



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

Northeast Regional Office • 150 Presidential Way Woburn, MA 01801 • 978-694-3200

Maura T. Healey
Governor

Kimberley Driscoll
Lieutenant Governor

Rebecca L. Tepper
Secretary

Bonnie Heiple
Commissioner

Certified Mail No. 7022 2410 0000 7501 3064

November 30, 2023

Weston & Sampson Engineers, Inc.
55 Walkers Brook Drive, Suite 100
Reading, MA 01867

Attn: Frank Ricciardi, PE, LSP
Chief Executive Officer

RE: SALEM-
379 & 383 Highland Ave.,
14 & 16 Barnes Rd., and
9, 12, 14, 15, 16, & 18 Cedar Rd.
Enforcement # 00016733

REQUEST FOR INFORMATION
URGENT LEGAL MATTER: PROMPT REPLY NECESSARY
M.G.L. c. 21E, §§ 2, 4, & 8

Dear Mr. Ricciardi:

The Massachusetts Department of Environmental Protection (“MassDEP”) is conducting an evaluation of the properties at: 14 and 16 Barnes Road; 379 and 383 Highland Avenue; and 9, 12, 14, 15, 16, and 18 Cedar Road, Salem, Massachusetts (herein referred to as “the Properties”). As part of this evaluation, MassDEP issued Requests for Information (“RFIs”) to the current owners of the Properties on May 30, 2023. After reviewing the documents provided in response to the May 30, 2023 RFIs, MassDEP hereby issues this RFI to Weston & Sampson Engineers, Inc. (“Weston & Sampson”) pursuant to its authority to gather information, and to investigate, sample, and inspect records, conditions, equipment, practices, and property under M.G.L. c. 21E, §§ 2, 4, and 8, and under the Massachusetts Contingency Plan (“MCP”) 310 CMR 40.0165.

Pursuant to these authorities, you (as used in this RFI, the term “you” refers to Weston & Sampson Engineers, Inc., and/or any and all individuals acting on the behalf of Weston & Sampson Engineers, Inc.) are directed to provide MassDEP with the information and documents requested in this RFI before the close of business on Friday, January 12, 2024. **This deadline constitutes an enforceable Interim Deadline pursuant to 310 CMR 40.0167.** If you fail to fully and properly respond by the Interim Deadline, you could be subject to legal action including court-imposed civil penalties, and/or civil administrative penalties assessed by MassDEP.

This information is available in alternate format. Please contact Melixza Esenyie at 617-626-1282.

TTY# MassRelay Service 1-800-439-2370

MassDEP Website: www.mass.gov/dep

Printed on Recycled Paper

In responding to this RFI, please provide all responsive Documents, as that term is defined in the Definition Section of the attached RFI. Other sources of information to respond to this RFI should include, but not be limited to: business records and correspondence; reports prepared by you or others; interviews, discussions and correspondence with present and former employees, officers, directors, contractors and consultants.

In response to this RFI, please be aware that 310 CMR 40.0009(6) requires any person responding to an RFI issued by MassDEP to execute a written Declaration as set forth in 310 CMR 40.0009(1). For your convenience, a copy of the requisite Declaration is attached to this RFI as a separate page. This Declaration should be executed by the party to whom this RFI is directed, and therefore, should be signed by you and/or anyone authorized to act on your behalf.

MassDEP encourages you to give this matter your immediate attention and to respond within the timeframe specified above. Your response should be sent to the undersigned at the letterhead address. If you have any questions regarding this RFI, please contact Erik Johnson at Erik.Johnson@mass.gov, or by telephone at (978) 400-4378.

