



FUSS & O'NEILL

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accountant  
assessors  
town clerk*

BOARD OF SELECTMAN

June 28, 2012

Mr. Stephen J. Comtois II, Chairman  
Brookfield Board of Selectmen  
6 Central Street  
Brookfield, MA 01506

Re: **RTN: 2-10354**  
Notice of Availability of Response Action Outcome Statement  
and Activity and Use Limitation  
Former Brookfield Mill Site, 59-67 Mill Street, Brookfield, Massachusetts

Dear Mr. Comtois:

Fuss & O'Neill, Inc. has prepared this letter, on behalf of the Town of Brookfield, to provide notice that in accordance with the Massachusetts Contingency Plan (MCP; 310 CMR 40.0000) a Class A-3 Response Action Outcome (RAO) statement has been submitted to the Massachusetts Department of Environmental Protection (MassDEP) for the release identified with Release Tracking Number (RTN) 2-10354. The release was attributed to regulated soil containing fill material from the historical demolition of the former mill building at the above-referenced property. The RAO documents that a level of No Significant Risk has been achieved at the property and no further response actions are required. An Activity and Use Limitation has been recorded with the Worcester South District Registry of Deeds in Deed Book 49150, Page 311.

The RAO Statement is available for review by searching for the property address at the following DEP website:

<http://public.dep.state.ma.us/SearchableSites/Search.asp>

A copy of the AUL is attached for your records.

Sincerely,

David JP Foss, CPG, LSP  
Senior Project Manager

Attachment: Activity and Use Limitation

CC: MassDEP, via eDEP submittal  
Daniel Leahy, Chair, Brookfield Board of Health  
Jeff Taylor, Building Inspector  
Gary Simeone, Zoning Enforcement

317 Iron Horse Way  
Suite 204  
Providence, RI  
02908  
1-401-861-3171  
401-861-2469  
1-401-861-8176

[www.fandol.com](http://www.fandol.com)

WORCESTER, SS.

A true copy of record of  
WORCESTER DISTRICT REGISTRY OF DEEDS  
Book 49160 Page 311

Attest:



Register



Bk: 49160 Pg: 311  
Page: 1 of 12 06/21/2012 03:27 PM WD

**Form 1075**

**NOTICE OF ACTIVITY AND USE LIMITATION**

M.G.L. c. 21E, § 6 and 310 CMR 40.0000

Disposal Site Name: Former Brookfield Mill

DEP Release Tracking No.: 2-10354

This Notice of Activity and Use Limitation ("Notice") is made as of this 19 day of June, 2012, by the Town of Brookfield, a Massachusetts municipal corporation, acting by and through its Board of Selectmen, having an address at Brookfield Town Hall, 6 Central Street, Brookfield, Massachusetts 01506, together with its successors and assigns (the "Town of Brookfield").

**WITNESSETH:**

WHEREAS, the Town of Brookfield is the owner in fee simple of that certain parcel of land located in Brookfield, Worcester County, Massachusetts with the buildings and improvements thereon, pursuant to a deed recorded with the Worcester South District Registry of Deeds in Book 30374, Page 14;

WHEREAS, said parcel of land, which is more particularly bounded and described in Exhibit A, attached hereto and made a part hereof ("Property") is subject to this Notice of Activity and Use Limitation. The Property is shown on a plan recorded in the Worcester South District Registry of Deeds in Plan Book 795, Page 62;

WHEREAS, the Property comprises all of one disposal site as the result of releases of oil and/or hazardous material. Exhibit B is a sketch plan showing the relationship of the Property subject to this Notice of Activity and Use Limitation to the boundaries of said disposal site existing within the limits of the Property and to the extent such boundaries have been established. Exhibit B is attached hereto and made a part hereof; and

WHEREAS, one or more response actions have been selected for the Disposal Site in accordance with M.G.L. c. 21E ("Chapter 21E") and the Massachusetts Contingency Plan, 310 CMR 40.0000 ("MCP"). Said response actions are based upon (a) the restriction of human access to and contact with oil and/or hazardous material in soil and/or (b) the restriction of certain activities

