



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
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Secretary

Bonnie Heiple
Commissioner

August 31, 2023

Kathleen Ingemi, as Trustee of
Barnes Road Trust
381 Highland Avenue
Salem, MA 01970
Certified Mail No: 7022 0410 0002 4811 4662

RE: SALEM-
16 Barnes Rd. and
9, 12, 14, 15, & 16 Cedar Rd.
Notice of Responsibility
RTN 3-38210

**NOTICE OF RESPONSIBILITY PER M.G.L. c.21E & 310 CMR 40.0000, the
MASSACHUSETTS CONTINGENCY PLAN**

*THIS IS AN IMPORTANT NOTICE. FAILURE TO TAKE ADEQUATE ACTION IN RESPONSE
TO THIS NOTICE COULD RESULT IN SERIOUS LEGAL CONSEQUENCES.*

Dear Kathleen Ingemi,

Information contained in a Release Notification Form submitted to the Massachusetts Department of Environmental Protection (MassDEP) on July 19, 2023 by Kathleen Ingemi, as Trustee of John M. Ingemi Realty Trust, indicates that there is or has been a release of Oil and/or Hazardous Material at the above-referenced property which exceeds a "120 day" reporting threshold (310 CMR 40.0315) and which requires one or more Response Actions.

Based on this information, MassDEP has reason to believe that the subject properties or portion(s) thereof is a Disposal Site as defined in the Massachusetts Oil and Hazardous Material Release Prevention and Response Act, M.G.L. c. 21E, and the Massachusetts Contingency Plan, 310 CMR 40.0000 (the MCP). M.G.L. c. 21E and the MCP govern the assessment and cleanup of Disposal Sites.

The purpose of this notice is to inform you of your legal responsibilities under state law for assessing and/or remediating the subject release. For purposes of this notice, the terms and phrases used herein shall have the meaning ascribed to them by the MCP unless the text clearly indicates otherwise.

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

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STATUTORY LIABILITIES

MassDEP has reason to believe that you (as used in this letter, “you” refers to Kathleen Ingemi, as Trustee of Barnes Road Trust) are a Potentially Responsible Party with liability under M.G.L. c. 21E, § 5, for Response Action Costs. Section 5 makes the following parties liable to the Commonwealth of Massachusetts: current owners or operators of a site from or at which there is or has been a release/threat of release of oil or hazardous material; any person who owned or operated a site at the time hazardous material was stored or disposed of; any person who arranged for the transport, disposal, storage or treatment of hazardous material to or at a site; any person who transported hazardous material to a transport, disposal, storage or treatment site from which there is or has been a release/threat of release of such material; and any person who otherwise caused or is legally responsible for a release/threat of release of oil or hazardous material at a site.

This liability is "strict", meaning it is not based on fault, but solely on your status as an owner, operator, generator, transporter, or disposer. It is also joint and several, meaning that you may be liable for all Response Action Costs incurred at the site, regardless of the existence of any other liable parties.

The MCP requires Responsible Parties to take necessary Response Actions at properties where there is or has been a release or threat of release of oil and/or hazardous material. If you do not take the necessary Response Actions, or fail to perform them in an appropriate and timely manner, MassDEP is authorized by M.G.L. c. 21E to have the work performed by its contractors. By taking such Response Actions, you can avoid liability for Response Action Costs incurred by MassDEP and its contractors in performing these actions, and for possible sanctions, which may be imposed for failure to perform necessary Response Actions under the MCP.

You may be liable for up to three (3) times all Response Action Costs incurred by MassDEP. Response Action Costs include, without limitation, the cost of direct hours spent by MassDEP employees arranging for response actions or overseeing work performed by persons other than MassDEP or its contractors, expenses incurred by MassDEP in support of those direct hours, and payments to MassDEP's contractors. (For more detail on cost liability, see 310 CMR 40.1200.)

MassDEP may also assess interest on costs incurred at the rate of twelve percent (12%), compounded annually. To secure payment of this debt, the Commonwealth may place liens on all of your property in the Commonwealth. To recover the debt, the Commonwealth may foreclose on these liens, or the Attorney General may bring legal action against you.

In addition to your liability for up to three (3) times all Response Action Costs incurred by MassDEP, you may also be liable to the Commonwealth for damages to natural resources caused by the release. Civil and criminal liability may also be imposed under M.G.L. c. 21E, § 11, and civil administrative penalties may be imposed under M.G.L. c. 21A, § 16 for each violation of M.G.L. c. 21E, the MCP, or any order, permit or approval issued thereunder.

NECESSARY RESPONSE ACTIONS & INTERIM DEADLINES

The subject site shall not be deemed to have all the necessary and required Response Actions taken unless and until all Substantial Hazards presented by the site have been eliminated and a level of No Significant Risk exists or has been achieved in compliance with M.G.L. c. 21E and the MCP. In addition, the MCP requires persons undertaking Response Actions at Disposal Sites to perform Immediate Response Actions (IRAs) in response to "sudden releases", Imminent Hazards and Substantial Release Migration. Such persons must continue to evaluate the need for IRAs and notify MassDEP immediately if such a need exists.

You must employ or engage a Licensed Site Professional (LSP) to manage, supervise or actually perform the necessary Response Actions at the subject Site. In addition, the MCP requires persons undertaking response actions at a Disposal Site to submit to MassDEP a Permanent Solution Statement prepared by an LSP in accordance with 310 CMR 40.1000 upon determining that a level of No Significant Risk already exists or has been achieved at a Disposal Site or portion thereof. [You may obtain a list of the names and addresses of these licensed professionals from the Board of Registration of Hazardous Waste Site Cleanup Professionals at <http://www.mass.gov/eea/agencies/lsp/> or (617) 556-1091.]