Sincerely,



Stephen M. Johnson
Deputy Regional Director
Bureau of Waste Site Cleanup

Attachment:

- 1) General Instructions for Responding to the Attached Request for Information
- 2) Request for Information Pursuant to M.G.L. c. 21E and 310 C.M.R. 40.0000 et seq.
- 3) Certification of Submittal

eCC:

David Greenbaum, RS., Public Health Agent, Board of Health, City of Salem,
dgreenbaum@salem.com
Elizabeth Rennard, City Solicitor, City of Salem, brennard@salem.com
Maureen Vallatini, Senior Regional Counsel, Office of General Counsel, MassDEP,
maureen.vallatini@mass.gov
MassDEP/Data Entry/Files, C&E/RFI

**GENERAL INSTRUCTIONS FOR RESPONDING
TO THE ATTACHED REQUEST FOR INFORMATION**

I. Separate Numbered Responses; Document Production

A separate response must be made to each request set forth in the attached Request for Information. You are instructed to precede each response with the number of the request to which it corresponds. Where specific information has not been memorialized in any document but is nonetheless responsive to a request, you must respond to the request with a written response setting forth such information. If you generate a data table as part of a written response, provide that data table electronically in a sortable Excel spreadsheet. Interviews with present and former employees, officers, directors, contractors and consultants should be conducted, if necessary, to obtain the information requested. You are further instructed to provide MassDEP with a photocopy of or access to each and every document, which is responsive to a request. If any document or information responsive to a request is not in your possession, custody or control, you must identify the document or information, state that you do not have the document or information requested and, if you know, identify of the person(s) from whom such document or information may be obtained. The fact that investigation is continuing shall not excuse failure to answer each request as fully as possible.

II. Continuing Request

The attached Request for Information is continuing, and to the extent that the responses may be enlarged or modified by documents or information subsequently acquired by you, you are instructed to supplement your responses immediately upon acquisition of such documents or information.

III. Documents Claimed To Be Protected From Disclosure

You must provide MassDEP with access to or a photocopy of each and every document responsive to a request, unless you claim any such document is protected from disclosure.

For each and every document which you claim is protected from disclosure, you must separate the parts of the document which you claim are protected from the parts which you do not claim are protected. You must submit to MassDEP the parts of the document, which you do not claim are protected from disclosure. You must also provide MassDEP with a statement as to the nature of the protected information and the basis of your claim that the information is protected from disclosure.

DEFINITIONS

Unless otherwise specified below, words and phrases used in the attached Request for Information shall have the meaning ascribed to such words and phrases by M.G.L. c. 21E, and/or 310 CMR 40.0000 et seq ("Massachusetts Contingency Plan"), unless the context clearly indicates otherwise.

The following definitions shall apply to the following words and phrases as they appear in the attached Request for Information, unless the context clearly indicates otherwise:

Asbestos-containing material (ACM) as defined in 310 CMR 7.15, means any material containing 1% or more asbestos as determined by a laboratory using protocols set forth in the Method for the Determination of Asbestos in Bulk Building Materials found in EPA report EPA/600/R-93/116, or another method as directed by the Department. Asbestos-containing material includes, but is not limited to, sprayed-on and troweled-on materials applied to ceilings, walls, and other surfaces; insulation on pipes, boilers, tanks, ducts, and other equipment, structural and non-structural members; tiles; asphalt roofing or siding materials; or asbestos containing paper.

Asbestos-containing waste material (ACWM) as defined in 310 CMR 7.15, means any ACM removed during a demolition or renovation project and anything contaminated with asbestos in the course of a demolition or renovation project including, but not limited to, asbestos waste from control devices, bags or containers that previously contained asbestos, contaminated clothing, materials used to enclose the work area during the demolition or renovation operation, and demolition or renovation debris. Asbestos-containing waste material shall also include ACM on and/or in facility components that are inoperable or have been taken out of service and any ACM that is damaged or deteriorated to the point where it is no longer attached as originally applied or is no longer serving the intended purpose for which it was originally installed.

Communication means any manner or form of information or message transmission, however produced or reproduced, whether by document, orally, electronically, or otherwise, that is made, distributed and/or circulated between or among persons or data storage or processing units.