(12)

occurring in, on, through, over or under the Property. The basis for such restrictions is set forth in an Activity and Use Limitation Opinion ("AUL Opinion"), dated June 15, 2012, (which is attached hereto as Exhibit C and made a part hereof);

NOW, THEREFORE, notice is hereby given that the activity and use limitations set forth in said AUL Opinion are as follows:

1. Activities and Uses Consistent with the AUL Opinion. The AUL Opinion provides that a condition of No Significant Risk to health, safety, public welfare or the environment exists for any foreseeable period of time (pursuant to 310 CMR 40.0000) so long as any of the following activities and uses occur on the Property:

- (i) Excavation associated with the underground utility and/or construction work, provided that it does not result in the relocation of soil within or from the AUL Area. (Note, the "AUL Area" is defined as the entire Property);
- (ii) Activities and uses, including pedestrian and/or vehicular traffic, which do not compromise the structural integrity of the pavement and/or engineered barriers and/or result in the disturbance and/or the re-location of soil containing metals and polynuclear aromatic hydrocarbons (PAH) located beneath the engineered barriers;
- (iii) Short-term (three months or less) underground utility and/or construction activities including, but not limited to, excavation (including emergency repair of underground utility lines), which are likely to disturb soil containing contaminants of concern located beneath the engineered barriers, provided that such activities are conducted in accordance with Obligations/Conditions (i) and (ii) in Paragraph 3 of this Activity and Use Limitation, the soil management procedures of the MCP cited at 310 CMR 40.0030, and all applicable worker health and safety practices pursuant to 310 CMR 40.0018;
- (iv) Such other activities or uses which, in the Opinion of an LSP, shall present no greater risk of harm to health, safety, public welfare or the environment than the activities and uses set forth in this Paragraph; and
- (v) Such other activities and uses not identified in Paragraph 2 as being Activities and Uses Inconsistent with the AUL.

2. Activities and Uses Inconsistent with the AUL Opinion. Activities and uses which are inconsistent with the objectives of this Notice of Activity and Use Limitation, and which, if implemented at the Property, may result in a significant risk of harm to health, safety, public welfare or the environment or in a substantial hazard, are as follows:

- (i) Activities and/or uses which would result in the disturbance of the pavement and/or damages to the engineered barriers in the AUL area;

- (ii) An activity, such as an excavation, that results in the relocation of soil within or from the AUL Area without the prior development and implementation of a Health and Safety Plan and a Soil Management Plan in accordance with the Obligations and Conditions described in Paragraph 3.

3. Obligations and Conditions Set Forth in the AUL Opinion. If applicable, obligations and/or conditions to be undertaken and/or maintained at the Property to maintain a condition of No Significant Risk as set forth in the AUL Opinion shall include the following:

- (i) An LSP must be contacted prior to any disturbance to soil located beneath the engineered barriers and requested to evaluate whether the proposed soil disturbance requires any specific management procedures to adhere to the obligations of the AUL.
- (ii) A Soil Management Plan must be prepared by an LSP and implemented prior to the commencement of any activity that results in the relocation of soil within or from the AUL Area. The Soil Management Plan should describe appropriate soil excavation, handling, storage, transport, and disposal procedures and include a description of the engineering controls and air monitoring procedures necessary to ensure that workers and receptors in the vicinity are not affected by fugitive dust or particulates. On-site workers must be informed of the requirements of the Soil Management Plan, and the plan must be available on-site throughout the course of the project;
- (iii) A Health and Safety Plan must be prepared by a Certified Industrial Hygienist or other qualified individual sufficiently trained in worker health and safety requirements and implemented prior to the commencement of any activity that results in the relocation of soil within or from the AUL Area. The plan should clearly describe the location of the soil containing oil and/or hazardous material, and specifically identify the types of personal protective equipment, monitoring devices, and engineering controls necessary to ensure that workers are not exposed to oil and/or hazardous material through dermal contact, ingestion, and/or inhalation of particulate dust. Workers who may come into contact with soil containing oil and/or hazardous material within the designated AUL Area must be informed of the location of contamination and all requirements of the Health and Safety Plan. The plan must be available on-site throughout the course of the activity.
- (iv) The pavement and engineered barriers within the AUL area must be repaired and/ or replaced with a comparable barrier to prevent future exposures to underlying soil containing metals and PAH immediately following the completion of any activity which involves its removal and/or disturbance;
- (v) The pavement and engineered barriers must be maintained within the designated AUL area to ensure that the soil containing metals and PAH located beneath the barriers remains inaccessible; and

(vi) Annual inspections and associated record-keeping activities must be performed to confirm that the pavement and engineered barriers are being properly maintained to prevent exposures to soil containing metals and PAH located immediately beneath the pavement and engineered barriers.

