

**COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENERGY & ENVIRONMENTAL AFFAIRS
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

O'Donnell Family Realty Trust

RE: **KINGSTON**

Release Tracking Number: 4-0026367

O'Donnell Sand & Gravel

ENFORCEMENT DOCUMENT NUMBER

00010608

FIRST AMENDMENT TO ADMINISTRATIVE CONSENT ORDER NUMBER ACO-SE-16-3P-003

This is the First Amendment to Administrative Consent Order (ACO-SE-16-3P-003) (the "Consent Order") that was entered into on October 7, 2016, by and between the Massachusetts Department of Environmental Protection (hereinafter referred to as "MassDEP" or the "Department") and the O'Donnell Family Realty Trust (hereinafter referred to as "Respondent" or "Owner"). The original Consent Order established the terms and conditions by which the Respondent was authorized to bring fill material from off-Site sources onto its property located at 48 Marion Drive, Kingston, Massachusetts (the "Site").

WHEREFORE,

1. The 105-acre Site has been used as a soil and gravel pit for more than 30 years. A soils reclamation project is being conducted at the Site to restore the sand and gravel pit to its approximate original grade. Reclamation activities are authorized by Administrative Consent Order ACO-SE-16-3P-003 and are being managed in accordance with that Consent Order. The provisions of MassDEP's *Interim Policy on the Re-Use of Soil for Large Reclamation Projects (COMM-15-01)* and *Similar Soils Provision Guidance* document (WSC# 13-500) and the Soils Management Plan (SMP) dated October 4, 2016, are incorporated into the ACO and specify soil acceptance criteria, sampling frequencies, and overall project specifications.
2. The SMP originally proposed a 60-acre reclamation area to be filled with up to two-million cubic yards of soil. The soil is sourced primarily from construction projects from around the region. In December 2017, the Respondent reduced the scope of the project by 20 acres, using the area to construct an elevated solar voltaic installation and carport. The solar/carport project was constructed on virgin soils at the entrance to the gravel pit adjacent to Marion Drive. Soil reclamation activities continued on the remaining 40 acres.
3. Respondent submitted to MassDEP an SMP for the Expansion of the Site Reclamation Project dated February 3, 2021, (Expanded SMP), which proposes to expand the soils reclamation project by 45 additional acres. The expanded reclamation will occur in areas referred to as Phase III (the 31 acres in the southwest portion of the Site) and Phase IV (the 14 acres between Phase II and Phase III). Between 2 and 2.5-million cubic yards of reclamation soils will be imported to reclaim these areas. Reclamation activities would follow all soil handling procedures and sampling protocols required by the existing Consent Order.

4. As of February 2021, approximately 960,000 cubic yards of reclamation soil have been deposited at the Site. The current top slope is at an elevation of approximately 160 feet above mean sea level (MSL). The final proposed grade in this area is 180 feet MSL.
5. NOW THEREFORE, the Respondent hereto agrees as follows:
 - a. The Expanded SMP is hereby incorporated into the existing Consent Order. The Expanded SMP shall be implemented in conformance with that Consent Order.
 - b. All other terms and conditions of the Consent Order shall remain in effect, including but not limited to Paragraph 9.D that states "Respondent shall ensure that Site Reclamation Activities do not result in a Condition of Air Pollution with respect to dust, noise, and odors pursuant to 310 CMR 7.01." Moreover, in accordance with Paragraph 9.P that requires Respondent to submit certain documentation to the Kingston Board of Selectmen, Respondent shall submit to the Board an updated Construction Status Report which reflects the Expanded SMP.
6. The undersigned certify that they are fully authorized to enter into the terms and conditions of this Consent Order Amendment and to legally bind the party on whose behalf they are signing this Amendment.
7. This Consent Order Amendment shall become effective on the date that it is executed by MassDEP.
8. The Department represents that the Regional Director has the authority to issue this Consent Order Amendment on behalf of the Department.
9. The remaining provisions of the Consent Order, specifically Section III, which addresses the terms and conditions for imposing stipulated penalties, remain in force.

Consented To:
O'DONNELL FAMILY REALTY TRUST

By: Mary O'Donnell
 Mary O'Donnell, Trustee
~~54 Grove Street~~ 24 Pondview Drive
 Kingston, Massachusetts 02364

Date: 5/20/2021

Issued By:
DEPARTMENT OF ENVIRONMENTAL PROTECTION

By: Gerard M. R. Martin
 Millie Garcia Serrano, Regional Director
 Southeast Regional Office
 20 Riverside Drive
 Lakeville, Massachusetts 02347

Date: May 26, 2021

FOR:

