious granular materials/crushed stone which typically underlie building foundations and slabs. Test pit locations adjacent to the building are indicated on Figure 2; other test pit locations will be selected during execution of the program.

  Test pits are also planned adjacent to the baler building where discharges/releases were reported in the vicinity of metal piles and the oil/water separators. Locations of these discharges/incidents need to be identified in the field by American prior to excavation of the test pits. Haley & Aldrich will monitor test pit explorations, prepare field logs, and collect two to three soil samples from representative strata within each test pit excavation for chemical analysis. Samples will be submitted to a chemical laboratory for chlorinated VOCs, VPH, EPH, RCRA metals and PCBs analyses. Soil samples will also be screened for VOCs using a portable PID and headspace techniques.

- **GeoProbe Explorations:** To evaluate potential release in the vicinity and downgradient of the baler/pressroom drain line and the baler pressroom building, 2 rig-days of GeoProbe-type small-diameter direct-push explorations are proposed.

  GeoProbe soil sampling is planned at approximately three to four locations along the 100-ft. long drain pipe alignment (designed as GP-1, GP-2 and GP-3 on Figure 2). In an effort to intercept the pipe backfill/bedding, sampling is planned within 2 to 5 ft. of the pipe centerline. To avoid possible damage to the drain line, explorations will be initiated at least 5 ft. from the pipe centerline and then will be progressively conducted toward the pipe until anticipated pervious backfill/bedding material is encountered.

  GeoProbe explorations are also proposed at three to four locations downgradient of the baler/press building and/or the drain line, and small diameter monitoring wells (½ to ¾ in. diameter) are proposed to be installed in these downgradient locations (designated GP-4(MW) to GP-7(MW)) to evaluate groundwater quality. The wells will be finished at ground surface with a protective metal guard pipe or roadway box.

  Soil samples will be collected continuously from ground surface to approximate depths of 8 to 12 ft., terminating approximately 2 ft. into natural soils. Collected soil

samples will be screened in the field for VOCs using a portable PID and sample jar headspace techniques. One to two samples from each location will be submitted to an analytical laboratory for chlorinated VOCs, PCBs, RCRA metals and EPH/VPH analyses.

Following GeoProbe well development, groundwater samples will be obtained and submitted to a chemical laboratory for analyses for chlorinated VOCs, PCBs, RCRA metals and VPH/EPH. Haley & Aldrich will prepare field logs of soil sampling and monitoring well installations, and survey locations and elevations of well heads.

C. Grid Soil Sampling

As part of the phased characterization approach, systematic grid sampling and field screening of shallow soils is proposed across a majority of the site. The results of this program will be used to guide a secondary phase of subsurface explorations (GeoProbes or test pits) and chemical laboratory analyses of the fill strata. The proposed grid sampling locations are indicated on Figure 2. The locations of the secondary subsurface explorations will be based on results of the grid sampling program and therefore are not indicated on Figure 2.

The following tasks are to be undertaken in conjunction with the gridded soil sampling program:

- **Aerial Photo Review:** Research of additional aerial photographs that may be available from Massachusetts Highway Department and other local sources in an effort to identify past uses/storage at the property and potential contaminant source/release areas.

- **Sampling Point Layout Survey:** Retain the services of a local surveyor to layout a sampling grid across the property. A 100 ft. x 100 ft. sampling grid is planned and proposed sampling locations will be staked or marked in the field and plotted on an available survey base map. Field measurements will also be made to plot existing surficial features on the base map such as soil berm limits, roadways, and storage/stockpile areas.

- **Shallow Soil Sampling:** Conduct a program of shallow soil sampling on an approximate 100-ft. x 100-ft. sampling grid across the property, at approximately 75 locations. Some sample locations may need to be offset due to existing equipment or material stockpiles. Soil samples will be collected to depths of approximately 2 ft. below ground surface using manually operated equipment such as hand augers or an electric KV drill. Sampling depths may be reduced if difficult drilling conditions are encountered.

  Recovered soil samples will be screened in the field for VOCs using a PID and headspace techniques, for total petroleum hydrocarbons (TPH) using Dexsil PetroFlag® hydrocarbon test kits, and for PCBs using a Dexsil L2000 PCB\Chloride Analyzer. Duplicates of approximately 10 percent of these samples will be submitted

to a chemical laboratory for confirmatory analyses of chlorinated VOCs, VPH/EPH, RCRA metals and PCBs.

Results of the grid sampling and screening program will identify areas for additional explorations and testing.

- **Subsurface Explorations:** Following evaluation of the results of the grid sampling, arrange and monitor a program of subsurface explorations to further assess potential "hot spot" areas identified during the shallow grid sampling/screening program. These supplemental explorations will focus on the surficial fill layer and will utilize either GeoProbe soil sampling or test pit excavations. We have assumed that supplemental explorations will be conducted at approximately 20 percent of the grid locations, which corresponds to approximately 15 explorations.

  Explorations will be advanced through the surficial fill layer and terminate in the natural silty soils. Anticipated depths are typically in the range of 6 to 10 ft., but may be greater in the area of the former landfill. Haley & Aldrich will monitor explorations, prepare field logs, and collect soil samples from representative strata within the test pits or GeoProbe sampling spoons. Soil samples will be screened in the field for VOCs using a PID and headspace techniques. Two to three soil samples of fill and/or natural soil from each exploration will be submitted to a chemical laboratory for analyses including chlorinated VOCs (if elevated PID readings), PCBs, RCRA metals and VPH/EPH.

D. Test Pit Explorations-Berm Area

One rig-day of test pit excavations with a rubber-tired backhoe is planned to evaluate the shear residue material stockpiles and contents of the soil berm along the east and southern site boundaries. Approximately six test pits to depths of 4 to 8 ft. are anticipated. Haley & Aldrich will monitor the explorations, prepare field logs, and collect one to two soil samples from representative strata within each excavation. Soil samples will be screened in the field for VOCs using portable PID and headspace techniques. Selected samples will be submitted to a chemical laboratory for analyses including chlorinated VOCs (if elevated PID readings), PCBs, RCRA metals and VPH/EPH.

E. Deep Aquifer Borings

To evaluate groundwater quality in the deep aquifer beneath the site, five deep groundwater monitoring wells, located near the upgradient and downgradient property boundaries, are proposed. The actual number and locations of the monitoring wells may be adjusted based on results of the other explorations proposed herein. We have assumed that wells will be installed to depths of approximately 35 to 50 ft.

Monitoring wells will be constructed of 2-in. diameter PVC with a slotted wellscreen for the lower 5 to 10 ft. and finished with a protective metal guard pipe or roadway box. Continuous split spoon sampling will be conducted during drilling in the fill with standard split spoon sampling (5 ft. intervals) thereafter. Recovered soil samples will be headspace screened in

the field with a PID. One to two selected soil samples per deep exploration will be submitted for analytical testing for chlorinated VOCs (if elevated PID readings), PCBs, RCRA metals and VPH/EPH. Haley & Aldrich will prepare field logs of monitoring well installations, and survey locations and elevations of the wellheads.

F. Groundwater Sampling

Groundwater data will be collected to assess groundwater quality and groundwater flow direction beneath the site. The wells to be developed and sampled include the new GeoProbe wells downgradient of the baler/press building and drain line, the new deep wells, and the remaining Baumgartner/HEA wells (possibly MW1 and MW5 to MW7) if functional.

The objectives of well development are to induce formation water into the well, develop good hydraulic conductivity between the well and the aquifer, and remove fine soil particles which may have resulted from drilling and installing the well. A minimum of three to five standing well volumes will be removed prior to sampling. The wells will be developed and sampled using "slow pump" techniques, and submitted to an analytical testing laboratory for analyses of chlorinated VOCs, VPH/EPH, PCBs and dissolved RCRA metals. Purge water will be discharged to ground at the well locations in accordance with the MCP.