4. Proposed Changes in Activities and Uses. Any proposed changes in activities and uses at the Property which may result in higher levels of exposure to oil and/or hazardous material than currently exist shall be evaluated by an LSP who shall render an Opinion, in accordance with 310 CMR 40.1080 *et seq.*, as to whether the proposed changes will present a significant risk of harm to health, safety, public welfare or the environment. Any and all requirements set forth in the Opinion to meet the objective of this Notice shall be satisfied before any such activity or use is commenced.

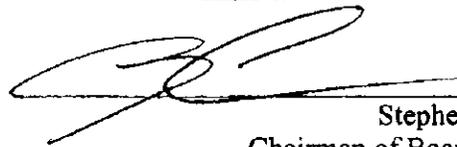
5. Violation of a Response Action Outcome. The activities, uses and/or exposures upon which this Notice is based shall not change at any time to cause a significant risk of harm to health, safety, public welfare, or the environment or to create substantial hazards due to exposure to oil and/or hazardous material without the prior evaluation by an LSP in accordance with 310 CMR 40.1080 *et seq.*, and without additional response actions, if necessary, to achieve or maintain a condition of No Significant Risk or to eliminate substantial hazards.

If the activities, uses, and/or exposures upon which this Notice is based change without the prior evaluation and additional response actions determined to be necessary by an LSP in accordance with 310 CMR 40.1080 *et seq.*, the owner or operator of the Property subject to this Notice at the time that the activities, uses and/or exposures change, shall comply with the requirements set forth in 310 CMR 40.0020.

6. Incorporation Into Deeds, Mortgages, Leases, and Instruments of Transfer. This Notice shall be incorporated either in full or by reference into all future deeds, easements, mortgages, leases, licenses, occupancy agreements or any other instrument of transfer, whereby an interest in and/or a right to use the Property or a portion thereof is conveyed.

Owner hereby authorizes and consents to the filing and recordation and/or registration of this Notice, said Notice to become effective when executed under seal by the undersigned LSP, and recorded and/or registered with the appropriate Registry of Deeds and/or Land Registration Office.

WITNESS the execution hereof under seal this 19 day of June, 2012.



Stephen J. Comtois, II  
Chairman of Board of Selectmen  
TOWN OF BROOKFIELD, MASSACHUSETTS

COMMONWEALTH OF MASSACHUSETTS

Worcester, ss

June 19, 2012

On this 19 day of June, 2012, before me, the undersigned notary public, personally appeared Stephen J. Comtois, II, proved to me through satisfactory evidence of identification, which were personal knowledge, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose



**DONNA L. NEYLON**  
Notary Public  
Commonwealth of Massachusetts  
My Commission Expires August 17, 2018

Donna L. Neylon  
Notary Public:  
My Commission Expires 08/17/2018

The undersigned LSP hereby certifies that he executed the aforesaid Activity and Use Limitation Opinion attached hereto as Exhibit C and made a part hereof and that in his Opinion this Notice of Activity and Use Limitation is consistent with the terms set forth in said Activity and Use Limitation Opinion.