Department or MassDEP means the Massachusetts Department of Environmental Protection.

Document means and includes, but is not limited to, in the plural as well as the singular, all writings, graphic materials, electronic data, computer memory, recordings of any nature whatsoever or any other tangible thing by which information is contained, stored, or displayed of every kind and description, however produced or reproduced, whether draft or final, original or reproduction, signed or unsigned, and regardless of whether it was approved, sent, received, redrafted, or executed, including, but not limited to, contracts, agreements, communications, correspondence, telegrams, faxes, memoranda, records, reports, compilations, files, diaries, calendars, summaries, surveys, studies, analyses, charts, graphs, notebooks, plans, drawings, diagrams, blueprints, maps, sketches, waste site cleanup activity reports and opinions, logs,

statistical statements, accounts, analytical records, minutes, summaries or records of meetings, conversations or conferences, consultant's reports, notes, notations including marginalia and comments attached to any document, bills, invoices, checks, and all other written, printed, recorded, electronic, magnetic or photographic matter, however produced or reproduced

Hazardous Material is defined in M.G.L. c. 21E § 2 to include, but is not limited to, any material, in whatever form, which, because of its quantity, concentration chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances constitutes a present or potential threat to human health, safety, welfare, or to the environment, when improperly stored, treated, transported disposed of, used, or otherwise managed. The term shall not include oil. The term shall also include all those substances which are included under 42 U.S.C. § 9601(14), but it is not limited to those substances.

Hazardous Waste is defined in M.G.L. c. 21C § 2 to mean a waste, or combination of wastes, which because of its quantity, concentration, or physical, chemical or infectious characteristics may cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness or pose a substantial present or potential hazard to human health, safety or welfare or to the environment when improperly treated, stored, transported, used or disposed of, or otherwise managed, however not to include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under section 402 of the Federal Water Pollution Control Act of 1967 as amended, or source, special nuclear, or byproduct material as defined by the Atomic Energy Acts of 1954.

Identify means (a) with respect to a natural person, to state the person's full name, present or last known business and home address and telephone number; and the person's present or last known job title, position or business and responsibilities in that position; (b) with respect to persons other than natural persons, to state its proper name or designation; the address of its principal office; legal form (i.e., corporation, partnership, etc.), state in which it was incorporated, if applicable, or formed, and a brief description of its business; and (c) with respect to a document, to state whether the document currently is in existence; the date the document bears or bore or if undated, the date it was written; the name and address of each person who wrote it or participated in the writing of it; the name and address of each person who received a copy of the document; a description of the type of document; a detailed summary of the contents of the document; its present location or custodian, or if unknown, its last known location or custodian; and if the document is no longer in existence or no longer is in your possession, custody or control, the disposition made of it, the reason(s) for such disposition and the date thereof, and (d) with respect to any communication, be it verbal or written, to state the date of the communication; the place where the communication was made; the author of the communication as it was written; identify names, titles and work address and phone numbers of all of the parties to and, if written, recipients of the communication; and a brief summary of the substance of the communication.

Oil means insoluble or partially soluble oils of any kind or origin or in any form, including, without limitation, crude or fuel oils, lube oil or sludge, asphalt, insoluble or partially insoluble

derivatives of mineral, animal or vegetable oils and white oil. The term shall not include waste oil, and shall not include all those substances which are included under 42 U.S.C. § 9601(14).

Person means, in the plural as well as the singular, any agency or political subdivision of the federal, state or local government; any state, public or private corporation or authority; any individual, trust, firm, joint stock company, partnership, association or other entity; any officer, employee, or agent of such person; and any group of persons.

Potentially Responsible Party as defined in 310 CMR 40.0006, means a person who is potentially liable pursuant to M.G.L. c. 21E.

Reportable Concentrations as defined in 310 CMR 40.0006, means the concentration of oil or hazardous material in soil or groundwater which requires notification to the Department under M.G.L. c. 21E, § 7, and/or 310 CMR 40.0360 through 310 CMR 40.0362.