4.03 Quality Assurance/Quality Control

A quality assurance/quality control (QA/QC) program will be applied to aspects of data acquisition in both the field and the analytical laboratory. This program is designed to support the generation of reliable results. The soil and groundwater samples selected for chemical laboratory analysis will be submitted to a DEP-certified laboratory.

In the field, soil and groundwater samples will be preserved in a cooler with ice, and transported to environmental sample storage refrigerators at the Haley & Aldrich laboratory for subsequent pick up by the analytical laboratory, typically on a daily basis. Samples delivered to the analytical laboratory will be accompanied by Haley & Aldrich Chain-of-Custody records. These records will document sample characteristics and analytical procedures, and will be signed by field and laboratory personnel upon sample receipt by the laboratory. Chain-of-Custody records will be included with the laboratory's final data reports. Field QA/QC sample will be collected in conjunction with the groundwater samples. The field QA/QC samples will include duplicates and trip blanks.

Both laboratory and field QA/QC sample results will be used to evaluate the chemical analytical data generated. The evaluation will consider holding times in addition to results of trip blank and duplicate analyses to gauge the reliability of the reported data.

4.04 General Field Sampling Procedures

Soil samples will be collected, handled and stored by methods similar to those described in DEP Publication #WSC-310-91, "Standard Referenced for Monitoring Wells," dated January 1991 for split spoon samples, and the related DEP publication "Small Diameter Driven Well Supplement," dated January 1999. Sampling equipment potentially coming into contact with

contaminated media will be decontaminated in the field consistent with the procedures outlined in #WSC-310-91.

Samples will be managed in accordance with Haley & Aldrich general environmental field procedures (EFP-3 Stream Sediment and Surficial Soil Sampling; EFP-5 Test Pit Excavation for Environmental Sampling; EFP-7 Preservation and Shipment of Environmental Samples; EFP-8 Logging Subsurface Contamination).

4.05 Health & Safety Plan

Haley & Aldrich field personnel will perform the tasks described in this work scope in accordance with the site-specific Health & Safety Plan to be prepared prior to the initiation of work. This plan establishes appropriate safety measures to adequately safeguard on-site Haley & Aldrich personnel, based on known site conditions and anticipated potential hazards.

V. PHASE II COMPREHENSIVE SITE ASSESSMENT

Once the Phase II exploration and chemical testing program has been completed, Haley & Aldrich will compile and interpret the newly obtained data and information along with the existing data from previous evaluations at the site. The information will be used to develop a conceptual site model and evaluate whether additional information or data is required to support a Phase II Comprehensive Site Assessment, and to develop recommendations for a course of action for MCP compliance. Additional explorations for iterative purposes will be conducted under the guidelines presented in this Scope of Work. A supplemental Scope of Work will be prepared if significant changes to the field exploration program are planned.

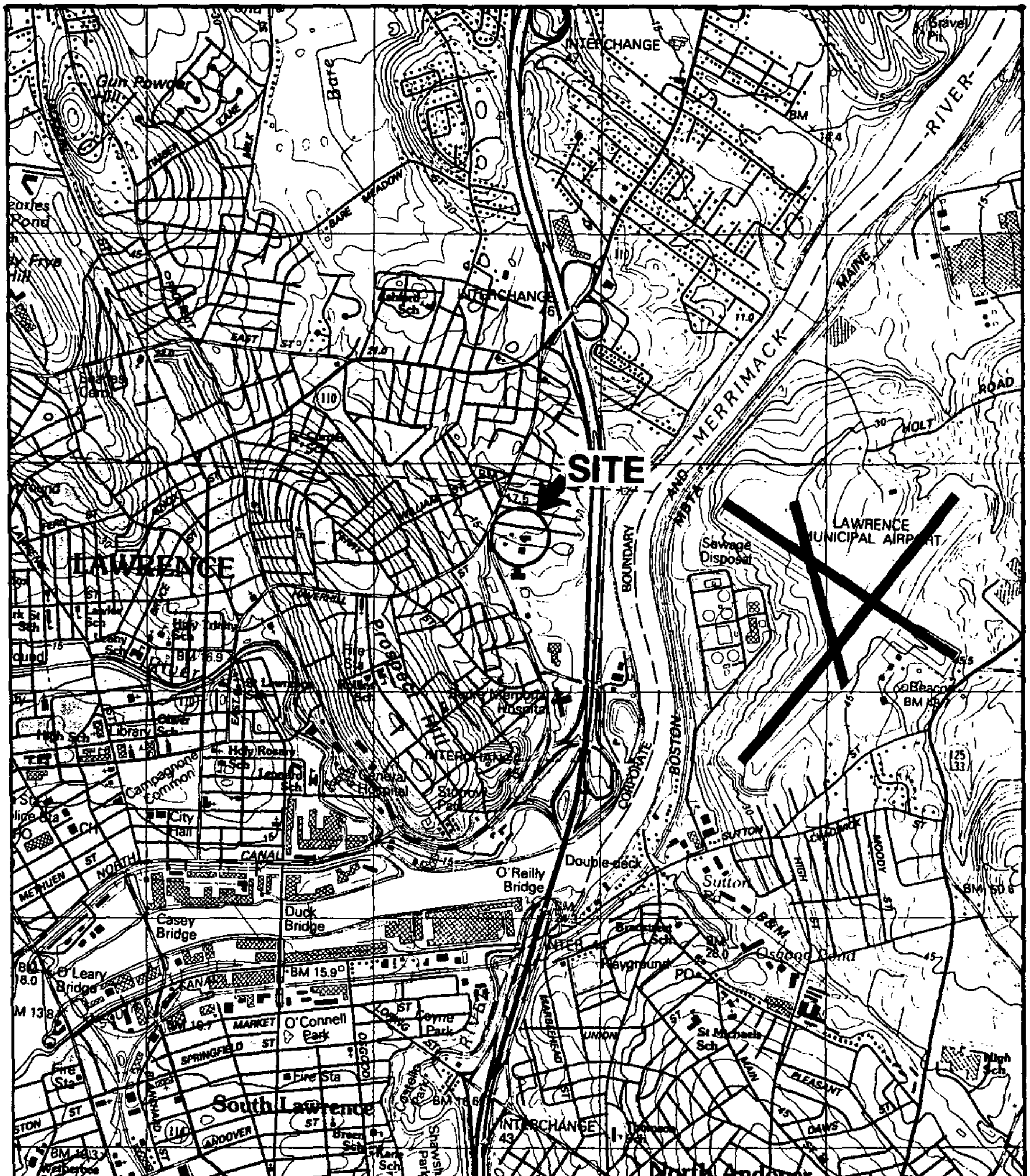
5.01 Schedule

We anticipate that Phase II field investigations should be initiated by late spring/summer 2001. The findings of the SOW field investigations and Phase II Comprehensive Site Assessment are to be submitted to DEP on or before 7 April 2002, in accordance with ACOP Section III.E.9.

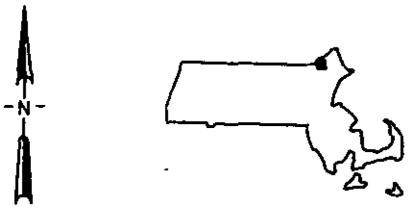
5.02 Licensed Site Professional

Elliot I. Steinberg, LSP Registration No. 9663, has been engaged by American to manage response actions at this disposal site.