Date: June 15, 2012

[Signature]  
David JP Foss, CPG, LSP



STATE OF RHODE ISLAND

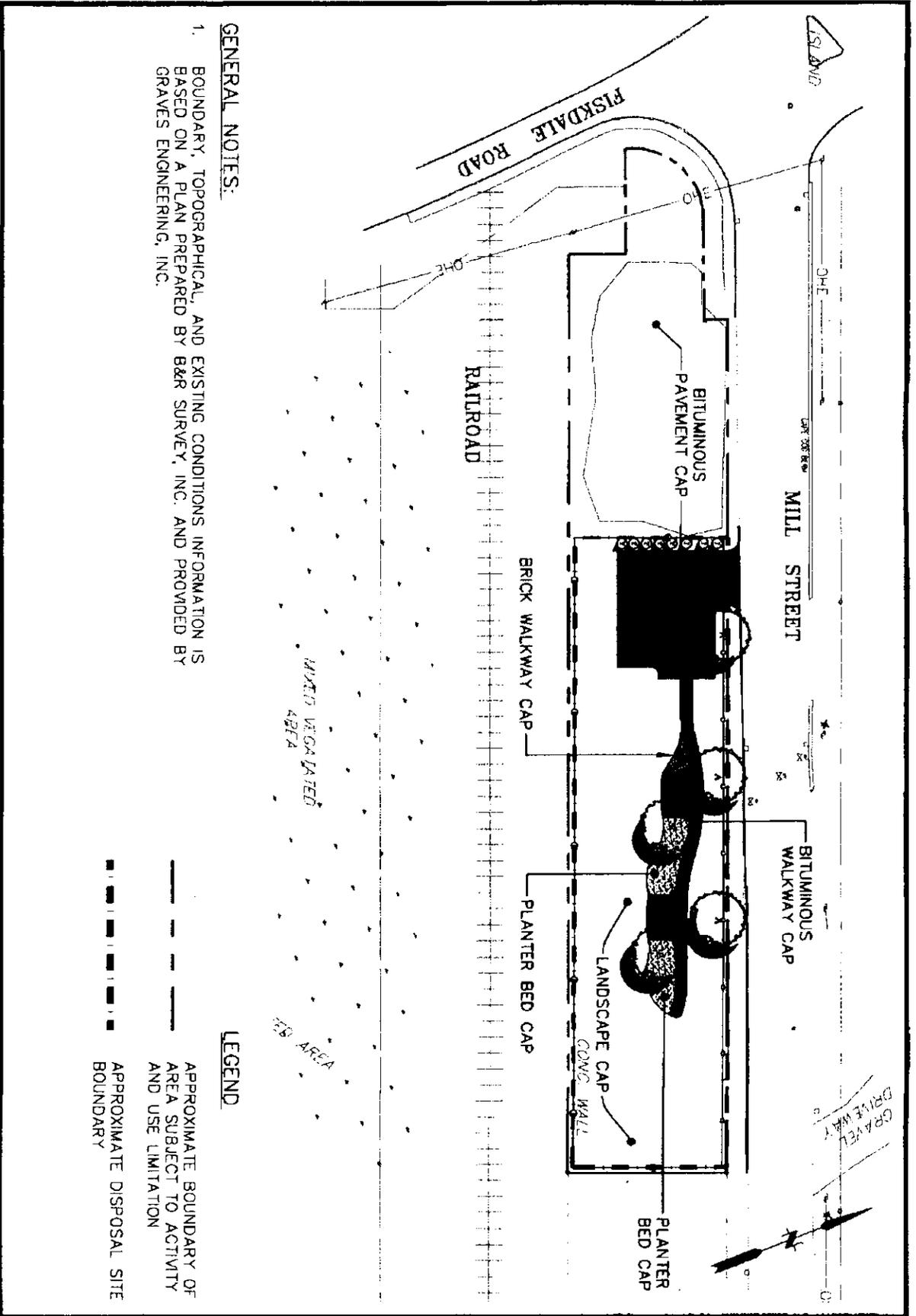
Providence, ss

June 15, 2012

On this 15th day of June, 2012, before me, the undersigned notary public, personally appeared David JP Foss, proved to me through satisfactory evidence of identification, which were personally known to me, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

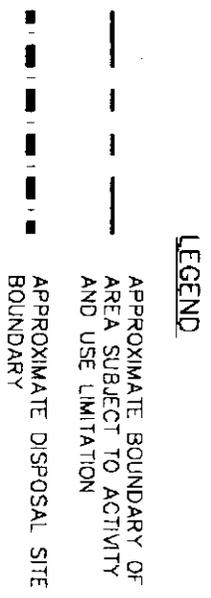
**CHARLENE M. FARRANDS**  
NOTARY PUBLIC  
MY COMMISSION EXPIRES JUNE 20, 2014

[Signature]  
Notary Public: Charlene M. Farrands  
My Commission Expires 6/20/2014



**GENERAL NOTES:**

1. BOUNDARY, TOPOGRAPHICAL, AND EXISTING CONDITIONS INFORMATION IS BASED ON A PLAN PREPARED BY B&R SURVEY, INC. AND PROVIDED BY GRAVES ENGINEERING, INC.