Response Action Costs as defined in 310 CMR 40.0006, means any cost incurred by the Department in the course of carrying out or overseeing directly or indirectly a response action, including, but not limited to, costs associated with the conduct of Public Involvement Activities, that is one or more of the following: (a) cost of direct hours; (b) services provided by Department employees and any related expenses incurred by the Department in support of those direct hours; (c) payments made to the Department's contractors, grantees or agents for performing or overseeing response actions at a specific site; and (d) any fees or other costs reasonably incurred in connection with a response action, including, but not limited to, fees and other costs associated with requisite federal, state and local permits and litigation costs.

The Properties means the real property located at 379 Highland Avenue, 383 Highland Avenue, 14 Barnes Road, 16 Barnes Road, 9 Cedar Road, 12 Cedar Road, 14 Cedar Road, 15 Cedar Road, 16 Cedar Road, and 18 Cedar Road, Salem, Massachusetts.

Waste Oil means used and/or reprocessed, but not subsequently refined, oil that has served its original intended purpose. Waste oil includes, but is not limited to, used and/or reprocessed fuel oil, engine oil, gear oil, cutting oil, and transmission fluid and dielectric fluid.

You and your each refer to Weston & Sampson Engineers, Inc., and/or any and all individuals acting on the behalf of Weston & Sampson Engineers, Inc.

The words "and" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of the request all responses which might otherwise be construed to be outside its scope.

**REQUEST FOR INFORMATION PURSUANT TO M.G.L. c. 21E
and 310 C.M.R. 40.0000 et seq.**

Consistent with the "General Instructions and Definitions" incorporated herein, please respond to the following requests for information. In so responding, furnish all information or facts known to you or ascertainable by you, regardless of whether such information is directly in your possession or that of any corporation or entity which you own or control, as well as your respective experts, agents, employees or representatives. Attach to your answer any and all documents which relate to, refer to or concern any information requested or identified in the following requests for information. You are reminded that a separate answer shall be furnished for each request for information and that each subpart shall be treated as a separate request for information requiring a separate answer. Incomplete or evasive answers will be deemed to be a failure to answer. If any of these requests for information cannot be answered fully and completely, you are requested to answer to the extent possible, specifying the reasons for your inability to answer the remainder and stating the substance of your knowledge, information, or belief concerning the subject matter of the unanswered portion. Lack of information or knowledge is not a reason to not answer a request for information unless you have made reasonable inquiry and unless information known or obtainable from such inquiry is insufficient to enable you to provide the requisite answer. In such cases, you are requested to identify the efforts which you took to obtain the information and the efforts which you intend to make to secure the information currently unavailable. Finally, these requests for information are deemed continuing in nature and must be supplemented or amended if you or anyone acting on your behalf learns of information which renders a previous answer incomplete or inaccurate.

As part of MassDEP's evaluation of the Properties, MassDEP issued RFIs to the current owners and other parties in May and June 2023. According to information provided in response to these RFIs, environmental sampling was performed by Weston & Sampson at the Properties or portions thereof in October 2020 on behalf of Beverly Crossing, an affiliate of a proposed residential redevelopment project referred to as Overlook Acres. Results of these assessment activities identified elevated concentrations of C19-C36 aliphatic hydrocarbon fractions, C11-C22 aromatic hydrocarbon fractions, heavy metals, polychlorinated biphenyls (PCBs), and semivolatile organic compounds in soil at concentrations exceeding applicable MCP Reportable Concentrations. In addition, analytical results of surface soil samples (0-12" below ground surface) indicated the presence of PCBs at concentrations exceeding a 2-hour notification threshold as a Could Pose Imminent Hazard, as described at 310 CMR 40.0321(2)(b). The release conditions appear to be attributed to materials that were deposited on the Properties or portions thereof, particularly auto-shredder residue (ASR) that was used as fill in the 1970s.

Based on the information above and within MassDEP's files, MassDEP is requesting the following.

Please respond to the following requests for information:

1. Provide the dates of contracted work service by Weston & Sampson related to the Properties.
 - a. Identify each Person under contract with Weston & Sampson for the work performed.
 - b. Describe the nature of the work, including environmental services and/or Licensed

Site Professional (LSP) services, provided by Weston & Sampson under each contract.

2. Provide the company names of any subcontractors to Weston & Sampson (i.e., drilling, surveying, laboratory services, land clearing, etc.) that were contracted to execute assessment activities at any of the Properties. Please provide the dates of service and description of work completed by each subcontractor.
3. Submit the results of all assessment, sampling, or other testing of environmental media (i.e., soil, groundwater, surface water, sediments, air, and/or soil gas), asbestos containing materials, and/or solid waste materials that were collected by Weston & Sampson and/or its subcontractor from one or more of the Properties, including the name and concentration of any oil and/or hazardous material (as these terms are defined in the Massachusetts Oil and Hazardous Materials List, 310 CMR 40.1600) detected in such material. Documents may include but are not limited to:
 - a. Environmental reports, letters, memoranda, and/or LSP Opinions prepared by Weston & Sampson;
 - b. Test pit, boring and/or drilling logs;
 - c. Analytical laboratory reports;
 - d. Photographs; and
 - e. Site plans, sketches, and/or plans of sample locations at the Properties.
4. MassDEP is in receipt of a November 17, 2020 memorandum, prepared by LSP Frank Ricciardi of Weston & Sampson and addressed to Chris Koeplin, summarizing a September 2020 site assessment on “Highland Ave between Barnes and Cedar Street in Salem”. The memorandum indicates “elevated concentrations of PCBs and lead were discovered throughout the property in the top one foot of soil representing an Imminent Hazard for trespassers and residential receptors”. This information was reportedly “shared at a meeting with the property owner, owner’s counsel, and their LSP on 11/6/2020 at 1 pm”.

Please provide details of the November 6, 2020 meeting, including the names and contact information for all representatives in attendance, and the information presented by Weston & Sampson and/or LSP Ricciardi. Please provide any records and/or notes associated with the meeting, as well as any documents regarding follow-up, recommendations or further steps proposed or taken after the November 6, 2020 meeting. Please also provide any documentation leading up to the development of the subsequent November 17, 2020 memorandum.

5. Provide any information regarding dealings, communication, or documents by Weston & Sampson related to the identification, presence and/or knowledge of oil and/or hazardous material at one or more of the Properties with any member(s) of the current or former property owners of one or more of the Properties.
6. Produce and submit a copy of all documents or records which relate to or concern any information requested in this document.

7. MassDEP is in possession of a copy of meeting minutes from a June 28, 1977 City of Salem Wetlands Hearing, in which Weston & Sampson is referenced as having performed an “investigation and test samples taken on Mr. Ingemi’s land”. At the time of the 1977 City of Salem Wetlands Hearing, Mr. Ingemi is believed to be John Ingemi, reportedly the owner of the Properties at that time.

Please provide any information within Weston & Sampson’s historical records regarding environmental assessment work at one or more of the Properties, and/or wetlands/marshes located immediately east of the Properties between 1970 and 1980.

CERTIFICATION OF SUBMITTAL
310 CMR 40.0009(1) and (6)

Re: **REQUEST FOR INFORMATION**

Francis M. Ricciardi, Chief Executive Officer
Weston & Sampson Engineers, Inc.

Re: SALEM - 379 Highland Avenue, 383 Highland Avenue, 14 Barnes Road, 16 Barnes Road, 9 Cedar Road, 12 Cedar Road, 14 Cedar Road, 15 Cedar Road, 16 Cedar Road, and 18 Cedar Road

I, _____, 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 submittal, (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 person or 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: _____
Signature

Title

Date: _____