G:\12671\041\PhIISOW.doc



SITE COORDINATES: 42°43'9.71"N 71°08'30.58"W



U.S.G.S. QUADRANGLE: LAWRENCE, MA

HALEY & ALDRICH

UNDERGROUND ENGINEERING & ENVIRONMENTAL SOLUTIONS

PHASE II SCOPE OF WORK
207 MARSTON STREET
LAWRENCE, MASSACHUSETTS

PROJECT LOCUS

APPROXIMATE SCALE: 1:25,000

APRIL 2001

12671-040 A01

FIGURE 1

HOFMANN AVENUE

TOSCANO

D.J. & R.D. COSTELLO

R.S. & E.A. COSTELLO

STENNICK

BOUROUPHAEL

CRAFTS

DENARD

BEAULIEU

BEAULIEU

HOFMANN AVENUE

METAL SHOP/GARAGE

OFFICE

DWELLING

SCALE

SCALE

FURNACE BUILDING

PAPER COMPANY

HA101

HA102

HA103

HA104

HA105

MW #1

MW #2 SB2

MW #2A

MW #3 SB3

MW #3A

MW #4

MW #5/SB5

MW #6/SB6

MW #7/SB7

SB #6

SS #7

SS #8

SS #9

GP-1

GP-2

GP-3

GP-4(MW)

GP-5(MW)

GP-6(MW)

GP-7(MW)

AREA ASSOCIATED WITH BALER/PRESS ROOM AND OILY SLUDGE EVALUATION

A11 FORMER CARDIFF STREET

500 GALLON WASTE OIL UST

SANITARY SEWER

PROPOSED 20' SEWER EASEMENT

EXISTING SEWER

SEWER EASEMENT

CULVERT EASEMENT

PRESS (BALER)

SMALL SHEAR

LARGE SHEAR

CLEAN - OUT TO GRADE

6" DRAIN

ELECTRIC TRANSFORMER

8" DRAIN

12" DRAIN

SEWER

SHED

PUMP ISLAND

MARSTON STREET

3" GAS MAIN

3" GAS

25' EASEMENT

STORM DRAIN

12" DRAIN

AREA OF PROPOSED TEST PIT EXPLORATIONS IN "SHEAR RESIDUE" MIATERIAL STOCKPILES AND BERM

APPROXIMATE LOCATION OF SOIL EXCAVATION FOR HEAT TRANSFER OIL RELEASE (RTN: 3-16817)

SOIL BERM

SOIL BERM

RAILROAD

FINELLE REALTY TRUST

ORDER OF SONS OF ITALY IN AMERICA, LAWRENCE LODGE NO. 902

COMMONWEALTH OF MASSACHUSETTS

ROUTE 495

flow

flow

F7

F2

N

PROPOSED HALEY & ALDRICH PHASE II EXPLORATIONS

- HA 101 — PROPOSED DEEP MONITORING WELL LOCATION
- GP-1 — PROPOSED GEOPROBE LOCATION
- PROPOSED SHALLOW SOIL SAMPLE LOCATION
- PROPOSED TEST PIT LOCATION

PREVIOUS EXPLORATIONS

- MW #2 — MONITORING WELL
- SS #7 — SURFACE SAMPLE
- SB #5 — SOIL BORING

△ Proposed resampling Locations by Weston Jan. 2003

LEGEND

- OHE — OVERHEAD ELECTRIC LINE
- UGE — UNDERGROUND ELECTRIC LINE
- UGT — UNDERGROUND TELEPHONE LINE
- OHT — OVERHEAD TELEPHONE LINE
- G — NATURAL GAS LINE
- 6" W — 6" WATER LINE
- 2" W — 2" WATER LINE
- UTILITY POLE
- CATCH BASIN
- HYDRANT

NOTE: SITE MAP CREATED FROM SURVEY PERFORMED BY:
STOVERS ASSOCIATES, INC.
REGLAND SURVEYORS
METHUEN, MASSACHUSETTS
DATE OF SURVEY: JUNE 1990 (REVISED DECEMBER 1990)

NOTE:

1. BASE PLAN PROVIDED BY W.Z. BAUMGARTNER & ASSOCIATES, INC., FRANKLIN, TENNESSEE, DATED 30 JULY 1999. MODIFICATIONS BY HALEY & ALDRICH, INC. BASED ON SITE RECONNAISSANCE INFORMATION.

0 50 100 150 200
SCALE IN FEET

HALEY & ALDRICH

UNDERGROUND ENGINEERING & ENVIRONMENTAL SOLUTIONS

PHASE II SCOPE OF WORK
207 MARSTON STREET
LAWRENCE, MASSACHUSETTS

PROPOSED EXPLORATION LOCATION PLAN

SCALE: AS SHOWN

APRIL 2001

12671-041 D02

FIGURE 2

APPENDIX A

Copy of BWSC-108 Transmittal Form

Massachusetts Department of Environmental Protection **BWSC-108**
Bureau of Waste Site Cleanup

COMPREHENSIVE RESPONSE ACTION TRANSMITTAL FORM & PHASE I COMPLETION STATEMENT

Pursuant to 310 CMR 40.0484 (Subpart D) and 40.0800 (Subpart H)

Release Tracking Number: 3 - 18126

A. SITE LOCATION:

Site Name: (optional) J. Tombarello & Sons, Inc.

Street: 207 Marston Street Location Aid: Hofman Avenue

City/Town: Lawrence ZIP Code: 01843-0000

Related Release Tracking Numbers that this Form Addresses: 3-18431

Tier Classification: (check one of the following) ☐ Tier IA ☐ Tier IB ☐ Tier IC ☑ Tier II ☐ Not Tier Classified

If a Tier I Permit has been issued, state the Permit Number:

B. THIS FORM IS BEING USED TO: (check all that apply)

☐ Submit a **Phase I Completion Statement**, pursuant to 310 CMR 40.0484 (complete Sections A, B, C, G, H, I and J).

☑ Submit a **Phase II Scope of Work**, pursuant to 310 CMR 40.0834 (complete Sections A, B, C, G, H, I and J).

☐ Submit a final **Phase II Comprehensive Site Report and Completion Statement**, pursuant to 310 CMR 40.0836 (complete Sections A, B, C, D, G, H, I and J).

☐ Submit a **Phase III Remedial Action Plan and Completion Statement**, pursuant to 310 CMR 40.0862 (complete Sections A, B, C, G, H, I and J).

☐ Submit a **Phase IV Remedy Implementation Plan**, pursuant to 310 CMR 40.0874 (complete Sections A, B, C, G, H, I and J).

☐ Submit an **As-Built Construction Report**, pursuant to 310 CMR 40.0875 (complete Sections A, B, C, G, H, I and J).

☐ Submit a **Phase IV Final Inspection Report and Completion Statement**, pursuant to 310 CMR 40.0878 and 40.0879 (complete Sections A, B, C, E, G, H, I and J).

☐ Submit a periodic **Phase V Inspection & Monitoring Report**, pursuant to 310 CMR 40.0892 (complete Sections A, B, C, G, H, I and J).

☐ Submit a final **Phase V Inspection & Monitoring Report and Completion Statement**, pursuant to 310 CMR 40.0893 (complete Sections A, B, C, F, G, H, I and J).

You must attach all supporting documentation required for each use of form indicated, including copies of any Legal Notices and Notices to Public Officials required by 310 CMR 40.1400.

C. RESPONSE ACTIONS:

☐ Check here if any response action(s) that serves as the basis for the Phase submittal(s) involves the use of Innovative Technologies. (DEP is interested in using this information to create an Innovative Technologies Clearinghouse.)

Describe Technologies:

D. PHASE II COMPLETION STATEMENT:

Specify the outcome of the Phase II Comprehensive Site Assessment:

☐ Additional Comprehensive Response Actions are necessary at this Site, based on the results of the Phase II Comprehensive Site Assessment.

☐ The requirements of a Class A Response Action Outcome have been met and a completed Response Action Outcome Statement (BWSC-104) will be submitted to DEP.

☐ The requirements of a Class B Response Action Outcome have been met and a completed Response Action Outcome Statement (BWSC-104) will be submitted to DEP.

☐ Rescoring of this Site using the Numerical Ranking System is necessary, based on the results of the final Phase II Report.

E. PHASE IV COMPLETION STATEMENT:

Specify the outcome of Phase IV activities:

☐ Phase V operation, maintenance or monitoring of the Comprehensive Response Action is necessary to achieve a Response Action Outcome. (This site will be subject to a Phase V Operation, Maintenance and Monitoring Annual Compliance Fee.)