MassDEP has determined that initial site investigation activities, in accordance with 310 CMR 40.0405, are necessary. In addition, unless a Permanent Solution Statement is submitted earlier, a completed Tier Classification Submittal pursuant to 310 CMR 40.0510, must be submitted to MassDEP within one year of the initial notice of a release provided to MassDEP pursuant to 310 CMR 40.0300 or from the date MassDEP issues a Notice of Responsibility, whichever occurs earlier.

It should be noted that asbestos and asbestos containing material (ACM) have been reported to be present in soil at nearby properties located at 355-373 Highland Avenue and within areas of "dumping/landfilling" of automotive shredder waste at 373 Highland Avenue (Lot 300B) and 10 Cedar Road (Lot 308B). As such, MassDEP believes there is a strong possibility for asbestos and/or ACM to be present in soils at the Site. It will be necessary to contract a licensed asbestos inspector during Preliminary Response Actions to assess for the presence of asbestos and ACM in soil and within waste materials buried at the Site.

It is important to note that you must dispose of any Remediation Waste generated at the subject Site in accordance with 310 CMR 40.0030 including, without limitation, contaminated soil and/or debris. Any Bill of Lading accompanying such waste must bear the seal and signature of an LSP or, if the response action is performed under the direct supervision of MassDEP, the signature of an authorized representative of MassDEP.

MassDEP encourages parties with liabilities under M.G.L. c. 21E to take prompt action in response to releases and threats of release of Oil and/or Hazardous Material. By taking prompt action, you may significantly lower your assessment and cleanup costs and avoid the imposition of, or reduce the amount of Annual Compliance Fees for Response Actions payable under 310 CMR 4.00.

If you have any questions relative to this notice, you should contact the undersigned by email: Erik.Johnson@mass.gov, at the letterhead address or (781) 400-4378. All future communications regarding this release should reference the Release Tracking Number contained in the subject block of this letter.

Sincerely,



Joanne Fagan
Section Chief, Brownfields/Risk Reduction
Bureau of Waste Site Cleanup
Northeast Regional Office

eCC:

Mr. 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

Jamy Madeja, Esq., Buchanan & Associates, jmadeja@buchananassociated.com

Michael Bricher, LSP of Record, Blackstone Environmental Solutions, mbricher@bes-env.com
MassDEP data entry/file (NOR / Issued)

Please Be Aware of MassDEP Fees

Unless response actions at this site are completed within one year of the release notification date, you will be billed an Annual Compliance Assurance Fee by MassDEP for each year thereafter up to and including the year in which a Permanent Solution is achieved and filed for this disposal site. Annual Compliance Assurance Fees cover a portion of MassDEP's costs for ensuring compliance of response actions with the Massachusetts Contingency Plan. Annual Compliance Assurance Fees are issued pursuant to M.G.L. chapter 21E Section 3B and 310 CMR 4.00, the *Timely Action Schedule and Fee Provisions*. Fee categories and rates are summarized as shown below. Fees invoiced by MassDEP are considered a debt to the Commonwealth. Unpaid fee invoices are typically referred for collection action. Contact your Licensed Site Professional to discuss what is necessary to *complete the response actions required for this site as quickly as possible*. For more information on the Annual Compliance Assurance Fees that apply in your case, see the "Fees and Payments" entry at <https://www.mass.gov/lists/site-cleanup-fact-sheets> or contact your Licensed Site Professional or the MassDEP Fee inquiry line at (617) 292-5545.

A thorough & timely cleanup will result in fewer MassDEP Fees.

SUMMARY OF MassDEP ANNUAL COMPLIANCE ASSURANCE FEES

| Type | Fee Category | Timing of Submittal (for One-Time fees) | | | Fee Rate | |
|----------------------------------|--------------------|---|---|---------------------------|---------------|------------------------|
| | | Within 120 days of initial notification | After 120 days and prior to Tier Classification | After Tier Classification | Non-Homeowner | Homeowner ³ |
| One-Time Fees ¹ | Permanent Solution | --- | Permanent Solution Fee | See Note ⁴ | \$1,470 | \$735 |
| | RAM Plan | RAM Fee | RAM Fee | --- | \$980 | \$490 |
| | DPS | DPS Fee | DPS Fee | --- | \$1,965 | \$1,965 |
| | Notice of AUL | AUL Fee | AUL Fee | AUL Fee ⁵ | \$2,000 | \$1,000 |
| Regular Annual Fees ² | Tier ID | | | | \$4,915 | \$2,455 |
| | Tier I | | | | \$4,320 | \$1,225 |
| | Tier II | | | | \$2,455 | \$1,225 |
| | Temporary Solution | | | | \$980 | \$490 |
| | Phase V | | | | \$980 | \$490 |

Notes: 1. One-Time Fees must be paid when submittal is made.

BWSC 12-5-2018

2. Regular Annual Fees are billed by MassDEP after Tier Classification; Fee Category is based on Status of site on each Annual Status Date.

3. Completed Homeowner Certification Form BWSC120 is required to qualify for lower Homeowner fee rates.

4. One-Time Permanent Solution Fee also applies if site is Tier ID and submittal is made within first 90 days after initial Status Date.

5. One-Time AUL Fee is applicable for a Notice of AUL filed prior to or concurrent with a Permanent Solution.