

SAVE THE PINE BARRENS, INC.
COMMUNITY LAND AND WATER COALITION
158 Center Hill Road
Plymouth MA 02360

**Demand for Enforcement of
Wareham Earth Removal Regulations
Division IV, Article III, Wareham General Bylaw**

November 25, 2022

VIA email on 11/25/2022
And hand delivery

Judith Whiteside, Chair
Board of Selectmen
Town of Wareham
54 Marion Road
Wareham MA 02571

Paul Turner, Building Commissioner
George Stuart, Building Inspector
Town of Wareham
54 Marion Road
Wareham MA 02571

Derek Sullivan
Town Administrator
Town of Wareham
54 Marion Road
Wareham MA 02571

Re: Demand for Enforcement of Town of Wareham Earth Removal Regulations, Division IV, Article III of the Town of Wareham Bylaws

Dear Chair Whiteside, Board of Selectmen, Mr. Sullivan:

This is a formal and final demand to the Wareham Board of Selectmen (“Board”) the Permit Granting Authority under the *Earth Removal Regulations*, Division IV, Article III of the Wareham General Bylaw (“Regulations”) that Board perform its clear duty owed to Wareham residents and to the public to administer and enforce the Regulations throughout Wareham and specifically regarding the locations listed in **Exhibit 1 to 6**.

This demand is also made upon the Building Commissioner, Building Inspector and Town Administrator to the extent they may be claimed to be the “enforcing person” under any provision of the Wareham General Bylaws.

This demand is made on behalf of Save the Pine Barrens, Inc. (“STPB”) a non-profit and its members who include persons who live, work and/or recreate in the Town of Wareham.

Before filing a complaint for Mandamus in Court or taking any other legal action, STPB makes this final demand upon the Board.

Purpose of the Regulations and Permit Requirement

The stated *Purpose* of the Regulations is:

To insure that permanent changes in the surface contours of land resulting from the removal and realignment of earth materials will leave land in a safe and convenient condition for appropriate reuse without requiring excessive and unreasonable maintenance or resulting in damage to private public and private property, as well as to provide that earth removal activities shall be conducted in a safe manner with due regard to safety and with minimal detrimental effect upon environment of the district in which the activities are located.

Section 3 of the Regulations, *Required Permit & Exceptions*, states,

Except as provided in this By-Law, no earth shall be removed without issuance of a permit from the Board of Selectmen, as the permit granting authority.

As part of and set forth in such permit shall be the restriction forbidding, among other things, excavation to a depth below the mean grade of the adjacent serving street, in the immediate vicinity of the street.

This By-Law shall not apply to moving of earth materials under the provision of a duly approved subdivision plan, work necessary for the construction of streets and the installation of utilities, to such work in connection with the excavation and grading of land incidental to construction of a duly permitted structure, *not to work performed in normal construction, maintenance, or improvement of land in cranberry related activities or other agricultural use.* (Emphasis supplied)

In order to achieve the *Purpose* of the Regulations, Section 4(a) contains Permit Procedures and Requirements, including review by the Board of Health, the Building Inspector, the Conservation Commission, Maintenance Department, the Fire Chief, the Town Clerk, the Town Administrator and the respective Water Department. Before granting a permit the Board “shall give due consideration” to specific factors including the “extent, depth and contour of the

location”. A permit is limited to three years under Section 4(b). Under Section 4(c), Site Plans are required to be submitted with the permit application. Section 4(d) requires a Land Restoration Plan.

Under Section 4(e), *Reports, Fees and other Conditions*, the permittee must provide monthly reports of the amount of earth removed and quarterly reports certified by a professional engineer. The Board shall require a bond to ensure compliance, unless it specifically finds such security is not warranted, and so states in its decision. The permit must impose a fee of \$0.25 per cubic yard or more, as determined by the Board, payable to the Town. Town engineer inspections shall be paid for by the permit holder.

The Regulation’s requirement for a permit to conduct earth removal, the process for review by seven Town departments, boards and officials, mandatory site plans, monthly reporting of volumes of earth removed, inspections and fees, and permit conditions implement the Purpose of the Regulations to ensure that earth removal is done in a safe manner, with minimal detriment and without damaging private and public property or the environment.

The By-Law does not provide a volume limit, meaning all amounts removed requires a permit unless exempted.

Penalties for violations or removal of earth without a permit, unless excepted, are set forth in Section 4(h).

The Board has a mandatory, non-discretionary duty to implement the Regulations

As the Permit Granting Authority charged with implementing the Regulations, the Board has a mandatory duty to ensure that no earth is removed in Wareham unless it is done in compliance with the Regulations.

Earth removal in violation of the Regulations evades permit conditions intended to ensure that the “land is left in a safe and convenient condition for appropriate reuse without requiring excessive and unreasonable maintenance or resulting in damage to public or private property...” and to ensure it is “conducted in a safe manner with due regard to safety and with minimal detrimental effect upon the environment of the district in which the activities are located.”

The sites that are the subject of this Demand are located over and, in the Plymouth Carver Sole Source Aquifer, federally designated by the U.S. EPA as the only drinking water source for seven towns (up to about 200,000 people currently, including supplying water to Brockton). 55 Federal Register 32137 (August 1, 1990). This designation states that the Aquifer is “highly vulnerable to contamination.” The Plymouth-Carver Sole Source Aquifer Plan was developed to provide a framework for its management. The Plan was issued in 2007 and developed in consultation with the Plymouth Carver Aquifer Committee, including the Town of Wareham, and by Fuss & O’Neil. It has several protective provisions relating to earth removal because vegetation, topsoil and sand and gravel provide the protective layer for the vulnerable Aquifer.

This includes maintaining a vertical buffer between land uses and the underlying groundwater as a minimal protection from contamination.

Contemporaneous satellite images and photographs show that the described earth removal in Wareham includes excavation and earth removal in the Aquifer, including below grade. This earth removal has stripped large portions of the protective layer for the Aquifer, exposing it to contamination. Over 132 acres of unpermitted earth removal has eliminated the naturally occurring pollutant attenuation capacity associated with the forests, vegetation and sand and gravel above the groundwater. This is causing ongoing threats of contamination of the groundwater, (which threats are made materially worse where fill of various unknown quantities and types was deliberately placed where the prior clean filtering sand was improperly removed.). Earth removal such as that performed at the sites alters evapotranspiration and groundwater recharge rates, most certainly altering surrounding hydrology and wetland resources and potentially private and public drinking water wells and water quality.

The Board has not taken action to enforce the Regulations against ADM as urged by Wareham Town Meeting, Article 18 in Fall, 2021

At the Fall Town Meeting in 2021, Wareham voters overwhelmingly passed Warrant Article 18 urging the Board to require ADM to account for all the earth removed from the Town at the locations identified in Exhibit 1. Article 18 urged the Board “to direct the Town’s engineer and such other professionals as may be necessary, to independently audit all past and current earth removal operations of AD Makepeace Company” at the identified locations, to determine the number of cubic yards removed, and the “total amount, if any of all earth removal fees, penalties, and costs owed to the Town by AD Makepeace Company under the Earth Removal Bylaw as a result of any earth removed without a permit.” The Article also urged the Board to require ADM to provide credible proof of any claim that the “removed earth was used solely for agricultural purposes on its own farmland.”

To date, the Board has not taken legitimate action to direct the Town engineer, or such other professionals as may be necessary, to take the steps requested by Article 18. Instead, the Town wasted months contacting engineering firms well known to the Town to have long-standing, well published and continuing pre-existing conflicts with AD Makepeace Co. the subject of the requested audit. Then, the Town communicated with yet another ineligible engineering firm to remotely assess various sites for earth removal. Astonishingly, this entity concluded that it was unable to determine the baseline elevation for the sites – when multiple on-line tools (including but not limited to Google Earth and Mass GIS, for example) provide such elevation data on an immediate, reliable and no cost basis, no less. More worrisome, in April of 2022 this entity claimed that - despite being provided baseline elevation data and related site plans showing existing conditions of the properties in question - it still was “unable to make an assessment of the properties prior to the time any work in the affected area was done”. Given such is inconceivable, if not concocted assertion **the Town did nothing, for seven more months since. Consequently, there remains no objective proof that the Town has taken legitimate efforts to comply with the Warrant Article or the Selectmen instruction for over one year.**

The Town was repeatedly advised to engage an out of town (independent) firm with prior forensic engineering experience.

This Demand Presents Credible Evidence of Violations and the Board Must Enforce the Bylaw

The Regulations explicitly state, “Except as provided in this By-Law, no earth shall be removed without issuance of a permit from the Board of Selectmen, as the permit granting authority.” Section 3. Further, “For all earth removal operations, a written permit must be obtained by the Board of Selectmen [sic].”

The Regulations, Section 4(h) provides that “[I]n the event that an earth removal project has begun without a permit, the Town’s engineer shall at the property owner’s expense determine the number of cubic yards removed without a permit in order to assess the number of offenses.” The Board has a mandatory duty to ensure this happens, and the property owners identified herein must burden the full expense of the determination of cubic yards removed without proper licensure.

The earth removal described in the Bill of Particulars was not exempted and is not exempt from the Bylaw as work performed in “normal construction, maintenance or improvement of land in cranberry related activities or other agricultural use.”

The Board has failed to execute its mandatory duties to enforce the Regulations. And the Board has ignored the explicit wishes of Wareham voters as expressed by Town Meeting Warrant Article 18 in Fall of 2021.

The Board does not have discretion to exempt an earth removal operator from the Regulations without requiring credible proof as to each earth removal location that an exemption applies. The Board is steadfastly refusing to perform a duty that is charged with performing: ensuring that earth removal causes minimal detriment, leaves the land in a safe condition, does not harm private or public property or the environment, including but not limited to drinking water wells, and is carried out pursuant to permits where required and conditions of the Regulations. The Board’s continued dereliction in this regard is also potentially depriving the Town of substantial earth removal fees and penalty income. This same inaction serves to empower earth removal cheaters to continue their conduct; with the confidence the Board simply lacks the will to act.

STPB Has Standing to Make this Demand

STPB makes this final demand upon the Board to perform its clear-cut duty to implement the Regulations and enforce their provisions before filing a complaint for Mandamus or taking other legal steps.

Mandamus is an appropriate remedy to require a permitting authority such as the Board of Selectmen in this instance to comply with location ordinances. *Sinclair v. Brightman*, 198

Mass. 248, 256 (Mayor, auditor, and treasurer of a city may be compelled by mandamus to comply with city ordinance).

STPB has standing to make this demand. “Where the object of a petition is to secure the enforcement of the law, a petitioner without separate interest in the subject matter independent of the rights of the public, has standing by reason of his citizenship to maintain a petition for a writ of mandamus to enforce a public duty of interest to citizens generally.” *Pilgrim Real Estate Inc., v Superintendent of Police*, 330 Mass. 250, 251 (1953). “When the question is one of public right and the object of the mandamus is to procure the enforcement of a public duty, the people are regarded as the real party in interest, and the relator at whose instigation the proceedings are instituted need not show that he has any legal or special interest in the result, it being sufficient to show that he is a citizen and as such interested in the execution of the laws.” *Brooks v. Secretary of the Commonwealth*, 275 Mass. 91, 93 (1926).

Exhibits 1 through 6 are Bill of Particulars for six landowners listing the violations of the Regulations which the Board is under a clear-cut, non-discretionary duty to enforce.

Conclusion

The undersigned demands on behalf of its organization and its members individually who live, work and recreate in Wareham that the Board of Selectmen immediately enforce the Earth Removal Regulations as set forth above.

STPB makes this final and formal demand that the Board fully enforce the Regulations against by taking the following actions:

1. Immediately engage an independent, nationally recognized, and qualified professional engineering firm to conduct a forensic audit of the volume of earth removed from the sites identified in the Bills of Particulars identified herein and any other site(s) demonstrating earth removal without a permit since 2010.
2. Immediately engage an independent, nationally recognized, and qualified professional engineer to conduct forensic testing of the volume, depth and character of the fill utilized on any site in the Town of Carver where earth was removed since 2010.
3. Direct any persons determined to have removed earth unlawfully without a permit to pay the Town \$0.25 per cubic yard for earth removed.
4. Impose daily penalties for all earth removed without a permit.
5. Order the restoration of lands unlawfully mined (and or unlawfully back filled), to the extent determined by an independent engineer; and
6. Order an independent hydrological evaluation to assess the potential threats to the environment, Aquifer and drinking water supplies of the Town of Wareham caused by historic and ongoing earth removal and back filling operations.

We request that the Town respond to this letter within two weeks with evidence that it has engaged the professionals to undertake the actions above. We sincerely wish to avoid litigation with the Town. We welcome the chance to discuss a timetable for a commitment by the Board to enforce the Bylaw and to take the steps requested by the Town Meeting in 2021. Please direct

your reply to Margaret Sheehan, environmentwatchesouthernma@gmail.com Feel free to contact us at 508-259-9154 or via email with any questions.

Very truly yours,

Margaret E. Sheehan

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Cc: via email:

Tricia A. Wurts, Board of Selectmen

Ronald Scott Besse, Board of Selectmen

Jared S. Chadwick, Board of Selectmen

Alan H. Slavin, Board of Selectmen

Derek Sullivan, Town Administrator, Town of Wareham, via email dsullivan@wareham.ma.us

Kenneth Buckland, Town Planner, Town of Wareham, kbuckland@wareham.ma.us

Finance Committee, Town of Wareham

Charles L. Rowley, P.E., PLS, Town of Wareham, Consulting Engineer

Conservation Agent

Richard Bowen, Town Counsel

Attorney General/Governor Elect Maura Healey (via USPS)

Martin Suuberg, Commissioner, Department of Environmental Protection

Media:

Wareham Week

Boston Globe

Washington Post

EXHIBIT 1

EXHIBIT 1: AD MAKEPEACE

BILL OF PARTICULARS DEMAND FOR ENFORCEMENT OF EARTH REMOVAL BYLAW

I. AD MAKEPEACE CRANBERRY CO.

ADM's violations, to date, consist of earth removal without permits since 2010 on at least 132 acres at three sites in Wareham. ADM's earth removal activity was not exempt from the Regulations and therefore required an earth removal permit. Evidence of this earth removal includes admissions by ADM and its engineering firm, Beals+Thomas, public records, maps and witness testimony. The earth removal occurred at least three sites covering 132 acres.

The Board of Selectmen's response to a public records request in 2021 and subsequent communications establish the Board never granted an earth removal permit to ADM for any site in the Town.

ADM was not exempt from the requirement to obtain a permit under the Regulations, Section 4. ADM's earth removal was not exempt as "work performed in normal construction, maintenance or improvement of land in cranberry related activities or other agricultural use."

First, the removal activity was conducted from land not used for agriculture, according to government records submitted by Makepeace under pains of penalty of law.

Second, ADM's earth removal has been conducted not for normal cranberry or other agricultural use, but instead in connection with commercial and industrial uses, including but not limited to:

1. sand and gravel mining for the purpose of obtaining earth materials to sell to third parties in the open market for profit, and,
2. installing and operating large ground mounted industrial energy generating facilities that sell electricity to the wholesale electricity market. To use ADM's own terms, the sites were cleared to maximize sunlight to reach solar arrays, not to grow cranberries or agricultural commodities.

Neither of these land uses is a normal cranberry related activities or agricultural use under the Regulations, by any stretch of the imagination. Nor do they qualify as normal "agriculture" within the plain meaning of the word or under the relevant Massachusetts statutes, G.L. c. 40A, § 3 and G. L. c. 128, § 1A. Instead these uses are purely commercial and industrial uses. Therefore, a permit was compulsory.

ADM has claimed that the purpose of its earth removal in Wareham (and in other towns) is to obtain sand solely to maintain or renovate its own cranberry bogs. In an email to the Town Administrator and Town Planner dated March 7, 2021, President and CEO of A.D. Makepeace Jim Kane (“Kane”) stated,

“Allegations have been made about “illegal gravel removal” and these are also false. As a farmer, we can move materials from company land to company land as allowed by town bylaw. Over the past decade our company has reinvested in our farming operations with annual winter sanding efforts, the renovation of many cranberry bogs, and planting of new bogs. A simple drive around public roadways will allow one to see piles of sand ready for use on an adjacent bog or newly planted bog–renovated or newly created upland bog.”

None of these alleged uses could conceivably account for all the sand removed by ADM from Wareham alone. Within 2 miles in Carver, on the Wareham border on Federal Road, ADM is removing 7.9 million cubic yards, enough to fill Gillette Stadium almost $\frac{3}{4}$ of a mile high. About $\frac{3}{4}$ of a mile from the Wareham site at 160 Tihonet Road, ADM is removing 7.2 million cubic yards from Plymouth filling Gillette Stadium a second time almost $\frac{3}{4}$ of a mile high. ADM has removed unknown volumes of sand and gravel at other sites throughout Plymouth, Carver, Wareham and likely other towns.

Writing about ADM’s plan to remove about 1.2 million cubic yards from 140 Tihonet Road, Wareham to install a solar project on 70 acres Kane wrote in a March 18, 2021 letter to the Wareham Conservation Commission,

“We are writing to notify the Commission that any material removed from the site, will be used for our on-going agricultural activities, and is therefore not subject to earth removal permitting in accordance with the Bylaws of the Town of Wareham Division IV Article III Section 3, *Earth Removal Regulations Required Permits and Exceptions*, which exempts agriculture.”

Even if Kane’s claims that the earth ADM is removing is used on its own cranberry bogs, there is no provision in the Regulations that allows earth removed from one parcel of land in Wareham to be transported to unknown and unreported locations either in Wareham or another Town, for an alleged “agricultural use.” Further, the company is not permitted to move sand materials from “company land to company land” where the sand is used in connection with nonagricultural purposes or sold to third parties. The company has extracted more than bog sand – by removing 132 acres of trees, stumps, vegetation, topsoil, gravel and boulders in Wareham alone– also without all required permits.

In Wareham, ADM has leveled hills on about 132 acres, working steadily for a decade to extract the sand and gravel. The precise volume of earth removed is being estimated. The scale of this mining operation - and common sense - make clear that this extraction was not purely for an “agricultural use”, as the volume of earth ADM has removed from Wareham far outweighs what could plausibly be used on ADM’s own cranberry bogs, as it asserts.

ADM has been asked publicly to provide credible evidence that the earth removed from Wareham was solely for ADM “agricultural use” on its own land. On March 15, 2021 in a public meeting Kane publicly pledged to account for and explain where the earth removed from the 50 acre solar site a 160 Tihonet Road in Wareham was deployed solely for ADM’s “agricultural use.” President and CEO Kane reneged on this pledge.

The obvious use for the earth materials ADM has removed from Wareham is to supply third parties as well as its subsidiary, Read Custom Soils (“Read”) located adjacent to Wareham at 46 Federal Road in Carver. ADM calls Read “a state-of-the-art [earth] blending facility” ... “located in the heart of our enormous reserves of USGA quality sand” in Wareham, Plymouth and Carver. www.readcustomsoils.com ADM extracts sand and gravel from Wareham and other towns and sells and distributes it for commercial sale directly as well as via Read, weighing much of the sand at its “Scale House & Blending Facility”. This commercial activity performed in plain sight, with more than 60 trucking companies utilizing hundreds of tractor trailer trucks to transport sand and gravel entering and leaving Read daily for years. This activity is also well documented by multiple other sources.

And ADM’s financial statements make this abundantly so. The company makes more money selling sand than it does selling cranberries.

ADM SITE 1: 160 Tihonet Road, Borrego Solar Energy Facility, 50 acres

Violations:

- ADM conducted earth removal from about 2014 continuing to at least January 12, 2021 without a permit.
- ADM's earth removal was not an exempt agricultural use: stand alone earth removal operation was not agricultural use
- ADM has produced no evidence or documentation to support claim that sand and gravel was used on its "agricultural lands" and not removed from its lands for commercial sale
- An unknown volume of earth removed, unaccounted for.
- The topography before earth removal was about 64-80 feet; after elevation is about 62-65 feet.

Below: March 2012: Before earth removal and solar facility



Below: May, 2015: Land clearing started



**Below: May 10, 2016: phase 1 solar installed,
earth removal ongoing, groundwater exposed**



**Below: October 10, 2016: Earth removal ongoing;
phase 1 solar installed, groundwater exposed**



Below April 14, 2017: earth removal; groundwater exposed, mining in groundwater



Below: February 27, 2018: Phase 1 solar, earth removal, mining in groundwater



Below: 2019: earth removal, groundwater exposed



Below: 2019: Same as above, closer, earth removal, groundwater exposed



Below: January 12, 2021: earth removal ongoing



Below: 2021: Holes filled, solar poles being installed. Source: MassMapper GIS.



Below: October 23, 2021: after earth removal, use for industrial solar facility



Google Earth

Imagery Date: 10/23/2021 41°48'12.50" N 70°42'24.16" W elev 46 ft eye alt 2343 ft

ADM SITE 2: 71 Charlotte Furnace Road, Solar Energy Facility, 42 acres

Violations:

- ADM has conducted earth removal since approximately 2010 continuing to at least January 12, 2021 without a permit.
- ADM's earth removal was not an exempt agricultural use: it was not an agricultural use of the land, there is no credible evidence the earth removed was used for agricultural purposes, and the site is being leased and used for industrial energy generating facility. (Renewable Energy Development Partners was original lessee)
- An unknown volume of earth removed, unaccounted for.
- Before earth removal the topography was about 71 feet; after it is about 60 feet.

Below: 2009 before earth removal



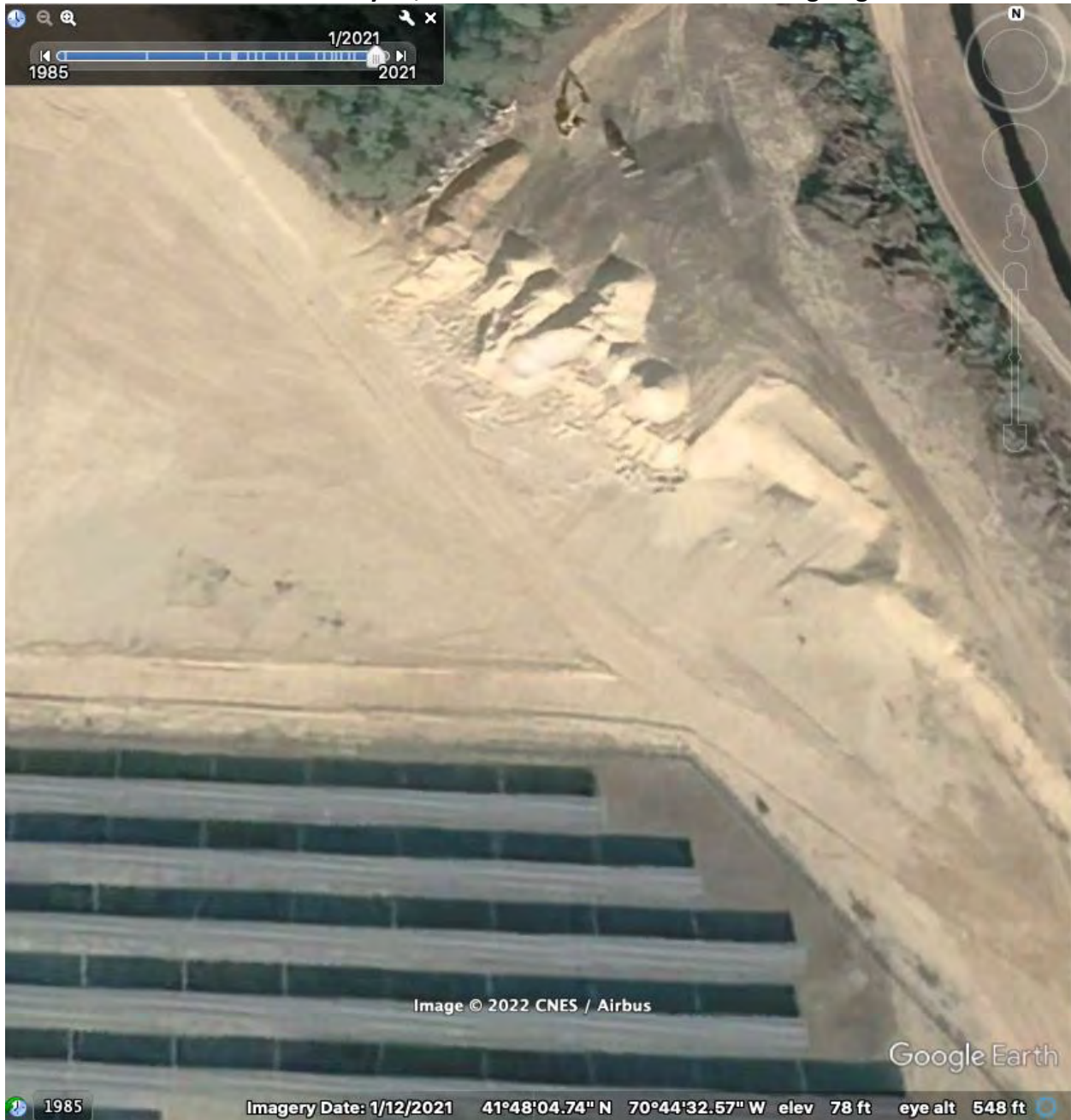
Below: March 11, 2012: Solar partially installed, earth removal ongoing



Below: 2021 use as industrial energy generating facility
Source
MassMapperGIS



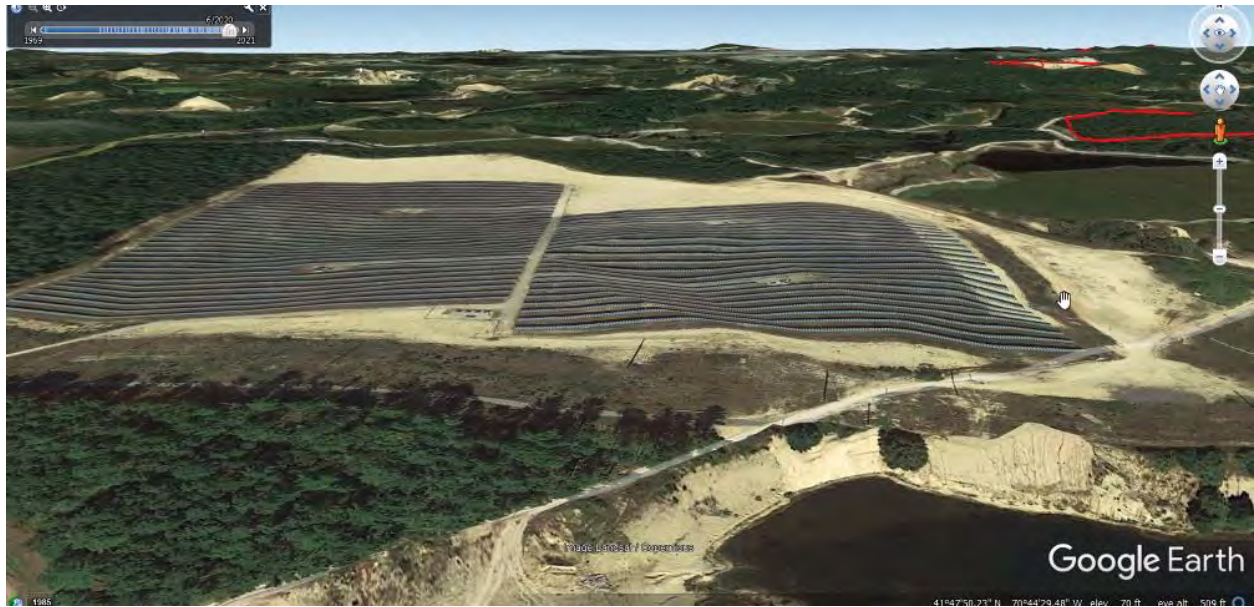
Below: January 12, 2021: Solar and earth removal ongoing





© 2021 Europa Technologies
© 2021 Google

Below: current site, Charlotte Furnace solar overlain on prior topography. Source: Google Earth



ADM SITE 3: Farm to Market Road, up to 40 acres

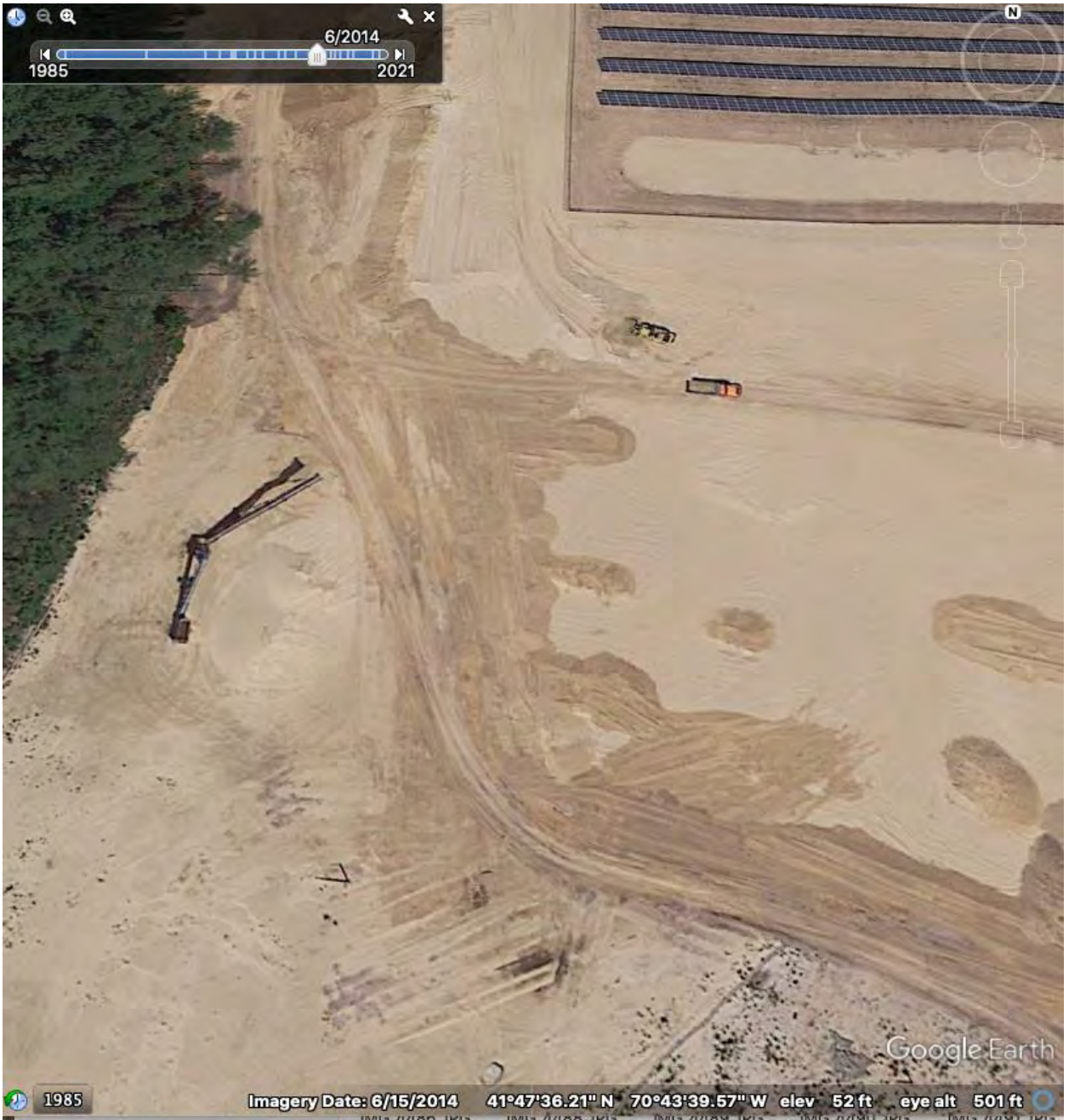
Violations:

- ADM has conducted earth removal since approximately 2010 continuing to October 2021 without a permit.
- ADM's earth removal was not an exempt agricultural use: it was not an agricultural use of the land, there is no credible evidence the earth removed was used for agricultural purposes, and the site is being leased and used for industrial energy generating facility.
- An unknown volume of earth removed, unaccounted for.
- In 2019, based on ADM's statement in its Massachusetts Environmental Policy Act (MEPA) Environmental Notification Form, the Secretary of Energy and Environmental Affairs stated in MEPA Certificate 13940, p. 2, May 2, 2019:
The "area of work [for installation of a solar project] is largely cleared and previously disturbed." "The site was formerly used for sand mining, which cleared the site of vegetation....**Because sand mining is ongoing**, site grades fluctuate; final grades will range from 54 ft to 64 ft NAVD."

Below: May 20, 2010: land cleared, topsoil on site



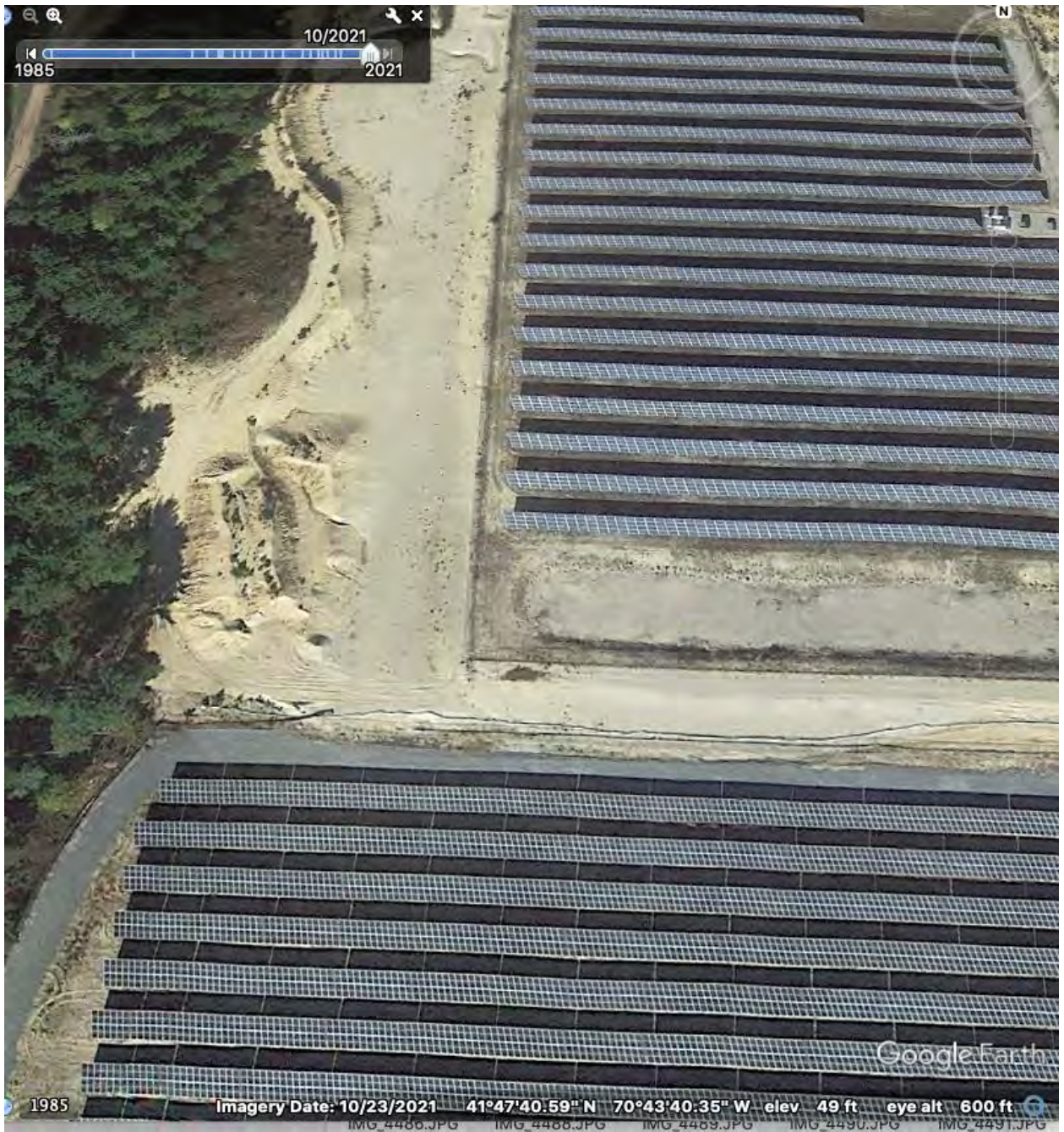
Below: June 15, 2014: partial solar installed, earth removal ongoing



Below: June 15, 2014: partial solar installed, earth removal ongoing



Below: October 23, 2021: earth removal ongoing



Below: current site, Farm to Market solar overlain on prior topography. Source: Google Earth



Below: October 23, 2021 solar installed



END

EXHIBIT 2

EXHIBIT 2: DAVID FLETCHER

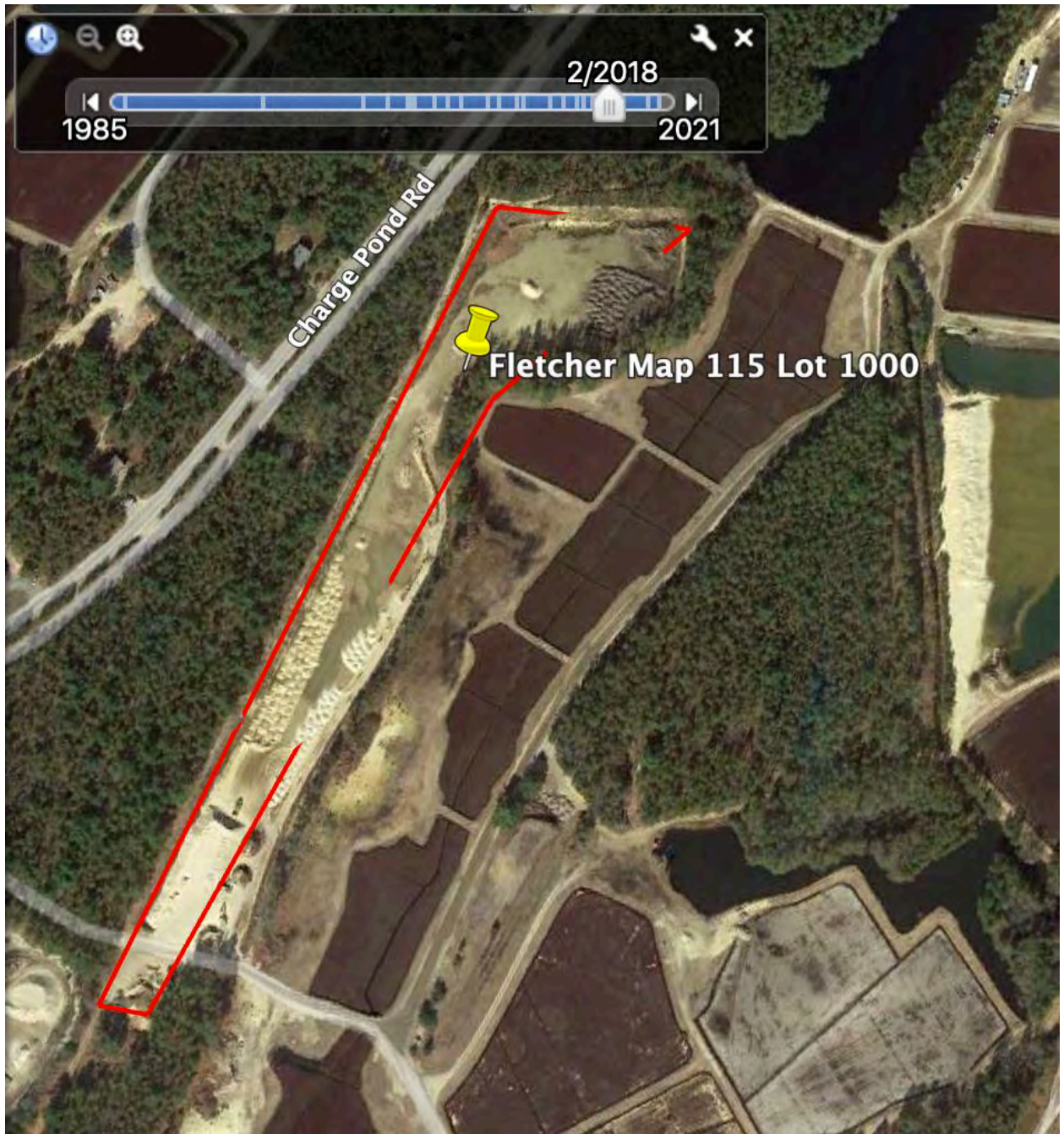
BILL OF PARTICULARS DEMAND FOR ENFORCEMENT OF EARTH REMOVAL BYLAW

Violations at Map 115, Lot 1000, 7 acres

- Starting in 2010, David Fletcher (“Fletcher”) began earth removal activities on land located at 0 Route 25 in Wareham without an earth removal permit.
- This earth removal was not exempt under Regulation, Section 3, as “work performed in normal construction, maintenance or improvement of land in cranberry related activities or other agricultural use.”
- This was a standalone sand and gravel mining operation as admitted in the property owner’s applications to the Wareham Planning Board, ZBA and Conservation Commission.
- Unpermitted fill was used at the site including in Resource Areas protected by the Town of Wareham Wetlands Bylaw and the state Wetlands Protection Act
- The volume removed is unknown.
- Mining occurred in the groundwater
- There is no known earth removal permit

Violations at Map 115, Lot 1005

- Earth removal is ongoing
- This earth removal is not exempt under Regulation, Section 3, as “work performed in normal construction, maintenance or improvement of land in cranberry related activities or other agricultural use.”
- The volume removed is unknown.
- Mining occurred in the groundwater
- There is no known earth removal permit



Fletcher Map 115 Lot 1000

Charge Pond Rd

1985

2/2018

2021

Violations:



EXHIBIT 3

EXHIBIT 3: SURE-CRAN CO,
BILL OF PARTICULARS
DEMAND FOR ENFORCEMENT OF
EARTH REMOVAL BYLAW

Violations at Map 115, Lot 1002B: 0 Off Charge Pond Road, 7 to 10 acres

- From January 2021 to October 2021 up to 10 acres of land was cleared
- This earth removal was not exempt under Regulation, Section 3, as “work performed in normal construction, maintenance or improvement of land in cranberry related activities or other agricultural use.”
- In March 2022, Sure-Cran offered the Town the right of first refusal under Chapter 61A. By then, the land had been clear-cut and forests obliterated.
- Sure-Cran has announced plans for a solar project
- There is no known earth removal permit



Request for investigation of violations at Map 113, Lot 1013BB, Map 113, 1014AA, Map 115, Lot 1004, about 22 acres



EXHIBIT 4

EXHIBIT 4: ROUNSEVILLE HAMMOND CRANBERRY

BILL OF PARTICULARS DEMAND FOR ENFORCEMENT OF EARTH REMOVAL BYLAW

Violations at Map 130, Lot 1002 Off Glen Charlie Road

- From 2010 to 2021 earth removal has expanded from 7 to 17 acres
- This earth removal was not exempt under Regulation, Section 3, as “work performed in normal construction, maintenance or improvement of land in cranberry related activities or other agricultural use.”
- Hills of up to 50 feet have been leveled
- There is no known earth removal permit



EXHIBIT 5

EXHIBIT 5: GRAZIANO

**BILL OF PARTICULARS
DEMAND FOR ENFORCEMENT OF
EARTH REMOVAL BYLAW**

Request for investigation of violations, Map 12F, 38 acres
Off Glen Charlie Road

- Earth removal permit issued or reissued in 2015
- Earth removal permits are limited to three years under the Wareham Earth Removal Regulations
- No record that Graziano earth removal permit has been extended beyond 2018
- Request investigation on expiration date of permit, earth removal fees, and compliance with terms and conditions
- Earth removal has expanded to 38 acres

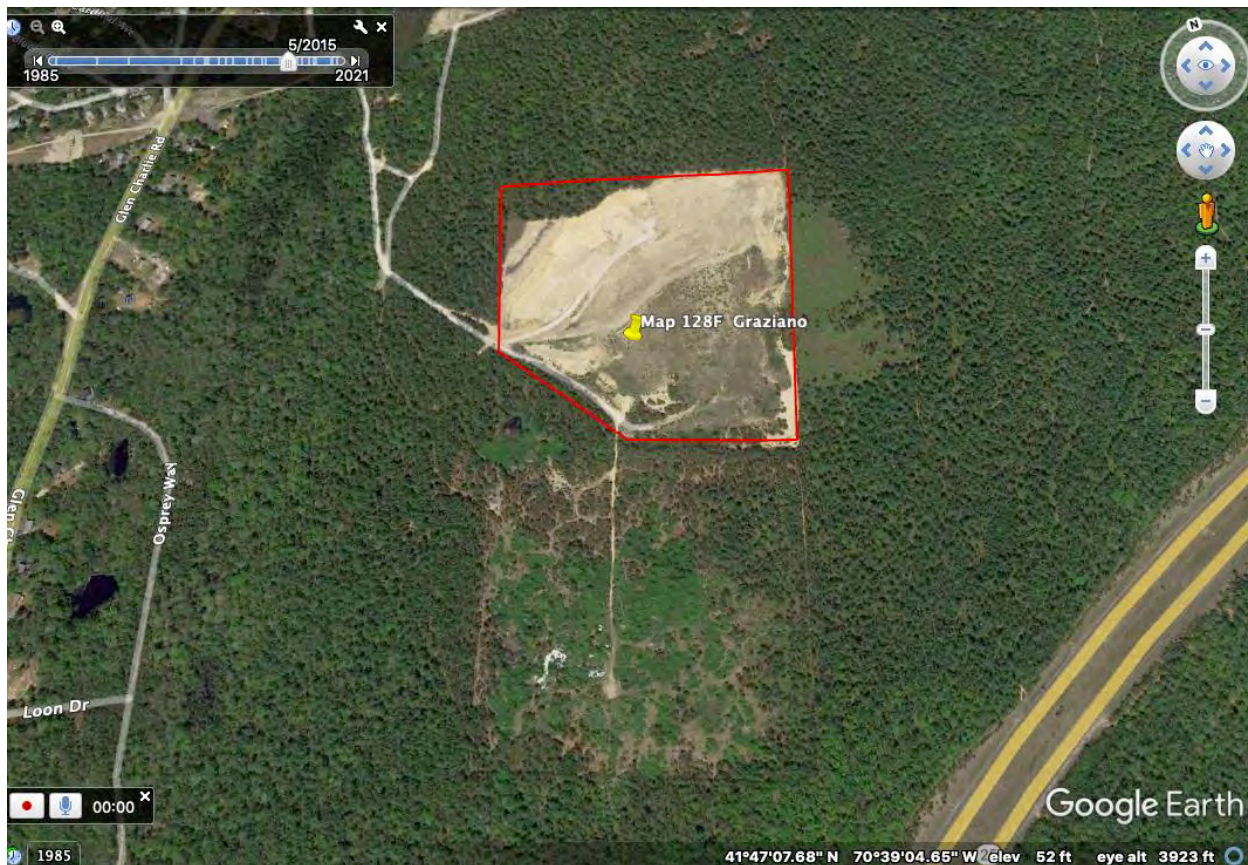


EXHIBIT 6

EXHIBIT 6: 2384 CRANBERRY HIGHWAY LLC

BILL OF PARTICULARS DEMAND FOR ENFORCEMENT OF EARTH REMOVAL BYLAW

Request investigation of potential violations: Map 108, Lot 1001C/Cranberry Highway

- Owner: 2384 Cranberry Highway LLC, Rochester MA
- Beginning in 2012, excavation into the groundwater, alteration of wetlands
- Request investigation of land clearing, potential earth removal
- Now solar owned by 2384 Cranberry Highway LLC.