☐ The requirements of a Class A Response Action Outcome have been met. No additional operation, maintenance or monitoring is necessary to ensure the integrity of the Response Action Outcome. A completed Response Action Outcome Statement (BWSC-104) will be submitted to DEP.

☐ The requirements of a Class C Response Action Outcome have been met. No additional operation, maintenance or monitoring is necessary to ensure the integrity of the Response Action Outcome. A completed Response Action Outcome Statement (BWSC-104) will be submitted to DEP.

SECTION E IS CONTINUED ON THE NEXT PAGE

COMPREHENSIVE RESPONSE ACTION TRANSMITTAL FORM & PHASE I COMPLETION STATEMENT

Pursuant to 310 CMR 40.0484 (Subpart D) and 40.0800 (Subpart H)

Release Tracking Number: 3 - 18126

E. PHASE IV COMPLETION STATEMENT: (continued)

☐ The requirements of a Class C Response Action Outcome have been met. Further operation, maintenance or monitoring of the remedial action is necessary to ensure that conditions are maintained and that further progress is made toward a Permanent Solution. A completed Response Action Outcome Statement (BWSC-104) will be submitted to DEP.

Indicate whether the operation and maintenance will be Active or Passive. (Active Operation and Maintenance is defined at 310 CMR 40.0006.):

◯ Active Operation and Maintenance ◯ Passive Operation and Maintenance

(Active Operation and Maintenance makes the Site subject to a Post-RAO Class C Active Operation and Maintenance Annual Compliance Fee.)

F. PHASE V COMPLETION STATEMENT:

Specify the outcome of Phase V activities:

☐ The requirements of a Class A Response Action Outcome have been met and a completed Response Action Outcome Statement (BWSC-104) will be submitted to DEP.

☐ The requirements of a Class C Response Action Outcome have been met. No additional operation, maintenance or monitoring is necessary to ensure the integrity of the Response Action Outcome. A completed Response Action Outcome Statement (BWSC-104) will be submitted to DEP.

☐ The requirements of a Class C Response Action Outcome have been met. Further operation, maintenance or monitoring of the remedial action is necessary to ensure that conditions are maintained and that further progress is made toward a Permanent Solution. A completed Response Action Outcome Statement (BWSC-104) will be submitted to DEP.

Indicate whether the operation and maintenance will be Active or Passive. (Active Operation and Maintenance is defined at 310 CMR 40.0006.):

◯ Active Operation and Maintenance ◯ Passive Operation and Maintenance

(Active Operation and Maintenance makes the Site subject to a Post-RAO Class C Active Operation and Maintenance Annual Compliance Fee.)

G. LSP OPINION:

I attest under the pains and penalties of perjury that I have personally examined and am familiar with the information contained in this transmittal form, including any and all documents accompanying this submittal. In my professional opinion and judgment based upon application of (i) the standard of care in 309 CMR 4.02(1), (ii) the applicable provisions of 309 CMR 4.02(2) and (3), and (iii) the provisions of 309 CMR 4.03(5), to the best of my knowledge, information and belief,

> *if Section B indicates that a* ***Phase I, Phase II, Phase III, Phase IV or Phase V Completion Statement*** *is being submitted*, the response action(s) that is (are) the subject of this submittal (i) has (have) been developed and implemented in accordance with the applicable provisions of M.G.L. c. 21E and 310 CMR 40.0000, (ii) is (are) appropriate and reasonable to accomplish the purposes of such response action(s) as set forth in the applicable provisions of M.G.L. c. 21E and 310 CMR 40.0000, and (iii) complies(y) with the identified provisions of all orders, permits, and approvals identified in this submittal;

> *if Section B indicates that a* ***Phase II Scope of Work*** *or a* ***Phase IV Remedy Implementation Plan*** *is being submitted*, the response action(s) that is (are) the subject of this submittal (i) has (have) been developed in accordance with the applicable provisions of M.G.L. c. 21E and 310 CMR 40.0000, (ii) is (are) appropriate and reasonable to accomplish the purposes of such response action(s) as set forth in the applicable provisions of M.G.L. c. 21E and 310 CMR 40.0000, and (iii) complies(y) with the identified provisions of all orders, permits, and approvals identified in this submittal;

> *if Section B indicates that an* ***As-Built Construction Report*** *or a* ***Phase V Inspection and Monitoring Report*** *is being submitted*, the response action(s) that is (are) the subject of this submittal (i) is (are) being implemented in accordance with the applicable provisions of M.G.L. c. 21E and 310 CMR 40.0000, (ii) is (are) appropriate and reasonable to accomplish the purposes of such response action(s) as set forth in the applicable provisions of M.G.L. c. 21E and 310 CMR 40.0000, and (iii) complies(y) with the identified provisions of all orders, permits, and approvals identified in this submittal.

I am aware that significant penalties may result, including, but not limited to, possible fines and imprisonment, if I submit information which I know to be false, inaccurate or materially incomplete.

☑ Check here if the Response Action(s) on which this opinion is based, if any, are (were) subject to any order(s), permit(s) and/or approval(s) issued by DEP or EPA. If the box is checked, you MUST attach a statement identifying the applicable provisions thereof.

LSP Name: Elliot I. Steinberg LSP #: 9663 Stamp:

Telephone: 617-886-7454 Ext.:

FAX: (optional) 617-886-7754

Signature: Elliot I Steinberg

Date: 6 April 2001

Massachusetts Department of Environmental Protection **BWSC-108**
Bureau of Waste Site Cleanup

COMPREHENSIVE RESPONSE ACTION TRANSMITTAL FORM & PHASE I COMPLETION STATEMENT

Pursuant to 310 CMR 40.0484 (Subpart D) and 40.0800 (Subpart H)

Release Tracking Number: 3 - 18126

H. PERSON UNDERTAKING RESPONSE ACTION(S):

Name of Organization: American Recycling of Massachusetts, Inc. d/b/a John C. Tombarello & Sons

Name of Contact: Mr. Peter Prinz Title: President

Street: 207 Marston Street

City/Town: Lawrence State: MA ZIP Code: 01841-0000

Telephone: 978-682-5226 Ext.: _____ FAX: (optional) 978-686-6484

☐ Check here if there has been a change in the person undertaking the Response Action.

I. RELATIONSHIP TO SITE OF PERSON UNDERTAKING RESPONSE ACTION(S): (check one)

☑ RP or PRP Specify: ◉ Owner ○ Operator ○ Generator ○ Transporter Other RP or PRP: _____

☐ Fiduciary, Secured Lender or Municipality with Exempt Status (as defined by M.G.L. c. 21E, s. 2)

☐ Agency or Public Utility on a Right of Way (as defined by M.G.L. c. 21E, s. 5(j))

☐ Any Other Person Undertaking Response Action Specify Relationship: _____

J. CERTIFICATION OF PERSON UNDERTAKING RESPONSE ACTION(S):

I, Mr. Peter Prinz, attest under the pains and penalties of perjury (i) that I have personally examined and am familiar with the information contained in this submittal, including any and all documents accompanying this transmittal form, (ii) that, based on my inquiry of those individuals immediately responsible for obtaining the information, the material information contained in this submittal is, to the best of my knowledge and belief, true, accurate and complete, and (iii) that I am fully authorized to make this attestation on behalf of the entity legally responsible for this submittal. I/the person or entity on whose behalf this submittal is made am/is aware that there are significant penalties, including, but not limited to, possible fines and imprisonment, for willfully submitting false, inaccurate, or incomplete information.

By: _____ Title: President
(signature)

For: American Recycling of Massachusetts, Inc. Date: 4/5/01
(print name of person or entity recorded in Section H) d/b/a John C. Tombarello & Sons

Enter address of the person providing certification, if different from address recorded in Section H:

Street: _____

City/Town: _____ State: _____ ZIP Code: _____

Telephone: _____ Ext.: _____ FAX: (optional) _____

YOU MUST COMPLETE ALL RELEVANT SECTIONS OF THIS FORM OR DEP MAY RETURN THE DOCUMENT AS INCOMPLETE. IF YOU SUBMIT AN INCOMPLETE FORM, YOU MAY BE PENALIZED FOR MISSING A REQUIRED DEADLINE.

Attachment to BWSC-108
Section G

J. Tombarello & Sons, Inc.
207 Marston Street
Lawrence, MA
RTN # 3-18126, 3-18431

Response actions at the site have been subject to the following DEP issued notices:

- ☐ Request for Information (RTN # 3-16817), dated 2 December 1998. The RFI established and Interim Deadline of 22 January 1999 for providing information relative to environmental conditions at the property.
- ☐ Notice of Responsibility & Interim Deadline (RTN # 3-18126), dated 31 March 1999
- ☐ Administrative Consent Order and Notice of Noncompliance, File No. ACOP-NE-00-9013-123, dated 14 February 2001.

APPENDIX B

Copy of Administrative Consent Order and
Notice of Noncompliance, dated 14 February 2001
(File No. ACOP-NE-00-9013-123)

COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS
DEPARTMENT OF ENVIRONMENTAL PROTECTION

In the Matter of: American Recycling of Massachusetts, Inc. d/b/a Tombarello & Sons	ADMINISTRATIVE CONSENT ORDER AND NOTICE OF NONCOMPLIANCE File No. ACOP-NE-00-9013-123

I. THE PARTIES

A. The Department of Environmental Protection ("Department" or "DEP") is a duly constituted agency of the Commonwealth of Massachusetts ("Commonwealth"). Its principal office is located at One Winter Street, Boston, Massachusetts 02108, and it maintains a regional office at 205A Lowell Street, Wilmington, Massachusetts 01887.

B. American Recycling of Massachusetts, Inc. ("American" or "Respondent"), doing business as Tombarello & Sons, is a Massachusetts corporation with its principal place of business at 207 Marston Street, Lawrence, Massachusetts. American is a metal recycling business, which accepts various types of metals, which are separated, crushed and baled for shipment.

II. DEFINITIONS; STATEMENT OF LAW; STATEMENT OF FACTS; DETERMINATIONS

A. Definitions: Unless otherwise indicated, the terms used herein shall have the meaning given to them by the Massachusetts Oil and Hazardous Material Release Prevention and Response Act, M.G.L. c. 21E ("M.G.L. c. 21E") and/or the Massachusetts Contingency Plan ("MCP") at 310 CMR 40.0000 et seq. In addition, the following term shall have the meaning defined herein:

1. Site shall mean the property located at 207 Marston Street, Lawrence, Massachusetts, and any other place or area where the release(s) of oil and/or hazardous material(s) at or from said property has come to be located.

B. Statement of Law:

1. The Department is charged with the implementation and enforcement of M.G.L. c. 21E and the regulations promulgated thereunder at 310 CMR 40.0000 et seq.

2. The Department is charged with the implementation and

enforcement of the Massachusetts Hazardous Waste Management Act, M.G.L. c. 21C and the regulations promulgated thereunder at 310 C.M.R. 30.000 et seq.

3. The Department is charged with the implementation of M.G.L. c. 21, §§ 26-53 and the regulations promulgated thereunder at 314 CMR 5.00 et seq. and 314 C.M.R. 12.00 et seq.

4. The Department is authorized to assess civil administrative penalties pursuant to M.G.L. c. 21A, § 16 and the regulations promulgated thereunder at 310 CMR 5.00 et seq.

5. Certain provisions of M.G.L. c. 21E and the MCP provide as follows:

Release Notification

a. 310 CMR 40.0333(1)(b) requires responsible parties or potentially responsible parties to notify the Department of a release or threat of release by submitting a completed Release Notification Form to the Department.

b. 310 CMR 40.0311(7) requires notification to the Department not more than two hours after obtaining knowledge of any release of any oil and/or hazardous material, in any quantity or concentration, that poses or could pose an Imminent Hazard.

c. 310 CMR 40.0321(2)(b) provides that a measurement of polychlorinated biphenyl ("PCBs") in surficial soil equal to or greater than 10 mg/kg and located within 500 feet of a residential property or playground, unless access by children is controlled or prevented could pose an Imminent Hazard to human health.

d. 310 CMR 40.1600 states that the Reportable Concentration, Soil Category 1 (RSC-1), for polychlorinated biphenyls ("PCB") is 2 mg/kg.

e. 310 CMR 40.0006 defines knowledge as: (a) actual knowledge; (b) knowledge a person acting in a reasonably prudent and intelligent

manner would have, but for that person's willful, knowing or negligent avoidance of learning about the fact or facts in question. In determining whether a person has acted in a reasonably prudent and intelligent manner, any specialized knowledge or training possessed by that person and the circumstances surrounding the facts in question shall be taken into account.

Interim Deadlines

f. 310 CMR 40.0167(1) provides that the Department may establish and enforce reasonable Interim Deadlines consistent with M.G.L. c. 21E and the MCP for the furnishing of information and provision of access to documents and other information to the Department, including deadlines for compliance with Requests for Information.

Immediate Response Actions

g. 310 CMR 40.0413(2)(a) provides that conditions of Substantial Release Migration include releases that have resulted in the discharge of separate phase-oil and/or hazardous material to surface waters, subsurface structures, underground utilities or conduits.

h. 310 CMR 40.0420(1) requires Immediate Response Actions shall be taken by RPs, and may be taken by PRPs or Other Persons, in response to all releases and threats of release described in 310 CMR 40.0412.

i. 310 CMR 40.0426 (1) requires that an Imminent Hazard Evaluation be performed as part of an Immediate Response Action where a release or threat of release could pose an Imminent Hazard.

j. 310 CMR 40.0420(2) requires that Immediate Response Actions be conducted in compliance with any response actions requirements specified by the Department in its approval of Immediate Response Action Plans.

k. 310 CMR 40.0425(2) requires additional Immediate Response Action status reports to be submitted to

the Department every 6 months after submission of the initial status report.

Response Action Outcome

1. 310 CMR 40.1004 requires that a Response Action Outcome be supported by assessments and evaluations conducted pursuant to 310 CMR 40.0000.

6. Certain provisions of M.G.L. c. 21C and 310 CMR 30.000 et seq., provide as follows:

   a. 310 CMR 30.253(1)(h) provides that generators of waste oil or used oil fuel may accumulate or store waste oil in an existing underground storage tank only if it is equipped with a continuous leak detection method as described in 30.253(1)(h) 4 a-c.

   b. 310 CMR 30.253(5)(b) provides that all small quantity generators of waste oil and/or used oil fuel shall comply with 310 CMR 30.351, and all other regulations referred to therein, except 310 CMR 30.691 through 30.696 and 30.698.

   c. 310 CMR 30.253(6)(b), which refers to 30.351(9)(c) 6., a. through d. requires that a generator must post an up-to date written list, a copy of which shall be prominently posted near the telephones at the site of accumulation, with the following information: the name(s) and telephone number (s) of the emergency coordinator(s); the location(s) of the fire extinguisher(s) and spill control materials; and, if present, the fire alarms, the telephone number of the fire department, or, if there is a direct alarm system, instructions on how to activate it, or both; and evacuation routes, where applicable.

   d. 310 CMR 30.302 provides that any person who generates a waste shall determine if that waste is a hazardous waste and if it is determined to be hazardous, determine whether the waste is subject to land disposal restrictions.

   e. 310 CMR 30.314(1)(a) provides that the generator shall ensure that all required information has

1. American is a Massachusetts corporation. Its principal place of business is located at 207 Marston Street, Lawrence, Massachusetts.

2. While assessing the Site for potential purchase from Tombarello Enterprises, Inc., American hired W.Z. Baumgartner & Sons, Inc. ("Baumgartner") to complete an environmental site assessment of the property, which included soil borings, surface soil samples, and four monitoring wells. Historic uses of the property included metal recycling.

3. During the environmental site assessment, levels exceeding the Reportable Concentration, Soil Category 1 ("RSC-1") of the following hazardous materials were detected: benzo(a)anthracene (58.6 mg/kg); benzo(a)pyrene (32.2 mg/kg); benzo(b)fluoranthene (39.5 mg/kg); benzo(k)fluoranthene (22.6 mg/kg); chrysene (60.4 mg/kg); Total Petroleum Hydrocarbons (2,740 mg/kg); and lead (3,470 mg/kg).

4. Baumgartner reported the foregoing reportable conditions to American in August 1998. Of particular significance, Baumgartner reported that there was 10.59 mg/kg of PCBs in the surface soil sample obtained at location SS-8 and 59 mg/kg PCBs in boring sample SB-3. Baumgartner also reported that residential properties and a ball field were located within 500 feet of soil sample locations SB-3 and SS-8.

5. On December 11, 1998, American took ownership of the Site, formerly owned by Tombarello Enterprises, Inc.

6. On January 22, 1999, the Department received a copy of Baumgartner's environmental site assessment report as a result of a Request for Information issued by the Department to Tombarello Enterprises, Inc.

7. On February 17, 1999, the Department performed a compliance inspection of the Site. During the compliance inspection, the Department advised American that it needed to comply with hazardous waste and waste oil storage and handling regulations. Additionally, the Department informed American that it needed to clean the oily sludge located on the floor of the baler/press room and assess the outfall location of a

floor drain in the press room.

8. On March 31, 1999, the Department issued a Notice of Responsibility ("NOR") to American for the release of the reportable conditions described in paragraphs 3 through 4 of Section II. C. of this Consent Order. Release Tracking Number ("RTN") 3-18126 was assigned to this release. The NOR advised American of its responsibility to conduct and Immediate Response Action Plan ("IRAP") to conduct an Imminent Hazard evaluation and to comply with the MCP.

9. On April 21, 1999, American submitted an IRAP to assess the Imminent Hazard Conditions at the site. The Department verbally approved the IRAP, but set out conditions as part of the approval. On June 1, 1999, American submitted a modified IRA Plan which indicated that an imminent hazard condition existed and that it would construct a perimeter fence to prevent access to the Site by June 16, 1999. The Department verbally approved the modified IRA Plan.

10. On June 21, 1999, the Department conducted a compliance inspection. The Department made the following observations at the Site:

    a. An incomplete fence that did not prevent access to the Site;

    b. No registration with the Department of American's hazardous waste and waste oil generation status;

    c. Waste oil accumulation areas that were not distinguishable from generation areas;

    d. No posted signs with emergency information in the hazardous waste accumulation areas;

    e. Numerous areas of waste spillage throughout the facility;

    f. Treatment tanks, tank hoods, wooden floor boards, and walls from a discontinued cyanide-based recycling process;

    g. A 500-gallon underground waste oil tank without leak detection devices and which was not double-

walled;

h. Two inches of oily sludge covering the floor in the baler/press room in which an open floor drain was located;

i. Twenty-two 55-gallon drums, at least 13 of which contained oily sludge and/or solids, and all of which were sitting on a non-impervious surface in the baler/press room and which were not properly labeled;

j. Three 55-gallon drums of unidentified waste on a non-impervious surface outside to the large shear building;

k. A 55-gallon container of unidentified waste inside of the large shear building; and

l. A 100-gallon waste oil tank that was unlabeled and open.

11. As a result of the June 21, 1999 inspection, the Department issued a Field NOR to American for the release/threat of release of the oily sludge in the baler/press room. The NOR required American to "[r]emove all drums, oil and sludge from the baler/press building. Assess releases to the environment including drain in floor and integrity of floor. Implement a plan to prevent ongoing releases." RTN 3-18431 was assigned to the release.

12. On June 23, 1999, the GLSD conducted an inspection of the Site and confirmed that the drain in the baler/press room was connected to the GLSD combined sewer/water system. The GLSD discharges directly without treatment into the Merrimack River during high flow events.

13. On July 22, 1999, the Department conducted another inspection of the baler/press room and noted that the sludge and drums were removed from the room. Additionally, the Department sampled the remedial wastes generated in the baler/press room. The results of the sampling revealed the following concentrations:

a. Ethylbenzene at 1.4 mg/kg;

b. MBTE at 0.38 mg/kg;
c. Toluene at 5.9 mg/kg;
d. Xylenes at 17/mg/kg;
e. Tetrachloroethene at 1 mg/kg;
f. Trichloroethene at 0.37 mg/kg;
g. Trichlorofluoromethane at 1.5 mg/kg;
h. Barium at 450 mg/kg;
i. Cadmium at 20 mg/kg;
j. Chromium at 160 mg/kg;
k. Lead at 780 mg/kg;
l. Mercury at 12.67 mg/kg;
m. Silver at 3.5 mg/kg;
n. PCB at 120 mg/kg;
o. TPH at 45,000 mg/kg; and
p. TCLP Lead at 0.7 mg/l.

14. On July 22, 1999, the Department also observed oily waste accumulating in the baler/press room, which was reportedly being pumped onto a metal pile located outside of the building.

15. On August 24, 1999, American submitted a Release Notification Form ("RNF") to the Department for RTN 3-18431 for the release of oil and hazardous material relating to the oily sludge on the floor of the baler/press room.

16. On August 24, 1999, American submitted a Response Action Outcome Opinion ("RAO") for RTN 3-18431 in which American's Licensed Site Professional concluded that "based upon the substantial thickness and condition of concrete poured foundation floor . . . and the former discharge point of the floor drain being to the Lawrence Sanitation District sewer system . . . a release to the environment was not observed or interpreted as probable."

17. After reviewing the above RAO, the Department determined that it did not meet the performance standards required under the MCP.

18. American classified RTN 3-18126 as a Tier 2 site on April 7, 2000.

D. Determinations: Based upon the Statement of Facts set forth above, the Department alleges:

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Violations of M.G.L. c. 21E and 310 CMR 40.0000 et seq.

1. Conditions at the Site constitute releases and/or threats of release to the environment of oil and/or hazardous material pursuant to M.G.L. c. 21E and the MCP.

2. The Site is a disposal site as defined by M.G.L. c. 21E and the MCP.

3. American is the owner and operator of the Site from or at which there is or has been releases and/or threats of release of oil and/or hazardous material pursuant to M.G.L. c. 21E and the MCP.

4. American is in violation of the MCP as follows:

   a. By failing to notify the Department of a release (RTN 3-18126) that poses or could pose a condition of Imminent Hazard within two hours after obtaining knowledge of a release of PCBs located within 500 feet of residential properties and a ball field as required by 310 CMR 40.0311(7);

   b. By failing to submit a completed RNF regarding the above release of PCBs to the Department as required by 310 CMR 40.0333(1)(b);

   c. By failing to conduct an Immediate Response Action ("IRA") at a site where the above release poses or could pose an Imminent Hazard as required by 310 CMR 40.0420(1);

   d. By failing to conduct an Imminent Hazard Evaluation for the above release as required by 310 CMR 40.0426;

   e. By failing to conduct an IRA in accordance with Department approval for the above release by failing to complete the construction of a fence to the approved specifications in order to control or prevent access to the site as required by 310 CMR 40.0420(2);

   f. By failing to submit a subsequent IRA Status Report, for the above stated release, 6 months after the first status report as required by 310

CMR 40.0425(2);

g. By failing to conduct an IRA for an unpermitted discharge (oily sludge from the floor of the baler/press room to the GLSD via a floor drain) resulting in a condition of Substantial Release Migration (3-18431) as required by 310 CMR 40.0420(1); and

h. By failing to meet the Performance Standard in 310 CMR 40.1004 for the RAO (3-18431) submitted on August 24, 1999 regarding the baler/press room release.

Violations of M.G.L. c. 21C and 310 CMR 30.000 et seq.

5. American is a very small quantity generator of hazardous waste and a small quantity generator of waste oil.

6. American is in violation of the hazardous waste regulations as follows:

a. By failing to determine whether the wastes it generated inside and outside of the large shear room and in the maintenance building are hazardous wastes as required by 310 CMR 30.302;

b. By accumulating and storing waste oil in a 500-gallon underground storage tank that does not have any continuous leak detection devices and was not double-walled as required by 310 CMR 3.253(1)(h)4.a.- c.;

c. By failing to post a "WASTE OIL" sign in the waste oil accumulation areas as required by 310 CMR 30.253(5)(b);

d. By failing to properly label containers in which hazardous waste or waste oil is accumulated as containing hazardous waste or waste oil located inside and outside of the large shear room and in the maintenance building as required by 310 CMR 253(5)(b), 310 CMR 351(8)(a), and 310 CMR 30.340(1)(b);

e. By failing to keep containers, located in the

baler/press room, the room under the baler/press room, and in the maintenance building, holding hazardous waste or waste oil closed during storage as required by 310 CMR 30.253(5)(b); 310 CMR 30.340(1)(a)1.c.; and 310 CMR 30.685(1);

f. By storing containers of hazardous waste on non-impervious surfaces in baler/press room, in the room under the baler/press room, and outside of the large shear building as required by 310 CMR 30.253(5)(b) and 310 CMR 30.340(1)(f);

g. By failing to keep an up-to-date list of emergency information at the sites of generation as required by 310 CMR 30.253(6)(b) and 310 CMR 30.351(9)(c)6 a.- d.;

h. By failing to clearly mark all waste accumulation areas so that they are clearly distinguishable from the areas of generation as required by 310 CMR 253(5)(b), 310 CMR 30.351(8)(b), and 310 CMR 30.340(1)(k);

i. By failing to register with and notify the Department of its activity involving hazardous waste or regulated recyclable material as required by 310 CMR 30.353(5); and

j. By failing to inspect the baler/press room, the room below the baler/press room, the large shear building, outside of the large shear building; and around the 500-gallon waste oil tank for leaks in the containers stored therein as required by 310 CMR 30.253(5)(b), 310 CMR 351 (8)(a), 310 CMR 30.340(1)(a)1.d., and 310 CMR 30.686.

Violations of M.G.L. c. 21, §§ 26-53, 314 CMR 12.00 et seq. and 314 CMR 5.00 et seq.

7. The floor drain located in the baler/press room is connected to the GLSD's combined sewer/water system.

8. The GLSD operates a POTW and has adopted rules and regulations covering discharge of wastewater, drainage, substances or waste.

9. American is in violation of 314 CMR 12.08(1), 314 CMR

12.08(3), Section 2.1(a,b,d,f,g,k,m and n) of the GLSD rules and regulations, and 314 CMR 5.03 as follows:

a. By discharging or causing to be discharged PCBs from the floor of the baler/press room to the GLSD POTW, which could harm the sewers, wastewater treatment process or equipment, have an adverse effect on the receiving waters or can otherwise endanger life, limb, public property, or constitute a nuisance as prohibited by 314 CMR 12.08(1);

b. By failing to comply with the GLSD rules and regulations, as required by 314 CMR 12.08(3), in the following manner: by discharging wastewater containing PCBs in sufficient quantity, either singly or by interaction with any pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or to exceed the limitation set forth in a National Pretreatment Standard; and

c. By discharging wastewater from the baler/press room onto a metal pile located on the ground outside of the baler/press room building without a permit as prohibited by 314 CMR 5.03.

III. DISPOSITION AND ORDER

Based on the foregoing Statement of Facts and Determinations, as alleged by the Department, and pursuant to its authority under M.G.L. c. 21, §§26-53, M.G.L. c. 21E, § 9, M.G.L. c. 21C, § 5, M.G.L. c. 30A, § 10, and M.G.L. c. 21A, § 16, the Department issued this Consent Order. As a result of discussions which have taken place between the Department and American (collectively "the Parties") and without adjudication of any facts, law or determinations set forth above, the Parties have agreed to negotiate this Consent Order, rather than expend the time and resources necessary to adjudicate this matter. American agrees to the Department's authority and jurisdiction to issue and enforce this Consent Order, and further agrees to perform the actions and to pay the penalties, as set forth herein.

A. This Consent Order shall not constitute, be construed as, or operate as an admission by American that it violated any law or regulation and shall not constitute any evidence or implication

of any such violation. The decision of American to enter into this Consent Order shall not be construed as an admission by American that it agrees with any of the Department's allegations of facts and determinations or waiver of any defenses that American might raise in any proceeding to enforce this Consent Order. However, American agrees not to contest the enforceability of this Consent Order in any proceeding to enforce this Consent Order.

B. This Consent Order shall be binding upon American, its successors and assigns. American shall not violate this Consent Order, nor shall American allow or suffer its employees, agents, contractors, consultants or persons acting for or at its direction to violate this Consent Order. A violation of this Consent Order by American's employee, agent, contractor, consultant or person acting for or at its direction shall constitute a violation of this Consent Order by American.

C. This Consent Order also serves as a Notice of Noncompliance issued pursuant to M.G.L. c. 21A, §16 and 310 CMR 5.00 for American's noncompliance with M.G.L. c. 21, §§ 26-53, M.G.L. c. 21C and M.G.L. c. 21E and various sections of 310 CMR 40.0000 et seq., 310 CMR 30.000 et seq., 314 CMR 5.00 et seq., and 314 CMR 12.00 et seq., as specifically described in Section II. D., above.

D. For the violations alleged in Section II. D., above, American shall pay an administrative penalty in the total amount of up to [redacted] as follows:

1. Within thirty (30) days of the effective date of this Consent Order, Respondent shall pay [redacted] and

2. In the event American violates any provisions of this Consent Order or further violates the regulations cited in Section II of this Consent Order from the effective date of this Consent Order to the date American submits a Response Action Outcome for RTN 3-18126, American shall pay [redacted] within thirty days of the Department's written notice thereof. American reserves any rights it may have to challenge, in any appropriate forum of competent jurisdiction, the factual or legal basis of the Department's claim for the suspended penalty.

Payment must be made by certified check, cashiers check or

money order made payable to the "Commonwealth of Massachusetts." The name "American Recycling of Massachusetts, Inc.," the file number ACOP NE-00-9013-123 and American's Federal Employer Identification Number, must be clearly written on the face of the check or money order. No other form of payment will be accepted. The payment must be directed to:

Commonwealth of Massachusetts
Master Lockbox
P.O. Box 3584
Boston, MA 02241-3584

In addition, a photocopy of the check or money order shall be sent to DEP at the Notice address herein, ATTN: Richard J. Chalpin.

E. In addition to payment of the administrative penalty American shall conduct the following activities by the deadlines established herein. The Department hereby determines and American hereby agrees that the deadlines set forth below constitute reasonable deadlines for performing the required activities:

M.G.L. c. 21C Corrective Action Letter Report

1. Within sixty (60) days of the effective date of this Consent Order, American shall submit a written plan ("Plan") to the Department for its review and comment setting forth how American will come into compliance with M.G.L. c. 21C and 310 CMR 30.000 et seq., and correct the violations summarized in Section II. D. 6 a.-j. of this Consent Order.

2. Within ninety (90) days of the effective date of this Consent Order, American shall correct the violations summarized in Section II. D. 6 a.-j. of this Consent Order and submit a letter report to the Department verifying that American has fully implemented its Plan and has corrected the violations summarized in Section II. D. 6 a.-j. of this Consent Order. The letter report shall include a description of the action American has taken to correct the violations, and the certification set forth in paragraph III. E. 15, below.

M.G.L. c. 21, §§ 26-53 Corrective Action Letter Report

3. Within thirty (30) days of the effective date of this Consent Order, American shall submit a written plan ("Plan") to the Department for its review and comment setting forth how American will comply with M.G.L. c. 21, §§ 26-53, how it decommissioned the floor drains, how it corrected the alleged violations summarized in Section II. D. 9 a.-b., and how it will correct the alleged violation summarized in Section II. D. 9 c. of this Consent Order. American's Plan shall provide for American's correction of said violations and shall include, without limitation, plans to:

   a. discontinue all the alleged unauthorized discharges from the baler/press room.

4. Within ninety (90) days of the effective date of this Consent Order, American shall correct the alleged violation summarized in Section II. D. 9 c. of this Consent Order and submit a letter to the Department verifying that it has corrected the alleged violation summarized in Section II. D. 9 c. of this Consent Order. The letter shall include a description of the action American has taken to correct the alleged violation and the certification set forth in paragraph III. E. 15. below.

Compliance with M.G.L. c. 21E

5. Within ninety (90) days of the effective date of this Consent Order, American shall submit an IRA Completion Report for RTN 3-18126.

6. Within ninety (90) days of the effective date of this Consent Order, American shall submit to the Department a written retraction of the RAO Opinion filed on August 24, 1999, for RTN 3-18431. Additionally, within ninety (90) days of the effective date of this Consent Order, American shall submit a revised Tier Classification Transmittal Form BWSC-107A to link both RTN 3-18126 and 3-18431. The revised Tier Classification must include the following:

   a. an evaluation of whether the combined Numerical Ranking System ("NRS") score for both releases would change the current Tier Classification, and

if so, American shall submit a revised NRS and Permit Application; and

b. as part of the NRS evaluation, it must be determined if the Natural Heritage and Endangered Species Program ("NHESP") Wetland Habitat boundaries are within 500 feet of the disposal site and if there are any wetlands within 100 feet of the disposal site, accounting for the fact that the extent of the disposal site goes beyond the current outlying sampling locations. This information shall be used when scoring Section V.A. Environmental Resource Areas of the NRS Scoresheet, and provided to the Department with the revised Tier Classification Form.

7. All MCP deadlines shall be based on the original Tier Classification date for RTN 3-18126 of April 7, 2000.

8. American shall submit a scope of work ("SOW") for a Phase II-Comprehensive Site Assessment for RTN 3-18126, in accordance with the MCP, on or before April 7, 2001. The Phase II Comprehensive Site Assessment SOW must also include, but not be limited to:

a. Assessment of the integrity and contents of the drainage pipe leading from the press room drain to the GLSD sewer line located in the central portion of the property;

b. Assessment of soil and groundwater along and immediately downgradient of the length of the above-referenced drainage pipe based upon the results of the assessment required in Section III. E. 8. a. of this Consent Order;

c. Assessment of the soils and ground water immediately adjacent to and downgradient of the press room floor;

d. Assessment of the surface soil located under the metal pile adjacent to the baler/press room upon which wastewater from the baler/press room was allegedly discharged. The soil shall be analyzed for chlorinated VOCs, PCBs, metals, VPH, and EPH;

and

e. Assessment of the source, extent, and migration pathways of contamination at the Site.

9. American shall submit a Phase II Report for RTN 3-18126 on or before April 7, 2002.

10. American shall submit, if applicable, a Phase III Remedial Action Plan for RTN 3-18126 on or before April 7, 2003. Additionally, American shall submit a Phase IV Remedy Implementation Plan for RTN 3-18126 on or before April 7, 2003.

11. American shall submit a Response Action Outcome Statement for RTN 3-18126 on or before April 7, 2005.

12. American shall continually assess release, threat of release and/or conditions at the Site in accordance with 310 CMR 40.0411 to determine whether an Immediate Response Action is required.

Independent Compliance Audit

13. Within thirty (30) days of the effective date of this Consent Order, American shall hire a qualified independent consulting agency to conduct an independent compliance audit ("Audit") of American's facility operations. The Audit shall provide for:

a. an objective evaluation of American's plans and procedures to ensure compliance with applicable federal, state and local environmental, health and safety laws and regulations;

b. recommendations for American's compliance with federal, state and local environmental, health and safety laws and regulations;

c. recommendations on ways for American to minimize waste production, storage, and disposal,

d. recommendations on ways for American to eliminate potential for releases of oil or hazardous material to the environment; and

e. recommendations for a contingency plan for addressing any future releases of oil and/or hazardous materials.

14. Within ninety (90) days of the effective date of this Consent Order, American shall submit the finalized audit report, prepared by a qualified independent consulting agency, to the Department. In addition, within 120 days of the effective date of the Consent Order, American shall submit a letter report verifying that it has implemented the recommendations made in the Audit. The letter report should include (i) a description of the actions American has taken to implement the recommendations; and (ii) the certification set forth in paragraph III. E. 15, below. If more than 120 days are needed to implement a particular recommendation made in the Audit, American shall notify the Department in writing before the 120 day period has passed, request an extension of time to implement the particular recommendation, and assume the burden of showing that additional time is reasonably necessary. Extensions to implement particular recommendations will be granted at the Department's discretion, if reasonably necessary. The extensions shall be made for a particular recommendation, and not for the entire letter report.

Certification

15. All certifications required by this Consent Order shall be as follows:

I, Peter F. Pons, President of American Recycling of Massachusetts, Inc. ("American") hereby attest under pains and penalties of perjury (i) that I have personally examined and am familiar with the information contained in this letter report, (ii) that the information contained herein is, to the best of my knowledge and belief, true, accurate and complete and consistent with the Consent Order entered into by the Massachusetts Department of Environmental Protection and American on [insert effective date of consent order], and (iii) that I am fully authorized to make this certification on behalf of American. I am aware that there are significant penalties, including without limitation possible fines and imprisonment, for willfully submitting false, incomplete or inaccurate

information.

By: _____ Date: _____

IV. NOTICES AND SUBMITTALS

All notices, payments, certifications, submissions or other communications required or permitted to be made hereunder shall, unless otherwise indicated in this Consent Order, be made in writing and shall, unless otherwise indicated in this Consent Order, be sent by certified mail, return receipt requested, by hand delivery or by recognized overnight courier, as follows:

If to the Department, to:

Richard J. Chalpin, Regional Engineer
Department of Environmental Protection
205A Lowell Street
Wilmington, MA 01887

If to American, to:

Peter Prinz, President
American Recycling of Massachusetts, Inc.
207 Marston Street
Lawrence, MA 01841

Submittals will be considered delivered upon receipt by the Department.

V. WAIVER OF HEARING

American understands and hereby waives its right to an administrative hearing before the Department on, and judicial review by the courts of, the issuance or terms of this Consent Order. American also hereby waives notice of its right to an administrative hearing before the Department on, and judicial review by the courts of, the issuance or terms of this Consent Order. This waiver does not extend to any other order issued by the Department.

VI. RESERVATION OF RIGHTS

A. This Consent Order represents the full and final agreement between the Parties concerning the alleged violations in Section II.D. of this Consent Order. Notwithstanding the foregoing, the

the POTW, or to exceed the limitation set forth in a National Pretreatment Standard.

- Section 2.1(f) provides that no user shall discharge any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the POTW cause the POTW to be in non-compliance with the sludge use or disposal criteria, guidelines or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, or the State Criteria applicable to the sludge management method being used.

- Section 2.1(g) provides that no user shall discharge any substance, which will cause the POTW to violate its NPDES Permit or the receiving water quality standards.

- Section 2.1(m) provides that no user shall discharge any wastewater that causes a hazard to human life or creates a public nuisance.

- Section 2.1(n) provide that no user shall discharge any petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through or any substances which solidify or become viscous at temperatures between 32° F (0° C) and 140° F (60° C).