**SCALE:**

HORIZ.	1" = 30'
VERT.	1" = 30'

**DATE:**

HORIZ.	0
VERT.	0

**GRAPHIC SCALE:**

**FUSS & O'NEILL**  
 317 IRON HORSE WAY, SUITE 204  
 PROVIDENCE, RI 02908  
 401.461.2071  
 www.fuss.com

TOWN OF BROOKFIELD  
 AREA SUBJECT TO ACTIVITY AND USE LIMITATION  
 RTN 2-10354  
 59-57 MILL STREET  
 BROOKFIELD, MASSACHUSETTS

PROJ. NO.: 20110647A10  
 DATE: JUNE 2012  
**EXHIBIT B**

EXHIBIT C

ACTIVITY AND USE LIMITATION OPINION

Site Description

This Activity and Use Limitation (AUL) Opinion was prepared pursuant to 310 CMR 40.1074(1)(b) for the parcel of land located at 57-59 Mill Street, Brookfield, Worcester County, Massachusetts, and identified as Town of Brookfield Tax Assessor's Map 6C, Block 2, Lot 105, with the buildings and improvements thereon (hereafter referred to as "the site").

The site is identified as one Disposal Site by the Massachusetts Department of Environmental Protection (MassDEP) with Release Tracking Number 2-10354, due to releases of metals and polynuclear aromatic hydrocarbons (PAH) to soil at the site. The release has been attributed to *the presence of fill material mixed with the native soil at the site. This fill material contains ash and debris originating from the historical demolition of a mill building that formerly occupied the site.*

Response actions conducted at the site included the construction of the following engineered barriers:

- Exterior parking, driveway and walkway areas were capped with a layer of gravel approximately six inches thick overlain by a layer of asphalt pavement approximately four inches thick.
- Landscaped areas were constructed of approximately one foot of clean soil underlain by geotextile material.

Reason for Activity and Use Limitation

Levels of metals and PAH at the site were determined to be above the MassDEP Method 1 S-1 and S-2 Soil Standards. Prior to the construction of the engineered barriers described above, the vertical extent of oil and/or hazardous materials (OHM) in site soil at levels exceeding MassDEP Method 1 soil standards was determined to be between approximately zero and ten feet below surface grade. Upon the completion of remedial activities at the site, all soil that was documented to contain OHM at levels in excess of the Method 1 Soil Standards was located beneath an engineered barrier.

A Method 1 Risk Characterization was conducted in accordance with the Massachusetts Contingency Plan (MCP; 310 CMR 40.0000) to evaluate the risk posed by OHM remaining in the soil at the site. The results of the Method 1 Risk Characterization indicated that a Condition of No Significant Risk has been achieved based upon the completion of remedial activities consisting the construction of engineered barriers and the implementation and maintenance of an AUL.

Permitted Activities and Uses

- (i) Excavation associated with the underground utility and/or construction work, provided that it does not result in the relocation of soil within or from the AUL Area. (Note, the "AUL Area" is defined as the entire Property);
- (ii) Activities and uses, including pedestrian and/or vehicular traffic, which do not compromise the structural integrity of the pavement and/or engineered barriers and/or result in the disturbance and/or the re-location of soil containing metals and PAH located beneath the engineered barriers described above;
- (iii) Short-term (three months or less) underground utility and/or construction activities including, but not limited to, excavation (including emergency repair of underground utility lines), which are likely to disturb soil containing metals and PAH, located beneath the engineered barriers described above, provided that such activities are conducted in accordance with Obligations/Conditions (i) and (ii) in Paragraph 3 of the AUL, the soil management procedures of the MCP cited at 310 CMR 40.0030, and all applicable worker health and safety practices pursuant to 310 CMR 40.0018;
- (iv) Such other activities or uses which, in the Opinion of an LSP, shall present no greater risk of harm to health, safety, public welfare or the environment than the activities and uses set forth in Paragraph 1 of the AUL; and
- (v) Such other activities and uses not identified in Paragraph 2 of the AUL as being Activities and Uses Inconsistent with the AUL.

Activities and Uses Inconsistent with the AUL Opinion

- (i) Activities and/or uses of the property which would result in the disturbance of the pavement and/or damages to the engineered barriers in the AUL area;
- (ii) An activity, such as an excavation, that results in the relocation of soil within or from the AUL Area without the prior development and implementation of a Health and Safety Plan and a Soil Management Plan in accordance with the Obligations and Conditions described in Paragraph 3 of the AUL.

Obligation and Conditions

- (i) An LSP must be contacted prior to any disturbance to soil located beneath the engineered barriers and requested to evaluate whether the proposed soil disturbance requires any specific management procedures to adhere to the obligations of the AUL.
- (ii) A Soil Management Plan must be prepared by an LSP and implemented prior to the commencement of any activity that results in the relocation of soil within or from the AUL Area. The Soil Management Plan should describe appropriate soil

excavation, handling, storage, transport, and disposal procedures and include a description of the engineering controls and air monitoring procedures necessary to ensure that workers and receptors in the vicinity are not affected by fugitive dust or particulates. On-site workers must be informed of the requirements of the Soil Management Plan, and the plan must be available on-site throughout the course of the project;

- (iii) A Health and Safety Plan must be prepared by a Certified Industrial Hygienist or other qualified individual sufficiently trained in worker health and safety requirements and implemented prior to the commencement of any activity that results in the relocation of soil within or from the AUL Area. The plan should clearly describe the location of the soil containing metals and PAH and specifically identify the types of personal protective equipment, monitoring devices, and engineering controls necessary to ensure that workers are not exposed to metals and PAH through dermal contact, ingestion, and/or inhalation of particulate dust. Workers who may come into contact with soil containing metals and PAH within the designated AUL Area must be informed of the location of contamination and all requirements of the Health and Safety Plan. The plan must be available on-site throughout the course of the activity.
- (iv) The pavement and engineered barriers within the AUL area must be repaired and/or replaced with a comparable barrier to prevent future exposures to underlying soil containing metals and PAH immediately following the completion of any activity which involves its removal and/or disturbance;
- (v) The pavement and engineered barriers must be maintained within the designated AUL area to ensure that the soil containing metals and PAH located beneath the barriers remains inaccessible; and
- (vi) Annual inspections and associated record-keeping activities must be performed to confirm that the pavement and engineered barriers are being properly maintained to prevent exposures to soil containing metals and PAH located immediately beneath *the pavement and engineered barriers*.



---

David JP Foss, OPG, LSP  
Licensed Site Professional # 4695  
Senior Project Manager  
Fuss & O'Neill, Inc.

JUNE 15, 2012  
Date



Massachusetts Department of Environmental Protection  
Bureau of Waste Site Cleanup

EXHIBIT D

BWSC113A

**ACTIVITY & USE LIMITATION (AUL) OPINION FORM**

Pursuant to 310 CMR 40.1056 &amp; 40.1070 - 40.1084 (Subpart J)

Release Tracking Number

2 - 10354

**A. DISPOSAL SITE LOCATION:**

1. Disposal Site Name: **BROOKFIELD MILL**
2. Street Address: **59-67 MILL ST**
3. City/Town: **BROOKFIELD** 4. ZIP Code: **01506-0000**

**B. THIS FORM IS BEING USED TO:** (check one)

1. Provide the LSP Opinion for a **Notice of Activity and Use Limitation**, pursuant to 310 CMR 40.1074.
2. Provide the LSP Opinion for an **Evaluation of Changes in Land Uses/Activities and/or Site Conditions after a Response Action Outcome Statement**, pursuant to 310 CMR 40.1080. Include BWSC113A as an attachment to BWSC113. Section A and C do not need to be completed.
3. Provide the LSP Opinion for an **Amended Notice of Activity and Use Limitation**, pursuant to 310 CMR 40.1081(4).
4. Provide the LSP Opinion for a **Partial Termination of a Notice of Activity and Use Limitation**, pursuant to 310 CMR 40.1083(3).
5. Provide the LSP Opinion for a **Termination of a Notice of Activity and Use Limitation**, pursuant to 310 CMR 40.1083(1)(d).
6. Provide the LSP Opinion for a **Grant of Environmental Restriction**, pursuant to 310 CMR 40.1071.
7. Provide the LSP Opinion for an **Amendment of a Grant of Environmental Restriction**, pursuant to 310 CMR 40.1081(3).
8. Provide the LSP Opinion for a **Partial Release of a Grant of Environmental Restriction**, pursuant to 310 CMR 40.1083(2).
9. Provide the LSP Opinion for a **Release of a Grant of Environmental Restriction**, pursuant to 310 CMR 40.1083(1)(c).
10. Provide the LSP Opinion for a **Confirmatory Activity and Use Limitation**, pursuant to 310 CMR 40.1085(4).

(Unless otherwise noted above, all sections of this form (BWSC113A) must be completely filled out, printed, stamped, signed with black ink and attached as an exhibit to the AUL Document to be recorded and/or registered with the Registry of Deeds and/or Land Registration Office.)

**C. AUL INFORMATION:**

1. Is the address of the property subject to AUL different from the disposal site address listed above?
- a. No  b. Yes If yes, then fill out address section below.
2. Street Address: \_\_\_\_\_
3. City/Town: \_\_\_\_\_ 4. ZIP Code: \_\_\_\_\_



Massachusetts Department of Environmental Protection  
Bureau of Waste Site Cleanup

BWSC113A

ACTIVITY & USE LIMITATION (AUL) OPINION FORM

Release Tracking Number

Pursuant to 310 CMR 40.1056 & 40.1070 - 40.1084 (Subpart J)

2 - 10354

D. LSP SIGNATURE AND STAMP:

I attest under the pains and penalties of perjury that I have personally examined and am familiar with 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 309 CMR 4.03(2), and (iii) the provisions of 309 CMR 4.03(3), to the best of my knowledge, information and belief,

> if Section B indicates that a **Notice of Activity and Use Limitation** is being registered and/or recorded, the Activity and Use Limitation that is the subject of this submittal (i) is being provided in accordance with the applicable provisions of M.G.L. c. 21E and 310 CMR 40.0000 and (ii) complies with 310 CMR 40.1074;

> if Section B indicates that an **Evaluation of Changes in Land Uses/Activities and/or Site Conditions after a Response Action Outcome Statement** is being submitted, this evaluation was developed in accordance with the applicable provisions of M.G.L. c. 21E and 310 CMR 40.0000 and (ii) complies with 310 CMR 40.1080;

> if Section B indicates that an **Amended Notice of Activity and Use Limitation or Amendment to a Grant of Environmental Restriction** is being registered and/or recorded, the Activity and Use Limitation that is the subject of this submittal (i) is being provided in accordance with the applicable provisions of M.G.L. c. 21E and 310 CMR 40.0000 and (ii) complies with 40.1081;

> if Section B indicates that a **Termination or a Partial Termination of a Notice of Activity and Use Limitation, or a Release or Partial Release of a Grant of Environmental Restriction** is being registered and/or recorded, the Activity and Use Limitation that is the subject of this submittal (i) is being provided in accordance with the applicable provisions of M.G.L. c. 21E and 310 CMR 40.0000 and (ii) complies with 310 CMR 40.1083;

> if Section B indicates that a **Grant of Environmental Restriction** is being registered and/or recorded, the Activity and Use Limitation that is the subject of this submittal (i) is being provided in accordance with the applicable provisions of M.G.L. c. 21E and 310 CMR 40.0000 and (ii) complies with 310 CMR 40.1071;

> if Section B indicates that a **Confirmatory Activity and Use Limitation** is being registered and/or recorded, the Activity and Use Limitation that is the subject of this submittal (i) is being provided in accordance with the applicable provisions of M.G.L. c. 21E and 310 CMR 40.0000 and (ii) complies with 310 CMR 40.1085(4);

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.

1. LSP #: 4695

2. First Name: DAVID JP

3. Last Name: FOSS

4. Telephone: (401) 861-3070

5. Ext.: 4579

6. FAX:

7. Signature:

8. Date: 06/15/2012  
mm/dd/yyyy

9. LSP Stamp: